

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 16-17, 2004

Reference No.: 2.4a.(3)
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 (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-18918, 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 is requesting a resolution at this time. Adoption of Resolution of Necessity C-18918 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18918 - Brutocao Vineyards

01-Men-175-PM 2.0/2.3-Parcel 11211-1,2 - EA: 431509 - Certification Date: 07/04 - RTL Date: 07/04 - (Conventional Highway - curve improvement). Authorizes condemnation of land in fee for a State highway, a temporary easement for highway construction. Located near the town of Hopland at 2300 Highway 175.

SUMMARY OF ISSUES

PROPERTY OWNERS CONCERNS:

Brutocao Vineyards requested an appearance before the California Transportation Commission (Commission) to contest a proposed safety project to increase a horizontal curve radius and widen shoulder areas on Mendocino Route 175 near Hopland.

Owner:

The proposed highway project is not necessary for the public good.

Department Response:

This is a safety project. It is necessary to correct a high accident rate at the proposed project location. Accidents are approximately 2.25 times the statewide rate for similar properties.

Owner:

The project as planned is not commensurate with the most public good and least damage to private property.

Department Response:

Realigning the curve to accommodate prevalent traffic speed and providing adequate shoulders for vehicle recovery is the most effective and practicable way to approach the accident problem. Project effects on the subject property have been minimized by Department adjustments to the fee and easement areas required, and by changes to proposed construction operations at the owner's request.

Owner:

The property being sought is not necessary for the proposed project.

Department Response:

The property is required to accommodate the new shoulders and reduce the existing curve radius.

Owner:

The owner offered that a speed reduction zone posted in the curve area would reduce prevalent speed and not require new right of way. Mr Brutocao also suggested that a school bus stop location at some distance from the project would be served by establishing a reduced speed zone in the area.

Department Response:

The Department contends that the current prevalent speed will continue after project Construction and that an absence of lane and shoulder width at the present curve provides no recovery for errant vehicles. Among several alternatives studied, the proposed curve realignment of the project will be the most effective in reducing the accident rate at this location.

Attachments

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA: 01-Men-175- KP 3.2/3.7

LOCATION: Highway 175 just east of Hopland

LIMITS: Near Hopland from 1.4 km to 1.9 km east of East Side Road.

CONTRACT LIMITS: KP 3.2/3.7

FUNDING SOURCE: SHOPP 20.10.201.010 FY4/5
Programmed dollars: Construction \$630,000
Right of Way \$176,000

NUMBER OF LANES: Existing: 2 lanes
Proposed: 2 lanes

PROPOSED MAJOR FEATURES:

INTERCHANGES: None

OTHER: Proposed 1,640-foot radius with 7 per cent super, a 12-foot lane in each direction with 4-foot shoulders and a 20-foot clear recovery zone.

TRAFFIC: ADT (2004): 2890
ADT (2024): 4780

PARCEL DATA:

PROPERTY OWNER: Brutocao Vineyards

PARCEL LOCATION: North side of highway 175 at PM 2.20(KP 3.54)

PRESENT USE: Agricultural-vineyard

AREA OF PROPERTY: 127.61 acres (51.64Ha.)

AREA REQUIRED: 1.02 acres (0.41 Ha) in fee
0.76 acre (0.31 Ha) TCE

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Resolution of Necessity Review Panel met with the property owners on April 7, 2004, near the project site in Hopland. Panel members included Vern Rhinehart, Headquarters Right of Way; Linda Fong, Division of Design; and Ardine Zazzeron, San Francisco Legal Section. Brutocao Vineyards was represented by Mr. Len Brutocao, Jr., Mr. David Brutocao, and Mr. Leonard Brutocao, Sr. The meeting was held at the Brutocao Vineyards offices.

OWNERS' CONCERNS AND DEPARTMENT RESPONSES

Owner's Concerns: Mr. Brutocao expressed concern that any portion of the vineyard was being taken in fee for the proposed project. He also objected to incidental destruction of some existing vines in the area of the proposed temporary construction easement. Mr. Brutocao offered his alternative plan, a speed reduction zone with increased superelevation on the curve, to remove the necessity for new construction on his property and its side effects. He also suggested that a reduced speed zone would provide better safety for his workers, who cross the highway near the curve, and for the equipment they operate on the highway.

District Responses: Department engineering staff explained that increasing the curve radius and shoulder widening are the best solutions to reduce accidents in the project area. The shoulder improvement also provides better safety for pedestrian workers and moving agricultural equipment on the highway. The Department agreed to reduce the area of fee taking from 1.30 acres to 1.02 acres and increase the temporary construction easement by the same amount. Moreover the proposed location of temporary construction lighting will be adjusted to minimize its affect on existing vines.

