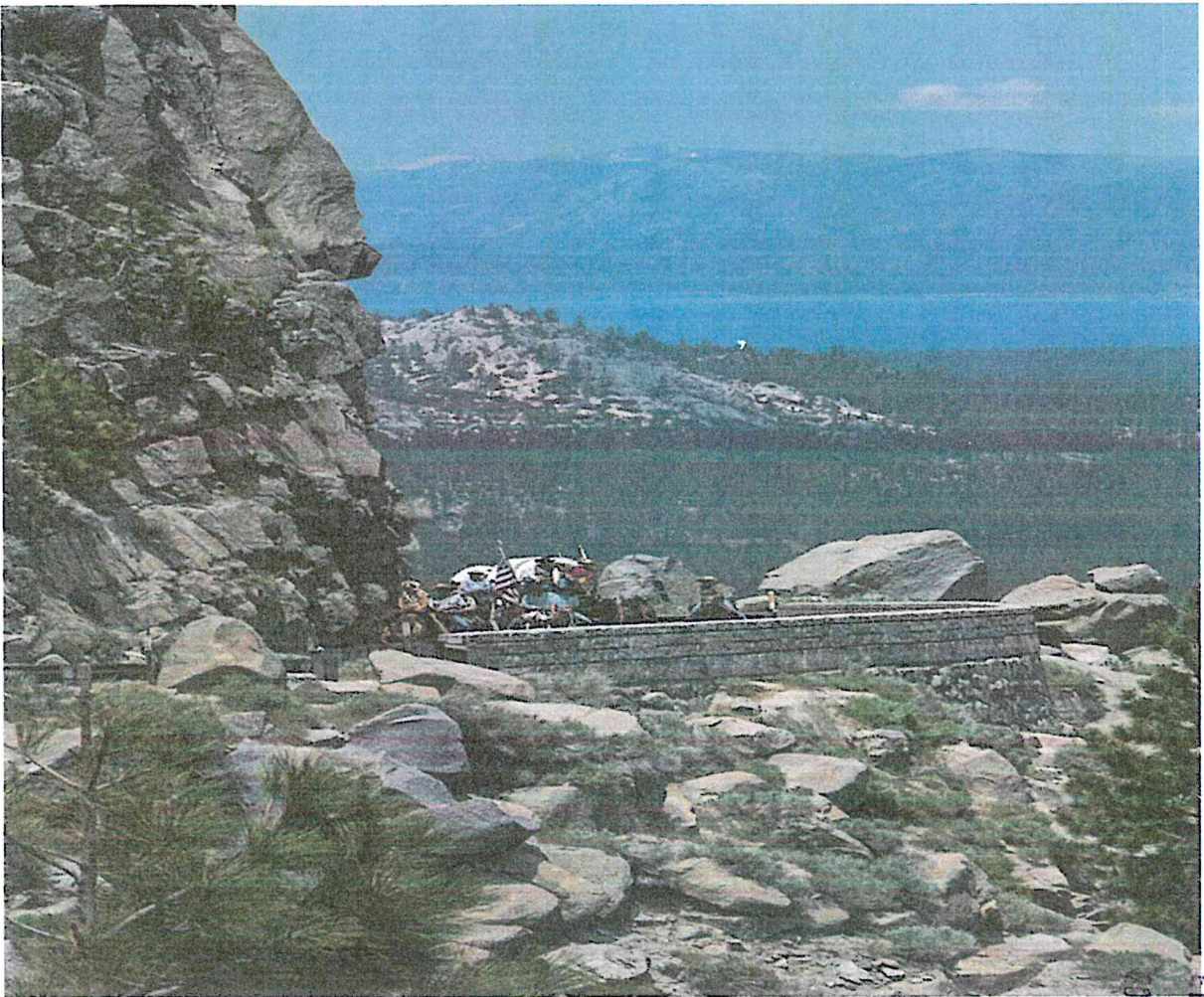




# El Dorado County Grand Jury 2016-2017 Final Report



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# EL DORADO COUNTY GRAND JURY 2016 - 2017

## FINAL REPORT JUNE 2017

HON. JAMES R. WAGONER, SUPERVISING JUDGE

### JURORS

MILTON MULLIGAN, FOREMAN  
DAVE HALL  
THOMAS F. MARCENIK  
ROGER PICKLER  
GATHA WILLYARD

HAROLD ANDERSON  
MICHAEL INDIVERI  
THOMAS ORTH  
MICHAEL POWELL  
GREGORY WINTERS

RENEE ESTEN  
MARIAN MAJESTIC  
LINDA PIETRACZYK  
SUE ROBBINS



BACK ROW: THOM ORTH, MICHAEL POWELL, ROGER PICKLER, GREGORY WINTERS, MICHAEL INDIVERI,  
HAP ANDERSON, THOMAS F. MARCINEK, DAVE HALL, MILTON MULLIGAN  
FRONT ROW: LINDA PIETRACZYK, RENEE ESTEN, SUE ROBBINS, GATHA WILLYARD, MARIAN MAJESTIC



EL DORADO COUNTY GRAND JURY 2016-2017  
FINAL REPORTS



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Letter from Hon. James R. Wagoner  
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STATE OF CALIFORNIA

GRAND JURY  
El Dorado County

P.O. Box 472  
Placerville, California 95667  
(530) 621-7477 Fax: (530) 295-0763  
[Grand.jury@edcgov.us](mailto:Grand.jury@edcgov.us)

2016-2017



Honorable Suzanne N. Kingsbury, Presiding Judge  
Superior Court of California, County of El Dorado

Dear Judge Kingsbury:

On behalf of the 2016-2017 Grand Jury, I wish to express our appreciation to The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court; The Honorable James R. Wagoner, Assisting Judge to the Grand Jury; Paula Frantz, Senior Deputy County Counsel, for her always prompt and thorough legal advice whenever requested by the Grand Jury and to Suzanne Thurman, Administrative Analyst to the El Dorado County Superior Court.

On behalf of my fellow jurors, I am pleased to present the final reports published by the 2016-2017 El Dorado County Civil Grand Jury during the course of our twelve months in office ending June 30, 2017. When we began in July of 2016, the nineteen incoming Grand Jurors agreed that the subjects of our investigations would be of major importance and value for as many of our El Dorado citizens as possible. Now that all of our Grand Jury reports have been published, we feel we have accomplished what we set out to do. But now we leave it to you, the El Dorado public whom we served as "watchdogs" of El Dorado local government, to determine the value of our efforts.

These reports were completed because of an extraordinary disciplined, hard working group of Grand Jurors. They addressed a demanding and challenging workload and gave of their time and energy far beyond their sworn call of duty. The facts from which findings and recommendations were reached have been pursued rigorously. In so doing, it became apparent that assumptions which have been made by some concerned citizens can be at times erroneous and do not advance but rather hinder the democratic process in our community. We hope that we have shed factual light on the issues we have pursued. Notwithstanding the often differing ideas and sentiments voiced by each Juror and the pressure of deadlines, a pronounced respect for each other was engendered.

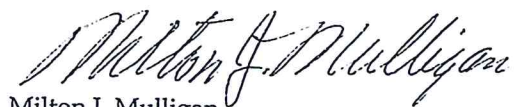


I am pleased to present members of the 2016-2017 El Dorado Civil Grand Jury.

Harold "Hap" Anderson	Cameron Park	
Renee Esten	El Dorado Hills	Sergeant-at-Arms
Dave Hall	Shingle Springs	
Michael Inderveri	Placerville	Recording Secretary
Marion Majestic	Pollock Pines	
Thomas F. Marcinek	El Dorado Hills	
Milton Mulligan	Placerville	Foreman
Thom Orth	Pollock Pines	
Roger Pickler	Cameron Park	
Linda Pietraczyk	El Dorado Hills	Pro Tem
Michael Powell	Placerville	
Margaret (Sue) Robbins	Placerville	
Gatha (Gay) Willyard	El Dorado Hills	Administrative Secretary
Gregory Winters	Shingle Springs	
*Yvonne Dodson	Placerville	*Jurors unable to complete the 2016-2017
*Harry Parigini	Cameron Park	Grand Jury term
*Robert Parker	El Dorado Hills	
*Joseph Warhol	El Dorado Hills	

It has been a rewarding experience to serve as Foreperson and to associate with such a fine group of dedicated El Dorado County citizens, the 2016-2017 Grand Jurors. Their outstanding efforts have served our community well.

Respectfully,



Milton J. Mulligan

Foreperson

The 2016-2017 El Dorado Civil Grand Jury



# The Superior Court

STATE OF CALIFORNIA  
COUNTY OF EL DORADO  
495 MAIN STREET  
PLACERVILLE, CA 95667  
(530) 621-6467 FAX (530) 622-5729

May 16, 2017

Dear Grand Jury Members:

As the concluding Supervising Judge of the 2016/2017 Grand Jury, and on behalf of the El Dorado County Superior Court, I want to express my thanks to all of you for your hard work and dedication to the Grand Jury. Your report shows the long hours you have put into making this a successful Grand Jury.

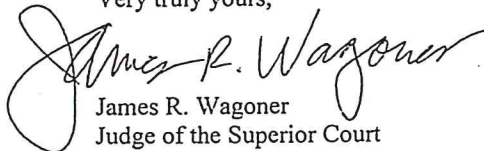
One of the primary functions of the Grand Jury is to help our county government and special districts operate more efficiently. This function is even more important now in our light of our continued budget situation. In fulfilling this function, you have included suggestions and recommendations for better government in your report. Equally as important, your report also informs your fellow citizens of areas where our county government and special districts are already well organized and efficient. Your report is balanced and shows where things are working and where they are not.

The Grand Jury functions only through citizens like you who are willing to devote time and energy to this important work. Your hard work has helped fulfill the Grand Jury's goal of better government for all of the citizens of El Dorado County.

Special thanks go to Mr. Milton Mulligan, the Foreperson of the 2016/2017 Grand Jury. Milt has been a hard-working and able leader in this difficult and time-consuming position. His management and organizational skills have not only assisted in fulfilling the Grand Jury functions for this year, but in improving the Grand Jury process for future years.

Each of you has served El Dorado County and your fellow citizens well, and I congratulate you on your 2016/2017 Grand Jury service.

Very truly yours,



James R. Wagoner  
Judge of the Superior Court

[jwagoner@eldoradocourt.org](mailto:jwagoner@eldoradocourt.org)



STATE OF CALIFORNIA

**GRAND JURY**

**El Dorado County**

P.O. Box 472

Placerville, California 95667

(530) 621-74777 Fax: (5300 295-0763

Grand.jury@edcgov.us



**NOTICE TO RESPONDENTS**

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to carefully read the pertinent provisions below and prepare your official response accordingly. Please pay particular attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

**RESPONSE TO FINDINGS**

The responding person or entity shall indicate one of the following:

The respondent agrees with the finding.

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 therefore.

*IMPORTANT NOTE ABOUT GRAND JURY FINDINGS*

*Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to keep it that way. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Op. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.*

**RESPONSE TO RECOMMENDATIONS**

The responding person or entity shall report one of the following actions:

The recommendation has been implemented, with a summary regarding the Implemented action.

The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation. It is the expectation of the grand jury that

the timeframe be specific and reasonable.

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 review, 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.

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

## RESPONSE TIMES

The California Penal Code specifies differing response times.

### *PUBLIC AGENCIES*

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public. The response must be addressed to the presiding Judge of the El Dorado County Superior Court as indicated in the Response Section of each report.

### *ELECTIVE OFFICERS OR AGENCY HEAD*

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public. Responses must be sent to the Presiding Judge of the El Dorado County Superior Court, as specified in the Response Sections of each report, with a copy to the El Dorado County Board of Supervisors.

## FAILURE TO RESPOND

Failure to respond as required to a grand jury report is in violation of California Penal Code Section 933.05 and is subject to further action. Such action is likely to include further investigation on the subject matter of the report by the grand jury.

The current Presiding Judge of the El Dorado County Superior:

Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd. Suite 2  
South Lake Tahoe Ca 96150

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a Word or PDF file to facilitate economical and timely distribution.

Please email responses to El Dorado County Grand Jury reports to:  
[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)



# EL DORADO COUNTY 2016-2017 GRAND JURY

*El Dorado County South Lake Tahoe Jail*  
Case 16-001 May 13, 2017

## SUMMARY

The 2016-17 Civil Grand Jury conducted its annual inspection of the South Lake Tahoe Jail on September 30, 2016. The inspection included both a physical inspection of the facilities as well as interviews with facility staff and inmates. The facility was clean, well-managed and at capacity with inmates.

The Civil Grand Jury members noted gaps in safety in the foyer and the indoor gym. There is only one safety cell for at-risk inmates. Opportunities to expand vocational training and to improve facility repairs were noted. These findings and recommendations for correction are detailed at the end of the report.

## BACKGROUND

California Penal Code Section 919(b) mandates an annual inspection of all county jail facilities by the Civil Grand Jury. Additionally, the jury must inquire into the condition and management of "public prisons" within the county, and any credible evidence of willful or corrupt misconduct of any public officer, but need not write a report on either type of inquiry.

## METHODOLOGY

- Interviewed the facility staff and inmates
- Followed the guidelines for the inspection from the Detention Facility Inspection Form
- Reviewed the Board of State and Community Corrections (BSCC) Jails Inspection Handbook
- Reviewed latest documentation of the Fire Marshal inspection
- Reviewed the Maintenance Log

## DISCUSSION

Members of the 2016/2017 Civil Grand Jury met on Friday, September 30, 2016, in South Lake Tahoe for the annual inspection of the El Dorado South Lake Tahoe County Jail (SLT). The day began with an overview of the day to day operations of the jail, followed by a site inspection.

### Overview of Operations

The jail is a 158 bed facility with current occupancy of 134 male and 24 female inmates. There are four classifications for housing inmates (male and female) which consist of General Population Unit, Administrative Segregation Unit, Protective Custody Unit and Maximum Security Unit. Validated gang members are present in the jail and some require special housing.

Ninety percent of inmates currently incarcerated at the SLT Jail are housed on felony charges. Twenty-five percent are there as a result of Assembly Bill (AB)-109 which is the Public Safety Realignment Bill. This resulted in some inmates who had been incarcerated within California's State Prison system serving their time in county jails throughout the state. Inmates received under AB-109 pose a hardship for the general population of the jail. These inmates are often hardened offenders, gang members, and/or more violent, and are housed in county jail for longer than the 12 month maximum prior to AB-109. Many inmates contained within the jail system have mental health problems but they are not segregated unless a safety and/or behavioral issue arises.

The last Grand Jury's inspection was August, 2015. Since that inspection date, no inmates have committed suicide, although there have been two attempts. There have been no deaths from other causes and no attempted escapes.

Correctional Officers work twelve hour shifts. At the time of this inspection, there were 10 positions open in the Jail Division of Sheriff's Office. Many Correctional Officers train here and then, for various reasons, go elsewhere to work. Inclement winter weather in Lake Tahoe and higher pay with lower cost of living in other areas are the main reasons staff leave.

Medical Services are provided contractually by California Forensic Medical Group (CFMG). They provide a Registered Nurse at the jail during the day and a Licensed Vocational Nurse at night. Psychiatric/Psychologist services are also available through CFMG.

There is a contracted Registered Dietician on duty who manages both El Dorado County Jails. The goal is to provide three meals per day, two of which are hot. If a lockdown is in place a bagged meal is provided.

Due to variable weather conditions in South Lake Tahoe an outdoor exercise yard is not available. Inmates (male and female) exercise in an indoor yard one hour 2-3 times per week. They are allowed a visit from their clergy by request, or at regular church services. The only vocational training offered are culinary classes.

### **Inspection of the Facility**

The tour of the jail included an inspection of housing units, medical unit, culinary, indoor gym, library, control room, booking room and sally port where individuals are brought in from the community to be booked in by jail staff.

The main entrance of the facility is open to the public, but the glass partition protecting the lobby receptionist is not bullet resistant. The lobby does not have a full body scan metal detector or hand wands to scan visitors.

Security controls with computer monitoring are used for the housing units. The indoor gym area contained several cameras. The cameras have been inoperative for a year and are the older analog version, and are not compatible with the newer digital cameras found elsewhere in the facility. There was no date for replacement of these cameras. There is one Custodial Officer present in the gym assigned to supervise and oversee inmate activity in the gym.

The Grand Jurors observed the kitchen trustees bringing meals into the day room on a cart.



Inmates are called out of their cells to obtain their meals. The kitchen and pantries were clean, organized and well managed. Special dietary restrictions are followed.

The jail has a vocational program which trains inmates in the culinary field providing job skills for when they are released. This culinary program has received many awards.

The Grand Jurors could see the facility is clean and well-organized, however the building is beginning to show signs of age with the visibility of cracks in the walls and floors of the holding area. The maintenance log did not reflect these needed repairs.

An individual had been brought in and placed in the only Safety Cell in the jail. A Custodial Officer remained positioned outside the door to observe the inmate to make sure he would not hurt himself. If more than one detainee requires a safety cell at the same time, the practice is to transport the additional individual(s) to the Placerville facility.

At the time of the inspection a full body metal scan detector was available but inoperable. It had been out of service for over a year. As of this report the body scanner is now operable and placed at the entrance of the booking room. However the foyer did not have a full body scan metal detector or hand wands to scan visitors.

Telephones are the only method of communication between visitors and inmates during visitation. Their conversations are conducted in a booth through a glass window, which is not bullet resistant.

### **Interviews with Inmates**

Immediately following the physical inspection, the Grand Jurors separated into two groups and interviewed several female and male inmates. Topics discussed were: culinary (food), availability of religious services, library services, medical services, and educational opportunities within the jail. The inmates interviewed had positive comments about the facility and Correctional Officers. They reported that the food is outstanding, especially compared to other facilities.

### **FINDINGS**

- F1. The foyer area of the South Lake Tahoe Jail has neither a full body metal detector or scan/hand wand detectors which present a serious safety issue for staff, visitors and inmates at the jail.
- F2. The inoperable cameras in the indoor gym area present safety issues for the Correctional Officer and inmates.
- F3. There is only one safety cell at this time limiting the necessary control/placement of at risk individuals.
- F4. Administrative staff appeared unaware of repairs needed in the holding area increasing the chance of further damage requiring more expensive repairs.

F5. Lack of vocational programs does not serve the rehabilitation needs of the inmates. Availability of additional vocational training programs could lessen the chances that an inmate will reoffend upon release.

## RECOMMENDATIONS

- R1. Bullet resistant glass should be installed in the foyer and visitors area.
- R2. Installation of a full body metal detector scan in the foyer. Additional hand wand detectors should also be made available for visitor screening.
- R3. Installation of digital camera surveillance equipment in the indoor gym.
- R4. Develop a plan to expand the number of safety cells and present it to the Board of Supervisors for approval.
- R5. Assign a point of contact to perform a walk through at regular intervals to ensure needed repairs are added to the maintenance log.
- R6. Expand the culinary program and add more vocational training opportunities for the inmates.

## REQUEST FOR RESPONSES

Responses to findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05

From the following individuals:

- El Dorado County Sheriff on or before August 15, 2017

From the following governing bodies

- El Dorado County Board of Supervisors on or before August 15, 2017

Address response to:

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

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## DISCLAIMER

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## BIBLIOGRAPHY

**Inspection Form can be found on the California Civil Grand Jury website: <http://cgja.org>  
Detention Facilities Inspection Forms**

Go to Section: Documents Related to Investigations  
<http://cgja.org/grand-jury-sample-documents>

# EL DORADO COUNTY 2016-2017 GRAND JURY

## *South Lake Tahoe Juvenile Treatment Center*

Case 16-002 June 9, 2017

### **SUMMARY**

#### **Placerville Juvenile Hall**

The 2016-2017 Civil Grand Jury conducted its annual inspection of the El Dorado County Juvenile Hall in Placerville on October 5, 2016. The facility is clean, organized and well managed. No inspection report is required at this time.

A \$9.6 million grant approved in 2015 for the relocation of the current Juvenile Hall is still intact and available with matching funds from the Board of Supervisors.

County Department heads met in March 2017, with Vanir Construction Management, Chief Administrative Officer, Facility Management, Probation Department, in order to meet all the requirements imposed by the State of California. A resolution by the Board of Supervisors was passed on March 28, 2017 committing and setting aside a specific amount of matching funds to bring the project to fruition.

The site for the new facility will be located where the current Sheriff's Office administrative facility is located. The new Juvenile Hall will be built from the ground up and will look more like a school with the ability to operate independently with programs including detention and the Challenge Program.

Breaking ground for this new Juvenile Hall will occur after the current sheriff's headquarters are demolished.

#### **South Lake Tahoe Juvenile Treatment Center**

The 2016-2017 Civil Grand Jury conducted its annual inspection of the El Dorado County Juvenile Treatment Center (JTC) located in South Lake Tahoe on September 30, 2016. The inspection included interviews with staff, juvenile offenders and a full walk through of the facility.

The JTC is a forty bed juvenile facility currently housing 16 juvenile offenders. The Grand Jury noted safety issues with the lack of a full body metal detector and safety glass in the administrative area. The indoor exercise area needs heat and insulation installed to permit year-round use.

### **BACKGROUND**

Pursuant to California Penal Code Section 919(b) the Grand Jury must inquire into the condition and management of public prisons within the county.



## METHODOLOGY

- Interviewed staff
- Interviewed juvenile offenders
- Followed the guidelines for the inspection from the Detention Facility Inspection Form
- Reviewed JTC procedures manual for meal and dietary requirements
- Reviewed sample of menus for 6 weeks
- Reviewed grievances submitted by the juvenile offenders

## DISCUSSION

The public entrance and waiting room of the JTC is spacious. Chairs lined the walls for visitors to sit comfortably while waiting for staff to assist them. There is no metal detector to screen detainees, visitors and staff entering the lobby. The glass in the reception area is not bullet resistant.

The facility was not at capacity at the time of inspection with an occupancy of 16 in a 40-bed facility. The juvenile offender's placement in the (JTC) is based upon their assignment in the Challenge Program. The Challenge Program has contracts with 13 counties and was implemented in 2005 at the South Lake Tahoe site. It is a comprehensive evidence-based program including rehabilitation for alcohol and drugs, anger management, dynamic thinking skills, life skills and work success goals. It includes "Girls Circle" and "Boys Council" with separate support groups for each section, and community work. This is a structured learning environment that the juvenile offenders must complete. The program helps prepare the juvenile offenders for reunifications with their families upon release in anger management, personal and social skills. Art programs, yoga, church and bible study are optional. A clergy is available to the juvenile offenders by request and during bible study. The Challenge Program has a point system with loss of privileges for disciplinary issues. The average length of stay at JTC is 30 days.

During the past year there have been no suicides, one attempted suicide, no deaths from other causes and no escapes. The facility had a fire/emergency drill 8/4/2016.

The JTC Mission Statement describes the philosophy regarding the treatment of juvenile offenders within the justice system. The goal is to provide a learning environment that offers various programs to assist the juvenile offenders in re-evaluating their place in society and ability to cope with life's issues and concerns. Behavioral and educational counseling is provided.

The JTC offers programs to the juvenile offenders to complete their educational requirements. The academic curriculum is a very important part of their everyday activity.

No on-site Mental Health Services are available. Currently, the juvenile offenders do receive individual counseling that is outsourced to on-call services. Two mental health staff are available five days a week; most juvenile offenders are seen weekly.

The kitchen was immaculate with all knives and chemicals properly secured. The kitchen manager assesses and selects the juvenile offenders exhibiting the interest and ability to be trained to work in the kitchen. The meals are served in the dayroom where the juvenile offenders are allowed to converse with one another. The females may not sit with the males.

Upon inspection of the living quarters, the showers were clean and private with a time limit of 6 minutes per juvenile offenders. Their personal grooming appears satisfactory. Their uniforms reflect the current level of achievement in the Challenge Program.

Juvenile offenders have access to telephones; they are allowed a minimum of two calls per week up to unlimited calls, based upon their status in the Challenge Program. Limited postage is free and they are encouraged to write letters to family and friends. The juvenile offenders' mail is not read by staff. All juvenile offenders have access to visitors. Staff goes out of their way to arrange convenient times to accommodate family work schedules.

Juvenile offenders are oriented to the rules and procedures of the facility. The rules and grievance procedures are posted. Records of grievances are logged and kept on record. The grievance records were verified by the Grand Jury.

Exercise is available indoors and out. The juvenile offenders exercise 1 hour per weekday and 2 hours per day on weekends. The indoor exercise area is not insulated or heated and cannot be used in winter months.

During our inspection we interviewed 6 juvenile offenders. Topics of discussion: interaction with staff, food, education, physical activity and visiting.

The overall appearance and condition of the facility were observed to be extremely clean. There were no signs of graffiti anywhere within the facility. There were no noticeable cracks in the ceiling, walls or floors.

## **FINDINGS**

- F1. The entrance of the SLT Juvenile Treatment Center does not have a full body metal detector which presents a serious safety issue for staff and visitors.
- F2. The lack of bullet resistant glass in the receptionist area is a serious safety issue which puts staff and visitors at risk.
- F3. The indoor exercise area lacks proper insulation and the ability to be heated for year round use.



## RECOMMENDATIONS

- R1. Install a full body metal detector in the lobby area.
- R2. Install bullet resistant glass in the reception area.
- R3. Provide the necessary insulation and heat so the indoor exercise area is usable year round.

