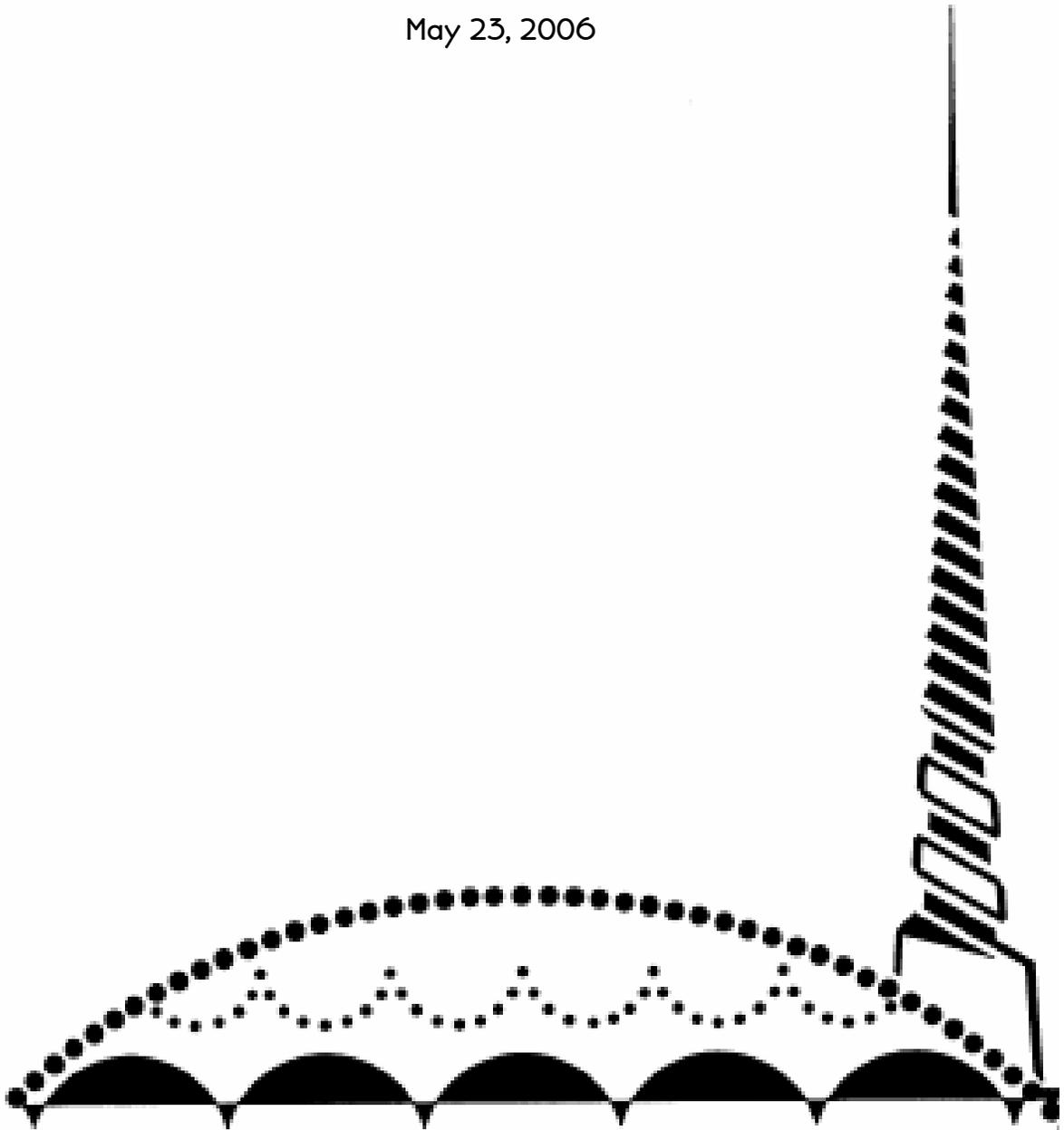
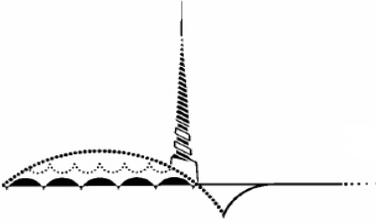


2005-2006 MARIN COUNTY CIVIL GRAND JURY

*Stuck in the Muck: the Ross Valley  
Sanitary District*

May 23, 2006





## STUCK IN THE MUCK: THE ROSS VALLEY SANITARY DISTRICT

### SUMMARY

The Marin County Civil Grand Jury began its investigation of the Ross Valley Sanitary District (RVSD or District) after receiving complaints from ratepayers outraged by District Board members' offensive conduct exhibited toward the public during District board meetings. Our investigation revealed problems of far greater significance to ratepayers than boorish behavior.



The current Grand Jury's investigation was concurrent with litigation against the District for serious violations of the federal Clean Water Act, including the sustained illegal discharge of vast quantities of untreated sewage into public streets, creeks, the San Francisco Bay and Pacific Ocean during the years 2000-2005. The lawsuit was settled in late April 2006 by Consent Decree. Many but not all of the Grand Jury's findings and recommendations will be remedied by the legal obligations imposed upon the District by the Consent Decree. Some of these obligations require the District to implement a more aggressive sewer infrastructure repair and replacement program and to minimize the number and impact of sanitary sewer overflows and the ensuing adverse environmental and public health effects that result from the aged and deteriorated condition of the District's sewer collection system. If the District fails to strictly adhere to the terms of the Consent Decree, millions of dollars in penalties could accrue against the District, and could ultimately be borne by District ratepayers.

