

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: February 13-14, 2008

Reference No.: 2.4a.
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Bimla G. Rhinehart
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 Resolution of Necessity (Resolution) C-19803 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, 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 owners are contesting the Resolution and have requested an appearance before the Commission to discuss the outstanding issues. The issues with the property owner are related to the need for the overall project and specifically addressed in Attachment B - Parcel Panel Report.

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 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-19803 - Carol Ann Scheiber, Trustee, etc., et al.

03-Pla-65-PM 14.42 - Parcel 33763-1, 2, 3, 4, 5, 6, 7 - EA 333809.

Right of Way Certification Date: 02/14/08; Ready to List Date: 02/14/08. Expressway - construct four-lane expressway. Authorizes condemnation of land in fee for a State highway, temporary easements for highway construction, a permanent easement for utility purposes to be conveyed to the Pacific Gas and Electric Company, extinguishment of abutter's access rights, underlying fee, and land in fee for drainage purposes to be conveyed to the City of Lincoln. Located near the city of Lincoln at 1700 Moore Road. APNs 021-262-004; 021-350-007.

Attachments:

Attachment A – Project Information

Attachment B – Parcel Panel Report

PROJECT INFORMATION

PROJECT DATA 03-Pla-65-PM R12.0/R23.8
Expenditure Authorization (EA) 333809

Location: Proposed State Route (SR) 65 in Placer County near the city of Lincoln.

Limits: In Placer County on SR 65 near the city of Lincoln from south of Industrial Avenue to south of Bear River.

Cost: Right of Way: \$80,000,000
Construction: \$188,300,000
Mitigation: \$15,000,000

Funding Source: State Funds, Federal Demo, Local Funds, CMAQ

Number of Lanes: Existing: SR 65 is a two-lane conventional highway without access control.

Proposed: A four-lane freeway and two-lane expressway, includes right-of-way acquisition for an ultimate four-lane freeway throughout the project limits.

Proposed Major

Features: Interchanges: One Interchange, One Railroad Grade Separation, and Three Intersections

Traffic: Existing 2004: Average Daily Traffic (ADT) - 19,800
Projected 2025: ADT - 35,000

NEED FOR THE PROJECT

The purpose of the highway improvement project is to relieve congestion and improve safety on the existing SR 65 in the vicinity of the city of Lincoln and provide for a regional traffic solution to accommodate projected traffic volumes for the 2025 year. This project is also referred to as the "Lincoln Bypass Project".

Continued planned growth in southern Placer County and the Sacramento Valley has resulted in the need for a new and improved SR 65 corridor that would alleviate congestion in the City of Lincoln while providing for improved inter-regional traffic flow. The existing facility through Lincoln is a "Main Street" highway that will not serve the ultimate transportation needs of the region. The collision rate in downtown Lincoln is higher than the statewide average rate for this type of facility due primarily to congestion. Traffic volumes on SR 65 south of Lincoln and within downtown Lincoln currently exceed available capacity.

