Tab 51

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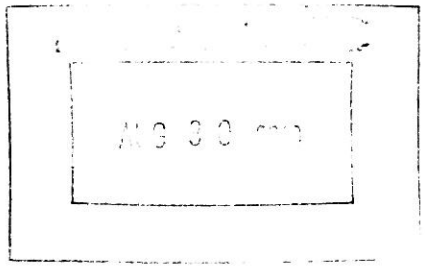
August 25, 2010



California transportation Commission
1120 N Street
Room 2221 (MS-52)
Sacramento, CA 95814

Re: Piedras Blancas Realignment
On Highway 1 near Piedras Blancas Lighthouse
SLO-1-PM 64.0/R67.2
05-492800
SCH #2008031059
Final Environmental Impact Report with Finding of No Significant Impact
Date of Certification: 8/11/2010

Dear Commissioners

We are writing you this letter to appeal the route adoption by Caltrans for Highway 1 realignment. We are not requesting Caltrans to adopt another realignment route but to modify the route slightly to avoid the destruction of our home without compromising the goal of giving the new highway a long life. We also believe that we also believe that adopted route by Caltrans is inconsistent with prudent use of taxpayers' money.

Enclosed please find our attorney's letter to Caltrans in response to the public hearing conducted by Caltrans on October 28, 2008 in Cambria, Ca, on the Draft Environmental Impact Report/Environmental Assessment.

Also enclosed is a summary of our 15-year struggle to build these homes and of our prolonged relationship with Caltrans.

Sincerely,

Javad N. Sani

Javad N. Sani

Parvin Nahvi

JNS // ss
Enclosures

Meeting Handout

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November 12, 2008

Michael Sandecki, Acting Branch Chief
Central Coast Environmental Analysis
California Department of Transportation
50 Higuera Street
San Luis Obispo, California 93401

VIA EMAIL AND HAND DELIVERY

Re: Draft Environmental Impact Report/Environmental Assessment
Piedras Blancas Realignment
SCH #2008031059

Dear Mr. Sandecki:

This letter is written on behalf of Dr. Javad Sani and Dr. Parvin Nahvi ("the Sanis") who are the owners of three residences located along Highway 1 north of the Piedras Blancas Lighthouse. These residences were recently completed after a decade spent processing entitlements and an investment of several million dollars in development and construction. Now, after all of that time and effort, the proposed realignment has been designed in a manner that will inflict serious and substantial injury on the Sani Properties which, in turn, will end a dream which the Sanis have worked long and hard to bring to fruition. It is the Sanis' hope that a careful consideration of the inequities imposed by the project as designed, will motivate Cal Trans to consider a modification of the proposed realignment.

We understand that our purpose is to comment on the Draft Environmental Impact Report/Environmental Assessment ("EIR"). Initially, however, a brief summary of the history of the project may assist in evaluating the environmental impacts of the proposed project including the significant economic wastefulness of the proposed design and, on a more human level, the inequitable toll the proposed design will exact on the Sanis.

The Sanis acquired the three properties in 1989. Their plan was to process a lot line adjustment and obtain a permit to construct a residence on each of the three parcels. Their dream was to sell two of the residences and live in the third. Their enthusiasm soon ran into reality as they began to realize the time, frustration and expense that would be necessary to process what they assumed would be relatively simple applications. The cost forced the Sanis to reconsider their plan but, ultimately, they reached the decision to commit the necessary resources to the project.

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It took almost eight years for the Sanis to wind their way through the complex coastal development process. Because the properties are located in such close proximity to scenic Highway 1, the County and the Coastal Commission imposed a detailed set of conditions on the property including an intricate landscaping plan that virtually called out the identity and location of every plant.[1] Another condition required that the non-buildable portion of the lots be placed under a permanent conservation easement which was recorded on February 18, 2005.

In or about 2000, while the project was moving through the entitlement process, the Sanis became aware that there was a possibility that Highway 1 would be realigned. Naturally, they were extremely concerned as to how the realignment would impact their plans and discussions with Cal Trans ensued. During those discussions, Cal Trans representatives were very candid with the Sanis that the exact location of the realignment was unknown and estimated that the road would encroach on their property between three hundred and four hundred feet. The representatives also acknowledged the possibility that the realignment project was not certain and that the time table to make a decision and begin construction was dependent on other factors. The representatives were aware of the effort that had gone into the planning process and invited the Sanis to continue. The Sanis considered their options, including the possibility that the realignment process could take years. They reached the decision to continue. In fact, given the uncertainty of the State's plans, the Sanis really had no other option except to continue pursuing their land use approvals.

