

[PLACE ON CITY LETTERHEAD]

April 25, 2012

The Honorable Barbara Boxer  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

***Re: Support for H.R. 872 "The Reducing Regulatory Burdens Act of 2011"***

Dear Senator Boxer:

I am writing on behalf of the City of Palm Springs to declare the City's support for legislation that exempts public health pesticides from additional regulation under the Clean Water Act. The City is disappointed that a recently proposed bill to provide such an exemption, H.R. 872, has not been able to come to a vote in the Senate after receiving overwhelming bipartisan support in the House. This new layer of regulation will not provide any foreseeable protection to our nation's waters beyond that already mandated under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) and practiced by mosquito control agencies since their inception.

We are very concerned that without H.R. 872, the regulations imposed by a new Clean Water Act NPDES permit requirement will have a significant impact on the public health of the people who live, work, and recreate our community. This will ultimately compromise the delivery of critical public health vector control services.

If our local mosquito and vector control district is not able to seek relief from the National Pollutant Discharge Elimination System (NPDES) permit, the district will be unable to continually provide the same high level of public health protection that our region has come to rely on and which has been extremely effective.

Under the NPDES permit, the Coachella Valley Mosquito and Vector Control District will have to divert money and manpower away from providing direct services and public health protection toward costly and labor-intensive reporting and monitoring activities, resulting in slower vector abatement response times and reduced disease surveillance and prevention, ultimately increasing the level of public health risk from new species infestations, West Nile virus outbreaks and other mosquito-borne diseases.

From past and current collaborations, we have found that the Coachella Valley Mosquito and Vector Control District has been a productive and responsive community partner and a responsible steward of the environment. For decades, mosquito and vector control districts have implemented a wide variety of Integrated Vector Management strategies to control for disease vectors and protect public health, while minimizing environmental impacts.

ITEM NO. 4A

We encourage you to support bringing H.R. 872 to the floor of the Senate for debate to educate U.S. legislators about the true impact these new regulations will have on the public health of all Americans.

In the interest of public health and the long-term health of the environment, we ask you to urge Senator Reid to bring H.R. 872 to a vote.

Very truly yours,

[PLACE ON CITY LETTERHEAD]

April 25, 2012

The Honorable Diane Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

**Re: *Support for H.R. 872 "The Reducing Regulatory Burdens Act of 2011"***

Dear Senator Feinstein:

I am writing on behalf of the City of Palm Springs to declare the City's support for legislation that exempts public health pesticides from additional regulation under the Clean Water Act. The City is disappointed that a recently proposed bill to provide such an exemption, H.R. 872, has not been able to come to a vote in the Senate after receiving overwhelming bipartisan support in the House. This new layer of regulation will not provide any foreseeable protection to our nation's waters beyond that already mandated under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) and practiced by mosquito control agencies since their inception.

We are very concerned that without H.R. 872, the regulations imposed by a new Clean Water Act NPDES permit requirement will have a significant impact on the public health of the people who live, work, and recreate our community. This will ultimately compromise the delivery of critical public health vector control services.

If our local mosquito and vector control district is not able to seek relief from the National Pollutant Discharge Elimination System (NPDES) permit, the district will be unable to continually provide the same high level of public health protection that our region has come to rely on and which has been extremely effective.

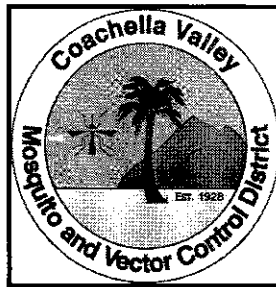
Under the NPDES permit, the Coachella Valley Mosquito and Vector Control District will have to divert money and manpower away from providing direct services and public health protection toward costly and labor-intensive reporting and monitoring activities, resulting in slower vector abatement response times and reduced disease surveillance and prevention, ultimately increasing the level of public health risk from new species infestations, West Nile virus outbreaks and other mosquito-borne diseases.

From past and current collaborations, we have found that the Coachella Valley Mosquito and Vector Control District has been a productive and responsive community partner and a responsible steward of the environment. For decades, mosquito and vector control districts have implemented a wide variety of Integrated Vector Management strategies to control for disease vectors and protect public health, while minimizing environmental impacts.

We encourage you to support bringing H.R. 872 to the floor of the Senate for debate to educate U.S. legislators about the true impact these new regulations will have on the public health of all Americans.

In the interest of public health and the long-term health of the environment, we ask you to urge Senator Reid to bring H.R. 872 to a vote.

Very truly yours,



## MEMORANDUM

---

To: City of Palm Springs

From: Sharon Lock, President  
Coachella Valley Mosquito and Vector Control District

Date: April 24, 2012

Re: Laboratory Expansion Project

---

As the City's representative to the Coachella Valley Mosquito and Vector Control District ("District"), I want to provide you some background information on a laboratory expansion project that has recently garnered media attention.

Last month, the District approved \$2.6 million in capital expenditures in order to enhance the District's mosquito, vector and disease testing service. These expenses will be used to expand and upgrade the District's laboratory, not build a new facility.

On April 15, the Desert Sun published a lengthy article in which some questioned this expenditure. Also, on April 20, there was a Desert Sun editorial that raised the same issues set forth in the article, neither of which addressed the upgrade in public health and safety issues. This memorandum is intended to clarify the necessity for expansion of the laboratory which was unanimously approved by the Board of Trustees, and to explain the procedures through which it was determined that the expansion was necessary and in the best interests of the District and its residents – your constituents.

Preliminarily, I want to reassure you that the District is starkly aware of the importance of not only safeguarding public funds, but also of bolstering public confidence in the District—while at the same time ensuring that the District is able to carry out its core mission of reducing the risk of disease transmission through mosquitoes and vectors. The District has reduced its annual homeowner assessment by over 80% since 2007.

### The Project

Unfortunately, the Desert Sun misrepresented the project by stating a new lab building is to be constructed. In fact, this is a remodel and expansion of existing facilities.

The Desert Sun correctly indicated that a major reason for the laboratory expansion was to expedite mosquito testing, which is currently outsourced to the University of California, Davis. While this is one of the critical reasons the expansion is necessary, there are a number of other reasons that should be explained.

### Expansion Project

The District currently has professional and technical staff in place to provide rapid molecular surveillance services to District residents. However, the District relies on an outside agency for certain necessary testing, which causes a delay in response times. Additionally, the current testing prices are expensive and incur additional shipping costs to UC Davis.

