

Exhibit N

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FILED

NOV 9 - 1972

ROBERT L. HAWK, County Clerk  
*[Signature]*  
Deputy County Clerk

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF VENTURA  
(Oxnard Branch)

FRED W. SMITH, as Executor for  
the estate of Grace Hobson Smith,  
deceased; JANICE P. SMITH as  
executrix of the estate of Rodney  
Hobson Smith, deceased; BARBARA  
BARNARD SMITH; HELEN MARGARET  
SMITH; WALTER W. HOFFMAN; and  
KATHERINE HOFFMAN HALEY,

Plaintiffs,

vs.

STATE OF CALIFORNIA

No. . . .  
COMPLAINT FOR INVERSE  
CONDEMNATION (California  
Constitutional Article 1,  
Section 14)

PLAINTIFFS ALLEGE:

FIRST CAUSE OF ACTION

1. The Department of Public Works of the State of California is, and at all times mentioned herein, was, the duly authorized body in charge of State Highways and is by law vested with authority to exercise in the name of the defendant, the State of California, the power to acquire property for State Highway purposes and the power to construct highways for public use and public purposes.

2. At all times mentioned herein, plaintiffs were

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1 and are the owners of the coastal real property located in  
2 Ventura County, California, bounded on one side by approximately  
3 3-1/2 miles of the mean high tide line of the Pacific Ocean. A  
4 portion of said property, commonly known as the Seacliff Beach  
5 Colony, is subdivided into 40 lots upon which lessees have  
6 constructed beach homes and appurtenant improvements. Said  
7 property is more particularly described in Exhibit "A" attached  
8 hereto, and by this reference made a part hereof.

9 3. On or about September 1, 1970, the defendant, the  
10 State of California, by and through its Department of Public  
11 Works Division of Highways, began construction of and has, to  
12 the date hereof, continued to build and maintain a causeway  
13 on the tideland and portions of the upland property adjacent  
14 to and north of the plaintiffs' said property for the right-of-  
15 way of Highway 101 which runs parallel and adjacent to the east  
16 boundary of the plaintiffs' property.

17 4. As a direct and proximate result of the construction  
18 of said highway improvement, as deliberately designed and built,  
19 the natural state of equilibrium previously existing between  
20 the effects of ocean waves, tides and currents on the sandy beach  
21 on the plaintiffs' property and the effects of the littoral  
22 drift or current running along the shoreline north to south  
23 and normally carrying sand in suspension onto the plaintiffs'  
24 upland and replenishing sand washed away therefrom, was inter-  
25 ferred with.

26 5. As a necessary and natural consequence, and as  
27 a further direct and proximate result of the construction of  
28 said causeway, plaintiffs' upland property was denuded of sand

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1 and eroded to such an extent that the ordinary mean high tide line  
2 moved shoreward from its location prior to the construction of the  
3 causeway approximately 60 feet in front of the Seacliff Beach Colony  
4 and an average of approximately 25 feet in front of the remaining  
5 portion of plaintiffs' beach front property. That portion of  
6 plaintiffs' upland property between the ordinary mean high tide  
7 line established prior to and the ordinary high tide line exist-  
8 ing subsequent to such improvement has been totally and completely  
9 taken, damaged, or destroyed. Because of the severance of and  
10 damage to such upland property, the remaining portion of plaintiffs'  
11 property has diminished in fair market value.

12 6. The fair market value of the plaintiffs' upland property  
13 taken, damaged or destroyed by defendant, is the sum of One  
14 Million Two Hundred Ninety Two Thousand Two Hundred (\$1,292,200)  
15 Dollars and the diminution in the fair market value of the  
16 remaining portion of plaintiffs' property because of said taking,  
17 damaging or destroying by defendant is the sum of One Million  
18 Two Hundred Thirty Thousand (\$1,230,000) Dollars.

19 7. At all times mentioned herein, plaintiffs have taken  
20 all reasonable steps and precautions to minimize the amount of  
21 property taken as described herein and to mitigate the damage  
22 caused to the remaining portion of plaintiffs' property.

23 8. Plaintiffs have filed a claim against the defendant  
24 for the taking, damaging or destroying of the above-described  
25 property on July 21, 1972, and said claim was rejected by the  
26 State Board of Control on August 15, 1972.

27 9. Because of defendant's actions plaintiffs have and will  
28 continue to incur costs and expenses for attorneys, appraisal,

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1 and engineering fees.

## 2 SECOND CAUSE OF ACTION

3 10. Plaintiffs refer to paragraphs 1, 2, 3, 7, 8 and 9  
4 inclusive of their First Cause of Action herein, and by this  
5 reference make them a part hereof as though fully set forth.

6 11. The defendant, State of California, negligently,  
7 carelessly, and with a reckless disregard for the natural and  
8 necessary consequences, designed and constructed the causeway  
9 referred to in paragraph 3 hereof, in a manner which interfered  
10 with the natural and normal state of equilibrium previously  
11 existing between the effects of ocean waves, tides and currents  
12 on the sandy beach on the plaintiffs' property, and the effects  
13 of the littoral drift or current running along the shore line  
14 north to south and normally carrying sand in suspension onto  
15 the plaintiffs' upland and replenishing sand washed away there-  
16 from.

