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Mendocino County

**Russian River Flood Control &
Water Conservation Improvement District**

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June 26, 2006

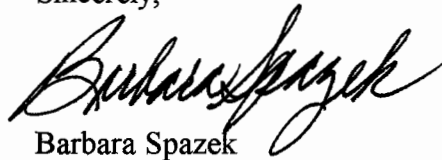
County of Mendocino
Grand Jury
P. O. Box 629
Ukiah, CA 95482

Dear Members of the Grand Jury:

Attached you will find the Mendocino County Russian River Flood Control and Water Conservation Improvement District's response to the 2005-06 Grand Jury Report as requested.

If you have further questions, please do not hesitate to contact us.

Sincerely,



Barbara Spazek
Executive Director

President
Judy Hatch

Vice President
Tom Ashurst

Treasurer
Bill Townsend

Trustee
Mike Lucchetti

Trustee
Richard Shoemaker

Response to Grand Jury Reports

Report Title: WATER, WATER EVERYWHERE, BUT. . .
(please fill in all information relating to this report)

Report Date: May 4, 2006

Response by: Barbara Spazek Title: Executive Director

FINDINGS

- I (we) agree with findings numbered:
11, 17, 18, 23, 25

- I (we) disagree wholly or partially with the findings numbered: 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 21, 22, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34
(Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefore.)

RECOMMENDATIONS

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

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

- Recommendations numbered _____
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.)

- Recommendations numbered 1, 2, 4, 5, 6, 7, 8
will not be implemented because they are not warranted or are not reasonable. (Attach an explanation)

Date: 6/29/06 Signed: Barbara Spazek

Number of pages attached: 10

Mendocino County
***RUSSIAN RIVER FLOOD CONTROL AND WATER
CONSERVATION IMPROVEMENT DISTRICT***

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rrfc@saber.net

Response to Mendocino County Grand Jury Report (Report) for 2005-06 entitled, " *WATER, WATER EVERYWHERE, BUT . . . MENDOCINO COUNTY WATER DISTRICTS REPORT*" dated May 4, 2006 submitted by the Mendocino County Russian River Flood Control and Water Conservation Improvement District (RRFCD).

FINDINGS

Finding #1 - There are some 20 agencies, including Special Districts, involved with water resources within the entire County.

Our District does not interface with agencies other than those agencies that are within our District boundaries and, therefore, cannot agree nor disagree with this finding. Many of the 20 agencies are limited purpose agencies that have very limited service areas.

Finding #2 lists nine (9) water agencies and/or special districts. Our District agrees with eight of those nine (9) listed; however, the Mendocino County Inland Water and Power Commission (IWPC) is a Joint Powers Authority, not a special district or agency. In addition, the Hopland Public Utility District is not listed. This is a public agency purveying water which is withdrawn from the Russian River and this district is within the RRFCD boundaries.

Finding #3 - Although we were not asked to respond to this finding, we feel it is necessary for the following reasons: When the RRFCD was formed, the Mendocino County Water Agency, which was governed by the Board of Supervisors, gave up their water entitlements to the Mendocino County Russian River Flood Control District. This was the result of the vote by the majority of residents of Mendocino County to bifurcate the water supply and service functions of our District from the County. This necessary vote took place in order to secure the financial support of farmers and agricultural interests for the repayment of the bonds to pay for the dam. The agricultural community would only support paying for the project if a separately elected board residing within our District's boundaries, and not the Board of Supervisors who reside outside our District, held and administered the water rights. The RRFCD has the exact same powers within its District Boundaries as the Mendocino County Water Agency, although the MCWAgency has never held water rights or delivered water to any contractors or customers in Mendocino County.

Finding #5 - " *The City of Ukiah, RRFCD, PVID and Redwood Valley CWD comprise the Joint Powers Agency (JPA) that makes up IWPC.* "

We agree with the four agencies listed that are members of the IPWC; however, it should be pointed out that the Mendocino County Water Agency was one of the founding agencies along with the four listed. Unfortunately, after two years of discussions during the formation period and over two years of existence, the Board of Supervisors (BOS) opted to withdraw from the IWPC. This was a very divisive action to the inland water agencies. Interestingly, MCWA was the only member agency that has no water rights and has never delivered water to any customers in Mendocino County.