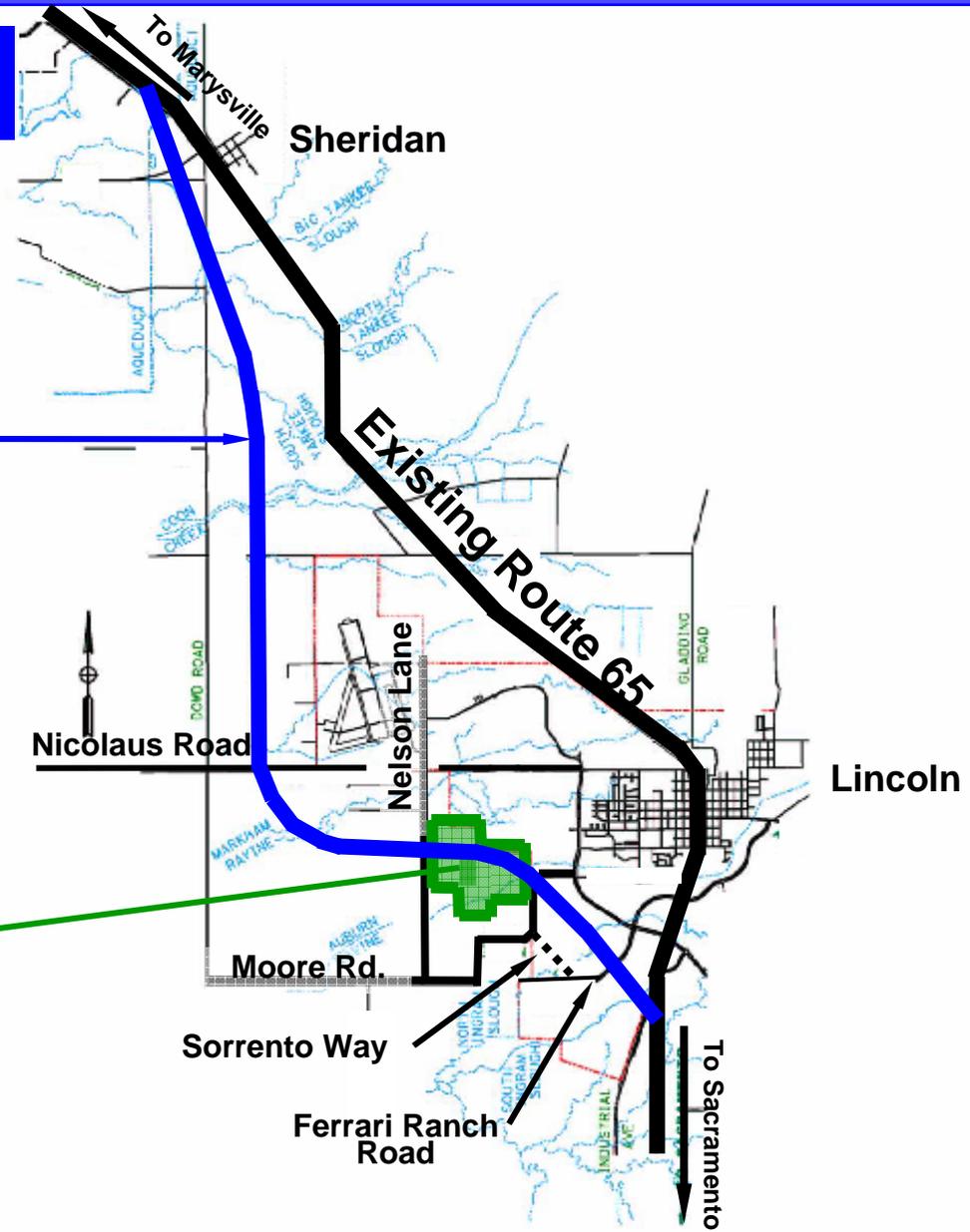
PROJECT PLANNING AND LOCATION

The Department of Transportation and the Federal Highway Administration propose to construct a four-lane freeway on a new alignment to the west of the city of Lincoln. The preferred alignment begins approximately 1.0 mile south of the city of Lincoln, extends to the west around Lincoln Airport, and rejoins existing SR 65 approximately 0.1 mile south of Bear River. The total length of the project is approximately 11.8 miles. A Draft Environmental Impact Report was circulated between November 21, 2000 and January 15, 2001. The Project Report was approved May 15, 2006. The Final Environmental Impact Report was approved May 25, 2006.

