

FOR YOUR INFORMATION FROM
Radovich Law Offices
P.O. Box 106
San Luis Obispo, CA 93406

HALL, HEATT & CONNELLY, LLP

Attorneys at Law
1319 Marsh Street, Second Floor
San Luis Obispo, California 93401
e-mail: hhc@HHC-SLO.com
Fax (805) 544-5329
(805) 544-3830

Santa Barbara Office

1525 State Street, Suite 205
Santa Barbara, CA 93101-2500
e-mail: hhc@HHC-SB.com
Fax (805) 966-3756
(805) 966-1092

Clayton U. Hall
Jay A. Heatt
Mark B. Connely
Linda D. Hurst

Stephanie A. Bowen
Julie C. Grebel

Molly E. Thurmond, Of Counsel
Paul E. Kremser, Jr., Of Counsel

REV'D 4

DEC 21 2006

CAL _____

December 18, 2006

M. Scott Radovich, Esq.
Radovich Law Offices
755 Santa Rosa Street, Suite 300
San Luis Obispo, CA 93401

Re: **Bookout vs. State of California, et al.**
Our File No.: 2530.31432

Dear Mr. Radovich:

This letter will serve to confirm the conceptual agreement that we have entered into with regards to the above-entitled matter. Specifically, you have agreed to dismiss, or otherwise waive the damage causes of action, including the inverse condemnation cause of action against the County of San Luis Obispo as a result of the flooding of your client's property located at 1341 Paso Robles Street, Oceano, California. In any event, the County of San Luis Obispo will not be held responsible for any damages, attorney's fees, or costs associated with those causes of action. We understand that the exact mechanism to accomplish those ends need to be worked out.

In exchange, the County of San Luis Obispo agrees to remain involved in the litigation and to assist and to provide impetus towards resolving the problems that cause the flooding at the subject location. While the County may provide technical assistance, the County will not be responsible for the costs of any project designed to rectify the cost or expense of rectifying the problem.

Further, based on this agreement, the County will not attack the plaintiff's damage claim and will disengage from acting in any discovery, including the questioning of plaintiff's witnesses.

This agreement is to remain confidential between the County of San Luis Obispo and the plaintiff and will not be communicated to other parties to this litigation at least through the upcoming mediation set to take place January 7. It is my understanding that we will both communicate the substance of this agreement to the mediator so that the mediator will not be expecting economic contribution from the County.

M. Scott Radovich, Esq.

Re: **Bookout vs. State of California, et al.**

December 18, 2006

Page 2

If I have in any way misstated the substance of our agreement, please contact me immediately so we may discuss the matter further.

On another matter, I have forwarded Keith Crow's report on to County Public Works for their review and comment. I have specifically instructed them that they are not to communicate the fact that they have been granted access to the report or to discuss anything contained within the report with anyone outside their department, with the exception of this office, County Counsel, and Risk Management. I am hopeful that at the upcoming mediation that we will be in a position to meaningfully discuss methods to rectify this potentially dangerous situation.

Should you have any questions or comments, please feel free to contact me.

Very truly yours,

HALL, HEATT & CONNELLY, LLP



CLAYTON U. HALL

CUH/bam

cc: Rita L. Neal, Esq. (CV 060384)
Debra A. Hossli, Risk Manager

Bill Bookout

From: Scott Radovich [scott@radovich.com]
Sent: Friday, December 22, 2006 10:09 AM
To: HallHeatt@aol.com
Cc: 'Bill Bookout'
Subject: Confidential Settlement Communication in Bookout v Cal Trans

Dear Mr. Hall,

Below is an excerpt from the confidential portion of our brief being submitted to Justice Stone today. This portion is consistent with your recent letter and our understanding.

Finally, as to the County of San Luis Obispo, the only issue that might create liability on its part is the duty to manage flood control. That duty may, in fact, belong to OCSD. Nonetheless, the flooding comes from Cal Trans property so even if uphill development (approved by the County) contributes to the flow, it is doubtful that any viable cause of action could be successfully proven against the County at trial. For this reason, a tentative, confidential deal has been brokered with the County whereby it would be eventually dismissed from the damage-based causes of action and remain as a nominal defendant in the injunctive relief cause of action, only. The purpose of that arrangement is so that the County could be retained as a participant in any global agreement to finally and permanently correct this problem. These specific discussions have taken place between plaintiff and the County and it appears that there is an acceptable framework within which a solution can be reached with the County's participation. Based upon this potential agreement, the plaintiff is not seeking damages or a contribution from the County at this mediation.

M. Scott Radovich
Radovich Law Offices
755 Santa Rosa Street, Suite 300
San Luis Obispo, CA 93401
(805) 541-5900 - phone
(805) 541-5904 - fax
scott@radovich.com

PRIVACY AND CONFIDENTIALITY NOTICE: This is a transmission from the RADOVICH LAW OFFICES. This message and any documents attached to this may be confidential and contain information protected by the attorney-client privilege or attorney work product doctrine. They are intended for the addressee only. If any attachments require conversion or this transmission is received in error, please contact our offices.

