

**Congress of the United States**  
**Washington, DC 20515**

May 28, 2008

The Honorable Carlos M. Gutierrez  
Secretary of Commerce  
United States Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

Re: *Foothill/Eastern Transportation Corridor Agency v. California Coastal Commission;  
Coastal Zone Management Act Appeal Regarding California State Route 241 in Orange  
County and San Diego County, California*

Dear Secretary Gutierrez:

We write to express our unqualified support for the completion of the Foothill/Eastern Transportation Corridor Agency's (TCA) toll road – State Route 241 – in Southern California. Therefore, we strongly urge you to override the February 6, 2008, objection by the California Coastal Commission to the TCA's Coastal Zone Management Act (CZMA) consistency certification.

**CENTRAL OVERVIEW**

You have heard from others of our colleagues in their April 14, 2008 letter of opposition. Notably, not a single Member of Congress who opposes this important transportation project represents a neighborhood even remotely close to the desperately needed area of congestion relief it will serve. Moreover, nine of the signatories in the letter to you, originated by Congresswoman Susan Davis, represent districts at least 430 miles or more from the proposed road, and one of them serves motorists and “neighbors” 700 miles away. All the others live several hundred miles removed, or in communities untouched or remote from the impending nightmare of traffic chaos that will wash over us in the next decade.

These geographic issues are far from trivial because, by contrast, every Member of Congress whose district is most directly impacted and geographically adjacent to the freeways, arterials and community streets and avenues at issue is addressing this request to you. We have signed this letter not with vague commitment to detached or far-removed sentiments, but with the real world experience – and need -- of solving problems right here in our own backyards. We are joined by like-minded colleagues who genuinely understand the need for local attention to local problems.

Without the completion of State Route 241, it will be our neighbors who are trapped in the maelstrom of congestion. It will be our constituents left to suffer the consequences of inaction and obstruction – our students and their parents; our schools and houses of worship; our businesses who rely wholly on the ability of local avenues of commerce to move goods and services; and, not least, the critical first responders who serve and protect us. Hence, we ask your earnest consideration of our request.

## REJECT FALSE CLAIMS

Opponents to this project continue to claim falsely that there are viable alternatives to this project's alignment. But all of those alternatives were studied and rejected by the federal and state transportation and environmental agencies because (a) they were not practicable, (b) had enormous impacts on the environment and coastal communities, (c) did not provide congestion relief or (d) they would have very severe effects on the mission of the United States Marine Corps at Camp Pendleton.

It is also important to inform you that our colleagues' April 14 letter to you is wholly misleading regarding the Marines' view of the chosen alignment. They misrepresented a six-year old letter by former Commandant, General J.L. Jones, to imply Marine opposition to the current alignment. But in General Jones letter to EPA (not FHWA as they erroneously stated), he made clear "...the Marine Corps made a commitment in 1988 to support one road alignment on Camp Pendleton, and I will honor that commitment. The Marine Corps has determined that the impact on our mission requirements from the 'Far East' alignment is acceptable." Mr. Secretary, it is precisely the "Far East" alignment which is before you for consideration – the very one to which General Jones committed.

Indeed, the opponents actually embraced other alignments which would have in fact moved further south onto the base and directly interfered with Marine preparedness. In reality it was the opponents' previously desired alignments the General rejected out of hand – stating they would "have a detrimental impact that is unacceptable on the ability of Camp Pendleton to carry out its training mission." Hence, the necessity to request that you disregard this misrepresentation of General Jones' views in the April 14 letter referred to above.

Having been thwarted by the Marines refusal to compromise wartime training needs, the opponents then proceeded to propose "Plan B" – the massive widening of Interstate 5 from its current eight lanes to 14 lanes. Their coldly observed and clinically stated substitute solution would result in the bulldozing of over 1200 homes and businesses -- displacing well over 2000 people and wiping out over 4000 jobs.

This will mean the demolition of critically needed low income housing and the disappearance of dozens upon dozens of rooms in historic and irreplaceable resort facilities which have long-served a wide diversity of California residents. Their "plans" would chop through a high school sports field, recently-built church facilities, and cherished businesses and apartments which cannot be rebuilt – because the underlying land can never be replaced.

