

**DEPARTMENT OF INDUSTRIAL RELATIONS**

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August 12, 2002

Arthur S. Lujan  
Labor Commissioner  
Department of Industrial Relations  
455 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102

**RECEIVED**  
Department of Industrial Relations

AUG 13 2002

Div. of Labor Statistics & Research  
Chief's Office

Re: Public Works Case No. 2002-016  
Materials Hauling  
Clear Lake Basin 2000 Northwest Regional Wastewater  
Treatment Facility Project  
Lake County Sanitation District

Dear Mr. Lujan:

This constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-referenced project under the public works laws and is made pursuant to title 8, California Code of Regulations, section 16000(a). Based upon my review of the facts of this case and an analysis of the applicable law, it is my determination that the materials hauling for the Clear Lake Basin 2000 Northwest Regional Wastewater Treatment Facility Project ("Project") is a public work subject to the payment of prevailing wages.

In May 2001, the Lake County Sanitation District ("District") entered into a contract with Argonaut Constructors ("Argonaut") in the amount of \$27,447,084 to construct the Project. The Project consists of three primary schedules: Collection System I/I Reduction, Effluent Pipeline and Facility Improvements.

Argonaut contracted with Parnum Paving ("Parnum") to supply ready mix concrete, ready mix slurry, asphalt concrete, aggregate base rock and other aggregate materials to the Project. Parnum owns a plant in Kelseyville that sells to the general public. For this Project, however, Parnum leased from Aggrelite a gravel pit located about one-quarter mile from the job site.

Parnum uses its own rock crusher and its own crew for work at the gravel pit. Parnum employees drive trucks to haul the materials from the gravel pit to the Project. After delivery, Argonaut employees immediately install the materials into the Project without any re-handling.

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What is now Labor Code section 1720(a)<sup>1</sup> (as amended by statutes of 2001, chapter 938, section 2 [Senate Bill 975]) defines "public works" in relevant part as: "Construction, alteration, demolition, installation or repair work done under contract and paid for in whole or part out of public funds." In this case, the Project is a public work because it involves a contract between the District and Argonaut for construction and is paid for out of public funds.

Section 1772 states: "Workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work." The question whether the hauling of the materials by Parnum is in the execution of the public works contract depends upon whether Parnum is a subcontractor or a materials supplier for the Project.

In *O.G. Sansone v. Department of Transportation* (1976) 55 Cal.App.3d 434, 127 Cal.Rptr. 799, the Court set forth four criteria for determining whether an employer is a materials supplier to a public works project and therefore exempt from the obligation to pay prevailing wages. In order to qualify as a materials supplier, the provider of the materials must be selling the supplies to the general public, its plant must not be established specially for the particular contract or located at or adjacent to the site of the work, and the materials being hauled may not be immediately incorporated into the project with no re-handling out of the flow of construction.

Applying *Sansone* to this case, Parnum does not meet the four criteria required to be a materials supplier for this Project. Parnum leased the gravel pit specifically for this job, the pit is located generally adjacent to the job site and the hauled materials are immediately incorporated into the Project with no re-handling out of the flow of construction. Therefore, Parnum is a subcontractor to Argonaut on the Project. Under section 1772, the work being done by the Parnum employees who are hauling materials to the job site for this Project is subject to the payment of prevailing wages, including all related benefits.

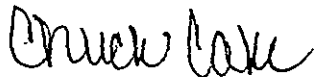
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<sup>1</sup> All subsequent statutory references are to the Labor Code unless otherwise indicated.

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I hope this determination satisfactorily answers your inquiry.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Cake".

Chuck Cake  
Acting Director