

Response to Grand Jury Report “The Santa Clara Valley Water District – Awash in Cash as County and Cities Drown in Red Ink (Part 1 of 4 Reports)”

Finding 1a

While many operational activities, such as water quality and environmental impact reviews, are highly regulated by government agencies, the Board of Directors is solely responsible for District financial management, including capital programs, water rates and pump taxes.

Response: Respondent partially disagrees with the finding

The Board of Directors is responsible for financial management of the District including capital programs and water rates. The District does not levy a pump tax.

Financial activities of the District are highly regulated similarly to water quality activities and environmental impact activities. For example, the District is subject to regulatory requirements and standards as established by FASB: Financial Accounting Standards Board; GASB: Government Accounting Standards Board; POB: Public Oversight Board. Additionally, State law, Government Code §26909, requires an annual audit of a local government’s financial records. The Single Audit Act, amended by Congress in 1996, requires an annual audit if a local government expends federal funds equal to or greater than \$300,000 in any fiscal year. Results of these audits are available to the public at http://www.valleywater.org/About_Us/District_Info/Financial_Info/CAFR/index.shtml or by request.

Finding 1b

The County Board of Supervisors gave only a perfunctory review of the District budget until they ordered a budget review in 2005. They subsequently relinquished any oversight of the District.

Response: Respondent partially disagrees with the finding

During the time the Board of Supervisors had approval authority of the District’s budget the following process was used:

1. The budget was provided in advance of approval
2. Supervisors were briefed by District staff
3. For several years, a more detailed review was conducted by the County Board of Supervisor’s Housing, Land Use, Environment and Transportation committee
4. The Board of Supervisors conducted a public meeting for review and approval

In 2006 the County and the District mutually agreed that this arrangement was not in alignment with other independent special districts in California, nor in the best interests of county residents and businesses. Legislation was enacted to amend the District Act to give the District Board of Directors sole responsibility for approving its budget.

Finding 1c

The Board of Directors has hired an auditor (Board Auditor) on a two-year trial basis. It has yet to be determined what the goals of the auditor will be.

Response: Respondent disagrees with the finding

The Board appointed a temporary Management Auditor in January 2009 for a term of one year. The scope of activities the Auditor will provide include, but are not limited to, the following:

- Develop the structure for an audit program and establish review processes to ensure policy compliance and program efficiency and effectiveness.
- Develop a pilot Management Audit Plan which includes conducting audits specified by the Board.

Recommendation 1a

Create an independent Public Review Committee (PRC), appointed by an independent body to review and report annually to the public on any and all issues it feels necessary. Issues should be accepted from any citizen, public agency or District employee. The PRC needs to have access to District staff and documents, along with the District's administrative support. The Board should provide written responses to the committee as requested.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable

The members of the Board of Directors are elected by the voters to provide oversight of all District operations, which is the same responsibility elected officials assume for cities and counties. Independent Public Review Committees (PRC) are not often used; however, when they are used they have a specific focus and not a generalized function that would be expected of an elected body.

Since the inception of Clean Safe Creeks Program in 2000, the District has had PRC oversight. Referred to as the Independent Monitoring Committee for the Clean Safe Creeks Program, the committee monitors a defined and specific program and annually publishes reports of CSC results. The results are available on-line at [www.valleywater.org/Water/Watersheds - streams and floods/index.shtm](http://www.valleywater.org/Water/Watersheds_-_streams_and_floods/index.shtm). Additionally, the District has a Water Commission that reviews the District's Water Utility Enterprise, an Environmental Advisory Committee, and five Watershed Advisory Committees. These committees are comprised of citizens and elected officials.

Recommendation 1c

The PRC should direct the Board Auditor as to the scope of audits.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable

The Management Auditor is Board appointed and works under the direction of the Board. The Board determines the scope of audits to be conducted for the upcoming year and has established an Ad Hoc Audit Committee to make program recommendations to the Board. Meetings of the Audit Committee are publicly noticed, providing members of the public the opportunity to attend and submit comments on the scope of audits to be conducted.

Finding 2

The Board of Directors has complete discretion, unfettered by consistent policy, guidelines, or priorities, on spending 1% ad valorem property taxes and reimbursements for flood control projects from the California Department of Water Resources Flood Subvention Program (Subventions).

Response: Respondent agrees with the finding

Recommendation 2a

The Board of Directors should articulate a policy on how property taxes and Subventions will be spent.

