

SPECIAL DISTRICTS COMMITTEE



Marilyn Nienke
Loretta Avery

Tom Pasek, Chairperson
Donna Schaffel

MISSION STATEMENT

Penal Code Section 925(a) charges the Grand Jury with the oversight of the ethics, management and use of taxpayer funds. There are over 150 Special Districts in Kern County which fall under the authority of this Committee. Additionally it may be responsible for follow-up on citizen complaints as they may relate to any of those Districts.

SPECIAL DISTRICTS COMMITTEE 2017-2018 SUMMARY OF ACTIVITIES

REPORTS:

Antelope Valley – East Kern Water Agency
East Niles Community Service District
Greater Bakersfield Separation of Grade District
Lost Hills Utility District
Mountain Meadows Community Service District – Website Only
Stallion Springs Community Service District

VISITS:

Bakersfield Police Department Ride-Along
Board of Supervisors Meetings
Camp Erwin Owen Juvenile Facility
East Niles Community Services District Board Meeting
Employers' Training Resource
Greater Bakersfield of Separation of Grade District Board Meeting
James G. Bowles Juvenile Hall
Kern County Sheriff's Office Downtown Receiving Facility
Kern County Sheriff's Office Ride-Along
Kern County Home Show
Lamont Public Utility District Board Meeting
Lamont Storm Water District
Lerdo Justice Center Grand Opening
Lost Hills Utility District Board Meeting
Minter Field Airport District
Mountain Meadows Community Service District
North Kern Cemetery District Board Meeting
Stallion Springs Community Services District

COMPLAINTS RECEIVED AND CLOSED: 4

Antelope Valley - East Kern Water Agency

*The third largest distributor of
California's most precious resource*

PREFACE:

The Special Districts Committee (Committee) of the 2017-2018 Kern County Grand Jury (Grand Jury) inspected the Antelope Valley - East Kern Water Agency (AVEK). AVEK is a wholesale distributor of water purchased from the State Water Project (SWP). There are 46 customers in their customer base: 37 are water companies – both private and municipal; a very small quantity of untreated water is sold directly to nine agricultural users whose demand is decreasing.

AVEK covers a land area of nearly 2,400 square miles. AVEK is comprised of seven Divisions (Division). The largest portion is in northern Los Angeles County, followed by southeastern Kern County. The Agency's boundaries also include a small portion of northeastern Ventura County.

PURPOSE OF INQUIRY:

Under the provisions of California Penal Code §933.5, the Grand Jury inspected AVEK to determine if the portion that lies within Kern County is being operated efficiently and in accordance with relevant laws, codes, and ordinances.

PROCESS:

The Committee researched the internet, examined AVEK's website, reviewed minutes of past Board Meetings, studied the audited financials, and interviewed the Board President and Division One Director, the Secretary/Treasurer, and one staff water plant operator to gather facts about AVEK.

BACKGROUND:

Before AVEK, there was the Antelope Valley-Feather River Association. It was formed in 1953 to encourage importation of water from the Feather River in Northern California to Southern California. AVEK was granted its charter as a regional water agency by the State Legislature in 1959. In 1962, the AVEK Board of Directors signed a water supply contract with the State to assure delivery of imported water to supplement Antelope Valley groundwater supplies. AVEK has the third largest water entitlement of the 29 SWP water agencies in California. Only the Metropolitan Water District (Los Angeles) and the Kern County Water Agency are larger.

FACTS:

- A. Initial funds for construction of SWP facilities were obtained through a 1.75 billion dollar bond issue that was ratified by California voters in 1960.
- B. The SWP begins on the Feather River in Northern California, where water runoff is stored behind Oroville Dam in Butte County. The water flows down natural channels to the Sacramento-San Joaquin Delta south of Stockton.
- C. There are 30 SWP dams and reservoirs used to capture and store water runoff from Northern California's rivers and streams. Oroville Dam is the largest of the SWP's storage reservoirs. It has a storage capacity of 3.5 million acre-feet of water. One acre-foot of water will provide enough annual water for one household. (See Attachment A)
- D. When SWP facilities are completed, the contract between the Department of Water Resources and AVEK will allow the annual maximum entitlement of 144,844 acre-feet of imported water, less any adjustments imposed by the State, in the event of a drought.
- E. Today AVEK's purpose is two-fold:
 - To assure, to the greatest extent possible and allowed by law, the transfer of water from the SWP to aquifers used in AVEK's service area
 - To provide for the equitable distribution of water
- F. AVEK is comprised of seven Divisions, and governed by a seven member Board of Directors (Board) elected by the Divisions' residents. Each member is elected by their Division, rather than at-large. (See Attachment B)

FINDINGS:

- F1. Division lines are redrawn every ten years based on population shifts, as reported through the United States Census. Portions of Divisions 1 and 2 are located within Kern County.
- F2. AVEK purchases water from the SWP and stores it in four water banks. Water is then pumped from the aquifers and sold to their customers. (See Attachment D)
- F3. Water is classified as either "untreated" (suitable for agricultural irrigation purposes only), or "treated" (ready for human consumption).
- F4. All customers receiving treated or untreated water pay predetermined rates.

- F5. A special adjudication program was established to settle all disputes over water rights. The Adjudication Area Watermaster Engineer (Watermaster) is charged with the responsibility of determining equitable sales and distribution of all water in the water banks. This includes water that has been purchased from SWP, as well as natural runoff that has accumulated in the aquifers, and may be recognized as belonging to owners of established water rights. (See Attachment C)
- F6. The Watermaster measures subterranean water levels and strives to keep those levels as high as possible to protect against dry years.
- F7. Water rights owned by persons or municipalities are tracked by the Watermaster to assure proper charges are assessed.
- F8. AVEK receives revenue from two sources:
- A pro rata amount of the 1% property tax levy
 - Water sales
- F9. AVEK maintains 145 miles of “transmission pipeline” to move water from the SWP’s Edmonston Pumping Plant to the Division’s aquifers. From there, the water goes to one of four treatment plants before it is delivered to the water companies, distributed through more than 100 miles of pipeline. Agricultural customers get their (untreated) water directly from the transmission pipeline. (See Attachment A)
- F10. AVEK Board Members are compensated \$225.44 per meeting plus expenses, for up to six meetings per month. (California Water Code §20202 sets the Board compensation rate of \$100 per meeting, with an allowance for increases of up to 5% per year, commencing with the establishment of the water agency.)
- F11. AVEK has an A-1 credit rating from Moody’s Investor Services. This reflects a very strong fiscal condition as shown in their audited financial statements. (See Attachments F through I)
- F12. AVEK’s budget is not allocated by Division. All operational and maintenance costs are absorbed by AVEK and not charged to a specific Division. Consequently, all Divisions are funded equal to their needs.
- F13. To assure uninterrupted treated water supplies, the paths of pipelines are inspected daily.
- F14. AVEK owns and operates four water treatment facilities:
- Quartz Hill Water Treatment Plant
 - The Eastside Treatment Plant
 - Acton Water Treatment Plant
 - Rosamond Water Treatment Plant (southeastern Kern County)

- The 14 million gallons per day (mgd) Rosamond Water Treatment Plant was established to support the needs of customers, that include Rosamond, Mojave, California City, Edwards Air Force Base, and Boron
- Rosamond Water Treatment Plant is capable of providing water for 60,000 people

F15. The AVEK website only has the agenda for the next Board Meeting.

F16. The AVEK website does not provide minutes from Board Meetings.

F17. The Board meets each month, on the second and fourth Tuesdays at 6:30pm, at 6500 West Avenue N, Palmdale, California.

COMMENTS:

The Committee would like to thank the Board President, Secretary-Treasurer, and the water plant operator for their cooperation and informative tour. AVEK appears to be well run.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that Antelope Valley-East Kern Water Agency consider placing a limit on Board stipends. (Finding 10)
- R2. The Grand Jury recommends that prior Board Agendas be made available on the website, to provide greater transparency to the public. (Finding 15)
- R3. The Grand Jury recommends that Board Minutes be posted on the website and on the front door to the office, to provide greater transparency to the public. (Finding 16)

NOTES:

- The Antelope Valley East-Kern Water Agency should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.kerncounty.com/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.kerncounty.com/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

**FOREPERSON
LOS ANGELES COUNTY GRAND JURY
210 WEST TEMPLE STREET, SUITE 13-303,
LOS ANGELES, CA 90012**

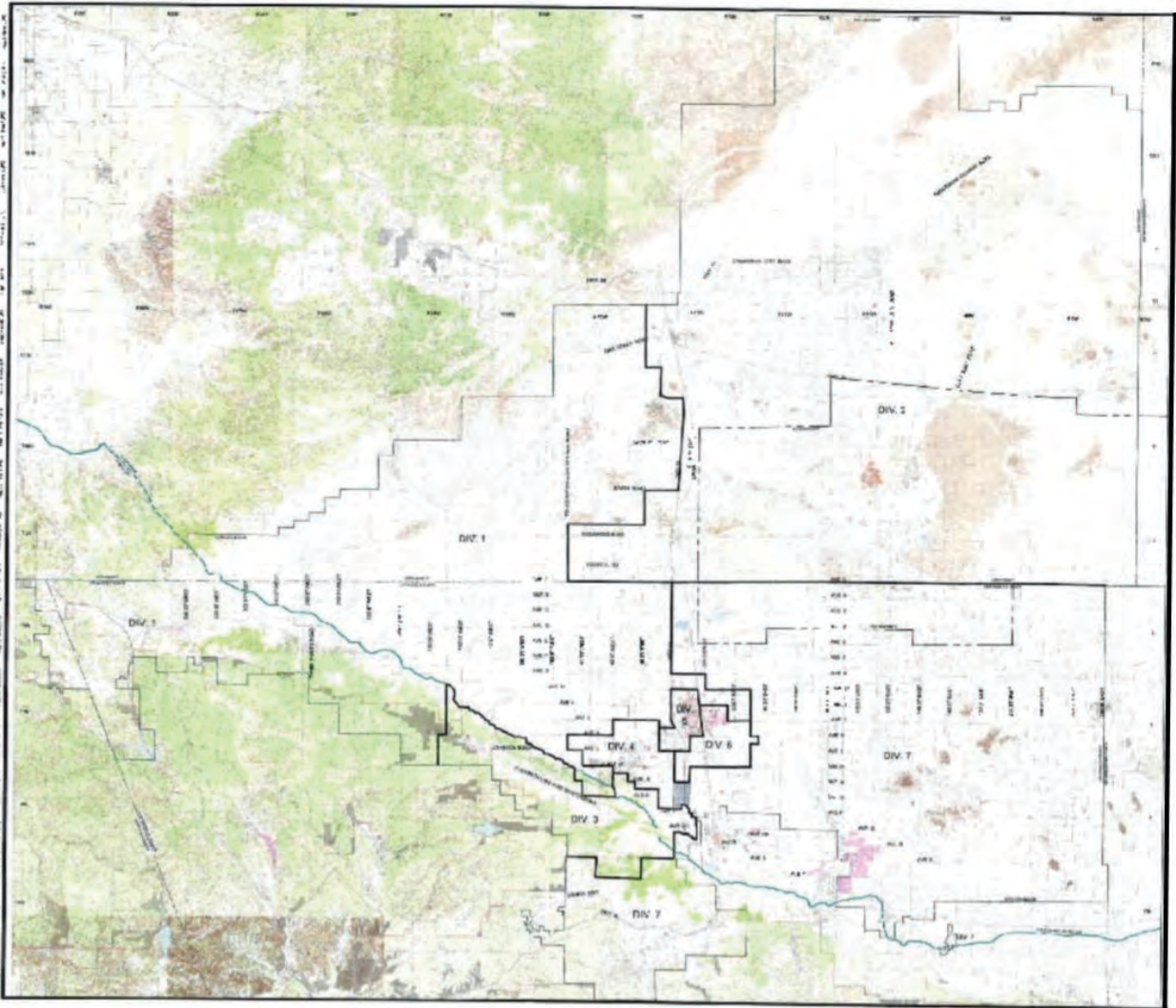
**FOREPERSON
VENTURA COUNTY GRAND JURY
800 SOUTH VICTORIA AVENUE
VENTURA, CA 93009**

Attachment A: State Water Project



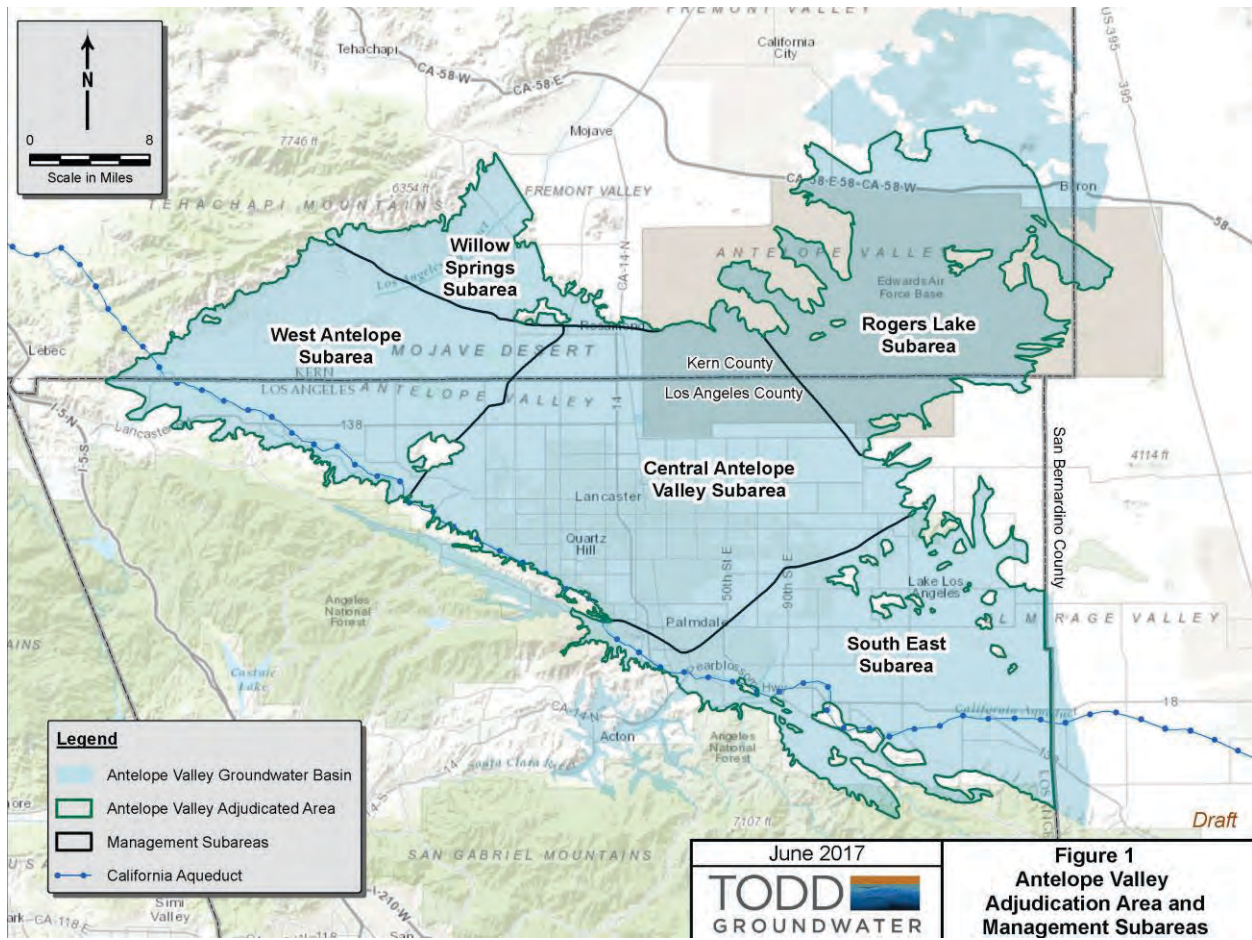
Source: California Department of Water Resources

