



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Samuel Bodman
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Mr. Secretary:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

The appeal at issue is brought by Foothill/Eastern Transportation Corridor Agency (TCA). TCA has asked that the Secretary override the California Coastal Commission's (CCC) objection to TCA's construction of an extension to California State Route 241 in northern San Diego and southern Orange Counties, California.² The CCC's objection to the project precludes Federal agencies from granting licenses or permits required for the project, unless the objection is overridden by the Secretary. 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

In the appeal, TCA has requested the Secretary override the CCC's consistency objection on two substantive grounds:

- The proposed activity is "consistent with the objectives" of the CZMA. 16 U.S.C. § 1456(c)(3)(A). To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the CCC's coastal zone management program. 15 C.F.R. § 930.121.

1 Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, (CZMA), 16 U.S.C. § 1451 et seq. The Department of Commerce's implementing regulations for CZMA appeals are found at 15 C.F.R. Part 930, Subpart H.

2 For additional background on TCA's proposed project, please refer to the appeal record made available via the Internet at <http://www.ogc.doc.gov/czma.htm>. The administrative record may also be reviewed at NOAA's Office of General Counsel for Ocean Services, located at the address below.



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Your agency has been identified as one that has a potential interest or involvement in this appeal. As such, I am requesting any views your agency may wish to provide on either of the above grounds.

In order for this appeal to be decided in a timely fashion, I respectfully request that your views be submitted no later than **May 28, 2008**. Please forward any comments to: Thomas Street, Attorney-Advisor, Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, SSMC4, Suite 6111, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Dirk Kempthorne
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

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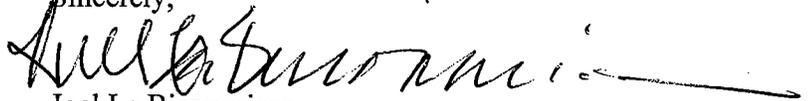
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Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

The Honorable Michael B. Mukasey
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

MAY 1 2008

Dear Mr. Attorney General:

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for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Donald C. Winter
Secretary of the Navy
U.S. Department of the Navy
1000 Navy Pentagon
Washington, D.C. 20350-1000

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Sincerely,



Joel La Bissonniere
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cc: Secretary of Defense
Commandant, United States Marine Corps
Deputy Executive Director, National Security Council
Commander, United States Army Corps of Engineers



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Condoleezza Rice
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Madame Secretary:

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
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OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Mary E. Peters
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Madame Secretary:

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

OFFICE OF THE GENERAL COUNSEL

The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

MAY 1 2008

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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable James Ray
Acting Administrator
Federal Highway Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Mr. Ray:

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MAY 1 2008

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Federal Transit Administration, East Building
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

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Your agency has been identified as one that has a potential interest or involvement in this appeal. As such, I am requesting any views your agency may wish to provide on either of the above grounds.

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Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel La Bissonniere", with a long horizontal flourish extending to the right.

Joel La Bissonniere
Assistant General Counsel
for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Dale Hall
Director
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Hall:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

The appeal at issue is brought by Foothill/Eastern Transportation Corridor Agency (TCA). TCA has asked that the Secretary override the California Coastal Commission's (CCC) objection to TCA's construction of an extension to California State Route 241 in northern San Diego and southern Orange Counties, California.² The CCC's objection to the project precludes Federal agencies from granting licenses or permits required for the project, unless the objection is overridden by the Secretary. 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

In the appeal, TCA has requested the Secretary override the CCC's consistency objection on two substantive grounds:

- The proposed activity is "consistent with the objectives" of the CZMA. 16 U.S.C. § 1456(c)(3)(A). To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the CCC's coastal zone management program. 15 C.F.R. § 930.121.

