

State of California
Business, Transportation and Housing Agency
Department of Transportation

HIGHWAY RIGHT OF WAY MATTERS
Resolutions of Necessity
Action Item

Prepared By:
Brice Paris
Chief
Division of Right of Way
(916) 654-5075

CTC Meeting: June 13, 2002

Reference No.: 2.4a.(1)

Original Signed By

ROBERT L. GARCIA
Chief Financial Officer
June 3, 2002

RESOLUTIONS OF NECESSITY

The Department of Transportation recommends the California Transportation Commission adopt Resolution of Necessity C-18531. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department of Transportation is requesting a resolution at this time. Adoption of Resolution of Necessity C-18531 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18531 - Edward Titus, et ux

10-Cal-04-KP 20.6 - Parcel 14673-1,2 - EA 499909 (Conventional Highway) Authorizes condemnation of land in fee for a State highway, all of those certain improvements which straddle the right of way line with an easement to enter the remaining ownership to remove such improvements, located near the city of Copperopolis at 2591 Highway 4.

SUMMARY OF ISSUES

The public interest and necessity require this project.

The property owners contest the need for the Project, suggesting that existing traffic safety problems will be merely moved to another section of the highway by the planned construction. The owners contend that existing safety signs, installed by the Department in 1992 and 1995, eliminate the need for the proposed curve straightening.

The Department studied the accident rate of this location on Highway 4 and installed traffic signs as an interim measure until the curve correction work could be performed. The curve correction project is still necessary.

The project is planned to provide the greatest public good with the least private injury.

The property owners contend the State has not adequately considered the impacts of the curve-straightening project on an individual property.

The Department contends adequate consideration was given to the impacts of the project on individual properties. Alternatives were studied to minimize the severity and number of impacted properties.

The property owners asked that the selected alignment alternative for this project be moved slightly to minimize the portion of their property needed for the project.

This Department complied, leaving the property with a net of 30 acres. This acreage provides the owners an opportunity to subdivide the remaining property into six, five-acre plats. The property is currently zoned for agricultural use. No development plan has been filed. The owners propose a future higher use dependent on approval of a zoning change.

The property is required for the proposed project.

The property owners contest the need for the property, claiming that the property can be avoided entirely by selecting a different alignment.

The Department designed the project to effect the minimum taking practicable while achieving the desired safety standards for the new alignment. The chosen alignment accomplishes these two goals at the least cost of all alignments studied.

An offer to purchase the property, in compliance with Government Code Section 7267.2, has been made to the owners of record.

The property owners acknowledge receipt of the Department's written offer to purchase the property for the full amount appraised. The Property owners contend that the State's offer of compensation is too low.

The Department has appraised the subject property and has offered the full amount of the appraisal in accordance Section 7267.2. The Department considers the owners' contention to be a compensation issue, not appropriate for consideration by The California Transportation Commission at its scheduled meetings.

10-CAL-04-KP 20.6
Parcel No. 14673
Owners: Edward Titus
and Erlinda Titus

RESOLUTION OF NECESSITY APPEARANCE FACT SHEET

PROJECT DATA 10-CAL-04-KP 20.6, EA 499909.

Location: On Highway 4 in Calaveras County, near the community of Copperopolis.

Limits: Between Hunt Road on the north and Rock Creek Road on the south, approximately 0.8-kilometer in length.

Contract Limits: N/A

Cost: \$1.8 million

Funding Source: SHOPP Programmed 1988, HB-1 Safety Program, 2001/2002 fiscal year.

Number of Lanes: Existing: 2-lanes at 10 ft each, no shoulders.
Proposed: 2-lanes at 3.6m each (12-ft), plus new shoulders 2.4m wide (8 ft)

Proposed Major Features: None

Traffic: Existing: 5,100 ADT
Proposed: 13,100 ADT (by year 2023)

PARCEL DATA

Property Owner: Edward Titus and Erlinda Titus, husband and wife.

Parcel Location: 2591 Highway 4, Copperopolis, CA.

Present Use: Vacant, Agricultural, zoned AG-1, General Agriculture.

