

Shasta County Service Areas – Elk Trail Water Improvement Project

“When the well’s dry, we know the worth of water.” –Benjamin Franklin

SUMMARY

Prompted by a citizen complaint, the 2016/17 Shasta County Grand Jury investigated the relationship between the Shasta County Water Agency and Shasta County Department of Public Works. The Grand Jury examined the roles both entities play with regard to Shasta County Service Areas. The investigation included the accounting practices of the Shasta County Water Agency, the County Service Areas, and Public Works.

The Grand Jury found there is currently no dedicated water systems engineer; instead, three Department of Public Works engineers share the responsibility of overseeing water issues for the Shasta County Water Agency. The Grand Jury also discovered County Service Area customers were charged for a fine levied against their County Service Area due to a Public Works personnel error. The Grand Jury concluded both the Water Agency and County Service Area residents would benefit from a dedicated water systems engineer overseeing water contracts, purchases, and improvement projects; addressing water loss issues in the County Services Areas would also be facilitated.

Of special note was how Shasta County handled long-standing water issues in the Elk Trail subdivision. It appears conflicting information provided by Public Works staff to Elk Trail residents caused those residents to expend over \$10,000 securing a long-term water source they would never use. In addition, the Grand Jury found that as of March 2017, the Water Agency has charged County Service Area #6 – Jones Valley residents \$13,900 for a water transfer that has not occurred and should not cost the residents anything.

Finally, it was discovered County Service Area #6 – Jones Valley was also charged almost \$5,000 by Public Works for employee time spent on this Grand Jury investigation. The Grand Jury questions if these charges comply with California Proposition 218. Further, the Grand Jury questions whether a violation of a signed confidentiality agreement may have occurred when a Public Works project title identifying a Grand Jury investigation was created, and again when documentation with this title was distributed to the public.

BACKGROUND

The 2016/17 Shasta County Grand Jury received a citizen complaint that included concerns about the lack of a dedicated manager for water-related activities in the Shasta County Water Agency, a lack of action by Shasta County Department of Public Works to address water losses in the County Service Areas, and delays in the Elk Trail Water Improvement Project.

The United States Bureau of Reclamation (the USBR) created the Central Valley Project (CVP) in 1933 to manage water in California’s Central Valley. Entities are allotted certain water amounts agreed upon through long-term contracts. Annual allotments are announced around March of each year.

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The Shasta County Water Agency was established in 1957 by State law. The Water Agency's primary purpose is "to develop water resources for the beneficial use of the people of Shasta County." The Water Agency is responsible for the annual purchasing and administration of 5,000 acre-feet of CVP water in the County. Of this amount, 1,022 acre-feet is allocated to the County Service Areas (CSAs). This water is secured through a long-term contract between the Water Agency and the USBR. Although the Water Agency employs no staff, staff time is purchased from the Shasta County Department of Public Works ("Public Works"); the Public Works Director acts as the Water Agency Chief Engineer. The Water Agency Board of Directors is the Shasta County Board of Supervisors.

CSAs were established by State law in 1953. A CSA is an unincorporated area of a county whose residents have voted to pay an assessment in exchange for receiving a service from the county. Services may include law enforcement, fire protection, street lighting, water supply, or sewer. The county board of supervisors serves as the governing board of a CSA. There are currently 11 "active" CSAs in Shasta County: six water CSAs, two water/wastewater CSAs, one sewer CSA, one street lighting CSA, and one fire protection CSA.

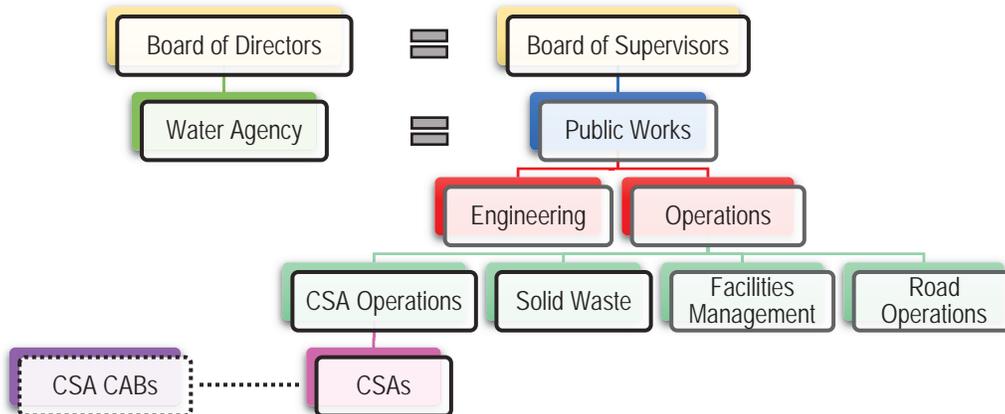
Public Works employees oversee CSA water quality testing, management, and maintenance. State drinking water regulations are enforced by the State Water Resources Control Board ("the Control Board") Division of Drinking Water ("the Division"). The Control Board has the authority to issue citations to water systems that violate drinking water regulations. In Shasta County, citations are issued to the individual CSAs through Public Works.

The County maintains at least one individual "enterprise fund" on behalf of each CSA. An enterprise fund is a fund that provides goods or services to the public for a fee that makes the entity self-supporting. There are rules and regulations that determine what expenses can be charged to each account, based on the source of the monies and how they are collected.

In 1981, the Board of Supervisors established Community Advisory Boards (CABs), which are comprised of CSA property owners who provide insight and recommendations to the Board of Supervisors on behalf of the CSA. While they hold no power, CABs were created to encourage a good working relationship between the County and the CSAs. CABs are typically comprised of seven CSA property owners appointed by the Board of Supervisors based on the results of informal elections held in the CSAs. Only four CABs remain: Keswick, French Gulch, Jones Valley, and Sugarloaf.

A Water Agency / Public Works Organizational Chart is included.

