

Exhibit to Agenda Item #3

Make findings that the sale of the fee interest in Land within the **Solano Wind Resources Area** is exempt from the Surplus Land Act in light of exchanged land rights and furtherance of SMUD's energy generation, storage and transmission purposes.

Special Board of Directors Meeting

Wednesday, November 2, 2022, scheduled to begin at 5:30 p.m.

Virtual Meeting (online)

AB 1486 SURPLUS LAND ACT

AB 1486, as of 2000, made many changes to the Surplus Land Act, one being to define surplus land only as “land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use.”

The surplus declaration must be supported by written findings.

Surplus land includes so-called exempt surplus land.

Solano Property

- SMUD owns the fee interest in 6,129.7 acres of land in Solano County, located in the Wind Resource Area.
- SMUD purchased the property over time for use with the Solano Wind Projects 1, 2, 3 and 4.
- The property is within the line of site of Travis Air Force Base radar system.
- Virtually all of the property is subject to long-term grazing and dry cropping leases with renewal options.





©SMUD_GAF_0859-12

Solano Property Sale

- SMUD needs and will continue to need the Solano Property to support wind, solar, storage and transmission needs.
- But SMUD is considering converting the fee interest to easement interests that will not only meet those needs but improve our ability to meet them by gaining additional easement rights on third-party property.
- The buyer would not be able to use the Solano Property in a manner that would be inconsistent with SMUD's needs, e.g., no residential development or construction that could meaningfully impede wind to the turbines.
- The long-term grazing and dry cropping leases would transfer to the buyer.
- Terms are still under negotiation.

Solano Property Surplus Declaration

The Solano Property is not surplus in the common meaning of the term.

But the Surplus Land Act requires making findings that the land is surplus before selling it.

However, the Act's requirement for a surplus declaration can be met by finding the property is "exempt surplus land," which covers when the land is to for the public entity's use and when land is being exchanged.

Solano Property Surplus Declaration

The following both individually and collectively support a finding that the Solano Property qualifies as exempt surplus property under the Surplus Land Act:

- (1) The sale of the property directly and substantially furthers SMUD's work and operations. This is manifest in the detailed rights SMUD will secure as part of the sale for the use of the property in perpetuity for wind, solar, storage and transmission purposes.
- (2) The sale includes exchanging a fee interest for other property necessary for SMUD's use. This exchange will include acquiring vital permanent easements outside of the Solano Property that will enable SMUD to develop the Solano 4 Project and repower the Solano 2 Project, and in the future to repower all of SMUD's wind assets with the ability to collect and transmit the energy. The deal also includes additional types of easements outside the Solano Property. To acquire these rights otherwise would require a condemnation lawsuit or lawsuits, and the owner's counsel forcefully contends they could successfully defend such actions.

Requested Action

Staff recommends the Board declare the Solano Property as Exempt Surplus Property, allowing SMUD to sell the fee interest in the property, while securing permanent rights in the property and in neighboring property consistent with SMUD's ongoing and future needs.