



Nevada County Grand Jury

**Final Report
with
Responses
2007—2008**



GRAND JURY
COUNTY OF NEVADA
Eric Rood Administration Center
950 Maidu Avenue
Nevada City, California 95959
Phone Number: 530-265-1730
Email: grandjury@nevadacount

November 26, 2008

The Honorable Robert Tamietti
Judge of the Superior Court
201 Church Street, Suite 7
Nevada City, CA 95959

Dear Judge Tamietti,

It is with pleasure that I forward to you the enclosed Final Grand Jury reflecting both the Grand Jury reports and This Final Report continues the practice of making the responses public in such a format.

Our analysis of the responses is limited to concluding that the respondents complied with the requirements and format dictated by California Penal Code. No evaluation of the content of each response was made. Copies of the responses were given to the respective committees of the current Grand Jury for followup on the implementation of recommendations agreed to by the responders.

Copies of this report will be placed on file with the Clerk of the Court, who will forward one copy to the California State Archivist. The Clerk of Nevada County will also receive copies. Additional copies will be placed on file in County libraries and made available to the media. The Jury will as required, send one copy to University of California, Government Studies Library, Berkeley California.

In closing, the Nevada County Grand Jury wishes to express their appreciation to you and your staff for your valuable assistance and support.

Sincerely yours,

A handwritten signature in cursive script that reads "Larry Schwartz".

Larry Schwartz, Foreman,
2008- 2009 Grand Jury of Nevada County

RECEIVED

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NEVADA COUNTY
BOARD SUPERVISORS

**MEMBERS OF THE NEVADA COUNTY
CIVIL GRAND JURY 2007-2008**

Officers

Francis "Mac" Small
Foreman

Larry Schwartz
Foreman Pro Tem

Diane Beer
Secretary

Kenneth Frank
Sergeant-at-Arms

Ian Dobson
Business Manager

Robert Erickson

Raymond Hoffman

Ramon Hernandez

Paul Layton

Donald Miller

Pamela Patten

Varina Proitti

Jim Purcell

Philip Reinheimer

Jill Sharkey

Alice Soby

Lyla Tracy

Robert Thompson

Robert Walkington

RESPONSE REQUIREMENTS

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(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 presiding judge of the superior court, with an information copy sent to the board of supervisors, on 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 and 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.

(d) As used in this section "agency" includes a department.

**NEVADA COUNTY CIVIL GRAND JURY
2007 -2008 FINAL REPORT WITH RESPONSES**

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CITY GOVERNMENT

Nevada City

Nevada City Government Review

Nevada City Government

Reason for Investigation

Nevada City (City) is a California General Law City (California Government Code §3400 et seq.) incorporated on April 19, 1856. Under California Penal Code §925a, Grand Juries may investigate and report upon the operations, accounts and records of the officers, departments and functions, and the method or system of performing the duties of any city and make such recommendations as it may deem appropriate.

The previous Nevada County Grand Jury (2006-2007) reported extensively on major deficiencies in the Nevada City Government in five areas: Records Management, Finances, City Clerk's Office, City Management Practices and Accountability, and City Council Oversight [*Nevada City Government: 'Asleep at the Wheel'*]. The report drew upon information gathered by specialist consultants hired by the City to investigate City operations. At the time of last year's Grand Jury report the City had already begun to correct a number of the deficiencies summarized in the report. The position of City Finance Manager had been created and a qualified individual had been hired for the position.

The current Grand Jury (Jury) decided that it would be appropriate to review progress made by the City as a follow-up to the 2006-2007 Jury report.

Background

Nevada City is a small city, population slightly under 3,100, with a long history. Because of its small size, many functions and responsibilities in government are shared among a small number of employees.

The City has a city manager form of government. The powers and duties of the City Manager, established by City Ordinance, include administration of all city operations under his/her control. The five member City Council, with staggered four-year terms, is responsible for overseeing City functions including selecting and directing the City Manager. There is an elected City Treasurer, elected City Clerk and an appointed City Attorney. The City has had only two City Managers in the last 40 plus years.

Until April 2006, City office operations and financial matters were managed by an Office Operations Supervisor, a position created in the late 1980s without apparent documentation as an additional job to be carried by the individual who was already the elected City Clerk. This individual had no documented expertise in the area of financial management. The Office Operations Supervisor position was eliminated in April 2006. The incumbent Office Operations Supervisor was relieved of those duties and the position of Finance Manager created. The former Office Operations Supervisor continued to be responsible for the City

Clerk duties. The City Clerk is an elected office with a four-year term, which currently expires on March 31, 2010.

Procedure Followed

The Jury conducted its investigation through interviews with Nevada City elected officials, a consultant to the City, and employees of the City. The Jury also reviewed materials furnished by the individuals interviewed. The Findings and Conclusions in the present report cover only the main points and are not intended to address all aspects of the 2006/07 report.

Records Management

Last year's report noted stacks of unorganized records, many boxes containing unopened mail and unorganized City records, all of which were unsecured. There was no apparent record retention/disposal policy and procedure in place despite a 2001-2002 Jury report citing a lack of a record management policy and procedure.

Findings

1. Records management policy and procedures, based on State guidelines, are now in place, including a records destruction schedule.
2. All boxes and stacks of records and mail have been examined and properly filed.
3. The Municipal Code documentation is now complete and current.
4. All new documents are filed properly in a timely manner.
5. Record digitization has yet to begin.

Conclusions

City records management has been significantly improved.

Recommendations

1. The City should continue the improved practices in the management of current records.
2. The City should establish and complete digital storage of archived records to facilitate access by city staff and the public.

Finances

Last year's Jury report concluded that the City's financial management practices and record keeping were inadequate and lacked proper oversight and meaningful audits.

Findings

1. Prior to the hiring of the Finance Manager, a financial consultant had made substantial progress in inaugurating proper financial practices, as noted in last year's Jury report.
2. The new Finance Manager is a credentialed professional.
3. Updated financial software is in place and four City employees have been trained in its use.
4. A process to identify and track new businesses is being developed to assure appropriate business license billing.
5. An on-going program is in place to inventory water and sewer connections to assure proper billing.
6. Automated collection processes are in place for water, sewer and other receivables. This includes automation of late payment and shut-off notices.
7. Transient Occupancy Tax receipts are being monitored on a trend basis.
8. The City is now in compliance with Government Accounting Standards Bulletin 34 (GASB 34).
9. The Finance Manager meets regularly with the Finance Committee, and with the City Council on financial matters, as needed.
10. A new auditing firm has completed the most recent annual audit and has provided a substantive management letter to the City Council.
11. All City departments now prepare annual budgets.
12. A five-year projection of general and special fund revenues and grants has recently been completed.

Conclusions

1. The City's financial operations are significantly improved with major progress having been made toward instituting modern financial practices.

1. For the first time in many years a meaningful audit of the City's finances has been done.

Recommendations

The City should continue and institutionalize the progress made to date.

City Clerk's office

Last year's Jury report concluded that the City Clerk was not performing the duties imposed by California Government Code.

Findings

1. The elected City Clerk resigned on January 10, 2008.
2. The City Council appointed one of its members as interim Clerk and placed the election of a replacement to fill out the existing term ending March 31, 2010 on the June 2008 ballot. An office staff person has been deputized to perform the hands-on work of the Clerk.
3. At this time, it has not been determined whether to hold an election to make the City Clerk an appointive position.

Conclusions

It appears that the City Clerk duties are now being performed adequately.

Recommendations

The City should place on the ballot a measure to make the City Clerk an appointed position, as is the case in most California cities.

City Management Practices and Accountability

Among the findings in last year's Jury report were: no evidence of office policy and procedures manuals; improper employee classifications; inconsistent application of City Ordinances. The report concluded that the City Manager had fallen short in the performance of his duties.

Findings

1. Personnel policy and procedures, including grievance and discipline policies and procedures are being developed. It is expected that an employee manual will be completed by June 2009. All personnel are now receiving timely performance appraisals and job descriptions are being updated.
2. Financial policies and procedures are being developed.
3. The Finance Manager has recently been assigned the additional responsibility for human resources management.
4. The City Manager resigned February 15, 2008.
5. A part time Interim City Manager was appointed to fill the position until a replacement is found. A search for a permanent replacement has begun.

Conclusions

1. The City is developing needed policies and procedures.
2. With the addition of responsibility for human resources, there is a very real risk of overloading the Financial Manager.

Recommendations

1. The interim City Manager and the new City Manager should immediately and periodically review the organizational structure to assure that responsibilities and staffing are appropriate for effective and efficient operation and employee morale.
2. The interim City Manager and the new City Manager should assure that the new policies and procedures developed over the last year, or currently in development, are completed, documented and implemented to avoid recurrence of the problems of the past.
3. The interim City Manager and the new City Manager should take care to assure that the Finance Manager is not overloaded with too many responsibilities and that backup is provided to cover absences.

City Council Oversight

Among the issues identified in last year's Jury report:

- Apparently the Council had never conducted a comprehensive performance evaluation of the City Manager.

- The Council's accommodation of the City Clerk, to assure performance of the City Clerk duties, after that person was relieved of the Office Operations Supervisor duties, did not appear to be working.
- The City had contracted with the same auditing firm for the past 14 years for an annual audit of the City's finances. Comprehensive audits were not performed. Only one Audit Management Letter had been located from the past seven years.

Summarizing the conclusions, last year's Jury report stated "It is evident the City has been suffering from a lengthy chronic malady and has become the victim of institutionalized inertia. Whatever the cause of the City's difficulties, it is inescapable that 'the buck stops' with the City Council".

Findings

1. The City Council performed a comprehensive performance review of the City Manager. The review included setting of future goals.
2. Detailed oversight of City finances is provided by the Finance Committee, consisting of the Mayor, one other Council member, the elected City Treasurer, and three citizens appointed by the Mayor.
3. The City Finance Manager meets regularly with the Finance Committee and occasionally with the Council and provides financial summaries for review at the appropriate levels.
4. A new auditing firm performed a comprehensive audit of last year's finances and provided a substantive Management Letter to the Council.
5. The City Clerk function has been assigned to a Council member and a staff person deputized to perform much of the work. Selection of a new City Clerk for the remaining two years of the current term has been placed on the June 2008 ballot.
6. The incumbent City Manager resigned February 15, 2008. The Council appointed a part-time interim City Manager to serve until a replacement is found.
7. There will be at least three, and possibly four, new Council members after the next election.

Conclusions

1. The City Council has become more involved in the City's business and appears to have assumed a greater level of responsibility and accountability.

2. The engagement of a new audit firm is welcome and was long overdue.
3. The City Clerk function is currently being performed adequately.
4. The level of financial oversight by the City Council appears appropriate.

Recommendations

1. The City Council should assure that the positive momentum of the past year continues and becomes institutionalized in a system that is independent of incumbents.
2. All Council members should receive comprehensive training in their oversight responsibilities as well as ethics and legal requirements. In view of the substantial coming turnover on the City Council, it will be especially important to promptly assure that newly elected Council members understand their duties fully.
3. The Council should assure that the interim City Manager and the pending permanent City Manager are required to review the City's organizational structure to assure that responsibilities and staffing are appropriate for effective and efficient operation and employee morale.

Required Responses

City Council of Nevada City August 8, 2008

RESPONSE



City of Nevada City

JUL - 9 2008

July 3, 2008

The Honorable Robert L. Tamietti
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, CA 95959

Dear Judge Tamietti:

We appreciate the opportunity to respond to the 2007-2008 County of Nevada Grand Jury report. As required by Penal Code section 933(c), we are commenting on the report's findings, conclusions and recommendations within the time period specified. Our comments follow.

Finding and Conclusions:

Grand Jury Findings: We agree with the findings and conclusions of the Grand Jury regarding **Records Management:**

Regarding the Grand Jury Recommendations, we will continue to implement the recommendations and continue to improve practices in the management of current records and serious efforts will be made to establish and complete digital storage of archived records to facilitate access by City staff and the public.

Findings and Conclusions:

Grand Jury Findings: We agree with the findings and conclusions related to the City's **Financial Management** practices and that many of the findings have been addressed this past year and significant improvements have been made toward instituting modern financial practices.

Findings and Conclusions:

Grand Jury Findings: We agree with the Grand Jury findings and conclusions related to the **City Clerk**. A new City Clerk was elected on June 3, 2008. Following up on the Grand Jury recommendation, on June 11, 2008, the City Council took action to place on the November 2008 ballot a question to the voters about making the position of City Clerk an appointed position.

In addition, the City Council has also placed this same question to the voters on the November 2008 ballot for making the position of City Treasurer an appointed position.

Findings and Conclusions:

Grand Jury Findings and Conclusion: We agree with the findings and conclusions of the Grand Jury regarding **City Management Practices and Accountability**.

On April 23, 2008, the City Council approved Resolution No. 2008-12 adopting Management and Budget Policies.

On June 11, 2008, the City Council approved Resolution No. 2008-25 adopting an Employer-Employee Relations Resolution bringing the City into compliance with the Meyers-Milias-Brown Act.

Following up on the Grand Jury recommendations, the City Manager has reviewed the organizational structure to assure responsibilities and staffing for effective operations and employee morale, consolidated several operations (water, wastewater, engineering, parks and recreation and public works) into the Public Works Department.

As noted above, several policies are in progress and several have already been completed. The current City Manager will serve as backup to provide coverage in the event of absences of the Finance Director

Findings and Conclusions:

Grand Jury Findings and Conclusions: We agree with the findings and conclusions of the Grand Jury in regard to **City Council Oversight**.

Following up on the Grand Jury recommendations, the new City Manager convened an orientation program for City Council candidates in May 2008. The program included a Summary of Nevada City, How Cities Differ from other Forms of Government, Summary of the Brown Act, Meyers-Milias-Brown Act, AB 1234 Ethics Training Compliance, Local Government 101 Resources, Strategic Planning, Code of Conduct for City Council and City Planning Commissioners and City Council Goals for the City Manager. Three of the four candidates along with City department representatives attended and there was a good exchange during the question and answer period.

The City Council, through its Mayor, will make certain that periodic reviews of the City's organizational structure and responsibilities, along with staffing, are appropriate for effective operations and employee morale. The Mayor and City Manager meet weekly as their schedules allow.

We thank you for the opportunity to respond to the Grand Jury report. Please let us know if there is anything further that you require.

Sincerely,



Sally Harris, Mayor

cc: City Council Members
Administration & Finance Committee
Gene Albaugh, City Manager
Jim Anderson, City Attorney
Catrina Andes, Finance Director
Barbara Coffman, City Clerk

COUNTY GOVERNMENT

Nevada County Employees

Agency Shop Elections— Oops!

Agency Shop Election – Oops!

Reason for Investigation

The Nevada County Grand Jury received numerous complaints from individuals identifying themselves as employees of Nevada County, objecting to the manner in which they were given notice of a secret ballot election to determine whether they wished to be covered by an Agency Shop Agreement that would require all employees to either join the International Union of Operating Engineers (IUOE), Stationary Engineers Local 39, (“the Union”) or pay an agency fee for representation. The Jury initiated a confidential investigation to determine whether the election was properly noticed.

Background

The Meyers-Milias-Brown Act (MMBA) which is found in California Government Code § 3500 *et seq.* establishes a process by which county employees may vote to establish an “Agency Shop” within their respective bargaining unit. The Union represents two groups of Nevada County employees, the Professional Unit 7/17 and the Miscellaneous Unit 4.

Consistent with the provisions of the MMBA, employees within the Professional and Miscellaneous Units petitioned for the calling of an election to determine whether an Agency Shop arrangement should cover their Bargaining Units. On July 11, 2007, the California Department of Industrial Relations Mediation and Conciliation Service determined that the petitioning employees met the requirements for an Agency Shop Election.

Pursuant to two Memoranda of Agreement for Agency Shop Election, dated August 15, 2007 (one agreement for each Bargaining Unit) between the County and the Union (“Election Agreements”), the parties established the ground rules for the secret ballot elections on Agency Shop. The Election Agreements were prepared by and designated the Mediation and Conciliation Service to supervise the conduct of the election. The Election Agreements, which called for the election to be held on August 15, 2007, were clearly negotiated in advance of the election.

The following provision of the Election Agreements is relevant to the complaints received by the Jury:

Under Section 6, the “Election Supervisor” (the Mediation and Conciliation Service) was to prepare a “Suitable Notice of Election” which was to “be posted in a conspicuous place on the premises of the Employer at least five (5) working days prior to the election. An Affidavit of Posting will be required.”

The Elections Agreements did not define what constituted a conspicuous place for posting, did not specify who was to post the notice, and did not define "working day."

The MMBA provides that the Mediation and Conciliation Service [(California Code Section 3502.5(b)] conduct an Agency Shop Election. The MMBA and other legislation also provide that the Public Employment Relations Board (PERB), have the power to adopt rules and regulations to carry out the purposes and policies of the MMBA. (California Government Code Section(s) 3509 (a), and 3541.3)

The MMBA requires the approval of the majority of the employees who cast ballots in a secret ballot election in favor of an Agency Shop Agreement. (See California Government Code Section 3502.5(6))

The Agency Shop Election date was set for Wednesday, August 15, 2007. On that date, there were 97 employees within Professional Unit 7/17 and 581 employees within Miscellaneous Unit 4.

On August 15, 2007, the Agency Shop Elections were held. Of the 38 Professional Unit ballots cast, 24 were marked "yes" and 14 were marked "no." Of the 206 Miscellaneous Unit ballots cast, 129 were marked "yes" and 77 were marked "no." The Mediation and Conciliation Service declared the Agency Shop Agreement approved for the two affected Bargaining Units.

By memorandum dated August 28, 2007, the County Department of Human Resources notified all employees covered by the Miscellaneous and Professional Bargaining Units that withholding pursuant to the Agency Shop Elections would commence with the first full pay period beginning September 10, 2007.

County employees complained to the Mediation and Conciliation Service regarding the notice of the election. The Mediation and Conciliation Service responded to the complaining County employees in a letter dated September 10, 2007 that "an election agreement was signed by the parties and notices of secret ballot election were posted per the State Mediation and Conciliation's time tested procedures and practices."

The Notice Process

1. At the direction of the Mediation and Conciliation Service, the Nevada County Department of Human resources was to post written notices of the Agency Shop Election only on County employee bulletin boards.
2. According to the Affidavit of posting, the posting process was completed by Friday, August 10, 2007. This was five (5) calendar days prior to the August 15, 2007 election.

3. Under section 6 of the Election Agreements, notices of the Agency Shop Election were to be posted “five (5) working days” before the election.
4. PERB Regulation 8 California Code of Regulations Section 3208(d) declares that for purposes of the MMBA “workday” means Monday through Friday, excluding any holiday defined under the applicable local rules or collective bargaining agreement.
5. On the advice of the State Mediation and Conciliation Service, the Nevada County Department of Human Resources understood Saturday and Sunday to be “working days” for purposes of the MMBA, and that County official employee bulletin boards constituted conspicuous notice.
6. The Director of Human Resources executed the Affidavit of Posting on September 17, 2007 after the receipt of a request from a complainant for a copy thereof. The Affidavit recited that the Director of Human Resources had personally posted the notice of the election on twenty-seven (27) listed employee bulletin boards on August 10, 2007.
7. None of the notices were in fact posted personally by the Director of Human Resources. Rather, the Director delegated this responsibility to three members of her staff. These persons personally posted notices at five (5) of twenty-seven (27) locations identified by the Department. At sixteen (16) locations, these HR staff passed the notices to facility staff with a request that the facility staff do the posting. For three (3) locations, all in Truckee, the notices were faxed to staff in these locations. The Grand Jury was not provided any evidence to substantiate that these nineteen (19) notices were in fact posted. For the remaining three (3) locations, no posting was done.

Findings

1. Five (5) working days notice was not given for the August 15, 2007 Agency Shop Secret Ballot Elections. Only three (3) working days notice was given, Saturday and Sunday not being “working days” for purpose of the MMBA.
2. The Affidavit of Posting was incorrect, the notices of election having not been personally posted by the Director of Human Resources.
3. The Human Resources Department did not understand nor appreciate the importance of personal posting of the notices of the election, i.e. to assure and be able to verify that the posting was in fact done.

4. There is no assurance that the notices of election were posted in twenty-two (22) of the twenty-seven (27) locations identified by the Human Resources Department.

Conclusions

1. The August 15, 2007 Agency Shop Secret Ballot Elections were not conducted in accordance with applicable law.
2. The Mediation and Conciliation Service misinformed the County Human Resources Department as to the definition of a "working day," a matter that should have been within the Mediation and Conciliation Service's expertise.

Recommendations

1. The Board of Supervisors (BOS) should direct staff to make every reasonable effort and pursue all available remedies to work with the Mediation and Conciliation Service and the Union to resubmit the issue of Agency Shop to a new election on adequate advance notice to the County employees.
2. The BOS should either direct the cessation of collection of fees from non-union members pending resolution of these issues or that such fees be held in suspense pending resolution of these issues.
3. The BOS should make every reasonable effort to secure return of fees collected on the basis of this invalid election, from the Union, pending resolution of these issues.
4. The BOS should establish a policy under which more than minimum notice is given to County employees in collective bargaining election matters.
5. The BOS should establish a policy that all County employees are provided with individual notice of any collective bargaining election and that a verifiable procedure for the giving of such notices be established.

Attachments

1. Memorandum of Agreement for Agency Shop Election between the County of Nevada and IUOE, Stationary Engineers Local 39, covering Bargaining Unit Miscellaneous BU 4 dated August 15, 2007
2. Memorandum of Agreement for Agency Shop Election between the County of Nevada and IUOE, Stationary Engineers Local 39, covering Bargaining Unit Professional BU 7/17 dated August 15, 2007
3. Notice of Secret Ballot Election for Professional Unit BU 7/17
4. Notice of Secret Ballot Election for Miscellaneous Unit BU 4
5. Affidavit of Posting dated September 17, 2007

6. California Administrative Code, Title 8, Section 32085(d)
7. August 28, 2007 Memorandum from County Department of Human Resources Re Implementation of Agency Shop Payroll Deductions
8. November 16, 2007 email from Human Resources staff member, Susan Kadera to Human Resources Director, Gayle Satchwell with subject, "Posting Information."

Required Responses

Board of Supervisors April 22, 2008

State of California
Department of Industrial Relations
Mediation and Conciliation Service

MEMORANDUM OF AGREEMENT FOR AGENCY SHOP ELECTION

The County of Nevada, hereinafter called the "**Employer**", and the IUOE, Stationary Engineers, Local 39, hereinafter called the "**Employee Organization**", hereby agree as follows:

1. AGENCY SHOP ELECTION: An election by secret ballot shall be conducted among the employees in Unit defined below to determine whether or not the employees in that unit wish to have an Agency Shop provision implemented. The election shall be conducted under the supervision of an impartial **Election Supervisor** from the **California State Mediation and Conciliation Service (Service)**, jointly requested by the Employer and the Employee Organization to serve as such.

2. TIME AND PLACE OF ELECTION

DATE: August 15, 2007

TIME: 8 – 11AM & 3:30 – 5PM

LOCATION: Rood Center

TIME: 1 – 2PM

LOCATION: Truckee Office

3. THE UNIT: Miscellaneous BU 4

EXCLUDED: All Others

4. ELIGIBLE VOTERS: All employees in the classification(s) within the Unit described above who were employed during the payroll period ending July 1, 2007, and who are named on an **Eligibility List** agreed to by the parties, a copy of which is incorporated herein as an **Addendum**. There may be no additions to or deletions from this addendum without the signed authorization of each of the parties to this agreement or their authorized representatives. The only list of those people voting will be maintained under the direction of the Election Supervisor.

5. THE BALLOT: The secret ballot shall include the question:
"Do you wish to be covered by an agency shop arrangement that requires all employees to either join IUOE, Local 39 or pay an agency fee for representation?"

The ballot shall contain two squares, one labeled "YES" and the other "NO". The employee voting shall mark the square of his/her choice. There shall be no names signed, or otherwise recorded on the ballot.

6. NOTICE OF ELECTION: The Election Supervisor shall prepare a suitable Notice of Election for approval of the Employer and the Employee Organization. This Notice of Election shall be posted in a conspicuous place on the premises of the Employer at least five (5) working days prior to the election. An Affidavit of Posting will be required.

7. OBSERVERS: Each party hereto may station one authorized observer or representative at each voting place during the election. Under the direction of the Election Supervisor the Observers may act as checkers and watchers, assist in the identification of voters, challenge voters and ballots, and otherwise assist the Election Supervisor. The names of observers shall be provided to the Election Supervisor by the parties. Failure to appoint an observer or failure of an observer to appear shall be deemed a waiver of the right to station such observer.

8. CHALLENGED VOTES: Any of the Observers or the Election Supervisor may challenge the eligibility of a voter. It shall be the duty of the Election Supervisor to mark the envelope containing the challenged ballot of the voter and subsequently to determine the eligibility of the voter and either count or reject said vote based on the eligibility list as provided for herein. The decision of the Election Supervisor shall not be subject to appeal and shall be final and binding on both parties.

9. DUTIES OF ELECTION SUPERVISOR: The Election Supervisor shall hand the ballot to each eligible voter appearing at the voting place. The voter will mark the ballot in secret and fold it. The voter will then personally deposit the ballot in the ballot box under the supervision of the Election Supervisor. After closing the polls, the Election Supervisor, in the presence of the Observer of the Employer and the Observer of the Employee Organization shall count the votes cast. This count shall be reduced to written form and witnessed in writing by the authorized Observers, if any, of the Employer and the Employee Organization signifying that they have witnessed the counting of the ballots.

10. SECRET BALLOT: The election will be by secret ballot and it is mutually understood that the voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the voting places. At the conclusion of the election, a Certification on Conduct of Election signed by the authorized Observers, if any, and by the Election Supervisor will be issued to both parties.

11. BINDING RESULTS: A majority of the valid ballots cast will determine the results of the election. The results of the election shall be accepted as binding on both parties. The parties further agree that there will not be another election on the same question for this unit for at least one year from the date of this election.

12. NON-STATUTORY PROCEEDINGS: This agreement for an election to determine employee preference in the matter of an Agency Shop is voluntarily entered into by the parties in full understanding that this election shall not be regarded as a substitute for any legal obligation which may rest on either party.

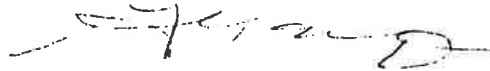
13. CONFIDENTIALITY: The parties agree that the ballots, ballot envelopes and other election materials are confidential and will not be released by the Service after the election.

For the
Employer



Date: 8/15/07

For the
Employee Organization



Date: 8/15/07

State of California
Department of Industrial Relations
Mediation and Conciliation Service

MEMORANDUM OF AGREEMENT FOR AGENCY SHOP ELECTION

The County of Nevada, hereinafter called the "**Employer**", and the IUOE, Stationary Engineers, Local 39, hereinafter called the "**Employee Organization**", hereby agree as follows:

1. AGENCY SHOP ELECTION: An election by secret ballot shall be conducted among the employees in Unit defined below to determine whether or not the employees in that unit wish to have an Agency Shop provision implemented. The election shall be conducted under the supervision of an impartial **Election Supervisor** from the **California State Mediation and Conciliation Service (Service)**, jointly requested by the Employer and the Employee Organization to serve as such.

2. TIME AND PLACE OF ELECTION

DATE: August 15, 2007

TIME: 8 – 11AM & 3:30 – 5PM

LOCATION: Rood Center

TIME: 1 – 2PM

LOCATION: Truckee Office

3. THE UNIT: Professional BU 7/17

EXCLUDED: All Others

4. ELIGIBLE VOTERS: All employees in the classification(s) within the Unit described above who were employed during the payroll period ending July 1, 2007, and who are named on an **Eligibility List** agreed to by the parties, a copy of which is incorporated herein as an **Addendum**. There may be no additions to or deletions from this addendum without the signed authorization of each of the parties to this agreement or their authorized representatives. The only list of those people voting will be maintained under the direction of the Election Supervisor.

5. THE BALLOT: The secret ballot shall include the question:
"Do you wish to be covered by an agency shop arrangement that requires all employees to either join IUOE, Local 39 or pay an agency fee for representation?"

The ballot shall contain two squares, one labeled "YES" and the other "NO". The employee voting shall mark the square of his/her choice. There shall be no names signed, or otherwise recorded on the ballot.

6. NOTICE OF ELECTION: The Election Supervisor shall prepare a suitable Notice of Election for approval of the Employer and the Employee Organization. This Notice of Election shall be posted in a conspicuous place on the premises of the Employer at least five (5) working days prior to the election. An Affidavit of Posting will be required.

7. OBSERVERS: Each party hereto may station one authorized observer or representative at each voting place during the election. Under the direction of the Election Supervisor the Observers may act as checkers and watchers, assist in the identification of voters, challenge voters and ballots, and otherwise assist the Election Supervisor. The names of observers shall be provided to the Election Supervisor by the parties. Failure to appoint an observer or failure of an observer to appear shall be deemed a waiver of the right to station such observer.

8. CHALLENGED VOTES: Any of the Observers or the Election Supervisor may challenge the eligibility of a voter. It shall be the duty of the Election Supervisor to mark the envelope containing the challenged ballot of the voter and subsequently to determine the eligibility of the voter and either count or reject said vote based on the eligibility list as provided for herein. The decision of the Election Supervisor shall not be subject to appeal and shall be final and binding on both parties.

9. DUTIES OF ELECTION SUPERVISOR: The Election Supervisor shall hand the ballot to each eligible voter appearing at the voting place. The voter will mark the ballot in secret and fold it. The voter will then personally deposit the ballot in the ballot box under the supervision of the Election Supervisor. After closing the polls, the Election Supervisor, in the presence of the Observer of the Employer and the Observer of the Employee Organization shall count the votes cast. This count shall be reduced to written form and witnessed in writing by the authorized Observers, if any, of the Employer and the Employee Organization signifying that they have witnessed the counting of the ballots.

10. SECRET BALLOT: The election will be by secret ballot and it is mutually understood that the voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the voting places. At the conclusion of the election, a Certification on Conduct of Election signed by the authorized Observers, if any, and by the Election Supervisor will be issued to both parties.

11. BINDING RESULTS: A majority of the valid ballots cast will determine the results of the election. The results of the election shall be accepted as binding on both parties. The parties further agree that there will not be another election on the same question for this unit for at least one year from the date of this election.

12. NON-STATUTORY PROCEEDINGS: This agreement for an election to determine employee preference in the matter of an Agency Shop is voluntarily entered into by the parties in full understanding that this election shall not be regarded as a substitute for any legal obligation which may rest on either party.

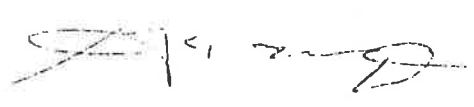
13. CONFIDENTIALITY: The parties agree that the ballots, ballot envelopes and other election materials are confidential and will not be released by the Service after the election.

For the
Employer



Date: 2/15/07

For the
Employee Organization



Date: 2/15/07

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
MEDIATION/CONCILIATION SERVICE

NOTICE OF SECRET BALLOT ELECTION

PURPOSE OF ELECTION

An election by secret ballot will be conducted, under the supervision of the California Conciliation Service among the eligible voters described herein.

SECRET BALLOT

The election will be by SECRET ballot. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violation of these rules should be reported immediately to the Election Supervisor.

An Election Supervisor will hand a ballot to each eligible voter at the voting place. The voter will then mark his/her ballot in secret and fold it. The voter will then personally deposit the folded ballot in a ballot box under the supervision of the Election Supervisor. A majority of the valid ballots cast will determine the results of the election. Incorporated herein, for your information only, is a copy of an official ballot.

BINDING RESULTS

It is agreed that the results of this Secret Ballot Election shall be accepted as binding on both parties.

AUTHORIZED OBSERVERS

Each of the interested parties may designate an equal number of observers. These observers will (a) act as checkers at the voting place and at the counting of ballots, (b) assist in the identification of voters, (c) challenge voters and ballots, and (d) otherwise assist the Election Supervisor.

CHALLENGE OF VOTERS

The challenge of a voter MUST be made before the voter has deposited his/her ballot in the ballot box.

ELIGIBILITY RULES

The parties have agreed upon a list of employees eligible to vote in this election. There may be no additions to or deletions from this list of eligible employees without the express consent of both parties.

INFORMATION CONCERNING SECRET BALLOT ELECTION

Any employee who desires to obtain any further information concerning the terms and conditions under which this election is to be held or who desires to raise any questions concerning the holding of an election, voting unit, or eligibility rules may do so by communicating with:

STATE MEDIATION/CONCILIATION SERVICE
DEPARTMENT OF INDUSTRIAL RELATIONS
1515 Clay Street
Oakland, CA 94612
(510) 873-6463

**THIS IS THE ONLY OFFICIAL NOTICE
OF THIS SECRET BALLOT ELECTION**

EMPLOYER: County of Nevada

EMPLOYEE

ORGANIZATION: IUOE, Stationary Engineers Local 39

VOTING UNIT

INCLUDED: Professional Unit BU 7/17

EXCLUDED: All Others

DATE, TIME AND PLACE OF ELECTION

DATE: August 15, 2007

TIME: 8 - 11AM & 3:30 - 5PM

PLACE: Rood Center

TIME: 1 - 2PM

PLACE: Truckee Office

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
MEDIATION/CONCILIATION SERVICE

OFFICIAL SECRET BALLOT

FOR THE EMPLOYEES OF

The County of Nevada

Mark an X in the square of your choice.

**"Do you wish to be covered by an
agency shop arrangement that requires
all employees to either join IUOE, Local
39 or pay an agency fee for
representation?"**

Do not sign this ballot. Fold and drop it in the Ballot Box.
If you spoil this ballot return it to the Election Supervisor
for a new ballot.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
MEDIATION/CONCILIATION SERVICE

NOTICE OF SECRET BALLOT ELECTION

PURPOSE OF ELECTION

An election by secret ballot will be conducted, under the supervision of the California Conciliation Service among the eligible voters described herein.

SECRET BALLOT

The election will be by SECRET ballot. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violation of these rules should be reported immediately to the Election Supervisor.

An Election Supervisor will hand a ballot to each eligible voter at the voting place. The voter will then mark his/her ballot in secret and fold it. The voter will then personally deposit the folded ballot in a ballot box under the supervision of the Election Supervisor. A majority of the valid ballots cast will determine the results of the election. Incorporated herein, for your information only, is a copy of an official ballot.

BINDING RESULTS

It is agreed that the results of this Secret Ballot Election shall be accepted as binding on both parties.

AUTHORIZED OBSERVERS

Each of the interested parties may designate an equal number of observers. These observers will (a) act as checkers at the voting place and at the counting of ballots, (b) assist in the identification of voters, (c) challenge voters and ballots, and (d) otherwise assist the Election Supervisor.

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The challenge of a voter MUST be made before the voter has deposited his/her ballot in the ballot box.

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Any employee who desires to obtain any further information concerning the terms and conditions under which this election is to be held or who desires to raise any questions concerning the holding of an election, voting unit, or eligibility rules may do so by communicating with:

STATE MEDIATION/CONCILIATION SERVICE
DEPARTMENT OF INDUSTRIAL RELATIONS
1515 Clay Street
Oakland, CA 94612
(510) 873-6465

**THIS IS THE ONLY OFFICIAL NOTICE
OF THIS SECRET BALLOT ELECTION**

EMPLOYER: County of Nevada

**EMPLOYEE
ORGANIZATION: IUOE, Stationary Engineers Local 39**

VOTING UNIT

INCLUDED: Miscellaneous Unit BU 4

EXCLUDED: All Others

DATE, TIME AND PLACE OF ELECTION

DATE: August 15, 2007

TIME: 8 - 11AM & 3:30 - 5PM

PLACE: Rood Center

TIME: 1 - 2PM

PLACE: Truckee Office

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
MEDIATION/CONCILIATION SERVICE

OFFICIAL SECRET BALLOT

FOR THE EMPLOYEES OF

The County of Nevada

Mark an X in the square of your choice.

**"Do you wish to be covered by an
agency shop arrangement that requires
all employees to either join IUOE, Local
39 or pay an agency fee for
representation?"**

Do not sign this ballot. Fold and drop it in the Ballot Box.
If you spoil this ballot return it to the Election Supervisor
for a new ballot.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
CONCILIATION SERVICE

AFFIDAVIT OF POSTING

EMPLOYER: County of Nevada

EMPLOYEE

ORGANIZATION: IUOE, Stationary Engineers, Local 39

The undersigned hereby states that Notices of Election in the above-entitled matter were posted personally by him/her in the following places on or before the 9th day of August, 2007.

10th

See attached list.

