State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

# Memorandum

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**To:** REGION/DISTRICT DIRECTORS

**Date:** December 5, 2003

**File:** ACQUISITON
General

**From:** BRENT FELKER
Chief Engineer

**Subject:** Processing of Department Resolutions of Necessity (RON) through the California Transportation Commission (CTC), County Board of Supervisors (Board) or City Councils (Council)

The Uniform Relocation Assistance and Real Property Acquisitions Policy Act requires that the Department to make every effort to acquire real property, or an interest therein, expeditiously by negotiation. Effective negotiations should ensure that all property owner issues are identified and resolved and that owners receive just compensation as entitled by law.

If, however, negotiations are not successful, timely delivery of Capital Outlay Projects may require pursuit of Condemnation Actions to acquire the necessary property rights. The first step in this process is a legal requirement to obtain a Resolution of Necessity (RON). It is crucial that the RON process be carried out effectively and in such a manner as to balance maximum public benefit with least private injury. Protection of property owners' rights throughout the process is essential.

Pending an overall review of the RON process this memo is an interim effort to improve the process through immediate implementation of the following clarifications and interim actions. This will hopefully assist in completing the current process in the most efficient and timely manner. These actions apply in all cases, whether the RON is presented before the CTC, Board, or Council. They are in addition to or in clarification of existing instruction.

- **Emphasize Team Effort**: Design, Right of Way (R/W) and external partners must perform as a team in an effort to resolve property owner issues, during negotiations and also throughout the resolution process.

- **Appearance Request**: If negotiations have failed and the Department must pursue a RON, the property owner has the right to request an appearance before the CTC, Board, or Council to contest the adoption of the RON. In response to the property owners' written request to appear, the District must conduct a First Level Review Hearing which presents another opportunity for resolution at the District level.

- **First Level**: The purpose of the First Level Review Hearing is to identify and resolve all the property owners' issues, if possible. To do so requires thorough preparation and open consideration of property owner concerns. Mandatory attendance and participation of Design and R/W Managers, as well as the District Director in some instances, are necessary components for success. Clear, concise and complete responses to all of the property owners' concerns must be communicated promptly in writing to the property owner, and to the Condemnation Review Panel if the owner has not withdrawn his or her request to appear. Scheduling of a Second Level Review Hearing, if necessary, by the Condemnation Review Panel will be based on the completeness of these responses.

- **Second Level**: Attendance at the Second Level Review Hearing should be limited to active participants and decision makers only. The Region/District presentation to the Condemnation Review Panel is to be conducted by management level persons from both Design and R/W. The Design manager will present the design portion, and a R/W manager will present the real estate portion.

- **Panel Report Recommendation and Approval**: The Condemnation Review Panel will jointly prepare the Panel Report and recommendation for the Chief Engineer's approval. If the project in question is on the State Highway System the Panel's recommendation to proceed is required as is final approval from the Chief Engineer.

- **Appearance Presentations to the CTC**: The HQ's Design panel member will make the presentation to the CTC. The HQ's R/W panel member (Chairperson), and the Legal panel member will also be present at the CTC meeting. The R/W panel member, and when necessary the Legal panel member, will sit at the presentation table to respond to any R/W or Legal issues raised. A Deputy District Director from the Region/District must also be present at the CTC meeting and must be able to address project history and/or local issues if raised by the CTC or the property owner.

- **Appearance Presentation to a Local County Board / City Council**: The District Director, a designated Deputy District Director or other Managerial level Design staff member will be fully prepared to make the presentation before the Board/Council. A Region/District R/W Manager, and when necessary a Department Legal representative, will be present and immediately available to respond to any issues raised by the Board/Council or the property owner.

Specific procedures for performing First and Second Level Reviews are found in Project Development Procedures Manual Chapter 28, Article 2. I cannot overemphasize the importance of District management involvement and assurance that adequate staff and resources be dedicated. The goal of the process is to find a resolution of issues that benefits both the public, and the property owner, without the necessity of filing an action of eminent domain.

If you have any questions, please contact your HQ's R/W or Design liaison.

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