

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: January 13, 2010

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

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Tony Tavares
Chief
Division of Right of Way and
Land Surveys

Subject: **RESOLUTIONS OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-20250 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 proposed project.
2. The proposed project is planned and located in a manner that will be most compatible with the greatest public good and 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. The property owner believes that the project, as proposed, is not compatible with the greatest public good and the least private injury, due to the relocation of Manthey Road that will cause damage to the parcel due to the circuitous travel. The owner's objections and the Department's responses are contained in Attachment A and B.

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 they 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 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-20250 - Khosrow Roy Hifai, Trustee, etc., et al.

10-SJ-5-PM 22.9 - Parcel 16006-1 - EA 0E4909.

Right of Way Certification Date: 09/15/10; Ready to List Date: 10/15/10. Freeway - modify and reconstruct interchange. Authorizes condemnation of land in fee for a State highway and perpetuation of extinguishment of abutter's rights of access. Located in the city of Stockton at 4236 Manthey Road. Assessor's Parcel Numbers 193-040-25, -26, -27.

Attachments:

Attachment A - Project Information

Exhibit A1 and A2 - Project Map and Photo

Attachment B - Parcel Panel Report

Exhibit B-1 through B-4 - Parcel Maps and Photos

PROJECT INFORMATION

PROJECT DATA

10-SJ-5-PM 22.1/23.6
Expenditure Authorization: 10-0E4909

Location: Interstate 5 in the city of Stockton in San Joaquin County

Limits: From .38 miles south of French Camp Road Interchange to 1.94 miles north of French Camp Road Interchange

Cost: Construction Cost: \$35,325,000
Right of Way Cost: \$14,100,000

Funding Source: Federal, State Transportation Improvement Program, and Local Funds

Number of Lanes: Interstate 5: Existing: six-lane
Proposed: six-lane plus two auxiliary lanes
French Camp Road: Existing: six-lanes
Proposed: six-lanes

Proposed Major Features: Interchange reconstruction; auxiliary lanes from French Camp Road to Downing Avenue; and three signalized intersections.

Traffic: Existing (year 2007): South of French Camp Road 104,000
Average Annual Daily Traffic (AADT)
Existing (year 2007): North of French Camp Road 112,000 AADT

NEED FOR THE PROJECT

The Department's proposed project is located on Interstate 5 (I-5) in the city of Stockton in San Joaquin County, near the community of French Camp. The route serves as a major interregional connector between northern San Joaquin Valley communities and the Bay Area, and is the major north-south interregional freeway of statewide significance. This route carries a large volume of interstate and interregional traffic; serves major population centers, ports, airports, public transportation facilities; and meets national defense requirements. In the vicinity of the proposed project, I-5 operates as a six-lane divided freeway. There is increased traffic demands created by high population growth in the northern San Joaquin Valley and is included in the Interregional Road System as a High Emphasis Route.

This proposed project is a large regional transportation improvement project that will improve regional east-west circulation in south Stockton. South Stockton is currently facing traffic congestion resulting in inefficient energy use, deteriorating air quality, and deteriorating levels of

service and traffic safety. Providing a continuous route between I-5 and State Route (SR) 99 by connecting Sperry Road to French Camp Road and reconstructing the I-5/French Camp Road Interchange is a necessary component of the overall program to improve transportation in south Stockton and San Joaquin County. The following deficiencies in the existing facilities have been identified:

- Unacceptable Intersection Operations - All eight of the study intersections between I-5 and SR 99 along French Camp Road, Sperry Road, and Arch-Airport Road would operate at unacceptable levels (rated E and F, the worst on a scale of A-F) in the design year 2025. The congestion at these intersections would result in long delays and cause excessive vehicle queues that would back up into adjacent intersections.
- Constrained Freeway Operations - Constrained operations would likely occur as a result of the congestion at the I-5/French Camp Road Interchange. Queues at the off-ramps would extend back to adversely impact mainline operations during peak hours in the design year 2025.
- Safety Issues - Due to congestion on local roads, an increasing number of vehicles will queue to cross the at-grade railroads crossings without the proposed project.
- Constrained Local Area Accessibility - The Stockton General Plan expects a substantial amount of new development in and around the Stockton Metropolitan Airport. Without the proposed project, local area accessibility would be adversely impacted.
- Constrained Regional Accessibility - Without the proposed project, regional east-west vehicle travel between I-5 and SR 99 would be adversely impacted. Forecasts show that the demand for other area facilities would increase substantially at El Dorado Street, McKinley Road, Airport Way, Downing Avenue, and Matthews Road. This is of particular importance given the proximity of the proposed project to the Stockton Metropolitan Airport, railroads, and the two freeways that serve downtown Stockton and the Port of Stockton.

