



Newtown Road at South Fork Weber Creek

Resolution of Necessity Hearing

August 16, 2022



Eminent Domain Process

- BOS approves the Resolution of Necessity (RON)
- County utilizes outside counsel to file a complaint to acquire the property and obtain possession.
- Case can be settled through informal negotiations or through mediation.
- If no settlement, jury will determine fair market value of the property.



Condemnation Protections and Benefits to Property Owners

- Property owners are protected by state and federal law in the action.
- County will deposit its appraised amount, which the owner can withdraw during the action.
- Owners can present a claim for greater compensation than offered.
- Jury determines the amount of compensation.



Resolution of Necessity Requirements

- To adopt a RON, and authorize the filing of an eminent domain action, Board must find, based on all evidence presented, that the following requirements are met:
 1. The public interest and necessity require the proposed project.
 2. The Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury.
 3. The property sought to be acquired is necessary for the Project.
 4. The offer required by section 7267.2 of the Government Code has been made to the owners of record.
- **Adequacy of compensation is not a part of the RON.



Offer Required by Gov Code 7267.2 Was Made to Owners of Record

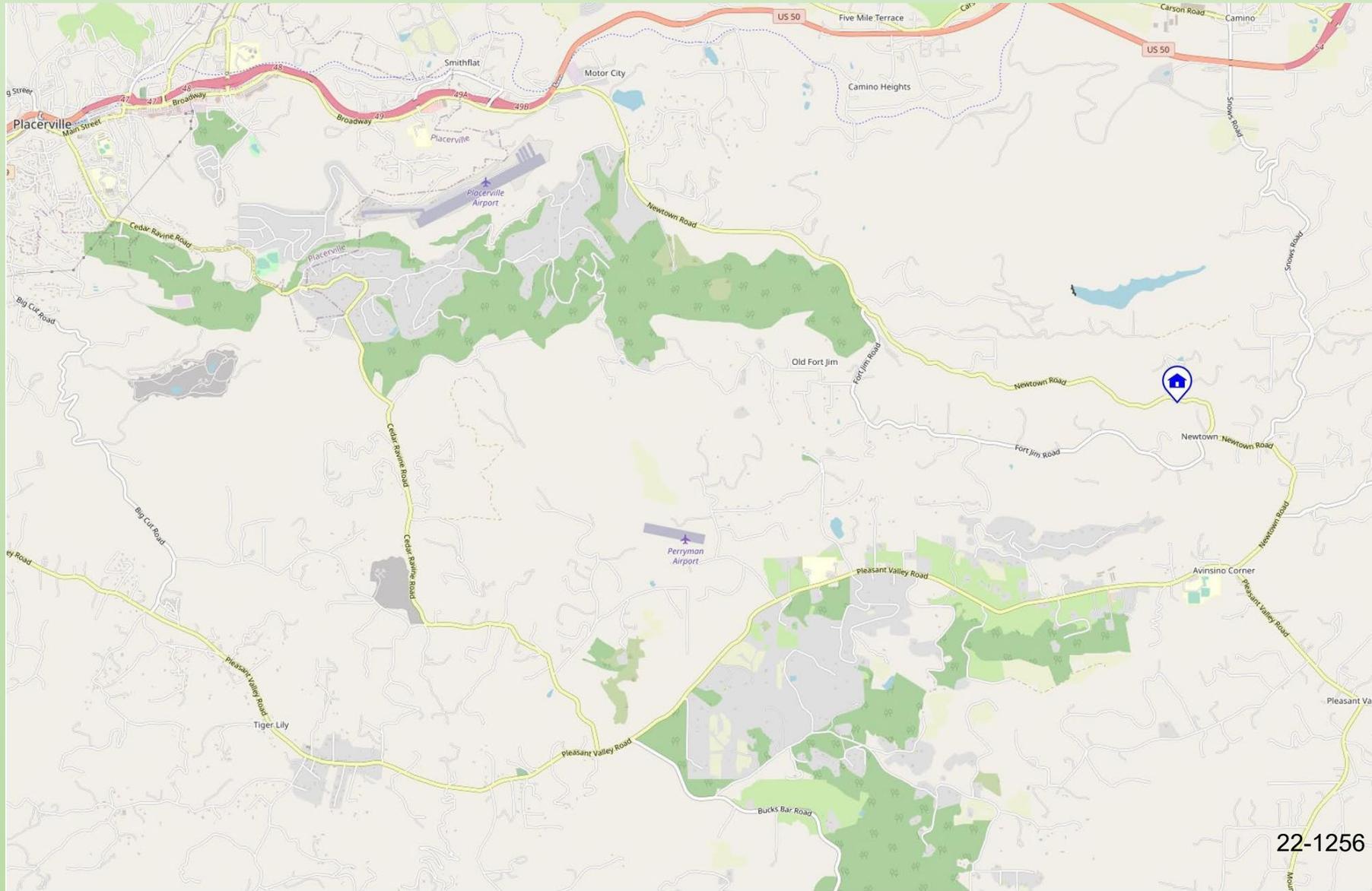
- To satisfy this standard, the Board should find substantial evidence exists that:
 - The County made an offer based on the County's determination of what constituted adequate compensation and that offer was not less than the appraised value of the property.
 - The Offer was made to the Owner of Record.
 - The Offer included a written statement of, and summary of the basis for, the amount of just compensation.
- It is not the purpose of today's hearing on whether the compensation was adequate. The property owners have a right for that decision to be determined by a jury. Instead, today's discussion should focus only on whether the above requirements were met.
- Staff has provided evidence that the County did make an offer in compliance with Gov Code 7267.2 to the Owners of Record.



