

Public Hearing to Consider Adoption of Resolution of Necessity: Coyote Creek Flood Management Measures Project

February 28, 2023

Findings to be Made at RON Hearing

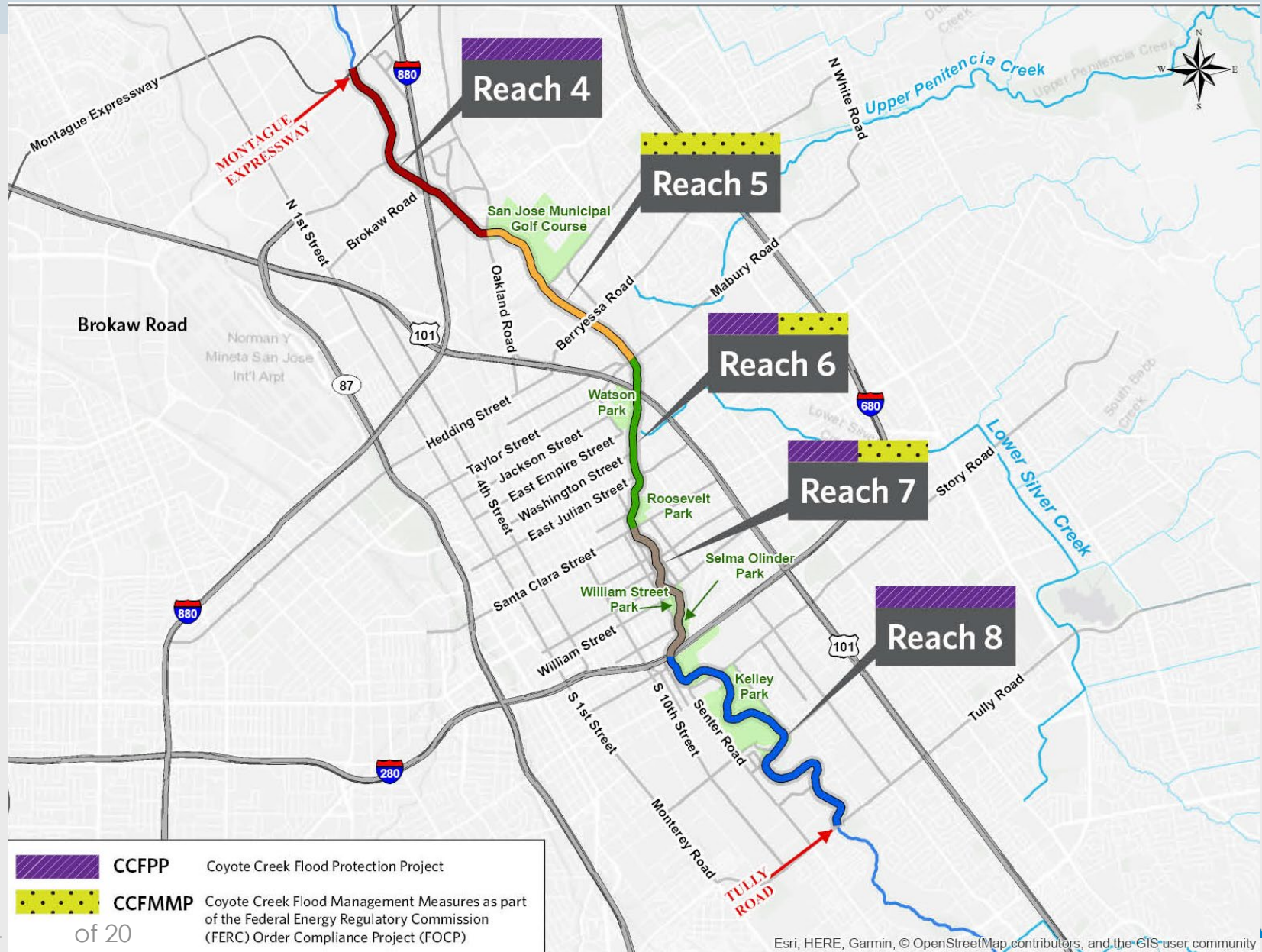
- Establish the public need for the project;
- Establish that project designed/located in manner most compatible with greatest public good and least private injury;
- Determine the property is necessary for the project
- Establish offer required by Section 7267.2 of the Government Code was made to record owner(s)

