



# **NEVADA COUNTY GRAND JURY**

**2013 – 2014  
Final Report**



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# GRASS VALLEY SCHOOL DISTRICT UNSAFE SCHOOL FACILITIES?

## Summary

The Grass Valley School District is a public school district with responsibility for the education and safety of students, teachers, staff, parents and visitors attending school facilities in Grass Valley, California and is governed by a Board of Trustees elected by the district's voters.

The Grass Valley School District is comprised of local public education traditional school sites and one dependent charter school.

The 2013-2014 Nevada County Grand Jury received a complaint regarding sub-standard conditions at Grass Valley School District facilities described and shown in graphic detail accompanied by photos taken in 2010 and 2011. There is evidence the Grass Valley School District Board of Trustees and Superintendent were made aware of the substandard conditions.

The 2013-2014 Nevada County Grand Jury conducted site visits to Bell Hill Academy and Grass Valley Charter School and observed sub-standard conditions that may have a direct effect on the health and welfare of all students, parents, staff and visitors. Current photos were taken by Jurors showing unchanged conditions from 2010-2011.

A 2000 lawsuit, *Eliezer Williams et al v. State of California et al*, was settled with regard to sub-standard schools, including education and safety issues.

In 2004, legislation was passed as a result of this case which expands county superintendent duties and requires active involvement by the County Superintendent of Schools in each district.

The Nevada County Superintendent of Schools maintains final jurisdictional responsibility over the Grass Valley School District to provide a safe work environment for employees and safe and clean facilities for the educational environment. This environment includes facilities which are clean and free of defects and unsafe conditions.

The Nevada County Superintendent of Schools is required to:

- inspect all school facilities in Nevada County,
- review each local district's School Accountability Report Card for accuracy.

The Nevada County Grand Jury interviewed an official of the County Office of Education. The official did not believe the Nevada County Superintendent of Public Schools was required to:

- make required inspections of each school site in the county,
- review the School Accountability Report Card.

The Nevada County Superintendent of Schools was unaware of the important duties imposed on the office to provide for a safe environment at each school facility.

The Grass Valley School District Superintendent and Grass Valley School District Board of Trustees are required to make site inspections to verify that school facilities are clean and free of defects pursuant to Education Code §1240 et seq.

The Nevada County Grand Jury interviewed the Grass Valley School District Superintendent. The Superintendent was aware of the duties imposed on the office to provide for a safe environment at each school facility, but did not implement the provisions of Education Code §1240 et seq.

The Grass Valley School District Superintendent's office hired a construction consultant to act as a liaison with the California Department of Architecture and a construction consultant to inspect the current facilities and report any deficiencies.

To ensure the health and safety of Nevada County school facilities, the following is recommended:

- The County Superintendent of Schools should make required inspections and conduct report reviews of all school facilities in Nevada County as outlined in the Education Code.
- The Grass Valley School District Board of Trustees should direct the Superintendent to obtain and review all construction and major maintenance projects that have been performed, verify each followed state requirements, and are on file with the state in order to exercise better control over contracts.
- The Grass Valley School District Board of Trustees should direct the Superintendent to reevaluate consultant contracts for the liaison with the State as well as the construction consultant who made site inspections.

### **Reasons for Investigation**

The Nevada County Grand Jury (Jury) received a complaint about the conditions of the facilities of the Grass Valley School District (GVSD) and the manner in which repairs had been made including areas requiring remedial or extensive replacement of structures of the facilities in question. The Jury has the authority to investigate school districts and their boards of trustees, pursuant to California Penal Code.

## **Background**

The Governing Board (Board) of the GVSD is made up of five Trustees. The Board consists of the President, Vice President, Clerk and two Trustees. Each Board member is elected by the voting public within the Area they represent, each serving a four-year term.

The schools within GVSD are Scotten School, Lyman Gilmore School, Grass Valley Charter School, Bell Hill Academy, Grass Valley Little Learners and Our Kids Place.

The Jury was presented documentation of sub-standard conditions in all GVSD facilities.

The Nevada County Superintendent of Schools oversees all school districts in Nevada County.

## **Procedures Followed**

The Jury:

- interviewed the Nevada County Superintendent of Schools and staff,
- conducted interviews with the GVSD superintendent,
- reviewed documents received from the interviewees,
- reviewed documents from the GVSD website,
- reviewed information from the Education Code,
- reviewed information from the Nevada County Superintendent's office website,
- conducted site visits to observe current conditions at three specific GVSD facilities,
- took 97 photographs at the three sites.

## **Facts**

- Fa. 1** Legislation was passed arising out of the 2000 court case of *Eliezer Williams et al v State of California et al* to "resolve *Williams*" which included updates to the Education Code, enhanced and expanded the county superintendent's office and local school district's responsibilities to provide a safe environment for students, teachers, staff, parents and visitors attending school facilities.
- Fa. 2** GVSD is comprised of Scotten School, Lyman Gilmore School, Grass Valley Charter School, Bell Hill Academy, Grass Valley Little Learners and Our Kids Place.
- Fa. 3** Complaints had been received by GVSD Superintendent's office concerning dry rot, mold, dangerous playground equipment, exposed live electric wires, unlocked electric boxes and improper repairs at various facilities in GVSD system.
- Fa. 4** The Jury received photographs dating from 2010 to 2012 showing substandard conditions at GVSD facilities.
- Fa. 5** The 2013-2014 Jury took photographs showing current unsafe conditions at GVSD that appear to have the same issues as the 2010-2012 photographs.

- Fa. 6** The HVAC systems in each school are old and are under constant repair. These systems harbor an environment for growing irritants that thrive on damp, dark, and non-maintained spaces.
- Fa. 7** The Jury conducted a site visit to Grass Valley Charter School and Bell Hill Academy. The Jury observed and photographed the following (see Appendix):
- dangerous conditions present at the playground including rotted support beams, [#17, #18]
  - buildings with soil to wood or concrete contact, [#57]
  - siding material compromised by water, [#51, #85]
  - holes in siding, allowing water intrusion to interior walls, [#51, #57]
  - exposed electrical wires at ground level, [#41]
  - non-weatherproof electric box exposed in play areas with live 120 volt electric charge, [#18] trip and fall hazards due to posts cut off, stumps left above ground,
  - broken solid conduit exposing 120 volt live wires to elements, [#86]
  - improper roofing padding on conduit supports, [#87]
  - mold in ceilings of classrooms, [#61, #62, #63]
  - continued water intrusion into ceilings of class rooms, [#61, #62, #63]
  - roof drains not diverting water away from class rooms at ground level, [#97]
  - drains that direct roof runoff water directly into area of high voltage lines, [#97]
  - improper storage of flammable chemicals in a non-rated office storage locker without warning signs, [#07, #08]
  - Material Safety Data Sheets (MSDS) book containing unnecessary and inappropriate information rather than a list of the specific chemicals on site for first-responder safety,
  - roof flashing missing at drain waste vent. [#61, #67].
- Fa. 8** Public schools are required to obtain California Department of General Services (CDGS) approvals for construction projects.
- Fa. 9** There were two major construction projects completed, one at Grass Valley Charter School and one at Bell Hill Academy. Both were for removal of mold and reconstruction of damaged areas of classrooms believed completed between 2010 and 2011.
- Fa. 10** There is no record on file with the CDGS for the above two construction projects. The construction records on file with CDGS for Grass Valley School District, known as “*Certified Projects for Client Id 29-11*” revealed 15 total projects. None of these included the concerns listed in this report.

- Fa. 11** Officials from Nevada County Building Department stated that they were not involved with any school building permits. The California Division of State Architect (CDSA) is the regulating authority for school property projects.
- Fa. 12** Inquiry to CDSA website refers inquires to CDGS for school projects.
- Fa. 13** Officials from City of Grass Valley (City) stated that they are not involved in the school construction permit process. However, the City issued a permit for Grass Valley Charter School installation and inspection for a photovoltaic solar system and awning in 2013.
- Fa. 14** California Department of Education website defines the School Accountability Report Card (SARC) use as: "*California public schools annually provide information about themselves to the community allowing the public to evaluate and compare schools for student achievement, environment, resources and demographics.*"
- Fa. 15** SARC documents for GVSD were reviewed by the Jury and indicated a "GOOD" rating for facility conditions. However this did not reflect the current, sub-standard conditions observed by the Jury at Grass Valley Charter School and Bell Hill Academy.
- Fa. 16** Education Code §1240 (J) (iii) requires county superintendents to review all SARC reports for accuracy.
- Fa. 17** The Nevada County Superintendent of Schools stated:
- that the Education Code and California Code of Regulations are the primary statutes that determine the actions and activities of school superintendents and that of school districts,
  - she was not sure of requirements to conduct site visits or to review SARC reports for accuracy, but will look up Education Code §1240 and review the responsibilities placed on the county superintendent of schools,
  - she was not aware of Education Code §44110 [Whistler Blower statutes] but will look up Education Code §44110,
  - she was not aware of Education Code §35186, a uniform complaint process to report conditions that present a danger to the health and safety of students, teachers, staff, parents and visitors, and the county office's duties concerning reports, but will look up this code section,
  - she was not aware of the county office's responsibility concerning the use of the complaint form but will look up this code section,
  - she had no knowledge of the Facilities Inspection Tool (F.I.T.) used to assess school buildings and facilities,
  - she was not aware of requirements to inspect school facilities within Nevada County,
  - she was unaware of MSDS requirements for first responders and staff to know what chemicals are on site in case of an emergency,



- she was not responsible for the accuracy of the SARC and believed that there was no review required by the superintendent's office.

**Fa. 18** The GVSD Superintendent was interviewed and stated:

- the authority for school maintenance is being taken care of in the deferred maintenance budget account. However, there is no budget money allotted for this action,
- the evidence shown in current photos of mold, mildew and water intrusion into classrooms is unknown,
- the office is unaware of any unauthorized construction or major repair being done. He believed that recent construction had been under a permit issued by Nevada County Building Department or City of Grass Valley Building Department,
- the district doesn't use the F.I.T. state form because the maintenance crew has reported that all maintenance is up to date,
- he is unaware of any notifications of sub-standard conditions in any classroom or building within the district,
- there was concern when viewing the photos of current conditions of mold in classrooms, faulty and unsafe playground equipment, building siding peeling away from the wall studs because of water intrusion into the inner walls,
- consultants had been hired to be liaison between GVSD and CDSA for future construction projects. A construction consultant who conducted site inspections with GVSD administration and Board of Trustee member(s) stated in submitted reports there was no findings of the sub-standard conditions.

**Fa.19** The Jury showed the Superintendent current photographs illustrating hazardous conditions in Nevada County schools.

### **Findings**

- Fi. 1** Grass Valley Charter School property conditions expose students, teachers, staff, parents and visitors attending school facilities to dangerous health and safety issues.
- Fi. 2** Bell Hill Academy property conditions expose students, teachers, staff, parents and visitors attending school facilities to dangerous health and safety issues.
- Fi. 3** These hazardous conditions are endangering the health and safety of students, teachers, staff, parents and visitors because no one has taken responsibility for repair even though administrators and the Board of Trustees have been notified in writing.
- Fi. 4** Mold not properly removed continues to pose an inherent danger to students, teachers, staff, parents, and visitors.
- Fi. 5** Repairs have been done without benefit of required State oversight placing anyone entering these facilities at risk.

- Fi. 6** Inadequate inspections have placed students, teachers, staff, parents and visitors attending school facilities in danger. Lack of detail in observing and accurately reporting sub-standard and dangerous conditions are obvious even to a lay person and should have been reported by experts hired by GVSD.
- Fi. 7** Because GVSD officials created a MSDS book with unnecessary and inappropriate information, this places first responders at risk during emergencies as well as students, teachers, staff, parents, and visitors attending school facilities if immediate first aid is needed to be applied while awaiting medical care.

**Recommendations**

- R. 1** The Nevada County Superintendent of Schools should direct staff to adhere to the requirements of their office including:

  - conducting required site visits,
  - verifying SARC reports for accuracy,
  - complying with requirements mandated by *Eliezer Williams et al v. State of California et al (2000)*.
- R. 2** The GVSD Board of Trustees should direct the Superintendent to review existing contracts with construction consultants to determine if there is a bad-faith clause and demand a refund because hazardous conditions were not repaired.
- R. 3** The GVSD Board of Trustees should direct the Superintendent to review the contracts for work on Grass Valley Charter School and Bell Hill Academy to remove mold, mildew and rot from these sites and verify the work was done according to contract.
- R. 4** The GVSD Board of Trustees should verify all this work performed was state approved, inspected, and complies with codes concerning safe schools.
- R. 5** The Grass Valley School District Board of Trustees should direct the Superintendent to update each MSDS Book to reflect site specific hazards.

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## **Responses**

Nevada County Superintendent of Schools:

Findings 1, 2, 3, 4, 5, and 6

Recommendation 1

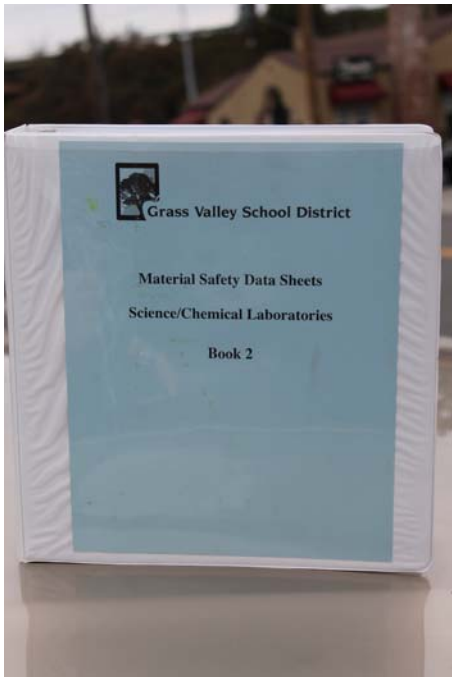
Due Date: August 30, 2014

Grass Valley School District Board of Trustees:

Findings 1, 2, 3, 4 5, and 6

Recommendations: 2, 3, 4, and 5

Due Date: September 30, 2014



#3



#4

“MSDS” book. 1 ½ inches thick. Includes all chemical MSDS sheets.  
The use of this document is for **WHAT IS ON SITE** for use by emergency responders.



#07

WORK SHOP.



#08

Non-Rated cabinet with flammable chemicals. No CAUTION sign posted on outside. In case of fire, this is in one of the main EXIT routes.

Grass Valley Charter School



#17 - Rotted support.



#18 Live electric box within play equipment area.



#41 Broken electric conduit at ground level is at risk for high flooding from the adjacent Veteran's Hall parking lot.

Bell Hill Academy:



#51 - Siding is separating from wall structure.  
This is evidence of water penetration to interior of wall structure.



# 57 Rot at foundation.



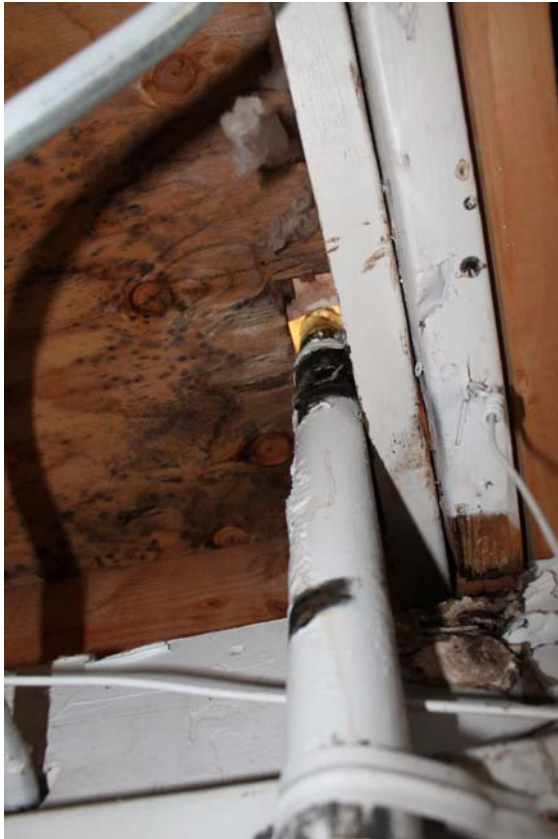
#61 Mold repairs were not done correctly.



#62 Mold repairs were not done correctly.



#63 Mold repairs were not done correctly.



#67 Mold repairs were not done correctly. Roof flashing on pipe is absent, allowing water to enter building.



#85 - Siding is separating from wall structure. This is evidence of water penetration to interior of wall structure.



#86 Frayed and broken insulation used to carry 110 volts of electric power. This exposes the live wires to elements. Note also the routing is under the roofing material, no anchors to keep the wires from pulling away.





#87 MAIN BUILDING

Roof – conduit supported by 4.x, untreated blocks.

The blocks rest directly on the roof material. Needed are Roof Pads to absorb movement between the 4x4 and the roof coating.



#97

Rain Gutter drains water; in immediate area of live electric power.

None of the drains routed roof water AWAY from the structures.



HOLLY A. HERMANSEN, SUPERINTENDENT

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NEVADA CITY, CA 95959  
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August 26, 2014

The Honorable Thomas M. Anderson  
Presiding Judge of the Grand Jury  
Nevada County Superior Court  
210 Church Street  
Nevada City, CA 95959

Dear Judge Anderson,

This letter serves as the response from the Nevada County Superintendent of Schools on the findings and recommendations of the June 30, 2014 Grand Jury Report on the subject of “**Grass Valley School District Unsafe Facilities?**” For purposes of readability, we have shown our responses in bold.

**FINDINGS:**

1. Grass Valley Charter School property conditions expose students, teachers, staff, parents and visitors attending school facilities to dangerous health and safety issues.

**Disagree: We do not have any credible evidence to substantiate this finding.**

**One of a school district governing board’s major responsibilities is to provide healthful, safe and adequate facilities that enhance the instructional program.**

**While we are deeply concerned about the health and safety of all the students in Nevada County, it is not required, nor is it appropriate for the county superintendent of schools to inspect the facilities of any school district that is not identified in deciles 1 to 3 of the Academic Performance Index by the California Department of Education. That responsibility is with each individual school district and local governing board.**

**California Education Code 1240 (c) (1) states that the county superintendent of schools shall visit and examine each school in his or her county at reasonable intervals to observe its operation and learn of its problems. It has been the practice of this county superintendent of schools to visit the schools in the county at reasonable intervals.**

Although the Grass Valley School District does not have any schools that have been identified in deciles 1 to 3 of the Academic Performance index by the California Department of Education, for those schools which are so identified, Education Code 1240 (c) (J) requires the county superintendent to submit an annual report regarding the status of the following circumstances:

1. Sufficient textbooks
2. The condition of a facility that poses an emergency or urgent threat to the health and safety of pupils or staff
3. The accuracy of data reported on the school accountability report card
4. The extent to which students who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12
5. The extent to which pupils who have elected to receive intensive instruction and services are being served
6. Teacher misassignments
7. Teacher vacancies

The Nevada County Superintendent of Schools does not have the authority or information to formulate opinions on the condition of the facilities of the Grass Valley School District. The County Superintendent is in contact with the Grass Valley School District about these issues and is aware of the steps the District is taking to ensure that all the District's facilities continue to be safe for students, teachers, staff, parents and visitors.

2. Bell Hill Academy property conditions expose students, teachers, staff, parents and visitors attending school facilities to dangerous health and safety issues.

**Disagree: We do not have any credible evidence to substantiate this finding.**

**(same reasons as Finding #1.)**

3. These hazardous conditions are endangering the health and safety of students, teachers, staff, parents and visitors because no one has taken responsibility for repair even though administrators and the Board of Trustees have been notified in writing.

**Disagree: We do not have any credible evidence to substantiate this finding.**

**(same reasons as Finding #1)**

4. Mold not properly removed continues to pose an inherent danger to students, teachers, staff, parents and visitors.

**Disagree: We do not have any credible evidence to substantiate this finding.**

**(same reasons as Finding #1)**

5. Repairs have been done without the benefit of required State oversight placing anyone entering these facilities at risk.

**Disagree: We do not have any credible evidence to substantiate this finding.**

**(same reasons as Finding #1)**

6. Inadequate inspections have placed students, teachers, staff, parents and visitors attending school facilities in danger. Lack of detail in observing and accurately reporting sub-standard and dangerous conditions are obvious even to a lay person and should have been reported by experts hired by GVSD.

**Disagree: We do not have any credible evidence to substantiate this finding.**

**(same reasons as Finding #1)**

## RECOMMENDATIONS

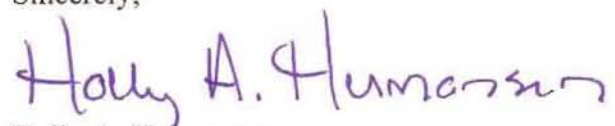
1. The Nevada County Superintendent of Schools should direct staff to adhere to the requirements of their office, including:
- Conducting required site visits
  - Verifying SARC reports for accuracy
  - Complying with requirements mandated by *Eliezer Williams et al v. State of California et al (2000)*

**This recommendation has been implemented.**

**The Nevada County Superintendent of Schools has complied with the requirements of the Williams Act. For the single school in Nevada County (Ready Springs School in the Penn Valley Union Elementary School District, formerly Ready Springs Union Elementary School District) that is in deciles 1 to 3 of the Academic Performance Index, the County Superintendent has conducted the required site visits and submitted an annual written report regarding the status of all the circumstances listed in Education Code 1240 (c) (J), as listed above in response to Finding # 1.**

**In addition, the Nevada County Superintendent of Schools has reviewed Quarterly Williams Uniform Complaint Reports submitted by the Grass Valley School District since 2010, in accordance with Education Code section 35186(d). The reports confirm that there have been no complaints filed with the District.**

Sincerely,



Holly A. Hermansen  
Nevada County Superintendent of Schools



# Grass Valley School District

September 23, 2014

Honorable Thomas M. Anderson, Presiding Judge  
 Nevada County Superior Court  
 210 Church Street  
 Nevada City, California 95945

**Re: Board of Education, Grass Valley School District, Response to Nevada County 2013-2014 Grand Jury Report, "Grass Valley School District, Unsafe School Facilities?"**

Honorable Judge Anderson:

Pursuant to California Penal Code sections 933 and 933.05, the Board of Education of the Grass Valley School District hereby submits its formal response to the 2013-2014 Nevada County Grand Jury Report entitled, "Grass Valley School District, Unsafe School Facilities?" ("Report").

## OVERVIEW OF BOARD'S RESPONSE

The Board and the District consider the safety and well being of all students, parents, staff, and visitors to the District's schools to be of paramount importance. Consequently, the Board and District have very carefully and thoroughly considered each and every one of the Grand Jury's factual contentions, findings and recommendations contained in the above-referenced report in order to ensure that there are no significant safety risks posed by the condition of its existing facilities or significant gaps in its safety protocols that could create risk exposure in the future.

Based on the Board's review of all available evidence relevant to the items identified in the Grand Jury's report, including, but not limited to, the conclusions of the professional mold, electrical, and general construction experts engaged by the District to conduct industrial hygiene inspections of those specific items, the Board has determined that at no time did any of the conditions identified in the Grand Jury's report regarding the District's facilities pose a danger to the health and safety of students, teachers, staff, parents or a community members.

Honorable Thomas M. Anderson  
 Nevada County Superior Court  
 September 23, 2014  
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## BOARD OF EDUCATION'S RESPONSE TO GRAND JURY'S FINDINGS<sup>1</sup>

### Finding 1:

Grass Valley Charter School property conditions expose students, teachers, staff, parents and visitors attending school facilities to dangerous health and safety issues.

### Response to Finding 1:

The Board strongly disagrees. No credible evidence exists to substantiate this finding.

More particularly, the only information the Grand Jury presented to the Board in support of Finding 1 above were photocopies of photographs taken by unidentified and unknown members of the 2013-2014 Nevada County Grand Jury. Not only did the Grand Jury fail to provide any information to authenticate these photographs, the Grand Jury provided no documentation in the way of licenses, certifications and/or other qualifications, if any, the unidentified and unknown members of the Grand Jury possess with respect to conducting inspections of school facilities.

The Board further has no knowledge of the specific dates, times and locations pertaining to the photocopied photographs, as the Grand Jurors who, according to the Grand Jury's report, "conducted site visits to observe current conditions at three specific GVSD facilities" and "took 97 photographs at the three sites" did not comply with the Board's policy no. 1070, adopted pursuant to Penal Code section 627.2, which requires all outsiders to register with the school Principal or designee in the main school office prior to entering the remainder of the school grounds.

Based on the above-described fundamental uncertainties and deficiencies pertaining to the information that the Grand Jury provided to the Board in support of Finding 1, the Board cannot responsibly deem such information adequate to support the Grand Jury's broad, general finding that Grass Valley Charter School facilities conditions expose all persons who enter the grounds to "dangerous health and safety issues."

Moreover, upon receipt of the Grand Jury's report, the District engaged the services of licensed, professional experts to conduct inspections of each one of the specific items identified in the Grand Jury's report by narrative description and corresponding copies of photographs.

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<sup>1</sup> NOTE: Although the Grand Jury did not ask the Board to respond to the factual assertions (Fa. 1 through Fa. 19) underlying the Findings contained in the report, the Board feels compelled to generally respond to those assertions by clarifying that, as with the Findings discussed below, the Board has very serious concerns regarding the accuracy of, and lack of evidentiary support for, those purported statements of fact. In particular, the Board disputes the veracity of the Grand Jury's factual contentions (in whole or in part) found at Fa. 3 through Fa. 7, Fa. 15, and Fa. 19. Therefore, the absence of individual responses to each and every factual contention contained in the Facts section of the Grand Jury's report should not be construed to indicate the Board's agreement thereto or adoption thereof.

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With respect to the allegedly unsafe conditions at Grass Valley Charter School, the District engaged a licensed electrician qualified to conduct code inspections, as well as a licensed general contractor qualified to conduct facilities and construction inspections.

The licensed electrician inspected the conditions depicted in photographs #18 (described as “live electric box within play equipment area”) and #41 (described as “broken electric conduit at ground level is at risk for high flooding from the adjacent Veteran’s Hall parking lot”). Based on his inspection, the electrician’s conclusion was that minor repairs are recommended with respect to both items, but that in his professional opinion, the items requiring repair do not pose any significant safety risk to people occupying the areas.

The licensed contractor inspected the conditions depicted in photograph #17 (described as “dangerous conditions present at the playground including rotted support beams”). Based on his inspection, the contractor concluded that the playground support beams are located below the deck walking surface and thus not observable. The contractor further inspected one (1) post above the deck level that showed some damage, and concluded that the post should be repaired to prevent any further deterioration and potential for some safety risk in the future. The District’s maintenance staff is in the process of placing a smooth cap over the damaged post.

Based on all the foregoing, the Board disagrees with the Grand Jury’s finding that the facilities conditions at Grass Valley Charter School expose all persons on the property to “dangerous health and safety issues.”

**Finding 2:**

Bell Hill Academy property conditions expose students, teachers, staff, parents and visitors attending school facilities to dangerous health and safety issues.

**Response to Finding 2:**

The Board strongly disagrees. No credible evidence exists to substantiate this finding.

With respect to the Board’s concerns regarding the information it received from the Grand Jury in support of this conclusion, please refer to the explanation provided under “Response to Finding 1” above. The Board harbors identical concerns with respect to the support provided by the Grand Jury for its Finding 2 and thus, the Board cannot responsibly deem such information adequate to support the Grand Jury’s finding that the condition of the facilities at Bell Hill Academy expose all persons who enter the grounds to “dangerous health and safety issues.”

Moreover, upon receipt of the Grand Jury’s report, the District engaged the services of licensed, professional experts to conduct inspections of each one of the specific items identified in the Grand Jury’s report by narrative description and corresponding copies of photographs.



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With respect to the allegedly unsafe conditions at Bell Hill Academy, the District engaged a licensed electrician qualified to conduct code inspections, as well as a licensed general contractor qualified to conduct facilities and construction inspections. The District further engaged the services of a licensed mold inspector, and the results of that inspection are discussed in the Board's "Response to Finding 4" below.

The licensed electrician inspected the conditions depicted in photographs #86 (described as "frayed and broken insulation used to carry 110 volts of electric power"), #87 (described as "conduit supported by...untreated blocks") and #97 (described as "rain gutter drains water in immediate area of live electric power"). While he did recommend some minor repairs be made to the insulation, the electrician concluded that in his professional opinion item #86 did not constitute a safety risk of any kind. While #86 does not pose a safety risk, the District will be relocating the cabling for the alarm system. The electrician also flatly rejected the Grand Jury's assertion that items #87 and #97 posed a safety risk and further concluded that neither item #87 nor #97 required any repair.

As stated above, the District also engaged a licensed contractor to inspect the conditions depicted in the following photographs;

- #57 (described as "rot at foundation"),
- ##51 and 85 (described as "siding is separating from wall structure"),
- #87 (described as "the blocks rest directly on the roof material. Needed are roof pads to absorb movement"),
- #61-63 (described as "continued water intrusion into ceiling of classroom"),
- #97 (described as "none of the drains routed roof water away from the structures"), and
- ##61 and 67 (described as "roof flashing missing at drain vent").

With respect to item #57, the contractor removed a new corner trim piece that District maintenance staff had installed to replace the rotted piece depicted in the Grand Jury's photograph, and determined that there was isolated water damage. The contractor concluded that this condition poses no danger or safety risk, but recommended minor repair and future water diversion. The District's maintenance staff has completed all recommended repairs.

With respect to item #51, the contractor concluded that the damaged skirting material was recommended for replacement, but that this condition poses no danger or safety risk. The District's maintenance staff has completed all recommended repairs.

With respect to item #85 and contrary to the Grand Jury's conclusion, the contractor found no evidence of separation from the structure or evidence of water present, thus there was no condition posing a danger or safety risk.

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With respect to item #87, the contractor concluded that the conduit support blocks resting on the roof membrane does not pose a danger or safety risk, but nonetheless recommended that the District inquire about the manufacturer's recommendations regarding pads.

With respect to item ##61-63, the contractor inspected the roof and space above the ceiling and found no evidence of water entry. The contractor further determined that the roof membrane is in good condition and all penetrations are flashed. Therefore, the contractor concluded that there is no danger or safety risk with respect to these items.

With respect to item #97, the contractor concluded that minor repair could improve drainage from the area, but that this condition poses no danger or safety risk.

With respect to item ##61 and 67, the contractor found no evidence of missing roof flashings, and thus concluded that there is no danger or safety risk in relation to these items.

Based on all the foregoing, the Board disagrees with the Grand Jury's finding that the facilities conditions at Bell Hill Academy expose all persons on the property to "dangerous health and safety issues." As set forth above, no credible evidence exists to support the Grand Jury's conclusion.

**Finding 3:**

These hazardous conditions are endangering the health and safety of students, teachers, staff, parents and visitors because no one has taken responsibility for repair even though administrators and the Board of Trustees have been notified in writing.

**Response to Finding 3:**

The Board strongly disagrees. No evidence whatsoever exists to substantiate this finding.

First and foremost, the above conclusion presupposes the fact that there are "hazardous conditions...endangering the health and safety of [all persons]" at Grass Valley Charter School and Bell Hill Academy. As explained more particularly in the Board's responses to the Grand Jury's finding nos. 1, 2 and 4 herein, no evidence exists to support the Grand Jury's underlying determination concerning the existence of "hazardous conditions" at these sites.

Second, the Grand Jury's above conclusion assumes the truth of the allegation that "administrators and the Board of Trustees have been notified in writing" regarding the items identified in the Grand Jury report. The Board does not have any evidence, documentary, testimonial, or otherwise, supporting this allegation regarding prior written notice to the Board and District administration.

To the contrary, the Board's receipt of the Grand Jury report was the first time that the Board or the District's administration was informed about the allegedly unsafe conditions identified in the

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anonymous complaint that prompted the Grand Jury's investigation.<sup>2</sup> Had the anonymous complainant, or any other knowledgeable person, brought those items of concern to the attention of the Board or the District's administration sooner, the District would have been able to conduct its investigation and make the recommended minor repairs where applicable far earlier than it has been able to do following its receipt of the Grand Jury report.

As the report states in its Fact 18, during the District Superintendent's interview with the Grand Jury, he stated that "he is unaware of any notifications of sub-standard conditions in any classroom or building within the district." There are no facts alleged in the report that controvert the Superintendent's statement, and neither the Grand Jury nor the District have produced any evidence to the Board to substantiate the Grand Jury's contradictory finding concerning prior written notice. The Board therefore disputes this factual assumption.

Finally, with respect to the Grand Jury's conclusion that "no one has taken responsibility for repair," the District Maintenance Supervisor, and District maintenance staff, are responsible for identifying the need for, and ensuring the completion of, District facilities maintenance and repair projects. (See attached job descriptions for Director of Maintenance and Operations<sup>3</sup> and for General Maintenance Person<sup>4</sup>)

Please see the attached Work Order Flow Chart and narrative description, which illustrate and explain the District's above-described system for facilities maintenance and repair.

The District's Superintendent relies upon the maintenance supervisor and staff to report and promptly address any issues or concerns with respect to facilities. Again, as explained above, had the District's Superintendent been given earlier notice of the items identified in the Grand Jury's report for which the District's licensed inspectors have recommended minor repairs, either by the District's former Supervisor of Maintenance and Grounds or by the anonymous complainant, the District would have been able to complete work orders for those repairs much sooner.

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<sup>2</sup> NOTE: there is one limited exception relating to the storage of chemicals in the workshop and the Safety Data Sheets identifying all chemicals on site. As explained in the District Superintendent's May 5, 2014 written response to the Grand Jury's request for information (a true and correct copy of which is attached hereto), the District's previous Supervisor of Maintenance and Grounds was directed to address these issues during the period of his employment, but he did not do so. As is further explained in the Superintendent's response, the District has since taken appropriate steps to implement the prior directive regarding the Safety Data Sheets, and the District has already completed the purchase of a special storage container to house the chemicals in the workshop depicted in the Grand Jury's Photographs #7 and 8, and that storage container will be arriving very shortly. However, the Board emphasizes that despite the former District Supervisor of Maintenance and Grounds' failure to complete these tasks as directed, there is no evidence that either of these issues have ever constituted an actual health or safety risk to anyone.

<sup>3</sup> See, in particular, Essential Functions #12 ("Conduct inspections of buildings and facilities to determine maintenance and repair needs and quality of work performed") and #16: ("Determine safety and fire hazards and recommend corrective action").

<sup>4</sup> See, in particular, Duties and Responsibilities #14 ("Advise supervisor of safety hazards or items in need of replacement or maintenance work").

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Nevertheless, with respect to those items identified in the Grand Jury report for which the District's licensed inspectors recommended minor repairs, the District has made or is in the process of repairing all items.

Based on all the foregoing, the Board must disagree with the Grand Jury's finding that "no one has taken responsibility" for facilities repairs despite alleged prior written notice to the Board and administration. There is no evidence to support the conclusion.