## REQUEST FOR RESPONSES

Responses to findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05

From the following individuals:

- EDC Chief Probation Officer on or before September 11, 2017

From the following governing bodies:

- El Dorado County Board of Supervisors on or before September 11, 2017

### Address response to:

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

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## BIBLIOGRAPHY

### South Lake Tahoe Juvenile Treatment Center Inspection Links

Inspection Form can be found on the California Civil Grand Jury website:  
Detention Facilities Inspection Forms

Go to Section: Documents Related to Investigations  
<http://cgja.org/grand-jury-sample-documents>

Meal Service Frequency and Diets, Article 9  
Title 15 Juvenile Meal Service

### Placerville Juvenile Hall Grant Links

El Dorado County March 10, 2016 letter to Board of State and Community Corrections (BSCC) requesting an amendment to the Grant approved in 2014

Request for Grant amendment  
<http://www.bscc.ca.gov/downloads/agenda> item b-2

Board of Supervisors March 28, 2017 approval of Amendment III of BSCC Grant: Agenda Item #43

Board of Supervisors Approval  
<http://eldorado.legistar.com/meetingdetail.aspx?>

Board of Supervisors March 28, 2017 meeting attachments for BSCC Grant approval link includes:

4. Executed Resolution 231-2014 Amendment III
7. Executed Resolution 231-2014, Amendment II
11. Executed Resolution 231-2014 Amendment I
14. Section 8 El Dorado County Juvenile Hall Needs Assessment 12/2/14
15. Executed Revised Resolution 231-2014 12-2-14 item 39

### BOS MARCH 28, 2017 MEETING ATTACHMENTS

<http://eldorado.legistar.com/meetingdetail.aspx?>

APPENDIX

SAMPLE WEEKLY MENU FOR THE SOUTH LAKE TAHOE JUVENILE TREATMENT CENTER

Juvenile Treatment Center Food Menu

Sunday 10-26	Monday 10-27	Tuesday 10-28	Wednesday 10-29	Thursday 10-30	Friday 10-31	Saturday 11-1
<p><u>Breakfast</u></p> <p>French Toast 2 slices Sausage 2 oz. Oranges 1 ea. Juice 4 oz. Milk 16 oz.</p>	<p>Cereal 3/4 c. Eggs 1 ea. Oranges 1 ea. Juice 4 oz. Milk 16 oz.</p>	<p>Pancakes 3 ea. Pineapple 3/4 c. Oranges 1 ea. Juice 4 oz. Milk 16 oz.</p>	<p>Oatmeal 1 c. Banana Bread 1 Pears 2 oz. Oranges 1 ea. Juice 4 oz. Milk 16 oz.</p>	<p>Eggs 3 ea. Hash Browns 3/4 c. Oranges 1 ea. Juice 4 oz. Milk 16 oz. Sausage 2 oz.</p>	<p>Cereal 3/4 c. Blueberry Muffins 1 Fr. Crackles 2 1/2 c. Oranges 1 ea. Juice 4 oz. Milk 16 oz.</p>	<p>Ham/Eggs 2 ea. Hash Browns 3/4 c. Oranges 1 ea. Juice 4 oz. Milk 16 oz.</p>
<p>Turkey Wrap 1 ea. Yogurt 1 c. Apples 1 ea. Potato chips 1 c. Milk 8 oz.</p>	<p>Sub Sandwich 1 ea. Pretzel 1 c. Apple sauce 1 c. Milk 8 oz.</p>	<p>Steak Sandwich 1 ea. Chips 1 c. Fruit 1 c. Milk 8 oz.</p>	<p>C of Potato Soup 1 c. Chicken Salad Sandwich 2 ea. Apples 1 ea. Milk 8 oz.</p>	<p>Beef Veg Soup 1 c. Bran 2 ea. Fruit 1 c. Milk 8 oz.</p>	<p>Meatball Sandwich x1 Apple Sauce Tater tots 3/4 c. Milk 8 oz.</p>	<p>Chicken Pasta Salad 2 c. Cottage Ch. 3/4 c. Apple 1 ea. Carrot Sticks 3/4 c. Milk 8 oz.</p>
<p>Pizza 2 pcs Green Beans 3/4 Salad 1 c Sugar Cookies 2 ea Milk 8 oz.</p>	<p>Spaghetti 7 c. Peas 3/4 c. Green Salad 1 c. Italian Bread 2 slices Brownies 3x3 Milk 8 oz.</p>	<p>Chicken Picatta 3 oz. Lingini 3/4 c. Corn 3/4 c. Jello 3/4 c. Ice Cream 4 oz. Milk 8 oz.</p>	<p>Mac Cheese 2 c. Fruit 1 c. Green Beans 3/4 Oatmeal Cookies 2 ea Milk 8 oz.</p>	<p>Sloppy Joes 2 ea Tater Tots 3/4 c. Carrots 3/4 c. Green salad 3/4 c. Pineapple upside down cake Milk 8 oz.</p>	<p>Enchilada Casserole 2 c Refried Beans 3/4 Ambrosia 1 c Choc Peanut Butter Bars 3x3 Milk 8 oz.</p>	<p>Hot Dogs 2 ea. Chili Beans 1 cup Fruit 1 cup Rice Crispy Treats 3x3 Lemonade 4 oz. Milk 8 oz.</p>



BoS Approval on March 28, 2017 of Amended BCSS Grant Matching Funds



RESOLUTION NO.  
231-2014  
Amendment III

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

WHEREAS, on December 2, 2014, the Board of Supervisors of the County of El Dorado, on December 2, 2014, adopted Resolution No. 231-2014 authorizing the Chief Administrative Officer to submit an application for construction of a new Placerville Juvenile Hall Facility ("Project") under the Local Youthful Offender Rehabilitative Facility Construction Financing Program (SB 81) for state funding in the amount of \$9.6 million, and made other necessary and appropriate findings and declarations supporting the SB 81 application;

WHEREAS, on April 9, 2015, the County was notified that the State has issued a conditional award of \$9.6 million for the Project;

WHEREAS, on June 28, 2016, the Board adopted Amendment I to Resolution No. 231-2014 reducing the scope of the project from a 40-bed facility to a 20-bed facility, identifying the site selected, and providing a commitment of County funds;

WHEREAS, on December 6, 2016, the Board adopted Amendment II to Resolution No. 231-2014 to add Section 9 identifying additional general fund cash contribution to the Project;

WHEREAS, the total updated Project cost estimate at establishment is \$11,159,340;

WHEREAS, the County will provide a Cash Match totaling \$963,000 and In-Kind Match totaling \$140,000, and Other County costs totaling \$456,340 for a total of \$1,559,340; and

WHEREAS, the County is amending Resolution No. 231-2014 for the third time to amend Section 9 to reflect the total County Cash Match, In-Kind Match, and Other County costs, and to add Section 10.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of El Dorado hereby takes the following actions to amend, for the third time, Resolution #231-2014 as follows;

9. In addition to the \$480,000 cash match identified in Section 5, identifies additional In-Kind match totaling \$140,000 and general fund cash contribution, when appropriated, of up to \$483,000, and other general fund County Costs of \$456,340 for a total County Cash Match, In-Kind Match and Other County Costs of up to \$1,559,340, and assures that State and County cash matching funds do not replace funds otherwise dedicated or appropriated for construction of a new Placerville Juvenile Hall.

10. That the funds identified in Section 9 designated from FY17, FY18, FY19, and FY20 County General Fund will be encumbered for the sole use of the SB81 Juvenile Hall Project charged to project code #150404.

Except as herein amended, all other parts and sections of Resolution #231-2014 shall remain unchanged and in full force and effect.

# EL DORADO COUNTY 2016-2017 GRAND JURY

## *RED HAWK TRIBE BOARD of SUPERVISORS MOU*

### *Performance of the Agreements Between El Dorado County and the Shingle Springs Band of Miwok Indians*

Case 16-004 May 30, 2017

#### **SUMMARY**

The Red Hawk Casino is owned and operated by the Shingle Springs Band of Miwok Indians (Tribe) in El Dorado County pursuant to Federal and State law. Recognizing mutual benefits, the County and Tribe entered into a Memorandum of Understanding (MOU) and Intergovernmental Agreement in 2006 (2006 MOU). The 2006 MOU obligated the Tribe to pay the County certain amounts of money to mitigate direct fiscal impacts the proposed Red Hawk gaming facility would have on local communities and County government. This included \$5.2 million for expansion of an HOV lane along Highway 50 to alleviate anticipated traffic issues resulting from the new Casino.

The Casino opened in December 2008. Revenues generated by the Casino fell short of what was anticipated as a result of the general economy and market competition putting the gambling operation under significant financial strains. As part of the restructuring of the Tribe's financial obligations, the County and the Tribe agreed to amend the 2006 MOU in 2012 (2012 Amendment). Collectively, the 2006 MOU and 2012 Amendment are referred to as the "Amended Agreement". The 2012 Amendment redirected the \$5.2 million for an HOV lane. This amendment also obligated the County to reimburse the Tribe \$2.6 M for increased expenses to the Tribe's health programs for caring for non-Indian citizens of the County.

It was brought to the attention of the El Dorado County Civil Grand Jury (Grand Jury) that the parties were not fully compliant with certain obligations of the Amended Agreement. In addition, it was alleged that the 2012 Amendment was unnecessary and portions of the 2012 Amendment were poorly written which led to loose interpretations of the Tribe's and County's responsibilities.

The Grand Jury decided to investigate these matters and expanded the investigation to determine if the County and the Tribe were complying with other provisions of the Amended Agreement. The Grand Jury also wanted to look into the current financial condition of The Tribe's Casino operations to see if the Tribe is able to meet future financial obligations as required by the Amended Agreement.

The Grand Jury found that the Casino operation is financially sound today and that the Tribe and the County have consistently and in a timely manner made all payments as required by the Amended Agreement.

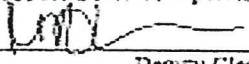
However, our investigation uncovered several problems with the management of the Amended



PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 26th day of March, 2017, by the following vote of said Board.

Attest:  
James S. Mizisin  
Clerk of the Board of Supervisors

Ayes: Vankamp, Baralli, Hinkel, Frazier, Novakel  
Noes: None  
Absent: None

By  \_\_\_\_\_  
Deputy Clerk

  
\_\_\_\_\_  
Chair, Board of Supervisors  
Shiva Frazier

Agreement. First, prior to the investigation, the County had not designated a point of contact for administration of the Amended Agreement, and did not maintain one centralized file for the Agreement. Second, while the Amended Agreement permits the County to audit gaming machines at Red Hawk Casino, the allowed audits have not been done. This resulted in unanticipated revenue from the Tribe. This makes it very difficult to ensure ongoing compliance with the Amendment Agreement.

Third, the Tribe's reports about the County's \$2,600,000 health care payment (required by the 2012 Amendment) have been inconsistent and lacking in detail. The use of these funds needs to be in compliance with the intent of the Amended Agreement; it is difficult to ascertain the use based on the limited reports provided.

Detailed Findings and Recommendations can be found at the end of this report. These recommendations will need Board of Supervisors approval for the CAO to implement. Once implemented, they will strengthen the monitoring and oversight by the County to overcome the shortcomings uncovered during the investigation.

## **BACKGROUND**

The Grand Jury received a copy of "Grounds to Recall El Dorado County Supervisors" circulated by "Neighbors Against Corruption" and published on 'edcTotalRecall.org' that addressed a \$2,600,000 "gift" from the County to the Tribal Health Facility, among other concerns. This initiated the investigation.

## **METHODOLOGY**

The Grand Jury's investigation included:

- Research and analysis of pertinent public records
- Interviews of elected officials
- Interviews of County department heads

A detailed list of the sources of online data and documents reviewed as part of the investigation are located in the Appendix, Part A.

The Grand Jury invited Tribal leaders to discuss the Amended Agreement. The Tribal leaders declined the invitation.

## **DISCUSSION**

### **Shingle Springs Band of Miwok Indians (Tribe)**

The Tribe is a federally-recognized sovereign Indian tribe which consists of over 500 members. The Tribe owns and operates the Red Hawk Casino and the Shingle Springs Health and Wellness Center on the Tribe's original 160 acre reservation lands located in El Dorado County. The Red Hawk Casino opened on December 17, 2008. As of October 2016, the Casino has approximately



2,571 gaming machines, 69 table games and a six-table poker room<sup>1</sup>. Other amenities include six restaurants, four bars and 3,000 lighted, covered parking spaces and a gift shop. Moody's Investors Service reports revenues of \$290 million dollars for fiscal year 2015/2016.

The Health and Wellness Center offers medical, dental and behavioral health services for both Indian and non-Indian citizens of the community. The Tribe employs approximately 1,500 employees in its Casino operation and is the second largest private employer in El Dorado County.

### **Gaming Casino and the State Compacts with the Shingle Springs Band of Miwok Indians**

The State has entered into three Tribal/State Compacts with the Shingle Springs Band of Miwok Indians (Tribe). On October 8, 1999 the State entered into the first of the Compacts with the Tribe followed by a 2008 Compact and finally by the 2012 Compact under which the Tribe presently operates.

Under the Federal Indian Gaming Regulatory Act (IGRA) a State is required to enter into negotiation with an Indian Tribe having jurisdiction over Indian lands upon which a Class III (Casino style<sup>2</sup>) gaming activity is being conducted. The stated purpose of the IGRA is to provide a statutory basis for the operation of gaming by tribes to promote tribal economic development, self-sufficiency, and strong tribal governments and to ensure that the tribe is the primary beneficiary of gaming revenues (not the State, County or other entities).

When the Casino opened in December 2008 it operated under the 2008 State Compact. This was a time when unemployment in the Sacramento Region exceeded 11% (May 2009). The area was suffering from a severe housing correction and poor credit conditions which reduced consumers spending. By 2010 unemployment rates in the primary market area for the Casino reached 13%. The result of the economic downturn was a situation in which the State and other government entities including El Dorado County received payments from the Casino operation that far exceeded what the Tribe received from its operations. This created a situation which did not conform to the stated purpose of the Federal Indian Gaming Regulatory Act (IGRA). On November, 15, 2012 the State and the Tribe amended the 2008 Compact to address a number of issues including the following:

- The 2012 Compact enabled the Tribe to renegotiate its financial obligations related to the Gaming Facility, including operating expenses, payment to the State and local government entities, notes that were due in 2015, amounts owed to its management company, etc.
- The 2012 Compact directed the Tribe to renegotiate its debt with the County. Discussions with the County led to the 2012 Amendment of the 2006 MOU.

### **2012 Amendment**

The 2012 amendment had three key components:

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<sup>1</sup> Moody's Investors Service, Global Credit Research dated October 20, 2016.

<sup>2</sup> Also called Nevada-style games that include slot machines, electronic game of chance and many banked card games like blackjack.



- The \$5,200,000 HOV payments as described in the 2006 MOU would be repurposed for “Qualifying Public Improvements” to be used by the County for road improvements and/or maintenance located within designated boundaries in the area of the Casino. A map of the boundaries can be found in the Appendix. This payment will increase by 2% per year starting December 14, 2017.
- The County will pay the Tribe \$2,600,000 for increased expenses to the Tribe's Health Program for caring for non-Indian citizens of the County. The payment is to be used for “Qualifying Health Care Contributions” as defined in the MOU, with 2% annual increases beginning on December 14, 2017.
- The Tribe is to submit to the County an annual written report detailing the expenditures made with the funds from the “Qualifying Healthcare Contribution”.

One of the Grand Jury's areas of concern was the repurposing of the HOV Lane funds in the 2012 Amended MOU. A November 7, 2012 report from County Counsel explained the reasons for changes to the 2006 MOU relevant to the HOV funding to the Board of Supervisors. The report, in summary, states that the Federal government would provide stimulus money for an HOV lane when needed. In addition, the traffic from the Casino did not materialize as first anticipated. The BOS now has broad discretion as to where and how the annual \$5.2 million for road improvement and maintenance is spent within a designated area. (Please see map in Appendix outlining the designated area)

The 2012 Amendment relieved the Tribe of any responsibility for future impacts to the Highway 50 HOV lane as was required by the 2006 MOU.

### **Improved Red Hawk Financial Condition since 2013**

In April 2010, approximately three years *before* the ratification of the 2012 Tribe/State Amended Compact, Moody's stated in its report that it expected the Tribal Authority's:

*“EBITDA (Earnings before interest, depreciation and amortization) will likely be insufficient to cover all its fixed charges, including interest expense, tribal distributions, debt amortization and capital expenditure in the next 12-18 months.”*

The Moody Investors Survey Reports identified how the Tribe reduced its debt. The Tribe refinanced its debts of approximately \$520 million for a reduction in overall cost of debt with savings of approximately \$8 million annually by September 12, 2013. The Tribe was able to eliminate its management agreement with Lakes Entertainment for an annual savings of approximately \$9 million. It was anticipated that the Tribal Authority would be able to lower its outstanding debt through scheduled debt amortization of about \$7 million on its term loan and through excess cash flow. By October 2014 the Tribe had reduced its outstanding debt to approximately \$500 million. The Tribal Authority was able to reduce its debt load by approximately \$40 million by October 2015 and an *additional* \$88 million by October 2016. Payments the Tribe makes to the State Revenue Sharing Trust Fund (RSTF) confirms that the Shingle Springs Band of Miwok Indians' revenue has improved significantly since 2012. The 2012 Amended State Compact requires the Tribe to make payments to the RSTF in the amount equal to 3% of the “Net Win”. Net Win is defined in the State Compact as:

*“drop from Gaming Devices, plus the redemption value of expired tickets, less fills, less payouts, less the portion of the Gaming Operation’s payments to a third-party wide area progressive jackpot system provider that is contributed only to the progressive jackpot amount”.*

In fiscal year 2013/2014 the Tribe paid \$5,388,346 into the RSTF at 3% of “Net Win” which would indicate a “Net Win” of \$179,611,533. The 2014/2015 payments to the RSTF was \$6,222,383 with an indicated “Net Win” amount of \$207,412,767.

The 2015/2016 payments indicate a “Net Win” of approximately \$228,447,000 based on three quarterly payments and an average of the three quarterly payments for the fourth quarterly payment<sup>3</sup>. “Net Win” has increased from:

- fiscal year 2013/2014 to fiscal year 2014/2015 by 15.4%,
- fiscal year 2014/2015 to fiscal year 2015/2016 by approximately 10.1%

The Tribe’s financial condition is different today. Moody’s October 20, 2016 report states that it expects:

*“Shingle Springs will continue to generate positive free cash flow that will be used for both Tribal distributions and debt reduction” The Tribal Authority has good credit metrics... stable operating outlook and its ability to generate free cash in excess of its maintenance capital spending and mandatory amortization requirements”.*

### **Payments required by the Amended Agreement**

A significant amount of money is paid annually by the Tribe to the County under the Amended Agreement and benefits several areas in the County budget. The Casino opened on December 17, 2008. The first payments were due on December 17, 2009 and totaled more than \$8M. The Amended Agreement terminates on June 30, 2032<sup>4</sup>.

As of the end of 2015 the Tribe has made all payments owed the County as required by the Amended Agreement. A detailed payment schedule with explanation may be found in the Appendix, Part B.

The following table summarizes the payment obligations of the Tribe for various budgets within the County. The Tribe will pay in excess of \$243,000,000 (gross amount) over the life of the MOU.

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<sup>3</sup> Averaging for the fourth quarter was necessary because the California Gambling Control Commission, starting April 1, 2016, no longer reports the payments made to the RSTF by the Shingle Springs Band of Miwok Indians because the information is considered confidential under the Tribal-State Gaming Compacts.

<sup>4</sup> The termination date of the 2006 MOU and 2012 Amendment are set by the termination date of the 2012 State Compact which is June 30, 2032. The 2012 State Compact termination date may be extended by negotiation of a new or amended Compact between the State and the Tribe.



### Payments by the Tribe to the County

Payments by the Tribe to County for:	Beginning Amount	Total paid @ Y.E. 2015	% yearly increase	Annual increase begins	Est. Total over life of MOU
Sheriff	\$500,000	\$3,500,000			\$11,750,000
County Revenue Tax	\$500,000	\$3,500,000			\$11,750,000
HOV Lane/Qualifying Public Improvements	\$5,200,000	36,400,000	2%	2017	\$136,893,526
Discretionary Funds - A Through 2015	\$2,000,000	\$14,000,000			\$14,000,000
Discretionary Funds - A beginning in 2016	\$1,300,000				\$21,450,000
Discretionary Funds - B beginning 2016	\$2,500,000		2%	2017	\$47,530,224
Additional pmts for >2,000 Class III machines - ( 2014 & 2015)		\$400,000			
<b>Estimated Total over Life of MOUs (w/o add. gaming machines pmts):</b>					<b>\$243,373,750</b>

The 2012 Amendment also requires the County to pay the Tribe \$2,600,000 for “Qualifying Healthcare Contributions” which was not part of the 2006 MOU. The \$2,600,000 payment by the County to the Tribe is for increased expenses the Tribe’s Health Program incurs in caring for non-Indian citizens of the County. The \$2,600,000 annual payment will increase by 2% every year beginning on December 14, 2017.

As of December 2015, the County has made all “Qualifying Healthcare Contributions” payments as required by the 2012 Amendment totaling \$10,400,000. The total payments by the County to the Tribe for “Qualifying Healthcare Contributions” over the life of the MOU is estimated at \$60,646,763. The annual payment schedule can be found in the Appendix, Part B.

#### OVERSIGHT OF THE AMENDED AGREEMENT

##### Maintenance of Records

The Grand Jury discovered during its investigation that there is no central point of contact or internal files for the Amended Agreement. This creates administrative gaps for CAOs, members of the Board of Supervisors (BOS) and other County staff who may need that information. Lack of internal records makes the task of managing the subject agreements difficult for all responsible parties. This also presents problems for maintaining a continuity of government-to-government relationship with the Tribe.

It was also learned that the Board of Supervisors relies on the CAO to deal with matters related to the Amended Agreement and had limited knowledge about specific provisions of the Amended Agreement.

This raises concerns because:

- The length of the term of the current 2012 MOU has 16 years remaining.
- The significant payments to the County by the Tribe will be in excess of **\$243,000,000** over the life of the MOU.
- No accountability on the use of the Qualifying Healthcare Contributions Fund.
- Knowledge lost since no member of the present Board of Supervisors was in office when the Amended Agreement was negotiated and signed.
- There has been a significant turnover in CAO's over the past 8 years with an average service time of 24 months, adding to the concern. Following are the names of CAO's and their employment history as CAO:
  - Don Ashton: June 2016 to present
  - Larry Combs: End of May 2015 thru June 2016 (13 months)
  - Pamela Knorr: November 2014 to June 2015 (7 months)
  - Terri Daly: December 2010 to November 2014 ( 3 years, 11 months)
  - Gayle Erbe-Hamlin: June 2008 thru December 2010 (2 years, five months)

#### **Lack of Compliance with Monitoring and Reporting Requirements County monitoring of the number of gaming devices.**

The 2006 MOU provides for the County monitoring of the number of gaming devices the Tribe has in operation through the State of California's oversight of the Tribe's gaming facility which tracks the number of gaming devices in connection with the Tribal-State Compact. The MOU requires the Tribe to pay the County an additional \$100,000 for every 100 additional machines in operation above the approved 2,000 machines.

The Grand Jury interviewed public officials who had no knowledge of any monitoring of the number of machines. There is no process or oversight in place that follows up on annual changes in machine count.

The Tribe has made two such payments to the County. The Tribe paid the County an additional \$100,000 on February 6, 2014 and \$300,000 on December 28, 2015 for additional machine count.

The importance of the tracking of the machine count cannot be overemphasized. When the original 2006 MOU was signed, the State Compact allowed 2,000 gaming devices. The 2012 Amended and Restated Tribal-State Compact allows the Tribe to operate up to a total of 4,000 gaming devices after June 30, 2020. If the Tribe's market continues to expand and they reach the maximum machine count of 4,000, it would provide an additional annual payment of \$2,000,000 to the County.

#### **Reporting Requirements of the Tribe for "Qualifying Healthcare Contributions"**

The 2012 Amendment requires the County to pay the Tribe \$2,600,000 annually for "Qualifying Healthcare Contributions". In turn the Tribe is required to submit an annual written report to the County detailing how the money from the "Qualifying Healthcare Contributions" was spent. The



2012 Amendment states: "In consideration of the increase expenses to the Tribe's Health Program for caring for non-Indian citizens of the County, the County shall pay the Tribe an annual contribution of Two Million Six Hundred Thousand Dollars to be applied to the Tribe's health programs that service both tribal and non-members *and may be used for, among other things, behavioral health services, outreach services, dental care services, insurance costs and reimbursement of medical expenses. ("Qualifying Healthcare Contributions")...*"

There have been four annual reports due from the Tribe since the 2012 Amendment was signed. During the investigation, the Grand Jury requested copies of the four reports from County officials. The Grand Jury was furnished with reports from the Tribe for 2013, 2014 and 2015. (Copies of the reports can be found in the Appendix, Part C) They are as follows:

- A one page letter dated December 5, 2012 from the Chairman of the Shingle Springs Band of Miwok Indians to the El Dorado County Board of Supervisors stating: "The Tribal Council plans to use the County's contribution to the Tribe to reduce the debt on its new Clinic Facility". The letter provided no further detail on expenditures made.
- A one page copy of a Budget Item Note from the Shingle Springs Band of Miwok Indians budget. The Shingle Springs Band of Miwok Indian's, Budget note states: "The Rancheria received an annual contribution of \$2,600,000 from the County during 2014. The funds were used to provide services to both tribal and non-tribal members including but not limited to behavioral health services, outreach services, dental care services and reimbursement of medical services".
- A one page letter dated January 6, 2016 from the chairman of the Shingle Springs Band of Miwok to the El Dorado County Board of Supervisors stating: "...the Tribe received \$2,600,000 from the County to assist with the Tribe's health programs in FY 2015. The Tribe applied this Qualifying Healthcare Contribution to the installation of a new freight elevator and to the general operating budget for the Shingle Springs Health and Wellness Center".

A fourth report was presented to the Grand Jury at the completion of the investigation in mid April 2017. The report is dated January 17, 2017 and is also a one page letter. It did provide information about the number of non-Indian residents of the County served by the Tribe's Health and Wellness Center. (A copy of the report can be found in the Appendix, Part C).

None of the reports submitted by the Tribe provide any detail about the increased expenses associated with caring for non-Indian residents of the County as required by the 2012 Amendment.

None of the County representatives interviewed could explain exactly what the above provision meant or how it was to be implemented. All present-day County officials interviewed by the Grand Jury described the provision generally as poorly written. One described it as "nebulous" Another, when asked what the provision meant and how it was to be implemented, stated "I don't know."

