



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

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VIA ELECTRONIC MAIL

Ms. Audrey Huang
Nossaman LLP
18101 Von Karman Avenue, Suite 1800
Irvine, CA 92612
ahuang@nossaman.com

Ms. Jamee Jordan Patterson
Office of the Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
jamee.patterson@doj.ca.gov

Mr. Steven Kaufman
Richards, Watson & Gershon
355 S. Grand Avenue, 40th Floor
Los Angeles, CA 90071-3101
skaufmann@rwglaw.com

Mr. John Saurenman
Office of the Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
john.saurenman@doj.ca.gov

Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
mdelaplaine@coastal.ca.gov

Ms. Hope Schmeltzer
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105
hshmeltzer@coastal.ca.gov

Re: Federal Consistency Appeal
Foothill/Eastern Transportation Corridor Agency

Dear Sirs and Mesdames:

On May 21, 2008, I notified you that a public hearing would be held in this appeal, and subsequently informed you that the hearing would take place at the Bren Center of the University of California at Irvine (Bren Center) on July 25, 2008. I am now writing to inform you that the Bren Center has withdrawn its agreement to be a site for the hearing. This information raises concerns about the continued viability of current plans to conduct a hearing.

One of the major criteria underlying our selection of a site for the public hearing was capacity. We understand that the hearing that occurred earlier this year on TCA's proposed toll road project before the California Coastal Commission drew between 3,000 and 3,500 participants. Consequently, we selected a venue that could accommodate more than 3,500 participants. The Bren Center seats up to 4,758 people. In our arrangements with the Bren Center, we also included sufficient security for a crowd of approximately 5,000 people. The then-expected cost for the hearing venue was approximately \$26,000 (about \$8500 for the venue and associated costs, and about \$17,500 for security-related costs).

Since our announcement of this facility as the public hearing venue, the Bren Center has been contacted by a number of interested individuals and groups that intend to attend the hearing.



Based on this new information, the Bren Center believes that a credible estimate for hearing attendance is well over 10,000 individuals. As a result, the Bren Center notified us yesterday that, due to the evolving nature of the hearing, it can no longer accommodate the number of people likely to attend the hearing, as the anticipated crowd exceeds its capacity and security resources.

While we cannot confirm the anticipated crowd size that the Bren Center believes is now likely, we understand the need to ensure ample facilities and security to ensure both the efficacy of the hearing and the safety of all of those who attend. We are currently assessing options, but if these issues cannot be resolved in the near future, the July 25 hearing may need to be canceled. It would be difficult to accommodate a much larger crowd because the cost of a larger facility and increased security would exceed our current budget. In addition, legal requirements for a timely notification of a public hearing would force a delay of the hearing if the time or location is changed.

We remain committed to providing the public a full and fair opportunity to participate in this proceeding, and I will keep you informed of our decisions regarding the hearing as this situation continues to unfold.

Sincerely,

A handwritten signature in black ink, reading "Jane C. Luxton". The signature is fluid and cursive, with a long horizontal flourish at the end.

Jane C. Luxton
General Counsel