In 2006 the Sanis finally obtained the necessary permits for the lot line adjustment and the construction of the residences. Prior to starting construction, the Sanis discussed the potential realignment with Cal Trans representatives and were told that, while the alignment was not then set, the thought at the time was that the road would be moved 350 feet onto the Sani Properties. This information was confirmed through published reports. When the Sanis asked the Cal Trans representatives what they should do, particularly in light of the limited life of the permits, they were told that they should build.[2]

Cal Trans representatives recognized that the realignment would almost certainly, in some fashion, result in significant injury to the Sani Properties and, prior to construction, analyzed the possibility of a public acquisition before construction. It is our understanding that this proposal was well received but was ultimately rejected due to the unavailability of funds. Unfortunately, this lack of funding will result in both significant injury to the Sanis and a huge waste of public money. It would seem that red tape replaced common sense.

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[1] The County acted as the lead agency in the processing of the permit. Their decision was appealed by the Coastal Commission to itself. Due to concessions made by the Sanis, the appeal was informally resolved.

[2]The coastal development permits would expire two years after issuance. After nearly a decade of following the painstaking process, the Sanis understandably could not allow this to happen. Also, prior to construction, the Sanis also considered relocation of the building envelopes to lessen the impact of the highway relocation. They were told that the proposed modification would require a new permit which, in turn, meant revisiting the entire entitlement process.

Construction on the three residences has just recently been completed. They are each beautiful homes and a great deal of care went into the construction design and finish. The homes are each for sale with an asking price of between three and four million dollars. The Sanis intend to sell two of the homes and live in the third. Unfortunately, it is impossible to market and sell these homes as long as the proposed realignment project remains uncertain. Simply put, no one is going to be interested in spending the money necessary to buy any of these homes unless they know with some degree of certainty the exact future location of Highway 1. Moreover, the Sanis have been told that a decision on the project, including the location and funding availability will not be made for over a year. It is extremely unfair for the Sanis to suffer while the State goes through the decision making process. At a minimum, by the time a decision is made, the Sanis will have been effectively prevented from marketing their property for close to two years. In the meantime, they are deprived of the use of money they would realize from sales and forced to continue to bear the financial burden of carrying the properties. They are certainly considering measures to reduce their economic losses by possibly making the homes available as short-term rentals. However, it is a difficult decision as to whether the costs and risks inherent in becoming a short term landlord are actually a benefit in the long term.

Worse than the injuries due to project delays is the devastating impact to the Sani Properties if the project is approved as proposed. The realignment preferred by the EIR would move Highway 1 another 475 feet onto the Sani Properties. Unlike the 350 foot movement discussed before construction, the proposed move virtually destroys much of the project in several respects. First, and most obvious, the proposed realignment runs directly through one of the homes and will require complete demolition. In short, all of the planning, entitlement, design and construction will simply be lost. This certainly seems like an incredible waste of resources particularly in these difficult economic times. Second, the road will be relocated so close to a second home that it will likely have to be demolished also. If somehow the home can be saved, its proximity to the road will reduce the value of the property to a small fraction of its current level. Third, the remaining home will itself suffer a diminution in value due to the fact that it will now have a well-traveled road virtually in its front yard.

On a less obvious level, we believe that the amount and location of the property taken could make it impossible for the owners of the remaining home or homes to satisfy the conditions of the Sani coastal development permit. We have not fully performed this analysis but it seems apparent that, at a minimum, the permit conditions relating to landscaping, drainage and screening cannot be satisfied if the proposed project is constructed. Certainly, it is possible to obtain a modification to the development permit but, after undertaking eight years of effort, the Sanis do not relish the prospect of again subjecting themselves to the delays, uncertainties, costs and exactions that seem to define the coastal development permit process.

We fully understand that, in theory, the Sanis should ultimately receive just compensation for the property taken. (It is less certain that the Sanis will be successful in avoiding the unfair burden placed on them by the delay and uncertainty of the proposed project.) Nevertheless, in our experience, the Sanis will be unlikely to be made whole from the process and will almost certainly not be compensated for the mental anguish they have experienced and will experience by the ongoing financial impacts and resulting insecurity about their future that are necessarily

engendered by the process of evaluating this project. Therefore, we urge you to consider a highway realignment that will protect the Sanis' legitimate investment in their dream of realizing the fruits of their investment and labor which would find them living their retirement years in their beautiful and peaceful coastal home.