The upgraded facility will resolve all the problems with the current facility listed above, and allow for anticipated future growth. It will allow the District to provide enhanced surveillance of a broad range of vector borne pathogens that cause human and animal disease. It will result in cost savings of approximately \$37,000 per year in controlling arbovirus transmission and testing. (Initial equipment costs are approximately \$70,000, which will be paid off in less than two years). This increased expediency will result in less pesticide use, savings on chemicals and labor, and reduced environmental risk.

Increased processing capabilities will allow the District to not only combat West Nile virus, but also St. Louis encephalitis virus, western equine encephalomyelitis virus, and potentially new, emerging diseases such as Dengue and Chikungunya fever. If an arbovirus is detected early in mosquitoes then the virus transmission can be controlled, human health may be preserved, and money can be saved from trying to control a widespread outbreak. With its improved capabilities, the District will have the ability to test for multiple viruses, and costs to test for new viruses would be reduced and controlled.

Allowing for on-site testing has other benefits as well. In late January, it was announced at a meeting of the Mosquito and Vector Control Association of California that the Centers for Disease Control and Prevention (CDC) have reduced supporting states with arbovirus testing, including West Nile Virus surveillance. This was not a surprise, as the CDC has undergone major budget cuts recently.

The District lacks control over funding or reporting time at UC Davis. With uncertainties in future state funding for the University of California (which has recently suffered major budget cuts), testing time could potentially increase—especially since UC Davis is not mandated by the State to perform the testing.

The upgraded facility will consolidate all laboratory functions into one building. Having a single work and office space for staff in the surveillance and integrated vector and

quality control groups will facilitate collaborations between the groups and streamline some of the experimental procedures. This will increase productivity, and allow the District to improve response time and effectiveness.

From a planning perspective, the floor plan principally groups program functions into three zones: laboratories, offices and support services. New mechanical and electrical spaces are located in or near the new addition for improved, cost-effective utility distribution.

### Inadequacy of Current Facilities

The District's laboratory is currently housed in two locations (the Biocontrol Building and the Operations Building). Although the buildings are within walking distance from one another, having separate facilities causes workflow inefficiencies and hinders communication and collaboration between staff.

Both buildings fail to comply with the standards set forth by the United States Department of Health and Human Services as established in its handbook on "Biosafety in Microbiological and Biomedical Laboratories." Currently, workers must pass through the workrooms to access rearing rooms, restrooms, janitor rooms, and the storage/archive/office room. This potentially puts science work and staff at risk. In addition, some of the areas are underutilized, while others are inefficient.

Space in a number of rooms is inadequate. There is inadequate space for essential equipment, such as incubators and chemical storage cabinets. There are exposed pipes which pose a potential hazard to staff. From an environmental conditioning standpoint, temperature and relative humidity are not reliable in certain areas, making it difficult to maintain natural outdoor conditions which are needed. Some of the rooms are not suited for the wet conditions present and lack vermin control.

Due to lack of space, some work areas are being used for purposes for which they were not intended. At least one of the rooms is overflowing with tools, parts, supplies, boxes, and carts and does not provide appropriate ventilation for storage of batteries.

In the Operations Building, there is a problem with insufficient exit egress near a laboratory hood, which is not in compliance with the standards promulgated by the National Fire Protection Association.

The expanded facility will also allow for expansion of the District's Information Technology ("IT") Department—which will have to be expanded somehow in any event. Under the plan, the existing laboratory office space in the Operations building is to be utilized by IT, allowing for improved communication and collaboration on issues affecting software end-users.

## Procedures

In 2011, the District updated its Strategic Plan. The purpose of the Strategic Plan is to address key issues and present guidelines on how to meet the District's professional, ethical and legal obligations successfully. It provided a disciplined effort to produce fundamental decisions and actions that shape and guide what the District is, what it does, and why it does it. The major goal of the Strategic Plan was to prepare the District for known issues and at the same time provide guidance in areas where future conditions may be more difficult to anticipate. A Strategic Planning Workshop was held with the Board of Trustees, District Management, and representative employees on March 19, 2011.

With respect to capital improvement programs, the District endeavored, with the implementation of the Strategic Plan, to: (1) establish elements for a capital improvement needs assessment policy and procedure; (2) conduct a complete and accurate inventory of capital assets; (3) complete a space inventory within one year; and (4) establish a list of future capital improvements and timetables.

Subsequently, the District commissioned a Laboratory Feasibility Study which included an existing facility assessment, site analysis, and conceptual floor plan. A Needs Assessment was also prepared which also examined the necessity for improved laboratory facilities. Ultimately, this led to unanimous approval of the project by the Board of Trustees last month.

We have an outstanding and professional staff at the District. The General Manager and District staff endeavored to keep the entire Board fully apprised of the planning for this project at every step. I can assure you that all the Trustees were intimately involved in the planning phase, and that involvement and concern has resulted in a better project which has increased the public benefit that will be derived from the project.

I am confident that this project will be sufficient to serve the District's needs for many years. This project is reasonable and necessary to ensure the District's scientific operations staff has sufficient resources and capabilities to protect the public from the threat of mosquito and vector borne diseases. I am also confident that this project will be completed on time and within budget. The proposed budget accounts for inflation through the year 2013, assuming an 18 month completion date.



TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL  
State of California

KAMALA D. HARRIS  
Attorney General

---

OPINION	:	No. 09-502
	:	
of	:	August 22, 2011
	:	
KAMALA D. HARRIS	:	
Attorney General	:	
	:	
DIANE E. EISENBERG	:	
Deputy Attorney General	:	
	:	

---

THE HONORABLE BILL EMMERSON, MEMBER OF THE STATE SENATE,  
has requested an opinion on the following question:

May a city council remove its appointee to the Board of Trustees of a Mosquito  
and Vector Control District at the council's pleasure?

CONCLUSION

A city council may not remove its appointee to the Board of Trustees of a  
Mosquito and Vector Control District at the council's pleasure.

