

Memorandum

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: June 29-30, 2016

Reference No: 2.4b.
Action Item

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Jennifer S. Lowden, Chief
Division of Right of Way
and Land Surveys

Subject: **RESOLUTIONS OF NECESSITY**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolutions of Necessity (Resolution) C-21473 and C-21474 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.

Moreover, for each of the proposed Resolutions, the property owners are not contesting the following findings contained in Section 1245.230 of the Code of Civil Procedure:

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. The property is necessary for the proposed project.
4. An offer to purchase the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

The only remaining issues with the property owners are related to compensation.

BACKGROUND:

Discussions have taken place with the owners, each of whom has been offered the full amount of the Department's appraisal, and where applicable, advised of any relocation assistance benefits to which the owners may subsequently be entitled. Adoption of the Resolutions will not interrupt our efforts to secure equitable settlement. In accordance with statutory requirements, each owner has 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-21473 - James Pevy, a single man

01-Hum-36-PM 37.84 - Parcel 12344-1, 2 - EA 0E9309.

Right of Way Certification (RWC) Date: 07/01/16; Ready to List (RTL) Date: 07/15/16.

Conventional highway - realignment and widening. Authorizes condemnation of land in fee for a State highway and a permanent easement for utility purposes to be conveyed to Pacific Gas and Electric. Located near the unincorporated area of Bridgeville at 39883 State Highway 36.

Assessor Parcel Number (APN) 210-192-014.

C-21474 - Farmland Reserve Inc., a Utah nonprofit corporation

06-Ker-46-PM 57.54 - Parcel 87221-1, 2, 3 - EA 0K4609.

RWC Date: 07/01/16; RTL Date: 07/01/16. Freeway - replace existing steel girder bridge with new pre-stressed slab bridge. Authorizes condemnation of land in fee for a State highway, underlying fee, extinguishment of abutter's rights of access, a temporary easement for highway construction purposes and removal of certain improvements which straddle the right of way line. Located near the city of McFarland southwest of Highway 46 and State Route 99.

APN 073-050-07.

1 **TRANSPORTATION COMMISSION**
2 **RESOLUTION NO.**

3 **C-21473**

4 CALIFORNIA TRANSPORTATION COMMISSION
5 RESOLUTION OF NECESSITY
6 TO ACQUIRE CERTAIN REAL PROPERTY
7 OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN
8 HIGHWAY 01-Hum-36-PM 37.84 PARCEL 12344-1, 2
9 OWNER: James Pevy, a single man

10 Resolved by the California Transportation Commission after
11 notice (and hearing) pursuant to Code of Civil Procedure Section
12 1245.235 that it finds and determines and hereby declares that:

13 The hereinafter described real property is necessary for State
14 Highway purposes and is to be acquired by eminent domain pursuant
15 to Streets and Highways Code Section 102 and Code of Civil
16 Procedure Section 1240.320 in that a portion of the property is
17 being acquired for conveyance to Pacific Gas and Electric for
18 utility purposes;

19 The public interest and necessity require the proposed public
20 project, namely a State highway;

21 The proposed project is planned and located in the manner that
22 will be most compatible with the greatest public good and the least
23 private injury;

24 The property sought to be acquired and described by this
25 resolution is necessary for the public project;

26 The offer required by Section 7267.2 of the Government Code
has not been made to the owner of record because he could not

