

DONNER SUMMIT PUBLIC UTILITIES DISTRICT

REASON FOR INVESTIGATION

The Grand Jury received two citizen complaints in July, 1999, regarding the bulk sale of Equivalent Dwelling Units (EDUs), also called "sewer hook-ups", to several ski resorts within the Donner Summit Public Utilities District, hereafter called "Donner Summit." Complaints alleged: (1) The possibility of Conflict of Interest among Donner Summit Board of Directors, hereafter called "the Board", and the General Manager; (2) The bulk sales to ski resorts resulted in denial of individual sewer hook-up permits; (3) The bulk sales were in violation of existing Donner Summit policies; (4) The bulk sales were approved in closed Board meetings; and (5) A possible breach of contract between Donner Summit and Sierra Lakes County Water District, hereafter called "Sierra Lakes" - a Placer County district.

PROCEDURES FOLLOWED

The Grand Jury: (1) Visited Donner Summit facilities on a number of occasions between August and December, 1999; (2) Requested, received and reviewed copies of appropriate Donner Summit operating procedures, financial records and minutes/tapes of the Board open and closed meetings; and (3) Interviewed the complainants, the Donner Summit General Manager, and several Donner Summit Board members.

FINDINGS

1. Bulk sales of 115 sewer hook-ups were conducted between Donner Summit General Manager and three ski resorts through a Conditional Sales Contract in January, 1999.

2. Bulk sales of 25 sewer hook-ups were conducted in like manner with a fourth ski resort in June, 1999.

3. These bulk sales were reported by Donner Summit General Manager to the Board in open, regular meetings on January 19 and June 15, 1999.

4. Suspension of a portion of Donner Summit Ordinance 81-09, and supplemental changes thereto, which regulated sales, maintenance, repair and debt service of sewer hook-ups, were recommended by Donner Summit General Manager and approved by the Board in the January 19, 1999, regular meeting. This action allowed negotiation of referenced bulk sales to continue pending a new ordinance, 99-01.

5. This new Ordinance modified Ordinance 81-09 authorizing new financial arrangements for sewer hook-up bulk sales. It was approved and adopted by the Donner Summit Board at the regular meeting, March 16, 1999.

6. A Memorandum of Understanding (MOU) and an Agreement were signed by Donner Summit and Sierra Lakes in mid-April, 1999. Agreement was reached that Sierra Lakes and Donner Summit had 30 sewer hook-ups and 15 hook-ups respectively remaining for individual use. Any further need by Sierra Lakes prior to plant expansion was to be negotiated.

7. The MOU included redrafting of the existing Donner Summit/Sierra Lakes contract, commencement of plant expansion, the need for coordination regarding future capacity, and the need to develop a process to share plant expansion expenses.

8. The Donner Summit General Manager negotiated bulk sales with several ski resorts. However, evidence suggests that he did not complete a bulk sale with Donner Ski Ranch, the only ski resort in which he had an economic interest as reflected on his California Form 700, Statement of Economic Interest. Two Donner Summit Board members stated on their Form 700's an economic interest in ski resorts which did complete bulk sales of EDUs with Donner Summit. The Grand Jury found no evidence

that these members influenced these sales which were conducted solely by the General Manager and subsequently reported to the Board in open meetings.

9. The Donner Summit sewer ordinances are outdated and confusing. Over the years, individual ordinances (examples: 81-9, 84-2, 85-3, 86-1, 86-4, 90-4, etc.) have been enacted which modify sections of previous ordinances. In some cases, modified sections are again modified by a more recent ordinance. There is no indication that any of these ordinances have been rescinded. The current system requires that individuals must research through a large number of ordinances to insure they have the correct, up-to-date, information regarding a specific section of the Donner Summit sewer ordinances.

CONCLUSIONS

The Grand Jury concludes:

1. There is no evidence that referenced bulk sales were negotiated or completed in closed Board meetings.
2. There is no specific proof that any individual applicant to Donner Summit was denied a sewer hook-up.
3. There is no evidence that bulk sales were in violation of Donner Summit policies existing at the time of sales.
4. There is no specific proof that the Donner Summit General Manager or Board members engaged in Conflict of Interest regarding the bulk sales of EDUs to ski resorts as alleged.
5. Donner Summit sewer ordinances and Donner Summit/Sierra Lakes contracts are outdated and confusing. This has resulted in incorrect interpretation among individuals and between Donner Summit and Sierra Lakes regarding available capacity, contractual requirements and appropriate procedures.

