

# Memorandum

CHAIR AND COMMISSIONERS

CTC Meeting February 25-26, 2004

Reference No.: 2.4d.(3)  
Action Item

From: ROBERT L. GARCIA  
Chief Financial Officer

Prepared by: Brice D. Paris  
Division Chief  
Right of Way

Ref: DIRECTOR'S DEED

The Department of Transportation is presenting a Director's Deed for the sale of 20.57 acres of excess State-owned real property adjacent to State Route 14 in Kern County. This item was originally presented during the October 2002 California Transportation Commission (Commission) meeting, and was returned to the February 2003 Commission meeting for reconsideration. At the February 2003 meeting, the Commission voted to reject the proposed conveyance and directed the Department to sell the property at public auction.

## ACTION:

The Commission's approval of the attached Director's Deed would allow the sale of the property, in accordance with Section 118 of the Streets and Highways Code, for the appraised value of \$55,000.

## RECOMMENDATION:

The Department is presenting this conveyance and Directors Deed to the Commission pursuant to the district-approved Right of Way Contract that is conditioned upon Commission approval.

## BACKGROUND:

01-06 KER-14-18.20

Disposal Unit DD3153-01-01

Mojave

20.57 ac

The parcel being disposed of is located adjacent to State Route 14, in Kern County near the new alignment of State Route 58 (Mojave Bypass) north of the City of Mojave. The property was purchased for the Mojave Bypass Project. Both the State's excess and the adjoining Flying J properties are vacant and unimproved desert land. About 9.5 acres of the State's excess property

is substantially encumbered by eroded arroyos, which will require the installation of large culverts and a significant amount of fill material, compaction, and grading before it can be developed. The parcel has been identified as excess and no longer needed for completion of the Mojave Bypass Project.

The proposed sale of this property is pursuant to a Right of Way Contract, dated December 13, 2001, in settlement of the eminent domain condemnation action filed against the Flying J owners. The Eminent Domain action was for the purchase of 4.426 acres of property from Flying J for the construction of a frontage road as part of the Route 58 Mojave Bypass Project. Flying J alleged damages of \$ 155,258, of which \$54,480 was attributed to the take area and \$100,788 was attributed to severance damage to the remainder. The settlement and exchange eliminates their claims of damages, and will replace the alleged lost development potential of the Flying J property. Although the size of their parcel will increase substantially in area from 18.8 acres to 34.9 acres in the after condition, it is important to note as mentioned above that about 9.5 acres of the State's excess parcel is substantially encumbered by eroded arroyos. Conveyance of the excess parcel is conditioned on the Commission's approval of the Director's Deed.

The State is receiving payment from the buyer, Flying J, in the form of cash (\$40,200) and the conveyance of 4.426 acres of property required for State's highway project - the value of which is \$14,800, including statutory interest - for a total consideration of \$55,000. The agreement with Flying J also provided for Flying J to reimburse the Department for a construction change order affecting the proposed exchange property, in the amount of \$47,754.

The measure of market value of the excess property was based on an appraisal done for Flying J, which was accepted by Department staff. The appraisal report, dated August 28, 2001, concluded that in the 'before' condition, Flying J's remaining adjoining property was valued at \$79,000, and when combined with State's excess in the 'after' condition, the entire property was valued at a total of \$134,000. The additional State excess property will, in the appraiser's opinion, add a value of \$55,000 to the remaining Flying J property when the two properties are combined.

Subsequent to the Commission's action at the February 2003 meeting the Department pursued an amendment to the Right of Way contract which would have provided an acre for acre even exchange. Upon failure of these negotiations the Department, pursuant to the Commission's instructions, offered the property by public sale on May 20, 2003. There were ten bidders attending the sale, which had an opening bid of \$120,000. The auction resulted in a high bid of \$377,000. Sale of the property, however, is stayed pending determination of the final disposition of the property.

In preparation to defend the Department in the pending litigation due to the Commission's denial of the exchange and in light of the wide disparity between the contract amount (\$55,000) and the

amount actually bid at public auction (\$377,000), the Department has retained an independent third party appraiser to evaluate the August 28, 2001 appraisal report upon which the contract valuation is based. The reviewing appraiser will be made available during the Commission's hearing of this matter to answer questions the Commissioners may have regarding the August 28, 2001 appraisal report.