Another concern the Grand Jury has related to the \$2,600,000 annual payment by the County is that the payment may not be justified in terms of direct dollar benefits for the increased expenses associated with caring for non-Indian citizens of the County. The concern is based on the



following:

- The Tribe had always served both Indian and non-Indian Citizens of the community since 1995 both at their new Health and Wellness Center located on tribal lands as well as their original clinic located on Mother Lode Road in Shingle Springs.
- Tribal health clinics receive reimbursement rates for Medi-Cal and Medicare patients that are significantly higher than for other providers of like services. Medicare and Medi-Cal are markets most providers try to minimize because of the low reimbursement rates.
- In order to qualify for a \$13.6 million loan to build the new clinic in 2011, the Tribe had a feasibility study<sup>5</sup> prepared. The study recommended the Tribe increase its share of the Medi-Cal market in order to meet its debt service on the \$13.6 million loan.

The Grand Jury found the Tribe's medical clinic does see patients that would otherwise be filling up the emergency rooms of the hospitals in the County for non-emergency care. This was confirmed by all County officials interviewed by the Grand Jury that had knowledge of the Tribe's Clinic. County officials stated that the Clinic not only provides needed services for the underserved but provides quality health care.

#### **Final Comment**

During the investigation it was learned that the present Chief Administrative Officer has been meeting on a regular basis with the Tribe's leadership. He has developed an ongoing relationship with Tribal leaders for all matters associated with the Tribe and the County, including the administration of the subject Amended Agreement.

Also, since the investigation was started, the CAO has appointed one of his staff as a point-of-contact person for Tribal matters and has started a file related to Tribal matters.

#### **FINDINGS**

F1 The subject Amended Agreement appears to have been created at arm's length and in good faith by both the Miwok Tribe and El Dorado County.

F2 The County derives a benefit from its payments to the Tribe for the Qualifying Healthcare Contributions.

F3 Prior to the investigation, the County failed to adequately perform its duties to ensure the Tribe's compliance with the Amended Agreement by not having a central file, meaningful record keeping or point-of-contact.

F4 The Tribe and the County have complied with the Amended Agreement by consistently and in a timely manner making all payments as required by the MOU as amended.

F5 The Grand Jury finds that the Tribe's ability to meet its financial obligations has improved

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<sup>5</sup> "Shingle Springs Tribal Health Program, New Clinic Feasibility Analysis" by The Innova Group of Tucson, dated June 2010

significantly since 2012.

- F6 The County has failed to verify the number of gaming machines at Red Hawk which may have resulted in lost revenue.
- F7 The County's acceptance of insufficient documentation of the Qualifying Healthcare Contribution Fund by the Tribe deprives the County of the ability to monitor compliance with the 2006 MOU as amended.

## **RECOMMENDATIONS**

- R1 The Grand Jury recommends the County direct present and future Chief Administrative Officers to identify a central point of contact among county staff to monitor and maintain oversight of and compliance with the Amended Agreement. The recommendation should be implemented at once.
- R2 The Grand Jury recommends the County direct present and future Chief Administrative Officers to annually monitor the number of gaming machines at the Red Hawk Casino.
- R3 The Grand Jury recommends the County direct present and future Chief Administrative Officers to maintain and safeguard documentation associated with the Amended Agreement at a central location.
- R4 The Grand Jury recommends the Board of Supervisors adopt a policy requiring the Tribe to provide a detailed annual report of the Tribe's use of the County's "Qualifying Healthcare Contributions" to insure compliance with the Amended Agreement.

## **REQUEST FOR RESPONSES**

Responses to both the Findings and Recommendations in this report are required by law in accordance with California Penal Code 933 and 933.05 as follows:

From the following governing bodies:

- El Dorado County Board of Supervisors

### **Address responses to:**

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that responses be sent electronically as a Word or PDF file to facilitate the economical and timely distribution of such responses. Please email responses to El Dorado County Grand Jury reports to: [courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)



## Appendix

### Part A Bibliography

#### Sources of online data:

- El Dorado County website and various links provided by the website. [www.edcgov.us](http://www.edcgov.us).
- U.S. Health and Human Services, Indian Health Services. [www.ihs.gov](http://www.ihs.gov).
- California Gambling and Control Commission and various links provided by the website. [www.cgcc.ca.gov](http://www.cgcc.ca.gov).
- Department of Justice, Bureau of Gambling Control and various links provided by the website. [www.oag.ca.gov/gambling](http://www.oag.ca.gov/gambling).
- California Legislative Information website. [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov).
- Shingle Springs Band of Miwok web site. [www.shinglespringsrancheria.com](http://www.shinglespringsrancheria.com).
- National Indian Gaming Commission. [www.nigc.gov](http://www.nigc.gov).
- Moody's Investors Service, Global Credit Research. [www.moody.com](http://www.moody.com).

#### Documents reviewed:

- 2006 "Memorandum of Understanding and Intergovernmental Agreement between the County of El Dorado and Shingle Springs Band of Miwok Indians" dated September 26, 2006.
- 2012 "Amendment of Memorandum of Understanding and Intergovernmental Agreement between the County of El Dorado and Shingle Springs Band of Miwok Indians", dated October 20, 2012.
- 1999 Tribal-State Compact between the State of California and the Shingle Springs Rancheria.
- 2008 Amendment to the Tribal-State Gaming Compact between the State of California and the Shingle Springs Band of Miwok Indians.
- 2012 Amended and Restated Tribal-State Compact between the State of California and the Shingle Springs Band of Miwok Indians.
- El Dorado County budget reports from 2007-2016 regarding payments from the Tribe to the County and payments from the County to the Tribe.
- Moody's Investors Service, Global Credit Research Summary Reports from 2007 thru October 20, 2016 of Shingle Springs Tribal Gaming Authority.
- Assembly Bill Analysis of AB 1267 dated April 29, 2013
- Senate Committee on Governmental Organization, Information hearing on: Amended Tribal-State Compact between the State of California and The Shingle Springs Band of Miwok Indians, dated April 23, 2013 at the State Capitol.
- Letter from Shingle Springs Band of Miwok Indians to the Board of Supervisors dated December 5, 2012.
- Letter from Shingle Springs Band of Miwok Indians to the County Board of Supervisors, RE: Qualifying Healthcare Contributions, dated January 6, 2016.
- Page 23 from the Shingle Springs Band of Miwok Indians (Governmental Activities and Funds), Note 9 –Comment and Contingencies. Recognition of the Tribe receiving \$2,600,000 from the County during 2014.
- Public Law 100-497, 100<sup>th</sup> Congress, entitled "Indian Gaming Regulatory Act", dated October 17, 1988.
- El Dorado County New Release dated September 28, 2006 entitled: "County Reaches Settlement with Shingle Springs Miwok Tribe over Proposed Project".



- Letter from El Dorado County Counsel to the Board of Supervisors dated November 7, 2012.
- Feasibility analysis prepared for the Shingle Springs Band of Miwok Indians by the Innova Group of Tucson dated June 2010 and entitled: "Shingle Springs Tribal Health Program".
- Testimony of Nicholas Fonseca, Chairman, Shingle Springs Band of Miwok before the House Subcommittee on American Indian and Alaska Natives regarding H.R. 2388 dated July 23, 2013.
- Shingle Springs Band of Miwok Indians, Resolution 2012-74: Authorization for Amendment to the 2006 County/Tribe MOU.
- Shingle Springs Rancheria, Resolution 2006-25: Relevant to Waiver of Sovereign Immunity and the approval of the 2006 MOU between the County and the Tribe
- Marketwire, dated November 18, 2008 "Redhawk Casino Announces Opening Date".

## Part B-2006 MOU and 2012 Amendment (Amended Agreement) Payment Schedules

### Payment schedules based on the following:

- Annual payments are made at the end of each year of operation.
- All payments are annual except payments to the Sheriff's office which are quarterly.
- Opening Date of Red Hawk: December 17, 2008.
- First payment due 365 days after opening: 12/17/09
- Last payment due on June 30, 2032
- Last payment in 2032 is on an annualized basis (6 months of operation)

### Payments to Sheriff's Office

The Tribe pays \$500,000 annually in quarterly installments of \$125,000 per quarter to the sheriff's office. The elected sheriff determines usage of the funds. The term is for 20 years or the life of the Tribe's Compact with the State, whichever is longer. The original term of the 1999 State Compact ended December 31, 2020. The term was extended in the 2008 Amended Compact to December 31, 2029 and, most recently, extended again to June 30, 2032 by the Amended and Restated 2012 State Compact.

Year	Amount	Year	Amount
2009	\$500,000	2021	\$500,000
2010	\$500,000	2022	\$500,000
2011	\$500,000	2023	\$500,000
2012	\$500,000	2024	\$500,000
2013	\$500,000	2025	\$500,000
2014	\$500,000	2026	\$500,000
2015	\$500,000	2027	\$500,000
2016	\$500,000	2028	\$500,000
2017	\$500,000	2029	\$500,000
2018	\$500,000	2030	\$500,000
2019	\$500,000	2031	\$500,000
2020	\$500,000	2032	\$ 250,000
		<b>Total</b>	<b>\$11,750,000</b>

### County Revenue Tax

The 2006 MOUs requires the Tribe to pay \$500,000 per year for 20 years or the life of the Tribe's Compact with the State (whichever is longer). The payment as described in the 2006 MOU is:

- *"in recognition of the fact that the Gaming Project is not subject to the same taxes to which other businesses in the County are subject"* ;and
- to make certain that private businesses are not placed at a competitive disadvantage.

These funds are deposited in the County General Fund and are not earmarked for any specific use and may be used for any purpose by the Board of Supervisors as they deem fit.

Year	Amount	Year	Amount
2009	\$500,000	2021	\$500,000
2010	\$500,000	2022	\$500,000
2011	\$500,000	2023	\$500,000
2012	\$500,000	2024	\$500,000
2013	\$500,000	2025	\$500,000
2014	\$500,000	2026	\$500,000
2015	\$500,000	2027	\$500,000
2016	\$500,000	2028	\$500,000
2017	\$500,000	2029	\$500,000
2018	\$500,000	2030	\$500,000
2019	\$500,000	2031	\$500,000
2020	\$500,000	2032	\$250,000
		<b>Total</b>	<b>\$11,750,000</b>

### General Discretionary Fund Payments

The 2006 MOU requires the Tribe to pay the County additional funds *“to be used at the County’s discretion to fully address the Tribe’s Projects.”* General Discretionary Fund payments are as follows:

- \$2,000,000 annually for seven years starting in December 2009 (365 days after Gaming Project was in operation) with the last payment due in December 2015.
- \$1,300,000 annually beginning on the last day of the eighth year of operation (December 2016) and every year thereafter until the termination date of the 2012 Amended and Restated State Compact which is June 30, 2032.
- \$2,500,000 annually beginning on the last day of the eighth year of operation (December 2016) and every year thereafter until the terminations of the 2012 Amended and Restated State Compact which is June 30, 2032. The \$2,500,000 payment is *“subject to a 2% escalator every year beginning with the ninth year of the Gaming Project operation to account for annual cost of living increases.”*



Year	Amount	Year	Amount	Amount
	First Seven Years		Discretionary Funds	Additional Discretionary Funds with 2% Escalator
12/17/2009	\$2,000,000	12/17/2016	\$1,300,000	\$2,500,000
12/17/2010	\$2,000,000	12/17/2017	\$1,300,000	\$2,550,000
12/17/2011	\$2,000,000	12/17/2018	\$1,300,000	\$2,601,000
12/17/2012	\$2,000,000	12/17/2019	\$1,300,000	\$2,653,020
12/17/2013	\$2,000,000	12/17/2020	\$1,300,000	\$2,706,080
12/17/2014	\$2,000,000	12/17/2021	\$1,300,000	\$2,760,202
12/17/2015	\$2,000,000	12/17/2022	\$1,300,000	\$2,815,406
		12/17/2023	\$1,300,000	\$2,871,714
		12/17/2024	\$1,300,000	\$2,929,148
		12/17/2025	\$1,300,000	\$2,987,731
		12/17/2026	\$1,300,000	\$3,047,486
		12/17/2027	\$1,300,000	\$3,108,436
		12/17/2028	\$1,300,000	\$3,170,604
		12/17/2029	\$1,300,000	\$3,234,017
		12/17/2030	\$1,300,000	\$3,298,697
		12/17/2031	\$1,300,000	\$3,364,671
		06/30/2032	\$650,000	\$1,715,982
<b>Sub Total</b>	<b>\$14,000,000</b>		<b>\$21,450,000</b>	<b>\$47,530,224</b>
<b>Total</b>	<b>\$82,980,224</b>			

**Payments for Additional Gaming Devices**

The 2006 MOU obligates the Tribe to pay the County an additional \$100,000 for every 100 additional machines in operation.

The Tribe has made two such payments to the County. The Tribe paid the County an additional \$100,000 on February 6, 2014 and \$300,000 on December 28, 2015 for additional machine count.

Year	Amount
2014	\$100,000
2015	\$300,000
<b>Total</b>	<b>\$400,000</b>

**Payments for HOV Project/Qualifying Public Improvements**

The 2006 MOU required the Tribe to pay the County \$5,200,000 for a 5.3 mile HOV lane on Highway 50. The 2012 Amendment requires the Tribe to continue paying the County \$5,200,000 but the funds are to be used for public improvements located within certain designated boundaries encompassing a large area of the West Slope of El Dorado County. A map of the area is located in the Appendix and entitled "Exhibit A, Area of Use Map". Allowed uses include road improvements and/or maintenance and are referred to as "Qualifying Public Improvements". The first payment under the 2012 Amendment was due on December 1, 2012. The payments are to continue through the duration of the Agreement which ends on June 30, 2032. The payment is to increase by 2% every year, beginning December 1, 2017.

Year	Amount	Amount
	2006 MOU-Funds for HOV Project	2012 Amendment-Funds for "Qualifying Public Improvements"
12/1/2009	\$5,200,000	
12/1/2010	\$5,200,000	
12/1/2011	\$5,200,000	
12/1/2012		\$5,200,000
12/1/2013		\$5,200,000
12/1/2014		\$5,200,000
12/1/2015		\$5,200,000
12/1/2016		\$5,200,000
12/1/2017		\$5,304,000
12/1/2018		\$5,410,080
12/1/2019		\$5,518,282
12/1/2020		\$5,628,647
12/1/2021		\$5,741,220
12/1/2022		\$5,856,045
12/1/2023		\$5,973,165
12/1/2024		\$6,092,629
12/1/2025		\$6,214,481
12/1/2026		\$6,338,771
12/1/2027		\$6,465,546
12/1/2028		\$6,594,857
12/1/2029		\$6,726,754
12/1/2030		\$6,861,290
12/1/2031		\$6,998,515
6/30/2032		\$3,569,243
<b>Sub Total</b>	<b>\$15,600,000</b>	<b>\$121,293,526</b>
<b>Total</b>	<b>\$136,893,526</b>	

### Payment by County to Tribe



The \$2,600,000 payment by the County to the Tribe is for increased expenses the Tribe's Health Program incurs in caring for non-Indian citizens of the County. The \$2,600,000 annual payment is to increase by 2% every year beginning on December 14, 2017.

Year	Amount	Year	Amount
	Payment by County		Payment by County
2012	\$2,600,000	2022	\$2,928,022
2013	\$2,600,000	2023	\$2,986,583
2014	\$2,600,000	2024	\$3,046,314
2015	\$2,600,000	2025	\$3,107,241
2016	\$2,600,000	2026	\$ 3,169,385
2017	\$2,652,000	2027	\$ 3,232,773
2018	\$2,705,040	2028	\$ 3,297,429
2019	\$2,759,141	2029	\$3,363,377
2020	\$2,814,324	2030	\$3,430,645
2021	\$2,870,610	2031	\$3,499,258
		2032	\$ 1,784,621
<b>Sub Total</b>	<b>\$26,801,115</b>		<b>\$33,845,649</b>
<b>Total</b>	<b>\$60,646,763</b>		

Part C-Tribe's "Qualifying Healthcare Contributions" Reports



**SHINGLE SPRINGS BAND OF MIWOK INDIANS**

SHINGLE SPRINGS BAND OF MIWOK INDIANS  
SHINGLE SPRINGS RANCHERIA  
(VERONA TRACT), CALIFORNIA  
5281 HONPIE ROAD, PLACERVILLE, CA 95667  
P.O. BOX 1340, SHINGLE SPRINGS, CA 95682  
(530) 387-4971 OFFICE, (530) 387-8068 FAX

December 5, 2012

Board of Supervisors  
County of El Dorado  
330 Fair Lane  
Placerville, CA 95667

**Re: Qualifying Public Improvement**

Dear El Dorado County Board of Supervisors:

Thank you for approving the amendment to the Memorandum of Understanding ("MOU") between the Tribe and the County of El Dorado ("County").

Please let this letter confirm that the Tribe has paid its 5.2 million dollars to the County by the December 1, 2012 deadline, as outlined in the MOU. If you have any questions regarding the payment please contact Ernest Vargas, Tribal Administrator, at your earliest convenience.

Additionally, the Tribe has always considered the Tribe's Health Program as a "Qualifying Public Improvement" under the MOU with the County in that the Tribe's Health Program benefits non-Indians as well as Indians, and in a substantial way. Therefore it would be perfectly consistent with the Amendment of Memorandum of Agreement for the County to make the payment to the Tribe required by Paragraph 2 of the amendment out of the funds the County received from the Tribe under Paragraph 1 of the Amendment.

Furthermore, the Tribal Council plans to use the County's contribution to the Tribe to reduce the debt on its new Clinic Facility, located within the map displayed as Exhibit A in the MOU. The new Clinic Facility was designed to be able to significantly increase the number of patients seen at the Clinic, in order to provide additional benefits to the El Dorado community.

For these reasons the Tribe considers the Tribe's Health Program as a "Qualifying Public Improvement." If you have any questions regarding this matter, please contact AmyAnn Taylor, General Counsel.

Sincerely,

Nicholas Fonseca  
Chairman

12-1409 2A 1 of 1







SHINGLE SPRINGS BAND  
OF MIWOK INDIANS

Shingle Springs Rancheria  
(Verona Tract), California  
5168 Honpie Road  
Placerville, CA 95667  
Phone: 530-698-1400  
shinglespringsrancheria.com

January 6, 2016

Chairperson Brian K. Veerkamp  
County of El Dorado Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667

**RE: Qualifying Healthcare Contributions**


Dear Chairperson Veerkamp:

This letter is being sent to inform you as to how the Shingle Springs Band of Miwok Indians ("Tribe") has allocated the Qualifying Healthcare Contribution it received from the County of El Dorado ("County") at the end of 2014.

In accordance with the Amended Memorandum of Understanding and Intergovernmental Agreement between the Tribe and County, the Tribe received \$2,600,000 from the County to assist with the Tribe's health programs in FY 2015. The Tribe applied this Qualifying Healthcare Contribution to the installation of a new freight elevator and to the general operating budget for the Shingle Springs Health and Wellness Center.

Thank you for your continued support of the Tribal health program. This support makes it possible for the Tribe to serve its members and the citizens of El Dorado County. I personally look forward to our continued relationship.

Sincerely,

  
Nicholas Fonseca  
Chairman





SHINGLE SPRINGS BAND  
OF MIWOK INDIANS

Shingle Springs Rancheria  
(Verona Tract), California  
5168 Honple Road  
Placerville, CA 95667  
Phone: 530-698-1400  
shinglespringsrancheria.com

January 11, 2017

Chairperson Frentzen  
County of El Dorado Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667

RE: Qualifying Healthcare Contributions

Dear Chairperson Frentzen:

This letter is being sent to inform you as to how the Shingle Springs Band of Miwok Indians ("Tribe") has allocated the Qualifying Healthcare Contribution it received from the County of El Dorado ("County") at the end of 2015.

In accordance with the Amended Memorandum of Understanding and Intergovernmental Agreement between the Tribe and County, the Tribe received \$2,600,000 from the County to assist with the Tribe's health programs in FY 2016. The Tribe applied this Qualifying Healthcare Contribution to the planning, installation and construction of a new pharmacy at the Health and Wellness Center and to the general operating budget for the Shingle Springs Health and Wellness Center.

In 2016, the Health and Wellness Center had approximately 26,488 patient visits from non-Native American El Dorado County residents. Of those patients, 85% were either indigent or on Medi-Cal. The Health and Wellness Center provides medical, dental, orthodontics, podiatry, chiropractic, physical therapy, and behavior health services, including: adult and child psychiatry, psychology, counseling, support groups and traditional healing. The Health and Wellness Center anticipates opening its new pharmacy to the El Dorado community in March 2017.

Thank you for your continued support of the Tribal health program. This support makes it possible for the Tribe to serve its members and the citizens of El Dorado County. I personally look forward to our continued relationship.

Sincerely,

  
Nicholas Fonseca  
Chairman





## Grounds to Recall El Dorado County Supervisors

- Took no action when notified of hazardous waste adjacent to Missouri Flat bike trail
- Rezoned 37,000 of 94,000 assessed parcels without notification to property owners or adjacent property owners (4/5 Supervisors)
- Cut number of Board meetings in half while keeping same pay (4/5 Supervisors)
- Reinstated bonuses for already highly-paid elected officials (Veerkamp and Mikulaco)
- Takes no action to audit \$2,600,000 gift to Tribal Health Facility
- Approved high-density, 55-unit per acre Town Center Apartment project (Veerkamp and Mikulaco)
- Did not keep option for oak tree retention in study to update Biological Policy
- Continues to pay District Attorney as Interim Director of Information Technology

**edcTotalRecall.org**

# El Dorado County 2016-2017 Grand Jury

## WORKERS' COMPENSATION ADMINISTRATION PROGRAM

### *Competitive Process Needed Now*

Case 2016-005 June 9, 2017

#### **SUMMARY**

The El Dorado County Grand Jury became interested in investigating El Dorado County's (County or EDC) handling of its Workers' Compensation claims as it involves the expenditure of hundreds of thousands of dollars of taxpayer money, and those expenditures involve activities that may be subject to waste, fraud, and abuse.

The County uses a third-party consultant and administrator, York Risk Services Group, Inc. (YRSG or York), to handle its workers' compensation claims services including administration, investigation, adjustment, utilization review, bill review, and case management. County maintains a \$200,000 trust fund for the payment of the workers' compensation settlements. York has been given the authority to settle all compensation claims of \$25,000 or less and those are the large majority of all compensation settlements. EDC currently pays YRSG \$23,766 per month or more than \$285,000 per year.

The County has a long-standing and continuous contractual relationship with YRSG dating back to 1986 when the company operated under a different name. The County last sought Requests for Proposals (RFP's) for its workers' compensation program in 2012 and York was, again, chosen from a group of ten (10) RFP's received from firms seeking to handle the County's workers' compensation system. The new agreement ran for a three-year term beginning in 2013. The contract was amended in 2014, and extended for an additional year in 2016 and is now due to expire on October 31, 2017.- The 2013 agreement and its amendments and extension were all approved by the Board of Supervisors. While extending the contract is proper under California law as it pertains to services contracts with public agencies, the Grand Jury questions the economic wisdom of that practice. There are many other firms who continue to offer the same services as YRSG.

The Grand Jury found the County's workers' compensation system is without significant waste, fraud, or abuse. Further, York Risk Services Group appears to be providing good support to the County, thus assuring that the system runs well.

However, the Grand Jury recommends that the County use a full competitive process at the end of the current contract period in October of 2017, to gain the advantage of such competition and obtain the best and lowest cost services.

#### **BACKGROUND**

El Dorado County (EDC County) is required by the State of California to provide Workers' Compensation (WC or compensation) benefits for employees who are injured while engaged in the scope of their employment. The County is self-insured up to \$300,000 per compensation settlement and pays these claims and settlements with its own funds. The County carries third-



party insurance for settlements in excess of \$300,000. As of February 6, 2017, the county had 1,921 employees. As of mid-2017, there were 230 open (not finally settled or adjudicated) claims made by county employees under Workers' Compensation. Public contracting law in California allows local agencies to "renew" and expand existing services contracts without re-bidding.

The County has had a contractual relationship since 1986 with York Risk Services Group, Inc. (YRSG or York) and its predecessors. The last time the County engaged in a competitive process to select a WC claims administrator was in 2013.

## METHODOLOGY

The Grand Jury, in conducting this investigation:

- Reviewed formational, operational, and administrative documents governing and describing the county's workers' compensation system
- Reviewed financial reports and statements
- Conducted interviews of key personnel
- Reviewed current labor agreements.

## DISCUSSION

Workers in all fields occasionally get injured while engaged in their duties. The State of California mandates that all employers compensate their employees for those work-related injuries including medical costs, pain compensation, lost wages, future wage losses and ultimately retirement or death benefits. The State of California has a highly-regulated system with deadlines, mandatory examinations, and case reviews to ensure that workers' compensation claims are promptly and appropriately administered and settled. In the last three years, the County paid \$3.85 million in workers' compensation settlements. Only three of those settlements were for more than \$100,000. Seven settlements ranged between \$50,000 and \$100,000 and four settlements were paid out at between \$25,000 and \$50,000.

El Dorado County has a long-standing and continuous relationship with York Risk Services Group, Inc. In 1986, the Bragg Company secured an agreement with EDC to handle workers' compensation claims. YRSG subsequently bought out Bragg and became the successor claims administrator under a series of new and or extended agreements that ran through the 90's and up to 2013. YRSG is a New York corporation whose principal offices are in New Jersey. In anticipation of the expiration of the prior agreement, and in 2012, the County Purchasing Agent published a Request for Proposals (RFP) for workers' compensation claims administration. Ten firms, including YRSG, submitted proposals. Four of those, again including York, advanced to interviews in a second round in November of 2012. The Purchasing Agent published a letter on the County website on December 7, 2012, giving notice of a recommendation to award the WC agreement to YRSG. Subsequently, the Purchasing Agent cancelled the process in it's entirety on April 18, 2013, and awarded the new agreement to YRSG<sup>6</sup>.