Much of the previous discussion in this letter may be viewed as not necessarily pertinent to the consideration of the EIR. We would disagree and suggest that much of the inequity, both threatened and experienced, by the Sanis is a direct result of the failure of the project environmental review process as detailed below:

1. **Project Description.**

The EIR project description is deficient in that it so narrowly defines the project as to preclude any meaningful environmental analysis of a reasonable range of feasible alternatives. The project is described as a realignment of the Highway in order to provide a 100-year erosion buffer. This limiting description, which sets the 100-year buffer zone as a project prerequisite, means that any project not providing the 100-year buffer will necessarily not meet the project goals. In other words, the required scope of meaningful environmental analysis is doomed from the start by a limiting definition.

We question whether the 100-year buffer should really be taken as an absolute mandate. The reference to 100 years comes from the San Luis Obispo North Coast Area Plan. However, the reference is not necessarily a requirement of the North Coast Area Plan but, instead, a stated preference for development. This is apparent from the express language of the Plan set forth in the EIR: "development *should* be located so that it can withstand 100 years of bluff erosion." It is well recognized use of the "should" instead of "shall" or "must" denotes a policy that is a goal but not necessarily a requirement. In the context of the North Coast Area Plan, this distinction is logical because the decision to locate development is subject to many variables including, as in this case, the impact such location may have on already existing development. Nothing in the Plan or any other provision of law *requires* that the 100-year buffer necessarily be implemented. Rather, the Plan and the law merely require that observation of the 100-year buffer be considered as a priority.

This distinction between mandate and guideline has significant substantive ramifications in environmental analysis. For example, one the factors that must be considered in this context is the extent of the proposed development. On the one hand, if the proposed project is a residence, hotel or other significant structure where the effects of erosion over time can be devastating as witnessed along the California Coast, it may well be appropriate to *require* that the structure maintain at least a 100-year buffer. However, in the case of a smaller or less intrusive development, the observance of the buffer becomes much less critical because the impacts of erosion will not be as significant or raise as many issues in the future. The question then becomes where a two-lane road falls on the continuum of impacts. We would suggest that it is much less than would arise from a major structure. Moreover, we would suggest that this determination is within the province of the decision makers and should not be summarily decided by those preparing the EIR.

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In setting out a project description that elevates the 100-foot buffer from guideline to mandate, the EIR effectively precludes any meaningful evaluation of comparing the environmental impacts of the proposed project with any of the less intrusive options that might have preserved existing structures or, as noted below, might have significantly reduced the overall cost of the project. Thus, the mischaracterization of the "requirements" of the North Coast Area Plan virtually dooms the EIR as an effective and legally adequate EIR.

2. Alternatives Analysis.

At the heart of any meaningful environmental analysis is the necessity of comparing a reasonable range of feasible project alternatives. The obvious concept is to ensure that the impacts of the proposed project are compared to other actions that could be taken. Without such an analysis it is impossible to effectively measure the relative merits and impacts of the project at hand.

The EIR considers only three alternatives. One is the always required "no project" alternative. The second is the proposed project which religiously follows the 100-year buffer. The third is the alternative of relocating the project 1200 feet inland to avoid impacts on the Sani Properties. A glaring omission from the range of alternatives is the relocating of the highway to an area where the buffer is something less than 100 years. These less intrusive alternatives are given a brief reference as having been considered, however, along with this consideration is an immediate and out of hand dismissal because the alternatives did not provide the *required* erosion buffer. As we note above, dismissal of these less intrusive alternatives deprives both the public and the decision makers of the opportunity to compare real alternatives.

The failure to consider the less intrusive alternatives is more than a mere complaint by the Sanis in trying to save their properties. In a very real sense, the failure to consider these less intrusive, and less costly, alternatives strikes at the heart of the actual environmental impacts of the proposed project. As noted above, the three residences on the Sani Properties are valued at somewhere between three and four million dollars. The proposed project will actually destroy one home, most likely require the demolition of a second and significantly reduce the value of the third. Thus the cost of the proposed project would appear to be at least seven million dollars greater than the cost of a project that avoids the devastating impacts on the Sani Properties. In other words, fourteen percent of the projected project cost of Fifty Million Dollars is attributable to the impact on the avoidable impact on the Sani Properties. Nowhere in the EIR is the extremely high cost of observing the 100-year buffer recognized.

