



File: 4021-303, 4021-384
Coyote Creek Flood
Management Measures Project

January 27, 2023

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Union Pacific Railroad Company
Attn: Peter Kenney
1400 Douglas Street MS910
Omaha, NE 68179-0910

Subject: NOTICE OF INTENTION TO CONSIDER THE ADOPTION OF A RESOLUTION OF
NECESSITY TO ACQUIRE PROPERTY BY EMINENT DOMAIN

Dear Property Owner:

Notice is hereby given pursuant to Code of Civil Procedure, Section 1245.235, that it is the intention of the Board of Directors of the Santa Clara Valley Water District to consider the adoption of a resolution declaring the public necessity for the acquisition of real property or interest therein required for purposes of the Coyote Creek Flood Management Measures Project.

The resolution will authorize staff and counsel to commence an eminent domain proceeding to acquire the property described in the attached Exhibit A and B.

Notice is further given that the Board is scheduled to meet to consider adoption of the Resolution of Necessity at the **February 28, 2023** meeting which begins at **1:00 PM** at the District's Headquarters building, 5700 Almaden Expressway, San Jose, California. The meeting will also be live streamed on the district's website.

Notice of Your Right to Appear and Be Heard

You, are entitled to appear at the place and time set forth above and be heard on the following matters:

1. Whether public interest and necessity require the project;
2. Whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
3. Whether the property sought to be acquired is necessary for the project;

If you wish to appear and be heard, you must file a written request to appear and be heard with the Clerk of the Board of Directors at the Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California, 95118 within 15 days after this notice was mailed.

Failure to file such written request within the time specified constitutes a waiver of the right to appear and be heard.



PLEASE BE AWARE THE PRICE TO BE PAID FOR THE PROPERTY WILL NOT BE CONSIDERED BY THE BOARD AT THIS HEARING, AND IF YOU ELECT NOT TO APPEAR AND BE HEARD, YOUR NON-APPEARANCE WILL NOT BE A WAIVER OF YOUR RIGHT TO CLAIM GREATER COMPENSATION IN A COURT OF LAW.

Please be advised that, notwithstanding the statutory language indicating that there is an "intent" to condemn, the Directors have not in fact made a determination whether to condemn and will not so determine except in accordance with evidence and disclosures which will be heard at the time and place noted above.

If the Board elects to adopt the Resolution of Necessity, then within six months of the adoption of the Resolution, Valley Water will commence eminent domain proceedings in Superior Court. In that proceeding, the Superior Court will determine the amount of compensation to which you are entitled.

Santa Clara Valley Water District

By: 
Michele L. King, CMC
Clerk/Board of Directors

By Certified Mail: #7005 2570 0002 3185 2388

Enclosures: Exhibit A and B

Date Mailed: January 27, 2023

Notice of Intention to appear due: February 13, 2023

cc: File

Gerald Murphy, Esq.
Lubin Olsen & Niewiadomski LLP
The Transamerica Pyramid
600 Montgomery Street, 14th Floor
San Francisco, CA 94111

Southern Pacific Transportation Co. (UPRR)
January 27, 2023
Page 3

cc: K. Bradley, B. Magleby, A. Beaman, M. King, B. Yerrapotu, M. Thummaluru

EXHIBIT A

(WATER MANAGEMENT AND/OR STORM WATER DRAINAGE EASAMENT, File No. 4021-303)

An easement for water management and/or storm water drainage purposes in, upon, over, and across that certain real property in the City of San Jose, County of Santa Clara, State of California, herein after more particularly described below.

Said easement area shall be kept clear of any type of building, fences, structure, pavement, or trees unless prior written approval is obtained from Valley Water.

The easement shall include the right to construct, reconstruct, inspect, maintain, and repair a channel, protection works, and appurtenant structures, together with the right to trim or remove such trees or brush within the easement area as may constitute a hazard to persons or property or may interfere with the use of said area for the purpose granted. It also shall include the right to enter upon said land with vehicles, tools, implements, and other materials, take there from and use earth, rock, sand, and gravel for construction, maintenance, and repair of said channel, protections work, and appurtenant structures by Valley Water, its officers, agents, and employees, and by persons under contract with it and their employees whenever and wherever necessary for flood control or storm drainage purposes.

The easement shall also include the non-exclusive right of ingress from and egress to public streets to the easement area described in Exhibit A and B, over and across the property of the Grantor by such route or routes as shall occasion the least practicable damage to the property and inconvenience to Grantor for the purposes of routine inspection and maintenance of the improvements within the easement. Valley Water shall provide reasonable advance notification of its intent to enter Grantor's property.

