

MEMORANDUM

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: June 24-25, 2020

From: STEVEN KECK, Chief Financial Officer

Reference Number: 2.4a.(3), Action Item

Prepared By: Mark Phelan, Chief (Acting)
Division of Right of Way and Land Surveys

Subject: **RESOLUTION OF NECESSITY – APPEARANCE**

ISSUE:

Should the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-21919, for the parcel whose owners are contesting the declared findings of the California Department of Transportation (Department) under Section 1245.230 of the Code of Civil Procedure?

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 proposed project.
2. 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.
3. The property is necessary for the proposed project.
4. An offer to acquire the property in accordance 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. The primary concerns and/or objections expressed by the property owners is that the proposed project is not planned or located in the manner that will be most compatible with the greatest public good and the least private injury. The property owners' objections and the Department's responses are contained in Attachment B.

“Provide a safe, sustainable, integrated and efficient transportation system to enhance California’s economy and livability”

RECOMMENDATION:

The Department recommends the Commission adopt Resolution C-21919 summarized on the following page. This Resolution is for a transportation project on State Route 395 in District 9, in Inyo County.

BACKGROUND:

Discussions have taken place with the owners, who have been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which they may subsequently be entitled. Adoption of this Resolution will not interrupt the Department's efforts to secure an equitable settlement. In accordance with statutory requirements, the owners have been advised that the Department is requesting the Resolution at the Commission's June 2020 meeting. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

Discussions have been ongoing between the property owner and the Department to address and resolve the issues. Progress has been made, but in order to keep the project schedule, the Department is requesting that this appearance proceed to the June 2020 Commission meeting. Legal possession will allow the construction activities on the parcel to commence, thereby avoiding and/or mitigating considerable right of way delay costs that will accrue if efforts to initiate the condemnation process are not taken immediately to secure legal possession of the subject property.

C-21919 - Jonathan Lynn Noeldner and Angela Tearle Noeldner, husband and wife as joint tenants

09-Iny-395-PM 35.6 - Parcel 4031-1, 2, 3 - EA 213409

Right of Way Certification Date (RWC): 06/30/20; Ready To List (RTL) Date: 06/30/20.

Expressway - construct four-lane expressway. Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access and permanent access easements. Located in the unincorporated area of Olancho at 777 Lacey Lane.

APN 033-020-23.

Attachment A - Project Information

Exhibit A - Project Maps

Attachment B - Parcel Panel Report

Exhibit B - Parcel Maps

Exhibit C - Resolution of Necessity C-21919

Attachment C - Property owner's letter to the Commission dated December 26, 2019

*"Provide a safe, sustainable, integrated and efficient transportation system
to enhance California's economy and livability"*

ATTACHMENT A

PROJECT INFORMATION

PROJECT DATA

09-Iny-395-PM 29.2/41.8
Project No. 0900000030 (EA 21340)

Location: US 395 in Inyo County in the unincorporated area of Olancha at 777 Lacey Lane, Olancha, CA 93549, approximately 23 miles south of the community of Lone Pine and 46 miles north of the community of Inyokern.

Limits: The project begins at post mile 29.2, south of the community of Olancha, and ends near post mile 41.8, north of the community of Cartago.

Cost: R/W Cost: \$24,800,000
Construction Cost: \$83,100,000

Funding Source: State Transportation Improvement Program – Interregional Improvement Program (025.700), Regional Improvement Program (RIP) - Kern COG (075.600), RIP - Inyo County Local Transportation (075.600), & RIP - Mono County Local Transportation (075.600)

Number of Lanes: Existing: 2-lanes (US 395 w/ 2-lane to 4-lane transitions at south and north end)
Proposed: 4-lanes (US 395) (2) 2-lanes

Proposed Major Features: Expressway: Convert undivided 2-lane conventional highway to 4-lane divided expressway
Others: Construct new public road connections, realign State Route 190, construct dirt frontage roads to provide access to private properties.