FOR YOUR INFORMATION FROM
Radovich Law Offices
P.O. Box 106
San Luis Obispo, CA 93406

HALL, HIEATT & CONNELLY, LLP

Attorneys at Law
1319 Marsh Street, Second Floor
San Luis Obispo, California 93401
e-mail: hhc@HHC-SLO.com
Fax (805) 544-5329
(805) 544-3830

Santa Barbara Office
1525 State Street, Suite 20
Santa Barbara, CA 93101-250
e-mail: hhc@HHC-SB.com
Fax (805) 966-3751
(805) 966-1092

Clayton U. Hall
Jay A. Hieatt
Mark B. Connely
Linda D. Hurst

Stephanie A. Bowen
Julie C. Grebel

Molly E. Thurmond, Of Counsel
Paul E. Kremser, Jr., Of Counsel

January 18, 2007

M. Scott Radovich, Esq.
Radovich Law Offices
755 Santa Rosa Street, Suite 300
San Luis Obispo, CA 93401

Re: Bookout vs. State of California, et al.
Our File No.: 2530.31432

Dear Mr. Radovich:

This letter will serve to confirm our conversation of yesterday, Wednesday, January 17. At that time, it was agreed that I would not ask your client any questions at his ongoing deposition. In exchange, if, for some reason, the County remains in this litigation following the upcoming Mediation, I will be allowed to take a statement under oath of your client in that unlikely event.

If I have said anything in this correspondence that inaccurately reflects our conversation, please let me know immediately.

Very truly yours,

HALL, HIEATT & CONNELLY, LLP

CLAYTON U. HALL

CUH/bam

Clayton U. Hall
Jay A. Heatt
Mark B. Connely
Lirada D. Hurst

Stephanie A. Bowen
Julie C. Grebel

Molly E. Thurmond, Of Counsel
Paul E. Kremser, Jr., Of Counsel

HALL, HEATT & CONNELLY, LLP

Attorneys at Law
1319 Marsh Street, Second Floor
San Luis Obispo, California 93401
e-mail: hhc@HHC-SLO.com
Fax (805) 544-5329
(805) 544-3830

Santa Barbara Office
1525 State Street, Suite 205
Santa Barbara, CA 93101-2500
e-mail: hhc@HHC-SB.com
Fax (805) 966-3756
(805) 966-1092

REVD *h*
FEB 09 2007

CAL _____

February 6, 2007

Ms. Mauri McGuire
Carl Warren & Company
Post Office Box 7059
Ventura, CA 93006

Re: **Bookout vs. State of California, et al.**
D/L : January 1, 2006
Claim No. : 1398988
Our File No. : 2530.31432

Dear Ms. McGuire:

As you are aware, the Mediation in the above-entitled matter took place on Wednesday, January 31 before Mr. Craig McCollum. The Mediation, which lasted into the late afternoon, was not successful. It should hardly come as a surprise, as I had always envisioned that a Mediation in this matter would be a two step process.

However, I do believe that there was significant movement both in terms of the "fix" of the problem as well as a resolution of the plaintiff's damage claim. As to the "fix" the defendants did agree that it does not make sense to resolve the plaintiff's damage claim unless the problem has been rectified. Otherwise, subsequent flooding will cause subsequent litigation.

The defendants have collectively agreed to a meeting of their technical advisors (those persons that would be involved directly with rectifying the problem). Said meeting is to take place within 30 days. I suggested that the mediator conduct the meeting to ensure that the technical advisors remain on task and to protect those discussions from disclosure under the mediator's privilege. The Mediation will take place in Oceano so the technical advisors can walk the involved property, as necessary.

Ms. Mauri McGuire
Re: Bookout vs. State of California, et al.
February 6, 2007
Page 2

I agreed to bear the laboring oar in setting the meeting. Once the meeting has been set, I will advise you.

As to the plaintiff's damage claim, it is our understanding that the original demand was for something in the \$1 million range. Frankly, such a demand is laughable. The plaintiff has not been able to exhibit damages anywhere near seven figures.

It is my understanding that a joint offer was made by all defendants, excluding the County of San Luis Obispo, in the amount of \$40,000. This offer was met with a response that if the offer was increased that a demand would be made in the "early six figures." In my opinion at this point in time I don't think this case has a settlement value anywhere \$100,000.

As noted above, the County did not contribute to any settlement offer. This is due to the fact that plaintiff's counsel and I have reached an accord that he will ultimately dismiss the County from all damage causes of action and the inverse condemnation cause of action. At this point in time he does anticipate keeping the County in the injunctive relief cause of action, as we are obviously an unnecessary party to the overall "fix." Specifically, the County needs to be involved in the "fix" as it relates to improvements at Railroad Avenue and to the east. By a copy of this letter I am confirming my telephone conversation with him. He advises that he may bring Randy Ghezzi or George Gibson with him to the technical meeting, as appropriate.

I also intend to push plaintiff's counsel to dismiss those causes of action relating to the County as noted above. Please be advised that we do need to be concerned about the possibility of Cross-Complaints, although I am no overly concerned, as I don't think it really behooves any of the defendants to point the fingers at the County in this matter.

Also for your information, plaintiff's counsel has set the following depositions:

Dan Sutton	February 28, 2007	10:00 a.m.
Dept. of Trans PMK	February 28, 2007	1:30 p.m.
David Frye	February 28, 2007	3:00 p.m.
Javier Sanchez	March 29, 2007	10:00 a.m.
Gina Davis	March 29, 2007	1:30 p.m.

Ms. Mauri McGuire

Re: Bookout vs. State of California, et al.

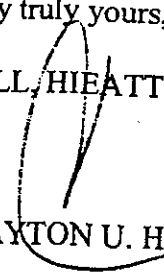
February 6, 2007

Page 3

I will continue to keep you updated as developments warrant. In the meantime, should you have any questions or comments, please feel free to contact me.

