

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 11-12, 2002

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

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Brice D. Paris
Division Chief
Right of Way

Ref: APPEARANCE

RECOMMENDATION:

The Department of Transportation recommends the California Transportation Commission adopt Resolution of Necessity C-18650, which is the subject of this Appearance. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department of Transportation is requesting a resolution at this time. Adoption of Resolution of Necessity C-18650 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18650 - James M. Nelson & Rajeswari S. Nelson

03-But-99-PM 39.87-Parcel 031812-1,2,3 - EA: 338702 - Certification Date: 8/01/02 - RTL Date: 01/03 - Highway rehabilitation (Conventional Highway). Authorizes condemnation of land in fee for a State highway, an easement for utility anchor purposes, an easement for utility purposes, located in the city of Chico between Wilson Landing Road and Anita Road. APN 47-260-101; 47-260-102.

Attachments

SUMMARY OF ISSUES

INCREASED FLOODING

The property owners contend that the project design will cause flooding on the property. This project will not increase flooding. Existing drainage patterns will be continued. A nearby slough (Rock Creek) cannot meet current capacity needed during severe storms, but this issue of hydrology in the slough will be addressed with the Area Wide Drainage Improvement Project sponsored by Butte County and the Army Corps of Engineers.

NO LEFT TURN POCKET

Mr. Wally Roney, a neighbor who accompanied and advised Mr. Nelson, suggested that the striping plan of the project should include left-hand turn pockets in front of residences to reduce the risk for motorists who must cross the highway median to enter driveways on the opposite shoulder. This design feature was requested in light of the owners' perception that traffic speed and number of vehicles will increase on the rehabilitated highway. This Department has offered to include a left-turn pocket to serve a driveway on Mr. Nelson's property.

INCREASED TRAFFIC SPEED

This project will not increase speed or the number of vehicles on the highway. This project has features that will make left turns more visible for approaching traffic as it increases sight distance and adds paved shoulders.

During the Second Level Review held September 6, 2002, Mr. Nelson offered that the issues of traffic control and drainage seemed to be addressed adequately in the project plans. Disagreement over the adequacy of payment for existing land, improvements and damages resulting from the project fall under the heading of compensation.

FACT SHEET

Project Data 03-But-99-T61.5/71.5.

Location: In Butte County, North of the City of Chico on Rte. 99.

Limits: The Esplanade to 0.2 KM north of Broyles Road on Rte. 99.

Cost: \$8,970,000 construction cost and \$864,000 Right of Way costs.

Funding Source: 2002 SHOPP in the 03/04 year.

Number of Lanes: Existing: 2 lanes mixed flow- 3.6 meter traveled ways - 0.6-2.4 meter shoulders.
Proposed: 2 lanes mixed flow- 3.6 meter traveled ways- 2.4 meter shoulders.

Proposed Major Features: State Route 99 will remain a 2 lane facility however, shoulders will be widened to provide a continuous 2.4 meter width. A Clear Recovery Zone of 6 meters will be obtained.

Traffic: Existing (2000): 17000
Proposed (2010): 23000

Parcel Data Property Owner: Rajeswari and James Nelson

Parcel Location: North West of Keefer Slough Bridge to Anita Road.

Present Use: Residence and Agriculture

Area of Property: Two APNs- one 4.20 acre parcel and one 40.43 acre parcel = 44.63 acres or 1,944,083 SF.

Area Required: The easement acquisition and partial fee have areas of 398 square feet (0.009 acres) and 36,833 square feet (0.846 acres) respectively from an overall property area of 44.63 acres.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Resolution of Necessity Review Panel met at 1:00 PM, September 6, 2002 at the Caltrans Maintenance yard at 2535 Notre Dame Blvd. in Chico. Mr. James Nelson and Mr. Wally Roney represented Mr. and Mrs. Nelson's interests. The Review Panel included Yvonne Von Brauchitsch, Headquarters Legal Division, Linda Fong, Headquarters Design Division and Charles Carrillo, Headquarters Right of Way.

