

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 24, 2007

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

From: CINDY McKIM  
Chief Financial Officer

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

Subject: **RESOLUTION OF NECESSITY - APPEARANCE**

## **RECOMMENDATION:**

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-19712 summarized on the following page.

## **ISSUE:**

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a Resolution, stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the project.
2. The project is planned and located in a manner that will be most compatible with the greatest public good with the least private injury.
3. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owner is contesting the Resolution and has requested an appearance before the Commission to discuss the outstanding issues. The issues with the property owner are related to the need for the overall project and specifically addressed in Attachment B – Parcel Panel Report.

## **BACKGROUND:**

Discussions have taken place with the owner, who has been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owner may subsequently be entitled. Adoption of the Resolution will not interrupt the Department's efforts to secure equitable settlement. In accordance with statutory requirements, the owner has been advised that the Department is requesting the Resolution at this time. Adoption of the Resolution will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-19712 - Sean McClelland

09-Iny-395-PM 73.16 - Parcel 3900-1 - EA 2144U9.

Right of Way Certification Date: 01/01/08; Ready to List Date: 01/01/08. Expressway - widen to four-lane expressway. Authorizes condemnation of a temporary construction easement for a State highway. Located in the unincorporated community of Independence at 440 South Edwards Street. APN 002-106-03.

Attachments:

Attachment A – Project Information

Attachment B – Parcel Panel Report

## PROJECT INFORMATION

<b>PROJECT DATA</b>	09-Iny-395-PM R70.3/76.1 Expenditure Authorization (EA) 214819 This project has been combined with EA 214419 – for funding and construction purposes the new EA is 2144U9
<u>Location:</u>	United States (US) Highway 395 in Inyo County
<u>Limits:</u>	From 2.7 miles south of Mazourka Canyon Road to 0.6 miles north of Shabbell Lane
<u>Cost:</u>	Right of Way: \$949,000 Construction: \$22,000,000
<u>Funding Source:</u>	STIP Federal/State
<u>Number of Lanes:</u>	Existing: Two and four-lanes mixed flow Proposed: Four-lanes mixed flow
<u>Proposed Major Features:</u>	Interchanges: None Other: Widen from two-lane to four-lane all paved section with sidewalks in Independence
<u>Traffic:</u>	Existing (year 2007): 7,080 Average Daily Traffic (ADT) Proposed (year 2029): 8,630 ADT

## NEED FOR THE PROJECT

The main purpose of this project is to improve the overall safety of the traveling public as well as to ease peak traffic congestion and queuing, remove passing restrictions, reduce driver frustration, separate opposing traffic, provide adequate shoulder widths for disabled vehicles and bicycle traffic, provide for emergency parking areas, and bring the roadway up to current design standards. The proposed four-lane project will address deficiencies of the existing facility. Project features will meet the current standards as set forth in the Highway Design Manual 5th Edition.

State Route (SR) 14 and United States (US) Highway 395 are the major elements of the transportation corridor connecting Southern California with the Eastern Sierra recreation areas. For many years the corridor concept for US 395 has been a four-lane facility. With this project, and the Blackrock project currently under construction to the north, there will remain only one gap in the corridor from the junction of US 395/SR 14 in the south to Lee Vining and the junction of SR 120 in the north. The last remaining gap, Olancho/Cartago, has been funded through the 2006 State Transportation Improvement Program (STIP) Augmentation.

Since this section of US 395 is located in a rural area, drivers of passenger cars tend to travel at higher rates of speed. Recreational and big rig trucks typically do not travel at sustained high speeds; large differentials in speed can occur between vehicles traveling in the same direction on one lane of travel.

Accident information data along US 395 was obtained from the Traffic Accident and Survey Analysis System (TASAS). The report shows a total of 15 accidents on this portion of US 395 during a three-year period, ending April 30, 2003, resulting in a total accident rate of 0.39 Accidents per Million Vehicle Miles (ACC/MVM), which is below the statewide average rate of 0.85 ACC/MVM for similar facilities. Forty percent of the total collisions resulted in 11 injuries with a total Fatal plus Injury accident rate of 0.21 ACC/MVM, which is below the expected rate of 0.42 ACC/MVM. However, there were two fatal accidents in the project area in the three-year period, generating a fatal accident rate (0.052 ACC/MVM) 49 percent above the Statewide Average (0.035ACC/MVM). The following table shows a breakdown of accidents during this period.

Three Year TASAS Table – Inyo 395 KP 113.1/122.5 (PM 70.3/76.1)				
Type and Number of Accidents		Accident Rate/MVM		
Fatal	2		Actual	Statewide Average
Injury	6	Fatal	0.052	0.035
Property Damage Only	7	Fatal + Injury	0.21	0.42
Total	15	Total	0.39	0.85

The fatal accidents occurred in the two-lane segment of this project. Widening the roadway to four lanes, adding a 100-foot median, and widening the shoulders would provide added room for emergency maneuvering and errant driver recovery reducing the potential for head-on collisions.

The calculated level of the Level of Service (LOS) within the project limits was LOS D north and south of Independence. A LOS C currently exists in the central business district in Independence. The Year 2000 Transportation Concept Report for this segment indicates a concept LOS of B. As a result, the present operation of the highway is deficient. The level of service for this facility within the project limits would deteriorate to a LOS E in 2026 without implementation of the proposed project. The proposed project would improve the level of service to LOS A for this segment of highway.

## **PROJECT PLANNING AND LOCATION**

US 395 is a two-lane highway through the project limits with a four-lane section through a portion of the unincorporated community of Independence (Independence). The highway traverses generally level terrain. The existing roadway is primarily a two-lane conventional highway with four-foot shoulders. The southern limit currently connects to an all-paved four-lane passing section of roadway. The north end of the project connects to a four-lane divided highway with a 22.6-foot median. Within Independence, the highway widens to four 12-foot lanes with varying shoulder widths. Right of Way width within Independence is limited to a maximum of 80 feet. Parking is permitted on the shoulder and the speed limit is 25 miles per hour. Sidewalks of various configurations are present through portions of the town.

This project, which is supported by the Inyo County Transportation Commission, proposes to widen US 395 from two to four-lanes from 2.7 miles south of Mazourka Canyon Road to 0.6 miles north of Shabbell Lane in and near Independence, the county seat of Inyo County. New northbound lanes will be constructed on the east side of the existing lanes of US 395 from approximately PM 70.7 to PM 73.0 and will include a 100-foot median south of Independence. New southbound lanes would be constructed on the west side from PM 74.1 to 75.6 with a 100-foot median north of Independence. The north end of the project would tie into the existing four-lane section north of Independence at PM 75.6. At Symmes Creek, it is proposed to increase the existing culvert to a 12-foot wide by 10-foot high concrete box to provide for wildlife and cattle crossing. Work in Independence would consist of drainage improvements and construction of new sidewalk from Mazourka Canyon/Citrus Avenue at the south end of Independence to the Department's maintenance station on the west, and the airport road on the east at the north end of the community.

This project is specifically listed in the 2001 Inyo County Regional Transportation Plan. This project was also listed in the 1992 Inyo County Regional Transportation Plan. This plan stated that, "The Local Transportation Commission concurs with these System Planning concepts and reaffirms its recommendations that the SR 14/395 corridor be recognized as being of statewide significance and that the major portions of these two routes be upgraded to four lanes."

This project is jointly funded by Inyo County, Mono County, Kern County and the Department.

# Project Location

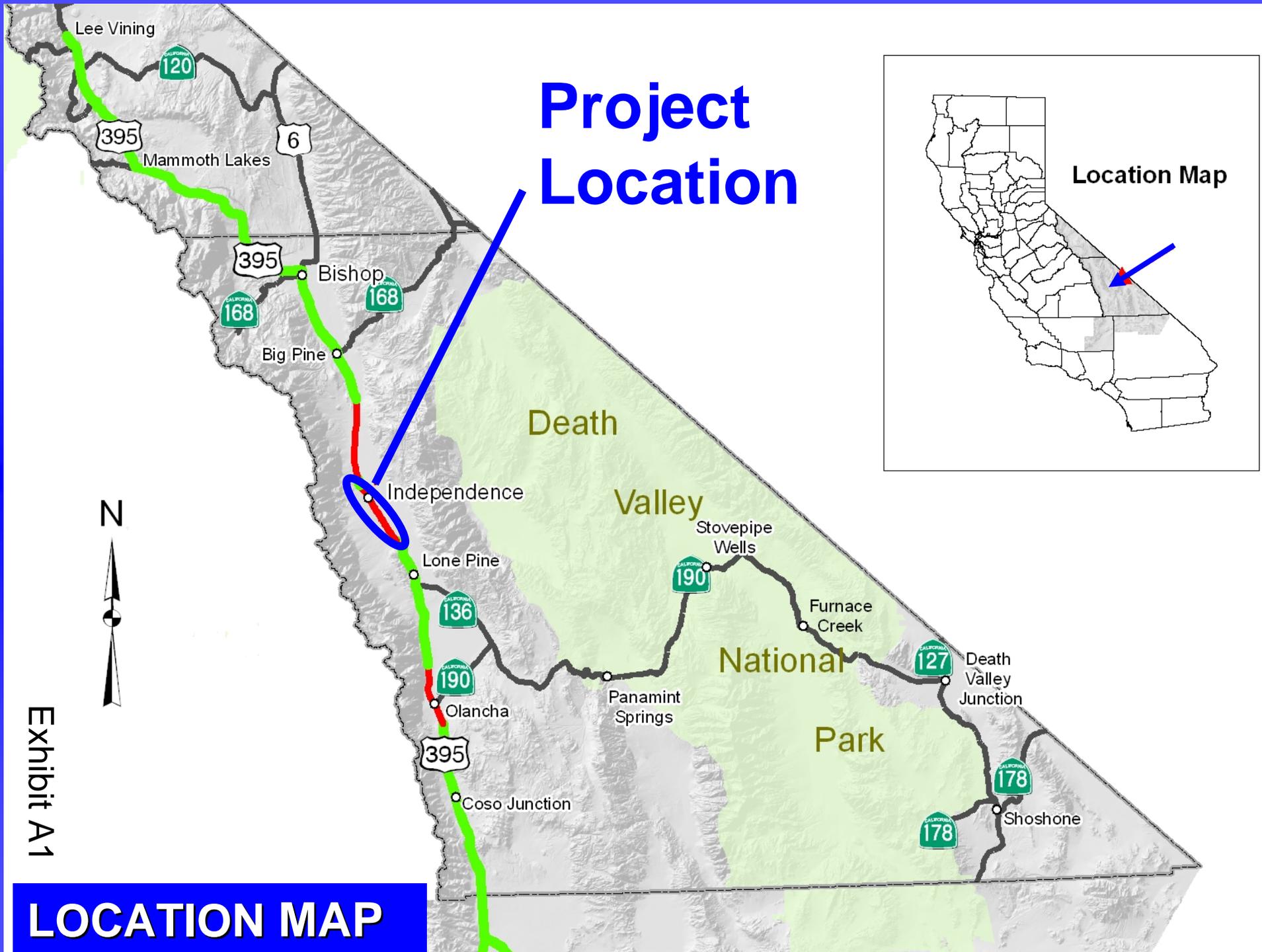
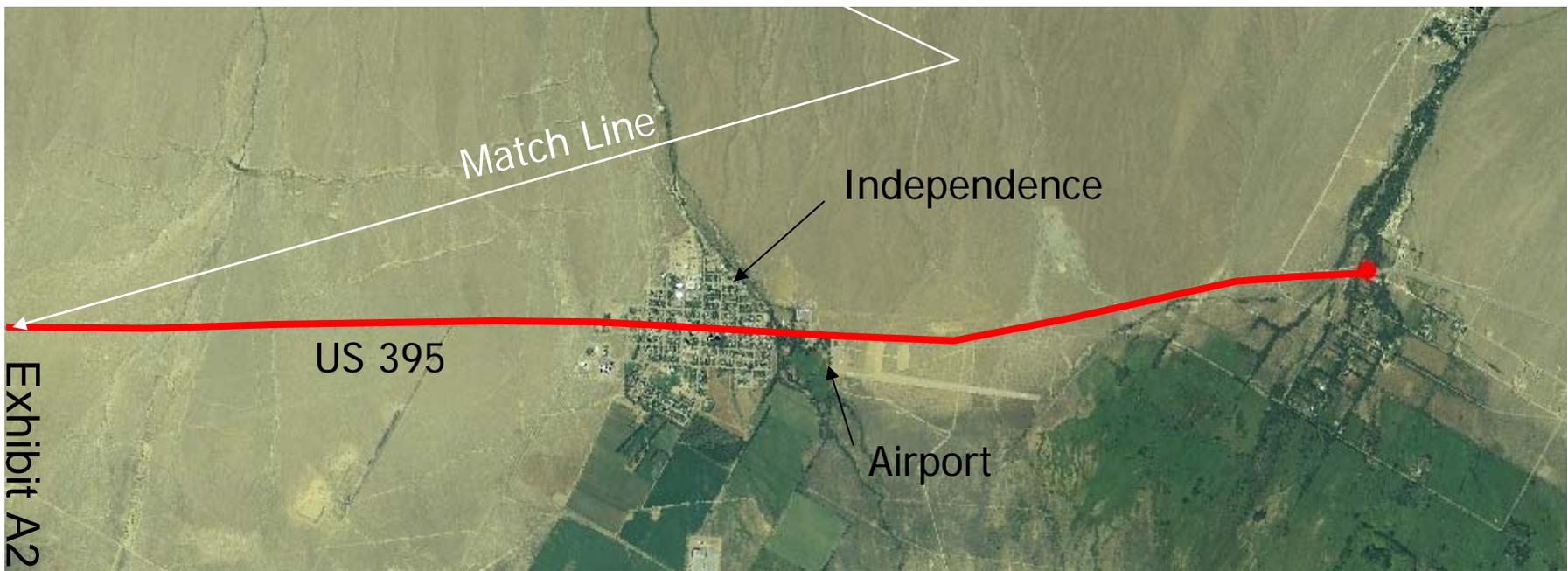


Exhibit A1

**LOCATION MAP**

# Overview of Project



## PARCEL PANEL REPORT

### PARCEL DATA

Property Owner: Sean McClelland

Parcel Location: 440 South Edwards Street, Independence  
Assessor Parcel Number 002-106-03

Present Use: Motel  
Zoned Commercial (CBD)

Area of Property: 19,488 square feet (0.45 acres)

Area Required: Parcel 3900 = 1,500 square feet in temporary construction easement

### PARCEL DESCRIPTION

The subject parcel is located in the unincorporated community of Independence (Independence) on the northeast corner of East Park Street on the east side of United States (US) Highway 395, commonly known as 440 South Edwards Street, Assessor's Parcel Number 102-106-03, in Inyo County. Access to the parcel is from US 395 and East Park Street. Access is also available from Lily Street. The parcel has an area of 19,488 square feet (0.45 acres) and is improved with a motel, which is currently not operating.

### NEED FOR SUBJECT PROPERTY

The acquisition of the 1,500 square foot temporary construction easement on the McClelland parcel cannot be avoided on this project. The temporary construction easement is for four years and terminates at the end of construction or December 2011, whichever comes first. The easement runs for 150 feet, along the full length of the western property line of the parcel, adjacent to US 395 and extends ten feet into the parcel. The area is required to complete the construction of a small one to two-foot concrete retaining wall, to excavate the footings and set the concrete forms, to conform to the back of the new sidewalk, and to construct a driveway conform.

The required area includes a wood-slatted fence. The remainder of the parcel will not be acquired and the parcel's access to US 395 will be perpetuated. The building improvements on the larger parcel will not be impacted by the proposed project.

### RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the Department of Transportation's (Department) District 9 office in Bishop on July 19, 2007. The Panel members included Panel Chair Donald Grebe, Department Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and

Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Sean McClelland, the property owner, was present.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity. The property owner contests the purpose and need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The property owner is opposed to the project. The following is a description of the concerns expressed by the property owner followed by the Department's response:

**Owner:**

The project alignment does not provide for the greatest public good, a bypass of the town should have been selected during the project development phase.

**Department Response:**

Seven major alternatives were studied and included bypasses on both sides of the community. The current project was selected as the preferred alternative after extensive public involvement and strong opposition to any bypass alternative. The Inyo County Board of Supervisors, the Local Transportation Commission and the Chamber of Commerce support the selected alternative.

**Owner:**

Cars are currently traveling through town at twice the posted speed limit. The project will enable traffic to travel two to three times faster than the posted speed limit. A study in town needs to be completed to adequately measure the Level of Service (LOS) and increase the safety for residents. Mitigation should include a study of sign placement in order to reduce speed in town.

**Department Response:**

Traffic studies have been performed and there is no substantiation for the statement that there will be an increase in traffic speed through Independence due to the four lanes. Although some vehicles exceed the speed limit, the vehicle code established how speed limits are set based on an engineering and traffic study that uses the 85th percentile of recorded speeds. The introduction and/or extension of sidewalks, curbs and gutters, have been shown to reduce speeds at similar communities such as Lee Vining. The relocation of the 25 miles per hour speed limit signs further to the north and south of their current location will alert motorists they are entering a reduced speed zone and encourage them to reduce speed prior to the current signed area.

LOS calculations for this portion of the project are based on actual traffic counts and turn movements recorded in Independence.

**Owner:**

The Notice of Intent requires a five-year easement that will render the property useless by land locking the property, creating an uneconomic remnant, and blocking access to the parking lot.

The project will impair sale of the property to perspective buyers.

**Department Response:**

The temporary construction easement is for four years and terminates at the end of construction or December 2011, whichever comes first. The construction of the small one to two-foot concrete retaining wall, along the existing right of way line, and the driveway conform to the new back of sidewalk will not impact access to the parcel. The limit of the construction easement extends ten feet onto the parcel, and construction work, will not impact the buildings. The actual work, within the temporary construction easement period, will be approximately five to ten days and will occur intermittently over the construction period, which is expected to take approximately two years, while the Contractor removes the fence and constructs the proposed retaining wall within the Department's right of way. Under normal highway construction, driveways are not closed for periods longer than eight hours or alternative access will be provided. This parcel also has access from East Park Street and Lily Street. The Department has and will provide detailed descriptions and drawings of the completed work that the property owner can show prospective buyers to reassure them that this project will not impact the potential business.

**Owner:**

The existing highway operations and the construction of the project make the property unlivable. Relocation assistance is required.

**Department Response:**

The Department is acquiring a ten-foot wide temporary construction easement that runs along the full length of the highway frontage of the parcel (150 feet) and runs ten feet deep into the larger parcel. The only improvements on the property that will be impacted by the project is a wood slatted fence, running along the property line next to US 395, that will have to be removed. Impacts to the fence are part of the compensation package. Access to and operation of the motel will not be impacted by the project.

The motel is not currently in operation. Any losses in revenue to the motel would be a compensation issue and outside the purview of the California Transportation Commission. A Notification of Right to Claim Loss of Goodwill has been provided to the property owner.

Relocation assistance has been explained to the property owner. A displacement of occupants has not occurred on this parcel and relocation of any occupants or business is unnecessary. The Department has provided the property owner with a Relocation Assistance Appeal Form.

**Owner:**

Additional concerns expressed by the owner:

- Driveway pitch and grade differential between the new roadway and his property.
- Drainage in the after condition will impact the property.
- The contractor will not clean-up debris and trash when completing their work.

**Department Response:**

Responses by the Department include:

- Construction work will provide a driveway conform to the new back of sidewalk, allowing an easy transition from the roadway to the parcel.
- The Department's Hydraulics and Maintenance Division note that the curb and gutter will improve the existing condition and direct the flow of the water from the roadway to the drainage outlet and will not impact the parcel in the after condition.
- Per terms of the contract documents for this project, the contractor will remove all material and debris upon completion of work on said parcel.

**Owner:**

The property owner expressed concerns that the environmental impacts from the project (including noise, water, dust, historical sites, riparian habitat, visual and other impacts) were not adequately or accurately addressed in the Environmental Document.

Issues include:

- The Department did not conduct the noise studies correctly for the environmental document.
- There will be an increase in noise due to the material pit and the truck traffic traveling through town.
- The plans for the project do not include the proper mitigation for noise abatement.
- The impact of dust from the project.

**Department Response:**

The Department has, as a part of the environmental process, surveyed the project area for potential impacts to historical sites and conduct noise studies. The Department has provided complete studies, reports, documentation, and mitigation as required by law. The Environmental Documents were completed and approved. Both the CEQA and National Environmental Policy Act (NEPA) documents were approved June 22, 2004.

- The noise study was performed for the environmental document in accordance with accepted procedures at the time of the document. Federal Highway Administration (FHWA) has reviewed and concurred with the study prior to adopting the Finding of No Significant Impacts (FONSI) determination in 2004. The Noise Study followed appropriate protocol and a review conducted in 2007 by FHWA and the Department found no significant discrepancies or changes to the original assumptions or impacts. As originally determined in 2004, the construction of soundwalls would not be effective or feasible to reduce noise impacts at this location.
- Impacts to streams and water quality were considered during the completed environmental portion of project approval. The chosen alternative will have no significant impact.
- All permits with regulatory agencies (Regional Water Quality Control Board, Fish and Game, Army Corp, and Environmental Protection Agencies) are being processed and approved.
- Impacts are being appropriately mitigated.
- The pit site Mr. McClelland refers to is owned by the Bureau of Land Management (BLM), and is located approximately one mile north of Independence. The BLM has reviewed the

- proposed pit use, considered public input, and issued a record of decision approving the use of the pit for the Department's projects. The batch plant is necessary for the construction of the project and major cost savings will be realized with the batch plant near the project. The EA-FONSI states that portable concrete batch plants and Asphalt Concrete (AC) batch plants are associated with this project. The owner of these plants would be required to comply with all environmental regulations. The Contractor is required to abide by all Air Pollution Control District (APCD) air quality regulations. The aggregate material site - where the batch plant would potentially operate - is approximately one mile north of the airport. The truck volume will vary during the project. The trucks are not allowed to "spew" their loads. Each project is considered separately as far as environmental impacts.
- The use of this pit site by the Contractors is optional and any necessary clearances would need to be obtained by the Contractor. Should the Contractor decide to use the material site, per terms of use, they are required to comply with the provisions of the approved environmental document, the approved State Mining and Reclamation Act (SMARA) plan, and the statutes of applicable governing regulatory agencies.
  - The environmental document describes the studies performed for the noise and air pollution and the conclusions are that the project will not have a significant impact to adjoining properties.
  - Per the terms of the construction contract, the Contractor is required to comply with all air pollution rules, regulations, ordinances, and statutes that apply to any work performed pursuant to the contract. This includes providing dust control for the project through the application of water or other means for the prevention or alleviation of dust nuisance. The Department's resident engineer will oversee the Contractor to ensure compliance to dust control. The property owner will be provided contact information for the Department's representatives in the event he observes excessive dust.
  - EA-FONSI includes a discussion on the potential permanent and temporary impacts to both Dehy Park and Independence Roadside Park. The construction activities within the boundaries of Dehy Park are pedestrian improvements and are part of the park's improvement plan. A temporary construction easement along the edge of Independence Park was not considered significant by FHWA. Any Impacts would be minimized through careful construction practices and mitigated through restoration of any and all disturbed areas.
  - The extension of the culvert at Dehy Park would not result in changes to the flow or clarity of Independence Creek or Oak Creek. The Department standard Storm Water provisions and Best Management Practices (BMP) would be used during construction.

**Owner:**

The owner would like to have all replacement utilities placed underground.

**Department Response:**

The Department is not authorized to underground public utilities. Other agencies and/or utility companies may be authorized to pursue under-grounding of utilities within the Department's right of way through the encroachment permit process. The Independence Historic Lighting Project that will also be under construction will involve the under-grounding of the existing overhead service lines that feed the lighting in town.

## **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.

## **RECOMMENDATION**

The Department's project 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 rights to be condemned are 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 Chief Engineer recommends submitting a Resolution of Necessity to the California Transportation Commission.

