

## Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: November 6-7, 2002

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

From: ROBERT L. GARCIA  
Chief Financial Officer

Prepared by: Brice D. Paris  
Division Chief  
Right of Way

Ref: APPEARANCE

### RECOMMENDATION:

The Department of Transportation recommends the California Transportation Commission adopt Resolution of Necessity C-18650, 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 of Transportation is requesting a resolution at this time. Adoption of Resolution of Necessity C-18650 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules. See Concurrent item 2.4a.(2).

C-18650 - James M. Nelson & Rajeswari S. Nelson

03-But-99-PM 39.87-Parcel 031812-1,2,3 - EA: 338702 - Certification Date: 8/01/02 - RTL Date: 01/03 - Highway rehabilitation (Conventional Highway) Authorizes condemnation of land in fee for a State highway, an easement for utility anchor purposes, an easement for utility purposes, located in the city of Chico between Wilson Landing Road and Anita Road. APN 47-260-101; 47-260-102.

Attachment

## SUMMARY OF ISSUES

### **FLOODING**

The property owners contend that the project design will cause flooding on his property. This project will not increase flooding. Exist drainage patterns will be continued. A nearby slough (Rock Creek) cannot meet current capacity needed during storms but that will be addressed with the Area Wide Drainage Improvement Project sponsored by Butte County and the Army Corps of Engineers.

Mr. Wally Roney, a neighbor who accompanied and advised Mr. Nelson, suggested that the striping plan of the project should include left-hand turn pockets in front of residences to reduce the risk for motorists who must cross the highway median to enter driveways on the opposite shoulder. This design feature was requested in light of the perceived increased speed and number of vehicles on the rehabilitated highway.

This project will not increase speed or the number of vehicles on the highway. This project has features that will make left turns more visible for approaching traffic as it increases sight distance and adds paved shoulders.

Mr. Nelson offered that the issues of traffic control and drainage seemed to be addressed adequately in the project plans. Disagreement over the adequacy of payment for existing land, improvements and damages resulting from the project fall under the heading of compensation

## FACT SHEET

**Project Data** 03-But-99-T61.5/71.5

**Location:** In Butte County, North of the City of Chico on Rte 99

**Limits:** The Esplanade to 0.2 KM north of Broyles Road on Rte 99

**Cost:** \$8,970,000 construction cost and \$864,000 Right of Way costs

**Funding Source:** 2002 SHOPP in the 03/04 year

**Number of Lanes Existing:** 2 lanes mixed flow- 3.6 meter traveled ways - 0.6 - 2.4 meter shoulders.

**Proposed:** 2 lanes mixed flow- 3.6 meter traveled ways- 2.4-meter shoulders.

**Proposed Major Features:** State Route 99 will remain a 2-lane facility however, shoulders will be widened to provide a continuous 2.4 meter width. A Clear Recovery Zone of 6 meters will be obtained.

**Traffic:** Existing: (2000): 17000  
Proposed: (2010): 23000

### Parcel Data

**Property Owner:** Rajeswari and James Nelson  
**Parcel Location:** North West of Keefer Slough Bridge to Anita Road

**Present Use:** Residence and Agriculture

**Area of Property:** Two APNs- one 4.20 acre parcel and one 40.43 acre parcel = 44.63 acres or 1,944,083 SF.

**Area Required:** The easement acquisition and partial fee have areas of 398 square feet (0.009 acres) and 36,833 square feet (0.846 acres) respectively from an overall property area of 44.63 acres.

03-BUT-99 PM 39.87  
R/W Parcel No. 031812-1,2,3  
James M. Nelson and Rajeswari S.  
Nelson

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Resolution of Necessity Review Panel met at 1:00 PM, September 6, 2002 at the Caltrans Maintenance yard at 2535 Notre Dame Blvd. in Chico. Mr. James Nelson and Mr. Wally Roney represented Mr. and Mrs. Nelson's interests. The Review Panel included Yvonne Von Brauchitsch, Headquarters Legal Division, Linda Fong, Headquarters Design Division and Charles Carrillo, Headquarters Right of Way. Representatives from North Region Design and Right of Way divisions were present to provide project information. This report summarizes the findings of the Review Panel with regard to the four criteria required for a Resolution of Necessity and makes recommendation to the Deputy Director for Project Delivery.

