

SPECIAL DISTRICTS COMMITTEE



Mike Elliott

Ellen French

Pete Krebsbach
Chairperson

MISSION STATEMENT

The Special Districts Committee is responsible for overseeing the ethics, management, and use of taxpayer funds. This authority is given to the Grand Jury pursuant to California Penal Code §925(a).

The Committee investigates and may make recommendations to improve the efficiency of special districts within the County. Currently, there are over 100 special districts which include: airports, cemeteries, community service, irrigation, levee, pest control, pollution control, recreation and parks, resource conservation, sanitation, separation of grade, storm water, transportation, public utilities, water agencies, water districts, and water storage.

The Committee will visit districts that do not have recent reports and will follow-up on citizens' complaints that pertain to special districts.

SPECIAL DISTRICTS COMMITTEE

SUMMARY OF ACTIVITIES

REPORTS WRITTEN AND PUBLISHED:

- Indian Wells Valley Airport
- Bear Valley CSD
- Golden Empire Transit
- North Edwards Water District (*website only*)

COMMITTEE ACTIVITIES:

- Board of Supervisors Meetings
- Grand Jury Appreciation Week
- The Home and Garden show
- 3 Indictments for the Kern County District Attorney's Office
- Visited Bear Valley Springs Community (Report)
- Visited Buttonwillow Recreation & Parks
- Visited City of Ridgecrest after the Earthquake
- Visited Delano Public Defender's Office
- Visited Golden Empire Transit (Report)
- Visited Indian Wells Valley Airport District (Report)
- Visited Indian Wells Valley Water District
- Visited the Kern County Crime Lab
- Visited Lamont Public Utility District

Complaints:

- Complaints processed - 7

BEAR VALLEY COMMUNITY SERVICES DISTRICT

SUMMARY:

Bear Valley Springs is a privately owned gated community, west of the City of Tehachapi, California. The Bear Valley Community Services District (District) is a special services district that provide services usually provided by a local city government. A homeowner's association lease facilities from the District, maintaining and operating a golf course, hiking trails, parks, equestrian trails and stables, food services, and other activities.

In addition to the county property tax, residents are assessed fees for police, solid waste, security gate, and roads. The District has installed an automated Radio Frequency Identification (RFID) security gate system at the main entrance. The 2019-2020 Kern County Grand Jury (Grand Jury) found that the RFID tag is a voluntary purchase. Residents wanting to use the new system are required to pay \$12 per year to use the RFID gate.

The Grand Jury observed that public access is denied at the security entrance gate and the public is unable to attend the District Board meetings. The public is also denied access to other public facilities including the Kern County Fire Department (KCFD) Station #16.

The defensible space (Hazard Reduction Ordinance) around buildings and the lack of enforcement is a fire concern.

PURPOSE OF INQUIRY:

Pursuant to Penal Code section 933.5, it is the responsibility of the Grand Jury to investigate and report on the performance and duties of special districts within a county. The Special Districts Committee of the 2019-2020 Kern County Grand Jury investigated the operations and management of the District.

METHODOLOGY:

The Grand Jury toured the District on several unannounced visits. The visits included: driving around the District, a visit to the Water Reclamation Plant, observing the entrance gate operations, the solid waste transfer station, Kern County Fire Department Station #16, as well as the District Office, golf course, restaurant, market, and the equestrian stables. The Grand Jury interviewed the District personnel, residents, KCFD personnel, obtained documents, attended a Board of Directors meeting, visited the

District website, and performed internet research. Follow up interviews and emails supplied additional information.

DISCUSSION OF FACTS:

Nestled in the mountains of Tehachapi, California, is a sprawling gated community called Bear Valley Springs. The Fickert family purchased from squatters the rights to 160-acres of land in 1869, and settled in the quiet, isolated, remote, and virtually hidden valley. In the early 1900s, the Fickert family had expanded their holdings to 25,000 acres. By 1959, the last of the immediate Fickert family had passed away, ending the quiet rural dynasty. A resort company purchased the 25,000-acre ranch, in its entirety, from the Fickert heirs, and it became Bear Valley Springs. On May 4, 1970, the Bear Valley Community Services District was formed to act as a nonprofit organization and local government to manage and maintain water, roads, wastewater treatment, solid waste disposal, mailboxes, and provide police protection. In 1971, a community development was started to sell properties, and by 1977, that project was sold out.

The Bear Valley Springs community currently has 3,700 homesites and a population of 5,172 (2010 Census).

Two different organizations control and provide services to the residents of Bear Valley Springs: Bear Valley Community Services District, and the Bear Valley Springs Homeowner's Association (HOA).

A. General:

The District is governed by a five-member Board of Directors who are residents of Bear Valley Springs and elected to staggered four-year terms.

The Board meetings are held monthly and open to the public. California Government Code, section 54950, et seq., *The Brown Act* states: "*The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and writings of public officials and agencies shall be open to public scrutiny.*" Also, in Government Code section 54953(a) "*All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency...*"

The Rosenberg's Rules of Order is used to conduct business on monthly agendas.

The District is funded by property taxes, special assessments, and standby charges that are collected by the Kern County Tax Collector on the regular property tax bill. Similar to a city government, the District provides: police protection, potable water, road maintenance, wastewater treatment, solid-waste removal, and security entrance gate. The District owns all amenities such as a golf course, hiking trails, parks, equestrian stables and trails, food

services and restaurants, clubhouse, and other facilities within Bear Valley Springs. These amenities are then leased to the HOA that oversees the operation, management and maintenance.

District Codes were adopted, according to Government Code section 53069.4, to make any violation of their codes subject to administrative fines. District Code section 3-5-2: Prohibited Accumulation of Weeds and Debris: mandates that property owners must destroy and remove weeds and debris on their property.

The Kern County Fire Department Station #16 operates within the District boundaries and outside areas. The KCFD enforces the Kern County Ordinance Codes, Chapter 8.46 Hazard Reduction (KCOC 8.46). All Kern County property owners, whose properties are located within State Responsibility Areas, are required to perform fire hazard reduction clearance on all properties:

- The KCOC 8.46 states the following
 - Defensible space of 100 feet
 - Compliance by June 1st
 - Citations of \$500 for noncompliance
 - Removal of all non-ornamental combustibles and vegetation around all structures
 - Grass height kept no higher than 4" to 6"
 - Large tree limbs minimum 6' from the ground
 - Notification Process
 - All property owners in the area to be notified of the requirements
 - A letter is sent out prior to May 1st

Failure to meet these requirements may result in an Administrative Citation. Inspection of these properties begins on June 2nd of each year and can continue throughout the year as necessary. If a citation is issued, the owner of the property will be given 15 days from the citation mailing date to either dispute the citation or show proof the violation was corrected. After 15 days, a \$500 fine will be assessed. The property owner will be subject to an additional fine of \$1,000 for continued noncompliance.

B. Police:

The Bear Valley Police Department consists of both sworn officers and civilian personnel. The Chief of Police is hired by the Board of Directors to oversee public safety and the security gate. The department has full authority to enforce laws, including traffic laws. Current funding provides for four sworn officers, one sworn Sergeant, one part-time sworn officer, and a Police Chief. The department has 11 Citizen Volunteers. A contract with the Kern County Sheriff's Office (KCSO) provides dispatch services to the Bear Valley Police Department. The department, the KCSO Eastern Division, and the Stallion Springs Police Department use the same radio channel, so calls are shared.

C. Roads:

The District owns 110 miles of roads. The District cleans and maintains all roads and drainage easements, including snow removal, with their equipment. Major road and drainage repairs are sent out for bid to outside contractors.

D. Solid Waste:

The solid waste facility incorporates a transfer station system. Homeowners deposit their household waste in bins stationed around the site and when full, bins are taken to a landfill.

The transfer station will be undergoing remodeling. This project and budget were approved at the October 10, 2019, District board meeting. The project includes grading, fencing, drainage improvements, cameras, lighting, signage, and traffic delineation, not to exceed a \$200,000 budget.

E. Wastewater Treatment:

The Water Reclamation Plant services 478 connections. All other properties are on their own septic system. The effluent (non-potable) water is used to water the golf course and allows any excess to flow into the Sycamore Creek (toward Arvin). The facility has three employees. The facility performs effluent testing at their in-house lab and uses a lab in Bakersfield to perform state compliance testing.

F. Water:

Potable (drinkable) water is provided to the District by 43 wells, which encompasses about 25% of the consumed water, with additional purchases from the Tehachapi-Cummings County Water District, which supplies the other 75%. This current ratio is due to rehabilitating some wells. The District would like to achieve a ratio of 60% District and 40% Tehachapi-Cummings County Water District after the rehabilitation is completed.

G. Gate:

Officially, there is only one way in and one way out of Bear Valley Springs, through the main security gate on Bear Valley Road. The Chief of Police oversees the operation of the manned gatehouse 24-hours a day, 7-days a week. Residents may use a mix of windshield stickers (assigned as two-wheel, not allowed during snow, or four-wheel drive vehicles) or purchase an RFID tag. The new RFID system took effect in July 2019, has an RFID reader to open and close the gate on the right 'RFID' lane of traffic to allow for a fast lane entrance. The total cost of software and equipment was \$38,400. The total cost for 15,000 RFID tags was \$64,800 (\$4.32 each).

The RFID tags may be purchased by residents for each vehicle, for nonstop entry. Tags are available for sale at a \$12 renewable subscription fee each and every year. Vehicles, without RFID tags, displaying a resident windshield sticker or a pass issued by a resident, will be allowed entrance. All others will be denied access until a pass can be authorized by a resident, property owner, HOA, the District, or may be granted access (such as government vehicles) due to an exemption from the pass requirement pursuant to the District Code.

The RFID system provides a web-based portal for residents to pre-authorize their visitors. The resident will be alerted when their guest is logged in at the gate by text message or email.



(Photo by Grand Jury of the Front Entrance Gate, October 1, 2019)
(Arrow indicates the RFID lane)

FINDINGS:

- F1. The Water Reclamation Plant is a small, well-maintained facility. However, the lack of security allowed the Grand Jury to drive into the operating facility, walk around the equipment, and photograph the operation for several minutes before being questioned by employees. (See Appendices A and B)
- F2. The Water Reclamation Plant had an open gate making it accessible to the public. When the gates are open, the “No Trespassing” signs are not visible, and create a lack of security.



(Photos by Grand Jury showing the entrance to the Water Reclamation Plant, October 21, 2019)

- F3. The lack of visible signage makes the Water Reclamation Plant appear inviting and creates an attractive nuisance.



(Photo from the District's Website showing the effluent water pond)

- F4. Upon arrival, the personnel at the main entrance gate were unaware of procedures to allow visitors to attend the public District Board Meeting, and/or visit public facilities. According to Board Agendas, "Members of the public may address the Board on matters not listed on the Agenda...." The Grand Jury was allowed to proceed through the gate, while other vehicles were questioned then turned around, due to the lack of a pass, potentially violating Government Code section 54953(a).
- F5. On the October 1, 2019 visit, the Grand Jury noted many properties with vegetation that were non-compliant with Hazard Reduction KCOC 8.46. By the October 22, 2019 visit, many of the properties had been recently cleared. The Grand Jury noticed only two properties were still in non-compliance. (See Appendix A) The threat of fire is a major concern. As of June 1, 2019, the Kern County Fire Department issued approximately 25 warnings to property owners within the District for non-compliance for the fire season. Neighbor complaints were also reported.



