



TRIUNFO SANITATION DISTRICT

A PUBLIC AGENCY

Ventura County Grand Jury
800 S. Victoria Ave., L#3751
Ventura CA 93009

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VENTURA COUNTY
GRAND JURY

July 25, 2007

GRAND JURY REPORT

On June 18, 2007, you sent to our Board of Directors a copy of your 2006-2007 Grand Jury report titled "Triunfo Sanitation District".

While investigating the findings, conclusions and recommendations included in the report, it became clear that the Grand Jury would have come to different conclusions if they had utilized the resources of the TSD and VRSD to discover all of the facts. These resources include source documents such as minutes, reports, and letters plus the VRSD staff, which it appears were not accessed by the Grand Jury.

Our responses to your report are below:

Although the instructions from the Grand Jury include that we respond to only the findings and the recommendations, we find that many of the conclusions are either unfounded, taken out of context, or only partially accurate and would best be served by receiving comments as well.

F-01. Triunfo Sanitation District (TSD) is an independent special district, formed in 1963, that supplies potable water, reclaimed water, and sewer services to customers within a fifty square mile area in parts of Southeastern Ventura County adjacent to the Los Angeles County line.

Response: Concur.

F-02 TSD has no employees.

Response: Concur in part. This is not precisely correct. The two directly elected TSD Board members are classified as employees in compliance with the Internal Revenue Service (IRS). IRS Publication 963 (2006 Revision) covers various tax issues related to state and local government. Pages 4-7 and 4-8 discuss the subject of "Public Officials".

“... elected officials are subject to a degree of control that typically makes them employees under common law. Elected officials are responsible to the public, which has the power not to reelect them. Elected official may also be subject to recall by the public or a superior official. Very few **appointed officials** have sufficient independence such that they will not be considered common-law employees. In any event, elected officials are employees for income tax withholding purposes under IRC Section 3401(c).”

F-03 TSD has outsourced all management and labor positions to Ventura Regional Sanitation District (VRSD). This contract is for the equivalent of approximately 10 full-time positions.

Response: Concur in part. TSD contracts its direct management from VRSD. VRSD expenses make up only 17.36% of the TSD 2007-08 Budget. There are a number of services that are contracted directly from VRSD, but the balance is provided by others. They include the TSD attorney services and the TSD auditor services. Additionally, the majority of services are provided by the LVMWD through a joint powers authority (JPA). For 2007/08, the distribution of costs between these three components is as follows:

VRSD Services	\$ 2,462,600 (17.36%)
LVMWD/JPA	\$ 6,447,905 (45.45%)
City of Los Angeles	\$ 192,000 (1.35%)
Other Services	<u>\$ 5,083,711 (35.84%)</u>
Total 2007/08 Budget	<u>\$14,186,216 (100.00%)</u>

The contract between VRSD and TSD does not specify the number of equivalent full-time positions. For 2007-08, the TSD budget includes an equivalent of approximately nine full-time positions from 25 different employee classifications.

F-04 California Health and Safety Code 4730 and 4730.1 prescribe how a sanitation district's board of directors is constituted. The TSD Board is composed of the Chairman of the Ventura County Board of Supervisors (BOS), the Mayor of Thousand Oaks, the Chairman of the VRSD Board (or designees from their respective boards), and two members elected at-large from the TSD service area.

Response: Concur.

F-05 The two elected TSD Directors must reside within the District's boundaries. The other three directors may reside elsewhere in Ventura County.

Response: Concur.

- F-06 The Ventura County Local Agency Formation Commission (LAFCO) recommended in 2004 that TSD should examine increasing the number of directly elected directors from two to three.

Response: Concur in part. LAFCO also said more about the agencies reviewed, which should not be overlooked.

“Based on the service review process, it can be concluded that the agencies addressed in the Calleguas Creek watershed service review area are providing efficient, cost-effective services. All the agencies are effectively pursuing management efficiencies, cost avoidance opportunities and shared facilities. Local accountability and governance were also found to be efficient. However, the Triunfo SD should examine the possibility of having an additional board member elected to improve their accountability to local ratepayers. Such a change in the governance structure might require legal review to ensure that any change is consistent with the agency’s enabling legislation.”

In March 2005 the TSD Board of Directors did examine the possibility, however two separate motions to change TSD’s governance died for lack of a second as the following excerpt from the minutes show:

Item 11: Triunfo Sanitation District Governance – District Manager Smith discussed with the Board LAFCO’s March 16, 2005 staff report regarding the governance structure of Triunfo. It was moved by Director Parks that the Board initiate action to modify the Board of Directors structure to a fully elected Board. The motion failed for lack of a second. It was moved by Director Parks that the Board initiate action to change the Board of Supervisors designated representative to a directly elected seat. The motion died for lack of a second. The Board took no action to change the current governance structure of the Triunfo Sanitation District Board of Directors.

Further, the TSD Board of Directors did examine, on April 30, 2007, prior to the release date of the Grand Jury Report, increasing the number of directly elected directors as the following excerpts from the minutes show:

A motion was made by Director Parks to amend the make-up of the Board from two elected officials and three appointed officials to five elected officials. The motion was seconded by Chairman Orkney. The motion was defeated by a vote of 3-2.

A motion was made by Director Parks to amend the make-up of the Board from two elected officials and three appointed officials to four elected officials and one appointed official from the City of Thousand Oaks. The motion died for lack of a second.

A motion was made by Director Parks to amend the make-up of the Board from two elected officials and three appointed officials to change the official appointed by the Board of Supervisors to an elected official. The motion was seconded by Chairman Orkney. The motion was defeated by a vote of 3-2.

- F-07 The TSD Board could be reconstituted to be entirely elected at-large from among residents of the TSD service area according to Health and Safety Code 4730.1 (b) by following the procedures set forth in 4730.2.

Response: Concur with added information. Agree that the TSD Board could legally be reconstituted, however, it requires a majority vote by the Board. A motion was made, considered, and defeated by a majority of the TSD Board of Directors on several occasions, most recently on April 30, 2007. At its July 16, 2007 meeting, however, the TSD Board directed staff to investigate the process and the cost of establishing an all elected board by district, including the cost of holding the election.

- F-08 For many years prior to November 2004, the two “elected” TSD Directors were appointed by the BOS because neither of the elected at-large seats were contested. A non-incumbent ran for election and was defeated in 2004. A non-incumbent candidate ran successfully in 2006, unseating a longtime incumbent.

Response: Concur with added information. It is common knowledge, that while it is not impossible, it is very difficult to defeat an incumbent candidate. This fact alone often discourages competition for a seat. Proponents of term limits use that argument frequently to persuade voters to vote in favor of term limits. The fact that a non-incumbent ran successfully in 2006 shows that there was interest from within the TSD boundaries to serve on the Board.

- F-09 In March 2005, a motion was made to change TSD’s governance to a fully elected board. However, the motion died for lack of a second.

Response: Concur with added information. The motion was made by Director Parks. At that same meeting Director Parks also made a motion that the Board initiate action to change the Board of Supervisors designated representative to a directly elected seat. Both motions died for lack of a second.

- F-10 In April 2007, the TSD Board again considered the District’s governance:

- A motion to have a fully elected board was defeated by a vote of 3-2.
- Subsequent motions to replace one or two non-elected directors were similarly defeated or died for lack of a second.

- TSD's attorney stated that his preliminary analysis of California codes indicated that an action to increase the number of elected directors would require changing to a fully elected board.
- The Board directed its attorney to research this issue more fully, including seeking a formal opinion from the California Attorney General, and then report back to the Board.

Response: Concur.

- F-11 TSD pays \$218 per director per meeting or day of service with a maximum of six compensated days per month. The employee portion of Social Security taxes (FICA) is paid by TSD. Directors attend regional and national conferences at TSD expense.

