

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR
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April 2, 2004

Wendy Haskell
Deputy County Counsel
County of Mendocino
Administration Center
501 Low Gap Road, Room 1030
Ukiah, CA 95482

Re: Public Works Case No. 2004-005
California Conservation Corps Members
Obligation To Pay Prevailing Wages

Dear Ms. Haskell:

This constitutes the determination of the Director of Industrial Relations 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 applicable law, it is my determination that California Conservation Corps ("Corps") members working on a public works project are not required to be paid prevailing wages.

The Corps was created by legislative act in 1976 to, among other things, conserve, improve and develop natural resources, preserve the environment and provide educational and job training opportunities to young men and women who are in need of guidance and support to help them attain their goals, make positive changes in their lives and become productive adults.

It is part of the California Resources Agency as provided in Public Resources Code section 14000(d):

The Legislature therefore reaffirms its intent that the corps' mission includes increasing awareness of and improving our natural resources, but more importantly, includes instilling basic skills and a healthy work ethic in California youth, building their character, self-esteem, and self-discipline, and establishing within them a strong sense of civic responsibility and understanding of the value of a day's work for a day's wages.

The statutory scheme creating the Corps envisioned Corps members performing work on public works. As provided in Public Resources Code section 14300, Corps members "shall generally be engaged in

projects which do the following: (b) Accomplish useful and needed public works projects in both urban and rural areas." The Corps is required to actively seek "work projects from state and nonstate entities that are in keeping with its mission." Pub. Resources Code § 14311.

State agencies are encouraged to utilize the services of the Corps on state projects and, where appropriate, give preference to the Corps over other contracted labor. As provided in Public Resources Code section 14315:

- (a) Subject to the availability of assistance from the corps, a state agency that is considering the use of contracted labor shall give priority to the corps when the mission of the corps and the nature of the state agency's project are substantially consistent.
- (b) State agencies shall notify the corps of potential contracts for services that fit within the parameters of the legislative intent set forth in Section 14000 and shall use the corps to the maximum extent feasible to carry out projects Because of the corps' commitment to the state's youth, in the exercise of a state agency's discretion when considering contracts for services, strong consideration shall be given to the use of corps members over the use of other contracted labor.

The question here is whether Corps members who perform work on Corps projects that qualify as public works under Labor Code sections 1720 *et seq.* are required to be paid prevailing wages. The answer in the negative lies in the Corps' unique statutory scheme and its legislative history.

The Legislative Analyst's Analysis of Senate Bill Number 1575 (Smith) of June 22, 1976 states that "Corps members would receive \$381 per month but would not receive unemployment insurance or state retirement benefits." The Ways and Means Staff Analysis of June 21, 1976 states that Corps members "would be compensated at the Federal minimum wage" The federal minimum wage at the time of enactment was \$2.30 per hour. A 40-hour work week paid at \$2.30 per hour is approximately equivalent to \$381 per month.

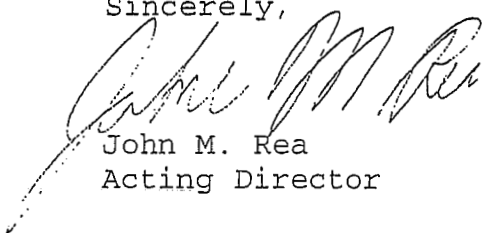
Letter to Wendy Haskell
Re: Public Works Case No. 2004-005
Page 3

Under California's laws governing the payment of prevailing wages on public works, contractors are required to pay workers not less than the rate prevailing in the locality for each craft, classification or type of worker needed to execute the contract; and contractors are required to maintain certified payroll records as a means of monitoring enforcement of prevailing wage requirements. Lab. Code §§ 1770-1780. By contrast, no such prevailing wage requirements are contemplated by the statutory scheme governing the Corps. The purpose of the Corps is to provide California's youth basic job and life skills and opportunities for personal growth, rather than to provide trade- or craft-specific journeymen-level wages generally applicable for highly skilled construction work. The legislative history on this issue is unambiguous. It explicitly provides that all Corps members, no matter what type of work they are performing, are to be paid the same monthly sum based on a set minimum wage.

For these reasons, prevailing wages need not be paid to Corps members on public works projects.

I hope this determination satisfactorily answers your inquiry.

Sincerely,



John M. Rea
Acting Director