Attachment B: AVEK Division Map



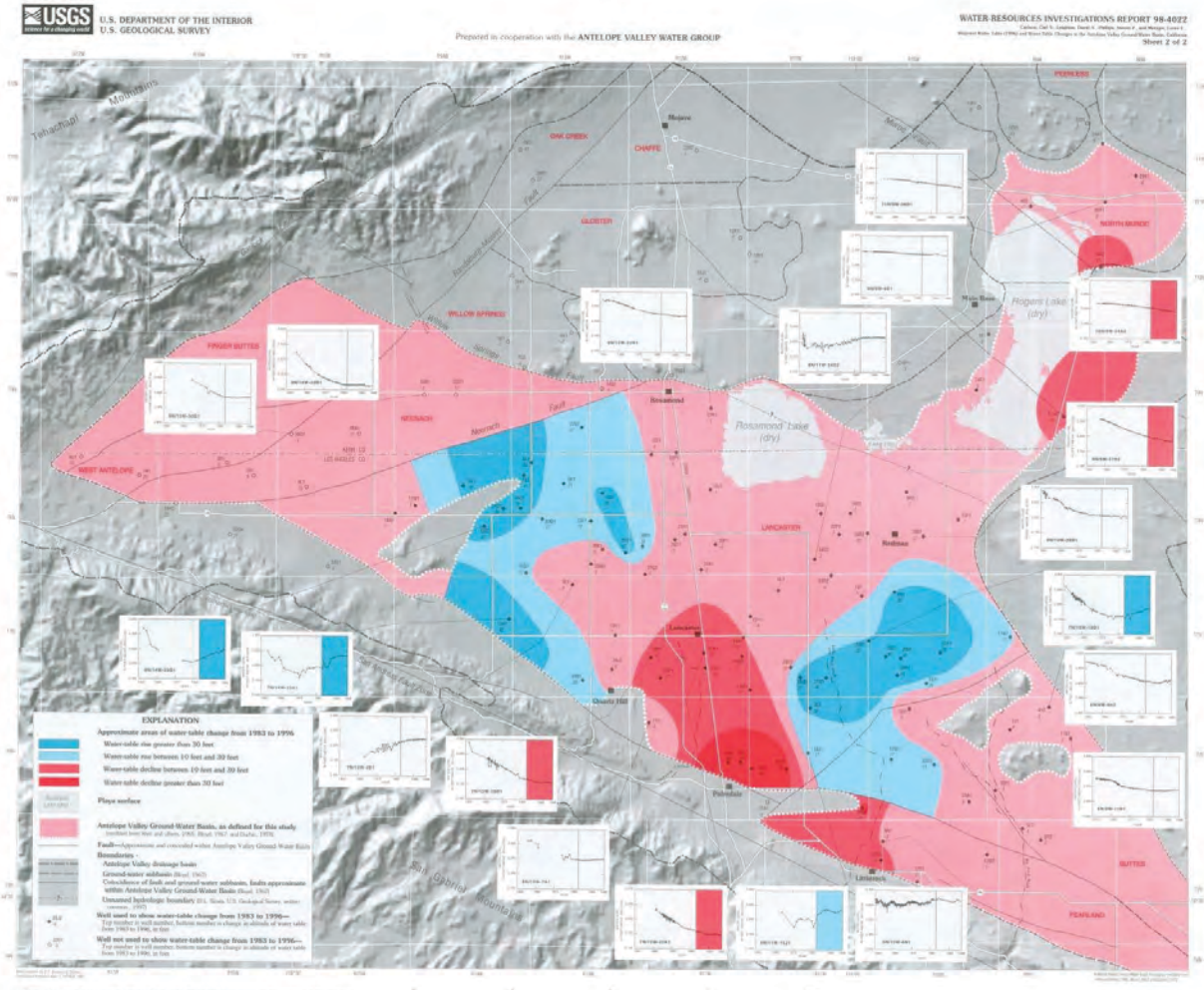
Source: Antelope Valley-East Kern Water Agency

Attachment C: Adjudication Area



Source: Antelope Valley-East Kern Water Agency

Attachment D: Aquifers



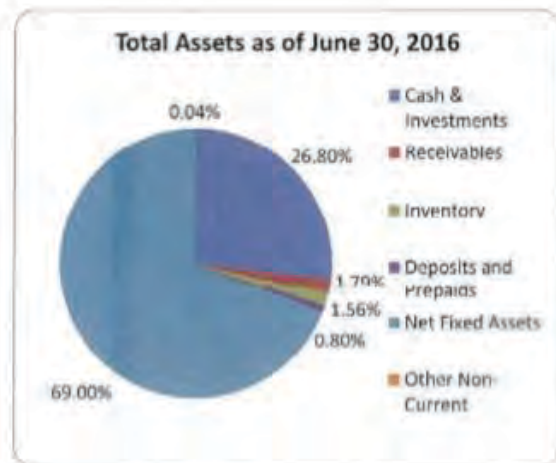
Source: United States Geological Survey

Attachment F: Financial Statements

Antelope Valley-East Kern Water Agency Condensed Statements of Net Position June 30, 2016 and 2015

	June 30, 2016	June 30, 2015	Change
Assets:			
Current Assets	\$ 132,975,539	\$ 146,295,749	\$ (13,320,210)
Non-Current Assets	188,071	170,109	17,962
Capital Assets, Net of Accumulated Depreciation	296,393,921	283,046,781	13,347,140
Total Assets	\$ 429,557,531	\$ 429,512,639	\$ 44,892
Liabilities:			
Current Liabilities	\$ 13,890,017	\$ 10,541,450	\$ 3,348,567
Long-Term Liabilities	136,784,945	141,620,599	(4,835,654)
Total Liabilities	\$ 150,674,962	\$ 152,162,049	\$ (1,487,087)
Net Position:			
Invested in Capital Assets, Net of Related Debt	\$ 217,280,033	\$ 221,401,781	\$ 25,878,252
Unrestricted	31,602,536	55,948,809	(24,346,273)
Total Net Position	\$ 278,882,569	\$ 277,350,590	\$ 1,531,979
Total Liabilities and Net Position	\$ 429,557,531	\$ 429,512,639	\$ 44,892

- Total Assets of the Agency exceeded Total Liabilities by \$278,882,569 and \$277,350,590 as of June 30, 2016 and 2015.
- The Agency remains highly liquid as Current Assets represented 31% and 34.1% of Total Assets as of June 30, 2016 and 2015. The chart to the right displays the nature of Agency Total Assets as of June 30, 2016.
- Total Liabilities decreased by \$1,487,087 from \$152,162,047 as of June 30, 2015 to \$150,674,962 as of June 30, 2016.
- The majority of the Agency's Net Position reflects its investment in Capital Assets which was 88.7% as of June 30, 2016 and 79.8% as of June 30, 2015.
- Total Net Position increased by \$1,531,979 from \$277,350,590 as of June 30, 2015 to \$278,882,569 as of June 30, 2016.



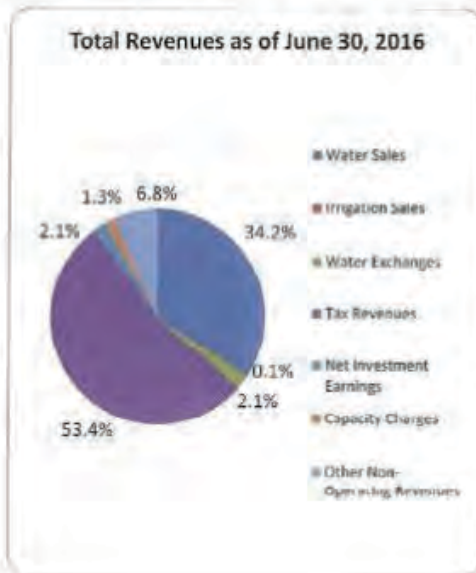
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Source: Antelope Valley-East Kern Water Agency

Attachment G: Financial Statements

Antelope Valley-East Kern Water Agency Condensed Statements of Revenues and Expenses June 30, 2016 and 2015

	June 30, 2016	June 30, 2015	Change
Operations:			
Operating Revenues	\$ 18,318,241	\$ 22,609,895	\$ (4,291,654)
Operating Expenses	16,791,874	16,070,740	721,134
Net Income from Operations	1,526,367	6,539,155	(5,012,788)
Depreciation Expense	5,790,431	5,491,187	299,244
Operating Income	\$ (4,264,064)	\$ 1,047,968	\$ (5,312,032)
Non-Operations:			
Tax Revenues	\$ 26,858,539	\$ 24,441,225	\$ 2,417,314
Net Investment Earnings	1,073,451	985,925	87,526
Other Non-Operating Revenues	4,041,728	1,225,242	2,816,486
State Water Contract Expense	(22,050,934)	(18,463,002)	(3,587,932)
Interest Expense	(4,126,741)	(4,397,946)	271,205
Net Income from Non-Operations	5,796,043	3,791,444	2,004,599
Change In Net Position	1,531,979	4,839,412	(3,307,433)
Net Position, Beginning of Year	277,350,590	272,511,178	4,839,412
Net Position, End of Year	\$ 278,882,569	\$ 277,350,590	\$ 1,531,979



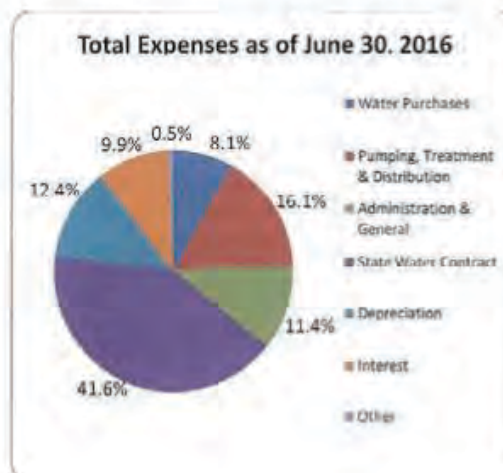
- Operating Revenues decreased by \$4,291,654 from \$22,609,895 as of June 30, 2015 to \$18,318,241 as of June 30, 2016. The decrease was mainly a result of a decrease in Water Exchanges and Transfers revenue of \$6,450,000 from the prior year.
- Tax Revenue for the year ending June 30, 2016 increased from the previous year by 9.9%.
- As investment rates remain low Net Investment Earnings for the year ending June 30, 2016 increased by 8.9% or \$87,526 from the prior year.

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Source: Antelope Valley-East Kern Water Agency

Attachment H: Financial Statements

- Total Expenses except for depreciation for the year ending June 30, 2016 increased by 10.4% from the prior year. The increase was mainly due to an increase in the State Water Contract Expense of 19.4% Total Expenses excluding depreciation were \$42,969,547 for the year ending June 30, 2016 and \$38,931,688 for the year ending June 30, 2015.
- Depreciation Expense for the year ending June 30, 2016 increased by 5.5% from the prior year. Depreciation Expense for the year ending June 30, 2016 was \$5,790,431 and \$5,491,187 for the prior year.
- The State Water Contract increased by \$3,587,932 from a total of \$18,463,002 for the year ending June 30, 2015 to \$22,050,934 for the year ending June 30, 2016.



Budget Analysis

The ongoing drought in California has resulted in a reduced water supply from the State Water Project for 2016 as well as reduced water usage due to conservation efforts. As a result, water and irrigation sales only increased by \$2,158,347 for the year ending June 30, 2016 from the prior year. The Agency entered into one water exchange transaction which resulted in an additional \$1,050,000 of operating revenue.

Operating Revenues were under budget for the year ending June 30, 2016 by \$7,076,759 and Non-Operating Revenues were over budget by \$3,355,468.

For the year ending June 30, 2016, Operating Expenses were under budget by \$2,674,070, while Non-Operating Expenses were under budget by \$2,197,825. This difference was mainly due to the Cost of Water on water purchased from the State Water Project being over budgeted by \$2,598,556 and the State Water Contract being over budgeted by \$1,976,066.

Capital Asset Administration

Total Agency Capital Assets as of June 30, 2016 were \$379,011,594 before the consideration of depreciation. The Agency's additions to Capital Assets for the year ending June 30, 2016 were \$19,188,859. Of these additions, new construction in progress for the year totaled \$17,303,714, additions to furniture and equipment totaled \$1,017,025, additions to utility plant totaled \$168,560 and new land acquisitions totaled \$699,560. Several projects including the CO2 system, vault rehabilitations and clear well and wash water tank rehabilitations were completed in the current year and transferred out of construction in progress. Total Capital Assets net of Accumulated Depreciation increased to \$296,393,921 as of June 30, 2016 from \$283,046,781 at June 30, 2015.

Attachment I: Financial Statements

Debt Administration

Changes in long-term debt amounts for the fiscal year ended June 30, 2016 were as follows:

	Balance June 30, 2015	Additions/ (Deletions)	Principal Payments	Balance June 30, 2016
Long-Term Debt				
COP Series 2007 A-1	\$ 63,400,000	\$ (59,805,000)	\$ 1,755,000	\$ 1,840,000
COP Series 2008 A-1	27,190,000	(20,960,000)	1,995,000	4,235,000
COP Series 2008 A-2	45,000,000			45,000,000
WR Refunding Bonds 2016		71,090,000		71,090,000
Premium WR Refunding Bonds 2016		9,566,561		9,566,561
Total Long-Term Debt	\$ 135,590,000	\$ (108,439)	\$ 3,750,000	\$ 131,731,561

Changes in long-term debt amounts for the fiscal year ended June 30, 2015 were as follows:

	Balance June 30, 2014	Additions/ Deletions	Principal Payments	Balance June 30, 2015
Long Term Debt				
COP Series 2007 A-1	\$ 65,070,000		\$ 1,670,000	\$ 63,400,000
COP Series 2008 A-1	29,110,000		1,920,000	27,190,000
COP Series 2008 A-2	45,000,000			45,000,000
Total Long-Term Debt	\$ 139,180,000	\$ -	\$ 3,590,000	\$ 135,590,000

The Agency was able to take advantage of the low interest rate investment market and realize a net present value savings of \$8,105,134 on a refunding transaction on the Agency's existing outstanding Certificates of Participation (COPs). This transaction resulted in the advance refunding of \$59,805,000 of the 2007 A-1 COPs and \$20,960,000 of the 2008 A-1 COPs and the issuance of \$71,090,000 of Water Revenue Refunding Bonds 2016 as well as a premium of \$9,675,000 that will be amortized over the life of the bonds. Principal payments for the year ending June 30, 2016 decreased Long-Term Debt by \$3,750,000 and by \$3,590,000 for the year ending June 30, 2015. In addition to the debt listed above, the Agency has also accrued Long-Term Debt to meet its Post-Employment Benefit Obligation. As of June 30, 2016 this amount was \$6,048,526, which was an increase from June 30, 2015 of \$128,510 when the balance was \$5,920,016.

Conditions Affecting Current Financial Position

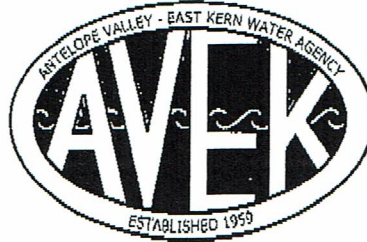
Management is unaware of any conditions that would have a significant impact on the Agency's financial position, net position, or operating results in future periods.

Requests for Information

This financial report is designed to provide the Agency's funding sources, customers, and other interested parties with an overview of the Agency's financial operations and financial condition. Should the reader have questions regarding the information included in this report or wish to request additional financial information, please contact the Agency's Finance Manager at 6500 W. Avenue N, Palmdale, California 93551.

OFFICERS

DWAYNE CHISAM, III
General Manager
MATTHEW KNUDSON
Assistant General Manager
HOLLY H. HUGHES
Secretary-Treasurer



A PUBLIC AGENCY

BOARD OF DIRECTORS

KEITH DYAS
Division 2
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SHELLEY SORSABAL
Division 1
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FRANK S. DONATO
Division 3
JUSTIN G. LANE
Division 4
ROBERT A. PARRIS
Division 5
MARLON BARNES
Division 6
GARY VAN DAM
Division 7

June 4, 2018

VIA Facimile: (661) 321-0761

Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

RE: ANTELOPE VALLEY-EAST KERN WATER AGENCY – MARCH 19, 2018 KERN COUNTY GRAND JURY FINAL REPORT

Honorable Presiding Judge:

Thank you for submitting the Final Report dated March 19, 2018 for the Antelope Valley-East Kern Water Agency (Agency). The Agency reviewed said report and has the following comments and clarifications:

Findings:

F2 – Correction to read: “AVEK purchases water from the SWP and stores it in two water banks. Water is then pumped from the aquifers and sold to their customers.”

Recommendations:

- R1 – AVEK will continue to comply with California Water Code §20202 regarding Board stipends.
- R2 – AVEK is in the process of updating our website and will create a section to archive prior Board Agendas.
- R3 – AVEK is in the process of updating our website and will create a section to archive approved Board Minutes.

If you have any questions, please feel free to contact me at 661-943-3201.

Respectfully yours,

DWAYNE CHISAM,
General Manager

cc: Board of Directors - AVEK
Matthew Knudson - Assistant General Manager

EAST NILES COMMUNITY SERVICES DISTRICT

Let the Water Flow

PURPOSE OF INQUIRY:

The Special Districts Committee (Committee) of the 2017-2018 Kern County Grand Jury (Grand Jury) conducted an inquiry into the East Niles Community Services District (District) pursuant to Penal Code §933.5. The last Kern County Grand Jury Report for the District was released in 2005-2006.

PROCESS:

The Committee interviewed the General Manager in the District Office on December 4, 2017. The Committee attended the Board of Directors meeting on December 18, 2017, reviewed a past Kern County Grand Jury Report, and the District's financial audit for 2016–2017, prepared by an outside auditor.

BACKGROUND:

The East Niles Community Services District was formed in 1954, for the sole purpose of operating a water system for the community of East Bakersfield. In 1960, the District's powers were expanded to include providing sewer service for the community. The District's service area is comprised of certain unincorporated areas of Kern County and portions of the City of Bakersfield. Currently the District serves an area of approximately 5,500 acres (8 1/2 square miles), primarily residential development. The District has a population of roughly 31,700 and, as of July 2015, provides 7,800 water service connections.

The sewer collection system consists of approximately 70 miles sewer main line. The pipes range from 8-inches to 42-inches in diameter. The sewer trunk line on Brundage Lane is the 42-inch line. There are currently 7,442 sewer connections within the District. The District has an agreement with the City of Bakersfield to treat all sewage at the City's Sub-regional Wastewater Treatment Plant No. 2. (See Attachment A)

The District is governed by a five member Board of Directors, elected at large, to four year staggered terms. Regular Board Meetings are held on the third and fourth Mondays of each month at 5:30 pm in the District Office. If the date falls on a holiday, the meeting will be held the following business day.

