

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement • • Statements of Economic Interest
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

March 27, 1984

Cleo Moore
P.O. Box 7
North San Juan, CA 95960

Re: Advice Letter No. A-84-036

Dear Ms. Moore:

Thank you for your request for advice on the conflict of interest provisions of the Political Reform Act. The following facts were provided in your letter and during my telephone conversation with you on March 7, 1984:

FACTS

On November 25, 1983, you were appointed Director of the San Juan Ridge County Water District. You resigned the position at the suggestion of the Nevada County Counsel's Office, which felt that you had a potential conflict of interest due to your employment by the California Green Thumb. The Green Thumb is a nonprofit organization which provides work for senior citizens. Your job title is "crew foreman" and your function is to oversee work crews. One of the entities for whom the Green Thumb crews perform work is the North San Juan Ridge County Water District. The crew's services for the District include cleaning ditches of debris, checking for vandalism, monitoring the amount of water used, and handling much of the office work. You are paid a minimum wage for up to 20 hours of work per week. These wages are paid by the program, which is federally subsidized, and not by the entities for whom your crew work. Your supervisors arrange for the jobs that your crew performs.

QUESTION PRESENTED

Do you have a conflict of interest that prevents you from serving as Director of the San Juan Ridge County Water District?

CONCLUSION

The Political Reform Act does not prevent you from serving as the Director of the Water District. However, it may affect your governmental decisionmaking as Director.

DISCUSSION

The conflict of interest provisions of the Political Reform Act do not prohibit you from serving as the Director of the Water District. However, the Act's provisions may affect your decisionmaking as Director. Government Code Section 87100^{1/} prohibits a local public official from making or participating in the making of a governmental decision in which she knows or has reason to know that she has a financial interest. An official has a "financial interest" in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect^{2/} on:

* * *

(c) Any source of income . . . aggregating two hundred fifty dollars (\$250) or more in value provided to . . . the public official within 12 months prior to . . . the decision is made....

(Section 87103(c).)

If, as the Director of the Water District, you are confronted with a decision that will have a material financial effect on Green Thumb, you must disqualify yourself because it is a source of income to you. A decision is said to have a "material" effect on a nonprofit organization if the decision's effect will be "substantial." (See 2 Cal. Adm. Code Section 18702(b) (3) (D).) If you have difficulty in determining whether your disqualification is required on a particular decision, you can contact our office for advice.

The County Counsel's Office is concerned that, as the Director of the Water District, you may be confronted with

^{1/} Hereinafter all statutory references are to the Government Code, unless otherwise indicated.

^{2/} For an explanation of the phrase "material financial effect," see the enclosed copy 2 Cal. Adm. Code Section 18702.

Cleo Moore
March 27, 1984
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decisions which will affect the amount of work and, hence, the amount of money, that you receive from the Green Thumb. Under the Act, you are required to disqualify yourself from decisions which will directly increase your income by \$100 or more. (2 Cal. Adm. Code Section 18702(b) (3) (A).) This means that you must disqualify yourself if you know or have reason to know that a decision will result in your personally receiving sufficient additional hours of work such that your income will be increased by at least \$100.

My advice is confined to the provisions of the Political Reform Act. You should contact your County Counsel's Office concerning the possible application of Section 1090, which is outside the FPPC's jurisdiction. If you have any additional questions concerning the Political Reform Act, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:plh
Enclosures

F P P C
Fair Political Practices Commission
FEB 28 1 23 PM '84
Technical Assistance and Analysis Division

February 17th 1984

1100 K Street Sacramento, California 95814

Dear Barbara Wilman:

This is to confirm my phone call to your organization February 10th 1984. I spoke to a Betty Brown Secretary to Jeanne Kitchard. A gentleman called me from your organization on February 14th 1984. I gave him a run down on why I asked for a ruling on a possible conflict of interest. He said to send all pertinent information to you so here goes:

I was appointed to the Office of Director, San Juan Ridge County Water District by the Nevada County Board of Supervisors in lieu of election for a four year term effective November 25th 1983. I filed a Certificate of Appointment and Oath of Office plus a Statement of Economic Interest at the County Clerks office and with the Clerk of the Board of Supervisors on December 9th 1984. Shortly after filing I spoke to a member of the County Counselors office about a possible conflict of interest and he suggested that I resign until further investigation so I did resign my position as Director on December 10th 1984.