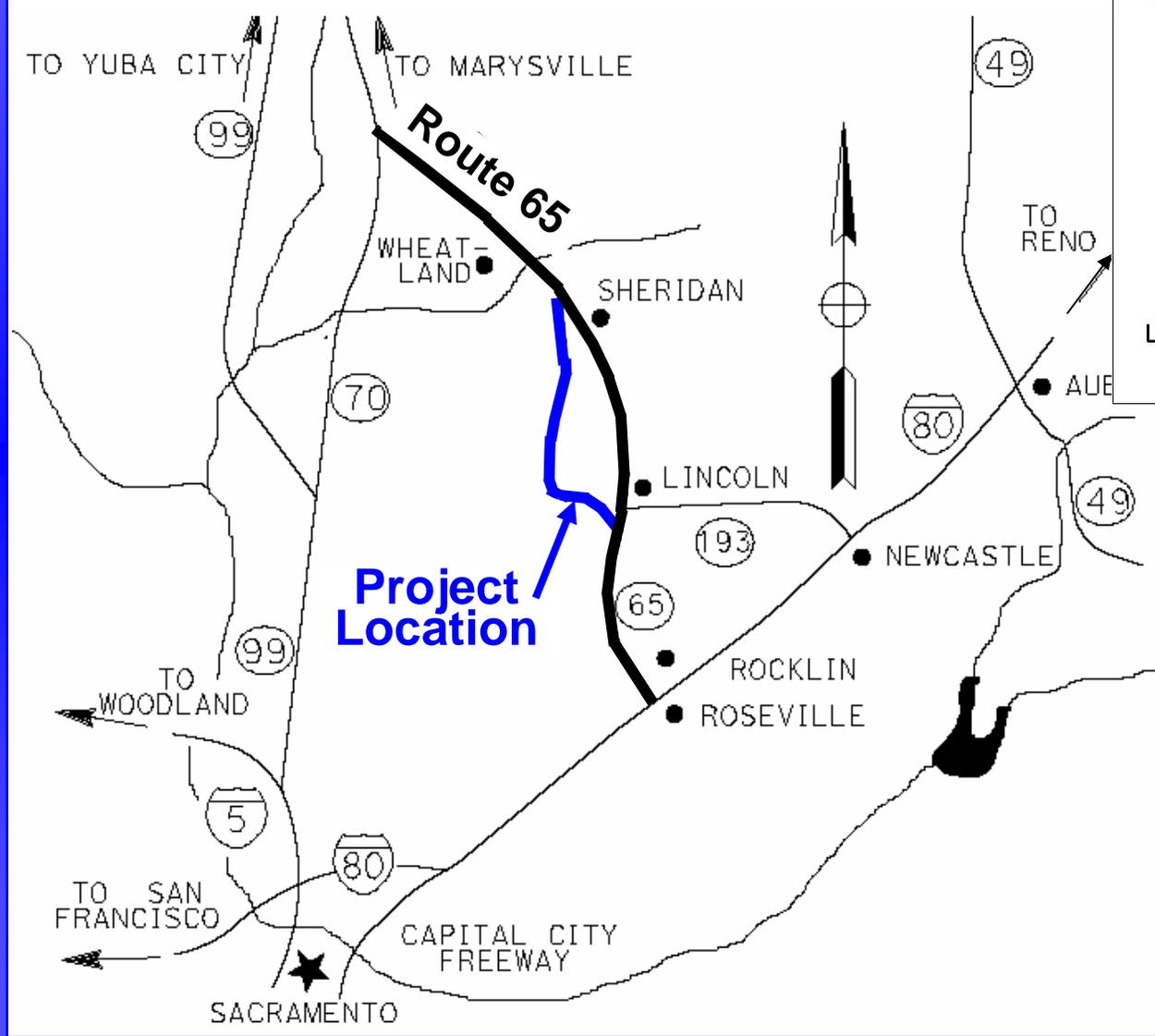
Project Location

Proposed Route 65

Scheiber Parcel



Location Map

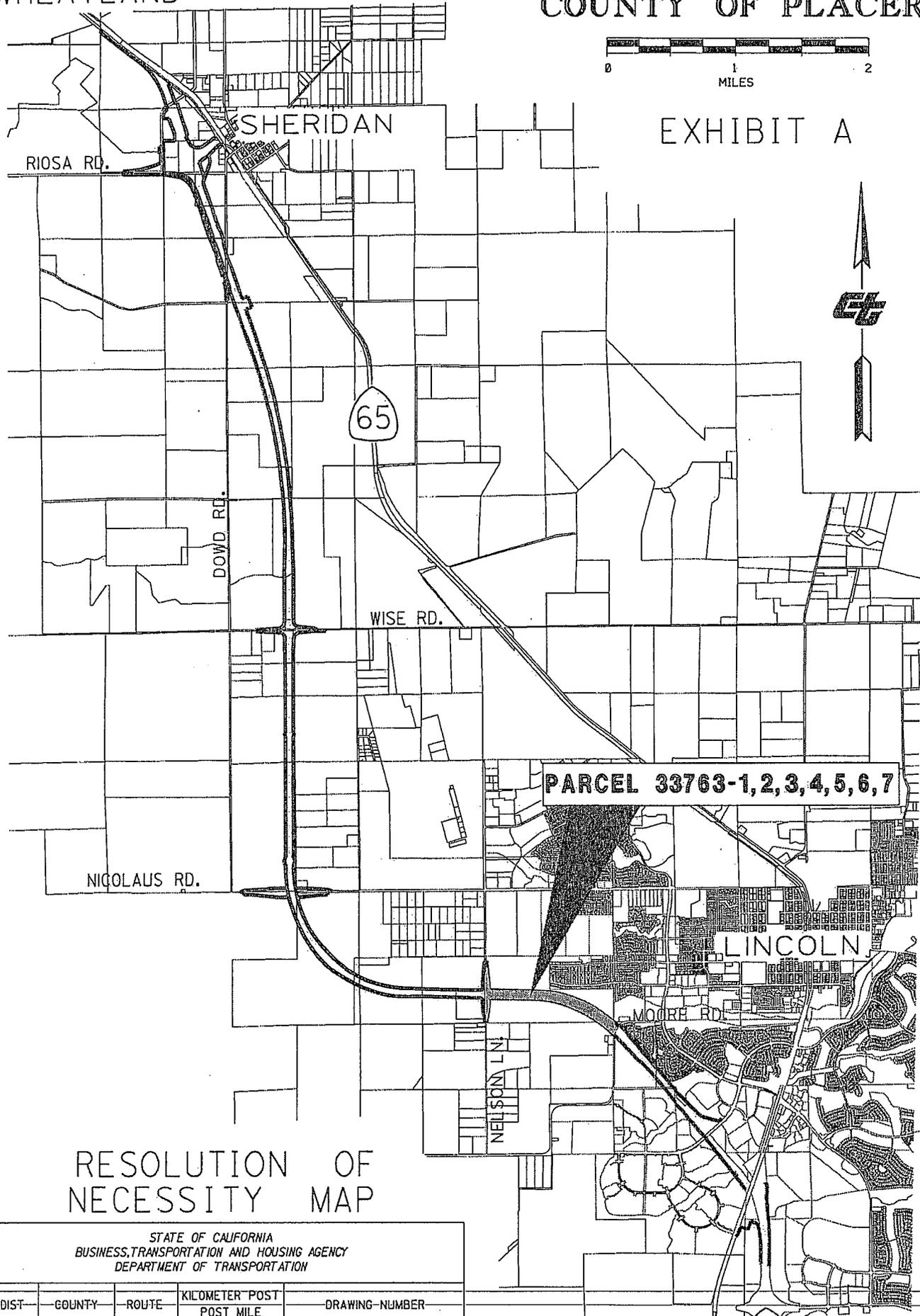


WHEATLAND

COUNTY OF PLACER



EXHIBIT A



PARCEL 33763-1,2,3,4,5,6,7

RESOLUTION OF NECESSITY MAP

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

DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	PLA	65	23.2/14.42	C-333802-6A



Exhibit A3

PARCEL PANEL REPORT

PARCEL DATA

Property Owner: Carol Ann Scheiber, Trustee of Carol Ann Scheiber Revocable Trust and Albert Joseph Scheiber

Parcel Location: Assessor's Parcel Numbers 021-262-004; 021-350-007
Located at 1700 Moore Road in Placer County

Present Use: Agriculture

Area of Property: 15,820,992 Square Feet (SF) (363.2 acres)

Area Required: Parcel 33763-1 – 2,213,702 SF - Fee (50.82 acres)
Parcel 33763-2 – 23,850 SF - Fee-Drainage (0.55 acre)
Parcel 33763-3 – 37,896 SF - Temporary Construction Easement (TCE)
(0.87 acre)
Parcel 33763-4 – 67,953 SF - TCE (1.56 acres)
Parcel 33763-5 – 1,306 SF - Utility Easement (0.03 acre)
Parcel 33763-6 – 25,264 SF - TCE (0.58 acre)
Parcel 33763-7 – 61,419 - Underlying Fee (1.41 acres)

PARCEL DESCRIPTION

The subject parcel, parcel number 33763, is identified as Assessor's Parcel Numbers 021-262-004 and 021-350-007. The subject parcel contains 363.2 acres. Both Assessor's parcels are zoned Agricultural-80 by the Placer County Planning Department and have an agricultural designation in the City of Lincoln's current general plan. The topography is generally level as it is currently graded for flood irrigation. The subject parcel sits at approximate grade with Nelson Lane (west of the parcel) and Moore Road (east of the parcel) and slightly below the residential subdivision to the northeast. The Auburn Ravine meanders across the middle to the southerly portion of the parcel. The water from the Auburn Ravine is pumped for pasture irrigation. The major improvements on the parcel are unaffected by the acquisition.

