PRELIMINARY FINDINGS OF SUBCOMMITTEE ON CALIFORNIA DIVISION OF HIGHWAYS EXCESS RIGHT OF WAY

January 1972

Commission on California State Government Organization and Economy

STATE OF CALIFORNIA RONALD REAGAN, Governor

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January 12, 1972

Mr. H. Herbert Jackson, Chairman
Commission on California State Government
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Dear Mr. Chairman:

Transmitted herewith is the report of preliminary findings of the study conducted by your Subcommittee on excess highway right of way.

As you know, this matter has been under study by several subcommittees of this Commission since 1966. In 1969 the State Highway Engineer, J. A. Legarra and Highway Right of Way officials made definite commitments and assurances to this Commission, in writing, as to right of way acquisition, management and disposal practices. On the basis of more than 7000 man hours of work by this Subcommittee and its staff since that time, it has become evident that the excess land program involving inventory, sales, leases, engineering holds and property management, is not producing the results the Commission had been led to believe. Significant changes in procedures and organization are necessary.

The data compiled for the Subcommittee has documented that:

- There are serious defects in excess land inventory records.
- Land has been withheld from sale without justification and at the whim of engineers and for unlimited periods of time.
- The Department has failed to reduce the excess land inventory.
- There has been little effort to develop productive usage of space available within right of way.
- Inefficiency and administrative insubordination has been ignored by those with authority to take appropriate action.

The result of these deficiencies has been a loss of millions of dollars to the taxpayers of the State of California--resources tied up and not available for other purposes. In addition, local governments have suffered untold loss of tax revenue since these properties have not been developed for their highest or best use.

The members of the Subcommittee unanimously recommend that public hearings be held by the full Commission at the earliest possible date in order that these preliminary findings may be presented, thus forming the basis of a formal report containing conclusions and recommendations for submission to the Governor and members of the Legislature.

Respectfully submitted,

Nathan Shapell, Chairman,
Subcommittee on Highway Right of Way
James E. Kenney
Andrew L. Leavitt
Manning J. Post

Enclosure

SUMMARY OF FINDINGS

The scope of the work done in this study was on a sample basis and by no means inclusive of all facets of the highway right of way excess lands program. There are major problems however which must be solved first. It was on these problems that this effort was concentrated.

- There is a lack of centralized organizational responsibility and authority over the right of way excess lands program resulting in ineffective management of the program.

- The excess land inventory system in its present form is incomplete, inaccurate and ineffective in providing for early disposal of land and in reducing the inventory to a minimum number of parcels.

- There has been almost a total lack of control over engineering holds. Headquarter policies concerning engineering holds have been ignored or deliberately disobeyed.

- There have been no positive steps taken to insure an ongoing and productive program for development and management of airspace.

- Substantial amounts of revenue are lost because of current policies and practices (which vary between districts) relating to the use of properties from the time of purchase until needed for construction purposes.

- There is no formal review and approval of use of excess or airspace sites by Highways' units prior to occupancy, and no economic analysis is made to determine the justification of such usage.

- The present computer inventory system does not provide management with adequate information to control the program effectively.

INTRODUCTION

The Division of Highways of the Department of Public Works is in the real estate business in a big way. Its activities in acquiring real property, either by condemnation or by negotiation, are well known and often the subject of much controversy and publicity. Not so well known, but nevertheless materially significant to the California taxpayer, is that these activities result in a substantial inventory of property that is excess to actual needs for highway right of way for which the parcels were acquired. That this inventory is significant is apparent from the following table:

Inventory Date	Number of Parcels	Book Value
January, 1970	11,607	$29,067,424
July, 1970	11,487	33,686,539
January, 1971	11,221	33,732,877
April, 1971	10,695	30,454,159

What is also significant about this data is that, while there has been a gradual reduction in the number of parcels, there has not been the significant reduction which the Subcommittee had expected, based on commitments made by the Division of Highways in 1969.

The inventory book value is based upon the sales or exchange value of the excess parcels at the time of acquisition. This valuation concept is that recommended to the Division of Highways by the Office of the Auditor General. Since current appraisal data is not available, only a rough estimate of the current value of excess lands is possible. Sales experience in the Division's largest district, Los Angeles, showed that the market value of parcels sold approximated three times the inventory value. On that basis, the total inventory value state-wide would be $90 million dollars. However, as will be discussed later, apparently some 15% of the excess parcels were not on the inventory. The estimated total value of the excess lands inventory thus would run well over $100 million dollars.

The objectives of the Division of Highways in acquiring, managing, and disposing of such a massive excess lands inventory--indeed, the Division's obligations to the taxpaying public--should be to:

- Minimize creation of excess lands.
- Minimize creation of unsalable excess lands.
- Dispose of surplus at the earliest possible date.

- Permit no internally controlled "holds" without full justification and rigorous economic analysis.

- Maximize the return on necessary excess or right of way held prior to highway needs.

The Subcommittee's decision to study the Division of Highway's excess lands program was made because the members were convinced that the above objectives were not being met. The study objective was to develop concrete evidence in support of that conviction. The Subcommittee is satisfied that the study objective has been attained without further field work at this time.

