



OFFICE OF COUNTY COUNSEL  
COUNTY OF RIVERSIDE

3960 ORANGE STREET, SUITE 500  
RIVERSIDE, CA 92501-3674  
TELEPHONE: 951/955-6300  
FAX: 951/955-6322 & 951/955-6363

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Via Personal Delivery

Riverside County Grand Jury  
3901 Lime Street, 2<sup>nd</sup> Floor  
Riverside, CA 92501

Re: Response to 2015-2016 Grand Jury Report  
Palo Verde Resource Conservation District (PVRCD)

Dear Grand Jury:

Enclosed herewith please find the above-referenced response to your 2015-2016 Grand Jury Report on Palo Verde Resource Conservation District.

Please feel free to contact the undersigned with any additional questions you may.

Sincerely,

GREGORY P. PRIAMOS  
County Counsel

Bruce G. Fordon  
Deputy County Counsel

BGF:mrd

Enclosures

**RESPONSE TO  
2015-2016 GRAND JURY REPORT  
Palo Verde Resource Conservation District (PVRCD)**

Following is the response of the PVRCD to the above referenced Grand Jury Report.

**FINDING NO. 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<sup>1</sup>, 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.*

**RESPONSE: Respondent disagrees with this finding.**

The resolution adopted by the PVRCD on December 9, 1991 did indeed create a distinct entity, i.e., the McCoy Wash Flood Control Improvement District. However, the McCoy Wash Flood Control Improvement District is not a "special district" that required LAFCO approval. It is an "improvement district" that is managed by PVRCD's Board of Directors.

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<sup>1</sup> Unless otherwise noted, all "section" references are to the *California Public Resources Code*.

**RECOMMENDATION NO. 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.

**RESPONSE: The Respondent disagrees with this recommendation.**

The 1991 resolution properly authorized creation of the McCoy Wash Flood Control Improvement District.

**FINDING NO. 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.

**RESPONSE: Respondent agrees with this finding.**

Section 9528 clearly states that “[a]n annual of the books, accounts, records, papers, money, and securities shall be made as required by Section 26909 of the Government Code. However, Government Code section 26909 authorizes alternatives to the annual audit. The County Counsel’s Office will be assisting the PVRCD in this regard.

**RECOMMENDATION NO. 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.

**Response: Except for combining the two districts, Respondent has implemented this recommendation.**

County Counsel and the PVRCD have been conducting a comprehensive review of PVRCD’s management, operations and finances. County Counsel is exploring alternatives to the annual audit mandate and will advise the PVRCD of its options, if any, in complying with its fiscal reporting duties. The decision as to whether the two districts should be combined is a matter exclusively within the jurisdiction of the boards of those two districts.

**FINDING NO. 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.

**RESPONSE: Respondent agrees with this finding.**

Section 9418 states that the PVRCD may request legal services from County Counsel. The PVRCD has and will continue to work with the Office of County Counsel to all statutory mandates.

**RECOMMENDATION NO. 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

**RESPONSE: Respondent has implemented this recommendation.**

County Counsel and the PVRCD are working together to establish necessary policies and procedures.

**FINDING NO. 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.

**RESPONSE: Respondent disagrees with this finding.**

This finding states neither the facts nor analysis that is required to conclude a violation of Government Code section 1099. Based upon the information presented to date, The County Counsel's Office is unable to conclude that there has been a violation of Government Code section 1099.

**RECOMMENDATION NO. 4:**

The Board of Supervisors vets appointments to offices on RCDs and special districts for incompatibility.

**RESPONSE:**

With the assistance of the County Counsel's Office and the Clerk of the Board, the PVRCD will vet all potential appointees for incompatibility and compliance with Government Code section 1099