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DEPARTMENT OF JUSTICE

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April 7, 2008

Joseph Edmiston
Executive Director
Santa Monica Mountains Conservancy
5750 Ramirez Canyon Road
Malibu, CA 90265

RE: Mountains Recreation and Conservation Authority Traffic Control Ordinance

Dear Mr. Edmiston:

By an email dated February 7, 2008, you have asked the Office of the Attorney General to review a legal opinion that the law firm of Richards Watson and Gershon (RWG) provided to the Mountains Recreation and Conservation Authority (MRCA) concerning a traffic control ordinance the MRCA has adopted for the parks its owns and for the parks that it manages for the Conservancy. You have asked this office to provide an informal letter of advice to you on whether we agree with the conclusions of the RWG letter.

RWG's January 28, 2008 letter begins by reviewing the traffic problems that exist in parks under the MRCA's jurisdiction, including that many drivers fail to stop completely at posted stop signs. Based on information that the MRCA provided to it, RWG noted that drivers who fail to stop completely in such circumstances pose a particular risk to pedestrians using the parks. To address this problem, the MRCA adopted a traffic enforcement ordinance that prescribed an administrative penalty of \$100 for failing to stop at posted stop signs. At selected stop signs, the MRCA installed video cameras to record cars at the stop signs. An MRCA ranger reviews the videos and issues an administrative citation to drivers the ranger identifies as violating the ordinance. The registered owner of the vehicle receives the citation by mail and may challenge the citation in an administrative hearing. No DMV points are assessed against the driver of the vehicle, the citation is not reflected in DMV records, and there is no criminal prosecution.

RWG concluded that the MRCA, as a joint exercise of powers agency, could adopt a traffic control ordinance pursuant to Government Code section 53069.4. That section authorizes local agencies to adopt ordinances and to make the violation of those ordinances subject to an administrative fine or penalty. RWG also concluded that the Vehicle Code does not preempt the MRCA ordinance. RWG based this conclusion on its finding that the Vehicle Code provisions

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dealing with normal rules of the road are not applicable to roads in MRCA parks because those roads are not public thoroughfares. RWG also noted that the Vehicle Code applies to "local authorities" and that the MRCA is not a local authority as defined in the Vehicle Code. We agree with RWG.

Finally, RWG addressed the issue of using video cameras and noted that a driver could assert that the use of cameras to enforce the ordinance violated Vehicle Code section 40300 which requires generally that a local authority may cite a driver for a vehicular violation only if it occurs in the presence of the arresting officer. However, as RWG points out, section 40300 applies only to violations "of this Code." Therefore, it is not applicable to the MRCA traffic ordinance. We also agree with RWG's conclusions on this matter.

Please feel free to contact me if you have any questions on this matter.

Sincerely,



JOHN A. SAURENMAN
Supervising Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General