

# **Grand Jury of Mendocino County Final Report 2002 - 2003**

June 30, 2003

Honorable Ronald Brown, Presiding Judge, Mendocino County Superior Court

In compliance with California Penal Code Section §933, the 2002-2003 Grand Jury submits its Final Report, presenting the Grand Jury's Findings and Recommendations.

This report should provide insight for the citizens of Mendocino County into the workings of some of the departments, agencies, and districts in their county. We hope that this report will prove useful to the citizens of Mendocino County, and that it will help our elected officials and those in charge of the various departments, agencies, and districts covered by the report better perform their duties.

## **Oath of Grand Jurors**

"I do solemnly swear (affirm) that I will support the Constitution of the United States and of the State of California and all laws made pursuant to and in conformity therewith, will diligently inquire into, and true presentment make, of all public offenses against the people of this state, committed or triable within this county, of which the grand jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the grand jury, nor anything which I or any other grand juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the grand jury. I will keep the charge that will be given

to me by the court.” (California Penal Code §911)

**Note:** Minor corrections, now included, were made to this on-line version of the Grand Jury Final Report on 10 August 2003.

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## **2002–2003 Mendocino County Grand Jurors**

Leonard Bader Boyd Mathias

Redwood Valley Willits

Jack Boone Lillian Pacini

Fort Bragg Ukiah

Michael Bouris Ava Peterson

Mendocino Redwood Valley

Allan Carlson Scott Peterson

Fort Bragg Mendocino

Verleen Eidsmoe Al Pierce

Ukiah Talmage

Bruce Haldane Darwin Richardson

Potter Valley Ukiah

William Hughson Alvin Robinson

Potter Valley Willits

Joan Lamb Robin Saia

Ukiah Redwood Valley

James Lindsey David Severn

Boonville Philo

Tony Xavier (deceased)

Fort Bragg

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### **Preface**

The California Penal Code gives a Grand Jury the mandate to review the methods of operation of County departments, agencies and special districts, and to inquire into the needs of county officers. After such reviews and inquiries, the Grand Jury is required to submit to the Presiding Judge of the Superior Court a final report of its findings and recommendations pertaining to county government matters.

The 2002-2003 Grand Jury, made up of 19 ordinary citizens, who act as a watchdog for the citizens of the County, have complied with that mandate and wishes to thank County staff, the staffs of entities reviewed and private citizens for their cooperation. The Grand Jury especially wishes to thank the staff of the County Administrator’s Office for their cooperation and professionalism.

It is certainly the case that most County departments, agencies and special districts are well run, though there are problems with some. In particular, the Grand Jury found the County Library system, the Chamberlain Creek and Parlin Fork Conservation Camps and the County Jail to be functioning well, with minor problems. The Grand Jury did turn up some issues in the operations of the County Risk Management office and the County Employees Retirement System. We hope that the Grand Jury's recommendations will help clear up some of those problems.

By far the major study, in terms of time and energy and, we feel, of importance, has been the Grand Jury's study of the Ukiah Valley Water Districts. The water issue is one of long-standing fragmentation, duplication of effort and unauthorized use of a lot of water. While the Grand Jury recommendations are bound to be controversial, public discussion of the report should, we hope, lead to positive changes in the distribution of the water resource throughout the Ukiah Valley

A major issue for County government and other agencies is the paucity of funding available for the work they have to do. We are in a time of budget stress in Mendocino County, indeed throughout the State of California, and while we applaud the ability of our County employees to make do and hold a thin line in the face of ever-deepening budget cuts, the fact remains that government is finding it necessary to diminish the quantity and quality of needed services to citizens. The Grand Jury appreciates the dilemma faced by managers, but notes that we as a community need to come up with innovative ways to obtain more funding and to direct existing funding more efficiently toward the services we expect from our government.

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### In Memoriam

Tony Xavier served as Foreperson Pro Tem of the 2002-2003 Grand Jury from its inception until his death in February 2003. In addition, he chaired two important committees. Tony was a very hard worker, who contributed significantly to the work of the Panel almost until the day of his death. He was proud of his service in the Marine Corps. He was proud of his Portuguese heritage. He was proud of his career as a building contractor. And the Grand Jury is proud to have known and worked with Tony.

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## **THE UKIAH VALLEY WATER DISTRICTS**

The Grand Jury received citizen complaints about the operations of various water agencies in the Ukiah Valley, alleging mismanagement of water resources, non-compliance with state law and lack of coherent planning for distribution of the water resource. On the basis of those complaints, and in view of the growing demand for this

crucial resource, the Grand Jury undertook a thorough investigation of the water districts in the Ukiah Valley.

The water resources in Ukiah Valley are all allotted to their maximum limits. Most of the water that enters Lake Mendocino and the upper Russian River (61%) goes to Sonoma County; some of which Sonoma County sells to Marin County. Sonoma draws water from Lake Mendocino when the lake is below its average level, but not from Lake Sonoma.

The public water systems located in the Ukiah Valley of Mendocino County, as well as those located just to the north and south of the valley, are dependent, either directly or indirectly, on the Russian River as a source of water supply. The State Water Resources Control Board (SWRCB) has declared the Russian River to be fully appropriated each year during the months of June through October, the months of greatest agricultural activity in this basically agricultural region.

### **Method of Investigation**

The Grand Jury interviewed Board members, managers and employees of five water districts in the Ukiah Valley as well as members of the Mendocino County Board of Supervisors (BOS), officials of the SWRCB and the Mendocino County Water Agency (MCWA), to determine the status of the Districts' operations and the relationships among the Districts, and to seek better management of this scarce resource. The Grand Jury also interviewed representatives from the Army Corps of Engineers, board members of the Russian River Flood Control District (RRFCD), Officials of the City of Ukiah, and the chairperson of the Inland Water and Power District, and reviewed documents from the State Department of Health Services.

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### **Background Information**

The Russian River, fed by its East and West Forks, meanders in a southerly direction through the Ukiah Valley, Sanel Valley, Alexander Valley, Healdsburg Valley and through the gorge of the Coast Mountain Range to the Pacific Ocean at Jenner, a distance of about 110 miles. The watershed encompasses an area of approximately 1,485 square miles. The hydrology of the River is typical of most northern California coastal streams, with high flows in the winter and low flows in the summer with substantial annual variations. Runoff from rainfall supplies most of the water for the River's flow as there is

little snow in the watershed. The River provides essentially the entire water supply for approximately 500,000 people in Mendocino, Sonoma and Marin Counties.

The East and West Forks of the River converge approximately two miles north of the City of Ukiah. The East Fork is fed in large part by a diversion of water from the South Fork of the Eel River through a Pacific Gas and Electric Company tunnel at the north end of Potter Valley. That water finds its way to Lake Mendocino where it is stored behind Coyote Dam, constructed in 1956 by the U.S. Army Corps of Engineers as a flood control project.

### **History**

In 1949, the California State Legislature passed the "Water Code Appendix No. 54830" et seq. which authorized establishment of the Mendocino County Flood Control District and Water Conservation District. That code authorizes formation of improvement districts within Mendocino County. Pursuant to Sec. 54-35 of that Act, the BOS authorized an election to create the Mendocino County Russian River Flood Control and Water Conservation Improvement District (RRFCD) and, in January 1956, the voters within the boundaries of the District, with the exception of Redwood Valley, elected to create the District which has the power to levy property taxes and fees, incur bonded indebtedness and develop contracts with outside parties. At the same time, the voters approved the sale of \$650,000 in bonds to finance the District's share of the cost of Coyote Dam construction. Also participating in that project, constructed by the U.S. Army Corps of Engineers, was the Sonoma County Water Agency, which,

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because it supplied the lion's share of funding for the dam, has exclusive rights to control releases from Lake Mendocino and is allocated most of the water stored there.

In 1975, the SWRCB granted RRFCD a water right of 8,000 Acre Feet per Year (AF/Y), the water to be beneficially used for municipal, domestic, industrial, recreational and irrigation purposes within the RRFCD throughout the calendar year. In order to convert its permit to a full license (the last step in conversion to a full right), the RRFCD must submit information to the SWRCB by 2005, demonstrating full beneficial use of its allocated water. At that time, the SWRCB will issue a license to the RRFCD for the actual amount being used, up to 8,000 AF. Conversion will allow the RRFCD, through County of Origin provisions in the Water Code, to pursue additional water rights from

permits that have failed to demonstrate full beneficial use. Whether such rights are currently available is in question.

In order to meet conversion requirements, RRFCD must have an accurate accounting of water use within its area. Currently, that accounting consists of an estimate of water pumped by post-1949 users plus the excess over the right for the District's 8,100 AF/Y drawn by pre-1949 users and/or water pumped by pre-1949 users, which may be within the 8,100 AF/Y allotment but is unavailable from pre-1949 sources (i.e. when there is inadequate natural flow in the River to meet pre-1949 uses). To that end, the RRFCD has adopted Ordinance No. 00-1, requiring all users to formalize by contract their relationship with RRFCD and to install meters to monitor water usage. (The deadline for submitting applications for water was September 30, 2001; the RRFCD received requests for nearly 17,000 AF/Y of water, far in excess of its 8,000 AF/Y annual allocation.) Ordinance 00-1 also mandates a conservation program, to come into effect during periods of water shortage. The program prohibits wasteful use of water and establishes a five-stage water allocation schedule ranging from normal to emergency use. This schedule meets minimum requirements established by the SWRCB as a condition for new water rights.

In 1959, the SWRCB issued permits for 37,544 (AF/Y) to the Sonoma County Water Agency (SCWA) and for 8,000 AF/Y to RRFCD (Permit 129447B). The Board established rights to 20,000 AF/Y for Pre-1949 users in Sonoma County and 8,100 AF/Y for pre-1949 users in Mendocino County.

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Pre-1949 rights include both riparian and pre-1949 appropriative rights to divert natural flow of the Russian River or one of its tributaries for beneficial use. Water available for those uses is limited to sources of supply in existence prior to 1949, including natural inflow to Lake Mendocino from the west fork of the Russian River, supplemented by the PG&E diversion of water flow into the west fork of the Russian River, and natural flow in the tributaries below Coyote Dam. The east fork of the Russian River is also fed by the Eel River through a PG&E owned tunnel, which empties into the East Fork of the Russian River into Potter Valley. Users in this category (prior to 1949) include the City of Ukiah, Masonite Corporation and a large number of agricultural users. The Water Code requires those riparian users to register their use with the SWRCB, but failure to do so

carries no penalty and few riparian users in the Ukiah valley have registered. The RRFCD has estimated total riparian use to be as much as 10,000 AF per year.

The SWRCB estimates the annual appropriative use prior to 1949, i.e., the total amount of water available through natural flows to those users, to have been approximately 8,100 AF/Y. The RRFCD considers Pre-1949 use exceeding 8,100 AF/Y to be Project Water, i.e., water stored in Lake Mendocino.

Post-1949 "appropriative rights" are granted by the SWRCB to divert natural flow of the Russian River or one of its tributaries following the 1949 authorization for construction of Coyote Dam. Use of those rights is to a large degree for use in agricultural frost protection or off-stream storage of winter/spring diversion from the river. RRFCD has estimated total year-round rights for this category to be approximately 4,000 AF/Y.

The post 1949 rights thus amount to approximately 20,100 AF/Y, but, as some users elect not to register their use, that total probably underestimates the total usage in the watershed area.

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### **The Russian River Flood Control District**

The Russian River Flood Control District (RRFCD) is comprised of seven (7) distinct water districts, five (5) of which are within its boundaries. These are:

CALPELLA COUNTY WATER DISTRICT (CCWD)

CITY OF UKIAH UTILITY DISTRICT (CUUD)

HOPLAND PUBLIC UTILITY DISTRICT (HPUD)

MILLVIEW COUNTY WATER DISTRICT (MCWD)

WILLOW COUNTY WATER DISTRICT (WCWD)

The RRFCD includes several private water companies and numerous agricultural users. All these users are dependent on various water rights relating to natural water flow and Coyote Dam Water Project water. All these districts and private water companies have the mission of distributing sufficient water to households, industry and agriculture within their boundaries.

The Redwood Valley County Water District (RVCWD) is within the place of use and is dependent on Russian River water, but chose not to be a part of the RRFCD. RVCWD is authorized to draw only water from the RRFCD allotment of 8,000 AF/Y when any of that 8,000 AF/Y is considered surplus, i.e., not used by persons or entities that are a part of the RRFCD and have a legal right to use part of it's



8,000 AF/Y annual entitlement.

Under normal conditions, all water utilities in the Ukiah Valley, except for CUUD, depend on RRFCD water rights during the summer months to legally pump or divert water from the Russian River. During dry years, when natural flows in the Russian River are limited, they revert to project water to cover shortfalls. Under those conditions, even CUUD would have to depend on Project water. As RRFCD has had no formal agreement with any of the users in the District, except for the RVCWD (authorized to purchase surplus water), there is no complete accounting for all use of its allocated water; the quantity reported as used may be questionable.

The SWRCB requires an annual report from the RRFCD indicating who used how much of its permitted water. For those reports, the RRFCD estimates the quantity of water going to agricultural users by looking at the power consumption of their pumps. For public water systems, it relies on

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reports from the systems derived from production meter readings taken throughout the year.

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Table IV-1 (from State Water Resources, Division of Water Rights), summarizes the estimated annual water use by all Ukiah Valley users for the period 1995-1999 as reported to the SWRCB (data for 2000 were not available at the time of this report). It shows that RRFCD Project water use in 1999 was 8,049 AF/Y, exceeding its legal water right. The total estimated water use in the Ukiah Valley including pre-1949 and post-1949 water and Project water was over 20,200 AF.

Table IV-2 (from RRFCD) shows the amount of the annual Project water distribution. The data show that projected total demand from the seven utilities will

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use for the years 1999-2010 for the seven public water systems considered in this report. The projected 2010 use is based on the assumption that the percent of total annual Project water use in 1999 would be the same in 2010. It also assumes that all groundwater use is river underflow and thus included under the RRFCD permit. [The SWRCB defines all subterranean water within the geologic bed of the Russian River as underflow and, in past decisions, has considered all wells within the confines of the Ukiah Valley as surface water under their jurisdiction.] Inasmuch as water for CUUD, RVCWD and HPUD

is all considered Project water, none of the systems have an independent permit for water. One hundred percent of RVCWD use for May through October is Project water and a portion of UCWD water usage should certainly count against RRFCD water allocabut, as that is beyond the scope of this report, the Table counts none of UCWD water use against the RRFCD permit in the Table.

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increase from 10,463 AF/Y in 1999 to 13,892 AF/Y by 2010.

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**Table IV-3**  
**Water Utility Maximum Month Water Use**  
 1995 – 2000

Water System	Average Day Production In Maximum Month; gpdc (Six Year Average)	Ratio to Ukiah Average Day In Maximum Month
Ukiah	878	1.00
RVCWD	913	1.04
CCWD	948	1.08
Rogina	1,203	1.37
HPUD	1,436	1.64
MCWD	1,664	1.90
WCWD	1,894	2.16

Table IV-3 (ibid) summarizes the average water use per day per connection during the maximum flow months for 1995-2000, based on data from Ukiah Valley utilities. CUUD has the lowest usage; RVCWD and CCWD show moderate usage; the highest figures are in WCWD, MCWD and HPUD. But CCWD, CUUD, HPUD and MCWD consider some of their wells as drawing from percolated groundwater rather than underflow and have not included that usage to the RRFCD for inclusion in its annual report.

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The Grand Jury looked at records submitted to the Department of Health Services (DHS) for 1999. The figures include all groundwater sources, compared to the figures reported to the RRFCD of sources considered underflow, with a difference of almost 1,500 AF/Y. As the

SWRCB considers all groundwater to be underflow, total Russian River water use in the Ukiah Valley is more than 21,700 AF/Y, significantly exceeding the estimated appropriative annual water rights for the area.

(Beyond  
Allocation)

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### **Valley-Wide Task Force**

The County of Mendocino and the City of Ukiah established the Ukiah Valley-Wide Task force in April 1990 to study possible consolidation of interest and services, present and future for water, sewer, emergency services and development standards. The Task Force developed the following conclusions:

1. Fragmentation of authority of water services within the Ukiah Valley has diluted the financial resources available to those responsible for providing those services and for further development of water supply. That fragmentation precludes a pooling of the financial resources that would produce better and more effective services.
2. RRFCD should be reconstituted with a newly-elected seven-member board by zones. The Board should represent residential, industrial, commercial, agricultural, recreational and environmental users in the District. The RRFCD should be the lead agency responsible for the protection, development, treatment and sale of water to distribution districts and agricultural users.
3. Because of legal implications of existing water rights, existing small districts should remain in place. However, when it becomes legally and economically feasible, small districts should be consolidated into a larger entity for delivery of water. Immediate plans should be made to consolidate the treatment of water under one agency and small districts should look to effect cost savings through the use of Joint Powers Agreements with other water agencies.

The Task Force recommended that immediate steps be taken by the various legislative bodies to begin implementation of its conclusions.

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### **Grand Jury Findings**

1. RRFCD has 8,000 AF/Y of water under its direct control and reports monthly to SWRCB on water usage within the District, but cannot provide precise information. There are no meters or user

contracts to provide that information. The Mendocino County Russian River Flood Control and Water Conservation Improvement District (MCRRFC) is required by the State Water Resources Control Board to report the amount of water used under their permit. To that end, MCRRFC is establishing a customer base and all individuals and entities using their water must install meters by 7/01/03. This will allow MCRRFC to accurately account for their water as required by the State.

2. None of the Ukiah Valley-Wide Task Force recommendations have been implemented.

3. Division of Water Rights (DWR) inspection of more than 70 permits and licenses within the Russian River watershed determined that several diversions from the River or its tributaries are not in compliance with the terms and conditions of their permits and licenses. Inspectors found excess amounts of seasonal water use, new uses, new or additional points of diversion and expanded places of use. Many of those permittees and licensees claimed their excess diversions were covered by a RRFCD permit.

4. In many instances, diversion figures reported by RRFCD are greater than the diversion amounts calculated by SWRCB for specific projects. RRFCD is serving property outside the place of use authorized by its permit.

5. RRFCD data includes water diverted from domestic use to agricultural, a use not currently authorized by its permit.

6. SWRCB is currently requesting identification of the specific points of diversion at which RRFCD is delivering water under its permit.

7. SWRCB has been issuing contracts for parties recognized as using water under RRFCD permit after September 30, 2001.

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### **Recommendations**

A. The appropriate agencies implement the recommendations of the Valley-Wide Task force.

B. RRFCD develop and implement a water conservation plan to address any anticipated or unpredicted water shortages as well as for implementation during periods of normal water supply. RRFCD oversee water users within the District to ensure that they are complying with conservation mandates. They have recourse to sanctions such as establishment of different water rates for users who conserve water and those who don't.

C. RRFCD develop contracts with county water districts for water use

within the RRFCD boundaries.

D. RRFCD establish a moratorium on any new agricultural hook-ups for use of project water.

E. RRFCD establish fees for water distributed to individual water districts within one year.

F. RRFCD require installation of water meters by **all** public and private water users at user cost, with the proviso that users without meters receive no water. RRFCD monitor the meters and stop all illegal withdrawals.

G. RRFCD petition SWRCB to change the character and place of use under its permit and file a new application to cover direct diversion of water for agricultural use.

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## **Calpella County Water District (CCWD)**

### **Findings**

1. CCWD has no water right permits. CCWD's single well is insufficient to meet its demands, and it is out of compliance with State requirements.

2. With a current storage volume of 250,000 gallons, CCWD is deficient in the amount of water storage necessary to meet California Water Works Standards.

### **Recommendations**

A. CCWD install meters, to be monitored by RRFCD, to allow for monthly reports on water usage to the RRFCD and the SWRCB.

