

Approved:

Superior Court Judge

Date:

1-14-14

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GRATON COMMUNITY SERVICES DISTRICT

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September 23, 2013

Subject: Response to the 2012-2013 Grand Jury Report/ "Graton Community Service

District: At a Crossroads in Graton...Will the Board make a Positive Change"

Attn. Mr. Ernie Loveless, Foreperson, Sonoma County Civil Grand Jury

P.O. Box 5109

Santa Rosa, CA. 95402

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

JAN 14 2014

CC: Rene Chouteau, Presiding Superior Court Judge

gjury@sonoma-county.org

BY

RB
Deputy Clerk

The Graton Community Services District submits this response to the Grand Jury's Report dated June 26, 2013, and looks forward to its dissemination to the general public of Sonoma County, in all venues, including media, where the Grand Jury report was originally disseminated, AS REQUIRED BY: California Penal Code Section 933.05 and applicable law.

FINDINGS

- F1: The District Disagrees wholly.
- F2: The District Disagrees wholly.
- F3: The District Disagrees wholly.
- F4: The District Disagrees wholly.
- F5: The District Disagrees, partially.
- F6: The District agrees with the findings
- F7: The District Disagrees wholly.
- F8: The District Disagrees wholly.
- F9: The District agrees with the finding.
- F10: The District agrees with the finding.
- F11: The District Disagrees wholly.
- F12: The District agrees, partially.

GRAND JURY

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RECOMMENDATIONS.

- R1: This Recommendation has been implemented.
- R2: This Recommendation has been implemented; full implementation is infeasible.
- R3: This Recommendation has been implemented.
- R4: This Recommendation has been implemented.
- R5: This Recommendation will not be implemented because it is not warranted or reasonable
- R6: This Recommendation will not be implemented because it is not warranted or reasonable
- R7: This Recommendation will not be implemented because it is not warranted or reasonable
- R8: This Recommendation has been implemented, since 2004.
- R9: This Recommendation has been implemented prior to 2012-2013 Grand Jury.
- R10: This Recommendation has been implemented since 2003 monthly.
- R11. This Recommendation will not be implemented because it is not warranted or reasonable.
- R12 This Recommendation will be implemented.

BACKGROUND:

The function of the Graton Community Services District (hereafter "GCSD") is to convert sewerage into clean water that is no longer a **public health hazard**. The Board's function is to see that the District does this. We excel at this task. Community Services District Law, Government Code 61000, specifically states that a Board's job is to *set policy and to hire a General Manager to carry it out*, not to be handling the day-to-day business of a District. The District did hire an experienced General Manager to do so, and the Board's functions are to set direction and policy, and to make sure that our wastewater treatment plant does what it is mandated to do—to treat wastewater. There have been three Grand Jury investigations of the Graton Community Services District and Board in ten years; to date, no wrongdoing has ever been found. Thus, such Grand Jury investigations are a waste of Sonoma County taxpayers' money.

The following is the GCSD response to the latest Grand Jury findings and recommendations. It is very popular for the Grand Juries to censure the GCSD Board for rate increases over the past 10 years without taking into consideration the deluge of new wastewater treatment mandates, and changes in the unfunded legal requirements that have been imposed by Federal, State and Regional Agencies, which carry penalties for non-compliance. For example, we used to have to test for chlorine once per month; now we have to test daily, almost a 400% increase in mandated costs. As Unpaid *volunteers*, GCSD Board members put in 10-20 hours most weeks, keeping up with procedures, mandates, communications, policy, financing and other difficult topics. Graton has almost finished construction of a new state of the art treatment plant, after the current Board brought in 11.5 million dollars in grants and other funds that the ratepayers do not have to pay for! Our rates, with a new plant that is already compliant with upcoming mandates, compare quite well with neighboring communities: Graton: \$1,574 per ESD Occidental: \$1,682 and they don't even have a treatment plant or plan yet! Forestville: \$1,375.61 while their new Sonoma County Water Agency-designed plant is **failing** (and has had over 80 violations in the past 3 years; they will require HUGE rate increases to fix or rebuild it.) Compared with other Districts in the region Graton is in excellent condition, it is in full compliance, and delivering services at an unbelievably low cost to our ratepayers. And yet, the district is regularly criticized by people who are unaware of history or facts. The Board understands that it is only natural for our rate-payers to be concerned about rate increases. It should be noted that our Board members are also ratepayers in this District, and have had one goal only: to keep our rates as low as possible.

FACT: Community Services District law Gov't Code 61000 states that a Board's job is to set policy and hire a GM to carry it out, not to be handling the day-to-day business of a District. **FACT:** The current plan and plant are the result of long range planning done by the Board over the past decade. The local ratepayers who have volunteered to serve on the Board did so for one reason only: to keep rates as low as possible. A plan that may be less costly to implement now often costs more over the long run (as is Forestville's failing plant); this is a principle the Board has worked diligently to overcome.

FACT: Everything costs money. Our long-time volunteers on the GCSD Board have done their best to avoid unnecessary costs. Until recently, Board members, serving as representatives of the ratepayers, had choices to make such as: Do we spend our time and energy to publish a newsletter, or do we work on avoiding violations and ensuing fines? With few if any volunteers willing to serve on any committees or help in any way until recently, the Board had to pick and choose priorities. Perhaps some would have chosen differently, but we chose to avoid fines, treat wastewater, obtain the resources to construct a facility to achieve compliance with the Basin Plan, and address/prevent floods, any of which would have raised our rates. The Board believed if anyone wanted to know what was happening with the sewer, they would come to any public meeting and ask or observe, thereby saving the cost of publishing a newsletter until we had the time and money.

FACT: EVERYTHING COSTS MONEY. The Board can do all the things that the rate-payers want done, but it will cost a lot of money and require large rate increases.

