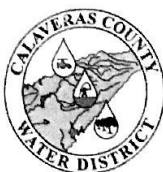


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# CALAVERAS COUNTY WATER DISTRICT

120 Toma Court • P O Box 846 • San Andreas, CA 95249 • (209) 754-3543

August 31, 2015  
**FILED**

SEP - 3 2015

The Honorable Grant Barrett, Presiding Judge  
Calaveras County Superior Court  
400 Government Center Drive  
San Andreas, California, 95249-9794

Clerk of the Court  
Superior Court of California  
County of Calaveras  
By *[Signature]*, Deputy

**Re: Calaveras County Water District's Response to Calaveras County  
2014-2015 Grand Jury Final Report**

Dear Judge Barrett:

Calaveras County Water District (CCWD) wishes to thank the Grand Jury for their commitment to public service and their extensive efforts in the development of the most recent Grand Jury Report. We appreciate the Calaveras County Grand Jury's interest and work to investigate local water supply and service issues, as it has become a forefront of concern for many Calaveras County residents. As California endures a fourth consecutive year of unprecedented drought, CCWD has been working diligently to enhance our drought-preparedness and response programs while increasing future water reliability. As the largest water provider in the county, CCWD is dedicated to transparency, and providing the best quality service to our customers while keeping costs down for planned current and future improvements to our infrastructure. Additionally, providing education to the public about the importance of watershed stewardship, impacts of climate change, water supply reliability, water conservation/efficiency and how to meet future water demands is a significant priority.

As required by the Calaveras County 2014-15 Grand Jury Final Report, CCWD has reviewed the Grand Jury's Final Report. CCWD was required to respond to findings and recommendations contained in the following chapters: *Groundwater and Wells, Impact of Drought on Water Service to Copperopolis, and Oversight of Calaveras County's Water Providers*. The Board of Directors of CCWD has authorized this response. As an attachment to this letter, the specified findings and recommendations are provided along with CCWD's response.

Please do not hesitate to call me at (209) 754-3001 if you have any questions or require further clarification.

Sincerely,

CALAVERAS COUNTY WATER DISTRICT

Dave Eggerton  
General Manager

Attachment: CCWD's Responses to Calaveras County's 2014-2015 Grand Jury Report

[www.ccwd.org](http://www.ccwd.org)

## Calaveras County Water District Response to 2014/15 Grand Jury Report

### General Clarifications

CCWD would like to make some clarifications to some of the descriptions included in the report as to the nature of the services and governance of CCWD. Page 37, Paragraph 3 makes some inaccurate statements including the narrative that CCWD is a public company, and that Calaveras County has somehow relinquished water rights to CCWD.

**Page 37, Paragraph 3:** *“Over time, Calaveras County has relinquished its water rights to these companies, CCWD being the largest. Although Calaveras County Water District has the term “County” in its name, it is not a county agency but a public company and not overseen by the County. Public water companies have an elected board which governs its actions and, as such, fall under the scope of the Grand Jury for inquiry.”*

**Clarifying Response:** First, CCWD disagrees with the Grand Jury’s characterization of CCWD as a “public company” as it is misleading to the public and factually incorrect. CCWD is a not-for-profit public agency formed in 1946 under the laws of the State of California and must be characterized as an institution of local government, with a voter-elected Board of Directors that has structured governance, and delivers specialized public services to specific areas throughout the county as a special district. The Calaveras County Water District was created through a special act of the State Legislature and as a result must be considered a political subdivision of the State of California. Specifically, CCWD was organized and continues to exist under Sections 31110-31113 of the California Water Code.

As a California special district, CCWD has specific authorized purposes including the provision of public water service, water supply development and planning, wastewater treatment and disposal and recycling. Special districts are not a general purpose public entity such as county or city municipal government, but have many of the same basic powers, including the ability to sign contracts, employ workers, and acquire real property through purchase or eminent domain. Additionally, special districts like CCWD can issue bonds, impose special taxes, levy benefit assessments, and charge service fees according to very specific provisions and limitations contained in state law.

