

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 6-7, 2007

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

From: CINDY McKIM
Chief Financial Officer

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

Subject: **RESOLUTIONS OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-19651 summarized on the following page.

ISSUE:

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a Resolution of Necessity (RON), stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the project.
2. The project is planned and located in a manner that will be most compatible with the greatest public good with the least private injury.
3. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owner is contesting the RON and has requested an appearance before the Commission to discuss the outstanding issue, which is related to the design of the project.

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 the owner may subsequently be entitled. Adoption of the resolution will not interrupt the Department's efforts to secure 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-19651 - Hansen's Truck Stop, Inc., et al.; Adhawk Outdoor Advertising (Lessee)

01-Hum-101-PM 57.96 - Parcel 11173-1, 2 - EA 290309.

Right of Way Certification Date: 10/01/07; Ready to List Date: 10/01/07. Freeway - construct interchange and frontage road. Authorizes condemnation of land in fee for a State highway, an easement for vegetation control to be conveyed to Pacific Gas & Electric Company, 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 near the city of Fortuna at the junction of State Route 36 and Route 101 in Humboldt County. APNs 201-211-04; 201-221-01, -12.

Attachments

SUMMARY OF ISSUES

The property owner, Hansen's Truck Stop, Inc., et al, does not contest the need for the project. However, they have expressed concerns regarding impacts to their property as a result of the proposed project by the Department of Transportation (Department).

The following is a description of the concerns expressed by representatives of the property owner, followed by the Department's response.

Owner:

The property owner stated that due to the proposed closure of the at-grade road connections, emergency response times would be doubled. The property owner proposes that the Department correct this by constructing a frontage road (approximately 1.5 miles) prior to construction of the interchange.

Department Response:

Based on communication and review of the proposed project with local fire and emergency responders, emergency response (fire, medical, and police) to the property would be from Hydesville located to the east, or Fortuna located to the north. The response time from Hydesville is expected to decrease slightly after the project is constructed since the responders can travel from State Route (SR) 36 through the new interchange rather than slowing or stopping at the current at-grade highway intersection to cross Route 101. Emergency responders from Fortuna may see a slight increase in response time (less than 1 minute), but this is viewed as "less than significant" and acceptable by emergency units. Average response time by rural community structure fire response model from Humboldt County Master Fire Protection Plan is 11 minutes. Although there is little change in emergency response times, the Department's project provides safer access for the emergency responders.

The owner's suggestion to build a low-speed frontage road on the west side of the highway connecting the interchange and new frontage road to the Kenmar Road Interchange, in Fortuna, is viewed as a county infrastructure issue which should be evaluated and initiated through Humboldt County.

Owner:

The property owner stated that emergency evacuation would be difficult for the owner and residents on the west side of the interchange with at-grade closures in the event of a failure of the interchange (e.g., major earthquake) with only one access to Route 101. The owner believes this situation would also be corrected by the Department constructing a frontage road along the west side of Route 101 from Sandy Prairie Road northward to Kenmar Road (approximately 1.5 miles) prior to construction of the interchange.

Department Response:

To improve safety along this section of Route 101, the project converts this expressway to freeway, eliminates seven at-grade road connections, and constructs an interchange to safely direct the movement of traffic. The project extends Sandy Prairie Road south to the interchange, constructs two 60-foot wide driveways, and perpetuates one 80-foot driveway in order to conform the subject property to Sandy Prairie Road. The existing driveway on Hansen Lane is also perpetuated. Sandy Prairie Road continues north and turns into Drake Hill Road (west).

Although Drake Hill Road will no longer have direct access to Route 101 and will be separated by fencing, a welded gate panel will be provided to allow emergency response vehicles to push through it to access Route 101 during extreme emergency conditions. This welded panel feature was reviewed and approved by Humboldt County Planning Department and California Department of Forestry and Fire Protection.

In the case of an emergency, residents and emergency responders can evacuate the area via 1) the new interchange, 2) the emergency fence off of Drake Hill Road or 3) knock down the State's right of way fence anywhere along Route 101 where the elevation is approximately the same as Sandy Hill Road. With three emergency routes, the suggestion to build a low-speed frontage road on the west side of the highway connecting the interchange is not necessary. This proposed frontage road would be a local road and could be further evaluated for need through processes within Humboldt County or the City of Fortuna Planning Departments.