APPROVED AS TO FORM AND PROCEDURE

APPROVAL RECOMMENDED

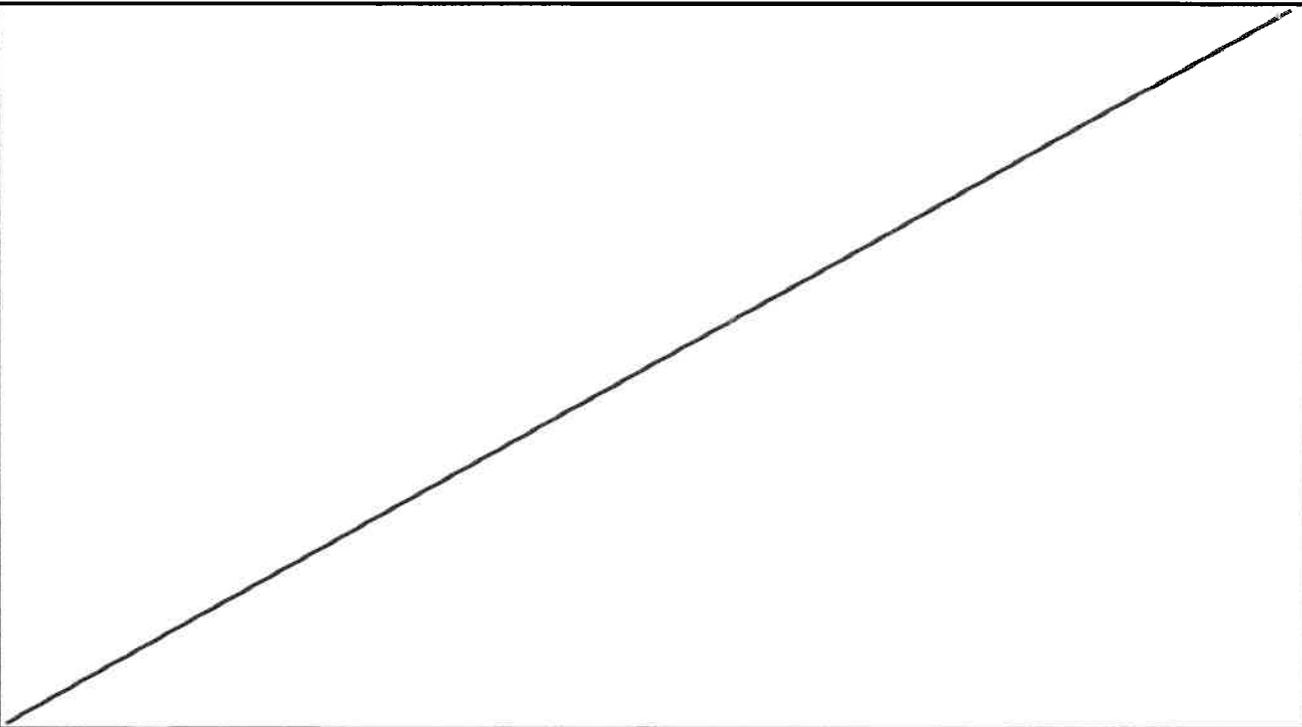
1 be located with reasonable diligence; and be it further

2 RESOLVED by this Commission that the Department of
3 Transportation be and said Department is hereby authorized and
4 empowered;

5 To acquire, in the name of the People of the State of
6 California, in fee simple absolute, unless a lesser estate is
7 hereinafter expressly described, the said hereinafter described
8 real property, or interests in real property, by condemnation
9 proceeding or proceedings in accordance with the provisions of the
10 Streets and Highways Code, Code of Civil Procedure and of the
11 Constitution of California relating to eminent domain;

12 The real property or interests in real property, which the
13 Department of Transportation is by this resolution authorized to
14 acquire, is situated in the County of Humboldt, State of
15 California, 01-Hum-36 and described as follows:

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Memorandum

District	County	Route	Postmile	Project ID
01	HUM	36	37.84	01 1500 0047

To: Jeremiah Joyner
Right of Way Acquisition

From: Chris Johnston
R/W Engineering, District 01

Subject: RESOLUTION OF NECESSITY TRANSMITTAL – PEVY 12344

The following information has been provided, as requested by District Right of Way, for use in the preparation of a Resolution of Necessity (RON) and other documents necessary for Condemnation:

- RON Mapping (2 pages)
 - Index Map (Exhibit A) – shows parcel in relation to the overall project
 - Detail Map (Exhibit B) – shows parcel in detail
- RON Legal Description for parcels: (2 pages)
 - 12344-1, 12344-2

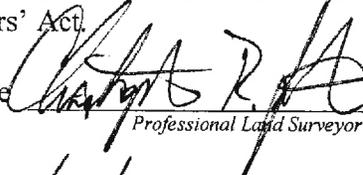
There is no underlying fee to be acquired, therefore no additional underlying fee clause is required.

