

2022-2023 KERN COUNTY GRAND JURY



GOLDEN HILLS COMMUNITY SERVICES DISTRICT **Water Management and District Compliance Issues**

Release Date: December 15, 2022



GOLDEN HILLS COMMUNITY SERVICES DISTRICT

Water Management and District Compliance Issues

SUMMARY:

The Golden Hills Community Service District (GHCS D) was formed in 1966. Their mission statement is: *To be interactive and responsive to the Golden Hills community and provide those services within our authority.* The focus of this report addresses the water issues under the control of GHCS D.

After receiving multiple complaints about the GHCS D, initial inquiries revealed several concerns that merited investigation. The 2015-2016 Kern County Grand Jury followed up on the complaints and completed an in-depth investigation writing a complex report. There were five general management areas of concern:

- Conflicts of interest
- Brown Act violations
- Non-compliance to Community Service District (CSD) Law and District Policy Handbook
- Hostile work environment
- Lack of transparency during Board of Director's meetings and actions

In addition to a follow up examination of the 2015-2016 Kern County Grand Jury Report, investigations were made into budget and operational plans including an inquiry into the status of water availability to the District from its various sources.

PURPOSE OF INQUIRY:

Pursuant to California Penal Code §933.5, the 2022-2023 Kern County Grand Jury (Grand Jury) initiated an investigation into the GHCS D to examine what progress it had made since 2016, its current financial and operational picture, and to evaluate the water flow under its management.

METHODOLOGY:

The Grand Jury visited GHCS D and conducted interviews. Previous Grand Jury reports were reviewed, as well as news articles and past Board of Directors Meeting Minutes. Internet research was conducted and a GHCS D board meeting was viewed online.

Prior to interviews, the Grand Jury inspected the conditions at Tom Sawyer Lake. Signage at the lake indicates the non-potable status of the water to deter people from swimming. There were a few residents using the walking path around the lake. Some water fowl were present, and other wildlife are known to inhabit the nature park which surrounds the lake. It was also noted there is no fishing, as the District does not stock the lake.



(Photo credit: Grand Jury)

DISCUSSION OF FACTS:

The GHCSO has an elected five-member Board of Directors which meet on the third Thursday of every month, and the public is encouraged to attend. Meeting agendas are posted in advance, on the website as well as on a community sign, with closed sessions scheduled from 5:00 pm to 6:00 pm and general meetings opening at 6:00 pm. On August 18, 2022, the Grand Jury viewed the general meeting online via their website and noted the meeting was conducted according to the agenda. Officials explained operations and financial positions, and time was allotted for public comment.

According to the most recent independent financial audit dated June 30, 2021, the financial highlights for GHCSO are:

- Operating revenues increased by approximately \$363,500 as a result of increased water sales
 - Non-operating revenue included approximately \$588,300 in property taxes and special assessments, approximately a \$47,000 increase from the prior year
 - Operating expenses increased by approximately \$188,200 due to a new water lease and water production costs
 - Capacity fees increased by approximately \$59,000 from the prior year
 - Capital grants for the year increased by approximately \$281,600
- (See Appendix A)

The Grand Jury noted the following:

- A. The community of Golden Hills, located west of the City of Tehachapi, has a population of 10,234 as of the 2020 Census.
- B. Built in 2008, the GHCSO Office Building is well maintained and has curbside appeal with drought tolerant landscaping.