Owner:

In the owner's opinion, a frontage road on the west side of Route 101 should be built before the interchange. Since the closure of the Drake Hill Road median, additional traffic is now crossing at Sandy Prairie Road and it will be much more dangerous during construction of the interchange.

Department Response:

The median on Route 101 at Drake Hill Road was recently closed to cross traffic by installing a temporary concrete railing to improve safety at the high-speed expressway road connections. The Drake Hill Road (east and west) connections to Route 101 remain open, allowing vehicles right in and right out access only. This project will close the Drake Hill Road connections with Route 101 but will add a welded fence panel for emergency access to Route 101. Drake Hill Road west provides access to a small number of farmhouse ranches. A considerable increase in traffic volume to Sandy Prairie Road is not anticipated.

Owner:

Property owner brought up many historic title issues and discussed them in detail and at considerable length.

Department Response:

A number of title issues, including some with the Department, date back more than 50 years. The owner is free to consult with an attorney regarding the merits of such claims. This is a legal and compensation issue, outside the purview of the California Transportation Commission (Commission).

Owner:

The property owner stated that he will not sign a right of way contract unless a number of concessions are made including:

- The Department must reimburse the property owner \$177,500 expended in hazardous waste clean-up due to the hazardous waste (HW) testing performed by the Department under a Permit to Enter for HW testing on his property, for the project.
- The Department must build a new replacement gas station on the east side of Route 101 (entirely at Department expense) for him including public rest rooms, truck scales, and a water line under the freeway (west to east) from his water well on the west side.
- The Department must build a “business highway” (frontage road) from Sandy Prairie Road north to Kenmar Road (one and one-half +/- miles).

Department Response:

Addressing the various Department concessions demanded by the owner:

- Property owner demands that the Department reimburse the property owner for out of pocket expenses resulting indirectly from the Department’s Hazardous Waste testing. The property owner filed a claim for reimbursement in the amount of \$177,500 that was denied by the District. The letter, signed by property owner, cited language in the Permit to Enter states under federal and State laws and regulations that the owner of contaminated property is responsible for the monitoring and remediation of the pollutants. The fact that the contamination was discovered during required Departmental testing does not in any way shift liability for the resultant monitoring and cleanup costs.
- Purchasing the adjoining ranch to the south and transferring it to this property owner would be considered as a gift of public funds.
- Building a new, replacement gas station on the east side of the highway would also be considered as a gift of public funds.
- Extending Sandy Prairie Road north to Kenmar Road has been determined by the Department to be unnecessary and beyond the scope of work for the proposed project.

These are compensation issues and outside the purview of the Commission.

Owner:

Increased drainage onto the subject property was a concern brought up by the property owner. The property owner’s son demands replacement of the 50 year old warehouse building on the subject property due to his concern that there will be a dramatic increase in run-off and potential flooding because of the highway project.

Department Response:

Local topography is low lying and level, presenting challenges for drainage. The property sits west of Route 101 in the Coastal Zone and within the 100 year flood zone. This project is designed to capture storm water run-off into culverts and routed to downstream areas. The property owner should not experience an increase in drainage run-off to his remaining property. Further, no justification is seen for replacing the warehouse as demanded by property owner’s son. This is a compensation issue and outside the purview of the Commission.

Owner:

At Sandy Prairie Road, add a right turn in, right turn out intersection such as exists at "South G Street" Route 101 in Arcata, California or, add an off-ramp for southbound Route 101 traffic directly to Sandy Prairie Road.

Department Response:

The proposed interchange at SR 36 and Route 101 and the closure of Sandy Prairie Road improves safety while providing access to the property and the business operations. Leaving the access opening at Sandy Prairie Road will limit the effectiveness of this project in regard to both safety and operations. An off-ramp to Sandy Prairie Road does not meet the minimum spacing required between the ramp and the new interchange.

Attachments

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA 01-Hum-101-PM 57.88
Expenditure Authorization (EA) 290309

Location: Route 101/ State Route (SR) 36 in Humboldt County

Limits: Near the city of Fortuna and from north of Van Duzen River Bridge to north of Drake Hill Road.

Cost:

Roadway Construction:	\$17,707,000
Structures:	\$3,846,000
Right of Way:	\$5,000,000

Funding Source: STIP HE-11

Number of Lanes: Existing: Four-lane expressway with at-grade road connections.
Proposed: Four-lane Freeway with interchange.