(Photo by the Grand Jury showing lack of defensible space, October 21, 2019)

- F6. In case of fire, earthquake, or other natural disasters, the 5,000 residents have only one way in and one way out, which is through the main security gate on Bear Valley Road. All other trails and exits, including the Deer Trail, are unacceptable due to the narrow unmaintained road conditions. Many trails have locked gates onto private properties. It would be impossible to evacuate all residents, pets, and livestock in a safe and timely manner.
- F7. On the October 10, 2019 visit, the Grand Jury witnessed the Emergency Action Plan, when the power was turned off to the District by the power company. While the Board of Directors meeting had generator power, there was a lack of coordination as to where residents, needing power, were to report for assistance. The obvious location (Whiting Community Center) as a refuge center was not equipped with a generator and appropriate emergency supplies (cots, blankets, water, etc.). It is unknown as to the availability of any other refuge locations.
- F8. A District CodeRED emergency alert system and various social media platforms were sent out hours after the power was turned off on October 10, 2019. (A CodeRED is a system that will notify residents in case of an emergency. Currently, 3,000 residents have signed up for this notification. The District pays \$15,000 for a 3-year contract for the CodeRED service.)
- F9. The District's website is progressive, in that, all board meeting agendas, minutes, and videos are posted in a timely manner. All subcommittee meeting agendas, and minutes are available for public access. The board meetings are linked to live telecasts.
- F10. The following special taxes, assessments, and standby charges are collected and reviewed annually, beyond the Kern County Property Tax:
- Gate Operations \$75 per parcel
 - Roads Assessment \$340 per parcel
 - Police Protection Service \$80 per parcel
 - Improvement District #2 Bonds 0.009768% per \$1,000 assessed property value
 - Water Standby Charge \$40.28
 - Sewer Standby Charge \$59.96
- Additional service fees are billed monthly:
- Solid Waste \$16 per month per parcel
 - Potable Water Varies as to metered usage
 - Sewer 478 connections \$76.16 per parcel
- Other than water rates, the District has not completed any new rate study, or met the Prop 218 requirements, for a proposed new rate change on the above fees.

F11. Under the direction of the current General Manager, the District has taken a proactive approach in updating and modifying many policies and ordinances.

COMMENTS:

The Grand Jury thanks all the individuals that participated in interviews and provided information for the preparation of this report.

RECOMMENDATIONS:

- R1. The Bear Valley Community Services District should develop a procedure, and inform all security gatehouse personnel, to allow the general public access to all public meetings and public facilities. The District should comply with Government Codes sections 54950 and 54953(a) immediately. (Finding 4)
- R2. The Bear Valley Community Services District should restrict public access to the Water Reclamation Plant with proper signage near the gate and other useful security measures by June 1, 2020. (Findings 1, 2, and 3) (See Appendix B for examples)
- R3. The Bear Valley Community Services District should work closely with the Kern County Fire Department to ensure that the Hazard Reduction Ordinances are strictly enforced to be consistent with these ordinances. (Finding 5) (See Appendix A)
- R4. The Bear Valley Community Services District should consider the development of an alternate exit route for emergency evacuations. (Finding 6)
- R5. The District's Emergency Action Plan should be in place and operating within minutes of an emergency. (Findings 7 and 8)
- R6. The District should immediately call a CodeRED when power is shut off due to high winds, storms, or other emergencies to provide the residents an opportunity to seek appropriate refuge in a timely manner. (Findings 7 and 8)
- R7. The District should designate refuge locations and have appropriate supplies and backup power before an emergency, then notify the residents by June 1, 2020. (Finding 7)
- R8. The District should follow the process of Prop 218 to reevaluate the rate assessments for the purpose of increasing the fees, in an effort to offset the increase in costs associated with the District's operations. (Finding 10)

NOTES:

- The Bear Valley Community Services District and Kern County Fire Department should post a copy of this report where it will be available for public review
- Members of the public wishing to receive email notification of newly released reports may sign up at: kerncounty.com/grandjury
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: kerncounty.com/grandjury

REQUIRED RESPONSES WITHIN 90 DAYS TO:

- **PRESIDING JUDGE**
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301
- **FOREPERSON**
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

GLOSSARY:

Community Services District: Community Services Districts are formed under Government Code section 61000, as an independent local government used to provide services in unincorporated areas of a county.

Homeowner's Association: A homeowner's association (HOA) is an organization in a subdivision, planned community or condominium that make and enforce rules for the properties and their residents. Those who purchase property within an HOA's jurisdiction automatically become members and are required to pay dues, known as HOA fees.

Public: Public is the whole body, or any person of a state, nation, or municipality... belonging to the people at large; relating to or affecting the whole people of a state, nation, or community; not limited or restricted to any particular class of the community.

Public Access: A public place, generally an indoor or outdoor area, whether privately or publicly owned, to which the public have access by right or by invitation.

Effluent: Effluent is an outflowing of water to a natural body of water, from a structure such as a wastewater treatment plant, sewer pipe, or industrial outflow.

Defensible Space: A defensible space is an area around a building in which vegetation, debris, and other types of combustible fuels have been treated, cleared, or reduced to slow the spread of fire to and from the building.

Potable Water: Drinking water, that is safe to drink or to use for food preparation.

State Responsibility Area: The State Responsibility Areas (SRA) are recognized by the Board of Forestry and Fire Protection as areas where Cal Fire is the primary emergency response agency responsible for fire suppression and prevention.

Standby Charges: A standby charge is essentially an assessment that is charged to unimproved properties to ensure that adequate water or sewer service will be available for that parcel when needed. Standby charges normally appear on property tax bills, although they may be billed directly by the local agency.

Prop 218: Proposition 218 restricts local governments' ability to impose assessments and property-related fees, and requires elections to approve many local government revenue-raising methods.

APPENDIX A:

Photos of Bear Valley Springs



(Photos by the Grand Jury showing parcels within District needing hazard reduction, October 21, 2019)



(Photos by the Grand Jury showing Cub Lake, Water Well, and Rules for Solid Waste Facility)



(Photos by the Grand Jury showing Water Reclamation Plant, October 10, 2019)

APPENDIX B:

Examples of safety signs





BEAR VALLEY COMMUNITY SERVICES DISTRICT

28999 South Lower Valley Road • Tehachapi, CA 93561-7460
PHONE 661-821-4428 • FAX 661-821-0180

April 11, 2020

Judith K. Dulcich
Presiding Judge, Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, CA 93301

Jerry D. Troxel
Foreperson, Kern County Grand Jury
1415 Truxtun Avenue, Suite 600
Bakersfield, CA 93301

RE: 2019-2020 Final Report, Kern County Grand Jury

I am writing in response to the 2019-2020 Final Report, Kern County Grand Jury that was provided to Bear Valley Community Services District on January 8, 2020 and released to the public on January 15, 2020. General Manager William J. Malinen has met with staff to discuss each finding and each conclusion and recommendation. Outlined below is the District's response to the Grand Jury's recommendations.

R1. The Bear Valley Community Services District should develop a procedure, and inform all security gatehouse personnel, to allow the general public access to all public meetings and public facilities. The District should comply with Government Codes sections 54950 and 54953(a) immediately. (Finding 4)

Response: The District agrees with this recommendation and it has been implemented. Gate house personnel have been instructed that, 30 minutes prior to meeting start times, they are to grant access to members of the public expressing a desire to attend public meetings of the District. The District has also revised its agenda forms to include a notice that non-residents may also contact the District to obtain a gate pass to attend a public meeting.

R2. The Bear Valley Community Services District should restrict public access to the Water Reclamation Plant with proper signage near the gate and other useful security measures by June 1, 2020. (Findings 1,2, and 3)

Response: The District agrees with this recommendation and it is being implemented. Since the report was issued, Wastewater Treatment Plant staff have ordered and installed new warning signage around the wastewater facility perimeter. Additionally, the gate is now closed when staff is not on the premises (lunch break, etc.). Quotes are being obtained from vendors for installation of an automatic entry gate.

Pictures of the signage are attached.

R3. The Bear Valley Community Services District should work closely with the Kern County Fire Department to ensure that the Hazard Reduction Ordinances are strictly enforced to be consistent with these ordinances. (Finding 5)

Response: The District agrees with this recommendation in part and it will be implemented as described. The Kern County Fire Department (KCFD) is the agency responsible for enforcement of the County's Hazard Reduction Ordinances. After June 1st of each year, KCFD Station 16 in Bear Valley Springs begins a process of inspections of designated areas for compliance with the ordinances. Upon identifying a property out of compliance, KCFD officials issue a County ordinance violation citation. From there, the Hazard Reduction Office of the KCFD ensures that fines are paid and reinspection occurs. The Bear Valley Community Services District does not have legal authority to enforce Kern County Hazard Reduction Ordinances, but is available to provide general assistance as requested from the KCFD.

R4. The Bear Valley Community Services District should consider the development of an alternate exit route for emergency evacuations. (Finding 6)

Response: The District agrees with this recommendation, and has been and will continue to explore and implement, subject to financial and legal limitations, additional emergency routes. Finding Number Six (F6) of the Grand Jury's report states that "In case of fire, earthquake, or other natural disasters, the 5,000 residents have only one way in and one way out, which is through the main security gate on Bear Valley Road".

While Bear Valley Road is considered the primary evacuation route in case of an emergency, there are actually five additional routes leading out of the Valley. In 2018, the Bear Valley Police Department conducted a survey of the state of these routes and reported its findings to the Public Safety Committee and the General Manager. Three of these routes were found to be not viable for use as evacuation routes due to steep hills, sharp turns, and washed-out areas too dangerous to be relied upon during an emergency. Improvements to these routes are prohibitive because they all traverse private property. Two of the five routes—Skyline Road and Deertrail Drive—proved somewhat viable ingress and egress, depending upon the time of year and current conditions, although both also traverse across private property. Of these two routes, Deertrail Drive, which leads out of the Valley to the north, crosses over private property, Tejon Ranch, for approximately two miles.

Deertrail Drive has been identified by the District as a potentially viable evacuation route. It is two lanes wide for its entirety, and in well-enough repair to accommodate most types of vehicles. The District has worked closely with the Kern County Fire Department in planning for evacuations during an emergency. The Fire Department agrees that the Deertrail Drive route could be used, but only after its viability has been verified at the time of the evacuation, and vehicles should be escorted to maintain order. This route has a series of locked gates. Both the Bear Valley Police Department and the Kern County Fire Department possess keys to these gates. The District is currently working to obtain cost estimates for improvements to the portion of Deertrail Drive within the District. Two miles of this route cross over private property, Tejon Ranch; however, this private property portion is lower in elevation and is in significantly better repair than the portion inside the District. The District is looking for grant funding for this project, and would welcome financial assistance from the County, which receives significant gas tax revenues from the State collected from Bear Valley Springs residents but has never provided any of these funds directly to the District to help maintain our public roads.

R5. The District's Emergency Action Plan should be in place and operating within minutes of an emergency. (Findings 7 and 8).

Response: The District agrees with this recommendation, and it is being implemented subject to the limitations noted below. The Bear Valley Community Services District maintains a robust and detailed Emergency Operations Plan written and updated by the Disaster Preparedness Advisory Council and the Public Safety Committee, and adopted by the District Board of Directors. The Plan outlines the District's planned response to extraordinary emergency situations such as natural disasters, technological incidents, and national security emergencies. The Plan includes official and approved documents that describe principles, policies, and concepts of operations. These documents include such elements as continuity of government, emergency functions of governmental agencies, mobilization and application of resources, mutual aid, and public information.

