

Albion Bridge Stewards

A working group of the Albion Community Advisory Board

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By Electronic Mail and Facsimile
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May 11, 2020

Chairman Van Konynenburg and Members
California Transportation Commission
Attn.: Mr. Douglas Remedios
Staff Services Manager
1120 N Street, MS-52
Sacramento, CA 95814

RE: CTC MEETING MAY 13, 2020, TAB 40, ITEM REF. 2.4b, RESOLUTION OF
NECESSITY C-21868 (NAVARRO POINT PRESERVE, MENDOCINO COUNTY)

Dear Mr. Chairman and Commissioners:

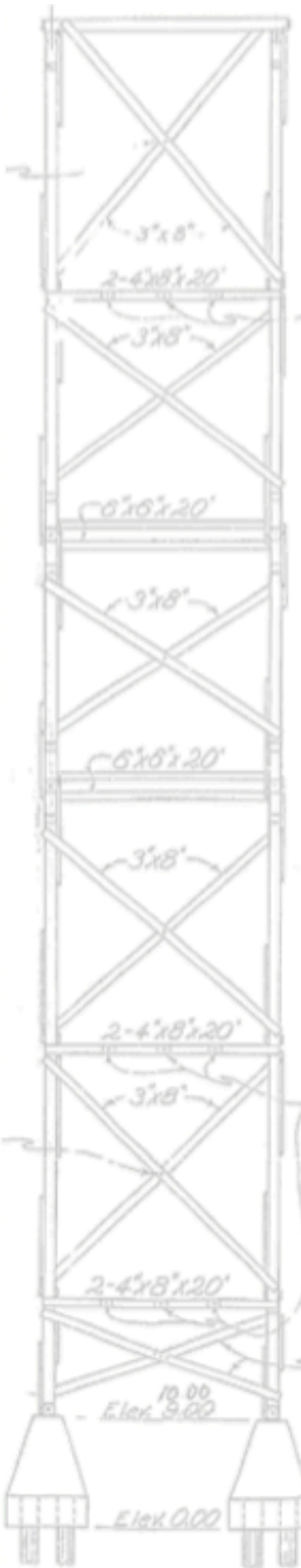
The Albion Bridge Stewards are a voluntary community association of Albion residents and supporters in Mendocino County, California, and North America, organized to protect and preserve the state and federally listed historic Albion River Bridge on Highway 1, the nearby Salmon Creek Bridge, and our fragile coastal environment.

We submit this letter in opposition to CTC Resolution of Necessity C-21868 (the Resolution) pursuant to Gov't Code section 11125.7(a). The California Transportation Commission (CTC) is a "state body" (Gov't Code section 11121) that, pursuant to section 11125.7(a), "shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item." The provision in Code of Civil Procedure section 1245.235, regarding required notice to the owner of property that Caltrans wishes to take by eminent domain, does not – and cannot – serve as a limitation on the public's ability to participate in this hearing pursuant to the State Open Meeting Law.

1. The Resolution is inconsistently described and erroneously agendized, and therefore not properly before the CTC for action.

(a) CTC Tab 40, Item 2.4b, at page 2/13, identifies the scope of the Resolution to apply to seven parcels for eminent domain takings purposes: "01-Men-1-PM 41.96 - Parcel 12972-1, 2, 3, 4, 5, 6, 7 - EA 0C5509." However, inconsistent therewith, the text of the Resolution (<https://catc.ca.gov/-/media/ctc-media/>

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[documents/ctc-meetings/2020/2020-05/040-2-4b.pdf](#)), at pages 14-21/199) identifies (describes) six, rather than seven parcels. For lack of accurate and complete notice, and associated lack of clarity (e.g., the Resolution is unsupported by any map of the parcels) as to which Navarro Point Preserve (the Preserve) areas Caltrans would finally propose to take by eminent domain, the Resolution is not properly before the CTC for action.

(b) CTC Tab 40, Item 2.4b, at page 2/13, presents an inaccurate and incomplete summary description of Caltrans' currently proposed project on the Preserve, which does not consist of the mere installation of a metal beam guardrail, drainage, and construction easements related to Highway 1, but centrally involves substantial cut-and-fill grading to expand the road prism in this geologically fragile and unstable area, substantial alterations of the area's surface and subsurface hydrology, and relocation and straightening of the center line of the proposed widened highway travel lanes. Notably, Caltrans itself previously identified a less environmentally damaging alternative, which would avoid essentially Caltrans' proposed taking of property by eminent domain (as would other project alternatives) – but then purported to altogether exempt the most damaging alternative from the required CEQA and NEPA environmental review. Moreover, Caltrans' project description is far from complete, as Caltrans itself has acknowledged and commenters on its failed application to the County of Mendocino have noted with specificity, and thus does not meet the most basic threshold for a proceeding to take property by eminent domain.

(c) CTC Tab 40, Item 2.4b, at page 2/13, also substantively misrepresents the location of the proposed eminent domain taking of property in the Preserve, pursuant to the Resolution, to extend between 1.5 miles north of the Highway 1 junction with Highway 128 and 0.01 mile (52.8 feet) south of the Highway 1 junction with Navarro Ridge Road. As Caltrans' own (preliminary) project plans and Post Mile Services data show, Caltrans' proposed eminent domain taking of Preserve property extends, on the north, to near PM 42.27, some 650 feet from the Highway 1-Navarro Ridge Road intersection at PM 42.393.

