



# **Nevada County Civil Grand Jury**

**Final Report  
2003—2004**





**GRAND JURY**  
**COUNTY OF NEVADA**  
Eric Rood Administration Center  
950 Maidu Avenue  
Nevada City, California 95959

RECEIVED

JUL 13 2004

NEVADA COUNTY  
BOARD OF SUPERVISORS

June 30, 2004

The Honorable Ersel L. Edwards  
Presiding Judge of the Civil Grand Jury  
Superior Court of Nevada County  
201 Church Street  
Nevada City, California 95959

Dear Judge Edwards:

The members of the 2003 – 2004 Grand Jury are pleased to submit to you our final report, as required by the California Penal Code. This report shows in detail the findings, conclusions and recommendations of each individual investigation undertaken by this year's Grand Jury. Once approved, the individual reports became available to public officials, media and the public. Copies of these reports are published on the Internet at: [www.civilgrandjury.com](http://www.civilgrandjury.com).

The Grand Jury investigated topics that are of general interest to all citizens of Nevada County. The Grand Jury expects that its recommendations will be accepted and hopes that these recommendations are implemented to the betterment of the citizenry of the county.

The Nevada County Grand Jury wishes to express their gratitude and appreciation to you and your staff for your valuable assistance and support we have received throughout the year.

Respectfully submitted,

Dieter F. Juli  
Foreman,  
2003 – 2004 Grand Jury  
of Nevada County



# MEMBERS OF THE NEVADA COUNTY CIVIL GRAND JURY 2003-2004

**Dieter F. Juli**  
Foreman

**Raymond Hoffman**  
Foreman Pro Tem

**Patrica Ann Harper**  
Secretary

**Richard Paulson**  
Sergeant-at-Arms

**Diane Masini**  
Business Manager

**Marcia Bennett**  
**William Burnett**  
**William Clark**  
**Deborah Heller**  
**Paul Higginbotham**

**Rosemary Metrailler**  
**Sheila Hart Miller**  
**Gerald Pfab**  
**Linda Pryor**  
**Elizabeth Rees**

**Ralph Sawvell**  
**Barbara Smith**  
**Robert Thompson**  
**Chuck Train**

## RESPONSE REQUIREMENTS

Following are the pertinent excerpts from the current California Penal Code concerning responses to the Civil Grand Jury report.

"Section 933(c): No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city or county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when

applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

"Section 933(d): As used in this section, "agency" includes a department.

"Section 933.05(a): For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

"Section 933.05(b): For purposes of subdivision (b) of Section 993, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analyses, with an explanation and the scope and parameters of an analysis or discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. The time frame shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

"Section 933.05(c): However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department of the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department."

The penal code also requires that the Grand Jury be available to the respondents for 45 days to clarify the recommendations of its report.

**NEVADA COUNTY CIVIL GRAND JURY  
2003 -2004 FINAL REPORT**

**TABLE OF CONTENTS**

**AUDIT AND FINANCE**

**Franchises Operations in Nevada County  
Nevada County Natural Resources Report**

**CITY GOVERNMENT**

**Grass Valley Affordable Housing  
Nevada City Affordable Housing  
Town of Truckee Affordable Housing**

**COUNTY GOVERNMENT**

**Code Compliance in Nevada County  
Safety is no Accident**

**HEALTH AND ENVIRONMENT**

**Air Quality – Cutting Through the Haze  
Wastewater Treatment in Western Nevada County  
Septic Systems Inquiry in Nevada County**

**LAW ENFORCEMENT**

**Correctional and Holding Facilities in Nevada County  
California Conservation Camp Washington Ridge**

**SCHOOLS AND LIBRARIES**

**To Charter or not to Charter**

**FOLLOW-UP**

**Analysis of the 2002-2003 Grand Jury Report and Responses**





# **AUDIT and FINANCE**

Franchises Operations in Nevada County

Nevada County Natural Resources Report



Franchises Operations  
in  
Nevada County



# **FRANCHISE OPERATIONS NEVADA COUNTY GENERAL CODE**

## **REASON FOR INVESTIGATION**

Three previous Grand Juries have issued reports emphasizing the need to update the Nevada County General Code Chapter II: Franchises. The Board of Supervisors (BOS) agreed with these recommendations each year, then issued, and reissued Board Orders (BO) that required implementation of recommendations. After three years of Board direction, many of the recommended actions are only now being completed. The Grand Jury has continued to follow this matter because revenue due from franchisees is a significant source of income to the County.

## **BACKGROUND**

In 2001, 2002, and again in 2003, the Grand Jury published reports concerning the collection of franchise fees in Nevada County. The California State Franchise Act of 1937 allows municipalities and counties to grant franchises to establish operations and to collect fees from private sector utilities. These franchise fees contribute substantially to the income of the county. The Grand Jury reports expressed concern that the county's failure to audit monies received from these franchises left the county open to possible underpayment of fees due.

The investigations done to prepare these reports spanning a three-year period led the Grand Jury to believe that the county was not managing these franchises in the best interests of the taxpayers of Nevada County. This continued lack of management control could mean that the county is not receiving the full amount owed by some or all of these private sector utilities.

Two Grand Jury recommendations have appeared in all three years of reports:

- Update the county code (Nevada County General Code Chapter II: Franchises)
- Conduct audits of all of the franchise holders

## **METHOD OF INVESTIGATION**

The Grand Jury conducted interviews with representatives from the Auditor-Controller's Office, the BOS, and with the Chief Financial Officer. The Grand Jury analyzed two Cable Franchise Audit Reviews conducted under the auspices of the Buske Group, a consulting service retained by the County. Fees collected by the County from all franchisees over the past five years were also studied.

## FINDINGS

1. In late 2002 and early 2003 two franchise utilities were audited by outside consultants at a cost of \$20,000. The audit of USA Media for the period 4/99 through 6/02 has since resulted in additional revenue of \$23,899. The audit of AT&T Broadband (now Comcast), for the period of 10/98 through 9/02 yielded additional revenue of \$79,636.35.
2. California State Law (Broughton Act) sets forth a complex formula by which public gas and electric utilities calculate the amount of franchise fees due local governments. The County accepts without verification and on a good faith basis the components used by the utilities in calculating the franchise fees.
3. After several prior extensions of Board Orders, on October 7, 2003 the BOS again extended the deadlines for completion of the Franchise Code update and for implementation of a regular franchise fee audit program to June 30, 2004.
4. The Grand Jury was informed that a new franchise agreement, more favorable to the County and with a straightforward assessment formula was negotiated with Waste Management for the disposal of solid waste in western Nevada County. This new agreement went into effect January 1, 2004.
5. Because the franchise contract for eastern Nevada County with Tahoe Truckee Disposal Company is terminating, the BOS requested the Auditor-Controller to conduct audits of this franchisee for the years 2001, 2002, and 2003 to determine that the proper fees had been paid. In a status report at its April 6, 2004 meeting, the BOS was advised that the Tahoe Truckee Disposal Company audit was not completed but should be done by June 30, 2004.
6. The Grand Jury was advised that a renewal agreement, currently being negotiated between the County and Comcast, will serve as the basis for the cable TV franchise code in Western Nevada County. This cable TV code will be presented to the BOS for approval sometime in June 2004.
7. The Grand Jury was also advised that a schedule has been set up in the Auditor-Controller's office to audit all cable franchisees every 3 years.
8. The franchise fees collected for the past five years are shown in the following table:

<b>FISCAL YEAR</b>	<b>CABLE TV</b>	<b>ELEC/GAS</b>	<b>SOLID WASTE</b>	<b>TOTAL</b>
98/99	\$ 173,056.18	\$ 220,999.73	\$ 258,861.65	\$ 652,917.56
99/00	148,184.04	246,193.61	246,077.53	640,455.18
00/01	163,520.99	243,160.96	223,222.35	629,904.30
01/02	154,833.50	334,085.04	309,350.15	798,268.69
02/03	152,410.39	344,818.42	301,711.68	798,940.49
<b>TOTAL</b>	<b>\$ 792,005.10</b>	<b>\$ 1,389,257.76</b>	<b>\$ 1,339,223.36</b>	<b>\$ 3,520,486.22</b>

## **CONCLUSIONS**

1. It appears that the County is finally making headway in establishing some meaningful control over a significant source of revenue as witnessed by:
  - the signing of a new franchise agreement for solid waste disposal in western Nevada County
  - the audit currently underway of the prior disposal franchisee in eastern Nevada County
  - the collection of significant past due cable TV franchise fees
  - the pending renewal agreements for cable TV franchises
2. Cable franchise audits now are planned for every 3 years. These should result in future collections being more carefully monitored to assure the county receives the full amount of contracted obligations.
3. Despite prior Grand Jury recommendations, plans are not yet in place for regular audits of other franchises operating within the County.
4. The Auditor-Controller's office appears to lack a clear understanding of the methodology and documentation utilized by PG&E in their calculation of fees due the County to assure that remittances are in compliance with the law and established procedures.

## **RECOMMENDATIONS**

1. Again, the Grand Jury strongly urges the Board of Supervisors to instruct the County Executive Officer, County Counsel and the Auditor-Controller to finally complete the update to Nevada County General Code Chapter II: Franchises.
2. The Auditor-Controller should develop a plan that will ensure that staff is provided with appropriate training to establish written procedures for regular internal audits of monies received from all franchisees.

## **RESPONSES**

Board of Supervisors September 27, 2004  
Auditor-Controller August 30, 2004





Nevada County  
Natural Resources Report



# NEVADA COUNTY NATURAL RESOURCES REPORT

## REASON FOR INVESTIGATION

To assess the efficiency and effectiveness of using taxpayer resources, the Grand Jury reviewed the county's investment in and use of the Nevada County Natural Resources Report (NRR), a scientific assessment of watersheds and ecosystems. The NRR is the only published product of the Natural Heritage 2020 project.

## PROCEDURE FOLLOWED

The Grand Jury conducted interviews with representatives of appropriate county departments and the Sierra Business Council. The Grand Jury also reviewed the Memorandum of Understanding (MOU) between Nevada County and the Sierra Business Council, which documented the project goals, the final plan, and budget estimates. The Jury also reviewed relevant minutes from the Board of Supervisors (BOS) meetings, reports of the actual dollars spent, and the NRR report itself.

## FINDINGS

1. The BOS passed resolution number 00-218, authorizing execution of the project MOU, on May 9, 2000. The vote was 4-0 with one member absent.
2. The stated goal of the project was "to develop a comprehensive strategy to identify, manage and protect natural habitats, plant and animal species diversity, and open space resources in Nevada County."
3. This goal was to be accomplished "by conducting a county-wide biotic inventory and developing a habitat and open space management plan with specific implementation measures, governance mechanisms and funding options."
4. Once completed, the project was to "serve as the primary vehicle for implementing many of the County and perhaps the Cities' open space and resource protection objectives." The stated intent was to "maintain or enhance:
  - the diversity of plant and animal communities in Nevada County, with an emphasis on special status plant and animal species or species of concern;
  - Nevada County's working landscapes - those lands which support the County's forestry, farming and ranching economy;

- open spaces for passive outdoor recreation activities, such as walking, biking, fishing, photography, etc.;
  - watersheds, floodplains and other areas needed to protect public health and safety; and
  - the public's awareness of natural resource values and stewardship opportunities in Nevada County.”
5. The project goals were also that priority be given to ensuring that the final plan:
- “is scientifically sound and ensures long-term protection of natural habitats, plant and animal species diversity and open space resources in the County;
  - can be incorporated into the County General Plan and day-to-day planning decisions;
  - emerges from an inclusive and accessible process, with mechanisms for meaningful involvement and input by all interested citizens;
  - earns widespread public support;
  - engenders positive working relationships between the County and other agencies, local government entities and collaborative groups in the County and Sierra Nevada region.”
6. As set forth in the MOU, \$700,000-800,000 was the estimated cost for the two and-a-half year project. These costs were to be split between Nevada County and the Sierra Business Council, with the County’s financial obligation to be “no less than 33%” of the total cost.
7. At its meeting on May 7, 2002, the BOS voted unanimously to amend the project’s work plan. These amendments resulted in ending the project, except for completion of the NRR report by July 31, 2002, and adding a requirement that “the scientific data would be peer reviewed by qualified scientists.”
8. The data was peer reviewed periodically during the project by a seven-member Scientific Advisory Committee established by the MOU. There was extensive field checking, and comments were received from at least another eight scientists, biologists, and local field technicians who had reviewed the five biological documents on the County’s website.
9. At its July 23, 2002, meeting the BOS heard testimony from the Scientific Coordinator and various local planners and participants in the study. When asked by the BOS the estimated value of the work and data that had been compiled to date, one of the scientists who performed the peer review estimated that “the GIS<sup>1</sup> work alone would have been in the \$300,000 to \$500,000 range and the fieldwork was in the \$250,000 range.”

---

<sup>1</sup> Geographic Information Systems.

10. Nevada County reported \$167,195 in expenses and \$146,805 in staff time for a total of \$314,000. Sierra Business Council's contribution to the project was \$650,055 that covered wages, benefits, mapping, verification, meeting costs, publications, and related expenses.
11. Over 35 volunteers from forestry, agriculture, business, development, recreation, etc. collaborated to develop recommendations for the project.
12. The final product of the amended project is the 600-page Natural Resources Report (NRR) detailing Nevada County's natural resources, watersheds, a GIS database and aerial photographs. The report is currently available on the county web site<sup>2</sup>.
13. On August 12, 2003, the BOS, by a 3-2 vote, passed resolution 03-384 that qualified use of the data gathered, stating: "The NRR and associated GIS data is not to be used as a sole source when preparing baseline environmental documentation" for items such as land use or other county projects or for updating the General Plan. In addition, the resolution stated: "No further county funds or other resources...are to be used in updating or maintaining the currency of data and information in the NRR."
14. Resolution 03-384 also directed County staff to place the following disclaimer on the County website NRR, all unsold hard copies and discs, and on any reports generated from the NRR, and to have adhesive labels printed and disseminated to all who had previously received NRR documents:

**"DISCLAIMER: THERE HAS BEEN NO FORMAL ACCURACY ASSESSMENT TESTING PERFORMED ON THE NRR GIS LAYERS AND THERE IS NO STATISTICAL BASIS FOR CLAIMS OF ACCURACY FOR INDIVIDUAL DATA THEMES."**

## **CONCLUSIONS**

1. The NRR report could assist engineers, developers, planners, real estate investors, public safety officials and others in planning future projects.
2. After a combined expenditure of \$964,000, attaching the disclaimer and withholding funds for future updating diminish the value of the report and prevent it from being used to its full potential.
3. The project was intended to be used as a starting point to update the county's General Plan, to develop and maintain its natural resources, and to encourage cooperation between various entities involved within the county and wider Sierra region.

