

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 29-30, 2003

Reference No.: 2.4a.  
Action Item

From: ROBERT L. GARCIA  
Chief Financial Officer

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

Ref: APPEARANCE

## BACKGROUND:

On September 25, 2003 proposed resolution C-18834 was presented to the California Transportation Commission (Commission) for adoption. The Commission denied the resolution and instructed the Department of Transportation (Department) to pursue discussion with the County as to project construction features adjacent to Fowler Avenue in an effort to reduce property requirements. A meeting was held with the County and with the property owner, although not resulting in agreement with property owner, the Department was able to reduce the right of way required from Mr. Bocchini. The September 2003 Book Item is included with this submittal for information.

## RECOMMENDATION:

The Department recommends the Commission adopt Resolution of Necessity C-18847, which is the subject of this Appearance. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department is requesting a resolution at this time. Adoption of Resolution of Necessity C-18847 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18847 - Henry F. Bocchini, Jr, et ux.

06-Fre-180-KP 102.3-Parcel 84835-1,2 - EA: 342439 - Certification Date: 2/1/04 - RTL Date: 3/1/04 - (Freeway - construction of new alignment for State Route 180). Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, underlying fee in public road. Located in the city of Fresno at 1442 North Fowler Avenue.

Attachments



## **UPDATED SUMMARY OF ISSUES**

On September 25, 2003 proposed resolution C-18834 was presented as an appearance item to the California Transportation Commission (Commission) for adoption. The property owner, Mr. Henry Bocchini, the owner of Hank's Swank Golf Course appeared on his own behalf to challenge the resolution based on the design of the project. Mr. Bochini indicated he does not contest the need for the project.

The Commission denied the resolution and instructed the Department to:

1. Review the design in an effort to reduce widths of sidewalks, parking, median or other design features that would reduce the amount of right of way required from the property owner.

The Departments project does not include construction of any sidewalks adjacent to the Bocchini property. The Department's project includes minimum reconstruction of Fowler Avenue and includes transitioning of pavement as quickly as possible to conform to the existing two lane county road. Any medians are the minimum required for operational purposes, and no provisions are being made for on street parking.

The Department was however able to reduce the width of the required right of way by steepening side slopes and reducing the contractors work area. The reduction varies from five feet to zero and results in the slope ending at the right of way line, as opposed to the normal practice of allowing for a small work and maintenance areas beyond the end of the slope.

This reduction did not result in an agreement with the property owner.

2. Meet with the County of Fresno, the City of Fresno and property owner to review our design in relation to future county and city street improvements.

The County and City both fully support the Departments project as designed. As designed it conforms to their existing right of way and is fully compatible with any proposed future improvements. The County does not however have any approved plans for improvement of Fowler Avenue at this time. Any future County project will require appropriate environmental studies, project design approval, and funding, which is projected to be at least five years away.

## **MEETING HIGHLIGHTS**

A meeting was held with the City of Fresno, County of Fresno and Mr. Bocchini on October 9, 2003. The Department presented for consideration an additional two alternatives for the County's future improvement of Fowler Avenue which would have lessened the impact on Mr.

Bocchini's property. The alternatives were rejected by the County and the City as being incompatible with the existing road alignment and the city's planned future growth in the area for the Fowler Avenue. Mr. Bocchini also rejected the alternatives. Any changes at this time by the City or County in the alignment of any proposed future Fowler Avenue improvements could necessitate State purchase of additional right of way and realignment of interchange structures at a minimum additional costs of \$1,500,000.00 to the State.

The County of Fresno was firm in their commitment to the currently proposed alignment of Fowler Avenue. The City of Fresno agreed with the County's comments and emphasized the importance of the Fowler Avenue interchange. The County, City and State concur that the current alternative is the only viable alternative.

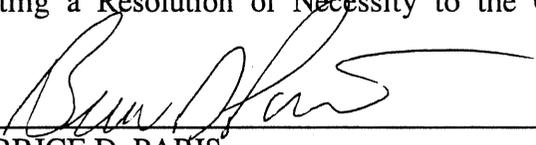
Although agreement was not reached with Mr. Bocchini the Department was able to reduce the required right of way.

### RECOMMENDATION

The Department concludes that the 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 Department recommends submitting a Resolution of Necessity to the California Transportation Commission.

