

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: May 25-26, 2005

Reference No.: 2.4a.(1)
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Bimla Rhinehart
Division Chief
Right of Way and Land Surveys

Ref: **RESOLUTION OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-19060, which is the subject of this Appearance. 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 is requesting a resolution at this time. Adoption of Resolution of Necessity C-19060 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-19060 - Robert L. Schaffer, et ux.

06-Ker-14-KP 41.32-Parcel 85107-1A, 1B - EA: 408409 - Certification Date: 07/01/05 - RTL Date: 07/01/05 - (Expressway - convert to four lane expressway). Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, and underlying fee. Located near the town of Mojave and California City, on Hwy 14 near Mojave and California City Boulevard. APN 225-271-14.

SUMMARY OF ISSUES

Robert L Schaffer and Doris Schaffer are the owners of Parcel 85107, also known as Assessor's Parcel Number 225-271-14, located near the town of Mojave and California City, on State Route (SR)-14, in Kern County. The parcel is unimproved desert terrain, which is crossed by both a man-made canal and a natural creek. The Schaffer's do not contest the need for the project.

The following is a detailed description of the concerns expressed by the Schaffers, followed by the Department's response.

Owner:

The Department's project adversely affects the property in that it eliminates the present all-weather paved road direct access to the property and proposes to substitute a non-specific unpaved frontage road with no defined ingress and egress accesses to SR-14.

Department Response:

The properties existing legal access rights directly to the State highway as an abutting owner are at the southeast corner. Current physical access for the highway is obtained via thirty-foot road easements along the northerly property line. In the after condition this access road will not be connected directly to the State highway but will be reconnected to a public dirt access road within State right of way. The Department is purchasing direct access rights to the State highway but legal and physical access will be replaced by the public dirt access roads which provide access to the expressway at evenly spaced intersections, about one opening every kilometer, or 0.6 of a mile. There is currently no physical access at this point as development of physical access would be very costly and not physically probable because of the existence of two large drainage channels that would have to be crossed within existing State highway right of way that would need to be bridged and paved to connect to SR-14.

Owner:

The Schaffer's expressed concern with respect to the drainage ditch, including 1) the flow of water, 2) whether or not water from the remaining property will flow into the drainage ditch, 3) the precautions or assurances that the drainage ditch will not overflow and flood the remaining land and 4) what, if anything, will separate the remaining land from the drainage ditch.

Department Response:

The property naturally slopes downward in a northeasterly direction towards the highway. Any water runoff will flow in the direction of the highway. The proposed channel improvement upstream of the Schaffer property will direct the flow of any water toward a box culvert, which will then cross under the new highway, at the northeasterly corner of the property. The culvert will be built to accommodate the 100-year storm event and will be large enough to handle runoff without any back flow or flooding onto the Schaffer property or undermining of the new expressway.

Owner:

The Department's acquisition diminishes the ability to develop the remaining parcel. It is the Schaffer's understanding that the County's rules for subdivision are for ten-acre parcels. This would leave them with odd-sized parcels, which would be different from what appears to be the consistent plan of subdivision and potential future development.

Department Response:

The Department's acquisition does not limit the future development of the property.

The Schaffer's parcel falls within the A-1 zoning specifications of Kern County's regulations, also known as Limited Agriculture. Minimum lot size in A-1 Districts, per number 19.14.050 shall not contain less than two and one-half (2.5) gross acres. However, the Schaffer's parcel is also covered under the General Plan Code, numbers 8.3-2.1 map code section.

The General Plan under the 8.3 code, would allow for two twenty-acre parcels. These constraints would have to be solved or remedied between the County and the landowner prior to any development.

As with most zoning or use, the language found within the Kern County Codes outlines exceptions when dealing with conveyances from a governmental agency for public purposes. The Department's acquisition of a part of the Schaffer's parcel should not itself limit future development.

