

REPLY BY DALL & ASSOCIATES, CONSULTANT TO TRUSTEE BEVERLY ANN ENGELHARDT OF THE FRANKLIN A. ENGELHARDT AND BEVERLY ANN ENGELHARDT TRUST, TO POWER POINT PRESENTATION SLIDES 1-16 BY ASSISTANT CHIEF ENGINEER MIKE WHITESIDE (CTC MEETING OF OCTOBER 22, 2020, TAB 63)

1. Introduction. This memorandum analyzes the power point presentation by Mike Whiteside, Assistant Chief Engineer, titled “Franklin A. Engelhardt and Beverly Ann Engelhardt Living Trust (Dall and Associates)”, for presentation to the California Transportation Commission (Commission) in the matter of the California Department of Transportation (Caltrans) request to take Trust property by eminent domain.¹ The Caltrans electronic file “Engelhardt 082620 mw.pptx” contains the presentation, which consists of 16 slides: a title sheet, location map, project location map and text, two “project impacts” graphics, ten graphics and text “related to the findings of the Commission”, and a graphic that summarizes the Caltrans request.

2. Generally. As further discussed below, the presentation by the witness is (a) inaccurate, (b) speculative, (c) unsupported by evidence, reference to evidence, and/or analysis of evidence, (d) and demonstrably contrary to documents available in the public record, provided by Caltrans to this firm and our client, and/or in the record of the District Condemnation Evaluation Meeting (DCEM), Condemnation Review Panel Meeting (CRPM), and the Commission’s own proceedings in the matter of RON C-21939.

2.1. We respectfully request an opportunity at the Commission hearing to ask the witness questions about his presentation.

3. Slide 1, if intended to comprise evidence in the matter of RON C-21939, is incomplete and inaccurate in that it omits (a) the full name of the owner of the subject real property, (b) the identification of the property addressed by RON C-21939, including but not limited to its location by address(es), APN(s), and finite post mile(s)), -(c) a Commission case number that would specifically identify the Resolution of Necessity that the witness and power point presentation address, (d) the date of the Commission hearing at which the witness is testifying testify, and (e) the client or entity on behalf of which he will present the testimony.

3.1. The witness offers testimony to accompany Slide 1 that (a) generally locates the a portion of the Project by State Route (SR) 1 Post Miles and vague geographic references, but (b) provides no reference to the actual location or other identifying addresses, Assessor’s Parcel Number, or even Post Mile location of Engelhardt Living Trust (Trust) property that is proposed for taking by eminent domain; and (c) misrepresents that the unidentified Trust property constitutes the “last parcel needed for

¹ This memorandum incorporates by reference all of our Client’s written and oral objections, made at and in connection with the Caltrans District Condemnation Evaluation Meeting (DCEM), the continued DCEM, and the Caltrans Condemnation Review Panel Meeting (CRPM) to the Caltrans/District 1-proposed taking of Trust property in association with Caltrans District 1 project 0C550 (Project).

the (P)roject”, in direct contradiction to the subsequent disclosure (though also without documentary evidence) that only two of eight “required” parcels have been acquired, and the fact (though not disclosed) that the others are in court. As further discussed below, neither the witness nor Caltrans (in this power point or elsewhere in the record) presents any evidence, analysis of evidence, or reference to either (hereinafter, evidence) that any Project “need” actually exists for any Caltrans-proposed taking of Trust property, as required by the Eminent Domain Law (CCP §1230.010 *et seq.*).

3.2. The failure of the witness’s presentation “Notes” (and other documents related to this proceeding for the CTC’s adoption of a RON) to identify the specific Trust parcel, or portion thereof, that Caltrans wishes to acquire is significant because Caltrans has now twice (most recently on the morning of Sunday, October 18, 2020) served our client and several other neighbors in two separate court actions to condemn neighboring properties, with the intention thereby also extinguish the Trust’s legal interests in those two separate parcels. The takings of those Trust legal interests are *in addition to* the taking of the parcel for which a RON is now before the CTC, and about which Caltrans has given the Trust *no* prior notice, performed *no* prior appraisal, and about which the Commission also has given *no* notice to our Client of any requisite antecedent resolution of necessity prior to the early weekend morning arrivals of the State’s process servers. (The summonses themselves do not identify the Trust’s affected legal interest, nor does the only document of record referenced in the court filing provide further enlightenment.)

4. Slide 2 contains a “Project Vicinity Map” that again (a) fails to accurately locate the Project in relation to shown Highways 1 and 128, and (b) places the Project in a location that is inconsistent with Caltrans’ own Project site plan.

4.1. The witness offers testimony to accompany Slide 2 that locates, by its grammar, the Project where Highway 1 “traverses the Mendocino coast” to bring motorized and non-motorized travel to Fort Bragg, “a popular choice”. The witness therefore corroborates our Client’s objection that (a) the whole project extends beyond PM 41.8 - 42.3, (b) Caltrans has piecemealed the Project inconsistent with CEQA/NEPA, (c) for that reason (in addition to others she has identified on the DCEM and CRPM record) the Caltrans exemption/exclusion of the Project from environmental review is invalid *ab initio*, and (d) Caltrans therefore has not prepared and presented the requisite environmental document for Commission authorization of the Caltrans-proposed taking of Trust property by eminent domain.

5. Slide 3 contains a “not-to-scale” “Project Location” map that (a) erroneously depicts the Project’s location (shown with a blue overlay), within southerly, westerly, northerly, and easterly boundaries (shown by a black line), (b) locates the Project without reference to post miles, (c) fails to provide the Trust parcel APN, address, Caltrans parcel number, or other means of identification, (d) incorrectly depicts the westerly, northerly, easterly, and southerly boundaries of the “Engelhardt Parcel” as shown by green overlay, (e) altogether omits depiction of the area on Trust property that Caltrans wishes to take by eminent domain and develop in association with the Project, (f)

distorts and misrepresents the geospatial location of the Trust property shown in green in relation to other identified map features, and (g) altogether omits relevant Project location/orientation information, including, but not limited to, the topography of the west-facing Navarro Ridge slope and Navarro Point Preserve, the proximate Pacific Ocean, and (h) the controlling State-certified Mendocino County (County) local coastal program (LCP) land use and zoning designations, including as incorporated in the federally approved Californian Coastal Management Program (CCMP).

Text on Slide 3 in addition represents the incompletely identified project location as an unspecified "Safety Project", to "reduce frequency and severity of collisions", without (i) evidence or analysis of evidence of any collision on or westerly of Trust property that Caltrans wishes to take by eminent domain, either in the presentation *or* the record, (j) evidence or analysis of any nexus between any collisions on the upcoast or downcoast highway segments within the shown "Project Location" and Trust property that Caltrans wishes to take by eminent domain, either in the presentation *or* the record, (k) disclosure that the Caltrans proposes no "safety project" guard rails or travel lane edge line rumble strips in the Project segment on and adjacent to any Trust property, despite continued reference to them throughout the appraisal package and even in documents prepared by CRC staff for this proceeding, and (l) delineation of the LCP-designated, mapped, and adopted highly scenic area on the west-facing Navarro Ridge slope and Navarro Point Preserve, where the LCP regulates and generally prohibits the proposed substantial grading, excavation, and fill of their respective natural landforms.

5.1. The witness offers testimony to accompany Slide 3 that (a) erroneously states it to show the proposed Project in blue, inconsistent with all Caltrans 0C550 Project plans. With specific relevance to the Project components for which Caltrans requests to take Trust property pursuant to RON C-21939, the slide fails to show (b) the true boundaries of Trust property in the Project area, (c) any boundaries of the area that Caltrans proposes to take if the Commission were to approve RON C-21939, (d) the location boundaries of proposed soil and rock excavation/grading on that area, (e) the location of proposed fill/grading with those materials within the Project area, (f) the location of proposed fill/grading with those materials at any other Caltrans project (including, but not limited to, the generally impermissible adjacent "Navarro Drainage" fill project), and (g) the off-site location of proposed fill/grading by a Project contractor with Caltrans-gifted or in-lieu of payment excess excavated material from the Project.

5.2. The witness offers additional testimony to accompany Slide 3 that (a) he has been to the "site" of the highway "segment" shown in the slide, and states it to have a 17x higher fatal collision rate than the statewide average, without disclosing (a) the basis for or relevance of the calculation to the segment, or whether any fatal collision that has occurred took place (b) on Trust property, (b) on Trust property that Caltrans proposes to take pursuant to RON C-21939, (c) on the contiguous extant highway road prism segment that is located to seaward (generally westerly) between the westerly projections of the northerly and southerly property lines of Trust parcel APN 123-310-016 (hereinafter, the extant highway on or contiguous to, or "in front of", the Trust property), (d) on the Navarro Point Preserve to seaward (generally westerly)

between those projecting lines, or (e) on the upcoast or downcoast highway from the Trust property where a causal connection (nexus) between it and the fatal collision has been proven.

5.3. Although specifically requested to do so at the DCEMs and CRPM, Caltrans has produced no evidence - and none exists - that the area that Caltrans requests to take by eminent domain (a) has been the site of any fatal collision, (b) has been implicated in any fatal collision on the extant highway on or contiguous to the Trust property, (c) has been implicated in any fatal collision elsewhere on the extant highway between PM 41.8 and 42.3, upcoast or downcoast of the Trust property, and/or (d) is required to correct any deficiencies on other stretches of the highway in the vicinity of the Trust parcel.

5.4. Even if a fatal collision were to occur in the context of the factors in part 5.2, the Caltrans-proposed taking of Trust property would remain unnecessary because (a) the right of way to which Caltrans may legitimately lay claim to *easement* by prescription (though *not* the fee ownership it mistakenly avers) in the subject area can - by LCP-consistent planning and design - substantially accommodate the Project-proposed 12-foot wide travel lanes, 4-foot wide shoulders, and associated measures without taking Trust property (or Navarro Point Preserve property), as our Client has recommended and Caltrans District 1 itself has acknowledged as feasible, and (b) Caltrans has other available and permitted sources of fill material, to the extent that our Client's alternative recommendation would require it, for implementation of that feasible, LCP-consistent Project option.

5.5. The testimony of the witness states that he has "been to the site" of the Project, without disclosing whether he has been to the extant highway in the area on or contiguous to the Trust property ("the area"), including the duration of any such site visit, or whether he personally made any observation, measurement, or analysis of (a) any fatal or road runoff collision within the area, (b) the extant shoulder adjacent to the NB travel lane within the area, (c) the frequency with which bicyclists transited the area, or (d) the frequency with which hikers transited the area, and whether he personally observed any "errant drivers" (e) that transited the area, or (f) that, while transiting the area, left the marked NB travel lane and with their vehicle(s) moved onto the extant paved shoulder, dirt shoulder, or easterly beyond it in the area.