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<sup>6</sup> The 2013 agreement and subsequent revisions may be found at:  
<https://eldorado.legistar.com/LegislationDetail.aspx?ID=2860830&GUID=66257768-2BDB-42DD-83BF-D7B22E9FFEB5&Options=&Search=>

The new agreement, as approved by the EDC Board of Supervisors (BOS) in November of 2013, provided for payments in an amount not to exceed \$836,724.96, during its three-year term for administration of the County's self-insured Workers' Compensation Claim Administration Program, including utilization review<sup>7</sup>, bill review and case management.

YRSG was granted independent authority to settle any case up to a \$25,000. Most cases have been settled for that amount or less. The average settlement is considerably less than \$25,000. The County is self-insured up to \$300,000- those settlements are paid directly out of County funds. Coverage for settlements in excess of \$300,000 is provided through the California State Association of Counties-Excess Insurance Authority. Five county employee claims were referred to the District Attorney (DA) for possible fraud prosecution in the last three years. The DA's Office declined to proceed in each of those cases. This Grand Jury has found no evidence that YRSG did not conduct County's workers' compensation claims administration in a reasonable, prudent, and professional manner. York appears to have adequate procedural safeguards in place to control fraud or abuse in claims.

County payments to YRSG over the life of the current agreement have provided for monthly payments for basic services in the below-listed amounts:

Nov. 1, 2013-Oct. 31, 2014	<b>\$21,750 per month</b>
Nov. 1, 2014-Oct. 31, 2015	<b>\$22,402 per month</b>
Nov. 1, 2015-Oct. 31, 2016	<b>\$23,075 per month</b>
Nov. 1, 2016-Oct. 31, 2017	<b>\$23,767 per month</b>

These payments support basic claims administration but do not cover "extra work" in complex, questionable or extraordinary claims where additional investigation and analysis are required. Total Dollar Amount paid to YRSG in each contact year was:

2013	<b>\$261,000</b>
2014	<b>\$262,305</b>
2015	<b>\$270,174</b>
2016	<b>\$278,279</b>

The existing agreement with York expires on October 31, 2017. The County has not yet entered into a new or extended contract with YRSG but negotiations are currently underway.

The alternative of ending any third-party administration agreements and resuming the handling of workers' compensation claims "in house" is unwise and problematic in several respects. Potential conflicts of interest are inherent in an in-house system as all parties work for the county and are subject to the pressures and influences of being together within county government. Bringing workers' compensation claims back under County Human Resources appears financially infeasible. The amount paid to York each year would be insufficient to hire county employees to handle all the work that the third-party firm has done. Witnesses unanimously asserted that

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<sup>7</sup> "Utilization review" is an industry term that describes the process of reviewing treatments recommended by medical providers, determining their appropriateness and effectiveness, and exercising final authority to approve or deny those treatments.



experienced, competent claims administrators command salaries in excess of \$80,000 per year-exclusive of benefits. In addition to direct personnel costs, EDC would have to establish relationships with medical practice groups, specialists, medical laboratories, legal and other ancillary services-all of which would bear additional costs. None of these professional relationships currently exist or even a concern of the County as YRSG currently handles it all.

YRSG has established access to and continuing business relationships with significant resources, including networks of physicians. Since York specializes in handling compensation cases, it has extensive experience in the field, an integrated document network and efficient utilization review all of which reduce claims administration costs.

When Requests for Proposals (RFP's) were last openly sought in 2012, ten firms competed for the claims administration agreement with EDC- including York the current administrator. Four firms, including YRSG, made it to the second round before the entire process was cancelled and York was ultimately selected in 2013, for the approximately \$300,000 a year program<sup>8</sup> within a 3-year agreement. The nine other firms who responded to the County's RFP in 2012, would likely be available to compete with YRSG again.

If responsive proposals competitive with York's are submitted the County should investigate the work and backgrounds of these firms to ensure that they can be as effective and efficient as York- and potentially at a lower cost- in administering the County's workers' compensation claims program.

## **FINDINGS**

### **The Grand Jury makes the following findings:**

- F1. The County's workers' compensation system is without significant waste, fraud, or abuse and the County has gotten fair value for its money.
- F2. A third-party workers' compensation claims administrator is better able to handle the important workers' compensation administration than an in-house program and appears to save the county money.
- F3. York Risk Services Group appears to be providing good support to the county, thus assuring that the system runs well.
- F4. While the County may legally extend services contracts with vendors such as YRSG; that may not be the best practice when contractual relationships are as long-standing and involve such significant costs as the one with York.
- F5. A competitive selection process, rather than another renewal of the existing agreement, is the better way to select the County's third-party administrator after the current compact expires

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<sup>8</sup> Subsequent and substantive amendments of that contract were approved by the Board of Supervisors in 2014, and 2016. The latter revision extending the agreement to October 31, 2017, and both amendments changing its financial terms.

on October 31, 2017.

F6. The use of a full competitive RFP selection process will gain the advantage of competition and obtain the best and lowest cost services.

## RECOMMENDATIONS

The Grand Jury makes the following recommendations:

- R1. The County not simply extend again the agreement awarded in 2012 to York.
- R2. The County conduct and complete an open RFP and contractor selection process for its third-party workers' compensation administration program.

## REQUESTS FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses from:

The El Dorado County Board of Supervisors as to Findings 1, 2, 4, 5 and 6 and Recommendations 1 & 2.

The Chief Administrative Officer of El Dorado County as to Findings 1 through 6, and Recommendations 1 & 2.

Responses are invited from:

The Human Resources Director of El Dorado County as to Findings 1, 2 and 3; and to Recommendations 1 & 2.

The Principal Purchasing Agent of El Dorado County as to Findings 4, 5 and 6 and to Recommendation 1 & 2.

The EDC Risk Manager as to Findings 1, 2, 4 and 5 and to Recommendations 1 & 2.

**Address responses to:**

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a *Word*® or *PDF*® file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at: [courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

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



# EL DORADO COUNTY 2016-2017 GRAND JURY

## *Georgetown Divide Public Utility District: Positive Changes and Continuing Challenges* Case GJ 2016-17-007 May 13, 2017

### *Whiskey is for Drinkin' and Water is for Fightin'*

#### SUMMARY

For the last 6 years, readers of the Mountain Democrat have read front page news stories regarding fightin', feudin' and fussin'. These stories were reporting on the actions taken by the Board of Directors of the Georgetown Divide Public Utility District. These stories have covered repeated fights, acrimony and dysfunction among the Board. This has led to key employees leaving and the District delaying key decisions, which has resulted in increased costs. The relevant Mountain Democrat stories are footnoted below.<sup>9</sup>

Over the last decade, the Georgetown Divide Public Utility District (District or GDPUD) has been challenged by a deteriorating water delivery infrastructure, aging water meters, revenue shortfalls, lack of qualified professional leadership, significant staff turnover and turmoil within its Board of Directors.

While water purity meets or exceeds all safety standards, the District is currently under a compliance order issued in 2004 by the State of California to upgrade their treatment process at the Auburn Lake Trails (ALT) water treatment plant. In 2016 the District made significant progress in resolving the ALT treatment plant issue and recently took actions to upgrade aging water meters, but other intertwined challenges remain to be addressed.

The Grand Jury recommendations focus on ways the District can increase revenues, upgrade and replace aging infrastructure and equipment, and hire permanent qualified leadership.

#### BACKGROUND

A number of newspaper articles have described apparent dysfunction on the Board of Directors of the Georgetown Divide Public Utilities District (District or GDPUD) and rapid turnover in executive and managerial positions. The byproducts of that dysfunction were reported to be increased costs to the District, citations by state agencies for regulatory issues and degradation of services provided to its customers. The Grand Jury sought to investigate and determined what the

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<sup>9</sup> Lang, Roberta, "Georgetown Divide Water District Loses Key Employees", December 16, 2011; Hodson, Dawn (and all following articles), "Acrimony Over Upgrade at Georgetown Divide PUD Meeting", March 12, 2012; "File Wars Divide Georgetown PUD", June 15, 2012; "GDPUD GM Relieved to Leave", June 28, 2013; "GDPUD:Dysfunctional Board", January 6, 2014, "GDPUD GM Fired", August 5, 2016 and "ALT Project Starts a Fight", September 16, 2016.

real state of this public water utility and its services was.

The District was formed as a public utility district in 1946, although its antecedents date back to 1852 and the Gold Rush. The District provides both potable treated water and untreated agricultural water to the northwest portion of El Dorado County (known as the Georgetown Divide) and supplies water to about thirty-five hundred (3500) treated (drinking) water customers and 375 agricultural customers. The District is a special district governed by an elected five-member Board of Directors (Board). The Board, with inputs from staff and professional contractors, adopts an annual budget to support staff and agency operations and authorizes hiring for necessary staff positions. The Board selects a General Manager to administer the day-to-day operations of the agency. The Board also recommends water and assessment fees which require voter approval.

Current GDPUD annual revenues are \$5.36 million which consist primarily (more than 90%) of water rates, paid by customers via a bi-monthly billing, and property tax collections. The District also obtains funding from grants, loans and fees paid by other agencies. The District operates two water treatment plants to supply its customers with potable water- one at Walton Lake and the other at Auburn Lake Trails (ALT).

## METHODOLOGY

The Grand Jury conducted interviews of:

Members of the District's Board of Directors, District staff and District consultants.

The Grand Jury reviewed:

District Board Agenda and Meeting Minutes for: *December 13, 2011, June 12, 2012, February 12, 2013, February 9, May 10 & 31, June 14, July 12, Aug. 9 & 23, Sept. 13, Oct. 13, 2016 and January 10, 2017*, on the District Web Site at [www.gd-pud.org/](http://www.gd-pud.org/).

District independent audits for the years 2011, through 2015, conducted by *Moss, Levy & Hartzheim, LLP*, available on the District web site.

Bid process documents for ALT water treatment plant.<sup>10</sup>

The Board's Regular Meeting on 2-9-16 for approval of plans, specifications & permission to solicit bids, and the Board's Special Meeting on 8-23-16 to award bid at [www.gd-pud.org/](http://www.gd-pud.org/).

Notice to bidders at [www.gd-pud.org/](http://www.gd-pud.org/).

Published Water rates for District, El Dorado Irrigation District (EID) and Grizzly Flat PUD.

The Grand Jury inspected the Auburn Lake Trails water treatment plant.

## DISCUSSION

GDPUD operates two water treatment plants to supply its customers with potable water. One is at Walton Lake and the other at Auburn Lake Trails (ALT). The Walton Lake plant is up to date and

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<sup>10</sup> Email to Grand Jury from GDPUD Consulting Engineer George Sanders, 10-31-16.



in compliance with all water quality and process regulations of the State and Federal agencies. The ALT treatment plant is a different story.

The plant was built in the 1970s by the developer of the Auburn Lake Trails subdivision. It is no longer capable of meeting mandated water processing requirements and has exceeded its operational lifespan. ALT was the subject of a compliance order issued by the State of California in 2004. The plant meets water quality standards but employs a filtration process no longer approved for use by the State of California.

The District spent over \$1 million in the last decade on consulting and design firm fees seeking recommendations on how to proceed with the replacement or retrofit of the ALT plant. This search for solutions yielded three different design plans submitted to the district in 2008, 2012 and 2015-16, respectively. The first approach considered was to construct an entirely new plant in Greenwood for \$8 million. However, that amount did not take into account the significant topography and repiping issues which were estimated to cost some \$20 million. The second plan foresaw a retrofit of the current ALT plant at a cost of some \$10 million. The final, and now adopted, design is for a new plant at the ALT site at a current cost of \$12 million. Over the ensuing twelve (12) years, due to Board infighting and indecision, the cost of the retrofit-replacement project has increased from \$8 million to \$12 million.

Anticipating a \$10 million loan from the California Water Resources Control Board (WRCB), the District obtained voter-approval in 2016 for a bi-monthly assessment of \$30.16, to provide funds to service the WRCB loan. This will be the primary funding source for the \$12 million treatment plant rebuilding project at ALT. The 20-year loan, at 1.6% interest, requires the District to maintain a \$600,000 annual reserve to ensure uninterrupted servicing of the loan. The loan was granted in December 2016, and the \$30.16 assessment began to appear on customer bills starting with the January-February 2017 billing period. The District will also supplement the loan monies with grants and reserves to meet the overall budgeted cost of \$12 million.

These consist of:

Fund 24 ALT Capital Reserve	\$763,500	Monies dedicated to ALT
Fund 39 Capital Facilities (portion)	\$240,000	15% of reserves earned by new connections
EPA Grant	\$740,000	A matching grant from EPA
Fund 35 EPA	\$315,000	Matched funding from EPA

Table 1: Current ALT Funding Sources<sup>11</sup>

<sup>11</sup>Memorandum by George Sanders, August 4, 2016, "Auburn Lake Trails Water Treatment Plant", Georgetown Divide Public Utilities District. Also on GDPUD web site.

In the spring and summer of 2016, the District conducted requests-for-proposal (RFP) bid processes to select a contractor to build the new plant. That contract has recently been awarded to Myers & Sons Construction. Major fieldwork is not expected to begin until the end of the 2016-17 rainy season.

## DISTRICT WATER DELIVERY INFRASTRUCTURE

As detailed in their July 2016 GDPUD Board Agenda and minutes, repairs are needed to their irrigation network of canals, ditches and piping. The District also needs to replace aging water meters, valves, pumps and implement other improvements to their infrastructure.

The District's old meters are a substantial contributing factor in the agency's revenue challenges. Most of the meters are more than 30 years old and create inefficiency and missed revenue. The current meters must be physically read at each customer's property. The readings are then manually recorded, entered and re-entered on paper ledgers until finally transcribed by office staff into the District's billing system. When the current meters need to be read, it is an "all hands on deck" effort, as office and treatment plant staff have to go into the field to read and record meter readings. This is costly and inefficient.

In addition this old meter system is significantly under reporting usage. The District is losing revenue up to 10 million gallons of water a month due to unmetered usage. Reports and tests have found that these old meters under-read water usage by as much as 30% due to the wear of their internal mechanisms. One such test described turning on a shower in a customer home and observing that the meter registered no flow or usage.

The Board recently issued an RFP for new meters. The new meters will be similar to ones used by the El Dorado Irrigation District (EID). EID now utilizes an Automated Meter Reading (AMR) system in their service area. AMR allows EID personnel to read customer meters remotely using radio communication technology without having to directly access the meter box. This allows for accurate and faster collection of water usage readings and eliminates transcription error.<sup>12</sup>

## REVENUE ISSUES

The generation of revenues is an ongoing issue for the District. In reviewing the agency's annual outside audit for last five years, the following statement is repeated in each report: "The fiscal year was once again challenging from an economic perspective."<sup>13</sup>

This statement is descriptive of the District's struggles. These annual independent audits have found total revenue decreasing in 3 of the last 5 years. However, even the increased revenues in

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<sup>12</sup> El Dorado Irrigation District, "Are You Really Reading My Meter", 10/25/16, <http://www.eid.org/Home/Components/News/News/1582/26>.

<sup>13</sup> (Moss, et al, "Georgetown Divide Public Utilities District Basic Financial Statements", page 3, 2011, '12, '13, '14, '15, audits) [www.gd-pud.org/](http://www.gd-pud.org/)



2011 & 2013 “did not reach the levels expected to continue current service levels.”<sup>14</sup> Compared to other water districts in El Dorado County, the Georgetown District water rates are significantly lower than either EID or Grizzly Flats PUD.

	District	EID	Grizzly Flats
Basic Water Charge	\$47.14	\$58.14	\$59.39
Excess unit usage charges (per cubic feet)	0.01380	0.01412	0.01500

Table 2: Water Rates Comparison Table

Neither Board members nor staff expect much new residential development in the District due to zoning, terrain and limited growth initiatives. Water conservation efforts are also hurting revenues as customers are using less water. Board members and staff agree that some level of water theft is occurring, and leaks within the system further reduce revenues.

While some of these factors are beyond the control of the Board, recommending rate increase for voter approval is within their control. During 2016, the Board initiated preliminary steps likely to lead to upward adjustment of water rates.

Prior to seeking voter approval for rate increases, a *Water Rate Study-Cost of Service Report* (Water Rate Study) must be conducted by the District. GDPUD has selected the Rural Community Assistance Corporation (RCAC) to perform the study.<sup>7</sup> The Water Rate Study consists of analyzing financial, operational and regulatory factors related to revenues and expenses and determining the true and current cost of providing water to customers. The factors include: fixed and variable costs of providing water to treated and nontreated customers; a multi-year Capital Improvement Plan (CIP); 5-year budget projections, skills and number of District staff required to carry out the functions of the agency; salaries and benefits of staff compared to similarly sized districts; the agency’s long term need for reserves; and State required mandates and other factors.

<sup>15</sup> The study is in progress.

At the October 2016 Board meeting, the process of replacing old water meters was begun with the discussion of a bid process to replace the meters and exploration of ways the purchase could be financed through a loan. District staff started researching possible financing alternatives. The bid process to replace the meters has been started as of February 2017. According to the bid process

<sup>14</sup> (Moss, et al, “Georgetown Divide Public Utilities District Basic Financial Statements”, page 3, June 30, 2011 audit), *op. cit.*

<sup>15</sup> The District lacks staff qualified to conduct the Water Rate Study. At the July, and August, 2016, Board meetings the, need to complete a Water Rate Study was discussed. The Rural Community Assistance Corporation (RCAC) is doing this study for free. The RCAC is a non-profit, independent, non-governmental agency. It is funded by grants (USDA, HUD) and contributions. Founded in 1978, RCAC provides training, technical and financial resources in 13 western states. RCAC works to support rural communities and their economic development. A focus area of the organization is the sustainability of rural community water, wastewater and solid waste systems. RCAC has a local office in West Sacramento.

schedule released by the District, it is anticipated that new meters can be installed between spring and fall of 2017.

## DISTRICT LEADERSHIP AND STAFFING

Between 2011 and 2014 a new Board majority set as its priority maintaining low water rates by focusing on reductions in staff and pay and benefits for employees. The operational impacts of these policies were not considered or addressed. As a result, the District experienced a leadership vacuum, staff turmoil and employee turnover between 2012 and 2016 while this majority held sway. In the last four years there have been five general managers. There have been reductions in total staffing levels and in key professional positions (particularly engineering and upper management). From 2002 to 2010, the authorized staffing level was 28; at the end of 2016, it was down to 21 positions<sup>16</sup>. Current staffing levels were reported to be low for a District this size.

Several employees are filling multiple positions and they have difficulty giving their assigned duties the attention they deserve. Two key professional positions, District Engineer and Business Manager, are currently filled by part-time consultants. Numerous employees have resigned due to a hostile work environment, vis-a-vis the 2011-14 GDPUD Board, and non-competitive pay<sup>17</sup>. The 2016 General Manager annual salary of \$100,000 was noted by several witnesses to be low for a water district this size. After terminating their most recent General Manager last summer, the Board has hired a new General Manager, who has started as of March 2017. The Mountain Democrat reported on 2/19/17 that the General Manager annual salary is \$155,000.

Ratepayers will see significant increases in basic water rates in two ways. New meters will accurately reflect usage and lead significantly higher bills even with conservation. The Water Rate Study is likely to demonstrate that current rates are too low and insufficient to support the water systems and continued delivery of plentiful, safe drinking and agricultural water.

## CONCLUSION

The Georgetown Divide Public Utility District faces challenges arising from the intertwined issues of an aging infrastructure, inadequate revenues, over-worked staff and a lack of leadership. District Board members elected in 2014 and 2016 have taken steps to address these issues and have made real progress on the ALT plant project and the aging water meters. The District is to be commended for finally addressing these issues. Further significant progress is required to maintain services and water quality in the coming years. Effective, consistent leadership and increasing revenues are the keys to continuing positive change. Current employees are to be commended for continuing to provide safe water to their customers.

## FINDINGS

F1. The District water rates are insufficient to support current operations and infrastructure and maintenance.

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<sup>16</sup> Adopted District organizational charts, (Exhibits 1 and 2).

<sup>17</sup> Roberta Lang, *G-town Water Loses Key Employees*, Mountain Democrat, 12-16-11



- F2. Total revenues are not adequate to support operations and fund needed capital improvement reserves.
- F3. The District loses significant revenue due to outdated water meters.
- F4. The District also loses water and revenue due to leaks in the aging infrastructure.
- F5. Employee compensation is too low for an agency this size, making recruitment and retention difficult.
- F6. The current staffing levels are insufficient, which impairs the District's ability to operate efficiently.
- F7. The District cannot depend on new hookups and ratepayers to supplement revenues as population growth has slowed on the Divide, necessitating the need for the District to look internally for revenue.
- F8. The Jury found no evidence that either the District Board or staff is "preparing the ground" with their customers for what may be steep increases in their bills.

## **RECOMMENDATIONS**

- R1. Once the water rate study is submitted to the Board, the District must initiate a voter-approved rate increase process as soon as possible.
- R2. Along with replacing the aging water meters, the District must upgrade their aging infrastructure and prioritize maintenance and capital improvement projects.
- R3. The District must offer competitive salaries to attract qualified professional staff.
- R4. The District must review staffing levels and fill key positions with permanent staff to ensure continuity of operations.
- R5. The District must undertake a public information program to inform its customers of impending changes in their water rates and consumption recording.

## REQUESTS FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:  
From the following individual:

\*Steven Palmer, General Manager, Georgetown Divide Public Utility District as to all Findings and Recommendations.

From the following governing body:

\*Board of directors, Georgetown Divide Public Utility District as to all Findings and Recommendations.

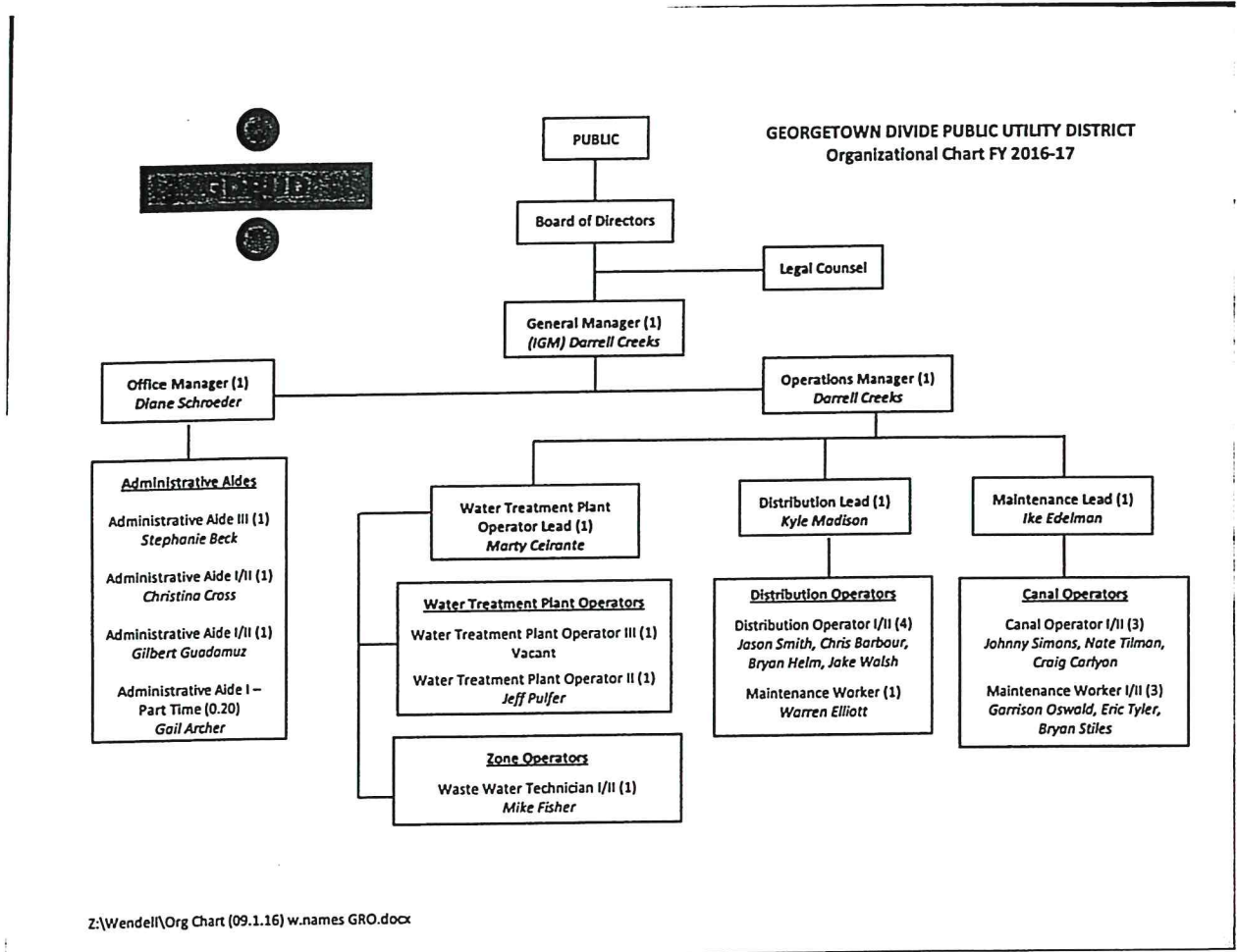
### **Address response to:**

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that responses be sent electronically as a Word or PDF file to facilitate the economical and timely distribution of such responses. Please email responses to El Dorado County Grand Jury reports to:  
[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)



EXHIBITS ONE And TWO



**GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT**

**BOARD OF DIRECTORS**

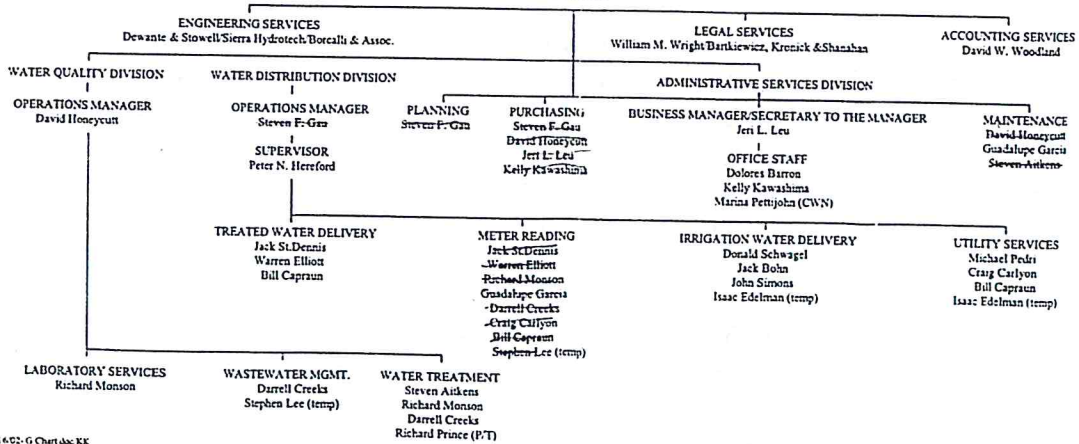
David E. Whittington, President  
 Kristine Anderson-Moore, Vice President  
 JoAnn A. Shepherd, Treasurer  
 Robert E. Flynn  
 Douglas C. Pickell

**GENERAL MANAGER  
 CLERK OF THE BOARD**

Henry N. White

**ASSISTANT CLERK OF THE BOARD**

Steven F. Gau



41602-G Chart.doc KK



# EL DORADO COUNTY 2016-2017 GRAND JURY

## *Fenix Project Migration off the Main Frame Case 16-009 June 9, 2017*

### SUMMARY

The El Dorado County Grand Jury became interested in conducting this study of the El Dorado County (EDC) Information Technology (IT) Department projects to migrate applications to a new computing platform and decommission the mainframe computing platform, because the Fiscal Enterprise and Information Exchange (FENIX) Project has been delayed as reported by the 2015-2016 Grand Jury. The decommissioning of the mainframe should result in net savings to EDC. It is unclear as to how much of this savings is required for investment in other areas of the IT department.

