



# California Fair Political Practices Commission

August 29, 1989

Honorable Royall Brown  
Director, Upper San Gabriel Valley  
Municipal Water District  
2153 Aroma Drive  
West Covina, CA 91791

Re: Your Request for Informal Assistance  
Our File No. I-89-511

Dear Mr. Brown:

We have received your letter requesting advice concerning the duties of Robert Nicholson under the conflict of interest provisions of the Political Reform Act.<sup>1</sup> Mr. Nicholson is a director of the Upper San Gabriel Valley Municipal Water District.

The Commission only provides advice to the person whose duties are in question or to his or her authorized representative. (Section 83114(b); Regulation 18329, copy enclosed.) Your letter does not indicate that Mr. Nicholson has authorized your request for advice concerning his conduct. Accordingly, we cannot respond to your questions. However, I have enclosed a pamphlet which summarizes the conflict of interest laws. Also enclosed are two advice letters which address questions that may be similar to the ones you have asked. (Kennedy Advice Letter, No. A-85-194; Atigh Advice Letter, No. I-86-270.)


If you believe that a violation of the conflict of interest laws has occurred, you might consider filing a complaint with our Enforcement Division. Enclosed is a copy of a complaint form.

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

If you have any questions concerning this letter, please contact me at (916) 322-5901.

Sincerely,

  
Kathryn E. Donovan  
General Counsel

KED:plh

Enclosures

August 24, 1989

California Fair Political Practices Commission  
P. O. Box 807  
Sacramento, CA 95804-0807

FPPC  
Aug 28 8 43 AM '89

Ref: Government Code 87100 (noncontractual conflicts of interest)

Dear Sir:

As a newly elected Director of the Upper San Gabriel Valley Municipal Water District, I would appreciate a written opinion concerning a controversy that was highlighted in the enclosed "Public Affairs Clipsheet" of August 4, 1989, Pasadena Star News

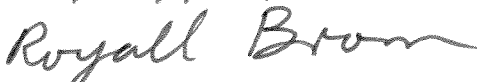
There are two questions which I would like answered by your agency.

1. A member of our Board of Directors also holds an ownership interest in the San Gabriel Valley Water Company. This water company sells water that we procure to retail customers within our district. The district is scheduled to vote on September 6, 1989 to create by resolution a "special fund" generated from the surplus money created due to the difference between the cost of water that we buy and the selling price. Should this member be allowed to vote on a policy decision regarding creation of this special fund?

2. Our district sells water to a Watermaster committee which then sells this water to the company of which the director is an officer. Can this same director vote to set water rates charged by the district?

The District Board of Directors asked out attorney, Author C. Kidman, for a written opinion to questions which might be very similar to the above. He should be contacting your office. However, I would appreciate it if you would send your answers to my questions directly to me.

Very truly yours,



Royall Brown  
2153 Aroma Drive  
West Covina, CA 91791

## Water firm owner denounced for public agency role

By JOHN FLECK  
Staff Writer

EL MONTE — An El Monte water company owner should not be allowed to serve on the board of the public agency that sells his company its water, a community activist said Wednesday at a meeting of the agency's board.

Wil Baca, a Hacienda Heights engineer, said San Gabriel Valley Water Company President Robert H. Nicholson should not be allowed to serve on the board of the Upper San Gabriel Valley Municipal Water District, the agency that sells the imported Northern California and Colorado River water used by Nicholson's company.

Nicholson was elected to the board of the Water District, which serves an area reaching from Arcadia east to Azusa and south to Whittier Narrows, more than two years ago. But Baca charged that Nicholson's position as president of a company that buys water from the district should prevent him from serving on the board. "They can't be on both sides of the transaction," Baca said. "They can't be both water sellers and water buyers."

Baca's comments come at a time when the Water District is considering a change in water prices that could give Nicholson's company an estimated \$700,000 per year windfall.

Nicholson could not be reached Thursday for comment, but agency attorney Mike McCormick said Nicholson's presence on the board does not create a conflict of interest under state law.

Nicholson's votes must have "some direct and substantial financial effect" on his company for a conflict to exist, McCormick said.

The Upper San Gabriel Valley Municipal Water District serves as one of two intermediaries between the Metropolitan Water District of Southern California and local water companies.

The agency buys water from the MWD and sells it to the Main San Gabriel Basin Water-

### VALLEY WATERCOURSE

The bureaucratic path of water on its way into the South San Gabriel Valley:

- The Metropolitan Water District of Southern California imports water from Northern California and the Colorado River, selling it to

- the Upper San Gabriel Valley Municipal Water District, a "paper agency" that actually owns no pipes or reservoirs, selling its water (on paper) to

- the Main San Gabriel Basin Watermaster (run by the same man who runs the Water District), which pours water from MWD pipes into giant spreading grounds, to be purchased by

- Robert Nicholson's San Gabriel Valley Water Company, which pumps the water out of the ground and sells it to consumers throughout the valley.

sells the water to companies such as Nicholson's.

Nicholson's financial disclosure statements show that he has an ownership interest in United Resources Inc., which in turn holds an ownership interest in the San Gabriel Valley Water Company.

In the past, the Water District and the Watermaster have charged whatever price the MWD charges, neither raising nor lowering it, said Bob Berlien, who serves as head of staff for both the Water District and the Watermaster.

Baca raised the conflict of interest issue after the MWD set up a new program offering a 25 percent discount on water in the winter, when the giant agency has surpluses. The Water District is trying to decide whether to keep the money saved and set it aside for pollution cleanup projects or to pass the savings on to companies such as Nicholson's. A decision is not expected until September.