Traffic: Existing (Year 2020) ADT: 7,210 (Route 395)
Future (2040) ADT: 7,960 (Route 395)

NEED FOR THE PROJECT

The purpose of this project is to increase the safety of this section of US 395, meet current and future vehicular demand, and provide four-lane route continuity with the adjacent four-lane expressway sections. The project will also include the following Complete Streets elements: new shoulders, new multi-use undercrossing, Class III Bike Route, and intersection improvements that will benefit multiple modes of transportation.

Currently, this section of US 395 is an undivided two-lane highway with no access restrictions. Due to numerous access points within the communities and limited sight distances, most of the highway does not allow passing. In order to reduce potential collisions, the posted speed limit has been reduced to 55 mph within the communities. There is a mixture of slower recreational vehicles, commercial trucks, local residential and business traffic, and faster through traffic. Vehicles are also traveling at higher speeds as they enter this section of highway from four-lane divided expressway on either end. All these factors cause queuing behind slower moving vehicles, driver frustration, and results in frequent unsafe and illegal passing maneuvers leading to a fatal accident rate that is 1.29 times the statewide average for a similar facility.

Initially, five alternatives were considered in the draft environmental document. However, an additional alternative was developed that combined two of the original alternatives. This alternative and the original five alternatives were recirculated, and ultimately the combined alternative was selected as the preferred alternative. The preferred alternative best balances the minimization of impacts with the maximization of benefits.

With the construction of this project, the full length of US 395 in Inyo County will be four lanes. The proposed project will increase safety for the traveling public by separating opposing traffic, removing passing restrictions, controlling access points, and providing adequate shoulder widths for bicycle traffic, pedestrian traffic, disabled vehicles, and emergency vehicles. Finally, the proposed project will provide facility continuity and will complete the four-lanes of US 395 in Inyo County.

PROJECT PLANNING AND LOCATION

US 395 is functionally classified as a Principal Arterial and is part of the Federal Aid Primary Highway System and the State Freeway and Expressway System. In the 2015 Interregional Transportation Strategic Plan, it is identified as part of a Strategic Interregional Corridor and as a Priority Interregional Highway. It has the National Network Truck Designation and is an important interstate route in the Strategic Highway Network (STRAHNET) that connects transportation systems across four states. In California, US 395 is a route of statewide significance. It is included in the State Scenic

Highway Master Plan and this portion is eligible for designation as a State Scenic Highway.

As recommended in the 2014 US 395 Transportation Concept Report, the concept facility for US 395 in Inyo County is a four-lane expressway. The 2015 District System Management Plan recognizes US 395 as a major transportation corridor in the District. One of the top priorities of the District is to provide four-lanes to improve safety. With the completion of this project, US 395 will have four lanes from the junction of US 395 and SR 14 in Kern County to north of Lee Vining in Mono County.

US 395 is the primary transportation route in Inyo County and is discussed extensively in the 2019 Inyo County Regional Transportation Plan (RTP). The RTP includes stated objectives to widen US 395 to four lanes (Objective 3.1) and to maintain and improve roadway level of service (Objective 2.1) and the project is consistent with those objectives. The RTP acknowledges the deficient level of service and the need to increase capacity in this segment of US 395. The project is also specifically identified as a Top Priority Project in the list of Currently Programmed Projects in the Action Element of the RTP.

The importance of this project to the region is reflected in the Memorandum of Understanding (MOU) involving Caltrans, the Inyo County Local Transportation Commission, Mono County Local Transportation Commission, and Kern Council of Governments in 2014. Each transportation agency has recognized the value and importance of this project and has been supportive. Money has been obligated for the project through the Regional Improvement Program and the Interregional Improvement Program.

Caltrans recognized the value of private lands during development of the alternatives; specifically, to minimize impact to these lands. Caltrans Preferred Alternative was developed to avoid all types of impacts to the greatest extent possible, including a greater number of private parcels that would have been required for other alternatives. Caltrans has also participated in the local planning process and coordinated directly with the developer to ensure that the planned expansion of the Crystal Geysers water bottling facilities is consistent with the proposed highway improvements.

