

State of California
Business, Transportation and Housing Agency
Department of Transportation

HIGHWAY RIGHT OF WAY MATTERS
Appearance
Action Item

Prepared By:
Brice Paris
Division of Right of Way
Chief
(916) 654-5075

CTC Meeting: May 2-3, 2001

Agenda Item: 2.4a.(3)

Original Signed by _____

W. J. EVANS
Chief Financial Officer
May 1, 2001

RESOLUTION OF NECESSITY

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-18255. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department is requesting a resolution at this time. Adoption of Resolution of Necessity C-18255 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules. See concurrent items 2.4a.(1), (2) and (4).

C-18255 Nancy Posner

07-LA-1-PM 40.8- Parcel 76715 (Conventional Highway) Authorizes condemnation of a permanent easement for drainage and tie-back purposes, located near the City of Malibu at Topanga Canyon and Pacific Coast Highway.

07-LA-1-PM 40.8
Parcel No. 76713-1,2;
76714-1,2; 76715; 76955
Grantor: Roit, Rickley,
Yazdani, Posner,
Goodfriend

RESOLUTION OF NECESSITY

REVIEW PANEL REPORT

The Resolution of Necessity Review Panel met on February 9, 2001 in Los Angeles. The panel was chaired by Carol Hanson, and included panel members Linda Fong and Iris Malsman. In attendance were Willie Langie and Maria Reynolds Brooks, Right of Way; Elaine Cheng and Jin S. Lee, Project Management; Michael A. Perovich and Orlande Lee, Project Development; Stephanie Reeder, Environmental Planning; Paul Hsu, Design; Bill Varley, Maintenance Support; Kien Le, Overcomer Hor, and David Jang, ESC. The property owners were invited but did not attend the meeting.

This panel report summarizes the findings of the panel to make a recommendation to the Chief Engineer with regard to the four criteria required for a Resolution of Necessity.

I. NEED FOR PROJECT

The project was identified as an Emergency/Director's Order project after the 1995 Heavy Storm. In 1997, phase 1 of the project was completed to install 22 horizontal drains on the slope to relieve the hydrostatic pressure. However, bulging on the roadway are still progressing and thus the need for the phase 2 construction. Original plan was to construct the project before the year 2001 storm season.

This project proposes to construct a Tieback Restraint System at northeast corner of Pacific Coast Highway (PCH) and Topanga Canyon Boulevard (Route 27). The purpose of this project is to prevent further bulging along PCH that has been caused by the slide identified during the 1995 storm and restore the roadway to pre-slide condition. Currently, northbound and southbound traffic at the project site is only separated with striping. The center median on PCH was removed because the northbound traveling lanes had to be realigned twice towards the southbound direction to avoid the bulging pavement caused by the landslides. Route 1 at the project site is heavily traveled. The average daily traffic (ADT) was 65,000 vehicles in 1999.

This project is the second phase of a two-phase project. Phase 1 project, constructed 1997 as an emergency contract, installed 22 horizontal drains to remove subsurface water from the slope in an attempt to temporarily control earth movement. Phase 2 project is to use slope-stressing technique to buttress the hill slope. That is composed of two tiers of tieback anchors; the lower tier at the elevation of the toe of the slope and the upper tier at the elevation of one-third of the slope. There are two levels of tieback anchors in each tier. All tieback anchors at each level are connected with reinforced concrete waler. Also in front of the lower tier, there will be a soldier pile retaining wall along the shoulder to keep the slide debris away from the traveling public. The slope stressing/ buttressing with tieback anchors will mitigate the landslide along the PCH.

This project will re-establish the median and realign the northbound traffic lanes to the original alignment.