FACT: The Graton District Board of Directors and Staff of GCSD brought into the district more than \$11.5 million dollars outside of rate base; this means the rate-payers do not have to pay it. This money was needed to fix enormous problems left by years of Sonoma County Water Agency neglect. Graton would be fined for this neglect and our locally controlled district would have lost its hard-won autonomy to SCWA if we had not obtained FEMA, Proposition 50 and SRF funds, and low-interest

loans, or done a survey to qualify for these funds. **No other small district in the entire State has done as much.** We are constructing a state-of-the-art first in the world sustainable system free of chlorine toxicity. And the best part: it is less expensive than any alternative! The Report cites the example of the GCSD Board allowing its General Manager to operate “outside the limits of his prescribed responsibilities as set forth in the Handbook”. The outdated nature of the original Policy Handbook was described in detail during interviews with the GCSD Board. However, the Report focused on a concern about the increase of purchasing authority granted to the General Manager without considering that the costs of urgent operations—the realities of managing a sewerage (public health hazard) treatment facility in real time—have greatly increased since the original Handbook was written well over a decade ago. This increase in the General Manager’s discretionary spending limit was publicly discussed and properly voted upon by the Board at a public Board meeting. [See GCSD Resolution 100.] For example, what if a sewer line broke outside your house? Consider this: You probably would not want the General Manager (GM) to issue a Request for Bid and then wait for the required three bids (which may take more than two weeks); you probably would not like to then wait 72 hours for the posting of a special emergency meeting by the Board to approve the work; you would probably want the break fixed within the day; a broken sewer line usually requires a backhoe and operator, a dump truck and driver, a licensed engineer and/or plumber, suppliers of new pipe (trucks and drivers), mandated safety personnel (flaggers), cleanup, and tipping/removal. For situations such as this, the General Manager’s maximum expenditure allowance has been increased to \$25,000 without special Board approval. This is more than the decades-old Handbook allows, but it allows for rapid repairs to keep raw sewage away from your home. Although the General Manager is authorized to spend up to \$25,000 without Board approval, it should be noted that for any non-emergency expenditure over \$2,000 authorization is ALWAYS obtained beforehand. Consider this alternate scenario: If a major pump breaks during a storm, the GM has the authority to immediately spend up to \$25,000 for a new one; or alternatively, we could put it out to bid, then call an emergency meeting to review and approve a bid, all the while discharging raw sewerage into local waterways; the fines for such an occurrence are normally astronomical! Regarding the General Manager’s contract. He is under contract as an independent contractor. As such, the District does not pay for his health insurance, a retirement plan, the employer’s share of FICA deductions, deductions for Medicare, and other related employee benefits. One of the IRS imperatives to qualify for the status of “independent contractor” is the requirement of performing services for more than one employer. If our current GM did not perform service for other organizations, he could not be considered an “independent contractor”; this, in turn, would require the District to pay the aforementioned taxes out of our budget. The Grand Jury expresses the opinion that the GCSD should convert our current GM’s status to “employee” without offering any justification for increasing the District’s employee expenses, which would ultimately increase sewer rates. As General Manager, the current position *does* report directly to the Board. Our GM is licensed and accountable, both civilly and criminally, for violations that occur at our facility. Community Services District ordinance and Gov’t Code 61000 specifically states that *a Board’s job is to set policy and hire a GM to carry it out*, not to be handling the day-to-day business of a District. With this in mind, the district will respond to the Civil Grand Jury’s Findings and Recommendations.

FINDINGS:

(Civil Grand Jury Findings are quoted and italicized.)

F1: *“Board members do not have a working knowledge of their roles and responsibilities or Board policies as stated in the GCSD Policy Handbook.”*

The District disagrees wholly.

The Board members know and understand their roles and responsibilities. Furthermore, we have already noted the GCSD Policy Handbook is not only out-of-date but was not drafted by the Board. The Handbook was prepared by the Special District Risk Management Authority more than a decade ago, and only sections that have been approved by the Board have any authority or standing. The Board Ordinances, Directives, and Resolutions take precedence over any outdated sections of the GCSD Handbook. Changes to the Handbook have and continue to take place at legally declared and posted,

open-to-the-public Board meetings. And, some changes do indeed change responsibilities as detailed in the current Policy Handbook; these changes have been updated to reflect the realities of managing a sewerage treatment facility in the 21st century. Such changes and revisions take time and money. If a thorough revision of the Handbook was to be undertaken, there would be weeks of accrued Board and staff time and at least one thousand dollars of new costs, plus under the new governance, attorneys must review everything, adding to the overall cost of such a revision and update. We could count on a minimal cost of \$10,000 /additional \$15 per ESD. It should also be noted that nothing in the Report mentions the fact that, as per Policy 4035, the District is to pay for health insurance for all Board members, and Policy 4030 states, "Members of the Board of Directors shall receive a monthly Director's Fee." Currently, all Board members are volunteers, serving without pay and not receiving health insurance benefits. To follow this policy would cost the District an additional approximate \$40,000 additional every year. [+ \$64 per ESD, per year]

F2: *"The absence of standing and ad hoc committees prevents the Board from exercising effective oversight of GCSD business."*

The District disagrees wholly.

(To execute this finding would cost each ratepayer an estimated \$67.80 per ESD per year.)

For the past ten years, the GCSD Board has sought people to become active and serve on committees. With about 3 rare exceptions, we have managed to get four volunteers, all in the past few months. It is inappropriate to suggest that the Board has not sought out volunteers to serve on ad hoc committees. There is *no* "lack of oversight". The function of the District is to convert sewerage into clean water and the function of the Board is to see to it that the District does that. The GCSD is audited at least twice every year (by Sonoma County and a private auditing firm), and often more frequently, if we are receiving funds from other agencies, which conduct independent audits. Running and upgrading a wastewater treatment plant is a complex undertaking, and one at which the current Board has succeeded admirably. **There is no lack of oversight!** In the past, we have had active Pollution Prevention and Income Survey committees. If the community feels more committees are needed, perhaps we could *hire* some committee members; figure \$200 per month per person, say 10 committee members, which amounts to \$2,000 per month, \$24,000 per year, \$3.80 per ESD per year. But, if committee members are to be monetarily compensated, then the Board should also be paid (+\$64/year/ESD).

F3: *"Most Board members have not received sufficient training in subjects essential to successfully governing a wastewater district. "*

The District disagrees wholly.

(To execute this finding would cost each ratepayer an estimated \$18.40 per ESD per year.)