---

<sup>2</sup><http://docs.co.nevada.ca.us/dscgi/ds.py/View/Collection-1376>

4. If the NRR report is updated and maintained, it could be used when the county is required to update the General Plan, its habitat management plan, or similar county studies in order to avoid unnecessary additional cost to the taxpayers.
5. Nevada County's citizens would receive full value for the time and money expended if the Board of Supervisors would reconsider the restrictions placed on usage and updating of the information compiled in the NRR report.

### **RECOMMENDATIONS**

None

### **REQUIRED RESPONSES**

None

# **CITY GOVERNMENT**

Grass Valley Affordable Housing

Nevada City Affordable Housing

Town of Truckee Affordable Housing





Grass Valley  
Affordable Housing



# **AFFORDABLE HOUSING IN GRASS VALLEY**

## **REASON FOR INVESTIGATION**

Last year the Grand Jury investigated the status of affordable housing in Nevada County. This year, the Grand Jury wanted to investigate the status of affordable housing in Grass Valley since the city had recently performed a 5-year update of its Housing Element. The Grand Jury wanted to determine the priority given to the affordable housing issue by Grass Valley and the extent to which efforts and resources have been applied to that priority on behalf of the residents.

## **BACKGROUND**

The Housing Element is one of the seven General Plan elements mandated by the State of California. Sections 65580 to 65589.8 of the California Government Code contain the legislative mandate for the Housing Element. State law requires that a Housing Element consist of “an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives and scheduled programs for the preservation, improvement and development of housing” (Section 65583). Every local jurisdiction is required to update the Housing Element component of its general plan every five years and submit it for approval to the Department of Housing and Community Development. The Housing Element must address the following subject areas:

- review of the prior housing element
- housing needs assessment
- land inventory by zoning type
- government and non-government constraints on housing
- quantified objectives of housing units by income level
- public participation, general plan consistency and other general topics, and
- local housing program policies and goals

The 2002 Little Hoover Commission Report entitled *Rebuilding the Dream: Solving California's Affordable Housing Crisis* makes this observation: “Two fundamental problems hinder the effectiveness of the housing element law. First, the law requires local governments to plan for housing, but contains no enforcement mechanism. There are few incentives to encourage reluctant communities to adequately plan and no meaningful consequences when they fail to do so.

Second, the focus of the housing element law is on planning rather than performance. So

even when jurisdictions have plans approved by the State, local communities do not have to demonstrate that they have done their part to ensure that planned housing actually gets built. General Plans are easily amended to accommodate specific projects, undermining on a project-by-project basis the long-term housing goals.”

## METHOD OF INVESTIGATION

The Grand Jury reviewed the City of Grass Valley 2003-2009 Housing Element, adopted January 2004, against the subject areas specified by the California Department of Housing and Community Development. The Grand Jury also interviewed members of the planning staff and Planning Commission.

Rather than compare the Housing Element against each of the subject areas, the Grand Jury chose to focus on those subject areas that appeared to have the largest impact on the development of affordable housing.

## FINDINGS

1. Review of the prior housing element:
  - a. Grass Valley has made progress in the last three years to accommodate its regional housing needs allotment, with the following projects:
    - Cedar Park Apartments (under construction), 65 low-income units, and 16 very low-income units
    - Glenbrook Apartments (approved), 41 low-income units, 11 very low-income units
  - b. From January 2000 to January 2003, Grass Valley built about 38% of their regional housing allotment. However, no housing units were built for households of moderate-income levels and about 10% of housing units allocated to very low-income households were built. Housing units constructed/under construction/approved are shown in the table below.

Progress in Meeting Housing Allocation  
(Units Constructed/Under Construction/Approved January 2000 - January 2003)

Income Level	Housing Allocation	Units	Remaining Allocation
Very low	274	27	241
Low	261	106	145
Moderate	333	0	333
Above Moderate	580	417	163
<b>Total</b>	<b>1,448</b>	<b>550</b>	<b>898</b>

Source: City of Grass Valley (definition of income levels not provided in Housing Element)

2. Housing needs assessment:

According to the Sierra Planning Organization (SPO), Grass Valley is responsible for accommodating 1,448 additional housing units between 2001 and 2009, of which 535 units should be affordable to very low, and low-income households. This represents approximately 37% of Grass Valley's total share of regional housing needs. The table below shows the number and percentage of housing units allocated for the planning period 2001 through 2009 by income category.

Regional Housing Needs Allocation.

Income Category	Number of Units	Percentage
Very Low (below \$29,500)	274	19%
Low (\$29,500 to \$47,200)	261	18%
Moderate (\$47,200 to \$70,800)	333	23%
Above Moderate (above \$70,800)	580	40%
<b>Totals</b>	<b>1,448</b>	<b>100%</b>

Source: SPO and California Department of Housing and Community Development

3. Constraints on housing:

- a. According to the Housing Element, governmental regulations, local policies and regulations are putting constraints on affordable housing that impact price and availability. However it also states, "Perhaps one of the greatest constraints to the production of housing affordable to lower-income households is the chronic shortage of state and federal financial assistance for such housing."
- b. Permit and mitigation fees affect housing costs. The fee structure for Grass Valley is shown in the table below.

Government Fees	Single Family Home 1200 sq. ft.
Building Permit	\$1,200
City AB 1600 Fees (Fire, Police, Parks & Recreation, etc.)	2,150
Regional Traffic	630
School Mitigation	2,572
Sewer Connection	7,860
Water Connection	3,300
<b>Total</b>	<b>\$17,712</b>

Source: City of Grass Valley - December 2003

4. General topics:

"Many unique circumstances face our community and the provision of adequate housing for all residents is dependent upon creating a program that adequately

addresses these issues. Grass Valley has experienced a substantial rise in housing costs since the late 1990's; however, median household income in the City continues to fall well short of that in the rest of the County, including Nevada City and Truckee. The community also has a much higher percentage of rental housing than the County, and must ensure that new programs meet the needs of both future homeowners and renters alike." Income statistics are shown in the table below.

<b>Jurisdiction</b>	<b>Median Household Income</b>
Nevada County	\$45,864
Grass Valley	\$28,182
Nevada City	\$36,667
Truckee	\$58,848

Source: Census 1990, 2000

5. Local housing program goals:

Housing goals and policies are established to guide the development, rehabilitation and preservation of housing to meet the needs of the city. Grass Valley has proposed 28 housing programs to help increase the affordable housing stock within the city. Seven programs depend on general fund monies, nine programs are funded from state and federal grants, six programs are funded from fees, five programs are funded from a combination of grants and fees, and one program is funded from Tax Exempt Bonds.

As an example, Program 13 (The Density Bonus) is to be revised by December 31, 2005 to offer a 25% increase in density and at least one other financial or regulatory incentive whenever a developer proposes a residential project that meets the program requirements.

## CONCLUSIONS

1. The Grass Valley Housing Element addresses the issue of affordable housing from the perspectives of geography, population demographics, workforce mix, free-market forces, employment growth, community values, and the availability of vacant land. These perspectives tend to dictate the local solutions to addressing the issue of affordable housing.
2. The City of Grass Valley can address the affordable housing issue in three ways:
  - Locate available land, create zoning and develop policies and procedures to encourage the construction of affordable housing. Free-market forces will then dictate the type of housing that actually is built.
  - Develop financial incentives and the political will to encourage the construction of affordable housing. These actions will work to increase the affordable housing stock.
  - Develop financial assistance programs to help residents purchase affordable housing. These actions will help residents get a "jump-start" into the housing market.

3. Free-market forces appear to be a major deterrent to the production of housing affordable to people in very low, low, and moderate-income levels. For these households, single-family home ownership will remain an unfulfilled dream unless Grass Valley becomes an advocate for the production of affordable housing.
4. Without state, federal, and local financial subsidies, few housing units affordable for the very low, low, and moderate-income families will be built. Consequently, cities are concentrating on meeting the needs of their local workforce population with housing to accommodate the above moderate-income level households.
5. The median income of Grass Valley residents for 2000 was \$28,182, which was \$17,500 less than the median income of Nevada County. This statistic means Grass Valley residents will be at a disadvantage when competing in the local housing market.
6. Implementation of the housing policies proposed by Grass Valley would requires funding from a broad base of funding sources that include the city's general fund (25%), state and federal grants (28%), application fees (21%) and a combination of grants and fees (18%). This "even" spread of funding sources could help to ensure the production of affordable housing units.
7. The Grass Valley permit and mitigation fee structure adds an additional \$17,712 to the cost of a 1200 sq. ft. housing unit. These fees provide benefits to the City as a whole, but they also work to raise the bar of affordability for low and moderate-income households.
8. The proposed housing density bonus could serve to encourage the construction of affordable housing. However, the mood of the community, as expressed at three recent public hearings, favors a reduction in housing density for any given housing project.

## **RECOMMENDATIONS**

The Grand Jury Recommends:

1. The Grass Valley City Council should direct the Department of Community Development to follow their Workforce Housing Study (Program 12), and apply the results of that study to address the problem of housing for low and moderate-income families.
2. The Grass Valley City Council should direct the Department of Community Development to look beyond the planning stage of affordable housing, and focus on the actual building of affordable housing.
3. The Grass Valley City Council should direct the Department of Community Development to pursue additional state and federal grants that would increase the affordable housing stock in the city.

4. The Grass Valley City Council should adopt a Below Market Rate (BMR) Ordinance and/or revise the present density bonus to require a fixed percentage of affordable housing units in all new single-family housing developments.
5. The Grass Valley City Council should direct the Department of Community Development to consider a waiver or reduction of permit and/or mitigation fees to encourage the development of affordable housing.

## **RESPONSES**

Grass Valley City Council by October 4, 2004



**Nevada City  
Affordable Housing**



# **AFFORDABLE HOUSING IN NEVADA CITY**

## **REASON FOR INVESTIGATION**

Last year the Grand Jury investigated the status of affordable housing in Nevada County. This year, the Grand Jury wanted to investigate the status of affordable housing in Nevada City since the city had recently performed an update of its Housing Element. The Grand Jury wanted to determine the priority given to the affordable housing issue by Nevada City and the extent to which efforts and resources have been applied to that priority on behalf of the residents.

## **BACKGROUND**

The Housing Element is one of the seven General Plan elements mandated by the State of California. Sections 65580 to 65589.8 of the California Government Code contain the legislative mandate for the Housing Element. State law requires that a Housing Element consist of “an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives and scheduled programs for the preservation, improvement and development of housing” (Section 65583). Every local jurisdiction is required to update the Housing Element component of its general plan every five years and submit it for approval to the Department of Housing and Community Development. The Housing Element must address the following subject areas:

- review of the prior housing element
- housing needs assessment
- land inventory by zoning type
- government and non-government constraints on housing
- quantified objectives of housing units by income level
- public participation, general plan consistency and other general topics, and
- local housing program policies and goals

The 2002 Little Hoover Commission Report entitled *Rebuilding the Dream: Solving California's Affordable Housing Crisis* makes this observation: “Two fundamental problems hinder the effectiveness of the housing element law. First, the law requires local governments to plan for housing, but contains no enforcement mechanism. There are few incentives to encourage reluctant communities to adequately plan and no meaningful consequences when they fail to do so.

Second, the focus of the housing element law is on planning rather than performance. So

even when jurisdictions have plans approved by the State, local communities do not have to demonstrate that they have done their part to ensure that planned housing actually gets built. General Plans are easily amended to accommodate specific projects, undermining on a project-by-project basis the long-term housing goals.”

## METHOD OF INVESTIGATION

The Grand Jury reviewed the Nevada City Housing Element 2003-2008, adopted July 14, 2003, against the subject areas specified by the Department of Housing and Community Development. The Grand Jury also interviewed members of the planning staff, Planning Commission, and Advisory Review Committee (ARC) of Nevada City.

The Grand Jury chose to focus on those subject areas that appeared to have the largest impact on the development of affordable housing.

## FINDINGS

### 1. Advisory Review Committee:

Nevada City has an added layer of bureaucracy to the Planning Commission in the form of the ARC. Nevada City Council Resolution No. 89-36 gave the ARC authority to implement the requirements of the California Environmental Quality Act, including AB 3180. The ARC is composed of the Planning Commission Chairman, the City Planner and a member who may change from one meeting to another based on availability. This committee is the first step in the approval process for an applicant. The ARC makes their decisions regarding an application and brings them to the Planning Commission. Attendance at the ARC meetings is not mandatory, and often there is only the Chairman and one other member.

### 2. Review of prior housing element:

Nevada City previously adopted a Housing Element in 1986. Although the next update was due in 1992, Nevada City did not publish a new Housing Element document until 2003.

Regional Allocation Housing Goals performance 1992-2000

Program	Very Low	Low	Moderate	Above Moderate	Total
1992 New Housing Construction Goals	0	16	42	101	159
Actual Production 1992 to June 2003	0	13*	21	38	72

Source: Housing Element

\* “Sweat Equity” housing – Providence Mine Court

In 1993 and 2001, public hearings were held on two Subsidized Project Applications. Although there was some public apprehension, both applications were denied without

any attempt to work with the applicants regarding the concerns.

3. Housing needs assessment:

- a. Despite an abundance of "tables" in the Housing Element, Nevada City did not give actual numbers, only estimates and target figures.

Nevada City Regional Housing Needs Allocation Target

Year	Total Units	Very Low Total	Low Total	Moderate Total	Above Moderate Total
New Units to be created 2001-2008	200	38	36	46	80
Permits for new homes 2001-June 2003	16	1*	0	3	12
New units to be created June 2003-2008	184	37	36	43	68

Source: Housing Element

\* As of June 2003, the City entered into agreement with Habitat for Humanity. The Planning Commission approved a rezone to create one home for a very low-income buyer.

- b. The following table shows greater detail on the "target" numbers for the time period 2001 to June 2003. Note that the numbers are of housing units approved for construction, not the actual number of units built. These units are to be owner-occupied and/or rentals.