**Finding 4:**

Mold not properly removed continues to pose an inherent danger to students, teachers, staff, parents, and visitors.

**Response to Finding 4:**

The Board strongly disagrees. The Board does not have credible evidence to substantiate this finding.

With respect to the Board's concerns regarding the information provided by the Grand Jury in support of this finding, please refer to the explanation provided under "Response to Finding 1" above, as the Board harbors identical concerns with respect to the Grand Jury's support for its Finding 4. Thus, the Board cannot responsibly deem such information adequate to support the Grand Jury's claim that there is "dangerous mold" present in Bell Hill Academy classrooms #15 and 16.<sup>5</sup>

Moreover, upon receipt of the Grand Jury's report, the District engaged the services of a licensed and certified mold inspector to conduct inspections of Bell Hill Academy classrooms #15 and 16. The mold inspector collected air samples and surface samples, and further conducted a moisture content analysis. The inspector's samples were sent to an independent laboratory for analysis.

Upon review of the independent laboratory's report, the mold inspector concluded that there were no areas of elevated moisture levels, but that there was some evidence of mold growth in the air and surface samples that were tested. Although the mold inspector determined that the specific types and levels of mold growth detected through the sampling and testing process did not expose anyone to danger (i.e., no evidence of "toxic black mold"), the mold inspector nonetheless recommended, in an abundance of caution, that the District remediate the detected mold growth in order to effectively prevent the potential for future risks.

Based on the mold inspector's recommendation, the District engaged the mold inspector's certified remediation services to completely eradicate all mold growth identified by the certified

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<sup>5</sup> Based on the narrative descriptions and corresponding copies of photographs provided in the Grand Jury's report, the District ascertained that the Grand Jury's mold allegations pertained to Bell Hill Academy classrooms #15 and 16.

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mold inspector in Bell Hill Academy classrooms #15 and 16. The mold remediation was completed, and a clearance certificate issued, prior to the first day of the 2014-2015 school year.

Based on all the foregoing, the Board disagrees with the Grand Jury's finding that the facilities conditions in Bell Hill Academy classrooms #15 and 16 expose all persons in those classrooms to "dangerous mold." No credible evidence exists to support the Grand Jury's conclusion.

**Finding 5:**

Repairs have been done without benefit of required State oversight placing anyone entering these facilities at risk.

**Response to Finding 5:**

The Board strongly disagrees. The Board does not have credible evidence to substantiate this finding.

The Grand Jury report, in its Fact 9, indicates that the repairs to which the foregoing finding makes reference were mold remediation and related repair projects which the District completed in or about 2010-2011. The Board does not have any evidence showing that such projects were subject to approval by the State of California Department of General Services' Division of the State Architect ("DSA"). To the contrary, the Board is informed and believes that the mold remediation and repair projects referenced by the Grand Jury were specifically exempt from DSA approval based on the type and the extent of the work involved.

Moreover, the District engaged the services of licensed, certified mold inspectors to complete the above-referenced mold remediation projects, which resulted in the issuance of a mold clearance certification.

Based on the foregoing, the Board disagrees with the Grand Jury's finding that the District's previous mold remediation and related repair projects "placed anyone entering these facilities at risk" based on the absence of State oversight. No credible evidence exists to support the Grand Jury's conclusion.

**Finding 6:**

Inadequate inspections have placed students, teachers, staff, parents and visitors attending school facilities in danger. Lack of detail in observing and accurately reporting sub-standard and dangerous conditions are obvious even to a layperson and should have been reported by experts hired by GVSD.

**Response to Finding 6:**

The Board strongly disagrees. No evidence exists to substantiate this finding.

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Once again, the above conclusion presupposes the fact that there are “dangerous conditions” at Grass Valley Charter School and Bell Hill Academy. As explained more particularly in the Board’s responses to the Grand Jury’s finding nos. 1, 2 and 4 herein, there is no credible evidence to support the Grand Jury’s underlying factual determination concerning the existence of “dangerous conditions” at these sites.

As such, the Grand Jury’s conclusion that the District’s facilities inspection experts did inadequate work rests on a factual foundation that has not been and cannot be substantiated.

Based on the foregoing, the Board disagrees with the Grand Jury’s finding that the District’s previous facilities inspections were “inadequate” and therefore placed all persons present at these sites in “danger.” The evidence does not support the conclusion.

**Finding 7:**

Because GVSD officials created a MSDS book with unnecessary and inappropriate information, this places first responders at risk during emergencies as well as students, teachers, staff, parents, and visitors attending school facilities if immediate first aid is needed to be applied while awaiting medical care.

**Response to Finding 7:**

While the Grand Jury did not direct the Board to respond to Finding 7, it is clear that Finding 7 is directed to the District. The Board has substantively responded to the allegations contained in Finding 7 in Footnote 2 above, as well as its Response to Recommendation 5 below.

With respect to the Grand Jury’s allegation in Finding 7 that first responders, and others, have been placed at risk based on the former Maintenance Supervisor’s failure to update the Safety Data Sheets despite the Superintendent’s direction to do so, no evidence exists to substantiate this finding. Therefore, the Board must strongly disagree with this finding.

**BOARD’S RESPONSE TO GRAND JURY’S RECOMMENDATIONS**

**Recommendation 2<sup>6</sup>:**

The GVSD Board of Trustees should direct the Superintendent to review existing contracts with construction consultants to determine if there is a bad-faith clause and demand a refund because hazardous conditions were not repaired.

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<sup>6</sup> Note that the Grand Jury’s Recommendation 1 pertains solely to the Nevada County Superintendent of Schools, and the Grass Valley School District Board of Trustees was not requested to respond to Recommendation 1 for that reason.

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**Response to Recommendation 2:**

For the reasons given in the Board's Response to Finding 6 above, the Board does not believe that it is necessary or appropriate to implement the above recommendation.

**Recommendation 3:**

The GVSD Board of Trustees should direct the Superintendent to review the contracts for work on Grass Valley Charter School and Bell Hill Academy to remove mold, mildew and rot from these sites and verify the work was done according to contract.

**Response to Recommendation 3:**

While the Board believes that all prior mold inspection, testing and remediation work conducted at the above-referenced sites involved different classroom areas than those which were most recently inspected, tested and remediated in response to the Grand Jury's report, the Board nevertheless agrees with the Grand Jury's recommendation that the District Superintendent conduct a thorough, careful review of the contracts and warranties pertaining to the prior work in this area to be certain that its understanding is correct. The Board expects this to be completed by no later than the end of the 2014-2015 school year.

**Recommendation 4:**

The GVSD Board of Trustees should verify all this work performed was state approved, inspected, and complies with codes concerning safe schools.

**Response to Recommendation 4:**

For the reasons given in the Board's Response to Finding 5 above, the Board does not believe that it is necessary or appropriate to implement the above recommendation.

**Recommendation 5:**

The Grass Valley School District Board of Trustees should direct the Superintendent to update each MSDS Book to reflect site-specific hazards.

**Response to Recommendation 5:**

As is discussed in the Board's Response to Finding 3 above, and as is further explained in the District Superintendent's May 5, 2014 written response to the Grand Jury's request for information (see attached), the Superintendent has already taken steps to ensure that updated Safety Data Sheets are in place at each site in the District, and has further taken steps to incorporate such safety information into the District's online "Public School Works" system. On that basis, the Board asserts that the District has already implemented the Grand Jury's recommendation, and it will continue to implement the recommendation to ensure that the Superintendent continues to take all necessary and appropriate actions in relation to updating this safety information and making it readily accessible to anyone who requires such access, including first responders in the event of an emergency.

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### CONCLUSION

As explained above, the Board shares the serious concerns expressed by the District's administration regarding the deficiencies in the Grand Jury's investigative process, as well as the Grand Jury's decision to leap to seemingly alarming conclusions regarding health and safety issues which it lacks the professional expertise to assess, and which it further fails to support with any credible evidence.

The Board is pleased to know that the industrial hygiene experts engaged by the District to conduct professional inspections of the specific facilities conditions identified in the Grand Jury's report clearly disagreed with the Grand Jury's findings and, as the Board and District administration have believed to be true throughout this process, determined that the District does **not** have "unsafe school facilities."

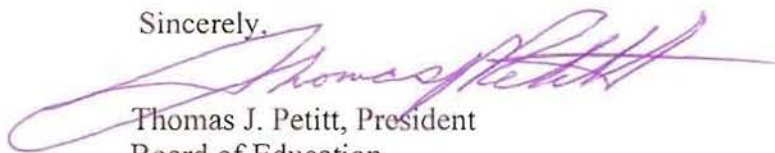
However, notwithstanding the foregoing problems with the Grand Jury's investigation and resulting Report, the Board will nevertheless implement the Grand Jury's recommendations to the limited extent and in the manner set forth above.

Finally, the Board notes that the Grand Jury's investigation into this matter extended over a period of months. Had the Grand Jury truly believed that the District was jeopardizing the health and safety of its students and staff, one would think that, in the interests of those very same students, teachers, staff and parents, the Grand Jury would have notified the District of the alleged safety concerns as soon as possible. Instead, the Grand Jury waited until June 30, 2014 to issue its findings.

While this response conclusively demonstrates that Grand Jury's findings were totally unfounded, the Grand Jury's actions in this matter were most certainly **not** designed to ensure the ongoing health and safety of the District's students, considering that the District had a total of 6 short weeks to evaluate the Grand Jury's findings and had there actually been a dangerous condition, to remediate that condition before the students returned for the 2014-15 school year.

For all of the reasons stated above, the Board remains steadfast in its determination that Grand Jury failed in its obligation to conduct a proper inquiry in this case and as a result, the Board hereby concludes that no credible evidence exists to support any of the Grand Jury's findings.

Sincerely,



Thomas J. Petitt, President  
Board of Education  
Grass Valley School District

Enclosures

cc: Members of the GVSD Board of Education  
Eric Fredrickson, GVSD Superintendent  
Grass Valley School District  
10840 Gilmore Way  
Grass Valley, CA 95945



## Grass Valley School District

### SCHOOL VISITORS

**BP 1070**

The Board and staff of the school district welcome and strongly encourage members of the community and other interested persons to visit our schools. School improvements often come from suggestions originating from such visits.

The Superintendent is authorized to establish such regulations as will:

1. Encourage visitors to observe our schools.
2. Provide for appropriate hospitality for visitors.
3. Channel expressions of approval as well as constructive criticism to the appropriate parties.
4. Insure that such visits will enhance the effect of the educational program rather than hinder it.
5. Require all visitors to register in the office of the principal upon their arrival at the school.

Board members who visit schools of their own volition have no more authority than any other citizen. Board members have authority only in regularly called meetings of the board, or when delegated specific tasks by board action.

Legal Reference: Education Code Section 35292

Adopted: 02/14/84

### LOITERING ON SCHOOL PREMISES

**BP 1080**

Any person who is not a member of the school staff or student body and who loiters on or about any school building or grounds without written permission or who causes disturbances in guilty of disorderly conduct and may be prosecuted according to law. It is therefore required that all visitors register in the office of the principal. Signs will be posted at the entrance to each school site.

Legal Reference: Education Code Section 32210

32210

32211

44810 - 44812

Adopted: 02/14/84



10840 Gilmore Way  
Grass Valley, CA 95945  
(530) 273-4483  
FAX (530) 273-0248

# Grass Valley School District

Eric Fredrickson  
Superintendent

To: Nevada County Grand Jury, Health and Environment Committee Chair  
Re: Requested information from the Grass Valley School District regarding facilities  
Date: May 5, 2014  
From: Eric Fredrickson, Superintendent, Grass Valley School District

Included is the information requested by Greg Marks on April 16, 2014. There were four items requested, and I have provided a response to each request along with supporting documentation:

## 1. Report from the contractor hired to inspect the facilities (17 Items Attached)

Innovative Construction Services (ICS) was contracted as a Construction Management Firm in June of 2013 to oversee projects that were not completed or that were planned during the 2012/13 and 2013/14 school years. The firm was also contracted to review the district facilities and provide guidance in developing a Facility Master Plan. ICS has been providing guidance and support to the district by facilitating the following actions:

- Monitoring the bidding of projects
- Monitoring and supervising the contractors selected for the work
- Recommending and coordinating the work of architects and civil engineers: Kirk Brainerd, Architect and Warren Consulting Engineering
- Recommending and coordinating with Williams and Associates, a facilities consulting firm, to assist the district in the development of a District Master Facility Plan and to assist the district in implementing an enhanced facility inspection process.

### Actions:

- Summer, 2013: Walkthrough of all district facilities with ICS and consultants (See invoice)
- August 2013: Hired a new Director of Maintenance and Operations, replacing the previous supervisor of maintenance position.
- Bell Hill Academy
  - New Play field and play structure
  - Remodeled the kitchen and food heating area to insure food was served in an area that was compliant, including asbestos abatement of the food prep area
  - Full site review of retaining walls by architect and civil engineer
  - Preliminary drawings and topography survey of a renovated Bell Hill Academy facility
  - Quotes on replacing HVAC systems in four classrooms to replace swamp-cooling system on main building. Due to expense, new HVAC was not purchased, existing swamp coolers were serviced to improve efficiency
- Grass Valley Charter School (Hennessy)
  - Interior hallways painted
  - Main water line repaired (Completed by district staff)
  - New outside concrete snack and lunch area installed

- Playground swing repaired (Completed by district staff)
  - “Little Learners” Preschool playground built
  - Charter garden project
  - Ceiling mounted projectors (Completed by district staff)
- Lyman Gilmore Middle School
    - Outside snack and lunch area renovated
    - Sections of concrete replaced to remove trip hazards
    - Ceiling mounted projectors (Completed by district staff)
  - Scotten School
    - Sections of concrete replaced to remove trip hazards
    - Surveying of bus loading area walkways to resolve trip hazards
    - Renovated room to create a new computer lab (Completed by district staff)
    - Ceiling mounted projectors (Completed by district staff)

## 2. Provide maintenance work done report (3 Items Attached)

Attached is a detailed Work Order list that provides a description of the work requested, the location, the employee assigned to the task, the craft required to meet the repair, and the date the request was completed.

The two maintenance employees (Bill and Nelson) have the primary responsibility of completing these tasks. To complete some tasks, the two maintenance employees are assisted by the Director of Maintenance (Doug), the groundskeeper (Ken), and various custodial staff.

In August, the district was fortunate to hire a new Director of Maintenance and Operations who is experienced in developing and implementing a detailed and comprehensive work order and tracking system. In the past the district utilized a hand written work order and tracking system that was very inefficient and was challenging to track the status of the work orders and repairs.

**Mold inspection reports:** I have also included Mold Inspection Reports that were conducted this school year due to the request of employees who were concerned about mold in their classrooms. The results indicated that there were no elevated levels of fungi or elevated moisture levels.

In the past the district has been responsive to such requests and have conducted mold inspections when concerns were identified. If a report indicates that there is presence of mold the district contracts with an outside contractor to remedy the mold issue. Documents can be provided to affirm these types reports and repairs.

## 3. Explain and justify the facility ratings on the current SARC and the conditions observed in January 2014

The ratings on the 2013/14 School Accountability Report Card (SARC) indicated that each school site rated their facilities in overall good condition. This rating was determined through observations by each site administrator and the Director of Maintenance and Operations. To document the needs of the facilities an extensive maintenance and repair list has been created (Refer to documents in requested information #2)

The district feels totally justified in choosing the rating of “Good”, although we would prefer to have a rating of “Exemplary”, but given the challenges of maintaining older facilities in a time of limited resources and declining enrollment it is understandable that we are only able to obtain a “Good” rating. Although we have areas that need repair, we strongly feel our facilities are anything but “sub-standard”. On the contrary, by reviewing the documents provided in the requested information #1 and #2, it is obvious that the conditions of the district facilities is a priority. The amount of resources dedicated to improving our facilities, contracting with a construction management firm to insure our projects and repairs are completed properly, hiring a consultant to assist us in developing a Master Facility Plan and enhance the Facility Inspection Tool, the list of

site improvements that have been made over the last year, and the extensive maintenance and repair list clearly indicate that our district has made facilities a priority.

Further justification for indicating a “Good” rating on the SARC is evidenced by the recent results from the Parent and Staff School Climate Surveys conducted over the last several months. Ninety-two percent (92%) of responding parents “Strongly Agreed” or “Somewhat Agreed” that our district facilities are in good repair, safe, and conducive to learning. Seventy-nine percent (79%) of responding staff members “Strongly Agreed” or “Somewhat Agreed” that our district facilities are in good repair, safe, and conducive to learning. Those types of responses clearly support at least a “Good” rating on the SARC. Further, any comments of concern expressed in the surveys were items that have already been identified by the district and are on the maintenance repair list or will be addressed in the Master Facility Plan.

As far as the photos taken to indicate that the district facilities are sub-standard and bring into question the ratings on the SARC, it is important to remember that those photos were taken in isolation and over a extended period of time and do not accurately depict the overall conditions of the district facilities.

Unfortunately, the grand jury does not feel that it is appropriate to provide me the pictures, as I had requested, so that I could respond to the various conditions, but based on my recollection I am providing you with the following feedback:

- The picture of the rubber tube coming out the window at the Bell Hill Academy: Although unsightly, this is not a safety issue. The tube, which is designed to take an air sample, was inserted through a small hole that was in the window by the Charter School staff as part of the school’s collaborative effort with Nevada County to be part of the air quality-sampling network. This repair is not a safety issue and is not considered a high priority repair.
- The picture of the swing at Grass Valley Charter (Hennessy) has been repaired and the second swing is in the process of being repaired.
- The picture of the conduit supported by blocks on the Bell Hill Academy roof was installed many years ago under different building codes that met the Department of the State Architect (DSA) requirements at the time and are not required to be changed unless the district is modifying that building or system. Obviously, if it were a serious safety issue the district would repair it regardless of the requirements.
- The picture of the wall at the Grass Valley Charter (Hennessy) that was being repaired and that showed a black substance on the wood. That picture was taken back in 2011. There is no evidence that the black substance was mold or was not removed after the picture was taken, nor any evidence that the contractors were told to cover it up without dealing with the issue. That accusation is not consistent with the actions the district has taken to repair mold issues that have been identified in the past. Documentation can be provided that demonstrates the district’s response to mold issues. As a precautionary effort, just in case the wall was not properly prepared, I have directed our Director of Maintenance to conduct a mold sampling of the outside wall and any interior walls that would have been affected by this situation.
- The picture of the cabinet containing chemicals. That was identified last year and direction was given to resolve that concern. The previous employee responsible for completing that task did not follow through with purchasing a new cabinet, nor did he follow through with insuring that an updated Safety Data Sheets be available at each site. Last June Safety Data Sheets were placed at each site and a new online resource is currently being created that is part of the districts online “Public School Works” safety compliance system.
- The picture of the contractor’s “Gunite” hoses stretching across the hallways during a project at the Grass Valley Charter (Hennessy) that allegedly did not meet OSHA requirements. That was an isolated incident involving an outside contractor and the previous Supervisor of Maintenance, who took the pictures, addressed the problem. This type of incident was another reason the district felt it needed to contract with a construction management firm to monitor and manage projects involving outside contractors.

In closing, it would have been beneficial to have had the opportunity to have had access to the pictures so that I could have responded to each picture, as well as, had the opportunity to check the current status of the concerns depicted in each picture.

For whatever reason, it is obvious to me that the individual or individuals who submitted this complaint to the grand jury, did not file this complaint with the well-being or safety of the children, staff, or community members who use our facilities in mind, but rather I believe it was done with a deceitful and unproductive motive to cast a negative impression on the leadership of the Grass Valley School District.

Although I believe our district has been taking the proper steps to provide quality facilities, as with anything, there is always room for improvement. The following actions are being initiated this school year to further improve the inspection of school facilities:

- Enhanced Facility Inspection Tool developed by Facility Consultant
  - The Director of Maintenance and Operations is currently conducting preliminary inspections using the new inspection tool. He is reporting his findings to each site administrator to allow them time to address any issues prior to his full inspections that will be conducted in June and July. Items identified will be added to the repair list and prioritized
- Local Control Accountability Plan Surveys for students, parents, and staff
  - District stakeholders have been provided the opportunity to provide specific feedback regarding district facilities. Results from the surveys have been shared with the District Advisory Committee and the governing board and the information from these surveys will be used in the development of the Master Facility Plan and in the development of the district budget

**4. Provide any review documents from the county superintendent office concerning accuracy review of the current SARC report**

Our district has not received any documents or communication from the Nevada County Superintendent of Schools Office regarding the accuracy or any concerns regarding our district's SARC report. Nor has the District received any documents or communication regarding any Williams Act complaints related to facilities.



Eric Fredrickson  
Superintendent

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<b>POSITION:</b>	<b>DIRECTOR OF MAINTENANCE AND OPERATIONS</b>
PLACEMENT:	CONFIDENTIAL/SUPERVISORY SALARY SCHEDULE (12-MONTH POSITION) STEP B: 1-5, \$26.76 – \$32.36 PER HOUR
REPORTS TO:	BUSINESS MANAGER

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**BASIC FUNCTION**

Under direction of the Superintendent, plans, organizes and provides supervision and oversight for daily maintenance operations and activities in the Grass Valley School District, which includes landscape and lighting, facilities, supervises and evaluates the work of both maintenance and custodial employees and outside contractors; coordinates activities with those of other departments; inspects and troubleshoots maintenance work; and performs related work as required.

**ESSENTIAL FUNCTIONS:**

Essential functions may include, but are not limited to the following:

1. Plan, organize, coordinate and oversee day-to-day maintenance and custodial activities to assure the proper and efficient maintenance and repair of District buildings and facilities.
2. Supervises maintenance and custodial staff by determining workloads and schedules.
3. Assign, train and supervise assigned maintenance and custodial staff.
4. Evaluates maintenance and custodial staff and makes hiring and termination recommendations.
5. Answers questions and provides information related to projects including resolving problems, approving expenditures, handling complaints and providing technical expertise in area of assignment.
6. Develop and prepare work schedules for contractors to perform work in the Grass Valley School District.
7. Review maintenance reports and work orders.
8. Prioritize and coordinate duties and assignments to assure effective workflow and facilitate operations.
9. Coordinate responses to emergency calls.
10. Prepare and maintain records, files, logs, spreadsheets, and reports related to personnel, inventory, supplies, work requests, work performed and safety issues as assigned.
11. Establishes and maintains current and accurate inventory of equipment and assets. Implements procedures for receiving, delivery, and inventory control to comply with district requirements for asset management.
12. Conduct inspections of buildings and facilities to determine maintenance and repair needs and quality of work performed.
13. Assists the District's Administration to develop, implement and update long range plans for deferred maintenance, facility construction and remodeling.
14. Monitors and participates in operations in assigned sections including inspecting projects, developing and implementing modifications and improvements, recommending specifications and scheduling for contracts, negotiating prices and inspecting contractor's work to ensure that safe work practices and standard operating procedures are followed.
15. Conduct investigations, identifications, documentations, scheduling, and oversee the removal of all hazardous materials including, but not limited to, asbestos, lead, and chemicals, mold remediation and air quality. Record findings involving mold issues.
16. Determine safety and fire hazards and recommend corrective action.
17. Participate in the establishment and implementation of a systematic preventive maintenance program. Investigate vandalism as necessary.
18. Oversees the district procedures for storage, disposal and recycling.
19. Assist in determining needed equipment, materials and supplies for the District maintenance operations. Requisition a wide variety of supplies, maintenance tools and equipment.
20. Conduct annual fire extinguisher inspections and semi-annual fire alarm inspections and re-service as necessary. Contact fire department for certification activities as required.
21. Interacts professionally with the public maintaining effective working relationships and works in cooperation with the management team to effectively meet departmental objectives.
22. Provides input into the development of the operating budget for the assigned area of responsibility. Orders materials and supplies. Assists in the monitoring and tracking of expenditures
23. Implements and monitors the Injury and Illness Prevention Program for District.
24. Ensures that safety training is provided to staff and that proper safety practices are followed.

25. Responds to emergencies as requested. Coordinates activities with other responders. Directs the work of staff and utilization of resources to effect repair and ensure the safety of the Grass Valley School District.
26. Establishes and maintains procedures for system security and protection of district facilities and property.
27. In collaboration with the District's Administration, leads the District's Emergency Planning and implementation process, including but not limited to the formation of the District's Safety Committee.
28. Adheres to Board policies and regulations and maintain a thorough working knowledge of the district procedures.
29. Responds accurately and diplomatically to inquiries and requests from District staff, other agencies, and members of the public consistent with district policies and department practices.
30. Prepares reports, provide statistical data, and maintain pertinent files related to Buildings, Grounds and Operations; check documents and transactions to ensure compliance with legal and inventory requirements; adhere to district requirements for contracted services; and assist in the preparation of annual reports for the district, county and state.
31. Ensure that mail and packages are delivered each school day between the school sites and the District Office.
32. Ensures compliance with various public agencies and regulations, such as ADA, CalOsha and the Field Act.
33. Operates a variety of software programs and equipment necessary for this position.
34. Perform other related duties as assigned.

#### **EDUCATION AND EXPERIENCE**

1. Possession of a high school diploma or general equivalency diploma (G.E.D.) and five years of skilled or semi-skilled maintenance experience which must have included one year of lead experience; or an equivalent combination of education and experience sufficient to successfully perform the essential duties of the job as listed above. College-level course work enabling incumbent to obtain job-related licenses or certificates is desirable.
2. Valid California driver's license. Employees in this classification must maintain insurability and possess a satisfactory driving record.

#### **QUALIFICATIONS**

1. Ability to pass a Post-Offer Pre-Placement Exam (POPP). To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.
2. Sufficient formal and/or informal training to provide the ability to read and write at a level consistent with the requirements of the position.
3. Additional duties performed by the individuals currently holding this position may be assigned.

#### **CREDENTIALS AND/OR SKILLS AND ABILITIES:**

1. Principles and practices of employee supervision, including work planning, assignment and review and the training of staff in work procedures.
2. Methods, materials, and equipment used in the various building maintenance trades such as carpentry, plumbing, painting, electrical, heating and ventilating, air conditioning and sprinkler installations as assigned.
3. Policies, procedures, equipment, materials and supplies related to the service and maintenance of equipment and vehicles.
4. Safety practices and principles related to maintenance activities.
5. Computer applications related to the work.
6. Inventory control practices and principles.
7. Communication and effective interaction with co-workers, managers, subordinates and the general public sufficient to exchange or convey information and to give and receive work direction.
8. Techniques for effectively dealing with a variety of individuals from various socio-economic, cultural and ethnic backgrounds, in person and over the telephone.
9. Planning, assigning, scheduling and reviewing the work of staff.
10. Supervising complex maintenance and repair tasks in area of assignment.
11. Assisting in developing and implementing goals, objectives, policies, procedures and work standards for the department.
12. Interpreting, applying and explaining complex codes, regulations and procedures.
13. Experience working with various public agencies, such as DSA (Dept. of State Architects) and DGS (Dept. of General Services), as it pertains to public school facilities
14. Inventorying and ordering equipment, supplies and materials and record-keeping techniques.
15. Preparing cost estimates, budgets, correspondence and status reports.
16. Using tact, initiative and sound judgment within general procedural guidelines.
17. Using tools and operating equipment used in area of assignment.
35. Methods and procedures related to Hazardous Materials disposal and asbestos abatement.
36. Read, interpret and work from construction drawings and blueprints.
37. Estimate materials and labor costs.
38. Work independently with little direction.
39. Observe legal and defensive driving practices.

**REASONING ABILITY:**

1. Ability to apply common sense understanding to carry out instructions furnished in written, oral or diagram form.
2. Ability to establish and maintain effective working relationships with students, co-workers, staff and community.
3. Ability to perform duties with awareness of all district requirements and Board of Education policies.
4. While performing the duties of this job, the employee is regularly required to stand; walk; use hands and fingers to handle or feel objects, tools, or controls; and talk or hear. The employee frequently is required to reach with hands and arms. The employee is occasionally required to sit. The employee frequently must squat, stoop or kneel, reach above the head and reach forward. The employee continuously uses hand strength to grasp tools and climbs on to ladders. The employee will frequently bend or twist at the neck and trunk more than the average person while performing the duties of this job.
5. The employee must frequently lift and/or move up to **50 pounds** such as cleaning supplies, pails and unloading trucks. Occasionally the employee will lift and/or move up to **75 pounds to 100 pounds** occasionally such as bulk furniture. The employee will sometimes push/pull items such as tables, bleachers, scrubbing machines. Specific vision abilities required by this job include close vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

**LANGUAGE SKILLS:**

1. Ability to read and interpret documents such as safety rules, operating and maintenance instructions, and procedure manuals.
2. Ability to write routine reports and correspondence.

**MATHEMATICAL SKILLS:**

1. Ability to add, subtract, and multiply, and divide in all units of measure, using whole numbers, common fractions, and decimals. Ability to compute rate, ratio, and percent and to draw and interpret bar graphs.

**WORK ENVIRONMENT:**

The work environment characteristics described here are representative of those employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

1. While performing the duties of this job, the employee regularly works indoors and outdoors.
2. The employee will work near or with moving mechanical equipment.
3. The employee may occasionally work with toxic or caustic chemicals such as petroleum products, degreasers, and sprays.
4. The employee must be able to meet deadlines with severe time constraints.
5. The noise level in the work environment is usually moderate.

**PHYSICAL REQUIREMENTS:**

Employees in this position must have the ability to:

1. Sitting or standing for extended periods of time, walking over rough or uneven surfaces to monitor projects.
2. Must possess strength, stamina and mobility to perform heavy physical work out of doors in all weather conditions and with exposure to potentially hazardous conditions, use varied hand and power tools, drive a motor vehicle.
3. Lift and move materials and equipment weighing up to **90 pounds and heavier weights** with the use of proper equipment.
4. Hearing and speech to communicate in person and over the telephone and/or radio.
5. Must work emergency overtime as required.

<u>Endurance</u>	<u>Minutes At One Time</u>	<u>Total Hours In An 8-Hour Day</u>
Sit	0-45 min.	0-6
Stand	0-5 min.	2-3
Walk	0-10 min.	5-7
Drive	0-45 min.	0-3
Keyboarding	0-5 min.	0-1



	NVR 0%	RARE 1-5%	SELD 6-19%	OCCAS 20-33%	FREQ 34-66%	CONT 67-100%		NVR 0%	RARE 1-5%	SELD 6-19%	OCCAS 20-33%	FREQ 34-66%	CONT 67-100%
							<b>LIFT</b>						
1 - 10 lbs.						X	Bend/Stoop						X
11 - 20				X			Twist						X
21 - 35				X			Crouch/Squat				X	X	
36 - 50				X			Kneel				X		
51 - 75				X			Crawl				X		
76 - 100				X			Walk-Level						X
							Walk-Uneven						X
							Climb Stairs						X
							Climb Ladder						X
1 - 10 lbs.						X	Reach Shoulder				X		
11 - 20				X			Use Arms						X
21 - 35				X			Use Wrists						X
36 - 50				X			Use Hands						X
51 - 75				X			Handling						X
76 - 100				X			Fingering						X
							Foot Control					X	
1 - 10 lbs.						X							X
11 - 20				X									
21 - 35				X			<b>ENVIRONMENT</b>						
36 - 50				X			Inside			X			X(1)
51 - 75				X			Outside						X(1)
76 - 100				X			Heat	N	O	R	M	A	L
							Cold	N	O	R	M	A	L
							Dusty						
1 - 10 lbs.						X	Noisy	N	O	R	M	X	L
11 - 20				X			Humid	N	O	R	M	A	L
21 - 35				X									
36 - 50				X			<b>HAZARDS: Blood Borne Pathogens X</b>						
51 - 75		X					Mechanical		Radiant			Explosive	
76 - 100		X					Burns		Electrical			Other	

**SPECIAL NOTES:**

1. Time spent inside or outside depends upon location of assignment(s).
2. Employee must wear required personal protective equipment and follow all applicable safety standards.

Grass Valley School District is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, religion, sex, disability, age, medical condition (cancer-related), ancestry, marital status, citizenship, sexual orientation, or status as a Vietnam-era veteran or special disabled veteran. The District also prohibits sexual harassment. Inquiries regarding the District's nondiscrimination policies may be directed to the Superintendent or his designee.

I, \_\_\_\_\_ have read and received a copy of this job description, and understand that a copy of this job description will become part of my personnel file.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

# Grass Valley School District

## Job Description

**Job Title:** General Maintenance Person

**Supervisor:** Director of Maintenance & Grounds

### **Duties and Responsibilities:**

1. Maintain a positive and helpful attitude with adults and children and work cooperatively with fellow workers, employees and other staff members.
2. Service and repair district equipment, and machinery on a regular maintenance schedule and as needed.
3. Install, repair and maintain electrical systems, appliances, fixtures and wiring.
4. Install, repair and maintain heating and ventilating systems and appliances.
5. Install, repair and maintain plumbing and pipe systems and fixtures.
6. Paint and refinish all types of surfaces, furniture and equipment.
7. Install, repair and maintain hinges, locks, windows and doors.
8. Install, repair and maintain all types of floors, wall surfaces, roofs, rain gutters, furniture, and equipment and other tasks requiring carpentry work.
9. Perform routine maintenance and minor repair on school vehicles.
10. Work with wood, metal, stone and concrete or projects that are assigned.
11. Observe proper use and care of hand and power tools.
12. Purchase necessary parts for emergency repairs.
13. Obtain prior approval from supervisor for purchase of parts, material or equipment except in emergencies.
14. Advise supervisor of safety hazards or items in need of replacement or maintenance work.
15. Ability to maintain, diagnose, and repair district machinery, equipment, heating systems and air conditioning units.
16. Ability to fabricate wood or metal for needed projects.
17. Other duties as may be assigned or reasonably expected of a district maintenance person.

## Job Description

### Job Title: General Maintenance Person

**Qualification Requirements:** *Ability to pass a Post-Offer Placement Exam (POPP). To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.*

While performing the duties of this job, the employee is regularly required to stand; walk; use hands and fingers to handle or feel objects, tools, or controls; and talk or hear. The employee frequently is required to reach with hands and arms. The employee is occasionally required to sit. The employee frequently must squat, stoop or kneel, reach above the head and reach forward. The employee continuously uses hand strength to grasp tools and climbs on to ladders. The employee will frequently bend or twist at the neck and trunk more than the average person while performing the duties of this job.

The employee must frequently lift and/or move up to 50 pounds such as cleaning supplies, pails and unloading trucks. Occasionally the employee will lift and/or move up to 75 pounds such as bulk furniture. The employee will sometimes push/pull items such as tables, bleachers, scrubbing machines. Specific vision abilities required by this job include close vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

**Work Environment:** *The work environment characteristics described here are representative of those employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.*

While performing the duties of this job, the employee regularly works indoors and outdoors. The employee will work near or with moving mechanical equipment. The employee may occasionally work with toxic or caustic chemicals such as petroleum products, degreasers, and sprays. The employee must be able to meet deadlines with severe time constraints. The noise level in the work environment is usually moderate.