The Grand Jury's investigation revealed the following:

- The District breached its legal duties under California law by:
  - Underreporting and failing to report significant sanitary sewer overflows to the public and various state and county regulatory authorities
  - Failing to properly notify the public or post visible warning signs of sewage-contaminated storm waters
  - Failing to accurately report and account for the migration of over 5,000,000 gallons of sewage-contaminated waters

- Despite the availability of significant financial resources, the District has failed to take appropriately aggressive and timely action to correct serious physical deficiencies in its aged sewer infrastructure, including deteriorated and collapsed sewer mains and leaking lateral pipes. The result is raw sewage and sanitary sewer overflows that spill into ground and water systems and onto streets and commercial and residential properties.
- During and after the storm of December 31, 2005, the District failed to follow its own emergency procedures to:
  - Provide functioning equipment, sufficient personnel, and adequate communications
  - Measure and report sanitary sewer overflows accurately and in a timely manner
- The District Board has established a history and pattern of poor public relations by berating ratepayers at public Board meetings, resisting and discouraging meaningful community participation and input at Board meetings, and making public access to information about District operations difficult.
- The District Board has engaged in practices that are inconsistent with the fiscal interests of its ratepayers, including violating its own policies against use of public funds for purchases of Board members' alcoholic beverages.

The Grand Jury recommends that the District:

- Ensure the timely and accurate measurement and reporting of sanitary sewer overflows and lawful compliance with all state and county reporting and notification requirements regarding sewage spills and overflows
- Take immediate aggressive action to comply with the requirements of the Consent Decree, including increase its pace of sewer pipe repair and replacement in known problem areas to reduce the number and adverse environmental and public health impacts of sewage spills and sanitary sewer overflows caused by the District's deficient infrastructure
- Take appropriate steps to ensure that District emergency procedures and protocols are followed, including the posting and placement of warning signs and barricades of hazardous conditions when sanitary sewers overflow, in order to minimize or prevent public exposure to potential pathogens
- Initiate actions that will improve public relations with its ratepayers by providing public access to accurate information about District operations
- Create ratepayer incentive programs to address lateral pipe repair and overflow prevention devices
- Ensure that District written and unwritten policies prohibiting the expenditure of public funds for Board member uses are strictly enforced

## BACKGROUND

The Ross Valley Sanitary District (RVSD or the District) is the oldest sanitary district in California, formed in 1899 to provide a coordinated sewer program for the towns of Fairfax, San Anselmo, Kentfield and Ross. The District later added Larkspur and the unincorporated areas of Murray Park, Sleepy Hollow, Oak Manor, Greenbrae, and San Quentin. The District has approximately 180 miles of sewer collection lines and 20 pumping stations through which some 3,000,000 gallons of sewage per day, and more during storms, is pumped to the Central Marin Sanitation District (CMSA) for treatment. The District's infrastructure is aged and aging because approximately 95% of the District's sewer collection system was installed prior to 1955.

An elected Board of five directors governs the District. The current directors are:

**Table 1 Directors of the Ross Valley Sanitary District**

Incumbent	Joined Board	Term Expires	Status
Sue Brown	2004	April 2008	Incumbent
George Buckle	1992	2006	Standing for Reelection
Daniel Hanley	2005	2006	Appointee/Standing for Election
Brian P. Oliva	1992	April 2008	Incumbent
Steven M. Vanni	2001	2006	Standing for Reelection

The RVSD management positions include a District Manager, an Office Manager, a Maintenance Superintendent, and an Inspection Supervisor that are staffed, as well as a Project Engineer position that is vacant.

Sanitary districts have become subject to increasingly intense scrutiny and regulation by the Environmental Protection Agency (EPA), the California Regional Water Quality Control Board (Regional), and the Marin County Environmental Health Services Division of the Community Development Agency (EHS). One example is the additional requirements for reporting sanitary sewer overflows (SSOs) that Regional imposed on the districts in its jurisdiction, effective December 1, 2004.<sup>1</sup> In addition, the need to be open to citizen stakeholder concerns is an ongoing demand on public agency boards.

RVSD has significant accumulation of cash and cash reserves which can be available for capital improvements to sewer lines, pump stations, and other equipment. As of June 30, 2005, the District had available cash and cash reserves of \$9,980,000. In addition, the District had an Option Agreement on the sale of real estate at Larkspur Landing Circle from which \$9,250,000 of cash proceeds were expected to be received in FY2005-2006. The Grand Jury is informed by management that these proceeds have not all been

<sup>1</sup> California Regional Water Quality Control Board, File No. 1210.57 dated November 15, 2004; Subject: New Requirements for Reporting of Sanitary Sewer Overflows; signed by Bruce H. Wolfe, Executive Officer

received by the District and that “the closing date is still being negotiated.” Combining these two sources, the District will have almost \$20,000,000 in cash and cash reserves that could be spent for capital investments.