### **NEED FOR THE PROJECT**

This project is a highway Resurfacing, Restoration and Rehabilitation (RRR) project. It lies within a segment of Route 99 that is part of the National Highway System. The project is in Butte County between a point just north of Broyles Rd. and a point just north of Garner Lane north of Chico. In this vicinity the existing State Route is a conventional two-lane highway with narrow cross-section and little or no shoulders for vehicle recovery or off pavement parking. Current traffic consists of commuters, recreational, commercial and agricultural users in this rural setting.

This project is in accordance with regional planning documents and complies with the objectives, goals and policies of the 1998 Butte County Association of Governments (BCAG) long range Regional Transportation Improvement Plan. A Negative Declaration was adopted on January 8, 2001. A Categorical Exclusion was approved by FHWA on April 12, 2001 regarding NEPA requirements.

Maintenance costs for this section of roadway are excessive. The pavement conditions warrant roadway rehabilitation. Also, the existing 28 foot (8.4 m) roadway cross section is nonstandard for the over 11,000 annual average daily trips traffic using this roadway. The desirable cross section for an RRR project with this traffic volume is 40 feet (12.0 m), which is the proposed width for this project roadbed.

### **PROJECT DESIGN**

The proposed project will widen the right of way and shift the traveled way slightly westward to straighten the highway. Resurfacing and striping will finish a standard 40-foot (12m) cross-section, one lane in each direction, with standard eight-foot (2.4m) shoulders on both sides. A 20-foot (6m) recovery zone will be provided on either side of the highway except in the vicinity of Keefer Slough Bridge. Portions of the project north

and south of Keefer Slough Bridge will contain a continuous two-way left turn lane. Total project costs are estimated at \$9.8 million.

### **NEED FOR THE PARCEL**

The residential and agricultural property owned by Mr. and Mrs. Nelson is needed for construction staging and for the adjusted alignment of Route 99. Proposed clear recovery zones, shoulders, relocation of roadside drainage ditches and utility pole relocation require the planned width of right of way fronting along the Nelson's property. The planned alignment avoids numerous other residential structures and environmental issues that would arise if the project were realigned to the east.

### **STATUTORY OFFER TO PURCHASE**

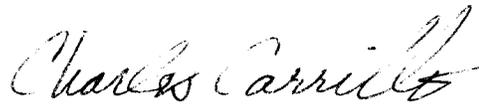
The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record in compliance with Government Code Section 7267.2.

### **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.



\_\_\_\_\_  
CHARLES CARRILLO  
R/W Division, Panel Chair

I concur with the Panel's recommendation:



\_\_\_\_\_  
BRENT FELKER  
Deputy Director for Project Delivery

**PERSONS ATTENDING SECOND LEVEL REVIEW PANEL HEARING ON  
September 6, 2002**

Mr. James M. Nelson, Owner  
Mr. Wally Roney, Advisor

Department of Transportation:  
Heidi Sykes, North Region Design Supv.  
Dan Newton, Project Design Engineer  
Don Grebe, North Region Right of Way  
Jeff Phipps, North Region Right of Way  
Julie Franklin, Right of Way  
Linda Fong, Design, Panel Member  
Yvonne Von Brauchitsch, Attorney, Panel  
Member  
Charles Carrillo, Right of Way, Panel Chair