EXHIBIT A

Project Vicinity Map



Project Location



Project Purpose:

- Increase safety
- Reduce congestion
- Improve route continuity

ATTACHMENT B

PARCEL PANEL REPORT

<u>Property Owner:</u>	Jonathan Lynn Noeldner & Angela Tearle Noeldner
<u>Parcel Location:</u>	0.5 mile west of existing Route 395 at PM 35.6. Site address is 777 Lacey Lane, Olancho, CA 93549
<u>Present Use:</u>	Agriculture, Residential
<u>Zoning:</u>	OS-40 (Open Space-40 acres)
<u>Area of Property:</u>	38.85 acres (APN 33-020-23)
<u>Area Required:</u>	Total = 14.93 acres (11.17 acres – fee & 3.76 acres – access easement for the Los Angeles Department of Water and Power)

PARCEL DESCRIPTION

The Noeldner property is located 0.5 miles west of existing US 395 in the southern portion of Inyo County. The required area from the property listed above includes a total acquisition of 14.93 acres, which comprises a total of 11.17 acres of fee and a total of 3.76 acres of access easement. The larger parcel is flat with vegetation consisting of native shrubs. The parcel is unimproved but most of the perimeter is fenced with 3-strand barbed wire fencing. The property has no utilities, but electric and phone are nearby.

The LADWP's aqueduct is located at the southwest corner of the parcel and mapping shows the aqueduct encroaching upon the Noeldner property. Current title reports show no easement for the aqueduct; however, LADWP provided evidence of their aqueduct easement.

Status of other parcels required for the project:

- Total parcels needed = 30
- Number of parcels acquired = 25
- Number of parcels under order for possession = 0

Number of other owners expected to request an appearance before the commission = 0

NEED FOR SUBJECT PROPERTY

The subject property, parcels 4031-1, 4031-2, & 4031-3, will become part of the new alignment of US 395. The four-lane divided expressway will have controlled access with legal and physical access provided at established access openings. Impacts to the parcels cannot be avoided.

Parcel 4031-1 is 11.17 acres in size and will be acquired in fee. These parcels will be acquired for the construction of both the northbound and southbound lanes of the new expressway.

Parcel 4031-2 is 1.91 acres and Parcel 4031-3 is 1.85 acres and will be acquired as access easements to be deeded to Los Angeles Department of Water and Power (LADWP). These easements are located east and west parallel to the new alignment.

Restriction of abutter's rights of access will be a component of the required right of way.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Panel Review Meeting took place on May 5, 2020. Due to the Covid- 19 Pandemic and subsequent Governor's orders to remain sequestered to the extent possible, the meeting was via WebEx video and teleconference software. The Panel members included Jeffrey Purdie, Panel Chair, Department of Transportation (Department) Headquarters (HQ's) Division of Right of Way and Land Surveys (RW&LS); Joann Georgallis, Department HQ's Legal Division; Tina Lucas, Department HQ's Division of Design; and Shalvin Singh, Department HQ's Division of RW&LS, Panel Secretary .

In addition the following Caltrans staff were also in attendance: Carmen Shantz, Department HQ's Division of Design; Mike Whiteside, Department HQ's Assistant Chief Engineer; Ryan Dermody, Director, District 9; Bryan Winzenread, Project Delivery Manager, District 9; Tanisha Barfield, Right of Way Office Chief, District 9; Brian Wesling, Design Senior Engineer, District 9; Ron Chegwidden, Design Engineer, District 9; Dennee Alcala, Project Manager, District 9; and David Rodriguez, Right of Way Agent, District 9.

The property owner was also in attendance: Jonathan Lynn Noeldner.

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 Department's Chief Engineer. The primary concerns and objections expressed by the property owners are that the proposed project is not planned or located in the manner that will be most compatible with the greatest public good and least private injury.

The following is a description of the specific concerns raised by the property owner(s), followed by the Department's response:

Owner Contends:

The new 4-lane expressway alignment across my property limits my ability to convey water across my property into the Los Angeles Aqueduct. The proposed 48" HDPE sleeve is not safe to run high-power electric lines with a high-pressure water line. Therefore, I need a second sleeve or conduit to run high-power electric with signal cables in one sleeve and a high-pressure water main in the other. The owner needs to accommodate an 18-inch waterline and two 4-inch signal cables.