To improve traffic conditions on this corridor, the proposed project addresses the following needs:

- Reduce existing and projected traffic congestion
- Improve route continuity
- Improve traffic operations
- Reduce travel time and delay
- Improve freeway operations and traffic safety
- Improve system reliability for freight movement
- Improve regional east-west circulation in south Stockton by connecting French Camp Road and Sperry Road, which would improve circulation between I-5, SR 99, and Stockton Metropolitan Airport
- Improve traffic operations at the I-5/French Camp Road Interchange by reconstructing the interchange to accommodate anticipated travel demand

- Improve traffic operations at the French Camp Road/Manthey Road intersections by providing standard intersection spacing relative to I-5 ramps
- Relocate Manthey Road and the Sperry Road extension
- Widen the existing structures to accommodate new loop ramps
- Construct auxiliary lanes to provide standard spacing between the interchange ramps and the intersections

Numerous alternatives were evaluated at the project study report and project report stages. Reasons for their rejection or exclusion from further study included unacceptable traffic operations, unreasonable costs and increased environmental impacts.

The following table shows future Levels of Service and Peak Hour Volumes under various build/no-build scenarios for I-5.

<i>Year 2025 Mainline Segment Analysis by Alternative</i>			
Segment	No Project Alternative (AM/PM) (Peak Hour Volume)	Reduced Build Alternative (AM/PM) (Peak Hour Volume)	Full Build Alternative (AM/PM) (Peak Hour Volume)
I-5 SB north of Downing Avenue	F/D 6670/5380	F/D 6810/5280	F/D 7610/5280
I-5 NB north of Downing Avenue	D/F 5170/6770	D/E 5500/6370	D/F 5450/8100
I-5 SB north of French Camp Road	E/C 6220/4340	E/C 6360/4240	F/C 7160/4240
I-5 NB north of French Camp Road	C/E 4150/6030	C/D 4480/5840	C/F 4480/7570
I-5 SB north of Mathews Road	D/C 5270/3560	D/C 5310/3430	D/C 5310/3430
I-5 NB north of Mathews Road	B/D 3350/5260	C/D 3950/4800	C/D 3950/4800

*Source: Revised Final Traffic Analysis Report for the Sperry Road Extension Project Report/Environmental Document (Fehr & Peers, July 2004)

The following tables show Level of Service, Peak Hour Volume and Delay information for intersections within the project limits.

<i>Year 2025 No Project Intersection Analysis</i>			
Intersection	Traffic Control	AM Peak Hour	PM Peak Hour
Manthey Road/French Camp Road	Side-street stop	> 50/F Westbound approach	> 50/F Westbound approach
Southbound ramps/French Camp Road	Side-street stop	> 50/F Southbound approach	> 50/F Southbound approach
Northbound ramps/French Camp Road	Side-street stop	> 50/F Northbound approach	> 50/F Northbound approach
Val Dervin Parkway/French Camp Road	Side-street stop	> 50/F Northbound approach	> 50/F Northbound approach

<i>Year 2025 Intersection Analysis by Alternative-Delay (seconds) and LOS</i>				
Intersection	AM Peak Hour		PM Peak Hour	
	Reduced Build Alternative	Full Build Alternative	Reduced Build Alternative	Full Build Alternative
French Camp Road/Manthey Drive	29/C	25/C	37/D	37/D
French Camp Road/I-5 southbound ramps	28/C	21/C	24/C	24/C
French Camp Road/I-5 northbound ramps	21/C	6/A	15/B	12/B
French Camp Road/Sperry Road	52/D	24/C	> 80/F	47/D
Total interchange % demand served	99%	100%	83%	99%

