

Response to Grand Jury Reports

Report Title: “Water, Water Everywhere, but....Mendocino County Water Districts Report.”

(please fill in all information relating to this report)

Report Date: May 10, 2006

4

Response by: Janet K.F. Pauli **Title:** Chairman

FINDINGS

q I (we) agree with findings numbered:

q I (we) disagree wholly or partially with the findings numbered: 2, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 25, 27, 28, 29, 30, 32, 33

(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefore.)

RECOMMENDATIONS

q Recommendations numbered _____ have been implemented.
(Attach a summary describing the implemented actions)

q Recommendations numbered _____
have not yet been implemented, but will be implemented in the future.
(attach a time frame for the implementation)

- q Recommendations numbered 1, 2, 3, 4, 5, 7, 8, 9
require further analysis.

(Attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)

- q Recommendations numbered 6
will not be implemented because they are not warranted or are not reasonable. (Attach an explanation)

Date: June 10, 2006 Signed: Janet K. F. Pauli, Chairman, MCIWPC

Number of pages attached: 8

**Mendocino County
Inland Water and Power Commission
425 Talmage Road
Ukiah, CA 95482**

June 30, 2006

Mendocino County Grand Jury
P.O. Box 629
Ukiah, CA 95482

Re: Mendocino County Inland Water and Power Commission Response to the Mendocino County Grand Jury, May 4, 2006 Report entitled "Water, Water Everywhere, but....Mendocino County Water Districts Report."

Dear Grand Jury Members:

The Mendocino County Inland Water and Power Commission's (MCIWPC) responses will be limited to the Grand Jury Report findings and recommendations for which we have specific disagreement or corrections. In many cases the member agencies of MCIWPC will have more specific comments regarding the findings that need not be reiterated by MCIWPC.

Response to Finding #2 -- We disagree with this finding. The MCIWPC is a joint powers authority, not a water agency or a special district. The Grand Jury also failed to include Hopland Public Utility District in the list of UV/PV water agencies.

Response to Finding #5 -- We partially disagree with this finding because it requires clarification. MCIWPC originally had five members, the four listed and the MCWA. The BOS, after much politically based disagreement, decided to withdraw from MCIWPC. The remaining four entities, City of Ukiah, Russian River Flood Control and Water Conservation Improvement District (RRFCWCD), Potter Valley Irrigation

District (PVID) and Redwood Valley County Water District (RWVCWD) have continued to move forward protecting existing water rights, water supply and sponsoring the Coyote Valley Dam Flood Damage Reduction and Water Supply Study.

Response to Finding #8 -- We disagree with this finding. Current water agencies and/or special districts in the UV/PV area originated as the need for them occurred. In the case of PVID they began when summer irrigation water became available in 1924. The RRFCWCD was formed by the voters when an entity was required to hold the water right and retire the bond for construction of Coyote Valley Dam (the County did not want this responsibility). The City of Ukiah's water system grew with time and their population. RWVCWD became established after water was available from Lake Mendocino and they could provide a more integrated and reliable source of water for domestic and agricultural use. All of these agencies were carefully planned and their water supplies are secured by contracts and water rights. To say that our agencies originated as a result of an "unplanned and uncoordinated history of water events..." implies that the current water agencies are somehow haphazard or dysfunctional. This is definitely not the case.

Response to Finding #9 -- We disagree with this finding. UV/PV area water districts are quite distinct. They utilize water under separate water rights and for different purposes. The term "competition" in this finding implies that we are fighting amongst ourselves for an existing water supply. Every agency provides water to their users based on their own supply, on contracts and/or water rights. As we move forward with increased water demands, we will need to look at increased water supplies. This is a main function of MCIWPC.

Response to Finding # 10 -- We disagree with this finding. State Law and Codes that mandate the organization and structure of water agencies and special districts are concise.

Response to Finding #11 -- We disagree with the term "autonomous" in this finding. The term "autonomous" implies that our elected boards are somehow "above the law." All of our elected board members, including the commissioners appointed by them to the MCIWPC, are bound by specific State laws of conduct and are accountable to the voters in each of their respective districts.

