RESOLUTION NO. 2007-2

RESOLUTION OF PUBLIC NECESSITY
ARMONA COMMUNITY SERVICES DISTRICT
FULL TAKING KINGS COUNTY APN 018-012-040 (19 ACRES)

The Board of Directors of the Armona Community Services District hereby finds as follows:

WHEREAS, the Armona Community Services District (District) is a community services district formed and existing under the Community Services District Act, codified at California Government Code §§ 61000-61226.5, referred to as the "Act," possessing all of the powers thereunder, express and implied, together with the powers granted under all acts amendatory thereof or supplementary thereto, together with all other powers implied by the foregoing, to give meaning and effect thereto; and

WHEREAS, the District may do all things necessary or convenient for the full exercise of all of said powers; and

WHEREAS, the District is authorized by the Act to exercise the right of eminent domain to take any property necessary or convenient for the exercise of the powers granted under the Act; and

WHEREAS, the District is authorized by the Act to take real property within or without the District; and

WHEREAS, the District is authorized by the Act to provide, among other matters, for the treatment and distribution of domestic and municipal drinking water and for collection and treatment of waste water; and

WHEREAS, providing drinking water is subject to state and federal laws, rules, and regulations, including the federal Safe Drinking Water Act of 1974 as amended, codified at 42 U.S.C. §§ 300f--300j-26 (SDWA), and the national primary and secondary drinking water standards setting maximum contaminant levels, promulgated under authority of the SDWA; and

WHEREAS, on January 22, 2001, the Environmental Protection Agency (EPA) published the Final Rule for National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (66 Fed. Reg. 6976) (Final Rule); and

WHEREAS, the Final Rule established a 10 ppb MCL for arsenic in drinking water; and

WHEREAS, the effective date for purposes of compliance with the new arsenic MCL was January 23, 2006 (see 66 Fed.Reg. 6992-6993; 40 CFR § 141.6(j)); and

WHEREAS, the District owns and operates a water well known as Well No. 2 (also known as the "Seventh Day Well") located on a portion of W½ NW 1/4 SE 1/4 Section 32, T18S, R21E, MDB&M; and

WHEREAS, Well No. 2 is necessary to ensure an adequate supply of water to the homes and businesses served by the District including fire flow, emergency and back up water supply; and

WHEREAS, immediately east, adjacent to and abutting the east boundary of the Well No. 2 site is approximately 19 acres of open, undeveloped land comprising the E½ NW 1/4 SE 1/4 Section 32, T18S, R21E, MDB&M, excepting 1 acre in the southeast corner thereof; and

WHEREAS, said 19 acres is known and designated as Kings County Assessor's Parcel Number 018-012-040, and the said property is further referred to herein as the "Subject Property;" and

WHEREAS, according to a Grant Deed dated February 19, 2005, recorded as Document no. 0520832 on June 29, 2005, in the office of the Kings County Clerk Recorder, title to the Subject Property is vested in the following owners: "Peter D. Davidson and Lisa A. Davidson husband and wife and Franklin Davidson and Polly Davidson, husband and wife all as joint tenants"; and

WHEREAS, according to the amount of documentary tax paid as stated on the Grant Deed, the owners paid approximately $55,500.00[1] for the Subject Property; and

WHEREAS, a single family residence is located on the southwest corner of the Subject Property, together with certain other outbuildings; and

WHEREAS, according to the owners, the residence was constructed in 1902; and

WHEREAS, the owners denied the District's appraiser access to the residence; and

WHEREAS, the current code compliance status of the residence is unknown to the District; and

WHEREAS, whether lead based paint, asbestos or other regulated materials are present in, on or about the residence is unknown to the District at this time; and

WHEREAS, none of the owners has provided any evidence of legal residence at the Subject Property, despite request therefor; and

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[1]Based on documentary transfer tax paid of $61.05 at the rate of $1.10 for each $1,000.00 value of sale price.