## ANALYSIS

Since 1915, mosquito abatement and vector control districts (“mosquito abatement districts”) have protected California communities against the threats of vector-borne diseases.<sup>1</sup> In 2002, the Legislature enacted the Mosquito and Vector Control District Law<sup>2</sup> (“Mosquito District Law”) in order “to create and continue a broad statutory authority for a class of special districts with the power to conduct effective programs for the surveillance, prevention, abatement, and control of mosquitoes and other vectors.”<sup>3</sup>

Each mosquito abatement district is governed by a board of trustees consisting of at least five members.<sup>4</sup> The board is a legislative body charged with establishing policies for the operation of the district and providing for the faithful implementation of those policies by the employees of the district.<sup>5</sup> The composition of the board of trustees depends on whether the district is located in one or more than one county, and on whether the district consists of only unincorporated territory, or of both unincorporated and incorporated territory.<sup>6</sup> Trustees of mosquito abatement districts are appointed, not

---

<sup>1</sup> Health and Safety Code § 2001(b)(4). Unless otherwise indicated, all further statutory references are to the Health and Safety Code.

<sup>2</sup> §§ 2000-2093 (2002 Stat. ch. 395 § 6 (Sen. 1588)).

<sup>3</sup> § 2001(c). A vector is “any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, mites, ticks, other arthropods, and rodents and other vertebrates.” § 2002(k).

<sup>4</sup> § 2020.

<sup>5</sup> *Id.*

<sup>6</sup> Section 2021 provides in full:

Within 30 days after the effective date of the formation of a district, a board of trustees shall be appointed as follows:

(a) In the case of a district that contains only unincorporated territory in a single county, the board of supervisors shall appoint five persons to the board of trustees.

(b) In the case of a district that is located entirely within a single county and contains both incorporated territory and unincorporated territory, the board of supervisors may appoint one person to the board of trustees, and the city council of each city that is located in whole or in part within the district may appoint one person to the board of trustees. If those appointments result in a board of trustees with less than five trustees, the

elected.<sup>7</sup>

We are asked whether a city council that has appointed a person to the board of trustees of a mosquito abatement district may later remove that person from the board at the council's discretion—that is, before the expiration of the appointee's term and without specific statutory authority for the removal. We conclude that a city council may not remove its appointee to a mosquito abatement district board of trustees at the council's will or pleasure.<sup>8</sup>

Government Code section 1301 provides: "Every office, the term of which is not fixed by law, is held at the pleasure of the appointing power."<sup>9</sup> We have no hesitation in

---

board of supervisors shall appoint enough additional persons to make a board of trustees of five members.

(c) In the case of a district that contains only unincorporated territory in more than one county, the board of supervisors of each county may appoint one person to the board of trustees. If those appointments result in a board of trustees with less than five persons, the board of supervisors of the principal county shall appoint enough additional persons to make a board of trustees of five members.

(d) In the case of a district that is located in two or more counties and contains both incorporated territory and unincorporated territory, the board of supervisors of each county may appoint one person to the board of trustees, and the city council of each city that is located in whole or part within the district may appoint one person to the board of trustees. If those appointments result in less than five persons, the board of supervisors of the principal county shall appoint enough additional persons to make a board of trustees of five members.

<sup>7</sup> See § 2021.

<sup>8</sup> Although the request for this opinion specifically asks only about whether a city council has the power to remove its appointee to a mosquito abatement district board at will, the conclusion presented herein also applies to a county board of supervisors in its capacity as an appointing authority.

<sup>9</sup> See also *Brown v. Super. Ct.*, 15 Cal. 3d 52, 54, 57 (1975). While an appointing power's authority to remove an appointee is broad, it is not unlimited. For example, removal or dismissal based on the appointee's exercise of a constitutional or statutory right is improper. See *Bogacki v. Bd. of Supervisors*, 5 Cal. 3d 771, 778 (1971); *Ball v. City Council of City of Coachella*, 252 Cal. App. 2d 136, 141-143 (1967). Civil service employees are subject to removal only in accordance with civil service laws and

determining for the purposes of this opinion that mosquito abatement district trustees are public officers.<sup>10</sup>

Whether a public office has a fixed term is determined by reference to the law creating the office.<sup>11</sup> For this purpose, the most relevant statute is section 2024, which provides in full:

(a) Except as provided in Section 2023,<sup>[12]</sup> the term of office for a member of the board of trustees shall be for a term of two or four years, at the discretion of the appointing authority. Terms of office commence at noon on the first Monday in January.

(b) Any vacancy in the office of a member appointed to a board of

---

regulations. *See Hanley v. Murphy*, 40 Cal. 2d 572, 573 (1953).

<sup>10</sup> We have previously summarized the nature of a “public office” as “a position in government (1) which is created or authorized by the Constitution or some law; (2) the tenure of which is continuing and permanent, not occasional or temporary; (3) in which the incumbent performs a public function for the public benefit and exercises some of the sovereign powers of the state.” 68 Ops.Cal.Atty.Gen. 337, 342 (1985); *see also Schaefer v. Super. Ct.*, 113 Cal. App. 2d 428, 432 (1952). The office of trustee of the board of a mosquito abatement district is created by statute (§ 2020), is continuing (§ 2024), and entails the protection of the public from vectors and vectorborne diseases (*see* §§ 2001, 2020, 2040). A mosquito abatement district board also exercises sovereign powers of the state. *See Schaefer*, 113 Cal. App. 2d at 432-433 (listing various indicia of the exercise of state powers); §§ 2040 (district may take all necessary actions to prevent and abate vectorborne diseases), 2041 (district may sue and be sued, acquire and dispose of property, contract for supplies and services, and participate in land use planning), 2044 (district may enter into agreements with other public agencies), 2045 (district may contract with other public agencies to provide services). The authority to make policy and to act independently is also the hallmark of an officer, as opposed to an employee. *See* 82 Ops.Cal.Atty.Gen. 83, 86 (1999). Section 2022, subdivision (e) requires that trustees exercise “their independent judgment,” and section 2020 expressly distinguishes the board of trustees, which is charged with establishing policies for the operation of the district, from the employees of the district, who implement the board’s policies.

<sup>11</sup> *Boyd v. Huntington*, 215 Cal. 473, 479 (1932); 67 Ops.Cal.Atty.Gen. 405, 406 (1984).

<sup>12</sup> Section 2023 provides for staggered terms for the initial board of trustees of a mosquito abatement district formed on or after January 1, 2003.

trustees shall be filled pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall fill the balance of the unexpired term.