The plan is implemented as early as possible in the event of an emergency. The Grand Jury reports states that,

On the October 10, 2019 visit, the Grand Jury witnessed the Emergency Action Plan, when the power was turned off to the District by the power company. While the Board of Directors meeting had generator power, there was a lack of coordination as to where residents, needing power, were to report for assistance.

Public Safety Power Shutoffs at the onset are not considered emergencies by the State Office of Emergency Services (OES) or by the Kern County Office of Emergency Services.

Prolonged outages compounded by inclement weather can create the need for emergency services. However, this was not the case on October 10, 2019. Power was cut at approximately 3:00 pm; a charging station was set up by 10:00 that evening.

The District is in the process of establishing a "Prolonged Power Outage Plan" which outlines services available to the public when circumstances warrant them. The District is working to determine what capabilities and responsibilities are required of the District and how best to satisfy the needs of the community. Currently, a "charging station" will be opened up within 24 hours of a power outage for use by residents to charge household devices. Priority is given to residents with medical devices that require electricity. Other "emergency" services such as sheltering and warming centers currently appear outside the District's ability to provide.

R6. The District should immediately call a CodeRED when power is shut off due to high winds, storms, or other emergencies to provide residents an opportunity to seek appropriate refuge in a timely manner. (Findings 7 and 8).

Response: The District agrees with this recommendation in part, and is pursuing implementation as noted. The District has established protocols for the use of the CodeRED emergency notification system. Common uses include dangerous road conditions (snow and ice), road closures affecting potential egress, change in road restrictions (4-wheel drive only), severe storm warnings, and fires. Public Safety Power Shutoffs may qualify as an emergency triggering a CodeRED notification if there is a significant risk to public safety such as severe weather conditions or high fire danger. The District is currently working on developing a

CodeRED policy to clarify and make uniform those instances when the CodeRED notification system is used, and anticipates completing this policy by June 1, 2020.

R7. The District should designate refuge locations and have appropriate supplies and backup power before an emergency, then notify the residents by June 1, 2020. (Finding 7).

Response: The District agrees with this recommendation in part. During the District's emergency planning, staff identified areas within the Valley where large numbers of residents could temporarily assemble out of harm's way. These "refuge" areas include the Golf Course, the Equestrian Center, Cub Lake, the baseball field, and others. Part of the future evolution of the Emergency Plan involves identification of resources including generator power to have on-hand at these areas during an emergency. Due to the unpredictable nature of wildland fires, pre-designation of refuge areas (during the planning stage) is impossible and is dependent upon the location of the fire, wind, and other climatological conditions. The District is working on integrating maps of these potential locations into its Emergency Operations Plan.

R8. The District should follow the process of Prop 218 to reevaluate the rate assessments for the purpose of increasing the fees, in an effort to offset the increase in costs associated with the District's operations. (Finding 10)

Response: The District agrees with this recommendation. When the District proposes a utility rate change subject to Prop 218, the District does follow Prop 218 requirements throughout the process. Over the last few years, management has been taking steps to more accurately budget, analyze operating results, and project fund balances for the District's various enterprise and service funds. As any rate increases may have an impact on our residents, management has prioritized which funds need increased revenues the most. In FY 18-19, the District completed a Water System Rate Study for its Water Enterprise Fund and adopted increased water rates after holding community informational meetings and going through the Prop 218 process. The District has recently completed a draft Sewer Rate Study for its Wastewater Enterprise Fund and will be holding community informational meetings prior to scheduling a public hearing and going through the Prop 218 process to increase its sewer rates. Next fiscal year, the District plans on completing a rate study for its Solid Waste Fund and will follow the same process of holding informational meetings and going through the Prop 218 process. The District will continue to assess the fiscal conditions of its other funds and funding sources and will follow applicable Prop 218 requirements if and when any increases to special taxes, assessments, and fees or charges are needed.

Respectfully,



Steve Roberts
President, Board of Directors

GOLDEN EMPIRE TRANSIT DISTRICT



SUMMARY:

“Get on the GET Bus!” It will take you to most parts of the Bakersfield metropolitan area. For almost 50 years, the Golden Empire Transit District (GET) has been an asset to our community by serving over six million passengers a year, within a 187 square mile area, running 16 routes.

GET, on the cutting edge, has a fleet of buses loaded with technology and safety features. With their plans to purchase a fleet of new Zero Emission Buses (ZEB) beginning in fiscal year 2020-2021, this technology will soon benefit our environment to meet the California Air Resources Board mandate.

Can't catch a bus in the southwest? No problem, try the door to door service provided by the new pilot program called *RYDE*.

PURPOSE OF INQUIRY:

The last Kern County Grand Jury report on GET was released in 2013-2014. The Special Districts Committee of the Grand Jury, pursuant to Penal Code section 933.5, conducted an investigation of the Golden Empire Transit District. The Grand Jury inquired into GET to see if the previous Grand Jury recommendations were completed:

- Work with the City of Bakersfield and the County of Kern in establishing handicap access at all bus stops
- Look into adding another bus to routes 21 and 22 to help with the overcrowding on these routes

METHODOLOGY:

The Grand Jury met with GET personnel, rode GET bus route 45 in its entirety, researched the internet, reviewed the GET website, and obtained GET documents.

DISCUSSION OF FACTS:

Golden Empire Transit District was formed in July 1973, and is the largest public transit system within a 110-mile radius of the City of Bakersfield. The legal boundary for GET includes the Bakersfield City Limits, as well as the adjacent unincorporated areas of Kern County known as the Bakersfield Metropolitan Area. The area within GET's legal boundaries is 187 square miles with a population of 500,977.

- A. GET's mission statement: "We make life better by connecting people to places one ride at a time."
- B. GET has a fleet of 88 forty-foot CNG buses equipped with 'kneeling' capability for the disabled, wheelchair lifts, bicycle racks, and security cameras. During peak times 68 buses are in use. In FY 2018-2019, GET acquired 24 forty-foot buses fueled by RCNG.
- C. GET operates 2 forty-five foot CNG commuter coaches (used for charter services).
- D. GET operates 21 compressed natural gas GET-A-Lift, paratransit vans.

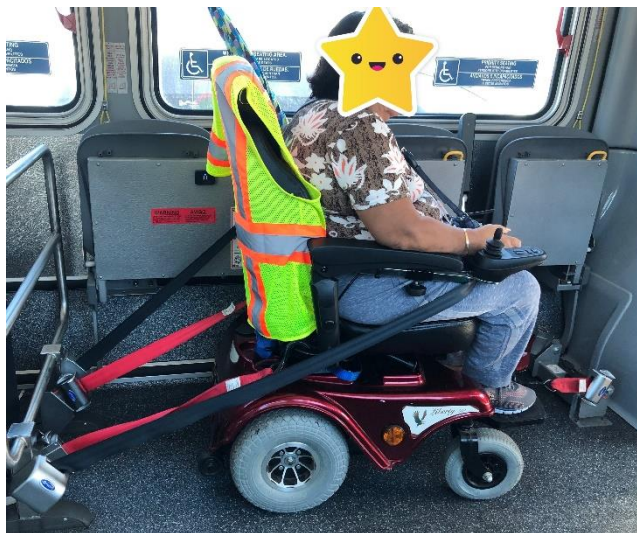


Photo Provided by Grand Jury

- E. The Fleet also includes 34 administrative and support vehicles.
- F. GET operates 16 fixed routes including the Tejon outlets. Most routes operate seven days a week utilizing 1,031 bus stops.
- G. In the spring of 2019, GET launched an on-demand micro-transit pilot project in the southwest area called RYDE. This service incorporates a six vehicle shuttle fleet, providing door to door service within a defined geographical GET zone, as well as, allowing riders to connect to the fixed route system. GET is

considering expanding its RYDE program to other locations within its service area depending on the response to the pilot program.

- H. GET has increased regional mobility access by offering connections with Kern Regional Transit System and the FlixBus System (a nationwide long distance bus service) with travel to and from Bakersfield.
- I. A July 2019 Customer and Community Satisfaction Survey revealed the following:
 - 1. 88% of the riders are either satisfied or extremely satisfied with the current fixed-route services.
 - 2. The majority of GET riders have a positive image of GET; 82% would recommend GET to family and friends.
 - 3. Riders voiced a desire for extended hours of service, especially on weekends, as well as concerns over safety and security on the bus at stops and at major transit centers.
 - 4. The most common reasons for community members **not** using GET include; the need to visit multiple destinations, inconvenience, and takes too much time.
- J. Golden Empire Transit District employs 26 mechanics/supervisors with a union contract:
 - 1. 23 Mechanics
 - Four are National Institute for Automotive Service Excellence (ASE) Master Mechanics completing all eight certifications
 - 2. Three Mechanic Supervisors
 - All are ASE Master Mechanics
- K. The 243 driver positions are either Full-time or Flex (part-time). Typically, the buses run 17 hours per day. The Full-time drivers work eight hour shifts then are replaced, in route, when the shift is over. All drivers are covered by a union contract.
- L. GET's revenue does **not** include any local community taxes. GET's FY 2018-2019 Operating Budget was \$31.5 million. Revenues were from a variety of sources:
 - 1. State Transportation Fund \$19.8 million
 - 2. Federal Grants \$ 6.3 million
 - 3. Passenger Fares \$ 4.4 million
 - 4. Other Receipts \$ 1.0 million
 - a. Interest \$ 60,000
 - b. Advertising \$145,000
 - c. CNG Sales \$789,000

M. Total Assets as of June 30, 2019, were \$57.3 million. Total Expenses were \$35.1 million.

N. Some of the expenses for FY 2018-2019 included the following:

1. Transportation Services \$12.8 million
2. Facilities and Accommodations \$ 1.4 million
3. Paratransit \$ 2.4 million
4. Vehicle Maintenance \$ 7.6 million
5. General Administration \$ 6.6 million

O. In December 2018, the California Air Resources Board passed a new rule requiring transit operators to start replacing their fleet in 2021 with ZEB technology, ultimately transforming the entire fleet to ZEB Technology by 2040. GET has plans to purchase new ZEB hydrogen fuel cell electric buses in the next fiscal year.

P. With the Automated Vehicle Location (AVL) system, the dispatcher knows where every bus is located. If a bus goes outside of its designated route, the AVL system alerts the dispatcher.