**Education and/or Experience:** Equivalent to completion of high school or general education degree (GED) and one year of general work experience, preferably including some custodial or janitorial work.

**Language Skills:** Ability to read and interpret documents such as safety rules, operating and maintenance instructions, and procedure manuals. Ability to write routine reports and correspondence.

**Reasoning Ability:** Ability to apply common sense understanding to carry out instructions furnished in written, oral or diagram form. Ability to deal with problems involving several concrete variables in standardized situations. Ability to establish and maintain effective working relationships with students, staff and community. Ability to perform duties with awareness of all district requirements and Board of Education policies.

The information contained in this job description is for compliance with the American with Disabilities Act (A.D.A.) and is not an exhaustive list of the duties performed for this position. Additional duties are performed by the individuals currently holding this position and additional duties may be assigned.

## Work Order Flow Chart

Work Requests are generated at the site by site staff. These are generally done by filling out a form on paper.

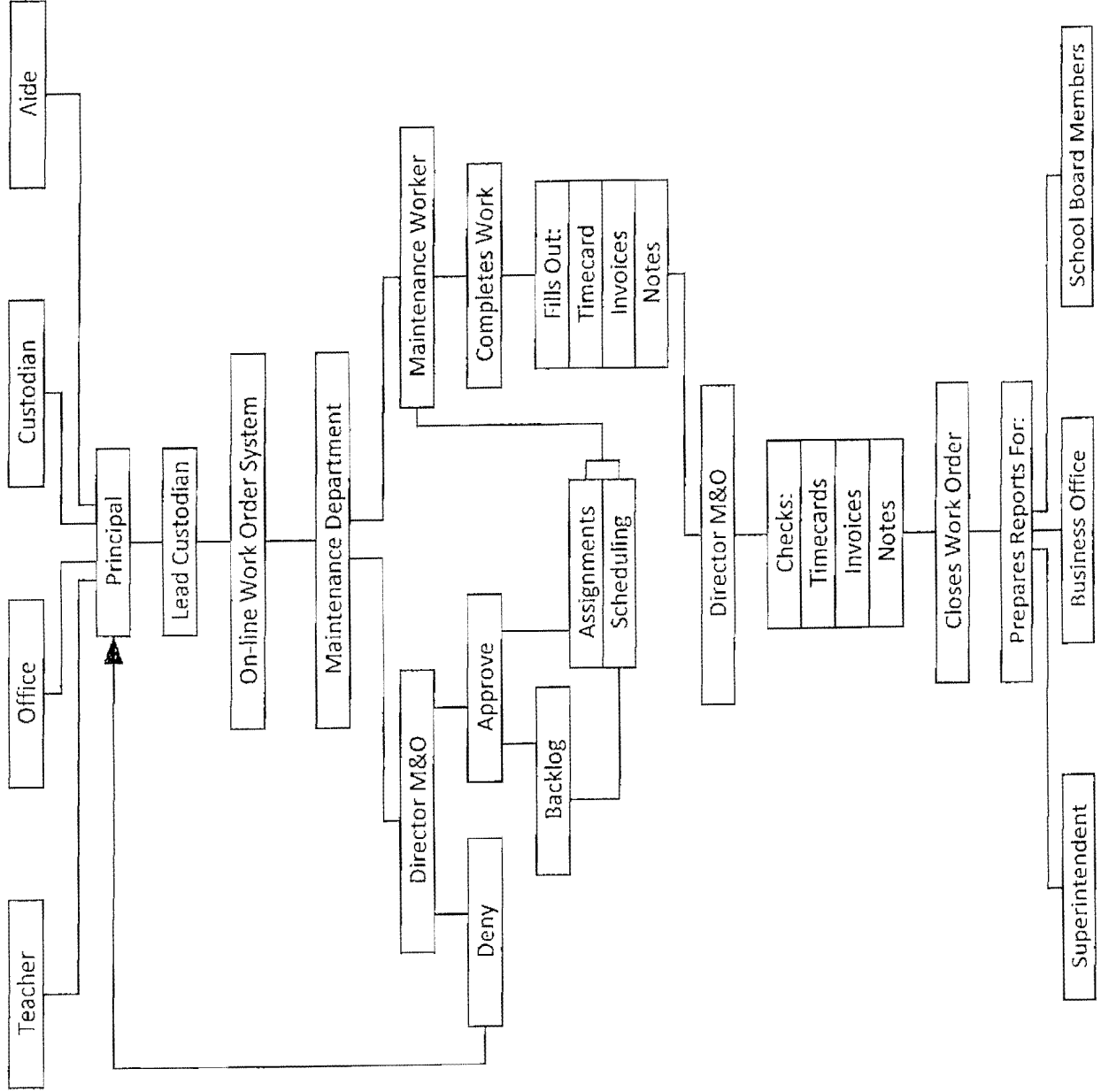
The paper requests are sent to the site Administrator for review. If approved, the request is passed onto the Lead Custodian. The Lead Custodian determines if the work can be completed by local custodial services or not. If not, the Lead Custodian will enter the information into an On-Line Maintenance Work Request System. Occasionally, the Principal or the Site Secretary will enter an On-Line Maintenance Work Request, by-passing the Lead Custodian when necessary and appropriate.

Once the Work Request has been entered on-line, the Director of Maintenance or Maintenance Workers will turn the Work Request into a Work Order.

Once the Work Order has been generated, it is assigned to a Maintenance Worker or Outside Vendor (Contractor) as necessary, or the Work Order may receive a backlog status until such time that may be better suited for that type of work.

Upon completion, the Maintenance Worker fills in whatever notes he may have, and any invoices from purchases are recorded along with the labor hours. The Maintenance Director, after checking the information entered, will close the work order. A list of completed work orders are made into a report that is presented to the Business Office, Superintendent, and School Board for information purposes on a monthly basis.

The completed work orders are maintained in a database for future reference.



## **MYSTIC MINE ROAD COMMUNITY SERVICES DISTRICT DYSFUNCTIONAL DISTRICT**

### **Summary**

The Mystic Mine Road Community Services District is an independent special district responsible for public road maintenance services in the area of Mystic Mine Road in unincorporated Nevada County. The Mystic Mine Road Community Services District is governed by a Board of Directors elected by the district's voters.

The Nevada County Grand Jury received a citizen complaint regarding the Mystic Mine Road Community Services District. In the process of investigating the complaint, the Nevada County Grand Jury found that the Mystic Mine Road Community Services District has incomplete by-laws and has two vacant seats on the Board of Directors.

The Nevada County Grand Jury also found that the current annual property tax assessment is not being used to properly maintain all public roads within the Mystic Mine Road Community Services District.

### **Reasons for Investigation**

On October 9, 2013, the Nevada County Grand Jury (Jury) received a complaint regarding the Mystic Mine Road Community Services District (District). The complaint alleged lack of diligence by the Mystic Mine Road Community Services District Board (Board) in carrying out its responsibilities for road maintenance of all roads within the District.

### **Background**

Special Districts are a form of local government created by a community to meet a specific need. Most of California's special districts perform a single function such as sewage, water, fire protection, pest management, or cemetery management. There are approximately 2,300 independent special districts in California, each governed by an independent board of directors elected by the registered voters of the District or appointed to a fixed term of office by either a city council or a county board of supervisors. There are 24 independent special districts in Nevada County.

The District is an independent special district supported by public funds. It was established by the Nevada County Board of Supervisors (BOS) in 1981. It has no full time employees and the Board is comprised of volunteers.

The District is governed by a five-member Board elected by the registered voters during the general election held in November. The members of the Board serve four-year terms.

The Board is responsible for setting policy and general administrative procedures in conformance with the California Government Code §54950 et seq., commonly known as the Ralph M. Brown Act (Brown Act). The Board is required to meet in regular session with an agenda posted in a location of community access.

### **Procedures Followed**

The Jury interviewed a member of the Board, a staff member of the Nevada County Counsel's Office, a staff member from the Nevada County Local Area Formation Commission (LAFCo), a Nevada County Consolidated Fire District official, and residents of the District. The Jury also reviewed related documents.

### **Facts**

- Fa. 1** The District was established in 1981 by the BOS Resolution 81-243.
- Fa. 2** The BOS Resolution 81-243 includes a plot plan encompassing the boundaries of the District.
- Fa. 3** The BOS Resolution 81-243 states all roads in the district must be maintained.
- Fa. 4** The District is governed by a five-member Board elected by the registered voters of the District.
- Fa. 5** There are two vacant positions on the Board as of March 5, 2014.
- Fa. 6** California Government Code §61045 requires that all community service districts adopt By-Laws.
- Fa. 7** The 2012-13 Jury issued a report which stated in part the By-Laws were incomplete.
- Fa. 8** There are 97 parcels in the District.
- Fa. 9** The budget of the District has been funded since 1981 through an annual assessment of \$120.00 per parcel within the District. This works out to a total of \$11,640 annually.
- Fa. 10** There have been two ballot measures to increase the assessment per parcel to adequately maintain the roads in the District but these measures have been defeated by the registered voters in the District.
- Fa. 11** There are a number of ancillary roads within the District boundaries which should be maintained.

- Fa. 12** Ancillary roads in the District have not been maintained by the District due to lack of funds.
- Fa. 13** Only Golden Eagle and Mystic Mine Roads are maintained.
- Fa. 14** The Nevada County Counsel staff member reviewed the BOS resolution 81-243 and stated all roads in the District must be maintained.
- Fa. 15** An interviewee stated the tax monies collected each year (97 parcels times \$120 per parcel assessment = \$11,640) were spent in total each year on road maintenance.
- Fa. 16** Per the Nevada County Auditor-Controller Office, as of March 5, 2014, there is a current balance of \$23,205 in the District accounts.
- Fa. 17** California Government Code §26909(a)(2) requires special districts to have regular independent audits performed by a certified public accountant or public accountant. §26909(a)(5) allows alternate accounting procedures.
- Fa. 18** The independent audit fees average approximately \$1,700 per year.
- Fa. 19** Independent audit fees amount to approximately 15% of the District's annual budget.
- Fa. 20** The President of the Board can authorize up to \$1,000 immediately for emergency repairs per Mystic Mine Board Resolution 2013-02.
- Fa. 21** The District has not used competitive bidding process when road maintenance is needed.
- Fa. 22** It is estimated that it would cost \$250,000 to \$500,000 to upgrade the roads in the District to meet current county standards.

## Findings

- Fi. 1** Upon review of the District's By-Laws, the Jury determined there has been no progress in updating them since the report by the 2012-2013 Jury.
- Fi. 2** Alternate audit procedures allowed in §26909(a)(5) of the California Government Code may help reduce the costs of regular audits.
- Fi. 3** The District did not properly report to the Jury when asked about the fund balance held by the office of the Nevada County Auditor-Controller.
- Fi. 4** The District is remiss in its duty to use a competitive bidding process to attempt to control maintenance and repair costs. Thus, the District does not have a way of knowing whether they are getting fair value for their money.



## Recommendations

- R. 1** The Board should update and complete the By-Laws.
- R. 2** The Board should develop and implement a financial plan to use resources to maintain all roads, including ancillary roads within the District.
- R. 3** The Board should request bids when planning routine or annual road maintenance.
- R. 4** The Board should obtain quotes from qualified audit firms and select that which would be most cost-effective. The Board should also investigate alternate audit procedures with the Nevada County Auditor-Controller Office.

## Responses

Mystic Mine Road Community Services District Board of Directors: Findings: 1-4,  
Recommendations: 1-4  
Due Date: September 23, 2014

October 2, 2014

Keith Overbey, Foreman  
2014-2015 Nevada County Grand Jury  
950 Maidu Avenue  
Nevada City, California 95959

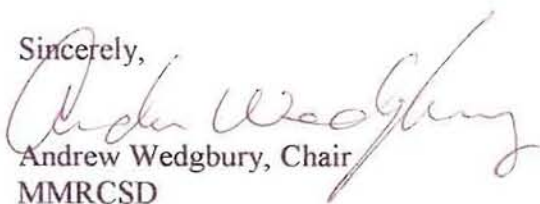
Dear Mr. Overbey:

Please find enclosed the amended response to Recommendation Number Four for the 2013-14 Grand Jury Report that you requested. Since our initial response I have been investigating alternative auditing procedures, both with the Auditor/Controllers Office and other district personnel. The Auditor/Controllers Office restated that each District is responsible for acquiring its own independent audit, and that their office does not have the resources to manage the audits for smaller Districts.

Mystic Mine Community Services District currently has a contract with Smith and Newell of Yuba City for auditing services and I have found after talking with personnel from other small districts and the California Small District Association that their fee is very cost effective. However, by end of fiscal year 2014-15, our District will obtain three quotes from other qualified firms for auditing our district.

If you have any further questions concerning this issue, please feel free to contact me at 530 272-7138.

Sincerely,



Andrew Wedgbury, Chair  
MMRCSD

August 5, 2014/ Amended October 2, 2014 in response to inquiry about Recommendation Number Four by Foreman Keith Overbey.

*Responses to 2013-2014 Grand Jury Findings and Recommendations for MMRCSD*

**Findings**

1. Upon review of the District's By-Laws, the Jury determined there has been no progress in updating them since the report by the 2012-2013 Jury

**Disagree**

**The Board reviewed and revised the By-Laws in January and February, and the new By-Laws were approved by the Board and posted March 25, 2014.**

2. Alternate audit procedures allowed in §26909(a)(5) of the California Government Code may help reduce costs of regular audits.

**Agree**

3. The District did not properly report to the Jury when asked about the fund balance held by the office of the Nevada County Auditor-Controller

**Agree**

4. The District is remiss in its duty to use a competitive bidding process to attempt to control maintenance and repair costs. Thus, the District does not have a way of knowing whether they are getting fair value for their money.

**Partially Disagree**

**The District has a long history of using competitive bidding for maintenance and repair work. It has also used multi-year contracts in order to be cost-effective. However, over the past two years the District has been lax in consistently obtaining bids. It has relied on a handful of proven contractors instead of bidding every road maintenance job.**

## **Recommendations**

1. The Board should update and complete the By-Laws

**The recommendation has been implemented.**

**The Board reviewed and revised the By-Laws in January and February 2014, and the new By-Laws were approved by the Board and posted on March 25, 2014.**

2. The Board should develop and implement a financial plan to use resources to maintain all roads, including ancillary roads within the District.

**The recommendation has been implemented.**

**The Board has identified road problem areas and has developed a priority and cost estimate list for the areas in most need of repair. All roads within the District will be inspected for damage and the damaged areas prioritized for repair within the timeframe and scope of budgetary limits.**

3. The Board should request bids when planning routine or annual road maintenance.

**The recommendation has been implemented.**

**The next series of road repairs have been let for bid and three companies have responded. Future road repairs will be let for bid.**

4. The Board should obtain quotes from qualified audit firms and select that which would be most cost-effective. The Board should also investigate alternate audit procedures with the Nevada County Auditor-Controller Office.

**The recommendation has not yet been implemented, but the District will obtain quotes from qualified audit firms by June 30, 2015.**

**The District has found it difficult in the past to find audit firms that will service small districts such as our own. The Board has investigated the firms and procedures used by other small districts in our area and has found the firm we currently have a contract with to be very cost effective. The Board has investigated alternative audit procedures with the Auditor/Controller Office and they restated the requirement that each district is responsible for being audited by an independent auditor.**

## **NEVADA COUNTY CONSOLIDATED FIRE DISTRICT TO BE OR NOT TO BE, THAT IS THE QUESTION**

### **Summary**

Nevada County Consolidated Fire District is an independent special district responsible for fire protection and emergency medical services in unincorporated areas of Nevada County. Nevada County Consolidated Fire District has Joint Operating Agreements with the cities of Grass Valley and Nevada City. Nevada County Consolidated Fire District is governed by a Board of Directors elected by the district's voters.

Of grave interest was a five-year projection report prepared by an interim finance manager which indicates that Nevada County Consolidated Fire District will be experiencing cumulative budget deficits possibly as high as \$4,000,000 by Fiscal Year 2018-2019.

It is the feeling of the Nevada County Grand Jury that Nevada County Consolidated Fire District will be required to take actions that may include closure of fire stations and layoff of personnel if immediate steps are not taken to reduce spending and control costs.

The Nevada County Grand Jury feels that rising costs, especially in employee benefits, will soon place all fire agencies in a difficult budget situation.

Nevada County Consolidated Fire District, the City of Grass Valley, and the City of Nevada City are all without a full time fire chief. Penn Valley Fire Protection District will be without a full time fire chief by the end of June 2014.

It is the opinion of the Nevada County Grand Jury that these issues combined have created a perfect opportunity for reorganization of fire and emergency services in western Nevada County. We recognize this is a major project requiring a great deal of flexibility on the part of all the affected agencies and will not happen overnight, but feel that this reorganization is in the best interest of all the residents of the area. The Nevada County Grand Jury is aware of discussions which are currently being undertaken regarding some form of agreement.

The benefits to be realized by such reorganization include reduced administrative costs and overhead, standardized training, standardized equipment, enhanced advancement opportunities for employees, and improved accountability to the taxpayers.

The Nevada County Grand Jury found a great disparity in special assessments for fire protection between various districts. Any reorganization will need to address this concern.

The Nevada County Grand Jury recommends all fire protection agencies in western Nevada County work diligently and with an enhanced sense of urgency to form a single unified fire authority.

Failing that, we recommend the Nevada County Board of Supervisors direct the Local Agency Formation Commission to undertake the mission of reorganization allowed by the California Government Code, creating a single fire authority whose administration reports to a board of directors appointed and apportioned by supervisorial district.

### **Reasons for Investigation**

In March 2012, the voters of Nevada County Consolidated Fire District (NCCFD) passed an initiative known as the Special Tax of 2012. This initiative increased assessments on improved parcels by \$52.00 per year.

The initiative included a provision that the NCCFD Board of Directors (Board) appoint a Citizens' Oversight Committee (COC) to monitor the revenues received and money spent from the new tax to ensure the money was used for purposes stated in the ballot literature used to educate the voters on the initiative.

The 2013-2014 Nevada County Grand Jury (Jury) learned of new financial difficulties for NCCFD which indicate the district may be facing a severe long term deficit.

The Jury has the authority to investigate special purpose assessment or taxing districts, including those commonly known as special districts, in Nevada County.

### **Background**

Special districts are a form of local government created by a community to meet a specific need. Most of California's special districts perform a single function such as sewage, water, fire protection, pest management, or cemetery management. There are approximately 2,300 independent special districts in California, each governed by an independent board of directors elected by the district's voters or appointed to a fixed term of office by either a city council or a county board of supervisors. There are twenty-four independent special districts in Nevada County.

NCCFD is an independent special district supported by public funds. NCCFD is made up of approximately thirty-two full-time personnel. The NCCFD budget for Fiscal Year 2013-2014 is approximately \$5,300,000. NCCFD is responsible for approximately 150 square miles of western Nevada County and serves an estimated 35,000 residents.

NCCFD is governed by a seven-member Board elected by district voters. The Board is responsible for setting policy and general administrative procedures. The Board meets in regular session every month. These meetings take place at 7:00 pm on the third Thursday of each month and are open to the public.

NCCFD has forecast itself as deficit spending in two years, and potentially \$2,000,000 to \$4,000,000 debt in five years.

## Procedures Followed

The Jury interviewed NCCFD financial officers, board members, members of the COC, public officials and administrators, other fire district representatives and officials, and members of the Nevada County Board of Supervisors (BOS).

The Jury obtained financial documents, which are public record, distributed during regular Board meetings of NCCFD.

The Jury reviewed the 2012-2013 Jury Report and its supporting documents relating to the time period of November 2011 through June 2013.

## Facts

- Fa. 1** NCCFD is governed by a seven-member Board elected by registered voters of the NCCFD during the general elections held in November. The members of the Board serve four-year terms.
- Fa. 2** California Special Districts Association provides education and information to board members and staff of special districts in California on their roles and responsibilities.
- Fa. 3** Nevada County Local Agency Formation Commission (LAFCo) provides education and information to board members and staff of special districts in Nevada County on their roles and responsibilities.
- Fa. 4** Since March 2012, there have been four different Fire Chiefs within NCCFD.
- Fa. 5** There have been three interim Fire Chiefs and a full time chief. At present the duties of Fire Chief are being performed by two appointed temporary Division Chiefs. The last interim chief left this post on March 30, 2014 due to expiration of allowed work hours under the State's guidelines for retirees in temporary positions.
- Fa. 6** In March 2012, NCCFD voters approved a \$52.00 per parcel tax, known as the Special Tax of 2012 which is collected with the Nevada County property tax bill.
- Fa. 7** Total NCCFD taxes collected on the Nevada County Secured Property Taxes are \$156.00 per residential parcel.
- Fa. 8** The Special Tax of 2012 includes an annual 3% Cost Of Living Adjustment with no expiration date. Increases must be approved annually by the Board.
- Fa. 9** A clause in the Special Tax of 2012 required the Board to establish a COC.
- Fa. 10** The Special Tax of 2012 ballot measure established the requirement for the COC to ensure proper expenditures. The expenditures, as stated in the ballot measure, were to ensure NCCFD maintains current levels of service:

- Keep all existing fire stations open and prevent station closures on a rotating basis.
- Preserve rapid emergency response time to all emergency calls.
- Preserve local emergency medical services and rescue services.
- Maintain current protection from wild land fires.
- Prevent the layoff of critically needed firefighting personnel.
- Spend funds only to maintain emergency services.

**Fa. 11** In September 2013 the Board appointed the COC, 18 months after the passage of the Special Tax measure, by which time three tax installments had been collected.

### **Budget and Projections**

**Fa. 12** NCCFD has not previously produced a long-range budget plan or forecast to enable advance planning for continuation of fire services for the district.

**Fa. 13** NCCFD officials stated that the chiefs and Board had requested a five-year budget plan to be published by the finance staff. That request was not fulfilled.

**Fa. 14** NCCFD contracted with an interim finance manager who authored a five-year projection for use by the Board to make informed decisions. This projection was presented to the Board at a Special Meeting held November 12, 2013.

**Fa. 15** The interim finance manager is an independent contractor providing finance-related services.

**Fa. 16** The five-year projection made certain tax revenue presumptions which included:

- increases in tax revenue and expenses,
- a pending contract for firefighters that will have an increased effect on expenses,
- a Fiscal Year (FY) 2013-2014 deficit of \$81,525,
- if leasing new equipment at a base of 3.9% for a ten-year amortization, the FY 2018-2019 cumulative deficit is forecast to be approximately \$2,300,000.

**Fa. 17** In early 2014 the interim finance manager amended the five-year projection for the COC:

- FY 2013-2014, NCCFD will remain in a deficit position of approximately \$81,525,
- cumulative deficits by FY 2018-2019 will total \$862,528.00, not including any replacement equipment.



- Fa. 18** The COC report, dated March 5, 2014, referenced NCCFD Board Resolution R011-18 outlining accountability requirements, as follows:
- **"Annual Report:** In accordance with California Government Code §50075.3 the District's Fire Chief, as Chief Fiscal Officer shall file a report with the District's Board of Directors at least once per year, no later than January 1 of each year. The Annual Report shall contain each of the following:
    - the amount of funds collected and expended;
    - the status of any project required or authorized to be funded with the proceeds of the Special Tax.
  - **Special Tax Account:** Upon receipt of the Special Taxes the District shall cause same to be deposited in a Special Tax Account or other such account established by the District which allows the District to properly account for the Special Taxes in accordance with the provisions of California Government Code §50075.3."
  - The COC report concluded that the Fire Chief's report requirement had not been submitted as of March 5, 2014; therefore the requirement was not met.
- Fa. 19** The COC report reflected that the Board was remiss by not disclosing a late 2011 side letter agreement regarding contract negotiations which committed the District, in part, *"to reopen negotiations after the March/April joint review of the District incomes."* The COC construed this as misleading the public.
- Fa. 20** The Board reinstated a \$39,800.00 holiday stipend for safety personnel. The COC report stated that based upon information concerning the Special Tax of 2012, approval of this reinstatement payment is considered inconsistent with the statements made in support of the ballot measure.
- Fa. 21** The COC requested of the Board a copy of the Audit of the Special Tax Fund or instructions to the auditor to conduct an audit of Special Tax Funds. The COC report concluded that the requirement for an audit of tax proceeds had still not been satisfied as of March 5, 2014.
- Fa. 22** Teeter Funds are a state-wide, special district Cash Flow Program where counties "buy" future tax receipts of the special district. This program is authorized by Government Code §8520 et seq (Distribution of Tax Sale Proceeds: Teeter Plan, CA State Controller, John Chiang).
- Fa. 23** NCCFD employs the use of Teeter Funds in conjunction with oversight from the Nevada County Auditor-Controller Office. This allows NCCFD to make withdrawals against anticipated tax revenue from the Auditor-Controller Office. There are prescribed limits to the percentage of withdrawals for each six-month time period as it is tied to property tax collection dates. This amount is 55% of balance up to the December 10 apportionment date, and 40% up to the April 10 apportionment date.

- Fa. 24** New California Public Employees Retirement System (CalPERS) requirements for employees significantly increase the employee contribution to the fund. The Board has expressed the intent to fund this increase by granting pay increases corresponding to the increased mandatory employee contribution.
- Fa. 25** CalPERS will be requiring municipalities and special districts to increase the dollar amounts submitted to this state fund. This will force some entities to require cuts in services, maintenance, and other operations they perform.
- Fa. 26** A Board member has publicly stated that in two years NCCFD will be broke if current financial practices are continued.

### **Reorganization**

- Fa. 27** There are currently three Joint Operating Agreements (JOA):
- between NCCFD and Grass Valley Fire Department (GVFD),
  - between NCCFD and Nevada City Fire Department (NCFD),
  - between GVFD and NCFD.
- Fa. 28** Current “911” emergency calls are primarily answered by the Nevada County Sheriff’s Office (NCSO). NCSO serves as the Public Safety Answering Point. Fire and medical calls are routed to the Grass Valley Interagency Emergency Command Center (ECC), managed by CalFIRE.
- The ECC dispatch center takes all pertinent information of the emergency, enters the information into the Computer-Aided-Dispatch (CAD) system and emergency units are automatically dispatched.
  - The CAD is programed to dispatch a pre-determined amount of emergency personnel and equipment to the emergency, based upon the nearest available resource. This is referred to as Boundary Drop.
  - There may be resources from surrounding fire districts dispatched to assist the primary district where the emergency occurred.
- Fa. 29** NCCFD, GVFD and NCFD are currently without a Fire Chief.
- Fa. 30** Penn Valley Fire Protection District's (PVFPD) current Fire Chief will retire June 2014. An interim chief has been appointed.
- Fa. 31** NCCFD has two temporary Division Chiefs acting as Fire Chief until a permanent chief is hired. At that time, the Division Chiefs are expected to revert back to the rank of Battalion Chief.
- Fa. 32** GVFD has an interim Fire Chief, 15 career staff and 20 paid call personnel.

- Fa. 33** NCFD has a part-time Fire Chief, one Captain and one Engineer. The fire station has been staffed by 20 volunteers and one full time NCCFD career firefighter. The City Council recently voted to disband the volunteer program.
- Fa. 34** Discussions between the Nevada County Fire Chiefs Association have been ongoing since early 2014 to form a Joint Powers Authority (JPA), designed to integrate administrative functions under one command and one administrative organization.
- Fa. 35** Currently active participants in the JPA discussions include NCCFD, PVFPD, GVFD and NCFD.
- Fa. 36** Witness testimony revealed that reorganization into a single fire authority would allow:
- enhanced opportunities to staff for promotion,
  - advanced training uniformity,
  - diversity of assignments,
  - cost savings for taxpayers,
  - uniform operations for the residents across the western county.
- Fa. 37** Witness testimony revealed that collective bargaining agreements differ between NCCFD, GVFD, NCFD and PVFPD for benefits, pay and other negotiated employment issues.
- Fa. 38** California Government Code allows for special district reorganizations to be initiated by a petition or by resolution of application by a county board of supervisors.
- Fa. 39** LAFCo has the authority by California Government Code to:
- review and approve district changes of organization or reorganization,
  - consolidate a district,
  - reorganize a district.
- Fa. 40** There are eight separate fire districts operating in western Nevada County. Each district has:
- their own Fire Chief,
  - general overhead costs,
  - their own accountant,
  - administrative staff,
  - facilities,
  - garage facilities with a mechanic,
  - assessment fees/taxes supporting operations.

- Fa. 41** Higgins Fire Protection District (HFPD) is a CalFIRE contract station which relies on CalFIRE for a Fire Chief. The district has a Battalion Chief as its highest ranking officer.
- Fa. 42** HFPD attempted twice in the last three years to raise Special Assessments from \$25.00 per year to \$125.00 per year. Both measures were defeated.
- Fa. 43** Currently, HFPD is able to fully staff their three fire stations as a result of a two-year SAFER (Staffing for Adequate Fire and Emergency Response) Grant from the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS). These grants are for two years only.

### **Findings**

- Fi. 1** NCCFD, although receiving additional revenues from the Special Tax of 2012, is currently operating at a deficit.
- Fi. 2** The long-term deficits are a result of past failure to provide long-range budget planning documents when requested by NCCFD management.
- Fi. 3** Due to the lack of a financial plan, NCCFD must borrow against anticipated future tax payments by regularly using Teeter Funds.
- Fi. 4** The five-year projection introduced in November 2013 by the interim finance manager provides a good starting point to manage district funds.
- Fi. 5** Because the COC was not formed until 18 months following the passage of the Special Tax of 2012, there were inappropriate expenditures and uses not consistent with the ballot measure's stated intent, including audits, required special bank fund accounts and tracking of expenses.
- Fi. 6** NCCFD will not achieve financial stability for this fiscal year and continuing for five years.
- Fi. 7** Since NCCFD is failing financially, LAFCo could review and approve changes of organization, reorganization, or consolidation.
- Fi. 8** The lack of fiduciary responsibility on the part of the Board may lead to the eventual downfall of NCCFD.
- Fi. 9** The Board should already have begun budget cutting actions, and should have been in contact with the Nevada County Auditor-Controller for direction.
- Fi. 10** The Jury found that Teeter Funds are needed by NCCFD to remain in operation. Even though this is a legal practice used by special districts for constant supply of operational funds, NCCFD is forced to borrow against future tax revenue.

- Fi. 11** Forming a single Nevada County fire authority would allow opportunities to staff for promotion opportunities, uniform-advanced training, diversity of assignments, cost savings for taxpayers, and uniform operations for the residents across western Nevada County.
- Fi. 12** If a JPA is successful, there will be substantial savings in administrative overhead costs.
- Fi. 13** The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.
- Fi. 14** When the SAFER grant expires within two years, the HFPD will be unable to fully staff their stations. This would be an ideal time to work toward reorganization.
- Fi. 15** Although the JPA will result in savings in administrative overhead cost, there will be difficulties in leveling assessments and MOU's with bargaining units.

### **Recommendations**

- R. 1** The Nevada County Fire Chief's Association should continue moving forward to integrate administrative functions under a JPA in western Nevada County.
- R. 2** The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.
- R. 3** The proposed new fire authority should consider:
- having one governing board selected by Board of Supervisors, using the current district designations for representation purposes,
  - having one chief and one business office,
  - retaining current fire tax fees for each current district,
  - having a plan to implement a leveling of the fees within four years,
  - being called the Western Nevada County Fire Authority,
  - not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.
- R. 4** An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff

member from each agency and one member from the Nevada County Board of Supervisors.

**R. 5** The included districts in the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:

- Nevada County Consolidated Fire District,
- Penn Valley Fire Protection District,
- Rough and Ready Fire Protection District,
- Grass Valley Fire Department,
- Nevada City Fire Department,
- Higgins Area Fire Protection District,
- North San Juan Fire Protection District,
- Ophir Hill Fire Protection District,
- Peardale-Chicago Park Fire District,
- Washington County Water Fire District.

See Appendix A for a sample organization chart.

## **Responses**

Nevada County Board of Supervisors:

Finding: 7

Recommendations: 2-5

Due Date: September 26, 2014

LAFCO:

Findings: 7, 8, 10, 11, 12, 13, and 14;

Recommendations: 3, 4 and 5

Due Date: August 26, 2014

Nevada County Consolidated Fire District Board of Directors:

Findings: 1-10 and 13

Recommendations: 2 and 3

Due Date: September 26, 2014

Penn Valley Fire Protection District Board of Directors:

Finding: 13

Recommendations: 1, 2, 3, 4 and 5

Due Date: September 26, 2014

Higgins Area Fire Protection District Board of Directors:

Finding: 14

Recommendation: 5

Due Date: September 26, 2014

Grass Valley City Council:

Findings: 11, 12, and 13

Recommendations: 1, 2, 3, 4 and 5

Due Date: September 26, 2014

Nevada City City Council:

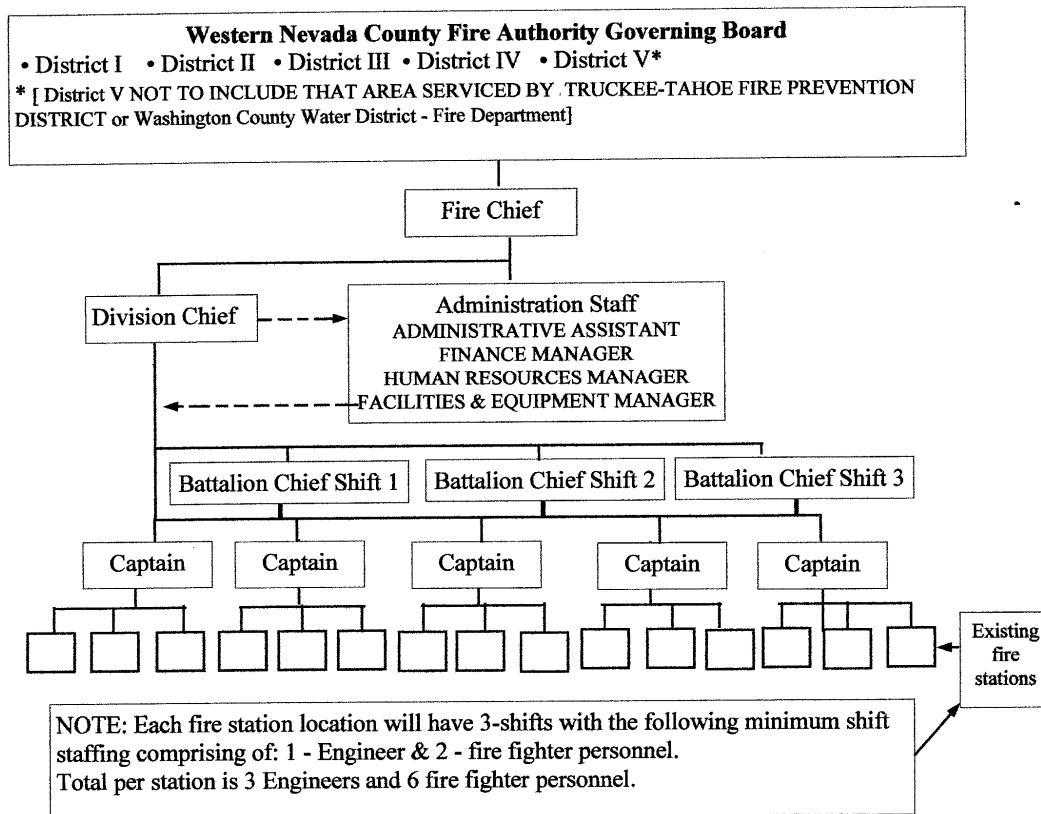
Findings: 11, 12, and 13

Recommendations: 1, 2, 3, 4 and 5

Due Date: September 26, 2014

APPENDIX - A

**SAMPLE ORGANIZATION CHART  
WESTERN NEVADA COUNTY FIRE AUTHORITY**



**911 Service is already in place.**

911 calls are first received by Nevada County Sheriff Dispatch. [This is the Public Safety Answering Point].