Area of Property: 30.4 acres

Area Required: 0.4 acre- Fee

RESOLUTION OF NECESSITY
REVIEW PANEL REPORT

April 30, 2002

The Resolution of Necessity Review Panel met on April 24, in Martinez. This site was chosen to minimize the travel time and distance for the property owner who suffers from a cardiovascular condition. The panel was chaired by Charles Carrillo, HQ Right of Way, and included panel members Linda Fong,, Headquarters Design and Richard B. Williams, HQ Legal. In attendance from the District were Mark Leja, District Director; Michael Lahodny, Chief, Central Region Right of Way; Sharon Parsons Right of Way; Paul Elliott, Project Design; David Mendoza, Project Manager and Deborah Gebers, HQ Right of Way Liaison to Central Region. The property owners, Mr. and Mrs. Titus, attended accompanied by their attorney, Mr. Michael Adams.

This panel report summarizes the findings of the panel with regard to the four criteria required for a Resolution of Necessity and makes a recommendation to the Chief Engineer to seek the Resolution of Necessity.

1. NEED FOR PROJECT

The project is a curve correction of a portion of Highway 4 that is the focus of an unacceptable accident rate. From January 1997 through December 1999, the rate was 1.82 accidents per million vehicle miles. This is nearly four times the statewide average. In conditions of precipitation causing wet pavement, the actual accident rate per million vehicle miles jumps to 5.42. Within the project limits alone, In the period January 1, 1997 through December 31, 1999, eleven accidents occurred of the more serious types. There were eight hit objects, two overturned vehicles and one rear-end impact.

Route 4 currently has an ADT of 5,100 vehicles. This amount will increase to 13,100 ADT by the year 2023. The current project is needed to prevent increasing accident rates commensurate with increased traffic on the highway.

2. PROJECT DESIGN

The project design will replace an existing 46-meter radius curve and a 180-meter radius curve with two, 320-meter radius curves, thereby improving motor vehicle safety along the 0.8-km length of the project. A right-of-way corridor width of 30-meters accommodates a 12-meter wide traveled way with two, 3.6-meter wide lanes, plus 2.4-meter wide shoulders. Roadside drainage will be constructed along with upgrades of existing cross drains. A reinforced concrete double box culvert will be installed at Black Creek.

Alignment of the project is designed to minimize cost and the need for new right-of-way. Of all the alignments studied, the selected alignment makes the least impact on the property owned by Mr. and Mrs. Titus. A more northwesterly alternative would cause a larger taking from the subject parcel and would impact a known historic property. A more southeasterly alignment alternative would require a larger taking from the subject property and displace a residence. Project costs and the impact to the subject property would increase with either of these alternatives.

3. NEED FOR PARCEL

The subject parcel fronts along the north side of the proposed alignment. Approximately 0.4 acre is needed to allow for the larger radius curves to be constructed.

4. STATUTORY OFFER TO PURCHASE

The State has appraised the subject property and has offered the full amount of the appraisal in compliance with Government Code Section 7267.2. The property owners rejected the amount of the offer.

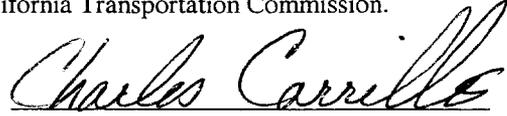
The owners asked to be compensated for the required right-of-way at a rate over fifty times the appraised value. Valuation of the amount of just compensation for the property appears to be a major factor in the owners' opposition to the project.

PANEL RECOMMENDATION

The panel believes that the District's design complies with the Code of Civil Procedure in that:

1. The public interest and necessity require this project.
2. The project is planned to provide the greatest public good with the least private injury.
3. This property is required for the proposed project.
4. An offer to purchase, in compliance with Government Code Section 7267.2, was made to the owners of record.

The Panel recommends submitting a Resolution of Necessity to the California Transportation Commission.



CHARLES CARRILLO
Right of Way Division
Review Panel Chair

I concur with the Panel's recommendation.