Public Necessity for the Proposed Project

- **Finding:** The public interest and necessity require the proposed project:
 - ▶ Provide flood protection from floods up to the level that occurred on February 2017 (approximately a 20-year flood event) along portions of Coyote Creek from Old Oakland Road to Interstate 280
 - ▶ Enhancement to creek's habitat
 - ▶ Reduce long-term maintenance



Coyote Creek Flood Management Measures Project



Existing Constraints on Project Design

- The Geography and Footprint of the Creek determines which Private Properties will be impacted
 - ▶ Private Property is Located on Both Sides of the Creek
 - ▶ The Creek is Located In and Flows Through Private Property

Project Design Serves the Greatest Public Good with the Least Private Injury

- **Finding:** The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
- Achieved through Holistic Approach to Project Design
- Apply Hydraulic Modeling to
 - ▶ Reduce scour
 - ▶ Reduce erosion
 - ▶ Reduce long term maintenance
 - ▶ Prevent induced flooding

Project Design Serves the Greatest Public Good with the Least Private Injury

- Achieved through Holistic Approach to Project Design
- Avoid Private Structures
 - ▶ Examine the Possibility of Locating Project Features In a Manner that Minimizes Impacts to Private Structures
- Preserve Habitat of Greater Environmental Value
 - ▶ Minimize disturbance to native vegetation
 - ▶ Preserve, enhance, and create aquatic habitat
- Align project features with existing creek alignment

Other Project Benefits

- Remove legacy trash and debris
- Preserve natural creek footprint and open space
- Increase native vegetation
- Improved maintenance access



CEQA Compliance

- The Federal Energy Regulatory Commission Order Compliance Project (FOCP) was determined to be exempt from CEQA review pursuant to the statutory exemption for specific actions necessary to prevent or mitigate an emergency under CEQA guidelines § 15269(c) and Public Resources Code § 21080(b)(4)
- Valley Water filed a Notice of Exemption for FOCP with Santa Clara County Clerk-Recorder Office on June 29, 2020.
- This acquisition is part of the CCFMMP, which is included in the FOCP and continues to be exempt from CEQA pursuant to the above-cited provisions.

Property Acquisitions Necessary for Project

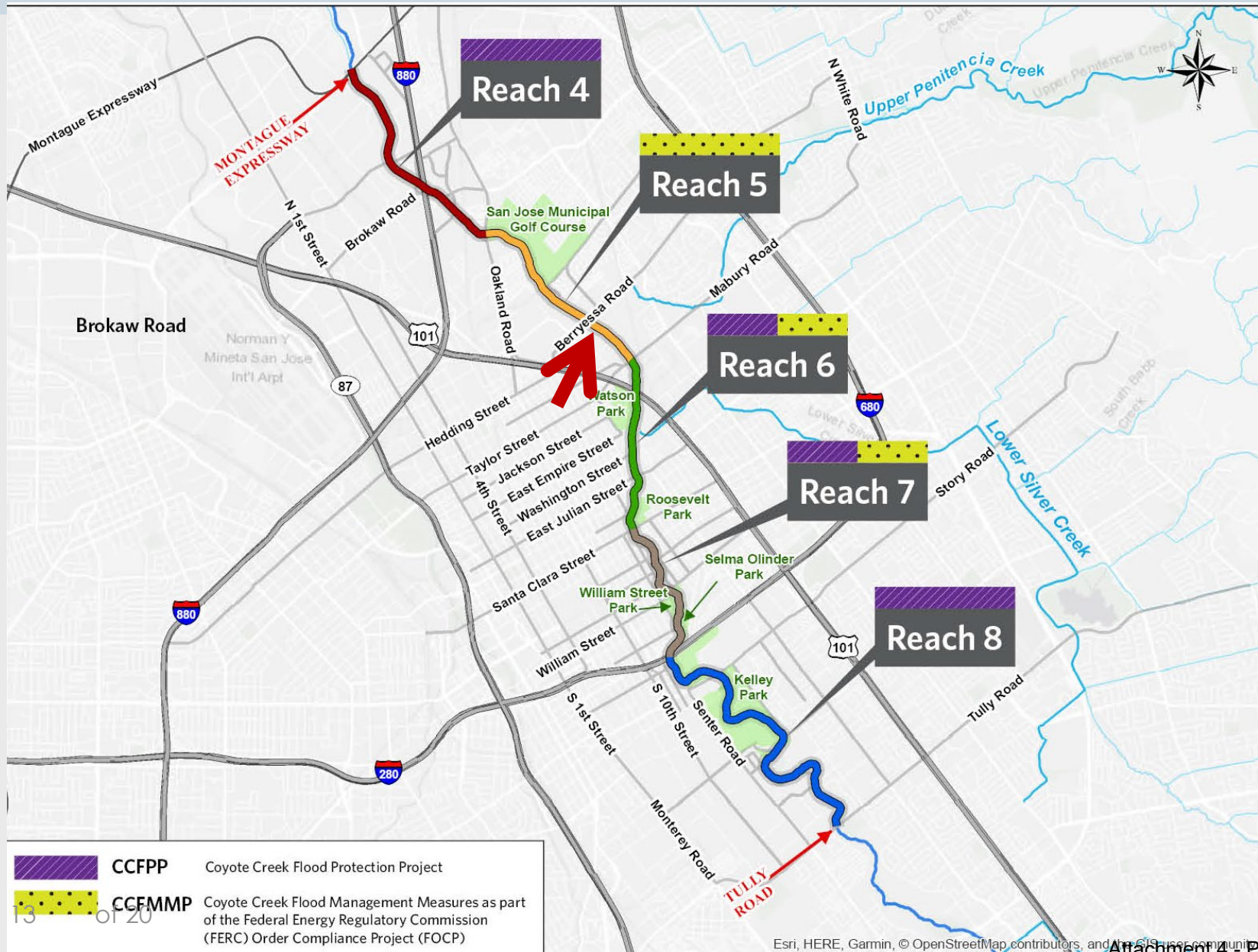
- Project requires acquisition of 33 Properties in Reaches 5, 6, & 7
 - ▶ 7 acquired & 7 acquisitions going thru final approval
- Resolutions of Necessity due to impasse are proposed for 5 properties in Reach 5 & 7 owned by the following owners of record:
 - ▶ Ananya Kaewphokha
 - ▶ SJ Sierra Group, LLC
 - ▶ Terreno Berryessa, LLC
 - ▶ S&A Investment Holding, LLC
 - ▶ Southern Pacific Transportation Co (UPRR)

