

The Mendocino County Grand Jury (MCGJ) requested responses to specific findings from Hopland Public Utility District (District) to the Draft Grand Jury Report dated entitled "Lobbies, Lawsuits and Legislation". The following are the District's responses:

**HOPLAND PUBLIC UTILITY DISTRICT
151 LAWS AVENUE
UKIAH, CA 95492**

AUGUST 12, 2010

I. GRAND JURY FINDINGS

FINDING #1. Beginning in 2009, NOAA issued a biological opinion which placed flow controls on water releases from Lake Mendocino in order to protect endangered salmonids, without regard to the needs of local farmers and the economy of the region.

RESPONSE TO FINDING #1: The District agrees with Finding #1.

FINDING #2. On November 18, 2009, the NOAA forced SCWA to reopen the 1986 Decision 1610 by Spring of 2011 to decrease the flow of water from Lake Mendocino to reduce velocity in the Russian River, from 185 cubic feet/second to 125 cubic feet/second.

RESPONSE TO FINDING #2: The District agrees with Finding #2 in part and disagrees with that finding in part.

The District agrees that NOAA issued a directive on November 18, 2009. We disagree that SCWA has the authority to "reopen" Decision 1610. The District disagrees with the characterization of the directive as "forced". It is the District's understanding that the State Water Resources Control Board (SWRCB) has retained the jurisdiction to revisit the stream flow. It is the District's understanding that the SWRCB is considering that directive at this time. It is the District's understanding that both the Mendocino County Water Agency (MCWA) and the Russian River Flood Control Water Conservation and Improvement District (RRFCD) argued at the 1986 hearings that the stream flows were set too high and that the high flows adopted by D1610 would cause environmental damage to the Russian River. It is the District's understanding that the evidence since then has led NOAA to conclude that such environmental damage has occurred. It is the District's understanding that decreased stream flows during the spring and summer months will work to the benefit of the Mendocino County users of Russian River water by making the reservoir more reliable and will benefit the riparian ecology without adversely affecting Russian River water users in Mendocino County so long as the gauge that is used to calculate releases from Lake Mendocino is the gauge below Hopland. The District disagrees with the characterization that a reduced flow will reduce "velocity" in the Russian River. It is the District's understanding that the change will, however, reduce the volume of water released from the lake in a defined time period (ie in cubic feet per second).

FINDING # 3. The FERC restricted the flow into the Eel River diversion canal, Decision 77, reducing the flow into Lake Mendocino by approximately 33%. Friends of the Eel

River filed a petition with the SWRCB to eliminate all diversions of water from the Eel River.

RESPONSE TO FINDING #3:

The District has no opinion with respect to part of this finding and agrees with part of this finding and disagrees with part of this finding as follows:

It is the District's understanding that FERC reduced diversions from Van Arsdale Reservoir into the tunnel that leads to PG&E's powerhouse in Potter Valley. The District has no specific information about how that reduction has affected the flow in to Lake Mendocino. It is the District's understanding that determining the flow from the Eel River Diversion as a percentage of the total flow into Lake Mendocino would be accomplished by dividing the total flow from the tail race of the power house by the total flow into Lake Mendocino. The District has not made that calculation. The District has not been served with a copy of the petition filed by the Friends of the Eel River referred to and therefore has no facts upon which to base a response to that comment.

FINDING #4. Lake Mendocino was originally built for flood control. Control of water release is based on date and/or storage level. These agencies have control: Corps, RRFCD, and SCWA.

RESPONSE TO FINDING #4

The District agrees in part and disagrees in part with this finding. It is the District's understanding that one of the reasons for the construction of Lake Mendocino was for flood control purposes but the District also believes that water supply and recreation at the lake were also purposes for that construction and they are purposes recognized in the SWRCB's decisions relating to that facility. The District agrees that during certain periods of the year the Corps controls releases for flood control purposes. The District agrees that SCWA and RRFCD have entered into an agreement whereby SCWA is responsible for directing releases from the lake pursuant to a release schedule authorized by the SWRCB but that neither SCWA nor RRFCD "control" those releases.