WHEREAS, the Subject Property is zoned AL-10 with a minimum parcel size of 10 acres and is limited to one single family dwelling; and

WHEREAS, under the AL-10 zoning no additional residences may be constructed on the Subject Property; and

WHEREAS, AL-10 zoning requires a 10 acre minimum parcel size which prevents the Subject Property from being divided into two separate legal parcels with one residence on each parcel without special permission from Kings County; and

WHEREAS, the Subject Property is serviced by one water and sewer hook up to the District's water distribution and waste water collection systems and it is not possible to construct farm worker housing or a "granny flat" thereon due to the lack of multiple connections to serve such residences; and

WHEREAS, development of the Subject Property cannot occur because the property is encumbered by a Williamson Act contract, is outside the District boundaries, is outside the District's primary sphere of influence, is not under an agreement required by Government Code § 56133, and no water and waste water connections or infrastructure exist to serve multiple residences if such were proposed to be located thereon; and

WHEREAS, the Subject Property, other than the home site and the curtilage thereof, is currently being used for growing silage corn and has been used for silage corn or cotton for many years; and

WHEREAS, the District obtained a fair market value appraisal of the Subject Property from an MAI certified appraiser with a date of valuation of September 8, 2006, which appraised the Subject Property at $380,000.00, or $20,000.00 an acre for the 19 acres; and

WHEREAS, the District provided the owners of the Subject Property with a copy of the fair market value appraisal and offered to purchase the Subject Property for the full amount of the appraised fair market value of $380,000.00; and

WHEREAS, the District's offer to purchase the Subject Property for the amount of the appraised fair market value of $380,000.00, was rejected by the owners; and

WHEREAS, Franklin Davidson and numerous relatives and friends of Mr. Davidson appeared at the regular Board meeting on July 12, 2006, and made comments on the proposed use of the Subject Property for a water treatment plant; and

WHEREAS, Polly Davidson appeared at the regular Board meeting on September 13, 2006, and made comments on the proposed use of the Subject Property for a water treatment plant; and

WHEREAS, the District has received e-mails from Peter Davidson and mail and e-mails from relatives, friends and supporters of the owners, commenting on the proposed use of the Subject Property for a water treatment plant; and

WHEREAS, at its Regular Meeting on October 11, 2006, the Board of Directors of the District took action and set a public hearing to be held on Wednesday, November 8, 2006, commencing at 7:00 p.m. at the Armona Community Center Meeting Room, located at 11115 C Street, Armona, California 93202, or as soon thereafter as the matter can be heard, to consider adoption of a Resolution of Public Necessity to Institute Eminent Domain Proceedings for a taking of Kings County APN 018-012-040; and

WHEREAS, on October 16, 2006, the District gave the owners of the Subject Property notice of the public hearing and that a reasonable opportunity to be heard on the matters referred to in Code of Civil Procedure § 1240.030 would be provided at said public hearing; and

WHEREAS, on October 17, 2006, the owners' attorney notified the District that the owners would appear at the November 8, 2006 hearing date; and

WHEREAS, on October 18, 2006, the owners' attorney notified the District that Peter Davidson could not appear at the November 8, 2006 hearing due to military commitments in Germany, and requested the hearing be postponed to the Board's December 13, 2006, regular meeting; and

WHEREAS, on November 8, 2006, upon the request of the owners, the Board continued the subject hearing to December 13, 2006, at 7:00 p.m. at the Armona Community Center Meeting Room, located at 11115 C Street, Armona, California 93202, or as soon thereafter as the matter can be heard, to consider adoption of a Resolution of Public Necessity to Institute Eminent Domain Proceedings for a taking of Kings County APN 018-012-040; and

WHEREAS, on November 29, 2006, the District received correspondence dated November 28, 2006 from Peter Davidson wherein he claimed he is entitled to a delay the hearing on this Resolution until at least February 8, 2007, and possibly until his command in Germany ends in July 2008; and

WHEREAS, Peter Davidson claims he is entitled to delay the consideration of this Resolution because he is a member of the armed forces of the United States deployed overseas and is entitled to the protections of the Service members Civil Relief Act (SCRA) formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940, and to a stay of the consideration of this Resolution; and

WHEREAS, the stay provision of SCRA codified at 50 U.S.C. App. § 522 applies to "a civil action or proceeding"; and