We understand that economic impacts, in themselves, are not properly considered as part of environmental review. However, when those financial impacts carry their own environmental impacts, they should be considered. In this case, those derivative impacts are very real. First, we were advised at a recent meeting held by Cal Trans that the funding for this project is not secured and will not even be determined until sometime in late 2009. Given the current California budget crisis, we would certainly anticipate that the cost of a project competing for limited funds, will doubtless have a significant bearing on the decision of allocation. In real terms, it would seem that reducing the cost of the proposed project by ten percent would significantly increase the possibility that the project is funded. Given the underlying environmental reasons for the

proposed project, it would seem that project characteristics that impact cost and thus likely determine project funding, should be considered.

Moreover, even if the additional cost does not alter the project's economic viability, it still requires the unnecessary expenditure of at least Seven Million Dollars that could be used to fund other necessary projects. The EIR should at least discuss the fact that other projects will likely be left for another day if the preferred alternative, along with its unnecessary cost, is selected. This would seem a critical factor to the decision makers in analyzing a project impact. We have no doubt that the public would be very interested to know that an alternative was available that would save public funds for other needed work.[3]

3. Inadequate Impact Analysis.

One of the more disturbing aspects of the EIR, at least to the Sanis, is the fact that their interests are both understated and mischaracterized. It astonishing that the EIR does not mention the presence of homes that will be significantly impacted by the project until page 23. We understand that the document must analyze all environmental impacts but, nevertheless would expect those reading the EIR to learn that it will displace at least two homes in the introductory section of the document. It is clear from the structure of the EIR that the interests of the Sanis and the other property owner are given short shrift in any analysis.

This lack of concern for the human cost of the project is carried out in the Community Impacts Section (2.1.3) of the EIR where the discussion of the impacts is limited to a misleading statement about the condition of the property, the gross understatement of the impacts and a passing nod to the interest of the property owners which seems intended to portray the impact of the project on property owners as minimal. We find this particularly disturbing because the very brief discussion of the impacts on homes seems to be more concerned with convincing the decision makers that they need not worry about impact on homes than it is in providing a meaningful discussion of the real impacts to the individuals.

The woeful inadequacy of the Community Impacts analysis is evident in the EIR's characterization of the property. According to the EIR, the homes on the Sani Properties are under construction, not complete and not occupied. Technically, this information was accurate because it does not provide an adequate picture of the project impacts. The actual facts, which could have easily been set forth, are that construction on the Sani Properties will be complete by the time the project is undertaken. In fact, construction has already been completed and the EIR should have at least acknowledged that completion in the fall of 2008 was anticipated and that residents are likely to be displaced.

The failure to adequately describe the state of construction on the Sani Properties is naturally carried over into the discussion of project impacts on residences. As noted above, the

[3]The proposed project will merely transfer public monies to the Sanis. Use of that money for another project will likely result in the money going toward construction which will mean more jobs and more material purchases.

EIR makes the general statement that because the homes are not completed, they are not occupied and therefore no displacement will occur and no relocation necessary. For purposes of a pre-condemnation taking, we are willing to acknowledge that it may be virtually impossible for the Sanis to sell or lease the homes. However, the reason for this is the proposed project itself and the failure to address that issue, which is both emotional and financial to the Sanis, renders the EIR both inadequate and suspect. Had the EIR been concerned with the real impacts to the Sanis, they could have easily been addressed. Instead, the attempt to spread whitewash over those impacts is inexcusable. The Sanis have every right to expect fairness and accuracy in an EIR for a public project.

Finally, aside from the fundamental inaccuracies noted above, the EIR discussion on Community Impacts does not adequately recognize the project impacts. It does, *albeit* tacitly, acknowledge that one of the homes will be lost. (It would have been a more accurate picture to ~~explain that this beautiful new home will simply be demolished.~~) It does not, however, acknowledge that the impacts on the second home will likely render it inhabitable and result in its demolition also. It also does not adequately address the significant and potentially devasting impacts on the third home. That home, which was previously far removed from the highway, ~~will now have traffic virtually in the front yard.~~ This will obviously reduce its value significantly. Further, and possibly more damaging, as discussed in the opening section of this letter, the Sani Properties are subject to both a coastal development permit and a conservation easement. Inasmuch as the three properties are basically treated as a unit, the proposed taking raises very real issues as to the post-project ability of the Sanis to meet the permit conditions and remain in compliance with the restrictions of the conservation easement. We believe those issues may very well preclude occupancy of the third property yet, they are completely ignored by the EIR analysis.