FINDING #5. Mendocino County and RRFCD, have rights to only 8,000 acre feet per year from Lake Mendocino regardless of lake level. SCWA has majority rights to the water in Lake Mendocino, (37,544 acre feet/year). They sell water to Mendocino,

RESPONSE TO FINDING #5

The District agrees in part and disagrees in part with this finding. It is the District's understanding that the RRFCD has an 8000 acre foot right in the waters impounded in Lake Mendocino. It is the District's understanding that SWRCB D1030 recognizes that Mendocino County water users have a right to an additional 8100 acre feet of water from the Russian River as Pre 49 users. It is the District's understanding that many post 49 water appropriations have been granted to individual Mendocino County water users as well. It is the District's understanding that two of the Sonoma County water rights are subject to being cut depleted by subsequent applications for water in Mendocino County except on the East Fork of the Russian River down stream from Lake Mendocino. It is the District's understanding that the Redwood

Valley County Water District has a 4500 acre foot winter water right in Lake Mendocino. It is the District's understanding that Potter Valley Irrigation District has a substantial right to use water that is released from the PG&E powerhouse. The quantity and nature of that use is unknown to the District. It is certainly possible that the combined uses in Mendocino County of the Eel River diversion water and the water in the lake exceed the SCWA's water right. It is this District's understanding that the SCWA water right in Lake Mendocino is 37,544 acre feet per year but that the SCWA has other rights to divert the Russian River stream flow which are subject to diminishment as noted above. This District has no knowledge of any sale of water by SCWA to Mendocino County. This District has no knowledge of any sale of water by SCWA to any agency or person inside Mendocino County except there is some sort of contract between RVCWD and SCWA the nature and extent of which is unknown to this District. It is the understanding of this District that SCWA does sell water to users in Sonoma County and Marin County and at one time provided water to East Bay Municipal Utility District by way of a pipeline on the San Rafael Richmond Bridge but this District has no information about the nature and extent of those sales.

Sonoma, and Marin Counties.

FINDING #6. The Corps has used the same manual to govern the management of the dam since the 1950's. The dam's original purpose was flood control.

RESPONSE TO FINDING #6

This District disagrees in part and has no basis for an opinion in part regarding this request. The District has no basis for an opinion about the statement concerning the date of the Corps manual or the nature of the use of that manual by the Corps. The District disagrees with the statement that the sole purpose of the reservoir was flood control and provided the basis for that disagreement above.

FINDING #7. An independent report to the SWRCB on November 18, 2009, stated that Mendocino County agricultural related production, receipts, and payroll for 2008 accounted for \$458 million

RESPONSE TO FINDING #7

This District has no basis for agreeing or disagreeing with this finding. This District has not reviewed the "independent report to SCWA" referred to in the finding.

FINDING #8. URSA, RWVD, and RRFCD jointly installed USGS gauges in the river at Talmage to monitor water flow and frost control draw downs from the Russian River.

RESPONSE TO FINDING #8

This District has no basis for agreeing or disagreeing with this finding. This District has

no information concerning the placement of the gauge referred to in the finding, or who placed that gauge, or the purpose of that gauge.

FINDING #9. Farmers are constructing ponds on their properties to store water for frost control and irrigation, to mitigate the drawdown of river water.

RESPONSE TO FINDING #9

This District agrees with the finding in part and disagrees in part. It is clear that some farmers have built ponds and some have not. This district has no information which would explain the purposes of those ponds but assumes that they were built for frost control and irrigation purposes and that a review of the applications, permits and licenses on which those reservoirs are based would provide that information. This District has not made such a review. This District understands that if the ponds are to be utilized by those farmers to pump to storage and then from storage to their fields either for irrigation or frost protection purposes and that this is done as a replacement for pumping directly from the river to their fields, then the quantity of water diverted is likely to be the same but the quantity diverted at any one time may decrease.