Water Agency / Public Works Organizational Chart



METHODOLOGY

The Grand Jury interviewed:

- Shasta County Board of Supervisors member
- Shasta County Department of Public Works personnel
- Shasta County Auditor-Controller’s Office personnel
- Anderson-Cottonwood Irrigation District (ACID) Board of Directors member
- Former ACID Management personnel
- State Water Resources Control Board personnel
- Pace Engineering, Inc. personnel
- Rural Communities Assistance Corporation personnel
- Elk Trail Water Association member
- Basic Laboratories, Inc. personnel

The Grand Jury reviewed:

- United States Department of Interior – Bureau of Reclamation Long Term Renewal Contract with Shasta County Water Agency, Contract No. 14-06-200-3367A-LTR1
- Shasta County Department of Public Works organizational chart, January 2014
- Shasta County Department of Public Works timecard audit trail balances, July 2015 to April 2017
- Shasta County budgets from FY 2014/15 to 2016/17 for:
 - Public Works – Shasta County Water Agency
 - Public Works – CSA Administration Fund – 00060
 - Public Works – County Service Areas Division
- Shasta County Board of Supervisors Resolution #81-238, November 3, 1981
- Various Shasta County Board of Supervisors agendas, 2007 to 2017

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- Various Shasta County Water Agency staff reports, 2008 to 2016
- Shasta County Water Agency Board of Directors Resolution No: 2008-01, Resolution of Intent to Transfer Water from County Service Area #25 – Keswick Water to County Service Area #6 – Jones Valley Water, March 11, 2008
- Shasta County Water Agency Monthly Consumption Tracking Reports, from January 2011 to October 2016
- Shasta County Water Agency Monthly Consumption Summaries, from 2011 to 2015
- Shasta County Service Area annual water allotments, from 2006 to 2016
- ACID Central Valley Project water fee schedule, 2016
- ACID and Elk Trail Water Association Intent to Transfer Agreement, February 28, 2007
- Elk Trail Water Association Letter of Termination to ACID, March 29, 2008
- ACID Board of Directors meeting agenda packets regarding Elk Trail Water Association water transfer, from October 12, 2006, through April 25, 2008
- PACE Civil Common, Inc., Preliminary Engineering Report – Elk Trail Area, Job. No. 199.63, December 2007
- PACE Civil Common, Inc., Elk Trail Water Feasibility Study Presentation, May 22, 2007
- Rural Community Assistance Corporation Elk Trail Water Association Income Survey, April 2008
- Shasta County Elk Trail Water System – AD No. 2010-12 – Charge Detail Report
- Funding agreement between Shasta County and CDPH – SRF11CX106: Project Number 4510004-001, Elk Trail Water Improvement Project Construction, June 30, 2011
- Documents and communications related to SRF11CX106: Project Number 4510004-001, Elk Trail Water Improvement Project
- Annual assessment schedule for Elk Trail Assessment District, FY 2016/17
- Jones Valley Community Advisory Board minutes, January 2007 to December 2016
- Shasta Local Agency Formation Commission (LAFCO) Final Municipal Service Review and Sphere of Influence Update for County Service Area #6 – Jones Valley, November 5, 2009
- Shasta LAFCO agenda packets, November 5, 2009, and December 10, 2009
- Shasta LAFCO meeting minutes, December 18, 2014
- Environmental Protection Agency “Water Audits and Water Loss Control for Public Water Systems”, July 2013
- California Safe Drinking Water Act (California Code of Regulations sections 60001-65808)
- California County Service Area Law (California Government Code section 25210.1)
- California Proposition 218

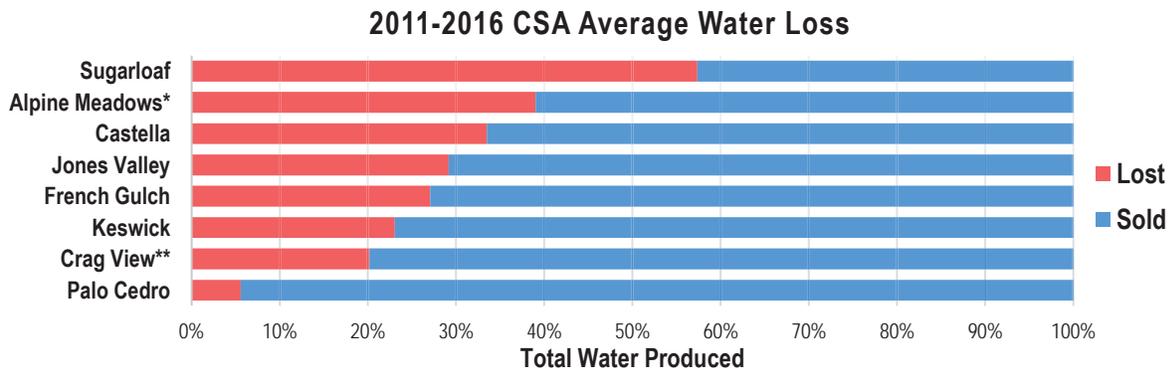
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- Shasta County Code Chapter 13.12 – County Service Areas
- California Department of Public Health Memorandum, “State Adoption of Revised Waterworks Standards”, April 22, 2008
- State Water Resources Control Board Citation 01-02-16C-020
- Record Searchlight, KRCR News Channel 7, and East Valley Times articles
- U.S. Department of Labor Statistics Consumer Price Index (“CPI”) Inflation Calculator
- State Water Resources Control Board website, www.swrcb.ca.gov
- Shasta County Department of Public Works CSA website, www.co.shasta.ca.us/index/pw_index/operations/csas.aspx

DISCUSSION

Water Losses in CSAs

An issue raised in the citizen complaint was water loss in CSA #6 – Jones Valley (“Jones Valley”). CABs and private citizens have expressed concerns regarding water losses in their CSAs for numerous years. According to Public Works, water loss is the difference between the production and sales of water. Production is the amount of water pumped from the source. Sales are based on the amount of water measured at residential meters. According to the Environmental Protection Agency (EPA), the national average water loss in systems is 16%. Over the past six years, reported water losses in all the Shasta County CSAs show a range of 5% to 57%, with all but one CSA reporting losses well above the national average. The 2011-2016 CSA Average Water Loss Chart shows these water losses by percentage of total water produced (sales plus loss).



*No data before 2015 was available for Alpine Meadows.

**No 2012 data was available for Crag View (see Appendix).

Causes for water loss include aging or faulty meters, fire hydrant flushing, theft, and distribution system leaks. System breaks may also occur, such as the August 30, 2016, Keswick line break.

Public Works attributes the majority of water losses to faulty customer meters or from losses in the distribution system. As meters age, they record less water flowing through them. When new meters are installed, Public Works staff expect the amount of recorded water use to increase. Consequently, customers would pay more. In addition, unless grant funding is available,

residents have to pay for new meters and their installation costs. Even grant applications have a cost associated with them, which is paid by the CSAs.

Leak detection studies can be performed to pinpoint water loss sites. In May 2016, Public Works was informed they would receive a \$300,000 grant to perform a leak detection study in Jones Valley. The Jones Valley CAB supported the grant application. As of February 2017, Public Works had received authorization from the State to use the funding. PACE Engineering, Inc., was awarded the contract for the study. On May 16, 2017, the Board of Supervisors voted to put the study on hold. The reason given was because Jones Valley does not have sufficient funds to address any water loss sources discovered by the study. The 2016/17 approved budget for the Jones Valley Administration Fund – 0377 shows \$1.968 million is expected to remain at the end of the current fiscal year.