EXHIBIT A

(Continued)

**Santa Clara Valley Water District
San Jose, California**

**PROJECT: COYOTE CREEK FLOOD
MANAGEMENT MEASURE
PROJECTS**

**RESU File No.: 4021-303
By: B. Bains**

An easement over that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as "EIGHTEENTH" in that certain Official Record, recorded in Book 313, pages 579 thru 585, filed on January 14, 1907, in the Office of the Recorder, County of Santa Clara, State of California, more particularly described as follows:

Permanent Easement (P.E.)

COMMENCING at a 2" x 3" witness post located on the northwesterly line of the lands described in that certain Deed recorded as Document Number 25149697 filed on October 29, 2021, said point also being on the southeasterly line of the land described as "EIGHTEENTH" in that certain Official Record, recorded in Book 313, pages 579 thru 585, filed on January 14, 1907, all in the Office of the Recorder, County of Santa Clara, State of California;

Thence along said northwesterly line, N47° 54' 54"E, 25.81 feet to the **POINT OF BEGINNING**;

Thence continuing along said northwesterly line, N47° 45' 54"E, 31.08 feet, to the beginning of a non-tangent curve concave northeasterly and having a radius of 185.00 feet, a radial line to said point bears S31° 25' 25"W;

Thence leaving said northwesterly line, the following two (2) courses:

- 1) Northwesterly along said curve thru a central angle of 10° 56' 09", an arc distance of 35.31 feet;
- 2) N47° 38' 26"W, 15.44 feet to a point on the northwesterly line of the lands described as said "EIGHTEENTH";

Thence along said northwesterly line, S 47° 45' 54"W, 18.08 feet;

Thence leaving said northwesterly line, the following three (3) courses:

- 1) S47° 38' 26"E, 4.39 feet;
- 2) S48° 00' 44"W, 192.36 feet;
- 3) N44° 58' 08"W, 3.55 feet to a point on the said northwesterly line;

Thence along said northwesterly line, S47° 45' 54"W, 32.74 feet;

Thence leaving said northwesterly line, the following three (3) courses:

- 1) S48° 29' 54"E, 22.24 feet;
- 2) N48° 00' 44"E, 212.61 feet to the beginning of a non-tangent curve concave northeasterly

EXHIBIT A

(Continued)

- and having a radius of 215.00 feet, a radial line to said point bears S41° 04' 02"W;
- 3) Southeasterly along said curve thru a central angle of 7° 18' 46", an arc distance of 27.44 feet to the **POINT OF BEGINNING**.

Containing 5,557 square feet of land, more or less.

BASIS OF BEARINGS:

The bearing of N47° 45' 54"E, shown as N46° 46'E along the northwesterly line of the lands described on that certain Deed, recorded as Document Number 25149697, filed on October 29, 2021, in the Office of the Recorder, County of Santa Clara, State of California, was used as Basis of Bearings shown hereon.

SURVEYOR'S STATEMENT:

The description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.