B. CCWD develop and implement a water conservation plan.

C. CCWD apply for permits to draw water from other districts and develop a contract with RRFCD for water use.

D. CCWD obtain permits from SWRCB to build water tanks to meet SWRCB and California Water Works Standards.

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## **City of Ukiah Utilities District (CUUD)**

### **Findings**

1. CUUD has 4,139 domestic and 2,518 commercial hookups at this time.

2. Depending on hydrologic conditions, only project water is available during the dry season. At those times, CUUD pumps RRFCD water.

3. In the past five years, CUUD usage has significantly exceeded its Pre-1949 water rights during the dry season.

4. Based on water use in the year 2000, CUUD storage is inadequate, amounting to less than 50% of SWRCB requirements.

5. CUUD is exploring the possibility of using treated wastewater for the Municipal Golf Course, City Parks and the Cemetery District.

#### **Recommendations**

- A. CUUD develop contracts with RRFCD for water use.
- B. CUUD install meters, to be monitored by RRFCD.
- C. CUUD continue efforts to use treated wastewater for the Municipal Golf Course, City Parks and the Cemetery District.
- D. CUUD obtain permits from SWRCB to build water storage tanks as per SWRCB and California Water Works Standards.
- E. CUUD obtain permits to divert water from other districts within RRFCD.
- F. CUUD investigate use of existing additional storage available behind Coyote Valley Dam during late winter and early spring, water to come through RRFCD.

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### **HOPLAND PUBLIC UTILITIES DISTRICT (HPUD)**

#### **Findings**

1. HPUD has adequate storage and distribution capacity to meet existing and projected demands to the year 2010.
2. HPUD is the only water district in the Ukiah Valley that has recycled sewer water for agricultural use.
3. HPUD has no water filtration system and only disinfects water.

#### **Recommendations**

- A. HPUD install meters to be monitored by RRFCD.
- B. HPUD develop contracts with RRFCD for water use.
- C. HPUD develop and implement a water conservation plan.
- D. HPUD install a water filtration system
- E. HPUD treat sewage water before distributing it.

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### **MILLVIEW COUNTY WATER DISTRICT (MCWD)**

#### **Findings**

1. MCWD lacks sufficient storage space to meet California Water Works standards.
2. MCWD has the second highest historical per connection use in the Ukiah Valley because of supplying water to other districts and agricultural use.
3. The SWRCB ordered MCWD to undertake an engineering analysis of the system, including source capacity, transmission mains, storage capacity, emergency interconnection with Ukiah and the need for standby power. The order called for recommendations and a

schedule for implementing them; it also requires Department authorization, through an amended domestic water supply permit, prior to adding any new service connections or sources of treatment.

4. MCWD established a water conservation program in mid-2001. MCWD submitted an engineering analysis of the water system to the SWRCB in 2002; all connections to the water system have Departmental approval as MCWD's domestic water supply permit has been amended.

5. MCWD storage tanks do not provide enough water to meet demand and water availability does not meet SWRCB standards.

6. There is no backup power for the pumps, the filtration system or the wells with a potential public health risk. A June 2001 compliance order requires that there be no more connections and water use must decline for existing connections.

7. RRFCD sends water to MCWD in spite of the lack of any contractual agreement.

8. MCWD sells water to unauthorized users such as CCWD.

9. MCWD could be subject to a \$500 a day fine from SWRCB due to its non-compliance with SWRCB requirements.

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### **Recommendations**

A. MCWD install water meters to be monitored by RRFCD.

B. MCWD develop and implement a water conservation plan to meet SWRCB standards.

C. MCWD develop contracts with RRFCD for water use.

D. MCWD obtain permits to provide agricultural water or cease supplying water for agricultural use.

E. MCWD evaluate the number of hook-ups and the volume of water used by each.

F. MCWD comply with SWRCB demands to stop pumping underflow water to recharge wells.

G. MCWD obtain permits to divert water to other districts.

H. MCWD obtain permits from SWRCB to build storage tanks up to State standards.

I. MCWD obtain SWRCB authorization through an amended domestic water supply permit before adding new service connections and sources of treatment.

J. MCWD develop back-up power for the pumps and filtration system.

K. MCWD require yearly evaluations for management staff.

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# **REDWOOD VALLEY COUNTY WATER DISTRICT (RVCWD)**

## **Findings**

1. Water usage in Redwood Valley has increased from 1,812 AF/Y to approximately 2,510 AF/Y from 1994 to 2000; the increase is mostly attributable to increased demand from vineyards and wineries. Domestic use, subject to a court-imposed moratorium, has not significantly increased.
2. RVCWD relies on surplus water from RRFCD to meet dry season demands. Approximately 2,120 AF/Y in 1999 surplus water from RRFCD is no longer available.
3. RVCWD is diverting water in violation of SWRCB Permit 17593, which prohibits water diversion from Lake Mendocino.
4. RVCWD is out of compliance with terms of its permit requiring the District to ensure reasonable beneficial use of water stored in local landowners' reservoirs, to submit a certified engineer's map showing the location of all reservoirs receiving project water and to keep records of the amount of water stored in privately-owned reservoirs.
5. RVCWD lacks an adequate and reliable source of water during the dry months, June through October, and relies on surplus water from RRFCD, which is currently exceeding its water rights limit; as a result, the available water for Redwood Valley can be expected to decline or be non-existent.
6. According to SWRCB, the RVCWD is limited to 3,500 acres of irrigated land in any one year, not to include new annexations to RVCWD boundaries since issuance of SWRCB Permit 17593.
7. Between 1994 and 2000, water use in RVCWD increased by more than 50%, largely as a result of increased irrigation use. That increase is the result of RVCWD providing water to out-of-boundary areas.
8. RVCWD has no legal right to water between May and October.
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9. RVCWD has ignored consultants' recommendations to ensure proper flow and pressure for agricultural users and require 24-hour holding ponds as called for by their permit.
10. RVCWD has sidestepped contract law by using non-licensed contractors and putting them on the District payroll.
11. In 1999, RVCWD was cited by the State Department of Health for using a non-permitted chemical for vegetation removal. When ordered to get rid of the treated water, the water was dispersed into



the domestic water lines.

12. An examination of the financial records at the Redwood Valley Water District headquarters showed that payments for services and materials were made prior to authorization by the RVCWD Board. Payments were made for services not yet rendered.

### **Recommendations**

A. RVCWD establish a moratorium on new agricultural hook-ups until the issue of water above 8,000 AF/Y allocated to RRFCD is resolved.

B. RVCWD install meters, to be monitored by RRFCD, as a basis for monthly reports on water usage.

C. RVCWD develop contracts with RRFCD for water use within the boundaries of the RRFCD and resolve outstanding charges.

D. RVCWD require agricultural users to have 24-hour holding ponds in accordance with SWRCB permit 17593. The permit should include fines or cutoff of service for those without ponds.

E. RVCWD use a public bidding process for all contracted work and accept bids only from licensed contractors.

F. RVCWD Board of Directors approve all budget decisions prior to acceptance of contract for services and supplies.

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G. RVCWD obtain appropriate permits for diversion of water to other districts and for service outside of currently designated place of use.

H. RVCWD Board evaluate management staff performance at least every six months and take corrective action for any mismanagement.

I. RVCWD refrain from adding toxic chemicals to domestic water without appropriate permits and without informing customers.

J. Look for additional water sources and storage capacity.

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## **WILLOW COUNTY WATER DISTRICT (WCWD)**

### **Findings**

1. WCWD has an estimated maximum capacity of 3,225 AF/Y, an amount more than adequate to meet projected demands to the year 2010.

2. SWRCB has determined that WCWD's Burke Hill and Norgard Well Fields draw 3.500 gallons per minute during the summer months when there is no natural flow in the Russian River. SWRCB considers that water to be chargeable to RRFCD's allocated 8,000 AF/Y.

3. WCWD does not filter its water. It does add disinfectants.

4. WCWD, with storage capacity of .843 million gallons, is out of compliance with State regulations requiring 1.83 million gallons of

storage capacity.

5. SWRCB called on WCWD to correct all issue of non-compliance by July 1, 2002. WCWD has not done that, but the District is meeting with CUUD and MCWD to develop solutions to the issues identified by SWRCB.

### **Recommendations**

- A. WCWD install water meters, to be monitored by RRFCD, as a basis for monthly reports on water usage to RRFCD and SWRCB.

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## **General Findings**

1. Water districts have no water conservation plans to identify over-use and providing penalties for over-use.
2. Water districts are required to install meters for measuring water use by each water consumer.
3. In violation of the Brown Act, water district board members have communicated within their district and between districts by telephone, e-mail and private meetings to discuss public matters.
4. The water resources in the Ukiah Valley (i.e., 8,100 AF/Y of pre-1949 water) are being used in part, by agricultural consumers without cost and without measurement and controls.

## **General Recommendations**

(All recommendations are of equal importance)

1. Newly restructured Mendocino County Water Agency be appointed lead agency by BOS for all County Water Districts, watershed studies, negotiations with California Department of Fish and Game, U.S. Army Corps of Engineers, Federal Fisheries and other water agencies.
2. Consolidate Ukiah Valley Water Districts.
3. Mendocino County Water Agency assume responsibility for the Inland Water and Power Commission mandates concerning the Eel River diversion into Potter Valley.
4. Develop and implement a water conservation plan to address any anticipated water shortage.

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5. Install meters for all water consumers to insure accurate monthly reports to Russian River Flood Control District and the State Water Resources Control Board.
6. Water District board members attend Brown Act orientation program or seminar.

7. Establish a 5-year moratorium on any new agricultural hook-ups.
8. All environmental considerations must be addressed to preserve the quality of life in Mendocino County now and in the future.

## **Comments**

The Ukiah Valley population is likely to continue to grow and the need for water for domestic, business and agricultural use will increase proportionately. Any increase in availability of water by storage behind the Coyote Valley Dam or other means is problematic and speculative. Raising the dam, even if possible could not be accomplished in less than ten years.

There is an immediate need for a water conservation plan for the Ukiah Valley, which would limit water use by water consumers by providing penalties for over-use. Fines and shut-offs would be necessary. The Mendocino County Water Agency would be responsible for water-use policies and regulation enforcement. A comprehensive program with a futuristic approach to our water usage is needed.

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### **Technical Terms Appendix**

One Acre Foot (AF) is a measure of water volume and is defined as one acre of area covered one foot deep by water, thus 43,560 cubic feet.

One Acre Foot (AF) is 325,850 gallons of water.

One Million Gallons is 3.07 AF (3,0689)

One cubic foot per second of flow (CFS) is 646,315 gallons. That amounts to nearly 2 AF (1.98) per 24-hour day. At a rate of one gallon per second, it would take about 3 3/4 days to run out an acre foot (3.7714 days).

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### **Distribution List**

Response Required:

Mendocino County Board of Supervisors

Russian River Flood Control District

Calpella County Water District

City of Ukiah Utilities District

Hopland Public Utilities District

Millview County Water District

Redwood Valley County Water District

Willow County Water District

Response Requested:  
California State Water Resource Control Board  
Report release date: June 4, 2003

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## **Animal Care and Control Department** **Introduction**

The Grand Jury received specific complaints from citizens and past employees of the Animal Care and Control Department (AC&CD). The Grand Jury has oversight of all departments of Mendocino County.

### **Methods of Investigation**

The Grand Jury visited both the inland and coastal Animal Control facilities.

The Grand Jury interviewed the director of the AC&CD, the manager and two employees of the Animal Care Facility, the clerk in charge of licensing, a shelter staff member, and one current and three former Animal Control Officers.

The Grand Jury visited with officials of both the City of Fort Bragg who has a contract for services with the AC&CD, and City of Ukiah officials who explained the relationship between them and the AC&CD.

In addition, the Grand Jury interviewed a citizen who is interested in the care given to the animals kept at the animal care facility, an officer with the local humane society, and the head of the County Human Resources Department.

The Grand Jury made a trip to Healdsburg and was given a thorough guided tour of the Healdsburg Animal Control and Humane Society facility that euthanizes animals, and interviewed the officer in charge. The members of the Grand Jury were also given a complete overview of the microdot device reader and were given a demonstration of how it works.

The Grand Jury reviewed the following legal documents: the Mendocino County Animal Care and Control Policy and Procedures Manual; California State codes relating to how animals are to be handled during capture, care, and disposal by AC&CD's within the state; and legal agreements between the City of Ukiah and Mendocino County. The Grand Jury examined

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publications by the State Humane Association of California (a non-

profit organization) regarding the curriculum and training of euthanasia instructors, the financial report of the AC&CD, and the Care-A-Van pamphlet about the mobile vaccination and neutering service for animals in rural Mendocino County.

### **Findings**

1. The three aspects of the AC&CD are political, humane, and law enforcement.
  2. Mendocino County does not have independent mediation services available to county employees. The only suggested alternative is to, "Contact the union."
  3. The turnover rate at Mendocino AC&CD is greater, proportionately than in Lake or Sonoma Counties.
  4. The County has no exit interview process for departing employees and has no organized way to determine if a department has personnel problems.
  5. There is a consensus among field and shelter employees that upper management has failed to provide them with basic procedure guidelines and equipment that would facilitate efficient use of time and energy.
  6. AC&CD employs a bilingual animal caretaker who is paid extra for on-call English and Spanish translation.
  7. A field officer expressed a need for portable animal ramps for animal transport vehicles.
  8. Special protective clothing was not issued to employees during the three months probation period. Yet during that period, they were required to participate in field duties in order to be properly trained.
  9. There was evidence of gender discrimination in hiring, training and the issuing of clothing and equipment.
  10. No equipment or procedures for prevention of transmitting diseases from animals to humans and visa versa were available to the public in the pet viewing area.
  11. The AC&CD charges board and room as part of the adoption fees. It also charges spay and neuter fees and rabies shot fees as part of the adoption process.
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12. People at the Humane Societies near Ukiah did not share the characterization by the director of the AC&CD about amiable relations between AC&CD and private animal shelters.
  13. There is good working relationship in Ft. Bragg between the county's AC&CD branch office there and private animal shelters.

14. The City of Ft. Bragg is satisfied with the contracted services with AC&CD.

15. The practice of AC&CD charging the same animal room and board fees, charged to the public, before releasing an animal to the Humane Societies, seems to be contrary to the mission statement of "care and control". Humane Societies are charitable institutions with very limited funds.

16. AC&CD has no pro-active policy for adoption or referral to Humane Societies or other animal rescue agencies.

17. All citizens may impound, at their own risk and cost, stray cats or dogs and notify AC&CD for pick up.

18. In order to prosecute animal cruelty cases, there must be at least one witness who is willing to sign a complaint and appear before the court to testify. An officer who witnesses such cruelty can cite the offending person.

19. The surrender fee to accept an animal is \$40.00.

20. The AC&CD must abide by state regulations for animal care and handling without state appropriations.

21. The director is planning a program to enhance services for control and care of animals. A volunteer program is planned to involve public participation with the operation of the shelter.

22. A computerized microdot program will be installed and scheduled for operation May 1, 2003. All animals that leave the shelter will be identifiable by means of any microdot reader.

### **Recommendations**

A. The county, through the Department of Human Resources, establish a program to interview employees that are leaving. Exit interviews would provide the County with important information about departmental performance. (Findings 1,2,3,4,8)

B. AC&CD employees need to be properly trained, then delegated to carry out their duties. All employees must have equipment and

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clothing for betterment of health, safety, and ergonomic comfort. (Findings 4,6,7)

C. First aid items should always be readily available to the visiting public who may be handling animals at the shelter. Health, safety,

and hazard standards must be diligently monitored by management and staff in field and shelter activity in order to minimize County liability. (Findings 8 and 10)

D. AC&CD management needs to acquire and issue field and shelter implements, such as loading ramps, protective gear and first-aid items. These items should be kept within convenient reach of all staff. (Finding 6)

E. The AC&CD management should focus on establishing mutual trust and respect between management and staff. (Findings 3 and 9)

F. The AC&CD must develop a positive working relationship with Humane Societies. The Humane Societies are encouraged to reciprocate. (Findings 11,12,15,23,24)

G. The AC&CD should encourage employees to read this report.

### **Response Required**

Board of Supervisors

Director of the Animal Care and Control Department

Director of the Department of Human Resources

City Manager of the City of Ukiah

City Manager of the City of Fort Bragg

### **Response Requested**

Humane Society For Inland Mendocino County (Redwood Valley)

The Coast Humane Society (Fort Bragg)

Milo Foundation (Willits)

Report Released: 4 June 2003

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## **The Hopland Cemetery District**

### **METHOD OF INVESTIGATION**

Acting on a complaint, the Grand Jury has undertaken a review of the operations and activities of the Hopland Cemetery District. In doing so the Grand Jury has spoken with a dozen current and past directors, trustees, secretaries and employees of the cemetery district. In addition the Grand Jury interviewed County Counsel, the County Auditor-Controller and the County employee who for several years had done the cemetery districts annual audit. We have retrieved information from mortuaries in the area. We have examined past cemetery account activity and funds held and disbursed by the County Auditor-Controller. We have examined what records that exist and are held by the current Board of Trustees. We have looked at the records held by the Board of Supervisors office. We have gathered and reviewed California Government Code and California Health and Safety

Code with regards to Special Districts and Special Public Cemetery Districts.

### **BACKGROUND INFORMATION**

The Hopland Cemetery has been in use since the mid 1800's. The earliest gravestone is dated 1859. Others, it is reported, were buried before that date. Taking advantage of State Codes, in 1957 the cemetery was organized as a Special Public Cemetery District. This has provided some operational structure and allowed for the cemetery to receive modest annual revenue from assessed property taxes. The governing codes require a Board of three Trustees to be in place. Annual budgets are called for as well as regular financial statements and audits. Records and maps are required to be kept and maintained.

The chartering trustees served 20 to 25 years before retiring but since that time it has been increasingly difficult to seat trustees and keep them involved.

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### **Findings**

1. The Hopland Cemetery District has not had in place any written policy, operational procedures, or job descriptions for any officers or workers of the Cemetery District. One exception is a caretaker/secretary job description authorized in 1987 and never implemented.
2. The Grand Jury was unable to locate and obtain all of the original burial maps and most of the records for the period prior to late 1980s. This has created a situation at the cemetery where nobody is certain exactly where everyone is buried.
3. Interviews with past trustees of the District show a pattern of turmoil and conflict between factions of the Hopland community. This same situation has been evident within the Cemetery District itself.
4. With the exception of the Grand Jury, no local government agency has direct oversight responsibility of the Hopland Cemetery District.
5. Most past trustees of the Hopland Cemetery District were not aware of provisions in the California Government Codes and the California Health and Safety Codes that pertain to the District.
6. From the end of 1999 through the beginning of 2002 the Hopland Cemetery District operated with only one trustee. California Health and Safety Codes, section §8950, requires at least three trustees and, after a vacancy exists for 90 days, section 1779 of California Government Codes gives authority to the Board of Supervisors to fill such vacancies. In addition Health and Safety Codes, section §8950.3, gives procedures and authority to the BOS to act as cemetery district trustees. During that period the public



was uninformed as to when district business was being conducted, in violation of the Brown Act.

7. For the years 1999,2000,2001 no yearly audit to the Auditor-Controller, no yearly financial report to the Board of Supervisors and no yearly budget to either entity was turned in. State Government Codes, sections §26909 and §53901, and State Health and Safety Codes, section §8970, §8990 and §8991 require such reporting. Pursuant to section §26909 of State Government Code the County Auditor-Controller has authority to compel annual audits.

8. Health and Safety Codes section §8982 requires all District money be deposited with the County Treasurer. In violation the Hopland Cemetery District maintains a separate account with the Savings Bank of Mendocino County. The Grand Jury has been advised that such an account might be acceptable and proper solely as a conduit to transfer money to the County and possibly for use as petty cash. Through 1998,

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the county auditor advised the Hopland Cemetery District to better record the activity of this account. From the end of the year 1999 through the beginning of 2002 no deposits other than tax revenue were placed in county accounts. During this period goods and services were paid out of both County and Savings Bank accounts.