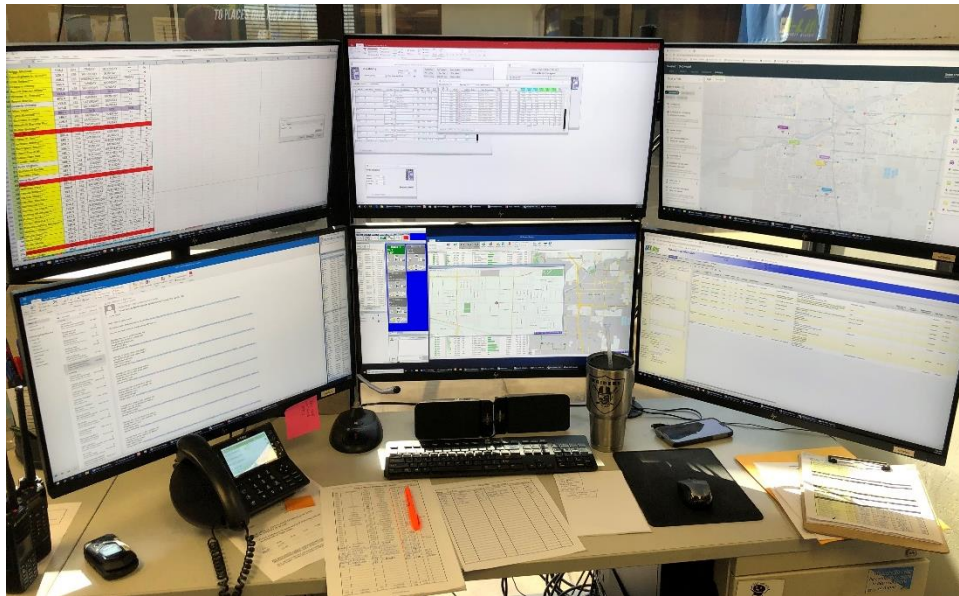


Photo Provided by the Grand Jury

FINDINGS:

- F1. Multiple cameras inside each bus give riders a sense of security.



Photo Provided by the Grand Jury

- F2. A new facility is anticipated when the California High Speed Rail purchase GET's current property. This move will provide GET with an opportunity to modernize and expand.
- F3. The State's requirement for ZEB will require GET to replace its entire fleet of CNG buses to either electric or hydrogen cell electric vehicles by 2040. GET has taken a progressive approach by issuing a Request For Quotes (RFQ#113) due March 2020, from qualified vendors, to develop a Zero Emission Bus Transitioning Plan in compliance with the California Air Resources Board Innovative Clean Transit Regulation.
- F4. With over 6.4 million riders annually, the buses are kept clean and in excellent condition. An Automated Passenger Counter (APC) is used to count each rider as they embark and disembark the bus. This allows GET to make changes on the routes as needed.

F5. Bus stops should be “Americans with Disability Act” (ADA) compliant. GET provided \$1.5 million over the past three years to the City of Bakersfield and \$0.5 million to Kern County for bus stop improvements. Currently 93% of all stops are curb-height lift accessible. The City of Bakersfield has been very aggressive in improving bus stops by creating paved waiting areas, accessible pathways, and shelter pads. However, Kern County has been slow in improving its stops. The City of Bakersfield has 70% of the bus stops in its jurisdiction, while only 27% are in Kern County’s jurisdiction, and another 3% are on State and private properties. Kern County has more work that needs to be done, because many bus stops are without curbs, gutters, or sidewalks.



Bus stops needing improvements



Example of a modern bus stop

Photos Provided by the Grand Jury

F6. GET has addressed the previous Grand Jury’s concern of overcrowding by adding buses and shortening the times between buses on its two busiest routes (21 and 22).

F7. GET is at the forefront of technology, with the AVL system, cameras, wheelchair lifts, APC’s, and the kneeling feature, as well as, real time information on computers and mobile devices. A transit trip planner integrates GET’s stop, route and schedule information to make planning a trip quick and easy. However, the newest technology they have not yet implemented... a ‘contactless’ pay system (Apple Pay, Google Pay, etc.).

- F8. The community would be better served if the GET RYDE program was expanded to other zone locations.

COMMENTS:

The Grand Jury thanks the Golden Empire Transit District personnel for providing information and a tour of its facility. GET is a well-organized and financially sound special district.

RECOMMENDATIONS:

- R1. The Golden Empire Transit District should continue to address the issue of improving bus stops within the County's jurisdiction. (Finding 5)
- R2. The Golden Empire Transit District should conduct a feasibility study, and explore the possibility of grants, to add a contactless pay system on buses. (Finding 7)

NOTES:

- The Golden Empire Transit District should post a copy of this report where it will be available for public review
- Persons wishing to receive an email notification of newly released reports may sign up at: kerncounty.com/grandjury
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: kerncounty.com/grandjury

REQUIRED RESPONSES WITHIN 90 DAYS TO:

- **PRESIDING JUDGE**
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301
- **FOREPERSON**
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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July 9, 2020

✓ Mr. Jerry D. Troxel, Foreperson
Kern County Grand Jury
1415 Truxtun Ave., Suite 600
Bakersfield, CA 93301

The Honorable Judith Dulcich
Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue, Suite 212
Bakersfield, CA 93301

Dear Mr. Troxel and Presiding Judge Dulcich:

Golden Empire Transit District (“GET”) has prepared the following response to the Kern County Grand Jury Final Report dated June 9, 2020.

FINDINGS:

- F1. Multiple cameras inside each bus give riders a sense of security.
 - GET agrees with this finding.
- F2. A new facility is anticipated when the California High Speed Rail purchase GET’s current property. This move will provide GET with an opportunity to modernize and expand.
 - GET agrees with this finding.
- F3. The State’s requirement for ZEB will require GET to replace its entire fleet of CNG buses to either electric or hydrogen cell electric vehicles by 2040. GET has taken a progressive approach by issuing a Request for Quotes (RFQ #113) due March 2020, from qualified vendors, to develop a Zero Emission Bus Transitioning Plan in compliance with the California Air Resources Board Innovative Clean Transit Regulation.
 - GET agrees with this finding.
- F4. With over 6.4 million riders annually, the buses are kept clean and in excellent condition. An Automated Passenger Counter (APC) is used to count each rider as they embark and disembark the bus. This allows GET to make changes on the routes as needed.
 - GET agrees with this finding.
- F5. Bus stops should be “Americans with Disability Act” (ADA) compliant. GET provided \$1.5million over the past three years to the City of Bakersfield and \$0.5 million to Kern County for bus stop improvements. Currently 93% of all stops are curb-height lift accessible. The City of Bakersfield

has been very aggressive in improving bus stops by creating paved waiting areas, accessible pathways, and shelter pads. However, Kern County has been slow in improving its stops. The City of Bakersfield has 70% of the bus stops in its jurisdiction, while only 27% are in Kern County's jurisdiction, and another 3% are on State and private properties. Kern County has more work that needs to be done, because many bus stops are without curbs, gutters, or sidewalks.

- GET agrees with this finding, except as it pertains to the County work for which GET provided funding. The specific project that the allocated funds were dedicated to was improvement of bus stops along a designated 1.5 mile portion of Virginia Avenue which included 14 stops. The County made the agreed accessibility improvements to 11 of the stops with the allocated funds, additional PTMISEA funds were secured to improve 2 stops, and 1 stop was unable to be improved due to adjacent train tracks. The County's utilization of the allocated funds was completed in Summer 2017.

F6. GET has addressed the previous Grand Jury's concern of overcrowding by adding buses and shortening the time between buses on its two busiest routes (21 and 22).

- GET agrees with this finding.

F7. GET is at the forefront of technology, with the AVL system, cameras, wheelchair lifts, APC's, and the kneeling feature, as well as, real time information on computers and mobile devices. A transit trip planner integrates GET's stop, route and schedule information to make planning a trip quick and easy. However, the newest technology they have not yet implemented... a 'contactless' pay system (Apple Pay, Google Pay, etc.).

- GET agrees with this finding; however, we would note that the District does allow the passengers to purchase single rides and extended passes through Token Transit. Token Transit is an app-based system that allows the passenger to purchase fares online and then show the pass on their smartphone to the driver to allow boarding. This is a currently effective contactless pay system.

F8. The community would be better served if the GET RYDE program was expanded to other zone locations.

- GET agrees with this finding and notes that the current plan is to initiate RYDE service to the downtown and east side of Bakersfield as a second zone to complement the existing zone in southwest Bakersfield.

RECOMMENDATIONS:

R1. The Golden Empire Transit District should continue to address the issue of improving bus stops within the County's jurisdiction.

- As noted in Finding 5, the project for which funds were allocated to the County for accessibility improvement was finalized with all agreed improvements completed. As part of its ongoing operations, GET continues to review the status, functionality, and

regulatory compliance of all of its bus stops. As additional locations are identified that require improvement, GET will reach out to the appropriate jurisdictional authorities (State, County, City or private) to seek cooperative solutions to make all of GET's bus stops fully accessible to all of our passengers.

R2. The Golden Empire Transit District should conduct a feasibility study, and explore the possibility of grants, to add a contactless pay system on buses (Finding 7).

- GET agrees with the concept of the recommendation of a contactless pay system, especially given current COVID-19 conditions. However, GET has considered adoption of such a system in the past and found it to be cost prohibitive. As the contactless pay systems suggested in Finding 7 are account based systems, where the availability of funds would have to be confirmed remotely by a bus on route, this would require an upgrade of communications, collection software, and fareboxes on all 88 fixed route buses operated by GET. From earlier consideration, management has determined the complete cost of such a system conversion would amount to approximately \$3 million. Due to the mandated capital program of fleet ZEB conversion referenced in Finding 3 and the anticipated costs to develop a new operations and administrative campus as referenced in Finding 2, GET does not believe the cost to convert to a contactless pay system meets the prioritization necessary in an environment of limited resources. GET would note that it does have a contactless pay alternative through Token Transit, as described in Finding 7, for passengers with access to a smartphone.

Golden Empire Transit District would like to thank the Grand Jury Committee members who rode our system, toured our facilities, and interviewed our team members for their professionalism, their comprehensive analysis, and the constructive recommendations they provided. We very much appreciate their shared interest with us in serving the citizens of our community. As requested in the Final Report, a copy of the Kern County Grand Jury Final Report has been posted and made available for public review. If you have any questions, please do not hesitate to contact me.

Respectfully,



Karen King
Chief Executive Officer

cc: GET Board of Directors

INDIAN WELLS VALLEY AIRPORT DISTRICT

Essential to Kern County



Photo from Indian Wells Valley Airport District website

SUMMARY:

The Indian Wells Valley area experienced three major earthquakes with magnitudes up to 7.1, in July 2019, with over 4,000 aftershocks. The earthquakes struck east-northeast (Searles Valley) and approximately six miles northwest of the City of Ridgecrest in Little Lake. The effects were felt at the Naval Air Weapons Station China Lake (China Lake) and as far south as Baja California. Other areas affected were Johannesburg, Lake Isabella, Los Angeles, and Las Vegas. The Ridgecrest area experienced relatively minor damage from the quakes and subsequent aftershocks.

At the time of the earthquake, the Indian Wells Valley Airport District (District) was able to keep the Inyokern Airport (Airport) open and functional, providing aircraft landing and fuel for emergency services, the news media, as well as State and Federal officials. The Indian Wells Valley Water District also remained functional, suffering minimal damage while supplying needed water to the Airport for emergency services.

PURPOSE OF INQUIRY:

Earthquakes can be damaging to a city or town's infrastructures, in particular, to their water provider because of the underground pipelines delivering water, and to airports because of the long runways. Due to the area's remote location, and providing access for emergency services quickly, the Airport is **essential**. Authorities have estimated quake damages to at least 100 homes and businesses, causing at least \$100 million, primarily in the sparsely populated communities of the Indian Wells Valley.

The Special Districts Committee of the 2019-2020 Kern County Grand Jury, pursuant to Penal Code section 933.5, conducted an investigation of the Indian Wells Valley Airport District and the services it provided during and after the earthquakes.

