



Department of Conservation

Division of Land Resource Protection



Public Acquisition Notification Procedures A Step by Step Guide

The following information explains the public acquisition notification procedures for a public agency's acquisition of land located in an Agricultural Preserve and/or under a Land Conservation (Williamson) Act contract.

If you have additional questions, or suggestions for improvement of this document, please contact the Williamson Act Program at 916-324-0850.

A public acquisition is the acquisition of land located in an agricultural preserve by a public agency or person, acting on behalf of a public agency¹, for a public improvement². Land acquisition includes interests in real property, including partial interests such as utility and conservation easements.

When is a Notice Required?

Public Acquisition Notice is required whenever it appears that land within an agricultural preserve may be required by a public agency, or by a person (acting on behalf of a public agency) for a public use. The public agency or person shall advise the Director of the Department of Conservation (Department) and the local governing body (city/county) responsible for the administration of the agricultural preserve of its intention to consider the location of a public improvement within an agricultural preserve (GC § 51291(b)), or on property restricted by a Land Conservation Act contract.

Does the CEQA Process Constitute a Public Acquisition Notice?

No. Notice of the intention to acquire a property located in an agricultural preserve must be provided separately from a California Environmental Quality Act (CEQA) environmental notice.

The California Environmental Quality Act (CEQA) notice and review is a separate process and does not substitute for the notice of the intention to acquire a property located in an agricultural preserve. Senate Bill 985 (Johnston, statutes of 1999) clarified that CEQA notice does not equal the Public Acquisition Notification procedure stipulated in the Land Conservation Act³.

What are the Legal Requirements for a Public Acquisition Notice?

The requirement to notice occurs four times in the Land Conservation Act of 1965 statute.

1. Notice is required before making a decision to acquire property located in an agricultural preserve (GC §51290(b));

¹ Government Code § 51291(a)

² Government Code § 51290.5

³ Government Code § 51290 – § 51295

2. Notice is required within 10 days of acquisition of the property (GC 51291(c));
3. Notice is required if the public entity proposes any significant changes to the acquisition, and
4. Notice is required after acquisition if the acquiring public agency decides not to acquire the property for the intended purpose (GC 51291(d)).

PUBLIC ACQUISITION NOTICE REQUIREMENTS

FIRST NOTICE - A public agency must notify:

1. The Director of the Department of Conservation,
2. The local jurisdiction (city/county) administering the agricultural preserve, when the public agency has the intention to acquire land in an agricultural preserve or a property restricted by Williamson Act contract for a public purpose⁴.

The first notice, must occur **before** the public agency makes a decision to acquire a property located in an agricultural preserve⁴. The first notice is required to be complete and accurate and should include the following information:

1. The public agency's explanation of its preliminary considerations of the findings of Government Code §51292 (a) and (b):
 - a. *"The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve (§51292(a))."*
 - b. *"There is no other land within or outside of the preserve on which it is reasonably feasible to locate the public improvement (§51292(b))."*
2. A description of the agricultural preserve land it intends to acquire;
3. A copy of the Land Conservation Act contract on property that pertains to any land subject to the restrictions of such a contract between the local governing body, city or county, responsible for the administration of the agricultural preserve where the property to be acquired is located.

Things to Remember

- The Department of Conservation must be notified in advance of any proposed public acquisition and specific findings must be made (see number "1" under the heading first notice above).
- The public agency must review the Department's comments and provide any additional information requested by the Department to complete the administrative record before taking action to acquire the property.

Note: The Department will provide a comment in writing advising the public agency whether additional information is required or that the notice is sufficient and the administrative record is complete. In addition, Department staff may telephone or fax to request information to complete the notification process.

- The public agency must acquire the property via eminent domain or in lieu of eminent domain in order to make the contract null and void (Government Code §51295).
- The public agency is required to provide evidence that the acquisition actually occurred via eminent domain or in lieu of eminent domain (e.g., documents such as copies of

⁴ Government Code § 51291(b)

condemnation orders or a copy of the offer letter made to the landowner in lieu of eminent domain).

SECOND NOTICE

A second notice is required within 10 working days after acquisition⁵ (escrow has closed). The second notice shall include the following, if not previously provided due to some exemption in Government Code § 51290 – § 51295 (please state the applicable exemption in second notice):

1. The notice shall include a general explanation of the decision and the findings made pursuant to Government Code §51292.
2. A general description, in text or by diagram, of the agricultural preserve land acquired (a vicinity map is good); and
3. A copy of the applicable Land Conservation Act contract(s).

Note: If the information and documents, noted above, were provided to the Department in the first notice then the second notice need only list the documents as having been previously provided, and reference the date of the public agency's original letter to the Department. In cases where documentation is lacking or there are discrepancies in the information provided, the Department may request resubmission of the documentation to ensure that the administrative record is complete.

THIRD NOTICE

A third notice is required **if** there is a significant change in the public improvement that the public agency intends to locate on land that is acquired in an agricultural preserve for such a purpose. The public agency must provide notice to the Department and the local jurisdiction (city/county) regarding increases or decreases in the amount of land acquired; **OR**

THIRD / FOURTH NOTICE

A third/fourth notice is required if the public agency does not acquire the land it notified the Department it intended to acquire in the first notice and/or the public agency determines not to use the property it acquired for the purpose identified in the first notice. The land must be reenrolled under a contract that is as restrictive as the one it was under before the acquisition occurred (Government Code § 51295).

All notices should be sent to:

David Bunn, Director
Department of Conservation
c/o Division of Land Resource Protection
801 K Street, MS 14-15
Sacramento, CA 95814-3528

⁵ Government Code § 51291(c)