

# Memorandum

To: CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: January 8, 2013

Reference No.: 2.4a.(2)  
Action Item

From: NORMA ORTEGA  
Chief Financial Officer

Prepared by: Brent L. Green  
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 a Resolution of Necessity (Resolution) C-20990 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. The 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. The primary concerns and objections expressed by the property owners are the ability to continue operating the business on a 24/7 basis and the reconfigured truck movement on the remaining property. The owners' objections and the Department's responses are contained in Attachments B.

## **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 the 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 this time. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-20990- Charles Toledo, et al.

10-SJ-4-PM 14.5 - Parcel 16469-2, 3, 4 - EA 0S1109.

Right of Way Certification Date: 05/23/13; Ready to List Date: 05/24/13. Freeway - extend freeway from west end of State Route 4 to Navy Drive. Authorizes condemnation of a permanent easement for right of way, and two temporary easements for highway construction. Located in the city of Stockton at 2403 Navy Drive. APN 163-320-02.

Attachments:

Attachment A - Project Information

Exhibit A1 and A2 - Project Maps

Attachment B - Parcel Panel Report for Charles and Rebecca Toledo (Resolution C-20990)

Exhibit B1 and B2 - Parcel Maps

## PROJECT INFORMATION

### PROJECT DATA

10-SJ-4-PM T14.6/R17.5 and 14.4/15.1  
Expenditure Authorization 0S1109

Location: State Route (SR) 4 Crosstown Freeway in Stockton in San Joaquin County

Limits: From Fresno Avenue to Navy Drive

Cost: Construction Cost: \$74,030,000  
R/W Cost: \$24,100,000

Funding Source: This project is programmed and funded through a combination of the Proposition 1B Trade Corridor Improvement Fund (TCIF), Measure K (San Joaquin County's one-half cent sales tax), and Regional Transportation Impact Fees (RTIF)

Number of Lanes: SR 4: Existing: 4 Lanes  
Proposed: 4 Lanes  
Navy Drive: Existing: 2 Lanes  
Proposed: 6 Lanes

Proposed Major Features: The proposed construction comprises the following:

- Construct 4-lane freeway ramp extension from Fresno Avenue to Navy Drive
- Construct ramp intersection with Navy Drive. Close existing Fresno Avenue ramps
- Widen Navy Drive to accommodate turning movements
- Replace Tillie Lewis Drive pavement
- Construct three new signalized intersections (two on Navy Drive and one at Tillie Lewis Drive/Charter Way)
- Construct drainage systems and storm water basins

Traffic: The existing and projected traffic volumes on SR 4 between Fresno Avenue and Interstate 5 are as follows:

- 2007 Annual Average Daily Traffic (AADT): 26,000
- 2035 AADT: 40,700

## **NEED FOR THE PROJECT**

The need of the project is based on the following goals:

- **Improved Connectivity** - Currently, the connection between Interstate 5 and the Port is inadequate. The existing Crosstown Freeway is terminated at Fresno Avenue, and traffic associated with the Port and adjacent industrial uses already overloads the local roads. It is expected to get worse as growth projected for the Port, adjacent industrial uses, and the region increases demand on existing local roads.
- **Reduced Traffic Impacts in Boggs Tract** - As noted earlier, an estimated 4,400 trucks bound for the Port and adjacent warehouse and industrial facilities traverse the residential streets in the Boggs Tract neighborhood, primarily Fresno Avenue and West Washington Street, each day. This traffic brings noise, air quality, visual, traffic and pedestrian safety, and congestion impacts for the residents. The project would lessen the traffic impacts and travel time by carrying traffic along the Crosstown Freeway extension clear to Navy Drive. The project would reduce a significant number of trucks traveling through the Boggs Tract neighborhood.
- **Improved Localized Air Quality** - The project is expected to reduce Mobile Source Air Toxic emissions in the Boggs Tract neighborhood as the Port and industrial traffic use the Crosstown Freeway extension in preference to local roads in the neighborhood.