In interpreting section 2024, we employ well-established principles of statutory construction. As our Supreme Court has instructed:

[O]ur first task is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent, [we] must look first to the words of the statute themselves, giving to the language its usual, ordinary import and according significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose. A construction making some words surplusage is to be avoided. The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible. ... Both the legislative history of the statute and the wider historical circumstances of its enactment may be considered in ascertaining the legislative intent.<sup>13</sup>

The ordinary import of the words of section 2024(a) is not that the term of office of a trustee is generally subject to the appointing authority's discretion, but rather that the appointing authority may choose whether the term of a trustee is for two years or for four years. We are assisted to this conclusion by the longstanding rule of statutory construction commonly known as the "last antecedent rule," according to which "modifying phrases are to be applied to the words immediately preceding them and are not to be construed as extending to more remote phrases" unless the context or the evident meaning of the statute requires a different construction.<sup>14</sup> Thus, the phrase "at the discretion of the appointing authority" refers to "a term of two or four years;" we find no reason to favor a different construction.<sup>15</sup> Indeed, reading section 2024(a) to mean that a

---

<sup>13</sup> *Dyna-Med, Inc. v. Fair Empl. & Hous. Commn.*, 43 Cal. 3d 1379, 1386-1387 (1987) (citations omitted).

<sup>14</sup> *Oliva v. Swoap*, 59 Cal. App. 3d 130, 138 (1976) (citations omitted); *see also Furtado v. Sierra Community College*, 68 Cal. App. 4th 876, 881 (1998) ("qualifying words and phrases, where no contrary intention appears, refer solely to the last antecedent"); *White v. Co. of Sacramento*, 31 Cal. 3d 676, 680 (1982).

<sup>15</sup> Some courts have noted that the separation of the modifying phrase from the antecedents of the sentence by means of a comma may evince an intent that the modifying phrase apply to all antecedents rather than only to the immediately preceding

trustee serves at the will of the appointing authority requires that the phrase “for a term of two or four years” be accorded no significance and rendered a nullity. We consider such a reading to be untenable.

We further find that section 2024(a) plainly provides for a fixed, not an indeterminate, term of office. The disjunctive word “or” signifies that a term of two years and a term of four years are alternative possibilities,<sup>16</sup> but each alternative nevertheless constitutes a fixed term. Indeed, as our Supreme Court has observed, “[t]he word ‘term,’ when used in reference to the tenure of office, means ordinarily a fixed and definite time.”<sup>17</sup>

Our view that the term of a district trustee is fixed finds further support in the statutory context and legislative history of section 2024. Context is provided by section 2007(c), which states that a mosquito abatement district “shall be deemed an ‘independent special district,’ as defined by Section 56044 of the Government Code.” Government Code section 56044, in turn, defines the term “independent special district” to include “any special district<sup>[18]</sup> having a legislative body all of whose members are

---

antecedent. See e.g. *White*, 31 Cal. 3d at 680; *In re Phelps*, 93 Cal. App. 4th 451, 456 (2001). However, this exception to the “last antecedent rule” typically comes into play when the antecedents consist of a series of syntactically equivalent terms. See e.g. *In re Marriage of Walker*, 138 Cal. App. 4th 1408, 1421 (2006) (construing phrase set off by comma to refer both to duty to make full disclosure and to duty to provide equal access to records, rather than only to latter duty); see also *People v. Steffens*, 62 Cal. App. 4th 1273, 1284-1286 (1998) (concluding that final clause of a statute applied both to alteration of access-card account information and to authorization of such alteration). The phrase “at the discretion of the appointing authority” in the first sentence of subdivision (a) of section 2024 is set off from the rest of the sentence by a comma. However, this sentence is grammatically unlike those to which the comma exception has been applied, and we find no evidence of legislative intent that the exception should apply where, as here, its application would render the whole sentence contradictory and incoherent.

<sup>16</sup> See *Houge v. Ford*, 44 Cal. 2d 706, 712 (1955) (stating that in “its ordinary sense, the function of the word ‘or’ is to mark an alternative such as ‘either this or that’”); *Nieto v. Blue Shield of Cal. Life & Health Ins. Co.*, 181 Cal. App. 4th 60, 82 (2010) (citing as a general principle that the Legislature’s use of the disjunctive “or” indicates an intent to designate alternative ways of satisfying statutory requirements); 88 Ops.Cal.Atty.Gen. 196, 198 (2005) (“or” implies a disjunctive or alternative meaning).

<sup>17</sup> *Boyd*, 215 Cal. at 479.

<sup>18</sup> A district or special district is defined as “an agency of the state, formed

elected by registered voters or landowners within the district, or whose members are appointed to fixed terms.” Because the trustees of mosquito abatement districts are not elected, it follows that their appointments are for fixed terms. Sections 2024 and 2007 may thus be construed together to achieve a uniform and consistent legislative purpose.<sup>19</sup>

With regard to legislative history, we note that several legislative committee analyses of Senate Bill 1588 describe mosquito abatement districts, both under prior law<sup>20</sup> and under the new Mosquito District Law, as having “boards of trustees composed entirely of members who have been appointed for fixed terms by county boards of supervisors and city councils.”<sup>21</sup>

Finally, it is clear that when the Legislature wishes to create an office without a fixed term, it knows how to do so. For example, the statute governing the duration of service of board members of pest abatement districts does not specify a term of office. Instead, it provides that “[t]he members of the district board shall hold office at the pleasure of the board of supervisors.”<sup>22</sup> The chapters governing mosquito abatement districts and pest abatement districts are both part of Division 3 of the Health and Safety Code, titled “Pest Abatement.”<sup>23</sup> “When the Legislature uses materially different language in statutory provisions addressing the same subject or related subjects, the normal inference is that the Legislature intended a difference in meaning.”<sup>24</sup> We

---

pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.” Govt. Code § 56036.

<sup>19</sup> See *Isobe v. Unempl. Ins. Apps. Bd.*, 12 Cal. 3d 584, 591 (1974).

<sup>20</sup> Section 2245, which was repealed by Senate 1588, provided in relevant part: “The first term of any member shall not exceed two years. Each subsequent consecutive reappointment, if any, may be for a term of two or four years, at the discretion of the appointing power.”

<sup>21</sup> Sen. Loc. Govt. Comm., Analysis of Sen. 1588, 2001-2002 Reg. Sess. 5 (April 24, 2002); Assembly Comm. on Loc. Govt., Analysis of Sen. 1588, 2001-2002 Reg. Sess. 4 (June 19, 2002) (emphasis added).

<sup>22</sup> § 2851.

<sup>23</sup> The Mosquito District Law is contained in Division 3, Chapter 1. The law governing pest abatement districts (§§ 2800 et seq.) is contained in Division 3, Chapter 8. Chapter 8 “is supplemental to any other provision of law relating to the abatement of pests or nuisances.” § 2801.