- Fire or medical calls are routed to the Grass Valley Emergency Command Center managed by CalFIRE.
- Information is entered into the CAD (Computer Aided-Dispatch system and emergency units nearest the emergency are automatically dispatched.
- The CAD is programmed to dispatch a pre-determined number of assets to a particular emergency.

**DEFINITIONS and Presumptions:**

For this model, there are 15 fire stations amongst the current 8 fire districts.

- There is a reduction in management forces. • There can be redistribution of personnel.
- The Governing Board will be elected using the current Board of Supervisor districts for representation.
- The Division Chief will assume the duties of the Chief in the absence of the Chief.
- Each fire station location requires 3-Shifts for coverage. Labor laws for fire allow 48 hours on duty, 96 hours off-duty.





**GRASS VALLEY CITY COUNCIL**  
125 East Main St., Grass Valley, CA 95945  
Robert Richardson, City Manager  
Kristi Bashor, City Clerk

**Council Members**  
Dan Miller, Mayor  
Jason Fouyer, Vice Mayor  
Jan Arbuckle  
Howard Levine  
Lisa Swarthout

September 23, 2014

Honorable Candace S. Heidelberger  
Presiding Judge of the Superior Court of Nevada County  
201 Church Street  
Nevada City, CA 95959

**City of Grass Valley’s Response to Nevada County Grand Jury 2013-2014 “Nevada County Fire District to be or not to be, that is the question.”**

Your Honor,

The City of Grass Valley (City) appreciates the Grand Jury’s concern for the fire protection in western Nevada County. The City of Grass Valley responses address the suggested reorganization of fire and emergency services in Western Nevada County. The City addresses findings 11 to 13 and recommendations 1 to 5 from the Grand Jury report.

FINDINGS

Finding 11      Forming a single Nevada County Fire Authority would allow opportunities to staff for promotion opportunities, uniform advanced training, diversity of assignment, cost savings for taxpayers and uniform operations for the residents across western Nevada County.

Response      The City agrees.

Finding 12      If a JPA is successful, there will be substantial saving in the administrative overhead cost.

Response      The City partly agrees.

The amount of savings realized depends upon the structure of the administrative staff. Saving may be expected; however, care must be taken to avoid overstating likely fiscal benefits.

Finding 13      The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.

Response      The City agrees.

The City of Grass Valley, Nevada County Consolidated Fire District and Penn Valley Fire District are currently managed with Interim Chief Officers; the Fire Chief of Nevada City is a half time position. The four agencies, absent a seated, full time Fire Chief had a unique opportunity for collaboration of a Fire Chief. Although Nevada County Consolidated has appointed a new Chief and Penn Valley Fire may be preparing to do so, this opportunity may arise again in the future. In any event, the City will continue to pursue cooperation with its neighboring agencies to ensure the highest level of service at the best price for residents and property owners in the City and the surrounding communities we help serve.

## RECOMMENDATIONS

Recommendation 1    The Nevada County Fire Chief’s Association should continue moving forward to integrate administrative functions under a JPA in western Nevada County.

Response                The City agrees.

Recommendation 2    The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.

Response                The City partly agrees with the recommendation.

The City supports research into the concept of a single fire authority by a committee of Fire Chiefs and elected officials. LAFCO is an independent state-agency which is not subject to direction by the County. Moreover, a collaborative solution is, in the City’s view, more likely to succeed than one imposed by others.

Recommendation 3    The proposed new fire authority should consider:

- Having one governing board selected by Board of Supervisors, using the current district designations for representation purposes
- Have one chief and one business office
- Retaining current fire tax fees for each current district

- Have a plan to implement a leveling of the fees within four years
- Being called the Western Nevada County Fire Authority
- Not initially including Ophir Hill Fire Protection District, Peardale – Chicago Park Fire, Rough and Ready Fire or North San Juan Fire District.

Response: The City partly agrees with the recommendation.

Conceptually, the City agrees that the concept of a single Western Nevada County Fire Authority has merit. The proposed Shared Administrative Services agreement had included many of the suggestions in the Grand Jury report. Complex issues such as governance and legal restrictions on revenues necessitate participation from all fire agencies. Development of a single agency for western Nevada County must include all agencies for the benefit of all residents.

Recommendation 4 An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff member from each agency and one member from the Nevada County Board of Supervisors.

Response The City partly agrees with the recommendation.

Dialogue in development of the proposed Shared Services agreement between Nevada City, Grass Valley and Nevada County Consolidated included governance consisting of the City Managers and a board member from Nevada Co. Consolidated Fire. Should a JPA be established as described by this recommendation, the governance structure considered by the Shared Service proposal may be suitable in the interim and long term.

Recommendation 5    The included districts in the new fire authority should begin discussion for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County.

Response                The City partly agrees with the recommendation.

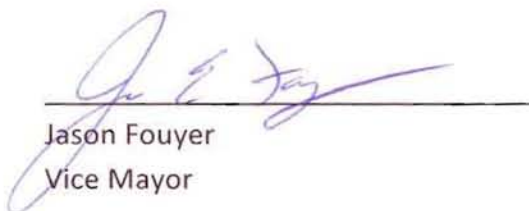
The City will participate in discussions to consider an independent fire authority in western Nevada County. Governance of an independent fire authority can only be determined by those participating in the fire authority discussions. The City must fulfill its service responsibilities in the meantime and will advocate for its residents to ensure adequate, appropriately funded services, as other local governments should do for those they serve.

This response was reviewed and approved by City Council at its September 23, 2014, meeting. Thank you for your consideration.

Sincerely,



Dan Miller  
Mayor



Jason Fouyer  
Vice Mayor

cc:     City Council  
       Tim Kiser, Public Works Director/City Engineer



LAFCo  
950 Maidu Avenue  
Nevada City, CA 95959-8617  
Phone 530 265 7180  
Fax 530 265 9862  
E mail [lafco@co.nevada.ca.us](mailto:lafco@co.nevada.ca.us)

On the web at: [www.mynevadacounty.com/nc/lafco](http://www.mynevadacounty.com/nc/lafco)

Richard Anderson  
County

Patrick Flora  
Cities

Kurt Grundel  
Districts

Lisa Swarhout  
Cities Alternate

Paul Norsell, Vice-Chair  
Public

Hank Weston, Chair  
County

Nick Wilcox  
Districts

Nate Beason  
County Alternate

Ed Beckenbach  
Districts Alternate

Robert Bergman  
Cities

Josh Susman  
Public Alternate

SR Jones  
Executive Officer

P. Scott Browne  
Legal Counsel

Deborah Gilcrest  
Clerk/Analyst

Kate Duroux  
Assistant Clerk

September 22, 2014

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

**RE: Nevada LAFCo's Responses to the 2013-2014 Nevada County Civil Grand Jury Report: "Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question"**

Dear Judge Anderson:

As required by California Penal Code Section 933, Nevada County's Local Agency Formation Commission (Nevada LAFCo) hereby submits responses to the subject Grand Jury Report, dated June 24, 2014. These responses were approved by the Commission on September 18, 2014.

On behalf of Nevada LAFCo, I would like to thank the 2013-2014 Grand Jury panel for their participation and effort in preparing their reports, and for participating in the Grand Jury process.

Sincerely,

Hank Weston, Chair  
Nevada LAFCo

Cc: Keith Overbey, Foreman, Grand Jury ✓  
SR Jones, LAFCo Executive Officer

**NEVADA LAFCO RESPONSES TO**  
**2013-2014 Nevada County Civil Grand Jury Report**  
 “Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question”  
 June 24, 2014

These responses to the Grand Jury’s Findings and Recommendations were approved by Nevada LAFCo at their September 18, 2014 meeting.

**Response to Findings:**

**Fi. 7** *Since NCCFD is failing financially, LAFCo could review and approve changes of organization, reorganization, or consolidation.*

**Disagree with the first assertion and agree with the second.**

The Local Agency Formation Commission (LAFCo) does not agree with the assertion that the Nevada County Consolidated Fire District (NCCFD) is “failing financially.” The district’s FY 12-13 audit and financial reports for FY 13-14 indicate improvements in the district’s financial situation.

Relative to LAFCo’s authority to review and approve changes of organization, reorganization and consolidations, pursuant to Government Code § 56375, the Commission is responsible for reviewing all proposed changes of organization and reorganizations, including consolidations. In certain circumstances, and when supported by the recommendation or conclusion of a special study, LAFCo can initiate proposals for consolidation, dissolution, merger, establishment of subsidiary district, or formation of a new district (GC § 56375 (a) (2)). It should be noted that any reorganization proposal can be subject to an election if protested by a specific percentage of voters. Reorganizations that are initiated by LAFCo are generally subject to a lower protest threshold than proposals initiated by the affected local agencies or by voter petition. However, in the absence of a special study, it is not clear that a reorganization including NCCFD and (presumably) several other fire agencies would resolve NCCFD’s financial problems without adversely impacting the service levels of the others.

**Fi. 8** *The lack of fiduciary responsibility on the part of the Board may lead to the eventual downfall of NCCFD.*

**Neither agree or disagree.**

LAFCo does not have facts that permit it to agree or disagree with the conclusion.

**Fi. 10** *The Jury found that Teeter Funds are needed by NCCFD to remain in operation. Even though this is a legal practice used by special districts for constant supply of operational funds, NCCFD is forced to borrow against future tax revenue.*

**Agree.**

LAFCo is aware that NCCFD has utilized Teeter Plan funds. As the Grand Jury notes, this practice is legal and the County’s Auditor-Controller indicates that two other fire districts, one school district, and one city have also utilized Teeter Plan funding for FY 2013-2014.

**Fi. 11** *Forming a single Nevada County fire authority would allow opportunities to staff for promotion opportunities, uniform-advanced training, diversity of assignments, cost savings for taxpayers, and uniform operations for the residents across western Nevada County.*

**Partially Agree.**

Many of the listed benefits are already being realized through the Joint Operating Agreement and through agreements and contracts between the fire agencies.

Relative to training and operations, the Joint Operating Agreement provides for standardized operational response and joint training. This agreement was initially established in 2001 between NCCFD, Grass Valley and Nevada City; and since that time, Penn Valley Fire has joined the JOA. The JOA can be expanded to accommodate other fire agencies.

Countywide dispatch procedures already allow for the closest available resource to respond to any type of emergency, regardless of agency boundaries.

Regarding uniform operations throughout western Nevada County, LAFCo notes that each of the fire districts and cities serve a distinct community with unique service needs. Generally speaking, establishing a uniform level of operations throughout the western county will require some fire agencies to increase their service levels, the cost of which would in turn need to be financed by residents.

LAFCo also points out the progress that has been made county-wide in the last twenty-five years toward increasing the efficiency and accountability of the fire and emergency services system. Since 1990, five Western County fire districts have been consolidated (Bullion, Gold Flat, Alta Oaks-Sunset, Watt Park and Forty-Niner Fire Protection Districts). In the eastern county, the fire and emergency response operations of the Soda Springs/Kingvale area were transferred from Donner Summit Public Utility District to Truckee Fire Protection District. Each of these reorganizations involved lengthy and extensive negotiations between elected officials, labor representatives, and citizen groups. Each proceeded at its own pace, with LAFCo's involvement including the provision of technical assistance and impartial review of the resulting reorganization proposals. In several cases, an extended period of "functional consolidation" between agencies provided a very useful "adjustment period" of joint operations wherein personnel and administrative issues could be addressed in advance of a formal consolidation.

**Fi. 12** *If a JPA is successful, there will be substantial savings in administrative overhead costs.*

**Partially Agree.**

LAFCo recognizes that carefully crafted JPAs can potentially assist agencies to contain (i.e., not necessarily reduce) administrative costs. However, in the absence of the specific terms of such an agreement, the assertion of "substantial savings" appears to be speculative.

**Fi.13** *The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.*

**Agree.**



LAFCo is aware that the listed agencies have engaged in discussions about consolidating administrative operations and fire chief positions.

**Fi. 14** *When the SAFER grant expires within two years, the HFPD will be unable to fully staff their stations. This would be an ideal time to work toward reorganization.*

**Agree.**

LAFCo is aware that HFPD's financial position results from the district voters' decision to not approve a tax measure to fund enhanced fire and emergency services. LAFCo also observes that HFPD's financial situation could present an obstacle to its full participation in a wider fire agency reorganization (i.e., if HFPD is underfunded, consolidation would require the partner agencies to subsidize services to the Higgins area).

### **Response to Recommendations:**

**R. 3** *The proposed new fire authority should consider:*

- *having one governing board selected by Board of Supervisors, using the current district designations for representation purposes,*
- *having one chief and one business office,*
- *retaining current fire tax fees for each current district,*
- *having a plan to implement a leveling of the fees within four years,*
- *being called the Western Nevada County Fire Authority,*
- *not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.*

**This recommendation cannot be implemented by LAFCo for the following reason.**

It is not clear whether the recommendation is to establish a Joint Powers Authority (presumably comprised of several existing fire agencies) or to reorganize the existing fire agencies.

LAFCo has no authority to either establish a JPA or to unilaterally require any agency to join a JPA.

Relative to a reorganization of several existing agencies, no such proposal has been submitted for LAFCo's consideration at this time. Although LAFCo can in certain circumstances initiate reorganization proposals, such action can only be taken after a comprehensive study of the financial and governance circumstances and implications of the proposed reorganization on all involved agency service levels. Given that several of the agencies presumably included in the recommendation appear to be financially stable and capable of providing service at the level desired by their residents, there does not appear to be justification for allocating the significant resources that would be required to conduct such a study.

As a practical matter, LAFCo notes that a plan to "level fees" throughout the western county will need to balance the service needs of each community with its financial ability to participate, and must also provide for consistency with Propositions 13 and 218.

**R. 4** *An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The*

*interim board would consist of one elected official and one staff member from each agency and one member from the Nevada County Board of Supervisors.*

**This recommendation cannot be implemented by LAFCo for the following reason.**  
Local Agency Formation Commissions do not have authority to initiate the formation of Joint Powers Authorities.

**R. 5** *The included districts in the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:*

- *Nevada County Consolidated Fire District,*
- *Penn Valley Fire Protection District,*
- *Rough and Ready Fire Protection District,*
- *Grass Valley Fire Department,*
- *Nevada City Fire Department,*
- *Higgins Area Fire Protection District,*
- *North San Juan Fire Protection District,*
- *Ophir Hill Fire Protection District,*
- *Peardale-Chicago Park Fire District,*
- *Washington County Water Fire District.*

*See Appendix A for a sample organization chart.*

**This recommendation cannot be implemented by LAFCo for the following reason.**  
The recommendation is beyond LAFCo's authority. While LAFCo can in certain limited circumstances initiate the process for reorganization of districts, it cannot unilaterally initiate the annexation of lands within the cities of Grass Valley and Nevada City, which would presumably be required to bring the two city fire departments into the proposed "Fire Authority." In addition, as noted above in the response to Recommendation 4 above, LAFCo has no authority to create Joint Powers Authorities and likewise cannot require agencies to join a JPA.

COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Chair Nathan H. Beason, 1<sup>st</sup> District  
Vice Chair Ed Scofield, 2<sup>nd</sup> District  
Terry Lamphier, 3<sup>rd</sup> District  
Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District  
Donna Landi, Clerk of the Board

September 16, 2014

The Honorable Thomas Anderson  
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 2013-14 Nevada County Civil Grand Jury Report,  
*Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2013-14 Nevada County Civil Grand Jury Report, dated June 24, 2014, entitled *Nevada County Consolidated Fire District – To Be or Not to Be, That is the Question*.

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses are based on either personal knowledge, examination of official County records, information received from the Local Agency Formation Commission (LAFCo), 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 2013-14 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

  
Nathan H. Beason, Chair  
Nevada County Board of Supervisors

cc: Keith Overbey, Foreman, Grand Jury  
Rick Haffey, County Executive Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
phone: 530.265.1480 | fax: 530.265.9836 | toll free: 888.785.1480 | email: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
website: <http://www.mynevadacounty.com/nc/bos>

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO**

**2013-14 Nevada County Civil Grand Jury Report**

**Nevada County Consolidated Fire District –To Be or Not to Be, That is the Question.**

**June 24, 2014**

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses are based on either personal knowledge, examination of official County records, information received from the Local Agency Formation Commission (LAFCo), the County Executive Officer, or the Board of Supervisors and County staff members.

**A. RESPONSE TO FINDING**

**Finding 7: Since NCCFD is failing financially, LAFCo could review and approve changes of organization, reorganization, or consolidation.**

Partially Agree

The Board of Supervisors does not have direct knowledge of the NCCFD financial situation and cannot confirm whether or not the District is failing financially. However, the Board agrees that LAFCo has the authority to review and approve changes of organization, reorganization, or consolidation.

**B. RESPONSES TO RECOMMENDATIONS**

**Recommendation 2: The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.**

**The recommendation will not be implemented.**

The Board of Supervisors does not have the legal authority to direct LAFCo to take such action. The Board of Supervisors could use Proposition 172 funding as an incentive to encourage Districts to consider consolidation.

**Recommendation 3: The proposed new fire authority should consider:**

- having one governing board selected by Board of Supervisors, using the current district designations for representation purposes,
- having one chief and one business office,
- retaining current fire tax fees for each current district,
- having a plan to implement a leveling of the fees within four years,
- being called the Western Nevada County Fire Authority,
- not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.

**The recommendation will not be implemented.**

The recommendation is for a body that has not been formed to consider taking certain actions. The Board of Supervisors cannot respond to a recommendation on behalf of a hypothetical body.

**Recommendation 4: An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff member from each agency and one member from the Nevada County Board of Supervisors.**

**The recommendation will not be implemented.**

The Board of Supervisors does not have the authority to unilaterally initiate the formation of a JPA. In addition, because the County of Nevada does not provide fire services, it would be impractical and an inefficient use of taxpayer funds for County officials to sit on a body that makes fire policy.

**Recommendation 5: The included districts in the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:**

- Nevada County Consolidated Fire District,
- Penn Valley Fire Protection District,
- Rough and Ready Fire Protection District,
- Grass Valley Fire Department,
- Nevada City Fire Department,
- Higgins Area Fire Protection District,
- North San Juan Fire Protection District,
- Ophir Hill Fire Protection District,
- Peardale-Chicago Park Fire District,
- Washington County Water Fire District.

**The recommendation will not be implemented.**

The County agrees that consolidation of all western county fire districts into one Western Nevada County Fire Authority could be more efficient and effective in providing fire prevention, suppression and other emergency services and that LAFCo is the appropriate body to review a proposed re-organization or consolidation. As stated above, the Board of Supervisors as an incentive could use Proposition 172 funding to encourage consolidation.

The County does not agree that the Board of the Fire Authority be appointed by the Board of Supervisors. This consolidation will eliminate many elected positions, but five elected directors should be in policy control of the Fire Authority and be directly elected by the citizens of Nevada County.

# PENN VALLEY FIRE PROTECTION DISTRICT

**Interim Fire Chief**

Don Wagner  
P.O. Box 180  
Penn Valley, CA 95946  
(530) 432-2630  
Fax (530) 432-4561  
[dwagner@pennvalleyfire.com](mailto:dwagner@pennvalleyfire.com)



**Directors**

Kurt Grundel, Chairperson  
David Farrell, Vice-Chairperson  
John Pelonio, Director  
Bob Webster, Director  
1 Position Open -Director  
[dhughes@pennvalleyfire.com](mailto:dhughes@pennvalleyfire.com)

September 4, 2014

Nevada County Grand Jury  
201 Church Street Suite 6 *510 Church St*  
Nevada City, CA 95959

RE: Response to 2013/14 Nevada County Consolidated Fire District to be or not to be,  
that is the question

Dear Grand Jury Members,

Attached is the Penn Valley Fire Protection District's response as approved by the Board of Directors at the 9/2/14 regular board meeting.

Thank you.

Sincerely,

Kurt Grundel  
Board Chairman

SEP 8 2014

Attachments

Dhughes\IG\Grand Jury Response 2013-14

## PENN VALLEY FIRE PROTECTION DISTRICT

### Grand Jury Response

Currently all the special districts fulfill the taxpayers' needs, including the level of service for which they are willing to pay.

Penn Valley Fire Protection District (PVFPD) staffs two stations. Each station is staffed 24/7 with a minimum staffing of two persons and a Chief or Duty Officer. These two personnel cross-staff the equipment at their station. Station 44 has two engines and one ambulance. Station 43 has one engine, one water tender, one ambulance and one rescue vehicle. Dispatch patterns are programmed in to the CAD system to send the most appropriate vehicle from each station or the closest engine even if it is from another fire district. While this may be inconvenient for staff, it is a cost-effective way of providing the best response with available funding.

When this report was released PVFPD duty officer coverage had been provided primarily by the Chief and Battalion Chief. As these positions are salaried, this is a cost effective way of providing coverage. When neither the Chief nor the Battalion Chief is available in or near the District, a Captain, who is paid hourly, provides duty officer coverage. As our Fire Chief retired in June we have promoted our Battalion Chief to Fire Chief, not filled the battalion chief position, and are using our Captains to be Duty Officers on the days when the Fire Chief is off. PVFPD has on-duty every day four (4) fire staff and one (1) duty officer dedicated to PVFPD. The last PVFPD ballot measure approved by the voters was to maintain this level of staffing. Providing duty officer coverage from outside the District would be a reduction in service. In addition to the fire/rescue services provided by all of the western Nevada County fire departments, PVFPD is the only agency that provides Advanced Life Support (ALS) ambulance transportation. This service has been supported by the voters of Penn Valley.

In our opinion the Grand Jury has failed to do the proper investigation into how the districts other than NCCFPD will be impacted by this reorganization. The conclusions reached by the Grand Jury were incomplete. Please see the attached responses to the Grand Jury report by the PVFPD.

Finding 13. The four fire agencies, NCCFD, GVFD, PVFPD and NCFD serving the vast majority of western Nevada County will soon be without fire chiefs, the highest level of management, creating an opportune time to explore reorganization.

**The PVFPD disagrees partially with the finding.**

**PVFPD has participated in discussions, but any reorganization would not be pursued if the same level of service were not provided to the District nor if costs were to increase.**

Recommendation 1. The Nevada County Fire Chief's Association should continue to move forward to integrate administrative functions under a JPA in western Nevada County.

**The recommendation is being implemented. A JPA is just one of the options being considered. PVFPD has participated in discussions, but any reorganization would not be pursued if the same level of service were not provided to the District nor if costs were to increase.**

Recommendation 2. The Nevada County Board of Supervisors should direct LAFCo to begin research on the steps necessary to reorganize western Nevada County fire districts into a single fire authority. This should be a priority for the safety of residents in western Nevada County.

**The recommendation will not be implemented as it is not warranted or is not reasonable. This recommendation is beyond the authority of PVFPD. All of the current special districts fulfill the taxpayer's wants and needs. The PVFPD does not have authority over the Board of Supervisors. However, prior to initiating a proposal for reorganization, LAFCo is required by Government Code (GC) 56375(a) (3) to conduct a study pursuant to GC Section 56378, 56425 or 56430, and the commission makes the determination specified in subdivision (b) of Section 56881.**

Recommendation 3. The proposed new fire authority should consider:

- Having one governing board selected by the Board of Supervisors, using the current district designations for representation purposes,
- Having one chief and one business office,
- Retaining current fire tax fees for each current district,
- Having a plan to implement a leveling of the fees within four years,
- Being called the Western Nevada County Fire Authority,
- Not initially including Ophir Hill Fire Protection District, Peardale-Chicago Park Fire, Rough and Ready Fire, or North San Juan Fire District.

**The recommendation will not be implemented as it is not warranted or is not reasonable. This recommendation is beyond the authority of PVFPD. However, the**



**Health and Safety Code Division 12 Part 2.7 addresses governing boards of fire districts. It appears that changing from an elected board to an appointed board would require an election. An appointed board would remove local control from the voters who created each district. Having one business office would make non-emergency services less accessible to the residents and businesses in each district. PVFPD would need to have personnel in its office for ambulance billing and other administrative functions not provided by the new fire authority. As taxes and parcel fees are established by ballot measures, any changes would require additional elections at additional expense.**

Recommendation 4. An interim JPA should be established which would be an interim governing body. That governing body would be a transitional board until a permanent board is established. The interim board would consist of one elected official and one staff member of each agency and one member from the Nevada County Board of Supervisors.

**The recommendation will not be implemented as it is not warranted or is not reasonable. This recommendation is beyond the authority of PVFPD. As recommendation three (3) would make all districts involved dependent with appointed members, who would the elected official be?**

Recommendation 5. The included districts on the new fire authority should begin discussions for reorganization into an independent fire authority that is under the supervision of the Nevada County Board of Supervisors in order to preserve fire protection services in western Nevada County:

- Nevada County Consolidated Fire District
- Penn Valley Fire Protection District
- Rough and Ready Fire Protection District
- Grass Valley Fire Department
- Nevada City Fire Department
- Higgins Area Fire Protection District
- North San Juan Fire Protection District
- Ophir Hill Fire Protection District
- Peardale-Chicago Park Fire District
- Washington County Water Fire District

**The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study. Out of the ten (10) agencies listed above six (6) agencies have not participated and chose not to be involved. Grass Valley Fire and Nevada City Fire are fire departments (as opposed to Special Districts) and**

administratively managed in a different way. It has not been established that such a consolidation would benefit the public within PVFPD. Existing proposals would include significant reductions in oversight and increases in cost. Sharing one duty officer for four (4) departments would reduce oversight during significant incidents. It is common for more than one incident to occur at the same time within the ten agencies. The sample organizational chart indicates three (3) personnel for each engine. This would cause PVFPD to hire six (6) additional full-time people as these personnel are not available to staff the ambulances, there would be the additional cost for ambulance coverage. The sample organizational chart would increase staffing to 145 personnel with associated costs to all districts. Staffing for all districts is approximately ½ of that currently. Closing the PVFPD office would reduce service forcing residents and businesses to travel further for services. Ambulance billing would also have to be addressed. The sample organization chart indicates a significant increase in administrative staff over existing PVFPD staff. There is nothing to indicate any cost savings to the District.

# NEVADA COUNTY HOLDING FACILITY TRUCKEE COURTHOUSE

## Summary

The Nevada County Grand Jury is statutorily required to inspect public prisons annually within Nevada County. The Nevada County Sheriff's Office has responsibility for the management of county correctional facilities, including inmate holding facilities at the Nevada County Sheriff's Office Truckee Sub-Station and the Nevada County Superior Court, Truckee Branch.

There is a holding area in the Nevada County Superior Court Truckee Branch used to hold inmates awaiting court appearances. This holding area and its access is one segment of this report.

The Nevada County Grand Jury is concerned about officer safety and court office privacy and safety. The Nevada County Grand Jury observed that there is open viewing of a court office. There are no barriers to keep an out of control vehicle from crossing the sidewalk adjacent to the building and impacting the outside wall of the court office.

The Nevada County Grand Jury also found that there is an open unsecured walkway that is used once the inmate has debarked from the transport van and prior to entering the courthouse interior. Once inside, there is a toilet facility that has a solid door that doesn't allow supervision by corrections staff of inmates using that facility.

The Nevada County Grand Jury strongly recommends the Superior Court, Nevada County Sheriff's Office and Nevada County Board of Supervisors work together to obtain funding for safety and security upgrades.

## Reasons for Investigation

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

## Background

The Nevada County Sheriff's Office (NCSO) is a county sheriff's office within the State of California as defined by the California Penal Code. The NCSO is responsible for the management of the county correctional facilities located at the Truckee Sub-Station (Sub-

Station) and the Nevada County Superior Court, Truckee Branch (Court). The administrative staff of the Court is responsible for the daily functions of this facility.

Criminal and civil court activities are conducted within the government administrative building, also commonly known as the Joseph Center. The Joseph Center also houses Nevada County departmental offices.

The operation of the Joseph Center is governed by a Joint Occupancy Agreement (JOA) between Nevada County and the Judicial Council of California (Council). The Administrative Office of the Courts (AOC) implements the Council's policies and decisions.

The Court holding facility is a Type 1 facility as defined by the Corrections Standards Authority, an agency of the California Department of Corrections and Rehabilitation. The holding facility is a low-security risk, temporary holding facility. The holding facility is used to hold inmates awaiting court appearances that day.

The 2011-2012 Grand Jury Report contained two recommendations each for the NCSO and Nevada County Board of Supervisors (BOS):

- NCSO: R.5.: *“In conjunction with the Nevada County Board of Supervisors, secure the open inmate loading/unloading area at the Courthouse with a fenced enclosure, commonly known as a sally port.”*
- NCSO: R.6.: *“In conjunction with the Nevada County Board of Supervisors, secure the open walkway area used to transport inmates into the Court with a fenced enclosure.”*
- Board of Supervisors: R.7. *“Provide funding to secure the open inmate loading/unloading area at the Joseph Center with a fenced enclosure, commonly known as a sally port.”*
- Board of Supervisors: R.8. *“Provide funding to secure the open walkway area at the Joseph Center, used to transport inmates into the Courthouse, with a fenced enclosure.”*

The 2011-2012 Jury Report recommendations listed above were not implemented. The responses to the Jury report from the NCSO and BOS stated that funding was not available.

## **Procedures Followed**

On September 12, 2013, the Jury inspected the holding area within the Joseph Center, located at 10075 Levon Avenue, Truckee, California. The Jury toured the facilities and interviewed representatives from the NCSO. On subsequent dates, the Jury interviewed Nevada County Superior Court staff and reviewed documents concerning the Truckee holding facilities and the Court.

## Facts

- Fa. 1** Nevada County (County) is the owner of certain real property, located in the Town of Truckee and having a street address of 10075 Levon Avenue, commonly known as the Joseph Center.
- Fa. 2** The Joseph Center was built in the 1950s. The County purchased the property and structure and in 1992 remodeled the facility providing space for the Court and county offices.
- Fa. 3** Ownership of the Joseph Center is shared by the County [70.68%] and the Administrative Office of the Courts (AOC) [29.32%]. This arrangement was completed in 2008 and is known as: Transfer of Responsibility for Court Facility Agreement; Joint Occupancy Agreement (JOA), and Memorandum of Joint Occupancy Agreement.
- Fa. 4** Maintenance costs are shared by the above percentages in the common areas. The Court pays for their exclusive area and the County pays for their exclusive area. The County performs all maintenance and is reimbursed by the AOC. The County is responsible for the maintenance of the common area.
- Fa. 5** The common area includes: driveways, adjacent parking lot areas, walkways and any means of access to the portion of the Joseph Center.
- Fa. 6** At the end of Fiscal Year 2011-2012, there were 24 pending requests for funding of maintenance and security projects to the AOC for this facility. The total cost for these requests is \$2,601,301.
- Fa. 7** To date, none of the 24 requests have been funded by the AOC.
- Fa. 8** There is no NCSO facility in the building other than a holding cell.
- Fa. 9** Inmates are transported from the Wayne Brown Correctional Facility and the Sub-Station to the Court by armed NCSO correctional staff in a secure transportation vehicle.
- Fa. 10** There is no fenced enclosure, commonly known as a sally port, at this location.
- Fa. 11** At the Court, the inmates are moved from the secure vehicle and into the holding facility along an outdoor, unsecured, unfenced, public area, adjacent to an open parking lot.
- Fa. 12** This area is located in near proximity to a public library and county offices operating in the Joseph Center, frequented by the public.

- Fa. 13** Movement of inmates is in the immediate area of a Court office with exterior windows.
- Fa. 14** There is no one-way material on the window to prevent individuals from viewing all activities of the Court office at any time.
- Fa. 15** The parking lot is adjacent to the outside wall of a Court office.
- Fa. 16** On December 13, 2013, the AOC issued a memorandum outlining their safety inspection of the Joseph Center that identified areas of safety concern and recommended work.
- Fa. 17** The December 13, 2013 memorandum outlined and suggested upgrades to the following areas:
- barriers at the first floor Court office,
  - upgrade the windows at the first floor Court office,
  - addition of security cameras on second floor areas,
  - second floor Court office window upgrade,
  - partitions at the clerk's counter and,
  - first floor holding area restroom door modification.
- Fa. 18** The NCSO is responsible for submitting an annual budget BOS for approval.
- Fa. 19** The BOS has the responsibility of approving the NCSO's budget.

## Findings

- Fi. 1** The current conditions at the Joseph Center are believed to pose an imminent threat of serious injury to the public, courthouse employees and county employees.
- Fi. 2** Safety improvements identified by the county and AOC have not been approved and/or funded by the AOC.
- Fi. 3** Proposed safety improvements would enhance the safety of the public and Court and county employees.
- Fi. 4** The BOS and the Court have not provided leadership in urging the AOC to release the necessary funds to improve the safety at the Joseph Center.

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## Recommendations

- R. 1** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court should take all the measures necessary to move forward with a formal agreement which provides the recommended safety improvements immediately to ensure the safety of the public and employees.
- R. 2** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should prioritize funding requests to implement the recommended safety improvements.
- R. 3** The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should coordinate efforts to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

## Responses

Nevada County Sheriff: Finding 1 – 4 and Recommendations: 1, 2 and 3.  
Due Date: July 29, 2014.

Nevada County Board of Supervisors: Finding 1 – 4 and Recommendations: 1, 2 and 3.  
Due Date: August 29, 2014.

Nevada County Superior Court: Finding 1 – 4 and Recommendations: 1, 2 and 3.  
Due Date: July 29, 2014.



**NEVADA COUNTY SUPERIOR COURT  
OFFICE OF THE JURY COMMISSIONER  
201 CHURCH STREET, SUITE 6  
NEVADA CITY, CA 95959**

Thomas M. Anderson  
*Presiding Judge of the  
Grand Jury*

Audrey M. Golden  
*Deputy Jury Commissioner*

**(530) 265-1475**

**August 6, 2014**

Keith Overbey Foreman  
Nevada County Civil Grand Jury  
950 Maidu Avenue  
Nevada City, CA 95959

Dear Keith:

Enclosed is the response from the N.C. Sheriff's Office on the Holding Facility at the Truckee Courthouse.