Additionally, water loss in a CSA is reflected in higher water bills, because extra water must be purchased to provide an adequate supply to CSA customers and compensate for the lost water. Repairing system leaks could, over the long term, lower the cost of water to customers, because less water would need to be purchased by the Water Agency for the CSAs. In this case, other costs associated with the pumping and treatment of the water would also decrease.

Without grants, however, any repairs to stem water losses would be charged to the CSAs. A study would have to be done to locate the source of leaks in the distribution system. Public Works personnel indicated no engineers in Public Works are currently dedicated to facilitating grant applications or leak detection studies to address these water loss issues in the CSAs. Such work may even be contracted out, based on the complexity of the issue.

Shasta County Water Agency

The Water Agency, a County-wide special district, maintains one fund through the County Treasury. This fund is dedicated to “the wholesale purchase and sale of water from the Bureau of Reclamation to various water purveyors in Shasta County” and “current and pending water-related issues” in the State.

The Water Agency gets its funds primarily from property taxes and water sales to the CSAs and other water districts; it pays out monies to the USBR and other water sources for water purchases. Additionally, these monies are sometimes used to fund treatment facility or other waterworks improvement projects for the CSAs. The Water Agency typically advances two percent of proposed assessment district projects, and property owners pay for costs.

The Water Agency does not employ any staff. Instead, the Water Agency purchases staff time from Public Works. In FY 2016/17, the Water Agency budgeted \$95,000 for Public Works staff time. Currently, four Public Works employees, three of whom are engineers, divide their time between Public Works and the Water Agency; one engineer’s salary is mostly paid by the Water Agency. This engineer, who is responsible for Water Agency compliance reporting and grant administration, is also a County Development Services engineer. None of these Public Works staff are dedicated to only handling water issues.

At the July 21, 2015, Board of Supervisors meeting, the Public Works Director confirmed that Public Works' engineers are "not water system engineers, solely", and that outside consultant services are required to advise on water distribution technologies.

CSA Budgets

Public Works' mission is, "To provide safe, reliable, and cost-effective facilities and services to the residents of Shasta County." Public Works is organized into two divisions and four subdivisions. Each subdivision has its own dedicated fund in the County Treasury. The CSA Operations subdivision is responsible for managing and maintaining the County's CSAs. The CSA Operations' account, titled the CSA Administration Fund – 00060, is described by the County as follows:

This budget reflects the fiscal activity of the 'umbrella' organization, which provides operational and administrative support to eleven active County Service Areas (CSA), four Street Lighting Districts and 88 subsidiary Permanent Road Divisions. More than 3,500 County residents currently benefit from the services provided by CSAs. The CSA Administration Fund is financed entirely by the charges to the individual CSAs. Responsibility for management of this unit, and provision of CSA services, is within the Department of Public Works. Personnel directly assigned to CSA Administration include one clerical position, five field technicians, and five extra-help technicians.

The CSA Administration Fund – 00060 is a zero-sum account, meaning the annual revenues and expenditures must equal each other at the end of every fiscal year. This fund is a "pool" from which CSAs may purchase resources and services. Public Works administrative staff stated they were unaware Permanent Road Divisions were charged administrative fees; they reported these fees would not be "co-mingled" as identified above. Further, descriptions of the CSA Administration Fund – 00060, Special District funds, and Public Works' website show discrepancies in the number of "active" CSAs, Permanent Road Divisions, and Street Lighting Districts administered by the County. The Grand Jury could not determine which special districts are charged fees through the CSA Administration Fund – 00060, nor the amounts of these fees.

None of the CSAs employ independent staff. Public Works CSA Operations provides clerical and field technician employees, and charges the CSAs' enterprise funds for the employees' hours. As of January 2017, there were five full-time employees and two extra-help technicians in CSA Operations. Water treatment facility operation, distribution system maintenance, repairs, meter reading, and billing are examples of services purchased by CSAs from the CSA Administration Fund "pool". The costs associated with delivering water to a CSA customer are charged against the appropriate CSA enterprise fund. Other Public Works employees, including the Development Services engineer, also charge the CSAs' enterprise funds for services.

The CSAs' enterprise funds are also charged for fines attached to State-issued citations. In 2015, CSA #3 – Castella ("Castella") received a citation and \$1,000 fine from the Division for a drinking water violation. On September 28, 2015, Public Works staff turned off a piece of monitoring equipment and its alarm for an extended amount of time, during which a violation occurred. Public Works failed to notify either the Division or Castella customers of the incident within 24 hours, as mandated. The Division only became aware of the violation "by reviewing

the monthly report.” The monthly report also failed to include a written explanation of the cause of the violation. Citations are sent to Public Works as the CSAs’ administrating entity, but any fines associated with the citations are charged to the CSAs’ individual enterprise funds. The Grand Jury is of the opinion that payment of such citations should not be borne by individual CSA enterprise funds.

Elk Trail Residents Search for Water

The Elk Trail East and West subdivisions were developed in the 1970’s along the southeast portion of Shasta Lake. Residents relied on privately owned wells. Some of these wells produced low yields. Some residents began purchasing and hauling their own water; they also began pushing the idea of connecting to an existing water district.

In July 2004, the Board of Supervisors considered approving a land consolidation with a Jones Valley resident for future development. Some area residents voiced concerns to the Board of Supervisors that the proposed subdivision would impact their well-water production. The Board of Supervisors unanimously approved the consolidation of the proposed subdivision. Elk Trail residents continued to haul water.

Two large fires in the area exacerbated the water availability issues. The October 1999 Jones Fire burned approximately 26,000 acres, destroyed 174 homes, and displaced 2,500 Jones Valley residents. The August 2004 Bear Fire scorched another 11,000 acres and destroyed 88 homes; some of these homes had been repaired or rebuilt after the Jones Fire. Some residents mobilized as the Elk Trail Water Association (ETWA) in early 2006 and began communicating with Jones Valley CSA for annexation and inclusion in its water distribution system.

ETWA was informed by Public Works it would have to secure 120 acre-feet of water annually to complete this annexation. ETWA approached Anderson-Cottonwood Irrigation District (ACID) for water; on October 12, 2006, the ACID Board of Directors approved a promissory agreement to hold 120 acre-feet of water until March 2009 for ETWA. Upon completion of the water distribution system, the agreement would transition from a promissory hold to a transfer agreement, set to expire in 2045. Water transferred under this agreement was to be dedicated to Elk Trail residents. Due to California water law, actually transferring the water would have to be completed through a separate agreement with the Water Agency.