METHODOLOGY:

A visit to both the District and the Indian Wells Valley Water District was conducted. The Kern County Grand Jury researched the internet, obtained printed documents, and interviewed Airport personnel.

DISCUSSION OF FACTS:

The History:

In 1943, a university professor and a naval officer were flying over the Mojave Desert looking for a place to stage a joint rocket program during World War II. They looked down at Kern County "Airport No. 8", which was established in 1935 to connect the remote Indian Wells Valley farming community to the outside world, and decided to look no further. Today, the extensive air and land ranges and laboratories, now known as China Lake, is the home of some of the greatest technological minds in the nation. It is a powerful economic resource for Kern County, and a "national treasure" in arming and protecting the military. Because forward-thinking pioneers decided to put a modest airstrip in an unassuming rural community, the Airport is now an asset to Kern County.

Kern County "Airport No. 8", now known as the Inyokern Airport, is a public airport located at 1669 Airport Road, Inyokern, California. The District was formed in 1985 after the passage of Prop 13, therefore, it does not receive tax revenue from the County of Kern. The District is a special district under the Airport District Act of California Public Utilities sections 22001, et seq. The District owns and operates the Airport, which serves the northeastern communities of Kern County.

The Indian Wells Valley is a 33 mile north-south basin, located in the northwest part of the Mojave Desert, and east of the southern Sierra Nevada mountain range. The District boundaries encompasses most of the Indian Wells Valley. The District Office is located at the Airport, ten miles west of the City of Ridgecrest and China Lake.

The Airport provides cargo services to the local communities, which includes Inyokern, Ridgecrest, and China Lake. The Airport, at this time, no longer offers passenger service except for private charter flights. Commercial flights for passengers were cancelled in 2013, due to lack of passengers and a Federal Aviation Administration (FAA) rule change governing pilots. The Inyokern Airport is a non-towered, non-controlled airport, and pilots are advised to use radio service for landings and takeoffs.

The Earthquakes:

The Indian Wells Valley and surrounding areas, suffered over 4,000 earthquakes and aftershocks in July of 2019. Most of the epicenters and damages were a few miles north of Ridgecrest, the largest was a 7.1 magnitude. While that was a large quake, Ridgecrest suffered minimal damages due to the implementation of earthquake building standards. Other areas in the Searles and Indian Wells Valleys that suffered damages included China Lake, Trona, Johannesburg, and Lake Isabella. The shock waves were reported throughout the State in areas as far south as Los Angeles and Baja California. A death was attributed to the earthquake in a city near Las Vegas, Nevada.

The District reported minimal damage to the Airport facility, which was repaired by in-house staff. The runways and taxiways suffered major damages, but are still usable. The District is seeking FAA funding and a State matching grant for a \$12 million total reconstruction of Runway 2/20. Runway 15/33 is under consideration to be reconstructed in the 2022 fiscal year (FY).



Photos by the Grand Jury

The District:

The District's Board of Directors consist of five members:

1. They are elected for a staggered four-year term
2. Current board members:
 - a. Two are retired China Lake personnel
 - b. Two are current China Lake personnel
 - c. One is employed with a defense contractor at China Lake
3. Three seats are up for re-election in November 2020

The District Board meetings are scheduled on the second Thursday of each month. In 2019, 12 monthly board meetings were scheduled, however, eight were cancelled.

The District's operating revenues of \$1.98 million (FY 2018-2019) were generated by providing services and delivering goods in connection with the Airport that includes:

1. Jet fuel sales
2. Leasing of facilities

3. Film location fees
4. Landing fees

The Airport:

Inyokern Airport contributes to Indian Wells Valley and the surrounding areas. It provides a playground to intrepid aviators, hosts film crews for major motion pictures and commercials, assists in military and high-tech testing operations, and supports some of the most significant milestones in manned and unmanned flights.

The Airport covers 1,640 acres at an elevation of 2,457 feet, with three asphalt paved runways that can accommodate almost any class of aircraft. There are 40 hangars rented, with a waiting list of 12. The rental fee per month is \$225 and hangars cannot be used for general storage. Each hangar must be used for functional planes only. A 30 year ground lease is available at 15 cents per square foot annually. Facilities must be used or be available for aeronautical activities. Non-aeronautical items may be permitted in hangars provided the primary use is aeronautical. Below is a photo of a privately constructed hangar on a ground lease.



Photo by the Grand Jury

The largest plane that can use the airport is a military C-130 cargo plane, due to the construction of the runways.

The three runways total 17,525 linear feet (3.32 miles):

- Runway 15/33 7,100 ft. (1.34 miles) x 75 ft.
- Runway 2/20 6,275 ft. (1.19 miles) x 75 ft.
- Runway 10/28 4,150 ft. (0.79 miles) x 75 ft.



Photo from the District's website

Emergency Services 24/7:

1. Airport personnel and equipment:
 - a. Crash truck
 - b. Rosenbauer Panther (airport crash tender)
 - c. 1,500 gallons of water
 - d. 200 gallons of AFFF (Aqueous Film-Forming Foam)
 - e. One manned position
2. Kern County Fire Department, Station #73:
 - a. Oshkosh P-19, 1,000 gallons of water (aircraft rescue fire fighting vehicle)
 - b. Pierce Quantum Engine, 750 gallons of water
 - c. Pierce Water Truck, 2,100 gallons of water
 - d. Ford F-450 Patrol Truck, 250 gallons of water

Film Industry:

The Airport is an ideal location for film productions that require an open-air environment with an unobstructed natural background. Paved runways and taxiways can be used for ground vehicle and aircraft scenes, including high-speed operations. Outdoor sets of virtually any size can be constructed to meet filming needs. Some of the filming features include:

1. Visuals:
 - a. Unobstructed 360° view
 - b. Rugged Sierra Nevada mountain backgrounds
 - c. Flat and desert terrain backgrounds
 - d. Western desert scenes

2. Suitability:

- a. Construction of large outdoor sets
- b. High-speed vehicle operations
- c. Aircraft operations

3. Facilities:

- a. Three asphalt surface runways
- b. Several paved taxiways
- c. A large concrete area with access to roads and runways
- d. A large World War II style wooden “Kodiak” hanger



Photos from the District's website

FINDINGS:

- F1. The cancellation of regular District Board meetings has not allowed the public direct access to the District, thus, lacking public transparency. A change in the District's bylaws to allow for meeting schedules other than monthly, e.g., bi-monthly, quarterly, may allow board members and the public a better opportunity to attend meetings.
- F2. The film industry is a major source of income for the District. In 2018-2019, the District had its largest film year in history at \$464,000 in revenue. Normally, a good year would generate from \$80,000 to \$85,000. The benefits from the film industry are far more reaching than simply the rental of the Airport, it is a boost in the local economy.

COMMENT:

The Kern County Grand Jury thanks the District personnel for their cooperation and information provided for this report.

RECOMMENDATION:

R1. The District should hold regular monthly meetings as stated on their website or change the by-laws to set meeting dates and times when all board members and the public can attend. (Finding 1)

NOTES:

- The Indian Wells Valley Airport District should post a copy of this report where it will be available for public review
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REQUIRED RESPONSES IN 90 DAYS TO:

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BAKERSFIELD, CA 93301**
- **FOREPERSON
KERN COUNTY GRAND JURY
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BAKERSFIELD, CA 93301**

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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INYOKERN
AIRPORT

Scott A. Seymour
General Manager

February 14, 2020

Presiding Judge
Kern County Superior Court
1415 Truxton Ave., Suite 212
Bakersfield, CA 93301

Jerry D. Troxel, Foreperson
Kern County Grand Jury
1415 Truxton Ave, Suite 600
Bakersfield, CA 93301

Re: Indian Wells Valley Airport District 2020 Grand Jury Report Response

To the Honorable Presiding Judge and Mr. Troxel:

Indian Wells Valley Airport District submits this response to the Grand Jury report dated January 27, 2020.

Finding 1: The District agrees that a number of regular Board meetings have been cancelled, but notes that a number of publicly noticed special meetings were held when a quorum of directors was available. The District also agrees a change in the bylaws regarding regular meetings may make sense.

Finding 2: The District agrees with this finding.

Recommendation 1: The District will continue to hold monthly meetings on the second Thursday of the month, but will change the time to 6:00 p.m. This will be implemented in March 2020.

The District thanks the members of the Grand Jury for their time and service. Please do not hesitate to contact the undersigned if you have any questions or concerns.

Respectfully,
INDIAN WELLS VALLEY AIRPORT DISTRICT

Scott Seymour
General Manager



NORTH EDWARDS WATER DISTRICT

Small Community, BIG Problems

SUMMARY:

Safe drinking water is NOT cheap! A small desert community will soon find that to be true.

In June 1955, a developer began building houses on Clay Mine Road about seven miles northeast of a military base. Other builders joined in and by 1960, more than 1,000 residents were living in a half dozen subdivisions called Edgemont Acres and North Muroc. In the following year, the community voted to be named North Edwards.

At the time of the development, water was not an issue. Numerous water wells were being drilled supplying the community with unfiltered water. In 1987, the North Edwards Water District (NEWD) was formed, but the water supplied by the wells had high arsenic levels. In 2013, a grant was approved by the California Natural Resources Agency to clean up the arsenic in the water. In 2014, major construction was started, but was halted by the NEWD Board of Directors. This started a feud between the Board and the General Contractor. Consequently, a lawsuit was filed against the District by the Contractor in 2015.

So...after five years of litigation, a court judgement against NEWD, the Environmental Protection Agency (EPA) breathing down their neck, and the District on the verge of collapsing; **the water condition still remains unchanged.**

PURPOSE OF INQUIRY:

The last Kern County Grand Jury report on North Edwards Water District was 2009-2010. Therefore, the Special Districts Committee (Committee) of the 2019-2020 Kern County Grand Jury (Grand Jury), pursuant to Penal Code section 933.5, conducted an investigation of the North Edwards Water District. During the Committee's investigation, the main concern became the status and the expected completion date of a Water Purification Project (Project) funded in 2013 with a grant from Proposition 84 (Prop. 84) (See Glossary), through the California Natural Resources Agency.

METHODOLOGY:

The Committee toured the NEWD facilities, observed the stalled construction site, and met with the interim General Manager, Office Staff, Board Members, State employee(s), Project personnel and others. The Committee drove through North Edwards asking residents their opinion about the water quality, water costs, and concerns about the Water Purification Project. On-line research revealed the issuance of the State grant

but nothing else about the status of the Project. Other research provided information about the water quality for NEWD as well as other water agencies.

