

# Modoc County Superior Court

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FRANCIS W. BARCLAY  
PRESIDING JUDGE

DAVID A. MASON  
ASST. PRESIDING JUDGE

LINDA L. OSTOJA  
EXECUTIVE OFFICER

Dear Ladies and Gentlemen:

I want to take this opportunity to express my appreciation and the appreciation of the Superior Court, to all of the members of the 2010-2011 Modoc County Grand Jury for a job well done. Your diligence, dedication and hard work is reflected in this year's report.

I want to specifically recognize and extend an individual thank you to Wes Cook for his outstanding leadership as this year's Foreperson. This year held an added challenge because of the reduction in size of the grand jury panel, however the panel is to be complimented in overcoming this challenge.

Finally, I want to thank the Modoc Sheriff's Department for once again providing our Grand Jury with excellent meeting room facilities. The availability of these facilities greatly assists our jurors in performing their duties.

Serving as a Grand Juror is not an easy task and I commend each and every one of you for your sincere effort and commitment to addressing the complex, varied and sensitive issues presented to you.

Thanks once again for a job well done.

Sincerely,


*F. W. Barclay*

Francis W. Barclay  
Presiding Judge  
Modoc Superior Court



Superior Court Judge Francis W. Barclay

I certify that the Modoc County Grand Jury Final Report complies with Title Four of the California Penal Code and direct the Court Executive Officer to accept and file the final report as a public document.

/s/ , date August 23, 2011

Publication of Websites

This report, past reports and responses and other grand jury information may be found at the following sites:  
[http://www.modocsuperiorcourt.ca.gov/grand\\_jury.htm](http://www.modocsuperiorcourt.ca.gov/grand_jury.htm)

*This is not an official site of the Modoc Grand Jury and has neither been reviewed nor approved by the Modoc Grand Jury. For comments or information contact [ModocGrandJury@gsmall.us](mailto:ModocGrandJury@gsmall.us).*

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## **Preface**

To the Community:

The California Legislature authorizes and requires grand juries of each county. These Grand Juries are to inquire into the books, records, accounts, methods, systems and procedures of designated local governments. By diligently completing its civil function your grand jury encourages local government officials to use your tax dollars fairly and effectively.

To fulfill its civic duty this Grand Jury formed committees to investigate specific areas of local government. Each committee had at least two members. The foreperson was the ex-officio member of each committee.

The Grand Jury workload included investigating five citizen complaints and nine local Government reviews.

This final report was approved on June 16, 2011 by ten members present as defined in the Penal Code at the final grand jury meeting. The report was forwarded to the presiding judge for review.

## **Functions of the Grand Jury**

The Grand Jury is part of the judicial branch of the government, mandated by the California Constitution, and is an arm of the Superior Court. The primary function of the Grand Jury is to examine local government. The Penal Code states the Grand Jury is specifically:

*Mandated to conduct civil investigations and audits of City and County Government, to insure efficient and proper operation of all local government and to detect and expose fraud and malfeasance.*

The Grand Jury addresses citizen complaints and conducts investigations to act as a “watchdog” for the citizens of Modoc County. The Grand Jury is appointed and sworn in early July of each year and serves until June 30 of the next year.

The Grand Jury reviews and evaluates the performance of local government officials and entities, focusing on procedures, methods and systems (not policies), to determine if more efficient and economical measures might be employed and if procedures are being followed.

The Grand Jury has three ways to exercise its powers:

1. Reports – Published reports evaluating local government conditions, generally addressing specific issues, with findings and recommendations. The County Board of Supervisors, City Council or affected agency must comment on each recommendation as per Penal Code Section 933.05 (When crimes are not charged but suspected, special reports with documentation may refer specific issues to other authorities.)

2. Accusations – Formal written complaints accusing a government official or employee of misconduct. (Conviction would result in removal from office/duties rather than criminal penalties.)