Jessica DeMartini, PLS 9095

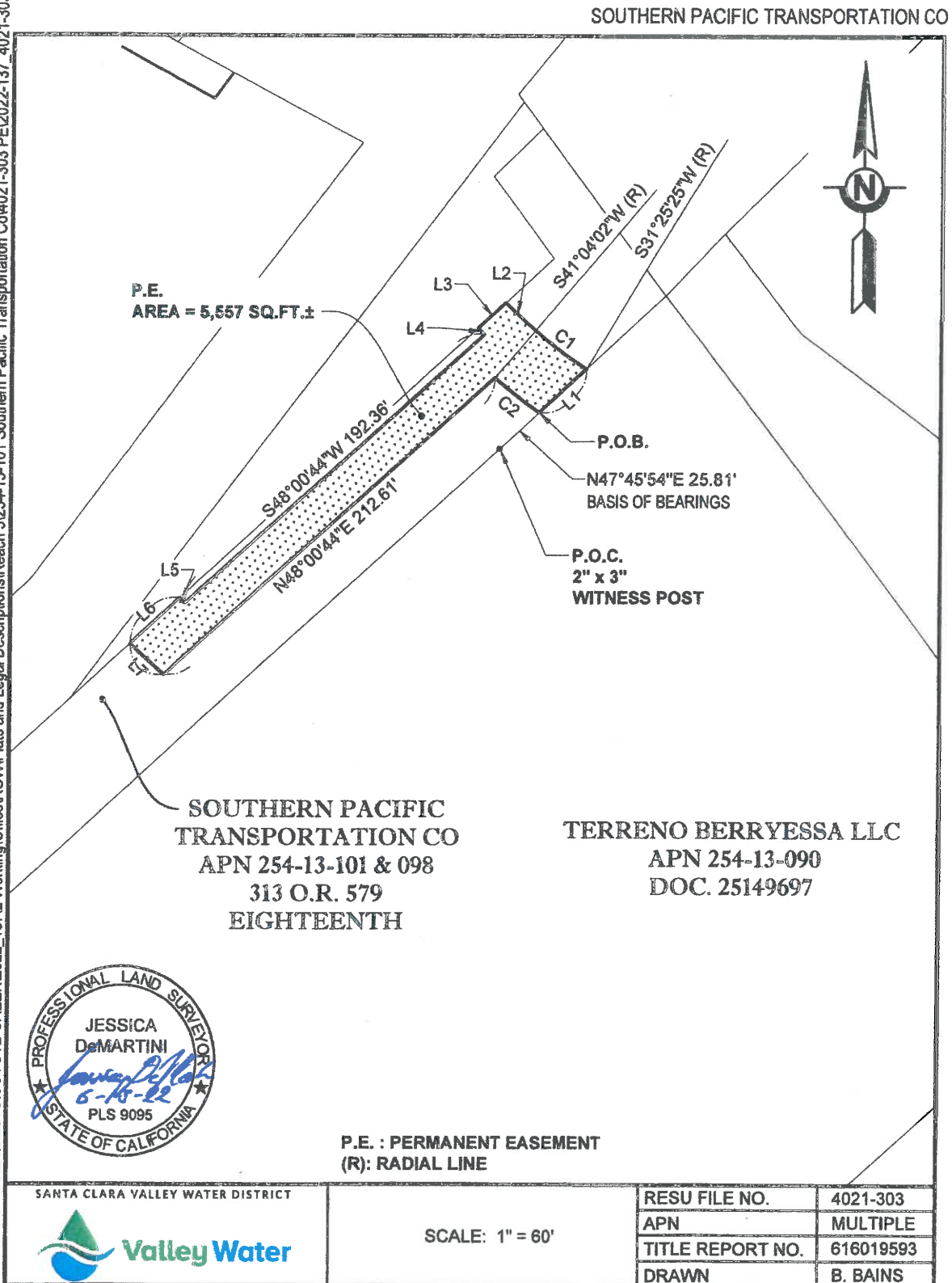
6/13/22
Date



EXHIBIT A

(Continued)

SCVWD S:\REQUESTS\COYOTE CREEK\2022_13712 Working\Office\ROW\Plats and Legal Descriptions\Reach 51254-13-101 Southern Pacific Transportation Co\4021-303 PE\2022-137 4021-303 PE.dwg



SHEET 1 OF 2

EXHIBIT A

(Continued)

SOUTHERN PACIFIC TRANSPORTATION CO



Line Table		
Line #	Bearings	Distance
L1	N47°45'54"E	31.08'
L2	N47°38'26"W	15.44'
L3	S47°45'54"W	18.08'
L4	S47°38'26"E	4.39'
L5	N44°58'08"W	3.55'
L6	S47°45'54"W	32.74'
L7	S48°29'54"E	22.24'

Curve Table			
Curve #	Radius	Delta	Length
C1	185.00'	010°56'09"	35.31'
C2	215.00'	007°18'48"	27.44'



SANTA CLARA VALLEY WATER DISTRICT



Valley Water

SCALE: N.T.S.

RESU FILE NO.	4021-303
APN	MULTIPLE
TITLE REPORT NO.	616019593
DRAWN	B. BAINS

SHEET 2 OF 2

SCVWD S REQUEST COVOTE CREEK 2022 1172 Working Office 6 CWMP data and Legal Description Report 81244-12-101 Southern Pacific Transportation Co 4021-303 PE 6

EXHIBIT B

(TEMPORARY CONSTRUCTION EASEMENT, File No. 4021-384)

A temporary construction easement in, upon, over, and across that certain real property in the City of San Jose, County of Santa Clara, State of California, herein after more particularly described below.

