

CASE #1001 STOCKTON MUD WASTEWATER DIVISION

REASON FOR INVESTIGATION:

A citizen complaint was received (dated 4-17-2002) containing 19 allegations against the management of the Wastewater Division of Stockton Municipal Utilities Department. The allegations fall into the broad categories of failure to properly manage supervisors and employees, failure to properly manage and maintain equipment and facilities, failure to properly manage budgets, and failure to follow City and State policies and requirements.

BACKGROUND:

In 1998, the process of preparing an updated MUD Business Plan began and a Budget Improvement Plan for the 1998-99 fiscal year (FY) eliminated 19 positions and reduced the Wastewater Division budget by approximately \$1.1 million dollars. That initial operational review expanded into a complete reexamination of the Municipal Utilities Department for FY 1999-2000, and included every staffing level at MUD. Every level of the organization participated in the development of an updated MUD Business Plan (April 1999), identifying and evaluating the most promising areas of potential improvement.

A historical summary of the Wastewater Utility budgets is presented in the table below. The Wastewater Utility budget in FY 1999-00 was reduced by \$4,119,155 from FY 1998-99. This was in addition to the \$1,099,672 reduction in FY 1998-99 from FY 1997-98.

WASTEWATER UTILITY HISTORICAL BUDGETS

Budget Category	FY 1998-99 Appropriated	FY 1999-00 Appropriated	FY 2000-01 Budget
Employee Services	\$7,364,790	\$6,169,658	\$6,255,297
Other Services	5,047,349	3,111,107	2,929,292
Materials & Supplies	3,550,659	2,935,610	2,775,473
Other Expenses	7,069,536	6,720,204	6,610,899
Capital	28,650	5,250	16,000

Outlay			
Total	\$23,060,984	\$18,941,829	\$18,586,961
Change from prior year	- \$1,099,672	- \$4,119,155	- \$354,868
Positions Allocated	107	93	93

These figures show a severe cutback in the funding of the Wastewater Division in recent years and a significant reduction of staff levels. This has resulted in sharply reduced budgets for operations and maintenance, including treatment plant O&M and sanitary collection systems O&M.

In the course of developing initial background information for this investigation, it became apparent that privatization of Stockton MUD was actively being considered, by virtue of the fact that a request for proposals (RFP) had already been issued and proposals already received. Because of this impending privatization of the Stockton MUD operations, certain items in the complaint were set aside for the time being as things that would likely be addressed by the privatization itself. Many of the allegations involve inefficiency in the operation of the wastewater facilities, failure to adequately maintain equipment, and allowing employee productivity to fall to unacceptably low levels. The Grand Jury believes that a lot of time could be spent investigating and, if justified, developing recommendations for these areas, with the probable response by the agency that privatization will or already has addressed the issues and the recommendations.

Therefore, the Grand Jury focused its investigation on only 7 of the items in the original complaint. The allegations that are the subject of this investigation include the following:

1. Failure to reduce and upgrade fleet.
2. Failure to follow City Manager's directive for take-home vehicles.
3. Having non-licensed, non-certified employees perform high voltage electrical design, installation, and maintenance.
4. Having non-certified welders perform welding on pressure pipe and structural steel that require certification.
5. Failure to monitor contractors to ensure work is being performed.
6. Failure to report vehicle accidents.
7. Failure to follow CAL OSHA requirements for confined space entry, Hot work permits, Lock and Tag permits.

METHOD OF INVESTIGATION:

The steps followed in investigating these allegations include:

- Background information and documents were assembled and research into the operation and organization of Stockton MUD was performed. This research included State and Federal regulations that apply to the subject allegations.
- Two grand jurors who had general knowledge of municipal utilities and specific knowledge of the Stockton MUD Wastewater Division were interviewed for background information. Members of the work group for this case developed all questions asked of these jurors without their assistance. These two jurors absented themselves from all other deliberations and decisions related to this case.
- A preliminary visit was scheduled with the MUD Wastewater Division and the work group for this investigation toured the facilities and met briefly with Mr. Steve Gittings, Deputy Director of the Wastewater Division.
- A list of materials and documents were requested and received in a timely manner from Mr. Gittings and were subsequently reviewed. (See Exhibit 1001-A for list of materials requested.)
- The State Water Resources Control Board was contacted regarding any complaints about the operation of the Stockton MUD wastewater facility.
- The complainant was interviewed.
- The work group again met with Mr. Gittings to discuss the 7 specific allegations that were the subject of this investigation and to inquire into the policies and procedures that apply and the extent to which those policies and procedures are followed.