In January 2007, the Water Agency Board of Directors allotted \$50,000 of Water Agency funding to commission PACE Civil Engineering, Inc. (“PACE”), to produce a Water Supply Feasibility Study, also known as a Preliminary Engineering Report, for an Elk Trail Water Improvement Project (“ETWIP”).

In February 2007, the ETWA gained a 501(c)(3) nonprofit status. At the direction of the Water Agency, ETWA returned to the ACID Board of Directors for an amendment to the approved agreement, increasing the annual available amount of water from 120 to 140 acre-feet. An ACID staff report stated, “The Water Agency has prevailed upon the ETWA to provide 0.7 acre feet of water per household or developed parcel instead of the originally-calculated 0.6 acre feet per household.” The ACID Board of Directors approved the requested amendment. The final

promissory agreement between ACID and ETWA was signed on February 28, 2007. An agreement between ACID and the Water Agency was drafted and sent to the Water Agency for review. On March 19, 2007, ETWA issued a check for \$10,900 for the first year of the promissory agreement. This money was collected by ETWA from Elk Trail residents.

On May 22, 2007, PACE held a public forum at the Jones Valley Fire Hall on the proposed ETWIP. In this presentation, three options for annexing Elk Trail into Jones Valley were offered:

- Option 4A – Elk Trail West only
- Option 4B – Elk Trail West and East
- Option 4C – Elk Trail West and western half of East

In all three options, up to seven parcels on Green Mountain Trail (located in Elk Trail West) were identified as requiring booster pumping to reach State-required minimum water pressure standards. Option 4B was ultimately selected by the residents for the project.

In September 2007, a well-water quality study prepared by Lawrence & Associates was presented to the Board of Supervisors; the Water Agency paid \$20,000 for the study. The results confirmed Elk Trail residents' concerns and classified the wells as having poor quality and yield. ETWA reported to the Board of Supervisors that 30% of Elk Trail residents were still hauling water. Also in September, a straw (unofficial) poll showed over 75% of Elk Trail property owners supported annexation into Jones Valley. As of September 25, 2007, approximately \$100,000 of Water Agency funding had been spent towards the ETWIP, of which \$30,000 was for “[the Water Agency Chief Engineer’s] time”.

In December 2007, PACE completed the Preliminary Engineering Report, which suggested four options for Elk Trail East and West residents:

- Find a new ground water source
- Purchase water from the Bella Vista Water District
- Do nothing
- Annex into the existing Jones Valley water distribution system

Only annexation into Jones Valley was considered to be a “viable” option. The Preliminary Engineering Report included potential funding sources for a water distribution project. The Report also stated a minimum amount of 140 acre-feet of water would be required for annexation into Jones Valley. The Report acknowledged the existing agreement between the Elk Trail Water Association (ETWA) and Anderson-Cottonwood Irrigation District (ACID) as follows, “It is expected this water acquisition will be accomplished through a long-term transfer of CVP water from Anderson-Cottonwood Irrigation District”.

Elk Trail Water Improvement Project

The Elk Trail Water Improvement Project (ETWIP) demonstrates the great costs, both in time and funding, involved with designing and constructing a complex water distribution system.

On October 28, 2008, staff reported to the Board of Supervisors that the Water Agency had applied for federal and state grants and loans. If all monies were received, property tax assessments would be approximately \$120 per month per parcel. Once the grant proposals were submitted, Water Agency staff could then apply to the Shasta Local Area Formation Commission (LAFCO) for Elk Trail’s annexation into Jones Valley. The Water Agency had reportedly expended over \$200,000 on the ETWIP, two percent of the estimated cost of the project. Construction of the ETWIP could be completed by 2011.

Public Works and ETWA worked to identify potential funding sources for the ETWIP. Elk Trail residents identified the EPA as a potential grant funding source. On January 30, 2009, Public Works submitted a construction funding application (both loan and grant) to the California Department of Public Health (CDPH) State Revolving Fund. In August 2009, grant opportunities were expected to cover up to 60% of this cost, leaving the Elk Trail residents with a \$4 million balance. This would be covered by a property tax assessment levied on each parcel in the Elk Trail area. A second straw poll showed 79.7% still supported the annexation. On November 5, 2009, LAFCO approved the County’s annexation request.

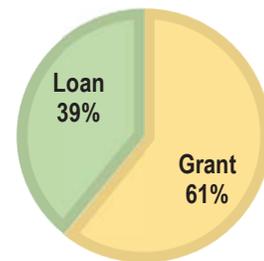
In February 2010, PACE was awarded the bid to design and prepare the ETWIP plans and specifications. The EPA awarded a construction grant to the County in July 2010. A major funding setback for the project occurred in August 2010 when the County was notified by the State Revolving Fund that the State’s budget impasse halted any funding agreements for the ETWIP. It wasn’t until ten months later that the County finally received its funding agreement from the State Revolving Fund, allowing the project to move forward. The County put out a request for bid on the project, which was estimated to cost \$8 million and take under two years to complete. TICO, Construction, Inc., was awarded the bid and began construction on November 16, 2011.

On February 5, 2013, the ETWIP was “nearly” complete, but there was still an issue with seven parcels in Elk Trail West. Due to the terrain and small number of affected parcels, individual booster pumps for these parcels were recommended. Adding a “community” booster pump station was considered to be cost prohibitive for the project. The State raised the required minimum water pressure to 40 pounds per square inch (psi) from 20 psi. The County offered parcel owners \$2,500 each to cover the cost of individual booster pumps. If even one of the parcel owners declined the compensation, a community booster pump would have to be installed, and the project’s completion date would be pushed back. Such a community booster pump was estimated to cost \$100,000 to be paid by all the Elk Trail residents.

Due to one or more of the property owners declining the \$2,500 offered by the County, the community booster pump station was constructed using remaining loan funding. The County officially filed the Notice of Completion with the State in October 2013.

The ETWIP was inspected and certified by the State as being “complete” in December 2013.

ETWIP Funding Sources



From the date of the Preliminary Engineering Report to the final Notice of Completion, the Elk Trail Water Improvement Project took six years to complete. Of the \$9.673 million spent on the project, 61% was covered by grant funding (see Appendix). Only the CDPH loan cost is paid by Elk Trail residents, through a special benefit tax assessment added to their yearly property taxes. The property tax assessment to cover the loan is \$48 per month, much below the \$120 per month originally projected by Public Works. This was due to the efforts of both Elk Trail residents and Public Works staff.

Water Transfer between CSAs

Prior to 2005, CSA #25 – Keswick (“Keswick”) was a Community Services District that held the rights to 500 acre-feet of CVP water. The Water Agency acquired that contracted water when Keswick became a CSA in 1992. When the United States Bureau of Reclamation (USBR) renewed its long-term contracts for CVP water in 2005, the Keswick contract was merged with the Water Agency’s contract, creating a 1,022 acre-foot “common pool” for all CSAs.