WHEREAS, the hearing on this Resolution is not "a civil action or proceeding"; and

WHEREAS, 50 U.S.C. App. § 522 does not apply to the hearing on this Resolution or to action that might be taken on this Resolution; and

WHEREAS, SCRA does not require the District to delay the hearing on this Resolution or for the Board to delay taking action on this Resolution; and

WHEREAS, a stay is not in order when the service member's ability to prosecute or defend a suit is not materially affected by reason of his military status; and

WHEREAS, Peter Davidson is one of four equal co-owners of the Subject Property; and

WHEREAS, the owners are represented by the same counsel of their choice; and

WHEREAS, the interests of the owners are adequately represented by the attendance of one or more of the owners at the public hearings held prior to adoption of this Resolution, by the attendance of family, friends and supporters of the owners, and by the appearance of counsel representing the owners; and

WHEREAS, all of the owners of the Subject Property are represented by the same attorney who has previously appeared before the Board at the Regular meetings on November 8, 2006 and December 13, 2006, and who has communicated with the District and its counsel concerning this matter on multiple occasions; and

WHEREAS, the other three co-owners of the Subject Property are under no disability and are not prevented from appearing before the Board concerning this matter and Franklin Davidson and Polly Davidson have done so on four prior occasions; and

WHEREAS, the District has received no specific information that the interests of Peter Davidson in regard to the Subject Property and in the subject matter of this Resolution are different from that of the other three co-owners; and

WHEREAS, on November 29, 2006, the District received a letter dated November 27, 2006 from Gen. William W. Uhle, Jr., the commanding officer of Peter Davidson; and

WHEREAS, nothing in Gen. Uhle's letter states that Peter Davidson is prevented from taking leave prior to his command termination expected in July 2008, nor does the letter meet the requirements of 50 U.S.C. App. § 522(b)(2)(B); and

WHEREAS, as of the date hereof, the District has not been served with papers seeking a court order to delay the hearing or the consideration of this Resolution; and

WHEREAS, no substantial evidence exists that the interests of Peter Davidson in this matter are materially effected by his overseas military service, because he is represented by the same counsel and shares the same position in this matter with the other three co-owners of the Subject Property; and

WHEREAS, on October 18, 2006, the District notified the Department of Conservation and the Kings County Planning Agency that the District intended to consider the location of a public improvement on the Subject Property that is within an agricultural preserve; and

WHEREAS, on November 14, 2006, the owners of the Subject Property, through their counsel, submitted comments to the Department of Conservation and the Kings County Planning Agency; and

WHEREAS, on November 16, 2006, the District responded to the owners' comments; and

WHEREAS, on November 22, 2006, the District received comments from the Department of Conservation; and

WHEREAS, on November 30, 2006, the District responded to the comments received from the Department of Conservation; and

WHEREAS, no comments have been received from the Kings County Planning Agency; and

WHEREAS, the District is eligible to receive a $1,110,000.00 grant from the SWRCB Small Community Groundwater Grant Program to construct the water treatment plant; and

WHEREAS, the grant moneys may not be used for property acquisition; and

WHEREAS, delay in acquisition of the Subject Property may endanger the District's chance to receive grant money, as the project is subject to an approved schedule which requires completion by the end of September 2008; and

WHEREAS, without the grant money the District does not have sufficient funds on hand to fund construction of the water treatment plant; and

WHEREAS, without raising rates to obtain financing, the District cannot fund construction of the water treatment plant; and

WHEREAS, under Bighorn-Desert View Water Agency v. Verjil (2006) 39 Cal.4th 205, raising water rates is subject to Proposition 218, and voters may vote down a rate increase by voter initiative; and

WHEREAS, Well No. 2 is out of compliance with the 10 ppb MCL; and

WHEREAS, the District is required to come into compliance with the 10 ppb MCL; and

WHEREAS, on December 13, 2006, the District held a public hearing on this Resolution; and

WHEREAS, at the hearing the Davidsons claimed they had water rights and USDA FSA corn, cotton and wheat allotments which claims they have not substantiated in any way notwithstanding requests therefor; and