4. <u>Eminent Domain</u>.

The proposed project will require the State to exercise the power of eminent domain to acquire portions of the Sani Properties. Before commencing a legal action to acquire property, the State will be required to make the finding that the "***project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury***." Code of Civil Procedure Section 1240. This is not a mere procedural nicety but an express statutory requirement to ensure that the property rights of private citizens not sacrificed to the expediency of public whim. Although this section often seems to receive mere lip service, the State should take the required analysis very seriously.

This statutory requirement is an integral part of the proposed project because the exercise of eminent domain, in some fashion, will likely be necessary. Therefore, the EIR must provide a discussion sufficient for the decision makers to determine whether the required findings are supported by substantial evidence. Because, as noted above, the EIR is deficient in the areas of project description, alternatives analysis and impact analysis, it does not provide the decision makers with adequate information and analysis to make even the most minimal determination in this regard. On that basis alone, the EIR must be rejected as inadequate.

5. Conclusion

The proposed project will destroy the Sanis' dream that has taken 19 years and millions of dollars to bring to realize. On the eve of realizing that dream, the Sanis are faced with having it taken from them. They recognize that their hopes may well be lost for the benefit of the greater public good and, as citizens, accept that burden. However, before their dream is lost, the State, legally and morally, must undertake a meaningful analysis of the real impacts of the project and, if supported by that analysis, make the difficult decision to implement the project. The EIR is supposed to served as the basis for the State meeting its legal and moral obligation. It does not. Instead, it lacks the accuracy and depth to serve as anything other than an ineffective apologist for the proposed project. On behalf of the Sanis and in the interest of the people of California, we ask that the EIR not be certified.

Very truly yours,

ADAMSKI MOROSKI MADDEN & GREEN LLP

THOMAS D. GREEN

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cc: Dr. Javad Sani
Dr. Parvin Nahvi

Meeting Handout

OUR PROPERTY IN SAN SIMEON, CALTRANS and Highway 1 Realignment

Property address:

Parcel #1 (APN# 011-231-013)
Old address: 16465 Cabrillo HWY, San Simeon, CA 93452
New address: 255 Piedras Blancas Road, San Simeon, CA 93452

Parcel #2 (APN# 011-231-014)
Old address: 16425 Cabrillo HWY, San Simeon, CA 93452
New address: 270 Piedras Blancas Road, San Simeon, CA 93452

Parcel #3 (APN# 011-231-015)
Old address: 16445 Cabrillo HWY, San Simeon, CA 93452
New address: 295 Piedras Blancas Road, San Simeon, CA 93452

The property is located about 6.5 miles north of Hearst Castle and about 1.5 miles north of Piedras Blancas Lighthouse in San Simeon and was acquired in 1987. Originally, the property consisted of four parcels totaling 15 acres. However, after a lot-line adjustment and public dedication of the parcel west of Highway 1, we ended up with three parcels east of Highway 1, with two parcels fronting Highway 1.

In 2001, Caltrans informed us of its intention to realign Highway 1 north of Piedras Blancas Lighthouse, due to bluff erosion in this area and flooding of Highway 1 during winter storms. We were contacted because Caltrans had identified us as one of the property owners whose property could be impacted by this realignment. At the time, Caltrans was reviewing a number of alternative routes for this realignment and could not yet commit to one alternative over the others for the realignment route. We informed Caltrans the building permit applications for three homes were pending at the county.

Caltrans has been placing rocks (rock arrays and revetments) in this area of the shoreline for years to protect the highway. In October of 2007, Caltrans obtained a minor use permit from California Coastal Commission to continue placing rocks as needed to protect the highway for at least another 10 years until it is realigned. After

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Completion of the realignment, Caltrans is supposed to remove all rocks to allow for natural bluff erosion. However, the Coastal Commission indicated that in case the existing highway is used as part of the California Coastal trail the rocks may remain there.

Caltrans has been in contact with us since 2001 on and off. The agents from Caltrans that have contacted us include Richard Krumholz, Paul Martinez, John Magorian, John Maddux, Amy Donatello, Vicci Messer, Walter Ross, and other officials whose names we cannot recall at this time.