SCOPE OF THE STUDY

It was apparent from the outset that time constraints on staff availability would not permit the comprehensive management review of the highway right of way program which the Subcommittee had contemplated. Based on a preliminary review by the staff and discussions with the Subcommittee, it was agreed that the work would concentrate on selected highway routes in five districts as a representative sample.

On the selected sample routes, detail maps were studied carefully to:

- Identify all excess parcels.

- Determine their status under stated policies.

- Compare this status to existing records.

- Analyze the results of the work with particular emphasis on:

    - Accuracy of the inventory.

    - Justification for engineering holds.

    - Status of airspace development.

    - Management and disposal of excess lands.

Exhibit A identifies the routes studied in each district and classifies the parcels as they were on the dates the detail maps were examined. All parcels summarized in this exhibit were identified and plotted on freeway maps which are much too large to be included as exhibits in this report. However, they are included herein by reference, and will be retained by the Commission in its files.

Exhibit A is summarized as follows:

Parcels on inventory records as excess			
On detail maps as excess:			
Available for sales or exchange	1,304		
Held by engineers	544		
Undetermined right of way	608		
Time sales not yet recorded	374	2,830	
Not on detail maps as excess:			
Sold, still on inventory	4		
Within right of way, still on inventory as excess	42	46	
Total parcels on inventory records			2,876
Parcels on maps, not on inventory			
Excess not on inventory		448	
Advance acquisitions, from Right of Way Acquisition Fund		21	
Owned by Division of Bay Toll Crossings		40	
Sold, but still on maps		7	
Total parcels not on inventory			516
Total parcels reviewed by the study			3,392

DISCUSSION OF FINDINGS

FINDING: There is a lack of centralized organizational responsibility and authority over the right of way excess lands program resulting in ineffective management of the program.

Probably the most consistent finding of this review was the inconsistency in procedure and practices from district to district in the Division of Highways. This was true as to inventory records, mapping techniques, files, land sales and rental practices. One would expect to find some differences because of district size, but by and large there should be one best way of doing things and a central management should be able to work them out.

In the present Division of Highways organization, the Chief Right of Way Agent in Sacramento presumably has overall program responsibility. If true, then he is in a completely untenable position, since in fact he does not have the authority to carry out responsibility in this area. The Division's policy is clearly laid out in the following quote from a Right of Way Manual change issued in March 1969.

> "It must be clearly understood by all operating units of the Division of Highways that final responsibility for the State's excess land program is delegated to the District, and to this end procedures have been developed having a primary purpose of disposing of excess land at the earliest possible date and the maintenance of an absolute minimum of property in the State's inventory."
>
> There remains however, "...a degree of flexibility so that each district may implement detailed procedures found locally to be the most beneficial in accomplishing the primary goal 'effectively disposing of the excess land inventory'." (Underlining added)

This, in our view, is the basis of the problem from which stems most of the criticism of the program studied by the Subcommittee. Uniform administration, as far as possible, is needed to attain effective management and control of the program.

The fact is that in the Division of Highways, as now organized, the District Engineer is to all intents and purposes autonomous. Thus, the status which the excess lands program has in any one district depends upon the District Engineer's interest in it. To illustrate this, March 1969 policy statements from Division headquarters included one statement to the effect that districts would initiate procedures

which would lead to the most expeditious clearance of excess lands (release from engineering holds). Two years later, in March 1971, District 07 Los Angeles took official action by issuing its own circular letter requiring specific management level approval of such holds. However, the first instance of a hold receiving this approval was not dated until May 14, 1971. An earlier headquarters policy statement (January 1970) called for immediate review of all engineering holds for conformance to certain standards, and for a subsequent annual review by the District Engineer. In May 1971 our staff was informed that the first review had only recently begun in Los Angeles.

This kind of failure to comply with policy from Sacramento was apparent to some degree in each of the five districts visited, at least as related to the excess lands program. We have serious reservations whether there will be lasting improvements in this program unless there are organizational changes which will remove the program from engineering jurisdictions. The Division of Highways is an engineering-oriented organization. Their interest is in building highways. In relation to total dollars the excess lands program is regarded as of minor importance and, consequently, has little if any status or priority.

FINDING: The excess land inventory system in its present form is incomplete, inaccurate and is ineffective in providing for early disposal of land and in reducing the inventory to a minimum number of parcels.

Shortly after filing its reply to the Commission's 1969 questionnaire, the Division revised its excess lands inventory system and policies. The vehicle was a Right of Way Manual amendment dated March 21, 1969, subsequently expanded upon by another amendment dated January 26, 1970.

Briefly, the changes were to have accomplished the following:

- A complete and accurate inventory of all excess lands as of July 1, 1969.
- An accurate and uniform record system in the districts and computer record in Sacramento headquarters.
- A uniform categorization of parcel status.
- Clearance of parcels for sale at the earliest possible date.
- Disposal of excess lands at the earliest possible date.
- Maintenance of an absolute minimum of property in the State's inventory.

The findings of this Subcommittee are that none of these anticipated accomplishments have been realized. The July 1, 1969 inventory effort was ineffective, inaccurate, and incomplete. The system and its operation since that time are such that it is highly unlikely that any material improvement can be expected.