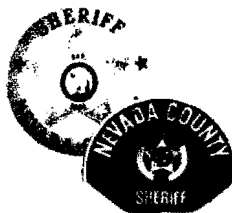
Sincerely,

A handwritten signature in black ink, appearing to read "Audrey M. Golden", written over a horizontal line.

Audrey M. Golden



**NEVADA COUNTY  
SHERIFF'S OFFICE**



**KEITH ROYAL**  
SHERIFF/CORONER  
PUBLIC ADMINISTRATOR

June 27, 2014 Updated on July 22, 2014

The Honorable Thomas M. Anderson  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, Ca. 95959

RE: Response to 2013-2014 Nevada County Holding Facility Truckee Courthouse Grand Jury Report

Dear Honorable Judge Anderson:

In response to the Grand Jury Report dated May 29, 2014 on the Nevada County Holding Facility Truckee Courthouse.

**FINDINGS:**

1. The current conditions at the Joseph Center are believed to pose an imminent threat of serious injury to the public, courthouse employees and county employees.

**Disagree**

**Due to past experience, we do not feel an imminent threat of serious injury to the public, courthouse employees, and/or county employees exists. We have had an excellent record with our transport of prisoners from transportation units to the Courthouse in Truckee with no threats, escapes or injuries. We are committed to mitigating risk at every opportunity within the County's existing resources. Inmates are transported from the transportation unit to the Courthouse in customary restraints, including leg shackles and waist shackles.**

2. Safety improvements identified by the county and AOC have not been approved and/or funded by the AOC.

**Agree**

3. Proposed safety improvements would enhance the safety of the public and Court and county employees.

**Agree**

4. The BOS and the Court have not provided leadership in urging the AOC to release the necessary funds to improve the safety at the Joseph Center.

### **Disagree**

**Our experience has been that both the BOS and the Court provide leadership and are prudent in prioritizing funding requests to the AOC.**

### **RECOMMENDATIONS:**

1. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court should take all the measures necessary to move forward with a formal agreement which provides the recommended safety improvements immediately to ensure the safety of the public and employees.

**The recommendation will not be implemented on the part of the Nevada County Sheriff's Office because it is not reasonable. The State of California Administrative Office of the Courts has not approved \$2,601,301 in funding for prior requested maintenance and security projects. The Sheriff's Office has no information to doubt the Superior Courts ability to properly prioritize its funding requests and balance them against safety and security. The Sheriff's Office feels confident it will not be able to insert itself in the middle of the formal annual budget process between the Superior Court and the AOC, nor strike a formal agreement with the AOC outside that process. We are more than willing to work with them should funding from the AOC be identified.**

2. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should prioritize funding requests to implement the recommended safety improvements.

**The recommendation will not be implemented on the part of the Nevada County Sheriff's Office because it is not reasonable. It is the responsibility of the Nevada County Superior Court to make prioritized funding requests to the Administrative Office of the Courts, who in turn has the responsibility of prioritizing all funding requests for the entire State of California court system. The Nevada County Sheriff's Office has an advisory only role at the Court House when it comes to recommending security concerns. The Sheriff's Office is confident the Superior Court has properly prioritized its funding requests to the AOC and has put great weight into the safety and security of the Courthouse visitors. The Sheriff's Office has no control over funding decisions the AOC makes at a State level.**

3. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff should coordinate efforts to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

**The recommendation will not be implemented on the part of the Nevada County Sheriff's Office because it is not reasonable. The end product of the recommendation is a completed project. As stated above, prioritized funding requests have been made by the**

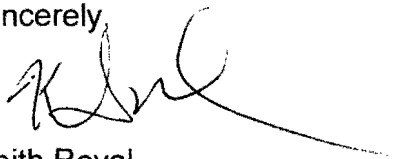
July 22, 2014

Page 2

**Nevada County Superior Courts to the State of California Administrative Office of the Courts. As of this date, the AOC has decided not to fund those requests. The Sheriff's Office assumes other funding requests received by the AOC were given greater weight as to their priority. We are willing to work with the involved parties in an attempt to move these projects forward, however, with the apparent lack of funding from the AOC, we feel it is unlikely that this recommendation can be fully accomplished.**

The Sheriff's Office would like to thank the members of the 2013-2014 Grand Jury for their participation and effort in preparing their reports. We are committed to providing the highest level of safety and security to our employees, the public, and inmates.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Royal', with a long horizontal flourish extending to the right.

Keith Royal  
Sheriff-Coroner



**NEVADA COUNTY SUPERIOR COURT  
OFFICE OF THE JURY COMMISSIONER  
201 CHURCH STREET, SUITE 6  
NEVADA CITY, CA 95959**

Thomas M. Anderson  
*Presiding Judge of the  
Grand Jury*

Audrey M. Golden  
*Deputy Jury Commissioner*

**(530) 265-1475**

July 30, 2014

Keith Overbey Foreman  
Nevada County Civil Grand Jury  
950 Maidu Avenue  
Nevada City, CA 95959

Dear Keith:

Enclosed is the response from the Courts on the Holding Facility at the Truckee Courthouse.

Sincerely,

A handwritten signature in blue ink, appearing to read "Audrey M. Golden", with a long horizontal line extending to the right.

Audrey M. Golden

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**County of Nevada**

Page 90

CANDACE S. HEIDELBERGER,  
*Presiding Judge*



G. SEAN METROKA,  
*Court Executive Officer*

**201 Church Street**  
**Nevada City, CA 95959**  
**(530) 265-1311**

July 29, 2014

Grand Jury, County of Nevada  
Attn: Keith Overbey, Foreperson  
950 Maidu Avenue  
Nevada City, CA 95959

Dear Mr. Overbey:

As requested in the 2013-2014 Nevada County Grand Jury Report on the subject of the Nevada County Holding Facility, Truckee Courthouse, the following response is submitted.

**Findings**

**Fi.1** The current conditions at the Joseph Center are believed to pose an imminent threat of serious injury to the public, courthouse employees and county employees.

Disagree.

While we agree that the current conditions can and should be improved, the assertion that these conditions may "pose an imminent threat of serious injury to the public, courthouse employees and county employees" is greatly overstated. Many countermeasures are in place in this facility which significantly mitigates the potential risk to court users and employees.

**Fi.2** Safety improvements identified by the county and AOC have not been approved and/or funded by the AOC.

Partially agree.

Several improvement requests have been approved and funded by the AOC. These include tinting of exterior windows, installing obstacles to prevent running a vehicle into sensitive areas of the building and installation of bullet resistant windows. There are other requests awaiting approval and funding, however, they are still in the approval process.

**Fi.3** Proposed safety improvement would enhance the safety of the public and court and county employees.

Agree.

**Fi.4** The BOS and the Court have not provided leadership in urging the AOC to release the necessary funds to improve the safety at the Joseph Center.

Disagree.

The Court has made several attempts to gain approval of our requests for safety improvements at the Joseph Center. We regularly follow up on these requests and provide additional information as necessary to establish an appropriate priority for funding. The plain fact is that funding across the State is too little to meet all security needs in all courthouses. The Grand Jury’s assumption that this is a shortfall in leadership on the part of the BOS and Court completely lacks foundation.

**Recommendations**

- R.1** The Nevada County Board of Supervisors, the Nevada County Sheriff’s Office, the Administrative Office of the Courts and the Nevada County Superior Court should take all the measures necessary to move forward with a formal agreement which provides the recommended safety improvements immediately to ensure the safety of the public and employees.

Partially implemented.

The Court has taken all appropriate steps to secure funding for the identified security improvements. The recommendation that this effort should be pushed forward at all cost clearly fails to consider the statewide limitations on funding and competing priorities – not the least of which is simply providing sufficient staffing of court operations to provide basic access to justice for all.

- R.2** The Nevada County Board of Supervisors, the Nevada County Sheriff’s Office, the Administrative Office of the Courts and the Nevada County Superior Court staff should prioritize funding requests to implement the recommended safety improvements.

Partially implemented.

We have prioritized our security requests and submitted them to the State for consideration and funding. The State considers requests from all jurisdictions and establishes statewide priorities. We do not control that process.

- R.3** The Nevada County Board of Supervisors, the Nevada County Sheriff’s Office, the Administrative Office of the Courts and the Nevada County Superior Court staff should coordinate efforts to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

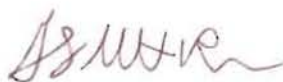
Partially implemented.

We do currently coordinate our efforts in this area and will continue to do so. Ensuring these improvements are completed is outside of our control and subject to approval and funding by the State.

Respectfully submitted,



Candace S. Heidelberger  
Presiding Judge



G. Sean Metroka  
Court Executive Officer

# NEVADA COUNTY HOLDING FACILITY NEVADA COUNTY COURTHOUSE IN NEVADA CITY

## Summary

The Nevada County Grand Jury is statutorily required to inspect public prisons annually within Nevada County. The Nevada County Sheriff's Office has responsibility for the management of county correctional facilities at Nevada County Courthouse in Nevada City.

Security is handled via a security desk that electronically controls access through the facility and has cameras to monitor conditions. Additional security cameras are needed.

The Nevada County Grand Jury strongly recommends the Superior Court, Nevada County Sheriff's Office and Nevada County Board of Supervisors work together to obtain funding for safety and security upgrades.

## Reasons for Investigation

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

## Background

The Nevada County Sheriff's Office (NCSO) is a county sheriff's office within the State of California as defined by the California Penal Code. The NCSO is responsible for the management of the county correctional facilities located in the Nevada County Superior Court, Nevada City Branch (Courthouse).

This area has six cells on the ground floor for use as an inmate holding area for inmates awaiting court appearances. This area of holding has two entrances in use during normal business hours. Public entry is via Church Street where people are subject to security screening. The Washington Street door is primarily used for ingress and egress of inmates when the underground sally port is not used and for self surrender actions.

Administrative staff of the Courthouse (Staff) is responsible for the daily functions of this facility.

## Procedures Followed

The Jury reviewed previous reports concerning holding facilities for reference. Interviews with courthouse management staff, NCSO courthouse staff and county facilities staff were conducted. On January 16, 2014, the Jury inspected the NCSO holding facility along with other areas of the Courthouse, located at 201 Church Street, Nevada City.

## Facts

- Fa. 1** Nevada County (County) is the owner of certain real property located in Nevada City and having a street address of 201 Church Street. Ownership and maintenance responsibilities are: County, in all areas used for temporary holding; Administrative Office of the Courts (AOC) for all other areas.
- Fa. 2** The Courthouse was once the site of the Nevada County Jail and Courthouse. An annex was added to the structure for additional courtrooms and office space.
- Fa. 3** The Courthouse handles criminal court cases and various civil court actions.
- Fa. 4** In 1991 prisoners were moved from this facility to the Wayne Brown Correctional Facility.
- Fa. 5** A portion of the Courthouse now serves as a holding area for individuals scheduled for criminal court hearings. It also serves to conduct some booking duties for self-surrenders.
- Fa. 6** A self-surrender is when an individual knows that they are subject to arrest and voluntarily turn themselves in to custody.
- Fa. 7** Security is handled at a single security area (Desk). The Desk is responsible for access throughout the area via electric locks. Movement is recorded via a series of cameras.
- Fa. 8** The camera system is wholly owned by the AOC. The camera system is operated and monitored by NCSO staff.
- Fa. 9** There are cameras positioned throughout the interior and exterior of the Courthouse building.
- Fa. 10** The camera system ensures that NCSO movements and security activities are monitored through the AOC camera system.
- Fa. 11** Camera images are displayed on a computer screen that can have a single image, or multiple images viewed simultaneously.



- Fa. 12** The Washington Street intake hallway is used for movement of self-surrenders and inmate movement between a transport vehicle and holding cells.
- Fa. 13** There was an analog camera in the Washington Street intake hallway that was not compatible with the new security system and was removed and not replaced.
- Fa. 14** A digital camera for live view only is available for approximately \$300.00 to \$500.00. An additional digital recording system connection would cost \$1,000.00 to \$1,500.00.
- Fa. 15** The Staff has requested funds from the AOC for purchase and installation of additional external and internal cameras for:
- court rooms,
  - hallways,
  - underground garage area,
  - sally port.
- Fa. 16** The 2012-2013 Jury Report recommended upgrades to the Courthouse camera security system. Staff responded to the Jury Report Recommendations as follows:
- *“The current camera system was purchased by the Administrative Office of the Courts (AOC) and is the sole property of the Court. While the Court will coordinate any system changes and camera placement with the Nevada County Sheriff’s Department, we do not expect that the County will contribute funds to purchase additional cameras for a system that they do not own.”*
  - NCSO response was that *“...there was no funding available.”*
- Fa. 17** The NCSO response to the recommendation was that, *“...there was no funding available.”*
- Fa. 18** The NCSO is responsible for submitting an annual budget to the Nevada County Board of Supervisors (BOS) for approval.
- Fa. 19** The BOS is responsible for approval of the NCSO budget.

## Findings

- Fi. 1** The safety of county and court employees and the public is compromised by a lack of security cameras in some areas of the Courthouse.
- Fi. 2** Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

- Fi. 3** NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.
- Fi. 4** This issue has been on the forefront for several years without resolution. The safety of the public, the Courthouse employees and NCSO staff remains at risk.

### **Recommendations**

- R. 1** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.
- R. 2** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.
- R. 3** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

### **Responses**

Nevada County Sheriff: Findings 1, 2, 3 and 4 and Recommendations: 1 and 2.  
Due Date: August 16, 2014

Nevada County Board of Supervisors: Findings 2, 3 and 4 and Recommendations 1, 2 and 3  
Due Date: September 16, 2014

Nevada County Superior Court: Finding 1, 2 and 3 and Recommendation 1, 2 and 3.  
Due Date: August 16, 2014



**NEVADA COUNTY SUPERIOR COURT  
OFFICE OF THE JURY COMMISSIONER  
201 CHURCH STREET, SUITE 6  
NEVADA CITY, CA 95959**

Thomas M. Anderson  
*Presiding Judge of the  
Grand Jury*

Audrey M. Golden  
*Deputy Jury Commissioner*

**(530) 265-1475**

**August 12, 2014**

Keith Overbey Foreman  
Nevada County Civil Grand Jury  
950 Maidu Avenue  
Nevada City, CA 95959

Dear Keith:

Enclosed is the response from Nevada County Superior Court of California, on the subject of the Nevada Holding Facility and the Recorders response for the Elections office.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey M. Golden", written over a horizontal line.

Audrey M. Golden

County of Nevada

CANDACE S. HEIDELBERGER,  
*Presiding Judge*



G. SEAN METROKA,  
*Court Executive Officer*

201 Church Street  
Nevada City, CA 95959  
(530) 265-1311

August 11, 2014

The Honorable Thomas M. Anderson  
Presiding Judge of the Grand Jury  
Superior Court of Nevada County  
201 Church Street  
Nevada City, CA 95959

Dear Judge Anderson:

As requested in the 2013-2014 Nevada County Grand Jury Report on the subject of the Nevada County Holding Facility, Nevada County Courthouse in Nevada City, the following response is submitted.

**Findings**

**Fi.1** The safety of county and court employees and the public is compromised by a lack of security cameras in some areas of the Courthouse.

Agree.

**Fi.2** Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

Agree.

**Fi.3** NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.

Disagree.

The Court would certainly welcome any help the NCSO might offer to enhance the Court's camera system. However, this system is the Court's responsibility and we rely on the Judicial Council for funding to expand / enhance the system.

**Recommendations**

**R.1** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.

Not implemented.

The entities listed in this recommendation do not all share responsibility for improving the court's camera system and cannot be compelled to enter into a formal agreement in order to secure funding for this system.

- R.2** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.

Not implemented.

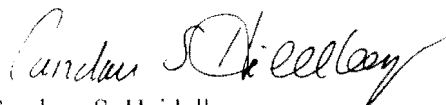
Funding for the Judicial Branch and our court is very limited and expenditures must be prioritized according to greatest need. While we agree that this system is important to the overall security of our court buildings, we cannot say with certainty that the proposed system enhancement should be made the highest priority for funding statewide – we rely on the Judicial Council to make that assessment and allocate funding accordingly.

- R.3** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

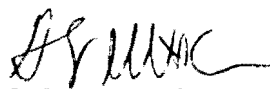
Partially implemented.

The Superior Court of Nevada County has requested State funding to implement the recommended safety improvements and we routinely follow up on our request to ensure it isn't lost in bureaucracy. We cannot ensure the work is completed until funding is allocated by the Judicial Council.

Respectfully submitted,



Candace S. Heidelbergberger  
Presiding Judge



G. Sean Metroka  
Court Executive Officer

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**NEVADA COUNTY  
SHERIFF'S OFFICE****KEITH ROYAL**  
SHERIFF/CORONER  
PUBLIC ADMINISTRATOR

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July 11, 2014

The Honorable Thomas M. Anderson  
Presiding Judge of the Grand Jury  
201 Church Street  
Nevada City, Ca. 95959

RE: Response to 2013-2014 Nevada County Holding Facility Nevada County Courthouse in Nevada City Grand Jury Report

Dear Honorable Judge Anderson:

In response to the Grand Jury Report dated June 16, 2014 on the Nevada County Holding Facility Nevada County Courthouse in Nevada City.

**FINDINGS:**

1. The safety of county and court employees and the public is compromised by a lack of security cameras in some areas of the Courthouse.

**Partially Disagree**

Due to past experience, we do not feel an imminent threat of serious injury to the public, courthouse employees, and/or county employees exists. We have had an excellent record with our transport of prisoners from transportation units to the Courthouse in Nevada City. We are committed to mitigating risk at every opportunity within the County's existing resources. Inmates are transported from the transportation unit to the Courthouse in customary restraints, including leg shackles and waist shackles. Officer safety practices are primary in maintaining a safe environment while transporting prisoners; although security cameras may provide additional security.

2. Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

**Partially Disagree**

If money were no object it would be optimal for additional security cameras to be installed and additional staff to monitor the cameras. In light of the fact that the AOC has other funding requests to consider and a limited budget, the immediacy of the attention needed by the AOC is questionable on our part. Our opinion is that the AOC must determine their funding priorities.

3. NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.

**Agree. We are always willing to participate in discussions with Court Staff regarding Courthouse Security.**

4. This issue has been on the forefront for several years without resolution. The safety of the public, the Courthouse employees and NCSO staff remains at risk.

### **Partially Disagree**

**The issue has not been fully resolved, yet, due to past experience, we do not feel an imminent threat of serious injury to the public, courthouse employees, and/or county employees exists. We have had an excellent record with our transport of prisoners from transportation units to the Courthouse in Nevada City. We are committed to mitigating risk at every opportunity within the County's existing resources. Inmates are transported from the transportation unit to the Courthouse in customary restraints, including leg shackles and waist shackles. Officer safety practices are primary in maintaining a safe environment while transporting prisoners; although security cameras may provide additional security.**

### **RECOMMENDATIONS:**

1. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.

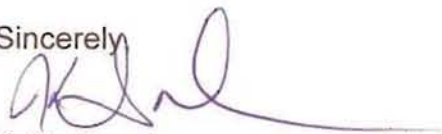
**The recommendation will not be implemented because the Nevada County Sheriff's Office does not secure funding from the AOC for Court equipment.**

2. The Nevada County Board of Supervisors, the Nevada County Sheriff's Office, the Administrative Offices of the Court and the Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.

**The recommendation will not be implemented because the Nevada County Sheriff's Office does not secure funding from the AOC for Court equipment.**

The Sheriff's Office would like to thank the members of the 2013-2014 Grand Jury for their participation and effort in preparing their reports. We are committed to providing the highest level of safety and security to our employees, the public, and inmates.

Sincerely



Keith Royal  
Sheriff-Coroner

COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Chair Nathan H. Beason, 1<sup>st</sup> District  
Vice Chair Ed Scofield, 2<sup>nd</sup> District  
Terry Lamphier, 3<sup>rd</sup> District  
Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District  
Donna Landi, Clerk of the Board

September 16, 2014

The Honorable Thomas Anderson  
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 2013-14 Nevada County Civil Grand Jury Report,  
*Nevada County Holding Facility, Nevada County Courthouse, Nevada City.*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2013-14 Nevada County Civil Grand Jury Report, dated June 16, 2014, entitled *Nevada County Holding Facility, Nevada County Courthouse, Nevada City.*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses are based on either personal knowledge, examination of official County records, information received from the Sheriff, 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 2013-14 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,

Nathan H. Beason, Chair  
Nevada County Board of Supervisors

cc: ✓ Keith Overbey, Foreman, Grand Jury  
Keith Royal, Nevada County Sheriff  
Rick Haffey, County Executive Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
phone: 530.265.1480 | fax: 530.265.9836 | toll free: 888.785.1480 | email: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
website: <http://www.mynevadacounty.com/nc/bos>



NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO  
2013-2014 Nevada County Civil Grand Jury Report  
Nevada County Holding Facility Nevada County Courthouse in Nevada City

DATED: June 16, 2014

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 :**

**FINDING 2:** Although the Staff is attempting to remedy some of the identified safety and security issues, there are still deficiencies in the security camera system that needs immediate attention by the AOC.

**Disagree.**

The Nevada County Board of Supervisors provides leadership in working with the Sheriff and Court to help direct funding to the highest priorities. Safety and security concerns have not risen to a level high enough to make this a priority project.

**FINDING 3:** NCSO could be active in assisting the Staff in their request for camera upgrades because the cameras are a first-line observation of potential harm.

**Agree.**

The Nevada County Sheriff Office has agreed to participate in discussions with Court Staff regarding Courthouse Security.

**Finding 4:** This issue has been on the forefront for several years without resolution. The safety of the public, the Courthouse employees and NCSO staff remains at risk.

**Disagree.**

The Nevada County Board of Supervisors concurs with the Nevada County Sheriff Office that there is not an imminent threat of serious injury to the public, the Courthouse employees and NCSO staff. The NCSO has an excellent record in transporting prisoners from transportation unit to the Courthouse.

**B. RESPONSES TO RECOMMENDATIONS:**

**Recommendation 1:** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to take all the steps necessary to move forward with a formal agreement in order to secure funding from the AOC and provide safety improvements immediately to ensure the safety of the public and Court employees.

This recommendation will not be implemented. The Administrative Office of the Courts ultimately prioritizes funding requests and balances them against safety and security. Current funding is limited and there are other priority projects that remain unfunded. The County is open to supporting other alternatives, which includes housing a criminal court next to the Wayne Brown Correctional facility.

**Recommendation 2:** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to prioritize funding requests and obtain the funding from the AOC to implement the safety improvements.

This recommendation will not be implemented. See R.1. above.

**Recommendation 3:** The Nevada County Board of Supervisors, Nevada County Sheriff's Office, Administrative Offices of the Court and Nevada County Superior Court staff need to follow through with the request for funding, the implementation of the safety improvements and ensure the required work is completed.

This recommendation will not be implemented. See R.1. above.

# NEVADA COUNTY ELECTIONS OFFICE

## Summary

The Nevada County Grand Jury has monitored Nevada County General Elections in 2008, 2010 and 2012, and subsequently issued reports on the conduct of those elections. Most of the recommendations made by the Grand Jury were implemented by the Nevada County Clerk Recorder/Registrar of Voters.

A citizen complaint was received after the Nevada County Grand Jury 2012 Election Report was issued. As a result, the 2013-2014 Nevada County Grand Jury opened an investigation into the 2012 General Presidential Election.

The 2013-2014 Nevada County Grand Jury found concerns in the conduct of the 2012 General Presidential Election. The 2013-2014 Nevada County Grand Jury has recommended modifications to the poll worker training that may result in a more positive voter experience on Election Day. The recommendations may also help to reduce costs associated with processing provisional ballots.

The most egregious problem found in this review is that, for the past four years, the Nevada County Superior Court has failed to provide a list of convicted felons to the Nevada County Clerk Recorder/Registrar of Voters with information required by Elections Code. This information is necessary to properly ensure the integrity of the voter rolls. Further, the Nevada County Clerk Recorder/Registrar of Voters did not open a dialog during the same period with the Superior Court to ensure the provision of the required information.

The Nevada County Grand Jury recommends that the Nevada County Clerk Recorder/Registrar of Voters and the Nevada County Superior Court develop and adopt a formal agreement, which establishes an effective communication process between the two offices, and defines their respective roles and responsibilities to ensure compliance with the Elections Code.

It is further recommended that the Nevada County Clerk Recorder/Registrar of Voters should continue to use reports from the Election Integrity Project as an investigative tool to ensure the accuracy of the voter rolls.

## Reasons for Investigation

The Nevada County Grand Jury (Jury) received a citizen's complaint that some sections of the California Elections Codes (Elections Code) may not have been followed during the course of the 2012 General Presidential Election in Nevada County.

## Background

The Nevada County Clerk-Recorder/Registrar of Voters (Registrar of Voters) has the responsibility to select polling places in accordance with the Elections Code. Each polling place contains one or more precincts. Each precinct is staffed by a precinct board (poll workers), consisting of an inspector and two or more judges. The inspector has overall responsibility for the election activities of that precinct. All poll workers are volunteers and are required to attend poll worker training.

Poll workers' duties include:

- knowing and enforcing Elections Code and regulations,
- knowing the voting process,
- ensuring ballot security,
- instructing voters in proper operation of electronic voting equipment,
- answering voter's questions,
- trouble-shooting problems.

The Elections Code provides various methods of voting, which includes both Vote-by-Mail (VBM) and use of a provisional ballot.

VBM ballots must be deposited in an envelope that bears the signature of the voter on the inside flap of the envelope. VBM ballots can be sent by mail to, or dropped off at, the Nevada County Elections Office (Elections Office) prior to Election Day. VBM ballots can also be dropped off at any precinct or the Elections Office on Election Day.

Provisional ballots issued on Election Day, pursuant to Elections Code §14310, are verified at the Elections Office after all regular and VBM ballots have been processed.

The Elections Office is required to purge names from the voter rolls in a timely manner pursuant to Elections Code §2211 and §2212.

## Procedures Followed

The Jury interviewed:

- staff members of the Elections Office,
- polling place observers,
- a precinct officer,
- staff members of the Superior Court.

The Jury also visited the Elections Office to observe procedures and evaluate equipment operation. In addition the Jury reviewed a document entitled *Voting and Registering to Vote, The 2013 Report of the Nevada County Elections Office*, sent to the Nevada County Board of Supervisors on March 18, 2013.

## Facts

**Fa. 1** Elections Code §14216 states, in part, *“Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address.”*

**Fa. 2** The *County of Nevada Poll Worker Training Manual* (Training Manual) provides under Module 3, Page 5, in part, the following:

- “1. The Roster Judge asks the voter to state his/her name and residence address.*
- 2. Then finds the voter in the Master Roster, while the Tally Judge finds the voter in the Tally Index.*
- 3. The Roster Judge then repeats the voter’s name and address.”*

**Fa. 3** Poll workers did not consistently repeat the voter’s name and/or address in all precincts.

**Fa. 4** Elections Code §14310 provides, among other things, *“(a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows: (1) An elections official shall advise the voter of the voter’s right to cast a provisional ballot. (2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter’s registration and eligibility to vote. The written instructions shall include the information set in subdivisions (c) and (d). (3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.”*

**Fa. 5** The number of provisional ballots cast in previous general elections as reported in the *Voting and Registering to Vote, The 2013 Report of the Nevada County Elections Office* are as follows:

- 2004 –998
- 2006 –155
- 2008 –1,270
- 2010 –1,302
- 2012 –1,955

///  
///  
///  
///

**Fa. 6** Elections Office staff stated the approximate cost to process various ballots is:

- \$4.00 per VBM ballot,
- \$17.00 per Polling Place ballot,
- \$5.00 to \$20.00 additional per provisional ballot.

**Fa. 7** Prior to each election, sample ballots are mailed to the address of registered voters and include the location of the voter's assigned polling place.

**Fa. 8** Voters who arrive to vote at an incorrect polling place are given the option to go to their assigned polling place or to vote using a provisional ballot at the incorrect location.

**Fa. 9** The provisional ballot provided may differ from the ballot issued for the voter's assigned polling place.

**Fa. 10** The Training Manual does not provide an instruction for poll workers to advise voters that a provisional ballot may differ from the ballot issued for their assigned polling place.

**Fa. 11** Module 3, Page 7 of the Training Manual includes the following:

*“Vote-By- Voters Dropping Mail Off Ballot (sic)*

*Most Vote-by-Mail voters will simply want to drop their ballot off at the polling place.*

*Instruct voters delivering their Vote-by-Mail ballot to the poll location to make sure their envelope is signed and sealed, and then have the voter deposit his or her ballot into the blue VBM Ballot Box. Remember if the voter does not sign his or her ballot envelope, the enclosed ballot cannot be counted.”*

**Fa. 12** The blue VBM ballot boxes are placed in polling places for the deposit of VBM ballots.

**Fa. 13** The blue VBM ballot boxes are often placed too far from polling place workers for them to ask voters if the VBM envelope is signed.

**Fa. 14** When the VBM envelope is missing the signature of the registered voter, the ballot requires special handling which increases costs.

**Fa. 15** Pursuant to *California Secretary of State Memorandum #12143* to all County Clerk/Registrar of Voters dated May 7, 2012, the Elections Code allows polling place observers to be present before, during and after an election.

**Fa. 16** Each observer at the Elections Office is instructed to stand only in designated areas approximately 18 inches square to:

- preserve privacy of the votes cast,
- not interfere with staff and,
- not touch any of the ballots or machinery.

- Fa. 17** Some observers felt unwelcome and unable to effectively observe during the time they were at the Elections Office.
- Fa. 18** California state law prohibits persons imprisoned or on parole for the conviction of a felony from voting.
- Fa. 19** Elections Code §2212 states, *“The clerk of the superior court of each county, on the basis of the records of the court, shall furnish to the chief elections official of the county, not less frequently than the first day of April and the first day of September of each year, a statement showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the clerk’s last report. The elections official shall, during the first week of April and the first week of September in each year, cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony. The clerk shall certify the statement under the seal of the court.”*
- Fa. 20** California Secretary of State Memorandum #11134, dated December 5, 2011 (Memorandum #11134) states, in part,
- “Jail commitment as a condition of probation in lieu of felony sentencing: No change. The person has been convicted of a felony, but the judge has suspended imposition or execution of a felony sentence, instead placing the person on probation with the condition that the person serve one year or less in county jail. While in jail as a condition of this form of probation, the person retains the right to vote because the imposition or execution of the felony sentence was suspended.”*
- Fa. 21** The Nevada County Superior Court (Court) did not submit felony statements covering the period between 2009 and September, 2013 required by Elections Code §2212 to the Registrar of Voters.
- Fa. 22** The Elections Office did not notify the Court or inquire of the Court regarding the missing felony statements pursuant to Elections Code §2212.
- Fa. 23** The Court provided the Registrar of Voters with a document entitled *Felony Conviction Report* dated October 4, 2013 identifying 109 convicted felons covering a period from April 1, 2013 to August 31, 2013.
- Fa. 24** The *Felony Conviction Report* dated October 4, 2013 was missing many required dates of birth and/or addresses.
- Fa. 25** Elections Code §2212 has no requirement for the Court to submit to the Elections Office the names of convicted felons who retained their right to vote.

- Fa. 26** The *Felony Conviction Report*, dated October 4, 2013, did not specify convicted felons who retained their right to vote pursuant to Memorandum #11134.
- Fa. 27** The Elections Office took no action to determine the voter eligibility of convicted felons listed on the report dated October 4, 2013.
- Fa. 28** The Elections Office did not cancel the affidavits of voter registration of any of the convicted felons listed on the October 4, 2013 report.
- Fa. 29** The Elections Office has not obtained the missing felony statements from the Court for the period between 2009 and April of 2013.
- Fa. 30** The Court has no plans to provide the missing felony statements to the Elections Office for the period between 2009 and April of 2013, due to the Court's stated lack of financial resources and other priorities in the daily operations of the Courts.
- Fa. 31** Elections Code §2211 states, "*(a) Any person who (1) has plead not guilty by reason of insanity and who has been found to be not guilty pursuant to Section 1026 of the Penal Code, (2) has been found incompetent to stand trial and whose trial or judgment has been suspended pursuant to Section 1370 of the Penal Code, (3) has been convicted of a felony and who was judicially determined to be a mentally disordered sex offender pursuant to former Section 6300 of the Welfare and Institutions Code, as repealed by Chapter 728 of the Statutes of 1981, or (4) has been convicted of a felony and is being treated at a state hospital pursuant to Section 2684 of the Penal Code shall be disqualified from voting or registering to vote during that time that the person is involuntarily confined, pursuant to a court order, in a public or private facility. (b) Upon the order of commitment to a treatment facility referred to in subdivision (a), the court shall notify the elections official of the county of residence of the person and order the person to be disqualified of the county of residence of the person to be disqualified from voting or registering to vote. (c) If the person is later released from the public or private treatment facility, the court shall notify the county election official of the county of residence of the person that the right to register to vote is restored.*"
- Fa. 32** The Court was unable to provide documentation that the notification(s) required by Elections Code §2211 had been sent to the Registrar of Voters.
- Fa. 33** The Elections Office was unable to provide evidence of receipt of notification, from the Court, per Elections Code §2211.
- Fa. 34** There is no agreement, policy or procedure describing the roles and responsibilities of the Court and the Elections Office in complying with Elections Codes §2211-2212 and Memorandum #11134.



- Fa. 35** The Election Integrity Project, a California corporation (EIP), is a non-partisan volunteer based organization on file with the Secretary of State and is active and in good standing.
- Fa. 36** EIP issued a document, entitled *County Voter Roll Findings Summary Report* dated November 24, 2013, for Nevada County, which reported the following suspected voter registration abnormalities:
- 34 pairs of duplicate registrations with the same address,
  - 4 pairs of duplicate registration with different addresses,
  - 2 pairs double voting,
  - 35 deceased registrants,
  - one voting after date of death.
- Fa. 37** The complete report entitled *County Voter Roll Finding* issued by EIP was provided to the Registrar of Voters without cost.
- Fa. 38** The Elections Office acknowledged receipt of the *County Voter Roll Finding* report issued by the EIP.
- Fa. 39** The Elections Office is currently in the process of merging duplicate voters and cancelling deceased voters from the voter rolls using the “*County Voter Roll Finding*” report issued by the EIP as a tool.
- Fa. 40** The Elections Office review, as of April 2, 2014 has thus far merged 38 duplicate voters and has cancelled 12 deceased voters from the voter registration rolls.