Attachments

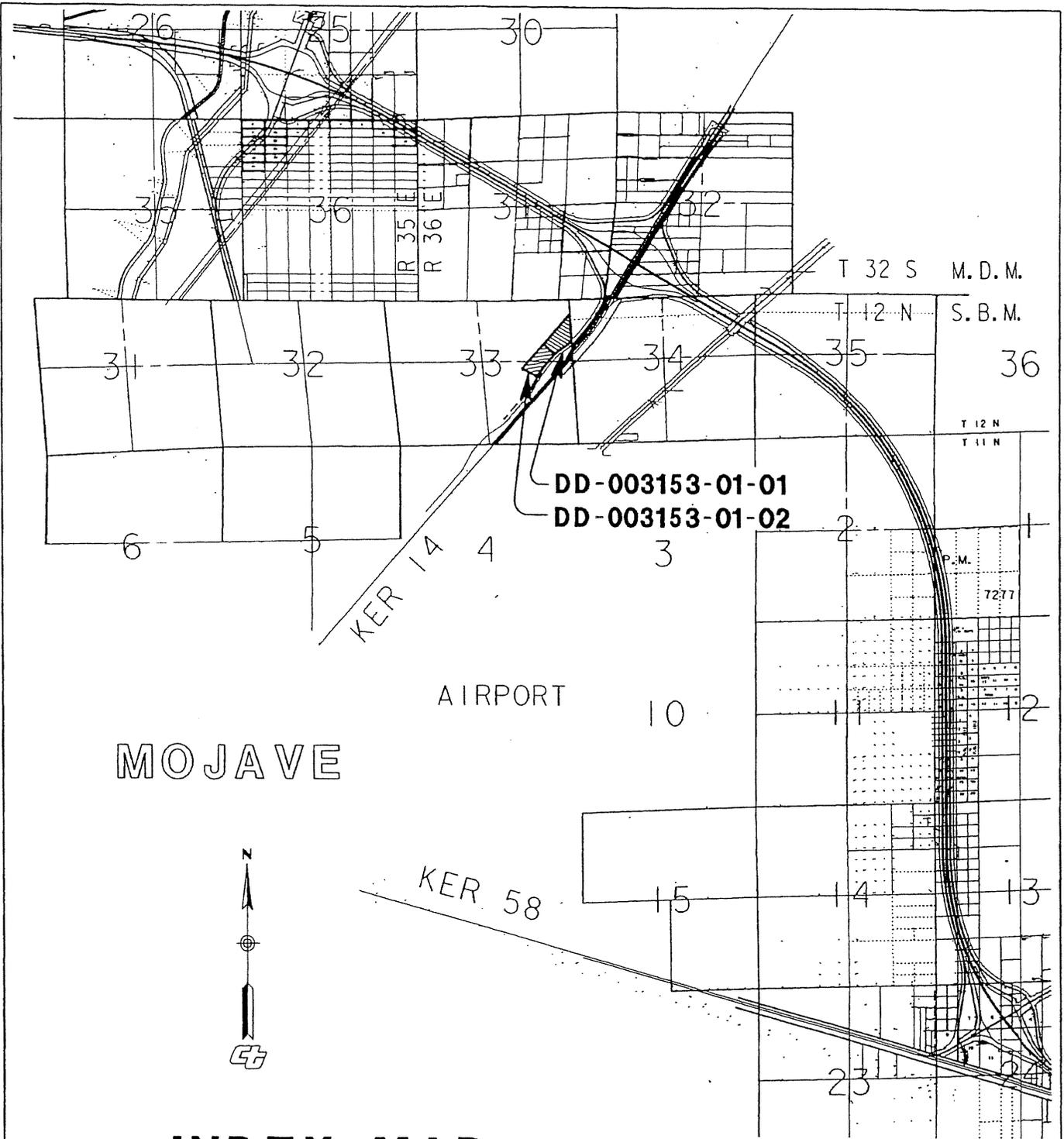
**SUMMARY OF DIRECTOR'S DEEDS  
PRESENTED TO CALIFORNIA TRANSPORTATION COMMISSION - FEBRUARY 2004**