Very truly yours,

HALL, HEATT & CONNELLY, LLP

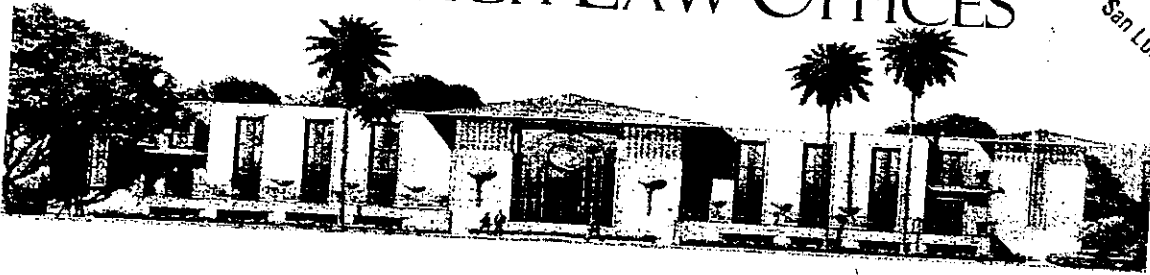


CLAYTON U. HALL

CUH/bam

cc: Rita L. Neal, Esq. (CV 060384)
Debra A. Hossli, Risk Manager
M. Scott Radovich, Esq.

RADOVICH LAW OFFICES



FOR YOUR INFORMATION:
Radovich Law Office
P.O. Box 106
San Luis Obispo, CA 93406

February 20, 2007

Clay Hall, Esq.
Hall, Heatt & Connely
1319 Marsh Street, 2nd Floor
San Luis Obispo, CA 93401

Re: Bookout v. State of California, et al.

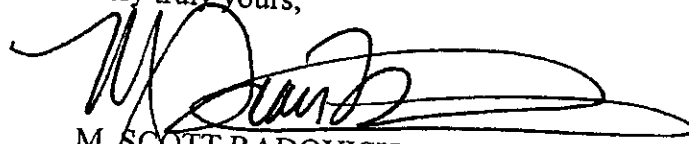
Dear Mr. Hall:

Thank you for your letter of February 8, 2007.

I am in the process of obtaining my clients written agreement to go along with your suggestion, but there has to be one change. The dismissal would need to be filed close in time to trial. Simply put, I do not want the totality of our deal to be known by the other defendants until as close to trial as possible.

Thank you for your kind attention.

Very truly yours,



M. SCOTT RADOVICH

MSR:sf
c: Bill Bookout

Scott Radovich

From: Bill Bookout [pismobeachdiveshop@charter.net]
Sent: Thursday, March 01, 2007 9:14 AM
To: Scott Radovich
Subject: inverse condemnation

Scott Radovich

Re: Your Letter February 20, 2007

At this point I am planning on going to trial which would be the second of your three choices. I do not believe we need to waste time again in mediation and the public needs to know through trial what has happened in regards to the cause of this flooding at Hwy1 Paso Robles and 13th Street in Oceano. This ultimately will save me some money in legal fees! I believe my damages are more then you think especially after this last flood and what I have had to go through since.

First Bank has started foreclosure on my Oceano Nursery property as I have been unable to make my payments from the flooding. I have put an ad in the San Luis Tribune, under Financial in hopes of obtaining a loan to pay off First Bank, and flood debts of \$284,000.00 also to come up with Money to bring this to trial. If you have any suggestions, I could use your help. I have also listed my Pismo Beach Property for sale to help make this happen.

The County Of San Luis Obispo needs to be held accountable, Pismo Oceano Vegetable Exchange's, Attorney has demonstrated this in his Mediation Brief. Exhibit #13 and the County's Executive Summary ("Oceano Drainage and Flood Control Study")2003.

The county of San Luis Obispo has withheld key information regarding flooding and prior actions of other agencies this has cost the county tax payers thousands of dollars as drainage studies have been done without this information being provided.

The letter from The County's Attorney that you enclosed is insulting to me and I do not give my authority to continue with this agreement with the County! On February 28, 2007 I visited the County and looked up many County documents regarding permits that they issued P.O.V.E. The County ignored the need for the existing drainage starting November 13, 1974 --February 27, 1975 and then again on March 14, 1977. This is approximately the beginning of the flooding problems on Hwy 1 many people have stated goes back 30 years. I did not find other correspondence until a letter from O.C.S.D. on December 13, 1984 a County building inspector letter on December 26, 1984 and then a County Of San Luis Obispo Health Agency letter on March 27, 1985 regarding P.O.V.E's. "Holding Pond, Vegetable Wash Wastewater and Sludge." If you remember this is about the time O.C.S.D. installed their well # 8 PVC pipe into the drainage inlet.

It's unfortunate that I'm the one that has to be the whistleblower on this County/State/CSD-Cover-up. This has had a Defamation on my reputation, tremendous financial losses and caused a stigma on my Business that will last forever. You initially took this case on a inverse condemnation assumption and I still feel, that's the case. P.O.V.E. and Union Pacific is purely irresponsible and negligent!

Thanks,
Bill Bookout
www.pismobeachdiveshop.com
Ph: 805.773.2089
Fx: 805.773.0017

Bill Bookout
Page -2-
March 2, 2007

It is also my understanding from reading your e-mail that you no longer want me to deal with the County of San Luis Obispo on a basis by which they help us in this case in exchange for not seeking damages against them. This position I have taken with the County and recommended to you was based significantly upon the lack of direct evidence of a case against the County of San Luis Obispo. Because of that lack of evidence, and in direct consultation with our hydrologist Mr. Crowe, I made the recommendation to you that we not pursue a case of damages against the County. Rather, we keep the County in the case for purposes of spearheading a fix of the problem, while at the same time the County was giving us cooperation in helping us prove our case against the other defendants. You might recall that it was the County who gave us the letters dating back 20 years involving the Railroad, Caltrans and POVE. Without the County's assistance, those letters would not have been discovered.