## Findings

- Fi. 1** Election policies, procedures, rules and/or instructions are not applied in a consistent manner at polling places (Fa.1, Fa.2, Fa.3).
- Fi. 2** Poll workers are not instructed:
- to advise voters that provisional ballots may differ from the voters’ ballots provided at the correct polling place and,
  - to advise that voters they may be unable to vote on candidates and ballot measures specific to their residence if they vote provisionally. (Fa.7-Fa.10).
- Fi. 3** There is no consistent verification by poll workers that VBM envelopes bear the signature of the registered voter (Fa.11-Fa.14).
- Fi. 4** The number of voters using provisional ballots has increased approximately 96% between 2004 and 2012. (Fa. 5)

- Fi. 5** The increase in voter use of provisional ballots has increased the overall costs to Nevada County to conduct elections. (Fa.5, Fa.6)
- Fi. 6** The increased expense of processing provisional ballots may be reduced if poll workers encourage voters to go to their correct polling place (Fa.7-Fa.10).
- Fi. 7** The rules regarding observers allowed before, during and after elections have been followed by the Elections Office (Fa.15, Fa.16).
- Fi. 8** The Elections Office and the Court have no formal agreement regarding their roles and responsibilities to comply with Elections Code §2211 and §2212 (Fa.34).
- Fi. 9** There is a lack of effective communication between the Elections Office and the Court regarding compliance with Elections Code §2211 and §2212 (Fa.19 thru Fa.34).
- Fi. 10** Since 2009, the lack of communication between the Elections Office and the Court had led to a failure to comply with the requirements of Elections Code §2211 and §2212, which affects the integrity of the voter rolls (Fa.19 thru Fa.34).
- Fi. 11** The *Election Integrity Project* report dated November 24, 2013 received by the Elections Office is a useful tool in assisting the Registrar of Voters to investigate duplications or other errors in the voter rolls (Fa.36).

## **Recommendations**

- R. 1** The Nevada County-Clerk/Registrar of Voters should direct the Elections Office to develop and implement policies and procedures to ensure consistent application of existing policy and procedures, specifically:
- to ensure all poll workers repeat the name and address of each voter as they check in to vote (Fi.1),
  - to ensure poll workers advise voters that a provisional ballot, if chosen, could be different than the ballot from the voter's assigned polling place (Fi.2),
  - to ensure poll workers suggest to voters they go to their assigned polling place (Fi.2),
  - to place the blue VBM ballot boxes so poll workers may verbally ensure that the VBM envelope is signed by the registered voter (Fi.3).
- R. 2** The Nevada County Clerk-Recorder/Registrar of Voters and the Nevada County Superior Court should develop and adopt a formal agreement which:
- establishes an effective communication process between the Nevada County Elections Office and the Nevada County Superior Court with respect to ongoing compliance with Elections Code §2211 and §2212 (Fi.9, Fi.10),

- defines the respective roles and responsibilities of the Nevada County Elections Office and the Nevada County Superior Court with respect to compliance with Elections Code §2211 and §2212 (Fi.8),
  - ensures the information received by the Elections Office is in a useable format,
  - provides retroactive reporting for the period of 2009 through 2014 with respect to compliance with Elections Code §2211 and §2212 (Fi.10).
- R. 3** The Nevada County Clerk-Recorder/Registrar of Voters should direct the Elections Office to immediately review and update the voter registration rolls to ensure that Nevada County is in compliance with Elections Code §2211 and §2212 (Fi.10).
- R. 4** The Nevada County Elections Office should continue using information provided by the EIP as a tool to ensure the accuracy of voter registration rolls (Fi.11).

### **Responses**

The Nevada County Clerk-Recorder/Registrar of Voters: Findings 1 through 10;  
Recommendations 1 through 4  
Due Date: August 11, 2014.

The Nevada County Superior Court: Findings 8 through 10; Recommendation 2  
Due Date: August 11, 2014.



## CLERK RECORDER-REGISTRAR OF VOTERS

GREGORY J. DIAZ

950 Maidu Ave Suite 210, Nevada City, CA 95959  
950 Maidu Ave Suite 250, Nevada City, CA 95959  
mynevadacounty.com/nc/recorder

• Recorder (530) 265-1221 • Fax (530) 265-9842  
• Elections (530) 265-1298 • Fax (530) 265-9829  
mynevadacounty.com/nc/elections

August 11, 2014

Hand-delivered to Nevada County Superior Court 8/11/14  
Emailed on 8/11/14

Honorable Thomas Anderson  
Presiding Judge of the Grand Jury  
Nevada County Superior Court  
201 Church Street  
Nevada City, California 95959

## Response to the Grand Jury Report Dated June 11, 2014 Nevada County Elections Office

Dear Judge Anderson,

As required by California Penal Code §933, the Clerk-Recorder/Registrar of Voters hereby submits his response to the 2013-2014 Nevada County Elections Grand Jury report, as requested by members of the Grand Jury.

### FINDINGS:

1. Election policies, procedures, rules and/or instructions are not applied in a consistent manner at polling places.

### Partially Agree:

While it is true that we cannot be certain that all 300 poll workers accurately follow election policy at all times, from observation, poll workers are adhering to procedure. The Elections Office thoroughly trains poll workers during a four hour pre-election training class, after which, poll workers are sent home with all necessary materials and information (which is also posted on our website). During training it is emphasized that poll workers must repeat the name and address back to the voter upon check-in, which is a procedure we will continue to stress during training. Furthermore, Field Elections Deputies visit polling places during the entirety of Election Day to provide support and to ensure that correct procedures are being implemented. The Clerk-Recorder/Registrar of Voters, himself, as well as Elections Office staff visit polling locations across the county every election and have physically observed poll workers consistently following policy and procedure. For the most part, Nevada County poll workers are honest, hardworking individuals who do a great job, and we are grateful for their dedicated efforts.

2. Poll workers are not instructed:
- To advise voters that provisional ballots may differ from the voters' ballots provided at the correct polling place and,
  - To advise the voters they may be unable to vote on candidates and ballot measures specific to their residence if they vote provisionally.

**Partially Agree:**

**Poll workers do not have the ability to determine the correct ballot style for an individual voter. That is why this policy is not included in poll worker training or California Elections Code. That being said, we will not be advising poll workers to inform voters that they may not be able to vote on candidates and ballot measures specific to their residence. In addition, the Elections Office is actively taking measures to reduce the number of provisional ballots issued. One of these steps includes the implementation of e-poll books, which are electronic rosters. During the June 2014 Primary Election, the number of provisional ballots issued decreased significantly. The implementation of these devices county-wide will allow poll workers to easily redirect voters to their correct polling location, subsequently reducing the number of provisional ballots issued.**

3. There is no consistent verification by poll workers that VBM (Vote-by-Mail) envelopes bear the signature of the registered voter.

**Agree**

4. The number of voters using provisional ballots has increased approximately 96% between 2004 and 2012.

**Agree**

5. The increase in voter use of provisional ballots has increased the overall costs to Nevada County to conduct elections.

**Agree**

6. The increased expense of processing provisional ballots may be reduced if poll workers encourage voters to go to their correct polling location.

**Agree**

7. The rules regarding observers allowed before, during, and after elections have been followed by the Elections Office.

**Agree**

8. The Elections Office and Court have no formal agreement regarding their roles and responsibilities to comply with Election Code §2211 and §2212.

**Agree**

9. There is a lack of effective communication between the Elections Office and the Court regarding compliance with Elections Code §2211 and §2212.

**Disagree:**

**The Elections Office and the Superior Court of Nevada County through G. Sean Metroka, the Court Executive Officer, have engaged in effective communication regarding compliance with California Elections Code §2211 and §2212. Correspondence, beginning September 2009 through 2010, documents the latest email thread between then Assistant Clerk-Recorder, Gail Smith, and G. Sean Metroka, engaging in dialogue regarding Elections Codes §2211 and §2212.**

10. Since 2009, the lack of communication between the Elections Office and the Court has led to a failure to comply with the requirements of Elections Code §2211 and §2212, which affects the integrity of the voter rolls.

**Disagree:**

**The report required by EC §2212 compels the Clerk of the Superior Court, based upon the records of the court, to produce and furnish the Registrar of Voters with a statement showing the names, addresses, and dates of birth of all persons who have been convicted of a felony since the clerk's last report. The court has consistently complied with this code section. Pursuant to EC §2212, the Registrar of Voters shall cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony. The Elections Office has consistently complied with this code section. As per the dialogue with G. Sean Metroka, the Court Executive Officer, the information necessary for the Elections Office to comply with EC §2212 is not ascertainable on the basis of the courts records.**

**Moreover, further clarification of Elections Code §2212 comes in the form of 2002 Law Revision Commission Comments regarding the county clerk's alleviation of those powers, duties, and responsibilities:**

**Law Revision Commission Comments  
2002 Amendment**

*“Section 2212 is amended to reflect elimination of the county clerk’s role as ex officio clerk of the superior court. See former Gov’t Code § 26800 (county clerk acting as clerk of superior court). The powers, duties, and responsibilities formerly exercised by the county clerk as ex officio clerk of the court are delegated to the court administrative or executive officer, and the county clerk is relieved of those powers, duties, and responsibilities. See Gov’t Code §§ 69840 (powers, duties, and responsibilities of clerk of the court and deputy clerk of the court), 71620 (trial court personnel).*

*The section is also amended to eliminate certification of which felons remain imprisoned; that determination may not be ascertainable on the basis of court records. [32 Cal.L.Rev.Comm. Reports148 (2002)].”*

**The report furnished to the Elections Official, pursuant to EC §2212, will not have sufficient information for the Elections Official to cancel affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony.**

**RECOMMENDATIONS:**

1. The Nevada County-Clerk/Registrar of Voters should direct the Elections Office to develop and implement policies and procedures to ensure consistent application of existing policy and procedures, specifically:
  - To ensure all poll workers repeat the name and address of each voter as they check in to vote,
  - To ensure that poll workers advise voters that a provisional ballot, if chosen, could be different than the ballot from the voter’s assigned polling place,
  - To ensure poll workers suggest to voters they go to their assigned polling place,
  - To place the blue VBM ballot boxes so poll workers may verbally ensure that the VBM envelope is signed by the registered voter.

**The recommendation will not be implemented because it is not warranted or is not reasonable.**

**Elections staff have been working to ensure that poll workers are repeating back the voters’ name and address, as discussed in Finding 1, and we will continue to emphasize this point in the future.**

**As explained in Finding 2, we do not instruct poll workers to inform voters that a provisional ballot might not be their assigned ballot because this is not required by California Elections Code, and because there is no way for a poll worker to determine this information. Poll workers are instructed and encouraged to redirect voters to their correct**

**polling location when possible. The implementation of e-poll books will provide the correct polling location of individual voters, allowing poll workers to redirect the voter to the assigned polling location, consequently, reducing the number of provisionals.**

**Finally, signing of the Vote-by-Mail envelope is the responsibility of the voter and is clearly instructed on the envelope. It is not the responsibility of the poll workers to check that a Vote-by-Mail ballot being dropped off has been signed. Checking for a signature would require the poll worker to remove the protective privacy strip on the outside of the envelope, a task which is typically done in the security of the Elections Office.**

2. The Nevada County-Clerk/Registrar of Voters and the Nevada County Superior Court should develop and adopt a formal agreement which:
  - Establishes an effective communication process between the Nevada County Elections Office and Nevada County Superior Court with respect to ongoing compliance with Elections Code §2211 and §2212,
  - Defines the respective roles and responsibilities of the Nevada County Elections Office and the Nevada County Superior Court with respect to compliance with Elections Code §2211 and §2212,
  - Ensures the information received by the Elections Office is in a useable format,
  - Provides retroactive reporting for the period of 2009 through 2014 with respect to compliance with Elections Code §2211 and §2212.

**The recommendation will not be implemented because it is not warranted or is not reasonable.**

**This recommendation will set up a procedure which is outside the parameters of both the California Elections Code and the California Rules of Court. The Elections Office will continue to comply with the provisions of the Elections Code. If and when the legislative body of the State of California exacts new statutes or amends existing statutes, the Elections Office will comply with the legislative mandates. When the Elections Office receives the information necessary to cancel the affidavits of registration for those currently imprisoned or on parole for the conviction of a felony, we immediately cancel the affidavits of registration for those persons.**

3. The Nevada County Clerk-Recorder/Registrar of Voters should direct the Elections Office to immediately review and update the voter registration rolls to ensure that Nevada County is in compliance with Elections Code §2211 and §2212.

**This recommendation has been implemented.**

**Since June 26, 2007, the Registrar of Voters has continually reviewed and updated the voter registration rolls to ensure Nevada County is in compliance with Election Code**



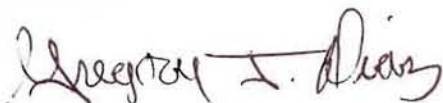
**§2211 and §2212. Once again, when the Elections Office receives the information necessary to cancel the affidavits of registration for those imprisoned or on parole, we do so.**

4. The Nevada County Elections Office should continue using information provided by the EIP as a tool to ensure the accuracy of the voter registration rolls.

**The recommendation will not be implemented because it is not warranted or is not reasonable.**

**The Election Integrity Project is one of several groups, clubs, resources, organizations, and individuals that we receive information from on a daily basis. We certainly consider all of the information given to us and when we are compelled to act, we act accordingly to uphold California Elections Code.**

Sincerely,



Gregory J. Diaz  
County Clerk-Recorder  
Registrar of Voter  
950 Maidu Ave, Ste 250  
Nevada City, CA 95959  
[www.mynevadacounty.com](http://www.mynevadacounty.com)



**NEVADA COUNTY SUPERIOR COURT  
OFFICE OF THE JURY COMMISSIONER  
201 CHURCH STREET, SUITE 6  
NEVADA CITY, CA 95959**

Thomas M. Anderson  
*Presiding Judge of the  
Grand Jury*

Audrey M. Golden  
*Deputy Jury Commissioner*

**(530) 265-1475**

**August 12, 2014**

Keith Overbey Foreman  
Nevada County Civil Grand Jury  
950 Maidu Avenue  
Nevada City, CA 95959

Dear Keith:

Enclosed is the response from Nevada County Superior Court of California, on the subject of the Nevada County Elections Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey M. Golden", written over a horizontal line.

Audrey M. Golden

Handwritten initials or a signature in the bottom right corner of the page.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**County of Nevada**

Page 120

CANDACE S. HEIDELBERGER,  
*Presiding Judge*



G. SEAN METROKA,  
*Court Executive Officer*

**201 Church Street**  
**Nevada City, CA 95959**  
**(530) 265-1311**

August 11, 2014

The Honorable Thomas M. Anderson  
Presiding Judge of the Grand Jury  
Superior Court of Nevada County  
201 Church Street  
Nevada City, CA 95959

Dear Judge Anderson:

As requested in the 2013-2014 Nevada County Grand Jury Report on the subject of the Nevada County Elections Office, the following response is submitted.

**Findings**

**Fi.8** The Elections Office and the Court have no formal agreement regarding their roles and responsibilities to comply with Elections Code §§ 2211 and 2212.

Agree.

The Elections Code does not require a formal agreement between the Elections Office and the Court regarding compliance with Elections Code §§ 2211 and 2212.

**Fi.9** There is a lack of effective communication between the Elections Office and the Court regarding compliance with Elections Code §§ 2211 and 2212.

Partially agree.

While there was a break in communication between the Elections Office and the Court, the issues have been addressed and we have been communicating effectively again since August 2013.

**Fi.10** Since 2009, the lack of communication between the Elections Office and the Court had led to a failure to comply with the requirements of §§ 2211 and 2212, which affects the integrity of the voter rolls.

Partially agree.

Improved communications between the Elections Office and Court would certainly have helped to limit the impact of the breakdown in this process. The Court cannot address the affect this has had on the integrity of the voter rolls.

**Recommendations**

- R.2** The Nevada County Clerk-Recorder/Registrar of Voters and the Nevada County Superior Court should develop and adopt a formal agreement which:
- establishes an effective communication process between the Nevada County Elections Office and the Nevada County Superior Court with respect to ongoing compliance with Elections Code §§ 2211 and 2212,
  - defines the respective roles and responsibilities of the Nevada County Elections Office and the Nevada County Superior Court with respect to compliance with Elections Code §§ 2211 and 2212,
  - ensures the information received by the Elections Office is in a useable format,
  - provides retroactive reporting for the period of 2009 through 2014 with respect to compliance with Elections Code §§ 2211 and 2212.

The recommendation will not be implemented at the present time.

The Nevada County Clerk-Recorder/Registrar of Voters and the Superior Court of Nevada County are not required by California Law or Rules of Court to adopt a formal agreement in order to comply with Elections Code §§ 2211 and 2212. Nevertheless, we have established effective communications, we each understand our respective roles and responsibilities and the Court does provide the report required by Elections Code §§ 2211 and 2212 in the format specified in the law.

The Court does not have any economically feasible way to provide retroactive reporting for the period of 2009 through March 2013 to the Elections Office. Moreover, that information would be of little value to the Elections Office in the performance of its duties as the information would not be currently applicable to the tasks required by the Elections Code. The required reporting for the period beginning April 2013 to present has been accomplished.

Respectfully submitted,



Candace S. Heidelberger  
Presiding Judge



G. Sean Metroka  
Court Executive Officer

# NEVADA COUNTY WATER QUALITY

## The Impact of Mine Water in Nevada County

### Summary

There has been a long history of mining operations in the Northern Mines District of California, including western Nevada County. Mining, by its very nature, has often had an impact on the quality of drinking water for residents of Nevada County.

The 2013-2014 Nevada County Grand Jury chose to inquire into efforts undertaken by federal, state and local officials and agencies in ensuring safe, clean drinking water for residents of Nevada County residing in areas in and around former mine sites. Specifically, the 2013-2014 Nevada County Grand Jury inquired into efforts made by the aforementioned officials and agencies around three former mining operations: the Lava Cap Mine, the North Star Mine and the Empire Mine.

The Nevada County Grand Jury found that there were two instances, in 1979 and 1997, where the tailings and effluent from the Lava Cap Mine had been released into an area of the county's watershed. The Nevada County Grand Jury found numerous reports, orders, letters and internal memoranda which indicate that the responsible agencies failed to act. Agencies discussed and agreed there was a need to take action, but to date no remedial actions have occurred. Documents reviewed by the Nevada County Grand Jury indicated the various agencies realized that a Clean Up and Abatement Order for the affected area had not been adequately supervised and managed. These documents indicate when it was recognized that the Clean Up and Abatement order had not been completed, further documents indicated that at least one agency debated how to explain their failure to act to the public, rather than developing a plan to enforce the Clean Up and Abatement Order.

The Nevada County Grand Jury finds that the North Star Mine site continues to discharge toxin laden water into the Grass Valley Waste Water Treatment Plant. During heavy rains, the additional flow from the mine site causes over capacity of the treatment plant and the subsequent spillage of untreated water into Wolf Creek.

In a negotiated settlement, the owners of the North Star Mine site agreed to construct a new treatment plant, which would treat the additional flow into the treatment plant by February 2013. To date, the new treatment plant has not been constructed. The Nevada County Grand Jury finds there has been no discernible effort by the City of Grass Valley to seek judicial relief in the enforcement of the civil agreement.

The Nevada County Grand Jury finds that the Empire Mine State Historical Park produces a discharge path known as the Magenta Drain, from which mine effluent naturally flows. The Magenta Drain flows adjacent to and through city public park property, an area frequented by families and children.

45 The Nevada County Grand Jury finds that there is evidence of construction in the Magenta  
46 Drain adjacent to and through Memorial Park. No permits were found for the diversion of a  
47 water course issued either from City of Grass Valley or from Nevada County Building  
48 Department and there are no inspection reports from either agency.

49  
50 The Nevada County Grand Jury found that for over 30 years, there has been a lack of  
51 coordination and communication and a failure to accept responsibility by federal, state and  
52 local governmental agencies in efforts to monitor the water quality in some areas of Nevada  
53 County. These agencies have failed to properly enforce clean up and abatement orders and  
54 legal agreements and/or settlements ordered against the then property owners of former  
55 mining operations. The Nevada County Grand Jury finds that waterways containing  
56 contaminants from former mining sites flow unimpeded into a municipal wastewater  
57 treatment facility, resulting in over capacity of the facility and spillage of untreated water.  
58 Additionally, some waterways openly flow past parks and schools which are frequented by  
59 the public, including families with small children. As a result, the Nevada County Grand  
60 Jury finds that the health and welfare of some residents of Nevada County and their water  
61 quality may be compromised.

62  
63 The Nevada County Grand Jury recommends that federal, state and local agencies should  
64 meet and confer to develop and implement a written agreement to define the responsibilities  
65 of each agency for the safeguarding of water quality in Nevada County.

66  
67 It is further recommended that the Nevada County Board of Supervisors direct the Director  
68 of the Community Development Agency to revisit and examine the Lava Cap Mine incidents  
69 of 1979 and 1997 and develop and implement policy and procedures to ensure appropriate  
70 clean up of the affected area and future incidents of this type. The Nevada County Grand  
71 Jury also recommends the Nevada County Board of Supervisors direct the Director of the  
72 Community Development Agency to develop and implement policy and procedures for  
73 periodic testing of surface and ground water and communicate the findings to the general  
74 public.

75  
76 The Nevada County Grand Jury also recommends the City Council of the City of Grass  
77 Valley should direct the City Manager to develop and implement a legal strategy to ensure  
78 immediate adherence by the defendant to the terms outlined in the 2009 civil settlement. It is  
79 further recommended that the City Council of the City of Grass Valley should direct the City  
80 Manager to take immediate steps to ensure the safety of the public using Memorial Park from  
81 toxins emitting from the Magenta Drain and should immediately initiate meetings with  
82 representatives of the Empire Mine State Historical Park to develop and implement a plan to  
83 divert the contents of the Magenta Drain away from Memorial Park.

#### 84 **Reasons for Investigation**

85 The 2013-2014 Nevada County Grand Jury (Jury), exercising its oversight responsibilities  
86 pursuant to California Penal Code §925, reviewed the actions of several public agencies and  
87 municipalities in this matter.

88

## Background

89 There has been a long history of mining operations in the Northern Mines District of  
90 California, including western Nevada County. Mining, by its very nature, has often had an  
91 impact on the quality of drinking water for residents of Nevada County.

92

93 The Jury chose to inquire into efforts undertaken by federal, state and local officials and  
94 agencies in ensuring safe, clean drinking water for residents of Nevada County residing in  
95 areas in and around former mine sites. Specifically, the Jury inquired into efforts made by  
96 the aforementioned officials and agencies in areas in and around three former mining  
97 operations: the Lava Cap Mine, the North Star Mine and the Empire Mine.

98

99

## Procedures Followed

100 The Jury interviewed staff from Nevada County and the City of Grass Valley (City). The  
101 Jury also reviewed multiple documents including, but not limited to, reports, letters,  
102 correspondence and internal memoranda from various federal, state and local agencies as  
103 well as federal and state courts.

104

105

## Facts

106 **Fa. 1** The California Water Code (CWC) established an agency known as the State Water  
107 Resources Control Board (SWRCB).

108

109 **Fa. 2** The CWC authorized the SWRCB to “... *conduct investigations of all or any stream,*  
110 *stream system...*” and to ... “*investigate either or both surface and underground*  
111 *water conditions.*”

112

113 **Fa. 3** The SWRCB website states that it “... *regulates the disposal of wastes into the waters*  
114 *of the state and requires that the quality of existing high-quality water be*  
115 *maintained.*”

116

117 **Fa. 4** The California Department of Toxic Substance Control (DTSC) website states that it  
118 protects “... *people and environment from harmful effects of toxic substances by*  
119 *restoring contaminated resources.*”

120

121 **Fa. 5** The California Department of Fish and Wildlife, formerly known as California  
122 Department of Fish & Game (F&G) website states that it is responsible to monitor  
123 water quality and wildlife in the state.

124

125 **Fa. 6** The Nevada County Department of Environmental Health (EH) website states that it:  
126 “...*is responsible for environmental protection and public health ... whether it is the*  
127 *water you drink ... or land that is developed and used by all of us.*”

128

129 **Fa. 7** The Nevada County Planning Department (Planning) website states that it is their  
130 goal to protect the environment in order to ensure that Nevada County remains a  
131 desirable place to live, work, and recreate by applying community land use polices.

132 **Fa. 8** EH and Planning are each directed by a department head who reports to the  
133 Community Development Agency Director, who reports to the Nevada County Chief  
134 Executive Officer.

135 **Lava Cap Mine**

136 **Fa. 9** The Lava Cap Mine (Mine) is physically located south of the intersection of Idaho  
137 Maryland Road and Banner Lava Cap Road in an unincorporated area of Nevada  
138 County.

139  
140 **Fa. 10** In 1940, a cyanide plant was activated on the site that “leached” cyanide middlings  
141 and tailings which were deposited in a ravine on the site.

142  
143 **Fa. 11** Between 1940 and 1941, a 60 foot high log dam was constructed to hold the mine  
144 tailings in place.

145  
146 **Fa. 12** In 1943, Lost Lake was dug to provide a mining impoundment area specifically to  
147 contain run off from the mine site.

148  
149 **Fa. 13** In 1979, the log dam partially collapsed, releasing an estimated 80,000 cubic yards of  
150 mine waste downstream towards Lost Lake.

151  
152 **Fa. 14** The estimated 80,000 cubic yards of material would cover an area approximately  
153 2,400 feet long, 300 feet wide and three feet high.

154  
155 **Fa. 15** Personnel from EH and SWRCB responded to this incident.

156  
157 **Fa. 16** On October 25, 1979, the SWRCB issued a Clean Up and Abatement Order (C&A  
158 Order) to the then owner and the operators of the Mine property.

159  
160 **Fa. 17** An engineering firm was contracted by the then owners of record to supervise and  
161 monitor compliance with the C&A Order. This order included removal of all mine  
162 waste deposited downstream.

163  
164 **Fa. 18** The engineering firm published two letters in November 1979 regarding discharge  
165 from Lava Cap Mine.

166  
167 **Fa. 19** Planning received copies of all correspondence pertaining to the 1979 C&A Order.

168  
169 **Fa. 20** Title 42 United States Code entitled Comprehensive Environmental Response,  
170 Compensation and Liability Act (CERCLA), commonly known as “Superfund”  
171 statutes, states that the party causing the toxic environment is responsible for site  
172 clean up.

173  
174 **Fa. 21** In 1984, a corporation attempted to reopen the Mine. A formal request was made to  
175 the SWRCB for pumping water out of the mine consisting of 63,000,000 gallons of



176 water into Little Clipper Creek and Clipper Creek. The request was denied by  
177 SWRCB.

178

179 **Fa. 22** Later in 1984, the corporation petitioned Planning for a zone district combining  
180 change for mineral extraction. The combined zone request was originally approved  
181 by Planning, EH and Nevada County Building Department and certified by the Board  
182 of Supervisors (BOS). However, public outcry then convinced the BOS to rescind  
183 their approval.

184

185 **Fa. 23** On May 15, 1989, 486.5 acres including the Mine and surrounding property was sold  
186 to another buyer.

187

188 **Fa. 24** For this sale, a local title company issued two different sets of escrow instructions,  
189 each denying existence of dangerous or toxic chemicals on site.

190

191 **Fa. 25** SWRCB records and memoranda indicate that they did not initiate follow up with the  
192 engineering firm contracted to monitor the 1979 C&A Order. Documents reflect that  
193 SWRCB did not know what, if any, work had been completed.

194

195 **Fa. 26** On September 23, 1991, SWRCB generated a handwritten internal memorandum  
196 entitled, – *RE: 25 October 1979, Clean Up and Abatement Order*, decrying the belief  
197 that the clean up had apparently ceased, stating in part, “*There is no record of our*  
198 *rescinding this Order.*”

199

200 **Fa. 27** EH was provided copies of this internal memorandum.

201

202 **Fa. 28** On January 1, 1997 the remaining upper portion of the log dam collapsed, releasing  
203 an additional 10,000 cubic yards of tailings into Little Clipper Creek. Personnel from  
204 EH and F&G inspected the site and issued incident reports.

205

206 **Fa. 29** These 1997 incident reports reflect that extensive deposits of tailings were observed:

207

- 208 • in and on the shoreline of Little Clipper Creek,
- 209 • at the confluence of Little Clipper and Clipper Creeks,
- 210 • in and on the shoreline of Lost Lake,
- 211 • in wetland area contiguous with these water bodies, and
- 212 • in some cases, completely covering the vegetation.

213

214 **Fa. 30** These incident reports do not mention the previous dam failure in 1979.

215

216 **Fa. 31** An internal memorandum, dated March 5, 1997, from SWRCB staff, entitled *RE:*  
217 *C&A Order follow up*, states in part; “*I looked in the C&A file and it said that the*  
218 *C&A was issued on 10/25/79 to (name withheld). Compliance was required forthwith*  
219 *and it says that a Technical Report was submitted on 11/6/79. It says the C&A was*  
220 *rescinded but no date was given. ... There was (name withheld) memo that said that*

221 *the C&A was rescinded but that there was no record of when or why. The file doesn't*  
222 *contain anything useful."*

223

224 **Fa. 32** This internal memorandum concludes with the following; "*What should we tell DTSC*  
225 *or any media who might call, especially about the C&A?"*

226

227 **Fa. 33** An internal memorandum dated May 20, 1997, from staff at SWRCB, entitled *RE:*  
228 *INSPECTION STATUS OF LAVA CAP MINE, NEVADA COUNTY* states in part; "*I*  
229 *searched the microfiche files and found that there is no record in the project file that*  
230 *the C&A Order was ever rescinded."* and, "*I have found no record that they ever did*  
231 *anything to stabilize the dam or tailings pile. There is no Technical Report in the*  
232 *microfiche or project file."*

233

234 **Fa. 34** On June 20, 1997, SWRCB passed responsibility for the oversight of the 1979 and  
235 1997 events to DTSC.

236

237 **Fa. 35** On January 23, 2009, a copy of a log entitled *Clean Up and Abatement Order* was  
238 sent out from SWRCB. This document indicated the 1979 C&A Order for the Mine  
239 was "*rescinded*". There is a disposition that the 1979 C&A Order was rescinded for  
240 the Mine but the form contains questionable entries:

241

- 242 • this document has 33 total sites listed,
- 243 • 25 of the entries are noted to have been rescinded, including the Mine, without  
244 explanation.

245

246 **Fa. 36** The current property owner of the Mine has been held responsible by CERCLA for  
247 the clean up and abatement of the failures of the log dam in 1979 and 1997.

248

249 **Fa. 37** On several occasions, state and federal officials have entered the Mine properties and  
250 drilled monitoring wells without proper permits

251

252 **Fa. 38** During several EH staff meetings the question of the requirement of a monitor well  
253 permit was asked.

254

255 **Fa. 39** EH management personnel verbally stated that the issue was not to be brought up  
256 and for staff to "*drop the issue*" of requiring monitoring well permits.

257

258 **Fa. 40** There are water quality condition concerns below the Mine which exist to this day.

259

260 **Fa. 41** Water quality levels are currently unknown following the failure to manage the C&A  
261 Order of 1979 by SWRCB.

262

263 **Fa. 42** On or about May 22, 2012, California DTSC, applied for an Inspection Warrant to  
264 inspect the Mine property at a cost to the Mine owner \$20,000. The warrant did not  
265 make any reference the 1979 C&A Order regarding the 80,000 cubic yard release of  
266 mine tailings. The only reference regarding this incident was, "*In 1979, a*  
267 *decomposing log dam on the property failed, releasing tailings into LCC."* LCC is  
268 Little Clipper Creek.

269

270 **Fa. 43** EH staff has stated they are unaware of the water quality in and around the area of  
271 the Mine.

272

273 **Fa. 44** EH staff stated their only responsibility is for new well construction conforming to  
274 current statutes.

275

276 **Fa. 45** On June 30, 2013, The United States District Court, Eastern District of California  
277 published a finding concerning the Mine, summarized as follows:

278

- 279 • Little Clipper Creek, Clipper Creek drainage and Lost Lake contain elevated
- 280 levels of arsenic in drinking water wells,
- 281 • mill tailings were placed directly onto the soil at the Mine site,
- 282 • on September 27, 1979, the Water Board knew of the arsenic contaminated
- 283 water at the Mine site and wrote a letter to the Mine owner,
- 284 • on October 9, 1979, F&G received complaints about discharges from the
- 285 Mine,
- 286 • in 1982, a state biologist made an inspection and observed the discharges to
- 287 contain toxins and the wood dam was not stable and would collapse during
- 288 heavy rains,
- 289 • following the 1979 release of 80,000 cubic yards of tailings, the private
- 290 contractor was hired to remove the tailings but did not. He noted that the
- 291 remainder of the dam was unsafe.

292

293

#### **North Star Mine/Grass Valley Wastewater Plant**

294 **Fa. 46** The City possesses a license, issued by the SWRCB, to operate a wastewater  
295 treatment plant (WTP).

296

297 **Fa. 47** The WTP is designed to process organic discharges at the rate of approximately  
298 800,000 gallons per day.

299

300 **Fa. 48** After processing, the treated effluent is released into Wolf Creek.

301

302 **Fa. 49** The City is required to renew their license to operate this treatment facility from the  
303 SWRCB at regular intervals.

304

305 **Fa. 50** The SWRCB, in the operating license renewal, has required that the WTP continue  
306 receiving the mine water produced by the North Star Mine.

307

308 **Fa. 51** The Drew Tunnel is a component of the North Star Mine.

309

310 **Fa. 52** The Drew Tunnel also contains drainage from the surrounding Empire-Star Mine.

311

312 **Fa. 53** In 2000, the Drew Tunnel was damaged by a landslide.

313

314 **Fa. 54** During storm conditions the damaged Drew Tunnel discharges 400,000 gallons of  
315 contaminated water per day into the WTP.

316

317 **Fa. 55** The contaminated mine water contains iron, manganese, copper, lead, zinc and  
318 mercury.

319

320 **Fa. 56** The WTP is not designed to process non-organic chemicals.

321

322 **Fa. 57** During severe rainstorms, the capacity of the WTP is often exceeded, caused by an  
323 increase in the amount of City runoff in addition to the Drew Tunnel flow.

324

325 **Fa. 58** On these occasions, the WTP is unable to properly treat all water flowing into the  
326 facility and the effluent is discharged into the Wolf Creek watershed.

327

328 **Fa. 59** Prior to February 2009, the City was reluctant to complain to state legislators for  
329 assistance in this situation, as the City believed the SWRCB would exert the  
330 maximum fines for untreated discharge.

331

332 **Fa. 60** On January 22, 2004, the City filed a civil suit against the owners of the North Star  
333 Mine property (defendants).

334

335 **Fa. 61** On May 1, 2007, a draft C&A Order for Drew Tunnel was issued by the SWRCB.

