



# California Fair Political Practices Commission

October 30, 1987

Robert G. Boehm  
City Attorney  
196 E. Fifth Street  
P.O. Box 3420  
Chico, CA 95927

Re: Your Request for Advice  
Our File No. A-87-255

Dear Mr. Boehm:

You have requested advice on behalf of James Hanna about the application of the Political Reform Act (the "Act")<sup>1/</sup> to his duties on the Airport Commission and the Economic Development Task Force.

## QUESTION

Is Mr. Hanna disqualified from participating in decisions regarding the sale or lease of airport property because of his employment with P.G. & E.?

## CONCLUSION

Mr. Hanna may participate in decisions involving the sale or lease of property at the airport.

## FACTS

James Hanna is a member of the Airport Commission and Chico's Economic Development Task Force, which advises the city council. Mr. Hanna also is a P.G. & E. employee and owns more than \$1,000 of P.G. & E. stock.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Administrative Code.

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Soon the commission and the task force will be considering sales and leases of airport property. P.G. & E. extended a gas line to the airport. New businesses situated at the airport may hook up to the gas line and consume gas, which may create new revenue for P.G. & E.

#### ANALYSIS

Mr. Hanna is a public official and is disqualified from taking part in a governmental decision that will have a reasonably foreseeable material financial effect on an entity in which he has an economic interest. (Section 87100.) P.G. & E. is Mr. Hanna's employer and Mr. Hanna also owns stock in the company. Therefore, Mr. Hanna has an economic interest in P.G. & E. (Section 87103(a) and (c).)

Nevertheless, decisions about the sale or lease of airport property will not have a material financial effect on P.G. & E. because of the Public Utilities Commission's (P.U.C.) tariff for setting gas rates. (See Damesyn Advice Letter, No. A-84-111 and Garcia Advice Letter, No. A-85-031, copies enclosed.)

The Gas Adjustment Clause (G.A.C.) is a "balancing account" whereby the P.U.C. adjusts P.G. & E.'s gas rates for all classes of consumers based on the under or overuse of gas during the previous year. The P.U.C. determines the amount of under or overuse by comparing the actual revenue to the revenue target the P.U.C. set for the previous year. If P.G. & E. collects more than the projected revenue, the P.U.C. will reduce the rates all classes of consumers pay the following year to prevent P.G. & E. from profiting from the additional consumer use.

The P.U.C. adopted the G.A.C. to conserve energy. G.A.C.'s purpose is to discourage utility companies from promoting increased consumption of gas, thereby increasing the utility companies' revenues.

Because new gas consumers can not affect the already set revenue target, new businesses at the airport will not have a material financial effect on P.G. & E. Consequently, Mr. Hanna is not disqualified from deciding on the sale or lease of airport property. In the future, however, our advice may change because the P.U.C. believes "balancing accounts" no longer are needed and will be phasing them out. If "balancing accounts" are eliminated the standards in Regulation 18702.2(c) would determine whether the effect on P.G. & E. is material.

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I hope I have answered your question. Please call me at  
(916) 322-5901 if you have a question about this letter.

Sincerely,

Diane M. Griffiths  
General Counsel

A handwritten signature in cursive script that reads "Margarita Altamirano". The signature is written in dark ink and is positioned above the typed name and title.

By: Margarita Altamirano  
Counsel, Legal Division

DMG:MA:plh  
Enclosures



OFFICE OF THE  
CITY ATTORNEY

1000 E. BY Street  
P.O. Box 2473  
Chico, CA 95921  
(916) 895-4825

October 8, 1987  
CA/PEND/20:34-3

Fair Political Practices Commission  
428 "J" Street, Suite 800  
Sacramento, CA 95814

Attention: Legal Assistance Division

This is a request for an opinion on the propriety of the participation by an individual who serves on the City's Airport Commission and a City Council appointed advisory board, in decisions on the sale and lease of land at the City's airport, where such individual is employed by a utility company which has recently extended service to the airport. The individual's name is James Hanna, and he has authorized this request.

The specific facts are as follows:

Mr. Hanna is a Pacific Gas & Electric Company marketing representative who serves on the City's Airport Commission. He is also a member of the City Council appointed Economic Development Task Force, which serves in an advisory capacity to the council. While the task force originally focused on development in the entire community, its focus is now almost exclusively on development at the city's airport. Mr. Hanna receives a salary from PG & E and owns more than \$1,000 in PG & E Stock.

PG & E considered the feasibility of extending a gas main line to the city's airport. Mr. Hanna was advised not to participate in Airport Commission decisions to sell or lease property at the airport or in any discussion or decision of the Economic Development Task Force while the pipeline was proposed and while it was under construction. While it is clear that such activity would not have had a significant effect on the commissioner's source of income or on the business entity in which he has an investment, the nexus between such decisions and the individual's employment as a PG & E marketing representative was deemed sufficient so as to preclude the individual's participation under the prohibition of 2 Cal. Admin. Code, § 18702(b)(3).

PG & E has now completed the project. Businesses located at the airport which wish to use the gas line must first pay a hookup fee as well as the regular charges for the energy consumed.

The specific issue I would like you to address is: Must Mr. Hanna continue to abstain from Airport Commission decisions involving the sale or lease of property at the airport and from all participation in the Economic Development Task Force, or has the completion of the gas main line eliminated the nexus between his employment and governmental decisions, thus enabling him to participate fully in both the commission and task force?

Very truly yours,

A handwritten signature in black ink, appearing to read "R G Boehm", with a long horizontal flourish extending to the right.