Therefore, if it is your specific direction that we not negotiate with the County on this basis, then we also need to sit down and discuss the terms and conditions of my further representation. Before I notify the County of your decision, I want to have a face to face meeting with you on this subject and hopefully have Ms. Thurn attend. If the decision is to continue with this action for damages against the County, then two things will happen:

1. The County will be allowed to continue with your deposition and set up the evidence they need to move for summary judgment; and
2. The County will move for summary judgment against you, and if successful, will seek sanctions under the Government Code for maintaining a case against the County for damages which we are not able to prove.

Nonetheless, I am willing to sit down with you to discuss these matters before coming to ultimate decisions.

In the meantime, Ms. Thurn and I are working on amending the complaint on your behalf to include the December 2006 flood damage. If you have sustained other damage more recently, please tell me the dates, the amounts of damage you can estimate now, and provide documents to support those claims. Ms. Thurn will need this information before we prepare and finalize our amended complaint. By proposing this amended complaint to the court, there is a strong likelihood that the trial date of August will be continued. The reason for this is because some of the theories in the case may be change as well as the scope of damages. By filing this amended pleading, it will also send a strong message to the defendants that they will continue to be sued every time you are flooded. This will hopefully spark them to act more efficiently in coming up with a total and final solution to correcting the flooding problem in this area of Oceano.

Bill Bookout
Page -3-
March 2, 2007

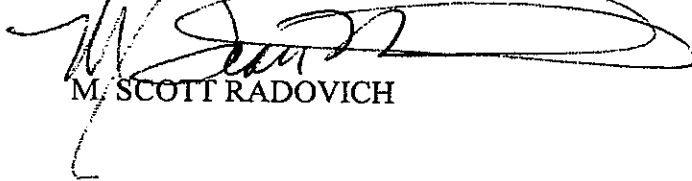
Therefore, my proposed plan of action is outlined as follows:

1. That we prepare and file an amended pleading and motion to the court to allow us to file that pleading to include up-to-date damages and some adjustment of the legal theories against the defendants;
2. That we continue the depositions currently scheduled in late March to a date after a second round of mediation;
3. That we engage in a further mediation in the month of May.

If you disagree with this approach, then I want to see that disagreement in writing within five days from the date of this letter. Otherwise, I will proceed as proposed.

Thank you for your attention.

Very truly yours,



M. SCOTT RADOVICH

MSR:sf

Enclosures
c. Margaret Thurn (w/enc.)

RADOVICH LAW OFFICES



March 2, 2007

CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

Bill Bookout
1311 Paso Robles Street
Oceano, CA 93445

Re: Bookout v. Oceano CSD, et al

Dear Mr. Bookout:

I am enclosing a copy of the e-mail I received today from you.

Am I now to understand that you are willing to go forward through trial and advance all of the costs necessary? If so, then you will need to begin depositing the funds agreed upon into my trust account to cover all of the litigation expenses. Until that happens, I will not be conducting depositions or incurring any further expense on your behalf.

Although you indicate that you have no interest in mediating this case, I believe that to be foolish. In order to make an economic and wise business decision, you should see how much authority the other side can muster to resolve your case before pushing ahead to trial. While you state, "I believe my damages are more than you think", your damages are a function of what we can prove, not what you or I think. While you may believe your damages are at a certain level, a jury will not buy into that level unless we can prove it. Margaret Thurn, my associate counsel on this case with whom you have spoken in the past, will be attempting to help you put together damages that are sustainable in accordance with the rules of evidence. Until we can do that, the amount of damages that we can prove will remain significantly less than you believe.

Enclosed you will find a letter from Mr. McCollum, the mediator, dated February 28, 2007. Indeed, the mediation efforts are continuing especially in the direction of coming up with a final solution to the flooding problem. The parties on the other side want to continue negotiating with you to settle your claim in early May. I am agreeable. If you tell me not to proceed with mediation, then we need to sit down and discuss the terms and conditions, if any, of my continued representation of you.

FOR YOUR INFORMATION FROM
Radovich Law Offices
P.O. Box 106
San Luis Obispo, CA 93406

HALL, HEATT & CONNELLY, LLP
Attorneys at Law

1319 Marsh Street, Second Floor
San Luis Obispo, California 93401
e-mail: hhc@HHC-SLO.com
Fax (805) 544-5329
(805) 544-3830

Santa Barbara Office

1525 State Street, Suite 205
Santa Barbara, CA 93101-2500
e-mail: hhc@HHC-SB.com
Fax (805) 966-3756
(805) 966-1092

Clayton U. Hall
Jay A. Heatt
Mark B. Connely
Linda D. Hurst

Stephanie A. Bowen
Julie C. Grebel

Molly E. Thurmond, Of Counsel
Paul E. Kremser, Jr., Of Counsel

REV'D 4

JUN 07 2006

CAL _____

June 6, 2006

M. Scott Radovich, Esq.
Radovich Law Offices
755 Santa Rosa Street, Suite 300
San Luis Obispo, CA 93401

Re: **Bookout vs. State of California, et al.**
Our File No.: 2530.31432

Dear Mr. Radovich:

As you are aware, we have been retained to represent the interests of the County of San Luis Obispo in the above-entitled matter. Enclosed please find a copy of the General Denial prepared, filed and served on behalf of that entity.