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RICHARD D. LAND  
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING  
HEARING ON JULY 19, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Sean McClelland, Owner

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Dossey, Central Region Right of Way  
Dan Holland, District 9 Environmental Planning  
Mark Zgombic, Sacramento Right of Way

# Community of Independence



Independence  
Park

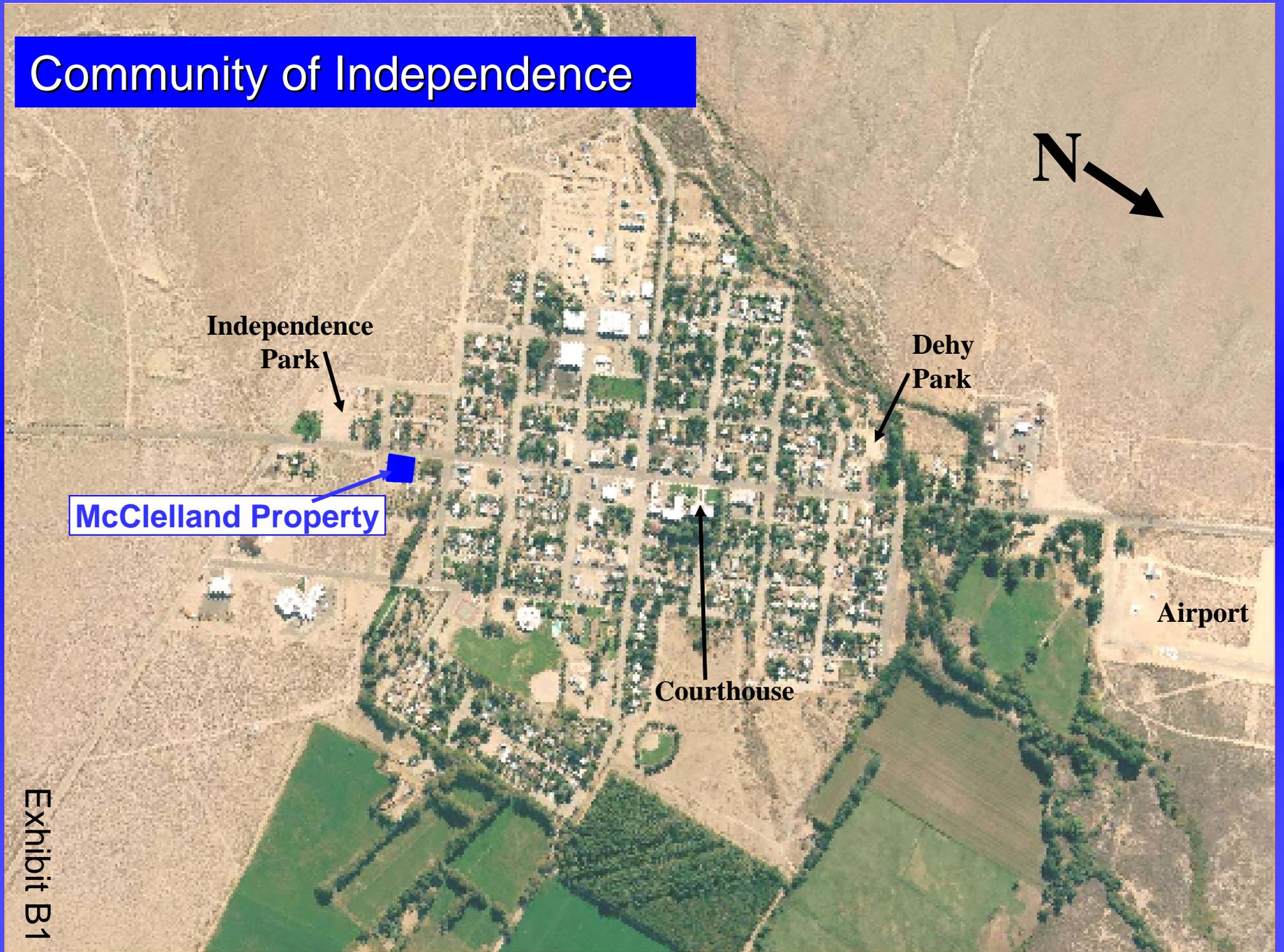
Dehy  
Park

McClelland Property

Airport

Courthouse

Exhibit B1



# Existing Facility



Proposed ETW

US 395

Proposed ETW

Driveway

Existing R/W

E Park St.

Access

McClelland Acquisition:  
Temporary Construction  
Easement: 1500 sq ft

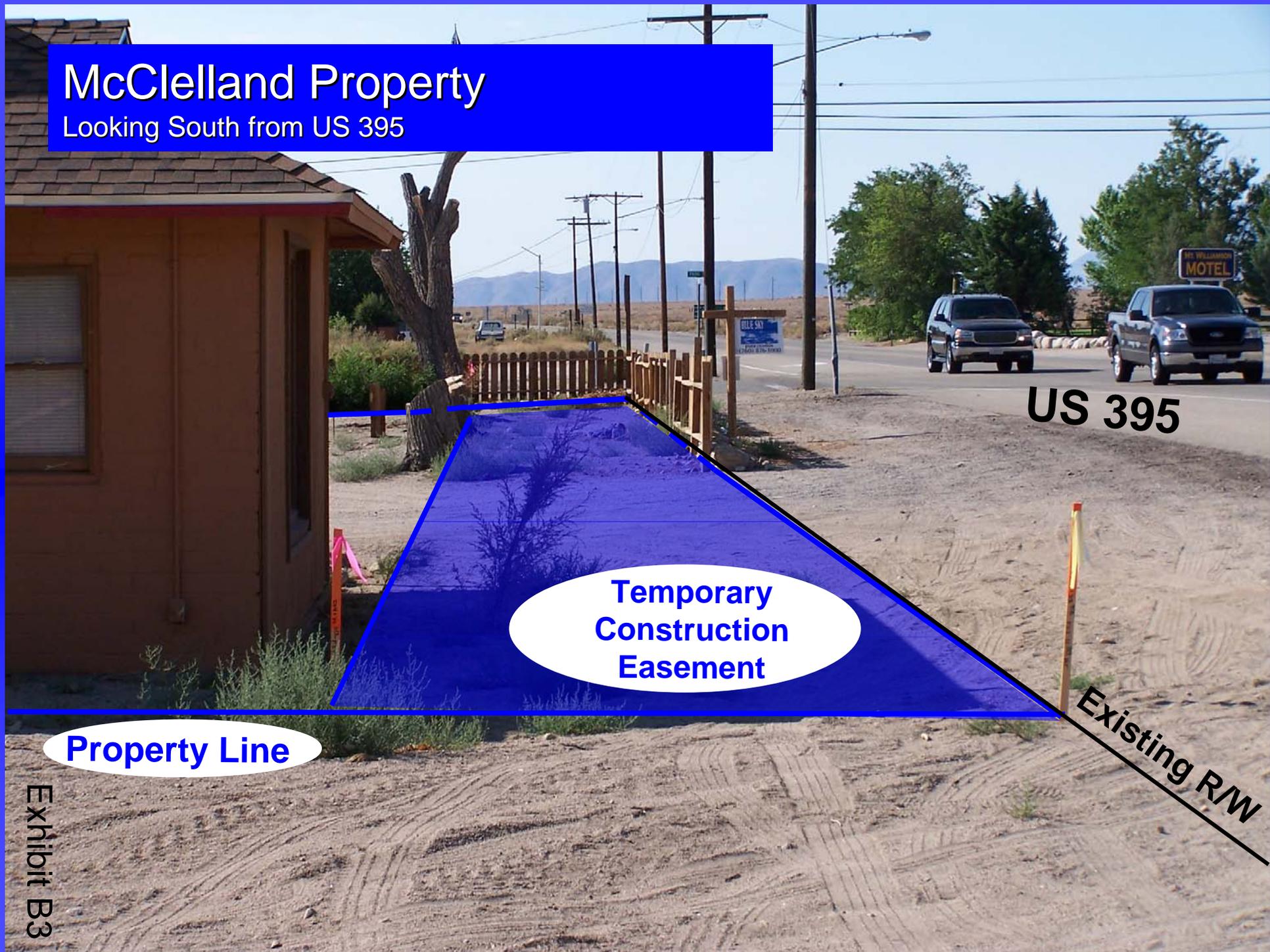
McClelland Property:  
0.45 acre



Exhibit B2

# McClelland Property

Looking South from US 395



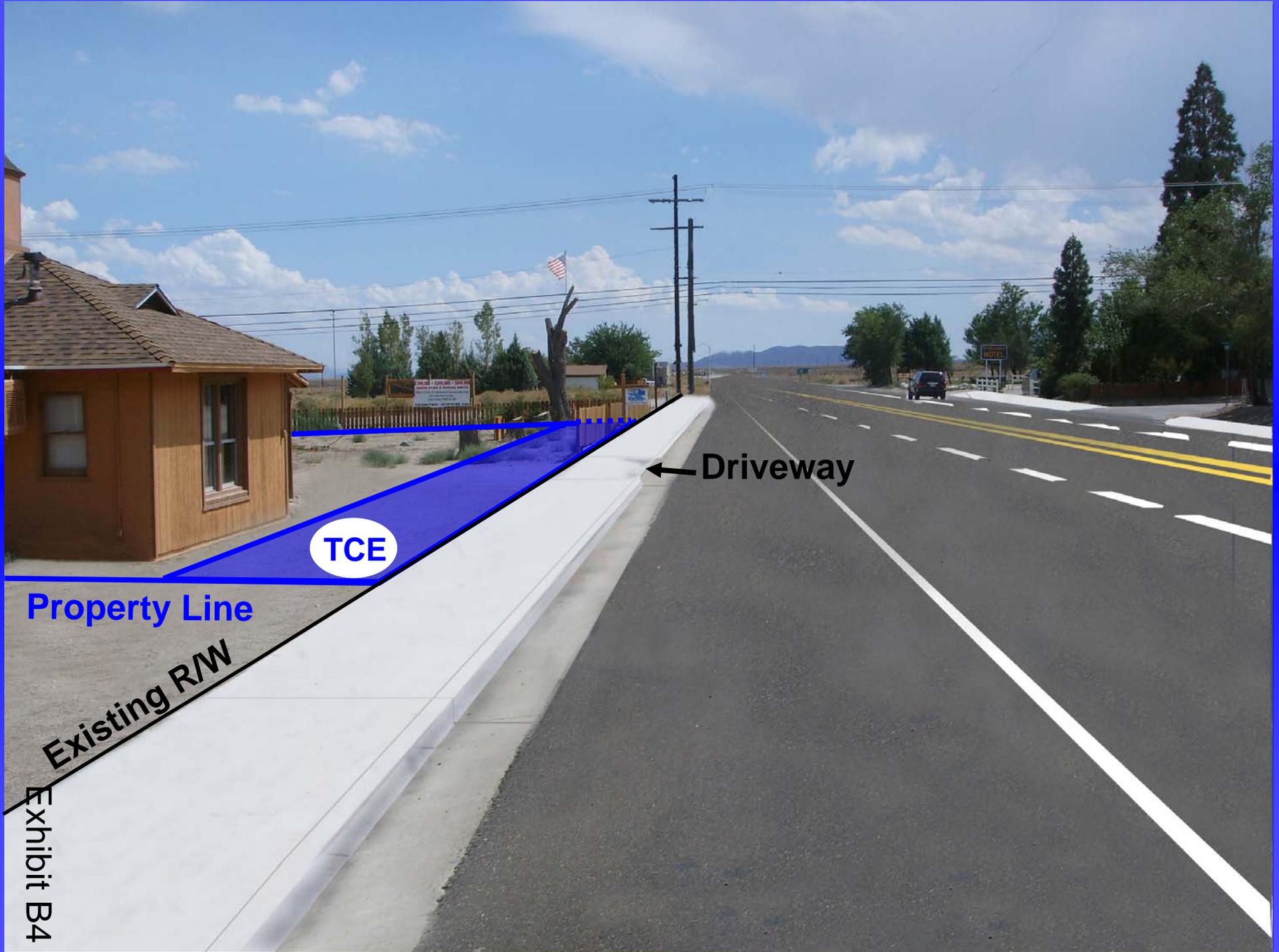
Temporary  
Construction  
Easement

Property Line

US 395

Existing R/W

Exhibit B3



TCE

Driveway

Property Line

Existing R/W

Exhibit B4

T. 13 S., R. 35 E., M.D.M.

**EXHIBIT "B"**

SECTION 17

COMMENCE

EDWARDS ST.

9-INY-395

INYO CO. SURVEYOR  
BRASS CAP IN WELL

39.12'

BEGIN

N27°03'53"W

39.98' N 27°03'53" W 149.96'

10.00'

S 27°03'53" E 149.96'

10.00'

NO SCALE

S 62°54'37" W

3900-1

440 S. EDWARDS ST.

PARK STREET

S 62°54'37" W

N 62°54'37" E

PAVILLION STREET

LOT 11

LOT 9

LOT 7

LOT 5

BLOCK 46

LILY STREET

PARCEL 3900-1  
TEMPORARY CONSTRUCTION  
EASEMENT

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

**RESOLUTION OF  
NECESSITY MAP**

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.16	307

ENGR: JT

DRAWN BY: JT

DATE: 3-07-07

DATE: 3-07-07

EXHIBIT B5

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 24, 2007

Reference No.: 2.4a.(2)  
Action Item

From: CINDY McKIM  
Chief Financial Officer

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

Subject: **RESOLUTION OF NECESSITY - APPEARANCE**

## **RECOMMENDATION:**

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolutions of Necessity (Resolution) C-19713, C-19714, C-19715, C-19716, C-19717, and C-19718 summarized on the following pages.

## **ISSUE:**

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a Resolution, stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the project.
2. The project is planned and located in a manner that will be most compatible with the greatest public good with the least private injury.
3. The property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owners of record.
5. The offer required by Government Code Section 7267.2 has not been made to the owner of record on Resolution of Necessity C-19718 because all of the heirs of the deceased owner of record could not be located with reasonable diligence.

In this case, the property owners are contesting the Resolutions and have requested an appearance before the Commission to discuss the outstanding issues. The common issues with the various property owners are specifically addressed in Attachment B, Joint Panel Report, while issues specific to each property owner are addressed in Attachments C, D, E, F, G, and H.

**BACKGROUND:**

Discussions have taken place with the owners, who have been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owner may subsequently be entitled. Adoption of the Resolution will not interrupt the Department's efforts to secure an equitable settlement. In accordance with statutory requirements, the owners have been advised that the Department is requesting the Resolution at this time. Adoption of the Resolution will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

**C-19713 - Gerald C. Sedoo and Mikel D. Sedoo, as Trustees of the Sedoo Family Trust**

09-Iny-395-PM 73.73 - Parcel 3797-1, 2 - EA 2144U9.

Right of Way Certification (RWC) Date: 01/01/08; Ready to List (RTL) Date: 01/01/08.

Expressway - widen to four-lane expressway. Authorizes condemnation of land in fee for a State highway and underlying fee. Located in the unincorporated community of Independence at 537 North Edwards Street. APN 02-011-03. Attachment C

**C-19714 - Loyd J. Hopper, et ux.**

09-Iny-395-PM 73.76 - Parcel 3798-1, 2 - EA 2144U9.

RWC Date: 01/01/08; RTL Date: 01/01/08. Expressway - widen to four-lane expressway.

Authorizes condemnation of land in fee for a State highway and underlying fee. Located in the unincorporated community of Independence at 555 North Edwards Street. APN 002-011-02. Attachment D

**C19715 - John K. Smith, et ux.**

09-Iny-395-PM 73.79 - Parcel 3790-1 - EA 2144U9.

RWC Date: 01/01/08; RTL Date: 01/01/08. Expressway - widen to four-lanes. Authorizes condemnation of an aerial easement for utility purposes for a State highway. Located in the unincorporated community of Independence at 700 North Edwards Street. APN 002-012-01. Attachment E

**C-19716 - Tamara A. Cohn, Trustee, et al.**

09-Iny-395-PM 73.79 - Parcel 3815-1 - EA 2144U9.

RWC Date: 01/01/08; RTL Date: 01/01/08. Expressway - widen to four-lanes. Authorizes condemnation of an aerial easement for utility purposes for a State highway. Located in the unincorporated community of Independence at 532 North Edwards Street. APN 002-012-04. Attachment F

**C-19717 - Kenney L. Scruggs, et al.**

09-Iny-395-PM 73.8 - Parcel 3808-1, 2, 3 - EA 2144U9.

RWC Date: 01/01/08; RTL Date: 01/01/08. Expressway - widen to four-lanes. Authorizes condemnation of land in fee for a State highway, a temporary construction easement, and permanent aerial easement for utility purposes. Located in the unincorporated community of Independence at 494 North Edwards Street. APN 002-012-09. Attachment G

C-19718 - The heirs and devisees of Patrick Reddy, et al.

09-Iny-395-PM 73.8 - Parcel 3810-1 - EA 2144U9.

RWC Date: 01/01/08; RTL Date: 01/01/08. Expressway - widen to four-lanes. Authorizes condemnation of land in fee for a State highway and underlying fee. Located in the unincorporated community of Independence at the northeast corner of Inyo Street and United States highway 395. APNs 002-012-10; 002-012-12. Attachment H

Attachments:

Attachment A – Project Information

Attachment B – Joint Issues and Concerns

Attachment C through H – Parcel Panel Report

## PROJECT INFORMATION

<b>PROJECT DATA</b>	09-Iny-395-PM R70.3/76.1 Expenditure Authorization (EA) 214819 This project has been combined with EA 214419 – for funding and construction purposes the new EA is 2144U9
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<u>Limits:</u>	From 2.7 miles south of Mazourka Canyon Road to 0.6 miles north of Shabbell Lane
<u>Cost:</u>	Right of Way: \$949,000 Construction: \$22,000,000
<u>Funding Source:</u>	STIP Federal/State
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<u>Traffic:</u>	Existing (year 2007): 7,080 Average Daily Traffic (ADT) Proposed (year 2029): 8,630 ADT

## NEED FOR THE PROJECT

The main purpose of this project is to improve the overall safety of the traveling public as well as to ease peak traffic congestion and queuing, remove passing restrictions, reduce driver frustration, separate opposing traffic, provide adequate shoulder widths for disabled vehicles and bicycle traffic, provide for emergency parking areas, and bring the roadway up to current design standards. The proposed four-lane project will address deficiencies of the existing facility. Project features will meet the current standards as set forth in the Highway Design Manual 5th Edition.

State Route (SR) 14 and United States (US) Highway 395 are the major elements of the transportation corridor connecting Southern California with the Eastern Sierra recreation areas. For many years the corridor concept for US 395 has been a four-lane facility. With this project, and the Blackrock project currently under construction to the north, there will remain only one gap in the corridor from the junction of US 395/SR 14 in the south to Lee Vining and the junction of SR 120 in the north. The last remaining gap, Olancho/Cartago, has been funded through the 2006 State Transportation Improvement Program (STIP) Augmentation.

Since this section of US 395 is located in a rural area, drivers of passenger cars tend to travel at higher rates of speed. Recreational and big rig trucks typically do not travel at sustained high speeds; large differentials in speed can occur between vehicles traveling in the same direction on one lane of travel.

Accident information data along US 395 was obtained from the Traffic Accident and Survey Analysis System (TASAS). The report shows a total of 15 accidents on this portion of US 395 during a three-year period, ending April 30, 2003, resulting in a total accident rate of 0.39 Accidents per Million Vehicle Miles (ACC/MVM), which is below the statewide average rate of 0.85 ACC/MVM for similar facilities. Forty percent of the total collisions resulted in 11 injuries with a total Fatal plus Injury accident rate of 0.21 ACC/MVM, which is below the expected rate of 0.42 ACC/MVM. However, there were two fatal accidents in the project area in the three-year period, generating a fatal accident rate (0.052 ACC/MVM) 49 percent above the Statewide Average (0.035ACC/MVM). The following table shows a breakdown of accidents during this period.

Three Year TASAS Table – Inyo 395 KP 113.1/122.5 (PM 70.3/76.1)				
Type and Number of Accidents		Accident Rate/MVM		
Fatal	2		Actual	Statewide Average
Injury	6	Fatal	0.052	0.035
Property Damage Only	7	Fatal + Injury	0.21	0.42
Total	15	Total	0.39	0.85

The fatal accidents occurred in the two-lane segment of this project. Widening the roadway to four lanes, adding a 100-foot median, and widening the shoulders would provide added room for emergency maneuvering and errant driver recovery reducing the potential for head-on collisions.

The calculated level of the Level of Service (LOS) within the project limits was LOS D north and south of Independence. A LOS C currently exists in the central business district in Independence. The Year 2000 Transportation Concept Report for this segment indicates a concept LOS of B. As a result, the present operation of the highway is deficient. The level of service for this facility within the project limits would deteriorate to a LOS E in 2026 without implementation of the proposed project. The proposed project would improve the level of service to LOS A for this segment of highway.

## PROJECT PLANNING AND LOCATION

US 395 is a two-lane highway through the project limits with a four-lane section through a portion of the unincorporated community of Independence (Independence). The highway traverses generally level terrain. The existing roadway is primarily a two-lane conventional highway with four-foot shoulders. The southern limit currently connects to an all-paved four-lane passing section of roadway. The north end of the project connects to a four-lane divided highway with a 22.6-foot median. Within Independence, the highway widens to four 12-foot lanes with varying shoulder widths. Right of Way width within Independence is limited to a maximum of 80 feet. Parking is permitted on the shoulder and the speed limit is 25 miles per hour. Sidewalks of various configurations are present through portions of the town.

This project, which is supported by the Inyo County Transportation Commission, proposes to widen US 395 from two to four-lanes from 2.7 miles south of Mazourka Canyon Road to 0.6 miles north of Shabbell Lane in and near Independence, the county seat of Inyo County. New northbound lanes will be constructed on the east side of the existing lanes of US 395 from approximately PM 70.7 to PM 73.0 and will include a 100-foot median south of Independence. New southbound lanes would be constructed on the west side from PM 74.1 to 75.6 with a 100-foot median north of Independence. The north end of the project would tie into the existing four-lane section north of Independence at PM 75.6. At Symmes Creek, it is proposed to increase the existing culvert to a 12-foot wide by 10-foot high concrete box to provide for wildlife and cattle crossing. Work in Independence would consist of drainage improvements and construction of new sidewalk from Mazourka Canyon/Citrus Avenue at the south end of Independence to the Department's maintenance station on the west, and the airport road on the east at the north end of the community.

This project is specifically listed in the 2001 Inyo County Regional Transportation Plan. This project was also listed in the 1992 Inyo County Regional Transportation Plan. This plan stated that, "The Local Transportation Commission concurs with these System Planning concepts and reaffirms its recommendations that the SR 14/395 corridor be recognized as being of statewide significance and that the major portions of these two routes be upgraded to four lanes."

This project is jointly funded by Inyo County, Mono County, Kern County and the Department.

# Project Location

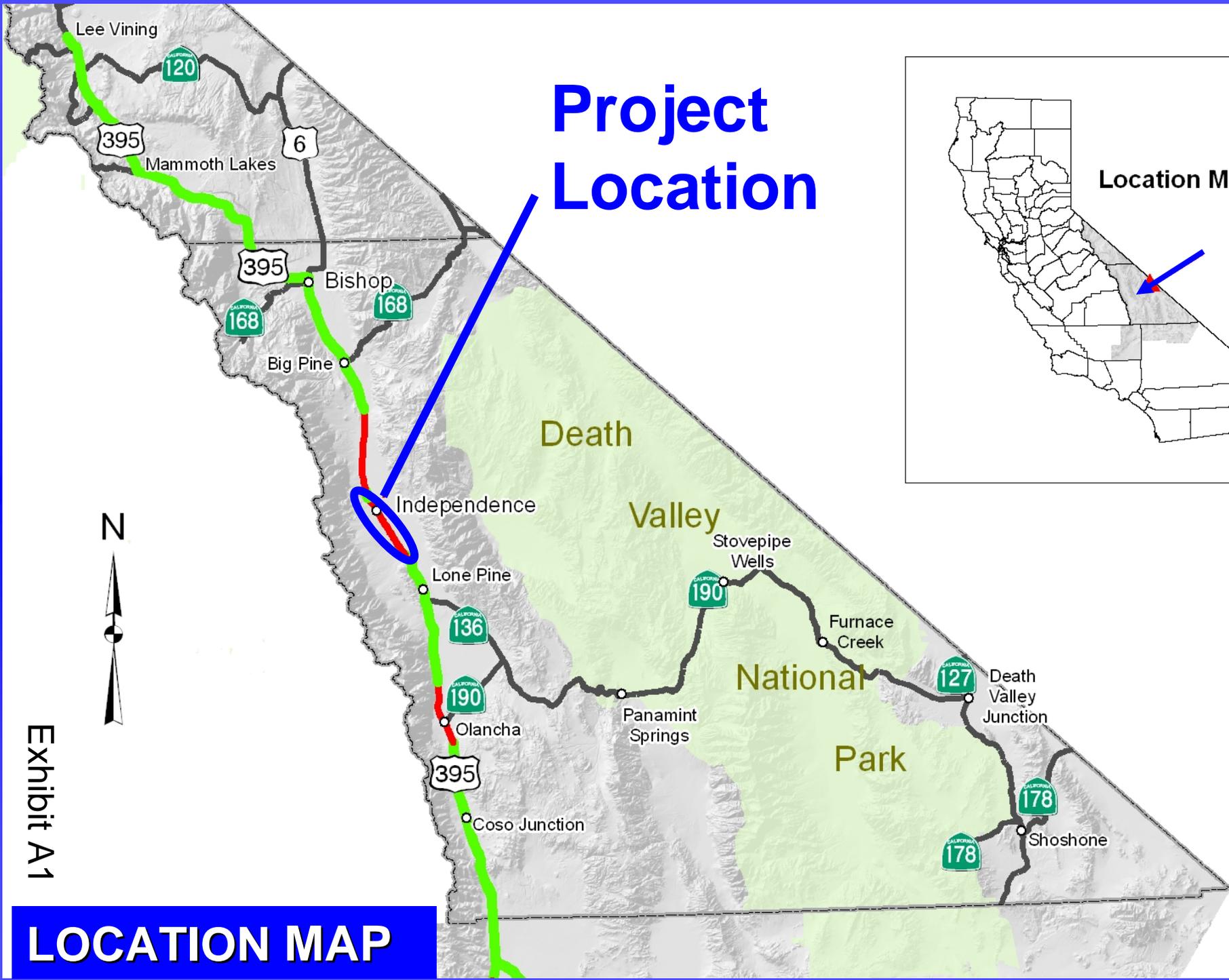
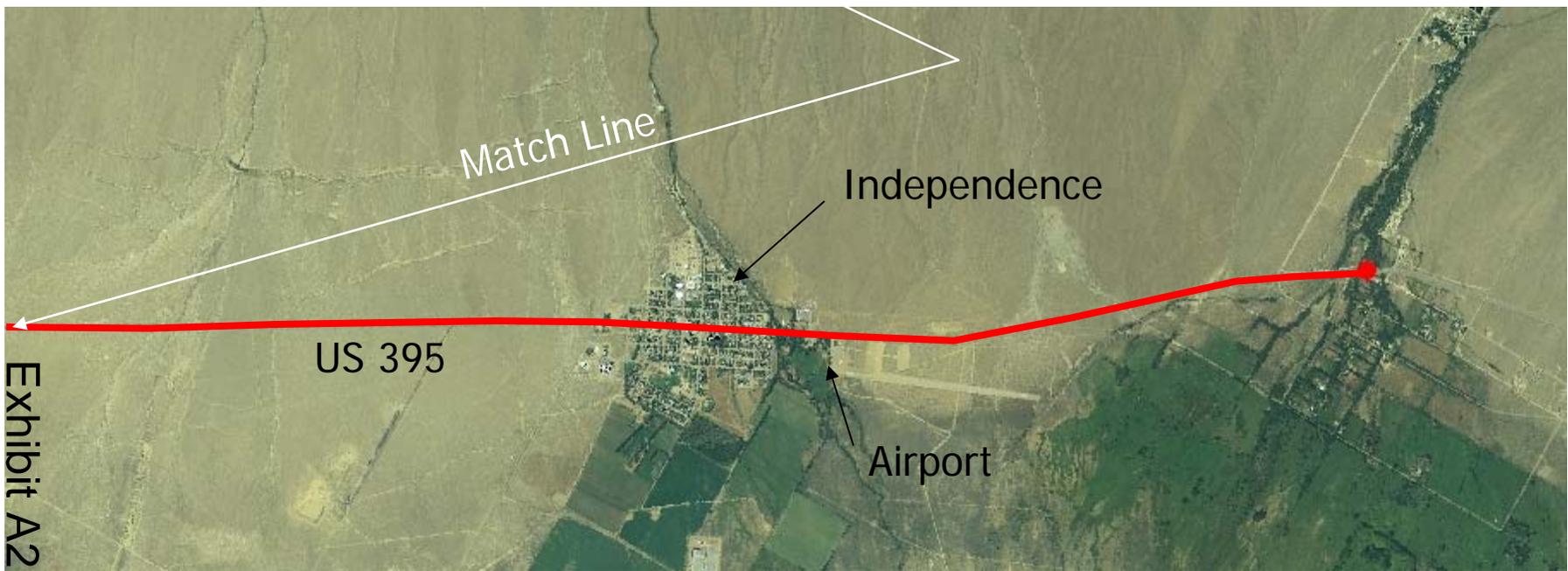


Exhibit A1

**LOCATION MAP**

# Overview of Project



## **JOINT ISSUES AND CONCERNS**

### **JOINT CONDEMNATION PANEL REVIEW**

On July 19, 2007, a portion of the property owners along the east side of United States (US) Highway 395, from Independence Creek to the airport, and along the west side of US 395, from Dehy Park to the Department's maintenance station, met jointly with the Condemnation Review Panel and the Department. The property owners present were Tansy Smith, John Smith, Loyd Hopper, Caroline Hopper, Mikel Sedoo, Gerald Sedoo, Mike Sedoo, Kenney L. Scruggs, and Benett Kessler. The property owners jointly expressed concerns and issues with the project. The following is a description of the issues and concerns expressed by the property owners and the Department's response:

#### **Owners:**

Independence Creek is the northern boundary of the town site of Independence. The residents north of Independence Creek live in this area because of its rural nature, including the absence of sidewalks. Said residents maintain that parking and sidewalks are not needed in this area, are not a necessary part of the project, and that the proposed sidewalks require the acquisition of additional property that is unnecessary due to the fact that there are rarely pedestrians outside of the town site limits. The owners feel that the Department's explanation that sidewalks are necessary for the safety of pedestrians in this area is incorrect and it appears the sidewalks are for aesthetic purposes only.

