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Dedicated to Preserving the Napa River for Generations to Come

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935 HARTLE COURT  
P.O. BOX 2480  
NAPA, CALIFORNIA 94558-0522  
TELEPHONE (707) 258-6000  
FAX (707) 258-6048

August 18, 2004

The Honorable Scott Snowden  
Presiding Judge  
Napa County Superior Court  
825 Brown Street  
Napa, CA 94559

Noted

WTS

8/20/04

STK

9/2/04

~~WTS~~  
8/30/04

Re: Response To The Napa County Grand Jury Report 2003-2004, On Behalf Of The  
Napa Sanitation District Board of Directors, General Manager and District Counsel

Dear Judge Snowden:

The Napa Sanitation District is in receipt of the Napa County Grand Jury Report 2003-2004. In review of the Napa Sanitation District Report, the summary section stated "The Grand Jury was impressed by the quality and dedication of NSD's employees and management team and believes that the District is performing an effective and useful public service for the community". The report noted improvements in management expertise and performance, high district employee morale, substantial improvements in formalized training and safety programs, improved communications and efficiency, completion of the highly advanced Soscol water recycling facility, and completion of the Kennedy Park recycled water pipeline project. The report also took note of our significant commitment to recycled water, and pollution prevention activities.

The District Board of Directors reviewed and approved the attached response at its meeting of August 18, 2004. Please accept this response to the 2003-2004 Napa County Grand Jury Report on behalf of the Napa Sanitation District Board of Directors, General Manager and District Counsel.

Sincerely,

Timothy B. Healy  
Interim General Manager  
Napa Sanitation District

RECEIVED

AUG 20 2004

Clerk of the Napa Superior Court

NAPA SANITATION DISTRICT  
RESPONSES TO GRAND JURY REPORT

FISCAL YEAR 2003-2004



*Noted  
RB  
8/20/04*

*[Signature]  
8/20/04*

**RECEIVED**

AUG 20 2004

Clerk of the Napa Superior Court

Napa County Grand Jury 2003-2004

NAPA SANITATION DISTRICT REPORT

RESPONSE TO FINDING 1 AND RECOMMENDATION 1:

**“Finding 1: NSD has not reached agreement with the Regional Water Quality Control Board to renew the District’s wastewater permit.”**

RESPONSE: On August 11, 2004, the San Francisco Water Quality Control Board, State Water Resources Control Board, the Napa Sanitation District, and the Bay Area Clean Water Agencies (BACWA) reached a settlement of all three pending administrative and judicial cases.

**“Recommendation 1: NSD should place the highest priority on reaching a settlement with the Regional Water Quality Control Board.”**

RESPONSE: The Napa Sanitation District Board of Directors did place the highest priority on reaching an appropriate settlement consistent with the best interests of the District, its ratepayers and water quality, with both the Regional Water Quality Control Board and the State Water Resources Control Board. At its meeting on January 21, 2004, the District Board directed staff to renew settlement discussions with the Water Boards, and provided guidelines to settlement. District staff approached the Regional Board Executive Officer on January 23<sup>rd</sup> to propose settlement discussions. The first renewed settlement discussion was held February 10<sup>th</sup>, and continued regularly until settlement was reached.

RESPONSE TO FINDING 2 AND RECOMMENDATION 2:

**“Finding 2: NSD may be in violation of regulations that require that all ratepayers pay the same fee for equivalent service.”**

RESPONSE: District is in conformance with service fees and understands that the issue of connection fees is controversial.

**“Recommendation 2: Management and the Board of Directors should determine the extent to which NSD violates regulations and then take appropriate actions.”**

RESPONSE: The Board and General Manager understand the issue raised by the Grand Jury. We recognize that this is a complex issue. The Board will direct that a legal and fiscal analysis of this issue be conducted. After receipt of this information, the Board will take appropriate action.

RESPONSE TO FINDING 3 AND RECOMMENDATION 3:

**“Finding 3: It was inappropriate for a member of the Board of Directors to leak charges against an employee to local newspapers before an investigation determined the validity of those charges.”**

RESPONSE: The Board of Directors and District Counsel are in agreement with the Grand Jury that it is inappropriate activity for a member of the Board of Directors to disclose charges against an employee to local newspapers prior to an investigation to determine the validity of those charges. While the Board of Directors can confirm that information was leaked, we cannot confirm the source or manner in which it was leaked.