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Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable David Trulio
Executive Assistant to the President and Executive Secretary
Homeland Security Council
Eisenhower Executive Office Building
Washington, D.C. 20502

Dear Mr. Trulio:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

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In the appeal, TCA has requested the Secretary override the CCC's consistency objection on two substantive grounds:

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Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

Mr. Fred Schwien
Executive Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528-0300

Dear Mr. Schwien:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

The appeal at issue is brought by Foothill/Eastern Transportation Corridor Agency (TCA). TCA has asked that the Secretary override the California Coastal Commission's (CCC) objection to TCA's construction of an extension to California State Route 241 in northern San Diego and southern Orange Counties, California.² The CCC's objection to the project precludes Federal agencies from granting licenses or permits required for the project, unless the objection is overridden by the Secretary. 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

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Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Nicole Nason
Administrator
National Highway Traffic Safety Administration
West Building, 1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Ms. Nason:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. See 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

The appeal at issue is brought by Foothill/Eastern Transportation Corridor Agency (TCA). TCA has asked that the Secretary override the California Coastal Commission's (CCC) objection to TCA's construction of an extension to California State Route 241 in northern San Diego and southern Orange Counties, California.² The CCC's objection to the project precludes Federal agencies from granting licenses or permits required for the project, unless the objection is overridden by the Secretary. 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.64.

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Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

Brig. Gen. John I. Pray, Jr.,
Deputy Executive Secretary
National Security Council
Washington, D.C. 20504

Dear General Pray:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. See 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

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Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services

cc: Secretary of Defense
Secretary of the Navy
Commandant, United States Marine Corps
Commander, United States Army Corps of Engineers



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

General James T. Conway
Commandant
United States Marine Corps
3000 Marine Corps Pentagon
Washington, D.C. 20350-3000

Dear General Conway:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

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Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services

cc: Secretary of Defense
Secretary of the Navy
Deputy Executive Director, National Security Council
Commander, United States Army Corps of Engineers



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

The Honorable Robert M. Gates
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Mr. Secretary:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

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Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services

cc: Secretary of the Navy
Commandant, United States Marine Corps
Deputy Executive Director, National Security Council
Commander, United States Army Corps of Engineers



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

OFFICE OF THE GENERAL COUNSEL

MAY 1 2008

LTG Robert Van Antwerp
Commander, U.S. Army Corps of Engineers
441 G Street, N.W.
Washington, D.C. 20314-1000

Dear General Antwerp:

I am writing to request your agency's comments on an administrative appeal pending before the Secretary of Commerce (Secretary) pursuant to the Coastal Zone Management Act (CZMA).¹ The CZMA requires that interested or involved Federal agencies be afforded an opportunity to comment on the appeal. *See* 16 U.S.C. § 1456(c)(3)(A); 15 C.F.R. § 930.128(b).

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- The proposed activity is "consistent with the objectives" of the CZMA. 16 U.S.C. § 1456(c)(3)(A). To make this determination, the Secretary must find that: (1) the proposed activity furthers the national interest as articulated in section 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the CCC's coastal zone management program. 15 C.F.R. § 930.121.

¹ Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, (CZMA), 16 U.S.C. § 1451 et seq. The Department of Commerce's implementing regulations for CZMA appeals are found at 15 C.F.R. Part 930, Subpart H.

² For additional background on TCA's proposed project, please refer to the appeal record made available via the Internet at <http://www.ogc.doc.gov/czma.htm>. The administrative record may also be reviewed at NOAA's Office of General Counsel for Ocean Services, located at the address below.



- The proposed activity is necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A). To reach this conclusion, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity in question were not permitted to go forward as proposed. 15 C.F.R. § 930.122. The Secretary's review of national security issues is aided by information submitted by interested Federal agencies. While not binding, these views are given considerable weight by the Secretary. *Id.*

Your agency has been identified as one that has a potential interest or involvement in this appeal. As such, I am requesting any views your agency may wish to provide on either of the above grounds.

In order for this appeal to be decided in a timely fashion, I respectfully request that your views be submitted no later than **May 28, 2008**. Please forward any comments to: Thomas Street, Attorney-Advisor, Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, SSMC4, Suite 6111, Silver Spring, Maryland 20910.

Should your staff have questions concerning this letter, please contact Mr. Street at (301) 713-7390 or by email at thomas.street@noaa.gov.

Sincerely,



Joel La Bissonniere
Assistant General Counsel
for Ocean Services

cc: Secretary of Defense
Secretary of the Navy
Commandant, United States Marine Corps
Deputy Executive Director, National Security Council