

WHAT IS NEXT FOR COMMUNITY FACILITIES DISTRICT 2013-1 (OJAI)?

The election for Measure V is a resounding response indicating the true feelings of the water customers in the Ojai service area. The Casitas Municipal Water District is now being asked the question – “So when does Ojai get the Casitas water rate and bill?” This is a very good question.

The acquisition of the Golden State Water Company’s water system in Ojai will take time to occur. All relevant steps must be taken correctly and in order. There are no shortcuts to be taken. Defeating the current lawsuit filed by Golden State Water Company against Casitas Municipal Water District is the first task that must be successfully accomplished. Once accomplished, the Casitas Municipal Water District can proceed with the first bond sale.

The following is provided as an abbreviated list of tasks and events (excluding timing, bond process, and water system transitioning) that would occur **if Casitas is successful with the current lawsuit and is successful in any and all appeals:**

1. CMWD conducts title search to identify all recorded property interests of GSW relating to its Ojai water utility.
2. CMWD retains appraiser(s) to appraise the GSW property interests to be acquired by CMWD relating to GSW’s Ojai water utility.
3. CMWD delivers a “notice of intent to appraise” to GSW.
4. CMWD appraiser(s) perform appraisal of GSW’s property rights to be acquired and prepare(s) confidential appraisal report(s) to CMWD (not a public record).
5. CMWD makes written offer of just compensation to GSW for an amount not less than the amount of CMWD’s approved appraisal(s). Offer includes offer to pay/reimburse GSW up to \$5K for GSW’s own separate appraisal(s).
6. If GSW does not accept CMWD’s written offer, CMWD makes reasonable efforts to negotiate a mutually satisfactory purchase agreement with GSW (again, for an amount not less than the amount of CMWD’s approved appraisal(s)).
7. If negotiations are unsuccessful, CMWD schedules a public hearing (a minimum 15 days prior written notice to GSW is required) at which CMWD’s Board of Directors considers whether to adopt a resolution (referred to in the Eminent Domain Law as a “resolution of necessity”) to acquire the GSW’s property interests by use of CMWD’s power of eminent domain.

8. CMWD holds its hearing to consider whether to adopt resolution of necessity. In order to be approved, the resolution must be approved by a 2/3 vote of the members of CMWD's Board of Directors (4 of 5 members) and the resolution must contain required findings/determinations set forth in Eminent Domain Law relating to necessity for acquisition of property, fact of CMWD's having previously provided GSW with the required written purchase offer, etc. Note that no legal commitment to condemn property can be made until resolution of necessity is adopted and none of preliminary steps leading up to adoption of resolution of necessity, including formation of CFD and voter approval of CFD bonds, is or can be a "pre-commitment" to adopt the resolution.

9. If CMWD adopts resolution of necessity, CMWD is authorized to file eminent domain action against GSW in Ventura County Superior Court immediately afterward.

10. Two issues are resolved in an eminent domain action: (1) if GSW properly contests CMWD's right to take GSW's property, whether CMWD has the "right to take" (a legal issue that is determined by the court, without a jury); and (2) if the court rules in favor of CMWD with respect to its right to take (issue (1)), the fair market value or just compensation amount CMWD is required to pay to GSW (an issue that either side has the right to have determined by a jury). If GSW raises "right to take" defenses to the eminent domain action filed by CMWD, the issues of CMWD's right to take and the just compensation determination, the right to take objections would be determined first and the just compensation second (so, in all likelihood, there would be two trials, not one, and the second valuation trial would only occur after CMWD prevails on the "right to take" issues). No predictions can be provided at this point in time as to how long it would take to prosecute an eminent domain action from beginning to completion. In all likelihood this may take months to reach a determination.

11. Unless the parties reach a mutually satisfactory settlement agreement, title to the GSW property in question does not transfer from GSW to CMWD (and CMWD will not take over as the service provider to GSW's Ojai customers) until the just compensation amount payable to GSW is determined and that amount is paid in full through the successful sale of approved bonds.

12. Notes: (1) No California Public Utilities Commission (CPUC) action or approval is required to authorize the acquisition/condemnation. (2) Pending completion of the CMWD acquisition and a transfer of control, GSW's Ojai water utility would remain under the management and control of GSW and subject to CPUC jurisdiction (and rate structure).