

BRANDT-HAWLEY LAW GROUP

Environment/Preservation

Susan Brandt-Hawley
Anne CottrellChauvet House PO Box 1659
Glen Ellen, California 95442Legal Assistants
Sara Hews
Shannen JonesLaw Clerk
Rachel Howlett

December 22, 2003

Mr. Jim Lee
Deputy Director of Special Waste Division
CIWMB
1001 I Street
PO Box 4025
Sacramento, CA 95812Re: Sonoma County Legacy Waste Tires Remediation
CEQA Lead Agency Status

Dear Deputy Director Lee:

I have been retained by the Southern Sonoma County Resource Conservation District (SSCRCD) for consultation regarding its preparation of an EIR relative to its efforts and interest in assisting area landowners in the required remediation of Sonoma County legacy waste tire sites. My law practice has focused on California Environmental Quality Act (CEQA) issues for over twenty years. I have been asked to write to you regarding the basis for the SSCRCD's authority to act as lead agency for the legacy tire projects.

The Public Resources Code specifically empowers any RCD to "manage . . . any soil conservation, water conservation, . . . erosion control, erosion prevention, or erosion stabilization project within or adjacent" to the RCD, and to act "as agent" for any agency of the state of California in connection with the operation or administration of any such project. (Public Resources Code § 9415.) The Code also allows an RCD, with the consent of affected private property owners, to "make improvements or conduct operations" that will further the prevention and control of soil erosion, water conservation, or promote erosion stabilization. (Public Resources Code § 9409.) The RCD may enter into contracts and use funds available to it consistent with its allowed purposes. (Public Resources § 9408.)

Letter to Jim Lee

Page 2

12/22/03

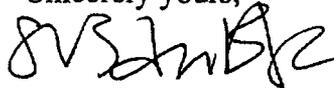
The SSCRCDC accepted grant funds in 2000 to implement a remediation project for legacy waste tires within its jurisdiction, and is presently exercising its discretion to expend those funds to carry out the project. As an agency empowered by statute to manage and conduct environmentally sensitive operations such as those required for the Sonoma County legacy tire sites, the SSCRCDC is qualified to serve as the lead in conducting environmental review under CEQA to inform its decisions regarding the project. CEQA defines "lead agency" as the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment. (Public Resources Code § 21067.) The SSCRCDC thus plans to prepare and certify an Environmental Impact Report for its use in carrying out its project; the EIR will be made available for use by the CIWMB and other responsible agencies that have their own projects or permits affecting the tire remediation sites. To this effect, the SSCRCDC has adopted Resolution # 2003-05 that formally expresses its intention to serve as lead agency under CEQA. The SSCRCDC recognizes local, state, and federal trustee and responsible agencies' continuing regulatory authority over the resources and environment associated with the legacy waste tire sites.

The SSCRCDC is committed to expeditious pursuit of an adequate environmental document, recognizing that this complex project involves multiple sensitive sites subject to multi-agency jurisdiction and that the extent of protected resources such as wetlands and endangered species remains unknown. The SSCRCDC cannot anticipate or control the time that other agencies will require to comment on the design and development of the project and alternatives, and the analysis of environmental impacts. The SSCRCDC anticipates that the environmental review and compliance process may be lengthy, again depending on the extent of endangered species habitat encountered and the time required for responsible and trustee agencies to complete their reviews of the environmental documents.

The SSCRCDC looks forward to working with the CIWMB to resolve the legacy waste tires issues in Sonoma County. Please feel free to contact me if you have any questions about the anticipated CEQA review process.

Thank you.

Sincerely yours,



Susan Brandt-Hawley