Also enclosed please find the following written discovery:

1. Form Interrogatories;
2. Special Interrogatories; Declaration for Additional Discovery; and,
3. Request for Production of Documents.

It would be greatly appreciated if you would respond to the written discovery in a timely fashion. Should you need a reasonable extension of time within which to provide full and complete responses feel free to contact us to make the necessary arrangements. Otherwise, we will expect to receive your client's verified responses within the time frames outlined by the enabling statutes.

I am very interested in the basis of your theory of liability as to the County of San Luis Obispo. In our initial conversation, you advised that you felt that the County bore liability due to the fact that the County allowed or caused surface water to proceed down gradient along its curbs, gutters and sidewalks which added to the flooding problem at the subject location. I must point out that I cannot believe that alone is a viable basis of liability as to the County of San Luis Obispo. If that remains the sole theory of liability as to the County, we will be bringing a dispositive motion relatively early on in this litigation to extricate the County which will allow you to proceed against those that may bear true liability. If a dispositive motion does become necessary, we will be seeking an award of

M. Scott Radovich, Esq.

Re: **Bookout vs. State of California, et al.**

June 6, 2006

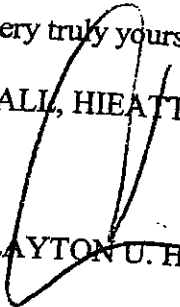
Page 2

attorney's fees as part of the cost of the defense of this action. I advise you of this as statute and case law requires that we put you and your client on proper notice of our intention in that regard.

Should you have any questions or comments at any point in time, please feel free to contact me.

Very truly yours,

HALL, HEATT & CONNELLY, LLP

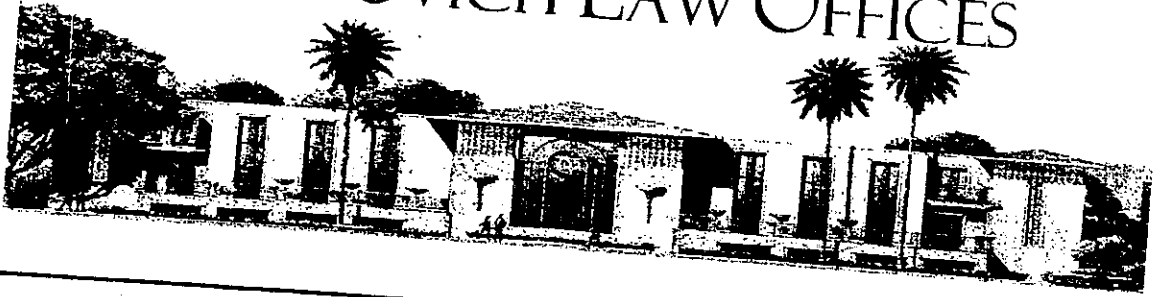

CLAYTON U. HALL

CUH/bam
Enclosures

cc (*without enclosures*):

Maureen McGuire
Jac A. Crawford, Esq. (CV 060384)
Debra A. Hossli, Risk Manager

RADOVICH LAW OFFICES



Clay Hall, Esq.
Hall, Heatt & Connely
1319 Marsh Street, 2nd Floor
San Luis Obispo, CA 93401

July 6, 2006

Re: Bookout v. State of California, et al.

Dear Mr. Hall:

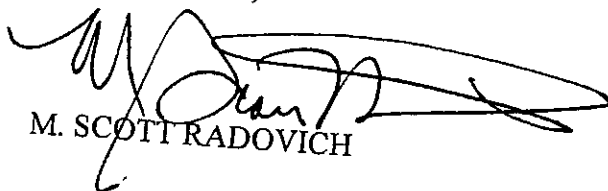
This letter is in reply to yours of June 5, 2006.

We intend to respond to the pending discovery in a timely fashion.

The other point raised in your letter regarding the liability of the County of San Luis Obispo is a bit more complex than the framed issue as stated in your letter. As you well know, the County of San Luis Obispo has an obligation to make sure that the drainage system over the controlled public property is maintained in such a manner so as not to create a burden upon adjacent property owners. The flow of rainfall that begins this entire problem starts on County maintained roads, streets and gutters. It continues through the County right-of-way as the flow approaches the railroad tracks, as well as collects in a basin beyond the railroad tracks and downhill from my client's property. To suggest that the County of San Luis Obispo will be seeking attorney's fees based on a dispositive motion is difficult to imagine considering the joint responsibility that these various entities, including the County, have concerning the constant flood damage that occurs at the subject location. If you have specific facts to the contrary, supported by evidence you will now disclose, please share them with me so that I may evaluate this matter immediately as suggested in your letter.

Thank you for your kind attention.