5.6. The text of the witness' testimony states that the Project "will add 4' shoulders providing a clear recovery zone for errant drivers but also space for hikers and bicyclists", without evidence, analysis of evidence, or reference to evidence or analysis of (a) the number of errant drivers who, while transiting the area, have operated their vehicle outside the extant respective NB (or SB) travel lane(s) or shoulders in it, (b) the ambient conditions during such events, (c) the performance data for 4-foot wide shoulders on comparable unlighted two-lane rural roads, under comparable climatic conditions, where a 4-foot wide and variously to 2- or 3-feet deep open drainage ditch, without intervening guard rails, adjoins the shoulder, and/or (d) the recommended off-highway location of the California Coastal Trail along the existing sustainable, and suitably improved and maintained, Navarro Point Preserve hiking trails.

5.7. The text of the witness' testimony identifies the Navarro Point Preserve as a "wildlife [*sic*] preserve" "enjoyed by local residents as well as tourists", but fails to disclose (a) the Preserve's essential connectivity to inland wildlife habitats on Navarro Ridge and beyond by the wildlife corridor on Trust property (and in the Project area as a whole), (b) the failure of Caltrans to analyze the Project impacts on the wildlife corridor (environmentally sensitive habitat area, ESHA) in its self-exemption from CEQA/NEPA environmental review, (c) the impacts to ESHA and public access from the Project's proposal to install fencing to prevent access to the Preserve at its entrance during the proposed up to two-year construction period, and (d) the *prima facie* inconsistency of the Project components in the preserve and corridor with the controlling standards of LCP Chapter 3 (Habitats and Natural Resources), the LCP implementation program (Coastal Zoning Ordinance [CZO] Chapter 20.496; § 20.532.060) - that prohibit the proposed Project development in the wildlife corridor and the Navarro Point Preserve ESHA - and the federally approved California Coastal Management Program (CCMP), that requires Project federal consistency review antecedent to Commission action on Resolution of Necessity C-21929.

6. Slide 4 contains a misnamed and - partly over-written (not legible) caricature of a of a cross-section, titled "Projects Impacts". The graphic, devoid of a constant scale and identification of section topographical elevations, mimics parts of Caltrans "typical" cross-section X-2 for Project stations 5+15 to 7+00 (last revised on February 26, 2020), but as a "typical" section presents neither a valid cross-section of (a) any specific perpendicular part (slice) of Trust property that Caltrans proposes to take by eminent domain in association with a specific perpendicular part (slice) of the Project, nor (b) any specifically identified proposed Project impacts to the Trust property.

6.1. The graphic lacks an identified source, preparer (name, license and number, or wet stamp), date of preparation, location (APN, address, Post Mile, or Caltrans parcel reference) or even reference to Project 0C550.

6.2. The graphic depicts the Project's finished excavation slope - as shown to begin immediately to the right of the extant drainage ditch off the right edge of the dashed line polygon (identified by the witness as the existing roadway) - to extend upslope beyond the marked identified edge of the right of way that Caltrans proposes to take on Trust property by eminent domain, inconsistent with the most recent Project description, Project site plans, the five Project cross sections, the takings parcel description before the Commission, and the Right of Way Acquisition Map produced by Caltrans to our Client in this matter.

6.3. The pseudo-section is incongruent in its depiction of the represented existing topography, existing road prism, and existing right-of-way dimensions as depicted on (a) the Caltrans site plan for the Project, as most recently produced to us, and (b) the five Project cross-sections (at Stations 5+79.15, 6.00+00, 6.50.00, 7+00.00, and 7+19.92) of the Project that Caltrans produced (in response to a PRAR for sections of proposed Project development on and contiguous with Trust property.

6.4. The pseudo-section highlights (by a red ellipse) a denoted 18.6' horizontal dimension that extends between an unmarked/undefined dashed vertical line and a solid vertical "R/W" line; the latter extends substantially beyond an "existing roadway section", shown by dashes. Plainly, the shown existing roadway (in section view) and the right of way in this section view are not congruent, and the highlighted "18.6' " dimension does not stand for any existing roadway dimension.

6.5. Caltrans, by the intersection of the right of way line with the represented existing excavated highway road bank slope, admits to unauthorized development on and uncompensated taking of Trust property, that Caltrans now requests the Commission to retroactively authorize it to take by eminent domain, without the prerequisite accurate parcel description, finite federally co-funded Project (and whole project) description, applicable CEQA/NEPA environmental document, appraisal, or post-development ("after-the-fact") compliance for this violation of the LCP/Coastal Act/CCMP.

6.6. The pseudo-section also highlights (by a red ellipse) a denoted 58.5' horizontal dimension that extends between an unmarked/undefined dashed vertical line and a notation "R/W", with a short vertical line below it. That horizontal dimension does not depict any dimension, or average of dimensions, for Project right of way width depicted on the five Project cross-sections or on the Project site plan, as most recently produced to us, that depicts the other shown dimensions on the section in Slide 4.

6.7. The testimony of the witness states an average "existing roadway section" of "about 19' ". Slide 4 sets forth no scale or measurement, or reference to extrinsic analysis of evidence, to support that contention, which renders it unsupported and inadmissible.

6.8. The testimony of the witness states that the existing roadway section on average has "no shoulders". While the section depicts neither the edge of the NB travel lane nor any adjacent paved or unpaved shoulder, the Project site plan that Caltrans most recently produced to us indicates both (a) an existing paved and (b) unpaved shoulder along the NB travel lane where they are located on (or, *arguendo* [as Caltrans avers], contiguous to) Trust property. (Caltrans Project 0C550 Layout Plan L-1, with cropped border information and intrinsic creation date of June 5, 2020, produced to Dall & Associates in file "0C550_L-1.pdf".)

6.9. The testimony of the witness admits, without identification, analysis, or reference to analysis, that the graphic "tak(es) away detail" from an undisclosed original document and the extant or proposed conditions in the unspecified location of the section, and thereon is incomplete.

6.10. The testimony of the witness further admits, by reference to "dashes" on the section as showing existing conditions, that they do not constitute (a) surveyed lines, but rather estimates without reference as to source, date, or methodology of

preparation, and (b) the true location of the existing roadway (including travel lanes, paved or unpaved shoulders).

6.11. The testimony of the witness in addition misrepresents, in relation to a “58.5’ “ notation (above the horizontal notation “Engelhardt Parcel”) that the “proposed” Project moves the right of way line on average “about 58’ to allow shoulders”. Plainly, the graphic does not depict any “movement” by 58.5 feet from any of its shown “R/W” lines, but rather - by delimiting arrows - (a) shows that dimension to be between an unidentified vertical dashed line (that Caltrans in the Project site plan and sections identifies as the proposed [easterly located] highway center line) and the shown (minute) “R/W” tick line above and to the left of the vertical “Engelhardt Parcel” notation at the right margin, and (b) shows the proposed “movement” of the right of way line pursuant to the Caltrans request to take Trust property, relative to the Caltrans-represented “Engelhardt Parcel”, to be 58.5 feet minus 18.6 feet, or 39.9 feet (horizontal). Caltrans has repeatedly displayed an arrogant failure to produce accurate and consistent measurements, bases for, and graphic depictions of the location of the Trust property Caltrans proposes to take by eminent domain, and here affords the Commission an additional example thereof at hearing by the witness.

6.12. The testimony of the witness erroneously states that some average 58-foot movement of the “R/W line” is to “allow shoulders”, in opposition to Caltrans’ own most recently produced Project site plan, which plainly shows that a 4.1 foot to 7.4 foot (horizontal) area exists adjacent to the extant NB travel lane shoulder on (or, *arguendo* [as Caltrans avers], contiguous to) Trust property. (Caltrans Project 0C550 Layout Plan L-1, with cropped border information and intrinsic creation date of June 5, 2020, produced to Dall & Associates in file “0C550_L-1.pdf”.) Taking of Trust property by eminent domain to accommodate a 4-foot wide shoulder adjacent to the NB travel lane is therefore unnecessary. Similarly, sufficient space exists within Caltrans’ represented existing right of way along the SB travel lane to accommodate an LCP- and CCMP-consistent 4-foot wide shoulder in the area generally westerly of Trust property, and does not require taking of Trust property for easterly relocation of the roadway (travel lanes plus shoulders) in gross, given that Caltrans has demonstrated the feasibility of such site-sensitive design in other District 1 locations.

6.13. The testimony of the witness states, with evidence that the Project “requires excavating to ensure the slopes are stable”. The record before the Commission is clear that, the recommendation of its own engineering geologist notwithstanding, Caltrans has performed no professional geotechnical investigation (including of subsurface and slope Factor of Safety conditions) of the west-facing Navarro Ridge natural landform/slope, including, but not limited to, on the Trust property that Caltrans proposes to take by eminent domain to impermissibly substantially excavate that protected highly scenic natural landform. Instead, Caltrans determined to (a) straighten the highway alignment, (b) widen the travel lanes, (c) add external shoulders, and (d) provide a primitive new, wider ditch (without guard rails or even edge line rumble or grumble strips) on and contiguous to the Trust property without (e) performing the requisite early planning, design, and property (as well as public) stakeholder coordination (constraints analysis)

to present an LCP-/CCCMP-consistent project (assuming, *arguendo*, one is necessary at all on and contiguous to the Trust property), and (f) *only then requested its geotechnical engineer's generalized (not Trust property site specific) preliminary input about maximum cut slope geometry*. The witness' testimony thus constitutes a post hoc rationalization under the pretense of mitigation, unsupported by site-specific evidence, analysis of evidence, or reference to either.

