

APPENDIX II - Rescissions

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CTC Resolution G-15

Passed by CTC
FEB 29, 1980

RESOLUTION NO. G-15 AS AMENDED OUTLINING PROCEDURE FOR RECYCLING
ADOPTED FREEWAY LOCATIONS AND POLICY FOR CONDITIONAL RETENTION OF
ADOPTIONS

WHEREAS, monetary and other constraints have identified the need for a reevaluation of the implementation of the State Highway System; and

WHEREAS, a number of adopted freeway routes are not likely to be constructed as State freeways within the foreseeable future; and

WHEREAS, retention of the adoptions may not be desirable and may subject the Transportation Commission to possible continuing expense for acquisition of property on a hardship basis; and

WHEREAS, in special cases, some adoptions that would be otherwise rescinded may be retained on the condition that the local agencies involved assume responsibility for further hardship and protection acquisition; and

* NOW, THEREFORE, BE IT RESOLVED, that the procedure outlined by the diagram on attached Exhibit A be followed in recycling adopted freeway routes; and,

BE IT ALSO RESOLVED, that after the Transportation Commission has passed a resolution giving notice of its intention to consider rescinding a freeway route adoption and disposing of any acquired rights of way, the steps outlined below shall be followed:

1. The Department of Transportation, in each case, upon being authorized to do so by resolution of the Transportation Commission, shall notify the appropriate local and regional agencies of the intention to consider rescinding the freeway adoption. Such notifications shall request comments within sixty days or any additional information the Transportation Commission should have prior to its final consideration.

Concurrently, the Department of Transportation shall also notify local and regional agencies of the intent to initiate disposal of any acquired rights of way if the adoption is rescinded, requesting comments on disposition uses.

2. At the expiration of the notification period, the Department of Transportation shall submit a report to the Transportation Commission analyzing any additional information received within the 60-day comment period together with a further recommendation on whether to proceed with the rescission action.

* (Exhibit A has been modified and moved to Figure 4, Chapter 23 of the PDPM)

3. Upon receipt of the Department's recommendation, the Transportation Commission may at its own option, because of controversy or lack of local consensus, hold a hearing at a location which is reasonably convenient to the communities affected by the proposed rescission, to the general public, and to the Commission in the discharge of its regular business.

4. If the Transportation Commission determines the freeway location should be vacated, it shall adopt an appropriate resolution rescinding the freeway adoption and authorizing disposal of any acquired rights of way.

5. Upon rescinding action by the Transportation Commission, the Department shall proceed with timely disposition of any acquired rights of way.

BE IT FURTHER RESOLVED that, in those special cases where the Transportation Commission agrees to suspend consideration of rescinding a freeway route adoption if the local agencies enter into an agreement to assume responsibility for further hardship and protection acquisition, agreements for hardship and protection acquisition shall be based on the responsibilities and provisions outlined below for either Option 1 or Option 2, depending upon the applicable conditions:

Option 1

The Department will enter into a formal agreement with the involved local agency or agencies.

Under this option, the local agencies would:

1. Pay 100 percent of the capital outlay cost of the hardship or protection acquisition, any benefits required under the California Uniform Relocation Assistance and Real Properties Act, and the cost of necessary environmental studies.

2. Accept title in the local agency's name and be responsible for maintenance and liability on any acquired parcels. The local agency will execute the necessary joint powers agreement authorizing the State to acquire property for the local agency.

3. Accept the State's established practices for determination of property owner eligibility for a hardship or protection acquisition. The State's decision on eligibility would be final. If a local agency failed to provide capital funds to acquire an eligible hardship or protection acquisition parcel, the State would be relieved of any further obligation to retain the adoption. The Transportation Commission would be immediately advised and requested to proceed with rescission if a local agency refused to proceed with a hardship or protection acquisition.

4. If at some future date the State budgets funds for normal right of way acquisition, the State would purchase any acquired parcels at the local agency's costs at time of original acquisition and title transferred to the State. This does not preclude the local agency's donating the property at this later time as a means of advancing construction. Maintenance or liability costs during the period title was vested in the local agency's name would not be reimbursable.

5. If the route adoption were subsequently rescinded, the State would be relieved of all obligations. The local agency would be free to dispose of any properties acquired in its name and would receive all proceeds from sales. The local agency would agree not to downzone properties previously acquired by the State.

Under this option the State would:

1. Assume the administrative costs and staffing for necessary engineering and acquisition activities.
2. Assume responsibility for maintenance and liability on parcels previously acquired by the State and for inverse condemnation actions (Klopping) that may arise because of retention of the adoption as a whole.
3. Notwithstanding the above, be released to reconsider rescission of the adoption, if inverse action liability suits should become excessive in the State's opinion.

Option 2

This option assumes Federal-aid Urban (FAU) or other Federal or local funds will be allocated by the local authorities for hardship and protection acquisition. It is limited to routes that provide important regional service and that have environmental clearance to purchase rights of way. Under this option, the State would provide an amount equivalent to the matching share for FAU participation current at the time (now about 14%). Routes of important regional service are defined as those serving or connecting primary transportation corridors of the region. They must be included in the Regional Transportation Plan.

The Department will enter into a formal agreement with the involved agency or agencies.