Nevada City Target 2001-June 2003

Income Category	Target Number	Percent of Total Units	Actual Number
Very Low (Below \$29,500)	38	19%	1*
Low (\$29,500 to \$47,200)	36	18%	0
Moderate (\$47,200 to \$70,800)	46	23%	3
Above Moderate (Above \$70,800)	80	40%	12
<b>Total</b>	<b>200</b>	<b>100%</b>	<b>16</b>

Source: Housing Element

\* As of June 2003, the City entered into agreement with Habitat for Humanity. The Planning Commission approved a rezone to create one home for a very low-income buyer.

4. Resource inventory:

Site Inventory and the Regional Housing Needs Plan

<b>Maximum potential</b>	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Above Moderate</b>
Multi-Family Units	16	16	17	49
Single Family Units	8	16	49	169
Secondary Units	120	150	180	120

<b>Estimate of Actual</b>	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Above Moderate</b>
Multi Family Units	11-12	11-12	11-13	33-37
Single Family Units	5	10-11	29-31	101-110
Secondary Units	120	150	150	22-32

Source: Housing Element

5. Constraints on housing:

- a. "Historically, small second units in single-family homes were interspersed in the City's neighborhoods. These second units blended in well with the diversity of housing types typically found in each neighborhood. In 1978, a City survey was taken in order to install water metering throughout the town. At that time, 61 second units were identified. Over the years, several of those units were lost, usually because new owners chose not to continue them. In 2003, the City bills for water and/or sewer 41 homes with seconds units and five homes with two second units each (sic)."
- b. Secondary units have a maximum range of 300 to 640 square feet, must have one parking space, and when the unit is sold or no longer rented to moderate/low income residents, the owner will be required to pay *all* the deferred fees, in some cases with interest.
- c. Permit and mitigation fees affect housing costs. The fee structure for Nevada City is shown in the following table.

Estimation of Public Agency Fees for New Housing Unit

Item Description	Est. cost for 1,600 sq. ft. Single Family	Est. cost for 640 sq. ft. Second Unit	Est. cost for 1,000 sq. ft. Unit in 4-plex
Environmental Review	N/A	N/A	140
Architecture Review	100	N/A	25
Site Plan/Public Hearing	N/A	N/A	400
Nevada City Mitigations	7,750	6,300	6,300
Regional Transportation Mitigation	475	475	475
School District Mitigation	2,400	1,370	2,140
Nevada City Water Hook-up	1,130	N/A	280
Nevada City Sewer Hook-up	1,250	N/A	310
Nevada County Building Dept. Plan Review & Inspection	1,100	600	700
<b>Total</b>	<b>\$14,205</b>	<b>\$8,745</b>	<b>\$10,770</b>

Source: Nevada City Staff & Nevada County Building Department

6. Local housing program policies & goals

a. The following strategy was adopted by the General Plan Committee to meet Nevada City's housing needs during the Housing Element update period:

- "...conserve existing older homes by a careful demolition policy
- "...preserve small homes in Nevada City
- "...require new subdivisions to include 30% homes under 1,500 square feet and 20% second-unit rentals under 640 square feet affordable to moderate income and lower income residents
- "...encourage second units that meet zoning requirements and defer required fees for as long as the owner agrees to rent at moderate/low income ranges

b. Goals (Nevada City Housing Element):

- "Nevada City is basically a city of single-family homes, all within a reasonable walk from the center of town. A goal of the City is to preserve this quality, yet recognize that new forms of housing can offer economies in both housing cost and land requirement."
- "In addressing the question of housing, the City shall seek means to preserve its residential neighborhoods and to maintain the diversity of people and of economic strata within each neighborhood."
- "The multi-family areas of most cities are near the city center. In Nevada City, the single-family areas are at the very edge of the central commercial area. Multi-family housing should have a minimum impact on the perception of the downtown area."

c. Policies: "The city shall consider a mix of housing types within a development designated Planned Development." The Housing Element lists 22 policies/programs to

be implemented. The listed sources of funding for these programs are General Fund, application fees permit applications, grants, non-profits, banks and other agencies. The majority of time frames listed are "ongoing," "in response to..." "keep a list." **No actual dates are indicated.**

## CONCLUSIONS

1. The Grand Jury found the Nevada City Housing Element to be poorly organized and badly written.
2. Nevada City's Housing Element pushes the state requirements to the maximum and provides little effective and/or useful information. The Housing Element creates confusion by referring the reader from one table or section to another with little specific content.
3. The Nevada City Housing Element consistently uses words and phrases that make no clear commitment to take any action, i.e., "consider," "target," "can," "proposed." The Housing Element clearly makes few promises of actually building affordable housing.
4. The ARC is made up of members of the Planning Commission. There is no justifiable reason to have two committees made up of the same people.
5. Project applicants would be subjected to a less complicated process if they dealt with just the Planning Commission.
6. Nevada City has demonstrated their contempt for following guidelines. For example the state guideline (cited in "Background") clearly states that the Housing Element is required to be updated every five years. Nevada City had 18 years between updates.
7. Although Nevada City considers itself "unique" in many respects, this "uniqueness" must not be used to exclude the City from following state requirements.
8. The "not in my back yard" (NIMBY) school of thought appears to be the theme of the Nevada City Housing Element. This is demonstrated in the table that shows a "target" housing figure of 200 units from 2001 to June 2003. Of the 200 "target" units, only 16 units were approved. There is no indication that any units have been built.
9. Secondary Units are the only category where there appears to be any possibility of implementation, and these must be rentals.



## **RECOMMENDATIONS**

The Grand Jury recommends:

1. The Nevada City Council should direct the Planning Commission to be more user friendly to new housing applicants and develop a process that is easier to navigate.
2. The Nevada City Council should direct the Planning Commission to publish a Housing Element that is useful to readers.
3. The Nevada City Council should eliminate the ARC. There is no justifiable reason for having more than one layer of planning commission.
4. The Nevada City Council should direct the Planning Commission to be proactive in the building of affordable housing.
5. The Nevada City Council should direct the Planning Commission to be consistent in their decision making process and to make decisions based on rationale other than regulations/requirements.
6. The Nevada City Council should adopt a Below Market Rate (BMR) Ordinance to require a fixed percentage of affordable housing units in all new single-family housing developments.
7. The Nevada City Council should direct the Planning Commission to examine other housing programs such as the Grass Valley Workforce Housing Project and apply the best features of these programs to Nevada City's housing needs.
8. The Nevada City Council should direct the Planning Commission to waive and/or reduce permit and/or mitigation fees to encourage the development of affordable housing.

## **RESPONSES**

Nevada City, City Council by October 2, 2004



**Town of Truckee  
Affordable Housing**



# **AFFORDABLE HOUSING IN THE TOWN OF TRUCKEE**

## **REASON FOR INVESTIGATION**

Last year the Grand Jury investigated the status of affordable housing in Nevada County. This year, the Grand Jury wanted to investigate the status of affordable housing in the Town of Truckee, since Truckee had recently performed a 5-year update of their Housing Element. The Grand Jury wanted to determine the priority given to the affordable housing issue by the Town of Truckee and the extent to which efforts and resources have been applied to that priority on behalf of the residents.

## **BACKGROUND**

The Housing Element is one of the seven General Plan elements mandated by the State of California. Sections 65580 to 65589.8 of the California Government Code contain the legislative mandate for the Housing Element. State law requires that a Housing Element consist of "an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives and scheduled programs for the preservation, improvement and development of housing" (Section 65583). Every local jurisdiction is required to update the Housing Element component of its general plan every five years and submit it for approval to the Department of Housing and Community Development. The Housing Element must address the following subject areas:

- review of the prior housing element
- housing needs assessment
- land inventory by zoning type
- government and non-government constraints on housing
- quantified objectives of housing units by income level
- public participation, general plan consistency and other general topics, and
- local housing program policies and goals

The 2002 Little Hoover Commission Report entitled *Rebuilding the Dream: Solving California's Affordable Housing Crisis* makes this observation: "Two fundamental problems hinder the effectiveness of the housing element law. First, the law requires local governments to plan for housing, but contains no enforcement mechanism. There are few incentives to encourage reluctant communities to adequately plan and no meaningful consequences when they fail to do so.

Second, the focus of the housing element law is on planning rather than performance. So even when jurisdictions have plans approved by the State, local communities do not have to demonstrate that they have done their part to ensure that planned housing actually gets built. General Plans are easily amended to accommodate specific projects, undermining on a project-by-

project basis the long-term housing goals.”

## METHOD OF INVESTIGATION

The Grand Jury reviewed the Town of Truckee 2004 General Plan Housing Element against the subject areas specified by the California Department of Housing and Community Development. The Grand Jury also interviewed a member of the Town’s planning staff.

Rather than compare the Housing Element against each of the subject areas, the Grand Jury chose to focus on those subject areas that appeared to have the largest impact on the development of affordable housing.

## FINDINGS

1. Review of the prior housing element:

- a. The Town of Truckee has taken significant steps to achieve goals and objectives set in the previous Housing Element, which was adopted in 1996. These housing goals, and the Town’s success in meeting them, are summarized in the following table.

Previous Housing Element Objectives for the Various Income Levels

Program	Very Low	Low	Moderate	Above Moderate
1994 New Housing Construction Goals	60	100	200	500
Actual Production 1994 to May 2003*	100	100	50	1,577

\*Town of Truckee Community Development Department, June 2003; Department of Finance, Housing and Population Estimates, January 1994 to June 2003.

- b. The Town of Truckee met or exceeded its very low, low, and above moderate income housing production objectives. Truckee did not meet its moderate-income housing goal partially due to the absence of new unsubsidized multifamily rental construction and escalating prices that placed most new “for sale” homes out of reach of moderate-income households.

2. Housing needs assessment:

The Sierra Planning Organization (SPO) developed the regional housing needs allocation for the Town of Truckee. The housing allocation covers the planning period from January 2001 to June 2009. All new units in the Town of Truckee may be counted towards the housing allocation; there is no requirement that these units be for year-round occupancy. The total units allocated to the Town of Truckee by SPO are further divided among each of the four income categories. The housing needs allocation is shown in the following table:

Truckee Regional Housing Needs Allocation January 2001 to June 2009

Income Category*	Number	Percent of Total Units
Very Low - below \$29,500	324	18.6%
Low- \$ 29,500 to \$47,200	309	17.7%
Moderate - \$47,200 to \$70,800	408	23.4%
Above Moderate – above \$70,800	704	40.3%
<b>Total</b>	<b>1745</b>	<b>100%</b>

Source: Regional Housing Needs Plan, Sierra Planning Organization, 2002

\*Area Median Income for the Truckee area is \$59,000 for a household of 4

2. Constraints on housing:

- a. The constraints on producing more affordable housing in the Town of Truckee are primarily due to the free-market forces and lack of financial assistance programs. The Town of Truckee continues to experience rising costs both for rental units and for ownership units. Much of the housing demand originates from second homebuyers and not persons who live and work in Truckee year round. This places significant housing pressures on local households that are priced out of the market by higher income households whose permanent residences are elsewhere.
- b. The Town of Truckee also receives seasonal housing pressures from the influx of resort workers during the winter season. These persons often have lower incomes and need housing only during the work season. Overall, Truckee's housing market is impacted from both upper-end second homeowners and lower-end seasonal workers.
- c. The projected employment growth in retail employment will cause additional housing pressures as more workers attempt to find affordable housing, given the generally low wages paid to retail workers.
- d. Permit and mitigation fees affect housing costs. The fee structure for a typical 2,000 sq. ft. home in the Town of Truckee is shown in the table below.

Planning and Application Fees for Housing 2004

Building Permit & Plan Check	\$ 4,316
Plan Check (Master plan check only)	866
Traffic Impact Fee	2,035
Fire Mitigation	720
Park & Recreation Mitigation	800
School Facility	4,280
Wastewater Treatment Plant	4,000
Sewer Connection	1,525
Water System	4,052
<b>Total</b>	<b>\$22,594</b>

Source: Town of Truckee Housing Element, April 2004

- e. Truckee does not have the financial resources or sufficient staff to undertake major housing assistance programs without substantial backing by state or federal agencies. The limitations on availability of outside assistance programs act as a constraint to the provision of affordable housing.
4. General topics:
- a. In the Town of Truckee, people with special needs include seniors, the disabled, single female heads of household, and seasonal workers. These people need access to housing and will be competing with other low-income groups for affordable housing. Meeting the Town's housing needs will depend, in large part, upon the availability of private funding sources and funding levels of state, federal and county housing programs.
  - b. The Town recognizes that many market rate housing developments have been built at densities below their allowed density. The Town plans to encourage developers to achieve their allowed densities within medium and high-density residential zones. The Town has also developed a density bonus program (program H.1.2.3) to encourage the development of affordable housing.
5. Local housing program goals:
- a. Housing goals and policies are established to guide the development, rehabilitation and preservation of a balanced inventory of housing to meet the needs of present and future residents of the Town. Truckee has proposed 44 housing programs to help increase the affordable housing stock within the Town. Thirty-five of the programs depend on general fund monies. Seven of the programs are funded from state and federal grants and two programs are funded from tax financing.
  - b. The Town of Truckee provides development incentives for affordable housing. For example, a qualifying residential project will receive a waiver or reduction of planning application fees, building permit fees, and mitigation fees.

## CONCLUSIONS

1. The Town of Truckee Housing Element addresses the issue of affordable housing from the perspectives of geography, population demographics, workforce mix, free-market forces, employment growth, community values, and the availability of vacant land. These perspectives tend to dictate the local solutions to addressing the issue of affordable housing.
2. The Town of Truckee can address the affordable housing issue in three ways:
  - Locate available land, create zoning and develop policies and procedures to encourage the construction of affordable housing. Free-market forces will then dictate the type of housing that actually is built.
  - Develop financial incentives and the political will to encourage the construction of affordable housing. These actions will work to increase the affordable housing stock.
  - Develop financial assistance programs to help residents purchase affordable



housing. These actions will help residents get a "jump-start" into the housing market.

