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CITY OF NEWPORT BEACH

December 20, 1993

The Honorable Dan Lungren
Attorney General, State of California
1515 "K" Street, #511
Sacramento, CA 95814

RE: Assemblyman Ferguson's Dec. 9, 1993 Ltr. Subj.: "Request for Investigation and Legal Opinion".

Dear Mr. Attorney General:

My Newport Beach constituency is one of those most seriously impacted, and concerned, by the decisions of the County of Orange and the Transportation Corridor Agency to charge a toll to use the northerly section of Newport Coast Drive that has been integrated into the San Joaquin Hills Transportation Corridor.

For several years the 20,000 residents of this area had opposed Irvine Company plans for extensive development of their land east of Corona Del Mar. One of the reasons for the opposition was the projected increase in traffic that would result from the development. This objection was finally resolved in 1988 when the County downscaled the plans and incorporated a mitigation measure into a Development Agreement with the Irvine Company that required their construction of a new road to run from Pacific Coast Highway to Mac Arthur Boulevard and overlay the public Bonita Canyon Road in the northerly section. This entire road is now called Newport Coast Drive and handles over 10,000 vehicles per day.

The protesters knew that Newport Coast Drive was to be integrated into the Corridor when it was planned as a FREEWAY. They feel very strongly that it was their effort over several years which resulted in the County adoption of the mitigation measure that produced Newport Coast Drive and that any change to that condition of the Development Agreement should have been preceded by specific public hearings on that particular subject and not buried in EIR/EIS's.

I believe that you will agree that the general public relate EIR/EIS's to environmental issues and not modification of Development Agreements or charging a toll for use of a right-of-way obtained through tax funds or as a mitigation measure of a Development Agreement. They, therefore, totally reject TCA's repeated contention that covering such a significant change to the Development Agreement in EIR/EIS's constituted adequate public notice.

My constituents are deeply offended by the bureaucratic attitude of TCA since January 1993 when the toll issue became general public knowledge. At that time the local press widely covered the TCA action with the result that our City and State elected officials, as well as the press, received hundreds of letters and innumerable telephone calls in violent protest.

12/20/93 Ltr Sansone to Lungren, subj: SJHTC Toll Issue

I wish to emphasize that the protestations were not against the tollway in its entirety but against the imposition of tolls on the Newport Coast Drive section. The TCA reaction to the widespread public protests can be summarized as that of evading the public concern and proceeding with their plans.

Their attitude is reflected in two actions they took in January 1993. At that time, in response to public reaction and in an effort to resolve the issue amicably, I requested as the Newport Beach member of the Inter City Liaison Committee (ICLC) that the TCA brief the Committee on the issue at its February meeting. The ICLC is composed of elected officials and City Managers of the cities of Newport Beach, Laguna Beach, Irvine, Santa Ana, Tustin and Costa Mesa. A representative of the TCA requested that the briefing be delayed until the mid-March meeting.

I then requested the Newport Beach City Manager to schedule the briefing for one of our February public City Council Study Sessions. Again, the TCA representative requested that the briefing be delayed until March. The significance of their refusing to brief the public in February is that the sale of the \$1.1 billion tollway bonds took place in early March. One wonders if the TCA, well aware of the wide-spread public opposition to the toll issue, was determined to conduct the bond sale and was concerned that conducting such public briefings would emphasize the public opposition, which by this time period had reached its height, and thus have a negative impact on their ability to sell the bonds?

It is also interesting to note that the magnitude of the public opposition over the Newport Coast Drive toll issue was not included in the bond prospectus and therefore not revealed to prospective buyers despite knowledge of this fact by TCA as early as January 1993. Were not the bond buyers entitled to that information as well as the pending litigation cited in the prospectus?

Was TCA's refusal to brief the ICLC and the Newport City Council in February and selling the bonds in March part of their strategy to quell the public outcry because they knew that it would take legal action, which the opponents could not afford, once the bonds were sold to reverse their decision to charge a toll on the Newport Coast Drive section?

Since the bond sale the TCA has been consistent, in response to repeated requests to remove or relocate the toll booths, in stating that the revenue from Newport Coast Drive is essential to the tollway financial plan contained in the bond prospectus and that removal of the tolls would be in violation of the Indenture of Trust associated with the bond prospectus. This makes their entire action suspect in that any action now to remove the toll from the Newport Coast Drive segment could result in legal action by the bond buyers on the basis that they were not advised of the extensive opposition to the toll issue.