PROJECT PLANNING AND LOCATION

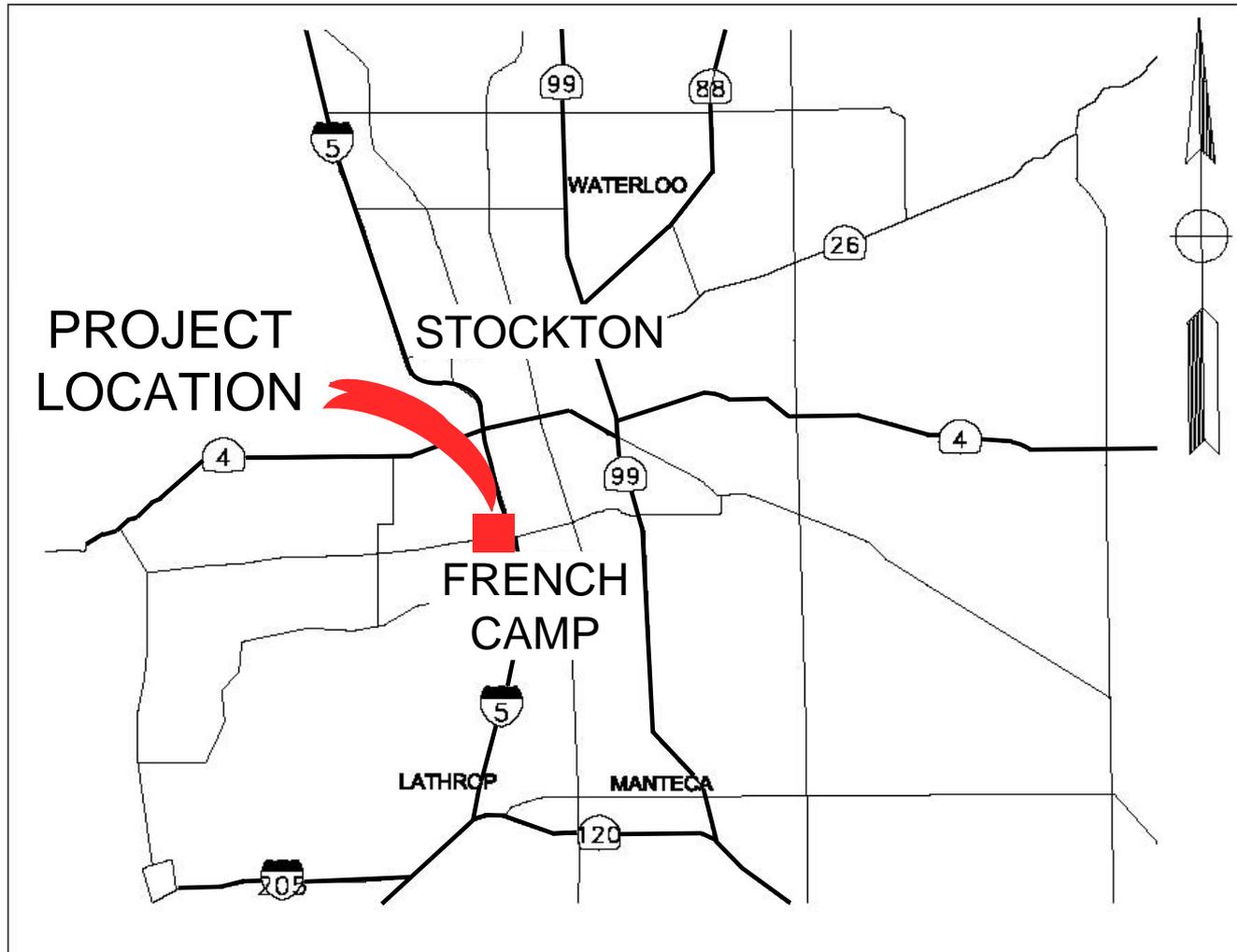
This project has three components: the I-5/French Camp Road Interchange improvements, the relocation of Manthey Road, and the extension of Sperry Road.

- Six alternatives were considered for the I-5/French Camp Road Interchange. Alternatives one through five were rejected for unacceptable traffic operations and/or unreasonable costs.
- Three alternatives for the Sperry Road Extension were reviewed. The Sperry Road Central Alignment was selected because it cost less and had fewer right of way and environmental impacts than the other two alternatives.
- Two alternatives were considered for the Manthey Road Relocation component, the North and South Alignments. The Manthey Road North Alignment was dropped from consideration due to significant concerns expressed by residents along Yettner Road and the Manthey Road South Alignment has no known opposition.

The Environmental Document was approved December 15, 2006, and the Project Report was approved July 17, 2007. Revised freeway agreements were approved January 2008 and May 2008 between the Department and the City of Stockton, and the Department and the San Joaquin County respectively.