Against this \$20,000,000 in cash and cash reserves, the District’s FY2005-2006 Budget includes the following capital expenditures:

**Table 2 Budgeted Capital Expenditures**

Projects	FY2005-2006 Budget
Sewer Line Replacement	\$ 3,384,000
Pump Station Replacements	1,096,000
Force Main Replacement	<u>210,000</u>
Total Projects	\$ 4,690,000

The 2005-2006 Grand Jury began its investigation of RVSD after receiving complaints from ratepayers who were outraged by Board members’ conduct during Board meetings where members of the public were treated with contempt when they attempted to participate in matters of public concern. As the investigation progressed, additional issues came to light involving Board practices that include:

- The failure to appropriate and utilize available public funds to timely provide urgently needed repairs and replacement of the District’s deteriorating infrastructure
- The failure to follow its own emergency procedures required by law<sup>2</sup> in responding to the December 31, 2005, storm
- The appearance of impropriety in the use of the District credit card and the granting of other monetary benefits to themselves, including violations of District policy against using public funds for Board members’ alcohol purchases

## APPROACH

The Grand Jury’s approach to this investigation was an extensive interviewing program including:

- Past and present RVSD Board members, including three of the five current RVSD Board members, a former RVSD employee, and two current RVSD employees
- Several RVSD homeowners
- Private contractors repairing flood damaged homes in Ross Valley
- An officer and a member of the Marin Conservation League

<sup>2</sup> California Water Code Section 13271 and California Code of Regulations Section 2250

- Corte Madera town officials
- A Larkspur city official
- San Rafael Sanitary District officials and employees
- A Lateral Coordinator Engineer for the Vallejo Sanitation and Flood Control District
- Central Marin Sanitation Agency officials
- An Environmental Specialist for the Environmental Protection Agency
- A Water Resources Control Engineer for the California Regional Water Quality Control Board
- An Environmental Health Specialist for Marin County's Environmental Health Services
- Legal counsel in the Clean Water Act litigation.

Grand Jury members also attended RVSD Board meetings, watched videotapes of Board meetings, and studied Board meeting minutes, resolutions, and ordinances. We reviewed data from the National Weather Service, inspected flood and sanitary sewer overflow sites and creek and stream conditions, and researched the Internet regarding sewer spill regulations. We reviewed RVSD financial records, credit card and attorney billing records, and emergency phone records. We contacted restaurants in San Diego and Palm Springs where RVSD Board members had dined at RVSD expense, and we obtained pertinent receipts.

## DISCUSSION

The following subsections summarize what we learned with regard to:

- The RVSD Board and management's conduct
- The RVSD's operational performance
- What the RVSD Board and management are failing to accomplish.

### The RVSD Board and Management's Conduct

The following are observations of RVSD monthly Board meetings as reported by ratepayers and as observed by Grand Jurors:

- The Board frequently resists public input into and questioning of its decisions.
- Certain Board members often respond to citizens who regularly attend Board meetings with sarcasm, rudeness, and angry outbursts.
- The majority of the Board members show little interest in District operations during Board meetings. The only Board member who asks penetrating, important questions of the District's legal counsel and manager at the public Board meetings is frequently treated rudely by fellow Board members.

In June 2003, the Board majority voted to provide only the barest legal minutes of its meetings, requiring that only actions and motions of the Board be reported. These minutes, posted on the District's Web site, omit comments, discussion, and questions raised by the Board members and by the public. All other Board matters, including deliberations, questions and Board discussions, are only accessible to citizens of the District through audiotapes kept in the District's office. This practice limits public access to important information regarding District management and operations and is a departure from the Board's earlier practice of providing comprehensive meeting minutes.

RVSD manages garbage collection contracts within its jurisdiction. When the District planned to change garbage collection firms for the northern portion of its District in late 2002, an attempt was made by a ratepayer to present a petition with 3,400 ratepayer signatures protesting the Board's choice of firm and contract terms. According to the minutes of the November 5, 2002, Board meeting, the Board ignored the petition on the advice of District legal counsel and awarded the contract to a new service provider.

More recently, a ratepayer has exchanged a series of e-mails with the District's counsel, requesting information about a garbage contract extension in the southern area. According to the e-mails, the District's counsel agreed to provide the information to the ratepayer on a certain date but did not do so. The District's counsel asserts, "All existing documents have been made available." The ratepayer is continuing to pursue this information through the Freedom of Information Act.

At a Board meeting on May 2, 2006, the District Board again demonstrated its disinterest in ratepayer concerns regarding another proposed change of the District garbage collection vendor. The Board voted to grant the franchise to the County of Marin despite ratepayers' objections regarding insufficiency of notice to ratepayers and the lack of comprehensive discussion of the details of the contract at the Board meeting.

The District Board has failed to replace the Project Engineer on its management staff. The Project Engineer position is of vital importance to the District implementation and oversight of infrastructure repairs and replacement. According to District staff, the position remains vacant only because the District has not secured adequate office space for such an essential member of the District's management team.

