



CLERE Inc.

California Law Empowering Renewable Energy

How the Law Plays a Role in your Project.

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LAWYERS

"Have you ever dealt with an attorney?" asked the plaintiff's lawyer.

"Yes. I had an attorney write my living trust," she responded.

"And how did that turn out?"

"I don't know," she said. "Ask me when I'm dead."

WHEN YOU MUST HAVE ONE

- ▶ Litigation; if you are sued, or you are being threatened, you need a lawyer
- ▶ Business model development, especially when personal tax or financial liability is at play in your project.
- ▶ Contracts; if you want to make a deal enforceable, best to put it in writing.
- ▶ Entering into financing arrangements

When it is nice to have one

- ▶ Project permitting, especially CEQA
- ▶ Interaction or advocacy with legislators or regulators
- ▶ Some grant documentation
- ▶ Vetting contractors, developers or service providers
- ▶ Negotiations, generally
- ▶ Land leases, purchases or real property issues, generally.



What are you getting yourself into?

First: Self Assessment

- ▶ Existing group or corporate structure
- ▶ Current financial resources
 - ▶ Reserves, grant writing, investors
- ▶ Current tax liability
- ▶ Current personnel resources
- ▶ Access to wood material

Second: Legal Assessment

Is everything you just concluded about yourself actually true?

- ▶ Identify what you do not know
- ▶ Best done by a lawyer that already knows your organization, if possible.
- ▶ Who is missing at your leadership table?



Corporate Governance



- ▶ While most corporations will use an attorney to help with the process of incorporation, new businesses sometimes neglect the on-going legal requirements to maintain their corporation status. Annual shareholder, director and partner meetings need to be held, and recording of minutes and election of officers must conform with state requirements. Failure to do so could jeopardize corporate status and result in "piercing of the corporate veil" in the event of a lawsuit or other legal action, exposing corporate officers to personal liability or other legal problems.
- ▶ If you would like to change your structure or incorporate a subsidiary.
- ▶ If you are a non-profit considering projects that are distinct from your mission related goals.
- ▶ If you want to bring in new investors or partners.
- ▶ If you are having financial troubles or considering bankruptcy



Contracting: *A promise reciprocated.*

- Consideration
- Memorializing agreement between parties
- Enforcement of terms
- Limit or understand liability
- Useful in grant procurement
- Critical for financing
- Required when doing land transactions, goods sales over \$500.00, employment contracts that are for a specific period of time that is over one year, and when one party is acting as a guarantor for another.

Contracts you are likely to need

- ▶ Fuel procurement contracts
- ▶ Corporate Partnership
- ▶ Developer Agreements
- ▶ Independent Contractors providing work
- ▶ accept grants, comply with grants
- ▶ procure technology
- ▶ Sales of your products
 - ▶ Electricity
 - ▶ Wood products
 - ▶ Biogas, biofuels

Biochar production



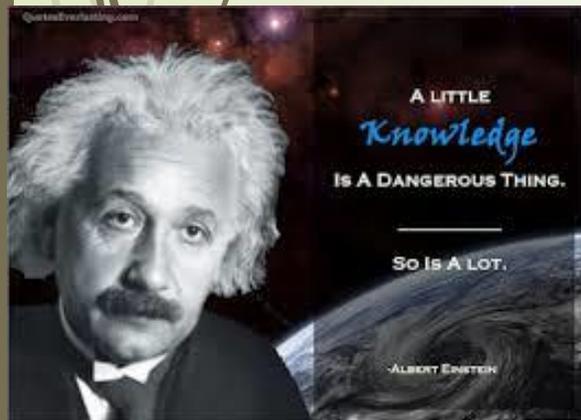
Times when it would be really nice to have “that extra set of eyes” that belong to a lawyer

Permitting Context

- Greenfield site
- Air District that is non-attainment
- Full use permit with Planning Commission or BOS hearing will be needed
- Center For Biological Diversity has an ‘interest’ in your project
- Other NIMBY or political problems

Active engagement with state agencies

- Filings with the CPUC
- Notices from employment agencies
- Grant violations
- You want to develop carbon credits with CARB
- Public testimony at hearings that works
- Getting changes made to pending legislation





When can you get by without the lawyer?

Good examples

- ▶ Early stages of a project before you have done self assessment
- ▶ You are working with another professional on a narrow issue, like a CPA or Real Estate Broker
- ▶ You have a consultant who is very familiar with the context of broad laws at play, and you trust them to know when to call in for help
- ▶ Verbal agreements with parties you trust for short projects (even if some money is exchanged)
- ▶ You are advocating your position to a politician who knows you by your first name

Bad Examples

- ▶ You think a contract template you downloaded from findlaw.com will suffice
- ▶ You need to enter into a deal with a very sophisticated business partner, and your relying on your 'down home' charm
- ▶ You can persuade your local Assemblyman with a cold call.
- ▶ You are hiring someone for something where they could get hurt, but they trust you.
- ▶ "This one pager will be fine with the bank."