The following are additional assertions submitted by the property owners addressing sidewalks north of Independence Creek and Dehy Park:

- The Civic Club did not support sidewalks.
- The Chamber of Commerce current position does not support sidewalks north of the town site. The Chamber has changed their position since the environmental document was written. The previous recommendation for sidewalks from Inyo Creek to the airport was specifically rescinded, on May 14, 2007, due to an alleged procedural defect in the agenda and it was revisited.
- Said owners recommend a four-foot sidewalk designed around the trees, a six-foot sidewalk is unnecessary.
- Sidewalks north of Dehy Park on the west side and Inyo Street on the east side are unnecessary because there are no pedestrians. The property owners noted that they would be willing to compromise by proposing a sidewalk on the east side from Independence Creek to the airport, without a sidewalk on the west side, if it could narrow the project needs, save trees and eliminate the taking of their property. The project design should be downsized and moved to the west so the property owners on the east would have less impact and the trees would not have to be destroyed.
- The sidewalks were recommended to support the businesses in Independence. There are no businesses north of the park.
- Studies have not been provided that support the need for pedestrian access on the east or the west side of the highway.

- A new State building in Independence only has a four-foot sidewalk in front.
- Route continuity on a project does not mean sidewalks.

**Department Response:**

The Chamber of Commerce has supported sidewalks throughout the development of the project demonstrated in letters dated January 25, 2001, April 16, 2002, and June 15, 2002. The Environmental Assessment with Finding of No Significant Impact (EA-FONSI) included sidewalks in the project. Jeffrey Jewett, the former Public Works Director for the County of Inyo, sent a letter on June 28, 2000, with the following statement: “The Inyo County Department of Public Works supports the proposed acquisition by Caltrans of approximately 657 square feet of Dehy Park for construction of a new sidewalk”.

The project design is scoped for a six-foot sidewalk in the approved Project Report and Environmental Document. After discussion with the property owners and a review of the design, it was determined that the sidewalk north of Independence Creek could be reduced to five-feet.

The need for the sidewalks include:

- The highway provides for multimodal transportation, including pedestrians. Separation of pedestrians from vehicular traffic, by providing a pedestrian facility (sidewalk), will provide a safer environment for pedestrians.
- Airport users have expressed concern walking in and next to the highway in this location.
- Curb, gutter and sidewalks help delineate urban type areas. Drivers normally expect lower speed limits in urban areas leading to a natural slowing of traffic. Sidewalks, curbs and gutters will give drivers a visual clue that they are entering an area where they are more likely to encounter side traffic, pedestrians, and other road users.
- The Community requested sidewalks in the project development meetings.

**Owners:**

A ten-foot shoulder in front of the residences north of Independence Creek is unnecessary and encourages the parking of large trucks and other vehicles. Said owners are in favor of a four-foot shoulder and do not want parking in front of their homes and recommend painting the curb red and eliminating parking in this area.

If the Department determines that a shoulder is necessary north of Independence Creek, the preference is a four-foot shoulder. Alternative 2A (page 11 of the environmental document) proposed four-foot shoulders.

Additional comments on truck parking include:

- Truck parking in this area is a hazard to the residents as well as to the traveling public.
- Ingress and egress to the highway is a safety concern due to sight distance problems occurring from vehicles parking on the shoulder.
- Wider shoulders encourage vehicles to increase speed in residential areas.
- Said owners state they have six to eight trucks parked in front of their homes on a daily basis.

- Owners state that trucks are parking in front of their homes at all hours to trade their loads. Trading loads creates banging and other noises that are particularly disturbing in the middle of the night when they are trying to sleep.
- While trading loads, truck engines remain running, creating noise and diesel fumes. The refrigerator trucks also continue running when they stop in front of their homes.
- The diesel fumes from running truck engines permeate the bedroom at night and make them nauseous. Mrs. Smith has allergies to the fumes.
- Truck drivers sleep in their trucks in front of homes in the daytime under the trees. The shade from the remaining trees, along the new right of way, will encourage the truck drivers to continue stopping during the day to take a nap in the shade.
- The truck drivers stop in front of their homes to relieve their bodily functions at the park restroom or on the adjoining properties. The property owners are tasked with cleaning up toilet tissue and bodily excretions left on their properties in the morning. The truck drivers also let their dogs out to relieve themselves in their yards.
- They strongly request that the Department create a No Parking zone along the shoulder of the road.
- There is no need for business parking north of Dehy Park. Dehy Park currently has parking available and the master plan includes additional parking.

**Department:**

The project does not change the parking conditions that currently exist. The proposed project includes ten-foot shoulders that will accommodate parking and bicycles. A ten-foot shoulder will maintain uniformity and consistency throughout the community and will continue with ten-foot shoulder north of Independence into the expressway. The County has always had the authority to control street parking.

Shoulders provide for more than just parking. Shoulders are an integral safety feature of the roadway providing refuge for turning vehicles, disabled vehicles, maintenance activities, and bicycles. They also provide for improved sight distance for vehicles entering the highway. Alternative 2A included a two-way left turn lane in addition to four lanes. To avoid the taking of a substantial number of buildings (some of which are historic) due to the restricted 80-foot right of way and to avoid the taking of these buildings, a substandard four-foot shoulder would be required. The overriding safety benefit of a two-way left-hand turn lane and the significant impacts of the acquisition of historic buildings would have been sufficient justification for the approval of a design exception to four-foot shoulders.

Alternative 2B was selected as the preferred alternative because it has the greatest project benefits with the least community impacts. Alternative 2B met the purpose and need of the project and addressed the community's desire to provide for parking and bicycles. This included consideration of accident data, transportation operations, and business impacts in the community that did not lead to the selection of a two-way left-hand turn lane.

Wider shoulders and red curbing near the driveways will improve sight distance especially when vehicles are parked near the driveways. The Department's shoulder guidance is derived from its stewardship responsibilities with the Federal Highway Administration (FHWA), provides tort

protection, and is a collection of best practices. The FHWA and the Department have the flexibility to deviate from shoulder guidance under constrained conditions, where significant impacts exist; however, such conditions do not exist at this location. The difference in cost and impacts between the project and the property owner's proposal is negligible and would not be a defensible design decision. It would also be geometrically awkward and confusing to the motorist to create a narrowed cross section through this short bottleneck in the project's right of way.

Shoulders provide:

- Structural support for the pavement
- Change lane for vehicles turning into driveways (major benefit to property owners)
- Room for maintenance activities (major safety consideration for workers)
- Maneuver room and space for immobilized vehicles
- Safety for pedestrians
- Space for bicyclists
- Storage space for snow
- Improved visibility
- Conveyance of roadway drainage
- Research supports the use of wider shoulders, which have been shown to result in fewer accidents
- Ten to twelve foot shoulder is preferred per Highway Design Manual (HDM) Table 302.1
- Widening from four to ten feet - approximately 40 percent reduction in accidents

**Owners:**

The project will destroy 96 trees. These trees are 70 or 80 years old and form a natural barrier from the highway and the winds. With a minor adjustment to the project, the trees could be saved. Trees in this area are extremely valuable and do not want to see the State and the highway come through and destroy 96 more trees when it is really not necessary.

The trees create a visual beauty that they have come to rely on. The EA-FONSI states the visual quality is considered one of the area's greatest resources, but it does not fully address the impact of the removal of the trees. The EA-FONSI incorrectly indicates that with the destruction of 96 trees there will be no visual impacts to the Community. This is false and incorrect information and should require a re-evaluation of the EA-FONSI. The California Environmental Quality Act (CEQA) checklist finds no visual impact by the removal of 96 trees, and the computer-generated picture on page 32 shows virtually no visual change when the trees are removed. Photos in the environmental document misrepresent what the vegetation will look like in the "before" and "after" photos. The "after" photo incorrectly shows the same vegetation after the construction of the sidewalks, with a minor reduction of trees. This is a false image as the Department continues to insist that all vegetation on the east side of the highway will be removed.

**Department Response:**

None of the design alternatives included in the environmental review or other project reviews (with the exception of the no-build and by-pass alternatives) will spare the approximate 96 trees that are in question. The EA-FONSI includes discussion on the importance of the visual

resources within the Owens Valley. It also explains that the visual character through Independence and in particular the north end in the area of Independence Creek and extending north to the northern boundary of Dehy Park, appear visually detached and random and that a great portion of the trees have been truncated due to powerline clearance work over the years. The property owners have distinguished their property as not being a part of Independence. The use of Independence Creek at the northern end of Independence as a divider between town and rural was not recognized by the Department in preparation of the EA-FONSI. For the purpose of the EA-FONSI, the northern limits of town extended to the northern boundary of Dehy Park. Since the town is not incorporated, the boundary of the community is arbitrary.

The EA-FONSI states that the project will not have an impact on the visual quality of the viewshed. This statement is correct. The project will not impact the familiar native big sagebrush scrub vegetation, with remnants of pioneer-planted windbreak trees and agricultural fields that exist outside Independence. The EA-FONSI states that the visual quality within Independence will be enhanced with the installation of new sidewalks, curbs and gutters. These improvements will create a more unified appearance through the community. The potential for a negative visual impact at the northern end of Independence was discussed; however, because the property owners had sufficient private property area for the re-establishment of screening landscaping, it was not considered substantial. Typically, the removal of private landscaping that is detached or random in nature is not considered a visual impact under CEQA. Since the property owners will have sufficient space to re-establish similar landscape screens, the interpretation is a valid representation of what it may look like. The photo simulation attempts to convey how the facility could look after a period of regrowth. Of the approximate 96 trees proposed for removal, only eight are found outside of the existing highway right of way. Acquiring additional right of way to avoid existing trees within the existing right of way is not considered a responsible use of highway resources. The majority of the approximate 96 trees for planned removal include trees that are as small as four inches in diameter.

The Department, as part of the environmental process, investigated the potential significance of the trees from the cultural resource perspective. The findings indicated that the trees would neither be individually eligible to the National Register Of Historic Places nor would they contribute to the existing historic district in Independence. The project area was evaluated by the Department in October 2000. A historic district comprised of nine individually eligible and 38 additional contributors was determined to exist. The period of significance for the historic district was 1866 to 1930. No trees were identified as contributing to the historic district. The State Historic Preservation Officer (SHPO) concurred with these findings in 2004.

The Department revisited this issue in August 2007 and further consulted with the Eastern California Museum staff to determine the existence of "pioneer trees". A comparison was made between the pre-1930 photographs and existing conditions. Museum staff did not know of "pioneer trees" or those that could be identified as planted by early residents within Independence or the immediate area. Review of the photographs indicates that the locations of original trees would now be covered in asphalt as the roadway has been improved since 1930. None of the trees that exist today, which replaced the original trees, would contribute to the district as it appeared within its period of significance; as such, the Department believes that the

original determination that the trees are not individually eligible or contributors to the district remains correct.

The following options were considered and rejected:

- No curb, gutter or sidewalk
- Curb and gutter, but no sidewalk
- Shift in alignment
- Four-foot shoulders

**Owners:**

The environmental document states that the project will increase safety. The project shows an accident rate of 0.39, which is below the State average of 0.85. This project is not identified as a safety project since it is below the statewide average of accidents.

There are other means of slowing traffic down, including the reduction from four-lanes to two-lanes when entering town. The bottleneck in town, lanes going from four lanes to two, actually increases safety because the vehicles are required to slow down to merge. We question the Department's claim that traffic tends to slow down when a sidewalk is adjacent to the highway, this conclusion may be inaccurate or not applicable to this situation. There is no reason to believe that traffic will slow to 25 mph after the four-lane project is built.

**Department Response:**

The concept that the introduction and/or extension of sidewalks, curbs and gutters reduce average speeds as motorists see that they are approaching a community is a nationally accepted practice. As a result of the construction of the new cross section of shoulders and sidewalks, the 25 miles per hour speed limit signs will be relocated further to the north and south of their current location and will alert motorists that they are entering a reduced speed zone and encourage them to reduce speed prior to the current posted area.

Although this project is not identified as a "safety" project because of high accident rates, safety improvements will be anticipated as the US 395 facility is converted from conventional highway to an expressway in the sections north and south of Independence. The widening of the roadway to four lanes is anticipated to reduce the fatalities occurring in the two-lane segments. Also, the addition of sidewalks, curbs and gutters will help to create a safer travel environment for pedestrians, increased safety for vehicle ingressing and egressing the highway, and for bicycle riders. Additional lanes outside of Independence will also create the opportunity for vehicles to pass safely while outside the community rather than within the community. The additional lane entering and exiting Independence will allow route continuity, eliminating the need for traffic to funnel into one-lane.

**Owners:**

The project substantially reduces the distance between their homes and the public area. They are concerned about their physical safety and the security of their property and residences when the vegetation is removed and no substitute barrier is provided along the highway.

**Department Response:**

Compensation has been offered for the replacement of fencing, trees, and vegetation at the front of the property. The property owners may use these funds to build fencing or replace trees and vegetation.

**Owners:**

The truck traffic has increased noticeably in the last ten years and will continue to increase by the promotion of the US 395 corridor. There is now a truck hub planned for Reno, which was not taken into consideration in the EA-FONSI. Risks associated with the increased truck traffic should be addressed.

**Department Response:**

The Department verified truck traffic by actual field counts in 1997 at US 395, PM 55.827 south of Lone Pine. Those counts found that 16.6 percent of the total traffic volume was made up of trucks with a variety of axle configurations. In 2005, the weigh-in-motion facility at US 395, PM 96.257 near Big Pine showed that trucks made up 21.5 percent of the total traffic volume. As there are no points between PM 55.827 and PM 96.257 that would generate additional local truck volumes in numbers that would invalidate the traffic data and assuming constant rate of growth, the increase in truck volumes would be approximately 0.61 percent per year for the eight-year period from 1997 to 2005. The 0.61 percent per year growth in truck volumes was considered in the traffic analysis used for preparation of the Initial Study-Environmental Assessment (IS-EA) and in the adoption of a FONSI by FHWA and a Negative Declaration (ND) by the Department in 2004.

The new "truck hub" that the property owners refer to is probably the Tahoe-Reno Industrial Park (TRI) that is under construction (since 2003) east of Reno near Fernley. A new north/south roadway will connect Interstate 80 to US 50 (east/west roadways). A number of large companies are located there or are in the process of moving to that location. It is anticipated that 8,000 people will work at TRI by the end of 2007. Truck traffic will be generated. For example, Wal-Mart is building a distribution center and anticipates 600 trucks a day for the facility. In addition to dozens of industrial buildings, the developers plan to build two golf courses, new fire and police stations, administrative offices for Storey County, power stations and other major infrastructure. TRI has easy access to Union Pacific Railroad and Interstate 80.

While such a large industrial park would generate a great deal of truck traffic, it does not flow into California by way of US 395 but generally taking east/west highways. A study to widen US 395 is underway by the Nevada Department of Transportation (NDOT); however, not the section between Gardnerville and the California State line. Daily traffic drops off dramatically by the time it reaches this far section of US 395 (new report August 2007). Truck traffic from the "truck hub" is not flowing south into California (or Independence) if the traffic is dropping off before entering California. Below are approximate ADTs (from NDOT and Independence Environmental Document) for various locations along US 395:

Independence	2006 (peak)	6,620-8,934
US 395 (4 mi north of state line)	2005	6,830
Minden, Nevada (nearly 200 mi north)	2005	27,700
Just south of Reno	2005	88,000

**Owners:**

There will be an increase in noise, air pollution, and long-term effects of vibration from closer, faster, and increasing heavy traffic. The environmental document notes that the noise decibels would go up by the Baptist Church and that it should be mitigated. There is no mitigation addressed for noise.

**Department Response:**

The noise study was performed for the environmental document in accordance with accepted procedures at the time of the document. The noise study indicated that the noise decibels would increase but that the increase would be beyond the ability of the human ear to differentiate. FHWA reviewed and concurred with the study prior to adopting the FONSI in 2004. The Noise Study followed appropriate protocol and a review conducted in 2007 by FHWA and the Department found no significant discrepancies or changes to the original assumptions or impacts. As originally determined in 2004, the construction of soundwalls would not be effective or feasible to reduce noise impacts at this location.

**Owners:**

The use of the batch plant, which is in close proximity to their homes, will increase truck traffic, noise, fumes and increased vibrations to our home. Was the opening of the plant and the impact to the community considered in an environmental document?

**Department Response:**

Use of a batch plant is necessary for the construction of the project and major cost savings will be realized with the batch plant near the project. The EA-FONSI states that portable concrete batch plants and Asphalt Concrete (AC) batch plants are associated with this project. The impacts were discussed and the environmental document concluded that they are not significant. Contract documents require that the owner of these plants comply with all environmental regulations. The contractor is required to abide by all Air Pollution Control District (APCD) air quality regulations. The aggregate material site – where the batch plant would potentially operate – is approximately one mile north of the airport.

**Owners:**

The property owners expressed that the environmental document is confusing, ambiguous and misrepresents the impacts to Independence and the community. When errors were discovered in the EA-FONSI in February of 2005, the environmental document should have been reevaluated according to regulation in the Project Development Procedures Manual Chapter 11, article 1 where it discusses the requirements for a new hearing when new facts need to be addressed.

If the funding of the project is lost or delayed, due to the inaction of the Department, the fault lies with the Department since they chose to ignore the problem in 2005. The project was designed under the assumption that the Department owned 80-feet of right of way width and assumed there would be little private injury. The area being acquired by the Department keeps changing and it is difficult for us to respond to a moving target. For the Department to take the position that the project that is being pursued or presented to the public is the same area presented in the EA-FONSI is a fallacy. This was a misrepresentation at the public hearing and

in the environmental document. At the time of the public hearings, the people in town were led to believe that the State owned the 80 feet of property, so the response to the environmental document for building sidewalks was based on an erroneous belief. The Environmental Assessment done in 2004 states that right-of-way will be needed from the Los Angeles Department of Water and Power, in addition to minor amounts of Inyo County property in the vicinity of Dehy Park, for the construction of sidewalks. As that assumption was wrong, the public process is completely flawed. The homeowners impacted (including those north of the town site boundary) have been deprived of the opportunity to be heard regarding what the project now contemplates and how it affects our respective properties.

**Department Response:**

CEQA Guidelines, Section 15162, clearly define that the lead agency shall undertake the preparation of an environmental re-evaluation in cases where new or substantial changes to significant environmental impacts occur. No new impacts or substantial changes to previously identified significant impacts have occurred since the Department adopted the Negative Declaration (ND) in 2004. FHWA reviewed the project in 2007 and determined that the FONSI was valid and that a re-evaluation under NEPA was not required.

The amount of property to be acquired is the minimum required to construct a safe and functional facility as planned and designed. The property identified as needed for construction of the project was identified by need, not by ownership of the property. Property ownership is not a deciding factor under CEQA. The environmental impacts of all alternatives considered remain the same for the proposed project, irrespective of who holds the title to the property.

There were no errors discovered in the Mitigated ND/FONSI in February 2005. In February 2005, during preliminary engineering stages of this project, the Department determined that an existing right of way easement was faulty and therefore the existing right-of-way in front of three of these property owners was narrower than previously believed. This discovery affected three of the subject parcels. The amount of property to be acquired is the minimum required to construct a safe and functional facility as planned and designed. The footprint of the project has not changed.

The public process did, in fact, consider minimal property acquisition near Dehy Park. The Hopper and Sedoo parcels already had a proposed right of way acquisition, which increased in area based on this discovery. The Scruggs parcel is the only parcel that did not have a previously anticipated acquisition. The Smith and Cohn parcels were not affected by this discovery. The footprint of the project alternatives, as presented during the environmental process, were consistent and the current design of the project remains consistent with the selected alternative.

Recent changes in right of way requirements have been made in attempt to satisfy property owners. The Department eliminated the proposed new right of way requirement from the Smith parcel based on their concerns. The Department also reduced the required right of way from Sedoo, Hopper, and Scruggs by reducing the sidewalks from six-foot to five-foot and by moving the right of way line to the back of the sidewalk.

**Owners:**

The property owners proposed a design change for a 60-foot project in Independence, north of Independence Creek and Dehy Park to the airport. This proposal was considered a compromised position since they jointly oppose the sidewalk and ten-foot shoulder in said area.

The design of ten-foot shoulders and six-foot sidewalks could come to Inyo Street and then stop. The intent of the proposal is to stay within the fence line, within a 60-foot width, with a slight shift to the west. The project would be shifted to the west in front of the Hopper property to minimize impacts to the properties on the east.

The 60-foot proposal included:

- Four twelve-foot lanes
- Four-foot shoulder and a four-foot sidewalk on the east side to the airport
- Four-foot shoulder on the west side

The following changes were also presented:

- Utilizing the area in the old Caltrans yard
- Two four-foot shoulders with a curb, no sidewalk
- Shift the project to the west
- Slight increase of right-of-way needed from the Hoppers by the shift, but the Hoppers are comfortable with the increased acquisition

The property owners felt that a four-foot sidewalk would meet Americans with Disabilities Act (ADA) requirements.

**Department Response:**

A summary of the review of the property owners' proposed project within a 60-foot wide footprint:

- A shift of alignment to the west would impact other property owners.
- The proposal would require a mandatory design exception for shoulder width. The Department cannot justify approval of this exception. Although there are impacts to properties, there are no constraints and impacts are not significant enough to justify an exception. In addition, key shoulder functions would be lost. In order to keep curb within the 60-foot right-of-way, shoulders would need to be slightly less than four-feet wide.
- Sidewalks are part of the project as approved in the environmental document. The six-foot sidewalk has been reduced to five feet in front of several affected properties without the need for a design exception. Four-foot shoulders, which include concrete gutters, do not provide sufficient width for bicycles, maintenance activities, parking or for disabled vehicles.
- The removal of sidewalks, curb and gutter would necessitate a 20-foot clear zone from the edge of traveled way resulting in additional right of way acquisition. All trees within the right of way would still need to be removed. Power line relocation would impact trees near the right of way line.

- It would be geometrically awkward and confusing to the motorist to create a narrowed cross section through this short bottleneck in the projects right of way.

The revised footprint for the proposed project north of Independence Creek includes:

- Four twelve-foot lanes
- Two ten-foot shoulders
- Two one-foot curbs
- Two five-foot sidewalks
- Totals 78-feet plus a five-foot Aerial Utility Easement on the right side.