BRENT FELKER
Chief Engineer

PERSONS ATTENDING SECOND LEVEL REVIEW PANEL HEARING ON April 24, 2002:

Mr. Edward Titus, Property Owner
Mrs. Erlinda Titus, Property Owner
Mr. Michael Adams, Attorney-at-law

Mark Leja, District Director, District 10
Michael Lahodney, Chief, Central Region R/W
Paul Elliott, District 10 Project Design
David Mendoza, District 10 Project Manager
Sharon Parsons, Chief, District 10 R/W

Linda Fong, HQ Design
Richard B. Williams, HQ Legal
Deborah Gebers, HQ R/W
Charles Carrillo, HQ R/W

CHRONOLOGY OF CONTACTS AND EVENTS

1933	Route Adoption
PR/PR/PR	Project Report Approved
2/5/01	Environmental Clearance
9/4/01	Beginning of contact with property owners. Phone call to owners.
9/5/01	Mr. Titus returned call. Scheduled to meet 9-12-01.
9/12/01	First Written Offer. Owner became agitated and ended the meeting abruptly.
12/10/01	Phone call from Mr. Titus to discuss the appraisal process. Mr. Titus became upset and ended the conversation by hanging up abruptly.
12/21/01	Letter mailed to owners to inform them that eminent domain proceedings would begin.
1/10/02	Notice of Intent letter sent by Certified Mail to the owners. Letter advised them of the February 27-28 CTC Meeting and our request for a Resolution of Necessity.
2/4/02	Sent a duplicate Notice of Intent Letter. Owners did not acknowledge the original letter.
2/15/02	Mr. Titus wrote to the Executive Director of the CTC to request an appearance.
3/7/02	Sent letter to the owners informing them of the 1 st Level Review meeting to be held on 3/28/02.
3/25/02	Mr. Titus left a message requesting a postponement of the meeting due his health.
3/27/01	Owners notified by phone of the combined 1 st and 2 nd Level Reviews to be held 4/24/02. The meeting was to be located in Martinez at the California Highway Patrol office there to accommodate Mr. Titus' health problems.
3/24/02	Combined 1 st and 2 nd Level Reviews held in Martinez.

1 **PARCEL 14673-1**

2 For State highway purposes, all that portion of Parcel 1 as shown on that certain map
3 filed for record November 18, 1980, in Book 5 of Parcel Maps, at Page 40, Calaveras County
4 Records, included within a strip of land 25.000 meters wide, lying 12.500 meters on each side
5 of the following described line:

6 COMMENCING at a ¾ inch rebar with a yellow cap stamped "CALIF. DOT" marking the
7 northerly terminus of that course shown as *N. 12° 18' 17" E., 284.04 feet* on map filed for
8 record November 18, 1996, in Book 18 of Record of Surveys, at Page 151-A, Calaveras
9 County Records; thence, *S. 12° 17' 46" W., 86.565 meters* to a 1 inch iron pipe with a yellow
10 plug stamped "CALIF. DOT" marking the southerly terminus of said course as shown on said
11 map; thence, *S. 82° 42' 00" E., 28.827 meters*; thence, *N. 07° 18' 00" E., 64.876 meters*;
12 thence, northerly and northeasterly along a curve concave to the southeast having a radius of
13 320.000 meters, through a central angle of *27° 31' 05"*, an arc distance of 153.690 meters;
14 thence, *N. 34° 49' 05" E., 109.708 meters*; thence, northeasterly and northerly along a curve
15 concave to the west having a radius of 320.000 meters, through a central angle of *21° 23' 12"*,
16 an arc distance of 119.445 meters to a point on the southerly line of Section 15, T. 2 N., R. 12
17 E., M. D. M., said point bears *N. 89° 15' 52" W., 139.086 meters* along said southerly line from
18 a 1 inch iron pin with a 2-½ inch brass cap stamped "LS 4662" marking the South Quarter
19 Corner of said Section 15 as shown on said map filed for record November 18, 1980, in Book 5
20 of Parcel Maps, at Page 40, Calaveras County Records, said point being the TRUE POINT OF
21 BEGINNING;

22 (1) thence, continuing northerly along said curve concave to the west, from a radial which
23 bears *S. 76° 34' 07" E.,* with a radius of 320.000 meters, through a central angle of *32° 51'*
24 *38"*, an arc distance of 183.528 meters to a point which bears *N. 39° 08' 03" W., 235.359*
25 *meters* from the said South Quarter Corner of Section 15.

