



Shasta County

BOARD OF SUPERVISORS

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June 27, 2017

The Honorable Gary Gibson
Presiding Judge, Shasta County Superior Court
1500 Court St., Rm. 205
Redding, CA 96001

Dear Judge Gibson:

**Re: Response of Board of Supervisors to Fiscal Year 2016-2017 Grand Jury Report:
Shasta County Service Areas – Elk Trail Water Improvement Project**

The Shasta County Board of Supervisors appreciates the time and dedication which the 2016-2017 Grand Jurors contributed to their charge. The following findings and recommendations are under serious consideration and discussions are being held regarding solutions to any unresolved problems.

RESPONSES AND FINDINGS

Water Loss in CSAs

FINDINGS

The Grand Jury findings:

F1. *Water loss in seven of the eight water CSAs is above the national average and should be prioritized by Public Works staff.*

Response: The Board of Supervisors partially disagrees with the finding. Some produced water is not reflected in sales. But staff time and capital improvements cost money. CSA customers in several CSAs were polled in 2015 and a clear majority opposed any additional expenditures.

F2. *The CSA customers ultimately pay for lost water, either through increased water purchases or through repairs to correct the water loss.*

Response: The Board of Supervisors agrees with the finding.

F3. *Identifying the causes of and/or addressing water loss will cost the CSA customers unless grand funding can be obtained.*

Response: The Board of Supervisors agrees with the finding.

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.*

Response: The Board of Supervisors disagrees wholly with the finding. Existing staffing arrangements provide flexibility and depth of experience.

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.*

Response: The Board of Supervisors disagrees wholly with the finding. Water Agency resources are presently insufficient to dedicate an engineer to water issues. Moreover, there is not a single full-time engineer whose salary is being paid by the Water Agency. Public Works engineers charged 661 hours and 839.5 hours to the Water Agency in FY 2015/16 and 2016/17 respectively. These charges amount to only a fraction of a full time position.

F6. *The Water Agency and Public Works lack dedicated management to oversee water issues in the County.*

Response: The Board of Supervisors partially disagrees with the finding. Management resources are fiscally constrained. All related costs are charged to the beneficiaries and a clear majority opposed any additional expenditures. The Water Agency's needs do not require dedication of full-time employees to manage it.

CSA Budget

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.*

Response: The Board of Supervisors disagrees wholly with the finding. CSAs are the only special districts that are charged administrative fees through the CSA Administration Fund.

F8. *CSA customers pay fines levied against their CSA due to Public Works personnel errors.*

Response: The Board of Supervisors agrees with the finding.

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.*

Response: The Board of Supervisors agrees with the finding.

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 residence unnecessarily paying \$10,900 to ACID to reserve water they would never use.*

Response: The Board of Supervisors disagrees wholly with the finding. The County's letter of February 15, 2007 (County Letter) was a complete and accurate treatise on potential water sources for Elk Trail. The County Letter expressed numerous reservations regarding the ACID water, discussed potential alternatives and noted that ETWA had elected to proceed with the purchase. ETWA executed an agreement with ACID on February 28, 2007. The County subsequently elected to use water from Keswick CSA instead. The Grand Jury Report alleges that the County Letter was the first documented mention of Keswick CSA water. This assertion is contradicted by the January 16, 2007 Shasta County Water Agency meeting Minutes. Those Minutes note that ETWA members were in attendance and that Keswick was discussed as a potential source.

F14. *Because all CVP water purchases 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.*

Response: The Board of Supervisors disagrees wholly with the finding. Resolution 2008-01 was executed by the Water Agency, not the County or any of the various CSA's therein. In 1964, Keswick CSD (CSD) entered into a contract with the U.S. Bureau of Reclamation for 500 acre-feet of Central Valley Project water (CSD Water). In 1990, the CSD was reorganized into Keswick CSA with all attendant assets and liabilities including the CSD Water being transferred to the CSA. In 2004, the CSD Water was combined with a Water Agency contract for administrative purposes. The CSD Water remains an asset of 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.*

Response: The Board of Supervisors disagrees wholly with the finding. Public Works accesses third party resources as appropriate. RCAC was recruited to provide services in conjunction with the Elk Trail Project. Adversarial public interactions ensued as noted in the Grand Jury report. RCAC staffing changes reportedly ensued and there were no further difficulties. RCAC's financing proposal was rejected because a competing proposal from Umpqua Bank was more cost-competitive. The County remains committed to competitive procurement based upon demonstrated qualifications.

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.*

Response: The Board of Supervisors disagrees wholly with the finding. The Jones Valley CSA CAB lacks a quorum to convene, take action or make requests.

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.*

Response: The Board of Supervisors can neither agree nor disagree with this finding as it is merely a statement of what the Grand Jury found. If the assertion is that there is no authority for such charges, the Board of Supervisors disagrees wholly with the finding. CSAs are charged for the work performed on behalf of each CSA. When Public Works employees perform duties on behalf of the CSA's, the CSA is charged for those services.

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.*

Response: The Board of Supervisors disagrees wholly with the finding. Public Works staff charges are allocated through a computerized cost accounting system (Win-CAMS). CSA#6 Jones Valley Grand Jury Investigation costs were charged to Work Order No. 30100-111029. Water Agency and other CSA expenses were charged to their respective Work Order Numbers as well since the work was performed on behalf of the CSA. Costs are assigned to the various cost centers based upon these inputs.