(SIGNATURE) *Josh Satchwell*
TITLE HR Director
Date 8/17/07

Physical Addresses

N Airport
12818 Loma Rica Road
Grass Valley, CA 95945

*Calworks
R 11220 - Main St
7-11-01*

A Agriculture / Weights & Measures
255 South Auburn Street
Grass Valley Veteran's Building
Grass Valley, CA 95945

S Animal Shelter
14647 McCourtney Road
Grass Valley, CA 95949

*Calworks
R 11220 - Main St
7-11-01
274-5601*

N Child Support Services
840 East Main Street, Ste. A
P.O. Box 2569
Grass Valley, CA 95945-2569

R Courthouse
201 Church Street
Nevada City, CA 95959

Law Library

N DOT Yard
12548 Loma Rica Drive
Grass Valley, CA 95945

*Children's Mental Health
Lawrence Wilson
2012 Sutter St
4-11-01
7-11-01
= 10 of 4 law library
3-11-01*

S Eric Rood County Administration Building
950 Maidu Avenue
Nevada City, CA 95959-8617

N Farm Advisors
255 South Auburn Street
Veteran's Building
Grass Valley, CA 95945

N Fleet Services/Green Barn
10020 East Broad Street
Nevada City, CA 95959

S Fax Joseph Government Center Annex
10075 Levone Avenue
Truckee, CA 96161

Physical Addresses

R Juvenile Hall
15434 Highway 49
Nevada City, CA 95959

n/a
Juvenile Hall
15658 American Hill Road
Nevada City, CA 95959

~~Health Clinic (Modular)
10433 Willow Valley Road
Nevada City, CA 95959~~

N
H.E.W. Building
10433 Willow Valley Road
Nevada City, CA 95959

5/10 ✓ S
NRTS
Landfill
Wolf and McCourtney Roads
Grass Valley, CA 95949

N
Library - Grass Valley
207 Mill Street
Grass Valley, CA 95945

R
Library - Helling
980 Helling Way
Nevada City, CA 95959

R
Library - History Branch
211 N. Pine Street
Nevada City, CA 95959

R
Library - Nevada City Library
211 North Pine Street
Nevada City, CA 95959

11/10 ✓ S
Library - Truckee
10031 Levone Avenue
Truckee, CA 96161

attn: Kammis (9) 582-0240
~~Lovett Recovery Center
10075 Bost Avenue
Nevada City, CA 95959~~

Physical Addresses

~~Odyssey House
995 Helling Way
Nevada City, CA 95959~~

~~Probation Department
109 1/2 N. Pine Street
Nevada City, CA 95959~~

~~Purchasing Department
12548 Loma Rica Drive
Grass Valley, CA 95945~~

~~Transfer Station
14741 Wolf Mountain Road
Grass Valley, CA 95949~~

~~Transit
12818 Loma Rica Drive
Grass Valley, CA 95945~~

~~Truckee Government Center (Sheriff's Substation)
10879 Donner Pass Road
Truckee, CA 96161~~

~~Veterans Services
Veterans Building - Grass Valley
255 South Auburn Street
Grass Valley, CA 95945~~

~~Veterans Building - Nevada City
415 North Pine Street
Nevada City, CA 95959~~

~~Veterans Building - Truckee
10214 High Street
Truckee, CA 96161~~

~~Victim/Witness
109 1/2 N. Pine Street (located above Friar Tuck's)
Nevada City, CA 95959~~

~~Wayne Brown Correctional Facility
925 Maidu Avenue
Nevada City, CA 95959~~



8 CA ADC § 32085

8 CCR s 32085

Cal. Admin. Code tit. 8, s 32085

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
 TITLE 8. INDUSTRIAL RELATIONS
 DIVISION 3. PUBLIC EMPLOYMENT RELATIONS BOARD
 CHAPTER 1. PUBLIC EMPLOYMENT RELATIONS BOARD
 SUBCHAPTER 2. DEFINITIONS AND GENERAL PROVISIONS
 ARTICLE 1. DEFINITIONS

This database is current through 11/23/07, Register 2007, No. 47

s 32085. Workday.

- (a) EERA - "Workday," as utilized in matters arising under EERA, means a day when schools in a district are in session, excluding Saturdays and Sundays, except that a day(s) may be included or excluded as a workday when the Board determines that a substantial number of affected employees would or would not be at work on that day(s).
- (b) HEERA - "Workday," as utilized in matters arising under HEERA, means Monday through Friday, from September 20 through May 20, excluding Thanksgiving Day, and the Friday following Thanksgiving Day, and also excluding December 20 through January 2, except that a day(s) may be included or excluded as a workday when the Board determines that a substantial number of affected employees would or would not be at work on that day(s).
- (c) Ralph C. Dills Act - "Workday," as utilized in matters arising under Ralph C. Dills Act, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.
- (d) MMBA - "Workday," as utilized in matters arising under MMBA, means Monday through Friday, excluding any holiday defined under the applicable local rules or collective bargaining agreement.
- (e) TEERA - "Workday," as utilized in matters arising under TEERA, means Monday through Friday, excluding the following holidays: New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Fourth of July (Independence Day), Labor Day, Thanksgiving and Christmas.
- (f) Trial Court Act - "Workday," as utilized in matters arising under the Trial Court Act, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.
- (g) Court Interpreter Act - "Workday," as utilized in matters arising under the Court Interpreter Act, means Monday through Friday, excluding a holiday as defined under Government Code Section 6700 or 6701.

Note: Authority cited: Sections 3509(a), 3541.3(g), 3563(f), 3513(h), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3541.3(n), 3563(m), 3513(h), 3541.3(g), 3563(f), 71639.1 and 71825, Government Code; and Section 99561(f), Public Utilities Code.

HISTORY

1. New section filed 6-18-80; effective thirtieth day thereafter (Register 80, No. 25).



County of Nevada
Department of Human Resources

Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959
Ph: 530-265-1225 Fx: 530-265-9841
www.mynevadacounty.com/hr

August 28, 2007

TO: All Employees Covered by the Miscellaneous and Professional Units

FROM: Gayle Satchwell, Human Resources Director
County of Nevada

Gary Winegar, Business Representative
IUOE, Local 39

SUBJECT: Implementation of Agency Shop – Payroll Deductions

On Wednesday, August 15, 2007 the State Mediation Service conducted an Agency Shop election for employees covered by the Professional and Miscellaneous bargaining units. Agency Shop is the requirement that all employees in the bargaining unit belong to the union or pay a fair share fee. In both units, the majority of those employees that voted elected to implement Agency Shop.

As a result of the election, and pursuant to Government Code Section 3502.5(b), all regular employees and all new employees in the Miscellaneous and Professional Bargaining Units of Nevada County represented by the Union shall as a condition of employment authorize payroll deductions for one of the following:

- a. Union membership dues; or
- b. A "fair share fee" for services rendered by the Union in an amount equal to the monthly periodic dues of the regular membership, less costs which are not related to the administration of the MOU and the representation of nonmember employees, the regular membership dues; provided, however, that each employee will have available to him/her membership in the Union on the same terms and conditions as are available to every other member of the Union; or
- c. Pay a religious objection fee equal to the fair share fee described in "b" above, to a non-religious, non-labor charitable fund chosen by

the employee from those charities listed under the umbrella of the Nevada County United Way upon providing a written declaration from the leader of his/her religious group that the employee is a member of a bona fide religion, body, or sect whose doctrine contains a conscientious objection to joining or financially supporting any public employee organization as a condition of employment.

Nevada County is required to make these deductions automatically from each employee's paycheck starting the first full pay period beginning September 10, 2007 or the first pay period after an employee is hired, whichever comes first. The deduction will be equivalent to \$16.25 plus one hour of pay at your hourly rate per month with a minimum of \$28.50 per month. Employees who are already paying union dues will not be affected by this change.

Local 39 has an information sheet on Agency Shop/Fair Share Fee available should you have more detailed questions regarding this issue. Any questions regarding this matter should be directed to Local 39 Business Representative Gary Winegar at (530) 823-7736.

Gayle Satchwell - Posting Information

From: Susan Kadera
To: Gayle Satchwell
Date: 11/16/2007 12:25 PM
Subject: Posting Information

Locations Flyers Went to and Posted By:

Airport--Nancy posted
Ag--Nancy gave to post
Animal Shelter--Susan posted
Child Support Services--Nancy gave to post
Courthouse--Randi gave to post
DOT Yard--Nancy gave to Dave Browning to post
ERAC--Susan posted on bulletin board in cafe
Farm Advisors--Nancy gave to post
Fleet/Green Barn--Nancy gave to Mike Quintana and Mark Thomas to post
Joseph Center--faxed
CalWorks on New Mohawk--Randi gave to receptionist to post
Laura Wilcox--Nancy gave to post upstairs and Nancy posted downstairs
Juvenile Hall--Randi gave to post
Transfer Station--Susan posted
GV Library--Nancy gave to post
Helling Library--Randi gave to post
History Branch Library--Randi gave to post
Truckee Library--faxed
Probation--Randi gave to post
Purchasing Dept on Loma Rica--none
Transit--Nancy gave to Judy Morris to post
Truckee Sheriff's--faxed
Vets Bldg GV--Nancy posted
Vets Bldg NC--none
Vets Bldg Truckee--none
Victim/Witness--none--but it's located in Probation, which was done
Wayne Brown--Susan gave to person behind bullet-proof glass to post

Before we faxed to the 3 places in Truckee, we called a real person and had them wait for it, get it, and post it.

Crown Point listed in separate email.

S.

RESPONSE

COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

BOARD OF SUPERVISORS

Nate Beason, 1st District
Sue Horne, 2nd District
John Spencer, 3rd District
Wm. "Hank" Weston, 4th District (Vice Chair)
Ted S. Owens, 5th District (Chair)



Cathy R. Thompson
Clerk of the Board

Telephone: (530) 265-1480
Fax: (530) 265-9836
Toll-Free Telephone: (888) 785-1480

E-Mail: bdofsupervisors@co.nevada.ca.us
Web: www.mynevadacounty.com/clerkofboard

April 8, 2008

The Honorable Judge Robert Tamietti
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2007-2008 Nevada County Civil Grand Jury Report, *Agency Shop Election*.

Dear Judge Tamietti:

The attached responses by the Board of Supervisors to the 2007-2008 Nevada County Civil Grand Jury Report, dated January 23, 2008, entitled *Agency Shop Election*, are submitted as required by California Penal Code Section 933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on April 8, 2008. Responses to Findings and Recommendations are based on either personal knowledge, examination of official County records, information received from the Human Resources Director, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2007-2008 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

Ted S. Owens
Chairman, Board of Supervisors

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2007-2008 CIVIL GRAND JURY REPORT
DATED JANUARY 23, 2008**

AGENCY SHOP ELECTION

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the Human Resources Director and County Executive Officer, or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

1. Five (5) working days notice was not given for the August 15, 2007 Agency Shop Secret Ballot Elections. Only three (3) working days notice was given, Saturday and Sunday not being "working days" for purpose of the MMBA.

Partially Agree

The "Memorandum of Agreement For Agency Shop Election ("Election MOA") that both the County and Local 39 agreed to and signed required five (5) workdays notice prior to the election. The "Memorandum of Agreement For Agency Shop Election" is an agreement prepared by the State Mediation Service Election Supervisor implementing the rules for the election. The representative from Local 39 signed an affidavit indicating that he posted the required election notice on or before August 9, 2007. The Human Resources Director posted notices one day later on August 10, 2007 based on written direction from the State Mediation Election Supervisor. In accordance with the Election MOA, the five-day notice requirement was met because the union posted within the five days. The agreement does not state who should do notice posting nor how many locations notices should be posted, but does state notice should be posted in a conspicuous place.

The Meyers, Milias, Brown Act (MMBA) is the labor relations law governing local jurisdictions. To clarify the application of MMBA in this matter, the five working days notice is a State Mediation Service procedural requirement for agency shop elections and not a legal requirement under the MMBA. Attachment 1 provides the language from MMBA that governs agency shop elections.

Although the agencies responsible for administering this election certified the election as appropriate, we recognize that inherent in the processes used in our election are some procedures that may be confusing to people not familiar with the process. In this finding, we believe the process could be improved by clearly defining the five working day notice requirement prior to an agency shop election. Additionally, the County would request notice in excess of the minimum requirements in any future agency shop election.

2. The Affidavit of Posting was incorrect, the notices of election having not been personally posted by the Director of Human Resources.

Partially agree.

The Affidavit of Posting was incorrect in that the Human Resources Director did not “personally” post the election notices. The Human Resources Director was not instructed by the State Mediation Election Supervisor to “personally” post the notices nor did the Election MOA governing the election require the County Human Resources Director to personally post notices. The Human Resources Director at no time represented to the State Mediation Election Supervisor nor the Grand Jury that she had personally posted the election notices. It was clear to the State Mediation Election Supervisor that the Human Resources Director did not personally post election notices because the staff list showing who posted election notices was provided to him in advance of the preparation of the “Affidavit of Posting” which the Human Resources Director later signed. The State Mediation Election Supervisor indicated that it is usual and customary practice for the Director to sign the affidavit when the posting of the notices has been delegated and that the Mediation Service’s Form is meant to cover this “delegation.” The State Mediation Election Supervisor would have been able to clarify this point had he been contacted to provide background and information for this report. In this finding, we believe the process could be improved by changing the wording of the Affidavit for posting from “personally posted” to “responsibility to post.”

Additionally, the County has been advised by legal counsel that delegation of the posting duties is legally permissible and constitutes a delegation of a ministerial task. A ministerial task is defined as an act where the person executing the act(s) does not exercise independent judgment or opinion in performing the act. The courts in California, which have found that it is unreasonable to expect the head of a department to personally perform all ministerial tasks, recognize this delegation.

3. The Human Resources Department did not understand nor appreciate the importance of personal posting of the notices of the election, i.e. to assure and be able to verify that the posting was in fact done.

Disagree.

The Human Resources Department did in fact, understand and appreciate the overall gravity of the Agency Shop Election, especially the County’s liability in conducting itself in a manner that might be perceived as an unfair labor practice. In light of this understanding, the Human Resources Director carefully followed the specific written directions of the State Mediation Election Supervisor in posting the election notices five (5) days prior to the election. The Human Resources Department posted the election notices in a normal fashion, having confidence in county departmental staff to post the notices on employee bulletin boards as requested. The requirement for the Human Resources Director to personally post the election notices was not part of the “Memorandum of Agreement for Agency Shop Election.”

4. There is no assurance that the notices of election were posted in twenty-two (22) of the twenty-seven (27) locations identified by the Human Resources Department.

Agree.

The County is not 100% certain that notices were posted at all 27 sites. However, Election notices were posted in the normal fashion by both Human Resources staff and departmental staff members. The County has every confidence that assigned staff did the requested posting but can not say with 100% certainty that this occurred because Human Resources staff did not return to the 27 locations to determine whether all notices had been posted. However, the Election MOA required posting by the parties in a conspicuous place and did not call out the number of locations nor who should do the posting.

In addition, an appeal to the election was filed with the State Mediation Service by multiple employees alleging, generally, that there was inadequate notice of the election posted for all employees. On September 10, 2007, the Mediation Service responded to the appeal by indicating that no further action would be taken in the matter. The Mediation Service upheld the election process and results and the appeal was not granted.

B. RESPONSES TO RECOMMENDATIONS

1. The Board of Supervisors (BOS) should direct staff to make every reasonable effort and pursue all available remedies to work with the Mediation and Conciliation Service and the Union to resubmit the issue of Agency Shop to a new election on adequate advance notice to the County employees.

The recommendation will not be implemented.

The County is not proceeding with implementation of this recommendation because it would subject the County to charges of interference with employees' rights to organize and choose their own form of representation. Doing so would be an unfair labor practice and would violate the law.

The County has been asked twice in the last year to agree to implementation of agency shop without an employee vote. During the collective bargaining process, the law allows the County to agree to implementation of agency shop without an employee election. The County was asked to agree to an agency shop provision in the last collective bargaining process and instead chose to send the issue to a vote of the employees covered by the bargaining units.

The county had a second opportunity to implement agency shop when the State Mediation Service contacted the County to inquire whether it would allow a card check election to implement agency shop in the Professional and Miscellaneous units. A card check election allows the implementation of agency shop after Mediation Services validates that fifty percent plus one of the employees in the unit have signed a petition indicating a preference for an agency shop arrangement. The County declined this offer too and chose to send the issue to a vote of all the employees covered by the bargaining units.

Absent agreement by the County, as mentioned above, a petition of 30% of employees is required to prompt an agency shop election. Employees covered in the professional and miscellaneous units were petitioned for this purpose, and at least fifty percent plus one of the employees signed the petition indicating their interest in agency shop. This is what prompted the recent agency shop election. Even at this point, the law allows the County to agree to implement agency shop without an employee vote via the card check election method mentioned above, but instead the County chose to send the issue to a vote of all the employees covered by the two bargaining units.

Finally, the County's labor attorneys have advised the County that the Grand Jury, a judicial body, has no jurisdiction over this matter. The California Public Employment Relations Board (PERB) has had exclusive jurisdiction over these types of issues since 2001 when counties were legislatively placed under their jurisdiction. Since this is a matter of representation between Local 39 and the employees it represents in the Miscellaneous and Professional bargaining units, neither the County nor the Grand Jury has any authority or jurisdiction to take any action in this matter. The County has been advised that even if the County and the Union were to agree to hold a new election, the County would still be exposing itself to liability for unfair labor practices under PERB's jurisdiction. The County may not interfere with the relationship between

employees and their lawfully selected Union. Employees do have the right to appeal the process under the State Mediation Service and PERB, who both have authority to provide a remedy in the matter pursuant to MMBA, Government Code Section 3502.5(d). See Attachment 1. In fact, several employees appealed to the State Mediation Services under this method and the State Mediation Services continued to validate the election. No complaints were filed with PERB against the County in this matter.

2. The BOS should either direct the cessation of collection of fees from non-union members pending resolution of these issues or that such fees be held in suspense pending resolution of these issues.

The recommendation will not be implemented.

The County is not proceeding to implement this recommendation because it would constitute a violation of labor law. The County has been strongly advised by legal counsel that suspending or ceasing the collection of union fees would expose the County to a claim of interference with organization rights and/or unfair labor practices with PERB. It should be noted that the employees who wished to overturn the outcome of the agency shop election filed an appeal with the State Mediation Service. The appeal was denied. This fact increases the County's exposure to a charge of interference with organization rights if this recommendation were to be implemented, since the State Mediation Service has validated this election.

3. The BOS should make every reasonable effort to secure return of fees collected on the basis of this invalid election, from the Union, pending resolution of these issues.

The recommendation will not be implemented.

The County is not proceeding to implement this recommendation because it would constitute a violation of labor law. The County has been strongly advised by legal counsel that suspending or ceasing the collection of union fees would expose the County to a claim of interference with organization rights and/or unfair labor practices with PERB. Again, it should be noted that the employees who wished to overturn the outcome of the agency shop election filed an appeal with the State Mediation Service. The appeal was denied. This fact increases the County's exposure to a charge of interference with organization rights if this recommendation were to be implemented since the State Mediation Service has validated this election.

4. The BOS should establish a policy under which more than minimum notice is given to County employees in collective bargaining election matters.

The recommendation will not be implemented.

The Board of Supervisors cannot unilaterally establish a policy regarding the timeline for notice in a union election as it constitutes interference in union matters and could cause an unfair labor practice charge to be filed with PERB. However, should future agency shop elections be held, the County is able to raise the election notice issue to the State Mediation Service and request a longer notification process. It should be noted that the State

Mediation Service has jurisdiction over the election process and their decision regarding the County's requests will be final.

5. The BOS should establish a policy that all County employees are provided with individual notice of any collective bargaining election and that a verifiable procedure for the giving of such notices be established.

The recommendation will not be implemented.

The Board of Supervisors cannot unilaterally establish a policy regarding notices in a union election as it constitutes interference in union matters and could cause an unfair labor practice charge to be filed with PERB. However, should future agency shop elections be held, the County is able to raise the election notice issue to the State Mediation Service and request a process where individual notice is given to each affected employee. It should be noted that the State Mediation Service has jurisdiction over the election process and their decision regarding the County's requests will be final.

Attachment 1

Government Code Section 3502.5 (a)-(f)

(a) Notwithstanding Section 3502 or 3502.6, or any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization that has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this chapter, "agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

(b) In addition to the procedure prescribed in subdivision (a), an agency shop arrangement between the public agency and a recognized employee organization that has been recognized as the exclusive or majority bargaining agent shall be placed in effect, without a negotiated agreement, upon (1) a signed petition of 30 percent of the employees in the applicable bargaining unit requesting an agency shop agreement and an election to implement an agency fee arrangement, and (2) the approval of a majority of employees who cast ballots and vote in a secret ballot election in favor of the agency shop agreement. The petition may only be filed after the recognized employee organization has requested the public agency to negotiate on an agency shop arrangement and, beginning seven working days after the public agency received this request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement. An election that may not be held more frequently than once a year shall be conducted by the Division of Conciliation of the Department of Industrial Relations in the event that the public agency and the recognized employee organization cannot agree within 10 days from the filing of the petition to select jointly a neutral person or entity to conduct the election. In the event of an agency fee arrangement outside of an agreement that is in effect, the recognized employee organization shall indemnify and hold the public agency harmless against any liability arising from any claims, demands, or other action relating to the public agency's compliance with the agency fee obligation.

(c) Any employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three of these funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate the funds, then to any such fund chosen by the employee. Proof of the payments shall be made on a monthly basis to

the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

(d) An agency shop provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during that term. Notwithstanding the above, the public agency and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement. The procedures in this subdivision are also applicable to an agency shop agreement placed in effect pursuant to subdivision (b).

(e) An agency shop arrangement shall not apply to management employees.

(f) Every recognized employee organization that has agreed to an agency shop provision or is a party to an agency shop arrangement shall keep an adequate itemized record of its financial transactions and shall make available annually, to the public agency with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the federal Labor-Management Disclosure Act of 1959 (29 U.S.C. Sec. 401 et seq.) covering employees governed by this chapter, or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the public agency with a copy of the financial reports.

COUNTY GOVERNMENT

Nevada County Employees

Agency Shop Elections II

AGENCY SHOP ELECTION – PART II

Reason for Grand Jury Reply to Board of Supervisor Responses

The Nevada County Grand Jury (Jury) submitted its Report on the Agency Shop Election on January 23, 2008 (the Report). The Nevada County Board of Supervisors (BOS) submitted its Responses to the Report on April 8, 2008.

The Jury wishes to express its appreciation for the BOS's recognition of the flawed notice procedure used in the August 15, 2007 Agency Shop Elections, and especially its willingness in future union elections to direct County officials to seek a notice process more likely to assure employee awareness of such elections and their issues.

The Responses of the BOS, however, reflect, in the judgment of the Jury, a misunderstanding of the issues that the Jury raised, perhaps because of erroneous factual conclusions.

The Jury undertook its investigation of the Agency Shop Elections after receipt of complaints from more than 30 County employees that they had had no notice of the elections. The Jury, as a part of its investigation, sought the advice of the office of County Counsel regarding the extent of its authority to investigate the issue of the election notice. Not surprisingly, the Jury was advised that it had no jurisdiction over the State Mediation and Conciliation Service, the Public Employment Relations Board (PERB) or Stationary Engineers, Local 39 (Union). That same advice assured the Jury that it had jurisdiction to inquire into the conduct of the County's Department of Human Resources (HR), the County agency that undertook to represent the County's interests in these elections.

The Notice Process

The Responses of the BOS to the Report on the issue of the notice process stress:

1. That the Memoranda of Agreement for Agency Shop Elections (Election MOAs) did not state who should post the notice, nor in how many locations the notice should be posted;
2. That a representative of the Union posted the required notice on or before August 9, 2007, and
3. That only five days notice was required, not five working days notice.

The Jury agrees that the Election MOAs did not specify who, as between the Employer County and the Union, was to post the notice. However, it is clear from the evidence gathered by the Jury that the Mediation and Conciliation Service and the County HR Department thought (and conducted themselves on that basis) that the duty of notice fell on the County. The County's HR Director (who was candid and forthcoming before the Jury)

sought the advice of the Mediation and Conciliation Service on the meaning of "working days" – did they include Saturdays and Sundays? Answer - yes. What is a "conspicuous place on the premises of the" County for posting? Answer - employee bulletin boards.

The Jury's view of the County's understanding that it was responsible for the giving of notice is reinforced conclusively by the Mediation and Conciliation Service's "Procedures for Mandated Agency Shop Elections" which were furnished to the County HR Department, and are attached hereto. Under "Conduct of Election," Item 1, "Notice of Election" the procedure states "The employer (i.e., the County) will complete and submit an Affidavit of Posting."

At no time in the Jury's interaction with the HR Department was it ever suggested that the County expected the Union to give the required notice. The Jury, however, accepts the premise that if the Union posted notice of the election in conspicuous places at least five working days before the election, that would have satisfied the notice provisions of the Election MOAs and the Procedures.

The Union's Affidavit of Posting (Affidavit) was not made available to the Jury prior to the release of the Jury's January 23, 2008 Report. The BOS's Responses were the Jury's first knowledge of the claim that the Union satisfied the required notice or of the existence of the Affidavit. In the Union's January 31, 2008 Press Release (a copy of which is attached hereto) responding to the Jury's Report, no mention was made of the Union's role in the giving of notice.

A copy of the Cover Page of the Union's Affidavit, dated August 15, 2007 (the date of the elections) is attached hereto. The Affidavit reflects posting on or before August 9, 2007 "in the following places", and for such places refers to "see attached list". The Jury requested a copy of the Affidavit with the attached list from the Mediation and Conciliation Service's Election Supervisor, who, under the Election MOAs, was to conduct the elections. The Election Supervisor provided the Jury with copies "of all documents related to this election including the specifically requested Affidavits of Posting and the list of posting locations." There was no list of posting locations attached to the Union's Affidavit. The County HR Department advised the Jury that it had never seen a list of locations posted by the Union.

The inability of the Mediation and Conciliation Service to provide a list of the locations where the Union posted notices of the August 15, 2007 elections makes it impossible to determine whether the Union's posting efforts occurred in conspicuous places on County premises, assuming the Union's notices were placed on employee bulletin boards. Moreover, the Union's posting on August 9, 2007 would have given only four, not the required five, working days prior to the elections.

Lastly, the BOS's Responses seem to conclude that the PERB definition of "work day" as meaning Monday through Friday has no application to matters arising under the Meyers-Milas-Brown Act (the Agency Shop Election Law). The suggestion made in Response to Jury Finding No. 1 is that "the five working days notice is a State Mediation Service procedural requirement for agency shop elections and not a legal requirement under the Meyers-Milas-Brown Act." This Response is misleading. While the number of days notice is

to be given may well be within the discretion of the Mediation and Conciliation Service, as the BOS Response itself notes under its response to Recommendation No. 1, PERB has exclusive jurisdiction over agency shop elections and related issues. Exercising that jurisdiction, PERB has declared (as set forth in Attachment No. 6 to the Jury's Report) that "work day" or working day means Monday through Friday, not Monday through Sunday.

Findings

1. The County was the party charged under the Mediation and Conciliation Service's Procedures with the giving of notice for the August 15, 2007 Agency Shop Elections.
2. In order to give five calendar days notice for an Agency Shop Election to be held on Wednesday, August 15, 2007, the notice would have had to be posted on or before Thursday, August 9, 2007, and in order to give five working days notice, excluding Saturday and Sunday, the notice would have had to be posted on or before Wednesday, August 8, 2007.
3. The County's posting of notice on Friday, August 10, 2007 failed to give the required five working days notice of the Agency Shop Elections. The County gave only three working days notice.
4. The Union's posting of notice on August 9, 2007 failed to give five working days notice of the Agency Shop Elections. The Union gave only four working days notice.
5. The Union's Affidavit, as provided by the Mediation and Conciliation Service, does not reflect the locations where the Union posted notices of the August 15, 2007 elections.

Conclusions

1. The August 15, 2007 Agency Shop Elections were held without the advance notice required under the Election MOAs and the Mediation and Conciliation Service's Procedures. The elections should be declared null and void.
2. To the extent the Union posted notice of the August 15, 2007 Agency Shop Elections, there is no evidence in the records of the Mediation and Conciliation Service reflecting the location or manner of such posting.
3. The Union's notice efforts did not meet the requirements of the Election MOAs or the Mediation and Conciliation Service's Procedures.

Recommendations

1. The BOS should send the Jury's Reports to the Mediation and Conciliation Service for its consideration.
2. In future union elections, the County should avail itself of the alternative provided in the Mediation and Conciliation Service's "Procedures for Mandated Agency Shop Elections" and distribute the notice to all bargaining unit members, in addition to the traditional posting of notices.
3. The BOS should determine whether Mediation and Conciliation Service procedures include permitting the County to use the County's electronic facilities (e-mail) to give employees notice of agency shop elections.

Attachments

1. California State Mediation and Conciliation Services "Procedures for Mandated Agency Shop Elections"
2. Stationary Engineers Local 39 press release, dated January 31, 2008
3. Affidavit of Postings, dated August 15, 2007 as executed by the Business Representative of Stationary Engineers, Local 39

Responses

Board of Supervisors September 30, 2008

The California State Mediation and Conciliation Service (SMCS) conducts agency shop elections in public agencies covered by the Meyers-Milias-Brown Act (Government Code 3500-3510), and in the trial courts (per Government Code 71632). The following procedures will be followed:

Request for Election

Only a recognized employee organization that is the exclusive or majority bargaining agent of the employees in the bargaining unit has the authority to request an agency shop election. The organization must submit the documents described below in order to proceed to election.

1. An election request (the SMCS Agency Shop Election Request Form may be used), which includes:
 - a. the name, address, telephone number and contact person for the employee organization;
 - b. the name, address, telephone number and contact person for the employer;
 - c. a description of the bargaining unit for which the election has been requested;
 - d. the name(s) and classification(s) of any bargaining unit member(s) designated supervisory, management or confidential (if known);
 - e. the approximate number of employees in the bargaining unit;
 - f. a statement certifying that the employee organization has requested the employer to negotiate an agency shop arrangement and, beginning seven working days after receipt of the request, the two parties have had 30 calendar days to attempt good faith negotiations in an effort to reach agreement.
 - g. a statement certifying that an agency shop election has not been held in the bargaining unit within one (1) calendar year of the date of the request; and
 - h. proof of service indicating that a copy of the election request has been served on the employer.
2. A petition signed by at least thirty percent (30%) of the employees in the bargaining unit, stating that the employees request an agency shop arrangement and an election to implement the agency shop arrangement. The petition must include the printed name and signature of each employee, the employee's classification, and the date he or she signed the petition. The SMCS form, "Petition for Agency Shop Election" may be used for this purpose.

Investigation of Petition

Upon receipt of the election request and other required documents, SMCS will contact the employer to request the information necessary to verify the showing of interest. The employer will provide an alphabetical list of employees in the bargaining unit to assist SMCS in the investigation of the petition. The list will include the employees' classifications, and will identify any bargaining unit employees designated supervisory, confidential, or management. The information will be provided as soon as possible, but not later than fifteen (15) business days after the request has been made.

Upon determination of the existence of the requisite showing of interest, SMCS will assign an Election Supervisor to conduct the election.

Conduct of Election

In the absence of an agreement between the parties as to the manner in which the election will be conducted, the Election Supervisor will have the discretion to determine the terms of the election. In the absence of an agreement as to the ballot language, the Election Supervisor will determine the ballot language. In the absence of agreement as to the payroll period upon which the list of eligible voters is based, the last complete payroll period prior to the date of the election will be used.

1. **Notice of Election:** The Election Supervisor will provide the parties with a notice of election to be posted or distributed to the affected employees. The notice must be posted in a conspicuous location on the employer's premises, or distributed to all unit members, at least five (5) working days before the date of the election. The notice will state the time and place of the election, and will include a copy of the proposed agency shop provision and a sample copy of the ballot. The employer will complete and submit an Affidavit of Posting.
2. **Observers:** The employer and the employee organization may each station one authorized observer or representative at each voting place during the election. Under the direction of the Election Supervisor, the observers may assist in the identification of voters, challenge voters and ballots, and otherwise assist the Election Supervisor. The parties will provide the names of the observers to the Election Supervisor. Failure to appoint an observer or failure of an observer to appear will be deemed a waiver of the right to station such observer.
3. **Secret Ballot:** The election will be conducted by secret ballot. All voters will be allowed to vote without interference, restraint or coercion.
4. **Challenged Votes:** Any observer or the Election Supervisor may challenge the eligibility of a voter. The Election Supervisor will mark the outer envelope containing the challenged ballot and subsequently determine the eligibility of the voter. The Election Supervisor will either count or reject said vote based on the eligibility list and any other information germane to the question.
5. **Election Results:** After the conclusion of the election, the Election Supervisor will certify the result to the employer and the employee organization. There will be no other election on the question of agency shop for this unit for at least one (1) year from the date of this election.

6. **Confidentiality:** The ballots, ballot envelopes, and other election materials are confidential and will not be released by the SMCS after the election.

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Updated: April 2005

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Stationary Engineers, Local 39

INTERNATIONAL UNION OF OPERATING ENGINEERS AFL-CIO

JERRY KALMAR
BUSINESS MANAGER-SECRETARY



January 31, 2008

FOR IMMEDIATE RELEASE

Contact: Joan Bryant, Director of Public Employees
Telephone: (916) 928-0399
Cell: (916) 813-3250
E-mail: jbryant@iuoe-local39.org

Contact: Gary Winegar, Business Representative
Telephone: (530) 823-7736
E-mail: gwinegar@iuoe-local39.org

Sacramento, California—Stationary Engineers, Local 39, questions the use of public funds to investigate whether the fair share election for the Nevada County employees is appropriate given that the State agency responsible for overseeing such elections determined that the election proceeded in accordance with California law.

The Nevada County Grand Jury was convened to allegedly investigate the manner in which employees were given notice of a secret ballot election to determine whether they wished to be covered by an Agency Shop Agreement that would require all employees to either join the International Union of Operating Engineers, Stationary Engineers, Local 39, or pay an agency fee for representation. The election, including the notice of election, was handled by a third-party, the California Department of Industrial Relations Mediation and Conciliation Service.

Local 39 maintains that the use of a Grand Jury to investigate the Agency Shop election is a waste of public resources for two reasons. First, the issues investigated by the Grand Jury have previously been submitted to the California Department of Industrial Relations, which concluded that the election was properly conducted.

Second, matters concerning Agency Shop elections are under the exclusive jurisdiction of the California Public Employment Relations Board (PERB), and public funds should not be wasted on grand jury investigations on matters that fall under the exclusive jurisdiction of another public agency. Specifically, because the Agency Shop rules are outlined under the Meyers-Milias-Brown Act (MMBA), which is found in California Government Code, PERB is the public agency with jurisdiction to investigate and determine whether there has been any violation of the Agency Shop regulations.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
CONCILIATION SERVICE

AFFIDAVIT OF POSTING

EMPLOYER: County of Nevada

EMPLOYEE

ORGANIZATION: IUOE, Stationary Engineers, Local 39

The undersigned hereby states that Notices of Election in the above-entitled matter were posted personally by him/her in the following places on or before the 9th day of August, 2007.

See attached list.

(SIGNATURE) 

TITLE BUSINESS REP., LOCAL 39

Date 8/15/07

RESPONSE

COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

BOARD OF SUPERVISORS

Nate Beason, 1st District
Sue Horne, 2nd District
John Spencer, 3rd District
Wm. "Hank" Weston, 4th District (Vice Chair)
Ted S. Owens, 5th District (Chair)

Cathy R. Thompson
Clerk of the Board



Telephone: (530) 265-1480
Fax: (530) 265-9836
Toll-Free Telephone: (888) 785-1480

E-Mail: bdofsupervisors@co.nevada.ca.us
Web: www.mynevadacounty.com/clerkofboard

July 8, 2008

The Honorable Judge Robert Tamietti
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2007-2008 Nevada County Civil Grand Jury
Report, *Agency Shop Election II*.

Dear Judge Tamietti:

The attached responses by the Board of Supervisors to the 2007-2008 Nevada County Civil Grand Jury Report, dated June 2, 2008 entitled *Agency Shop Election II*, are submitted as required by California Penal Code Section 933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on July 8, 2008. Responses to Findings and Recommendations are based on either personal knowledge, examination of official County records, information received from the Human Resources Director, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2007-2008 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

Ted S. Owens
Chairman, Board of Supervisors

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2007-2008 CIVIL GRAND JURY REPORT
DATED JUNE 2, 2008**

AGENCY SHOP ELECTION II

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the Human Resources Director and County Executive Officer, or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

1. The County was the party charged under the Mediation and Conciliation Service's Procedures with the giving of notice for the August 15, 2007 Agency Shop Elections.

Partially disagree.

While the memo of agreement is not explicit in identifying who has posting responsibilities, the County understood that it was a party to the Agency Shop election process and it shared the responsibility for the posting of notices with the Union as outlined in the Memorandum of Agreement (see Attachment #1).

2. In order to give five calendar days notice for an Agency Shop Election to be held on Wednesday, August 15, 2007, the notice would have had to be posted on or before Thursday, August 9, 2007, and in order to give five working days notice, excluding Saturday and Sunday, the notice would have had to be posted on or before Wednesday, August 8, 2007.

Disagree.

The "Memorandum of Agreement For Agency Shop Election" (Election MOA) that both the County and Local 39 agreed to and signed required five (5) workdays notice prior to the election. The "Memorandum of Agreement For Agency Shop Election" is an agreement prepared by the State Mediation Service Election Supervisor establishing the rules for the election. The representative from Local 39 signed an affidavit indicating that he posted the required election notice on August 9, 2007, five workdays in advance of the election on August 15, 2007. The Human Resources Director posted notices one day later on August 10, 2007 based on written direction from the State Mediation Election Supervisor. In accordance with the Election MOA, the five-day notice requirement was met because the Union posted within the five days. The State Mediation Election Supervisor clarified for the Board of Supervisors that under National Labor Relations Board (NLRB) procedures, the date of the election is counted towards the five days notice. He indicated that the State Mediation Service utilizes the NLRB rules to conduct State elections.