336

337 **Fa. 62** In February 2009, after 1,532 days, the City and the defendants reached a civil  
338 settlement in the lawsuit. The agreement states, in part:

339

- 340 • the defendants may continue discharge of mine water containing toxins into
- 341 the City's wastewater plant,
- 342 • the defendants will pay any fines imposed on the City for overflows of the
- 343 WTP,
- 344 • the defendants will pay a reasonable water treatment fee,
- 345 • the defendants will construct their own water treatment plant no later than
- 346 February 2013.

347

348 **Fa. 63** To date, the defendants have not begun construction on their treatment plant as  
349 required by the agreement.

350

351 **Fa. 64** Neither the City nor EH has tested water quality in, around or downstream from the  
352 WTP.

353

354

### **Empire Mine State Historical Park/The Magenta Drain**

355 **Fa. 65** Empire Mine State Historical Park (Empire) is owned by the State of California.

356 **Fa. 66** Prior to 1975, Empire was owned by the corporation that currently owns the North  
357 Star Mine.

358

- 359 **Fa. 67** Empire is located adjacent to Memorial Park, a public park owned by the City,  
 360 frequented by families with children.  
 361
- 362 **Fa. 68** The Magenta Drain originates in Empire and openly flows through property adjacent  
 363 to and under Memorial Park.  
 364
- 365 **Fa. 69** The Magenta Drain continues to flow below Memorial Park past Grass Valley Charter  
 366 School and eventually into Wolf Creek  
 367
- 368 **Fa. 70** The Magenta Drain evacuates mine water from the Empire Mine.  
 369
- 370 **Fa. 71** According to an independent contractor's report dated July 2006, the evacuated water  
 371 from Empire property contains chemical contaminants from the Empire Mine.  
 372
- 373 **Fa. 72** There were chain link fences erected around the Magenta Drain, in and around  
 374 Memorial Park, and have been replaced by orange, plastic construction fencing, to  
 375 prevent access to the watercourse. Signs are posted that warn against:  
 376
- 377 • wading in the water flowing in the Magenta Drain,
  - 378 • drinking water from the Magenta Drain,
  - 379 • eating fish caught from the Magenta Drain,
  - 380 • handling the sediment in the Magenta Drain, and further warn, "*The water and*  
 381 *sediment contains residual metals and chemicals that may be hazardous.*"  
 382
- 383 **Fa. 73** Officials from the City and EH do not test water quality in and downstream from  
 384 Memorial Park.  
 385

## Findings

- 387 **Fi. 1** For over 30 years, the following agencies have failed in their responsibilities to  
 388 monitor water quality in Nevada County due to a lack of coordination and  
 389 communication and failure to follow through with mandated clean up orders. Due to  
 390 these omissions, the health and welfare of residents of Nevada County and their water  
 391 quality is compromised. The responsible agencies are:  
 392
- 393 • State Water Resources Control Board (SWRCB),
  - 394 • California Department of Fish and Game (F&G),
  - 395 • State Department of Toxic Substance Control (DTSC),
  - 396 • Nevada County Department of Environmental Health (EH),
  - 397 • Nevada County Planning Department (Planning),
  - 398 • City of Grass Valley (City).  
 399
- 400 **Fi. 2** Due to a lack of agency cooperation to address the problems effectively and  
 401 efficiently, public health is potentially endangered.  
 402

403 **Fi. 3** There was internal acknowledgement of frequent failures by governmental agencies  
 404 in these matters. Numerous efforts were made to conceal these failures from the  
 405 public.  
 406

407 **Fi. 4** Because the City does nothing to monitor water quality in, around and downstream  
 408 from the North Star Mine and WTP, the City faces potential public health issues and  
 409 litigation.  
 410

411 **Fi. 5** Due to a lack of compliance with the 2009 civil settlement, water quality continues to  
 412 be questionable and potable water downstream from the WTP continues to be  
 413 consumed, placing public health at potential risk.  
 414  
 415

## 416 **Recommendations**

417 The Jury recommends:  
 418

419 **R. 1** The Nevada County Board of Supervisors should request the following agencies to  
 420 meet and confer to develop and implement a written agreement to define the  
 421 responsibilities of each agency for the safeguarding of water quality in Nevada  
 422 County:  
 423

- 424 • US EPA,
- 425 • State Water Resources Control Board,
- 426 • California Department of Fish & Game,
- 427 • California Department of Toxic Substance Control,
- 428 • Nevada County Department of Environmental Health,
- 429 • Nevada County Planning Department.

430  
 431 **R. 2** Nevada County Board of Supervisors direct the Director of Community Development  
 432 Agency to:  
 433

- 434 • develop and implement policy and procedures for periodic testing of surface  
 435 and ground water at the locations identified in this report and communicate  
 436 the findings to the general public,
- 437 • revisit and examine the Lava Cap Mine incidents of 1979 and 1997 and  
 438 develop and implement policy and procedures to ensure appropriate clean up  
 439 of such incidents,
- 440 • develop and implement a plan for the immediate enforcement of the 1979  
 441 Clean Up and Abatement Order concerning the area below the Lava Cap  
 442 Mine.

443  
 444 **R. 3** The City Council of the City of Grass Valley should direct the City Manager to:  
 445

- 446 • develop and implement a legal strategy to ensure immediate adherence by the  
 447 defendant to the terms outlined in the 2009 civil settlement,

- 448 • take immediate steps to ensure the safety of the public using Memorial Park
- 449 from Magenta Drain toxins,
- 450 • immediately initiate meetings with representatives of the Empire Mine State
- 451 Historical Park to develop and implement a plan to divert the contents of the
- 452 Magenta Drain away from open ditches which endanger the public.
- 453

## 454 **Responses**

- 455
- 456 Nevada County Board of Supervisors:
- 457 Findings: 1, 2, and 3
- 458 Recommendations: 1 and 2
- 459 Due Date: September 20, 2014
- 460
- 461 City Council of the City of Grass Valley:
- 462 Findings: 1, 2, 4 and 5
- 463 Recommendations: 3
- 464 Due Date: September 20, 2014
- 465

COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Chair Nathan H. Beason, 1<sup>st</sup> District  
Vice Chair Ed Scofield, 2<sup>nd</sup> District  
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Wm. "Hank" Weston, 4<sup>th</sup> District  
Richard Anderson, 5<sup>th</sup> District  
Donna Landi, Clerk of the Board

September 16, 2014

The Honorable Thomas Anderson  
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 2013-14 Nevada County Civil Grand Jury Report,  
*Nevada County Water Quality, The Impact of Mine Water in Nevada County.*

Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2013-14 Nevada County Civil Grand Jury Report, dated June 20, 2014, entitled *Nevada County Water Quality, The Impact of Mine Water in Nevada County.*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses 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 2013-14 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,



Nathan H. Beason, Chair  
Nevada County Board of Supervisors

cc: Keith Overbey, Foreman, Grand Jury  
Rick Haffey, County Executive Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
phone: 530.265.1480 | fax: 530.265.9836 | toll free: 888.785.1480 | email: [bdofsupervisors@co.nevada.ca.us](mailto:bdofsupervisors@co.nevada.ca.us)  
website: <http://www.mynevadacounty.com/nc/bos>



**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO**

**2013-2014 Nevada County Civil Grand Jury Report**

**Nevada County Water Quality The Impact of Mine Water in Nevada County**

**DATED: June 20, 2014**

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:**

**Finding 1: For over 30 years, the following agencies have failed in their responsibilities to monitor water quality in Nevada County due to a lack of coordination and communication and failure to follow through with mandated clean up orders. Due to these omissions, the health and welfare of residents of Nevada County and their water quality is compromised. The responsible agencies are:**

- State Water Resources Control Board (SWRCB),
- California Department of Fish and Game (F&G),
- State Department of Toxic Substance Control (DTSC),
- Nevada County Department of Environmental Health (EH),
- Nevada County Planning Department (Planning),
- City of Grass Valley (City).

**Disagree.**

The Banner/Lava Cap Mine was designated a Federal Superfund site in 1998. Responsibility for the coordination of the remediation of the site was assumed by the US EPA at that time. Adequate and appropriate public agency coordination has insured that public health has not been endangered. The Nevada County Planning Department does not engage in water quality testing or analysis.

Current information regarding the EPA's management of this site is attached and available at [www.epa.gov](http://www.epa.gov).

**Finding 2: Due to a lack of agency cooperation to address the problems effectively and efficiently, public health is potentially endangered.**

**Disagree.**

Adequate and appropriate public agency coordination has insured, to the greatest extent practicable, that public health has not been endangered.

**Finding 3: There was internal acknowledgement of frequent failures by governmental agencies in these matters. Numerous efforts were made to conceal these failures from the public.**

**Disagree.**

The County has no evidence of frequent failures by governmental agencies or of efforts to conceal failures.

**B. RESPONSES TO RECOMMENDATIONS:**

**Recommendation 1:** The Nevada County Board of Supervisors should request the following agencies to meet and confer to develop and implement a written agreement to define the responsibilities of each agency for the safeguarding of water quality in Nevada County:

- US EPA,
- State Water Resources Control Board,
- California Department of Fish & Game,
- California Department of Toxic Substance Control,
- Nevada County Department of Environmental Health,
- Nevada County Planning Department.

**This recommendation will not be implemented.**

Adequate definition of responsibilities and avenues for coordination and cooperation exist to safeguard water quality in Nevada County. The Nevada County Planning Department does not engage in water quality testing or analysis.

**Recommendation 2:** Nevada County Board of Supervisors directs the Director of Community Development Agency to:

- develop and implement policy and procedures for periodic testing of surface and ground water at the locations identified in this report and communicate the findings to the general public,
- revisit and examine the Lava Cap Mine incidents of 1979 and 1997 and develop and implement policy and procedures to ensure appropriate clean-up of such incidents,
- develop and implement a plan for the immediate enforcement of the 1979 Clean Up and Abatement Order concerning the area below the Lava Cap Mine.

**This recommendation will not be implemented.**

- Adequate testing of surface and ground water to insure the public health and welfare is currently conducted by appropriate State and Federal agencies.
- Appropriate policies and procedures are currently in place at the Federal, State and Local level.
- See comment in response to Finding 1 above. The remediation of the Banner/Lava Cap Mine is under the jurisdiction of the US EPA.



## Pacific Southwest, Region 9: Superfund

Serving Arizona, California, Hawaii, Nevada, the Pacific Islands, and Tribal Nations

# Lava Cap Mine

### On this page

### Description and History

#### NPL Listing History

NPL Status: Final  
 Proposed Date: 09/29/98  
 Final Date: 01/19/99  
 Deleted Date:

The Lava Cap Mine site occupies approximately 33 acres in a semi-rural residential area of the Sierra Nevada foothills in western Nevada County, California. The site is approximately 5 miles southeast of Nevada City and 6 miles east of Grass Valley at an elevation of about 2700 feet. The site includes the mining area where ore was processed to recover gold, and areas where tailings which originated at the mine have been washed downstream and deposited over time. The downstream areas of the site include Lost Lake, a private lake surrounded by homes, located approximately 1-1/4 miles downstream of the Lava Cap mine site.

Bulletin Board

Links

- [Description and History](#)
- [Contaminants and Risks](#)
- [Who is Involved](#)
- [Investigation and Cleanup Activities](#)
- [Cleanup Results to Date](#)
- [Potentially Responsible Parties](#)
- [Documents and Reports](#)
- [Community Involvement](#)
- [Public Information Repositories](#)
- [Additional Links](#)
- [Contacts](#)
- [Progress Profile \(EPA Headquarters\)](#)

EPA #: CAD983618893

State: California(CA)

County: Nevada

City: 5 miles SE of Nevada City

Congressional District: 02

Other Names:



[Map this site in Cleanups in My Community](#)

In 1994, an estimated 1,776 people lived within one mile of the site, and 24,091 lived within four miles of the site. The immediate watershed basin ecosystem contains two California Species-of-Special-Interest: foothill yellow-legged frog and western pond turtle, in addition to more common species of reptiles, amphibians, fish, birds, and mammals.

Gold and silver mining activities were initiated at Lava Cap Mine in 1861. From 1861 to 1918, processing of the ore and disposal of the waste rock, overburden, and tailings occurred off-site at the Banner Mine, which is located approximately 1.5 miles north of the Lava Cap Mine.

The Lava Cap Mine was inactive from 1918 to 1934, at which time mining activities were resumed and a flotation plant was built to process the ore at the site. The gold and silver concentrates from the flotation plant were shipped to two smelters, one in California and the other in Washington. In 1940, a cyanide plant was built to recover the concentrates on site. However, this operation proved to be relatively ineffective. From 1941 to 1943, the cyanide plant only handled the middlings and tailings from the flotation plant. The middlings and tailings were ground to a very fine size (i.e., able to pass through a 400-mesh screen), then vat leached with cyanide to remove the residual gold and silver. Slurries from the flotation and cyanide processes were deposited in a ravine on the site. Where the ravine steepened and narrowed, a log dam approximately 60 feet high was built to hold the tailings in place. The waste rock and overburden were also deposited in two piles located at the site between the mineshaft and the tailings pond. In 1943, Lava Cap Mine was closed due to World War II. An attempt was made to re-open the mine in the mid-1980s. However, community opposition resulted in the defeat of a proposed re-zoning of the property which would have allowed mining activities to resume at the site.

In 1979, complaints from local residents initiated an action from California's Central Valley Regional Water Quality Control Board (RWQCB) that led to issuance of a Cleanup and Abatement Order (CAO). The CAO called for the property owners at that time to take measures to limit tailings discharges to Little Clipper Creek, to divert surface water runoff from the mine and mill waste fill deposits, and to obtain an evaluation of the dam.

additional data are gathered and analyzed. The Interim Record of Decision can be found in the Technical Documents section, dated September 30, 2008.

#### Initial Actions

**Initial response.** In October 1997, the EPA Region 9 Emergency Response Office determined that conditions associated with the tailings release from the Lava Cap Mine site met the National Contingency Plan (NCP) section 300.415(b)(2) criteria for a removal action. During October and November 1997, 4,000 cubic yards of tailings were removed from the damaged dam area and stockpiled on the waste rock pile immediately to the north of the tailings pile. The lower half of the dam (i.e., approximately 30 feet in height) was found to be in relatively good condition. The oversteepened slopes of the tailings pile immediately behind the dam were graded and the entire tailings pile was covered with waste rock. Stream diversions were also created around the tailings pile. In February 1998 a second response was constructed at the site to stabilize another tailings release and to further improve the drainage. The removal action has been completed and included covering approximately 4,000 cubic yards of stockpiled tailings with a clay cap.

#### Site Studies

**Remedial investigation.** As part of its longer term study of the site, EPA conducted several rounds of sampling upgradient from the mine, on the mine property, along Little Clipper and Clipper Creeks in the stretch from approximately 2,000 feet upstream of the mine to approximately 1,000 feet downstream of Lost Lake, and from in and around Lost Lake. EPA sampled several media, including surface soil, subsurface soil, air, groundwater, mine discharge, surface water, and sediment. To collect subsurface soil and groundwater samples, EPA installed borings and constructed groundwater monitoring wells using a truck-mounted drilling rig. The resulting remedial investigation report was released in November 2001. It concludes that arsenic in mine tailings is the primary threat to human health, while both arsenic and metals threaten the ecology of the area.

A Remedial Investigation for the **Groundwater Operable Unit** was completed in **July 2008** and is available in the information repositories for review. A supplement to this document may be developed once further studies of the groundwater/surface water interactions have been completed.

#### Site Studies

##### Feasibility Study.

EPA distributed the public release draft of the **Feasibility Study for the Mine Area in OU1** where mining took place in 2004. The feasibility study defined the goals of EPA's remedial action, evaluated different technologies for reaching those goals, and combined those available technologies into several alternative cleanup plans. Alternatives considered include:

- taking no action
- installing physical access and legal land use controls
- decontaminating the mine buildings
- demolishing the mine buildings
- capping the tailings and waste rock piles and constructing surface water diversion channels
- excavating and disposing of the tailings and waste rock pile in an on-site landfill
- excavating and shipping the tailings and waste rock pile to an off-site disposal facility
- capping tailings and contaminated sediment in Little Clipper Creek down to Greenhorn Road
- excavating the contaminated sediment in Little Clipper Creek down to Greenhorn Road

The **Feasibility Study** was completed for the drinking water component for **Groundwater (OU2)** in **July 2008**. Alternatives considered in this study include:

- taking no action
- installing point-of-use undersink treatment units, land use notifications, and monitoring of groundwater
- installing wellhead treatment units, land use notifications, and monitoring of groundwater
- providing an alternative water supply via pipeline from Nevada Irrigation District, land use notifications, and monitoring of groundwater

The proposed plan is available now for the drinking water component of the Groundwater Operable Unit.

A revised **Feasibility Study** and proposed cleanup alternatives for the **Lost Lake Area (OU3)** are expected in 2015.

#### Cleanup Ongoing

#### Construction.

##### Mine Area Cap

Construction of the cap on the mine area in **OU1** has been essentially completed. Excavated tailings and contaminated soils from Little Clipper Creek

11/01/01 [Final Human Health Risk Assessment -- Lava Cap Mine Superfund Site](#)

11/01/01 [Remedial Investigation, Lava Cap Mine Superfund Site](#)

11/01/01 [Supporting data: Lava Cap Mine Remedial Investigation](#)

02/01/04 [Public Release Draft Mine Area Feasibility Study](#)

07/01/08 [Operable Unit 2 Feasibility Study Report](#)

11/01/10 [Remedial Action Report Mine Area Operable Unit \(OU1\)](#)

09/14/11 [First Five-Year Review Report](#)

### Community Involvement

**Public Meetings:** EPA is committed to involving the public in the cleanup decision-making process. Its Community Involvement Program focuses on answering the community's questions about the cleanup effort, providing information to the community about site activities, and incorporating community issues and concerns into Agency decisions, particularly when a cleanup remedy is proposed.

#### Community Involvement History:

In November 2000, EPA held public meetings in Grass Valley and Nevada City on our preliminary results from initial rounds of sampling.

In November 2001, EPA again held public meetings in the same locations, in cooperation with the Lava Cap Mine Superfund Coalition, recipient of an EPA grant to provide technical expertise to the community in understanding the Lava Cap cleanup. At these meetings, EPA presented the results of its human health and ecological risk assessments. EPA also began a discussion with community members on their preferences regarding possible actions EPA might take to clean up the site.

In December 2002, EPA conducted public workshops on cleanup alternatives for the Lost Lake area of the site and also met with area residents at home. EPA:

- described the process used to develop alternatives,
- presented sample alternatives,
- and conducted an exercises that allowed the community members to discuss the attributes of the site that they valued and wanted to retain or restore and to provide specific ideas about their preferred cleanup alternatives.

EPA incorporated the information from these sessions into the Feasibility Study for the Lost Lake operable unit of the site.

In February 2004, EPA held a formal public hearing on the [Proposed Plan](#) for the Mine Area of the site. See U.S. EPA Proposes Cleanup Plan for Mine Area Operable Unit Fact Sheet in Documents and Reports section above.

In August 2008, EPA invited the public to attend a public meeting to hear a presentation on the Proposed Plan.

EPA:

- discussed the results of the investigations into mine-related arsenic contamination in groundwater
- described the cleanup options EPA evaluated for addressing this contamination
- explained EPA's preferred alternative
- encouraged the public to comment on any or all of the alternatives

EPA considered all comments before the final remedy decision was made.

### Public Information Repositories

#### Additional Links

#### Contacts

##### EPA Site Manager

Brunilda Davila  
415-972-3162  
Davila.Brunilda@epamail.epa.gov  
US EPA Region 9  
Mail Code SFD  
75 Hawthorne Street  
San Francisco, CA 94105  
EPA Community Involvement Coordinator

Amanda Pease

The public information repositories for the site are at the following locations:

Grass Valley  
Public Library  
207 Mill Street  
Grass Valley, CA  
95945  
530-273-4117

Nevada County  
Library  
980 Helling Way  
Nevada City, CA  
95959  
530-265-7050

contamination in September 2003. This investigation is ongoing under the Groundwater Operable Unit (OU2).

- In September 2004, EPA issued the Record of Decision (ROD) for the Mine Area Operable Unit (OU1).
- Cleanup at the Mine Area OU began in September 2005. To accelerate the cleanup, EPA split off the Mine Residences Operable Unit (OU4) from OU1. This enabled completion of this portion of the design in time for EPA to move forward with the excavation of contaminated soil from around one additional home (which was not included in the 2003 time-critical removal action detailed above) before winter 2005 (the end of the construction season). The cleanup of mine tailings at OU1 is scheduled for completion by the end of September 2006.

### **Current Funding Status**

- To date, EPA has spent approximately \$5,662,000 for investigation work, design, and time-critical removal actions at this site.
- To date, EPA has allocated \$4,895,000 toward cleanup of the Mine Area and Mine Residences OUs.
- EPA estimates that an additional \$1,345,000 will be required in 2006 to complete the tailings cleanup at the Mine Area and Mine Residences OUs.
- EPA projects that an additional \$1,700,000 will be required in 2007 to undertake surface water cleanup at the Mine Area OU.

## NEVADA IRRIGATION DISTRICT RATE INCREASE

### Summary

Nevada Irrigation District provides raw and treated water to 25,000 customers in portions of Nevada, Placer, and by contract, parts of Yuba and Sierra counties. It is governed by a five member Board of Directors representing five geographical divisions within the district. The Board of Directors is the district's policy-making body.

The Nevada Irrigation District Board of Directors recently approved a 6% per year rate increase that was to be in effect over a five year period. Their reasoning for this increase was that the Nevada Irrigation District was on a path to insolvency.

Previously, the Board of Directors had opted not to increase water rates by using their reserves to meet their obligations, keeping rates steady. However, additional financial impacts, caused by a decrease in revenue from the lower sales of their electric power, the cost of relicensing their hydroelectric facilities with the Federal Energy Regulatory Commission, and contractual changes with Pacific Gas and Electric Company, obligating the Nevada Irrigation District to directly fund their hydroelectric operations and maintenance costs, drastically reduced their reserves to dangerously low levels. If Nevada Irrigation District continued to operate in this fashion, the reserve fund would be totally depleted by 2020. This would make it impossible to respond to any unexpected event.

The rate increase was designed to replenish their reserve funds for future expenditures and make the Nevada Irrigation District more fiscally sound. The Board of Directors realized that continuing to use reserve funds for their operations and management costs and limiting rate increases was not prudent. Nevada Irrigation District hired an independent contractor to identify the problem areas and to offer solutions to improve their fiscal position. One of the measures the independent contractor identified was the need for a rate increase of 6% per year over five years to ensure that operations and maintenance costs and other expenses would be covered while building a healthy reserve fund. The rate increase was presented to the rate payers for review, but was found to be unpopular with some.

A citizen complaint was received by the Nevada County Grand Jury questioning the justification of the rate increase. In processing the complaint, the Nevada County Grand Jury found that Nevada Irrigation District's rate increase was proposed following the requirements of California Proposition 218 by providing notice of the proposed increase by mail and news media to its customers. A public hearing was held within 45 days of the notification to explain the reasoning and justification for the increase. Of the 25,000 NID customers, 342 objected to the proposed rate increase. Subsequently, the 6% rate increase was approved by the Board of Directors.

## Reasons for Investigation

The Nevada County Grand Jury (Jury) received a citizen complaint regarding the justification of a 6% annual rate increase over the next five years by the Nevada Irrigation District (NID). The Grand Jury is empowered to investigate various districts pursuant to California Penal Code.

## Background

NID is an independent special district operated for landowners within its 287,000 acre boundaries, which include principally portions of Nevada County and Placer County, and contractual areas in Yuba and Sierra counties. NID was formed by public vote in 1921 and provides service to some 25,000 customers of both raw (agricultural) and treated (household) water. NID also supplies raw water to Grass Valley, Nevada City and the portion of the City of Lincoln within its boundaries.

NID operates under authority and regulation of the California Water Code and in conformance with the California Government Code §54950 et seq., commonly known as the Ralph M. Brown Act (Brown Act).

It is governed by a five member Board of Directors (Board) representing five geographical divisions within the district and is their policy-making body. All meetings of the Board and its committees are public and are held within the NID.

## Procedures Followed

The Jury interviewed several members of NID's management and the complainant. The Jury also reviewed previous Jury reports and various other documents received from the interviewees and those available on NID's website. Information from other water agency websites was also reviewed.

## Facts

- Fa. 1** NID provides raw and treated water to parts of Nevada, Placer, Yuba and Sierra counties.
- Fa. 2** NID is an independent special district governed by an elected board.
- Fa. 3** Board members are elected to four year terms by district voters.
- Fa. 4** The Board holds open public meetings pursuant to the Brown Act and Proposition 218, entitled the *Right to Vote on Taxes Act* (Proposition 218).
- Fa. 5** NID employs approximately 200 full-time and part-time employees.



- Fa. 6** NID has approximately 19,000 residential and 6,000 agricultural customers.
- Fa. 7** NID is the primary source of drinking and irrigation water in western Nevada County.
- Fa. 8** NID's rates are currently below those of adjacent water agencies.
- Fa. 9** The salary for NID's General Manager is comparable to that of the Placer County Water Agency and the El Dorado Irrigation District.
- Fa. 10** NID sells hydroelectric power to Pacific Gas and Electric Company (PG&E) under a long-term agreement.
- Fa. 11** In fiscal year 2011-2012, revenues from hydroelectric sales to PG&E decreased by \$1.5 million dollars.
- Fa. 12** In 2014, NID began paying for operations and maintenance of the Hydroelectric Division instead of PG&E.
- Fa. 13** NID is in the process of renewing a 50 year license of their hydroelectric power facilities with the Federal Energy Regulatory Commission (FERC).
- Fa. 14** The renewal by FERC is estimated to cost \$12 million dollars.
- Fa. 15** NID's Hydroelectric Division borrowed from the Water Division to pay for the renewal.
- Fa. 16** NID is reimbursing the Water Division \$3 million dollars per year for the next four years.
- Fa. 17** For fiscal year 2012-2013, the total overall revenue of NID had a net gain of 11.7%, while their expenses increased by 12.7%.
- Fa. 18** NID's total overall budget for fiscal year 2013-2014 is approximately \$60 million dollars; up from \$55 million dollars for the previous fiscal year.
- Fa. 19** There were no water rate increases between the years of 2000 to 2007.
- Fa. 20** The 2005-2006 Jury recommended NID rate increases be tied directly to the need for balancing revenues against expenses.
- Fa. 21** The 2006-2007 Jury recommended the water division rely less on reserves and more on increased rates to fund their operations.
- Fa. 22** During this period, NID transferred funds from their reserves to supplement operation and maintenance costs.
- Fa. 23** In the January 8, 2014 NID Board Minutes, the Board agreed with previous Jury reports indicating water rates were too low with over-reliance on reserves.

**Fa. 24** There were annual water rate increases from 2008 to 2013.

**Fa. 25** The October 23, 2013 Board Minutes stated the continued transfer from reserves to supplement operating and maintenance costs could not continue. It was stated, “...*this was not a sustainable path, and is a formula for bankruptcy in six years.*”

**Fa. 26** An independent contractor (IC) was contracted by NID to prepare a full financial analysis and to make recommendations.

**Fa. 27** The purpose of the study was to develop rates and charges which would generate sufficient revenue.

**Fa. 28** The IC report focused on:

- operating expenses,
- non-operating expenses,
- capital project expenses,
- maintenance of operating reserve balances,
- debt service coverage.

**Fa. 29** Key assumptions in the IC report were:

- no growth in customer base,
- unrestricted reserve balance of four to six months,
- new debt,
- inflation,
- maintaining debt service.

**Fa. 30** The IC report stated the proposed rate increase was in conformance with industry standard ratemaking practice, being a fair and equitable recovery of costs and to fully restore the reserve requirements.

**Fa. 31** On November 6, 2013, a presentation to the Board pertaining to the rate study was given by the IC.

**Fa. 32** Written notification regarding the proposed 6% rate increase was mailed to all NID customers on November 13, 2013, in addition to notifying the public through local media.

**Fa. 33** Of the 25,000 NID customers, 342 objected to the proposed rate increase.

**Fa. 34** The 6% rate increase was discussed at a noticed public hearing on January 8, 2014.

**Fa. 35** The IC presentation at the scheduled public hearing indicated NID operating reserves, under existing rates and use, would be gone by the end of 2020.

- Fa. 36** During the noticed public hearing, the IC made a presentation illustrating the purpose of the study.
- Fa. 37** During the public hearing, NID management explained the reasoning behind the rate increase.
- Fa. 38** During the public hearing, NID management compared the proposed increased rates to neighboring water districts, agencies and municipalities, showing NID has the least expensive rates in the region.
- Fa. 39** At the hearing, the Board received public comment regarding the rate increase. At the public hearing, the Board resolved to conduct annual budget reviews with a goal of limiting the rate increase below 6%.
- Fa. 40** During the public hearing, NID's Board committed to work toward improving communications with their customers.
- Fa. 41** The 6% rate increase was approved by the Board.

### **Findings**

- Fi. 1** Revenue growth from new customers will be minimal.
- Fi. 2** Without passage of the rate increase NID would have depleted reserves.
- Fi. 3** Decreased revenues and additional unanticipated expenses resulted in the depletion of the reserve fund.
- Fi. 4** The Board had ignored their fiscal responsibility by failing to address increased costs.
- Fi. 5** NID followed the rules and regulations pursuant to Proposition 218.
- Fi. 6** NID recognized that it was in fiscal trouble unless their business model changed.
- Fi. 7** NID has made proactive fiscal decisions to control operating and maintenance costs and rebuild reserves.

### **Recommendations**

None

### **Responses**

No response is required.

## **NEVADA JOINT UNION HIGH SCHOOL DISTRICT BOARD OF TRUSTEES**

### **Summary**

The Nevada Joint Union High School District is a school district with eight campuses in various locations in Western Nevada County. The Nevada Joint Union High School District is governed by a Board of Trustees, consisting of five Trustees representing Areas 1 thru 5 in Western Nevada County.

The Nevada County Grand Jury received a complaint regarding the Nevada Joint Union High School District. In processing this complaint, the Nevada County Grand Jury found that the Board of Trustees had not received ethics training pursuant to State of California Assembly Bill 1234. The Nevada County Grand Jury, during its investigation, found that the Nevada Joint Union High School District Board of Trustees is also subject to complying with Government Codes §1090 and §87100.

During interviews the Nevada County Grand Jury found the former and current Nevada Joint Union High School District Superintendents, one of the Assistant Superintendents and members of the Board of Trustees of the Nevada Joint Union High School District were not aware of the requirement that all Area Trustees must take the Conflict of Interest Training required by Assembly Bill 1234. The Nevada County Grand Jury also found that members of the Board of Trustees were not familiar with many sections of their own board policies.

The Nevada County Grand Jury recommends all members of the Nevada Joint Union High School District Board of Trustees should take the required training pursuant to State of California Assembly Bill 1234 and become familiar with all of the provisions contained in the Nevada Joint Union High School District By-Laws as well as Government Codes §1090 and §87100.

The Nevada County Grand Jury also recommends that the Nevada Joint Union High School Superintendent and the Assistant Superintendents become familiar with California Assembly Bill 1234 and Government Codes §1090 and §87100 in order to enable them to assist in their roles in advising current and future members of the Board of Trustees of all responsibilities and requirements imposed on board members.

### **Reasons for Investigation**

The Nevada County Grand Jury (Jury) received a citizen's complaint regarding the Trustees of the Nevada Joint Union High School Board of Trustees (Board).

The Jury has the authority to investigate school districts and their boards of trustees, pursuant to California Penal Code.

## Background

The Board is made up of five Trustees representing Areas 1 thru 5 within the Nevada Joint Union High School District (District).

The Board holds regular meetings on the second Wednesday of the month from August to June of each year (there is no meeting in July). Each month the meetings of the Board rotate between high school sites within the District with the open session beginning at 6:00 p.m. and closed sessions held prior to the meeting at 5:15 p.m. The high school sites where the Board meets on a rotation basis are Nevada Union, Bear River and Silver Springs Schools.

## Procedures Followed

The Jury interviewed several Board members and three members of the District staff. The Jury also reviewed various documents received from the interviewees and the District website.

## Facts

- Fa. 1** The Nevada Joint Union High School District is a school district with eight campuses in various locations in Western Nevada County.
- Fa. 2** The District includes eight campuses which offer grades 9-12 with approximately 3,285 students.
- Fa. 3** The District is managed by the Board, representing Areas 1 thru 5, which meets in regular session each month, except July, and is attended by the Board and is open to the public.
- Fa. 4** The five member Board consists of the President, Vice President, Clerk and two Trustees.
- Fa. 5** Each Board member is elected by registered voters and must reside in the Area they represent.
- Fa. 6** Each elected Board member serves a four year term.
- Fa. 7** The Board meeting agendas are posted to the public pursuant to the California Government Code §54950 et seq., commonly known as the *Ralph M. Brown Act*.

**Fa. 8** The District Administrative Assistant, employed by the District, prepares all agendas and minutes of Board meetings.

**Fa. 9** The Jury interviewed several Board members and administrative staff members.

**Fa. 10** The California School Boards Association offers training seminars, but attendance is not mandatory. The training seminars include:

- Board Presidents Workshop,
- Board Self-Evaluation and Superintendent Evaluation,
- CSBA Training For Executive Assistants,
- Institute for New and First-Time Board Members,
- Legal Symposium For Experienced Board Members,
- Orientation For New Trustees,
- The Brown Act.

**Fa. 11** Funds are annually budgeted for Board training.

**Fa. 12** The Superintendent manages each of the schools within the District and is hired by and accountable to the Board.

**Fa. 13** The Superintendent is available to the Board to advise them of the roles and responsibility of board members.

**Fa. 14** The Board is represented by District Counsel who does not attend the monthly Board meetings, but is available by conference call during any meeting.

**Fa. 15** Each Board member is required to take ethics training per State of California Assembly Bill 1234 (AB1234). The Act states, among other things, *“AB 1234 requires that if a local agency provides any type of compensation, salary, or stipend to, or reimburses the expenses of a member of its 'legislative body' (as that term is defined in California Government Code Section 54952), that local agency's officials must receive training in ethics.”*

**Fa. 16** Each Board member is required to take ethics training every two years per AB 1234.

**Fa. 17** During interviews it was reported to the Jury that each Board member receives monetary compensation while serving on the Board.

**Fa. 18** The Board members interviewed stated:

- they were not aware of the requirement to complete the ethics training,
- they have not completed the required training,
- nothing is provided to them as to what is expected of them while performing their Board duties.