**JOINT OWNERS MEETING  
CONDEMNATION PANEL REVIEW MEETING  
JULY 20, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Tansy Smith, Owner  
John Smith, Owner  
Loyd Hopper, Owner  
Caroline Hopper, Owner  
Mikel Sedoo, Owner  
Gerald Sedoo, Owner  
Mike Sedoo, Owner's son  
Kenney L. Scruggs, Owner  
Benett Kessler, Owner

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Dossey, Central Region Right of Way  
Mark Zgombic, Sacramento Right of Way

# Community of Independence

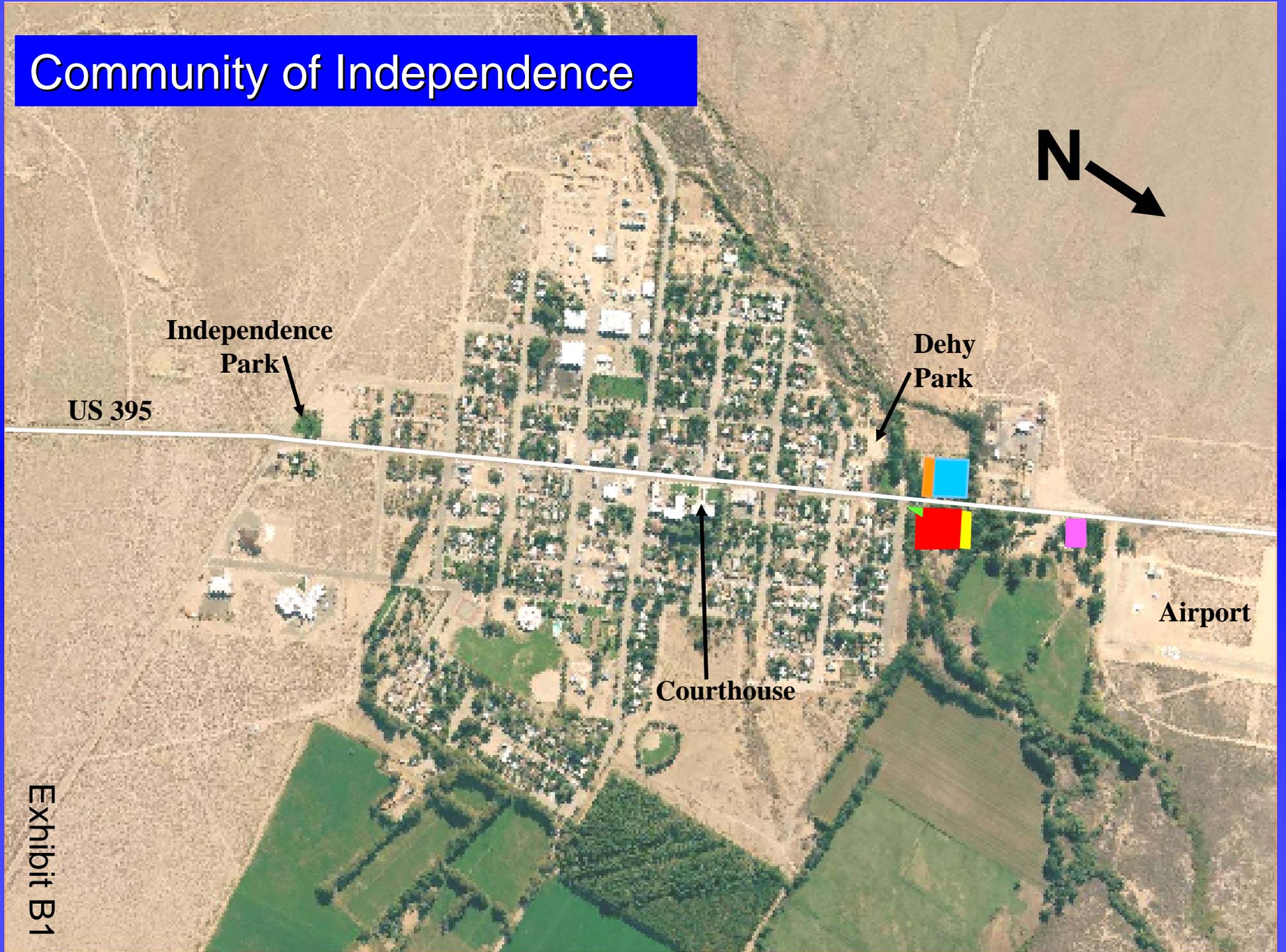
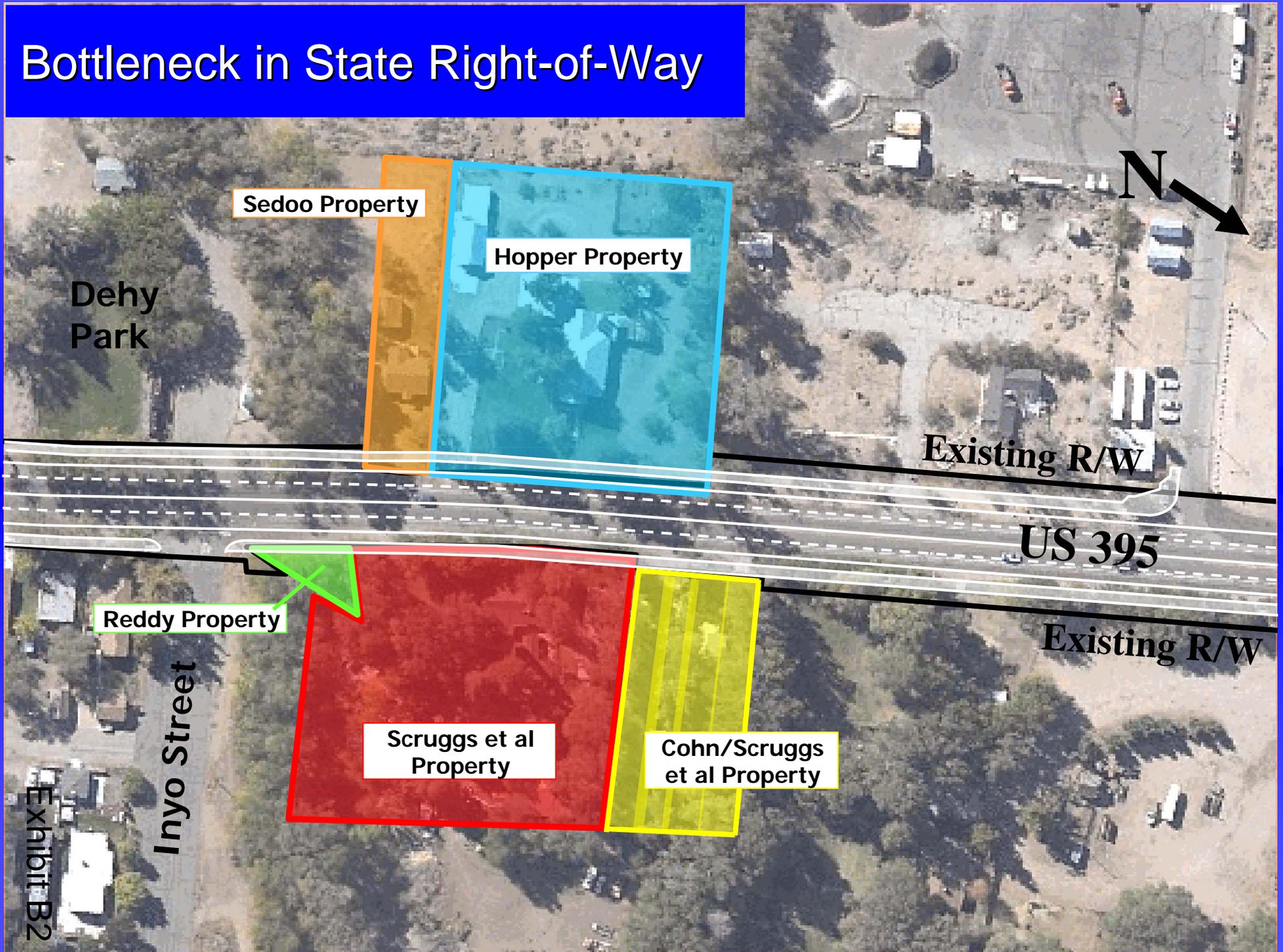


Exhibit B1

# Bottleneck in State Right-of-Way



Sedoo Property

Hopper Property

Dehy Park

Existing R/W

US 395

Existing R/W

Reddy Property

Scruggs et al Property

Cohn/Scruggs et al Property

Inyo Street

Exhibit B2



Smith Property

SPEED  
LIMIT  
45

SR 395

NB

SB

Exhibit B3



**Independence Chamber of Commerce**

*Incorporated November 1998*

P.O. Box 397  
Independence, CA 93526

Phone: 760-878-0084

e-mail: [agindepr@gnet.com](mailto:agindepr@gnet.com)

June 15, 2000

Thomas P. Hallenbeck  
District Director  
Caltrans  
500 South Main Street  
Bishop, CA 93514

Dear Mr. Hallenbeck:

The Independence Chamber of Commerce supports the proposed Caltrans acquisition of approximately 657 square feet of Dehy Park for sidewalk construction. This acquisition will be part of the Independence 4-lane project.

The Independence Chamber also requests having the Independence 4-lane project scope include extending the limits of sidewalks in Independence south to Mazourka Canyon Road on both sides of Route 395, and north to the Caltrans maintenance station entrance on the west, and to the Independence Airport entrance on the east side of Route 395.

It is understood that in order to construct a sidewalk at Dehy Park, adjacent to a widened Route 395 on its current alignment, that Caltrans will need to acquire about 657 square feet (0.015 acre) of the Park. The approximate 657 square feet needed from Dehy Park represent about 0.75% of the current park size of 1.989 acres. The Chamber recognizes the anticipated enhancement to the community as a result of the sidewalk construction in the vicinity of Dehy Park and considers the 0.015 acre area to be insignificant in comparison to the benefits obtained with the sidewalk construction.

The Independence Chamber of Commerce supports acquisition of an area approximately 657 square feet of Dehy Park by Caltrans for sidewalk construction.

Sincerely,



Arlene Gridet, President

cc: Supervisor C. Hambleton

**Independence Chamber of Commerce**

Incorporated November 1998

P. O. Box 397

Independence, CA 93526

January 25, 2001

Voice Mail: (760)878-0084

e-mail: [agindep@qnet.com](mailto:agindep@qnet.com)

Juergen Vespermann, Environmental Planner  
California Department of Transportation  
3402 North Blackstone Avenue, Suite 201  
Fresno, CA 93726

Mr. Vespermann

RE: Comments to Proposed Alternatives to improve State (US) Route 395 Independence.

The Independence Chamber of Commerce Board of Directors unanimously supports Alternative 2B in part, as presented at the November 1, 2000, Public Information Meeting held in Independence.

The Chamber supports that portion of the Alternative 2B wherein US Highway 395 will continue through town, with parking to remain on the highway and sidewalks to be constructed. Other proposed components within Alternative 2B are requested to be modified and/or clarified. Comments attached are:

- Section 1.** Support of Alternative 2B with parking remaining on US Highway 395.
- Section 2.** Sidewalks
- Section 3.** Modification of proposed components in Alternative 2B.
- Section 4.** Other components to include during the proposed improvement project, but not included on the Information Sheet. Most items were discussed with individuals at the meeting or at Project Team Meetings.

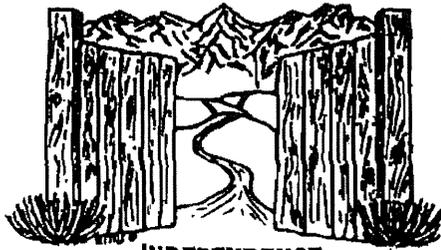
Please contact the Chamber after your review to confirm receipt. If further discussion with the Chamber is desired or more information is needed please leave a message on the Chamber's telephone or email to: [agindep@qnet.com](mailto:agindep@qnet.com).

Sincerely,



Arlene Grider, President

cc: David Grah, Project Manager (Bishop)  
Supervisor C. Hambleton, Fourth District



INDEPENDENCE  
GATEWAY TO DISCOVERY

# INDEPENDENCE CHAMBER OF COMMERCE

P. O. Box 397 • INDEPENDENCE, CA 93526  
PHONE: 760-878-0084 • AGINDEP@QNET.COM  
www.independence-ca.com

cc Butch Hamilton  
J. White

April 16, 2002

The Honorable Linda Arcularius, Chairperson  
Inyo County Board of Supervisors  
P. O. Drawer N  
Independence, Ca 93526

Re: Independence Four-Lane Project

Dear Honorable Linda Arcularius:

This letter is a request for the Inyo County Board of Supervisors to agree with and support the position of the Independence Chamber of Commerce regarding the local Four-Lane Project. The Chamber's preference is the option, which states, *"Four lanes with street parking and no center lane"*. The following are some of the facts that contribute to, and support this preference:

- 1) Parking in the town of Independence is already limited. The loss of Edwards Street parking will add to this shortage and cause economic hardship on the business community, which is already in need of stimulus.
- 2) The County of Inyo will soon be building a new structure to house the Courts and related services. Public Works has stated that upon completion of this project, there will be a net loss of one parking space compared to the existing parking. Additional parking will be required when Inyo Superior Court #2 is consolidated into the new building. The people who use this facility will have to be absorbed by the limited parking that exists adjacent to the County complex. The loss of Edwards Street parking on both sides will create an additional parking shortage around the County complex.
- 3) The Independence airport will be designated as part of the National Plan of Integrated Airport Systems (NPIAS) on October 1, 2002. This designation will allow Public Works to apply for federal assistance. The first priority of the use of federal assistance is to prepare a master plan for the airport. As part of this planning process, it is vital that CalTrans select the Independence Four-Lane Project option preferred by the Chamber of Commerce. **Sidewalks need to be extended to the airport.** As conditions now exist, people who fly into Independence for whatever reasons, must walk in the dirt at the edge of the pavement to get to the center of town. This is a very unsafe condition.

We request you take action to support our position and notify the Local Transportation Committee and CalTrans of your position of support. If you have any questions or wish to discuss this in more detail, I can be reached at 760-878-2587.

Sincerely,

Rich White  
President

cc The Honorable Butch Hamilton

## **PARCEL PANEL REPORT**

### **RESOLUTION OF NECESSITY C-19713**

#### **PARCEL DATA**

Property Owner: Gerald C. Sedoo and Mikel D. Sedoo, as Trustees of the Sedoo Family Trust

Parcel Location: On the west side of US 395  
537 North Edwards Street, Independence  
Assessor's Parcel Number 002-011-03

Present Use: Single Family residence  
Zoned Residential

Area of Property: 12,197 square feet (0.28 acres)

Area Required: Parcel 3797-1 = 688 square feet in fee  
Parcel 3797-2 = 29 square feet in underlying fee

#### **PARCEL DESCRIPTION**

The subject parcel is located on the west side of United States (US) Highway 395 in the unincorporated community of Independence at 537 North Edwards Street, Assessor's Parcel Number 002-011-03, in Inyo County. Access to the parcel is from US 395. This parcel has an area of 12,197 square feet and is improved with a single-family dwelling.

#### **NEED FOR SUBJECT PROPERTY**

The proposed project north of Independence Creek and Dehy Park includes widening from two-lanes to four-lanes with a paved shoulder, sidewalk, curb and gutter. Acquisition includes an area of 688 square feet in fee and 29 square feet in underlying fee that is needed for this project. The area being acquired is located on the eastern boundary of the parcel, adjacent to US 395.

The required area includes the acquisition of a perimeter fence, landscaping, and sprinklers. The remainder of the parcel will not be acquired nor impacted by the project. The parcel's access to US 395 will be perpetuated.

Avoiding the parcel would require a shift in alignment to the east, which would create a greater impact on east side properties. The current design best balances impacts while meeting the purpose and need of the project.

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Condemnation Review Panel (Panel) met at the Department of Transportation's (Department) District 9 office in Bishop on July 19, 2007. The Panel members included Panel Chair Donald Grebe, Department Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Gerald Sedoo, Mikel Sedoo, and their son Mike Sedoo, were present at the meeting.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity. The property owners contest the purpose and need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The Sedoos are opposed to the project as designed in town north of Independence Creek and Dehy Park. The following is a description of the concerns expressed by the property owners and the Department's response:

### **Owners:**

A bypass of the town should have been considered during the project development phase.

### **Department:**

Seven major alternatives were studied and included bypasses on both sides of the community. The current project was selected as the preferred alternative after extensive public involvement and strong opposition to any bypass alternative. The Inyo County Board of Supervisors, the Local Transportation Commission, and the Chamber of Commerce support the selected alternative.

In addition to the issue described above for the property owners, the owners also have the concerns expressed by the other property owners identified in Attachment B.

## **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.

## **RECOMMENDATION**

The Department's project 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 rights to be condemned are 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 Chief Engineer recommends submitting a Resolution of Necessity to the California Transportation Commission.

---

RICHARD D. LAND  
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING  
HEARING ON JULY 19, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Gerry Sedoo, Owner  
Mikel Sedoo, Owner  
Mike Sedoo, Son of the Owner

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Zgombic, Sacramento Right of Way