A system to identify and catalog excess lands should be an aid to attain the objective of prompt and efficient disposal of excess. A condensed description of a system as it should work, using the Division's present parcel categorization, would be:

- A parcel containing excess is placed in the inventory upon acquisition. Its first classification is Category 3, Undetermined Right of Way.

- A request for clearance is sent immediately to the Design Engineers, who must respond within 30 days. The response would indicate that the excess will be needed for a project (Category 2, Held for Projects), or that it should be transferred to Category 1, Available for Immediate Sale.

- The process to dispose of Category 1 parcels is set in motion immediately upon transfer to that category.

- Category 2 parcels are flagged for periodic review and rejustification.

In its present form the system is incomplete and is not producing the desired results. The staff has discussed the system and its use with Excess Lands personnel in six districts that contain about 86% of the excess parcels on the inventory. These discussions reinforced our findings that the system has many deficiencies. The principal deficiencies are as follow:

1. An estimated 1650 parcels of excess land, worth at least $15 million dollars are not on inventory.

A detailed examination of the record maps for 16 routes in five highway districts disclosed 448 parcels of excess land in addition to the 2,876 parcels on the official inventory records. The staff furnished the districts' personnel with lists of all additional parcels found; they were not disputed.

The number of additional parcels found on the routes reviewed was 15% of those on inventory. If the same rate of error prevailed over the state-wide inventory of 10,573 on the record as of August 31, 1971, it would have meant that some 1,650 parcels of land were not recorded as excess.

Without current appraisals, it would be impossible to determine the value of unrecorded excess lands. Based strictly on the state-wide average book value per parcel of the recorded inventory as of August 31, 1971, the book value of unrecorded excess would have been approximately $5 million dollars. On the basis of a division headquarter's statement that current values average about three times current book values, it is estimated that the value of unrecorded excess lands held by the Division of Highways is at least $15 million dollars. The Subcommittee believes that this is a highly conservative estimate.

The inaccurate condition of the inventory record exists because:

- Districts did a poor job of setting up the 1969 inventory.

- The system does not provide controls to insure that every excess parcel reaches the inventory promptly, if at all.

In support of this finding are the results of district-wide reviews of all routes by district personnel. This review was ordered in all districts by the Director of Public Works as a result of our findings in District 07, Los Angeles. As a result, Right of Way Engineering and Excess Lands personnel reviewed the record maps and have identified at least 1,000 additional parcels in District 07, Los Angeles and District 04, San Francisco. No doubt a proportionate number of additional parcels would be discovered in the other nine districts.

2. Right of Way Engineering and Excess Lands personnel often interpret maps differently.

Many of the uninventoried parcels can be attributed to a lack of uniformity in the techniques of preparing and interpreting maps. Right of Way Engineering personnel prepare the maps; their techniques vary between districts and often within a district.

A list of excess parcels prepared by engineers will not always agree with a list prepared by excess lands personnel even though they are both made from the same maps. An informal telephone survey by the staff elicited rather interesting results. Several districts were asked how many new parcels were discovered when they reviewed all routes in July as ordered by the Director. The first replies indicated that there were disagreements between staff assigned to the job. Districts were then asked who did the job, who reviewed it, and what the final outcome was.

The result of the survey was as follows:

District		Number of Parcels found by	
No.	Headquarters	Right of Way Engineering	Excess Lands
03	Marysville	("We have until the end of the year to do it")	
04	San Francisco	299	299
07	Los Angeles	1,400	700
10	Stockton	None	None
	(The staff later found 23 parcels in a limited sample of routes. District personnel agreed)		
11	San Diego	400	20
	(The staff later found 40 in a limited sample of routes. District personnel agreed)		

3. The inventory system does not include two types of acquisitions:

   - Those made from the Highway Right of Way Acquisition Fund.

   - Those made from non-depleted material sites.

The Highway Right of Way Acquisition Fund was created in 1952 by the Legislature to provide funds for the advance acquisition of right of way to prevent development to a higher use and the consequent higher acquisition cost if the development were permitted to proceed (so-called protection acquisitions). On August 31, 1971, its principal asset was $28,717,800 invested in some 529 parcels. The very long holding periods for these parcels, during which right of way lines may be relocated, increases the changes that they will contain excess; the Division estimates that probably 25% of the parcels are of this kind.

Parcels acquired for use as highway construction material sites are often held for long periods of time without being used. There are some 78 of these, some of which have been held for many years. In District 11, San Diego, material sites had been acquired in 1931 and 1955 and had never been used. Another was acquired in 1953 and has not been used since 1954.

These parcels and others like them are not included in the inventory and are not reviewed from time to time to determine if they are excess.

4. A significant number of parcels are not made available for sale or placed on engineering hold at the earliest possible date.

Stated Division of Highways policy is to do this as soon as possible after acquisition. Districts differ in practice. District 07 Los Angeles usually waits until all project plans, specifications and estimates are completed. This unnecessary delay has prevented the timely sales of many parcels. Other districts are able to determine excess almost immediately upon acquisition.

Excess land is not normally sold until it has been transferred to Category 1 as available for immediate sale. Excess land required for projects should be transferred to Category 2. Regarding such transfers, the Right of Way Manual provides that excess land should be reclassified "...at the earliest possible date following the determination of a calculated right of way line..."