Secondly, the representation that Calaveras County has “relinquished its water rights” to “companies” such as CCWD is completely false. To our knowledge, the County of Calaveras has never owned any water rights itself. All water rights held by CCWD were acquired directly by CCWD through the State of California or from direct predecessors in interest to CCWD who beneficially used local water resources for such purposes as mining in the 19<sup>th</sup> century and agricultural and domestic water supplies thereafter. CCWD has never acquired any water right from the County of Calaveras. In the future, the County and CCWD could conceivably elect to partner in applying for a water right through the State Water Resources Control Board under “County of Origin” or “Area of Origin” laws adopted in the early 20<sup>th</sup> century, reserving future local access to water resources originating in counties such as Calaveras at the headwaters of the state and federal water projects in California.

### Groundwater and Wells

**Finding 2, Pg. 40:** *“Some wells throughout the county are failing. Calaveras County Environmental Health Department (EHD) does not have statistics regarding failed wells. EHD does issue permits for new wells and for extending old wells. Testing of these wells is done primarily to determine the potability of the water.*

*CCWD does not monitor the number or location of failing wells so the scope of the problem is not well known. CCWD is apprised of failed wells only when a resident contacts them in search of an alternate water source.*

*EHD has conducted surveys and data collection studies as part of the 2004 Calaveras County Ground Water Management Program and this information is available on-line (see sources listed above). This data includes information on well depth, productivity, and water collected at the time of permitting as well as tertiary channels. (EHD)*

*Drought conditions have an effect on well water, but the impact depends entirely on how the water is replenished. Wells on tertiary channels seem to be the most reliable. Wells on shattered rock are hit or miss. Wells on the San Joaquin County Ground Water Sub-basin (SJCGW Sub-basin) are dependent on depth and overdraft conditions.*

*CCWD provided the following data regarding the number of households obtaining water from their water pickup locations (taps) due to failing wells (April, 2015):*

*38 - Jenny Lind System (Valley Springs/Rancho Calaveras, Burson, Campo Seco, Wallace, Paloma)  
12 - Copper System (Angels Camp, Copperopolis, Diamond XX)  
2 - West Point System (West Point/Wilseyville area)*

*CCWD reported to the Grand Jury that there are five water pickup taps available to the public (2 in Jenny Lind, 1 in Arnold, 1 in Copperopolis, 1 in West Point). To gain access to these taps a form with a liability release needs to be completed at which time CCWD will provide the location of the supply tap. All other public water companies reported they had no water tap locations.”*

**CCWD Response to Finding 2, Pg. 40:** CCWD partially disagrees with the finding.

CCWD partially agrees that, overall, the historical record on production from household wells throughout the state is limited for an expansive list of reasons. However, the County EHD does continue to act as the local health authority and has extensive statistics on recently drilled wells, and other established wells throughout the county. EHD has collected what should be considered a fairly representative dataset for the entire county for domestic wells.

CCWD would like to make one minor correction: there are 39 households on the water hauling program in the Jenny Lind service area as of April 2015. Additionally, it should be noted that the

program should be viewed as a “stop-gap” emergency response measure and not a long-term solution to well-water shortages. CCWD and its Board of Directors continue to evaluate and refine our water hauling and pickup station program to determine if there are improvements to be made.

**Recommendation for Finding 2, Pg. 40:** *“The Grand Jury recommends that EHD and public water companies coordinate in developing and maintaining data regarding failing wells. In addition, both entities should also develop long term plans for extended drought conditions.”*

**CCWD Response to Recommendation for Finding 2, Pg. 40:** Both items of this recommendation have already been implemented.

CCWD continues to work with EHD in sharing data on wells throughout the county. CCWD also continues to act as the California Statewide Elevation Monitoring (CASGEM) entity for the approximately 70 square mile portion of the Eastern San Joaquin Sub-basin that overlies the eastern portion of Calaveras County. Data from the monitoring program is provided to the State where it is uploaded for public consumption.

The second part of this recommendation has also already been implemented. CCWD has a comprehensive long-term drought and water supply plan that is mandated by the State of California. Every five (5) years CCWD is required to develop/update their Urban Water Management Plan, with the next update due to be completed in late 2016. The Urban Water Management Plan is a key document for CCWD’s long-term water resources planning; including ensuring adequate water supplies are available to meet existing and future water demands for CCWD’s service areas during prolonged shortages.