The District Board has taken numerous actions that appear contrary to the best interests of its ratepayers. Examples follow:

- State law permits, but does not mandate, sanitary boards to pay board members for meetings attended and to increase their pay 5% each year. RVSD Board compensation is currently \$192 per Board member per meeting, and RVSD has approved increases in Board members' compensation by 5% each year in advance for the period 2001-2016 as shown below. (See Appendix A)

Table 3 Annual Board Compensation Increases from Exhibit A, Appendix A

April 6, 2001	April 6, 2002	April 6, 2003	April 6, 2004	April 6, 2005	April 6, 2006	April 6, 2007	April 6, 2008
\$150.00	\$158.00	\$166.00	\$174.00	\$183.00	\$192.00	\$202.00	\$212.00
April 6, 2009	April 6, 2010	April 6, 2011	April 6, 2012	April 6, 2013	April 6, 2014	April 6, 2015	April 6, 2016
\$223.00	\$234.00	\$246.00	\$258.00	\$271.00	\$285.00	\$299.00	\$314.00

- Board members rotate check-signing duties. Twice a month, two directors sign checks requiring a few minutes to accomplish, and each time each director receives \$192 for doing so. Check-signing costs for January 2005 to January 2006 were \$10,122.
- Three times a year when the California Association of Sanitary Agencies (CASA) holds its conferences, the RVSD Board routinely allows all Board members, its District legal counsel, and the RVSD District Manager to attend those conferences at District expense. Generally four or more Board members, its counsel, and the District Manager attend. Some sanitary districts in Marin County send no one to the conferences, while others send one or two representatives.
  - As permitted by the Board’s policy, each Board member is currently paid \$192 per day for each of the three days of the CASA conference, plus \$62.45 travel per diem. Some of the directors’ wives have attended as well. Dining together at District expense in Palm Springs, San Diego, and other wintertime conference venues has been a tradition for several years. These dinners have included liquor and wine.
  - At a CASA conference in Palm Springs in January 2004, the District paid for credit card charges for a dinner party for six persons including Board members and guests. This included a food bill of \$276.30, a liquor and wine bill of \$284.50, and \$46.01 for cigars, (See Appendix B), in violation of District policies prohibiting the use of public funds for guests and the purchase of alcohol. (See Appendix C)
  - At a CASA conference in San Diego in August 2003, the District credit card was used to pay for over one-half of the costs of a dinner party for five Board members and guests. This included a food bill exceeding \$500.00 and a liquor and wine bill exceeding \$500.00 (See Appendix B), in violation of District policies prohibiting the use of public funds for guests and the purchase of alcohol. (See Appendix C)
  - The District has acknowledged that the control of use of the District credit card for Board members’ personal meal and beverage expenses has been lax in years prior to 2005-2006. The District assured the Grand Jury that its policy had been recently modified to eliminate these violations and unethical practices, although none of the revised policies were provided to the Grand Jury when requested.

## The RVSD's Operational Performance

We found numerous recent signs that RVSD operations are deficient.

On March 15, 2006, the RVSD reported to Regional in its annual report that 61 sanitary sewer overflows from District public sewer lines occurred in the 13-month period ending December 31, 2005. Twenty-eight of the untreated spills (or 46% of the total) had volumes greater than 1,000 gallons. A total of 699,517 gallons were spilled, and virtually all reached waterways or were otherwise not contained, or as reported, "<0.1 percent of total by volume" was contained and returned to the sewer system for treatment.

The Consent Decree is evidence of operational deficiencies. In October 2005, an RVSD ratepayer filed a lawsuit alleging District violations of the Clean Water Act arising from the District's unlawful, negligent, hazardous and dangerous storage, disposal and handling of sewage and resulting in the unlawful discharge of pollutants into waterways and public areas. The lawsuit was recently settled, and a Consent Decree was entered on April 24, 2006. This Decree demands significant remedies from the District to resolve all the violations, including a stepped-up pace to repair and replace the District's sewer pipes and to minimize the number of sanitary sewer overflows and their environmental and public health impacts. The Consent Decree further requires the District to:

- Maintain and improve the overall condition of its collections system infrastructure
- Cost-effectively minimize inflow and infiltration of storm waters
- Implement public education and outreach
- Fund studies for healthy waterways
- Hire a Project Engineer
- Improve spill and hazard notifications and reporting.

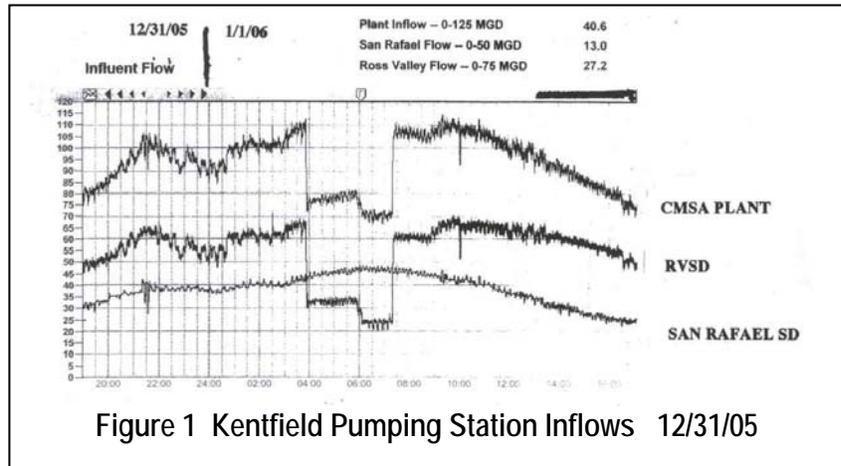
Millions of dollars in penalties could accrue against the District, and could ultimately be borne by District ratepayers, if the District fails to strictly perform the requirements of the Consent Decree. This lawsuit is one of several suits brought against the District in recent years.