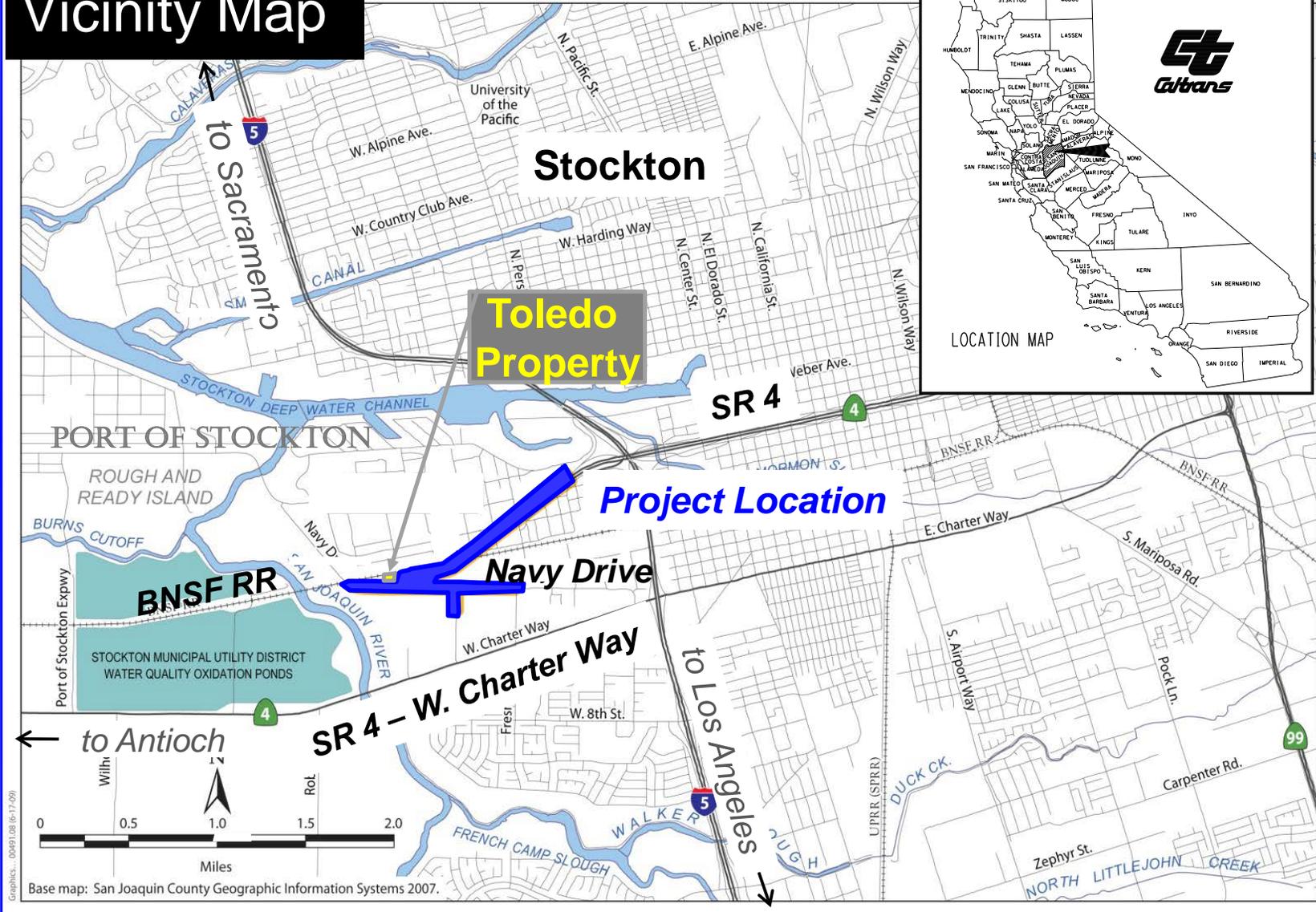
## **PROJECT PLANNING AND LOCATION**

The proposed extension would include approximately 0.5 mile of elevated structure spanning over the Boggs Tract neighborhood and BNSF Railway, including Fresno Avenue, West Hazelton Avenue, South Los Angeles Avenue, Del Norte Street, South Ventura Street and West Scotts Avenue. The Project would introduce a new signalized T-intersection where the terminus of the Crosstown Freeway extension connects with Navy Drive. New traffic signals are proposed