

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 14-15, 2005

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

From: CINDY McKIM
Chief Financial Officer

Prepared by: Bimla G. Rhinehart
Division Chief
Right of Way and
Land Surveys

Ref: APPEARANCE

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-19171, 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-19171 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-19171 - Bradley K. Sparks, et ux.

06-Fre-180-PM 54.56 - Parcel 85426-1A, 1B, 2 - EA: 342339-3000C - Certification Date: 03/01/06 - RTL Date: 07/01/06 - (Freeway - new alignment). Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, a temporary easement for freeway construction, underlying fee, together with all of those certain improvements which straddle the right of way line with an easement to enter the remaining ownership to remove such improvements. Located in the city of Fresno at 2730 W. Whitesbridge Road. APN 458-080-35.

An update to the November 2005 Commission Book Item is included with this submittal for information.

Attachments

UPDATED SUMMARY OF ISSUES

On November 3, 2005, proposed resolution C-19171 was presented as an appearance item to the California Transportation Commission (Commission) for adoption. The property owner, Mr. Bradley K Sparks, the owner of Fresno Tractor, Inc. and Heavyquip, Inc. appeared on his own behalf to challenge the resolution.

The Commission deferred action on the resolution of necessity and instructed the Department to investigate two matters. The following is a description of the concerns that the Commission instructed the Department to investigate and the Department's response.

Commission:

The Department is to pursue discussions with the city of Fresno (City) to inquire if the City would accept relinquishment of Whitesbridge Road with the condition that the City could not construct a median island on Whitesbridge Road.

Department Response:

The District met with the City's Department of Public Works and discussed the relinquishment of Whitesbridge. The City was not interested in accepting a relinquishment with the condition that a median could not be constructed on Whitebridge Road. Acceptance with said condition would not be consistent with the Circulation Element of their General Plan.

Owner:

Investigate the decertification and sale of the landlocked parcel to the north of the Sparks property.

Department Response:

After the first level meeting with Mr. Sparks the District investigated the need for the excess parcel located north of the Spark's property. The parcel is landlocked and zoned M1 (light industrial). A twenty-foot strip of land adjacent to the new right of way will be needed during the construction phase of State Route 180. The District decertified the excess parcel, (Director's Deed (DD) 78136-01-01), 84,724 square feet, and the parcel was in the process of being appraised at the time of the November, 2005 Commission meeting. Upon completion of the appraisal of said parcel an offer to sell the surplus land was made to the two adjoining owners, Mr. Sparks and Mr. Guerrero, on November 7, 2005. A private oral auction will be held for the two owners, or their authorized representative, on November 29, 2005.

The Department's need for the adoption of the resolution of necessity exists regardless of the disposition of these two issues, both of which can be broken down into areas of compensation. The proposed access control from the Sparks property along Marks Avenue is necessary for the safety of the traveling public as they enter the State Route 180 eastbound on ramp. Whether or not the median on Whitesbridge Road is installed or the excess land sale is consummated, the

Department's acquisition of access rights from the Sparks property is essential to insure the safety component on this portion of the project.

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.

DONALD GREBE
Office Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

RICHARD D. LAND
Chief Engineer

Attachments

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA: 06-Fre-180-PM R53.4/R55.8 (KP R86.0/R89.8)

Location: State Route 180 in and near the city of Fresno, in Fresno County

Limits: From 0.3 km west of Brawley Avenue to 0.2 km east of West Avenue

Cost: Right of Way cost estimate \$8,900,000
Construction cost estimate \$36,550,000

Funding Source: Locally Funded State Highway Projects 400.000 (Tax Measure)

Number of Lanes: Existing: Two lanes conventional highway (Whitesbridge Avenue)
Proposed: Four to six lanes on new freeway alignment

Proposed Major Features Interchanges: Marks Avenue
Grade Separation: Hughes-West Diagonal.
Other: A frontage road, north of the freeway, between Marks Avenue and Hughes-West Diagonal

Traffic: Construction Year (2008)
Average Daily Traffic (ADT) (year 2008): 20,400
Proposed ADT (year 2028): 69,000

PARCEL DATA:

Property Owner: Janet L. and Bradley K. Sparks.

Parcel Location: Assessor's Parcel Number (APN) 458-080-35 is located on the northeast Quadrant of the Marks Avenue and Whitebridge Road Intersection, at 2730 Whitebridge Road, Fresno.

Present Use: Business – Fresno Tractor, Inc. and Heavyquip, Inc.