Caltrans was informed from the beginning of our application to the county for the construction of three homes. We have fully cooperated with Caltrans and have given them permission to enter the site for various studies. We were always under the impression that Caltrans was conducting these studies on our property to determine a realignment route with least impact on these homes. We were never informed by Caltrans that we were giving them permission to entire the site for studies the results of which one day might be used against us in recommending a realignment route which could impact these homes.

We informed Caltrans that building permit applications were in process by the California Coastal Commission and the County of San Luis Obispo to construct three single-family residences on these parcels. We expressed our concerns to Caltrans about the potential impact of this realignment on our property and informed Caltrans that we would even consider a lot-line adjustment and/or relocation of the building envelopes if approved by the county and the Coastal Commission to reduce the impact on these homes as long as we were informed of the decision of Caltrans for the realignment route before the construction.

With the potential realignment of Highway 1 and the anticipation of a protracted and tedious path for the building permit applications, we decided to list the lots for sale. Despite significant interest expressed in these lots, almost all potential buyers would walk away from the property once the potential Highway 1 realignment had been disclosed; contrary to Caltrans' claim that the potential realignment of Highway 1 has not had an adverse effect on the market value of the lots. With the uncertainty

surrounding these lots, we took them off the market and pursued the building permit applications with the county and the Coastal Commission.

In April of 2002, we were contacted by Walter Ross from the Appraisal Branch of Caltrans to prepare a hardship acquisition appraisal of our property. We were actually excited about the news from Caltrans and were expecting Caltrans to initiate the acquisition process soon. Shortly afterwards, to our surprise, we were informed that Caltrans had decided to abruptly abandon the acquisition process due to a shortage of funds. We were instructed by Caltrans officials to proceed with the permit process and construction of these homes as if no Highway 1 realignment were to take place. We were told that Caltrans might eventually abandon the realignment process altogether because of budgetary constraints.

In April of 2005, Mr. John T. Magorian, Right of way Agent from the Acquisition Branch of Caltrans, writes that "Regarding the status of the acquisition, I have discussed this with our district Right of way Chief, john Maddux. He tells me there is a request for funds to acquire property rights included in the 2005/2006 budget. We will know if funds are allocated when the final budget is approved, probably sometime late summer. If funds are available we will begin the process including update of appraisal and preparing the State first written offer. Otherwise the project will go back on the list for the next fiscal year budget".

We had no further communication with Caltrans except for brief phone calls or written notices made by Caltrans agents to get permission to enter our property. Again, these permissions were always granted. We were reassured that we would be notified immediately once Caltrans had decided to make a recommendation for the realignment route of Highway 1 through our property.

With the abandonment of the acquisition of our property by Caltrans, we had no choice but to heed the advice of Caltrans and pursue our building permit applications with the county. We embarked on a long, emotional, and expensive journey and finally obtained the construction permits to build these homes. It took us many years of an intensive

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process with the California Coastal Commission and the County of San Luis Obispo to obtain these permits. The permits were finally issued in 2006. During the processing of the permit applications, the Coastal Commission designated the building envelopes for these lots in order to cluster them for less highway visibility. With the environmental sensitivity of the project, we could not delay the construction of these homes. With Highway 1 designation as a scenic highway and the Hearst Ranch entering a conservation easement with the State of California, we knew that we could not delay the construction of these homes without potentially losing the right to ever develop the property and end up with a huge financial loss as well as years of lost time.

In the August 26, 2006 issue of the *Tribune*, Mr. Martinez publicly disclosed that Caltrans would move Highway 1 inland by 350 feet. "Caltrans will re-route the highway about 350 feet farther inland," Martinez said. With the building permits in hand, we plotted the proposed highway route through our property relative to the permitted home sites and were delighted to discover that, even though the homes would be closer to the Highway than before, none of the three homes would be impacted by this realignment. With this encouraging public announcement by Caltrans, we decided to proceed with the construction of these homes as planned.

While visiting the construction site in early December 2006, we noted Caltrans vehicles parked along Highway 1 with archaeologists performing studies north and south of our property. We contacted Mr. Martinez and were surprised to hear that Caltrans could potentially realign Highway 1 about 500 feet east of the existing highway based on revised expected 100-year shoreline. If approved and constructed, this realignment would certainly impact all three homes especially homes #1 and #2. Unfortunately, at this time, we had already completed the site improvements, had poured the three foundations, and were framing the homes. Obviously, it was too late to make any changes in the location of the homes. Presently, all three homes are fully furnished and used as vacation rentals.