3. Indictments – Formally charging a person with a crime.

Under its review authority, the Grand Jury is specifically authorized to:

- Inspect and audit local entity records, insuring proper and legal accountings of public records.
- Investigate and report on performance of special districts or commissions.
- Evaluate conditions of jails and detention centers within the county.
- Investigate charges of misconduct by public officials or employees.
- Investigate and report on “questionable practices” of such agencies or officials.
- Request subpoenas.

The Grand Jury also receives complaints from citizens alleging mistreatment by officials, suspicions of misconduct, or government inefficiencies. While keeping all complaints confidential, each is acknowledged and considered by the panel. Those accepted under Grand Jury jurisdiction are investigated carefully before any action is taken.

#### *Why the California Grand Jury Association Avoids the Term “Civil” Grand Jury*

*There is no such thing in California law as a “civil” grand jury. California has historically had only “regular” grand juries and every county is required by the California Constitution to have one every year. The regular grand juries have always had two different functions: criminal and civil.*

*One function, the criminal one, is to hear evidence to determine whether in the grand jury’s view it is sufficient to warrant making an accused stand trial. Typically the District Attorney’s office decides who to accuse, on what charges and what evidence to bring to the attention of the grand jury. The District Attorney guides and advises the grand jury during its receipt of the evidence. The grand jury determines whether or not to issue an indictment. As discussed below, this indictment function has fallen into disuse in some, but not all, counties. In addition to standard criminal indictment activity, potentially included within the criminal function is the obligation of every regular grand jury to investigate “willful or corrupt misconduct in office of public officers of every description within the county.” Whether or not a grand jury’s indictment function has fallen into disuse, this is a mandatory obligation and obviously may uncover criminal activity.*

*The other function, the civil one, is to investigate local government agencies and officials to form views as to whether they are acting properly. If a grand jury determines they are not, it has various options open to it. The most frequently used option is the presentation of a Report outlining the grand jury’s findings and recommendations in the matter. Such Reports are public and frequently attract media attention. They must be responded to in specific ways by the agencies or elected officials reported upon. Except where an investigation is mandated, the grand jury in its sole discretion decides whether and what to investigate when performing its civil functions.*

*Depending on the nature and severity of any wrongdoing a grand jury finds in its investigations it can, in addition to releasing a Report, request the District Attorney to pursue the matter criminally, issue its own Accusation to start a court action to remove a wrongdoing official from office, order the District Attorney to sue to recover monies the grand jury has determined are due and order the commencement of escheat proceedings to recover land. Collectively the preparation of Reports and these additional powers are frequently referred to as the civil function of a regular grand jury.*

*For historical and logistical reasons many District Attorneys do not seek indictments from their regular grand jury. In some counties District Attorneys always elect to proceed without indictment. In other counties limited purpose “additional” grand juries are impaneled to handle criminal matters. Where an additional grand jury has been impaneled it has, with one exception, the exclusive power to indict. It does not, however, have an exclusive power to investigate and the regular grand jury retains the power to investigate crimes. If a regular grand jury found an indictable offense during one of its investigations and an additional grand jury was sitting, the regular grand jury would turn the results of its investigation over to the additional grand jury to issue the indictment. Whether or not a regular grand jury sits in a county whose District Attorney simply chooses not to make use of its indictment function, or in a county with an additional grand jury sitting, the regular grand jury possesses all of the criminal and civil investigatory powers of any regular grand jury.*

*The term “civil grand jury” is frequently used as a shorthand way to refer to a regular grand jury that sits in a county where the regular grand jury’s indictment powers are not called upon. It is a convenient but unfortunate, shorthand term that makes it easy to refer to such a regular grand jury. The CGJA tries to avoid the term, however, and encourages grand jurors to do the same. The reason is that the term conveys the impression to the public, the media, the government officials over whom you have oversight jurisdiction, and perhaps worst of all, to grand jurors themselves, that regular grand jurors do not have the strong powers that in fact they do have. It can lead to a diminishing awareness of and commitment to your powers to investigate public official misconduct in office, to issue accusations, to direct the District Attorney to recover monies and to investigate criminal matters even if you will not be asked to issue an indictment. In short, it can lead to a mentality that, in counties where they are not asked to issue indictments, all that regular grand juries do, or even all they are required to do, is issue Reports. That is wrong and such an attitude can severely weaken a grand jury and, indeed, the strength of all of California’s regular grand juries in the future. It is also possible that if enough grand jurors think of themselves as possessing only reporting powers for a long enough period of time, the legislature may agree and significantly change the historic role of the regular grand jury.*