# Community of Independence



Independence  
Park

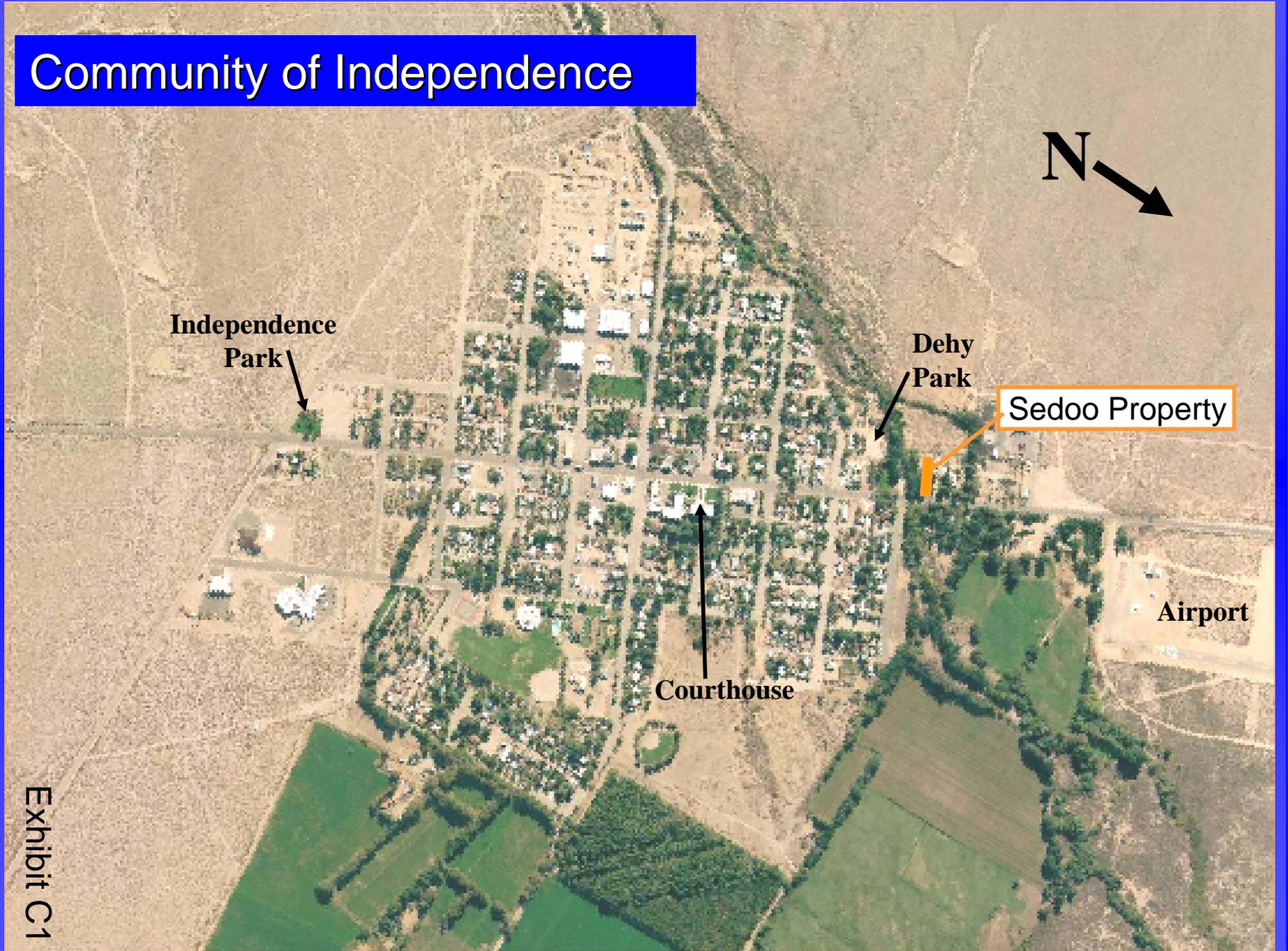
Dehy  
Park

Sedoo Property

Courthouse

Airport

Exhibit C1



# Existing Facility



**Sedoo Remainder:**  
0.26 acre

**Sedoo Acquisition: Fee:**  
688 sq ft  
**Underlying Fee:**  
29 sq ft

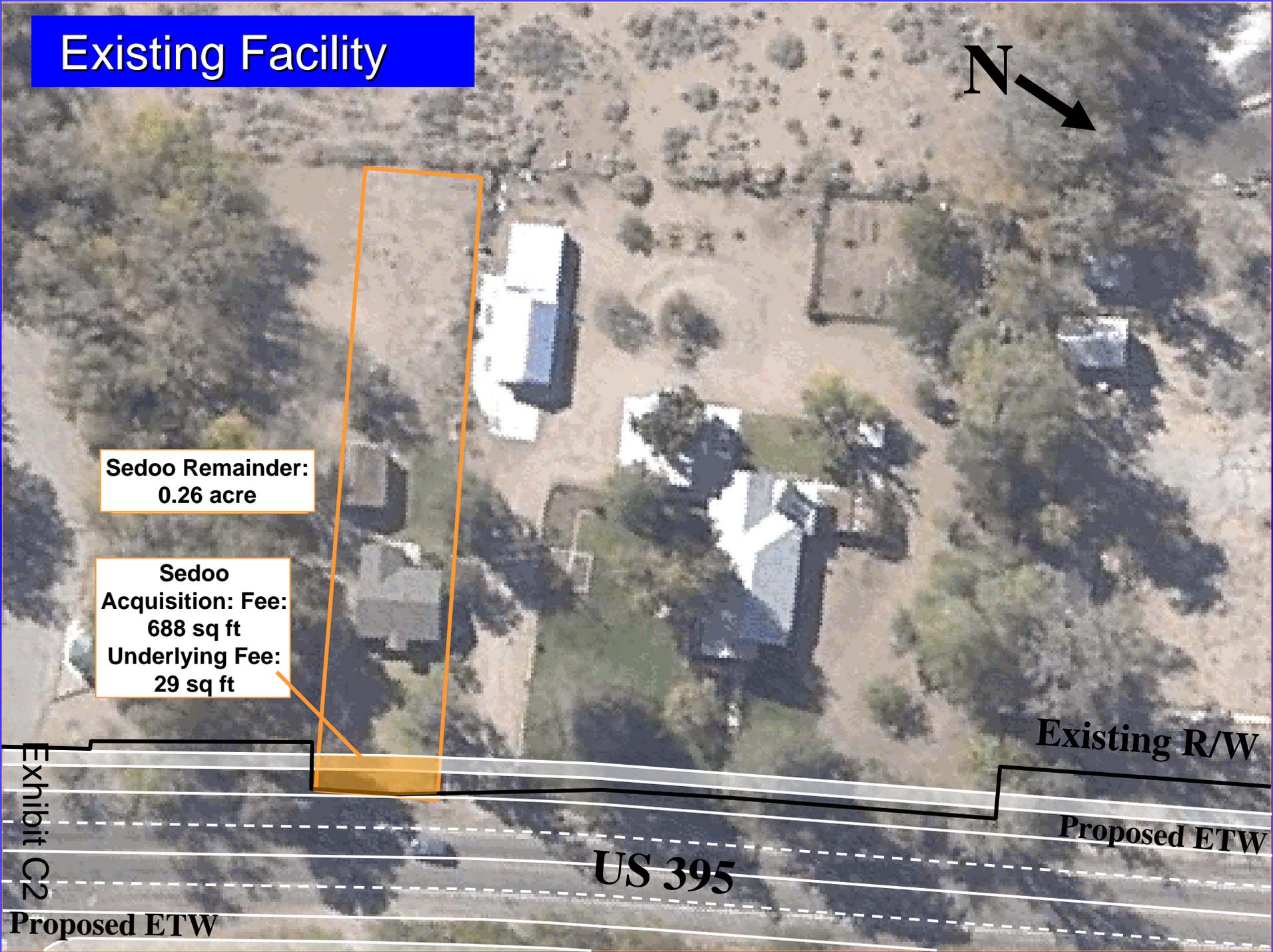
Exhibit C2

Proposed ETW

US 395

Existing R/W

Proposed ETW



# Sedoo Property

Looking Southwest from US 395

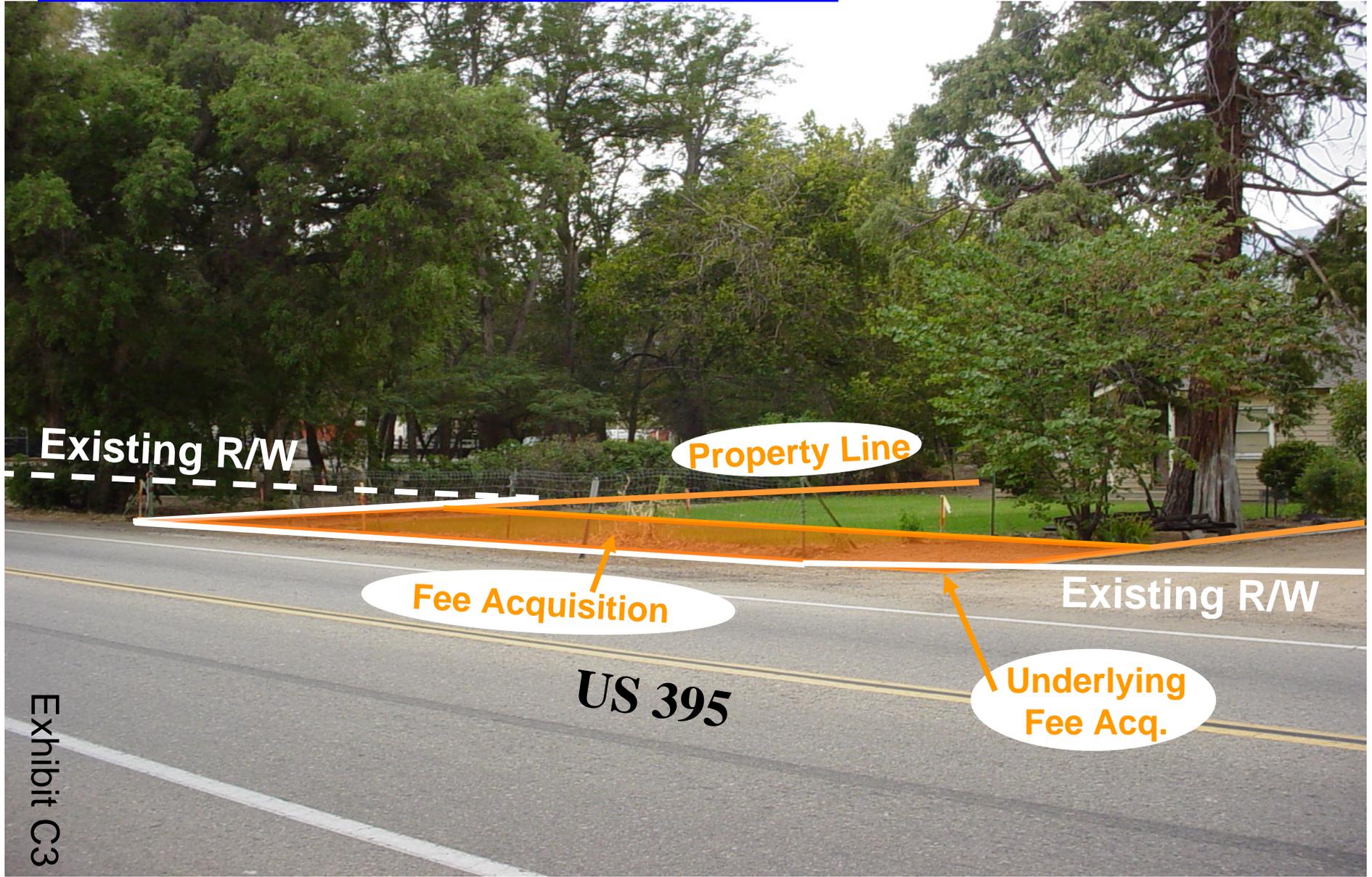


Exhibit C3

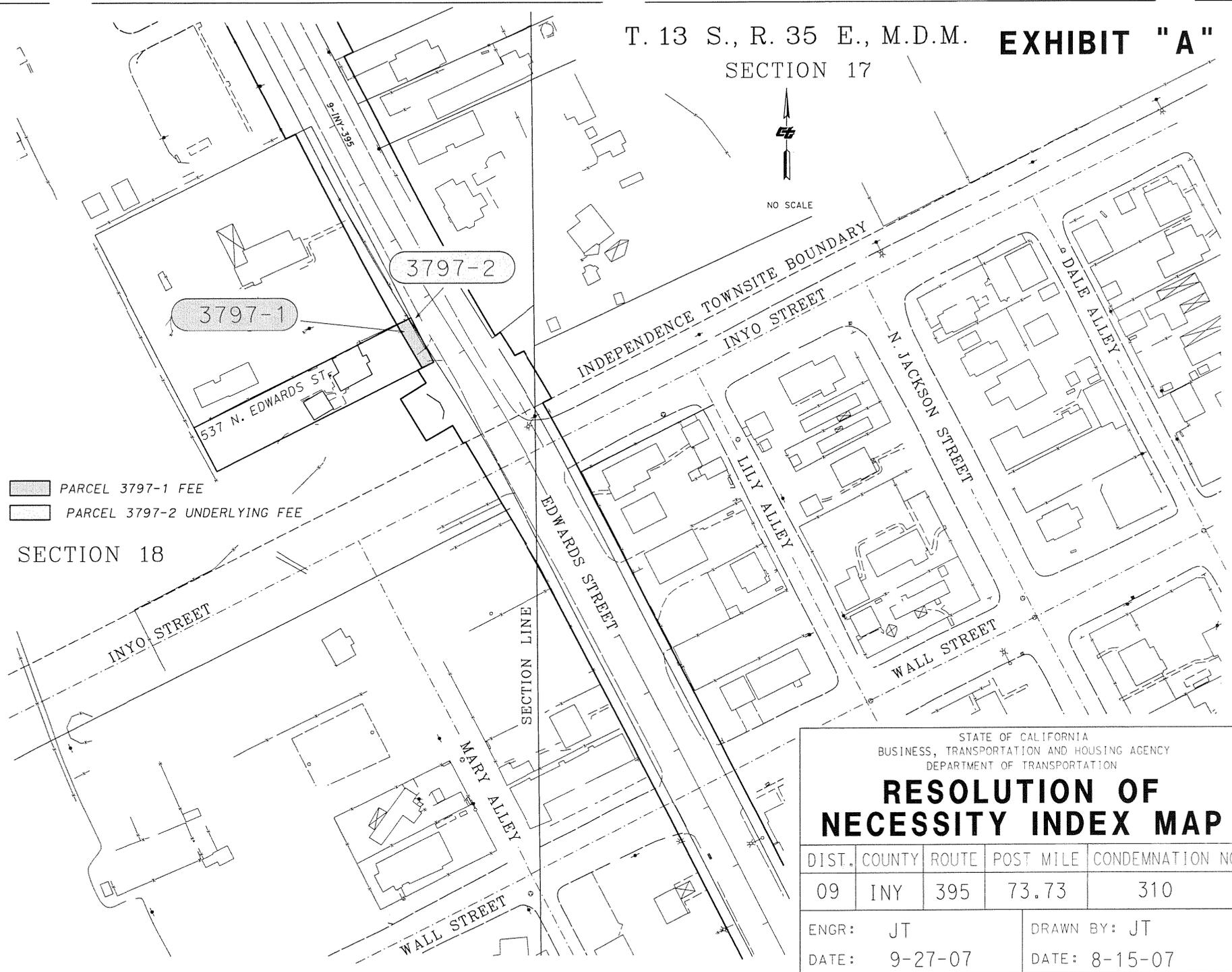
T. 13 S., R. 35 E., M.D.M.

**EXHIBIT "A"**

SECTION 17



NO SCALE



- PARCEL 3797-1 FEE
- PARCEL 3797-2 UNDERLYING FEE

SECTION 18

STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY DEPARTMENT OF TRANSPORTATION				
<b>RESOLUTION OF NECESSITY INDEX MAP</b>				
DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.73	310
ENGR:	JT		DRAWN BY: JT	
DATE:	9-27-07		DATE: 8-15-07	

## PARCEL PANEL REPORT

### RESOLUTION OF NECESSITY C-19714

#### PARCEL DATA

Property Owner: Loyd J. Hopper and Caroline C. Hopper

Parcel Location: On the west side of US 395  
555 North Edwards Street, Independence  
Assessor's Parcel Numbers 002-011-02

Present Use: Single Family residence  
Zoned Residential

Area of Property: 51,837 square feet (1.19 acres)

Area Required: Parcel 3798-1 = 2,237 square feet in fee  
Parcel 3798-2 = 1,622 square feet in underlying fee

#### PARCEL DESCRIPTION

The subject parcel is located in the unincorporated community of Independence, on the west side of United States (US) Highway 395 at 555 North Edwards Street, Assessor's Parcel Number 002-011-02, in Inyo County. Access to the parcel is from US 395. This parcel has an area of approximately 51,837 square feet and is improved with a single-family dwelling.

#### NEED FOR SUBJECT PROPERTY

The proposed project includes widening from two-lanes to four-lanes with paved shoulder, sidewalk, curb and gutter which requires the acquisition of property. The proposed project requires a fee acquisition of 2,237 square feet and 1,622 square feet of underlying fee. The fee acquisition area extends approximately 220 feet across the subject property and tapers from approximately 13 feet at the southwesterly corner of the parcel to nine feet at the northwestern corner property line. Avoiding the parcel would require a shift in alignment to the east, which would create a greater impact on east side properties. The current design best balances impacts while meeting the purpose and need of the project. As designed, the project cannot be constructed without the subject property.

The remainder of the parcel will not be acquired and the parcel's access to US 395 will be perpetuated. The building improvements on the larger parcel are not impacted by the proposed project. The required acquisition area includes a perimeter fence, landscaping, irrigation line and sprinklers.

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Condemnation Review Panel (Panel) met at the Department of Transportation's (Department) District 9 office in Bishop on July 19, 2007. The Panel members included Donald Grebe, Department Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. The property owners, Loyd and Caroline Hopper, were present.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity. The property owners contest the need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The Hoppers are opposed to the project in town north of Independence Creek and Dehy Park but did not state specific issues and concerns on their parcel. The owners also have the concerns expressed by the other property owners identified in Attachment B.

## **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.

## **RECOMMENDATION**

The Department's project 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 rights to be condemned are 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 Chief Engineer recommends submitting a Resolution of Necessity to the California Transportation Commission.

---

RICHARD D. LAND  
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING  
HEARING ON JULY 19, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Loyd Hopper, Owner  
Caroline Hopper, Owner

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Zgombic, Sacramento Right of Way

# Community of Independence



Independence  
Park

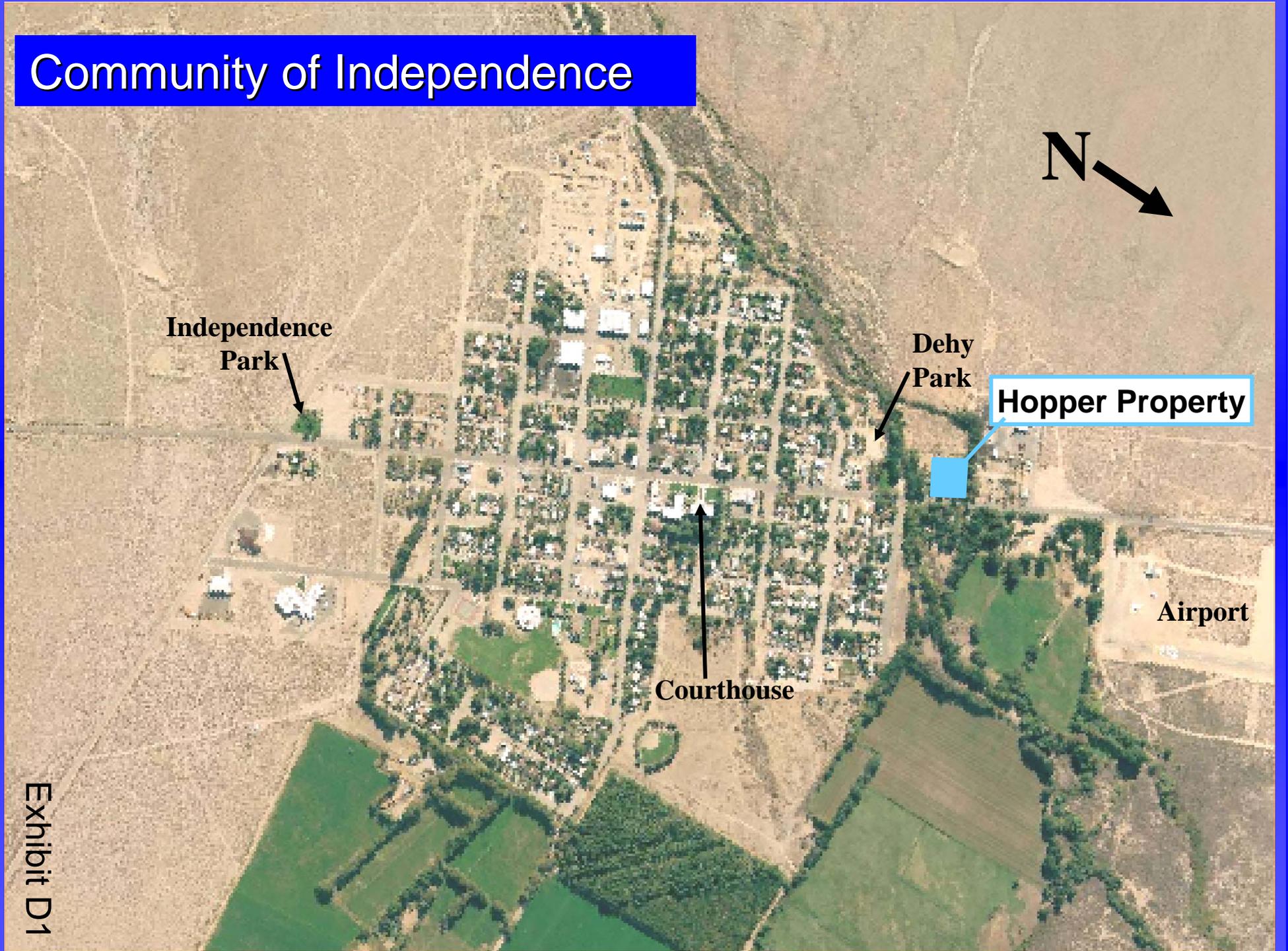
Dehy  
Park

Hopper Property

Courthouse

Airport

Exhibit D1



# Existing Facility



Hopper Remainder:  
1.10 acre

Hopper  
Acquisition: Fee:  
2237 sq ft  
Underlying Fee:  
1622 sq ft

Existing R/W

Proposed ETW

US 395

Exhibit D2

Proposed ETW



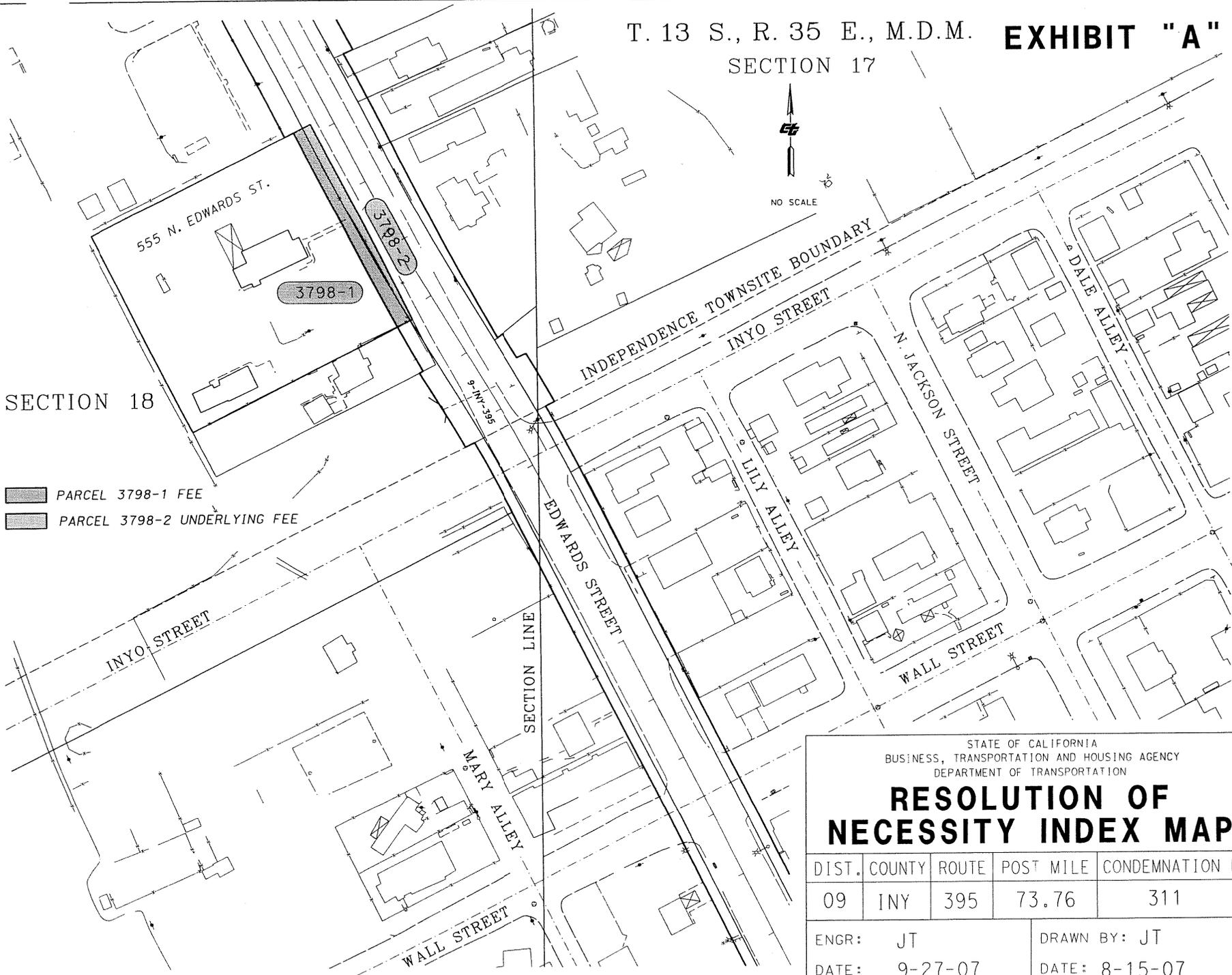
# Hopper Property

Looking Northwest from US 395



Exhibit D3

T. 13 S., R. 35 E., M.D.M. **EXHIBIT "A"**  
SECTION 17



SECTION 18

 PARCEL 3798-1 FEE  
 PARCEL 3798-2 UNDERLYING FEE

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY INDEX MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.76	311
ENGR: JT			DRAWN BY: JT	
DATE: 9-27-07			DATE: 8-15-07	

EXHIBIT D4

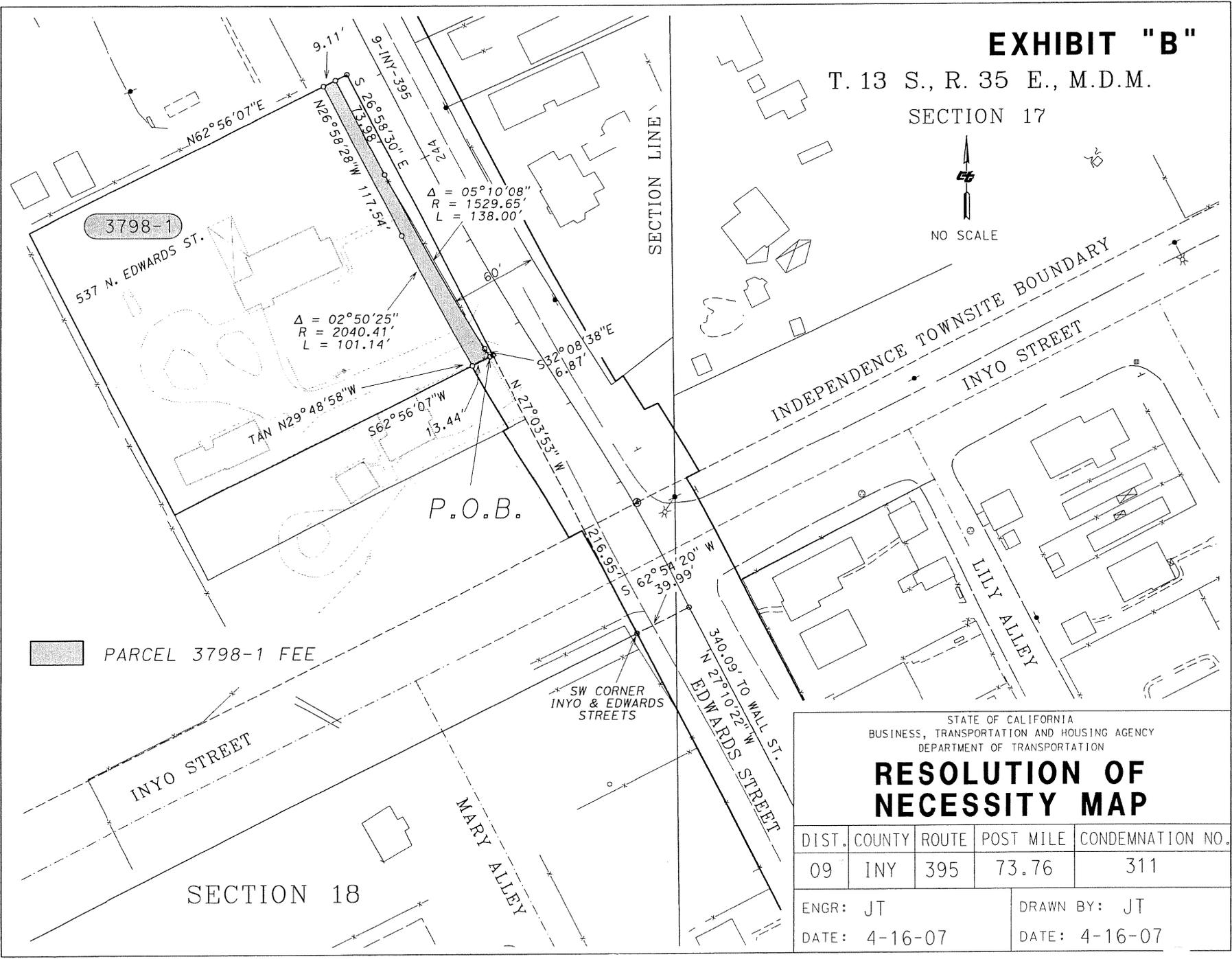
# EXHIBIT "B"

T. 13 S., R. 35 E., M.D.M.

SECTION 17



NO SCALE



3798-1

537 N. EDWARDS ST.

$\Delta = 02^{\circ}50'25''$   
 $R = 2040.41'$   
 $L = 101.14'$

P.O.B.

PARCEL 3798-1 FEE

INYO STREET

SECTION 18

MARY ALLEY

SW CORNER  
 INYO & EDWARDS  
 STREETS

SECTION LINE

INDEPENDENCE TOWNSITE BOUNDARY

INYO STREET

LILY ALLEY

EDWARDS STREET  
 N 27°10'22" W  
 340.09' TO WALL ST.

STATE OF CALIFORNIA  
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
 DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY MAP

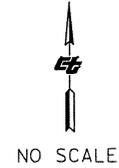
DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.76	311
ENGR: JT			DRAWN BY: JT	
DATE: 4-16-07			DATE: 4-16-07	

EXHIBIT DS

# EXHIBIT "C"

T. 13 S., R. 35 E., M.D.M.

SECTION 17



INDEPENDENCE TOWNSITE BOUNDARY  
 INYO STREET  
 LILY ALLEY

SECTION LINE

SW CORNER  
 INYO & EDWARDS  
 STREETS

P.O.B.