FINDINGS:

- F1. The District Office is located at 1417 Vale Street, Bakersfield, California 93306. The District's future plans include the construction of a new office and maintenance yard at Niles Street and Brentwood Drive, and selling the District's property where the current office is located.

- F2. The District has a drive-thru window for receiving payments.
- F3. The District is in the planning process for the consolidation and annexation of several water systems, with funding provided by a State grant.
- F4. The last water rate increase varied from 5% to 20% depending on the size of a customer's water meter and classification (residential or commercial), effective April 1, 2017.
- F5. The last sewer rate increase was 2.9%, effective August 1, 2017.
- F6. The District has replaced two water pump stations, one located near Sterling Road on Eucalyptus Drive, and the other located on Niles Street near Brentwood Drive.

COMMENTS:

The District appears to be well operated under the leadership of a knowledgeable General Manager. The water and sewer systems are currently maintained in a timely and successful manner. The Grand Jury would like to thank the General Manager for the information provided.

RECOMMENDATION: None

NOTES:

- The East Niles Community Services District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at www.kerncounty.com/grandjury
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury www.kerncounty.com/grandjury

RESPONSE REQUIRED IN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 200
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

DISCLAIMER:

This report was issued by the Grand Jury with the exception of a juror pursuant to PC §916.2(a). This juror was excluded from all parts of the inquiry/investigation, including interviews, deliberations, and the writing and approval of this report.

East Niles Community Services District

1417 Vale Street, Bakersfield, CA 93306
P.O. Box 6038, Bakersfield, CA 93386
Phone: (661) 871-2011
Fax: (661) 871-2356

February 20, 2018

PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 Truxtun Avenue, Suite 200
Bakersfield, California 93301

**Re: Response to Grand Jury Report (released January 25, 2018)
Regarding East Niles Community Services District**

Dear Presiding Judge:

As required by California Penal Code §§ 933 and 933.05, the East Niles Community Service District (District) takes this opportunity to respond to the Findings and Recommendations contained in the Grand Jury Report referring to the East Niles Community Service District (released January 25, 2018) as follows:

1. Response to Findings:

- F1. The District agrees with this finding.
- F2. The District agrees with this finding.
- F3. The District agrees with this finding.
- F4. The District agrees with this finding.
- F5. The District agrees with this finding.
- F6. The District agrees with this finding.

2. Response to Recommendations:

No recommendations were included within the Grand Jury Report.

In addition to providing the foregoing responses, we would like to thank the Grand Jury and its members for their time and efforts in this matter.

Sincerely,



Laurel Powell

President of the Board of Directors

cc: FOREMAN, KERN COUNTY GRAND JURY
1415 Truxtun Avenue, Suite 600
Bakersfield, California 93301

GREATER BAKERSFIELD SEPARATION OF GRADE DISTRICT

PREFACE:

The Greater Bakersfield Separation of Grade District (District) is unique and may not be well known or understood by the residents it serves. A grade separation is a bridge or underpass that is constructed to replace any intersection of road to road, road to railroad, road to pedestrian, railroad to pedestrian, or simply a road closure.

PURPOSE OF INQUIRY:

Under the provisions of the California Penal Code §925, the Special Districts Committee (Committee) of the 2017–2018 Kern County Grand Jury (Grand Jury) inquired into and investigated the governance and management of the District, which is composed of a Board of Commissioners (Commission).

PROCESS:

The Committee reviewed the 2008–2009 Kern County Grand Jury Report, conducted online research, and read minutes from a broad selection of Commission meetings. The Committee attended a Commission Meeting on September 25, 2017, and reviewed the past three years' financial reports. Additionally, documents which were not supplied upon request, were subpoenaed from the District.

FACTS:

- A. The District was established in 1954, pursuant to the California Streets and Highways Code §8130. The role of the District is to work with the City of Bakersfield, Kern County and railroads to determine which crossings/intersections are in greatest need of a grade separation. The authority for the District is derived from the California Streets and Highways Code §§8100 through 8297.
- B. The Commission is made up of five members, who receive a stipend, and are appointed by the Kern County Board of Supervisors.
- C. The District completes a complex nomination process to place congested intersections on a list to be funded through the California Public Utilities Commission (CPUC).
- D. The Commission meets on the 3rd Monday of each month at 4:00 pm at 1800 30th Street, Suite 260, Bakersfield, California 93301.
- E. The District does not have any employees, nor does it have an office. A small amount of unsecured storage space, containing only an unlocked file cabinet,

is rented from the engineering company used by the District. Meeting space is also rented as needed, from the same firm.

- F. The District has been involved in projects that successfully eliminated approximately 30 at-grade crossings since its inception in 1954. (See Appendix A for photographs of Hageman Road/Santa Fe Way at the Burlington Northern Santa Fe crossing, as an example of a complex separation.)
- G. There are eight prospective projects involving 13 road/railroad intersections. The District is in the process of planning, pursuing State funding, and assisting local agencies in constructing the following grade separations and crossing closures:
 - 1) Union Pacific Railroad at:
 - a) Morning Drive
 - b) Olive Drive
 - c) Snow Road
 - d) Airport Drive (widening of an existing road underpass)
 - 2) Burlington Northern Santa Fe Railway at:
 - a) Beale Avenue/Truxtun Avenue/Baker Street
 - b) Kratzmeyer Road
 - c) Reina Road/Renfro Road/Jenkins Road
 - 3) San Joaquin Valley Railroad at:
 - a) Rosedale Highway
- H. The District's primary focus is on railroad crossings. However, the District is also interested in, and empowered to, create grade separations for other types of intersections. These include streets, roads, highways, pedestrian walkways or any combination thereof, wherever such a separation of grade would be beneficial to the public.
- I. California State Government Code §4526 and Kern County Administrative Policy and Procedures Manual require special districts to obtain Request(s) for Qualifications (RFQ) for professional services.
- J. The Kern County Administrative Policy and Procedures Manual require special districts have a written agreement with all outside counsel or retained attorney(s).

FINDINGS:

- F1. The District provides a service to the greater Bakersfield community by streamlining planning and eliminating financial conflicts between municipal jurisdictions.

- F2. Three of the five Commissioners must be residents of the City of Bakersfield, and two must be residents of the unincorporated area of Kern County. (See Appendix B)
- F3. In 2017, the District applied to the Kern County Local Agency Formation Commission for an expansion into a portion of the City of Shafter. That expansion is pending as of the writing of this report.
- F4. The District is the only Separation of Grade District in the State of California.
- F5. The District's webpage is a subsection of the Kern County website, <https://www.kerncounty.com/bos/boards/Grtr-bak.aspx>, which does not allow public input.
- F6. The Commission posts all meeting agendas and minutes on the door to Suite 260, 1800 30th Street, Bakersfield, the office of the engineering company used by the District, as well as the building's exterior front door. The agendas and minutes are not posted on the District's webpage, and not readily available to the public, as required by the Ralph M. Brown Act.
- F7. The funding for grade separation construction stems from CPUC, CalTrans, and local sources derived from builders' traffic impact fees, parcel taxes, and often from direct payments by railroads.
- F8. The District's daily operating revenues are derived principally from property taxes/assessments.
- F9. The selection process for project funding is through a formula that primarily addresses historic traffic, accident rates, and anticipated future traffic volumes.
- F10. Before a prospective project can be moved from the status of having been "Nominated for Construction" to "Scheduled for Construction," all funding must be in place, including local funding.
- F11. CPUC rules provide for resubmitting projects if any other scheduled plans lose funding, or other critical elements, that would preclude timely construction. The District stays abreast of the status of all projects state-wide so that they are prepared to resubmit a nomination, should the opportunity present itself.
- F12. Separations of grade projects are the only task performed by this District. Elsewhere in the State, separation of grade is one of a multitude of tasks undertaken by various departments within a city or county, whose priorities may be in conflict. This can give the greater Bakersfield area a decided advantage over other regions in the State.
- F13. The District pays \$200 per month to the engineering firm for the monthly Commissioners' Meeting, and for unsecured file space.

- F14. There is no record of competitive bidding for engineering or management services.
- F15. For over 15 years, the same engineering firm has been engaged for all pre-construction services.
- F16. The District has no record of any written agreement with the engineering firm, other than a “rate sheet.”
- F17. Since 1987, the District has used the same law firm as its retained legal counsel.
- F18. The District does not have a written agreement or contract with their legal counsel.
- F19. The agendas are prepared, and minutes are taken and transcribed by legal counsel at \$245 per hour.
- F20. The legal counsel attends all Commission meetings, even when legal matters are not on the agenda.
- F21. Kern County Administrative Policy and Procedures Manual require special districts solicit competitive sealed bids for engineering and professional services exceeding \$100,000.
- F22. All management responsibility has been delegated to the engineering firm by the Board of Commissioners.
- F23. Services from the engineering firm exceeded \$106,000 in 2015.
- F24. Engineering and management services performed by the engineering firm exceeded \$222,000 in 2016.
- F25. The District does not have written bylaws, or a Policies and Procedures Manual, as required by California Government Code §4526.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that the District update their pages on the Kern County website to:
 - a. Include meeting agendas and minutes, thus bringing the District into compliance with the Ralph M. Brown Act
 - b. Increase transparency, by keeping tax-payers more fully informed
 - c. Provide an interactive portal for public input(Findings 5 and 6)

- R2. The Grand Jury recommends that proposed engineering and professional services rendered to the District, at a cumulative annual cost anticipated to exceed the \$100,000 threshold, be subject to the mandatory public competitive, sealed, bid process, per Kern County Administrative Policy and Procedures Manual, Chapter 5. (Findings 14, 21, 23 and 24)
- R3. The Grand Jury recommends that all formal and informal agreements with all vendors of goods or services be in writing, meet all legal requirements, and be made available to the public. (Findings 14, 15, 16, 17 and 18)
- R4. In order to reduce cost to the District, the Grand Jury recommends that the Commissioners prepare all meeting agendas. (Finding 19)
- R5. In order to reduce cost to the District, the Grand Jury recommends that the Commissioners take and prepare all meeting minutes. (Finding 19)
- R6. In order to reduce cost to the District, the Grand Jury recommends that the legal counsel only be required to attend meetings, at which legal matters are on the agenda. (Findings 19 and 20)
- R7. The Grand Jury recommends that the District adopt a comprehensive set of bylaws and written policies, to bring the District into compliance with California Government Code §4526. (Finding 25)
- R8. The Grand Jury recommends that the Kern County Board of Supervisors change the Commissioners' residence requirements to include representation from the City of Shafter (when the District expands its boundaries) keeping it in compliance with California Streets and Highways Code §8130.1. (Findings 2 and 3)
- R9. The Grand Jury recommends that the District take steps to assure compliance with California Government Code §4526, regulating the method of accepting and reviewing sealed bids. (Findings 14, 15, 16, 17, 18, 21, 22, and 23)
- R10. The Grand Jury recommends that management responsibility revert from the engineering firm, and be resumed by the Board of Commissioners. (Finding 22)
- R11. The Grand Jury recommends that the Kern County Board of Supervisors establish procedures to monitor appointed boards and commissions to assure that Districts adhere to all State and County regulations, ordinances and administrative polices. (Findings 14, 15, 16, 17, 18, 21, 23, 24, and 25)

NOTES:

- The Kern County Board of Supervisors and the Greater Bakersfield Separation of Grade District should each post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.kerncounty.com/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.kerncounty.com/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

Appendix A:

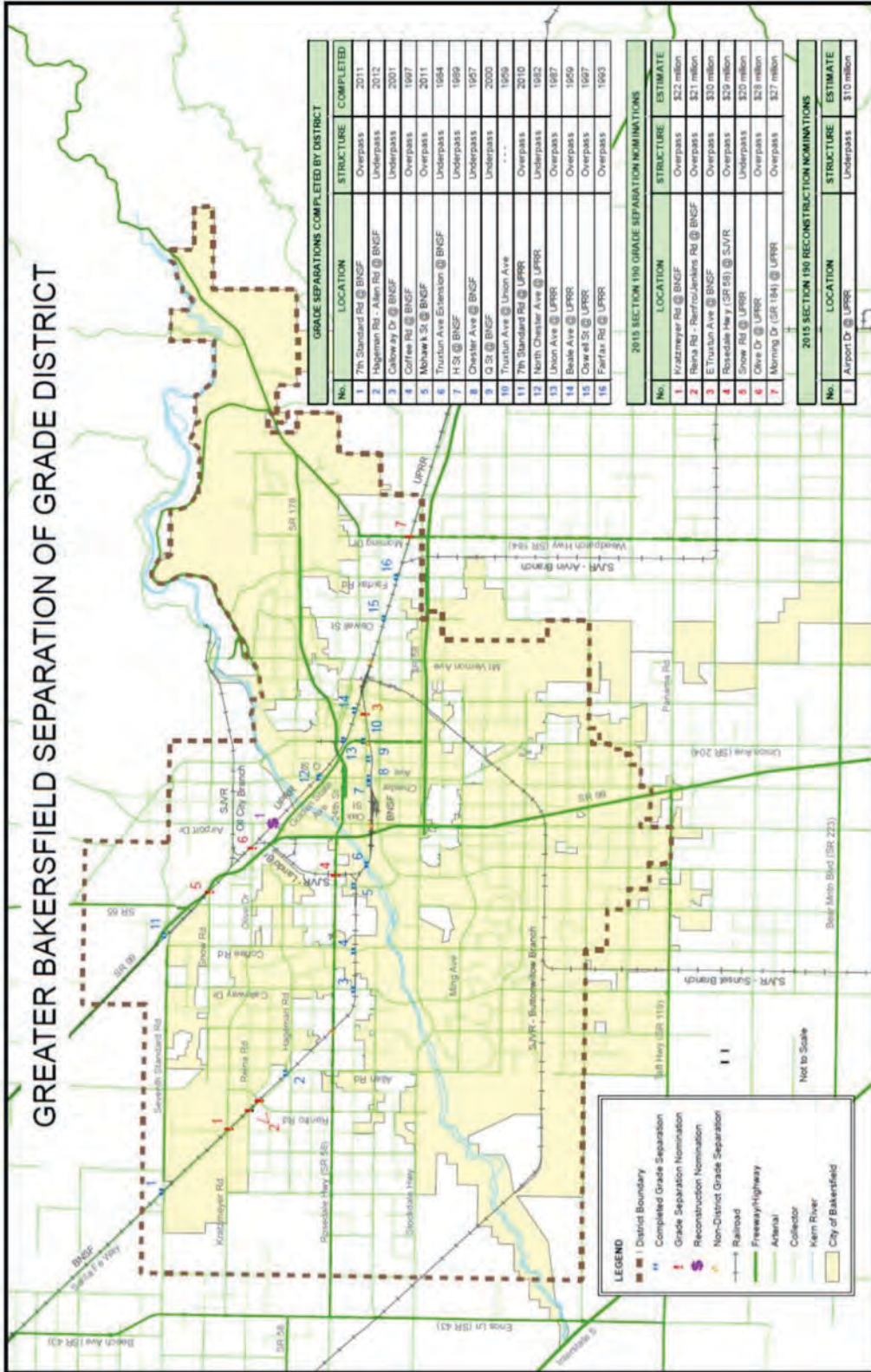
Photos of Hageman Road/Santa Fe Way at the Burlington Northern Santa Fe Railway



Photos taken by the Grand Jury

Appendix B:

Map provided by Greater Bakersfield Separation of Grade District.



Prepared by Ruetlgers & Schuler Civil Engineers
May 2017

GREATER BAKERSFIELD SEPARATION OF GRADE DISTRICT
1800 30th Street, Suite 260
Bakersfield, CA 93301

June 14, 2018

Honorable Charles R. Brehmer, Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Dept. 1
Bakersfield, CA 93301

Re: Greater Bakersfield Separation of Grade District

Dear Judge Brehmer:

This letter is a response to the Kern County Grand Jury report regarding the Greater Bakersfield Separation of Grade District (“District”) which was made public on March 22, 2018.

The Commissioners of the District appreciate the efforts of the Grand Jury to learn about the District’s important role in the community and its operations and would like to thank the members of the Grand Jury for their efforts.

The Commission largely agrees with the Grand Jury’s report. Below we respond with respect to those facts, findings and recommendations that we believe warrant an update or clarification.

Grand Jury Facts

D. *The Commission meets on the 3rd Monday of each month at 4:00 pm at 1800 30th Street, Suite 260, Bakersfield, California 93301.*

On March 12, 2018, the Commission changed its regular meeting time to the *second* Monday of each month at 5:00 p.m. at the same location.

I. *California State Government Code §4526 and Kern County Administrative Policy and Procedures Manual require special districts to obtain Request(s) for Qualifications (RFQ) for professional services.*

Government Code section 4526 requires special districts to select certain professional services “on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.” Section 4526 does not mention Requests for Qualifications. The Kern County Administrative Policy and Procedures Manual requires special districts “governed by the Board of Supervisors” to use RFQs “to solicit qualified consultants for services requiring a qualifications standard,” including, for example, “architects or engineers for public construction projects.”

- J. *The Kern County Administrative Policy and Procedures Manual require special districts have a written agreement with all outside counsel or retained attorney(s).*

The Kern County Administrative Policy and Procedures Manual does not appear to require special districts to have a written agreement with their attorneys. Section 510 regarding Professional Services does not appear to apply to special districts. Section 510 discusses boilerplate agreements available for county departments to use when contracting for professional services, but section 510 does not mandate the use of such agreements, or any other agreement, by special districts.