OBERVATIOINS:

The Deputy Director of the Wastewater Division, Mr. Steve Gittings, was extremely cooperative with our investigation, providing the information requested in a timely and complete manner, and willingly making himself and his staff available to us for a tour and interviews. No request for information was denied or unreasonably delayed from reaching us.

At the time of this investigation, Mr. Gittings has been with the Stockton MUD Wastewater Division for three years and has held the position of Deputy Director for one year. He has 25 years of experience in the wastewater industry. He is a certified wastewater plant operator.

After interviewing the complainant, the 2002-2003 SJCCGJ had reason to believe that there was the possibility, but not the certainty, that the complainant could be a

disgruntled employee who was in part attempting to use the Grand Jury to further a personal agenda against the management of the Stockton MUD Wastewater Division. Nevertheless, the SJCCGJ carefully and thoroughly investigated each of the subject allegations and our findings and recommendations are set forth below.

FINDINGS:

Regarding alleged failure to reduce and upgrade fleet:

The complaint alleges that there was a goal of the department to reduce the fleet of smaller vehicles (4 to 6-ton size) to more versatile vehicles 24-ton size. There was no reduction in fleet size, however new vehicles were purchased that are not able to be outfitted with the necessary tools and parts to allow employees to be more productive.

Finding #1. We found no goals in the MUD Business Plan regarding the reduction and upgrade of the fleet. Deputy Director Gittings was not aware of a plan to do this and after researching this further informed us that he talked to the managers of MUD and none had any recollection of a fleet upgrade program. He also spoke with the former Deputy Director of Wastewater, Robert Simmons, who stated that he was not aware of such a program and that no such plans were included in the Business Plan, which he was very involved in developing.

We found that the Wastewater Division has 2 boom trucks, one 24-ton utility truck, and 19 small to medium sized (4 to 6-ton) pickup trucks. The smaller trucks have utility beds for carrying tools, including equipment for repairing pumps and motors. One truck has been fitted with a hydraulic valve turner, which is used to open and close heavy valves.

The present climate of impending privatization makes it unlikely that any major changes to the Wastewater Division's existing vehicle fleet will occur for now. Any such changes would need to be coordinated through the City Corporation Yard and would require approval of the Director of Stockton MUD.

Regarding alleged failure to follow City Manager's directive for take-home vehicles:

The complaint alleges blatant disregard of the City Manager's policy for take-home vehicles, allowing two vehicles to be taken home without the authorization of the City Manager.

Finding #2. We found that the City has a detailed policy on take-home of City vehicles, set forth in City Manager Administrative Directive No. MAN-16 dated 03/01/2002, which was revised from a 12/22/1992 policy. This policy authorizes a total of 11 take-home vehicles for the entire Stockton Municipal Utilities Department, all for employees who are required to immediately respond to emergency situations on a 24-hour basis.

Only 2 of these are authorized to the Wastewater Division: one for the Plant Maintenance Supervisor, one for the Senior Electrician.

Directive MAN-16 requires that an annual take-home vehicle report be submitted by department heads in January for City Manager approval. We requested and reviewed such reports for 12 employees. This is one more than the 11 authorized by the policy, the extra being a take-home vehicle for a second Senior Collection System Operator in the Collection Systems Division, where the directive indicates one is authorized.

In April of 2001, Mr. Gittings made written request of Stockton MUD Director, Mr. Morris Allen, for permission to assign one additional vehicle to two mechanics on a six-month rotation to ensure that at least one additional maintenance employee would have a vehicle at all times to respond to after-hours emergency situations. This request was made and approved under provisions of Directive MAN-16.

We were unable to identify any Wastewater Division vehicles that are being taken home without the authorization of the City Manager.