RECOMMENDATIONS

The Grand Jury recommends that:

1. Donner Summit create new ordinance(s) to incorporate all pertinent, applicable, previous ordinances. New ordinance(s) should include, or refer specifically to, any necessary forms, applications requirements, etc.

2. Copies of updated ordinance(s) and necessary forms should be available to individuals at Donner Summit.

3. The Donner Summit Board and the General Manager should explore and incorporate more effective avenues of communication with customers and potential customers.

4. Customer queries and concerns should be addressed in a timely, open, and complete manner, thereby reducing any confusion and eliminating misconceptions.

5. Donner Summit and Sierra Lakes should jointly explore new contractual arrangements and sewer plant capacity expansion as soon as possible.

6. To ensure no possibility of Conflict of Interest or the appearance of Conflict of Interest exists, Donner Summit Board members, the General Manager, and any other appropriate Donner Summit employee should avoid conducting business with entities in which they have an economic interest, making inquiry of the California Fair Political Practices Commission if they have any doubt.

REQUIRED RESPONSES

Donner Summit PUD Board of Directors
DUE Sept 30, 2000

Donner Summit PUD General Manager
DUE Aug 30, 2000

DONNER SUMMIT PUBLIC UTILITY DISTRICT

P.O. BOX 610 – SODA SPRINGS CALIFORNIA – 95728
PHONE (530) 426-3456 – FAX (530) 426-3460

August 31, 2000

SEP - 1 2000

The Honorable Judge Carl F. Bryan
Nevada County Superior Court
201 Church Street, Suite 7
Nevada City CA 95959

Dear Honorable Judge Bryan:

I have reviewed the report of the 1999-2000 Grand Jury relating to the Donner Summit Public Utility District. In addition I have reviewed both the conclusions and the recommendations relating to the above-indicated report. I am in complete agreement with those conclusions and recommendations. As the General Manager of the Donner Summit Public Utility District, I would like to provide you with the following comments relating to the Grand Jury recommendations:

- 1. Donner Summit create new ordinance(s) to incorporate all pertinent, applicable, previous ordinances. New Ordinance(s) should include, or refer specifically to, any necessary forms, application requirements, etc.**

Donner Summit undertook the process of redrafting its ordinances in 1998. To date, several of our ordinances have been completely redrafted and approved. We have reviewed the sewer and water ordinances back to 1983 and are in the process of compiling the original ordinances, modification thereto and related ordinances into new sewer and water ordinances that contain all of the information relating to those services. The new ordinances will include all necessary forms and applications for sewer and water services. In the future all ordinances will be completely restated rather than having individual sections updated. The new sewer and water service ordinances will be completed by March 31, 2001.

- 2. Copies of updated Ordinance(s) and necessary forms should be available to individuals at Donner Summit.**

Donner Summit is currently in the process of gathering all Ordinances relating to sewer and water services, and modifications thereto, into a central location at the District offices so that they are available to all interested parties. In addition we are in the process of updating our "Request Forms" for sewer and water services. The existing forms are currently available to all interested parties in the District office.

- 3. The Donner Summit Board and General Manager should explore and incorporate more effective avenues of communication with customers and potential customers.**

The Donner Summit Board is currently working with the General Manager to develop more effective means of communication with both current and potential customers. As General Manager, I am in the process of developing a quarterly newsletter that will be sent to all current customers. The newsletter will contain information about the District, its Ordinances, its future plans and summaries of ongoing projects within the District. Copies of the newsletter will be maintained in the District's offices and will be available to any interested party upon request. The first newsletter will be published and mailed with the District's quarterly billing in January 2001.