Since serving on the GCSD Board is a volunteer, elected position, there can be no required training. That would be illegal. According the Report, the Grand Jury opines that Board members should be trained in: Wastewater Treatment, Urban Planning, Civics, Accounting, Budgeting, Personnel Management, Human Resources, Contract Law, Construction, Construction Management, The Brown Act, Business Ethics, Mediation, Psychology, Website Management, and California Governmental Law. All GCSD ratepayers who are proficient in these areas should sign up to be elected and work 10-20 hours per week for free, as current Board members do. To date, the few who have expressed any interest do not have these qualifications. However, the GCSD can set up Board trainings—minimum \$12,000 per year (\$18.40 per ESD).

F4: *"The Board does not have a clear succession plan for itself or the General Manager position."*

The District disagrees wholly.

Upcoming elections are always announced at Board meetings and were sent out in our newsletter. For the Board to have a "clear succession plan" for itself would be called "election tampering" which is illegal.

For years, the GM has been training multiple replacements for himself, as the Grand Jury was told but apparently overlooked. The Board hopes one of the District's highly qualified certified district operators will succeed the current General Manager upon the vacancy of this position. No one can compel either of these two operators to accept the position, but the Board feels it has established a favorable workplace that will attract highly qualified personnel. We feel that the need for a "succession plan", along with other recommendations in the Report, reveals a complete lack of understanding concerning industry standards or requirements implicit in the construction, financing, staffing, managing, or controlling of wastewater operations.

The Report correctly states that all current Board members were never elected in a contested election. However, the Report makes this sound like some cabalistic secret society runs the Board. The truth is, never have any of the approximately 1,700 eligible inhabitants of the District ever signed up to be elected; by law, this cancels a District election. No one has ever volunteered when an electable vacancy was created, to become a candidate. The Sonoma County Board of Supervisors appointed the initial Board members, and when vacancies were created, the remaining Board members made appointments in accordance with Sonoma County law. This year for the first time, there will be two electable vacancies where people have signed up with the County to have their name appear on the ballot. If no one had signed up, as no one has in the past ten years, the remaining Board members would have once again been faced with trying to encourage a District member to join the Board for the applicable open terms.

F5: *"A breakdown of communication between the Board and rate payers is apparent and has created a hostile environment at public meetings."*

The District agrees partially.

(This will cost ratepayers \$205,000 for FY (Fiscal Year) 2012 = \$322 per ESD for legal fees and staff costs.)

The Board cannot force rate-payers to attend advanced noticed and publically held meetings. At least once every month, for the past 10 years, all Board members convene in public with the General Manager to discuss issues, problems, updates, and actions needed. At first, people did attend the once-yearly rate hearings; then, for many years, no one came to any meetings, apparently satisfied that their neighbors were working—receiving no compensation and are running the District very well. In reality the Board and all ratepayers are opposed to rate increases, 100% of us are opposed to rate increases; none more so than the Board members, who not only have to pay, but as also bear the criticism. The Board does not appreciate being demonized for being fiscally responsible on behalf of the community. Everyone opposes rising gas prices, PG&E rate hikes, and all the other increases we have to pay, especially with wages being stagnant and the cost of living increasing annually.

For the Grand Jury to suggest the District unnecessarily raised sewer rates is inaccurate. Over this period of time inflation has increased the cost of goods, and regulatory requirements have greatly increased the costs of mandatory compliance. Obviously, rates are important to everyone including the Board of Directors who are themselves rate payers. Unfortunately, rates are connected to the much larger picture called mandates. Graton has Regional, State, and Federal mandates for which our Board and Staff are held accountable. The Report fails by not mentioning the plethora of new laws passed in the last ten years that mandate (i.e., legally require) new expenses, which must be passed on to our ratepayers. The District must comply with The Clean Water Act and subsequent mandates, laws, and regulations from the Department of the Interior, the Federal Emergency Management Agency, the State Fish and Game Department, North Coast Regional Water Quality Control Board, the County Parks and Recreation Department, the State Department of Finance, County and State Health Services Departments; the county Permit and Resource Management Department, the county Agricultural Preservation and Open Space District, the Air Pollution Control District, Graton Fire Department, Hazardous Materials, LAFCO (Local Agency Formation Commission), Mosquito and Vector Control District, the Sheriff, County Assessor, Public Works, Federal and State OSHA (Occupational Safety and Hazards Agency), Toxic Substances Control Department, and a few others including various laboratories for required water testing. Nor does the Report consider the cost of NPDES Waste Discharge Permits, Basin Plan Requirements, Audits, or SRF funding requirements. **While painful, the District has accepted the challenge and done the difficult work needed to finance and build a sustainable future for Graton.**

The Grand Jury rightfully reported that a group of rate-payers demanded (not asked) that the entire Board step down and even accused the Board of acting criminally. This open-meeting accusation led the Board to hire legal counsel, in anticipation of incipient legal action from these rate-payers. The Report rightfully reports that the Board refused. The Report leaves unasked - and unanswered - who would then take on the role of the Board, if all Board Members had resigned. The answer is that the Board of Supervisors would be required to appoint 5 new Board members. As no rate-payer had ever volunteered to be on the Board in the preceding 10 years, who does the Grand Jury think would qualify to be appointed, who would volunteer for this thankless position, and who be willing to take on the job for the next 4 years? The Grand Jury Report left the subject unanswered because there is no answer. It would have been irresponsible.

Regarding Transparency: In politics, transparency is used as a means of holding public officials accountable and fighting corruption. When meetings are open to the press and the public, budgets available to be reviewed by anyone, and an agency's laws and decisions are open to discussion, it is seen as transparent, and there is less opportunity for the authorities to abuse the system for their own interests. The GCSD meets all the criteria for an open and transparent agency. The Brown Act does not allow any district to conduct business on the sly, in private, or in secret meetings, and this Board only conducts its business at its monthly meetings. However, four of the five Board members live within three blocks of each other; we see each other socially at times and are not forbidden to express our views to each other. The Report also repeatedly mentions failures in communications, failure to "create" various committees, failures to manage the paid staff, even using such cliché phrases as certain functions have "broken down". The Grand Jury wrote: "Tensions between some rate-payers and the Board reached an extreme level at a public meeting in August 2012 when rate-payers in attendance asked the entire Board to step down. They refused." In October 2012, some individuals in the community contacted the district's lenders and granting agencies at critical point in the negotiations presented a very strong potential for jeopardizing the grant and losing funding. This could have resulted in failure to comply with water quality mandates. Fortunately this did not convince the State Water Board that the community was against the tertiary project. After that meeting and the clarification provided by the State Water Resources staff, a number of rate-payers apologized for misunderstanding. Unfortunately, the Grand Jury was not privy to this and did not mention it in their findings.