9. No endowment care money was deposited from late 1999 through early 2002 in the County-held endowment care fund. California Health and Safety Codes, section §9005, provides that all endowment care revenues shall be deposited with the County Treasurer to be placed in this fund. The Grand Jury was unable to determine how much, if any, of the required endowment care money was collected during that time.

10. County records show from the year 1995 through 1999 a growing positive year-end balance for the Hopland Cemetery District's County-held operating fund. At the end of 1999 this was \$4079. By the end of 2001 the balance dropped to a \$4000 deficit. This deficit still exists. The Endowment Care Interest fund also has a negative balance.

11. Health and Safety Codes section §8963 requires districts to prepare and maintain an up-to-date map of the cemetery and to keep a record of all remains interred, stating name, age, place of death, date of internment, plot number, and name and address of funeral director. Maps and records are missing.

12. State Government Code §56430 was added in the year 2000 giving LAFCO the responsibility of doing service reviews on Special Districts. Such reviews are to include, "Infrastructure needs and deficiencies",

“Evaluation of management efficiencies” and “Local accountability and governance”. Locally these reviews have not been implemented for lack of guidelines and funding.

13. Hopland Cemetery District payroll and expenses have been paid for without proper documentation or time cards.

### **Recommendations**

A. The Hopland Cemetery District develop a set of written policy, operational procedures and job descriptions for the operations of their organization. Copies of these procedures be given to each new trustee along with instruction to assure compliance. These procedures include, but not be limited to, job descriptions, accounting practices, officer responsibility, burial record keeping, endowment fund handling, and work and service documentation, i.e. time cards.

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All applicable State Gov. Codes and State Health and Safety Codes be made available to trustees along with these operating procedures. (Findings 1,5,8,9,11,13)

B. With regards to the above, the Grand Jury further recommends that a process whereby all documents and records turned over by an outgoing trustee or employee be listed and signed for by the Director of the Cemetery District.

C. The Board of Supervisors and the Auditor-Controller meet and set procedures to take action in the future when self-governing special districts like the Hopland Cemetery District fail to perform as required by State governing codes. (Findings 6,7,8,9)

D. The Board of Supervisors immediately approve an emergency allocation to bring the District’s accounts into balance. (Finding10)

### **Note**

In the course of this investigation, the Grand Jury determined that there are indications of possible violations of law. For that reason, and under the authority of Penal Code Section §932, the Grand Jury has forwarded the relevant information to the District Attorney for further investigation and possible prosecution.

### **Comments**

While recognizing that State governing codes do not impose requirements of over-sight upon the County, they do give authorization to both the Board of Supervisors and the Auditor-Controller’s office to take action when things are amiss. Because there were so many indications that things were going wrong, the County must take some of the responsibility for the problems and

the loss of funds. This sentiment was verbalized by a number past trustees interviewed. In other words the County has let the Cemetery District down.  
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### **Responses Required**

Mendocino County Board of Supervisors  
Mendocino County Auditor-Controller  
Hopland Cemetery District Board of Trustees

**Report release date: June 13, 2003**

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## **The Mendocino County Public Library System** **2002/2003 Grand Jury Report**

The 2002-2003 Grand Jury of Mendocino County as a function of its oversight responsibilities has chosen to review the County Library System operations.

### **Review Procedures**

In carrying out the review process, the Grand Jury has interviewed the County Library Director, two members of the Library Advisory Board, an assistant librarian and a “Friend” of the Library. We have also reviewed the Library Mission Statement, the Library Budget Report, and the County Library Statistics, 2002 report issued by the State Library Development Service Bureau as well as bulletins, newsletters and other documents relating to library function.

### **Library System Functional Overview**

The Mendocino County Library Director prepares the budget and administers five library branches and the bookmobile. These branches are Ukiah Valley, Round Valley (Covelo), Coast Community (Point Arena), Fort Bragg, and Willits.

Mandated by California State law, the Mendocino County Library Advisory Board provides guidance to the Library Director. Nine members are appointed, one each by the five County Supervisors and the four incorporated cities in the County.

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Each Branch has a Managing Librarian or Library Technician in charge. There are 18.25 employees staffing the five libraries and bookmobile. As approved by the Board of Supervisors, each branch is open 38 hours a week. The Friends of the Library are separate and independent entities at each Branch as are Volunteers. Together they provide staffing support and various fundraising activities.

### **Findings**

1. The **Mendocino County Library Director** is held in the highest regard for her leadership abilities from all that were interviewed.
2. As of March 1, 2002 there are 41,134 current registered library cardholders comprising about 50% of the total County population of 82,685. (Cards not used for three years are discarded.)
3. There are 18.25 employees, total, staffing the five branch libraries and the bookmobile. This lean staffing means there is no paid backup in the event of illness or for vacations. While volunteers do some of the backup, there seems to be a decreasing number of volunteer hours to do all of the backup necessary. The impact of a 19.2% increase in library patronage along with a County hiring freeze has highlighted the insufficient staffing problems.
4. According to the California Library Statistics, (2002), published by the California State Library Development Services Bureau, Mendocino has 4,850 residents for each full time paid staff compared to a statewide average of 2,976.
5. According to the California Library Statistics, (2002), published by the California State Library Development Services Bureau, Mendocino County  
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spends only \$15.03 per capita per year against a statewide average of \$23.05 for library services.
6. According to the California Library Statistics, (2002), published by the California State Library Development Services Bureau, for public libraries serving populations of 60,000 to 100,000, Mendocino County salaries for Library Director and all staff positions fall at the **very bottom of the scale**.
7. None of the County Library facilities comply with the requirements of the Americans with Disabilities Act (ADA). None of the facilities electrical systems adequately accommodate computer services and other electronics necessary to run the library system. Structural improvements and capital expenditures are needed at many of the library facilities.
8. **Friends of the Library** and **Volunteers** have played a significant role in support of individual county libraries. Friends of the Library raise funds in various ways to supplement the needs of their particular branch. Volunteers help relieve the pressures of staff shortages and also assist in fundraising activities. “**Friends**” and **volunteers** are truly making every effort to help.
9. The 2002-2003 County Library budget has been reduced a total of \$85,767 from both State and County sources.
10. Library services from the **Bookmobile** were initiated in 1965 and have been a popular way of accessing the library books for residents in outlying areas. The current Bookmobile, custom built in 1995, has logged 178,000 miles and because of it’s age, is increasingly undergoing expensive repairs.

There are no funds allocated for replacement at this time. The Bookmobile stops within all supervisorial districts, and additionally serves the Parlin Fork and Chamberland Creek Conservation Camps.

**11. The Ukiah Library** average usage is over 500 patrons a day. A great deal of support is given by the **Friends of Ukiah Branch**. The facility has had no

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major maintenance or upgrading in 30 years and the space is insufficient for current usage levels. Moisture is present on some of the walls during rainy conditions. Parking meters in the area make relaxed parking difficult.

**12. The Fort Bragg Library** services approximately 10,000 patrons per month. The “**Friends**” have raised \$175,000 toward remodeling the facility. The **Managing Librarian** has initiated many special programs and is working toward making the library a focal point in the community.

**13. The Point Arena Library** facility is extremely inadequate in most regards. The Coast Community Friends of the Library are to be commended for raising over \$200,000 for the construction of a new facility. This amount however may be insufficient. Additionally, while the Grand Jury understands the Point Arena residents natural desire to have a library facility in their own community, especially given their success in raising funds and establishing a location, there remains an unanswered question as to whether the demographics support a fixed facility in Point Arena. The County should be a partner in answering this question.

**14. The Willits Library** facility is in great condition and the local “**Friends**” very supportive.

**15. The Round Valley Library**, a rented facility, has had negligent maintenance, the electrical system is in poor condition and tiles have been known to hang from the ceiling. For these and other reasons this library is being given special attention by the County. Friends of the Library have been paying the monthly rent but the \$3,600 needed yearly for this has now been included in the revised budget for 2002-2003.

16. As related in the 2002-2003 Budget Report, the Mendocino County Library **website**, <http://www.mendolibrary.org>, allows patrons to access an online catalog from which they can order books and

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have them delivered via bookmobile. The site now includes a database to search for and print magazine and newspaper articles. “Q&A Café” on the website is available for patrons to ask reference questions online from 2-9 pm daily. The website also provides current information on upcoming events at the libraries.

## **Recommendations**

A. Mendocino County Board of Supervisors must find a way to increase staff at the libraries, 18.25 employees are inadequate. 41,134 cardholders, out of a population of 82,685, and an increase in use of 19.2% in one year deserves this consideration. (Findings 2, 3 & 4)

B. Given the increased mobility of County residents, The County Library Director, the Library Advisory Board and a representative of the Board of Supervisors should formally assess the continuing need for the Bookmobile. Areas of consideration should include: how Bookmobile expenses might better serve library users by way of fixed facilities, increased use of drop-off/pick-up sites, and the use of email orders linked with US mail deliveries. If continued Bookmobile services are determined to be in the best interests of County residents, the Board of Supervisors should properly fund this service to include a replacement vehicle in the near future. (Finding 10)

C. The Board of Supervisors and The County Administrator along with the Library Director need to develop a capital-spending plan, outside of the operating budget, for necessary improvements and structural repair at all library facilities. These improvements shall include compliance with ADA regulations and installation of adequate

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electrical systems. (Finding 7)

D. The County Library Director, the Library Advisory Board, a representative from the Coast Community Friends of the Library and the Board of Supervisors should initiate a formal study to ascertain the library needs of Point Arena and the contiguous communities, and how best to meet those needs. (Finding 13)

E. The Grand Jury encourages continued support be given to the Round Valley Library to upgrade facilities and improve services. (Finding 15)

F. The Board of Supervisors should bring the County Library salary structure into line with other library systems of similar size and provide for this in the budget. (Finding 6)

## **Comments**

The Grand Jury acknowledges and especially commends the County Library Director for her skills, energy and leadership in moving the Library and Library services to levels not supported by the County budget.

The Grand Jury also applauds the staff, the Friends of the Library and all volunteers for their extraordinary roll in providing such a diverse, high quality library system in spite of severe monetary constraints.

Over the last few years, many major accomplishments have been achieved through strong leadership, dedicated and competent staff, and momentous community support.

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### **Response Required**

Mendocino Board of Supervisors  
Mendocino County Administrator

### **Response Requested**

Mendocino County Library Director  
Mendocino County Library Advisory Board

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## **Dangerous Fire Hazards in Brooktrails?**

The Grand Jury received a complaint signed by seventeen residents of Brooktrails regarding their concern about cars parked on the roads. The complainants claimed that the parked vehicles would endanger their safety by interfering with fire emergency vehicles attempting to respond to a fire call.

The Grand Jury interviewed the main author of the complaint, the business manager, and a member of the Brooktrails board, a sheriff deputy of Mendocino County who lives in Brooktrails, a CHP officer who also lives in Brooktrails and the Fire Chief of Brooktrails. The Grand Jury also attended a public meeting for all residents of the district where the subject of cars that are illegally parked was on the agenda. The Grand Jury made a tour of Brooktrails roads to observe cars and other vehicles parked on roads and private property.

### ***Findings***

1. One board member and others in the community indicated Brooktrails is dangerously like the Oakland hills and that a similar fire would be equally devastating.
2. Building plans now require off-street parking before Brooktrails Architecture Committee approves the plans.
3. In observing the many parked cars and vehicles, The Grand Jury found that they may constitute a safety hazard and are in non-compliance with Brooktrails Township parking ordinance.  
Mendocino County Codes Sec. §15.28.010 and Sec. §20.180.010
4. Brooktrails has a good fire abatement program.
5. None of the seventeen complainants took time to attend a Board meeting where the subject of their concern was on the agenda.
6. Uniform Fire Code Sec. §10.205 Obstruction states “The

Required width of a fire apparatus access road shall not obstruct in any manner, including parking of vehicles. Minimum required widths and clearances established under this section shall be maintained at all times.”

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### ***Recommendation***

1. If enough people want the vehicles cleared, they must participate in their political process by attending Board Meetings and pressure the Brooktrails Township Board of Directors to enforce the ordinances.

One person or the Grand Jury cannot do this for them.

2. Congestion, caused by parking vehicles, which obstructs emergency vehicles, endangers all residents of Brooktrails. It appears that no responsible agency or body wants to tackle this critical issue.

Our recommendation is that the Brooktrails Township Board of Directors takes a leadership role to meet with all other enforcement agencies to resolve this issue.

### ***Conclusion***

According to the professional judgment of the Fire Chief, Brooktrails manager, peace officers, and the majority of other political and safety officials, the parked and or abandoned cars, boats, and motor homes would not significantly interfere with fire fighting equipment and pose no danger to fire safety in Brooktrails.

### ***Response Required***

Board of Supervisors  
Brooktrails Township Board of Directors  
Brooktrails Fire Chief  
Brooktrails Manager  
County Sheriff

### ***Response Requested***

California Highway Patrol

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## **CHAMBERLAIN CREEK AND PARLIN FORK** **CONSERVATION CAMPS**

The Grand Jury is required by Penal Code Section §919 to oversee all prisons in Mendocino County.

### **Method of Investigation**

The Grand Jury conducted a visit at both camps. The Grand Jury interviewed California Department of Corrections (CDC) and California Department of



Forestry (CDF) Officers, on site instructors and several inmates.

### Background

Chamberlain Creek and Parlin Forks are only two (2) of 38 conservation camps in California and are operated by both CDC and CDF and have a minimum of 212 inmates. Besides fighting fires, crews do volunteer work for flood control, forest and park maintenance, rescue work, and community service projects.

Getting assigned to a conservation camp is a hard-earned privilege for inmates. All inmates are screened carefully with emphasis on physical fitness and background for camp placement. After being selected, inmates are sent to a two-week training program in fitness, fire suppression and safety. The average sentence in a conservation camp is one year.

Each fire crew has 17 inmates, and is supervised by a CDF Captain and a CDC Officer. Each crew works a twelve-hour shift under some extreme conditions, often in steep areas and carrying 30 lbs. of equipment. Inmates earn \$1.00 per hour while on a fire.

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### Findings

1. Firefighting crews can mobilize quickly during emergencies.
2. Inmates contribute to communities by volunteer work, such as cooking for those in need and preparing Thanksgiving dinners in the community and by donating handmade wood items to charitable groups like The Greater Bay Area Make-A-Wish. Foundation. Inmates do guest speaking at high schools about Drinking and Driving.
3. To combat ethnic differences and tensions, all camps stress social harmony through work, recreation teams and living arrangements.
4. Firefighters are required to perform at capacity while enduring high heat and shortness of oxygen in rough environments. Fitness is a must to maintain physical conditioning when responding to all emergencies.
5. In adherence to Penal Code Section §5010 weight training equipment has been removed from all prisons.
6. In California, Parlin Forks is one of three Conservation Camps, which have a full working sawmill, and cuts wood for furniture and crafts.

### Comment

Chamberlain Creek and Parlin Fork Conservation Camps are well-organized, functional units. They have proven to be a beneficial program in Mendocino County and the State of California.

### Response Requested

California Department of Corrections

## **MENDOCINO COUNTY JAIL**

The Mendocino County Jail (MCJ) is located in Ukiah, California and is staffed by The Sheriff Department with a staff of 49 officers. The Grand Jury is mandated to inspect the facility each year.

### **METHOD OF INVESTIGATION**

The Grand Jury reviewed the California Code of Regulation §1027. The Grand Jury interviewed: kitchen staff, jail inmates, the Sheriff, a jail supervisor, a laundry worker and classroom councilors.

### **BACKGROUND INFORMATION**

The Grand Jury is charged with conducting an oversight of the Jail annually. (California Penal Code §919). The Jail operated by the Sheriff, holds a maximum for 296 inmates.

### **FINDINGS**

1. The staffing is adequate for the number of inmates.
2. Jail improvements are ongoing.
3. The jail now has better facility to accommodate attorney-inmate conferences.
4. A library stocked with material available for G.E.D. education; self-improvement, entertainment and spiritual study is contained in a spacious

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well-lighted area. The inmates have also the opportunity to read children stories, tape them and send the tape home to their children.

5. The “in-house/jail Psychiatric unit has been successful since being integrated the past (2) two years.
6. During the past year, security and surveillance has been up-graded.
7. According to the Psychiatric Department, the use of Methamphetamine is cited to be the most prevalent cause of crime in Mendocino County.
8. Recovery, rehabilitation and self-improvement are available through staff-counselors and guest speakers who are contract providers and background checked volunteers.
9. Parenting classes, alcohol and drug abuse, life skills, anger management, and religious services are offered at this facility.

### **RECOMMENDATIONS**

- A. Continue work to improve quality of service and re-habilitation for the

inmates.

## COMMENTS

Inmates need more motivation to study and move on to higher education they should be encourage to be involved in personal improvement activities.

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## RESPONSE REQUIRED

Board of Supervisors

Mendocino County Sheriff

## RESPONSE REQUESTED

Jail Commander of Mendocino County

Report completion date: 13 June 2003

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# **Racial Profiling in the Willits Unified School District and in the City of Willits Police Department.**

## **Reason for the Investigation**

The Grand Jury received complaints from four families that Willits High School and Willits Police Department were engaged in racial profiling due to concerns about gang activities in Willits. The major complaint was that students, parents and Willits High School staff adopted a dress code.

## **Procedure**

The Grand Jury interviewed the complainants, the Willits Chief of Police, a captain on the Willits Police force, and the school principals at Willits High School and Baechtel Grove Middle School. The Grand Jury also interviewed the Willits School District Superintendent of Schools. The Grand Jury interviewed two students of Willits High School and their fathers. The Grand Jury attended a news conference promoted by three parents and some of their children.

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## **Findings**

1. The Willits Police Department is concerned about gang activity, especially in the schools where adolescents might be initiated into gang affiliations and/or activity.
2. The administrative staffs of schools in Willits are concerned about gang activity where adolescents might become connected with gang activity.
3. Gangs make their turf known by tagging objects with gang symbols. Disputes over “ownership” of turf can result in “rumbles”, events where people can be hurt or killed.

4. There are many kinds of gangs that can attract students. Schools discourage the use of identifying gang graffiti, clothing or body signals.
5. Public schools are charged with assuring the safety of their students while they are in school. Safety and avoiding unnecessary distractions are reasonable and essential concerns.
6. The faculties of Willits High School and Baechtel Grove Middle School do not reflect the racial distribution of the students.
7. The Grand Jury found no solid evidence of discrimination against Latino or other minority students that would interfere with the education of students who want to learn and who attend school regularly.

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8. The Grand Jury found that school administrators are dedicated to providing the best educational opportunities possible to the students. They have many programs to help students who need help beyond classroom instruction. Peer counseling is one example of their “outreach” programs.
9. Not all minority students feel that racial profiling is a problem in Willits.
10. Willits High school has recently published a dress code that was formulated by recommendations from parents in the community.

### **Recommendations**

- A. Willits Police Department work closely with the community to keep it informed and educated as to any gang activities. (Findings 1, 2, 3, 4, 5, and 10)**
- B. The school administrators work closely with parents about gang activities and inform parents about how to recognize gang symbols, clothing and signs. (Findings 2, 3, 4 and 10)**
- C. Police notify public works as soon as possible about tagging so it can be removed. (Findings 1, 3 and 4)**

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### **Comment**

The Grand Jury commends the Willits Police Department and Willits School Administrators.

The Grand Jury urges all parents, who are concerned about any difficulties their children are experiencing in schools, to address these problems and to work cooperatively with the schools.

### **Responses Required**

Willits Chief of Police

Principal of Willits High School

Principal of Baechtel Grove Middle School

Superintendent of Willits Public Works.

Report completion date: June 13, 2003

## **Point Arena City Government**

A review of Point Arena (City) city government and related issues found that the City is well governed for the most part with a few areas of concern to be addressed.