Grand Jury Findings

- F3 *In 2017, the District applied to the Kern County Local Agency Formation Commission for an expansion into a portion of the City of Shafter. That expansion is pending as of the writing of this report.*

The District applied to Kern LAFCO for an expansion into a portion of the City of Shafter and also to annex territory south and east of the current District boundary as well. LAFCO approved both applications on January 17, 2018. The applications for annexations are now subject to approval by the Board of Supervisors.

- F5 *The District's webpage is a subsection of the Kern County website, <https://www.kerncounty.com/bos/boards/Grtr-bak.aspx>, which does not allow public input.*

The County of Kern maintains a website that includes a page with information about the District. This informational page of the County's website is not the District's webpage. The District does not maintain the webpage and has no ability to post to it or otherwise edit the page.

- F6 *The Commission posts all meeting agendas and minutes on the door to Suite 260, 1800 30th Street, Bakersfield, the office of the engineering company used by the District, as well as the building's exterior front door. The agendas and minutes are not posted on the District's webpage, and not readily available to the public, as required by the Ralph M. Brown Act.*

The District posts all meeting agendas and minutes as described, which is in compliance with the Brown Act. Additionally, agendas and minutes are available upon request to any member of the public. As noted above in response to Finding 5, the District does not have an "Internet Website" as that term is used in the Brown Act (section 54954.2 of the Government Code), which requires agendas to be posted "on the local agency's Internet Website, if the local agency has one."

- F9 *The selection process for project funding is through a formula that primarily addresses historic traffic, accident rates, and anticipated future traffic volumes.*

The selection process this finding refers to is the Section 190 Grade Separation Program administered by the CPUC and Caltrans, which program involves rankings of nominated projects statewide based on several factors, including traffic, accident rates and anticipated future traffic volumes. Funding of projects by other agencies, including the County of Kern and the City of Bakersfield, as well as other possible state and federal funding sources, is determined by the funding processes of each individual agency.

- F10 *Before a prospective project can be moved from the status of having been “Nominated for Construction” to “Scheduled for Construction,” all funding must be in place, including local funding.*

This is true for projects receiving funding under the Section 190 Grade Separation Program.

- F13 *The District pays \$200 per month to the engineering firm for the monthly Commissioners’ Meeting, and for unsecured file space*

The District pays the District’s engineering firm \$200 per month for use of conference room space for the monthly Commission Meetings and for unsecured file space.

- F14 *There is no record of competitive bidding for engineering or management services.*

The District has typically partnered with other local agencies on grade separation projects, primarily the County of Kern or City of Bakersfield. The County or the City has typically undertaken the design and construction phases of such projects. The engineering and construction management services for those phases of all projects are competitively bid by the partner agency.

- F15 *For over 15 years, the same engineering firm has been engaged for all pre-construction services.*

The District’s engineer, a consultant engaged on an at-will basis to perform tasks as directed from time to time by the Commission, does not perform all pre-construction services. Pre-construction engineering work for each project—including preparing and processing all documents as required under CEQA, obtaining geotechnical information, design of roadways, structures, drainage facilities and electrical lighting systems, and preparing final construction documents—is typically performed by the District’s partner agency, e.g., the County of Kern or City of Bakersfield, not the District. See for example the Joint Agencies Agreement For The Engineering, Financing And Construction Of The Hageman Road/BN&SF Separation Of Grade Project dated October 21, 2008, between the County of Kern and the District.

- F16 *The District has no record of any written agreement with the engineering firm, other than a “rate sheet.”*

At the time the Grand Jury issued its report the District had no formal written agreement with the engineering firm. In addition to the rate sheets presented to the Commission

from time to time and approved by the Commission, the minutes of the Commission meetings at which the rate sheets have been presented to the Commission and approved by the Commission also constitute a record of such agreements.

F18 *The District does not have a written agreement or contract with their legal counsel.*

In 1987 the Commission appointed the District's current legal counsel by Resolution No. 87-7, to which an executed legal services agreement was attached. Legal counsel periodically presents its billing rates to the Commission which has from time to time approved the retention of legal counsel at the stated rates.

F19 *The agendas are prepared, and minutes are taken and transcribed by legal counsel at \$245 per hour.*

The agendas are prepared by staff of the District's engineer and reviewed by the Commission's President and by counsel before dissemination to the Commissioners and the public. For the past several years, legal counsel has taken minutes at the meetings which legal counsel attends, but legal counsel does not transcribe the minutes. Staff in legal counsel's office familiar with preparing the Commission's meeting minutes prepares drafts of the minutes, at no cost to the District, which are reviewed and edited by counsel before dissemination to the Commissioners.

F20 *The legal counsel attends all Commission meetings, even when legal matters are not on the agenda.*

In the past few years legal counsel has attended virtually all Commission meetings because at any Commission meeting legal matters may arise, regardless of whether legal issues are specifically on the agenda. At any meeting, the Commission may have questions for legal counsel regarding any agenda item, and Brown Act issues and rules of order issues may arise.

F21 *Kern County Administrative Policy and Procedures Manual require special districts solicit competitive sealed bids for engineering and professional services exceeding \$100,000.*

The Kern County Administrative Policy and Procedures Manual requires county departments to solicit proposals for professional service contracts over \$100,000 pursuant to a Request for Proposal (RFP) process. Sections 510 and 511 of the manual do not appear to apply to special districts.

F22 *All management responsibility has been delegated to the engineering firm by the Board of Commissioners.*

The Commission manages and directs the District's business at its monthly meetings. In the interests of efficiency and cost savings, however, rather than employing a full-time staff (with the associated payroll and overhead costs), the Commission has delegated certain administrative tasks to the engineering firm.

F24 *Engineering and management services performed by the engineering firm exceeded \$222,000 in 2016.*

The services provided by the engineering firm in 2016 included management and administrative services as well as project scoping, planning and nominating services, including:

- (1) identifying and maintaining a list and mapping of rail and roadway crossings in need of separation;
- (2) gathering and analyzing vehicular, rail, pedestrian and accident data for the crossings on the list;
- (3) developing and updating separation concepts and cost estimates;
- (4) identifying and pursuing funding through local, state and federal sources;
- (5) coordinating with local, state and federal agencies, as well as railroad companies on project development, funding and priority issues; and
- (6) working with counsel to maintain and adjust the District boundaries as necessary.

F25 *The District does not have written bylaws, or a Policies and Procedures Manual, as required by California Government Code §4526.*

Neither bylaws or a Policy and Procedures Manual are required by Government Code section 4526 or any other law. Section 4526 does not mention bylaws or manuals. Section 4526 provides, in part, that “local agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services *may* adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies.” (italics added) The District has no employees and typically does not enter into contracts for construction of public works, so a Policies and Procedures Manual would serve little purpose. Bylaws are unnecessary because the District’s formation, purpose and powers are governed by statute, including Streets and Highways Code sections 8100 through 8297, and the Kern County Board of Supervisors Resolution forming the District, adopted June 29, 1954.

Grand Jury Recommendations

R1 *The Grand Jury recommends that the District update their pages on the Kern County website to:*

- a. *Include meeting agendas and minutes, thus bringing the District into compliance with the Ralph M. Brown Act*
- b. *Increase transparency, by keeping tax-payers more fully informed*

c. *Provide an interactive portal for public input (Findings 5 and 6)*

This recommendation is being implemented as follows:

Although the District does not maintain the Kern County website, the District agrees that public internet posting of its agendas and minutes would be in the public's interest. Accordingly, the District has asked the County to facilitate posting of the District's agendas and minutes.

An interactive portal for public input will not be implemented because it is not reasonable. The District does not maintain the County website and has no staff to monitor an interactive portal. An interactive internet portal would require the District to hire staff (and provide equipment and office space) to monitor the public input, or pay a consultant, which would increase costs to the District and the public. The Commission welcomes any member of the public at any time to write a letter to the District or attend a Commission meeting and address the Commission.

R2 *The Grand Jury recommends that proposed engineering and professional services rendered to the District, at a cumulative annual cost anticipated to exceed the \$100,000 threshold, be subject to the mandatory public competitive, sealed, bid process, per Kern County Administrative Policy and Procedures Manual, Chapter 5. (Findings 14, 21, 23 and 24)*

This recommendation will be implemented in the event the District seeks to enter into a contract that requires public bidding, such as contracts for design work or other professional services for construction of a public works project. The pre-project scoping, planning, financial source identification, inter-agency coordination and nominating services provided by the District's engineer on an at-will month-to-month basis, however, do not fall into this category. Such services are not project-specific and do not have a definable scope or duration of work, making competitive bidding impractical. Since the engineering services are conducted month-to-month, it is uncertain at the beginning of any fiscal year what the total value of the services will be, and whether the cumulative value will exceed \$100,000 for a given fiscal year. Additionally, to the extent the services are professional services of an engineer, such engineer is to be selected on the basis of "demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required," not just on the basis of lowest price or hourly billing rate. (Gov. Code § 4526.) The District has engaged an engineer based on demonstrated competence and professional qualifications necessary to perform the services required by the District. The District engages an engineering consultant for such services rather than employing an engineering staff because the consultant relationship allows for greater flexibility and efficiency and lower cost than employing staff.

R3 *The Grand Jury recommends that all formal and informal agreements with all vendors of goods or services be in writing, meet all legal requirements, and be made available to the public. (Findings 14, 15, 16, 17 and 18)*

This recommendation will be implemented as follows: The District plans to enter into a written agreement with the District's engineer.

- R4 *In order to reduce cost to the District, the Grand Jury recommends that the Commissioners prepare all meeting agendas. (Finding 19)*

This recommendation will not be implemented because it is not reasonable. First, the Commissioners themselves cannot collaborate to prepare an agenda for a meeting without potentially violating the Brown Act's prohibition against serial meetings, since to prepare a single agenda they would need to communicate with each other. Second, the Commissioner(s) who might prepare the agendas should be compensated for their time, so costs would not be materially reduced. Currently, by law, the District is only authorized to pay the Commissioners up to \$100 for attending monthly meetings of the Commission and for travel expenses incurred in traveling to Commission meetings and in traveling on Commission business when previously authorized by the Commission. If the District were to employ Commissioners or part-time staff to prepare agendas and provide such persons with equipment and office space in which to work, that would be more costly than having staff of the engineering firm prepare the agendas.

- R5 *In order to reduce cost to the District, the Grand Jury recommends that the Commissioners take and prepare all meeting minutes. (Finding 19)*

This recommendation will not be implemented because it is not reasonable. First, it would be inappropriate for the Commissioners to be taking minutes at meetings because their focus during meetings should be on the business at hand, not on taking down notes of the meeting. Minutes should be taken by another person acting as a secretary during the meeting. Second, any Commissioner who might prepare or transcribe minutes would need to be compensated for his or her time. Third, regardless of who prepares the minutes, counsel should review them before they are distributed, so having a Commissioner or other person prepare them would not materially reduce costs.

- R6 *In order to reduce cost to the District, the Grand Jury recommends that the legal counsel only be required to attend meetings, at which legal matters are on the agenda. (Findings 19 and 20)*

This recommendation will not be implemented because it is not reasonable for the reasons stated in response to Finding 20. Additionally, since legal counsel attends the meetings, legal counsel is able to take the minutes at no additional cost to the District for the time.

- R7 *The Grand Jury recommends that the District adopt a comprehensive set of bylaws and written policies, to bring the District into compliance with California Government Code §4526. (Finding 25)*

This recommendation will not be implemented because it is not warranted. Government Code section 4526 does not require the District to have bylaws, and written policies would serve no material purpose.

- R8 *The Grand Jury recommends that the Kern County Board of Supervisors change the Commissioners' residence requirements to include representation from the City of Shafter (when the District expands its boundaries) keeping it in compliance with California Streets and Highways Code §8130.1. (Findings 2 and 3)*

This recommendation is outside the authority of the District to implement. The District agrees that the residence requirements should be adjusted consistent with the applicable provisions of the Streets and Highways Code if the District's boundaries are expanded to include portions of the City of Shafter.

- R9 *The Grand Jury recommends that the District take steps to assure compliance with California Government Code §4526, regulating the method of accepting and reviewing sealed bids. (Findings 14, 15, 16, 17, 18, 21, 22, and 23)*

This recommendation will be implemented in the event the District seeks to enter into a contract that requires public bidding, such as contracts for design work or other professional services for construction of a public works project.

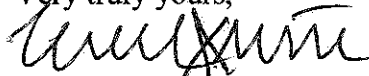
- R10 *The Grand Jury recommends that management responsibility revert from the engineering firm, and be resumed by the Board of Commissioners. (Finding 22)*

This recommendation will not be implemented because it is unwarranted for the reasons stated in response to Finding 22.

- R11 *The Grand Jury recommends that the Kern County Board of Supervisors establish procedures to monitor appointed boards and commissions to assure that Districts adhere to all State and County regulations, ordinances and administrative policies. (Findings 14, 15, 16, 17, 18, 21, 23, 24, and 25)*

This recommendation is outside the authority of the District to implement.

Very truly yours,



Mark J. Smith
President of the Commission,
Greater Bakersfield Separation of Grade District

Kern County Board of Supervisors
Response to Grand Jury Final Report
Greater Bakersfield Separation of Grade District

Response to Findings:

The Board of Supervisors notes that the Grand Jury's findings are substantially correct.

Response to Recommendation:

R8: The Grand Jury recommends that the Kern County Board of Supervisors change the Commissioners' residence requirements to include representation from the City of Shafter (when the District expands its boundaries) keeping it in compliance with California Streets and Highways Code §8130.1.

The Board of Supervisors appreciates the Grand Jury's recommendation and will take the recommendation into consideration upon final approved expansion by the Greater Bakersfield Separation of Grade District.

R11: The Grand Jury recommends that the Kern County Board of Supervisors establish procedures to monitor appointed boards and commissions to assure that Districts adhere to all State and County regulations, ordinances and administrative policies.

We concur with the Grand Jury's recommendation to the extent appointed boards and commissions are subject to County policy, the County already has procedures in place to monitor compliance. To the extent districts such as this one are separate public agencies from the County, the County generally has no authority over their internal policies.

KERN COUNTY

EMPLOYERS' TRAINING RESOURCE

Where have all the Workers gone?

PURPOSE:

The 2017-2018 Kern County Grand Jury (Grand Jury), Special Districts Committee (Committee) conducted an investigation into the Kern County Employers' Training Resource (ETR), pursuant to Penal Code §925. The inquiry was initiated following an investigation into Mountain Meadows Community Service District (Mountain Meadows). The inquiry was limited to the application for, and implementation of, disaster relief programs administered through ETR, utilizing Grant-funded Workers (Workers).

PROCESS:

Information found on various government websites and documents from Mountain Meadows, Stallion Springs Community Services District (Stallion Springs), and La Cooperativa Campesina de California (La Coop) were reviewed. La Coop is a non-profit entity contracted by the Federal Government to provide grant funding to California counties for Worker payroll.

The Committee interviewed the Director of ETR and several of its employees, the President of the Board of Directors and the General Manager of Stallion Springs. The Committee also interviewed the Board of Directors and General Manager of Mountain Meadows, as well as some Workers. The Director of La Coop was interviewed by telephone.

BACKGROUND:

ETR is a department, within the County of Kern, which serves as the administrative arm of the Kern/Inyo/Mono Counties Workforce Development Board. ETR's goals include training the workforce for the needs of the local economy, and providing assistance to businesses in the hiring process.

Additionally, ETR acts as the Administrator for Emergency Relief Grants provided through La Coop. Those include two Grants (Grants) that are commonly known as "The Drought Program" and "The Storm/Flood Program." These Grants were applied for, and awarded to, Mountain Meadows.

FACTS:

- A. La Coop channels Grants to repair and maintain drought/storm impacted roads and properties, owned by public agencies in Kern County, to temporarily hire:
 - Veterans

- Displaced workers
 - Long term unemployed
- B. The Workers' base pay rate is \$18 per hour. Overtime is calculated at 1.5 times the base rate.
- C. The Workers hired under the Grants are employees of La Coop.
- D. ETR and La Coop signed a Contract (Contract) to administer Grants to Mountain Meadows that require periodic visits be made to the worksites by ETR. This should ensure that the on-site supervisors and Workers are in compliance with the terms of the Contract.
- E. Under the terms of the contracts between ETR and Mountain Meadows, the Workers *must* be directed by the Mountain Meadows staff, or a designated on-site supervisor.
- F. Mountain Meadows is the designated responsible party for keeping complete and accurate employee records for ETR, as per the contract, including:
- Assigned worksite
 - Dates
 - Hours
 - Overtime
 - Employees' certification of time
 - Supervisor's certification of time
 - Supervisor's certification of location
 - Workers' Compensation claims

FINDINGS:

- F1. A contract, with ETR for grant funding to pay for road and culvert maintenance Workers, was requested by Mountain Meadows in 2016, for the year of 2017. The terms of this agreement required that all work be performed at Mountain Meadows.
- F2. An agreement, between ETR and Mountain Meadows for Workers *under the Drought Program*, was signed by the General Manager of Mountain Meadows. This was **prior** to his October 16, 2017, resignation from Mountain Meadows and departure to Stallion Springs.
- F3. An agreement, between ETR and Mountain Meadows for Workers *under the Storm/Flood Program*, was signed by the current General Manager of Stallion Springs **after his departure on October 16, 2017**, from Mountain Meadows, without authority.