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II. PROJECT DESIGN

Roadway Geotechnical Engineering-South in October 25, 1996 prepared a memo titled "Estimate on Tieback Restraint System" addressed to the District Maintenance Coordinator. Attached to the memo was a computer analysis of options of two tiebacks and three tiebacks with various design parameters. These tiebacks are all at the same tier behind the soldier pile wall. The Factor of Safety for the said two tiebacks system and three tieback system were calculated to be 1.19 and 1.24 respectively. The purpose of the memo was to best establish the project cost. Due to the small increase in the factor of safety achieved by the three tiebacks system, the two tiebacks system was recommended.

In August 1998, HQ Structures Design took on the task of designing the tieback systems. To further improve the factor of safety, a system of two tiers of tiebacks in addition to the soldier pile wall at the toe of the slope was recommended. The design achieved a factor of safety of 1.40.

This project is a HA23(RAS) project and has been included in the 98 SHOPP program. The Damage Assessment Form (DAF) to recommend this contract was signed by Federal Highways Administration on August 28, 1997 with a cost estimate of \$2.5 million. The Federal Relief Fund eligibility for this project expired on September 30, 1998 and was extended on September 30, 1999 with a total project funding of \$6.1 million.

III. NEED FOR THE PARCELS

A total of twenty five (25) various easement requirements from nine (9) property owners are required for the project. Currently there are no parcels under an Order for Possession. Four (4) property owners plan to appear at the March 2001 CTC meeting. The parcels involved are: 76713-1,2; 76714-1,2; 76715 and 76955. The sites are located on the west side of Coastline Drive and have, on the average, about 60 feet of frontage. The properties are improved with single family residences. There are swimming pools in Goodfriend, Yazdani, and Posner 's properties. The sites sit atop a bluff, which slopes steeply to PCH and encompass anywhere from 12,700 SF to 26,570 SF, of which approximately 8,000 SF to 10,000 SF of each parcel is deemed usable. The property rights required are located mostly on the unusable hill slope.

Since the construction is outside the state right-of-way, Caltrans needed to obtain Permits to Enter from the homeowners to construct the project. Caltrans obtained the Permit to Enter Agreements from all grantors in April 1999 except Roit and Rickley. After several meetings with their consultant, Caltrans fulfilled their demands to install three inclinometers in their property. In July 1999 Roit and Rickley executed the Permit to Enter Agreement, allowing Caltrans to proceed with the project. The purpose of the inclinometers was to monitor the slope movement and became part of the scope of the project.

Since Plans, Specifications and Estimates design began, Caltrans has maintained the same design (soldier pile wall at toe with tiebacks at two tiers) and presented that design to the homeowners. Design of the project was completed in June 2000. The length of the tiebacks to the most outer reach of the tiebacks is: 175' away and 230' below Roit and Rickley's residence, 157' away and 240' below Goodfriend's residence, 100' away and 210' below from Yazdani's residence, and 90' away and 210' below Posner's residence.

07-LA-1-PM 40.8
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Goodfriend

IV. STATUTORY OFFER TO PURCHASE

The State has appraised the subject property and has offered the full amount of the appraisal. The owners are not satisfied with the offer and negotiations are continuing.

PANEL RECOMMENDATION

The panel believes that the Department's design complies with the Code of Civil Procedure in that:

1. The public interest and necessity require this project.
2. The project is planned to provide the greatest public good with the least private injury.
3. This property is required for the proposed project.
4. 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 California Transportation Commission.

I concur with the Panel's recommendation.

CAROL HANSON, Panel Chairperson

BRENT FELKER
Chief Engineer

PERSONS ATTENDING SECOND LEVEL REVIEW PANEL HEARING ON FEBRUARY 9, 2001

Carol Hanson, Chairperson
Iris Malsman, Panel Member
Elaine Cheng, Project Manager
Orlance Lee, Project Development
Overcomer Hor, ESC/DSO
Jin S. Lee Project Management
Anthony Cole, Office of Local Programs
Bill Varley, Maintenance Support
Stephanie Reeder, Environmental Planning

Linda Fong, Panel Member
Maria R. Brooks, Right of Way
Jacque Wright, Tort Claims
Kien Le, ESC/DPPM
David Jang, ESC/DSF
Michael A. Perovich, Project Development
Willie Langie, Right of Way
Paul Hsu, Design

07-LA-1-40.8

Owners: Roit and Rickley, Yazdani, Posner, Goodfriend

RESOLUTION OF NECESSITY APPEARANCE FACT SHEET

PROJECT DATA

Location: In Los Angeles County near City of Malibu on Pacific Coast Highway (Rte 1).