  
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BRICE D. PARIS  
Division Chief, Right of Way

I concur with the recommendation:

  
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BRENT FELKER  
Chief Engineer

## Resolution of Necessity Appearance Fact Sheet

### PROJECT DATA

06-Fre-180-R 101.2/R107.0, EA 342431

Location:

On Route 180 in and near Fresno, in Fresno County

Limits:

From Clovis Avenue to Locan Avenue

Cost:

Current construction cost estimate \$45 million, RW \$8.5 million

Funding Source:

STIP / TCRP

Number of Lanes:

New freeway on new alignment: 6-lane freeway on 8-lane RW from Clovis Ave. to Fowler Ave, 4-lane freeway on 6-lane RW from Fowler Ave. to Temperance Ave. 4-lane expressway from Temperance Ave. transitioning to the existing 2-lane Route 180 (Kings Canyon Road) at Locan Avenue.

### Proposed Major Features

Interchanges at Clovis Avenue, at Fowler Avenue, and at Temperance Avenue. The subject area is at and near Fowler Avenue interchange, where Fowler Avenue, a county arterial road, is to be widened.

Traffic:

Rte 180 ADT:	19400 (Yr. 2002)	56000 (Yr. 2025)
Fowler Ave ADT:	4700 (Yr. 2000)	12400 (Yr. 2025)

### PARCEL DATA

Property Owners:

Mr. and Mrs. Henry and Nancy Bocchini

Parcel Location:

APN 310-130-83, along the east side of Fowler Avenue, between Harvey Avenue and Olive Avenue. It is on the north side of the proposed Freeway 180

Present Use:

Currently the Hank's-Swank Golf Course

Area of Property:

24.294 Acres

Area Required:

Parcel 84835-1 = 0.35 Acres in fee.

Parcel 84835-2 = 0.3 Acres in underlying fee within dedication county road right-of-way, with access rights.

**PERSONS ATTENDING MEETING  
OCTOBER 9, 2003**

Hank Bocchini, Property Owner  
Dan Bocchini, Property owner's son  
Jim Tsuruoka, Yamabe & Horn Engineers  
Monte Montemagni, Logan & Associates

Andy Richter, County of Fresno

Mike Kim, City of Fresno

Rose Willems, FCTA Advocate

Tony Lee, Assemblyman Samuelian Office

Mike Leonardo, District 6 District Director  
Neil Bretz, Caltrans District 6 Project Manager  
Tony McDowell, Central Region Supervisor Right of Way  
James Gonzalez, Central Region Right of Way Agent  
Thanh Nguyen, Central Region Design  
Garth Fernandez, Central Region Design  
Michael Janzen, Caltrans Design











# Memorandum

TO: CHAIR AND COMMISSIONERS

CTC Meeting: September 24-25, 2003

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 (Department) recommends the California Transportation Commission adopt Resolution of Necessity C-18834, 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-18834 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18834 - Henry F. Bocchini, Jr, et ux.

06-Fre-180-KP 102.3-Parcel 84835-1,2 - EA: 342439 - Certification Date: 2/1/04 - RTL Date: 3/1/04 - (Freeway - construction of new alignment for State Route 180). Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, underlying fee in public road. Located in the city of Fresno at 1442 North Fowler Avenue.

Attachments

## SUMMARY OF ISSUES

Mr. and Mrs. Bocchini are the owners of Hank's Swank Golf Course along the east side of Fowler Avenue, just north of the Proposed Fre-180 interchange at Fowler Avenue. Mr. Bocchini has indicated he does not contest the need for the project, his objection is to the impact the proposed project has on his property. The following is a description of the concerns, which Mr. Bocchini has expressed, and the District's response.

1. Department proposed widening of Fowler Avenue would cause a major impact to his golf business. He would have to relocate some of the greens and holes and the property fence along Fowler Avenue. The current design would result in significant cost to his business.

The Department proposed widening was designed adjacent to Fowler Avenue, based on a road easement dedicated to the County in 1984. Impacts to the operation of the golf course, as claimed by Mr. Bocchini, appear to be the result of a decision to build a part of the golf course on the previously dedicated road easement. This is a compensation issue outside the purview of the Commission.