- F4. According to the General Manager, after he resigned from Mountain Meadows, he:
- a. Directed the Workers not to report to Mountain Meadows,
 - b. Directed Workers to report for work at Stallion Springs,
 - c. Continued to sign the Workers' timesheets, as if he were still General Manager of Mountain Meadows.
- F5. During interviews with ETR employees, the Committee learned ETR was aware that the previous General Manager was still signing timesheets on behalf of Mountain Meadows after his resignation. A site inspection by ETR staff confirmed that work was being performed at Stallion Springs.
- F6. According to ETR staff, Stallion Springs' last grant expired in December 2016.
- F7. Work locations are specifically defined in each grant. The former ETR Contracts Administrator informed the Committee that any exception must be requested and approved in writing. A one-time exception was given under an earlier grant for the use of two workers for two days at a neighboring district. No exceptions were authorized after 2015.
- F8. All workers, under ETR administered grants, are required to complete and sign a timesheet every two weeks, indicating their work location, dates, hours worked, overtime, and sick leave.
- F9. During interviews with the Workers, it was revealed to the Committee that overtime was granted upon the Workers' request, not necessarily based on work-related needs.
- F10. According to an agreement between Workers and La Coop, accuracy of the timesheets is the responsibility of the Worker, and must be verified by the on-site supervisor.
- F11. Contrary to the requirements of the Contract with La Coop, timesheets were not given to the on-site supervisor at Mountain Meadows for signature, prior to their submission to ETR.
- F12. The Committee review of the Workers' timesheets revealed they were signed by the General Manager of Stallion Springs, rather than an on-site supervisor at Mountain Meadows.
- F13. Timesheets reviewed by the Committee, completed by Workers in 2017 and 2018, were altered after the Workers signed them. The altered timesheets indicated that the Workers were working at Mountain Meadows, rather than their actual work location. Workers interviewed by the Committee, verified that their timesheets indicated Stallion Springs as the work location, when signed.

- F14. Based on documents provided, Workers assigned to Mountain Meadows worked over 4,000 hours at Stallion Springs. These hours equate to an amount in excess of \$72,000.
- F15. According to the Stallion Springs Board President, the use of Mountain Meadows' Workers allowed Stallion Springs to free up money to:
- Purchase road maintenance equipment
 - Create an income stream by renting this equipment to other entities
- F16. The Contract requires that original timesheets must be promptly delivered to ETR to be archived. However, timesheets may be electronically transmitted to ETR, only to facilitate timely payroll processing.
- F17. The Committee requested original Drought/Storm-Flood Program Workers' timesheets from Mountain Meadows, Stallion Springs, La Coop, and ETR. These original documents were not provided; **all entities claimed that the documents were not in their custody.**
- F18. ETR staff is responsible for the accuracy of Workers' timesheets to confirm:
- Dates
 - Hours worked
 - Overtime
 - Sick leave
 - Work-site location
 - Signatures of the Worker and on-site supervisor
- F19. A Worker reported he fell in the Mountain Meadows workshop at 7:25 a.m. on Saturday, December 16, 2017, injuring his leg. The Workers' Compensation Claim Form, reviewed by the Committee, was signed by the General Manager of Stallion Springs, and filed with La Coop and ETR.
- F20. **The injured Worker's timesheet, confirmed and signed by the General Manager of Stallion Springs, and reviewed for accuracy by ETR staff, indicates that eight hours overtime was worked on the day of the accident. When the Committee asked the General Manager for clarification, he replied, "I must have signed the timesheet in error."**

COMMENTS:

The Special Districts Committee thanks the Director and office staff of ETR for their time, information, cooperation, and for their help in understanding the complexities of the grant programs. The Committee extends its appreciation to Mountain Meadows for their assistance, cooperation and use of their Board Room. The Committee also thanks the Workers who availed themselves for interviews.

RECOMMENDATIONS:

- R1. Kern County Employers' Training Resource staff should confirm that all Workers immediately report to work at the assigned work-site of Mountain Meadows, as required in the Grant. (Findings 1, 3, 4, 7, and 13)
- R2. ETR staff should review its training program, to ensure that employees working with Grant Workers' programs are fully trained to carry out all administrative duties required by the Contracts with La Coop. (Findings 2, 3, 4, 7, 8, 10, 11, 16, 17, 18, and 20)
- R3. ETR staff should demand the original timesheets from Mountain Meadows and Stallion Springs for all Workers, in accordance with the Contracts. (Findings 10, 11, 12, 13, 16, and 17)
- R4. ETR staff should establish an archive system to maintain original timesheets of all Workers, as required by La Coop. (Finding 16)
- R5. ETR staff should verify that the Workers' timesheets are signed by the authorized on-site supervisor. (Findings 4, 5, 10, 11, 12, 16, 17, and 18)
- R6. ETR staff should verify that individuals signing contracts, and/or agreements, are authorized to do so. (Findings 2, 3, 4, 5, 10, 11, and 12)
- R7. ETR should work with La Coop and Mountain Meadows to explore any and all legal options for the misuse of Workers, and recompense for possible misappropriation of funds. (Findings 4, 7, 14, and 15)
- R8. ETR should monitor use of overtime hours for the Workers, in order to maximize the number of labor-hours available. (Findings 9 and 20)

NOTES:

- The Kern County Board of Supervisors and Kern County Employers' Training Resource, should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.kerncounty.com/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.kerncounty.com/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS TO:

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

Kern County Board of Supervisors
Response to 2017-18 Grand Jury Final Report
Kern County Employers' Training Resource (ETR)

Response to Facts:

The Board of Supervisors notes that the Grand Jury's Facts are substantially correct with corrections and/or clarifications to Fact A-F as described below.

A. *La Coop channels Grants to repair and maintain drought/storm impacted roads and properties, owned by public agencies in Kern County, to temporarily hire:*

- *Veterans*
- *Displaced workers*
- *Long term unemployed*

La Coop applied for and received National Dislocated Worker grant funding through the California Employment Development Department to provide storm mitigation services throughout California. La Coop contracted with ETR (Kern County Agreement #456-2017) to administer a storm mitigation program in Kern County that provided temporary jobs with public and non-profit agencies. Temporary workers had to meet specific eligibility requirements:

- Individuals who are temporarily or permanently laid off as a consequence of the disaster
- Other eligible dislocated workers as defined in Workforce Innovation and Opportunity Act (WIOA) Section 3(15) which are unemployed, terminated or laid off or has received a notice of termination or lay-off, self-employed but unemployed as a result of general economic conditions in the community or natural disaster, displaced homemaker, and spouse of a member of the Armed Forces
- Long-term unemployed workers, as defined by the State
- Self-employed individuals who became unemployed or significantly underemployed as a result of the disaster or emergency

B. *The Workers' base pay rate is \$18 per hour. Overtime is calculated at 1.5 times the base rate.*

Temporary workers were paid the prevailing wage for the specific job title at the assigned agency. This information was detailed in each temporary worker's worksite agreement. Overtime was allowed under the program and paid at 1.5 times the base rate. Each temporary worker was limited to a total of 2,080 hours or six months, or total wage compensation of \$28,000, whichever came first. (Attachment A, Worksite Agreement, Page 3, Section 16; and Page 2, Section 5)

C. *The Workers hired under the Grants are employees of La Coop.*

The temporary workers hired under each specific worksite agreement were employees of La Coop.

D. *ETR and La Coop signed a Contract (Contract) to administer grants to Mountain Meadows that require periodic visits be made to the worksites by ETR. This should ensure that the on-site supervisors and Workers are in compliance with the terms of the Contract.*

ETR and La Coop signed a contract to administer the program in Kern County (Kern County Agreement #456-2017). ETR then developed worksites with various agencies including Mountain Meadows. The individual worksite agreement for each temporary worker stated each trainee hired under the agreement shall be subject to the supervisory control of the worksite agency and that the agency agrees to allow ETR representatives on site visits to monitor and to maintain a close liaison with the temporary worksite supervisor. (Attachment A, Worksite Agreement, Page 2, Section 9; and Page 3, Section 11.)

E. Under the terms of the contracts between ETR and Mountain Meadows, the Workers must be directed by the Mountain Meadows staff, or a designated on-site supervisor.

Under the terms of the individual worksite agreements between ETR and Mountain Meadows, each trainee hired shall be subject to the supervisory control of the Temporary Worksite (Mountain Meadows). (Attachment A, Worksite Agreement, Page 2, Section 9.)

F. Mountain Meadows is the designated responsible party for keeping complete and accurate employee records for ETR, as per the contract, including:

- *Assigned worksite*
- *Dates*
- *Hours*
- *Overtime*
- *Employees' certification of time*
- *Supervisor's certification of time*
- *Supervisor's certification of location*
- *Workers' Compensation claims*

There was no "contract" between ETR and any worksite, including Mountain Meadows. In each individual worksite agreement, the worksite agency's designated supervisor, in this case Mountain Meadows' General Manager was responsible for keeping complete and accurate employee records for each of its temporary workers. (Attachment A, Worksite Agreement, Page 3, Section 17; and Attachment B, Mountain Meadows Letter.)

Response to Findings:

The Board of Supervisors notes that the Grand Jury's findings are substantially correct with corrections and/or clarifications to finding F1, F3, F4, F5, F6, F7, F8, F10, F11, F14, F16, F17, F18, F19, and F20.

F1: A contract, with ETR for grant funding to pay for road and culvert maintenance Workers, was requested by Mountain Meadows in 2016, for the year of 2017. The terms of this agreement required that all work be performed at Mountain Meadows.

There was no "contract" between ETR and Mountain Meadows; however, Mountain Meadows requested to participate in the Storm/Flood Program via letter dated August 25, 2017. (Attachment B, Mountain Meadows Letter.)

F3: An agreement, between ETR and Mountain Meadows for Workers under the Storm/Flood Program, was signed by the current General Manager of Stallion Springs after his departure on October 16, 2017, from Mountain Meadows, without authority.

ETR did not receive notification from Mountain Meadows regarding any change in management or of the resignation of the General Manager until February 20, 2018, when ETR received a letter on Stallion Springs Community Services District letterhead from the General Manager requesting storm grant temporary workers. The letter states that the Mountain Meadows General Manager had resigned and subsequently taken a part-time job as General Manager of Stallion Springs. The letter also says that “it was clearly spelled out to the Directors of Mountain Meadows and Stallion Springs that the General Manager would continue to administer the grant program and provide grant workers to both agencies.” (Attachment C, Stallion Springs Letter.)

F4: *According to the General Manager, after he resigned from Mountain Meadows, he:*

- a. *Directed the Workers not to report to Mountain Meadows,*
- b. *Directed Workers to report for work at Stallion Springs,*
- c. *Continued to sign the Workers’ timesheets, as if he were still General Manager of Mountain Meadows.*

As stated, ETR did not receive notification from Mountain Meadows regarding any change in management or of the resignation of the General Manager until February 2018. (Attachment C, Stallion Springs Letter.)

F5: *During interviews with ETR employees, the Committee learned ETR was aware that the previous General Manager was still signing timesheets on behalf of Mountain Meadows after his resignation. A site inspection by ETR staff confirmed that work was being performed at Stallion Springs.*

While it is unclear when these events took place, ETR did not receive notice of any change in management for Mountain Meadows or Stallion Springs until February 2018. (Attachment C – Stallion Springs Letter.)

F6: *According to ETR staff, Stallion Springs’ last grant expired in December 2016.*

Stallion Springs had a signed worksite agreement for the temporary jobs program for drought impacted workers that expired December 31, 2016.

F7: *Work locations are specifically defined in each grant. The former ETR Contracts Administrator informed the Committee that any exception must be requested and approved in writing. A one-time exception was given under an earlier grant for the use of two workers for two days at a neighboring district. No exceptions were authorized after 2015.*

This is not applicable. The drought temporary jobs program and the storm temporary jobs program were not operated the same.

F8: *All workers, under ETR administered grants, are required to complete and sign a timesheet every two weeks, indicating their work location, dates, hours worked, overtime, and sick leave.*

While ETR administers a variety of grants, under this program all workers were required to complete and sign a timesheet every two weeks, indicating their work location, dates, hours worked, overtime, and sick leave. (Attachment A, Worksite Agreement, Page 3, Section 17.)

F10: *According to an agreement between Workers and La Coop, accuracy of the timesheets is the responsibility of the Worker, and must be verified by the on-site supervisor.*

There was no agreement between the temporary workers and La Coop. According to the individual worksite agreements, the temporary worksite supervisor was responsible for the completion of accurate timesheets for hours worked. On the timesheet, there were signature lines for both the temporary worker and the worksite supervisor. (Attachment D, Employee Timesheet.)

F11: Contrary to the requirements of the Contract with La Coop, timesheets were not given to the on-site supervisor at Mountain Meadows for signature, prior to their submission to ETR.

Timesheets are not mentioned in the contract between ETR and La Coop. In the individual worksite agreements, the temporary worksite supervisor was responsible for the completion and timely submission of the accurate timesheets to ETR for processing. (Attachment A, Worksite Agreement, Page 3, Section 17.)

F14: Based on documents provided, Workers assigned to Mountain Meadows worked over 4,000 hours at Stallion Springs. These hours equate to an amount in excess of \$72,000.

It is unclear as to what documents were provided and time frame to reference. It is ambiguous as to what the Grand Jury is referring to. No worksite agency was promised any workers, hours of work, or any funding. The temporary workers were paid prevailing wages for hours worked that was limited to a total of 2,080 hours or six months, or total wage compensation of \$28,000, whichever came first. This was based on grant funding and it was understood that the grant could end at any time.

F16: The contract requires that original timesheets must be promptly delivered to ETR to be archived. However, timesheets may be electronically transmitted to ETR, only to facilitate timely payroll processing.

According to the worksite agreement, the temporary worksite supervisor was responsible for timely submission of original signed 2017 Storm Temporary Jobs Program Employee Timesheet forms to ETR. (Attachment A, Worksite Agreement, Page 3, Section 17.)

F17: The Committee requested original Drought/Storm-Flood Program Workers' timesheets from Mountain Meadows, Stallion Springs, La Coop, and ETR. These original documents were not provided; all entities claimed that the documents were not in their custody.

Mountain Meadows and Stallion Springs had original timesheets and they are now in ETR's possession.

F18: ETR staff is responsible for the accuracy of Workers' timesheets to confirm:

- *Dates*
- *Hours worked*
- *Overtime*
- *Sick leave*
- *Work-site location*
- *Signatures of the Worker and on-site supervisor*

It was the responsibility of the worksite supervisor to confirm the accuracy of the timesheets. ETR staff reviewed time sheets only to ensure compliance with payroll requirements. (Attachment A, Worksite Agreement, Page 3, Section 17.)

F19: *A Worker reported he fell in the Mountain Meadows workshop at 7:25 a.m. on Saturday, December 16, 2017, injuring his leg. The Workers' Compensation Claim Form, reviewed by the Committee, was signed by the General Manager of Stallion Springs, and filed with La Coop and ETR.*

According to the information that ETR had, the general manager was working for both agencies and he would have been the responsible person to sign the claim form. (Attachment C, Stallion Springs Letter.)

F20: *The injured Workers' timesheet, confirmed and signed by the General Manager of Stallion Springs, and reviewed for accuracy by ETR staff, indicates that eight hours overtime was worked on the day of the accident. When the Committee asked the General Manager for clarification, he replied, "I must have signed the timesheet in error."*

According to the timesheet that was submitted, the injured worker had worked 50 hours Monday through Friday the week of December 11 – 15, 2017, so he would have been on overtime on Saturday, December 16, 2017. If an individual is injured on the job, he is still on the time clock when seeking medical aid. Also, according to the timesheet, the individual was injured while at Mountain Meadows. Therefore, it was appropriate to pay 8 hours overtime for Saturday, December 16, 2017. (Attachment D, Employee Timesheet.)

Response to Recommendation:

R1: *Kern County ETR staff should confirm that all workers immediately report to work at the assigned work-site of Mountain Meadows, as required in the grant.*

We do not concur with the Grand Jury's recommendation. No worksites, including Mountain Meadows, are mentioned in the grant. Per the worksite agreement, the workers were under the supervisory control of the worksite agency, not ETR. (Attachment A, Page 2, Section 9.) The Mountain Meadows supervisor was responsible for workers reporting to the assigned worksite. Additionally, as of May 20, 2018, the grant has been suspended due to lack of funding from the U.S. Department of Labor.

R2: *ETR staff should review its training program, to ensure that employees working with grant worker programs are fully trained to carry out all administrative duties required by the contracts with La Coop.*

We concur with the Grand Jury's recommendation that ETR staff working with temporary job programs should be fully trained and informed as to the grant performance, reporting requirements, and procedures. For this storm program, the California Employment Development Department provided a general webinar and La Coop provided a grant manual. For future similar grants ETR will provide additional training on administrative duties required and keep staff updated on any changes that may occur during the grant operation.

R3: *ETR staff should demand the original timesheets from Mountain Meadows and Stallion Springs for all workers, in accordance with the contracts.*

It is unnecessary to demand the original timesheets from Mountain Meadows and Stallion Springs as the timesheets are in ETR's possession. ETR demanded the timesheets from Mountain Meadows and Stallion Springs and they were provided.