Representatives from North Region Design and Right of Way divisions were present to provide project information. This report summarizes the findings of the Review Panel with regard to the four criteria required for a Resolution of Necessity and makes recommendation to the Deputy Director for Project Delivery.

NEED FOR THE PROJECT

This project is a highway Resurfacing, Restoration and Rehabilitation (RRR) project. It lies within a segment of Route 99 that is part of the National Highway System. The project is in Butte County between a point just north of Broyles Rd. and a point just north of Garner Lane north of Chico. In this vicinity the existing State Route is a conventional two-lane highway with narrow cross-section and little or no shoulders for vehicle recovery or off pavement parking. Current traffic consists of commuters, recreational, commercial and agricultural users in this rural setting.

This project is in accordance with regional planning documents and complies with the objectives, goals and policies of the 1998 Butte County Association of Governments (BCAG) long range Regional Transportation Improvement Plan. A Negative Declaration was adopted on January 8, 2001. A Categorical Exclusion was approved by FHWA on April 12, 2001 regarding NEPA requirements.

Maintenance costs for this section of roadway are excessive. The pavement conditions warrant roadway rehabilitation. Also, the existing 28 foot (8.4 m) roadway cross section is nonstandard for the over 11,000 annual average daily trips traffic using this roadway. The desirable cross section for an RRR project with this traffic volume is 40 feet (12.0 m), which is the proposed width for this project roadbed.

PROJECT DESIGN

The proposed project will widen the right of way and shift the traveled way slightly westward to straighten the highway. Resurfacing and striping will finish a standard 40-foot (12m) cross-section, one lane in each direction, with standard eight-foot (2.4m) shoulders on both sides. A 20-foot (6m) recovery zone will be provided on either side of the highway except in the vicinity of Keefer Slough Bridge. Portions of the project north and south of Keefer Slough Bridge will contain a continuous two-way left turn lane. Total project costs are estimated at \$9.8 million.

NEED FOR THE PARCEL

The residential and agricultural property owned by Mr. and Mrs. Nelson is needed for construction staging and for the adjusted alignment of Route 99. Proposed clear recovery zones, shoulders, relocation of roadside drainage ditches and utility pole relocation require the planned width of right of way fronting along the Nelson's property. The planned alignment avoids numerous other residential structures and environmental issues that would arise if the project were realigned to the east.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record in compliance with Government Code Section 7267.2.

PANEL RECOMMENDATION

The Panel concludes that the District's design 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 to be condemned is 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 California Transportation Commission.



CHARLES CARRILLO
R/W Division, Panel Chair

I concur with the Panel's recommendation:



BRENT FELKER
Deputy Director for Project Delivery

**PERSONS ATTENDING SECOND LEVEL REVIEW PANEL HEARING ON
September 6, 2002**

Mr. James M. Nelson, Owner

Mr. Wally Roney, Advisor

Department of Transportation:

Heidi Sykes, North Region Design Supv.