Another recent example of RVSD's inadequate level of performance occurred during the storm of December 31, 2005. Although the intensity of the storm was unusual, RVSD had established procedures for responding to overflows in its "Sanitary District No.1 of Marin County Sewer Overflow Response Manual."

At approximately 3:50 a.m. on January 1, 2006, during the peak of the storm, four of the five pumps at the District's Kentfield pumping station (which pumps the sewage to a treatment plant) unexpectedly shut down for 3 1/2 hours and resumed pumping at approximately 7:15 a.m. (See Figure 1 below)

According to a District official, the RVSD emergency telephone dial-up equipment failed to alert its employees to manually restart the pumps. Monitoring alarms caused operators at the Central Marin Sanitation District (CMSA) treatment plant to phone an RVSD employee who said he was flood-bound in his home. Finally, a District employee residing

in Sonoma County was reached, and he drove to the Kentfield pumping station and restarted the idle pumps 3.5 hours later. In the meantime, approximately 5,100,000 gallons of sewage-contaminated storm water from RVSD stopped flowing to the treatment plant, according to CMSA. (See Figure 1)



The Grand Jury's investigation revealed SSOs occurred in the Kentfield area coincidentally with the pumping shutdown. The widespread SSOs in Kentfield, as well as in Larkspur, San Anselmo, Ross and even Fairfax resulted, in part, from approximately 5,100,000 gallons of water suddenly backing up into the sewer mains. Some of that contaminated water also flowed into the storm water system and into the Bay.

- RVSD failed to follow its own procedures to notify the public through warning signs and barricades of dangerous conditions. (See Appendix D) No visible signs were posted warning the public that raw sewage was leaking into trafficked areas, including schools, parks, shopping centers, and other public gathering areas and that hazardous contamination was a possibility. Members of the Grand Jury took several extensive tours of areas served by the RVSD that were severely impacted by the storm. We spoke with affected homeowners and business owners, and none of these ratepayers had seen any such warnings, nor had any Grand Juror.
- The initial RVSD storm report sent to Regional and EHS indicated a total of 4,908 gallons of SSOs from only eight sites. The two largest were each reported as 960 gallons, notably under the 1,000-gallon threshold mandating additional state and county reporting requirements. (See Appendix E) One of those spill reports was later amended from 840 gallons to 4,600 gallons after a homeowner appeared at an RVSD Board meeting and described the flooding of her home. However, that spill was verified as 4,000 gallons inside the home, with additional flooding from the same SSO occurring in neighboring yards at Stadium Way and McAllister Avenue in Kentfield.
- More than three months later (April 5, 2006), the RVSD again amended its SSO report to Regional to 351,000 gallons as a result of the Kentfield pumping station shutdown; however, as indicated above, approximately 5,100,000 gallons of water had backed up into the sewer mains, and some of that contaminated water flowed into the storm water system and into the Bay. In addition, CMSA confirmed that 5,100,000 gallons was unaccounted for during the same time that the pumps were shut down.

- The Grand Jury examined 35 of the messages received on December 31, 2005, and January 1, 2006, by the RVSD answering service, Answer Page, located in Medford, Oregon. Typical of these messages were the following:
  - “Please call. Sewer backing up into my house.”
  - “Kentfield Sheriff reporting a manhole cover is missing. Deputy put cones around opening to keep people from driving over it.”
  - “Broken sewer line is getting toilet paper in my yard.”
  - “Needs a sewer call out. There is a mudslide and raw sewage on the roadway. Please call.”
  - “The hillside you corrected collapsed again. The culvert behind my house is collapsed, and the creek is running through my backyard and the neighbor’s yard. I need to get a call back. The slide is 4 feet from the sewer pipe and is sliding more. I tried 7 times yesterday (12/31/05) to get (Employee #1) to call me back, and he wouldn’t. I’m very upset. (Employee #2) did call me, and I appreciated that, but I asked (Employee # 1) to call.”

Clearly, the storm of December 31, 2005, revealed major deficiencies in the RSVD’s sanitary sewer system, its organization and its management.

### What the RVSD Board and Management Is Not Getting Done

The Grand Jury became concerned about what other major responsibilities RVSD might not be fulfilling.

#### *Leaking Laterals*

In Marin County, our drainage system includes:

- Storm drainage systems, consisting of street gutters, catch basins, underground pipes, open channels, culverts, and creeks, that are designed to carry water directly into other creeks or San Francisco Bay without treatment
- Sanitary sewer systems, which collect wastewater from most households and commercial sources through indoor plumbing and pipe it to wastewater treatment plants where pollutants are removed before it is released into the Bay

As indicated in Figure 2, a sanitary sewer system consists of mains, which are the responsibility of the sanitary district, and laterals, from the houses and businesses to the main, which are the responsibility of the property owners.