Department's Response:

Caltrans agreed to accommodate the owner's request for installation of a future water transportation system in compliance with Caltrans requirements for transverse utility crossings. Caltrans will install as part of the project, a 24-inch diameter HDPE sleeve for transmission of water and two 6-inch PVC conduits to accommodate electrical needs. Design Engineering will continue to work with the property owner to determine the appropriate size and specifications of the sleeve(s) or conduit(s).

Owner Contends:

The proposed Possession and Use agreement makes me the, "fee owner" of the wide easements proposed for LADWP's O&M roads. I do not object to being the, "fee owner" as long as I can use the portions of those easements that are not under their O&M Roads to plant trees and/or other agricultural plants, place billboards, and otherwise use as long as I don't obstruct the 20 foot wide corridors over LADWP's finished O&M Roads to a height of 15 feet or so.

Department's Response:

The LADWP road access easements are required because the existing road is severed, the clearance under the bridge going over the aqueduct is 4 ½ feet and there is no vehicular access under the bridge. The width of the easement entrance is required to allow for truck turning radius to enter and exit the expressway. The road is not at grade and, so LADWP will need to maintain side slopes with cut and fill. Caltrans informed Mr. Noeldner that as the fee owner, the property owner can use the surface as long as they don't unreasonably interfere with the use of easement. However, the department does not have the jurisdiction to provide input on future use, compliance with code sections or beautification requirements and cannot coordinate for the property owner. This is an issue of compensation.

Owner Contends:

The proposed LADWP easement includes a large portion of my frontage with the Los Angeles Aqueduct. I would like to be legally guaranteed my access will not be denied or impacted.

Department's Response:

Assuming the owner has existing rights, the owner retains the existing legal rights to the frontage and access to the aqueduct.

Owner Contends:

The alignment can be moved to the west to avoid his property.

Department's Response:

The realignment of the highway would require the acquisition of 3 additional parcels, would impact additional developed parcels, require additional fills and causes an increased environmental impact.

Owner Contends:

The 14.93 acres (11.17 acres in fee and 3.76 acres easement) that Caltrans wants to acquire from me makes my property too small to legally qualify as, "OS – 40 Zoning" which would make it so that I cannot irrigate orchards or farm crops to establish water use. Therefore, I need to acquire additional land and be able to use the LADWP easement.

Department's Response:

The parcel is currently 38.83 total acres zoned OS-40 (Open Space 40 acres). Given that Mr. Noeldner will have 37.68 acres of contiguous land in the after condition, after Caltrans It was calculated that after the fee acquisition, including the two 5-acre parcels to the east of the larger parcel, Caltrans has explored the possibility of an eminent domain variance. After talking with Inyo County Planning and environmental health it was determined that the reduction in size will not have an impact on the zoning or acreage requirements for agricultural development. Any assemblage impacts are an issue of compensation and monetary severance damages.

Owner Contends:

If I sign the Possession and Use agreement, I give Caltrans immediate access to use my property, Caltrans would deposit a sum of money into an escrow account that I could not access until all negotiations relative to this property are legally resolved: is that the case, or can I access said funds immediately?

Department's Response:

This is a compensation issue. The date money is deposited into escrow is the date funds are available and that is the date of possession. If there is a dispute about compensation when entering into a possession and use agreement you retain the right to dispute compensation regardless of the amount withdrawn. Rights are retained to negotiate a settlement. The appraiser cannot use project to influence value. Damage to the remainder is taken into account. The project does not influence a lower amount, damages after the proposed construction are taken into consideration.

DEPARTMENT CONTACTS:

The following is a summary of the contacts made with the property owner/attorney:

Type of Contact	No of Contacts
Mailing of information	4
Emailing of Information	35
Telephone	27
Personal Call	0

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 the Government Code Section 7267.2. The Owners have been notified that issues related to compensation are outside the purview of the Commission.

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 accordance with Government Code Section 7267.2 has been made to the owners of record.

The Panel recommends submitting this Resolution of Necessity to the Commission.