3. Free-market forces appear to be a major deterrent to the production of housing affordable to people in very low, low, and moderate-income levels. For these households, single-family home ownership will remain an unfulfilled dream unless the Town of Truckee becomes an advocate for the production of affordable housing.
4. Without state, federal, and local financial subsidies, few housing units affordable for the very low, low, and moderate-income families will be built. Consequently, cities are concentrating on meeting the needs of their local workforce population with housing to accommodate the above moderate-income level households.
5. The Town of Truckee permit and mitigation fee structure adds an additional \$22,594 to the cost of a 2,000 sq. ft. housing unit. These fees provide benefits to the Town as a whole, but they also work to raise the bar of affordability for low and moderate-income households.
6. The Town of Truckee Housing Element notes: "The common perception of affordable housing by the public is that it is undesirable in their community. This may constitute a constraint on a local jurisdiction's ability to approve otherwise appropriate projects. Long-term education, superior project design, and economically integrated projects, may help alleviate these constraints."

## RECOMMENDATIONS

The Grand Jury recommends:

1. The Truckee Town Council should direct the Department of Community Development to continue to pursue state and federal grants that would apply to increasing the affordable housing stock in the Town of Truckee.
2. The Truckee Town Council should direct the Department of Community Development to research the possibility of funding some portion of their housing programs from a more broad-based system rather than depending so much on general fund monies.
3. The Truckee Town Council should direct the Department of Community Development to prioritize the housing programs that depend on the general fund for implementation to ensure the most beneficial programs survive budget pressures.
4. The Truckee Town Council should direct the Department of Community Development to seek out the state and federal housing subsidies that would help renters and homebuyers to become first-time homeowners.
5. The Truckee Town Council should adopt a Below Market Rate (BMR) Ordinance and/or

revise the present density bonus to require a fixed percentage of affordable housing units in all new single-family housing developments.

6. The Truckee Town Council should direct the Department of Community Development to examine other housing programs such as the Grass Valley Workforce Housing Project and apply the best features of these programs to Truckee's housing needs.
7. The Truckee Town Council should direct the Department of Community Development to continue the policy of waiving permit and mitigation fees for housing projects that qualify for the Town's incentive programs.

## **RESPONSES**

Town of Truckee Town Council by October 4, 2004

# **COUNTY GOVERNMENT**

**Code Compliance in Nevada County**

**Safety is no Accident**



Code Compliance  
in  
Nevada County



# **CODE COMPLIANCE IN NEVADA COUNTY**

## **REASON FOR INVESTIGATION**

The Grand Jury received citizen complaints that the Code Compliance Department is not adequately enforcing building codes and regulations. The 2001-2002 Grand Jury report addressed this issue and responses to the report raised further questions.

## **BACKGROUND**

The Code Compliance Department is a part of the Nevada County Community Development Agency (CDA).

In September 1999, the Board of Supervisors (BOS) adopted Recommendations of the Code Enforcement Ad Hoc Committee as an interim guide for code compliance. The purpose of the guidelines was to encourage voluntary compliance through a more lenient customer friendly approach.

In March 2002, the CDA issued a Code Compliance Manual to be used as a training manual for staff and a reference source for daily operations for staff and the public.

In January 2004, the CDA issued Procedural Guidelines of the Code Compliance Department, which they presented to the BOS on April 6, 2004.

This Grand Jury report is primarily directed to non-permitted building code compliance issues and their ramifications.

## **PROCEDURE FOLLOWED**

The Grand Jury interviewed members of the BOS, the County Executive Officer, the CDA Director, the Building Department Director and the Interim Head of Code Compliance. The Grand Jury reviewed the 2001-2002 Grand Jury report and responses thereto. The Grand Jury also reviewed Code Compliance files.

## **FINDINGS**

1. The Code Compliance Manual states: "Potential violations can come to the attention of Code Compliance through the public, community groups, other agencies, and Board of Supervisor referrals. Code Compliance works with communities and neighborhoods to resolve key

enforcement issues; it is Code Compliance's sole authority to decide complaints or violations to pursue based on the priority system and staff resources. Code Compliance is strictly a complaint driven process. Compliance is the goal; enforcement is to be used after all other options have failed."

2. The 2001-2002 Grand Jury report found that code compliance in Nevada County is strictly complaint driven except in cases that involve health and safety issues. This is still true.
3. The 2001-2002 Grand Jury report found that there were 11 separate notices/letters used to serve notice of building code violations. Included in the notices is a "Warning Notice of Violation" which states that infractions are punishable by a mandatory fine of \$100 for the first offense, \$200 for the second, and \$500 for the third and subsequent violations within a 12-month period, plus penalty assessments. The BOS did not agree or disagree with this finding because the Code Compliance Manual was still in draft form and not yet presented to the BOS for consideration.
4. The current Grand Jury noted that the 2004 Procedural Guidelines of the Code Compliance Department now contains 13 separate letters/notices, which can notice a violation of non-permitted building.
5. The 2001-2002 Grand Jury report found that if a property owner builds without a permit, and no complaint is filed, property taxes on improvements are not collected. In addition, mitigation fees and other development fees are not collected. This remains a true statement. In response to this Grand Jury finding, the BOS partially disagreed stating "un-permitted construction is sometimes observed and reported by building department officials during performance of their official duties."
6. When building permits are issued, the County receives fees. In addition, schools and fire districts receive separate funds from building permit fees. For example, the property owner of a 2200 sq. ft. home in Penn Valley paid \$9,279.81 for the following fees:

- County fees:

Nevada County Grading Permit	\$64.73
Nevada County Plan Site Review	472.89
Nevada County Inspection Permits	2,113.07
<b>Total</b>	<b>\$2,650.69</b>

- Other fees:

NID hookup	\$700.00
PG&E hookup	750.00
Penn Valley Fire District	1,054.52
School Mitigation	4,124.60
<b>Total</b>	<b>\$6,629.12</b>

7. The 2001-2002 Grand Jury report found more than 1000 open code violation cases. As of the date of this report, the code compliance department acknowledges approximately 600 open code violation cases.



8. The 2001-2002 Grand Jury report found that the Assessor's Office does not actively communicate with the CDA regarding non-permitted building. The BOS responded that the Assessor allows CDA access to printed records and the Assessor and CDA communicate with each other on an as-needed basis. The current Grand Jury found little, if any, improvement in this process.
9. Other counties use law enforcement to ensure full compliance with existing codes. This was a finding of the 2001-2002 Grand Jury and remains true today. The BOS response to the 2001-2002 Grand Jury report states: "Some other counties most likely do use stricter code enforcement to compel compliance with their codes, just as other counties may not be as strict as Nevada County in seeking code compliance."
10. The Grand Jury notes that Placer County takes a more active approach to code enforcement:

"It shall be the duty of the Placer County Sheriff, the planning director, the chief building official, and/or the health officer and the employee(s) designated by the above officials as code enforcement officers to enforce the provisions of the County Code<sup>1</sup> as specified."

## CONCLUSIONS

1. Code enforcement for non-permitted building in Nevada County continues to be practically non-existent.
2. The "strictly by complaint" directive has failed to resolve the problem of noncompliance to code. Surveillance of non-permitted building has been discouraged, if not eliminated altogether.
3. The process to correct a violation of non-permitted building appears to be bureaucratic and cumbersome. The County now uses up to 13 letters and notices to establish violations and resolve them.
4. Mandatory fines for violations of non-permitted building are still too nominal to be punitive. Fines should be a hefty percentage of all regular county fees, especially for second and subsequent violations. This would deter property owners from building without permits and provide Nevada County with much-needed additional cash flow.
5. The Grand Jury is unable to determine how much money is being lost to the County due to the apparent permissive attitude toward code violations. Had the owner of the Penn Valley home not taken out a building permit, \$2,650.69 would have been lost to the County. In addition, another \$6,629.12 in other development fees would not have been collected.

---

<sup>1</sup> Placer County Codes, Chapter 17 Zoning, 17.62.030 Enforcement Administration

6. Stricter code enforcement would prevent construction of non-permitted buildings that could be used for environmentally dangerous and illegal activities.

## **RECOMMENDATIONS**

1. The Grand Jury continues to recommend that the Board of Supervisors:
  - A. Streamline the process to correct a violation of any non-permitted building
  - B. Encourage all Nevada County employees to file official complaints if they observe code violations
  - C. Increase amounts for mandatory fines and penalties to punitive levels
2. If the County cannot resolve a violation, a lien should be placed on the property to cloud the title, or add this assessment to the property tax bill.
3. The Grand Jury strongly recommends that the Board of Supervisors move away from the hands-off policy that exists today. Stop the County's loss of fees, fines and levies resulting from the continued unreported building taking place within the county by promoting CODE ENFORCEMENT policies that require everyone to "pay their fair share" of construction and development-related fees.

## **REQUIRED RESPONSES**

The Board of Supervisors – September 23, 2004

Safety is no Accident



# **SAFETY IS NO ACCIDENT NEVADA COUNTY SAFETY PROGRAM**

## **REASON FOR INVESTIGATION**

The Grand Jury, as an advocate for the public and aware of the skyrocketing insurance costs, is concerned as to what policies are in place and the procedures followed that will ensure the safety of Nevada County employees.

The Nevada County Employee's Safety Orientation manual states:

“Everyone benefits from a safe and healthy work environment. At the County of Nevada, we are committed to preventing accidents, reducing occupational injuries and illness, and complying with laws and regulations governing workplace safety. To achieve these goals, the County has adopted this Injury and Illness Prevention Program (IIPP). The IIPP is mandated by Title 8 California Code of Regulations section 3203.”

## **BACKGROUND**

California Senate Bill (SB) 198 mandates that employers be accountable for the occupational safety and health of their employees. SB 198 was passed, and chaptered into the Insurance and Labor Code on October 2, 1989. Beginning July 1, 1991, Labor Code Section 6400 requires every employer to provide “a safe and healthful workplace for his/her employees.” The California Code of Regulations (CCR) requires every California employer to have an effective injury and illness prevention program in writing that must be in accord with Title 8 CCR Section 3203 of the General Industry Safety Orders. The required elements within the regulation provide specific criteria by which Cal-OSHA will evaluate the program: “The regulation contains the elements in a format that requires the designation of a responsible person (or persons) and a system for: (1) communicating with employees on matters concerning safety and health; (2) identifying and evaluating workplace hazards; (3) implementing procedures for injury/illness investigation; (4) mitigating hazards; (5) training employees; and (6) maintaining records.”

## **METHOD OF INVESTIGATION**

The Grand Jury reviewed the IIPP section of the Nevada County Safety Program, the county safety survey, safety committee meeting attendance for 2002 - 2003, the county web-based safety-training program, and the county injury and claims records for the past three years. The Grand Jury also attended a county safety committee meeting.

Interviews were held with the County Executive Officer (CEO), a representative of the Human Resources Department (HR), the County Risk Manager, the Head of the Probation Department, the Public Defender, the Court Administrative Officer, a representative of Adult and Family Services (AFS), the Sheriff, the Assessor, the Head of the Planning Department and the County Clerk-Recorder.

## **FINDINGS**

1. The Risk Manager's responsibilities are to oversee the purchase of General Liability and Worker's Compensation insurance and review the County's claims.
2. The Risk Manager, in the role of Safety Officer, is responsible for coordinating the monthly Safety Meetings and annual safety inspections of each department using a State designed, generic checklist.
3. Records indicate there is consistently less than 100% attendance at these county safety meetings. In addition to these county safety meetings, individual departments are required to hold monthly safety meetings, however some departments are not in compliance.
4. In accordance with the 1991 California Labor Code, section 6400, Nevada County has a safety manual titled the Nevada County Safety Program. The manual is updated as needed.
5. Nevada County has a web based safety-training program that started in 2003. This is a self-study program with 106 safety programs. Some subjects are also available in Spanish. County employees can go online and study safety programs pertinent to their job. At the time of the Grand Jury investigation, over 600 employees had registered for the safety courses with over 300 employees completing one or more of the subjects.
6. As part of the new employee orientation process, new employees are required to review the IIPP. Additional and ongoing safety training is the responsibility of the department heads.
7. The County has a claims review system in place. This review begins with the department safety officer then progresses through managers, supervisors, department heads, risk manager, and finally the CEO.
8. The County participates in a statewide insurance pool with other counties of similar population as a cost containment measure.
9. Worker's Compensation claims that average \$1,417,872 annually have been paid over the last three years. The number of injuries resulting in claims has averaged 147 per year.

over that same period. (These figures do not include the shooting incident of January 9, 2001.)

**Incurred costs and numbers of Claims per Year for Worker's Compensation**

<b>Worker's Compensation</b>	<b>2000-2001</b>	<b>2001-2002</b>	<b>2002-2003</b>
Incurring Costs of Claims	\$2,045,612	\$1,084,530	\$1,123,474
Number of Claims	175	132	134

10. Over the past three fiscal years, the General Liability and Excess Liability premiums have increased from \$5,004 to \$296,787.

	<b>Insurance Premiums Paid</b>		
<b>Insurance Programs</b>	<b>2001-2002</b>	<b>2002-2003</b>	<b>2003-2004</b>
General Liability and Excess Liability	\$5,004	\$105,966	\$296,787
Worker's Comp	\$1,691,876	\$2,006,396	\$2,768,746

11. Because of the increase in claims and losses, the County lost dividends and credits from the insurance pool that totaled \$156,226 over the same three-year period.

**CONCLUSIONS**

1. Safety is no accident. Employee safety is not now, but deserves to be, a high priority in Nevada County.
2. The County Executive Officer and department heads must set the tone and communicate their support for a safe work environment and a safe workplace.
3. The fact that the Risk Manager also performs the functions of Safety Officer dilutes the effectiveness of the Risk Manager in each of these critical areas.
4. Given the part-time approach to safety in Nevada County, the Grand Jury noted a sense of indifference to the safety program within some departments.
5. With the creation of a full time County Safety Officer, more attention could be given to identifying the relevant factors responsible for the fairly constant number of work related injuries per year. The Safety Officer could then tailor safety awareness programs to mitigate these factors and achieve a reduction in the yearly-incurred costs of claims.

## **RECOMMENDATIONS**

1. The Board of Supervisors should direct the County Executive Officer to make compliance with the Safety Program a performance goal of every county employee and to actively promote a safe work environment and workplace.
2. The BOS should direct the CEO to establish and fund a full time position of Nevada County Safety Officer.
3. The BOS should ensure that the safety checklist is updated to address the specific needs of each department.

