State of California
DEPARTMENT OF TRANSPORTATION

California State Transportation Agency

Tab 3

M e m o r a n d u m

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: May 18-19, 2016

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

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Jennifer S. Lowden, 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 a Resolution of Necessity (Resolution) C- 21451 summarized on the following page. This Resolution is for a transportation project on State Route 65 in District 6, in Tulare County.

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 or located in the 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 acquire the property in accordance 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 primary concern and objection expressed by the property owner is that the subject property is not necessary for completion of the proposed project. The owner's objections and the Department's responses are contained in Attachment B.

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 he 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 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-21451 - Thomas B. Prescott and Deborah J. Prescott, Trustees of The Prescott Living Trust Est. January 18, 2011
06-Tul-65-PM 16.20 - Parcel 86330-1, 2, 3 - EA 434019.
Right of Way Certification Date: 06/01/16; Ready To List Date: 06/15/16. Conventional highway - widen two-lane conventional highway to four-lane expressway. Authorizes condemnation of a permanent easement for public road purposes in favor of Tulare County, a permanent easement for utility purposes to be conveyed to Southern California Edison Company, and a temporary easement for construction purposes. Located in the unincorporated area of Porterville at State Route 65 and Avenue 128. Assessor Parcel Number 268-130-012.

Attachments
- Attachment A - Project Information, Project Maps
- Attachment B - Parcel Panel Report, parcel maps
- Attachment C - Resolution of Necessity
- Attachment D - Owner's letters to the Commission
- Attachment E - District's response to owner

ATTACHMENT A

PROJECT INFORMATION

PROJECT DATA	06-Tul-65-PM R15.1/18.0 Expenditure Authorization 434019
Location:	State Route (SR) 65, Tulare County
Limits:	From 1.0 mile north of Avenue 112 to 0.3 mile south of SR 65/190 Separation
Cost:	Programmed construction cost: $ 17,100,000 Current Right of Way cost estimate: $ 5,730,000
Funding Source:	State Transportation Improvement Program
Number of Lanes:	SR 65: Existing two lanes, proposed four lanes Avenue 128: Existing two lanes, proposed three lanes
Proposed Major Features:	The project proposes to widen SR 65 from a two-lane to a four-lane expressway. Left-turn lanes will be constructed on SR 65 at all intersections. At the intersection of Avenue 128 and SR 65, left-turn and right-turn lanes will be constructed on Avenue 128, and the traffic signals will be upgraded.
Traffic:	Existing (2017): 17,300 Advantage Daily Traffic (ADT) Proposed (2037): 32,000 (ADT)

NEED FOR PROJECT

Existing SR 65 is a multi-functional highway in Kern and Tulare Counties. It consists of a two-lane conventional highway from SR 99 in Bakersfield to 0.6 miles north of Avenue 136 in Porterville and a four-lane freeway to Linda Vista Avenue. It converts to a four-lane expressway from Linda Vista Avenue to Road 206 and then continues as two-lane conventional highway to SR 198 in Tulare County. All intersections are at grade except for the freeway intersections in the City of Porterville.

Within the project limits, the existing lane widths are twelve feet with eight foot shoulder widths. The existing right of way widths vary from 166 feet to 280 feet from PM R 15.1 to PM 18.0.

This project is necessary to increase capacity and improve the safety and operation of SR 65. This segment is experiencing increased congestion from a mixture of commuter, slower moving farm equipment, trucks, and recreational traffic. Clusters of vehicles are common because there is little opportunity for drivers to pass slower moving vehicles safely due to oncoming traffic.

The desired Level of Service (LOS) for this highway is "C", because it is a Regionally Significant Route on the Interregional Road System and has a Federal functional classification as principal arterial (Transportation Concept Report, 2014). The overall current LOS of "D" is deficient for this highway. Based on the 20-year projected traffic volume, Segment 1 traffic volume indicated a LOS "C" in the initiation of design year (2007), and is anticipated to continue to deteriorate to a LOS "D" from 2017 through 2027.

The collision history for the intersection of SR 65 and Avenue 128 for the most recent three-year study period (09/01/2009 to 06/30/2012), indicates higher than statewide average collision rates for fatal plus injury and total accidents. However, the actual fatal collision rate is lower than the statewide average. There were 13 accidents (0-Fatal, five Injury, eight Property Damage Only) that occurred within the project limits.

The project is fully funded from the RIP and TCRP. Current project construction cost is $17,100,000.

PROJECT PLANNING AND LOCATION

The Project Report and Environmental Impact Report/Environmental Assessment were approved on 06/27/2005.

The ultimate transportation corridor, as identified in the Transportation Concept Report (June 2014), identifies SR 65 as part of the California Freeway and Expressway System and the National Highway System. The envisioned corridor for the year 2035 is a four-lane expressway in Tulare County, except for a four-lane freeway segment in Porterville.

The project schedule is as follows:

Environmental Document	06/27/2005
Project Report Approved	06/27/2005
Right of Way Certification	06/01/2016
Ready to List	06/15/2016
Advertise	08/01/2016
Begin Construction	10/18/2016

Alternatives Considered:
Two alternatives were considered. The build and the no-build alternatives were evaluated. The build alternative proposes to widen SR 65 from a two-lane highway to a four-lane expressway with a 64-foot wide median. The limits of the projects are from Avenue 120 to 0.3 mile south of the SR 65/190 separation. The project as planned consisted of one segment, however due to funding constraints, the project was divided into three segments.