Area of Property: 7.1 Acres (28,745 square meters)

Area Required: Parcel 85426-1A = 0.06 Acres (252.1 square meters) in fee
Parcel 85429-1B = 0.14 Acres (573.4 square meters) underlying fee
Parcel 85426-2 = 0.1 Acres (390.4 square meters) temporary
construction easement
Total Area = 0.3 Acres (1,215.9 square meters)

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Resolution of Necessity Review Panel (Panel) met August 4, 2005 in Fresno. The Panel members consisted of Donald Grebe, Department Headquarters (HQ's) Right of Way; Richard B. Williams, Department HQ's Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Right of Way, was Secretary to the Panel. Mr. Bradley Sparks, owner of Fresno Tractor, Inc. and Heavyquip, Inc., appeared on his own behalf to challenge the resolution. The challenge was based on the need for the parcel.

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 Chief Engineer.

NEED FOR THE PROJECT

The existing State Route (SR) 180 is an east-west two-lane conventional highway with straight tangent alignment, level grade and good sight distance. The roadway has two 3.6-meter wide lanes and 0.0 to 0.6-meter wide shoulders constructed of asphalt concrete (AC). The route provides the primary passage between the cities of Kerman and Fresno with a high volume of local traffic generated by commuters between the two cities.

The proposed project will:

1. **Relieve traffic congestion:** Level of Service (LOS) on the existing SR 180 between Brawley Avenue and Hughes-West Diagonal is expected to be F in 2010. The proposed project would provide a LOS D or better in 2028, for 20-year design period, conforming to the target LOS D or better.
2. **Improve safety:** Freeways in general provide safer driving than conventional highways. Freeways would avoid or minimize potential head-on collisions and provide safe passing opportunities. This proposed SR 180 West Freeway project would also improve traffic safety on local streets in the vicinity.
3. **Proved route continuity:** This project completes the planned SR 180 West Freeway between Brawley Avenue and SR 99. Segment 1 of the SR 180 West Freeway, from SR 99 to Hughes-West Diagonal, was completed in May 2004. This project, also known as SR 180 West Segment 2, will complete the freeway alignment from Brawley Avenue to Hughes-West Diagonal.
4. **Consistent with local planning and development:** The Council of Fresno County Governments (COFCG) is the designated Metropolitan Planning Organization for Fresno County and is the responsible agency for developing and maintaining a travel demand model, which meets the current requirements of the Clean Air Act. The Department used the COFCG's 2025 travel demand model as a basis to develop the traffic forecast volumes for this project. The traffic projection model used accounts for the current regional growth patterns, and local growth trends that have led to increased traffic demand. The land use

within the area of the project was provided by COFCG and is consistent with the current City and County land use plans.

The project is funded by local sales tax, Measure "C", which is administered by the Fresno County Transportation Authority (FCTA). This project has been identified in their Expenditure Plan as early as 1991. Since that time, there has been widespread support from the general public, the city of Fresno, the county of Fresno, and rural communities to the west.

PROJECT PLANNING AND LOCATION

The project is located in the incorporated area of the city of Fresno, outside the city but within the county limits in Fresno County. The proposed facility begins as a four-lane freeway from Brawley Avenue to Marks Avenue. It becomes a six-lane freeway between Marks Avenue and 0.2 kilometers east of West Avenue, where the facility connects with the existing six-lane freeway segment, Segment 1, completed May 2004. There will be a partial cloverleaf interchange at Marks Avenue and a grade separation at Hughes-West Diagonal.

The project is to be locally funded (Fresno County Sales Tax Initiative - Measure C). The 2004 construction cost estimates is \$37 million and the right of way cost estimate is \$9 million. The project is scheduled for advertisement in May 2006.

On August 11, 1994, a Project Report was approved for a two-lane expressway between Brawley Avenue and Hughes-West Diagonal and a four-lane freeway from Hughes-West Diagonal to SR 99.

Segment 2 of the project from Brawley Avenue to Hughes-West Diagonal, previously planned to be an expressway facility, is no longer able to meet the projected 20-year traffic demand due to changes in the general plan and local zoning, regional growth patterns and local growth trends. A freeway facility alternative was investigated in the 1996 Environmental Assessment, but traffic demand did not warrant selection of the freeway alternative. An Environmental Reevaluation approved on November 8, 2004, and CEQA Addendum approved on October 25, 2004, addressed design changes related to constructing the freeway facility instead of the expressway facility, incorporating construction of the interchange at Marks Avenue and conversion of the interchange at the Hughes-West Diagonal to a Grade Separation, along with cul-de-sacs at Whitesbride Road, Valentine Avenue and Hughes Avenue.

A supplemental project report incorporating these changes was approved on December 15, 2004.