NEED FOR SUBJECT PROPERTY

Construction of the proposed project will require right of way from the subject property.

Parcel 33763-1: This acquisition is a fee requirement that consists of 2,213,702 SF (50.82 acres) needed for highway purposes and construction of the project improvements. The acquisition includes all abutter's rights of access to the remaining parcel along the entire north/south border of SR 65.

Parcel 33763-2: This acquisition is a fee requirement that consists of 23,850 SF (0.55 acre) needed for drainage purposes and will be conveyed to the City of Lincoln upon completion of the project. This requirement was originally an easement that has been changed to a fee acquisition at the request of the owner.

Parcel 33763-3: A TCE consisting of 37,896 SF (0.87 acre) is needed to provide the Department of Transportation's (Department) contractor area to construct the south side of the proposed facility.

Parcel 33763-4: A TCE consisting of 67,953 SF (1.56 acre) is needed to provide the Department's contractor area to construct on the north side of the proposed facility.

Parcel 33763-5: A permanent utility easement consisting of 1,306 SF (0.03 acre) is required along the northwest side of the subject property. This easement will be acquired for the relocation of public utility facilities. Once the project is complete, this permanent easement will be conveyed to the Pacific Gas and Electric Company.

Parcel 33763-6: A TCE consisting of 25,264 SF (0.58 acre) is needed to provide the City of Lincoln's contractor area to construct the City of Lincoln's drainage outflow system.

Parcel 33763-7: Acquisition of 61,419 SF of underlying fee (1.41 acre), currently occupied by Nelson Lane. Upon completion of the project, this fee area will be conveyed to the City of Lincoln.

In the after condition, access to the subject property will be from local roads (Nelson Lane and Moore Road).

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the offices of Desmond, Nolan, Livaich and Cunningham in Sacramento on December 20, 2007. The Panel members included Chairperson, Don Grebe, California Department of Transportation Headquarters (HQ's) Division of Right of Way and Land Surveys; Alice Ramsey, HQ's Sacramento Legal Division; Linda Fong, HQ's Division of Design; and Secretary to the Panel, Dennis Wilson, HQ's Division of Right of Way and Land Surveys. Mr. Brian Manning, attorney for the property owner, and property owners Carol Ann Scheiber and Albert Scheiber were also present.

This report summarizes the findings of the Panel with regard to the four criteria required for a Resolution of Necessity (Resolution). The property owner contests the purpose and need for the project as designed, that the project is not planned and located in a manner that is the most compatible with the greatest public good and least private injury, and that the property sought to be condemned is not necessary for the project.

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

Owner:

The Department's proposed project impacts the existing pump that is used for irrigation. The replacement of the pump needs to be fully functional before vacating the existing pump.

Department Response:

Measures will be taken to assure a functioning replacement prior to removal of the existing pump.

Owner:

The owner wants the Department to acquire the drainage easement in fee and have this area fenced and locked, restricting access of said area to only City of Lincoln staff.

Department Response:

The City of Lincoln agreed to accept the drainage easement in fee and will fence and gate the area. Access to said area will be restricted to City of Lincoln employees.

Owner:

The owner requested that Moore Road terminate as a cul-de-sac in front of the Scheiber driveway.

Department Response:

The Department has redesigned the cul-de-sac as requested. The design has also been reviewed and approved by the City of Lincoln.

Owner:

What are the City of Lincoln's plans for the existing outfall drainage area?

Department Response:

This work is not part of the Department's project but is included in the City of Lincoln's storm drain relocation plans. The plan is to abandon the existing outflow area and includes removing the existing headwall, removing the pipe, salvaging the grate, and backfilling the existing drainage area.

Owner:

The owner has concerns regarding drainage/flooding resulting in the creation of wetlands on their remaining property.

Department Response:

The drainage design for the area in question captures the area's runoff and diverts it into a trapezoidal ditch running parallel to the proposed highway. The ditch discharges into the Auburn Ravine through a two-foot diameter double culvert drainage system with flapgates. During high flow events, these one-way flapgates prevent flow from entering the property or the trapezoidal ditch from Auburn Ravine.

Owner:

What are the Department's future plans for the intersection at Nelson Lane?

Department Response:

The Department's project includes a signalized at-grade intersection at Nelson Lane. The Department and Placer County have no other immediate plans for this intersection.

Owner:

The project alignment seriously divides our property.

Department Response:

The proposed project's alignment is the least environmentally damaging practical alternative (LEDPA). The bifurcation cannot be avoided. The overall impact of the project on the property was considered as part of the appraisal and included in the State's offer.

Owner:

Requested that the Department acquire the adjacent 4.4 acre parcel in fee. This parcel borders the owner's southerly property line and Moore Road.

Department Response:

The adjacent property, in its entirety, is not needed for the construction of this project and does not meet the requirement for the greatest public good and least private injury.

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.

RECOMMENDATION

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 Commission.