*The CGJA encourages regular grand juries to refer to themselves simply as the “Modoc County Grand Jury”. If an additional grand jury is impaneled let it refer to itself as an “additional”, “special” or “criminal” grand jury but reserve the unrestricted term “grand jury” for the regular grand jury.*

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*www.cga.org*

## **Modoc County Grand Jury Roster 2010-2011**

Wesley Cook, Cedarville  
Frank Carter, Alturas  
Jim Massey, Jr., Tulelake  
Terry McChesney, Alturas  
Gary Slinkard, Alturas  
Bob Zane, Alturas  
Barbara Boyd, Tulelake  
Loretta McGiffin, Fort Bidwell  
Leta Bethel, Alturas  
Patricia Budmark, Alturas  
Jerry Schliesser, Fort Bidwell

Serving on the 2010-2011 Grand Jury has been a vast learning experience for all, but most especially for me. The process has been frustrating as well as rewarding. Thank you is not enough for all the dedication, time and hard work my fellow jurors have spent investigating and deliberating some very complex issues. It was an honor to serve with this fine group.

**Wesley Cook - Foreman**

### **Acknowledgements**

This year's grand jury would like to express our sincere thanks to Judge Francis W. Barclay and Linda Ostoja for the legal and logistical support received from the Modoc Superior Court.

We would also like to acknowledge the excellent cooperation we received from the County Department heads and members of their staff.

Last, but not least, a big debt of gratitude to the Modoc County Sheriff's Office for providing a meeting room, and Modoc County Sheriff's Office staff member Sara Wright, for handling our scheduling needs.

## **REVIEW OF MODOC COUNTY TREASURER'S OFFICE**

### **AREA OF STUDY**

Modoc County Treasurer

### **ISSUE**

Ongoing investigation, based on recommendations for further review by the 2009-2010 Grand Jury

### **GENERAL**

The Treasurer explained the duties of the job, knowledge of job requirements and standard procedures.

During the course of the interview, some of the questions asked included but weren't limited to:

Q – Does the Treasurer have the power to refuse to pay warrants?

A – Yes

Q – Are restricted funds still being used?

A - Yes

### **METHOD OF INVESTIGATION**

- Interviewed Modoc County Treasurer

### **FINDINGS**

1. The Treasurer failed to perform duties to insure government funds were legally spent and properly accounted for.

### **RECOMMENDATIONS**

1. Follow duties and guidelines as set forth by the State and Federal Government.
2. Have accurate monthly reports to the Board of Supervisors that are factual and transparent.
3. Continued follow up by the 2011-2012 Grand Jury.

### **FORMAL RESPONSE REQUIRED**

Modoc County Treasurer to respond to finding #1 and recommendations #1 and #2 to Presiding Judge of the Modoc Superior Court within 90 days of publication of this report pursuant to Penal Code Sections 933(c) and 933.05.

# **REVIEW OF MODOC COUNTY AUDITOR'S OFFICE**

## **AREA OF STUDY**

Modoc County Auditor

## **ISSUE**

Continued investigation, based on recommendations for further review by the 2009-2010 Grand Jury

## **GENERAL**

The Auditor discussed her duties as Auditor and her qualifications to serve as the Auditor. She gave information on past employment history, formal education and background information.

During the interview questions were asked regarding the audit process that was currently underway by VTD Audits.

## **METHOD OF INVESTIGATION**

- Interviewed Modoc County Auditor

## **FINDINGS**

1. Restricted funds are being used on advice of County Counsel.
2. Modoc County is currently borrowing from restricted funds and there is no guarantee the funds will be paid back by the end of the fiscal year.