6.14. The pseudo-section also constitutes an incomplete and inaccurate depiction of all Project impacts *in relation to Trust property*, including, but not limited to, through the graphic's failure to (a) set forth a surveyed delineation of the true location of Trust property in the area shown on the section that Caltrans proposes to take by eminent domain and develop in association with the Project, (b) identify the designated, mapped, and adopted highly scenic topography of the Trust property, including but not limited to the major wildlife corridor trails and paths on it, that Caltrans proposes to take and directly/cumulatively develop, (c) depict the soil, rock, and environmentally native/naturalized vegetation of the Trust property that Caltrans proposes to take and directly/cumulatively develop, (d) map the location of groundwater exfiltration on the Trust property that Caltrans proposes to take and directly/cumulatively develop, (e) disclose the hydromodification involved with the Project-proposed superelevation of the highway on and contiguous to Trust property, both in relation to the proposed substantial excavation of the west-facing Navarro Ridge natural landform slope for excavation and use of the proposed new drainage ditch and discharge of polluted highway runoff, without requisite water quality protection measures, to Navarro Point Preserve wetland, coastal bluff, and terrestrial ESHA, (f) any site-specific geotechnical analysis that the proposed excavated slope and proposed newly developed (or redeveloped) highway road prism on and contiguous with Trust property (1) minimizes risks to life and property in areas of high geologic, flood, and fire hazard, (2) assures stability and structural integrity, (3) neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area, (4) in any way requires the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs, (g) identify how the Project minimizes energy consumption and vehicle miles traveled, and (h) protects and remains within the scope and character of existing development and designated protected highly scenic areas on Navarro Ridge and the Navarro Point Preserve in Albion.

7. Slide 5 contains significant errors in both its graphic and text. The annotated single oblique aerial photographic image is (a) undated, (b) not rectified (without identified, defined, and stable [georeferenced] points of beginning that are necessary for scalable dimensions and accurate mapping), (c) variously overwritten, and thereby in relevant parts illegible, (d) without topographic elevation contours, (e) without identification of the "Engelhardt Parcel" boundaries by post miles, metes-and-bounds, or other constant identification, and (f) unsupported by reference to extrinsic evidence. These major methodological deficiencies render the graphic incomplete, inaccurate, and inadmissible as evidence of the public interest and/or any finding, determination, or declaration by the Commission of Project necessity.

7.1. The graphic depicts, in a yellow overlay to near the shown highway center line and on the adjacent grey polygon beyond it, an “0.15 ac fee” area of the “Engelhardt Parcel”. (a) Testimony by the witness indicates that this 0.15 ac area constitutes the area that Caltrans is “seeking to acquire”, which signifies that contrary to the Caltrans misrepresentation to the Commission that the State has fee title to the *in situ* highway and claimed existing right of way, Caltrans only now seeks authorization from the Commission to take it by eminent domain. (b) In 1978, when Caltrans was specifically afforded the opportunity, at the time the parcel map was adopted, to contest the westerly boundary of the parcel along a proximate (1916 road) alignment, Caltrans informed the County that it had “no comment”. (c) The Caltrans appraisal of Trust property that it proposes to take by eminent domain is not for the shown 0.15 ac area, but rather extends considerably up the slope face. (d) The eminent takings parcel description that Caltrans prepared for, and is set forth as page 3 of, RON C-21939 is not for the shown 0.15 ac area, but rather extends considerably up the slope face. (e) The Right of Way Appraisal Map of the eminent takings parcel that Caltrans prepared for the Commission as part of the findings for determination and action on RON C-21939 is not for the shown 0.15 ac area, but rather extends considerably up the slope face. The fundamental inconsistency hereon between the graphic and accompanying testimony by the witness and what Caltrans has presented in its other written materials to the Commission is palpable, and - as further discussed *infra* - denies the Commission a settled body of findings from which to act on RON C-21939.

7.2. The graphic further depicts, in green overlay, a remainder “Engelhard Parcel” overwritten notations that appear to indicate both “2.85 ac” and “3.01 ac”. (a) Both of the overwritten notes err: the true size of this Trust property, which - as Caltrans itself previously noted on all appraisal documents and maps - is 3.06 acres, the area, dimensions, and bearings of which Caltrans lacks statutory authority to alter. (b) Reduction of the Trust parcel by the 0.15 acre takings area that Caltrans proposes would yield neither of the two residual parcel acreages that the graphic states. (c) Further, the graphic erroneously depicts the true location and dimensions of all of this Trust property’s boundaries.

7.3. The dimensions on the graphic are unsupported by (a) all official documents of record pertaining to the parcel and its chain of title dating back to 1867, (b) definition or reference to evidence of the overwritten notation, shown with white text in center-left, (c) a finite horizontal dimension, due to the overwritten numbers that purport to state it, (d) a finite vertical dimension, due to the overwritten numbers that purport to state it, (e) an accurate depiction of the location of the proposed Project easterly right of way line where it bisects Trust property, (f) an accurate depiction of the location of the existing highway travel lanes, shoulders, and road prism on and contiguous with Trust property, and (g) an accurate depiction of the location and condition of the Caltrans-proposed excavation and fill grading envelope on Trust property (or, for that matter, on the unidentified Navarro Trust Preserve in the foreground).

7.4. The testimony of the witness erroneously states a “Project Impact” Trust parcel size of “3.01 ac”, inconsistent with (a) all official documents of record pertaining to the

parcel, (b) the Caltrans appraisal package and ROW Appraisal map that submitted to the Trust the Caltrans now avers to be a “valid appraisal,” Caltrans’ own various Project 0C550 plans and descriptions, (c) Caltrans’ (variously inaccurate and incomplete) request for Commission authorization to take 0.15 acres of Trust property, and (d) Caltrans’ recent court action to take other Trust property interests of undisclosed locations, areas, and dimensions as part of the whole project.

7.5. The testimony of the witness admits the “Project Impact” to be “residential”, in opposition to the Caltrans appraisal of Trust property that disclaims any impact from the Project on the residence, essential appurtenances, or the Navarro Ridge natural landform that supports them. (a) Caltrans has produced a CRPM report to the Commission, to provide findings in support of the approval of RON C-21939, that falsely locates the Project in a “Central Business District - Visitor Commercial” zoning district that (1) does not exist - in the Mendocino County CZO, (2) does not apply to Albion, and (3) does not apply to either the Trust parcel or Trust property that Caltrans proposes to take by eminent domain. (b) Project excavation of the Navarro Ridge natural landform slope and expansion of the road prism on and contiguous to (generally easterly of, “in front of”) Trust property are specifically inconsistent with the designed highly scenic Rural Residential 5-Planned Unit Development land use and zoning district in which the relevant Project area and the Trust property that Caltrans proposes to take by eminent domain are located. (LCP Zoning Map 53; CZO §§ 20.504.015 [new development shall be subordinate to the natural setting, be resited or prohibited if it requires grading, cutting, and filling that would significantly and permanently alter or destroy the appearance of natural landforms], 20.504.020 [scale of new development in Albion shall be within the scope and character of existing development in the surrounding neighborhood, protect coastal views, visual quality shall be protected], 20.376.010 [not a principal permitted use], 20.376.015 [not a permitted conditional use], 20.428.005 [all development in unique or highly visible sites required to maximize open space preservation].² That Project inconsistency with the controlling land use plan and zoning precludes the Commission from approving RON C-21939 to authorize Caltrans to take Trust property for (or in association with) the federally co-funded Project 0C550.

7.6. The testimony of the witness about “average” horizontal and vertical “offsets” from the “current” highway right of way is in error and contrary to governing documents of record. (a) As noted above, the graphic in Slide 5 does not constitute a valid basis for any dimensional measurement, and slide contains no data that represents an analysis of offset averages. (b) The testimony references no extrinsic data or analysis of offset averages. (c) Dimensional representations also do not *ipso facto* establish buffers for potential Project direct and cumulative noise, dust, light/glare, pollutant emissions, disturbance/destruction of the Navarro Ridge slope highly scenic and environmentally

² The LCP land use plan (Coastal Element of the County General Plan) similarly requires that development in the designated highly scenic area of the Trust property - and the area that Caltrans proposes to take by eminent domain - shall be subordinate to the character of its setting, protect scenic views of scenic coastal areas, minimize natural landform alteration, and be visually compatible with the character of the surrounding area. (LCP Policy 3.5-2.)

sensitive slope, and surface/subsurface hydrological impacts on the residence, essential appurtenances, and protected and highly valuable environmental resources that together comprise the value of the Trust parcel, and thus do not identify any substantive site-specific mitigations (“offset”).

7.7. The testimony of the witness about “adding the proposed R/W line in red” to the graphic (a) is unsupported by evidence of any georeferenced location of that line, and (b) in fact depicts a “proposed R/W line” that is inconsistent with the Parcel Description and Right of Way Appraisal Map that Caltrans has presented as part of its request to the Commission to take Trust property.

7.8. The testimony of the witness that Caltrans is “seeking to acquire 0.15 ac” is inconsistent (a) with the spatial area of Trust property that Caltrans proposes to acquire in the Parcel Description and Right of Way Appraisal Map that Caltrans has presented as part of its request to the Commission to take Trust property, (b) the denoted “0.15 ac fee” area, highlighted in yellow on the graphic in Slide 5, does not depict a 0.15 acre polygon, and (c) understates and does not reflect the eastern extent of the taking as reflected in the appraisal package and ROW Appraisal Map on which the Caltrans claim of a “valid appraisal” is based.

7.9. The testimony of the witness that the graphic in Slide 5 depicts a simulation of the “completed Project” is also erroneous, in that the simulation does not depict (a) the entire proposed 0C550 project as described in the Caltrans appraisal project description produced to the Trust by understating and not reflecting the true eastern extent of the taking, (b) all 0C550 project components on Trust property which Caltrans proposes to take in the Parcel Description and Right of Way Appraisal Map that Caltrans has submitted to the Trust in the purportedly “valid” appraisal package and presented as part of its request to the Commission to take Trust property, (c) all 0C550 project components on Trust property that Caltrans proposes in Slide 4 beyond (in excess of) that Parcel Description and Right of Way Appraisal Map, (d) all 0C550 project components on other Trust property, (e) the project description set forth in the appraisal that Caltrans produced to our Client and the Trust, and (f) any project that can lawfully be approved by any public agency pursuant to the controlling standards of the LCP and CCMP.

8. Slide 6 contains the first of two graphics “(r)elated to the findings of the Commission: **The public interest and necessity require the proposed project**” (highlighted in bold), with (b) subsumed contentions attributed to the property owner (*propagandistically shown in prejudicial bold red*), and (c) “Department responses” (*propagandistically shown in soothing bold blue*). As discussed further below, slides 6 and 7 do not present any analysis that would support a Commission finding that the Project - in the coastal zone, as it relates to Trust property that Caltrans proposes to take by eminent domain, or generally - is either in the public interest, considered as a whole, or necessary *as proposed*.