## **REQUIRED RESPONSES**

The Board of Supervisors - August 16, 2004



# **HEALTH and ENVIRONMENT**

**Air Quality – Cutting Through the Haze**

**Wastewater Treatment  
in Western Nevada County**

**Septic Systems Inquiry in Nevada County**



# Air Quality – Cutting Through the Haze



# AIR QUALITY IN NEVADA COUNTY CUTTING THROUGH THE HAZE

## REASON FOR INVESTIGATION

Measurements of air pollution in the foothills of Nevada County over the past several years confirm a steady decrease in air quality caused by rising levels of ozone<sup>1</sup> and particulate matter<sup>2</sup>. The current body of research provides compelling findings that increased levels of pollutants in the air present a significant health hazard. Federal and State air quality agencies have focused on Nevada County and require that we take remedial action. The number of days and hours when ozone levels exceeded the State standard has increased in recent years.

The Environmental Protection Agency (EPA), seeking to restructure air quality boundaries, is planning to fold Western Nevada County into the Sacramento region's non-attainment area. The EPA's desire to fold Nevada County into the current six-county Sacramento area stems from the adoption of a more restrictive ozone standard. Instead of using the previous one-hour standard, attainment would be determined by using an eight-hour average because the latest research suggests that prolonged exposure has more detrimental health consequences than brief periods of exposure.

The Grand Jury, as an advocate for the public, is concerned about air quality in Nevada County and the role our County Government leaders can take to improve it.

A portion of a July 16, 1997 Presidential proclamation reads:

*"Implementation of the air quality standards is to be carried out to maximize common sense, flexibility, and cost effectiveness."*

## BACKGROUND

Air pollution in Nevada County is monitored by the Northern Sierra Air Quality Management District (Air Quality District) which was formed in 1986 in accordance with the California Health and Safety Code Section 40150, et seq. The primary goal of the Air Quality District is to achieve and maintain the Federal and State Ambient Air Quality Standards, which are standards set at levels that will protect the public health. The California Health and Safety Code mandates the Air Quality District to adopt and enforce rules and regulations to achieve and maintain health-based ambient air quality standards in addition to enforcing all applicable provisions of federal and state

---

<sup>1</sup> Ozone is the main ingredient of smog. It is produced by the action of solar radiation (sunlight) on nitrogen oxides and reactive organic gases. The primary ozone precursor is motor vehicle exhaust.

<sup>2</sup> Particulate matter is composed of airborne particles of specific size. Standard measurements include particulates less than 10 microns in size (PM10), and particulates less than 2.5 microns in size (PM2.5).

law. The following list of regulatory acts affects the Air Quality District:

Federal Clean Air Act of 1992	California Code of Regulations, Titles 13, 17, 26
California Clean Air Act of 1988	District Rules and Regulations
California Health and Safety Code	Local City and County Ordinances

The Air Quality District staff consists of the Air Pollution Control Officer (who serves as the Air Quality District executive director) and subordinate technical personnel. The Air Quality District is governed by a six member Board of Directors consisting of two members from the Nevada County Board of Supervisors (BOS) and two Supervisors each from Plumas County and Sierra County. The Board of Directors meets monthly in open public meetings.

## METHOD OF INVESTIGATION

The Grand Jury interviewed the Executive Director of the Air Quality District, Air Quality District technical staff, and members of the BOS. The Grand Jury also reviewed Air Quality District documents and reports, newspaper articles in the local and regional media, and Air Quality-related programs developed by the Air Quality District.

### Sources:

1. Northern Sierra Air Quality Management District Program Overview and Air Quality Facts, July 2003
2. Northern Sierra Air Quality Management District Annual Air Monitoring Report 2002 (May 1, 2003)
3. Air Quality Index table from Sacramento Metropolitan Air Quality Management District
4. *The Union* newspaper (01/06/2004, 01/29/2004)
5. *The Sacramento Bee* newspaper (09/7/2003, 01/30/2004)
6. Letter from Northern Sierra Air Quality Management District to US EPA, Region IX, 02/03/2004
7. Presidential Proclamation: Memorandum for the Administrator of the Environmental Protection Agency: Implementation of Revised Air Quality Standards for Ozone and Particulate Matter 07/16/1997
8. Conversations with the technical staff of Northern Sierra Air Quality Management District
9. Sacramento Metropolitan Air Quality Management Districts website at: [www.sparetheair.com](http://www.sparetheair.com)

## FINDINGS

1. Pollution monitoring data show that levels for ozone have increased in Western Nevada County. Since 1997, there has been a steady increase of the number of days and hours when ozone levels have exceeded the State air quality standard. The exceedances<sup>3</sup> usually occur in the late afternoon and evening, which indicates ozone and its precursors are transported from upwind (source) area<sup>4</sup>. (See sources numbers 1 and 2.)

---

<sup>3</sup> The term "exceedance" means the ambient levels of ozone or particulate matter have risen above the applicable Air Quality Standards.

<sup>4</sup> "Transport" is the movement of pollutants from an upwind (source) area (Sacramento Valley and Bay Area) to a downwind (destination) area (Nevada County), due to the prevailing Southwest winds. (See source no. 2).

2. Ozone and PM10 & PM2.5 particulates are the primary contributors to air pollution in Nevada County. Ozone concentrations are typically low in the winter months but rise dramatically during the summer season. Concentrations of particulates typically increase during the winter months.
3. Ozone levels above the Federal air quality standard aggravate the health of people with sensitive and /or compromised pulmonary systems. Ozone is a powerful oxidant that can damage the respiratory tract causing inflammation and irritation, and induces symptoms such as coughing, shortness of breath and worsening of asthma symptoms.
4. PM10 & PM2.5 particulates are contained in smoke from wood stoves and open burning of all types: residential burning; prescribed fire (forest management, wild-lands vegetation management); land development clearing; hazard reduction; agriculture; and road maintenance. These small size particulates get by the natural filtration systems of the nose and throat and lodge deep in the lungs. People most sensitive are those with chronic lung or cardiovascular disease, those with influenza, asthmatics, the elderly and children.

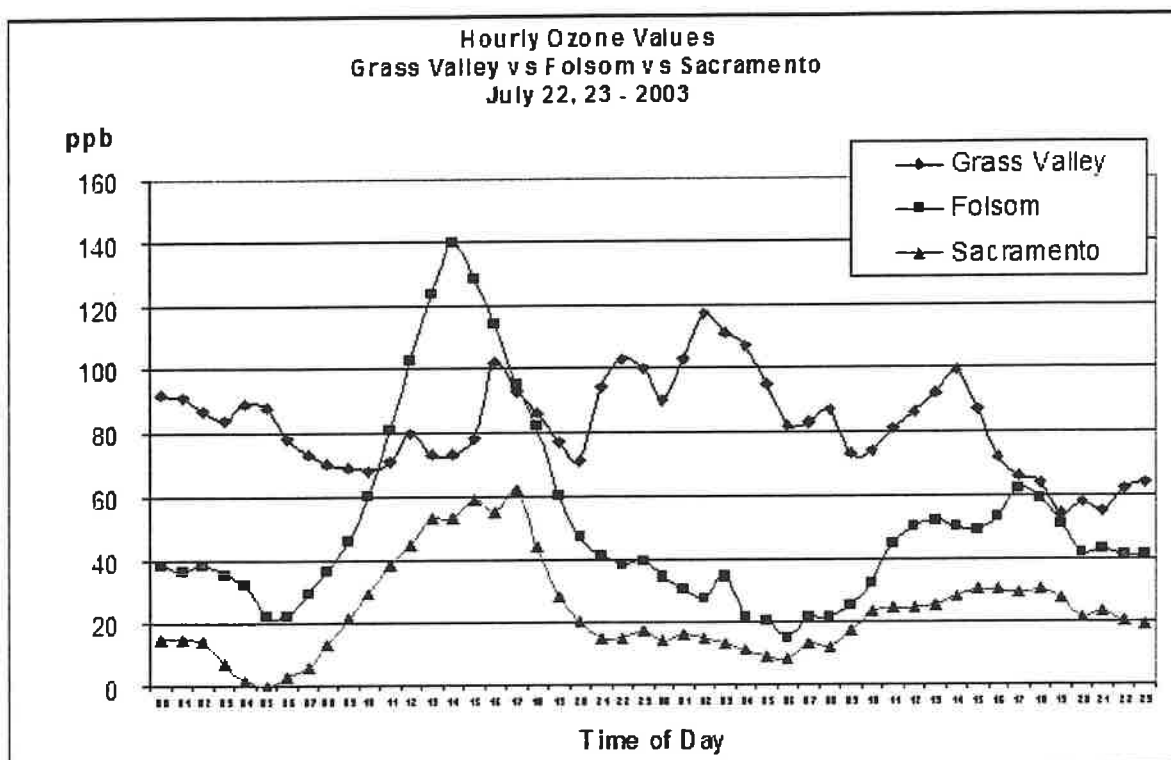
### Air Quality Index (AQI) vs. Health Hazard

(This table used courtesy of Sacramento Metropolitan Air Quality Management District)

AQI	Health Categories	Ozone	Fine Partides PM2.5	Particles PM10
300	<b>Very Unhealthy</b> 201-300	Active children and adults, and people with respiratory disease, such as asthma, should avoid all outdoor exertion; everyone else, especially children, should limit outdoor exertion	People with respiratory or heart disease, the elderly and children should avoid any outdoor activity; everyone else should avoid prolonged exertion	People with respiratory disease, such as asthma, should avoid any outdoor activity; everyone else, especially the elderly and children, should limit outdoor exertion
200	<b>Unhealthy</b> 151-200	Active children and adults, and people with respiratory disease, such as asthma, should avoid prolonged outdoor exertion; everyone else, especially children should limit prolonged outdoor exertion (106 ppb - NAAQS)*	People with respiratory or heart disease, the elderly and children should avoid prolonged exertion; everyone else should limit prolonged exertion	People with respiratory disease, such as asthma, should avoid outdoor exertion; everyone else, especially the elderly and children, should limit prolonged outdoor exertion
150	<b>Unhealthy for Sensitive Groups</b> 101-150	Active children and adults, and people with respiratory disease, such as asthma, should limit prolonged outdoor exertion (85 ppb - NAAQS)*	People with respiratory or heart disease, the elderly and children should limit prolonged exertion	People with respiratory disease, such as asthma, should limit outdoor exertion
100	<b>Moderate</b> 51-100	Unusually sensitive people should consider limiting prolonged outdoor exertion	None	None
50	<b>Good</b> 0-50	None	None	None

\* Measurements are in parts per billion (ppb). 85 ppb is the National Ambient Air Quality Standard (NAAQS) for "Unhealthy for Sensitive Groups." 106 ppb is the NAAQS for "Unhealthy" category. Any 8-hour average greater than 85 ppb is considered harmful to the public health. Measurement information provided by Northern Sierra Air Quality Management District.

5. Pollution monitoring sites continuously record the levels of pollutants (ozone, PM10, PM2.5) at various locations within the Air Quality District as well as to the south and west of Nevada County. During 2002 at the Grass Valley monitoring site, there were 22 days with exceedances of the 8-hour Federal Air Quality Standard for ozone. There were 80 hours on 20 separate days exceeding the State 1 hour Air Quality Standard for ozone.
6. The hot, stagnant days during July 2002 in the Broader Sacramento Area contributed to record high ozone levels as measured at the Grass Valley monitoring site. This ozone was later transported into the Air Quality District on the prevailing southwest winds.
7. According to the State Air Quality Board, Western Nevada County's impending designation as a Federal non-attainment area for ozone is a result of overwhelming air pollution transport from upwind (source) urban areas that include the Sacramento Valley and Bay areas.



This graph shows ozone concentration over a two-day period, measured at three locations. The graph shows the transport of ozone from the upwind (source) areas of Sacramento and Folsom into the foothills of Nevada County. As the peak values decrease in the upwind (source) areas, the ozone level rises in the foothills blown in on the prevailing winds. Graph provided by Northern Sierra Air Quality Management District.

8. The State Air Resources Board opposes the EPA plan to make Western Nevada County part of the Sacramento ozone area. Nevada County and other downwind (destination) counties have their own pollution control agencies and have "air basins" distinct from their more urban counterparts.
9. Improvements in Western Nevada County air quality, with respect to ozone, will depend

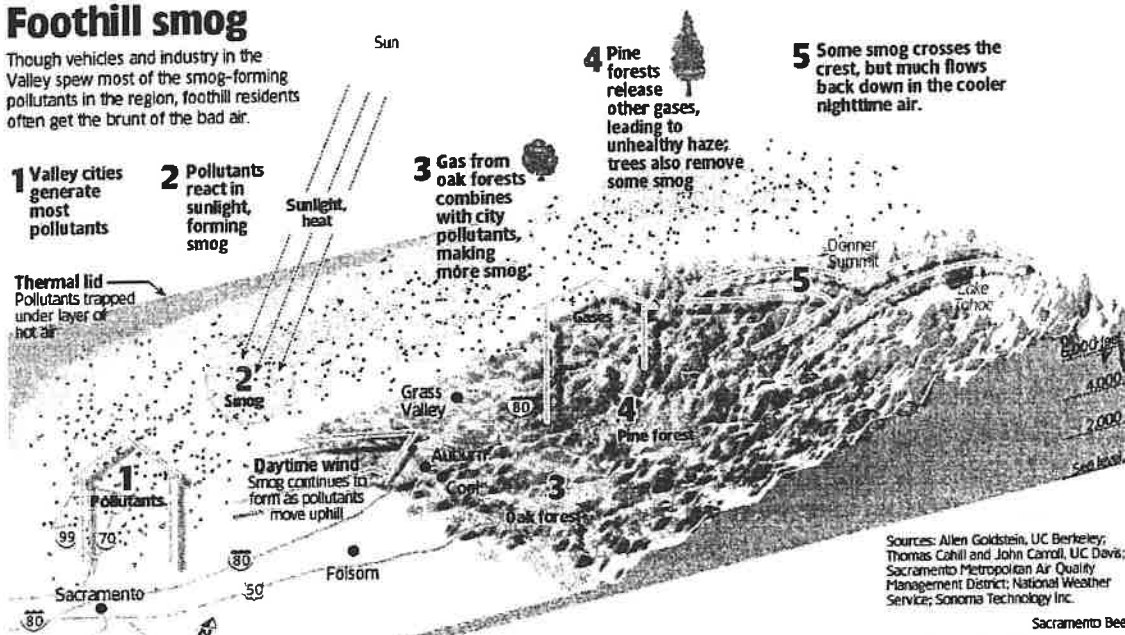


largely on the success of air quality programs in upwind (source) areas such as the Sacramento Valley and the Bay Area. (See source no. 2.)