R4: *ETR staff should establish an archive system to maintain original timesheets of all workers, as required by La Coop.*

An archive system already exists. The original timesheets are kept in each individual temporary worker's file in a locked file room at ETR. The participants' files are kept at a minimum for three years.

R5: *ETR staff should verify that the workers' timesheets are signed by the authorized on-site supervisor.*

We concur with the Grand Jury's recommendation that ETR staff should verify that the workers' timesheets are signed by the authorized on-site supervisor. For future programs, ETR will require worksite agencies to submit an authorized signature page and require them to notify ETR immediately of any personnel changes.

R6: *ETR staff should verify that individuals signing contracts, and/or agreements, are authorized to do so.*

We concur with the Grand Jury's recommendation that ETR staff should verify that individuals signing contracts and/or agreements are authorized to do so. For future programs, ETR will require worksite agencies to submit an authorized signature page and require them to notify ETR immediately of any personnel changes.

R7: *ETR should work with La Coop and Mountain Meadows to explore any and all legal options for the misuse of workers, and recompense for possible misappropriation of funds.*

We do not concur with the Grand Jury's recommendation. There was no misuse of workers or misappropriation of funds.

We do not agree with the use of the language "misuse of workers" because of the following:

- The workers were all working on storm mitigation which was the purpose of the grant funding.
- Signed timesheets were submitted and signed by the worksite supervisor.
- The workers were all paid a fair wage by La Coop, the employer of record.

We do not agree with the use of the language "misappropriation of funds" because of the following:

- No specific worksites, including Mountain Meadows and Stallion Springs, were guaranteed any workers.
- Neither Mountain Meadows nor Stallion Springs received any grant funds or had funds set aside for them.
- ETR did not receive any of the grant funding for the payroll of the temporary workers. Timesheets were submitted to La Coop in Sacramento and then La Coop issued checks addressed to each of the temporary workers in individually sealed envelopes.

R8: *ETR should monitor use of overtime hours for the workers, in order to maximize the number of labor-hours available.*

We do not concur with the Grand Jury's recommendation. The grant program guidelines were designed by La Coop. ETR followed program guidelines which specifically allowed for overtime. The worksite supervisor was responsible for what work needed to be done and in what timeframe; thus, the worksite supervisor had the responsibility to authorize any overtime.

EMPLOYERS' TRAINING RESOURCE

A PROUD PARTNER OF

America's **JobCenter**
of California™

Temporary Jobs Program for Flood Storm Impacted Workers

PARTICIPANT NAME: _____

START DATE: _____ END DATE: September 30, 2018

TEMPORARY JOB CREATION MEMORANDUM OF AGREEMENT FOR DEPARTMENTS OF THE COUNTY OF KERN

*La Cooperativa Campesina de California in Sacramento, California, is the administrator of the Temporary Jobs Program for Flood Impacted Workers to provide temporary employment to agricultural workers who were impacted by the floods, and to those workers who are long-term unemployed. **Employers' Training Resource** is the Program Operator. This funding is for the purpose of providing financial relief to the flood victims and long-term unemployed to assist them and their families recover from the disaster. All participants will be considered to be employees of La Cooperativa Campesina de California.*

WORKSITE AGREEMENT

This agreement is entered into this _____ day of _____, 2017, between **Employers' Training Resource**, hereinafter called *Member*, and _____, hereinafter called the **Temporary Worksite**, for the purpose of providing temporary job creation for unemployed, underemployed and disadvantaged men and women qualifying under the Employment Development Department's Temporary Jobs Program.

1. The **Temporary Worksite** will provide temporary work for Trainee in the following job category: (Job Title) _____
2. Specific Job Duties: _____
3. Name and address of **Temporary Worksite**:

4. Name and title of immediate supervisor: _____

5. Contingent upon funding, the term of this agreement shall be _____ through _____. Participants will not work more than 2080 hours or earn more than \$28,000, whichever comes first.
6. The **Temporary Worksite** will provide the Trainee with temporary job creation experience at its facilities in accordance with the training outline.
 - a. The placement of the Trainee shall be a joint agreement with Member and the **Temporary Worksite**. The Determination shall be based on the trainee's desire for a temporary job identified by Member and the **Temporary Worksite's** acceptance of the trainee after pre-assignment interview.
7. The **Temporary Worksite** is either a public or private 501(c)3 nonprofit corporation or governmental agency or school. No participant may be sent to private, for profit worksites, and work assignments must not be for private gain. Participants may not be used for religious work or promotion; however.
8. While La Cooperativa Campesina de California will be responsible for all payroll, workers compensation, accident and medical insurance, the **Temporary Worksite** will maintain normal liability and automobile insurance and will be considered responsible for normal safety considerations of the Participant.
9. The trainee hired under this agreement shall be subject to the supervisory control of the **Temporary Worksite**.
10. The Trainee who cannot comply with stipulated rules and regulations, or does not adhere to the supervision, will, upon the recommendation of the **Temporary Worksite** supervisor to Member representative, be terminated from further temporary work at the facility.

11. The **Temporary Worksite** agrees to allow Member representatives on site visits to monitor and to maintain a close liaison with the **Temporary Worksite** supervisor.
12. If either the Trainee or the **Temporary Worksite** wish to terminate an assignment early, for any reason, Member will be notified immediately.
13. The **Temporary Worksite** will comply with Member requests for timely and accurate reports of hours worked.
14. Because the participants are all La Cooperativa Campesina de California employees, regardless of location, they may be assigned to work at both Member (Project Operator) and the **Temporary Worksite** location during their employment. Similarly, Member may use several successive participants to fill a long term request at the **Temporary Worksite**.
15. All work projects given to participants must be for flood clean-up and repair. Of Public or Private Non-Profit Facilities.
16. The Trainee's wages will not exceed the prevailing wage. The entry level hourly wage to be paid is \$_____. (Please Note: Overtime will be allowed with prior approval of Member.)
17. The **Temporary Worksite** will be responsible for:
 - Completion of accurate timesheets for hours worked. The 2017 Flood Storm Temporary Jobs Program Employee Timesheet form will be provided.
 - Timely submission of the 2017 Flood Storm Temporary Jobs Employee Timesheet forms to Member. These must be scanned and emailed to [REDACTED] email address: [REDACTED] by 9:00 a.m. the Monday following each pay period.
 - Timely submission of original signed 2017 Flood Storm Temporary Jobs Program Employee Timesheet forms to Member. These must either be mailed to Member, Attention [REDACTED], 1600 East Belle Terrace, Bakersfield, CA 93307, or routed to Member, Attention [REDACTED] via County interoffice mail.
 - Distributing and having Trainee sign for payroll checks. The Payroll Distribution and Receipt Verification form will be provided.
 - Timely submission of Payroll Distribution and Receipt Verification forms to Member. The original signed Payroll Distribution and Receipt Verification form must either be mailed to Member, Attention [REDACTED], 1600 East Belle Terrace, Bakersfield, CA 93307, or routed to Member, Attention [REDACTED] via County interoffice mail.

- 18. Member will provide safety equipment including but not limited to boots, gloves, hard hats, rain gear, goggles, etc. Member will ensure that the trainee participates in all required compliance programs by the **Temporary Worksite**. The common compliance programs are the Injury Illness Prevention Program, Hazard Communication Program, Heat Illness Prevention program and Bloodborne Pathogens Program. The list above is not exhaustive and there may be other compliance programs that could help prevent accidents and help assure the trainee's safety.
- 19. Placement of these temporary workers shall not displace or adversely impact regular/permanent employees of the host site.

MEMBER

Employers' Training Resource

Temporary Worksite Organization

Authorized Signature

Alternative Worksite Authorized
Signature

Title

Title

Date _____

Date _____

**EMPLOYERS'
TRAINING
RESOURCE**

A PROUD PARTNER OF

America's **JobCenter**
of California

ATTACHMENT A

Temporary Jobs Program for Flood Storm Impacted Workers
Temporary Worksite: _____

Worksite job title, drought mitigation job duties, hourly wage, and
overtime wage (if applicable)

Job Title	Job Duties	Hourly Wage	Overtime Wage

Mountain Meadows

Community Services District

17980 Highline Road – Tehachapi -CA -93561
(661) 822-7616
mountainmeadowscsd@gmail.com

August 25, 2017

Employers Training Resource

[REDACTED]
1600 E. Belle Terrace
Bakersfield, CA 93307

Dear [REDACTED]

This letter is in regard to the need that Mountain Meadows has in being approved to be part of the Temporary Jobs Program for Flood/Storm Impacted Workers. Mountain Meadows Community Services District is a small governmental agency located in Eastern County/Tehachapi. The District is responsible for maintaining roads, culverts and drains. The district has a very limited budget of about \$150,000 per year.

The Storms that impacted Mountain Meadows in 2016/2017 had a severe impact on the roads in Mountain Meadows.

The District is in desperate need of accomplishing the following work:

1. Repair roadway damage that involves replacing erosion, pot holes, and gravel replacement.
2. Clear drains and culverts that were greatly impacted with dirt/mud flow and remove overgrown areas that impact the flow of water.

The District is responsible for about 26 miles of roads of which the majority are dirt and thus the work is significant.

I am requesting the following workers:

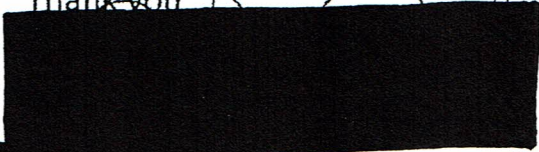
- ROAD MAINTENANCE SUPERVISOR. One or two persons who have a skill set to operate a grader/backhoe/dump truck. They would supervise the

work and be the individuals operating the equipment. Hourly pay would be \$21.00 per hour.

- Road Maintenance One. Two or Three persons who would be responsible for the manual portion of the work. They would be shoveling and raking and clipping dirt and growth. Hourly pay would be \$18.00 per hour.

Please let me know if this meets the requirements for the project and send me an application. I have individuals waiting to fill out the job application form.

Thank you



General Manager

Mountain Meadows Community Services District



STALLION SPRINGS COMMUNITY SERVICES DISTRICT

February 20, 2018

Employers Training Resource

[REDACTED]
1600 E. Belle Terrace
Bakersfield, CA 93307

Dear [REDACTED]

I have had the privilege to work with your agency in hiring veterans and other needy individuals to work on the Drought Grant Program and the flood program for 2016, 2017 and 2018. The Grant Program has highly benefited the agencies involved in obtaining willing workers to assist communities that were impacted by the drought and subsequently the floods that occurred. The initial grant program involved Mountain Meadows Community Services District as the lead agency and I was directed to work with Stallion Springs Community Services District in seeing that grant workers were available at both locations to get the needed work done.

At the time of the inception of working with the grant workers I was the General Manager for Mountain Meadows. In September of 2017 I gave my notice to Mountain Meadows and resigned as the General Manager. I accepted a part time position at Stallion Springs in October 2017. With that change, it was clearly spelled out to the Directors of Mountain Meadows and Stallion Springs along with your agency that I would continue to administer the grant program and provide grant workers to both agencies.

I have worked with one individual at Mountain Meadows in seeing that he has the workers needed and another individual at Stallion Springs for the same. I am requesting at this time that Stallion Springs Community Services District have Flood Grant Workers specifically assigned to Stallion Springs under my direction.

The Stallion Springs C.S.D. did fill out paperwork with La Coopertive back in 2016, but if there is updated or new paperwork necessary please send it to me so that we can move forward with this process as quickly as possible. As I have mentioned to you, we have people waiting to work. In fact desperate to work on the flood program so Stallion Springs C.S.D. would like to see action taken ASAP to put people to work and get more good things done in the community of Stallion Springs.

Please contact me for additional information that is needed, so that we can keep this program moving forward.

Sincerely,

[REDACTED]
General Manager

2017/2018 Flood Storm Temporary Jobs Program
Employee Timesheet

Employee Name



Subcontractor

Mr. Meadows

Pay Period
Start: <u>12-4-17</u>
End: <u>12-17-17</u>

Hours Worked							
Day	Date	Regular Hours	Overtime	Doubletime	Sick	Holiday	Daily Total
Mon	12-4-17	8	.50				8.5
Tues	12-5-17	8					8
Wed	12-6-17	8					8
Thu	12-7-17	8					8
Fri	12-8-17	8	.25				8.25
Sat							
Sun							
Total Hours		40	.75				40.75

Date	Regular Hours	Overtime	Doubletime	Sick	Holiday	Daily Total
Mon 12-11-17	8	2				10
Tues 12-12-17	8	2				10
Wed 12-13-17	8	2				10
Thu 12-14-17	8	2				10
Fri 12-15-17	8	2				10
Sat 12-16-17		8				8
Sun						
Total Hours	40	18				58

	Regular	OverTime	DoubleTime	Sick	Holiday	Total
Total Hours This Pay Period	80	18.75				98.75

Worksite:

MTA MEADOWS B50

Supervisors Name:



Enrolee's Signature:



LOST HILLS UTILITY DISTRICT

“LOST HILLS FOUND”

PURPOSE OF INQUIRY:

The 2017-2018 Kern County Grand Jury (Grand Jury), Special Districts Committee (Committee) conducted an investigation of the Lost Hills Utility District (District) pursuant to Penal Code §933.5.

PROCESS:

The Committee interviewed the Office Manager/Secretary (Office Manager) on February 13, 2018, and March 22, 2018, at the District Office, 21331 Highway 46, Lost Hills, California 93245. On March 1, 2018, the Committee attended a Board of Directors Meeting. The Committee researched the internet, interviewed the Facilities Manager, and inspected the fresh water treatment facility. The Committee contacted the Kern Local Agency Formation Commission (LAFCo) for information regarding the background of the District. The Committee also reviewed the Lost Hills Utility District Potable Water and Wastewater System Report, prepared by the District’s engineering consultants.

BACKGROUND:

The District was formed, under provisions of the California Health and Safety Code §§6400-6830, as the Lost Hills Sanitation District, for the purpose of providing a sewer system to the community of Lost Hills. The statutes of the Health and Safety Code govern the management of the District.

The Lost Hills Sanitary District, formed in 1978, is presently part of the Lost Hills Utility District. There have been 18 annexations to the original District boundaries. The District has owned and operated the wastewater collection and treatment plant since 1981. In 1989 the Lost Hills Utility District purchased the water system, which was originally owned by the Chevron Corporation. The District changed its name in 1994 to the Lost Hills Utility District

The District, located in Kern County, is approximately two miles west of Interstate 5, on both sides of State Highway 46. The District’s terrain is relatively flat, typical of the Central San Joaquin Valley, with a natural slope of one to two percent and a ground elevation of 250 to 300 feet above mean sea level. See Appendix A for map of District boundaries and Sphere of Influence.

Based on the 2010 census data, the Median Household Income (MHI) in Lost Hills was \$29,632, which was 48.6% of the California MHI and 57.1% of the U.S. MHI. The data showed the District was 97.6% Hispanic.

FINDINGS:

- F1. The District is governed by a five member elected Board of Directors, each serving a four year staggered term. The Board holds monthly meetings at 5:00 PM on the first Thursday of each month. Currently there are only four Board Members. Appointment of the fifth Board Member is pending acceptance by the nominee.
- F2. Board Members are currently compensated \$100 per meeting. At the March 1, 2018, Board Meeting, a resolution was passed to place a proposal for a 5% increase for Board Member stipends on the next ballot.
- F3. The District has four employees:
- Office Manager/Secretary (Office Manager)
 - Facilities Manager
 - Assistant Water Supervisor
 - Receptionist
- F4. Monthly salaries are:
- Office Manager \$3,575
 - an additional \$300 per month for gas and phone
 - Facilities Manager \$6,000
 - Assistant Water Supervisor \$2,800
 - Receptionist \$2,426
- F5. The Office Manager, with input from the Facilities Manager, accumulates and provides the contracted Attorney with materials for the monthly meeting agenda. The Attorney reviews and oversees the preparation of the agenda, billing the District \$180 per hour for this service.
- F6. The Office Manager prepares the monthly Board Meeting Packets.
- F7. The only contract on file for legal services with the Attorney is dated May 7, 1981. Subsequent actions made by the Board of Directors increased the billing rate to the current \$180 per hour.
- F8. The average monthly Attorney's fee was \$5,512.50 for services from August 1, 2017 through January 31, 2018, for a total of \$33,075.00.
- F9. The Attorney attends all Board Meetings.
- F10. The Office Manager records and prepares the Minutes of the Board Meetings, and includes them in the monthly Board Packets.