- 4. Customer queries and concerns should be addressed in a timely, open, and complete manner, thereby reducing any confusion and eliminating misconceptions.**

In addition to the newsletter that is being developed, the Board has instructed the General Manager to develop a system whereby all queries and concerns are recorded on a log in the District offices. I have begun the use of a log containing the date the query was received, the identification of the person making the query, the date the information requested was supplied and a description of the information supplied or the answer to the query. In addition, I will be implementing improvements to the District's web site so that any concerned citizen can communicate with the District electronically. The improvements to the web site will include a "Frequently Asked Questions" section along with the appropriate answers to those questions. In addition, there will be a section that will include a listing of future meeting dates, agendas and related minutes. The improvements to the web site will be completed by December 31, 2000.

- 5. Donner Summit and Sierra Lakes should jointly explore new contractual arrangements and sewer plant capacity expansion as soon as possible.**

The Donner Summit Board of Directors is actively working with the Sierra Lakes County Water District to jointly develop a new sewer service agreement. The Donner Summit Sewer Expansion Committee, of which I am a member, has reviewed several drafts of a new agreement and will submit a preliminary draft agreement to the Sierra Lakes County Water District at its October, 2000 meeting. The current focus of the committees is directed at reducing the Inflow and Infiltration

(I&I) into the existing system, thereby increasing the ability of the plant to handle additional actual sewage inflow, and the development of a new sewer service agreement.

Both Districts have agreed upon the engineering concepts for a plant expansion, as contained in the May 1997 Waste Water Treatment Plant Expansion Study. At this time the Board of Directors of the respective Districts has not determined the dates for a schedule of implementation.

6. **To ensure no possibility of Conflict of Interest or the appearance of Conflict of Interest exists, Donner Summit Board members, the General Manager, and any other appropriate Donner Summit employee should avoid conducting business with entities in which they have an economic interest, making inquiry of the California Fair Political Practices Commission if they have any doubt.**

The District maintains a Conflict of Interest policy that is reviewed annually by the Board Members, the General Manager and all appropriate Donner Summit employees. In addition we have had our Legal Counsel meet with the Board of Directors and the General Manager to review conflict of interest guidelines and potential situations that could develop in the future. It is now the policy of the Board to conduct a general review with the Districts Legal Counsel on a semi-annual basis at its Board meeting in the months of November and May. Any situations that present a question that cannot be answered by our Legal Counsel will be referred to the California Fair Political Practices Commission.

The current Board and the General Manager face many challenges relating to Ordinances, Agreements and Documents that were developed and entered into in prior years. Many of those documents are not able to meet the needs of our current operations. Through the implementation of the Grand Jury recommendations and additional policies and procedures that the District is working on, we hope to make our operations more "Customer Friendly" and informative, as well as to provide a framework for future Boards and Manager to effectively manage the District. We have made our Sewer Services one of our highest priorities so that the District can provide future services to all who request those services. If you have any further questions, please feel free to contact us with them.

Sincerely;



Steven Grimm
General Manager



GRAND JURY
of Nevada County, California
950 Maidu Avenue, Nevada City, CA 95959
530-265-1730

30-DAY NOTICE

January 30, 2001

Mr. Steve Grimm, General Manager
Donner Summit PUD
P.O. Box 610
Soda Springs, CA 95728

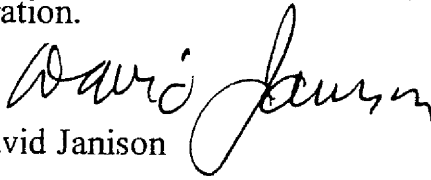
Dear Mr. Grimm:

Our records show that you have not complied with the requirements of the California Penal Code in responding to a 1999-2000 Grand Jury report regarding your district. A report filed by you was returned by the Grand Jury on October 12, 2000, because it did not meet the code.

This letter will serve as a notice that you are being given 30-days to meet the California Penal Code requirement. Your response is due before the end of business on March 5, 2001, addressed to:

Hon. Carl F. Bryan, II
Presiding Judge of the Civil Grand Jury
201 Church Street
Nevada City, CA 95959

To assist you in writing your response, we are enclosing the appropriate excerpt from Section 933.05(a) of the Penal Code. The Grand Jury appreciates your cooperation.