### **Method of Investigation**

The Grand Jury interviewed elected officials and employees of City government, private citizens, former City employees, former elected officials, citizens involved in private business, employees of the local school district, employees and volunteers of the Redwood Coast Fire District, and local law enforcement. The Grand Jury attended City Council meetings and reviewed the minutes of 2000-2001 City Council and Planning Commission meetings. The Grand Jury inspected the wastewater treatment facilities, the Point Arena Pier facilities, the emergency services facilities, the petroleum recycling facilities and city yard facilities, city schools, fire protection facilities, and the private water company facilities. The Grand Jury reviewed the latest draft of the City's General Plan, City zoning ordinances, the most recent outside financial audit of City government, employee policies, procedures, and job descriptions, the City's revolving loan fund policies and procedures, and emergency services procedures.

### **Background Information**

Point Arena is an incorporated city. City Government consists of an elected five member City Council that meets monthly. The City Council acts as the Planning

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Commission as well. The City Council elects one of its members as Mayor. Registered voters number somewhat less than 300. There are eight salaried employees: three part time Pier Facilities Managers, a Maintenance Supervisor responsible for street and infrastructure maintenance, a city clerk/administrator who acts as planning director, a Waste Water Treatment Plant Supervisor, a combination Street Maintenance Person/Used Oil Grant Director, and a Grant Administrator who acts as Emergency Services Director. Legal services to the City are provided by a contracted "city attorney." The City contracts with the County Sheriff to provide three full-time officers. The City contracts for engineering services with a private firm. The City contracts for fire inspection and related plan checks with the Fort Bragg Fire Marshal. The City has established a system of commissions dealing with various areas of concern of City government. These commissions consist of one City Council member and one or more salaried

employees, for example, the Pier Commission. The City manages two revolving loan funds that are offered to citizens to promote real estate and business development including the affordable/low income housing. The City obtained oil pollution cleanup grant money for “Arena Rescue”, which consists of a dedicated rescue boat to be used in emergencies and assists the Coast Guard in emergency services. City revenue is generated from secured taxes, transient occupancy tax, and pier facility services and product tax. Pier revenue is generated by boat launching, product cranes, parking fees, and product tax from private fish product companies. A privately owned water company supplies water to the City for domestic use and fire protection. The Redwood Coast Fire District headquartered in Manchester provides fire and emergency services. The City has developed a disaster plan in coordination with the Emergency Services Authority in Ukiah. The City is involved in Safe Passages, an externally funded program to provide infrastructure for safe transit of children to and from school.

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### **Findings**

1. The City is operating fiscally in the black, but City administration has expressed concern that the current recession and reduction in State revenue may present problems. The product tax from private fish companies has dwindled in recent years primarily from the reduction in the urchin fishery.
2. The City manages revolving loan funds in accordance with published guidelines. The City uses the self-sustaining funds for private enterprise and affordable housing.
3. City ordinances are not codified in a meaningful way. The City has established a goal to codify ordinances, but has not had the time or manpower to accomplish this goal.
- 4. The City is *not* in compliance with the affordable housing element of its General Plan. According to the General Plan, affordable housing development in the City is hampered by price and availability of real estate, land use controls, building codes, local permit processing, various special fees, environmental/site condition studies, and limitations on density.**
5. The Grand Jury heard testimony that water pressure and capacity for fire protection to the southern end of the City in the cove area are not adequate.
6. The Grand Jury heard testimony that emergency equipment access to the Wharf Master’s Inn and Coast Guard House bed and breakfast is not adequate.

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7. The City has recently adopted a policy for fire safety plan checks. The

policy does not include systematic fire safety checks of existing buildings and businesses accessed by the public.

8. Policies and procedures for City elected officials, employees, commissions, and citizen's advisory groups are not complete or organized for easy reference.

9. City Council and Planning Commission meetings reviewed and attended were in accordance with Brown Act requirements. However, citizens wishing to express concerns on various issues are allowed only five minutes.

10. Emergency services procedures have been implemented, but the City lacks a dedicated shelter. The City is in continuous collaboration with the Emergency Services Authority to improve the effectiveness of the emergency services program.

11. The rescue boat for Arena Rescue is inoperative because it needs new engines. The City is exploring the possibility of grants for new engines. At present the rescue boat is a depreciating asset because of lack of maintenance and damage from exposure to the elements.

12. Recently a member of the City Council resigned his position and immediately took a salaried position with the City. Although this did not violate the present policies and procedures of the City, it gave the appearance of conflict of interest.

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13. The City General Plan lists a goal to establish a capital improvement plan.

14. Areas within the City limits are *not* totally in compliance with the Americans with Disabilities Act Comprehensive Access Plan. Violations include lack of handicap or wheelchair access, parking, and signs.

### **Responses to Findings 1 through 14**

No legal response received by deadline.

### **Recommendations**

A. The City continue to direct revolving loan funds toward fulfilling the affordable housing element of the General Plan and supporting business enterprise that will provide revenue to the City. (Findings 1, 4)

**Response (City Council):** The recommendation has already been implemented. The City's revolving loan fund was started in 1986 with the securing of housing rehabilitation funds from Community Development Block Grant funds. As funds, including interest, from the original loans began to build, the fund then expanded to include business loans, which has been the dominant focus for the past 10 years. The loan fund continues to be active, with two recent applications for housing rehabilitation. The City Council anticipates

that the fund will continue to be made available for small businesses and for housing rehabilitation, as has been the case.

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B. The City codify and organize ordinances for easy reference. The city consider hiring an outside contractor to accomplish this task. (Finding 3)

**Response (City Council):** The recommendation will be implemented in the future. The City has budgeted for a portion of the cost to codify ordinances and resolutions and will budget more funds to do so in the future. The project has not yet begun but is anticipated take be initiated and completed within a two-year time frame. (sic)

Completion date: June 30, 2004.

C. The City and the Redwood Coast Fire District contract with an external investigator or State Fire Marshal to investigate and report on adequate fire protection water in the southern part of the City and fire equipment access to the cove area. (Findings 5, 6)

**Response (City Council):** The recommendation has already been implemented. The City of Point Arena and the Redwood Coast Fire Protection District (“RCFPD”) are cognizant of the water-availability issues at the Arena Cove. In addition to their fleet of fire engines, the RCFPD has just purchased a 2,500-gallon water tender for use in fighting fires. They are also outfitted with suction devices to be able to draw water from the Pacific Ocean. The City Council maintains a tight reign on fire suppression safety requirements when discretionary permits are applied for (i.e. coastal development and conditional use permits). Minimum water storage, in accordance with State Fire Code standards, is required of developments that can’t be adequately served by City water lines. An alternative option is to seek an upgrade for the water lines that serve the Arena Cove. The water company is privately owned; and, implementing this option would take

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considerable time and money and water distribution system upgrades may be necessary.

**Amended Response (City Council) January 30, 2003:** The recommendation requires further analysis. The City Council is meeting in a joint session with the Redwood Coast Fire Protection District, their fire code plan check contractor, and affected and interested property owners. They will review the existing status of fire suppression matters in that area of the Arena Cove, with a focus on understanding what, if anything, should be required beyond what is already in place. The joint meeting will be held on February 19, 2003.



D. The City in conjunction with the Redwood Coast Fire District consider adoption of periodic fire safety inspection of buildings and businesses frequented by the public. (Finding 7)

**Response (City Council):** The recommendation will be implemented in the future. The RCFPD recognizes its role in fire prevention and will begin a program of reviewing buildings and businesses that are accessible by the public no later December 31, 2003. (sic)

E. The City consider ISO (International Organization of Standardization) certification of the fire safety of the City in that it would point out any discrepancies and possibly allow a lowering of fire insurance rates. (Findings 5, 6, 7)

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**Response (City Council):** The recommendation has already been implemented. The RCFPD has retrieved ISO rating information, has requested a rating review, and has been reviewed. Understanding the components that contribute to a reduced (better) ISO rating, the District is steadily working towards that end (i.e. standardized training with supporting documentation, regular water testing, increased water availability, etc.)

F. The City complete and gather into one compendium policies and procedures for City elected officials, employees, commissions and citizen advisory groups. (Finding 8)

**Response (City Council):** The recommendation will be implemented in the future. This will be accomplished by June 30, 2004, with the codification of ordinances (see B above).

G. The City Council allow more flexible time for public comment during meetings. To allow more time for public comment, the City consider a separate Planning Commission meeting on a different day than the City Council meeting. (Finding 9)

**Response (City Council):** This recommendation will not be implemented because it is unwarranted. The City Council sets a five-minute limitation on public comment under Privilege of the Floor for items not appearing on the Agenda. This limitation is not often adhered to and is used as a tool to maintain order and structure if necessary. Plus, the public is able to comment on Agenda items as they are discussed on the Agenda. Written comments from the public are also encouraged. The Council did have a separate Planning Commission but abandoned it after a five-year period because it

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was becoming increasingly difficult to find people to serve on both

the City Council and the Planning Commission. It is a small town and those willing to donate time to serve on boards are few.

H. The City continue its efforts to enhance the emergency services program by dialog with the Emergency Services Authority in Ukiah. The City address issue of establishing and equipping an emergency shelter. (Finding 10)

**Response (City Council):** This recommendation has already been implemented. The VFW Hall is used as a council meeting Chamber, a court, and as an emergency operation center. During an emergency, it will become the communication point for disaster/rescue related activity. It is outfitted with a generator, phone lines, emergency radios, etc. Separate from this facility, the Point Arena High School gymnasium is designated as a Red Cross emergency shelter.

I. The City decide either to continue its efforts to reinstate the Arena Rescue boat to operational status, or discontinue the program and sell the boat. The Grand Jury encourages the City to give protection of coastal resources from oil spills a high priority in making its decision. (Finding 11)

**Response (City Council):** This recommendation has already been implemented. The City recently received grant funds to upgrade the rescue boat. It has now been upgraded and is now back in operation.

J. The City adopt a minimum time period after leaving office to restrict City elected officials in regard to accepting City employment. (Finding 12)

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**Response (City Council):** This recommendation will be implemented in the future. A policy will be adopted no later than December 31, 2002.

K. The City establish a capital improvement program in accordance with its General Plan goal. (Finding 13)

**Response (City Council):** This policy will not be implemented because it is unwarranted. The City Council has developed a transportation plan, the wastewater treatment plant has a capital improvements program to ensure its future viability and the pier facility doesn't generate enough revenue to provide for a complete capital improvements schedule. Outside funding must be sought for big-ticket capital improvement items at the pier facility. The California Department of Boating and Waterways has been contacted for possible funding for hoist upgrades.

L. The city comply with the Americans with Disabilities Act Comprehensive Access Plan. (Finding 14)

**Response (City Council):** This recommendation has been partially implemented. The recommendation is vague. However, the City is

currently working to install new sidewalks on a couple of residential streets that currently don't have sidewalks. The City leases the City Hall and chambers from the County of Mendocino. Parking along Highway One (Main Street) is within the California Department of Transportation's jurisdiction. The Pier Facility is handicapped accessible.

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### **Comment**

The Grand Jury commends the city government and citizenry of Point Arena on its completion and adoption of its General Plan, its efforts to establish its emergency services program, its successful petroleum and solid waste recycling program, its support of the Safe Passages program, and its sound fiscal management. The Grand Jury applauds the dedication of the virtually unpaid elected officials of the city and the dedication of its salaried employees as well.

Misinformation and lack of communication between various factions of the citizenry and City government is endemic. The public does not regularly attend City Council meetings. The City Council in the past has had to appoint members because of lack of interest. The Grand Jury would remind the citizenry of Point Arena that "you get the government you deserve."

### **Supplemental Comments**

The Grand Jury attended the special joint meeting of the City of Point Arena and the Redwood Coast Fire Protection District on February 19, 2003 in which Point Arena considered the following positive steps to begin resolving the public safety issues in the Arena cove area.

(1) The owners of the Wharfmaster's Inn and Coast Guard House B&B agreed to upgrade their water storage to approximately 20,000 gallons with fire equipment access and hose connection access.

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(2) The City of Point Arena and the owners of the aforementioned lodging establishments agreed to improve the secondary vehicle access to the Wharfmaster's Inn.

(3) The City of Point arena agreed to upgrade the main water transmission line supplying the Arena cove area, to assure adequate water pressure and volume. The plans are to be completed by August 19, 2003.

(4) The City of Point Arena is to aggressively procure funding to complete the new water line.

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**MENDOCINO COUNTY**

# **RISK MANAGEMENT DIVISION**

As a part of the Grand Jury's routine oversight responsibilities as mandated by the California Penal Code, the 2002-2003 Grand Jury selected the Risk Management Division of the County of Mendocino Administrative Office. The primary, but not exclusive, focus of this review was to survey the various insurance and reinsurance programs managed by the Risk Management Office, review related and supporting programs, and look at the adverse impact of budgetary constraints on all areas of operations including staffing. Special emphasis was given to the General Liability Self-Insured Program. The Grand Jury did not review the administration of the Health Insurance Program.

## **METHODS OF INVESTIGATION**

In accomplishing its review of the County Risk Management Division, the Grand Jury interviewed the County Risk Manager, The County Administrator, County Counsel, and selected Risk Management Staff. In addition, the Grand Jury reviewed the February 2002 County of Mendocino Actuarial Review of the Self Insured Liability Program, the December 2002 County of Mendocino Actuarial Review of the Self-Insured Liability Program (Forecast for Policy Year 2003-2004), the most recent Liability Claim Audit of July 8, 2000, the most recent Budget Narrative, the March 2002 Workers'

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Compensation Claims Audit, the Return to Work Program, Policy Notebook, Property Schedule/Valuations Notebook, (CSAC) Insurance Program Notebook, CSAC Broker Activity Report, CSAC Excess Insurance Authority Board of Directors Meeting Agenda Book, CSAC Excess Insurance Authority Executive Committee Tentative Agenda Book, The Mendocino County Safety Manual, The 2002-2003 Division Budget, and applicable Mendocino County Ordinances.

## **BACKGROUND INFORMATION**

The Risk Management Division is currently staffed with 6 persons including, the Risk Manager, one part time and one full time Safety Officers, a Return to Work Coordinator, a Safety Coordinator, and, a Benefit Specialist. Two positions remain vacant due to lack of funding. They are the Risk Management Analyst and the Staff Assistant I. The Risk Manager is appointed by the County Administrator, and reports to the County Administrator through an assigned liaison staff member at the County Administrators Office.

The "Mission Statement" outlines the general functions of this division in

saying, “The Risk Management Division of the County of Mendocino Administrative Office shall identify and measure all risks (uncertainty of loss) of the County of Mendocino by developing and implementing appropriate techniques for assessing and resolving these exposures via risk assumption, risk reduction, risk retention, risk transfer or the purchase of insurance”.

## FINDINGS

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1. The Risk Management Division is responsible for many insurance and related programs and functions that have the ability to affect insurance related expenses to the County. A sampling of the many programs and functions includes:

a. Establishing and monitoring property and casualty insurance and reinsurance programs.

b. Monitoring claims activity, including guiding the claims handling process either “in-house” (County Counsel) or by retained outside counsel, and settling claims within prescribed authority.

c. Managing the Workers’ Compensation Program including the Return to Work Program.

d. Administering the Health Insurance Program for County Employees.

e. Safety and loss prevention services, including safety training.

f. DMV State Poll Notice Program including Defensive Drivers Training

2. With two positions remaining vacant due to lack of funding, this office is under-staffed. Additionally, recent staff absences due to medical and maternity leave created a severe staffing shortage in which important services were curtailed. Although essential services were maintained, during these absences there was a discontinuation of loss prevention services and training, discontinuation of the creation of the modified duty program, closure of the Risk Management Department to County employees on Fridays, limited telephone hours, no “front counter” services, and limited participation in the RCRC health plan creation.

3. Because of the staff shortages, key Risk Management staff members frequently are distracted from their primary functions to complete secretarial tasks. For example, a Departmental Audit revealed the following percentages of time that were devoted to secretarial functions by various staff specialists.

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a. Risk Manager - 10%

- b. Return to Work Coordinator - 15%
- c. Safety Officers - 8%
- d. Safety Coordinator - 15%
- e. Benefit Specialist - 35%

Clearly, this does not represent the optimal utilization of the specialized staff members.

4. The most recent “Liability Claim Audit” was completed in July of 2000. While this audit did not disclose any significant problems, the dynamic nature of the claims inventory, and new claims activity, dictates more frequent claims audits.

5. The Risk Management Division is annually “charged” a budgetary amount of approximately \$135,000 for legal and claims services that are to be provided by the County Counsel’s Office, (and budgets an additional \$7,500 for additional claims expenses). The manual system used by the County Counsel’s office for tracking hours (and thus substantiating or developing budgetary charges), is cumbersome and imprecise.

6. While not a specific topic of review, the Grand Jury heard testimony that healthcare costs are likely to increase annually by double digits for the short to intermediate term.

7. A cursory review of the Liability Large Claims Inventory indicates no unexpected patterns of claims activity either as to type of claim, or expected valuations.

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8. The County now purchases a fully insured Workers’ Compensation Program with CSAC- Excess Insurance Authority. This program appears to be functioning reasonably well although the renewal premium has been increased significantly.

9. The County is self-insured for the first \$200,000 of loss (each occurrence) within the Liability Insurance Program. This Self-Insurance Program was initiated in March of 1978.

10. The County currently buys total liability policy limits of \$25,000,000. Additional policy limits are available at generally favorable rates. One quotation, now out of date, provided an additional \$10,000,000 in policy limits for \$6,750.

11. Mendocino County Ordinance Chapter 5.62 section 5.62.010 provides for the establishment, by the County Auditor, of “a separate interest-bearing trust fund entitled: “General Liability Trust Fund.” (Ord. N. 3132, adopted 1978.) This Trust Fund is specifically designed as the depository for monies that are to be set aside primarily for incurred losses and related loss and adjustment expenses, and to include “incurred but not reported losses”.

Section §5.62.040 (A) Further provides that “The balance of the General Liability Trust Fund shall remain actuarially sound at all times and at no less than the seventy percent (70%) confidence level”.

The most recent Actuarial Review of the Self-Insured Liability Program for the 2003-2004 Policy Year provides the following estimates of loss and loss adjustment expense costs for the County.

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**The costs of claims and adjustment expenses incurred in the 2003-2004 program year are projected to be \$838,000.** This includes both allocated loss adjustment expenses (ALAE), and unallocated adjustment expenses (ULAE), and includes claims that will be known (reported) during the program year as well as losses incurred but not reported (IBNR). Allocated loss adjustment expenses are associated with the settlement of individual and specific claims, while unallocated loss adjustment expenses are associated with all other costs that are incurred in the administration and settlement of the claims inventory, but are not attributed to a specific loss. IBNR represents the cost of losses that will emanate from occurrences during the program year, but which may well not be known for an undetermined number of years in the future.

**Additionally, the Actuarial Study estimates that as of June 30, 2003, the program’s liability for outstanding claims (including ALAE, ULAE, and IBNR) will be \$1,603,000.** The actuary (Bickmore Risk Services) further estimates the program assets at a negative (\$199,000), and attributes the negative assets are “due to the fact that the program is operated on a “pay as you go” basis. **The Board of Supervisors has clearly failed to comply with County Ordinance §5.62.040 (A) (requiring funding at the 70% “confidence level”) which (as of June 30, 2003), as noted in the Actuarial Report, requires that approximately \$2,014,000 be contributed to the General Liability Trust Fund.**

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The (Bickmore) Report further points out that Governmental Accounting Standards Board (GASB) Statement #10 “requires the County to accrue a liability on its financial statements for the ultimate cost of claims and expenses associated with all reported and unreported claims, including ALAE and ULAE”. The report further states, “The \$1,603,000 estimate (of the programs liability for claims and expenses as of June 30,2003) is the minimum liability to be booked by the County in accordance with Governmental Accounting Standards Board Statement #10”.

The Grand Jury acknowledges that the above \$2,014,000 is not a catastrophic financial shortfall, but does represent non-compliance with the

County Ordinance, and is not a sound business practice which would dictate the accrual of funds (reserves for losses) as they are incurred rather than the current “pay as you go” practice.

