

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Public Works

BOARD AGENDA # \*C-3

Urgent  Routine

AGENDA DATE August 24, 2010

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of Purchase Agreement to Acquire Road Right-of-Way for the Hatch Road Channelization Project, Parcel Owners Ronald and Lisa Borges, APN: 018-001-020

STAFF RECOMMENDATIONS:

1. Approve the purchase agreement for the subject acquisition.
2. Authorize the Chairman of the Board to execute the agreement.
3. Direct the Auditor-Controller to make the necessary budget adjustments per the financial transaction sheet.
4. Direct the Auditor-Controller to issue a warrant in the total amount of \$53,500, payable to Chicago Title Company, for the purchase amount of \$52,000 and \$1,500 for estimated escrow fees and title insurance.

FISCAL IMPACT:

The total estimated cost for this project is \$3,000,000. The costs include the following:

Continued on Page 2

BOARD ACTION AS FOLLOWS:

No. 2010-530

On motion of Supervisor O'Brien, Seconded by Supervisor Chiesa  
 and approved by the following vote,  
 Ayes: Supervisors: O'Brien, Chiesa, DeMartini, and Vice-Chairman Monteith  
 Noes: Supervisors: None  
 Excused or Absent: Supervisors: Chairman Grover  
 Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) \_\_\_\_\_ Denied
- 3) \_\_\_\_\_ Approved as amended
- 4) \_\_\_\_\_ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of Purchase Agreement to Acquire Road Right-of-Way for the Hatch Road Channelization Project, Parcel Owners Ronald and Lisa Borges, APN: 018-001-020

<u>DESCRIPTION</u>	<u>ESTIMATED COMPLETION DATE</u>	<u>ESTIMATED COSTS</u>
Right-of-Way Acquisitions	Winter 2010	\$350,000
Design Engineering	Winter 2010	\$350,000
Construction	Spring 2011	\$2,300,000
	Total:	\$3,000,000

Hatch Road Channelization Project will be funded 100% by City/County Public Facility Fee (PFF) funds. At this time, \$53,500 is needed to acquire right-of-way for the Hatch Road Channelization Project.

**DISCUSSION:**

In January 2004, the Board of Supervisors approved the Department of Public Works Road Congestion Relief Program. The Road Congestion Relief Program provides for the installation of traffic signals, left turn lanes and related improvements on selected roadways throughout the County. This program is funded by Public Facility Fees.

As approved by the Board of Supervisors, the program included the installation of left turn lanes and through lanes on Hatch Road at the intersections of Faith Home Road, Gilbert Road, Parks Road, Washington Road and Clinton Road. To accomplish this project, the County will need to acquire right-of-way from ten parcels along Hatch Road. The total estimated cost for right-of-way acquisitions is \$350,000. Currently, nine parcels have been acquired.

The last parcel to be acquired is owned by Ronald and Lisa Borges. The parcel is located at the northeast corner of Hatch Road and Clinton Road. An appraisal was completed by Cogdill & Giomi, Inc. on April 25, 2006, and shows an appraised value of \$22,000 for the right-of-way acquisition. On August 30, 2006, the County sent an offer letter to the owners in the amount of \$22,000. The offer was rejected by the owners because they felt the County's offer did not compensate them for damages to their property and cover improvement costs.

On August 8, 2008, a revised offer of \$30,410 was sent to the owners for acceptance. The revised offer included costs for a sound wall as requested by the property owners. The owners verbally agreed to accept a revised offer; however, they did not sign the agreement.

After several unsuccessful negotiations with the owners, Public Works staff prepared a Resolution of Necessity to go to the Board of Supervisors to acquire the right-of-way by eminent domain. On June 30, 2009, the Board of Supervisors adopted the Resolution of Necessity.