F6: *"The GCSD website is not being fully utilized as a means of communicating current information."*

The District agrees with the finding.

Although there is not a lot of daily news to update, the Board has been diligently working with its website's Webmaster to upload information from years past and adding a great deal of new content. Those visiting the current website will find Notice of Board Vacancy, past meeting Agendas, the Sewer System Management Plan, past Newsletters in English and translated into Spanish, related informational articles, and more. This was a shared website [<http://graton.org/>], but the District directly owns the website URL. Our Webmaster, Beehive Consulting, manages this website with our explicit permission and under our direction, and maintains the site for us. Neither the District's Board nor its employees are adequately skilled to maintain a website, and it would be a waste of time to train them in this esoteric skill. The Board has allowed other Graton organizations to post their own business on the site as a local courtesy. The Grand Jury Report rightly suggests that minutes should be posted on the website, and the Board agrees and will direct its Webmaster to add them in the future. The Board also agrees that a "Frequently Asked Questions" section will be an asset to enhance ratepayer communications via the website and/or the newsletter. The FAQ is mainly of interest to new residents to the GCSD district who would like some background on the plant and its operation. The Newsletter also serves as another means of communication between the District and its ratepayers. The newsletter has been published on an irregular basis in the past, as there is seldom much meaningful news in a sewer treatment plant, which does the same thing every day of the year. In the future, every effort will be made to publish this newsletter quarterly. It will be mailed to each ratepayer and be posted on our website.

F7: *“The Board’s request for monthly financial reports that are summarized and contain no supporting line item detail has led to inadequate financial oversight.”*

The District disagrees wholly.

The Grand Jury should be familiar with Community Services District law Government Code 61000, which states that a Board’s job is to set policy and hire a GM to carry it out—not to be handling the day-to-day business of a District. Being audited by three to four agencies every year leaves no room for “inadequate financial oversight”.

The Board DOES receive and review line item detail on charges for construction billings, engineering, general manager, and any other projects in process. It is NOT the function of a Board to oversee or micro-manage every nail, tool and pump purchased. Regarding Financial and Management Controls, The Report suggests that the Board should scrutinize individual invoices on a line-by-line basis, rather than the financial summaries it now receives. The quantity of line-by-line items the District pays each year numbers in the thousands. More to the point, the essential responsibility for such review rests with the District management; Boards of Directors are never expected nor required to delve into the minutiae of daily operational aspects. Such examination falls to the management and staff. Boards give direction and expect the details of daily operation to be properly executed by staff. With regard to the “significant billings received from various contractors”, the Board responds by stating the obvious: This is a major construction project. The hourly billing rates of various professionals have been found to be in line with such billings in this area; the Board and District work only with established firms, expert in their trades, and who operate on a very competitive basis. As with all such charges, one can always find someone to do the job cheaper, and one can also find practitioners who can do it for more. It is foolhardy to believe that the time charged for any one given project can be second-guessed with any hope of accuracy. The creation of a “finance committee” will not result in any tangible benefit to the project; the entire Board—and the public—are apprised of the ongoing financial situation every month and often times in-between meetings via e-mail. Concerns about line-item charges are voiced practically over every invoice by the District management and its advisory contractors, who, it must be noted, also charge for *their* time doing review. The rate-payers should not expect to have more supervision and review and not pay for these additional, professional services.

When the Report complains that the Board has chosen to only receive summary financial information each month, it summarily disposes of the notion that the General Manager is responsible for reviewing the detailed line-by-line invoices the District receives before submitting them for payment. In voicing this complaint, the Grand Jury exposes its own failure to understand the nature and responsibility of “management and of the generally accepted definition and responsibilities of a “Board of Directors”.

Boards are not “management”, and if the Jury were better educated in management tenets, they would know that the duties of a Board are to give direction and then to supervise the proper administration of that direction. Its function is *not* to discuss line item charges on invoices. This Board has full faith in its General Manager and its Financial Officer, both highly talented and trained in their respective professions. The General Manager has master’s Degree training in Public Administration and 36 years of Wastewater experience. The Financial Officer works for several Special Districts and has decades of experience.. Furthermore, the entire GCSD staff is highly trained, competent, and effective.

F 8: *“Operational savings might be achieved by sharing staff and resources with other wastewater districts.”*

The District disagrees wholly.

To execute this finding would cost each ratepayer \$\$\$ Inestimable millions. This is the third Grand Jury Report voicing the same inaccurate opinion of the two previous Grand Juries and representing Sonoma County Water Agency’s hope of reacquiring Graton CSD. This proposal has been thoroughly evaluated and rejected.

While it relieves the problems experienced by the Forestville CSD it exposes Graton rate-payers to increased costs. It should be noted that the GCSD looks at this issue on a regular basis. There has been a

standing committee regarding this possibility for approximately five years. Every single time GCSD has attempted to work with a neighboring District, it has cost the GCSD considerably: from waste water violations for processing another District's waste water, to sharing personnel, (the other District tried to hire the operators GCSD trained, at a higher salary than we could pay. In order to keep our operators, we had to give them raises, costing the GCSD at least \$20,000 per year, ongoing). The Grand Jury offers no basis for this ongoing attempt to assist Forestville at the expense of Graton rate-payers and of course, **none of the Grand Jury members are Graton rate payers.** In the Grand Jury opinion GCSD should "share" with Forestville, even though every time Graton has tried to help our neighboring city, it ends up costing Graton a lot of money. During the Grand Jury interview the Jury was told this but did not include it in their findings. The district contends that hooking up to Forestville in any fashion, either physically with new pipelines, or through the merging of Boards, or sharing GMs and operators would result in Graton also taking on Forestville's very considerable problems.