When property owners’ laterals become cracked and/or collapsed, they allow rainwater to infiltrate into the sewer system. This can place a larger burden on the sewer system and the treatment plants, requiring expensive expansions. The treatment plant that processes sewage for the RVSD is undergoing a \$52 million expansion program, needed in part because of the excessive flows caused by infiltration of storm water into the sewer

systems feeding into it. Eventually this cost, which does not solve the underlying infrastructure problems, will be borne by the ratepayers.



Figure 2 Typical Sanitary Sewer System

Unlike other local sanitary districts, RVSD has not actively promoted a program to inform its ratepayers of the value of repairing their broken laterals and to provide incentives to do so.

- The Vallejo Sanitation and Flood Control District is an example of an area-wide attempt at a solution to the problem of leaking laterals. It raised rates sufficiently to fund a planned rebate program for all homeowners who replace or repair lateral lines identified as faulty through video inspection. (See Appendix F)
- The Castro Valley Sanitary District also has a modest grant program available to homeowners to assist in lateral replacement. (See Appendix G)

Older laterals may not have the overflow prevention devices indicated in Figure 2, leaving the homes/businesses vulnerable to sewage backing up through toilets, showers and bathtubs during storms. These could readily be installed when leaking laterals are repaired or replaced.

The District is not aggressively addressing these issues, leaving the public unaware of either the severity of the problem or the need for a comprehensive plan to correct these District-wide deficiencies.

### *Replacing District Mains*

Approximately 95% of the District's 180-mile sewer system was installed prior to 1955 and parts of it as early as 1899. The District has informed the Grand Jury that some sewer mains have completely collapsed and deteriorated, leaving large segments of pipe wide open and spilling raw sewage into the ground. The District has further informed the Grand Jury that only one mile of sewer pipe is being replaced per year, although as of late April 2006, the District is now compelled by the Consent Decree to inspect at least 4 miles of pipe per year and repair or replace at least 2 miles of pipe per year for the next ten years.

The District is reviewing the condition of its entire collection system and has entered into numerous consulting contracts to assist in the development of plans for repair of the District's infrastructure. The Grand Jury acknowledges the benefits of long-term planning for major infrastructure rebuilding; however, according to audited financial statements, the District and its consultants have been evaluating its system for over two years, and the evaluation is still not complete. In the meantime, serious short-term problems have not been meaningfully addressed. Although the District reflects in its budget that it has significant funds to immediately repair known problem sewer mains, it has chosen to pursue a less aggressive approach to infrastructure repair.

As of May 2006, the consulting studies still have not prioritized the repair projects. However, the District is now compelled by the requirements of the April 2006 Consent Decree to accelerate its pace of infrastructure repair.

### FINDINGS

- F1. During and after the storm of December 31, 2005, the District breached certain legal duties mandated under California law and other regulations by:
- Underreporting and failing to report significant sanitary sewer overflows (SSOs) to the public, the California Regional Water Quality Control Board, the California Department of Fish and Game, the Marin County Office of Emergency Services, and the Marin County Department of Health Services
- Failing to notify shop owners and RVSD residents about potential pathogens in sewage-contaminated storm waters that had flooded businesses and homes
  - Failing to post warning signs where SSOs affected a school, park, shopping center or other area where the public gathers
  - Failing to report and account for the migration of approximately 5,100,000 gallons of uncontained sewage-contaminated water
- F2. The District's response to the storm of December 31, 2005, and outcomes of the storm highlighted RVSD's ongoing operational deficiencies:

- The District's emergency procedures failed to expeditiously deploy personnel to the site of a major pumping station failure and did not provide sufficient staff or reliable communication systems to meet emergency storm needs
  - The District's measurement and reporting of significant SSOs were untimely and grossly inaccurate
  - The District's aged sewer collection system is in a state of disrepair with collapsed and deteriorated main pipes allowing spillage of raw sewage into the ground and water systems
  - The obsolete, collapsed, and leaking condition of the District's sewer mains permit storm water to inflow and infiltrate the mains, causing storm water and raw sewage to ultimately surcharge the mains and overflow into streets, businesses, residential properties, and creeks
- F3. Despite the availability of significant financial resources, the District has failed to take appropriately aggressive action to correct the serious physical deficiencies in its infrastructure on a timely basis. Consequently, until it hires a Project Engineer and begins the repairs required by the Consent Decree, the District will have made no significant effort to address the serious problems of:
- Environmental contamination
  - Inflow and infiltration of storm waters
  - Sanitary sewer overflows
  - Excessive sewer flows to CMSA's treatment facility
  - Leaking lateral pipes and installation of overflow prevention devices as part of the solution to its sewer system malfunctions
- F4. The District Board has established a history and pattern of poor public relations with its ratepayers by
- Eliminating its prior practice of recording comprehensive Board meeting minutes and thereby making public access to information more difficult
  - Resisting and discouraging meaningful community input and participation at Board meetings
  - Berating and intimidating attendees at public Board meetings
- F5. Certain District Board practices are inconsistent with the fiscal interests of RVSD ratepayers:
- The Board approved automatic compensation increases for itself over a 16-year period (2001-2016) without regard to future budget or other fiscal constraints.
  - Board members are compensated to perform perfunctory check-signing duties.
  - Unlike the usual and customary practice of other sanitary district boards to send one or two representatives to industry conferences, the full Board or a majority of the Board attends CASA conferences at significant expense to the District.