On June 18, 2010, Public Works staff met with Ronald and Lisa Borges and was able to come to an agreement. Ronald and Lisa Borges agreed to accept the following:

Approval of Purchase Agreement to Acquire Road Right-of-Way for the Hatch Road Channelization Project, Parcel Owners Ronald and Lisa Borges, APN: 018-001-020

DESCRIPTION	COMPENSATION
Land (11,081 sq. ft.)	\$8,865
Damages and Improvements	\$43,135
TOTAL:	\$52,000

The cost of \$43,135 for damages and improvements include compensation for installation of engineered masonry wall, trees, double pane windows, and construction of driveway. Replacing the existing single pane windows with double pane windows will help reduce traffic noise from entering the house. This was a concern for the property owners due to the close proximity of the house to Hatch Road.

The amount of compensation has been determined to be within the range of just compensation by Public Works staff.

**POLICY ISSUES:**

The Hatch Road Channelization Project will meet the Board's priorities of providing A Safe Community and a Well-Planned Infrastructure System by improving traffic safety on the County road system.

**STAFFING IMPACT:**

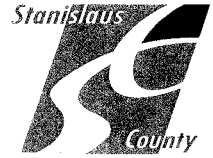
There is no staffing impact associated with this item.

**CONTACT PERSON:**

Matt Machado, Public Works Director. Telephone: (209) 525-4130.

File path:  
L:\ROADS\9423 - Hatch Rd (PFF Left Turn Channelization)\BOARD ITEMS\Borges\ 9423\_Right of Way Acquisition Borges\_Final\_8.24

## AUDITOR-CONTROLLER BUDGET JOURNAL



Balance Type	Budget	
Category	Budget - Upload	
Source		
Currency	USD	
Budget Name	LEGAL BUDGET	
Batch Name		BO#
Journal Name		
Journal description	Transfer budget to the Hatch Road Channelization Project	
Period	JUL-10 to JUN-11	
Organization	Stanislaus Budget Org	

Line	Coding Structure						Debit	Credit	Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6			
1	1102	40310	72600	9423	0	0.0	53,500.00		
2	1102	40310	46615	9423	0	0.0		53,500.00	
3	1102	40310	46615	0	0	0.0	53,500.00		
4	1102	40310	63280	0	0	0.0		53,500.00	
5						0.0			
6						0.0			
7						0.0			
8						0.0			
9						0.0			
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21						0.0			
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24						0.0			
25						0.0			
<b>Totals</b>							107,000.00	107,000.00	

Transfer budget to the Hatch Road Channelization Project

<b>Requesting Department</b>	<b>CEO</b>	<b>Auditors Office Only</b>
Sharon Andrews <i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
Signature	Signature	Prepared By
8/16/10	8/17/10	Admin Approval (\$75K+)
Date	Date	8/17/10
		Date

Contact Person & Phone Number

## AUDITOR-CONTROLLER STANDARD JOURNAL VOUCHER



**BATCH SCREEN**

Batch   
 Period   
 Description

**JOURNAL SCREEN**

Journal   
 Category   
 Balance Type  A = Actual or E = Encumbrance  
 Description   
 Control Total

Line	Coding Structure							Debit	Credit	Description
	Fund 4	Org 7	Account 5	G/L Proj 7	Loc 6	Misc 6				
1	6401	64100	85850	0	0	0.0	53,500.00			
2	1102	40310	46615	9423	0	0.0		53,500.00		
3						0.0				
4						0.0				
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26						0.0				
27						0.0				
<b>Totals</b>								53,500.00	53,500.00	

Explanation:

Departments Outside Auditors' Office		Auditors Office Only	
<p>SHARON ANDREWS <i>[Signature]</i></p> <p>Prepared by <input type="text" value="8/16/10"/></p> <p>Date <input type="text"/></p>	<p><i>[Signature]</i></p> <p>Supervisor's Approval <input type="text" value="8/16/10"/></p> <p>Date <input type="text"/></p>	<p><i>[Signature]</i></p> <p>Prepared By <input type="text" value="8/17/10"/></p> <p>Date <input type="text"/></p>	<p>Admin Approval (\$75K+) <input type="text" value="8/17/10"/></p> <p>Date <input type="text"/></p>