Response: Concur in part. The directly elected board members are compensated as employees at \$218 per meeting to a maximum of six meetings per month through the TSD payroll system and receive a W-2 after the end of each calendar year. The appointed board members, except Director Parks (see below), are paid through accounts payable and receive a 1099 at the end of each calendar year. The TSD is exempt from Social Security, except for the 1.45% Medicare portion. Each directly elected board member pays the 1.45% employee portion of Medicare and the TSD pays the 1.45% employer portion. In lieu of Social Security, the TSD pays 6.2% into a 457 defined contribution plan. Each directly appointed board member has an option to also contribute into the 457 plan. If the TSD was not exempt from Social Security, it would be paying the 6.2% into the Social Security system for each directly elected board member and each of them would be required to contribute 6.2% as well. The TSD pays to the County of Ventura, the \$218 fee per meeting or day of service for the services of Director Parks to a maximum of six meetings per month. Directors also attend local meeting at TSD expense. The cost of attending conferences for the VRSD appointee is split between VRSD and TSD.

- F-12 In fiscal years 2002-2003 and 2005-2006, several TSD Directors attended as many as four conferences in such locations as Palm Springs, Monterey, Napa, and Yosemite National Park as well in Orlando and Washington, DC, at TSD expense.

Response: Concur with added information. It is not uncommon for elected officials to attend training paid for by the organization they serve. It is critical that elected officials be updated on current issues, proposed legislation, laws, etc. that affect the organizations they serve in order to make the most informed decisions. It also gives them the opportunity to make contact with their peers from other agencies to bring back ideas. Directors are required, pursuant to AB 1234, to make a public statement at a board meeting regarding the information gleaned from attending such conferences and meetings. Directors who take

advantage of such training opportunities are better prepared to serve their public agencies with the additional knowledge gained by attending. The TSD Directors that do attend, generally attend conferences hosted by the California Association of Sanitation Agencies (CASA) and the American Waterworks Association. CASA holds three meetings annually. AWA meetings are typically held locally. As for out of state meetings going back to 2002, records show that in 2002, the Board authorized all board members to attend a WasteReuse Conference in Orlando, Florida. Three board members attended. In 2005, only the TSD Board chairman was authorized by the Board to attend a CASA meeting in Washington DC. The TSD Board members have no influence as to the locations of the conferences.

- F-13 A March 2005 memorandum from the VRSD General Manager to the TSD Board of Directors regarding TSD governance stated:

Consolidation with Las Virgenes Municipal Water District (LVMWD). I believe this is the best approach environmentally, technically and managerially. The system is currently bifurcated and would continue to be with the above systems [referring to either maintaining the status quo or going to an all-elected board]. This idea was brought to LVMWD several years ago, but there was little interest at that time.

Response: Concur.

- F-14 California Water Code 71060 indicates that a municipal water district can have territory in more than one county.

Response: Concur.

- F-15 Both VRSD and TSD use the same law firm for legal representation.

Response: Concur.

- F-16 The same accounting firm performed both VRSD and TSD annual audits. In March 2007, the TSD Board of Directors hired a firm for its future audits, a firm different from the one used by VRSD.

Response: Concur with added information. Certified Public Accountants performing governmental audits are held to many auditing standards. One of the primary standards, issued by the U.S. General Government Accountability Office has to do with independence. In its General Auditing Standards release of 2007 (GAO-07-162G Government Auditing Standards) page 29, it discusses independence and says specifically:

3.02 In all matters relating to the audit work, the audit organization and the individual auditor, whether government or public, must be free from personal, external, and organizational impairments to independence, and must avoid the appearance of such impairments of independence.

3.03 Auditors and audit organizations must maintain independence so that their opinions, findings, conclusions, judgments, and recommendations will be impartial and viewed as impartial by objective third parties with knowledge of the relevant information. Auditors should avoid situations that could lead objective third parties with knowledge of the relevant information to conclude that the auditors are not able to maintain independence and thus are not capable of exercising objective and impartial judgment on all issues associated with conducting the audit and reporting on the work.

Mike Moreland, a principle of Moreland and Associates, the TSD current auditors and who do not audit VRSD, stated during a telephone conversation regarding independence on June 28, 2007, that he could see no reason why a firm could not audit both VRSD and TSD and still maintain independence. He went on to say that there are two basic prohibitions related to independence. First, an auditor cannot audit his/her own numbers and second, an auditor cannot make management decisions.

- F-17 The VRSD auditor conducted an exit audit when a former finance director left that district. The July 2004 auditor's report to VRSD recommended that several actions taken by the former VRSD finance director – actions affecting TSD – be reevaluated to determine whether they were appropriate and beneficial. The auditor further recommended that each action should then be ratified or reversed by the VRSD Board.

Response: Concur. See comments to F-18.

- F-18 The July 2004 exit audit report to VRSD was not presented to the TSD Board until 2006. Two TSD Directors who were also VRSD Directors – as well as VRSD staff serving TSD – received the report when it was originally presented to VRSD, but they failed to bring relevant TSD items in the report to the attention of the other TSD Directors.

Response: Concur with added information. The July 2004 exit audit was provided to the TSD Board of Directors in 2006 at the request of the TSD Board. When the exit audit report did go to the TSD Board, staff responded to each recommendation. VRSD's willingness to disclose this type of information when requested is a benefit to the TSD.

- F-19 After the July 2004 auditor's report was presented to the VRSD Board, that Board took none of the recommended actions.

Response: Concur in part. The report included only three recommendations. Not all of the recommendations suggested action by the VRSD Board. Only one recommendation suggested the VRSD Board take any action.

- F-20 An October 2000 report by consultant Arroyo Associates [Ref-03] noted that a specific Triunfo District Manager position was to be provided by VRSD. At that time the position was vacant, and how or when it would be filled was uncertain. Currently the VRSD General Manager also serves as TSD Manager.

Response: Concur with added information. Although the Arroyo Report did make such statement, history of the position and specific TSD Board action should not be excluded from the discussion. In May of 2000, when the TSD District Manager left because of military commitments, the VRSD General Manager took over the role as TSD District Manager. In December of 2000, the TSD Board of Directors evaluated whether or not they wanted to continue with the current District Manager, who again was also serving as the General Manager for VRSD. An excerpt from the minutes of December 18, 2000 follows:

Arroyo Associates Study – Follow-up – The Board discussed the District Manager position recommendations of the consultants and unanimously agreed that District Manager Smith fill it on a permanent basis.

When District Manager Smith retired and VRSD General Manager Lawler was hired in 2005, Mr. Lawler continued in the role of District Manager for TSD. At no point did the TSD Board indicate that they wanted a change in that arrangement.

- F-21 Prior to the current TSD-VRSD contract for labor and management services, the California Water Service Company (CalWater) was solicited to make a proposal to manage TSD's water service. Data initially provided to CalWater by VRSD staff was summary information that was insufficient for preparing a meaningful proposal.

Response: Disagree. Cal Water was given all information they requested. See comments following F-26.

- F-22 The VRSD General Manager informed the VRSD Executive Committee about the CalWater proposal. In a letter to the Executive Committee, the General Manager stated, "Approval by the TSD Board for a private purveyor contract would cause significant reductions in the VRSD revenues and work force." Two members of

the Executive Committee who were informed of the CalWater proposal were also TSD Directors at that time.

Response: Concur in part. The members of the VRSD Executive Committee at the time were Dennis Gillette, Brian Brennan, and David Bury. Only Dennis Gillette, the appointee from the City of Thousand Oaks, also served on the TSD Board of Directors. Further, subcommittees of the VRSD Board make no decisions. They only review items and forward recommendations to the Board. Finally, the VRSD has made a significant investment in staffing to render itself staffed up sufficiently to serve the TSD. It would have been remiss on the part of the VRSD General Manager to keep information from the Executive Committee that might ultimately impact the operations of the VRSD. As it turned out, the Cal Water proposal was not competitive with the services provided by the VRSD. See comments following F-26.

- F-23 On a recommendation from VRSD staff (acting as TSD staff), the TSD Board approved a new contract with VRSD more than five months before Brown & Caldwell, an outside consultant, submitted its review of the CalWater proposal. (See F-25.)