2. While the proposed transition from the Fre-180 interchange connection to the existing two-lane road on Fowler Avenue would not impact Mr. Bocchini's two building structures further north on Fowler Avenue, near Olive Avenue, he feels that the project as it is currently proposed would result in the County finishing Fowler Avenue to its ultimate condition. That ultimate Fowler Avenue widening would cause the loss of his first building and would leave the second building with only 6' set back from the ultimate road.

Department's proposed transition on Fowler Avenue does not impact Mr. Bocchini's two building structures. Any future decision by the County to widen Fowler Avenue is outside the scope of the Department's highway project

3. The proposed widening would remove 14 mature palm trees along the east side of Fowler Avenue within the existing Fowler Avenue right-of-way. This would be an unnecessary visual impact and would be contrary to local community goals (Tree Fresno)

The Visual Impact Assessment was covered in the Environmental Impact Study (EIS) and subsequent Environmental Reevaluations. It was determined that the removal of the 14 palm trees does not measurably change the visual impacts. No additional mitigation measures are necessary.

4. Bats living in the palm trees would be displaced.

The issue of the bats was addressed and covered in the EIS. Recent surveys were conducted and there was no evidence of bats in the trees. Should bats be discovered in the trees during construction, the trees would be netted to preclude the bats from returning to the trees during their removal, ensuring the bats would not be harmed.

5. Department already owns almost all of the properties on the west side of Fowler Avenue. Widening Fowler Avenue to the west would have fewer total impacts since the counties ultimate 106' right of way would not impact any building structures on the west side.

Department does not own all of the properties on the west side of Fowler Avenue. Widening Fowler Avenue to the west of the Bocchini's property would require the full acquisition of two residential properties and the partial acquisition of a business (Fresno Roofing Company). As designed the project utilizes right-of-way previously dedicated for the widening of Fowler Avenue, without the requirement for additional right of way.

6. The County of Fresno has never adopted an official plan line for Fowler Avenue.

Although there is no record of a county official plan line for Fowler Avenue, Mr. and Mrs. R. P. Price, the previous owners of the property, executed a road easement dedication in 1984 to the County. The dedication was required by the County prior to the development of the property as a golf course. The road easement was recorded prior to Mr. Bocchini's purchase of the property.

7. Mr. Bocchini expressed the opinion that the highway project design should be revised to avoid his property.

If the Department were to pursue the design concept suggested by Mr. Bocchini:

- A. The Department would still require the purchase of the 21' island strip that lies between the existing Fowler Avenue and the county road easement.
- B. The proposed widening would still impact the palm trees along the eastside of Fowler Avenue.
- C. The Department would cause new impacts to three properties on the west side of Fowler Avenue. It would be difficult for the Department to justify condemnation on the west side of Fowler Avenue when there is an existing easement that was dedicated and recorded for road purposes on the east side of Fowler Avenue
- D. The Department would face numerous impacts to the project delivery schedule and the result would be cost increases due to:
  - Additional environmental studies that would be required for impacts to the west side of Fowler Avenue.
  - Additional Right of Way mapping, appraisal, negotiations and relocation of residents.
  - New negotiations with the County to obtain their concurrence on the revised design on Fowler Avenue.
  - Redesign of the interchange, including redesign of related structures.
  - Additional support costs.
  - Full acquisition of two residential properties and a partial acquisition of a business.

## Resolution of Necessity Appearance Fact Sheet

<b>PROJECT DATA</b>	06-Fre-180-R 101.2/R107.0, EA 342431
<u>Location:</u>	On Route 180 in and near Fresno, in Fresno County
<u>Limits:</u>	From Clovis Avenue to Locan Avenue
<u>Cost:</u>	Current construction cost estimate \$45 million, RW \$8.5 million
<u>Funding Source:</u>	STIP / TCRP
<u>Number of Lanes:</u>	New freeway on new alignment: 6-lane freeway on 8-lane RW from Clovis Ave. to Fowler Ave, 4-lane freeway on 6-lane RW from Fowler Ave. to Temperance Ave. 4-lane expressway from Temperance Ave. transitioning to the existing 2-lane Route 180 (Kings Canyon Road) at Locan Avenue.

### Proposed Major Features

Interchanges at Clovis Avenue, at Fowler Avenue, and at Temperance Avenue. The subject area is at and near Fowler Avenue interchange, where Fowler Avenue, a county arterial road, is to be widened.