NEED FOR SUBJECT PROPERTY

The city of Fresno has designated Marks Avenue an Industrial Arterial and the existing cross section for the street is per the city standard. The city of Fresno does not have a specific plan line for its alignment on Marks Avenue as the street is centered along the section line thereby

necessitating the need for property owners on both sides of the street to provide equal amounts of right of way along the street frontage.

The original freeway conceptual design recommended a spread diamond interchange at Marks Avenue and right of way was purchased in 1971 based on that design. Increased traffic numbers and the elimination of a proposed interchange at the Hughes-West Diagonal, due to inadequate spacing between the interchange at SR 99 and Hughes-West Diagonal, now warrant the reconfiguration of the interchange to a partial cloverleaf interchange at Marks Avenue. The revision to the interchange is documented in a superseded Freeway Agreement approved by the city of Fresno on June 7, 2005. The configuration of the proposed interchange requires a 0.2 acre sliver of land to be purchased from the property owner along with a 0.1 acre temporary construction easement. The required 0.2 acres of the subject parcel is within the proposed improvements for the SR 180 West Freeway Segment 2.

The peak hour movement on the northbound slip on-ramp from northbound Marks Avenue to eastbound Route 180 is projected to increase from 634 vehicles per hour (vph) in 2008 to 1350 vph in 2028. The 1350 vehicles correspond to a flow rate of 1504 passenger cars per hour (pcph). This ramp will be metered on opening day, and the two lanes will be necessary for storage of vehicles stopped at the ramp meters.

More than 75 percent of the vehicles in the northbound direction on Marks Avenue will take the eastbound onramp. This high peak hour movement necessitates the construction of a dual slip onramp design, thus requiring additional land from this property. The high traffic movement coupled with the close proximity of the Marks Avenue / Whitesbridge Road intersection necessitates restricting access onto Marks Avenue. Access control is proposed to extend to the curb return on Whitesbridge Road, thus eliminating the possibility of a driveway within close proximity of this high volume onramp and the intersection.

The following is a description of Mr. Sparks' concerns and the Department's response.

Owner:

The public interest and necessity do not require the project or the acquisition of the Sparks property.

Department Response:

The public interest and necessity require the project to relieve traffic congestion, improve safety, perpetuate route continuity and maintain consistency with local planning and land use. The project is funded through local Measure C Sales Tax and is strongly supported by the city of Fresno and the county of Fresno as well as the Fresno County Governments and the public.

Owner:

Having access to Marks Avenue is critical to the operation of his business due to the large trucks that enter and exit the property.

Department Response:

Due to the expected high eastbound on-ramp traffic, it is critical that access be controlled from the intersection north. Any driveways along Marks Avenue, between the intersection and the on-ramp, would interfere with safe and efficient operation of the intersection and the interchange.

Owner:

The proposed project and acquisition of the Sparks property are not necessary based on current traffic conditions.

Department Response:

New transportation facilities are designed to accommodate future needs. This freeway extension has been designed to meet the forecasted traffic demands of the year 2028, 20 years after completion of construction.

Owner:

The property owner requests the CTC to conduct any hearings related to his property in Fresno, California.

Department:

The Commission has jurisdiction for the entire State of California and therefore Commission meetings are held at various locations throughout the state. The initial noticed Commission meeting on July 13-14, 2005 was held in San Diego. The November 2-3, 2005 Commission meeting will be held in Sacramento.

Owner:

The property owner states his business needs more space to operate if access control along Marks Avenue is put into effect. Therefore, he wants to purchase state owned property adjacent to and north of his property.

Department:

The property adjacent to and north of subject property was purchased by the State in 1971 based upon a diamond interchange configuration design at Marks Ave. In 2003, a minor adjustment to the Route 180 alignment was necessary in the vicinity of Marks Avenue to provide adequate distance between the Marks Avenue on/off ramps and the Whitesbridge Road intersection with Marks Avenue. This modification has resulted in potential excess property north of the Sparks property. The District explained to the property owner that the Department's property to the north has not been declared excess land as of yet, and had not been cleared and appraised. Additionally, it was explained that excess land was not normally made available for sale until after construction because it could be utilized during the project construction phase. However, the District is now in the process of declaring this portion of the land north of the subject property as excess and could be made available for purchase by either adjoining property owner through the excess land process.

Owner:

The property owner has also raised concerns regarding the necessity of the temporary construction easement (TCE).

Department:

The proposed improvements include sidewalk and fencing that abut the proposed right of way limit. The temporary construction easement assures the Department legal access to the area just beyond the right of way limit to construct these improvements. On July 21, 1005, the Department met with Mr. Sparks to show him the proposed temporary construction easement area and to explain how it would be used. It appears that this may have resolved Mr. Sparks' concerns.