NO FEE

RECORDING REQUESTED BY: BOARD OF SUPERVISORS

RETURN TO: STANISLAUS COUNTY  
DEPARTMENT OF PUBLIC WORKS  
1010 10th Street, Suite 3500  
Modesto, CA 95354

Road Name: Hatch Road  
APN: 018-001-020

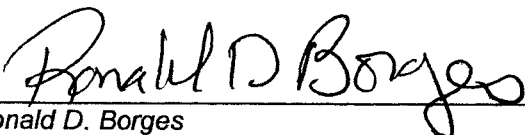
## ROAD EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Ronald D. Borges and Lisa Borges, husband and wife,

does hereby grant to the COUNTY OF STANISLAUS an easement for public road and highway purposes in the real property in the County of Stanislaus, State of California described as:

SEE EXHIBIT "A"

  
\_\_\_\_\_  
Ronald D. Borges

  
\_\_\_\_\_  
Lisa Borges

Dated: June 30, 2010

APPROVED as to description: \_\_\_\_\_ Dated: \_\_\_\_\_

### CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the deed or grant dated: \_\_\_\_\_

from Ronald D. Borges and Lisa Borges to County of Stanislaus, a political corporation and/or governmental agency, is hereby accepted by the undersigned officer or agent on behalf of the Board of Supervisors of the County of Stanislaus, pursuant to authority conferred by resolution of the Board of Supervisors of the County of Stanislaus adopted on September 26, 2006 in accordance with the provision of Government Code Section 27281, and the grantee consents to recordation thereof by its duly authorized officer.

**MATTHEW MACHADO**, Director, Department of Public Works  
of Stanislaus County, State of California

\_\_\_\_\_  
Dated: \_\_\_\_\_

Attached to Road Easement Dated June 30, 2010

**ACKNOWLEDGMENT**

State of California  
County of Stanislaus

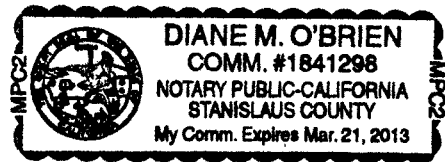
On June 30, 2010 before me, Diane M. O'Brien, Notary Public  
(insert name and title of the officer)

personally appeared Ronald D. Borges and Lisa Borges\*\*\*\*\*  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
~~his/her~~ their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Diane M. O'Brien (Seal)