NEED FOR PROJECT

This is a safety project. The curve reduction and shoulders are needed to improve safety at the curve. Accidents over the five-year span 1996 to 2001 include eight collisions and three fatalities. The owner had erected k-rail barriers in the curve area to deflect errant vehicles that enter the curve at the prevalent speed of 54 MPH, and then depart the highway despite existing signs that warn drivers to slow to 35 MPH. The proposed curve reduction would accommodate the prevalent speed, and the new shoulders will allow errant vehicles to recover.

Existing Highway 175 in the vicinity of the project is two-lanes, each 10 feet (3 meters) wide, with one-foot (.3 meter) shoulders. The existing horizontal curve is 300 meters radius (984 ft.), with a 31-meter crest vertical curve to the west. The project will flatten the horizontal curve to a 500-meter radius (1640 feet), elongate the vertical curve and widen the shoulders to 1.2 meters (4 feet).

PROJECT PLANNING AND LOCATION

Highway 175 is a minor arterial rural route connecting Highway 101 and the community of Hopland with Highway 29 and other communities in Mendocino and Lake counties. Its primary use is agricultural near Hopland and the subject property. Several alternatives were considered:

No-build: This alternative is not acceptable due to the high accident and fatality rates in the project location. The overall collision rate at the project location is 2.25 times the statewide average. Fatalities are 38 times the statewide average for this type of highway facility.

Northerly Alignment: This routing would avoid relocation of existing power lines, but would require taking additional vineyard property. Increases in project scheduling time, construction and right of way costs make this alternative infeasible.

Preferred Alternative: This alternative will increase the horizontal curve radius, standardize the superelevation rate and increase lane and shoulder width to current standards. Almost the entire project can be completed within existing right of way.

NEED FOR THE PARCEL

The property owned by Brutocao Vineyards is the only property to be acquired: 1.78 acres total; 1.02 acres in fee; and 0.76 acre in Temporary Construction Easement. The larger parcel is 127 acres of active vineyard. The remaining project construction will take place along approximately 0.5 kilometer (0.3 mile) of existing right of way.

STATUTORY OFFER

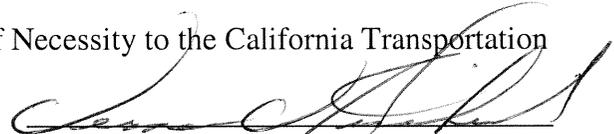
The Department has appraised the fee interest of the subject property and offered the full amount of the appraisal to the property owners of record in compliance with Government Code Section 7267.2.

PANEL RECOMMENDATION

The offer to purchase property rights was made in compliance 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 the 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.



VERNON V. RHINEHART, Chair
Office of Project Delivery
Division of Right of Way
Panel Chair

I concur with the Panel's recommendation:



J. MIKE LEONARDO
Acting Chief Engineer

Persons Attending the 2nd Level Review, April 7, 2004

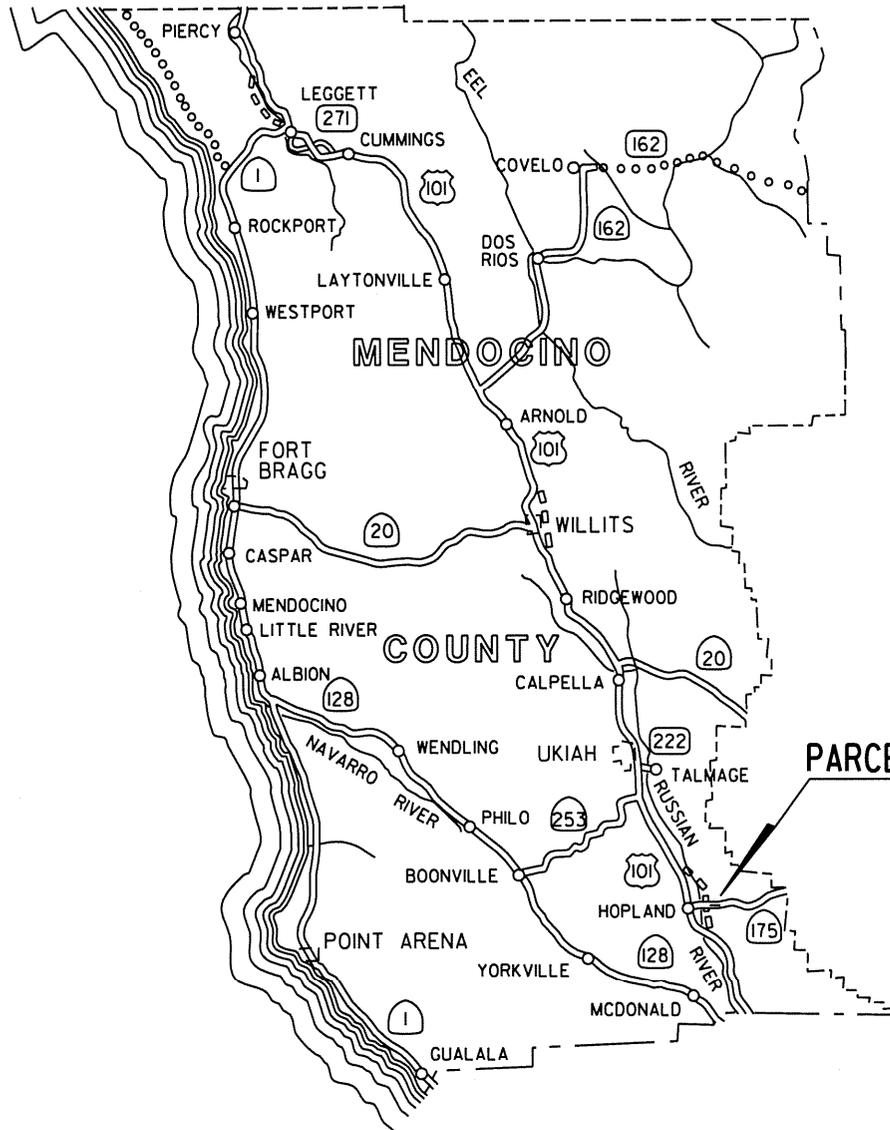
Brutocao Vineyards:

Len Brutocao, Jr. –V.P., Vineyard Operations
David Brutocao- Brutocao Cellars
Len Brutocao, Sr., -owner

Department of Transportation:

Vern Rhinehart – HQ Right of Way, Panel Chair
Linda Fong – HQ Design, Panel Member
Ardine Zazzeron- District 4 Legal Office, Panel Member
Matt Brady – District 01 Project Delivery
Alan Escarda – District 01 Project Manager
Jim Hall – North Region Right of Way Manager
Fermin Barriga – District 3 Design
Ed Fitzgerald – District 01 Right of Way
Chuck Carrillo –HQ Right of Way, Moderator

EXHIBIT A



PARCEL 11211



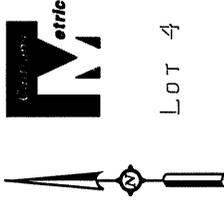
SCALE IN MILES

LOCATION MAP

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION & HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION
DISTRICT 1
RESOLUTION OF NECESSITY MAP
01-MEN-175-KP3.2/3.7
(PM 2.0/2.3)

EA 431509

A PORTION OF THE DOOLEY RANCH
PER M.C. 1, DR.5, PG.18, M.C.R.
WHICH LIES WITHIN THE RANCHO DE SANEL



LOT 4

LOT 5
QUITCLAIM DEED
DOC # 2003-09652
REC. 04/17/2003

QUITCLAIM DEED
DOC # 2003-09647
REC. 04/17/2003

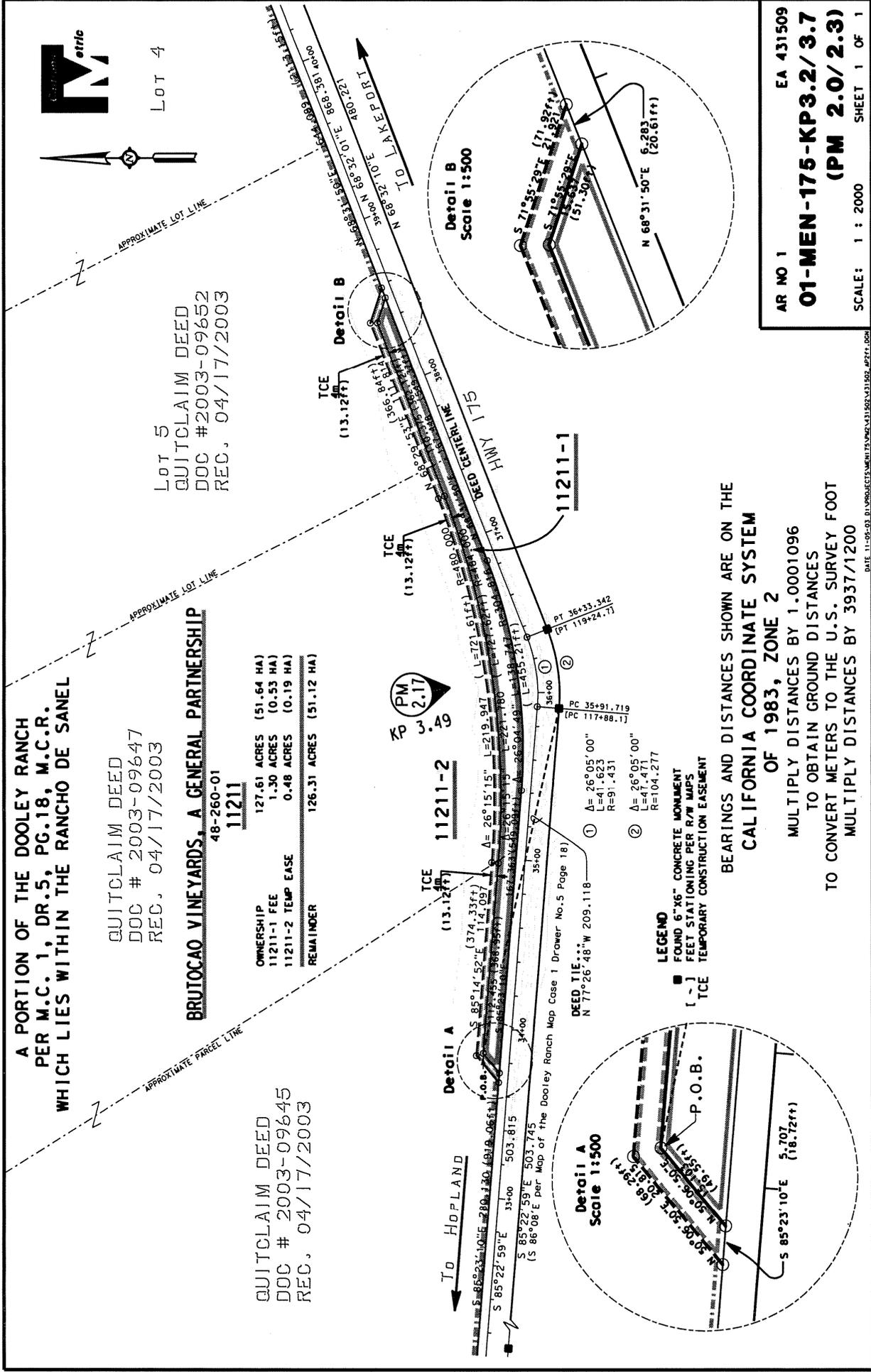
BRUTOCAO VINEYARDS, A GENERAL PARTNERSHIP