12. The Bickmore Actuarial Report also recommends a plan for amortizing the June 30, 2003 funding deficit over a five year period (pages 2 & 3).

13. The Risk Manager is currently reviewing a proposal to fully insure the liability program in excess of a \$10,000 self-insured retention. The proposal is from the CSAC Excess Insurance Authority for participation in their Primary General Liability Program (PGL). The cost for the fully insured program for Program Year 2003-2004 has been represented to be \$581,615 with an additional deductible fund deposit of approximately \$35,600. The program policy is written on an occurrence basis and would effectively eliminate the \$200,000 self-insured retention, (a small \$10,000 self-insured retention would remain).

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While the CSAC-EIA Program would provide coverage for most liability claims, it should be noted that there would be some coverages and legal expenses not afforded by this program which would, of necessity, be retained by the County Counsel’s Office. Further, it would not absolutely “replicate the legal representation provided by” the County Counsel’s Office.

## RECOMMENDATIONS

A. The Board of Supervisors should authorize funds to hire the Staff Assistant I position, and make plans to fund the Risk Management Analyst position in the short to intermediate term. (Findings 1, 2, and 3)

B. Request a new “Liability Claim Audit” to update the most recent audit which was completed in July of 2000. It is further recommended that if the County elects to retain its substantial self-insured position on General Liability coverages, that liability claims audits be conducted annually. (Finding 4)

C. If the County elects to fully insure the Liability Program, it will be necessary to evaluate and inventory the remaining/continuing legal services provided by the County Counsel’s Office, and develop an appropriate, (albeit reduced), budgetary charge.

If the County elects to remain self-insured on the Liability Program the agreement to provide services, current procedures, and budgetary charges should be thoroughly reviewed by the County Counsel’s Office, the County Administrator, and the Risk Management Division. The County Counsel’s Office should explore a

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more precise tracking system than now exists, that will substantiate the budgetary charges to the Risk Management Office, as well as other “client” departments. It is the Grand Jury’s understanding that there are computerized programs to do this, which if purchased and utilized, would more accurately record hours as well as provide document management and calendar functions.

Additionally, should the self-insured program continue, the feasibility of Risk Management having their own claims specialist should be explored. (Finding 5)

D. The Board of Supervisors should be professionally estimating future healthcare cost increases and making intermediate and long term budget plans to accommodate or mitigate such costs. (Finding 6)

E. The Grand Jury acknowledges the severe budget constraints the County operates under, but suggests that the County explore the purchase of higher liability policy limits which can usually be acquired at a reasonable cost. (Finding 10)

F. The County should immediately commence funding the General Liability Trust Account in accordance with the five year funding plan proposed by the Bickmore Actuarial Report (for Policy year 2003-2004), or, more preferably on an accelerated three year funding plan. This will ultimately bring the County into compliance with County Ordinance 5.62.020, 5.62.030, and 5.62.040 (A) and properly accrue for these loss and loss costs. (Finding 11 and 12)

G. The County should strongly consider participating in the fully insured Primary General Liability Program (PGL) (in excess of a \$10,000 Self Insured Retention), offered by CSAC Excess Insurance Authority (EIA). While there appears to be an

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initial savings over the projected costs of remaining self-insured, the long term savings are likely more modest. There will, however be vastly increased risk and budgetary certainty at a theoretically small incremental increase in cost over the long term. Participation in this program will also force a degree of fiscal financial discipline so far lacking in the present self-insured program. (Finding 11 and 13)

Consideration for going fully-insured should also include the analysis of the coverages and services not provided by the fully insured program, and which would, of necessity or by statute, continue to be provided by the County Counsel’s Office. (Finding 13)

## COMMENTS

The positive results of an effective Risk Management program can be often

directly measured by cost savings directly attributable to specific programs designed to reduce risk and loss costs. All too often, however, the cost savings are difficult to measure, especially when large (expensive) and unusual adverse events simply do not take place because of the efforts of the Risk Management Division Staff. While it could be appropriate claims management, or the prevention of a large and unusual loss, the County Supervisors should view their investment in risk management activities as essential to the financial protection of the residents and taxpayers of Mendocino County.

Additionally, the Grand Jury wishes to acknowledge the tremendous professionalism and commitment of the Risk Manager and her staff. Given budget constraints and a resultant staffing shortage, they function at an extremely high

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level given generally staggering workloads. The County can not realistically expect this to continue indefinitely, and must eventually make decisions regarding just what services they will require from the Risk Management Division, and how they will pay for those services. The Risk Manager is a tremendous asset to the County.

#### **RESPONSE REQUIRED**

Mendocino County Administrator

Mendocino County Counsel

Mendocino County Supervisors

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## **THE MENDOCINO COUNTY EMPLOYEES RETIREMENT ASSOCIATION**

As a part of the Grand Jury's oversight responsibilities, as mandated by the California Penal Code, the 2002-2003 Grand Jury selected the Mendocino County Employees Retirement Association, (MCERA or "the association"), for a review of operations, cost structure, and asset development, including the large unfunded actuarial accrued liability, (UAAL).

### **METHODS OF INVESTIGATION**

In accomplishing its review of the County Retirement Association, the Grand Jury interviewed the County Treasurer, the Association's Certified Public Accountant, the Association's actuarial firm in San Francisco, and independent investment advisors, and, also attended County Board of Supervisors and County Retirement Board meetings.

In addition, the Grand Jury reviewed the 3 most recent actuarial reports, the Financial Statements for the last 3 years, the County of Mendocino Audit

Report of June 30, 2001, the Association's By Laws, the County Treasurer's Financial and Statistical reports, the "Mission Statement and Departmental Functions" for the Treasurer-Tax Collector, the planned 2002-2003 County Budget for the administration of the retirement system, Resolution No. 1999/2000-2 of the Mendocino County Employees Retirement Association Board of Retirement Establishing Investment Policies, MCERA Performance Measurement Report for the Period Ending 6/30/02, the prospectus for the 1996 County of Mendocino

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Taxable Pension Obligation Bonds and the related "Funding Agreement" between the County of Mendocino and the Mendocino County Employees Retirement Association, Minutes from the Association Board meetings for the last several years, the California Constitution, applicable state government codes, and the County Employees Retirement Law of 1937, as amended.

### **BACKGROUND INFORMATION**

The Employees Retirement Association was formed in 1948 and operates pursuant to the County Employees Retirement Law of 1937, and, as subsequently amended. This law provides the option for Counties to establish and manage their own "defined benefit pension plan". Such plans, including the Mendocino County Employees Retirement Association, are totally controlled and operated by a "Retirement Board". MCERA's board consists of nine members, four are appointed by the County Board of Supervisors, two are elected by general county employees, one is elected by county retirees, one is elected by county safety employees, and one is the County Treasurer, (ex-officio), and who is also the administrator of the retirement system. All functions must also be conducted in accordance with California State Constitution, California Government Codes, and other governing policies such as the Association's "By Laws".

Article 16 § 17(a) of the California Constitution clearly articulates the responsibilities of the Retirement Board by stating: "The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services

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to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and

their beneficiaries and defraying reasonable expenses of administering the system”.

Under Article 16 § 17(b) the Constitution goes on to say that, “A retirement board’s duty to its participants and their beneficiaries shall take precedence over any other duty”.

In accordance with Section 31584 of the County Employees Retirement Law of 1937, the County Board of Supervisors is obligated to make payments to the Retirement Association for amounts arising as a result of retirement benefits accruing to members of the Association.

MCERA is a “cost sharing multiple employer plan” that includes not only employees of the County of Mendocino, but also the Cemetery District of the Redwoods, and the Russian River Cemetery District. As of June 30, 2001, there were 2,450 total active plan members. Of this number, 683 are retirees and beneficiaries receiving benefits, 316 are plan members entitled to receive benefits but who are not yet doing so, and 1,451 are active (working) plan members.

It is beyond the scope and time available to this Grand Jury to analyze all the administration and investment expenses, both soft and hard, incurred in maintaining an independent retirement system, and compare the overall performance to other alternatives such as CALPERS with a concomitant comparison of asset performance and service to retirees and beneficiaries.

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## FINDINGS

1. The Association reimburses the County for costs incurred in the administration of the retirement system. Reimbursement of 1/3 of the salary and benefits of the County Treasurer as Retirement Administrator suggests that the treasurer allocates about 1/3 of his time in this role.
2. The projected/requested county budget growth for retirement system activities in the 2002-2003 budget year although large on a percentage basis, seems appropriate when related to a relatively small budget base and the need for additional staffing.
3. The Association Board routinely retains outside counsel for assistance regarding disability retirement applications and litigation resulting from decisions about applications. Further, County Counsel provides “ongoing legal advisory services” and may represent the Association in other lawsuits. The Association does not retain outside and independent legal counsel for operational and business issues.
4. Association Resolution 1999/2000-2 establishes general investment objectives, qualitative guidelines, and parameters for the allocation of assets of the Employees Retirement Association. The Retirement Board has broad

discretion over investments, and regularly relies on outside advisors as to specific investments. Investment portfolio performance appears to be within reasonable norms.

There is no prohibition of investing in derivatives, although both futures and options are prohibited. Direct real estate investment is also not prohibited.

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Additionally, although the resolution does provides for a quarterly comparison of “results and risk” of investment managers, there is no apparent provision for the analysis and comparison of both direct and indirect investment expenses.

5. Health insurance benefits for retired employees will continue to be funded by the basic plan until the Associations health care reserves have been totally used, and, “earnings on investments are not in excess of required transfers of earnings to retirement reserve accounts”. Effective September 1, 1998, the County of Mendocino assumed responsibility for the funding of health care premiums once the above reserves are depleted.

6. The key financial “road map” for those responsible for the successful operation of the Retirement Association is provided by the Association’s Actuaries. The data developed by the Actuaries, and presented in their annual Actuarial Reports, should be driving the many decisions necessary to maintain the financial health of the Association.

7. The assets of the Mendocino County Employees’ Retirement Association funds as of June 30, 2001 alternately were:

Financial Statement \$147,373,404

Report to Plan Participants (By Treasurer) \$169,949,917

Actuarial Report (As of 7/1/01) \$157,545,000

The variance between the Financial Statement and the Actuarial Report is explained by the actuarial process of “smoothing” investment gains and losses. The

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difference between the Financial Statement and the Annual Report to Plan Participants is explained by the fact that equities are carried “at cost” in the Report to Participants as opposed to “market” by the Financial Statement. The “at cost” numbers will tend to be more favorable in a declining equity market, and less so in an advancing equity marketplace. The Grand Jury also notes the difference between the “net market value” of assets related in the financial statement, and that related in the most recent Actuarial Report (\$151,671,408).

**NOTE:** The actuarial technique of “smoothing” is described in the June 30,

2001 Actuarial Report (page 3) as a method wherein “realized and unrealized gains and losses are spread over five years, i.e. only 20% is recognized in any one year.” This is designed to level or “smooth” results and reduce the volatility of realized and unrealized gains and losses in order to be able to achieve a more rational planning process.

8. The level of the Associations assets is more significant when compared to the Actuarial Accrued Liability (AAL), and the resultant “Unfunded Actuarial Accrued Liability” (UAAL). This (UAAL) represents the shortfall between the benefits already earned by plan participants (Actuarial Accrued Liability or AAL), and the “present value” of the Associations assets (or Actuarial Value of Assets). The following numbers were obtained from the June 30, 2001 Actuarial Report. This is the most recent data available.

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Actuarial Actuarial Actuarial Unfunded Funded  
 Valuation Value of Accrued AAL Ratio  
 Date Asset Liability (UAAL)  
 (AAL)

7/1/93	\$ 72,062,000	\$105,866,000	\$33,804,000	68.1%
7/1/94	\$ 75,976,000	\$112,535,000	\$36,559,000	67.5%
7/1/95	\$ 79,322,000	\$121,027,000	\$41,705,000	65.5%
7/1/96	\$ 84,992,000	\$130,036,000	\$45,044,000	65.4%
7/1/97	\$124,286,000	\$140,783,000	\$16,497,000	88.3%
7/1/98	\$134,836,000	\$154,263,000	\$19,427,000	87.4%
7/1/99	\$142,775,000	\$173,250,000	\$30,475,000	82.4%
7/1/00	\$150,056,000	\$185,423,000	\$35,367,000	80.9%
7/1/01	\$157,545,000	\$204,699,000	\$47,154,000	77.0%

9. The reduction in UAAL reflected on 7/1/97 (and the attendant increase of assets) was due to the issuance of \$30,720,000 Pension Obligation Bond in late 1996, the proceeds of which were given to the Association by the County in order to reduce the UAAL.

10. Under the 1996 “Funding Agreement” between the County and the Retirement Association, payments by the County toward the remaining UAAL were suspended based upon the proceeds of the Pension Obligation Bond being the “actuarial equivalent of the County’s otherwise monthly payments owed to the Association for the (Suspension Period)”.

An initial schedule of estimated UAAL balances, which if exceeded by 5% in subsequent actuarial valuations, compels the County “to begin funding the

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incremental increase in the UAAL balance on a current basis without regard to the Suspension Period”.

11. The Unfunded Actuarial Accrued Liability is troublesome both in terms of it's growing magnitude as well as the complexity of the forces that have created it. Indications are, that the UAAL as of June 30, 2002 will be approximately \$72,500,000. If this trend continues unabated in 2003 and 2004, one cannot help but project that the County and the Association are potentially facing a staggering **shortfall**.

12. There appear to be many reasons for the growing UAAL. Unfortunately, the factors are complex, and are not necessarily common to each annual period. The entire process is made even more difficult by the need to project ultimate costs, (benefits), as far as 60 to 70 years in the future. The factors that seem to be driving the increasing UAAL include:

- \* Capital losses (on equities) and less than expected dividends for the most recent several years.
- \* Larger than expected salary increases.
- \* New benefit levels
- \* Lengthening life expectancy tables (1999)
- \* The funding of health care benefits from the retirement funds.
- \* Failure to fully retire the 1996-1997 level of UAAL with the 1996 Pension Obligation Bond, and subsequent inability to amortize the remaining balance.
- \* And, one cannot escape the obvious conclusion, that, for whatever reasons, contributions have not kept pace with the factors that have driven up the Actuarial Accrued Liability, (ultimate benefit cost).

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13. In order to compare the level of funding of the Mendocino County Employees Retirement Association with other 1937 Act Counties, we include the following most recent table of "1937 Act Counties" funding levels obtained from the California State Controllers Office, "Public Retirement Systems Annual Report" dated April 30, 2002. While the data is several years old, it does provide a sense of just how Mendocino compares with other counties. (A funded ratio of 100% means that all of the Actuarial Acrued Liability are covered by the assets of the fund.)

**FISCAL YEARS ENDING 7/1/98 & 7/1/99**

**COUNTY FUNDED RATIO A/O 7/1/98 FUNDED RATIO A/O 7/1/99**

Alameda (A/O 12/31/98) 108.30  
Contra Costa (A/O 12/31/98) 80.50  
Fresno 106.40  
Imperial 126.50  
Kern 102.00  
Los Angeles 99.50

Marin 96.30  
**Mendocino (A/O 6/30/98) 87.40 82.40 (A/O 6/30/99)**  
 Merced 78.20  
 Orange (A/O 12/31/98) 95.20  
 Sacramento 107.90  
 San Bernardino 116.10 108.30  
 San Diego 105.90  
 San Joaquin (A/O 12/31/97) 104.90  
 92  
 San Luis Obispo (A/O 1/1/98) 97.10  
 San Mateo 89.90 92.00  
 Santa Barbara (A/ 12/31/98) 98.70  
 Sonoma (A/O 1/1/97) 100.00 98.70 (A/O 1/1/99)  
 Stanislaus 105.80  
 Tulare 102.10 104.80  
 Ventura 115.00 123.00

**Average (Unweighted) 101.13 101.53**

Note: The most recent funded level percentage for Mendocino (as per item 7. above) is 77.0% as of July 1, 2001.

**RECOMMENDATIONS**

- A. The Treasurer include and explain the Unfunded Actuarial Accrued Liability data in the Annual Report to Plan Participants. Further, that the Treasurer and the Retirement Association Board include any applicable “pro-formas” or preliminary estimates regarding UAAL in this Annual Report.
- B. The Retirement Association Board retain independent counsel to represent the Association in operational matters. (Finding 3)
- C. The Association consider modifying its investment prohibitions to include derivatives, and direct real estate (due to lack of liquidity). (Finding 4)
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- D. The Association include in its quarterly investment manager analysis, an analysis and comparison of both direct and indirect investment expenses. (Finding 4)
- E. The Mendocino County Employees Retirement Association Board of Directors, in conjunction with their actuaries, quickly develop “preliminary” estimates of the 6/30/02 and a “pro-forma” of the 6/30/03 and 6/30/04 Unfunded Actuarial Accrued Liability numbers, and immediately present to the County Board of Supervisors for their information and budget planning processes. (Findings 6 through 12)



F. The Board of Supervisors in conjunction with the Association Board and Plan Administrator develop both a tactical and strategic plan for fully funding the Actuarial Accrued Liability and, thus **eliminating** the UAAL. This process should include the **professional** exploration of other options such as CALPERS as opposed to the present independent system. While the Grand Jury has no judgement about the feasibility of such a move, it would seem appropriate to explore such options from time to time. An outside consultant would be helpful in this regard. (Findings 6 through 12)

### COMMENTS

By continuing to carry an ongoing and increasing UAAL, the Board of Supervisors, whether intentional or not, is effectively subsidizing the County's fiscal budget with monies that should have been allocated each year to adequately fund the Retirement Association.

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**Additionally, it would seem that while another Pension Obligation Bond would solve the Board of Supervisors funding problem in the near term, it is only a band-aid that does not address all the forces that are driving the UAAL ever higher. It should also be noted that in so doing, the County Board of Supervisors would, again, be shifting the financial burden for past (retirement fund) liabilities to future generations of taxpayers with no guarantee that accrued future benefits would be funded on a “pay as you go”, or incurred basis.**

While this kind of financial “logic” is common practice at the Federal level, the Grand Jury feels that the notion of constantly pushing the payment of past obligations, (accrued benefits), into the future is a financial philosophy that is not sound for the plan participants or the Mendocino County taxpayers.

**Special Note:** The Grand Jury wishes to acknowledge the current actions of the Pension Administrator, the Pension Board, the County Board of Supervisors and many others in defining and working toward resolving the difficult and complex problem of Unfunded Actuarial Accrued Liability. This “work in progress” is not only taking place as this report is being written, but will, of necessity, require continuing attention on an annual basis. Additionally, it is probable that by the time this report is published, there may be significant changes in the status of the problems identified and potential solutions.

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### RESPONSE REQUIRED

Mendocino County Board of Supervisors

Mendocino County Employees Retirement Association Board

Mendocino County Counsel

## RESPONSE REQUESTED

Association Investment Advisor

Association Actuarial Firm

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### **Mendocino County Juvenile Hall**

The Mendocino County Juvenile Hall (MCJH), under the direction of the Probation Department, provides for the physical and emotional care of incarcerated youth in Mendocino County. The Grand Jury reviewed the recent changes involving youth classified as Code I (maximum security), Code II (medium security), and Code III (committed a violent crime).

#### **Method of investigation**

The Grand Jury (GJ) interviewed the Superintendent, several staff members (male and female), made a complete tour of the facilities and reviewed the California Code of Regulations: Minimum Standards for Juveniles Facilities Title 15, Section 1313, 1371 and 1488, Building Standard Title 14.

#### **Findings**

A. The GJ found that these facilities are very well maintained and the youths are adequately cared for.

B. Year round school is offered, so that youths may study for a GED accreditation.

A. The youths receive recreation time, and reading material is available at regular basis for their use in learning.

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B. Code III youth exercise in a small outdoor caged area.

C. To service these facilities, there are 38 staff employees.

D. The facility has a hair care person on staff who will cut hair by appointment.

E. Each J.H. Counselor is trained in the use of JALAN computer program, which is used to track all juveniles booked into custody in the county.