Table I - Volume by Districts

District	Direct Sales	Public Sales	Non-InVENTORY Conveyances	Other Funded Sales	Total Items	Current Estimated Value	Return From Sales	Recovery %	
								% Return	From Sales Current Value
01					0	\$0	\$0		
02					0	\$0	\$0		
03					0	\$0	\$0		
04					0	\$0	\$0		
05					0	\$0	\$0		
06	1				1	\$55,000	\$55,000		100%
07					0	\$0	\$0		
08					0	\$0	\$0		
09					0	\$0	\$0		
10					0	\$0	\$0		
11					0	\$0	\$0		
12					0	\$0	\$0		
<b>Total</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>\$55,000</b>	<b>\$55,000</b>		<b>100%</b>

Table II - Analysis by Type of Sale

Type of Sale	# of Items	Current Estimated Value	Return From Sales	Recovery %	
				% Return	From Sales Current Value
Direct Sales	1	\$55,000	\$55,000		100%
Public Sales	0	\$0	\$0		
Non-InVENTORY Conveyances	0	\$0	\$0		
<b>Sub-Total</b>	<b>1</b>	<b>\$55,000</b>	<b>\$55,000</b>		<b>100%</b>
Other Funded Sales	0	\$0	\$0		
<b>Total</b>	<b>1</b>	<b>\$55,000</b>	<b>\$55,000</b>		<b>100%</b>

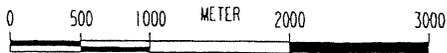


MOJAVE

AIRPORT



**INDEX MAP**



COORDINATES, BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983 (1991.35), ZONE 5. DISTANCES ARE IN METERS UNLESS OTHERWISE NOTED. DIVIDE DISTANCES BY THE COMBINED GRID FACTOR TO OBTAIN GROUND LEVEL DISTANCES. TO CONVERT METERS TO THE U.S. SURVEY FOOT, MULTIPLY DISTANCES BY 3937/1200.

COMBINED GRID FACTOR = 0.99980596



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STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY DEPARTMENT OF TRANSPORTATION					
<b>DIRECTOR'S DEED MAP</b>					
<b>DD-003153-01-01 &amp; DD-003153-01-02</b>					
DIST.	COUNTY	ROUTE	POST MILE / KILOMETER	SHEET NO.	TOTAL SHEETS
09	KER	14	18.20/29.30	1	2
LAST REV. 4-25-03					