Response: Concur in part. The Cal Water proposal was delayed a number of times resulting in a multiple-month delay as Cal Water was unprepared to submit one when scheduled. Also, the Brown & Caldwell review of their proposal was submitted several months after the TSD/VRSD contract would have expired. Further, the TSD Contract with VRSD contains language that TSD may terminate the agreement without cause by giving 90 days prior written notice.

See comments following F-26.

- F-24 The vote of the TSD Board to ratify the contract with VRSD was 4-0-1, with two TSD Directors who were also VRSD Directors voting in favor.

Response: Concur. See comments following F-26.

- F-25. A detailed proposal based on more comprehensive data specific to TSD was presented by CalWater to TSD. Brown & Caldwell was retained to evaluate that proposal.

Response: Concur. See comments following F-26.

- F-26. Brown & Caldwell concluded that the Cal Water proposal would be more costly than the VRSD contract. This conclusion was not reported to the TSD Board [Ref-01] until after the ratification of the contract with VRSD.

Response: Concur in part.

The Cal Water issue contained so many more elements than those listed in F-21 through F-26, as chronicled below.

July 28, 2003 – The TSD Board minutes report:

It was moved by Director Acosta, seconded by Director Stark and duly carried that the Board authorize staff to discuss with California Water Service Company the potential of sharing water storage.

In a memo dated September 15, 2003, District Manager Smith outlines options to storage issues including:

Sharing storage with California Water Service Company (CWSC). CWSC is a contiguous retail purveyor to the Oak Pak Water Service. In 1999-2000, staff discussed the possibility of tank sharing with CWSC's manager. She indicated CWSC was not interested in sharing storage with Oak Park Water Service. In July, Director Parks indicated that she had recently had some preliminary storage sharing discussion with CWSC personnel. Accordingly, Mark Capron and I met with Don Jensen, the new CWSC Manager for Thousand Oaks, on July 29, 2003.

The meeting with Mr. Jensen was cordial. He indicated that he believes his firm (corporate based in San Jose, regional in San Diego) would be interested in certain options. I am bringing these options to you in preliminary form to determine if you are interested in pursuing them further.

- a. CWSC buy-out of OPWS. This option would privatize OPWS. Privatizing is a volatile and emotionally charged issue in most California communities. As your Manager, I do not recommend it, but would certainly gather additional information for you, if desired.
- b. CWSC contract operations of OPWS. Naturally, I am prejudiced against this option, and know you understand the conflict of interest that my evaluating such a proposal would present. I will certainly arrange for an independent assessment of it should you desire; however, since VRSD is operating Triunfo under a 10-year contract that will expire on March 17, 2004, I am taking this opportunity to state some positive points about the services you receive from VRSD:
 - VRSD has served Triunfo well for 26 years.
 - VRSD provides stability and a public service focus.

- VRSD serves all of Triunfo's needs – general management, administration, wastewater, recycled water and potable water – in a coordinated manner and gains significant economies of scale by so doing.
- The October 2000 Arroyo Study concluded that VRSD's cost to operate OPWS is below the average of the benchmark agencies, and similar to the City of Thousand Oaks' per connection cost.
- The August 2003 LAFCO Water & Wastewater Service Review Report likewise concluded that the VRSD "provides cost-effective services to contracting agencies."

The following excerpts from the September 22, 2003 TSD Board meeting reflects the discussion that ensued and the action taken:

Item 17: Conifer Tank Replacement – District Manager Smith presented staff's recommendation that the District move forward with the Conifer tank construction and notify the public of the cost. He reported on a July 29 meeting with Don Jensen of Cal Water Service, and discussion ensued. Director Parks said her goal is to guarantee water service while saving the residents money, and declined to support the staff recommendation because of her belief that the alternative review process has been inadequate. Expressing a different view, Director Stark noted that in 1998 the Oak Park Municipal Advisory Council (MAC), after receiving presentations from both water districts, determined it would be better for Oak Park to maintain control of its own facility and asked Triunfo to move ahead with a study of story options. It did so and has provided the MAC with updates since that time.

.....

Cal Water Service Manager Don Jensen asked the Board for more time in which to present information on the storage, water quality and customer service enhancements his company can provide. Director Acosta asked how much more time is needed, noting it has been almost two months since the meeting with Triunfo staff. Mr. Jensen said he expects report preparation will take a couple of months. Director Stark said he believes the Board should look at funding sources as soon as possible because of rising interest rates.

It was moved by Director Parks that the Board give Cal Water Service until the December meeting to prepare a proposal to provide water storage to the Oak Park Water Service. The motion died for lack of a second, as did a second motion to give Cal Water until the November meeting.

It was moved by Director Stark, seconded by Director Acosta, and duly carried that the Board direct the Triunfo staff, working parallel with Cal Water Service staff, to continue its analysis so the Board will have the information

necessary to make an informed decision. Director Parks had left the meeting by this time, and did not vote on the motion.

At the October 27, 2003 TSD Board meeting, the Board was provided with three alternatives and one recommendation regarding renewal of the contract with VRSD. The alternatives, including the recommended one and the action taken follows:

Alternatives:

1. Approve the extension and authorize the Chair to sign Contract No. T90-018-2 (recommended).
2. Direct changes to the proposed contract.
3. Disapprove the extension and direct the staff otherwise.

Action:

It was moved by Director Gillette, seconded by Director Stark, and duly carried that the Board authorize the Chair to sign Contract No. T-90-018-2, Amendment No. 2 to Contract No. T90-018, with the Ventura Regional Sanitation District. [All Board members were present].

On November 19, 2003, a letter was sent by the Clerk of the TSD Board informing Don Jensen that he was welcome to submit written information to be included on the December TSD agenda.

Mr. Jensen indicated that his presentation would be verbal rather than written and the item was placed on the agenda.

On December 15, 2003, Shawn Heffner, Manager of Corporate Development for Cal Water presented four options to the TSD Board. The Board asked CWSC to develop a detailed written analysis of costs associated with each option as well as potential future costs, personnel costs, governance, and possible grants. Mr. Heffner stated that CWSC would probably need two months to complete the work. Since the item was a presentation and not an action item, the Board took no action.

At the January 2004 TSD Board meeting, District Manager Smith reported that Don Jensen wanted to know whether February or March would be preferable for the Cal Water report to the Board. Director Parks indicated that she preferred February, but her motion failed for lack of a second. Other Directors commented that March would be preferable.

The item was placed on the March 22, 2004 agenda, but deferred to the April 21, 2004 agenda because Cal Water was unprepared.

On April 21, 2004, the item was deleted from the agenda because Cal Water was unprepared.

On the May 24, 2004 agenda, a 2-page proposal was provided by Cal Water outlining the 4 options, including costs.

Excerpts from the May 24, 2004 meeting minutes follow:

Item 11: California Water Service Company – Oak Park Water Service Options – Don Jensen, District Manager Westlake office, introduced California Water Service Company staff noting that Shawn Hefner will make the presentation to the Board on options available to Triunfo for operation of the Oak Park Water system. Mr. Hefner reviewed Cal Water Company's options with the Board. Chairman Stark distributed questions in response to Cal Water Service Company's proposal requesting more detailed information and explanation. After discussion it was moved by Director Parks, seconded by Director Callero, and duly carried that the Board eliminate Option 4, Purchase of Oak Park Water System, from the proposal. Chairman Stark and the Board requested Cal Water Service Company to provide a written report answering its questions, including those presented by the City of Thousand Oaks, prior to the June 9 special meeting, for discussion at the meeting.

Excerpts from the June 9, 2004 meeting minutes:

Item 6: Conifer Tax Replacement Alternatives – District Manager Smith, Senior Engineer Capron and Director of Water & Wastewater Rock gave a detailed presentation comparing staff's proposed Doubletree site with Cal Water Service Company's proposal. Staff noted the Doubletree alternative is less costly than the options presented by Cal Water Service Company. Mr. Smith noted the Doubletree alternative maintains regional storage and the Board of Directors retains control. The Board thanked staff for its comparative analysis and discussed engaging an independent third party to review and analyze both proposals. It was moved by Director Parks, seconded by Director Acosta, and duly carried that the Board direct staff request from Don Kendall, Calleguas Municipal Water District and Don Nelson, City of Thousand Oaks to provide a list of consultants from which the Board can select to review and analyze both proposals.