LOCATION MAP

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
06	Tul	65	R15.1/18.0		

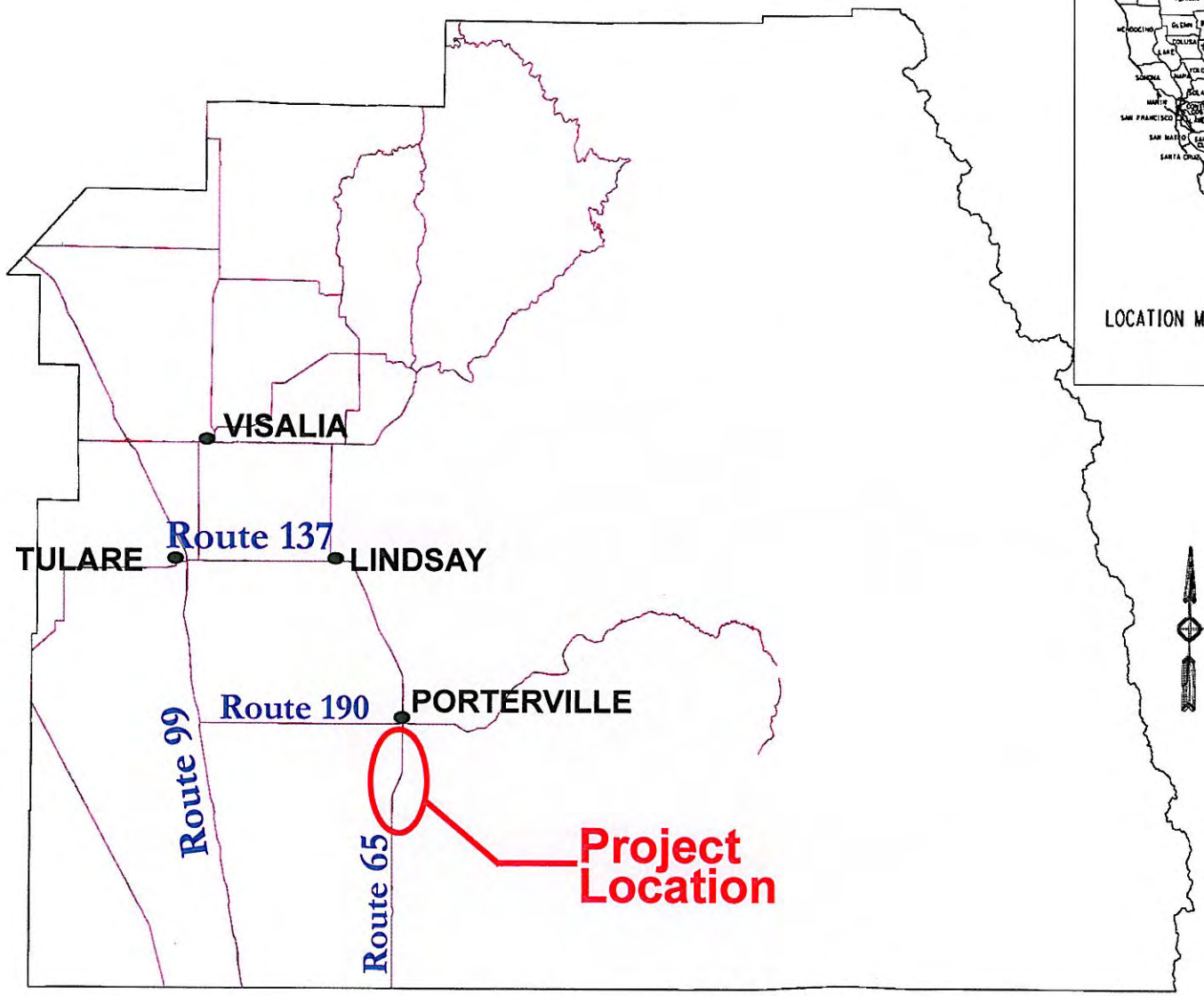


Exhibit A1

Exhibit A1

Project Location

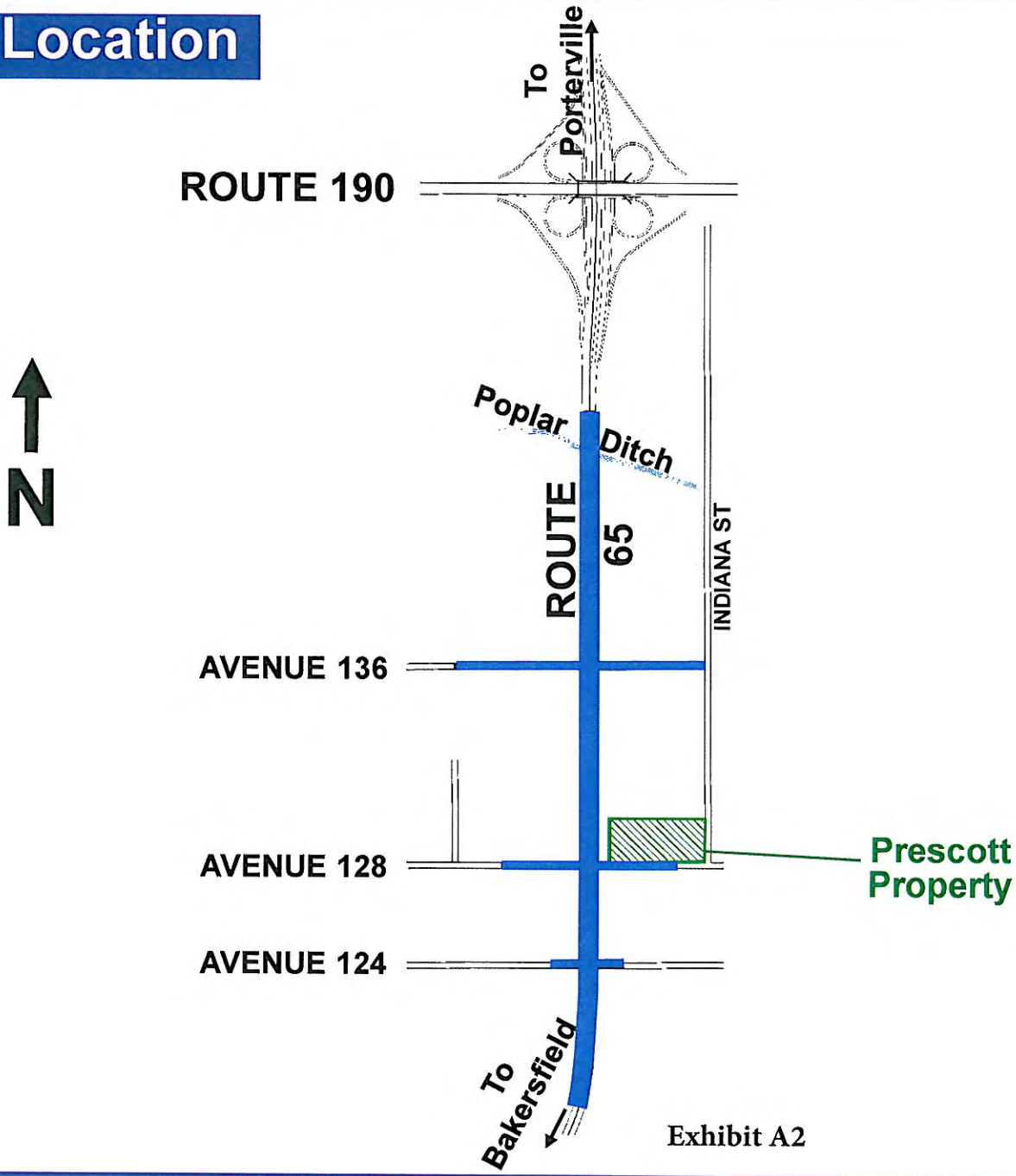
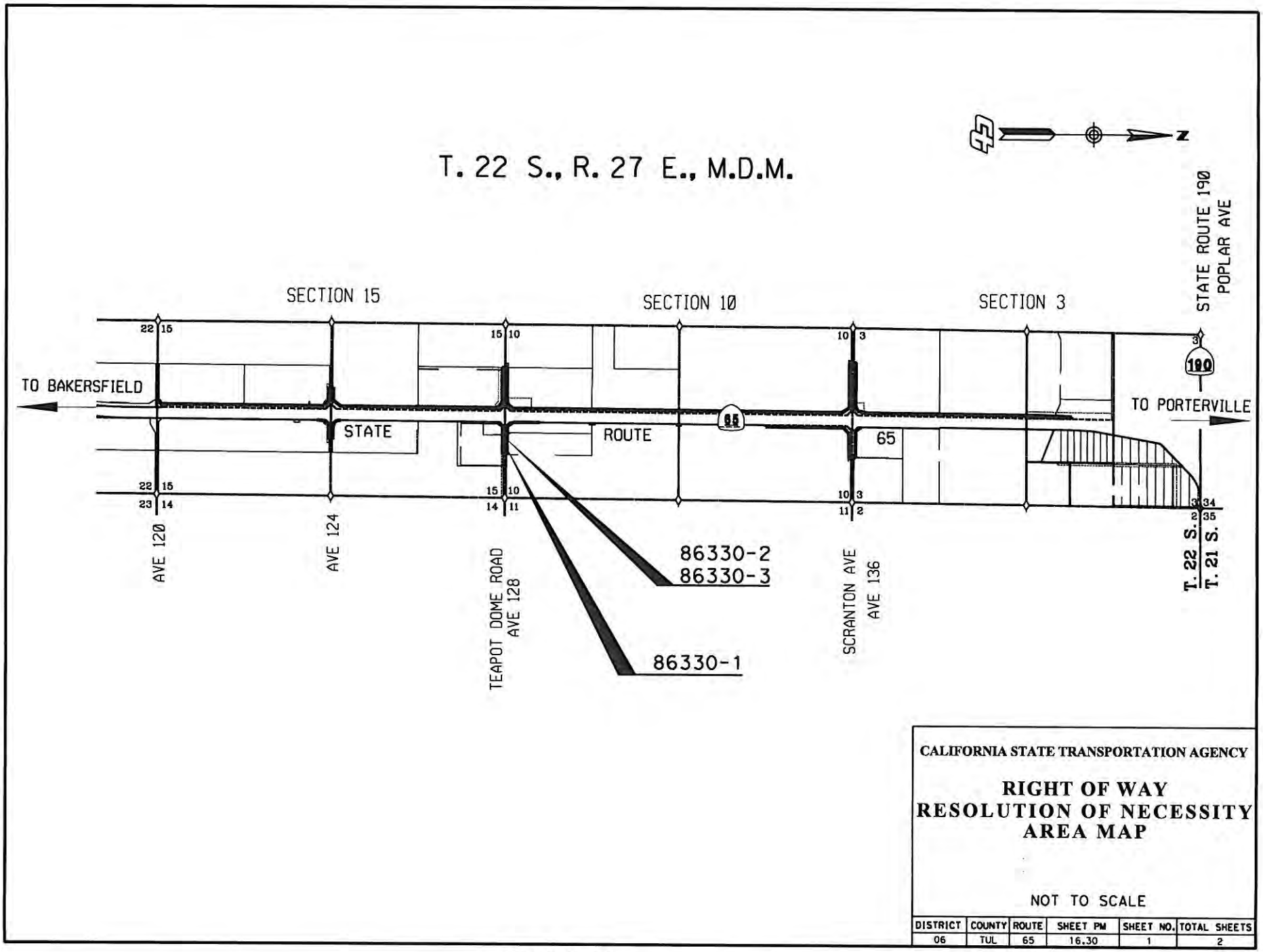


Exhibit A2

Exhibit A2



CALIFORNIA STATE TRANSPORTATION AGENCY

RIGHT OF WAY
RESOLUTION OF NECESSITY
AREA MAP

NOT TO SCALE

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
06	TUL	65	16.30	1	2

Exhibit A3

Exhibit A3

ATTACHMENT B

PARCEL PANEL REPORT

Property Owner:	Thomas B. Prescott and Deborah J. Prescott, Trustees of The Prescott Living Trust Est. January 18, 2011
Parcel Location:	At State Route (SR) 65 and Avenue 128 in the City of Porterville
Present Use:	Agriculture
Area of Property:	30.01 Acres
Area Required	Parcel 86330-1 - 0.01 Acre – Roadway Easement Parcel 86330-2 - 0.08 Acre – Utility Easement Parcel 86330-3 - 0.08 Acre – Temporary Construction Easement

The subject property is located in the unincorporated area of Porterville at SR 65 and Avenue 128 and is identified by APN: 268-130-012. The site is rectangular in shape and the topography is level at street grade.

NEED FOR SUBJECT PROPERTY

A portion of the property is needed to widen Avenue 128 from the existing two lanes to three lanes with a left-turn lane and standard shoulders.

There are three parcels required for the project on the subject property. A permanent roadway easement (Parcel 86330-1) consisting of a strip of land approximately 330 feet long by 1.63 feet wide along the north side of existing Avenue 128 is required for widening the intersection including a left-turn lane and standard shoulders. A utility easement (Parcel 86330-2) consisting of a strip of L-shaped land approximately 330 feet long by 10 feet wide with a five foot long by 10 foot wide rectangle at the northeast end, which is required for relocating an existing pole line. A temporary construction easement (Parcel 86330-3), which encumbers the same area of the utility easement, is required for constructing the curb and gutter along the shoulder.

