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Ms. Grace Kato
Public Land Management Specialist
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

Re: Your Public Records Act Request dated October 5, 2010, regarding
Records pertaining to the Dana Point Harbor Tidelands Trust Funds

Dear Ms. Kato:

This office is legal counsel for the County of Orange. We are writing in response to the above-referenced Public Records Act request, which Brad Gross, Director of the OC Dana Point Harbor Department, received on October 7, 2010.

Responsive records have been identified and gathered by OC Parks. In addition, we have been advised that the County Executive Office ("CEO") and the OC Dana Point Harbor Department still are in the process of searching for and identifying responsive records. We anticipate that those records will be available for inspection and copying on November 30, 2010, pursuant to your agreement with Mr. Gross. We further reserve the right to assert all applicable claims of exemption, if any, at the time the records are produced.

Some records from the CEO/Office of the Performance Audit Director, which relate to the development of policy, will be withheld because they are exempt from public disclosure under the deliberative process privilege, and consist of preliminary drafts and intra-agency memoranda that are not retained in the ordinary course of business. Gov't Code sec. 6254(a) and 6255; *Times Mirror Co. v. Superior Court*, 53 Cal. 3d 1325, 1339-46 (1991); *Rogers v. Superior Court*, 19 Cal. App. 4th 469, 477-81 (1993); *Wilson v. Superior Court*, 51 Cal. App. 4th 1136, 1142-44 (1996). Moreover, responsive records, consisting of documents protected by the attorney-client and attorney work product privilege, will be withheld pursuant to Government Code sections 6254(k) and 6255, and Evidence Code section 950 *et seq.*

The decision not to release the exempt records was made by Steve Danley, Performance Audit Director, in consultation with Counsel. Gov't Code sec. 6253(d).


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We also have been advised that the Orange County Sheriff's Department ("Department") has records responsive to your request, so we have taken the liberty of forwarding your request to that Department for further response. The Department contacts are Lieutenant Mark Long, Harbormaster, at (949) 673-1025 and Jane Reyes, Director of Sheriff Financial Services at (714) 834-6680.

Last, please call the undersigned at (714) 834-4760 to arrange to inspect or receive copies of the responsive, non-exempt records.

We hope this provides the information that you need.

Very truly yours,
NICHOLAS S. CHRISOS
COUNTY COUNSEL

By 

Roger P. Freeman, Senior Deputy

RPF:azs

cc: Sandra Hutchens, Sheriff-Coroner, Orange County Sheriff's Department
Alisa Drakodaidis, Deputy CEO, Office of OC Infrastructure
Steve Danley, Director, Office of the Performance Audit Director
Brad Gross, Director, OC Dana Point Harbor Department
Doug Berry, Administrative Manager, OC Community Resources, OC Parks