3. The County's posting of notice on Friday, August 10, 2007 failed to give the required five working days notice of the Agency Shop Elections. The County gave only three working days notice.

Partially disagree.

The County did not provide five working days notice but provided for five calendar days notice. As mentioned in response #2, the County complied with the State Mediation Services rules for conducting the election. This includes recognizing the Mediation Service's methods for calculating the appropriate days of notice for posting.

4. The Union's posting of notice on August 9, 2007 failed to give five working days notice of the Agency Shop Elections. The Union gave only four working days notice.

Disagree.

The "Memorandum of Agreement For Agency Shop Election" (Election MOA) that both the County and Local 39 agreed to and signed required five (5) workdays notice prior to the election. The representative from Local 39 signed an affidavit indicating that he posted the required election notice on August 9, 2007, five workdays in advance of the election on August 15, 2007. In accordance with the Election MOA, the five-day notice requirement was met because the Union posted within the five days.

5. The Union's Affidavit, as provided by the Mediation and Conciliation Service, does not reflect the locations where the Union posted notices of the August 15, 2007 elections.

Agree.

B. RESPONSES TO RECOMMENDATIONS

1. The BOS should send the Jury's Reports to the Mediation and Conciliation Service for its consideration.

The recommendation will be implemented by July 31, 2008.

It should be noted that the State Mediation Service has already been informed of the Grand Jury's first report. The County was provided a copy of a letter from the State Mediation and Conciliation Service dated February 22, 2008, to a County employee thanking the employee for bringing the Grand Jury report to their attention (see Attachment 2). The employee's name and address have been redacted for confidentiality reasons.

Since the State Mediation Service is the agency legally responsible for conducting such elections, the Board of Supervisors believes that it is in the best interest of the County, and the processes governing the relationship between the County and the Union, for the State Mediation Service and PERB files to contain an accurate and complete record. Therefore, the County will forward the report to the State Mediation Service and PERB without comment.

2. In future Union elections, the County should avail itself of the alternative provided in the Mediation and Conciliation Service's "Procedures for Mandated Agency Shop Elections" and distribute the notice to all bargaining unit members, in addition to the traditional posting of notices.

The recommendation will not be implemented.

The Board of Supervisors cannot unilaterally establish the manner in which notices in a Union election are distributed, as it constitutes interference in Union matters and could create legal liability for the County as an unfair labor practice. However, should future agency shop elections be held, the County is able to raise the election notice issue to the State Mediation Service and request a process where individual notice is given to each affected employee. It should be noted that the State Mediation Service has jurisdiction over the election process and their decision regarding the County's requests will be final.

3. The BOS should determine whether Mediation and Conciliation Service procedures include permitting the County to use the County's electronic facilities (e-mail) to give employees notice of agency shop elections.

The recommendation will not be implemented.

The State Mediation and Conciliation Service is responsible for overseeing Agency Shop Elections. This includes the manner in which the notices of the election are distributed. The Mediation Service meets with the parties involved and comes to agreement regarding the type of election and the method for noticing employees prior to the election. Should there be disagreement regarding the process for the election, the State Mediation Service makes the final decision regarding any disputed issues. The County intends to comply fully with the law and established process and has agreed in the previous response dated March 25, 2008 to the Grand Jury that the County will raise the issue surrounding appropriate notice (see below).

As such, the Board of Supervisors cannot unilaterally establish a policy regarding notices in a Union election as such actions may interfere in Union matters and could be an unlawful unfair labor practice. However, should future agency shop elections be held, the County is able to raise the election notice issue and request a process where individual notice is given. It should be noted that the State Mediation Service has jurisdiction over the election process and their decision regarding the County's requests will be final.

State of California
Department of Industrial Relations
Mediation and Conciliation Service

MEMORANDUM OF AGREEMENT FOR AGENCY SHOP ELECTION

The County of Nevada, hereinafter called the "Employer", and the IUOE, Stationary Engineers, Local 39, hereinafter called the "Employee Organization", hereby agree as follows:

1. AGENCY SHOP ELECTION: An election by secret ballot shall be conducted among the employees in Unit defined below to determine whether or not the employees in that unit wish to have an Agency Shop provision implemented. The election shall be conducted under the supervision of an impartial **Election Supervisor** from the **California State Mediation and Conciliation Service (Service)**, jointly requested by the Employer and the Employee Organization to serve as such.

2. TIME AND PLACE OF ELECTION

DATE: August 15, 2007

TIME: 8 – 11AM & 3:30 – 5PM

LOCATION: Rood Center

TIME: 1 – 2PM

LOCATION: Truckee Office

3. THE UNIT: Professional BU 7/17

EXCLUDED: All Others

4. ELIGIBLE VOTERS: All employees in the classification(s) within the Unit described above who were employed during the payroll period ending July 1, 2007, and who are named on an **Eligibility List** agreed to by the parties, a copy of which is incorporated herein as an **Addendum**. There may be no additions to or deletions from this addendum without the signed authorization of each of the parties to this agreement or their authorized representatives. The only list of those people voting will be maintained under the direction of the Election Supervisor.

5. THE BALLOT: The secret ballot shall include the question:
"Do you wish to be covered by an agency shop arrangement that requires all employees to either join IUOE, Local 39 or pay an agency fee for representation?"

The ballot shall contain two squares, one labeled "YES" and the other "NO". The employee voting shall mark the square of his/her choice. There shall be no names signed, or otherwise recorded on the ballot.

6. NOTICE OF ELECTION: The Election Supervisor shall prepare a suitable Notice of Election for approval of the Employer and the Employee Organization. This Notice of Election shall be posted in a conspicuous place on the premises of the Employer at least five (5) working days prior to the election. An Affidavit of Posting will be required.

7. OBSERVERS: Each party hereto may station one authorized observer or representative at each voting place during the election. Under the direction of the Election Supervisor the Observers may act as checkers and watchers, assist in the identification of voters, challenge voters and ballots, and otherwise assist the Election Supervisor. The names of observers shall be provided to the Election Supervisor by the parties. Failure to appoint an observer or failure of an observer to appear shall be deemed a waiver of the right to station such observer.

8. CHALLENGED VOTES: Any of the Observers or the Election Supervisor may challenge the eligibility of a voter. It shall be the duty of the Election Supervisor to mark the envelope containing the challenged ballot of the voter and subsequently to determine the eligibility of the voter and either count or reject said vote based on the eligibility list as provided for herein. The decision of the Election Supervisor shall not be subject to appeal and shall be final and binding on both parties.

9. DUTIES OF ELECTION SUPERVISOR: The Election Supervisor shall hand the ballot to each eligible voter appearing at the voting place. The voter will mark the ballot in secret and fold it. The voter will then personally deposit the ballot in the ballot box under the supervision of the Election Supervisor. After closing the polls, the Election Supervisor, in the presence of the Observer of the Employer and the Observer of the Employee Organization shall count the votes cast. This count shall be reduced to written form and witnessed in writing by the authorized Observers, if any, of the Employer and the Employee Organization signifying that they have witnessed the counting of the ballots.

10. SECRET BALLOT: The election will be by secret ballot and it is mutually understood that the voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the voting places. At the conclusion of the election, a Certification on Conduct of Election signed by the authorized Observers, if any, and by the Election Supervisor will be issued to both parties.

11. BINDING RESULTS: A majority of the valid ballots cast will determine the results of the election. The results of the election shall be accepted as binding on both parties. The parties further agree that there will not be another election on the same question for this unit for at least one year from the date of this election.

12. NON-STATUTORY PROCEEDINGS: This agreement for an election to determine employee preference in the matter of an Agency Shop is voluntarily entered into by the parties in full understanding that this election shall not be regarded as a substitute for any legal obligation which may rest on either party.

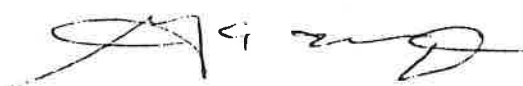
13. CONFIDENTIALITY: The parties agree that the ballots, ballot envelopes and other election materials are confidential and will not be released by the Service after the election.

For the
Employer



Date: 8/15/07

For the
Employee Organization



Date: 8/15/07

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS

State Mediation and Conciliation Service

1515 Clay St., Suite 2206

Oakland, CA 94612

Tel: (510) 873-6465 Fax: (510) 873-6475



February 22, 2008

Dear _____

I am responding to your February 15 letter to Curtis Lyon, who no longer works for the State Mediation and Conciliation Service (SMCS).

Thank you for bringing to our attention the Grand Jury report.

In terms of your request, SMCS has no authority to invalidate the election of August 15, 2007. Nor do we have the authority to call a new election. In order for SMCS to supervise a new election, it would have to be at the joint request of the parties – Nevada County and IUOE Local 39. We only conduct elections with the consent of the parties involved.

If you believe that your rights have been violated by your employer and/or your exclusive bargaining representative, you may have recourse through the Public Employment Relations Board. However, I would suggest you get legal advice prior to proceeding.

Sincerely,

A handwritten signature in cursive script that reads "Paul D. Roose".

Paul D. Roose
Supervisor

cc: Bob Losik

COUNTY GOVERNMENT

Nevada County Veterans Service

Nevada County
Veterans Service Office

NEVADA COUNTY VETERANS SERVICE OFFICE

Reason for Investigation

The Nevada County Grand Jury (Jury) received numerous complaints regarding the Nevada County Veterans Service Office (VSO). The complaints allege that the VSO mishandles claims, dispenses inaccurate or incomplete information, and does not adequately advocate for veterans. Additionally, anticipating that an increase in need for services from the VSO will result from the returning veterans of the wars in Iraq and Afghanistan, the Jury decided to investigate the level of service received by veterans.

The Jury is authorized under sec. 925 of the California Penal Code to "...investigate and report on the operations, accounts, and records of the officers, departments, or functions of the County."

Background

The Nevada County Veterans Service Office

- Is a liaison agency for veterans, their widows, and dependents
- Assists veterans with changes of status, compensation and pension claims, educational benefits, insurance claims, disability claims, hospitalization, and burial benefits
- Is responsible for advising persons seeking benefit claims to the appropriate agency
- Is here to serve those who have served us and facilitates access to the benefits received by the veterans and their dependents, which are considered an obligation from a grateful nation

The VSO was established in the 1940s, as its own stand-alone department and continued in that status until 2000 when it was placed under the Human Service Agency retaining its status as a Department. In 2006, it was moved again, into the Social Services Department, this time as a Division. With this move, the Veterans Service Officer ceased being a Department Head in the County structure, and now reports to the Social Services Director.

The VSO is staffed with two full time employees who are responsible for providing the services previously enumerated and a permanent, part-time office assistant.

The current budget is approximately \$196,000 of which \$45,000 is funded by the State, with \$151,000 coming from the County. The State's funding is dependent on the number of claims submitted by the VSO to the Veterans Administration.

Method of Investigation

The Jury interviewed numerous individuals regarding their VSO experiences and reviewed pertinent documents relevant to the services provided by the VSO. Members of the Jury visited the VSO in Grass Valley.

The Jury corroborated anecdotal evidence through interviews with multiple, independent sources, including complainants, the Director of Social Services, VSO employees, Post Traumatic Stress Disorder (PTSD) experts, the current Veterans Service Officer, a Veterans Affairs Consultant, two former Veterans Service Officers, the Assistant Veterans Service Officer and VSO volunteers.

Findings

1. There are two permanent Veterans Service Representatives who handle claims. One of these is the Veterans Service Officer, the other is the Assistant Veterans Service Officer. There is also a permanent, part-time office assistant, who effective in April 2008 works 10hrs./week for the VSO; previous to that, the office assistant was a temporary employee who was utilized approximately 30 hrs./week
2. Since 2006 the VSO, on occasion has given incorrect and misleading information to veterans and their families, and has not always been timely in the handling of claims.
3. Van service, originally established by a previous Veterans Service Officer has been reduced from three to two times per week, between the Auburn Medical Clinic and the Reno Veterans Administration Hospital.
4. Placing the VSO under the Social Services Department was intended to enhance intra-county agency co-ordination of services for veterans and their family members.
5. Since 2006 disharmony among the VSO employees has had a marked effect on the ability of the office to provide services to Nevada County veterans.
6. Only a small percentage of the 12,000 veterans living in Nevada County seek assistance through the VSO. There are pockets of under-served and housebound veterans living in Nevada County who are currently not being adequately served by the VSO.
7. The anticipated return of veterans from Iraq and Afghanistan and expanded outreach services will exceed the current capacity of the VSO.
8. In 2007, because of disharmony in the VSO, the Social Services Director engaged a Veterans Affairs Consultant to analyze the operations and staffing of the office.

9. The Social Services Director is addressing the issues identified in the Consultant's report and is implementing a number of the recommendations including those relating to staffing, training, and co-ordination of services.
10. The Nevada County veteran's community is unaware of the VSO's organizational structure, and in particular, the roles played by the Social Services Department and its Director in the support and oversight of the VSO mission.

Conclusions

1. The complaints concerning the VSO received by the Jury were found to have merit.
2. Veterans need a VSO they can trust and have confidence in when working with that office.
3. There are pockets of underserved and housebound veterans living in Nevada County who would greatly benefit from an expanded out-reach program and a mobile VSO unit.
4. The part-time office assistant position does not allow sufficient time to meet the needs of the VSO clientele.
5. The current staffing of the VSO may well prove insufficient to adequately address the needs of veterans returning from Iraq and Afghanistan.
6. There is a lack of awareness by veterans as to where to go to resolve issues regarding the VSO.
7. Elimination of the current disharmony within the VSO is necessary if that office is to effectively meet its responsibilities.
8. The Social Services Director is taking an active and continuing role in resolving the issues within the VSO.

Recommendations

1. The BOS should support the Social Services Director's ongoing efforts to resolve the problems that currently exist at the VSO.
2. The BOS should authorize funds for the Social Services Department to enable the VSO to extend veteran out-reach services and provide a mobile-assisted office to effectively aid hard-to-serve and housebound veterans.
3. The BOS should authorize funds for the Social Services Department to enable the VSO office assistant position to be a permanent, full-time position.

4. The BOS should direct the staff to study whether co-ordination of veteran service referrals for other County benefits is adequate to meet the needs of veterans and their families.
5. The BOS should direct staff to request the Veterans Administration to restore van service to its previous level.
6. BOS should direct the staff to update the VSO website. It should include the departmental structure with contact information for the Social Service Director and an organizational wall chart with this information should be posted at the VSO.
7. The BOS should direct staff to periodically determine the satisfaction of services provided by the VSO. These surveys should originate from and be mailed back to the Social Services Department to assure confidentiality.

Required Response:

Nevada County Board of Supervisors October 20, 2008

RESPONSE

COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

BOARD OF SUPERVISORS

Nate Beason, 1st District
Sue Horne, 2nd District
John Spencer, 3rd District
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Ted S. Owens, 5th District (Chair)



Cathy R. Thompson
Clerk of the Board

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Web: www.mynevadacounty.com/clerkofboard

August 12, 2008

The Honorable Judge Robert Tamietti
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2007-2008 Nevada County Civil Grand Jury Report, *Nevada County Veterans Service Office*.

Dear Judge Tamietti:

The attached responses by the Board of Supervisors to the 2007-2008 Nevada County Civil Grand Jury Report, dated June 17, 2008, entitled *Nevada County Veterans Service Office*, are submitted as required by California Penal Code Section 933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on August 12, 2008. Responses to Findings and Recommendations are based on either personal knowledge, examination of official County records, information received from the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2007-2008 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

Ted S. Owens
Chairman, Board of Supervisors

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2007-2008 CIVIL GRAND JURY REPORT
DATED JUNE 17, 2008**

Nevada County Veterans Service Office

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

- 1. There are two permanent Veterans Service Representatives who handle claims. One of these is the Veterans Service Officer, the other is the Assistant Veterans Service Officer. There is also a permanent, part-time office assistant, who effective in April 2008 works 10 hrs/week for the VSO; previous to that, the office assistant was a temporary employee who was utilized approximately 30 hrs/week.**

Agree.

- 2. Since 2006, the VSO on occasion has given incorrect and misleading information to veterans and their families and has not always been timely in the handling of claims.**

Agree.

On occasion the Veteran Service Office provided incorrect and misleading information to veterans and their families and/or was not timely in the handling of claims.

- 3. Van service, originally established by a previous Veterans Service Officer, has been reduced from three to two times per week, between the Auburn Medical Clinic and the Reno Veterans Administration Hospital.**

Disagree.

The Nevada County van service did not run between Auburn Medical Clinic and Reno. The van program transported individuals from Grass Valley Veteran memorial Building and Reno Veterans Administration Hospital. The program was reduced in 2006 from three days per week to two days per week by the VA Sierra Nevada Health Care System, under the previous Veteran Service Officer. Current service is two days per week, the same service level that existed in mid-2006, under the previous Veteran Services Officer.

An established demand for van service is needed before VA Sierra Nevada Health Care System will review increasing days. In 2008 (January 1 to June 30) 82% of the van trips did not meet capacity. In 2007, 85% of the van trips did not exceed capacity.

On average, five of the seven seats were filled per ride. Staff will continue to track van utilization and request additional days when demand grows. The demand will be evaluated by monitoring weekly ridership and the number of vacant seats. This will be

accomplished by a monthly report generated by VSO staff and reviewed by the Director of Social Services.

- 4. Placing the VSO under the Social Service Department was intended to enhance intra-county agency coordination of services for veterans and their family members.**

Agree.

- 5. Since 2006 disharmony among the VSO employees has had a marked effect on the ability of the office to provide services to Nevada County veterans.**

Agree.

- 6. Only a small percentage of the 12,000 veterans living in Nevada County seek assistance through the VSO. There are pockets of under-served and housebound veterans living in Nevada County who are currently not being adequately served by the VSO.**

Agree.

- 7. The anticipated return of veterans from Iraq and Afghanistan and expanded outreach services will exceed the current capacity of the VSO.**

Partially agree.

Although an increase is anticipated, County specific data does not exist to support projections that anticipated return of veterans from Iraq and Afghanistan and expanded outreach would exceed the current capacity of the VSO.

- 8. In 2007, because of disharmony in the VSO, the Social Services Director engaged a Veterans Affairs Consultant to analyze the operations and staffing of the office.**

Agree.

- 9. The Social Services Director is addressing the issues identified in the Consultant's report and it is implementing a number of the recommendations including those relating to staffing, training, and coordination of services.**

Agree.

- 10. The Nevada County veteran's community is unaware of the VSO's organizational structure, and in particular, the roles played by the Social Services Department and its Director in the support and oversight of the VSO mission.**

Partially agree.

There is opportunity to increase community awareness regarding the VSO's organizational structure and the role played by the Social Services Department and its Director in the support of the VSO mission.

B. RESPONSES TO RECOMMENDATIONS

1. The BOS should support the Social Services Director's ongoing efforts to resolve the problems that currently exist at the VSO.

The recommendation has been implemented.

The BOS, through the CEO and the Director of Health and Human Services, has been supportive of the Social Services Director's efforts to resolve organization issues that exist within the Veterans Service Office, including the creation of a 0.5 FTE administrative support position, the hiring of an outside consultant to assess and make recommendations to improve office operations, the restructuring of office hours and the implementation of personnel changes.

2. The BOS should authorize funds for the Social Services Department to enable the VSO to extend veteran outreach services and provide a mobile-assisted office to effectively aid hard-to-serve and housebound veterans.

The recommendation has not yet been implemented, but will be implemented in the future.

Utilizing existing resources, VSO staff will be conducting monthly outreach activities to North San Juan, Penn Valley and Truckee in the next three months. Existing resources include office locations at the Family Services Center in North San Juan, the Nevada County Joseph Center in Truckee, and the Nevada County Public Health Mobile Services Van. The VSO intends to maintain these as on-going outreach activities.

3. The BOS should authorize funds for the Social Services Department to enable the VSO office assistant position to be a permanent full-time position

The recommendation requires further analysis.

The 0.5 FTE administrative support position is a permanent position that has been recently created, boosting the total positions in the office to 2.5 FTE. Prior to its creation, the office had been operated on a permanent basis with only two full time positions, assisted periodically by temporary clerical staff. We plan to operate this current fiscal

year with the 2.5 FTE and will evaluate whether this addition is sufficient to meet the needs of the office.

- 4. The BOS should direct the staff to study whether coordination of veteran service referrals for other County benefits is adequate to meet the needs of veterans and their families.**

The recommendation has not yet been implemented, but will be implemented during the current fiscal year.

The Department will review a sample of client records to gauge the current level of referrals to other benefit programs as compared to the number of programs that clients are potentially eligible for.

- 5. The BOS should direct staff to request the Veterans Administration to restore van service to its previous level.**

The recommendation will not be implemented.

Current utilization does not warrant additional van days at this time. In 2007, 85% of the van trips did not exceed capacity. In 2008 (January 1 to June 30) 82% of the van trips did not meet capacity. Staff will continue to track van utilization and request additional days based on service demand.

- 6. The BOS should direct the staff to update the VSO website. It should include the departmental structure with contact information for the Social Service Director and an organizational wall chart with this information should be posted at the VSO.**

The recommendation has not yet been implemented, but will be implemented during the current calendar year, working with County Information Services staff.

- 7. The BOS should direct staff to periodically determine the satisfaction of services provided by the VSO. These surveys should originate from and be mailed back to the Social Services Department to assure confidentiality.**

The recommendation has been implemented.

The VSO routinely conducts customer service surveys of veterans served by the office. DSS has recently changed the process by which surveys are mailed directly to veterans served with a returned envelope to the Social Services Director to assure a higher level of confidentiality.

COUNTY GOVERNMENT

Nevada County Wild Fire Preparedness

Nevada County Wild Fire Protection

WILDFIRE DANGER IN NEVADA COUNTY

Reason for Investigation

California has recently experienced severe wildfires in the Lake Tahoe Area and in Southern California that resulted in serious damage to property and some loss of life. Because of the increasing threat of catastrophic fire, the 2007-2008 Nevada County Grand Jury (Jury) reviewed the status of wildfire protection services in Nevada County.

Method of Investigation

The Jury interviewed personnel from several fire agencies, Cal Fire (previously CDF), a member of the Board of Supervisors (BOS) and a Local Agency Formation Commission (LAFCo) representative. The Jury examined the Municipal Service Review (MSR) on Fire Protection and Emergency Services (January 2005) prepared for LAFCo, and utilized data from the Review in preparing this report. The Jury also examined a 1992 Study, commissioned by LAFCo, which recommended consolidation of Western Nevada County Fire Protection Districts (FPD) and a 2004/5 Jury study of FPDs in the County. Finally, several members of the Jury reviewed various iterations of the Draft Nevada County Fire Plan (Fire Plan) and attended several public hearings concerning the Fire Plan.

Background

“With its long hot summers, steep terrain, significant accumulations of wild land fire fuels and significant residential development with lagging infrastructure, Nevada County represents the ideal environment for large damaging wildfires.” (Nevada-Yuba-Placer, Fire Management Plan)

“All of us living in Nevada County live in a fire prone environment.” (Draft Nevada County Fire Plan, December 21, 2007).

(See Figure 1, Nevada County: Communities at Risk –list, and Figure 2 Nevada County: Communities at Risk- map).

The increasing threat of extreme wildfire in Nevada County is the result of a complex set of issues that include:

- wildfire and population growth are on a collision course;
- fire is a natural part of our county environment;
- logging practices, and fire prevention and suppression practices and policies have created the potential for catastrophic fires;
- population growth is occurring in areas of high fire hazard;
- Climate change may create an increasing fire danger for all residents.

This report looks at two aspects of the wildfire threat in Nevada County; first, the current status of the resources available to deal with the suppression of wildland fires and second, the efforts of Nevada County Board of Supervisors to develop and implement a Nevada County Fire Plan.

A. Brief Overview of Nevada County Fire Suppression Agencies

The 2005 MSR observed, "Financing is the most critical issue for the fire agencies in Nevada County." The MSR also concluded that while the wildfire threat is increasing, the revenues to support the various fire departments are not. The MSR observed that some form of reorganization of fire agencies might result in improvements in efficiency while maintaining current levels of service. The same general conclusions had been reached by the 1992 Study that stated; 1) "fire prevention activities are implemented unevenly, 2) there is duplication of resources and effort among the 10 districts and 3) budgets have been significantly rising."

Fire services in Nevada County are provided by eight independent FPDs, one Water District that provides fire services, two city Fire Departments, Cal Fire, and the United States Forest Service (USFS). These 13 fire organizations have a total of 36 stations (based on data from the MSR). (See Figure 3, Nevada County Fire Agencies and Figure 4, Nevada County Fire stations)

Approximately 80 % of the calls to fire agencies are not directly fire related but are the result of medical emergencies and/or vehicle accidents. However, these numbers vary depending on the individual agencies. (See Figure 5, Emergency Responses by Fire Agency and Figure 6, Emergency Response Times by Agency)

According to data in the MSR nearly all the fire agencies have multiple mutual and automatic aid agreements by which the agencies assist one another. For example, one agreement covers Grass Valley, Nevada City and Nevada County Consolidated Fire District (NCCFD); another agreement covers the City of Grass Valley, and the Ophir Hill Fire District. Truckee FPD has separate agreements with adjacent fire districts and other counties.

Penn Valley FPD and Truckee FPD provide paramedic emergency response service with public funding. The service is provided on a fee for service basis in Truckee and is provided without charge to Penn Valley residents and on a fee for service basis to non-residents.

B. Development of a Nevada County Fire Plan

Nevada County has been working on developing a County Fire Plan since September 2003 when the BOS appointed a Fire Plan Committee (FPC) composed of the County Fire Marshall and four local fire experts. The committee was directed to develop a Fire plan that would recommend measures to reduce the threat of wildfires in the

County, be consistent with the general plan and meet the requirements of the Disaster Mitigation Act of 2000 and the Healthy Forest Restoration Act of 2003.

The FPC held 18 public meetings to draft the Fire Plan and also held 15 public workshops to receive public comments. The BOS approved the Fire Plan on August 4, 2004 with modifications. The FPC was directed to make further modifications, develop a work plan and return for final approval of the Plan. The BOS approved the modifications at its meeting on May 24, 2005.

Before final approval, an initial study (environmental Impact) was released in February 2006 and a public hearing was held on April 21, 2006. The FPC after reviewing the initial study and public comments directed the Deputy Fire Marshall to redraft the Fire Plan to incorporate environmental and other concerns. The revisions to the Fire Plan were presented to the FPC and the public on August 6, 2007. After an additional 10 public hearings and subsequent modifications to the Fire Plan, the FPC approved the document at its Dec 11, 2007 public meeting and recommended that the BOS adopt the Fire Plan. The final Fire Plan and the accompanying California Environment Quality Act (CEQA) study were released to the public on Dec 21, 2007.

The Fire Plan was presented to the BOS at a public hearing on Feb 12, 2008. At that meeting the BOS asked the Planning Department to review the Plan, identify the costs associated with the recommendations and report back. At its February 26 meeting the staff recommended and the BOS directed that the Planning Department divide the Fire Plan into three documents, an information document to be included with the Stewardship Program, another document which was a revision to the Nevada County General Plan's Section 10 Safety, and a final document, the CEQA initial study. The BOS at its April 8 meeting voted "... to approve the proposed Nevada County General Plan Safety Element update and direct staff to circulate it for the formal comment period (45 or 90 days) leading up to the adoption of the new Safety Element, including this language."

The Nevada County Fire Plan (December 21, 2007) stated that the County has suffered four major fires in the last 20 years. These fires resulted in the loss of nearly 200 structures and costs of over 70 million dollars in damages and suppression costs. The Draft fire plan further stated..."without significant intervention, large and damaging fires are not only inevitable but will repeat time and again." In the next paragraph, the Plan stated that, "County Government must address the governmental structure and funding process to implement the recommendations."

Findings

1. Some areas of Nevada County are not within the boundaries of any fire district and rely on Cal Fire and/or USFS for response in the event of a fire. (See Figure 3, Fire Agencies)

2. Nevada County fire agencies rely on paid staff and/or volunteers. Many of the volunteers work out of the area and are not available to respond to all emergency calls. Volunteers and paid staff have to complete the same considerable amount of training time required for certification.
3. Nevada County fire agencies are losing well-trained emergency professionals to wealthier districts, to Cal Fire, and to the USFS.
4. In spite of limited budgets and staff, cooperative efforts have to date allowed the various fire agencies to perform their fire suppression functions in an adequate manner.
5. Successful mergers between fire agencies usually result from the desire to improve services and reduce costs. In general, mergers occur between agencies with similar financial resources.
6. The voters must approve taxes or assessments to increase funding for fire protection. Proposition 13 requires a 2/3 majority for any tax increase. However, under Proposition 218, a fire district assessment requires only a simple majority. (See Figure 7, Voter Requirements For Different Types of Elections and Assessments)
7. Availability of effective fire services is a factor in determining insurance rates for property in Nevada County. Recently, several insurance companies have stopped writing insurance policies in Nevada County because of the increasing risk of catastrophic fires. (See Figure 8, Insurance Service Office (ISO) Rating's of Nevada County Fire Agencies)
8. A recent election sponsored by Chicago Park /Peardale FPD to finance improved fire services failed while the property owners approved a similar election sponsored by the Truckee FPD.
9. Many residents of Nevada County are not aware that the County has no statutory duty to provide fire protection services within the County and assumes no responsibility for providing these services
10. There is a great disparity among fire agencies in the scope and quality of services. (See Figure 6 Emergency Response Time, and Figure 9, Costs and Population Served)
11. The BOS treatment of the Fire Plan on April 8, 2008 significantly reduced the importance of the Fire Plan, shifting its focus from mandates and requirements to persuasion and cooperation.

Conclusions

1. There is a lack of public understanding about who is responsible for the financing, providing, and coordinating of fire protection services within the County. Many residents

are incorrect on their belief that the County government has a significant role in fire protection services.

2. Voter approval of increased financing for fire protection could favorably influence insurance rates.
3. Fire protection is affected by the complex geography of the fire agencies and an even more complex set of funding methods that provide inconsistent and irregular funding for equipment and staffing
4. To date, because of the good will and cooperation of the various fire services, fire suppression activities in Nevada County has been adequate.
5. The citizens of Nevada County currently do not receive equal levels of fire services across jurisdictions within the county.
6. The public should be concerned that a local electorate rejected a ballot measure to increase support for fire services.
7. Recently modified by the BOS, the Fire Plan now does not appear to require adequate action by the County against the threat of catastrophic fires as it no longer "...provides the Board of Supervisors with recommendations to reduce the risk and impacts from wildland fires to life, property and natural resources in Nevada County." (Nevada County Fire Plan)
8. The BOS approval of their modified Fire Plan does not provide the governmental structure or funding process originally envisioned by the FPC, and fails meet Nevada County citizens' desperate needs.

Recommendations

1. The BOS should request that LAFCO commission a study to determine by fire agency the accurate cost of fire protection services in Nevada County. This could be done as a separate study or by modifying the next scheduled MSR on Fire Protection and Emergency Services and by having that Review conducted earlier than is now planned.
2. The BOS should initiate a concerted public education program to increase public awareness and understanding of fire services and how they are financed. Such a program would extend beyond the goal proposed under Nevada General Plan Goal FP-10.9 that directs the County to "Encourage fire safety education and support programs to promote participation, voluntary compliance, and community awareness of fire safety issues."

3. The BOS should sponsor a meeting including LAFCO and all agencies and districts that relate to fire services to discuss the feasibility of developing a uniform and consistent set of services and the potential for future efficiencies through consolidation.
4. The BOS should reassess their action of April 8, 2008 and return the *teeth* to the Fire Plan that their actions removed. They should strengthen the proposed update to the Nevada County General Plan Safety Element, (Chapter 10; Safety). The changes should include rewording of Goal FP-10.12 to read; "The County should implement policies FP-10.12.1.1 through FP-10.12.1.28 prioritizing by the order in which they appear and designate them to be Action Policies." (Attachment 10 provides the current wording of the Goal and the Advisory Policies.)