WHEREAS, the District's own investigation determined that the Subject Property does not abut a natural water course, is not riparian to any natural water course, does not have riparian water rights and has no appurtenant appropriative water rights based on the absence of any such indicia thereof in the preliminary title report obtained by the District and consultation with the Last Chance Water Ditch Company; and

WHEREAS, the FSA refused to confirm any appurtenant crop allotments to the Subject Property; and

WHEREAS, at the conclusion of the hearing on December 13, 2006, the Board voted to continue the hearing at least 60 days to enable the District's engineer to complete studies related to alternative sites, treatment methods and infrastructure footprint; and

WHEREAS, the District held a special meeting on January 17, 2007 at which the District engineer presented the report in which an alternative involving a smaller infrastructure footprint of 4.3 acres coupled with a 20 year reclamation agreement was presented, together with analysis supporting the oxidation/filtration treatment method and the Davidson property as the site for the water treatment plant; and

WHEREAS, the District engineer's report was provided to the Davidsons and their attorney; and

WHEREAS, on January 19, 2007, the District communicated a written offer to the Davidsons offering to buy 4.3 acres of the Davidsons' land at $20,000/ac together with a long term 20 year water reclamation agreement to use filter back wash water on 10 acres of the Davidsons' farmland so that less land would be needed for ponds; and

WHEREAS, on February 13, 2007, the District received a letter from the Davidsons' attorney in which among other matters the District's offer was rejected; and

WHEREAS, the hearing continued from December 13, 2006 was scheduled for the February 14, 2007 Regular meeting; and

WHEREAS, the February 14, 2007 Regular meeting failed to convene for want of a quorum and a special meeting was called for February 21, 2007; and

WHEREAS, on February 21, 2007, the hearing was continued to the March 21, 2007 Regular meeting (re-scheduled from March 14, 2007); and

WHEREAS, on March 13, 2007, the District received a letter from Davidson's attorney enclosing letters dated March 12, 2007 from Lt. Gen. Robert D. Bishop, Jr. and Peter Davidson, the import of which is that Peter Davidson cannot attend any proceedings in this matter until on or after July 11, 2008, and that the matter should be stayed until that time, pursuant to the provisions of SCRA, and

WHEREAS, Peter Davidson's letter does not state actual facts setting forth that Peter Davidson's current military duty prevents his ability to appear until on or after July 11, 2008, and thus does not meet the requirements of 50 U.S.C. App. § 522(b)(2)(A); and

WHEREAS, Lt. Gen. Bishop's letter does not state that he is Peter Davidson's commanding officer, and does not state that military leave is not authorized at the time of the letter or at any time to and including July 11, 2008, and thus does not meet the requirements of 50 U.S.C. App. § 522(b)(2)(B); and

WHEREAS, it is not practicable to delay action on this matter until on or after July 11, 2008; and

WHEREAS, action on this Resolution has been postponed several times since November 8, 2006 for a time period of approximately 130 days; and

WHEREAS, no good reason exists not to take action on this Resolution at this time.

NOW, THEREFORE, the Board of Directors of the Armona Community Services District does hereby RESOLVE AS FOLLOWS:

1. That the Board hereby finds and declares that all of the foregoing statements are true and correct and that all of the findings hereinabove and hereinbelow represent the independent judgment and analysis of the Board.

2. That the public use for which the Subject Property is to be taken is for facilities for treatment of drinking water to meet drinking water standards for arsenic, and other

constituents/parameters including odor, color, iron, manganese and disinfection byproducts; and that said facilities include impoundments for filter back wash water.

3. That the statute that authorizes the District to acquire the Subject Property by eminent domain is the Community Services District Act, codified at Government Code §§ 61000 to 61226.5, including without limitation section 61060(e) thereof, and Code of Civil Procedure § 1240.125.

4. That the property to be taken consists of the 19 acres comprising a portion of E½ NW 1/4 SE 1/4 Section 32, T18S, R21E, MDB&M, not including one acre on the southeast corner thereof.

5. That the public interest and necessity require the proposed project which is the construction of a water treatment plant for the District's Well No. 2 to meet drinking water standards for arsenic, and other constituents/parameters including odor, color, iron, manganese and disinfection byproducts.