On February 15, 2007, Public Works personnel sent a letter to a concerned Elk Trail resident addressing the potential water sources for Elk Trail. This is the first documented mention of another water source besides ACID: Keswick. “Keswick CSA could potentially enter into a permanent water transfer, thus providing greater water security beyond the 37-year horizon. However, Keswick doesn’t have 140 acre-feet of surplus available to transfer.” [emphasis added] The letter identified ACID as the best option for water, as follows, “This is a good deal, as good a deal as any presently available on the open market...If Elk Trail East and West go forward, then outside water will be required. ACID is the most viable source at the moment.”

The Keswick water was not mentioned in the December 2007 Preliminary Engineering Report. The Report listed the ACID water transfer as the likely source of water for Elk Trail. On January 11, 2008, the Water Agency moved forward with the ACID transfer by sending a revised draft water transfer agreement to ACID.

On February 26, 2008, Water Agency staff presented the “CSA #6 – Jones Valley Water Right” report to the Water Agency Board of Directors, which proposed Keswick water as the most viable water source for Elk Trail. This transfer was projected to be substantially less expensive than ACID’s water over the lives of both agreements. The “CSA #6 – Jones Valley Water Right” staff report stated all Water Agency water is available for use anywhere in the County, as follows:

So Keswick CSA’s 500 acre-feet and Jones Valley CSA’s 190 acre-feet are both in a “common pool” (along with another 332 acre-feet assigned elsewhere). The USBR has said that all SCWA water can be used anywhere within the SCWA service area, which is the entire County. No USBR approvals are needed. No surcharges apply. County staff also negotiated one of the lowest unit costs in the CVP, and no “Take-or-pay” provision. We pay only for what we actually use. We cut a good deal. [emphasis added]

Public Works was directed to ask the Jones Valley CAB to vote on the transfer before approval by the Water Agency Board of Directors. The March 2, 2008, Jones Valley CAB meeting minutes reflect that Public Works staff presented the following information:

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- Keswick was willing to “sell” Jones Valley 100 acre-feet of water per year.
- There would be “no impact to Jones Valley CSA 6 financially.”
- “The County will provide a gratuity to Keswick in the amount of \$30 acre foot per year.”

The Jones Valley CAB initially voted 2-3 to recommend to the Board of Supervisors to accept Keswick’s offer. After the motion failed, the minutes stated Public Works staff informed the CAB that the Board of Supervisors would not enter into an agreement with ACID. Furthermore, the ETWIP “would be tabled” if Jones Valley did not support Keswick’s proposal. The Jones Valley CAB voted on the motion again, this time approving 4-1 to recommend the Board of Supervisors accept Keswick’s offer.

On March 11, 2008, the Water Agency declined to continue the agreement with ACID. At the same meeting, the Water Agency Board of Directors also adopted Resolution No: 2008-01, a resolution of intent to transfer up to 100 acre-feet of water from Keswick to Jones Valley each year. Reserving the water would cost \$1,000 per year and be paid by the Water Agency through December 31, 2012. If Jones Valley chose to enter into a long-term transfer agreement for the water by that date, payment responsibility would then shift to Jones Valley CSA. Keswick would start receiving \$3,000 (adjusted for inflation based on FY 2008/09) annually and also include any costs incurred by Keswick from the USBR for the transfers. The Grand Jury could find no record of a long-term transfer agreement as described by this resolution. Additionally, no other resolutions or agreements between CSAs for water transfers were found.

The statements recorded in the March 2, 2008, Jones Valley CAB minutes regarding the Keswick transfer are contrary to the Water Agency “CSA #6 – Jones Valley Water Right” staff report and associated Resolution, as follows:

- The amount of water required for Elk Trail
- Whether the purchase would financially impact Jones Valley CSA
- How much the County would pay Keswick per acre-foot

Because the Water Agency declined to continue negotiating with ACID, ETWA cancelled its promissory agreement with ACID on March 29, 2008. The ACID Board of Directors passed a resolution officially terminating the contract with ETWA on April 25, 2008.

Between FY 2008/09 and FY 2011/12, the Water Agency paid Keswick a total of \$4,000. In FY 2012/13, Jones Valley then began paying Keswick from its enterprise fund Jones Valley Water Fund – 0377. As of March 3, 2017, Public Works reports “no water has actually been transferred pursuant to the above Resolution.” Therefore, as of March 3, 2017, Jones Valley CSA has compensated Keswick CSA \$13,090.11 for water Jones Valley has never received, as shown in the Resources Transferred Table.

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Resources Transferred under SCWA Resolution No. 2008-01			
Fiscal Year	Source of Funds	Amount Paid to Keswick	Water Transferred
2008/09	Shasta County Water Agency	\$ 1000	None
2009/10	Shasta County Water Agency*	3104	None
2010/11	Shasta County Water Agency	1000	None
2010/11	Shasta County Water Agency*	(2104)	None
2011/12	Shasta County Water Agency	1000	None
SCWA Totals		\$ 4000	None
2012/13	Jones Valley CSA	\$ 3240	None
2013/14	Jones Valley CSA	3292	None
2014/15	Jones Valley CSA	3256	None
2015/16	Jones Valley CSA	3302	None
CSA 6 Totals		\$13,090	None

*An overpayment was made by SCWA in 2009/10 and reimbursed in 2010/11.

Upon expiration of the Resolution in 2030, Jones Valley will have paid Keswick an additional \$39,000 before adjusting for inflation.

Public Works personnel confirmed Keswick does not own the water and stated the Water Agency is the sole owner and purveyor of the CVP water for the CSAs. They further stated there cannot be contracts between the CSAs because it would essentially be the County entering into a contract with itself.

Rural Community Assistance Corporation

Public Works typically conducts Median Household Income (MHI) surveys using United States Census Bureau data. The data collected from the Census Bureau disqualified Elk Trail from many grants and loans available through government programs for low-income and/or very low-income areas.

ETWA felt the County’s MHI did not “reflect adequately the ETWA service area customers’ household income level.” The Rural Community Assistance Corporation (RCAC) was contacted. The private nonprofit organization assists communities with grant-writing and surveys for improvement projects. The RCAC began an MHI survey of only Elk Trail residents in January 2008; it was completed in April 2008. The survey’s results were below Public Works’ reported MHI, which opened the ETWIP up for more grants and loans.

At a summer 2008 public meeting in Jones Valley, a verbal exchange ensued between RCAC and Public Works staff. Public Works staff were presenting information on ETWIP funding and were corrected by RCAC staff. Both parties described their interaction as being adversarial during and after the meeting. The relationship between Public Works and RCAC deteriorated after this dispute. RCAC has only been contacted once by the County since that time, regarding possible interim financing for a project (which fell through). RCAC has not assisted with any improvement project in Shasta County since that time.

