

**Grand Jury Report
RESPONSE FORM**

RE: Report Titled: *Lobbies, Lawsuits and Legislation*

Report Dated: June 3, 2010

Response Form Submitted By:

Janet K.F. Pauli, Chair
Mendocino County Inland Water and Power Commission
P.O. Box 1247
Ukiah, CA 95482

Your Response is REQUESTED no later than: September 4, 2010

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- I (we) agree with the Findings numbered:
6, 8, 15, 16
- I (we) disagree wholly or partially with the Findings numbered below, and have **attached, as required**, a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.
1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, 14,

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- The following Recommendation(s) have been implemented and **attached, as required**, is a summary describing the implemented actions:
Implementation not applicable to the MCIWPC, however we have attached our comments.
- The following Recommendation(s) have not yet been implemented, but will be implemented in the future, **attached, as required** is a time frame for implementation:

- The following Recommendation(s) require further analysis, and attached as required, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
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- The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable, attached, as required is an explanation therefore:
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I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: 5

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.co.mendocino.ca.us/grandjury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail (word documents or scanned pdf file format) to:

- The Grand Jury Foreperson at: grandjury@co.mendocino.ca.us
- The Presiding Judge: grandjury@mendocino.courts.ca.gov
- The County's Executive Office: ceo@co.mendocino.ca.us

Second Step: Mail all originals to:

Mendocino County Grand Jury
P.O. Box 939
Ukiah, CA 95482

Printed Name: Janet K.F. Pauli

Title: Chair, Mendocino County Inland Water and Power Commission

Signed: 

Date: September 1, 2010

Mendocino County
Inland Water and Power Commission
P.O. Box 1247
Ukiah, CA 95469
<iwpc@mendoiwpc.com>

Response to the Grand Jury Report "Lobbies, Lawsuits and Legislation", June 4, 2010

Response to Findings:

1. Partially disagree. The Federal Energy Regulatory Commission (FERC) produced a Final Order for the Potter Valley project in 2004, not 2009. This Final Order was based on NOAA's Biological Opinion and their Reasonable and Prudent Alternative (RPA). The water diversion controls were placed on releases via the Potter Valley Project from the Eel River, not from Lake Mendocino. The entire Potter Valley Project License Amendment Proceedings took over 20 years to complete and, during that time, cursory analyses regarding the impact of flow changes to the economy of Potter Valley agriculture were performed by FERC. No in depth analyses of economic impacts to the entire County of Mendocino were done. No analyses of the impact of NOAA's RPA were ever made.
2. Partially disagree. Water velocity was not the reason for the decrease in flows. The decrease in releases were to help maintain water storage in Lake Mendocino.
3. Partially disagree. FERC, after years of studies and analyses, combined with the NOAA Biological Opinion and RPA, reduced the flows from the Potter Valley Project (Project No. 77, not decision 77), by over 40%. The original estimation of the flow reduction was 15%. Because of this discrepancy the MCIWPC has asked FERC to review the impacts of their Final Order. The issue of the Friends of the Eel River petition to the SWRCB is not related to the FERC Final Order, however it potentially could have impacted the flows through the Potter Valley Project by curtailing the water rights of Pacific Gas and Electric Company, who holds the hydroelectric power production license for the Project.
4. Partially disagree. This finding is correct, but incomplete, in that it fails to state that the ACOE project has, as secondary purposes, water supply, recreation and environmental resources.
5. Partially disagree. The RRFCD holds an 8,000 acre foot water right in Lake Mendocino. Redwood Valley County Water District has the right to divert a certain number of acre feet from

Lake Mendocino in the winter. The SWRCB has granted water rights, for part of the water released from Lake Mendocino, to other land owners along the Russian River.

6. Agree, however note our comment for Finding Number 4.

7. Disagree. The independent report that the Grand Jury refers to was produced specifically for the SWRCB and reflects the agricultural related production, receipts and payroll for 2008 for the Russian River watershed, from Redwood Valley to Hopland, for crops that require frost protection water. This report does not include all of the other crops in the Russian River watershed. It does not include any crop production in Potter Valley or any of the agricultural production in the rest of the County of Mendocino.

8. Agree.

9. Partially disagree. Farmers are constructing off stream storage ponds, to store water for frost control and irrigation, to mitigate the instantaneous draw down of the Russian River and other tributaries.

10. Partially disagree. It is correct that there is no centralized governance over the management of water in Mendocino County. In the Russian River watershed the Mendocino County Inland Water and Power Commission, a Joint Powers Authority, was formed to protect the mutual water supply and work towards procuring water to provide water supply security for its member agencies. The MCIWPC member agencies are the County of Mendocino, City of Ukiah, Mendocino County Russian River Flood Control and Water Conservation Improvement District, Redwood Valley County Water District and Potter Valley Irrigation District. The MCIWPC has provided a strong voice for these agencies in the FERC Proceedings for the License Amendment for the Potter Valley Project and is currently the Local Sponsor with the ACOE for the Feasibility Study being prepared for increasing storage at Lake Mendocino. The MCIWPC was not formed to usurp the individual management of existing water agencies, each of which have acquired separate water rights and provide water to their customers for either municipal, domestic or agricultural purposes, or some combination of these purposes.