6. That the proposed project is planned and located in manner that will be most compatible with the greatest public good and the least private injury.

7. That the property to be taken is necessary for the proposed project in order to have enough land area for the water treatment plant including ponds.

8. That the offer required by Government Code § 7267.2 has been made to the owners of the Subject Property and that such offer has been rejected.

9. That the Subject Property is subject to a Land Preservation Contract under the Land Conservation Act of 1965 (the Williamson Act) dated December 22, 1969, recorded on March 31, 1970 as Instrument No. 2831, at Book 949, Page 858, Official Records Kings County, and that the District is therefore required to make the findings under Government Code § 51292.

10. That Government Code § 51292 provides as follows:

No public agency or person shall locate a public improvement within an agricultural preserve unless the following findings are made:

(a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

(b) If the land is agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land

within or outside the preserve on which it is reasonably feasible to locate the public improvement.

11. The term of the Land Conservation Contract was 10 years commencing January 1, 1970, with automatic one year renewals each January 1st thereafter such that the contract always has ten years to run.

12. The Land Conservation Contract provides in paragraph 8 that "Upon acquisition of title or taking of possession in any action for the condemnation of fee title to any of the subject property, or of less than a fee interest which will prevent the land being used for any authorized use, and upon the acquisition of such title by a public agency in lieu of condemnation, this Contract shall automatically and immediately become null and void with regard to that portion of the Subject Property which is so condemned or acquired."

13. The public improvement proposed to be located on the property consists of a water treatment plant to remove naturally occurring arsenic, color, odor, iron, and manganese from the ground water produced by the District's Well No. 2, and also to treat such water for disinfection byproducts. Well No. 2 is located immediately adjacent to the west boundary of the Subject Property.

14. Treatment of the water is required to meet the federally mandated 10 ppb MCL primary drinking water standard for arsenic which became effective January 23, 2006 and to meet standards for color, odor, iron, manganese and disinfection byproducts. The water treatment plant includes operations structures, chemical feed, contact chambers, clarifiers, pumps, filters, piping, evaporation ponds and appurtenances needed to hold daily filter back wash estimated at up to 35,000 gallons per day. The water treatment plant facilities include ponds used for evaporation, which must be sized to hold several months of back wash water, plus storm water, and also maintain sufficient free board to prevent overtopping the ponds. This will require a number of ponds using the entire acreage of the property south of the Central Branch Last Chance Ditch.

15. The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve, and there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

16. The District is informed that land in the western San Joaquin Valley subject to Williamson Act contracts sells for $6,000.00 to $7,000.00 acre. The District is aware that Air-Way Farms, Inc. and affiliates are offering approximately 5,500 acres in western Fresno and Kern Counties for approximately $36,000,000.00, or $6,545.00 an acre. This land includes 5,432 acres in Westlands Water District Area 1 and Area 2, and includes over 1,400 acres of almonds, which lands are comparable to the Subject Property given the following bars to development/subdivision of the latter: the land is encumbered by a Williamson Act contract,

is outside the District's boundary, is outside the District's primary sphere of influence, and has only one water connection and one sewer connection.

17. Location of the water treatment plant on the Subject Property is based on various compelling factors, including but not limited to, the following:

(i) the proposed location is immediately adjacent and to the east of the District's existing Well No. 2 and is contiguous to the Well No. 2 site;

(ii) lands to the south, west, and north of Well No. 2 are subject to higher and better uses than the Subject Property;

(a) APN 018-012-104 is located immediately north of Well No. 2 and comprises 6 acres. This parcel does not provide enough land area for the water treatment plant. This parcel is subject to a Williamson Act contract. The District is informed that the Williamson Act contract has eight more years to run. This parcel is planted to walnuts. This is a higher and better use than the use of the Subject Property for growing silage corn or cotton. Both of these crops are subsidized.

(b) APN 018-012-037 is west and south of Well No. 2 and comprises 9.15 acres. This parcel does not provide enough land area for the water treatment plant. This parcel is not subject to a Williamson Act contract. This parcel is used for a private school and includes two modern occupied residences. These uses are higher and better uses than the farming of silage corn or cotton on the Subject Property.

