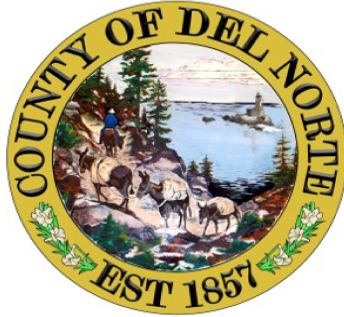


**2014/2015 DEL NORTE COUNTY GRAND JURY  
FINAL REPORT**



# 2014/2015 DEL NORTE COUNTY GRAND JURY FINAL REPORT

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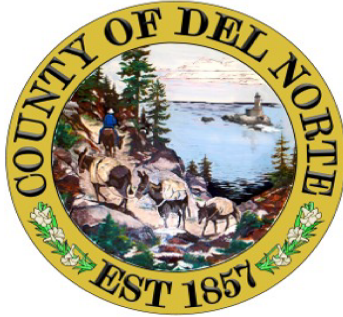
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May 22, 2015

The Honorable William Follett  
Judge of the Superior Court of Del Norte County  
450 H Street  
Crescent City, CA 95531

RE: Del Norte County 2014-2015 Grand Jury Final Report

Your Honor,

On behalf of the 2014-2015 Del Norte County Grand Jury, we submit our final report to you, the citizens of Del Norte County, the Del Norte County Board of Supervisors, and the City Council of Crescent City.

As you are aware the Grand Jury functions as a “watchdog” wherein the Grand Jury investigates and issues reports about local government entities. The purpose of such investigations is to improve efficiency and effectiveness of our local government and promote government accountability. In order to fulfill its mission, the independence of the Grand Jury is of utmost importance as is the confidentiality of its proceedings and investigations until a final report is issued.

“In our system of government a grand jury  
is the only agency free from possible political  
or official bias that has an opportunity to see...  
the operation of government...on any broad basis”  
(Monroe v. Garrett 1971 17Cal.App.3<sup>rd</sup> 280)

When I assumed the Foreperson position for this sitting Grand Jury, I anticipated a controversial year, and this Grand Jury acknowledges that this final report may have repercussions to the Del Norte community. The Grand Jury chose to investigate the Del Norte County Solid Waste Authority based on the numerous articles in the Del Norte Triplicate and the letters the paper received and published in its opinion section. To that end, the Jury took a journalistic approach to its investigation and endeavored to answer the questions: Who, What, Where, When and Why? This final report is the culmination of an

exhausting, unerring and diligent investigation which identifies the issues, and the impact of proposed changes to the DNSWMA, should they be undertaken to the citizens of Del Norte County.

The Grand Jury focused on other issues pertinent to the safety and security of Del Norte County residents in exploring the emergency response system when it was learned that the 911 call system access lines were to be reduced in number. The jury also followed up on the Klamath Fire issues raised by the 2013-2014 Grand Jury, and completed the mandated inspections of the county detention facilities. In all, the Grand Jury members were dedicated in their tasks, diligent, and objective in their findings.

I am proud and honored to have served with this group of citizens, some of whom had little or no prior knowledge of how a Grand Jury functions, all of whom came together to produce this document. Acknowledgement must also be made of the California Grand Jurors' Association; their initial training sessions, and availability for consultation over the past year has been invaluable in producing this document.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Tod A. Roy', written over the typed name below.

Tod A. Roy, Ph.D., Foreperson  
2014-2015 Del Norte County Grand Jury

# **2014/2015 Del Norte County Grand Jury SPECIAL REPORT**

## **SUMMARY**

The 2014-2015 Del Norte County Grand Jury conducted an extensive inquiry and investigation into the operations of the Del Norte County Solid Waste Management Authority (SWA) during the course of executing its statutory responsibilities. By law, these investigations are confidential and will remain so until the Grand Jury issues a Final Report, or the Superior Court releases those concerned from the bounds of confidentiality.

While performing its responsibilities the Grand Jury was made aware that a certain witness appearing before it had violated the secrecy admonition applicable to Grand Jury proceedings. The witness's violation of the admonition of confidentiality appeared to the Grand Jury to be an attempt to undermine the Grand Jury proceedings, question its integrity, derail its mandated function, and declare that two Grand Jury members were "ill-suited to sit on this prestigious Jury."

## **BACKGROUND**

In California, a Grand Jury has three functions: to weigh criminal charges and to determine whether indictments should be returned (Penal Code 917); to weigh allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office (Penal Code, 922); and to act as public "watchdog" by investigating and reporting upon the affairs of local government and its subordinate agencies and commissions to determine if those operations are being conducted efficiently and in the public interest (Penal Code 919). In Del Norte County, the annually empanelled Grand Jury primarily serves the second and third functions.

The proceedings of Grand Juries, whether acting in a civil or criminal functions, are secret by law. Its proceedings are closed to the public (Penal Code, 915, 939, 939.1), and grand jurors take an oath not to disclose any evidence brought before the Grand Jury under penalty of misdemeanor (Penal Code, 911). Witnesses appearing before a civil Grand Jury, whether voluntarily or by subpoena are also bound by the secret nature of the proceedings. At the outset of testimony, each witness is admonished not to reveal which questions were asked, what responses were given, or any other matters concerning the nature or subject matter of the Grand Jury's investigation. (Opinion of Atty. Gen. 02-1108). The California Supreme Court has affirmed the strong historic policy of preserving Grand Jury secrecy (*McClatchy Newspapers v. Superior Court* 1988) 44 Cal. 3d 1162).

The justification for this secrecy requirement is in fact, that an effective “watchdog” investigation can only be conducted if witnesses are free to testify before the Grand Jury without fear of disclosure, recrimination, intimidation or retaliation. The Attorney General has concluded in a persuasive public opinion (Opinion of Atty. Gen. 02-1108) that a violation of the admonition given to a witness by a Grand Jury, sitting in its civil watchdog capacity, may constitute contempt of court. As was stated in another opinion of the Attorney General: A Grand Jury is a judicial body. Grand Jurors are officers of the court, and the jury itself is a component part to the superior court. The relationship and unity of the court and jury is such that contempt of the Grand Jury is contempt of the superior court. (25 Ops. Cal. Atty. 259 (1955).

## **DISCUSSION**

In following its sworn responsibilities, the 2014-2015 Grand Jury conducted an extensive investigation into the operations and proceedings of the Del Norte County Solid Waste Management Authority (SWA). In connection with this investigation, all current SWA Board Commissioners were interviewed by the Special Districts Committee comprised of five members of the Grand Jury. This investigation was initiated after a supermajority vote was taken to investigate the SWA. Special District committee members were self-selected. The five SWA commissioners, and one alternate, were interviewed and asked the same 89 questions prepared by the committee ahead of time. Prior to the commencement of an interview each interviewee was given the following admonishment which has been approved by the California Attorney General:

You are admonished not to reveal to any person, except as directed by the court, which questions were asked or what responses were given or any other matters concerning the nature or subject of the Grand Jury’s investigation which you learned during your appearance before the Grand Jury, unless and until such time as a transcript (if any), or a final report, of this grand jury proceeding is made public or until authorized by this Grand Jury or the court to disclose such matters. A violation of this admonition is punishable as contempt of court. (Opinion of Atty. Gen. 02-1108).

Each interviewee was further asked whether he/she understood the admonition. The reply in every instance was in the affirmative, and each commissioner then signed a statement attesting to their understanding of the admonition.

The 2014 SWA Chairperson within days following their interview, emailed a letter to the presiding judge complaining of Grand Jury misinformation, mistreatment, and questioning the Grand Jury’s investigation while ignoring his “mission to improve the product and save consumers money” and the loss of public funds. This letter was also copied to his attorney. A copy of the letter is appended to this Special Report. (Addendum A: Letter to Judge Follett).

The Grand Jury found the letter to be compelling, to an attempt by the SWA Chairperson to “bully” the Grand Jury. By a supermajority vote, the Grand Jury requested the Superior Court by way of the District Attorney to issue a contempt citation against the individual who willfully violated the lawful secrecy admonition of this Grand Jury. Since the District Attorney declined to file contempt of court citation against this individual, the Grand Jury has chosen to issue this report with its attendant recommendation, in the hope that through example and education, public officials might better understand their ethical responsibilities towards the Grand Jury in its “watchdog” capacity and to the public whom both serve.

It is clear that if a Grand Jury is to fulfill its statutory mandate to investigate local agencies of government, it must be able to do so in an environment where witnesses interviewed are forthright in their testimony. It is only in this way that the public is assured of the effectiveness of its government. County and city-wide training of publicly elected and appointed officials regarding Grand Jury confidentiality rules would be important in edifying this issue.

# 2014/2015 Del Norte County Grand Jury DEL NORTE SOLID WASTE AUTHORITY

## SUMMARY

The 2014-2015 Del Norte County Grand Jury opened an investigation into the Del Norte County Solid Waste Authority (SWA). This decision was made in response to numerous articles in the Triplicate highlighting discussions of dissolving the Joint Powers Agreement (JPA) between the City of Crescent City and Del Norte County as well as selling the transfer station. These articles had been met with public opposition at SWA meetings, in letters to the editor and Coastal Voices opinion pieces.

To assess the issues brought forth by the public, the Special Districts Committee conducted an investigation which included:

- researching the history and development of the JPA
- reviewing the proceedings of current and past SWA meetings
- studying the 2009 and 2011 ad hoc committee reports
- interviewing the principals involved in the development of the SWA, current employees and appointed commissioners
- internet literature search of restructuring local governments and public-private partnerships

Throughout the Grand Jury's Special Districts Committee investigation no evidence was found that the public would be better served or money would be saved by dissolving the JPA, selling the transfer station, reducing staff, or contracting out the Director's position. The Special Districts Committee did find that:

- After five years of previous assessments, no viable alternative to the JPA has been found.
- The Commissioners varied in their understanding of the history and development and function of the JPA in protecting Del Norte County and its citizens from liability related to the closed landfill.
- The 2013/2014 Commissioners expended over \$96,000 beyond operating costs.
- Evidence collected and analyzed by the Special Districts Committee indicates that certain Commissioners violated the Code of Ethics and Conduct and engaged in practices unbecoming to their positions.

Every Commissioner elected to the SWA Board reads, signs and affirms that they understand, accept and support the Del Norte Solid Waste Management Authority Code of Ethics and Conduct. This signed agreement was written in recognition of the responsibility to set aside personal biases and consider the overall impact decisions have on the citizens of Del Norte County. [Addendum D]

The Grand Jury concluded that the current configuration of the JPA and SWA is the most successful, cost efficient and beneficial program to effectively manage solid waste in Del Norte County. Further findings and recommendations are delineated in the body of the Grand Jury's report.

## **BACKGROUND**

### **Pre-Solid Waste Management Authority**

The Crescent City Sanitary Landfill was opened in the 1950s. Prior to that time people disposed of wastes by burying or burning trash on their own land, or illegally dumping on public or private vacant lands. From 1972 to 1994 the landfill was a "dump and cover" operation where compacted waste is covered with soil or alternative materials. The landfill is located off Old Mill Road in dune land adjacent to shoreline wetlands that are characteristic of Del Norte County coastal regions. The landfill was created by hollowing out a sand dune. A determination was made not to line the sand dune to avoid the costs of liner installation. Liners act as non-permeable barriers, preventing materials from moving into groundwater and underlying layers of rock. Unlined sand landfills are quite porous. Coupled with the abundant annual rainfall that Del Norte County receives, the landfill had the potential to leach contaminants from the waste stream into the groundwater system. This groundwater migrates into Lake Earl, a waterfowl and wildlife habitat, that is a significant resource and water supply to surrounding neighborhoods.

In 1989, Del Norte County received Cease and Desist Order #98-84 from the California Regional Water Quality Control Board (RWQCB). The Crescent City landfill was found to be out of compliance with state and federal standards and leaching environmentally hazardous materials into the groundwater. This caused the landfill to be placed into the highest threat and complexity category by the RWQCB. The RWQCB has the authority to levy fines. Del Norte County was looking at potentially incurring fines of \$100,000 per day. Simultaneously, the California Integrated Waste Management Board issued closure order [#91-02] for the Crescent City Landfill due to additional violations and threatened a \$10,000 per day fine for non-compliance,.

The County owned the landfill, but it was managed and operated by Del Norte Disposal (now known as Recology), a private company and subsidiary of NorCal Waste Systems. No monies had been collected, or set aside to fund closure and closure-related expenses. The RWQCB then fined the County for lack of progress on these issues. Del Norte County implemented a parcel fee to pay for closure expenses. This was later replaced by a temporary sales tax increase.

In the Fall of 1991, county government departments were consolidated to form Solid Waste Management, led by the new Director of Community Development. The director spearheaded the environmental review process to locate an acceptable landfill site in Del Norte County. All county sites reviewed were unsuitable, both geologically and meteorologically: too much rainfall, high groundwater level and highly fractured rock. The director found the out-of-county, out-of-state, Dry Creek landfill in White City Oregon. This is the landfill presently used by Del Norte County.

## **SWA Formation**

Del Norte County and Crescent City governing bodies created and signed a Joint Powers Agreement in 1992, giving both entities oversight and decision-making capabilities by forming the Del Norte Solid Waste Management Authority (SWA). The SWA was charged with managing and facilitating the closure of the Crescent City Landfill, creating its functional replacement and taking over all associated fiscal liabilities as well as monitoring and managing the landfill indefinitely.

The Director of Community Development was tasked with educating county and city officials on waste disposal, the Dry Creek Landfill, and the financial merits of reducing wastes. In simple terms, reducing wastes reduces costs; waste is reduced by recycling.

To simplify a complicated, negotiated contract, the long term contract with the Dry Creek Landfill is for permanent storage of Del Norte County's solid waste by volume. The more waste hauled, the quicker the allotted space is used. Each cubic foot not put into the garbage stream saves both hauling costs and storage space. The waste stream and costs are reduced by recovering recyclable materials used in ever expanding markets.

An Executive Director with a strong recycling background was hired in 1993 to integrate recycling and disposal. The Director of Community Development (now supplanted by the new Executive Director) felt a recycling background for the executive director position was an asset.

To facilitate the transfer of waste to the disposal site and to sort wastes from recyclable materials, a transfer station was needed. While it may have been less costly to build a transfer station at the old landfill, firmer ground was required. A loan was secured through the California Infrastructure and Economic Development Bank (IBank) in the amount of \$3,535,000 to fund the construction of the transfer station site on Elk Valley Road. The transfer station became operational in March 2005. This is where trash is consolidated, sorted and transported to the Dry Creek Landfill. Recyclables are collected and sent for processing.

Early in 2009, the Chairman of the Del Norte County Board of Supervisors appointed an ad hoc committee to study the viability of continuing to have the SWA manage the county's solid waste and recycling. The February 27, 2009 Meeting Action Summary document states the ad hoc committee was to "...study the justification of the solid waste management authority."

The committee was comprised of county staff, public members, and Board of Supervisor members. The committee met, interviewed the SWA Director, toured the landfill and transfer station, and reviewed documents of the JPA (i.e., operations, budgets, job descriptions, franchise agreements, ordinances).

There was general agreement by the committee that the transfer site was an efficient, clean and well run organization and the landfill monitoring responsibilities/maintenance were meeting state requirements. No significant issues were found with SWA Board, or with the collections of solid waste. Comments were positive pertaining to grants received by SWA.

During the Budget/Fiscal/Bookkeeping review, the ad hoc committee noted the previous three years' expenses had exceeded revenues. Reasons cited for this overestimation of revenues and underestimation of expenses were the downturn in the economy and depreciation of capital assets. Members of the ad hoc committee recommended implementation of an automated accounting system and noted the current system lacked internal controls. They suggested that the SWA budgets be ratified by both the Board of Supervisors and City Council members.

Disagreement developed between committee members regarding the practice of paying stipends to the Commissioners. The Authority offered a stipend of \$300 per month as compensation for board members' time. An additional \$75 per meeting was offered for attending the monthly public meeting. (It is noted here that the acceptance of stipends by Commissioners was voluntary.) Commissioner comments included rescinding stipends, reducing the number of meetings, and having public input and debate. Also opinions were offered on staffing levels ranging from presently adequate to overstaffed.

A legal review and summary legal review were undertaken by county counsel researching the potential ramifications of a unilateral withdrawal from the JPA by the county. County Counsel reported:

- The JPA assumes duties of regulating the franchises and protects the member parties, (City and County), from "arranger" liabilities.
- If the County were to unilaterally withdraw, title of the transfer station would continue to be vested under SWA.
- The financing arrangements between the County and the I-Bank could not be assumed by a private company.
- SWA would retain jurisdiction over non-withdrawing entity's area and would not be obligated to accept the withdrawing party's waste at the transfer station. This obligates the withdrawing party to then recreate its own solid waste disposal and recycling system, which must also meet all of California State laws and mandates.
- Unilateral withdrawal of either party would create disruptions in the decision making process under the present rules of the JPA as these rules require at least one member of each party to approve a measure.