Purpose of Today's Hearing

- Staff will present information, evidence and testimony to Board of Supervisors in support of Board adoption of a Resolution of Necessity (RON) to commence eminent domain proceedings.
- The Board should consider all evidence and testimony to determine whether there is substantial evidence that the four (4) requirements described in the previous slide are met in order to adopt the RON and to file an eminent domain action.

Project Location





Project Description

- HBP funding from FHWA through Caltrans
- Replacing a single lane bridge with a culvert added to the upstream end; upstream wingwalls similarly deficient to those at Fort Jim (culvert failure in 2017)
- New bridge will be a precast arch structure
- Construction start = April 1, 2024 (starting early to avoid fire season per project IS/MND)
- CEQA document approved by BOS December 18, 2018, successfully defended in El Dorado County Superior Court and in the State 3rd District Court of Appeals



1) Public Interest and Necessity Require the Project

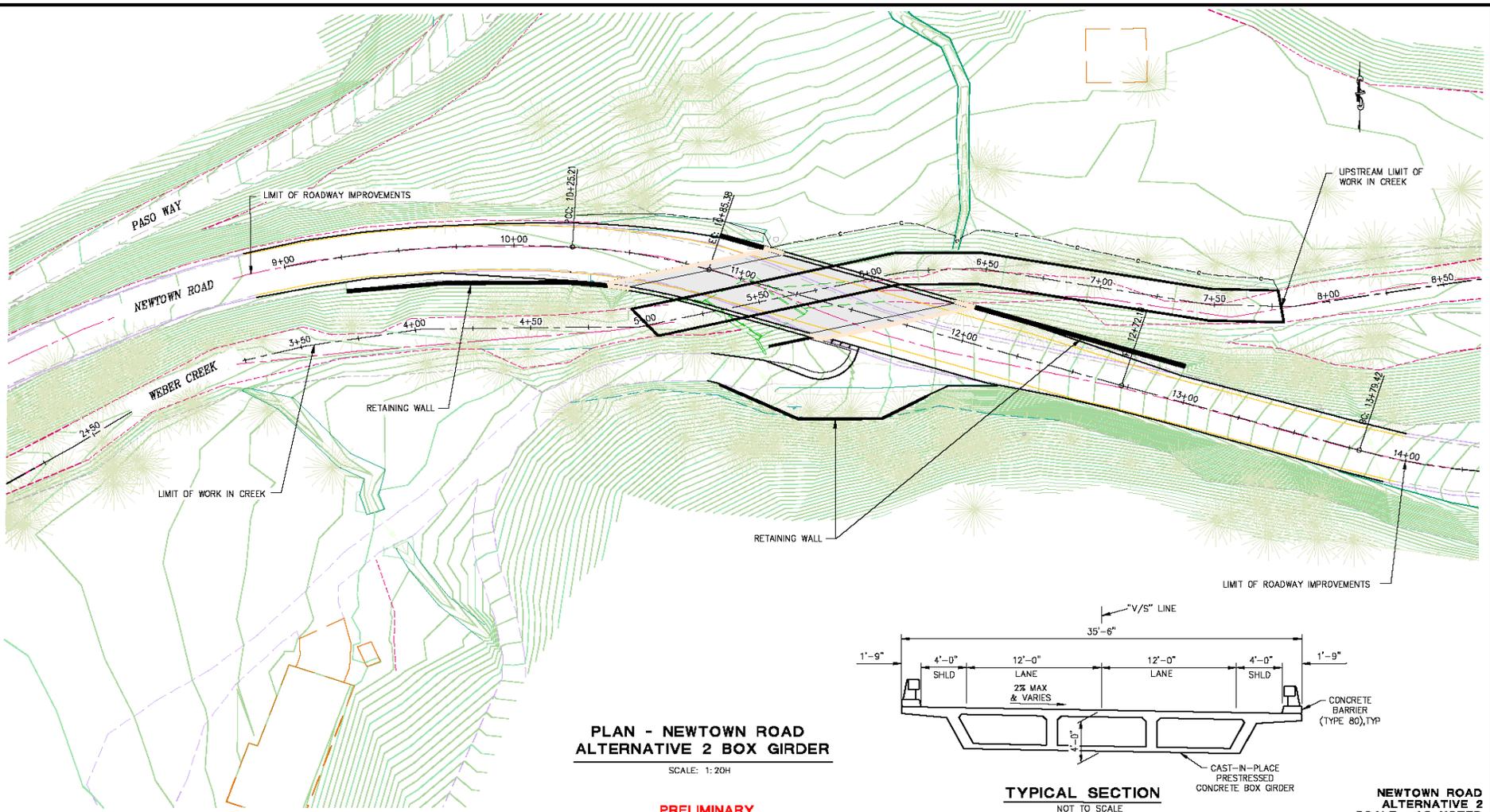
- Newtown Road is an important arterial that connects South County to the US 50 corridor
- Existing bridge is a single lane bridge built in 1929 with a squashed culvert scabbed on the inlet end in 1950
- Includes nonstandard stacked rock wingwalls on the inlet end identical to those that caused the failure at Fort Jim in 2017
