

# **Moraga Creek Landslide**

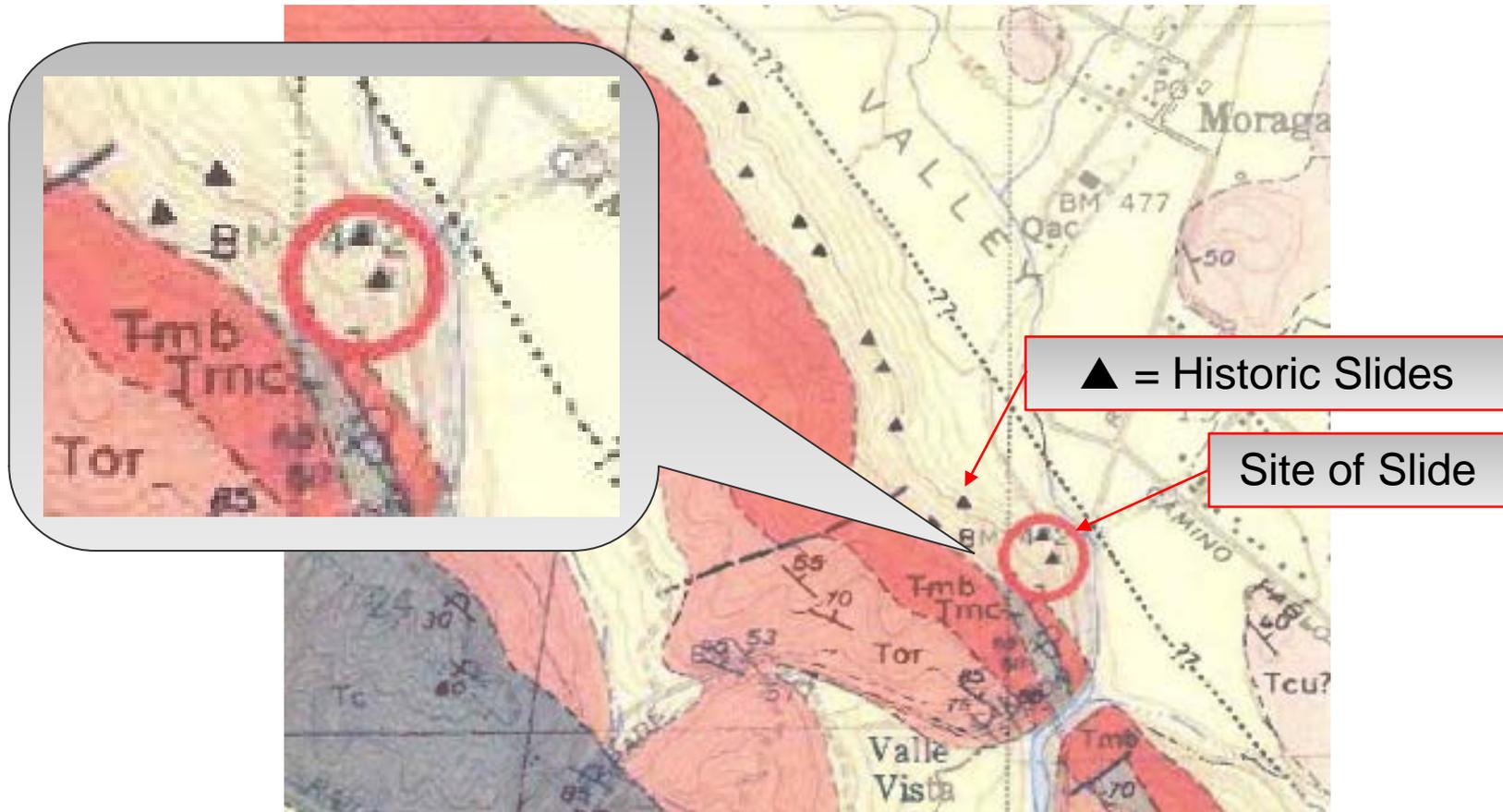
Board Presentation

March 14, 2017

# Background



The March 2016 slide took place on the site of a larger historic landslide that predated the construction of the houses.



Areal and Engineering Geology of the Oakland East Quadrangle, California, by Dorothy Radbruch, 1969

# Issues Raised in Public Comment



- EBMUD owns the land on which the slide occurred and so is responsible for the repair of the slide.
- EBMUD has been negligent by not quickly fulfilling its duty to repair the landslide.
- EBMUD should not “hide behind the litigation” and should take steps to resolve this issue and get the slide repaired.

# Legal Liability for Slide Repair



**Court rulings have confirmed that the District has no liability and, to date, no facts have arisen that would change that determination.**

- In September 2016, the plaintiffs sought a court order compelling the District to perform repairs on the slide.
- The court held the plaintiffs had no “likelihood of success” in showing the District is liable for repairs because:
  - Under the law, “a public entity is not liable for damage or injury to property from a land failure **if the land failure was caused by a natural condition of the land.**”
  - The plaintiffs had **no evidence of any improvements** on the District’s property or actions by the District **that caused the landslide.**
- The plaintiffs were allowed to renew their request if they develop further information in support of their argument.
- To date, the plaintiffs have not renewed their request.

# Next Steps



- The District has invited the parties, through their counsel, to meet and discuss a plan for moving the process forward.
- Should the parties agree, we hope to hold this meeting within the next few weeks.