



RESOLUTION No. 2017-21

OF THE BOARD OF DIRECTORS OF THE NEVADA IRRIGATION DISTRICT

DECLARING NECESSITY AND AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR THE ACQUISITION OF REAL PROPERTY FOR A PUBLIC PROJECT KNOWN AS THE *CHICAGO PARK POWERHOUSE ROAD EASEMENT ACQUISITION PROJECT* – on Placer County APN: 063-150-021 owned by James Earle Lehy* & Patricia Ann Lehy*, Trustees of the Lehy* Family Trust (*aka Leahy); and Penni F. Behr, Trustee of the Penni F. Behr Trust; and Lori Lane Solberg

After duly convened public hearing on the matter of the acquisition by eminent domain of property interests for the ***CHICAGO PARK POWERHOUSE ROAD EASEMENT ACQUISITION PROJECT*** (CPPH RD Acquisition Project), the Board of Directors determines and declares as follows:

1. The Nevada Irrigation District (District) owns and operates the Chicago Park Power House, Rollins Reservoir and related systems and facilities as integral parts of the District's Yuba-Bear Hydroelectric Project (Yuba-Bear Project).
2. A portion of District's Yuba-Bear Project consists of integrated systems of hydraulic conduits, hydroelectric powerhouses and appurtenant facilities and real property interests extending from the District's Dutch Flat No. 2 Flume Intake at the Drum Afterbay to the District's Rollins Reservoir and Rollins Powerhouse located along the Bear River in the Counties of Nevada and Placer, State of California.
3. Following the Federal Energy Regulatory Commission (FERC) approval of the District's Yuba-Bear Project license 2266 in 1963, the District has constructed and operated the Yuba-Bear Project systems and facilities.
4. The District's Yuba-Bear Project systems and facilities are and will continue to be necessary to the District's beneficial use of water for consumptive purposes and for the generation of electric power and to otherwise carry out the District's purposes.
5. The District's operation of the Yuba-Bear Project systems and facilities are necessary for, related to and required by FERC license 2266.
6. CPPH RD Acquisition Project will secure for the District certain easement real property interests, which are necessary for the District's operation of the Yuba-Bear Project and the implementation of FERC license 2266.
7. The District is authorized to exercise the right of eminent domain to acquire property necessary to carry out its purposes, including the furnishing of water for consumptive use and the generation of hydroelectric power, under California Water Code section 22456.

8. The property interests to be acquired are situate in the county of Placer.
9. The property interests to be acquired are situate outside of the District boundaries.
10. The District is authorized to acquire property by eminent domain outside of the territorial limits of the District for water or electric supply purposes, under California Code of Civil Procedure section 1240.125.
11. The property interests to be acquired will be used for road purposes, including but not limited to the following:
 - a. Access to DISTRICT's lands, facilities and improvements;
 - b. Transporting people, tools, equipment, materials, debris, sediment, aggregate, and deposits; and
 - c. Public access for recreational use as required by federal, state, or local law, regulation, or permit or license.
12. The extent and location of the property interests to be acquired for the CPPH RD Acquisition Project are set forth in the road easement deeds attached to this resolution as Exhibits A, and are more particularly described and depicted in Exhibits 1 and 2, attached hereto.
13. James Earle Lehy* & Patricia Ann Lehy*, Trustees of the Lehy* Family Trust (*aka Leahy); and Penni F. Behr, Trustee of the Penni F. Behr Trust; and Lori Lane Solberg are the owners of the property to be acquired whose names and address appear on the last equalized county assessment roll.
14. Each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll has been given notice and a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030, in accordance with California Code of Civil Procedure section 1245.235.
15. The CPPH RD Acquisition Project involves negligible or no expansion of an existing use of the property to be acquired and will not result in a direct or reasonably foreseeable indirect physical change in the environment. The District's use of the road easement will comply with the California Environmental Quality Act, and all applicable local, state and federal laws and regulation.
16. The public interest and necessity require the CPPH RD Acquisition Project.
17. The CPPH RD Acquisition Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
18. The property sought to be acquired is necessary for the CPPH RD Acquisition Project.
19. The offer required by section 7267.2 of the California Government Code has been made to the owner of record of the property to be acquired. The owners of record of the property interests to be acquired are James Earle Lehy* & Patricia Ann Lehy*, Trustees of the Lehy* Family Trust (*aka Leahy); and Penni F. Behr, Trustee of the Penni F. Behr Trust; and Lori Lane Solberg. The offer was directed to these

persons at the address that appears on the last equalized county assessment roll
The District could not with reasonable diligence elicit a response from or pursue negotiations with these individuals.