Except for advance acquisitions (hardships and protections) a calculated right of way line is always available at the time of acquisitions. Thus, the stated policy is to transfer parcels to Categories 1 or 2 as soon as possible after acquisition.

An analysis of the parcels in Category 3, Undetermined Right of Way, disclosed that about 60% (some 2,800 parcels) were entered into the system in the last six months of 1969 and had not yet been reclassified. Since this was the period when the new system was being initiated, it is reasonable to assume that most of these parcels had been acquired previously and should already have been reclassified. The same analysis disclosed that about 20% of them (some 900 parcels) were entered into the system in 1970 and were still not reclassified.

This apparent disregard for the policies established by the Division has prevented the timely sale of many parcels. Staff analysis by district indicates the practice is fairly common.

A specific example of this situation was found on Interstate 210 Freeway in District 07. On one section of this freeway, not only had the plans, specifications, and estimates been completed (May 28, 1969) but the contract had been let (on October 15, 1970) and this section was actually under construction. There were 62 parcels in this section which were still in Category 3 as undetermined right of way. This is an example of gross violation of Division policy. It must not be tolerated by the Division; the system should be such that the situation should automatically be brought to management's attention and appropriate action taken to correct it and to discipline the staff responsible for it.

5. Changes in right of way lines that create, eliminate, increase or decrease excess often are not communicated to the Excess Lands Section.

When a parcel is acquired, the location of the then current right of way line indicates the existence and size of excess land. If the right of way line changes, the status of the excess may be altered. It is important that the new line be drawn on the record maps and that excess lands personnel be notified of any excess land change.

There is no established procedure to assure that this is done. As a result, many parcels contain excess now, although they did not at the time of acquisition and should be on the inventory. Conversely, many parcels now in the inventory are located within a right of way. Parcel size alone can also be affected.

6. Two or more separate parcels of excess contained within one acquisition are often not separated in the inventory records.

Many acquisitions contain two or more separate parcels of excess. There are no procedures to assure that each separate parcel will be shown on the inventory.

The information relative to each parcel must be readily available and accurate. If one inventory record contains the combined data relative to several parcels, it cannot serve its purpose.

7. There has been no overall reconciliation between the headquarters computer record and the districts' inventory cards. Neither are accurate.

Only in District 03, Marysville, did we find the computer inventory list reconciled to the property cards or excess land files. This was done quarterly. In the other districts, attempts to reconcile had been made, but after being unsuccessful several times, they stopped trying.

8. District personnel who work with the computer inventory lists often do not understand that portion of their job. They have not been properly trained and do not possess all the prerequisite skills.

The staff discussed the excess land inventory system with Highways personnel in six districts. Without exception they expressed a lack of confidence in the system. Most of them said they ignored the system to a great extent and have developed substitutes for it in their own offices.

The lack of confidence was usually attributed to failure to understand how the system worked and what it could do for them. None of the excess land personnel who work with the system acknowledged having received any training.

The August 1971 computer inventory list contained 86 parcels with minus dollar values in eight districts. Staff analysis indicates the condition is wide-spread through the system.

FINDING: There has been almost a total lack of control over engineering holds. Headquarter policies concerning engineering holds have been ignored or deliberately disobeyed.

In its reply to the Commission's 1969 questionnaire, the Division committed itself to developing certain policies regarding justification for engineers' withholding property from sale. The policies subsequently issued included these:

- Written approval of the District Engineer for all holds.
- Properties can be held for projects other than those for which purchased only if:
  - Required for a project on which the State has a route adoption.
  - Analysis shows the economic feasibility for holding for the required period of time.
- Written approval of the Deputy State Highway Engineer for held property with an inventory value of $25,000 or more or a market value of $50,000 or more.
- Immediate review of all holds by the District Engineer for conformance to the above standards.
- Annual review by the District Engineer to assure that only parcels conforming to the above standards are being retained.

Our findings are that these standards and instructions have either been ignored or deliberately disobeyed. In many cases, the effect is that an engineer had simply to "stick a pin in a map" to hold a parcel for an indefinite period. This should be amply demonstrated in the discussion of deficiencies which follows.

1. Justification or documentation for engineering holds is often either inadequate or nonexistent.

When holds are placed on excess parcels it is usually done by designating a number of parcels rather than by individual parcel. This practice was found in all districts visited. In these instances, no attempt is made to justify the hold for individual parcels and the justifications are usually in such general terms as "May be needed for proposed widening"; "Hold until construction completed"; "Hold for future interchange"; or "Hold until completion of design". Approval by higher authority based on these brief and generalized statements depends completely on the judgment of the person placing the hold and amounts to little more than a "rubber stamp" approval.

An example of this practice in District 07 was noted in which a memorandum from a design engineer placed a hold on 142 parcels"... as they maybe (sic) required for the proposed widening of the San Diego Freeway". This hold was made on February 13, 1970; however, most of these parcels have since been earmarked for a future interchange of Routes 405/105. Since the District has reached an impasse in attempting to complete a freeway agreement with the City of Hawthorne, it is not known when future construction will take place. The acquisition dates of these parcels range from 11 to 13 years. Approximately 90 of the parcels were not on the inventory at the time of the study and their value was not ascertained. However, of the parcels that were inventoried, two had high inventory value, one of .70 acres at $30,000 and the other of .24 acres at $13,000.