Owner:

The property owner also states the valuation is low for the proposed acquisition.

Department:

The full amount of the approved appraisal has been offered to Mr. Sparks on March 7, 2005.

Owner:

The property owner stated that he would like the Department to ensure there will be no future median constructed on Whitesbridge Road in front of his property that would prevent eastbound trucks from making left hand turns into his property.

Department:

The State cannot make such assurances, as this roadway will be relinquished to the city of Fresno in the future following completion of the freeway project.

PARCEL DESCRIPTION

The subject parcels 85426-1A, 85426-1B and 85426-2 are the southwesterly 13,087.8 sq. ft (0.3 acres) of APN 458-08-035 in the city of Fresno in Fresno County. It is located on the northeast corner of Marks Avenue and Whitesbridge Road intersection, fronting the north side of Whitesbridge Road. The total area of the property is approximately 7.1 acres (309,428 sq. ft.). The property is the site of Fresno Tractor, Inc. and Heavyquip, Inc. and is a fairly flat area being used as a business and storage for construction equipment for repair and sale.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record.

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.



DONALD GREBE
Office Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:



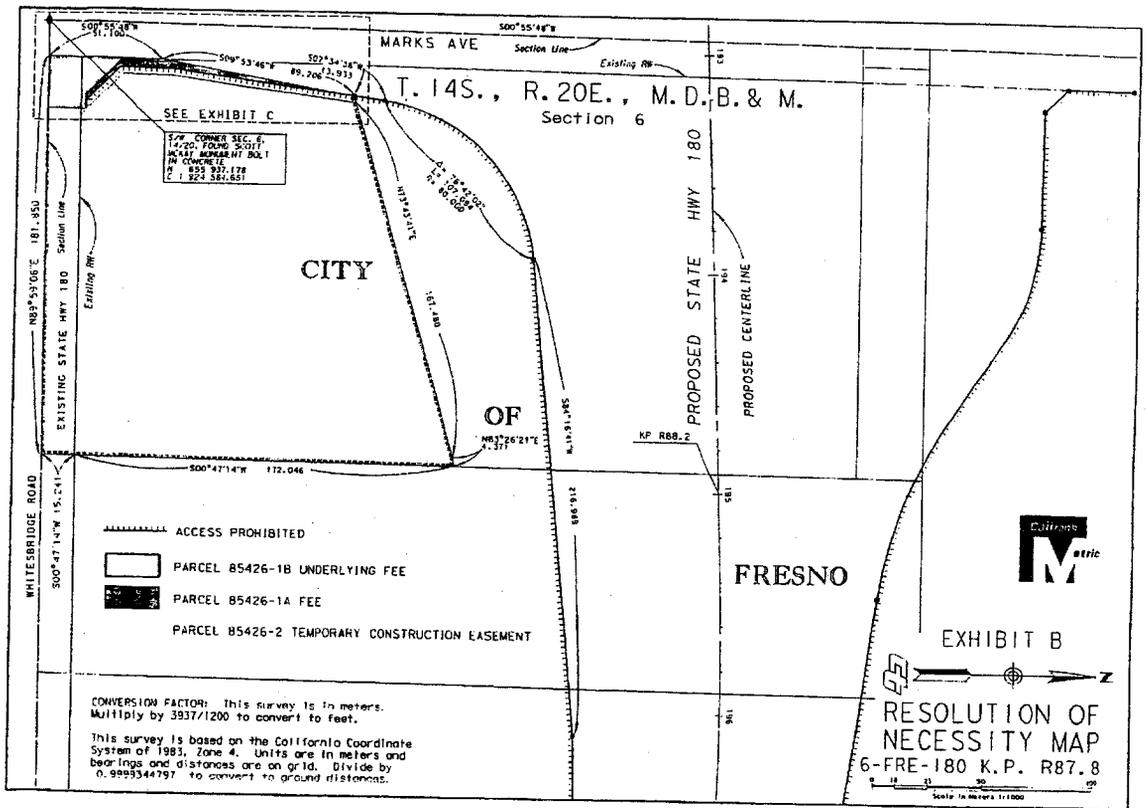
RICHARD D. LAND
Chief Engineer