Response Required

Nevada County Board of Supervisors October 3, 2008

Attachments

1. Nevada County: Communities at Risk-List
Source, Draft Nevada County Fire Plan December 11, 2007
2. Nevada County: Communities at Risk-Map
Source, Draft Nevada County Fire Plan, December 11, 2007
3. Nevada County Fire Agencies
Source, Municipal Service Review (MSR) on Fire Protection and Emergency Services (Jan 2005)
4. Nevada County Fire Stations
Source, MSR
5. Emergency Responses by Fire Agency
Source, MSR
6. Emergency Response Times by Agency
Source, MSR
7. Voter Requirements for Different Types of Elections and Assessments
Source, MSR
8. Insurance Service Office (ISO) Rating's of Nevada County Fire Agencies
Source, Nevada County Grand Jury Report on Fire Districts, 2005 modified
9. Costs and Population Served
Source, MSR
10. GOAL FP-10.12 "AS desirable and as funding becomes available; the County should consider Advisory Policies FP-10.12.1.1 through FP-10.12.1.28"
Source, Nevada County General Plan; Chapter 10: Safety-DRAFT

Figure 1

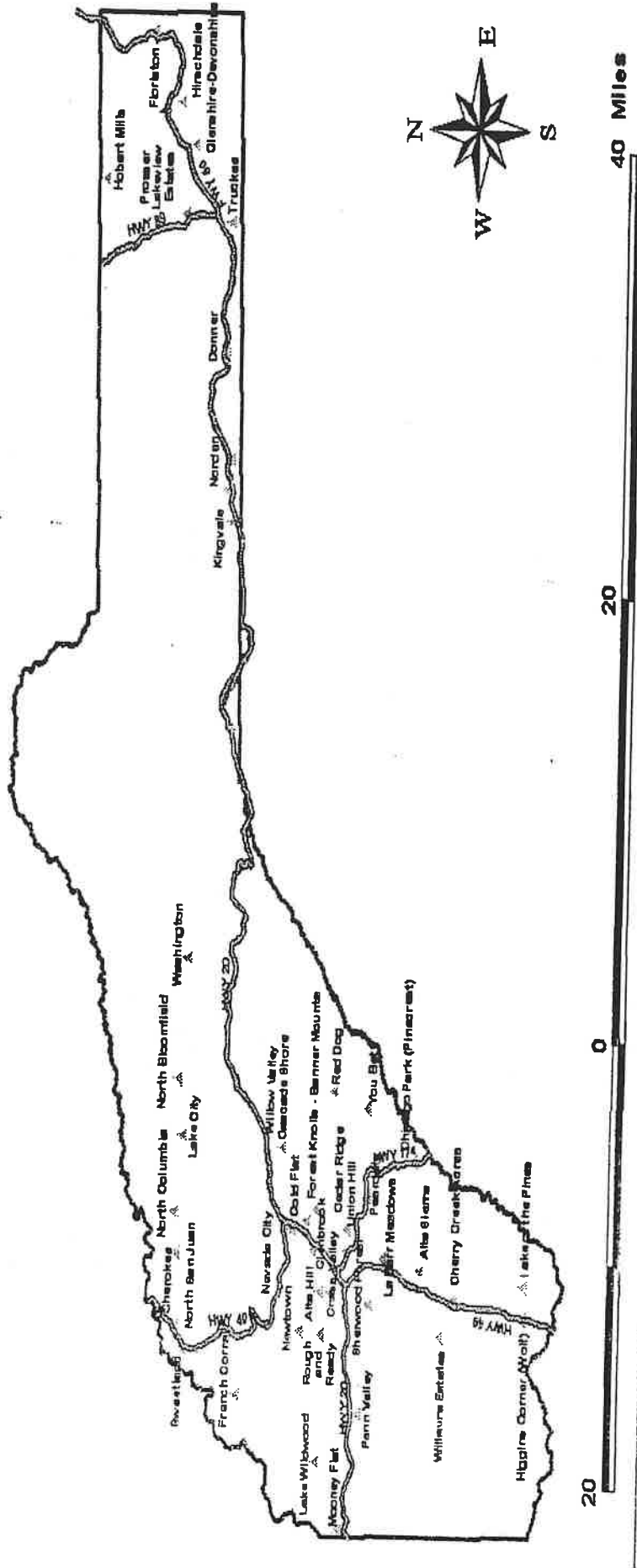
Nevada County: Communities at Risk-List

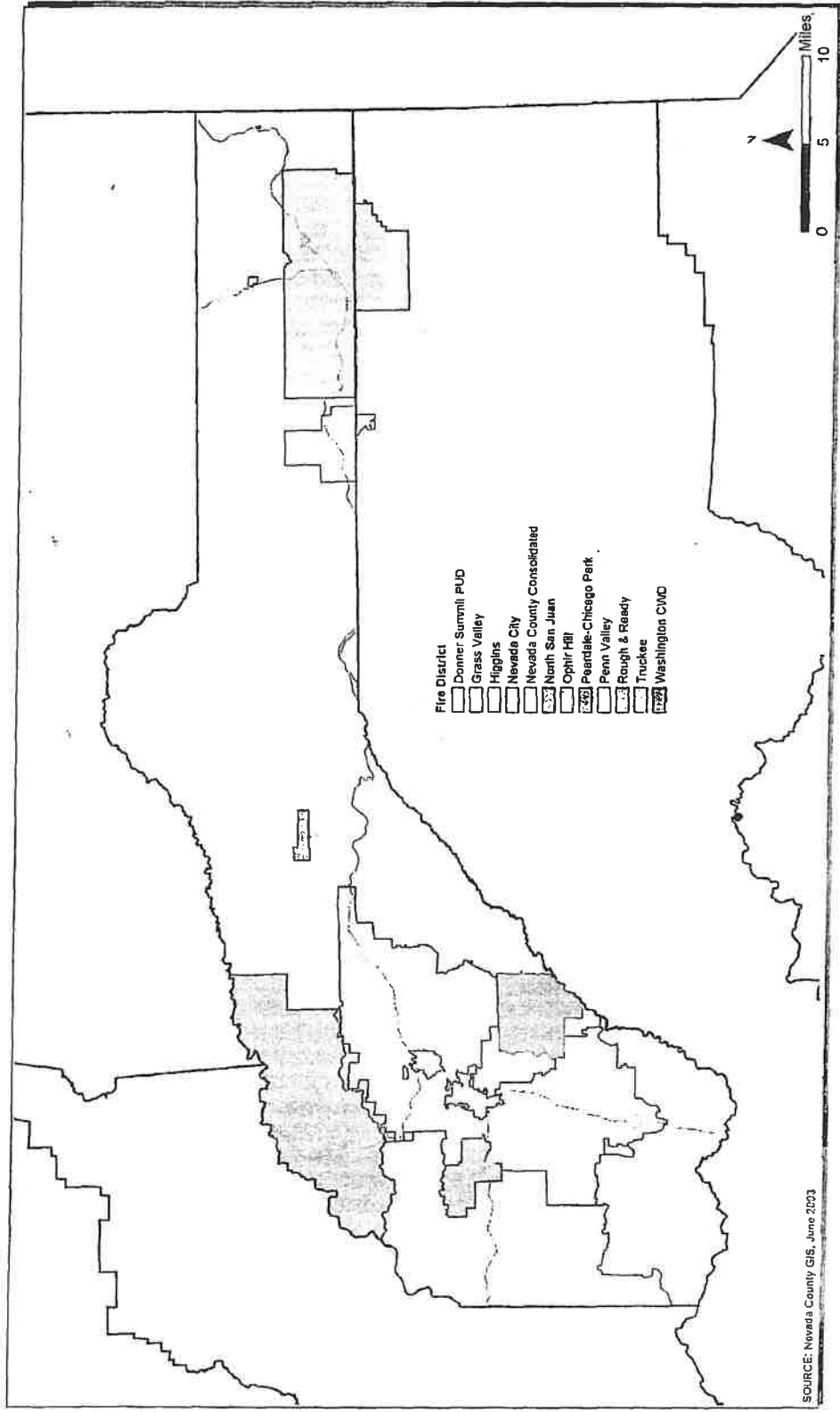
No.	Place Name	Federal Threat	Federally Regulated	Year	No.	Place Name	Federal Threat	Federally Regulated	Year
1	Alta Hill	X	X	2001	23	Mooney Flat	X	X	2001
2	Alta Sierra	X	X	2001	24	Nevada City	X	X	2001
3	Cedar Ridge	X	X	2001	25	Newtown	X	X	2001
4	Cherokee	X	X	2001	26	Norden	X	X	2001
5	Cherry Creek Acres	X	X	2001	27	North Bloomfield	X	X	2001
6	Chicago Park (Pinecrest)	X	X	2001	28	North Columbia	X	X	2001
7	Dobber	X	X	2001	29	North San Juan	X	X	2001
8	Floriston	X	X	2001	30	Paardale	X	X	2001
9	Fossil Knolls - Banner Mountain	X	X	2001	31	Penn Valley	X	X	2001
10	French Corral	X	X	2001	32	Prosser Lakeview	X	X	2001
11	Glenbrook	X	X	2001	33	Red Dog	X	X	2001
12	Glenshire-Dorchester	X	X	2001	34	Rough and Reedy (Blincy)	X	X	2001
13	Gold Flat	X	X	2001	35	Sherwood Forest	X	X	2001
14	Grass Valley	X	X	2001	36	Soda Springs	X	X	2001
15	Higgins Corner (Wolf)	X	X	2001	37	Sweetland	X	X	2001
16	Hirschdale	X	X	2001	38	Truckee	X	X	2001
17	Hobart Mills	X	X	2001	39	Union Hill	X	X	2001
18	Kingvale	X	X	2001	40	Washington	X	X	2001
19	La Barr Meadows	X	X	2001	41	Willow Estates	X	X	2001
20	Lake City	X	X	2001	42	Willow Valley - Cascade	X	X	2001
21	Lake of the Pines	X	X	2001	43	You Bet	X	X	2001
22	Lake Wildwood	X	X	2001					

The list identifies communities that are at high risk of danger from wildfires. These high risk communities were identified within the wildland-urban interface, the area where homes and wildland intermix. The list includes the name of the community, whether it is within one and a half miles of Federal land(Federal Threat), whether it is listed in the Federal Register(Federally Regulated) and if so the date of the Federal Register Notice (year).

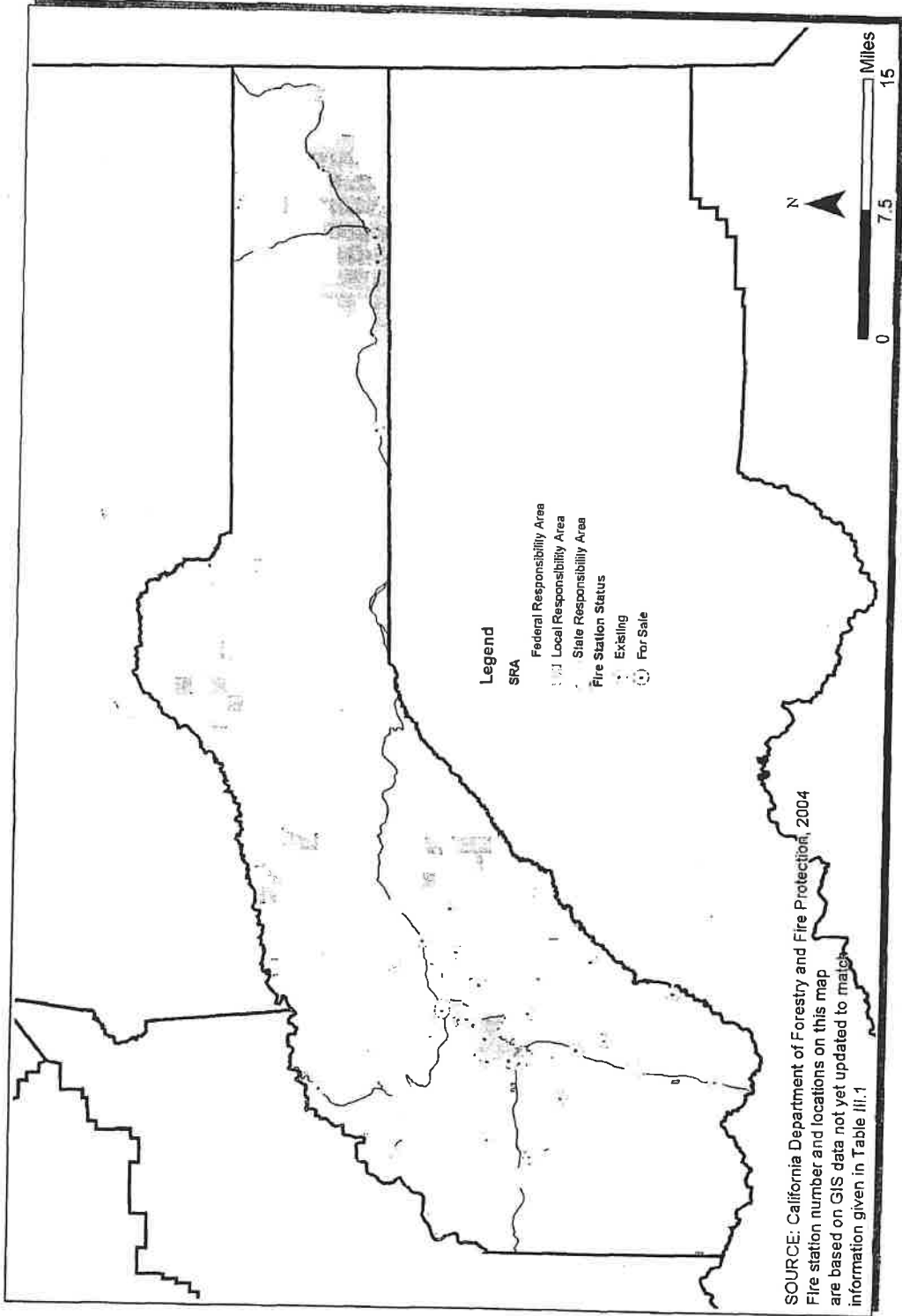
Figure 2

Nevada County: Communities at risk-Map



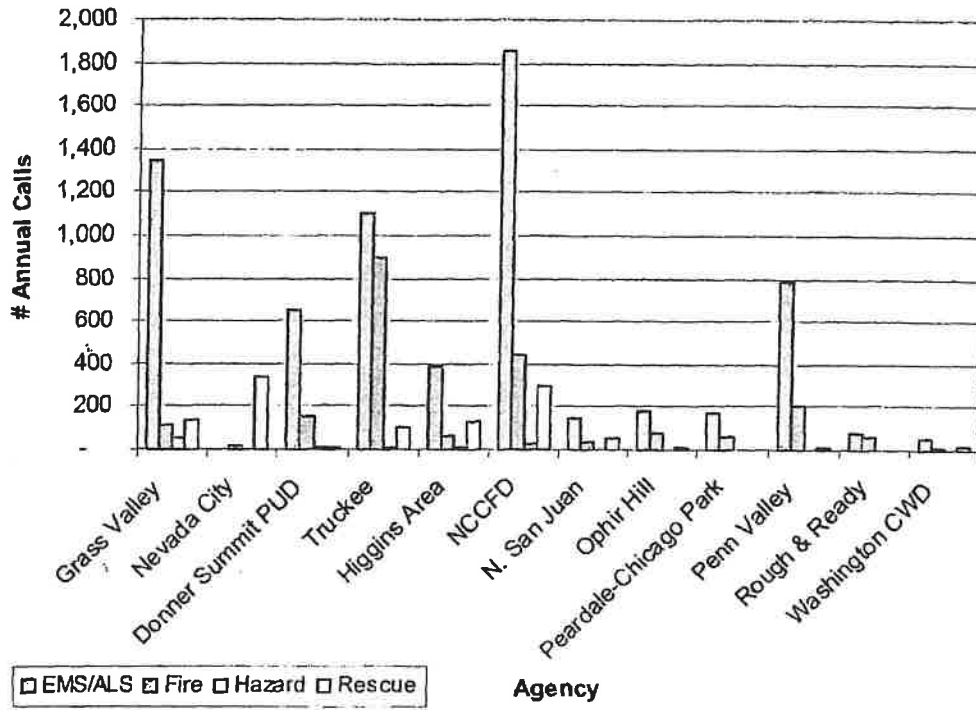


NEVADA COUNTY FIRE AGENCIES Fig. 3

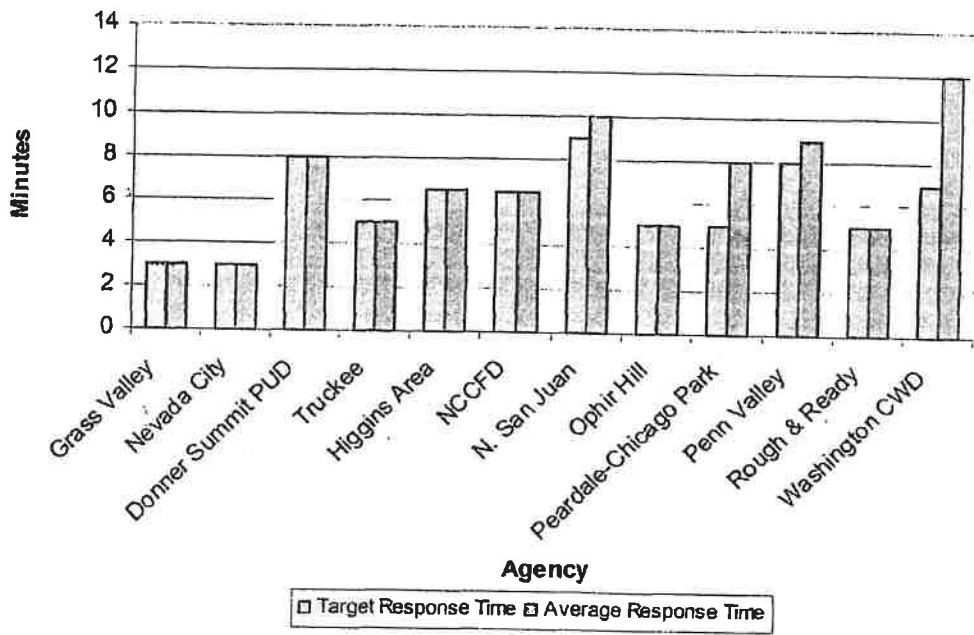


NEVADA COUNTY FIRE STATIONS Fig. 4

Emergency Responses by Fire Agencies Fig. 5



Emergency Responses by Agency Fig. 6



Voter Requirements for Different Types of Elections and Assessments Fig. 7

TYPE	VOTE NEEDED	WHO VOTES	VOTE REQUIREMENT
<i>TAXES</i>			
General	Yes	All voters in affected area	Majority
Special	Yes	All voters in affected area	2/3
<i>ASSESSMENTS</i>			
All	Yes	Property Owners	Majority
<i>FEES</i>			
Property Related	Yes	Either property owners or voters	Majority of property owners or 2/3 voters

Figure 8

ISO RATING NEVADA COUNTY FIRE AGENCIES

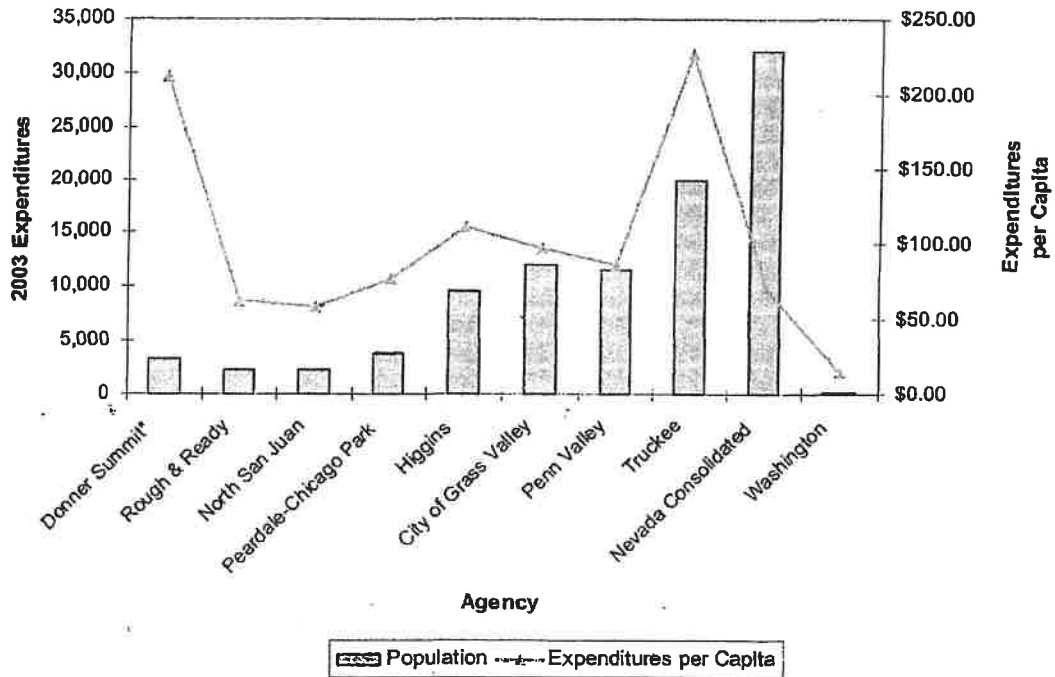
Fire Protection Agency	ISO Rating	
	Within*	Outside**
Western Nevada County		
North San Juan FPD	N/A	8
Penn Valley FPD	5	8/9
Higgins Area FPD	4	8/9
Central Nevada County		
Grass Valley FD	4	N/A
Nevada City FD	5	N/A
Ophir Hill FPD	4	8
Peardale-Chicago Park FPD	5	8
Washington Co. Water. Dist.	N/A	10
Nev. Co. Consolidated FPD	4	8
Eastern Nevada County		
Truckee FPD	6	8/9/10

* Within refers to within hydrated area and within 5 miles of fire station

** Outside refers to outside hydrated areas that are no more than 5 miles from station or /the area beyond

The Insurance Service Office (ISO) rates all fire agencies. The ISO is a nationwide nonprofit service organization that provides rating services to the property and casualty insurance industries. The ISO's Fire Suppression Rating Schedule classifies fire protection into 10 categories: Class 1 recognizing the highest level of fire protection and class 10 recognizing the lowest or no level of fire protection.

Costs and Population Served Fig 9



10. GoalFP-10.12

GOAL FP-10.12

As desirable and as funding becomes available, the County should consider Advisory Policies FP-10.12.1.1 through FP-10.12.1.28, prioritized by the order in which they appear.

Advisory Policies

- FP-10.12.1.1 Establish an official department of the Nevada County Fire Marshal's Office, and provide funding for the appropriate staffing of the County Fire Marshal's Office to provide oversight and implement fire protection policies.
- FP-10.12.1.2 Recognize and support the Fire Safe Council as a significant contributor of providing fire safe education and information to the residents of the County by assisting in funding their services and programs.
- FP-10.12.1.3 Coordinate with the Fire Safe Council in their efforts to update and maintain the countywide Community Wildfire Protection Plan. These efforts include:
- Identifying areas within the County that potentially could be the source of large and damaging wildfires; and
 - Prioritizing those potentially hazardous areas for grant funds to reduce the fire hazard and risk.
- FP-10.12.1.4 Provide a permanent funding mechanism for the Fire Safe Council's chipping program and services.
- FP-10.12.1.5 Develop a water storage inspection program.
- FP-10.12.1.6 Sponsor workshops that develop cooperative efforts between businesses, professional services, and governmental agencies in the fuel and resource management industry, including those that provide fire-safe operations, fuel management services, and environmental compliance services.
- FP-10.12.1.7 Support the establishment and publication of a list of business resources that includes businesses and professionals that have attended the County's fire safety workshop and are knowledgeable of County fire-safe programs.
- FP-10.12.1.8 Support and expand greenwaste pickup and chipping programs and develop a mulching-composting program as the preferred methods for leaf and pine needle disposal.
- FP-10.12.1.9 Provide consulting services for private landowners for the restoration and rehabilitation of wildlands impacted by fire, insects, and disease.

- FP-10.12.1.10 Create a directory of assistance programs for large landowners, including CAL FIRE's Vegetation Management Program, CAL FIRE's California Forest Improvement Program, and the Natural Resources Conservation Service's Environmental Quality Incentives Program.
- FP-10.12.1.11 Provide financial aid to those landowners who can demonstrate financial need based upon established criteria and who are incapable of accomplishing the fuels management on their own to meet the requirement of the Nevada County Defensible Space Standards.
- FP-10.12.1.12 Nevada County Department of Public Works and the Fire Marshal's Office should work together to identify County-maintained arterial and collector roads or segments of these roads that are not meeting design standards for current or anticipated average daily trips, and prioritize these roads for upgrading as funds become available.
- FP-10.12.1.13 Direct the Fire Marshal's Office to coordinate with the Fire Safe Council to create a multimedia format lending library. The lending library shall focus on proper land stewardship, defensible space, fire prevention, disaster preparedness and application of fuels management prescriptions. The Fire Marshal's Office should seek outlets to inform the public of this library.
- FP-10.12.1.14 Develop a compliance program for future development to ensure that proposed roads are maintained over the long term to the same standard as they were originally approved and conditioned.
- FP-10.12.1.15 Encourage the Board of Supervisors to reconvene a Fire Safety Committee at least every five years for a comprehensive review of the effectiveness of the fire protection policies in the General Plan.
- FP-10.12.1.16 Develop an evacuation road standard and private landowner incentives to participate in the standard.
- FP-10.12.1.17 Encourage the Board of Supervisors to explore feasible funding mechanisms for those County roads not meeting the evacuation road standard.
- FP-10.12.1.18 Conduct a study for funding a countywide system of strategically located rural fire protection water storage tanks.
- FP-10.12.1.19 Conduct an analysis of private roads with offers of dedication on them and identify those of significant regional importance for public safety and evacuation. Once identified, those roads should be prioritized for inclusion into the County-maintained mileage program through a public process.
- FP-10.12.1.20 Explore feasible funding mechanisms to add roads that are regionally important for connectivity and public safety access under County maintenance.
- FP-10.12.1.21 Support the Fire Safe Council's effort to create a biomass reutilization center.

FP-10.12.1.22 Create a forum to bring together private and public groups with a statutory or general interest in wildfire risk reduction with the intent of creating and maintaining a consistent public message regarding fire prevention and risk reduction requirements and activities.

FP-10.12.1.23 Task the County Fire Marshal, in cooperation with the Fire Safe Council, to develop and maintain a forum with public and private land managers to treat hazardous vegetation on their lands in order to increase community wildfire protection.

FP-10.12.1.24 Conduct seminars for landowners on proper stewardship techniques based upon County fuels management guidelines and programs.

FP-10.12.1.25 Provide educational workshops on environmental protection measures for property owners to minimize environmental impacts while implementing fuels treatment projects on their property.

FP-10.12.1.26 Increase the County roadside vegetation management program treatment rate from the current rate of 6% to a minimum of 10% of County-maintained road miles, thus decreasing the rotational period from an estimated 17-year return interval to a 10-year return interval.

FP-10.12.1.27 Implement recommendations based on the countywide water storage study.

FP-10.12.1.28 Provide cost-share assistance through grant programs to property owners who have collectively organized and develop a project based on the Community Wildfire Stewardship Program.

RESPONSE

COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

BOARD OF SUPERVISORS

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Cathy R. Thompson
Clerk of the Board

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August 12, 2008

The Honorable Judge Robert Tamietti
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2007-2008 Nevada County Civil Grand Jury Report, *Wildfire Danger in Nevada County*.

Dear Judge Tamietti:

The attached responses by the Board of Supervisors to the 2007-2008 Nevada County Civil Grand Jury Report, dated June 11, 2008, entitled *Wildfire Danger in Nevada County*, are submitted as required by California Penal Code Section 933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on August 12, 2008. Responses to Findings and Recommendations are based on either personal knowledge, examination of official County records, information received from the County Executive Officer, the Community Development Agency Director, the Nevada County Fire Marshal or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2007-2008 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

Ted S. Owens
Chairman, Board of Supervisors

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2007-2008 CIVIL GRAND JURY REPORT
DATED JUNE 11, 2008**

Wildfire Danger in Nevada County

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, the Community Development Agency Director or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

- 1. Some small areas of Nevada County are not within the boundaries of any fire district and rely on Cal Fire and/or USFS for response in the event of a fire. (See Figure 3, Fire Agencies)**

Agree.

- 2. Nevada County fire agencies rely on paid staff and/or volunteers. Many of the volunteers work out of the area and are not available to respond to all emergency calls. Volunteers and paid staff have to complete the same considerable amount of training time required for certification.**

Partially agree.

The Board is aware that Nevada County fire agencies rely on paid staff and/or volunteers. However, while the Board of Supervisors is generally knowledgeable about Fire District operations, Fire Districts are outside the jurisdiction of the Board of Supervisors. Therefore, it is not appropriate for the Board of Supervisors to comment as the authority regarding this finding as the Board does not necessarily have complete information about this issue.

- 3. Nevada County fire agencies are losing well-trained emergency professionals to wealthier districts, to Cal Fire, and to the USFS.**

Neither agree nor disagree.

While the Board of Supervisors is generally knowledgeable about Fire District operations, Fire Districts are outside the jurisdiction of the Board of Supervisors. Therefore, it is not appropriate for the Board of Supervisors to comment as the authority regarding this finding as the Board does not necessarily have complete information about this issue.

- 4. In spite of limited budgets and staff, cooperative efforts have to date allowed the various fire agencies to perform their fire suppression functions in an adequate manner.**

Neither agree nor disagree.

While the Board of Supervisors is generally knowledgeable about Fire District operations, Fire Districts are outside the jurisdiction of the Board of Supervisors. Therefore, it is not appropriate for the Board of Supervisors to comment as the authority regarding this finding as the Board does not necessarily have complete information about this issue.

- 5. Successful mergers between fire agencies usually result from the desire to improve services and reduce costs. In general, mergers occur between agencies with similar financial resources.**

Neither agree nor disagree.

While the Board of Supervisors is generally knowledgeable about Fire District operations, Fire Districts are outside the jurisdiction of the Board of Supervisors. Therefore, it is not appropriate for the Board of Supervisors to comment as the authority regarding this finding as the Board does not necessarily have complete information about this issue.

- 6. The voters must approve taxes or assessments to increase funding for fire protection. Proposition 13 requires a 2/3 majority for any tax increase. However, under Proposition 218, a fire district assessment requires only a simple majority. (See Figure 7, Voter Requirements for Different Types of Elections and Assessments)**

Agree.

- 7. Availability of effective fire services is a factor in determining insurance rates for property in Nevada County. Recently, several insurance companies have stopped writing insurance policies in Nevada County because of the increasing risk of catastrophic fires. (See Figure 8, Insurance Office (ISO) Ratings of Nevada County Fire Agencies)**

Partially agree.

The Board of Supervisors is aware that the availability of fire protection and suppression services is a factor in the determination of insurance rates. However, the Board does not have any independent knowledge that “. . . several insurance companies have stopped writing insurance policies in Nevada County . . .”

- 8. A recent election sponsored by Chicago Park/Peardale FPD to finance improved fire services failed while the property owners approved a similar election sponsored by the Truckee FPD.**

Agree.

- 9. Many residents of Nevada County are not aware that the County has no statutory duty to provide fire protection services within the County and assumes no responsibility for providing these services.**

Partially agree.

The Board of Supervisors is aware that the County has no statutory duty to provide fire protection and suppression services within the County. The Board does not, however, assume that County residents are unaware of the details regarding the provision of their fire protection services.

- 10. There is a great disparity among fire agencies in the scope and quality of services. (See Figure 6 Emergency Response Time, and Figure 9, Costs and Population Served).**

Neither agree nor disagree.

While the Board of Supervisors is generally knowledgeable about Fire District operations, Fire Districts are outside the jurisdiction of the Board of Supervisors. Therefore, it is not appropriate for the Board of Supervisors to comment as the authority regarding this finding as the Board does not necessarily have complete information about this issue.

- 11. The BOS treatment of the Fire Plan on April 8, 2008 significantly reduced the importance of the Fire Plan, shifting its focus from mandates and requirements to persuasion and cooperation.**

Disagree.

The Board of Supervisors elevated the status of the "fire plan" by including its policies and programs within the Safety Element of the General Plan. The Board did not assume the responsibility for local implementation of some State legislative mandates (PRC Sec. 4290 and 4291) where those requirements are currently being implemented and the cost of the service paid by Cal Fire. Local implementation would not only be redundant but would shift financial responsibility from the State to the County for the same services currently provided by Cal Fire.

B. RESPONSES TO RECOMMENDATIONS

- 1. The BOS should request that LAFCO commission a study to determine by fire agency the accurate cost of fire protection services in Nevada County. This could be done as a separate study or by modifying the next scheduled MSR on Fire Protection and Emergency Services and by having that Review conducted earlier than is now planned.**

This recommendation will not be implemented.

The Local Agency Formation Commission (LAFCo) has a prepared Municipal Service Reviews (MSR) dated January 31, 2005 for the various fire departments and districts within Nevada County, which contains information relative to the cost of providing fire protection services. The Board believes that this recommendation would be more appropriately implemented by the Local Agency Formation Commission. LAFCo has the statutory responsibilities to prepare and update Municipal Service Reviews, Spheres of Influence, and governmental organization/reorganization studies. In addition, LAFCo by statute is funded not only by the County, but City/Towns, and Special Districts. The cost of such a request encumbers the funds of all these jurisdictions.

- 2. The BOS should initiate a concerted public education program to increase public awareness and understanding of fire services and how they are financed. Such a program would extend beyond the goal proposed under Nevada General Plan Goal FP-10.9 that directs the County to "Encourage fire safety education and support programs to promote participation, voluntary compliance, and community awareness of fire safety issues."**

This recommendation will be partially implemented.

The MSR's prepared by LAFCo (see Recommendation #1 above) include an explanation of the financial aspects of current fire prevention and suppression services and how those services are financed. These LAFCo reports serve as an important educational resource for the public in understanding how fire services are provided and financed.

The Board has directed the preparation of educational materials as a result of their review of the Fire Safe Plan. In addition, the Board also supports the preparation of Community Wildfire Protection Plans (CWPP) prepared by the Fire Safe Council which also serve a community educational function. The educational materials to be developed by the County, coupled with the CWPP's, address the goals contained within the Safety Element. The content of the Draft Safety Element appears to be adequate and appropriate as presented but will be conclusively determined only after public notice and hearing(s) prior to adoption of the Plan.

- 3. The BOS should sponsor a meeting including LAFCO and all agencies and districts that relate to fire services to discuss the feasibility of developing a uniform and consistent set of services and the potential for future efficiencies through consolidation.**

This recommendation will not be implemented.

The Board believes the issue of consolidation and service level consistency for the nine fire districts and two city fire departments is not within the Board of Supervisors jurisdiction. Agency consolidation and service consistently can only be addressed by a decision of individual fire district boards and city councils.

However, the Board of Supervisors remains very concerned for the safety and welfare of County residents, the Board would actively participate in any meeting or meetings held relative to the provision of fire prevention and suppression in Nevada County.

- 4. The BOS should reassess their action of April 8, 2008 and return the *teeth* to the Fire Plan that their actions removed. They should strengthen the proposed update to the Nevada County General Plan Safety Element, (Chapter 10; Safety). The changes should include rewording of Goal FP-10.12 to read: "The County should implement policies FP-10.12.1.1 through FP-10.12.1.28 prioritizing by the order in which they appear and designate them to be Action Policies." (Attachment 10 provides the current wording of the Goal and the Advisory Policies.)**

It would be inappropriate for the Board to commit to specific modifications of the content of the Safety Element prior to completion of the public hearing(s) on that document. The Board's final action on the Safety Element will be based on all public testimony received, including that from the Grand Jury.

The revised Safety Element, incorporating the recommendations of the Fire Plan, is currently in the mandatory public review period. No final decisions have been made by the Board as of this date. Upon completion of the public review period, and a hearing on the document by the Planning Commission, the Board will conduct an additional public hearing or hearings to solicit public comment. The concerns expressed by the Grand Jury will be entered into the public record, and considered by the Board, at that time.

The format of the Safety Element is appropriate as drafted. Implementation of all of the policies of the Safety Element will require considerable future, on-going, resources and will be dependent upon Board priorities and budgetary considerations, including grant funding. These issues will be addressed annually by the Board during the development of the County budget.

Full implementation of all of the goals of the Safety Element would require local (County) assumption of services and programs currently funded and provided by the State of California (Cal Fire). It is not clear that local implementation, and assumption of the costs associated with these programs, would provide superior service to the current statewide provision of those services by Cal Fire.

COUNTY GOVERNMENT

Oak Woodlands Conservation Act

Compliance with Oak Woodlands Conservation Act

Oak Woodlands Show Me The Money!!!

Reason for Investigation

The Grand Jury received a written complaint alleging that Nevada County had not complied with the Oak Woodlands Conservation Act (OWCA).

Background

The OWCA program is designed to provide grants to participants, private landowners, local government entities, park and open space districts, conservation districts and nonprofit organizations all with respect to conserving oak woodlands. Participants are encouraged to leverage available technical resources. To receive these funds in Nevada County, the county must have an adopted Oak Woodlands Management Program. To date, Nevada County has not done this.

Initially the Grand Jury was investigating whether or not the county was compliant with the Fish & Game Code Section 1360-1372 (the Oak Woodlands Conservation Act or OWCA). From investigating a possible compliance issue, the Grand Jury identified another item of concern. Landowners/homeowners/builders in Nevada County are required to provide and pay for an environmental report complying with the California Environmental Quality Act (CEQA). The environmental report is submitted to the County Planning Department. Only county-approved biologists are authorized to submit the report to the county, which includes environmental impacts to be avoided, minimized, or mitigated, including impacts on oak woodlands.

The Grand Jury discovered that landowners/homeowners/builders are able to obtain funds in the form of grants to perform work that may be required to comply with OWCA. There are also grants for the purchase of oak woodland easements, restoration and enhancement projects, long-term leases, compensation for not cutting trees for firewood, reimbursement for conservation improvements such as fencing, and compensation for alternative grazing practices.

As of September 7, 2007, the Wildlife Conservation Board, which oversees OWCA, has approximately \$16 million of grant funds available. At this time, these grants are not available to Nevada County residents. OWCA requires a county to provide an oak management plan to the state in order for anyone to access grant funds. The Nevada County Planning Department has not submitted such a plan to the state.

Methodology

The methodology the Grand Jury used consisted of interviews and research. The first task was to determine the legalities surrounding OWCA. We received a legal opinion that OWCA did not mandate that counties submit a management plan, as was alleged by the complainant.

The Grand Jury interviewed a county-approved biologist to understand the requirements of an environmental report.

We also interviewed a representative of the County Planning Department to determine what, if anything, the Planning Department has done regarding an Oak Woodlands Management Plan.

Research was done utilizing the Wildlife Conservation website, which provided the information on how OWCA grant funds are to be used and the procedures for applying.

A representative from the state Wildlife Conservation Board was contacted to obtain information on monies available in the fund, how much has been expended for the past two years, and which counties have currently submitted an Oak Woodlands Management Plan.

Findings

1. Nevada County is compliant with OWCA guidelines as it is not mandatory for Counties to provide the State with an Oak Woodlands Management Plan.
2. As of September 7, 2007, there is \$16 million in the State Wildlife Conservation Board grant fund for OWCA. No further funding has been authorized by the California legislature.
3. State Wildlife Conservation Board OWCA funds are generated from taxpayer dollars.
4. State Wildlife Conservation Board OWCA funds are not available to Nevada County residents or other entities because the County has not provided an Oak Woodlands Management Plan.
5. The County Planning Department will include in their planning projects for the next fiscal year an Oak Woodlands Management Plan. The project will be submitted to the Board of Supervisors for prioritization and funding.
6. The Grand Jury found that the State Wildlife Conservation Board OWCA funds are available to Nevada County to fund the cost of a plan in order for County landowners/residents/builders to avail themselves of the grant funds.

7. Fourteen counties currently have submitted Oak Woodlands Conservation plans. This includes counties nearby Nevada County: Placer, Yuba, Butte, and Sutter. \$7.6 million has been paid in grants under OWCA to counties since 2002.

Conclusions

The Nevada County Planning Department has not taken advantage of grant monies available from the State in order to develop and submit to the state an Oak Management Plan.

The State Wildlife Conservation Board OWCA funds are not available to Nevada County residents or other entities because the County has not provided an Oak Woodlands Management Plan.

Recommendations

1. The County should apply for grant monies from the Wildlife Conservation Board in order to develop an Oak Management Plan.
2. The County should submit an Oak Management Plan to the State in order for residents to have available to them grant monies from the Wildlife Conservation Board.

Required Response

Board of Supervisors May 12, 2008

RESPONSE

COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

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May 13, 2008

The Honorable Judge Robert Tamietti
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2007-2008 Nevada County Civil Grand Jury
Report, *Oak Woodlands*.

Dear Judge Tamietti:

The attached responses by the Board of Supervisors to the 2007-2008 Nevada County Civil Grand Jury Report, dated February 12, 2008, entitled *Oak Woodlands*, are submitted as required by California Penal Code Section 933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on May 13, 2008. Responses to Findings and Recommendations are based on either personal knowledge, examination of official County records, information received from the Community Development Agency Director, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2007-2008 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

Hank Weston

Vice-Chairman, Board of Supervisors

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2007-2008 CIVIL GRAND JURY REPORT
DATED FEBRUARY 12, 2008**

Oak Woodlands

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the Community Development Agency Director and County Executive Officer, or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

1. Nevada County is compliant with OWCA guidelines as it is not mandatory for Counties to provide the State with an Oak Woodlands Management Plan.

Agree.

2. As of September 7, 2007, there is \$16 million in the State Wildlife Conservation Board grant fund for OWCA. No further funding has been authorized by the California legislature.

Agree.

3. State Wildlife Conservation Board OWCA funds are generated from taxpayer dollars.

Agree.

4. State Wildlife Conservation Board OWCA funds are not available to Nevada County residents or other entities because the County has not provided an Oak Woodlands Management Plan.

Agree.

5. The County Planning Department will include in their planning projects for the next fiscal year an Oak Woodlands Management Plan. The project will be submitted to the Board of Supervisors for prioritization and funding.