The project is one component in a balanced system of planned transportation improvements within the Stockton Planning Area and San Joaquin County and is consistent with local and regional plans, policies, and projects. The proposed project is called for in both the City of Stockton General Plan and the San Joaquin County General Plan. The County's Stockton Metropolitan Airport Special Purpose Plan pertains to the project, as does the City of Stockton's Arch-Sperry Corridor Specific Road Plan. The I-5/French Camp Road Interchange and Sperry Road Extension Project are included in Tier 1 of the SJCOG 2004 Regional Transportation Program.

Location Map



COUNTY OF
SAN JOAQUIN

C.M. WEBER GRANT
SECTIONS 11 & 12

SAN JOAQUIN
GENERAL
HOSPITAL

16006-1
CITY OF
STOCKTON

INTERSTATE ROUTE NO. 5

FRENCH CAMP ROAD

EL DORADO STREET

UNION PACIFIC RAILROAD

FRENCH CAMP SLOUGH

Coordinates and bearings are on CCS 1983(1991.35) Zone 3. Distances and stationing are grid distances. Divide by 0.99993657 to obtain ground distances. All distances are in feet unless otherwise noted.



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

**RIGHT OF WAY
RESOLUTION OF NECESSITY**

EXHIBIT A

NOT TO SCALE

DATE: 11-03-09

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
10	SJ	5	22.9	1	1

PARCEL PANEL REPORT

PARCEL DATA

- Property Owner:** Khosrow Roy Hifai, Trustee of the Khosrow R. Hifai Family Trust; and Mila S. Padilla, Trustee of the Mila S. Padilla Separate Property Trust
- Parcel Location:** West side of Interstate 5, north of the intersection of Henry Long Boulevard and Manthey Road at 4236 Manthey Road, Stockton.
Assessor Parcel Numbers: 193-040-25, -26, -27
- Present Use:** Vacant
- Zoning:** Commercial General
- Area of Property:** 15.71 acres
- Area Required:** Parcel: 16006-1 -1.93 acres in fee and perpetuation of extinguishment of abutter's rights of access

PARCEL DESCRIPTION

The subject property is located on the east side of Manthey Road between Henry Long Boulevard and William Moss Road, west of Interstate 5 (I-5) in the southeast portion of the city of Stockton, near the community of French Camp, which is in central San Joaquin County. The property address is 4236 Manthey Road, Stockton, and is identified as Assessor Parcel Numbers 193-040-25, -26, and -27. The property has an area of 15.71 acres and has over 2,000 feet of frontage on I-5 and Manthey Road. There is a large drainage ditch that runs along the west boundary of the property, adjacent to Manthey Road. The parcel is generally level, vacant and is zoned Commercial General by the City of Stockton. The subject property has direct and legal access to Manthey Road with access control along I-5.

The proposed project requires the acquisition of the following areas:

- Parcel 16006-1 is the proposed acquisition of 1.93 acres of fee land and the perpetuation of extinguishment of abutter's rights of access.

There are no improvements in the proposed acquisition area.

NEED FOR SUBJECT PROPERTY

A portion of the subject parcel is needed to accommodate the proposed interchange at I-5 and French Camp Road. The property is impacted by the southbound exit ramp from I-5 to French Camp Road and also by the southbound auxiliary lane from Downing Avenue to French Camp Road. The impacts cannot be avoided.

The interchange has been designed to current standards. To eliminate or reduce impacts to the parcel would require the interchange design to incorporate substandard geometric features for the southbound exit ramp and would require elimination of the southbound auxiliary lane.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met in Stockton on August 11, 2009. The Panel members included Donald Grebe, Panel Chair, Department of Transportation (Department) Headquarters (HQ's) 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. Representing the property owners, Khosrow Roy Hifai, Trustee of the Khosrow R. Hifai Family Trust and Mila S. Padilla, Trustee of the Mila S. Padilla Separate Property Trust, were Roy Hifai, Andy Zarakani, and Stephen Belzer, legal counsel.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity and makes a recommendation to the Department's Chief Engineer. The property owner does not contest the purpose and need for the project, but does challenge the proposed project as not being planned and located in a manner that has the greatest public good and least private injury. The outstanding concern of the property owner is the change in design of the Manthey Road relocation alignment by the City of Stockton.