DONALD E. GREBE, Chief
Office of Project Delivery
Division of Right of Way and Land Surveys

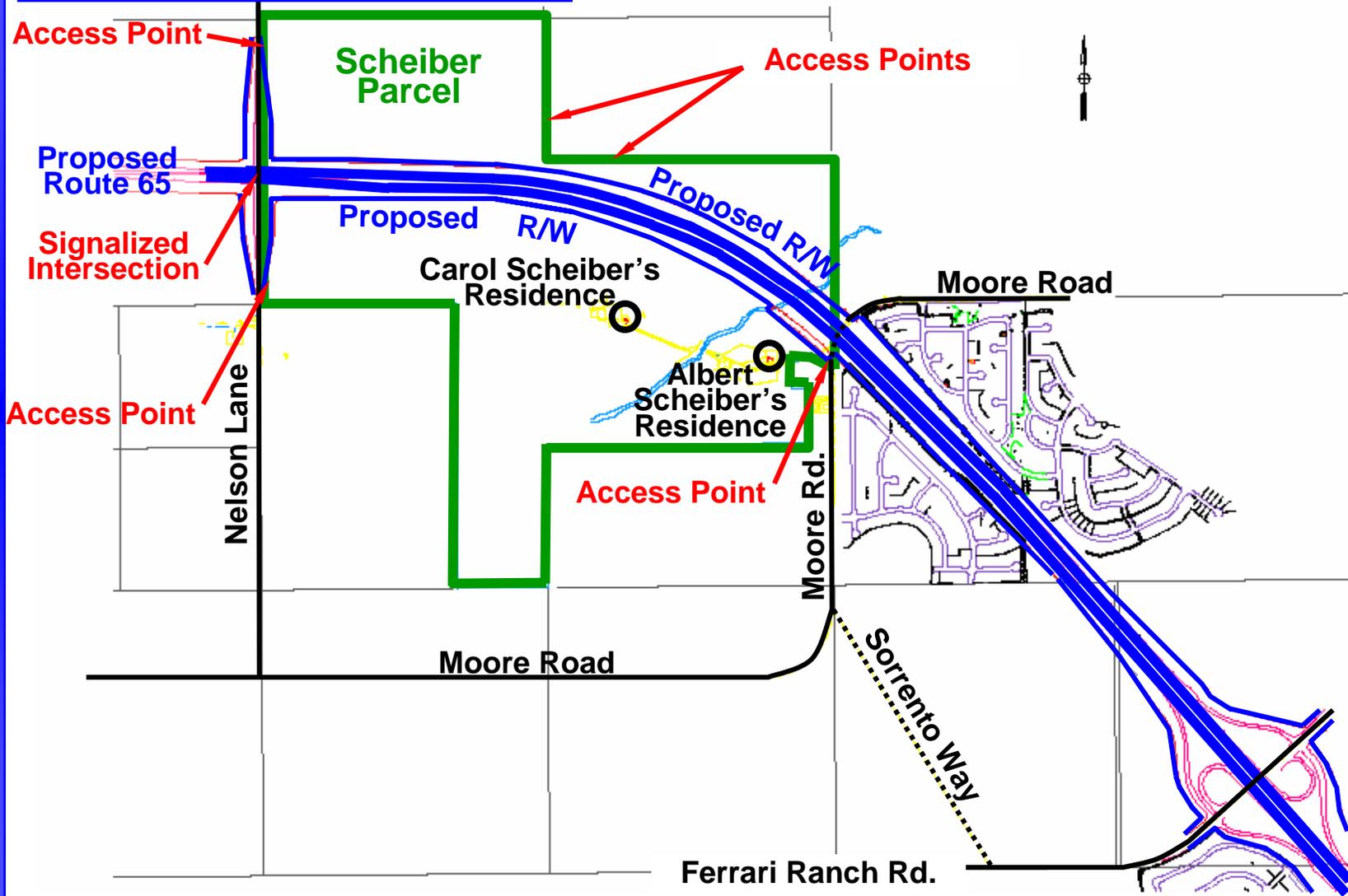
The Chief Engineer recommends submitting a Resolution of Necessity to the California Transportation Commission.

RICHARD D. LAND
Chief Engineer

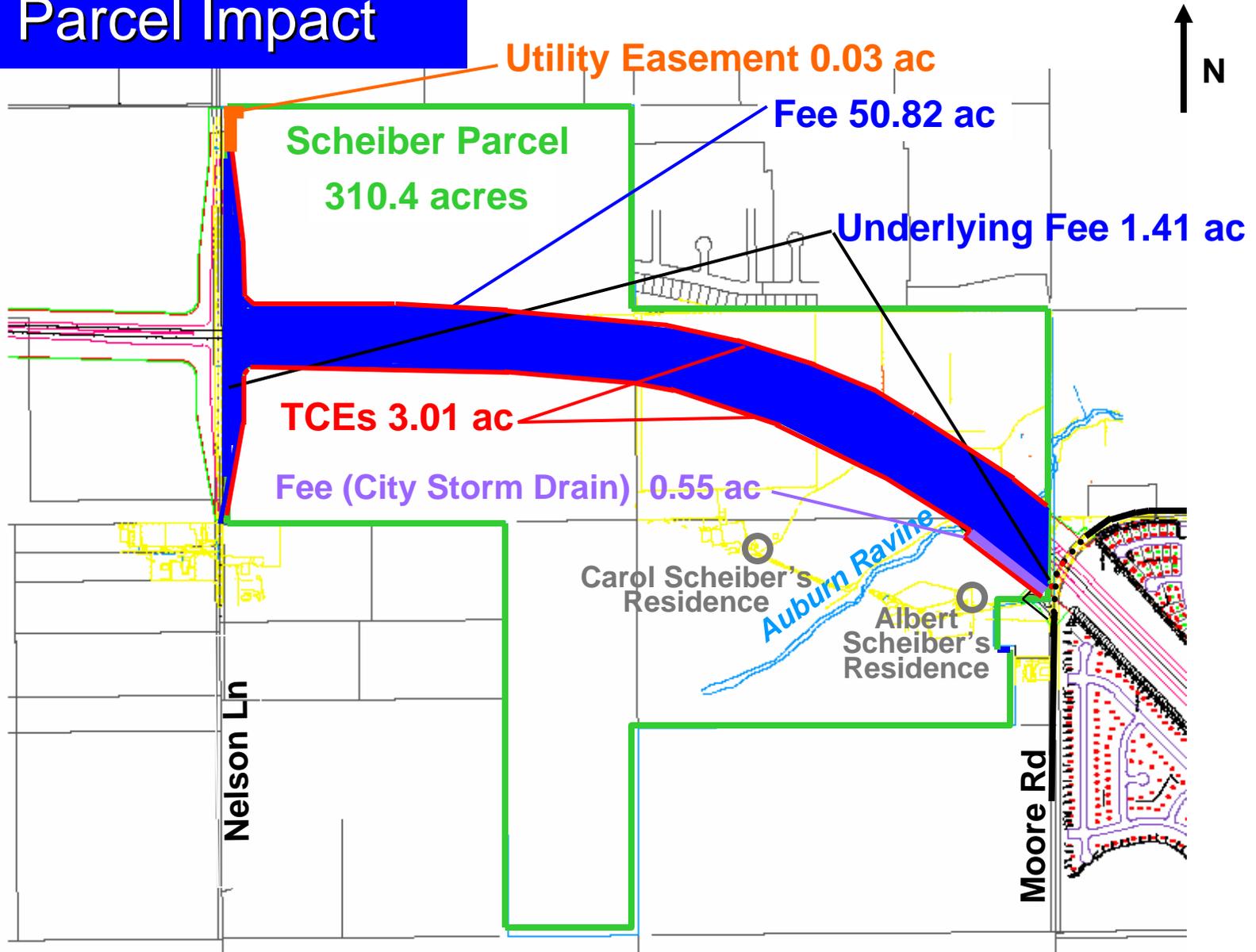
**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING
HEARING ON DECEMBER 20, 2007**