The Board of Supervisors on July 21, 2015, directed Public Works staff to complete State grant applications for Jones Valley CSA and French Gulch CSA. Each CSA’s division fund balance monies were to fund the application efforts. The Board of Supervisors also directed Public

Works staff to contact RCAC for assistance. When questioned, Public Works staff admitted the RCAC was never contacted.

Jones Valley Community Advisory Board

In August 2014, Jones Valley residents requested the Board of Supervisors replace one of their CSA CAB members. The CAB, which seats eight, requires five members for a quorum. Of those eight seats, only five were filled. One member was consistently unable to attend the meetings, making it difficult to obtain a quorum. Another Jones Valley resident volunteered to replace the absent member. The residents were advised by County Counsel that they could amend their by-laws to change their meeting dates and times to better accommodate the fifth member. The informal CAB elections were to be held at the end of the year, so the Board of Supervisors denied their request. New CAB members were appointed at the January 6, 2015, Board of Supervisors meeting.

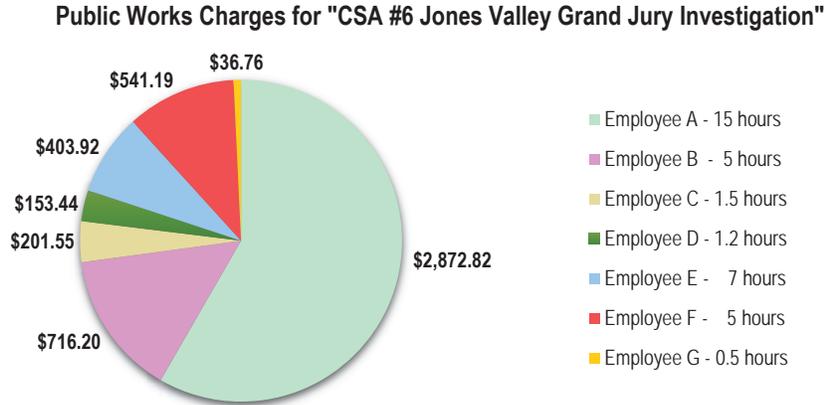
Public Works staff would regularly attend these meetings to provide updates, time card audit trail balance sheets, and to answer any questions the CSA residents may have. For their attendance, Public Works staff charge the CSAs. Public Works staff were originally attending CAB meetings on a monthly basis. In January 2015, at the recommendation of the Public Works Director, the Board of Supervisors directed staff to begin attending CAB meetings on a quarterly basis “or as mutually agreed between the Public Works Director and the CAB” instead of monthly. None of the CABs were informed that this recommendation would be made to the Board of Supervisors and only learned of it after it was approved. Jones Valley CAB members have requested monthly interaction with Public Works staff at their CAB meetings.

Grand Jury Investigation Charges

In March 2017, the Grand Jury learned a CSA was being charged for Public Works employee time spent on this Grand Jury investigation, which was about how Public Works administers the CSAs and the Water Agency. A new project number was created in Public Works’ Cost Accounting Management System, titled 111029 Project No: “CSA #6 Jones Valley Grand Jury Investigation”. This title was on timecard audit trails presented to the Jones Valley CAB March 1, 2017. As part of the CAB meetings, Public Works employees prepare and distribute timecard audit trails that itemize employee time spent on CSA projects.

From November 29, 2016, to March 29, 2017, Jones Valley has been charged a total of \$4,925.88 under this project title. These charges are listed by employee in the Public Works Charges for “CSA #6 Jones Valley Grand Jury Investigation” Chart.

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It was subsequently discovered that Public Works has previously charged CSAs for staff time spent on Grand Jury investigations. Employee time spent on Grand Jury investigations was charged under the CSAs' "Administrative Services" project titles, not under dedicated project numbers as with Jones Valley. The same accounting practice is used to charge employee time to the Water Agency. It was also discovered both Jones Valley and the Water Agency were charged under "Administrative Services" for time spent on the 2015/16 Shasta County Grand Jury report "Water Matters". These past charges were neither specified nor disclosed to the CSA residents that they were for a Grand Jury investigation. Without dedicated project titles, the charges relating specifically to Grand Jury investigations could not be calculated. An analysis by the County would be required to determine how much each CSA has been charged.

The Grand Jury acknowledges Public Works has challenges due to the Department being mostly State-funded by the "Road Fund". The State mandates that Public Works account for all staff time funded by the "Road Fund". The State would not allow its funding to be utilized for CSA services. However, General Fund monies are available to Public Works with approval of the County Administrative Office and, ultimately, the Board of Supervisors.

Pursuant to California Penal Code section 921, "The grand jury is entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records within the county." Public Works charged the CSAs for employee time related to fulfilling Grand Jury public record requests and attending interviews.

California Proposition 218 section 6.2(b) outlines the requirements for fees charged by local government entities (see Appendix). A service must be "actually used by, or immediately available to, the owner of the property". Additionally, "No fee or charge may be imposed for general governmental services". When questioned about what "service" was provided to Jones Valley CSA residents relating to these charges, Public Works personnel stated the service was gathering documents for the Grand Jury.

Finally, Shasta County Code 13.12.120 – County Service Areas Administrative Costs, states:

All costs incurred by the county for furnishing and administering the services provided in a county service area or zone thereof shall be a charge against the service area or zone and are deemed to be part of the cost of rendering the affected service.

CSA enterprise funds are for water services. A Grand Jury investigation is not a “service” provided to any specific group of residents; investigations and their subsequent reports are to improve governmental functions for the general benefit of all County residents. The Shasta County Grand Jury is funded by all Shasta County taxpayers through the County General Fund. CSA parcel owners are part of this taxpayer base. If additional resources such as a court interpreter or recorder are required by the Grand Jury, those costs are covered by the County General Fund. The Grand Jury could find no resource or service provided to the Grand Jury that is not paid out of the County General Fund.

These charges to the CSAs by Public Works are precedent-setting. The Grand Jury found no evidence that any other public entity in the State has charged a group of private citizens for resources spent on a Grand Jury investigation. This practice may have a chilling effect on citizen complaints to grand juries. CSA and other Shasta County special district residents might not file complaints knowing they will have to pay for the investigations.

The practice of charging district residents will likely have the same chilling effect on what investigations grand juries decide to undertake. Grand juries may be dissuaded from investigating small districts if these investigations may result in costs to district residents. In effect, these charges may influence which entities future grand juries investigate, thus interfering with grand jury proceedings.

