

# Memorandum

To: CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: March 5, 2013

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

From: NORMA ORTEGA  
Chief Financial Officer

Prepared by: Brent L. Green  
Chief  
Division of Right of Way and  
Land Surveys

Subject: **RESOLUTIONS OF NECESSITY - APPEARANCE**

## **RECOMMENDATION:**

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt a Resolution of Necessity (Resolution) C- 20989 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 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. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owner is contesting the Resolution and has requested an appearance before the Commission. The primary concern/objections expressed by the property owner relate to the Department not installing a left turn pocket at his private road, Cattey Lane. The property owner's objections and the Department's responses are contained in Attachment B.

## **BACKGROUND:**

Discussions have taken place with the property owner, who has been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which he 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 property 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.

Based on recommendations at the January 2013 Commission meeting, additional discussions between the Department and the property owner have taken place in order to address all unresolved issues. In order to keep the project on schedule, the Department is requesting that this appearance proceed to the March 5, 2013 Commission meeting. Legal possession will allow 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.

C- 20989 - Cattey, et al.

04-Sol-12-PM 22.8 - Parcel 62187-1, 2, 3 - EA 2A6209.

Right of Way Certification Date: 03/05/2013 - Ready To List Date: 03/05/2013 - Conventional highway - Install left turn pockets and standard shoulders along State Route 12 in Rio Vista, CA. Authorizes condemnation of land in fee for a State highway, a permanent utility easement, and a temporary construction easement. Located in the city of Rio Vista, CA at 7828 Highway 12.

Assessor Parcel Numbers: 0048-120-420, 0048-320-020, 0048-320-010, -020, -030, -040, -050, -060, -070, -080, -090, -100.

Attachments:

Attachment A - Project Information

Exhibit A1 and A2 - Project Maps

Attachment B - Parcel Panel Report

Exhibit B1 and B2 - Parcel Maps

## **PROJECT INFORMATION**

### **PROJECT DATA**

04-Sol-12-PM 20.6/21.3 and 21.6/23.7  
Expenditure Authorization (EA) 2A6209

**Location:**

State Route (SR) 12 in Solano County near Rio Vista

**Limits:**

From 0.1 mile west of Currie Road to 0.3 mile west of Summerset Road

**Cost:**

Programmed construction cost: \$12,000,000  
Current right of way cost estimate: \$13,470,500

**Funding Source:**

State Highway Operation and Protection Program

**Number of Lanes:**

Existing: two lanes  
Proposed: two lanes

**Proposed Major Features:**

Interchanges: None  
Other: Shoulder-widening, left turn pockets and profile correction

**Traffic:**

Existing (2012): Average Daily Traffic = 19,600  
Proposed (2035): Average Daily Traffic = 27,100

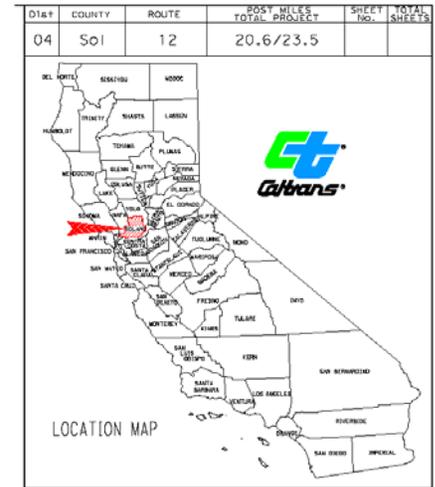
### **NEED FOR THE PROJECT**

The purpose of this project is to reduce accidents and minimize accident severity involving fixed objects along SR 12, from 0.1 mile west of Currie Road to 0.3 mile west of Summerset Road. Under the Clean up the Roadside Environment (CURE) Program, which is funded by 201.015 Collision Reduction Program (CRP), this project will remove trees that are in the clear recovery zone and widen the shoulders of SR 12 in both directions. Left-turn pockets will be added at the three intersections of Currie Road, McCloskey Road, and Azevedo Road. This project also proposes to overlay the existing main line at these locations.

### **PROJECT PLANNING AND LOCATION**

The Project Report was approved on 09/02/10 and the environmental document (Initial Study with Mitigated Negative Declaration) was approved on 08/31/10. The current estimate for construction is \$12 million. It is programmed under Fiscal Year 2012-13. The Right of Way certification date is targeted for 01/15/13 and the Ready to List date is targeted for 01/28/13. The tentative advertising date is early April 2013.