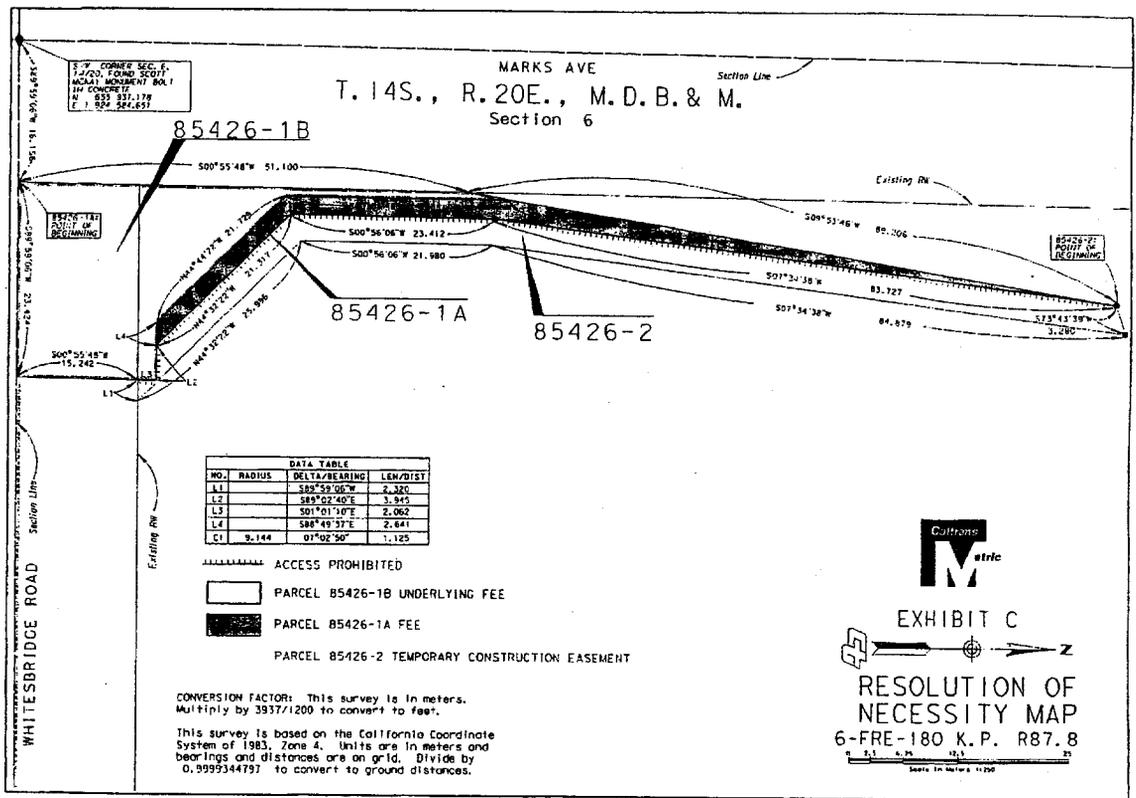
**PERSONS ATTENDING SECOND LEVEL REVIEW PANEL
HEARING ON AUGUST 4, 2005**

Donald Grebe, Headquarters Right of Way, Panel Chair
Richard B. Williams, Headquarters Attorney, Panel Member
Linda Fong, Headquarters Design, Panel Member
Deborah Gebers, Headquarters Right of Way, Panel Secretary

Bradley K. Sparks, Property Owner

Mike Leonardo, Central Region District Director
Kim Anderson, District 6, Chief Project Development
Spiros Karimbakas, Acting Chief, Central Region Right of Way
Jamie Lupo, Central Region, Supervisor Right of Way
Ken Cozad, Headquarters Design





S.7 CORNER SEC. 6,
T.14S., R.20E., M.D.B. & M.
MONUMENT BOLT
1/4" CONCRETE
N 83° 37' 17"
E 1.95, 224.657

MARKS AVE
T. 14S., R. 20E., M. D. B. & M.
Section 6

85426-1B

85426-1A

85426-2

DATA TABLE			
NO.	RADIUS	DELTA/BEARING	LEN/DIST
L1		S89°59'08"W	2.325
L2		S89°02'40"E	3.945
L3		S01°01'10"E	2.062
L4		S86°49'57"E	2.641
C1	0.144	0°02'50"	1.125

- ACCESS PROHIBITED
- ▭ PARCEL 85426-1B UNDERLYING FEE
- ▭ PARCEL 85426-1A FEE
- ▭ PARCEL 85426-2 TEMPORARY CONSTRUCTION EASEMENT

CONVERSION FACTOR: This survey is in meters.
Multiply by 3937/1200 to convert to feet.
This survey is based on the California Coordinate
System of 1983, Zone 4. Units are in meters and
bearings and distances are on grid. Divide by
0.9999344797 to convert to ground distances.



EXHIBIT C
RESOLUTION OF
NECESSITY MAP
6-FRE-180 K.P. R87.8
Scale in meters 1:250