

Tab 2

LAW OFFICE OF SCOTT J. DEXTER

STEWART PLAZA
400 NORTH MOUNTAIN AVENUE, SUITE 210
UPLAND, CALIFORNIA 91786

TELEPHONE (909) 931-5920
FACSIMILE (909) 931-5940

Via Facsimile
January 29, 2014

Mr. James C. Ghielmetti
Chair, California Transportation Commission
1120 N Street, Room 2221 (MS-52)
Sacramento, California 95814

Your reference: 08-SBd-15-PM R13.88
Parcel 22537-1,2
Timothy A. Sigman, Sr., trustee, etc., et al.

Dear Chair Ghielmetti:

The undersigned represents Timothy A. Sigman, Sr. and Carol J. Sigman, Co-Trustees of the Tim and Carol Sigman Family Trust, dated June 28, 2001 (the "Sigmans") concerning the matters set forth herein.

The Sigmans respectfully request that the Commission today continue to its next regular meeting consideration of Caltrans' request for approval of a resolution of necessity concerning the Sigmans' real property referenced above on the basis that the project was not planned or located in the manner that will be most compatible with the greatest public good and the least private injury as required in California Code of Civil Procedure, Section 1240.030(c) (the "Code").

At the Commission's meeting held on December 11, 2013, the Commission continued consideration of the request for approval to allow time for Caltrans to submit to the Sigmans a draft maintenance agreement which would include resolution of various design, use, operation, maintenance and standard of care issues.

A draft memorandum of understanding was submitted to the Sigmans on or about

Mr. James C. Ghielmetti
January 29, 2014
Page 2

December 20, 2013. A copy of the draft is attached to this letter for your review. The draft was very limited in scope as is shown in the draft.

After meeting with Caltrans representatives and the Sigmans on Saturday, January 18, 2014, Caltrans submitted a more complete draft on or about January 21, 2014. The Sigmans responded to that draft on January 28, 2014, and have received comments back from Caltrans also on January 28, 2014, which the Sigmans are, as of the time of this letter, in the process of reviewing.

Although progress has been made with Caltrans, it is the Sigmans' position that the continuance today is necessary because Caltrans has not shown that all requirements of the Code have been met and to encourage Caltrans to attempt to resolve these non-monetary design issues. Resolution of the Sigmans' design issues will have the effect of reducing the anticipated injury to the Sigmans to the "least private injury" as required by the Code.

Thank you for your consideration of the Sigmans' request for continuance.

Very Truly Yours,

LAW OFFICE OF SCOTT J. DEXTER



Scott J. Dexter

SJD/sd
Enclosure

cc: Timothy A. Sigman, Sr. and Carol J. Sigman, Co-Trustees of the Tim and Carol Sigman Family Trust, dated June 28, 2001

DEVORE PROJECT - DRAINAGE/DEBRIS BASIN MAINTENANCE

MEMORANDUM OF UNDERSTANDING

WHEREAS:

Caltrans is currently engaged in a project to reconfigure the junction of the I-15 / I-215 (Devore Project), located at the base of Cajon Pass in the San Bernardino Mountains. The purpose of the Devore Project is to reduce congestion, reduce accidents, and improve freeway operation. The project limits on I-15 are from 2.3 miles south to 2.0 miles north or the I-15/I-215 interchange and on I-215 from 1 mile south to the I-15/215 interchange. Timothy A. Sigman, Sr. and Carol J. Sigman, as Co-Trustees of the Tim and Carol Sigman Family Trust, dated June 28, 2001 are owners of real property located at 1479 Nevin Road in the County of San Bernardino, Assessor Parcel Number 0349-143-34 (Sigman Property). A portion of the Sigman Property is needed as a result of the Devore Project. The project requirements consist of a 43,487 SF drainage easement located in the southeastern portion of the Sigman Property, designated as Caltrans Parcel 22537-1 (Subject Property). (See, for demonstrative reference, Exhibit A).

The Subject Property is specifically needed to construct a drainage/debris basin at the end of an existing drainage channel/ravine before the water enters an existing drainage pipe that extends under the freeway interchange. This drainage channel/ravine is subjected to debris flows consisting of large rock, vegetation and sediment during significant rain events. Currently this channel is not accessible to Caltrans' maintenance staff to remove debris.

The proposed drainage/debris basin will provide a location to capture and contain debris before it enters and potentially damages and/or plugs the pipe. Caltrans' Maintenance access to the debris basin will now, as a result of the Devore Project, be provided via Marion Avenue, located on the east side of the basin (opposite side of the ravine from the Sigman Property).

The debris capacity requirement for the proposed drainage/debris basin is for a ten year design storm debris yield (10 Year Debris Yield).