11. Partially disagree. SCWA evolved under very different circumstances than the small water districts in the Russian River watershed in Mendocino County. It is difficult to compare the SCWA with any other water agency in, say, Humboldt or Mendocino County. These northern counties have multiple, unconnected, watersheds that have required the development of water supply infrastructures specific to each disparate geographical area over different time frames. The SCWA basically has the Russian River system from Lake Mendocino to the confluence with Dry Creek, the water stored in Lake Sonoma and released down Dry Creek, and the water that flows from the Dry Creek confluence down the main Russian River to their collectors, as a water

source. SCWA was formed in the 1950's (as the two ACOE projects at Lake Mendocino and Lake Sonoma were being planned), they perfected water rights, and they have grown in stature with the sale of their water to the rapidly growing communities. Yes, they speak with one powerful political voice. But it takes more than a wish to have a single powerful political voice...it takes a large population of people, **dependent upon the same water source**, who pay for their water, to staff an entity as large as the SCWA. It also takes the willingness, and the ability of the people to pay higher rates. Our local water agencies evolved to provide water as very small areas developed the need for domestic or agricultural water. They hold separate water rights, have separate water treatment facilities where needed, and separate water delivery systems in place. The MCIWPC was attractive to the independent water purveyors in the Russian River watershed specifically for that reason...their independence was protected while they could come together to discuss mutual concerns, speak with a united voice to protect our shared water supply, look forward to developing water resources and share the cost of legal expenses.

12. Disagree. We can't speak for all of the County water districts however, in meetings of the MCIWPC, it is clear that our member agencies, that deliver water to rate payers, effectively manage their businesses and budget yearly for capital improvements. Our member agencies that deliver domestic water are required by the California Department of Health Services to provide safe drinking water. If their installations and equipment are "undersized or outmoded" we assume that they would be required by law to correct the deficiencies. To fund major water supply projects, such as increasing storage at Lake Mendocino, will require the united effort of all of the agencies that would benefit. That was one of the primary purposes of forming the MCIWPC. It is currently the Local Sponsor with the ACOE on the Coyote Valley Dam Flood Damage Reduction and Water Supply Study.

13. Partially disagree. Due to the geography of the County, a comprehensive water sharing plan between watersheds would take tremendous funding capabilities and engineering efforts. We are unaware of any plans to study a county wide water sharing plan at this time. In the Ukiah Valley some of our member agencies have emergency, and non emergency, water supply and inter-tie agreements that have been in existence for many years. Potter Valley Irrigation District has had a self imposed land annexation moratorium in place for since the mid 1990s.

14. Partially disagree. We believe that each of our County water districts is already offering a valuable service to its customers. The knowledge gained by each district is certainly of value to the County as a whole. All of the existing water districts within the County have not, to date, come together to discuss the value, or necessity, of developing a single overarching water management entity.

15. Agree.

16. We agree with the statement regarding LAFCO. Unable to comment on the rest of this finding due to lack of information regarding the specific water district being discussed or detailed information regarding each County water district.

17. This finding should be addressed by the City of Ukiah.

18. This finding should be addressed by the City of Ukiah.

Response to Recommendations:

The Mendocino County Inland Water and Power Commission is a Joint Powers Authority. As such we cannot implement these recommendations as this is the job of each individual Member Agency to discuss and decide the proper course of action. However, we would like to make some general comments regarding the recommendations.

1. The MCIWPC is a Joint Powers Authority that has been in existence since 1996. It was formed to combine the political strengths of several inland water districts, the major Mendocino County water rights holders in the Russian River watershed, the City of Ukiah and the County of Mendocino. We don't believe that another JPA is necessary and are not sure that another JPA could legally "work with LAFCO to develop a unified organization... ". It is inaccurate to suggest, by recommending the formation of a new "consolidated authority", that all of the existing County water districts are unable to meet their needs in a "consistent and professional manner".

2. We do not believe that the limited staff of the Mendocino County Water Agency, which is underfunded, has no water rights, has never developed water delivery infrastructure and has no rate payer base can "provide leadership in the process of consolidating water districts". We have always wished that the Mendocino County Water Agency could be funded and staffed sufficiently to provide County wide assistance to existing water districts specifically for helping us with information dissemination, expertise in water conservation, watershed monitoring, engineering, public awareness, grant writing and legislative assistance.

3. No comment as this recommendation is directed specifically to the City of Ukiah for discussion. However, the issue of alternative uses for treated wastewater is timely, and will be critically important for the entire County in the very near future.

4. The comparison of a new JPA, or otherwise described "unified organization", to the Upper Russian River Stewardship Alliance is not appropriate. The URSA was formed as a MOU between the Mendocino County Farm Bureau, Mendocino County Russian River Flood Control

and Water Conservation Improvement District and the California Land Stewardship Institute specifically to address the imminent threat of the loss of agricultural water for frost protection.

5. The operation of Coyote Valley Dam is being examined and the ACOE Feasibility Study, titled "Coyote Valley Dam Flood Reduction and Water Supply Study", is underway with the MCIWPC as the Local Sponsor. Currently, there is an ongoing discussion of the integration of the Feasibility Study with dam safety concerns. As in the past, the multipurpose functions of Lake Mendocino will be integral to all future decisions.