Partially disagree.

The Planning department will prepare a draft work program and budget for an Oak Woodlands Management Plan for the Board's consideration if current county regulations do not satisfy the State's requirements for an Oak Woodlands Management Plan.

6. The Grand Jury found that the State Wildlife Conservation Board OWCA funds are available to Nevada County to fund the cost of a plan in order for County landowners/residents/builders to avail themselves of the grant funds.

Partially disagree.

To assist with preparation of the plan, the Act allows a non-profit organization, park or open space district, resource conservation district or other local government entity to apply to the State of California Wildlife Conservation Board for funds to develop an Oak Woodlands Management Plan for a county or city. Staff will need to confirm County eligibility for these funds and availability of the funds through the State.

7. Fourteen counties currently have submitted Oak Woodlands Conservation plans. This includes counties nearby Nevada County: Placer, Yuba, Butte, and Sutter. \$7.6 million has been paid in grants under OWCA to counties since 2002.

Agree. El Dorado County adopted a plan earlier this year.

B. RESPONSES TO RECOMMENDATIONS

1. The County should apply for grant monies from the Wildlife Conservation Board in order to develop an Oak Management Plan.

This recommendation will not be implemented at this time. If the Board determines that it is necessary to proceed with an Oak Woodlands Management Plan, the County will apply for grant funds to develop the plan.

2. The County should submit an Oak Management Plan to the State in order for residents to have available to them grant monies from the Wildlife Conservation Board.

This recommendation will not be implemented at this time. Staff will review existing regulations for sufficiency in serving as an Oak Woodlands Management Plan. If current regulations do not address all the required elements, the Board will consider whether or not to proceed with a formal Oak Woodlands Management Plan.

COUNTY GOVERNMENT

Nevada County Board of Supervisors

Compensation and Benefits Review

NEVADA COUNTY
BOARD OF
SUPERVISORS-
COMPENSATION
AND BENEFITS
REVIEW

Conducted by The Nevada County
Grand Jury at the request of the Board
of Supervisors

June 26, 2008

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I. Summary

In November 2007, the Nevada County Board of Supervisors (BOS) asked the Nevada County Grand Jury (Jury) to analyze, and make recommendations regarding, BOS's salary. The Jury, after reviewing relevant data and evaluating a number of salary methodologies, concludes that:

- current Supervisor duties and time spent in performance thereof warrants the finding that the position requires full time work;
- under all but one of the salary methodologies reviewed, the Supervisors' salary is inadequate; and
- a fair base salary for the Supervisors would be \$53,800 per year.

While the Jury recognizes the impact of current economic conditions on governmental agencies, the Jury recommended increase in salary totals \$71,765, which is less than 1/20% of the County's 2007-2008 Budget.

Finally, the Jury recommended methodologies for use in establishing future base salaries for the Supervisors and for periodic adjustments, and urged that the process to adjust current salary be taken without further delay.

II. REASON FOR INVESTIGATION

By Resolution adopted November 27, 2007, the BOS requested the Jury to analyze the BOS's salary and benefits. The Jury elected to treat the BOS request as being made pursuant to California Penal Code Section 927, which states: "A grand jury may, and when requested by the board of supervisors shall, investigate and report upon the needs for increase or decrease in the salaries of the county-elected officials."

III. SCOPE OF INVESTIGATION

To prepare this Report, the Jury reviewed the answers to confidential questionnaires submitted to each current Supervisor. They interviewed individual Supervisors; the County Executive Officer (CEO), the Assistant CEO, the Deputy CEO (Finance Officer), the Clerk to the BOS, a representative of the County's outside consultant, Bryce Consulting; and obtained advice from the Office of County Counsel, and salary data from the County's Human Resources Department.

Additionally, the Jury conducted an extensive review of the literature on the salary of elected officials. The Jury also reviewed a broad range of BOS salary and benefits data assembled by the CEO and the County's outside salary consultant. They conducted telephone interviews with officials of the Counties of Merced, San Bernardino, Santa Barbara, San Luis Obispo, Santa Cruz, Stanislaus, San Joaquin, and Tehama, regarding salary and benefits paid to supervisors and the salary methodologies used in those counties. The Jury also researched

different BOS salary methodologies used by the various California counties, and reviewed the history of Nevada County's BOS salary and benefits for the period 1981 to 2008

IV. BACKGROUND

1. Current Salary and Benefits.

Members of the BOS currently receive an annual salary of \$39,446.65 with the exception of the Supervisor serving as the Board Chair who receives a salary of \$41,419.48 in recognition of additional duties. The BOS's salary was last adjusted in January 2006 when their annual salary was increased two percent or \$773.46 for Members and \$812.15 for the Chair.

The Supervisors' salary, as well as their benefits, is determined by the BOS and affected by Board Resolution adopting appropriate Ordinances. Current salary and benefits are reflected in Ordinance No. 2194 adopted January 24, 2006 and Board Resolution No. 06-27 adopted January 10, 2006.

Pursuant to Board Resolution No. 06-27, the Supervisors "shall consider annual adjustments to their salary and benefit compensation to be that of other County of Nevada Elected Officials [the Assessor, Auditor-Controller, Clerk-Recorder, Treasurer-Tax Collector and District Attorney] with the exception of the Sheriff, who is afforded benefits commensurate with public safety***." [Brackets Added]

Approved in June 2007, and effective July 1, 2007, the salaries of the County's elected officials were adjusted upward 15.92 % to reflect the results of collective bargaining agreements covering nearly 94% of the County's employees. The increase in County employee salaries was intended to meet average labor market rates for comparable job classifications in Sutter, Mendocino, Placer, El Dorado, and Butte counties.

If the same upward salary adjustment of 15.92% accorded County elected officials effective July 1, 2007 were extended to the BOS, the Members' annual salary would increase by \$6,279.96 to \$45,726.61 and the Chair's salary \$6,594.00 to \$48,013 per year. Rather than consider such an increase in salary, the BOS referred the matter to the Jury for review.

2. History of BOS Salary and Benefits: 1981-2008

Nevada County is a General Law County. Its powers and duties are set forth at California Government Code Sections 25000 et seq. Under this law, the BOS enjoys the power to fix and change its salary and benefits. County Counsel advises the Jury that the BOS must exercise the power to fix and change its salary benefits only on a current basis. That is, the BOS may not provide for automatic future changes to its salary and benefits. Instead, each time a change is desired or otherwise indicated (as in the case of a formula for determining the amount of a future adjustment) the BOS must authorize the change by Ordinance.

Attachment No. 1 to this Report reflects in summary form, Nevada County BOS salary and benefits for the period 1981 to 2006.

In 1981, Members of the Board received \$1,272 a month with the Board Chair receiving an additional \$50 per month. Using the Bureau of Labor Statistics (BLS) Inflation and Consumer Spending Inflation Calculator, \$1,272 in 1981 represents \$2,952 in 2008 buying power. This compares with current BOS Member salary of \$3,287.22 per month.

Benefits extended to the Supervisors historically have followed the benefits extended to County employees. Today, the authorized Supervisors' benefits are those "provided by the county to other County of Nevada Elected officials, with the exception of the Sheriff, to the extent authorized by law; provided, however, that each Member shall have the right to retain the existing \$400 [per month] cafeteria plan or to opt into the traditional health plan for the County's elected officials." Nevada County Ordinance No. 2194; January 24, 2006. [Brackets Added]

The BOS receive benefits as regular full-time employees, although the benefits they have elected to receive vary depending upon the nature and extent of retirement and health benefits earned in prior careers or health benefits available through spouses. For fiscal 2008-2009, the CEO estimated that the total cost of health and life insurance coverage and retirement benefits for the Supervisors (one of whom does not receive retirement benefits) will be \$67,346 or an average cost per Supervisor of \$13,469. The Supervisors do not receive retiree health benefits from the County.

3. Other Salary Sources

As reflected under the heading "*Survey of Current Supervisor Duties and Time Spent*," below, each Supervisor, because of being a Supervisor, serves as a member or alternate member of other committees and on the Boards of other agencies. Three of these positions provide for the payment of attendance fees. Based on January 2008 assignments and assuming that each agency holds only the scheduled number of meetings per calendar year, the average amount of fees paid to a Supervisor would be \$797 a year.

4. Survey of Current Supervisor Duties and Time Spent

As a General Law County, Nevada County BOS serves as both the legislative and executive body of county government. The BOS also serves as the governing body of the Nevada County Sanitation District No. 1, the Nevada County Housing Authority, and the Nevada County Water Agency. In addition, Supervisors represent the County on numerous intergovernmental bodies. See Attachment No. 2.

In its legislative role the BOS adopts ordinances, resolutions and rules within limits prescribed by State law, and is responsible for seeing that all Federal and State mandated functions are carried out.

As an executive body, the BOS determines annual budget allocations; approves contracts for public improvements and other specialized services; conducts public hearings on zoning appeals and planning issues; provides for the salary of all county officials and employees, including itself; creates offices, boards and commissions as needed, appoints members and fixes terms of office; directs an annual audit of all County accounts, books and records; provides policy direction to the CEO for the operation and administration of County departments; and exercises executive authority for the provision of local government services to county residents including roads, health and welfare, public safety, public defender and jail facilities.

The BOS consists of five members who are elected on a non-partisan basis for four-year terms. Each Supervisor is elected from one of five Supervisorial districts. Supervisors from Districts 3 and 4 are elected in gubernatorial election years, while Supervisors from Districts 1, 2 and 5 are elected in presidential years. Accordingly, there will be elections for Supervisor in Districts 1, 2 and 5 in November 2008 to take office effective January 5, 2009.

As noted earlier, the Jury reviewed the answers to confidential questionnaires provided by each Supervisor, as well as individually interviewing each Supervisor. The questions and interviews focused on the activities of each Supervisor and the time spent carrying out those activities. As a result of these inquiries, a reasonably consistent pattern of activity and time spent by the current Supervisors emerged. Table 1 reflects those activities and time spent on a monthly basis:

Table 1: Activities and Hours

ACTIVITY	TIME SPENT
Attending BOS meetings	2 full days monthly plus special meetings
Attending BOS committee meetings	16 to 24 hours/mo
Attending intergovernmental agency meetings as a Supervisor meetings	10 to 16 hours/mo
Preparing for BOS, committee & other agency meetings	30 to 36 hours/mo
Attending public functions as a Supervisor	6 to 18 hours/mo
Communicating with members of the public/constituents; travel to and from meetings	10 to 40 hours/mo

Based on the statements of the current members of the BOS, on average, they each spend at least 40 hours per week in the discharge of their duties.

V. PROS AND CONS REGARDING BOS SALARY INCREASES

As Attachment No. 1 reflects, the Nevada County BOS has considered adjustments to its salary and benefits about every two or three years during the period 1981-2006. In the course of reviewing the BOS minutes associated with those considerations, and the public input

associated therewith, one finds a consistency in the arguments for and in opposition to such increases. These arguments appear to enjoy continued life.

1. Arguments Against Raising Salaries -

The most prevalent arguments against increasing Nevada County BOS salaries over the years have included:

The County cannot afford to spend money on Supervisor salaries when money is needed to repair or enhance the roads.

The incumbent Supervisors ran for office knowing the duties, functions and salary of the office and, in asking for a salary increase, are, in effect, trying to change the terms of their ongoing employment agreement.

Given the current economic conditions, it is difficult for the County to justify an increase in Supervisor salaries.

An element of being a Supervisor is the duty of the citizen to take part in the discharge of government, a duty shared by all, and for which there should be a contribution of uncompensated service.

Some citizens assert that the position is not full time.

2. Arguments in Favor of Raising Salaries -

In a similar fashion, the most often heard arguments in favor of increasing Nevada County Supervisor salaries have included:

A Supervisor should receive enough pay so that a young person or head of a family could afford to run for Supervisor and thus give the Board a good cross section of the County citizenry.

The current salary is based on the Supervisor position being a part time job, which it is not.

Supervisors in other comparable counties are paid significantly more than Nevada County Supervisors.

Unless Supervisor salaries are increased, the County will end up with a BOS comprised of retired persons or those who have other sources of income.

The duties and responsibilities of a Supervisor and the complexity of the job require each Supervisor to devote in excess of 40 hours per week to management of the County, a fact not reflected in their current salaries.

VI. REVIEW OF BOS SALARY METHODOLOGIES

The Jury determined that before it could make any recommendation regarding the BOS's salary, it needed to review the various methodologies currently in use by other California counties to determine their supervisors salary, as well as methodologies used by other governmental agencies in similar situations. While the Jury does not regard its efforts in this area as exhaustive, it does believe that the methodologies, which it identified are representative of those currently in use.

It should be pointed out that in determining BOS salary (in this case salary as separate from benefits), there are two distinct aspects: First, for the Jury, the more difficult task is fixing a fair and appropriate base salary. Second, and much easier is how and when it is appropriate to adjust the base salary.

1. Tying Supervisor Salaries to Superior Court Judge Salaries

Currently California Superior Court Judges are paid an annual salary of \$178,789. Twenty (20) of California's 58 counties either pay their supervisors the same annual salary paid to judges, or pay a varying percent of the judge's salary (the range is 18 to 100 percent). Only Los Angeles County sets its supervisor salaries at the 100% level. Salaries of the supervisors are then adjusted periodically by the same percentage as that received by the judges. Judges are state employees and get annual percentage adjustments based on average salary increases for the then current fiscal year for California state employees. The percentage used for the judges salary adjustment is determined by the California Department of Personnel Administration after negotiation with the major state employee bargaining units has concluded. See California Government Code Section 68203. For the fiscal year 2006-2007, the increase in judge's salaries was 4.16%.

While this approach has appeal in the sense that it is "easy" and once adopted just rolls along, how does one know what percentage of a judge's salary is appropriate for a member of a board of supervisors? What percentage is an appropriate base salary? Eighteen percent (18%) of \$178,789 is \$32,182, while 100% is \$178,789. This only begs the question of what percentage would be appropriate for Nevada County.

2. Use of Employee Compensation Benchmark Counties

Many California Counties compare or benchmark their employee salaries against those of other counties. The use of other counties occurs for several reasons. Counties chosen were selected because they share a common labor pool (usually implying a reasonable geographic proximity), because other counties frequently have the only comparable job classifications, because they share similar political problems in increasing employee salaries, and because selected counties usually share some similar characteristics. An additional reason is that California counties are accustomed to sharing salary data and find it relatively easy to ask and answer requests for such information. It should be clear that there are only similar and

not comparable counties. For example, if one sorts by population, using Nevada County as the midpoint, the population of the 10 counties with the nearest populations would range from 61,774 to 172,672. Geographically, these same counties would spread from Imperial County on the Mexican border to Humboldt County near the Oregon border, with the rest scattered in between. Comparing similar counties by the number of their Full Time Equivalent employees (FTE) would also find wide disparities. Using the same methodology, Nevada County has 986 FTE, The ten counties nearest in FTEs range from Mendocino with 1,554 FTEs to Amador with 515 FTEs. Geographically, the counties range from Siskiyou on the Oregon border to Kings County in the Southern part of the Central valley. The counties also vary widely in size and wealth. In spite of its wide use in setting employee salaries, only five counties use this method to set supervisor's salaries.

The main advantage of this method is that it allows comparison of similar positions, i.e., supervisors. The key factor is choosing the correct counties to use as comparisons. In general, those counties that use the comparison method tend to use some combination of proximity, cost of living, county government budget, number of employees and the economic composition of the county. When asked by the Jury, none of the counties using this approach was able to describe a specific methodology they had used in selecting the benchmark counties. As one Personnel Director said, it is more art than science.

The five counties that determine supervisor's salaries by a survey of benchmark counties are San Luis Obispo, Santa Barbara, Santa Cruz, San Joaquin, and Stanislaus. Three of the counties use an average of the salaries in the benchmark counties, one uses the median, and one uses the survey as a guide in determining the salary to pay their supervisors. The Board of Supervisors must approve the survey results.

The Nevada County CEO, in considering use of benchmark counties to determine BOS salary, proposed the following Counties as being most similar to Nevada County: El Dorado, Mendocino, Butte, Sutter, and Placer. In reviewing their population, county government budget and FTEs it appears the counties differ significantly. The largest County, Placer, has a population of 324,495; the smallest, Mendocino has a population of 90,291. The largest county budget, that of Placer is \$638,461,003 and the smallest, is that of Sutter at \$202,390,003. The county with the largest number of FTEs is again Placer with 2,827 and the county with the fewest is Sutter with 962 FTEs.

In reviewing other counties for comparability, the same kinds of differences occur. If contiguous counties are reviewed, they have significant variations in population, county budget, and FTEs.

3. Determining Supervisor Salaries Based on Average Salary of Nevada County Employees

As noted under the discussion of the current Supervisors' duties and time spent, the data available to the Jury reflects that the current Supervisors spend at least 40 hours per week (on average) in the discharge of their Supervisor duties. Moreover, their current benefits treat

them as if they were full time County employees. The Jury determined that, for the purposes of this Report, it would be appropriate to compare the Supervisors salary with that paid to various other classifications of County employees.

With assistance from the County Human Resources Department, the duties and salaries of County Management and Professional employees were reviewed; with emphasis on those positions bearing some similarity to the responsibilities of the Supervisors. See Table 2:

Table 2: Positions and Salaries

Position Description	Average Annual Salary
Management	\$73,574
Professional	\$54,537
BOS Member	\$39,447

Another approach to comparing Supervisor salaries to those of Nevada County employees, based on data provided by the CEO, is to look at the hourly rate paid to selected job classifications. See Table 3:

Table 3: Position and Hourly Rate

Position	Hourly Rate
BOS Clerk	\$19.96
Library Technician	\$19.76
Lead Bus Driver	\$19.56
Road Maintenance Worker	\$19.56
Cook	\$19.37
BOS Member	\$18.96

At the Jury's request, the CEO staff calculated the average salary for County full time, permanent employees (without location differential) at \$50,381 per year. The data reflects that the Supervisors earn less than many of their fellow employees do. The difficulty with using such data is that the Supervisors ultimately determine what the County's employees are paid, thus, such data are not totally objective.

4. Average Annual Earnings of Nevada County Residents

A methodology used in a few jurisdictions outside of California is to base the salary of the governing body on the average earnings per worker in the jurisdiction. Using this methodology to determine the BOS salary is straightforward. Based on the Jury's discussions with members of the Board, as well as information provided by Board members, the Jury determined that BOS members work the equivalent of full time.

The Employment Development Department of the State of California works cooperatively with the US Census Bureau to produce County level employment data. The base information

is taken from Census Bureau form ES 202, the Quarterly Census of Employment and Wages. The average earnings per worker in Nevada County in 2006 were \$ 35,776. If one uses the Bureau of Labor Statistics Inflation Calculator, that salary would be equal to \$37,893 in 2008.

Another way of adjusting the figure to reflect current earnings would be to use the Social Security Cost of Living Adjustment (COLA) figures for 2007 and 2008. This adjustment would raise the average earnings, from its 2006 level, to \$37,807 in 2008. Subsequent adjustments would be simple and straightforward *i.e.* on an annual or biennial basis; the BOS would adjust their salary based on changes of average earnings per resident within the County. This methodology has several advantages. It is easy to compute and apply. It has a surface plausibility and it requires no political decision making to arrive at the salary figure.

The major difficulty with the method is that it does not take into account the difficulty and complexity of the Supervisors job. The Supervisors are responsible for directing an organization with nearly 1000 employees and an annual budget of nearly 200 million dollars. Given their responsibilities, it is reasonable to consider compensating the Supervisors at a rate higher than that of the average earnings of County residents.

The Social Security COLA aspect of this method however would be suitable to use in making periodic adjustments to the Supervisors salaries.

5. U.S. Census Bureau - Nevada County Data Methodology

The U.S. Census Bureau regularly collects income data for various geographical segments of our nation (e.g. the US, California, Nevada County) the most recent data having been collected in 2004.

The U.S. Census Bureau data approach to a baseline BOS salary would utilize U.S. Census Bureau data as source material. This methodology would focus on using data unique to Nevada County and not influenced by outside entities. This would remove any political bias associated with the process of determining a fair and impartial base salary.

A feature of this approach is that it would not require lengthy examination of financial considerations of other counties or "factoring" Superior Court judges' salaries or any other outside influence on the adequacy or fairness of compensation of Nevada County Supervisors. However, the Jury concluded that a major fault with this approach is its use of household income data, rather than individual salary data, and that this would produce a figure wholly unrelated to a BOS salary.

6. Use of Social Security Cost of Living Adjustment

Once a base salary is established, the of data used by the Social Security Administration for Cost of Living Adjustments (Social Security COLAs) offers an independent and simple methodology for annually adjusting BOS salaries. Table 4 below reflects the COLAs for the period 2005-2008.

Table 4: COLAs 2005 * 2008

Year	COLA
2005	2.7%
2006	4.1%
2007	3.3%
2008	2.3%

The historical swing of COLA percentages (2-4%) suggests that its use in adjusting Supervisor salaries would not lead to excessive increases.

7. Use of a “Blue Ribbon Committee” to Establish Board of Supervisor Salary

Approximately 20 states and a large number of local jurisdictions, counties, cities, and towns use committees of private citizens to establish or recommend the salaries of elected officials. These committees have a number of different names but for simplicity, and because this was the name selected when Nevada County used the method, this Report identifies the methodology as a “Blue Ribbon Committee.”

In Nevada County, a Blue Ribbon Committee was established in 1983 and submitted its recommendations March 5, 1984. The Committee was composed of seven members chosen at random from citizens who volunteered. One member was chosen from each Supervisor’s District and two were chosen at large. The BOS approved the recommended salary of \$1,600 per month effective July 1984.

The purpose of a Blue Ribbon Committee is to establish proper salaries for elected officials while removing political considerations from the process. In setting the salaries of the BOS, the committee would be charged with attracting citizens of the highest quality to public service by basing salaries on realistic standards, and by compensating the Supervisors according to the duties of their office. The strength of a Blue Ribbon Committee is that it is composed of private citizens and its only purpose is to meet and arrive at agreement about the salary of the BOS. The committee has no concern over the political ramifications of its recommendations since it ceases to exist after its report is submitted. Its members return to their roles as private citizens.

Normally members of a committee are chosen by lot either from among volunteers or from all eligible voters. One member would be chosen from each of the Supervisor Districts and others would be chosen at large. Members of the committee would be required to live within the County and, in the case of those selected by District, to reside in the District. They could not be a County official, public employee or a lobbyist.

The Human Resources Department would provide staff support. The Committee would hold several public hearing to receive the views of County residents and would then meet and

prepare a report recommending the salary for the BOS and including the rationale for the salary proposal.

The advantage of the Blue Ribbon Committee is its members are chosen without any political involvement. Selection process, coupled with the one time nature of the activity, should eliminate political influence.

A problem that exists with the use of a Blue Ribbon Committee is how to adjust the salary in the following years. The use of a Blue Ribbon Committee is a time consuming and extensive process and one that would probably not reasonably be done annually or biannually.

Since the law requires that the BOS set their own salary, a Blue Ribbon Committee might not be worth the time and effort involved. On the other hand, the Blue Ribbon Committee might be used to set the initial salary and then catch up raises could be based on the increase in the average workers annual salary, Social Security COLA, or some other non-political method.

8. Performance Proximity Method

This method is similar to the Employee Compensation Benchmark Counties Method but uses a different set of criteria for selection of comparison counties. It is designed for the creation of a base salary for the BOS. Techniques, like the Employee Compensation Benchmark Counties Method discussed previously, focuses on salaries of other counties' supervisors. In an effort to establish impartiality, certain parameters are set to capture counties with similarities in selected performance measurements. This is an attempt to create a new base salary predicated on the factors of like kind and quality.

The sole source for this methodology is data taken from the "BOS Salary Survey-June 2007," Attachment No. 3, hereto. Sample groups of counties were defined as those with a population between 50,000 and 300,000. This produced twenty counties, from which ten would ultimately be identified as *exhibiting performance characteristics in close proximity to Nevada County*. Geographic size and location relative to Nevada County were not factors.

The core information consists of a county's population, supervisor's salaries, number of county employees and the county's annual budget. From this core data, measurement factors were developed for each county in the sample group. These factors are budget per capita; budget per employee; employees per capita; and a ratio of salary to population. See Table 5.

Table 5: Selected Data by County Population 50,000 to 300,000

COUNTIES & LETTER CODE	POP (000)	SALARY (000)	EMPLOYEES	BUDGET (00000)	BUDGET PER CAPITA	BUDGET PER EMP(000)	EMP. PER CAPITA (00)	SALARY POP RATIO
A- BUTTE	218	48	2,330	360.2	1,652	157	94.4	4.54
B- EL DORADO	179	77	2,093	474.1	2,648	227	85.5	2.33
C- HUMBOLDT	132	74	2,056	263.2	1,993	128	64.2	1.78
D- IMPERIAL	173	51	2,105	293.8	1,698	140	82.2	3.39
E- KING	155	55	1,287	193.6	1,282	150	117.3	2.75
F- LAKE	64	57	976	181.0	2,828	185	65.6	1.12
G- MADERA	149	69	1,520	173.5	1,164	114	98.0	2.16
H- MARIN	256	92	2,193	402.2	1,571	183	116.7	2.78
I- MENDOCINO	90	68	1,554	206.5	2,294	133	57.9	1.32
J- MERCED	252	69	2,312	416.3	1,651	180	108.9	3.65
K- NAPA	136	81	1,339	276.7	2,034	207	101.5	1.68
L- SAN BENITO	58	46	450	112.0	1,931	249	128.9	1.26
M- S.L. OBISPO	265	79	2,501	474.9	1,798	190	105.9	3.35
N- SANTA CRUZ	264	99	2,455	317.4	1,203	129	107.5	2.67
O- SHASTA	181	54	1,918	310.3	1,714	162	94.4	3.35
P- TEHAMA	32	13	828	120.2	1,938	145	74.9	4.76
Q- TUOLUME	57	37	940	122.6	2,150	130	60.6	1.54
R- YOLO	194	48	1,739	299.2	1,206	172	111.6	4.04
S- YUBA	71	46	1,055	154.2	2,171	146	67.3	1.54
T- NEVADA	100	39	986	180.1	1,801	183	101.4	2.56

To compress the comparative data, the sample group was reduced to ten counties. Nevada County was designated as the midpoint. Five counties were placed in ascending and descending order in relation to Nevada County. The sample counties are shown on the next page Table 6. In Table 6, the letters assigned in Table 5, for the sake of brevity, identify them. In Table 5, they are rank ordered by each factor and so appear in different orders in the several columns. Those counties having measurement factors closest to Nevada County were listed in numeric order. The counties appearing most often were selected to be the counties from which to extract the supervisor's salaries. See Table 6 next page:

Table 6: COMPARATIVE COUNTY DATA RANKINGS Nevada (T) Baseline

POP. (000)	SAL. (000)		EMP.		BUD. (00000)		BUD. PER CAP.		BUD. PER EMP. (000)		EMP. PER CAP. (00)		SAL. POP. RATIO		
CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	CO.	
179	B	54	O	1,739	R	276.7	A	2,150	+Q	249	L	111.6	R	3.35	M
173	D	51	D	1,554	I	263.2	+C	2,034	+K	227	B	108.9	J	3.35	+O
155	+E	48	A	1,339	+K	206.5	I	1,993	+C	207	+K	107.5	N	2.78	C
136	+K	46	+L	1,287	+E	193.6	+E	1,938	+P	190	M	105.9	M	2.75	+E
132	+C	46	S	1,055	S	181.0	+F	1,931	+L	185	+F	101.5	+K	2.67	N
100	T	39	T	986	T	180.1	T	1,801	T	183	T	101.4	T	2.56	T
90	I	37	+Q	976	+F	173.5	G	1,792	M	183	H	98.0	G	2.33	B
71	S	13	M	940	+Q	154.2	S	1,714	O	180	J	94.8	A	2.16	G
64	+F			828	+P	122.6	+Q	1,698	D	172	R	85.5	B	1.78	C
62	+P			450	+L	120.2	+P	1,652	A	162	O	82.2	D	1.68	+K
58	+L					112.0	+L	1,651	J	157	P			1.54	Q

**See Table 5 for the county letter code.

Other county data is displayed in ascending and descending order from Nevada County (T).

This identified five counties ranking above and below Nevada County.

The blank spaces below Nevada County indicate there were no counties ranking lower than the last entry.

This selection process identified seven counties that appeared at least four times in close proximity to Nevada County. The BOS salaries for each selected county are listed below. The bracketed numbers represent the number of times the county was deemed to be in "proximity." An average salary was computed by eliminating the highest and lowest salary. This methodology produced an average supervisor salary of \$53,800. See Table 7.

Table 7		
CODE	COUNTY	SALARY
K	Napa {6}	\$81,000
C	Humboldt {5}	74,000
F	Lake {4}	57,000
E	Kings {4}	5,000
L	San Benito {5}	46,000
Q	Tuolumne {4}	37,000
P	Tehama {4}	13,000

9. Rural County Comparison

In 1990, the Nevada County BOS sent a memorandum to the 1990 - 1991 Nevada County Grand Jury requesting that the Jury investigate and report on the need for an increase or decrease in the salaries of the elected County officials. After investigating a number of sources, the Jury decided to focus on a comparison of Nevada County Elected Officials salaries with the salary of elected officials in other rural counties. It will be noted that this

method is similar to the Employee Compensation Benchmark Counties Method, in this case choosing counties for comparison based on their description as rural in nature. The 1990 - 1991 Jury identified 26 counties as rural but did not specify a population upper limit in so doing. From that group, they selected a subgroup of 5 counties which they used for the Report. The five counties making up the subgroup in 1990 were El Dorado, Madera, Mendocino, Sutter, and Lake. Currently, the average salary of the BOS of those five rural counties is \$61,267.

The Jury's 1990 recommendation resulted in raising the salaries of the Nevada County Supervisors from \$25,268 to \$27,160 and the salary of the Chairman from \$26,522 to \$28,360.

How Might The Rural County Methodology Be Currently Used By Nevada County?

There are many lists of California rural counties but no agreement on what constitutes a rural county. The US Census Bureau approaches the problem by indicating counties that are not metropolitan are rural. The California Rural Counties Environmental Services Joint Powers Authority includes 22 member Counties. The California Criminal Justice Statistics Center identifies 24 rural counties and the Rural Counties Taskforce identifies 28 rural counties (counties with a population under 250,000 and no single urbanized area over 50,000). The California Regional Council of Rural Counties (RCRC) has 31 members. The Jury elected to use a subset of the RCRC data, which is shown in Table 8.

If this methodology were to be used, it appears appropriate to reduce the number of counties to those that most resemble Nevada County, in terms of population, county budget, and FTEs. With this in mind, the following criteria were used to establish Table 8 a minimum population of 75,000 in January 2007; a minimum County budget of \$150 million; and minimum FTEs of 850. Twelve RCRC counties meet these criteria.

Table 8: Rural Counties Most Resembling Nevada County

County	Population	Budget	Total FTEs
1.) Placer	324,495	\$638,461,479	2,827
2.) S L Obispo	264,900	474,898,770	2,501
3.) Merced	251,510	416,308,606	2,312
4.) Butte	218,069	360,192,182	2,300
5.) Shasta	181,401	310,277,475	1,919
6.) El Dorado	178,674	474,000,000	2,093
8.) Imperial	172,672	293,806,694	2,105
9.) Madera	148,721	173,491,786	1,520
10.) Napa	135,969	276,708,214	1,339
11.) Nevada	99,766	180,121,519	986
12.) Sutter	93,919	202,390,003	962
13.) Mendocino	90,291	206,480,000	1,554

Removing the county with the highest supervisors' salary (Napa) and the county with the lowest (Placer) as well as Nevada County, nine counties form the pool for evaluation. The nine counties with their supervisors' salaries are listed in Table 9.

Table 9: Rural Counties Used as Comparisons

County	BOS Salaries
Merced	\$69,360
Butte	48,581
San Luis Obispo	79,014
Shasta	54,600
El Dorado	76,876
Imperial	51,070
Madera	68,659
Sutter	34,471
Mendocino	68,640
Average Salary of Supervisors	\$61,253

10. Use of the Grand Jury to Recommend BOS Salary Changes

California Penal Code section 927 mandates that a Grand Jury shall, upon the request of the BOS, “investigate and report on the needs for increase or decrease in the salaries of the county elected officials.” The BOS November 27, 2007 request to the Jury invoked the provisions of Penal Code section 927.

As noted earlier in this Report, the BOS has, on at least one other occasion, November 1990, requested the Jury’s participation, and adopted the Jury’s recommendations.

Currently, the BOS has again invoked the Penal Code section 927 process to secure salary adjustment recommendations independent of the BOS. While the scope of this Report exceeds the BOS’s request, it nevertheless required six months of preparation effort. The Jury is hopeful that its effort will obviate the future need to invoke its services in the area of BOS salary by giving the BOS one or more methodologies for setting BOS salary. The Jury further hopes that this method, in its utilization of data which are unique to supervisors generally, and substantially independent of factors subject to BOS influence, will prove resilient enough to be used repeatedly in the future.

11. The BOS Establishes its Salary by Majority Judgment

While probably self evident, the only way the BOS can fix or adjust its salary is to do it as a BOS. In theory, a BOS may act on its salary without considering any factors (other than possible political repercussions). On the other hand, a BOS may seek as much information and consider as many factors as it desires. A review of BOS Salary and Benefits 1981-2006 (*Attachment No. 1*) offers little insight into the factors considered, especially in the earlier years. However, it is evident that the Nevada County BOS has, in recent years, sought to rely on data or processes deemed independent of the Board (or at least more distant from the Board’s control) when considering their salary.

The Jury's methodology recommendations are intended to enhance the BOS's desire to act as objectively and independently as possible when considering an issue which cannot escape being in its Members' economic self interest.

12. Methodology Preferences of Current BOS Members

In their questionnaires, the current Supervisors were asked for their individual preferences for a methodology to address their salary in the future. Not surprisingly, there is no real consensus:

One Supervisor would be happy with either the current process (where the then current salary is adjusted in the same percent as the salaries of elected County officials {except the Sheriff}) or having salary fixed and adjusted by a citizens committee appointed by the BOS.

Two Supervisors prefer selecting a percentage of the Superior Court Judge's salary as a base, and then adjusting the salary each year by the same percentage as the Judges salaries are adjusted.

A fourth Supervisor favors using the average of selected benchmark counties' BOS salary, adjusted every several years.

The fifth Supervisor prefers taking the average of benchmark counties' BOS salary, and adjusting it annually in the same percentage as County employees receive each year (or when received.)

The Supervisors' views do, however reflect a desire to seek factors not within their direct control.

VII. EVALUATION OF SALARY METHODOLOGIES

The Jury has identified ten methodologies that have been, or could be, used to establish a base salary for Supervisors or, once a base salary is determined, used to address future increases.

It has been the Jury's goal to seek methodologies for both situations, which avoid involving, to the greatest degree possible, the BOS's economic self interest beyond that inherent in raising the issue of salary adjustment in the first place.

In the Jury's judgment, the strengths and weaknesses of the ten identified methodologies are as follows:

1. Tying Supervisors Salaries to Court Judges Salaries:

This method enjoys the benefit that all data are unrelated to financial decisions of the BOS. Once one selects a base salary, this approach is automatic, relying on the actions of others outside the BOS's control. It is best suited to handling periodic future adjustments. However, the Jury would not recommend this methodology for future adjustments because the salary increase factors flow from annual increases in salaries negotiated with the major state employee bargaining units covering literally thousands of employees. The factors appropriate for employee bargaining unit members are not necessarily the factors that affect supervisor salary. In addition, as noted earlier, this methodology offers no help in ascertaining a base salary for Supervisors. Some other approach is needed to establish the base salary.

2. Using the Average of Supervisor Salaries in Employee Compensation Benchmark Counties

This approach is popular because the raw data are supervisor salaries. The challenge is the selection of the benchmark counties. What factors should be used in selecting the counties involved? In an ideal sense, one would want counties "Just like Nevada County." Unfortunately, there are no such counties as all counties are unique. For purposes of this evaluation the Jury has chosen to use the counties suggested by the CEO: El Dorado, Mendocino, Butte, Sutter and Placer, these being Counties used when Nevada County is seeking salary comparisons for the purposes of employee recruiting and salary increases.

When the 2007 Salary Survey (Attachment No. 3) Supervisor base salaries for the five counties are consulted, the average supervisor salary is \$49,669 per year, as compared to the current Nevada County supervisor salary of \$39,477 per year.

As noted earlier, while these five benchmark counties may be appropriate for the purposes of comparing county employee salaries and benefits, they are not at all comparable to Nevada County as a collection of government activities and community needs. The Jury does not recommend the Employee Compensation Benchmark Counties Method (using the CEO selected counties) for the fixing of either Nevada County BOS base salaries or future periodic adjustments.

3. Tying Supervisor Salary to the Salaries Paid to Nevada County Employees

This approach has both positive and negative implications. On the positive side, one is looking at salaries paid to the employees of Nevada County, who mostly work at least 40 hours per week. Many hold positions of responsibility on a par with that of the Supervisors (ignoring the political aspect of a Supervisor's life). That a Supervisor should be paid, at least the average of what all-county employees are paid has the ring of merit. Using the data

provided by the CEO's staff, the average annual salary paid to a County employee is \$50,381, as compared to the current Supervisor's annual salary of \$39,447.