10. Until the upwind (source) Broader Sacramento Area makes substantial gains in its ozone precursor reduction program and State and Federal implemented control programs come into effect, the Air Quality District expects to see continued violations of both Federal and State air quality standards in Western Nevada County.

### Foothill smog

Though vehicles and industry in the Valley spew most of the smog-forming pollutants in the region, foothill residents often get the brunt of the bad air.



Sources: Allen Goldstein, UC Berkeley; Thomas Cahill and John Carroll, UC Davis; Sacramento Metropolitan Air Quality Management District; National Weather Service; Sonoma Technology Inc.  
Sacramento Bee

Ozone transport - Air Pollutants generated in the Sacramento Valley are transported to the Nevada County foothills by the prevailing southwest winds causing ozone levels in Western Nevada County to exceed the national 8 hour air quality standard.

11. The Air Quality District reports that The Town of Truckee and Quincy currently exceed the State air quality standard for PM10 particulate matter. Wood stoves, open burning of all types, and windblown road sand/dust are the main sources of particulate matter causing violations within the district.
12. PM2.5 particulates are found in smoke from woodstoves and open burning within the county and from agricultural burning in the Sacramento Valley.
13. The Air Quality District has programs in place to mitigate vehicle exhausts, industrial/equipment emissions, particulate pollution, etc. The Air Quality District has supported the leaf-burning ordinance, green waste pickup, and has done educational outreach programs to residents and schools.
14. A small sampling of community programs supported and/or sponsored by the Air Quality District include the curbside greenwaste pickup, woodchipping, free compost bins, Master Composter program, the ban on leaf burning, woodstove change-out, purchase of

Compressed Natural Gas (CNG) buses and low emission (Hybrid) vehicles, public air quality alerts, and a public "hot line." As an example, since the ban on leaf burning went into effect, the Air Quality District reports a 75% decrease in smoke-related health complaints.

15. The EPA is seeking to restructure air quality boundaries by folding Western Nevada County into the six county Sacramento region non-attainment area, despite opposition by the State Air Resources Board.
16. The State Air Resources Board recognizes that portions of the Air Quality District exceed State Air Quality Standards due to transport of pollutants from upwind (source) areas. As a result, the state has designated Nevada County as non-attainment due to overwhelming transport of ozone from upwind (source) areas. As such, the Air Quality District is required to develop an Attainment Plan to maintain emissions from within the Air Quality District to levels below which violations would occur in the absence of the transport contribution.

## CONCLUSIONS

1. The geography and topography of Western Nevada County, coupled with the prevailing winds, all work to cause Western Nevada County to periodically exceed the 8 hour air quality standard for ozone levels. Our high ozone levels are the result of transport from the Sacramento Valley and Bay areas by the prevailing southwest winds. The California Air Resources Board acknowledges this fact. Regardless of where the ozone originates, it ends up in the foothills of Western Nevada County and poses a real health hazard for County residents.
2. If nothing is done by the upwind (source) communities to mitigate ozone precursors in their areas, Nevada County can expect to experience more days in the future of unhealthy levels of ozone. Also, PM2.5 & PM10 particulate levels will increase over time due to our own production of smoke from wood stoves, widespread open burning, and agricultural burning in upwind (source) areas out of the County.
3. If Western Nevada County is folded into the Sacramento non-attainment area for ozone, the county will lose local control over existing air quality programs and will be subject to the penalties and sanctions levied on the Sacramento non-attainment area for exceeding air quality standards. It is preferable for Western Nevada County to be designated as a separate non-attainment area.
4. Designation as a Federal non-attainment area could result in loss of Federal highway funds and the imposition of other Federal sanctions.
5. Nevada County is on the horns of a dilemma. The Air Quality District is doing an admirable job to mitigate the levels of ozone and particulates that are generated from within the County. However, the County pollution levels periodically exceed the air quality standards for ozone and particulates due to transport from upwind (source) areas. As such, the County stands to

be penalized for a situation over which it has no control, and County residents remain exposed to the health hazards of air pollution blown in on the winds. As noted previously in the presidential proclamation, common sense should prevail.

## **RECOMMENDATIONS**

1. The Board of Supervisors (BOS) must continue to enlist the support of the California Air Resources Board and state and federal legislators to create Nevada County's own air pollution non-attainment district. Western Nevada County should be designated as its own non-attainment district with recognition by the EPA and California Air Resources Board that Western Nevada County is subjected to overwhelming transport ozone pollution from upwind sources in the Sacramento Valley area.
2. The BOS and legislators should oppose reduction in funds for the improvement of local district air quality.
3. The BOS should seek to establish additional ozone and continuous particulate monitoring sites, equipped with a full range of meteorological sensors, on the Western edge of Nevada County (Penn Valley or Lake Wildwood area). These monitoring sites would provide information about transport ozone and particulates blowing from the Sacramento Valley into Penn Valley, North San Juan, and areas North of the Yuba River.
4. The BOS and legislators must urge the EPA to limit any sanctions imposed on Nevada County to those addressing only the causative factors over which the county has some control or that actually improve air quality in our County.
5. The Air Quality District should continue their community programs that reduce pollutants, encourage vehicle trip reductions, reduce the need for open burning, and encourage woodstove change-outs.
6. The Air Quality District should continue the public awareness programs that illuminate the health risks due to long-term exposure to pollutants such as ozone and PM10, PM2.5 particulates.
7. The County Department of Transportation and Sanitation should continue working with the Air Quality District and CalTrans and The Town of Truckee to focus on transportation solutions for reducing vehicle generated emissions and road dust created by winter sanding.

## **REQUIRED RESPONSES**

Board of Supervisors: June 24, 2004

Truckee Town Council: June 24, 2004

Northern Sierra Air Quality Management District: May 25, 2004



Wastewater Treatment  
in  
Western Nevada County



# **WASTEWATER TREATMENT IN WESTERN NEVADA COUNTY**

## **REASON FOR INVESTIGATION**

Recent local newspaper articles have covered plans for modification of county-operated wastewater treatment plants within western Nevada County. The Grand Jury, in response to these articles, initiated an investigation to examine both the County's actions and its future plans with respect to wastewater treatment, and in particular, the source of funding for wastewater treatment plant improvements.

## **BACKGROUND**

The U.S. Environmental Protection Agency (EPA), State Water Quality Resource Control Board (SWB), and the Central Valley Regional Water Quality Resource Control Board (CVB) regulate wastewater treatment plants.

Nevada County Local Agency Formation Commission (LAFCO) initiated a study that concluded in January of this year and is a major source of information for this report titled: Final Municipal Service Review Report Nevada County Western Region Wastewater Service Agencies. The LAFCO study regarding wastewater is comprehensive and deals with projected population growth and government structures required to meet that growth.

A majority of the population of Nevada County uses septic systems that could be as small as a single-family residence system or as large as a community septic system serving several homes, an apartment complex, or an industrial park. The federal government assumes no direct role in regulation of on-site sewage systems and regulation is delegated to state and local government.

That portion of the County that does not use septic systems uses treatment facilities provided by wastewater treatment plants. These treatment plants, regulated by multiple levels of governmental authority, operate within a complex and legally unsettled regulatory framework that includes the following:

- EPA as regulator of the Clean Water Act, 33 USC 1311, and the Federal Water Pollution Control Act, 33 USC 1251 et seq.,
- The SWB and the Porter-Cologne Water Quality Control Act, California Water Code Division 7, effective January 1, 2003, sometimes called the "California Toxics Rule" (CTR), and
- The CVB affecting western Nevada County.

## **Environmental Protection Agency**

The EPA's mission is to protect human health and to safeguard the natural environment - air, water, and land - upon which life depends. The Clean Water Act (CWA) of 1972 and amended in 1987 is the primary Federal statute regulating the protection of the nation's waters. With respect to *funding* for EPA-mandated changes, it is relevant to note:

*United States Code, Title 33, Chapter 26, Subchapter I, Sec. 1251 (4)  
which states ...“it is the national policy that Federal financial assistance  
be provided to construct publicly owned waste treatment works.”*

## **State Water Quality Resources Control Board**

The California Water Code is the principal state regulation governing water quality protection and the use of water resources. This code established the (SWB) and the California Regional Water Quality Control Boards.

## **Regional Water Quality Control Boards**

The mission of the nine Regional Water Quality Control Boards is to develop rules to enforce water quality and thereby protect the State's waters. The primary duty of CVB (Region 5b) is to protect the quality of the waters within the central valley region including western Nevada County.

It is relevant to note that the CVB has the authority to regulate *any* wastewater system within its jurisdiction. The CTR requires that any person discharging or proposing to discharge waste, even individual septic systems for single-family residences, file a report with the regional offices. In the early 1950's, CVB waived the filing of reports for dischargers from individual sewage disposal systems in counties with satisfactory ordinances or regulations.

## **Nevada County Sanitation District No. 1**

Nevada County Sanitation District No. 1 was formed in 1965. It is a dependent special district governed by the County Board of Supervisors. It administers, operates and maintains sewage collection systems and treatment facilities at the following areas: Lake Wildwood, Lake of the Pines, North San Juan, Gold Creek, Penn Valley, Mountain Lakes Estates, Cascade Shores, Eden Ranch, Dark Horse, and Higgins Village.

## **METHOD OF INVESTIGATION**

The Grand Jury interviewed wastewater operations management, attended multiple outreach meetings conducted by County-employed consultants, reviewed documents prepared by County-employed consultants hired by LAFCO, and researched the topic of wastewater in California through multiple sources.



## FINDINGS

1. All wastewater treatment plants that discharge to surface waters are issued a National Pollutant Discharge Elimination System (NPDES) permit that sets specific discharge requirements to ensure protection of public health and water quality. These permits are renewed every five years by the California Regional Water Quality Control Boards. At *each renewal*, the permit renewal process may incorporate new treatment objectives and discharge regulations that might require upgrades or modifications to the facility.
2. In the last year, testing of effluent (output) at wastewater treatment plants within Sanitation District No. 1 has revealed levels of contaminants that exceed CTR water quality criteria.
3. Regional Water Quality Control Board Orders implement EPA standards and require *all* treatment plants within Nevada County to meet a higher quality of water discharge to maintain their permits. Current plants will not remove trace contaminants as required by the new standards. Failing to meet discharge requirements may subject the plants to fines.
4. The LAFCO report indicates that given the current land use patterns and projected growth areas, it is impracticable to have one centralized regional wastewater system within Nevada County.
5. The report also states that it is inefficient and costly for the wastewater agencies to service projected growth through a series of small "package plants" and agencies/zones as has been done in the past.
6. "Package plants" must also meet the same water quality standards as large plants and, as a result, typically have higher costs and charges for property owners. The government structure is also affected. Since adoption of an ordinance in 1982, Nevada County has required some wastewater systems be operated by a public agency or to annex to an existing public agency. The result has been that either a very small district is formed or annexation to a public agency is required. A majority of the annexations has been to the Nevada County Sanitation District No. 1, which now operates some systems with comparatively few customers.
7. LAFCO's report also noted that "package plants" cannot achieve the economies of scale required for efficient and cost-effective processing of wastewater.
8. The western Nevada County review commissioned by LAFCO estimated the current cost to meet CVB's discharge requirements for Nevada County Sanitation District No. 1, including only Lake Wildwood, Lake of the Pines, Penn Valley, and Cascade Shores, at over \$12 million.
9. Nevada County Sanitation District No. 1 projected maintenance and capital improvements at a higher cost than LAFCO. The cost for maintenance and capital

improvement to meet CVB's revised standards in Lake Wildwood (LWW), Lake of the Pines (LOP), Penn Valley (PV), North San Juan (NSJ), Cascade Shores (CS), Gold Country (GC), and Mountain Lake Estates (MLE) was estimated in May of 2003 to be in excess of \$15 million, and in April of 2004, in excess of \$23 million, as shown in the following chart. Estimates for Eden Ranch (ER), Dark Horse (DH), and Higgins Village (HV) were not included in either total.

Fiscal Year	All Zones	LWW	LOP	PV	NSJ	CS	GC	MLE	E R	D H	H V	Total
2003/04	\$284,592	\$317,000	\$526,700	\$26,006	\$5,000	\$22,000	\$4,000	\$3,000				\$1,188,298
2004/05		\$1,256,515	\$782,696	\$30,000	\$5,000	\$78,000	\$4,000	\$3,000				\$2,159,211
2005/06		\$843,315	\$6,758,472	\$8,000	\$5,000	\$429,500	\$4,000	\$3,000				\$8,051,287
2006/07		\$5,560,000	\$5,974,109	\$8,000	\$5,000	\$229,500	\$4,000	\$3,000				\$11,783,609
<b>Total</b>	<b>\$284,592</b>	<b>\$7,976,830</b>	<b>\$14,041,977</b>	<b>\$72,006</b>	<b>\$20,000</b>	<b>\$759,000</b>	<b>\$16,000</b>	<b>\$12,000</b>				<b>\$23,182,405</b>

Source: Nevada County Sanitation District No. 1, April 16, 2004

10. The Lake Wildwood Wastewater Treatment Plant currently discharges into Deer Creek, which during many months of the year has little or no flow below the Lake Wildwood Dam. CTR standards must be met at the point of discharge. The consultant's recommendation for Lake Wildwood as of March 9, 2004 was to build a 5-mile pipeline from Lake Wildwood to a point of discharge at the headwaters of the South Yuba River where the volume of natural water would be sufficient *at this time* to meet CTR rules and disperse the effluent.
11. The Lake Wildwood plant must comply with a new discharge permit by 2007. To have facilities constructed and operational by that time, the Nevada County Sanitation District No. 1 projects that it must select a treatment and disposal alternative, establish a new fee structure, start environmental studies and documentation, begin engineering during 2004, and complete design of those facilities by early 2005.
12. The current proposal for Lake Wildwood would require a minimum upgrade to the treatment facility and would encapsulate Deer Creek's flow for much of the year in a pipe at a cost estimated at \$5 million. The effluent would be transported around Deer Creek and thus conform to CVB's *current* point of discharge rule.
13. Lake Wildwood individual sewer charges are projected to increase from \$315 to \$843 per year in order to comply with CVB's new requirements.
14. The current proposal to meet the long-term needs of Lake of the Pines is to upgrade the treatment plant at its current location. The upgraded facility will discharge year-round to Magnolia Creek but provisions will be made to resume seasonal pastureland dispersal should it become desirable in the future.
15. Estimates for sewer charge increases to fund the Lake of the Pines wastewater treatment plant upgrade are not firm at this time. The estimated construction costs to upgrade the Lake of the Pines wastewater treatment plant could cause individual sewer charges to increase from the current \$315 to \$1035 per year in 2006/07.