The discovery of the charges to the CSAs for this investigation presented an ethical dilemma to the Grand Jury. To continue the investigation risked additional charges to Shasta County CSA residents. To drop the investigation would result in the charges going unreported, and would allow Public Works to continue this practice unbeknownst to the other CSA residents. In July 2015, Public Works staff identified multiple CSAs as being “disadvantaged” communities, one of which was Jones Valley. Only Jones Valley was notified of any charges, through the project title “CSA #6 Jones Valley Grand Jury Investigation”. Because of the gravity of these charges, the Grand Jury ultimately decided to continue pursuing the investigation.

Additionally, at least one member of the Board of Supervisors, along with County and Public Works administrative staff, were made aware of the charges under “CSA #6 Jones Valley Grand Jury Investigation” before the Grand Jury was notified. The Grand Jury has found no record of any discussion or action taken by the Board of Supervisors to address these charges.

Grand Jury Admonishments

While charging the CSA residents for a Grand Jury investigation is of great concern, confidentiality may also have been violated. A high-ranking Public Works engineer who was interviewed created a project title publicly identifying the Grand Jury’s investigation – “111029 Project No: CSA #6 Jones Valley Grand Jury Investigation”. This project title was then approved by a high-ranking Public Works administrative staff member. California Penal Code sections 924-924.6 establish that Grand Jury investigations and their subjects are confidential by nature. In 2003, the California State Attorney General provided an Opinion advising a Grand Jury may admonish witnesses who appear before a Grand Jury sitting in their civil “watchdog” capacity. A

confidentiality agreement admonishing interviewees is signed by all Shasta County Grand Jury interviewees, including each person interviewed regarding this and every investigation, states:

You are hereby admonished not to reveal to any person, except as directed by the court, which questions were asked, or what responses were given, or any other matters concerning the nature, or subject of the grand jury's investigation which you learned during your appearance before the grand jury, unless and until such time as a transcript (if any), or a final report, of this grand jury proceeding is made public, or until authorized by this grand jury or the court, to disclose such matters. A violation of this admonition is punishable as contempt of court.

The project title named Jones Valley CSA as the subject of a Grand Jury investigation. This may be a violation of the above confidentiality agreement. A further violation may have occurred when timecard audit trails with this project title were distributed to the public at a Jones Valley CAB meeting on March 1, 2017. The engineer who created this project title knew or should have known that documents with this title would be distributed to the public.

FINDINGS

Water Losses in CSAs

- F1. Water loss in seven of the eight water CSAs is above the national average and should be prioritized by Public Works staff.
- F2. The CSA customers ultimately pay for lost water, either through increased water purchases or through repairs to correct the water loss.
- F3. Identifying the causes of and/or addressing water loss will cost CSA customers unless grant funding can be obtained.
- F4. Without a dedicated water systems engineer, Public Works is less able to address CSA water loss issues and secure funding for solutions to these issues.

Shasta County Water Agency

- F5. At least three Public Works engineers are being paid by the Water Agency for duties that could be managed by a single dedicated engineer.
- F6. The Water Agency and Public Works lack dedicated management to oversee water issues in the County.

CSA Budgets

- F7. It is not clear which special districts are charged administrative fees through the CSA Administration Fund – 00060, or how much these districts are charged.
- F8. CSA customers pay fines levied against their CSA due to Public Works personnel errors.

Elk Trail Water Improvement Project

- F9. The Elk Trail Water Improvement Project demonstrates the great costs involved with designing and constructing a complex water distribution system.
- F10. The efforts of both Public Works staff and Elk Trail residents to secure grant funding for the Elk Trail Water Improvement Project resulted in a lower property tax assessment than originally projected.

Water Transfer between CSAs

- F11. Public Works staff gave Elk Trail residents conflicting information about what water sources were available, how much water was required, and from what entities the County was willing to purchase water. This resulted in the residents unnecessarily paying \$10,900 to ACID to reserve water they would never receive.
- F12. The Water Agency Board of Directors adopted Shasta County Water Agency Resolution No: 2008-01, Resolution of Intent to Transfer Water from County Service Area #25 – Keswick Water to County Service Area #6 – Jones Valley Water, resulting in Jones Valley CSA incorrectly compensating Keswick CSA \$13,090.11 to date.
- F13. This incorrect compensation will continue until Water Agency Resolution No: 2008-01 is rescinded or expires, whichever comes first, potentially costing Jones Valley CSA an additional \$39,000.
- F14. Because all CVP water purchased by the Water Agency goes into a “common pool”, Jones Valley CSA did not and cannot enter into a long-term water transfer agreement with Keswick CSA.

Rural Community Assistance Corporation

- F15. Public Works fails to take advantage of all available assistance resources due to a mutually adversarial relationship existing between Public Works staff and the Rural Communities Assistance Corporation. This results in a loss of potential aid to the entire County for future improvement projects.

Jones Valley Community Advisory Board

- F16. Jones Valley CSA CAB’s requests for monthly interaction with Public Works staff have gone unheeded by the Board of Supervisors.

Grand Jury Investigation Charges

- F17. The Grand Jury found no legal authority by which Public Works may charge a CSA for staff time spent on a Grand Jury investigation.
- F18. It appears Jones Valley CSA was improperly charged for Public Works staff time spent on a Grand Jury investigation under “CSA #6 Jones Valley Grand Jury Investigation” for an investigation about Public Works’ administration of all the water CSAs and the Water Agency.

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- F19. Without the County conducting an analysis, CSA residents cannot know how much they have been charged for any Grand Jury investigations.
- F20. The Grand Jury questions if Public Works charging CSA residents for staff time spent on a Grand Jury investigation is in compliance with Proposition 218.
- F21. The Grand Jury questions if Public Works charging CSA residents for staff time spent on a Grand Jury investigation is in compliance with Shasta County Code 13.12.120.
- F22. Charging small County district residents for resources spent on Grand Jury investigations will likely have a chilling effect on both the public and future grand juries throughout the State.

Grand Jury Admonishments

- F23. The Grand Jury questions if a high-ranking Public Works engineer may have violated a signed confidentiality agreement.