“If you fail to plan, you are planning to fail”<sup>18</sup> County-wide strategic planning is absent at EDC. A County-wide strategic planning process is valuable as it provides vision and focus, sets direction, and communicates these to the organization. It sets the tone and organizational goals that support departmental strategic planning that is aligned with EDC’s goals and objectives. EDC evolved into a complex IT operating environment created by using multiple platforms (software and hardware) that require diverse IT skills sets and are expensive to maintain. There are multiple decentralized IT operations with independent management, policies, practices, and procedures.

Elected Officials functioning as departments directors that are not accountable to the Board of Supervisors (BOS) or Chief Administrative Officer (CAO) cannot be directly compelled to comply with the demands of the application migration.

The organizational structure and management practices of EDC create significant challenges to the migration and success is not assured.

### BACKGROUND

The El Dorado County (EDC) 2015-2016 Grand Jury reported on the status of the Information Technology (IT) FENIX Project. The findings of that report indicated that there was a risk to the successful and timely implementation of the project. The 2016-2017 Grand Jury decided to investigate the status of FENIX and specific applications on the Mainframe Computer to permit its decommissioning. Additional issues were discovered that touched on the maintenance of separate IT functions and hardware by several county departments and the effects and costs of those independent operations.

The mainframe platform (i.e. hardware and operating system software) has its roots in the 1950’s

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<sup>18</sup> Benjamin Franklin

and 60's. The technology is expensive to maintain and requires people with skill sets that are increasingly scarce. This is because the operating environment and the focus of providers of mainframe technologies are geared toward customers with very large scale computing and transaction processing requirements. These requirements are typically found in Fortune 1000 Companies and large government entities. EDC computing requirements are not of this scale. There are lower cost solutions (new software) and computing platforms (server hardware and software) available to support the scale of EDC's operating environment. The higher cost to maintain and support a mainframe platform provides a significant financial incentive to replace the applications with new, lower cost IT solutions via application migration. The County decided in 2011 to replace its old applications and mainframe and migrate to new applications installed on the new computing platform using servers. This allows for the decommissioning of the mainframe.

## METHODOLOGY

- Interviewed IT department team members
- Interviewed current and past members of the Board of Supervisor
- Interviewed EDC Department directors
- Interviewed EDC elected officials
- Reviewed EDC IT organization chart (Appendix I)
- Reviewed Mainframe annual costs (Appendix II)
- Reviewed FENIX Project plan and current project status

## DISCUSSION

The FENIX Executive Sponsors have reported that they have finalized best business practices with their vendor, Tyler. The team has run multiple reviews, and the members are pleased with the results. The conversion of EDC's Chart of Accounts<sup>19</sup> has gone through the first review. It appears the FENIX project should meet the first phase target date of October 2017. There are inconsistencies across County labor memoranda of understanding and personnel rules that need to be resolved through the meet and confer processes with the appropriate bargaining units. EDC needs to complete class and compensation studies. These are critical issues that may delay phase II (HR/Payroll) which is currently scheduled for January 2018.

The replacement of legacy (older) IT applications with new applications and hardware is difficult, fraught with delays, restarts, and all too frequently cost overruns, failure, and disappointment. The older the applications and IT platform (mainframe) being replaced, the greater the perceived need and the more challenging the change. There are good reasons for the challenges associated with, what is referred to as, application migration. These may include the effectiveness or level of:

- Organizational leadership, commitment and accountability
- IT leadership
- Staff/user commitment to change
- Resources and dedicated staff availability to support change

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<sup>19</sup> A **chart of accounts** (COA) is a financial organizational tool that provides a complete listing of every account in an accounting system. An account is a unique record for each type of asset, liability, equity, revenue and expense.



- Project planning, management, and communication
- Vendor support and expertise

The degrees of the following amplify challenges:

- Organizational (EDC-wide) resistance to change
- Level of workflow or process re-engineering and improvement (complexity of change)
- “Scope Creep” expanding the complexity of change
- “Feature creep”, i.e. the number of modifications required by users to enhance or change the system to fit the current environment after the initial design.

Application migration<sup>20</sup> has been compared to changing the tires on a car while traveling at freeway speed. The existing systems, workflows and processes must continue while the staff responsible for business continuity is being retrained and often absorbing significant levels of change to their work. In addition, the IT department must continue to support and maintain the current mainframe and legacy applications until the migration is complete and for months thereafter.

EDC has encountered many of the same difficulties that every entity runs up against when replacing IT solutions (application software and operating platform). The history of the EDC IT department adds to the difficulty and complexity of the project. In the early 1990s<sup>1</sup>, there was a failed implementation of an IT solution for the Courts and Sheriff. The then-Sheriff decided to pursue the acquisition of a standalone solution for the Sheriff’s Department. In support of allowing the segregation of the Sheriff’s IT Department, the then-Sheriff took the position that his IT systems contain sensitive information that required controlled and limited access. This position added to the perception and belief by decision-makers that the Sheriff should have a separate IT system and support team. However, the reality is that the County IT systems directed by the District Attorney/Chief Technology Officer also contain highly sensitive information that requires controlled and limited access (e.g. Health Information requiring HIPAA compliance, Human Resources, and Payroll information). In the early 1990s,<sup>21</sup> the Board of Supervisors (BOS) acceded to the then-Sheriff’s requests and created a separate IT department for his agency. Around this time<sup>2</sup> the BOS mandated a 25% cut to County IT department’s budget which required it to reduce the support services for its client departments to achieve those cost reductions. IT client departments, realizing required services were being eliminated, began to transfer IT department employees, or hire their own IT support staff to provide the IT services. The Sheriff’s Office currently has six full-time IT positions. Over the years this has led to the selection of various IT solutions using different platforms. Currently EDC is maintaining five different IT platforms.

These platforms and operating systems require IT personnel with different skills and have created a fragmented IT structure. The County IT Director's position has been a revolving door. Witnesses indicated that they had 20 or more IT Directors over 25 years. Management challenges were compounded by organizational, physical and infrastructure issues within the County IT Department. These were fundamental problems such as water leaking under the raised floor of the County data center and an inoperable backup power generator.

<sup>20</sup> <http://searchcio.techtarget.com/definition/migration>

<sup>21</sup> Witnesses provided different years in the period 1990-1994

Inefficiencies exist in the current organization structure. The Board of Supervisors possesses a limited ability to hold elected directors of operational departments accountable.

The EDC District Attorney was appointed Chief Technology Officer to provide stability and focus for the IT Department. The hope was that he would manage many of the issues and could reach consensus with the other elected department heads for the Application Migration and Mainframe Decommissioning Program which includes the FENIX project. That appointment overlooked the lack of IT operational and managerial expertise possessed by the DA.

The senior individuals currently setting the IT policy and direction for EDC and their respective departments are:

- The County District Attorney as the Chief Technology Officer,
- The County Surveyor
- The Sheriff

There has been no central authority managing the technology infrastructure, policies, and IT security for the County. In addition, IT strategic planning has been absent at EDC. A five-year IT Strategic Plan<sup>22</sup> that is maintained through an on-going process of formalized strategic planning would provide many benefits to EDC. It is a tool that gives focus, measurable progress, and helps ensure long-term success. Such a plan and process communicates direction and context to the organization that allows departmental alignment with EDC goals and objectives.

An IT Strategic Plan<sup>23</sup> supports the following:

- SCOPE: A Statement of Direction and Codification of IT Department Goals
- EDC Context: IT Department alignment with the EDC Strategic Plan and Operational Drivers
- IT Principles: Statements of purpose provide guidance
- Metrics: Time-specific measures to track progress toward goals (i.e. write SMART<sup>24</sup> objectives that map the progress to achieving goals)
- Review: Strategic Plans are living documents that require review and update at least once a year
- 

The IT Director position had been a revolving door, creating a lack of confidence and direction in the IT Department and need to provide some stability of IT leadership. A professionally managed and operated IT organization will create, manage, and maintain a secure environment with the necessary application isolation, access control, auditing and reporting required to protect all user information. Furthermore, there are advantages to enterprise-wide IT planning, policies, practices, and security.

EDC's organizational structure and lack of department management accountability creates an additional challenge to the success of EDC-wide system migration and IT practices. Most

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<sup>22</sup> <http://smallbusiness.chron.com/strategic-importance-organizations-corporate-strategy-12246.html>

<sup>23</sup> <http://www.cio.com/article/2437285/business-alignment/anatomy-of-an-it-strategic-plan.html>

<sup>24</sup> SMART = Specific Measurable Attainable Relevant Time sensitive



departments are engaged in the migration of the legacy applications and the full commitment of every department is required to facilitate the change. Several departments are led by elected officials more accountable to the voters than to the Board of Supervisors or the CAO. The BOS and CAO do not have the authority to hold these elected department managers accountable for the progress of the project. This leads to conflicts and independent actions that have hampered the current migration process as well as the overall sustainability of the County's IT infrastructure. As conflicts arise and demands on departmental staffs increase to support the application migrations, department managers are placed in a position of deciding to allocate their human resources either to operations or the "IT Migration Project." The elected department manager may focus staff on servicing the voters of EDC as opposed to making sacrifices to service levels so the staff can continue to work on the IT Migration Project.

Enterprise-wide IT systems replacements (migrations) are enterprise-wide projects require enterprise-wide commitment, planning and execution. There is a project plan for the FENIX Project that has achievable timelines and the attention of EDC leadership. However, as identified in this report, there are many areas of risk and potential for delay and increased cost. Finally, while FENIX is the largest part of the migration, there are additional functions that require relocation from the Mainframe.

## **FINDINGS**

The Grand Jury finds the following:

- F1. Absent an IT strategic plan, supported by the BOS and senior leadership of EDC, the IT department lacks solid direction and the ability to manage projects to successful completion.
- F2. EDC has a complex IT operating environment, created by using multiple platforms (software and hardware), that requires diverse IT skills sets and is expensive to maintain.
- F3. Having the IT functions decentralized provided an uncoordinated leadership that has created complexity, the risk to operations and increased operating costs.
- F4. The lack of a single senior, professional, Chief Information Officer (CIO) with county-wide IT responsibility has created an environment where department heads set policy and direction at odds with county-wide priorities and needs.
- F5. The lack of support from various departments for the IT migration project creates roadblocks to IT's success.
- F6. Elected Officials functioning as Departments Directors that are not accountable to the BOS or CAO cannot be required to comply with the demands of the application migration.

## RECOMMENDATIONS

- R1. The BOS should require IT, in coordination with the CAO (aligned with the EDC Strategic Plan) to develop a five-year IT Strategic Plan that is approved by the Board.
- R2. The five-year strategic plan should provide for the consolidation of a fully integrated, countywide, IT Organization that can achieve all the goals and objectives of the five-year Strategic Plan.
- R3. The BOS should make the IT Director (CIO) position, reporting to the CAO, responsible for countywide IT and the consolidation of the fragmented IT functions under one centralized county IT Department.
- R4. To the maximum extent allowed by state law the BOS should grant the CAO the authority over all EDC operating departments, either through amendment of the El Dorado County Charter or via the Board's own budget allocations. To ensure the cooperation and full participation of all departments with the five-year Strategic Plan.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- Board of Supervisors, El Dorado County, as to all Findings and Recommendations.

Address responses to:

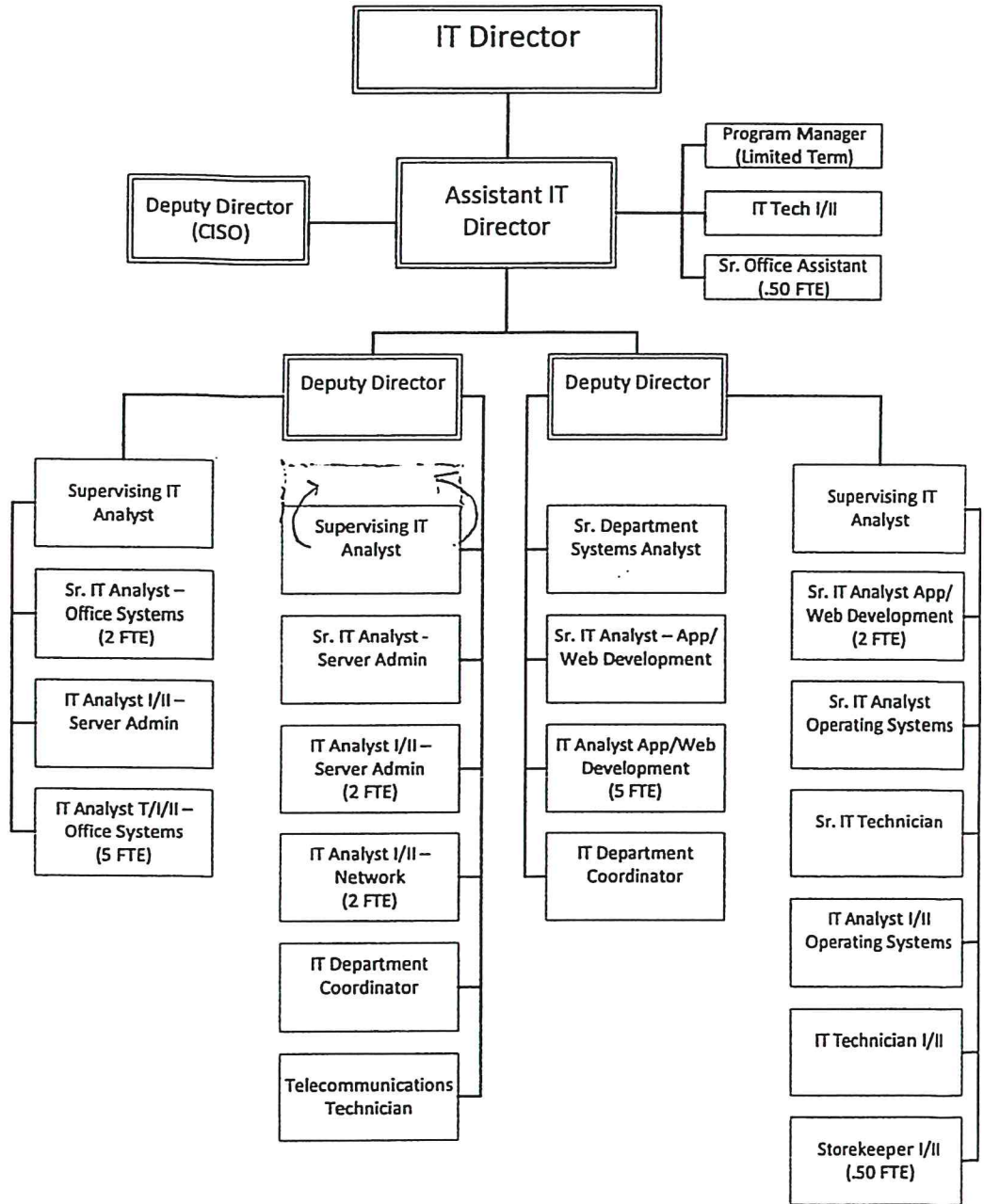
The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a Word or PDF file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at: [courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org).

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



# Appendix I



40 TOTAL FTE

**Appendix II  
Mainframe Annual Costs**

Mainframe – Summary of Costs			
Vendor	Description	Annual Cost (Approx)	Comments
Cogsdale	Financial Mangement System (FAMIS/ADPICS/BPREP)	\$ 112,537.80	Service to be cancelled for FY 16/17
Computer Associates, Inc (CA Technologies)	Mainframe software maintenance and licensing for the zBC12 Mainframe computer	\$ 45,338.00	
Computer Corporation of America	M204 Database & User Language (Property System)	\$ 136,746.00	Rocket
Compuware	File Aid: Batch/SPF (Development, testing and problem solving)	\$ 5,292.00	
Glasshouse Systems	Provide IBM hardware maintenance	\$ 64,555.00	Initial purchase of \$410,924.00; Maintenance being amortized over five year period
IBM	Mainframe Operating System & Sub Systems Components and Hardware Maintenance (for IT, Sheriff and Surveyor)	\$ 302,566.08	payments vary - quarterly and yearly
Infor (US)	HR/Payroll System	\$ 97,201.26	
Levi, Ray & Shoup	Mainframe printing license for mainframe remote printers	\$ 18,128.00	
Mackinney Systems	Annual Maintenance for CICS/JSUB product	\$ 150.00	
SDI USA, Inc	TN3270 Plus Maintenance and Support subscription (connects all users to the mainframe)	\$ 4,163.00	
Labor Costs			
El Dorado County	Mainframe Direct Labor	\$ 954,413.02	
<b>Annual Cost (Approx)</b>		<b>\$ 1,741,090.16</b>	



# EL DORADO COUNTY 2016-2017 GRAND JURY

## *Cameron Park Airport District Ceiling and visibility limited?*

Case GJ 16-011 May 13, 2017

### SUMMARY

The El Dorado County Grand Jury became interested in conducting this study of the Cameron Park Airport District (CPAD or District), as CPAD had never been previously subjected to attention by the grand jury and the most recent full Municipal Service Review had been conducted by the Local Agency Formation Commission (LAFCO) ten years ago.

The District, formed in 1987, is a special district within El Dorado County in the Cameron Park area and operates a public, general aviation airport with a single runway, taxiway and an aircraft fueling facility as a Fixed Base Operation or FBO. The District rents hangars and aircraft tie-downs to the public. Its sole employee is its general manager. Included within the district is a residential development, Cameron Airpark (Airpark), whose residents enjoy direct access to the airport. The District is responsible for streets, lighting and signage within the Airpark.

Operations of the aviation activities of CPAD are highly regulated by a myriad of agencies ranging from the Federal Government to the County of El Dorado. The Division of Aeronautics of the California Department of Transportation has noted deficiencies at the District and ordered correction of those problems. Some of these issues have been previously cited but not abated.

CPAD, like most other small airports, is dependent on grant money to fund capital improvements and maintenance. Revenues from county property taxes and from a special assessment imposed on the parcels within the Airpark fund general maintenance of streets and lighting. The District's primary source of general fund revenue to support its FBO is the sale of aviation fuel to aircraft owners and operators.

Capital improvements are needed and or mandated for CPAD including widening of the runway and relocation of runway lighting. The District's buildings are aging. The District is also seeking to buy some private land within its boundaries. Most of these projects will require grant money from public agencies. Qualification for most of these grants requires completion of an Airport Master Plan which has been in the works for years but is not yet completed.

The District's reliance on a single person to run its operations without a ready replacement is a weakness that needs correction. The District is not able to easily communicate with its residents or the public as it publishes no newsletter and its web site sits empty. The District's compliance with open meeting law requirements is deficient. The current Board is long-serving and no replacements are in the offing. Development of future candidates is important.

## BACKGROUND

The Cameron Park Airport District (CPAD or District) is a special district within El Dorado County formed by the El Dorado County Local Agency Formation Commission (LAFCO) on December 10, 1987. The airport had previously been a county-operated facility. The CPAD “sphere of influence” was set the by LAFCO resolution No. L-2010-16 on 10/27/10<sup>25</sup>.

CPAD is both geographically and population-wise the smallest special district within El Dorado County. The population served by CPAD is approximately 380 persons in a total area of 100 acres. It is comprised of a single aircraft runway, appurtenant structures and an adjacent housing development known as Cameron Airpark (Airpark). It is governed by a five-member board of directors and has a single employee- the airport manager. In the last election three board members ran unopposed which is described as a common occurrence. Most directors have served multiple terms. There is no recruitment effort for new board candidates.

CPAD operates a public, general aviation airfield as a Fixed Base Operation (FBO) which includes a single runway of 50-foot width, a taxi way, several aircraft hangars and an aircraft fueling facility. There is no control tower. No landing fees are charged to transient aircraft.

The Airpark is an unusual development in that it is designed and laid out to support aircraft ownership and operation by residents. Streets are 100 feet wide and street signs are constructed low to the ground to enable taxiing aircraft to safely pass over them. Many residents own small aircraft and store them at their homes in garages capable of holding their airplanes. Residents have direct access to the airfield by way of gates operated by “garage door opener” type remote controllers.

No previous grand jury has investigated this special district which is why CPAD drew this jury’s attention. The last full Municipal Service Review (MSR) conducted by LAFCO was in 2007, and a supplement dated October 2010, is LAFCO’s most recent action. This grand jury investigation is intended to be a governance review of this airport special district.

## METHODOLOGY

The Grand Jury in conducting this investigation:

- Reviewed formational, operational and administrative documents governing and describing CPAD.
- Reviewed financial reports and statements.
- Internet queries were made of informational websites (as cited in text and footnotes).
- Conducted interviews of key personnel.

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<sup>25</sup> Cameron Airport District Sphere of Influence Map, EDC LAFCO, 10/27/10, see Appendix I.



## DISCUSSION

### Revenues and Financial Structure

The District's revenue sources are subject to limitations imposed by its size, composition, operational nature and outside economic conditions. The entire District encompasses 100 acres and its tax base is comprised of the Cameron Airpark (Airpark) residential development of 143 parcels- of which 100 are built out. Additional sources of property tax revenues are not likely and no new construction is currently planned. Any future assessments imposed on Airpark residents to support access and aircraft facilities are limited by both public acceptance and the uses to which assessment monies may legally be put.

The 2016-17 budget, totaling \$370,000, was adopted at the District's June 2016, Board meeting. Primary revenue sources for CPAD (described in Chart 1) are: sales of aviation fuels (shown as FBO Sales), hangar rentals, parcel assessments, property tax revenues and aircraft tie-downs rentals.

The current waiting list for rental hangars is 40 years long. Hangars do become available about every 7 years. Tie-down spaces have a waitlist of about 2 years. Charges for overnight transient tie-downs are \$4 to \$6 per night. Grant funding from governmental entities supports most capital maintenance and improvements.

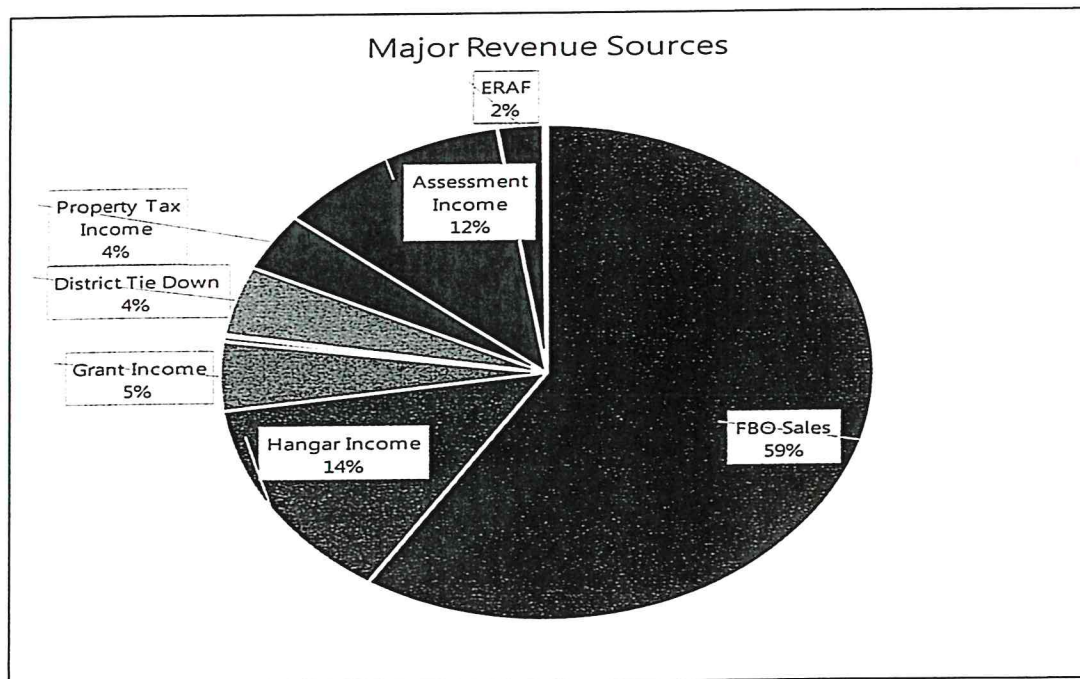


Chart 1: Major Revenue Sources<sup>26</sup>

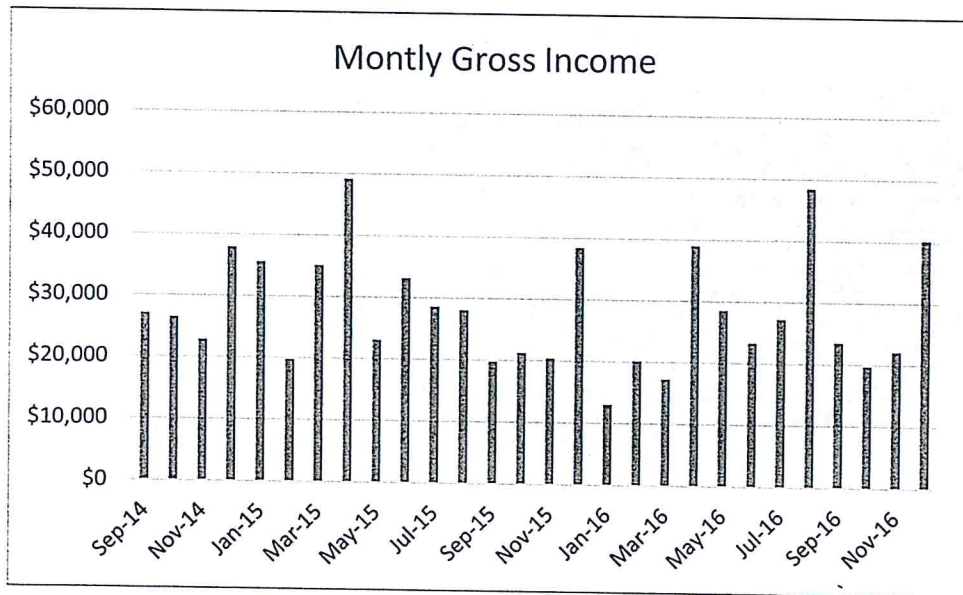
<sup>26</sup> Figures derived from income reported from June 2014 through December 2016. Sources comprising less than 1% are omitted for clarity.