The electronic files for the above listed information have been transmitted to you by email.

This signed and sealed transmittal is to be filed in the District 1 R/W parcel file for Parcel 12344.

The attached real property descriptions have been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature


Professional Land Surveyor

Date

4/28/16



EA 0e930, 43730 (Buck Mountain)

PARCEL 12344-1

For State highway purposes, that portion of Parcel 4 of Parcel Map No. 1660 recorded in Book 14 of Parcel Maps, Pages 92 to 95 inclusive, Humboldt County Records (HCR), located in the northeast quarter of Section 18, Township 1 North, Range 5 East, Humboldt Meridian, Humboldt County, State of California, described as follows:

Commencing at a found 1 inch galvanized iron pipe with plastic plug marked "LS 3115" set for the quarter corner to Sections 7 & 8, T1N, R5E, HM, by Book 22 of Surveys, Pages 106-109, HCR; thence S. 00° 52' 02" W., 2672.49 feet to a found 1 inch galvanized iron pipe with 2.5 inch diameter brass cap stamped "T1N R5E 7 8 17 18 LS 3115" set for the corner to Sections 7, 8, 17, and 18 in T1N, R5E, HM, by Book 23 of Surveys, Pages 113 to 115, HCR; thence S. 80° 20' 39" W., 2502.46 feet to the Point of Beginning;

- 1) Thence N. 00° 00' 00" E., 124 feet more or less, to the north line of said Parcel 4;
- 2) Thence easterly along said north line, 94 feet more or less, to the centerline of Road B as shown on said Parcel Map No. 1660, said centerline being the easterly boundary of said Parcel 4;
- 3) Thence southerly along said centerline and boundary to a point that bears S. 24° 53' 57" E. from the Point of Beginning;
- 4) Thence N. 24° 53' 57" W., 114 feet more or less to the Point of Beginning.

PARCEL 12344-2

For State highway purposes, an easement to the State of California (STATE), its successors or assigns, for utility purposes, including the right, from time to time, to construct, reconstruct, install, inspect, maintain, replace, remove, and use utility facilities, together with a right of way therefor, within the EASEMENT AREA as hereinafter set forth, and also ingress thereto and egress therefrom over and across Parcel 4 of Parcel Map No. 1660 filed in Book 14 of Parcel Maps, Pages 92 to 95, Humboldt County Records (HCR) by such route or routes as practicable which cause the least damage or inconvenience to the owner;

EASEMENT AREA being that portion of said Parcel 4 lying within a strip of land forty (40) feet wide, the centerline of which is described as follows:

Commencing at a found copper clad steel rod monument with 1.5 inch diameter brass cap stamped "1/4 S 19/30 HK" set for the quarter corner between Sections 19 and 30 in T1N R5E HM, as shown on Book 15 of Parcel Maps, pages 4 to 6, HCR; thence N. 16° 45' 16" E., 11,032.68 feet to found 1 inch galvanized iron pipe with 2.5 inch diameter brass cap stamped "T1N R5E 7 8 17 18 LS 3115" set for the corner to Sections 7, 8, 17, and 18 in T1N, R5E, HM, by Book 23 of Surveys, Pages

1 **TRANSPORTATION COMMISSION**
2 **RESOLUTION NO.**

3 **C-21474**

4 CALIFORNIA TRANSPORTATION COMMISSION
5 RESOLUTION OF NECESSITY
6 TO ACQUIRE CERTAIN REAL PROPERTY
7 OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN
8 HIGHWAY 06-Ker-46-PM 57.54 PARCEL 87221-1, 2, 3
9 OWNER: Farmland Reserve Inc., a Utah nonprofit corporation

10 Resolved by the California Transportation Commission after
11 notice (and hearing) pursuant to Code of Civil Procedure Section
12 1245.235 that it finds and determines and hereby declares that:

13 The hereinafter described real property is necessary for State
14 Highway purposes and is to be acquired by eminent domain pursuant
15 to Streets and Highways Code Section 102;

16 The public interest and necessity require the proposed public
17 project, namely a State highway;

18 The proposed project is planned and located in the manner that
19 will be most compatible with the greatest public good and the least
20 private injury;