In the review of documentation and justification of engineering holds in District 07 an attempt was made to verify all parcels held on Route LA-405. In addition to the inventory cards in the Excess Lands Section, a file is maintained in the Right of Way Engineering Section. A comparison was made of these two files for holds on Route 405. Excess Lands had 39 inventory cards in Category 2, Held for Projects, while Right of Way Engineering files indicated there were 21 parcels on hold. However, only 3 parcels were classified as engineering holds in both files. Of the other 54 parcels involved 28 were in one file, but not in the other, while 26 were in both files, but not in agreement as to hold status. Attempts to document current status of parcels required searching in several locations and in some cases the search was abandoned after several attempts as district personnel had begun a review of all excess parcels in compliance with a headquarters directive prompted by the study findings.

2. Frequently there is no time limit placed on engineering holds.

Documentation for engineering holds rarely contained a specific time that parcels were to be held. The limit was usually expressed in terms of some future indefinite point in time such as design completion, determination of right of way requirements or completion of construction. In many cases not even this kind of reference was made, indicating only such things as that holds were for future widening or a proposed interchange.

3. No analyses are made to evaluate economic feasibility of engineering holds.

There is no evidence to indicate that any meaningful economic justifications have been made. There are a few instances in response to specific inquiries where statements are made to the effect that it would be more economical to retain a parcel. Undoubtedly, in some cases the conclusion is correct, but it appears the conclusion was based on superficial analysis and "horseback" opinions rather than sound economic analysis and scientifically based criteria.

4. District engineers do not periodically review engineering holds.

Existing policy requires that written approval of the District Engineer must be obtained to place a hold on excess land and that an annual review shall be made by the District Engineer to assure that the hold is still justified. In the districts visited the authority for original approvals has been delegated to various management levels and the procedures and documentation vary considerably. As pointed out earlier the documentation, justification, and procedures are such that the approval actually is made by the person who requests the hold.

There was no established procedure for a systematic, periodic review and re-evaluation of justification for existing holds. The only time an existing hold was reviewed was when the project for which a parcel is held was completed or when inquiries were made regarding the availability of specific parcels.

5. Holds are not approved by the Deputy State Highway Engineer as required by stated policy.

Headquarters policy issued in January 1970 requires that engineering holds which have an inventory value of $25,000 or more or market value of $50,000 or more must be authorized in writing by the Deputy State Highway Engineer. This policy had not been implemented prior to the start of this study. For example, the first request by District 07 for such approval was dated May 14, 1971.

6. Parcels are "unofficially" held by improperly retaining them in Category 3 as Undetermined Right of Way.

The study review disclosed numerous parcels classified as Category 3, Undetermined Right of Way, which according to established criteria should have been reclassified in category 1 or 2. While it may or may not have been intentional, this breakdown in procedure results in an "unofficial" hold and by-passes the requirement for approval at the district level and in the case of high value parcels, headquarters approval.

One example of this in District 07 is Parcel 7467 on Route LA 405. This is a 9.934 acre parcel acquired in December 1959 with an inventory value of $230,000. The parcel was certified as excess available for disposal on May 28, 1964, however it has been placed on hold and released several times since then. When the new inventory was established in 1969 this parcel was placed in category 3. A hold was placed on the parcel on January 22, 1971 for proposed interchange of Routes 405/47, but the parcel was never transferred out of category 3. The design unit placing the hold does not expect construction of this interchange until after 1980.

7. Parcels are sometimes not released for sale because of breakdown in communications between organizational units of the Division of Highways.

In District 07, after a field review with a project resident engineer, a letter is prepared in the district office for the resident's signature indicating parcels on hold that can be released as excess and sold. If the resident fails to sign the release and return it, this fact may go undetected for some time. In a specific instance, such a letter was prepared and sent out on January 14, 1970. On June 21, 1971, when the staff inquired about the parcels involved, it was found that the release letter had not been returned from the field. As a result, 28 parcels were withheld from sale for 18 months.

8. Parcels are unofficially held by "shelving" a project to delay the final deadline date.

Division of Highways policy is that all parcels which are not to be held will be cleared for disposal not later than the "PS and E date". This is the date of the project report from the district to the State Highway Engineer, which includes project plans, specifications and cost estimates. Division policy also requires districts to send this report to headquarters in Sacramento four months prior to the target date set for advertising the project for bids.

In some cases the district completes its design work before the report can be sent to headquarters. When this happens in District 07, the district "shelves" the project until the time comes to send the report forward; only then are excess parcels cleared. Some examples of the time lag involved are as follow:

Project	Date PS&E Completed	Target Date to Hq.	Months on Shelf
LA-91, R11.0/R12.1 LA-7, 12.0/14.3	12/28/70	12/71	12
LA-101, 34.8/38.2 Ven-101, 0.0/1.6	1/21/71	6/71	6

Project	Date PS&E Completed	Target Date to Hq.	Months On Shelf
LA-210,R5.0/12.1 LA-118,R13.0/14.0	1/4/71	11/71	11
Ora-1, 0.2/1.2	5/6/71	6/72	13
Ora-57, 10.9/12.5	3/30/71	12/71	9

This practice was also found in other districts. It obviously results in "holding" substantial amounts of property without official sanction.