16. The Cascade Shores wastewater treatment consists of a stream discharge system into Gas Canyon Creek. Built in 1996, it met the effluent discharge requirements then in effect. The wastewater discharge permit is up for renewal and requires the treatment plant be upgraded by 2006 to meet the new CVB requirements. In March 2004, Cascade Shores' charges increased from \$910 to \$1795 per year by order of Nevada County Board of Supervisors acting as the Board of Directors of the Sanitation District in ordinance No. SD-46. Proposed disposal options are still being evaluated.
17. The County is handing the cost of meeting toxic rule requirements to those communities that have separate water treatment plants.
18. Nevada County is charging for wastewater treatment improvements on residents' tax bills. The California Attorney General warns that such charges do not have a "direct relationship to property ownership." There is legal uncertainty in the State as to whether such charges constitute a tax increase (forbidden by various propositions) or a permissible fee for service assessment.
19. Grant funds were reported by County-employed consultants to be *unavailable* on September 16, 2003 at a Lake Wildwood community outreach meeting. An article in The Union on November 20, 2001 alluded to an \$85,000 grant requested by the Nevada County Resources Conservation District of the David and Lucille Packard Foundation. The grant had been turned down due to a lack of 50 percent matching funds. On January 27, 2003, The Union reported that the Yuba Watershed Council "had received \$1.2 million in grants from the \$1 billion Clean Water Act passed in 1996." On March 8, 2003 The Union reported that Nevada City was "applying for a U.S. Department of Agriculture rural development grant" to improve their wastewater treatment plant. The same consultants reported grant funds to be *under study* on March 9, 2004.
20. *Funding to meet these requirements is unbudgeted. If the county cannot obtain federal or grant funding, the current plan is to pass on the costs of each project to the property owners served.*
21. *The United States Code, previously cited, states that it is the national policy that Federal financial assistance would be provided for wastewater treatment plant upgrades.*

## CONCLUSIONS

1. The County's efforts at addressing a solution for the smaller wastewater treatment plants in Sanitation District No. 1 are fragmented and not cost-effective.
2. Even if the Lake Wildwood proposal was acceptable to county residents on Deer Creek below Lake Wildwood, there is every possibility that such a discharge, even if Lake Wildwood property owners would approve expending \$5 million, would be unacceptable to the CVB in the future given planned and approved major housing developments west

of the Nevada County line.

3. The current Lake of the Pines proposal is likely to be expensive for property-owners and not at all cost-effective.
4. The residents of Cascade Shores, threatened by the CVB with substantial fines, are being penalized with cost increases that are unconscionably high to support one small "package plant."
5. Charges for wastewater treatment applied to residents' tax bills may eventually be found to be an illegal tax increase in the interpretations of Propositions 13, 62, and 218. Thus, Nevada County may be inviting expensive and prolonged litigation.

## RECOMMENDATIONS

1. The Board of Supervisors should direct the Department of Transportation and Sanitation to address wastewater processing in western Nevada County with a master plan. Efforts to address individual wastewater treatment upgrades that are not cost-effective should be abandoned once the master plan is implemented.
2. The Board of Supervisors should evaluate the LAFCO report's recommendation that:

"The western Nevada County wastewater agencies should also consider ways to provide regional wastewater services either through an informal group or a long-term, legal arrangement such as a joint powers authority (JPA). Even if existing systems could not be shared, regional services that could be shared or coordinated might include developing approved standards lists, standardizing specifications and drawings, and agreeing on design manuals in order to have a standardized regional system. Wastewater providers could also act as a single unit for lobbying, funding/grant efforts, preparing master plans, and outsourcing services such as engineering, legal services, information services, lab testing, printing, insurance, audits, landscaping, billing, and vehicle purchase/maintenance in order to realize costs savings."
3. The Board of Supervisors should *vigorously assert* their influence with state and federal legislators as to the financial impacts to county residents as cities and counties and especially smaller treatment plants react to meet the more stringent requirements for wastewater treatment.
4. Board of Supervisors should evaluate alternative ways of recovering the costs of wastewater treatment services, e.g., attaching the charges to water bills as some percentage of water used.
5. The Board of Supervisors should direct the Department of Transportation and Sanitation

to seek out grant money to assist in meeting the challenges facing the County with renewal of treatment plant permits.

## **REQUIRED RESPONSES**

Nevada County Board of Supervisors – August 26, 2004



Septic Systems Inquiry  
in  
Nevada County





# **SEPTIC SYSTEMS INQUIRY IN NEVADA COUNTY**

## **REASON FOR INVESTIGATION**

Over the past several years local newspaper articles have been written regarding sewage spills. The Grand Jury, in the course of investigating wastewater treatment, learned that 65% of the County was on septic systems. We thereupon initiated an investigation to examine both the County's actions and its future plans with respect to addressing the public health concerns associated with septic systems.

## **BACKGROUND**

On-site wastewater systems are defined as both an individual septic system for one connection such as a single-family residence and a community septic system that might serve multiple connections such as an apartment complex or an industrial park.

Nevada County Local Agency Formation Commission (LAFCO) commissioned a study called Final Municipal Service Review Report Nevada County Western Region Wastewater Service Agencies. This report, concluded in January of 2004, is a major source of information for the Grand Jury report.

## **METHOD OF INVESTIGATION**

The Grand Jury interviewed County wastewater operations management, reviewed documents prepared by consultants hired by LAFCO, and researched the topic of on-site systems in California through multiple sources.

## **FINDINGS**

1. The 1967 Porter-Cologne Act established the State Water Quality Resource Control Board (SWB) and California Regional Water Quality Control Boards as principal state agencies responsible for water quality control.
2. The Central Valley Regional Water Quality Control Board (CVB) has the authority to regulate any wastewater system within a jurisdiction that includes western Nevada County. While the Porter-Cologne Act requires that any person discharging or proposing to discharge waste, even individual septic systems for single-family residences, file a report with the regional offices, it has been CVB's practice since the early 1950s to

regulate/monitor only systems with more than 99 connections. Recently the CVB has decided to regulate some systems in Nevada County with fewer than 99 connections where the proposed system design did not appear to protect water quality and meet existing standards.

3. More stringent statewide requirements for the permitting/operation of on-site systems may be required as a result of Assembly Bill 885 (AB885), but no regulations or standards have been promulgated as of the date of this report.
4. Beyond the policies and requirements of the regional water quality control boards, there are currently no statewide requirements for minimum lot sizes, placement, or use of on-site wastewater systems. California does not have statewide laws for pre-sale inspections or for regular inspections of on-site systems after initial construction. Requirements addressing these issues are left to the discretion of individual county health departments.
5. Nevada County has established regulations for setbacks and replacement areas for on-site systems. Regardless of the zoning, all new parcels created in Nevada County that plan to use an on-site system must be large enough to accommodate the required system and an on-site system reserve/replacement area. The reserve area, required to be the same size as the primary septic system, is protected to the same extent as the primary septic system area.
6. The LAFCO report states ... "while on-site systems are often cited as a source of water quality degradation, there is little documentation to substantiate that claim. AB885 may require that the SWB adopt regulations for the permitting/operation of on-site systems."
7. County tracking of septic tank problems and leakage is *only* complaint-driven. Complaints are received and filed according to parcel number in manila folders in a records storage room. Older parcel data is stored on microfiche. To obtain a consolidated report of septic tank complaints, one would have to go through the parcel folders and microfiche and extract the complaints one-by-one. Without consolidated reports, the County lacks reference points to determine if the number of complaints is growing (and at what rate), staying the same, or decreasing.
8. In response to a letter dated January 11, 2002 from the Alta Sierra Property Owners Association (ASPOA), the County Department of Transportation and Sanitation in September of 2002 conducted an investigation of sewage disposal in the Alta Sierra area. The study, based on a review of 309 randomly selected developed parcel files (with no on-site physical inspection), statistically estimated that over 40% of the septic tanks have not been pumped in the last 15 years compared to a recommended average pumping interval of 3-5 years. The study also concluded that no evaluation of ground water quality or health risks could be made as the study was done from historical data and lacked field-testing for bacteria.
9. A report prepared for the Nevada County 1992 General Plan update noted:

“Septic tank and leach field system problems have evolved in localized portions of western Nevada County for a variety of reasons including soil conditions, slope, small lot sizes and inadequate permit and construction practices ... (and) areas such as the Alta Sierra subdivision and La Barr Meadows have a history of failing leach fields.”

10. Regular testing of wells can determine if groundwater is contaminated. The LAFCO report states...“all wells be tested regularly.” Anecdotal information indicates that generally 27% of wells tested show levels of coliform bacteria in excess of acceptable levels. While wastewater disposal may be the primary cause of high coliform levels, a causal relationship between failing septic systems and high coliform levels in wells has not been established. Coliform bacteria are ubiquitous in soil and are only “indicators” of potential water contamination.
11. The LAFCO report also states: “It may not be possible for all new development to connect to centralized, public wastewater systems; however, a series of larger sub-regional, centralized facilities may reach economies of scale not available with on-site systems. A method of evaluating the economic and environmental impacts of the various treatment options and providing direction to reduce the long-term reliance on on-site systems should be developed.”
12. The County is developing a new computer system called “Encompass.” Encompass is expected to provide consolidated reports for parcel data that is entered into the system. It is not clear, however, that older parcel data stored on microfiche will be included. Older septic systems might be expected to be more problematic than newer systems constructed using longer-lasting materials

## CONCLUSIONS

1. While the regulatory details of AB885 have not yet been promulgated, the County can proactively anticipate that those details will require a new level of protection of the public health in areas of high population density that are currently served by on-site systems. There is no need to wait for AB885 to react to what is already known.
2. There is a potential health risk associated with coliform bacteria that is currently unmeasured. In addition to the health problems associated with bacteria, there is also a long-term problem associated with on-site systems’ dispersal of common household wastes containing contaminants that wastewater treatment plants are required to remove.
3. Thus, failure-reports from Encompass might not include the past data for parcels having the highest septic tank failure rate. Measurement is absolutely indispensable for improving wastewater treatment efforts. Without measurement, there is no effective way to judge the County’s wastewater efforts.

## **RECOMMENDATIONS**

1. The Board of Supervisors should direct Sanitation and/or Environmental Health to commission a master plan to address on-site system testing and maintenance countywide and to educate the public about related health concerns.
2. The Board of Supervisors should make certain that any new computer systems have the data required to provide essential management reports related to on-site septic system complaints, failures, testing, and maintenance.
3. The Board of Supervisors should direct Environmental Health to assist ASPOA and similar communities to locate an affordable testing and pumping provider for residents' septic systems.
4. The Board of Supervisors should establish an ongoing periodic licensing and testing program for all wells within the County to determine if the groundwater is contaminated.

## **RESPONSES**

Nevada County Board of Supervisors – August 30, 2004

**LAW  
ENFORCEMENT**

Correctional and Holding Facilities  
in  
Nevada County

California Conservation Camp  
Washington Ridge



**Correctional and Holding Facilities  
in  
Nevada County**





# **CORRECTIONAL AND HOLDING FACILITIES IN NEVADA COUNTY**

## **REASON FOR INVESTIGATION**

California Penal Code Section 919(b) requires: "The grand jury shall inquire into the condition and management of the public prisons within the county." The Nevada County Grand Jury defines public prisons as any adult or juvenile correction or detention facility within the county.

## **PROCEDURE FOLLOWED**

The Grand Jury inspected the Wayne Brown Correctional Facility (WBCF), the Nevada County Courthouse Holding Facility, the Sheriff Substation at Truckee and the Carl F. Bryan II Juvenile Detainment Center. The Grand Jury interviewed the Nevada County Sheriff and the management and staff responsible for the operations of each facility. The Grand Jury reviewed various documents requested from these facilities.

The Grand Jury visited Carl F. Bryan II Juvenile Detainment Center, no report will be issued at this time.

## **FINDINGS**

### **Wayne Brown Correctional Facility**

1. The WBCF was opened in 1992 and designed to accommodate 223 inmates - 7 females, 216 males, and 5 medical cells.
2. Since its construction, the number of female inmates held at the facility has been increasing and is currently averaging 20 to 30. At the time of the inspection, WBCF had a total population of 166 inmates - 145 males, and 21 females.
3. All inmates are assigned to housing units and activities using California Code of Regulations (CCR) Title 15 Classification Plan. Classification is based on sex, age, criminal sophistication, seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior and other criteria which will provide for the safety of the inmates and staff. Housing unit assignments are accomplished to the extent possible within the limits of the available number of distinct housing units or cells in the facility.
4. Due to space limitations and the current numerous inmate classifications requirements, the female population is being housed in the minimum-security dormitory style area of the WBCF.

5. The staff of WBCF has initiated an in-house training academy for new correctional officers. This training, which meets the state standards, has reduced the expense of training and has been made available to neighboring counties.

#### **Truckee Substation**

1. The substation is used to house persons arrested in the Truckee area and inmates who are transported daily from WBCF for appearance before the Truckee Courts. By law, this facility may hold inmates for a maximum of 96 hours, excluding weekends and holidays.
2. Part of the substation has been remodeled to utilize an unoccupied area of 2,300 square feet, created by the downsizing of the Sheriff's staff when the Town of Truckee Police Department began operations. The remodeled area houses a branch office of Nevada County Adult and Family Services agency also, a new locker room and storage area for Sheriff's personnel.
3. Inmates are transferred in and out of the substation through an open and non-secured carport at the rear of the facility. This carport, which has no security fencing, faces the front door, driveway, and parking lot for the Truckee branch of the Nevada County library and the Joseph Center, where the courtrooms are located.