Limits: Between Topanga Canyon Blvd (Rte 27) and PCH on 07-LA-1-PM 40.8

Contract Limits: N/A

Cost: Construction, preliminary Engineering
Construction and R/W Total \$6,051,250.00

Funding Source: Federal

Number of Lanes: Existing: 4 lanes
Proposed: 4 lanes

Proposed Major Features: N/A

Traffic: ADT 65,000 (1999)

PARCEL DATA

Property Owner: Natasha Roit & Rebecca A. Rickley (76713-1,2); Marvin Goodfriend (76955);
Shahriarn & Kathy Yazdani (76724-1,2); Nancy Posner (76715)

Parcel Location & Area Required

3929 Malibu Vista Drive, Malibu, California

76713-1 Drainage Tieback Easement = 7,917 SF

76713-2 Temp. Landscape Easement = 5,038.SF

18460 Coastline Drive, Malibu, California

76714-1 Permanent Drainage = 15,016 SF

76714-2 Temp. Landscape Easement = 10,967 SF

18456 Coastline Drive, Malibu, CA.

76715 Drainage Tieback Easement = 3,220 SF

3925 Malibu Vista Drive, Malibu, CA.

76955 Drainage Tieback Easement = 143 SF.

Present Use: Single Family Residence

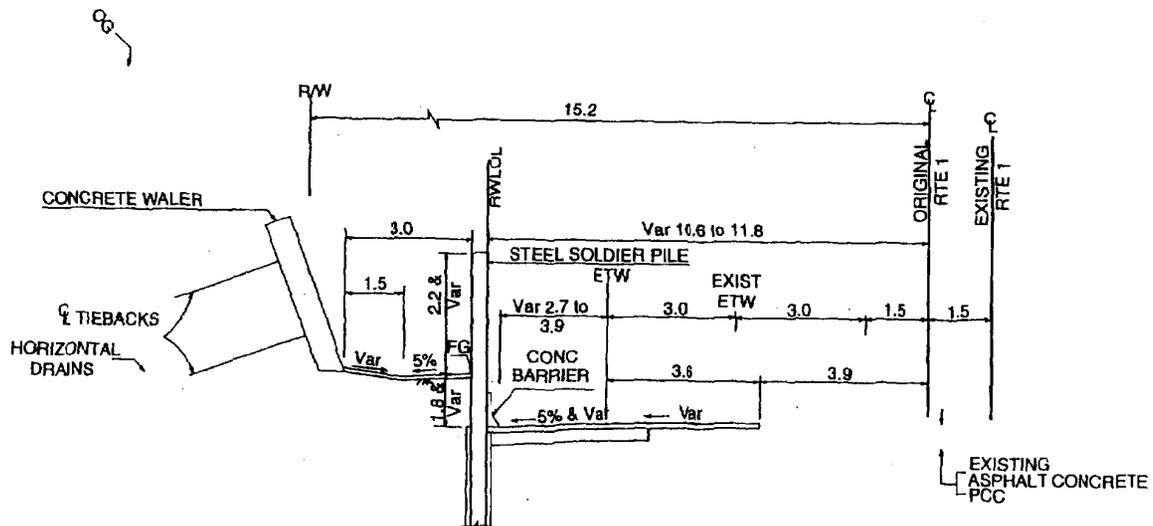
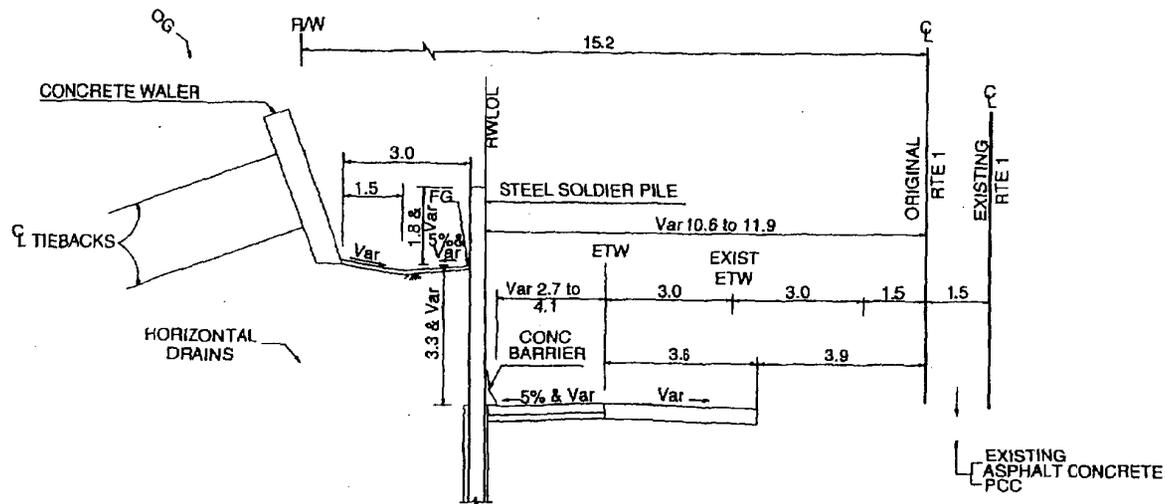
TOTAL AREA OF PROPERTIES:

76713-1, 2 = 23,110 SF

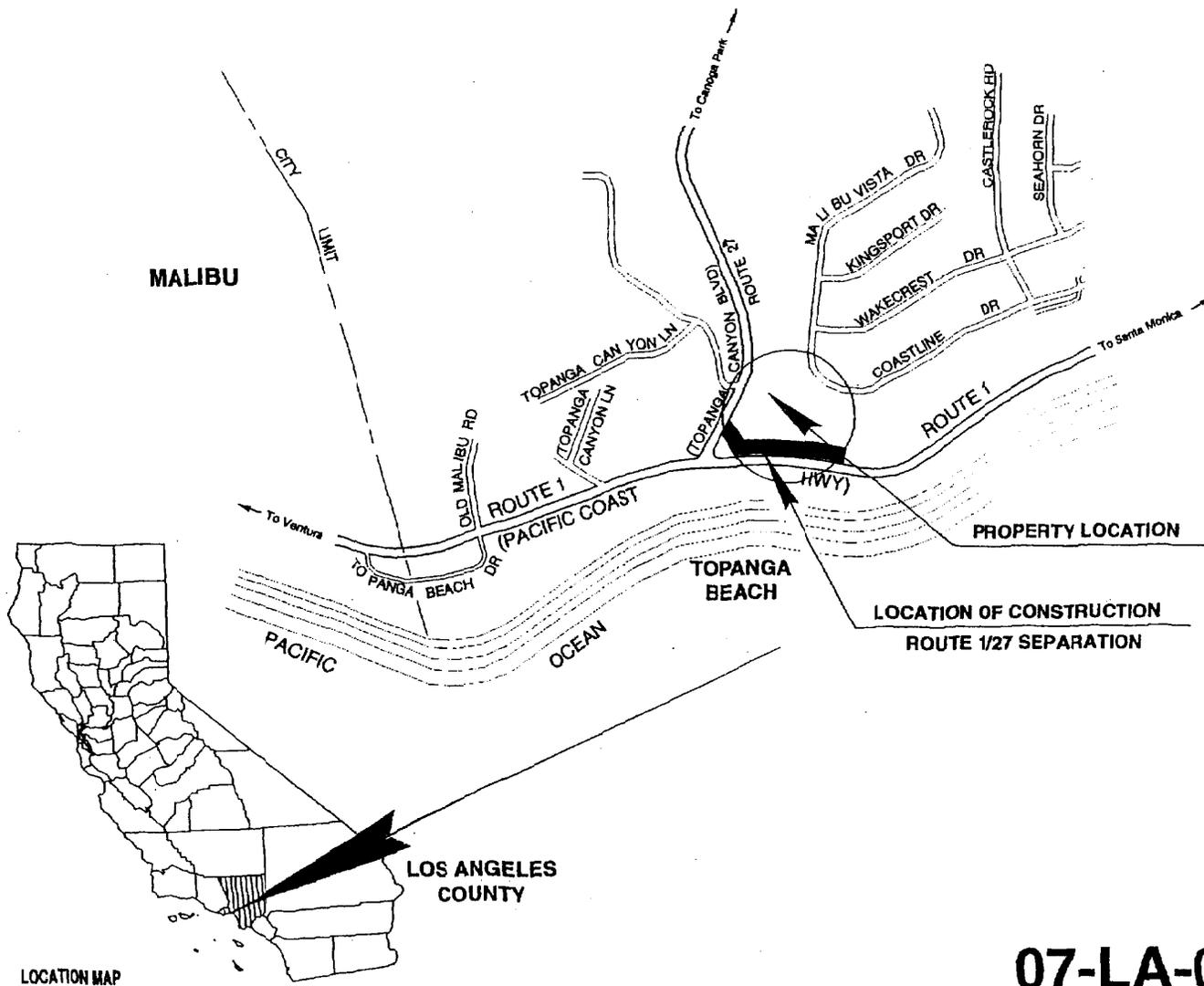
76715 = 12,700 SF

76714-1, 2 = 26,570 SF

76955 = 23,640 SF



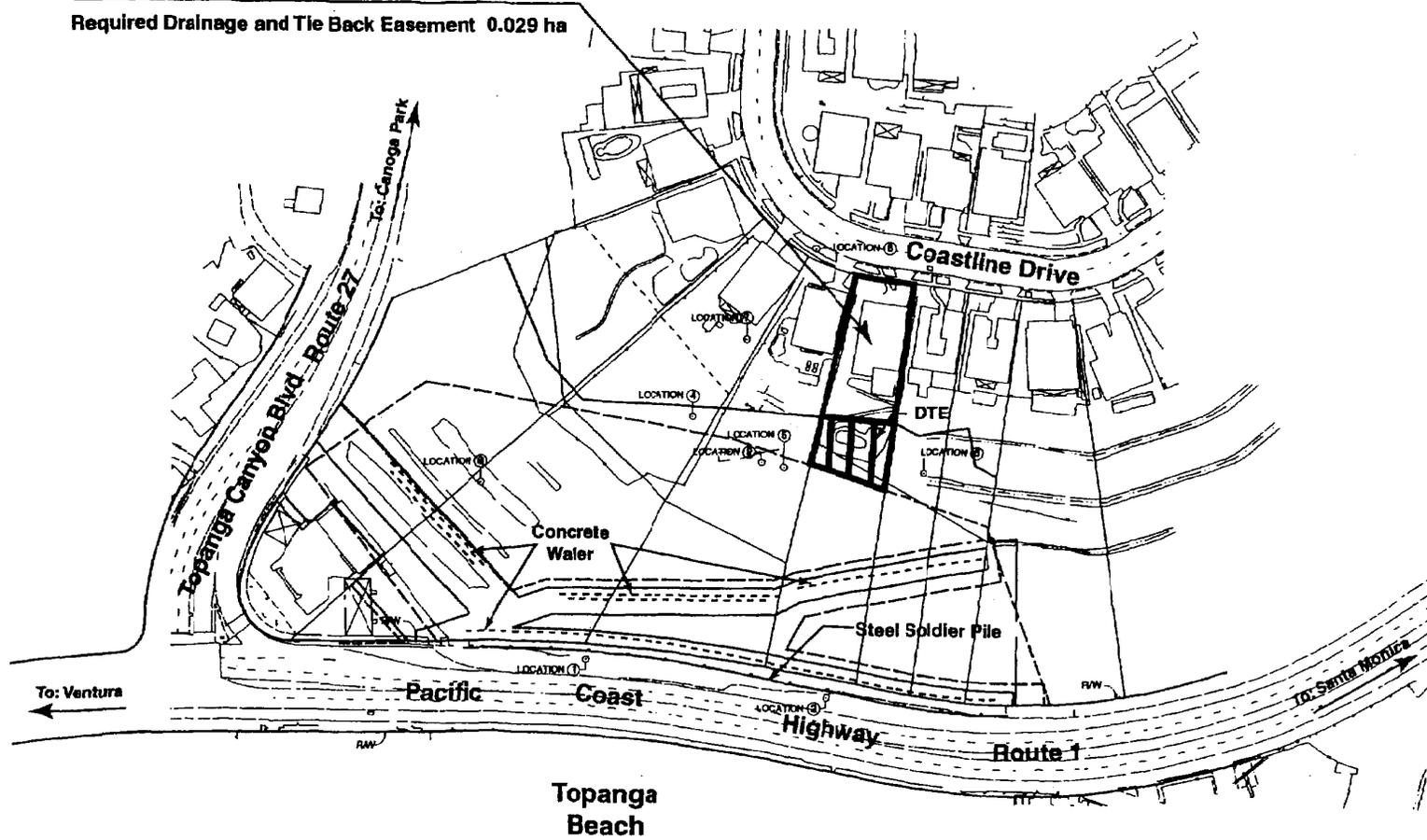
TYPICAL XSECTIONS



07-LA-001

Posner Property

Required Drainage and Tie Back Easement 0.029 ha



07-LA-001 

07-LA-1-P.M. 40.8
Roit & Rickley, Goodfriend
Yazdani & Posner

Chronology of Contacts and Events

January 1999	Permit to Enter and Construct obtain form grantors-Mr. & Mrs. Yazdani
August 1999	Permit to Enter and Construct obtain from grantors-N. Roit & R. Rickley.
November 1999	Permit to Enter and Construct obtain from grantors-Mr. Goodfriend & Ms. Posner
May 2000	Right of Way Appraiser contacts grantors-Ms. Posner, Ms. Roit & Ms. Rickley and Mr. Goodfriend.
June 2000	Right of Way Appraiser contacts grantor-Mr. & Mrs. Yazdani
