Curry

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF LABOR STANDARDS ENFORCEMENT

GOLDEN GATE AVENUE

SAN FRANCISCO, CA 94102

1987.08.27

Legal Section

ADDRESS REPLY TO:
P.O. BOX 603
San Francisco, CA 94102

IN REPLY REFER TO:

August 27, 1987

Wanda L. Born
Manager Human Resources
Dynalectron Corporation
6862 Elm Street, Suite 500
McLean, VA 22101

Re: Contract Operations

Dear Ms. Born:

Your letter of July 20 to Mr. James H. Curry, Deputy Chief Labor Commissioner, has been referred to this office for response.

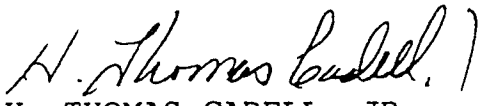
The letter asks whether the State of California exempts employees working under the provisions of the Service Contract Act and the Contract Work Hours and Safety Standards Act from the overtime provisions effective under the applicable IWC Order. The short answer is, there is no law in California which would exempt those employees from the overtime provisions.

As you may know, the California Industrial Welfare Commission Orders require the payment of overtime after eight hours in any one day, or 40 hours in any one week. The Orders further provide that any work in excess of 12 in any one day must be compensated at double the employee's regular rate of pay. All other overtime is at time-and-one-half the regular rate of pay.

I am attaching a copy of the U.S. Department of Labor memo #143 which you should be aware of. As you will note, the memo provides that while the daily overtime requirements formerly required under the Contract Work Hours and Safety Standards Act have been rescinded, the contractors continue to have an obligation to pay daily overtime compensation pursuant to state or local laws. I would also direct your attention to the case of Firelands Sewer & Water v. Valentine (1975 W.D.N.Y.) 404 F.Supp. 1231, which clearly holds that it was not the intent of Congress to preempt the field of regulation of overtime when they adopted the Contract Work Hours and Safety Standards Act (40 U.S.C. §327, etc.)

If you have any further questions regarding this matter please feel free to contact the undersigned.

Yours Truly,



H. THOMAS CADELL, JR.
Chief Counsel

Enc.
cc: James Curry, Deputy Chief Labor Commissioner
Vince Ortenzi, Senior Deputy
Gaylord S. Grove, Senior Deputy