



California Fair Political Practices Commission

September 6, 1990

Alan Mohr
Director
Mendocino County Resource
Conservation District
405 Orchard Avenue
Ukiah, CA 95482

Re: Your Request for Confirmation of
Telephone Advice
Our File No. A-90-534

Dear Mr. Mohr:

This is in response to your request for confirmation of telephone advice provided to you concerning your obligations under the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/} This letter modifies the telephone advice I provided to you during our telephone conversations of August 9 and 13, 1990.

You explained to me that you are a director with the Mendocino County Resource Conservation District (the "MCRCD"). You are also an owner/worker with New Growth Forestry ("New Growth") and paid only an hourly wage. New Growth is a bidder on a contract before the MCRCD directors.

A public official may not make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. (Section 87100.) An official will have a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on a source of income of \$250 or more to the official. (Section

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

87103(c).) The requisite material financial effect will exist if any source of income to the official of \$250 or more in the preceding 12 months is directly involved in the governmental decision. (Regulation 18702.1, copy enclosed.) As a bidder on the contract, New Growth, a source of income to you of more than \$250, is directly involved in the governmental decision before the MCRCD. There is a conflict of interest.

This advice modifies the analysis that I gave to you in our August 9 and 13 telephone conversations. Pursuant to Regulation 18702.1, you will have a conflict of interest regardless of New Growth's nonprofit status, its gross receipts or the decision's effect on its annual gross receipts.

When you disqualify yourself you should disclose your financial interest in New Growth on the record. (Regulation 18700(b)(5), copy enclosed.)

Please note that a conflict would arise from any decision of the MCRCD that will have a material financial effect upon New Growth, not just financial decisions of the MCRCD as stated in your letter.


Please also note that if you are precluded from participating in decisions of the MCRCD because of a conflict of interest, you may still appear as a member of the general public before the agency in the course of the agency's prescribed governmental function to represent yourself on matters related solely to your personal interests. (Regulation 18700(d)(2).)

Finally, please be aware that Government Code Section 1090 also imposes restrictions on public officials and the making of government contracts. Section 1090 is not a part of the Act, thus we cannot give you advice about your duties under that law. Any questions about Section 1090 should be addressed to the Attorney General.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel

By: 
Mark Morodomi
Counsel, Legal Division

SH:MTM:dg

Enclosures