Response to Finding #12 -- We are unclear of the meaning of this finding. Does "unification" mean consolidation of the day to day functioning of all the water districts into one "super water agency" or does it mean politically unified to work together to protect existing water supplies, water rights and develop plans for increased water supplies and work on critical issues such as environmental protection and conservation? We have formed the MCIWPC to provide a political unification of existing water districts while protecting the individual function of each member. A "super water agency" would require more than simple approval of existing water agencies, it would also require approval by voters. Besides the fact that such an agency would be extremely cumbersome, the development of such would require a complete revision of all of our water rights. This process could, in fact, jeopardize those water rights.

Response to Finding #13 -- We disagree with this finding. All member agencies of the MCIWPC, and other agencies that we are aware of, measure or meter water use. This is required for accurate billing of both domestic and agricultural water. All of the agencies are required to report water use to the State Water Resources Control Board (SWRCB). This information is public and records have been kept since the inception of each water agency. Multiple year compilation of this information is a simple process.

Response to Finding #14 -- We disagree with this finding. It is irresponsible for the Grand Jury to state that the UV/PV water district's water use "reporting has been haphazard, with no current consequences for non-compliance." All water districts file use reports with the SWRCB, as required by law, and more importantly, to protect their water rights.

Response to Finding #15 -- We do not understand the purpose of this inaccurate statement.

Response to Finding #16 -- This finding does not apply to any of the listed water districts.

Response to Finding #17 -- We agree with this finding and are hopeful that agencies not currently members of MCIWPC, as well as the BOS, will join in our efforts to study the feasibility of increasing water storage in Lake Mendocino.

Response to Findings #19 to 22 -- We believe that the individual water agencies are best suited to respond to these findings, however, collectively as MCIWPC we are aware of many district's plans for response to emergencies including conservation, inter ties and other types of mutual assistance.

Response to Finding #23 -- We agree with this finding but would correct it to read "The Army Corps of Engineers and the MCIWPC, the local sponsoring agency, are studying methods to improve flood control and increase water storage at Lake Mendocino for the UV/PV area."

Response to Finding #25 -- We agree with this statement but would correct the study title. The formal title of the ACOE study is "Coyote Valley Dam Flood Damage Reduction and Water Supply Study."

Response to Finding #27 -- We disagree with this finding. The local entities did not lose an ACOE annual appropriation due to an "inability to furnish the required matching funds." Matching funds had been approved by all the member agencies of MCIWPC. Due to political posturing by the BOS valuable time was lost. When the BOS finally voted to withdraw from MCIWPC it was necessary to redraft the cost sharing agreement.

Response to Finding #28 -- We disagree with this finding. The \$100,000.00 matching funds to begin the feasibility study are in place and available for the ACOE at this time.

Response to Finding #29 -- We disagree with this finding. RWVCWD has signed a contract with the other three MCIWPC member agencies and is a full participant in the feasibility study.

Response to Finding #30 -- We disagree with this finding. We have never heard the \$150 million estimate for an ACOE project. At this time there is no way to estimate the cost of a project. The ACOE study will determine if a project, or change of operation, is economically and environmentally feasible. We cannot estimate the cost of a project that does not exist.

Response to Finding #32 -- We disagree with this finding. The Section 7 Consultation, under the ESA, was initiated by NOAA Fisheries with the ACOE, RRFCWCD and SCWA to determine the impact of the operation of two ACOE projects, Coyote Valley Dam and Warm Springs Dam, on ESA listed species of salmonids.

Response to Finding #33 -- We disagree with this finding. Also involved currently, or in the recent past, have been the California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Forest Service, Federal Energy Regulatory Commission and the U.S. Department of Dam Safety. We would also remind the Grand Jury that a major non agency stakeholder in the Potter Valley Project, that has not been mentioned in your report, is Pacific Gas and Electric Company.