NOW THEREFORE IT IS HEREBY AGREED BY THE UNDERSIGNED PARTIES AS FOLLOWS:

Caltrans will be responsible for maintaining the drainage/debris basin within Caltrans' right of way and the acquired drainage easement, Subject Property.

The drainage/debris basin will be visually inspected by Caltrans' District 8 Maintenance Supervisors for the location on both an annual basis and after each major storm.

Caltrans will conduct its maintenance activities in accord with any environmental and storm water permits, and any other permits.

Caltrans maintenance activities will ensure the debris capacity requirement of a 10 Year Debris Yield is maintained. Maintenance activities will additionally ensure there is no blockage of the debris cage at the entrance to the existing culvert.

Caltrans will seed vegetation of plant material along the slopes of the drainage/debris basin to prevent erosion.

Vegetation along the slopes will be trimmed and pruned by Caltrans as needed to control extraneous growth and to prevent overgrowth into the Sigman Property and any other private properties. All trimmings/cuttings generated during Caltrans maintenance activities will be removed from the area upon completion of work.

The fencing in the drainage/debris basin area will be kept in a safe, locked and reasonably attractive condition.

The drainage/debris basin, upon completion of construction, will be placed in the statewide inventory of drainage facilities so that the District Culvert Inspection Program coordinated by Caltrans Headquarters will be initiated. The District Culvert Inspection Program is intended to implement any corrective maintenance strategies which are reviewed proactively with the goal of preventing culvert/drainage failures.

Nothing in the provisions of this MOU is intended to create duties or obligations to or rights in third parties, not parties to this MOU, or affect the legal liability of either party to this MOU by imposing any standard of care respecting the design, construction and maintenance of these Caltrans highway improvements or facilities different from the standard of care imposed by law.

BASEM MUALLEM
District Director, District 8

Dated: _____

TIMOTHY A. SIGMAN, SR.

Dated: _____

CAROL J. SIGMAN

Dated: _____

EXHIBIT "A"

An EASEMENT for drainage purposes and incidents thereto, upon, over and across those portions of Lots 20 and 21, Block 10, unincorporated area of San Bernardino County, State of California, per map "B" Devore Tract recorded in Book 20 of Maps, Page 57, in the Office of the County Recorder of said County, as described in a Quitclaim Deed recorded December, 9, 2008 as Document No. 2008-0544557, Official Records of said county, lying southerly of the following described line:

BEGINNING at a point on the centerline of Marion Avenue as shown on Parcel Map 4619 in Parcel Map Book 43, page 23, records of said county, said point being distant North $10^{\circ}45'20''$ East, 161.10 feet from a California Division of Highways brass disk in a well stamped "CL. MARION AVE" as shown on said Parcel Map; thence North $49^{\circ}17'29''$ West, 314.48 feet; thence North $59^{\circ}15'35''$ West, 55.23 feet; thence South $33^{\circ}20'09''$ West, 153.59 feet; thence South $39^{\circ}01'36''$ West, 113.42 feet to a point on the northerly right of way of Interstate 15 as shown on Right of Way Map No. 902581, filed at the Department of Transportation, District 8 Office, last said point being distant North $34^{\circ}49'52''$ West, 200.08 feet from Engineers Sta. 874+75, 185 feet right of the layout line of the North-West Connector as shown on said Right of Way Map.

Containing 43,487 square feet, more or less.

The bearings and distances used in the above description are based on the California Coordinate System of 1983, Zone 5. Divide distances shown by 0.9998700 to obtain ground level distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: _____

Professional Land Surveyor

Date: _____

9/12/2013



LAW OFFICE OF SCOTT J. DEXTER
400 NORTH MOUNTAIN AVENUE, SUITE 210
UPLAND, CALIFORNIA 91786
Telephone: (909)931-5920
Facsimile: (909)931-5940

FACSIMILE TRANSMISSION

TO: Stephen Maller, Deputy Director for Program Delivery DATE: January 29, 2014
California Transportation Commission TIME: 11:50 A.M.
1120 N Street, Room 2221 (MS-52)
Sacramento, California 95814
Fax No.(916)653-2134

FROM: Scott J. Dexter
LAW OFFICE OF SCOTT J. DEXTER
400 North Mountain Avenue, Suite 210
Upland, California 91786

- Original to follow via regular mail.
 Original will not follow via regular mail.

MESSAGE: Further to our telephone conference today, enclosed please find my letter dated January 29, 2014, to the Chair of the California Transportation Commission. Please be so kind as to accept these documents for filing today on behalf of the California Transportation Commission and distribution to the Commission members. Thank you.

NUMBER OF PAGES SENT INCLUDING THIS COVER SHEET: 6

THIS COMMUNICATION IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY VIA TELEPHONE.