## **RECOMMENDATIONS**

1. The Auditor should review and comply with laws associated with restricted funds.

## **FORMAL RESPONSE REQUIRED**

Modoc County Auditor to respond to finding #1, 2 and recommendation #1 to the Presiding Judge of the Modoc Superior Court within 90 days of publication of this report pursuant to Penal Code Sections 933(c) and 933.05.

## REVIEW OF MODOC COUNTY SHERIFF/CORONER JAIL INSPECTION

### AREA OF STUDY

Modoc County Sheriff's Department

### ISSUE

Required annual review

### BACKGROUND

Adult Title 15 & 24; Minimum Standards for Local Detention Facilities – 2001 revision

### METHOD OF INVESTIGATION

- Interviewed Modoc County Sheriff/Coroner and members of the Sheriff's office staff

### FINDINGS

1. The sheriff's department has sub-marginal staffing. Six months before the new Sheriff was elected the Board of Supervisors were notified by the sheriff's office that the jail was in non-compliance of Adult Title 15 & 24 Minimum Standards for Local Detention Facilities. The State of California Correction Standards Authority is aware of the non-compliance and has notified the sheriff's office that it would necessarily side with any litigant who sues where non-compliance was at issue. At issue is section 1027, where it states that "whenever one or more females are in custody, there shall be at least one female employee who shall in like manner be immediately available."

The Sheriff's Department has only one female officer and must operate 24/7/365 and cannot Meet Title 15 & 24 requirements.

Modoc County appears to be in financial jeopardy.

The 2009-2010 Grand Jury found the Sheriff's Department in non-compliance in the above areas.

The outgoing Sheriff's reply to the 2009-2010 Grand Jury findings was to state that he agreed the department was in non-compliance with the state standards but that the condition was not itself engaging in an illegal practice.

The incoming Sheriff's response to the 2009-2010 Grand Jury stated a very different conclusion.

2. Vehicle licensing fees (VLF) legislation is scheduled to expire in June 2011. The VLF pays 48% of the departments enforcement budget. The new California

Governor has pledged to put further VLF up to the people by ballot. The Sheriff cannot know how that vote will go so he must develop two budgets, one with VLF funding and one without VLF funding.

3. Presently, the Sheriff is covering the gaps or vacancies in his deputies' shifts because of marginal staffing.
4. The department is starting a "Neighborhood Watch" program hoping to supplement manpower with qualified people or retired law enforcement personnel.
5. The Sheriff has been rebuilding the Sheriff's office front area with his own personnel (no county maintenance personnel) using his own tools and time.
6. Martial Arts training, shooting range training and the training of investigational officers is difficult.
7. Several needed detention facilities (jail) repairs were identified:
  - o Leaking roof.
  - o Sprung door.
  - o Electronic monitoring console.
  - o Deteriorated/unusable 18 person cell wing.

Some of these conditions contribute to unsafe working and/or incarceration conditions. There is need for immediate attention.

## **RECOMMENDATIONS**

1. Sheriff needs to consult with District Attorney and County Counsel and get a final determination about the legality of the current staffing situation particularly as it pertains to female staffing requirements.
2. Sheriff's office should have access to the assistance and support of the County Works Department in the maintaining of the jail facilities. The needed work should be completed in the shortest time possible.

## **FORMAL RESPONSE REQUIRED**

Modoc County Sheriff/Coroner to respond to finding #1, 5 and 7 and recommendation #1 to the Presiding Judge of the Modoc Superior Court within 90 days of publication of this report pursuant to Penal Code Sections 933(c) and 933.05.