# LOCATION MAP



**Project Location**

Exhibit A1

# Project Location



## PARCEL PANEL REPORT

### PARCEL DATA

Property Owner: Robert V. Cattey, Trustee  
Robert Cattey Family Trust  
Abby Tiller Trust

Parcel Location: 7828 State Route (SR) 12 in city of Rio Vista, CA  
Assessor Parcel Number (APN) 0048-120-420, 0048-320-020, 0048-320-010, 020, 030, 040, 050, 060, 070, 080, 090, 100

Present Use: Agriculture/Industrial

Zoning: Agricultural/Industrial

Area of Property: 179.35 acres (multiple APN's impacted)

Area Required: Parcel 62187-1: 104,825 sq. ft. - Fee  
Parcel 62187-2: 475 sq. ft. - Utility Easement  
Parcel 62187-3: 37,778 sq. ft. in temporary construction easement (TCE)

### PARCEL DESCRIPTION

The subject parcel is located in the city of Rio Vista, Solano County and comprised of 12 adjoining APNs under one ownership. The largest APN is 156.72 acres of rolling agriculturally zoned grazing land with a single family residence, fencing and miscellaneous outbuildings. The remaining APNs being impacted (22.63 acres) are zoned industrial. There are multiple businesses currently leasing these properties from the grantor.

### NEED FOR THE SUBJECT PROPERTY

A portion of the subject property is needed for the construction of new standard eight foot shoulders and establishment of a clear recovery zone. The right of way requirements for the project include the permanent acquisition of 104,825 sq. ft. or 1.3 percent of the total property area, a utility easement of 475 sq. ft. to accommodate a utility relocation, and an additional 37,778 sq. ft. TCE for re-establishing the owner's fence adjacent to the new right of way line.

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

The Condemnation Review Panel (Panel) met in Oakland on November 8, 2012. The Panel members included Donald Grebe, Panel Chair, Department of Transportation (Department) Headquarters (HQ) Division of Right of Way and Land Surveys; Stacy Lau, Department San Francisco Legal Division; Linda Fong, Department HQ Division of Design; and Paul Pham, Department HQ Division of Right of Way and Land Surveys, Secretary to the Panel. Property owner, Robert V. Cattey, was in attendance as was his brother, George Cattey.

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 owner relate to his property due to construction of the project as currently designed. The following is a description of the specific concerns expressed by the property owner, followed by the Department's response:

### **Owner:**

The current design does not include a left-turn pocket into Cattey Lane. There have been accidents which warrant the need for a left-turn pocket. An unsafe condition will continue to exist at this location without the addition of a left-turn pocket.

There are two existing left-turn pockets on other private roads.

### **Department:**

The two locations of the existing left-turn pockets are Nurse Slough Lane and Mauds Lane. Nurse Slough Lane was a public road until 1993. A left-turn pocket was constructed at Nurse Slough before it was discovered that it was no longer a public road. Although Mauds Lane is a private road, the Department has a non-exclusive roadway easement over Mauds Lane because it serves as the main entrance to the Western Railway Museum.

Cattey Lane is a private road. Public funds typically are not used to provide a left-turn lane into a private property.

The Department performed a traffic assessment in mid September 2012, and no congestion or operational problems were observed. The Traffic Accident Surveillance Analysis System's data for the three-year period from September 1, 2005 to August 31, 2008 within the project limit shows the actual accident rate (0.24 accidents per million vehicle miles) is below the Statewide rate (0.77 accidents per million vehicle miles). Also, according to District's Office of Highway Operations, there were three accidents (two injury accidents and one property damage only) during the five-year period (March 1, 2006 - Feb 28, 2011) from 500 ft. west of Cattey Lane to

500 ft. east of Cattey Lane). One of the accidents involved a vehicle waiting to make a left turn onto the driveway. The other two accidents occurred away from the intersection. Traffic data does not support the need for adding the left-turn pocket. Additionally, a left-turn pocket at this location would require additional right of way from both Mr. Cattey's property and the parcels located on the north side of SR 12. The Department cannot justify adding the left-turn pocket at this location. Mr. Cattey has been provided with the opportunity to include a left-turn pocket to Cattey Lane, at his cost.

**Owner:**

The current design does not address the flooding problem at this location. The existing culverts do not adequately handle the drainage at the low spot located at this parcel. The owner contends that by not enlarging the existing culvert or adding a new culvert at the low spot, it would cause flooding to the home, water well and septic tank.

**Department:**

The Department has revised the profile alignment from the original design along the floodplain area. The highway profile will match the existing elevation and will not change the existing hydraulic conditions.