- Existing bridge/culvert system does not pass 50-year or 100-year hydraulic events as discussed in the adopted IS/MND and the April 24, 2018, Draft Hydrological Study; this is the primary reason that Caltrans approved replacement of the bridge/culvert
- Insufficient deck width and nonstandard guardrail as discussed in staff report and in the adopted IS/MND



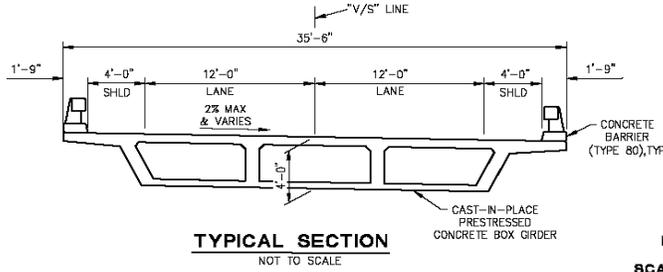
2) Greatest Public Good/Least Private Injury

- Several project alternatives considered
- Site is complex due to severe skew between South Fork Weber Creek and Newtown Road
- Driveway proximity to bridge is a complicating factor
- The Project was designed to minimize the amount of private property to be acquired.
- This Project will not displace or require the relocation of any private property owners on the Subject Properties to be acquired in this proceeding again minimizing private injury.
- Project was planned to accommodate adequate evacuation in case of an emergency.

Newtown Alternatives Considered



**PLAN - NEWTOWN ROAD
ALTERNATIVE 2 BOX GIRDER**
SCALE: 1:20H



**NEWTOWN ROAD
ALTERNATIVE 2**
SCALE: AS NOTED

- Alternative 2
- Cast in place reinforced concrete box girder
 - Severe skew between road and creek causes unfavorable stress concentrations
 - Very long construction time increases road closure time
 - Additional retaining wall required for driveway

ORIGINAL SCALE: 1/4" = 1'-0"
 FOR REDUCED PLATS: 1" = 1'-0"
 DRAWING NAME: C:\DWG\3D\Projects\77122\Newtown Road at Weber Creek\3D\Drawings\CRED-ALTERNATIVE 2.dwg
 LAYOUT: TYP. PLAN - 24x36
 MAR 23, 2015 - 1:02pm
 BIRCHARD