Based on the owner's initial concerns, the California Department of Transportation (Department) has tried to reduce or eliminate the area needed on this subject property. Three options were considered but were not feasible.

- The first option was to realign Avenue 128 by shifting the road farther south. This option would require more property on the south side of Avenue 128. Thus, it creates a disproportionate burden on the owners on the south side of Avenue 128.

- The second option considered was to reduce the shoulder width on Avenue 128. The County was consulted since this is a county road. This option was not feasible because the County did not support deviation from county standards.

- The third option was to eliminate the utility easement (Parcel 86330-2) and widen the roadway easement (Parcel 86330-1) slightly to make room to relocate the utility pole line, owned by Southern California Edison (SCE), within the county roadway easement. This option was accepted by Tulare county, but SCE did not agree to give up its existing easement rights.

The current project's design has minimized the impacts to the subject property to the extent possible, and any further reduction in the requirement will impair the project in meeting its objectives.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Panel (Panel) met in Fresno on February 26, 2016. The Panel members included René Fletcher, Panel Chair, Department Headquarters (HQ) Division of Right of Way and Land Surveys (RWLS), Jon Ordenburg, Department HQ Legal Division; Michael Whiteside, Department HQ Assistant Chief Engineer, Linda Fong, Department HQ Division of Design, and Paul Pham, Department HQ RWLS, Secretary of the Panel. The owner's representatives were Thomas B. Prescott and Deborah J. Prescott, Owners/Trustees, Renee Hendrick, daughter of Mr. and Mrs. Prescott, and Paul Prescott, son of Mr. and Mrs. Prescott.

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 following is a description of the specific concerns expressed by Owners followed by the Department's response:

Owners Contend:

Department has not provided information on how Owners' property is needed for the project and how it would be used.

Department's Response:

The Department's Design and Right of Way staff provided project documents to the Owners on December 3, 2012. Subsequently, staff has met with the Owners to discuss issues on several occasions including meetings at the site.

The project proposes to widen State Route 65 from a two-lane highway to a four-lane expressway with left turn lanes constructed at all intersections. Left and right-turn lanes, new drainage ditches, and upgraded signals will be constructed on Avenue 128.

There are three parcels required for the project on the Owners' property. A permanent roadway easement (Parcel 86330-1) along the north side of existing Avenue 128, which is required to widen the intersection and includes a left-turn lane and standard shoulder. A utility easement (Parcel 86330-2) is required to relocate the existing pole line, and a temporary construction easement (Parcel 86330-3) is required to construct the curb and gutter along the shoulder.

Owners Contend:

Owners raised concerns that the location of utility poles in the proposed easement will impact their operation. Owners insisted the easement language be revised to restrict the two poles to specific locations.

Department's Response:

Department has worked with the Owners and utility company to revise the utility relocation plans and had a surveyor stake the locations of the proposed poles for the Owners to see during a field review conducted on March 26, 2015.

As part of an effort to reduce impacts on the property, Department proposed to reduce the utility easement width from 20 feet to 10 feet while lengthening it slightly. Department worked with the utility company to avoid impacts to any driveways, for which the Owners had obtained a permit.

Owners Contend:

A proposed utility pole just outside Owners' property at the easterly end of the parcel is too close to the pavement and creates a safety hazard.

Department's Response:

The Department worked with the utility company to revise the proposed utility relocation plans to reduce the easement width while slightly lengthening the utility easement allowing the relocation of the pole in question away from the roadside.

Owners Contend:

Clearance under the telephone line that is on the poles is a concern. Owners stated they need at least 14 feet of vertical clearance for their trucks.

Department's Response:

The Department has received confirmation from the telephone company that standard vertical clearance requirement is more than 14 feet under the General Order 95 of the California Public Utilities Commission.

Owners Contend:

The pole at the westerly end should be moved to the neighboring property.

Department's Response:

The Department redesigned the utility easement on subject property and added the L-shape at the westerly end to accommodate the relocation of the pole to the neighboring property.

Owners Contend:

Trucks parking close to Owners' property would cause damage to the road and create water ponding issues. Owners requested the installation of a curb to deter trucks from pulling out of the paved shoulder.

Department's Response:

The Department worked with the City of Porterville and Tulare County to have the shoulder widened to accommodate truck parking. This project will install approximately 330 feet of curb and gutter along the westerly end of the Owners' property.

Owners Contend:

A signal ahead sign is not shown on the plans.

Department's Response:

The District has provided the Owners updated plans that show the sign.

Owners Contend:

The proposed striping plan at the location was not clear.

Department's Response:

The District has provided the Owners with new plan with legend to explain the types of striping proposed.

Owners Contend:

At the Condemnation Panel Review Meeting, the Owners expressed interest in dedicating, to either Department or Tulare County, a four-foot strip of land in addition to the proposed Parcel 86330-1 in order to move the proposed curb and gutter to where it would be required under Tulare County's permit when the Owners develop this parcel.

Department's Response:

Contrary to the Owners' previous concerns about minimizing impacts on the property and objections on easement areas, the Owners' offer to dedicate additional area is unexpected. In the last year, Design has modified the plan at this location numerous times to minimize impacts by reducing required areas to the minimum necessary to complete the project.

The latest project design is based on the current County General Plan, and there is no requirement by the County for the additional four-foot shoulder at this location. This additional shoulder requirement would be imposed on the Owners under the condition of a future County Permit.

Tulare County has approved the Department's design plans on February 11, 2016. Extending the shoulder beyond the County's current requirement would now be outside of the project scope.

Owners Contend:

Owners informed the Department that they planned to proceed with the County's permit application and the proposed dedication. Owners wanted to extend the curb and gutter the entire length of the property, at their expense, and planned to coordinate with utility company on the relocation of the pole line to avoid a second move when they develop this property.

Department's Response:

Department will not interfere with Owners' plan to develop their property. However, Department will not make any changes to the latest design which would cause further delay to the project. Extending the curb and gutter the entire length of the Owners' property is not a project requirement.