BE IT FURTHER RESOLVED by this Board of Directors that NEVADA IRRIGATION DISTRICT be, and is, authorized and empowered as follows:

1. To acquire in the name of Nevada Irrigation District property interests referred to above and described in Exhibits A, 1 and 2 attached hereto, pursuant to the provisions of Division 11 of the California Water Code, Section 22456, and the provisions of Title 7 of the California Code of Civil Procedure commencing with Section 1230.010, et seq., and the Constitution of the State of California relating to eminent domain.
2. To prepare and prosecute in the name of Nevada Irrigation District such proceeding or proceedings in the proper court(s) having jurisdiction thereof as are necessary for such adjudication.
3. To move the court for an order for possession prior to judgment, pursuant to Code of Civil Procedure sections 1255.410 and following.
4. To deposit the probable amount of compensation based on an appraisal, which will be awarded in the proceeding, pursuant to Code of Civil Procedure sections 1255.010 and following
5. To make deposits of security out of proper funds under the control of Nevada Irrigation District, in such amounts so fixed and determined and in such a manner as the Nevada Irrigation District General Manager or his designee may direct.

PASSED AND ADOPTED by the Board of Directors of the Nevada Irrigation District at a regular meeting of said Board, held on the 12 day of July, 2017 by the following vote of said Board:

AYES:	Directors: Weber, Drew, Miller, Morebeck, Wilcox
NOES:	Directors: None
ABSENT:	Directors: None
ABSTAINS:	Directors: None



President of the Board of Directors

Attest:



Secretary to the Board of Directors

Exhibit "A"

RECORDING REQUESTED BY:

Nevada Irrigation District

WHEN RECORDED MAIL TO:

**Nevada Irrigation District
1036 W. Main Street
Grass Valley, CA95945**

Placer County APN 063-150-021

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Project: Chicago Park Powerhouse Road
Map No. 216/217
Index No. 13

Documentary Transfer Tax: \$-0-

Computed on full value of property conveyed

Unincorporated area City of _____

Recordation requested by Nevada Irrigation District,
a political Subdivision of the State of California,
pursuant to Government Code Section 6103.

Signature of Agent Determining Tax

ROAD EASEMENT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged

PENNI F. BEHR, TRUSTEE OF THE PENNI F. BEHR TRUST and LORI LANE SOLBERG, A MARRIED WOMAN, AS HER SOLE AND SEPARATE PROPERTY and JAMES EARLE LEHY AND PATRICIA ANN LEHY, TRUSTEES OF THE LEHY FAMILY TRUST DATED SEPTEMBER 7, 2003, EACH AS TO AN UNDIVIDED 1/3 INTEREST AS TENANTS IN COMMON,

hereinafter called GRANTOR, hereby grants to **NEVADA IRRIGATION DISTRICT**, hereinafter called DISTRICT, a permanent easement and right-of-way for pedestrian, vehicle, and equipment ingress to and egress from DISTRICT facilities and property interests, on, over, under and across that certain real property and improvements, hereinafter called Easement Area, situated in the unincorporated area, County of Placer, State of California, described in Exhibit "1" and shown on Exhibit '2' attached hereto, for any and all lawful purposes, including, but not limited to:

- a. Access to DISTRICT's Chicago Park Powerhouse and related lands and improvements;
- b. Transporting and hauling sediment, aggregate, and deposits, including soil, clay, sand, gravel, and rock removed from the Bear River, Steephollow Creek, or Rollins Reservoir; and
- c. Public access for recreational use as required by federal, state, or local law, regulation, or permit or license.