The ad hoc committee met "8-10 times" and took two years to reach their conclusions. Although there were many diverse opinions and comments expressed by the ad hoc committee members, the conclusion was that the SWA continued to be a viable method of managing recycling and waste in Del Norte County. The dissolution of the JPA was not recommended. The ad hoc committee deferred on unilateral withdrawal from the JPA by the County stating, "...repercussions of county unilateral withdrawal are not clear and the committee did not evaluate the impact of this action or possible alternative strategies."

Ad hoc committee comments did not put to rest differences of opinion regarding contract positions and restructuring. A detailed analysis was not conducted to determine if the existing entity was the most efficient and cost effective method in handling solid waste disposal and recycling needs. However, the majority of the ad hoc committee members agreed the current structure was sufficient and concluded:

“...[SWA] provides the foundation for meeting the stated purpose of the JPA...No committee members recommended dissolution of the JPA in its entirety...The ad hoc process is not intended to provide a level of review required to render decisions such as dissolution or restructuring, however it is effective in noting positive and negative aspects of the organization to allow for focused management...Future changes should be discussed by all parties jointly or in their respective public forum.”

## **SWA Reorganization**

In the summer of 2011, the Board of Supervisors proposed the creation of another ad hoc committee to assess the future of the SWA. This time representatives of the city were invited to participate. One county supervisor stated “Everything’s on the table..including privatization.” The SWA executive director’s response was, “If we own the facility and have control of it, we’ll never be at the mercy of a private company. Right now we have the right balance of private and public [partnership].”

Responding to the county’s invitation, the city manager proposed to end stipends effective immediately. He also recommended modifying the JPA and creating an interim board consisting of all elected officials of the Board of Supervisors and City Council. This proved agreeable to both entities. The new Authority Board met for its inaugural meeting December 2011. This was commonly referred to as the “Super Board.” All county and city governing officials were now directly involved in the oversight of solid waste management in the county.

In 2011, the SWA Board awarded Recology with a newly negotiated contract providing garbage and recycling services in Del Norte County. The contract allowed Recology to offset lower residential rates with increased commercial rates, upsetting some local businesses. The manager of Recology stated “there’s opportunity for everyone to save money under the new system if they fully take advantage of it and understand it.” Recology, Hambro/WSG, and the Authority instituted a "Less is More" campaign to educate the community. Together they advised that reducing the waste stream by recycling could decrease transportation hauling costs and landfill disposal site fees.

The First Amended JPA expanded upon the original JPA to more concisely address concerns, and new rules and regulations mandated by state agencies. It recognized SWA as a separate entity from either of its Charter Members (Crescent City and Del Norte County). Changes included:

- Procedures for adopting the annual budget of the Authority Board.
- Eliminating all compensations for Commissioners for their involvement on the Authority Board.
- An updated and expanded JPA purpose statement to reflect current activities.
- Revisions to the process for creating and ratifying ordinances
- Composition and organization of the commission (reduced to 5 members- 2 from city, 2 from county and 1 public member appointed by the other 4)
- Obtain insurance to protect the SWA and its charter members from liability

The First Amended Joint Powers Agreement was adopted in late 2012 and the ten member board was dissolved December 31, 2012.

## **METHODOLOGY**

The history of the Del Norte Solid Waste Authority was studied, pertinent persons were interviewed, California laws, regulations, and mandates were researched. Rules for governing and codes of conduct were also read.

### **Interviews**

- Five Commissioners and one alternate of the Solid Waste Board for the years 2013/2014
- Past Director of Solid Waste Authority
- Current Interim Director of Solid Waste Authority
- Retired County Director of Community Development
- President, Del Norte County Employees Association
- Del Norte County Auditor/Controller
- Del Norte County IT Manager and staff person
- R3 Consultants
- City Council Member
- Some applicants to the Del Norte Solid Waste Board [2015 public member position]

### **Field Trips**

- Transfer Station
- Crescent City Landfill

### **Research**

- Agenda Attachments/Minutes (2012 through April, 2015)
- 2014 Independent Consultant's Report [R3]
- 2009 & 2011 Ad Hoc Committee Reports
- Solid Waste Task Force Minutes
- Request for Proposals 2013 and 2014

- Sheriff's Report on the Missing Funds
- Independent Auditors Report (Scanlon)
- Joint Powers Agreement
- Ordinances 2008-01, 02, 03, 2009-01
- Proposed Ordinances 2014-01/02
- Code of Ethics (SWA)
- Revenues and Expenditures (SWA)
- Legal Counsel Findings/Reports
- Rate comparisons of surrounding counties
- Developed 89 questions with supporting documentation for Commissioner interviews

### **California Laws, Regulations, Mandates**

- AB 341 California's Mandatory Commercial Recycling Law
- CalRecycle Grants Awarded Del Norte Solid Waste Authority (1992-present)
- Cease and Desist Order 98-84 for the Crescent City Landfill
- California Waste Management - Consideration of Board Action to Issue Notice and Order 91-02 to the Crescent City Disposal Site (17pg.)
- CalRecycle reports on Del Norte Solid Waste and the Crescent City Landfill
- California Laws related to solid waste:
  - Title 14, Division 2, Chapter 5 CCR (beverage container recycling)
  - Title 14, CCR, Division 7 (non-hazardous waste)
  - Title 27, CCR (CalRecycle and State Water Resources Control Board)

### **Videography**

- Solid Waste Meetings 2012 through April, 2015
- City Council Meetings [Ordinances]
- Board of Supervisor Meetings [Solid Waste related]

### **Independent Studies**

- "Restructuring Local Government" - Privatization, Pros and Cons (Cornell University)
- "Independent Contractors and Consultants in California" - Advantages and Disadvantages of Using Independent Contractors (Methven & Associates, California Business and Securities Attorneys)

### **Local Resources**

- Triplicate Articles - Solid Waste Authority (2001 through April, 2015)
- Letters to the Editor - Solid Waste Authority (2012 through April, 2015)
- Letters submitted to Solid Waste Authority (2012 through April, 2015)
  - Public
  - Board Members
  - Legal Counsel
  - Certified Public Accountant
  - Solid Waste Staff
- Strategic Planning Document (January 2013)

## **Parliamentary Procedure Guides**

- Robert's Rules of Order
- Rosenberg's Rules of Order (Revised 2011)
- Brown Act

## **DISCUSSION**

On January 30, 2013, an editorial in the online Crescent City Times quoted the newly elected District 1 Supervisor. The topic was the Joint Powers Agreement (hereafter referred to as JPA) and Del Norte Solid Waste Management Authority (hereafter referred to as SWA).

“Though well intentioned, the Del Norte Solid Waste Management Authority has devolved to become just another layer of bureaucracy. Indeed, the Authority and the Joint Powers Agreement which operates it has long outlived its purpose. Consumers are paying higher fees to remove their waste products than comparable communities without a Solid Waste Management Authority. It is time to remove this layer of bureaucracy, supplant it with an expanded Code Enforcement Department to file necessary paperwork to the State and monitor the landfill, and pass these substantial savings on to the consumers. Trash rates will decline and services will not be compromised. Del Norte County opting out of the JPA is overdue. I am hopeful the City of Crescent City will likewise see the wisdom of opting out of the Agreement.”

On March 12, 2013, the nominations of District #1 Supervisor and District #3 Supervisor to the Authority Board were approved by the Board of Supervisors (BOS). On March 26, 2013, the newly appointed Authority Board held its first meeting of the year.

On March 27, 2013, the Triplicate ran an editorial questioning the functional ability of the SWA given the BOS Commissioners:

“The new members [BOS Commissioners] are among the majority of county supervisors who have long questioned whether the authority should exist. They've implied there must be a more efficient way to oversee Del Norte's waste, but four years of assessment have yet to produce a viable alternative.”

On April 4, 2013 the Triplicate began publishing the public's letters to the editor regarding dismantling the Authority. Letters were decisively in favor of retaining the Authority and the JPA. These controversies became the main issue for the newly formed five member SWA board and the public. To assess these issues the 2014/2015 impaneled Grand Jury undertook this investigation.

In this discussion, Commissioners will be identified numerically.

1. Commissioner #1 BOS reappointed, 2013 vice chairman and 2014 chairman.
2. Commissioner #2 BOS reappointed 2014
3. Commissioner #3 City Council reappointed 2014
4. Commissioner #4 City Council appointed 2014
5. Commissioner #5 Public Member selected by the other four Commissioners in 2013, retained seat through March 2015
6. Commissioner #6 Alternate City Council Commissioner 2014, 2013 chairman of the Authority Board

## **Interview Process**

The Grand Jury interviewed all seated Commissioners of the 2013/2014 SWA Board and a City Council Alternate Commissioner. A slate of questions was written regarding the history of the SWA, knowledge of California state laws and regulations pertaining to solid waste, knowledge of the parameters of the JPA, and Commissioners' views on the R3 Consulting Group report.

An admonishment was read by the Grand Jury foreperson to all interviewees and was signed by everyone. The same eighty nine questions were asked of all interviewees. Some questions were modified according to the Commissioner being interviewed. Based on Commissioners' responses, follow-up questions differed. All Grand Jurors present at the interviews participated in conversations with the interviewees.

Throughout the interview process the Grand Jury found a disparity among the six Commissioners in their knowledge of the history of the JPA, its formation, and its relationship to the closed landfill. When asked what training they had received, answers ranged from being offered "a large binder" of historical reference, to personal assistance from the executive director, to "...did not receive any special training." Similarly, Commissioners demonstrated a range of understanding of California laws specific to solid waste and recycling and the purpose of the transfer station. When asked "do you consider the transfer station an asset or a liability, one Commissioner saw the transfer station as only a "middleman cash dispensary," while another Commissioner said it was "an absolute asset."

The former Executive Director (hired in 1993) and the Program Manager (presently Acting Director and hired in 1994) have considerable experience and demonstrated considerable knowledge of the solid waste industry when interviewed. The Program Manager and past Director wrote and secured grants totaling over \$2,335,000 in revenues and/or services over the past fifteen years. These grants were received to aid SWA in remaining compliant with the state's mandated rules and to help position SWA for compliance and leadership in future anticipated state requirements.

Del Norte County was the first county in the nation to have developed a Zero Waste Plan. The Institute for Local Self-Reliance found SWA was a leader in the zero waste movement. SWA actively supported Extended Producer Responsibility (EPR) and runs an EPR funded pilot

program for carpet recycling and disposal of paint. SWA also manages take back programs for mercury thermostats and household batteries. Hazardous wastes can be recycled at the transfer station at the grant-funded Hazardous Waste Outbuilding.

In August 2013, the former Executive Director was honored by the California Product Stewardship Council with an “EPR Super Hero Award” for his outstanding contributions to the EPR movement. These are grant funded programs that benefit the ratepayers, the community, and the environment.

Commissioners' opinions varied on the overall value of pursuing grants. Commissioner #2 felt that grant money is funneled through the community, doesn't stay in the community, doesn't create local jobs and is used by the Authority to offset wages. Commissioner #6 liked grants and commented that the Program Director practically pays his way on grants received. The County Auditor also liked grants, with the caveat not to write grant money into the budget in anticipation of receiving the competitively funded monies. Commissioner #1 recognized grants have helped fund some improvements at the transfer station, but is ideologically opposed to grants, publicly stating, “The acceptance of grant money, another form of institutional charity, will forever doom Del Norte County to permanent poverty status.” (Triplicate, Coastal Voices January 6, 2015)

Given that the grant funds received have been utilized to fund cutting edge recycling programs the Grand Jury interpreted Commissioner #1's statement with regard to “institutional charity” to be one of political ideology. The Grand Jury found that since 2013, grant application writing has stopped entirely and the only remaining grants were block grants.

## **A Timeline of Information**

**March 26, 2013** – The BOS Commissioners were unwilling to support an incremental five year pay increase for the Executive Director. This was a longevity step increase in recognition of twenty years of service and his most recent satisfactory performance evaluation. The vote was two City Council Commissioners in favor and two BOS Commissioners opposed. This was the first time the Executive Director failed to receive a five year incremental pay rate increase.

**April 23, 2013** - The Authority Board conducted interviews for the public seat. Commissioner #5 was approved as the public member. At this same meeting, there were discussions about hiring a consultant to assess the performance of the SWA. Commissioner #2 suggested that the next agenda include an item for which...”staff prepare a request for proposals for release for the privatization of solid waste, if possible with the sale of the transfer station included in that...with no lapse in service.” The Director said he was unclear on this direction, and not clear on the issues to be addressed by such an RFP. Commissioner #1 expressed an interest in the effects of ...”privatization of the process.”

**May 21, 2013 Special Joint City/County Meeting** - The city and county held a special meeting on solid waste and privatization. Some board members asked for clarification on why only privatization was on the table. A sitting Supervisor asked: "If you only want to look at privatization as the option then you have skipped over all of the other possible options that are out there." Commissioner #1: "Clearly, the Del Norte Solid Waste Management Authority is not running things well, that's why we are having this discussion."

Later at this same meeting when Commissioner #1 was discussing rates, he stated: "...factually, it's over \$145/ton which is 35% more than Brookings to move our trash...that's exceptionally higher than anyone else...we have a level of bureaucracy...it's a level of government that is not functioning well...how would you like to think about having your rates lowered by 20%?" Commissioner #1 proposed to narrow the focus to privatization only. The public attending this meeting spoke out opposing the dissolution of the Authority.

**May 28, 2013 SWA Meeting-** The public spoke out at the process the board was taking. One of the members of the public speaking, stated:

"I don't know what the question is. I think if you guys had a good idea of what your questions were, you'd be able to find some solutions, but it seems like there is just a lot of spinning, maybe this maybe that, we've done this study, maybe we'll do this one. Figure it out, what your question is."

Commissioner #1 responded to the public speakers:

"I am of the opinion that costs are exasperatingly high on this level of bureaucracy based on certain factual information that has been presented to me to the tune of maybe 50 or as high as 70% over savings. If the consumer rates can be lowered by 20% and if the franchise fee to the county was a certain amount...and we consolidate a lot of these costs that are expensive in what I call over government...who wouldn't be for that?"

Commissioner #1 called upon the attending contracted franchisers to support him, but they remained silent.

A subcommittee was formed to determine the best structure for the Authority, make recommendations and report back to the board. At this same meeting legal counsel informed the subcommittee that the authority board cannot invalidate the current employees contract. The employees may not be legally capable of assuming private positions based on a legal decision rendered in Costa Mesa. The subcommittee then met twice (6/12/13 & 7/15/13) and disbanded when the public voiced their concern about lack of transparency and oversight. One public member stated:

"One concern is I see more and more and more things moving into that committee...that there's no public there and the information isn't getting out...if you add another thing I think you are really getting into dangerous ground where the public is not going to be there... I really believe you need to have public input at all levels."

**June 25, 2013 SWA Meeting** - Commissioner #5 presented her views: It is the board's duty "...to scrutinize this [JPA]...we have a very top heavy organization and somebody is paying for that...it is my opinion that it is administratively top heavy...I would be cutting right now if I need to."

Commissioner #3 asked Commissioner #5 "what sections are you wanting to cut?"  
Commissioner #5 responded with: "I believe the only discretionary payroll we have is for the is [sic] not for county employees, but for the Director."

**July 23, 2013** - The board informed the Executive Director that it intended to move in a new direction; paperwork and a severance package were drawn up. The Program Manager assumed the additional duties of the Executive Director in the early days of August 2013.

**August 7, 2013** – Commissioner #6 and the County Auditor filed a report on missing funds with the Sheriff's Department. In a little over four months the new board had accomplished one component of its goal to theoretically save the consumer money.

## **The Missing Funds**

It was the conclusion of three independent audits that monies were missing from the SWA based on reviews of the June 30, 2012 fiscal records. A report was filed with the Sheriff's Department by an SWA Commissioner and a county auditor who "...reported suspected embezzlement ...and suspected that two... employees... were responsible for the theft."

The Grand Jury obtained and studied the Sheriff's Department report, the Scanlon report, and interviewed the County Auditor. The Grand Jury concurs that monies were missing over a time span of years. The Grand Jury could not find evidence of the exact quantity of money missing. Commissioners' opinions ranged from \$9,000 to \$51,000. The Scanlon Report calculated a cash shortage of \$25,732.15 on June 30, 2012.