RECOMMENDATIONS

Response to Recommendation #1 and #2 -- During the formation of MCIWPC, two county supervisors worked with representatives from all of the UV/PV water agencies to craft an agreement and form an entity dedicated to protecting existing water supply and water rights, and to provide a forum for discussion of future water needs. At the time of the formation of MCIWPC, the MCWA was under funded and meagerly staffed. We all had hopes that, with future support and funding from the BOS, the MCWA would become a valuable member and asset to MCIWPC and all other county watershed areas. However, the BOS did not take a leadership role, and instead, due to purely political posturing and not by working in the best interest of the people in the UV/PV area, determined that the MCIWPC was somehow a threat to the strengthening of the MCWA and withdrew from the MCIWPC.

We are hopeful that with a change of the political face of the BOS they will rejoin MCIWPC as a full participating member. Herein lies a concern that all of the other member agencies have regarding the past history of the BOS. The BOS has historically been very political. They tend to change policies with the political winds. The County of Mendocino does not have any water rights, does not sell water, manage water delivery systems or deal in any way with the day to day business of water. While the BOS, via the MCWA, could be a valuable asset to existing water agencies they cannot, and should not, be involved with the day to day management of our existing water delivery systems.

The role of the MCWA should be one of support. This support should take the form of providing expertise in water law, grant writing, political lobbying, funding general education programs to heighten awareness of water conservation, environmental protection and clean water. The MCWA should also rejoin the MCIWPC to be at the grassroots level of water issues in the UV/PV. The MCWA should take the same interest in other watersheds of Mendocino County. MCIWPC was not formed to help the watersheds of Navarro, Noyo, Big River, Albion, Ten Mile, or the Garcia. MCIWPC was formed solely by concerned agencies within the Russian River watershed.

Recommendation #2 asks for two separate things-- a Water Resource Policy Council in UV/PV (we submit that MCIWPC fulfills that request), and then suggests that the same council address issues within the entire county. The MCWA should work within each watershed to help where needed to provide the services described above. It makes no sense to duplicate the MCIWPC for UV/PV and then make the new entity completely ineffective by attempting to have it oversee all of the concerns of the disparate watersheds in our large and diverse county.

Response to Recommendation #3 -- We agree with this recommendation as long as in "expanding its mission, powers and authority" is the inclusion of working with existing water agencies. It is critical that the MCWA work with existing water agencies, not above or outside of them. To be truly valuable to our County, the MCWA should work with existing water agencies to develop their "mission."

Response to Recommendation #4 -- MCIWPC welcomes membership by other water agencies in the UV/PV area. We have repeatedly encouraged other Russian River watershed water agencies to join MCIWPC. We strongly encourage the BOS to rejoin MCIWPC and be part of the study process with the ACOE. The MCWA should be involved as a member of the MCIWPC as we begin the largest water project study in this county for the last 50 years.

Response to Recommendation #5 -- This recommendation cannot occur without the MCWA participation in the MCIWPC. If a project is realized at Lake Mendocino that results in increased water supply, those entities that financially participated in the study and subsequent construction will share the new water supply. A contract is in place that assures participants in the feasibility study, current members of the MCIWPC, will benefit from an increased water supply. The BOS will have no say over who has the right to new water unless they participate as a member of the MCIWPC.

Response to Recommendation #6 -- The BOS has no authority to oversee the water accounting methods used by existing public water agencies. Further, there is no reason that the BOS should have such authority. All of our member agencies have specific accounting and reporting systems in place.

Response to Recommendation #7 and #8 -- These recommendations are best addressed by the individual water agencies, however, MCIWPC believes that all water use data are public record and readily available. We also believe that all of our water districts are actively involved in water conservation efforts.

Response to Recommendation #9 -- It is important for the BOS to "lobby State and Federal agencies to promote solutions to each and all water resource and distribution problems within the County and UV/PV area," however, the BOS first needs to understand what those "water resource and distribution problems" really are. The BOS should begin by rejoining the MCIWPC to become aware of the real issues within the UV/PV area and then, also learn about the concerns of the other Mendocino County watershed area's water districts.

Sincerely,

Janet K.F. Pauli
Chairman