GRANTOR hereby grants to DISTRICT the right, privilege and authority to excavate for, install, replace, relocate, inspect, operate, patrol, maintain, use and protect such facilities and appurtenances, for roadway, access and drainage control purposes, as DISTRICT shall from time to time elect.

Subject to the following conditions:

OBLIGATIONS OF GRANTOR

GRANTOR further grants to the DISTRICT:

- a) the right to grade the full width of said Easement Area;
- b) the right to pave the surface of the entire Easement Area;

- c) the right to install guard rails, signage and any other improvements as DISTRICT shall from time to time elect to make DISTRICT's use of said Easement Area safe and convenient;
- d) the right from time to time to trim and to cut down and clear away any and all trees and brush now or hereafter within or encroaching on said Easement Area;
- e) the right to install, maintain and use gates in all fences which now or hereafter cross said Easement Area;
- f) the right to use the entire Easement Area for full enjoyment of the rights granted hereby, as DISTRICT shall from time to time elect, even if DISTRICT does not do so initially, and GRANTOR shall not make any changes or improvements in said Easement Area that obstruct DISTRICT's right to use the entire Easement Area.

OBLIGATIONS OF THE DISTRICT

The DISTRICT hereby covenants and agrees to indemnify GRANTOR against claims or actions for bodily injury or damage to property arising out of the use of GRANTOR's property by DISTRICT or its contractors.

ENCROACHMENT BY GRANTOR

GRANTOR may make use of said Easement Area for purposes which will not interfere with the DISTRICT'S full enjoyment of the rights granted hereby, subject to approval of the DISTRICT and subject to the rules and regulations of the DISTRICT regarding encroachments upon DISTRICT facilities and easements, as adopted and modified from time to time.

ASSIGNMENT

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

GRANTOR(s)

PENNI F. BEHR TRUST

Date: _____

 Penni F. Behr, Trustee

LORI LANE SOLBERG

Date: _____

 Lori Lane Solberg

LEHY FAMILY TRUST

Date: _____
James Earle Lehy, Trustee

Date: _____
Patricia Ann Lehy, Trustee

ACCEPTANCE

This is to certify that the interest in real property conveyed by this document to the Nevada Irrigation District, a governmental agency, is hereby accepted by the undersigned on behalf of the Board of Directors of the Nevada Irrigation District pursuant to authority conferred by Resolution No. 2015-07 of said Board adopted on March 11, 2015.

Date: _____
Matthew Crowe, Senior Right of Way Agent

EXHIBIT "1"

Road Easement Description

An easement strip 60.00 feet in width, traversing a portion of the north half of Lot 2 of the northwest quarter of Section 7, Township 15 North, Range 10 East, M.D.M., Placer County, California, said easement strip being a portion of the lands of James Earle Lehy, et al, as said lands are described in Document No. 2014-0038772, Placer County Official Records, recorded June 11, 2014, said strip being delineated on Exhibit "2" attached hereto and made a part hereof.

This description has been prepared by me, in conformance with the Professional Land Surveyors Act on December 16, 2016.