21 The property sought to be acquired and described by this
22 resolution is necessary for the public project;

23 The offer required by Section 7267.2 of the Government Code
24 has been made to the owner or owners of record; and be it further

25 **RESOLVED** by this Commission that the Department of
26 Transportation be and said Department is hereby authorized and
empowered;

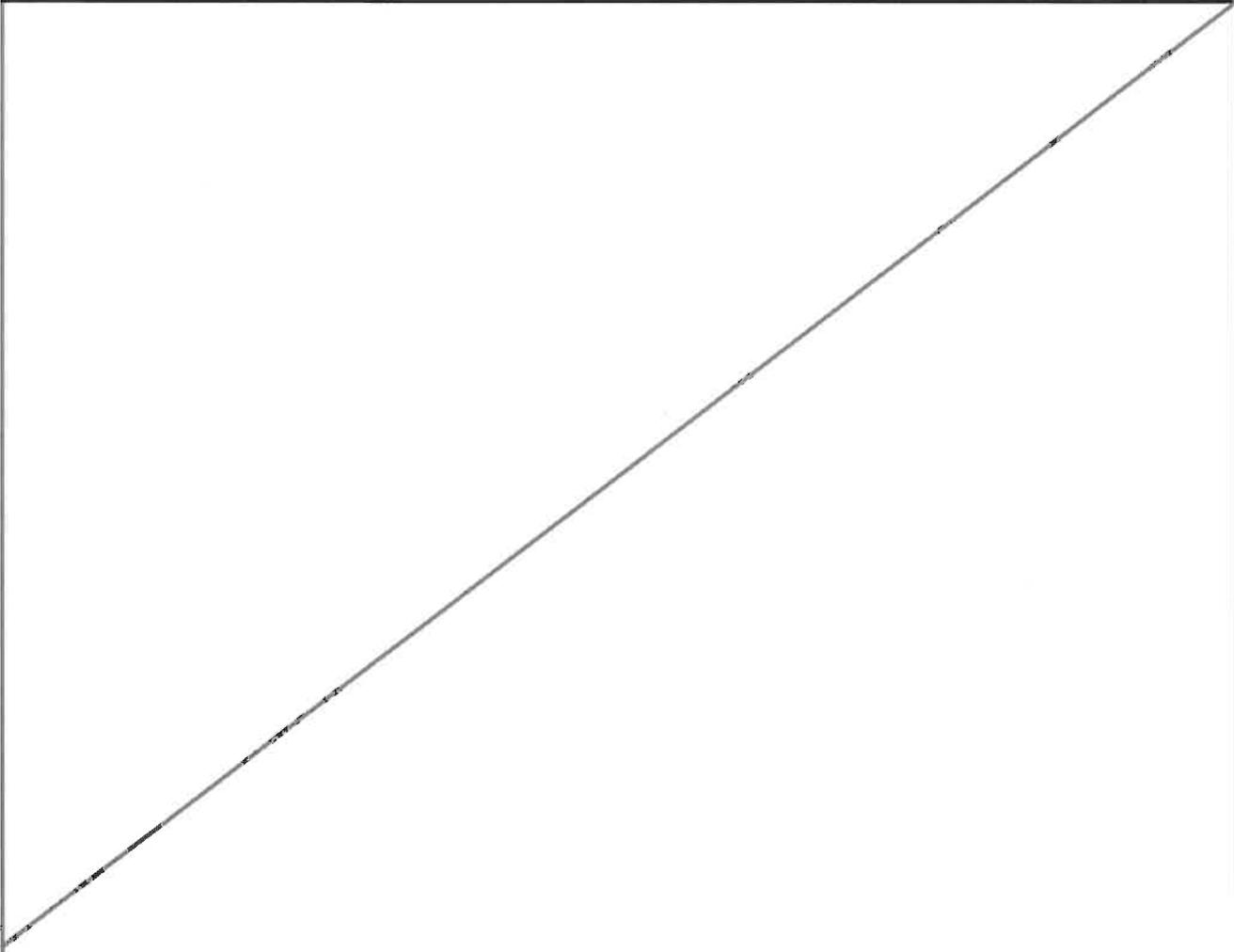
APPROVED AS TO FORM AND PROCEDURE

APPROVAL RECOMMENDED

1 To acquire, in the name of the People of the State of
2 California, in fee simple absolute, unless a lesser estate is
3 hereinafter expressly described, the said hereinafter described
4 real property, or interests in real property, by condemnation
5 proceeding or proceedings in accordance with the provisions of the
6 Streets and Highways Code, Code of Civil Procedure and of the
7 Constitution of California relating to eminent domain;