**“Recommendation 3: District Counsel should brief the Board of Directors regarding their responsibilities to keep personnel matters confidential. Violations of this policy should result in censure and/or dismissal.”**

Response: District Counsel has in the past and will continue to advise the Board of Directors of the confidential status of personnel matters and of their fiduciary responsibility to maintain that confidentiality.

If the confidential personnel information was acquired by being present in a closed session authorized by the Ralph M. Brown Act and then disclosed to a person not entitled to receive it, without authorization from the Board of Directors to disclose the confidential information, that constitutes a violation of Section 54963 of the Brown Act. Violation of Section 54963 can result in penalties as described in that section. These penalties do not include censure or dismissal.

Unauthorized disclosure by a Board member of confidential personnel information that was acquired outside of a closed session does not constitute a violation of the Brown Act. However it does constitute a violation of the Board member’s fiduciary responsibility. If necessary, the District may petition a court of law for an injunction, enjoining the Board member from such disclosures in the future.

While the Board likely has the authority to censure one of its member directors, dismissal would be the responsibility of the appointing body, either the Napa City Council or the Napa County Board of Supervisors.

RESPONSE TO FINDING 4 AND RECOMMENDATION 4:

**“Finding 4: As a result of management and employee turnover, the District lacks in-depth finance and accounting expertise.”**

RESPONSE: It is true that there has been turnover in the finance and accounting areas. Experience levels in all areas fluctuate from time to time for a number of reasons, including employee retirement.

**“Recommendation 4: NSD can remedy this problem in a variety of ways, including providing additional training for existing staff, hiring outside consultants, or hiring more experienced staff.”**

RESPONSE: The District continually provides training for all its employees, including staff performing the finance and accounting functions. The District has contracted with the County of Napa to provide accounting, auditing and/or consulting services, in order to provide financial transactions, and to provide additional accounting, auditing and/or consulting services as requested. District and County staff are currently discussing areas in which the County can provide assistance to the District. Additionally, the District has hired a Financial Consultant to prepare a Financial Master Plan and Revenue Program.

RESPONSE TO FINDING 5 AND RECOMMENDATION 5:

**“Finding 5: The Grand Jury observed the following shortcomings in NSD’s accounting practices:**

- **The Board does not review and approve the General Manager’s expense reports.**
- **NSD has not conducted a physical inventory of fixed assets in several years.**
- **NSD does not have a formal system to ensure that vendors properly credit the District for returned merchandise.**
- **District accounting personnel have had difficulty making appropriate year-end adjusting entries and following auditor recommended year-end closing procedures, which indicates a need for further training of accounting staff.”**

RESPONSE:

- The Interim General Manager has included all General Manager expense reports on the Board’s Agenda for review since January 2004. The Board Chairman has executed approval of the expense reports. Prior to January 2004, approval of General Manager’s expense reports was sporadic. There is an adopted District Resolution requiring the General Manager’s expense reports to be approved by the Chairman of the Board.

- The last physical inventory of fixed assets the District conducted was in October 2000.
- Although the District did not have a formal system to ensure that vendors properly credit the District for returned merchandise, the District did have an informal procedure that was effective.
- The year-end closing procedure was modified during the FY 2002-03 Audit from the method used in previous years. Previously, the District's Auditor assisted in preparing the closing entries. In the 2002-03 Audit, District staff was required to prepare the closing entries without assistance from the Auditor. This modification, coupled with a new employee performing the year-end closing, created difficulties which were addressed by District staff.

**“Recommendation 5: NSD should take the appropriate steps to address these issues.”**

RESPONSE:

- As noted above, the General Manager has and will continue to include expense reports on the Board's Agenda for review. District accounting staff has been directed to ensure proper execution of expense reports.
- District staff has met with the County Auditor to discuss improvements in the method the District uses to perform a physical inventory of fixed assets. The District will prepare a Physical Fixed Asset Inventory Procedure, that will include addressing the frequency of performing asset inventory, and perform the physical inventory in accordance with the approved procedure by April, 2005 and annually thereafter.
- On August 4, 2004, the Board approved a formal Merchandise Return Policy. It will be added to the District's Accounting and Purchasing Procedures Manual.
- District staff has gained additional experience and training since the previous year-end closing. Additionally, the County of Napa will provide assistance with year-end closing in accordance with our accounting, auditing and/or consulting service agreement with the County.