DISCUSSION OF FACTS:

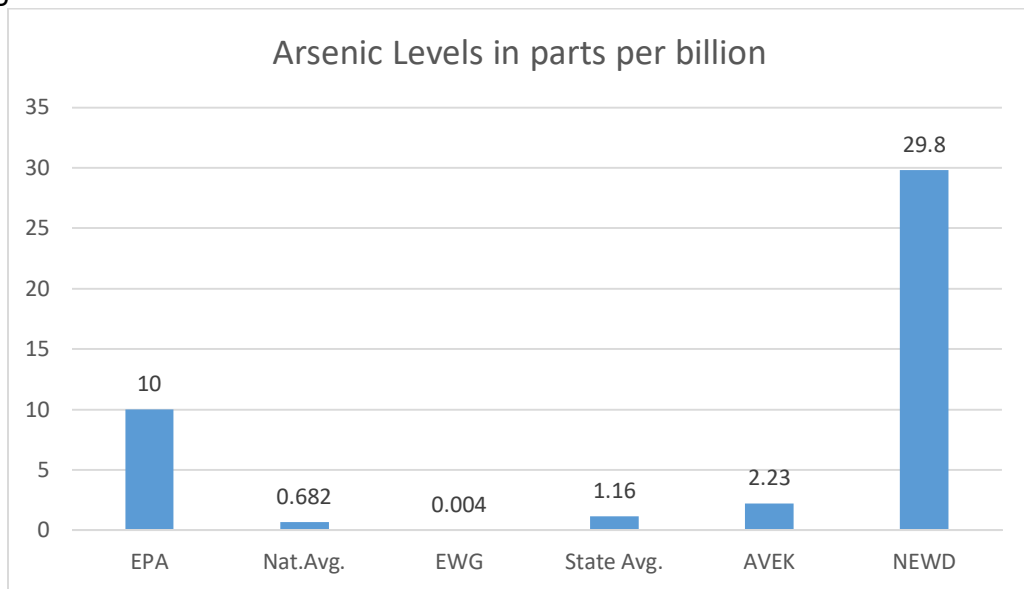
A developer announced, in June 1955, that he was building houses situated in the Mojave Desert on Clay Mine Road, north of Edwards Air Force Base (Edwards). Soon construction was underway by other builders. In March 1960, The Boron Enterprise, a local newspaper, reported that in the "bustling community" north of Edwards, more than 1,000 residents were living in a half dozen subdivisions called Edgemont Acres and North Muroc. In the following year the community, covering 12.7 square miles, voted for the name North Edwards.

In 1987, the North Edwards Water District was formed by purchasing a privately operated water company to provide reliable potable 'drinkable' water to approximately 220 households within the community.

Additional facts include:

- A. As of the 2010 U.S. Census, North Edwards had a population of 1,058.
- B. North Edwards Water District does not receive an assessment on property taxes to fund the District. All operational revenues are from fees and charges related to water sales.
- C. The North Edwards Water District board consist of five elected board members with four-year terms. As of June 15, 2020, there were only three members serving on the Board.
- D. Two wells, approximately 350 feet in depth, serve NEWD. One well is used at this time while the other is a backup. All well water in the North Edwards community is high in arsenic and other contaminants, and must be filtered or treated to meet the State water quality standards.
- E. The General Manager passed away in November 2019. The maintenance contractor, who has worked for NEWD for over 25 years and has the required State Water Certifications, was appointed interim General Manager in December 2019 and resigned his position in April 2020. The District is now managed by two office personnel.
- F. The District currently serves 217 active connections in the North Edwards community. An additional 140 connections are served by a private water company, whose water comes from the Antelope Valley East Kern Water Agency (AVEK).

- G. Concerns about arsenic contamination surfaced in 2006 when the State Water Resources Control Board lowered the health threshold, called Maximum Contaminant Level (MCL), from the Federal limits of 50 to 10 micrograms per liter. Lowering the MCL, caused the well water to be out of compliance. As a result, the community had to seek a cleaner source of water, or a method to remove the arsenic.
- H. The District is required to submit a water quality report to the Environmental Working Group (EWG) of the California State Water Resources Control Board and the EPA. The First Quarter report of 2017, revealed that the water provided by NEWD showed eight contaminants that exceeded health guidelines:



Graph Produced by Grand Jury

- Arsenic
 - EWG Guideline 0.004 ppb (parts per billion)
 - NEWD 29.8 ppb 7,460% above Guideline
- Bromodichloromethane
 - EWG Guideline 0.06 ppb
 - NEWD 0.25 ppb 4.2% above Guideline
- Chromium (hexavalent)
 - EWG Guideline 0.02 ppb
 - NEWD 6.30 ppb 315% above Guideline
- Dibromochloromethane
 - EWG Guideline 0.100 ppb
 - NEWD 0.600 ppb 6% above Guideline
- Nitrate
 - EWG Guideline 0.14 ppm (parts per million)
 - NEWD 2.14 ppm 15% above Guideline

- Nitrate and Nitrite
 - EWG Guideline 0.14 ppm
 - NEWD 1.90 ppm 14% above Guideline
- Total Trihalomethanes (TTHMs)
 - EWG Guideline 0.15 ppb
 - NEWD 2.34 ppb 16% above Guideline
- Uranium
 - EWG Guideline 0.43 pCi/l (Picocuries per liter)
 - NEWD 10.23 pCi/l 24% above Guideline

- I. The NEWD Project Grant was approved in 2013 by the California Natural Resources Agency using Prop. 84 funds, Reference Number: 3940P8412C114, to clean-up the arsenic in the existing well water supply. The California Natural Resources Agency grant consisted of the following:
- Objective: *Fund a project which includes engineering design, to identify options, and to address and resolve water quality issues.*
 - Description: *The Construction Project included a new well, refurbishment of an existing well, two finish water tanks, a storage building, booster pumps, and other appurtenances needed for a complete water treatment plant. The Project also included pipelines to additional communities, Fountain Trailer Park and Sunset Apartments, and a 12” pipeline to connect to the new treatment plant.*
 - Funding Source Approved:

1)	Engineering	\$ 725,011.42
2)	Construction	\$7,091,378.58
3)	Total Grant Awarded:	\$7,816,390.00
4)	Estimated completion Date: June 30, 2018	
 - Current Status (as of March 2020):

1)	Total amount dispersed:	\$5,606,566.91
2)	Project Status:	Withdrawn
- J. The project management company is a firm that works with the State Water Resources Control Board and NEWD to design a system that meets all of the requirements of the Project. The Project Manager then works with the General Contractor to see that all appropriate rules and regulations are followed through the entire process from preparing bid information to a final working system. The Project Manager had staff on site at all times; approving and verifying all work on the Project.
- K. The bidding process for the Project began in the summer of 2013. The General Contractor who submitted the lowest State approved bid was awarded the contract in December of 2013, under protest by the NEWD Board. The Board stated that, “they did not feel comfortable with the

Contractor, because he had not done a major project for a water treatment plant,” but, the Project Manager stated that NEWD had to go with the lowest bidder. By April 2014, ground work began.

- L. The General Contractor was removed from the Project at the direction of the NEWD Board on November 7, 2014. The Board had previously discussed, with the Project Manager, numerous incidents that occurred during the construction phase including:
- Excavator hitting power poles
 - Accident involving a resident and a backhoe
 - Breaking a 10” District water line
 - Breaking a 3” gas main line
 - Altercation involving a resident and a subcontractor requiring a visit from a Kern County Sheriff’s Deputy
 - Resident’s irrigation line being broken
 - Discharging chlorinated water onto the ground
 - Inability to determine slope
 - Forgetting to install a gate valve
- M. On January 20, 2015, the General Contractor began a long legal battle with NEWD over a wrongful termination of the Construction Contract. The State of California Water Resources Control Board, on October 9, 2018, paid the General Contractor a good faith settlement for \$2,700,000. On April 10, 2019, a jury awarded the General Contractor a \$4,134,325.89 judgement. The jury also noted “the contract documents (plans and specifications) for its bid was erroneous, misleading or inaccurate” and that "NEWD did not perform or substantially perform all of its obligations under the Contract.” A Notice of Appeal was filed by the NEWD Board on January 7, 2020.
- N. The EPA, by a request from California State Water Resources Control Board, has now stepped in and proposed an Administrative Order on Consent (Consent Order) to NEWD requiring cleanup of the arsenic in the well water. The Consent Order mandates the following:
- EPA and NEWD enter into this Consent Order voluntarily
 - NEWD agrees NOT to contest the EPA’s authority
 - The State of California, acting through its California State Water Resources Control Board, has primary enforcement responsibility
 - NEWD shall, by June 30, 2020, provide EPA with a compliance plan and schedule for the system to comply with this Consent Order and come into compliance with the arsenic MCL
 - NEWD shall provide drinking water from the system to all of its customers that meets the arsenic MCL, by October 31, 2021

- NEWD must submit written reports to EPA that describe NEWD's progress in implementing its compliance plan. The first Quarterly Progress Report is due by July 10, 2020, and the second is due October 10, 2020
- Violations of any term of this Consent Order may subject NEWD to (i) a civil judicial penalty of up to \$58,328 per day per violation or (ii) an administrative penalty of up to \$40,640 and/or (iii) the filing of a judicial action seeking compliance

The Board made the decision not to sign this Consent Order, and asked the State Water Control Resources Board for assistance.

- O. NEWD is a member of the California Special Districts Association, which offers resources such as: training, workshops, risk management, insurances, Public Records Act compliance, and website assistance.
- P. Since July 1998, NEWD has been a member of the Special District Risk Management Authority's Property/Liability Program. A Notice of Non-Renewal of Property/Liability Insurance Coverage was issued to NEWD terminating them as of 12:01 a.m. on July 1, 2020, based upon the member's losses (\$4,134,325.89 court judgement).
- Q. California Government Code, Title 6, Division 3, Part 2, Chapter 3, section 61045 (d), states: "The minutes of the board of directors shall be recorded and the aye and no votes taken by the total members of the board of directors for the passage of all ordinances, resolutions, or motions."
- R. California Water Code, Division 20, Part 3, Chapter 2, Article 1, sections 71276 and 71277, "The board shall act only by ordinance, resolution, or motion." "On all ordinances the roll shall be called and the ayes and noes recorded in the journal of the proceedings of the board."
- S. NEWD does not have a current website meeting the requirements of Senate Bill 929 (See Glossary).

FINDINGS:

- F1. The delay in completing the Project has caused the community of North Edwards concern, because their water is not safe to drink due to the levels of contaminants exceeding the EWG guidelines. The EPA has now set a deadline for NEWD to meet the Federal MCL limits for safe drinking water.

- F2. If the Project (water purification plant, tanks, main lines, and wells) had been completed, the North Edwards Water District would have sought to connect approximately 140 new connections within the North Edwards community that are not currently being served by the District. This would have supplied safe potable water for the entire North Edwards community.
- F3. Because of the ongoing feud between NEWD and the General Contractor, the District will not be getting the much needed Project completed any time soon. The State withdrew funding due to ongoing litigation and a failure to meet the June 30, 2018, completion date.
- F4. A logical course of action for the District, is to connect to the AVEK water system. However, the expense involved to connect to the system, not to mention the added monthly water charge to the customers, could put a burden on the community. Additionally, the AVEK system is not a permanent solution, due to water quality (See graph in Fact H) and the shut-down of their water supply for a five to ten day period annually for maintenance and repairs.
- F5. The previous Board's actions caused the District to undergo expensive litigation costs and loss of their property/liability insurance, plus there is, apparently, little-to-no citizen involvement in the operation of the District. NEWD is unable to get the State funded Project completed and will have to endure the cost of connecting to the AVEK water system. All of this has placed a burden on the financial status and the future existence of the District.
- F6. Board meeting agendas are posted only at the District Office and the local market. Minutes of the meetings are not posted, so the public is not always informed of the actions taken by the Board.
- F7. The interim General Manager, appointed December 16, 2019, appeared to lack the managerial background to lead the District. The Board discussed the hiring of a new General Manager on December 16, 2019, but the Board does **not** consider this a high priority.