#### **Nevada County Courthouse Holding Facility**

1. The Sheriff's department has changed to a new communications system throughout Nevada County. Older radios are in current use at the courthouse and allow for communication within the building, but are incompatible with the new system operating outside the building.
2. The assignment of a new frequency for use inside the courthouse is needed before the new compatible radios can be used. Association of Public-Safety Communications Officials, International (APCO) has recently designated several frequencies for the internal communications testing. Upon completion of testing, the new radios will be put into service.
3. The Facility in the Courthouse holds inmates transported from WBCF for court appearances and has an adequate number of cells to maintain separation of inmates by classification.

### **CONCLUSIONS**

1. The mix of inmates at WBCF has changed since its construction. This makes the existing housing facilities inadequate to meet the CCR Title 15 Classification Plan.
2. Although Truckee Substation is satisfactory for its intended use, there is concern regarding officer and public safety as well as prisoner escape when transferring inmates in and out of the facility.
3. The current communications gap at the Nevada County Courthouse Holding Facility causes a void in the law enforcement countywide communication system.

## **RECOMMENDATIONS**

1. The Board of Supervisors and the Sheriff should expend every effort to see that the changing mix of housing needs at WBCF are in compliance with CCR Title 15.
2. The Board of Supervisors and the Sheriff must begin making plans for the long-term expansion of WBCF to meet the future requirements.
3. In the interest of public safety, the Board of Supervisors and the Sheriff, must ensure that the open carport at the Truckee Substation be secured with a physical barrier.
4. The Sheriff should have the new Nevada County Courthouse Holding Facility radios placed into service as soon as the frequency testing is completed.

## **RESPONSES REQUIRED**

The Nevada County Board of Supervisors - September 27, 2004  
Nevada County Sheriff - August 27, 2004



California Conservation Camp  
Washington Ridge



# **CALIFORNIA CONSERVATION CAMP WASHINGTON RIDGE**

## **REASON FOR INVESTIGATION**

California Penal Code Section 919(b) requires "The grand jury shall inquire into the condition and management of the public prisons within the county." The Nevada County Grand Jury defines public prisons as any adult or juvenile correction or detention facility within the county. The Conservation Camp at Washington Ridge is a California Youth Authority facility within the county of Nevada.

## **BACKGROUND**

The California Youth Authority began its Youth Conservation Program in 1945. California Youth Authority (CYA) personnel in partnership with the California Department of Forestry and Fire Protection (CDF) staff the facility. CYA is responsible for the custody, supervision, and treatment of wards. CDF plans and supervises work projects performed by the wards. Ward camp crews, each led by a CDF captain, provide a variety of conservation services to state and local government agencies. Crews typically work in state and county parks; perform stream clearance, wildland fire prevention tasks, and restoration work. During the fire season, ward crews are involved in wildland fire suppression throughout the State of California. Camp crews are also assigned to flood control activities. The major emphasis of a camp program is on employability skills, with a strong emphasis on developing good work habits. Wards also receive leadership training within their crew structure.

## **PROCEDURE FOLLOWED**

The Grand Jury inspected Washington Ridge Conservation Camp. The Grand Jury interviewed the management and staff responsible for the operations and oversight of the facility. The Grand Jury reviewed various documents requested from this facility.

## **FINDINGS**

1. The Washington Ridge Conservation Camp began operations in 1961. Although some of the buildings are over 40 years old, the entire camp was found to be clean, well maintained, and in good condition.
2. Wards housed at Washington Ridge Camp are between the ages of 18 and 25. Wards stay at the camp from four months to two years, with the average being 10 months.

3. Washington Ridge Camp currently has two fully trained fire fighting crews, which assist the CDF and other area fire departments during the fire season.
4. When not involved with fire fighting, Washington Ridge camp ward crews, under the supervision of a CDF captain, work providing low cost labor while learning skills. Examples of groups and agencies that they have worked with are the Nevada County Fairgrounds, Senior Center, Master Gardeners, and Malakoff Diggins State Historic Park.
5. There has been a decrease in the number of juveniles sent to CYA during the past few years. One of the reasons for the decline is due to judges referring fewer youths in favor of more localized and less restrictive methods of rehabilitation for "non-violent" offenders.
6. The number of wards in the camp ranged from 76 in October 2003 to 41 in January 2004. In June 2004, there were 46 wards. The Grand Jury was told that a statewide commission to identify more candidates for the camp has been established which will provide more assistance in fire fighting and community service.
7. The educational facilities and methods of instruction were reviewed and found to comply with state and county standards. Wards are required to attend classes with the objective of obtaining a high school diploma or a GED.
8. The camp provides appropriate recreational facilities and learning opportunities for the wards that offer them both mental and physical outlets.
9. Events in mid-2003 caused the relationship between CDF and CYA to become strained. The Grand Jury was informed that both agencies are now expending energy to improve cooperation to provide better services.

## **CONCLUSIONS**

The Washington Ridge Conservation Camp is a benefit to both the wards and to Nevada County. The wards have the opportunity to develop employment skills and complete their education, while various groups in the county benefit from access to an economical source of labor. In addition, during the fire season, an efficiently run operation at the Washington Ridge Camp is a vital resource for fire prevention and suppression.

## **RESPONSES**

None required



**SCHOOLS  
and  
LIBRARIES**

To Charter or not to Charter



# TO CHARTER OR NOT TO CHARTER

## REASON FOR THE INVESTIGATION

Newspaper articles this past year in both *The Union* and *The Sierra Sun* have covered the revocation of the charter granted to Prosser Creek Charter School (PCCS) by the Tahoe-Truckee Unified School District (TTUSD) and the subsequent closing of the charter school. Nevada County children attended the school and were supported by Nevada County tax receipts. The Nevada County Grand Jury wanted to know why the TTUSD ultimately revoked the charter, where Nevada County children are now attending school, and what lessons can be learned regarding the management and oversight of a charter school.

## BACKGROUND

Legislation creating Charter Schools was passed and signed into law as Education Code Section 47600 et seq. in 1992.

TTUSD serves students from Placer, Nevada, and El Dorado Counties. TTUSD is a school district under the auspices of the Placer County Office of Education. Taxes collected in Nevada County for the TTUSD are forwarded by the Nevada County Auditor's office to Placer County.

A charter school is a public school and may provide instruction in any of grades kindergarten through 12. It is usually created or organized by a group of teachers, parents and community leaders or a community-based organization, and is usually authorized by an existing local public school board. Specific goals and operating procedures are detailed in an agreement (charter) between the authorizing board and charter organizers.

According to charter school legislation, the purpose of a charter school is to:

- improve pupil learning,
- increase learning opportunities for all pupils,
- encourage the use of different and innovative teaching methods,
- create new professional opportunities for teachers,
- provide parents and students with expanded educational opportunities within the public school system without the restraints of traditional rules and structure,
- provide schools a way to shift from rule-based to a performance-based system of accountability, and
- provide competition within the public school system to stimulate improvements in all public schools.

Except where specifically required, charter schools are generally exempt from California State laws governing school districts. Charter school law specifies that the chartering authority should be guided by legislative intent, which encourages the establishment of charter schools. A school district governing board may not deny a charter unless it makes specific written factual findings.

## **METHOD OF INVESTIGATION**

The Grand Jury interviewed the Superintendents of Schools for Placer and Nevada counties, former and current administrators of the TTUSD, a member of the TTUSD Board of Trustees, a former administrator of PCCS, and a former member of the PCCS Advisory Council.

Documents reviewed and cited included the charter for PCCS, the October 2002 Fiscal Crisis Management Assistance Team (FCMAT) report, information and documents prepared by the Placer County Office of Education (PCOE), web page information developed by the California Counties Superintendents Educational Services Association, miscellaneous documents and correspondence from the TTUSD and PCCS, and Charter Schools legislation and recommendations posted by the California Department of Education as of April 2, 2003.

## **FINDINGS**

1. In 1998, the TTUSD granted a K-12 charter to the PCCS. PCCS was a nonprofit public benefit corporation that was organized to operate and manage the charter school.
2. The initial enrollment was projected to be 125 students. By the end of June 1999, enrollment had grown to approximately 300 students. Based upon the FCMAT report, 2001-02 site based enrollment was 306 and Independent Study enrollment was 962 for a total PCCS enrollment of 1,268. The charter school operated both within and outside the boundaries of the TTUSD in accordance with existing state law.
3. When revenue and expenditure projection errors of \$1.5 million were discovered in the fiscal year 2001-02, the TTUSD and the PCOE became concerned with the PCCS financial viability. During this same period, the charter school became indebted for approximately \$4 million.
4. In April 2002, the Placer County Superintendent of Schools requested FCMAT to review PCCS and the fiscal impact PCCS had on TTUSD, its sponsoring agency.
5. The charter for PCCS states, "The Advisory Council shall consist of 1 student, 1 parent, 1 teacher, 1 local community representative, and a School District representative." Duties of the Advisory Council include budget review and approval as well as approving budget changes greater than 5% of the total Average Daily Attendance. The TTUSD left its position on the Advisory Council vacant on or before the fall of 2001.

6. FCMAT determined that PCOE and TTUSD had difficulty interpreting the charter's financial statements because the PCCS reports lacked clarity and accuracy and were not prepared using the same account and code structure as the district. In addition, PCCS did not always file financial reports and interpretations in a timely manner to the TTUSD or the PCOE. PCCS had a pattern of upward spiraling debt in 2001-02.
7. In April 2003, the Governing Board of TTUSD renewed the PCCS's charter. However, due to the district's concerns in areas in which PCCS had encountered operational difficulties, TTUSD added a list of issues to be addressed. These items included out-of-district students, facilities, growth, liability, student performance, conflict resolution and communications, business services, audits, administrative costs, oversight, and the fiscal viability of PCCS.
8. Between the charter renewal in April 2003 and the charter revocation in August 2003, numerous meetings and communications took place in an attempt to agree upon a Memorandum of Understanding between PCCS and TTUSD to resolve the identified areas of concern.
9. In August 2003, the TTUSD Governing Board revoked the PCCS charter due to continuing fiscal mismanagement and failure to follow generally accepted accounting principles.
10. Upon revocation of the PCCS charter, the TTUSD temporarily supported an employee of PCCS to process student records that were requested from receiving districts. Student records were transported from PCCS to TTUSD in November 2003.
11. No education entity interviewed by the Grand Jury has been able to state that all Nevada County students previously enrolled in the PCCS are meeting California compulsory education laws.
12. As of February 2004, the TTUSD did not have a board policy or any criteria in place should they be approached to authorize a request for a new charter school.

## **CONCLUSIONS**

1. There was lack of agreement between TTUSD and PCCS on the financial information, accountability standards, timelines and systems that were to be used by the charter school. This lack of agreement led to TTUSD's inability to fulfill its oversight function in a timely and effective manner.
2. Part of the financial difficulty experienced by the PCCS was the result of excessive program growth.
3. Had the TTUSD continued a presence on the PCCS Advisory Council, one possible means of communication between TTUSD and PCCS would have been available. While

this may not have prevented the revocation of the charter, TTUSD per the charter, had an obligation to participate in Advisory Council meetings.

4. The TTUSD was responsible for making the decision to renew or revoke the PCCS charter. The failure of PCCS to abide by the provisions of the April 2003 charter renewal led to the decision of the TTUSD to revoke the charter.
5. The TTUSD was unable to verify that all students that resided in Nevada County and attended PCCS are meeting compulsory school attendance laws.

## **RECOMMENDATIONS**

1. The TTUSD should proactively assume responsibility for ensuring that the former PCCS students residing in Nevada County are meeting compulsory education laws.
2. TTUSD should have in place board policy that defines the relationship between the district and any new charter school. The criteria should include the 16 elements [Ref. Education Code §47605(b)(5)(A-P)] required to be addressed in the petition, as well as information regarding the proposed operation and potential effects of the charter school, including, but not limited to:
  - the facilities to be used by the charter school,
  - the manners in which administrative services are to be provided,
  - potential civil liability effects, if any, upon the charter school and the school district, and
  - financial statements that include a proposed first-year operational budget, including start-up costs and cash flow and financial projections for the first three years of operation.
3. The TTUSD should require any future charter to:
  - enter into a detailed agreement with the district regarding the financial accountability standards and systems that will be used by the charter school and the financial information that the district wants to review,
  - have the same fiscal reporting system as the district and the County Office of Education,
  - identify the geographical area in which students will be served as well as identifying either the maximum number of students that will be enrolled or the maximum annual increase in enrollment,
  - establish the format, frequency, and scope of district oversight activities, and
  - identify which entity (the district or the charter school) is responsible for providing student services should the charter school cease to operate. Services should include notification to the school district that may be responsible for providing education services to the former charter school student, transferring student records, and ensuring that compulsory education laws are met.

## **ANALYSIS OF THE 2002-2003 GRAND JURY FINAL REPORT and RESPONSES**

The 2002-2003 Grand Jury Final Report contains findings and recommendations concerning various county, city and other local government entities. The California Penal Code Section 933.05 requires that each agency respond to the Grand Jury's findings and recommendations in a specific manner and within a specified time period.

The 2002-2003 Grand Jury Report consists of 12 individual reports that addressed various government entities. The Report was made available to the county libraries, local radio stations, newspapers, and published on the Grand Jury's Web site at [www.civilgrandjury.com](http://www.civilgrandjury.com)

The 2002-2003 Grand Jury Report contains 170 findings and 67 recommendations involving the following entities:

- Board of Supervisors
- Auditor-Controller
- City Council of Grass Valley
- City Council of Nevada City
- City Council of Town of Truckee
- Nevada County Sheriff
- Human Services Agency
- Special Districts (25)

The 2003-2004 Grand Jury received and reviewed official responses from all required respondents. Most responses arrived within the time period mandated and met the legal requirements of California Penal Code Section 933.

Copies of all responses received were distributed to the appropriate committees of the 2003- 2004 Grand Jury to follow up any unresolved issues.

The Grand Jury wishes to acknowledge all who participated in the research and investigations and thank them for their time and effort. We commend the responders for their promptness and, in many cases, for implementing the Grand Jury's recommendations.





# **FOLLOW-UP**

Analysis of the 2002-2003  
Grand Jury Report and Responses



## **REQUIRED RESPONSES**

**Governing Board of the Tahoe-Truckee Unified School District: By August 19, 2004**

**CC: (For informational purposes only)**

Nevada County Superintendent of Schools  
Placer County Superintendent of Schools  
Placer County Grand Jury