# REVIEW OF ALTURAS POLICE DEPARTMENT

## AREA OF STUDY

Alturas Police Department

## ISSUE

Required annual review

## BACKGROUND

“Proposition 172 Facts: A Primer on the Public Safety Augmentation Fund”

## METHOD OF INVESTIGATION

- Interviewed Alturas Chief of Police

## FINDINGS

1. Police Department finger/palm print machine is not hooked up to the Justice Department and may not be fully functional. The money (\$3,000.00) for a maintenance contract with Identrix (the manufacturer) is not available. A similar machine is maintained by the Sheriff’s Department. At this time the Alturas Police Department can only make “hard” copy fingerprint cards. Perhaps County IT can set up the machine for the police department
2. The Alturas Chief of Police has contacted the State Controllers Office and the Attorney General (DOJ) regarding county budget deficit problems and was informed that an investigation is ongoing.
3. We discussed AB-172, the Public Safety Sales Tax (PSST). The City is to be included in the PSST cash distribution. The Chief stated that AB-172 calls for a Public Safety Committee, which is composed of members of the public safety agencies including the Sheriff’s Office and Police Department and may include Probation, District Attorney and Fire Departments. A member of the City Council was assigned the public safety issue, and has yet to determine who, if anyone, is on the Public Safety Committee. The Public Safety Committee is to determine the allocation of the Public Safety dollars to the various Public Safety agencies. Right now, the Police Department is getting 3% per year (\$12,000.00) of the Public Safety dollars (approximately \$300,000.00) coming to the County.
4. The County wants to assess the Police Department approximately \$80,000.00 per year for dispatch services. The County Sheriff’s office gets the lions share of the PSST funds.
5. The Police Department has six (6) officer positions (including the chief’s position). Currently there is one (1) vacant position that the City Council has approved to be filled.

6. It is possible that if the Vehicle Licensing Fee bill does not pass, the Alturas Police Department will be cut by 50%.

## **RECOMMENDATIONS**

None

## **FORMAL RESPONSE REQUIRED**

Alturas Police Chief to respond to finding #1, 2, 3 and 4 to Presiding Judge of the Modoc Superior Court within 90 days of publication of this report pursuant to Penal Code Sections 933(c) and 933.05.

## **REVIEW OF DEVIL’S GARDEN CONSERVATION CAMP #40**

### **AREA OF STUDY**

Devil’s Garden Conservation Camp #40

### **ISSUE**

Required Annual Review

### **BACKGROUND**

“Devil’s Garden Conservation Camp # 40” – *a fact sheet*

“2010 CDCR Adult Institutions Outcome Evaluation Report” – *pg 38, Table 21  
Recidivism Rates*

“California State Auditor Report 2009 – 107.1” – *pg 77-79 Average Inmate Costs Report*

### **GENERAL**

The Camp Commander and his staff met with the Grand Jury review team on February 22<sup>nd</sup> and provided a general overview of the Camp’s history, purpose and a broad description of daily camp life and the work schedules performed by the inmates. Camp personnel were able to answer all of the questions brought up by the review team and were anxious to show the team around the facilities and workshops.

### **METHOD OF INVESTIGATION**

- Interviewed CDCR Administrator and Staff

### **FINDINGS**

The professional management of the Camp, and the well organized and disciplined activities at the Camp have safely provided the local communities with 10,464 hours of conservation work. Federal agencies received 57,432 hours; BLM received 29,144 hours and the USDA Forest Service received 28,288 hours. In addition, crews responded to 30 fires and provided 23,313 hours to fire fighting.

Of the 33 CDC camps operated throughout the State of California, The Devil’s Garden Camp has one of the lowest recidivism (repeat offenders) rates.

### **RECOMMENDATIONS**

None

### **FORMAL RESPONSE REQUIRED**

No response required

# **REVIEW OF MODOC COUNTY MENTAL HEALTH SERVICES**

## **AREA OF STUDY**

Modoc County Mental Health Services

## **ISSUE**

Periodic Review

## **BACKGROUND**

There are four Departments administered by the Director

- Mental Health
- Drug and Behavior
- Public Health
- Environmental Health.

## **METHOD OF INVESTIGATION**

- Interviewed Director of Modoc County Mental Health Services

## **FINDINGS**

1. Each of the Departments has experienced budget cuts.
2. Most of the restricted funds belonging with these four departments has been repaid though not all.
3. The Director and the personnel working with her are to be commended.