Very truly yours,



M. SCOTT RADOVICH

:jb
c: Bill Bookout (w/encl.)
Bookout\Hall2.ltr

HALL, HEATT & CONNELLY, LLP
Attorneys at Law

1319 Marsh Street, Second Floor
San Luis Obispo, California 93401
e-mail: hhc@HHC-SLO.com
Fax (805) 544-5329
(805) 544-3830

Santa Barbara Office
1525 State Street, Suite 205
Santa Barbara, CA 93101-2500
e-mail: hhc@HHC-SB.com
Fax (805) 966-3756
(805) 966-1092

Clayton U. Hall
Jay A. Heatt
Mark B. Connelly
Linda D. Hurst

Stephanie A. Bowen
Julie C. Grebel

Molly E. Thurmond, Of Counsel
Paul E. Kremser, Jr., Of Counsel

REV'D _____

July 18, 2006

JUL 20 2006

CAL _____

M. Scott Radovich, Esq.
Radovich Law Offices
755 Santa Rosa Street, Suite 300
San Luis Obispo, CA 93401

Re: **Bookout vs. State of California, et al.**
Our File No.: 2530.31432

Dear Mr. Radovich:

This letter will serve to confirm our recent telephone conversation with regards to the above-entitled matter. At that time, I advised you that my client had produced correspondence dating back to the mid 1980s concerning the flooding problem at the subject location.

Specifically, Cal Trans was communicating with Southern Pacific Transportation Company and Pismo Oceano Vegetable Exchange concerning Cal Trans' concern about flooding of Highway 1 as a result of changes made within railroad property by its tenant, Pismo Oceano Vegetable Exchange. Apparently, there had been no flooding at the location until after POVE added onto the building that was constructed upon Union Pacific property.

I enclose copies of correspondence from Cal Trans to Southern Pacific dated July 23, 1986, as well as correspondence from Cal Trans and Santa Fe Pacific Realty Corporation to Pismo Oceano Vegetable Exchange dated January 16, 1986 and February 18, 1986, respectively.

It is my understanding that the work was never completed. It is my client's belief that Cal Trans simply "dropped the ball" and that they never forced the issue with the railroad and/or Pismo Oceano Vegetable Exchange. It is my further understanding that at some point in time Pismo Oceano Vegetable Exchange ultimately acquired the real estate from Southern Pacific/Union Pacific.

I might note that it has always been my client's position that the changes made under the Pismo Oceano Vegetable Exchange addition have been the cause of the problem. It remains my position that the County has a right to allow its water to flow downhill and it is the responsibility of the downhill property owners to dispose of that water in an appropriate fashion.

Letter - a. HEATT & CONNELLY - 1724.0

M. Scott Radovich, Esq.

Re: **Bookout vs. State of California, et al.**

July 18, 2006

Page 2

I would prefer that you keep the source of the enclosed documentation confidential at this point in time. However, having said that, it is my intention to tender the defense and the indemnity of the County of San Luis Obispo to Pismo Oceano Vegetable Exchange in part based on the enclosed documents.

We are in receipt of your correspondence of July 10, 2006, along with your client's responses to our written discovery. We will be sending you a "meet and confer" letter, as we do not believe that many of the responses are, in fact, responsive. We do enclose a check in the amount of \$150 for the duplication of the enclosed discs and DVD. Should you have any questions or comments, please feel free to contact me.

Very truly yours,

HALL, HEATT & CONNELLY, LLP


CLAYTON U. HALL

CUH/bam
Enclosures

cc: Maureen McGuire (Claim No. 1427355-MM)
Rita L. Neal, Esq. (CV 060384)
Debra A. Hossli, Risk Manager

DEPARTMENT OF TRANSPORTATION

P.O. BOX L, SAN LUIS OBISPO, CA 93403

TELEPHONE: (805) 549-3111



*File
CO RD #1100*

September 25, 1987
5-SLO-1-12.4
05201-326201
OCEANO DRAINAGE
PROJECT

Glenn Priddy
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

SUBJECT: OCEANO DRAINAGE PROJECT AGREEMENT

Dear Glenn Priddy:

Here is the cost estimate for your part of this drainage project that we promised to send to you. Included in the estimate are: pipe with class "C" concrete backfill, about 50 feet of replacement pavement on Railroad Avenue and a concrete endwall. The class "C" concrete backfill is necessary because the top of the proposed pipe is close to the grade of the raised street.

We will keep you informed about the progress of this project.

Gary Simms
Gary Simms
Project Engineer

GLS : gls
CC:
PH
RNW
O. J. Solander

RECEIVED
SEP 28 1987
COUNTY ENGINEERING
DEPARTMENT

EXHIBIT 13
Deponent PRIDDY
Date 9/26/87
www.dgs.state.ca.gov

182

Cost of Drainage Correction

County Portion

AC = $50 \times 18 \times \frac{.35 \times 150}{2000} \times \$65 = \$1,536$

AB = $50 \times 18 \times \frac{.50}{27} \times \$28 = 467$

Rdwy Exc = $50 \times 18 \times \frac{.25}{27} \times \$13 = 184$

29" x 45" x 42' APC $\frac{2 \times 27}{42'} \times \$90 = 3,780$

36" to 29" x 45" Connector = 1,000

Class "C" Conc. Blk/ $20 \times 15 \times 3 - \frac{\pi 3^2}{4} \times 7 \times \$100 = 588$

Headwall 1.95 CY @ \$900 $\frac{27}{4} = 1,755$

\$9,310

RR/POVE Portion

Jack 36" x 40' APC = $40 \times \$250 = 10,000$

Place 36" x 128' APC = $128 \times \$70 = 8,960$

Replace AC $7 \times 128 \times \frac{0.3 \times 150}{2000} \times \$65 = 1,310$

Less difference in Cost Between a 24" and a 36" culvert that will be paid by Caltrans.