- Fa. 19** Ethics training required by AB1234 includes training for conflict of interest.
- Fa. 20** The Board is governed by California Code §1090 which states in part: *“Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.”*
- Fa. 21** The Board is also governed by Government Code §87100 which states: *“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”*
- Fa. 22** The Board is governed by By-Laws on file with the District.
- Fa. 23** Board members were not fully familiar with the District By-Laws (By-Laws).
- Fa. 24** The By-Laws include, *Section 9240 Board Development* *“Citizens elected to the Board of Trustees are entrusted with the responsibility of governing district schools. The Board recognizes that its members need training that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardmanship skills.”*
- Fa. 25** The Board met on September 26, 2013 at a regularly scheduled board meeting. At that meeting the agenda included an item entitled, *“Board Policy Manual Update”* which was discussed by the Board present during that meeting
- Fa. 26** The minutes of the September 26, 2013 meeting were approved, including accepting the revision to the *Nevada Joint Union High School District Policy Manual* (all sections 0000-9000) during their board meeting of October 9, 2013 with all members of the Board present.
- Fa. 27** The By-Laws also include Sub-*Section 9270 Conflict of Interest* that includes among other things, a section entitled, *Incompatible Offices and Activities* *“Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member’s duties as an officer of the district. (Government Code §1126).”*
- Fa. 28** During the February 5, 2014 Board meeting a Power Point presentation was given by the District’s legal counsel entitled *“Conflict of Interest Reporting Requirements.”*

## Findings

Findings by the Jury:

- Fi. 1** All Board members reside in the Area of the District they represent.

- Fi. 2** Board members interviewed have not completed the required ethics training.
- Fi. 3** Board members interviewed are not familiar with provisions contained in the District By-Laws.

### **Recommendations**

The Jury recommends:

- R. 1** All Board members should complete the mandatory ethics training required by AB1234.
- R. 2** All Board members should become familiar with the provisions contained in the By-Laws on file with the District.

### **Responses**

Nevada Joint Union High School District Board of Trustees:

Due Date: August 28, 2014



# **Truckee Fire Protection District Board of Directors**

## **A Job Well Done**

### **Summary**

The Truckee Fire Protection District is an independent special district responsible for fire protection and emergency medical transportation services in and around Truckee, California. The Truckee Fire Protection District is governed by a Board of Directors elected by the district's voters.

The 2010-2011 Nevada County Grand Jury found the Truckee Fire Protection District Board of Directors lacked education and training in the roles and responsibilities of Board members. The Board of Directors failed to follow their policies and procedures. The Board lacked personal engagement, independent thinking and had insufficient communication with the district staff and the public.

The 2013- 2014 Nevada County Grand Jury found all recommendations from the Grand Jury's Report of June 21, 2011 have been implemented. The Truckee Fire Protection District has made substantive improvements to the quality of service to district personnel as well as to the public and taxpayers of their district.

The members of the Board of Directors are now trained and knowledgeable of their roles and responsibilities. The Truckee Fire Protection District's finance policy now requires close review of all expenditures. Last, but certainly not least, the Truckee Fire Protection District is in active partnership with the community to actively communicate and to restore the public image of the Truckee Fire Protection District.

The Nevada County Grand Jury finds that significant and positive changes have taken place at Truckee Fire Protection District and recommends that the Truckee Fire Protection District continue on its current positive direction.

### **Reasons for Investigation**

On June 21, 2011, the 2010-2011 Nevada County Grand Jury (2010-2011 Jury) issued a report regarding the Truckee Fire Protection District (TFPD) Board of Directors (Board). The report listed numerous facts, findings, and recommendations that the Jury felt would benefit the TFPD and the citizens and taxpayers they serve. The 2013-2014 Nevada County Grand Jury (2013-2014 Jury) decided to conduct a follow-up investigation to determine whether the previous recommendations had been implemented, and if so, how the implementation has benefitted the citizens and taxpayers of the TFPD.

The Jury has the authority to investigate special purpose assessment or taxing districts, including those commonly known as special districts in Nevada County.

## **Background**

In California, special districts are a form of local government created by a community to meet a specific need. Most of California's special districts perform a single function such as sewage, water, fire protection, pest management, or cemetery management. There are approximately 2,300 independent special districts in California. Each is governed by an independent board of directors elected by the voters of their district or appointed to a fixed term of office by either a city council or a county board of supervisors. There are 24 independent special districts in Nevada County.

The TFPD is an independent special district supported by public funds. The TFPD is made up of 49 full-time personnel and nine part-time/volunteer members. The TFPD's budget for the 2012-2013 fiscal year was approximately nine million dollars. The TFPD is responsible for 125 square miles and is one of the oldest fire districts in the Truckee-Tahoe area of Northern California.

The TFPD is governed by a five-member board elected by district voters during the general elections held in November. The Board is responsible for setting policy and general administrative procedures.

The 2010-2011 Nevada County Grand Jury found the Board lacked education and training in the roles and responsibilities of Board members. The Board failed to follow their policies and procedures. The Board lacked personal engagement, independent thinking and had insufficient communication with the district staff and the public.

## **Procedures Followed**

The 2013-2014 Jury conducted an interview with a TFPD Board member and reviewed documents relating to the recommendations from the 2010-2011 Jury's report, published June 21, 2011.

## **Facts**

- Fa. 1** On August 31, 2011, the TFPD submitted a response to the 2010-2011 Jury's report.
- Fa. 2** The TFPD agreed with all ten findings of the 2010-2011 Jury.
- Fa. 3** The TFPD agreed with the 2010-2011 Jury's recommendations #1 (improved Board training), #3 (improved communications with personnel), and #4 (improve public image) and responded, "the recommendations have been implemented."
- Fa. 4** On Recommendation #2 (improve finance policy), the TFPD responded, "the recommendation has not yet been implemented, but will be adopted and implemented by October 31, 2011."
- Fa. 5** Recommendation #2 has since been implemented by the TFPD.

- Fa. 6** All members of the Board have now attended training regarding the roles and responsibilities of board members in special districts.
- Fa. 7** The Board has developed and implemented a finance policy which requires the thorough review of checks to be signed and detailed supporting documentation for all TFPD expenditures.
- Fa. 8** The Board has improved on existing policy to facilitate open and ongoing communication with TFPD personnel.
- Fa. 9** The Board, TFPD management and staff have developed and implemented an active partnership in the rebuilding of the TFPD's public image and in actively communicating with their constituents to restore and maintain the public's trust.

### **Findings**

- Fi. 1** After an inquiry, the 2013-2014 Jury finds that significant and positive changes have taken place at TFPD.

### **Recommendations**

- R. 1** The 2013-2014 Jury commends the TFPD for its significant achievements and recommends that the TFPD continue to follow its current positive direction.

### **Responses**

No response is required.

## **PANHANDLERS, VAGRANTS AND TRANSIENTS IN A NEIGHBORHOOD NEAR YOU?**

### **Summary**

The Nevada County Grand Jury is authorized to investigate all aspects of city and county government. It became obvious to members of the Nevada County Grand Jury that the number of panhandlers, vagrants and transients has increased in western Nevada County in recent years and is becoming highly visible. In addition, it is apparent there is a criminal element and behavior within this population that is causing additional expense to local law enforcement and other city and county agencies, as well as negatively impacting local businesses, residents, and visitors to this area. Some have identified this as a blight on our community.

Numerous community members are also aware and concerned about this situation, as witnessed by the unusually high number of news articles, Letters to the Editor, and Other Voices columns appearing in *The Union*, which have all given attention to, and expressed frustration over this growing problem.

To quote one community leader interviewed during this investigation, “The degree of the problem is related to the attitude of the community and the tolerance of its leaders.”

Retail businesses have incurred losses in excess of \$200,000 due to theft, vandalism and shoplifting.

Members of the Nevada County Grand Jury are also aware that the 49er Fire in 1988 was started by a homeless man in his illegal camp. The Nevada County Grand Jury is concerned that a fire in this drought year could have catastrophic results.

After an extensive investigation, the Nevada County Grand Jury found the following:

- Existing laws, code and ordinances are not being used to effectively reduce the complaints about panhandlers, vagrants and transients.
- None of the agencies involved accurately track time and costs associated with complaints against the targeted population.
- Well-meaning efforts by volunteer groups have unintended negative consequences.
- The increased appearance of “blight” is affecting the quality of life for both residents and visitors to the area.

The Nevada County Grand Jury concluded the report with the following recommendations for the Nevada County Board of Supervisors:

- Direct the Community Development Agency to work in conjunction with the Nevada County Sheriff and other city and county agencies to enforce existing codes and regulations to reduce the number of hazardous encampments.
- Direct the Information Technology Department to design and implement a tracking and reporting system to enable city and county departments to determine how much money and other resources are being spent on the problem.
- Take the lead in establishing an inter-jurisdictional task force with members from city and county law enforcement and fire, probation, Code Compliance, Environmental Health, homeless advocates, the chambers of commerce and interested citizens to develop a plan, using existing laws and codes, for improving the situation.

The Nevada County Grand Jury also recommends that the Grass Valley City Council examine the benefits of establishing a foot patrol in Grass Valley.

The Nevada County Grand Jury recognizes that any discussion of the homeless problem is politically challenging. There is a fine line between providing needed services to a deserving population and enabling or encouraging the less desirable element.

### **Reasons for Investigation**

The Nevada County Grand Jury (Jury) is authorized to investigate all aspects of city and county government. It became obvious to members of the Jury that the number of panhandlers, vagrants and transients has increased in western Nevada County in recent years and is becoming highly visible. In addition, there appears to be a criminal element and behavior within this population that is causing additional expense to local law enforcement and other city and county agencies, as well as negatively impacting local businesses, residents, and visitors to this area. Some have identified this as a blight on our community.

Numerous community members are also aware and concerned about this situation, as witnessed by the unusually high number of news articles, Letters to the Editor, and Other Voices columns appearing in *The Union*, which have all given attention to, and expressed frustration over this growing problem.

To quote one community leader interviewed during this investigation, “The degree of the problem is related to the attitude of the community and the tolerance of its leaders.”

### **Background**

For purposes of this report, panhandlers, vagrants and transients (PVTs) are defined as follows:

- Panhandler – a person who confronts and begs from people on the street or other public places.

- Vagrant & Transient – one who intentionally wanders from place to place without a permanent home or any obvious means of livelihood.

The current population also includes career criminals, one who is habitual, a repeater, and lives by means of a criminal life style and is often addicted to alcohol and/or drugs. These criminals are committing illegal acts which require investigation, arrest and prosecution, services provided by the already strained law enforcement community.

The 2008-09 Nevada County Grand Jury released a report entitled “*Helping Hands for the Homeless/Needy in Nevada County*”. This report was intended to be informational in nature, and listed services provided by Nevada County, as well as a number of non-profit organizations. These services still exist, and are doing an outstanding job as far as their resources permit. That report defines the homeless population as: “*those that prefer the homeless lifestyle, the drug and alcohol addicted, mentally challenged, disabled, and those that are victims of our economic downturn.*”

Members of the Jury are also aware that the 49er Fire in 1988 was started by a homeless man in his illegal camp. The Jury is concerned that a fire in this drought year could have catastrophic results.

The Jury recognizes that any discussion of the homeless problem is politically challenging. There is a fine line between providing needed services to a deserving population and enabling or encouraging the less desirable, and often criminal, element which is the subject of this report. The report is not implying that all homeless people and the mentally ill are criminals and responsible for the concern of the report; rather it is aimed at attempting to focus on the identified criminal behaviors.

## **Procedures Followed**

In order to gather information on this extensive problem, the Jury conducted a significant number of interviews with a broad cross section of Nevada City, Grass Valley, and Nevada County elected officials, along with government officials including city and county department heads including but not limited to, police and fire departments, animal control, public works departments, sheriff’s office and social services.

In addition, the Jury interviewed City of Auburn staff, homeless advocates, non-profit organization leaders, small business owners, large retail business owners, representatives of Chambers of Commerce, and a variety of citizens concerned with this issue. Jury members also conducted numerous site visits including some encampment areas.

The Jury found it difficult in some cases to gather statistics. Many respondents stated they did not keep records or track costs, problems, damage, calls for service, etc. by a grouping of PVT-related. However, because of all the problems experienced in 2013-2014, several agencies were initiating a new tracking system in order to be able to monitor costs/calls/actions/etc. of PVT activities or problems. Those agencies providing information to the Jury for this report stated that their numbers were probably on the low or conservative

side, and therefore may not accurately identify complete, actual numbers of incidents or costs.

## Facts

**Fa. 1** To quote several community leaders interviewed during this investigation:

- *“The degree of the problem is related to the attitude of the community and the tolerance of its leaders.”*
- *“The quality of life here is going downhill and it’s worth protecting.”*
- *“Some stores may be willing to tolerate the behavior (shoplifting) and absorb the loss; our community should not.”*

**Fa. 2** One interviewee who is extremely experienced in working with this population of people in our area stated:

- Most PVTs are males with drug and alcohol addiction problems.
- They do not take responsibility for their condition and do not seek treatment.
- Their behavior is not healthy to themselves or our community.
- Their camps resemble a third world site with dangerous trash and potential health issues for the community as a whole.
- The majority of PVTs are not willing to be rehabilitated.

**Fa. 3** The Jury was advised that this population is increasing, along with its associated costs, and will continue to grow if left unchecked.

**Fa. 4** The growing PVT population in our area includes a high percentage of individuals involved in criminal behavior, and individuals with outstanding court warrants.

**Fa. 5** There are a number of PVT encampments within the city limits of Grass Valley, Nevada City and in Nevada County (County). These camps are in violation of city and county health, sanitation and safety regulations.

**Fa. 6** PVTs use city and county jurisdictional lines to avoid prosecution.

**Fa. 7** Negative impacts are associated with PVT activity:

- Many witnesses stated panhandlers are aggressive and threatening, and have been seen to be openly dealing drugs.
- Their behavior causes ill will at businesses or areas of town.
- Customers and visitors do not typically return to that business or town when they have been intimidated.
- Some business owners fear for their personal safety and that of their employees, particularly when arriving at work in the early, dark hours of the morning and leaving with nightly deposits.

- PVTs occupy benches and tables in front of businesses for long periods of time; some businesses have had to remove their outdoor furniture.
- Cigarette butts litter the area.
- Depending on PVT behavior and appearance, potential customers and visitors feel vulnerable, and females in particular find it disquieting.
- Even a Chamber of Commerce office worker stated she felt uncomfortable when the PVTs come in her office to use the restroom.

- Fa. 8** Nearly all of the business owners interviewed stated that many customers have told them they won't return to town because of threatening and aggressive panhandling, visible drug use and dealing, smoking, drunken behavior, dogs and offensive language.
- Fa. 9** Police estimate the PVT population to be approximately 100-200 just in the greater Grass Valley area.
- Fa. 10** Officials stated that the community is too accommodating to the PVT population, which attracts them to the area.
- Fa. 11** A variety of elected officials, business owners, and law enforcement personnel agree that some feeding and shelter programs attract additional PVTs by accommodating their needs.
- Fa. 12** One witness stated that the feeding programs cause the PVTs to come together in a group. They then begin drinking, empower each other, at which time a pack mentality sets in and boisterous behavior begins.
- Fa. 13** Grass Valley has enacted Ordinance 718 – The Good Neighbor Ordinance – which added Chapter 8.48 to the Municipal Code. This holds property owners responsible for acts committed by or enabled by their tenants. Grass Valley has additional codes and/or ordinances in place to prevent:
- smoking in the historic district,
  - loitering,
  - panhandling,
  - California Penal Code §647 provides law enforcement with additional tools to address panhandlers.
- Fa. 14** Nevada City has an ordinance prohibiting smoking in the historic area or in any city owned areas.
- Fa. 15** Most witnesses stated the above ordinances are rarely enforced.
- Fa. 16** Nevada City has a foot patrol officer assigned to the downtown area when staffing is available, which helps curtail undesirable activities.



**Fa. 17** The Grass Valley Police Department does not have a foot patrol officer.

**Fa. 18** Panhandling, loitering, drug dealing/using and shoplifting are common problems at several shopping centers, and have increased in recent years. Some stores do not report these behaviors for fear of retaliation, of being sued, or for the lack of results from the criminal justice system.

**Fa. 19** Grass Valley business owners in areas near one of the camps report losses as follows:

- One owner estimates his losses at \$20,000 in 2013.
- Another owner estimates his costs and losses in excess of \$50,000 per year.
- A third owner estimates his losses from vandalism and theft at \$10,000 per year.
- The third owner also had to replace the security system which was recently stolen, at an additional cost of \$10,000.

**Fa. 20** A major retail business in Grass Valley loses an estimated \$100,000 annually due to shoplifting.

**Fa. 21** Enforcement of PVT behavior is often treated as a low priority for law enforcement.

**Fa. 22** 10 to 15% of the calls for Grass Valley Animal Control services were for PVT animals.

**Fa. 23** Business owners stated they receive little or no support from the city councils or the chambers of commerce to address the PVT problem.

**Fa. 24** Very few of the business owners interviewed participated in meetings with other owners and/or officials to try to find solutions to the problems.

**Fa. 25** Community volunteers erected temporary housing, constructed of plywood walls with galvanized roofs at the Sugar Loaf Mountain location. These structures are referred to as Micro Houses.

**Fa. 26** After construction, residents of the Sugar Loaf Mountain camp:

- dismantled these structures, using the galvanized roof, insecticides and an electrical charge to produce a substance similar to methamphetamine,
- modified the Micro Houses and expanded them into larger units,
- abandoned some of the Micro Houses; they are rotting in place.

**Fa. 27** Grass Valley Police Department staff provided the following information:

- For the year 2013, there were 597 calls for services which used the terms panhandler, transient, homeless or squatter.
- There were 27 citations issued.

- An officer's average salary (\$53 per hour with benefits), average time of call for service (15 minutes), average report writing time (40 minutes) and average time to write and issue citation (15 minutes).

**Fa. 28** Nevada City Police Department staff provided the following costs:

- The officer labor rate per hour including benefits is \$45.
- There are 15 to 20 calls for service per week under the transient category which result in costs of approximately \$225 per week.
- Five of these calls per week result in booking at the County Jail (2 hours each times \$45 of Officer salary times 5 bookings = \$450 per week).
- The total per week is estimated at \$675 which works out to \$36,400 per year.
- Another cost factor is the foot patrol officer's time which was not included in these estimates.

**Fa. 29** Nevada County Sheriff's Office staff provided the following information for 2013:

- 138 calls for service involving the word transient.
- Average time on scene 31 minutes.
- Additional time for writing report is not tracked.
- Response time to and from the scene was not included.

**Fa. 30** Nevada City Public Works Department staff estimates the following costs:

- A public restroom takes about \$100 dollars a week to clean up under normal usage. If someone puts human waste on the walls, it will take a crew of two people a couple of extra hours using a pressure washer to clean the walls and floors.
- About once a month, a door is broken on a restroom and an estimated cost is \$500 to repair that damage.
- The total cost to clean up the restrooms is \$5,000 per year with no vandalism. If vandalism is taken in to account, figure about \$10,000 per year.
- One or two of the Public Works crew handle the restrooms on a daily basis. The Police Department is supposed to lock these up at night, but often misses that task. The result is more damage.
- The camp on Sugar Loaf was cleaned up, but the cost was several thousand dollars from the Public Works budget. Volunteer labor and a donation of a Waste Management dumpster lessened the taxpayer cost for this activity.
- A major cost item is the theft of paper products from public restrooms which costs the city about \$3,500 per year.

**Fa. 31** Grass Valley Public Works Department staff stated that:

- they have seen an increased transient population in their parks and facilities,
- they do not track the costs associated with transient problems,

- some Grass Valley residents have complained about PVT problems in parks and facilities; the residents have chosen not to use those facilities any more.

**Fa. 32** Upon contact with law enforcement and fire personnel many PVTs exhibit aggressive behavior, are under the influence of drugs and alcohol, have a criminal history and have aggressive dogs.

**Fa. 33** Fire service personnel reported that often they cannot take action on PVT-related calls until law enforcement arrives to assist.

**Fa. 34** Fire personnel reported that transient encampments are found to have serious sanitation issues.

**Fa. 35** The Nevada County Consolidated Fire District (NCCFD) estimated emergency response costs for transient calls within the NCCFD service area, including Nevada City and Grass Valley, to be \$90,000 per year.

**Fa. 36** In 2013, between 250 and 300 calls directly related to PVT activities were received by NCCFD, including the following:

- fires at encampments,
- fires in dumpsters,
- fires in abandoned houses,
- EMT calls.

**Fa. 37** Nevada County Social Services has checks and balances in place in an effort to prevent providing services to unqualified applicants.

**Fa. 38** Within Nevada County Community Development Agency (CDA) is the Code Compliance Division (CC). CC is responsible to enforce regulations for:

- Building Code violations,
- California State Housing Law for minimum standards for safe and sanitary housing,
- solid waste,
- zoning requirements for land use.

**Fa. 39** The Mission Statement of the Code Compliance Division is as follows:

*“It is the mission of the Code Compliance Program to work in partnership with the people of Nevada County to promote and maintain a healthy, safe and desirable living and working environment. Code Compliance helps maintain or improve the quality of the community by administering a fair and unbiased enforcement program to correct violations of codes and ordinances enacted by the Board of Supervisors in regards to property, buildings, and structures. “*

**Fa. 40** CC administrative staff stated that, when complaints related to transient camps are received they are referred to NCSO for trespass investigations. There is a verbal policy that CC will not investigate the health and safety issues associated with PVT encampments. The imminent health and safety issues are:

- solid waste,
- substandard housing,
- no sewage systems to handle human waste,
- no safe water sources.

**Fa. 41** CC is empowered to address the imminent health hazards associated with PVT encampments by issuing citations for criminal prosecution authorized in the Land Use and Development Code. The individual(s) responsible for the violation may be cited.

**Fa. 42** There is no evidence of enforcement activity by CC at the encampments.

**Fa. 43** Infrequent inter-jurisdictional sweeps of the camps have been conducted by personnel from law enforcement, fire, probation, city and county. These sweeps generally result in numerous arrests for outstanding warrants and other criminal activities.

**Fa. 44** It has been at least 18 months since CC participated in one of the inter-jurisdictional sweeps.

## **Findings**

**Fi. 1** The numbers of PVTs, their visibility, aggressive behavior and the problems they create have increased several-fold in recent years.

**Fi. 2** The problems with PVTs will continue to increase until city and county leaders seriously address the problem.

**Fi. 3** It is only a matter of time until a health incident or a serious fire occurs in one of the illegal camps.

**Fi. 4** City and Chamber officials fail to recognize the seriousness of the problem, choosing to concentrate their efforts on increasing tourist traffic, and encouraging people to shop locally, when the saturation of PVTs causes the opposite effect.

**Fi. 5** In some cases, citizens who provide free food, free shelter, and other gifts to PVTs, though well-intended, typically create new problems as well as enable and perpetuate the PVT population.

**Fi. 6** Enforcement actions authorized by law and/or codes, which are the responsibility of city and county agencies, are woefully lacking in their consistency and continuity of effort.

- Fi. 7** The Nevada City Police Department foot patrol is effective.
- Fi. 8** Business owners and members of the community rarely report illegal PVT behavior.
- Fi. 9** Mixed jurisdictions and agency responsibilities can complicate enforcement efforts.
- Fi. 10** Very few city and county agencies accurately track incidents or costs associated with PVTs.
- Fi. 11** Locking the restrooms in public facilities nightly would lessen the damage caused by PVTs.
- Fi. 12** CC has the responsibility and the tools necessary to remedy the sub-standard conditions found in PVT encampments, but does not enforce these statutes.
- Fi. 13** The CDA and CC fail to follow their own mission statement and do not investigate the complaints directed at PVT encampments. This allows imminent health and safety conditions to continue and worsen.
- Fi. 14** An inter-jurisdictional task force with members from city and county law enforcement and fire, probation, Code Compliance, Environmental Health, homeless advocates, the chambers of commerce and interested citizens should be able to come up with a plan, using existing laws and codes, for resolving the situation with the PVTs.

## **Recommendations**

- R. 1** The Nevada County Board of Supervisors should direct the Community Development Agency to work in conjunction with the Nevada County Sheriff's Office and other city and county agencies to enforce existing codes and regulations to reduce the number of hazardous encampments.
- R. 2** The Grass Valley City Council should examine the benefits of establishing a foot patrol in Grass Valley.
- R. 3** The Nevada County Board of Supervisors should take the lead in establishing an inter-jurisdictional task force with members from city and county law enforcement and fire, probation, Code Compliance, Environmental Health, mental health professionals, homeless advocates, the chambers of commerce and interested citizens to develop a plan, using existing laws and codes, for improving the situation with the PVTs.
- R. 4** The Nevada County Board of Supervisors should direct the Information Technology Department to design and implement a tracking and reporting system to enable city and county departments to determine how much money is being spent on the PVT problem.

## Responses

Grass Valley City Council

Findings 2, 4, 6

Recommendation 2

Due Date: September 27, 2014

Nevada County Board of Supervisors

Findings 2, 3, 6, 9, 10, 12-14

Recommendations 1, 3, 4

Due Date: September 27, 2014

COUNTY OF NEVADA  
STATE OF CALIFORNIA  
BOARD OF SUPERVISORS



Chair Nathan H. Beason, 1<sup>st</sup> District  
Vice Chair Ed Scofield, 2<sup>nd</sup> District  
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Donna Landi, Clerk of the Board

September 16, 2014

The Honorable Thomas Anderson  
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 2013-14 Nevada County Civil Grand Jury Report,  
*Panhandlers, Vagrants and Transients, In a Neighborhood Near You?*

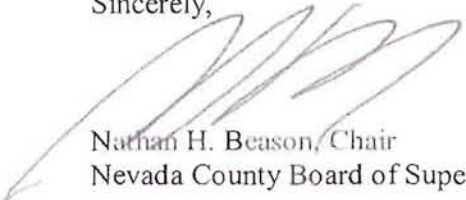
Dear Judge Anderson:

As required by California Penal Code Section 933, the Board of Supervisors hereby submits its responses to the 2013-14 Nevada County Civil Grand Jury Report, dated June 27, 2014, entitled *Panhandlers, Vagrants and Transients, In a Neighborhood Near You?*

These responses to the Grand Jury's Findings and Recommendations were approved by the Board of Supervisors at their special meeting on September 16, 2014. The Responses are based on either personal knowledge, examination of official County records, information received from the County Executive Officer (Department of Social Services), or the Board of Supervisors and County staff members.

The Board of Supervisors would like to thank the members of the 2013-14 Grand Jury for their participation and effort in preparing their Reports, and their participation in the Grand Jury process.

Sincerely,



Nathan H. Beason, Chair  
Nevada County Board of Supervisors

cc: ✓ Keith Overbey, Foreman, Grand Jury  
Rick Haffey, County Executive Officer

950 Maidu Avenue, Suite 200, Nevada City CA 95959-8617  
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website: <http://www.mynevadacounty.com/nc/bos>

**NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO**  
**2014 Nevada County Civil Grand Jury Report**  
**Panhandlers, Vagrants and Transients, In a Neighborhood Near You?**

**DATED: June 27, 2014**

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, (Department Of Social Services) or testimony from the Board of Supervisors and county staff members.

**A. RESPONSES TO FINDINGS:**

**Finding 2: The problems with PVTs will continue to increase until city and county leaders seriously address the problem.**

**Partially Agree.**

The statement “the problems with PVTs will continue to increase” is based on perception, not data. The data shows that the number of homeless individuals in our community has actually decreased slightly since 2009. Data collected is a “Point-in-Time Homeless Persons Count” following data collection criteria of the Department of Housing and Urban Development. The data collection provides a count of sheltered and unsheltered homeless persons. Counts are further broken down into subpopulation categories including counts of persons who are chronically homeless, persons with severe mental illness, chronic substance abusers, Veterans, persons with HIV/AIDS, and victims of domestic violence.

The number of persons on General Assistance aid has also decreased in the last five years. Typically, homeless populations are subcategorized by “families, individuals, youth, veterans, and the chronically homeless” because of the unique experiences and challenges that each of these groups face. It is important to note, the County has received reports that homeless services provided by local non-profit providers have increased.

County programs are designed to target the root causes of homelessness through assisting individuals as they are released from jail or on probation, and through providing housing, job training, substance abuse treatment, medication management and coordinated case management. These programs are significantly less expensive than the inevitable alternatives (hospitalization or jail). Additional resources for these programs would improve effectiveness. However some individuals will continue to choose a “homeless” lifestyle and for the most part, these individuals do not engage in criminal behavior.



**Finding 3: It is only a matter of time until a health incident or serious fire occurs in one of the illegal camps.**

**Partially Agree.**

The report focuses on a sub-population called Panhandlers, Vagrants and Transients. However, homeless individuals who inhabit encampments are not necessarily the same sub-populations. We agree that encampments are not safe for those who live there and do pose a risk to the greater community, but this is a different issue than panhandling as it is estimated that only 40-60% of panhandlers are actually homeless. In addition, only 44% of homeless people are “unsheltered” and therefore might live in an encampment and only 12% are unsheltered and chronically homeless. Research shows that most residents of homeless encampments say they would prefer to live in a more conventional way with their own room and a job, however a significant number are addicted to drugs or alcohol, and/or are mentally ill. Specialty trained staff, through a County contract, visit encampments regularly to check on known mentally ill individuals and encourage them to participate in County services. Although CalFire estimates that 90% of all wildfires in California are caused by humans, campfires (recreational or otherwise) only accounted for 4% of wildfires in Nevada County in 2012.

**Finding 6: Enforcement actions authorized by law and/or codes, which are the responsibility of city and county agencies, are woefully lacking in their consistency and continuity of effort.**

**Disagree.**

All complaints received regarding properties located within unincorporated areas are investigated by Nevada County Code Compliance. A majority of the complaints received deal with trespass issues which are not enforceable by the Community Development Agency or the Code Compliance Division.

**Finding 9: Mixed jurisdictions and agency responsibilities can complicate enforcement efforts.**

**Agree.**

**Finding 10: Very few city and county agencies accurately track incidents or costs associated with PVTs.**

**Agree.**

The Department of Social Services tracks the number and cost of services for General Assistance and nutritional assistance to individuals, who are homeless. In addition, Behavioral Health tracks the costs of providing housing and mental health treatment services to its clients, who may be homeless. Numerous cost studies have shown that providing shelter and basic services to the homeless population is significantly less expensive than the inevitable alternative: hospitalization, emergency medical treatment, prison/jail.

Although the Grand Jury’s definition of “transient and vagrant” does not stipulate an amount of time associated with that definition, the annual Homeless Count includes surveying homeless individuals and tracks the length of time individuals have been in Nevada County. For example, in 2013 of the 141 completed surveys, only ten respondents indicated they had resided in Nevada County for less than one year and only one individual indicated they were “just passing through.” In contrast, 74 individuals

indicated they have been in the county their whole lives or more than 5 years up to. Many statistics are maintained on homeless and low income populations; however the term "Panhandlers, Vagrants, and Transients (PVT)" is not a term the County uses and is not a stand-alone tracked category.

**Finding 12: CC has the responsibility and the tools necessary to remedy the sub-standard conditions found in PVT encampments, but does not enforce these statutes.**

**Disagree.**

The Code Compliance Division responds to complaints and is not authorized to independently act to remedy violations of the Codes. When a complaint is filed, and a violation is verified, the Code Compliance Division works with the property owner to rectify or eliminate the violation.

**Finding 13: The CDA and CC fail to follow their own mission statement and do not investigate the complaints directed at PVT encampments. This allows imminent health and safety conditions to continue and worsen.**

**Disagree.**

All complaints received regarding properties located within unincorporated areas are investigated. A majority of the complaints received deal with trespass issues which are not enforceable by the Community Development Agency or the Code Compliance Division.

**Finding 14: An inter-jurisdictional task force with members from city and county law enforcement and fire, probation, code compliance, environmental health, homeless advocates, the chambers of commerce, and interested citizens should be able to come up with a plan, using existing laws and codes for resolving the situation with the PVTs.**

**Partially Agree.**

Thus far, no community in the country has found a long term solution to dealing with the issues related to homelessness. However, existing efforts include:

1. The Homeless Resource Council of the Sierras' ongoing workgroup, the Nevada County Coordinating Council, meets monthly in Nevada County. The group consists of homeless advocates, non-profit leaders, mental health professionals, and county staff (HHSA) to address homeless outreach/intake/assessment, prevention of housing loss, rapid re-housing, emergency shelter, transitional housing, permanent housing, and supportive housing.
2. Coordination between Law Enforcement and Social Services exists through Eligibility Worker visits to the Wayne Brown Correctional facility and Probation offices to assist recently released individuals and probationers to apply for Medi-Cal. Life skills and financial planning classes are offered to these groups as well as an evidence based practice to improve self-sufficiency skills and reduce recidivism rates.
3. The Community Development Agency routinely coordinates with the Sheriff's Office and other county departments to enforce existing codes and regulations.

## B. RESPONSES TO RECOMMENDATIONS

**Recommendation 1: The Nevada County Board of Supervisors should direct the Community Development Agency to work in conjunction with the Nevada County Sheriff's Office and other city and county agencies to enforce existing codes and regulations to reduce the number of hazardous encampments.**

**The recommendation has been implemented.**

The Community Development Agency routinely coordinates with the Sheriff's Office and other county departments to enforce existing codes and regulations.

**Recommendation 3: The Nevada County Board of Supervisors should take the lead in establishing an inter-jurisdictional task force with members from city and county law enforcement and fire, probation, Code Compliance, Environmental Health, mental health professionals, homeless advocates, the chambers of commerce and interested citizens to develop a plan, using existing laws and codes, for improving the situation with the PVTs.**

**The recommendation will not be implemented.**

Existing efforts preclude the need for the Board of Supervisors to take the lead in establishing an additional taskforce. Already addressing these issues are the Homeless Resource Council of the Sierras which has an ongoing workgroup, the Nevada County Coordinating Council that meets monthly in Nevada County. This group is working on homeless outreach/intake/assessment process, prevention of housing loss, rapid re-housing, emergency shelter, transitional housing, permanent housing, and supportive housing. Individuals from city and government agencies are members of this work group. Other city and county agencies can join this existing group. Coordination between Law Enforcement and Social Services exists through Eligibility Worker visits to the Wayne Brown Correctional facility and Probation offices. The Community Development Agency routinely coordinates with the Sheriff's Office and other county departments to enforce existing codes and regulations.

**Recommendation 4: The Nevada County Board of Supervisors should direct the Information Technology Department to design and implement a tracking and reporting system to enable city and county departments to determine how much money is being spent on the PVT problem.**

**The recommendation will not be implemented.**

"Panhandlers, Vagrants, and Transients (PVT)" is not a term the County uses, nor a subpopulation that is specifically tracked. Identified social and criminal issues associated with the homeless population are addressed by the County. The County addresses the criminal element (to the extent that the behavior is actually illegal) through Law Enforcement and Code Compliance. The social element (to the extent that individuals are willing and interested in assistance) is addressed through Health and Human Services programs which assist residents in overcoming their barriers to permanent housing and self-sufficiency through substance abuse treatment, mental health treatment, temporary and transitional housing, case

management, life skills development and public assistance for those who qualify. Both of these elements are tracked through existing systems. The cost to implement an additional tracking system would be prohibitive and would not address the core causes of the overall problems.