FINDING #10. There is no centralized governance over the management of water in this County and no one agency speaks for the water needs of this County. The MCWA, a special district created by the State Legislature, has no water rights and little authority or funding.

RESPONSE TO FINDING #10

This District agrees with the finding in part and disagrees in part. It is the District's understanding that one of the specific purposes for the establishment of the Inland Water and Power Agency, a Joint Powers Authority, was to establish in that agency the authority to speak for the water needs of the Russian River corridors in this County and to represent those interests in all forums outside the County. It is this District's understanding that there is no central management of water in this County. It is this District's understanding that the Russian River Corridor's water works is well managed by the agencies charged with managing these facilities. It is this District's understanding that the areas lying inside that corridor have significantly differing needs, desires than areas outside the corridor and that citizens of the County living outside that corridor are understandably reluctant and perhaps even unwilling to share the cost of developing new water projects to users within the Russian River corridors. This District has no information that would assist it in understanding the water rights of the MCWA or lack thereof. This District has no information that would assist it in understanding the authority or funding of the MCWA but has no reason to believe that the MCWA has authority over this District nor should it.

FINDING #11. This County is at an extreme disadvantage communicating its needs with regulatory agencies, because there are many entities with competing interests, voices, and territorial disputes. Sonoma County is successful; they control more water and speak with one powerful voice.

RESPONSE TO FINDING #11

This District agrees in part and disagrees in part with this finding. It is the understanding of this District that The Inland Water and Power Agency does have the authority to speak with one voice outside the county and indeed that was one of the primary purposes of setting up that JPA. This District is aware of the fact that there are many water purveyors, public and private, in the Russian River Corridor. This District is not aware of any of the water purveyors in the Russian River Corridor with competing interests, voices or territorial disputes. This District is not aware of any overlapping territory, territorial disputes. This district understands that LAFCO has maps and descriptions of the territory of all water purveyors in the corridor. This District is aware of cooperation between potable water purveyors that has resulted in emergency inter-ties between the various water purveyors that make possible the supplying of potable water to all water purveyors in the corridor (except PVID and RRMWC and HPUD) in the event of an emergency. The only reason PVID and RRMWC and HPUD have not been included in the inter-ties is that they are all located a long distance from the other agencies. Cooperation is the norm among water purveyors in the corridor rather than the exception that this finding implies. In fact, the Willow C.W.D. has been managing this District water and sewer works off and on for the past 25 years..

This District is not aware that SCWA is more successful than the agencies within the Russian River Corridor in Mendocino County. This District believes, but has not collected data to support that belief, that this District, and perhaps all of the potable water purveyors in the Russian River corridor in Mendocino County, have provided as high a percentage of their residents, or more, with clean safe water at reasonable prices, as does any purveying agency in Sonoma County. As noted above it is not clear that SCWA controls more water from the Russian/Eel rivers than the agencies in Mendocino County. It is true that SCWA speaks with one voice for Sonoma County water issues but the various purveyors of water in Sonoma County have the right to air their views and do so. This District understands that there are a number of issues about which the purveyors and SCWA disagree.

FINDING #12. County water districts lack the funding they need for effective management and capital improvements. Many of their installations and equipment are undersized and outmoded. Their limited number of rate-payers makes it impossible to fund needed improvements, such as water storage and conveyance.

RESPONSE TO FINDING #12

The District disagrees with this finding. This District pays its bills, always has, and has absolutely no reason to believe that it cannot do so in the future. A statement that this district lacks effective management is patently false. A statement that this District cannot pay for needed capital improvements is patently false. This District believes that its installations and equipment are in fact properly sized and up to date. A statement that the installations and equipment of this District are undersized and outmoded is patently false, per the California Department of Health Services. The fact that the Grand Jury doesn't know this indicates the incompetence of this report. The statement that this District is unable to fund needed improvements such as water

storage and conveyance because of its limited number of rate-payers is false because we have specifically funded both.