Response: The recommendation has been implemented

The Board has adopted policies in Board Governance on Financial Planning/Budgeting, EL-4.2.2 and EL-4.2.3, as revised March 24, 2009. These policies allow the flexibility to ensure prudent expenditure of these revenues based on operational priorities.

Recommendation 2b

The PRC should evaluate use of the District's 1% ad valorem taxes for the Clean Safe Creeks Program.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable

The Board of Directors should maintain discretion to determine the use of the 1% ad valorem property tax and subvention revenues based on operational priorities.

Finding 3

The District does not justify spending and staffing to the public and does not have a comprehensive long-term Master Plan that enables the public to understand use of funds, planned services, and service charges.

Response: Respondent partially disagrees with the finding

The District utilizes several long-term master plans, each tailored to the operation or function performed. Justifications for staffing levels and spending are found within these plans. These plans are used as the basis for the operating and capital budget which the Board reviews in public workshops and adopts annually. The Plans are accessible to the public through the District's web site at http://www.valleywater.org/water/Capital_Improvement_Plan/cip09-10/02-Overview.pdf. Master Plans are listed on page II-4 of the District's Capital Improvement Plan for FY2008-2009.

Recommendation 3

At least 90 days before the 2010 elections, the District should publish a comprehensive 15-year Master Plan including strategies, associated project plans, anticipated funding and costs, services, staffing, and revenue generation. It should be updated every five years.

Any future proposal for the follow-on to the Clean Safe Creeks Program, should be based on the flood control portions of the Master Plan.

Response: The recommendation will not be implemented because it is not warranted or is not reasonable

Regarding the first part of Recommendation 3, the District publishes several long-term master plans, each tailored to the operation or function performed. These plans are available to the public through the District's web site at http://www.valleywater.org/water/Capital_Improvement_Plan/cip09-10/02-Overview.pdf.

With regard to the second part of Recommendation 3, if the District pursues funding for District-related activities, a master plan will be developed that includes strategies, associated project plans, anticipated funding and costs, services, staffing and revenue generation. The Plan will be developed with significant input from the community.

Finding 4a

While the legislation establishing the District requires an annual report on "the protection and augmentation of water supplies" none is required for watershed and flood control.

Response: Respondent agrees with the finding

Finding 4b

The District provides the Water Utility Enterprise Report now called Protection and Augmentation of Water Supplies. It also published a detailed business plan and other reports from the Water Utility portion of the District.

Response: Respondent agrees with the finding**Recommendation 4a**

The District should publish similar annual reports for all District divisions, particularly for flood control and watersheds. The reports should include performance metrics and quality of service indicators.

Response: The recommendation requires further analysis

An annual report is published by the Independent Monitoring Committee for the Clean Safe Creeks Program which provides information on metrics, expenditures and service indicators. A similar report is not published for the overall Flood Protection and Stream Stewardship Program. However, an annual Flood Protection and Stream Stewardship budget plan with goals, objectives, milestones, and spending levels is developed and approved by the Board. Quarterly performance metrics are presented to the Board in public session. The meetings are open to the public and the materials are available on-line. A companion report has not been published due to limited staff resources and an desire to reduce costs. The District will assess by December, 2009 whether additional expenditures to prepare an additional report are warranted.

Recommendation 4b

The Board of Directors should publish a detailed report annually on their strategies, plans, priorities and issues as well as Board member compensation, benefits, travel and other expenditures.

The District should present financing and flood control information annually to the Santa Clara County Board of Supervisors and city councils in the County.

Response: The recommendation has not been implemented but will be implemented in the future

The District currently publishes many reports presenting strategies, plans, and financial information that is available to the Board of Supervisors and the City councils. The District could develop an annual report that presents information on the District's plans, programs, issues as well as financial information including the currently publicly available Board member compensation, benefits, travel and other expenditures. A report has not been published due to limited staff resources and a desire to reduce costs. The District will assess by December, 2009 whether additional expenditures to prepare an additional report are warranted.

Finding 5

The District uniformly states that protection of life and property is the number one priority. However, some projects have waited years. Example: Upper Llagas Creek Flood Protection Project, has waited 40 years and is still not completed.

Response: Respondent agrees with the finding

It should be noted that while the District actively seeks funding for projects, lack of funding and/or necessary resources is the main reasons for project delays.

Recommendation 5

The District needs to evaluate root causes of delays of essential projects and their impact on public safety. It should establish a "fast-track" process to complete critical projects including specific performance goals and continuing assessments to improve speed of execution.