Jeffrey A. Purdie

JEFFREY PURDIE
Chief, Office of Project Delivery
HQ Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

Mike Whiteside (for Mike Keever)

MICHEAL KEEVER
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW
MEETING ON MAY 5, 2020**

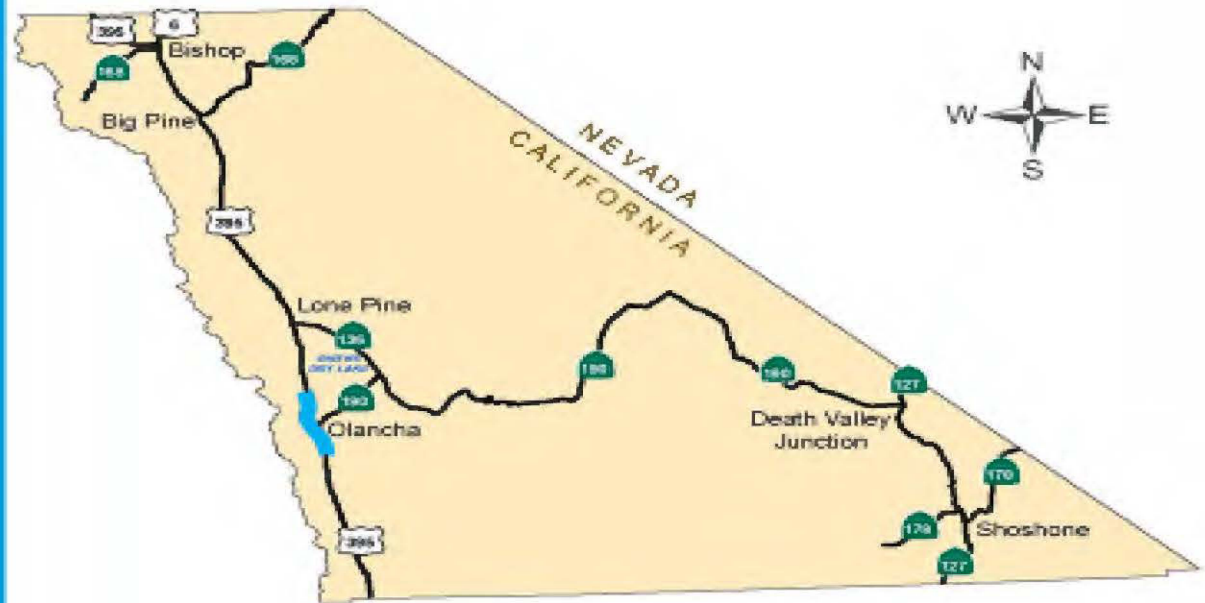
Jeffrey Purdie, HQ's Division of Right of Way and Land Surveys, Panel Chair
Shalvin Singh, HQ's Division of Right of Way and Land Surveys, Panel Secretary
Joann Georgallis, Assistant Chief Counsel, HQ's Sacramento, Panel Member
Tina Lucas, HQ's Division of Design, Panel Member
Carmen Shantz, HQ's Division of Design
Michael Whiteside, HQ's Assistant Chief Engineer

Ryan Dermody, Director, District 9
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Tanisha Barfield, Right of Way Office Chief, District 9
Brian Wesling, Design Senior Engineer, District 9
Ron Chegwiddden, Design Engineer, District 9
Dennee Alcalá, Project Manager, District 9
David Rodriguez, Right of Way Agent, District 9