at the currently unsignalized intersections of Tillie Lewis Drive/West Charter Way intersection and the Tillie Lewis Drive/Navy Drive intersection.

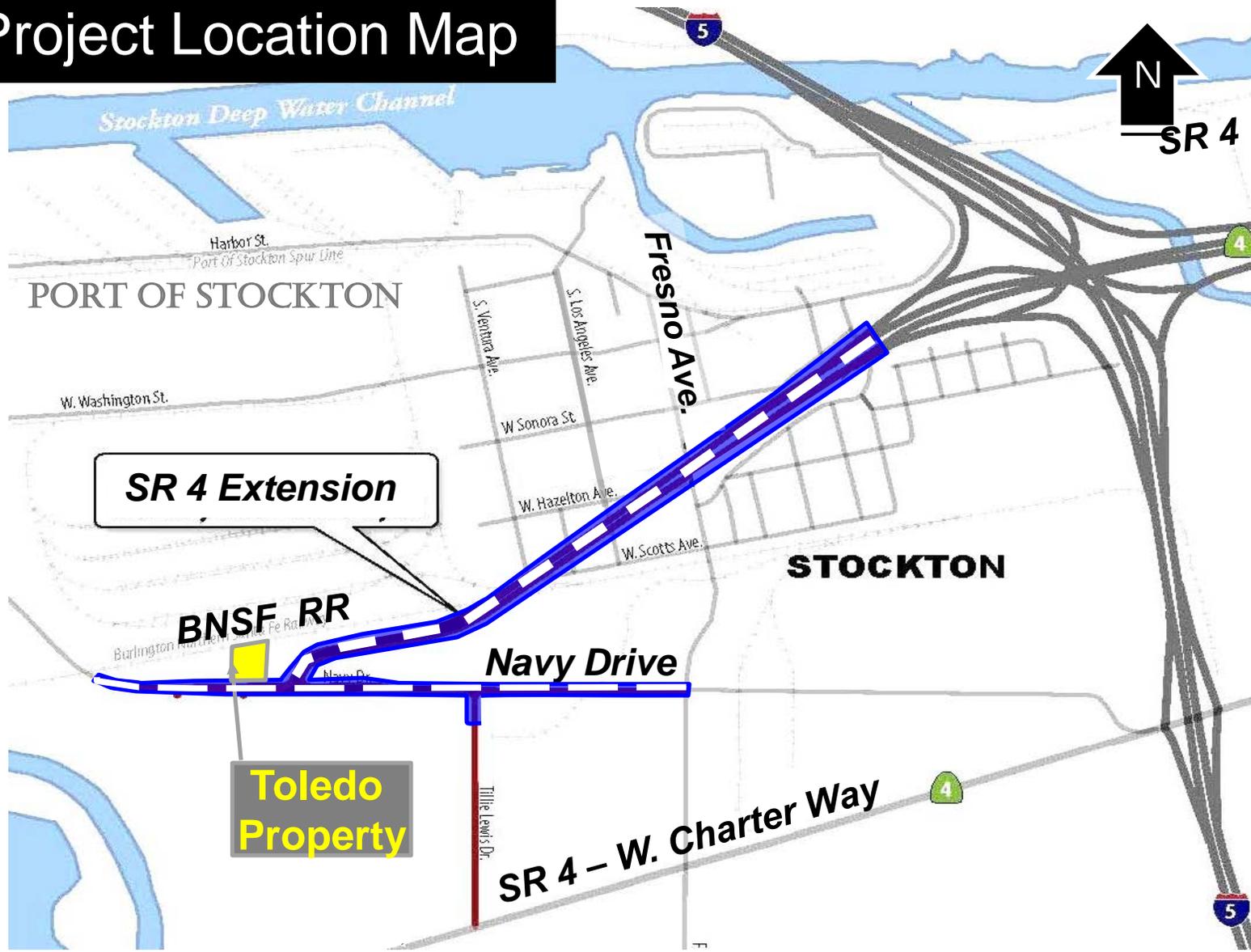
The project is one component in a balanced system of planned transportation improvements within the Stockton Planning Area and San Joaquin County and is consistent with local and regional plans, policies, and projects. The proposed project is called for in both the City of Stockton General Plan and the San Joaquin County General Plan.