A more appropriate statement might be that the RRFCD, City of Ukiah, PVID, and RVCWD comprise the Joint Powers Agency (JPA) that make up IWPC. The RRFCD represents those agencies located within their District boundaries. MCWA was part of the formation of the JPA, but has withdrawn.

Finding #6 *"RRFCWCD does not physically provide water directly to any individual user."*

This finding is factually untrue. Further, it sadly misrepresents both the specific and implemented provisions of our water rights permits that have been granted to our District by the State Water Resources Control Board, and the specific provisions and requirements of our service contracts. Our method of delivery is the release of stored water to the Russian River for diversion. This is the delivery system that is approved by the State of California. Every single legal user of the District's water presently has an executed contract and takes their water from our delivery system. Attached for your edification are copies of the contracts with those individuals and entities to which we provide water. Had the Grand Jury arranged for even one meeting with our staff, we would have happily provided this information.

Finding #7 - *"RRFCWCD wholesales water to water providers and agriculturists for beneficial use within the Ukiah Valley, but not Potter Valley."*

The District partially agrees with the statement about providing water to the Ukiah Valley, however, the Report neglects to mention or take into consideration those agencies to the south, namely, the Hopland PUD, the East Sanel Irrigation District, the River Estates Mutual Water Company and the Henry Station Mutual Water Co. These agencies are all part of the Russian River system and receive water during certain times of the year from the RRFCD pursuant to contracts. They should be included in any references to water users. If the Grand Jury is looking at all the inland water districts, it should include the additional districts and mutual water companies mentioned.

Finding #8 - *Current water agencies/special districts in the UV/PV area originated as a result of unplanned and uncoordinated history of water events, local and distinctly separate community and neighborhood interests, needs and demands."*

The RRFCD disagrees with this finding as it is factually untrue. The RRFCD was formed by

legislation after a majority vote of the people of Mendocino County. The legislative history, which may be easily secured from a variety of official sources including the Water Code of the State of California, reveals a decade long process (1947- 1957) of deliberate local and state governmental actions to secure water rights and develop a comprehensive water supply project for the benefit of the Ukiah Valley. It was not a result of unplanned or uncoordinated history of water events, local and distinctly separate community and neighborhood interests, needs and demands. RRFCD has supplemented the water needs of the other agencies within its District boundaries.

These agencies were formed after careful planning. This is proven by the fact that obtaining water rights from the State Water Resources Control Board (SWRCB) is not something that is done without any planning or forethought. In addition, district boundaries and complete places of use were submitted to the SWRCB by those districts at the time of application of these rights.

Finding #9 – “Continual growth and development, together with increased population demands have resulted in some overlap of interests, influence and competition between various UV/PV area water districts.”

We completely disagree with this finding. Continual growth and demands have not resulted in overlapping of interests. The County has grown at pace that was slower than was anticipated. The Mendocino County Local Agency Formation Commission (LAFCO) oversees annexations and out of services agreements and is there, pursuant to express state legislation, to insure that there is no overlapping or duplication of duties or services.

Finding #10 – “State law and codes that mandate the organization and structure of water agencies/special districts are involved and complex.”

We disagree with this finding. The State Codes are very specific and concise.

Finding #11 – “Water districts are largely autonomous and governed by elected boards of directors serving a specific defined geographical area and population.”

We agree with this finding. We believe it is extremely beneficial to have elected boards of directors that must answer directly to their constituents. This is the democratic process.

Finding #12 – “Unification or consolidation of water districts, a complex process, requires that all parties or districts concerned must approve such action.”

We partially agree with this finding, but believe it is incomplete. Any consolidation or annexation would have to be brought before the voters.

Finding #13 – “Except for the City of Ukiah, accurate measurement and/or metering of water usage

(industrial, agricultural and residential) within most water districts varies widely. Currently, it is not possible to know exactly how much water is actually being used in the IV/PV area because of the multiple systems of accountability in use, as well as a degree of undocumented use."