STATE OF CALIFORNIA  
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
 DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.76	311

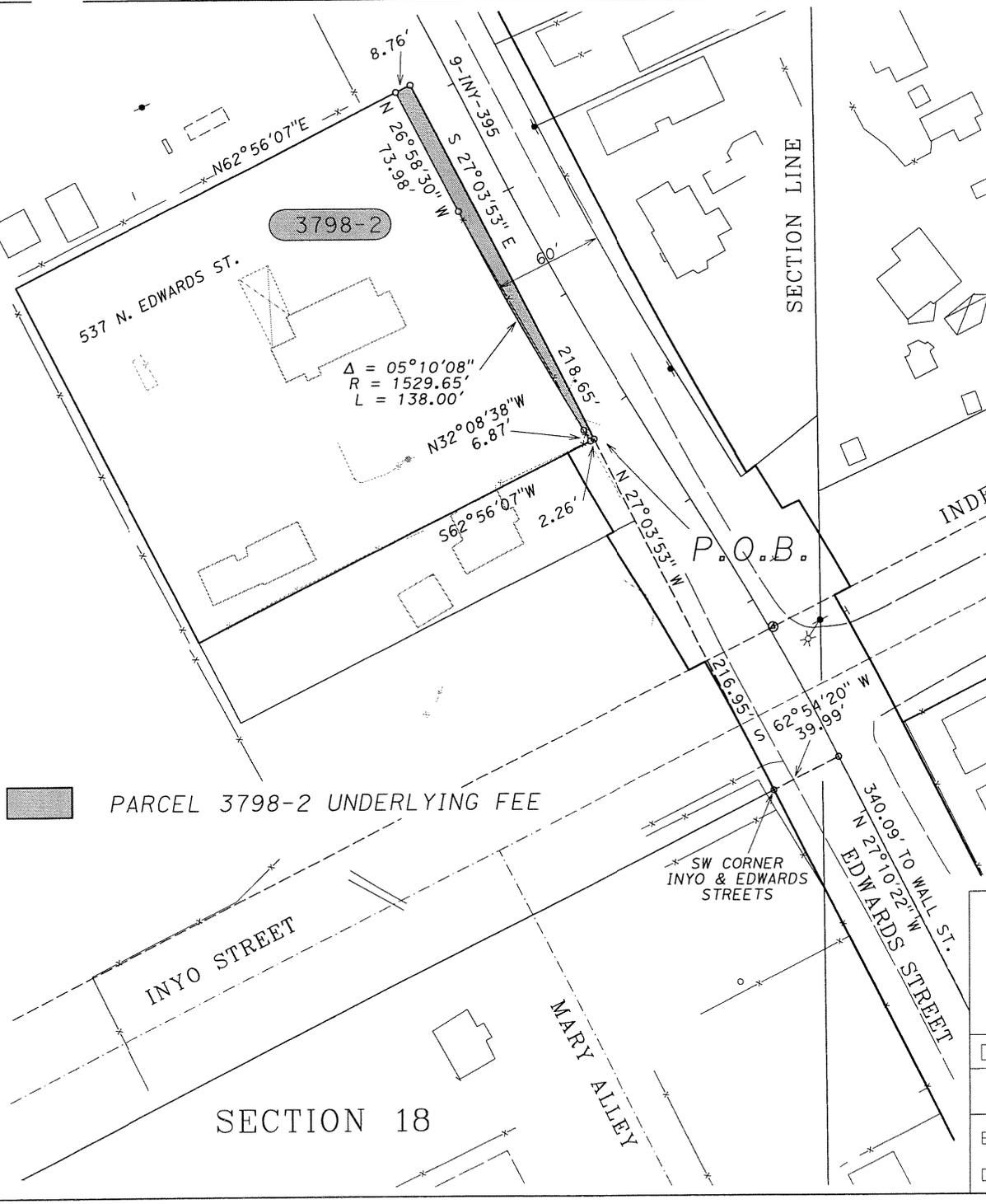
ENGR:	DRAWN BY: JT
DATE: 4-16-07	DATE: 4-16-07

SECTION 18

537 N. EDWARDS ST.

3798-2

$\Delta = 05^{\circ}10'08''$   
 $R = 1529.65'$   
 $L = 138.00'$



PARCEL 3798-2 UNDERLYING FEE

EXHIBIT D6

## **PARCEL PANEL REPORT**

### **RESOLUTION OF NECESSITY C-19715**

#### **PARCEL DATA**

Property Owner: John K. Smith and Tansy I. Smith

Parcel Location: On the east side of US 395  
700 North Edwards Street, Independence  
Assessor's Parcel Number 002-012-01

Present Use: Single Family residence  
Zoned Residential

Area of Property: 9,000 square feet

Area Required: Parcel 3790-1 = 375 square feet in aerial easement

#### **PARCEL DESCRIPTION**

The subject parcel is located on the east side of United States (US) Highway 395 in the unincorporated community of Independence (Independence) at 700 North Edwards Street, Assessor's Parcel Number 002-012-01, in Inyo County. Access to the parcel is from US 395. This parcel has an area of 9,000 square feet and is improved with a single-family dwelling.

#### **NEED FOR SUBJECT PROPERTY**

The project requires a 375 square foot aerial utility easement, five feet by 75 feet, for cross-arm and wires of a relocated utility that cross the front of the Smith parcel. The poles will be located in the State right of way. The area needed for this project is located on the westerly portion of the Smith property, adjacent to US 395. The remainder of the parcel will not be acquired and the parcel's access to US 395 will be perpetuated via a new curb cut. Fencing and trees within the State right of way will be removed and the Smiths will be compensated for fence restoration. An irrigation ditch will need to be relocated. Improvements on the parcel will not be impacted by the proposed project.

The planned widening from two lanes to four lanes along with the paved shoulder, sidewalk and curb and gutter requires the acquisition of the easement for the relocation of the overhead power distribution lines. These power lines provide service from the City of Los Angeles Department of Water and Power to the residences north of Independence Creek, to the airport and to the Department's Maintenance Station.

Avoiding the Smith property entirely would require a shift in alignment to the west; this would create a greater impact on west side properties. The current design best balances impacts while meeting the purpose and need of the project.

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Condemnation Review Panel (Panel) met at the Department of Transportation's (Department) District 9 office in Bishop on July 19, 2007. The Panel members included Panel Chair Donald Grebe, Department Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. John K. Smith and Tansy I. Smith were present at the meeting.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity. The property owners contest the purpose and need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The Smiths are opposed to the project as designed in town north of Independence Creek and Dehy Park. The following is a description of the concerns expressed by the property owners and the Department's response:

### **Owners:**

The relocation of the irrigation ditch is a major concern. The ditch should remain open and should flow around the large tree on the property so it does not have to be removed. There is also concern about the irrigation ditch located on the adjoining parcel that is leased by the Smiths and owned by Los Angeles Department of Water and Power.

### **Department Response:**

The Department has met numerous times with the property owner to work out an agreeable solution for the irrigation ditch in the after condition. When the Department met with the Smiths on August 21, 2007, the agreement was to relocate the ditch outside the right of way line, near the back of the sidewalk, within the utility easement, across their property. This issue has been resolved.

### **Owners:**

A bypass of the town should have been considered during the project development phase.

### **Department:**

Seven major alternatives were studied and included bypasses on both sides of the community. The current project was selected as the preferred alternative after extensive public involvement and strong opposition to any bypass alternative. The Inyo County Board of Supervisors, the Local Transportation Commission and the Chamber of Commerce support the selected alternative.

In addition to the issue described above for the property owners. The owners also have the concerns expressed by the other property owners identified in Attachment B.

## **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.

## **RECOMMENDATION**

The Department's project 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 rights to be condemned are 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 Chief Engineer recommends submitting a Resolution of Necessity to the California Transportation Commission.

---

RICHARD D. LAND  
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING  
HEARING ON JULY 20, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

John K. Smith, Owner  
Tandy Smith, Owner  
Kenney L. Scruggs, Attorney and Adjoining Property Owner

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Dossey, Central Region Right of Way  
Mark Zgombic, Sacramento Right of Way

# Community of Independence



Independence  
Park



Dehy  
Park



Courthouse

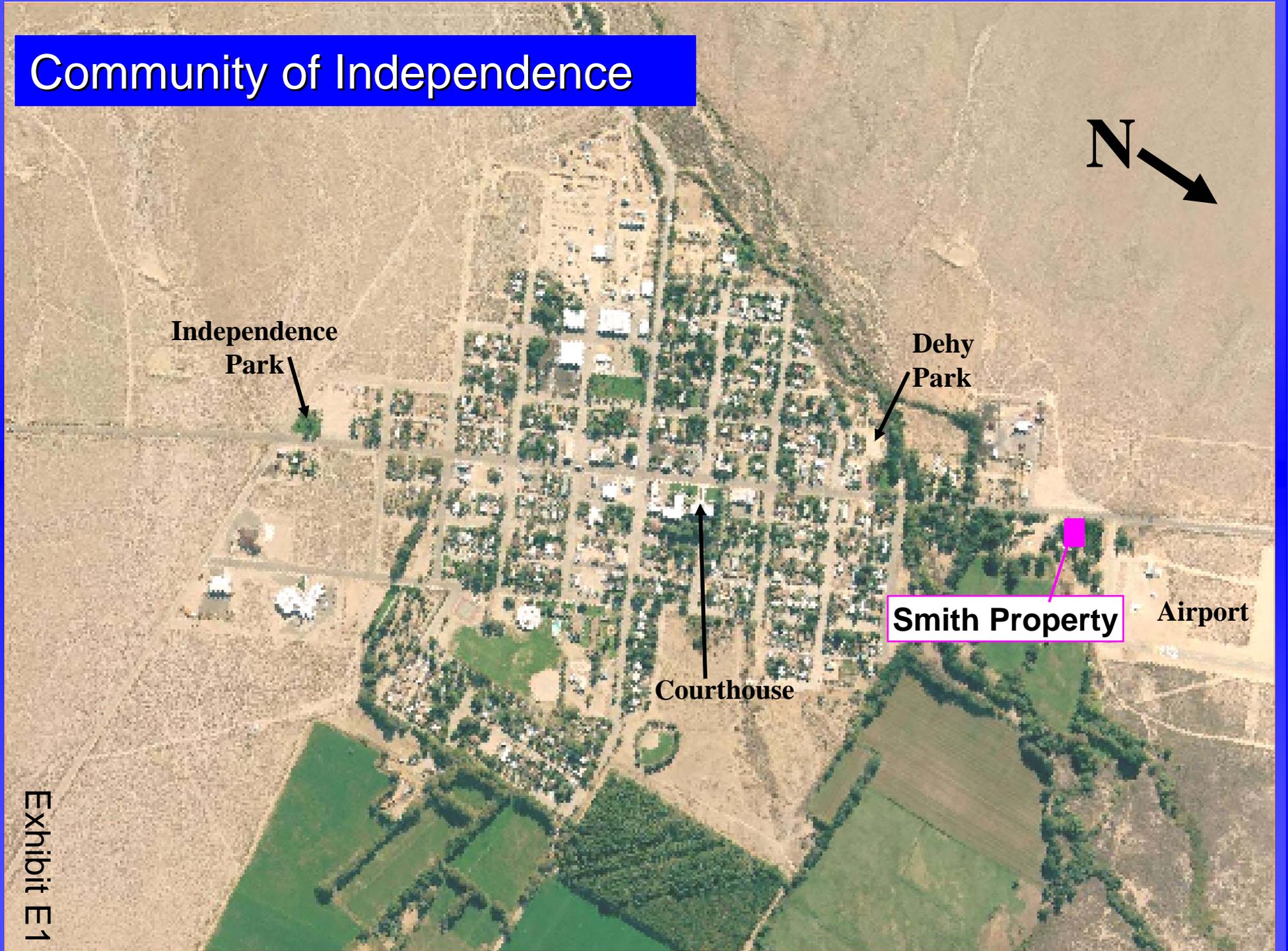


Smith Property



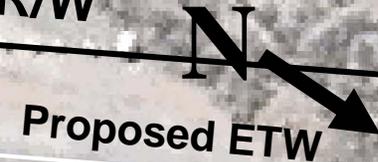
Airport

Exhibit E1



# Property Impacts

Existing R/W



Proposed ETW

US 395

Existing R/W



Smith Acquisition: Aerial  
Easement: 375 sq ft

Airport Road

Exhibit E2

# Smith Property

Looking North from US 395



US 395



Exhibit E3

# EXHIBIT "A"

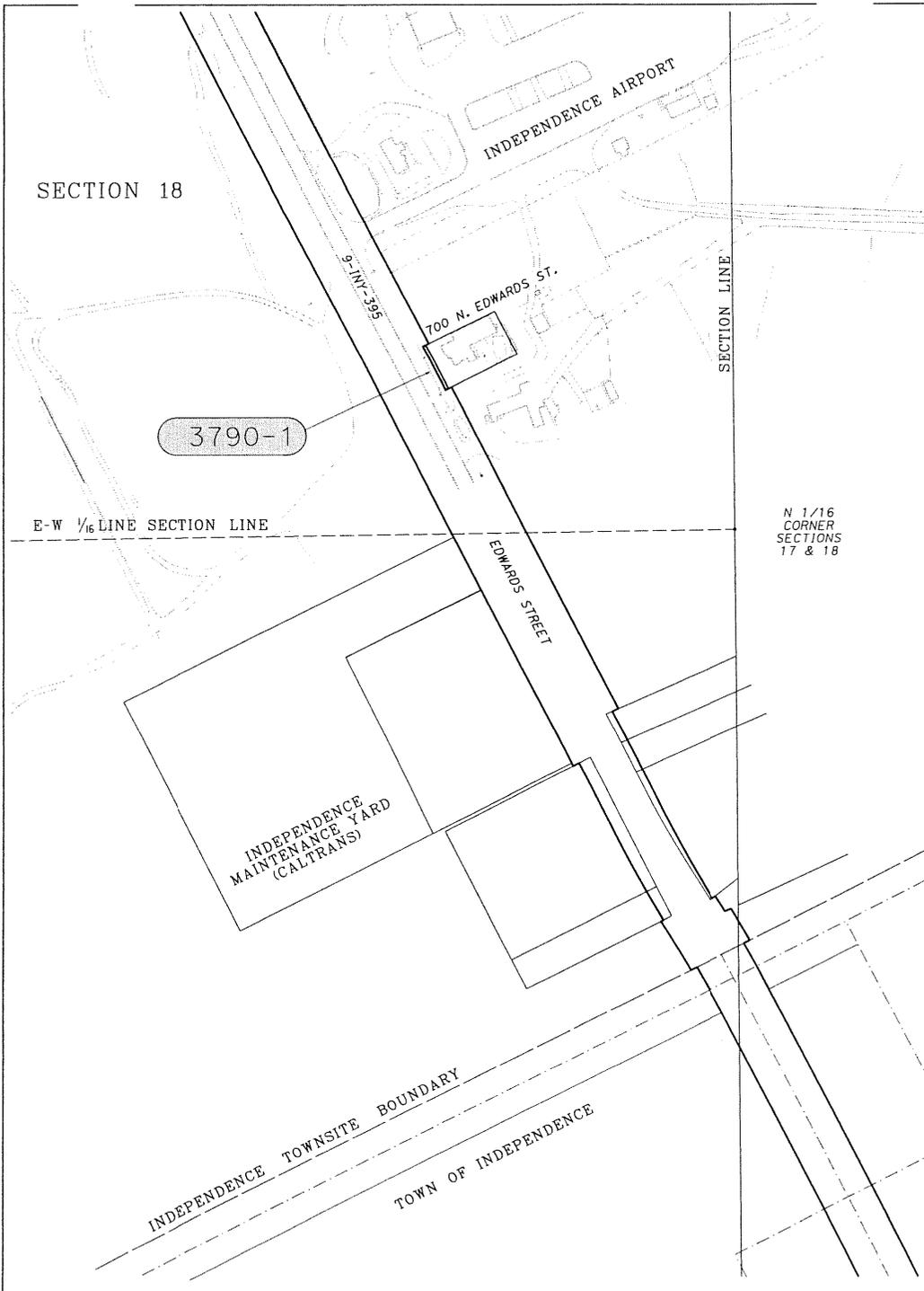
T. 13 S., R. 35 E., M.D.M.

SECTION 17



NO SCALE

SECTION 18

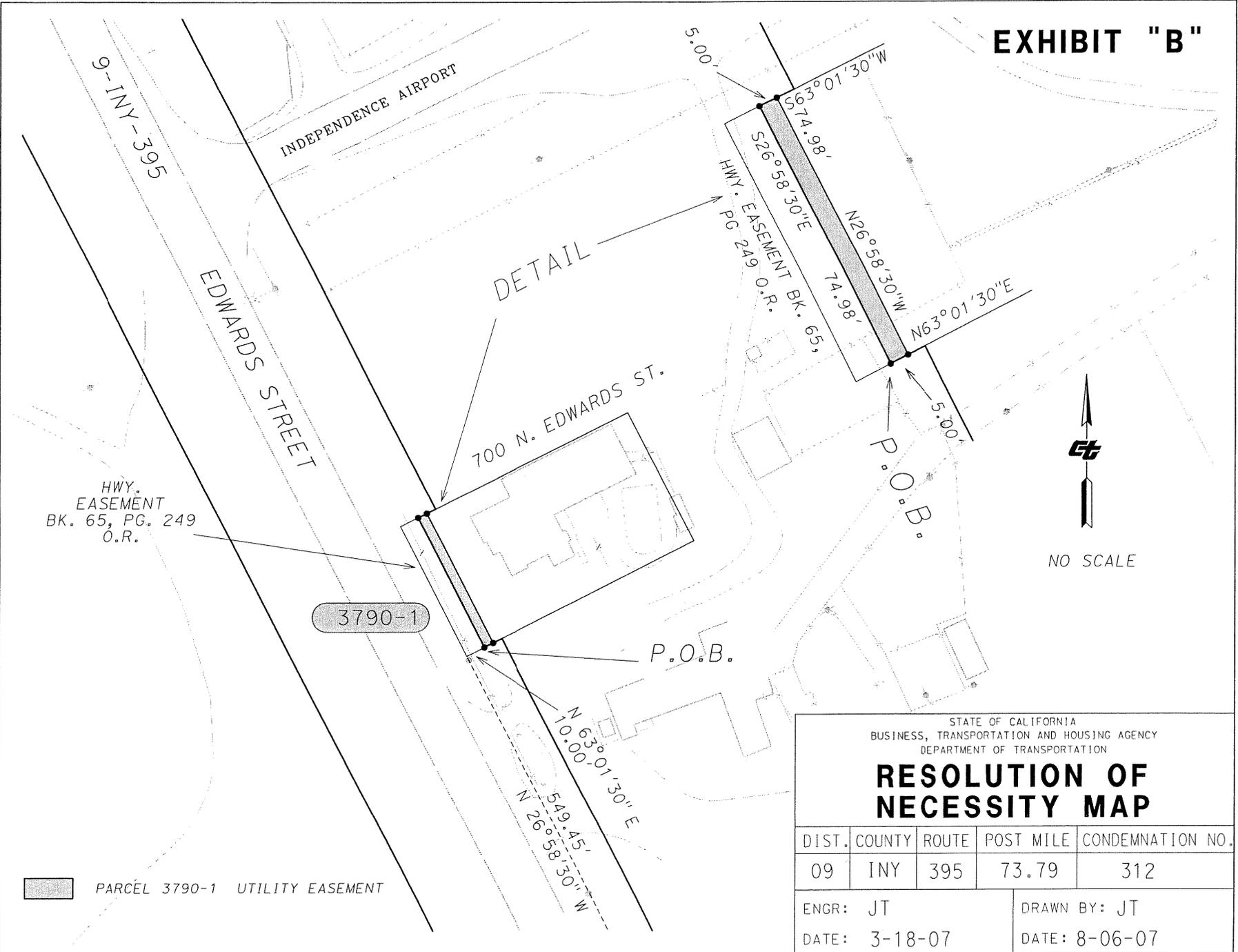


 PARCEL 3790-1 UTILITY EASEMENT

STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY DEPARTMENT OF TRANSPORTATION				
<b>RESOLUTION OF NECESSITY INDEX MAP</b>				
DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.79	312
ENGR: JT			DRAWN BY: JT	
DATE: 9-27-07			DATE: 4-18-07	

EXHIBIT E4

**EXHIBIT "B"**



NO SCALE

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.79	312
ENGR: JT			DRAWN BY: JT	
DATE: 3-18-07			DATE: 8-06-07	

EXHIBIT ES

PARCEL 3790-1 UTILITY EASEMENT

## **PARCEL PANEL REPORT**

### **RESOLUTION OF NECESSITY C-19716**

#### **PARCEL DATA**

Property Owner: Tamara A. Cohn Trustee of the Tamara A. Cohn Trust, Kenney L. Scruggs, and Bennett Kessler

Parcel Location: On the east side of US 395  
532 North Edwards Street, Independence  
Assessor's Parcel Number 002-012-04

Present Use: One multi-family residence  
Zoned Residential

Area of Property: 10,890 square feet

Area Required: Parcel 3815-1 = 499 square foot aerial utility easement

#### **PARCEL DESCRIPTION**

The subject parcel is located on the east side of United States (US) Highway 395 in the unincorporated community of Independence at 532 North Edwards Street, Assessor's Parcel Number 002-012-004, in Inyo County. Access to the parcel is from US 395. The parcel has an area of 10,890 square feet and is improved with a multi-family residence.

#### **NEED FOR SUBJECT PROPERTY**

The proposed project requires an acquisition of a 499 square foot aerial utility easement for cross-arms and wire of a relocated utility. The aerial easement is approximately 50 feet long, on the western portion of the parcel adjacent to US 395, and ten feet wide, five of which is within existing State right-of-way. The utility poles will be located within the existing State right-of-way, with the cross-arms and wires extending beyond the State right of way. The remainder of the parcel and improvements will not be affected. The parcel's access to US 395 will be perpetuated.

Acquisition for an aerial easement is required from the subject property to accommodate the relocation of the utility. The proposed project includes widening from two-lanes to four-lanes with a shoulder, sidewalk, and curb and gutter. The project cannot be constructed without the subject property. Avoiding the parcel would require a shift in alignment to the west, which would create a greater impact on west side properties. The current design best balances impacts while meeting the purpose and need of the project.

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Condemnation Review Panel (Panel) met at the Department of Transportation's (Department) District 9 office in Bishop on July 20, 2007. The Panel members included Panel Chair Donald Grebe, Department Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Kenney L. Scruggs and Benett Kessler were present at the meeting.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity. The property owners contest the purpose and need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The property owners are opposed to the project as designed in Independence north of Independence Creek and Dehy Park. The following is a description of the issues and concerns expressed by the property owners and the department's response:

### **Owners:**

The Department should provide alternate access through cooperation with other public agencies.

### **Department:**

An alternate access to the rear of the property was evaluated, and determined to be beyond the scope of the State's responsibility since adequate access remains from US 395 as currently proposed. An alternate access was found to be too costly and would include mitigation for environmental impacts, a crossing of Independence Creek, a diversion ditch, and construction of an access road with cul-de-sac.

In addition to the issue described above for the property owners, the owners also have the concerns expressed by the other property owners identified in Attachment B.

## **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.

## **RECOMMENDATION**

The Department's project 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 rights to be condemned are 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 Chief Engineer recommends submitting a Resolution of Necessity to the California Transportation Commission.

---

RICHARD D. LAND  
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING  
HEARING ON JULY 20, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Kenney L. Scruggs, Owner  
Benett Kessler, Owner  
Loyd Hopper, Neighbor  
Caroline Hopper, Neighbor

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Zgombic, Sacramento Right of Way  
Mark Dossey, Central Region Right of Way