The following is a description of the concerns expressed by the owner, followed by the Department's response:

Owner:

We object to the change in design of the Manthey Road relocation alignment from that shown in the Project Report to the current proposed design. The design in the Project Report extended "north" Manthey Road directly across French Camp Road to Henry Long Boulevard. In the proposed design, "north" Manthey Road continues approximately 610 feet west off of French Camp Road, north to Henry Long Boulevard.

The project, as proposed, is not appropriately planned because of the difficult and circuitous access to the property. Access through a proposed shopping center parking lot is not adequate or equivalent to the access we currently have.

Department:

The "north" Manthey Road alignment revision from the project report is consistent with the City of Stockton's 2035 General Plan, approved December 11, 2007. The difference between the project report alignment and current design in travelling from the I-5 southbound off-ramp and French Camp Road intersection to the subject property is approximately 1,220 feet, or less than 30 seconds travelling at an average speed of 30 miles per hour. The impacts to the parcel, due to the project design were considered in the appraisal and ultimately in the offer of just compensation.

The project design reflects the effort by the Department to provide an alignment that will be most compatible with the greatest public good and the least private injury, in accordance with Civil Code of Procedure Section 1245.230.

Owner:

The proposed land acquisition will make a portion of the most southern parcel of the remainder uneconomic and un-usable because it will be too narrow for any reasonable use or development. We request that the Department acquire the uneconomic remnant.

Department:

The Department has determined that the proposed acquisition does not leave an uneconomic remnant. This is a compensation issue and is outside the purview of the Commission.

Owner:

The offer we received from the Department was incomplete and was based on an incorrect appraisal. The offer did not include any amount for severance damage to the remainder of the parcels that will be caused by the project and the acquisition of part of the property. The appraisal that we were provided, prepared by Pattison & Associates, did not include any analysis of sales to demonstrate that the change in access or the usable areas of the remainders after the acquisition would have no effect on the value of the remainder. It mistakenly concluded that the access to the property after the taking would be the same as before the taking, which is not correct.

The Department did not provide us with a copy of another appraisal of the property that was completed by Sierra West Valuation. We were entitled to receive a copy according to Streets and Highways Code section 102(b).”

Department:

A written offer for the full amount of the Department’s approved appraisal, in the form of an appraisal, was delivered to Roy Hifai and Andy Zarakani on November 6, 2008, in full compliance with Government Code Section 7267.2. A revised offer, including revised appraisal pages and maps, was e-mailed to Roy Hifai and Steven Belzer, Mr. Hifai’s legal counsel, on October 19, 2009. Mr. Belzer and Mr. Hifai acknowledged receipt of said offer on October 20, 2009. The appraisal included applicable severance damages caused by the project.

Owner:

The proposed temporary construction easement will substantially interfere with the development and use of the remainder of the parcels during the proposed two years of project construction. We request that the Department acquire a temporary construction easement covering the entire three parcels.

Department:

A review of the purpose/need of the temporary construction easement resulted in a design revision eliminating the temporary construction easement.

Owner:

We met with the City of Stockton and the design engineers on March 14, 2008, to request extending the northerly boundary of the temporary construction easement further north to accommodate a proposed hotel pad.

Department:

A review of the purpose/need of the temporary construction easement resulted in a design revision eliminating the portion of the easement at the northerly end of the subject property that extended westerly to Manthey Road. The design change was approved on March 19, 2008, and the appraisal maps and appraisal were subsequently revised accordingly.

An offer for the full amount of the Department's appraisal has been made to the property owner in compliance with Government Code Section 7267.2

DEPARTMENT'S CONTACTS

The following contacts have been made with the property owner:

Type of Contact	Number of Contacts
Mailing of information	6
E-Mail of information	7+
Telephone contacts	7
Personal / meeting contacts	5

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. The property owner has been notified that issues related to compensation are outside the purview of the Commission.

PANEL RECOMMENDATION

The Panel concludes that 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 Panel recommends submitting a Resolution of Necessity to the Commission.