Separate Hearings For Each Property

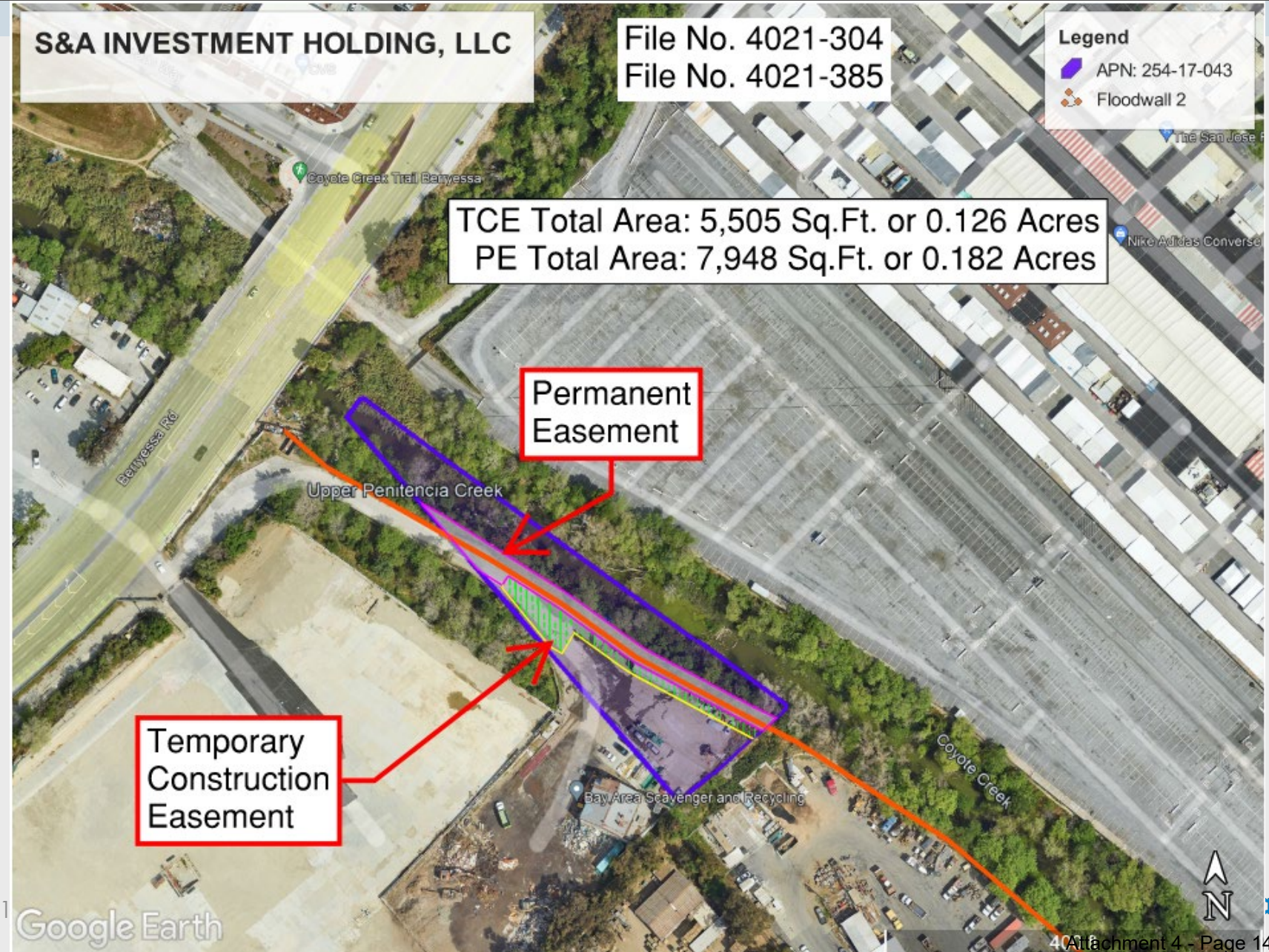
- At this point in the presentation, Valley Water will conduct a separate hearing for each specific property
- The Chair of the Board of Directors will describe the process for each hearing