This project is programmed and funded through a combination of the Proposition 1B Trade Corridor Improvement Fund (TCIF), Measure K (San Joaquin County's one-half cent sales tax), and Regional Transportation Impact Fees (RTIF).

# Vicinity Map



# Project Location Map



## PARCEL PANEL REPORT

### PARCEL DATA

Property Owner: Charles Toledo and Rebecca Toledo, husband and wife as joint tenants

Parcel Location: Located in the city of Stockton at 2403 Navy Drive, CA  
Assessor Parcel Number 163-320-02

Present Use: Industrial

Zoning: Industrial General

Area of Property: 1.97 acres

Area Required: Parcel 16469-2: 0.20 acre – Roadway Easement  
Parcel 16469-3 and 16469-4: 37,778 sq. ft. in temporary construction easement (TCE)

### PARCEL DESCRIPTION

The subject property is located in the City of Stockton, San Joaquin County. Mr. and Mrs. Toledo own and operate an animal food processing plant, C&R International Sales, Inc., at this location. The total area of the parcel is 1.97 acres. The parcel has an irregular though somewhat rectangular shape. The property is approximately 209 feet deep along its western border and 270 feet deep along its eastern border. The shape of the parcel appears adequate for the legally permissible uses. The parcel contains a warehouse with production facilities, refrigeration, loading docks and administrative offices. The property has approximately 318 linear feet of frontage along Navy Drive to the south.

### NEED FOR THE SUBJECT PROPERTY

A portion of the subject property is needed for the construction of additional travel lanes and sidewalks along Navy Drive west of the new State Route 4 Crosstown Freeway Ramp terminus.

The right of way requirements for the project include a permanent roadway easement, 29 feet wide by 318 feet long strip of frontage along Navy Drive. The area is 0.20 acre, or approximately 10 percent of the total property area. Two additional TCEs totaling 0.04 acre are needed to conform the owners' driveways to the new grade of Navy Drive.

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

The Condemnation Review Panel (Panel) met in Stockton on November 6, 2012. The Panel members included Donald Grebe, Panel Chair, Department of Transportation (Department) Headquarters (HQ) Division of Right of Way and Land Surveys (R/W); Joe Carroll, Department HQ Legal Division; Linda Fong, Department HQ Division of Design; and Paul Pham, Department HQ R/W, Secretary to the Panel. Property owner, Charles Toledo, was in attendance as was his son, Manuel Toledo, the owners' attorney, Steve Herum, and the owners' engineer, Bob Barry.

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 relate to their 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:

### **Owners:**

The project construction impacts the plant's ability to continue operating the business on the property. The plant operates 24/7, and the longest period it can be shut down is less than four hours. Due to the intensive competition in animal food processing business, the plant cannot stop buying raw materials from suppliers at any point. The materials are perishable; therefore, they have to get to the plant immediately. If the plant is shut down, even temporarily, the suppliers would sell them to Mr. Toledo's competition. There are limited numbers of raw material suppliers, and the operation cannot afford to lose any.

Additionally, the processed product must be transported to the animal food company on customer's demand. The operation requires shipping and receiving at all times.

