



# California Fair Political Practices Commission

March 18, 1987

Janie Hawker, Staff Assistant  
Sierra Club Legislative Office  
1228 N Street, Suite 31  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-87-054

Dear Ms. Hawker:

This is in response to your request for advice regarding the lobbying disclosure provisions of the Political Reform Act,<sup>1/</sup> and to confirm the advice I provided to you by telephone on February 27, 1987.

## FACTS

The Sierra Club files quarterly disclosure reports under the Act as a lobbyist employer. To support its lobbying activities, the Club has established a legislative office in Sacramento and employs, in addition to its lobbyists, a staff assistant and an individual who edits and produces a legislative newsletter. In the past, the Club has reported 100 percent of the lobbyists' salaries and all overhead costs in connection with the legislative office but has not reported the salaries of the two non-lobbyist employees.

## QUESTION

Is the Sierra Club required to disclose any portion of the salaries of the two non-lobbyist employees on its Report of Lobbyist Employer?

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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.

CONCLUSION

The Club is required to disclose all payments to non-lobbyist employees who spend 10 percent or more of their compensated time in one month engaged in activities related to influencing legislative or administrative action. The activities of both the staff assistant and the newsletter editor appear to be directly related to the Club's lobbying program and, therefore, must be reported if they spend 10 percent or more of their compensated time in one month engaged in those activities. The amount to be reported depends on whether and to what extent the employees also engage in activities unrelated to the club's lobbying program.

ANALYSIS

Lobbyist employers are required to file periodic reports disclosing payments made in connection with influencing or attempting to influence legislative or administrative action. (Sections 86115, 86116.) In addition to payments to lobbyists and lobbying firms, activity expenses (as defined in Section 86111), and campaign contributions, a lobbyist employer must disclose the following:

The total of all other payments to influence legislative or administrative action including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

Section 86116(j).

By regulation, the Commission has stated with regard to reporting compensation of employees other than lobbyists:

This shall include a proportionate share of the compensation paid to employees other than lobbyists who are engaged for 10 percent or more of their compensated time in a calendar month in or in connection with the activities described in subsection (a)(4). Such employees include those providing secretarial and research services and those preparing materials to be used by a lobbyist or to be used in direct communication or in soliciting or urging others to engage in direct communication for the primary purpose of influencing legislative or administrative action. Compensation includes gross wages paid plus any benefits which are in lieu of wages such as the granting of stock options or the purchase of annuities. It does not include, however, routine fringe benefits, such as the employer's contribution to health plans, retirement plans, etc., which are made on behalf of all employees nor does it include the payment of the employer's payroll taxes.

Regulation 18616(f)(1) (copy enclosed).

Janie Hawker, Staff Assistant  
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You indicated during our February 27, 1987, telephone conversation that in addition to providing clerical support for the Club's lobbyists, you spend some time answering questions from and sending materials to members of the public who want general information about the Sierra Club. I advised you that only the portion of your salary which is attributable to lobbying activities should be reported on the Club's Report of Lobbyist Employer (Form 635).

With regard to the individual who prepares and edits the Club's legislative newsletter, please note that although subsection (g)(2) of Regulation 18616 states that, in most circumstances, a lobbyist employer is not required to disclose costs related to producing a regularly published newsletter, the newsletter you submitted for review is solely related to the Club's legislative program. Therefore, its production costs, including the editor's salary, are reportable under subsection (f)(2)(C) of Regulation 18616, which states that a lobbyist employer must disclose:

Payments of any other expenses which would not have been incurred but for the filer's activities to influence legislative or administrative action....

During our February 27 telephone conversation, I also advised you to amend the Club's reports for at least the past four years to disclose any salary payments which should have been reported. If you so desire, you may file one amendment (Form 690, copy enclosed) for each calendar year listing, per quarter, the lump sum compensation paid to non-lobbyist employees who spent 10 percent or more of their time engaged in lobbying activities.

If you have additional questions, please do not hesitate to contact me at (916) 322-5662.

Sincerely,

Diane M. Griffiths  
General Counsel



By Carla Wardlow  
Political Reform Consultant

DMG:CW:cv

Enclosures



by Ansel Adams

## SIERRA CLUB

LEGISLATIVE OFFICE

1228 N Street, Suite 31  
Sacramento, California 95814  
(916) 444-6906



F P P C  
FEB 17 9 37 AM '87

February 10, 1987

Carla Wardlow, Consultant  
California Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95804-0807

Dear Ms. Wardlow:

Last spring we requested clarification of the 1986 changes to the FPPC lobbyist and employer reporting requirements as they applied to our organizational structure. We subsequently received a considered response to those questions and have proceeded to file employer and lobbyist reports according to our understanding of the information contained in your letter of June 10, 1986.