Proposed Major Features: Interchange to replace existing at-grade connections of Route 101 and SR 36. Project also eliminates five additional at-grade road connections.

Traffic: Existing (year 2005): 20,200 Average Daily Traffic (ADT)
Proposed (year 2025): 27,300 ADT

PARCEL DATA

Property Owner: Hansen's Truck Stop, Inc., et al., (Charles F. Hansen)

Parcel Location: West side of Route 101 and north of the intersection of Route 101/ SR 36 at Post Mile (PM) 57.88

Present Use: Gas Station, coffee shop, wire rope manufacturing, leased offices and outdoor advertising signs

Zoning: General Industrial/Commercial Recreational

Area of Property: 13.428 Acres

Area Required: Parcel 11173-1 = 1.741 acres in fee
Parcel 11173-2 = 0.128 acre in Pacific, Gas and Electric Easement

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the United States Forest Service office building in Eureka on April 3, 2007. The Panel members consisted of Donald Grebe, California Department of Transportation (Department) Headquarters (HQ's) Division of Right of Way and Land Surveys; Matthew Lavrinets, Department San Francisco Legal Division; Linda Fong, Department HQ's Division of Design; and Dennis Wilson, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Representing the Hansen's Truck Stop Inc., was Mr. Charles F. Hansen, owner; Hans Hansen, son of owner; and Nancy Bush, bookkeeper for Hansen's Truck Stop.

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 purpose of the Alton Interchange Project (Project) is to improve the safety and operation of two state highways near the intersection of State Route (SR) 36 and Route 101 in Humboldt County.

Safety

The project will eliminate the seven at-grade road connections by converting the four-lane expressway of Route 101 to a four-lane freeway with no at-grade road connections. The safety of the traveling public will be enhanced by the elimination of cross traffic and by removing turning movements across lanes carrying high speed traffic.

Improved Operation

Vehicles on this section of Route 101 travel at high-speeds. The at-grade local road connections that feed into Route 101 introduce conflicts to the high-speed expressway traffic with slower vehicles that are turning, stopping, or accelerating in combination with high-speed traffic. Mainline traffic is often required to brake or change lanes to avoid operational conflicts. The proposed grade separated interchange is proven to be effective in alleviating these types of conflicts.

Past improvements to signing and the addition of acceleration and deceleration lanes have only been partially successful. Operational conflicts are expected to increase in future years as business, commuter and interregional traffic volumes increase.

PROJECT PLANNING AND LOCATION

This project will improve safety and highway operations at and near the intersection of SR 36 and Route 101 in Humboldt County. An interchange will combine ramps and local road extensions with a grade separation to provide a safe, reliable, and modern transportation facility, consistent with State and regional transportation planning. This proposal will improve geometric features resulting in enhanced safety to the traveling public.

The project proposes to convert the four-lane expressway segment of Route 101 to four-lane freeway from just north of the Van Duzen River Bridge No. 4-17 (PM 57.0) to just north of the intersection of Route 101 and Drake Hill Road (PM 58.8). Proposed construction includes an interchange to remove the existing at-grade intersection of Route 101 and SR 36, and local road extensions on the west side of Route 101 eliminating a total of seven existing at-grade road connections. The purpose of the improvements is to increase safety and improve highway operations. Three viable alternatives were considered, ranging in cost from \$15.2 million to \$15.4 million.

Alternatives

Alternative One: This is the selected “Build” alternative and proposes a spread diamond interchange to replace the at-grade intersection of SR 36 and Fowler Road to Route 101. Local road extensions will be constructed to connect the interchange to an existing access road south to the Van Duzen River and north to Sandy Prairie Road. A total of seven existing at-grade road connections to Route 101 will be closed with the upgrade of this expressway to a freeway--Van Duzen River access, Fowler Lane, SR 36, Hansen Lane, Sandy Prairie Road and Drake Hill Road (east and west).

The following design alternatives were considered but rejected:

Alternative Two: This alternative proposed a modified spread diamond interchange to replace the at-grade intersection of SR 36 and Route 101. The modification is to the on-ramp to southbound Route 101. A loop ramp would be constructed instead of the diamond ramp. Local road construction and existing road connections closures are the same as for alternative one. This alternative was rejected, as it is the least desirable configuration of the three build alternatives from a traffic operations standpoint. A loop on-ramp is the least flexible operationally since it does not allow off and on movements for lost motorists and it is difficult to signalize because of the conflict between merging eastbound and westbound SR 36 traffic on the ramp. This alternative has no significant environmental impacts, has the most right of way impact to the Hansen properties, and is the second most expensive to construct.