48-260-01

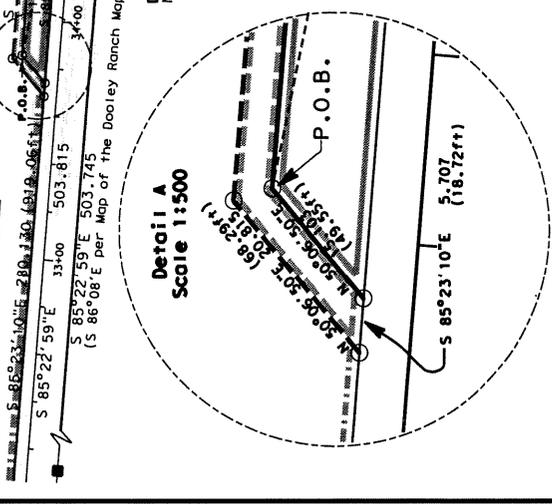
11211

OWNERSHIP	127.61 ACRES (51.64 HA)
11211-1 FEE	1.30 ACRES (0.53 HA)
11211-2 TEMP EASE	0.48 ACRES (0.19 HA)
REMAINDER	126.31 ACRES (51.12 HA)

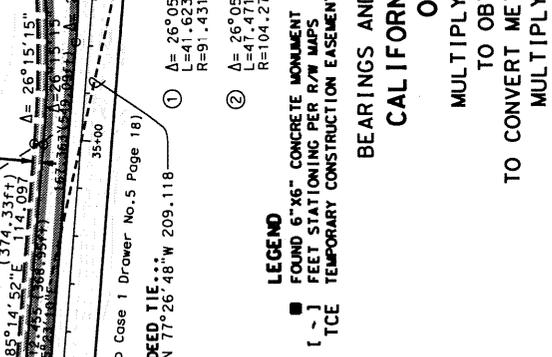
QUITCLAIM DEED
DOC # 2003-09645
REC. 04/17/2003



Detail A
Scale 1:500



Detail B
Scale 1:500



LEGEND
 [] FOUND 6"x6" CONCRETE MONUMENT
 [-] FEET STATIONING PER R/W MAPS
 TCE TEMPORARY CONSTRUCTION EASEMENT

BEARINGS AND DISTANCES SHOWN ARE ON THE
CALIFORNIA COORDINATE SYSTEM
OF 1983, ZONE 2
MULTIPLY DISTANCES BY 1.0001096
TO OBTAIN GROUND DISTANCES
TO CONVERT METERS TO THE U.S. SURVEY FOOT
MULTIPLY DISTANCES BY 3937/1200

AR NO 1 EA 431509
01-MEN-175-KP3.2/3.7
(PM 2.0/2.3)
SCALE: 1 : 2000 SHEET 1 OF 1

DATE: 11-05-03 BY: PROJECTS\METRICS\JANUARY\31502\4274.DWG