David Janison
Foreman

FILED

3/6/01

Nevada County Court

By *W. Sprink*
Deputy Clerk

DONNER SUMMIT PUBLIC UTILITY DISTRICT

P.O. BOX 610 – SODA SPRINGS CALIFORNIA – 95724
PHONE (530) 426-3456 – FAX (530) 426-3460

MAR 6 - 2001

March 3, 2001

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Hon. Carl F. Bryan, II
Presiding Judge of the Civil Grand Jury
2001 Church Street
Nevada City, CA 95959

Dear Judge Bryan:

I have reviewed the report of the 1999-2000 Grand Jury relating to the Donner Summit public Utility District Fire Department and fire and Life Safety Inspection of Places of Public Assembly. In addition I have reviewed both the conclusions and recommendation relating to the above-indicated report.

I am in complete agreement with those conclusions and recommendations.

The Donner Summit Fire Department places a high priority on its annual inspections of all of the commercial operation on Donner Summit. As a Fire Department located in a remote area, where the wait for assistance from other departments can exceed 30 minutes, I understand fully the responsibility of Fire Prevention through Proper Inspections of the facilities that we serve and protect.

I, as General Manager, along with The Board of Directors and the Fire Chief of the Donner Summit Public Utility District, which includes the Donner Summit Fire Department, would like to provide you with the following comments relating to the Grand Jury recommendations.

- 1. The Grand Jury encourages those Department not currently conduction annual inspections of the places of public assembly within their districts to begin such a program.**

Comment: The above recommendation has been implemented as follows: The Board of Directors has instructed the Fire Department that annual inspections of all places of public assembly within the District will take place. The Fire Chief and I have developed a listing of those places and will report completed inspections to the Board along with an annual inspection summary. This information will be reported to the Board on a quarterly basis.

2. **Everyone in authority within a Fire Department in Nevada County should reference the National Fire Protection Handbook as published by the National Fire Protection Association. (Section 10-C) "Places of public assembly have long been recognized as a special concern for the fire department because of the life hazard involved."**

Comment: The above recommendation has been implemented as follows: The District's Board of Directors, I, as General Manager, and the Fire Chief of the Donner Summit Fire Department currently reference the National Fire Protection Handbook as published by the National Fire Protection Association (Section 10-C), and will continue to do so.

The current Board of Directors, the General Manager, and the Fire Chief recognize the special concern, presented by places of public assembly, for the fire department because of the life hazard involved. Operating in a community that ties its livelihood to services provided to the general public, we not only recognize those concerns indicated by the National Fire Protection Association, we are also aware of the added concerns that manifest themselves in the harsh weather environment on Donner Summit.

It is those concerns, as indicated in the Grand Jury report, that have prompted the Donner Summit Public Utility District and the Donner Summit Fire Department to adopt and follow a very stringent plan of annual inspections for all of our places of public assembly. I will work harder to present reports that document the performance of those inspections and demonstrate our concern for those that we serve. If you have any further questions, please feel free to contact me with them.

Sincerely:



Steven Grimm
General Manager



GRAND JURY
of Nevada County, California
950 Maidu Avenue, Nevada City, CA 95959
530-265-1730

30-DAY NOTICE

January 30, 2001

Honorable Members
Donner Summit PUD Board of Directors
P.O. Box 610
Soda Springs, CA 95728

Dear Board Members:

Our records show that you have not complied with the California Penal Code requiring a response from you to a 1999-2000 Grand Jury report regarding your district.

This letter will serve as a notice that you are being given 30-days to meet this requirement. Your response is due before the end of business on March 5, 2001, addressed to:

Hon. Carl F. Bryan, II
Presiding Judge of the Civil Grand Jury
201 Church Street
Nevada City, CA 95959

To assist you in writing your response, we are enclosing the appropriate excerpt of Section 933.05(a) of the Penal Code.

The Grand Jury appreciates your cooperation.

A handwritten signature in black ink, which appears to read "David Janison".

David Janison
Foreman

FILED

3/16/01

Nevada County Co. is

DONNER SUMMIT PUBLIC UTILITY DISTRICT

P.O. BOX 610 – SODA SPRINGS CALIFORNIA – 95724
PHONE (530) 426-3456 – FAX (530) 426-3460

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MAR 6 - 2001

March 3, 2001

Hon. Carl F. Bryan, II
Presiding Judge of the Civil Grand Jury
2001 Church Street
Nevada City, CA 95959

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Sincerely:



Paul Borcharding
President – Board of Directors