Don Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair
Alice Ramsey, Sacramento 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
Brian Manning, Attorney for the Owner
Carol Ann Scheiber, Property Owner
Albert Scheiber, Property Owner
Amarjeet Benipal, District 3 Deputy Director - Design
Lindy Lee, North Region Right of Way Manager
Jess Avila, District 3 Project Manager
Cornelis Hakim, District 3 Design
Greg Lundblad, District 3 Right of Way
Tarey Townsend, District 3 Right of Way

Parcel Impact



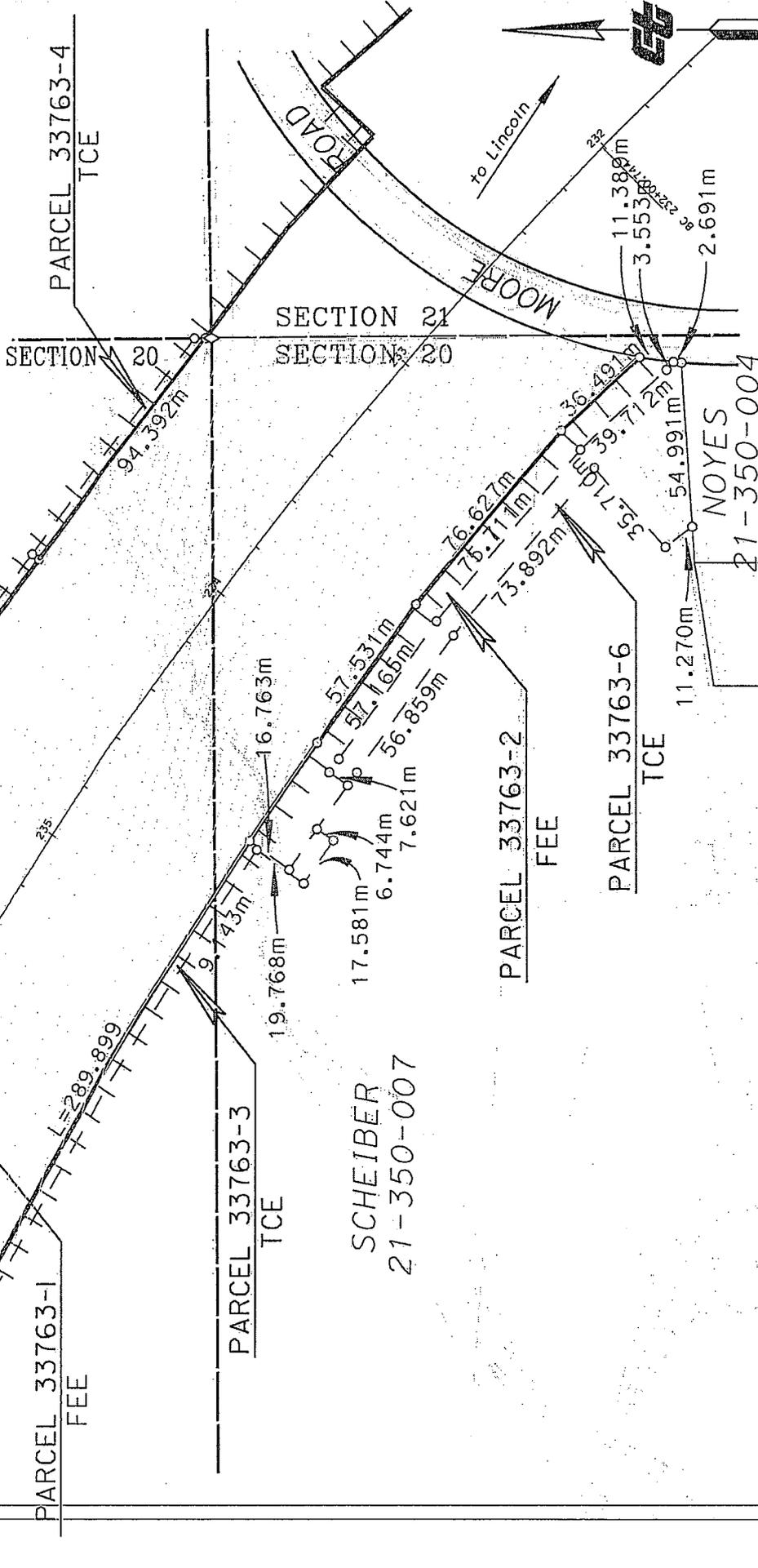
Parcel Impact



COUNTY OF PLACER

T13N, R6E MDM
SECTION 17&20

EXHIBIT B



RESOLUTION OF
NECESSITY MAP

DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	PLA	65	23.2/14.42	C-333802-6B