The Sheriff's report identified several persons who may have knowledge of the circumstances of the missing money. Two involved parties were questioned. The report lists two suspects; neither were interviewed. The Sheriff's report concludes that, as per the Scanlon report: "...it would be difficult to identify a perpetrator, let alone develop a prosecutable case without additional information." The Sheriff's report recommended "closure by report". [see Addendum B: Del Norte Sheriff's Department File Review - Author: Retired L.A. County Deputy Sheriff/Grand Jury Member]

## **The Independant Consultant Report**

At the September 24, 2013 Authority Board meeting, the Acting Director/Program Manager (AD/PM) and Commissioners became aware that Commissioners #2 and #6 had formed their own subcommittee of two. They tasked themselves to find consultant(s) to respond to a Request For Proposal (RFP) they had created. As per the minutes dated September 24, 2013  
Commissioner #1 responded: "Chairman ..., just for clarification, are we talking about the hiring

of two individuals?...it sounds very intriguing; this is the first time I am hearing this, any of this. So you guys have done an excellent job.” Commissioner #5 stated, “Again, I have not seen this either.”

A member of the public addressed the Authority Board:

“You may not understand my concern about how this took place, but having served on a government board as an elected official this just would not have flown at all. It doesn't matter if just the two of you discuss things, but if you discuss things in a serial matter at all, you said the board listened to the committee, even that type of discussion violates the spirit of the Brown Act. Why wasn't this item on the August agenda if this was sent out on the fifteenth?”

The Authority Board then validated the work of the unauthorized subcommittee by tasking the AD/PM with recreating an almost identical RFP for Assessment of the Del Norte Solid Waste Management Authority. This RFP was ready for release and dispersal on October 24, 2013 having been approved by the Board on October 23, 2013.

By December 2013, the Authority Board had secured a consulting company, R3, to provide an experienced, independent perspective of the SWA. The contracting company held a teleconference with the “Interim Executive Director” who served as the primary contact providing requested information to answer the Authority Board's Scope of Services questions. The contracting company's approach was to review various documents, tour facilities, interview Commissioners, franchise managers, county and city managers and Authority staff. They also observed staff performances on one occasion and attended a special meeting of the Authority Board on January 23, 2014 to receive public input.

The SWA received a preliminary draft dated February 19, 2014. Commissioner #1 placed the preliminary draft on the March 12 SWA agenda (item 7.2). The AD/PM responded to the preliminary draft with a staff report and posted both the preliminary draft and staff response on the Authority's webpage. This is common procedure following the Brown Act that agendas, attachments, etc. be publicly posted in advance of a public meeting. As a public agency the Authority is required to post to the public all materials distributed to the board for open meetings.

On March 10, 2014 an R3 consultant emailed the Authority Board and staff with a request to pull the preliminary draft as a discussion item from the agenda and reschedule that discussion once an updated draft had been submitted. The AD/PM emailed the Authority Chair (Commissioner #1) and asked if the Chair would like the item removed from the March 12, 2014 Authority Agenda. The Chairman responded (email correspondence), “No, I prefer not to pull it, but simply acknowledge receipt of the R3 preliminary Draft. I will entertain a motion to accept as a

preliminary draft only...” The Chairman let the agenda stand as posted. At the March 12, 2014 meeting, Authority Board Chairman then withdrew the agendaized draft report documents without a motion, second, or vote by the board. He then publicly chastised the AD/PM for posting the report telling him: “I reminded the AD that he works for the Authority and not vice versa.”

When Commissioner #3 requested further clarification from the AD/PM, the response was: “Chair has specifically said I should not have conversations with R3 without his permission.” The Chair (Commissioner #1) clarified, “I’ll correct that and say the Authority’s permission.” The chairman then became the primary contact person to the independent consultant, replacing the AD/PM.

The consulting group’s final report was submitted May 15, 2014. The cost to the ratepayers was \$33,460. It did not recommend dissolving the JPA. It did provide staffing options even though it did not provide any cost/benefit analyses in support of any of its recommendations.

In analyzing the consultant group’s executive summary, the Authority board’s minutes, public letters to the Triplicate, and interview responses, the Grand Jury found evidence showing attempts were made to influence the “independent perspective” of the consultant group. It is to be expected that Commissioners, knowledgeable persons and Authority staff would provide the consultants with information, clarification of the scope of services, and participate in the process as directed by the consultants. The report was to be an objective review with recommendations. Emails between consultants and Commissioners and the AD/PM were not uncommon. Commissioner comments were also solicited by the AD/PM for the April SWA meeting. On April 4, 2014, Commissioner #4 provided comments to the AD/PM correcting two typographical errors found in the report and stating his views.

“There were a few instances throughout the report about trying to save costs to SWA by shifting jobs handled by them to other entities such as the County, City, Recology or Hambro. Any responsibilities taken up by other entities in either labor or materials, which have to be passed on to someone, usually the consumer in the case of the private companies or a reduction in services in the case of the County or City as they transfer funds to cover these new costs.”

Two Commissioners directly submitted comments to the consultants. From Commissioner #1 (caps his):

“THE DEL[sic] SOLID WASTE MANAGEMENT AUTHORITY CONTRACTED WITH [ ] CONSULTANTS TO ANALYZE AND ASSESS AUTHORITY FUNCTIONS SO THE PUBLIC MIGHT BE BETTER SERVED BY SEEKING A DIFFERENT MODEL RATHER THAN THE CURRENT GOVERNMENT MODEL. ...R3 SHOULD MORE CLOSELY [sic] EXAMINE THE PUNITIVE RECYCLING OPERATIONS THAT BURDEN THE BUSINESS OWNER. THE QUESTION MUST BE ASKED AND ANSWERED : CAN PRIVATE RECYCLERS JULINDRA AND RECOLGY [sic] OPERATE MORE EFFICIENTLY SAVING PRECIOUS DOLLARS WHICH WOULD PERHAPS LOWER THE EXORBINATE [sic] RATE STRUCTURE?”

Excerpted from a letter from Commissioner #5 sent directly to the consultant group:

“...I felt the second report had been subjected to unauthorized influence of staff, who are self promoting...Consequently, Staff provided R3 with information of which the Board was not aware nor did it approve. Remember, it was the Board who hired R3, not Staff...Staff, of course, in trying to justify their status quo, asked R3 to provide detailed information which would support their position.”...In the new report, ...the question is asked, ‘is the JPA the most effective and efficient entity for managing solid waste in Del Norte County?’ Your answer is Yes. This needs to be changed!”

The Grand Jury’s assessment was the tone and content of the above two communications were inappropriate and an attempt to influence the outcome of the consultant group's report.

As per Commissioner #3, the hiring of a consultant group had been presented to the public as a necessary expense to restore the public's trust. The public responded with skepticism as to the necessity of another study due to duplicate efforts and costs, namely \$33,000. A member of the public spoke: “as a fiscally conservative person, I am still frustrated that we spent \$33,000 for R3 to tell us old news.” [April 1, 2014 SWA Meeting]

Commissioner #2:

“It’s kind of ironic to me that people are upset that we spent \$30,000 on a consultant but nobody is unhappy that \$29,000 went missing. That’s your money. Whether it is tax money or coming out of your pocket as a consumer; \$29,000 missing is not okay”...Why we are here today, the four audits, lack of cash controls, net deficits and the \$29,000 missing money was the tip of the iceberg, that was the final straw that broke the camel’s back. ” [April 1, 2014 SWA Meeting]

The conversations continued over the next few months justifying the expense for the R3 report.  
Commissioner #1

“I believe in saving money. I believe whatever benefits the taxpayer is good. I happen to believe that the private model can be very successful. It is incredibly shocking to me that no one seems to pay much attention to the missing \$29,000. I certainly don’t want to see a repeat of any missing money.” [Triplicate August 13, 2014]

The Authority Board’s proposal for Scope of Services originally asked for analysis of seven areas, with “Cash Controls and Procedures” being item #1. However, service requests for items #1 (Cash Controls and Procedures) and #5 (Small Volume Transfer Stations) were subsequently removed from R3’s purview.

In the spring of 2013, the Authority Board hired a forensic accountant. Cash controls had already been put in place in the fall of 2012 and finalized with the auditor in November, 2012. Surprise cash counts were started in late November, 2012 and these cash counts have balanced to the penny as of April, 2015. The Grand Jury questions why Cash Controls and Procedures were listed on the Scope of Services.

During Grand Jury interviews all Commissioners defended the decision to hire an outside consultant. They agreed that the \$33,460 consulting group fee was a necessary expense because it validated the JPA as the best way to manage solid waste in Del Norte County. Commissioners responses to the R3 report were:

- “My role as chairman, board member and Commissioner is to seek out expert advice. You have to pay for that. Choose your experts and try to glean out what is applicable and what is not.”
- “Yes and no; didn’t take into consideration uniqueness of Del Norte County. I pushed for a consultant because of division in community and JPA...R3 came out for a week and disappeared. Their finding validating the JPA was what I had hoped for, but they hedged their bets with recommendations.”
- “Conclusion of R3- if it isn’t broke, don’t fix it! R3 did a terrible job...”
- “Yes, outside professionals take a look and compare what we have here. I had written letters and asked for more information and didn’t get answers back.”
- “Not satisfied, the board pulled back and seems to be a political thing...I think needs to be a utility and it’s acting like a social change organization.”
- “I am sort of half and half. JPA and SWMA is the best we can do for our county, but not satisfied with what they said about staffing. The only thing supporting R3's opinion to combine the director and manager positions was mostly opinions and the will of other Commissioners. ...I think we got our money’s worth.”

Through watching videos of Authority Board Meetings and reading letters to the editor, the Grand Jury identified that the public did not concur with the Commissioners. The outspoken public viewed the hiring of an independent consultant as wasted money. The Grand Jury concluded some 2013/14 SWA Board Commissioners' opinions and decisions overlooked the voices of the people resulting in unnecessary expenses and did not alleviate the public's mistrust.

## **Rate Structure**

Minutes of Authority Board meetings showed SWA Rate Structure compared to other counties continued to be a point of contention between the public and Commissioner #1. Commissioner #1 publicly stated rates could be reduced by 20% -25%. He repeated this allegation in a Coastal Voices article (Triplicate March 7, 2015) “...that at least 25% maybe more, can be saved and no jobs would be lost...if private companies assumed more responsibility at the transfer station.” Commissioner #1 stated his source of information was the former (recently deceased) general manager of Recology Del Norte.

Recology Del Norte contracts with the SWA for pickup of recyclables and trash from the consumer. Recology does not manage the transfer station. Hambro/WSG contracts to manage the transfer station and haul trash to the landfill. Currently, over 60% of the revenues from the transfer station pay Hambro/WSG. The remaining revenues pay for staff, post closure maintenance of the landfill, and the IBank loan. Under the Authority's agreement with Recology Del Norte, (Section 7.030H), there was no limit to the number and frequency of cost-saving proposals that could be put forth. To date, no such proposals have been submitted to the Authority. While meeting with the AD/PM, the Vice President and Assistant Group Manager of Recology said he had never received anything in writing regarding these assertions. He also stated that there are specific employees that perform fiscal analyses for Recology and the former general manager was not such an analyst. The continued assertions by Commissioner #1 regarding lowering rates without job loss and increasing privatization of the recycle/waste-stream have not been supported by facts and/or fiscal analysis.

A comparison to contiguous counties shows SWA rates are highly competitive and lower than Humboldt and Curry Counties [see chart below]. Some other California counties may have lower rates, however, these counties' demographics, cultures, population sizes, economies, climate, topography, and most importantly, distance to haul may not be comparable to Del Norte. It is also not clear if these "comparison counties" are liable for a Class 1A toxic landfill as is Del Norte County.

**Comparison of Rates Charged for Solid Waste Services in the Del Norte Region**

	Humboldt County FY 13/14					Del Norte FY 14/15	Curry County FY 13/14	
Location	Redway	Fortuna	Eureka	McKinleyville	Orick	CC, Gasquet Klamath	Light	Heavy
Cost per ton Waste	<b>\$181.00</b>	<b>\$175.00</b>	<b>\$154.28</b>	<b>\$240.00</b>	<b>\$327.27</b>	<b>\$142.24</b>	<b>\$226.36</b>	<b>\$166.00</b>
% more than DNSWA	27%	23%	8%	69%	130%		59%	17%

The SWA has lower rates for solid waste services than Humboldt County, California or Curry County, Oregon. Further, the Grand Jury determined that researching other counties' methodologies and systems can be valuable but no legitimate comparisons can be made as to rate structuring and efficiency of operation.

## Cost Overruns

At the SWA Meeting of August 13, 2014, the County Auditor/Controller addressed the board stating they were in the red and exceeding their budget in four major expenditure areas: Professional Services, Legal Services, Treasurer Services and the severance package for the former director. These actual comparisons are displayed in the chart below.

### Actual Comparison of Costs Between Fiscal Year 12/13 and 13/14

Item	FY 12/13	FY 13/14	Difference
Legal Counsel	\$12,777	\$21,564	\$8,787
Treasurer	\$4,500	\$18,255	\$13,755
Severance Pay		\$35,000	\$35,000
Scanlon Report		\$5,000	\$5,000
Consultants Report		\$33,460	\$33,460
T. Supahan (Strategic Planning)		\$500	\$500
<b>TOTAL</b>	<b>\$17,277.00</b>	<b>\$113,779.00</b>	<b>\$96,502.00</b>

The Grand Jury concluded the 2013/2014 Authority Board increased their expenses by \$96,502 resulting in a negative \$18,000 in its net position.

## Staffing

The number of staff employed by the SWA has been an issue of debate for the Authority Board. SWA is a CalRecycle approved Regional Agency. As such, it is responsible for reporting data on waste diversion and disposal streams to state regulatory agencies. As a regional agency, SWA is required under Public Resource Code Section 40970 to submit reports as the entity representing both Del Norte County and Crescent City.

The Authority is a Group Two Facility Owners/Managers. This means that the facility is managed through contracts with private sectors or county or city departments, but does not provide hands-on operations. Recology Del Norte picks up trash and recyclables, hauling to Julindra Recycling and the Transfer Station. Hambro/WSG manages the Transfer Station and hauling waste to Dry Creek Landfill. The Authority manages the gate's tipping fees and oversees its contracts with Recology and Hambro/WSG.

SWA owns the Transfer Station, is responsible for the closed Crescent City Landfill, and operates under a CalRecycle approved JPA. This makes SWA relatively unique among Solid Waste Authorities. In most other counties, the county owns the facilities.

SWA is unique, because it is a small county by population size and has a larger staff than other small county JPAs. This is due to the larger responsibilities taken on by the Authority and taken from the county's responsibilities. Authority staff monitor, manage, write and submit reports concerning the closed Crescent City landfill. Authority personnel are paid by ratepayers and self-haulers; whereas county employees are paid by taxpayers. The Authority has access to the Del Norte County Code Enforcement Officer by contractual agreement on a will call basis. The SWA is self-sufficient and unfunded by taxpayers.

In early August of 2013, the Authority Board severed its relationship with the Executive Director and assigned executive director duties to the program manager. This was to be a temporary addition to the program manager's workload. Neither the 2013 or 2014 Authority Board attempted to recruit a new executive director, or an interim director, or remove tasks from the adopted Work Plan to match the now reduced staffing. This resulted in missed deadlines and tasks not being completed. The AD/PM must prioritize his responsibilities and time to complete assigned tasks.

This situation has also resulted in lost revenue. A method to address the administrative overload was to utilize the contracted treasurer and legal counsel. Administrative staff would often perform preliminary drafts, review and interpret agreements, draft Change Orders and investigate personnel issues. Without staff to perform these duties increased legal counsel time was utilized. The Board increased its budgeted treasurer time to manage accounts and train the AD/PM. Having these tasks conducted by contractors increased costs. The hourly rates for contractors is greater than the average hourly expenses for a director or program manager.

The Grand Jury recognized the Administrative Staff [executive director, program manager] needs to have significant expertise in solid waste management due to the complexity of the solid waste stream and ongoing changes in California state legislation. Knowledgeable, competent SWA staff are capable of assisting and advising legislators regarding local issues and ramification of legislative decisions. Coordinating efforts with other rural counties to make our voices and concerns heard in Sacramento regarding pending legislation is critical.

The Grand Jury concludes significant management problems have been created by the 2013/2014 SWA Board's decision to reduce staff. This reduction in staff is affecting the functioning of the operations of the Authority.

The AD/PM has notified the Board of tasks not being completed on a monthly basis. He states that he has attempted to minimize potential lapses in services or compliance. However, as of August 8, 2014, CalRecycle had not received the 2013 Electronic Annual Report (EAR) for the SWA. The EAR is the foundation document for evaluation of compliance with the diversion requirement of law AB 939. If the EAR is not received, CalRecycle staff are forced to begin review of SWA programs based upon historical information and default data. The fines for being

found out of compliance could be accrued at a rate of \$10,000 per day. Furthermore, compliance to the California Water Quality Board (CWQB) testing requirements for the closed landfill has fallen behind risking exorbitant fines for which the county is not insured.

