

2015-2016 GRAND JURY REPORT

Palo Verde Resource Conservation District

Background

The Palo Verde Resource Conservation District (PVRCD) was formed in 1956. The district is estimated to have 1,628,000 acres in eastern Riverside County excluding the incorporated city of Blythe and approximately 340,000 acres in Imperial County. The PVRCD occupies and shares offices with the United States Department of Agriculture located at 200 East Murphy Street, Suite 100, Blythe, California. Resource Conservation Districts (RCD) are special districts, formed under California law to be locally governed agencies with their own locally appointed or elected, independent board of directors. In the case of Riverside County RCDs, directors are appointed by the Supervisor(s) of the supervisorial district(s) in which the RCD resides. California RCDs implement projects on public and private lands and educate landowners and the public about resource conservation. RCDs are authorized under the California Public Resources Code, Division 9. The PVRCD promotes the conservation and wise use of natural resources in the Palo Verde Valley. The PVRCD works through public and private partnerships to assist farmers, homeowners, municipalities, golf courses and other land users to conserve soil, water, air, plant, and animal resources.

Local Agency Formation Commission's (LAFCO) regulatory powers are outlined in California Government Code Sections 56133 and 56375. This includes approving, establishing, expanding, reorganizing, and in limited circumstances, dissolving cities and special districts. The RCDs are independent districts, a form of government, governed by a board, provide a service and has defined boundaries. The County's only responsibilities to the RCDs are to appoint members and to receive an annual independent audit.

Methodology

Interviews:

- Two employees of the United States Department of Agriculture, Natural Resources Conservation Service
- Executive Officer, LAFCO, Riverside County
- Two Board Members of the Palo Verde Resource Conservation District
- Riverside County Supervisor 4th District
- Three employees of the Riverside County Auditor-Controller's office
- County Counsel, Riverside County

Researched:

- California Government Code §26909 (a)(2) (Audit Requirements)
- California Government Code §56100 (LAFCO)
- California Government Code §1099 (Incompatibility of Office)
- California Public Resources Code, Division 9, §§9801-9821 (Authority to establish Improvement District)
- California Special District Association (CSDA) sponsored legislation to lower audit costs
- Fair Political Practices Commission 700 Form (PVRCD Directors)
- California Resource Conservation District Handbook (Nov 2015)
- Letter dated October 22, 2015, from the County of Riverside, Office of the Auditor-Controller to the Board of Directors, PVRCD

Findings

1. The McCoy Wash Flood Improvement District (McCoy Improvement) was established in December 1987 as part of PVRCD. On December 9, 1991, the district was split into two separate special districts by resolution of the PVRCD board of directors without obtaining the approval of LAFCO. This was done to accommodate McCoy Flood Control District (McCoy District) to establish the power to assess Blythe citizens within McCoy Wash area for construction of the dam. Arrangements were established with the County to collect these funds.

The PVRCD does not have the authority to establish the McCoy District as a special district. The PVRCD, under provision of Division 9 of the California Public Resources Code, does have the authority to form an improvement district for constructing, both in or for the improvement district, one or more flood prevention improvements, including structural and land treatment measures.

The PVRCD resolution reads as follows:

RESOLUTION OF THE BOARD OF DIRECTORS OF PALO VERDE RESOURCE CONSERVATION DISTRICT

Whereas Palo Verde Resource Conservation District (PVRCD) has sponsored the creation of the McCoy Wash Flood Control District (McCoy), and furthermore that McCoy is now a separate Special District with a directorship concurrent to that of PVRCD and furthermore, that McCoy receives property tax revenues that are for the sole benefit of McCoy.

Herewith be it resolved the Riverside County Auditor-Controller's Office is requested to establish a Trust type "fund" for McCoy (request attached) for the purpose of properly segregating McCoy revenues and expenses from those of PVRCD.

This document was signed by the President and Secretary/Treasurer, who are also the current President and Secretary/Treasurer.

2. The PVRCD has not submitted an audited financial statement to the Controller or the County Auditor-Controller's office since 2007. Government Code §26909 requires a financial report be filed annually with the Controller and with the County Auditor-Controller within 12 months of the fiscal year. The PVRCD has received a letter of non-compliance from the County Auditor-Controller's office giving the district until December 21, 2015, to comply. To date the PVRCD has ignored the County Auditor-Controller's request.

3. The duties of the PVRCD board of directors have been performed in an inconsistent manner. The PVRCD Secretary/Treasurer stated:

The Supervisors have the ability to provide significant relief, contingent on moving all funds into the "county financial system," and gaining Supervisors" approval. This action would remove us from AUDIT to REVIEW status.

The PVRCD has not in the past nine years requested this action. The California Association of Resource Conservation Districts and various list servers are used to find potential funding sources. The PVRCD had chosen not to perform any service that could provide an income to the district such as requesting grants and loans from both state and federal sources. They had not requested assistance from the California Department of Conservation, Division of Land Resource Protection, RCD Assistance Program. They have no policies and procedures in place, do not have a budget, and they do not have regularly scheduled meetings. The directors have the ultimate fiscal responsibility for the district's financial management.

4. Documents provided by the board of PVRCD have shown evidence of incompatibility of office, pursuant to California Government Code §1099(a) which states:

A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible.

California Government Code §1099 says that offices are incompatible when any of the following circumstances are present:

1. Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.
2. Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.
3. Public policy considerations make it improper for one person to hold both offices.

Additionally, one director holds an elected office (City Councilperson) while serving on the Board of Directors of the PVRCD, who did not disclose this on his March 25, 2016, filed Fair Political Practices Commission 700 Form.

Recommendations

Riverside County Board Supervisor, District 4 Riverside County Auditor-Controller Palo Verde Resource Conservation District County Counsel, Riverside County

1. The resolution of 1991 be voided. The County Auditor-Controller cancel the requested audit from the McCoy District and include them as a part of the PVRCD for audit.
2. The board of directors be overseen by Riverside County Counsel and instructed to comply with California Government Code §26909(a)(2).

After combining the two districts, the PVRCD has sufficient funds to complete the required audit and comply with the County Auditor-Controller's request.

3. The PVRCD establish and follow procedures for operating an RCD such as those outlined in the California Resource Conservation District Handbook as follows:
 - Director's basics
 - Power and authority
 - Organization and administration
 - District finances
 - Partnership
 - Planning
4. The Board of Supervisors vets appointments to offices on RCDs and special districts for incompatibility.

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