**EXHIBIT "A"**

**Legal Description  
(Hatch Road and Clinton Road Right of Way)  
A.P.N. 18-01-20 ( Borges property )**

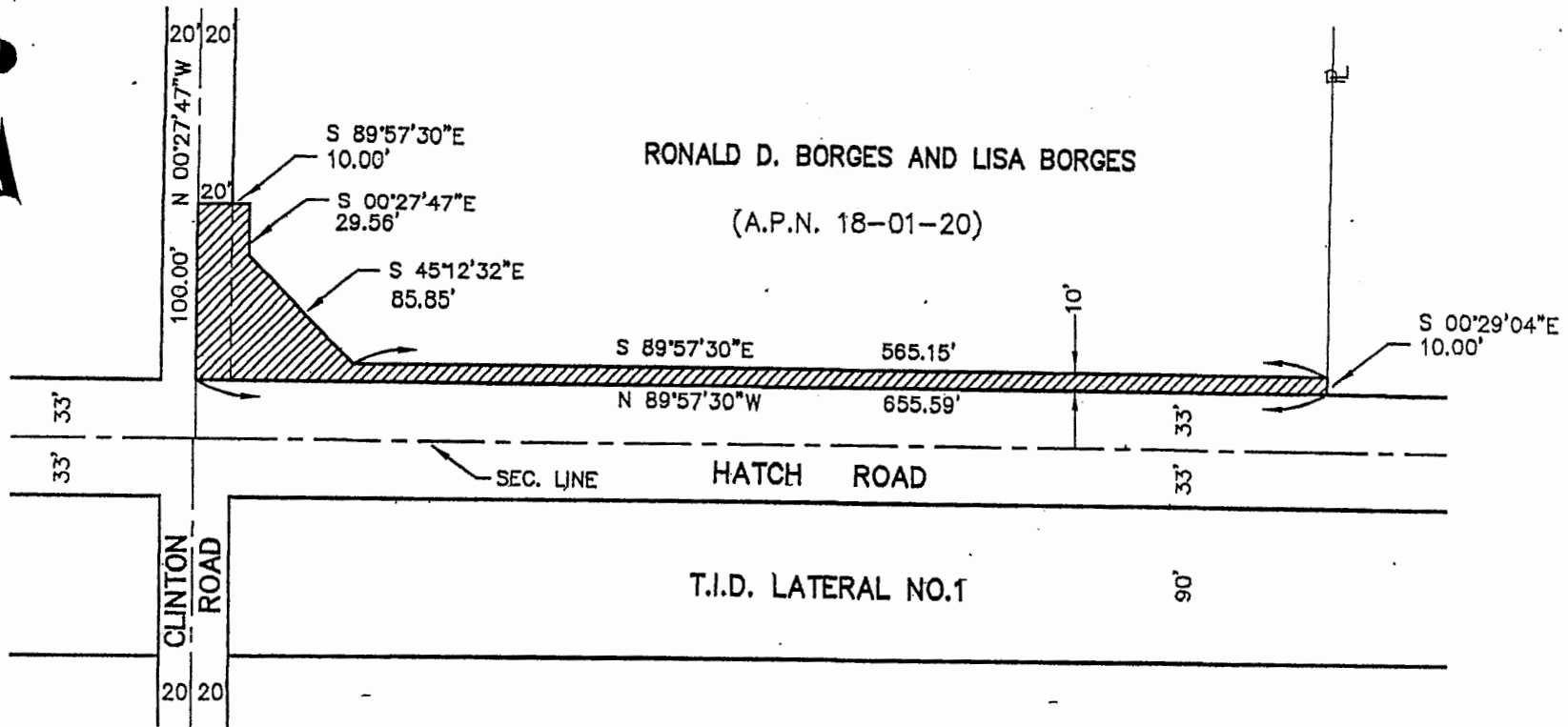
All that portion of the West half of the Southeast quarter of the Southwest quarter of Section 5, Township 4 South, Range 10 East, Mount Diablo Base and Meridian, situate in the County of Stanislaus, State of California, more particularly described as follows:

**BEGINNING** at the intersection of the north line of 66-foot wide Hatch Road and the center line of 40-foot wide Clinton Road; thence North 00°27'47" West along said center line of Clinton Road, a distance of 100.00 feet; thence South 89°57'30" East, 133 feet north of and parallel with the section line a distance of 30.00 feet; thence South 00°27'47" East, 29.56 feet; thence South 45°12'32" East, 85.85 feet; thence South 89°57'30" East, 43.00 feet north of and parallel with of said the section line, a distance of 565.15 feet to east line W ½ of the SE ¼ of the SW ¼; thence South 00°29'04" East, 10.00 feet to a line that lies 33.00 feet north of and parallel with of said the section line; thence North 89°57'30" West along last said line, a distance of 655.59 feet to the point of beginning.

Contains 11,081 square feet (0.25 acres), more or less.