Alternative Three: This alternative proposed a modified spread diamond interchange to replace the at-grade intersection of SR 36 and Route 101. The modification is to the off-ramp from southbound Route 101. A loop off-ramp would be constructed instead of the diamond off-ramp. Local road construction and existing road connection closures are the same as for alternative one. This alternative was rejected because the loop ramp is not as safe as the other alternatives

because of the speed differential associated with a low speed off-ramp linked to a high-speed facility. This alternative has no significant environmental impacts, has the least right of way impact to the Hansen properties, and is the most expensive to construct.

“No Build” Alternative: This alternative would not meet the project purpose and need. As a result, collision rates at the project location are likely to increase as traffic volumes increase.

NEED FOR SUBJECT PROPERTY

The right of way requirements for the subject parcel are as follows:

Parcel 11173-1: This acquisition is a fee parcel that consists of 1.741 acres. The new right of way line will curve along the east side of the subject parcel. This area is for the southbound off-ramp from Route 101 and the extension of the Sandy Prairie frontage road. The improvements in the acquisition area are the truck-loading ramp, a portion of the gas station--diesel satellite-island and canopy (cut and face), the gas station price sign, two billboards (ground lease only), and the Hansen’s Truck Stop sign.

Parcel 11173-2: A permanent utility (vegetation) easement of 0.128 acre along the easterly boundary of the subject property. This easement will be acquired and conveyed to Pacific, Gas and Electric Company.

The Department’s design has taken into consideration the minimum highway design standards. The proposed right of way requirements have been reduced as much as possible to minimize impacts to the subject property, and the described impacts to the subject property cannot be avoided. The property owner has been offered the full value of the Department’s appraisal for the acquisition of land rights including damages to improvements that are affected.

The following is a description of the concerns expressed by representatives of the property owner, followed by the Department’s response:

Owner:

The property owner stated that due to the proposed closure of the at-grade road connections, emergency response times would be doubled. The property owner proposes that the Department correct this by constructing a frontage road (approximately 1.5 miles) prior to construction of the interchange.

Department Response:

Based on communication and review of the proposed project with local fire/emergency responders, emergency response (fire/medical/police) to the property would be from Hydesville located to the east, or Fortuna located to the north. The response time from Hydesville is expected to decrease slightly after the project is constructed since the responders can travel from SR 36 through the new interchange rather than slowing or stopping at the current at-grade highway intersection to cross Route 101. Emergency responders from Fortuna may see a slight increase in response time (less than 1 minute), but this is viewed as “less than significant” and

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Department Response:

Local topography is low lying and level, presenting challenges for drainage. The property sits west of Route 101 in the Coastal Zone and within the 100 year flood zone. This project is designed to capture storm water run-off into culverts and routed to down stream areas. The property owner should not experience an increase in drainage run-off to his remaining property. Further, no justification is seen for replacing the warehouse as demanded by property owner's son. This is a compensation issue and outside the purview of the Commission.

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Department Response:

The proposed interchange at SR 36 and Route 101 and the closure of Sandy Prairie Road improves safety while providing access to the property and the business operations. Leaving the access opening at Sandy Prairie Road will limit the effectiveness of this project in regard to both safety and operations. An off-ramp to Sandy Prairie Road does not meet the minimum spacing required between the ramp and the new interchange.

PARCEL DESCRIPTION

The subject property, parcel number 11173, is identified as Assessor's parcels 201-211-04, 201-221-01, and 201-221-12. The size of the property is 13.428 acres. Said parcel is irregular in shape and bounded by Route 101 on the east, Hansen Lane on the south, pasture and ranchettes on the west and north, and Sandy Prairie Road on the northeast. The address is 57808 State Highway 101, Alton, California. The topography is generally level. The Assessor's Parcel Number 201-211-04 is zoned Commercial Recreational and Assessor's Parcel Numbers 201-221-01 and 201-221-12 are zoned MG, "General Industrial". The parcels sit west of Route 101 in the Coastal Zone. Some of the improvements are remote from the acquisition and unaffected. The improvements in the acquisition area are the truck-loading ramp, a portion of the gas station--diesel satellite-island and canopy (cut and face), the gas station's price sign, two billboards (ground lease only), and the Hansen's Truck Stop sign. Pertinent subject improvements include, a gas station, a diesel card-lock, a wire rope building, a restaurant, and two truck scales in front of the wire rope building.

