

STROMBOTNE LAW FIRM

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November 23, 2005

Via e-mail and U.S. Mail

Kimberly Kim, Deputy Attorney
CalTrans
P.O. Box 7444
San Francisco, CA 94120

Re: Storm drainage structure at Brush Road, Los Gatos CA

CONFIDENTIAL SETTLEMENT COMMUNICATION

Dear Kimberly:

More than 60 days have now elapsed since my letter to you of September 16, 2005 wherein I provided a legal analysis justifying our view that the State is responsible for maintenance of the drainage structure at Brush Road in Los Gatos and demanding that the State immediately repair the failing structure before it washes out Brush Road and Highway 17. The State has yet to perform the needed repairs.

On October 7, 2005, I communicated my client's compromise offer to pay \$15,000 to the State if the State acknowledged by recorded document, its repair and maintenance responsibility for the drainage structure and promptly commenced the necessary repairs.

By email dated October 20, 2005, you communicated a counter offer to pay \$20,000 to Brush Road Corporation, if Brush Road accepted future maintenance obligations.

Later on October 20, 2005, I responded by voice mail and email with a counter offer that Brush Road would undertake the repair of the drainage structure at its own expense in accordance with plans submitted by Caltrans, provided the State acknowledged by recorded document, its repair and maintenance responsibility for the drainage structure.

In our telephone conversation of November 1, 2005 you stated your client rejected our October 20, 2005 offer.

Since then there have been a few modest rain storms. Now that the base of the drainage standpipe is open and disconnected, the storm water runoff flows rapidly through the culvert and is eating away at the bank underneath the road that is on the State's property. This is degrading the steep terrain and making equipment access for repairs more difficult.

MARK L. STROMBOTNE, ESQ.
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As a final effort to resolve this matter without litigation, Brush Road Corporation makes the following offer:

If Caltrans repairs the drainage structure prior to any damage, and acknowledges by recorded document, its obligation to maintain in good condition the drainage structure and Brush Road up to the metal gate, then Brush Road will pay Caltrans \$25,000.00.

This offer must be accepted in writing received by the undersigned prior to the close of business on December 2, 2005 after which it will be deemed withdrawn and we will have no choice but to commence appropriate legal proceedings.

Thank you for your attention to this matter.

Yours truly,

Mark L. Strombotne

cc: Michael McNamara