Jonathan Lynn Noeldner, Property Owner

EXHIBIT B

Project Vicinity Map



Project Impacts

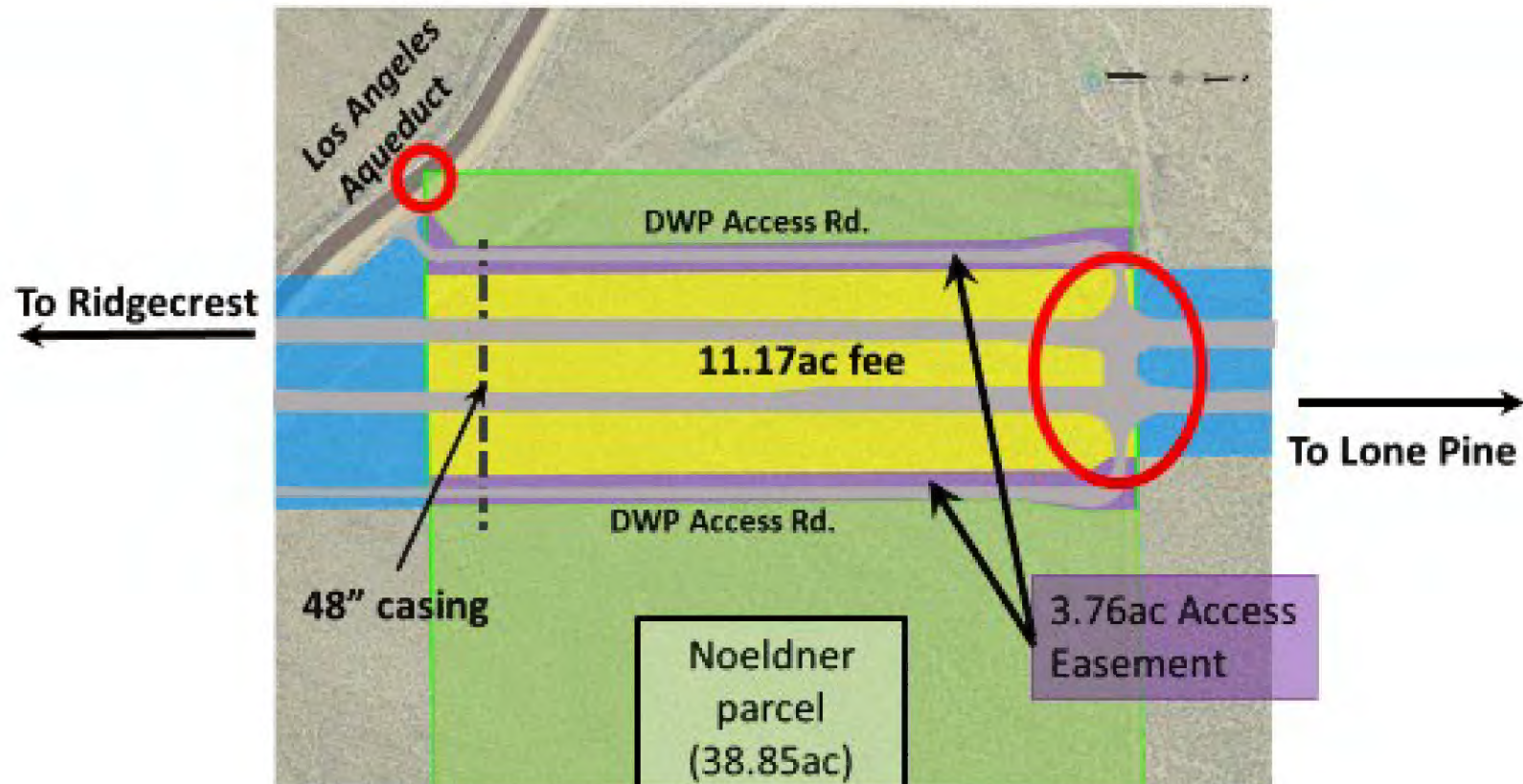


EXHIBIT C

1 **TRANSPORTATION COMMISSION**
2 **RESOLUTION NO.**

3 **C-21919**

4 CALIFORNIA TRANSPORTATION COMMISSION
5 RESOLUTION OF NECESSITY
6 TO ACQUIRE CERTAIN REAL PROPERTY
7 OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN
8 HIGHWAY 09-Iny-395-PM 35.6 PARCEL 4031-1, 2, 3
9 OWNER: Jonathan Lynn Noeldner and Angela Tearle Noeldner, husband and wife as joint
10 tenants

11 Resolved by the California Transportation Commission after notice (and hearing)
12 pursuant to Code of Civil Procedure Section 1245.235 that it finds and determines and
13 hereby declares that:

14 The hereinafter described real property is necessary for State Highway purposes
15 and is to be acquired by eminent domain pursuant to Streets and Highways Code Section
16 102; and Code of Civil Procedure Section 1240.350 in that the property is necessary to
17 provide access or utility service to other property;

18 The public interest and necessity require the proposed public project, namely a State
19 highway;

20 The proposed project is planned and located in the manner that will be most
21 compatible with the greatest public good and the least private injury;