Regarding alleged non-licensed, non-certified employees performing high voltage electrical design, installation, and maintenance:

The complaint alleges that the staff is not qualified to work on voltages above 480V, that is 60KVA, 12.5KVA, and 4160KVA. There is no certified safety equipment to perform work on voltages over 480V; however, the Deputy Director and Plant Maintenance Supervisor have allowed staff to work on the higher voltage system without proper training or safety equipment.

Finding #3a. We reviewed the Departments' job descriptions and requirements and found no requirements for certification for maintenance crew electrical workers. There are statements to the effect that employee participation in the CWEA (California Water Environment Association) voluntary certification program is desirable, but not mandatory. There are requirements in the job descriptions for training and experience for these workers.

We also reviewed the California Code of Regulations (CCR), Title 8. Industrial Relations, including sections on general industry safety orders, high voltage electrical safety orders, and training standards and found no requirement for certification. There are standards for training set forth in these regulations.

We requested and reviewed the Department's training records for employees who do the high voltage work for the Department. Two individuals were identified to us as those who do such work, and the recorded training courses were numerous. As an example, one individual has the following training record:

Basic industrial electricity course (sixteen-hour course)

PG&E electrical/gas line safety course
Cogeneration facilities courses (9 courses) - high voltage training
Electrical safety class (sixteen-hour course)

We were informed by Mr. Gittings that safety equipment is provided to the electrical workers, including rubber mats and gloves and any safety equipment they may need. We were also informed that the Department's procedures for high voltage work requires that the system being worked on be taken down (deactivated and disconnected from electricity) prior to work commencing, and that lockout and tagout procedures are used to preclude accidental reactivation while work is in progress. We did not believe that further confirmation of these procedures through additional interviews was warranted for our investigation.

The complaint also alleges that Wastewater Division staff is allowed to perform design work that the City of Stockton will not accept from others without a licensed Electrical Engineer stamp, creating the potential for overloading the electrical system, damage to equipment, and hazards to employee safety.

Finding #3b. Ms. Nancy Eissler of the Enforcement Unit of the Professional Engineers Board, California Department of Consumer Affairs, was contacted by a member of the Grand Jury, and was asked to clarify how §6747 of the Professional Engineers Act, Business and Professions code applies to public utilities such as Stockton MUD. She indicated that all public utilities are exempted by this code section from the requirement that only licensed engineers perform electrical and mechanical design work related to the systems of such public utilities. The full text of this code section is shown below:

§6747. Exemption for industries

- a. This chapter, except for those provisions that apply to civil engineers and civil engineering, shall not apply to the performance of engineering work by a manufacturing, mining, public utility, research and development, or other industrial corporation, or by employees of that corporation, provided that work is in connection with, or incidental to, the products, systems, or services of that corporation or its affiliates.
- b. For purposes of this section, "employees" also includes consultants, temporary employees, contract employees, and those persons hired pursuant to third-party contracts.

Therefore we found that, for electrical and mechanical design work related to its own systems, Stockton MUD is not required to have the design work performed and stamped by a licensed Electrical Engineer.

Regarding alleged non-certified welders performing welding on pressure pipe and structural steel that require certification:

The complaint alleges that contrary to CAL OSHA requirements for certified welding, in house non-certified employees are allowed to perform structural welding on dissolved air flotation (DAF) tanks and pressure pipes, placing equipment and employees in harms way.

Finding #4. We reviewed the Departments' job descriptions and requirements and found no requirements for certification for maintenance crew welding workers. There are requirements in the job descriptions for training and experience for these workers.

We also reviewed the California Code of Regulations (CCR), Title 8. Industrial Relations, and again found no requirement for certification. There are standards for training set forth in these regulations.

We requested and reviewed the Department's training records for employees who do the welding work for the Department. Three individuals were identified to us as those who do such work, and each has one or two recorded training courses in welding.

We were informed by Mr. Gittings that welding on pressure vessels does require specialized training, but that the Department does not permit its employees to do this kind of work. Instead, pressure vessel welding work is contracted out to a private company with personnel trained to do such work.