8.1. The graphic in Slides 6 is incomplete in its statement of, and the “District response” to, our Client’s sequential, specific, and relevant objections presented to the DCEM and CRPM - *as they relate to public interest and necessity* - to the Caltrans proposed taking of Trust property in association with the Project. (a) The Caltrans project plans are clear that the Project proposes to widen and straighten the highway on and contiguous to (“in front of”) Trust property, and also upcoast and downcoast from it. (b) The testimony of the witness, without identification of any methodology for selection, purports that it is a “brief compilation” from which he is “brining (*sic*) a few of the largest”, and thereon admits to the incompleteness of the slide and associated testimony. (c) The testimony about “30 CA Public Records Act requests for 127 items for this project alone” reveals the fact that, because Caltrans (a) failed to perform the requisite early Project consultation with property (and public) stakeholders, (b) failed to produce a finite project description, and (c) failed to transparently disclose the Project documentary record, repeated detailed documents requests became necessary for our Client to be informed about the true scope and extent of the variously *proposed* Project, including specifically how it would take and otherwise impact Trust property, comport with the public interest as a whole, or whether Caltrans had identified any imperative for it.

8.2. To avoid any confusion, our Client supports safe and sustainable roads the development and operation of which conforms to all applicable laws. Her objection to the *proposed* Project is that Caltrans, in its kaleidoscopic, helter-skelter procedure, has not set forth a finite (accurate, complete, internally consistent, standards-consistent) development project, has not defined the applicable public interest, has not established an objective metric to determine any need that would require the *proposed* project, and has not bridged the analytic gap between the evidence and controlling standards to design, plan, propose, or implement a project that is consistent with them. Caltrans simply has not met its burden under the California Eminent Domain Law, as it must be harmonized for this Project and the Caltrans-proposed taking of Trust property by eminent domain with all applicable federal, State, and County laws and their respective implementing measures.

8.3. The witness - and Caltrans - fail to (a) define the term “public interest” as it relates to the Caltrans-proposed taking by eminent domain of Trust property, and (b) demonstrate that the project proposed on the area that Caltrans proposes to take on the Trust property (as Caltrans would have it) constitutes permissible development for highway purpose(s) in the coastal zone. Further, as discussed *inter alia*, Caltrans has adduced no evidence or analysis that the requested taking of Trust property by eminent domain has any identified (or identifiable) functional public interest nexus to the project. The interest of Caltrans-proposed takings is to impermissibly obtain substantial quantities of uncompensated excavated earthen and rock material from Trust property for use in impermissible fill development. By its own admission Caltrans has performed no site-specific geologic or geotechnical investigation slope Factor of Safety analysis of the Navarro Ridge slope on the Trust property that indicates any public interest in (or necessity for) slope stabilization.

8.4. In enacting the California Coastal Act (Div. 20, Public Resources Code), the legislature specifically required “all public agencies and all federal agencies, to the extent possible under federal law or regulations or the United States Constitution, shall comply with the provisions of this division”, including LCP’s certified pursuant to PRC §§ 30212 and 30213. The California Coastal Management Program, approved by the U.S. Department of Commerce pursuant to the CZMA, further requires Caltrans and the CTC to conform their actions and activities to the CCMP through specified federal consistency review where, as here, the project and the CTC action on RON implicate federal funding. The project is *prima facie* inconsistent with the County LCP, an incorporated part of the CCMP, and therefore the CTC cannot act on RON C-21939 without the requisite prior federal consistency review of the project (activity, action) pursuant to the CZMA.

8.5. Similarly, the witness - and Caltrans - fail to (a) define the term “necessity” as it relates to the Caltrans-proposed taking by eminent domain of Trust property, and (b) demonstrate that the project proposed on the area that Caltrans proposes to take on the Trust property (as Caltrans would have it) constitutes an obligation, precondition, prerequisite, compulsion, or requirement of the project. Caltrans has identified no road-runoff collisions (or implicated upcoast/downcoast collisions) from the highway on or along the Trust property. Caltrans claims it does not *now* propose installation of guard rails, or travel lane edge line rumble strips, or even eight-inch high AC berms as part of the project on or along the Trust property. Note, however, that those are precisely what the Caltrans offer/appraisal package claims as the use for which the Trust property is intended (August 14, 2019/Appraisal Report Page 5), and even the Memorandum of CTC Chief Financial Officer Steven Keck before you today at Page 2 describes the Trust property project as “...conform lanes and install 4-foot shoulders / guardrail...” (emphasis added.) Caltrans has demonstrated that it can obtain earthen material for permissible construction, when necessary, from other permitted sources in District 1, including in coastal Mendocino County. Caltrans’ gifting or paying with earthen material from the Trust property to a project contractor does not constitute a necessity on the public interest.

8.6. The witness - and Caltrans - have also produced no site-specific evidence or analysis, in relation to the Trust property Caltrans proposes to take by eminent domain, to support its claim that “this project will not only make the road safer for drivers, but also for bicyclists, and pedestrians”.

8.7. Caltrans project plans - including as most recently produced to us - clearly depict straightening of the highway, including (albeit) in small measures, in the area on and adjacent to the Trust property. The presentation itself admits that Caltrans is straightening the highway “where curves need adjustment to be brought to standard”, but neither produces nor references any substantive deficiency in the highway (e.g., curve radius) alignment where the highway is located on or adjacent to the Trust property. Similarly, the proposed relocation of the travel lanes depicted on Slide 4 indicate that straightening. Caltrans’ disclaimer that it “is not straightening the highway”

is therefore directly contrary to its own project plans and presentation to the CTC, and invalid *ab initio*.

8.8. The witness - and Caltrans - have produced no site-specific evidence or analysis, in relation to the Trust property Caltrans proposes to take by eminent domain, that refutes or Client's contention that the highway on and contiguous to ("in front of") the Trust property is already substantially straight.

8.9 The witness - and Caltrans - have produced no site-specific evidence or analysis, in relation to the Trust property Caltrans proposes to take by eminent domain, that refutes or Client's contention that the extant highway has adequate capacity to maintain acceptable Levels of Service for current and reasonably projected future traffic volumes in (a) the Project area, and (b) the highway on and contiguous to ("in front of") the Trust property

8.10. Caltrans responds on the graphic that the Project is a "safety project", without disclosing to the Commission that Caltrans documents (a) identify that title as a "nickname", and (b) indicate that not one fatal (or, for that matter, injury) collision has occurred on the highway that is (1) located on Trust property, (2) contiguous to ("in front of") it, or (3) in an adjacent area where any (non-fatal/non-injury) collision has been proven to have resulted from highway conditions in the two aforementioned locations.

8.11. The Caltrans response on the graphic that the proposed "safety project" will "reduce frequency and severity of collisions" is unsupported by evidence. Notably, Caltrans - erroneously - purports to have limited its Project alternative analysis to some version of the *proposed* project and the "no project", but excludes its belatedly acknowledged feasible alternative that would avoid (a) the proposed taking of Trust property, (b) impermissible destruction and disturbance of protected coastal resources, and (c) accommodate within the Caltrans-claimed existing right of way all of the travel line widening, shoulder improvement, superelevation, center line markers, and (sustainable) drainage components of the *proposed* project.

8.12. The Caltrans response on the graphic that the proposed "safety project" will "provide recovery zone". However, the identified feasible Project alternative accommodates the proposed NB and SB travel lane shoulders *without the former being adjacent to a 4-foot wide open ditch, without impermissible effects on protected coastal resources, and without the proposed taking of Trust property*, and thus clearly constitutes the Project that reflects the whole public interest (rather than Caltrans' convenience or preference) and is fully responsive to any *in situ* necessity for 4-foot wide travel lane shoulders.

8.13. The Caltrans response on the graphic that the proposed "safety project" "accommodates bicyclists, pedestrians" (a) is not a statement of the public interest, given that the 4-foot wide shoulders are proposed for vehicle collision avoidance, (b) does not constitute a safe segment of the California Coastal Trail, which properly should

be located along sustainable paths in the Navarro Point Preserve, and (c) does not provide a Class I or Class II bike trail.

8.14. The Caltrans response on the graphic that the proposed “safety project” is “not straightening the highway” is directly contradicted by the Project plans and descriptions, which identify multiple straightening realignments of the travel lanes along new center lines.

8.15. The testimony of the witness reiterates the above Caltrans responses; we incorporate our Client’s responses thereto by reference.

8.16. The testimony of the witness, who has been to the site apparently once and does not identify which, if any, Project plans he has reviewed, erroneously objects to our Client’s observations of the highway and its setting over more than 25 years, and her objections based thereon and review of the Project plans, as opinion.

8.17. The testimony of the witness as to the District response is (a) repetitive, (b) has already been answered herein, and (c) admits, contrary to the preceding averions, that after all the Project proposes to only keep “the current centerline to the extent possible”, but to change it - by straightening the highway - “where curves need adjustment to be brought to standard”.

9. Slide 7 contains the second graphic “related to the findings of the Commission: The public interest and necessity require the proposed project”, with (a) one “property owner contention” that is prejudicially shown in red, and (b) two “Department responses” that are shown in blue.

9.1. Our Client accurately contends that no fatal or injury collisions have occurred on or contiguous to (“in front of”) the Trust property that Caltrans proposes to take by eminent domain. Caltrans, in the absence of a refutation, admits our Client’s contention. Caltrans has thus presented no evidence to support a Commission finding of either (a) public interest in, or (b) necessity that requires the *proposed* Project.

9.2. Caltrans instead responds on the graphic with “must consider segments”, without producing any evidence of (a) the location of any fatal injury collision, and (b) any proven nexus between the highway on and contiguous with (“in front of”) Trust property that caltrans proposes to take by eminent domain and any fatal injury collision between Project post miles 41.8 and 42.3.

9.3. Caltrans further speculatively responds that “features may influence collisions adjacent”, (a) without producing any evidence of any “features” that, if they were to be identified to exist on Trust property, could potentially contribute to multiple unspecified collisions in an undefined highway length, and (b) while both locating the highway on Trust property and disclaiming such location.

9.4. The testimony of the witness hereon consists, first, of the District's response that Caltrans "considers projects in segments, not lot-by-lot", whereas the documents in the records of the DCEM and CRPM are clear that District 1 in its internal analysis, appraisal, depiction, description, design, planning, presentation, review, and submittal of the aborted application in 2019, under false property ownership pretense, to the County for CDP 2019-0024 in relevant parts considered both the Trust parcel and eight other specific parcels during that procedure.

9.5. The testimony of the witness hereon consists, second, of the District's response that "to resolve a problem, we look at projects as a whole", which is directly contrary to the District's own repeated piecemealing of the self-identified whole, up to 4-miles long, Highway 1 project in Albion into multiple overlapping/adjoining parts.

9.6. The testimony of the witness hereon consists, third, of the District's speculative response that there "may be features in one area that influence of collisions in adjacent areas", without specification of any such features, their location, any collisions, any adjacent areas, or any proven causal relationship between or among them.