I wrote to the California Green Thumb asking for a ruling and received a letter of which you have a carbon copy - from Regina DeCiano Kitchins State Director - with your address. Letter dated 1-30-84

So I am writing for a ruling on my leaving
to resign from the board of directors of the
Water District; because of a possible conflict
of interest, being a director and employed by
the Green Thumb. The reason being that if
I voted on some contractor another it would,
possibly be something that would give me
more work in my capacity as a Green Thumb
worker.

If the District ever has a major problem
that calls for a contract we get bids and
let out the contract which in no way
would cause more work for those of us
who work for Green Thumb. Most of the major
things are taken care of by volunteers from the
District as it has been for many years.

The only things that are used by the
Green Thumb workers are Hand Tools and
a Gas weed eater + Chain saws. Enclosed
find copy of Duties for the Green Thumb
workers for the Water District.

I thank you for your
attention to this matter.

Sincerely,
Caled H. Morse

P.O. Box 7

North San Juan

Ca. 95960

COUNTY OF NEVADA

STATE OF CALIFORNIA

BOARD OF SUPERVISORS

Ilse E. Baerhan, 1st District
Robert H. Wilder, 2nd District
Karsten Hansen, 3rd District
Eric W. Rood, 4th District
Patricia S. Suttton, 5th District



—♦♦♦—
Cathy R. Thompson
Clerk of the Board

201 Church Street
NEVADA CITY, CALIFORNIA 95959
Phone: Area Code 916-265-1480

November 30, 1983

Cleo H. Moore
P. O. Box 7
North San Juan, CA 95960

Dear Mrs. Moore:

On October 3, 1983, the Nevada County Board of Supervisors adopted Resolution 83-383, authorizing appointments in lieu of election to special district boards. This action approved your appointment to the office of Director, San Juan Ridge County Water District, for a four-year term, effective November 25, 1983.

Transmitted herewith please find a "Certificate of Appointment and Oath of Office" and "Statement of Economic Interest" to be completed and returned to this office prior to your voting as a Director and no later than December 25, 1983. The oath of office certificate must be executed either in the presence of a Deputy County Clerk or Notary Public.

Thank you for your cooperation in this matter and congratulations on your appointment.

Very truly yours,

A handwritten signature in cursive script that reads "Cathy R. Thompson".

CATHY R. THOMPSON
Clerk of the Board

/ct

cc: San Juan Ridge County Water District

SAN JUAN RIDGE COUNTY WATER DISTRICT
20342 Pleasant Valley Road
No. San Juan, California 95960

- CLEAN DITCHES OF DEBRIS
- CUT BRUSH--BURN WHEN ALLOWABLE
- TURN ON WATER & monitor this to each users box
- CHECK FOR LEAKS IN DITCHES and/or RESERVOIRS
- CHECK FOR VANDELISM
- KEEP TRACK OF USERS AMOUNTS OF WATER
- KEEP LATERAL DITCHES CLEAR & OPEN for free flow of irrigation water delivery
- TAKE CARE OF OFFICE FILING& MAKE OUT BILLS for the water; DO ALL BOOK-KEEPING& WRITING LETTERS for the DISTRICT
- SEE BOXES ARE CLOSED AFTER EACH WATER USERS TURN IS over, so the next USER will get his share
- MAINTAIN TOOLS, keeping in good working condition
- INSPECT GATE ON DIVERSION DAM (SHADY CREEK) for leaks or vandalism
- CHECK MEASURING BOX AT PINE GROVE RESERVOIR for any damage from Cattle & Horses in pasture while water is in the delivery ditch
- REPAIR ANY DAMAGE TO DITCH, BOXES, FLUME, & MEASURING DEVICES
- CHECK FOR UNAUTHORIZED DIVERSIONS BY PEOPLE OUT OF DISTRICT, but on the ditch, from SHADY CREEK TO PINE GROVE RESERVOIR

"Work duties for S. J. R. Co Water District"