Michael W. Caston, P.L.S. 6304

End of Description

NEVADA IRRIGATION DISTRICT

NEVADA AND PLACER COUNTIES, CALIFORNIA

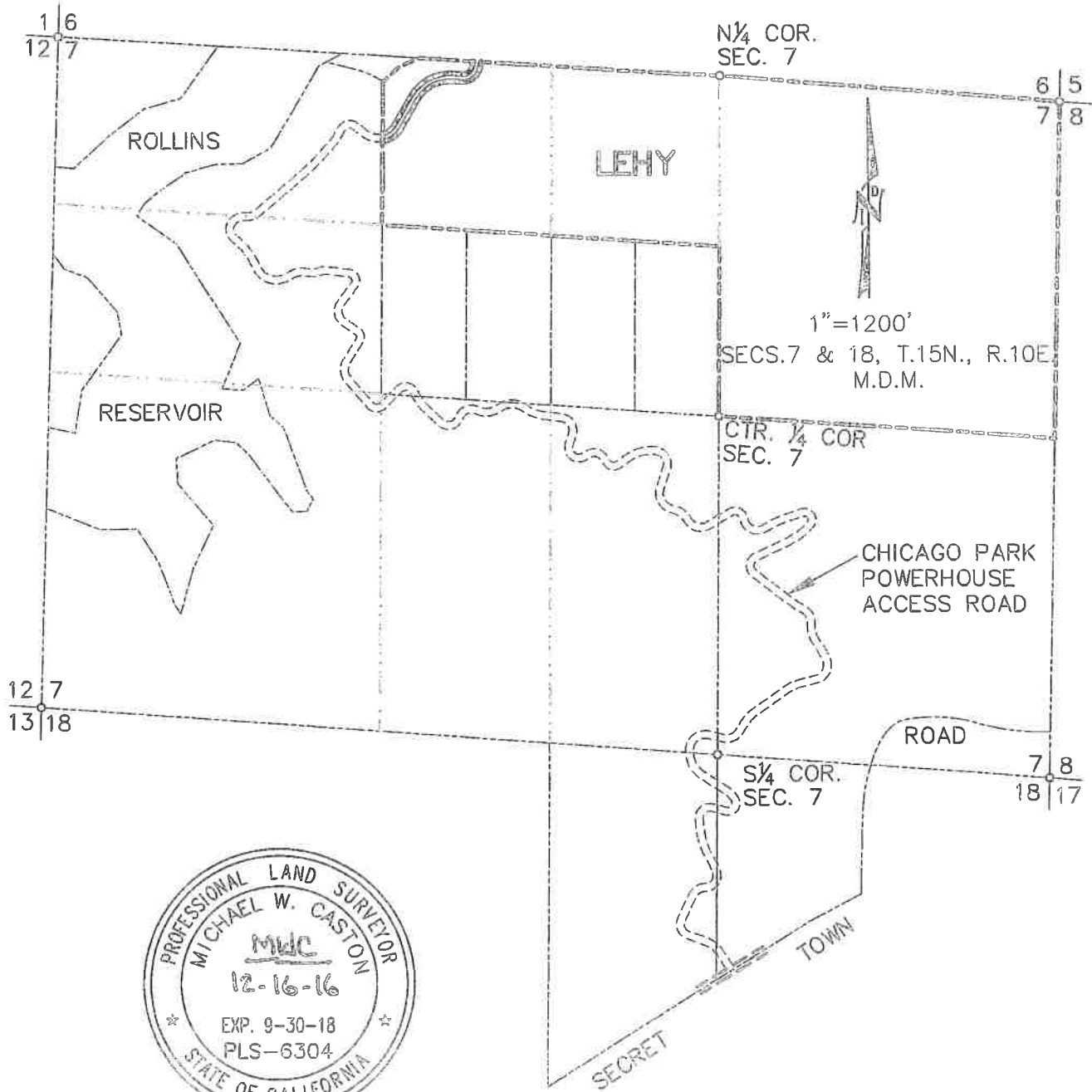
EXHIBIT '2'

PROJECT FOR Chicago Park Powerhouse Access Road

DATE December 16, 2016

THROUGH LAND OF James Lehy Trste. etal AP 063-150-021

SCALE: 1"=1200'



NEVADA IRRIGATION DISTRICT

NEVADA AND PLACER COUNTIES, CALIFORNIA

EXHIBIT '2'