### **Department:**

The Department has incorporated a special provision into the construction contract requiring the contractor to provide access to this parcel at all times. The plant would have 24/7 access during the construction.

### **Owners:**

The project intends to acquire 29.14 feet in width across the frontage of the property, and the owner feels the truck drivers making deliveries will no longer be able to make the necessary truck turning movements on the remaining property.

**Department:**

The Department has changed the design of Navy Drive in front of the Toledo property and reduced the right of way needed to 29.14 feet from the 41 feet original plan. This change minimized the impact on the property to the greatest extent possible while still allowing sufficient area to construct the improvements on Navy Drive.

The Department has proposed and provided to Mr. Toledo and his engineer, a new truck circulation pattern within the remaining property and loading dock reconfiguration. The Department's Traffic Engineer and the project consultant have applied truck turning templates on the remainder parcel and determined the site will be able to accommodate truck turn movements around the site in the after condition.

The Department continues to work with the owners on reconfiguration of the loading docks.

**Owners:**

The Department's acquisition, proposed truck circulation, and loading dock reconfigurations create the need for additional storage area. The plant currently uses the ground area in the back of the property as a "bone yard," storing spare parts to be used in fixing any broken machinery and as a parking area for refrigerated storage trailers. The proposal displaces these ground areas to accommodate the proposed truck movements.

Products require refrigeration and have only 30-day shelf-life. Additionally, the processed product requires the initial freezing before it can be shipped. On-site refrigeration is a must. Once the product has been frozen, it can be transported to off-site storage. However, off-site storage would be a very expensive option due to rental and transportation costs. The owners would like to explore the possibility of exchanging the portion of land being acquired by the Department for a portion of the parcel already acquired by the Department located on the east side. The owners also expressed interest to purchase a portion of the adjacent parcel, to the west, owned by City of Stockton if the exchange option would not be possible.

**Department:**

The Department does not have available land to accommodate the owners' request on a permanent basis. Discussions arose about the possibility of using the Department-owned land to the east of the Toledo property as a temporary storage area prior to the retention basin being constructed. Once the temporary storage need had been satisfied the retention basin could then be constructed. This basin is an important drainage feature for the project, preventing flooding of the surrounding area.

The Department and San Joaquin Council of Governments could arrange a meeting between the owners and the City of Stockton to explore the possibility of owners' acquisition from the City.

#### **DEPARTMENT CONTACTS**

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

<b>Type of Contact</b>	<b>Number of Contacts</b>
Mailing of information	5
E-Mail of information	7
Telephone contacts	35
Personal / meeting contacts	7

#### **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. The property 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 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 6, 2012**