EXHIBIT "B"



BASED ON RECORD OF SURVEY (27-S-18)

Por. Sec. 5 , T. 4 S., R.10 E., M.D.M.

hatch@clinton.dwg

Stanislaus County  
Dept. of Public Works

Date: 10-25-2005 Scale: 1"=100'

Project: Hatch Rd/PFF-Left Turn  
Channelization  
Grantor(s): Ronald D & Lisa Borges  
APN: 018-001-020 (portion)

### AGREEMENT FOR ACQUISITION OF PROPERTY

This Agreement for Acquisition of Property is between the County of Stanislaus (County) and Ronald D. Borges and Lisa Borges, husband and wife (Grantors). This Agreement is expressly subject to approval by the County Board of Supervisors.

1. **PROPERTY.**

Grantors agree to sell to County, and County agrees to purchase from Grantors, on the terms and conditions set forth in this Agreement, the real property interest described in the Exhibit attached hereto which is incorporated herein by this reference (the "Property").

2. **DELIVERY OF DOCUMENTS/ESCROW.**

All documents necessary for the transfer of easement rights to the Property shall be executed and delivered by Grantors to the County's designated Acquisition Agent.

This transaction shall be handled through an escrow with Chicago Title Company, 1473 East G Street, Building 1, Suite A, Oakdale, California 95361 at (209) 848-1315.

3. **PURCHASE PRICE AND TITLE.**

The consideration to be paid by the County for easement rights to the Property is as follows:

Permanent Easement (11,081 sq. ft.)	\$ 8,865.00
Damages and Improvements	<u>\$43,135.00</u>
Total	\$52,000.00

Note: County to issue an encroachment permit to allow additional access to Clinton Road for the rental property.

County shall deliver the Purchase Price no later than 45 days after Board of Supervisors approval and after delivery and execution of all necessary transfer documents. Grantors shall convey by Road Easement to County easement rights to the Property free and clear of all liens, encumbrances, taxes, assessments and leases recorded and/or unrecorded.

Good, marketable and insurable title to the Property interest shall be evidence by an ALTA extended coverage owner's policy of title insurance ("Title Policy"), with survey

exception if County elects not to obtain an ALTA survey for the Property. The Title Policy shall be in the amount of the Purchase Price, showing title to the Property interest vested in County. It shall be a condition precedent to County's obligations under this Agreement that escrow holder is able to issue the Title Policy to County.

County shall pay all costs of any escrow, title insurance, and recording fees incurred in this transaction.

The Grantors agree that if claims are submitted by lien-holders, the County is hereby authorized to honor such claims and deduct the amount of said claims from the amount to be paid to the property owners. The County will notify the Grantors of any such claims prior to payment.

The Grantors acknowledge that this transaction is a negotiated settlement in lieu of condemnation and agree that the Purchase Price to be paid herein is in full settlement of any claims for compensation or damages that may have arisen, including, but not limited to, attorney fees, pre-condemnation damages, severance damages, business goodwill, or any other claim regarding the acquisition of the Property interest or construction of improvements thereon.

**4. PRORATION OF TAXES.**

- (a) Taxes shall be prorated in accordance with California Revenue and Taxation Code section 5081 et seq., as of the recordation of the Grant Deed conveying title to County, except that where County has taken possession of the Property, taxes shall be prorated as of the date of possession.
- (b) Grantors authorize County to deduct from the purchase price any amount necessary to satisfy any delinquent taxes, together with penalties and interest thereon, and any delinquent or non-delinquent assessments or bonds, which are to be cleared from the title to the Property.

**5. POSSESSION.**

Grantors agree that immediately upon approval of this Agreement by County, the County may enter upon and take possession of the Property.

**6. HAZARDOUS WASTE MATERIAL**

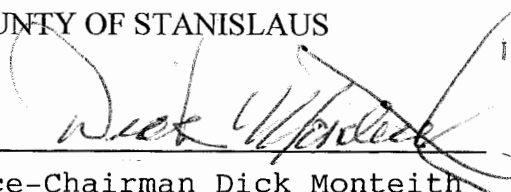
The Grantors hereby represent and warrant that during the period of Grantors' ownership of the Property, there have been no disposals or releases of hazardous substances on, from, or under the Property. Grantors further represent and warrant that Grantors have no knowledge of any disposal or release of hazardous substances on, from, or under the Property which may have occurred prior to Grantors taking title to the Property.