COUNTY OF PLACER

T13N, R6E MDM

SECTION 17

EXHIBIT B

LUCIA WAY

STREET

53

FIRST

80

81

82

83

84

85

86

87

88

PARCEL 33763-4

TCE

602.934m

601.433m

to Wheatland

244

243

242

550.420m

550.420m

PARCEL 33763-3

TCE

17.510m

241

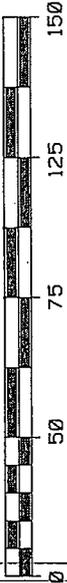
to Lincoln

PARCEL 33763-1

FEE

L=954.921m

SCHEIBER
21-350-007



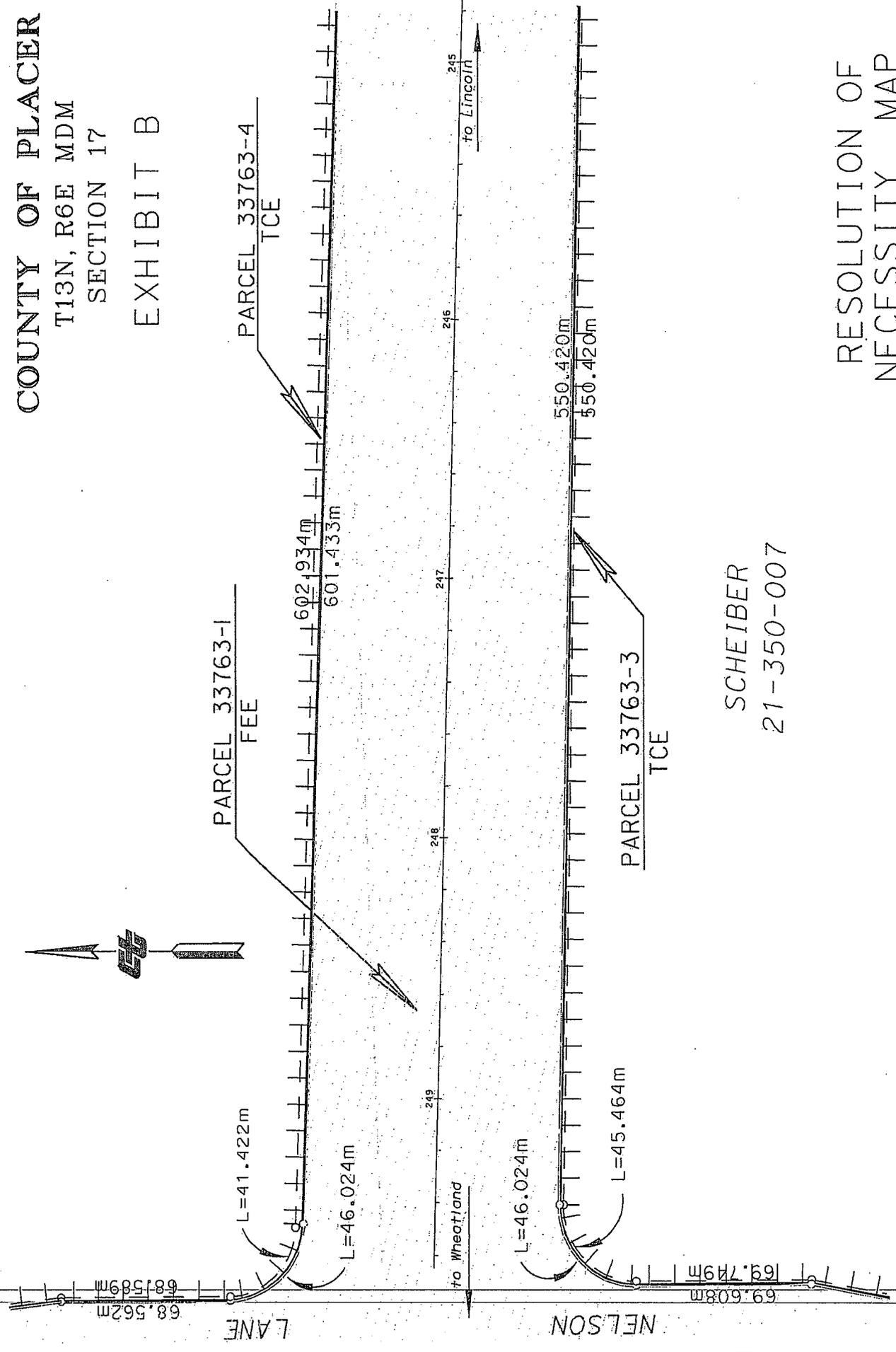
RESOLUTION OF
NECESSITY MAP

DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	PLA	65	23.2/14.42	C-333802-6D

COUNTY OF PLACER

T13N, R6E MDM
SECTION 17

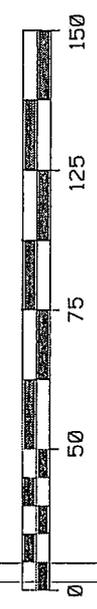
EXHIBIT B



SCHEIBER
21-350-007

RESOLUTION OF NECESSITY MAP

DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	PLA	65	23.2/14.42	C-333802-6E