# Community of Independence

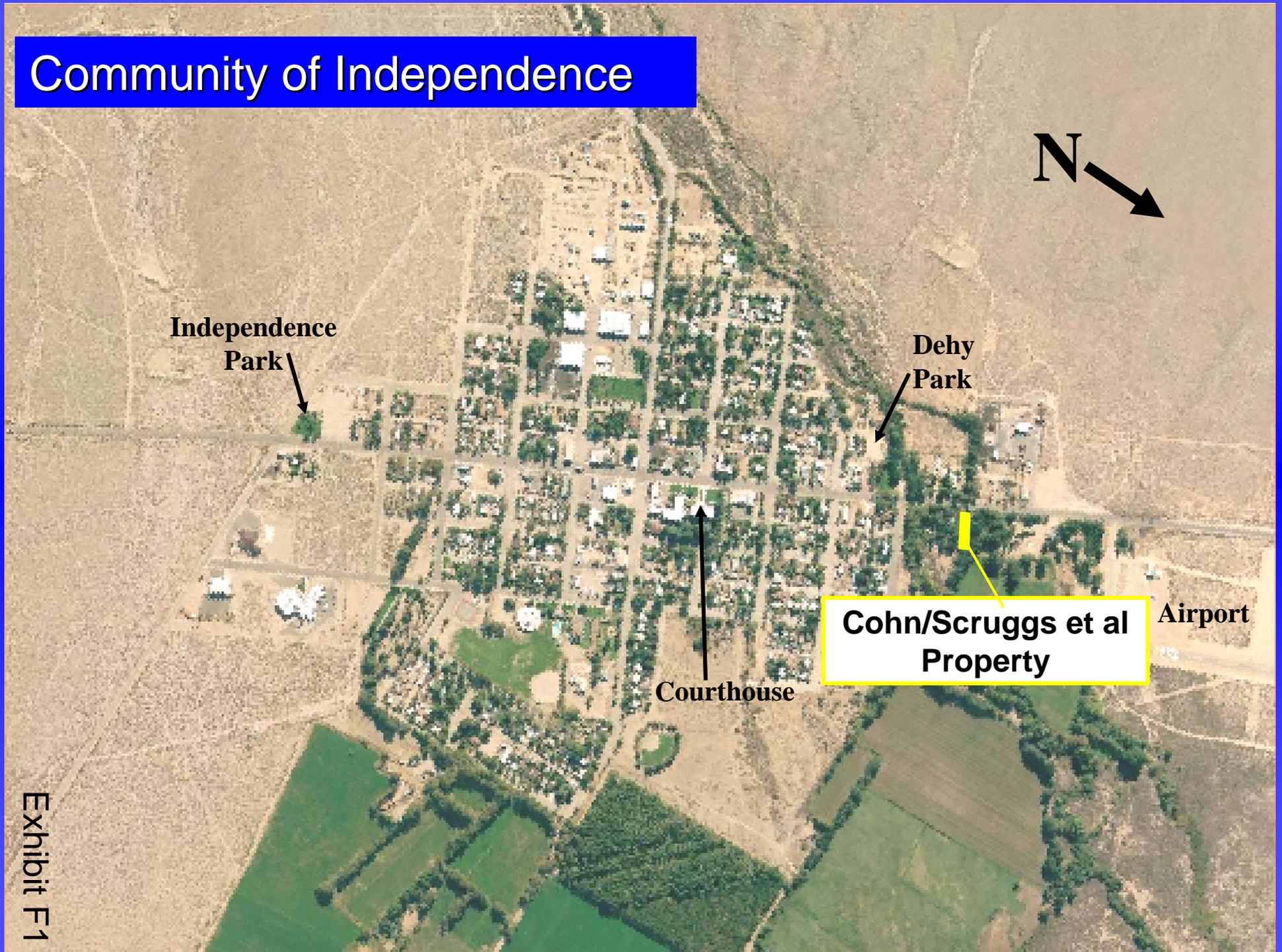


Exhibit F1

# Property Impacts

Proposed ETW

US 395

Proposed ETW

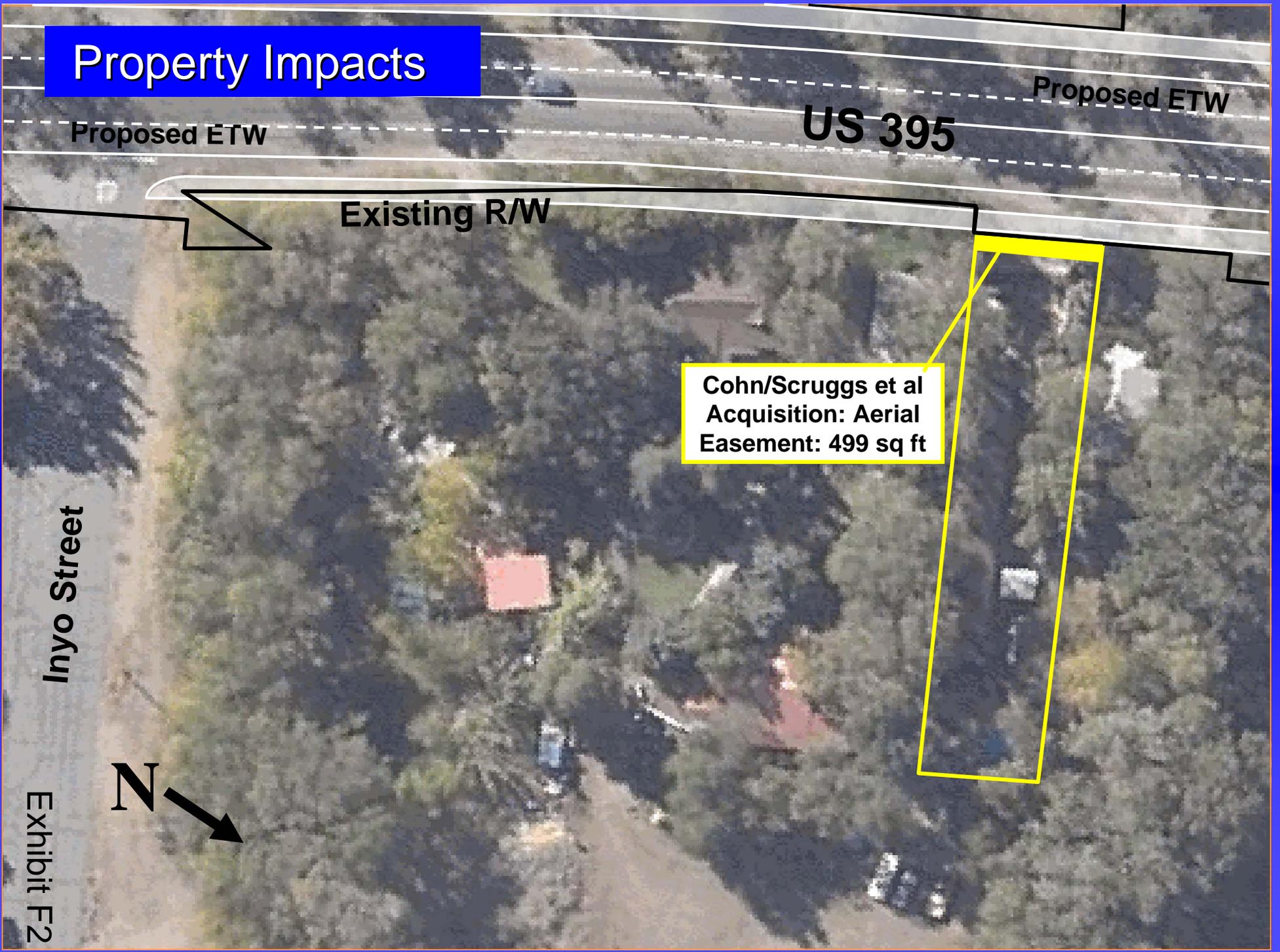
Existing R/W

Cohn/Scruggs et al  
Acquisition: Aerial  
Easement: 499 sq ft

Inyo Street



Exhibit F2



# Cohn/Scruggs et al Property

Looking northeast from US 395

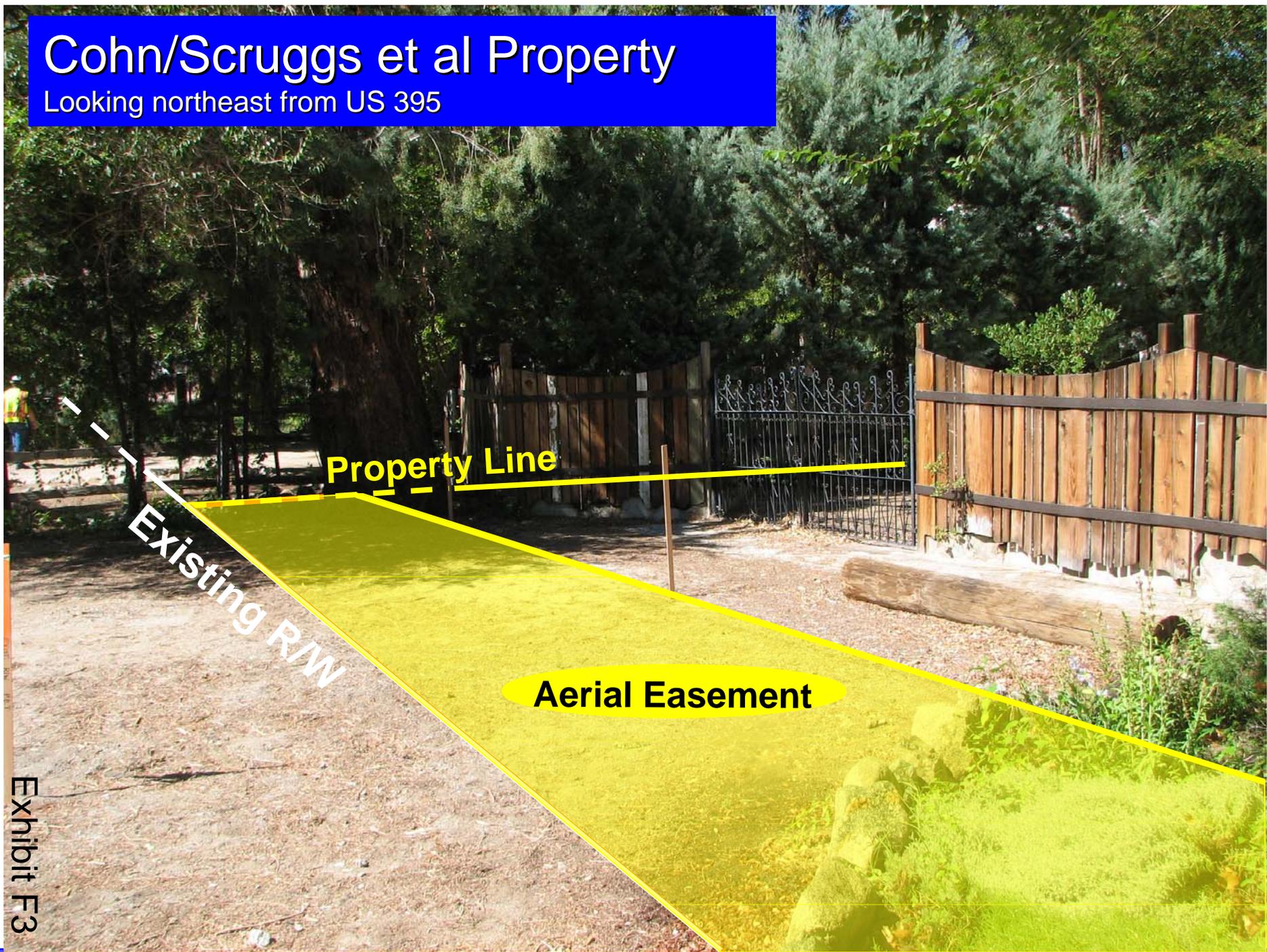


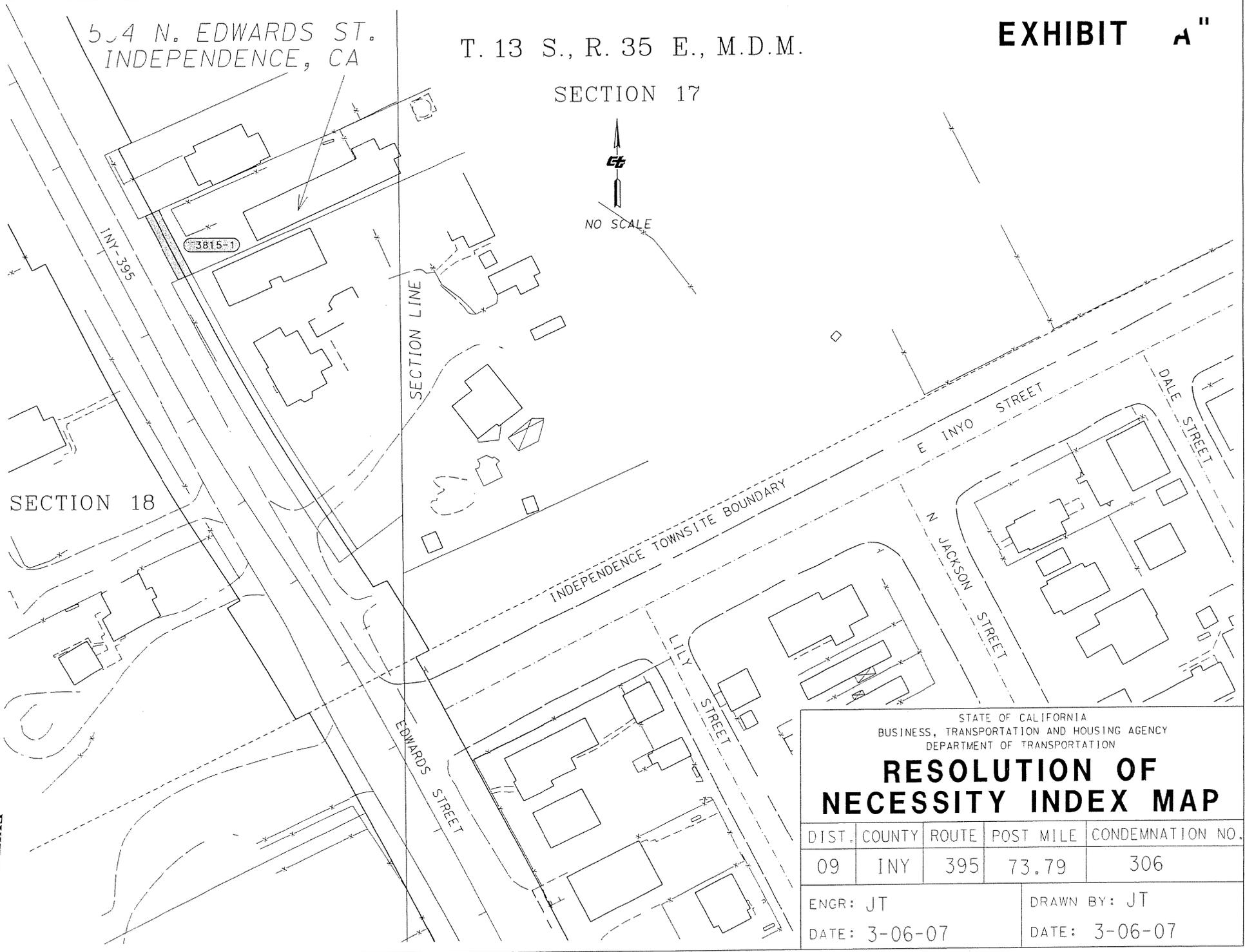
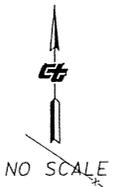
Exhibit F3

504 N. EDWARDS ST.  
INDEPENDENCE, CA

T. 13 S., R. 35 E., M.D.M.

**EXHIBIT A"**

SECTION 17



STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

**RESOLUTION OF  
NECESSITY INDEX MAP**

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INYO	395	73.79	306
ENGR: JT			DRAWN BY: JT	
DATE: 3-06-07			DATE: 3-06-07	

EXHIBIT F4

# EXHIBIT "B"

SECTION 17



NO SCALE

T. 13 S., R. 35 E., M.D.M.

SECTION 18

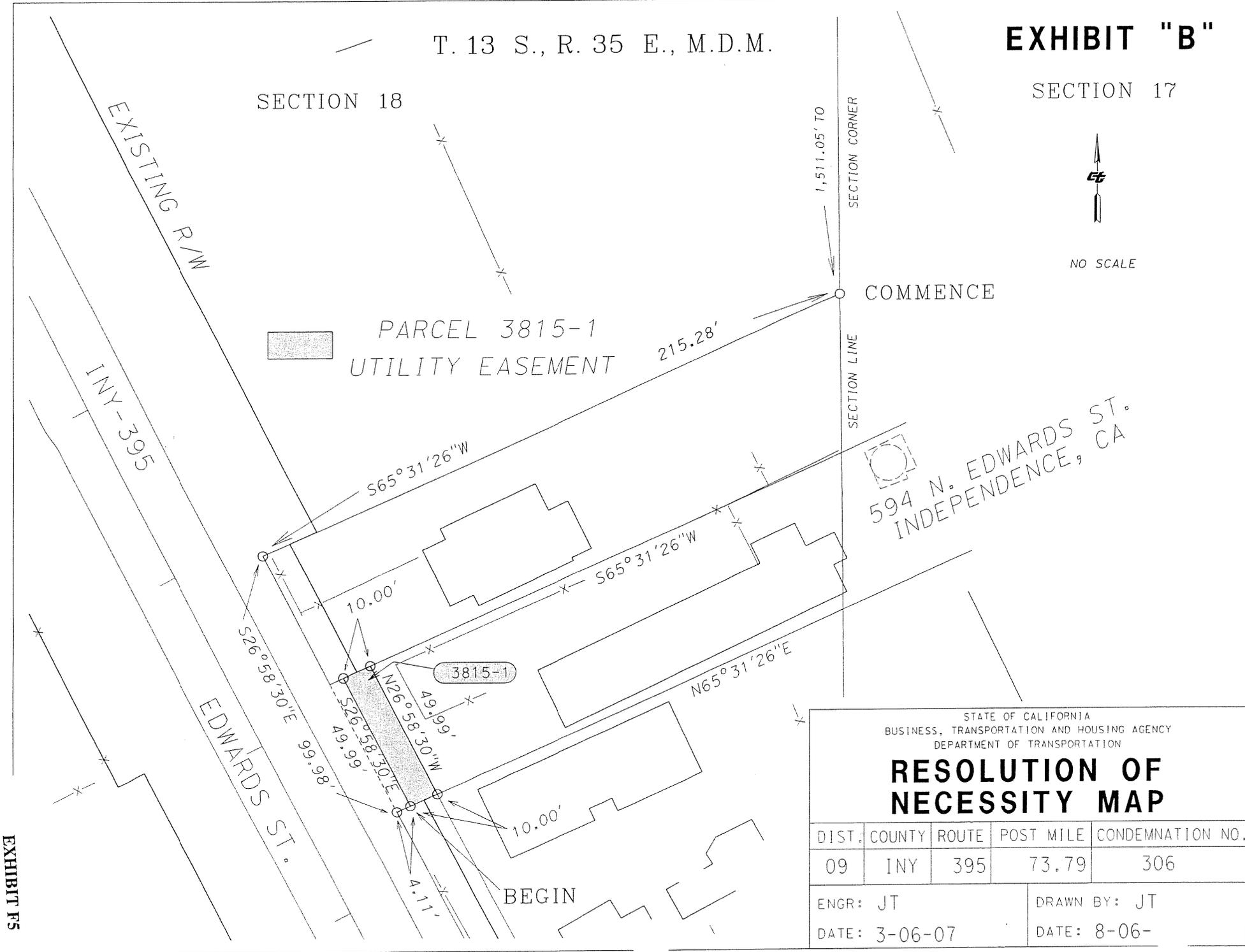
SECTION CORNER  
SECTION LINE

1,511.05' TO  
COMMENCE

PARCEL 3815-1  
UTILITY EASEMENT

215.28'

594 N. EDWARDS ST.  
INDEPENDENCE, CA



STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.79	306

ENGR: JT

DRAWN BY: JT

DATE: 3-06-07

DATE: 8-06-

EXHIBIT FS

## **PARCEL PANEL REPORT**

### **RESOLUTION OF NECESSITY C-19717**

#### **PARCEL DATA**

Property Owner: Kenney L. Scruggs, Benett Kessler, and Tamara A. Cohn Trustee of the Tamara A. Cohn Trust

Parcel Location: On the east side of US 395  
494 North Edwards Street, Independence  
Assessor's Parcel Number 002-012-09

Present Use: Multiple Single Family residences  
Zoned Residential

Area of Property: 50,965 square feet (1.17 acres)

Area Required: Parcel 3808-1 = 1,472 square feet in fee  
Parcel 3808-2 = 1,107 square feet in aerial easement  
Parcel 3808-3 = 177 square feet in temporary construction easement

#### **PARCEL DESCRIPTION**

The subject parcel is located on the east side of United States (US) Highway 395 in the unincorporated community of Independence (Independence), at 532 North Edwards Street, Assessor's Parcel Number 002-012-09, in Inyo County. Access to the parcel is from US 395. The parcel has an area of 50,965 square feet and is improved with several single-family homes.

#### **NEED FOR SUBJECT PROPERTY**

A partial acquisition is required from the subject property for the proposed project, which includes widening from two-lanes to four-lanes with a paved shoulder, sidewalk, and curb and gutter. The proposed project requires an acquisition of 1,472 square feet in fee, a 177 square foot temporary construction easement, and an aerial easement of 1,107 square feet for cross-arms and wires of a relocated utility. The fee acquisition is wedge shaped and located on the westerly line of the parcel, adjacent to the US 395. The proposed fee acquisition is approximately 220 feet long and tapers from approximately nine feet on the northern end of the parcel to three feet on the southern end of the parcel. The temporary construction easement is located within the aerial easement area and will be used to construct a small one to two-foot retaining wall that reduces the impact to the property. The project cannot be constructed without the subject property.

The required area includes a perimeter fence, trees, landscaping, and sprinkler/drip system. The building improvements are located outside of the proposed acquisition and will not be impacted by the proposed project. The parcel's access to US 395 will be perpetuated.

Avoiding the parcel would require a shift in alignment to the west, which would create a greater impact on west side properties. The current design best balances impacts while meeting the purpose and need of the project.

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Condemnation Review Panel (Panel) met at the Department of Transportation's (Department) District 9 office in Bishop on July 20, 2007. The Panel members included Panel Chair Donald Grebe, Department Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Kenney L. Scruggs and Benett Kessler were present at the meeting.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity. The property owners contest the purpose and need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

The property owners are opposed to the project as designed in Independence, north of Independence Creek and Dehy Park. The following is a description of the issues and concerns expressed by the property owners and the Department's response:

### **Owners:**

The Department can partially mitigate noise impacts to the property by constructing a soundwall between the highway and the property.

### **Department:**

The approved environmental documents were reviewed by the Federal Highway Administration (FHWA) and the Department in 2007, with attention to the property owner's concerns. FHWA and the Department determined that the project's impacts to the environment were fully considered in the Initial Study/Environmental Assessment, and concluded that the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) determinations made in 2004 remain valid. As originally determined, the construction of sound walls would not be feasible or effective in mitigating noise at this location. The noise impacts were found not to be significant during the environmental review and mitigation is not required.

### **Owners:**

The Department should provide alternate access through cooperation with other public agencies.

**Department:**

An alternate access to the rear of the property was evaluated, and determined to be beyond the scope of the Department's responsibility since adequate access remains from US 395 as currently proposed. An alternate access was found to be too costly and would include mitigation for environmental impacts, a crossing of Independence Creek, a diversion ditch, and construction of an access road with cul-de-sac.

In addition to the issue described above for the property owners, the owners also have the concerns expressed by the other property owners identified in Attachment B.

## **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.

## **RECOMMENDATION**

The Department's project 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 rights to be condemned are 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 Chief Engineer recommends submitting a Resolution of Necessity to the California Transportation Commission.

---

RICHARD D. LAND  
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING  
HEARING ON JULY 20, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Kenney L. Scruggs, Owner  
Benett Kessler, Owner  
Loyd Hopper, Neighbor  
Caroline Hopper, Neighbor

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Dossey, Central Region Right of Way  
Mark Zgombic, Sacramento Right of Way

# Community of Independence



Independence  
Park

Dehy  
Park

Scruggs et al Property

Courthouse

Airport

Exhibit G1



# Existing Facility

Proposed ETW

US 395

Proposed ETW

Existing R/W

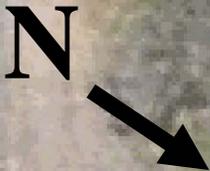
Inyo Street

Scruggs et al Remainder:  
1.14 acre

Scruggs et al Acquisition:  
Fee: 1472 sq ft  
Aerial Easement: 1107 sq ft  
Temporary Construction  
Easement: 177 sq ft

- Fee Acquisition
- Aerial Easement Acquisition
- Temporary Construction Easement

Exhibit G2



# Scruggs et al Property

Looking northeast from US 395



Exhibit G3

# Scruggs et al Property

Looking north from driveway



Fee Aquisition

Aerial Easement

Existing R/W

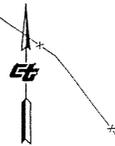
Parcel Limit

Exhibit G4

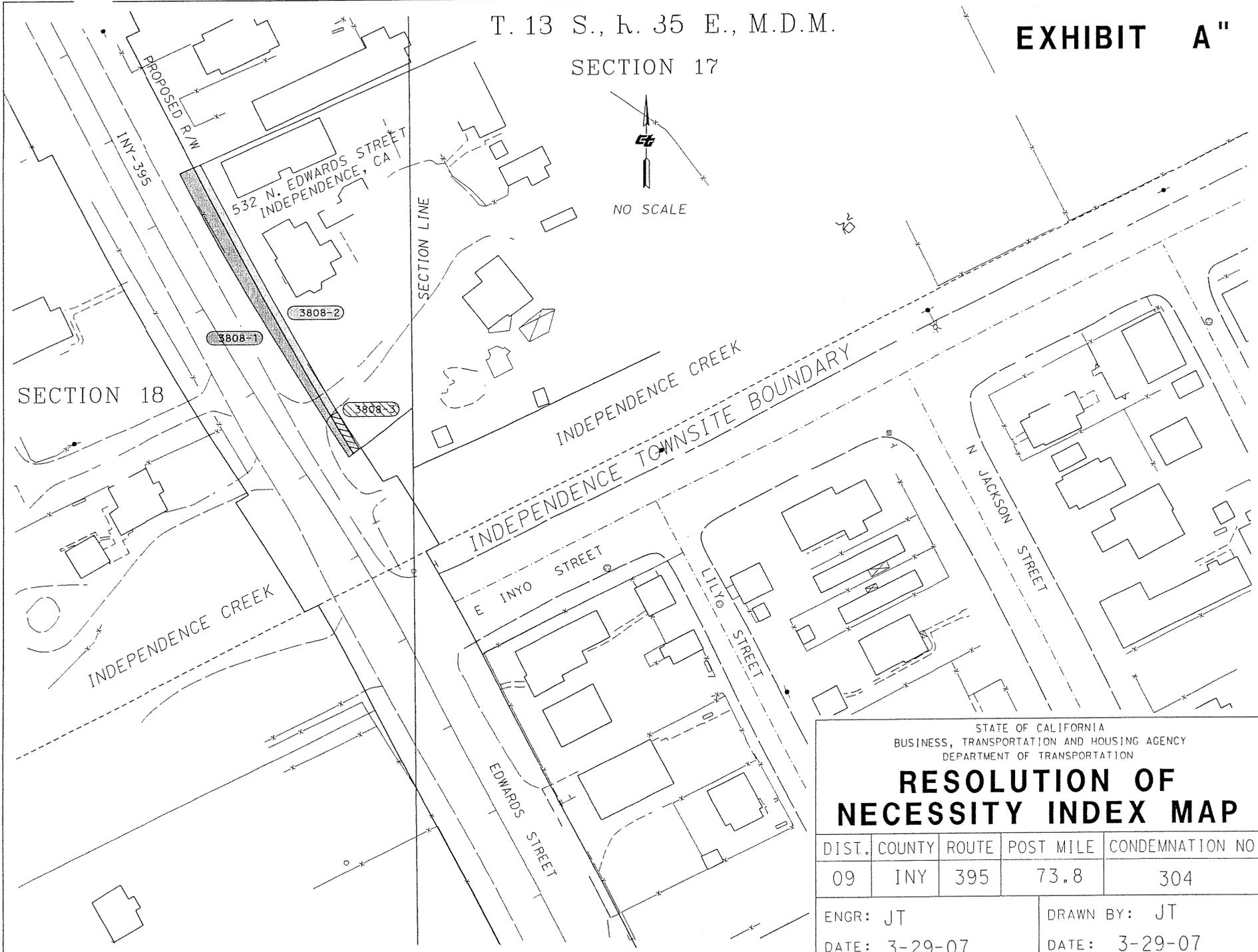
T. 13 S., R. 35 E., M.D.M.