<sup>24</sup> *People v. Trevino*, 26 Cal. 4th 237, 242 (2001); *People v. Franz*, 88 Cal. App. 4th 1426, 1440 (2001) (stating that it is “a settled rule of statutory construction that where a statute, with reference to one subject contains a given provision, the omission of such

therefore conclude that, pursuant to section 2024, a mosquito abatement district trustee serves for a fixed term of office, and not merely at the pleasure or discretion of the appointing authority.

Proponents of the view that a city council may remove its appointed trustee from a mosquito abatement district board cite Government Code section 36506 as an independent source of authority for such removal. Government Code section 36506 provides: “By resolution or ordinance, the city council shall fix the compensation of all appointive officers and employees. Such officers and employees hold office during the pleasure of the city council.” We find this statute to be inapposite, however, because we believe it is intended to apply to *municipal* officers and employees, and not to the officers of independent special districts, such as a mosquito abatement district.<sup>25</sup> We have found no cases in which Government Code section 36506 has been applied to members of the governing board of an independent special district. The differentiation between a mosquito abatement district and a city that has appointing authority is reflected in the Mosquito District Law’s mandate that all trustees “shall represent the interests of the public as a whole and not solely the interests of the board of supervisors or the city council that appointed them.”<sup>26</sup>

Even assuming that Government Code section 36506 encompassed a city’s appointee to a mosquito abatement district board, we would still conclude that the appointee could not be removed at the city’s pleasure. As applied to a mosquito abatement district trustee, Government Code section 36506 conflicts with section 2024, in that Government Code section 36506 provides for a term of office that is not fixed, whereas section 2024 provides for a fixed term. It is a well-established rule of statutory interpretation that when a specific and a general provision cannot be reconciled, the specific statute controls the more general statute.<sup>27</sup> The special statute relating to a

---

provision from a similar statute concerning a related subject is significant to show that a different legislative intent existed with reference to the different statutes”) (citations omitted).

<sup>25</sup> See e.g. *Cerini v. City of Cloverdale*, 191 Cal. App. 3d 1471, 1477-1478 (1987) (“section 36506 grants to the Cloverdale city council the power to terminate appointed officers or employees *of the city*”) (emphasis added); *Ellis v. City Council of City of Burlingame*, 222 Cal. App. 2d 490, 499 (1963) (Government Code sections 34856 and 36506 “provide that both the city manager and the city council shall have the power to dismiss appointive officers and employees *of the city*”) (emphasis added).

<sup>26</sup> § 2022(e).

<sup>27</sup> See Code Civ. Proc. § 1859 (“[i]n the construction of a statute...when a general and particular provision are inconsistent, the latter is paramount to the former”); *People*



particular subject is treated as an exception to the general statute, and “will govern in respect to that subject,” as against the general statute, “although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates.”<sup>28</sup> Government Code section 36506 refers to a city’s appointees in general, whereas section 2024 pertains specifically to the appointees to the board of a mosquito abatement district. Accordingly, regardless of the scope of Government Code section 36506, a city’s appointed trustee to a mosquito abatement district board assumes a fixed term of office under the provisions of section 2024.

We do not suggest that there are no circumstances under which a mosquito abatement district trustee might be removed from, disqualified from, or deemed to forfeit the office. Section 2024(b) addresses vacancies on the board of trustees and specifies that any such vacancy “shall be filled pursuant to Section 1779 of the Government Code.”<sup>29</sup> Government Code section 1770 enumerates events that effect a vacancy in an office, including the death or resignation of the incumbent, or, pursuant to subdivision (d), “[h]is or her removal from office.” However, to say that a mosquito abatement district trustee may be removed or disqualified from office is not the same as saying that the appointing power may remove a trustee *at its pleasure*. As the court of appeal has stated: “A person holds office subject to conditions imposed by the state, *and where cause for removal is provided by law*, the person is deemed to have accepted the office on condition *he or she could be removed for that cause and in the manner provided.*”<sup>30</sup>

---

*v. Super. Ct. (Jimenez)*, 28 Cal. 4th 798, 808 (2002); *Woods v. Young*, 53 Cal. 3d 315, 325 (1991); *Friends of the Library of Monterey Park v. City of Monterey Park*, 211 Cal. App. 3d 358, 370-371 (1989) (detailed regulatory provisions of Municipal Libraries Act prevail over more general provision of Government Code section authorizing city to own and operate public libraries); 87 Ops.Cal.Atty.Gen. 148, 152 (2004).

<sup>28</sup> *S.F. Taxpayers Assn. v. Bd. of Supervisors*, 2 Cal. 4th 571, 577 (1992) (quoting *Rose v. State*, 19 Cal. 2d 713, 723-724 (1942)).

<sup>29</sup> Government Code section 1779 provides in full:

A vacancy on any appointed governing board of a special district shall be filled by the appointing authority within 90 days immediately subsequent to its occurrence. If no action is taken for a period of 90 days immediately subsequent to a vacancy on such a board, the board of supervisors of the county in which the larger portion of the district is located shall have authority to fill the vacancy by appointment.

<sup>30</sup> *Lubin v. Wilson*, 232 Cal. App. 3d 1422, 1429-1430 (1991) (emphasis added). Possible grounds for removal from an office are beyond the scope of this opinion.

Accordingly, we conclude that a city council may not remove its appointee to the Board of Trustees of a Mosquito and Vector Control District at the council's pleasure.

\*\*\*\*\*

STATE CAPITOL  
SACRAMENTO, CA 95814  
(916) 651-4037

## California State Senate

SENATOR  
JOHN J. BENOIT  
THIRTY-SEVENTH SENATE DISTRICT



May 4, 2009

California Attorney General  
Susan Lee, Deputy Attorney General  
Opinion Unit  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102

Re: Request for Attorney General's Opinion

To Whom It May Concern:

The purpose of this letter is to request an opinion from the California Attorney General on the following question:

### QUESTION PRESENTED

Under what circumstances may a city council remove its appointee to the Board of Trustees of a Mosquito and Vector Control District ("District")?