- In violation of its own policy, until recently the District has allowed the use of public funds to purchase alcohol for District Board members at CASA conferences.

## RECOMMENDATIONS

The Grand Jury recommends that:

- R1. The District ensure that it timely and accurately measure and report the volumes of sanitary sewer overflows and complies with all legal reporting requirements of state and local agencies, including the California Regional Water Quality Control Board, the California Department of Fish and Game, the Marin County Office of Emergency Services, and the Marin County Department of Health Services.
- R2. The District take appropriate steps to ensure that proper public notification practices are followed, including the posting of warning signs and placement of barricades when sanitary sewers overflow, in order to minimize or prevent public exposure to potential pathogens.
- R3. District emergency procedures be reviewed and revised to ensure reliable communication and timely deployment of sufficient personnel to address emergency storm needs and prevent or correct any pump station or other equipment failures.
- R4. Consistent with the requirements legally imposed on the District by the April 24, 2006, Consent Decree, the District:
  - Hire a Project Engineer without delay
  - Increase its pace of sewer pipe repair and replacement in known problem areas
  - Develop programs and replacement projects to reduce environmental contamination
  - Minimize public health risks of exposure
  - Prevent inflow and infiltration of storm waters
  - Reduce sanitary sewer overflows
  - Reduce flows to the CMSA treatment facility
- R5. The District improve its public relations with its ratepayer constituency by developing and adopting practices, including publishing accurate and comprehensive Board minutes, that encourage and facilitate public access to information about District operations and public participation at Board meetings.
- R6. The District increase its public education and outreach efforts by developing and promoting an incentive plan for property owners regarding lateral pipe repair and replacement and installation of overflow prevention devices.
- R7. The District review and determine District Board compensation annually in conjunction with the overall District budget development process.

- R8. The District implement more cost-efficient check signing procedures.
- R9. The District reduce its expenses by adopting the practice of other sanitary district boards in restricting attendance at CASA meetings to one or two Board representatives per conference.
- R10. The District enforce its policies prohibiting the expenditure of public funds by Board members for non-District uses, including the purchase of alcohol by Board members.

### REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following governing body:

- Ross Valley Sanitary District Board of Directors: all Findings and Recommendations

The governing body indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933(c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

The California Penal Code section 933(c) states that "...the governing body of the public agency shall comment to the presiding judge on the findings and recommendations pertaining to matters under the control of the governing body." Further, the Ralph M. Brown Act requires that any action of a public entity governing board occur only at a noticed and agendized public meeting.

The Grand Jury invites the following individuals to respond:

- Each member of the RVSD Board of Directors: all Findings and Recommendations
- The RVSD District Manager: all Findings and Recommendations

## BIBLIOGRAPHY

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

- Audited financial statements for the Ross Valley Sanitary District for 2001 – 2005.
- Sanitary District No. 1 of Marin County: Budget FY2006
- Sanitary District No. 1 of Marin County: Emergency Response Plan, February 2004
- Sanitary District No. 1 of Marin County: Sewer Overflow Response Manual, November 10, 2004

## APPENDICES

Appendix A: Ordinance #50 Adopted February 6, 2001 Regarding Pay Increases

Appendix B: Copies of Charges for District Meal Expenses

Appendix C: District Board Policy Adopted May 21, 1996 Prohibiting Reimbursement for Alcohol

Appendix D: Sewer Overflow Response Manual (excerpt)

Appendix E: Sewer Overflow Response Manual (excerpt)

Appendix F: Vallejo Sanitation and Flood Control District Lateral Replacement Program Resolution

Appendix G: Castro Valley Grant Program for Lateral Replacement Press Release

APPENDIX A ORDINANCE #50 ADOPTED FEBRUARY 6, 2001 REGARDING PAY INCREASES

ORDINANCE No. 50

**AN ORDINANCE ADJUSTING COMPENSATION FOR THE BOARD OF DIRECTORS OF SANITARY DISTRICT NO. 1 OF MARIN COUNTY**

**WHEREAS**, on July 5, 2000, the California Legislature enacted Senate Bill 1559 (Chapter 86, Statutes of 2000); and

**WHEREAS**, this bill amended Section 6489 of the California Health and Safety Code, authorizing sanitary district boards to, by ordinance, increase board member compensation in an amount greater than the current maximum of one hundred dollars (\$100) per day by an additional five percent (5%) for each calendar year following the operative date of the last adjustment; and

**WHEREAS**, the last adjustment for the Board of Directors of Sanitary District No. 1 of Marin County was in 1986; and

**WHEREAS**, California Water Code Sections 20200 et seq., which have been incorporated into the Sanitary District Act, require that any such increase be by ordinance and shall not become effective for at least sixty (60) days from the date of final passage.