Vigorous action by the Department is essential to bring this completely unjustifiable condition under control. This control cannot be attained, in our view, simply by requiring districts to report progress and activity. There must be departmental level review and follow-up in the field on a continuing basis.

The value of departmental level review and control is possibly demonstrated by what has happened to engineering holds in the districts visited during this study. The following data reflects holds reviewed by the staff in four districts, representing 2/3 of the holds in those districts and over 1/3 of the state-wide total.

	Number of Parcels	% of Total	Length of Holds Shortest	Length of Holds Longest
Since released or can be released now	287	42%	8 mos.	37 yrs.
Can be released by July 1972	61	9%	2 yrs.	24 yrs.
Sub-total	348	51%		
Still to be held after July 1972	328	49%	2 yrs.	Indefinite
TOTAL	676	100%		

To emphasize the point--if the Department's policies regarding engineering holds had been adopted in these four districts, 42% of the holds would not have existed at the time of the study and another 9% would be available for release within a year.

FINDING: There have been no positive steps taken to insure an ongoing and productive program for development and management of airspace.

Airspace is defined as "...any non-operating property within highway right of way limits which is capable of other uses without undue interference with the operation and future expansion of the transportation corridor for highway or other transportation uses." The Division's 1969 report to the Commission showed a high degree of interest in promoting the use of freeway airspace. The Division indicated that it was taking the initiative in development of airspace by contacting brokers, developers, builders--all firms with the ability and financial capability to develop airspace in California.

In the intervening two years, there has been little evidence at the district level of the promotional effort to which the Division was committed. To the contrary:

- None of the five districts visited by the staff had made a real attempt to identify its available airspace.

- There has been minimal effort to rent known airspace. Most new rentals come as the result of unsolicited inquiries.

- Until very recently, districts have not attempted to staff the function so that a proper job can be done.

- Assigned staff receive little or no cooperation from other units.

- There is little indication of an aggressive promotional program which this activity requires.

The situation in the airspace program is simply another example, in the Subcommittee's view, of the fragmentary result of a program with no priority status and operating on an almost completely decentralized basis.

The safe and efficient operation of a road requires that control be maintained over areas within the right of way, but not actually used in the operation of the road. Those areas include the space over, under and between the traveled lanes of the road. Fee ownership is usually required in order to maintain the necessary control; often the areas can be made available for other purposes by means of restrictive leases. Such leases are authorized by the Streets and Highways Code.

Few projects have been considered that propose the use of space over freeways. Independent analyses have indicated that this utilization is not now economically feasible. Statistics are cited which indicate it is less expensive to purchase improved land adjacent to the freeway and demolish the existing improvements, as compared to a construction cost of $50 per square foot of pad over a freeway. In addition, the purchaser could have title to land outside a right of way, whereas only a leasehold interest is available under the other alternative. Only two over-the-freeway projects are currently under consideration. Both are in District 07; one a library, and the other a hotel.

The latter project may offer a possible means of achieving over-the-freeway development if district personnel can contact interested companies soon enough. The hotel is to be built over a freeway not yet constructed. The builders have worked with the highway design group to incorporate changes into the freeway construction. Some $2 million dollars additional cost would be borne by the hotel builder, which could make over-the-freeway construction economically feasible.

If this procedure can be demonstrated to improve an economic analysis, the Division should attempt to contact potential builders far in advance of freeway construction so that highway design can be coordinated with subsequent development to minimize costs.

There are many sites under and between the lanes of roads. They have generally been used for parking, but many have potential for higher uses, including use by the district itself. The Division's program to seek occupants for these sites has been passive. Factors contributing to the lack of success of the program are:

- A prescribed competitive bid procedure.
- Inadequate staff.
- Inaccurate and incomplete airspace inventory.
- Other Highways units are not cooperating.

The competitive bid procedure prescribed by the California Highway Commission was designed to insure that fair market rates would be obtained. However, in fact there has been very little competition for most sites. At the same time, the bid procedure decreases the chance that a site will be leased. This is because of the approximately 90-day period which is required to (1) prepare public notices, (2) advertise, (3) receive and evaluate bids, and (4) issue a lease. Many potential lessees will not tolerate this type of delay, since a similar lease can be consummated with private parties in three to five days, at about the same lease rates and with far less lease restrictions.

What actually happens is that a potential lessee contacts the Division, an approximate lease rate is quoted (which will be about the minimum bid set by the Division) and the Division then sets in motion the bid procedure. When the bids come in, there is usually only one bidder who gets his lease at the quoted rate.

The State Highway Commission has given permission for negotiated leases under certain circumstances. Conceivably, these leases can be consummated in a short time and eliminate much of the red tape now involved in leasing airspace. However, the State Highway Commission has retained the prerogative of reviewing each lease before it becomes effective. Blanket authority to negotiate leases could improve the attractiveness of leasing airspace sites, without any change in the lease rate. Obviously, where an unusually attractive site is sought by more than one potential lessee, the bid procedure would be essential to fairly lease the site and get the best price.