This temporary construction easement is granted under the express conditions listed below:

1. This easement is necessary for the purpose of constructing the Coyote Creek Flood Management Measures Project and related activities incident to construction. This temporary construction easement shall not be revoked and shall continue in full force and effect until December 31, 2024, at which time the temporary construction easement shall terminate unless otherwise agreed by the parties hereto.
3. Santa Clara Valley Water District (Grantee) agrees to use all reasonable efforts to keep any roadway covered by this easement open to traffic and to not interfere with residential occupants or construction activity of Grantor on site. Grantee will keep area covered by the easement clean and remove all debris related to its construction.
4. Grantee agrees to indemnify and hold harmless Grantor from and against any all claims, damages, liabilities, costs or any expenses whatsoever, arising from or caused, directly or indirectly by the entry onto the property by Grantee or its agent's, employees, invitees, contractors and subcontractors.

EXHIBIT B

(Continued)

**Santa Clara Valley Water District
San Jose, California**

**PROJECT: COYOTE CREEK FLOOD
MANAGEMENT MEASURE
PROJECTS**

**RESU File No.: 4021-384
By: B. Bains**

An easement over that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as "EIGHTEENTH" in that certain Official Record, recorded in Book 313, pages 579 thru 585, filed on January 14, 1907, in the Office of the Recorder, County of Santa Clara, State of California, more particularly described as follows:

Temporary Construction (T.C.E.)

PARCEL 1

BEGINNING at a 2" x 3" witness post located on the northwesterly line of the lands described as "PARCE ONE" in that certain Deed recorded as Document Number 25149697 filed on October 29, 2021, said point also being on the southeasterly line of the land described as "EIGHTEENTH" in that certain Official Record, recorded in Book 313, pages 579 thru 585, filed on January 14, 1907, all in the Office of the Recorder, County of Santa Clara, State of California;

Thence along said northwesterly line, S47° 45' 54"W, 12.56 feet;

Thence leaving said northwesterly line the following five (5) courses:

- 1) N88° 42' 22"W, 35.45 feet;
- 2) S49° 59' 51"W, 17.49 feet;
- 3) N41° 59' 16"W, 2.21 feet;
- 4) N48° 00' 44"E, 76.61 feet to the beginning of a non-tangent curve concave northeasterly and having a radius of 215.00 feet, a radial line to said point bears S41° 04' 02"W;
- 5) Southeasterly along said curve thru a central angle of 07° 18' 46", an arc distance of 27.44 feet, to a point on the said northwesterly line;

Thence along said northwesterly line S47° 45' 54"W, 25.81 feet to the **POINT OF BEGINNING**;

Containing 1,391 square feet of land, more or less

PARCEL 2

COMMENCING at a 2" x 3" witness post located on the northwesterly line of the lands described as "PARCEL ONE" in that certain Deed recorded as Document Number 25149697 filed on October 29, 2021, said point also being on the southeasterly line of the land described as

EXHIBIT B

(Continued)

"EIGHTEENTH in that certain Official Record, recorded in Book 313, pages 579 thru 585, filed on January 14, 1907, all in the Office of the Recorder, County of Santa Clara, State of California;

Thence along said northwesterly line, S47° 45' 54"W, 12.56 feet;

Thence leaving said northwesterly line the following four (4) courses:

- 1) N88° 42' 22"W, 35.45 feet;
- 2) S49° 59' 51"W, 17.49 feet;
- 3) N41° 59' 16"W, 20.90 feet to the **POINT OF BEGINNING**;
- 4) N41° 59' 16"W, 4.00 feet to a point on the northwesterly line of the land described as said "EIGHTEENTH"

Thence along said northwesterly line, N47° 45' 54"E, 86.33 feet;

Thence leaving said northwesterly line, the following two (2) courses:

- 1) S47° 38' 26"E, 4.39 feet;
- 2) S48° 00' 44"W, 86.76 feet to the **POINT OF BEGINNING**.

Containing 362 square feet of land, more or less.

BASIS OF BEARINGS:

The bearing of S47° 45' 54"W, shown as S44° 50'W along the southeasterly line of the lands described as "EIGHTEENTH" in that certain Official Record, recorded in Book 313, pages 579 thru 585, filed on January 14, 1907, in the Office of the Recorder, County of Santa Clara, State of California, was used as Basis of Bearings shown hereon.