CCWD also continues to act as the coordinator for Calaveras Conserves (see [www.calaverasconserves.com](http://www.calaverasconserves.com)). Calaveras Conserves is a countywide effort in partnership with County EHD and all other water districts in Calaveras County to address the current drought conditions while sharing resources to meet mandated water conservation targets contained in the Governor’s most recent Executive Order. This group will likely continue to work together into the foreseeable future, even in times when water shortages do not exist.

**Finding 3, Pg. 42:** *Many wells in the western part of the county draw water from the San Joaquin County Ground Water Sub-basin (see accompanying chart) and some have failed. The primary cause is serious overdraft of the sub-basin for many years. The reasons for this are well understood, but lay outside the scope of the Grand Jury.*

*Monitoring of some wells in the Calaveras County portion of the sub-basin indicate that the ground water level is dropping approximately one foot per year and is not recovering (CCWD, EHD).*

*Oakdale Irrigation District monitors 22 wells on the SJCGW Sub-basin and reports a 13 foot drop in the water table between 2005 and 2015. This is generally representative of the entire sub-basin as a whole.*

*Primary responsibility for the management of the "Ground Water Sustainability Act(s)" falls to the individual water districts of the County. Regulations for wells have not yet been determined and, according to the time schedule proposed, may not be decided for a few years. These are long term plans and won't reach full implementation until 2040.*

*EHD is also a stakeholder in the management of how these acts will affect wells using the San Joaquin County Ground Water Sub-basin within the county. EHD has previously conducted studies regarding groundwater and wells. There is presently no funding for further studies in this area.*

**CCWD Response to Finding 3, Pg. 42: CCWD partially disagrees with the finding.**

CCWD agrees with the finding that *"Many wells in the western part of the county draw water from the San Joaquin County Ground Water Sub-basin (see accompanying chart) and some have failed."*

CCWD agrees with the finding that *"Primary responsibility for the management of the "Ground Water Sustainability Act(s)" falls to the individual water districts of the County. Regulations for wells have not yet been determined and, according to the time schedule proposed, may not be decided for a few years. These are long term plans and won't reach full implementation until 2040."*

However, CCWD disagrees with the following statement *"The primary cause is serious overdraft of the sub-basin for many years. The reasons for this are well understood..."* This conclusory statement oversimplifies the complexities of an expansive geographic area that touches a portion of Calaveras County and its groundwater resources. CCWD is the CASGEM monitoring entity for the approximately 70 square mile portion of the Eastern San Joaquin Sub-basin that overlies the eastern portion of Calaveras County, a relatively small fraction. The wells that are being monitored by CCWD through the CASGEM program are actually relatively static compared to other wells within the much larger geographic scope of the entire sub-basin. A few wells running dry within our county boundary should not conclusively be tied to over-drafting of the totality of the sub-basin. The connection/contribution of the Calaveras County portion of the Eastern San Joaquin sub-basin is something that must continue to be evaluated further. CCWD

anticipates that the work to be completed by local agencies under the recently adopted Sustainable Groundwater Management Act will offer opportunities to pursue better information-sharing and foundational research amongst the entities across the Eastern San Joaquin sub-basin.

**Recommendation 1, Pg. 43:** *“The Grand Jury recommends the water companies publish quarterly updates regarding the management of the Ground Water Sustainability Acts.”*

**CCWD Response to Recommendation 1, Pg. 43:** The recommendation has not yet been implemented, but will be implemented in the future.

At this time this recommendation cannot be implemented because the managing entities of the Eastern San Joaquin Basin have not begun the Groundwater Sustainability Agency formation process, as required by the Sustainable Groundwater Management Act legislation. The Department of Water Resources (DWR) is in the process of updating and finalizing Bulletin 118, which maps and prioritizes the basins across the State of California. CCWD fully anticipates that the Eastern San Joaquin sub-basin will continue to maintain the current “high-priority” designation. This “high-priority” designation means the expedited formation of a Groundwater Sustainability Agency will need to be completed by June 30, 2017. The CCWD Board of Directors will be receiving regular updates on this effort to be published with documentation at their publicly noticed meetings, most likely beginning sometime in 2016. Regular updates will continue through the completion of a Groundwater Sustainability Plan, due in either January 2020 or 2022 depending upon the final determination by DWR in Bulletin 118.