9.7. The testimony of the witness hereon appends a "note" that implicates additional testimony. We respectfully request a reasonable opportunity prior to Commission hearing to be able to examine it, perform any necessary analysis in relation to it, and question the witness who presents it about it.

10. Slide 8 contains a graphic "related to the findings of the Commission: The project, in relation to the Caltrans-proposed taking of Trust property and its development, is planned or located in a manner that will be most compatible with the greatest public good and least private injury", with (a) one "property owner contention" prejudicially shown in red, (b) one "Department response" shown in blue, (c) a reiteration of the property owner's contention, (d) a conclusory District response of CEQA and NEPA compliance, (e) a claim that "RON hearings aren't for challenging environmental document", and (f) an unattributed quotation about the role of design elements and standard measures in the District determination that the project would not have an impact.

10.1. The graphic fails to define, or reference a definition of, the comparative terms "greatest public good" and "least private injury" or their applicability to taking Trust property.

10.2. Valid CEQA/NEPA documents constitute a prerequisite to action by the Commission to approve RON C-21939. As discussed below and *infra*, Caltrans has prepared and presented to the Commission no valid CEQA or NEPA document, which precludes the Commission from acting to approve RON C-21939.

10.3. Our Client objected in the DCEM and the CRPM that District 1 impermissibly exempted the *then-proposed* Project - as described in March, 2019 - from CEQA environmental review (a) in reliance on 14 Cal. Code of Regs. §15300 et seq. (Class

1(d)), and (b) based on the *false* statements that the following do not apply: (1) the project does not impact an environmental resource of critical concern where designated, precisely mapped, and officially adopted pursuant to law - here, the designated, mapped, and adopted highly scenic area on the Navarro Ridge slope of the Trust property; (2) there will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time - here, the District 1 projects on Navarro River grade, Navarro Ridge, and Navarro Drainage; (3) there is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances - here, through filling of wetlands and streams, destruction and disturbance of ESHA, and excavation and fill of natural landforms in highly scenic areas; and (4) that this project does not cause a substantial adverse change in the significance of a coastal resource - here, the Caltrans-proposed and CTC-approved programmed destruction and replacement, in the whole project, of the State and federally listed historic Albion River Bridge. The District 1 categorical exemption of the project from CEQA environmental review was invalid *ab initio*, and in the absence of a valid environmental document for the project the CTC cannot now approve RON C-21939.

10.4. Our Client also objected in the DCEM and the CRPM that District 1 In tandem, impermissibly categorically excluded the Project - as then described - from required NEPA environmental review in reliance on 23 Code of Fed. Regs § 771.117, based on (a) the *false* determination that the project does not individually or cumulatively have a significant impact on the environment as defined by NEPA, and (b) that the the project has considered unusual circumstances pursuant to 23 Code of Fed. Regs. § 771.117(b). Lest there is any confusion, “unusual circumstances” here include significant environmental impacts; substantial controversy on environmental grounds; significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; and inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the actionchallenging. Here, the project has significant environmental impacts as discussed *infra*, substantial public controversy on environmental grounds exists about the project, the whole project is inconsistent with the historical protection requirements of federal law, and the project is prima facie inconsistent with the LCP and CCMP.

10.5. The testimony of the witness as to the District response (a) asserts, without evidence, that “our environmental analysis complied with CEQA and NEPA”, when it plainly does not, and (b) avers that “RON hearings aren’t for challenging environmental documents”, while ignoring the clear requirement for federally funded (co-funded) projects that the requisite valid environmental documents - like a valid appraisal - must be in place before the (here) Commission can authorize a Caltrans taking of private property by eminent domain.

10.6. The testimony of the witness appends an unattributed quotation that, in principal part, states that with incorporated design elements, standard measures (such as BMP’s), and measures included in Standard Plans and specifications or Standard

Special Provisions”, it was determined by an undisclosed person or persons that *the* Navarro Safety project would not have an impact”. However, the quotation (a) points to no Project-specific evidence of such incorporation or contemporaneous (March, 2019) written determination, and (b) even if they were to exist, the Project description that is before the Commission has materially changed - including specifically as the proposed extend, volume, and use of excavated soil and rock from Trust property - since Caltrans’ *prima facie* self-exemption/exclusion (“CE-CE”) from environmental review on March 14, 2019, as discussed *infra*. That CE-CE does not describe the *currently proposed* Project before the Commission, which also is not categorically excluded/exemption from environmental review pursuant to CEQA. Caltrans has thus failed to present the Commission with the requisite valid environmental documents, which precludes it from making the finding required by CCP §§ 1245.030(b) [no finite Project location on Trust property], 1245.030(c)(1) [*currently proposed* Project is inconsistent with the LCP and CCMP, and not in the public interest represented by CEQA, NEPA, the California Coastal Act, and the CZMA], and 1245.030(c)(2) [*currently proposed* Project is not planned or located in the manner that will be most compatible with the greatest public good as required by CEQA, NEPA, the California Coastal Act, and the CZMA] and from acting on RON C-21939.

11. Slide 9 contains a graphic “related to the findings of the Commission: The project, in relation to the Caltrans-proposed taking of Trust property and its development, is planned or located in a manner that will be most compatible with the greatest public good and least private injury”, with (a) one “property owner contention” prejudicially shown in red, and (b) five “Department responses” shown in blue.

11.1. In abject disregard of federal and state requirements for early coordination with property stakeholders and the public, to identify, avoid, and mitigate project issues, reduce project costs, and provide for orderly project design, review, and implementation, District 1 cavalierly forsook such coordination between 2014 and 2019, when Caltrans instead determined to bulldoze Navarro Ridge, Navarro Preserve, and the west-trending Navarro Drainage. In that course, Caltrans now admits - against previous denials - that it initially internally considered project alternatives that, when applied to the project in the area on and adjacent to the Trust property, would substantially avoid any taking of Trust property and destruction of protected environmental resources. However, District 1 elected to limit its project design alternatives to two: the no project alternative and the variously changed proposed project, including by taking of Trust property. Our Client raised the matter of that initial alternative during the DCEM and the CRPM; the CRPM chairman facilitated a one hour telephone discussion of our Client’s conceptual impact and takings avoidance alternative project in relation to Trust property and the Navarro Point Preserve, which the late Colonel Frank Engelhardt helped to establish. Caltrans District 1 Deputy Director Mullen acknowledged the (obvious) feasibility of our Client’s recommendation, given that District 1 has implemented similar site sensitive lane and shoulder design in other locations. However, the Deputy Director summarily rejected our Client’s recommended conceptual alternative on referenced advice of District 1 staff, despite the fact that the Caltrans offer/appraisal package to the Trust described the project as being just that (August 14, 2019/Appraisal Report Page 5) and the Keck

memorandum proffered by caltrans to the Commission for its October 22, 2020 hearing substantially revises the Project, without limit, to "...install 4-foot shoulders/guardrail..." (Emphasis added.)

11.2. The graphic in Slide 9 sets forth the Caltrans response "multidisciplinary professional team", but fails to identify which of the Deputy District Director's acknowledged feasible and constructed projects, recommended by our Client as the preferred alternative, the "team" reviewed. Caltrans has produced no notes or other written reviews prepared by that team to us in response to our PRAR for them.

11.3. The further Caltrans response of "some being implemented" is unsupported by any revised *proposed* Project plans, sections, environmental analysis pursuant to CEQA/NEPA, or coastal consistency analysis pursuant to the LCP and CCMP, and is therefore conclusory. Any such revised plans have not been produced to our Client, or, apparently, to the Commission.

11.4. The further Caltrans response that our Client's design change alternative "increase(s) dangerous conditions" is unsupported by written evidence and analysis, and therefore conclusory. Caltrans has produced no relevant writings or drawings to us in response to our PRAR for them.

11.5. The further Caltrans response that our Client's design change alternative is "infeasible due to location conditions" is unsupported by written evidence and analysis, and therefore conclusory. Caltrans has produced no relevant writings or drawings to us in response to our PRAR for them.

11.6. The further Caltrans response that our Client's design change alternative is "incompatible - safety bicycles/peds" is unsupported by written evidence and analysis, and therefore conclusory. Caltrans has produced no relevant writings or drawings to us in response to our PRAR for them.

11.7. The District's response that our Client's recommendation was not designed by a licensed transportation professional is sheer sandbox subterfuge, in that she specifically pointed to similar Caltrans project designs that have been constructed in recent years in District 1 and the District 1 Deputy Director acknowledged them to be feasible. It is unreasonable for District 1 to request our Client to hire an engineer to design what Caltrans has already successfully designed and constructed in other similar locations.

11.8. The District's response that the "Department met with the owner's representative for many hours regarding the suggestions" is false. Dall & Associates raised the conceptual impact and takings avoidance alternative project during the DCEM and the CRPM; the only discussion of it between Caltrans staff and us occurred in the one hour telephone meeting that Chairman Purdie facilitated after he adjourned the CRPM.

11.9. The District's response that "the majority" of our Client's conceptual impact and takings avoidance alternative project suggestions "could create dangerous conditions" is

(a) unsupported by evidence, (b) contrary to the District 1 development of similar alternatives, which presumably do not “create dangerous conditions”, and (c) contrary to what the Caltrans offer/appraisal package to the Trust described the project as being (Appraisal Report, August 14, 2019, page 5), as well as the Keck memorandum description as “...install 4-foot shoulders / guardrail...” now before the Commission.

11.10. The District’s response that “the proposed”, while it lacks a subject, appears to refer to our Client’s conceptual project alternative and notes that it is “compatible with the Department’s goals of Complete Streets and promoting active transportation”.

12. Slide 10, contains a graphic “related to the findings of the Commission: The project, in relation to the Caltrans-proposed taking of Trust property and its development, is planned or located in a manner that will be most compatible with the greatest public good and least private injury”, with (a) three “property owner contentions” prejudicially shown in red, (b) three “Department responses” shown in blue.

12.1. Contrary to the Department response, the project proposes to fill regulatory wetlands, including, but not limited to, in the existing drainage along the inboard side of the NB travel lane shoulder, on both sides of the private road that intersects with the highway opposite the entrance to Navarro Point Preserve, at multiple locations on Navarro Point Preserve (for lack of sediment controls at the multiple proposed culvert outfalls) - and, in the whole project, in the westerly trending Navarro Drainage, in a drainage adjacent to the Navarro Drainage northeast staging area, in the south-facing Salmon Creek bluff drainage (including its debouchment to Little Salmon Creek), on the south-facing Salmon Creek bluff, in the lower Salmon Creek Valley, in the Albion River Flat dune, on south-facing Albion River bluff, and on west-facing Albion Cove coastal bluff.