F. The longest stay in custody is an average of 25 days.

G. Title 15 § 1313 requires that on an annual basis each juvenile facility administration shall obtain a documented inspection from the following agencies:

1. Mendocino County Safety Officer

2. State Fire Marshall

3. Health inspection per Health and Safety Code § 10145.

4. County Superintendent of Schools for adequacy of education.

5. The Juvenile Justice Commission.

H. Fire drills are conducted and documented once a month, and all fire alarms are checked once a week.

I. Use of the telephone is a privilege that is earned.

J. There is a \$15.00 per day charge for each incarcerated youth, up to \$750.00, and then parents are billed for any additional charges.

### **Recommendation**

County should follow up on collection of money due from overstays.  
(Finding L)

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### **Response required**

Mendocino County Board of Supervisors.

### **Response requested**

Mendocino County Probation Department  
Juvenile Hall Superintendent

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December 18, 2002

Tony Xavier

Alvin Robinson

Mendocino County Grand Jury

P.O. Box 996

Ukiah, CA 95482-0996

**Subject: Reformatting of City Responses to the Mendocino County Grand Jury  
Final Report 2001-2002**

Dear Tony and Al,

Thank you for the opportunity to visit yesterday and understand your needs relative to reformatting the City's response to the 2001-2002 Final Grand Jury Report dated August 29, 2002. It is hoped that the reformatted response below addresses your needs. To the extent additional modifications support your efforts, we would be pleased to work with you in that regard. As well we have included a disk for ease of transfer or merging with some other document.

More specifically, the report of the Grand Jury requested responses from the City Council of the City of Willits in the following areas:

1. Mental Health Crisis Services
2. Willits City Government
3. Domestic Violence Restraining Orders

As required by Penal Code Section 933 et seq., the City provided the comments below on the findings and recommendations made by the Grand Jury.

#### **MENTAL HEALTH CRISIS SERVICES**

The City Council has reviewed the section of the Grand Jury Report entitled "The Mentally Ill - A New Approach to Crisis Services" and, while the City's direct interaction with Mental Health Crisis Services is fairly limited and departmentally specific to its Police Department, pursuant to the form of responses required by Penal Code section 933.05, the City offers the following responses to the 22 findings cited:

1. While causing concern in the County, many saw the closure of the locked PHF as an opportunity for change. The loss of the PHF triggered a comprehensive re-evaluation of the delivery system of help to the mentally ill, especially to those in crisis. Numerous stakeholders were brought together to examine the system in place, research the latest practices in the field, and explore the various options for possible change.

**100101Response: Agree with finding.** 2. On July 17, 2001, the DMH submitted a staff report on mental health services in the County. The nine-page report summarized various possible solutions. The recommendations were: close the PHF and create the CSC, adopt a community-based Adult System of Care model, assign mental health workers to the Jail, increase staff for case management, and continue to use out-of-county contract mental health treatment facilities. In addition the County would take over the operation of a residential recovery center, Casa de Marta, in Ukiah, and provide for quick response crisis workers to hospitals, Jail, or other places in the community needing their services. The new plan, with CSC as an important component, would result in a community based program, a “recovery model” with case management to bring together available resources, including patient advocacy groups, to provide each case with a range of services and continuing follow-up. **Response: Agree with finding.** 3. The BOS approved the plan, which the County Administrative Office described as “a major shift in the delivery of mental health services in our community.” County administrative employees recognized that the changes would require a great deal of effort to overcome resistance and for various departments and clients to work together to make the new system successful. **Response: Agree with finding.** 4. An important piece in the new system is the Memo of Understanding between the DMH, the Sheriff, the three city police departments, and the three hospitals in the County whose emergency rooms will be receiving people in mental health crisis. The document, effective October 1, 2001, establishes the protocols for the assessment and care of persons exhibiting signs of mental illness who come into contact with law enforcement. **Response: Agree with finding.** 5. DMH, law enforcement, and hospital staff, do not meet regularly to share knowledge and procedures. Agencies confer on a case-by-case basis. **Response: Agree with finding.** 6. The CSC, located at 860 North Bush Street in Ukiah, in the government complex, went into full operation in the middle of October 2001. **Response: Agree with finding.** 7. The CSC is open and staffed 24 hours a day, seven days a week. Participation of clients is voluntary and there are some beds for overnight “time-out” stays if necessary. **102Response: Agree with finding.** 8. A CSC worker’s duties include evaluation, intervention, placement at a contract psychiatric hospital for 72-hour evaluation under Section 5150, and planning for discharge from the center to follow-up services. **Response: Agree with finding.** 9. The policy statement for the CSC includes job descriptions for all staff, definition and philosophy of the recovery model concept of treatment, and details of operations. **Response: Agree with finding.** 10. State regulations require the County to provide a Patient Rights Advocate. The patient rights advocate office is now in the CSC, a partial implementation of a 2002-2001 Grand Jury recommendation. **Response: Agree with finding.** 11. The CSC has developed a transportation system to drive clients to out of county psychiatric facilities thus relieving the sheriff from that duty except when the client requires a law enforcement escort. These workers will also have other duties at the center. **Response: Agree with finding.** 12. The CSC is officially designated under State of California guidelines as a Community Mental

Health Clinic in which client services are billed under Medi-Cal regulations. It is anticipated that the final costs to the County could be reduced while at the same time providing better services to the mentally ill. **Response: The City is not informed regarding Medi-Cal regulations and therefore does not have the necessary information required to either agree or disagree with the finding.** 13. Records indicate that as many as one in four inmates housed at the Jail have mental health issues. When the PHF was closed, officers no longer had a secure facility to leave people who needed evaluation. Patrol Officers reported being out of normal service while they waited for mental health crises workers to respond to the hospital emergency rooms to evaluate and assume custody of the client. In addition, mental health or law enforcement staff time had to be increased to transport patients to out of county psychiatric facilities. **Response: Agree with finding.** 10314. With the assignment of DMH personnel to the Jail and the ability of the CSC to send crisis workers to the jail after regular working hours, Jail workers believe the treatment of inmates with mental health issues has improved. **Response: Again, the City does not have enough information to respond in an informed way to this finding. Clearly, the Sheriff's Department staff managing inmates on a regular basis are best prepared to respond to issues regarding mental health treatment concerns. Therefore, in the absence of specific experience and background, the City of Willits can neither agree nor disagree with the finding.** 15. There is a strong connection between mental illness and substance abuse. Clients in crisis typically exhibit a multitude of problems in addition to the ones they have brought them to the immediate crises. These include homelessness, health, employment, and childcare. DMH has recognized the multiple layers of need with the creation of a new position, Consumer Services Coordinator, with the job of ensuring that the clients receive the help needed from whatever source is available. However, some clients exhibiting aberrant behavior are sometimes shuffled back and forth between AODP and DMH. **Response: Agree with finding.** 16. With the PHF no longer available, the need for costly transportation of patients out of the county has increased. Both the Sheriff and DMH have standby transportation staff and/or ambulances available (if restraint is required) to transport patients to out-of-county psychiatric facilities. **Response: Again, the City is not informed regarding out-of-County transport requirements for patients, and therefore is not in a position to either agree or disagree with the finding.** 17. Redwood Coast Regional Center, DMH, and the Sheriff are collaborating in a unique grant-funded training program to bring more understanding of the relationship of law enforcement and the developmentally disabled and the mentally ill. A private training group from the Bay Area has been conducting the training. **Response: The City of Willits Police Department has not been involved in the grant funded training programs described, and therefore can neither agree nor disagree with the finding. However, to the extent such training programs may become available to City law enforcement personnel, our mental health crisis training will be enhanced.** 18. DMH has in place tools for evaluation, such as the Client Satisfaction Questionnaire and the California Quality of Life instrument. The Mental Health Board is planning to evaluate client satisfaction. 104**Response: Agree with finding, but have no specific information regarding the Mental Health Board's plans to evaluate client satisfaction.** 19. The Grand Jury has heard testimony that the impact of the new procedures on Fort Bragg and the coastal areas of the County have been mixed. The Fort Bragg area had in place, prior

to the closure of the PHF, a system for crisis response that has not changed. The Fort Bragg office of the DMH has employees to respond to crisis calls Monday to Friday 8 a.m. to 5 p.m. The County has a contract with Ford Street Project, a private non-profit human service organization, to provide crisis response during all other times. DMH supervisors are available for telephone consultation with the Ford Street crisis workers. The Ford Street Project also provides three beds for “time-out” cases in the same situations now available at the CSC. The primary change has been for Section 5150 cases, which require a custodial setting. Information from crisis workers on the coast indicates without a PHF, it sometimes takes longer to find a placement for persons who must be detained under Section 5150 because they must be taken out of the county.

**Response: The City is not informed regarding crisis services on the Coast and as a result can neither agree nor disagree with the Grand Jury’s finding.** 20. There are currently three on-call crisis workers who are employed in other human service jobs. They participate in continual training and case conferences and are supervised by on-call DMH personnel. Often the crisis workers have extensive prior knowledge of the client and the needs of the case, thus facilitating decision-making. **Response: While we are aware that three on-call crisis workers are available, we are not informed regarding client continuity tracking and therefore are not in a position to either agree or disagree with the finding.** 21. Other partners in the process, law enforcement and hospital medical staff, at times, question the qualifications and decisions made by the crisis workers. On the other hand, crisis workers feel that police officers and emergency room staff do not understand the requirements and consequences of a Section 5150 detention nor the difficulty in diagnosing a mental disorder. **Response: Agree with finding.** 22. There is no licensed holding cell or room on the coast., At times a patient will be held at the Sheriff’s substation in Fort Bragg or by the Fort Bragg Police, perhaps in the back of a patrol car, until a crises worker arrives. **Response: Again, the City of Willits is not informed regarding facilities available on the Coast either at the Fort Bragg Police Department or the Sheriff’s Substation and therefore can neither agree nor disagree with the finding.** 105With specific reference to the Grand Jury’s recommendations related to Mental Health Crisis Services, the City Council offers the following responses: Law enforcement agencies strengthen their partnership with the DMH and other mental health stakeholders. (Finding 5, 13) **Response: The City of Willits supports the recommendation of the Grand Jury that we focus our efforts to strengthen the partnership between the Mental Health Department, law enforcement agencies, and mental health stakeholders. We are informed that the various agencies will meet in October in an effort to strengthen that partnership between and amongst the agencies. While further specific implementation time lines are anticipated to grow out of that October meeting, such activities and corresponding time lines are best identified by the Mental Health Department and law enforcement agency staff in partnership with other mental health stakeholders. At each opportunity the City of Willits will join its partner agencies throughout the County to achieve this purpose.** The BOS fund training to improve understanding of the new procedures, to allow each group to appreciate the concepts and problems of the other, and to help clients to use all resources to the fullest. **Response: This recommendation has been implemented, given the City’s understanding that the County will be funding the referenced training activities planned for October. The**

**City of Willits will continue to work with other agencies and stakeholders in our common effort to understand new procedures and the issues confronting each stakeholder in the process. Thus, the recommendation has been implemented, and it is anticipated that other training opportunities will grow out of the planned October workshop.** DMH, law enforcement, and hospital medical personnel meet on a regular basis to share knowledge and procedures in dealing with the mentally ill. (Findings 5, 13)

**Response: This recommendation has not yet been implemented, but will be implemented in the future. The Police Chief will advocate periodic meetings at the upcoming October stakeholders meeting to assure that all agencies and stakeholders are well informed.** DMH and AODP integrate health services and substance abuse treatment (Finding 15)

**Response: It is the City's belief that it cannot responsibly comment regarding the integration of services between two county departments. Clearly, public purposes are best served by a full integration and understanding of their programs and services. This recommendation, therefore, requires more study or analysis, yet such study and analysis is appropriately conducted by the Department of Mental Health and the Division of Alcohol and Other Drug Programs, with input from the various 106 other human service functions of the County, to assure as seamless a service delivery system as possible.** WILLITS CITY GOVERNMENT

City Administration City staff and Council Members enjoyed the opportunity to share our story with the Grand Jury and appreciate the time expended by the Grand Jury in completing its mission. The City Council offers the following responses for those findings relating to City administration: Willits has sound fiscal practices with an annual budget of \$4.06 million, with a reserve of \$415,000 for emergencies. Willits also had a carry over of \$1.4 million from last fiscal year.

**Response: Agree with finding.** Willits follows solid plans for operating the city and follows its policies and procedures. **Response: Agree with finding.** Appropriate departments handle all complaints quickly and efficiently. **Response: Agree with finding.** Willits is following its Ten Year Plan for improvements throughout the city. **Response: Agree with finding.** Willits is studying the possibilities for growth and new business. **Response: Agree with finding.** California Department of Transportation (Caltrans) and the City of Willits are still working on the Willits 101 Bypass; construction has not been started. The Willits administration has supported the bypass, but some local citizens continue to request more information from Caltrans, stalling construction. The Caltrans Director signed the Draft Environmental Document for the Willits Bypass on May 13, 2002. **Response: Agree with finding. It should be noted that since the Grand Jury Report was published, the Willits Bypass EIR has benefitted from several local meetings and public hearings designed to solicit comments on the Draft EIR prior to adoption of the Final EIR by Caltrans.**

107 Willits has a strategic plan that emphasizes 'Business to Business' (business suppliers) and bringing cottage industries to the downtown area. **Response: Agree with finding.** Willits administration is concerned that local media is not reporting the city's successful programs. **Response: Disagree with finding. While in past years the City has expressed concern regarding the accuracy of local media coverage of City programs and activities, the City's current relationship with our local newspaper has improved significantly, enhanced through regular and ongoing communication.** Because the Grand Jury has provided no recommendations regarding City administration,

no responses are provided herein. **City Public Works** The City Council shares the belief that our Public Works Department functions well. Relative to the specific findings of the Grand Jury, we offer the following comments: The yard was clean and all equipment not in use was under cover. **Response: Agree with finding.** Public works maintains equipment properly. **Response: Agree with finding.** Public works does not have a common tracking system for all department data. **Response: Disagree with finding in part. While project management systems relative to each area of responsibility are in place (parks, storm drains, streets, etc.), due to the diverse nature of the departmental responsibilities, no single common tracking system would fit the needs of each functional area.** The Public Works Director advised the Grand Jury that the department needs one more technician and a clerical worker. **Response: Agree with finding.** During visits to the offices and shop areas, the Grand Jury saw no Cal-OSHA safety books or posters. **Response: Agree with finding.** 108 The City offers the following responses regarding the recommendations of the Grand Jury: Public Works Department establish a system for tracking work orders. (Finding 11) **Response: The recommendation requires more study and analysis. This recommendation addresses a tracking system as opposed to a “common tracking system” and therefore differs somewhat from Finding 11. However, the Department currently does track work orders utilizing a chronological/date system. The data content of the work orders (i.e., vehicle usage, excavation quantities, material use, etc.) would benefit from an improved tracking system. Creating a system that could track the work order data, as well as other administrative requirements, may prove difficult. However, implementation of a data tracking system will be evaluated utilizing Microsoft Access. Programming and setup of the system will require considerable staff time and some outside programming support. However, it is anticipated that such initial programming costs will be affordable within the current departmental budget, even though it is not specifically referenced as a contemplated expenditure during the current fiscal year. Because external support costs related to design of the tracking system will be relatively minor in nature, the Department is adjusting proposed expenditures in several line items in the current year to offset the cost of initiating this important project. Willits hire another technician and a clerical worker for the Public Works Department (Finding 12) Response: The recommendation has been implemented. The City has advertised to fill this additional Public Works position and has conducted interviews of applicants. Background checks of the most qualified applicants are currently underway. Funding of this position survived the budget challenges this past Spring, and we estimate bringing an individual on board to meet this need during the first or second week of September. Relative to the clerical worker position, no funding was included in the current year’s budget to address this need. In the interim, it is contemplated that clerical support available at City Hall will continue to, at least at a minimal level, address departmental needs. As the department prepares its budget requests for the 2003-2004 fiscal year this next Spring, funding will be included in the departmental request to provide an appropriate level of clerical support in a departmentally specific way. It is anticipated that initially, should this position be funded, it would be part time with the goal of expanding it into a full time position at some point in the future when funding may be more accessible to the City. With the current City commitment to**



maintain programs which have been un-funded by the State due to its budget problems, the City is not in a position to authorize additional positions, even at the part time level, during the current fiscal year. 109The Public Works Department distribute CAL-OSHA safety books and posters as required by applicable laws. (Finding 13) **Response: This recommendation has not yet been implemented, but will be implemented in the future. The Department has requested additional posters and safety books. While the City maintains Injury Prevention Program manuals in each department, additional publications from OSHA available through the State will be made available to employees in not only the Public Works Department, but also the Water and Sewer Departments. Police Department** The Willits Police Department includes 15 sworn personnel, 3 community service officer positions, 5 dispatchers, 12 patrol vehicles, and no reserve officers. Relative to those findings made by the Grand Jury, the City offers the following responses: While the Grand Jury observed officers, they conducted their activities professionally with restraint and consideration to those being stopped and talked to or given notice or citations. **Response: Agree with finding. The City remains proud of its officers and their ability to interact with the public in a professional and friendly manner.** The Grand Jury's attempted to interview citizens with a different perspective on the Police Department. Citizens refused to give details of their experiences with the Police Department because they said they fear retaliation. Persons interviewed by the Grand Jury were reluctant to file formal complaints because of fear of retaliation. **Response: The Grand Jury's findings lead the reader to believe that our community is unwilling to share their concerns about the Police Department because they "fear retaliation". The City must respectfully disagree with this finding for several reasons. First, citizens who have concerns and/or complaints related to the activities of the Police Department are always encouraged to describe that concern or complaint in writing, following which follow-up investigation is conducted and ultimate disposition is communicated to the complainant. Because "clients" of the Police Department often become "clients" against their will, it is not surprising that some do not appreciate the role that the Police Department plays in protecting the health and safety of the entire community. As well, the Grand Jury is encouraged to again review the Police Department's general policies and general orders which encourage and support positive interactions between law enforcement personnel and the public they serve. The Police Department will continue its ongoing efforts to provide training and implement programs and policies which focus upon positively directed and appropriate interactions between law enforcement personnel and the community. The City is concerned that the Grand Jury may have identified this finding based on comments made by a very small 110number of individuals. The City will continue to conduct appropriate investigations of each complaint filed and will continue to educate our citizens regarding the importance the City places on investigating and responding to each and every complaint which may be made. There is no citizen review board. The Police Department does not support the concept of a citizen review board. Response: Agree with finding.** In September 2001, the Police Department reported staff shortage and high turnover; in May 2002, the Police Department reported that there is no staff shortage and turnover is minimal. **Response: Disagree with finding in part. In September, 2001, authorized and funded police officer strength was 11**

officers. At that time the Department had 10 positions filled, and was in the process of a background investigation on the most qualified candidate for the 11<sup>th</sup> position. At that same time, staffing of the community services officer positions was funded and filled by 2 incumbents, with a background investigation being completed on the 3<sup>rd</sup> community services officer. There has been no turnover over the past two years within the Department. As of May, 2002, the Willits Police Department was fully staffed in both sworn personnel and community service officer positions. The Police Department increasingly must work with Spanish-speaking people. The one bilingual Spanish-speaking officer on the Police Department staff cannot provide all translation services required. WPS has access to translation by telephone, but the service is less than effective because it can only be used at the station and not in the field. **Response: Agree with finding.** The Police Department is aware and concerned about drug activities in Willits, especially around school sites. **Response: Agree with finding.** The County of Mendocino owns and is responsible for maintenance of the building the Police Department occupies. The building needs repairs. There is a leak through an unsightly gaping hole in the ceiling of the main Police Department conference room. The Police Department turns in complaints to the County Building and Grounds Department when it rains. The County comes out and does a quick patch, but no permanent repairs. **Response: Agree with finding.** 111 Relative to recommendations of the Grand Jury focused upon the Police Department, the City offers the following responses: Willits City Council set a policy for Police Department behavior in dealing with the public and ensure that it is followed. (Finding 15, 16) **Response: This recommendation will not be implemented because it is not warranted and it is not reasonable. Every law enforcement agency in the County of Mendocino has written policies, procedures, and general orders in place that guide and direct officers in the performance of their duties and in their interactions with citizens. The Willits Police Department is no exception. Officer protocol in “dealing with the public” is clearly described within the context of the Police Department General Orders and the direction officers receive from the Chief of Police. To prepare a separate statement relating to the behavioral aspects of officer interaction with the public would be redundant and is not required for this recommendation to be implemented. The fact of the matter is, those policies are established and each individual within the Police Department who comes in contact with the public is required to review and be trained on those policies and procedures.** Willits Police Department increase Spanish-speaking capacity of officers through training classes or recruitment. (Finding 18) **Response: The recommendation has already been implemented. For the past 2-1/2 years the Department has attempted to recruit Spanish speaking officer candidates with no success. Officers from the Department have traveled to police training academies in our outreach efforts to identify Spanish speaking candidates. The Department has provided basic Spanish language courses on audio tapes and has made them available to each officer. As well, officers are encouraged to attend college language courses, with tuition and books reimbursed by the Department. The City will continue its effort to increase the departmental capacity to interact effectively with Spanish speaking citizens.** **Domestic Violence Restraining Orders** The City has reviewed the Grand Jury’s report on domestic violence restraining orders and offers the following response relative to the findings: A person wishing to obtain a Restraining

Order must first apply for an *ex-parte* court hearing for a Temporary Restraining Order. An applicant must present a typewritten application on the day of the scheduled hearing. There is no filing fee, but applicants are subject to court fees and costs, unless granted a waiver. **Response: Agree with finding.** 112The judge signs the Temporary Restraining Order after the *ex-parte* hearing and the applicant takes the signed order to the Superior Court Clerk who provides the applicant with five certified copies of the order.