22 The property sought to be acquired and described by this resolution is necessary for
23 the public project;

24 The offer required by Section 7267.2 of the Government Code has been made to the
owner or owners of record; and be it further

RESOLVED by this Commission that the Department of Transportation be and said
Department is hereby authorized and empowered;

APPROVED AS TO FORM AND PROCEDURE

APPROVAL RECOMMENDED

Attorney, Department of Transportation

DIVISION OF RIGHT OF WAY

1 To acquire, in the name of the People of the State of California, in fee simple
2 absolute, unless a lesser estate is hereinafter expressly described, the said hereinafter
3 described real property, or interests in real property, by condemnation proceeding or
4 proceedings in accordance with the provisions of the Streets and Highways Code, Code of
5 Civil Procedure and of the Constitution of California relating to eminent domain;

6 The real property or interests in real property, which the Department of
7 Transportation is by this resolution authorized to acquire, is situated in the County of Inyo,
8 State of California, Highway 09-Iny-395 and described as follows:

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PARCEL 4031-1 FEE

For State highway purposes that portion of the northwest quarter of the northeast quarter of Section 13, Township 19 South, Range 36 East, M.D.B. & M. according to the official plat thereof, located in an unincorporated area of County of Inyo, State of California, more particularly described as follows:

Commencing at a 3/4 inch rebar with 2 inch diameter aluminum cap stamped "T19S R36E 1/4 S12 S13 LS 7002" set to mark the north quarter corner of said Section 13 per Record of Survey Map Book 15, pages 23 thru 25 as recorded in said Inyo County Clerk Recorder's Office;

Thence easterly along the north line of said Section 13, N 88°59'52" E, 176.17 feet to the TRUE POINT OF BEGINNING;

Thence the following courses:

Course #1, continuing along said north line, N 88°59'52" E, 350.01 feet to a point from which a 2 1/2 inch iron pipe set to mark the east one sixteenth corner of said Section 13, per said Record of Survey Map Book 15, pages 23 thru 25, bears S 88° 59' 52" W, 767.11 feet;

Course #2, leaving said north line, S 0°30'45" E, 62.99 feet;

Course #3, S 49°36'37" E, 30.43 feet;

Course #4, S 0°30'45" E, 1225.43 feet more or less to the south line of the northwest quarter of the northeast quarter of said Section 13;

Course #5, westerly along said south line, S 88°56'57" W, 373.02 feet;

Course #6, leaving said south line, N 00°30'45" W, 1,308.86 feet to the north line of said Section 13 and the TRUE POINT OF BEGINNING.

Lands abutting the State highway shall have no right or easement of access thereto except over and across the southerly 60 feet of Course #2 described above as S 0°30'45" E, 62.99 feet and the opening over and across the northerly 60 feet of course #6 described above as N 0°30'45" W, 1308.86 feet.

PARCEL 4031-2 EASEMENT

An access easement for road purposes across a parcel of land more particularly described as follows:

Commencing at said 3/4 inch rebar with 2 inch aluminum cap set to mark the north quarter corner of said Section 13;

Thence easterly along the north line of said Section 13, N 88°59'52" E, 526.18 feet to the TRUE POINT OF BEGINNING;

Thence easterly along said north line, N 88°59'52" E, 103.00 feet to a point, from which a 2 1/2 inch iron pipe set to mark the east one sixteenth corner of said Section 13, per said Record of Survey Map Book 15, pages 23 thru 25, bears S 88° 59' 52" W, 664.11 feet;

Thence leaving said north line, S 0°30'45" E, 89.36 feet;

Thence S 7°48'42" W, 138.15 feet;

Thence S 0°30'45" E, 1,082.60 feet more or less to the south line of said northwest quarter of the northeast quarter;

Thence westerly along said south line, S 88°56'57" W, 60.00 feet;

Thence leaving said south line, northerly and sequentially along courses #4, #3 and #2 of Parcel 4031-1 as described above, to the TRUE POINT OF BEGINNING.