Regarding alleged failure to monitor contractors to ensure work is being performed:

The complaint alleges the failure to monitor landscaping contractors resulting in payment for services not rendered. An additional allegation is that a particular painting contractor received contracts for work without undergoing required bidding procedures.

Finding #5a. We found that the Department has specific policies for monitoring contracts, which are set forth in the City of Stockton, Contract Procedure and Process manual (last revised August 2002). This same manual sets forth the contract threshold amount (\$25,757) below which competitive bidding procedures are not required.

We found that the Department did have a contract for landscaping that was recently terminated because of unsatisfactory performance by the contractor. Since then another contractor has been given that work and that contractor's performance is being monitored. Therefore, we believe that procedures are in place to monitor contractor performance and those procedures are being followed.

Finding #5b. We also reviewed information submitted to us by the complainant regarding five contracts given to a single painting contractor in amounts ranging from \$5,450 to \$14,000, totaling \$57,750 during the time period from May 24, 2002 to October 17, 2002. All of these contracts involved separate painting tasks for tanks, pipe

brackets and columns. Since each contract amount was below the \$25,757 limit for competitive bidding procedures, the solicitation of at least three bids was not required under the City's current contract policies.

We also contacted Mr. Gittings for an explanation of these contracts and were told that earlier this year several areas at the Tertiary Plant needed painting, including the acid storage tanks, dissolved air pressurization tanks, and overhead fiberglass piping. Three painting contractors were called in to give bids on the three projects. Each of the three areas was bid separately as independent projects. One contractor looked at the three jobs but chose not to submit proposals. The three areas are different in configuration and the competitive bids for each project were requested.

One contractor was the low bidder for all three projects, and was awarded all three projects under separate purchase orders. The same contractor was later issued a purchase order for \$14,000 to paint the primary clarifiers at the Main Plant. Because they were still on site and there were concerns with the approaching rainy season, they were awarded this project without competitive bidding. Mr. Ed Wall, a Senior Buyer for the City, approved the requisition and purchase order since the contractor had consistently been the low bidder on the other three previous projects.

Therefore, we found no improprieties with the awarding of the five separate painting contracts to a single contractor.

Regarding alleged failure to report vehicle accidents:

The complaint alleges that operations vehicles show signs of abuse and neglect, with damaged front fenders and rear bumpers. Any accident is to be reported to the Corp Yard and Safety committee, but this is not occurring.

Finding #6. We found that the Department has procedures covering damages to City property (FIN-020), equipment accountability (FIN-003), equipment maintenance and repair (PW-008), and motor vehicle accidents (FIN-019). We requested and reviewed recent vehicle accident reports on file for Department vehicles. We also requested and reviewed MUD Safety Committee minutes, which document the review, discussion, and recommendations regarding a recent vehicle accident involving a Department utility truck (although no recommendations were contained in the particular minutes we reviewed).

We requested and reviewed the inspection records for representative Department vehicles, including a maintenance crane (boom truck), which logs 22-point (including damage to structures) inspections on 12 days in a single month, and a tertiary site vehicle, which logs daily 7-point inspections for a nine-day period.

We were informed by Mr. Gittings that some vehicles are driven by 10 to 20 different individuals in the Department at one time or another. Some of the vehicles

are pretty old and not in the best of condition anyway. Although attempts are made to monitor the conditions of vehicles, it is sometimes difficult to get timely reporting of damage and therefore difficult to fix accurate responsibility.

Therefore, we find that procedures are in place and being implemented to monitor and inspect vehicles for damage and to address reported accidents when they occur. Even so, some incidental, unreported damage to Department vehicles does occur.

Regarding alleged failure to follow CAL OSHA requirements for Confined Space Entry, Hot Work permits, Lock and Tag permits:

The complaint alleges that the Seniors and Supervisors are not fully complying with the requirements. When there is entry into Primary, Secondary, and DAF tanks a confined space permit is not filled out, posted or followed through on. The same thing occurs with Hot Work Permits and Lock and Tag permits. This puts the employees at risk and the City at risk for fines.