## **RECOMMENDATIONS**

None

## **FORMAL RESPONSE REQUIRED**

None required

# **REVIEW OF MODOC COUNTY ENVIRONMENTAL HEALTH**

## **AREA OF STUDY**

Modoc County Environmental Health

## **ISSUE**

Periodic Review

## **BACKGROUND**

Responsibilities and Operations of Department

## **METHOD OF INVESTIGATION**

- Interviewed Department Head of Modoc County Environmental Health

## **FINDINGS**

1. This agency has responsibility for 22 programs.
  - Food sanitation, restaurant inspections.
  - Hazardous material.
  - General underground/above ground storage tanks.
  - Land use.
  - Rabies and animal control.
  - Liquid waste.
  - Solid waste.
  - Water systems.
  - Wells.
  - Permits and inspections.

This list does not include all the programs but gives a picture of the scope of the department.

2. Due to the financial crisis in the county, the staff has been reduced to two people. The Department Head and a secretary/bookkeeper.

## **RECOMMENDATIONS**

None

## **FORMAL RESPONSE REQUIRED**

None required

# **REVIEW OF MODOC JOINT UNIFIED SCHOOL DISTRICT (MJUSD)**

## **AREA OF STUDY**

Modoc Joint Unified School District

## **ISSUE**

Periodic Review

## **GENERAL**

The Superintendent explained the function of the superintendent's office, structure for the District, budget process current financial picture and restricted funds.

The Superintendent also gave a very clear picture as to how the district's financial accounting is handled. He commended his personnel for their knowledge and work on following correct accounting procedures. He explained that when it was brought to his attention that the county was using the school's restricted funds, steps were immediately taken to have those monies restored. The interest lost from the use of these funds has not been replaced.

The Superintendent's office is to be commended for their professionalism and work on behalf of the students.

## **METHOD OF INVESTIGATION**

- Interviewed Superintendent of Modoc County School District

## **FINDINGS**

None

## **RECOMMENDATIONS**

None

## **FORMAL RESPONSE REQUIRED**

None required

# **REVIEW OF MODOC COUNTY ROAD DEPARTMENT**

## **AREA OF STUDY**

Modoc County Road Department

## **ISSUE**

Periodic Review

## **BACKGROUND**

How the current budget has affected the Department

## **METHOD OF INVESTIGATION**

- Interviewed Deputy Director of Transportation
- Interviewed Office Manager/Fiscal Officer

## **FINDINGS**

1. The department laid off five (5) employees in 2010. These layoffs were based on projections of income for the 2009-2010 fiscal year.
2. Modoc County has 500 miles of paved roads and 488 miles of unpaved roads. Currently the Road Department works four ten-hour days. The department used 10% of the asphalt in 2010 that it used in 2009. Due to low staffing every person must work in the field when a large project is being completed.
3. The Road Department receives no tax monies from Modoc County. The State of California determines when gas taxes are released to the counties. It is difficult to budget when the state changes policies. A big impact on the budgeting is the fate of the Secure Rural Funds Act.
4. The Road Department has pursued various stimulus grants for road work. In one instance the grant wasn't obtained because the County does not have a County Audit that was required for the application.
5. Both the Deputy Director and the Office Manger/Fiscal Officer expressed concern that the Road Department cannot continue to maintain roads in good condition if their department is to operate at a minimum level of activity.

## **RECOMMENDATIONS**

None

## **FORMAL RESPONSE REQUIRED**

None required

# **REVIEW OF CEDARVILLE CEMETERY DISTRICT**

## **AREA OF STUDY**

Cedarville Cemetery District

## **ISSUE**

Complaint – Alleges lack of maintenance, especially puncture vine control and irrigation needs. This cemetery was compared to the other three cemeteries in Surprise Valley.

## **METHOD OF INVESTIGATION**

- Reviewed maintenance activities with the Caretaker (new Caretaker as of Spring 2010).
- Reviewed short and long range plans for the cemetery with the Board of Directors.