August 22, 2000	Acquisition Agent Maria Reynolds Brooks speaks with Ms. Roit, via telephone. Agent attempted to schedule FWO. Ms. Roit declined to meet.
August 14-September 3, 2000	Agent Brooks made several attempts to contact grantors. Agent unsuccessful.
September 5, 2000	State's Written Offer mailed to grantors-Mr. & Mrs. Yazdani, Ms. Posner, Mr. Goodfriend and Ms. Roit & Ms. Rickley.
September 13, 2000	Received letter from grantor-Mr. Goodfriend. Advised to refer all communications to his attorney-N. Roit.
September 20, 2000	Letter mailed inviting grantors to general Caltrans meeting, concerning project scope. Letters sent to Ms. Roit & Ms. Rickley, Mr. Goodfriend, Ms. Posner and Mr. & Mrs. Yazdani.
September 22, 2000	Grantors-Roit & Rickley refuse State's Offer to purchase.
October 17, 2000	NOI mailed to grantors-Ms. Roit & Ms. Rickley, Mr. Goodfriend, Ms. Posner and Mr. & Mrs.
October 30, 2000	Request to Appear before the CTC received by Agent Brooks.
November 3, 2000	Agent Brooks received copy of fax from grantor, Ms. S. Yazdani. Mr. Yazdani requested an appearance before the CTC.
November 14, 2000	Agent Brooks received letter from grantor-Ms. Posner. Ms. Posner requested that all communications regarding the State's purchase be directed to her attorney N. Roit
December 20, 2000	First Level Review
December 29, 2000	Final Plans, Geotechnical Report and other documents forwarded to attorney Roit.
February 9, 2001	Second Level Review. Attorney Roit refuse to appear.
September 2000 to Present	Agent Brooks has spoken with each grantor, and their attorney N. Roit, several times.