DEPARTMENT CONTACTS

The following is a summary of contacts made with the property owners:

Type of Contact:	Number of Contact
Mailing of information	8
Email of information	16
Telephone contacts	10
Personal/meeting contacts	6

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 the Government Code Section 7267.2. The Owners have 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 accordance 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.

for RENÉ FLETCHER
Assistant Division Chief
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

for KARLA SUTLIFF
Chief Engineer

PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING ON FEBRUARY 26, 2016

René Fletcher, HQ's Division of Right of Way and Land Surveys, Panel Chair
Michael Whiteside, Assistant Chief Engineer, Division of Design
Linda Fong, HQ's Division of Design, Panel Member
Jon Oldenburg, HQ's Legal Division, Panel Member
Paul Pham, HQ's Right of Way, Panel Secretary
Thomas B. Prescott and Deborah J. Prescott, Trustees/Owners
Renee Hendrick, Daughter of Mr. and Mrs. Prescott
Paul Prescott, Son of Mr. and Mrs. Prescott
Sharri Bender Ehlert, Department of Transportation, District 6, District Director
Jamie Lupo, District 6, Central Region Chief, Right of Way
Jim Bane, District 6, Project Management
Abdul Baker, District 6 Design
Nick Chan, District 6, Design

Project Impact

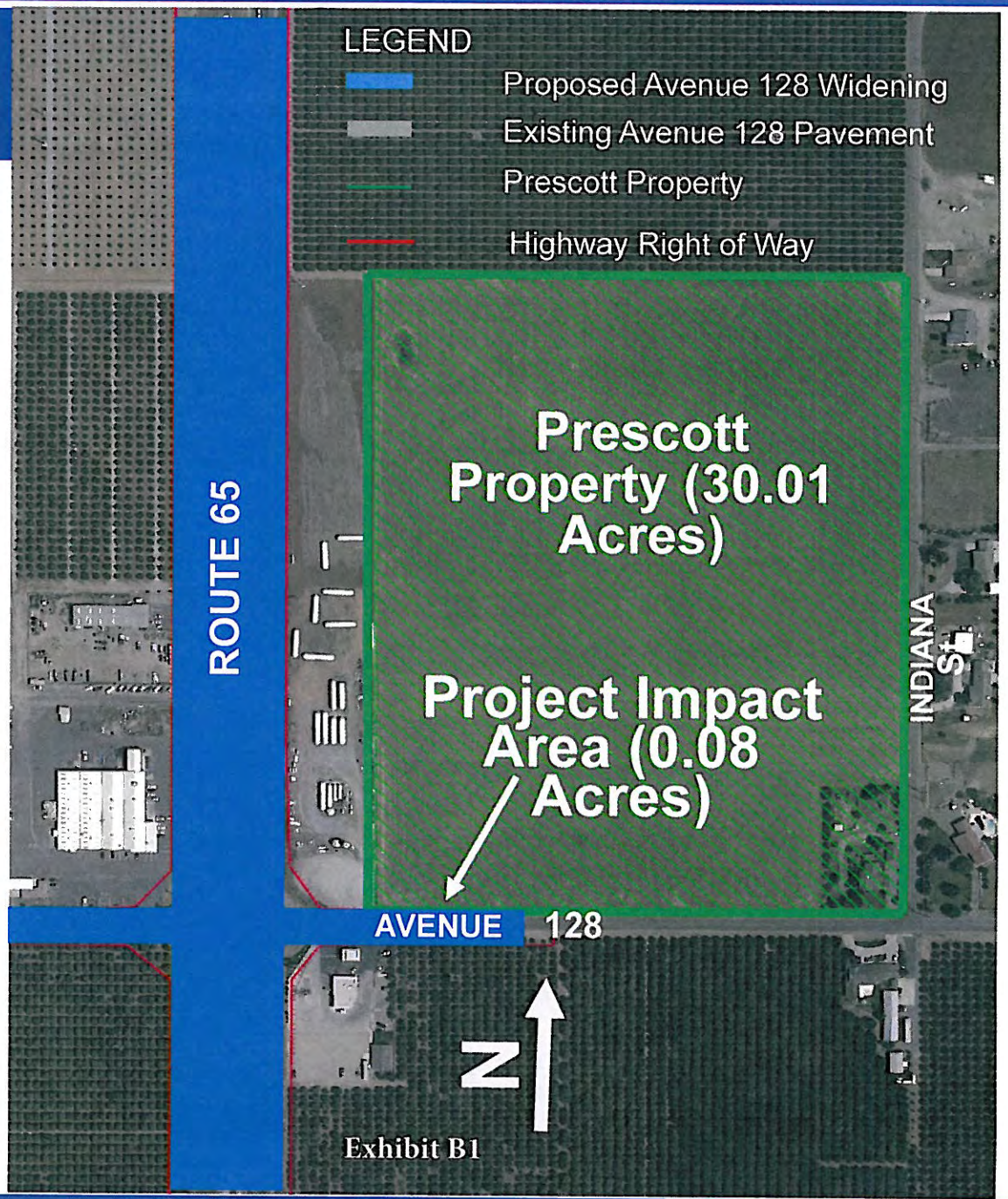


Exhibit B1

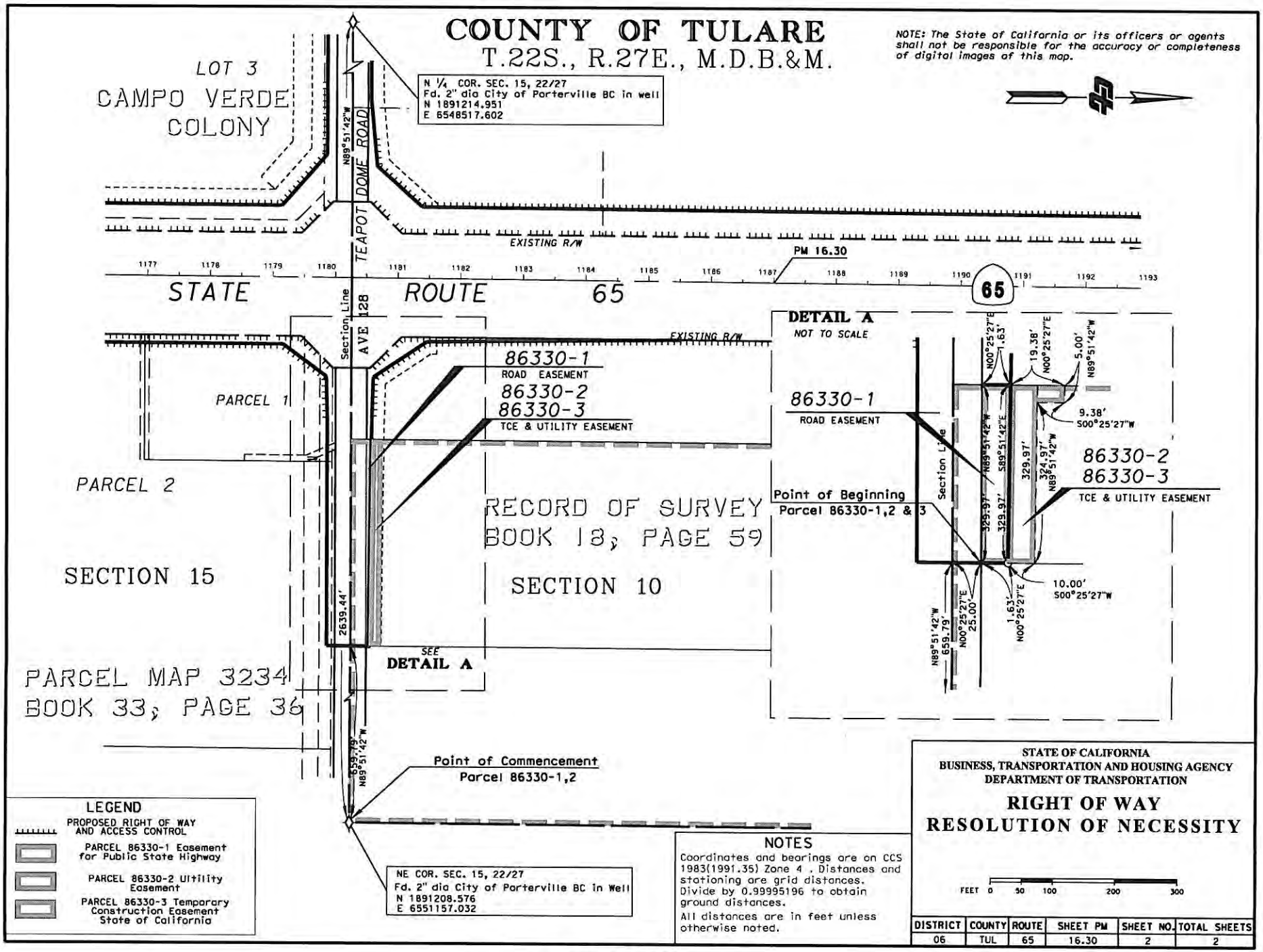


Exhibit B2

Exhibit B2

ATTACHMENT C