Lack of sufficient staff assigned has hindered the program. The leasing of airspace achieved prominence in recent years due to the construction of more elevated roads. Most of the sites are under elevated roads and most are located on interstate routes. The increased amount of airspace created a need for a larger and more specialized staff. For most of the last two years, headquarters office had one position assigned. The two districts having most of the existing airspace when this study started and had a total of three staff for this function. Additional personnel have been added since the Commission expressed an interest in this activity. Considering the size and importance of the job that needs doing, resources available have been minimal.

Paramount among the needs of the program is an accurate inventory of airspace sites. Although the program has been in operation for several years, there is still no accurate inventory. The following summary shows a comparison of the reported inventory of three districts with an inventory made by the staff.

	District Inventory	Staff Inventory
Sites in use	279	309
Available for lease	78	115
Total sites	357	424
% of sites not on inventory:		18+%

In addition to reviewing leases and occupancy reports, on-site inspections of some areas were made. Since on-site inspections were so few and limited to District 07, the additional sites discovered should not be considered to be all inclusive.

Up to this time the principal way that airspace sites came to the attention of airspace staff was when a prospective lessee would inquire about a site. In the case of many sites occupied by the Maintenance Department and other Highways units, airspace personnel have not been aware of the existence of the space. District 07 and 04 said they were going to start inspecting all of their routes to locate all potential airspace sites. District 03 is now in the process of doing this.

A serious problem in the management of airspace is encroachment by other units of the Division. The Maintenance Department is the most frequent offender. They often move in and set up a facility without prior approval from or notice to airspace personnel. A few months later, after they have made some improvements on the site, they are very resistive to any action to move them out.

An example of this encroachment was found in District 07. While making an on-site tour of a prime leasing area for airspace, a Highways unit was found on a site which was not on inventory. The District Airspace Unit had no knowledge of the site nor of the occupancy. After extensive checking, the Maintenance Unit made several telephone calls and identified the occupying unit as the Construction Unit.

In many instances, other Highways units are making very uneconomical use of sites. Again in District 07, it was found that the Highway Test Laboratory had tied up several sites within a prime leasing area. An on-site visit showed that only about one-half of the area was being utilized effectively. The remainder of the area was used for storage and parking, all of which could have been done on less desirable sites.

Since the Subcommittee began inquiring into this area, additional Highways staff has been assigned to prepare an accurate inventory. They are being assisted by other units of the Division in ways which are appropriate to their special skills. This is in response to a directive from the Division Headquarters, and is being done in all districts.

FINDING: Substantial amounts of revenue are lost because of current policies and practices (which vary between districts) relating to the use of properties from the time of purchase until needed for construction purposes.

This was not the subject of special emphasis in our current study since it is not related directly to excess lands. However, in the work on Interstate 210, District 07 Los Angeles, some analysis was done on two small sections (a few square blocks) of that freeway where the lands had been purchased but construction was not scheduled until 1972. The analysis produced these findings:

- Parcel acquisitions began in 1964.
- Under District policy, improvements on all parcels were removed when the occupant at the time of acquisition vacated the property.
- Other then minimal maintenance, no efforts were made to maintain the appearance of the property or develop it for any useful interim purpose.
- If the District had not removed the improvements but had maintained and rented them, it is estimated that the District incurred a net loss of $535,997 to June 30, 1971 because of its no re-rental policy, based on the following calculation:

Optimum Rent	$654,380*
Less: Vacancy Factor 4.2%	27,483
Gross Rental	$626,897
Less: Assumed Rental Commission	
5% in lieu of Highway's administrative cost	31,345
	$595,552
Less: Maintenance Cost 10%	59,555
Net Rental Income Lost	$535,997

*For each of 105 parcels in the two sections, the number of months available for rent (one month after acquisition to June 30, 1971) times the monthly rental taken from the appraisal report, or comparable rentals in the area when rental not listed in appraisal report.

- Under current law local governments are paid 24 percent of all rent received in lieu of taxes. Because total potential rental was not received, local governments incurred a "tax loss" of some $150,000.

The Subcommittee would ask several questions in this situation, such as:

- Why was it necessary to begin acquisition so far in advance of construction?

- Are the reasons for the no re-rental policy such that they out-weigh the economic loss incurred?

- Does the Division of Highways, in fact, perform an economic analysis in these situations?

- Does each district develop its own policy, or are decisions subject to headquarters review and approval?

- What obligation does the Division have, or should it have to maintain such properties in an esthetically pleasing condition?

- What efforts are made to develop interim use of these properties if, in fact, removal of improvements can be justified? What uses are possible?

The Subcommittee suggests that this would be a profitable area for study by the appropriate legislative committee in a position to consider and give proper weight to all the pertinent factors involved.

FINDING: There is no formal review and approval of use of excess or airspace sites by Highways' units prior to occupancy, and economic analyses are not made to determine the justification of such usage.

During the review of the status of excess property and a limited field inspection of specific parcels of excess land and airspace sites, the staff became aware of the unauthorized and virtually uncontrolled use of property by other Highways' units.