We had a meeting with Mr. Martinez in December, 2006. We were told that Caltrans was considering an alternative

route, among many others, that would realign Highway 1 500 feet --and not 350 feet as originally announced by him in the *Tribune*--east of existing highway through our property impacting all three homes especially homes #1 and #2. Unfortunately, this information was never disclosed to us until after the commencement of the construction and only after we personally contacted Mr. Martinez by phone in December of 2006.

According to the Project Study Report (PSR) dated June 27, 2002, and the Project Development Support (PDS) dated August of 2001, prepared by Caltrans, the expected (projected) 100-year shoreline (erosion line) is actually less than 350 feet (up to 90 meters) inland of existing highway. Caltrans later revised the expected 100-year shoreline and aimed to move the existing highway by 500 feet, an arbitrary figure based on unknown and unpredictable environmental factors which could change in either direction. Interestingly enough, all state and federal agencies require 75 years of life for newly constructed coastal highways. The maps provided by Caltrans show the original and the revised 100-year shoreline in the area. The 100-year shoreline in this area has always been considered by Caltrans as a goal and not a requirement.

As part of our building permit applications, we have prepared and recorded at the direction of the California Coastal Commission a Deed Restriction for visual screening of the homes from Highway 1. We are concerned that any highway realignment might not be consistent with the terms of the recorded Deed Restriction. Additionally, other than the three building envelopes, the entire site is in conservation easement.

We had another meeting with Caltrans in early 2007 with both sides having legal representation. In this meeting, there was an exchange of ideas and our plea for Caltrans to keep us informed as to the progress of the project and to consider alternative routes with least impact on these homes.

We received a letter from Mr. Martinez dated 8, 2007, in follow-up to our meeting. In his letter, he emphasizes that environmental issues are considered at a point in the planning process where genuine flexibility exists through

project modification, adoption of alternatives, or mitigating measures. At our request, he prepared and enclosed two site maps showing two realignment alternatives, from among 5-6 alternatives, which would have the most impact on our property. The letter stated that the proposed alignments are just two alternatives under consideration, and are subject to alteration, modification, or ultimate abandonment. He further stated that there can be no assurance that any public use will eventually be made of our property. We were happy to hear that Caltrans is considering a number of alternative realignment routes for Highway 1 through our property. We were told that Caltrans can give no assurance of any public use of our property and that it was not ready to move from planning stage to acquisition and that it might ultimately abandon the project altogether.

We have asked that Caltrans continue to consider our property and these homes in the locations designated on the site map as submitted to Caltrans. We asked that Caltrans place us on its mailing list and keep us advised as to hearings and reports affecting Highway 1 relocation determinations. We informed Caltrans that we would order and pay for copies of various reports (environmental, biological, archaeological, etc.), revised maps, staff reports, and other studies as they are prepared.

In a letter to Mr. Martinez, we have requested that Caltrans consider an alternate route which does not have an unreasonable impact on our project. To date, the County and the California Coastal Commission permitting process has consumed more than fifteen years and we now have completed the construction of these homes as permitted by the County of San Luis Obispo and the California Coastal commission. Despite our efforts, we were unable to relocate these homes relative to various alternate realignment routes with least adverse impact without having to reopen the permitting process. Given the inability to alter the project or home locations, we proceeded with and completed the construction of these homes.

The State of California has entered into a conservation easement agreement in 2007 on the entire Hearst Ranch with a coastal easement granted to Caltrans for highway 1 realignment as needed.

We have shared all information about the site and later the homes with caltrans from the very beginning including revised and updated site maps and floor plans and have provided Caltrans with photographs of homes during various stages of the construction.

With our significant financial commitment to the project, we had no choice but to market two of the homes and hold on to the third one. We decided to hold on to home #1 which would have the most impact in any highway realignment west of the homes. Again, despite Caltrans' claim to the contrary, the disclosure of the highway realignment has discouraged potential buyers from further enquiry. After all, who would want to invest in a multi-million dollar home when the home could potentially be impacted by highway realignment? Because of this uncertainty around the location of the new highway has made these homes less marketable has caused us financial hardship. In addition to a large construction loan, we have exhausted almost all our investments so that we can complete the construction of these homes. To date, we have spent close to $1.50 ml per home in construction cost alone, let alone the cost of land acquisition and its preparation for construction over a number of years.