REVISION	NUMBER	DATE	DESCRIPTION	BY

PREPARED UNDER THE SUPERVISION OF:	DESIGNED:	DRAWN:
REGISTERED CIVIL ENGINEER	CHECKED:	DATE:
DATE:	ROAD NUMBER:	04

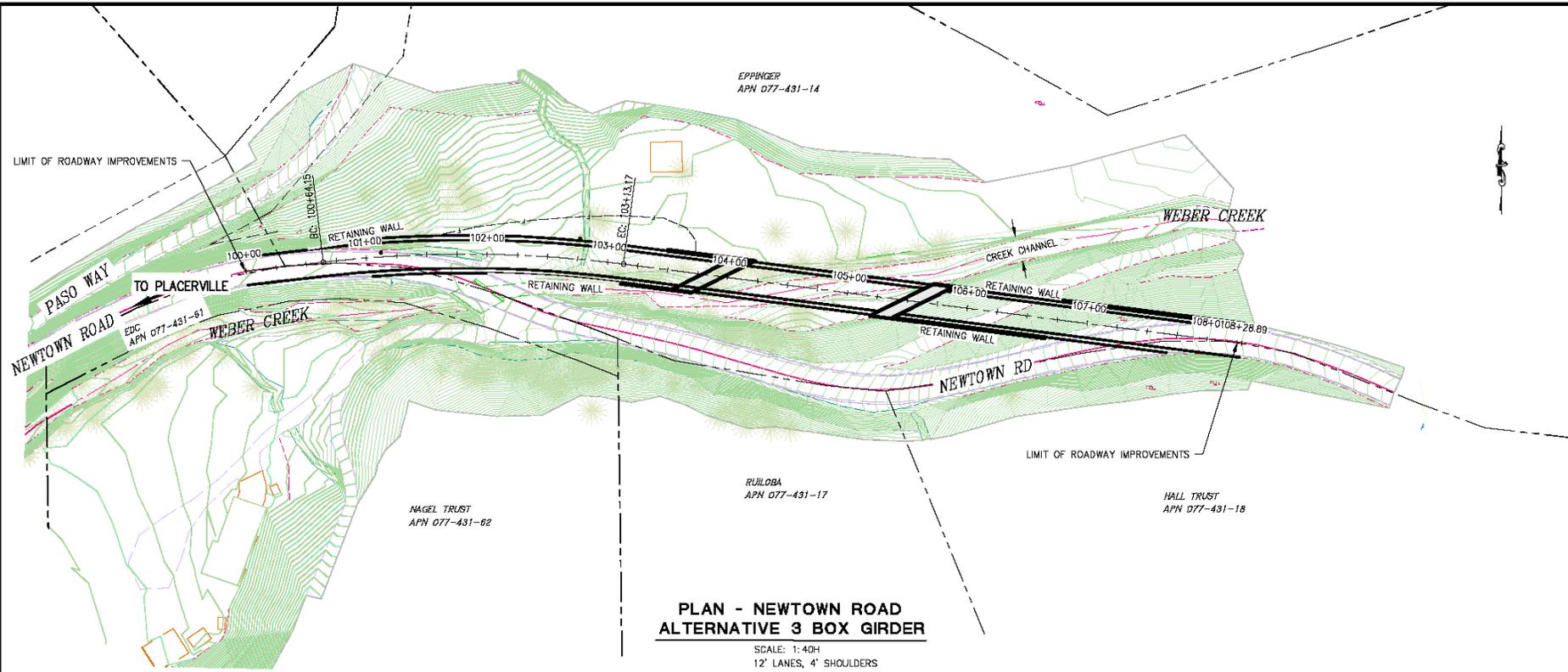


COUNTY OF EL DORADO
COMMUNITY DEVELOPMENT AGENCY
TRANSPORTATION DIVISION

NEWTOWN ROAD - WEBER CREEK

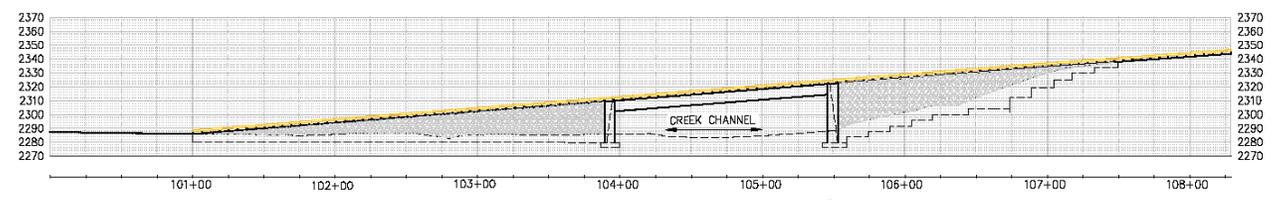
SHEET
EXHIBIT
1 OF 1
77122

Newtown Alternatives Considered



**PLAN - NEWTOWN ROAD
ALTERNATIVE 3 BOX GIRDER**

SCALE: 1:40H
12' LANES, 4' SHOULDERS



PROFILE - ALTERNATIVE 3

SCALE: 1:40H,V

PRELIMINARY

**NEWTOWN ROAD
ALTERNATIVE 3
SCALE: AS NOTED**

ORIGINAL SCALE IS IN INCHES
 Drawing Name: C:\Users\30\Project\177722\Newtown_Road_Web_Creek_CADD_Files\Emblish\MASTER_ALT_3.dwg
 User: Tom_Bridge_2_ALIGNMENT_Mar_23_2015_11:10am BR140003

REVISION	NUMBER	DATE	DESCRIPTION	BY

PREPARED UNDER THE SUPERVISION OF:

REGISTERED CIVIL ENGINEER

DATE: _____

DESIGNED BY: _____

CHECKED BY: _____

DATE: 3/18/15

ROAD NUMBER: 84



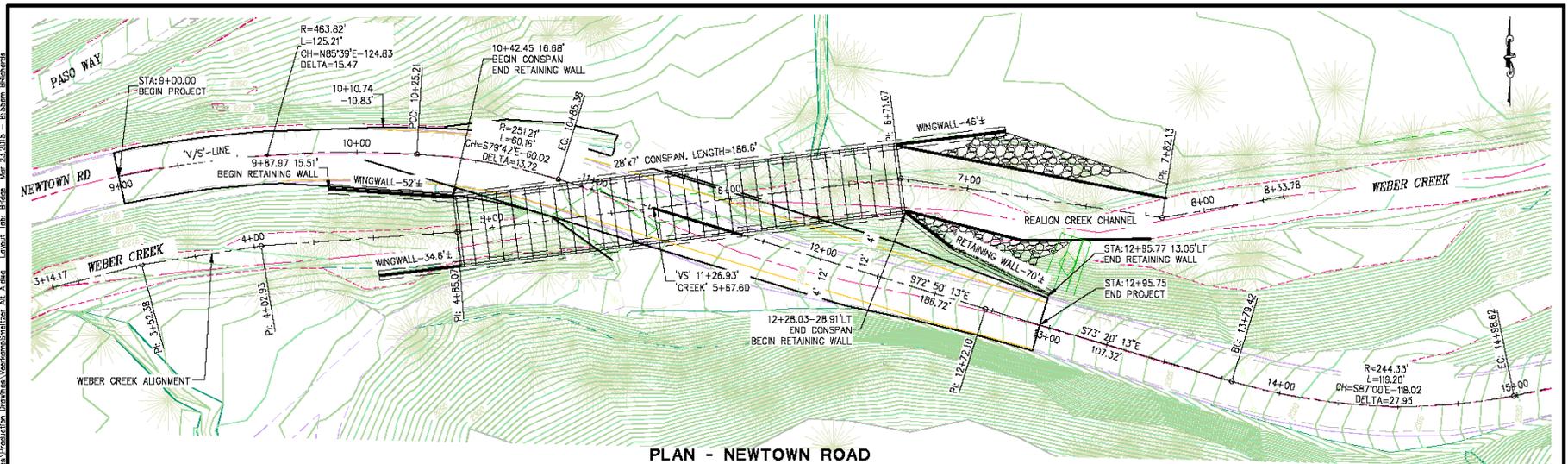
**COUNTY OF EL DORADO
COMMUNITY DEVELOPMENT AGENCY
TRANSPORTATION DIVISION**

NEWTOWN ROAD - WEBER CREEK

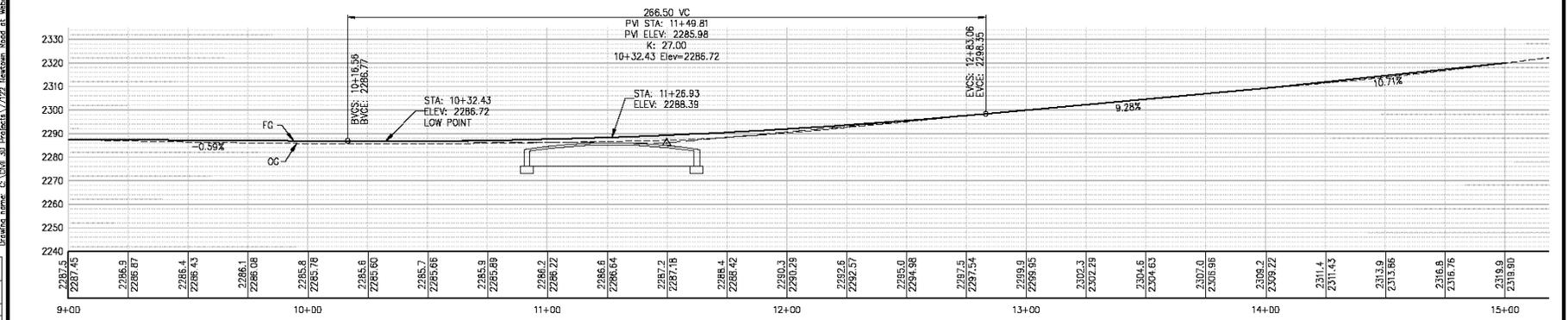
SHEET
EXHIBIT
1 OF 1
SHEET NO. **77122**

- Alternative 3