- C. While GHCSO maintains a user-friendly website, posted minutes of board meetings go back only two calendar years and are sometimes behind schedule for updating. Monthly board meetings are streamed live on the website, but not kept on file for future viewing.
- D. GHCSO had a major change of management in 2017, resulting in a complete redirection of plans to manage and to project expenses.
- E. GHCSO has improved their finances. They now have a reserve fund, a capital improvements plan and a five-year plan for depreciation and servicing all equipment. District Officials state none of this was in place in 2017.
- F. According to District Officials, the yearly budget is *realistic vs. optimistic*, and *any apparent deficit historically reverses itself by the end of the fiscal year*. Budget revisions are performed twice during the fiscal year, and *these revisions get us closer to a break-even budget, and more likely, a positive ending number, based on actual revenues and expenses*.
- G. Tom Sawyer Lake has improved in terms of the swampy gas smell that, in past years, was released every summer. This is due to the introduction of water from the rehabilitated Poor Well starting in 2019, raising the water level which diluted the decaying plant material that caused the odor.
- H. The State Water Project (SWP) has provided only 5% of water allocation, or 1,930 acre-feet, to the Watermaster of Tehachapi Cummings County Water District (TCCWD) this year, and as a result the water sent to the District is far less than previous years.
- I. GHCSO is concerned that sales to agriculture are being prioritized over municipal and industrial needs.
- J. Banked water is held in reserve underground in basins. The current level, as of October 2022, is in good shape.
- K. There is no direct pipeline for water transfer between GHCSO and TCCWD for the three ground water Basins (Tehachapi, Brite, and Cummings), with no plans to build one.

FINDINGS:

- F1. Tom Sawyer Lake is a necessary water retention area for non-potable water from the Golden Hills Sanitation Company's discharge, as well as for "dip" use by Kern County Fire Department helicopters. It also provides area residents with a small riparian reserve for family enjoyment.

- F2. Brown Act requirements appear to be observed.
- F3. Posting of Board Meeting Minutes to the website is sometimes not timely, which can hinder transparency.
- F4. Since the resignation of the management team in 2017, relations between the new management team and workers have improved with no complaints of harassment allegations, conflicts of interest or hostile work environment complaints being filed.
- F5. The current GHCS D building is adequately designed for the operational needs of the District and local community.

COMMENTS:

The Grand Jury would like to thank the board and staff of GHCS D for their cooperation during this investigation. We also thank the board and staff of TCCWD for their help in preparing this report.

RECOMMENDATIONS:

- R1. GHCS D should continue to monitor the costs vs. benefits of pumping additional water into Tom Sawyer Lake with an eye towards conservation. (Finding 1)
- R2. GHCS D should implement a system to ensure timely posting of Board Meeting Minutes by March 1, 2023. (Finding 3)

NOTES:

- The Golden Hills 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 the Kern County Grand Jury website.
- Present and past Final Reports and Responses can be accessed on the Kern County Grand Jury website.

RESPONSE DEADLINES:

- **REQUIRED WITHIN 90 DAYS FROM: GHCS D**

**RESPONSES ARE REQUIRED PURSUANT TO PENAL CODE
§§933(c) AND 933.05 WITHIN 90 DAYS TO:**

- **PRESIDING JUDGE**
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301
- **FOREMAN**
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301

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

APPENDIX A

GOLDEN HILLS COMMUNITY SERVICES DISTRICT

STATEMENTS OF NET POSITION

June 30, 2021 and 2020

	2021	2020
ASSETS		
Current Assets		
Cash and cash equivalents (Note 2)	\$ 3,479,151	\$ 3,182,644
Receivables:		
Water sales and services	484,446	442,099
Property taxes	11,907	4,603
Interest	2	3,795
Water-in-storage inventory	1,572,841	1,565,157
Prepaid expenses	83,698	68,983
Total current assets	5,632,045	5,267,281
Non-Current Assets		
Restricted cash (Note 2)	2,146,412	1,813,388
Capital assets (Note 3)	10,934,828	9,961,475
Net pension asset - PARS (Note 7)	394,160	136,138
Total non-current assets	13,475,400	11,911,001
Total assets	19,107,445	17,178,282
DEFERRED OUTFLOWS OF RESOURCES (Note 7)		
Related to net pension asset - PARS	69,552	89,311
Related to net pension liability - CalPERS	346,814	368,725
Total deferred outflows of resources	416,366	458,036
 Total assets and deferred outflows of resources	 \$ 19,523,811	 \$ 17,636,318