TRANSPORTATION COMMISSION
RESOLUTION NO.

C-21451

CALIFORNIA TRANSPORTATION COMMISSION
RESOLUTION OF NECESSITY
TO ACQUIRE CERTAIN REAL PROPERTY
OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN
HIGHWAY 06-Tul-65-PM 16.20 PARCEL 86330-1, 2, 3
OWNER: Thomas B. Prescott and Deborah J. Prescott, Trustees of The Prescott Living Trust Est. January 18, 2011

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

The hereinafter described real property is necessary for State Highway purposes and is to be acquired by eminent domain pursuant to Streets and Highways Code Section 102; and Code of Civil Procedure Section 1240.320 in that a portion of the property is being acquired for conveyance to Southern California Edison Company for utility purposes;

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

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

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

APPROVED AS TO FORM AND PROCEDURE

Attorney, Department of Transportation

APPROVAL RECOMMENDED

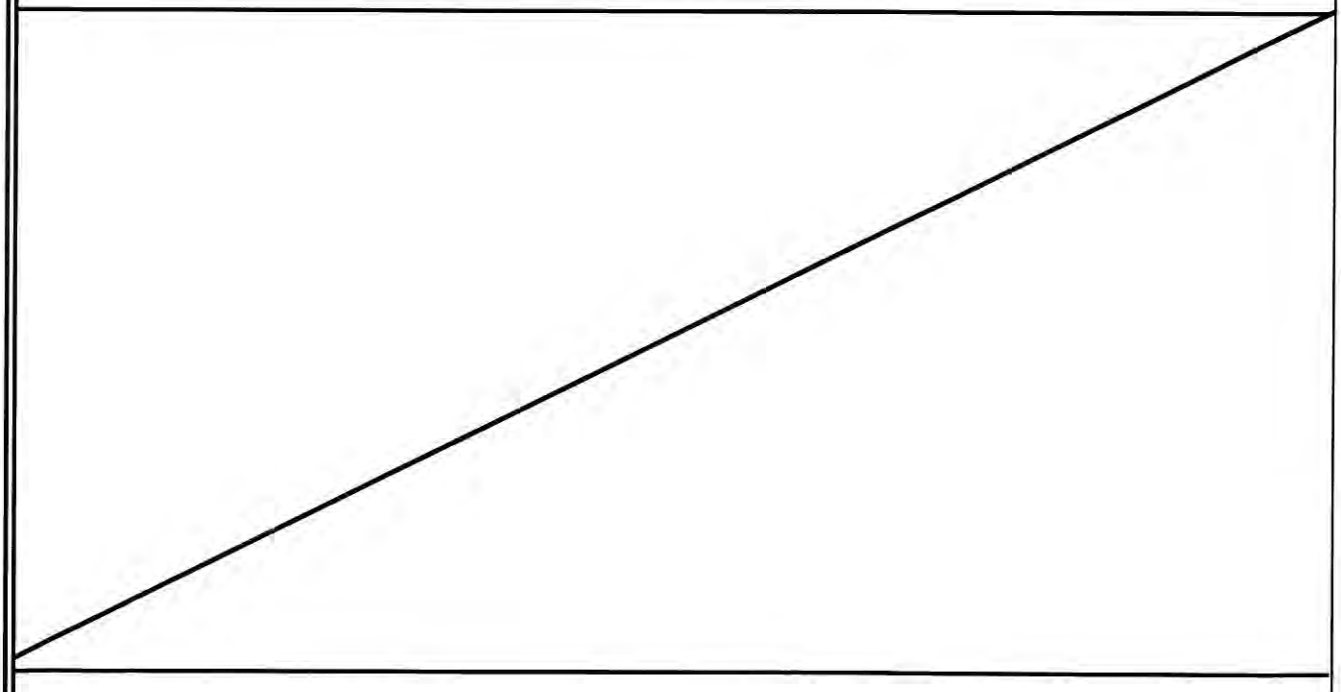
DIVISION OF RIGHT OF WAY

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

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

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

The real property or interests in real property, which the Department of Transportation is by this resolution authorized to acquire, is situated in the County of Tulare, State of California, Highway 06-Tul-65 and described as follows:



State of California
DEPARTMENT OF TRANSPORTATION

California State Transportation Agency

Memorandum

District	County	Route	Postmile	Project ID
06	TUL	65	16.3	0600000967

To: Terre Esquivel
Condemnation Unit

From: Mark D. Elower, PLS
R/W Engineering, District 6

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 Map (Exhibit B) – shows parcel(s) in detail
- RON Legal Description for parcel(s): (4 page(s))
  - 86330-1
  - 86330-2
  - 86330-3

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 _____
Professional Land Surveyor

Date 3-17-2016

Parcel 86330-1

An easement for State Highway purposes, in and to that portion of Section 10, Township 22 South, Range 27 East, Mount Diablo Meridian, according to the Official U.S. Government Township Plat thereof, lying easterly of the easterly right-of-way line of California State Highway 65, said portion more particularly described as follows:

(1) COMMENCING at the Southeast Corner of said Section 10, marked by a found 2 inch diameter Brass Cap Monument in well, with Brass Cap stamped "City of Porterville"; said corner bears South 89°51'42" East, a distance of 2639.44 feet from the South Quarter Corner of said Section 10, said corner marked by a found 2 inch diameter Brass Cap Monument in well, with Brass Cap stamped "City of Porterville"; THENCE (2) North 89°51'42" West, 659.79 feet along the south line of said Section 10; THENCE (3) Leaving said south line of Section 10, North 00°25'27" East, 25.00 feet to a point on the January 1895 northerly right of way line of Tulare County Road, "Teapot Dome Road" also known as, "Avenue 128", said point being the POINT OF BEGINNING; THENCE (4) North 00°25'27" East, 1.63 feet; THENCE (5) North 89°51'42" West, 329.97 feet to the easterly line of the 4.82 acre parcel surveyed by Charles W Roberts, RCE 15287, and recorded in a Record Of Survey in Book 18 of Licensed Surveys at Page 59 on May 10,1991; THENCE (6) South 00°25'27" West, 1.63 feet, along said easterly line of the 4.82 acre parcel to said January 1895 northerly right of way line of Tulare County Road; THENCE (7) South 89°51'42" East, 329.97 feet, along said January 1895 northerly right of way line of Tulare County Road to the POINT OF BEGINNING.

The bearings and distances used in this description are on the California Coordinate System of 1983, epoch 1991.35, Zone 4. Divide distances by 0.99995196 to convert to ground distances.

Parcel 86330-2

An easement for utility purposes in favor of Southern California Edison Company, in and to that portion of Section 10, Township 22 South, Range 27 East, Mount Diablo Meridian, according to the Official U.S. Government Township Plat thereof, lying easterly of the easterly right-of-way line of California State Highway 65, said portion more particularly described as follows:

((1) COMMENCING at the Southeast Corner of said Section 10, marked by a found 2 inch diameter Brass Cap Monument in well, with Brass Cap stamped "City of Porterville"; said corner bears South 89°51'42" East, a distance of 2639.44 feet from the South Quarter Corner of said Section 10, said corner marked by a found 2 inch diameter Brass Cap Monument in well, with Brass Cap stamped "City of Porterville"; THENCE (2) North 89°51'42" West, 659.79 feet along the south line of said Section 10; THENCE (3) Leaving said south line of Section 10, North 00°25'27" East, 25.00 feet to a point on the January 1895 northerly right of way line of Tulare County Road, "Teapot Dome Road" also known as, "Avenue 128";

THENCE (4) North 00°25'27" East, 1.63 feet to the POINT OF BEGINNING; THENCE (5) North 00°25'27" East, 10.00 feet; (6) THENCE North 89°51'42" West, 324.97 feet; THENCE (7) North 00°25'27" East, 9.38 feet; THENCE (8) North 89°51'42" West, 5.00 feet, to the easterly line of the 4.82 acre parcel surveyed by Charles W Roberts, RCE 15287, and recorded in a Record Of Survey in Book 18 of Licensed Surveys at Page 59 on May 10,1991; THENCE (9) South 00°25'27" West, 19.38 feet along said easterly line of the 4.82 acre parcel; THENCE (10) South 89°51'42" East, 329.97 feet to the **POINT OF BEGINNING.**

The bearings and distances used in this description are on the California Coordinate System of 1983, epoch 1991.35, Zone 4. Divide distances by 0.99995196 to convert to ground distances.

Parcel 86330-3

A temporary easement for the construction of State highway facilities and appurtenances thereto upon, over and across that portion of Section 10, Township 22 South, Range 27 East, Mount Diablo Meridian, according to the Official U.S. Government Township Plat thereof, lying easterly of the easterly right-of-way line of California State Highway 65, said portion more particularly described as follows:

(1) COMMENCING at the Southeast Corner of said Section 10, marked by a found 2 inch diameter Brass Cap Monument in well, with Brass Cap stamped "City of Porterville"; said corner bears South 89°51'42" East, a distance of 2639.44 feet from the South Quarter Corner of said Section 10, said corner marked by a found 2 inch diameter Brass Cap Monument in well, with Brass Cap stamped "City of Porterville"; THENCE (2) North 89°51'42" West, 659.79 feet along the south line of said Section 10; THENCE (3) Leaving said south line of Section 10, North 00°25'27" East, 25.00 feet to a point on the January 1895 northerly right of way line of Tulare County Road, "Teapot Dome Road" also known as, "Avenue 128";

THENCE (4) North 00°25'27" East, 1.63 feet to the POINT OF BEGINNING; THENCE (5) North 00°25'27" East, 10.00 feet; (6) THENCE North 89°51'42" West, 329.97 feet to the easterly line of the 4.82 acre parcel surveyed by Charles W Roberts, RCE 15287, and recorded in a Record Of Survey in Book 18 of Licensed Surveys at Page 59 on May 10,1991; THENCE (7) South 00°25'27" West, 10.00 feet along said easterly line of the 4.82 acre parcel; THENCE (8) South 89°51'42" East, 329.97 feet to the **POINT OF BEGINNING**.

The bearings and distances used in this description are on the California Coordinate System of 1983, epoch 1991.35, Zone 4. Divide distances by 0.99995196 to convert to ground distances.