**Response: Agree with finding.** The applicant must then arrange for service of the order. Any person over 18 years of age can serve the order on the restrained person.

Alternatively, a police officer or Sheriff's deputy can perform that function, but the applicant must take it to the appropriate office to arrange for that service. **Response: Agree with finding.** At the Sheriff's office, a clerk enters the order into the California Law Enforcement Tracking System (CLETS) computer so that information about it is available to officers who might need it. If the order doesn't get to the Sheriff's office, the information does not get into CLETS. **Response: Disagree with finding. The City does not have sufficient information to form an opinion about the Sheriff's Department's entries into the California Law Enforcement Tracking System.**

**However, the City has not experienced any negative impacts which have resulted from information not being entered into the CLETS system.** Only law enforcement agencies and the District Attorney have access to CLETS. The Court has neither the personnel nor the secure work-station required to interact with CLETS. **Response: Disagree with findings in part. While the City is informed regarding its own access to CLETS, the City does not have sufficient information to comment relative to the resources of the Court.** The Restraining Order process breaks down when applicants, confused or otherwise unclear about the system, fail to get the order to the Sheriff, with the result that the order is not in CLETS and officers have no information available when called out to deal with a person in violation of the order. **Response: Disagree with finding in part, in that the City has no specific information regarding breakdowns in the restraining order process which may occur within the Sheriff's Department.**

Besides the Temporary Restraining Order, an applicant can get an Emergency Protective Order, good for three days. A police officer on the scene contacts an on-call judge in circumstances, which, in the officer's judgement, warrant quick action. The judge authorizes the Emergency Protective Order, and the officer takes or faxes a hard copy to dispatch for immediate entry into CLETS. 113 **Response: Disagree with finding. It is the City's understanding that an Emergency Protective Order is good for five court days as opposed to three. Regarding the activities of the court, the City is not fully informed and therefore cannot respond.** If an applicant calls police to report a violation of an order, an officer can make a misdemeanor arrest on the spot if the officer observes the violation or if there is a warrant. Also, after speaking with aggrieved party, neighbors, or other witnesses, the officer may arrest after determining there is a probably cause to believe someone has violated an order. **Response: Agree with finding.** When a Restraining Order lapses or is lifted by request of the plaintiff or defendant, the Court informs the Sheriff, who enters that information into CLETS. **Response: Agree with finding.** The City of Willits offers the following response to the Grand Jury's Recommendation A: 1. The Sheriff and police departments contact the Court Administration Office to recommend that Bailiff's be assigned to deliver orders to CLETS as soon as possible after they are issued. (Findings 3-6, 9) **Response: This**

**recommendation will not be implemented because it is not reasonable. To clarify, the City is not in a position to comment on the resource availability and staffing assignments determined by the County Administrative Office, the Sheriff, and ultimately the Board of Supervisors. To the extent that additional resources are available to enhance the effectiveness of domestic violence restraining orders, the City will work with the County in every way possible to maximize protections offered by restraining orders and protective orders. The City looks forward to the County's comments relative to their ability to deploy resources and manpower in this and other areas directly impacting our communities.** Again, thank you for the opportunity to visit with the Grand Jury and support its efforts. Each and every opportunity our City has to receive constructive suggestions and recommendations is an opportunity we embrace with the hope that our ability to maximize public benefits of City programs given scarce resources is enhanced. The City Council appreciates and values insights provided by the Grand Jury to the citizens of our communities. We have found the report helpful and have utilized its contents to question, consider and assess our ability to maximize public benefits of City programs. We join the Grand Jury in our goal of assuring that government works "for the people", and continue our commitment to that end.

Because our response in its original format was executed by the Mayor, the Police Chief, the Public Works Director and the City Manager as the collaborative response of this City Council and the various department heads, I have not secured all of their signatures again on this document. However, my signature below validate the accuracy of the responses provided from the August 29, 2002 response executed by each and all of them.

Respectfully,  
Gordon Logan  
City Manager  
GL:cae  
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## **Westport County Water District Response to 2001-2002 Grand Jury Final Report Findings**

1. The District is current on all annual audits and bond payments.

Response: Agree.

2. Board Meetings are in compliance with the Brown Act.

Response: Agree.

3. The present basic rate for water and sewer service is \$83.01 per month, which provides up to 12,000 gallons of water for each residential and commercial user. Water use in excess of basic service is charged according to amount of usage. Commercial hook-ups are charged at a higher rate than residential.

Response: Agree except that *commercial hook-ups are not charged at a higher rate.*

4. The District has an ongoing problem of obtaining enough citizen participation to fill the Board of Director's position.

Response: Agree.

5. The District has experienced a chronic shortage of revenue from lack of economy of scale. The District has aggressively pursued external grant funding.

Response: Agree.

6. An outside contractor operating on behalf of the District has obtained a \$264,000 grant to do a study of the water shed and existing system.

Response: Agree except that the grant is for a *water feasibility study*.

7. The State recently awarded a grant to construct an additional water storage tank.

Response: Disagree. The grant for the additional water storage tank fell through.

8. The District drilled a deep well, which has a high flow rate, but is unusable because of high manganese and iron content. Use of the well water requires a filtration system costing more than \$100,000.

Response: Agree.

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9. The sewage settlement ponds suffer from sediment accumulation and sewage seepage. They require dredging, draining, and lining. The District reports no funds are available for this work.

Response: Agree in part. The referenced ponds are our *aeration lagoons* and they have diminished capacity due to *erosion*.

10. Because of a shortage of personnel, the District does not mail bills in a timely manner. The 1999-2000 Grand Jury found similar problems. The District Board responded that their policy requires bills be out by the 15<sup>th</sup> of the month and that they have developed a form with a year of payment coupons to remind customers when a payment is due.

Response: Agree.

11. The District is authorized to charge \$20 per month to owners of undeveloped and unoccupied real estate parcels. The District has not implemented billing or collection of these fees, stating they would be difficult to collect because of absentee ownership and lack of funds to legally pursue collection.

Response: Agree except the District is authorized to charge *\$60 per year*, not *\$30 per month*.

12. The 1999-2000 Grand Jury found that “one large lot, which is divided into several parcels, has five RVs hooked up to one water and sewer line and paying a single rate” and recommended that “a complete review of all properties within the district, both occupied and vacant, be made to determine if the District is receiving all revenues due.” The District responded that the recommendation was “in progress and of the highest priority.” The present Grand Jury finds that the single hook-up for several residences still exists and the Chair of the Board of Directors reiterated this two-year response.

Response: Agree. This month we are sending a user use survey with the bills. This is the first step in bringing all uses into compliance.

13. The 1999-2000 Grand Jury found that the Waster Water Capital Reserve Fund as mandated by the California State Water Resources Control Board was in arrears and recommended that “delinquent payments be brought up to date.” The District Board responded that capital funds should come from hook up fees, but that the shortage of new hookups caused the lack of funds. The Capital Fund now shows a zero balance.

Response: Disagree. *The Waster Water Capital Reserve currently has \$41,500*. New allocated hookups will each add \$3,161 to this account. New unallocated hookups will each add \$8,021 to this account. In addition, we transferred \$5,000 to the Waste Water Capital Reserve Fund in the 2001-2002 fiscal year.

## Recommendations

A. The District continue its pursuit of funding and grants for improvements to the water and wastewater systems. (Findings 5, 6, 7)

Response: Implemented. The Directors are currently searching for grants to provide a treatment plant for our well (we came close last summer but were ultimately turned down) and dredging and lining our sediment ponds. See finding 6.

B. The District consider a loan or a bond initiative to finance the needed filtration system for the grilled well and deferred maintenance on sewage settlement ponds. (Findings 8, 9)

Response: Implemented. See finding 6.

C. To address problems of economy of scale, the District contract water service to new development adjacent to the District. (Finding 5)

Response: Implemented. Contract water sales to an adjacent campground make a substantial contribution to our budget but there are limits to the amount of water we may take from our source.

D. The District ensure it bills and collects fees in a timely manner. (Finding 10)

Response: Implemented.

E. The District pursue billing and collection of fees for undeveloped and unoccupied parcels and pass an ordinance to include unpaid fees in the cost of initial hookup. (Finding 11)

Response: Will be implemented early next year.

F. The District review the matter of the recreational vehicles on a single service and determine if additional fees are warranted. (Finding 12)

Response: Will be implemented in conjunction with finding 12 above

## City of Fort Bragg Community Development Department and Affordable Housing

Response from Fort Bragg City Council (required) and from Fort Bragg Community Development Department, Planning Commission and Community Development Advisory Board (requested)

### Findings:

1. The Department is carrying out its various duties working to capacity in terms of personnel.

Response – Agree.

The Community Development Department includes three staff positions; Community Development Director, Associate Planner and Administrative Secretary. Special studies, Environmental Impact Reports and other larger planning and development policy documents such as the General Plan and Zoning Ordinance are prepared through professional service contracts. In order to assure timely processing of routine planning applications the City also uses the services of a contract planner as needed.

2. *The Grand Jury reviewed 134 permit applications for the years 2000-2001. Of the applications reviewed the Department issued 108 permits within 30 days, 22 permits between 30 and 60 days, and four permits after six months. The four*

*permits issued after six months involved commercial and multiple residential projects.*

Response – Agree.

The City has not attempted to reanalyze or recalculate the number of permit applications processed. We believe that the finding accurately represents the typical processing timeframes for building permits. Using the Grand Jury's calculations we note that approximately 80% of permits were issued within 30 days, 16% within 30-60 days and 4% longer than 60 days. Complex projects which require the preparation of an environmental impact report may take a year or more to complete processing. Typical reasons for the longer permit processing timeframes include the need to obtain discretionary approvals through the Planning Commission or the need to modify project submittals to meet Uniform Building Code requirements. The City believes that the Department's timeframes for permit processing are generally acceptable and that they are consistent with or more expedient than other similar jurisdictions. It should also be noted that the Community Development Department is responsible for coordinating permit application review which is required through other City departments, the Fire Department and the County Building Department. For its part the Community Development Department has established an aggressive goal for timely review of 80% of permit applications for zoning consistency within 5 days of receipt of the completed permit application.

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*3. The Department lacks a written complaint procedure for applicants unhappy with the permit process.*

Response – Agree in part.

Fort Bragg Municipal Code Chapter 18.78 provides a procedure for any applicant who is unhappy with the result of a permit review process to appeal any decision of the Community Development Department and/or the Planning Commission. A fee for the appeal process has been established by the City Council. The Department does not have a written complaint procedure for general complaints regarding the permit process. Such complaints are routinely handled on a case-by-case basis through the Community Development Director or the City Manager as appropriate.

*4. The Department lacks a comprehensive informational handout for permit applicants detailing pertinent aspects of the process and rights and responsibilities of parties involved. The Department states a goal to produce a handout to this effect in 2002*

Response – Agree.

The Department's permit applications and pertinent sections of the Fort Bragg Municipal Code provide information to permit applicants about permit-processing procedures. These are routinely distributed to permit applicants. In addition, staff routinely provides additional specific and detailed information and interpretation to applicants as needed. The Department is currently updating its application forms and preparing information brochures for each of the planning processes it administers. While this will not be a singular "comprehensive informational handout," the brochures will provide clear and useful information about permitting requirements and procedures. This project is

scheduled for completion by December 31, 2002.

*5. The Department lacks a written policies and procedures.*

Response – Disagree.

The City and the Community Development Department have written policies and procedures. Policies and procedures governing the actions of all City Departments and employees are established in the City's Personnel Regulations and Administrative Regulations. The City of Fort Bragg General Plan provides the overarching policy framework which guides land use, development review and decision-making on land use and development applications. Specific procedures pertaining to the Community Development Department's review and processing of discretionary and ministerial permit applications are provided in the Fort Bragg Municipal Code (Title 15-Buildings and Construction; Title 17-Subdivisions; Title 18-Zoning). The Department annually establishes specific objectives for administration of its responsibilities, which are updated and approved by the City Council during the annual budget process.

*6. The Department lacks employee job descriptions that state duties, responsibilities and scope of authority in application and interpretation of codes and ordinances.*

Response – Disagree, in part.

The City maintains job descriptions for all City employees including the Community Development Department employees. The job description provides a summary of the position, and specify typical duties and responsibilities associated with the position. As is typical in similar agencies, job descriptions do not

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specifically address each employee's "scope of authority in application and interpretation of codes and ordinances." Staff's authority is identified in the relevant sections of the Fort Bragg Municipal Code. (See attached job description.)

*7. The affordable housing element of the draft General Plan has not been adopted. If adopted as proposed, the City would not meet its existing or projected needs for affordable and low-income housing as proposed by the Government Code. There is a shortage of housing for low-income workers and seniors.*

Response – Disagree, in part.

The City has a Housing Element which was certified by the State Department of Housing & Community Development (HCD) in 1993. HCD requires that it be updated by December 31, 2003. The City has completed a draft Housing Element update in conjunction with the comprehensive update of the entire General Plan. The General Plan and environmental impact report are currently in the public review process. Public Hearings and adoption are scheduled to occur later this year. The draft Housing Element provides policies and programs which are intended to support the



development of adequate housing for all economic segments of the community. The Housing Background section of the Housing Element (Section F) identifies many housing needs, including a shortage of affordable housing and senior housing.

The Housing Element identifies potential sites for development of approximately 1,192 additional housing units within the City. The Draft Regional Housing Needs Plan, which was prepared by the Mendocino Council of Governments and is presently under public review, recommends a 2001-2008 housing needs allocation of 388 units for Fort Bragg, of which 159 units are needed for low and very low income residents. Whether or not the housing goals established in the Housing Element are achieved is dependent on many factors, most of which are beyond the City's control (see Response to Finding 8).

*8. The lack of water and high cost of real estate have constrained the development of adequate affordable and low-income housing in the City. Secondary constraints include the scarcity of redevelopment funds, land-use controls, building codes, local permit processing, various special fees and environmental/site condition studies, and limitations on density.*

Response – Agree.

In addition to the factors listed in Finding 8, macroeconomic factors are a major contributor to the lack of affordable housing. Limitations on the availability of capital to finance land and infrastructure development and building construction, particularly for affordable housing, has a direct bearing on the production of new housing in any community. The City has developed policies in the Housing Element update to facilitate and encourage the development of affordable housing.

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*9. In the past, the City, in conjunction with private enterprise, has supported affordable and low-income housing development by mitigation of fees, codes and ordinances, and reduction in site development standards, water use retrofit, and application of density bonus. Presently, City support of low-income and affordable housing is hampered by lack of redevelopment funds.*

Response – Agree, in part.

The City has a long history of supporting affordable housing development projects. While redevelopment funds have not been available for several years to provide direct financial assistance, the City has developed a small balance in the Redevelopment Housing Fund as of June 30, 2002. The City Council has identified its interest to evaluate approaches to facilitate and support housing development.

Despite the City's inability to provide direct financial assistance, in the past three years, the City has undertaken many activities in support of housing development, including: preparation of the Housing Element update; Federal Emergency Shelter Grants for emergency/transitional housing; Community Development Block Grant (CDBG) for

housing rehabilitation; CDBG grant for development of off-site drainage improvements to support a sweat-equity housing project; and CDBG grant for preparation of a Senior Housing Market Study. In addition, the Redevelopment Agency recently contributed \$40,000 for pre-purchase studies to assist the acquisition of a 49-unit “at risk” affordable housing project by a qualified affordable housing non-profit.

*10. A major obstacle to affordable and low-income housing availability statewide as well as in Mendocino County is affordable housing becoming unaffordable because of market forces.*

Response – Agree.

One means of ensuring that affordable housing remains affordable is to establish rental or resale covenants for housing projects which receive public funds and/or special benefits. State Redevelopment Law and State Density Bonus Law require that mechanisms be in place to ensure continued affordability for between 10 and 40 years.

*11. Poor design and undesirable location of low-income housing can contribute to legal and social problems.*

Response – Agree.

This finding does not relate specifically to the City of Fort Bragg. The City of Fort Bragg is fortunate to have several exemplary affordable housing developments. For the most part, the sweat-equity residences and the multiple-family developments built over the past two decades are of good design and are well-maintained. The City’s liberal policy for development of second dwelling units in residential zoning districts is an effective tool to encourage affordable housing development throughout the community.

**Recommendations:**

*A. The City adopt the policies of California Government Code Sec. 65920, 15399.5 and related codes dealing with the State Permit Streamlining Act. Specifically, the City direct the Department to establish and declare timetables for action on individual permits and declare an expedited appeal process to ensure fair treatment to the applicant using existing agencies, staffs, commissions, or boards. (Findings 2, 3)*

Response – The recommendation has already been implemented.

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The City, like all public agencies in California, must comply with the requirements of the Permit Streamlining Act (GC §65920, et.seq.) for the processing of discretionary permits. The Permit Streamlining Act does not apply to ministerial permits, such as building permits (Finding 2). It is unnecessary for the City to re-adopt State laws.

GC §15399.5 pertains to the California Main Street Program and appears to be an incorrect citation.

The Department has established objectives for permit-processing timeframes in the FY 2002-03 Budget. For building permits, the objective is to perform the review for zoning compliance within five days of receipt of a complete application for 80% of applications. For discretionary actions which are not subject to environmental review, the Department’s objective is to agendize at least 80% of applications for Planning Commission action within 4 to 6 weeks of receipt of a completed application.

Applicants are treated fairly by Department staff and decision-making bodies (Planning Commission, City Council). As discussed in response to Finding 3, the City has an appeal procedure whereby applicants dissatisfied with any administrative or policy decision may request a hearing by the City Council.

*B. The City direct the Department to produce for applicants a comprehensive handout furnishing information relevant to the permit process and the appeal process. The City post this information on the City’s web site with applications and application*

updates. The City also post an application log and update application status regularly.  
(Finding 4)

Response – The recommendation to produce a comprehensive handout relevant to the permit process and the appeal process and post this information on the City’s web site will be implemented in the future. The recommendation regarding posting an application log and update application status regularly will not be implemented because it is unwarranted and infeasible.