- Much more expensive due to change in alignment and long retaining walls
 - Native American cultural resources are in conflict
 - Large right of way take required from usable portion of Brown parcel

Newtown Alternatives Considered



**PLAN - NEWTOWN ROAD
ALTERNATIVE 1 CONSPAN**
SCALE: 1"=20'
28'x7' CONSPAN



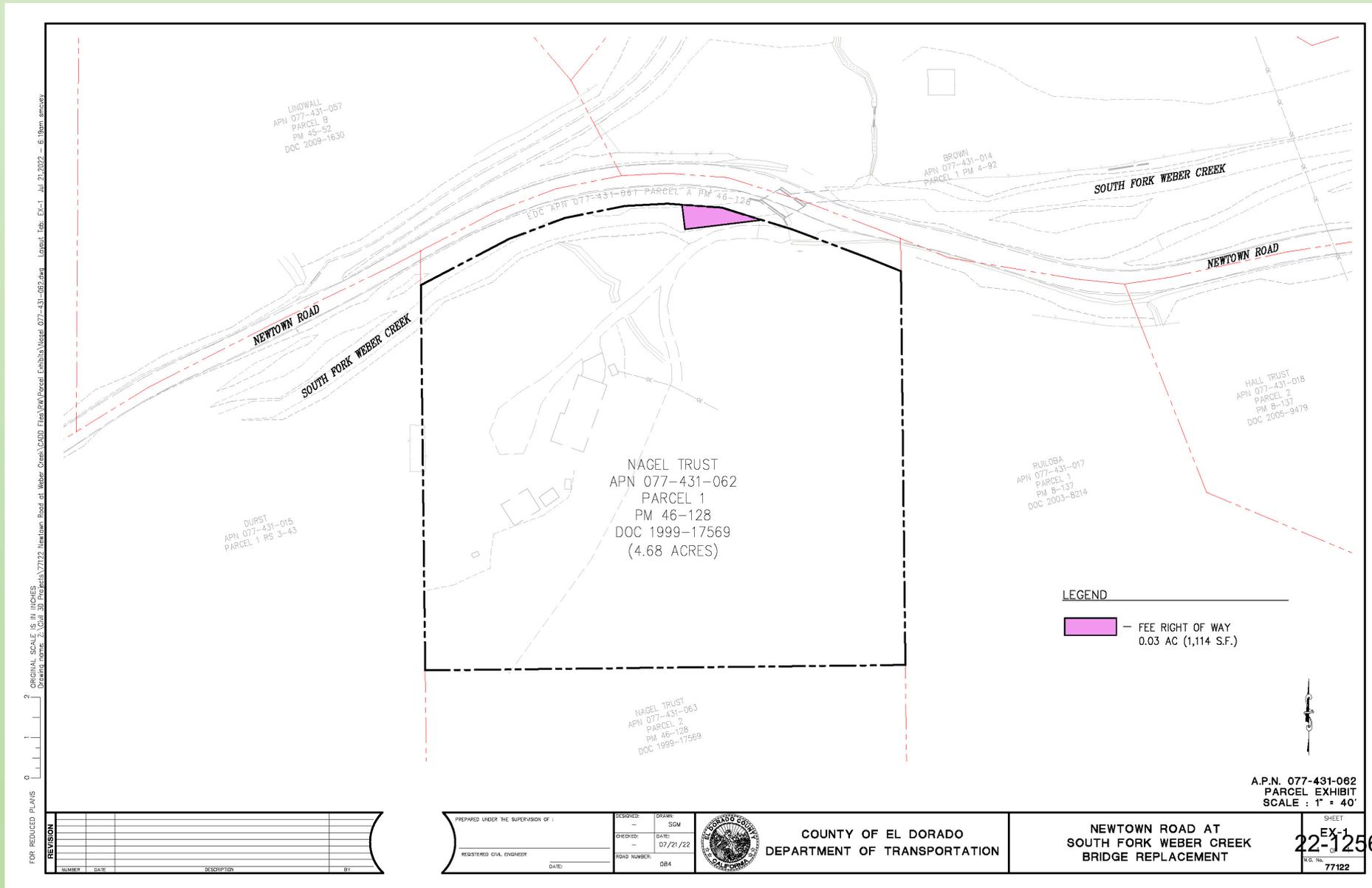
PROFILE - NEWTOWN ROAD
SCALE: 1"=20' V
PRELIMINARY