### BACKGROUND

Mosquito Abatement and Vector Control Districts ("Districts") are independent governmental entities created and governed entirely by The Mosquito Abatement and Vector Control District Law. (Health & Saf. Code § 2000, *et. seq.*) Districts are governed by Boards of Trustees consisting of at least five members, whose appointment varies depending on the number and type of territories located within the District. (Health & Saf. Code § 2020.) For Districts located entirely within one county, as is the case here, the City Council of each city within the District's jurisdiction may appoint one member to the Board. (Health & Saf. Code § 2021, subd. (b).) Health and Safety Code section 2024, subdivision (a) provides, "[e]xcept as provided in Section 2023<sup>1</sup>, the term of office for a member of the board of trustees shall be for a term of two or four years, at the discretion of the appointing authority."

<sup>1</sup> Health and Safety Code section 2023 only applies to the initial board of trustees of a district formed after January 1, 2003, and thus is not relevant to this particular set of circumstances.

California Attorney General  
May 4, 2009  
Page 2

The particular circumstances that gave rise to this request are as follows. In September 2004, the Indio City Council appointed a representative to the Board of the Coachella Valley Mosquito and Vector Control District ("CVMVCD"). The representative was appointed to a term of four years ("Indio Representative"). In March of 2008, prior to the expiration of the Indio Representative's term, the Indio City Council voted to terminate the term of the Indio Representative and attempted to appoint a new representative to fill this CVMVCD Board position. The Indio Representative initially refused to step aside; he asserted that the Indio City Council did not have the authority to remove him prior to the expiration of his term. However, the Indio Representative eventually stepped aside prior to the end of his term when it was later revealed that he had not taken the necessary oath of office. While this particular circumstance was resolved on different grounds, this issue was highly controversial and was subject to much debate in the local papers.

This letter seeks clarification as to whether and/or under what circumstances appointees to the Board of Trustees of the District may be removed from office by the agency that appointed the Trustee.

#### LEGAL ANALYSIS

Many California cases and attorney general opinions have recognized the long standing principle that "[e]very office, the term of which is not fixed by law, is held at the pleasure of the appointing power." (Gov. Code § 1301; *Brown v. Superior Court* (1975) 15 Cal.3d 52, 55 [Members of regional coastal commission may be removed without cause where the California Coastal Zone Conservation Act of 1972 did not expressly or impliedly specify a term of office]; see also *Boyd v. Huntington* (1932) 215 Cal. 473; *Brennan v. Riley* (1935) 3 Cal.2d 736.) If the Legislature creates an office with a fixed term, "the incumbent is more securely tenured since 'the mode for his or her removal must be followed' . . ." (69 Ops.Cal.Atty.Gen. 126, 133 (1986) [Directors of the Yuba County Water Agency Board could not be removed under any circumstances where enabling statute specified a two year term of office, did not provide for removal proceedings, and there were no facts to indicate good cause for removal], citing 26 Cal.Ops.Atty.Gen. 149, 151 (1955).) If, however, the Legislature has not "fixed" the term of office, "their tenure of office would be held at the 'pleasure' or 'will' of the [appointing authority] and they could be, with certain limitations, removable by it at any time without a need to show judicially cognizable good 'cause.'" (*Id.* at 132.) The determination of "whether a public officer has a fixed term of office can only be made by reference to the law creating the office." (67 Cal.Ops.Atty.Gen. 405, 409 (1984).)

In the case at hand, the Mosquito and Vector Control District Law specifies that Trustees are to be appointed to either a "two or four" year term. (Health & Saf. Code § 2024, subd. (a).) It does not, however, specify whether the Trustees' terms of office are "fixed" and/or under what circumstances or procedures a Trustee may be removed from office.

California Attorney General  
May 4, 2009  
Page 3

However, the legislative history of Health & Safety Code § 2024 expressly refers to Trustees' terms of office as "fixed." On multiple occasions, the Bill Analysis to SB 1588 states that "the mosquito abatement districts have boards of trustees composed entirely of members who have been appointed for *fixed* terms." (See Sen. Local Gov. Com., com. on Sen. Bill No. 1588 (2001-2002 Reg. Sess.) April 24, 2002, p.5; Assem. Com. on Local Gov., com. on Sen. Bill No. 1588 (2001-2002 Reg. Sess.) June 19, 2002, p.4, *emphasis added.*)

Additionally, the Mosquito and Vector Control District Law specifies that once appointed, "[a]ll trustees shall exercise their *independent judgment* on behalf of the interests of the residents, property owners, and the public as a whole in furthering the purposes and intent of this chapter. The trustee shall represent the interests of the public as a whole and not solely the interests of the Board of Supervisors or the City Council that appointed them." (Health & Saf. Code § 2022, subd. (e), *emphasis added.*) Nothing in the Mosquito Abatement and Vector Control District Law states that Trustees serve at the pleasure of the City Council, or any other appointing authority.

Furthermore, Health and Safety Code section 2007, subdivision (c) states that "[a] district shall be deemed an 'independent special district,' as defined by Section 50644 of the Government Code." Government Code section 50644 defines independent special districts as "... any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, *or whose members are appointed to fixed terms*, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. . ." (Emphasis added.) Since the Trustees of the Mosquito and Vector Control District are not elected by voters or landowners, it seems logical to infer that Mosquito and Vector Control Districts qualify as "independent special districts" because their "members are appointed to fixed terms."

Thus, it appears likely that, because the Mosquito and Vector Control District Law specifies that Trustees are to be appointed to a two or four year term, the legislative history of Health and Safety Code section 2024 identifies these terms as "fixed," and the definition of "independent special district" itself recognizes that terms are "fixed," the Trustees appointed to the Mosquito and Vector Control District serve fixed terms and cannot be unilaterally removed from office by the appointing authority.

However, even if the Trustees terms are "fixed," it is possible that a new representative may be appointed if the office becomes vacant. Government Code section 1770 sets forth several circumstances which may cause a vacancy in public office. It provides:

§ 1770 Events causing vacancy before expiration of term.

California Attorney General  
May 4, 2009  
Page 4

An office becomes vacant on the happening of any of the following events before the expiration of the term:

- (a) The death of the incumbent.
- (b) An adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.
- (c) His or her resignation.
- (d) His or her removal from office.
- (e) His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged.
- (f) His or her absence from the state without the permission required by law beyond the period allowed by law.
- (g) His or her ceasing to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.
- (h) His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For the purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.
- (i) His or her refusal or neglect to file his or her required oath or bond within the time prescribed.