DONALD E. GREBE
Chief
Office of Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

MALCOLM DOUGHERTY
Interim Chief Engineer

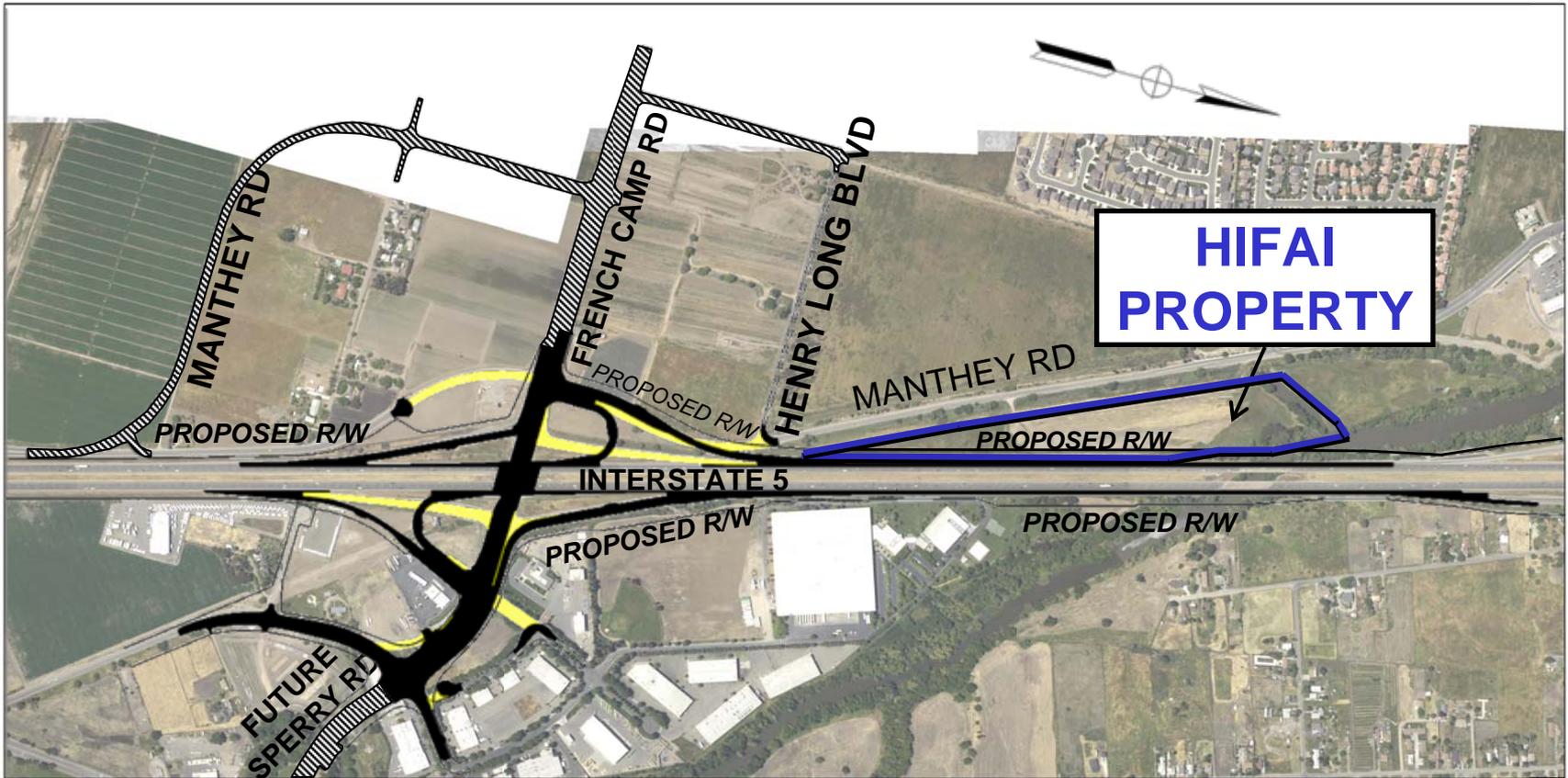
**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING
HEARING ON AUGUST 11, 2009**