Moreover, the California Department of Transportation has concluded that the opponents' widening alternative would be unsafe and would violate numerous CalTrans safety and design standards. CalTrans has also stated emphatically that there is no foreseeable source of funding to widen the I-5 even if California had the stomach to build such a socially destructive and unsafe alternative.

We believe it is unthinkable that these toll road opponents would petition you, as the United States Secretary of Commerce, to be a party to the destruction of the most fundamental

building blocks of U.S. commerce you are sworn to promote. Ensuring that these unacceptable costs of unreasoned opposition are not sustained -- nor rewarded -- is in your hands.

### **SPECIFIC CZMA CONSIDERATIONS**

The TCA's appeal raises extremely important national interest and national security issues for your consideration. An override of the Commission's objection is required because (i) the Project is consistent with the objectives of the Coastal Zone Management Act and (ii) the Project is necessary in the interest of national security. More specifically:

1. The southernmost portion of the Project (where it connects to Interstate 5) is on federal Department of Navy (DoN) owned property occupied by Marine Corps Base, Camp Pendleton in a location approved by Congress and stipulated by the U. S. Marine Corps (as noted above).
2. As a federal enclave ceded to the United States by the State of California, Camp Pendleton is subject to the exclusive jurisdiction of the United States. It is not within the "coastal zone" as defined in the Coastal Zone Management Act. This was confirmed just three weeks ago by the U.S. District Court, Southern District of California (San Diego), holding in the Manchester Pacific Gateway case that the "National Oceanic and Atmospheric Administration ('NOAA'), the agency charged with administering the CZMA, requires that all states exclude federal lands from their coastal zones." The Court specifically cited Senate legislative history excluding "defense establishments" from state authority. The Coastal Commission's objection did not comply with the Coastal Zone Management Act because (a) the Commission based its decision on alleged impacts outside of the federal coastal zone, and (b) the Commission has not complied with the CZMA requirements applicable to consistency review inland of the coastal zone boundary because the Commission's coastal management program did not identify the geographic areas to be subject to consistency review. Moreover, a recent decision of the California Supreme Court holds that the Coastal Commission does not have authority inland of the coastal zone boundary;
3. The Project furthers the national interest in orderly siting of major regional transportation facilities. The Project is a key element of two, federally-approved regional transportation plans and transportation improvement programs. It provides a desperately needed alternative to Interstate 5 – the lone north/south connection between the major population centers of Los Angeles and San Diego.
4. The Project is essential to the economy of Southern California – the second largest metropolitan area in the United States. Thus, the Project is also important to the nation's economy.

5. The Project promotes the national interest and reinforces other base security measures by including important infrastructure and mobility benefits to Camp Pendleton – including enhanced amphibious training improvements, an alternative route for the Marine's deployment to their point of debarkation, and assisting the base in meeting anti-terrorism and force protection mandates in the Global War on Terrorism;
6. The Project promotes the objectives of the Coastal Zone Management Act by providing much needed access to the coast and by providing important water quality benefits – including the treatment of 5 million gallons a year of currently untreated runoff from Interstate 5;
7. The Project provides important public safety benefits – including an alternative evacuation route in the event of natural disasters, a terrorist act or an unforeseen incident at the San Onofre Nuclear Generating Station (located adjacent to the City of San Clemente);
8. The Project is a key element of the approved strategy to comply with federal Clean Air Act standards and will remove over 200 million pounds per year of carbon emissions;
9. The important national interests furthered by the Project more than outweigh the minor impacts of the Project within the coastal zone;
10. The selected project alternative reflects the consensus reached by the federal transportation and environmental agencies after a six year, \$20 million federal environmental analysis.

#### **NATIONAL INTEREST: ADDITIONAL CONSIDERATIONS**

Day in and day out, Southern Californians suffer from the endless traffic congestion that stifles our economy, drains our gas budgets, pollutes our air, takes us away from spending time with our families, and limits access to the coast for hundreds of thousands of families living in the inland communities.

The Interstate 5 corridor in southern Orange County is dominated by gridlock conditions today – contributing to the region's violation of federal air quality standards. While congestion is grueling on weekdays, it is even worse at the Orange/San Diego County line on weekends as the 21 million residents of Southern California attempt to travel between two large metropolitan areas to enjoy the many recreational attractions on the coast.