Based on Federal Emergency Management Agency (FEMA) mapping, the 100-year floodplain runs through the Cattey property. The owner's proposal to place a culvert at the low point of the roadway, adjacent to the wetland would result in significant impacts to the wetland and the adjacent Well Creek, requiring consultation with resource agencies and additional mitigations. Drainage changes are beyond the scope of this project. Additionally, the proposed culvert will not solve the historic flooding problem on the property.

Gutters are also re-established to carry surface runoff from the highway preventing water flowing onto the adjacent lands.

The Department's data shows two flooding events have occurred at this vicinity in the last 20 years. The scope of this project does not address the existing drainage issues but reduces accidents and minimizes accident severity involving fixed objects. The proposed design on this project does not create any greater drainage impacts.

**Owner:**

The current project does not address the aerially deposited lead (ADL) issue.

**Department:**

According to the District's Hazardous Waste Unit, the ADL concentration is below the threshold set by the Department of Toxic Substance Control's (DTSC) standard and is classified as non-hazardous. No removal or disposal is required.

**Owner:**

The proposed right of way line would be 38 feet away from the house. There is no compensation that has been offered for the well and septic tank. The proposed acquisition requires more land from his side of the highway than the north.

**Department:**

The well and septic compensation is not a matter to be considered by the California Transportation Commission (Commission) and was addressed at the District Condemnation Evaluation Meeting.

The centerline of the highway will remain the same with the acquired areas being roughly the same on both the north and south side of the highway.

**Owner:**

The Department plans to cut down more trees than needed.

**Department:**

The Department will preserve up to three trees by installing a metal beam guardrail to shield them. There are five trees located within the Department's proposed right of way and/or clear recovery zone that will be cut down due to a conflict with construction and to enhance safety.

**DEPARTMENT CONTACTS**

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

Type of Contact	Number of Contacts
Mailing of information	3
E-Mail of information	16
Telephone contacts	38
Personal / meeting contacts	5

**STATUTORY OFFER TO PURCHASE**

The Department has appraised the subject property and offered the full amount of the appraisal to the owner of record as required by Government Code Section 7267.2. The property owner has 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 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.



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

I concur with the Panel's recommendation:



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KARLA SUTLIFF  
Chief Engineer

**PERSONS ATTENDING THE CONDEMNATION PANEL REVIEW  
MEETING ON NOVEMBER 8, 2012**

Donald Grebe, HQ Division of Right of Way and Land Surveys, Panel Chair  
Stacy Lau, San Francisco Legal Office Attorney, Panel Member  
Linda Fong, HQ Division of Design, Panel Member  
Paul Pham, HQ Division of Right of Way and Land Surveys, Panel Secretary