(iii) Taking the Subject Property complies with the requirement of Code of Civil Procedure § 1240.030(b) that the project be located in the manner that will be most compatible with the greatest public good and the least private injury. Government Code § 51292 cannot be applied, or construed, to require violation of Code of Civil Procedure § 1240.030.

(iv) Non-contiguous Parcels. Parcels not contiguous to the Well site are not reasonably feasible for the location of the water treatment plant.

(a) APNs 018-012-102 and 018-012-103. These parcels are immediately north of the contiguous orchard parcel described above. These parcels are not contiguous to Well No. 2. These parcels are part of the same walnut orchard but are separate legal parcels. These two parcels are both subject to Williamson Act contracts. Neither parcel contains enough land area for the water treatment plant. APN 018-012-102 is 10 acres. APN 018-012-103 is

3.64 acres. These parcels have occupied residences of much more recent construction that the 104 year old structure on the Subject Property. These parcels are in a higher and better use that the use of the Subject Property. Taking of these parcels in preference to the Subject Property would violate Code of Civil Procedure § 1240.030(b). It is not reasonably feasible to locate the water treatment plant on these parcels.

(b) APN 018-012-050. This parcel is east of the Subject Property. This parcel is not contiguous to Well No. 2. This parcel comprises 8.45 acres. This parcel is not large enough for the water treatment plant. This parcel is owned by Grangeville Cemetery and will be used for expansion of the cemetery in the near future. Use as a cemetery is a higher and better use than undeveloped open ground. Taking of this parcel in preference to the Subject Property would violate Code of Civil Procedure § 1240.030(b). It is not reasonably feasible to locate the water treatment plant on this parcel.

(c) APN 018-012-056. This parcel is east of the Subject Property. This parcel is not contiguous to the Well No. 2. This parcel comprises 2.08 acres. This parcel is not large enough for the water treatment plant. This parcel is located within the service area of the District and is expected to be developed in the foreseeable future. Residential use is a higher and better use than use as undeveloped open ground. Taking of this parcel in preference to the Subject Property would violate Code of Civil Procedure § 1240.030(b). It is not reasonably feasible to locate the water treatment plant on this parcel.

(d) Use of non-contiguous land adds significant, unknown expense to the project. Pipelines would need to be constructed to deliver the water pumped from the Well to the treatment plant. Easements for the pipelines would need to be acquired, again at unknown expense. A non-contiguous site would add to the burden of maintaining security and integrity of District facilities. There would be additional environmental impacts associated with the increased pumping and additional public infrastructure needed to convey the water to the non-contiguous site for treatment. The energy for such pumping would be an on-going additional expense to the District.

(e) The bare possibility that a public improvement may be located elsewhere does not mean it is "reasonably feasible" to locate the project on such alternate land in preference for the property selected as most suitable for the project site. Enlarging a project by requiring construction of additional infrastructure, at additional expense, and requiring acquisition of additional private properties for easements, again at additional expense and additional private injury to the owners of the additional lands and interests taken, cannot

be considered a "reasonable" use of public funds. The farther a non-contiguous site is from the Well No.2 site, the less reasonably feasible that non-contiguous site must necessarily be.

(f) Code of Civil Procedure § 1240.030(b) requires that the project be planned or located in the manner that will be most compatible with the greatest public good and the least private injury. Taking property developed to a higher and better use than the Subject Property does not meet this standard. Application of Government Code § 51292(b) cannot lead to a result that violates the eminent domain law.

(g) The public good is not maximized by use of non-contiguous property. The use of non-contiguous land does not realize the greatest public good because additional costs for construction, operation, maintenance, repair and replacement of public works are required. Private injury is not minimized. Private property of others must still be taken for public use. Additional private property must be taken for the conveyance facilities to convey water from Well No. 2 to the non-contiguous property or properties. Therefore location of the public improvement on non-contiguous private property will result in a lesser public good combined with a greater private injury, in violation of the requirement of CCP § 1240.030(b).