	2021	2020
LIABILITIES AND NET POSITION		
Current Liabilities		
Current portion of long-term debt (Note 4)	\$ 217,000	\$ 212,000
Accounts payable	119,751	35,595
Accrued expenses	120,259	119,322
Customer deposits	199,785	241,260
Unearned revenue	199,814	296,336
Total current liabilities	856,609	904,513
Non-Current Liabilities		
Long-term debt (Note 4)	3,483,221	3,697,919
Net pension liability - CalPERS (Note 7)	691,521	713,613
Total non-current liabilities	4,174,742	4,411,532
Commitments and Contingencies (Note 6)		
Total liabilities	5,031,351	5,316,045
DEFERRED INFLOWS OF RESOURCES (Note 7)		
Related to net pension liability - PARS	90,458	106,438
Related to net pension liability - CalPERS	85,567	-
Total deferred inflows of resources	176,025	106,438
Net Position		
Net investment in capital assets	7,234,607	6,051,556
Unrestricted:		
Designated (Note 5)	2,032,487	1,699,512
Undesignated	5,049,341	4,462,767
Total net position	14,316,435	12,213,835
Total liabilities, deferred inflows of resources and net position	\$ 19,523,811	\$ 17,636,318

GOLDEN HILLS COMMUNITY SERVICES DISTRICT

MANAGEMENT'S DISCUSSION AND ANALYSIS

2021 and 2020 Condensed Financial Statements

	2021	2020
Current assets	\$ 5,632,045	\$ 5,267,281
Capital assets, net	10,934,828	9,961,475
Restricted cash	2,146,412	1,813,388
Other	394,160	136,138
Total Assets	<u>19,107,445</u>	<u>17,178,282</u>
Deferred Outflows of Resources	416,366	458,036
Total Assets and Deferred Outflows of Resources	<u>\$ 19,523,811</u>	<u>\$ 17,636,318</u>
Current liabilities	\$ 856,609	\$ 904,513
Long-term liabilities	4,174,742	4,411,532
Total Liabilities	<u>5,031,351</u>	<u>5,316,045</u>
Deferred Inflows of Resources	176,025	106,438
Total Liabilities and Deferred Inflows of Resources	<u>\$ 5,207,376</u>	<u>\$ 5,422,483</u>
Net Position:		
Invested in capital assets, net of related debt	\$ 7,234,607	\$ 6,051,556
Unrestricted	7,081,828	6,162,279
Total Net Position	<u>\$ 14,316,435</u>	<u>\$ 12,213,835</u>
Operating revenue	\$ 3,383,869	\$ 3,020,377
Operating expenses	2,651,919	2,463,727
Operating Income	<u>731,950</u>	<u>556,650</u>
Non-operating revenues (expenses)		
Investment earnings	52,034	75,376
Property taxes and special assessments	588,346	541,275
Interest (expense)	(160,195)	(169,422)
(Loss) on sale of assets	(26,234)	(40,421)
Income before capital contributions	<u>1,185,901</u>	<u>963,458</u>
Capital contributions		
Capacity fees	287,280	228,312
Capital grants	302,533	20,943
In-kind	326,886	-
Change in net position	<u>\$ 2,102,600</u>	<u>\$ 1,212,713</u>

GLOSSARY:

Brown Act: The Ralph M. Brown Act is a California law that guarantees the public's right to attend and participate in meetings of local legislative bodies. Located in California Government Code 54950 et seq., it is an act of the 1952 California State Legislature authored by Assembly Member Ralph M. Brown.

Community Service District Law (CSD): Community Service Districts are a form of independent local government used to provide services in unincorporated areas of a county. A CSD is authorized to provide a wide variety of services, including water, garbage collection, waste-water management, security, fire protection, public recreation, street lighting, mosquito abatement, conversion of utilities to underground, library services, ambulance service, and graffiti abatement.

State Water Project (SWP): The State Water Project is the nation's largest state-built water and power development conveyance system. The primary purpose of the SWP is to provide water supply and delivery system to distribute water across California.

Watermaster: The Watermaster Program ensures that water is allocated according to established water rights as determined by court adjudication or agreement by an unbiased, qualified person, thereby reducing water rights court litigation, civil lawsuits, and laws enforcement workload.

§933. Findings and Recommendations (Excerpt)

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every election county officer or agency head for which the grand jury has responsibility pursuant to section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file those offices.

As used in this section "agency" includes a department

§933.05. Responses to Findings (Excerpt)

- (a) For purposes of subdivision (b) of Section 933, as to **each** grand jury **finding**, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding; in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For purposes of subdivision (b) of section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.