Robert V. Cattey, Property Owner  
George Cattey, Brother of the Property Owner

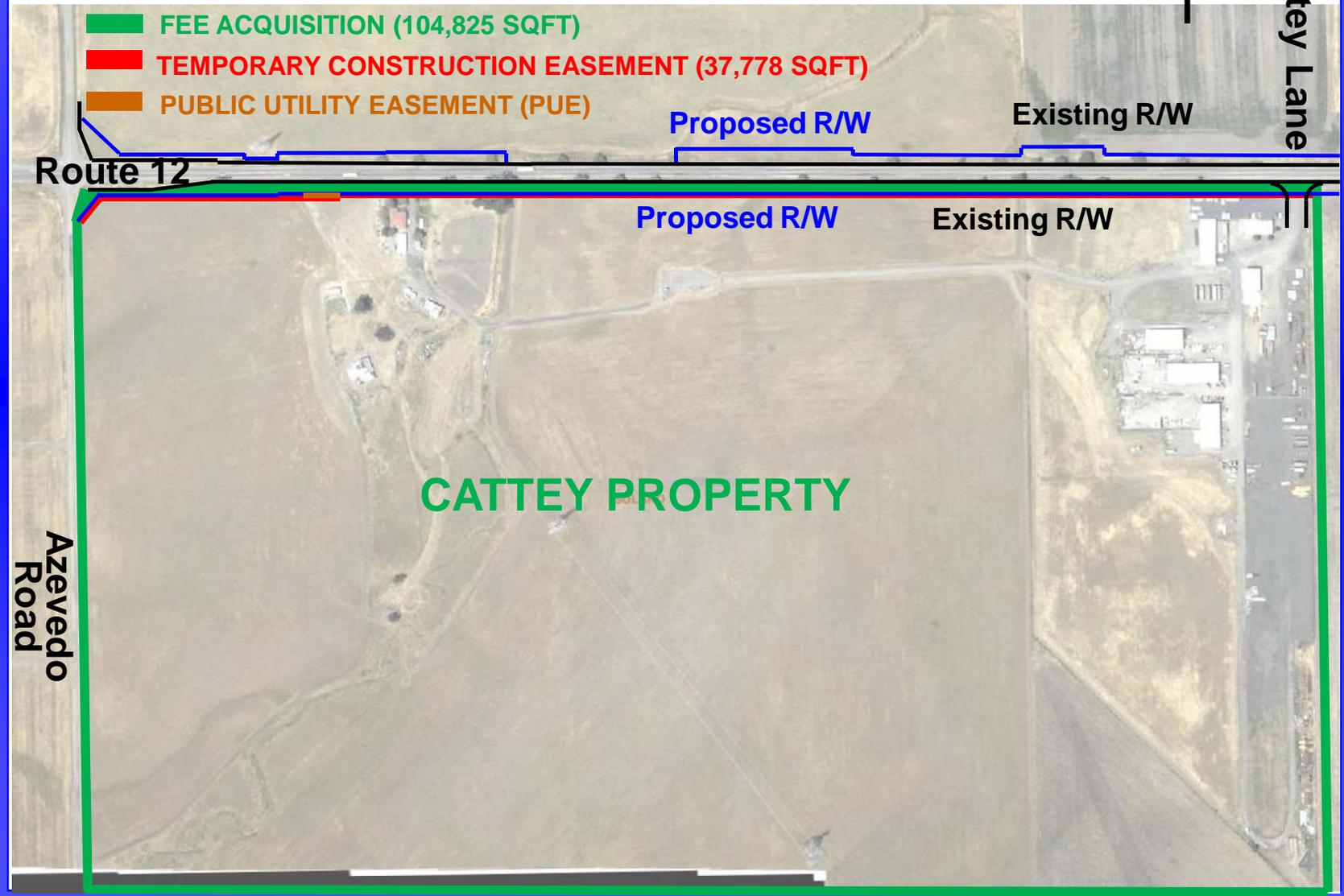
Bijan Sartipi, District 4, District Director  
Helena (Lenka) Culik-Caro, District 4, Deputy District Director, Design  
Nita Logan, District 4, Division Chief, Design- North  
Ziad Abubekr, District 4, Design Engineer  
Joe Peterson, District 4, Chief, Design North – Hydraulic  
Stewart Lee, District 4, Design Engineer  
Doanh Nguyen, District 4, Division Chief, Project Management - North  
Nicolas Endrawos, District 4, Regional Project Manager  
Toni Scorable, District 4, Supervising Right of Way Engineering and Surveys  
Allison Paich, District 4, Supervising Right of Way Agent

# Project Impact

- FEE ACQUISITION (104,825 SQFT)
- TEMPORARY CONSTRUCTION EASEMENT (37,778 SQFT)
- PUBLIC UTILITY EASEMENT (PUE)



Cathey Lane



Route 12

Proposed R/W

Existing R/W

Proposed R/W

Existing R/W

CATTEY PROPERTY

Azevedo Road

Coordinates, bearings and distances are based on the California Coordinate System of 1983, ZONE 2. Distances are grid distances. Multiply distances by 0.99996444 to obtain ground level distances.

**Solano County**

SW 1/4  
SEC 15  
T4N R2E  
MDBM

SE 1/4 SEC 15  
T4N R2E MDBM

45 PM 89  
7-1-2004

To State Route 80 &  
Fairfield

Exhibit B

POC 62187

Proposed Right of Way  
Exhibit D

Exhibit E

State Route 12

Existing  
Right of Way  
NW 1/4  
SEC 15  
T4N R2E  
MDBM

Proposed  
Right of Way

Point "A"

NE 1/4 SEC 22  
T4N R2E MDBM

7 PM 81  
9-10-1978

To State  
Route 160  
& Rio Vista

**CATTEY PROPERTY**

**LEGEND**

- Found T-bar "TS-1" 11 Co Hwy Maps 7
- Found T-bar "TS-2" 11 Co Hwy Maps 7
- ▲ Found 3/8" Rebar with aluminum cap stamped "LS 2400" 7 PM 81
- POC Point of Commencement

Scale in Feet 1"=500'



**RESOLUTION OF  
NECESSITY MAP**

04-SCL-12 FN-22.8

**Exhibit B2**

A-10465  
S-332 & S-343

Azevedo Rd.

County Road #414

Azevedo Rd.

County Road #414

County Road #414