Dan Newton, Project Design Engineer

Don Grebe, North Region Right of Way

Jeff Phipps, North Region Right of Way

Julie Franklin, Right of Way

Linda Fong, Design, Panel Member

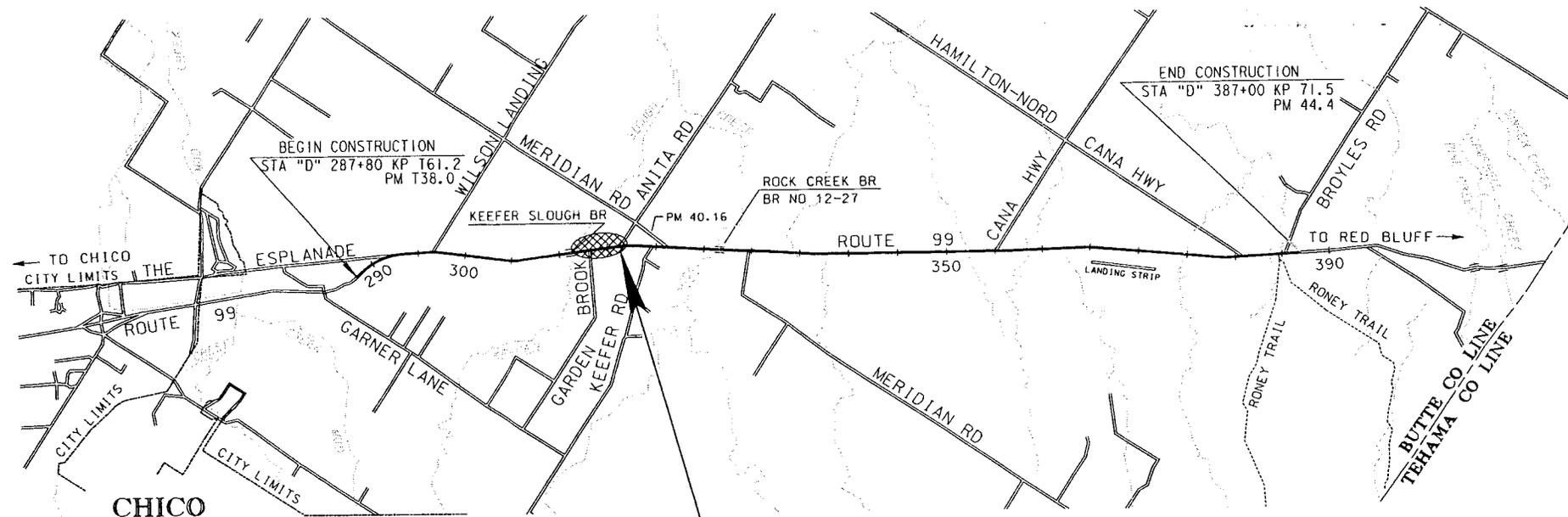
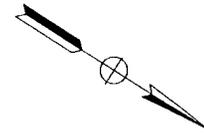
Yvonne Von Brauchitsch, Attorney, Panel
Member

Charles Carrillo, Right of Way, Panel Chair

CHRONOLOGY OF CONTACTS

- 12/7/2001 Appraisal inspection of property with Mr. Nelson.
- 5/28/2002 Appointment made by Jeff Phipps for the first written offer.
- 5/31/2002 First written offer made to Mr. Nelson.
- 6/13/2002 Wells inspection made with Mr. Nelson.
- 6/18/2002 Second offer is made of increased amount to meet Mr. Nelson's demands. Another increased demand is made.
- 6/28/2002 A Notice of Intent to condemn interest in real property is hand-delivered to Mr. Nelson.
- 7/11/2002 Revision to Notice of Intent is mailed to Mr. Nelson.
- 7/18/2002 Counter offer for well replacement costs is received from Mr. Nelson and his contractor.
- 7/22/2002 Mr. Nelson writes a letter to the California Transportation Commission requesting an appearance.
- 7/25/2002 Meeting with Mr. Nelson to discuss differences in opinions of value.
- 7/26/2002 Per conversation with Mr. Nelson, specifications for concrete block wall is mailed to Mr. Nelson.
- 8/5/2002 Conversation with Mr. Nelson. 1st Level Review meeting is scheduled.
- 8/15/2002 1st Level Review meeting is held in Chico.
- 8/17/2002 Plans are mailed to Mr. Nelson, an offer to construct a new driveway is made per Mr. Nelson's request.
- 8/22/2002 Meeting with Mr. Nelson to attempt to settle.
- 9/16/2002 Revised Notice of Intent is mailed to Mr. Nelson and his attorney.
- 9/26/2002 2nd Level Review meeting is held in Chico.

- 10/1/2002 Conversation with attorney William A. Ward. Mr. Nelson's appearance is rescheduled to the November 2002 meeting of the CTC.
- 10/17/2002 Conversation with Mr. Nelson. A negotiation meeting is set for Tuesday, October 22, 2002.