<u>Traffic:</u>	Rte 180 ADT: 19400 (Yr. 2002)	56000 (Yr. 2025)
	Fowler Ave ADT: 4700 (Yr. 2000)	12400 (Yr. 2025)

### **PARCEL DATA**

<u>Property Owners:</u>	Mr. and Mrs. Henry and Nancy Bocchini
<u>Parcel Location:</u>	APN 310-130-83, along the east side of Fowler Avenue, between Harvey Avenue and Olive Avenue. It is on the north side of the proposed Freeway 180
<u>Present Use:</u>	Currently the Hank-Swank Golf Course
<u>Area of Property:</u>	24.294 Acres
<u>Area Required:</u>	Parcel 84835-1 = 0.361 Acres (0.146 Hectares) in fee.  Parcel 84835-2 = 1384.715 Square meters (14,904.89 Square feet) in underlying fee within dedication county road right-of-way, with access rights.

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

The Resolution of Necessity Review Panel met August 13, 2003 in Fresno. The Panel members consisted of Vern Rhinehart, Department HQ's Right of Way; Richard B. Williams, Department HQ's Legal Division; and Linda Fong, Department HQ's Division of Design. Deborah Gebers, HQ's Right of Way, was Secretary to the Panel. Mr. Henry Bocchini, the property owner was present at the meeting.

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 Chief Engineer.

### **NEED FOR THE PROJECT**

The existing Route 180 in southeast Fresno is a highly congested conventional arterial operating at a level of service (LOS) F. The southeast side of the Fresno metropolitan area presently lacks a major east-west freeway facility. The project will facilitate better traffic flow within this urban area. Existing Route 180 links the eastern Fresno County communities and National Park areas with the regional services located in Fresno. The route serves as the primary agricultural goods movement in eastern Fresno County and is of growing importance for commute travel from the surrounding rural areas and neighboring communities to the Fresno metropolitan area.

The project will increase capacity for Route 180, improve traffic operations and safety for Route 180 traffic and local streets, while providing route continuity for traffic on Freeway 180.

The owners do not contest the need for the project.

### **PROJECT DESIGN**

The proposed project is in Fresno County, in and near the southeast limits of the City of Fresno. The project is along a new freeway alignment from Clovis Avenue to Locan Avenue and is a continuation of the segment of Route 180 from Route 168 to Fowler Avenue currently under construction. The project would continue to provide a 6-lane freeway on an 8-lane freeway right of way from Clovis Avenue to Fowler Avenue and a 4-lane freeway on a 6-lane freeway right of way from Fowler Avenue to Temperance. The facility would then become a 4-lane expressway and transition to the existing 2-lane highway Route 180 (Kings Canyon Road) at approximately Locan Avenue.

On this new Route 180 freeway project, one of the proposed interchanges is at Fowler Avenue. Fowler Avenue is currently a two lane county road. It is an ultimate 106' right of way 4-lane arterial facility. Within the proposed interchange area Fowler Avenue would be widened to accommodate two through lanes in each direction, two left turn lanes in the median and one

right turn lane. The proposed interchange was based on the year 2027 projected traffic (20-year design period). A part of the widening has been designed to the west side, while most of the widening is to the east side of the existing Fowler Avenue. Beyond the interchange area, the four through lane facility would transition back to the existing two-lane road.

The project is a FY 2003-04 STIP/TCRP project. The current construction estimate is \$45 million and right of way cost estimate is \$8.5 million. The project is tentatively scheduled for advertisement in May 2004.

### **NEED FOR SUBJECT PROPERTY**

The property required is for construction of the Route 180 freeway and the transition from the Fowler Avenue interchange area to the existing two-lane road. The area needed is underlying fee and access rights to a dedicated strip of land that is 37.5' wide and is located at the outer east limits of the ultimate Fowler Avenue 106' right of way. This easement was dedicated to the County of Fresno and recorded on July 24, 1984, in said county, as easement document # 84070386. The remaining area required for the project is the underlying fee to an island 21' wide from Mr. Bocchini's property, which is situated between the existing Fowler Avenue and the county road easement. The District needs to utilize the 37.5' wide road easement and purchase the 21' wide fee strip from Mr. Bocchini in order to construct this project.