- F11. The Office Manager posts the Board Agenda, handles most of the accounting, and performs most of the duties typical of a general manager. The Office Manager, a 12-year employee, appears to be knowledgeable and competent.
- F12. The Agendas are only printed in English, and posted at the District Office, Post Office, and at a local market.
- F13. The Minutes are not publicly posted.
- F14. The Lost Hills Utility District does not have a website.
- F15. It appears that there may be a conflict of interest, as the Attorney represents both the District and LAFCo. The Attorney bills legal fees to the District for reviewing LAFCo generated documents, which he may have written on behalf of LAFCo.
- F16. The Board of Directors did not follow Roberts Rules of Order during the Board Meeting on March 1, 2018. It appears that during the meeting, the Attorney fulfilled the role of the Board President. The Vice President was observed instructing a Board Member which way to vote on an Agenda item.
- F17. The Committee observed the Board Members continuing to discuss District business after the meeting was adjourned, appearing to be a violation of the Ralph M. Brown Act.
- F18. The District uses its own staff for the daily operation and maintenance of the Water Treatment, Distribution System, and Wastewater System.
- F19. The District contracts professional services for engineering and accounting services on an as-needed basis.
- F20. The District contracts a Grant Writer, at the rate of \$75.00 per hour, up to \$5,000, to seek additional funding. Services exceeding \$5,000 must be approved by the Board.
- F21. The Public Entrance to the District Office does not meet the Americans with Disabilities Act (ADA) handicap access or signage.
- F22. The Board Room entrance, located at the opposite end of the District Office Public Entrance, has steps and a handicap ramp; both were blanketed with very hard berries, presenting a walking and/or slipping hazard.
- F23. There are 299 residential, 109 commercial, and four multi-family dwelling water connections in the District. The metered water base rate was raised in May 2016, from \$5.00 to \$30.00 monthly. The new rate for the combined

sewer and water now averages approximately \$70.00 per month, depending on water usage.

- F24. The District does not accept cash or credit card payments. Payments must be made by check or money order.
- F25. The District's water comes from two wells located north of Semi-Tropic School near Wasco on Gun Club Road. There are two storage tanks located approximately two miles west of the District Office. The District has water rights from the California Aqueduct (State Water Project), however, they do not currently use any of their allocation.
- F26. The District currently has one pump for the water treatment plant. The Facilities Manager would like to have a second pump, to prevent overload and to provide backup in case of failure.
- F27. The District is a member of the California Special Districts Association and the California Rural Water Association.

COMMENTS:

The Special Districts Committee thanks the Office Manager and the Facilities Manager for sharing their time, knowledge, expertise, and for the comprehensive information provided.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that agendas should be the responsibility of the Board President, in conjunction with the Office Manager, to eliminate unnecessary Attorney's fees. (Findings 3, 4, 5, 6, 7, 8, and 9)
- R2. The Grand Jury recommends that the District Board promote the Office Manager to General Manager. The new assignment will assume the title and duties of General Manager, receiving an increase in salary which will be offset by decreasing Attorney's fees. (Findings 3, 4, 5, 6, 7, 8, and 9).
- R3. The Grand Jury recommends that the District seek independent legal counsel to make a determination on a possible conflict of interest with the same Attorney representing both the District and LAFCo. (Finding 7)
- R4. The Grand Jury recommends that the Attorney only attend Board Meeting when legal matters are on the Agenda. If a legal issue arises during the Board Meeting, and the Attorney is not present, the item should be placed on

the Agenda for the following meeting. In the event of an emergency, the Attorney may be consulted by speaker phone.
(Findings 3, 4, 5, 7, 8, 14, 16, 17 and 18)

- R5. The Grand Jury recommends that the Office Manager and Board Members receive additional training on the Ralph M. Brown Act and Roberts Rules of Order. (Findings 16 and 17)
- R6. The Grand Jury recommends that the Agendas be posted in both English and Spanish. (Finding 12)
- R7. The Grand Jury recommends the Minutes be available in both English and Spanish for public review. (Finding 13).
- R8. The Grand Jury recommends that the District request independent legal counsel to draft a new contract for the Attorney, and bring it into compliance with California Business and Professions Code BPC §6148.
(Findings 7 and 15)
- R9. The Grand Jury recommends that the Public Entrance to the District Office have handicap access, as well as new signage directing the public to the existing handicap entrance. (Finding 21)
- R10. The Grand Jury recommends that the entrance to the Board Room be kept free of debris. (Finding 22)
- R11. The Grand Jury recommends that the Board pursue a Grant to purchase a second pump for the water treatment plant. (Finding 26)

NOTES:

The Lost Hills Utility District and the Kern Local Agency Formation Commission should post a copy of this report where it will be available for public review.

Persons wishing to receive an email notification of newly released reports may sign up for public review. www.kerncounty.com/grandjury.

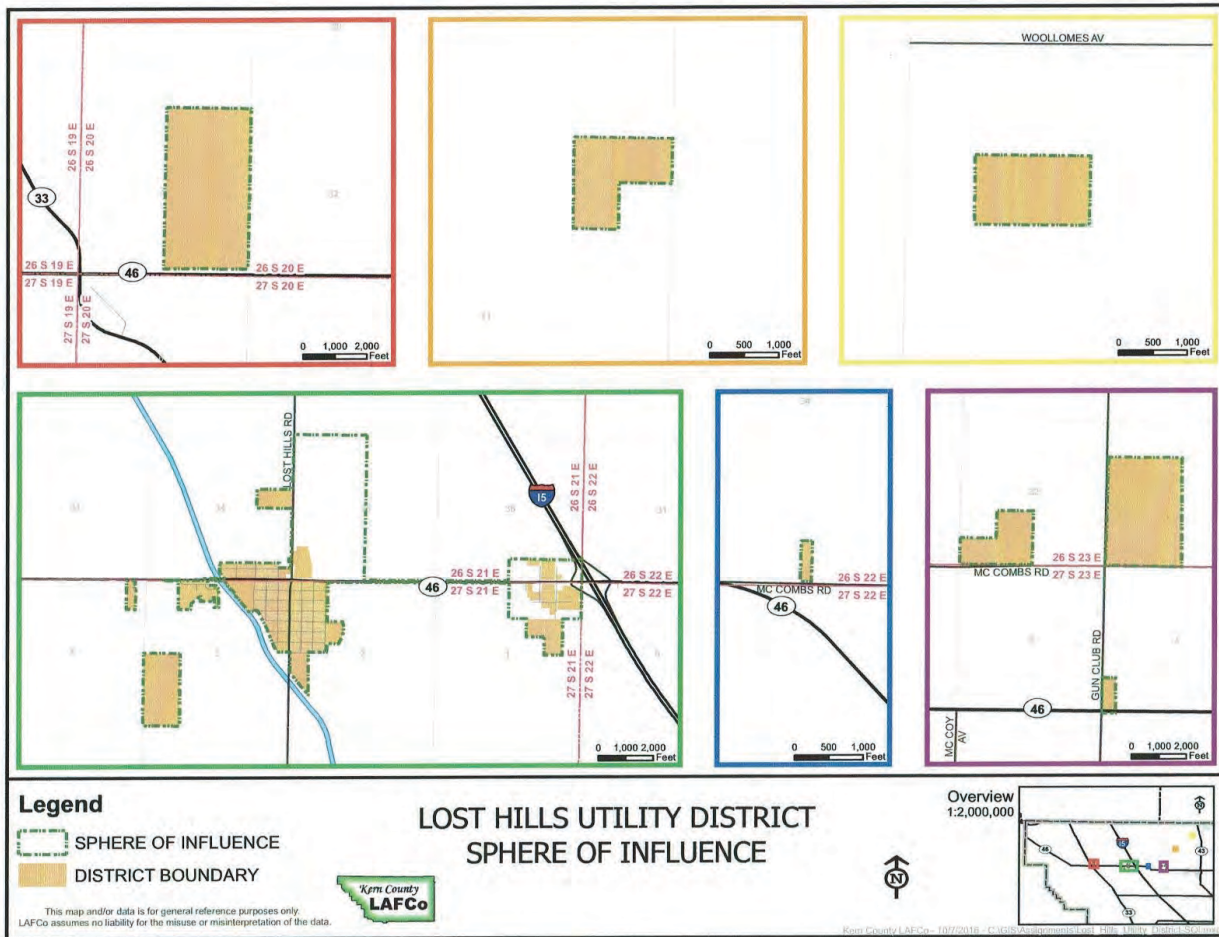
Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.kerncounty.com/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS TO:

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

APPENDIX A





**Kern Local Agency
Formation Commission**
5300 Lennox Ave. Suite 303
Bakersfield, CA 93309
661-716-1076
www.co.kern.ca.us/lafco/

TO: Kern County Grand Jury, Forman
Kern County Superior Court, Presiding Judge
DATE: June 18, 2018
RE: Response to Report on Lost Hills Utility District - "Lost Hills Found"

It has come to my attention that the Kern Local Agency Formation Commission (LAFCo) was referenced in the Kern County Grand Jury report on Lost Hills Utility District. I appreciate the opportunity to respond to the report. The comments below are in reference to Finding 15 and Recommendation 3.

F 15: It appears that there may be a conflict of interest, as the Attorney represents both the District and LAFCo. The Attorney bills legal fees to the District for reviewing LAFCo generated documents, which he may have written on behalf of LAFCo.

R 3: The Grand Jury recommends that the District seek independent legal counsel to make a determination on a possible conflict of interest with the same Attorney representing both the District and LAFCo. (Finding 7)

Kern LAFCo has a Conflict of Interest Policy that was established in 1977 and was last considered for review by the Kern County Board of Supervisors in 2016. Part of the process includes the completion of Form 700 by each Commissioner, Executive Officer and Counsel. This provides to LAFCo a list of our counsel's clients.

Tom Schroeter has been the attorney for Kern LAFCo since 1990 and for the Utility District for even longer. The Kern LAFCo Commission and management are aware that Mr. Schroeter has other clients that may have business before the Commission from time to time. Any item in which Tom Schroeter has a conflict with representation of Kern LAFCo, applicant, property owner or any party with potential interest, Mr. Schroeter has recused himself from representing Kern LAFCo. This goes another step as Mr. Schroeter will physically leave a Commission meeting as to not have any influence.

As Executive Officer, I personally write all reports and recommendations on any item voted on before the Commission. Mr. Schroeter has not written any reports and recommendations on behalf of LAFCo for any application regardless of whether the applicant has any ties with Mr.

Schroeter. If there is a need for counsel on any matter before LAFCo that Mr. Schroeter has a conflict, Kern LAFCo has a contract with local attorney Joe Hughes to provide legal services. During my tenure as Executive Officer, there has not been an occasion where the legal matters before the Commission were unknown in a situation where a conflict of interest has occurred. Therefore, I have chosen not to use Mr. Hughes and rely on my own knowledge of the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 and other California law as it applies to Kern LAFCo.

Mr. Schroeter's value comes from representing Kern LAFCo for over three decades, but also from his years of knowledge representing Cities and Special Districts in Kern County. It is important to have counsel who understands the legal requirements of Cities and Special Districts as well as how they are managed. Cities and Special Districts also get the expertise of Mr. Schroeter's knowledge of Kern LAFCo legal compliance and management of the process that we provide.

I hope the information provided is helpful to understand the roles and safeguards that Kern LAFCo has in place to ensure both fairness and legal compliance. I am always open to improvements in our process, compliance and dealings to safeguard the public trust.

Thank you for the opportunity to provide this response.

Sincerely

A handwritten signature in cursive script that reads "Blair Knox".

Blair Knox
Executive Officer

Lost Hills Utility District
Post Office Box 246/21331 Highway 46
Lost Hills, California 93249
Phone: 661.797.2903 Fax: 661.797.2010
E-mail: LHUTILITYDISTRICT@EXEDE.NET

Board of Directors

Emma Clifford, President
Vidal Ballesteros, Vice-President
Pioquinto Garza
Daisy Garcia
Amanda Rollin

District Counsel

Thomas F. Schroeter
District Engineer
Amando Garza

June 13, 2018

BY MAIL/EMAIL:

Honorable Charles R. Brehmer
Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, California 93301

Re: 2017 – 2018 Grand Jury Special Districts Committee Report

Dear Judge Brehmer:

The Lost Hills Utility District (the “District”) wishes to express its thanks to the Kern County Grand Jury and its Special Districts Committee for the time and effort its members spent in familiarizing themselves with the District and its operations, its visits to the District and one of its Board meetings, and its report and recommendations.

In response to the 2017 – 2018 Kern County Grand Jury report on the Lost Hills Utility District (the “Report”), the following comments are provided to the “Background” portion of the Report to better understand the importance of the District’s water system to northwestern Kern County, the complexity of the water system, and the District’s successful efforts at managing the system:

Background:

1. Appendix “A” to the Report does not show the full-service area of the District. The service area also includes the customers of the Berrenda Mesa Water District (BMWD) which includes the area beginning at the intersection of Highways 46 and 33 to a point approximately 10 miles west of the intersection. See Supplemental Appendix attached.
2. The District acquired the water system at no cost to the District from the Lost Hills Water Company, wholly owned by Chevron Corporation. The District is the sole purveyor of potable water to the public from Gun Club Road to the San Luis Obispo County line.
3. There is no potable water underlying the District or northwestern Kern County and the District must transport its water 13 miles from the Semitropic Water Storage District to Lost Hills, another 3 miles west from Lost Hills to two large storage tanks, and then 15 miles to the end of its service area in the BMWD.

4. Solar City constructed a 225.6 kW solar project at the District's well field at no cost to the District which provides electricity at a significantly reduced cost from that offered by Pacific Gas & Electric Company.

5. The District banks its water from the state water project which it receives from the Lost Hills Water District in the BMWD water bank, City of Bakersfield spreading ponds, the Pioneer Project, and the Kern River channel as a cushion in the event of a further drought.

6. The District has a certified water operator on its staff and has installed an arsenic treatment plant for its water system.

The following is provided in response to portions of the "Findings" in the Report:

FINDINGS:

F1. A fifth member has been appointed to the Board.

F2. The fees payable to Board members have not been increased since the creation of the District in 1978.

F3. The phrase "(Office Manager)" can be removed.

F5. The attorney for the District drafts the portion of the agenda and the staff reports relating to legal matters with input from the Office Manager, the District's engineer, and the Facilities Manager. The Office Manager drafts her portion of the agenda which includes the financial report, bills and claims, delinquencies, and customer complaints with input from the Facilities Manager.

F7. The attorney for the District organized the District in 1978 and has represented the District ever since.

F9. The District's engineer also attends all Board meetings.

F15. The attorney for the District responds as follows: "I do not bill the District for reviewing LAFCo documents that I have drafted. I have not drafted any such LAFCo documents. I have reviewed all District agendas from 2015 to the present and found seven communications from LAFCo to the District, variously, announcing nominations to the LAFCo commission and an oversight board, sending an invoice for an annexation, asking for clarification of the District's name, and requesting completion of a sphere of influence questionnaire sent to all districts. None of the foregoing were drafted by me."

F16. The Board of Directors do not use Robert's Rules of Order. It should be noted that the President of the Board was absent and the vice president filled in on her behalf on the night the Committee attended a Board meeting. This was only the second meeting that the vice president had chaired. He had missed some previous meetings to attend college classes and needed assistance in procedures and information on some of the agenda items. One of the Board members was attending her first meeting after having just been appointed. If the vice president was advising her on how to vote on an item, it was most likely that he was giving her additional information on agenda items that she did not have.

F19. The District's contract with its engineer, accountant, and attorney are for services on an as-needed basis.

1

F21. The District's engineer has determined that the District office complies with the Americans with Disabilities Act.

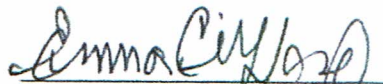
The District has the following responses to the Report's Recommendations:

RECOMMENDATIONS:

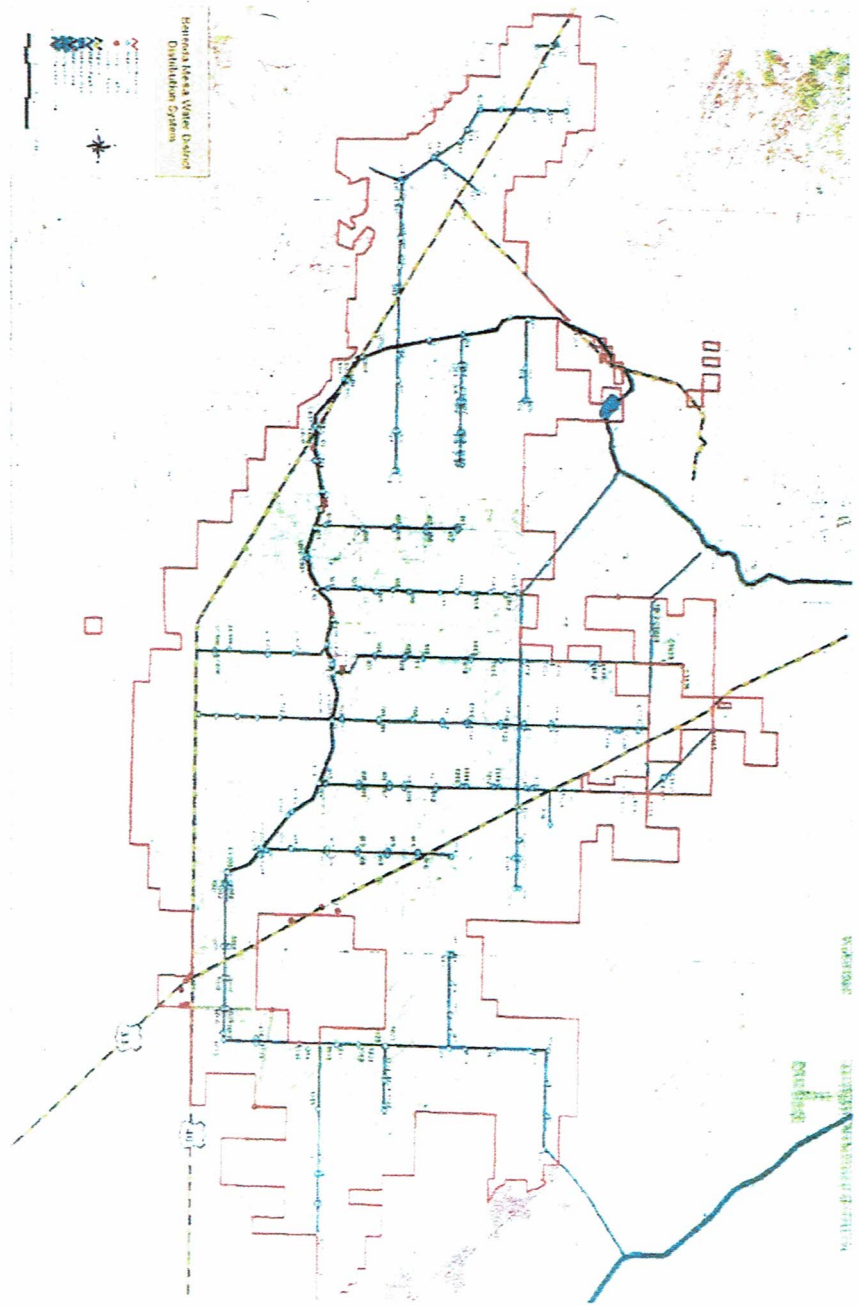
- R1. The Board president does not have the time to assist in drafting the agenda. Additionally, she is not available to update daily or weekly on what occurs during the month. It is not practical to eliminate the attorney from drafting portions of the agenda as he is the primary person who deals throughout the month with the subject matter of his portion of the agenda.
- R2. The District agrees with this recommendation.
- R3. The District agrees with this recommendation and has entered into an agreement with an independent law firm to research any possible conflict of interest.
- R4. In a review of all agendas since 2015, legal matters are on the agenda every meeting. It is impractical to ask the District to call the attorney once he has left to provide input on legal matters which arise. However, efforts to reduce the attorney's presence at the meetings will be made.
- R5. The Board has previously received training on the Brown Act. It has not received training on Robert's Rules of Order because they are not used. The Office Manager will seek to schedule additional training.
- R6. The District agrees with this recommendation.
- R7. The District agrees with this recommendation but believes that its staff does not have the time to translate the minutes into Spanish but nevertheless will attempt to do so should any customer request a Spanish translation.
- R8. The District agrees with this recommendation and has entered into an agreement with an independent law firm to draft a new legal services agreement.
- R9. The District agrees with this recommendation.
- R10. The District agrees with this recommendation and has removed the palm tree which caused the debris.
- R11. The District agrees with this recommendation.