PARCELS 031812-1, 2, & 3
TO BE CONDEMNED

RESOLUTION OF
NECESSITY MAP

NO SCALE

DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.0

T23N R1E MDM

SEC 31

EXHIBIT B



JAMES M. & RAJESWARIS. NELSON

APN 47-260-101

APN 47-260-102

PARCEL 031812-1

214.138
N41°59'46"W

E 2007400.000
N 737800.000

APN 47-260-194

N88°58'58"E
2007500.000

N 737700.000

POB
281.457

3.182

139.380

71.576

ROUTE 99

312

TO RED BLUFF

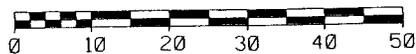
313

TO CHICO

SEE EXHIBIT "C"

GARDEN BROOK DR.

RESOLUTION OF
NECESSITY MAP



DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
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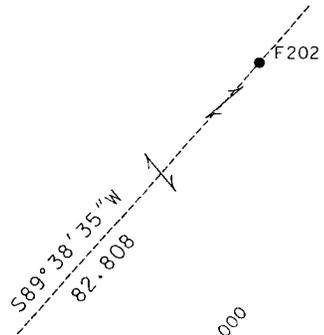
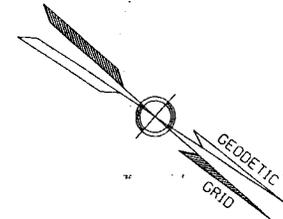
T23N R1E MDM

EXHIBIT C

SEC 31



JAMES M. & RAJESWARIS. NELSON
APN 47-260-102



PARCEL 031812-1

N41°59'46"W 214.138
71.576

N41°31'50"W 249.905

SEE EXHIBIT "B"

SEE EXHIBIT "D"

313

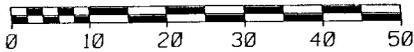
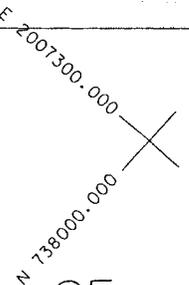
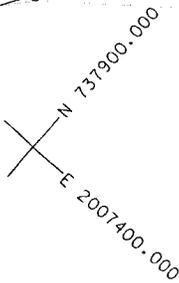
TO CHICO

314

TO RED BLUFF

315+00

GARDEN BROOK DR.



RESOLUTION OF NECESSITY MAP

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03	BUT	99	64.16/ 39.87	C-33870-18.2

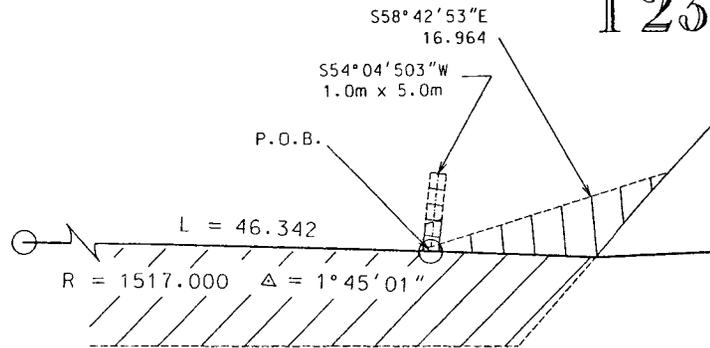
T23N R1E MDM

EXHIBIT D



SEC 31

JAMES M. & RAJESWARIS. NELSON
APN 47-260-102



DETAIL

PARCEL 031812-2

PARCEL 031812-1

N41°31'50"W
249.905

PARCEL 031812-2
PARCEL 031812-3

S58°42'53"E
16.964
1.0m x 5.0m

PARCEL 031812-2
L = 56.988
R = 1517.000
Δ = 2°09'09"

S89°48'12"W
38.134
S61°32'19"E

SEE EXHIBIT "C"

TO CHICO 315+00

ROUTE 99

316

TO RED BLUFF

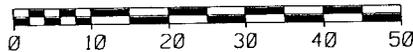
F57

F210

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E 2007300.000

APPROX. SECTION LINE

RESOLUTION OF NECESSITY MAP



DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.3