We strongly disagree with this finding. Every single water user who has a contract with our District is required by contract to have a functioning meter that is read monthly. In addition, every individual district and mutual water district within the RRFCD's boundaries has individual water meters for all of their customers and knows exactly how much water they are using. There are no multiple systems of accountability in use. Each water user reports how much water they are using under their water right and the RRFCD reports how much water is being used under its right. The one area the Grand Jury Report does not reference is "Water Rights." Every water right has certain conditions and each individual holder of that right knows what those conditions are. If water users in the Ukiah Valley are not pumping under their water right, they are pumping under the RRFCD's right if that individual or entity has a contract.

The RRFCD must report to the SWRCB how much water is used under its permit annually. This has been done for the past 30 years under the approval of the SWRCB.

Finding #14 - *"The amount of water used by many water purveyors is known and available from those required to file Statement of Use with State Water Resources Control Board. Reporting has been haphazard, with no current consequence for non compliance."*

We strongly disagree with this finding. It is inaccurate since individuals with water rights do not file Statements of Use. Reporting has not been haphazard. The SWRCB performed compliance inspections over four years ago and everyone within the UV/PV is well aware of their obligations.

Finding #15 - *"RRFCWCD is currently operating under a Cease and Desist Order from WRCB over questions about water usage measurement."*

We disagree with this finding. This finding is incomplete and inaccurate and fails to point out that the requirements of the SWRCB which our District sought to implement in 2001 through ordinances were challenged in Mendocino Superior Court by a local water district who opposed the implementation of the compliance requirements. Our District was the prevailing party after three years and \$80,000.00 of legal expenses. The CDO was filed in large part because of the three year delay resulting from the unjustified lawsuit.

Finding #16 - *"Users with riparian rights, those whose property is immediately contiguous to a water source, are required to file a State of Use with WRCB. The requirement to report is currently not enforced, and many do not file. Currently, there is no requirement to report usage locally."*

We disagree with this finding. It is inconclusive and misleading. The reporting requirement is

recommended not required. The RRFCD, in its accounting, must calculate how much natural flow is in the river, and therefore, how much riparian water is in the system.

Finding #17 – *“Projections of population growth and development within the County and specifically the UV/PV area, indicate that continued availability of adequate water resources will be problematic.”*

We agree with this finding. Therefore, the BOS, County Planning, LAFCO, and the City of Ukiah need to make intelligent, fact-based planning decisions based upon full and complete CEQA documents when approving amendments to their General Plans, subdivisions, and land use.

Finding #18 – *“Increased demand for potable water within UV/PV area would require developing new water sources, conservation of existing sources, and the construction of new treatment, storage or supply facilities. Construction of these facilities could have significant environmental effects.”*

We agree with this finding.

Finding #21 – *“New contracts for water from RRFCWCD require agencies and individuals using its water to develop water conservation programs. To date, this requirement has not been enforced by RRFCWCD.”*

We disagree with this finding. The RRFCD has on file, conservation plans from everyone who has a contract with the District. The agricultural users are already conserving a tremendous amount of water. In the Ukiah Valley area, each water year is different. Had the Grand Jury visited our offices, it would have seen the plans.

Finding #22 – *“While there may be some arrangements between various water districts for water sharing, there is no official comprehensive plan or legal agreement among water districts for sharing water resources.”*

We disagree with this finding. First of all, every district is limited as to where they can use their water, what they can use the water for, and when they can use the water. This is largely a function of their state-granted water rights. During emergencies every district can wheel water under the RRFCD’s permit through the emergency interties that are presently in place. Otherwise, as mentioned above, they are limited by their water rights permits.

Finding #23 – *“The Army Corps of Engineers (ACE) and the Inland Water and Power Commission (IWPC), the local sponsoring agency, are studying methods to improve flood control and increase water storage for the UV/PV area.”*

We agree with this statement.

Finding #24 – *“The Coyote Dam Feasibility Study will consider various options for increasing water supplies and storage. Raising the water level behind Coyote Dam or raising the dam itself are two of those options.”*

We partially disagree with this finding. First of all, Coyote Dam is a flood control project. Raising the water level behind the Dam as it exists today does not provide any additional water supply. The present design of the dam allows for a certain amount of water to be stored in the conservation pool. Increasing the water level does not change the conservation pool, it only increases the flood pool.

Finding #25 – *“ACE has completed its initial Reconnaissance Study and is prepared to proceed with the next phase of the Coyote Valley Dam Feasibility Study, which will include California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) analyses.”*

It is our understanding this is correct.

