

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

March 8, 1996

Mr. William C. Kuhs
Kuhs, Parker & Stanton
Post Office Box 2205
Bakersfield, California 93303

Re: Your Request for Advice
Our File No. A-96-063

Dear Mr. Kuhs:

This is in response to your request for advice regarding the filing provisions of the Political Reform Act (the "Act").¹

QUESTION

Where should members of the Board of Directors of the Belridge Water Storage District who are considered "other public officials who manage public investments" under the Act, file their Form 721 statements of economic interests?

CONCLUSION

Belridge Water Storage District directors may file their Forms 721 with the secretary of the Board of Directors of the district.

FACTS

You are counsel for Belridge Water Storage District, which is a California water storage district organized under Division 14 of the Water Code. The water district is a "local" government agency within the meaning of Section 82041 with jurisdiction wholly within Kern County. The Board of Supervisors is the "code reviewing body" under Section 82011. The district has adopted and

¹ 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, Sections 18000-18995.

promulgated a conflict of interest code under Section 87300 and the code has been approved by the Board of Supervisors under Section 87303. The code now provides for designated employees of the water district to file their Forms 730 with the secretary of the Board of Directors of the water district and for the secretary to forward the original statements of directors to the clerk of the Board of Supervisors for filing.

You now conclude that the directors of the water district, and perhaps others, have been or will be "public officials who manage public investments" within the meaning of Section 87200 but are uncertain as to where such persons should file their Forms 721. Directors of the water district do not fall within subdivisions (a) through (n) of Section 87500 and thus should come under subdivision (o). Under Section 87500(o), the original Form 721 would either be filed with the secretary of the water district or the clerk of the Board of Supervisors, depending upon provisions of the code.

However, Section 18753(d) provides for directors of the water district to file their Forms 721 with the secretary who is to retain a copy and forward the original to the Fair Political Practices Commission. The last sentence of Section 18753(d) allows the Commission, in its discretion, to provide that the original be filed directly with the water district secretary.

You are currently preparing an amended code for adoption by the water district Board of Directors and submittal to the Board of Supervisors for its approval. You plan to include a provision requiring the original of all statements of economic interest to be filed and retained by the water district secretary. If this provision is acceptable to the Commission and approved by the Board of Supervisors, then all statements on Form 721, as well as all statements on Form 730, would be filed and retained by the water district secretary.

ANALYSIS

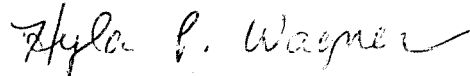
As you described, the filing officer or entity with which the Forms 721 must be filed is generally determined by reference to Section 87500 and Regulation 18753. However, the Commission's limited resources would be soon overwhelmed by the increased filings of individuals who fall into the category of local agency officials who manage public investments. Therefore, the Commission has exercised its authority under Regulation 18753(d) to require local agency officials who file Form 721 solely because they fall into the category of "other public officials who manage public investments," to file their Form 721 with their agency's filing officer. This is the person or entity with which Forms 730 are filed for their agency's designated employees. (Biondo Advice Letter, No. A-95-256.) Therefore, the water district directors may file their Forms 721 with the district secretary.

As you noted, Section 87500(o) provides that persons not enumerated in subsections (a)-(n) should file their original statement of economic interests "with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code." In addition, Regulation 18227 provides that "[e]very filing officer shall assign to a specific official the responsibility for receiving and forwarding or retaining" statements of economic interests. Pursuant to this regulation, the water district's filing officer -- the Board of Supervisors -- may assign to the district secretary the duties of receiving and retaining statements of economic interests. The Board of Supervisors would have to approve this change in the water district's conflict of interest code.

I trust this answers your question. If you have any further questions regarding this matter, please contact me at 916/322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Hyla P. Wagner
Counsel, Legal Division

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