12.2. The Caltrans-proposed excavation from and disposal of proposed substantial volumes of excavated material from the Navarro Ridge west-facing slope (a bluff or cliff natural landform of the uplifted marine terrace) exemplifies the unsettled, changing, incomplete, inaccurate, and impermissible 0C550 Project descriptions. In the runup to the March, 2019 CE-CE, District 1 proposed a specified excavation area on Trust property, with the cut material to be used in part within the Project area and in part to be hauled offsite. Contemporaneously, the adjacent/overlapping 0E940 “Navarro Drainage” project proposed to import excavated material from the 0C550 Project for use of impermissible fill of the Navarro Drainage stream bed and *in situ* wetlands. The CE-CE for the 0C550 Project omits to mention or analyze this project component. During the DCEM, District 1 disclaimed the Navarro Drainage off-site use of excavated material from the 0C550 excavation envelope, and proposed to alternatively gift the excess excavated material to a contractor for unspecified private offsite use, or to convey it to the contractor in-lieu of payment. The CE-CE for the 0C550 Project also omits to mention or analyze this project component. Now, District 1 erroneously avers - contrary to the most recently Project plans and on the strength of outdated technical analysis - that the “Project is not filling any wetlands”, while admitting that “to the extent possible, we are using all material for the project itself” *in conjunction with* “if there is extra

material when done, that does become the property of the contractor to handle as they see fit”. Fundamentally, District 1 is again practicing its kaleidoscope of project descriptions, and thereby denies the Commission the requisite settled project description for being able to make the CCP § 1245.030(c) finding - on evidence - that proposed project is planned or located in the manner that will be most compatible with the greatest public good. Without that evidence, the Commission cannot so find and therefore is precluded from adopting RON C-21939.

13. Slide 11 contains a graphic “related to the findings of the Commission: The project, in relation to the Caltrans-proposed taking of Trust property and its development, is planned or located in a manner that will be most compatible with the greatest public good and least private injury”, with (a) one “property owner contentions” prejudicially shown in red, (b) four “Department responses” shown in blue.

13.1. The graphic misrepresents our Client’s recommended conceptual alternative design, which specifically identified how the project description in the area of the Trust property for 12-foot wide travel lanes, 4-foot wide shoulders, and subsurface drainage can be spatially implemented without taking any significant amount of Trust property and without encroaching or having a substantial adverse effect on the Navarro Point Preserve.

13.2. The Department response that Caltrans’ straw man of our Client’s recommended conceptual alternative design is “infeasible - increased impacts to Navarro Point Preserve” is frivolous and demonstrably untrue in that the alternative design *specifically* does not propose to increase the highway road prism beyond its current geometry relative to the Navarro Point Preserve.

13.3. The Department response that a “seaward alternative was never proposed” is inconsistent with, or a mere word play on, the testimony of the witness that states the District’s admission that “early in the project’s development, a seaward option was identified”.

13.4. The Department’s response that the Project is “following existing alignment” is inconsistent with (a) the Project plans, and (b) the District’s response that it only “closely follows the existing highway alignment to the extent possible”. In fact, the project plans propose a relocation of the highway along more than 90% of its current center line.

13.5. The Project record before the DCEM, CRPM, and CTC contains no evidence or analysis that (a) the project highway alignment or (b) the project highway alignment on or contiguous to (“in front of”) the Trust property “minimizes impacts to all adjoining private property.” The Project plans, sections, pseudo-section, and oblique aerial simulation clearly demonstrate the opposite.

13.6. The project record before the DCEM, CRPM, and CTC contains no evidence or analysis of any “direction of County of Mendocino and the CA Coastal Commission” about the project highway alignment, the project highway alignment on or in the area

adjacent to the Trust property, or any highway alignment generally. Moreover, as discussed above, the LCP contains mandatory requirements to avoid or minimize alterations of natural landforms and to protect designed highly scenic and environmentally sensitive areas, as on the Navarro Ridge west-facing slope in Albion.

14. Slide 12, “related to the findings of the Commission: The project, in relation to the Caltrans-proposed taking of Trust property and its development, is planned or located in a manner that will be most compatible with the greatest public good and least private injury”, with (a) three “property owner contentions” prejudicially shown in red, and (b) five “Department responses” shown in blue, each of which is demonstrably untrue and contrary to documents of record *and* in the possession of Caltrans officials.

14.1. The assertion in Slide 5 in the testimony of the witness depicts the “Engelhardt Parcel” to extend westerly to near the depicted center line of the highway as of the date of the oblique aerial, in or about April, 2020, as do the recorded 1978 Parcel Map configuring the Trust parcel and its neighbor to the north, the previously recorded 1970 and 1973 Parcel Maps affecting the parcels to its north and south, of which the current Trust parcel comprised a part, and official Mendocino County Assessor’s maps for over 60 years, as well as the State of California R/W 0939 Rec Maps Men1 PM41.5-43, dating back to before the Trust parcel was created.

14.2. The referenced 1916 indenture/deed from Rossetti et ux. to the County for a road near the base of Navarro Ridge in the area of the future Trust property was accepted by the Grantee/County as an easement, rather than in fee, as reflected in numerous official maps of record referenced above, and the State’s [Division of Highways] own that depicts this area (produced by Caltrans as “rwe_0939.pdf”) as “Conveyed Easement Only”.

14.3. Whatever property interest was conveyed in 1916 – whether if, *arguendo*, in fee ownership (as Caltrans belatedly contends) as the easement claimed by the Grantee County of Mendocino – that property interest continues to be held by the County of Mendocino, *not* Caltrans. In 1933, the County assented by resolution to the State’s *maintaining* the 1933 “travelable” roadway, with reversion obligations. The “land rights” conveyed to the State by the 1933 County Resolution of Assent are limited and specific, and do not extend to the County’s abrogation of its legal interest (whether easement, fee, or anything other than the ability to maintain) to the State. Caltrans has not - and can not - produce any documentation that demonstrates any subsequent transfer of any fee or easement interests from the County to the State, and none is of record, according to the Trust’s title company. Adoption by the State of maintenance of a route over the travelable roadway in 1933 does not - and cannot - constitute a unilateral State assumption of fee ownership of the land on which the roadway was then located, or which the County has acknowledged as being owned in fee by private parties since long before the configuration of the Trust parcel.

14.4. Representations by Caltrans that the recorded Trust parcel map, which shows its fee ownership to extend to the center line of Highway 1, is in “error” and that it is the “only” parcel with such an “error” are blatantly, demonstrably false. (Given that these

documents of record were reviewed and referenced by Caltrans “professionals,” the representations are apparently intentionally false, as well.) Not only the Trust parcel but all surrounding parcels are mapped (in both recorded parcel maps and official Assessor’s maps) to a designated Highway 1 center line, and were so mapped years before the approval of what is now the Trust parcel. Following Subdivision Map Act review, between 1970 and 1978 Mendocino County approved at least three land divisions affecting the Trust property, and numerous properties to the north and south of the Trust property, all of which show fee ownership to that center line, as well as an indication of highway encroachment into that fee ownership, before approving and recording the map configuring the Trust parcel itself. In fact, in 1990 Caltrans purchased an easement on the property to the south of the Trust parcel, between PM 41.55 and PM 41.9, as reflected in a subsequent recorded map for that parcel in 1992.³ (Notably, PM 41.89 is on that property to the south, and not a post mile identification of Trust property.)

14.5. When Mendocino County processed and approved the parcel map that created the Trust parcel, its western boundary - along the highway center line - had been in place and mapped on official County Assessor’s maps since at least prior to 1965. In 1978 the County, as part of its formal parcel map review process, submitted the proposed parcel map to Caltrans for comment, and when it had the opportunity to do so, Caltrans did not object to the 1978 parcel map, but merely responded with a “no comment”. This belated, delayed by almost 90 years, disingenuous Department contention that the 1978 parcel map is “incorrect” - despite the overwhelming body of documentation of official record, and in the absence of any evidence in the DCEM, CRPM, and Commission proceedings to support that claim - constitutes at best a baseless *post hoc* rationalization that attempts to obscure and cover up the State’s lack of a fee or formal easement interest⁴ in the vicinity of, and on, Trust property. As noted above, Slide 5 in the testimony of the witness shows the Trust (“Engelhardt”) parcel to extend westerly to near the current highway center line.

14.6. The Department response that the “State uses different mapping from county” is irrelevant with respect to the Trust parcel because its bearings and northern, eastern,

³ • Parcel Map recorded March 9, 1970 in Map Case 2, Drawer 14, Page 79, MCR.
• Parcel Map recorded July 17, 1970 (Map Case 2, Drawer 15, Page 45, MCR).
• Parcel Map recorded December 3, 1973 (Map Case2, Drawer 23, Page 8, MCR).
• Parcel Map/ M.S. #97-78, recorded October 4, 1978 (Map Case 2, Drawer 33, Page 43, MCR).
• S Neighbor’s Easement to Caltrans, recorded April 26, 1990 (Book 1825, Pages 408 and 412, MCR), then reflected *as easement* on:
• Parcel Map recorded September 30, 1992 (Map Case 2, Drawer 56, Page 42, MCR), referenced in CTD1 Grant Deed proposed for Trust.

⁴ Caltrans has attempted to evade the obligation to perfect a potential *prescriptive* easement by appraisal grant deed legal description language that also claims everything west of the 0.15 acre condemnation parcel that is part of the Trust parcel, without quantification or compensation.

and southern boundaries are keyed to Township/Meridian lines. (The reasons for the Caltrans determination to rely on a marker two parcels and a bend in the highway to the south of the Trust parcel in making jumps across intervening properties to finally reach a point of beginning for its own mapping of the Trust property appear spurious, at best, and appear to be a major contributing, if not the determining, factor in Caltrans getting the mapping wrong – not the ostensive “different mapping” techniques. Nonetheless, the parcel map recorded at the County and backed by a title report notwithstanding Caltrans claims, controls the legal fee ownership of the property, and even Caltrans “professionals” are not afforded either statutory or constitutional authority to unilaterally change that. This persistent, an accurate location of the condemnation parcel in relation to the project - not now in evidence before the Commission - is necessary to determine what Project components, pursuant to a finite project description, will be proximate to the remainder Trust parcel.