F19. *Without the County conducting an analysis, CSA residents cannot know how much they have been charged for any Grand Jury investigations.*

Response: The Board of Supervisors disagrees wholly with the finding. Time spent against each water CSA and the Water Agency for investigations can be determined by gathering labor reports based on dates.

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.*

Response: The Board of Supervisors can neither agree nor disagree as the finding merely states what the Grand Jury questions. If the assertion is that charging for services rendered on its behalf, in this case responding to Grand Jury requests, the Board of Supervisors disagrees wholly with the finding. Proposition 218 merely mandates that rates shall

reflect the cost of service for the agency or enterprise. Expenses of responding to Grand Jury requests are a component of the cost of service.

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.***

Response: The Board of Supervisors disagrees wholly with the finding. Shasta County Code 13.12.120 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.

Public Works employees administered services in responding to Grand Jury requests including gathering information and attending interviews. Per Shasta County Code 13.12.120 these costs were charged against the service area as stated in the Code.

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.***

Response: The Board of Supervisors disagrees wholly with the finding. Public institutions should be founded upon transparency and the fair and accurate allocation of resources.

Grand Jury Admonishments

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

Response: The Board of Supervisors disagrees wholly with the finding. On August 16, 2016, the Grand Jury sent a request for information to a high-ranking Public Works engineer. Over the ensuing months, at least fourteen more requests were sent to the County. The high-ranking Public Works engineer and the Public Works staff furnished thousands of documents pursuant to these requests. Related costs were allocated and reported in the routine course of business. Not one of those requests for information asserted that the request was confidential nor was there an agreement

to keep them confidential. Thereafter, the high-ranking Public Works engineer was interviewed by the Grand Jury and was admonished to maintain confidentiality regarding the contents of that meeting. The high-ranking Public Works engineer honored that admonition.

RECOMMENDATIONS

The Grand Jury recommends:

R1. *By September 30, 2017, the Board of Supervisors and the 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.*

Response: The recommendation has been implemented. Such studies and investigations have been undertaken repeatedly over many years. Simple and economical measures have been implemented. More elaborate steps would require significant expense and the CSA customers have consistently declined to bear the associated costs.

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 and future measures the County can take to stem water losses in the CSAs. The report should also be forwarded to the CSA CABs.*

Response: The recommendation has been implemented. Such studies and investigations have been undertaken repeatedly over many years. Simple and economical measures have been implemented. More elaborate steps will require significant expense and the CSA customers have consistently declined to bear the associated costs.

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.*

Response: The recommendation will not be implemented because it is not warranted or not reasonable. Existing staffing arrangements provide flexibility and broad expertise. The Water Agency cannot afford to fund an engineer solely dedicated to managing water issues. CSA's are enterprise funds. All related costs are charged to the beneficiaries. The existing structure allows numerous CSAs to share the cost of the employees performing work on their behalf.

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.*

Response: The recommendation has already been implemented. CSA's are enterprise funds and are included in the annual County audit. All related costs are charged to the beneficiaries.

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.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. CSA's are enterprise funds. If a fine is levied against a CSA, it is that CSA's customers that should bear the cost especially as it is within the power of the CSA residents to block rate increases that could remedy the problem resulting in the fine. All related costs are charged to the beneficiaries.

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.*

Response: The recommendation has already been implemented. Public Works routinely provides clear and concise information to County residents regarding water sources and future needs.

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.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. RCAC is one of many potential third party purveyors of services. The County remains committed to competitive procurement based upon demonstrated qualifications.

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.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. The Jones Valley CSA CAB presently lacks a quorum to convene or consider any business.

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.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. CSA's are enterprise funds. All related costs are charged to the beneficiaries.

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.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. CSA's are enterprise funds. All related costs are charged to the beneficiaries.

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 amount charged.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. No investigation is necessary as each CSA is an enterprise fund. All related costs are charged to the respective CSA as the users are the beneficiaries of the services. Costs are detailed below:

Water Agency \$5,645
CSA Administration \$241
CSA #25 Keswick \$565
CSA #2 Sugarloaf \$282
CSA #6 Jones Valley \$5,260

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.*

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Response: The recommendation has been implemented. Public Works staff is in compliance with California Proposition 218. CSA's are enterprise funds. All related costs are charged to the beneficiaries.

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.*

Response: The recommendation has been implemented. Public Works staff is in compliance with Shasta County Code 13.12.120. CSA's are enterprise funds. All related costs are charged to the beneficiaries.

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 investigation.*

Response: The recommendation will not be implemented because it is not warranted or is not reasonable. CSA's are enterprise funds. All related costs for services provided on behalf of the CSA are charged to the beneficiaries.

R17. *By September 30, 2017, the Board of Supervisors direct Public Works staff to comply with Grand Jury confidentiality agreements.*

Response: The recommendation is has already been implemented. The County is in compliance and honors confidentiality agreements.

This concludes the responses of the Shasta County Board of Supervisors to the FY 2016-2017 Grand Jury Report entitled "Shasta County Service Areas – Elk Trail Water Improvement Project."

Sincerely,

DAVID A. KEHOE, Chairman
Board of Supervisors
County of Shasta