The concerns raised by the property owner are compensatory in nature and outside the purview of the Commission

Attachments

Resolution of Necessity Appearance Fact Sheet

<u>PROJECT DATA:</u>	06-Ker-14-KP 26.1/42.6
<u>Location:</u>	State Route (SR)- 14 Near Mojave
<u>Limits:</u>	From 0.2 kilometers (Km) north of Junction Route 14/Business Route 58 to 1.2 Km South of State Route (SR) 14/58 interchange and from 0.9 Km north of SR 14/58 interchange to SR 14/58 interchange to 7.6 Km north of California City Boulevard
<u>Cost:</u>	Current construction cost estimate \$41,598,000 Current right of way cost estimate \$7,679
<u>Funding Source:</u>	STIP – Fiscal Year 2005/2006
<u>Number of Lanes:</u>	Existing: 2 lanes Proposed: 4 lanes
<u>Proposed Major Feature's</u>	One interchange and two-lane conventional highway to four-lane controlled access expressway.
<u>Traffic:</u>	Existing (year 2004): 6,760 Proposed (year 2024): 8,250
 <u>PARCEL DATA:</u>	
<u>Property Owner:</u>	Robert L. Schaffer and Doris Schaffer
<u>Parcel Location:</u>	Assessor's Parcel Number (APN) 225-271-14. Located 7.2 Km north of California City Boulevard on the west side of State Route 14.
<u>Present Use:</u>	Vacant land
<u>Zoning:</u>	Limited Agriculture (A-1)
<u>Area of Property:</u>	16.24 hectares (40.13 acres)
<u>Area Required:</u>	Parcel 85107-1A = 24,066.567 square meters (5.95 acres) in fee Parcel 85107-1B = 658.5 square meters (0.16 acres) underlying fee Total = 24,725.067 square meters (6.11 acres)

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Resolution of Necessity Review Panel (Panel) met April 5, 2005 in Fresno. The Panel members consisted of Barry Cowan, Department of Transportation (Department) Headquarters (HQ's) Right of Way; Yvonne von Brauchitsch, HQ's Legal Division; Linda Fong, Department HQ's Division of Design; and Mark Zgombic, Department HQ's Right of Way, was Secretary to the Panel. Mr. Robert L. Schaffer and Mrs. Doris Schaffer, owners of the property, and their legal counsel, Mr. Charles Cummings, participated by telephone.

This 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.

NEED FOR THE PROJECT

The Department's project is located on State Route (SR)-14 near Mojave. SR-14 connects Southern California to the eastern Sierra region of California and western Nevada. SR-14 carries a high percentage of interstate travelers and tourists. This route is functionally classified as a rural Principal Arterial and is part of the National Highway System.

In the vicinity of the proposed project, SR-14 operates as a two-lane conventional highway and provides access to the communities of Mojave, California City, Inyokern, Ridgecrest, and to Edwards Air Force Base and the Navel Air Weapons Station at China Lake.

The need for this project is threefold. An interchange is needed at the California City Boulevard and SR-14 intersection to improve operation and safety. An elevated roadbed and bridge at Cache Creek Wash are needed to eliminate road closures due to flooding and to improve the drainage for the entire length of the project. Finally, the project is needed to achieve the Route Concept goal of a Level of Service (LOS) "B". Upon completion of this project, SR-14 will be a continuous four-lane facility for a distance of 29.8 miles (48 kilometers) north of Mojave.

SR-14 near Mojave is currently designated as a two-lane controlled access highway and operating as a conventional highway. The Average Daily Traffic (ADT) on California City Boulevard averages 4,200 vehicles per day, and on Randsburg Cutoff Road the ADT averages about 2,000 vehicles per day. High speed SR-14 traffic conflicts with the county road traffic that has stopped either to enter or cross SR-14. The proposed diamond interchange will separate cross traffic and allow traffic to safely merge onto SR-14, although there is very little barrier striping within the project limits, high traffic volumes on SR-14 in both directions restrict passing opportunities. The desirable clear recovery area is not available at all locations. The proposed dirt access roads will limit the access to the mainline highway and reduce high-speed accidents on the highway.