The fact that Forestville's "membrane filter" plant is currently under a Cease and Desist Order after having numerous violations which began immediately upon startup, This fact is the best defense for the actions of which the Graton Board took when it evaluated an alternative treatment systems. The Forestville's biggest problem is that all the bacteria, viruses, and metals removed by the membranes are flushed back into Forestville's their treatment pond, which is getting more and more toxic. The pond is not lined and may be leaching contaminate into the subsoil. Pond sludge would have to be taken to a toxic waste site. All the chemicals the Forestville site has been using lately to clean the membranes are flushed into the pond as well. And, Forestville currently doesn't meet tertiary standards, as evidenced by its very long list of violations. In terms of Forestville sending its water to Graton for processing: that may be an idea that can be implemented in the future, but first, Forestville must incur the cost of cleaning up its toxic-waste pond and removing the excess copper from its water. Graton does not have either problem now and should not be put in the position of subsidizing Forestville's cleanup costs. This is the link to the State website that tracks Water Quality records of all plants in CA:

<http://ciwqs.waterboards.ca.gov/ciwqs/readOnly/publicReportFacilityAtGlancePlaces.jsp>

The Forestville plant has a record of water quality violations going back to 2005, only a fraction of which are showing on the current Web page. One pressing question: How much will it cost to fix the Forestville plant . . . or is it fixable at all? And would Graton ratepayers like to pay for this? Most of our rate-payers would emphatically respond, "No!" Whether or not Graton should explore opportunities for shared facilities and analyze management efficiencies and infrastructure needs or deficiencies can be answered in an historical context. Graton should not resume supporting other wastewater districts on its rate-payers' backs. Our District attempted this in the past, and it was ultimately a costly and unproductive venture for us. Would such sharing of resources provide local accountability and highlight cost avoidance opportunities? No, for shared management would create mixed loyalties for existing management and staff, and conflicts of interest between separate rate-paying entities. In the case of combining with Forestville with its greater financial needs, it would re-create the condition existing prior to Graton obtaining local control where Graton funds were used to subsidize Forestville and Occidental. These are indisputable facts. In addition, decreased staff attention to our Graton facility will result in a deteriorated facility and greater likelihood of violations and fines, as when SCWA "managed" our wastewater treatment plant.

Would operational savings be achieved by sharing staff and resources with other wastewater districts? Possibly; however which District does the staff attend to when winter storms cause equipment and power failures, and sewer overflow stoppages? And, where would a staff members' loyalty lie? How would costs be distributed? Accounting becomes far more complex, and that ultimately increases financial costs; this would likely negate any savings. The Report claims that one senior manager was responsible for the oversight of several other West County systems, and that the GCSD could revert to such limited site-sharing management, once the new plant is constructed. The very fact that the County turned over to the GCSD a decrepit, rundown, and failing plant should be enough proof that absentee management does not work. A sewer treatment plant is a facility that runs 24 hours a day, 7 days a week, unlike most commercial businesses. **"Sharing resources" will only benefit other communities at the GCSD's expense.** Yet, the Grand Jury inserts insinuations of the unproven and euphemistic "opportunities" for "consolidation" and "shared" facilities. While the GCSD Board surely agrees that there are always potential areas for improvement and increased efficiencies, consolidation with all the older or failing

facilities around Graton can only increase Graton's share of expenses and violations...and consolidation with Forestville's new SCWA-designed plant which is already failing is a clear indication of just how "competent" SCWA really is. The GCSD Board suspects a hidden agenda in the Grand Jury report regarding consolidation that is not shared by Graton residents. It is a political football that always sounds good in theory but has resulted in district failure in adjacent wastewater districts financial catastrophe in practice. The GCSD Board suggests that future Grand Juries cease and desist promulgating the "advantage" of consolidation, which has already been PROVEN to be disastrous and COSTLY for Graton.

F9: *"Legal counsel needs to review and evaluate all professional services agreements entered into by the Board."*

The District agrees with the finding.

This has been done routinely since 2012. FEMA and Cal EMA auditors have closely studied the contracts of our GM and District Engineer. In addition, these contracts have been independently audited by Pisenti & Brinker, and the Office of the Inspector General. During the first Cal EMA audit, new contracts were created which were found to be in compliance with their all legal requirements. District Legal Counsel has also provided oversight on the contracts at considerable expense to the district.

F10: *"Regular self-assessments of Board performance and formal performance evaluations of senior management need to be implemented."*

The District agrees with the finding.

Regular self-assessments of Board performance and formal performance evaluations of senior management have been implemented and are completed on an ongoing basis since 2004. This is a small district; we meet every month and assess performance *monthly*. As to evaluations of the General Manager, the Board uses real-time assessments and continual requests and/or direction, as needed. The Board feels that such immediate requests for remediation, if such is the request, is far more effective than waiting for a year or whenever most organizations schedule such periodic evaluations.

F11: *"The lack of oversight by the Board concerning RWQCB compliance requirements and deadlines needs to be addressed with a goal of eliminating the costs of enforcement actions."*

The District disagrees wholly.

There is NO lack of oversight by the Board concerning RWQCB compliance requirements and deadlines. The GCSD has incurred NO monetary fines during the last five years. Furthermore, The Grand Jury made an error in stating Graton was not in compliance. For more details, please see the California Environmental Protection Agency Water Resources Control Board Web page:

<http://ciwqs.waterboards.ca.gov/ciwqs/readOnly/publicReportfacilityAtGlance.jsp?placeid=S81865>

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Graton has obtained extensions and is in compliance. The district's Sewer System Management Plan (SSMP) is now posted on the district's website. In addition, the GCSD only qualified for and received a \$6 million loan /grant because of low income and historic noncompliance and the changes in the Basin Plan requiring Tertiary treatment. That SRF-forgiven loan grant is a \$6 million dollar solution to an inherited problem that was exacerbated by SCWA, inadequate rate increases, and delays by SCWA that occurred primarily before the formation of the GCSD; and Regional Board errors that failed to timely process Graton's request for a CDO. This is not an ongoing problem. The GCSD is now in compliance for all monthly and annual report requirements; these are a matter of public record.

The last violation occurred years ago following the one time the Graton CSD processed water for Forestville; soon thereafter, our district was fined for a heavy metal (copper) discharge, what Forestville's wastewater is routinely fined for. As soon as we were informed of that fine, we initiated a policy to no

longer treat wastewater from Forestville. *“Despite a history of enforcement actions against the GCSD, the Board is not actively monitoring compliance.”* Again, this comment is out of touch with reality. The GCSD’s “history of enforcement actions” was due to the inherited, rundown state of our wastewater treatment plant, despite the annual rates our ratepayers paid to SCWA to maintain and upgrade our facility. Since all the deferred maintenance and damages were completed, Graton has received NO VIOLATIONS in the past five years. Graton’s effluent quality has steadily improved and is now tertiary quality since taking charge from SCWA. Meanwhile, Forestville, with their brand new membrane plant and under the guidance of SCWA, has received more than 80 violations in the past three years! Yet, the complainants and the Grand Jury seem to think it would somehow be advantageous for Graton to share Forestville’s fines and pay to upgrade Forestville’s failing plant. Needless to say, this is not a good course of action for the GCSD to take.