While using the average County employee salary may well demonstrate that the Supervisors earn less than most County employees, whether that average is appropriate for establishing a base salary for Supervisors is open to question because the BOS ultimately is responsible for setting and approving all County salaries. In other words, they would benefit indirectly from their own actions with respect to other employee salaries.

On the other hand, even with the BOS's role in approving periodic raises for employees and other elected officials, using such periodic percentage increases to also adjust BOS salaries has the benefit that all County employees (except those under personal employment agreements) are treated the same, establishing a ceiling on BOS salaries going forward.

4. Tying Supervisor Salary to the Average Annual Earnings of Nevada County Residents

This methodology is appropriate for establishing base salary and future adjustments. Its appeal lies in the use of data unconnected to Nevada County as a governmental agency while being geographically relevant.

Whether using the 2008 Social Security COLA adjusted average county resident earnings of \$37,893 would be suitable for a Supervisor base salary is open to question. Certainly, it supports the idea the current Supervisor salaries may be low. However, it is hard to fit the average resident earnings into the difficulty and complexity of a Supervisor's job. The annual percentage increase (or decrease) would work for future adjustments, again setting a ceiling for the Supervisor's raises.

5. Use of Social Security Cost of Living Adjustments

The Jury concludes that the use of Social Security COLA to effect annual adjustments of BOS salaries would be appropriate; these data being independent of BOS actions.

6. Use of a Blue Ribbon Committee to Establish BOS Salary

The Jury found much appeal in the use of a Blue Ribbon Committee, perhaps because the Jury itself, in preparing this Report, is acting in such a manner. The main distinction between the Jury and a Blue Ribbon Committee is that citizens volunteered for the Jury without the knowledge that it would be asked to review and comment upon BOS salaries.

Again, as we have seen with certain other methodologies, the use of a Blue Ribbon Citizens Committee tends to take the process out of the hands of the BOS in terms of selecting a dollar amount and recommending a change; the BOS nevertheless being left with the ultimate responsibility of adopting the enabling Ordinance. Assuming the process for selecting the members of the Committee is free of politics and self interest, the recommendations of such a Committee should be viewed by the public as reasonably objective and deserving of implementation. Two aspects, however, make its use questionable:

First, the assembly of such a Committee, its meetings and public sessions are likely to be quite time consuming and possibly expensive (at least if County funds and resources are involved) when compared with the use of a statistical methodology applied periodically.

Second, while the Blue Ribbon Committee approach is well suited to fixing a base salary, it is not regarded by the Jury as being the best for use in periodic adjusting of BOS salaries.

7. Using the Performance Proximity Method to Establish BOS Salary

The Performance Proximity Method is viewed by the Jury as an especially appealing approach to establishing a base salary for BOS members. The methodology uses core data consisting of a county's population, supervisor salaries, number of county employees and the county's annual budget. This approach identified seven counties exhibiting performance characteristics in close proximity to Nevada County. It is similar to Employee Compensation Benchmark Counties Method, except that geographic size and location in relation to Nevada County are not factors.

Using this approach, the average BOS salary (after eliminating the highest and lowest salary) was \$53,800, as compared to Nevada County's current \$39,447.

8. Using Rural Counties as Benchmarks for Determining BOS Salary

Like the Employee Compensation Benchmark Counties Method and the Performance Proximity Method, the use of Rural Counties' data endeavors to identify counties appropriate for comparison with Nevada County, in this case looking at so-called rural counties without regard to their geographic size or location relative to Nevada County. As noted earlier, this approach was used by the Jury in its 1990 Report on BOS salary.

While the Jury was intrigued with the Rural Counties approach because it offered a chance to create an "apples to apples" approach, the Jury believed that the selection of comparison counties still lacked sufficient rigor for the needed relevance to Nevada County.

9. Use of the Grand Jury to Recommend BOS Salary

Although flattered to be asked to weigh in on the issue of BOS salaries, the Jury reactively questions its competence to advise on such matters. Only the mandate of Penal Code section 927 compels the Jury's involvement. Certainly, the Jury's perceived independence and integrity should not be appropriated to mask the political challenges associated with an increase in BOS salaries.

Thus, as a methodology for establishing BOS salaries (as distinguished from methodologies considered by the Jury) the Jury would prefer to step aside, and avoid having its value as an independent investigating body diluted through association with a political issue which does not lend itself to a clearly correct answer. The invoking of Penal Code section 927 to consider the salaries of Supervisors (as distinguished from other county elected officials) should occur only in dire circumstances.

10. The Role of the BOS

Only the BOS can set their salary and benefits. They are the methodology. The challenge, of course, is how they do it, and to a lesser extent, when they do it. The how, from the Jury's point of view, is by first selecting a methodology, which establishes a base salary, and then selecting a methodology for future adjustments. Both methodologies (although they could be the same) should rely on data unique and/or relevant to Supervisors, and which, to the extent practicable (and available), is independent of factors subject to Supervisors' influence.

11. Comparing the Outcome of the Various Methodologies

Viewing all of the salary methodologies discussed herein, without regard to their individual strengths or weaknesses, where they produce as base salary, all but one generate a base salary greater than that currently paid to Nevada County BOS Members (\$39,447) Table 10:

Table 10

<u>Methodology</u>	<u>Annual Salary</u>
Superior Court Judges	N/A
Benchmark Counties	\$49,669
Nevada County Employees	\$50,380
Nevada County Residents	\$37,893
Blue Ribbon Committee	N/A
Performance Proximity	\$53,800
Rural Counties	\$61,253
Average of the above	\$50,599

12. Summary Evaluation

The Jury is comfortable in concluding, based on the time spent by the current Supervisors in the discharge of their duties, and the reality that the position requires full time work that the Supervisors are underpaid approximately \$15,000 per year. As a methodology for establishing a base salary for the BOS (with a 5% upward adjustment for the Chair), the Jury believes that the Performance Proximity Method would be the most appropriate for use in Nevada County. If adopted by the BOS, this would produce a base salary of \$53,800 per year.

The Jury recommends the use of the Social Security COLA for periodic adjustments.

VIII. WHEN TO ADJUST SUPERVISOR SALARIES

The Jury's consideration of BOS salaries would not be complete without asking the question of when, or how often, should the BOS adjust its compensation? As Attachment No. 1 reflects, historically the Nevada County BOS has acted to adjust their compensation every two or three years. The Board's current policy, as reflected in Resolution No. 06-27 adopted in January 2006, is to "consider annual adjustments to their salary and benefit compensation." However, following that policy is easier said than done. Obviously, in the public sector, it is more difficult to ask for a raise when the person or body asking is also the person or body which must authorize or approve the raise. And, while it may be all right for the bulk of County employees to see their income periodically adjusted in order for the County to be a competitive employer, there is a certain discomfort in the BOS doing the same for itself.

An approach is needed whereby the BOS first determines whether its salary, at a given point in time, is fair and reasonable considering the duties assumed, responsibilities discharged, and time spent. The more objective this can be, the better. The Jury believes that the Performance Proximity Method, herein described, offers a viable approach to this objective.

Should the BOS follow the Jury's recommendation, this would lead to the fixing of a current, new, base salary of \$53,800 per year, with a five percent (5%) add-on for the Board Chair.

The next question is when should the BOS next adjust (or consider adjustment to) its salary? This is not an altogether easy question to answer, as the Jury's research indicates that large "catch-up" raises resulting from extended periods of non-adjustment often generates negative public reactions.

The BOS has three options here: 1) Annual adjustments; 2) Periodic adjustments tied to some relevant event; or 3) Fixed periodic adjustments:

If an annual adjustment is the choice, the Jury prefers the use of Social Security COLA as it is simple and independent of the BOS. However, to the extent that the BOS elects to skip an

annual adjustment, for whatever reason, its policy should be that adjustments forgone are not made up in the following year.

If periodic adjustments tied to a relevant event is selected – and this is actually the BOS current policy, despite the use of the word “annual” in Resolution 06-27- the use of a new Union contract for the bulk of County employees as the event, and the average percent increase as the amount of the adjustment seems reasonable.

Fixed periodic adjustments (every two or three years for example) do not have much appeal without knowing the percent of increase in advance. Otherwise, it is almost like doing a new base salary calculation.

The Jury’s view is that the most politically satisfying and practical approach to the timing of BOS salary adjustments is to adjust annually using the Social Security COLA percentage, with the caveat that a new base salary calculation, based on the Performance Proximity Method, is made at least every 5 years.

IX. FINDINGS

1. Current Supervisor duties and time spent in the performance thereof warrant finding that the position requires full time work.
2. When compared to the BOS salaries generated by all but one of the methodologies reviewed (even where the Jury rejects or discounts a methodology as not necessarily appropriate for Nevada County), the current salaries paid to Nevada County Supervisors are noticeably lower.
3. The Nevada County Supervisors are paid, on average, less than most other County employees.
4. Regardless of the methodology selected the determination of the Supervisors’ salary and benefits cannot be delegated; but must be accomplished by adoption of an Ordinance, by the Supervisors, after a public hearing.
5. There will always be opposition to a pay raise for the BOS.

X. CONCLUSIONS

1. Given the time devoted to the discharge of their duties, and the nature of those duties, the current salary paid to members of the BOS is inadequate.
2. A continued delay in addressing Supervisor salaries will only exacerbate the political difficulties in considering such matters.

3. The Jury believes that the Performance Proximity Method would be the most appropriate to use in fixing a new base salary for the Members of the BOS, the current 5% differential for the Chair of the Board also being appropriate.
4. The Jury believes that once a new base salary is approved for the Members of the BOS, the Social Security COLA method would be the most suitable to use for future adjustments.
5. All other factors being equal, an increase in the Supervisors base salary to \$53,800/year appears warranted at this time.

XI. RECOMMENDATIONS

1. The BOS should adopt the Performance Proximity Method for establishing a new, current, base salary for the members of the BOS.
2. The BOS should adopt the Social Security COLA Method for determining future adjustments to the base salary.
3. Any increases in the BOS Member salaries should take effect on January 5, 2009.
4. The BOS should adjust their salary yearly using the Social Security COLA to determine the amount of increase.
5. BOS should review their base salary every five fiscal years, using the Performance Proximity Method.

XII. Attachments

Compensation History
Committee Assignments
BOS Salary Survey June 2007

Responses

Board of Supervisors, October 29, 2008

NC BOARD OF SUPERVISORS COMPENSATION HISTORY

1981 TO 2006

Ordinance	DATE	Monthly Salary	Benefits
1035	9/8/1981	Member \$1,271.51 Chair \$1321.51	Same as other County Officers.
1214	4/2/1984	Member \$1,335.09 Chair \$ 1435.09	Dependent health care coverage NTE \$82/month. All other forms of compensation same as other elected County Officers.
1246	9/4/1984	Member \$ 1599.99 Chair \$1699.99	Dependent health care coverage NTE \$82/month. 5/7 of each Supervisor's Contribution to PERS. Such other fringe benefits as heretofore granted by BOS to each member.
1324	8/19/1985	Member \$1,928 Chair \$2,028	Dependent health care coverage NTE \$82/month. 5/7 of each Supervisor's Contribution to PERS. Dental Insurance for Supervisor only. Such other fringe benefits as heretofore granted by BOS to each member.
1556	2/7/1989	Member \$2,389.50 Chair \$2489.50	Dependent health care coverage NTE \$82/month. 5/7 of each Supervisor's Contribution to PERS. Dental Insurance for Supervisor only. Such other fringe benefits as heretofore granted by BOS to each member.
1590	9/12/1989	Repealed Ord. #1556 because a Referendum was qualified for the ballot, against Ord.1556 on April 6, 1989. Salary and Benefits reverted to those established by Ord. #1324 in 1985.	
1667	9/18/1990	Added Mileage allowance of \$500 per month for Districts 1-4 and \$575 for District 5 or use of County Vehicle.	

NC BOARD OF SUPERVISORS COMPENSATION HISTORY

1981 TO 2006

Ordinance	DATE	Monthly Salary	Benefits Page 2
1707	4/23/1991	Member \$2,263 Chair \$2,363	Dependent health care coverage NTE \$82/month. 5/7 of each Supervisor's Contribution to PERS.
1858	4/19/1994	Member \$2,353.52 Chair \$2457.52 Retro to 01/01/1994	Same benefits as authorized by Ordinance Number 1707.
1907	7/23/1996	Member \$2,518.27 Chair \$2,629.55	\$350/month toward Cafeteria Health Benefit Plan 7% of Members contribution to PERS in excess of \$133.33 per month. Such other fringe benefits as heretofore granted by BOS to each member.
1983	9/15/1998	Member \$2,568.63 Chair \$2,682.20	Same benefits as authorized by Ordinance number 1907.
2043	1/9/2001	Member \$2,843.47 Chair \$ 2,969.20	\$400/month toward Cafeteria Health Benefit Plan 7% of Members contribution to PERS in excess of \$133.33 per month. Such other fringe benefits as heretofore granted by BOS to each member.
2104	1/23/2003	Member \$3,098.81 Chair \$3,253.79	Same benefits as authorized by Ordinance number 2043.
2194	1/24/2006	Member \$3,222.77 Chair \$3,383.94	Same benefits provided for other County Elected Officials (except Sheriff). May retain existing \$400/month toward Cafeteria Health Benefit Plan or opt for traditional health plan as provided for County's Elected Officials.
2194	1/24/2006	Effective 07/01/06: Member \$3287.22 Chair \$3451.62	

**NEVADA COUNTY BOARD OF SUPERVISORS
COMMITTEES, COMMISSIONS, ETC. - 2008**

DISTRICT I – NATE BEASON:

Member

Ad Hoc Committee for HEW Reuse Opportunities

Area 4 Agency on Aging Governing Board

Foothill Airport Land Use Commission

Nevada County Substance Abuse Advisory Board

Remote Access Network (RAN)

Sierra Economic Development Corporation (SEDCorp)

Sierra Planning Organization Board (SPO)

Transit Services Commission

Transportation Commission (Chair)

Yuba Watershed Council

Alternate

Finance Authority (Nevada County)

Golden Sierra Job Training Agency Governing Board

Local Agency Formation Commission (LAFCo)

10 (R) 3(A)

**NEVADA COUNTY BOARD OF SUPERVISORS
COMMITTEES, COMMISSIONS, ETC. - 2008**

DISTRICT II - SUE HORNE:

Member

Ad Hoc General Plan Update Steering Committee

Audit Review Committee

California Rural Home Mortgage Finance Authority (CRHMFA) (RCRC)

Environmental Services Joint Powers Authority (ESJPA) (RCRC) (Alternate member attends)

Mental Health Advisory Board

National Association of Counties (NACo)

Regional Council of Rural Counties (RCRC)

Solid and Hazardous Waste Commission

Alternate

Central Sierra Subregional Selection Committee/Sierra Nevada Conservancy Board

Sierra Sacramento Valley Emergency Medical Services Joint Powers Authority Governing Board

8 (R) 2 (A)

**NEVADA COUNTY BOARD OF SUPERVISORS
COMMITTEES, COMMISSIONS, ETC. - 2008**

DISTRICT III - JOHN SPENCER

Member

Ad Hoc Committee for Dorsey Drive Interchange

Ad Hoc General Plan Update Steering Committee

Economic Resource Council (Nevada County)

Finance Authority (Nevada County) – Housing Authority Representative

Golden Sierra Job Training Agency Governing Board

Northern Sierra Air Quality Management District Board

Transit Services Commission

Transportation Commission

Alternate

*CRHMFA (California Rural Home Mortgage Finance Authority) Homebuyers Fund (RCRC)

Fire Safe Council of Nevada County

High Sierra Resource Conservation and Development Council

Operational Area Emergency Services Council

Regional Council of Rural Counties (RCRC)

8 (R) 5 (A)

**NEVADA COUNTY BOARD OF SUPERVISORS
COMMITTEES, COMMISSIONS, ETC. - 2008**

DISTRICT IV – HANK WESTON

Member

Ad Hoc Committee for Capital Facilities Planning (western)

Audit Review Committee

Budget Review Committee

Fire Safe Council of Nevada County

First Five Nevada County Children & Families First Commission

High Sierra Resource Conservation and Development Council

Local Agency Formation Commission (LAFCo) (Chair)

Nevada Power Authority

Operational Area Emergency Services Council

Sierra Sacramento Valley Emergency Medical Services Joint Powers Authority Governing Board

Solid & Hazardous Waste Commission (Nevada County)

Alternate

Economic Resource Council (Nevada County)

Northern Sierra Air Quality Management District Board (NSAQMD)

Risk Management Committee

11 (R) 3 (A)

NEVADA COUNTY BOARD OF SUPERVISORS
COMMITTEES, COMMISSIONS, ETC. - 2008

DISTRICT V –TED OWENS:

Member

Ad Hoc Committee for Capital Facilities Planning (eastern)

Ad Hoc Committee for HEW Reuse Opportunities

Budget Review Committee

California State Association of Counties (CSAC)

Central Sierra Subregional Selection Committee/Sierra Nevada Conservancy Board

Community Development Agency Land Use Efficiency Committee

Finance Authority (Nevada County)

Local Agency Formation Commission (LAFCo)

Multi-Agency Juvenile Justice Coordinating Council

Northern Sierra Air Quality Management District Board

Risk Management Committee

Sacramento Mother Lode Regional Association of County Supervisors

Truckee River Basin Water Group

Truckee River Watershed Council

Alternate

Foothill Airport Land Use Commission

Mental Health Advisory Board

National Association of Counties (NACo)

Nevada Power Authority

Regional Council of Rural Counties (RCRC)

Risk Management Committee

Sierra Economic Development Corporation (SEDCorp)

Sierra Planning Organization Board (SPO)

Transit Services Commission

Transportation Commission

14 (R) 10 (A)

BOS Salary Survey June 2007

Rank	Sort by Salary				Sort by Population		
	County	Population as of 1/1/07	Current Annual Salary		County	Population as of 1/1/07	Current Annual Salary
1	Los Angeles	10,331,939	171,648		Los Angeles	10,331,939	171,648
2	Riverside	2,031,625	137,319		San Diego	3,098,269	137,318
3	Santa Clara	1,808,056	137,318		Orange	3,098,121	137,318
4	San Diego	3,098,269	137,318		Riverside	2,031,625	137,319
5	Alameda	1,526,148	137,318		San Bernardino	2,028,013	121,024
6	Orange	3,098,121	137,318		Santa Clara	1,808,056	137,318
7	Sonoma County	481,765	123,576		Alameda	1,526,148	137,318
8	San Bernardino	2,028,013	121,024		Sacramento	1,406,804	94,404
9	Ventura	825,512	113,338		Contra Costa	1,042,341	97,479
10	Monterey	425,960	113,196		Fresno	917,515	102,989
11	Fresno	917,515	102,989		Ventura	825,512	113,338
12	Santa Cruz	264,125	99,424		San Francisco	808,844	92,901
13	Contra Costa	1,042,341	97,479		Kern	801,648	83,070
14	Sacramento	1,406,804	94,404		San Mateo	733,496	85,896
15	San Francisco	808,844	92,901		San Joaquin	679,687	73,278
16	Marin	255,982	91,957		Stanislaus	521,497	68,073
17	Solano	424,823	90,972		Sonoma County	481,765	123,576
18	San Mateo	733,496	85,896		Tulare	429,006	80,537
19	Santa Barbara	424,425	84,200		Monterey	425,960	113,196
20	Kern	801,648	83,070		Solano	424,823	90,972
21	Napa County	135,969	80,829		Santa Barbara	424,425	84,200
22	Tulare	429,006	80,537		Placer	324,495	30,000
23	San Luis Obispo	264,900	79,014		San Luis Obispo	264,900	79,014
24	El Dorado	178,674	76,876		Santa Cruz	264,125	99,424
25	Humboldt	131,959	73,920		Marin	255,982	91,957
26	San Joaquin	679,687	73,278		Merced	251,510	69,360
27	Merced	251,510	69,360		Butte	218,069	48,581
28	Madera	148,721	68,659		Yolo	193,983	49,730
29	Mendocino	90,291	68,640		Shasta	181,401	54,600
30	Stanislaus	521,497	68,073		El Dorado	178,674	76,876
31	Lake	64,276	57,689		Imperial	172,672	51,070
32	Kings	151,381	55,931		Kings	151,381	55,931
33	Shasta	181,401	54,600		Madera	148,721	68,659
34	Amador	38,435	51,494		Napa County	135,969	80,829
35	Imperial	172,672	51,070		Humboldt	131,959	73,920
36	Yolo	193,983	49,730		Nevada	99,766	39,447
37	Butte	218,069	48,581		Sutter	93,919	34,471
38	Calaveras	46,028	48,110		Mendocino	90,291	68,640
39	Inyo	18,383	46,448		Yuba	70,745	46,248
40	Yuba	70,745	46,248		Lake	64,276	57,689
41	San Benito	57,803	46,150		Tehama County	61,774	12,540
42	Lassen	36,375	42,912		San Benito	57,803	46,150
43	Mono	13,985	41,064		Tuolumne	57,223	37,210
44	Nevada	99,766	39,447		Calaveras	46,028	48,110
45	Plumas	21,128	38,040		Siskiyou	45,953	33,129
46	Mariposa	18,254	37,290		Amador	38,435	51,494
47	Tuolumne	57,223	37,210		Lassen	36,375	42,912
48	Sutter	93,919	34,471		Del Norte	29,341	28,080
49	Siskiyou	45,953	33,129		Glenn	28,915	30,285
50	Sierra	3,485	31,000		Colusa	21,951	24,000
51	Glenn	28,915	30,285		Plumas	21,128	38,040
52	Placer	324,495	30,000		Inyo	18,383	46,448
53	Del Norte	29,341	28,080		Mariposa	18,254	37,290
54	Alpine	1,261	25,176		Trinity	14,171	25,008
55	Trinity	14,171	25,008		Mono	13,985	41,064
56	Colusa	21,951	24,000		Modoc	9,721	15,859
57	Modoc	9,721	15,859		Sierra	3,485	31,000
58	Tehama County	61,774	12,540		Alpine	1,261	25,176

BOS Salary Survey June 2007

Sort by Budget					
Rank	County	Population as of 1/1/07	Current Annual Salary	Total County Budget*	Total FTE
1	Los Angeles	10,331,939	171,318	21,241,000,000	102,058
2	San Francisco	808,844	92,901	6,065,992,294	27,990
3	Orange	3,098,121	137,318	5,904,027,069	18,733
4	San Diego	3,098,269	137,318	4,193,000,000	16,844
5	Santa Clara	1,808,056	137,318	3,900,000,000	15,000
6	Riverside	2,031,625	137,319	3,860,000,000	17,285
7	San Bernardino	2,028,013	121,024	3,428,014,633	18,165
8	Sacramento	1,406,804	94,404	2,663,597,225	14,428
9	Alameda	1,526,148	137,318	2,360,221,864	9081
10	Fresno	917,515	102,989	1,652,065,199	8,018
11	San Mateo	733,496	85,896	1,648,095,478	5,777
12	Ventura	825,512	113,338	1,541,213,431	7,932
13	Kern	801,648	83,070	1,384,730,300	
14	Contra Costa	1,042,341	97,479	1,248,308,445	5,658
15	San Joaquin	679,687	73,278	1,129,000,000	
16	Sonoma	481,765	123,576	1,100,000,000	5,212
17	Solano	424,823	90,972	990,526,546	3,092
18	Monterey	425,960	113,196	879,800,000	4,559
19	Santa Barbara	424,425	84,200	712,709,201	4,296
20	Placer	324,495	30,000	638,461,479	2,827
21	Tulare	428,006	80,537	614,798,095	4,919
22	San Luis Obispo	264,900	79,014	474,898,770	2,501
23	El Dorado	178,674	76,876	474,100,000	2,093
24	Merced	251,510	69,360	416,308,606	2,312
25	Marin	255,982	91,957	402,200,000	2,193
26	Butte	218,069	48,581	360,192,182	2300
27	Santa Cruz	264,125	99,424	317,390,792	2,455
28	Shasta	181,401	54,600	310,277,475	1,918
29	Yolo	193,983	49,730	299,191,305	1,739
30	Imperial	172,672	51,069	293,806,694	2,105
31	Napa County	135,969	80,829	276,708,214	1,339
32	Stanislaus	521,497	68,073	272,920,531	4,582
33	Humboldt	131,959	73,920	263,205,062	2,056
34	Mendocino	90,291	68,640	206,480,000	1554
35	Sutter	93,919	34,471	202,390,003	962
36	Kings	151,381	55,931	193,646,679	1,287
37	Lake	64,276	57,689	181,000,000	976
38	Nevada	99,766	39,447	180,121,519	986
39	Madera	148,721	68,659	173,491,786	1,520
40	Yuba	70,745	46,248	154,212,245	1,045
41	Tuolumne	57,223	37,210	122,652,221	940
42	Tehama	61,774	12,540	120,247,256	828
43	San Benito	57,803	46,150	112,000,000	450
44	Siskiyou	45,953	33,129	111,188,924	744
45	Calaveras	46,028	48,110	104,650,273	
46	Lassen	36,375	42,912	87,333,966	472
47	Mariposa	18,254	37,290	82,538,294	403
48	Plumas	21,128	38,040	81,340,419	438
49	Inyo	18,383	46,448	76,068,479	534
50	Amador	38,435	51,494	73,705,727	515
51	Glenn	28,915	30,285	64,883,927	466
52	Colusa	21,951	24,000	60,898,778	
53	Mono	13,985	41,064	45,453,966	
54	Del Norte	29,341	28,080	43,441,973	482
55	Modoc	9,721	15,859	32,228,015	229
56	Alpine	1,261	25,176	25,000,000	70
57	Sierra	3,485	31,000	18,146,264	119
58	Trinity	14,171	25,008		

* Budget can reflect either 2006-07 or 2007/08

RESPONSE

COUNTY OF NEVADA

STATE OF CALIFORNIA

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BOARD OF SUPERVISORS

Nate Beason, 1st District
Sue Horne, 2nd District
John Spencer, 3rd District
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Ted S. Owens, 5th District (Chair)

Cathy R. Thompson
Clerk of the Board



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September 23, 2008

The Honorable Judge Robert Tamietti
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2007-2008 Nevada County Civil Grand Jury Report, *Board of Supervisors Compensation and Benefits Review*.

Dear Judge Tamietti:

The attached responses by the Board of Supervisors to the 2007-2008 Nevada County Civil Grand Jury Report, dated June 26, 2008, entitled *Board of Supervisors Compensation and Benefits Review* are submitted as required by California Penal Code Section 933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on September 23, 2008. Responses to Findings and Recommendations are based on either personal knowledge, examination of official County records, information received from the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2007-2008 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

Ted S. Owens
Chairman, Board of Supervisors

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2007-2008 CIVIL GRAND JURY REPORT
DATED JUNE 26, 2008**

Board of Supervisors Compensation and Benefits Review

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

- 1. Current Supervisor duties and time spend in the performance thereof warrant finding that the position requires full time work.**

Agree.

- 2. When compared to the BOS salaries generated by all but one of the methodologies reviewed (even where the Jury rejects or discounts a methodology as not necessarily appropriate for Nevada County), the current salaries paid to Nevada County Supervisors are noticeably lower.**

Agree.

- 3. The Nevada County supervisors are paid, on average, less than most other County employees.**

Agree.

- 4. Regardless of the methodology selected the determination of the Supervisors' salary and benefits cannot be delegated; but must be accomplished by adoption of an Ordinance, by the Supervisors, after a public hearing.**

Agree.

- 5. There will always be opposition to a pay raise for the BOS.**

Agree.

B. RESPONSES TO RECOMMENDATIONS

- 1. The BOS should adopt the Performance Proximity Method for establishing a new, current, base salary for the members of the BOS.**

The recommendation has not yet been implemented, but will be implemented within the next 6 months.

The 2007-2008 Grand Jury spent six months researching and evaluating several different Board of Supervisor Salary models for setting and increasing base Board salaries as described in their report. Their research and analysis resulted in a 23-page report outlining their philosophy and recommendations regarding this topic. At the core of their effort was the Grand Jury's goal to offer the Board a method that "would avoid involving, to the greatest degree possible, the BOS's economic self interest beyond that inherent in raising the issue of salary adjustments in the first place" and to offer "a method that would prove resilient into the future." The Grand Jury presented the Board several options for establishing and reviewing the Board's base salary, proposing salaries ranging from \$37,893 to \$61,253. See Table 1 for a summary of these models. The Jury ultimately recommended the Performance Proximity Method because "it utilizes data which is unique to Boards of Supervisors generally and it is substantially independent of factors subject to Board influence."

The Performance Proximity Method is based on selecting benchmark counties that exhibit performance characteristics that closely match Nevada County. These characteristics are based on population, supervisor salaries, number of county of employees and annual budget size. These factors, along with ratios based on this information; budget per capita, budget per employee, employees per capita, and Board salary per population are used to determine the counties to include in an average by which to set Board salaries. Unlike the other methods researched by the Grand Jury, this method utilizes several specific criteria to establish like counties from which a proposed base supervisor salary is derived. The grand Jury calculated an average Board salary of \$53,800 using this method.

The Board will adopt the Performance Proximity Method to determine Board base salaries because it utilizes several essentially independent specific criteria to determine like counties and it meets the Board's objective as outlined in the Grand Jury report to "rely on data or a process that is deemed to be independent of the Board of Supervisors when considering salary." While the Board will adopt this method to establish and review Board salaries in the future, the Board intends to use discretion in determining when it is applied.

The Grand Jury believes the Board should adjust Board salaries based on this method by January 5, 2009 because currently Board salaries are inadequate, the budget impact for this increase is minimal at 1/20 of 1% of the County's 07/08 budget, catch-up raises generate negative public reaction and approving an increase is a political challenge whenever an increase is proposed by the Board. While the Grand Jury makes sound arguments for an increase in January 2009, it is the Board's opinion that it would not be prudent to raise the Board's base salary as significantly as suggested by this method, from 39,447 to \$53,800, or by 36.4%, in a period of statewide economic uncertainty. The Board will not make adjustment to Board base salaries using this method by January 5, 2009 as recommended.

While the Board believes the salary increase of 36.4% produced by the Performance Proximity Method would not be reasonable this year, the 2008 Social Security COLA of 2.3% has a \$4,672 budget impact. Given the Board's last salary adjustment of 2% in January 2006, a 2.3% Board salary adjustment three years later is reasonable. The Board will utilize the 2008 Social Security COLA method proposed by the Grand Jury to make a 2.3% adjustment to their salaries to become effective by January 5, 2009. Table 1

below summarizes the different models developed and investigated by the Grand Jury and compares current and proposed Board salaries to those methods.

Table 1

Methodology	Annual Salary	Description
Nevada County Residents	37,893	Average earnings per Nevada County worker based on 2006 Census Bureau wages plus application of Bureau of Labor Statistics inflation factors thru 2008
Current BOS Salary	39,447	Last increased Jan 2006 by 2%
Proposed Salary	40,354	2008 Social Security Cola of 2.3%
Benchmark Counties	49,669	June 2007 El Dorado, Mendocino, Butte, Sutter, Placer average BOS salary comparison based on counties' contiguousness to and/or similar service levels to Nevada County and used to determine employee market
Nevada County Employees	50,380	2008 Average annual County Employee salary
Performance Proximity (Grand Jury's Recommendation)	53,800	June 2007 Average BOS salary of benchmark counties whose selection was based on like-kind and quality performance characteristics in close proximity to Nevada County: population, BOS salaries, # of employees, budget size
Rural Counties	61,253	1990-91 Grand Jury recommended and Board adopted June 2007 average of 5 rural counties (El Dorado, Madera, Mendocino, Sutter, Lake) as benchmark for BOS salaries
Superior Court Judges	N/A	As some % of Judge's salary: currently BOS salaries are approximately 22% of Judges' salaries
Blue Ribbon Committee	N/A	Based on 1984 Blue Ribbon Committee composition of 7 randomly selected members from a pool of volunteers, with 1 from each BOS district and 2 at-large who determine BOS salary increase

2. The BOS should adopt the Social Security COLA Method for determining future adjustments to base salary.

The recommendation has not yet been implemented, but will be implemented within the next 6 months.

The 2007-2008 Grand Jury spent six months researching and evaluating several different Board of Supervisor Salary models for setting and increasing base Board salaries as described in their report. Their research and analysis resulted in a 23-page report outlining their philosophy and recommendations regarding this topic. At the core of this

effort was the Grand Jury's goal to offer the Board a method that "would avoid involving, to the greatest degree possible, the BOS's economic self interest beyond that inherent in raising the issue of salary adjustments in the first place" and to offer "a method that would prove resilient into the future." The Grand Jury recommends the Social Security COLA Method for effecting annual Board salary adjustments because "it is independent of BOS action" and "does not lead to extensive swings or increases." In the last four years COLA increases were: 2005 2.7%, 2006 4.1%, 2007 3.3%, 2008 2.3%.

The Board supports the Grand Jury's philosophy and goals under this method and will adopt the Social Security COLA Method for annually reviewing Board member salaries. However, the Board intends to use discretion in determining when it is applied.

3. Any increases in the BOS Member salaries should take effect on January 5, 2009.

This recommendation will be partially implemented.

While the Board will adopt the Performance Proximity Method and Social Security COLA methods for establishing and reviewing Board salaries and annual increases in the future, the Board intends to use discretion in determining when any increases may be applied. It is the Board's opinion that this is not the year to make significant adjustment to Board base salaries based on the Performance Proximity Method and will not do so by January 5, 2009, but the Board will provide for an annual salary increase based on the 2008 Social Security COLA of 2.3% effective on January 5, 2009.

4. The BOS should adjust their salary yearly using the Social Security COLA to determine the amount of increase.

This recommendation will be partially implemented.

The Board will adopt the Social Security COLA method as the method used in establishing future Board salary increases, however the Board intends to use discretion in determining when it is applied.

5. BOS [sic] should review their base salary every five fiscal years, using the Performance Proximity Method.

The recommendation has not yet been implemented, but will be implemented within the next 6 months.

The Board will adopt a five-year cycle for reviewing the Performance Proximity Method. This cycle will become effective when the Board first applies the Performance Proximity Method to Board member salaries. The Board intends to use discretion in determining when the results of this review are applied to supervisor salaries.

SCHOOLS AND LIBRARIES

Nevada County Public Libraries

Nevada County Public Libraries

THE LIBRARIES OF NEVADA COUNTY

REASON FOR INVESTIGATION

The Nevada County Grand Jury (Jury) investigated the Nevada County Library system. This was done as a follow up to the 2005/2006 Grand Jury report and also to help identify possible deficiencies in staffing, hours of operation, facilities etc. The review was also done to recognize areas that function well and excel among the counties six branches: The Doris Foley Library of Historical Research. The Grass Valley Library, Royce Branch, The Truckee Library, The Madelyn Helling Library, The Penn Valley Library, and The Bear River Library.

BACKGROUND

The Nevada County Library system recently moved into the Group 3 category from Group 4 based on the county's increasing population. Group 3 is defined as those with county populations between 100,000 and 150,000. These groupings are established by the California State Library Development Services Bureau. There are 7 categories based on population. (Group 4 libraries cover populations of 60,000 to 100,000.)

METHODS OF INVESTIGATION

The Jury interviewed the county librarian for an overall view of the state of the libraries. It interviewed the Director of Human Resources for information on the salary history for the various positions within the library as well as the current salary situation. Members of the Jury visited each of the six libraries for on site inspections and interviews with staff. The Jury reviewed statewide statistics of Group 3 libraries for median numbers relating to staffing numbers, revenue figures, total volumes, attendance, children's usage, square footage and other relevant areas. Hours of operation were also reviewed. Lastly, the Jury reviewed prior years' Grand Jury reports.

FINDINGS

1. The Nevada County Libraries are currently in the Group 3 category with populations of 100,000 to 150,000.
2. The branches offer numerous varieties of volumes including books, magazines, newspapers, audio books, video recordings, music recordings, as well as internet services at all branches. The historical branch mainly carries items such as census

indexes, genealogy records, various maps, past newspapers, vital records, assessor's maps, and extensive information on local history.

3. All branches are vigorously used by the public with total annual circulation in excess of 652,000 volumes. This number is expected to increase by 10% this year.
4. The libraries offer many free programs intended to stimulate an interest in reading and promote cultural awareness and literacy.
5. Children's services are also available and several branches offer special hours and programs for children.
6. Volunteers are a tremendous asset to the libraries for special programs and fund raising.
7. Increased hours at the Penn Valley branch in the form of an additional day of operation with afternoon hours have improved utilization.
8. The Bear River branch, which also serves as the Bear River High School library, is open to the public when school is not in session.
9. The Bear River branch has a "sandwich board" type of sign that is displayed infrequently and therefore lacks consistent/effective signage that shows the location of hours that can easily be seen. This is especially ineffective as the branch is available to the public during non-school hours only..
10. Lack of physical storage and display space within the Truckee, Grass Valley and Madelyn Helling branches results in problems managing computer access stations, card catalog features, and the general mobility of books and accessories. Safety codes require the anchoring of bookcases therefore they are limited to places where they can be anchored.
11. Available parking is a problem at most of the branches.
12. The libraries have an inter-branch system of transferring volumes between each other on a special order basis. However, the Truckee branch has a system that uses UPS shipping and can take up to a week to pick up and deliver to other branches. This creates a storage problem at the Truckee branch that is already stretched to the limit on space.
13. The libraries encourage promotion of personnel from within to the different levels of qualifications in the system.
14. A recently negotiated salary increase has brought all the staff to a more equitable level in comparison with surrounding county libraries. There are cost of living increases for the term of the contract.
15. The libraries have 28.6 full time equivalent employees. This is the same number as reported in the 2005/2006 Jury report.