Brown & Caldwell was retained to analyze the proposals. On July 26, 2004, the TSD Board unanimously rejected the Cal Water proposal because the Brown & Caldwell report showed that it was more costly.

- F-27. TSD area sewage is processed by the Tapia Water Reclamation Facility (Tapia), which is jointly owned with the Las Virgenes Municipal Water District (LVMWD) through a joint-powers agreement. Potable water purchased from the Calleguas Municipal Water District is distributed by TSD. TSD's infrastructure for providing both sewer and potable water services is maintained by VRSD as a contractor to TSD.

Response: Concur in part, however, since no conclusions and ultimately no recommendations are tied to this finding, do not see the purpose for it in this report. The Tapia plant is in Los Angeles County and only the infrastructure within Ventura County is maintained by VRSD. Infrastructure in Los Angeles County is maintained either by the County of Los Angeles, LVMWD or the Joint Powers Authority.

- F-28. TSD owns 29.4% of Tapia, which is located in Los Angeles County adjacent to Malibu Canyon. LVMWD manages operations of Tapia as its majority owner. In this role, operations of LVMWD to provide services within its jurisdiction are kept separate from the operation of Tapia.

Response: Concur.

- F-29. The 1994 ten-year services contract between VRSD and TSD included an option for an independent review of VRSD service performance every two years. The only performance report was completed and submitted to the TSD Board in October 2000 [Ref-03].

Response: Disagree. The contract provides that a study can be performed if the TSD notifies the VRSD by March 1st of each even-numbered year. The study by Arroyo was performed in 2000 at a cost \$17,000. In 2003, LAFCO performed a study entitled the Water and Wastewater Municipal Service Review report, which provided an independent review of the operations of public agencies providing water and wastewater services, including TSD. A more focused study, entitled "Analysis of Oak Park Water System Water Storage Replacement Options and Cal Water Operating and Leasing Proposal" was performed in 2004 by Brown and Caldwell at a cost of \$9,979. The TSD Clerk of the Board has a note in her file to place the issue of the service performance review on the TSD agenda in January 2008. Unless there are findings in a prior performance review report, it is probably not cost-effective to perform a review more than every four years. The TSD has approximately 12,500 service connections. Each \$12,500 of cost requires the collection of \$1 per service connection.

- F-30. Acting as fiscal manager for TSD, VRSD placed TSD capital funds into a non-interest-bearing bank account in 2004. The balance in this account fluctuated, at

one time reaching \$3.1 million. Thirty months later VRSD management stated that the failure to place these funds in an interest-bearing account was an “oversight”.

Response: Concur in part. The funds that were in a non-interest bearing account were, first of all, not “capital” funds. The general checking accounts of TSD and of VRSD are both non-interest bearing accounts. While new information provided by the bank shows that public agencies are permitted to have interest bearing checking accounts, the rates are typically so low that it makes more sense to use an earnings rate towards bank fees arrangement or a sweep account. The current rate for an interest bearing checking account is .1% (1/10th of 1%). Such an account would likely have earned even less during that 30-month period when overall interest rates were lower than they are today. Although the account did not receive interest, the bank was crediting the TSD an earnings rate towards bank fees during the time the account grew to \$3.1 million. To provide an example of the rates being paid at the time, the earnings rate in August 2004 was 1.1% and in June of 2005 it was 1.9%. The current earnings rate towards fees is 3%.

There was not a conscious decision or action to “place” funds into a non-interest bearing checking account. The account already existed and the balance grew over time as income exceeded outgo. It is also somewhat of a misnomer to use the term “non-interest bearing” since the account was given an earnings rate credit towards bank fees. In the summer of 2006, the TSD established a sweep account so that all balances in the checking account would sweep into an interest bearing money market account, which earns interest at a higher rate than the earnings credit would provide. According to the TSD’s bank, a sweep account is not considered a bank account, but rather a money market investment instrument. The balances in the sweep account are collateralized with the underlying securities held in the account rather than being insured through the FDIC and are actually considered to be safer because they do not have the \$100,000 limit and because they are backed by a prime investment instruments, such as Treasury Bills. After the 1930’s bank failures during the great depression, the Feds set forth new banking rules and a number of corporate banking customers, who were not permitted to have interest bearing checking accounts, had large balances to cover outstanding checks. In the 1980’s, in response to their larger depositors’ desire to earn interest on those large balances, the banks established sweep accounts. See comments after F-32.

- F-31. In August 2006, TSD was credited with a payment of \$99,736.36 to compensate for foregone interest earnings on its funds. The TSD Board was informed by VRSD staff that the payment was based on what an interest-bearing account would have earned. However, the actual payment was based on what might have been earned on TSD’s actively managed investment portfolio. (See F-34.)

Response: Concur in part. There was no discrepancy, as is being suggested, between what was reported to the Board of Directors and what was used to calculate the payment. See comments after F-32

- F-32. VRSD calculated the interest reimbursement and credited it to TSD without any input from or prior approval by the TSD Board.

Response: Concur with added information. Although the VRSD/TSD contract is silent regarding any requirement to refund the TSD any of the unearned interest, the VRSD Board of Directors agreed unanimously to stand behind its commitment to TSD by providing a refund and on the methodology employed to calculate the reimbursement. The methodology employed is consistent with the TSD Board's direction regarding the investment strategy of the entire portfolio at the time.

- F-33. In September 2003, approximately \$9.6 million of TSD's \$12 million investment portfolio was transferred from accounts in the California State Local Agency Investment Fund (LAIF) and the County of Ventura pooled investment fund (MCP) into an actively managed bond portfolio.

Response: Concur with added information, however, since no conclusion and ultimately no recommendation is tied to this finding, do not see the purpose for it in this report. The TSD Board of Directors, did, on September 22, 2003, unanimously vote in favor of an actively managed investment portfolio. The minutes of September 22, 2003 say:

"It was moved by Director Stark, seconded by Director Parks, and duly carried that the Board authorize the District Manager to sign contracts for investment portfolio management services with Allegiance Capital, Inc. and custodial and trustee services with Wells Fargo Bank for an initial term of one year; and direct staff to provide a performance report to the Board at the end of the first year of service under these agreements.

- F-34. In accordance with TSD investment policy at that time, much of the bond portfolio was sold prior to maturity and reinvested in an attempt to improve investment returns. Substantial losses and transaction fees were incurred as a result of this policy.

Response: Concur with added comments. An actively managed portfolio will always be more volatile than a pool, such as LAIF or the County pool. However, longer-term strategies such as an actively managed portfolio have shown, over time, that they outperform shorter-term strategies like those found in each of these pools. Longer-term strategies are more volatile than shorter-term strategies, but in addition to having a greater incident of losses will have a greater probabilities

of gains. Since no conclusions and ultimately no recommendations are tied to this finding, do not see the purpose for it in this report.

F-35 On three occasions in 2005, VRSD staff recommended that bonds in the TSD investment portfolio be held to maturity. The TSD Board took no action.

Response: Disagree. A review of the 2005 minutes indicates that such a recommendation by VRSD staff was not made. The minutes show that there were discussions regarding the investments at five board meetings. Following are excerpts from the minutes regarding those discussions:

March 28, 2005, Item 13: Investment Report – February 2005 – Director Parks noted that the County investment program is outperforming the Wells Fargo/Allegiance Capital investments. The Board requested additional information regarding the investment program at the next meeting.

April 25, 2005, Item 10: Investment Update and Report – March 2005 -- Director of Finance and Administration Smith reported the bond market has been in a continuing negative turn and as such the District's investments in Wells Fargo Bank/Allegiance Capital (WFB/AC) have deteriorated. She said \$3 million was withdrawn from WFB/AC and deposited, along with another \$1 million from working capital, in the Ventura County Treasurer's Managed Cash Pool. The Board discussed with Ms. Smith options available with regard to the remaining money in WFB/AC, including investigating possible interest to form a financial review committee. Janna Orkney addressed the Board. It was moved by Director Parks to close the WFB/AC account and have the District hold all bonds to maturity, the motion failed for lack of a second. It was moved by Director Callero, seconded by Director Gillette, and carried by a 4 to 1 vote, that Allegiance Capital make a report on the District's investments at the May meeting. Director Parks dissented.