PROJECT FOR Chicago Park Powerhouse Access Road

DATE December 16, 2016

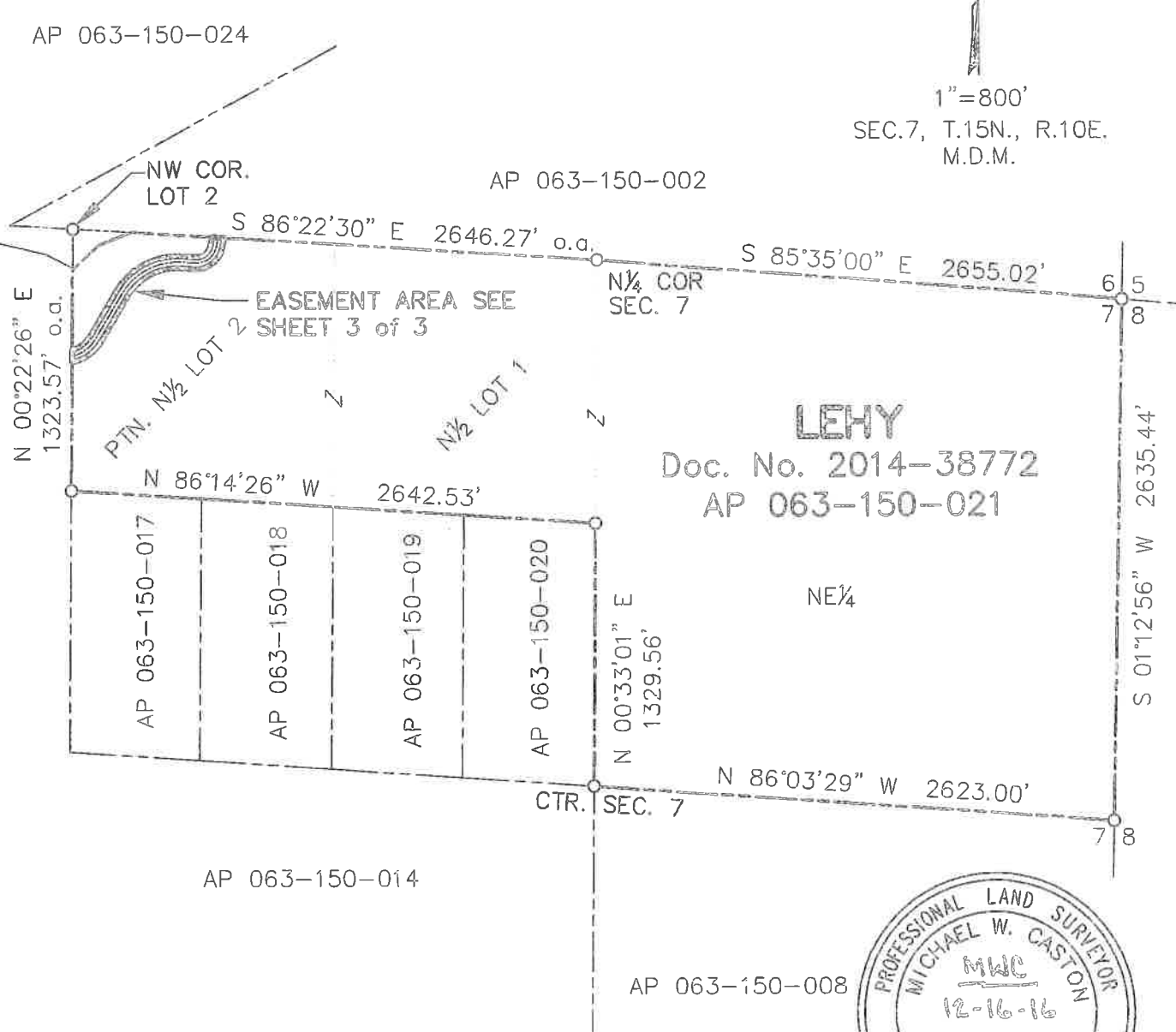
THROUGH LAND OF James Lehy, Trste. et al

SCALE: 1"=800'



1"=800'

SEC. 7, T. 15N., R. 10E.
M.D.M.