PROJECT DESIGN

The proposed project will provide an interchange at California City Boulevard and convert the existing two-lane highway into a four-lane divided expressway on SR-14 from 0.248 miles (0.4 km) north of the Business Route 58 Junction in Mojave to 5.3 miles (8.6 km) north of California

City Boulevard/Randsburg Cutoff Road. The project would begin at KP 26.1 (PM 16.2) and end at KP 42.6 (PM 26.6). The existing two lanes of SR-14 will be converted to northbound lanes, and two new lanes will be constructed for southbound traffic. The new southbound lanes conflict with the existing drainage channel, so new drainage channels will be constructed to the west of the right of way. An elevated roadbed and new bridge at Cache Creek Wash will eliminate road closures due to flooding and improve drainage for the entire length of the project. The proposed project will improve operations and safety.

The majority of the new construction will take place to the west of the existing highway, minimizing the impacts and displacements to existing businesses and property owners. The location of the new facility will allow compatible connections to the newly constructed Mojave Freeway (SR-58) and the existing four-lane expressway at the north end of the project. In addition, the use of dirt access roads on portions of the north end of the project allowed for a greatly reduced footprint of the project, minimizing unnecessary impacts to the natural environment. The use of a dirt access road system has been successfully utilized in previous projects along SR-14 and SR-395 in Kern County.

NEED FOR SUBJECT PROPERTY

The Schaffer property is located at the northern end of the project. The property abuts the State right of way at its southeastern corner. The Department holds a road easement over the small, triangular corner of the parcel that encroaches into the State highway right of way. The property required for this SR-14 project is a fee acquisition for an irregular shaped portion of the larger parcel amounting to 5.95 acres of fee and 0.16 acres of underlying fee, mentioned above, for the existing right of way currently held under easement. The Department is also acquiring direct access rights to the adjacent State highway. This new fee area will be used for highway widening and to accommodate a drainage facility. There are no improvements impacted by this acquisition.

The following is a description of the concerns, which the property owners have expressed and the Department's response.

Owner:

The Department's project adversely affects the property in that it eliminates the present all-weather paved road direct access to the property and proposes to substitute a non-specific unpaved frontage road with no defined ingress and egress accesses to SR-14.

Department Response:

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of physical access would be very costly and not physically probable because of the existence of two large drainage channels that would have to be crossed within existing state highway right of way that would need to be bridged and paved to connect to SR-14.

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The concerns raised by the property owner are compensatory in nature and outside the purview of the Commission.

PARCEL DESCRIPTION

The subject parcel, Parcel number 85107-1A and 1-B is identified as Assessor's parcel number (APN) 225-271-14. The parcel is square shaped, approximately 40.13 acre (16.24 hectares) with 177 feet of SR-14 frontage. The property is unimproved desert terrain with an approximately one hundred foot wide by four foot deep man made drainage canal running north south in the southeast corner of the property. The parcel is encumbered with a thirty-foot road easement along the southerly, westerly and northerly side of the property.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record as required by Government Code Section 7267.2.

PANEL RECOMMENDATION

The Panel concludes that the Department's design complies with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property to be condemned is necessary for the proposed project.
- An offer to purchase in compliance with Government Code Section 7267.2 has been made to the owners of record.