PARCEL 4031-3 EASEMENT

An access easement for road purposes across a parcel of land more particularly described as follows:

Commencing at said 3/4 inch rebar with 2 inch aluminum cap set to mark the north quarter corner of said Section 13;

Thence easterly along the north line of said Section 13, N 88°59'52" E, 96.17 feet to the TRUE POINT OF BEGINNING;

Thence easterly along said north line, N 88°59'52" E, 80.00 feet to a point, from which a 2 1/2 inch iron pipe set to mark the east one sixteenth corner of said Section 13, per said Record of Survey Map Book 15, pages 23 thru 25, bears S 88° 59' 52" W, 1117.12 feet;

Thence leaving said north line and along course #6 of Parcel 4031-1 above, S 0°30'45" E, 1308.86 feet more or less to the south line of the northwest quarter of the northeast quarter of said Section 13;

Thence westerly along said south line, S 88°56'57" W, 18.33 feet to the northeasterly right of way line of the Los Angeles Aqueduct as created by act of Congress dated June 30, 1906;

Thence leaving said south line and along said northeasterly right of way line, N 38°16'38" W, 68.05 feet;

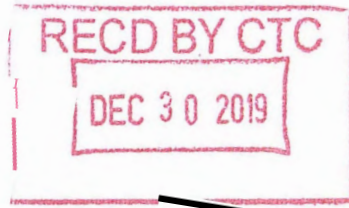
Thence leaving said northeasterly right of way line, N 0° 30'45" W, 1033.06 feet;

Thence N 8°52'40" W, 137.47 feet;

Thence N 0°30'45" W, 85.49 feet to the TRUE POINT OF BEGINNING.

The bearings and distances used in the above descriptions are on the California Coordinate System of 1983 (Epoch 1991.35), Zone 4. Divide the above distances by 0.9997828 to obtain ground level distances.

ATTACHMENT C



Jonathan Noeldner
367 Heather Court .
Eau Claire, Wisconsin 54701

December 26, 2019

Executive Director
California Transportation Commission
P. O. Box 942873
Mail Station 52
Sacramento, California 94273-0001

*Forwarded
TO
Right of Way
12/30/19
Copy to
Teri
Anderson*

Re.: 09-Iny-395-PM 35.6
EA 21340
Project #0900000030
State Parcel 4031-1, 2, 3
APN 033-020-23
Jonathan & Angela Noeldner

Dear Executive Director,

I am writing to request that I be allowed to personally appear before the California Transportation Commission (Commission) in regards to property that the California Department of Transportation (Department) is trying to acquire from me by means of eminent domain. The Details for this property are shown above.

According to the California Code of Civil Procedure (CCP) Section 1240.030, the power of eminent domain may be exercised to acquire property for a proposed project if the following three conditions are est ablis hed:

- (A) The public interest and necessity require the project.
- (B) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (C) The property sought to be acquired is necessary for the project.

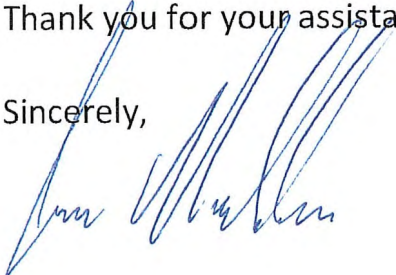
Also, CCP Section 1245.230 requires that the offer required by section 7267.2 of the Government Code has been made to the owner of record.

I contend that the statement in (B) has not been met because, "the project is not planned or located in the manner that will be most compatible with the least private injury."

Also, I would like to contend that the Department abandoned its normal procedure, for complying with section 7267.2 of the Government Code, in its attempt to acquire my property, in that the Department failed to properly notify me prior to the appraisal meeting at my property. I did not realize there had been an appraisal meeting at my property until I read an erroneous letter, included in the Department's offer letter to me that stated I had been invited to the appraisal meeting at my property. It was a considerable amount of time AFTER the Department held their appraisal meeting at my property, and quite a while after I had received the Department's offer letter, that I finally received the invitation to meet with their appraisal team at my propert y. (much too late)

Please direct any questions, comments, or response to me by Certified Mail at my mailing address listed on page 1, or, email me at jonnoeld@aol.com

Thank you for your assistance.

Sincerely,


Jonathan Noeldner