## **FINDINGS**

1. The irrigation well is inadequate, especially when agricultural wells in the area are being used. The older portion of the cemetery is not given to ease of maintenance and family plots are to be maintained by the families. It also should be noted that there were maintenance problems observed in the other three (3) cemeteries. (All were visited on 11/4/10.) Cedarville is by far the largest of the four cemeteries.

## **RECOMMENDATIONS**

1. Confer with vegetation management consultant.
2. Review dry scape plans for use of drought tolerant plants to help ease pressure on water supply.
3. Contact Devil's Garden Conservation Camp for possible help in maintenance (especially weed removal).
4. Contact Probation Department regarding use of individuals who have been sentenced to community service.
5. Place an article in the local papers stressing that families need to take care of their family plots in the older part of the cemetery.

## **FORMAL RESPONSE REQUIRED**

Cedarville Cemetery District to respond to finding #1 and recommendations #1 through 5 to the Presiding Judge of the Modoc County Superior Court within 90 days of publication of this report pursuant to Penal Code Sections 933(c) and 933.05.

# **REVIEW OF DAPHNE DALE COMMUNITY SERVICE DISTRICT (DCSD)**

## **AREA OF STUDY**

Daphnedale Community Service District

## **ISSUE**

Complaint, possible embezzlement of DCSD funds

## **GENERAL**

Reviewed numerous allegations of misconduct regarding accounting, meeting protocol and engineering violations.

## **METHOD OF INVESTIGATION**

- Interviewed Resident; Board Member DCSD, as well as the President and the Secretary DCSD
- Reviewed District operations, problems and inspected the past five (5) years bank and financial records.
- Modoc LAFCO held a hearing April 12, 2011 regard DCSD.

## **FINDINGS**

1. No evidence of embezzlement was found.
2. The Daphnedale Community Service District has a tremendous amount of internal and financial problems.

## **RECOMMENDATIONS**

1. Follow the recommendations as set forth in the Modoc LAFCO Hearing of April 12, 2011.

## **FORMAL RESPONSE REQUIRED**

Daphnedale Community Service District to respond to recommendation #1 to the Presiding Judge of the Superior Court within 90 days of publication of this report pursuant to Penal Code Sections 933(c) and 933.05.

## **REVIEW OF STRONGHOLD NEWELL PEST ABATEMENT DISTRICT (SNPAD)**

### **AREA OF STUDY**

Stronghold Newell Pest Abatement District

### **ISSUE**

Periodic Review

### **BACKGROUND**

SNPAD is a special district in the Modoc portion of the Tulelake Basin for the sole purpose of rodent and vegetation management. Funding is provided by an annual acreage assessment collected by the Modoc County Auditor and administered by the Modoc County Agriculture Department.

### **METHOD OF INVESTIGATION**

- Interviewed: Agricultural Commissioner; Tulelake Office Staff and Alturas Office Staff
- Review of the 2010-2011 and 2011-2012 Budgets
- Review of weed and rodent policies and procedures
- Review of meeting protocol and annual operations

### **FINDINGS**

1. Stronghold Newell Pest Abatement District is a fiscally sound district with a forward-looking Board of Directors with day-to-day operations being performed by the very capable staff of the Modoc County Ag Department.

### **RECOMMENDATIONS**

1. An annual press release should be made to the agricultural section of the Herald and News to inform District constituents of policies, annual operations review and contact information for service.

### **FORMAL RESPONSE REQUIRED**

Stronghold Newell Pest Abatement District to respond to recommendation #1 to the Presiding Judge of the Modoc Superior Court within 90 days of publication of this report pursuant to Penal Code Sections 933(c) and 933.05.

## **Notice to Respondents**

### **Response Requirements**

On January 1, 1997, an extensive change in the legal requirements affecting respondents and responses to the Grand Jury Findings and Recommendations took effect (California Penal Code Section 933.05). Each respondent identified in this report should become familiar with the law and, if in doubt, should consult legal counsel before responding.