8 The real property or interests in real property, which the
9 Department of Transportation is by this resolution authorized to
10 acquire, is situated in the County of Kern, State of California,
11 Highway 06-Ker-46 and described as follows:

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Memorandum

District	County	Route	Postmile	Project ID
06	KER	46	57.54	0612000105

To: Condemnation Unit

From: Lyn T. Bockmiller
Surveys, District 06

Subject: RESOLUTION OF NECESSITY TRANSMITTAL

The following information has been provided, as requested by District Right of Way, for use in the preparation of a Resolution of Necessity (RON) and other documents necessary for Condemnation, including:

- RON Mapping (2 pages)
 - Index Map (Exhibit A) – shows parcel(s) in relation to the overall project
 - Detail Maps (Exhibits B) – shows parcel(s) in detail
- RON Legal Description for parcel(s): (5 page(s))
 - 87221-1, 87221-2, 87221-3.

The electronic files for the above listed information have been transmitted by ROWMIS.

The attached real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature Lyn T. Bockmiller
Professional Land Surveyor

Date March 28, 2016



Parcel 87221-1

For freeway purposes, a portion of that land described in Parcel 27 in the Grant Deed to Farmland Reserve Inc., a Utah nonprofit corporation, recorded on August 13, 2013 as Document Number 0213115008, Kern County Official Records, more particularly described as follows:

COMMENCING at the North quarter Corner of Section 7, Township 27 South, Range 26 East, Mount Diablo Meridian, according to the Official Government Plat thereof;

THENCE (1) along the north line of said Section 7 North $89^{\circ}43'07''$ West, 1757.10 feet;

THENCE (2) South $0^{\circ}01'14''$ West, 40.00 feet to the existing southerly Right of Way line of State Route 46 and the POINT OF BEGINNING; THENCE (3) continuing South $0^{\circ}01'14''$ West, 10.00 feet; THENCE (4) South $89^{\circ}43'07''$ East, 299.69 feet; THENCE (5) South $86^{\circ}42'57''$ East, 370.99 feet; THENCE (6) South $83^{\circ}21'27''$ East, 59.26 feet; THENCE (7) South $20^{\circ}01'10''$ East, 61.98 feet to the beginning of a non-tangent curve concave to the northeast having a radius of 149.79 feet, a radial line through said beginning of curve bears South $70^{\circ}02'03''$ West; THENCE (8) southeasterly and easterly 177.53 feet along said curve through a central angle of $67^{\circ}54'20''$; THENCE (9) on a non-tangent line South $87^{\circ}49'05''$ East, 774.73 feet; THENCE (10) South $66^{\circ}30'11''$ East, 13.74 feet; THENCE (11) South $01^{\circ}04'37''$ West, 80.19 feet; THENCE (12) North $90^{\circ}00'00''$ East, 40.01 feet to the easterly line of said Parcel 27; THENCE (13) along said easterly line North $1^{\circ}04'37''$ East, 172.85 feet to the existing westerly Right of Way boundary of State Route 99; THENCE along said existing westerly Right of Way boundary the following described Courses:(14) North $65^{\circ}41'59''$ West, 132.09 feet to the beginning of a curve concave to the southwest having a radius of 360.01 feet; (15) northwesterly 71.22 feet along said curve through a central angle of $11^{\circ}20'06''$; (16) along a non-tangent line North $89^{\circ}41'04''$ West, 182.08 feet; (17) North $0^{\circ}18'56''$ East, 54.00 feet to said existing southerly Right of Way of State Route 46; THENCE (18) along said existing southerly Right of Way North $89^{\circ}43'07''$ West 1344.37 feet to the POINT OF BEGINNING.