SECTION 17

EXHIBIT A''



NO SCALE



STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

# RESOLUTION OF NECESSITY INDEX MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.8	304

ENGR: JT	DRAWN BY: JT
DATE: 3-29-07	DATE: 3-29-07

EXHIBIT G5

# EXHIBIT "B"

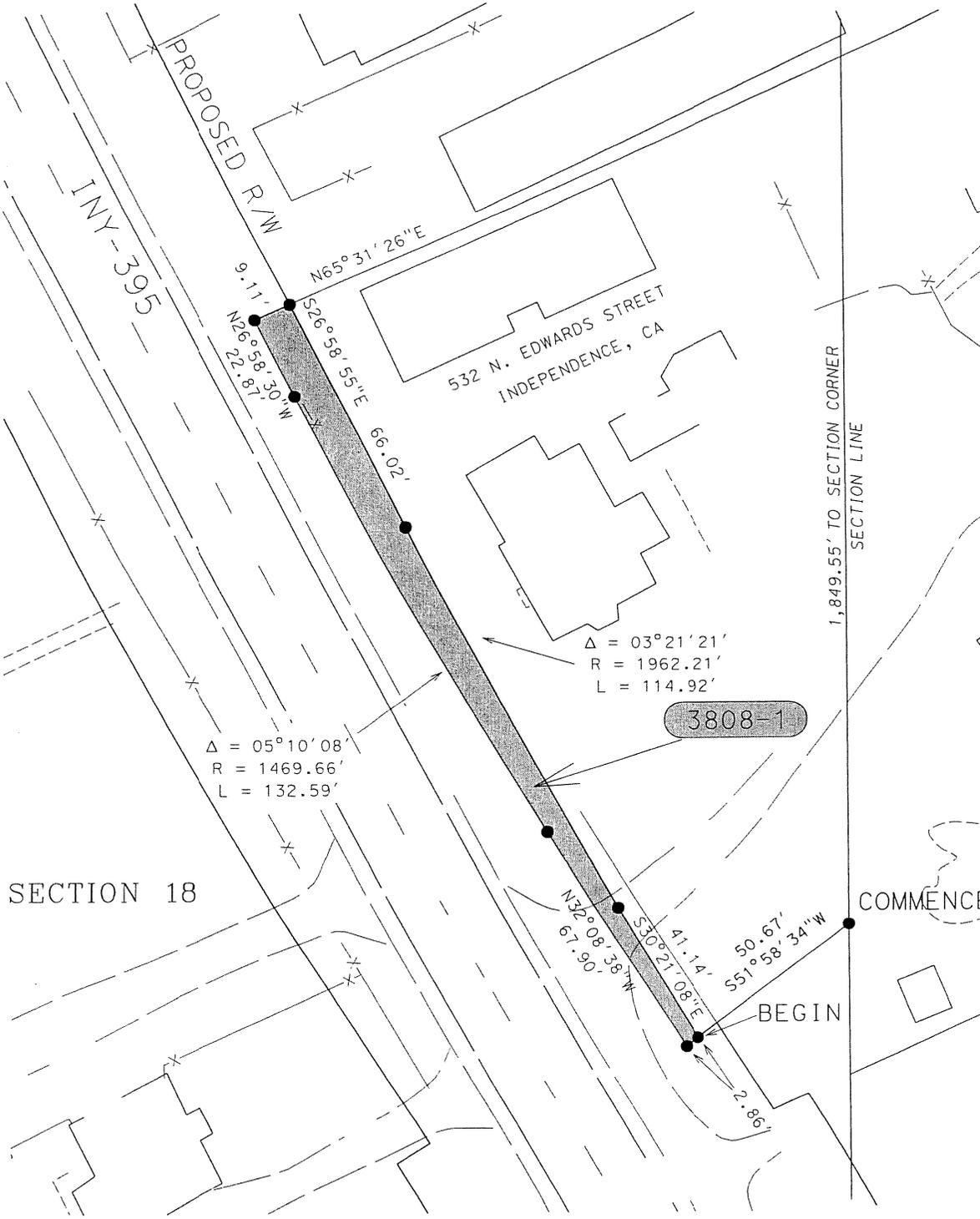
T. 13 S., R. 35 E., M.D.M.



NO SCALE

SECTION 17

 PARCEL 3808-1  
FEE



SECTION 18

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.8	304

ENGR: JT  
DATE: 3-29-07

DRAWN BY: JT  
DATE: 8-06-

EXHIBIT G6

# EXHIBIT J

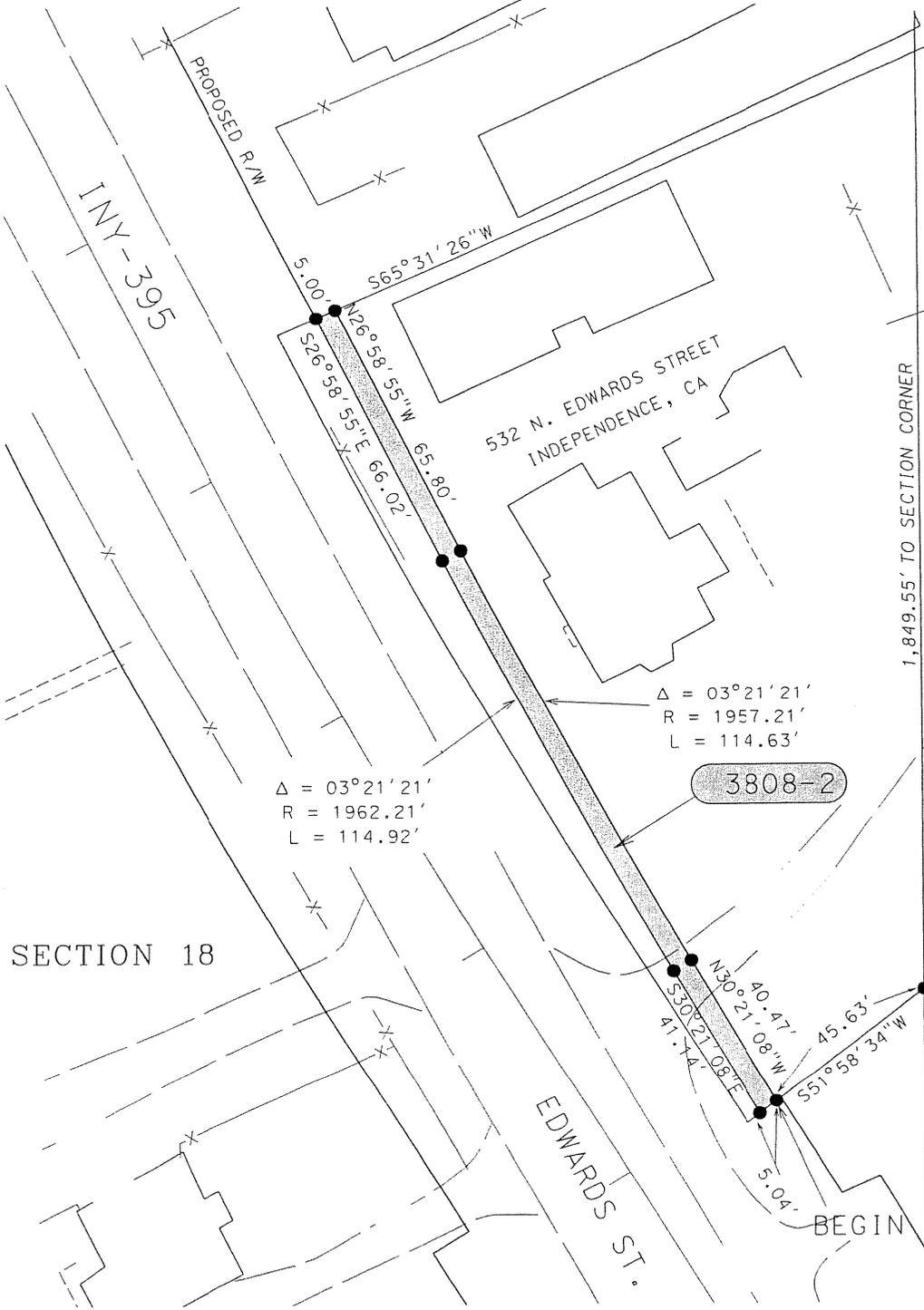
T. 13 S., R. 35 E., M.D.M.



NO SCALE

SECTION 17

 PARCEL 3808-2  
UTILITY EASEMENT



SECTION 18

EXHIBIT G7

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	09	73.8	304

ENGR: JT	DRAWN BY: JT
DATE: 3-06-07	DATE: 8-06-07

# EXHIBIT "D"

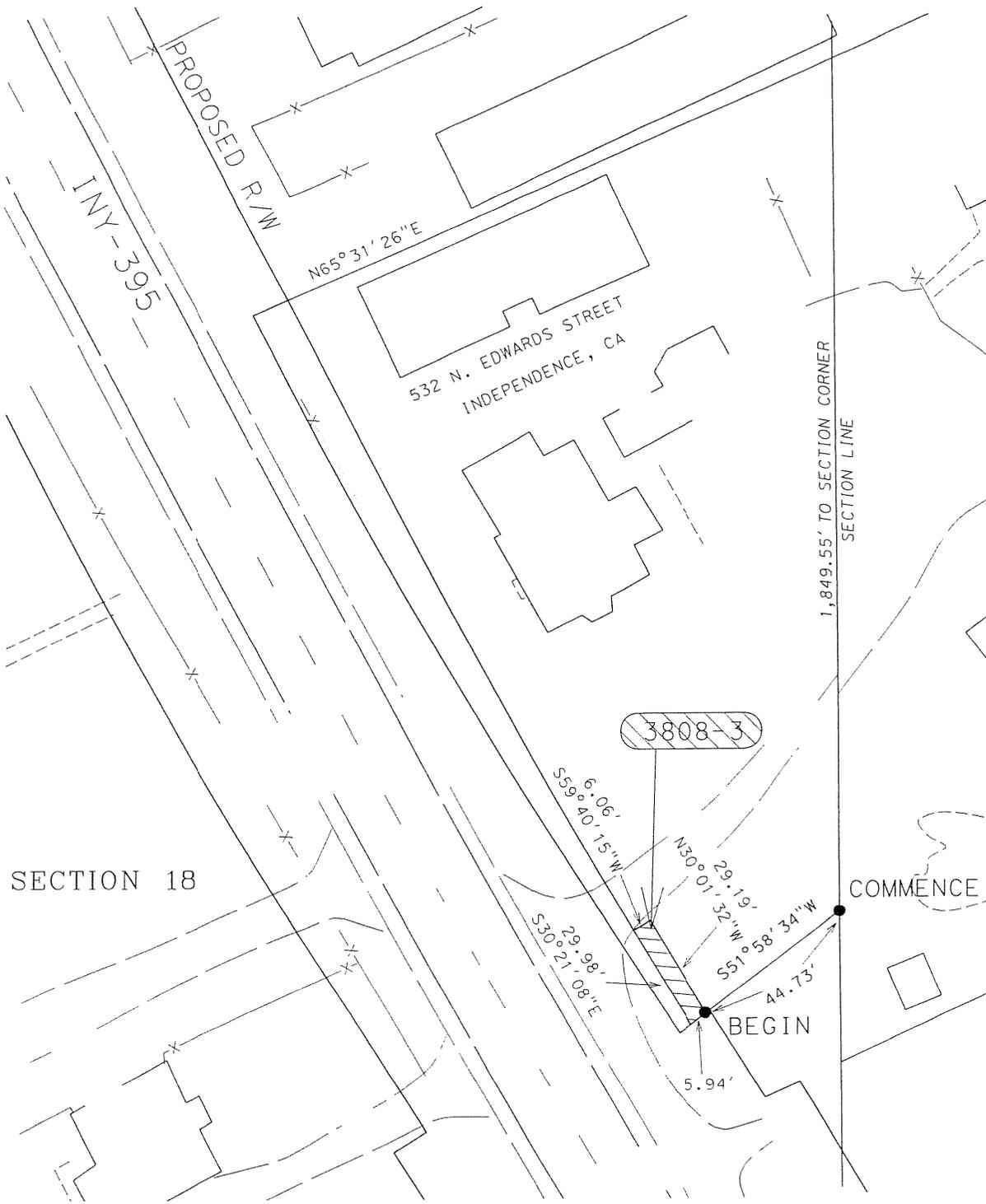
T. 13 S., R. 35 E., M.D.M.



NO SCALE

SECTION 17

PARCEL 3808-3  
TEMPORARY  
CONSTRUCTION  
EASEMENT



SECTION 18

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.8	304

ENGR: JT	DRAWN BY: JT
DATE: 3-29-07	DATE: 8-06-

EXHIBIT G8

## **PARCEL PANEL REPORT**

### **RESOLUTION OF NECESSITY C-19718**

#### **PARCEL DATA**

Property Owner: The Heirs and Devisees of Patrick Reddy

Parcel Location: On the east side of US 395  
512 and 524 North Edwards Street, Independence  
Assessor's Parcel Number 002-012-10 and 002-012-12

Present Use: Vacant  
Zoned Residential

Area of Property: 2,614 square feet (0.06 acres)

Area Required: Parcel 3810-1 = 1,332 square feet in fee

#### **PARCEL DESCRIPTION**

The subject parcel is an irregularly shaped piece of a corner lot located in the unincorporated community of Independence, on the east side of United States (US) Highway 395 at 512 and 524 North Edwards Street, Assessor's Parcel Numbers 002-012-10 and 002-012-12, in Inyo County. The legal larger parcel has a creek running through it and the neighbor on the north, Kenney L. Scruggs, et al., have minor improvements that encroach onto a small portion of the property. These improvements are not in the area sought for this project.

#### **NEED FOR SUBJECT PROPERTY**

A partial acquisition is required from the subject property for the proposed project, which includes widening from two lanes to four lanes with paved shoulder, sidewalk, curb and gutter. The proposed project requires the acquisition of 1,332 square feet in fee from this parcel for sidewalk, curb ramp, retaining wall (including railing above Independence Creek), relocation of utility poles and lines, and maintenance access to the Independence Creek culvert outlet. The need for acquiring the Reddy parcel cannot be avoided in order to accomplish the purpose and need for the project

Avoiding the parcel would require an awkward shift in alignment to the west, which would create a greater impact on west side properties, including County Park property. The current design best balances impacts while meeting the purpose and need of the project.

There are no improvements in the proposed acquisition area.

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Condemnation Review Panel (Panel) met at the Department of Transportation's (Department) District 9 office in Bishop on July 20, 2007. The Panel members included Panel Chair Donald Grebe, Department Headquarters (HQ) Division of Right of Way and Land Surveys; Alice Ramsey, Department Sacramento Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel.

The owner of record is Patrick Reddy, who obtained the property in 1871. The Department has been unable to locate all of the heirs and devisees of Patrick Reddy through a search of due diligence. The parcel has been assigned two Assessor's Parcel Numbers (APN) and the adjoining owners Benett Kessler, Kenney L. Scruggs and Tamara Cohn, claim a possible ownership interest of a portion of the required property, APN 002-012-10, and Los Angeles Department of Water and Power (LADWP) claim ownership interest to APN 002-012-12. Ms. Kessler and LADWP have been paying the taxes on the parcel.

The Department is seeking a resolution of necessity to allow the Department to appear before the Court to determine compensation, ownership interest, and the payment of compensation to the owner allowing the Department to obtain clear title of the property .

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity. Benett Kessler, Kenney L. Scruggs and Tamara Cohn are contesting the resolution of necessity on this parcel, claiming possessory interest of a portion of the required property, contesting the purpose and need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

## **RECOMMENDATION**

The Department's project 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 rights to be condemned are necessary for the proposed project.
- The offer required by Government Code Section 7267.2 has not been made to the owner of record because all of the heirs of the deceased owner of record could not be located with reasonable diligence.

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

---

RICHARD D. LAND  
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING  
HEARING ON JULY 20, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair  
Alice Ramsey, Sacramento Legal Office Attorney, Panel Member  
Linda Fong, HQ's Division of Design, Panel Member  
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Kenney L. Scruggs, Possible Ownership Interest  
Benett Kessler, Possible Ownership Interest  
Loyd Hopper, Neighbor  
Caroline Hopper, Neighbor

Tom Hallenbeck, District 9 District Director  
Tom Meyers, District 9 Project Management  
Rory Quince, Central Region Design  
Truman P. Denio, District 9 Design  
Ken Cozad, Sacramento Design  
Michael Rodrigues, Central Region Right of Way  
Nancy Escallier, Central Region Right of Way  
Mark Zgombic, Sacramento Right of Way  
Mark Dossey, Central Region Right of Way

# Community of Independence

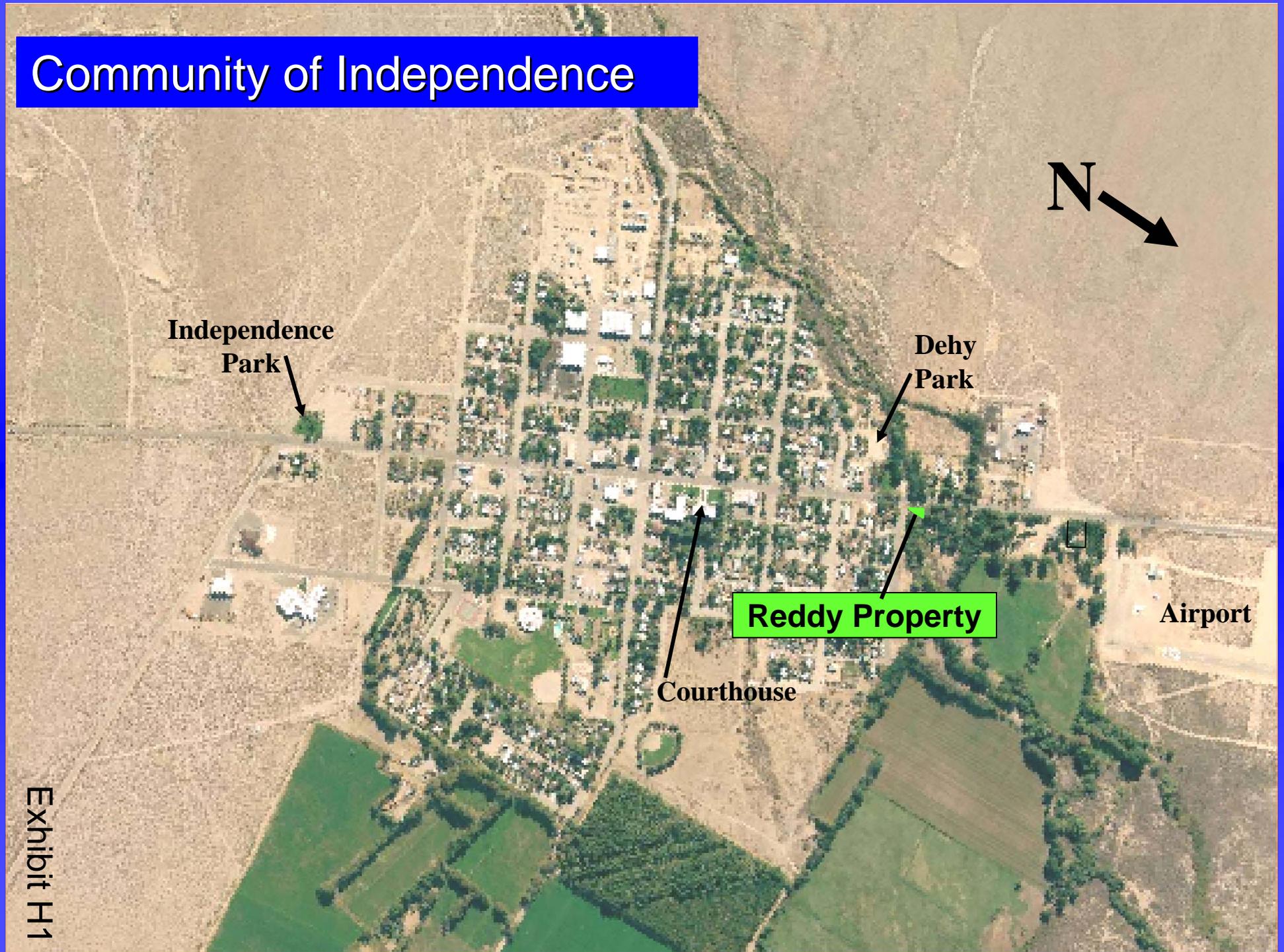


Exhibit H1

# Existing Facility

Proposed ETW

US 395

Proposed ETW

Reddy  
Acquisition: Fee:  
1333 sq ft  
  
Remainder:  
1281 sq ft

Inyo Street

Exhibit H2



# Reddy Property

Looking North from US 395



US 395

Existing R/W

Property Line

Fee Acquisition

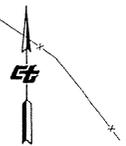
Inyo Street →

Exhibit H3

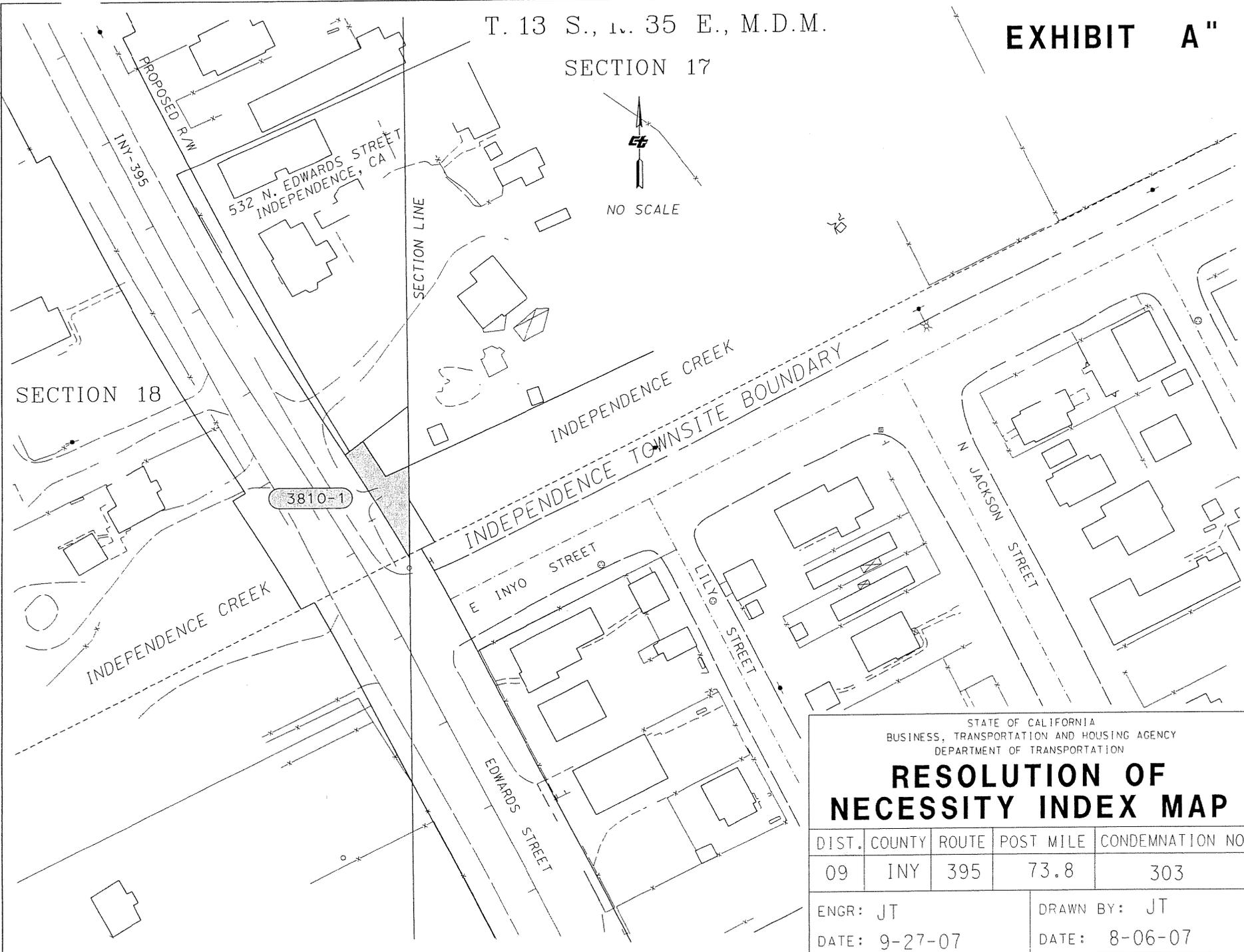
T. 13 S., R. 35 E., M.D.M.

EXHIBIT A"

SECTION 17



NO SCALE



STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

# RESOLUTION OF NECESSITY INDEX MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.8	303

ENGR: JT	DRAWN BY: JT
DATE: 9-27-07	DATE: 8-06-07

EXHIBIT H4

# EXHIBIT "B"

T. 13 S., R. 35 E., M.D.M.

SECTION 18

SECTION 17

532 N. EDWARDS STREET  
INDEPENDENCE, CA

1849.55' TO  
SECTION CORNER

NO SCALE

COMMENCE

INDEPENDENCE CREEK

INDEPENDENCE TOWNSITE BOUNDARY

P.O.B.

(A)

$\Delta = 00^{\circ}33'22''$   
 $R = 1544.64'$   
 $L = 14.99'$

3810-1

$\Delta = 02^{\circ}41'11''$   
 $R = 1529.64'$   
 $L = 71.72'$

TAN  
 $N 29^{\circ}27'27'' W$

SECTION LINE

E INYO STREET

LILY STREET

INDEPENDENCE CREEK

W INYO STREET

EDWARDS STREET

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

## RESOLUTION OF NECESSITY INDEX MAP

DIST.	COUNTY	ROUTE	POST MILE	CONDEMNATION NO.
09	INY	395	73.8	303

ENGR: JT	DRAWN BY: JT
DATE: 3-29-07	DATE: 8-06-07

EXHIBIT HS