- F8. Due to the actions, or the lack of actions, and the lack of leadership of the previous Board Members, the District has a deteriorated, unfinished, unusable skeleton of a Project. (See photos below)



Photos by the Grand Jury

- F9. Five years of legal battles and a court decision against NEWD for \$4.134M, is hurting the District financially. With the start of the Notice of Appeal to the court decision, the loss of State funding, the loss of the liability insurance carrier, and the unwillingness of the previous Board to complete the Project with the General Contractor, the Community of North Edwards will have to pay additional costs to receive safe drinking water.
- F10. The office staff could not produce Board Policies and Procedures and/or By-Laws that board members need to effectively run the District. The lack of training for AB 1234, The Brown Act, and conflict of interest, has led to a dysfunctional Board. (See Glossary)
- F11. All bank accounts and/or check ledgers were not readily available to the Committee, making it difficult to assess the financial status of the District. This may be a violation of the California Public Records Act. Year-end audit reports did not always match the previous year's reports. Year End Financial Statements did not reference all bank accounts controlled by NEWD. Not all public funds were accounted for or made available for public review. Board meeting minutes confirmed many discrepancies in the funds maintained in four District accounts. A new auditing firm was selected by the General Manager in August 2019, to complete the fiscal year 2018-2019 Financial Statements. The Committee could not adequately assess the financial status of the District.
- F12. After the Committee reviewed the past eight years of the Board meeting minutes, it is evident that accurate minutes were not maintained or posted for public review. Several monthly minutes were duplicated from other months. For example, regular minutes in August 21, 2017, are word-for-word minutes of August 17, 2015, with the exceptions of the Date and Members present. Other regular minutes had the wrong dates. This led the Committee to question the accuracy of the minutes and any board actions. The Committee was unable to obtain a

complete set of board meeting minutes for any given year, as required by Government Code and Water Code.

- F13. The Board meeting minutes revealed that motions and votes were taken on items not on the posted agenda. This is a possible violation of California Government Code section 54954.2(a) (2), The Ralph M. Brown Act, “No action or discussion shall be undertaken on any item not appearing on the posted agenda...”
- F14. Although a member, NEWD is not using all of the resources available to them from the California Special District Association for training of Directors, setting up a website, Public Records Act, The Brown Act, safety training, and legal updates on State laws.
- F15. The Committee received a letter from the NEWD Board on June 16, 2020, indicating that the District is in need of **help**. With only three active board members, no liability insurance carrier, and staff members that may walk, the Board of Directors feel that they are one step away from **disbanding**.
- F16. Driving through the community and speaking with residents, the Committee discovered that some don't drink the well water without a filtration system in their homes, while most purchase bottled water for their household use, with costs varying from \$30 to \$200 per month, in addition to their \$50 NEWD bill. A majority share a distrust for the District Board doing the right thing and completing the Project. Many no longer attend District and town hall meetings.
- F17. It appeared the Prop. 84 Funds were not closely monitored by the California Natural Resources Agency and the NEWD Board. With deposits of \$2,906,566.91 sent to the NEWD Special Project Account, the previous Board allowed funds to be expended even before the bidding process was completed and the awarding of the contract in December 2013. The NEWD Special Projects bank records, obtained by subpoena, contained the following information:
- \$191,963.20 was paid August 2013 to the filtering company (before the bidding process was completed)
 - \$35,993.10 was paid January 2014 to the filtering company (before the General Contractor was on site)
 - More than \$742,173 has been paid to the filtering company. To date, no products have been delivered to NEWD or the job site from the filtering company
- F18. A few of the previous NEWD Board members interfered with the General Contractor's daily operations from day one on the job site. This was the beginning of an ongoing battle.

- F19. Based on the Committee's investigation and interviews, the Project Manager did not want the General Contractor removed from the job, and given the opportunity, the General Contractor can still complete the Project.
- F20. Some of the concerns expressed in Fact L, would have been corrected to specifications before the completion of the Project, at no extra expense to NEWD.

COMMENTS:

The Grand Jury thanks the staff at North Edwards Water District for their willingness to share the status of the District. However, it was unfortunate that not all information was readily available to the Grand Jury. The Grand Jury appreciates the openness and honesty of all those who were interviewed.

The citizens of North Edwards should attend NEWD meetings, and express their concerns over the water quality being provided, as well as, the way the District is being managed. NEWD needs to find a solution and the means to get the Water Purification Plant completed and operational to save further expenses to the citizens of North Edwards.

RECOMMENDATIONS:

- R1. The North Edwards Water District should, as soon as possible, begin providing safe drinking water to the residents either in the form of bottled water or connecting to the AVEK system while seeking a **permanent remedy** to meet State guidelines. (Findings 1 and 4)
- R2. The North Edwards Water District should **cease and desist** all pending litigation concerning the construction of the Project. Thereafter, seek the means to complete the Project as soon as possible. (Findings 1, 2, 3, 8, 9, 18 and 19)
- R3. The North Edwards Water District should meet all the requirements of SB 929, to establish and maintain an active website that will keep the public informed with its contact information, District activities, agendas, and Board meetings minutes, by January 2021. (Findings 6, 12, 13 and 14)
- R4. The North Edwards Water District Board should seek a permanent General Manager, as quickly as possible. (Findings 7, 10 and 11)
- R5. The North Edwards Water District Board members and office staff should complete all required and recommended training, by January 2021, and maintain a copy of completion records in the District's files. (Findings 10 and 14)

- R6. The North Edwards Water District should make available to the public all financial records, including all bank accounts and funds held by the District. This information should also be shared with the auditing firm in preparation of Year End Financial Statements. (Finding 11)
- R7. The North Edwards Water District Board should, by January 2021, prepare or update policy and procedures and/or by-laws necessary for the Board to function effectively. (Findings 10, 13 and 14)
- R8. North Edwards Water District Board should take and adopt monthly meeting minutes, verify the accuracy then post the approved minutes where the public may review them prior to the next meeting. The minutes MUST state the members present and agenda items voted on, and a copy must be maintained in the District's files. (Findings 10, 11 and 12)
- R9. The North Edwards Water District Board should seek any and all assistance available from outside agencies (County, State, and/or Federal) to help the District meet the demands of the State and the EPA to supply safe potable water to their customers. (Findings 1, 2, 4, 8, 15 and 16)
- R10. The North Edwards Water District, in conjunction with the California Natural Resources Agency, the State Water Resources Control Board, and the State Auditor should complete a financial audit of all receipts and disbursements of Prop. 84 funds (Reference Number: 3940P8412C114 for \$5,606,566.91) to verify that all funds spent on the Project were appropriate. (Finding 17)
- R11. The North Edwards Water District should enlist the services of an outside firm to conduct a complete financial audit of **all** bank accounts held by the District for the past seven years. This reconciliation of accounts would verify that all deposits and paid invoices were properly approved by the Board, and transfers between accounts were appropriate. (Findings 11 and 17)
- R12. Any and all records and documents belonging to the North Edwards Water District should be stored at the District's Office, and/or made readily available for public inspection according to the Public Records Act (California Government Code sections 6250 – 6270.7). (Findings 10, 11 and 12)

NOTES:

- The North Edwards Water District, California Natural Resources Agency, California State Water Resources Control Board – Division of Drinking Water, California State Auditor, and the United States Environmental Protection Agency, Region IX, should post a copy of this report where it will be available for public review
- Persons wishing to receive an email notification of newly released reports may sign up at: kerncounty.com/grandjury
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website: kerncounty.com/grandjury

REQUIRED RESPONSES WITHIN 90 DAYS TO:

- **PRESIDING JUDGE**
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301
- **FOREPERSON**
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

GLOSSARY:

1. **MCL:** Maximum Contaminant Levels are standards that are set by the United States Environmental Protection Agency (EPA) for drinking water quality. An MCL is the legal threshold limit on the amount of a substance that is allowed in public water systems under the Safe Drinking Water Act. The limit is usually expressed as a concentration in milligrams or micrograms per liter of water.
2. **PPB:** Parts per billion is a commonly used unit of concentration for **very** small values. One part per billion is one part of solute per one billion parts solvent.
3. **PPM:** Parts per million is a commonly used unit of concentration for small values. One part per million is one part of solute per one million parts solvent.
4. **pCi/L:** Picocuries per liter is a unit for measuring radioactive concentrations. The curie (Ci) unit is the activity of 1 gram of pure radium 226. Pico is a scientific notation term which means 1/1000000. A typical value for radon in the living spaces of a US home is 1 pCi/L.
5. **AB 1234:** Cities, counties and special districts in **California** are required by law (AB 1234, Chapter 700, Stats. of 2005) to provide ethics training to their local officials. The state Fair Political Practices Commission has made the AB 1234 Local Ethics Training available to satisfy the local official's ethics training requirement.
6. **Ralph M. Brown Act:** The Brown Act states that it is the intent of the law that the actions of public legislative bodies be taken openly and that their deliberations be conducted openly. The Brown Act is intended to give the citizens of California access to government agencies and **prohibit governmental decisions from being made in secret.**
7. **SB 929** (Gov. Code 53087.8): Passed in late 2018, is a law requiring all independent special districts in California to create and maintain a website by January 2020, with four distinct pieces of information posted: 1. Contact Information for the District, 2. Current Agenda, 3. Financial Transactions Report, and 4. Catalog of software used.
8. **Notice of Appeal:** is the paper filed in the Superior Court where the case was decided to let the court and the other side know that you are appealing the court's decision. Filing a **notice of appeal** begins the entire **appeals** process.
9. **Arsenic:** is a white to gray, brittle solid. It occurs naturally in water and soil. Arsenic can be harmful to the eyes, skin, liver, kidneys, lungs, and lymphatic system. Exposure to **arsenic** can also cause cancer.

10. **Bromodichloromethane:** is one of the total Trihalomethanes (TTHMs), it is formed when chlorine or other disinfectants are used to treat drinking water. Bromodichloromethane and other disinfection byproducts increase the risk of cancer and may cause problems during pregnancy.
11. **Hexavalent chromium** (also known as Chromium 6): is the most toxic form of the metal chromium. It is naturally found in rocks and may enter the groundwater by weathering of chromium 6-containing rocks or from industrial contamination.
12. **Dibromochloromethane** (also known as tribromomethane): is colorless to yellow, heavy, non-burnable liquids with a sweetish odor. These chemicals are possible contaminants of drinking water that has been chlorinated to kill bacteria and viruses that could cause serious waterborne infectious diseases.
13. **Nitrate:** is a compound that is formed naturally when nitrogen combines with oxygen or ozone. Nitrogen is essential for all living things, but high levels of **nitrate** in drinking water can be dangerous to health, especially for infants and pregnant women.
14. **Uranium:** is a common naturally occurring and radioactive substance. It is a normal part of rocks, soil, air, and water, and it occurs in nature in the form of minerals – but never as a metal.
15. **PROP. 84:** The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) authorized \$5.388 billion in general obligation bonds to fund safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.
16. **Administrative Order on Consent:** is an agreement between an individual or business and regulatory body in which the individual or business agrees to pay for damages. The EPA generally issues an Administrative Order on Consent to clean up or remedy environmental damages. The Administrative Order on Consent can then be enforced in court if the business does not comply.
17. **California State Water Resources Control Board – Division of Drinking Water:** is dedicated to a single vision: abundant clean water for human uses and environmental protection to sustain California's future and have regulatory responsibility for protecting the water quality.
18. **United States Environmental Protection Agency (EPA):** set national standards that states and tribes enforce through their own regulations. If they fail to meet the national standards, EPA can help them. The EPA also enforce US regulations, and help companies understand the requirements.