Fuel sales (FBO Sales) are the primary source of money for the District. Sales are robust as CPAD fuel prices are appreciably lower than many surrounding FBO's.

Cameron Park	\$4.09
Placerville Airport	\$4.43
Rancho Murieta Airport	\$4.85
Georgetown Airport	\$4.09
Sacramento Mather Airport	\$5.59
Westover Field (Jackson)	\$4.09
Auburn Municipal Airport	\$4.19
McClellan Airfield	\$4.24

**Table 1: Aviation Gasoline Prices in Vicinity<sup>27</sup>**

Hangar and tie-down rentals are an important and substantial source of operating revenues. Together they provide 18% of CPAD income.



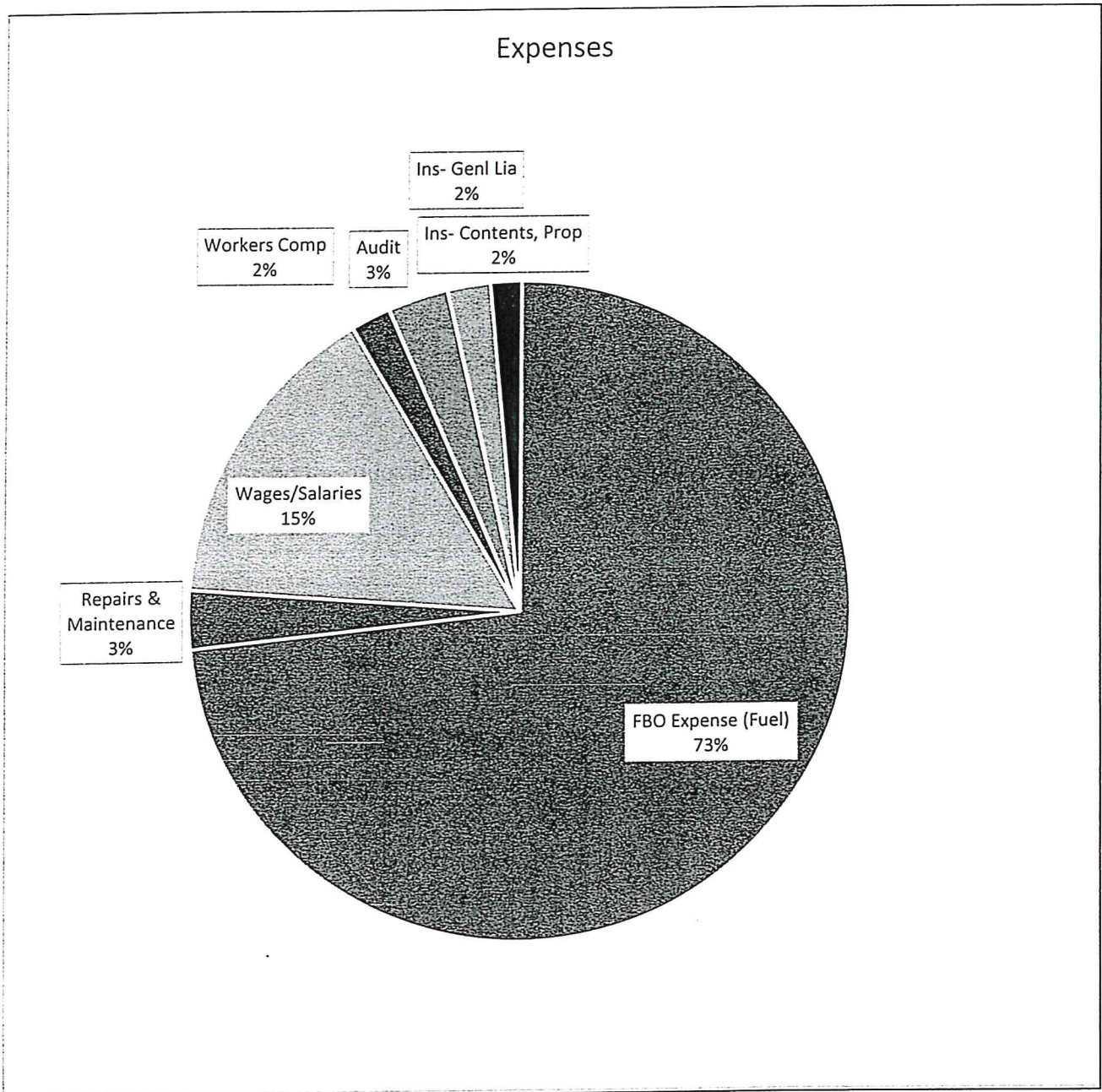
**CHART 2: Monthly Gross Income (from all sources)<sup>28</sup>**

As Chart 2 demonstrates, there is significant fluctuation in monthly income due primarily to variations in demand for aviation fuel. Weather and general economic conditions can negatively impact fuel sales by limiting general aviation activities.

<sup>27</sup> Air-Nav (<https://www.airnav.com/fuel/local.html>, accessed 3/11/2017)

<sup>28</sup> Derived from Monthly Profit and Loss Statements created and maintained by the District





**Chart 3: Expenses<sup>29</sup>**

District expenses, other than fuel and payroll, are relatively minor and stable. With but a single employee, payroll costs are not a major drain on income.

Witnesses assert that current revenues are well in line with costs and expenses but foresee challenges in the next decade. Maintaining solvency may be difficult as costs are anticipated to outrun revenues. Most District buildings and facilities were constructed in the 1980's and are deep into their service lives. The District is required by the FAA to broaden its runway from the current 50 feet to 60 feet and double the load capacity of its pavement from 12500 lbs. to 25000 lbs. That

<sup>29</sup> Expense items representing less than 2% are omitted for clarity.

project will not only require paving work by the relocation of the runway lighting systems and drainage culverts. New revenue sources look to be limited.

There is a currently outstanding loan, with a balance of \$880,000, from the US Department of Agriculture that funded street repairs in the Airpark. Income from the assessment of residents is applied solely to servicing that loan and it is accounted for separately from operating revenues and expenses.

Grant monies are the only means to afford this project and monies are available but require the completion and publication of an approved Airport Master Plan. That plan is being drafted but is a complex document and its author is the District's sole employee. The future availability of grant monies has been cast into doubt by the president's proposed budget which seeks to "zero-out" rural airport assistance, among other programs.

### **Regulatory Issues**

Due to the nature of its activities, CPAD must comply with a broad and complex spectrum of regulations enforced by several Federal, State and local entities.

The Federal Aviation Administration governs all airports and is the major source of grant monies for land acquisition, construction, improvements and upgrades<sup>30</sup>. Congress made a finding in 1970 that "...the Nation's airport and airway system is inadequate to meet the current and projected growth in aviation."<sup>31</sup> and authorized the FAA to administer grants to expand the system and regulate its operations.

The California Department of Transportation (Caltrans) is the primary regulatory and enforcement agency for local airports and works closely with the FAA in administering and supervising grant programs. Caltrans Division of Aeronautics, Office of Airports is the regulatory and enforcement arm for the FAA (under contract) and performs compliance and safety inspections of public use airports. The District sells aviation fuel and is subject to both State and Federal environmental regulation of its storage tanks and delivery equipment. El Dorado County certifies its gas pump.

The County of El Dorado has its own bodies overseeing airports. The El Dorado County Transportation Commission, sitting as the Airport Land Use Commission, completed a land use compatibility plan for CPAD in 2012.<sup>32</sup> The El Dorado County Development Agency's Planning Division governs the uses of airport property and has a significant role in airport safety through its permitting process for surrounding structures and uses. Witnesses describe poor coordination between CPAD and Planning due to unfamiliarity of Planning personnel with FAA-mandated height restrictions and safety zones.

The District can and does obtain grant monies from state and federal agencies to support

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<sup>30</sup> FAA Airport Compliance Manual, FAA Order 5190-6B, September 30, 2009, United States Department of Transportation, Federal Aviation Administration

<sup>31</sup> Title I, Airport and Airway Development Act of 1970, 49 U.S.C. §1101.

<sup>32</sup> Airport Land Use Compatibility Plan, El Dorado County Airport Land Use Commission, June 28, 2012, at <http://www.edctc.org/2/Airports.html>, accessed 3/11/2017



compliance with changing regulations and technology improvements affecting general aviation and safety. Future grants require completion of an Airport Master Plan.

CPAD has been notified by Caltrans of several deficiencies in its operations and hazards on and near the airport. In a letter dated September 7, 2016,<sup>33</sup> these issues were raised (some again) and the District was directed to formulate an abatement plan and remove the hazards. Most of the issues described concern trees intruding into aircraft approach and transition “Imaginary Surfaces” as described in FAA regulations.<sup>34</sup> Some issues with culvert guardrails are also described as well as cracked runway pavement. The District was urged in that letter to move on correcting the deficiencies. The letter closes by offering financial assistance in doing so. An application for FAA grant monies to finance the runway repairs had been previously submitted in 2015 but is suspended pending completion of the Airport Master Plan.

### Governance Issues

The District currently has a single employee- its general manager. The current incumbent is more than qualified for the job of managing a small general aviation airport and FBO both by training and experience. The manager has no assistants or understudies. There is no succession plan for the general manager. No firm backup plan is in place to cover for him during absence(s). A list of temporary “fill-in” personnel is maintained in the airport manager’s office.

The Board itself is both aging and tiring and has no bench of future directors. Most directors have served for several terms and would welcome replacement by new candidates- if they can be found. No efforts have been undertaken to actively recruit new board candidates.

The District publishes no newsletter or journal to its residents, tenants or the businesses and residents in the surrounding area. There is a *Fans of Cameron Park Airport* Facebook page. That page is unofficial, has 132 followers, but few persons post on it and none are associated with CPAD’s board or management.

The agendas published for the Board provide spare information and do not follow requirements of or best practices for complying with the Brown Act<sup>35</sup>:

- No identification of the Board’s specific authority to conduct closed sessions is provided on agendas
- Public comment opportunities are not provided for as to each agenda item
- Agenda items themselves are lacking in detail<sup>36</sup>
- Agenda copies provided by the district provide no posting date
- Agenda copies provided do not offer the public an opportunity to inspect and or copy documents supporting agenda items.

CPAD’s web site ([www.http://cameronparkairport.com/](http://cameronparkairport.com/)) provides nothing more than the address,

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<sup>33</sup> Christopher Brooks, Aviation Safety Officer, Caltrans- Div. of Aeronautics, letter to Gary Millsaps, 9/7/2016, see Appendix I

<sup>34</sup> Federal Aviation Regulation, Part 77.

<sup>35</sup> *Open and Public IV: A Guide to the Ralph M. Brown Act*, 2d ed., 2010, League of California Cities

<sup>36</sup> Selection of Meeting agendas for the CPAD Board are attached as Appendix III.

telephone number and a link to email the airport manager.<sup>37</sup> Public notices, board agendas, minutes, audits are only available at the airport office or through emails or telephone calls to the general manager. The sole means employed to comply with open meeting laws<sup>38</sup> is to post Board agendas at the airport office which is not easily identifiable or accessible to the public. The District does not post its agendas on its web site although the Brown Act requires it to so<sup>39</sup>.

## **FINDINGS**

- F1. The Cameron Park Airport District is currently solvent but finances are highly susceptible to outside economic trends and a changing Federal budget priorities which could lead to insolvency.
- F2. The lack of a current Airport Master Plan hinders the District's ability to obtain grants for capital projects.
- F3. District operations are totally dependent on a single individual and CPAD lacks a means to ensure continuity of operations if that individual departs.
- F4. The District currently employs a highly competent manager.
- F5. The District has not developed or employed modern means of communicating with its customers, residents and neighbors as it has a mere shell of a web site and no social media presence which hinders public participation in District governance.
- F6. The District is out of compliance with the Brown Act as it fails to post its Board agendas on its web site.
- F7. The District fails to give notice of when, where and how meeting agenda documents may be obtained.
- F8. Past elections have evidenced a lack of interest in service on the Board leaving the future of the District uncertain and missing new ideas.

## **RECOMMENDATIONS**

- R1. The District complete its Airport Master Plan in the next six months.
- R2. The District develop succession planning for its manager in the next six months.
- R3. The District consider adding an assistant to the manager to improve communications and ease transition when the current manager leaves.
- R4. The District undertake active measures to recruit new board members.

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<sup>37</sup> A PDF of the CPAD web page, accessed 3/12/2016, may be found at Appendix II.

<sup>38</sup> Ralph M. Brown Act, Cal. Government Code §§54950-54963.

<sup>39</sup> Cal. Gov't. Code §54954.2.(a)(1)



- R5. The District improve communications with the public by publishing a newsletter.
- R6. The District develop a social media presence to enable it to communicate with its residents, tenants and customers.
- R7. The District obtain new or refresher Brown Act training for all board members and the airport manager and complete that training within the next six months.
- R8. The District fully develop its internet presence to better communicate with its residents, tenants, neighbors and customers and comply with open meeting laws.

### REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following individuals:

- Gary Millsaps, Airport Manager, Cameron Park Airport District, as to Findings 1, 2, 3, 5, 6, 7, & 8; and to all Recommendations

From the following governing bodies:

- Board of Directors, Cameron Park Airport District, as to all Findings and Recommendations.

Address responses to:

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a *Word* or *PDF* file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at: [courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org).

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

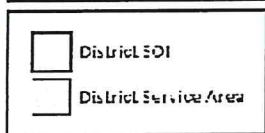
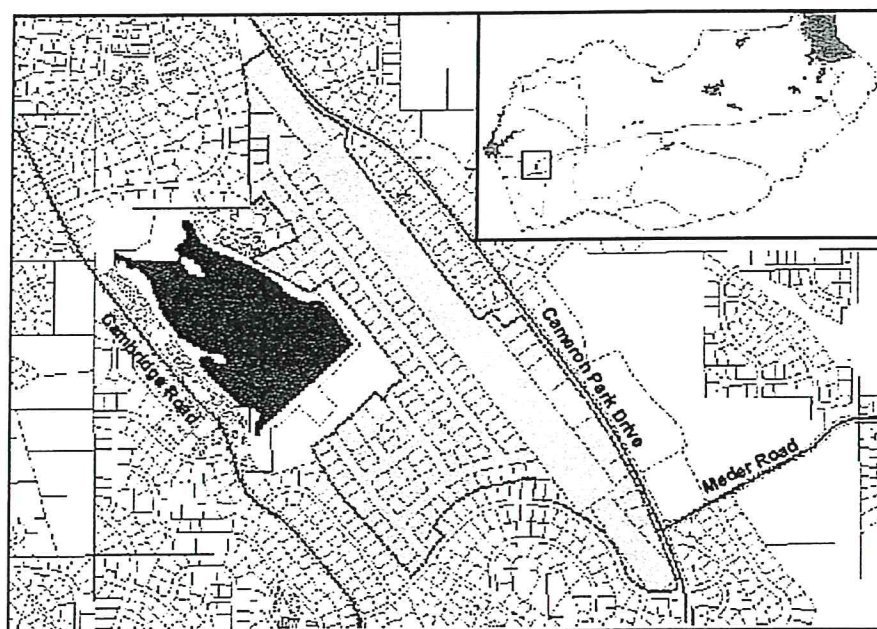
## APPENDICES

- I. Cameron Park Airport District Sphere of Influence Map, EDC LAFCO, 10/27/10
- II. Christopher Brooks, Aviation Safety Officer, Caltrans- Div. of Aeronautics, letter to Gary Millsaps, 9/7/2016
- III. PDF of the CPAD web page, accessed 3/12/2016
- IV. CPAD Board of Directors Meeting Agendas for
  - a. August 1, 2016
  - b. August 2016
  - c. Special Meeting December 17, 2016
  - d. January 2017



**APPROVED**

**Exhibit A**



**CAMERON PARK AIRPORT DISTRICT**

Appendix II- Christopher Brooks, Aviation Safety Officer, Caltrans- Div. of Aeronautics, letter to Gary Millsaps, 9/7/2016

DEPARTMENT OF TRANSPORTATION  
DIVISION OF AERONAUTICS – M.S. #40  
10 N STREET  
P.O. BOX 942874  
CRAMENTO, CA 94274-0001  
ONE (916) 654-4959  
X (916) 653-9531  
Y 711  
av.dot.ca.gov



Serious drought!  
Help Save Water!

September 7, 2016

VIA CERTIFIED MAIL

Mr. Gary Millsaps, Airport Manager  
Cameron Airpark  
3374 Mira Loma Drive  
Cameron Park, CA 95682-8852

Dear Mr. Millsaps:

The California Department of Transportation (Caltrans), Division of Aeronautics, conducted a State permit compliance inspection and Federal Aviation Administration (FAA) Airport Master Record (FAA Form 5010) update of the Cameron Airpark (FAA Site No. 01369.8\*A) on August 25, 2016. We appreciate the assistance you provided during our visit. Our inspection revealed the following:

1. Trees and brush located approximately 1,175 feet northwest of the Runway 13 displaced threshold penetrate the Federal Aviation Regulation (FAR) Part 77, 20:1 Approach Surface and the Part 77, 7:1 Transitional Surface. These trees and brush must be trimmed to the height shown in enclosed Photos 1 and 2, or be removed. This is a repeat discrepancy which has grown in severity and must be addressed promptly.
2. Trees located approximately 300 feet northeast of the Runway 31 displaced threshold and 250 feet west of the runway centerline penetrate the FAR Part 77, 7:1 Transitional Surface by more than 20 feet. These trees must be trimmed to below the height of the obstruction light as shown in enclosed Photos 3 and 4, or be removed. This is a repeat discrepancy noted in inspection letters since 2010 with each letter requiring action on the part of the airport.

These substantial penetrations of Part 77 surfaces are obstruction hazards. The Cameron Airpark District is required to maintain obstruction-free FAR Part 77 imaginary surfaces to the airport, to preserve public-use of the facility. The California Public Utilities Code (PUC) states the following, in part:

**Hazards Near Airports Prohibited**

21659. (a) No person shall construct or alter any structure or permit any natural growth to grow at a height which exceeds the obstruction standards set forth in the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in title 14 of the Code of federal regulations, Part 77, Subpart C.

Caltrans recognizes that several of these conditions have existed and increased over a period of time. However, Caltrans must receive a definitive plan, including timeline, by October 3, 2016, to address and maintain obstruction-free FAR Part 77 imaginary surfaces to preserve the public-use of the airport and continue to operate at night. Failure to clear obstructions noted in items 1

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to enhance California's economy and livability"*



and 2 in this report by February 28, 2017, may lead to initiation of permit action including suspension of night operations at the airport.

3. Trees located on a hillside between approximately 3,375 to 4,300 feet southeast of the Runway 31 displaced threshold penetrate the FAR Part 77, 20:1 Approach Surface. These trees must be trimmed to the height shown in enclosed Photos 5 and 6, or be removed.
4. Although the drainage culvert near the Runway 13 displaced threshold is varianced for a penetration of the FAR Part 77, Primary Surface, both ends of the culvert contain small trees and brush that are not varianced (please see enclosed Photo 7). These trees and brush must be cleared to remain out of the Primary Surface and Runway Obstacle Free Area.

In addition, headwalls and nonfrangible guardrails on both ends of the culvert exceed three inches in height and lie within the Runway Obstacle Free Area. The protruding sections of the headwall must be no more than three inches in height from grade and the guardrail must be made frangible or be removed, to comply with design standards.

5. Trees located approximately 380 feet southeast of the Runway 13 displaced threshold and 220 feet west of the runway centerline penetrate the FAR Part 77, 7:1 Transitional Surface by 20 feet. These trees must be trimmed to the height shown in enclosed Photo 8, or be removed. This is a repeat discrepancy.
6. Trees penetrate the FAR Part 77, 7:1 Transitional Surface at several locations on the east side of the airfield:
  - a. Trees located approximately 920 feet southeast of the Runway 13 displaced threshold and 200 feet east of the runway centerline penetrate the Transitional Surface by more than 15 feet. These trees must be trimmed to the height shown in enclosed Photo 9, or be removed. This is a repeat discrepancy.
  - b. A tree located approximately 520 feet southeast of the Runway 13 displaced threshold and 195 feet east of the runway centerline has grown taller than the adjacent obstruction-lighted building. This tree must be trimmed to the height of, or below, the obstruction light shown in enclosed Photo 10, or be removed.
  - c. Trees located approximately 200 feet southeast of the Runway 13 displaced threshold and 185 feet east of the runway centerline penetrate the Transitional Surface by up to 10 feet. These trees must be trimmed to the height shown in enclosed Photo 11, or be removed. This is a repeat discrepancy.
  - d. Trees located at the Runway 13 displaced threshold and 200 feet east of the runway centerline penetrate the Transitional Surface by more than 15 feet. These trees must be trimmed to the height shown in enclosed Photo 12, or be removed. This is a repeat discrepancy.
7. The Runway 13/31 asphalt surface is in poor condition with large areas of lateral and longitudinal cracking (please see enclosed Photos 13 and 14). The pavement condition should

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to enhance California's economy and livability."*

Mr. Gary Milsaps  
September 7, 2016  
Page 3

be addressed promptly to prevent further deterioration and to reduce the likelihood of damage to propellers and windscreens associated with loose gravel. As you indicated during our meeting, a project to pave the runway is planned for the near future. We encourage you to expedite this project and repave as soon as possible.

It is Caltrans' objective to ensure that airports and heliports meet all applicable FAA minimum design safety standards and Advisory Circulars (AC) criteria, FAR, the PUC, section 21001 et seq., California Code of Regulations, Title 21, sections 3525-3560, and all required conditions depicted in the State Airport Permit issued by Caltrans. Airport permit criteria, including many FAA ACs, may be found on our website at [www.dot.ca.gov/aeronautics](http://www.dot.ca.gov/aeronautics).

Understanding the significant resource burden associated with operating a safe, secure, and utilitarian airport, Caltrans will continue to offer both financial and technical assistance to the Cameron Park Airport District. The use of California Aid to Airports Program annual credit grant funds, to correct safety discrepancies, is considered an eligible expenditure. Please notify us by October 11, 2016, of your intended or completed action concerning these items and provide us with photographic evidence documenting the results of the completed items.

If you have questions or require assistance, please contact me at (916) 654-5450 or via email at [christopher.brooks@dot.ca.gov](mailto:christopher.brooks@dot.ca.gov).