F12: *“The mandated MSR by LAFCO is overdue and should be performed for the West County Region as soon as possible.”*

The District partially agrees.

This request is beyond the authority of the GCSD. The Grand Jury Report states that LAFCO [Local Agency Formation Commission] is mandated to perform a “municipal service review” [MSR] every five years, and that the most recent one for the GCSD was in 2004. That the LAFCO organization has failed to perform its mandated responsibilities should not appear as a critique of the Graton CSD. Much has changed in nine years. The GCSD Board welcomes any such review, assuming there is no cost to the GCSD. Nevertheless, this is ultimately beyond the authority of the GCSD. That said, Graton achieved local control to minimize this outside oppressive control and protect its resources and watershed from SCWA. The County formerly did operate all the local districts. As previously mentioned, the cost of those thirty-plus years of neglect on Graton’s infrastructure was devastating. It necessitated the untimely replacement of every pump and all major infrastructures. The Grand Jury’s proposal to return to such consolidation is strongly rejected and **proven** to be a failed idea.

The Board wonders why the Grand Jury is so set on making findings and recommendations that have either already been implemented or are PROVEN TO FAIL, and may be extremely costly, while this Board is trying to stabilize rates.

RECOMMENDATIONS

The **estimated** cost to each ratepayer to follow these recommendations. These costs would be **in addition** to the rates currently paid. Before discussing each of the Grand Jury’s recommendations, it is important to note that none of these recommendations is binding on the GCSD, and furthermore, that none of the Grand Jury members making these recommendations would have to pay for the implementation of any of these recommendations. All ratepayers need to be aware that nothing is free; everything costs money. Where would this money come from? OUR rates! In order to implement most of these recommendations, the Board would need to hear from more than 50% of ratepayers just how much they are willing to raise their rates to pay to have these recommendations executed. If the GCSD ratepayers would like all recommendations followed, as a few people have expressed at our public meetings, we estimate we will need to raise our rates at least \$487.63 per year, per ESD. Many of us can barely afford the current rates; a rate increase of this size would mean many of us could no longer afford to live in Graton.

R1: *“Board member roles and responsibilities be reviewed, clarified, and assigned with a goal of dividing work more equitably among members.”*

This has been implemented.

The Grand Jury wants Board “work” to be more equitably distributed but fails to include any suggestion of the current quantitative distribution of work, or any knowledge of what work is done by whom. The position of a Board member is strictly a volunteer effort, and the amount of time and effort expended by

any given Board member cannot be ordered; it is donated. Our lawyers could be put to this unenforceable task, if the ratepayers agree with the Grand Jury and want to pay more.

R2: *“The Board President form the following standing committees as set forth in the GCSD Handbook: Planning, Ordinance, Personnel, Finance, and Public Relations.”*

This will not be implemented because it is not feasible. (\$77 per year, per ESD.) Recommendations to create committees would result in the naming of committees of one; the entire Board consists of 5 individuals and the Grand Jury recommends 5 standing committees. What is the difference? The monthly Board meeting agenda incorporates, as needed, reports on what are essentially the self-same committees the Grand Jury would like to see formed. This is essentially the way the Board divides its responsibility right now; assigning a committee name is merely just another theoretical organizational game designed for large organizations consisting of many diverse individuals who might rarely see each other; such is not the case with the small GCSD Board. At the time of the Report, a finance committee had not been formed. As of the submission date of this Response, this suggestion has been implemented and a finance committee has been formed. Assuming ratepayers volunteered to work on committees, staff support to pull records and provide materials and answers to questions would be required. These suggested committees doing their jobs could prove to be a very expensive proposition and add even more to the overall high rate about which our rate-payers are already complaining. A less costly and more effective alternative would be to increase the number of Board members from five to seven. This alternative is currently being investigated.

R3: *“The Board involve the community by developing and appointing ad hoc volunteer committees reporting to the Board that focus on short-duration projects vital to the governance of the GCSD.”*

This recommendation has been implemented.

The Board has and does involve the community. The Blue Spruce Rate Reduction Committee, the Rate Survey Committee, and the Newsletter Committee have been effective. As previously mentioned, we have recently formed a finance committee. [See also R2 Response.] Other committees would cost the district staff time and materials. For the last ten years, the Board has been literally *begging* people to help us by serving on committees. Every time a ratepayer makes a suggestion, they are invited to be on a committee for it. To date, all have refused—other than recent additions of three people to our Budget Committee and two people to our Newsletter Committee. Perhaps the Grand Jury means that the Board should send notices to rate-payers advising them that they are now on a committee, and need to attend committee meetings? It is not within the jurisdiction of the District to compel performance by appointing rate-payers to tasks.

R4: *“The Board develop and implement a required Board training curriculum emphasizing effective Board governance and leadership.”*

This recommendation has been and will continue to be implemented.

(\$15.33+++ per year per ESD)

Required current training includes a course in Ethics and one on the Brown Act. To follow the recommendations in this Report, Board members should also be trained in: Accounting, Budgets, Urban Planning, Personnel Management, Human Resources, Contract Law, Construction, Wastewater Treatment, Mediation, Psychology, Civics, California Governance Law, and Website Management. [See also F3 response.] The GCSD cannot require this suggested training for Board membership since serving on our Board is an elective office for which anyone can run. Such training would take approximately two years of their term, assuming they do the training on a full-time basis. The GCSD would further need to determine if this training would be paid for by the elected individuals or by the District ratepayers. If only further specific training for CSD members were implemented, we anticipate that such training will cost \$150 to \$750 per person per day. One additional training burden might and cost the District \$3,500. Three could exceed \$10,000 per year.