Under this option the local responsibility would be to:

1. Pledge FAU or equivalent other Federal or local funds for hardship and protection acquisition, including that necessary for support costs (i.e., the Federal ratio of all costs, including capital outlay for acquisition and RAP costs and necessary overhead for engineering, appraisal, acquisition, RAP, and environmental studies).
2. Accept the State's established practices for determination of property-owner eligibility for a hardship or protection acquisition. The State's decision on eligibility would be final. If FAU funds or equivalent local or Federal funds were not available to acquire an eligible hardship or protection acquisition parcel, the State would be relieved of any further obligation to retain the adoption. The Transportation Commission would be immediately advised and requested to proceed with rescission if a local agency refused to proceed with a hardship or protection acquisition.
3. If at some future date, the State budgets funds for construction which will utilize the acquired parcels, the local authorities will not be reimbursed for any acquisition costs incurred.
4. If the route adoption is eventually rescinded, properties are to be disposed of at fair market value with the net proceeds to be divided between the contributing parties on the same ratio as purchased, subject to meeting any applicable Federal requirements. The local authorities will not downzone properties previously acquired by the State or acquired under the provisions of Option 2 where there is participation by the State.

Under this option the State would:

1. Provide the matching share for FAU participation (or the equivalent to FAU if other funds are used) in acquisition and support costs. The State's staff would undertake the necessary work.
2. Accept title in the State's name and be responsible for maintenance and liability on any acquired parcels. The State would continue to have responsibility for inverse condemnation actions (Klopping) that may arise because of retention of the adoption as a whole.
3. Notwithstanding the above, be released to reconsider rescission of the adoption if inverse action liability suits should become excessive in the State's opinion.

Special Circumstances:

It is recognized there may be special circumstances that make a route segment not fully adaptable to the provisions of Option 1 or Option 2. In these instances, deviations from the standardized provisions are to be submitted to the Transportation Commission for review and concurrence.

BE IT FURTHER RESOLVED, that after the Transportation Commission has passed a resolution giving notice of its intention to suspend consideration of rescinding a freeway route adoption, the involved local authorities must agree within 120 days to assume responsibility for further hardship and protection acquisitions and to enter into agreements as outlined above. Hardship or protection acquisition parcels approved prior to the Transportation Commission's Notice of Intent Resolution and during the specified 120-day period will continue to be the full responsibility of the State. After 120 days, the Transportation Commission may grant an extension until the agreement is executed subject to local assumption of all financial responsibility for hardship and protection acquisitions. Failure of the local authorities to act after 120 days will relieve the State of any further obligations and the Transportation Commission will proceed with rescission consideration of the adoption and disposal of previously acquired rights of way.

BE IT FURTHER RESOLVED, that Resolution No. G-8 adopted by the Commission on May 19, 1978 is hereby rescinded.

Preparation Guidelines for Route Inventory Report

Application

The following outline for a Route Inventory Report should be used when considering rescission of adopted freeway locations, as well as for conditional retention of freeway adoptions or locations.

Procedures

Follow the procedures that are described in Chapter 23 and those described in CTC Resolution G-15 in this Appendix.

Outline For ROUTE INVENTORY REPORT

Route Description

- Route Segment Description
 - Limits
 - Type of facility originally planned
 - Systems functional classification (F&E, Scenic Highway Master Plan, Interregional Road System, National Highway System)
 - Functional classification
 - Type of regional and State-wide service
- Route Adoption
 - Date
 - Reason for adoption
 - Controversial aspects (at time of adoption and now)
 - Dates of Freeway Agreements
- Systems Planning
 - Concept as described in the Route Concept Report
 - Describe the route's function in the regional network.
 - Describe any impacts/effects of rescission on the adjacent regional network.
 - Describe the need for, and cost of, improving adjacent facilities if the route is rescinded.
- Design
 - Number of lanes and median width of original proposal (or subsequent modifications)
 - Percent complete
 - Unusual problems
 - Engineering costs to-date

- Status of environmental document
- Existing Highway
 - Description
 - Existing ADT
 - Accident rates (total, severity and fatality by segment as appropriate)
 - Capacity adequacy
- Forecasted Traffic
 - Forecasted traffic on existing routing, in segments as appropriate (or may be expressed as percentage increase above existing traffic)
 - Traffic split between existing facility and adopted routing, if in existence (can give numbers or percentages for traffic forecast year)
 - Traffic forecasts for the adjacent network with and without the adopted route
- Alternatives
 - Current construction and right of way cost of proposal on the adopted routing
 - Current construction and right of way cost of downscoped or stage construction possibilities on the adopted routing
 - Costs and appropriateness of improvements to the existing highway needed to accommodate forecasted traffic
 - Other possibilities

Local and Regional Plans

- Do the local general plans show the freeway?
- What does the regional transportation plan show or say regarding the route segment?
- Summarize development trends along the route corridor.
- Are there any local or regional studies under way having a bearing on the route segment?

Right of Way

- Past acquisition (parcels, acquisition cost, parcel types including number of single family residences and number of living units in multi-family parcels)
- Future anticipated acquisition for hardship and protection
- Management problems
- Impacts if disposed of or kept
- Disposal value, including consideration of contractual obligations and possible RAP payments
- Reasons why disposal value is lower or higher than acquisition cost

Local Staff Reactions

- Summarize discussions with local staffs.

Conclusions

- State the conclusions, taking into consideration the eight criteria listed in the second paragraph of Chapter 23, Article 9.

If the proposed rescission has special circumstances that are not in conformance with the G-15 options, provide a full description and justification for recommending CTC approval of a nonconforming rescission.

- District recommendation

Maps

- Vicinity map
- Route Adoption map
- Other maps as needed

APPENDIX JJ – Preparation Guidelines for Resolution of Necessity

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