This District has completed a 3 million dollar water system capital improvement project which included. Replacement of old water mains and increase water storage by 800 %.

This District has also completed sewer treatment plant improvement / expansion project. This District received special recitation from the Calif. Regional Water Quality Control Board for outstanding achievement.

FINDING #13. There is no comprehensive plan for water sharing within the County. Millview and RVWD have instituted moratoriums on new hookups.

RESPONSE TO FINDING #13

This District agrees and disagrees with this finding. The purveyors of water from RVCWD on the north to this District on the south have entered into emergency water supply and inter-tie agreements. Those agreements have existed for many years. It is now physically possible to move water from south of Talmage to Tomki Road or from Redwood Valleys system to Burke Hill without having to resort to fire hose connections or water trucks. Those agreements show that the purveyors in the Russian River corridor, have gone to great lengths to assure the citizenry with potable water in an emergency. The system of hard inter-ties and inter-tie agreements is a model for all communities everywhere. The finding is incorrect when it states that there is not permanent agreement for sharing of water on a non emergency basis within the corridor. Millview CWD and the Calpella CWD has had a non emergency water sharing agreement for the past 20 years.

It is this Districts understanding that MCWD and RVCWD have State imposed water moratoriums on new connections.

FINDING #14. Each of the small districts has something to offer that could be shared and utilized for the good of County water users.

RESPONSE TO FINDING #14

This District agrees with this finding to the extent that it states that there is an agency that wants something from the water purveyors, but the thing that this District thinks that agency wants is not what this report implies it wants. This report implies that what this agency wants is what can be "shared and utilized for the good of County water users." This District thinks that this agency wants to take over the water purveying business in the Russian River corridor so that it can beef up the budget of its Water Agency and perhaps use "excess funds" from the sale of water to pay its general fund obligations or its pension and health fund obligations.

This agency has launched an attack on the successful purveyors of water through the guise of this one sided and incompetently drawn Grand Jury Report entitled "Lobbies, Lawsuits and Legislation". The intent of the report, however incompetent, is obvious. This agency wants to get its hands on the ratepayers money.

This District suggests that this agency stop attributing their faults and failures to the real water men and women and agencies that have actually been meeting their customers needs for more than a half century.

FINDING #15. LAFCo is legally mandated to study and evaluate current operations of local governments/special districts in order to discourage overlapping jurisdictions and duplication of services.

RESPONSE TO FINDING #15

This District has not spent the time or its ratepayers money to determine if this finding is accurate or not. LAFCO'S mandates, duties, responsibilities and jurisdiction are set forth in its enabling statute. Nothing this District says can change that.

FINDING #16. LAFCo sets guidelines for the merger of districts and encourages small districts to restructure into a viable entity. One water district manager is now serving three of these small districts. All districts still maintain a Board of Directors, individual budgets, policies and procedures.

RESPONSE TO FINDING #16

This District disagrees with part of this finding and agrees with part of it.

This District has not spent the time or its ratepayers money to determine if this finding is accurate or not. LAFCO'S mandates, duties, responsibilities and jurisdiction are set forth in its enabling statute. Nothing this District says can change that.

It is the Willow CWD not its manager that operates a cost sharing service agreement with this District.

FINDING #17. The City of Ukiah produces approximately 4,000 acre feet of treated waste water each year, currently stored in percolation ponds near the Russian River.

RESPONSE TO FINDING #17

This District does not have information about the subject of this Finding and therefore has no comment on this Finding.

FINDING #18. In 2002, City of Ukiah staff claimed that they were exploring the possibility of using treated waste water for the Municipal Golf Course, city parks, and the Ukiah Cemetery District. In the 2002-2003 GJ Final Report, Recommendation C, was to continue efforts to use treated waste water for the Municipal Golf Course, City Parks and the Cemetery District.

RESPONSE TO FINDING #18

This District does not have information about the subject of this Finding and therefore has no comment on this Finding.