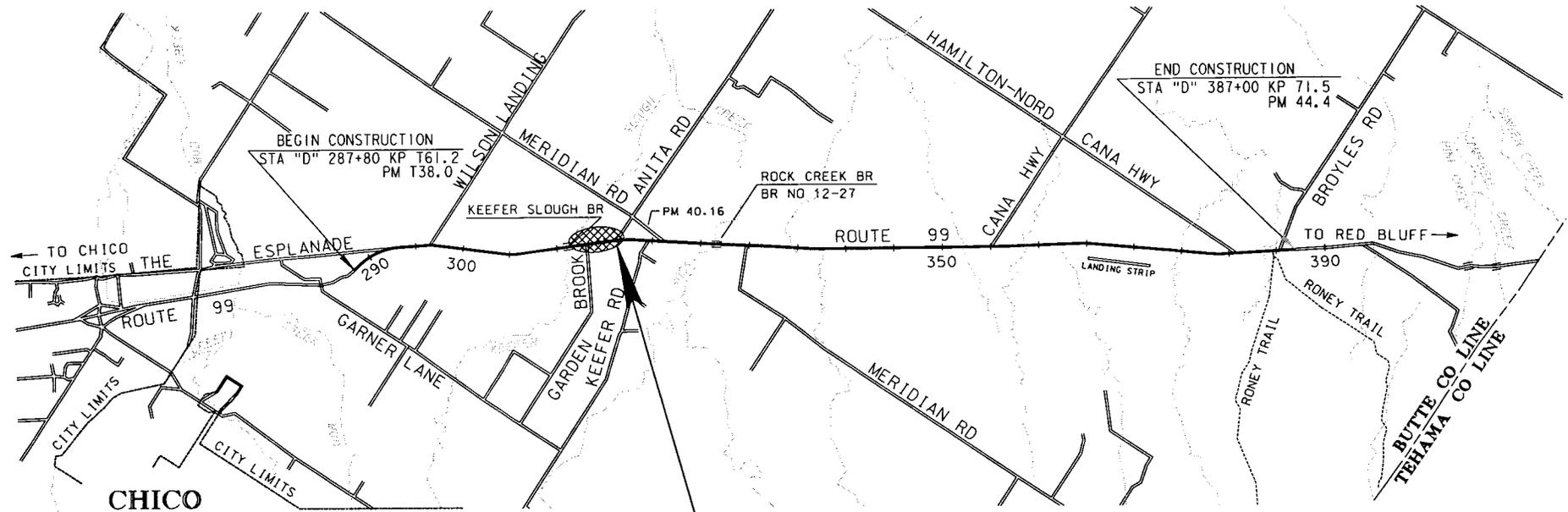
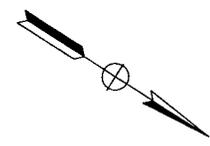
03-BUT-99 PM 39.87  
R/W Parcel 031812-1,2,3  
James M. Nelson and  
Rajeswari S. Nelson

October 18, 2002

## **CHRONOLOGY OF CONTACTS**

- 12/7/2001      Appraisal inspection of property with Mr. Nelson.
- 5/28/2002      Appointment made by Jeff Phipps for the first written offer.
- 5/31/2002      First written offer made to Mr. Nelson.
- 6/13/2002      Wells inspection made with Mr. Nelson.
- 6/18/2002      Second offer is made of increased amount to meet Mr. Nelson's demands. Another increased demand is made.
- 6/28/2002      A Notice of Intent to condemn interest in real property is hand-delivered to Mr. Nelson.
- 7/11/2002      Revision to Notice of Intent is mailed to Mr. Nelson.
- 7/18/2002      Counter offer for well replacement costs is received from Mr. Nelson and his contractor.
- 7/22/2002      Mr. Nelson writes a letter to the California Transportation Commission requesting an appearance.
- 7/25/2002      Meeting with Mr. Nelson to discuss differences in opinions of value.
- 7/26/2002      Per conversation with Mr. Nelson, specifications for concrete block wall is mailed to Mr. Nelson.
- 8/5/2002      Conversation with Mr. Nelson. 1<sup>st</sup> Level Review meeting is scheduled.
- 8/15/2002      1<sup>st</sup> Level Review meeting is held in Chico.
- 8/17/2002      Plans are mailed to Mr. Nelson, an offer to construct a new driveway is made per Mr. Nelson's request.
- 8/22/2002      Meeting with Mr. Nelson to attempt to settle.
- 9/16/2002      Revised Notice of Intent is mailed to Mr. Nelson and his attorney.