Robert G. Boehm  
City Attorney

EEM:sg

cc: City Clerk  
James Hanna



# California Fair Political Practices Commission

October 15, 1987

Robert G. Boehm  
City Attorney  
P.O. Box 3420  
Chico, CA 95927

Re: 87-255

Dear Mr. Boehm:

Your letter requesting advice under the Political Reform Act was received on October 14, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Margarita Altamirano, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Diane M. Griffiths by Ted*  
Diane M. Griffiths  
General Counsel

DMG:plh  
cc: James Hanna

Alice, Please help provide some answers to this problem! We've had several informal complaints regarding this person (see enclosed 730's). He is a Director on Tuolumne Regional Water District (formerly known as Water District #2) which serves nearly all the County except the south area across the river. Regional also has an ever expanding Sewer service district. This same person is employed by the Jamestown Sanitary District which lies within Regional Water District. Additionally, he has a Sewer/Drain business that he personally operates from his home serving customers throughout the county. We hear that the Jamestown Sanitary District has a contract with Regional Water to dispose of sewage. Doesn't this put this person in a position of financial conflict of interest? Enclosed are a few documents from our files that might be helpful. What do we do, if anything?

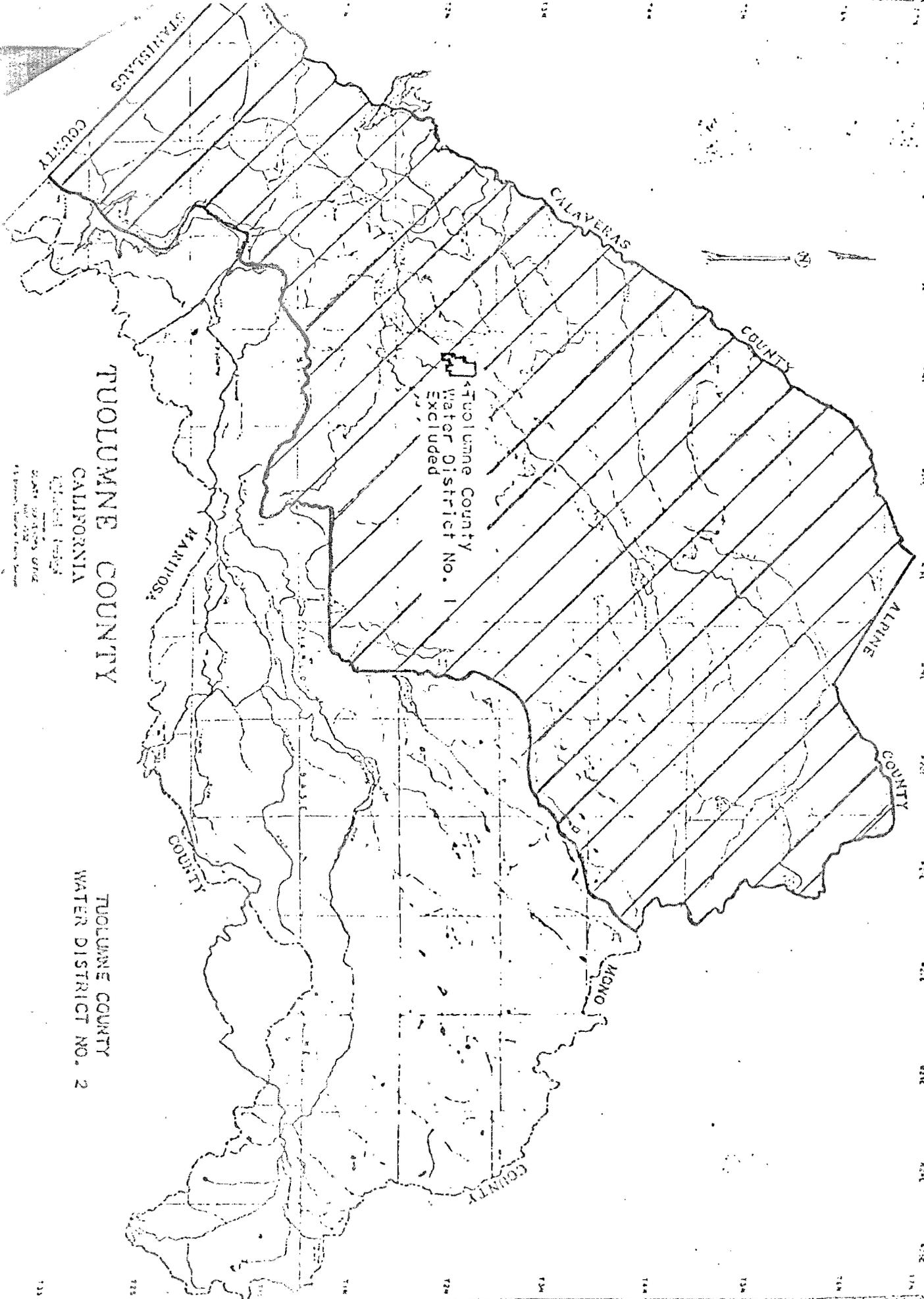
SIGNED X  
REPLY



DATE 10- / 09- / 87

SIGNED X

DATE / /

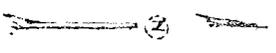


TUOLUMNE COUNTY  
CALIFORNIA

TUOLUMNE COUNTY  
WATER DISTRICT NO. 2

Tuolumne County  
Water District No. 1  
Excluded

1917  
COUNTY OFFICE  
1500 Broadway, San Francisco



122 124 126 128 130 132 134 136 138 140 142 144 146 148 150 152 154 156 158 160 162 164 166 168 170 172 174 176 178 180 182 184 186 188 190 192 194 196 198 200