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

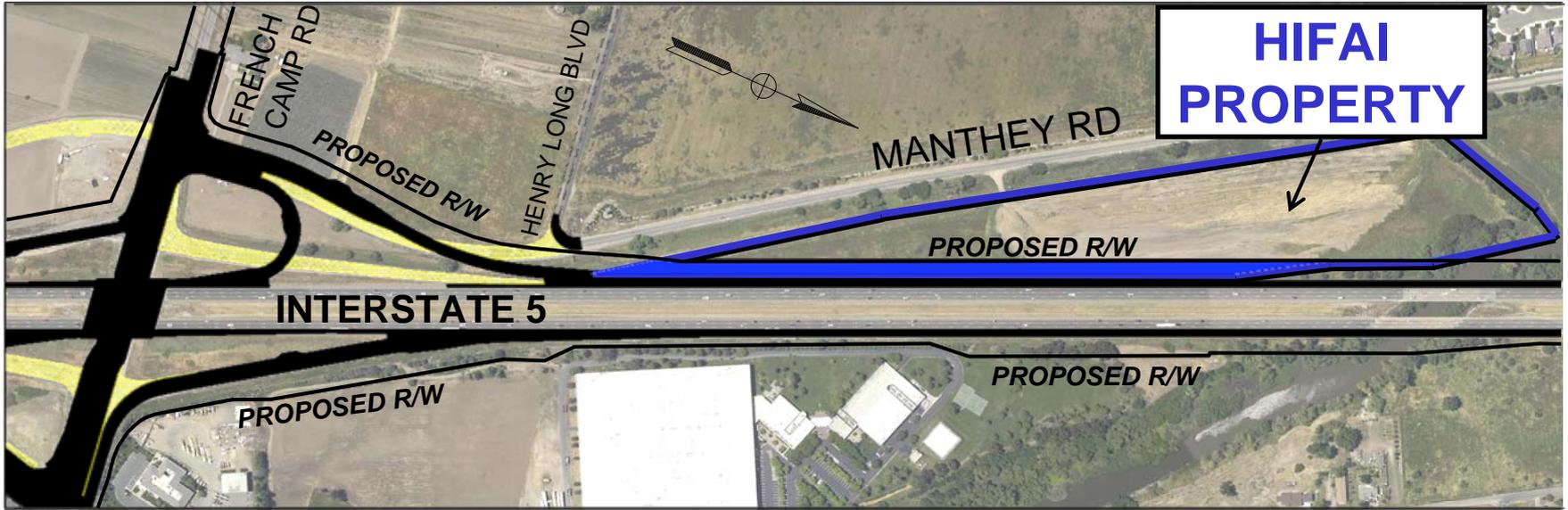
Roy Hifai, Property Owner
Steven Belzer, Attorney for the owner of the Property
Andy Zarakani, Representative for property owner

Tony Tavares, Interim District 10 Director
Carl Haack, HDR ONE COMPANY Many Solutions
Try Khou, HDR ONE COMPANY Many Solutions
Scott Guidi, District 10 Project Management
Sharon Parsons, Central Region Right of Way