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

BARRY COWAN, Chief
Office of Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

RICHARD D. LAND
Chief Engineer

**PERSONS ATTENDING SECOND LEVEL REVIEW PANEL
HEARING ON APRIL 5, 2005**

Barry Cowan, Headquarters Right of Way, Panel Chair
Yvonne von Brauchitsch, Headquarters Legal Office Attorney, Panel Member
Linda Fong, Headquarters Design, Panel Member
Mark Zgombic, Headquarters Right of Way, Panel Secretary

Malcolm Doughery, District 6, Program Project Management Chief
Kim E. Anderson, Central Region, Design Chief
Randeem Walter, Central Region, Right of Way Division Chief
Anthony McDowell, Central Region, Right of Way Supervisor
David Sangha, District 6, Design
Jennifer Nishikawa, District 6, Design Engineer

Appearance by Phone

Robert L. Schaffer, Property Owner
Doris Schaffer, Property Owner

Charles Cummings, Legal Counsel for the Schaffers
Scott Shaver, District 6, Senior Traffic Engineer

Tom Hallenbeck, District 9, District Director
Dave Grah, District 9, Deputy District Director for Maintenance and Operations
Jerry Gabriel, District 9, Operations Engineer
Nancy Escalier, District 9, Right of Way Chief
Lora Rischer, District 9, Right of Way Agent

RESOLUTION OF NECESSITY
- AREA MAP -
PARCEL 85107

DISTRICT 06 - KERN COUNTY KP 41.32
NOT TO SCALE

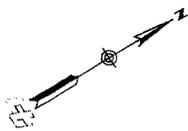


EXHIBIT A



T. 31 S., R. 36 E., M. D. B. & M.
Section 35
NORTH QUARTER CORNER SECTION 2, 32/36
Found U.S.G.L.O. Brass Cap on 1" Iron Pipe

NORTHWEST CORNER SECTION 2, 32/36
Found U.S.G.L.O. Brass Cap

WEST QUARTER CORNER SECTION 2, 32/36
Found U.S.G.L.O. Brass Cap per Parcel Map 2021
Book 10, Page 20, Kern County Records

SOUTH QUARTER CORNER SECTION 35, 31/36
Found U.S.G.L.O. Brass Cap on 1" Iron Pipe

Section 2
T. 32 S., R. 36 E., M. D. B. & M.

SOUTHWEST CORNER SECTION 2, 32/36
Calculated from Record Data

85107-1A

85107-1B

STATE HIGHWAY ROUTE 14

TO MOJAVE

TO BISHOP

N69°52'34"E

S00°09'31"E

794.463

774.005

Towhee Line 32-36/36

Towhee Line 31-32/36



30' Road & Utility Easement Recorded
October 19, 1965 in Book 3885, Page 70,
O.R.K.C.

Northwest Corner Section 2, 32/36
F.D. U.S.G.L.O. BRASS CAP MONUMENT

LEGEND

-  PARCEL 85107-1A FEE
-  PARCEL 85107-1B - UNDERLYING FEE per
State Highway Right of Way Easement Deed recorded
December 02, 1942 in Book 1077, Page 423, O.R.K.C.
-  PARCEL 85107-1B - UNDERLYING FEE per
State Highway Right of Way Easement Deed recorded
March 15, 1929 in Book 293, Page 123, O.R.K.C.

West Quarter Corner Section 2, 32/36
F.D. U.S.G.L.O. BRASS CAP MONUMENT PER
PARCEL MAP NO. 2021, RECORDED IN BOOK
10, PAGE 20, K.C.R.

30' Road & Utility Easement Recorded
October 19, 1965 in Book 3885, Page 70,
O.R.K.C.

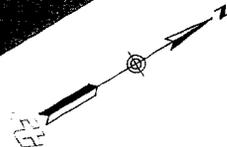
30' Road & Utility Easement Recorded
October 29, 1971 in Book 4593, Page 220,
O.R.K.C.

532° 38' 16" W
48.337

85107-1A

349.402

N00° 00' 38" E



Section 2
T. 32 S., R. 36 E., M. D. B. & M.

EXHIBIT B
RESOLUTION OF
NECESSITY MAP
PARCEL 85107-1A, 1B
06-KER.-14 K.P. 41.32

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
1.00016693 to convert to ground distances.



Scale in Meters 1:2000