The Authority Board is out of compliance with its own Mission Statement that it adopted in 2014. “The Authority's Mission is the management of Del Norte County solid waste and recyclable material in an environmentally sound, cost effective, efficient and safe manner while ensuring 100% regulatory compliance with law.” Required reports are not being submitted on time, due to staff shortages.

The 2013/14 Board took no action to reduce the list of responsibilities and the workload to match the staffing level. Taken together, these actions resulted in deferred activities, missed deadlines and a general accumulation of unaccomplished administrative tasks and responsibilities. The separate positions of executive director and program manager at SWA are justified based on the number and diversity of responsibilities the Authority performs.

The former Director of Community Development commented:

“Many hours were spent creating the Waste Authority. The county and city argued about who was responsible and ultimately concluded every person in the county generates waste, so all people are responsible. The SWA provides a source of revenue stream for financing the transfer station, for closing and managing the landfill and for the state mandated monitoring of the water quality at the former dump site. We are legally required to monitor the landfill indefinitely and water quality standards are always changing and becoming more strict. While the formation of the JPA and SWA may have started out as an economic decision, it has also become an entity responding to state mandated goals set by the California State Solid Waste Board. To this day, I do not see a better solution.”

The former Executive Director states:

“You need a public agency to oversee privatized companies. The transfer station being owned by the public allows a competitive process....Currently the transfer station is a public agency with open accountability. If you privatize all, ...you no longer have access to reports or the ability for transparency. Once you give up the structure and the staff you have no leverage. When privatization occurs, you have lost the ability to negotiate....The rates were negotiated whereas they could only increase a certain percentage each year. This ensures price stability. The contract stated that Recology must have a contract with a recycler. The JPA created this. If you privatize, the garbage company sets the rates, the garbage company makes the money.... You must always have an analysis prior to moving forward. What are the cost ramifications? What are the ramifications of work not being completed?”

On May 15, 2014, the R3 Independent Consulting group found the SWA to be:

“...the most effective structure for managing solid waste in Del Norte County. Through the JPA structure, the County and City are able to share the benefits of critical infrastructure, share the liability for the closed Crescent City landfill and realize economies of scale on a number of levels. It is unlikely that any reasonable alternative structure to the JPA would result in significantly lower cost to the ratepayers if any, for a similar level of management oversight.”

The Grand Jury concludes that the current structure of the JPA and SWA is the most successful, cost efficient, and beneficial way to effectively manage solid waste in Del Norte County. It also continues to be the most appropriate answer to the toxic problems created by the landfill, the appropriate response to CalRecycle, the CWQB and state mandated regulations and laws.

## **A Vision for the SWA**

The AD/PM requested comments from the board in preparation for the April 9, 2014 meeting. The topic was the completed independent consultant group's report. Commissioner number #4 's response to a request for comments regarding the R3 report:

“My opinion is that all JPAs are unique in that every community that they serve is unique, so the current structure of SWA really can't be compared to other JPAs in either staffing or services provided. The staffing of SWA might be perfect for what we have here in Del Norte County and for what services are provided....future structure of SWA will be determined, hopefully with a fair and balanced rate structure for both while keeping essential State and Federally mandated waste-stream reduction programs running efficiently and effectively....My opinion is that the SWA needs a strong director that can make decisions about the staffing requirements he/she needs to fulfill the purpose and goals set forth by the people and the Board of Commissioners on what SWA role is in Del Norte County.

The director needs to produce a five-year strategic plan that gives a road map of where SWA will be going to in the future. It will be reviewable on a yearly basis with help from the ever-changing Board of Commissioners, but be followed to ensure continuity in fulfilling the purpose of SWA's mission in serving Del Norte County.”

## **Legal Opinion Concerning Associate Members**

Concurrent with the investigation of the 2009 - 2011 Ad Hoc Committee report, County Counsel was tasked with an analysis of legal ramifications of unilateral withdrawal by the county from the JPA. County Counsel identified some important issues. The future existence of the SWA (in County Counsel's legal opinion) would be at risk of termination should either of the two charter members (County and City) withdraw from the Joint Power Agreement. Legal Counsel proposed termination could possibly be averted if there are Associate Members to SWA.

Associate members are public agencies and are non-voting members that can be admitted by a minimum 3-2 vote of the Authority Board of Commissioners. A side agreement between the governing board of the non-voting Associate member and the Authority would be necessary. [Public Agency as defined by Gov. Code 6500; a Community Service District qualifies, and Elk Valley Rancheria has special legislation to join JPA]. The Grand Jury concluded that according to legal counsel, the JPA and/or the SWA are at risk of dissolution at any time by a simple majority vote of either of its charter members.

## **Code of Ethics and Conduct (COE)**

The purpose of the COE is desiring of the “...highest level of ethical conduct for the...Commissioners, members, appointed commissions and committees and alternates of each body.” All Commissioners read and signed the “SWA Code of Ethics and Conduct for Board Commissioners and Members Appointed to Commissions and Committees.” Public officials are to comply with both the letter and spirit of the laws and policies. They are to be independent, impartial and fair in their judgment and actions. Their position of authority is to be used for public good not personal gain; and public deliberations and processes are to be conducted openly, unless legally confidential, in an atmosphere of respect and civility. To fulfill this mission an eighteen point COE was created. The document concludes with a statement of commitment to adhere to the COE so residents and businesses are entitled to accountable and fair representation and government. All Commissioners had read and signed the COE [Addendum D].

- COE #3: Respect for Process - Commissioner #5 violated the COE while serving as chairperson of the Solid Waste Task Force. The Chair conducted meetings without quorums, made motions and took votes, wrote agendas that did not include a review and approval of prior minutes. The Chair could not produce records and documentation for statements and votes, yet presented them as valid to the SWA board. Only when questioned by a Commissioner on July 24, 2012, at an Authority Board meeting, was it learned that the entire Solid Waste Task Force had never discussed or made a recommendation on the issue to which the Task Force chair was presenting and recommending changes. The chair repeated this at the Solid Waste Task Force meeting of September 13, 2012 reporting “...at the August 2012 meeting of the Local Task Force, ...there was a vote to recommend that the Authority repeal Ordinance 2001-02.” The SWA Director stated that “he had e-mailed the draft minutes he had recorded from the August meeting, up until the time he had to leave, and had not received any additions to those minutes, so that vote had not yet been included in any minutes.” At the same meeting, the Chair reported having in possession a written note from the city manager and city code enforcement officer supporting eliminating the Authority's Nuisance Ordinance. The Chair would not provide a copy of that statement to the Director. The Chair brought forth her own motion recommending that the Authority repeal Ordinance 2008-01. That recommendation had not come from the subcommittee. When asked for a copy of the evaluation matrix the Ordinance subcommittee had been using, the Chair declined to provide it professing it was incomplete.

- COE #1: Act in the Public Interest - Commissioner #5 has openly stated she became involved in solid waste issues to protect her business and represent the business community. “The reason I’m involved is that the cost to businesses have gone up astronomically.” [TriPLICATE April 4, 2014]
- COE #4: Decisions Based on Merit - Commissioners #1, 2, and 5 continued throughout 2013/14 to push for increased privatization of the SWA in absence of any costs/benefits analyses. They solicited legal counsel in spite of the fact they had previously been advised by legal counsel not to proceed based on a legal decision rendered in Costa Mesa.
- COE #1: Act in the Public Interest - The professional and personal conduct of public officials must be above reproach and avoid even the appearance of impropriety - Commissioner #1 in a Coastal Voices article in the Del Norte TriPLICATE, March 7, 2015 stated he was repeatedly the lunch guest of the general manager of a company the SWA contracts for services. Commissioner #1 writes,

“[General Manager]’s famous words: ‘C’mon, I’m taking you to lunch and we’ll talk about it.’ [General Manager] and I talked long and hard about the Solid Waste Authority. It was [General Manager]’s position that significant money could be saved if the private sector assumed more responsibility at the transfer station. I believed it then and I believe it now that the general manager of Recology Del Norte identified the financial dynamics spot-on. He shared his opinion on this matter and I questioned him long and hard...That discussion continues without my friend taking me to lunch and sharing life’s experiences.”

Public Officials accepting lunches carries with it the appearance of impropriety and a violation of the Fair Political Practices Act.

- COE #5: Communication - June 11, 2014 SWA Meeting - Commissioner #2 openly chastised the AD/PM - “I have talked to the Auditor...and actually talked to Sheriff Dean Wilson, the amount was \$29,000 that was stolen or embezzled, same thing and I would appreciate it for future representation on this board that you are accurate on your numbers because this is not the first time at our board presentation that you presented it as \$9,000. The correct amount is \$29,000 stolen money from the Authority. And I would appreciate going forward in the future that you don’t misrepresent this board because this is not the first time you’ve done this and you are an extension of this board. Make sure the facts are correct.”

- COE #5: Communication, #15 Harassment and Discrimination, #18: Statement of Commitment - March, 2015 an applicant for the public member seat to the 2015 Authority Board introduced himself to Commissioner #1 when the applicant recognized him in public. The applicant knew Commissioner #1 was on the SWA Board and wanted to seek the Commissioner's support in his quest to become the public member of the SWA Board. Commissioner #1 inquired as to the applicant's political party affiliation and denounced the applicant in response. Commissioner #1 told the applicant that the applicant was ...in the pockets of the wrong people and not thinking for himself. Commissioner #1 suggested that the applicant withdraw his name from consideration. The applicant told the Grand Jury that he found the conversation “demeaning” and concluded that “...what [Commissioner #1] should have done was state, '[Applicant], we can't talk about this.' and kept on walking.”
- COE #1: Act in the Public Interest, #3 Respect for Process, #5 Communication - March, 2015, another applicant for the public position on the SWA board received a phone call from Commissioner #1. As per this applicant, Commissioner #1 was seeking a private interview with him for the position of the Public Member on the SWA Board. This applicant was upset. During this “private interview” Commissioner #1 questioned the credentials of this individual. “This to me is a real problem; no transparency. Real conflict of interest. You always avoid the impropriety of not having full transparency.” The applicant stated to the Grand Jury that Commissioner #1 told him “...it's very unlikely you're going to get this job; but we'll find another place for you in government.” The applicant stated, “I was put back by fact that he (Commissioner #1) felt he was judge, arbitrator who was to make the decision, not the board. He has tainted me in this position.”
- COE #2: Comply With the Law, #3 Respect for Process, #5 Communication, #16 Implementation of Code of Ethics. Commissioners #1 and #5 have stated that they have individually met with the general manager of an SWA contracted company regarding the sale and purchase of the transfer station. In interviews, all other Commissioners stated they were unaware of this. Commissioner #3 stated that he had been asked by the general manager to meet, but declined because he didn't think it was appropriate.

The Grand Jury concluded that meeting with a contracted vendor outside of the Board's purview and discussing a possible sale of the Authority Board's property shows a lack of transparency, a lack of respect for the process and rules of order, and a conflict of interest in representing themselves to the board and public.

- COE #2: Comply with the Law, #3 Respect for Process, #6 Conflict of Interest and #11 Representation of Private Interests, #16 Implementation of the Code of Ethics, #18 Statement of Commitment - Commissioner #5 has presented herself as having a determination to repeal ordinances relating to blight. Commissioner #5 tried in her role on the Solid Waste Task Force to repeal these ordinances. Commissioner #5 sought the

public member seat because of the high rates for businesses. She has argued to the Authority Board and the public that rates are an unfair burden on her business and the business next door to hers, even though she is a self hauler and not subject to these rates.

In September 2014, Commissioner #5 “presented” four letters to be attached to the September 10 agenda (Addendum C). The letters were purported to be from four different local business owners upset with the rates. One was acknowledged to be from herself. The other three were from a franchise restaurant located next to her business, a hotel and an apartment complex. All four business letters were devoid of letterhead, dates or headings, and all had similar fonts and wide margins. Two letters were signed by “managers,” two were not. The Grand Jury spoke with the owner of the franchise restaurant who denied having any knowledge of a letter, nor did he write it. The letter from Commissioner #5 and the letter purported to be from the restaurant owner were of identical italic font, extra wide left margin, and identical style. Neither were signed. Researching further, the Grand Jury discovered the restaurant, the hotel, and the apartment are all investments of Commissioner #5’s family.

Commissioner #5 failed to conduct personal and public affairs with honesty, integrity, fairness and respect for others.

- COE #1 Act in the Public Interest, #3 Respect for Process and #5 - Communication - The membership fee for 2013/2014 year of \$6000 to Environmental Services JPA of the Regional Council of Rural Counties has not been paid. The Authority Board has not authorized payment. Although the SWA pays the membership fee, the county is the member. Both county and the SWA benefit from membership. The Board of Supervisors was made aware of the Authority’s lack of payment through a member of the public during the public comment period of a supervisors meeting on October 14, 2014. The chairman of the BOS stated he would give the Authority “the benefit of the doubt” as to whether there was an oversight or an action to strike. [The May 8, 2014 minutes of the SWA Board meeting show the membership fee had been struck from the budget.] Even though Commissioners #2 and #5 were present at the October 14, 2014 Del Norte County Board of Supervisors meeting, the request to re-agendize this issue was not submitted to the AD/PM as of April, 2015. The 2013/14 membership fee to the Environmental Services JPA of the Regional Council of Rural Counties was not paid. This action places the SWA in non-compliance regarding its responsibility to the county. As stated by the BOS Chairman on October 14, 2014, “in order for the SWA to be relieved of its fiduciary responsibility, we would have to pass a resolution at this board [BOS].”
- COE#14 Positive Workplace Environment, #13 Policy Roles of Members - The SWA Board has produced added stress and decreased job security to the staff at SWA with the repeated ad hoc committee formations, RFPs, and legal counsel inquiries; all with the theme of altering the structure of the SWA, dissolving the JPA, further privatization of the required operations, and selling the transfer station.

Commissioner #5 notes, “Honestly, staff and the board are at odds with each other.” The former Director thought the 2013 board, from its conception, had the mindset to let him go all along. Evidence to support this is Commissioner #5s comment (June 25, 2013 SWA meeting) about the SWA being administratively “top heavy” and wanting his position “cut.”

Videos of an SWA meeting (January 28, 2014) show an angry gatekeeper pleading with and denouncing the board for creating the perception of lack of job security. A union representative speaks at numerous meetings regarding board decisions of potential contract violations. Disagreements were exchanged between the union representative and Commissioner #1 about involving legal counsel (August 13, 2014 SWA Meeting). A question of concern is the legitimacy of the duration of time the Program Manager has been tasked with the Executive Director’s job in addition to his own. It is presently approaching two years. Commissioner #6 (2013 Chair) thought the acting director position would be temporary for the program manager and the board would be interviewing prospective directors by the end of August 2013.

The AD/PM was given a mixed performance review in 2014. The previous 19 years of reviews had been overwhelmingly positive. The appraisal was based on evaluations by four out of five Commissioners with the overall rating of “Marginal.” Numerically the Commissioners’ ratings averaged 2.92, but rather than round up to the next whole number (Satisfactory), which is standard practice, the Commissioners chose to round “down” (Marginal). Commissioner #5 when interviewed, at one point states “he’s (AD/PM) a workhorse, an absolute workhorse.” Shortly thereafter Commissioner #5 then states “I don’t know what he does with his time, some of his tasks he lists shouldn’t take as long as they do.” Commissioner #6 states “I personally feel AD/PM is a valuable person.” Another Commissioner stated the “AD/PM is being railroaded out.”

Commissioner #1, #2 and #5 spoke unfavorably about the AD/PM. Commissioner # 5 stated she spent much time in the office. Her role is “Oversight. I help to manage the business, help to make sure things get done on time, watch money and time and oversee the staff and remind staff of deadlines and things they should be doing.” Commissioner #5 also stated she felt this is her second business and that “I monitor, oversee and manage.” Pertaining to gate staff, Commissioner #5 says “it appears that gate staff can be promoted to help with bookkeeping. It is wring [sic] to promote employees that are not qualified and have no aptitude for the job.”

The Grand Jury concluded Commissioners #1 and #5 created a hostile workplace environment putting the AD/PM in the position to “protect his staff.”

The Grand Jury concluded Commissioners #1, #2 and #5 exhibited personal biases against the AD/PM and other staff.

The Grand Jury concluded that staff did not receive the needed support from the 2013/2014 SWA Board Commissioners.