Sincerely,



CHRISTOPHER BROOKS  
Aviation Safety Officer

Enclosures

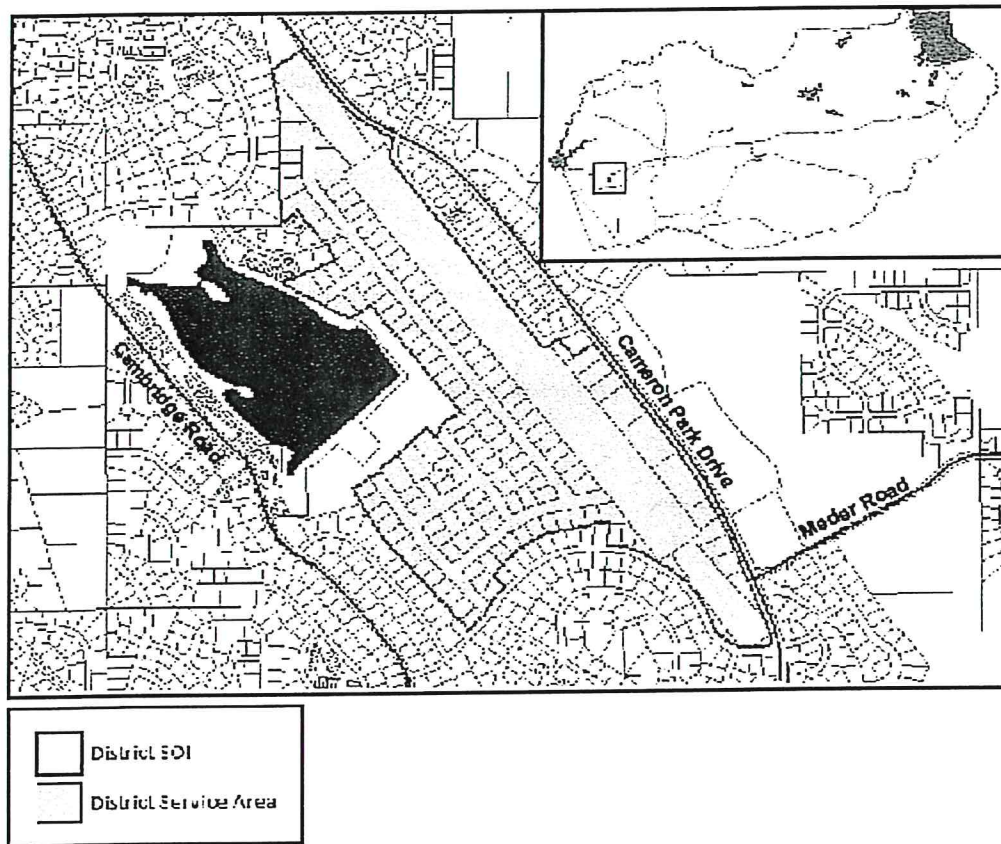
c: FAA, SFO ADO

*"Provide a safe, sustainable, integrated, and efficient transportation system  
to enhance California's economy and livability"*



# APPROVED

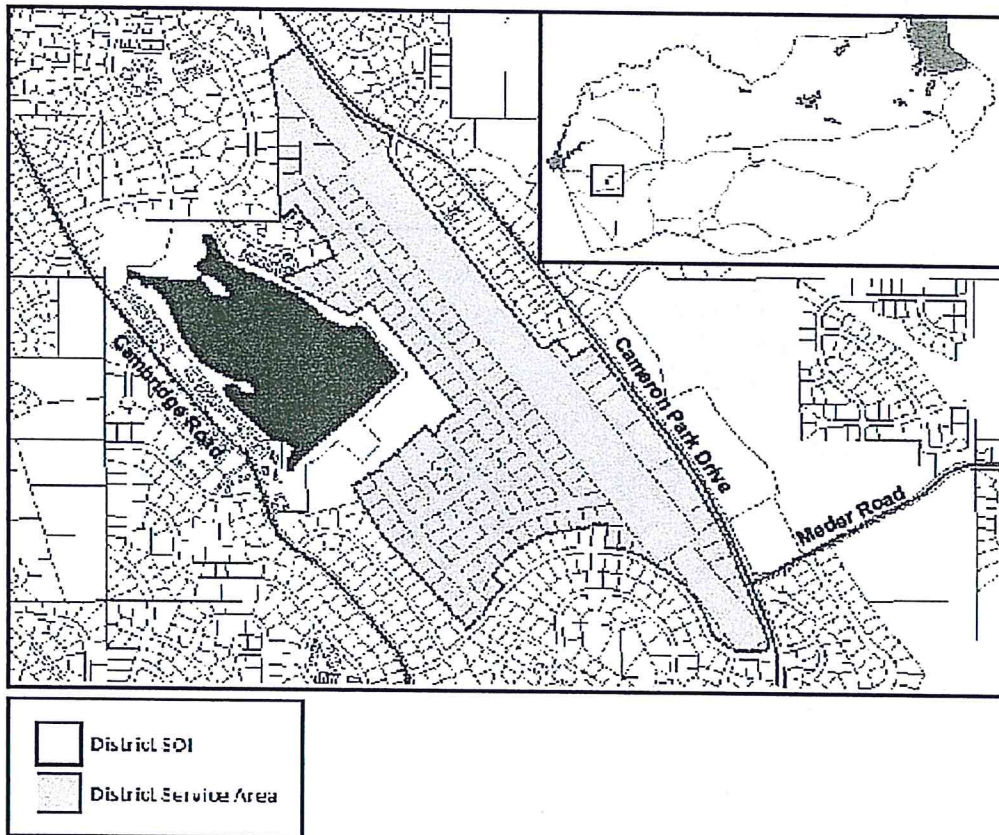
## Exhibit A



# CAMERON PARK AIRPORT DISTRICT

# APPROVED

## Exhibit A

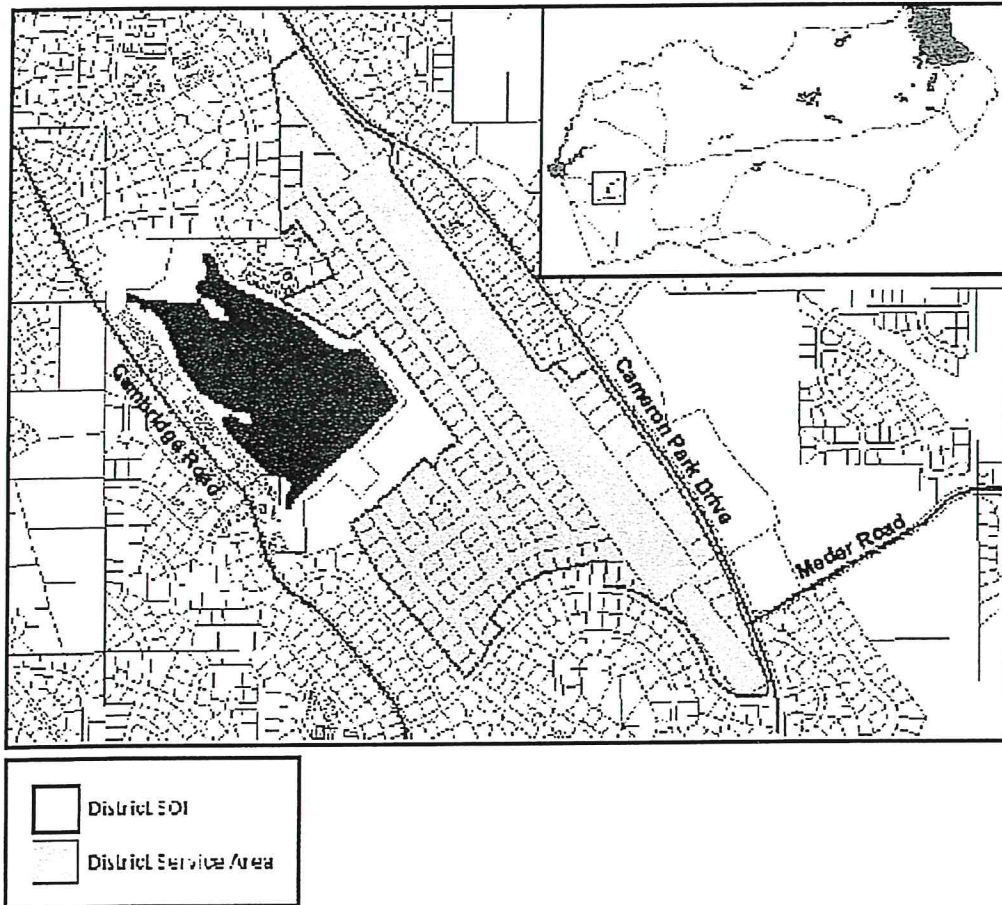


# CAMERON PARK AIRPORT DISTRICT



# APPROVED

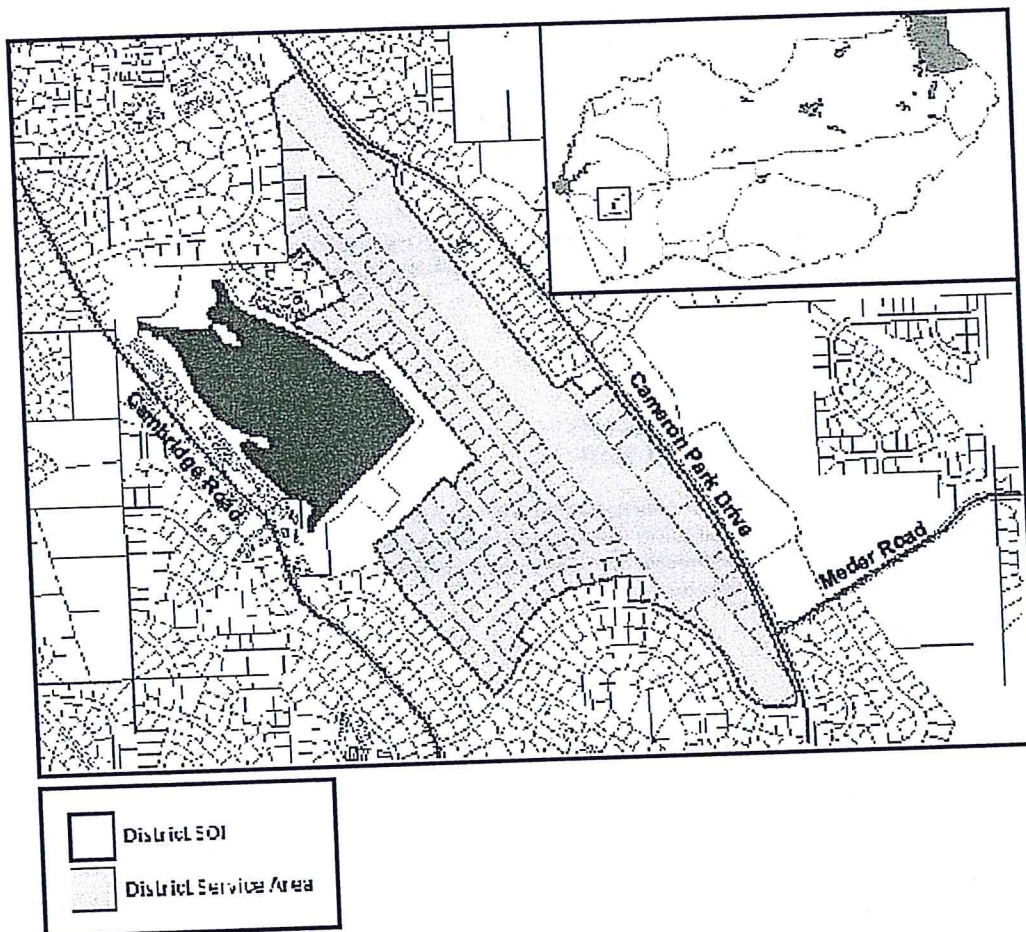
## Exhibit A



# CAMERON PARK AIRPORT DISTRICT

# APPROVED

## Exhibit A



# CAMERON PARK AIRPORT DISTRICT



Appendix IVd- CPAD Agenda, January 30, 2017



**CPAD BOARD REGULAR MEETING**  
**AGENDA**

Monday, January 30, 2017 - 7:00 P.M.

Meeting to be held at the Ross Hangar, 3239 Baron Ct, Cameron Park, CA  
Directors: Guy Hooper, Mike Starkey, Sue Cook, Joe Fuller, Todd Peterson

1. CALL TO ORDER/ROLL CALL
2. PLEDGE OF ALLEGIENCE
3. ADOPTION OF AGENDA
4. ADOPTION OF MINUTES:
  - \* Regular Meeting held November 28, 2016
  - \* Special Meeting held December 17, 2016
5. PUBLIC FORUM/PUBLIC COMMENT: Only items that are within the jurisdiction of CPAD will be considered. Statements from the floor will be heard during public forum/public comment. Requests requiring board action will be referred to staff and brought on the next appropriate agenda. Members of the public are invited to speak on agenda items as they occur.
6. OLD BUSINESS:
7. NEW BUSINESS:
  - \* Project Startup for Crack Repair & Slurry Seal of the Airpark Streets/Taxiways
  - \* CHP presentation of CPAD proceeds from 2016 Show n' Shine Event
8. COMMITTEE REPORTS:
  - \* Finance Committee, Discussion: Director Hooper, Director Cook, Manager Millsaps
9. PROJECT REPORTS:
  - \* AWOS System
  - \* Runway Slurry Seal Project
  - \* Wind Tee Restoration Project
10. AIRPORT MANAGER REPORT: Manager Millsaps
11. ADJOURNMENT

# EL DORADO COUNTY 2016-2017 GRAND JURY

*El Dorado County Placerville Jail*  
Case 16-013 May 13, 2017

## SUMMARY

The 2016/2017 Civil Grand Jury conducted its annual inspection of the El Dorado County Jail located in Placerville on October 5, 2016. The inspection included both a physical inspection of the facility as well as interviews with facility staff and inmates.

The Civil Grand Jury members noted the lack of a full body scan metal detector in the entry, which poses a safety risk for staff and visitors. There is a need for more safety cells for at-risk inmates. There are opportunities to expand the vocational training program. These findings and recommendations for correction are detailed at the end of the report.

## BACKGROUND

California Penal Code Section 919(b) mandates an annual inspection of all county jail facilities by the Civil Grand Jury. Additionally, the jury must inquire into the condition and management of "public prisons" within the county, and any credible evidence of willful or corrupt misconduct of any public officer, but need not write a report on either type of inquiry.

## METHODOLOGY

- Interviewed the facility staff and inmates
- Followed the guidelines for the inspection from the Detention Facility Inspection Form
- Reviewed the Board of State and Community Corrections (BSCC) Jails Inspection Handbook
- Reviewed latest documentation of the Fire Marshal inspection
- Reviewed the Maintenance Log

## DISCUSSION

Members of the 2016-2017 Civil Grand Jury inspected the El Dorado County jail located in Placerville on October 5, 2016. The visit began with an overview of the day to day operations followed by an inspection of the facility and interviews with some of the inmates.

## OVERVIEW OF OPERATIONS

The jail is a 303 bed facility with current occupancy of 225 male and 45 female inmates. There are four classifications for housing inmates (male and female) which consist of General Population Unit, Administrative Segregation Unit, Protective Custody Unit and Maximum Security Unit. Some gang members that are incarcerated in the facility require special housing.



Twenty-five percent of the inmates are there as a result of Assembly Bill (AB)-109 which is the Public Safety Realignment Bill. This resulted in some inmates who had been incarcerated within California's State Prison system serving their time in county jails throughout the state. Inmates received under AB-109 pose a hardship for the general population of the jail. These inmates are often hardened offenders, gang members, and/or more violent, and are housed in county jail for longer than the 12 month maximum prior to AB-109. Many inmates contained within the jail system have mental health problems but they are not segregated unless a safety or behavioral issue arises.

The last Civil Grand Jury's inspection was November, 2015. Since that last inspection of the Placerville Jail one inmate has committed suicide. There have been six attempted suicides and no deaths from other causes. There was one escape by an inmate who had been taken to Marshall Hospital.

Smoking is not allowed, but unauthorized inmate smoking frequently sets off fire alarms. These alarms demand an immediate response which in turn interrupts day to day activities. The repetitive nature of these alarms could diminish their importance.

Visitors' space is not adequate. There are too many inmates for the existing visitation space. There are no accommodations for family visitation. Supervision of visits is through cameras or staff working nearby. All inmates are allowed two visits per week. There are provisions for special visits with attorney/clergy. Clergy is available upon request as well as religious services.

Inmates have access to telephones. They can make collect calls or inmates can purchase phone time. Anyone can set up a prepaid program for an inmate. Free postage is available for up to two letters per week. Correspondence is opened in the inmate's presence and outgoing mail is checked by a Correctional Officer.

Medical services are contracted out to California Forensic Medical Group (CFMG). A Registered Nurse is on duty at the jail during the day and a Licensed Vocational Nurse at night. Psychiatric/Psychologist are also available through CFMG.

There is a contracted Registered Dietician who manages both El Dorado County jails.

## **INSPECTION OF THE FACILITY**

The entry room is quite large with a seating area where visitors can fill out forms or watch TV. Public restrooms are available and there are lockers on the wall to store the items visitors are not allowed to bring into the jail. A receptionist sits behind bullet resistant glass. There is no metal detector at the main entrance. There is an inside metal detector for any inmate leaving and/or returning to the jail.

The jail in Placerville is newer than the jail located in South Lake Tahoe. Visually, the interior of this building appears to be in good condition. The paint looks fresh with no scuff marks or signs of aging. Graffiti is not visible anywhere and there were no cracks noticed in the walls, ceiling or floors. The lighting is adequate.

There are two safety cells in the Placerville Jail. There is a concern that with the rising amount of

drug and alcohol usage in the county, the need for at least one more safety cell is becoming a priority. When individuals under the influence are picked up and brought to the jail they are placed in the safety cells while they come off the drugs/alcohol in their system.

The control room has a view of all the housing areas, other indoor areas, the outside entrance and parking area of the jail.

Cells in the Maximum Security section of the jail are small and equipped with the barest of necessities. The door to the cell has a small window where inmates can only see what is directly in front of them. If an inmate is on lockdown, a dark shade is placed over the window until the punishment has been met. Due to the violent nature of these inmates, they are only allowed to be in the Maximum Security common area by themselves one hour per day.

The less violent and non-threatening inmates have more conveniences in their common areas. These inmates can be in the common room with other inmates on a daily basis and for a longer period of time. An outdoor and indoor exercise program is available to the incarcerated men and women for one hour every other day.

The range of discipline options includes lockdown, cleaning the dayroom, loss of commissary, loss of good conduct time and work time.

The jail has a culinary program which trains inmates in the culinary field. The culinary program has received awards for the food preparation and culinary skills of its members. Inmates must obtain a Safe Serve Certificate and a medical clearance before being assigned to kitchen duty. Knives not in use are locked in a cabinet. An inventory system is in place and knives are checked in and out and counted regularly. Kitchen workers are trained to take cooking equipment apart for cleaning.

Inmates are permitted to converse during meals. Most meals are served in the dayroom. Inmates are allowed 15 minutes to eat, which is the State minimum standard, but 25 minutes can be permitted if more time is requested by an inmate.

Grand Jurors were given a tour of the sally port where individuals are brought in from the community. The booking process includes fingerprinting, photos, completing forms, and issuance of an identification card. Once the booking process is completed, inmates are taken to an area where they can take a shower before dressing in required jail clothing.

The GED program with the Department of Education has just been restarted. The classroom on the General Population floor has eight computers with limited web access and a library. The number of inmates in the program varies between the morning and afternoon program, with a maximum of 16 students per day meeting 4 times per week. Currently there is one instructor with an 8 to 1 student to instructor ratio. The atmosphere of the classroom is reported to be good. The Class Syllabus states: "The purpose of this class is to advance the understanding of the basic principles and skills needed to prepare and succeed in the following: General Educational Development (GED) Test, English as a Second Language, Adult Basic Education, High School Diploma, Adult Enrichment and Career Awareness."

Anger Management and other programs are available.



The Court can order a Work Program. The Work Program is managed by the Sheriff.

## **INTERVIEWS WITH INMATES**

A combination of female and male inmates were interviewed. The inmates interviewed had positive remarks to say about the facility and the Correctional Officers. They said the food is outstanding.

## **FINDINGS**

- F 1. The main entrance area of the Placerville Jail is not equipped with a full body metal detector which creates a safety issue for staff, inmates and visitors at the jail.
- F 2. There are only two safety cells at this time, limiting the placement of at-risk individuals.
- F 3. Lack of vocational programs does not serve the rehabilitation needs of the inmates. Availability of additional vocational training programs could lessen the chances that an inmate will reoffend upon release.
- F 4. Tobacco controls are not effective and result in inmates setting off fire alarms when they illegally smoke.

## **RECOMMENDATIONS:**

- R 1. Installation of a full body metal detector in the main entrance of the Placerville Jail. Hand wand detectors should also be made available for screening of visitors.
- R 2. Develop a plan to expand the number of safety cells and present it to the Board of Supervisors for approval.
- R 3. Expand the culinary program and add more vocational training opportunities for the inmates.
- R 4. Implement an effective plan to prevent unauthorized smoking by inmates.

## **REQUEST FOR RESPONSES**

Responses to findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05

From the following individuals:

- El Dorado County Sheriff on or before August 15, 2017

From the following governing bodies:

- El Dorado County Board of Supervisors on or before August 15, 2017

**Address response to:**

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that responses be sent electronically as a *Word or PDF* file to facilitate the economical and timely distribution of such responses. Please email responses to El Dorado County Grand Jury reports to:  
[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

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

**BIBLIOGRAPHY**

**Inspection Form can be found on the California Civil Grand Jury website: <http://cgja.org>  
Detention Facilities Inspection Forms**

Go to Section: Documents Related to Investigations  
<http://cgja.org/grand-jury-sample-documents>



# El Dorado County 2016-2017 Grand Jury

## RESPONSES TO 2015-2016 GRAND JURY REPORTS

*Looking Back and Looking Ahead*

Case No. GJ-16-015      June 9, 2017

### SUMMARY

Each year the El Dorado County Grand Jury conducts investigations of local agencies and districts and publishes reports of those investigations. Those reports contain findings and recommendations intended to improve government services delivered and to which the subject agencies are required by law to respond and comment.

The 2015-2016 El Dorado County Grand jury conducted investigations of the Landscaping and Lighting Districts (LLAD) of the El Dorado Hills Community Services District (EDHCSD) under Grand Jury Case No. GJ-15-03, and the El Dorado County jails operated by the El Dorado County Sheriff's Office (EDSO) under Grand Jury Case No. GJ-15-11. In both cases this grand jury found that one or more of the responses of the respective subject agencies to the Jury's reports failed to comply with the relevant provisions of the Penal Code and or were lacking detail by which the agency's subsequent actions could be gauged.

The jury determined to seek adequate responses from these agencies so that the work of the preceding jury was not disregarded or ignored. Detailed letters were sent to the EDHCSD and EDSO describing the defects in their respective responses and directing that amended responses be submitted within thirty (30) days of the dates of the letters giving notice of the defects.

While somewhat tardy, EDHCSD amended and corrected its responses as requested.

The Sheriff, on behalf of his Department, did not answer within the time frame allotted- or at all.

### BACKGROUND

The civil (or regular) grand juries within each of the fifty-eight (58) counties of California are all volunteers, appointed by the local Superior Court for one-year terms. They are charged with looking into the operations of local government and reporting to the public on what they have found. The law governing grand jury reports requires the juries to make findings and recommendations designed to point out issues, inefficiencies and problems and then recommend ways to make government work better for all. Grand jury investigations are complex and time-consuming and their reports frequently take all of a jury's term to reach publication.

The term of grand juries is normally July 1, to June 30, of each year. In most cases juries have served their term and been discharged long before responses to their reports are received. In some counties, a county official publishes an annual report on the status of responses to its grand jury investigations.

Limited means are available in El Dorado County to track agency responses to grand jury reports. An alert press can hold agencies to answer for their responses and responsiveness to grand

jury investigations. The only other alternative is for succeeding juries to conduct their own independent reviews and assessments of responses to the work of past grand juries to ensure appropriate, or any, action is taken by the subjects of investigation reports.

## **METHODOLOGY**

The 2016-2017 El Dorado County Grand Jury reviewed all responses submitted by public agencies to the reports published by the 2015-2016 El Dorado County Grand Jury.

This jury then wrote to two responding agencies seeking augmentation and correction of respective responses which had been found to be inadequate, or not conforming to applicable law, and reviewed subsequent replies submitted.

## **DISCUSSION**

The law governing grand jury reports and responses by the subjects of jury investigations is clear and very specific. Responses to a jury's findings must agree, disagree, or partially agree or disagree. The reasons for disagreement must be stated. Recommendations require not only agreement or disagreement but also require actions, if any are promised, to be completed within a limited time period. Should an agency respond that further study is required, the agency must provide a time frame for that study.

After thorough review of the responses submitted by the El Dorado Hills Community Services District (EDHCSD) to the 2015-2016, Grand Jury's report in Case No. GJ-15-03, "Landscaping and Lighting Assessment Districts in El Dorado Hills;" a request for further responses was found to be warranted and was sent to the board of the EDHCSD on March 29, 2017. Similarly, a response from the El Dorado County Sheriff's Office (EDSO) to the 2015-2016, Grand Jury report in Case No. GJ-15-11, "El Dorado County Jails Inspection;" was found lacking and a letter seeking further response was sent to the Sheriff on April 30, 2017. Those letters are included with this report as Appendices I, and III, respectively. Each requested further written responses, directed to the Presiding Judge of the El Dorado County Superior Court, within thirty (30) days of the date of the letter.

The EDHCSD provided the letter included as Appendix II, dated May 1, 2017, as its amended responses to last year's grand jury report and this jury's request for legally adequate responses. A fair reading of that somewhat tardy letter shows a real effort to address the issues raised and to correct and augment their previous responses. Timelines and action plans are described in that letter. The District took the Grand Jury seriously and sought to bring itself into compliance with the law.

No response was received from EDSO within the time directed by the jury and none has been received as of this writing. EDSO made no attempt to seek an extension of time to comply with this Jury's request. No excuse or reason for EDSO's unresponsiveness has been communicated to the Presiding Judge or to the current grand jury.



## FINDINGS

- F1. The El Dorado Hills Community Services District (EDHCSD) has submitted substantially complete and legally conforming amended responses to the 2015-2016 Grand Jury's Findings and Recommendations by its letter of May 1, 2017.
- F2. The quality of the amended answers submitted by EDHCSD are commendable and this Grand Jury thanks this agency for its responsiveness.
- F3. The Sheriff of El Dorado County has deigned to ignore the identified defects in his responses to the 2015-2016 Grand Jury Report communicated to him by this Grand Jury in its letter of April 3, 2017.

## RECOMMENDATIONS

- R1. The Sheriff of El Dorado County submit, forthwith, an amended and legally sufficient response to Recommendation 1 of the 2015-2016, El Dorado County Grand Jury report, published June 9, 2016, Case No. GJ-15-11.

## REQUEST FOR RESPONSES

Pursuant to Penal Code §933.05, the grand jury requests responses as follows:

From the following individuals:

- The Sheriff of El Dorado County as to Finding 3, and Recommendation 1.

### Address responses to:

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Blvd.  
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a *Word* or *PDF* file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at: [courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org).