R5: *“The Board develop and implement a clear succession plan for the GCSD’s senior management to include creating a general manager employee position reporting to the Board.”*

This will not be implemented because it is not warranted or reasonable.
(\$92 per year, per ESD)

There has been a clear succession plan for the General Manager since 2005. Whether that position will be filled by an independent contractor versus a full-time employee will be determined at the time, based on the needs and wishes of the chosen applicant and the District’s needs. The Grand Jury makes no compelling argument for making the GM position an employee and not an independent contractor. The Board also notes that if the General Manager is hired as an employee, this will increase the personnel expense to the District by having to pay for health insurance, a retirement plan, FICA and Medicare taxes, and other employee-related benefits—a potential additional cost to the GCSD of \$60,000 per year; an independent contractor must pay these charges himself/herself.

R6: *“The Board contract for professional facilitation or mediation to alleviate tension and confrontation between Board members and ratepayers.”*

This will not be implemented because it is not warranted or reasonable.
(\$25.30 per ESD per year)

The call for “professional facilitation or mediation to alleviate tension and confrontation” is totally uncalled for and unjustified. The Board is not responsible for the hurt feelings of any ratepayer whose demand for detailed operational information is either refused or delayed. The function of the District is to convert sewerage into purified water, and the function of the Board is to see to it that the District does that. Individuals with emotional reactions to not always having their way should avail themselves of their own professional resources to deal with their tension. Tension might result from the expectation of higher rates, but rates are not lowered by this kind of wasteful spending.

The Grand Jury also stated that: “the Board has done an inadequate job of communicating with ratepayers regarding the ongoing operations of the GCSD.” The GCSD Board holds **PUBLIC** meetings at least once per month: these are noticed and open to anyone. This is where we have been doing District business and communicating with any interested ratepayers. The district board cannot force people to attend meetings. And yes, we would have liked to send out newsletters frequently, but taking our responsibilities seriously, the Board decided to use its limited time and energy to comply with the onslaught of new and expensive mandates and so avoid fines. It was and still is the opinion of the GCSD Board that saving money and keeping our rates as low as legally possible is more important than newsletters. To summarize, this is the third time in ten years that the GCSD has been subjected to a Grand Jury investigation in the absence of any mismanagement or any criminal activity. ***Once again, the Grand Jury made no findings of wrongdoing because there was no wrongdoing for it to find.***

R7: *“The Board establish an ad hoc committee, including ratepayers, to optimize the GCSD website as a communications center for GCSD information.”*

This will be implemented.
(\$8 per year per ESD)

The public’s help is always welcomed, and in the past, such committees have been established and utilized. However, a committee cannot be held responsible for proper Brown Act postings. The District, not the committee members, pays any fines. The Board already has contract personnel whose duty is to produce and post on the GCSD website, including at least one non- Board ratepayer contributor at this time. Insofar as using the website for a communications “center”, it should be noted that the day-in, day-out task of the District is to process sewerage into cleaner wastewater and it does that every day of the

year; there is precious little “news” in the fulfillment of this task. The website is in the process of being completely redesigned; 35 new sections have been identified for inclusion. It should also be noted that our Webmaster is an independent contractor and sometimes takes a while to accomplish tasks. Is the Grand Jury implying that volunteers would be more efficient? We could replace our current contractor, but the next lowest bid we received was more than three times as much as we now pay. The GCSD Board can do anything the ratepayers want done; all it takes is money, which is generated from rate increases. And although what the complainers want implemented would cost a lot of money, the Board has consistently tried to be fiducially responsible to the majority of the ratepayers, not just the squeaky wheels.

R8: *“The Board require clear, detailed, and comprehensive monthly financial reports from the General Manager and, when appointed, the finance committee.”*

Recommendation has been implemented.

This has been done since 2004. The Board already receives financial information from the General Manager, sufficient to inform and satisfy most of the current Board members. Questions that arise that can be answered on the spot at monthly meetings are answered, while some require more research and/or the input from our Financial Officer and must thus be somewhat deferred. What will be considered “clear, detailed, and comprehensive” is left for the Board to decide and define.

R9: *“The Board direct its legal counsel to review the General Manager’s professional services agreement and to address any unusual provisions.”*

This recommendation has been implemented.

Done before the Grand Jury investigation; (\$270++ per ESD, per year)

The current General Manager’s contract was reviewed by District Counsel and determined to contain nothing detrimental to the Graton Community Services District. To renegotiate the GM’s contract would most likely result in needing a new GM. In addition to losing free access to his patented materials and processes, which alone would cost the district \$175,000 per year, the costs of finding and hiring a new qualified GM and potential mistakes made by a GM unfamiliar with our plant and processes, not to mention in the middle of a major construction project, are almost inconceivable. What seems to bother people is the provision that the GM may continue to monitor the performance of his donate inventions for five years after he is no longer employed. In exchange for this accommodation, the GM has saved the District approximately \$150,000 in sludge removal costs. He donates approximately \$25,000 annually in patented materials and processes which other districts pay for. In exchange the GM gets to monitor process performance, and the District stays in compliance with its NPDES Ammonia toxicity requirements. The GM also contributes between \$1000 and \$2000 dollars of his income monthly to the District in Pro Bono work. The Board found this to be extremely advantageous for Graton. We can only wonder at the motives of those who disagree.

R10: *“The Board conduct an annual performance evaluation of itself and senior GCSD management using financial performance goals, ratepayer feedback, enforcement actions from RWQCB, and other relevant measures.”*

This recommendation has been implemented.

In open session, the Board already receives rate-payer feedback at its monthly board meetings, and any enforcement actions from the RWQCB are reported in the General Manager’s Report. Suffice to say, “Relevant measures” are always discussed in the open monthly meetings; including this in a Grand Jury recommendation is redundant and suggests a paucity of meaningful recommendations.

R11: *"The Board request RWQCB to provide it with copies of all correspondence sent to the General Manager in order to monitor the status of compliance with the RWQCB directives to avoid penalties and fines."*

This will not be implemented because it is not warranted or reasonable.

Although 10-20 hours per week of volunteer time per Board member seems to be considered negligible, the Grand Jury opines that we all need to spend several ADDITIONAL hours per month reading technical requests and updates. The Board president already receives all necessary correspondence from the NCRWQCB; any correspondence concerning compliance, directives, fines, or penalties has ALWAYS been reviewed in *public* meetings. All previous fines were due to SCWA related delays, Regional Board related delays, and changes in Basin Plan requirements. Such fines were reduced using a Compliance Project (CP). The CP amounted to Graton using the General Manager's patents to reduce ammonia, nitrogen and other process modifications (donated freely) worth thousands of dollars as already described. Graton has had no violations in the last 5 years Please see:

<http://ciwqs.waterboards.ca.gov/ciwqs/readOnly/publicReportfacilityAtGlance.jsp?placeid=S81865>

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R12: *"LAFCO conduct an MSR for the West County Region as soon as possible."*

This will be implemented.