- COE #17 Compliance and Enforcement - “Complaints alleging a violation of this Code of Conduct by a Public Official should be directed to the Authority's Director.” The Grand Jury recognizes the Authority Director would be in an awkward position as an “At Will” employee overseeing the Authority Board, who has the authority to terminate director's employment.
- COE #1 Act in the Public Interest - At the November 13, 2013 Authority Board meeting, the AD/PM informed the board of an opportunity to participate in a CalRecycle 2014 Statewide Waste Characterization Study. The study was organized by CalRecycle and was cost free to participating agencies. CalRecycle would conduct a systematic survey of the waste-stream by analyzing the contents of the garbage trucks. The AD/PM noted that the last time such a study was completed was in 1997 and recommended participation to “...provide valuable waste-stream information for future program planning.” Commissioner #3 made a motion to participate which died due to lack of a second. Commissioners #1, 2, 5, and 6 sat silently.

## Conclusions

The Grand Jury researched and read agendas, attachments and minutes of Authority Board meetings. We watched videos of all Authority Board meetings from March, 2012 through April, 2015. We conducted a search of all Triplicate publications pertaining to solid waste from 2009 through April, 2015. We read ad hoc committee and R3 Consulting Group reports. The Grand Jury finds no fiscal analyses or independent impact reports have been presented to support many of the assertions made by certain 2013/2014 SWA board members. Therefore, this Grand Jury asserts that the opinions expressed by some Commissioners of the 2013/2014 SWA Board were not based on factual data. No documentation supporting their opinions was presented to Del Norte County residents concerning the following issues:

- dissolving the JPA
- privatization/selling of the transfer station
- combining the Director and Manager Position and/or contracting this position
- contracting out employees
- lowering solid waste disposal rates
- job shifting

The Grand Jury asserts that the 2013/2014 Authority Board was deficient in its obligations and fiduciary responsibilities to the citizens of Del Norte County. The level of bias demonstrated in many board decisions, the high degree of discord between the SWA board and its staff, and their pattern of disregard for the wishes and well being of the public are unacceptable for our community.

## **FINDINGS**

**F1.** The JPA and the SWA continues to be the most appropriate answer to the issues created by the landfill and the appropriate response to CalRecycle and state mandated regulations and laws.

**F2.** Some decisions made by the Authority Board significantly affected the functioning of the operations of the SWA, reducing its effectiveness.

**F3.** Multiple violations by Commissioners #1, 2 and 5 of the Code of Ethics occurred.

**F4.** Commissioners #1 and #5 did not consistently conduct public affairs with honesty, integrity, fairness and respect for others.

**F5.** Commissioner #1 committed numerous and varied violations of the Code of Ethics and Conduct.

**F6.** Commissioner #1's conduct is potentially harmful and divisive to the functioning and vested interests of the SWA and the community.

**F7.** Commissioner #5 committed multiple violations of the Code of Ethics and Conduct.

**F8.** No fiscal analyses or cost/benefit impact reports were produced to support some of the decisions the Authority Board rendered.

**F9.** No fiscal analyses or independent impact reports were produced to support further privatization of the SWA or selling of the transfer station.

**F10.** SWA has lower disposal rates than Curry County or Humboldt County.

**F11.** The SWA has been understaffed since August 2013.

**F12.** The Authority Board failed to modify the workload to accommodate staffing levels.

**F13.** The SWA is presently out of compliance with its Mission Statement and some state agency regulations due to failure to produce mandated reports in a timely manner.

**F14.** The costs for managing the SWA increased under the 2013/14 Authority Board.

**F15.** Applications for grant monies ceased under the 2013/14 Authority Board.

**F16.** The JPA and the SWA are at functional risk should a charter member choose to withdraw from the JPA.

**F17.** The actions of Commissioners #1, 2 and 5 contributed to a hostile work environment.

**F18.** Commissioners #1 and #5 demonstrated a lack of transparency in decision processes and outside activities.

**F19.** Certain Commissioners made misleading statements as to the need and reason for the \$33,000 spent on R3 study.

**F20.** The tone and content of Commissioner #1 and #5's communications with R3 were inappropriate and an attempt to influence the outcome of the consultant group's report.

**F21.** Commissioners were varied in their understanding and knowledge of the JPA and state rules and regulations and operating standards.

**F22.** COE #17 places the Executive Director in the precarious employment position of disciplining his employers.

**F23.** The Grand Jury finds the continued assertions by Commissioner #1 regarding lowering rates without job loss and increasing privatization of the recycle/waste-stream to be unsupported by facts and fiscal analysis.

**F24.** SWA Commissioners can serve on the solid waste task force and board concurrently.

## **RECOMMENDATIONS**

**R1.** The Solid Waste Authority should return to full staffing with separate positions for the Executive Director and Program Manager.

**R2.** All Commissioners should be educated about the history of the JPA and SWA and state rules and regulations. All Commissioners should read the 2014/2015 Grand Jury History of Solid Waste Authority.

**R3.** The Solid Waste Authority should resume its applications for grant monies.

**R4.** Commissioner #1 be removed from the Solid Waste Authority Board for misconduct and multiple violations of the Code of Ethics which affected the performance of his official duties.

**R5.** The Grand Jury recommends Commissioner #1 be referred to the Board of Supervisors for consideration of disciplinary action.

**R6.** The SWA Board recommend the removal of Commissioner #5 from the Solid Waste Task Force for multiple violations of the Code of Ethics.

**R7.** The Solid Waste Authority should investigate adding Associate Members to the JPA.

**R8.** The Solid Waste Authority should revisit its plans for a resource and recovery park as a backup and complement to the present recycler in Del Norte County.

**R9.** The Board of Supervisors and City Council should appoint Commissioners who want the JPA and Solid Waste Authority to be successful.

**R10.** The Solid Waste Authority Board study the Code of Conduct #17 and consider reorganizing the corrective process since it puts the Executive Director in a difficult position of correcting his employers.

**R11.** The Solid Waste Authority should follow and act in accordance with its own Code of Ethics.

**R12.** The Solid Waste Authority should conduct all its business in a transparent and public manner.

**R13.** The Solid Waste Authority should prioritize an immediate return to compliance in all regulatory matters.

**R14.** Solid Waste Authority Commissioners should not simultaneously be members of the Solid Waste Task Force as it has potential to be a conflict of interest.

## **Commendations**

The Grand Jury commends the employees of the SWA in the following areas:

- Providing exceptional customer service and professionalism to the public utilizing the facility.
- Care of the transfer station facility, keeping it as clean as possible and in excellent condition.
- Development, implementation and operation of multiple recycling programs that have made Del Norte County a recycling leader nationwide.
- Development and implementation of accounting policies and procedures that have resulted in a two year cycle of total accountability of funds.

# **2014-/2015 Del Norte County Grand Jury RED MOUNTAIN COMMUNICATION SITE CLOSURE**

## **SUMMARY**

A member of the 2014-15 Del Norte Grand Jury asked the former Sheriff what he would suggest be investigated. His suggestion was the adequacy of 911 calls for Del Norte County. While investigating 911 calls it came to our attention that the site on Red Mountain, an intricate part of the emergency system, is planned for deactivation of all communication equipment in 2022. This mountain is one of the highest peaks located in the Southwest corner of Del Norte County. The deactivation of the communication equipment on Red Mountain will result in significant disruption of emergency communication throughout Del Norte County, and may become life threatening.

## **BACKGROUND**

The communication site on Red Mountain is under the authority of the United States Forest Service. It was their decision to deactivate Red Mountain communication site. No records could be located that showed that the Forest Service had any input in this decision from any other governing agency within Del Norte County. No records could be located that showed that the Forest Service gave any consideration whether this decision would disrupt emergency communications within Del Norte County and place the people within Del Norte County in a possible life threatening situation.

## **METHODOLOGY**

The Grand Jury prepared a list of questions and interviewed the following:

- A local ambulance company;
- A local fire chief;
- A representative from Cal Fire Emergency Communication Service;
- Our Sheriff's department; and
- The local 911 dispatch was visited.

## **DISCUSSION**

Red Mountain is a major link for the Office of Emergency Services to the rest of California. The majority of landlines and cellular phone calls, microwave signals, and radio signals, are routed through the Red Mountain communication site. The following agencies' communications go through Red Mountain: Del Norte County Sheriff's Office, Crescent City Police Department, Crescent Fire Protection District, Crescent City Fire, California Highway Patrol, California Emergency Management, State Parks, Department of Fish and Wildlife, Department of Emergency Services, US Forest Service, Ambulance and Paramedic calls. Red Mountain is also

the site of the Emergency Medical Services radio link between Del Norte County and the State of California. These signals connect our radios, phones and emergency personnel so when a 911 call is made, someone will respond. Private cellular signals would also be removed, such as Charter Communications microwave repeater. Since all communications go through Red Mountain, when this site is deactivated in 2022, all communications must be rerouted.

There are currently three relay sites being considered to take the place of Red Mountain for handling communications. Cal Fire estimates activating all three of these sites will still result in a loss of approximately 50% of the current coverage area. This puts at risk all people within Del Norte County, who have need of services provided by any of these agencies.

Del Norte County is remote, immense, very rural, and has a history of natural disasters. Should the closure of Red Mountain communication site actually occur, Del Norte County will be unable to communicate with the California Office of Emergency Management. The grand jury determined that these issues have critical impact on the public safety of Del Norte County.

## **FINDINGS**

**F1.** Red Mountain towers are critical to the safety of everyone within Del Norte County.

**F2.** In 2022 the Red Mountain site is scheduled to be deactivated.

**F3.** No replacement communication site has been secured.

## **RECOMMENDATIONS**

**R2a.** Replacement sites should be actively pursued immediately.

**R2b.** The Board of Supervisors should agendaize as a priority item what legal action(s) might be taken, if necessary, to ensure the safety of everyone in Del Norte County.

**R3.** The Board of Supervisors should investigate and closely monitor any choices for replacement site(s) for the Red Mountain site so there is no loss of coverage to Del Norte County.

**R4.** The Board of Supervisors should discuss options for reversing the mandate by the United States Forest Service, including, but not limited to, coordination, eminent domain (if possible) or negotiation.

**R5.** The Board of Supervisors should agendaize deactivation of the Red Mountain site, and replacement sites as a public safety issue during every future meeting with any agency or officials that deal with this issue.

## **2014/2015 Del Norte County Grand Jury 911 EMERGENCY CALLS AND DISPATCH FACILITIES**

### **SUMMARY**

A member of the 2014-15 Del Norte Grand Jury inquired from the former Sheriff what he would suggest be investigated. His suggestion was to investigate the adequacy of 911 calls for Del Norte County, specifically whether there are a sufficient number of 911 lines to adequately service the county. Questions were also raised regarding the handling of the 911 calls once received and the work environment of the 911 dispatch area. The committee determined that because of Del Norte County's remote, immense and rural location and past history with natural disasters, these issues warranted an investigation.

The committee found that the number of 911 emergency call lines is seriously inadequate and should be increased from 2 to 15 for Del Norte County. Also, a different standard should be implemented to determine when the number of lines should be increased. The current provider should implement a busy-signal system when all available lines are in use.

The committee further found that the number of dispatchers needs to be increased from the present 5 to 15. Training also needs to be increased. The working environment in the dispatch center is far below acceptable standards. All agencies serviced by the 911 Dispatch Center should contribute funds to its operation.

### **BACKGROUND**

It is important that emergency services be available when 911 is called, for all the people in Del Norte County. There are several components to these services: reaching an incident quickly enough to help; telephone or cell phone service so the caller can make a call for help; and a system that can answer that call; respond to the caller; and contact the appropriate agency.

Currently Del Norte County has two 911 emergency lines. Before 2013 Del Norte County had 12. The County has five dispatchers to handle all emergency calls 24 hours a day, 7 days a week. The dispatch center is housed in a very small room/hallway in the Sheriff's department.

### **METHODOLOGY**

The Grand Jury prepared a list of questions and interviewed a local ambulance company, local fire chief and a representative from Cal Fire Emergency Communication Service. The committee made inquiries of our local Sheriff's department, Sheriff's departments in several surrounding counties and visited the 911 dispatch call site.

## **DISCUSSION**

### **Number of Lines**

Until 2013, Del Norte County had 12 incoming emergency lines through Verizon. Multiple lines were available for each identifiable region: Smith River, Fort Dick, Gasquet/Hiouchi, Klamath, and Crescent City with its surrounding area. The telephone number associated with a line indicated to the dispatcher what area of the county had an incident. If multiple calls came in at one time from different areas, the dispatcher would presume separate incidents were taking place and answer calls from each area.

The California Public Safety Commission's criteria for increasing the number of 911 lines is based on the dispatch center maintaining one busy signal for 100 attempts. The current telephone provider does not use busy signals, but puts calls in a rotation. Therefore, two things happen: 1) The caller hears only ringing, indicating no one is answering the phone and 2) by not allowing busy signals, there is no way to justify the need for an increase of lines for our area.

Presently there is no way to know how many calls are going unanswered or where the calls are coming from. Based on the history of Del Norte County's past natural disasters and the immense size and layout of our county, the Grand Jury found that the number of 911 emergency calls lines are seriously inadequate and should be increased from 2 to 15. This would allow three lines to be designated for each of the five identifiable regions in Del Norte County (Smith River, Gasquet/Hiouchi, Fort Dick, Klamath, and Crescent City/surrounding regions). The Board of Supervisors and law enforcement in Del Norte County should request an increased number of lines and suggest a provider that can meet our emergency phone service needs.

### **Number and Types/Training of Dispatchers**

A component of the system that needs to be addressed is the number of dispatchers. The 911 Dispatch Call Center must be attended 24 hours a day, 7 days a week, by a person. We currently have five dispatchers. They are working 8 to 16 hours a day with no breaks for eating or going to the restroom. There is no backup if a dispatcher has an emergency. These dispatchers are dedicated, loyal and need to be thanked. The number of dispatchers should be increased.

There are no medically trained dispatchers. When a medical call comes in, a trained dispatcher should stay on the line with the caller and walk the caller through each step until the appropriate responder arrives to take over the incident. The other dispatcher on duty would handle all other incoming 911 calls. A need exists to have people trained to handle medical emergencies. Therefore, the number of dispatchers should be increased by five, making a minimum of 10 dispatchers.

## **Facilities**

The working environment for the dispatchers needs to be improved. Upon visiting the 911 dispatch site, the committee was appalled with how small the area is. The “room” is barely longer than the two monitors along one wall and no deeper than the monitor stand and a chair. The room doubles as a hallway to the jail. There is no air conditioning or ventilation. A small sliding glass window is used to pass through paperwork to the booking area, which has been covered to keep pepper spray from entering the dispatch area. However, this does not keep the pepper spray out. The dispatch area is hot and depressing. Since only one dispatcher is on duty at a time, using the restroom is a challenge since the dispatcher must leave their desk.

The Grand Jury found that the working environment for the dispatchers is below acceptable standards and needs to be improved. The following changes should be made: 1) adequate ventilation should be provided immediately; 2) proper lighting needs to be installed; 3) proper work space needs to be added; 4) cameras should be installed so the dispatcher can see the people requesting admittance into the jail; 5) additional security should be installed so the dispatchers will be safer in their work space; and 6) provide natural light.

## **Revenue**

The Sheriff’s Department is a county agency and receives funding through the Del Norte County annual budget. In addition, the former sheriff applied for and received various dispatch grants.

Over the past 12 years the costs of running the Sheriff’s Department have increased substantially. Costs are scheduled to increase approximately 40% in 2015 due to increases in union wages and benefits.

Agencies serviced by the Del Norte 911 Dispatch Center who are requested to provide funding include the Gasquet Fire Protection District, Fort Dick Fire Protection District, Smith River Fire Protection District, Klamath Fire Protection District, the Yurok Tribe, the City of Crescent City for Crescent City Fire and Crescent City Police, and the Del Norte Ambulance Service. Not all agencies have been paying on an annual basis.

The Grand Jury believes all agencies serviced by the 911 dispatch center should contribute revenue to the service. This would result in more personnel being hired, better trained, and retained. The revenue for repairs and improvements should be provided by the Board of Supervisors through an increased budget item to the Sheriff’s Department directed specifically to the dispatch center.

## **Lack of Understanding/Involvement**

The Grand Jury determined that only one Del Norte supervisor had visited the dispatch facility in the last seven years. All responsible supervisors should inspect the facility yearly, making an in-depth personal visit and staying in the dispatch room no less than 2 hours. This would allow an

evaluation of the employee work environment and structural integrity of the work area. It would also familiarize them with the workings of the 911 dispatch system.