CONCLUSIONS

1. There is a lack of adequate space for materials and programs within the Truckee, Grass Valley, and Madelyn Helling branches.
2. The libraries, based on similar statewide numbers reviewed, now fall more in line with median numbers within the state in terms of salaries, as compared to the salaries reviewed in the 2005/2006 Grand Jury report.
3. The library's staff of 28.6 full time equivalent employees is the same as reported by the 2005/2006 Grand Jury. This does not provide for the increased usage in the form of more staffing and hours to accommodate increasing population.
4. The libraries strive to promote from within benefiting from qualified staff people very familiar with the branches in which they work.
5. The Bear River branch cannot be easily located nor hours of operation determined as the result of poor signage.
6. Support from the community in the form of volunteers is a critical element to the libraries ability to provide the many services currently available.
7. Present staffing appears to be adequate to maintain only the current hours of operation.

RECOMMENDATIONS

1. The Board of Supervisors should fund for additional library staff as necessary to enable for more hours among the branches and fund more needed literacy programs.
2. The Jury confirms the recommendations of the 2005/2006 Jury that The Board of Supervisors should continue to support the Nevada County Library by augmenting the Library General Fund as specific needs are defined, such as ways to increase space needed.
3. The Board of Supervisors should maintain and improve the state and conditions of the county's libraries by ensuring they are an integral part of the county's Capital Facilities Master Plan.
4. The Bear River branch should erect a clear and visible sign indicating location and hours of operation for the branch located within the high school.

RESPONSES

Board of Supervisors

September 4, 2008

RESPONSE

COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Maidu Avenue • Nevada City • California 95959-8617

BOARD OF SUPERVISORS

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Cathy R. Thompson
Clerk of the Board

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July 8, 2008

The Honorable Judge Robert Tamietti
Presiding Judge of the Nevada County Grand Jury
Nevada County Courthouse
201 Church Street
Nevada City, CA 95959

Re: Board of Supervisors' Responses to the 2007-2008 Nevada County Civil Grand Jury Report, *The Libraries of Nevada County*.

Dear Judge Tamietti:

The attached responses by the Board of Supervisors to the 2007-2008 Nevada County Civil Grand Jury Report, dated April 24, 2008, entitled *The Libraries of Nevada County*, are submitted as required by California Penal Code Section 933.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their regular meeting on July 8, 2008. Responses to Findings and Recommendations are based on either personal knowledge, examination of official County records, information received from the County Librarian, the County Executive Officer, or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2007-2008 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Respectfully submitted,

Ted S. Owens
Chairman, Board of Supervisors

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO
2007-2008 CIVIL GRAND JURY REPORT
DATED APRIL 24, 2008**

THE LIBRARIES OF NEVADA COUNTY

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Librarian and County Executive Officer, or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

- 1. The Nevada County Libraries are currently in the Group 3 category with populations of 100,000 to 150,000.**

Agree.

- 2. The branches offer numerous varieties of volumes including books, magazines, newspapers, audio books, video recordings, music recordings, as well as Internet services at all branches. The historical branch mainly carries items such as census indexes, genealogy records, various maps, past newspapers, vital records, assessor's maps, and extensive information on local history.**

Agree.

- 3. All branches are vigorously used by the public with total annual circulation in excess of 652,000 volumes. This number is expected to increase by 10% this year.**

Agree.

- 4. The libraries offer many free programs intended to stimulate an interest in reading and promote cultural awareness and literacy.**

Agree.

- 5. Children's services are also available and several branches offer special hours and programs for children.**

Agree.

- 6. Volunteers are a tremendous asset to the libraries for special programs and fund raising.**

Agree.

- 7. Increased hours at the Penn Valley branch in the form of an additional day of operation with afternoon hours have improved utilization.**

Agree.

- 8. The Bear River branch, which also serves as the Bear River High School library, is open to the public when school is not in session.**

Agree.

- 9. The Bear River branch has a "sandwich board" type of sign that is displayed infrequently and therefore lacks consistent/effective signage that shows the location of hours that can easily be seen. This is especially ineffective as the branch is available to the public during non-school hours only.**

Partially disagree.

There is a metal sign on Magnolia Road going toward Bear River High School from Highway 49 indicating the location of the library

- 10. Lack of physical storage and display space within the Truckee, Grass Valley and Madelyn Helling branches results in problems managing computer access stations, card catalog features, and the general mobility of books and accessories. Safety codes require the anchoring of bookcases therefore they are limited to places where they can be anchored.**

Agree.

- 11. Available parking is a problem at most of the branches.**

Partially disagree.

Truckee, Penn Valley and Bear River libraries do not have a parking problem. The Grass Valley and Doris Foley Libraries do not have designated parking, street and city parking lots are used. The Madelyn Helling Library lot is frequently full from general library use, attendees of special programs, Library Community Room rentals, and users of Tobiasson Field during the spring and summer Saturdays.

- 12. The libraries have an inter-branch system of transferring volumes between each other on a special order basis. However, the Truckee branch has a system that uses UPS shipping and can take up to a week to pick up and deliver to other branches. This creates a storage problem at the Truckee branch that is already stretched to the limit on space.**

Agree.

- 13. The libraries encourage promotion of personnel from within to the different levels of qualifications in the system.**

Agree.

- 14. A recently negotiated salary increase has brought all the staff to a more equitable level in comparison with surrounding county libraries. There are cost of living increases for the term of the contract.**

Agree.

- 15. The libraries have 28.6 full time equivalent employees. This is the same number as reported in the 2005/2006 Jury report.**

Partially disagree.

The libraries do currently have 28.6 full time equivalent employees. The 2005/2006 Grand Jury accurately reported 28.85 full time equivalent employees for that year.

B. RESPONSES TO RECOMMENDATIONS

- 1. The Board of Supervisors should fund for additional library staff as necessary to enable for more hours among the branches and fund more needed literacy programs.**

The recommendation will not be implemented at the present time.

The current economic downturn in California is affecting all County departments and operations. This in turn has greatly increased demand on limited County discretionary funds. The Board of Supervisors must balance the allocations of those ever-decreasing funds across numerous programs that include public safety and law enforcement to name a few. Library staff are successfully seeking and securing more grant funds to help support the literacy program. They also have been successful to date in allocating available staff so that branch service hours remain consistent. In fact, they shifted some service hours from a very low utilized branch and time period to a high demand station and time period in Penn Valley, increasing overall service to that community.

- 2. The Jury confirms the recommendations of the 2005/2006 Jury that the Board of Supervisors should continue to support the Nevada County Library by augmenting the Library General Fund as specific needs are defined, such as ways to increase space needed.**

The recommendation will not be implemented at the present time.

As mentioned previously, the current economic downturn in California is affecting all County departments and operations. This in turn has greatly increased demand on the limited County discretionary funds. The Board of Supervisors must balance the

allocations of those available funds across numerous programs that include public safety and law enforcement to name a few. The Board has previously increased the Library's general fund allocation in the past for important one time needs. Over the last five years, the Board of Supervisors has provided an additional \$550,000 to the Library to pay for increased internal service costs, for summer interns, and for books and materials. The Board evaluates the Library's needs and additional funding requests as they are presented by the department in the annual County budget process. Capital space projects are included in the County's annually updated Capital Facilities Master Plan which currently includes the Library's space requests.

- 3. The Board of Supervisors should maintain and improve the state and conditions of the county's libraries by ensuring they are an integral part of the county's Capital Facilities Master Plan.**

The recommendation has been implemented.

Library space needs are addressed in the current Capital Facilities Master Plan.

- 4. The Bear River branch should erect a clear and visible sign indicating location and hours of operation for the branch located within the high school.**

This recommendation has been implemented.

In cooperation with the Bear River High School personnel, the public library has installed a universal library sign on the grounds of Bear River High School specifying public library hours..

SCHOOLS AND LIBRARIES

Nevada County Schools

School District Organization

Nevada County Committee on School District Organization

Reason for Investigation

As part of its responsibility to review activities of government agencies in Nevada County, the Grand Jury conducted a review of the County Committee on School District Organization (CCSDO), which is under the direction of the Nevada County Superintendent of Schools.

Background

The California Department of Education's District Organization Handbook (2006) details the responsibilities of the (CCSDO, following enabling language in the California Education Code sections 35720-35724 and 35753 et seq.

The preface in Chapter 3 states:

“The CCSDO has a major role in the review and approval of proposals to change school district organization in the county. This chapter discusses how the members are selected, how committees should function, and how they are financed. In 32 counties in the state, the function of the CCSDO has been transferred to the county board of education.”

In Nevada County, the CCSDO is a separate committee from the county board of education.

Chapter 3.B. of the Handbook details the responsibilities of the County Committee on School District Organization:

“1. The county committee is the local initiator, coordinator, analyst, facilitator, and arbitrator for the reorganization of school districts. It formulates plans, responds to petitions, conducts public hearings, develops and releases information, and analyzes proposals throughout the approval process of a reorganization.... The county committee is charged with the duty of studying the school district organization of its county and shall, under the direction of the State Board of Education, or pursuant to a petition by local electors, hold hearings and formulate plans and recommendations for the unification, other reorganization, or lapsation of the districts in the county...”

Further, Chapter 3.C. describes how members of the CCSDO are selected. In a simplified explanation, each district in the county nominates a member to the committee. Members of the CCSDO are not paid.

Methodology

The methodology the Grand Jury used consisted of interviews and research. The current and immediate past Nevada County Superintendents of Schools were interviewed, as well as two members of the CCSDO.

We also interviewed the superintendent of two local school districts that appear to have implemented a successful consolidation of administrative duties under a single superintendent while preserving the independence of the two school boards.

The Grand Jury also reviewed student population estimates of smaller school districts in Nevada County, the records of a neighboring county's committee on school district organization, and the available minutes and records of Nevada County's CCSDO.

Findings

1. The Nevada County CCSDO has only met once a year during the last three years, and then only to re-elect members during the annual county school district dinner and award ceremony.
2. Available minutes from meetings of the CCSDO were sporadic and indicate the Committee has not performed any useful function or task since it considered a high school boundary question more than three years ago.
3. The philosophy of the current and former county superintendents has been to "call you if I need you" The former superintendent used the CCSDO only for a district boundary change over three years ago, and the current superintendent has not convened the CCSDO to consider any issue or recommendation.
4. Local school identity is considered essential to any organization or administrative configuration of schools and school districts.
5. The administrative consolidation of the Ready Springs and Pleasant Valley school districts is an example of administrative savings while preserving local school identity. It is a model for examination and consideration by the CCSDO.
6. There are five small schools districts in Nevada County, three with fewer than five hundred students.
7. No investigation of consolidation of the five small school districts has been initiated by the CCSDO, nor has the CCSDO been directed by the county superintendent of schools to commence any such consideration.
8. The Grand Jury is aware that the state's proposed budget cuts may result in the possible reduction of local teaching and program positions. The Nevada County Superintendent of

Schools estimated the possibility of the elimination of up to 26 teaching positions that would be accomplished partially by layoffs and the balance by not filling positions opened by retirements, as well as other school cuts. There was no mention of any anticipated involvement of the CCSDO in these considerations.

Conclusions

1. The Nevada CCSDO appears to have become non-functional.
2. The Grand Jury believes that the former and current County Superintendents' disregard of any advisory or consultative role for the CCSDO as part of a broad, inclusive, and proactive decision-making mode, is not in the county schools' best interests.
3. The Nevada County Board of Education and its Superintendent of Schools are not in compliance with Chapter 3 of the California Department of Education's School District Organization Handbook's policy on the function and mission of a county committee on school district organization.
4. There are five small districts that might benefit from consolidation of administrative functions while preserving school identity.

Recommendations

1. The CCSDO should be active and meet on a regular monthly or quarterly basis.
2. The CCSDO should take the initiative in its mandated role instead of passively waiting to participate in consideration of organizational issues and concerns involving potential administrative and fiscal efficiencies of county schools and school districts. Frequency of meetings should be determined by the urgency of the fiscal reductions facing the districts.
3. CCSDO inquiries should actively include the input of parents of students, teachers, administrators and administrative staff of all schools studied, as well as staff and administrators of the office of the county superintendent of schools.
4. The CCSDO should issue a comprehensive and detailed report of its findings and recommendations on consolidations, reorganizations, and administrative mergers to the County Board of Education on or before December 31, 2008.

Responses Required

County Superintendent of Schools	July 2, 2008
County Board of Education	August 13, 2008

RESPONSE

Rec'd -
7/22/08

**NEVADA COUNTY
SUPERINTENDENT OF SCHOOLS**
HOLLY HERMANSEN, SUPERINTENDENT

BOARD OF EDUCATION
Dr. John Smoak, President
Marianne Slade-Landsmann, Vice President
Robert Altieri
Jack Meeks
Dr. Robert Stone

July 10, 2008

The Honorable Robert L. Tamietti
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, CA 95959

Dear Judge Tamietti,

This letter serves as the response from the Nevada County Board of Education to the 2008 Grand Jury report on the subject of **Nevada County Committee on School District Organization**.

Findings

1. The Nevada County Committee on School District Organization has only met once a year during the last three years and then only to re-elect members during the annual county school district dinner and award ceremony.

Partially Agree

The County Committee on School District Organization meets each year prior to the annual School Boards Awards Dinner. The purpose of the meeting is to recognize appointments to the committee that have been made by the trustee representatives from each school district and to elect officers to the committee. The CCSDO has only met one time each year due to the fact that no issues have come up.

2. Available minutes from meetings of the County Committee on School district Organization were sporadic and indicate the Committee has not performed any useful function or task since it considered a high school boundary question more than three years ago.

Partially Agree

While there are agendas for all the annual meetings, there are no meeting minutes from 2003, 2004, 2005 and 2006. There are minutes from 2007 and years previous to 2003.

3. The philosophy of the current and former county superintendents has been to “call you if I need you”. The former superintendent used the CCSDO only for a district boundary change over three years ago, and the current superintendent has not convened the CCSDO to consider any issue or recommendation.

Partially agree

The County Board of Education has not been made aware of any issues that would cause either the former or the current county superintendent to convene the county committee.

4. Local school identity is considered essential to any organization or administrative configuration of schools and school districts.

Agree

5. The administrative consolidation of the Ready Springs and Pleasant Valley school districts is an example of administrative savings while preserving local school identity. It is a model for examination and consideration by the CCSDO.

Agree

6. There are five small school districts in Nevada County, three with fewer than five hundred students.

Agree

7. No investigation of consolidation of the five small school districts has been initiated by the CCSDO, nor has the CCSDO been directed by the county superintendent of schools to commence any such consideration.

Agree

8. The Grand Jury is aware that the state’s proposed budget cuts may result in the possible reduction of local teaching and program positions. The Nevada County Superintendent of Schools estimated the possibility of the elimination of up to 26 teaching positions that would be accomplished partially by layoffs and the balance by not filling positions opened by retirements, as well as other school cuts. There was no mention of any anticipated involvement of the CCSDO in these considerations.

Agree

The county committee has no jurisdiction over layoffs, position management, personnel or budget decisions.

Recommendations

1. The CCSDO should be active and meet on a regular monthly or quarterly basis. **This recommendation will be partially implemented. It is agreed that it would be beneficial for the County Committee on School District Organization to meet more frequently. It should be the decision of the committee how frequently to meet, however.**

2. The CCSDO should take the initiative in its mandated role instead of passively waiting to participate in consideration of organizational issues and concerns involving potential administrative and fiscal efficiencies of county schools and school districts. Frequency of meetings should be determined by the urgency of the fiscal reductions facing the districts.

This recommendation will be implemented. When it meets, the county committee will be provided with a summary of the current issues facing the school districts in Nevada County. These meetings will be utilized in order for the county committee to fulfill it's obligation to study the school district organization of the county.

3. CCSDO inquiries should actively include the input of parents of students, teachers, administrators and administrative staff of all schools studied, as well as staff and administrators of the office of the county superintendent of schools.

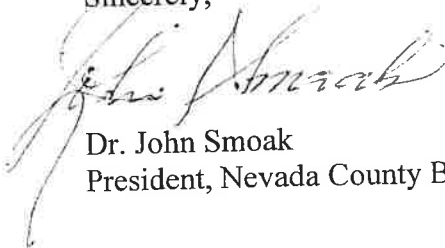
This recommendation will be implemented. When and if the county committee is looking at the organization of one or more school districts, it will include the input of those identified above.

4. The CCSDO should issue a comprehensive and detailed report of its findings and recommendations on consolidations, reorganizations, and administrative mergers to the County Board of Education on or before December 31, 2008.

Should the county committee issue a comprehensive report of its findings as the result of a study the county board of education will receive the report. It should be noted that the county board of education has no official role in taking action or making recommendations regarding consolidations, reorganizations or administrative mergers.

The Nevada County Board of Education is committed to providing the highest quality educational programs to all the students in the county. In order to continue to do this, it is important to periodically conduct studies relating to the effective utilization of resources in the county and across the school districts. This is an appropriate time to conduct such a study, and carefully consider the results.

Sincerely,



Dr. John Smoak
President, Nevada County Board of Education

Cc: Mac Small, Foreman 2008 Grand Jury
Nevada County Committee on School District Organization
Holly Hermansen, Nevada County Superintendent of Schools

NEVADA COUNTY SUPERINTENDENT OF SCHOOLS

J. LY A. HERMANSEN

June 5, 2008

The Honorable Robert L. Tamietti
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, CA 95959

Dear Judge Tamietti,

This letter serves as my response to the 2008 Grand Jury report on the subject of **Nevada County Committee on School District Organization**.

Findings

1. The Nevada County Committee on School District Organization has only met once a year during the last three years and then only to re-elect members during the annual county school district dinner and award ceremony.

Partially Agree

The County Committee on School District Organization meets each year prior to the annual School Boards Awards Dinner. The purpose of the meeting is to recognize appointments to the committee that have been made by the trustee representatives from each school district and to elect officers to the committee.

2. Available minutes from meetings of the County Committee on School District Organization were sporadic and indicate the Committee has not performed any useful function or task since it considered a high school boundary question more than three years ago.

Partially Agree

While there are agendas for all the annual meetings, there are no meeting minutes from 2003, 2004, 2005 and 2006. There are minutes from 2007 and years previous to 2003.

3. The philosophy of the current and former county superintendents has been to "call you if I need you". The former superintendent used the CCSDO only for a district

boundary change over three years ago, and the current superintendent has not convened the CCSDO to consider any issue or recommendation.

Partially agree

It is true that I have not yet convened the county committee to consider any issue or recommendation. My philosophy is not "to call you if I need you" as stated in the grand jury report. Since the date of my appointment (August 15, 2007), no issue or concern has come to my attention that would require consideration of the county committee.

4. Local school identity is considered essential to any organization or administrative configuration of schools and school districts.

Agree

5. The administrative consolidation of the Ready Springs and Pleasant Valley school districts is an example of administrative savings while preserving local school identity. It is a model for examination and consideration by the CCSDO.

Agree

6. There are five small school districts in Nevada County, three with fewer than five hundred students.

Agree

7. No investigation of consolidation of the five small school districts has been initiated by the CCSDO, nor has the CCSDO been directed by the county superintendent of schools to commence any such consideration.

Agree

8. The Grand Jury is aware that the state's proposed budget cuts may result in the possible reduction of local teaching and program positions. The Nevada County Superintendent of Schools estimated the possibility of the elimination of up to 26 teaching positions that would be accomplished partially by layoffs and the balance by not filling positions opened by retirements, as well as other school cuts. There was no mention of any anticipated involvement of the CCSDO in these considerations.

Disagree

The county committee has no jurisdiction over layoffs, position management, personnel or budget decisions.

Recommendations

1. The CCSDO should be active and meet on a regular monthly or quarterly basis.

This recommendation will be partially implemented. It is agreed that it would be beneficial for the County Committee on School District

Organization to meet more frequently. It should be the decision of the committee how frequently to meet, however. I will recommend at least two times each year in the fall and in the spring, unless there are issues regarding school district organization that call for more regular meetings of the committee.

2. The CCSDO should take the initiative in its mandated role instead of passively waiting to participate in consideration of organizational issues and concerns involving potential administrative and fiscal efficiencies of county schools and school districts. Frequency of meetings should be determined by the urgency of the fiscal reductions facing the districts.

This recommendation will be implemented. At each of the two meetings described in number 1 above, the county committee will be provided with a summary of the current issues facing the school districts in Nevada County. These meetings will be utilized in order for the county committee to fulfill its obligation to study the school district organization of the county.

3. CCSDO inquiries should actively include the input of parents of students, teachers, administrators and administrative staff of all schools studied, as well as staff and administrators of the office of the county superintendent of schools.

This recommendation will be implemented. When and if the county committee is looking at the organization of one or more school districts, it will include the input of those identified above.

4. The CCSDO should issue a comprehensive and detailed report of its findings and recommendations on consolidations, reorganizations, and administrative mergers to the County Board of Education on or before December 31, 2008.

This recommendation requires further analysis in order to define timelines and parameters. I agree that at this time it is appropriate to pursue a study regarding the utilization of resources across school districts in Nevada County. The parameters of the study and the timeline for implementation have yet to be determined. As Nevada County Superintendent of Schools I am willing to pursue the completion of the study, and will meet with the county committee to get input and direction for the scope and focus of the study. The results of the study will be shared with the county committee in order for them to analyze the information and consider next steps.

The Nevada County Superintendent of Schools office, as well as each of the school districts in Nevada County is committed to providing the highest quality educational programs to all the students in the county. In order to continue to do this, it is important to periodically conduct studies relating to the effective utilization of resources in the

county and across the school districts. This is an appropriate time to conduct such a study, and carefully consider the results.

Sincerely,

A handwritten signature in black ink that reads "Holly Hermansen". The signature is written in a cursive, flowing style.

Holly Hermansen
Nevada County Superintendent of Schools

Cc: Mac Small, Foreman 2008 Grand Jury
Nevada County Committee on School District Organization
Nevada County Board of Education

SPECIAL DISTRICTS

Donner Summit Public Utility District

Donner Summit Public Utility District

Donner Summit Public Utility District

Reason for Investigation

The Eastern portion of Nevada County has seen significant growth in the last decade. Some public services are provided by special districts, the oversight of which is a responsibility of the Nevada County Grand Jury (Jury). Pursuant to the California Penal Code, Section 933.5, the Jury, noting the proposed development of the Royal Gorge Area, decided to examine the problems and challenges such development, and additional build-out already permitted, would have on the Donner Summit Public Utility District (DSPUD).

Background

In 1948, the State of California authorized the formation of the DSPUD to initially provide drinking water and wastewater treatment to its property owners. Twenty-six voters approved and three opposed the establishment of the district.

The DSPUD commenced fire protection for the area in 1973. The DSPUD ceased to provide fire protection services when its staff, equipment and other resources were transferred to the Truckee Fire Protection District (TFPD) in July, 2006. Administrative and treatment facilities are located on 5.75 acres of U.S. Forest Service (USFS) land under a 20 year special use permit which expired on 12/21/07. In April 2008, the District started discussions with the USFS for a renewal, which could be completed in the next few months.

The DSPUD covers approximately 13 square miles in Nevada and Placer Counties; provides drinking water to 279 customers, wastewater collection and treatment to 264 residential and commercial customers in the communities of Norden and Soda Springs; as well as Sugar Bowl, Boreal, Donner Ski Ranch, and Soda Springs Ski Areas. [Sewer connections are measured in Equivalent Dwelling Units (EDU's). DSPUD bills 540 commercial and 225 residential EDU's, for a total of 765 EDU's.]

An agreement with the DSPUD provides Sierra Lakes County Water District (SLCWD) 44% of the capacity of the wastewater treatment plant to serve the Serene Lakes Community in Placer County and 3000 acres in Placer County. SLCWD bills 805 customers for sewer service.

The District is negotiating an agreement with the Big Bend Mutual Water Company, which serves a Homeowners Association containing 32 cabins, to provide management and administration of Big Bend's water service.

The District is governed by a five member elected Board of Directors. The District has 83 voting constituents, 71 residing in Nevada County and 12 in Placer County. It holds regular

monthly dinner meetings. There is a paid staff of 6 full-time and 2 part-time people, comprised of the General Manager, two administrative staff, and five plant and field personnel. The 2007-8 budget estimates revenues of \$1,625,285 and expenses of \$1,592,936.

It is the Jury's understanding that some years ago DSPUD and SLCWD had discussions about merging the two districts. These discussions were terminated after several meetings of the parties.

A dispute arose between DSPUD and TFPD regarding which agency should receive funds for services provided to Nevada County Service Area 31 and other Nevada and Placer County areas outside the DSPUD during the fiscal years 2004-5 and 2005-6. The Board filed a breach of contract lawsuit in 2007 to require the disputed funds be returned to the DSPUD. This litigation has recently been settled.

Some wastewater discharge violations are inherent in wastewater treatment operations. However, during the period 2001-2006, DSPUD experienced 76 discharge violations, for which the California Regional Water Quality Control Board (RWCB) imposed fines totaling \$216,000. The RWCB later waived the fines in consideration of DSPUD applying an equal amount toward the recently completed upgrade of its wastewater treatment facilities.

The State of California has assigned "Beneficial Uses," to the South Yuba River, which includes municipal and domestic drinking water supply, agriculture uses, water recreation, and wildlife habitat. Disposal of wastewater in the South Yuba River by DSPUD is a use that is not prohibited; however, such use cannot be satisfied to the "detriment of beneficial uses."

In 2007, Royal Gorge LLC announced plans to redevelop approximately 400 of the 1300 acres of the Royal Gorge Cross Country Ski Area, situated in Placer County. The proposed development envisions 950 residences and other resort facilities. Royal Gorge LLC has held preliminary discussions with DSPUD regarding expansion of the wastewater treatment facility to service the proposed development.

Method of Investigation

The Jury conducted interviews with the President, and one other member of the Board of Directors of the DSPUD (Board), the District's General Manager, the District's Plant Operator, the President of the Board of Sierra Lakes County Water District and the General Manager of the Sugar Bowl Ski Resort, as well as reviewing DSPUD financial, and business records. Members of the Jury attended a Board meeting and reviewed Local Agency Formation Commission (LAFCO) records regarding DSPUD. The Jury reviewed financial and organizational records of other public agencies in the area that provide services comparable to the DSPUD including the Tahoe-Truckee Sanitary Agency (T-TSA), the Truckee Donner Public Utility District, the Tahoe City Public Utility District, and the Town of Truckee.

Findings

1. The President of the Board receives \$300, the Vice-President receives \$260 and the Directors receive \$225 per regular monthly meeting. In addition, each director receives \$100 for any other meetings. They are paid whether they attend or are excused. The monthly meetings include complimentary dinner for everyone present. The current budget includes direct Board expenses of \$16,820. By comparison, the Truckee-Tahoe Sanitary Agency, operating a larger wastewater treatment plant, and whose budget is 7.5 times that of DSPUD, includes \$12,000 in its current budget for Board of Directors' fees and expenses.
2. Other than the licensed operating personnel, there is no engineering expertise on site to evaluate the information received from retained outside consultants. The Board members, three of whom, are in their first term, and the General Manager rely on outside consultants for technical knowledge and expertise at an annual cost of \$247,000 (includes Chief Plant Operator for part of the year).
3. A comparison of salaries (Attachment A) shows that the salaries of the General Manager and the Chief Plant Operator are higher than comparable positions at T-TSA. The T-TSA has a '07-08 Operating Budget 7.5 times larger than DSPUD, and 61 staff positions compared with six full-time and two part-time employees at DSPUD.
4. The District is spending \$30,500 to insure property valued at \$11,867,000. By comparison, the T-TSA is spending \$30,000 to insure property valued at \$68,000,000.
5. The District does not have reserve funds.
6. Failure to have an operating website makes it difficult to provide stakeholders with relevant information.
7. The minutes of the Board meetings are inadequate to provide a clear understanding of Board activities.
8. The minutes of the Board meetings indicate that with the exception of invited guests - attorneys, engineers, potential new board members, etc - almost no stakeholders attend Board meetings.
9. The dispute with the TFPD was a result of DSPUD staff failure to execute the contracts with Nevada County for two years to provide fire services to County Service Area 31 and other Nevada and Placer County areas outside the DSPUD. It involved approximately \$63,000 claimed by DSPUD and the TFPD cross-complaint for \$164,462 in damages. The settlement provided that DSPUD receive \$25,000 to be spent to upgrade of the water distribution system and \$5000 to upgrade the fire station to meet code. TFPD will spend \$33,000 to upgrade the fire equipment serving the Donner Summit area.

10. Under the agreement between the DSPUD and SLCWD, DSPUD is entitled to 56% of the capacity of the wastewater treatment plant capacity and SLCWD is entitled to 44 %. DSPUD has 83 registered voters from which to draw Board members. SLCWD has no representation on the DSPUD Board.
11. For ten months of the year, DSPUD discharges wastewater to the South Yuba River in the amount of 0.52 million gallons per day with the capacity to be expanded to 0.80 million gallons per day by 2010. In dry or cold years, the stream is low, and high wastewater flows can be discharged into low stream flows.

Conclusions

1. While the T-TSA is much larger than the DSPUD, its operation of a wastewater treatment plant makes it the most logical agency in the area to compare with the DSPUD.
2. While it is necessary to attract citizens to participate in the governing process, the high fee schedule for DSPUD Directors, paying them even if they do not attend a meeting, and serving dinner at regular meetings, sends the constituents and the public the wrong message.
3. Salaries paid by DSPUD to senior level employees seem excessive when compared with T-TSA (see Attachment A).
4. The DSPUD property insurance cost is considerably higher than T-TSA given that the insured property value is one-sixth that of T-TSA
5. Communication with the stakeholders is not being given sufficient priority by the Board and staff.
6. The engineering, technology, capital investment, and personnel requirements of the DSPUD plant will require significant upgrade to ensure proper disposal of increased treated wastewater.
7. The Board appears to be relying largely on staff and counsel and demonstrates little oversight, questioning and judgment.
8. The failure of the General Manager to execute the contracts with the County for fire services and the delay in negotiating a special use permit with the USFS displayed inadequate oversight and direction on the part of the Board.
9. The practice of DSPUD of discharging large quantities of wastewater into the low flowing South Yuba River poses a threat to the beneficial uses of the river.

Recommendations

1. The District should embark on an extensive training program to equip the Board and Staff with the knowledge and skills to manage the District's future needs.
2. The District should give high priority to developing and executing a communications strategy that will open the window for all stakeholders and interested parties. They should complete the upgrade of the web site; expand the content, include on the web site the Board Meeting Minutes, and publish a regular newsletter.
3. The District should develop a policy for establishment of reserve funds and create such funds.
4. The District should investigate the extent of new technology that is or may become available to discharge wastewater - for example, year round subsurface disposal of wastewater.
5. The DSPUD and its related stakeholders should carefully and completely explore all potential impacts on current users of the system and others affected before entering into any agreements with Royal Gorge LLC or any other future development.
6. Nevada and Placer County LAFCOs, together with the DSPUD and SLCWD, should explore the feasibility of a merger of the two districts. Boards of both districts should seek alternate means to provide representation to the large number of users in the SLCWD who have virtually no voice in the affairs of the District.
7. The Board should exercise greater supervision over the General Manger. This supervision should include measurable performance indicators linked to his major duties and to the District's objectives.

Required Response

Donner Summit Public Utility District Board of Directors: October 6, 2008

Attachments

Attachment A DSPUD – Selected Comparisons, dated 11.13.07 revised 4/13/2008

Donner Summit PUD - Selected Comparisons

OPERATING BUDGET '07- 08

	<u>Expenses</u>	<u>Employees</u>
Donner Summit PUD	\$ 1,592,876	8
Tahoe-Truckee Sanitary Agency (T-TSA)	11,951,855	61 (6 open)
Tahoe Donner PUD	31,000,000	67

GENERAL MANAGER SALARIES '06- 07

Donner Summit PUD	\$153,142*
T-TSA	149,965
Truckee Donner PUD	147,430 -179,192
Tahoe City PUD	137,786
Truckee Town Mgr.	126,203

*Only benefit is Long Term Disability Insurance

SALARY COMPARISON '07- 08

	<u>Donner Summit PUD</u>	<u>T-TSA</u>
General Mgr.	\$158,133	\$ 149,965
Chief Plant Operator	105,000	88,608
Operations Supt.	-	98,352
Field Services Supvr.	63,139	98,352
Operator II	52,000	61,176
Operator I	41,899	54,300

BOARD MEMBER MEETING FEES

		<u>Regular Monthly</u>	<u>Other</u>
<u>Donner Summit PUD*</u>	President	\$ 300	\$100
	Vice Pres.	260	100
	Directors (3)	225	100

*Paid even if excused

<u>T-TSA</u>	\$100	\$100
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<u>Tahoe Donner PUD</u>	\$400 per month + Medical Plan
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BOARD EXPENSE

	<u>Donner Summit</u>	<u>T-TSA</u>
'05-06	\$10,100	NA
'06-07	12,740*	\$ 6,700
'07-08 (budget)	16,820	12,000

4/13/2008

RESPONSE

Donner Summit Public Utility District

P.O. Box 610 53823 Sherritt Lane – Soda Springs California –95728

Phone (530) 426-3456 – Fax (530) 426-3460

Internet: www.DSPUD.com

September 23, 2008

Honorable Robert L. Tamietti
Presiding Judge of the Superior Court
201 Church Street
Nevada City, Ca 95959

RE: Amended Response to the Grand Jury's Report dated June 10, 2008

To the Honorable Judge Tamietti:

The attached responses by the Board of Directors of the Donner Summit Public Utility District to the 2007-08 Nevada County Civil Grand Jury Report, dated June 10, 2008, entitled Donner Summit Public Utility District, are submitted as required by California Penal Code Section 933.05.

These responses to the Grand Jury's Findings and Recommendations were discussed at the June 17, July 15, August 12, and September 23, 2008 Board meetings. Approval of the attached responses occurred at the August 12, 2008 Regular meeting and the September 23, 2008 Special Meeting.

In closing, the Donner Summit Public Utility District would like to thank the Nevada County Grand Jury for its volunteer service to the community.

Respectfully,



Cathy A. Preis
President, Board of Directors

Cc: Larry Schwartz, Nevada County Grand Jury, Foreman
(with enclosures)

BOARD MEMBERS: ~ Cathy A. Preis, President ~ Rachel Tolmachoff, Vice President ~ Bob Sherwood, Secretary
~ Philip Gamick ~ Lori Van Meter

DISTRICT STAFF: Thomas G. Skjelstad, General Manager ~ Jim King, Chief Plant Operator ~
Julie Bartolini, Office Manager

**DONNER SUMMIT PUBLIC UTILITY DISTRICT RESPONSE TO
2007-2008 CIVIL GRAND JURY REPORT
DATED JUNE 10, 2008**

A. Responses to Findings

1. The President of the Board receives \$300, the Vice-President receives \$260 and the Directors receive \$225 per regular monthly meeting. In addition, each director receives \$100 for any other meetings. They are paid whether they attend or are excused. The monthly meetings include complimentary dinner for everyone present. The current budget includes direct Board expenses of \$16,820. By comparison, the Truckee-Tahoe Sanitary Agency, operating a larger wastewater treatment plant, and whose budget is 7.5 times that of DSPUD, includes \$12,000 in its current budget for Board of Directors' fees and expenses.

Partially agree.

TTS-A in fiscal year 2006/07 expended \$44,619.32 for meetings, trainings, and fringe benefits on its Board members. (See Exhibit A, attached). This information had been provided to the Grand Jury, specifically Juror Paul Leyton, prior to its issuance of the final report but was not utilized by the Grand Jury in its findings.

2. Other than the licensed operating personnel, there is no engineering expertise on site to evaluate the information received from retained outside consultants. The Board members, three of whom, are in their first term, and the General Manager rely on these consultants for technical knowledge and expertise at an annual cost of \$247,000 (Includes Chief Plant Operator for part of the year).

Partially agree.

The cost for outside consulting engineering is project driven and thus varies from year to year. So there is no set annual cost. The \$247,000 as referenced by the jury was for costs associated with a contract Chief Plant Operator position. Subsequently the contract employee was hired by the District with total salary and benefit cost of approximately \$150,000, for a savings of \$97,000. Juror Paul Leyton was made aware of this but the Grand Jury chose not to revise its findings accordingly.

3. A comparison of salaries (Attachment A) shows that the salaries of the General Manager and the Chief Plant Operator are higher than comparable positions at T-TSA. The T-TSA has a '07-08 Operating Budget 7.5 times larger than DSPUD, and 61 staff positions compared with six full-time and two part-time employees at DSPUD.

Partially Agree.

The Jury's Attachment A contains numerous errors. With the exception of DSPUD's general manager, all other general manager salaries are incorrect. See Exhibit B, attached. At the request of Juror Paul Leyton, DSPUD's Board President provided this information (See Exhibit B, attached) to the Jury in December of 2007. The Grand Jury, however, chose to disregard the accurate salaries and benefit packages and published these errors in its final report.