RESPONSE TO FINDING 6 AND RECOMMENDATION 6:

**“Finding 6: The City and County of Napa do not have a recycling program to household grease and oil.”**

RESPONSE: NSD was not requested to respond to Finding 6.

**“Recommendation 6: The City and County of Napa should expand their recycling programs to include household grease and oil.”**

RESPONSE: NSD was not requested to respond to Recommendation 6.

RESPONSE TO FINDING 7 AND RECOMMENDATION 7:

**“Finding 7: NSD doesn’t distribute the “Pipeline” newsletter to all residents in its service area.”**

RESPONSE: As noted in the NSD Pollution Prevention Activities section of the report, NSD publishes the “Pipeline”, a newsletter encouraging pollution prevention and providing news of District activities. The District distributes this newsletter to 23,165 out of a potential of 32,000 customers, using the mailing list associated with collection of sewer service charges. The majority of residents not receiving the “Pipeline” are residents of multi-family housing where only one sewer bill is sent to the owner of the property. In addition to directly mailing the “Pipeline” to a majority of our customers, the “Pipeline” is also included on the District’s website, [www.napasaniationdistrict.com](http://www.napasaniationdistrict.com), under Publications. The “Pipeline” is also available at the District’s Administrative Office at 935 Hartle Court in Napa.

**“Recommendation 7: NSD should distribute the “Pipeline” to all residents in its service area.”**

RESPONSE: The District has researched a number of options and determined that it could increase distribution by using a combination of different mailing lists. By using a combination of lists, distribution should include virtually all District customers. The District will revise its mailing list to include these additional residents.

RESPONSE TO FINDING 8 AND RECOMMENDATION 8:

**“Finding 8: The pages in District policy manuals and handbooks are not marked with revision numbers and dates.”**

RESPONSE: District staff has reviewed all policy manuals and handbooks and determined that some older documents had not been marked with revision numbers and dates. Documents revised after 1994 did include revision numbers and dates.

**“Recommendation 8: NSD should mark manuals and handbook pages with revision numbers and dates.”**

RESPONSE: District staff has reviewed all policy manuals and handbooks and added revision numbers and dates where that information could be determined. District practice since 1994 has been to include the revision dates. The District will continue with this practice for all future revisions.

Napa County Grand Jury 2003-2004

WATER REPORT

RESPONSE TO FINDING 1 AND RECOMMENDATION 1:

**“Finding 1: Napa County has finite water resources and growing water needs.”**

RESPONSE: The Napa Sanitation District concurs.

**“Recommendation 1: The use of recycled water should be maximized throughout the County. Cities and towns, in concert with the Napa County Flood Control and Water Conservation District should intensify efforts to use reclaimed water.**

**Municipalities should also be encouraged to construct tertiary level wastewater treatment plants and seek funds to construct infrastructure to deliver recycled waters.”**

RESPONSE: The Napa Sanitation District has already constructed tertiary level wastewater treatment at its Soscol Water Recycling Facility, and is actively providing recycled water to customers located in both the City and County of Napa. The District is currently performing a study to determine the cost to provide recycled water to the Milliken-Sarco-Tulocay (MST), Carneros, and Napa State Hospital areas. The District has applied for and received a \$250,000 grant from the Department of Water Resources to perform a study on recycled water storage. The District is actively pursuing both Federal and State financial assistance to provide funds to enable expansion of recycled water into these water short areas.

RESPONSE TO FINDING 3 AND RECOMMENDATION 3:

**“Finding 3: Residents, private organizations, farms and public entities within the M-S-T area have depleted the aquifer, causing long-term damage.”**

RESPONSE: The aquifer in the MST area is being depleted. Users of groundwater in the MST area are contributing to the overdraft condition.

**“Recommendation 3: The Napa Sanitation District and the County should develop a plan for funding the construction of an infrastructure to deliver recycled water to the M-S-T area. This would reduce demand on the aquifer.”**



RESPONSE: The Napa Sanitation District agrees that the use of recycled water in the MST area would reduce the demand on the aquifer, assuming that additional use or connections to aquifer water supplies did not occur in place of those converted to recycled water. The Napa Sanitation District and the County have actively participated in developing a plan for recycled water use in the MST area. The District is currently preparing a strategic planning document for the MST area. The plan will include potential pipeline routes, project phasing alternatives, and estimated construction costs for each alternative. Future studies will be performed to determine financing options for the project.

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