Parcel 87221-1 (continued)

Lands abutting said freeway shall have no right or easement of access thereto; provided, however, that part of the remaining lands shall abut upon and have access to an adjoining frontage road which will be connected to the main thoroughfare of the freeway only at such points as may be established by public authority.

Reserving however, unto owner, owner's successors or assigns, the right of access to said freeway over and across Courses (3), (4), (5), (6), and the 104.18 feet easterly prolongation of said Course (6), hereinabove described.

TOGETHER WITH all of the existing improvements which are located partially within and partially outside the boundaries of the above described parcel.

The bearings and distances used in this description are on the California Coordinate System of 1983, Zone 5. Divide distances by 1.00003732 to convert to ground distances.

Parcel 87221-2

A temporary easement for construction of State Freeway facilities and appurtenances thereto, under, upon, over and across a portion of that land described in Parcel 27 in the Grant Deed to Farmland Reserve Inc., a Utah nonprofit corporation, recorded on August 13, 2013 as Document Number, 0213115008, Kern County Official Records, more particularly described as follows:

COMMENCING at the North quarter Corner of Section 7, Township 27 South, Range 26 East, Mount Diablo Meridian, according to the Official Government Plat thereof;
THENCE (1) along the north line of said Section 7 North 89°43'07" West, 1757.10 feet;
THENCE (2) South 0°01'14" West, 40.00 feet to the existing southerly Right of Way line of State Route 46; THENCE (3) continuing South 0°01'14" West, 10.00 feet; THENCE (4) South 89°43'07" East, 299.69 feet; THENCE (5) South 86°42'57" East, 370.99 feet; THENCE (6) South 83°21'27" East, 59.26 feet; THENCE (7) South 20°01'10" East, 61.98 feet to the beginning of a non-tangent curve concave to the northeast having a radius of 149.79 feet, a radial line through said beginning of curve bears South 70°02'03" West; THENCE (8) southeasterly and easterly 177.53 feet along said curve through a central angle of 67°54'20"; THENCE (9) on a non-tangent line South 87°49'05" East, 774.73 feet; THENCE (10) South 66°30'11" East, 13.74 feet; THENCE (11) South 01°04'37" West, 80.19 feet to the POINT OF BEGINNING; THENCE (12) continuing South 01°04'37" West, 21.57 feet; THENCE (13) North 90°00'00" East, 40.01 feet to the easterly line of said Parcel 27; THENCE (14) along said easterly line North 01°04'37" East 21.57 feet; THENCE (15) North 90°00'00" West 40.01 feet to the POINT OF BEGINNING.

Rights to the above described temporary easement shall cease and terminate on July 01, 2019. The rights may also be terminated prior to the above date by STATE upon notice to OWNER.

Parcel 87221-2 (continued)

The bearings and distances used in this description are on the California Coordinate System of 1983, Zone 5. Divide distances by 1.00003732 to convert to ground distances.

Parcel 87221-3

For freeway purposes, the underlying Fee title of that portion of land described in Parcel 27 in the Grant Deed to Farmland Reserve Inc., a Utah nonprofit corporation, recorded on August 13, 2013 as Document Number, 0213115008, Kern County Official Records, more particularly described as follows:

COMMENCING at the North quarter Corner of Section 7, Township 27 South, Range 26 East, Mount Diablo Meridian, according to the Official Government Plat thereof; THENCE (1) along the north line of said Section 7 North $89^{\circ}43'07''$ West, 412.53 feet to the POINT OF BEGINNING; THENCE (2) continuing along said north line North $89^{\circ}43'07''$ West, 1344.57 feet; THENCE (3) South $0^{\circ}01'14''$ West, 40.00 feet to the existing southerly Right of Way line of State Route 46; THENCE (4) along said existing southerly Right of Way line South $89^{\circ}43'07''$ East, 1344.37 feet; THENCE (5) leaving said existing southerly Right of Way line North $0^{\circ}18'56''$ East, 40.00 feet to the POINT OF BEGINNING.

The bearings and distances used in this description are on the California Coordinate System of 1983, Zone 5. Divide distances by 1.00003732 to convert to ground distances.