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Tehachapi, CA 93581

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January 26, 2023

Honorable J. Eric Bradshaw, Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, CA 93301

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

RE: 2022-2023 GRAND JURY REPORT

Golden Hills Community Services District ("District") submits the following response to the subject report of the Kern County Grand Jury pursuant to Penal Code section 933.05.

I. FINDINGS

Finding No. 1:

Tom Sawyer Lake is a necessary water retention area for non-potable water from the Golden Hills Sanitation Company's discharge, as well as for "dip" use by Kern County Fire Department helicopters. It also provides area residents with a small riparian reserve for family enjoyment.

Response to Finding No. 1:

The District agrees with this finding and continues the remedy of supplemental water.

Finding No. 2:

Brown Act requirements appear to be observed.

Response to Finding No. 2:

The District agrees with this finding.

Finding No. 3:

Posting of Board Meeting Minutes to the website is sometimes not timely, which can hinder transparency.

Response to Finding No. 3:

The District mostly disagrees with this finding. On occasion, Minutes may be posted several weeks *later* than the week following a Board meeting in which the previous months Minutes are approved due to absence of staff or a delay in approval due to a postponed or canceled subsequent Board

meeting. Every effort is made to post approved Minutes within thirty days of approval. It is never the intent of the District to hinder transparency.

Finding No. 4:

Since the resignation of the management team in 2017, relations between the new management team and workers have improved with no complaints of harassment allegations, conflict of interest or hostile work environment complaints being filed.

Response to Finding No. 4:

The District agrees with this finding.

Finding No. 5:

The current GHCSO building is adequately designed for the operation needs of the District and local community.

Response to Finding No. 5:

The District agrees with this finding.

II. RECOMMENDATIONS

Recommendation 1:

GHCSO should continue to monitor the costs vs. benefits of pumping additional water into Tom Sawyer Lake with an eye towards conservation. (Finding 1)

Response to Recommendation No. 1:

The costs to pump additional water into Tom Sawyer Lake have been monitored since the District began supplemental pumping in 2019.

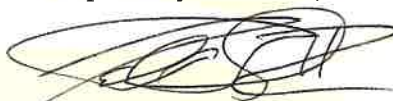
Recommendation 2:

GHCSO should implement a system to ensure timely posting of Board Meeting Minutes by March 1, 2023. (Finding 3)

Response to Recommendation No. 2:

Board Meeting Minutes will be posted within thirty days of approval.

Respectfully submitted,



John Buckley
Board President



Tehachapi-Cummings County Water District

Our Water • Our Future

Directors:
Jonathan Hall
Joseph B. Sasia
Robert W. Schultz
Rick Zanutto

Officers:
Robert W. Schultz, *President*
Jonathan Hall, *Vice President*
Thomas P. Neisler, *General Manager*
Catherine Adams, *Secretary*
LaMinda Madenwald, *Treasurer*

January 6, 2023

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

RE: GOLDEN HILLS COMMUNITY SERVICES DISTRICT – EARLY RELEASE REPORT

Dear Foreperson of the Kern County Grand Jury:

The Tehachapi-Cummings County Water District (TCCWD) has reviewed the December 15, 2022, early release report regarding Golden Hills Community Services (GHCS or District), and respectfully suggests the following corrections to certain discussion of facts, as follows:

Current text:

“H. The State Water Project (SWP) has provided only 5% of water allocations, or 1,930 acre-feet, to the Watermaster of Tehachapi Cummings County Water District (TCCWD) this year, and as a result the water sent to the District is far less than previous years.”

Comment: The SWP contracts are held by TCCWD acting as a district, not in its capacity as Watermaster. TCCWD's two SWP Table A contracts total 19,300 acre-feet, 5% of which is 965 acre-feet, not 1,930. SWP Table allocations were 20% in 2020, 5% in 2021, and 5% in 2022. While TCCWD allocations were low in these years, TCCWD's M&I customers, including GHCS, received their full, current year, direct deliveries. During those same years, TCCWD's agricultural customers suffered significant reductions in their direct, surface deliveries.

Thank you for your consideration in this matter.

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT

Thomas P. Neisler
General Manager

c.c.: Board of Directors and General Manager – GHCS