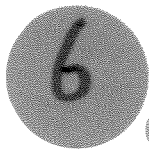


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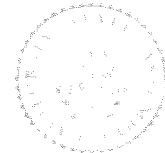


Assembly California Legislature

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GILBERT W. FERGUSON
ASSEMBLYMAN SEVENTIETH DISTRICT



January 7, 1994

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

Dear Dan:

I just received the attached letter dated 12-20-93, sent by your Senior Assistant Attorney General, Chief of the Opinion Unit. In your letter you indicated that your office intends to issue an opinion on the very narrow question: May a county convey a joint powers tollway agency?

That is not at all what I asked in my letter to you of 12-9-93. I asked for your opinion "as to the matters in question and whether malfeasance has occurred."

The matters in question are:

1. Did the County of Orange have legal authority to abandon an old existing public road (Bonita Canyon Road) and convey it to the San Joaquin Hills Tollway (SJHT) where it will contain a toll booth requiring the public to pay for its use in the future?
2. Did the County of Orange have legal authority to abandon a public road (Newport Coast Road), which was built by the Irvine Company as a "condition" of its permit to develop its coastal property by both the county and the California State Coastal Commission and subsequently convey that public road to the SJHT?
3. If such authority existed and the free public road requires the public to pay a toll in order to transit part of its length, would this preclude the Irvine Company from developing its property further since the "conditions" demanded by the permitting authorities no longer pertain?

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4. Did the County of Orange give sufficient public notice that it intended to abandon the Bonita Canyon Road and a portion of the Newport Coast Road?
5. Was there an adequate, legal abandonment hearing held for each road?
6. Did the SJHT give sufficient legal notice that it intended to charge a toll to the public for transiting the Bonita Canyon Road and a portion of the Newport Coast Road?
7. Was there an adequate, legal public hearing held on the tollway's intention to charge such tolls on those roads?
8. During the process wherein these roads were abandoned and conveyed to the SJHT or subsequently, was or has there been any illegal attempt, by elected or appointed officials of the County or SJHT or their employees or agents, to hide or obfuscate the act from the public?

✓ These are the matters my letter and its attached "Facts and Issues" quite clearly asked to be brought to the attention of the Attorney General and for which an opinion should be rendered.

✓ Moreover, it has just been reported to me today by one of the concerned citizens who was contacted by Mr. Lilyquist, that your Office "may not" proceed as promised, as there is pending litigation regarding the TCA. I would hope this isn't true, as it would be an outrage for your Office to renege on its promise to me and to the public to investigate this matter and issue an opinion. I'm not surprised, of course, that the TCA apparently is trying their best to head this off. But it so happens that the pending litigation has nothing whatsoever to do with the matters outlined above and in my previous communications to you.

I repeat, the public has a right to have these matters delved into thoroughly by your Office. Your cooperation and attention to this volatile issue is greatly appreciated by myself and the approximate 800,000 taxpayers of southeast Orange County.

Sincerely,



GIL FERGUSON
Assemblyman, 70th District

GF/pj

cc: David Stirling, Robert Mukai, Rod Walston, George Williamson, Jack Stevens, Janice Brown, Councilman Phil Sansone

PJ 1-7-94