May 23, 2005, Item 11: Investment Update and Report – April 2005 – Director of Finance & Administration Smith reported that she contacted Dale Belcher, CCMT (Treasurer, City of Oxnard), Bob Biery (City Treasurer/Finance Officer, City of Westlake Village), John Crossan (Founder, NBS Financial Services, Inc.), and Sandra Schmidt (Director of Finance & Administration, Las Virgenes MWD) inviting them to serve on the TSD Investment Review Committee. She said she hopes all will be able to serve and that a meeting can be held before the next board meeting.

Ms. Smith introduced Kurt Phares, Managing Director, Allegiance Capital, Inc., Bob Jones, Regional Director, Allegiance Capital, Inc. and Robert Sackler, VP/Private Client Manager, Wells Fargo Investments.

Mr. Phares indicate that:

- The District has endured eight Federal Reserve rate hikes since June 2004 totaling 2%.
- As a result of these rate hikes, the yield of the Triunfo portfolio has increased 2.21% (to 3.64%).
- Over the past few months the bond market is starting to show resistance to increases in the Fed Funds rate.
- Since year-end 2004, Allegiance Capital has predicted the Federal Reserve would stop raising rates at 3.5%. This view is now starting to be shared by other market professionals.

He concluded that the Triunfo Board has weathered the most difficult period of the rate increasing cycle, saying that such periods have historically been followed by significant increases in returns the following year. As evidence of this, Mr. Phares showed that the Lehman 1-3 Year Government Index (the benchmark for Triunfo's portfolio) increased from 0.52% to 10.84% in 1994-1995, and from 2.97% to 8.17% in 1999-2000.

David Ross and Janna Orkney addressed the Board regarding the bond losses and cost of management fees.

A brief discussion ensued by the Board, which included the Board thanking Ms. Smith for her work in forming the Investment Committee and Chairman Stark requesting the Board consider waiting to make a decision until the Investment Review Committee meets. Director Parks said she does not agree with waiting because with each month of delaying, more losses are incurred. She asked the Board to consider holding 80% of the bonds to maturity and keep the remaining 20% in place. It was moved by Director Callero, seconded by Director Gillette and carried by a 3 to 1 vote, that the Board postpone a decision on the investments until the Investment Review Committee has an opportunity to meet and make a report to the Board of its findings. Director Parks dissented.

June 27, 2005, Item 11: Investment Report – May 2005 – Director of Finance & Administration Smith reported the investment review committee held its first meeting, although Bob Biery was unable to attend. Ms. Smith reported the committee reviewed basic District information and the purposes for which monies are being invested. She said the members need to learn more about the District, its investment policy and the investments themselves before offering any recommendations. Committee meetings will be scheduled in August and September for this purpose. Director Parks requested the committee be asked if Board approval should be obtained if investments will be sold prior to maturity.

Ms. Smith reported the total market value of the portfolio increased by \$43,000 in May and that the market is looking better.

Tracy Ahern and Sue Boecker addressed the Board regarding accrued interest, committee selection and the movement of funds.

After a brief discussion by the Board, it was moved by Director Parks that the Board close the WFB/AC account and have the District hold all bonds to maturity. The motion failed for lack of a second. It was moved by Director Callero, seconded by Director Gillette, and duly carried that the Board receive and file the report. Director Parks dissented.

September 26, 2005, Item 6: Investment Report – August 2005 -- Finance Director Smith reported that with summer schedules and vacations, the Investment Review Committee has not been able to meet as a whole, but that she has met or talked with all of the Committee members. Ms. Smith said the Committee feels that if the Board wants to make a change, although that is not what the Committee is recommending at this time, the best change to make would be to use the “buy and hold” strategy on the securities currently held. After a brief discussion by the Board, Director Parks said she still supports returning to LAIF. It was moved by Director Acosta, seconded by Director Callero, and duly carried that the Board receive and file the Investment Report.

At no time was a recommendation made by staff to hold the bonds until maturity. Since no conclusions and ultimately no recommendations are tied to this finding, do not see the purpose for it in this report.

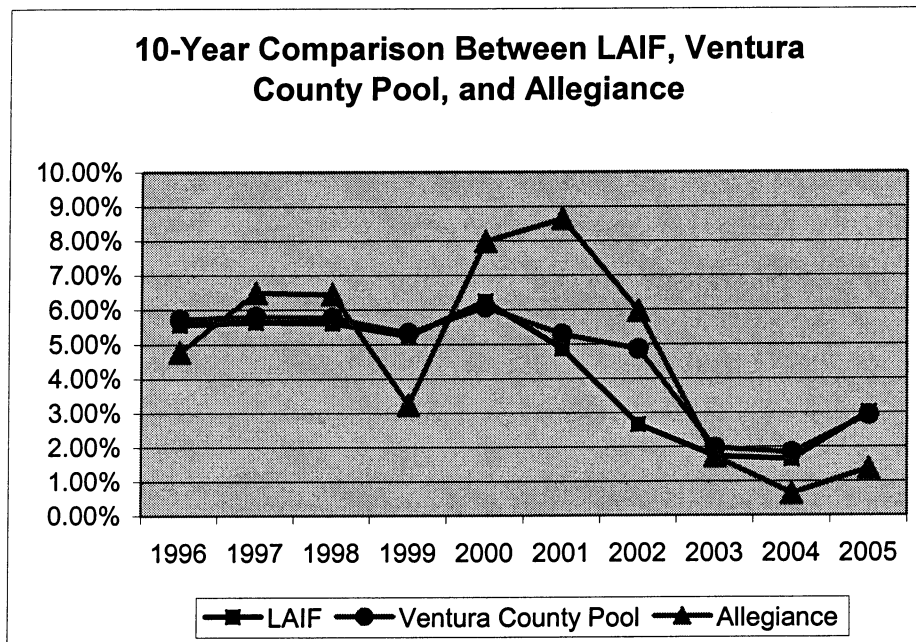
F-36 Beginning in 2004, a TSD Director and members of the public expressed repeated concerns regarding ongoing losses in the professionally managed bond portfolio. However, the TSD Board took no action to revise the District’s investment program until 2006. Remaining bonds are now being held to maturity, with resulting proceeds being invested in the State and County pooled investment funds.

Response: Concur, with added information. In September of 2006, when the TSD Board ordered that the current portfolio be held until maturity and then be placed into one of the pools, was at a point when minimal negative impact would result in such action. The report presented to the TSD Board at that time went into extensive detail and provided an in-depth analysis of what would have happened if the TSD portfolio had been left in either the Ventura County Pool or the Local Agency Investment Fund (LAIF), a pool managed by the State Treasurer. The following table, taken directly from the report, shows the

difference between what would have been earned between October 2003 and July 2006 in the Ventura County Pool or LAIF and what was earned through the actively managed portfolio with Wells Fargo and Allegiance Capital.

Fiscal Year	Wells Fargo/Allegiance Capital			Estimated Earnings		
	Gross Earnings	Wells Fargo Fees	Allegiance Fees	Net Earnings	LAIF	VC Pool
2003/04	\$ 141,201	\$ 24,807	\$ 12,730	\$ 103,665	\$ 112,095	\$ 127,018
2004/05	\$ 44,549	\$ 23,779	\$ 23,860	\$ (3,090)	\$ 221,369	\$ 234,353
2005/06	\$ 147,837	\$ 23,882	\$ 24,085	\$ 99,870	\$ 316,594	\$ 295,380
2006/07	\$ 52,772	\$ -	\$ -	\$ 52,772	\$ 34,647	\$ 30,817
T Total	\$ 386,359	\$ 72,467	\$ 60,675	\$ 253,217	\$ 684,705	\$ 687,568

To demonstrate the potential and the volatility of a longer-term strategy over a shorter-term strategy, the report goes on to compare a 10-year period between the three options and includes the following graph:



The report also demonstrated that the TSD Board did not approve an actively managed portfolio without a compelling reason to do so. The VRSD, using the Allegiance Capital/Wells Fargo longer-term strategy, reported earnings that were approximately double what would have been earned at LAIF or the Ventura County Pool in the 2002/03 fiscal year. If foresight was as good as hindsight, different decisions would have been made regarding the TSD investment strategy. When the TSD Board unanimously supported the longer-term strategy, it was

based on information about favorable trends that had occurred shortly before the decision was made.