ORIGINAL SCALE IS IN INCHES
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 FOR REDUCED PLANS
 REVISION
 NUMBER DATE DESCRIPTION BY

PREPARED UNDER THE SUPERVISION OF: REGISTERED CIVIL ENGINEER DATE:	DESIGNED: DOUG RR CHECKED: PAT 7-11-13 ROAD NUMBER: 84	COUNTY OF EL DORADO, CA COMMUNITY DEVELOPMENT AGENCY TRANSPORTATION DIVISION	NEWTOWN ROAD / WEBER CREEK	SHEET EXHIBIT 1 OF 1 S.C. No. 77122
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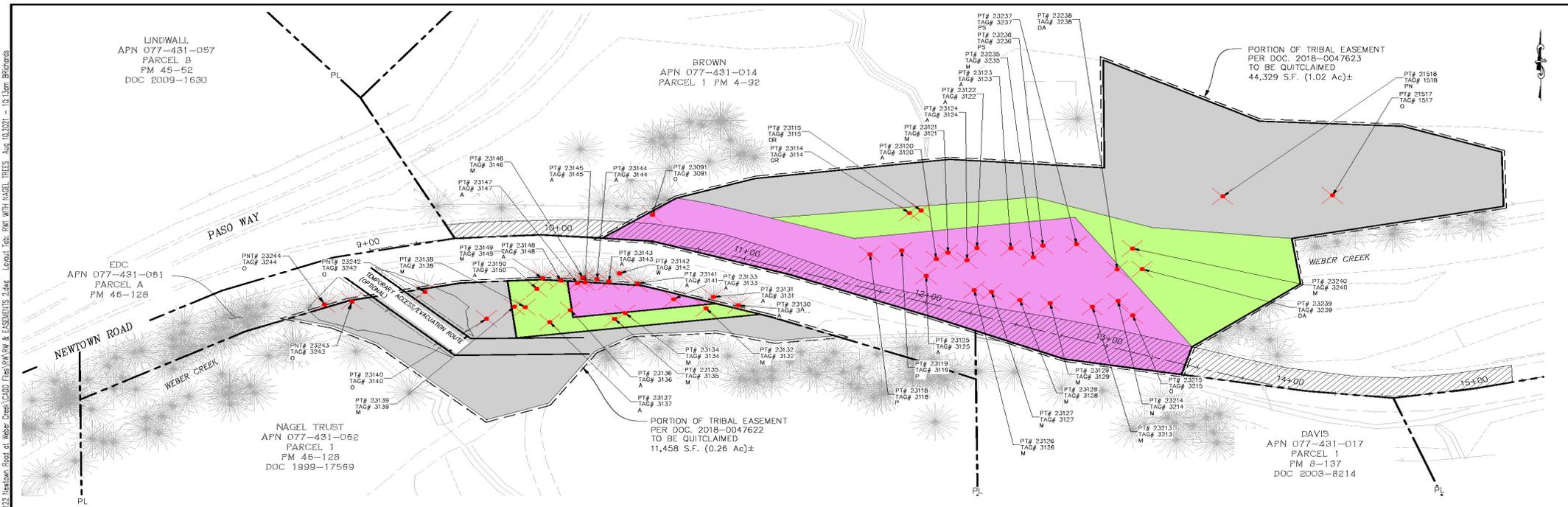
- Alternative 1**
- Very short construction and road closure time – should be able to use for emergency evacuation after 10 weeks of closure (by mid-June) even as Newtown Road remains closed
 - Lowest cost
 - Least environmental impact
 - Greatest public good and least private injury