Parcel 86330-3 (continued)

Rights to the above described temporary easement shall cease and terminate on December 31, 2018. Said rights may also be terminated prior to the above date by State upon notice to Owner.

ATTACHMENT D

Thomas B. Prescott and Deborah J. Prescott,
Trustees of the Precott Living Trust Est January 18, 2011
11020 Road 264
Porterville, California 93257
559.782.1903

RECD BY CTC
FEB 20 2015

To: Right of Way
2/20/15
copied to:
Stephen Mallec
2/20/14

February 16, 2015

Executive Director
California Transportation Commission
P.O. Box 942873, Mail Station 52
Sacramento, California 94273-0001

To Whom it May Concern;

As property owners of Parcel 86330-1, 2 of Project #0600000967 06-Tul-65-PM 16.20, we object to the adoption of the Resolution of Necessity. We oppose the fact that the property sought for acquisition is necessary for the project and feel that it does not meet the requirements set forth in CCP Section 1240.030.

As of the date of this written request to appear, we have not been provided information on how our property is needed for the project and how it will be put to use.

Please consider this letter our formal written request to appear before the Commission to raise questions on the necessity of our property for the project.

Sincerely,

Thomas B. Prescott

Thomas B. Prescott, Trustee

Deborah J. Prescott, Trustee

RECD BY CTC
APR 19 2016

Thomas B. Prescott and Deborah J. Prescott
Trustees of the Prescott Living Trust Est. January 18, 2011
11020 Road 264
Porterville, California 93257
559.782.1903

RON
Forward: Right of Way
Copy: Stephen Mailer

Rec'd 4/25/16

April 12, 2016

Executive Director
California Transportation Commission
P.O. Box 942873, Mail Station 52
Sacramento, California 94273-0001

To Whom it May Concern;

As property owners of Parcel 86330-1, 2, 3 of Project #0600000967, 06-Tul-65-PM 16.20, we object to the Adoption of the Resolution of Necessity. The project as planned or located will not be most compatible with the greatest public good or least private injury.

The proposed utility and design precludes us, the property owner, from installing curb, gutter, and drive approaches in front of our property at a distance equal to Tulare County standards of 30 feet from the centerline. The road width originally established in 1895 is no longer adequate for the rapidly changing environment facing Avenue 128 in Tulare County.

It should be noted that the property owners are not looking for compensation nor will they accept payment of any kind for the widening of Avenue 128 along their property from the State of California or the County of Tulare.

The property owners have proposed that as soon as elevations are set by the County of Tulare and or the State of California Department of Transportation, property owners, at their sole cost, will construct Type A2 curbs at a distance of 30' (thirty feet) north of Section Line 10, Township 22 South, Range 27 East. After which time curbing passes inspecting by the County, property owners will grant a road right-of-way easement for the use and purpose of a public roadway; and if, at any time thereafter said area of land shall cease to be used as a public roadway, then the same shall revert to said Grantors, their heirs or assignees at no cost.

Property owners will also grant a utility easement to Southern California Edison Company an additional strip of land 10' (ten feet) or if needed, 11' (eleven feet) north of their existing easement at no cost, provided poles are places north of curb that will be installed at 30' (thirty feet) north of Section Line 10.

If the project is allowed to proceed as planned, it would create a burden for us as property owners to remove and reinstall the planned improvements. Therefore, it is our desire to install the curb, gutter, and drive approaches on our property before the project starts, at no cost to the State or County as land owners have stated openly at all meetings and conversations with the State and the County.

It is for the above-mentioned reasons that we are requesting to appear before the Commission to contest that the project as planned will not provide the greatest public good and the least private injury.

Regretfully,

Thomas B. Prescott, Trustee

Deborah J. Prescott, Trustee

cc: Mike Ennis/Chairman
Board of Supervisors County of Tulare

Benjamin Ruiz, Jr., SE
Resource Management Agency County of Tulare

ATTACHMENT E

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY EDMUND G. BROWN JR, Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF RIGHT OF WAY
855 M STREET, SUITE 200
FRESNO, CA 93721
PHONE (559) 445-6237
FAX (559) 445-6118

Flex your power!
Be energy efficient!

April 27, 2016

Thomas and Deborah Prescott
11020 Road 264
Porterville CA 93257

TUL-65 PM Parcel 86330
EA 06-43409

Dear Mr. and Mrs. Prescott:

I am in receipt of your letter to the Executive Director, California Transportation Commission (CTC) dated April 12, 2016, regarding the acquisition of a portion of your property for the Tulare 65 widening project, herein known as parcel 86330-1, -2, -3.

As you are aware, the State has conducted a District Condemnation Evaluation Meeting and Condemnation Panel Review Meeting regarding your concerns on this project. As a part of these two reviews, it was decided that you would provide the property needed for the project via the donation process. Per the donation guidelines, you as the grantor, will donate the property to the State of California, thus waiving any right to monetary compensation. The Right of Way contract, mapping and deeds where sent to you electronically by Jan Hamilton, Associate Right of Way Agent, on April 25, 2016.

Per your April 12, 2016, letter, the State of California Department of Transportation (Caltrans) and the County of Tulare have agreed to allow you to construct curb and gutter as shown on Exhibit A, as attached. The reversion clause, should the roadway cease to be used by the public, has been added to easement deeds for parcels 86330-1. Parcel 86330-3 is a temporary construction easement deed and will expire on December 31, 2018, therefore the reversion clause will not be included.

The easement for Southern California Edison (SCE), parcel 86330-2, is a strip of land 10 feet in width at 26.63' from the section line. SCE will erect the power poles at the centerline of the 10' easement.

I believe Caltrans has addressed all of your concerns as provided in your April 12, 2016 letter. Please review the information provided to you by Ms. Hamilton. Once you have reviewed these documents she will be happy to meet with you again to resolve any remaining concerns, and execute the contract and deeds necessary to convey the required right of way for the project.

Should we be unable to reach an amicable negotiated settlement relating to the above issues, we will continue to prepare for your personal appearance at the May California Transpiration Commission Meeting. Your personal appearance has now been scheduled for May 18, 2016. Further information regarding the specific time and location for your appearance will be provided to you by May 5, 2016.

Should you have any questions please feel free to contact Ms. Hamilton at (559) 445-6174.

Sincerely,

CHANIN MCKEIGHEN
Acquisition/Condemnation Branch Chief