California Attorney General  
May 4, 2009  
Page 5

- (j) The decision of a competent tribunal declaring void his or her election or appointment.
- (k) The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.
- (l) His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

Several cases have interpreted Government Code § 1770 to provide for the *exclusive* means for a public office to become vacant absent contrary legislation. (*Rosborough v. Boardman* (1885) 67 Cal. 116 [referring to Pol. Code § 996, Gov. Code § 1770's predecessor]; *Hartford Accident & Indemnity Co. v. City of Tulare* (1947) 30 Cal.2d 832 [expressing public policy against vacancy in office or gap between successive office holders].)

The District Board of Trustees position would likely be deemed to be a "public office" subject to the parameters of Government Code § 1770. (Gov. Code § 1000; *Schaefer v. Superior Court* (1952) 113 Cal.App.2d 428, 432 ["One of the prime requisites" for determining whether a position is considered a public office "is that the office [is] created by the Constitution or authorized by some state statute".]) The office was created by state statute. The Mosquito Abatement and Vector Control District Law, as previously mentioned, and further, the Act itself cites Government Code § 1779 as the procedure to fill vacancies on the District Board. (See Health & Saf. Code § 2024, subd. (b).) Government Code § 1779 is contained in the very same "Vacancies" Chapter 4, Article 2, of the Government Code as is § 1770. It is likely, therefore, that this indicates a Legislative intent for all of the rules and procedures regarding vacancies contained in Article 2 to apply to Districts created pursuant to the Mosquito Abatement and Vector Control District Law.

Once an appointed official validly assumes office, and in the absence of a resignation, one possible event that could have caused a vacancy in office is "[h]is or her removal from office." However, there is no case law or attorney general opinion that suggests that this authorizes the appointing agency to simply to remove the representative.

The structure of the statute itself suggests it has a different meaning. Government Code § 1770 is located in Division 4 [Public Officers and Employees], chapter 4 [Resignations and Vacancies], article 2 [Vacancies]. Within the same Division 4 [Public Officers and Employees] is Chapter 7, entitled, "Removal from Office." Chapter 7 lists various articles and sections that identify when an officer may be removed from office. For instance, under Article 1 [General],

California Attorney General  
May 4, 2009  
Page 6

Section 3000, an officer may be removed if he or she is convicted of a designated crime. Section 3001 provides that an officer may be removed if he or she is intoxicated on the job. Article 2, Sections 3020-3040 detail the procedures for impeachment and Article 3, Sections 3060-3074 detail the procedures to remove an officer who has been accused of willful or corrupt misconduct in writing and/or indicted by a Grand Jury. Based upon this context, it would appear likely that the only way an officer appointed to a fixed term could be "removed" from office, so as to cause a vacancy where a new official could be appointed is, if as described above, the officer is (1) convicted of a crime (2) intoxicated on the job (3) impeached or (4) accused of willful or corrupt misconduct or indicted.

In informal discussions amongst legal counsel, the Indio City Attorney had cited to Government Code § 36506, *U.S. v. Chaplin*, (1944) 54 F.Supp. 926 and Health and Safety Code § 2001, subdivision (d) as the authority for the removal of the Indio Representative.

Government Code Section 36506 provides: "[b]y resolution or ordinance, the city council shall fix the compensation of all appointive officers and employees. Such officers and employees hold office during the pleasure of the city council." This provision is contained within Title 4 of the Government Code, entitled "Government of Cities." Thus, by its own terms, it likely applies *only* to officers and employees appointed within the city government, and *not* to officers appointed to independent special districts created by state statute. Furthermore, the inapplicability of section 36506 to the present situation is also shown by the first sentence of the code section which provides that "the city council shall fix the compensation of all appointed officers and employees." Compensation for the members of the District's Board of Trustees is not fixed by the various appointing city councils, but rather, is governed by Health and Safety Code Section 2030.

*U.S. v. Chaplin* (1944) 54 F.Supp. 926 involved a city official, who, unlike the Trustees of the Mosquito and Vector Control District, by statute, expressly served at the city council's pleasure.) *U.S. v. Chaplin* primarily dealt with the immunities afforded to a city judge for alleged misconduct in office. In dicta, however, the Court stated, "[The judge] was an appointive official, appointed by the City Council of Beverly Hills, and as such, holds office at the pleasure of the appointing power and is subject to removal at the pleasure of the Council." (*Id.* at 933.) The judge was appointed according to a now repealed statute which specifically stated that judges in the city court served at the pleasure of the city council. Thus, it seems unlikely the language in *Chaplin* is applicable to the determination of whether a city council can remove Trustees appointed to fixed terms at an independent special district.

Health and Safety Code Section 2001, subdivision (d) states: "It is also the intent of the Legislature that mosquito and abatement districts cooperate with other public agencies to protect the public health, safety, and welfare. Further, the Legislature encourages local communities and local officials to adapt the powers and procedures provided by this chapter to meet the diversity



California Attorney General

May 4, 2009

Page 7

of their own local circumstances and responsibilities." As the plain language indicates, this provision merely encourages Districts to cooperate with other local agencies, and provides no procedures or standards relating to the term, removal, or vacancies on the Board of Trustees.

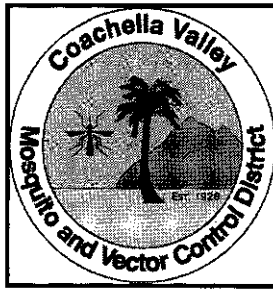
As a result, the current state of the law relating to removal procedures for members of the Board of Trustees of the Mosquito and Vector Control Districts is unclear with respect to the specific issue presented in this request. Thus, an opinion is requested that clarifies the law as applied to the facts contained in this request.

To the extent you would like further information on this topic, please contact me. I would be more than happy to provide whatever additional information may be needed to obtain an answer to this question.

Sincerely,



JOHN J. BENOIT  
Senator, 37th District



## MEMORANDUM

---

To: City of Palm Springs

From: Sharon Lock, President  
Coachella Valley Mosquito and Vector Control District

Date: April 24, 2012

Re: Laboratory Expansion Project

---

As the City's representative to the Coachella Valley Mosquito and Vector Control District ("District"), I want to provide you some background information on a laboratory expansion project that has recently garnered media attention.

Last month, the District approved \$2.6 million in capital expenditures in order to enhance the District's mosquito, vector and disease testing service. These expenses will be used to expand and upgrade the District's laboratory, not build a new facility.

On April 15, the Desert Sun published a lengthy article in which some questioned this expenditure. Also, on April 20, there was a Desert Sun editorial that raised the same issues set forth in the article, neither of which addressed the upgrade in public health and safety issues. This memorandum is intended to clarify the necessity for expansion of the laboratory which was unanimously approved by the Board of Trustees, and to explain the procedures through which it was determined that the expansion was necessary and in the best interests of the District and its residents – your constituents.