**Finding 4, Pg. 44:** *“Options become limited when wells fail, particularly for communities with multiple failing wells....*

*...A portion of all property taxes goes to the assorted public water companies in the County. These funds are spent at the discretion of each company.*

**CCWD Response to Finding 4, Pg. 44:** CCWD partially disagrees with the finding.

CCWD agrees with the finding’s summary of available options for failed wells and the discussion regarding CCWD capacity fees.

CCWD disagrees with the statement in the finding that *“A portion of all property taxes goes to the assorted public water companies in the County. These funds are spent at the discretion of each company. (underline emp. added)”*.

Calaveras County Water District was formed under a special act of the State Legislature, and the authorization to levy taxes was given for very specific purposes, as outlined in Sections 31110-31112 of the California Water Code as follows:

31110. Notwithstanding any other provisions contained in this division, the Calaveras County Water District, or an improvement district formed therein pursuant to the provisions of this division, may pursuant to the provisions of this article authorize and finance the construction, operation, and maintenance of facilities for the collection, transmission, treatment, and disposal of sewage, waste and storm water and garbage, waste and trash within the district.

31111. For the purposes of this article, the Board of Directors of the Calaveras County Water District may levy and collect taxes in the manner provided in this division. Such tax revenues shall be available for capital outlay purposes or for the accumulation of a reserve fund for capital outlay purposes.

31112. The Board of Directors of the Calaveras County Water District may levy and collect taxes in the manner provided in this division for the purpose of the maintenance and operation of any facilities constructed pursuant to Section 31110.

The statement that these funds are “discretionary” for CCWD’s use is incorrect. CCWD must use the levied funds from taxes for the purposes and elements outlined in the Water Code. When the District prepares its annual budget, property tax revenues are clearly accounted for in the General District Administration Fund and support efforts such as the preservation of water rights and operation of District facilities serving the public. CCWD is committed to transparency and has, and will continue to be, forthcoming with the public on how these funds are used.

**Recommendation 1, Pg. 45:** *“The Grand Jury recommends that a portion of the funds from property taxes be placed in a fund for future expansion of infrastructure and financial assistance for property owners with failed wells.”*

**CCWD Response to Recommendation 1, Pg. 45:** While the intent of this recommendation to prepare for the effects of future drought and the loss of wells is certainly appreciated, obligating funds strictly for one purpose would not be prudent. In fulfilling its authorized purpose to provide for current and future water supply reliability for the community and continuing to deliver safe and reliable water and wastewater services for basic human needs, CCWD must invest in a host of different projects, programs, and efforts consistent with its authorizing statutes. Preparation for the effects of drought is, and always will be, a high priority in ongoing District planning and investments. At the same time investing in the protection of water rights, preservation of access to water storage, and maintaining safe and reliable treatment and distribution facilities are but a handful of the other many critically important projects that must be funded. It is necessary to maintain maximum flexibility in the use of limited funds to provide for the current and future needs of the community as conditions change over time.

### **Impact of Drought on Water Service to Copperopolis**

**Finding 1, Pg. 48:** *“CCWD stated in a February 2015 press release that, “significant fluctuations in Lake Tulloch may become the norm rather than the exception.” If a Lake Tulloch drawdown does take place the surface of the reservoir could drop below CCWD’s water intakes. This is the point where water is pumped from the reservoir to the water treatment plant and then on to 2,500 customers in Copperopolis. These customers used 1200 acre feet of water in 2014. (CCWD data) CCWD officials, in a proactive approach to the situation, are planning to extend the water intake pipes and pumps deeper into the reservoir so that water service can continue for as long as possible. This construction is anticipated to start in the summer. (CCWD)”*

**CCWD Response to Finding 1, Pg. 48:** CCWD agrees with the finding. CCWD serves approximately 7,000 people in the Copper area whose sole water supply comes from the District’s intake at Lake Tulloch.