- 9/26/2002 2<sup>nd</sup> Level Review meeting is held in Chico.
- 10/1/2002 Conversation with attorney William A. Ward. Mr. Nelson's appearance is rescheduled to the November 2002 meeting of the CTC.
- 10/17/2002 Conversation with Mr. Nelson. A negotiation meeting is set for Tuesday, October 22, 2002.



CHICO

PARCELS 031812-1, 2, & 3  
TO BE CONDEMNED

NO SCALE

RESOLUTION OF  
NECESSITY MAP

DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.0

T23N R1E MDM

EXHIBIT B

SEC 31

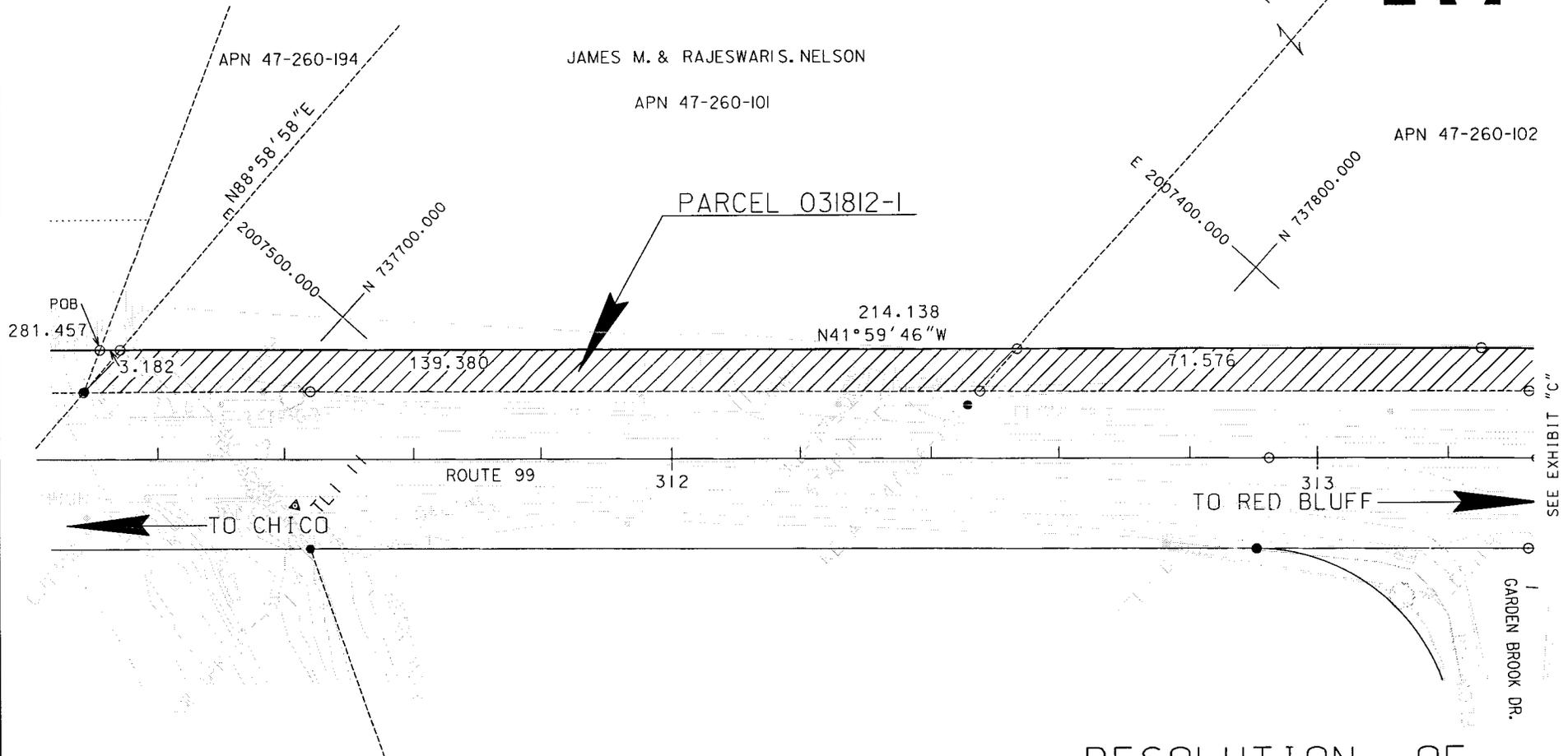


JAMES M. & RAJESWARIS. NELSON

APN 47-260-101

APN 47-260-102

PARCEL 031812-1



RESOLUTION OF NECESSITY MAP



DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.1

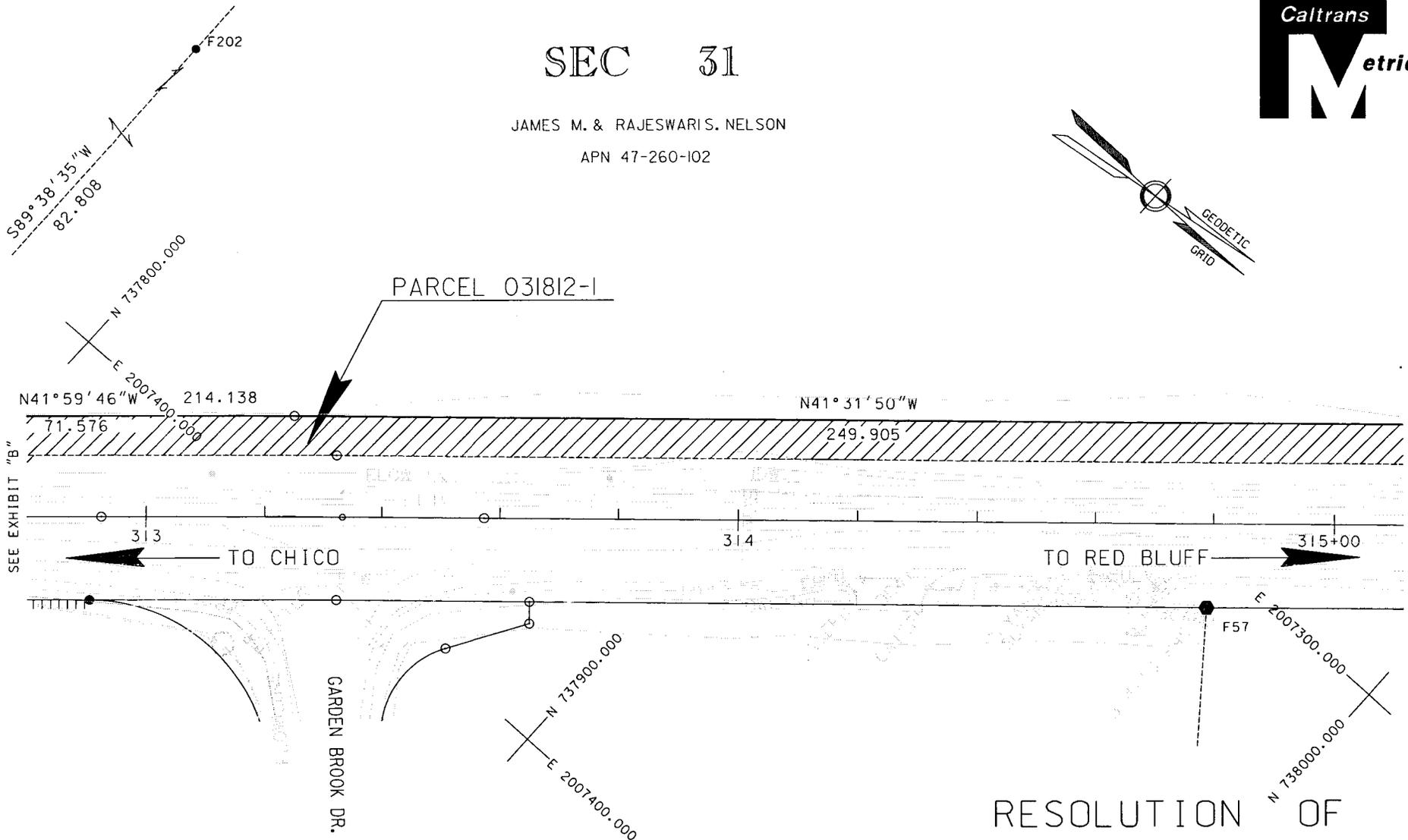
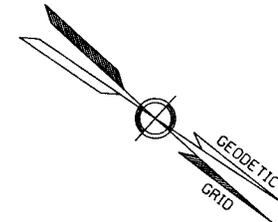
T23N R1E MDM