**Agreement for Purchase  
Ronald D. & Lisa Borges**  
Page 3 of 3

The Purchase Price of the Property reflects the fair market value of the Property without the presence of contamination. If the Property is found to be contaminated by the presence of hazardous substances which requires mitigation under Federal or County law, the County reserves the right to recover its clean-up costs from those who caused or contributed to the contamination.

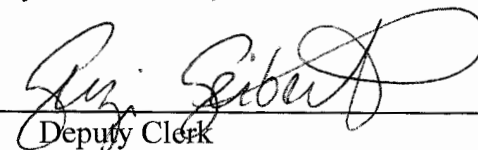
IN WITNESS WHEREOF, the parties have executed this Agreement on AUG 24 2010  
as follows:

COUNTY OF STANISLAUS

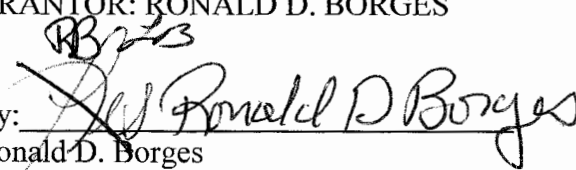
By:   
Vice-Chairman Dick Monteith  
Stanislaus County  
Board of Supervisors

ATTEST:

CHRISTINE FERRARO TALLMAN  
Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By:   
Deputy Clerk


GRANTOR: RONALD D. BORGES

By:   
Ronald D. Borges

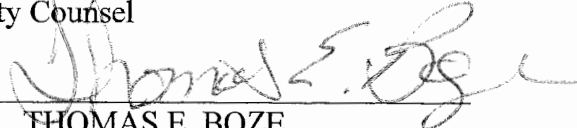
GRANTOR: LISA BORGES

By:   
LISA BORGES

APPROVED AS TO CONTENT:  
Department of Public Works

  
MATTHEW MACHADO,  
Director

APPROVED AS TO FORM:  
JOHN P. DOERING  
County Counsel

By:   
THOMAS E. BOZE  
Deputy County Counsel

EXHIBIT

NO FEE  
RECORDING REQUESTED BY: BOARD OF SUPERVISORS  
RETURN TO: STANISLAUS COUNTY  
DEPARTMENT OF PUBLIC WORKS  
1010 10th Street, Suite 3500  
Modesto, CA 95354

Road Name: Hatch Road  
APN: 018-001-020

**ROAD EASEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

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does hereby grant to the COUNTY OF STANISLAUS an easement for public road and highway purposes in the real property in the County of Stanislaus, State of California described as:

SEE EXHIBIT "A"

\_\_\_\_\_  
Ronald D. Borges

\_\_\_\_\_  
Lisa Borges

Dated: \_\_\_\_\_

\_\_\_\_\_

APPROVED as to description: \_\_\_\_\_

Dated: \_\_\_\_\_

**CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION**

This is to certify that the interest in real property conveyed by the deed or grant dated: \_\_\_\_\_

from Ronald D. Borges and Lisa Borges to County of Stanislaus, a political corporation and/or governmental agency, is hereby accepted by the undersigned officer or agent on behalf of the Board of Supervisors of the County of Stanislaus, pursuant to authority conferred by resolution of the Board of Supervisors of the County of Stanislaus adopted on September 26, 2006 in accordance with the provision of Government Code Section 27281, and the grantee consents to recordation thereof by its duly authorized officer.