Jacked 36" - 24" = $40 \times (250 - 200) = -2,000$

128' of 36" - 24" = $128 \times (70 - 45) = -3,200$

\$15,070

Caltrans Portion

Difference 24" to 36" $\$2,000 + \$3,200 = \$5,200$

Headwall 1.95 CY x \$900 = 1,755

Ditch Excavation = 4,290

Roadway Exc 93 x \$13 = 1,209

AC 36.5T x \$65 = 2,373

AB 26 x \$28 = 728

AS 24 x \$15 = 360

PCC Pave 15 x \$200 = 3000

Grand Total \$43,295

\$18,915

DEPARTMENT OF TRANSPORTATION

P. O. BOX 8114 SAN LUIS OBISPO, CA 93403-8114

R E C E I V E D

JUL 24 1986

July 23, 1986
R/W 05-SLO-001-12.4
Oceano Drainage Correction
05530-326201

COUNTY ENGINEERING

DEPARTMENT

Mr. J. F. Lynch, Chief Engineer
Southern Pacific Transportation Co.
One Market Plaza
San Francisco, CA 94105

Your File:
Oceano/314-1
Santa Fe L-2514

Attention: Mr. Richard H. Knorr, Manager of Public Projects

Dear Mr. Lynch:

Reference is made to previous correspondence in connection with the proposed installation of a 36-inch drainage pipe under your Coast main line track at Mile Post 265.71 near 13th street, in Oceano. Copies of the letters dated 1-16-86 and 2-18-86 are attached.

Enclosed are two proposals. Exhibit A is that shown by your Drawing A-12526 and is favorable to the tenant. Exhibit B is a less expensive open ditching alternate, but would interrupt the tenant. There is a third possible alternate, not included, that would be open ditching via the retention basin. This would require some modifications below the basin that we could discuss, and does not interrupt the tenant's operations.

The State is not responsible for the prior changes made to the course of the drainage at the outlet end of the railroad's existing 24-inch smooth wall drainage pipe. The conditions caused by these changes and the effects they have on the highway are unacceptable.

These changes were made within railroad property by the tenant and consist of: (1) placing a 90 degree angle at the outlet, (2) adding a lengthy 170-foot, 24-inch corrugated metal pipe from the angle point to a new retention basin, (3) The new basin has a higher outlet than the original system which increases the head at the outlet.

The 90 degree angle point is under a building constructed after the drainage modifications were made and the angle point is difficult to maintain. A considerable amount of silt tends to accumulated at the angle point, which also impedes the flow. The corrugated metal pipe does not carry the same load as a smooth pipe. The added 170 feet of pipe also slows down the drainage, and loss of 22+ inches of hydraulic head contributes drastically to the reduction of the flow. This leaves only four inches of head for the total system from the highway to the outlet of the retention basin, a distance of approximately 500 feet.

For the above reasons Highway-One floods where it did not flood before, and there is heavy ponding of water along the railroad embankment as well. Each of the above conditions have added to and compounded the resistance to the normal flow of water.

The State has limited funds for this project but is willing to enter into a service contract to pay the railroad a maximum of \$12,000 for the cost of placing and jacking a 40 foot, 36-inch smooth pipe at the new location. We are also willing to perform the work of constructing and maintaining the new channel leading from the highway to the inlet end of the new 36-inch pipe.

Under this proposal the State together with the Oceano Community Service District would contribute \$12,000 and the railroad would construct and maintain the new culvert, and finish and maintain the drainage channel from the outlet end of the 36-inch pipe, through railroad property, to the edge of Railroad Street, a county road, selecting which ever alternate best suits the needs of the railroad and/or the railroad's tenant.

We realize that the railroad is short handed at the moment. No date has been set for construction. Please let us know if our proposal is acceptable.

Sincerely,

Robert N. Wright, Right of Way Agent

cc: Donald Skaff, Area Engineer (maps included)
Robert G. Kashuba, Hq Right of Way
Robert J. Feusi, Structures Design - 12th & I
Pete Hom, District Design

JIM SMITH ✓

Santa Fe Pacific Realty Corporation

3230 East Imperial Highway, Suite 100
Brea, California 92621
714/993-9000

February 18, 1986

L-2514

Mr. Dennis Donovan
Pismo-Oceano Vegetable Exchange
P. O. Box 368
Oceano, CA 93445

Dear Mr. Donovan:

We have received a copy of Cal Trans letter to you of January 16, 1986, regarding drainage on the property that you lease from us in Oceano.

Under terms of your lease, you have responsibility to comply with any governmental laws or regulations with respect to the use of the property. Accordingly, we would appreciate your working with Cal Trans to correct any drainage problems that were caused by the expansion of your plant.

Please keep us advised as to your progress. We would ask that you resolve this matter before any formal notice is issued by Cal Trans.


Should you have any further questions, please let me know.

Sincerely,

Kathryn McDermott

Kathryn McDermott
Property Manager
Property Management Services

43/3928s/6

 cc: O. J. Solander, Esq.
State of California
Department of Transportation
Legal Division
1120 No. "N" Street,
Sacramento, CA 95814

DEPARTMENT OF TRANSPORTATION

LEGAL DIVISION

1120 N STREET, SACRAMENTO, CA 95814
P.O. BOX 1438, SACRAMENTO, CA 95807

(916) 445-0276

January 16, 1986

Dennis R. Donovan
Pismo-Oceano Vegetable Exchange
1731 Railroad Avenue
Oceano, California 93445

Dear Mr. Donovan:

In re: Drainage

As you know, Caltrans has been concerned about the affect of the elevation of your reconstructed drainage pond upon State Route 1 during the rainy season. With the expansion of your vegetable processing facility, you diverted the existing flow of drainage water across your property to a sinking pond at the north edge of the property.

