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December 11, 2013

VIA E-MAIL & FACSIMILE (916) 653-2134

Executive Director
California Transportation Commission
P.O. Box 942873, Mail Station 52
Sacramento, CA 94273-0001

Re: Olivier, Eckrote, Grange, Lee, Damron, Bird
Objection to Resolutions of Necessity For
Acquisition Parcels 22508-1, 2; 22504-1, 2;
22502-1, 2; 22498-1, 2; 22482-1, 2; 22480-1,2

Dear Commissioners:

Our clients object to the adoption of the proposed resolution of necessity. Unless specifically indicated otherwise, these objections apply to each of our clients and the aforementioned proposed takes.

The offer is not valid. It relies on an appraisal that fails to account for the fact that the Glen Helen Specific Plan zoning is project-impacted. As confirmed by staff at the design review hearings, SANBAG has been in communication with the County of San Bernardino about the I-15/I-215 Junction project since at least 2005. The project-impacted zoning likewise reflects that it is in anticipation of the project. The offer and appraisal on which it is based fundamentally ignores the overarching and depressing effect of this project not simply on specific sales within the Glen Helen Specific Plan but on the zoning imposed on the area.

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The project as designed does not cause the least private injury. The report to commission represents that Caltrans 25-year flood event meets or exceeds County of San Bernardino standards. That was not the position taken at the design review meetings. To the contrary, at the review meetings it was claimed that Caltrans did not need to meet County standards. As we pointed out at the second review meeting, County of San Bernardino development standards for drainage affecting private property is for a 100-year storm event, a fact of which Caltrans and SANBAG are eminently aware. The project increases the impervious area of the freeway adjacent to the subject properties. While increasing runoff, the project fails to meet the same standards that are used and required to protect private property to which the project abuts. The project should be designed to standards applied to protect the adjacent private property, i.e., from a 100-year event, to accomplish the least private injury and greatest public good.

In addition, as it relates to the Eckrote parcel, Caltrans proposes a detention basin. Again, it is deficient because it is inadequately designed to a 25-year event. In the event the basin gets filled with debris, there is no mechanism or monitoring system to identify overflow causing our clients' property to be subject to flooding in such event.

Further, providing retaining walls versus 4:1 slopes is within Caltrans standards. Rather than taking less land, Caltrans is taking more to implement slopes. Numerous projects throughout southern California include retaining walls. The same good, i.e., the freeway expansion, with less injury can be accomplished by provided retaining walls versus earthen slopes.

Caltrans has pre-committed the Commission to acquire the right-of-way. Prior to this hearing, the right of way was set. Caltrans' report to the Commission makes a point of highlighting that the right of way was set on April 11, 2013. As has been repeatedly referenced in the Caltrans report, this is a design-build contract. As a result, Caltrans/SANBAG have already contractually pre-committed to deliver the right-of-way to the design-builder well before this hearing undermining any discretion of this Commission to reject the proposed takings. As a result adoption of the resolution would constitute an abuse of discretion.

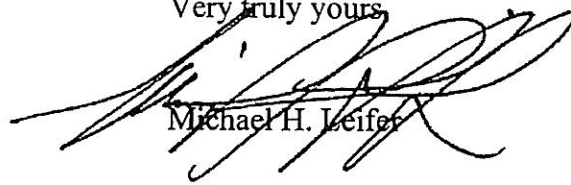
We request that the hearing on the resolutions be postponed so that our concerns may be addressed prior to authorization of any condemnation action.

Please include this letter as part of the record on this matter.

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We incorporate by reference the zoning documents, project documents, offer/appraisal, and correspondence.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael H. Leifer", is written over the typed name. The signature is stylized and somewhat cursive.

Michael H. Leifer

MHL:sh

cc: Mark Zgombic (via email)
Clients