### **How to Respond to Findings**

For the assistance of all respondents, California Penal Code Section 933.05 is summarized as follows:

The Respondent (person or entity) must respond to Findings in one of two (2) ways, stating that:

1. You agree with the Finding.
2. You disagree wholly or partially with the Finding; in which case, the response shall specify the portions(s) of the Finding that is disputed, and shall include an explanation of the reasons for the disagreement.

### **How to Report Action in Response to Recommendations**

Recommendations by the Grand Jury require action(s). The Respondent must identify action(s) on all recommendations in one of four (4) ways, stating that the recommendation:

1. Has been implemented, with a summary of implemented activities.
2. Has not yet been implemented, but will be implemented in the future, with activities and time frames for implementation.
3. Requires further analysis or study. In such case, the law requires a detailed outline of the analysis and time frame not to exceed six (6) months. Further, the complete analysis or study must be submitted to the officer, director or governing board of the entity being investigated.
4. Will not be implemented because it is either unwarranted or unreasonable with an explanation(s) and supporting facts.

### **Timing of Responses and Actions to Findings and Recommendations:**

As stated in Penal Code Section 933(c), No later than 90 days after the grand jury submits a final report on the operations of any public agency, the governing body of any public agency subject to grand jury reviewing authority, shall comment to the presiding judge of the superior court on findings and recommendations. Every elected official or agency head for which the grand jury has responsibility shall comment within 60 days to the judge of the superior court with a copy sent to the Board of Supervisors. For 45 days after the end of the term, the Grand Jury foreperson or designees shall, upon reasonable notice, be available to clarify recommendations in the report.



## **OPEN LETTER TO THE PUBLIC**

The 2010-2011 Modoc County Grand Jury and previous Grand Juries have inquired extensively into the fiscal crisis of Modoc County. We have concluded, as have past Grand Juries, that there has been a misuse and misdirection by certain County officials of both State and Federal restricted funds.

We believe that the misuse and misdirection of these restricted funds has significantly contributed to the fiscal crisis now facing Modoc County and we believe that every citizen of Modoc County has suffered or will suffer financially in some form as a result of this misuse and misdirection.

We further believe that the inquiries and findings made by us and previous Grand Juries, suggests that there is a potential for criminal liability on the part of certain County Officials under Penal Code section 424 (Misappropriation of Public Funds) and/or Penal Code section 425 (Failure to Keep and Pay Over Public Funds as Prescribed). In this regard, we have forwarded letter requests to California State Attorney General Kamala D. Harris, Modoc County District Attorney Christopher Brooke, and Modoc Superior Court Presiding Judge Francis W. Barclay, requesting that they further investigate and initiate appropriate action concerning this serious matter.

In closing, the 2010-2011 Grand Jury strongly encourages all of the citizens of Modoc County to participate in the monitoring of our elected and appointed officials and to become more involved in our local government in general.

Respectfully Submitted

2010-2011 Modoc County Grand Jury



Is this complaint already in litigation? Yes [ ] No [ ]

**3. Your Contacts to Date** – List the agencies and individuals contacted, showing related entity and date of conflict. Also address and telephone number of each if possible.

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**4. Potential Grand Jury Contacts** – Who do you think the Grand Jury should contact or interview about this complaint and why? \_\_\_\_\_

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**5. Your Expectations** – What result(s) do you want from the Grand Jury investigation?

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**6. Attachments** – List and attach any correspondence and supporting documentation that you believe are pertinent to this complaint.

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Among the many responsibilities and authorities of the Grand Jury is the investigation of Citizens Complaints. The Grand Jury serves as a “watchdog of citizens” to ensure that all branches of local government (i.e. County of Modoc, City of Alturas, their departments, officials, staff, as well as agencies or organizations with jurisdiction within Modoc County) are being administered efficiently, honestly, and in the best interest of the public. **All complaints submitted to the Grand Jury are handled in strictest of confidence as protected by State Law.**

**Signature and Date** – Please sign and date your complaint below.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