SUMMARY OF ISSUES

The public interest and necessity require this project.

The property owners do not contest the need for the project.

The project is planned to provide the greatest public good with the least private injury.

The property owners have requested an appearance before the commission. They have expressed strong reservations regarding the safety of the project relevant to their sites. They believe that the construction may weaken the hillside and cause damage to their homes. The owners have requested geotechnical and design information from Caltrans so that their consultants can make recommendations as to the project safety and impacts to their homes. Attorney Natasha Roit is expected to appear at the California Transportation Commission (CTC) meeting on May 2 & 3, 2001. Ms. Roit represents herself and four property owners - Rebecca Rickley (co-owner with Ms. Roit), Nancy Posner, Marvin Goodfriend, and Mr. & Mrs. Shariar Yazdani in opposing the proposed easement acquisition and State Right of Entry to their properties located within an unincorporated area of the County of Los Angeles, along Pacific Coast Highway (PCH) - adjacent to the City of Malibu. The easement acquisitions are both permanent and temporary for the purpose of completing this project, specifically in regards to construction and maintenance, proper drainage and landscaping.

Since the beginning of the project, Caltrans has been in constant contact with the homeowners. The first homeowner meeting was held on February 11, 1999 with Roit, Rickley, Goodfriend, Posner, Yazdani, Dix, Siehl, and Dunbar attending. The purpose of the meeting was to present and explain the project to the homeowners so they would grant Caltrans the necessary easements. Except Roit and Rickley, the remainder of the homeowners at the meeting had no reservations for the project. In order to convince Roit and Rickley that the project would not harm their property, Caltrans met with their consultant Dr. Singh of Lockwood -Singh & Associates on March 3, March 23, and March 31, 1999. After the meetings, their consultant concurred with the project needs and methodology. Caltrans implemented their suggestion to install 6 inclinometers on the slope to monitor the slope movement; of the six inclinometers, three are installed on or near Roit/Rickley's parcels. In return for the inclinometers, Roit and Rickley signed a Permit to Enter agreement allowing Caltrans to construct the inclinometers in their parcels and perform monitor reading. However, after Caltrans installed the inclinometers in September 1999, Roit and Rickley refused to honor the Permit to Enter agreement and started challenging the project. A second homeowner meeting was held on October 4, 2000, in which only Dix, Siehl, and Dunbar attended. Caltrans has provided all the relevant geological reports to all grantors since the first homeowners meeting, and will continue to do so by providing the geotechnical and design data requested so long as confidentiality documents are executed.

The property is required for the proposed project.

The easements are needed on these properties to install the Tiebacks. The length of the tiebacks to the most outer reach of the tiebacks is: 175' away and 230' below Roit and Rickley's residence, 157' away and 240' below Goodfriend's residence, 100' away and 210' below from Yazdani's residence, and 90' away and 210' below Posner's residence.

An offer to purchase the property, in compliance with Government Code Section 7267.2, has been made to the owners of record.

The full amount of the appraisal value for the easements has been offered to the owners of record. The owners have not accepted the offer and negotiations are continuing.