

Memorandum

To: DISTRICT DIRECTORS

Date: August 16, 1995

File No.: HW Policy
R/W HW
Approval Process

From: DEPARTMENT OF TRANSPORTATION
DIRECTOR'S OFFICE

Subject: Approval Process for Acquisition of Hazardous Waste Contaminated Property

It is Caltrans policy to avoid hazardous waste, if possible, to make an effort to have responsible parties accept responsibility for cleanup, and seek reimbursement from such parties when Caltrans must conduct a cleanup as part of the project development process. Acquisition of contaminated property may occur only after there has been adequate hazardous waste investigation and the cost of cleanup has been considered in the appraisal and acquisition process.

Caltrans policy currently does not require Headquarters approval to purchase contaminated property except where the net value of the property after the fair market value deduction for hazardous waste cleanup is \$0 (or the cost of cleanup exceeds the fair market value of the property) and the property is to be presented to the California Transportation Commission (CTC) for approval of a Resolution of Necessity.

This memorandum modifies the Department's right of way acquisition policy regarding purchasing of contaminated properties. In addition to adequate investigation and appraisal safeguards the approval of the Deputy Director, Project Development and the Deputy Director, Planning will be required when any of the following four conditions exist:

1. Remediation costs (excluding investigation costs) relative to the specific parcel are estimated to exceed \$200,000 and :
 - (a) The estimated cost of remediation exceeds 50% of a parcel's appraised value compared to its uncontaminated value, or
 - (b) The estimated cost of parcel remediation exceeds 10% of the total project costs (right of way and construction).
2. Contamination on the parcel has resulted in groundwater contamination requiring cleanup.
3. The net value of the property after the fair market value deduction for hazardous waste cleanup is \$0 (or the cost of cleanup exceeds the fair market value of the property) and the parcel is to be presented to the CTC for approval of a Resolution of Necessity.

4. The parcel was previously a mining and/or milling site with associated tailings, drainage and/or processing residues residing on the parcel or a mine site which is subject to local, state and/or federal reclamation requirements.

The project manager, in coordination with District Right of Way, Project Development and Legal shall prepare the request for Headquarters approval. The approval process should be routine if the District provides detailed information regarding the contamination issue. The request should, at a minimum, address the following:

- (a) Appraised value of the parcel sought to be acquired both "clean" and "as-is".
- (b) A summary of the project (including programmed/approved right of way and construction costs) and how project construction (including utility relocation within the highway project limits) will impact on the contaminated area. As to groundwater testing, whether the groundwater is/is not contaminated; remediation is/is not required.
- (c) Type and extent of hazardous waste (summary of the hazardous waste investigation), including source, responsible parties, if known.
- (d) Estimated cost to Caltrans for remediation, including an assessment of future liability (on and possible off site) if Caltrans assumes responsibility for remediation.
- (e) Why it is not practical to defer the project or to modify the project to avoid the contaminated property(s).
- (f) Options considered to avoid contamination during the project development process, e.g., deleting or delaying portions of the project affected by the contamination until resolution of the problem by others; modification of the project to accommodate the owner's cleanup during and or after project completion; acquisition of permanent or temporary easement rather than fee.
- (g) Type of remediation proposed, including whether the Department has approval from the appropriate regulatory agencies.
- (h) Why the property owners, or other responsible parties, have not assumed responsibility for remediation.
- (i) Steps that have been or will be taken to recover remediation costs and an evaluation from Caltrans Legal of the chances of success.
- (j) List of other contaminated or potentially-contaminated parcels on same project.

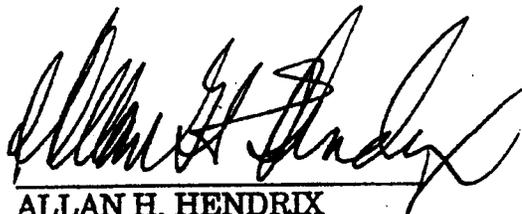
District Directors
August 16, 1995
Page 3

Requests for approvals should be sent to Hazardous Waste Management Office, Environmental Program for coordination of the Deputies response. It is anticipated a minimum of 30 days will be needed to process the approval request and the Districts should plan accordingly.

If you have any questions regarding the approval process or this memorandum, please contact Gary Winters of the Hazardous Waste Management Office at (916) 653-7466.



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