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A man phones a lawyer and asks, "How much would you charge for just answering three simple questions?"

The lawyer replies, "A thousand dollars."

"A thousand dollars!" exclaims the man. "That's very expensive isn't it?"

"It certainly is," says the lawyer. "Now, what's your third question?"

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Questions to ask a potential lawyer *Beyond their billable rate*

Can you explain how accessible you will be and what your general turn around time is on issues?

Do they understand the context of the project? How fast can you get them up to speed? Will you charge me for that preparation?

Will you be doing the work, or an associate?

Do you work in the Capital, know people at public agencies, or otherwise have connections to industry groups or leaders?

Check insurance and ability to practice in other states if relevant to you



*Thank you for your attention
today, go make it happen!*

More Questions?

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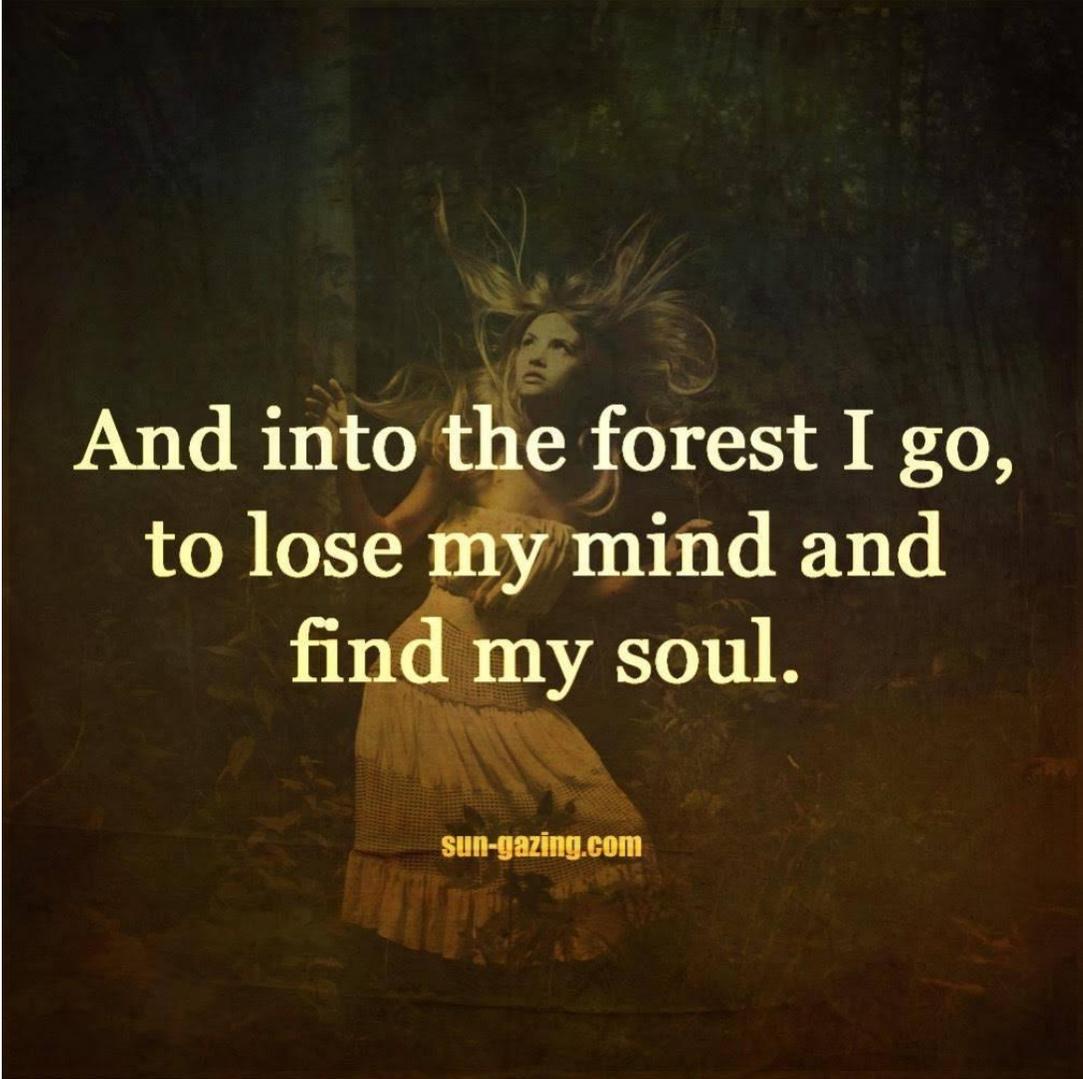
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**And into the forest I go,
to lose my mind and
find my soul.**

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