EXHIBIT C

SEC 31

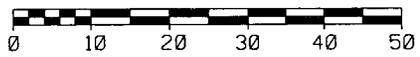


JAMES M. & RAJESWARIS, NELSON  
APN 47-260-102



SEE EXHIBIT "B"

SEE EXHIBIT "D"



RESOLUTION OF NECESSITY MAP

DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.2

# T23N R1E MDM

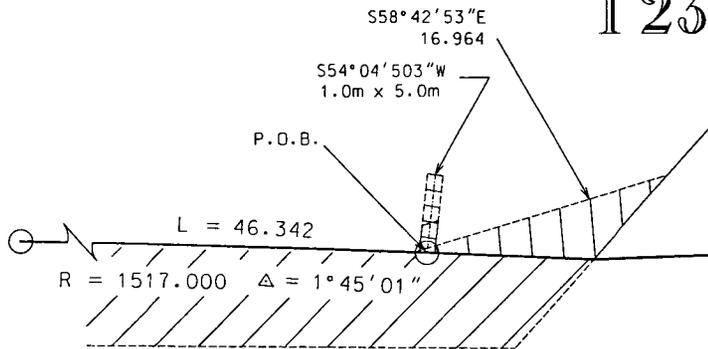
EXHIBIT D



## SEC 31

JAMES M. & RAJESWARIS. NELSON

APN 47-260-102



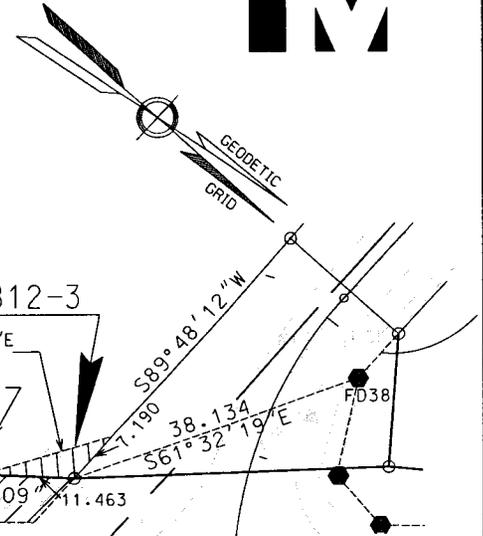
DETAIL

PARCEL 031812-2

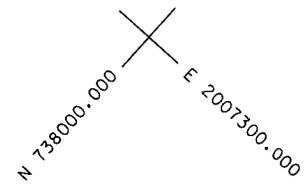
PARCEL 031812-1

$N41^{\circ}31'50''W$   
 $249.905$

PARCEL 031812-3  
 $S58^{\circ}42'53''E$   
 $16.964$   
 $1.0m \times 5.0m$   
 PARCEL 031812-2  
 $L = 56.988$   
 $R = 1517.000$   $\Delta = 2^{\circ}09'09''$   
 $11.463$



SEE EXHIBIT "C"



RESOLUTION OF NECESSITY MAP



DIST	COUNTY	ROUTE	KILOMETER POST/ POST MILE	DRAWING NUMBER
03	BUT	99	64.16/ 39.87	C-33870-18.3