Once again, the District thanks the Grand Jury for its Report and for devoting the time that it took to issue the Report.

Sincerely yours,


Emma Clifford, President,
Board of Directors

cc: Foreperson
Kern County Grand Jury
1415 Truxtun Avenue #600
Bakersfield, CA 93301



MOUNTAIN MEADOWS COMMUNITY SERVICE DISTRICT

It's a rough and winding road

PURPOSE OF INVESTIGATION:

The 2017–2018 Kern County Grand Jury (Grand Jury), Special Districts Committee (Committee) conducted an investigation into the Mountain Meadows Community Service District (MMCS D) operations and management, pursuant to Penal Code §933.5, and to follow up on the recommendations of the Kern County Grand Jury report of 2015–2016.

PROCESS:

The Committee reviewed past Kern County Grand Jury Reports, and researched the internet. The Committee inspected the roads in MMCS D, interviewed the President of the Board who was acting as the General Manager, and conducted phone interviews with other Board Members in January 2018.

In March 2018, the Committee again interviewed the Board, workers from a grant program, and the President of the Board of Directors from a neighboring community services district.

BACKGROUND:

The Boise Cascade Company began the development of Mountain Meadows in 1970, in an area immediately south of the City of Tehachapi, California, and constructed the roads, bridges, drop inlets, drainage ditches, and flow lines. There are approximately 735 parcels in MMCS D, of which 126 have been improved.

The MMCS D was formed on November 9, 1970, by the Kern County Board of Supervisors. It became inactive in 1985, due to lack of the resident's interest. The MMCS D was reactivated in 1991.

At the present time, the functions of the MMCS D are:

- maintain and repair the 27 miles of dirt, gravel, and asphalt roads
- monitor and keep drainage ditches clear
- control dust in the summer
- keep roads passable in the winter

FACTS:

- A. MMCS D is governed by a five-member elected Board of Directors.

- B. Board Meetings are held at 6:30PM on the third Thursday of each month, at the MMCSO Office, located at 17980 Highline Road.
- C. Individual members of the Board have the option to receive up to \$50 per meeting, with a maximum of three meetings per month.
- D. There are currently three part-time employees:
 - General Manager
 - Clerk/Secretary
 - Road Maintenance Supervisor/worker.
- E. An annual parcel tax of \$200 is assessed and added to the property taxes to support MMCSO. These funds are deposited by the Kern County Auditor-Controller-County Clerk into the MMCSO's local bank account.
- F. The 2015–2016 Kern County Grand Jury Report recommended that a charge of malfeasance be issued by the Kern County District Attorney against a former General Manager, and that he be prosecuted to the full extent of the law.
- G. The General Manager, mentioned in the 2015–2016 Kern County Grand Jury Report, was terminated in June 2015. The Kern County District Attorney subsequently charged him with 18 felony counts of misappropriation of public funds, and six felony counts of entering into contracts on behalf of the MMCSO, in which he had a personal financial interest. Road maintenance equipment disappeared under his management, and has not been recovered.

FINDINGS:

- F1. MMCSO has been struggling since 2014, and has had a series of General Managers. The MMCSO was in physical and fiscal disarray, following the departure of the General Manager mentioned in the 2015–2016 Kern County Grand Jury Report.
- F2. Roads in MMCSO are generally in very poor condition, and in need of substantial maintenance. The asphalt roads are badly degraded. The other roads are either dirt or gravel. (Appendices A and B)
- F3. Culverts are subject to a rapid build-up of debris, needing to be routinely cleared, to prevent flooding. (Appendix C)
- F4. Drainage ditches are subject to rapid accumulation of brush and other debris. (Appendix D)
- F5. Board Agendas are posted at three separate locations: At the east and west ends of MMCSO, adjacent to the mail boxes, and at the MMCSO Office.

- F6. Board Meeting Minutes are not posted for public review.
- F7. The Board of Directors voted not to create a website, citing the cost.
- F8. The Committee found that the staff at MMCSO is difficult to contact.
- F9. The 2016 independent audit showed financial documents to be in order.
- F10. In 2016, MMCSO requested grant funding to pay for road and culvert maintenance workers, through Kern County Employers' Training Resource (ETR). The Kern County Assistant County Administrative Officer in charge of ETR confirmed the terms of the Grant Agreement (Grant) were site specific, and required all work be performed at MMCSO. (Appendices A and B)
- F11. The MMCSO files and records pertaining to the Grant are the exclusive property of MMCSO.
- F12. Board Members indicated to the Committee, that in their presence and in front of staff, the prior General Manager stated that he was taking all Grant documents to copy, and would return them to MMCSO.
- F13. Several Board Members and staff have attempted, unsuccessfully, to retrieve the Grant documents, which includes papers and contracts, allegedly taken by the prior General Manager.
- F14. The prior General Manager stated to the Committee that the requested Grant documents were not removed from MMCSO, but left in a white binder on the secretary's desk. This binder and the Grant documents have not been located.
- F15. Upon the departure of the General Manager in 2017, MMCSO was without their assigned Grant Workers (Workers). They were reassigned to work in a neighboring district at the direction of the departing General Manager.
- F16. Many timesheets inspected by the Committee, and verified by the Workers, were obviously altered after having been signed by the Workers. Inspection of the timesheets revealed the location of the worksite was also altered, to indicate work was performed at MMCSO. In actuality, the work was performed in the neighboring district.
- F17. As of February 2018, timesheets continued to be signed by the prior General Manager, indicating he and the assigned Workers were still at MMCSO.
- F18. MMCSO contacted ETR in an attempt to regain their Workers. They were instructed to apply for a new contract. However, there was already a contract in place for those Workers at MMCSO; it was the other district that was without a contract.

F19. Over 4,000 hours of labor, designated for MMCS D, were used at the other district. The rate of \$18 per hour equates to a benefit of approximately \$72,000.

COMMENTS:

The Special Districts Committee wishes to thank the Board Members and office staff of MMCS D for their time, information, cooperation, and use of their conference room, in preparation of this report. The Committee extends its appreciation to ETR, for their help in understanding the complexities of the Grant Programs. The Committee also wishes to thank the Grant Workers who availed themselves for interviews.

RECOMMENDATIONS:

- R1. Mountain Meadows Community Service District should continue the practice of using Grant Workers through their contract with ETR to:
 - Apply new gravel, dirt, or asphalt patches to all roads to improve safety by eliminating major pot holes. (Finding 2)
 - Routinely clear out culverts and drainage ditches to prevent flooding. (Findings 3 and 4)
- R2. MMCS D Board Minutes should be posted in the same locations as the Agendas. (Findings 5 and 6)
- R3. MMCS D should inquire into free or low-cost internet hosting services, in order to develop a website and establish email addresses, making the staff more accessible to the residents. (Findings 7 and 8)
- R4. MMCS D should file an official protest with ETR, since grant workers assigned to them were directed to work at another district. (Findings 15, 16, and 17)
- R5. MMCS D should keep all files and documents properly secured. (Findings 12 and 13)

NOTES:

- The Kern County Board of Supervisors, Mountain Meadows Community Service District, and Kern County Employers' Training Resource, should post a copy of this report, where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.kerncounty.com/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website:

www.kerncounty.com/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS TO:

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**

Appendix A:



Cheyenne Avenue in Mountain Meadows
Photo taken by Committee

Appendix B:



Summit Road in Mountain Meadows

Photo taken by Committee

Appendix C:



Mountain Meadows Culvert
Photo taken by Committee

Appendix D:



Mountain Meadows Drainage Ditch
Photo taken by Committee

8/21/2018

To:

Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, CA 93301

COPY

Mountain Meadows Community Services District Grand Jury Report 2017-2018

RESPONSE

The Mountain Meadows Community Services District Board of Directors thanks the 2017-2018 Grand Jury for their report. As a small and often overlooked district, we have faced many challenges, many of which the Grand Jury Committee has articulated in their report. While we acknowledge these challenges, we believe our strength lies in the integrity of the members of our Board of Directors.

Important to clarify, is that the Board President was not acting as the General Manager. The Grand Jury did meet with and communicate with the District Manager during their investigation.

Below are our responses to the findings and recommendations of the Committee.

Findings:

F1: A (Agree)

F2: D(Disagree) Asphalt roads are indeed degraded, but dirt and gravel roads are for the most part maintained to an acceptable level.

F3-F11: A

F12: D At this time, the board does not have in its records any signed documents regarding this grant. We have some, but a complete set of documents has not been secured.

F13: A This is pertaining to any agreement or contract that existed between ETR and MMCSO.

F14: D There was a folder that contained documents related to the grants. It did not contain, however, the sought after agreement between ETR and MMCSO.

F15: D Approximately two thirds of the workers were utilized elsewhere under the direction of the former General Manager. Mountain Meadows was left with 2-4 grant workers until the grant was terminated.

F16-19 A We trust the accuracy of the research done by the Committee.

R1: The recommendation has not been implemented, however, Mountain Meadows is willing to pursue grants with ETR or any other entity, provided we legitimately qualify for such grants, and can adequately execute them.

R2: The recommendation will be implemented.


R3: The Board will require further discussion and analysis regarding websites and email. The board agrees that staff should be as accessible as possible.

R4: The recommendation has not been implemented. Decision has not been made regarding a formal protest.


R5: The recommendation has been implemented.

COPY

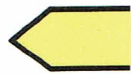
On behalf of the Board Members,



Laurie King
Board President



James Faber
Board Vice-President



STALLION SPRINGS COMMUNITY SERVICES DISTRICT A Treasure in the Tehachapi Mountains

PREFACE:

The Special Districts Committee (Committee) of the 2017-2018 Kern County Grand Jury (Grand Jury), inquired into the Stallion Springs Community Services District (District), pursuant to Penal Code §933.5. The last Kern County Grand Jury Report for the District was released in 2012-2013. Most community services districts provide specific services, these range from what a typical incorporated city would provide, to just a single service, such as water or sewer. Stallion Springs is a district that provides all services to its residents, i.e., police, parks and recreation, roads and road maintenance, sewer, solid waste disposal, water, and water treatment for over 25,000 lots, approximately 4,000 residents, and all businesses within the District.

PROCESS:

The Committee reviewed past Kern County Grand Jury reports, completed a survey, and interviewed the Interim General Manager (IGM) and the President of the Board. The budget and auditor's reports for the past three years, Policies and Procedures Manual, and the Employee Handbook were reviewed. The internet was used to research the District and to review the bi-monthly "Bridge," the local newsletter. A physical assessment of the District was conducted, and the Committee was given an informative tour of the police station, on December 5, 2017.

FACTS:

The District offices are located at 27800 Stallion Springs Drive, Tehachapi, California 93561, approximately fifty miles east of Bakersfield in the picturesque Tehachapi Mountains. This region's higher elevation and cooler climate give way to a variety of wildlife such as elk, bobcats, mountain lions, wild boar, ducks, bears, deer, and quail.

The District was created in 1970, and continues to experience a population growth. The District owns and operates a swimming pool, an equestrian/hiking trail system, several parks, a community library, and a multipurpose center complete with a gymnasium, kitchen, and small meeting rooms.

There are thirteen employees in the District which includes: Police Chief, four full-time officers, and two part-time officers. The District provides health insurance benefits for District employees, and their dependents.

FINDINGS:

- F1. The District's website is informative and up-to-date. It incorporates the monthly Board Meeting Agenda and Minutes, along with information and numbers for emergency contacts and various services. The site allows for the downloading of District forms for services. "Bridge," the local newsletter, contains information for residents and visitors to the community. It lists scheduled events, fee due dates, and keeps residents up-to-date on community events.
- F2. The IGM is involved in The California Special Districts Association and keeps the District updated on any law changes that may affect them. Presently the IGM is part-time, and the District is looking for a full-time Assistant General Manager.
- F3. California Senate Bill 395 (SB395) became effective January 1, 2018, requiring legal representation for any juvenile prior to being interviewed by the police. The District Attorney and the Public Defender Offices have provided a telecommunications system to comply with implementation of SB395.
- F4. The Committee interviewed the Police Chief and inspected the Police Station. The Chief is enthusiastic and knowledgeable about the District. The Committee found that he and his staff regularly discuss ways to improve their performance, and continually up-date their training. The Police Station was clean and organized.
- F5. The Police Chief has acted as Assistant General Manager of the District while retaining his position as Chief. The Chief has 27 years of law enforcement experience (14 years with the District). He reported that all of his employees routinely go above and beyond what is expected, to ensure the safety of the residents. Officers frequently spend their own money for training and equipment. The Chief stated that there are currently officers in New Mexico for training, at their own expense.
- F6. The "wish list" for the Police Department includes replacing vehicles and acquiring a back-up system for their computers. To save the Department money, the Chief reported that he is always looking for surplus equipment from other police agencies.
- F7. The District has instituted Neighborhood Watch and California Emergency Response Team programs. These programs train residents to watch and prepare for emergency or unusual situations.
- F8. Due to financial difficulties of the owner, the golf course and restaurant are now closed. The tennis courts and adjacent parking lot are in disrepair. The complex is not owned by the District. The dilapidated condition of the

complex may contribute to the depreciation of property values in the District.

COMMENTS:

The Committee appreciates the time and consideration shown by the Stallion Springs Community Services District in providing a comprehensive and very informative visit.

RECOMMENDATION:

- R1. The Grand Jury recommends the implementation of a back-up system for computer data storage. A reciprocal system may have minimal costs. (Finding 6)

NOTES:

- The Stallion Springs Community Services District should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: www.kerncounty.com/grandjury.
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: www.kerncounty.com/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301**

**CC: FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301**



STALLION SPRINGS COMMUNITY SERVICES DISTRICT

27800 STALLION SPRINGS DRIVE, TEHACHAPI, CA 93561
(661) 822-3268, FAX (661) 822-1878, sscsd@stallionspringscsd.com

February 21, 2018

Presiding Judge
Kern County Superior Court
1415 Turxtun Ave. #212
Bakersfield, CA 93301

Cc; Foreperson
Kern County Grand Jury
1415 Truxtun Ave. #600
Bakersfield, CA 93301

Dear Presiding Judge for Kern County Superior Court:

This letter is a response to the Kern County Grand Jury report in regard to Stallion Springs Community Services District based on a visit that three members of the 2017-2018 Grand Jury made on December 5, 2017. This letter was reviewed by the Board of Directors for Stallion Springs at the regular Board Meeting of February 20, 2018.

The report was made public on January 25, 2018 and the report was made available on the District's web page and posted in front of the District office. The General Manager has received numerous compliments in regard to the positive nature of the Grand Jury Report.

The recommendation made by the Grand Jury is being pursued with the District working with its IT contract help. Corrected info is as follows: Per our IT Company the Administration and Police Department servers are protected through Sophos Security Firewall and monitored for all security issues. Backup systems are in place with a Synology disc array, also business critical data systems are backed up on and off site.

Should you wish additional information or follow up in regard to the one recommendation please contact our General Manager, David Aranda.

Sincerely,

Ed Gordon, President
Stallion Springs CSD Board of Directors