3) Property Sought is Necessary for Project





3) Property Sought is Necessary for Project



A.P.N.	OWNER	FEE R/W	SLOPE & DRAINAGE EASEMENT	TEMPORARY CONSTRUCTION EASEMENT	TOTAL PARCEL ACRES	TOTAL PARCEL ACRES REMAINING
077-431-62	NAGEL	0.03 AC (1,114 S.F.) N	0.05 AC (2,031 S.F.) N	0.19 AC (8,312 S.F.) N	4.68 AC	4.65 AC
077-431-14	BROWN	0.23 AC (10,141 S.F.) N 0.12 AC (5,071 S.F.) P 0.35 AC (15,212 S.F.) T	0.18 AC (7,808 S.F.) N	0.49 AC (21,309 S.F.) N	11.88 AC	11.53 AC

LEGEND

- EXISTING PROPERTY LINE (PL)
- TREE TO BE REMOVED
- FEE RIGHT OF WAY
- SLOPE AND DRAINAGE EASEMENT
- QUITCLAIM OF TRIBAL EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT
- EXISTING PRESCRIPTION AREA

TREE ABBREVIATION

- P—PEAR
- O—OAK
- M—MAPLE
- A—ALDER
- W—WILLOW
- OR—ORNAMENTAL
- OA—OREGON ASH
- PS—PRUNUS SP.
- PN—PINE

PT# XXXX — SURVEY POINT NUMBER
TAG# XXXX — TREE TAG NUMBER
A — TREE SPECIES

ORIGINAL SCALE IS IN INCHES
 Drawing Name: 2_Civil_3D_Projects\77122 Newtown Road at Weber Creek Bridge Replacement.dwg
 Locat. Co: RW WITH NAGEL TREES Aug 10 2021 - 10:30am BRG/bard
 FOR REDUCED PLANS
 REVISION
 NUMBER DATE DESCRIPTION BY

PRELIMINARY

RIGHT OF WAY and EASEMENTS SCALE : NONE

DESIGNED: CG RRR CHECKED: CG ROAD NUMBER: 84	DATE: 8/4/21 REGISTERED CIVIL ENGINEER		COUNTY OF EL DORADO DEPARTMENT OF TRANSPORTATION	NEWTOWN ROAD at SOUTH FORK WEBER CREEK BRIDGE REPLACEMENT	SHEET RW-1 1 OF 1 W.D. No. 77122
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4) Offer Made per CA Gov't Code 7267.2

- Initial offer sent to Owner of Record on September 21, 2020. The County set the amount of compensation at an amount that was not less than the appraised value of the property. Attached to the offer was a written statement of, and summary of the basis for, the amount of just compensation. County provided Property Owner of Record a full copy of the appraisal.
- Property Owner's counsel notified the County in July of 2020 that the appraisal that came with the Initial Offer did not propose compensation for trees within proposed acquisition areas. At the Property Owner's request and in hopes of reaching a settlement, County ordered a revised appraisal to address the issue brought to our attention.
- Revised offer sent to Property Owner on January 27, 2022. The County set the amount of compensation at an amount that was not less than the appraised value of the property. Attached to the offer was a written statement of, and summary of the basis for, the amount of just compensation. County provided Property Owner of Record a full copy of the appraisal.
- County has not received any counter-offer from the Property Owner and has offered to discuss the matter with Property Owner's counsel.

Project Need: Existing Stacked Rock Wall at Newtown



Project Need: 8-10 Year Storm Event at Newtown - February 7, 2017





Transportation Recommendation

- Transportation recommends the Board adopt the Resolution of Necessity and the findings supporting the Resolution of Necessity for the Newtown Road Bridge Replacement Project
- 4/5 vote is required