Now, as a result of my attendance at the January 23 FPPC presentation for facilitating the final quarter 1986 reports, we find that other concerns have emerged. We reviewed the FPPC literature and remain uncertain about the impact of "Notice of Proposed Changes..." dated April 15, 1986, on our recordkeeping and reporting requirements. Could we have a response to the following questions:

- (1) For purposes of California Administrative Code Section 18616.5, or any other pertinent section, does the Sierra Club need to report the salary of the employee who edits and produces a newsletter? (A recent copy of the newsletter is attached.)
- (2) Similarly, does the Sierra Club have to report any portion of the salary of a clerical employee who prepares and files the FPPC reports and processes mail and vendor payments associated with the operation of this, the Club's, legislative office?

A subject that received some emphasis at the January 23 meeting was the reporting of only that percentage of time (salary) and office overhead expense that would be directly attributable to the lobbying effort.

Carla Wardlow, Consultant  
FPPC  
February 10, 1987

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We have been in the practice of reporting 100% of operating expense and lobbyist salaries, deeming that to be the most careful procedure to follow. If we are to report on percentages we would appreciate some suggestions for an appropriate method to use in making that determination.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Janie Hawker".

Janie Hawker  
Staff Assistant

:jh

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# California Fair Political Practices Commission

February 19, 1987

Janie Hawker  
Sierra Club  
Legislative Office  
1228 N Street, Suite 31  
Sacramento, CA 95814

Re: 87-054

Dear Ms. Hawker:

Your letter requesting advice under the Political Reform Act was received on February 17, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

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. 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,

*Jeanne Pritchard*  
Jeanne Pritchard  
Chief  
Technical Assistance and Analysis  
Division

JP:plh



*The Sierra Club*

# *Legislative Agenda*

*A summary of environmental issues affecting California*

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Vol. 9, No. 4

February 6, 1987

## **Waxman to Hold Local Hearing on Clean Air Act**

As befits its status as the smoggiest metropolitan area in the country, Los Angeles will be the site of a congressional hearing this coming Friday to begin congressional debate on reauthorization of the federal Clean Air Act. The hearing has been called by U.S. Rep. Henry Waxman (D-West Los Angeles), Chairman of the U.S. House Commerce Subcommittee on Health and the Environment.

The federal Clean Air Act mandates that health-based ambient air quality standards be attained throughout the nation not later than December 31 of this year -- yet Los Angeles and more than forty other areas continue to exceed the standards for ozone and carbon monoxide. It is possible that the courts may force EPA to impose sanctions on widespread areas of the country where air pollution levels exceed legal limits. These sanctions could include a cut-off of federal sewage treatment and highway funds, and a ban on the construction of new sources of pollution.

This hearing marks a renewal of Congress' interest in the health problems caused by urban air pollution, after spending most of its time in previous sessions on acid rain and toxic air emissions. Since 1980, the acid rain issue has received a large amount of press and congressional attention due to the emphasis given to it by national environmental groups, the Canadian government, and Northeastern states. After the chemical disaster in Bhopal, India, great attention was given to the problem of toxic air emissions. "Old fashioned" air pollution problems like photochemical smog and carbon monoxide have not seemed "sexy" or particularly urgent.

However, new scientific evidence of the adverse health effects of even moderate levels of pollutants such as ozone, carbon monoxide, and sulfur dioxide have led to growing recognition that air pollution continues to pose a serious threat to public health. Recently released public opinion polls, such as the California Public Interest Poll sponsored by Common Cause and the University of Southern California, have shown widespread dissatisfaction with the job being done by government agencies charged with cleaning up the air, and widespread support for strong regulatory actions to cut emissions. Of particular importance to politicians may be the fact that support for clean air is broad and deep, and cuts across political, age, economic, and ethnic categories.

According to Rep. Waxman's staff, the hearing will focus on the ozone and carbon monoxide non-attainment issue, with particular emphasis on the shortcomings and challenges facing the South Coast Air Basin. Scheduled witnesses include Dr. James N. Pitts, Jr., Director of the Statewide Air Pollution Research Center at U.C. Riverside, Dr. Freeman Allen, the Sierra Club's air quality task force leader and Chairman of the South Coast Air Quality Management District's Advisory Council, and State Senator Herschel Rosenthal (D-Los Angeles) and Assembly Member Bill Leonard (R-Redlands), sponsors of California state clean fuels legislation.

The hearing will be held Friday, February 13, 9:30 am, Public Works Meeting Room, City Hall, Los Angeles.