26 The sidelines of said strip shall be continued or shortened so as to begin at the said
27 southerly line of Section 15.

1 TOGETHER WITH all of the existing improvements which are located partially within and
2 partially outside the boundaries of the above-described parcel, together with the right and
3 easement to enter upon the owner's remaining land outside the boundaries of said parcel at
4 any time within 120 days after the date possession is authorized as indicated in the order for
5 possession, or within 120 days after Final Judgment in Condemnation, for the purpose of
6 removing all of the said existing improvements.

7 **PARCEL 14673-2**

8 For State highway purposes, all that portion of Parcel 1 as shown on that certain map
9 filed for record November 18, 1980, in Book 5 of Parcel Maps, at Page 40, Calaveras County
10 Records, included within a strip of land 25.000 meters wide, lying 12.500 meters on each side
11 of the following described line:

12 COMMENCING at a ¾ inch rebar with a yellow cap stamped "CALIF. DOT" marking the
13 northerly terminus of that course shown as *N. 12° 18' 17" E., 284.04 feet* on map filed for
14 record November 18, 1996, in Book 18 of Record of Surveys, at Page 151-A, Calaveras
15 County Records; thence, *S. 12° 17' 46" W., 86.565 meters* to a 1 inch iron pipe with a yellow
16 plug stamped "CALIF. DOT" marking the southerly terminus of said course as shown on said
17 map; thence, *S. 82° 42' 00" E., 28.827 meters*; thence, *N. 07° 18' 00" E., 64.876 meters*;
18 thence, northerly and northeasterly along a curve concave to the southeast having a radius of
19 320.000 meters, through a central angle of *27° 31' 05"*, an arc distance of 153.690 meters;
20 thence, *N. 34° 49' 05" E., 109.708 meters*; thence, northeasterly and northerly along a curve
21 concave to the west having a radius of 320.000 meters, through a central angle of *21° 23' 12"*,
22 an arc distance of 119.445 meters to a point on the southerly line of Section 15, T. 2 N., R. 12
23 E., M. D. M., said point bears *N. 89° 15' 52" W., 139.086 meters* along said southerly line from
24 a 1 inch iron pin with a 2-½ inch brass cap stamped "LS 4662" marking the South Quarter
25 Corner of said Section 15 as shown on said map filed for record November 18, 1980, in Book 5
26 of Parcel Maps, at Page 40, Calaveras County Records; thence, continuing northerly along
27 said curve concave to the west, from a radial which bears *S. 76° 34' 07" E.*, with a radius of

1 320.000 meters, through a central angle of 32° 51' 38", an arc distance of 183.528 meters to
2 the TRUE POINT OF BEGINNING;

3 (2) thence, N. 19° 25' 45" W., 174.817 meters to a point which bears N. 30° 45' 00 " W.,
4 404.259 meters from the South Quarter Corner of said Section 15.

5 TOGETHER WITH all of the existing improvements which are located partially within
6 and partially outside the boundaries of the above-described parcel, together with the right and
7 easement to enter upon the owner's remaining land outside the boundaries of said parcel at
8 any time within 120 days after the date possession is authorized as indicated in the order for
9 possession, or within 120 days after Final Judgment in Condemnation, for the purpose of
10 removing all of the said existing improvements.

11 Bearings and distances used in the above descriptions are based on the California
12 Coordinate System of 1983, Zone 3. Multiply distances shown by 1.00013112 to obtain
13 ground level distances. To convert meters to U.S. survey feet, multiply distances by
14 3937/1200.

15 This real property description has been prepared by me, or under my direction, in
16 conformance with the Professional Land Surveyors Act.