2. The Resolution is inconsistent with the purposes for which the Navarro Point Preserve was established. The Caltrans-proposed eminent domain parcels are located in the Preserve, the real property of which was acquired with State funding by and through the Mendocino Land Trust for the preservation of environmentally sensitive habitats, protection of the highly scenic values of this gateway to coastal Mendocino north of the Navarro River, and for low intensity pedestrian public access. The Preserve includes wetlands, habitat for listed floral and faunal species, low intensity walking paths, a small gravel parking lot, a broad expanse of quiet, highly scenic coastal marine terrace, and fragile tall ocean bluffs. Regrettably and without the requisite coastal permits or any valid property interest, Caltrans has variously encroached on

the Preserve, including, but not limited to, through placement of earthen and vegetative fill, discharge of polluted water from Highway 1, dispersal of invasive non-native plants, erosion of native soils by concentrated water discharge, disturbance of native soils by intrusion of imported earthen and other materials, alteration of marine terrace wetlands through redirection of natural groundwater and overland flows, and increased noise generation associated with heightened posted traffic speed limits.

3. The Caltrans proposal to take the subject Navarro Point Preserve real property for highway purposes is not in the public interest. The public interest in the Preserve consists of the protection of its state coastal program-designated and federal coastal program-approved conservation as environmentally sensitive habitat and highly scenic area, with low intensity pedestrian coastal access passive recreation served by a small gravel parking and viewing area. Mass grading to expand the Highway 1 road prism, increased concentrated discharge of polluted water, and erosion and fill of native soils (including, but not limited to jurisdictional wetlands) do not facilitate (or complement) the public interest in the Preserve, especially (as further discussed below) since less environmentally damaging project alternatives exist to address the behavior of negligent drivers on low volume traffic along Highway 1 in this part of rural coastal Mendocino County.

4. The Caltrans proposal to take the subject Navarro Point Preserve real property for highway purposes is not necessary. The base year traffic volume on Highway 1 in the project area is 3,100 (three thousand one hundred) ADT's, which Caltrans forecasts to increase by 250 ADTs in 2023 and by an addition 250, for a total of 3,600 ADTs by 2033. Feasible alternatives exist to the preliminary Caltrans "safety" project for this low volume rural two-lane road segment that do not require the proposed eminent domain taking of Preserve property, including, but not limited to, resurfacing the pavement with high traction material at appropriate superelevations, installing reflective markers along the existing travel lane shoulders, reducing and enforcing maximum posted speed limits to comport with extant road safety during variable atmospheric conditions, and, only if shown to be needed based on analysis of all relevant site-specific traffic data, installation of visually attractive guard rails within the State's lawfully existing (rather than erroneously claimed) right-of-way. Caltrans compliance with the alternatives analysis requirements of CEQA, NEPA, and the certified/approved Mendocino County LCP constitutes the necessary additional predicate for any demonstration of site-specific "need" for any project along the west-facing slope of Navarro Ridge.

5. The proposed Caltrans project is not planned and not located in a manner that will be most compatible with the greatest public good and the least private injury. Any fair utilitarian analysis of the proposed Caltrans project pursuant to CEQA, NEPA, and the County LCP will

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likely establish, based on the substantial evidence already in the record regarding Caltrans' failed December, 2019 project coastal development permit application to Mendocino County, that the proposed eminent domain taking of Preserve property is incompatible with the applicable requirements for avoidance (or minimization) of significant adverse effects of the project on the environment, especially where, as here, the safety of the motoring public can be enhanced through practical measures that do not require any such takings.

6. The Navarro Point Preserve property is not necessary for the proposed project. Caltrans has presented no analysis whatsoever to demonstrate, in comparison to the identified feasible alternatives, that the proposed eminent domain taking of Preserve property is uniquely needed to protect either this segment of Highway 1 or negligent motorists.

7. Caltrans' proposal to take the subject Navarro Point Preserve real property for highway purposes is not for a compatible use. Caltrans' proposed purpose in taking Preserve property by eminent domain is for LCP-proscribed, individually and cumulatively significant, adverse alteration (destruction, material disturbance) of the Navarro Ridge/marine terrace natural landform, excavation and fill of wetlands and other environmentally sensitive habitat, subsurface and surface hydromodifications, public pedestrian access to and along the Preserve, and public quiet enjoyment of the protected highly scenic quality of the Preserve, as discussed in part (3), above. Caltrans' proposed substantial, highly visible, and intrusive expansion of the highway road prism into the Preserve and the geospatially direct and cumulative downslope significant adverse effects from that expansion are incompatible with the purposes and uses for which the Preserve was established.

Conclusion and Request. For the above-stated reasons, Resolution C-21868 (a) is not properly before the California Transportation Commission for action at its May 13, 2020 meeting, and (b) even if it were properly before the Commission, Caltrans has failed to demonstrate that taking of Navarro Point Preserve property for state highway purposes is necessary pursuant to Streets and Highways Code section 102(a).

Further, Resolution C-21868 is inconsistent with Code of Civil Procedure section 1250.510 because the proposed taking by eminent domain of Navarro Point Preserve property will unreasonably interfere with, and impair the continuance of, the protected environmentally sensitive, highly scenic, and public access uses in the impacted areas of the Preserve. These individually and cumulatively significant adverse project effects will extend (e.g., by redirected drainage, traffic noise-impacted Preserve paths, adversely affected floral and faunal habitat, including for listed species) both within the Preserve property Caltrans proposes to take, and, in

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various material parts, downslope on the Navarro Terrace and the ocean bluffs within the Preserve.

The Albion Bridge Stewards therefore respectfully request (1) CTC staff to remove the Resolution from the Commission's May 13, 2020 agenda, or (2) if CTC staff declines to do so, for the California Transportation Commission to disapprove (reject) Resolution C-21868, for the reasons of fact and law set forth herein.

Thank you for your consideration.

For the Albion Bridge Stewards:
(By authorized electronic signatures)


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