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 Government Code Section 7267.2.

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 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 E. GREBE
Chief
Office of 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 CONDEMNATION PANEL REVIEW MEETING
HEARING ON APRIL 3, 2007**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair
Matthew Lavrinets, San Francisco Legal Office Attorney, Panel Member
Linda Fong, HQ's Division of Design, Panel Member
Dennis Wilson, HQ's Division of Right of Way and Land Surveys, Panel Secretary

Charles Hansen, Owner
Hans Hansen, son of owner
Nancy Bush, Bookkeeper, Hansen's Truck Stop

Charlie Fielder, District 1 District Director
Steve Marchi, District 1 Design
Steve Hughes, District 1 Design
Walter Bird, North Region Right of Way
Starr Kilian, District 1 Right of Way

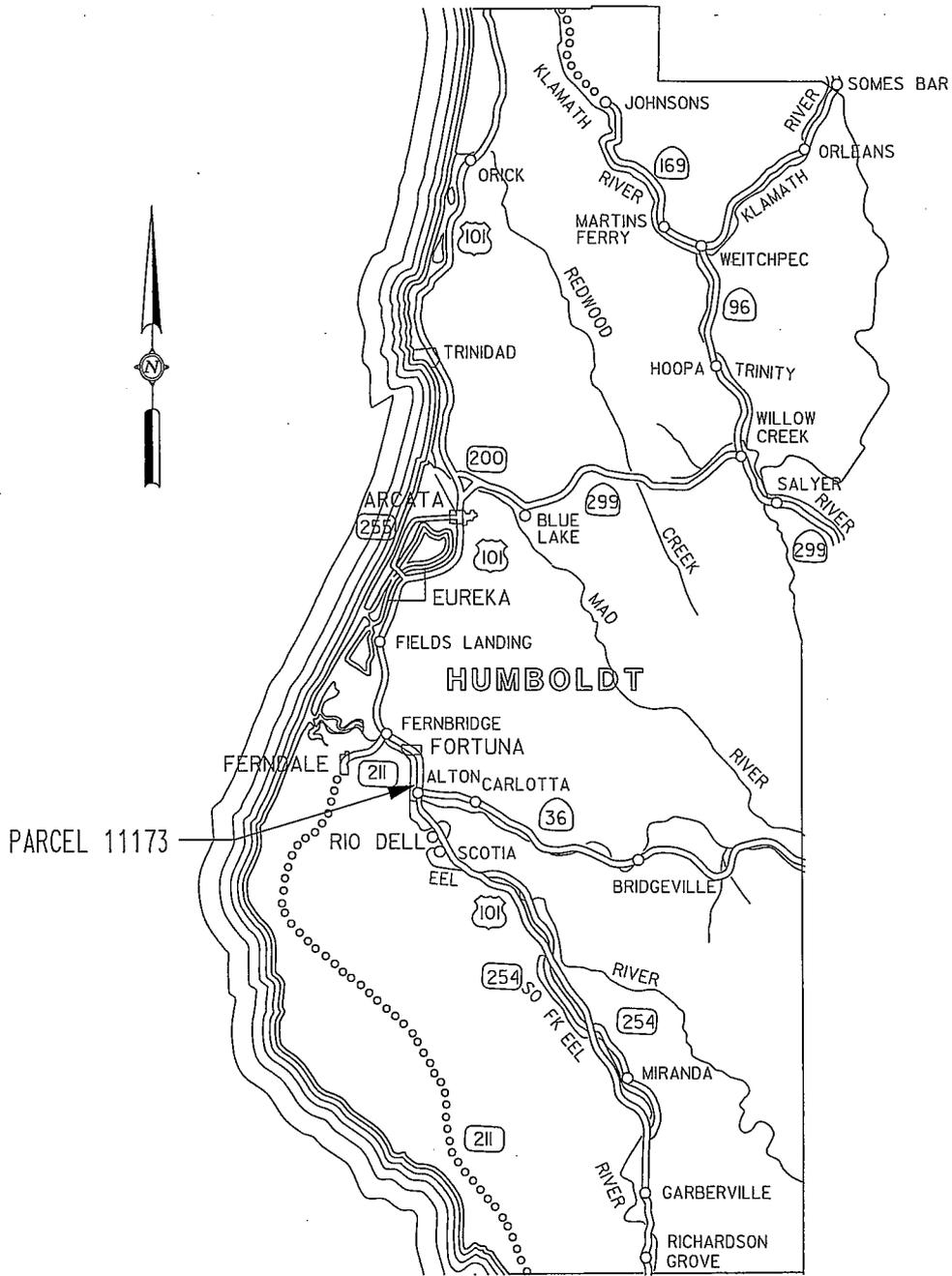
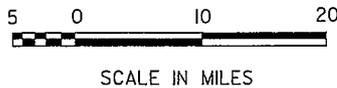