**Finding 2, Pg. 48:** *There are multiple players at the Lake Tulloch decision making table: TRI-DAM (Oakdale Irrigation District, South San Joaquin Irrigation District), Bureau of Reclamation, CCWD, California Department of Fish and Wildlife, Army Corp of Engineers, Federal Regulatory Commission, and US Department of Interior Fish and Wildlife Service. Local government has no authority over these agencies and few options for input. Because of the federal, state, and local agencies involved, it is difficult to resolve problems quickly.*

*Two Board of Supervisor members serve on the Calaveras Local Agency Formation Commission (LAFCO). LAFCO is mandated by the state to review the agencies providing water and wastewater services in the county. This is an additional means for county government to stay abreast of water issues and concerns.*

*In the past, Calaveras County water agencies held collaborative discussions on water resources, equipment and infrastructure via a technical advisory team, but the effort “disintegrated”. (LAFCO Municipal Services Review)*

**CCWD Response to Finding 2, Pg. 48:** CCWD agrees with the finding. Yet, the formation and ongoing work of Calaveras Conserves demonstrates successful efforts underway to achieve greater collaboration between water agencies and the County on key water issues.

### **Oversight of Calaveras County’s Water Providers**

**Finding 1, Pg. 50:** *“The Calaveras County Board of Supervisors has no authority over any utility agency or entity, yet CCWD and other water agencies receive property tax revenue regardless of services provided. There is no official mechanism for reporting information to the Board of Supervisors or anyone else in county government.”*

**CCWD Response to Finding 1, Pg. 50:** CCWD agrees with the finding.

**Recommendation for Finding 1, Pg. 50:** *The Grand Jury recommends that all six public water companies submit a quarterly budget report to the Board of Supervisors.*

**CCWD Response to Recommendation for Finding 1, Pg. 50:** The recommendation will not be implemented because it is redundant of existing efforts to make financial information accessible to the public and is unnecessary.

CCWD is committed to full, public disclosure of its financial information for the benefit of members of the community as well as other federal, state and local agencies. The District's financial information is available on its website at ccwd.org and is regularly included for circulation and review in the public agenda materials prepared for meetings of the District's Board of Directors and its committees. Providing this information to the County Board of Supervisors would be unnecessarily redundant and inconsequential to the overall transparency of our organization.

It is worth noting with regard to property taxes that Proposition 13, passed by the voters in 1978, capped, with limited exceptions, ad valorem property tax rates at one percent of full cash value at the time of acquisition. According to the County Assessor's report, last year there were a total of 61 different local entities including CCWD and the water districts that collected a portion of this total 1% of ad valorem general property tax. This included entities such as the City of Angels Camp, cemetery districts, fire districts, lighting districts, school districts, veterans' districts, and wastewater districts.

**Finding 2, Pg. 50:** *"Residential water consumption includes outdoor (landscape irrigation and swimming pools), toilet, shower, cleaning, and kitchen uses. Information obtained by the Environmental Protection Agency (EPA) shows the following breakdown of consumption in percentages:*

- 44% Outdoor*
- 23% Toilet*
- 18% Showering/bathing*
- 12% Dishwashing/laundry*
- The remaining 3% of consumption relates to cooking and other kitchen uses."*

**CCWD Response to Finding 2, Pg. 50:** CCWD agrees with the finding.

**Recommendation for Finding 2, Pg. 50:** *The Grand Jury recommends that the county promotes water conservation efforts even in periods of ample water supply. The Planning Department and the Environmental Health Department should partner with water companies in establishing a water conservation management practice program to promote water use efficiency. For example: Promote climate appropriate landscaping to reduce water usage now and in the future.*

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The Honorable Grant Barrett  
August 31, 2015  
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**CCWD Response to Recommendation for Finding 1, Pg. 50: This recommendation has already been implemented**

CCWD continues to act as the coordinator for Calaveras Conserves (see [www.calaverasconserves.com](http://www.calaverasconserves.com)). Calaveras Conserves is a countywide effort in partnership with County EHD and all other water districts in Calaveras County to address the current drought conditions while sharing resources to meet mandated water conservation targets contained in the Governor's most recent Executive Order. This group will likely continue to work together into the foreseeable future, even in times when water shortages do not exist.