(v) the Subject Property is the closest and only practicable property on which to construct the Well No. 2 water treatment plant, which are works of public infrastructure necessary for the heath, safety and welfare of the consumers of the potable water provided by the District;

(vi) Well No. 2 requires treatment to remove naturally occurring arsenic present in the ground water produced by Well No. 2, to meet the federally mandated MCL of 10 ppb (40 CFR § 141.62(b)) that became effective January 23, 2006 (the well met the former 50 ppb MCL), as well as to treat for odor, color, iron, manganese and disinfection byproducts;

(vii) filtration treatment requires the filter media to be back washed daily to remove the filtrate in order for the treatment process to remain effective;

(viii) the CVRWQCB typically requires filter back wash water to be retained in lined ponds for disposal by evaporation with sufficient volume to retain an annual rainfall with a 100 year recurrence interval plus necessary freeboard;

(ix) the Well No. 2 water treatment plant requires all of the Subject Property; the District's engineers have computed a preliminary water balance for annual back wash flow and determined the need of at least 17 acres of ponds;

(x) the attached map shows that virtually all of the properties north and west of the Subject Property within one mile are subject to Williamson Act contracts, those that are not being used for the Grangeville Cemetery;

(xi) the attached map also shows that land to the south and east of the Subject Property is within the community of Armona and is built up in higher and better uses than the Subject Property;

18. This Resolution hereby incorporates the District engineer's report entitled "Armona Community Services District Summary of Well 2 Treatment Process and Location Recommendations" which concludes that oxidation/filtration is the appropriate treatment method for the water produced by Well No. 2 and that potential alternative sites are not reasonably feasible because the alternative sites, both contiguous and non-contiguous, are either also subject to Williamson Act contracts, are subject to higher and better uses than the Davidson property, are not large enough in area for the treatment plant including evaporation ponds for filter back wash, would require pipeline construction and easement and rights of way acquisition to convey the pumped water to the treatment plant and then back to the Well No. 2 site for introduction into the District's water distribution system, or for combinations of those factors.

19. The Subject Property is the most practicable location for the water treatment plant for Well No. 2, based on all of the factors identified above.

20. The Subject Property is shown on the attached map.

Finding under Government Code § 51292(a)

As stated above, the District has offered the full current appraised value for the property. This value ($20,000.00/ac) exceeds the $6,000.00 to $7,000.00 per acre figure for land encumbered by a Williamson Act contract. On these facts it is clear that the proposed location is not based primarily on a consideration of the alleged lower cost of acquiring land in an agricultural preserve and that therefore the District hereby makes the finding under Government Code § 51292(a).

Finding under Government Code § 51292(b)

As shown above, a host of factors demonstrate that it is not reasonably feasible to use land that is not contiguous to Well No. 2 for the water treatment plant including the ponds, and

that therefore the District hereby makes the finding under Government Code § 51292(b). This finding is based on all of the above factors including the facts referred to in the recitals.

RESOLVED FURTHER, that the staff of the District is hereby directed to institute eminent domain proceedings for a taking of Kings County APN 018-012-040, consisting of 19 acres in the E½ NW 1/4 SE 1/4 Section 32, T18S, R21E, MDB&M, excepting one acre in the southeast corner thereof.

WHEREFORE, the foregoing Resolution was passed and adopted at a Regular Meeting of the Board of Directors of the Armona Community Services District held on March 21, 2007, at Armona, California, by the following vote, to wit:

AYES: Plooy, Gutierrez, Danielson, Bittner
NOES: None
ABSENT: Franco
ABSTAIN: None

By: _____
ED BITTNER, PRESIDENT, BOARD OF DIRECTORS

ATTEST:

_____
ALAN DANIELSON, SECRETARY

CERTIFICATE OF SECRETARY

I, Alan Danielson, the duly acting Secretary of the Armona Community Services District, do hereby declare that the foregoing Resolution was passed and adopted at a Regular Meeting of the Board of Directors of the Armona Community Services District duly held on March 21, 2007, at Armona, California.

DATED: March 21, 2007.

