

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance/Administration	•••	Executive/Legal	•••	Enforcement	•••	Conflict of Interest
(916) 322-5660		322-5901		322-6441		322-6444

September 27, 1978

78-213

O. James Gibson
Box 2679 - T.A.
Los Angeles, CA 90051

Dear Mr. Gibson:

Thank you for your letter dated September 1, 1978 regarding the provisions of the Political Reform Act. In that letter you asked our office to confirm its position that the South Coast Air Quality Management District is not a state agency within the meaning of the Political Reform Act.

Section 82049 of the Government Code defines the term "state agency" to include,

...every state office, department, division, bureau, board and commission, and the Legislature, but does not include the courts or any agency in the judicial branch of government.

The Commission has further clarified this definition by regulation. The regulation provides that,

An agency is a state agency within the provisions of Government Code Section 82049 only if all the following criteria are met:

- (a) The agency is authorized by statute, executive order or the California constitution.
- (b) At least one voting member is an elected state officer or is appointed by an elected state officer or an agency official or a state agency.

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- (c) The agency is financed in part by any state funds or is subject to appropriation in the state budget.
- (d) An area larger than one county is included in its jurisdiction.

2 Cal. Adm. Code Section 18249

Although South Coast satisfies the criteria set forth in 2 Cal. Adm. Code Section 18249, there are certain overriding factors which lead to the conclusion that South Coast is local in nature and not a state agency. First, most air quality or air pollution districts are limited in their jurisdiction to one county. Second, over 90% of the finances for such districts comes from local funds. Third, the California Air Resources Board (CARB) is the true state agency in the air pollution area. The CARB adopts regulations which supersede all local regulations and bind all local districts including South Coast. Moreover, all variances and permits granted by a local district must be approved by the CARB.

It is our conclusion that South Coast is not a state agency. Therefore, attempts to influence rule-making decisions of the District need not be reported pursuant to Chapter 6 of the Act.

I hope this information has been helpful. If you have any questions regarding this matter, please do not hesitate to contact our office.

Sincerely,



Dwight E. Dickerson
Legal Counsel
Conflicts of Interest Division

DED:nrw

Atlantic Richfield Company

Public Affairs Division
515 South Flower Street
Mailing Address: Box 2679 - T.A.
Los Angeles, California 90051
Telephone 213 486 2445

O. James Gibson, Ph.D.
Manager
State and Local Government Relations

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September 1, 1978

Mr. Daniel Lowenstein
Chairman
Fair Political Practices Commission
1100 K Street
Sacramento, California 95814

Dear Chairman Lowenstein:

By letters dated May 18, 1978 (to Mr. Reed Hundt) and July 28, 1978 (to Ms. Betty-Jane Kirwan), FPPC staff has taken the position that the Southern California Air Quality Management District ("SCAQMD") is not to be considered a "state agency" for the purposes of determining reportable expenditures made for the purpose of influencing administrative action.

Atlantic Richfield Company, an employer of lobbyists within the meaning of the California Political Reform Act, respectfully requests confirmation of this advice on its behalf.

Thank you for your consideration.

Very truly yours,

OJG:cls