The following is a description of the concerns, which Mr. Bocchini has expressed and the District's response.

1. Department proposed widening of Fowler Avenue would cause a major impact to his golf business. He would have to relocate some of the greens and holes and the property fence along Fowler Avenue. The current design would result in significant cost to his business.

The Department proposed widening was designed adjacent to Fowler Ave, based on a road easement dedicated to the County in 1984. Impacts to the operation of the golf course, as claimed by Mr. Bocchini, appear to be the result of a decision to build a part of the golf course on the previously dedicated road easement. This is a compensation issue outside the purview of the Commission.

2. While the proposed transition from the Route 180 interchange connection to the existing 2-lane road on Fowler Avenue would not impact Mr. Bocchini's two building structures further north on Fowler Avenue, near Olive Avenue, he feels that the project as it is currently proposed would result in the County finishing Fowler Avenue to its ultimate condition. That ultimate Fowler Avenue widening would cause the loss of his first building and would leave the second building with only 6' set back from the ultimate road.

Department proposed transition on Fowler Avenue does not impact Mr. Bocchini's two building structures. Any future decision by the County to widen Fowler Avenue is outside the scope of the Department's highway project

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6. The County of Fresno has never adopted an official plan line for Fowler Avenue.

Although there is no record of a county official plan line for Fowler Avenue, Mr. and Mrs. R. P. Price, the previous owners of the property, executed a road easement dedication in 1984 to the County. The dedication was required by the County prior to the development of the property as a golf course. The road easement was recorded prior to Mr. Bocchini's purchase of the property.

7. Mr. Bocchini expressed the opinion that the highway project design should be revised to avoid his property.

If the Department were to pursue the design concept suggested by Mr. Bocchini:

- A. The Department would still require the purchase of the 21' island strip that lies between the existing Fowler Avenue and the county road easement.
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- D. The Department would face numerous impacts to the project delivery schedule and the result would be cost increases due to:
- E. Additional environmental studies that would be required for impacts to the west side of Fowler Avenue.
- Additional Right of Way mapping, appraisal, negotiations and relocation of residents.
  - New negotiations with the County to obtain their concurrence on the revised design on Fowler Avenue.
  - Redesign of the interchange, including redesign of related structures.
  - Additional support costs.
  - Full acquisition of two residential properties and a partial acquisition of a business.

### **Parcel Description**

The subject parcel is Parcel No. 84835 and is approximately 24.394 acres or 9.8 hectares. It is a nine-hole golf course and driving range situated in southeast Fresno. The golf course fronts Olive Avenue to the north and Fowler Avenue to the west. The following two sub-parcels are required from the subject property.

Parcel 84835-1- 0.361 Acres ( 0.146 Hectares) in fee.

Parcel 84835-2 – 13874.715 Square meters (14,904.89 Square feet) in underlying fee within the dedication county road right-of-way, with access rights.

### **STATUTORY OFFER TO PURCHASE**

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

**PANEL RECOMMENDATION**

The Panel concludes that the District's design complies with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property to be condemned is necessary for the proposed project.
- An offer to purchase in compliance with Government Code Section 7267.2 has been made to the owners of record.

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



VERNON V. RHINEHART  
Panel Chair

I concur with the Panel's recommendation:



Brent Felker  
BRENT FELKER  
Chief Engineer

**PERSONS ATTENDING SECOND LEVEL REVIEW PANEL  
HEARING ON AUGUST 13, 2003**

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

Hank Bocchini, Property Owner

Mike Leonardo, District 6 Director  
Kim Anderson, District 6, Chief Project Development  
Randeem Walter, District 6, Region Division Chief Right of Way  
Tony McDowell, District 6, Supervisor Right of Way  
Neil Bretz, District 6, Project Management  
Garth Fernandez, District 6, Project Engineer  
Tak Tsuda, District 6, Senior Right of Way  
James Gonzalez, District 6, Right of Way  
Ken Cozad, Headquarters, Design