Response: The recommendation requires further analysis

District staff are currently developing a process to measure the delivery of capital projects. The process will be developed by December, 2009. This process will assist in evaluating and implementing opportunities for improvement in the delivery of the capital projects.

Finding 6

The District reduced the FY08-09 budget by \$11M by reducing staff, overtime, consulting and travel expenses.

Response: Respondent agrees with the finding**Recommendation 6**

The District should continue to look into other avenues where it can reduce excess spending. The costs of outsourcing rather than in house staffing should be reviewed.

Response: The recommendation has been implemented

The District is continuing to explore other avenues where it can be more efficient. The results are evident in our FY2009/2010 budget. Additionally, the District's Strategic Plan 2009-2014 has identified milestones to recommend areas that can be insourced or outsourced more cost effectively. Following a review, the areas will be appropriately evaluated. It is expected that these tasks will be completed by November 2009.

Finding 7

Prior to FY07-08 the District has not reviewed budgets in detail with managers.

Response: Respondent disagrees wholly

The District has always reviewed budgets at both unit and division levels with managers. Commencing with the FY2008-2009 budget development process, a more detailed line item review of the proposed budgets was conducted by a senior level Budget Review Committee. The Committee provided district-wide direction regarding efficiencies and reductions.

Recommendation 7

The Board of Directors should create a process and policy to ensure that the budget is reviewed and tracked regularly, at least quarterly, to monitor income and expense. The Board of Directors should re-evaluate all over-budget or delayed projects, against the original justification, to ensure that they remain cost effective.

Response: The recommendation has been implemented

The Board currently has policies on Financial Planning/Budgeting and Financial Activities and Conditions to ensure that the budget is reviewed and tracked regularly and that income and expenses are monitored. Deviations from these policies must be reported to the Board upon discovery of non-compliance, as documented in Board Policy on Monitoring Board Appointed Officer Performance.

Finding 8

The Board of Directors does not make cost savings and financial reform a priority.

Response: Respondent disagrees wholly

The Board does make cost savings and financial reform a priority as evidenced by the process used to realize reductions of \$11M in FY2008-2009 and \$24.5M in FY2009/2010.

Recommendation 8a

The Board of Directors should enlist the help of outside consultants to implement a plan for cost-effective operation of the district.

Response: The recommendation requires further analysis

The District is continuing to develop and implement plans for cost-effectiveness, and will determine appropriate resources needed to be successful. Further directions to staff for implementation of cost efficiencies will be deployed by December 2009.

Recommendation 8b

Board of Directors should ensure that future CEOs continue top-down cost control and support greater efficiency at lower levels in the organization. It should ensure actual expenses do not exceed budgeted expenses. The next CEO should bring a mindset of reform and restructuring for accountability to the public.

Response: The recommendation has been implemented

In January, 2009, The Board selected an interim CEO who led the drive to implement greater cost efficiency practices throughout the organization. These efforts resulted in cost reductions of \$24.5M in the FY2009/2010 budget, including the elimination of 28 positions (which reflect a 57- position reduction in the past two years). The new CEO who assumed office on June 1, 2009 has made it a priority to develop efficiencies in the delivery of quality services and projects, and to demonstrate fiscal accountability to the community.

Finding 9

Assembly member from District 23 has negotiated legislation (AB466) with the District to implement 11 policy recommendations (see Appendix A): AB466 does not include term limits.

Response: Respondent agrees with the finding

Recommendation 9

If AB466 is not passed, the Board should include its policies in Board policy.

Response: The recommendation has been implemented

At the Board of Director's meeting on March 24, 2009, the Board formally adopted the 11 policy recommendations of AB466 into the Board's Governance Policies.

Finding 10

The average tenure on the BOD is 15 years with the longest Director having served 29 years.

Response: Respondent agrees with the finding

Recommendation 10

Term limits should be included in AB466 or implemented by the BOD

Response: The recommendation will not be implemented because it is not warranted or is not reasonable

Only the voters of Santa Clara County can impose term limits on the Board of Directors. This cannot be done legislatively or by the Board of Directors.

In 2008, the District held three public meetings to solicit public input on the issue of placing term limits on the Board of Directors. The first public meeting was held on November 3, 2008, in Mountain View. The second was held on November 5, 2008 in Morgan Hill, and the third was held on November 10, 2008 at the District headquarters in San Jose. Even though the meetings were widely publicized and comments collected through the District website, only a total of 18 comments on the issue were received. Following these three meetings, the Board considered the issue of term limits at four subsequent Board meetings. Ultimately, the Board voted to place the issue of term limits on the November 2010 ballot for voter consideration.