The traffic projections approved by the U.S. Department of Transportation indicate that, unless SR 241 is built, vehicle traffic on Interstate 5 will increase 60 percent by 2025 – resulting in the release of over 200 million pounds per year of carbon emissions. Congestion time will increase by 500% and cannot help but have a devastating impact on the economy of the nation's

second largest metropolitan area and, therefore, an adverse impact on the economy of the nation as a whole.

The SR 241 Project alternative that is the subject of the pending Coastal Zone Management Act appeal is the product of three decades of careful transportation and environmental planning by all levels of government – local, state *and* federal. Nearly two decades ago, the federally-designated Metropolitan Planning Organization for Southern California (the Southern California Association of Governments) identified the SR 241 as a key component of the Southern California Regional Transportation Plan. Since then, SR 241 has been included in *every* regional transportation plan and every air quality management plan for Southern California approved by the U.S. Department of Transportation and the U.S. Environmental Protection Agency.

The federal agencies (in both Republican *and* Democratic Administrations) have repeatedly acknowledged the important national interest in constructing a regional transportation alternative to Interstate 5 between southern Orange and northern San Diego counties. The Interstate 5 corridor is the lone north-south Corridor connecting the large populations and employment centers of Los Angeles, Orange County and San Diego.

Interstate 5 is the principle route for the importation and exportation of goods to and from Mexico and to and from the Ports of Los Angeles, Long Beach, San Diego and Asia. Interstate 5 provides the major access to the beaches and coastal communities of southern Orange County and northern San Diego County. Finally, Interstate 5 provides the primary access to the U.S. Marine Corps Base at Camp Pendleton – the Marine Corps' largest and only amphibious training facility on the West Coast.

Nearly nine years ago, the federal agencies with jurisdiction over the Project (Federal Highway Administration, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the U.S. Marine Corps) joined with the TCA and the California Department of Transportation in a precedent-setting collaborative process to analyze the Project and alternatives pursuant to the National Environmental Policy Act, the Clean Water Act and the Endangered Species Act.

Between 1999 and 2006, the federal and state agencies identified, screened and evaluated 24 possible project alternatives. The federal and state agencies conducted in depth technical studies on all 24 alternatives and identified eight "build alternatives" for detailed evaluation in a state-federal environmental impact statement.

After completing a \$20 million draft state-federal environmental impact statement and considering public comments, the state and federal agencies identified a project alternative (the "Green Alignment") that would accomplish the Project purpose and need, minimize impacts on the natural and human environment, and would also comply with conditions established by the U.S. Marine Corps for the location of the portion of the Project on Camp Pendleton. In 2005, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers agreed that the Green Alignment was the preliminary Least Environmentally Damaging Practicable Alternative

(the "LEDPA"). That designation has not changed and was recently reaffirmed by the Army Corps of Engineers.

On April 30, 2008, the U.S. Fish and Wildlife Service, in turn, issued its Biological Opinion confirming that the roadway complies with the Endangered Species Act and will not jeopardize the continued existence of any endangered or threatened species. NOAA Fisheries also issued its formal concurrence in the determination of the Federal Highway Administration that the Project was not likely to adversely affect the steelhead trout.

The above determinations of the federal transportation and environmental agencies were made in accordance with the formal Memorandum of Understanding among FHWA, U.S. EPA, the Corps of Engineers and the Fish and Wildlife Service. The MOU expressly provides that the federal agencies will not reconsider these determinations except in the limited circumstances where the project is changed or where there is significant new information. These very important federal approvals are confirmation of the TCA's orderly progress for the selection of an environmentally sensitive alternative.

#### **PARTNERS IN AMERICA'S SECURITY**

Throughout the planning process for the Project, the TCA has worked very closely with the U.S. Marine Corps and the Department of Navy (DoN) to identify an alignment for the Project that is compatible with the operation of the Base and that would provide both tactical training enhancements and build additional layers of security protection to Camp Pendleton's current high state of readiness.

The U.S. Marine Corps has acknowledged that the Green Alignment complies with the conditions established by the Marine Corps to ensure that the Project is compatible with the training mission of Camp Pendleton.