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Another interesting point is that the Orange County Board of Supervisors, well aware of the public opposition to the toll, did not approve until February 1993 an agreement with the Irvine Company and the TCA to assign to TCA the right to receive an offer of dedication of title to Newport Coast Drive from the Irvine Company. This agreement was consummated in March 1993 and fee title recorded in September 1993.

The California Coastal Commission is currently investigating whether the toll issue violates the terms of the certified Irvine Coast LCP or the permit allowing the construction of Newport Coast Drive (Coastal Commission October 1, 1993 letter to the undersigned).

Obviously I strongly support the action requested by Assemblyman Ferguson not only for the reasons he stated but because the actions of TCA and Board of Supervisors are legally suspect and reflect total disregard for the public that they represent.

Sincerely,



Phil Sansone
Council Member, District 6, CDM

PS:mfg

cc: Assemblyman Ferguson
Harbor View Hills South Community Association
Jasmine Park Community Association
Jasmine Creek Community Association
Harbor Ridge Community Association
Corona Del Mar Residents Association
Corona Del Mar Chamber of Commerce
North Laguna Homeowners Association (LANO)
Laguna Beach Taxpayers Association
Victoria Beach Homeowners Association, Laguna Beach

Harbor View Hills South Homeowners Association

17550 Gillette Avenue, Suite 201, Irvine, California 92713

January 7, 1995

Mayor John Hedges and City Council
Newport Beach City Hall
3300 Newport Blvd.
Newport Beach, CA 92658-8915

Honorable Mayor and City Council:

Based upon our receipt of the copy of Ronald D. Kennedy's letter to you, December 15, 1995, I understand that you are considering revisiting the City of Newport Beach Resolution of November 30, 1990 concerning Newport Coast Drive and the San Joaquin Hills Transportation Corridor. We hope that you will revisit this matter.

As you are aware, I have served as the only public representative on the Transportation Corridor Agency (TCA) Ad Hoc Committee which was formed ostensibly to find a solution to the potential problems caused by placing a toll on the initial Northern Section of Newport Coast Drive.

At these many meetings, I repeatedly informed William Woollett and Greg Henk that we were not satisfied with the proposed "parallel" bypasses suggested by them as a compromise for their placing a toll on Newport Coast Drive.

The reason for our dissatisfaction is that motorists will have to go North, South, and then North again in a Z pattern to bypass the tolled section of Newport Coast Drive. This is not a "parallel" bypass. (map enclosed)

The results of the TCA's own traffic survey showed that 87% of the motorists would divert to other streets if a toll is imposed. Despite these results, Greg Henk informed me that even if traffic became a serious problem in Corona del Mar, they would never remove the tolls on this section of the corridor!

As the TCA has refused to consider any other truly "parallel" bypass, we feel that our City representatives should stand firmly behind removal of the toll booths on this section of the San Joaquin Hills Transportation Corridor.

Sincerely,



Yvonne Houssels
President

cc: Corona del Mar Chamber of Commerce
Spyglass, Jasmine Creek, and CDM Homeowners Associations
Ronald D. Kennedy

Professional Management Associates, P.O. Box 19530, Irvine, CA 92713 (714) 752-2225 Fax (714) 757-6396

HARBOR VIEW HILLS HOMEOWNERS ASSOCIATION
Yvonne Houssels
President
1307 Outrigger Drive
Corona del Mar, CA 92625

May 4, 1994

Assemblyman Richard Katz and Committee Members
Chairman, Assembly Transportation Committee
State Capitol
Sacramento, CA 95814

Re: AB-3299

Dear Mr. Katz and Committee Members:

I know you have already received phone calls, faxes and letters from the numerous organizations I represent in support of AB-3299. These include, but are not limited to the Corona del Mar Chamber of Commerce, Spyglass Hill Community Association, Jasmine Creek, Corona del Mar Residents Association, Laguna North Neighborhood Association, and the Irvine Conservancy.

I felt that you should also be aware that I personally spoke to Deputy Attorney Clayton Roche April 15, 1994. He stated that at that time he had received over 600 letters from organizations and individuals in protest over tolls being placed on Newport Coast Drive and that they were still arriving. These letters all emphasized that the public was not informed.

I was extremely disappointed that our groups, representing over 10,000 homeowners and businesses, who support AB-3299 were not included in the analysis presented to you by the Transportation Committee Analyst on April 18 when I appeared before you. I have enclosed my letter faxed to you and the committee April 14.

I hope this oversight has been corrected.

Sincerely,



Yvonne Houssels

cc: Governor Pete Wilson
Assemblyman Gil Ferguson
Homeowners Associations in C.D.M., Irvine, and Laguna Beach
Corona del Mar Chamber of Commerce
Board-HVHHA c/o Professional Management Associates