14.7. The Department response that some unidentified subject “only impacts mapping/description” is a non-sequitur. In the absence of an adjacent State-owned ROW, Caltrans has no valid basis to request the CTC to authorize taking of Trust property to expand a non-existent ROW property interest. Moreover, this “only impacts mapping” claim ignores the potential damage to the Trust’s former “clear title” to the legally configured map to which it now owns fee title.

14.8. The Caltrans “professional” mapping errors go well beyond the question of legal interest in and adjacent to Highway 1. Those errors affect the parcel’s actual location within both the takings envelope and the remainder parcel; and while the County and Caltrans mapping protocols may differ, Township/Meridian locations govern in the case of the Trust parcel that was formed from previous parcels where the underlying original legal boundaries were described with reference to following or paralleling Township/Meridian lines. Caltrans “professionals” chose not to reference survey markers placed and referenced in underlying maps that would have established the southern property line and the northeasterly property line segment as running due east-west, paralleling the Township line, and the easterly property line as running due north-south, paralleling the Meridian instead of the SE-NW bearing of the first two, and the SW-NE bearing of the easterly line.

14.9. Of special note is that while the formal offer/appraisal package that Caltrans submitted to the Trust states throughout — including in the only *formally* submitted appraisal map — that the Trust parcel comprises 3.06 acres, Caltrans now claims that it is dealing with a *different*, 3.01 acre parcel, although the Slide 5 graphic shows it as yet a different 3.0 acres parcel (0.15 acre take + 2.85 acre remainder). While Caltrans has produced subsequent informal ROW-Appraisal Maps to our Client that (a) identify variously unsupported and incorrect Trust property boundaries on an irregular parcel topography, (b) unilaterally declare Trust property to be State property, (c) depict variously unsupported and inconsistent condemnation parcel boundaries, and (d) variously minimize and understate the true extent of the condemnation parcel boundaries, the documents in the purportedly “valid appraisal” all *correctly* reference the

3.06 acre parcel to which the Trust holds legal title in fee – irrespective of Caltrans claims to the contrary.

14.10. The "legal description" attached to RON C-21939 contains no metes-and-bounds descriptions or dimensions for the southern, western, or northern boundaries of the proposed condemnation parcel, and the purported easterly boundary metes and bounds description and dimension do not comport with the configuration or bearings of the recorded Trust parcel. The State of California Department of Transportation Right of Way Resolution of Necessity "Exhibit B" map (1) depicts bearings and dimensions without reference to the RON "legal description," or to metes and bounds or other legal description criteria found elsewhere, (2) altogether omits any shown point of beginning for the purported property lines on it, and (3) baldly discloses that "nothing [is] set" to identify the four "Calc(ulation) Point(s) that purportedly identify the corners of the proposed takings polygon (noted as "12967-1" and not identified by the name of the the true property owner.

14.11. It is further notable that the "legal description" attached to RON C-21939 as Exhibit E, page 3, inconsistently references two separate parcels, "Parcel 12967" and Parcel "12967-1", and thus for this reason also does not constitute the reasonable identification of the parcel that Caltrans proposes to take pursuant to Resolution C-21939, as required by CCP § 1245.030(b).

15. Slide 13, contains a graphic "related to the findings of the Commission: The project, in relation to the Caltrans-proposed taking of Trust property and its development, is planned or located in a manner that will be most compatible with the greatest public good and least private injury", with (a) one "property owner contention" about Caltrans' proposed excavation of the Navarro Ridge natural landform, with five selected subparts, prejudicially shown in red, and (b) five variants thereon, and without disclosing (c) that Caltrans proposes to perform the substantial excavation without appraisal of the economic value of the soil and rocks it would remove, or (d) the impermissibility of such substantial excavation pursuant to the LCP, as discussed above.

15.1. Our Client, who has resided on the property (owned since 2007 by the Trust) for more than 25 years, has observed slope soil and rock instability on the west-facing Navarro Ridge slopes. She has a reasonable concern, informed by those observations, that in the absence of a site-specific professional geotechnical investigation/report, including subsurface analysis and a slope Factor of Safety analysis, (a) the Caltrans-proposed substantial cut-slope on the Trust property may likely exhibit instability, failure, and adversely impact the designated highly scenic natural landform, especially (b) because Caltrans has a demonstrated, repeated history of failures on considerable smaller (as well as similarly sized excavated slopes) in the whole project area in Albion, including, but not limited to, on the slopes of Albion coastal bluff in the northerly Project area (between Project stations 17+70 and 18+19), Albion River bluff, Albion Cove coastal bluff, Whitesboro Cove coastal bluff, and Salmon Creek bluff.

15.2. Our Client, who regularly traversed the west-facing Navarro Ridge slope on the subject property, including the area Caltrans proposes to take by eminent domain, has observed numerous seeps on the slope. She has a reasonable concern, informed by those observations, that in the absence of a site-specific professional geotechnical investigation/report, including subsurface analysis, *in situ* hydrologic analysis, and a slope Factor of Safety analysis, (a) the Caltrans-proposed substantial cut-slope on the Trust property may likely impact the hydrology of the natural landform, its stability, the production of water from the Trust property water well on which the residence relies, and the designated highly scenic natural landform.

15.3. Our Client considers the native and naturalized vegetation on the the west-facing Navarro Ridge slope on the subject property, including the area Caltrans proposes to take by eminent domain, to constitute an important aesthetic, noise mitigation, and light/glare mitigation asset of the Trust property, that contributes substantially to its economic and quality of life value. She has a reasonable concern, informed by those considerations, that the Caltrans-proposed substantial cut slope - which extends to the upslope boundary on the requested takings area - will, as a result of (a) the limited feasibility and frequent infeasibility to establish native vegetation on excavated slopes without requisite native soils, (b) Caltrans' demonstrated repeated failure to comply with its own revegetation plans, (c) Caltrans' wholesale violations of the terms and conditions of public agency permits, and (d) Caltrans' failure to properly maintain cut slopes in Albion, result in the loss of the native and naturalized shrubs and low stature vegetation on the Navarro Ridge slope.

15.4. Our Client is informed, and considers, the LCP- and CCMP-designated highly scenic Navarro Ridge slope on and adjacent to the Trust property, including on and as seen from Navarro Point Reserve and the highway, to constitute a substantial economic, as well as public, asset of the property. She has personally enjoyed and benefitted from the highly scenic area for over 25 years. The Caltrans-proposed excavation of the slope in the requested takings area would, if authorized, destroy that protected highly scenic area, with resultant diminution of the economic and public aesthetic value of the Trust property.

15.5. Our Client has observed and enjoyed the Navarro Ridge slope wildlife corridor, which connects the habitats on Navarro Point Preserve with the habitats on landward Navarro Ridge and areas inland of it, for over 25 years. She has a reasonable concern that the substantially steepened and stripped slopes that Caltrans proposes in the requested takings area will adversely affect, and preclude during and beyond the two-year project construction period, use by wildlife of the impacted area, with concomitant concentration of wildlife into highway crossings and associated increased wildlife-vehicle collisions, especially when - as is foreseeable - motorists increase their vehicle speeds on the Caltrans Navarro Speedway.

16. Slide 14 contains a graphic "related to the findings of the Commission: The project, in relation to the Caltrans-proposed taking of Trust property and its development, is planned or located in a manner that will be most compatible with the greatest public

good and least private injury”, with (a) no “property owner contentions”, (b) six Department responses, shown in blue, and (c) 12 additional Department responses that variously reply to our Client’s five contentions (as presented by Caltrans) on Slide 13.

16.1. The Department responds, without evidence or citation to evidence, that “a professional geologist and a registered professional engineers (sic) conducted a site investigation on the parcel and developed the Geotechnical Report”. However, (a) no Caltrans (or Caltrans consultant) professional geologist or registered professional engineer has had a written Permit to Enter the Trust property, and (b) no Caltrans document produced to us in response to our specific PRAR’s for any and all geotechnical investigation reports, memoranda, or other writings identifies any such site visit. Moreover, one Caltrans memorandum identifies two such persons to have investigated two shallow (hand/shovel dug) pits in the Caltrans claimed highway ROW, both outside the boundaries of the Trust property. Notably, the most recent writing by a Caltrans geologist in relation to the project describes the very limited (superficial) geotechnical observations and recommends that a full geotechnical investigation and report of the entire project site be prepared.

16.2. A previous 2-page “preliminary geotechnical recommendations for Navarro Ridge Safety Project (November 19, 2019) by a Caltrans geologist (sic, the person is identified as an engineering geologist) and engineer (the person is identified as a transportation engineer) discloses that on the basis of “a few site visits”, “laboratory testing of three grab samples”, and “a review of available literature and mapping” - i.e., without a professional subsurface geotechnical investigation of the Navarro Ridge natural landform topography that Caltrans proposes to excavate to depths of up to 50 feet (v) or a slope Factor of Safety analysis - the duo recommended maximum cut slope inclinations (to 15h:1v) generally between project design stations 0+00 to 17+00; Caltrans plans indicate the Trust property to be located between just south of station 6+00 and north of station 7+00. In non-response to our PRAR, Caltrans has failed to produce any field notes associated with these activities to us.

16.3. A prior (February 27, 2015) one-page preliminary geotechnical review email by the same engineering geologist characterizes observations from a field reconnaissance, without specification of any observations of the Trust property, and preliminary recommends “the proposed cutslope ratios could possibly be adjusted to balance the cut/fill volumes”. Caltrans instead designed the project with a substantial excess of excavated earthen material in relation to its proposed fill volumes, but now in its presentation to the CTC parades two inconsistent project descriptions: (1) utilization of all excavated material for project site fill and (2) a gift of the excess excavated material to a project contractor for unspecified offsite use.

16.4. The Department response generalizes about an unspecified and undated “Drainage Report” for the “project”. The Caltrans project “Drainage Plan” (March 20, 2019), “Drainage Profiles” (February 6, 2020), and Drainage Quantities (February 6,

2020) contain no identifiable data for overland flow, subterranean flow, and exfiltrated groundwater (seeps) in the area of the Navarro Ridge slope on the Trust property.

16.5. Contrary to the Department representation that “post-construction, the project includes restoration of vegetation with California native plants and removal of invasive non-natives”, the project is (a) unsupported by a current baseline botanical survey of the Trust property, (b) the most recent project description contains no reference to any native vegetation restoration plan, and (c) the project “erosion control plan” and “legend” (Feb. 6, 2020) contains no restoration performance schedule, criteria for measuring restoration success, or monitoring/reporting program. The Department’s representation regarding restoration of native vegetation is thus speculative and fails the Sundstrom test.