## **FINDINGS**

- F1.** The number of 911 lines servicing Del Norte County is inadequate
- F2.** The number of dispatchers is lacking.
- F3.** The working conditions at the dispatch site are unacceptable
- F4.** All agencies using the 911 Dispatch system are not paying their share for the services they are using.
- F5.** Dispatchers cannot adequately handle medical calls due to lack of training.
- F6.** Visits to the 911 Dispatch Center by the Board of Supervisor are not adequate.
- F7.** The work area is small, not air conditioned and is no more than a wide spot in the hallway.

## **RECOMMENDATIONS**

- R1.** Relocate the dispatch center outside the tsunami zone.
- R2.** The budget for the 911 facility needs to be increased.
- R3.** The dispatch work area should be entirely remodeled to provide more security at the entrance (cameras so dispatchers can see around the facility, air conditioning/ventilation, and possibly a window or skylight so they can see outside).
- R4.** Each agency served by the 911 Dispatch should contribute to the cost of dispatch.
- R5.** Members of the Board of Supervisors should inspect the facility and employee work conditions.

## **COMMENDATIONS**

The current dispatchers deserve the gratitude of all residents of Del Norte County for their commitment and hard work.

# 2014/2015 Del Norte County Grand Jury PELICAN BAY STATE PRISON

## SUMMARY

On March 11, 2015, four members of the 2014/2015 Del Norte Grand Jury made a scheduled visit to Pelican Bay State Prison, in accordance with the California Grand Jury mandate to conduct annual visits to all detention facilities within Del Norte County.

## BACKGROUND

Pelican Bay State Prison is primarily a maximum-security facility which opened in December of 1989. The prison has a capacity of 3,191 inmates. It currently holds a total of 2,627 inmates, including 180 non-violent individuals who are housed in a separate minimum-security area. No death-row inmates are housed at this prison.

## METHODOLOGY

Jury members met with the Acting Warden, the Chief Deputy Warden, the Community Resource Manager and the Public Information Officer. When finished with the meeting, the Grand Jury members were given an extensive tour of the prison by the Public Information Officer. At every area visited, the person in charge of that area was available to provide information and answer all questions.

## DISCUSSION

The tour of Pelican Bay State Prison showed the facility to be a very well-run institution. The care, housing, feeding of inmates is done in a professional and secure manner. The staff members are well trained and appear to do an excellent job maintaining security.

## FINDINGS

**F1.** The in-house infirmary is well-stocked and offers many services for the inmates. Dental, Optometry, X-Rays, disease and wound care are available on site. Telemedicine is being utilized on an increasing basis for medical issues requiring outside expertise.

**F2.** The classrooms are clean. Courses include, computer literacy classes, Adult Basic Education classes, Arts in the Prison and college courses leading to a BA/BS degree. The GED is being administered on site.

**F3.** Alcoholics Anonymous, Narcotic Anonymous, Choices for Common Ground, Incarcerated Veterans and Reaching Out Convicts to Kids (ROCK) are programs available to inmates.

**F4.** Various paid work assignments are available to inmates.

**F5.** The SHU (Secured Housing Area) has implemented a “Security Threat Group Step Down Program”, where inmates may return to the General Population upon completion of all 5 designated steps. Phone Calls and extra vendor packages are allowed after completing certain steps. These inmates have access to physical activity, visiting, library and legal representation while confined to the SHU.

**F6.** The Fire Crew of Pelican Bay employs and trains 8 inmates from the minimum security area of the prison. These inmates live and work in the Prison Fire House. Various certifications are available to inmates. Upon completion of these diverse training opportunities, there is potential for employment in emergency services once the inmates are released from the prison system.

**F7.** Pelican Bay State Prison has on-staff a Crisis Response Team (CRT) that is highly trained and well-equipped. Specific officers are trained in negotiations, especially for use in hostage situations. The main objective of the CRT Team is to diffuse any crisis by utilizing their expertise in special tactics and negotiations and bring it to a non-violent resolution.

**F8.** The atmosphere of the complex is one of professionalism where security is stressed at all times.

## **RECOMMENDATIONS**

The Warden continues to pursue the reintegration of vocational programs that have been closed due to lack of funding during the budget crisis.

## **COMMENDATIONS**

The Pelican Bay Staff plays an important part in the Del Norte County community. The Fire Crew trains with the Crescent City Fire Department and assists when help is requested. The Crisis Response Team is utilized by local law enforcement agencies in a mutual aid capacity. Their expertise in hostage situations, selective marksmanship and assault tactics are available to our community in emergency situations. They provide valuable assistance to the Del Norte Sheriff's office in the marijuana eradication program. The professional training of these crews makes our community a safer place for all citizens.

## **2014/2014 Del Norte County Grand Jury DEL NORTE COUNTY JAIL**

### **SUMMARY**

Four members of the 2014/2015 Grand Jury made a scheduled visit to the Del Norte County Jail on December 3, 2014 in accordance with the California Grand Jury mandate to conduct annual visits to all of the detention facilities within Del Norte County. In addition to the tour, the same four Grand Jury members held a scheduled interview with the Commander of the Del Norte County Jail.

### **BACKGROUND**

The original jail was constructed in 1960. A remodel included a new wing with a more modern design. The jail holds 168 beds. It currently houses 90-105 inmates due to a self-imposed cap, with regards to staffing.

### **METHODOLOGY**

The interview with the Commander was held before the tour of the facility in order to allow Grand Jury members to become more familiar with the facility and its operations. Concerns from the Board of State and Community Corrections were addressed at this interview and all questions were answered satisfactorily.

### **DISCUSSION**

The tour of the Del Norte County Jail was led by the Commander. The jail appears to be well-kept and in good repair. The family visiting room is clean and cheerful. The facility provides weekly mental health services, including Narcotics Anonymous and Alcoholics Anonymous meetings. At the time of the tour, negotiations between the jail and College of the Redwoods were taking place to facilitate inmate GED needs. As noted in previous reports, the Booking area is again awaiting funding to be renovated. There is a cap on the number of inmates housed in the jail due to present staffing levels. Two female employees work at the jail and if an additional female is needed to help book female inmates, one is borrowed from the Crescent City Police Department. At this writing, the jail and sheriff's department have a newly-elected sheriff who will assume the responsibility for the facility and staffing.

## **FINDINGS**

**F1.** The self-imposed cap of 90-105 inmates is based on the determination of staffing levels and safety issues. Housing more inmates would jeopardize the staff and inmates. There has been an increase in mentally ill inmates in recent years. The Commander feels the facility isn't equipped for the special challenges this type of inmate requires. If overcrowding occurs, those inmates that have lesser crimes/time based on good behavior and time served, may be released early to allow room for new prisoners.

**F2.** The facility is very clean. The kitchen areas are spotless and meals well-rounded. Inmate staff members were polite and focused on their meal preparations.

**F3.** The request for funding for a remodel of the holding and booking area was denied state funding.

## **RECOMMENDATIONS**

**R1.** The Del Norte County Board of Supervisors shall review the budget to determine an allocation of additional staff positions, which would allow more inmates to be safely housed in the jail.

**R2.** Continue to pursue State Funds to complete the planned remodel and other efforts to modernize and improve the facility.

**R3.** Grand Jury members should meet with the newly-elected sheriff and discuss his plans for the facility.

# **2014/2014 Del Norte County Grand Jury JUVENILE HALL**

## **SUMMARY**

In Compliance with the California Grand Jury's mandate to do a yearly review of the condition and management of public detention facilities, two members of the 2014/2015 Del Norte Grand Jury Detention Committee participated in a scheduled tour of the Del Norte County Juvenile Hall.

## **BACKGROUND**

The Del Norte County Juvenile Hall consists of a stand alone, full service detention facility consisting of 44 beds and necessary support space. The facility is on an 11 acre parcel in Crescent City. There is a large indoor recreation facility which enables the program to fulfill exercise requirements when inclement weather keeps wards inside.

## **METHODOLOGY**

Two members of the Grand Jury Detention Committee met with the Supervising Deputy Probation Officer on October 13, 2014. Introductions were made and a complete tour of the facility was made.

## **DISCUSSION**

During the tour of Juvenile Hall the committee reviewed the intake area, housing accommodations, kitchen facilities and store rooms, educational classrooms, the indoor and outdoor recreation facilities and the medical unit where services are provided to wards. Every area was clean and well-maintained.

The Juvenile Hall of Del Norte County serves a diverse population. They provide numerous services to their wards including anger management, mental health issues, substance abuse, family reconciliation, pregnancy services and other youth related services.

Juvenile Hall has the capacity to serve 44 wards. At the time of the tour, 7 wards were housed in the facility. We were told that the current judge does not believe in incarceration of youth and looks for other options for rehabilitation. The facility is clean, modern and well run.

## **FINDINGS**

**F1.** The capacity of the Juvenile Hall is 44. Currently it is staffed to accommodate fewer individuals.

**F2.** Juvenile Hall has a full service kitchen facility. Food is prepared on site and then transferred to the individual housing unit dining areas. The kitchen space was designed to incorporate youth working within the facility.

**F3.** The facility provides efficient housing and supervision of minors within the facility.

**F4.** The facility has sufficient space to accommodate individuals that might need some time and space away from other wards.

**F5.** Supervising officers can visually observe the housing units and classrooms from the control room.

**F6.** The buildings and grounds are well maintained.

**F7.** The county vehicles that had been parked on the adjacent lands have been auctioned off and removed.

## **RECOMMENDATIONS**

This is an underused asset in Del Norte County. The Grand Jury recommends exploring additional utilization of this facility to service at-risk youth in our community.

## **COMMENDATIONS**

The removal of the decrepit county owned vehicles is greatly appreciated

## **2014/2015 Del Norte County Grand Jury BAR-O-BOYS RANCH**

### **SUMMARY**

On October 1, 2014, three members of the Del Norte County Grand Jury Detention Committee made a scheduled visit to Bar-O-Ranch Youth Facility. This visit was in accordance with the California Grand Jury mandate that an annual visit to all detention facilities within the county be made by Grand Jury members.

### **BACKGROUND**

Bar-0-Boys Ranch is a male residential treatment facility located in Del Norte County. This facility is available to court-committed youths between the ages of 14-18. Several counties send their youth offenders to Bar-O-Ranch.

Originally known as Bar-None Camp, this rehabilitation camp has been in operation since 1955. John Ostrum and his wife, the founders of Bar-O Boys Ranch, purchased an old dude ranch on sixty acres of land for the express purpose of opening a rehabilitation camp where boys would be helped to develop positive character traits.

The Del Norte County Probation Department currently oversees the operation of the Bar-O-Ranch. The original purpose of the ranch remains rehabilitation of the youth.

### **METHODOLOGY**

On October 1, 2014, three members of the Detention Committee traveled to Bar-O-Ranch to meet with the Deputy Director and to tour the facility. We were given the history of the facility. A question and answer session followed. The Director openly discussed issues that have been raised by previous Grand Jury visits. We then were given an extensive tour of the facility. Lunch was included and we dined with the wards and counselors. Discussion with wards was encouraged.

### **DISCUSSION**

The youth keep the grounds immaculate. They have gained landscaping skills as evidenced by bridges, rock walkways and retaining walls they built. The camp has a welcoming demeanor rather than that of a detention facility. The staff encourages growth of the individual.

The barracks show their age and need to be replaced. The bathroom facility is clean but very dated and dilapidated. Past Grand Jury's have recommended allocating funds several years running to update the facilities and we will do so again. There are no health hazards, as the septic system has been updated.

Classrooms are clean, suited to the needs of the students. The Del Norte County Office of Education provides the educational component of Bar-O-Boys Ranch. The emphasis is on improving one's own educational skills. Bar-O-Ranch has GED courses and encourages students to take the test. They offer certification in Culinary Arts and Construction Technology. We visited shops on the campus that taught woodworking skills, welding and pottery. They learn skills in wood cutting, firefighting techniques, operating and maintaining laundry equipment, landscaping and kitchen duty.

There is a full-sized baseball diamond. We were there to see the Softball Team celebrate their 2014 Crescent City Softball Championship. The boys were given tee-shirts, paid for from funds the facility derives from making and selling Christmas wreaths. Other recreational equipment includes a full size gym and basketball hoops. Training for running in our local fundraising 5k (3.1 miles) runs is optional for the teens . Many are discovering running as a physical hobby.

The staff of Bar-O-Ranch bring wards that are eligible to community events in town. The youth can be used as volunteer labor by nonprofits in the county. The eligible youths can also enter events such as 5k's as long as they follow the guidelines of expected behavior.

There is a classification system that defines how many freedoms the wards are allowed. Visiting from family members is encouraged.

Clergy are available to minister to the needs of the wards. Mental Health professionals visit on a weekly basis. Medical services are provided on a weekly basis. Emergencies may go to the hospital in town.

Shop rooms were kept spotless. Boys are taught to use power tools. Pride in self was evident in the quality of items we saw being made by the wards. Youth are taught skills from felling a tree to turning the wood into Adirondack chairs for sale; providing funds for their athletic activities.

- Barracks were neat and orderly.
- All sheds and cupboards with paint and chemicals were kept locked.
- Kitchen was spotless and very professional.
- The common dining area was cheerful and clean. Boys are encouraged to talk during meals.

## **FINDINGS**

**F1.** The wards and staff have a respectful attitude towards one another.

**F2.** The classroom is staffed with dedicated professionals.

**F3.** The staff encourages the youth to better themselves; whether it be physically, academically or vocationally.

**F4.** Bar-O- Ranch is a 43- bed facility. Currently 26 boys are housed there.

**F5.** This is a 3 step program. The color a youth is wearing denotes his progress. The youth do not get released until they have completed the final step. Advancement is considered on a monthly basis.

**F6.** The barracks and bathroom, while clean and neat, need to be replaced. Age has taken its toll on the facilities. They are at the end of their lifespan.

## **RECOMMENDATIONS**

Another year has come and gone, without funds from the county for the purpose of replacing the barracks. The Grand Jury once again recommends to the Board of Supervisors to place funding for the barracks remodeling on their agenda as a priority item.

## **COMMENDATIONS**

The 2014/2015 Grand Jury Detention Committee is very impressed with the dedication and hard work that the Bar-O-Ranch staff demonstrates. The youth that graduate from the program have gained life and vocational skills that they can use as productive members of our society. Our tour was an enlightening experience and we thank the staff for all the work they do with these young men.

**`2014/2015 Del Norte County Grand Jury**  
**CALIFORNIA DEPARTMENT OF CORRECTIONS AND**  
**REHABILITATION**  
**CAMP 20-ALDER CAMP**

**SUMMARY**

On February 4, 2015, three members of the 2014/2015, Del Norte Grand Jury Detention Committee made a scheduled visit to the California Department of Corrections and Rehabilitation(CDCR) Camp 20-Alder Camp, in accordance with the California Grand Jury mandate to conduct annual visits to detention facilities located in Del Norte County.

**BACKGROUND**

Alder Camp was established in 1961 and is currently operated under the directions of CDCR and the Department of Forestry and Fire Protection (Cal-Fire).

The primary mission of Alder Camp is to provide crews for wildland fire suppression throughout the State of California. During non-fire season, crews work to improve and maintain Del Norte County's wildland areas, road sides and help in rescue work and community service projects.

**METHODOLOGY**

The Detention Committee met with the Correctional Lieutenant in charge of the camp, Assistant Warden of the California Correctional Center (which is the hub of the Northern region camp system), Cal Fire Captain and Cal Fire Chief who work directly with the inmate crews. We were provided with information on how the inter-agencies work together, the crews are trained, and the how inmates are processed to become candidates for a fire camp work experience.

We were then given a complete tour of the camp.

**DISCUSSION**

Inmates assigned to the camp must complete a thorough screening process. To qualify, they must have no history of any violent or sexual crime. They must be physically fit and have no more than five years left on their sentence.

Inmates who are accepted for firefighting and camp placement will undergo a two week training program at the California Correction Center in Susanville where they are trained in fire suppression and safety. They are evaluated for suitability to the program.

- The camp can house 110 inmates. At the time of the tour, 87 inmates were housed. There are five ready crews of between 12-16 inmates per crew. Other inmates perform services where their abilities can be used. Inmates are used for clerical staff, mechanical, food services, and maintenance duties.
- Camp inmates are assigned to other agencies when not on fire duty. These agencies vary according to contracts made with CDCR and Cal Fire.
- Camp inmates earn approximately \$1.45-\$3.90 per day. Fire Crews can make an additional \$1.00 per hour when away from the camp during fires or other emergencies.
- Educational opportunities for the inmates include GED programs from the educational department of the California Correctional Center, firefighting courses and on the job training. Inmates have the opportunity to learn multiple skills, including chef and kitchen work, milling of lumber, welding, car repair and sign making.
- There is a hobby program where inmates can make projects from wood, such as tables and boxes. It is a privilege to use the tools. Supplies are purchased with the inmates own money.
- Physical activity is encouraged. There is a running track, indoor and outdoor weight training and a basketball court.
- Mental Health Counselors visit weekly. Religious services are available. Visiting from family members is encouraged.
- Alder Camp also donates manpower, time and supplies for nonprofit organizations throughout the year. They make wooden toys that are donated to organizations such as Toys for Tots. They also participate in search and rescue operations.