Proposed Facility



Hifai Property



HIFAI PROPERTY - 15.71 ACRES

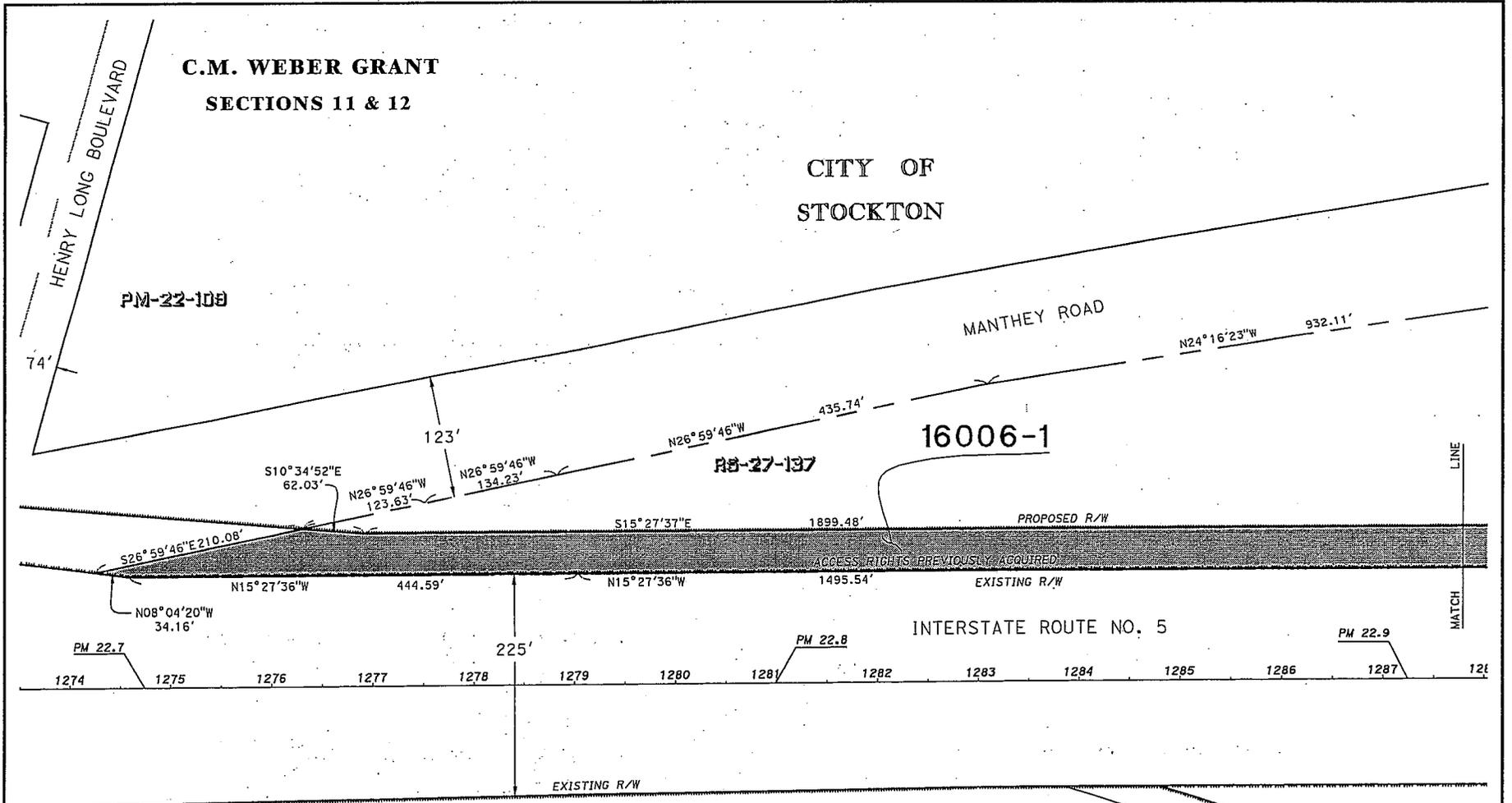
FEE ACQUISITION: 1.93 ACRES

REMAINDER: 13.78 ACRES

EXHIBIT B2

**C.M. WEBER GRANT
SECTIONS 11 & 12**

**CITY OF
STOCKTON**



Coordinates and bearings are on CCS 1983(1991.35) Zone 3. Distances and stationing are grid distances. Divide by 0.99993657 to obtain ground distances. All distances are in feet unless otherwise noted.



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

**RIGHT OF WAY
RESOLUTION OF NECESSITY**

EXHIBIT B

NOT TO SCALE

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
10	SJ	5	22.9	1	2

DATE: 11-03-09

EXHIBIT B3

**C.M. WEBER GRANT
SECTIONS 11 & 12**

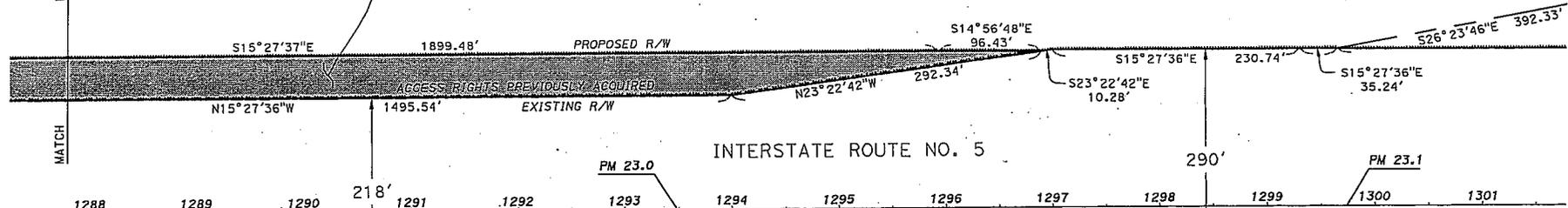
MANTHEY ROAD

CITY OF
STOCKTON

16006-1

LINE

MATCH



INTERSTATE ROUTE NO. 5

1288 1289 1290 1291 1292 1293 1294 1295 1296 1297 1298 1299 1300 1301

FRENCH CAMP SLOUGH



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

**RIGHT OF WAY
RESOLUTION OF NECESSITY**

EXHIBIT B

NOT TO SCALE

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DATE: 11-03-09

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
10	SJ	5	22.9	2	2

EXHIBIT B4