_____
ALAN DANIELSON, SECRETARY,
ARMONA COMMUNITY SERVICES DISTRICT

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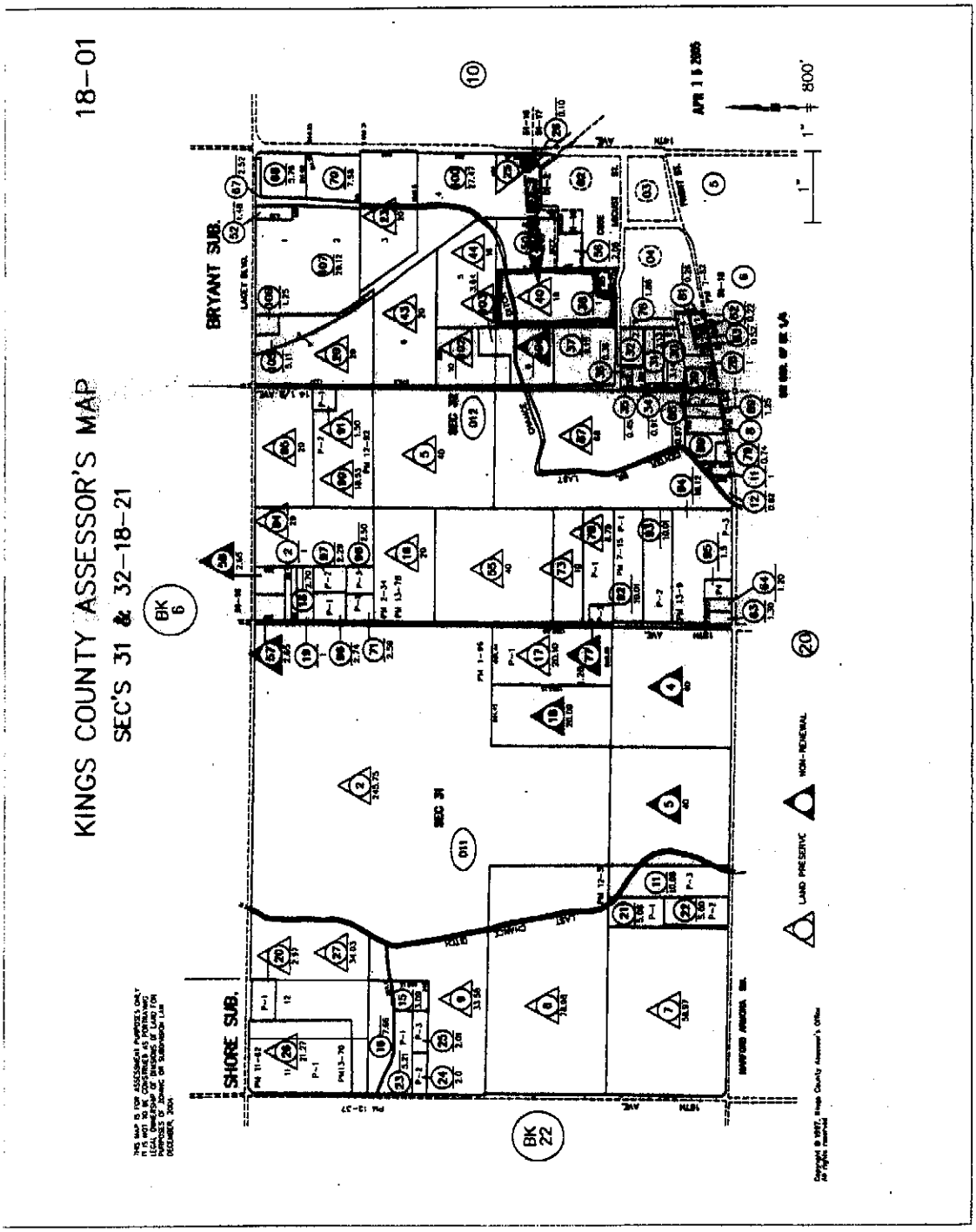
Plat Map


KINGS COUNTY ASSESSOR'S MAP
SEC'S 31 & 32-18-21
18-01
BRYANT SUB.
SHORE SUB.
BK 6
BK 22
SEC 31
SEC 32
1" = 800'
LAND PRESERVE
NON-RENEWAL