



## County Counsel Memorandum

**Date:** December 3, 2002  
**To:** Board of Supervisors  
**From:** Kevin E. Ready, Senior Deputy  
**Subject:** SMVWCD Ballot Vacancy  
**CC:** Shane Stark  
Ken Pettit

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This memo will provide further explanation regarding the filling of a ballot vacancy for the Santa Maria Valley Water Conservation District (SMVWCD). A copy of this office's earlier correspondence with the District's legal counsel is attached.

The Santa Barbara County Board of Supervisors has the authority and duty under Elections Code Section 10515(b) to fill the ballot vacancy for Division 3 of SMVWCD. The Board of Supervisors may appoint any qualified elector of Division 3, either a San Luis Obispo County or Santa Barbara County resident. The Board of SMVWCD has nominated a person to fill this position. The City of Santa Maria has objected to that nomination. The Board of Supervisors may appoint this nominee or any other qualified elector resident in the division.

Pursuant to Elections Code the appointee shall "take office and serve as if elected at a general district election for the office." As explained in the October 11<sup>th</sup> board agenda letter, the ballot vacancy for Division 3 is for a full term of four years. Therefore, the appointee will serve a full four year term of office (Elections Code section 10505).

There is no statutory deadline for the filling of a ballot vacancy in which there has been no declarations of candidacy. However, the statutes contemplate the appointment is to be made prior to the time for taking office which is the first Friday in December (Elections Code Section 10554), therefore we recommend taking action on December 3<sup>rd</sup>.

# COUNTY OF SANTA BARBARA



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VIA FAX (916) 441-4021

November 15, 2002

Kevin M. O'Brien, Esq. &  
Joe Schofield, Esq.  
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Sacramento, CA 95814-4686

Re: Filling Ballot Vacancy for Santa Maria Valley Water Conservation District

Dear Sirs:

This letter is in response to your letter of November 5, 2002 to County Counsel Shane Stark on the issue of the proper method for filling the ballot vacancy for Division 3 of the Santa Maria Valley Water Conservation District (SMVWCD). In that letter you opine that the Santa Barbara County Board of Supervisors does not have authority to fill that ballot vacancy (under Elections Code 10515) and that the Board of SMVWCD has that authority. We find your legal argument to be clearly erroneous. The Santa Barbara County Board of Supervisors is the proper appointing authority for filling ballot vacancies.

You argue that Section 10515 of the Elections Code does not apply since Section 10502 of the Elections Code requires the principal act of the agency to make reference to that division for it to be applicable. You state that the water conservation district law does not do that. That is the source of your error. It does.

Water Conservation District law (Water Code Division 21, Section 74000 *et seq*) originally had integral election law provisions governing elections for the districts (former Division 21 Part 4, Sections 74350 *et seq*). However, in 1965 the legislature created a Uniform District Election Law with Statutes, 1965 ch. 2019, operative January 1, 1967. That statutory change repealed all provisions regarding the conduct of elections in the Water Code and replaced them with the Uniform Law, then found at Elections Code Section 23500 *et seq*. In 1994 with the recodification of the Elections Code pursuant to Statutes 1994 ch. 920, the Uniform District Election Law was moved to Elections Code Section 10500 *et seq*. Most importantly, the 1965 statutory changes amended Section 74019 of the Water Conservation District law to define district elections as being "conducted . . . pursuant to provisions of the Uniform District Election

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Law.” Thus, the principal act of water conservation districts makes direct reference to the Uniform District Election Law as being the controlling law. Therefore, Section 10515 is the operative law for filling of ballot vacancies and that authority rests solely with the Santa Barbara County Board of Supervisors pursuant to the language of Section 10515 and Section 10500 (b) (14).

We will be advising our Board of Supervisors that they have the authority and duty to appoint a qualified elector of Division 3 of SMVWCD to fill the vacancy for the full term of office. We request that you advise the Board of SMVWCD to take no action inconsistent with that authority.

Please let the undersigned know if we can further clarify any issue in this matter.

Sincerely,  
STEPHEN SHANE STARK  
COUNTY COUNSEL

Kevin E. Ready, Sr.  
Senior Deputy

Cc:	Board of Supervisors	Shane Stark
	Mayor/Supervisor-elect Centeno	Jack Crawford, SLO Asst. County Counsel
	Ken Pettit	Arther R. Montandon, Santa Maria City Attorney
	Joe Holland	Mike Ledbetter
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