SURVEYOR'S STATEMENT:

The description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

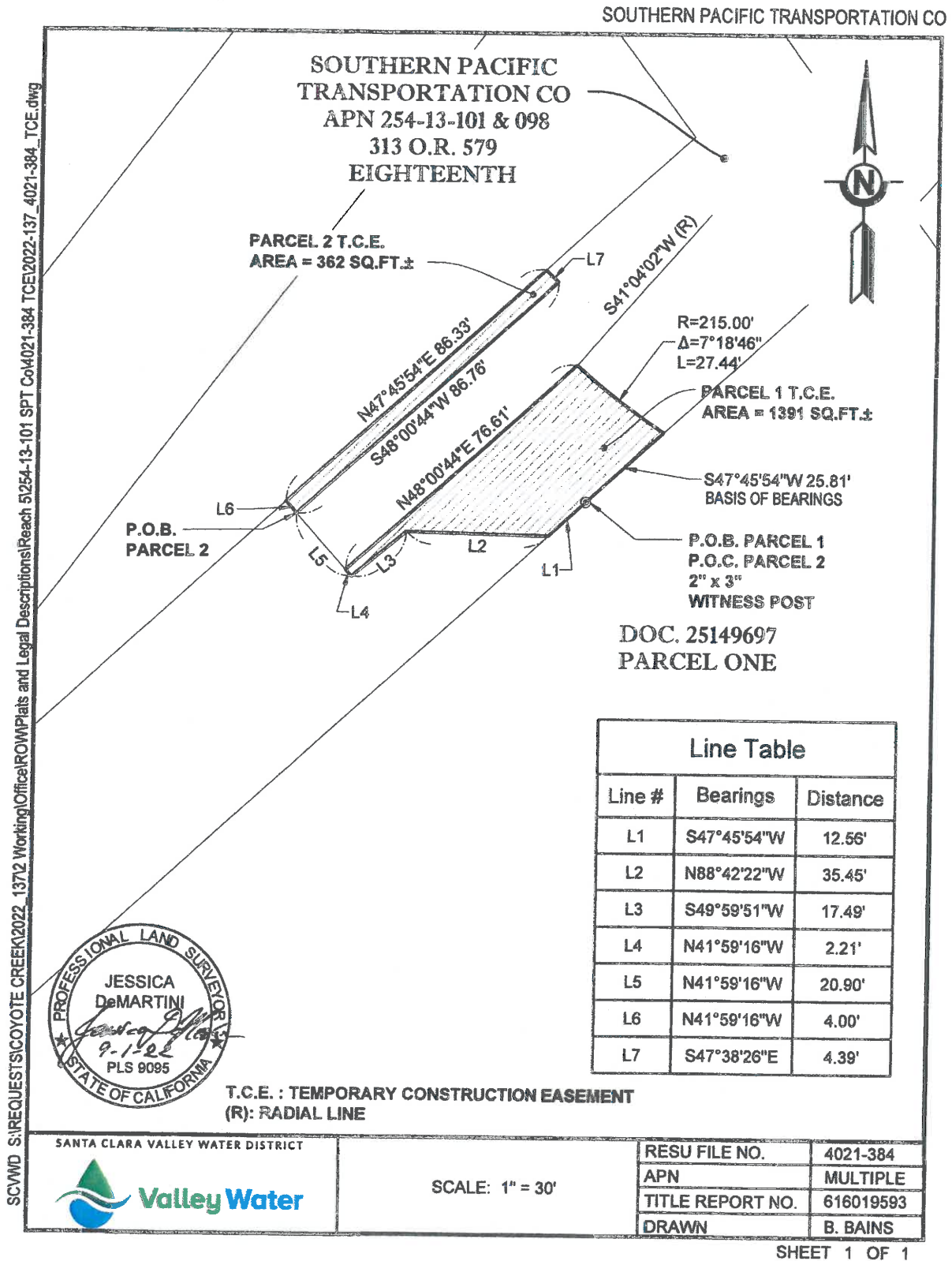

Jessica DeMartini, PLS 9095

9/1/22
Date



EXHIBIT B

(Continued)




AFFIDAVIT OF MAILING

I, Michele L. King, am now and at all times herein mentioned have been over the age of eighteen years, employed in Santa Clara County, California; that my business address is 5750 Almaden Expressway, San Jose, California 95118. I am readily familiar with the District's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I served a copy of the attached Notice of Intention to Adopt Resolution of Necessity by mailing said copy to the address shown on the attached mailing list by FIRST CLASS MAIL and CERTIFIED MAIL. This mailing list has been provided by the Real Estate Services Unit and lists the owners of property who are entitled to Notice of Hearing.

On January 27, 2023, a Notice was placed for collection and mailing at my place of business following ordinary business practices. Said correspondence will be deposited with the United States Postal Service at San Jose, California, on the above referenced date in the ordinary course of business; there is delivery service by the United States mail at the place so addressed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this affidavit was executed on November 16, 2018 at San Jose, California.

Date: January 27, 2023

By: 
Michele L. King, CMC
Clerk of the Board
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Notice of Intent to Adopt Resolution of Necessity

Notices were provided to the following interested party in the manner described above:

None.

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