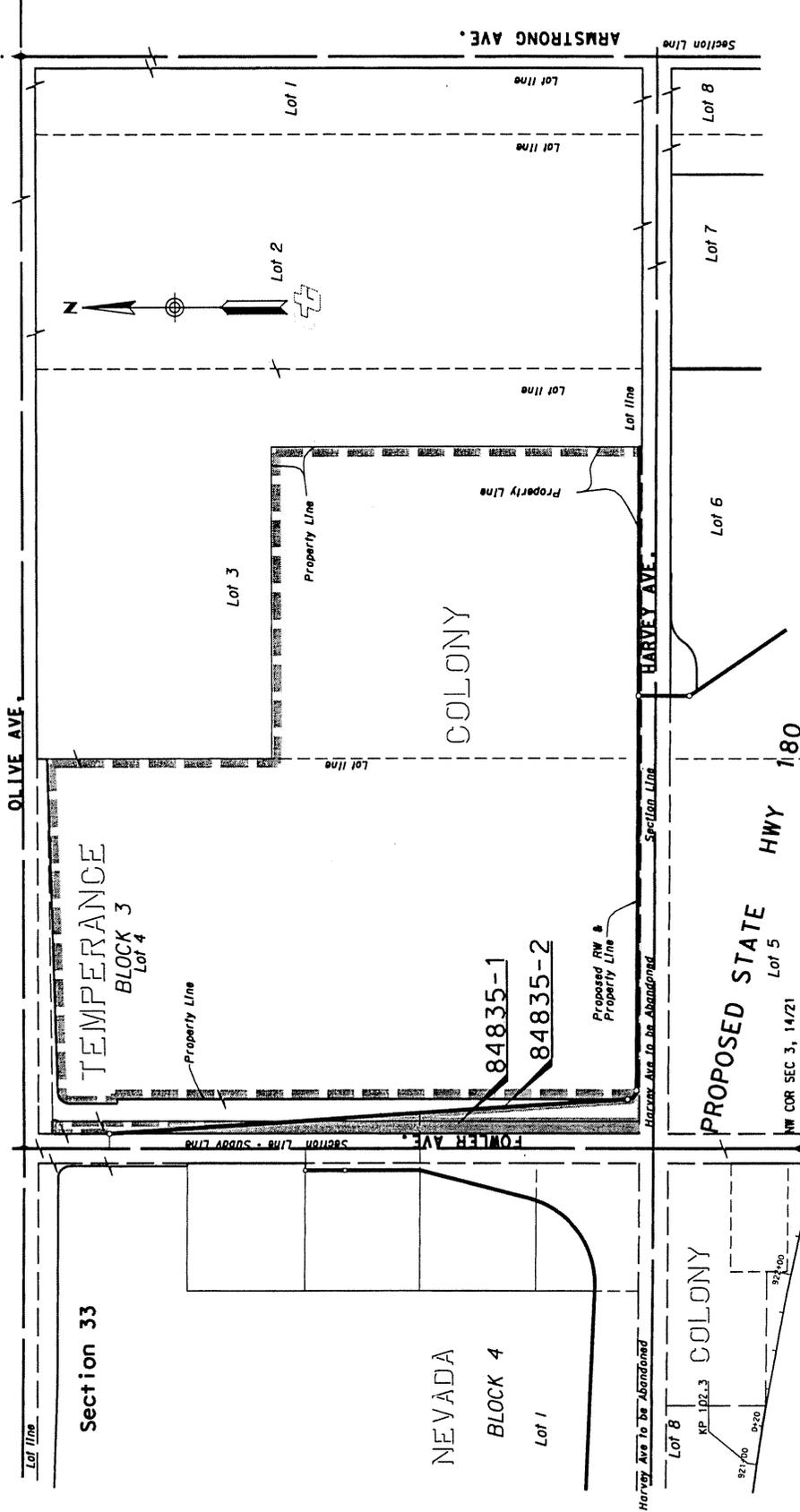
EXHIBIT A



T.13 S., R.21 E., M.D.B.& M.  
SECTION 34

C 1/4 COR SEC 34, 13/21

W 1/4 COR SEC 34, 13/21



RESOLUTION OF  
NECESSITY MAP  
6-Fre-180 K.P. 102.3

NO SCALE

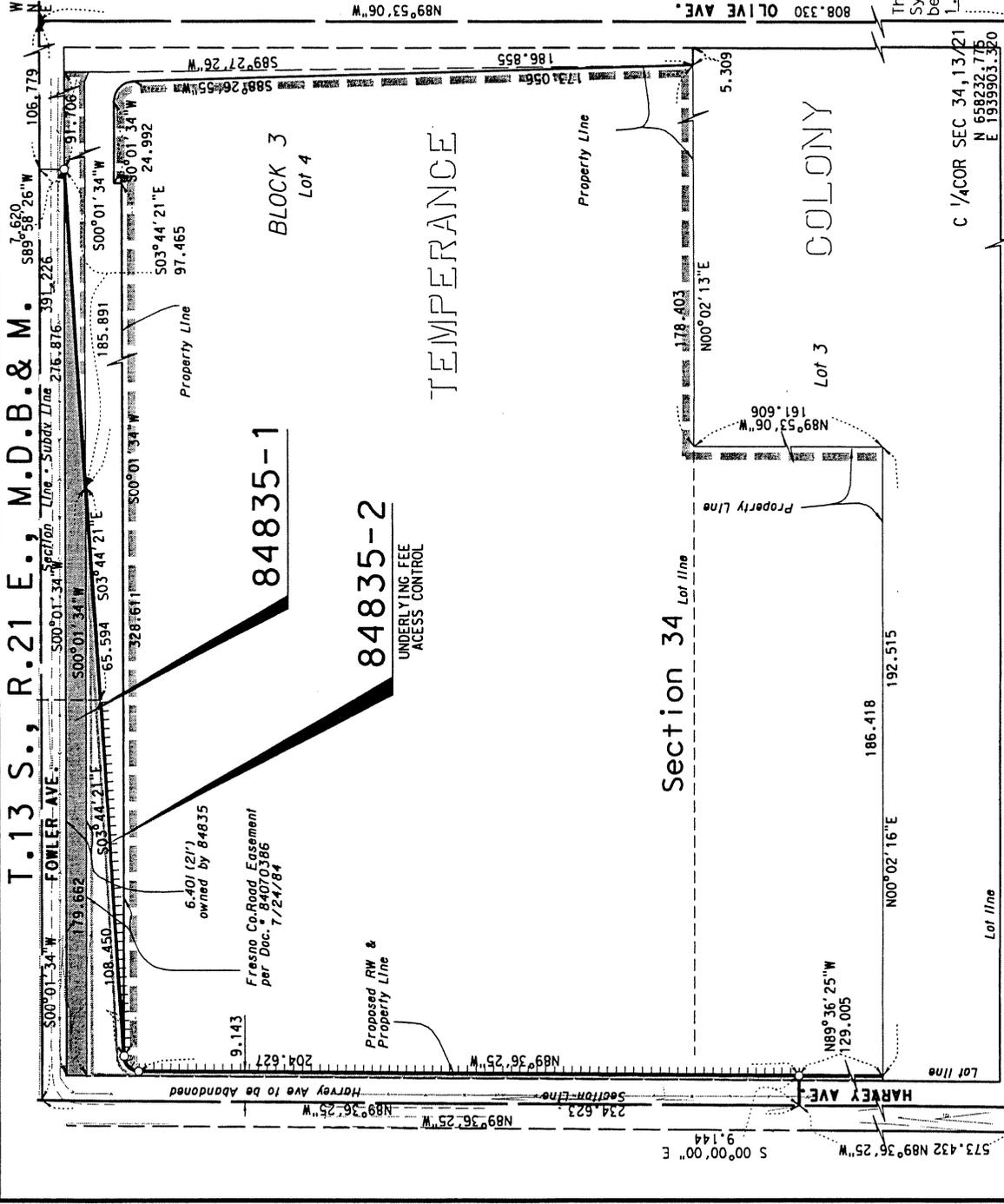


EXHIBIT B

W 1/4 COR SEC 34, 13/21  
N 658234.399  
E 1939094.992

T.13 S., R.21 E., M.D.B. & M.

7.620  
589°58'26"W



CONVERSION FACTOR: This survey is in meters. Multiply by 3937/1200 to convert to feet.  
This Survey is based on the California Coordinate System of 1983, Zone 4. Units are in meters and bearings and distances are in grid. Multiply by 1.000067995 to convert to ground distances.

**RESOLUTION OF NECESSITY MAP**  
6-Fre-180 K.P. 102.3