In several instances construction and maintenance units had occupied and were using airspace and excess land without the knowledge of the Right of Way Department. Other airspace and excess sites were used of which the Right of Way Department was aware, but some were prime sites which could have and should have been developed for a better

use. Some examples are as follow:

- A house had been used for more than eight years as a resident engineer's office. The property was not on the excess land inventory.

- A house with a swimming pool (inventory value of $30,000) was being used as a field office by a survey crew.

- Thirteen parcels were on a hold status because the access to them was blocked by the use of one parcel with a building as a survey field office.

The Maintenance Department has need for many sites in widespread locations. However, it was found that Maintenance owned in fee many large sites which were not really meeting their needs, plus are acting as a drain on the tax rolls.

An example, again in District 07, is the central maintenance station. Here is a site, with a current appraisal in excess of $1,000,000. Most of the maintenance work handled by this station is at considerable distances, thus morning and evening travel of maintenance crews goes through major traffic congestion and hours of work time are lost each day.

Currently, there is a proposal to close this station and locate it more centrally (in the heart of prime freeway lease area) on airspace. Certainly, this is a start in the right direction, but analysis might indicate that the proposed prime lease sites may not be the most efficient location for a maintenance station. If one would maximize maintenance activity, stations would be located every mile or so which would minimize travel, but capital costs for construction would be prohibitive. Conversely, with centralized maintenance stations, capital costs are minimized but travel becomes prohibitive and maintenance service will deteriorate. There should be some location for maintenance stations where a break-even point between travel costs and capital costs would optimize the maintenance function. Where maintenance is performed mainly on freeways, it seems logical to locate sites on or adjacent to freeways, on airspace.

An economic analysis could be made prior to future construction of maintenance stations that will optimize the operations of the maintenance function and reduce the amount of fee owned land by placing stations where possible on the less desirable airspace sites.

While it is the Department's policy that the District Right of Way Agent will make suitable facilities available to other Highway units upon request, it is more generally the practice that other units find and occupy prime sites and then tell Right of Way not to dispose of them. In many cases even the latter action is not taken.

There is no formal system for the review and approval of the use of excess or airspace sites by Highway's units and no evidence was found that consideration had been given to the economic justification of such usage.

FINDING: The present computer inventory system does not provide management with adequate information to control the program effectively.

The system currently produces a "management" report monthly which is so highly summarized it is of little use. Parcel data input to the system is limited to the point where the system lacks capability to produce useful management reports. The system should be expanded so that reports can be produced which will permit management to:

- Compare performance with goals and objectives.
- Observe trends in the acquisition, management and sales activities of the program.
- Evaluate the condition of the inventory.
- Be aware of exceptions to stated policies with respect to individual parcels.

At least three districts are working on system changes independently. From a management standpoint, it would seem prudent to take advantage of the work done thus far, and consolidate future effort at the headquarters level.

DIVISION OF HIGHWAYS
SUMMARY OF EXCESS PARCELS ON ROUTES REVIEWED IN THE FIVE DISTRICTS VISITED

PARCEL STATUS	District 7-Los Angeles			Dist. 11-San Diego			Dist. 10-Stockton		District 4-San Francisco				District 3-Marysville				Total All Dist.
n Inventory & Maps:																	
ategory:	Rte 210	Rte 405	Rte 10	Rte 5	Rte 8	Rte 76	Rte 99	Rte 5	Rte 101	Rte 280	Rte 17	Rte 480	Rte 5	Rte 50	Rte 80	Rte 99	
A-Avail. f/Imm. Sale	477	87	11	56	8	4	36	72	33	16	18		83	54	93	6	1,054
B-Held f/Public Agen.	60	20		2				7	5	2			25	1	29		151
C-Unsalable "A" & "B"	13	8			1			4	3	21	11		6	4	23	5	99
-Engineering Holds	90	40		86	37		10	1	88	31	96		5	11	49		544
-Undetermined R/W	357	63	5	22	10		5	7	41	18	15	1	10	8	45	1	608
me# Sales Not Yet corded	94	59		10	2				19	48	19	4	20	57	39	3	374
Sub-Total On Invent. and Maps	1,091	277	16	176	58	4	51	91	189	136	159	5	149	135	278	15	2,830
Inventory, Not Maps:																	
ld Not Removed om Inventory		4															4
R/W Not Removed om Inventory	3	25							10	3	1						42
Sub-Total On Invent. Not Maps	3	29							10	3	1						46
Sub-Total On Inventory	1,094	306	16	176	58	4	51	91	199	139	160	5	149	135	278	15	2,876
Maps, Not on Inven:																	
cess Not On Inven.	160	151	9	24	12	4	5	18	18	3	3		12		19	10	448
vance Acquisitions- om R/W Acq. Fund									21								21
q. Owned by Bay Toll Cross.												40					40
ld, Not Recorded on Maps				5		1		1									7
Sub-Total-Not on Inv.	160	151	9	29	12	5	5	19	39	3	3	40	12	0	19	10	516
al Parcels Review	1,254	457	25	205	70	9	56	110	230	142	163	45	161	135	297	25	3,392

EXHIBIT A