RECOMMENDATIONS

The Grand Jury recommends:

- R1. By September 30, 2017, the Board of Supervisors and Water Agency Board of Directors jointly direct staff to assess and report back on what measures the County could take to stem water losses in all the CSAs. The report should also be forwarded to the CSA CABs.
- R2. By September 30, 2017, the Board of Supervisors and Water Agency Board of Directors jointly direct staff to assess and report back the financial impact on CSA customers of current or future measures the County can take to stem water losses in the CSAs. The report should also be forwarded to the CSA CABs.
- R3. By December 31, 2017, the Board of Supervisors and the Water Agency Board of Directors jointly direct staff to appoint a single Public Works engineer solely dedicated to managing all water issues in the County.
- R4. By December 31, 2017, the Board of Supervisors direct staff to conduct an audit to determine which special districts pay administrative fees through the CSA Administration Fund – 00060, and the amounts of these fees.
- R5. By September 30, 2017, the Board of Supervisors enact a policy stating CSA customers do not pay fines levied against their CSA due to Public Works personnel errors.
- R6. By September 30, 2017, the Board of Supervisors direct Public Works staff to provide clear and concise information to County residents regarding any water sources to fulfill future needs.
- R7. By September 30, 2017, the Water Agency Board of Directors rescind Shasta County Water Agency Resolution No: 2008-01, Resolution of Intent to Transfer Water from

2016/17 Shasta County Grand Jury

County Service Area #25 – Keswick Water to County Service Area #6 – Jones Valley Water.

- R8. By September 30, 2017, the Water Agency Board of Directors direct staff to immediately reimburse Jones Valley Water Fund – 0377 all monies paid to Keswick CSA under Shasta County Water Agency Resolution No: 2008-01, Resolution of Intent to Transfer Water from County Service Area #25 – Keswick Water to County Service Area #6 – Jones Valley Water.
- R9. By September 30, 2017, the Board of Supervisors direct Public Works staff to open the lines of communication with the Rural Communities Assistance Corporation and report back to the Board of Supervisors on the Corporation’s response.
- R10. By September 30, 2017, the Board of Supervisors direct Public Works staff to work with the Jones Valley CSA CAB to establish a mutually agreed upon CAB meeting schedule.
- R11. By September 30, 2017, the Board of Supervisors direct staff to determine and report back what specific legal authority exists to allow Public Works to charge CSAs for time spent on a Grand Jury investigation.
- R12. By September 30, 2017, the Board of Supervisors direct staff to provide a public report outlining legal justification for the charges under Project Number 111029 “CSA #6 Jones Valley Grand Jury Investigation” by December 31, 2017, or to refund Jones Valley CSA any and all charges under this project title.
- R13. By September 30, 2017, the Board of Supervisors direct staff to conduct an investigation to determine how much each CSA has been charged for Public Works staff time spent on any Grand Jury investigation. By December 31, 2017, staff publicly report on their findings and the legal justification for the charges, or refund the amounts charged.
- R14. By September 30, 2017, the Board of Supervisors direct Public Works staff to ensure and report back that they are in compliance with California Proposition 218.
- R15. By September 30, 2017, the Board of Supervisors direct Public Works staff to ensure and report back that they are in compliance with Shasta County Code 13.12.120.
- R16. By September 30, 2017, the Board of Supervisors direct County Administrative staff to either publicly report the legal justification for charging the CSAs, or create and present a policy ensuring CSAs are not charged for Public Works staff time spent on any Grand Jury investigations.
- R17. By September 30, 2017, the Board of Supervisors direct Public Works staff to comply with Grand Jury confidentiality agreements.

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the following responses are required:

From the following governing bodies (within 90 days):

- Shasta County Board of Supervisors: **F1, F2, F3, F4, F5, F6, F7, F8, F9, F11, F14, F15, F16, F17, F18, F19, F20, F21, F22, F23 and R1, R2, R3, R4, R5, R6, R9, R10, R11, R12, R13, R14, R15, R16, R17**
- Shasta County Water Agency Board of Directors: **F1, F2, F3, F5, F6, F9, F10, F12, F13, F14 and R1, R2, R3, R7, R8**

From the following elected governmental officer (within 60 days):

NONE

The Grand Jury recommends that all governing bodies place their responses to all Grand Jury Reports on their Regular Calendars for public discussion, not on their Consent Calendars.

INVITED RESPONSES

The Grand Jury invites the following response:

From the following governmental official (within 60 days):

- Shasta County Executive Officer: **F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11, F12, F13, F14, F15, F16, F17, F18, F19, F20, F21, F22, F23 and R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16, R17**
- Shasta County Department of Public Works Director: **F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11, F12, F13, F14, F15, F16, F17, F18, F19, F20, F21, F22, F23 and R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, R11, R12, R13, R14, R15, R16, R17**

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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APPENDIX

Shasta County Department of Public Works reported water loss summaries for Alpine Meadows CSA and Crag View CSA from 2011 through October 2016 (averages rounded to the nearest gallon, percentages based off calculated average water loss in gallons):

Alpine Meadows CSA Yearly Water Loss Reports					
Year	Connections (as of October)	Gallons Produced	Gallons Sold	Water Loss (in gallons)	Water Loss (by percentage)
2011	57	2,241,690 (meter broken)	3,597,857	Not available (meter broken)	Not available (meter broken)
2012	56	Data not available	4,143,225	Not available (no data taken)	Not available (no data taken)
2013	56	201,200 (meter broken)	79,371,185	Not available (meter broken)	Not available (meter broken)
2014	56	1,618,565 (meter broken)	3,849,433	Not available (meter broken)	Not available (meter broken)
2015	56	6,683,007	3,944,178	2,738,829	40.98
2016	56	4,964,028	3,156,979	1,807,049	36.40
2-year average	56	5,823,518	3,550,579	2,272,939	39.03%

Crag View CSA Yearly Water Loss Reports					
Year	Connections (as of October)	Gallons Produced	Gallons Sold	Water Loss (in gallons)	Water Loss (by percentage)
2011	72	13,759,800	10,494,560	3,265,240	23.73
2012	72	10,783,738 (plant offline)	12,132,477 (plant offline)	Not available (plant offline)	Not available (plant offline)
2013	73	20,107,370	15,471,730	4,635,640	23.05
2014	73	18,532,343	16,829,395	1,702,948	09.19
2015	72	14,203,598	10,096,495	4,107,103	28.92
2016	74	10,987,990	9,047,173	1,940,817	17.66
5-year average	73	15,518,221	12,387,871	3,130,350	20.17%

All ETWIP funding sources and amounts, rounded to the nearest dollar:

ETWIP Funding Sources and Amounts					
Source	Type	Purpose	Amount Received	Amount Used	
CDPH	Loan	Planning and Design	\$ 100,000	\$ 100,000	
CDPH	Grant	Planning and Design	400,000	360,565	
EPA	Grant	Construction	848,000	848,000	
USDA-RD	Grant	Construction	2,000,000	2,000,000	
CDPH	Grant	Construction	3,000,000	3,000,000	
CDPH	Loan	Construction	3,928,000	3,365,133	
Totals:			\$10,276,000	\$ 9,673,698	

California Proposition 218 section 6.2(b): Requirements for Existing, New or Increased Fees and Charges:

A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

Released: June 6, 2017