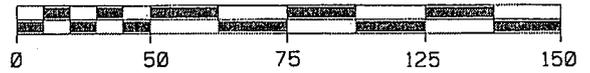
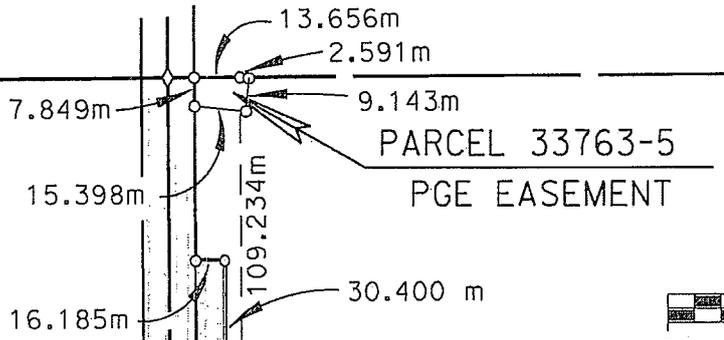


COUNTY OF PLACER

T13N, R6E MDM

SECTION 17

EXHIBIT B



LANE

SCHEIBER
21-350-007

PARCEL 33763-7
UNDERLYING FEE

PARCEL 33763-4
TCE

PARCEL 33763-1
FEE

NELSON

to Wheatland

to Lincoln

RESOLUTION OF NECESSITY MAP

1 250

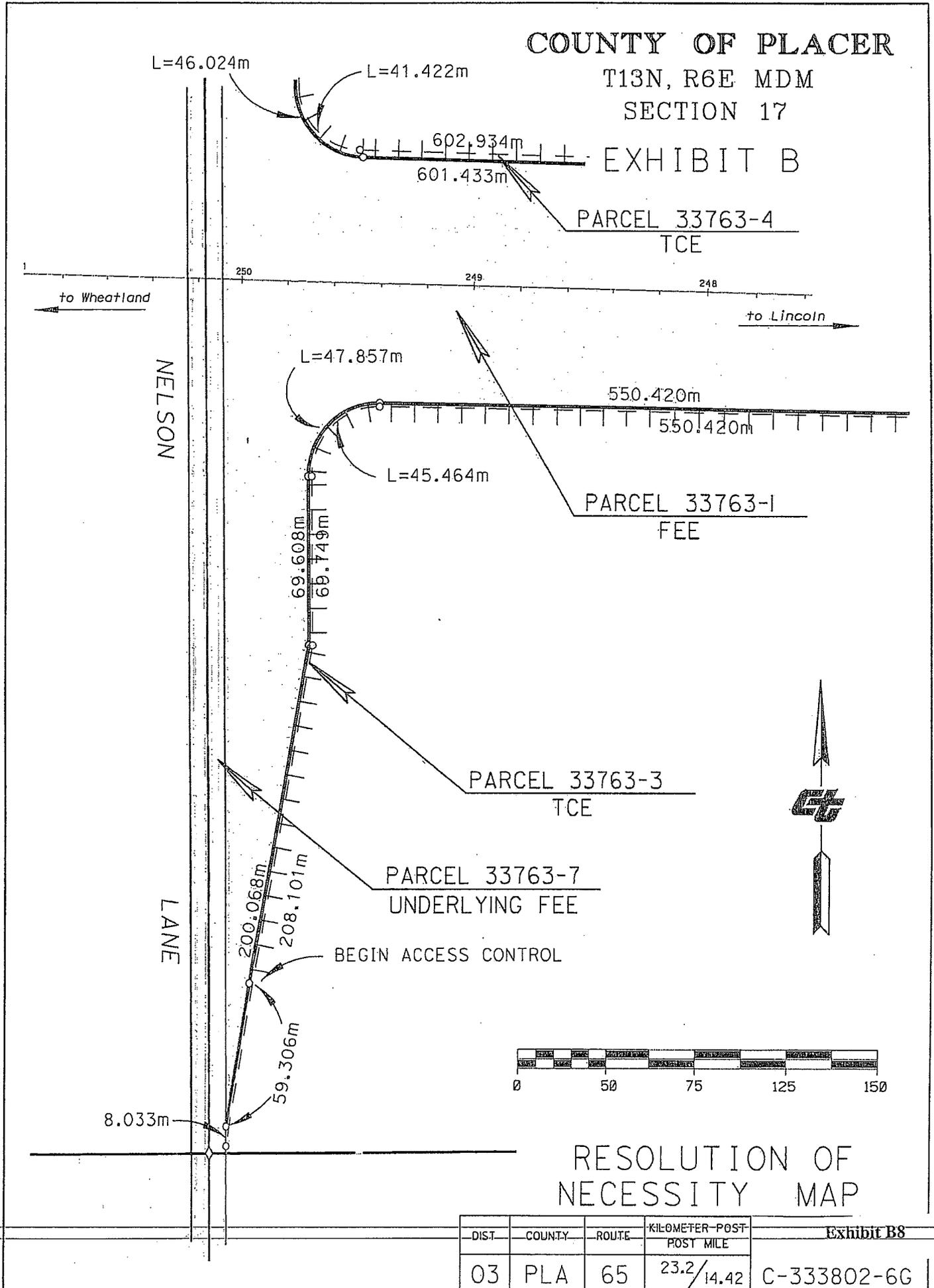
DIST	COUNTY	ROUTE	KILOMETER POS' POST-MILE	Exhibit B7
03	PLA	65	23.2/14.42	C-333802-6F

COUNTY OF PLACER

T13N, R6E MDM

SECTION 17

EXHIBIT B



RESOLUTION OF NECESSITY MAP

DIST.	COUNTY	ROUTE	KILOMETER-POST POST MILE	Exhibit B8
03	PLA	65	23.2/14.42	C-333802-6G