17 Signature Mark A. Taylor
18 Licensed Land Surveyor

19 Date 5-15-02

20 ////
21 ////
22 ////
23 ////
24 ////
25 ////
26 ////
27 ////

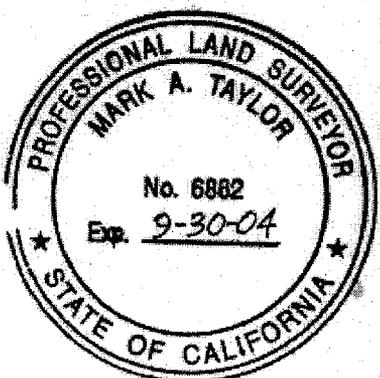
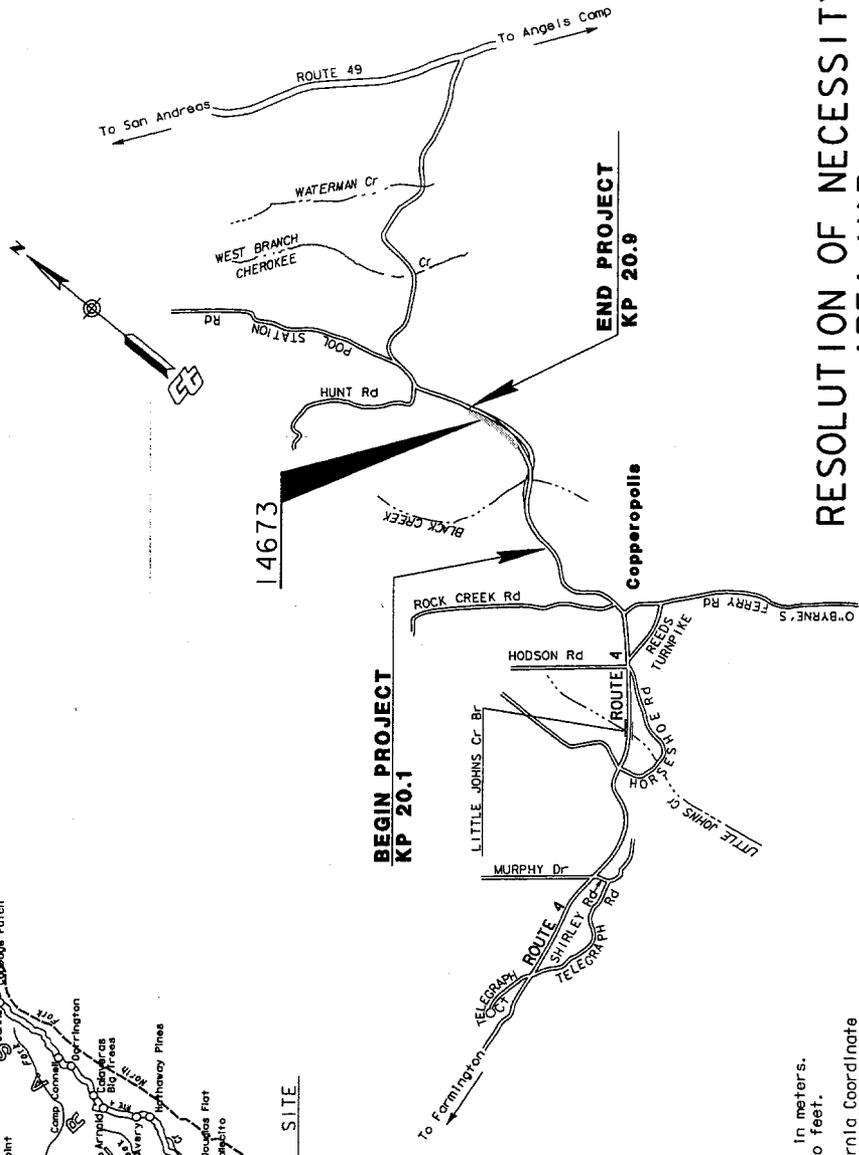
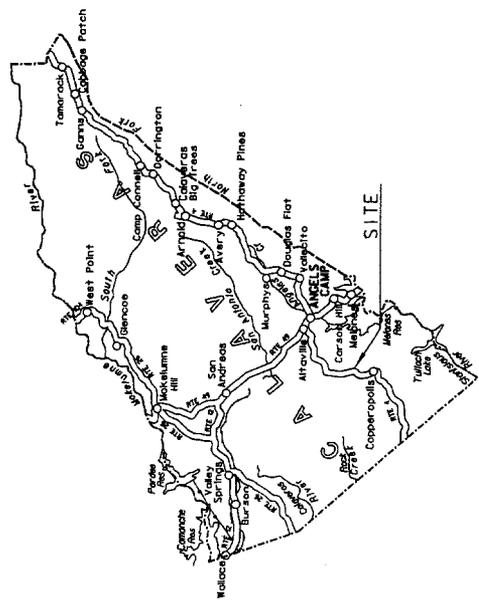