Before the drainage facilities were rearranged, the normal storm drainage water flowed through the property and left the property at an elevation of 13.84 feet above sea level. Now that the drainage pipe has been diverted to the new sinking pond, the outfall elevation is 15.38 feet above sea level. While the change in elevation for drainage may appear to be slight, Caltrans believes that it will cause significant flooding of Highway 1 during heavy rains.

Caltrans has in the past proposed ways to alleviate the drainage. However, we believe that the responsibility is entirely yours, or Southern Pacific's, to correct the problem to bring the drainage flow back to what it was prior to the expansion of your plant. In this regard, you should be aware of California Streets and Highways Code sections 720-734. In particular, section 725 states:

"It is unlawful for any person to do any of the following acts:

"(a) Drain water, or permit water to be drained, from his lands onto any state highway by any means which results in damage to the highway.

Dennis R. Donovan
Page 2
January 16, 1986

"(b) Obstruct any natural water course
so as to:

"(1) Prevent, impede or restrict the
natural flow of waters from any state highway
into and through such water course, unless
other adequate and proper drainage is
provided.


"(2) Cause waters to be impounded within
any state highway, to the damage of the
highway.

"(3) Cause interference with, or damage
or hazard to public travel.

"(c) Store or distribute water for any
purpose so as to permit it to overflow onto,
to saturate by seepage, or to obstruct any
state highway, to the damage of the highway."

This letter is not formal notice to you pursuant to section 720
of the Code. We hope that the problem will be corrected
immediately and before any such formal notice or further action
is necessary.

Very truly yours,


C. J. SOLANDER
Attorney

cc: James G. O'Gara
✓ R. Wright

Main Identity

From: "Bill Bookout" <pismobeachdiveshop@charter.net>
To: "Scott Radovich" <scott@radovich.com>
Sent: Tuesday, July 25, 2006 10:37 PM
Subject: Re; County Response July 18, 2006

WOW!

The County on July 24, 1986 knew of Cal Trans and O.C.S.D's involvement with drainage and that a drainage problem existed. They then choose not to use this knowledge to resolve the flooding problem coming down their streets. Some Questions come to mind

- 1) Why did they not disclose to me when I was developing my Nursery in 2000, that my property had a history of flooding? Or had it just been Hwy 1 flooding to date? Did they set me up to make themselves, temporally look good?
- 1) Wouldn't they of had to issue P.O.V.E. a building permit for their packing shed when they built over the County/Rail Road/Communities Drainage?
- 2) When they spent the County's tax payer dollars on a drainage study for Oceano, why did they not disclose this important information to the company they hired to do this drainage study?
- 3) The County would have had to of issued, building permits for Oceano's Fire Station. The Sheriff's Sub Station, O.C.S.D Building and Oceano' Historic Rail Road station, which property is owned by O.C.S.D.? Where they excluded from having to account for their drainage?
- 4) I notice the County's correspondence dating back to the mid 1980s drainage drawings are consistent with the County's flood study done in 2004 drawings of water flowing under the train tracks? Not into P.O.V.E. as it still does.
- 5) In the January 10, 2005 taped video O.C.S.D. meeting with the County, Cal Trans, P.O.V.E. present Deputy Director Glenn Priddy of SLO County Public works admits blame by of the county outright with possibly the county needing to buy land further down hill to hold water! The county owns and controls the airport down hill? He mentions curb and gutter?
- 6) The County Attorney's have asked that their documentation be kept confidential, I question what else they have to hide after previously withholding these documents from their own county flood control study?

Thanks, great job

Bill Bookout
 Oceano Nursery

Thanks,
 Bill Bookout
 www.pismobeachdiveshop.com
 Ph: 805.773.2089
 Fx: 805.773.0017

Main Identity

From: "Scott Radovich" <scott@radovich.com>
To: <HallHeatt@aol.com>
Cc: ""Bill Bookout"" <pismobeachdiveshop@charter.net>
Sent: Friday, December 22, 2006 11:08 AM
Subject: Confidential Settlement Communication in Bookout v Cal Trans

Dear Mr. Hall,

Below is an excerpt from the confidential portion of our brief being submitted to Justice Stone today. This portion is consistent with your recent letter and our understanding.

Finally, as to the County of San Luis Obispo, the only issue that might create liability on its part is the duty to manage flood control. That duty may, in fact, belong to OCSD. Nonetheless, the flooding comes from Cal Trans property so even if uphill development (approved by the County) contributes to the flow, it is doubtful that any viable cause of action could be successfully proven against the County at trial. For this reason, a tentative, confidential deal has been brokered with the County whereby it would be eventually dismissed from the damage-based causes of action and remain as a nominal defendant in the injunctive relief cause of action, only. The purpose of that arrangement is so that the County could be retained as a participant in any global agreement to finally and permanently correct this problem. These specific discussions have taken place between plaintiff and the County and it appears that there is an acceptable framework within which a solution can be reached with the County's participation. Based upon this potential agreement, the plaintiff is not seeking damages or a contribution from the County at this mediation.

M. Scott Radovich
Radovich Law Offices
755 Santa Rosa Street, Suite 300
San Luis Obispo, CA 93401
(805) 541-5900 - phone
(805) 541-5904 - fax
scott@radovich.com

PRIVACY AND CONFIDENTIALITY NOTICE: This is a transmission from the RADOVICH LAW OFFICES. This message and any documents attached to this may be confidential and contain information protected by the attorney-client privilege or attorney work product doctrine. They are intended for the addressee only. If any attachments require conversion or this transmission is received in error, please contact our offices.