4. The District is spending \$30,500 to insure property valued at \$11,867,000. By comparison, the T-TSA is spending \$30,000 to insure property valued at \$68,000,000.

Partially agree.

Insurance premiums are not based solely upon property valuations. Generally, premiums are based on per occurrence dollar amount limits, deductibles, and nature of property covered. To compare DSPUD's premium to property value with T-TSA's premium to property value is meaningless. For instance, DSPUD insures a dam. We are unaware that T-TSA owns/operates/insures a dam.

5. The District does not have reserve funds.

Disagree.

The District during the period of the Grand Jury's investigation thru August 31, 2008 had a minimum of \$2,413.00 and a maximum of \$2,997.51 designated as investments.

6. Failure to have an operating website makes it difficult to provide stakeholders with relevant information.

Partially agree.

The District uses the USPS to mail to every rate payer notices of important issues.

7. The minutes of the Board meetings are inadequate to provide a clear understanding of Board activities.

Disagree.

After reviewing the minutes of the District Board meetings, the Directors of the District believe that the minutes adequately reflect the activities and decisions of the Board.

8. The minutes of the Board meetings indicate that with the exception of invited guests - attorneys, engineers, potential new board members, etc - almost no stakeholders attend Board meetings.

Agree.

9. The dispute with the TFPD was a result of DSPUD staff failure to execute the contracts with Nevada County for two years to provide fire services to County Service Area 31 and other Nevada and Placer County areas outside the DSPUD. It involved approximately \$63,000 claimed by DSPUD and the TFPD cross-complaint for \$164,462 in damages. The settlement provided that DSPUD receive \$25,000 to be spent to upgrade of the water distribution system and \$5000 to upgrade the fire station to meet code. TFPD will spend \$33,000 to upgrade the fire equipment serving the Donner Summit area.

Partially agree.

The dispute between DSPUD and TFPD was the result of TFPD's breaching the contract between the two districts found in the Nevada County LAFCo annexation documents.

Additionally, the contracts referred to in the Grand Jury report were not forwarded to Donner Summit Public Utility District as Nevada County asserted that the insurance certificates which were required by contract had not been provided to Nevada County. However, the insurance certificates

were in fact delivered by the Special District Risk Management Association for the years 2003/04, 2004/05, as well as 2005/06 (See Exhibit C attached, copies of which were provided to the Grand Jury) but had been set aside by Nevada County staff and thus failed to issue the final contracts for signature.

Truckee Fire Protection District then in violation of the Annexation Agreement and Plan for Services demanded that payment be forwarded to them by Nevada County and, as set forth above, eventually paid those monies back to Donner Summit Public Utility District for use and benefit of the rate payers of the Donner Summit Public Utility District.

10. Under the agreement between the DSPUD and SLCWD, DSPUD is entitled to 56% of the capacity of the wastewater treatment plant capacity and SLCWD is entitled to 44 %. DSPUD has 83 registered voters from which to draw Board members. SLCWD has no representation on the DSPUD Board.

Agree.

11. For ten months of the year, DSPUD discharges wastewater to the South Yuba River in the amount of 0.52 million gallons per day with the capacity to be expanded to 0.80 million gallons per day by 2010. In dry or cold years, the stream is low, and high wastewater flows can be discharged into low stream flows.

Disagree.

The DSPUD discharges into the South Yuba River between 9 or 10 months of the year depending on river flow. The DSPUD discharges an average of 0.25 million gallons per day into the South Yuba not 0.52 as represented by the jury. The District may seek to have the capacity of the wastewater treatment plant upgraded from 0.52MGD to 0.80 MGD. Grand Juror Paul Leyton was made aware of these facts but the Grand Jury chose not to revise its findings accordingly.

B. Responses to Recommendations

1. The District should embark on an extensive training program to equip the Board and Staff with the knowledge and skills to manage the District's future needs.

The recommendation will not be implemented at this time. DSPUD believes the current training policy for Board and staff is sufficient.

2. The District should give high priority to developing and executing a communications strategy that will open the window for all stakeholders and interested parties. They should complete the upgrade of the web site; expand the content, include on the web site the Board Meeting Minutes, and publish a regular newsletter.

The recommendation has been implemented. The upgraded website is complete and notice of such was included in the July 2008 customer billings.

3. The District should develop a policy for establishment of reserve funds and create such funds.

The recommendation has not yet been implemented, but will be implemented in the future. Estimated implementation date 1/2009.

4. The District should investigate the extent of new technology that is or may become available to discharge wastewater - for example, year round subsurface disposal of wastewater.

The recommendation will not be implemented. The District believes that the current contract with its consulting engineers entitled, Wastewater Facilities Planning and Design, (a copy of which was provided to the jury), is more than sufficient to meet the Jury's recommendation. Year round subsurface disposal while not new technology may be impractical given the geological aspects typically found on Donner Summit.

5. The DSPUD and its related stakeholders should carefully and completely explore all potential impacts on current users of the system and others affected before entering into any agreements with Royal Gorge LLC or any other future development.

The recommendation will not be implemented. Special districts such as DSPUD have no land use authority. When and if Royal Gorge formally submits its development plans to Placer County, the District will respond through the CEQA process.

6. Nevada and Placer County LAFCOs, together with the DSPUD and SLCWD, should explore the feasibility of a merger of the two districts. Boards of both districts should seek alternate means to provide representation to the large number of users in the SLCWD who have virtually no voice in the affairs of the District.

The recommendation will not be implemented. The District believes that Nevada and Placer LAFCOs have the authority thru the Cortese-Knox-Hertzberg Act to explore the feasibility of a merger. The District, if requested by Placer LAFCo, would be open to discuss such a feasibility study.

7. The Board should exercise greater supervision over the General Manger. This supervision should include measurable performance indicators linked to his major duties and to the District's objectives.

The recommendation will not be implemented. The Board believes that the current annual performance evaluation form provides the necessary factors to determine whether the general manager is achieving the desired results.

Donner Summit PUD - Selected Comparisons

OPERATING BUDGET '07-08

	<u>Expenses</u>	<u>Employees</u>
Donner Summit PUD	\$ 1,592,876	8
Tahoe-Truckee Sanitary Agency (T-TSA)	11,951,855	61 (6 open)
Tahoe Donner PUD	31,000,000	67

GENERAL MANAGER SALARIES '06-07

Donner Summit PUD	\$153,142*
T-TSA	149,965
Truckee Donner PUD	147,430 -179,192
Tahoe City PUD	137,786
Truckee Town Mgr.	126,203

*Only benefit is Long Term Disability Insurance

SALARY COMPARISON '07-08

	<u>Donner Summit PUD</u>	<u>T-TSA</u>
General Mgr.	\$158,133	\$ 149,965
Chief Plant Operator	105,000	88,608
Operations Supt.	-	98,352
Field Services Supvr.	63,139	98,352
Operator II	52,000	61,176
Operator I	41,899	54,300

BOARD MEMBER MEETING FEES

<u>Donner Summit PUD*</u>		<u>Regular Monthly</u>	<u>Other</u>
President		\$ 300	\$100
Vice Pres.		260	100
Directors (3)		225	100

*Paid even if excused

<u>T-TSA</u>	\$100	\$100
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<u>Tahoe Donner PUD</u>	\$400 per month + Medical Plan
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BOARD EXPENSE

	<u>Donner Summit</u>	<u>T-TSA</u>
'05-06	\$10,100	NA
'06-07	12,740*	\$ 6,700
'07-08 (budget)	16,820	12,000

4/13/2008

Attachment A

Exhibit "A"



TAHOE-TRUCKEE SANITATION AGENCY

A Public Agency
13720 Joerger Drive
TRUCKEE, CALIFORNIA 96161
(530) 587-2525 • FAX (530) 587-5840

Directors
O.R. Butterfield
Dale Cox
Erik Henrikson
S. Lane Lewis
Jon Northrop
General Manager
Marcia A. Beals

25 June 2008

Ms. Rachel Tolmachoff, Vice-President
Board of Directors
Donner Summit PUD
P. O. Box 610
Soda Springs, CA 95728

Re: Request for Information

This letter is in response to your request for information about the compensation for Tahoe-Truckee Sanitation Agency (T-TSA) Board members, including the value of any and all fringe benefits provided.

Pursuant to West's Annotated Water Code Appendix Section 114-99 and Health and Safety Code Section 6489 (a), members of the T-TSA Board of Directors receive compensation in the amount of \$100 per meeting, not to exceed a total of 6 meetings per month. The T-TSA Board generally meets once per month, and infrequently calls special Board meetings.

The total amount expended for Board members' attendance at meetings during FY 2006-07 was \$5,000.

T-TSA also makes available health benefits to the members of its Board of Directors pursuant to Government Code Sections 53200, et seq., and reimburses members for their actual and necessary out of pocket expenses for conferences, seminars, and other events held within the State of California that are for the purpose of discussing relevant wastewater issues, and for educational training, seminars and courses designed to improve Directors' understanding of T-TSA business and their obligations as public officials.

The total amount expended in FY 2006-07 for the aforementioned Directors' benefits, excluding the compensation for attendance at meetings, was \$39,619.32.

If you need any additional information, please do not hesitate to contact me.

Sincerely,

Marcia A. Beals
General Manager

mbst

✓ Tom

Exhibit

TTSA and Tahoe City PUD Selected Position Salaries and Other Agency Salaries

Position	Monthly Salary	Annual Salary	Benefit Cost	Salary and Benefit
TTSA General Manager	\$12,850	\$154,200	\$83,268	\$237,468
Tahoe City PUD Gen. Mgr.	12,000	144,000	77,750	221,750
Town of Truckee Mgr.	13,021	156,252	95,689	251,941
Truckee Donner PUD Gen. Mgr.	14,128	169,536	77,987	247,523
DSPUD General Manager	13,177	158,124	13,238	171,362
<small>Actual benefit costs determined for PUD based on the existing Nevada Public Employees' Retirement System (NPRS) and Truckee Donner PUD (45%) was used to estimate benefit costs.</small>				
<small>TTSA Only</small>				
Asst. GM/Chief Engineer	Monthly Salary Range \$10,192 to \$11,823	Annual Salary Range \$122,304 to \$141,876		
Plant Superintendent (Grade 5)	Monthly Salary Range \$6,362 to \$7,394	Annual Salary Range \$76,344 to \$88,608		

Source: TTSA, Tahoe City PUD Staff, and websites for Town of Truckee and Truckee Donner PUD

11/29/2007

2007/08 EXPENDITURES BUDGET

TOWN OF TRUCKEE
TOWN MANAGER

Fund 01 General
01 Department:
GENERAL GOVERNMENT
02 Division:
TOWN MANAGER

OBJECT CODE	05/06 ACTUAL	06/07 ORIGINAL BUDGET	06/07 ESTIMATED ACTUAL	07/08 PROPOSED BUDGET	% CHG BUD TO EA	% CHG BUD TO BUD
PERSONNEL						
5011 Wages - Regular Full-time	120,203	142,520	142,520	156,258	9.64%	9.64%
5026 Employee Incentive Program	1,744	5,000	5,000	5,000	0.00%	0.00%
5400 Benefits	56,932	64,148	70,000	70,011	0.02%	9.14%
5460 Deferred Comp	12,807	12,750	12,750	13,537	6.18%	6.18%
5570 Car Allowance	7,130	8,281	7,000	7,135	1.93%	-13.64%
Total Personnel	198,616	232,699	237,270	251,941	6.18%	8.27%
SUPPLIES & SERVICES						
6115 Education & Training	5,726	6,500	5,500	6,500	18.18%	0.00%
6120 Employee Relations Activities	8,508	9,300	10,500	11,500	9.52%	23.66%
6305 Advertising	1	200	100	200	100.00%	0.00%
6325 Membership & Dues	1,474	2,400	2,000	2,500	25.00%	4.17%
6335 General Supplies	920	2,000	1,200	1,700	41.67%	-15.00%
6345 Photocopying	1,074	1,900	1,540	1,800	16.88%	-5.26%
6350 Postage, Freight & Delivery	332	500	250	500	100.00%	0.00%
6355 Printing	48	200	50	200	300.00%	0.00%
6360 Professional Services	3,241	11,000	8,000	11,000	37.50%	0.00%
6365 Publications	0	200	200	200	0.00%	0.00%
6370 Telephone	1,648	3,500	1,615	2,000	23.84%	-42.86%
6620 Repairs & Maint-Office Equip	146	100	100	100	0.00%	0.00%
6970 Vehicles - Repair & Maintenance	7	0	0	0		
7070 Rent/Lease Equipment	154	500	125	250	100.00%	-50.00%
Total Supplies & Services	23,279	38,300	31,180	38,450	23.32%	0.39%
CAPITAL OUTLAY						
8020 Computer Equipment	3,599	0	0	0		
Total Capital Outlay	3,599	0	0	0		
TOTAL	225,494	270,999	268,450	290,391	8.17%	7.16%



ANNUAL BUDGET

TRUCKEE DONNER PUBLIC UTILITY DISTRICT

2008

(Draft Version as of 11/07/07)

APPROVED BY THE BOARD OF DIRECTORS _____



PART V

THE 2008

APPENDICES

DRAFT

51

**APPENDIX II
BUDGETED POSITIONS BY DEPARTMENT**

<u>ADMINISTRATION</u>	
General Manager	\$169,541
Interim General Manager	19,562
Executive Secretary	69,888
<u>ADMINISTRATIVE SERVICES</u>	
Admin Services Manager	134,992
Human Resources Administrator	82,888
Finance/Accounting Manager	119,517
Senior Accounting/Accounting Analyst	87,027
Accounting/Computer Operations Supervisor	66,518
Customer Serv/Collectors Supervisor	60,299
Customer Services Manager	71,594
Customer Billing Supervisor	57,470
Work Order Accounting Supervisor	66,518
Senior Clerk (3)	159,016
General Clerk (3)	149,282
Meter Reader Coordinator	58,864
Meter Reader	56,077
Overtime	11,880
<u>CONSERVATION</u>	
General Services Manager (47%)	53,488
Conservation Administrator	88,400
Technical Project Manager (76%)	69,245
<u>GENERAL SERVICES</u>	
General Services Manager (53%)	60,038
Technical Project Manager (24%)	21,568
Warehouse/Relief Utility Worker	56,077
Facilities Maintenance/Relief Utility Worker	56,077
Mechanic	73,341
Assistant Mechanic	57,429
Buyer/Clerk	64,896

**APPENDIX III
LABOR OVERHEAD**

VALUE OF BENEFITS

Medical /Dental insurance	\$1,273,862
Vision insurance	25,000
Long term disability	44,687
Life insurance	59,853
Longevity	17,144
FICA	351,084
Fed Med	87,234
Worker's compensation insurance	297,638
Pension	1,161,582
GASB 45 OPEB cost	198,800
Value of non-productive labor (vacation, sick leave, holiday)	829,094
	<hr/>
	\$4,345,978

TOTAL VALUE OF BENEFITS

PRODUCTIVE LABOR

Recommended labor (Appendix II)	\$6,024,487
Less value of non-productive labor	<u>(829,094)</u>

TOTAL PRODUCTIVE LABOR

83.65%

PAYROLL OVERHEAD

(Value of benefits/productive labor)

46%

BENEFITS AS A PERCENT OF TOTAL LABOR AND BENEFITS

Exhibit "C"



SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

1112 I Street, Suite 300, Sacramento, California 95814-2865

Monday, January 29, 2007

Insured/Participant
SDRMA/Donner Summit PUD
Post Office Box 610
Soda Springs, CA 95728-0610

Certificate of Coverages

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies listed below.

Certificate Holder
County of Nevada **ATTN: Tom Martin**

950 Maidu
Nevada City, CA 95959

Coverage Period

7/1/2003

to 6/30/2004

This is to certify that the coverages listed below have been issued to the participant named above for the period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The coverage afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

Policy Dates: 7/1/2003 to 6/30/2004 **LIMITS**

Personal Injury and Property Damage Liability Coverage - General

Company: Special District Risk Management Authority, Cov. \$2,500,000 per occurrence/aggregate where applicable
No. CVA0304V05E02-GL

Personal Injury and Property Damage Liability Coverage - Auto

Company: Special District Risk Management Authority, Cov. \$2,500,000 per accident
No. CVA0304V05E02-AL

Description:

The Certificate Holder, its officers, agents and employees are named as Additional Insured, BY ENDORSEMENT, with respect to the contract fire protection emergency rescue and ambulance services provided to Nevada County Service Area No. 31. See attached endorsement.

Cancellation

Should any of the above described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the certificate holder. But failure to mail such notice shall impose no obligation or liability of any kind upon the company its agents or representatives.

Special District Risk
Management Authority

Maximizing Protection.
Minimizing Risk.

1112 I Street, Suite 300
Sacramento, California 95814-2865
T 916.231.4141
F 916.231.4111
Toll-free 800.537.7790
www.sdrma.org



This endorsement changes the memorandum of coverage. Please read it carefully.

COVERAGE PERIOD: 7/1/2004 through 6/30/2005

MEMBER AGENCY
Donner Summit Public Utility District
Post Office Box 610
Soda Springs, California 95728-0610

ADDITIONAL NAMED AGENCY
County of Nevada
Attn: Tom Martin
950 Maldu
Nevada City, California 95959

This endorsement modifies the Memorandum of Coverage provided under the following:

Personal Injury and Property Damage Liability Coverage – General Liability
General Issuer: Special District Risk Management Authority - Coverage LCA-SDRMA-200405
Coverage Limits: \$2,500,000 Per Occurrence

It is hereby agreed that this endorsement is added to the Memorandum of Coverage issued to Donner Summit Public Utility District by Special District Risk Management Authority the following entity is named as an Additional Covered Member.

County of Nevada, its officers, agents and employees are named as additionally covered members with respect to the contract fire protection emergency rescue and ambulance services provided to Nevada County Service Area No. 31.

The coverage afforded by this ENDORSEMENT shall be primary with respect to any other valid and collectible insurance County of Nevada may possess, including any self insured retention County of Nevada may have, and any other insurance the does possess shall be considered excess insurance only and shall not be called upon to contribute with this insurance, except for the sole negligence of County of Nevada. Coverage shall not be extended to any indemnity coverage for the active negligence of the additional named member in any case where an agreement to indemnify the additional named member would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

All other terms and conditions remained unchanged.

Coverage provided by this endorsement, under the terms, conditions and exclusions contained in the Memorandum of Coverage issued by SDRMA to Donner Summit Public Utility District shall not be reduced or canceled without thirty (30) days written notice given to the County of Nevada certified mail.

THIS ENDORSEMENT CHANGES THE MEMORANDUM OF COVERAGE. PLEASE READ IT CAREFULLY.

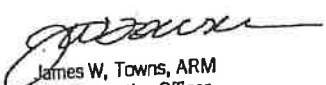
ADDITIONAL NAMED AGENCY

The inclusion of more than one Covered Member shall not operate to impair the rights of one Covered Member against another Covered Member and the coverages afforded shall apply as though separate policies have been issued to each Covered Member.

Effective date of this endorsement is: July 2, 2004

SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

Signed by:


James W. Towns, ARM
Chief Executive Officer

An alliance committed to serving
California's independent special districts
www.sdtainsurance.com

California Special Districts Association
1112 I Street, Suite 200
Sacramento, California 95814-2865
Toll-free 877.924.CSDA (2732)
Fax 916.442.7889

CSDA Finance Corporation
1112 I Street, Suite 200
Sacramento, California 95814-2865
Toll-free 877.924.CSDA (2732)
Fax 916.442.7889

Issue Date (MM/DD/YYYY)
07/02/2004

CERTIFICATE OF COVERAGE



This is to certify that coverages listed below have been issued to the member named below for the period indicated notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain; the coverage described herein is subject to all the terms, exclusions, and conditions of the specific coverage document; limits shown may have been reduced by paid claims.

This certificate of insurance or binder evidences the limits of liability in effect at the inception of the policies shown. This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies listed below.

Participating Member:
Donner Summit Public Utilities District
Post Office Box 610
Soda Springs, CA 95728-0610

Member Number:
BOP-6826

Company Affording Coverage:
Special District Risk Management Authority
1112 I Street, Suite 300
Sacramento, California 95814
Toll-Free 800.537.7790 www.sdrma.org

Type of Coverage	Policy Number	Effective Date	Expiration Date	Limits	
General Liability	LCA-SDRMA-200405	07/01/2004	06/30/2005	Per Accident	\$2,500,000
Personal Injury Liability - Auto				Per Occurrence	\$2,500,000
Personal Injury Liability - General					

Description: All listed coverage is in effect only for the time period specified.

The Certificate Holder, its officers, agents and employees are named as Additional Insured, BY ENDORSEMENT, with respect to the contract fire protection emergency rescue and ambulance services provided to Nevada County Service Area No. 31. See attached endorsement.

Cancellation: Should any of the above-described policies be cancelled before the expiration dates thereof, the issuing company will endeavor to mail 0 days written notice to the above-named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.

Certificate Dates:	Effective Date 07/01/2004	Expiration Date 06/30/2005	Certificate Type:	<input checked="" type="checkbox"/> Additional Insured Evidence of Coverage	<input type="checkbox"/> Loss Payee
--------------------	------------------------------	-------------------------------	-------------------	--	-------------------------------------

CERTIFICATE HOLDER

County of Nevada ATTN: Tom Martin
850 Maldu
Nevada City, CA 95959

Authorized Signature



Special District Risk
Management Authority

Maximizing Protection.
Minimizing Risk.

1112 I Street, Suite 300
Sacramento, California 95814-2865
T 916.231.4141
F 916.231.4111
Toll-free 800.537.7790
www.sdrma.org

This endorsement changes the memorandum of coverage. Please read it carefully.

COVERAGE PERIOD: 7/1/2005 through 6/30/2006

MEMBER AGENCY
Donner Summit Public Utility District
Post Office Box 610
Soda Springs, California 95728-0610

ADDITIONAL NAMED AGENCY
County of Nevada
Attn: Tom Martin
950 Maldu
Nevada City, California 95959

This endorsement modifies the Memorandum of Coverage provided under the following:

Personal Injury and Property Damage Liability Coverage - General Liability
General Issuer: Special District Risk Management Authority - Coverage LCA-SDRMA-200506
Coverage Limits: \$2,500,000 Per Occurrence

It is hereby agreed that this endorsement is added to the Memorandum of Coverage issued to Donner Summit Public Utility District by Special District Risk Management Authority the following entity is named as an Additional Covered Member.

County of Nevada, its officers, agents and employees are named as additionally covered members with respect to the contract fire protection emergency rescue and ambulance services provided to Nevada County Service Area No. 31.

The coverage afforded by this ENDORSEMENT shall be primary with respect to any other valid and collectible insurance County of Nevada may possess, including any self insured retention County of Nevada may have, and any other insurance the does possess shall be considered excess insurance only and shall not be called upon to contribute with this insurance, except for the sole negligence of County of Nevada. Coverage shall not be extended to any indemnity coverage for the active negligence of the additional named member in any case where an agreement to indemnify the additional named member would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

All other terms and conditions remained unchanged.

Coverage provided by this endorsement, under the terms, conditions and exclusions contained in the Memorandum of Coverage issued by SDRMA to Donner Summit Public Utility District shall not be reduced or canceled without thirty (30) days written notice given to the County of Nevada certified mail.

THIS ENDORSEMENT CHANGES THE MEMORANDUM OF COVERAGE. PLEASE READ IT CAREFULLY.

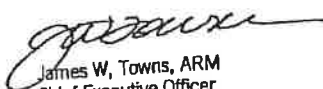
ADDITIONAL NAMED AGENCY

The inclusion of more than one Covered Member shall not operate to impair the rights of one Covered Member against another Covered Member and the coverages afforded shall apply as though separate policies have been issued to each Covered Member.

Effective date of this endorsement is: June 24, 2005

SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

Signed by:


James W. Towns, ARM
Chief Executive Officer

An alliance committed to serving
California's independent special districts
www.sdrma.org

California Special Districts Association
1112 I Street, Suite 200
Sacramento, California 95814-2865
Toll-free 877.924.CSDA (2732)
Fax 916.442.7889

CSDA Finance Corporation
1112 I Street, Suite 200
Sacramento, California 95814-2865
Toll-free 877.924.CSDA (2732)
Fax 916.442.7889

Issue Date (MM/DD/YYYY)
06/24/2005

CERTIFICATE OF COVERAGE



This is to certify that coverages listed below have been issued to the member named below for the period indicated notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain; the coverage described herein is subject to all the terms, exclusions, and conditions of the specific coverage document; limits shown may have been reduced by paid claims.

This certificate of insurance or binder evidences the limits of liability in effect at the inception of the policies shown. This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies listed below.

Participating Member:
Donner Summit Public Utilities District
Post Office Box 610
Soda Springs, CA 95728-0610

Member Number:
BOP-6826

Company Affording Coverage:
Special District Risk Management Authority
1112 I Street, Suite 300
Sacramento, California 95814
Toll-Free 800.537.7790 www.sdrma.org

Type of Coverage	Policy Number	Effective Date	Expiration Date	Limits	
General Liability	LCA-SDRMA-200506	07/01/2005	06/30/2006	Per Accident	\$2,500,000
Personal Injury Liability - Auto				Per Occurrence	\$2,500,000
Personal Injury Liability - General					

Description: All listed coverage is in effect only for the time period specified.
The Certificate Holder, its officers, agents and employees are named as Additional Insured, BY ENDORSEMENT, with respect to the contract fire protection emergency rescue and ambulance services provided to Nevada County Service Area No. 31. See attached endorsement.

Cancellation: Should any of the above-described policies be cancelled before the expiration dates thereof, the issuing company will endeavor to mail 0 days written notice to the above-named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.

Certificate Dates:	Effective Date 07/01/2005	Expiration Date 06/30/2006	Certificate Type:	<input checked="" type="checkbox"/> Additional Insured Evidence of Coverage	<input type="checkbox"/> Loss Payee
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CERTIFICATE HOLDER
County of Nevada ATTN: Tom Marlin
850 Maldu
Nevada City, CA 95959

Authorized Signature

SPECIAL DISTRICTS



Truckee Donner Public Utility District

Truckee Donner Public Utility District



Truckee Donner Public Utility District

Reason for Investigation

The Nevada County Grand Jury (Jury) has the power to investigate special purpose assessment or taxing districts. On February 25, 2008, the Jury received a complaint concerning the Truckee Donner Public Utility District (District).

Background

The District, organized under California law in May 1927, serves most of the Town of Truckee and some adjacent areas. The District provides electric and water services. A five member Board of Directors (Board), each member serving a four-year term, governs it. Two members are in their first term, one in a third, one in a fifth and one in a seventh. A General Manager leads the District. The current General Manager started in January 2008. He oversees four divisions and is accountable to the Board.

The issues in the complaint involved the Board and staff's handling, in 2007, of the installation of service and reconciliation of costs for a multi-phase commercial development.

The following is a summary of the routine process currently in place for development projects requiring service from the District:

The developer files an application, including development plans, with the District. For water service, the developer is responsible for fully developing the plans and building the project. For electric service, the District develops the detail plans and is responsible for installation of the infrastructure including transformer(s). The District computes an estimate of costs it will experience in connection with these activities and requires a deposit sufficient to cover this estimate in full. Both parties following review, approval, and receipt of the deposit by the District enter into a development agreement.

For water service, the District provides conditional acceptance prior to construction because the construction process requires water and the Town of Truckee requires water to be available prior to issuing a building permit. After the construction is completed, the developer files "as-built" drawings and the District reconciles its actual costs against the estimate and deposit. The District then refunds the excess, if any, or invoices the Developer for the shortfall, if any.

Method of Investigation

The Jury interviewed the complaining developer (Developer), the District's current General Manager and Assistant General Manager who also serves as the Electric Division Manager, and the District's President. There were telephone conversations with Developer's legal counsel. Additionally, the Jury reviewed the District's Code, the terms of development agreements and extensive exchanges of correspondence and e-mails between the Developer and the District and between their legal counsel, as well as invoices and time cards.

Summary of Complaint Events

On June 21, 2002, the Developer entered into an electric development agreement with the District and paid the required construction deposit of \$176,351. Construction under this Agreement (Agreement) commenced on July 10, 2002, and was completed August 8, 2003. Separate development agreements were entered into for the water and electricity for additional buildings on November 11, 2006 and June 22, 2007 respectively. The money deposited on the latter agreements totaled more than \$125,000.

Upon completion of construction under the June 21, 2002 Agreement, as-built drawings were to be provided to the District by the Developer. These were not submitted until October 1, 2007, due to delays by the Developer and his agents.

On December 27, 2006, three years and four months after construction was completed under the June 21, 2002 Agreement, and before receipt of the as-built drawings, the District sent the Developer a invoice in the amount of \$33,268, for costs exceeding the deposits under the Agreement, along with an apology for the delay. In March 2007, the Developer questioned the costs and requested supporting materials.

On April 30, 2007, some supporting documents were supplied. The Developer requested additional information. The dispute over the invoice, marked by acrimony on both sides, went on for months.

In an e-mail to the Developer's staff on September 21, 2007, and despite having deposits for the District's work under the 2006 and 2007 agreements, the District refused to allow the Town of Truckee to issue a building permit for construction of a garage under the 2006 and 2007 agreements because of the outstanding bill on the 2002 Agreement. District staff stated that they had "been instructed to not participate with any of [the Developer's] projects," pending resolution of the dispute.

The District alleged that it reminded the Developer five times from June 2005 to August 2007 that the as-built drawings, under the 2002 Agreement, had not been filed per the requirements. The as-built drawings were delivered to District on October 7, 2007.

On October 9, 2007, in response to the second request from the Developer, the District delivered its time cards to the Developer. These time cards had been redacted to the point

that analysis was very difficult. The District acknowledged errors discovered by the Developer's accountant and reduced the invoice by \$1,122 to \$32,146.

On October 10, 2007, the District, after asserting that the Developer was a credit risk, ceased water service and construction of electric infrastructure for buildings under the 2006 and 2007 agreements.

On October 15, 2007, the Developer's attorney sent a letter to the Board complaining about the termination of service to Developer's projects and requesting discussion of the dispute between the Developer and the District at the October 17, 2007 Board meeting. As the matter was not added to the meeting's agenda, the Developer's attorney appeared in the public input portion of the meeting and was allowed to speak for three minutes. There were no comments or response from the Board, or direction to staff.

On October 23, 2007, the Board with knowledge of the termination of service to Developer's projects, met in closed session with staff and outside counsel in anticipation of litigation with Developer. Following that closed session, the termination of service continued.

On October 24, 2007, outside counsel, retained by the District, gave Developer's attorney a copy of a twelve year-old article referencing the Developer's past, citing it to support the view that the Developer was a credit risk despite having deposits on hand sufficient to cover the 2006 and 2007 agreements.

On November 13, 2007, a settlement between the Developer and the District was reached and work began on water and electric connections under the 2006 and 2007 agreements. The District made this settlement contingent on the Developer entering into a release of the District from all liability for its conduct in this matter, in addition to Developer's payment of \$32,146.

Findings

1. The District enjoys a virtual monopoly since, with a limited exception, there are no other entities that provide its services within its service territory.
2. There were egregious delays of more than three years in reconciling the deposit and costs and in billing the Developer under the 2002 Agreement.
3. This dispute, which took ten months to resolve, was marked by acrimony on both sides.
4. Developer was delinquent in promptly submitting as-built drawings under the 2002 Agreement.
5. The District treated the Developer as a credit risk in spite of having his significant deposits on hand.

6. The Board was aware of the decision to withhold services under the 2006 and 2007 agreements as a way of forcing payment under the 2002 Agreement.
7. The District currently has no published process for resolving disputes between the District and developers, although it does have such a process for resolving disputes between the District and customers.
8. The new General Manager has begun a thorough and complete review of the District Code. To date, only review of Title 1, General Provisions, has been completed.

Conclusions

1. This dispute, marked by acrimony and disrespect on both sides, took much too long to resolve.
2. The absence of an established process for resolving disputes between the District and developers contributed to this matter getting out of hand.
3. The Developer did not submit as-built drawings promptly upon completion of construction. Had the Developer done so and the District monitored the Developer's account, completing the reconciliation of costs on time, this dispute might have been avoided or minimized.
4. The District, a public utility special district, that makes its own rules and regulations, needs greater public oversight to assure that its customers and stakeholders are treated fairly and respectfully.
5. The three-year gap in reconciling costs with deposits and the five month delay in providing supporting materials which had been redacted to a point where they were difficult to analyze, represented egregious performances by the District staff.
6. The suggestion that Developer was a credit risk was fallacious considering the amount of deposits on hand and the Developer's previous credit history with the District.
7. Delivering the magazine article about the Developer's past to his attorney to support the suggestion of a credit risk was improper, as well as irrelevant.
8. It was immoral to hold the Developer hostage by denying services on a later project.
9. It was inappropriate to require the Developer to release the District from liability for its conduct as a condition for receiving service.
10. The Board's disengagement in this matter contributed to escalation of the dispute. The matter should have been put on the first available Board meeting agenda. A hearing

11. The Board of Directors' focus on the collection of the bill rather than the relationship between the District and a Developer who provides capital improvements for the District was shortsighted.

Recommendations

1. The Board should set up a clear dispute resolution process for development issues, culminating in access to the Board.
2. The Board should ensure that staff promptly completes its reconciliation of costs and deposits and promptly bills or refunds the balance to developers.
3. The Board should ensure that the practice of holding a developer hostage, by not serving a different project, does not occur again.
4. The Board should establish clear Board policy for resolution of any credit risk issues that may arise despite the existence of deposits.
5. The Board should enthusiastically support the complete review and revision of policies, rules, and procedures in the District Code being undertaken by the new General Manager. In light of the leverage that being the only game in town creates, the Board should make sure that the revisions address the matters set forth in this Report, as well as any other shortcomings that may be found during the review.

Response

Truckee Donner Public Utility District Board of Directors: October 1, 2008

RESPONSE



Truckee Donner Public Utility District

SEP 23 2008

Directors
Joseph R. Aguera
J. Ron Hemig
Patricia S. Sutton
Tim Taylor
Bill Thomason

General Manager
Michael D. Holley

September 17, 2008

The Honorable Robert L. Tamietti
Presiding Judge of the Grand Jury
201 Church Street
Nevada City, CA 95959

Subject: 2008 Grand Jury of Nevada County report on the Truckee Donner Public Utility District.

Dear Sir:

Please find the following formal response to the 2008 Grand Jury of Nevada County report on the Truckee Donner Public Utility District

Grand Jury Findings:

Note: **TDPUD Response in Bold**

1. *The District enjoys a virtual monopoly since, with a limited exception, there are no other entities that provide its services within its service territory. **Agree.***
2. *There were egregious delays of more than three years in reconciling the deposit and costs and in billing the Developer under the 2002 Agreement. **Agree.***
3. *This dispute, which took ten months to resolve, was marked by acrimony on both sides. **Agree.***
4. *Developer was delinquent in promptly submitting as-built drawings under the 2002 Agreement. **Agree.***
5. *The District treated the Developer as a credit risk in spite of having his significant deposits on hand. **Agree.***
6. *The Board was aware of the decision to withhold services under the 2006 and 2007 agreements as a way of forcing payment under the 2002 Agreement. **Agree.***
7. *The District currently has no published process for resolving disputes between the District and developers, although it does have such a process for resolving disputes between the District and customers. **Agree.***
8. *The new General Manager has begun a thorough and complete review of the District Code. To date, only review of Title 1, General Provisions, has been completed. **Agree.** The District has completed the revisions of Titles 1, 3, 4, and 5, are in the process of revising Title 2, and has plans to review all remaining Titles.*

Grand Jury Recommendations:
Note: **TDPUD Response in Bold**

1. *The Board should set up a clear dispute resolution process for development issues, culminating in access to the Board. The recommendation has been implemented. The TDPUD Board has taken action on this issue at the July 2, 2008 Board meeting. The revised Development Agreement template now includes a dispute resolution clause that includes formal access to the Board.*
2. *The Board should ensure that staff promptly completes its reconciliation of costs and deposits and promptly bills or refunds the balance to developers. The recommendation has been implemented. The District has reviewed the management of Development Agreements and now assigns a Project Administrator to each Development Agreement to ensure contractual compliance and timely billing.*
3. *The Board should ensure that the practice of holding a developer hostage, by not serving a different project, does not occur again. The District has implemented changes to the Development Agreement that will result in consistent and fair treatment of all developers.*
4. *The Board should establish clear Board policy for resolution of any credit risk issues that may arise despite the existence of deposits. This item has been implemented. The District will now break larger projects into phases and collects, up front, deposits to cover the costs of each phase. Given this structure, credit evaluations/risks are no longer a part of the process.*
5. *The Board should enthusiastically support the complete review and revision of polices, rules, and procedures in the District Code being undertaken by the new General Manager. In light of the leverage that being the only game in town creates, the Board should make sure that the revisions address the matters set forth in this Report, as well as any other shortcomings that may be found during the review. This recommendation has been implemented and the Board supports the on-going District Code revision process. This process should be completed by December, 2008.*

Feel free to contact me if I can be of any assistance.

Regards,



Tim Taylor
Board President
Truckee Donner Public Utility District