Finding #7a. We requested and reviewed the Department's Confined Space Pre-entry Checklist. A confined space is entered through an opening other than a door or requires the use of a ladder or rungs to reach the working level. Each checklist has nine Yes/No questions that must be answered in the affirmative before entry, a requirement that "Your supervisor MUST be notified of your intent to enter the confined space", the job location, the worker's signature, and the date. We also requested and reviewed the Department's Confined Space Permit forms. We reviewed filled-out confined space entry checklists and permits with recent dates.

Therefore we find that confined space entry procedures are in place and being implemented.

Finding #7b. We requested and reviewed the Department's Hot Work Permit forms. Hot work includes welding, cutting, brazing, or similar flame or spark-producing operations. Mr. Gittings informed us that hot work permits are only required for work conducted in the field and are attached to work orders. We reviewed filled-out hot work permits with recent dates.

Therefore we find that hot work procedures are in place and being implemented.

Finding #7c. We found that the Department has extensive policies for Lockout/Tagout procedures that are set forth in directive No. SAF-18, dated 6-6-2001. This program is established in accordance with California Code of Regulations, Title 8, CCR §3314, "Cleaning, Repairing, Servicing, and Adjusting Prime Movers, Machinery and Equipment" and Code of Federal Regulations, CFR §1910.147, "Control of Hazardous Energy (Lockout-Tagout)". The purpose of the program is to protect maintenance personnel when they are working on equipment or systems that could be activated by other personnel during the maintenance procedures. The program uses a system of tags and physical locks to provide warnings and to physically

isolate the machinery or systems from sources of energy.

The program requires that a Lockout/Tagout Log be kept that records the following five information items for each lockout/tagout operation performed:

1. Date/Time/Initials
2. Lock #
3. Tagged Out - Yes/No
4. Location/Reason
5. Date Completed

We requested the Department's Lockout/Tagout Log and were provided with three different kinds of logs that contained entries that recorded lockout/tagout events interspersed among other maintenance events. No master lockout/tagout log was provided. We found that none of the logs included all of the information items required for the Lockout/Tagout Log by directive SAF-18. Missing in all of these logs was the Lock #, and in some instances the Time of the event was missing. Date of the event was included in all logs, but the Date Completed was not included in any, although some of the events were undoubtedly completed the same day.

RECOMMENDATIONS:

1. The 2002-2003 SJCCGJ recommends that the Stockton MUD Wastewater Department re-examine its procedures for vehicle inspection and develop a workable means of identifying vehicle damage on a daily basis, determining responsibility, implementing driver remedial training and/or corrective action, and implementing timely vehicle repair.
2. The 2002-2003 SJCCGJ recommends that the Stockton MUD Wastewater Department modify its maintenance logs and log procedures, including personnel training, to include all five information items required for Lockout/Tagout Log by City Policy and Procedure Directive SAF-18.
3. The 2002-2003 SJCCGJ recommends that the Stockton MUD Wastewater Department develop and implement procedures to maintain a Master Lockout/Tagout Log, where the lockout/tagout records of the various maintenance logs can be consolidated for more effective monitoring.

RESPONSE REQUIRED:

Pursuant to Section §933.05 of the Penal Code:

The Wastewater Division of Stockton Municipal Utilities Department shall report to the Presiding Judge of the San Joaquin Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.

EXHIBIT 1001 - A

LIST OF MATERIALS REQUESTED AND RECEIVED FROM STOCKTON MUD WASTEWATER DIVISION

1. Job Descriptions for Wastewater Division personnel
2. Organizational chart of the Wastewater Division and summary of the number of personnel in each position
3. City Policies and Procedure Manual applicable to the operation of the Wastewater Division
4. City Manager's Directives applicable to the operation of the Wastewater Division
5. Wastewater Division Annual Budget and allocations for the last 3 years
6. Wastewater MUD Business Plan (April 1999) and the Status Report to the Business Plan (June 2000).
7. Employee training policies and training program description
8. Employee certification policies and certification program description
9. Contract management/administration guidelines/manual
10. Procedures for awarding contracts and purchasing equipment and services under bid
11. Hiring policies
12. Personnel promotion policies
13. Any complaints received regarding failures to comply with CAL OSHA workplace safety requirements - nature of complaints, steps taken to address the complaints, and status of the complaints.