NORTH EDWARDS WATER DISTRICT
13525 Fran Street, North Edwards, CA 93523 760-769-4520 FAX 760-769-1045

December 2, 2020

PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301

Jerry D. Troxel, FOREPERSON
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301

RE: Response to Kern County Grand Jury Final Report August 31, 2020

Dear Presiding Judge and Mr. Troxel,

I am writing in response to the Grand Jury report dated August 31, 2020. The North Edwards Board of Directors have met and discussed the findings and recommendations. Please see the responses below:

FINDINGS

F1. The delay in completing the Project has caused the community of North Edwards concern, because their water is not safe to drink due to the levels of contaminants exceeding the EWG guidelines. The EPA has now set a deadline for NEWD to meet the Federal MCL limits for safe drinking water. 2019-2020 Kern County Grand Jury Report

- NEWD Agrees with this finding.

F2. If the Project (water purification plant, tanks, main lines, and wells) had been completed, the North Edwards Water District would have sought to connect approximately 140 new connections within the North Edwards community that are not currently being served by the District. This would have supplied safe potable water for the entire North Edwards community.

- NEWD Agrees with this finding.

F3. Because of the ongoing feud between NEWD and the General Contractor, the District will not be getting the much needed Project completed any time soon. The State withdrew funding due to ongoing litigation and a failure to meet the June 30, 2018, completion date.

- NEWD Agrees with this finding.

F4. A logical course of action for the District, is to connect to the AVEK water system. However, the expense involved to connect to the system, not to mention the added monthly water charge to the customers, could put a burden on the community. Additionally, the AVEK system is not a permanent solution, due to water quality (See graph in Fact H) and the shut-down of their water supply for a five to ten day period annually for maintenance and repairs.

- NEWD Agrees that it is a logical solution.
- NEWD Disagrees that it is not a permanent solution. Many communities in the area have water provided by AVEK as a permanent solution. Their water quality is well within the EPA standards. We also have a solution to less the five to ten day period of AVEK shut-down.

F5. The previous Board's actions caused the District to undergo expensive litigation costs and loss of their property/liability insurance, plus there is, apparently, little to-no citizen involvement in the operation of the District. NEWD is unable to get the State funded Project completed and will have to endure the cost of connecting to the AVEK water system. All of this has placed a burden on the financial status and the future existence of the District.

- NEWD Agrees however, insurance for the district has been secured.

F6. Board meeting agendas are posted only at the District Office and the local market. Minutes of the meetings are not posted, so the public is not always informed of the actions taken by the Board.

- NEWD Agrees, the new board has implemented the posting of the minutes for public view.

F7. The interim General Manager, appointed December 16, 2019, appeared to lack the managerial background to lead the District. The Board discussed the hiring of a new General Manager on December 16, 2019, but the Board does not consider this a high priority.
2019-2020 Kern County Grand Jury Report

- The Board has posted on Indeed.com to seek a new qualified General Manager.

F8. Due to the actions, or the lack of actions, and the lack of leadership of the previous Board Members, the District has a deteriorated, unfinished, unusable skeleton of a Project. (See photos below) Photos by the Grand Jury

- NEWD Agrees with this finding.

F9. Five years of legal battles and a court decision against NEWD for \$4.134M, is hurting the District financially. With the start of the Notice of Appeal to the court decision, the loss of State funding, the loss of the liability insurance carrier, and the unwillingness of the previous Board to complete the Project with the General Contractor, the Community of North Edwards will have to pay additional costs to receive safe drinking water.

- NEWD Agrees with this finding.

F10. The office staff could not produce Board Policies and Procedures and/or By-Laws that board members need to effectively run the District. The lack of training for AB 1234, The Brown Act, and conflict of interest, has led to a dysfunctional Board. (See Glossary)

- NEWD Agrees with this finding. The current board has registered with CSDA to receive the required training

F11. All bank accounts and/or check ledgers were not readily available to the Committee, making it difficult to assess the financial status of the District. This may be a violation of the California Public Records Act. Year-end audit reports did not always match the previous year's reports. Year End Financial Statements did not reference all bank accounts controlled by NEWD. Not all public funds were accounted for or made available for public review. Board meeting minutes confirmed many discrepancies in the funds maintained in four District accounts. A new auditing firm was selected by the General Manager in August 2019, to complete the fiscal year 2018-2019 Financial Statements. The Committee could not adequately assess the financial status of the District.

- NEWD Neither agree nor disagree

F12. After the Committee reviewed the past eight years of the Board meeting minutes, it is evident that accurate minutes were not maintained or posted for public review. Several monthly minutes were duplicated from other months. For example, regular minutes in August 21, 2017, are word-for-word minutes of August 17, 2015, with the exceptions of the Date and Members present. Other regular minutes had the wrong dates. This led the Committee to question the accuracy of the minutes and any board actions. The Committee was unable to obtain a 2019-2020 Kern County Grand Jury Report complete set of board meeting minutes for any given year, as required by Government Code and Water Code.

- NEWD Neither agree nor disagree

F13. The Board meeting minutes revealed that motions and votes were taken on items not on the posted agenda. This is a possible violation of California Government Code section 54954.2(a) (2), The Ralph M. Brown Act, "No action or discussion shall be undertaken on any item not appearing on the posted agenda..."

- NEWD Neither agree or disagree

F14. Although a member, NEWD is not using all of the resources available to them from the California Special District Association for training of Directors, setting up a website, Public Records Act, The Brown Act, safety training, and legal updates on State laws.

- NEWD Agrees in the past it was that way. The current board is organizing and getting resources that are needed to be in compliance.

F15. The Committee received a letter from the NEWD Board on June 16, 2020, indicating that the District is in need of help. With only three active board members, no liability insurance carrier, and staff members that may walk, the Board of Directors feel that they are one step away from disbanding.

- NEWD Agrees, we now have insurance and active board members.

F16. Driving through the community and speaking with residents, the Committee discovered that some don't drink the well water without a filtration system in their homes, while most purchase bottled water for their household use, with costs varying from \$30 to \$200 per month, in addition to their \$50 NEWD bill. A majority share a distrust for the District Board doing the right thing and completing the Project. Many no longer attend District and town hall meetings.

- NEWD Neither agree or disagree

F17. It appeared the Prop. 84 Funds were not closely monitored by the California Natural Resources Agency and the NEWD Board. With deposits of \$2,906,566.91 sent to the NEWD Special Project Account, the previous Board allowed funds to be expended even before the bidding process was completed and the awarding of the contract in December 2013. The NEWD Special Projects bank records, obtained by subpoena, contained the following information: • \$191,963.20 was paid August 2013 to the filtering company (before the bidding process was completed) • \$35,993.10 was paid January 2014 to the filtering company (before the General Contractor was on site) • More than \$742,173 has been paid to the filtering company. To date, no products have been delivered to NEWD or the job site from the filtering company

- NEWD Neither agree or disagree

F18. A few of the previous NEWD Board members interfered with the General Contractor's daily operations from day one on the job site. This was the beginning of an ongoing battle. 2019-2020 Kern County Grand Jury Report

- NEWD Neither agree or disagree

F19. Based on the Committee's investigation and interviews, the Project Manager did not want the General Contractor removed from the job, and given the opportunity, the General Contractor can still complete the Project.

- NEWD Neither agree or disagree

F20. Some of the concerns expressed in Fact L, would have been corrected to specifications before the completion of the Project, at no extra expense to NEWD.

- NEWD neither agree or disagree

RECOMMENDATIONS

R1. The North Edwards Water District should, as soon as possible, begin providing safe drinking water to the residents either in the form of bottled water or connecting to the AVEK system while seeking a permanent remedy to meet State guidelines. (Findings 1 and 4)

- NEWD has distributed bottled to residents at no cost through Self-Help Enterprises.
- NEWD has begun the process with AVEK to connect the system contract engineering with AECOM.

R2. The North Edwards Water District should cease and desist all pending litigation concerning the construction of the Project. Thereafter, seek the means to complete the Project as soon as possible. (Findings 1, 2, 3, 8, 9, 18 and 19)

- NEWD has filed an appeal.

R3. The North Edwards Water District should meet all the requirements of SB 929, to establish and maintain an active website that will keep the public informed with its contact information, District activities, agendas, and Board meetings minutes, by January 2021. (Findings 6, 12, 13 and 14)

- NEWD has a new website. www.northedwardswaterdistrict.com
- NEWD will implement changes and update the website

R4. The North Edwards Water District Board should seek a permanent General Manager, as quickly as possible. (Findings 7, 10 and 11)

- NEWD has begun the recruitment process for a qualified General Manager.

R5. The North Edwards Water District Board members and office staff should complete all required and recommended training, by January 2021, and maintain a copy of completion records in the District's files. (Findings 10 and 14)

- NEWD will update its standard operating procedures
- NEWD Board Members has signed up with CSDA to complete the required training

R6. The North Edwards Water District should make available to the public all financial records, including all bank accounts and funds held by the District. This information should also be shared with the auditing firm in preparation of Year End Financial Statements. (Finding 11)

- NEWD is seeking an auditing firm
- NEWD will prepare records to be available

R7. The North Edwards Water District Board should, by January 2021, prepare or update policy and procedures and/or by-laws necessary for the Board to function effectively. (Findings 10, 13 and 14)

- Policy and Procedures are currently being updated.

R8. North Edwards Water District Board should take and adopt monthly meeting minutes, verify the accuracy then post the approved minutes where the public may review them prior to the next meeting. The minutes MUST state the members present and agenda items voted on, and a copy must be maintained in the District's files. (Findings 10, 11 and 12)

- NEWD has implemented this recommendation

R9. The North Edwards Water District Board should seek any and all assistance available from outside agencies (County, State, and/or Federal) to help the District meet the demands of the State and the EPA to supply safe potable water to their customers. (Findings 1, 2, 4, 8, 15 and 16)

- NEWD has requested assistance from several agencies. However, we will continue to request assistance to implement changes that will allow our district to become more efficient and serve our residence with transparency and clean drinking water.

R10. The North Edwards Water District, in conjunction with the California Natural Resources Agency, the State Water Resources Control Board, and the State Auditor should complete a financial audit of all receipts and disbursements of Prop. 84 funds (Reference Number: 3940P8412C114 for \$5,606,566.91) to verify that all funds spent on the Project were appropriate. (Finding 17)

- NEWD will request the agencies to assist with completing this recommendation.

R11. The North Edwards Water District should enlist the services of an outside firm to conduct a complete financial audit of all bank accounts held by the District for the past seven years. This reconciliation of accounts would verify that all deposits and paid invoices were properly approved by the Board, and transfers between accounts were appropriate. (Findings 11 and 17)

- NEWD is currently seeking an Auditor.

R12. Any and all records and documents belonging to the North Edwards Water District should be stored at the District's Office, and/or made readily available for public inspection according to the Public Records Act (California Government Code sections 6250 – 6270.7). (Findings 10, 11 and 12)

- All records are stored at the NEWD office.
- NEWD office staff is currently organizing documents to be readily accessible.

Thank you for your time and effort in ensuring that our community receives clean, safe drinking water and our water district is run with transparency and integrity.

Respectfully,

Gary Westmoreland
President, Board of Directors