EXHIBIT A



T.2N., R.12E., M.D.M.
Section 15



RESOLUTION OF NECESSITY
AREA MAP
10-Cal-4 K.P. 20.1/20.9

NO SCALE

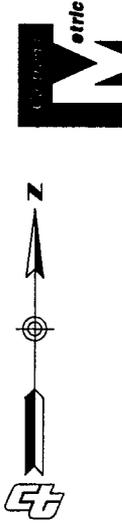
CONVERSION FACTOR: This survey is in meters.
Multiply by 3937/1200 to convert to feet.

This survey is based on the California Coordinate System of 1983, Zone 5. Units are in meters and bearings and distances are on grid. Multiply by 1.00013112 to convert to ground distances.

\$FILE\$
\$DATE\$

\$TIMES

EXHIBIT B



W 1/4 Cor Sec 15 2/12
 5/8" REBAR TAGGED LS 4662
 N 668470.220
 E 1987215.396

T.2N., R.12E., M.D.M.
 Section 15

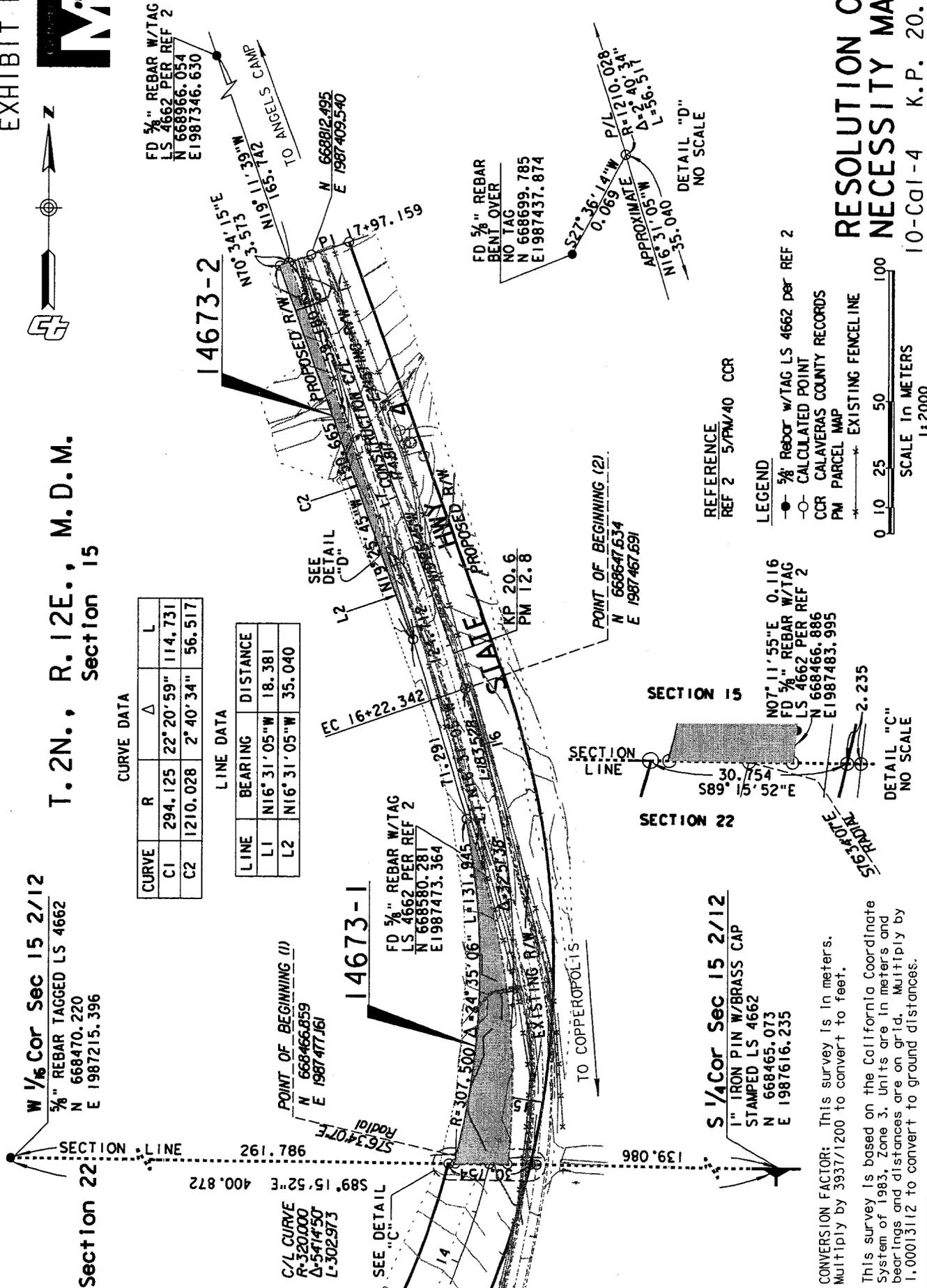
Section 22

CURVE DATA

CURVE	R	Δ	L
C1	294.125	22°20'59"	114.731
C2	1210.028	2°40'34"	56.517

LINE DATA

LINE	BEARING	DISTANCE
L1	N16°31'05"W	18.381
L2	N16°31'05"W	35.040



FD 5/8" REBAR W/TAG
 LS 4662 PER REF 2
 N 668966.054
 E 1987346.630

FD 5/8" REBAR
 BENT OVER
 NO TAG
 N 668699.785
 E 1987437.874

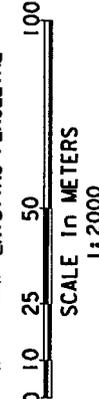
APPROXIMATE
 N16°31'05"W
