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Department of Justice
2101 Webster Street, 12th Floor
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Memorandum

To : Commissioners
California Coastal Commission

Date : December 9, 1993

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From : Jan Stevens, Assistant Attorney General
Matthew Rodriquez, Deputy Attorney General
Land Law Section
Office of the Attorney General - Oakland

Subject: Providing Commissioners and Staff with Legal Advice

Last May an issue arose concerning the possible applicability of the attorney-client privilege to discussions of legal matters between individual commissioners and the Commission's legal advisors, including deputies from the Attorney General's Office. The Commission requested clarification from our office on this issue. The attached memorandum sets forth our understanding of the law and our conclusions regarding the nature of legal guidance provided to the Commission and its members.

In brief, it is our conclusion that the Commission's legal counsels, including deputy attorneys general, can and should continue to be available to advise commissioners, both collectively and individually, on legal matters arising before the Commission. This means we will continue to discuss possible conflict of interest issues with commissioners when requested and as time permits. Our research indicates, however, that the following rules will apply to these discussions:

- In general, the client for purposes of these discussions will be the Commission as a whole.

- Any legal advice provided to commissioners in these discussions may be subject to the attorney-client privilege, but this privilege will be held by the Commission as a whole rather than an individual commissioner.

- A separate attorney-client relationship between a Commission legal counsel and a commissioner may be established where the commissioner is individually named in litigation, but only where the question of whether such a relationship would raise a conflict with the interests of the Commission has been considered.

- Where there is a potential for a conflict between the interests of the commissioner and the Commission (actual conflicts are very rare), the potential conflict must be

waived in writing by both the Commission and the commissioner before both can be represented.

The research and rationale behind all these rules is provided in the attached memorandum. If, after reading the memorandum, you have comments or questions that you would like us to consider, please feel free to give Matt Rodriquez a call at (510) 286-1083 or contact him at the next Commission meeting.

cc: Peter Douglas
Ralph Faust
Jamee Patterson

ATTIR