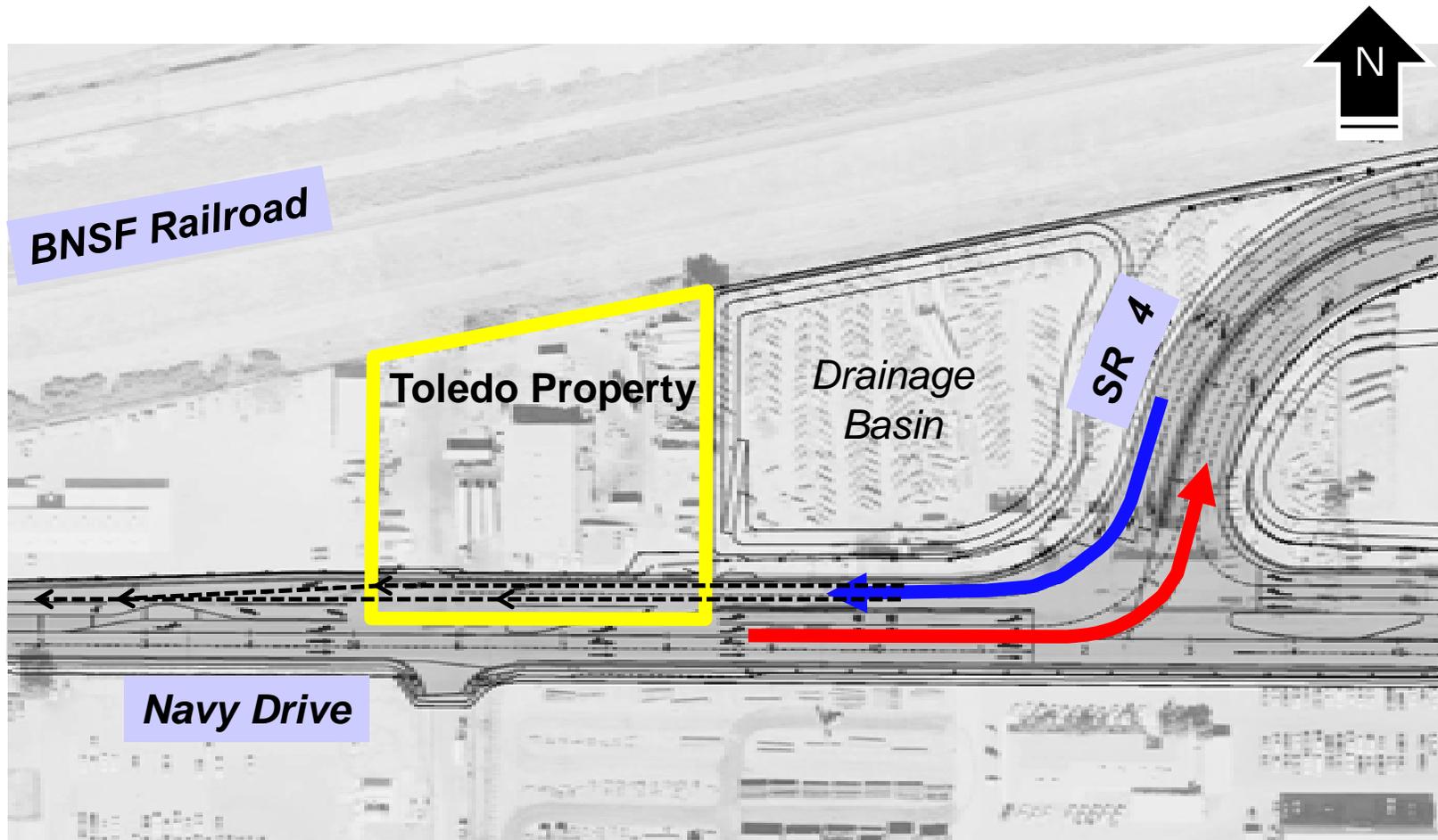
Donald Grebe, HQ Division of Right of Way and Land Surveys, Panel Chair  
Joe Carrol, HQ Legal Office Attorney, Panel Member  
Linda Fong, HQ Division of Design, Panel Member  
Paul Pham, HQ Division of Right of Way and Land Surveys, Panel Secretary

Charles Toledo, Property Owner  
Manuel Toledo, Son of Property Owner  
Steve Herum, Owners' attorney  
Bob Barry, Owners' engineer

Kevin Sheridan, San Joaquin Council of Governments  
Martha Dadala, R&M Engineering, Project Consultant

Carrie Bowen, District 10, District Director  
Scott Guidi, District 10, Division Chief, Project Management  
James Gonzales, District 10, Supervising Right of Way Agent  
Sharon Parsons, District 10, Senior Right of Way Agent  
Brenda McKenzie, District 10, Associate Right of Way Agent