16.6. The Department points to a project Natural Environment Study (NES, April/May/June/July, September, 2017 data), which together with its Addendum and Attachments (March/April/September, 2018 data), are now both more than two years old, outdated, and no longer valid. Moreover, the NES does not disclose that now outdated information by parcel, and the shown boundaries of the Trust parcel in the NES are incorrect. Biological conditions in and adjacent to the project area have reportedly changed since the Caltrans data collection, including, but not limited to, the observation of a pair of Peregrine falcons and fledglings, and other raptors in the area. The NES also omits the detailed ESHA analysis required by County LCP Coastal Zoning Code Chapter 20.496 and § 20.532.060. The project NES thus does not constitute a valid document for determination of whether the project will have potentially significant ESHA in the coastal zone.

16.7. The Department also represents that the project Visual Impact Analysis (VIA, November, 2018) finds that project visual impacts will be “temporary”, the project “is consistent with existing conditions throughout the corridor”, and “the home on this (Trust] parcel is set back from the edge of the cliff so the highway is not visible”. The Department errs. (a) VIA Figure 5 clearly indicates, by specified notation, that the highway is visible from the residence on the Trust property, as well as from the Navarro Ridge slope on it. (b) The VIA limits itself to an unspecified construction work period, but does not analyze the long-term visual effects of the cut slope on the Trust parcel, the uncertain status of any revegetation of it, and the lack of a subsurface geotechnical investigation report that addresses the long-term stability and structural integrity of the tall proposed cut into the natural landform. (c). The VIA also fails to define the term “existing conditions throughout the corridor”, adduce an evidence of its condition(s) or comparability, and present any analysis of the impacts of the project - including, but not limited to, on and adjacent to the Trust property - on the protected high scenic area. (d) As depicted even in the asymmetrical aerial photographic simulation in Caltrans presentation Slide 5, the project is plainly inconsistent with LCP Policy 3.5-1, as discussed above.

16.8. The Department admits that “numerous wildlife trails” occur on the Trust property. (a) These wildlife trails descend directly and obliquely down the west-facing Navarro

Ridge slope toward the Navarro Preserve. (b) The proposed substantial excavation by the project on the Caltrans-proposed takings area on the Trust property (and cumulatively on other properties with Navarro Ridge slopes) will block and, by the height and slope of the proposed excavation, interrupt the migration of wildlife through the corridor on the Trust property, and will likely channel migratory animals into the relatively small residual areas on the west-facing Navarro Ridge slope where their increased numbers may potentially result in increased collisions. The NES analyzes neither. The fact that numerous wildlife trails exist east of the Caltrans-proposed new ROW line and the excavation envelope is irrelevant; the project will substantially interfere with wildlife movement over/across that development envelope in the currently observed ESHA wildlife corridor. The Department merely speculates, without site-specific evidence or analysis, that the project “is not expected to impede movement of wildlife across the property”.

17. Slide 15 contains a graphic “related to the findings of the Commission: An offer of just compensation has been made in accordance with Government Code 7267.2” that (a) significantly misrepresents our Client’s objection in prejudicial red color, and (b) states one non-responsive Department response in blue color. In fact, the appraisal package that Caltrans produced to our Client and the Trust – in individual parts and as a whole, as we testified to the DCEM and CRPM and further describe below – is rife with errors, omissions, and misrepresentations that fail to meet State and Federal standards for what comprises a valid appraisal, and therefore prevent the Commission from adopting RON C-12939.

To the extent that those errors, omissions, and misrepresentations have also served to inappropriately diminish the property valuation, the Caltrans offer is too low, but it is Caltrans’ failure to adhere to the applicable standards in numerous aspects of the offer/appraisal package — not the valuation’s dollar amount *per se* — that preclude that offer from qualifying as a valid appraisal.

17.1. The errors and omissions in the Caltrans appraisal of the Trust property proposed for condemnation (and previous offer to the Trust) include, but are not limited to those listed below. The offer/appraisal package:

- (a) reflected misinformation regarding, or intentionally ignored, the true location, dimensions, configuration, and bearings of the Trust parcel and the portion to be condemned, thus resulting in mapping and legal description that do not comport with multiple documents of record, making it impossible for even professional surveyors and appraisers outside of Caltrans to confirm the alleged area to be condemned;
- (b) understated, mischaracterized, and misrepresented the true extent and scope of the project in relation to the Trust property, describing the use as a minor shoulder widening/guardrail project when the actual project involves excavation back some 30 – 40 feet or more on the Navarro Ridge slope on the Trust parcel;
- (c) failed to consider the true scope of those factors in the appraisal, including but not limited to their adverse effects on the Trust’s remainder parcel;

- (d) variously misidentified the true location of condemnation parcel and related project as being at both PM 41.93 and PM 41.97, although the CTC RON documents now peg it at PM 41.89;
- (e) lacking identification of the true post mile location, rendered it impossible for either the appraiser in preparing the offer, or the Trust, when plans were made available after the first scheduled RON in March, to establish either what project component(s) were actually slated for the condemnation parcel or the potential adverse effects those components would pose on the Trust's remainder parcel;
- (f) using "comps" for undeveloped coastal zone acreage when the Trust parcel is developed with a substantial residence in a prime location;
- (g) first improperly included a comp sale located 10 or more miles away, and then falsely mapped it as being only a short distance from the Trust parcel just south of the nearby Navarro River;
- (h) first failed to divulge and quantify the substantial volume of soil and rock that Caltrans proposed to excavate from the condemnation parcel, while intending to use the excavation spoils as project and offsite fill, including as either a State gift or in-lieu of payment to a project contractor, but without factoring their value into the appraised valuation;
- (i) (i) failed to consider the true economic value of the Navarro Ridge slope natural landform to the overall value of the Trust parcel, and the diminution in value of the Trust remainder parcel by virtue of the short- and long-term effects; and, (aesthetic and structural) of Caltrans use of the condemnation parcel; and,
- (j) as a result, the Caltrans appraisal of the Trust's condemnation parcel for which Caltrans now requests the Commission to adopt a RON is invalid *ab initio* because of Caltrans' lack of requisite diligence, and the Commission is now precluded from acting on RON C-21939 pursuant to Government Code § 7267.2 for lack of a valid appraisal.

17.2. Clearly, our Client's objection is not about a difference in property valuation, but rather that the Caltrans appraisal was (whether knowingly and intentionally, or through sheer incompetence) invalidly performed and legally unacceptable, even if the valuation had been greater.

18. Slide 16 contains a "summary" graphic that (a) states - without identification, relevant evidence, reference to relevant evidence, analysis, or reference to analysis - Government Code § 1245.230 subdivisions (c)1, (c)(2), (c)(3), and (c)(4), (b) repeats these statements, (c) avers, without substance, that the Department "will actively continue negotiations", (d) requests Commission approval of an "this Resolution of Necessity", unidentified by number, and (e) states that the witness and District 1 Director Matt Brady "will be happy to answer questions".

18.1. The Department has presented no evidence or analysis that (1) the public interest and (2) necessity require the proposed project, generally and in relation to the proposed taking by eminent domain of Trust property, as required by CCP § 1245.230(c)(1). Caltrans therefore denies the Commission the necessary site-specific information on the

basis of which to make any finding, determination, or declaration in connection caltrans-requested RON C-12939.

18.2. The Department has presented no evidence or analysis that the proposed project, generally and in relation to the proposed taking by eminent domain of Trust property, is (1) planned or (2) located in the manner that will be most compatible with (a) the greatest public good and (b) the least private injury, as required by CCP § 1245.230(c) (2). Caltrans therefore denies the Commission the necessary site-specific information on the basis of which to make any finding, determination, or declaration in connection caltrans-requested RON C-12939.

18.3. The Department has presented no evidence or analysis that either of the two parcels (“12967” or “12967-1”) listed in RON C-21939, at page 3, is necessary for the *proposed* project. The Department has presented the Commission with no settled accurate and complete description of Trust property that a settled *proposed* Project may require pursuant to CCP § 1245.230(3). The “legal description” of parcel “12967” is inaccurate and incomplete, as discussed above. Caltrans altogether omitted a legal description of listed parcel “12967-1”. The Department has presented the Commission with no *settled proposed* Project that meets the Trust property-specific “location and extent” and “sufficient detail” requirements in CCP § 1245.230(b). Caltrans therefore denies the Commission the necessary site-specific information on the basis of which to make any finding, determination, or declaration in connection caltrans-requested RON C-12939.

18.4. The Department has presented no evidence or analysis that the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record. In fact, as discussed above, Caltrans failed to prepare and produce a valid appraisal to our Client and the Trust. Caltrans therefore denies the Commission the necessary site-specific information on the basis of which to make any finding, determination, or declaration in connection caltrans-requested RON C-12939.

18.5. The Department has evinced only a perfunctory interest in substantive negotiations between our Client and Caltrans/District 1 about this matter, and then only after the CRPM was adjourned. District 1 summarily rejected our Client’s good faith recommendation for the LCP-consistent and environmentally preferred Project alternative, notwithstanding that the District 1 Deputy Directr acknowledged its feasibility. The Department’s representation about “actively continuing negotiations” following Commission adoption of RON C-21939 is contrived and without substance, hence not in good faith.

19. Request for Whole Record. On behalf of our Client, we again respectfully request a true and complete copy (in pdf and by electronic mail) of (a) the list of documents in the Commission record on this matter, and (b) any such documents that have not been previously produced to our Client and/or to us.

20. Request to question Caltrans presenters. On behalf of our Client, we respectfully request a reasonable opportunity during the Commission's proceedings on RON C-213939 to ask the Caltrans presenter(s), including Mr. Mike Whiteside and District 1 Director Matt Brady, questions about their testimony.

21. Request for rebuttal time. On behalf of our Client, we also respectfully request a reasonable opportunity to rebut any testimony by or on behalf of Caltrans and District 1 in this matter.

22. Request for Commission Determination and Declaration. For all of the above reasons, our Client respectfully requests the Commission, after full hearing, to (a) determine that the Caltrans request for RON C-21939 is not properly before the Commission for action, or (b) deny the Caltrans request for RON C-21939 because Caltrans has not presented evidence and analysis of evidence that, on the record of the Commission's proceeding, support the findings of fact and law, determination, and declaration by the Commission as required by and pursuant to CCP § 1245.230(c).

Thank you.

CTC RON C-21393, Reply of Dall & Associates, Consultant to Trustee Beverly Ann Engelhardt, Franklin A. Engelhardt and Beverly Ann Engelhardt Living Trust, dated July 19, 2007, to the testimony of Assistant Chief Engineer Mike Whiteside, October 22, 2020, Tab 63.