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October 7, 2009

Honorable Fran Pavley
Room 4035, State Capitol

OFF-HIGHWAY VEHICLE TRUST FUND: STREET-LEGAL MOTOR
VEHICLES - #0924442

Dear Senator Pavley:

Pursuant to the request of Marie Liu, we are providing this written confirmation of the oral opinion we provided to her, acting on your behalf, under RN 09:20802. The question addressed in that oral opinion was whether money in the Off-Highway Vehicle Trust Fund, appropriated pursuant to Section 5090.61 of the Public Resources Code, may be used to maintain dirt roads that are open to street-legal motor vehicles and not open to off-highway motor vehicles subject to identification pursuant to Division 16.5 (commencing with Section 38000) of the Vehicle Code, if the dirt roads provide motorized off-highway access to nonmotorized recreation.

On August 17, 2009, we orally conveyed to Marie Liu that we think a court would determine that money in the Off-Highway Vehicle Trust Fund, appropriated pursuant to Section 5090.61 of the Public Resources Code, for operation and maintenance grants and cooperative agreements or for the planning, acquisition, development, construction, maintenance, administration, operation, restoration, and conservation of lands in the "system" may be used to maintain dirt roads that are open to street-legal motor vehicles and not open to off-highway motor vehicles subject to identification pursuant to Division 16.5 (commencing with Section 38000) of the Vehicle Code, if the dirt roads provide motorized off-highway access to nonmotorized recreation and are not a highway for purposes of Division 16.5 (commencing with Section 38000) of the Vehicle Code.

¹ See Sections 5090.09, 5090.12, and 5090.50 of the Public Resources Code.

Honorable Fran Pavley — Request #0924442 — Page 2

If you need further assistance with this matter, please contact the undersigned deputy at 341-8343.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

By *Mira A. Macias*
Mira A. Macias
Deputy Legislative Counsel

MXM:pjb