EXHIBIT A LOCATION MAP

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY
RESOLUTION OF NECESSITY
HUM-101-KP 93.0 (PM 57.8)



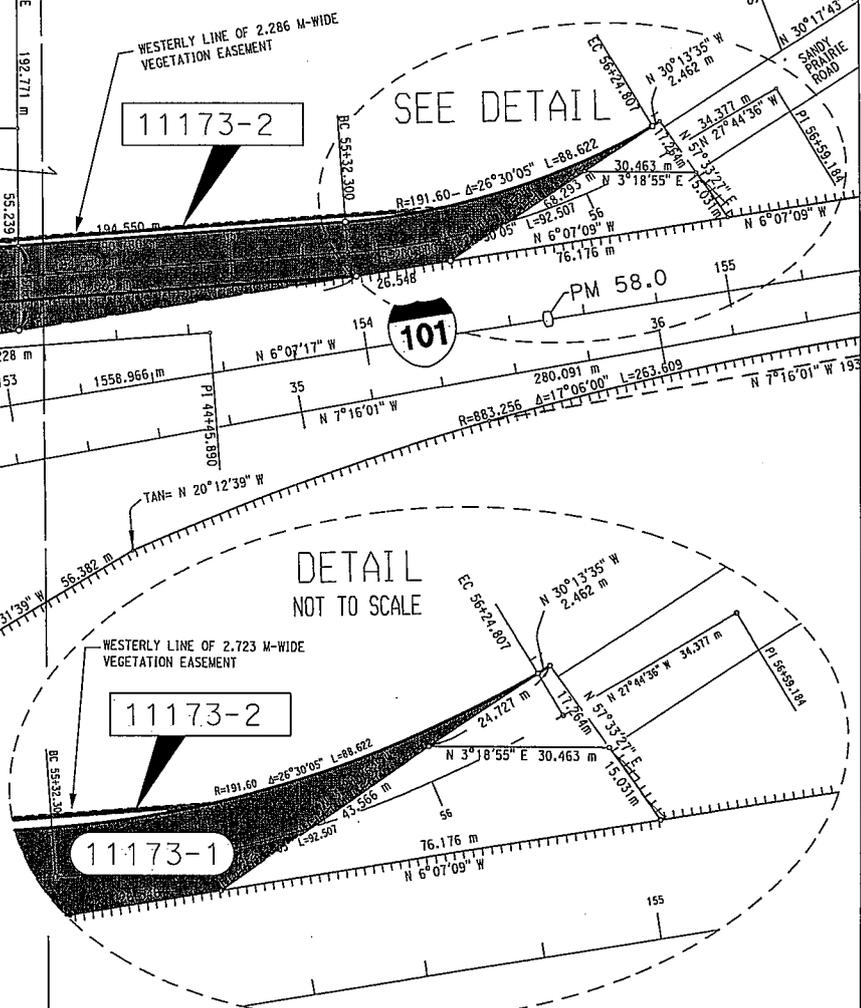
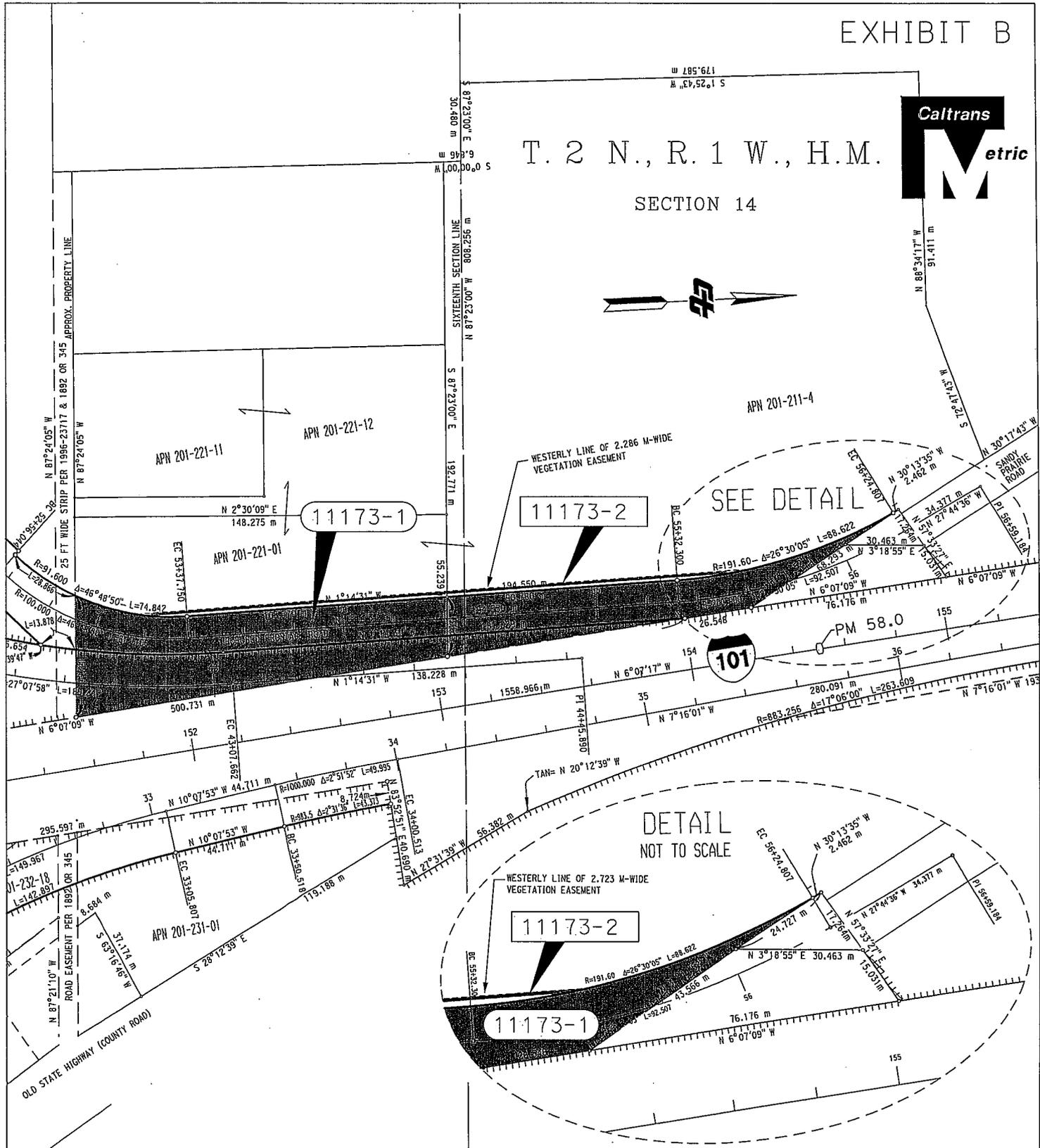
EA(s): 290302 FA#: ACNH 0101 (113)

DISTRICT	COUNTY	ROUTE	SHEET KP/PM	SHEET NO.	TOTAL SHEETS
01	HUM	101	93.2/57.9	1	1



T. 2 N., R. 1 W., H.M.

SECTION 14



LEGEND

-  PARCEL 11173-1 FEE ACQUISITION
-  PARCEL 11173-2 VEGETATION EASEMENT

COORDINATES, BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 1. DISTANCES ARE IN METERS UNLESS OTHERWISE NOTED. DIVIDE DISTANCES BY 0.9999036 TO OBTAIN GROUND LEVEL DISTANCES. TO CONVERT METERS TO THE U.S. SURVEY FOOT MULTIPLY DISTANCES BY 3937/1200

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY
RESOLUTION OF NECESSITY**

HUM-101-KP 93.2 (PM 57.9)

METERS 0 50 100

EA(s): 290302		FA#: ACNH 0101 (113)			
DISTRICT	COUNTY	ROUTE	SHEET KP/PM	SHEET NO.	TOTAL SHEETS
01	HUM	101	93.0/57.8	1	1