LEHY
Doc. No. 2014-38772
AP 063-150-021



BASIS OF BEARING:
RECORD OF SURVEY FILED IN BOOK 15 OF
SURVEYS AT PAGE 9, PLACER COUNTY RECORDS

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NEVADA IRRIGATION DISTRICT

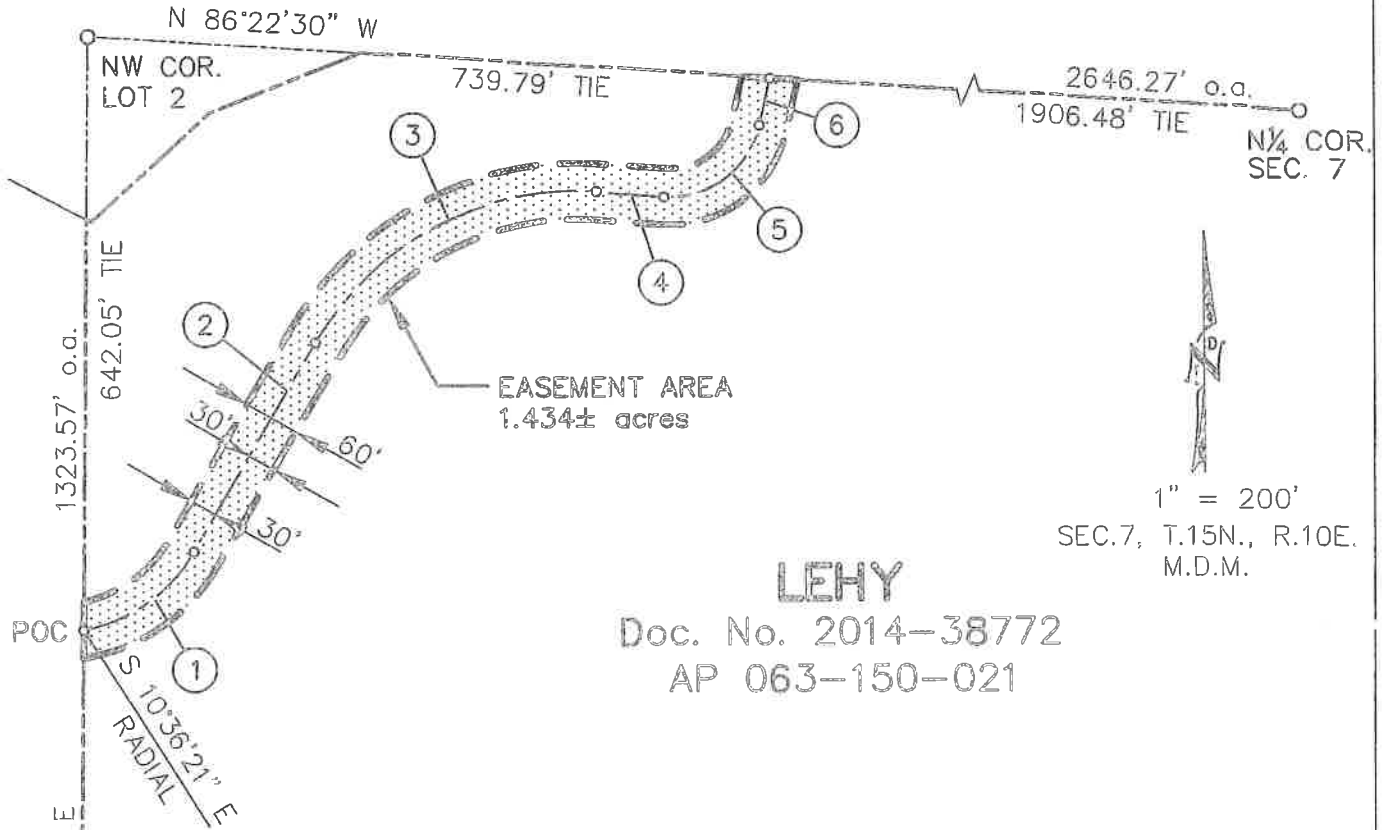
NEVADA AND PLACER COUNTIES, CALIFORNIA

EXHIBIT '2'

PROJECT FOR Chicago Park Powerhouse Access Road
THROUGH LAND OF James Lehy, Trste. etal

DATE December 16, 2016

SCALE: 1" = 200'



1" = 200'
SEC. 7, T.15N., R.10E.
M.D.M.

LEHY
Doc. No. 2014-38772
AP 063-150-021

EASEMENT COURSES

NO.	COURSE	DISTANCE
1	R=175.00' Δ=49°25'39" L=150.97'	
2	N 29°58'00" E	260.64'
3	R=325.00' Δ=63°59'28" L=362.98'	
4	S 86°02'32" E	73.05'
5	R=100.00' Δ=80°57'32" L=141.30'	
6	N 12°59'55" E	52.08'



AP 063-150-017

AP 063-150-018

BASIS OF BEARING:
RECORD OF SURVEY FILED IN BOOK 15 OF
SURVEYS AT PAGE 9, PLACER COUNTY
RECORDS

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