II. GRAND JURY RECOMMENDATIONS

Recommendation #1. a joint powers authority1, (JPA), be established to work with LAFCo to develop a unified organization that has the resources to meet the needs of all districts in a consistent and professional manner, and to speak with one voice and one vision. The consolidated authority would represent interests from the Russian River South to the Sonoma County line.

RESPONSE TO RECOMMENDATION # 1

This recommendation was already implemented in part. A JPA with the specific purpose of acting as a forum for water issues within the county and speaking with one voice on water issues outside the county already exists

This District disagrees with the remainder of this recommendation, has not implemented it and does not intend to implement it and recommends that the other public agencies that are water purveyors not implement it.

Another layer of government is not needed to develop a unified organization. According to the Grand Juries Findings LAFCO already has the authority to do this. If that is the case then why is a JPA necessary.

Another layer of government is not needed to assure that the water districts have "the resources to meet the needs of all districts in a consistent and professional manner". The water districts do have the resources to meet water treatment and delivery needs" of their constituents and are meeting those needs now "in a consistent and professional manner". This can be conformed by the California Department of Health Services. The fact that the Grand Jury doesn't know this is an affront to all of the water districts and their personnel and an indication of the incompetence of its report.

The Inland Water and Power Agency is a JPA. Some of the specific reasons it was formed was to provide a forum for discussion within the Russian River corridor of all water issues affecting that corridor and to speak with one voice outside the county. It has been in existence and performing this function for many years. The formation of yet another JPA with the same function would accomplish precisely what this report hopes to avoid, ie (1) duplication of work, and (2) an additional layer of government with overlapping functionalities. The fact that the Grand Jury would recommend this at this time indicates that the Grand Jury failed to do a proper investigation and prepared an incompetent report.

*Recommendation # 2. Mendocino County Water Agency, which has no control over water rights, become more involved with districts by providing guidance on conservation measures, public training, uniform controls, and legislative assistance. The staff must provide leadership in the process of consolidating water districts and/or establishing a JPA.
(Finding 10)*

RESPONSE TO RECOMMENDATION # 2

RESPONSE TO RECOMMENDATION #4

This District does not agree with this recommendation for the reasons stated in Responses above and therefore does not intend to implement it, however, this District supports the role of the Inland Power and Water Agency of providing a forum for discussion of water issues within the Russian River corridor and to speak with one voice outside the corridor. This District has no knowledge about the Upper Russian River Sustainability Alliance agreement and therefore will not implement this recommendation.

Recommendation #5. the Corps needs to re-examine the assumptions used in the Coyote Dam Operations Manual. New rules should reflect the additional purposes, community needs, and water usage trends of the reservoir, along with climate changes in Northern California. (Findings 3-7)

RESPONSE TO RECOMMENDATION # 5

This District has no authority to implement this recommendation as it has no jurisdiction or command and control over either the Corps or the SWRCB and therefore will not implement this recommendation. However, this District agrees with the recommendation in part and disagrees with it in part. It is always a good idea to revisit old assumptions. With modern meteorological gathering methods more information may be available on a real time basis that would allow modifications to the Corps impoundment and release regulations. Before a discussion of "additional purposes" is commenced the Grand Jury should recognize that the reservoir was built not just for flood control purposes but for recreation at the lake, and water supply. The local agencies (RRFCD and SCWA) paid 12.5 percent of the project for the specific purpose of obtaining a reliable water reservoir. The SWRCB allocated the water between RRFCD and SCWA based upon recreation at the reservoir, pre 49 rights, agricultural and municipal and industrial uses. The reduction in diversions from the Eel River have made the reservoir less reliable and have changed the flood season assumptions. The impending reduction in flows recommended by NOAA, if adopted by SWRCB will make the reservoir more reliable and result in changes in the water supply season assumptions. Both changes will have some effect on the anadromous fish species found in the river. The SWRCB and the Corps to reconsider their operating assumptions based upon these dramatic changes.

Printed Name: AURENS M. GILMORE

Title: PRESIDENTS

Signed: Aurens M. Gilmore

Date: 8-12-10