As noted in the response to Finding 4, the Department is preparing brochures explaining all permitting processes administered by the Department. These will be completed by December 31, 2002 and will be posted on the City’s website shortly thereafter.

The Department does not have adequate staff resources to post and maintain information on the City’s website which needs to be updated on a daily or weekly basis. Information about the status of applications is readily available to applicants by phone or at the Department’s public counter.

*C. The Department with the City Council produce a policies and procedures compendium for the Department (Finding 5)*

Response – The recommendation will be implemented in the future. The City has initiated the comprehensive update of all of its regulations pertaining to land use and development, including zoning and subdivision regulations. A consultant has been retained to perform the work, and the first public workshop was held in August 2002. The updated “Land Use & Development Code” will establish clear regulations and procedures for implementation of the City’s land use policies. A draft of the Land Use & Development will be reviewed by the Council in May 2003.

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*D. The Department with the City Council produce detailed job descriptions for Department employees. This is to include specific details on the scope of authority and discretion of Department in applying and interpreting Municipal Codes and ordinances. (Finding 6)*

Response – The recommendation regarding detailed job descriptions will not be implemented because it is unwarranted and the recommendation regarding specific details on the scope of authority and discretion of the department will be implemented in the future.

The City of Fort Bragg operates under a City Council/Manager form of government. The City Manager is responsible for management and administration of all personnel and operations. Job descriptions for all positions are developed and maintained through the City Manager’s Office. As addressed in the response to Finding 6, detailed job descriptions are available for all Community Development Department employees.

The Department’s function is to apply and interpret the City’s Municipal Codes and ordinances pertaining to land use and development. The extent to which discretion is used in applying and interpreting Codes depends entirely on the content and structure of those Codes. The Land Use & Development Code update process (see response to Recommendation C) will provide an opportunity for the City to review and revise its Codes to provide for more or less administrative authority and discretion. A draft of the Land Use & Development will be reviewed by the Council in May 2003.

*E. The City adopt a policy compliant with State Government Code Sec. 65915 through 65918 concerning mitigation of codes, ordinances, site development standards, and application of density bonus for affordable and low-income housing. (Finding 9)*

Response – The recommendation has been implemented.

The City has both existing and proposed revised Housing Element policies which implement State Density Bonus Laws (GC §65915 et.seq.). The City's existing certified Housing Element establishes inclusionary housing and density bonus requirements. (See attached Housing Element, Policy 2.2 and Program 2.2.a and Program 2.2.b). The draft Housing Element which currently is under review includes revised policies and programs relating to density bonus regulations. (See attached City of Fort Bragg General Plan, Housing Element, pages 119-121: Policy H-3.4; Program H-3.4.1, Program H-3.4.2; Program H-3.4.3; Policy H-3.5; Program H-3.5.1.)

*F. The City explore methods of insuring affordable housing development remain affordable. This may include Federal, State and County funding of permanent low-income housing and ordinances requiring commercial development include low-income housing in their projects. (Finding 10)*

Response – The recommendation will be implemented in the future.

The City offers on-going support for affordable housing projects through the CDBG program and its Redevelopment Housing Fund. The draft Housing Element establishes new policies and programs to support the development, maintenance and retention of affordable housing in the community. (See attached City of Fort Bragg General Plan Public Review Draft- August 2002; Housing

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Element, pages 112-156.). The updated General Plan is scheduled for adoption by the City Council in December 2002.

*G. The City adopt a policy of tasteful design and suitable location of affordable and low-income housing. (Finding 11)*

Response – The recommendation will be implemented in the future.

The draft Housing Element establishes new policies to support development of affordable housing and includes programs to ensure that new housing is compatible with the surrounding neighborhood. These policies will be further articulated and implemented through revised Design Review standards which will be established during the Land Use & Development Code update process. (See attached City of Fort Bragg General Plan Public Review Draft- August 2002; Housing Element, pages 112-156.).

The updated General Plan is scheduled for adoption by the City Council in December 2002. The draft Land Use & Development Code will be reviewed by the City Council in May 2003.

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September 25, 2002

Honorable Ronald Brown Presiding Judge

Mendocino County Superior Court 100 N. State Street Ukiah, California 95482

Honorable Judge Brown:

Thank you for the opportunity to review and respond to the Findings and Recommendations contained in the Final 2001-2002 Mendocino County Grand Jury Report. This letter contains responses from the City of Fort Bragg as required by California Penal Code Section 933. For the purpose of simplicity, the response from each agency and officer of the City of Fort Bragg from whom response is either requested or required is incorporated in the attached comments.

The attached pages provide our response to three matters reviewed by the Grand Jury. These are: "City of Fort Bragg Community Development Department and Affordable Housing", "The Mentally Ill – A New Approach to Crisis Services" and "Domestic Violence Restraining Orders".

The City of Fort Bragg appreciates the Grand Jury's interest in these important topics and the professional approach the Grand Jury used in completing its review and the preparation of its suggestions. We are aware that the Grand Jury shifted through a very large amount of permit application material in its review of the City's Community Development Department permitting procedures. The Court should be aware that producing this information on the tight schedule defined by the Grand Jury required a very significant work effort for the City staff and a consequent diversion of staff time as well as cost to the City. We estimate the value of the City work effort at approximately \$1,500. Given the volume of material requested from the County Building Department as our contract service provider, we estimate a similar cost to their operations. We suggest in the future that the Grand Jury consider the financial and work effort impacts to agencies of the Jury's requests for information and support.

Again, we appreciate the Grand Jury's service and the opportunity to respond to these reports.

Sincerely,

Jere Melo,  
Mayor

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## **The Mentally Ill – A New Approach to Crisis Services**

Response from Fort Bragg City Council (required) And from Fort Bragg Police Chief (requested)

### **Findings:**

- 1. While causing concern in the County, many saw the closure of the locked PHF as an opportunity for change. The loss of the PHF triggered a comprehensive re-evaluation of the delivery system of help to the mentally ill, especially to those in crisis. Numerous stakeholders were brought together to examine the system in place, research the latest practices in the field, and explore the various options for possible change.*

Response – Agree.

The City of Fort Bragg was among those within the County who were concerned with the announcement of the closure of the PHF unit. The Fort Bragg Police Department experienced several situations of inadequate response to calls for assistance with mentally ill persons. In one case the Department was required to deploy two officers for a 7-hour round trip to transport a violent subject to a locked facility in Sonoma County. This created a hardship for the Police Department and subjected the mentally ill person to an inappropriate standard of care.

2. *On July 17, 2001, the DHM submitted a staff report on mental health services in the County. The nine-page report summarized various possible solutions. The recommendations were: close the PHF and create the CSC, adopt a community-based Adult Systems of Care model, assign mental health workers to the Jail, increase staff for case management, and continue to use out-of-county contract mental health treatment facilities. In addition the County would take over the operation of a residential recovery center, Casa de Marta, in Ukiah, and provide for quick response crisis workers to hospitals, Jail, or other places in the community needing their services. The new plan, with the CSC as an important component, would result in a community based program, a “recovery model” with case management to bring together available resources, including patient advocacy groups, to provide each case with a range of services and continuing follow-up.*

Response – Agree.

3. The BOS approved the plan, which the County Administrative Office described as “a major shift in the delivery of mental health services in our community.” County administrative employees recognized that the changes would require a great deal of effort to overcome resistance and for various departments and clients to work together to make the new system successful.

Response – Agree.

4. *An important piece in the new system is the Memo of Understanding between the DMH, the Sheriff, the three city police departments, and the three hospitals in the County whose emergency rooms will be receiving people in mental health crisis. The document, effective October 1, 2001, establishes the protocols for the assessment and care of persons exhibiting signs of mental illness who come into contact with law enforcement.*

Response – Agree.

The protocols established by the MOU have been applied in practice resulting in stronger relationships between mental health personnel and the officers making the referrals. The

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process appears to be working well according to the Fort Bragg Police Officers who have utilized the system outlined in the MOU.

5. *DMH, law enforcement and hospital staff, do not meet regularly to share knowledge and procedures. Agencies confer on a case-by-case basis.*

Response – Agree.

While it’s true the hospital staff and the Fort Bragg officers do not meet on a regular basis, the protocols established by the MOU make even our case-by-case contacts more meaningful. This improvement is possible because the dialog between the hospital staff and the officers can center more around the case and less about who is responsible for certain actions.

6. *The CSC, located at 860 North Bush Street in Ukiah, in the government complex,*

*went into full operation in the middle of October 2001.*

Response – Agree.

*7. The CSC is open and staffed 24 hours a day, seven days a week. Participation of clients is voluntary and there are some beds for overnight “time-out” stays if necessary.*

Response – Agree.

*8. A CSC, worker’s duties include evaluation, intervention, placement at a contract psychiatric hospital for 72-hour evaluation under §5150, and planning for discharge from the center to follow-up services.*

Response – Agree.

*9. The policy statement for the CSC includes job descriptions for all staff, definition and philosophy of the recovery model concept of treatment, and details of operations.*

Response – Agree.

*10. State regulations require the County to provide a Patient Rights Advocate. The patient rights advocate office is now in the CSC, a partial implementation of a 2000-2001 Grand Jury recommendation.*

Response – Agree.

*11. The CSC has developed a transportation system to drive clients to out of county psychiatric facilities thus relieving the sheriff from that duty except when the client requires a law enforcement escort. These workers will also have other duties at the center.*

Response – Agree.

*This aspect of the protocol has all but eliminated the need for Fort Bragg officers to be responsible for transportation of §5150 detainees from the coast to other facilities.*

*12. The CSC is officially designated under State of California guidelines as a Community Mental Health Clinic in which client services are billed under Medi-Cal regulations. It is anticipated that the final costs to the County could be reduced while at the same time providing better services to the mentally ill.*

Response – Agree.

*13. Records indicate that as many as one in four inmates housed at the Jail have mental health issues. When the PHF was closed, officers no longer had a secure facility to leave people who needed evaluation. Patrol Officers reported being out of normal service while they waited for mental health crises workers to respond to hospital*

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*emergency rooms to evaluate and assume custody of the client. In addition, mental health or law enforcement staff time had to be increased to transport patients to out of county psychiatric facilities.*

Response – Agree.

*14. With the assignment of DMH personnel to the Jail and the ability of the CSC to send crisis workers to the jail after regular working hours, Jail workers believe the treatment of inmates with mental health issues has improved.*

Response – Agree.

*15. There is a strong connection between mental illness and substance abuse. Clients in crisis typically exhibit a multitude of problems in addition to the ones that have brought them to the immediate crises. These include homelessness, health, employment, and childcare. DMH has recognized the multiple layers of need with the creation of a new position, Consumer Services Coordinator, with the job of ensuring that the clients receive the help needed from whatever source is available. However, some clients exhibiting aberrant behavior are sometimes shuffled back and forth between AODP and DMH.*

Response – Agree.

16. *With the PHF no longer available, the need for costly transportation of patients out of the county has increased. Both the Sheriff and the DMH have standby transportation staff and/or ambulances available (if restraint is required) to transport patients to out-of-county psychiatric facilities.*

Response – Agree.

17. *Redwood Coast Regional Center, DMH, and the Sheriff are collaborating in a unique grant-funded training program to bring more understanding of the relationship of law enforcement and the developmentally disabled and the mentally ill. A private training group from the Bay Area has been conducting the training.*

Response – Agree.

On April 11, 2002 the Fort Bragg Police Department provided an instructor for a presentation on this subject matter to Critical Focus. The presentation was made at the Fort Bragg Police Department.

18. *DMH has in place tools for evaluation, such as the Client Satisfaction Questionnaire and the California Quality of Life instrument. The Mental Health Board is planning to evaluate client satisfaction.*

Response – Agree.

19. *The Grand Jury has heard testimony that the impact of the new procedures on Fort Bragg and the coastal areas of the County have been mixed. The Fort Bragg area had in place, prior to the closure of the PHF, a system for crisis response that has not changed. The Fort Bragg office of the DMH has employees to respond to crisis calls Monday to Friday 8 a.m. to 5 p.m. The County has a contract with Ford Street Project, a private non-profit human service organization, to provide crisis response during all other times. DMH supervisors are available for telephone consultation with the Ford Street crisis workers. The Ford Street Project also provides three beds for “time-out” cases in the same situations now available at the CSC. The primary change has been for §5150 cases, which require a custodial setting. Information from crisis workers on the coast*

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*indicates without a PHF, it sometimes takes longer to find a placement for persons who must be detained under §5150 because they must be taken out of the county.*

Response – Agree.

20. There are currently three on-call crisis workers who are employed in other human service jobs. They participate in continual training and case conferences and are supervised by on-call DMH personnel. Often the crisis workers have extensive prior knowledge of the client and the needs of the case, thus facilitating decision-making.

Response – Agree.

The Fort Bragg Police Department works closely with the Coast Crisis Service providers and relies on their specialized training and prior knowledge of client needs to facilitate appropriate service and decision making regarding mentally ill persons.

21. *Other partners in the process, law enforcement and hospital medical staff, at times, question the qualifications and decisions made by the crisis workers. On the other hand, crisis workers feel that police officers and emergency room staff do not understand the requirements and consequences of a §5150 detention nor the difficulty in diagnosing a mental disorder.*

Response – Agree.

The criteria for the application of a §5150 hold for law enforcement although narrow still leaves open the possibility of differences of opinion between evaluators. It's not uncommon that the symptoms exhibited in the



presence of the first responder (usually law enforcement) are masked by the person being evaluated when he/she realizes a §5150 hold may be forthcoming. It's important to remember that a §5150 hold is not a commitment, but is rather a vehicle to get the person in question into a professional evaluation environment. As much as it would be desirable that those evaluating the need for the §5150 hold have a uniform opinion, differences as to the suitability of a hold are likely to continue. As with most issues, the key to reducing the frustrations associated with these differences lies in effective communication.

*22. There is no licensed holding cell or room on the coast. At times a patient will be held at the Sheriff's substation in Fort Bragg or by the Fort Bragg Police, perhaps in the back of a patrol car, until a crises worker arrives.*

Response – Agree.

This situation does occur, but during the past year incidents wherein this has been necessary have been reduced within the Fort Bragg jurisdiction. Our officers report that the response time for the crises worker to arrive on scene has improved.

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**Recommendations:**

*A. Law enforcement agencies strengthen their partnership with the DMH and other mental health stakeholders. (Finding 5, 13)*

Response – The recommendation has already been implemented.

The City of Fort Bragg agrees that a strong partnership between the Department of Mental Health, law enforcement and other mental health service providers is essential to adequate and appropriate delivery of mental health services. The City remains committed to continuing and improving this critical partnership. Aside from meetings held between the Fort Bragg Police Department and mental health services in August and September of 2001 and March of 2002, the Fort Bragg Police Department has established a protocol of direct communication between the Chief of Police and mental health administration. These communications have proven effective in the resolution of issues before they become problems, but are not limited to addressing only negative issues. In January of 2002 the department sent a letter to the Director of Mendocino County Mental Health praising their staff for professional responses to our requests for assistance.

*B. The BOS fund training to improve understanding of the new procedures to allow each group to appreciate the concepts and problems of the other, and to help clients to use all resources to the fullest. (Finding 5, 13)*

Response – The recommendation has already been implemented.

The City of Fort Bragg supports the concept of understanding through training. The Fort Bragg Police Department participated in the training provided in April of 2002.

*C. The DMH, law enforcement, and hospital medical personnel meet on a regular basis to share knowledge and procedures in dealing with the mentally ill. (Finding 5, 13)*

Response – The recommendation will not be implemented because it is unwarranted or unreasonable.

For the Fort Bragg Police Department regular scheduled meetings with DMH and hospital medical personnel have been determined to be an unnecessary burden on the agencies. The meetings in August and September of 2001 and in March of 2002 combined with the MOU have resolved the majority of our issues. Our system of

communication between the Chief of Police and the other agencies has been adequate to address any issues that have come forth within the past year and we feel will be effective in the future. The Fort Bragg Police Department will be an active participant should a future need arise for meetings or workshops relative to mental health issues.

*D. DMH and AODP integrate health services and substance abuse treatment. (Finding 15)*

Response – The recommendation will not be implemented because it is unwarranted or unreasonable.

Neither the City of Fort Bragg nor the Fort Bragg Police Department has the ability to implement this recommendation. It is unreasonable to expect that these entities would be responsible for action on this recommendation.

## **Domestic Violence Restraining Orders**

Response from Fort Bragg City Council (required) And from Fort Bragg Police Chief (requested)

### **Findings:**

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*1. A person wishing to obtain a Restraining Order must first apply for an ex-parte court hearing for a Temporary Restraining Order. An applicant must present a typewritten application on the day of the scheduled hearing. There is no filing fee, but applicants are subject to court fees and costs, unless granted a waiver.*

Response – Agree.

*2. The judge signs the Temporary Restraining Order after the ex-parte hearing and the applicant takes the signed order to the Superior Court Clerk who provides the applicant with five certified copies of the order.*

Response – Agree.

*3. The applicant must then arrange for service of the order. Any person over 18 years of age can serve the order on the restrained person. Alternatively, a police officer or Sheriff's deputy can perform that function, but the applicant must take it to the appropriate office to arrange for that service.*

Response – Agree.

Although it is the responsibility of the applicant to assure the order is served on the restrained subject by an uninvolved party, the Fort Bragg Police Department will notice the restrained individual upon contact if we know service is required. Our office personnel then enter our notice to the restrained party into CLETS.

*4. At the Sheriff's office, a clerk enters the order into the California Law Enforcement Tracking System (CLETS) computer so that information about it is available to officers who might need it. If the order doesn't get to the Sheriff's office, the information does not get into CLETS.*

Response – Agree.

In addition, Fort Bragg police department personnel will make entry of the restraining order into CLETS if the applicant so requests.

*5. Only law enforcement agencies and the District Attorney have access to CLETS. The Court has neither the personnel nor the secure work-station required to interact with CLETS.*

Response – Agree.

*6. The Restraining Order process breaks down when applicants, confused or otherwise*

*unclear about the system, fail to get the order to the Sheriff, with the result that the order is not in CLETS and officers have no information available when called out to deal with a person in violation of the order.*

Response – Agree.

Applicants for a restraining order who come into contact with the Fort Bragg Police Department and who have for some reason not had their order entered into CLETS are assisted at the front counter. Office personnel will enter the order and instructions as to service of the order on the restrained party will be given to the applicant.

*7. Besides the Temporary Restraining Order, an applicant can get an Emergency Protective Order, good for three days. A police officer on the scene contacts an on-call judge in circumstances, which, in the officer's judgment, warrant quick action. The judge authorizes the Emergency Protective Order, and the officer takes or faxes a hard copy to dispatch for immediate entry into CLETS.*

Response – Agree.

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An officer at the scene of a domestic violence incident issues the Emergency Protective Order (EPO). In addition to instructions provided by the officer as to the time frame covered by the EPO, the EPO itself clearly shows the date when it expires. If the person covered by the EPO wants to extend the time and conditions they must apply for a restraining order through the court. County dispatch enters the EPO into CLETS at the time it's issued.

*8. If an applicant calls police to report a violation of an order, an officer can make a misdemeanor arrest on the spot if the officer observes the violation or if there is a warrant. Also, after speaking with aggrieved party, neighbors, or other witnesses, the officer may arrest after determining there is probable cause to believe someone has violated an order.*

Response – Agree.

This is true when the restrained person has been previously served with notice that the restraining order has been issued. If the order has not been served on the party the officer will make notification to the restrained party. But will not usually arrest at this time unless other criminal conditions exist.

*9. When a Restraining Order lapses or is lifted by request of the plaintiff or defendant, the Court informs the Sheriff, who enters that information into CLETS.*

Response – Agree.

**Recommendation:**

*A. The Sheriff and police departments contact the Court Administration Office to recommend that Bailiffs be assigned to deliver orders to CLETS as soon as possible after they are issues. (Findings 3-6, 9)*

Response – Recommendation has already been implemented.

The call was placed to the Court Administration Office on September 4, 2002.

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