- The acquisition area is along an access driveway providing access to the construction site.
- A portion of the area is to be acquired for access to either side of the wall.
- The proposed area to be acquired does not impact any existing private structures or access to these structures
- After project is constructed, the area will be returned to its existing use

Coyote Creek Flood Management Measures Project



S&A Investment Holding, LLC Property Exhibit



S&A Investment Holding, LLC Property is Necessary for the Project

- This property is necessary for the project because the floodwall is on this property and the access path to the floodwall is on a portion of this property.
- Access to maintain the floodwall is necessary.
- Construction activities also require that a separate portion of the property be temporarily accessible to construct the floodwall.
- Finding: The property described in the resolution is necessary for the proposed project.

Gov. Code Section 7267.2(a) Offer

- **Finding:** The Offer of Just Compensation as Required by Section 7267.2(a) of the Gov. Code in an amount not less than the appraised value of the interest to be acquired has been made to the owners of record.
- On October 19, 2022, the District sent a final written offer to the Owner(s) via certified mail for the Full Amount established as Just Compensation.
- The Amount of Just Compensation was not less than Fair Market Value established by an Approved Appraisal.

S&A Investment Holding, LLC Property – Acquisition Chronology

DATE	DISTRICT ACTIVITIES
June 6, 2022	NODA sent to property owner
October 19, 2022	Offer package mailed to S & A Investments*
October 30, 2022	Call with Property Owner's representative
November 3, 2022	Reached out to Property Owner...no response
November 7, 2022	Stopped by acquisition site to meet with Property Owner's representative
November 8, 2022	Call with Property Owner's representative
December 9, 2022	Reached out to Property Owner...no response
December 12, 2022	Call with Property Owner and received letter from Property Owner's attorney
December 26, 2022	Acquisition area staked
January 4, 2023	Call with Property Owner's representative
January 9, 2023	Meeting with Property Owner's representative on site
January 13, 2023	Called Property Owner...no response
January 16, 2023	Sent email to Property Owner's attorney
January 17, 2023	Called Property Owner's attorney
January 18, 2023	Called Property Owner's representative
January 19, 2023	Sent email to Property Owner's attorney
January 25, 2023	Reached out to Property Owner's attorney to get an update...no response.
January 26, 2023	Call with Property Owner's attorney to discuss updates and the upcoming RON hearing

Discussion and Decision

- This completes the District's presentation regarding acquisition of the S&A Investment Holding, LLC Property.
- After the Board receives comments from the property owner and public, staff is ready to answer questions.

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