Responding to my letter to Governor Schwarzenegger, Mr. Richard Krumholz, District director of Caltrans, in his letter of August 14, 2007 stated that "Caltrans had made a large number of refinements to the previous study alignments that could directly impact two of the three residences presently under construction in this area". We were particularly delighted to hear that "Caltrans was evaluating another alignment that would reduce or avoid direct impact to these residences by realigning the highway further to the east". With this assurance and encouragement from your letter, we proceeded with the construction of these homes at full speed. Again, Mr. Krumholz argues that "Mere designation of the subject property for possible public acquisition, even though it may affect the marketability, is not sufficient to make a valid claim for pre-condemnation damages".

Originally, Caltrans was going to release the DED (Draft environmental Document) in December of 2007. However, this release was delayed until September of 2008. I wrote my

last letter to Caltrans on April 23, 2008 after I spoke with Mr. Martinez and encouraged Caltrans again to consider the Highway 1 realignment east of the homes, as promised before, and attached an exhibit depicting this alternative. We want to make every effort possible to encourage Caltrans to make a recommendation for an alternative highway realignment which would have the least impact on these homes before the DED is released in September of 2008.

On October 28, 2008, we along with our attorney, Mr. Ty Green, attended the Caltrans' Public Hearing held at Veterans' Memorial Building in Cambria. In this hearing, we were very disappointed to hear that Caltrans was now favoring the realignment of Highway 1 inland by up to 475 feet which would impact all three homes especially homes #1 and #2 despite previous reassurance that the highway would be realigned east of the homes. Caltrans was favoring this realignment route because of fewer environmental issues attached to this alternative than others.

Based on the final EIR, approved and certified by Caltrans on August 10, 2010, if the adopted route is not modified by Caltrans, there would be devastating economic losses for us by impacting all three homes, especially homes #1 and #2. Caltrans has adopted this route despite the following:

1) Sharing of all information with Caltrans from the very beginning with site maps, revised site maps, floor plans, revised floor plans, photographs of the homes in various stages of construction, etc;

2) The location of these homes had been determined by the California Coastal Commission in order to cluster them for less highway visibility;

3) We started the Construction after public announcement by Mr. Martinez in the *Tribune* that highway will be realigned inland by 350 feet;

4) Originally Caltrans projected the 100-year shoreline to be less than 350 feet inland of existing highway. However, it later revised the expected 100-year shoreline and aimed to realign the highway inland by

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500 feet; an arbitrary figure based on unknown, unpredictable, and ever-changing environmental issues;

5) Relocating the building envelopes was not possible without reapplying to the Coastal Commission; a very protracted and uncertain process;

6) Letter from Mr. Martinez regarding genuine flexibility in early stages of the environmental review of the project;

7) Letter from Mr. Krumholz in response to Governor Schwarzenegger stating that Caltrans was considering an alternative route east of homes with reduced or no impact;

8) Our full cooperation with Caltrans to enter our properties for various studies and never told that the results of which could be used against us; and

9) The fact that Caltrans had many opportunities to acquire the property before we started the construction. We even told Caltrans that we were open to the acquisition because we did not wish to go through the long and tedious patch of construction permit application processing.

We would like Caltrans to adopt a modification of the approved and certified realignment route with less impact on these homes by realigning less than 475 feet inland of existing highway. This realignment would give the new highway a life of 100 years according to the original expected 100-year shoreline determination by Caltrans. Moving the highway inland by 475 feet based on the revised expected 100-year shoreline is arbitrary, unrealistic, and has always been a goal rather than a requirement.

We are hoping that Caltrans would modify the adopted highway 1 realignment route and reduce the physical, mental, and financial stress we have gone through and will go through if the adopted route is not modified. Caltrans has always had a plethora of viable alternatives for this realignment. The nation is going through very tough

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economic times, and this is hardly the right time for Caltrans to place such an unfair burden on property owners causing devastating economic losses if the adopted route is not slightly modified to avoid the destruction of a brand new home.

Javad N. Sani

Parvin Nahvi

08/25/2010

The following is a list of Caltrans officials that have contacted us since 2001:

Richard Krumholz
District Director

Paul P. Martinez
Project Manager

Amy Donatello, P.E.
Project Manager

Walter F. Ross
Right of Way Agent
Appraisal Branch

John T. Magorian
Right of Way Agent
Acquisition Branch

John W. Maddux, Chief
San Luis Obispo Field Office
Right of Way

Vicci Messer
Right of Way Agent

Michael Sandecki
Acting Branch Chief
Central Coast Environmental Analysis

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