## **FINDINGS**

**F1.** Alder Camp is a well- run facility with the primary function of maintaining and providing inmate crews for wildland fire suppression. This program and the various skills that the inmates learn make their transition from an inmate to a general society citizen upon parole, go much smoother. This is a very positive program and one that Californians can be proud of.

**F2.** The staff is very mindful of the budget they must work within. They save costs wherever and whenever possible.

**F3.** The grounds are immaculate.

**F4.** The buildings are in good shape for their ages.

## **RECOMMENDATIONS**

Alder's Camp staff is to be commended for the fine job they are to doing, providing inmates with life skills, protecting California's resources, and operating in an efficient manner. Our recommendation is to continue with the fine work they are doing.

# **2014/2015 Del Norte County Grand Jury KLAMATH FIRE PROTECTION DISTRICT**

## **SUMMARY**

On March 18, 2015, three members of the 2014/2015, Del Norte County Grand Jury made a scheduled visit to the monthly meeting of the Klamath Fire Protection District (KFPD) Board of Directors. Grand Jury members met with the Board following the public meeting. All Klamath Fire Protection District Board members and the Fire Chief were present.

## **BACKGROUND**

Since 2012, a Board of Directors and the Fire Chief have been working to turn a dysfunctional department around. The Grand Jury has had serious concerns about the ability of the Klamath Fire Protection District to provide adequate response to emergencies. The 2014/2015 Grand Jury and previous Grand Juries recognize the importance of this issue.

The 2013/2014 Grand Jury made the following recommendations:

- Continue to plan to upgrade equipment as funds become available.
- Continue to implement the Brown Act at meetings and encourage more public participation.
- Good relationships between the Klamath Fire Protection District and the Klamath Community are essential. The President of the Klamath Fire Protection District and Fire Chief need to make this a priority. County resources should be made available for facilitating team and community building. The Local Agency Formation Commission (LAFCO) should take a lead in supporting this effort.
- The Yurok Tribe and Klamath Fire Protection District should enter into a Memorandum of Understanding using the Yurok Service Proposal as a starting point.
- Klamath Fire Protection District needs to start an aggressive campaign to recruit volunteers. The Yurok Tribe could be an excellent resource to assist in this effort.
- The Klamath Fire Protection District needs to meet regularly with the County Auditor to establish a balanced budget.

Many of these recommendations were made by previous Grand Juries.

## **METHODOLOGY**

The Klamath Fire Protection District failed to respond to the findings and recommendations of the 2013/2014 Grand Jury report. Therefore, the Grand Jury determined that additional monitoring of the Klamath Fire Protection District was needed. Three members of the 2014/2015 Del Norte Grand Jury traveled to Klamath to attend the monthly Klamath Fire Protection District

Board Meeting, followed by a meeting with all Board members and the Fire Chief. The Grand Jury members were able to observe a board meeting, determine why the District did not respond to the 2013/2014 Grand Jury Report, and ask questions concerning the District's progress toward meeting the recommendations in last year's Grand Jury Report.

## **DISCUSSION**

The following information was gathered:

The Klamath Fire Protection District did not respond to the 2013/2014 Grand Jury Report because they were in "agreement" with the report, so did not need to respond. Regardless, they were advised that they should always respond to a grand jury report.

Grand Jury members observed the March monthly meeting of the Klamath Fire Protection District Board meeting. All Board members and the Fire Chief were present. The meeting was well organized and well run. Although, no one from the public other than Grand Jury members were present, opportunity was given for public comment. The meeting was run in compliance with the Brown Act.

A new (used) support vehicle is being purchased from the Gasquet Fire Protection District to replace a much older support vehicle. Half of the funds for this purchase were provided by the Klamath Fire Auxiliary, with the remainder to be paid from upcoming annual District budgets and through the selling of older vehicles being replaced. The District is working on repairs to the water tender purchased last year, and expects to have that vehicle completely on line soon.

The Klamath Fire Protection District's relationships with the Klamath Community is improving. This change appears to be happening due to the cooperation of the current Fire Protection Board, the Yurok Tribe, the local Fire Auxiliary, and the Fire Chief. The Board and Chief are working with the Yurok Tribe to help with firefighter recruitment and increase funding. The Yurok tribe has provided tribal resources to help with this effort. The Auxiliary has provided funds to help purchase equipment and supplies. The Chief has been developing a recruitment brochure, which he hopes to complete soon. The Board and Yurok Tribe are looking at a memorandum of understanding, based on the Yurok Service Proposal that would help fund and make the Klamath Fire Protection District more effective for both the Klamath community and the Tribe.

The budget was a concern for the 2013/2014 Grand Jury. It was felt that the District should meet frequently with the County Auditor to establish and monitor the budget. The Board Chair and the Fire Chief have been meeting with the Auditor. The budget report at the Board meeting indicated that the budget is balance and being well monitored.

## **FINDINGS**

**F1.** The Board of Directors of the Klamath Fire Protection District did not respond to the report of the 2013/2014 Grand Jury Report because they were in agreement with the report and therefore felt they did not need to respond.

**F2.** The Board of Directors meetings are in compliance with the Brown Act and that the meetings are well organized and run.

**F3.** With the help of the Klamath Fire Auxiliary the Klamath Fire District has been able to purchase a replacement support vehicle.

**F4.** The Klamath Fire Protection District's relationships with the Klamath community and the Yurok Tribe appears to be improving. The Yurok Tribe and the Klamath Fire Auxiliary are working with the Fire District to improve funding and effectiveness.

**F5.** The Klamath Fire Protection District has been meeting more regularly with the County Auditor regarding the budget. The current Board seems to have a better understanding of the budget than past Boards. The budget seems to be balanced.

## **RECOMMENDATIONS**

**R1.** The Klamath Fire Protection District needs to respond in writing to Grand Jury Reports with subject matter concerning the Protection District, even if they are in agreement with the report.

**R2.** The Klamath Fire Protection District Board should continue to implement the Brown Act at meetings and encourage more public participation.

**R3.** The Klamath Fire Protection District should continue to upgrade equipment as funds become available.

**R4.** The Klamath Fire Protection District should continue to develop and improve relationships with the Klamath community, the Yurok Tribe, and the Fire Auxiliary to improve funding and effectiveness. Continue with efforts to recruit and train qualified firefighters.

**R5.** The Klamath Fire Protection District Board and Chief should continue to work with the County Auditor to establish and maintain a balanced budget.

## **COMMENDATIONS**

- Klamath Fire Protection District and Klamath Fire Auxiliary for acquiring a newer support vehicle.
- Klamath Fire Protection District for implementing the Brown Act at meetings.
- Yurok Tribe for helping to improve the funding and effectiveness of the Klamath Fire Protection District.

# **2014/2015 Del Norte County Grand Jury KLAMATH FIRE PROTECTION DISTRICT GRAND JURY RECOMMENDATIONS FOLLOW UP**

## **SUMMARY**

Each newly appointed grand jury is responsible for monitoring the responses legally required to the recommendations made in the grand jury report from the previous year. The Klamath Fire Protection District failed to respond to the Del Norte County Grand Jury regarding the 2013/2014 Recommendations.

## **DISCUSSION**

The Klamath Fire Protection District did not respond to the 2013/2014 Grand Jury Report. Members of the 2014/2015 Del Norte Grand Jury visited with the Board and Fire Chief. They found the District to generally be in compliance with the recommendations of the 2013/2014 Grand Jury Report. Due to their failure to respond to last year's report and past issues related to the Klamath Fire Protection District, this year's Grand Jury recommends that the Local Districts and Agencies Committee follow up on several items.

## **RECOMMENDATIONS**

**R1.** Assure that the Klamath Fire Protection District follows up in writing concerning the 2014/2015 Grand Jury Report.

**R2.** Follow up on progress the Klamath Fire Board has made to implement the Brown Act and encourage more public participation.

**R4.** The grand jury recommends following up on the progress the Klamath Fire Board is making to recruit qualified firefighters and in improving relations with the Klamath Community, the Yurok Tribe, and the Auxiliary.

## **ADDENDUM A**

### **Letter to Judge Follett**

From: Roger Gitlin <rgitlin@co.del-norte.ca.us>  
To: william.follett <william.follett@delnorte.courts.ca.gov>  
Cc: Tod Roy < >  
Sent: Fri, Dec 5, 2014 9:02 am  
Subject: The Grand Jury

Good Morning, Hon. Judge William Follett:

I have waited a few days to collect my thoughts and have decided to contact you directly to express my extreme disappointment and utter dismay re: my recent visit to the Del Norte County Grand Jury. I was asked, not subpoenaed, to appear before the Grand Jury Tuesday December 2 to answer questions with regard to the operations of the Del Norte County Solid Waste Management Authority where I currently serve as the Authority's Chairman. I was not asked to take an oath which I presume the Jury would want to know, under oath, I was telling the truth. I was told by Jury Foreman Tod Roy no prior preparation was required. Also, I signed a confidentially agreement. I was prompt in showing up for scheduled 2pm appointment.

When initially told by Dr. Roy I would be there for as long as three hours, I was a bit taken back as no such time frame was presented to me prior to the meeting. It became apparent to me within a short time questions asked of me were absent of question marks, and the Jury was promulgating an agenda defending the status quo and challenging my mission to improve the product and save consumers money. Much to my dismay, it became apparent the Jury was not a mission of truth but was on a mission of ideology. Grand Juror Paula was grossly inappropriate when I questioned one of her questions, and she retorted in a bully mentality, " we ask the questions, here." I almost walked out at this juncture when confronted with her inappropriate behavior, but reconsidered. If the only criterion to sit on the Grand Jury is to be a citizen of Del Norte County, perhaps your office should re-examine its entire criteria protocol to sit on the Grand Jury. This Grand

Juror in my opinion is ill-suited to sit on this prestigious Jury and brings dis-repute to the Jury. Similarly, Dr. Roy, as the foreman, is ill-suited to sit on the Jury. His questions were fraught with editorial statement, reflecting an ideology which was neither objective or neutral. Unless, I am subpoenaed, accompanied by legal counsel, I will NEVER voluntarily appear before the Grand Jury as long as Dr. Tod Roy sits as its foreman.

Of the five grand jurors "interrogating" me, one woman never spoke. Jurors Waldvogel and Webb displayed at least the appearance of listening to my answers. The others gave me the impression, they could care less about my responses.

With regard to the theft of \$29,000 of public funds, the Jury does not believe any theft occurred and marginalized the loss as only \$9,000. When I asked where they heard this information, I was met with the inappropriate, "we ask the questions" comment from one Grand Juror. At least two grand jurors made statement of fact comments that Auditor-Controller Clinton Shaad and DNSWMA treasurer Richard Taylor ultimately discovered \$20,000 of the missing monies, mitigating the losses as only \$9,000. I know the statements attributed to those individual to be incorrect yet they were nonetheless stated as factual by Dr. Roy and Grand Juror Paula.

Judge Follett, you stated our government is of...for..and by the people. Sadly, I did not see the intent of your words taken with any degree of humility or understanding by foreman Dr. Roy and the other four Jurors present.

Regretfully, I am

Roger Gitlin  
Supervisor District 1  
County of Del Norte  
981 H Street  
Crescent City, CA 95531  
(707) 464-0801 Office  
(707) 951-6361 Cell  
CC: private counsel

## **ADDENDUM B**

### **Del Norte Sheriff's Department File Review**

I have reviewed the file submitted by the Del Norte Sheriff's Department concerning money missing from the Solid Waste Management. This review determined that a complaint was filed with the Sheriff's Department and a deputy was assigned to investigate the circumstances surrounding the loss. The report submitted by this deputy identified several persons who may have possessed knowledge of the circumstances of the missing money. The report does not document any interviews, questions that should or may have been asked nor any responses to those questions. The report lists two people as suspects who may have committed a crime of theft. The report concludes that a successful prosecution was not likely and recommends that no judicial action be sought.

There was one supplemental report in the file identifying a reserve deputy who was tasked with making contact with several persons who had submitted checks for payment to the Solid Waste Management for services received that were not honored by the banks upon which they were drawn. The reserve deputy documents his attempts to make contact with these persons. This supplemental report does not document any useful information that would assist in the investigation of the missing money.

Within the Sheriff's Department file there was a copy of the "Scanlon Report." The file I was given was missing page number five (5) of this report. This report cites irregular accounting practices in place that were used for receiving payment for service from the Solid Waste collection. The report acknowledges that the persons in management positions who should have known of the accounting irregularities and have made the necessary corrections were no longer employees of the Solid Waste Management. Also, the report acknowledges that the accounting practice irregularities had been corrected. The report states that since the accounting practice corrections, all money received was in balance.

The Sheriff's Department file also contained documents that appear to be an attempt by Del Norte County accounting officers to determine how much money was missing from the Solid Waste Management and to determine how much of this money was due to persons submitting checks for payment that were not honored by the banks upon which they were drawn. The amount of missing money determined by the accounting officers was a little over \$27,000 dollars. The amount of money missing as a result of dishonored checks was a little more than \$23,000 dollars. No explanation for the remaining approximately \$4,000 dollars was offered.

In the absence of any documentation of any interviews, notes, questions that might have been asked, responses to those questions or other evidentiary items, it is unknown how the deputy assigned to investigate the circumstances of the missing money was able to identify two specific persons as having committed a theft of the money. It is possible that the accounting

irregularities documented in the “Scanlon Report” may have been responsible for the lack of explanation of the final missing \$4,000 dollars. It is also possible that the missing \$4,000 dollars could be the result of theft. I do agree with the investigating deputy that a successful prosecution for theft is not likely.

**Written by:** Retired L.A. County Deputy Sheriff/Grand Jury Member

## ADDENDUM C - Letters Submitted by Mary Wilson

*As the owner of The Apple Peddler restaurant, my garbage and recycling rates went from \$900 to \$1900 a month when the new contract went in place in 2011. It took me about three months before I could make arrangements to cut back on my services to try and reduce my rates.*

*My neighbor, Mary Wilson, and myself were very upset about the penalties put on our small businesses. My neighbor, the Bayview Inn, and Mary, are now both hauling their own garbage. It is a shame that these companies have to go to the bother of self-hauling. It is a shame that Recology lost customers due to the exorbitant rates imposed on our city's businesses. It doesn't make good financial sense.*

*Carl Wheeler  
White City, OR*

*During our last Solid Waste Authority meeting on August 13, 2014, the school board chairman, Don MacArthur, made a statement that the school district is "saving" \$8000.00 a month on trash disposal.*

*At the conclusion of his statement, I asked him if this was a savings on the rates since the new contract went in place. This he confirmed.*

*What should have been made clear is that the school board disposal rates had been increased \$87,000 annually for their standard services. And what had to be done to maintain the same monthly rate was to cut their services dramatically. So, yes, the school district "saved" \$8,000 a month by not paying the new rates by reducing their services.*

*Attached is a spreadsheet from Rodney Jahn, the financial authority for the school district, which outlines the 60% increase that the district was facing for disposal, had they maintained their same services.*

Mary Wilson

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Clarke Moore  
Crescent City

*Attention - The Solid Waste Authority*

*I am the manager of Maple Cove Apartments in Crescent City.*

*This letter is being sent so that I can speak up about the Solid Waste Authority and what I feel is an unfair burden on all the businesses in our community.*

*Why is it that when governing agencies run out of money, they always want to raise OUR rates? Before this new transfer station, it was only \$60 a ton for garbage. Now it's over \$150 a ton! And to boot, the rates for businesses far surpass the rates for residents.*

*Why can't this agency tighten its belt? Why don't you give us businesses a break? Who says these guys are doing a good job? The guys who aren't paying...the ones who are making us businesses pay instead of them, that's who.*

*Tom Rube*

*8-20-14*

August 19, 2014

To: The Solid Waste Authority

As the manager of The Lighthouse Inn of Crescent City, I would like to respond to the many comments I have seen in The Triplicate regarding the Solid Waste Authority and the idea that they are running things "just fine".

The rate increase imposed upon my business for trash disposal and recycling back in 2012 was excessive. Due to this extraordinary increase, I discontinued services and elected to self-haul my trash. Furthermore, it is my understanding that the rate increase was needed strictly in order to cover the overhead costs and expenses of the Solid Waste Authority.

