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July 6, 2006

John Barna, Executive Director
California Transportation Commission
1120 N Street (MS-52)
Sacramento, CA 95814

RE: Ballot Arguments; Support or Opposition by Commission Members

Dear Mr. Barna:

You requested informal advice concerning two questions pertaining to a measure which will be on the November 2006 ballot. The first question was whether Members of the Commission, including the Chair and Vice-Chair, can sign ballot measure arguments. The second question was whether Members of the Commission, including the Chair and Vice-Chair, can speak in favor of or in opposition to the ballot measure at public gatherings.

The answer to both questions is "yes." With regard to the first question, I have found nothing to suggest that a public official cannot sign a ballot argument. To the contrary, there have been numerous instances when public officials have signed ballot arguments. In one case, ballot arguments pertaining to a ballot proposition were signed by the Governor, the Attorney General, and a member of the Regents of the University of California. (*Lungren v. Superior Court* (1996) 48 Cal. App. 4th 435, 440-441.)

As to the second question, when a person becomes a member of a public body he does not lose the right to have an opinion. In the *Lungren* case cited above, the appellate court noted that "[a]s an elected state constitutional officer, the Attorney General is not only entitled to an opinion on matters of public importance, he is entitled to state that opinion publicly." The same is true for other elected and appointed public officials. (See, e.g., *City of Fairfield v. Superior Court* (1975) 14 Cal. 3d 768, 772: "[A] councilman [i.e., a legislator] has a right to state his views on matters of community policy")

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Of course, the answers provided above assume that public funds are not being used to promote or to oppose a ballot measure. Such use of public funds, unless authorized by the Legislature, is improper, and could subject the official so using them to personal liability. (See *Stanson v. Mott* (1976) 17 Cal. 3d 206.)

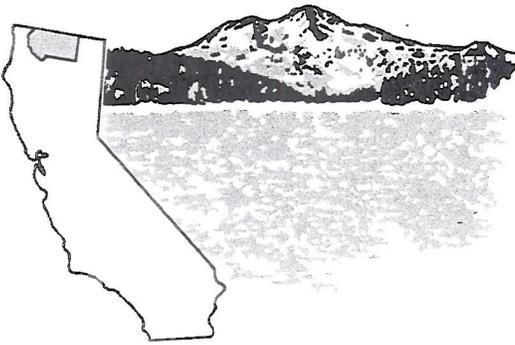
This letter contains informal advice which is provided to the Commission in my capacity as legal counsel to the Commission. It does not constitute a formal opinion of the Attorney General. If a formal opinion is desired, it can be requested from the Attorney General's Opinion Unit.

Sincerely,

GEORGE C. SPANOS
Deputy Attorney General

For BILL LOCKYER
Attorney General

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Siskiyou County

DEPARTMENT OF PUBLIC WORKS

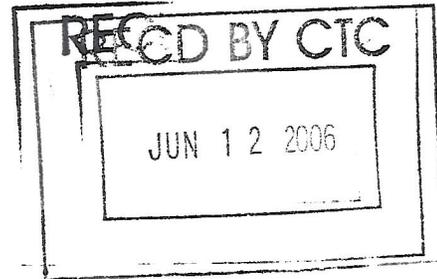
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Brian D. McDermott
Director

Scott Sumner
Deputy Director

June 5, 2006

California Transportation Commission
David Brewer
1120 N Street, Rm 2221
Sacramento, CA 95814



Dear Mr. Brewer,

Thirty seven counties in California are about to loose over \$60 million in funding when PL 106-393 expires this year. This revenue is split equally between roads and schools. For many counties like Siskiyou County, this represents nearly 50% of our total revenue. Reauthorization is critical.

In 1908, three years after the National Forest System was formed, Congress passed a revenue sharing mechanism that provided 25% of gross revenues generated from Federal lands to be paid to counties to support roads and schools. This funding was to offset the loss of revenue in the diminished tax base since Federal lands are exempt from local property taxes. Many counties, like Siskiyou, are predominantly owned by the Federal Government (Siskiyou County is nearly 70% Federally owned).

This revenue sharing mechanism worked well until the 1980's when the Federal Forest Management practices changed dramatically and revenues plunged by as much as 85%.

PL 106-393 was passed in 2000, guaranteeing payment to over 780 counties and 4400 school districts Nationwide, based on a percentage of historical receipts. If this Act is allowed to expire later this year, payments will revert back to the 25% formula. Since National Forest receipts are still at all time lows, this would be an unacceptable loss of revenue (85% or more).

There is some hope for reauthorization. The President has included a proposal in his preliminary budget for a five year declining payment to be paid for by the sale of excess Federal lands. This option, while better than nothing, is not considered acceptable. House resolution 517 and Senate resolution 267 are working their way through Congress with differing forms of reauthorization.

The National Forest Counties and Schools Coalition is sponsoring a Fly-in to Washington D.C. on September 13-14, 2006 with the goal of meeting with each and every member of Congress to stress the importance of reauthorization. On behalf of Siskiyou County and the other thirty-six counties in California, we ask for your support. This could be as simple as the passage of a letter of support, or a Resolution, sent to the President and the Congressional Representatives from California.

Please feel free to contact me with any questions or concerns.

Sincerely,

Brian McDermott
Director of Public Works

cc: Kathryn Mathews, Chair CSAC

BM/ap