# Toledo Property Impacts

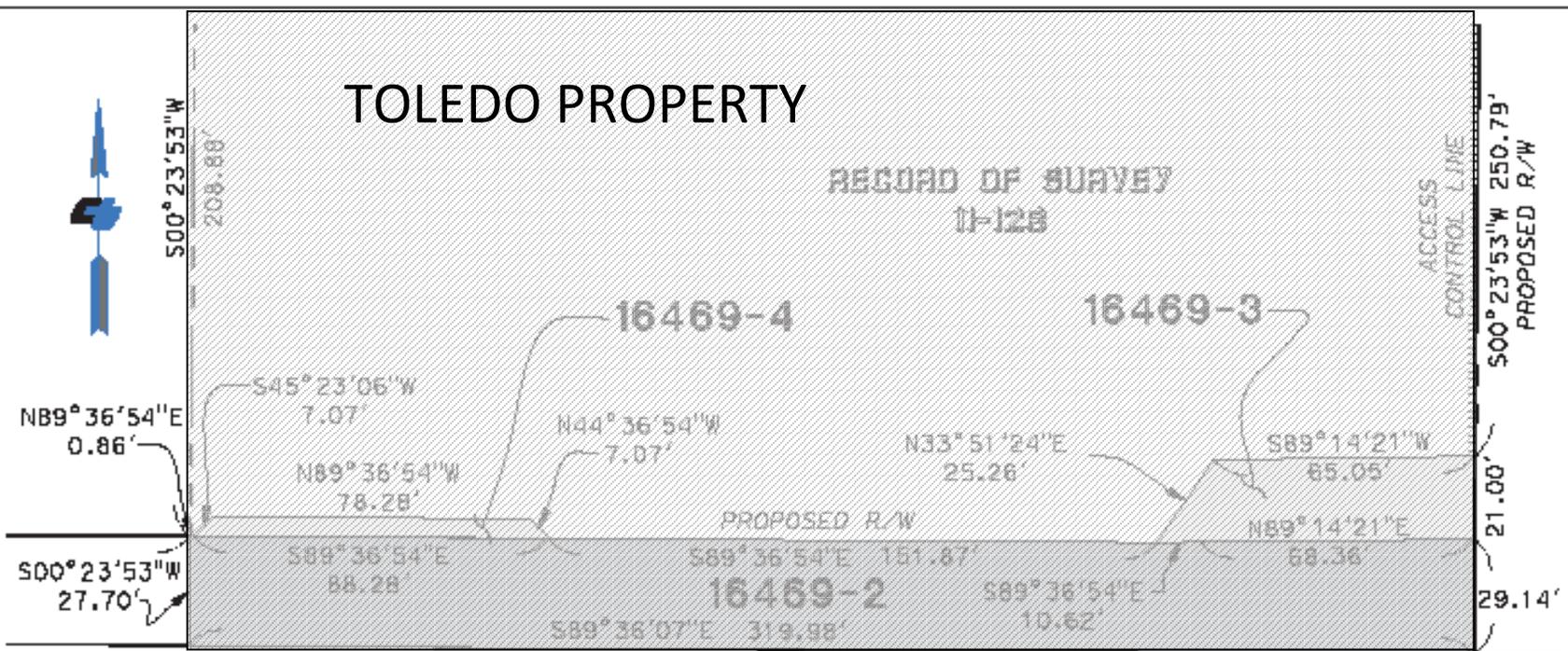




# TOLEDO PROPERTY

RECORD OF SURVEY  
II-128

ACCESS  
CONTROL LINE  
500°23'53"W 250.79'  
PROPOSED R/W



Coordinates and bearings are on CCS 1983(2007.00) Zone 3. Distances and stationing are grid distances. Divide by 0.99993897 to obtain ground distances. All distances are in feet unless otherwise noted.

SECTION 16  
TOWNSHIP 1 NORTH, RANGE 6 EAST,  
MOUNT DIABLO BASE AND MERIDIAN,  
CITY OF STOCKTON,  
COUNTY OF SAN JOAQUIN

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

**RIGHT OF WAY  
RESOLUTION OF NECESSITY**

EXHIBIT B

NOT TO SCALE

DATE: 08-19-12

DISTRICT	COUNTY	ROUTE	SHEET NO.	SHEET TOTAL	TOTAL SHEETS
10	5J	4	14.5	1	1

Exhibit B2