SEC. 31

T. 32 S., R. 36 E., M.D.M.

1/4 COR.  
3.5" CDOT  
ALU CAP ON  
2" ALU PIPE  
N 676,998.854  
E 1,985,713.376

T. 12 N., R. 12 W., S.B.M.

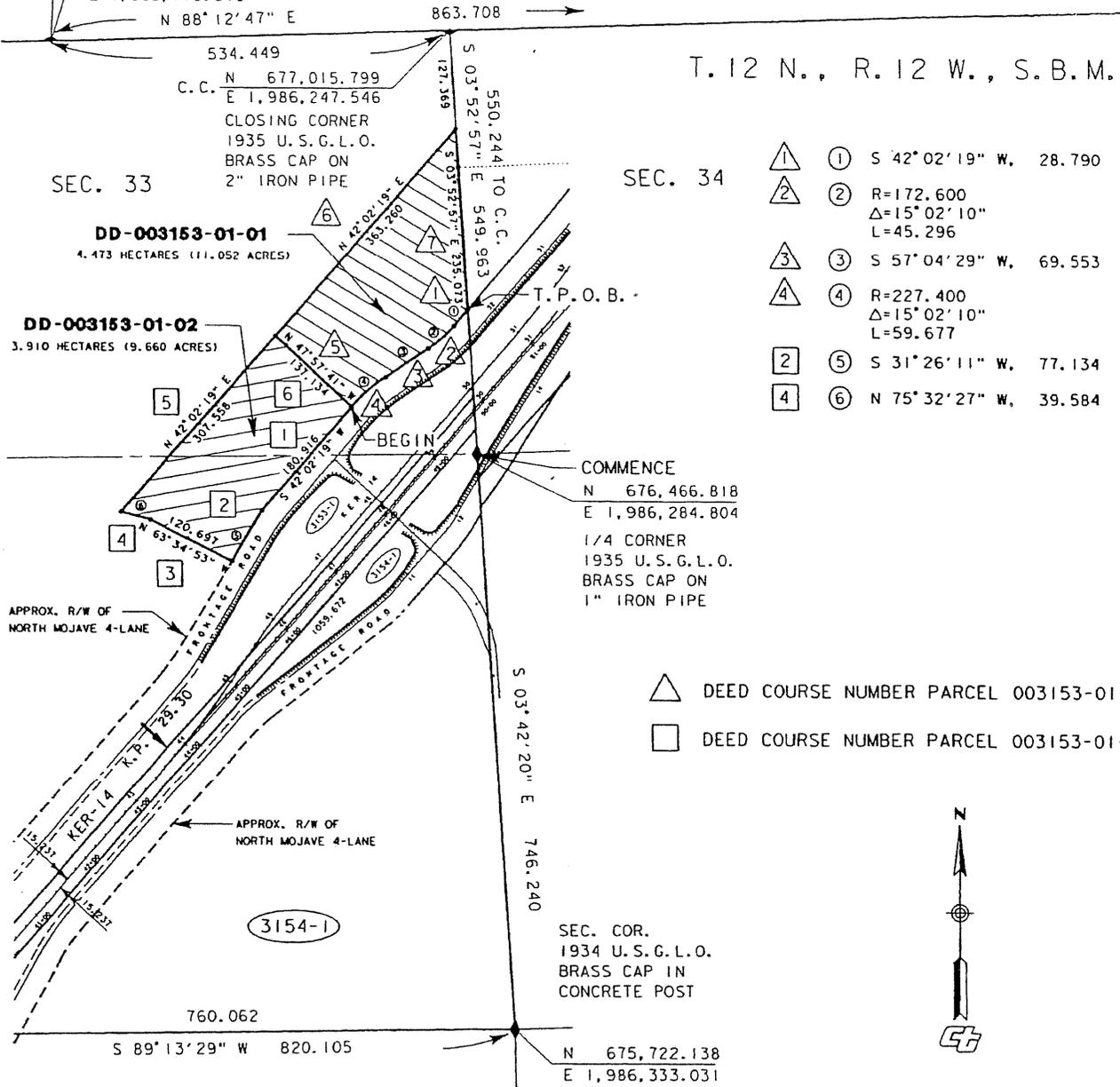
SEC. 33

**DD-003153-01-01**  
4.473 HECTARES (11.052 ACRES)

**DD-003153-01-02**  
3.910 HECTARES (9.660 ACRES)

SEC. 34

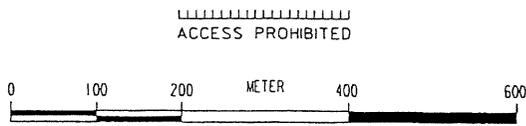
- ① S 42°02'19" W, 28.790
- ② R=172.600  
Δ=15°02'10"  
L=45.296
- ③ S 57°04'29" W, 69.553
- ④ R=227.400  
Δ=15°02'10"  
L=59.677
- ② ⑤ S 31°26'11" W, 77.134
- ④ ⑥ N 75°32'27" W, 39.584



- △ DEED COURSE NUMBER PARCEL 003153-01-01
- DEED COURSE NUMBER PARCEL 003153-01-02



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<b>DIRECTOR'S DEED MAP</b>					
<b>DD-003153-01-01 &amp; DD-003153-01-02</b>					
DIST.	COUNTY	ROUTE	POST MILE / KILOMETER	SHEET NO.	TOTAL SHEETS
09	KER	14	18.20/29.30	2	2
10-92 AERIAL MAPPING					
				LAST REV.	4-25-03