If the TSD Board had ordered the liquidation of the portfolio in favor of depositing into one of the pools earlier, it would have taken substantially more losses than it did by riding out the trend. Further, holding the lower interest bearing securities would have resulted in less earnings for the portfolio overall. This is very much like purchasing a home. Values go up and values go down and you try not to sell when the values are down, but rather hold on until they are more favorable. Since no conclusions and ultimately no recommendations are tied to this finding, do not see the purpose for it in this report.

- F-37. According to the California Little Hoover Commission, special districts are often invisible to the public and policy-makers, compromising oversight and accountability. [Ref-04]

Response: Concur that the Little Hoover Commission Report makes this statement, however since no conclusions and ultimately no recommendations are tied to this finding, do not see the purpose for it in this report.

- F-38 Compared to City Council elections, the electoral process for special districts is less vigorous with fewer competitive races, fewer voters involved, and more seats filled by appointment. [Ref-04]

Response: Concur.

- F-39 A long-standing special district concern is that compensation paid to board members discourages them from giving up their seats in the name of efficiency. [Ref-04]

Response: Concur in part. While this statement, almost verbatim, is included in the LHC report, the LHC does not provide any scientific data to back up this finding, except a reference to California's 24 health care districts. The LHC report also does not indicate who has voiced such a concern, so it is impossible to verify. It is difficult to fathom that \$218 per meeting could discourage someone from giving up their seat, when the time involved in preparing for the meeting by reading the agenda packet, following up on areas where additional understanding is required, coming to the public meeting, etc. results in an hourly "wage" that is clearly not a "boon" to the Directors.

If the compensation for people not to give up their seat provides an incentive for them to retain their seats, would it not also serve as an incentive for more people to run for the seats during the elections?

- F-40 TSD Board meetings are sparsely attended except when controversial issues are on the agenda. Meeting notices are posted on the District's Website and at the Oak Park Library.

Response: Concur with added information. In addition to posting the meeting notices on the District's Website and at the Oak Park Library, they are also sent to the Acorn, a local newspaper, and the time, date and location of the meeting is provided to the Ventura County Star. Individuals may request copies of the agenda and/or copies of the entire packet for a fee. The Oak Park Update, an e-newsletter, includes the dates and times of the TSD Board meetings and a link to the TSD website to access the TSD agendas.

- F-41. Regular TSD Board meetings are held at 5:15 p.m. on the fourth Monday of each month. Most special districts hold meetings after working hours at a time that would be more convenient to residents. [Ref-02]

Response: Disagree. A survey of local agencies shows the following start times for their meetings:

Ventura Regional Sanitation District	8:30 AM
Ocean View Municipal Water District	9:00 AM
Fox Canyon Groundwater Management Agency	1:30 PM
Pleasant Valley County Water District	1:30 PM
Casitas Municipal Water District	4:30 PM
Camarillo Sanitary District	5:00 PM
Las Virgenes Municipal Water District	5:00 PM
Camrosa Water District	5:00 PM
Triunfo Sanitation District	5:15 PM
Saticoy Sanitary District	5:30 PM
Calleguas Municipal Water District	6:30 PM
Ojai Valley Sanitary District	7:00 PM

All but three of those surveyed have start times earlier than TSD. This indicates that it is not an unusual time to hold a meeting where the public may wish to attend.

- F-42. An existing Oak Park water tank was to be replaced by TSD based on a finding of no significant impact (negative declaration). However, community opposition forces further study, which resulted in a requirement to prepare an environmental impact report (EIR).

Response: Disagree. A negative declaration was never intended, published, or filed. The TSD conducted an initial study in 2005 to determine the will of the

community in preparation for a full environmental impact report. The consultant advised that preparing an initial study in conjunction with an EIR is less costly than preparing an EIR on its own. Even if there had been no community opposition, an EIR was always part of the plan. In response to the 2005 initial study, TSD explored additional alternatives and included those new alternatives in the 2007 initial study. In both of the initial studies, the TSD provided more opportunity for public input than was required. Also in both cases, the initial studies were presented at public forums (scoping meetings) to provide additional opportunity for community input.

This process is governed by specific state law under CEQA. The governing board is required to follow CEQA. There is legal recourse for the public in the event that a public agency does not follow the CEQA guidelines.

F-43 Two opposite positions regarding the originally proposed location of a new water tank are:

- The site is in a remote location, at a high elevation, on ground that will support the filled structure, not visible from any residence, and is close to the water distribution system.
- The site is next to a heavily used hiking trail leading to the Santa Monica Mountains National Recreation area, will be illuminated after dark, will spoil views, and will require a paved access road.

Response: Concur in part. Both points appear to apply to site A8, and not site A7. Site A8 does not require a paved road. We do not understand why the CEQA process was part of this Grand Jury report.

F-44 Water and sewer services in the District are more expensive than in surrounding areas for a number of reasons including:

- All of the water is high-quality water from the California Water Project, which is significantly more expensive than water pumped from local aquifers.
- TSD must repay revenue bonds that were issued to purchase the Oak Park Water Service from a private water company. The water rate is TSD's only source of revenue for this purpose, thus requiring a rate higher than otherwise required to purchase water and pay operation expenses.
- Wastewater effluent from Tapia is not permitted to be discharged into the Malibu Creek Watershed without undergoing expensive tertiary processing.

Response: Concur in part. Tapia is permitted to discharge into Malibu Creek only from November 15 through April 15. Since no conclusions and ultimately no recommendations are tied to this finding, do not see the purpose for it in this report.

Conclusions

- C-01. TSD rate-payers may be ill-served because three out of five directors are neither elected from nor required to reside in the TSD service area. The TSD Board has considered increasing the number of directly elected directors. While this has not been favored by a majority of the Board, the issue remains unresolved. (F-04 through F-10, F-13, F-18, F-24, F-29)

Response: With two directly elected board members and three that are appointed, the makeup of the TSD Board of Directors is in compliance with State law. Further, practice has resulted in the appointee from the City of Thousand Oaks being elected to the City Council of the City of Thousand Oaks through an at-large election which includes about half of the TSD service area and the appointee from the County of Ventura being elected to the Board of Supervisors from the District that includes the entire geographic area of the TSD. While these appointees may not necessarily reside in the TSD service area, they at least have had some connection with the voters from the area. Only the appointee from VRSD has been appointed from elsewhere in the County. .

This issue has been considered by the TSD Board of Directors on numerous occasions. On April, 2007 it was considered, and it was defeated by a majority of the Board. On July 16, 2007, this item was again considered and, with a 4-1 vote, the Board directed staff to contact the Ventura County Elections Division and to return with information regarding the cost and the process of setting up electoral districts for the TSD and the cost of holding the election.

- C-02 TSD out-sources its labor and management staff from VRSD. A VRSD Director is also a TSD Director, which presents the appearance of a conflict of interest. (F-02, F-03, F-17 through F-20, F-22, F-23, F-24, F-32)

Response: The make-up of the Board is in full compliance of state law.

- C-03 Employment of the same law firm and the same accounting firm by both VRSD and TSD may give the appearance of a conflict of interest. (F-15, F-16)

Response: See comments to F-15 and F-16.