I have no problem with Recology or Hambros. They both do fine jobs in their operations. In fact, they could probably run the whole thing, like other communities do. And our rates would be lower without all this government overhead! If the Solid Waste Authority were dissolved, services from Recology and Hambros would not be affected. They would still perform the same services as always. The question I have is, what exactly do we need the Solid Waste Authority staff for?

Sincerely,

*Christine Dauey*

## ADDENDUM D - Code of Ethics

06

### RESOLUTION NO. 2010-01

**A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE DEL NORTE SOLID WASTE MANAGEMENT AUTHORITY  
ADOPTING THE DEL NORTE SOLID WASTE MANAGEMENT AUTHORITY  
CODE OF ETHICS AND CONDUCT AND DESIGNATING CERTAIN PUBLIC  
OFFICIALS TO COMPLETE AB 1234 ETHICS TRAINING**

**WHEREAS**, the Board of Commissioners of the Del Norte Solid Waste Management Authority desires the highest level of ethical conduct for the Commissioners of the Board and members of the appointed commissions and committees and the alternates of each body; and

**WHEREAS**, the residents and businesses of the City of Crescent City and the County of Del Norte are entitled to fair and accountable local government and to be represented by public officials who act in an ethical manner; and

**WHEREAS**, the Code of Ethics and Conduct supplements, but does not supplant, other laws and rules that prescribe the legal responsibilities of public officials; and

**WHEREAS**, AB 1234 requires officials of local public agencies to receive a minimum of two hours of training every two years in general ethical principles and ethics laws.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Del Norte Solid Waste Management Authority as follows:

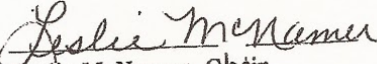
1. That the Del Norte Solid Waste Management Authority Code of Ethics and Conduct for the Board Commissioners and Members Appointed to Commissions and Committees (attached hereto) is hereby adopted and made effective as of this date.
2. That the Code of Ethics and Conduct specifically applies to all public officials designated to disclose economic interests under the Authority's Conflict of Interest Code.
3. That the Code of Ethics and Conduct also applies to members of all appointed commissions and committees and their alternates.
4. That all public officials currently in office shall read, sign, and file with the Clerk of the Board, the Code of Ethics and Conduct within 30 days unless he or she has already done so.

5. That all public officials shall read, sign, and file with the Clerk of the Board, the Code of Ethics and Conduct within 30 days of assuming his or her position.

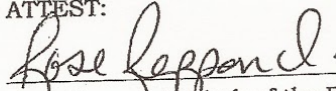
**BE IT FURTHER RESOLVED**, that all public officials required to disclose economic interests under the Authority's Conflict of Interest Code are also required to complete ethics training as mandated by AB 1234.

**PASSED AND ADOPTED** by the Board of Commissioners of the Del Norte Solid Waste Management Authority on the 14th day of April, 2010, by the following vote:

AYES: Buens, Reese, McClure, McNamer, Schellong  
NOES: none  
ABSENT: none  
ABSTAIN: none

  
Leslie McNamer, Chair

ATTEST:

  
Rose Reppond, Clerk of the Board

## **Del Norte Solid Waste Management Authority Code of Ethics and Conduct for Board Commissioners And Members Appointed To Commissions and Committees**

### Statement of Purpose:

The Board of Commissioners for the Del Norte Solid Waste Management Authority desires the highest level of ethical conduct for the members of the Board of Commissioners and members of appointed commissions and committees and the alternates of each body. The residents and businesses of the City of Crescent City and County of Del Norte are entitled to fair and accountable local government and to be represented by public officials who act in an ethical manner. The Del Norte Solid Waste Management Authority's strong desire to fulfill this mission therefore requires that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public office be used for the public good, not for personal gain; and
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Board of Commissioners of the Del Norte Solid Waste Management Authority has adopted this Code of Ethics and Conduct (Code of Ethics) for elected officials and members of appointed commissions and committees to assure public confidence in the integrity of local government and its effective and fair operation. It is intended that this Code of Ethics apply to the designated public officials and candidates for the Board of Commissioners; members of the public seeking appointment to commissions and committees are strongly encouraged to endorse and comply with the provisions of this Code of Ethics. Board of Commissioners members and members of appointed commissions and committees and their alternates are referred to generally as "Public Officials" in this Code of Ethics.

This Code addresses selective aspects of the governance of the Authority and supplements, but does not supplant, other laws and rules that prescribe the legal responsibilities of Public Officials. Those include, among others, the California Constitution, various provisions of the California Government Code (including the Brown Act and the Political Reform Act) and Labor Code, federal laws prohibiting discrimination and harassment, and the provisions of the Authority's own Ordinances and Resolutions. Elected and appointed officials should be familiar with these laws to assure that they exercise their responsibilities properly. In addition, the Authority's General Counsel is available to respond to questions

about these matters.

It is not possible for a code of this kind to anticipate and provide a rule of conduct for all situations. At bottom, it is expected that officials will manage their behavior in a manner consistent with the rules that follow, respect the chain of command and behave within the bounds of their authority. It is also expected that officials will treat each other, Authority employees, and the residents and business-people within Del Norte County with courtesy and respect in a manner that reflects well on the Authority.

1. Act in the Public Interest

Recognizing that the public interest must be their primary concern, Public Officials will work for the common good of the people of the Del Norte Solid Waste Management Authority and not for any private or personal interest. They will assure fair and equal treatment of all persons, businesses and interests coming before the Del Norte Solid Waste Management Authority Board of Commissioners, commissions, and committees. The professional and personal conduct of Public Officials must be above reproach and avoid even the appearance of impropriety.

2. Comply with the Law

Public Officials shall comply with the laws of the nation, the State of California, and the Del Norte Solid Waste Management Authority in the performance of their public duties. These laws include, but are not limited to: the Constitutions of the United States and California; laws pertaining to conflicts of interest, financial disclosures, employer responsibilities, open processes of government, confidentiality of closed session information; and the Del Norte Solid Waste Management Authority Joint Powers Agreement, Bylaws, Ordinances and Resolutions.

3. Respect for Process

Public Officials shall perform their duties in accordance with the processes and rules of order established by the Board of Commissioners, commissions, and committees governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the Board of Commissioners by Authority staff.

4. Decisions Based on Merit

Public Officials shall base their decisions on the merits and substance of the matter at hand. Public Officials shall prepare themselves for public issues, listen

courteously and attentively to all public discussions before the body, and focus on the business at hand.

5. Communication

Public Officials shall share substantive information that is relevant to a matter under consideration by the Board of Commissioners, commissions, and committees which they may have received from sources outside the public decision-making process. Public Officials shall avoid improper ex parte communications with parties when the official is sitting in a quasi-judicial role.

Whenever an official is representing the Authority, in or out-of-town, the Public Official is "on-duty" and should behave in a manner that will reflect well on the Authority. When out-of-town or at social events there is a temptation to behave more informally than one might at headquarters, which can lead to awkward or embarrassing situations, and in extreme cases to improper or illegal behavior.

Public Officials shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Board of Commissioners, commissions and committees, the staff or public. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings. This provision is not intended to limit the right of a Public Official to comment on the manner in which the business of the Authority is being conducted, but personnel matters related to Authority employees should be addressed to the Authority's Director consistent with his/her responsibilities and recognizes that the board's meeting is a business meeting as well as a public forum.

6. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, public officials shall not use their official positions to influence government decisions in which they have a material financial interest or personal relationship which may give the appearance of a conflict of interest. Public Officials shall comply with state law, the Joint Powers Agreement and the Authority's Ordinances regarding disclosure and avoidance of conflicts of interest.

7. Gifts and Favors

Public Officials shall comply with the requirements of the Political Reform Act relating to the acceptance and reporting of gifts.

8. Confidential Information

Public Officials shall not use or disclose information obtained through Authority service for improper purposes. Public Officials often acquire information in performing their duties that is not generally available to the public, including information received in closed sessions. Sometimes this information is confidential or highly sensitive. Information that is not generally available to the public must remain confidential and be used only for the purposes for which it was divulged. Public Officials shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal interests.

9. Use of Public Resources

Public Officials shall not use public resources not available to the public in general, such as Authority staff time, equipment, supplies or facilities, for private gain or personal purposes. Public Officials shall not utilize the Authority's name or logo for the purpose of endorsing any political candidate or business.

10. Political Contributions

A member or candidate for Board of Commissioners shall not solicit contributions or endorsements from the Authority's employees. This provision is not intended to interfere with an employee's right to endorse or contribute on his/her own or to prohibit soliciting contributions or endorsements from employee bargaining units.

11. Representation of Private Interests

In keeping with their role as stewards of the public interest, members of Board of Commissioners shall not appear on behalf of the private interests of third parties before the Board of Commissioners or any board, commission, committee, or proceeding of the Authority, nor shall members of commissions or committees appear before their own bodies or before the Board of Commissioners on behalf of the private interests of third parties on matters related to the areas of service of their bodies.

12. Advocacy

Public Officials shall represent the official policies or positions of the Board of Commissioners or committee to the best of their ability when designated as delegates for this purpose. Public Officials occasionally speak before other public bodies, neighborhood groups or to the press. When doing so, they should always make it clear whether they are presenting their own point of view or

whether they have been authorized by the body of which they are a member to present a particular view. They should be clear in all oral and written utterances whether they are using their title for identification purposes or because they are speaking in an official capacity. The actions and recommendations of subsidiary bodies are presented to the Board of Commissioners as part of the staff report, and often memorialized in a resolution. If a subsidiary body feels it necessary to supplement these written transmittals, it should expressly authorize one of its members to speak on its behalf.

Authority letterhead must be used with care to avoid misunderstandings. Letterhead may be used to communicate official Authority policy or actions. It is also routinely used by Commissioners to respond to inquiries or communicate their individual opinions, in which event the author should be clear about whose view is being presented.

### 13. Policy Role of Members

Public Officials shall respect and adhere to the commission-manager structure of the Del Norte Solid Waste Management Authority as outlined in the Authority's policies and procedures and follow the Del Norte Solid Waste Management Authority's Joint Powers Agreement and its ordinances with respect to the Authority's Director's relationship with the Board of Commissioners. In this structure, the Board of Commissioners determines the policies of the Authority with the advice, information and analysis provided by the public, commissions and committees, and Authority staff. Except as provided by the Joint Powers Agreement or ordinance, Public Officials shall not interfere with the administrative functions of the Authority or the professional duties of Authority staff; nor shall they impair the ability of staff to implement board policy decisions.

### 14. Positive Work Place Environment

Consistent with the Del Norte Solid Waste Management Authority's Core Values, Public Officials shall support the maintenance of a positive and constructive work place environment for Authority employees and for residents and businesses dealing with the Authority. Public Officials shall recognize their special role in dealings with Authority employees and refrain from creating the perception of inappropriate direction to staff.

### 15. Harassment and Discrimination

Public Officials shall not engage in any form of harassment or unlawful discrimination. The Del Norte Solid Waste Management Authority is committed to providing an environment that is free from unlawful discrimination, including

discrimination or harassment that is based on any legally protected status. The Authority will not tolerate any form of discrimination or harassment that violates this policy. This policy forbids any unwelcome conduct that is based on an individual's age, race, color, religion, sex, national origin, ancestry, marital status, sexual-orientation, veteran status, physical or mental disability, legally protected medical condition or association with anyone who has, or is perceived to have, any protected characteristic, or any other basis protected by state, federal or local law.

16. Implementation of the Code of Ethics

The Del Norte Solid Waste Management Authority Code of Ethics expresses standards of ethical conduct expected for members of the Del Norte Solid Waste Management Authority Board of Commissioners, commissions and committees. Public Officials themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of commissions and committees, have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics are brought to their attention.

Public Officials entering office shall acknowledge that they have read and understood the Del Norte Solid Waste Management Authority Code of Ethics. This Code of Ethics and Conduct shall be reviewed periodically by the Board of Commissioners, commissions, and committees.

17. Compliance and Enforcement

Complaints alleging a violation of this Code of Conduct by a Public Official should be directed to the Authority's Director. Upon receipt of a complaint of a minor nature, the Authority's Director and its General Legal Counsel shall together determine a course of action. The Authority's Director and its General Legal Counsel shall, should they fail to resolve the complaint or should the complaint be of a serious nature, consult with the Chair (unless the Chair is the subject of the complaint, in which event they shall consult with the Vice Chair or other Commissioner, in order of seniority, as is appropriate under the circumstances) in order to determine an appropriate course of action. Serious complaints regarding a commission or committee member shall be directed to the chair person, or vice chair if the chair is named in the complaint. The recipient of the subsidiary body's complaint shall consult with the Authority's Director and the Authority's General Counsel to determine the appropriate course of action.

The goal of enforcement of this Code of Ethics is corrective, rather than penal and a progressive approach of curing violations is encouraged beginning with informal methods and proceeding to more formal methods, as necessary and appropriate, given the circumstances and allegations of the complaint. In appropriate circumstances, informal counseling and instruction shall be utilized to address issues before recommending sanctions. Depending on the severity of the violation, sanctions may be imposed including reprimand, formal censure, referral back to the agency appointing the member with a recommendation for removal from the appointment, loss of committee assignments, exclusion from closed sessions, travel or expense reimbursement restrictions, loss of staff support or use of Authority resources, referral to the Grand Jury or other penalties as may be applicable to the circumstances. The Board of Commissioners also may remove members of commissions and committees from office.

Prior to any sanction being taken against a Public Official, the official shall receive notice of the alleged violation and the proposed sanction. Before a sanction is imposed, the Public Official charged may request a public hearing before the Board of Commissioners and, in such case, a sanction shall not be imposed except upon a majority vote of the Board of Commissioners. The Public Official whose conduct is under scrutiny shall be disqualified from voting upon whether or not sanctions should be imposed. A public hearing need not comply with the formal rules of evidence, but shall afford the Public Official an opportunity to be heard on the proposed sanction.

#### 18. Statement of Commitment

As a member or alternate of the Board of Commissioners of the Del Norte Solid Waste Management Authority or of an Authority board, commission, or committee, I understand and agree to uphold the Code of Ethics and Conduct for elected and appointed officials adopted by the Board of Commissioners. In recognition of this standard I will conduct myself by the following model of behavior:

- Recognize the worth of individual members and appreciate their individual talents, perspectives and contributions;
- Help create an atmosphere of respect and civility where individual members, Authority staff and the public are free to express their ideas and work to their full potential.
- Conduct my personal and public affairs with honesty, integrity, fairness and respect for others;

- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;
- Avoid and discourage conduct which is divisive or harmful to the best interests of Del Norte Solid Waste Management Authority;
- Treat all people with whom I come in contact in the way I wish to be treated.

I affirm that I have read and that I understand, accept and support the Del Norte Solid Waste Management Authority Code of Ethics and Conduct.

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Board, Commission, Committee

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Position

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Signature

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Date

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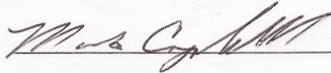
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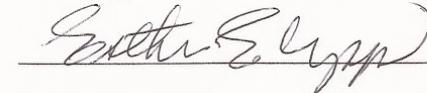
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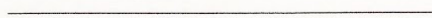
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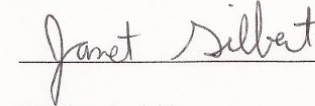
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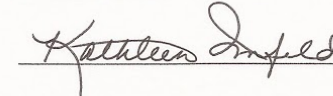
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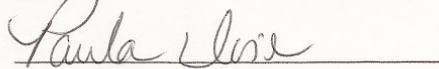
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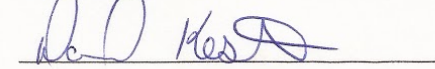
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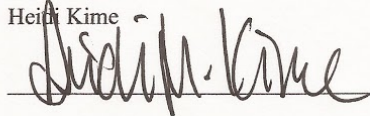
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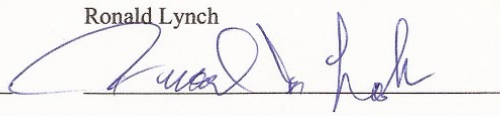
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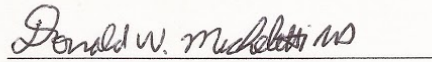
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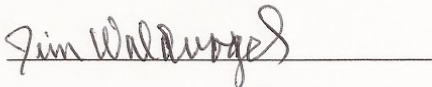
Donald Micheletti, M.D.



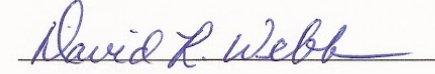
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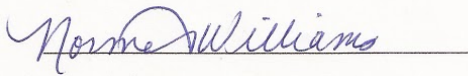
Jim Waldvogel



David Webb



Norma Williams



M'Laura Yates