In 1998, with concurrence of the U.S. Marine Corps and the DoN, Congress adopted legislation authorizing the Secretary of the Navy to grant an easement to the TCA to construct and operate a portion of the Project on the northern end of Camp Pendleton. Pub. L. No. 105-261 § 2851, 112 Stat. 1920. The area of the easement authorized by Congress includes land leased by the DoN to the State of California until 2021 for the operation of San Onofre State Beach Park. In other words, Congress granted express authority to the Secretary of the Navy to approve the construction of the Project in the precise area of Camp Pendleton proposed by the TCA and determined acceptable to the Marine Corps. The legislation provides that the TCA will pay fair market value for the easement and that the funds provided by the TCA will be used to construct important training and operational improvements on Camp Pendleton.

Since 1998, the TCA in coordination with the Marine Corps has spent thousands of hours designing the Project in a manner that meets the Marines' stipulations and will provide, as a result, substantial benefits to Camp Pendleton. These improvements include:

- Removing barriers and improving access for modern tactical vehicles from the Marines' amphibious beach, under Interstate 5 to the Base's inland training areas;

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- Construction of a security fence along the northern boundary of Camp Pendleton (there is no such fence in place at this time).
- Providing an alternative route for deployment of U.S. Marine Corps forces and tactical equipment from Camp Pendleton to the Marines' point of debarkation at March Air Force Base in Riverside County.

The TCA, in coordination with Camp Pendleton representatives, has developed a plan for one additional training enhancement at Camp Pendleton that could be implemented (if desired by Camp Pendleton) from the right-of-way funds provided by the TCA. One potential use of the funds identified by Camp Pendleton senior staff is the construction of a land bridge from Camp Pendleton's main amphibious landing beach (Red Beach) across both the I-5 and the adjacent railroad tracks and into tactical training areas. The Red Beach Land Bridge would provide a major improvement to amphibious training operations at Camp Pendleton. The TCA spent close to \$70,000 on a feasibility study for this proposed enhancement and has found that it would meet Marine Corps requirements.

### CONCLUSION

In summary, the so-called alternatives proposed by the opponents are entirely unworkable. In the terms of the Coastal Zone Management Act, the alternatives are not "reasonable and available" because they would result in very severe impacts on the natural and human environment and because there are no sources of funding for the alternatives.

The fact is, the State Route 241 Project has been thoroughly studied for decades and plans are in place to continue environmental protections that have been implemented with the existing roads. For years, opposition to this project has been led by individuals who do not live in Southern California and therefore are not subject to the daily stop and go traffic that has come to define this region. It is time to move forward with solutions that can provide real traffic relief for all of Southern California and improve access for residents in the Inland Empire to South Orange and Northern San Diego County beaches and communities.

We are very disappointed that the Coastal Commission failed to recognize the years of study that have gone into this roadway's planning and design to protect the environment and valuable state park and coastal resources. We strongly urge you to override the decision of the California Coastal Commission to allow this beneficial and thoroughly studied project to be completed.

Sincerely,



GARRY G. MILLER  
Member of Congress



KEN CALVERT  
Member of Congress

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JOHN CAMPBELL  
Member of Congress



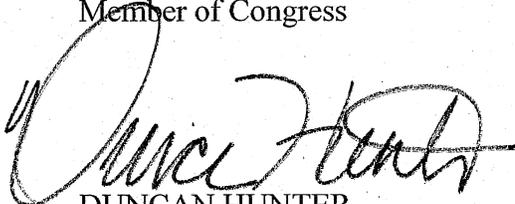
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Member of Congress



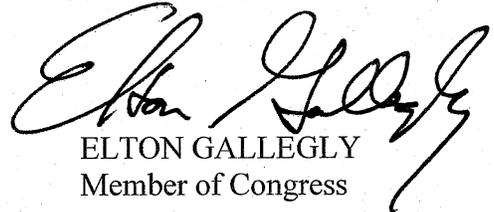
DANA ROHRABACHER  
Member of Congress



DARRELL ISSA  
Member of Congress



DUNCAN HUNTER  
Member of Congress



ELTON GALLEGLY  
Member of Congress

Cc: Vice Admiral Conrad C. Lautenbacher, Jr.  
Administrator, National Oceanic and Atmospheric Administration

Scott C. Rayder, Chief of Staff  
National Oceanic and Atmospheric Administration

Thomas Street, Office of the Assistant General Counsel for Ocean Services  
National Oceanic and Atmospheric Administration