- C-04 Recommendations to the TSD Board regarding contracts with VRSD originate from VRSD management acting as TSD management. Even when the results are appropriate, this may convey the appearance of a conflict of interest. (F-21 through F-26)
- C-05 Minimal distribution of meeting announcements and agenda and inconvenient meeting times contribute to the lack of public involvement and oversight of TSD operations. (F-40, F-41)

Response: The agenda is posted on the TSD website and at the Oak Park Library. The agenda is also sent to the Acorn, a local newspaper, and the time and local of the meeting is provided to the Ventura County Star. Individuals may request copies of the agenda and/or copies of the entire packet. The Oak Park Update, an e-newsletter, includes the dates and times of the TSD Board meetings and a link to the TSD website to access the TSD agendas. A survey recently conducted through the California Society of Municipal Finance Officers and answered by 32 local government agencies shows that very few of them go to the expense of actually paying for an advertisement in the newspaper. The notification process for those agencies was very similar to the notification process utilized by TSD. There are other ways to notify customers of meeting times. The current Oak Park Water bill is being re-worked so that general meeting time information is included on the back of the bill.

- C-06 The amount credited unilaterally by VRSD to TSD to reimburse foregone interest is questionable. For example, it might have been inappropriate to assume that all funds deposited in TSD's non-interest-bearing checking account would have been transferred to the District's underperforming, actively-managed investment portfolio. (F-30, F-31, F-32)
- C-07 Compensation, travel benefits, and lack of public involvement encourage directors to retain their seats. Until recently, the elective TSD Directors were reappointed because they were unopposed at election time. (F-11, F-12, F-38 through F-41)

Response: If the compensation and benefits were so lucrative as is being suggested, wouldn't it also encourage more people to run for the seats when they are up for re-election? Although it is the County of Ventura's responsibility to notify the public of board openings, it has no incentive to make sure the most effective notification tools are utilized. The TSD Board of Directors understands the importance of widespread outreach to the community and is exploring options to make sure this is accomplished. See comments to F-11, F-12, F-38 through F-41)

- C-08 An EIR is the appropriate disclosure process for siting TSD's replacement of the Oak Park water tank. (F-42, F-43)

Response: The California Environmental Quality Act (CEQA) process started in 2004 with an Initial Study as the first step in producing an EIR. After substantial community input, and another Initial Study, the actual EIR should be published in July or August of 2007. See comments to F-42 and F-43.

It is the purpose of the TSD Board to appropriately review the siting of the tank consistent with CEQA. It is not within the purview of the Grand Jury to decide that an EIR is the proper document for siting a tank.

- C-09 A merger (consolidation) between TSD and LVMWD has been suggested and is legally possible. (F-13, F-14)

Recommendations

- R-01 The TSD Board of Directors should be reconstituted to an entirely elected board. (C-01, C-02)

Response: Requires further study.

At its July 16, 2007 meeting, the TSD Board directed staff to investigate the process and the cost for an entirely elected board by district. Staff will be returning that information to the Board by the end of 2007. The current make up of the Board is consistent with State law.

- R-02 In order to minimize the appearance of conflicts of interest, TSD should consider:

- hiring an individual or retaining a private firm or public agency (other than VRSD or LVMWD) to provide general management and oversight services and to be accountable directly to the TSD Board
- engaging a law firm different from that used by VRSD (C-03, C-04, C-06)

Response: Requires further study.

- R-03 A focused review should be conducted for TSD by an independent auditor or other qualified professional to verify that interest earnings reimbursed by VRSD were equitable. (C-06)

Response: Requires further study. This issue is being further examined by the TSD Board of Directors.

- R-04 All aspects of major capital projects and issues, including EIRs, should be considered by the TSD Board at well publicized meetings with notification to stakeholders. (C-05, C-08)

Response: Has been implemented.

A legal and cost-effective method of notification has been and will continue to be utilized. All of TSD's meetings and hearings, including those required by CEQA, are conducted in compliance with local, state and federal laws.

- R-05 In order to increase public awareness and involvement, TSD should publicize all meetings in local newspapers and water bills. Community TV coverage should be invited, and notices should be posted in public locations and on the District's Website. Additionally, annual mailings should be distributed to District rate-payers. In easily understood terms, annual mailings should include:

- District mission and purpose
- Summary financial information presented in a standard format and simple language, including information about reserve funds and their purpose
- District policy of the accumulation and use of reserves
- Plans for the future, including anticipated revenues, expenditures, reserves, trends in user rates, and capital projects
- Performance and quality of service indicators
- Board member benefits and compensation

(C-05, C-08)

Response: Has been implemented/requires further study.

The TSD already provides information to the newspapers regarding meeting times. It also is reworking the water bill so that meeting information is included on the back. As far as community TV coverage goes, further review is needed to determine if it possible given that the TSD meetings are held at a facility that does not have the technological capability of TV coverage. Notices are already posted at the library where the meetings are held.

The annual report issues require further study.

- R-06 The TSD Board of Directors should adopt a formal policy regarding conference attendance. The policy should also require disclosure in the District's annual report of the number and type of conferences actually attended at District expense. (C-07)

Response: Has been implemented/requires further study.

The Board adopted its most recent travel policy (Resolution T07-01) January 22, 2007 in compliance with AB1234. Even before AB1234, the TSD had a policy for as long as the District's Clerk of the Board can recall. The Board will review the travel policy at a board meeting in the near future.

The annual report issue requires further study. (see R-05).

R-07 TSD should explore consolidation with another special district. (C-09)

Response: Requires further study.

This issue will be placed before the TSD/LVMWD Joint Venture Board of Directors by December 31, 2007. In order to explore additional consolidation opportunities, the TSD would need to identify other special districts that may be interested.



TRIUNFO SANITATION DISTRICT

A PUBLIC AGENCY

Grand Jury
800 S. Victoria Avenue
Ventura, CA 93009

RECEIVED

DEC 20 2007

December 17, 2007

VENTURA COUNTY
GRAND JURY

RESPONSES TO 2006-07 GRAND JURY REPORT

Thank you for your letter dated August 23, 2007 regarding the follow-up to the Triunfo Sanitation District's ("TSD") responses to the Grand Jury Report. Our responses to your letter are as follows:

RECOMMENDATIONS:

R-01 The TSD Board of Directors should be reconstituted to an entirely elected board. (C-01, C-02)

Response: The recommendation requires further analysis. On September 24, 2007 a motion failed by a 2 to 3 vote to move to a fully elected Board. The three Directors that dissented requested the Board wait to move forward with a fully elected Board until the decision was made whether or not to consolidate with the Las Virgenes Municipal Water District (LVMWD). On November 28, 2007 the Board unanimously voted not to pursue consolidating with LVMWD.

At its July 16, 2007 meeting, the TSD Board directed staff to investigate the process and the cost for an entirely elected board by district. With the Board's action not to consolidate with LVMWD, staff will move forward with investigating an all elected board by district and provide the information to the Board by the end of March 2008. The current make up of the Board is consistent with State law.

R-02 In order to minimize the appearance of conflicts of interest, TSD should consider:

- Hiring an individual or retaining a private firm or public agency (other than VRSD or LVMWD) to provide general management and oversight services and to be accountable directly to the TSD Board.
- Engaging a law firm different from that used by VRSD (C-03, C-04, C-06)

Response: The recommendation has been implemented. A majority of the Board considered and voted at its October 22, 2007 meeting to affirm retaining VRSD and legal counsel determining that both provide adequate and satisfactory service.

R-03 A focused review should be conducted for TSD by an independent auditor or other qualified professional to verify that interest earnings reimbursed by VRSD were equitable. (C-06)

Response: The recommendation will not be implemented because the Board deems it unwarranted or unreasonable. A majority of the Board voted at its October 22, 2007 meeting that the interest earnings reimbursed by VRSD was reasonable and equitable reimbursement.

R-04 All aspects of major capital projects and issues, including EIRS, should be considered by the TSD Board at well-publicized meetings with notification to stakeholders. (C-05, C0-08)

Response: This recommendation has been implemented. As we mentioned in our earlier letter, the District continues to utilize legal and cost-effective methods of notification, and will continue to comply with all notice requirements of Federal, State and local laws.