17 12. As a direct and proximate result of defendant's negli-  
18 gence and carelessness in designing and building the causeway,  
19 and as a necessary and natural consequence thereof, the  
20 plaintiffs' upland property has been denuded of sand and eroded  
21 to such an extent that the ordinary mean high tide line, moved  
22 shoreward from its location prior to the construction of said  
23 causeway approximately 60 feet in front of the Seacliff Beach  
24 Colony and an average of approximately 25 feet in front of the  
25 remaining portion of plaintiffs' beach frontage property. That  
26 portion of plaintiffs' upland property between the ordinary  
27 mean high tide line established prior to and the ordinary mean  
28 high tide line existing subsequent to such improvement has been

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1 totally and completely taken, damaged or destroyed, and the  
2 remaining portion of plaintiffs' property has been diminished in  
3 its fair market value.

4 13. At all times mentioned herein, the defendant knew or  
5 should have known, and was put upon notice, that the construction  
6 of said causeway, as deliberately designed and built, would as  
7 a direct and proximate result thereof, cause said portion of  
8 plaintiffs' upland to be taken, damaged or destroyed and cause  
9 the diminution in the fair market value of plaintiffs' remaining  
10 property, as hereinabove described.

11 14. The fair market value of the plaintiffs' upland prop-  
12 erty taken, damaged or destroyed, is the sum of One Million Two  
13 Hundred Ninety Two Thousand Two Hundred (\$1,292,200) Dollars  
14 and the diminution in the fair market value of the remaining  
15 portion of plaintiffs' property because of said taking, damaging  
16 or destroying is the sum of One Million Two Hundred Thirty  
17 Thousand (\$1,230,000) Dollars.

## 18 THIRD CAUSE OF ACTION

19 15. Plaintiffs refer to paragraphs 1, 2, 3, 4, 7, 8, and 9  
20 inclusive of their First Cause of Action, and paragraph 13 of  
21 their Second Cause of Action and they incorporate them herein  
22 as though fully set forth.

23 16. The defendant, State of California, deliberately designed  
24 and built the highway improvement described hereinabove, but  
25 negligently, carelessly, and with a reckless disregard for the  
26 necessary and natural consequences, failed to take reasonable and  
27 necessary steps and precautions to protect plaintiffs' property  
28 from erosion by ocean waves, tides, and currents as changed by

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1 the construction of said causeway, as herein described in  
2 paragraph 4 hereof.

3 17. As a direct and proximate result of defendant's negli-  
4 gence, carelessness, and recklessness, as alleged, plaintiffs'  
5 upland property has been denuded of sand and eroded to such an  
6 extent that the ordinary mean high tide line moved shoreward from  
7 its location prior to the construction of said causeway approxi-  
8 mately 60 feet in front of the Seacliff Beach Colony and an average  
9 of approximately 25 feet in front of the remaining portion of  
10 plaintiffs' beach front property. That portion of plaintiffs'  
11 upland property between the ordinary mean high tide line existing  
12 subsequent to the construction of such improvement has been totally  
13 and completely taken, damaged or destroyed, and due to the sever-  
14 ence of and damage to such property, the remaining portion of  
15 plaintiffs' property has diminished in its fair market value.

16 18. The fair market value of the plaintiffs' property taken,  
17 damaged or destroyed is the sum of One Million Two Hundred  
18 Ninety Two Thousand Two Hundred (\$1,292,200) Dollars and the  
19 diminution in the fair market value of the remaining portion  
20 of plaintiffs' property because of said taking, damaging or  
21 destroying is the sum of One Million Two Hundred Thirty Thousand  
22 (\$1,230,000) Dollars.

23 WHEREFORE, plaintiffs pray judgment against defendant as  
24 follows:

25 1. For the taking of and/or damage to the plaintiffs' upland  
26 property between the ordinary mean high tide line established  
27 prior to and the ordinary mean high tide line existing subsequent  
28 to the construction of said highway improvement in the sum of

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1 One Million Two Hundred Ninety Two Thousand Two Hundred  
2 (\$1,292,200) Dollars plus interest thereon at the rate of seven  
3 (7%) percent per annum from the date of taking, damaging or  
4 destroying of plaintiffs' property until paid in full.

5 2. For the diminution in the fair market value of plaintiffs  
6 remaining property in the sum of One Million Two Hundred Thirty  
7 Thousand (\$1,230,000) Dollars with interest thereon at the rate  
8 of seven (7%) percent per annum from the date of the taking  
9 and damaging of plaintiffs' property until paid in full.

10 3. Reasonable costs, disbursements and expenses, including  
11 reasonable attorneys, appraisal and engineering fees.

12 4. Cost of suit incurred herein; and

13 5. Such other and further relief as this Court may deem  
14 proper.

15 Dated: October 31, 1972.

16  
17 NORDMAN, CORMANY, HAIR & COMPTON

18 By: Kenneth M. High, Jr.  
19 Attorneys for Plaintiffs  
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