The District has been in contact with LAFCO to engage in this process.

Summary Response:

The District's plant produces clean water under severe restrictions and under ever-increasing legal requirements from federal, state, regional and county governmental agencies, not one of which includes payment for its ever-increasing demands—under penalty of fines. Nothing in the GCSD's governance and management has "broken down". The Grand Jury's job, as stated in its own Report, is to ensure the best interests of its citizens. However, baseless, recurring Grand Jury investigations are NOT in the rate-payer's—best interests. Our District processes our sewerage and is building a leading-edge plant at unbelievable savings to our small and low-income certified district. The vast majority of the Grand Jury's recommendations deal with Board performance and organization, ignoring the stellar performance of the **actual purpose** of the District. Putting into effect all of the Grand Jury's recommendations will not make one difference in the performance of the GCSD's mission of taking a public health hazard and turning it into clean water. However, it would cost our small district millions of dollars and an accompanying rate increase that most of our rate-payers cannot afford. In other words, implementing all the recommendations would ultimately lead to increased rate hikes, and more likely, the bankrupting of the Graton Community Services District. The GCSD Board thanks its rate-payers for their support. Please check in with our newly-designed website, in progress at: www.graton.org

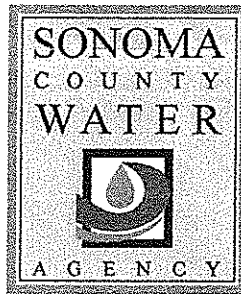
The Graton Community Services District submits this response to the Grand Jury's Report dated June 26, 2013 and looks forward to its dissemination to the general public of Sonoma County, in all venues where the Grand Jury report was disseminated as is legally required.

SUMMARY BOARD RESPONSE AND ESTIMATED COSTS OF IMPLEMENTING GRAND JURY RECOMMENDATIONS:

FINDING	AGREE/ DISAGREE	APPROXIMATE COST
F1	Disagree	
F2	Disagree	(\$67.80 per ESD).
F3	Disagree	(\$18.40 per ESD)
F4	Disagree	
F5	Partially disagree	(\$210,000 est. FY 12-13 = \$322 per ESD)
F6	Agree	
F7	Disagree	
F8	Disagree	
F9	Agree	
F10	Agree	
F11	Disagree	
F12	Agree	

RECOMMENDATION	STATUS	APPROXIMATE COST (for rate-payers per ESD)
R1	Implemented	
R2	Partially implemented	(\$67.80 per ESD).
R3	Implemented	(\$18.40 per ESD)
R4	Implemented	
R5	Not implemented*	(210,000 est. FY 2012-13 = \$322 per ESD)
R6	Not implemented*	
R7	Not implemented*	
R8	Implemented	
R9	Implemented	
R10	Implemented	
R11	Not implemented*	
R12	Implemented	

*by reason of not being warranted or reasonable.



GRAND JURY

OCT 10 2013 CF/0-0-1 Grand Jury (ID 33)

RECEIVED

October 10, 2013

Sonoma County Civil Grand Jury
PO Box 5109
Santa Rosa, CA 95402

RE: Graton Community Services District Response to Grand Jury Report 2012-2013

Dear Grand Jury Foreman:

Sonoma County Water Agency (Water Agency) staff has reviewed responses from the Graton Community Services District (Graton CSD) to the Sonoma County Grand Jury's 2012/13 report. We would like to provide the following information regarding the Water Agency's management of community wastewater systems in Sonoma County.

January 1, 1995 – Assets and management responsibility for County of Sonoma Zone of Benefit under County Service Area 41 to provide sanitary sewer service to the community of Graton were transferred to the Water Agency as the Graton Sanitation Zone (Zone). At the same time, the County transferred management responsibility to the Water Agency for other small sanitary sewer districts. After this reorganization by the County, the Water Agency was responsible for sanitation districts and zones including Graton, Forestville, Occidental, Russian River, Geyserville, Airport/Larkfield/Wikiup, Sea Ranch, South Park, Penngrove, Sears Point, and Sonoma Valley.

January 31, 2000 – The Water Agency's Board of Directors (Board) recommended that sanitation systems serving less than 1,000 equivalent single family dwellings be either consolidated into larger regional systems or transferred to local entities for management and operation. Based on the Board's direction, over the next several years the Water Agency transferred sanitation systems to local entities including Sears Point (transferred to Sears Point International Raceway), Forestville (transferred to the Forestville Water District), and Graton (transferred to Graton CSD).

December 10, 2002 – The Water Agency's Board adopted resolution No. 02-1308 initiating proceedings with the Local Agency Formation Commission for dissolution of the Zone, and designating the Graton CSD as the successor in interest.

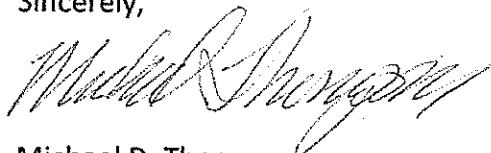
July 1, 2004 – The Water Agency's Graton Sanitation Zone's assets and management responsibilities were transferred to the Graton CSD. The Water Agency continued to provide operational services to the Graton CSD while Graton CSD developed its owned operational capabilities.

July 1, 2005 – The Water Agency ceased wastewater treatment plant operations. Graton CSD employees become responsible for treatment plant operations including permit compliance, irrigation, laboratory, industrial waste, plant maintenance, and plant repair.

Current – The Water Agency now operates the following sanitation district and zones: Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, South Park County Sanitation District, Airport/Larkfield/Wikiup Sanitation Zone, Geyserville Sanitation Zone, Penngrove Sanitation Zone, Sea Ranch Sanitation Zone.

For additional information about the operations of these districts/zones, please visit <http://www.scwa.ca.gov/sanitation>.

Sincerely,



Michael D. Thompson
Assistant General Manager

c: Pamela Jeane, Grant Davis