R-05 In order to increase public awareness and involvement, TSD should publicize all meeting in local newspapers and water bills. Community TV coverage should be invited, and notices should be posted in public locations and on the District's Website. Additionally, annual mailings should be distributed to District ratepayers. In easily understood terms, annual mailings should include:

- District mission and purpose.
- Summary of financial information presented in a standard format and simple language, including information about reserve funds and their purpose.
- District policy of the accumulation and use of reserves.
- Plans for the future, including anticipated revenues, expenditures, reserves, trends in user rates, and capital projects.
- Performance and quality of service indicators.
- Board member benefits and compensation.

(C-05, C-08)

Response: This recommendation has been implemented in part as described in our July 25, 2007 letter, and will not be implemented in part because we deem it unwarranted or unreasonable. In addition to our response to the July 25, 2007 letter, we have contacted the local cable provider and there seems to be no interest in providing television coverage of our meetings. The District believes that most of the information requested is already in the annual budget. The District is actively taking actions to provide as much of the information requested in the annual mailings on the District's website, and will continue to work to provide as much information as proposed on the website.


R-06 The TSD Board of Directors should adopt a formal policy regarding conference attendance. The policy should also require disclosure in the District's annual report of the number and type of conferences actually attended at District expense. (C-07)

Response: The recommendation has been implemented. Resolution No. T07-02 attached.

R-07 TSD should explore consolidation with another special district. (C-09)

Response: The recommendation has been implemented. The District has explored consolidation with the Las Virgenes Municipal Water District (LVMWD). At its November 28, 2007 meeting the Board unanimously voted not to pursue consolidation with LVMWD. The District will continue to look for opportunities to increase efficiencies including exploration of consolidation with other Districts other than LVMWD.

Thank you for your interest in our District, and if we can provide further information, we will be happy to meet with you to discuss these matters.


JANNA ORKNEY, CHAIR TRIUNFO BOARD OF DIRECTORS

Enc.

**TRIUNFO SANITATION DISTRICT
RESOLUTION NO. T07-01
CONCERNING BOARD MEMBER COMPENSATION & EXPENSE REIMBURSEMENT**

WHEREAS, California Health & Safety Code Section 4733 provides for the establishment of compensation for members of a County Sanitation District governing Board; and

WHEREAS, Subject to the provisions of California Government Code Sections 53232 through 53232.4, it is the policy of the Triunfo Sanitation District to reimburse each member of the Board of Directors, (including Alternate Members when required) for actual and necessary expenses incurred as a result of the individual's performance of official duties and attendance at authorized meetings, seminars and conferences or other District business. Authorized expenses are for Board Members only, and shall not include expenses incurred by any unauthorized individual, such as family members. Authorized expenses shall not include non work-related expenses, such as entertainment, alcoholic beverages, or normal personal needs.

WHEREAS, the Triunfo Sanitation District Board of Directors established by Resolution No. T87-2, as amended from time to time, a policy for compensating its members for a day's service at the direction of the Board (including attendance at Board meetings, seminars, conferences, etc., as well as reimbursement for expenses incident thereto); and

WHEREAS, the Board wishes to amend its established policy.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Triunfo Sanitation District Board of Directors as follows:

1. **Purpose.** The purpose of this Resolution is to establish a policy and guidelines for the compensation and expense reimbursement of Board Members for attending District meetings or other authorized activities in accordance with California law.
2. **Director's Compensation.** Directors shall be paid the sum established by Ordinance, in accordance with California Health & Safety Code Section 4733, for each District Board or Committee meeting attended by the Director or each day of service. "Day of service" shall mean attendance, including transportation, at a Board Meeting, Board Committee meeting, or Authorized Activities as defined at Section 4a below. The total compensation a Director may be paid in a month shall not exceed six times the meeting fee. Payment for services in one month shall not be delayed to another month to avoid this limitation. Directors shall not be compensated for more than one meeting and/or any other day of service or activity on the same day. A Director and his/her alternate shall not both receive compensation for attending the same meeting or event; however, both may receive compensation in the same month if each renders separate day's services or attends separate authorized meetings. Compensation will be split between TSD and VRSD for attendance by Directors serving on both Boards and attending on behalf of Triunfo.
3. **Policy For Reimbursement of Expenses.** In accordance with the provisions of California Government Code Sections 53232 through 53232.4, it is the policy of the District to reimburse each member of the Board, (including alternate members when required) for actual and necessary expenses incurred as a result of the individual's performance of official duties and attendance at "Authorized Activities," as defined at section 4a below. Authorized expenses are for Board Members only, and shall not include expenses incurred by any unauthorized individual, such as family members. Authorized expenses shall not include non-work related expenses, such as entertainment, alcoholic beverages, or normal personal needs.
4. **Expense Payment and Reimbursement.** Each Board Member shall be entitled to have actual and reasonable expenses that are incident to the performance of official duties and attendance at Authorized Activities, or other Board authorized District business, reimbursed by the District as follows:

a. Authorized Activities. Expenses incurred while engaging in the following activities are generally authorized expenses if all requirements of this Resolution are fulfilled:

1. Attending meetings of the following organizations designed to improve Board Members skill and information levels: (a) California Association of Sanitation Agencies; (b) Association of Water Agencies of Ventura County; (c) Ventura County Special Districts Association; (d) CA Special Districts Association; and (e) WaterReuse. To the extent such organizations also provide reimbursement of expenses, the Board Member shall first utilize those reimbursement provisions;
2. Attending District scheduled events; or
3. Attending meetings with organizations, or representatives of regional, state and national government on District adopted policy positions.

Expenditures incurred in connection with activities or events not listed above require prior approval by the Board of Directors. In addition, notwithstanding the list, the Board of Directors must preauthorize out-of-state travel.

b. Transportation. Generally, Board Members must use the most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements, using the most direct and time-efficient route.

1. **Airfare.** Airfares that are generally the most economical and reasonable for reimbursement under this Resolution.
2. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.
3. **Car Rental.** Rental rates that are generally the most economical and reasonable for purposes of reimbursement under this Resolution.
4. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a 15% gratuity per fare when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
5. **Parking.** Parking rates that are generally the most economical and reasonable for reimbursement under this Resolution.
6. **Other.** Baggage handling fees of up to \$1 per bag and gratuities of up to 15% will be reimbursed.

c. Lodging.

1. Lodging expenses will be reimbursed only at the single occupancy rate for rooms.
2. Lodging expenses will be reimbursed when travel is required for authorized activities and is more than 100 miles from the starting point and reasonably requires an overnight stay.
3. **Conferences/Meetings.** If lodging is associated with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking.

4. **Other Lodging.** Lodging rates that are generally the most economical and reasonable for reimbursement under this Resolution.

d. Meals and Incidental Expenses. For meals associated with District business reimbursement for the actual and reasonable cost shall not exceed:

Breakfast: \$20
Lunch: \$20
Dinner: \$40
plus gratuity up to 15%

e. Expense Reports.

1. All reimbursement requests must be submitted on an expense report form provided by District.
2. Expense reports must document that the expense in question met the requirements of this policy.
3. Board members must submit their expense reports within thirty (30) days after an expense is incurred, accompanied by receipts documenting each expense. Restaurant and lodging receipts, in addition to any credit card receipts, are also part of the necessary documentation.
4. Inability to provide such documentation in a timely fashion may result in the expense being borne by the Board Member.
5. All expenses are subject to verification that they comply with this policy.

5. Reports to Board. At the Board meeting following an activity, Board Members must briefly report on meetings attended at District expense. If multiple Board Members attended a joint report may be made.

6. Compliance with Laws. Some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the California Public Records Act.

7. Effective Date. This Resolution becomes effective immediately upon its adoption and supersedes any prior resolution, policy or guideline governing Board Member compensation, expense reimbursement or travel allowance.

APPROVED AND ADOPTED THIS 22nd day of January 2007.

TRIUNFO SANITATION DISTRICT



RONALD STARK, CHAIRMAN

ATTEST:



RHONDA CATRON,
CLERK OF THE BOARD