Finding #26 – *“The current cost for the complete Coyote Valley Dam Feasibility Study is estimated to be approximately \$6,000,000 and will take five or more years to complete; \$3,000,000 of that cost will consist of local matching funds.”*

We partially agree with this finding. In mentioning the matching funds, in-kind service contributions should be referenced.

Finding #27 – *“In the past, nearly \$300,000 in ACE’s annual appropriations for the Study have been lost due to local entities’ inability to furnish the required matching funds.”*

We disagree with this finding. It is factually untrue. The money was lost due to the fact that the BOS withdrew from the IWPC creating the necessity to recreate the cost sharing apportionment agreement between the remaining agencies. The County understood that its withdrawal would result in the loss of funds from the ACE.

Finding #28 – *“In Fiscal year 2006-2007, the Federal government has appropriated \$100,000 to ACE for the next phase of the Coyote Dam Feasibility Study, anticipating \$100,000 of local matching funds. This appropriation will expire September 30, 2006 if local monies are not forthcoming.”*

We disagree with this finding. The finding is not true since the \$100,000 is already in place.

Finding #29 – *“While Redwood Valley CWD has not committed to the project, three of the four members of IWPC (City of Ukiah, RRFWCWD and PVID) are currently negotiating financial participation relationships and funding availability for the Coyote Valley Dam Feasibility Study,*

under critical time constraints. Qualification for Federal Funds will depend upon successful completion of these negotiations. ”

We disagree with this finding. It is a moot statement since the agreements have been signed by all four parties (including Redwood Valley).

Finding #30 – *“Funding for development and construction costs for the potential project coming out of the Coyote Valley Dam Feasibility Study, would consist of 75% from the Federal government and 25% local monies. Total costs are estimated to be in excess of \$150 million.* ”

We disagree with this finding. It is incorrect, incomplete and premature. The total cost of construction will depend on just what is constructed. The federal funding will depend on what the study produces. In view of those items, the entire statement is inaccurate and inappropriate.

Finding #31 – *“State, Federal, and local laws deal with environmental issues, water supply, water quality and water rights, utilization and distribution.* ”

We disagree with this finding. It is innocuous and unnecessary.

Finding #32 – *“RRFCWCD, ACE, and the Sonoma County Water Agency (SWCA) are currently undertaking a Section 7 Consultation with NOAA-Fisheries to evaluate the effects of existing and proposed operation and maintenance activities (SCWA’s “Water Supply and Transmission System Project”) on the Russian River on listed salmonid species.* ”

We disagree with this finding. It is completely inaccurate. SCWA’s “Water Supply and Transmission System Project” is not associated with the Section 7 consultation. The reason for the Section 7 Consultations is to look at what activities relating from the operations of the Coyote Valley Dam and the Warm Springs Dam might have impacts on the three anadromous fish listed under the Endangered Species Act.

Finding #33 – *“Agencies outside Mendocino County influencing decisions regarding UV/PV area water resources include: SCWA, WRCB, RWQCB, DHS, ACE, NOAA Fisheries, State and Federal Courts”*

We partially agree with this finding. You neglected to mention the California Department of Fish and Game.

Finding #34 – *“There is universal agreement that the most efficient, inexpensive and environmentally sensitive method to increase water availability is to reduce demand through conservation.”*

We neither agree nor disagree with this statement. However, we would not be presumptuous enough

to make the statement without any facts and figures.

RECOMMENDATIONS:

1. *“The BOS take a leadership role in developing long-range comprehensive management plans and strategic policy for dealing with all aspects of water resources (supply, rights, availability, usage, conservation, storage, distribution and infrastructure) countywide and specifically for the UV/PV area.”*

This recommendation is not warranted and we strongly disagree with this recommendation for the following reasons:

1. The BOS/County has no water rights and only the SWRCB can grant water rights.
 2. The BOS/County has no authority over any other party's water rights. The SWRCB is the only agency in California that can legally condition individually held water rights.
 3. The RRFCD was formed by legislation after a majority vote reflecting the will of the people of UV. That vote removed any possible control of the water resources of Lake Mendocino from the BOS.
 4. The BOS/County, by its own volition, has chosen to give up its authority and not to be involved in these areas in the past. Over several decades, and many issues, they have consistently voted not to participate including the most recent project, raising Lake Mendocino. The voters and taxpayers have indicated they do not want the County's participation now.
 5. Each District has their own expertise for the needs within their own districts.
 6. The constituents of each water district, specifically the voters within the UV/PV area, do not want the Supervisors involved with their water.
 7. This recommendation would result in huge increases in the price of water. Price increases will favor developers and discriminate against agriculturalists who have historically paid for the dam. The price will go so high that agriculture would be a thing of the past in this valley.
 8. All of these systems were paid for by the taxpayers within each individual district. Those taxpayers would not be happy with a take-over of their property by elected representatives outside of their service areas.
 9. This recommendation would put at risk all of the water rights in the Ukiah Valley by directly interfering with water rights holders obligations to the SWRCB .
2. *“The BOS establish a Water Resource Policy Council, composed of all water agencies/special districts and official water-related entities within the County and the UV/PV area. The Council should explore interests and concerns in order to develop common long-range plans and strategies to address the issues of adequate guaranteed water availability,*

usage, conservation and storage within the County."

This recommendation is not warranted because it is redundant, superfluous, and will waste public funds. Already in place is the Mendocino County Water Agency which is capable of communicating with all of the existing districts. The IWPC is already in place and represents the inland agencies/special districts.

4. *"The BOS and the IWPC, perhaps in conjunction with the other appropriate entities, arrange necessary financing for the matching funds to add to the ACE's 2005-2006 appropriated monies for the continued development of the Coyote Valley Dam Feasibility Study."*

This recommendation is not warranted, it is moot. The money has been received, the IWPC is the lead and if the County wants to be involved, they should rejoin the IWPC.

5. *"The BOS take all steps necessary to ensure the water rights of any added water capacity be negotiated in favor of the County and UV/PV."*

This recommendation is not warranted and has already been implemented with the IWPC. The IWPC is in place. It has continued its efforts to move forward on the Feasibility Study and potential water supply. It has worked with the other agencies in their quest for additional water. The BOS should be involved through the IWPC rather than refusing to participate.

6. *"The BOS by ordinance or other appropriate authority (activate Mendocino County Service Area #3) require all water purveyors, providers, agencies and special districts, as well as riparian rights users, to install meters and/or measuring devices to track water usage for local reporting."*

This recommendation is not warranted. The water is being metered. Those people with pumps in the River have meters. All of the Districts have meters. The RRFCD is working with the State, who is reviewing their updated accounting system which will show the amount of water that is being used.

This just creates another layer of redundant bureaucracy with huge new fees and charges that are subject to the voter approval requirements of Prop. 218 and that has no authority over any water rights. The Russian River is one of the most complicated systems in California and the SWRCB has declared it fully appropriated during most of the summer.

7. *"The Mendocino County Water Agency receive and compile water usage data for informational and planning purposes."*

This recommendation is not warranted since the Mendocino County Water Agency has the

ability to contact any district which is an authorized water rights holder and retrieve that public information.

8. *“All water agencies/special districts immediately develop and implement conservation programs, with an education component for residential, agricultural and industrial use. Devices such as reduced-flow water fixtures and irrigation equipment and other passive and active approaches, including reclaimed water (treated wastewater) systems, should be investigated and considered.”*

This recommendation is not warranted. Conservation Plans are mandated by the State and they are required by the RRFCD's contract. Had the Grand Jury visited our offices, they might have seen these completed plans.

The Mendocino County Russian River Flood Control and Water Conservation Improvement District would like to take this opportunity to address the Grand Jury Report Comments regarding water. It references a unified consensual approach to the water problems in the Ukiah Valley. This was one of the reasons for the formation of the Inland Water and Power Commission. It took two years to organize and elected officials from all agencies and special districts were instrumental in this formation. Its priorities were not only to address the potential sale of the Potter Valley Project, but to present a united front politically and literally in water issues in Mendocino County. It was designed to pursue additional water rights because any project would be too costly for one individual agency. Because it is a JPA, its commissioners are accountable to the voters of each district. The IWPC was always envisioned as the proper vehicle to address **all** water issues in the Russian River watershed in Mendocino County.