

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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March 29, 2002

Michele R. Justice, Director
California-Arizona-Nevada District
Organization Contract Compliance
P.O. Box 642
Buckeye, AZ 85326-0047

Re: Public Works Case No. 2001-066
Excavation Work at Willow Lake Water Treatment Facility
Town of Discovery Bay

Dear Ms. Justice:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the excavation work performed at the Willow Lake Water Treatment Facility site is a public work subject to the payment of prevailing wages.

In this case, Discovery Bay has contracted for the construction of the Willow Lake Water Treatment Facility. Phase One of the project consists of the following work on a 1.5-acre parcel in preparation for the construction of the water treatment facility: clearing and grubbing the parcel, removing two small bridges and grading the surface of the land. Discovery Bay is paying for the water treatment facility with funds it raises through yearly charges to parcel owners and charges to developers called connection fees.

Labor Code section 1720(a) states in relevant part: As used in this chapter, "public works" means: Construction, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds

As described above, the work on this phase of the project involved construction activity performed under contract and paid for with public funds. The work involves removing existing structures and grading the land in preparation for construction and is covered work for purposes of the Prevailing Wage Law.¹

¹ Precedential Public Works Coverage Determination No. 1993-034, SAMTRANS/BART (Colma BART Station), November 3, 1993.

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The alteration of the surface of land has long been considered part of the construction process, and it is covered work for purposes of section 1720(a). *Priest v. Oxnard Housing Authority* (1969) 275 Cal.App.2d 751, 80 Cal.Rptr. 145. In addition, the actual construction of the water treatment facility is construction performed under contract and paid for with public funds. The facility construction was advertised for bid with a requirement that prevailing wages be paid on the project. Because the excavation and facility construction phases of the project are part of the same larger public works project, those workers performing the excavation work are entitled to prevailing wages.

For the foregoing reasons, the excavation work in preparation for the construction of a water treatment facility is public work for which prevailing wages must be paid.

I hope this determination satisfactorily answers your inquiry.

Sincerely,



Stephen J. Smith
Director