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

## APPENDICES

- I. March 29, 2016 (sic) letter to Allen Priest, President El Dorado Hills Community Services District from the El Dorado County Grand Jury
- II. May 1, 2017 letter to Suzanne N. Kingsbury, Presiding Judge of the Superior Court from Kevin A. Loewen, General Manager, El Dorado Hills Community Services District
- III. April 3, 2017 letter to John D'Agostini, Sheriff of El Dorado County from the El Dorado County Grand Jury



APPENDIX I: March 29 ,201 (sic) letter to Allen Priest, President El Dorado Hills Community Services District from the El Dorado County Grand Jury



**El Dorado County Grand Jury 2016-2017**

P.O. Box 472  
Placerville, California 95667  
(530) 621-7477 Fax: (530) 295-0763

March 29, 2016

Hon. Allan Priest  
President, Board of Directors  
El Dorado Hills Community Services District  
1021 Harvard Way  
El Dorado Hills, CA 95762

Re: Responses of the El Dorado Hills Community Services District to the 2015-2016 Grand Jury Report

Dear Mr. Priest:

The 2016-2017 El Dorado County Grand Jury has received and reviewed the responses submitted by the El Dorado Hills Community Service District to the report of the 2015-2016 El Dorado County Grand Jury's report of investigation, Case No. 15-03, titled: LANDSCAPE AND LIGHTING ASSESSMENT DISTRICTS IN EL DORADO HILLS.

Responses from a local agency to a grand jury investigative report are limited and restricted to the choices set forth in Penal Code section 933.05. Explication and reasoning may follow those statutorily described responses but the code is clear that the response "...shall indicate one of the following:"

The jury has found, at plenary session, that the following responses, and each of them, fail to comply with the requirements of California Penal Code section 933.05 and thereby the Board of Directors of the El Dorado Hills Community Services District is directed to make and transmit to the El Dorado County Superior Court further responses that do meet the requirements of law.

The responses found to be inadequate and the bases of those findings are as follows:

District Response #1: The oversight of the LLADs is a high priority for the District and there are several factors that go into the annual assessments for the uniquely situated LLADs. However, significantly more oversight is planned by way of the District's implementation of the Parks Superintendent position. As the District activates a new management position of Parks Superintendent this fiscal year (FY16/17), an increased capability for improvements in oversight of the LLADs will be in place. The District supports and will implement a clear set of LLAD annual budget notations to address the cited need for providing an explanation and rationale for any changes.

All proposed changes have been presented in staff reports at the District's standing committees and board meetings as well as posted as public hearing notices on the District website in accordance with our established practices. The public will have ample opportunity to review and comment on any proposed changes to LLAD assessments.

The foregoing District Response #1 fails to comply with PC sec. 933.05(a)(2) and (3) in that it fails to describe, with substantial specificity, a time frame for implementation for action, and explanation of the scope and parameters of the its analysis of the issues raised and a time frame not exceeding six months from publication of the jury's report on June 2, 2016.

District Response #2: As stated in the District's Response #1, we remain committed to significant improvements in the budget management of all LLADs. It is true that assessments can vary from year to year depending on the elements and/or amenities contained in each LLAD and the changing expenses for maintenance, repair or replacement of these elements. The District will continue our recent efforts to capture accurate actual costs associated with each LLAD.

The District Board has authorized a new Overhead and Cost Allocation Study to be conducted in FY 16/17. The study will suggest any changes or improvements identified to determine if overhead allocations are fair and equitable or if another formula should be considered. If any changes were recommended, they would be presented to the District's Board of Directors for ultimate approval to any changes to LLAD overhead allocations.

District Response No. 2 fails to meet the requirements of P.C. sec. 933.05(b)(3) in that the response alleges that further analysis is being undertaken but fails to describe a timeframe not exceeding six months from the publication of the jury's report on June 2, 2016.



Allan Priest, President EDHCSD  
Responses to Grand Jury LLAD Report  
March 30, 2017  
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District Response #3: While it is accurate to find some of the LLAD fund balances have grown significantly over time, it is not accurate to find there is no explanation for these larger balances. Many LLAD fund balances increase over time in anticipation of sizeable(sic) projected replacement costs for significant landscape and lighting elements or site improvements such as fencing, walls, entry monuments, major plantings, irrigation systems, etc. The District's Browning Reserve is a study that charted a planned schedule for replacement and associated expenses of such work over time. Without a gradual and methodical buildup of funds over time, many LLADs would be hit with expensive one-time, yet eventually recurring, significant replacement or renovation costs. The study explains and provides justification for these funds.

Notwithstanding, the District is committed to conduct a budgetary examination of LLADs with seemingly excessive fund balances in its upcoming Overhead and Cost Allocation Study. New District software for budget management can be programmed to alert staff responsible for LLADs as to anomalies in fund balances over time that could trigger any necessary reassessment of the portions of assessments directed to planned replacements. Fair and equitable reductions to assessments would be considered whenever fund balances increase beyond reasonable and scheduled replacement funding needs.

Furthermore, when the higher fund balance is no longer needed, the District has taken steps in the past two years to decrease the projected LLAD assessment, in some cases up to a 50% reduction in an effort to address fund balances that are currently undesignated for anticipated asset replacement & maintenance, or other operating costs.

Instances where larger set aside budgets for projected replacement expenses are identified, the District will take necessary steps to explain and justify the need for larger fund balances. Similar to the District's Response #1, the District will maintain a proactive communication model for LLAD budget transparency with opportunities for the community to review and comment on any assessment changes.

The above, District Response #3, is non-compliant with P.C. 933.05, subdivisions (a)(2) and (b)(3) in that it does not clearly identify what the respondent agrees with or disagrees with in the response nor does it describe a time frame, within six months of June 2, 2016, in which the respondent will install "...software for budget management can be programmed to alert staff responsible for LLADs as to anomalies in fund balances over time..." Further, Response #3, does not describe the analysis and or actions it will take to "...explain and justify the need for larger fund balances." or a timeline within six months from June 2, 2016 in which those analyses and corrective actions and processes will be completed and promulgated.

District Response #4: Given the Grand Jury's admonishment to each witness that he or she is not allowed to discuss the subject matter or details of the Grand Jury's investigation, the District is significantly hampered in being able to thoroughly respond to the finding that its employees were "not forthcoming" in their respective responses. It is the District's expectation that all of its employees respond with transparency when addressing CSD funds, including its LLAD fund balances.

The District complies in full with the provisions of Section 22660 of the Landscaping and Lighting Act in all of our current and past practices. The creation and adoption of resolutions at the District Board of Directors level will occur when necessary to remain in full compliance.

All LLADs are structured with the realization that funding for large future expenditures should be gradually built up over a time schedule as a reserve to meet the projected schedule for replacement work.

District Response #4 is inadequate in that it fails to comply with PC sec. 933-05(a)(1) and (2) in that it does not describe either agreement or disagreement with the relevant findings (F-4) of the jury's report. Further inadequacy is found in the failure of the latter portion of the response, as required in sec. 933.05(a)(2), to state its agreement or disagreement with the finding or to address the issue raised in R-4 of the report and merely asserts that the CSD is in compliance with law. The response implies further action will be taken in regards fund balances but fails to state ways, means and a timeframe within six months of the publication of the jury's report in which it will complete the legislative actions implied.

District Response #5: As stated previously and in the District's responses above, a new overhead and cost allocation study will be underway in this fiscal year. If need be, overhead costs will be recalibrated. However, history has proven that much of the administrative overhead and related expenses are very similar between LLADs regardless of overall budget size or assessment district complexities. Hence the proportionality of the overhead expenses can seem outwardly to be skewed towards a higher amount for the smaller LLADs.

It can be viewed that the budgeted expenses and allocated overhead costs, across the wide variety of scale and scope of amenities and site improvements of the LLAD, vary widely. The District does not dispute that finding but will note that no two of the LLADs that the District is responsible for are identical. Rather, they reflect the signature qualities and unique nature of each neighborhood as they were developed over time. Many of the comments from the Grand Jury are accurately reflecting the wide and varying nature of all of the LLADs within the District.

The District does not agree with the statement that "tracking actual costs by LLAD is problematic." The District has instituted a consistent and accurate process of capturing actual



Allan Priest, President EDHCS  
 Responses to Grand Jury LLAD Report  
 March 30, 2017  
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costs relating to all aspects of landscape and lighting assessment district expenses. GPS tracking equipment has been installed on District vehicles to exact mileage and staff time to be assigned to each LLAD receiving maintenance work and supervisory attention. Similarly, fuel and utility costs such as water and electricity are now tracked precisely for each LLAD. A new reserve study will be undertaken to insure assets and replacement costs are accurately portrayed. The District utilizes the Browning Reserve Study as a guide for budget development and management for the assets in place to track repairs, additions, replacements and retirements of elements related to each LLAD.

The CSD response in District Response #5 fails to comply with Penal Code sec. 933.05(b)(2) in that it does not clearly state its whole or partial agreement, disagreement with the relevant findings and recommendations, does not state the bases for whatever issue it may be taking with the report. The response is completely unresponsive to the finding of inaccuracy in the Browning Reserve Study, which is the basis for its assessment allocations, nor does it address inaccuracies of the most recent engineering report and thus fails to comply, at all with the code requirement of a response to the findings and recommendations of the report.

District Response #6: The District staff has reviewed all aspects of the SCI Engineers and Browning Reserve Group reports with a critical (sic) eye toward details. If there are obvious (sic) errors and/or misstatements" that the Grand Jury requests be reviewed and possibly corrected, a specific list of these concerns would assist the CSD with such a task.

In the future, the District will commit to post such reports on the District website for public review, with a reasonable comment period, prior to an eventual scheduled District Board of Directors meeting that would contain an agenda item for a public hearing prior to any discussions that would lead to an eventual adoption of said reports.

District staff will be receiving additional training in areas of management practices and budget planning and monitoring in a concerted effort to address the expressed concerns over the need for a more critical eye towards detail and accuracy.

Response #6, fails to respond in the manner required by sec. 933.05(a) and the response seeks to shift the burden of review back to the jury as to the Browning Report when the defects in it were described, at least in part, in the report. Further, this response fails to describe a timeframe for when the "...District will commit to post such reports on the District website for public review... even though such actions are already required under the *Ralph M. Brown Act* (Government Code sections 54950-54963). Lastly, as to Response #6, no timeframe nor plan of action is described for "...additional training in areas of

management practices and budget planning and monitoring in a concerted effort to address the expressed concerns over the need for a more critical eye towards detail and accuracy.”

District Response #7: This finding is not entirely accurate. The funds collected from various park user fees such as picnic shelter reservations, tennis and bocce ball class participation fees, and athletic field rental income are deposited into the Districts (sic) General Fund to offset the significant General Fund subsidy of the two LLADs where some revenue is realized. Those two LLADs are Promontory and Lake Forest Park. From the General Fund source, these revenues do indeed help offset the expenses for maintaining the park improvements.

In the case of Promontory Park, as a Community Park by definition, size and complexity, the General Fund subsidizes the maintenance budget and overhead expenses by approximately 75%. The proportionality of the LLAD funding is justifiable for the direct benefit of the properties being assessed. For Lake Forest Park, the General Fund subsidizes the park's maintenance budget and overhead expenses by approximately 10%. LLAD contribution towards the overall park maintenance budget and overhead expenses are not placed into the Districts (sic) General Fund.

The County collects assessments on the District's behalf and records the funds for each LLAD in individual accounts. The County transfers the monies collected for the LLADs to the District three times per year. Once the District receives this assessment revenue, it is placed in individual restricted funds created for each of the LLADs. These funds are used to offset LLAD expenses for the maintenance of the improvements identified and budgeted with EDH District Board of Directors approval. Again, it should be noted that the District General Fund contributes a significant amount of funding towards the overall maintenance budgets of these two parks that realize some user fee revenue. Promontory Park receives a General Fund subsidy of 75% and Lake Forest Park receives a General Fund subsidy of approximately 10%.

During the course of each fiscal year, there is a monthly transfer of funds from each LLAD to the District General Fund to cover administrative overhead.

The District offers regular opportunities for public review and comment on all aspects of budgets, including LLADs, at the monthly Administration and Finance Committee and regular board meetings. The District would take into consideration the recommendation for the formation of a citizen's advisory group.

Response #7 fails to directly respond to the findings and recommendations of the report as required under Penal Code section 933.05(a). The response does not describe what the CSD agrees with or disagrees with but merely asserts that “This finding is not entirely accurate.” Further verbiage within the response rises to the definition of a “word salad” (“From the General Fund source, these revenues do indeed help



Allan Priest, President EDHCSD  
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offset the expenses for maintaining the park improvements.”) and is unintelligible to the jury. Finally, there is no stated timeframe for the review of the recommendation, and action thereon, for formation of a citizen’s advisory group.

Please prepare and submit conforming responses to the Presiding Judge of the El Dorado Superior Court within thirty (30) days of the date of this letter.

Respectfully,



Milton Mulligan  
Foreperson,  
2016–2017 El Dorado County Grand Jury

APPENDIX II: May 1, 2017 letter to Suzanne N. Kingsbury, Presiding Judge of the Superior Court from Kevin A. Loewen, General Manager, El Dorado Hills Community Services District

May 1, 2017

The Honorable Suzanne N. Kingsbury  
Presiding Judge of the El Dorado County Superior Court  
1354 Johnson Road  
South Lake Tahoe, CA 96150



Subject: El Dorado Hills Community Services Responses to Grand Jury Report 15-03, LANDSCAPE AND LIGHTING ASSESSMENT DISTRICTS IN EL DORADO HILLS and Subsequent Letter Dated: March 29, 2017.

Judge Kingsbury:

Pursuant to Penal Code (PC) Section 933.05(a)(b), the following includes the El Dorado Community Services District's (District) direct and concise responses to the seven (7) findings and 7 recommendations provided in the Grand Jury Report #15-03 (dated: 6/2/16). The general comments and explanations included in the District's prior response (dated: 9/2/16) are largely still relevant and appropriate in providing background and context to each finding. However, as requested in the subsequent Grand Jury letter (dated: March 29, 2017), the District is addressing each finding below within the specific statutory requirements and, where necessary, we are providing further information and clarification.

As described in the clarifications and discussions provided during the investigation, in the District's previous responses, and enhanced with the responses below, the District has undertaken significant efforts to bring clarity, transparency, and improved financial management and tracking measures to the LLAD management process. We, as a Board, and organization's staff take the LLAD management very seriously and recognize that improvements to the very complex process would make both transparency and public understanding better. We are confident the new and ongoing procedures will continue to provide our constituents with the confidence that LLADs are managed to meet the important needs of the community.

As a revised approach to our prior response and to address specific requirements of PC Section 933, we have organized our responses below by "findings" and "recommendations".

### Findings

#### F1. Oversight of the LLAD Assessment Process is Lacking

Response Per PC 933.05(a)(2): The Respondent disagrees partially with the finding.

Clarification/Discussion: The District recognizes that, during the period prior to and during the Grand Jury investigation in 2015-16, there were a number of areas for evolution and needed management improvement, however not the entire program oversight. Therefore, we disagree with the broad nature of the finding above regarding the oversight of the entire and highly complex LLAD process. Per



PC Section 933.05(b)(3), further details and clarification of specific past and present actions for improvements are provided in the responses to applicable Recommendations below.

F2. Assessments vary significantly from year to year with little or no rationale provided for the changes.

Response per PC 933.05(a)(1): The Respondent agrees with the finding.

F3. The total fund balances are growing year over year. Some LLADs have fund balances of nearly 400% of expected expense with no explanation as to why such large balances are warranted or necessary.

Response per PC 933.05(a)(1): The Respondent agrees with the finding.

Clarification/Discussion: Total fund balances may grow year over year, while some fund balances have decreased. Fund balances, (i.e., Reserves) have varying percentages when compared against operational expense needs, and the explanation for why there are reserve balances has not been included, explicitly, in budget narratives. Future explanations will provide the Board and public with greater clarity and transparency regarding balances.

F4. CSD Employees were not forthcoming with the grand jury particularly when questioned about the fund balances and the characterization thereof – reserves versus surpluses.

Response per PC 933.05(a)(2): The Respondent disagrees wholly with the finding.

Clarification/Discussion: District staff answered all questions during interviews and in follow-up emails. Employees are directed to respond honestly and to be forthcoming, especially for a Grand Jury investigation/interview.

F5. Allocation of CSD overhead among the LLADs does not have an ascertainable rationale. Budgeted expenses and allocated overhead costs are inconsistent and vary widely between LLADs. Tracking actual costs by LLADs is problematic.

Response per PC 933.05(a)(2): The Respondent disagrees partially with the finding.

Clarification/Discussion: This is a multi-faceted finding and the District disagrees with some portions of it as described below:

The respondent disagrees wholly with the following segments of this finding: "*Allocation of CSD overhead among the LLADs does not have an ascertainable rationale. Budgeted expenses and allocated overhead costs are inconsistent*". The District possesses and utilizes an overhead study that captures the expense values above and beyond hourly wages for work performed by District employees. The current study is accurate, yet the District has issued a request for proposal for an updated study and expects to award that work by September 1, 2017. The resulting report will be available for public review and comment, pursuant to Board policy and procedures.

The District agrees with the finding segment: "*and vary widely between LLADs*". All LLADs vary in size, shape, assets, etc., thus it is natural for overhead costs to vary widely, narrowly, or otherwise.

The District agrees with the finding segment: "*Tracking actual costs by LLAD is problematic*".

F6. The SCI Engineer's and Browning Reserve Group reports contain very obvious errors and/or mis-statements that need to be examined by CSD staff with a critical eye toward detail.

Response per PC 933.05(a)(2): The District partially disagrees with this finding.

Clarification/Discussion: The District can only partially disagree with this finding as it is general and a bit vague. Applicable to this finding, we do understand some of the clerical items and consistency issues identified on page 7 (*Observations*) in the Grand Jury report and will continue our processes for thorough review and clarity in future professional reports commissioned by the District.

Further, in future reports, the District will ensure improved clarity and details, where appropriate. For instance, on page 7 of the 2016 Grand Jury Report there is a reference to LLADs that "do not, in fact, even exist," in regards to Hawk View and Bell Ranch LLADs. Those are pre-established LLADs that have been formed in advance of the subdivision being built. When homes in that subdivision are built the LLAD may either be activated or be maintained as a shell LLAD if an HOA is tasked with maintaining the specified improvements. This sort of LLAD formation in advance of homes being built is typical and a best practice.

F7. Fees collected by the CSD for usage of improvements within various LLADs are put into the CSD General Fund and not used to offset LLAD expenses for maintaining those improvements.

Response per PC 933.05(a)(2): The District disagrees partially with this finding.

Clarification/Discussion: When picnic rentals or other fee-based programs generate revenue, it is accurate that the revenue is applied to the General Fund. It is also true that every LLAD is subsidized by the General Fund, whereby a calculation of the specific benefit obtained by LLAD members is levied as their fee assessment, and the general benefit is the subsidization. To provide clarity, the fiscal year ending 2015 General Fund subsidy, in comparison to revenue received by each LLAD that has recreation program or facility revenue is provided in the table below.



LLAD Description	Property Assessment & Interest	General Fund Contribution	Field Rental Revenue	Picnic Rental Revenue	Recreation Programming Revenue
Promontory/Kalitheia	\$217,382.37	\$301,214.00	\$ 42,997.25	\$ 6,362.50	\$105,315.
Laurel Oaks/Hollow Oaks	\$38,792.75	\$5,176.00	\$ -		
Wild Oaks	\$37,385.12	\$7,007.00	\$ -		
Silva Valley	\$85,639.26	\$12,701.00	\$ 10,798.00		
Creekside Greens	\$95,072.47	\$13,098.00	\$ -		
Highland View	\$55,882.82	\$7,540.00	\$ -		
Valley View	\$0.00	\$9,894.00	\$ 8,029.50		
Lake Forest	\$116,001.34	\$11,158.00	\$ -	\$ 445.00	
Windsor Point	\$23,735.66	\$3,181.00	\$ -		

Essentially, the funds collected by fees are in fact offsetting expenses for maintaining improvements.

#### Recommendations

**R1. When assessments vary significantly from one year to another, the CSD should explain the rationale for the change.**

Response per PC 933.05(b)(1): The District has implemented this recommendation. During the course of fiscal year 2017-18 budget development, the draft preparers have been charged with providing greater detail related to LLAD assets and variances in maintenance/assessments. That draft budget, with enhanced LLAD descriptions will be presented to the public and the Board of Directors by July 1, 2017.

**R2. The CSD should continue its recent efforts to accurately record costs by LLAD and determine a more equitable way to allocate overhead.**

Response per PC 933.05(b)(1): The recommendation for continuing efforts for allocation of overhead has been ongoing and thus, it has been implemented. The recommendation for determining a more equitable way to allocate overhead is partially not warranted, as stated in the response to Finding #5 and described here. The District possesses and utilizes an overhead study to apply overhead costs. The District has recently issued a request for proposal for an updated study and expects to award that work by September 1, 2017, but it would be premature to set a deadline for the yet-to-be awarded contractor/consultant's completion of such work. The results will be published for public review and comment and archived pursuant to District policy.

**R3. Excessive fund balances should be reduced to a more acceptable percentage of expected future costs.**

Response per PC 933.05(b)(4): The recommendation will not be implemented because it is not warranted, as explained in Finding #3. Yet, the amount set aside in reserve funds (*fund balances*) will likely change as the District updates its asset replacement schedule. The District is currently soliciting requests for proposals to update that critically important schedule. It is anticipated that the award of that work will occur by August 1, 2017, however, it would be premature to set a deadline for the yet-to-be awarded contractor/consultant's completion of such work. The results will be published for public review and comment and archived pursuant to District policy.

**R4. The CSD should fully comply with the provisions of §22660 of the Landscaping and Lighting Act and clearly disclose in a resolution when an LLAD is accumulating funds for a future expenditure that is too costly to be paid for out of a single year's assessment.**

Response per PC 933.05(b)(1): This recommendation has been implemented, as the District will continue to comply with all applicable provisions of §22660 of the Landscaping and Lighting Act. As the District initiates the public notification and hearing process for the fiscal year 2017-18 budget, our Board and Staff will ensure that updated LLAD descriptions and resolutions accurately detail this compliance. Those public hearings are scheduled to occur by July 1, 2017.

**R5. A new reserve study should be undertaken to ensure assets and replacement costs are accurately portrayed and a mechanism put in place to track repairs, additions, replacements and retirements.**

Response per PC 933.05(b)(1): This recommendation has been implemented. As described in the response to Finding #3, the District is undertaking a new asset replacement schedule and reserve study this year. The District is currently soliciting requests for proposals to update the asset replacement schedule. It is anticipated that the award of that work will occur by August 1, 2017. The results will be published for public review and comment and archived pursuant to District policy.

**R6. The LLAD Engineer's report should be reviewed by staff for accuracy and should be posted to the CSD website for public review for a reasonable period prior to adoption by the EDH CSD Board of Directors.**

Response per PC 933.05(b)(2): The recommendation has not yet been implemented, but will be implemented by July 1, 2017. For instance, as the current fiscal year 2017-18 budget process develops, the preliminary and adopted Engineer's report(s) will be made available on the District website as part of the public notification and posting process for the Board meetings in June 2017. Any public comments or suggestions on the preliminary report will be considered and, as appropriate, incorporated into the final report. The archive of those postings will remain on the District website.

**R7. The EDH CSD Board of Directors should consider the formation of a citizen's advisory group composed of residents in LLADs to review budgeted and actual costs while providing guidance to the board.**



Response per PC 933.05(b)(1): The District Board has implemented this recommendation by considering and agreeing to form a citizen's advisory group. The formation of the advisory group has been tasked to District Staff, with an expected solicitation of community member involvement and committee formation by September 1, 2017. Recommendations and results of the advisory group meetings and reviews will be provided to the Board, staff and public for consideration and appropriate action.

Hopefully, the responses and the information contained in this letter address the remaining questions and issues most recently posed by the Grand Jury. As described, our organization is committed to accurate and transparent management of our LLAD processes and will continue our efforts in this area. Should you have questions or require additional information, please contact our General Manager, Kevin A. Loewen at (916) 933-6624 or via email at: [kloewen@edhcsd.org](mailto:kloewen@edhcsd.org).

Sincerely,



Kevin A. Loewen  
General Manager

Cc: Allan J. Priest, Board President  
Billy Vandegrift, Vice President  
Wayne Lowery, Director  
Noelle Mattock, Director  
Ben Paulsen, Director  
File

APPENDIX III: April 3, 2017 letter to John D'Agostini, Sheriff of El Dorado County from the El Dorado County Grand Jury who provides information to the Grand Jury.

**El Dorado County Grand Jury** 2016-2017



P.O. Box 472  
Placerville, California 95667  
(530) 621-7477 Fax: (530) 295-0763

April 3, 2017

Hon. John D'Agostini  
Sheriff of El Dorado County  
300 Fair Lane  
Placerville, CA 95667

Re: Response of the El Dorado County Sheriff to 2015-2016 Grand Jury Report, Case No. 15-11, Published June 9, 2016

Dear Sheriff D'Agostini:

The 2016-2017 El Dorado County Grand Jury has received and reviewed the responses submitted by you to the report of the 2015-2016 El Dorado County Grand Jury's investigation, Case No. 15-11, titled EL DORADO COUNTY JAILS INSPECTION, published on June 9, 2016. The Grand Jury has found, at plenary session, that the following response fails to comply with the requirements of California Penal Code § 933.05, and thereby directs you to make and transmit to the Presiding Judge of the Superior Court, a further response that does meet the requirements of law within 30 days of the date of this letter.

Sheriff's Response to Recommendation R1:

**The recommendation requires further analysis**

This analysis is currently underway, through a needs assessment being completed by Vanir Construction Management.

**Grand Jury Analysis:** The foregoing fails to comply with PC § 933.05(b)(3) in that it fails to describe, with substantial specificity, an explanation of the scope and parameters of the analysis of the issues raised and a time frame, not exceeding six months from publication of the jury's report on June 9, 2016, for completion of that analysis referred to.

Sincerely,

A handwritten signature in cursive script that reads "Milton Mulligan".

Milton Mulligan  
Foreperson,  
2016--2017 El Dorado County Grand Jury

mm/gw

cc: Hon. Vicki Ashworth, Judge of the Superior Court  
Hon. James R. Wagoner, Judge of the Superior Court