 L=35.040
 Δ=2°40'34"
 R=1210.028
 P/L 1210.028

DETAIL "D"
 NO SCALE

REFERENCE
 REF 2 5/PM/40 CCR

LEGEND

- 5/8" Rebar w/TAG LS 4662 per REF 2
- CALCULATED POINT
- CCR CALAVERAS COUNTY RECORDS
- PM PARCEL MAP
- * EXISTING FENCELINE



RESOLUTION OF
 NECESSITY MAP
 10-CAL-4 K.P. 20.6

POINT OF BEGINNING (1)
 N 668466.859
 E 1987477.161

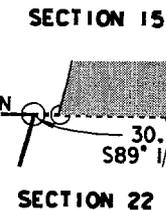
I 4673-1
 FD 5/8" REBAR W/TAG
 LS 4662 PER REF 2
 N 668580.281
 E 1987473.364

POINT OF BEGINNING (2)
 N 668647.634
 E 1987467.691

S 1/4 Cor Sec 15 2/12
 1" IRON PIN W/BRASS CAP
 STAMPED LS 4662
 N 668465.073
 E 1987616.235

NO 7' 11" 55"E 0.116
 FD 5/8" REBAR W/TAG
 LS 4662 PER REF 2
 N 668466.886
 E 1987483.995

SECTION LINE



DETAIL "C"
 NO SCALE

CONVERSION FACTOR: This survey is in meters. Multiply by 3937/1200 to convert to feet.

This survey is based on the California Coordinate System of 1983, Zone 3. Units are in meters and bearings and distances are on grid. Multiply by 1,000/1312 to convert to ground distances.