Preliminarily, I want to reassure you that the District is starkly aware of the importance of not only safeguarding public funds, but also of bolstering public confidence in the District—while at the same time ensuring that the District is able to carry out its core mission of reducing the risk of disease transmission through mosquitoes and vectors. The District has reduced its annual homeowner assessment by over 80% since 2007.

### The Project

Unfortunately, the Desert Sun misrepresented the project by stating a new lab building is to be constructed. In fact, this is a remodel and expansion of existing facilities.

The Desert Sun correctly indicated that a major reason for the laboratory expansion was to expedite mosquito testing, which is currently outsourced to the University of California, Davis. While this is one of the critical reasons the expansion is necessary, there are a number of other reasons that should be explained.

### Expansion Project

The District currently has professional and technical staff in place to provide rapid molecular surveillance services to District residents. However, the District relies on an outside agency for certain necessary testing, which causes a delay in response times. Additionally, the current testing prices are expensive and incur additional shipping costs to UC Davis.

The upgraded facility will resolve all the problems with the current facility listed above, and allow for anticipated future growth. It will allow the District to provide enhanced surveillance of a broad range of vector borne pathogens that cause human and animal disease. It will result in cost savings of approximately \$37,000 per year in controlling arbovirus transmission and testing. (Initial equipment costs are approximately \$70,000, which will be paid off in less than two years). This increased expediency will result in less pesticide use, savings on chemicals and labor, and reduced environmental risk.

Increased processing capabilities will allow the District to not only combat West Nile virus, but also St. Louis encephalitis virus, western equine encephalomyelitis virus, and potentially new, emerging diseases such as Dengue and Chikungunya fever. If an arbovirus is detected early in mosquitoes then the virus transmission can be controlled, human health may be preserved, and money can be saved from trying to control a widespread outbreak. With its improved capabilities, the District will have the ability to test for multiple viruses, and costs to test for new viruses would be reduced and controlled.

Allowing for on-site testing has other benefits as well. In late January, it was announced at a meeting of the Mosquito and Vector Control Association of California that the Centers for Disease Control and Prevention (CDC) have reduced supporting states with arbovirus testing, including West Nile Virus surveillance. This was not a surprise, as the CDC has undergone major budget cuts recently.

The District lacks control over funding or reporting time at UC Davis. With uncertainties in future state funding for the University of California (which has recently suffered major budget cuts), testing time could potentially increase—especially since UC Davis is not mandated by the State to perform the testing.

The upgraded facility will consolidate all laboratory functions into one building. Having a single work and office space for staff in the surveillance and integrated vector and

quality control groups will facilitate collaborations between the groups and streamline some of the experimental procedures. This will increase productivity, and allow the District to improve response time and effectiveness.

From a planning perspective, the floor plan principally groups program functions into three zones: laboratories, offices and support services. New mechanical and electrical spaces are located in or near the new addition for improved, cost-effective utility distribution.

### Inadequacy of Current Facilities

The District's laboratory is currently housed in two locations (the Biocontrol Building and the Operations Building). Although the buildings are within walking distance from one another, having separate facilities causes workflow inefficiencies and hinders communication and collaboration between staff.

Both buildings fail to comply with the standards set forth by the United States Department of Health and Human Services as established in its handbook on "Biosafety in Microbiological and Biomedical Laboratories." Currently, workers must pass through the workrooms to access rearing rooms, restrooms, janitor rooms, and the storage/archive/office room. This potentially puts science work and staff at risk. In addition, some of the areas are underutilized, while others are inefficient.

Space in a number of rooms is inadequate. There is inadequate space for essential equipment, such as incubators and chemical storage cabinets. There are exposed pipes which pose a potential hazard to staff. From an environmental conditioning standpoint, temperature and relative humidity are not reliable in certain areas, making it difficult to maintain natural outdoor conditions which are needed. Some of the rooms are not suited for the wet conditions present and lack vermin control.

Due to lack of space, some work areas are being used for purposes for which they were not intended. At least one of the rooms is overflowing with tools, parts, supplies, boxes, and carts and does not provide appropriate ventilation for storage of batteries.

In the Operations Building, there is a problem with insufficient exit egress near a laboratory hood, which is not in compliance with the standards promulgated by the National Fire Protection Association.

The expanded facility will also allow for expansion of the District's Information Technology ("IT") Department—which will have to be expanded somehow in any event. Under the plan, the existing laboratory office space in the Operations building is to be utilized by IT, allowing for improved communication and collaboration on issues affecting software end-users.

## Procedures

In 2011, the District updated its Strategic Plan. The purpose of the Strategic Plan is to address key issues and present guidelines on how to meet the District's professional, ethical and legal obligations successfully. It provided a disciplined effort to produce fundamental decisions and actions that shape and guide what the District is, what it does, and why it does it. The major goal of the Strategic Plan was to prepare the District for known issues and at the same time provide guidance in areas where future conditions may be more difficult to anticipate. A Strategic Planning Workshop was held with the Board of Trustees, District Management, and representative employees on March 19, 2011.

With respect to capital improvement programs, the District endeavored, with the implementation of the Strategic Plan, to: (1) establish elements for a capital improvement needs assessment policy and procedure; (2) conduct a complete and accurate inventory of capital assets; (3) complete a space inventory within one year; and (4) establish a list of future capital improvements and timetables.

Subsequently, the District commissioned a Laboratory Feasibility Study which included an existing facility assessment, site analysis, and conceptual floor plan. A Needs Assessment was also prepared which also examined the necessity for improved laboratory facilities. Ultimately, this led to unanimous approval of the project by the Board of Trustees last month.

We have an outstanding and professional staff at the District. The General Manager and District staff endeavored to keep the entire Board fully apprised of the planning for this project at every step. I can assure you that all the Trustees were intimately involved in the planning phase, and that involvement and concern has resulted in a better project which has increased the public benefit that will be derived from the project.

I am confident that this project will be sufficient to serve the District's needs for many years. This project is reasonable and necessary to ensure the District's scientific operations staff has sufficient resources and capabilities to protect the public from the threat of mosquito and vector borne diseases. I am also confident that this project will be completed on time and within budget. The proposed budget accounts for inflation through the year 2013, assuming an 18 month completion date.