**MATTHEW MACHADO**, Director, Department of Public Works  
of Stanislaus County, State of California

\_\_\_\_\_

Dated: \_\_\_\_\_

EXHIBIT "A"

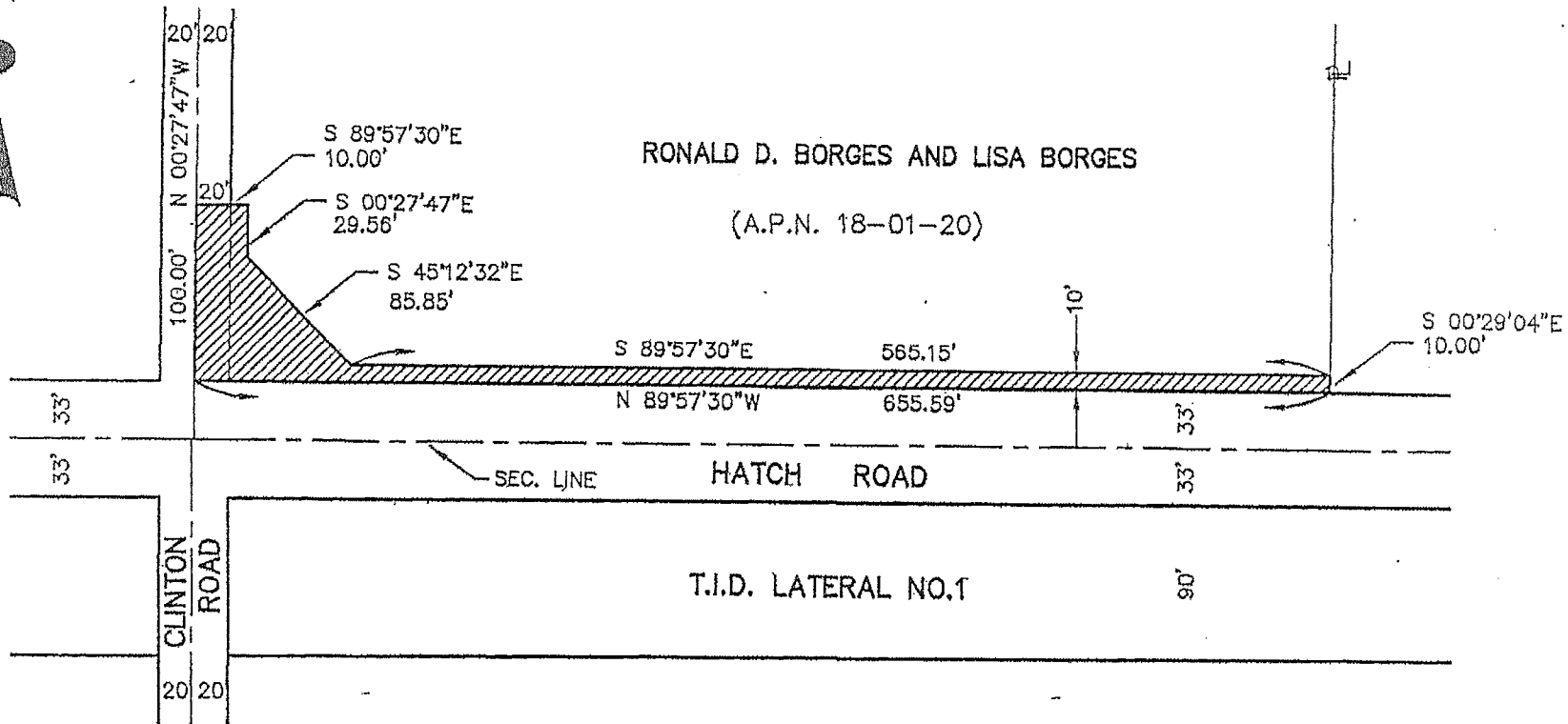
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A.P.N. 18-01-20 ( Borges property )

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EXHIBIT "B"



BASED ON RECORD OF SURVEY (27-S-18)

Por. Sec. 5 , T. 4 S., R.10 E., M.D.M.

hatch@clinton.dwg

Stanislaus County  
Dept. of Public Works

Date: 10-25-2005 Scale: 1"=100'