**NOW, THEREFORE**, the Board of Directors of Sanitary District No. 1 of Marin County does ordain as follows:

**SECTION 1: DIRECTOR COMPENSATION**

- a. Upon effective date of this Ordinance, and continuing until this Ordinance is modified, repealed or automatically adjusted, the compensation for Directors of Sanitary District No. 1 of Marin County is hereby increased from the current one hundred dollar (\$100) level to one hundred and fifty dollar (\$150) level, which is less than that allowable under the California Health and Safety, and Water Code.
- b. The amount of Directors' compensation shall be one hundred and fifty dollars (\$150) for each day's service rendered as a member by request of the board, not exceeding a total of six (6) days in any calendar month, together with any expenses incident thereto.
- c. Sanitary District No. 1 Directors that perform duties as a Central Marin Sanitation Agency (CMSA) Commissioner will receive differential compensation from Sanitary District No. 1. Differential Compensation from Sanitary District No. 1 will be the difference between the then current CMSA compensation and the then current Sanitary District No. 1 compensation.
- d. Commencing on April 6, 2002, and annually on each April thereafter, the then current level of Board compensation shall be increased by five percent (5%) as shown on Exhibit "A" attached hereto and made a part of this Ordinance. Said increase(s) shall be rounded to an even dollar amount.

SECTION 2: EFFECTIVE DATE

- a. Upon adoption, this Ordinance shall be entered in the minutes of the Sanitary District No. 1 Board, shall be published once in a newspaper in general circulation within the District and shall take effect on April 6, 2001.

**PASSED AND ADOPTED** this 6<sup>th</sup> day of February 2001, by the following vote:

**AYES:** Buckle, Bjorn, Vanni

**NOES:** Mariani

**ABSENT:** Oliva

**ABSTAIN:** None

*Jean M. Mariani*

**Jean M. Mariani**  
Acting President of the Board

Attested:

*George H. Buckle*

**George H. Buckle**  
Acting Secretary of the Board

**Exhibit "A"**  
**Annual Board Compensation Increases**

April 6, 2001	April 6, 2002	April 6, 2003	April 6, 2004	April 6, 2005	April 6, 2006	April 6, 2007	April 6, 2008
\$150.00	\$158.00	\$166.00	\$174.00	\$183.00	\$192.00	\$202.00	\$212.00
April 6, 2009	April 6, 2010	April 6, 2011	April 6, 2012	April 6, 2013	April 6, 2014	April 6, 2015	April 6, 2016
\$223.00	\$234.00	\$246.00	\$258.00	\$271.00	\$285.00	\$299.00	\$314.00

Appendix B Copies of Charges for District Meal Expenses

**LG's Palm Springs**

19:18 D /22/2004 # 34

TABLE 50	JOSE	GSTS 6
3	{173}	25.50
1	PRIME RIB	28.95
1	MASHPOT LRG	7.95
1	{301}	8.75
1	PRIMRJB ENDC	28.95
1	CRMSPNCH LRG	7.95
1	PRIME RIB	28.95
1	PRIME RIB	28.95
1	KEOKE COFFEE	6.25
1	CHCCHIP CAKE	8.75
1	MEXI COFFEE	6.25
2	IRISH COFFEE	13.50
1	MASHPOT LRG	7.95
1	PRIME RIB	28.95
1	RIB EYE	29.95
1	{301}	8.75
	FOOD	276.30
1	BOMBAY	6.75
1	BEEF EATER	8.75
1	FER-CAR CHAR	69.00
1	{2469}	89.00
1	STOLI	8.00
1	TONIC	0.00
1	GL BYRON	9.75
1	SNIFTR	0.00
1	COSMO POLTN	8.75
1	TONIC	0.00
1	BEEF EATER	8.75
1	GL CLOS MER	8.25
1	DELAFORCE 10	14.00
1	MACALLAN 18	9.50
3	FRNCH MARTIN	26.25
1	COSMO POLTN	8.75
1	COURVS VS	9.00
	BEVERAGE	284.50
	SUBTOTAL	560.80
	GST	0.00
	TAX	43.46
	TIP	79.74
	<b>TOTAL:</b>	<b>684.00</b>

**LG's Palm Springs**

21:47 D /22/2004 # 66

TABLE 99	CARLOS	GSTS 1
1	MACAN PORTO	13.92
2	DON TOMAS	28.78
	OTHER	42.70
	SUBTOTAL	42.70
	GST	0.00
	TAX	3.31
	TIP	0.00
	<b>TOTAL:</b>	<b>46.01</b>

Apr 21 06 04:06p

Tonya

(619)702-0442

p. 2

G5 (Georges on Fifth)  
835 Fifth Ave.  
San Diego, CA 92101  
(619)702-0444

IBER.PRT

Server: Maria 08/14/2003  
Table 30/1 9:55 PM  
Guests: 5 30008  
Reprint #: 2

Vodka Martini	8.00
Grey Goose	3.00
Vodka Martini	8.00
Ketel One	2.00
Bombay (2 @5.25)	10.50
Margarita (3 @6.00)	18.00
Tanqueray #10 (2 @6.00)	12.00
Rombauer Chard	56.00
Buehler Chardonnay	32.00
Stoli (2 @5.25)	10.50
Maine Lobster Martini	12.00
Today's Fresh Oysters	14.00
Roasted Tomato Bruschetta	6.00
Caesar Salad (3 @7.00)	21.00
CA Seafood Bisque (3 @9.00)	27.00
Spinach Salad	7.00
Double-Thick Pork Chop	24.00
Angus Filet Mignon 12oz (3 @54.00)	162.00
Angus Filet Mignon 8oz (2 @38.00)	76.00
Six Onion Risotto	16.00
USDA Prime Filet 8oz	28.00
Stags Leap Cabernet (2 @86.00)	172.00
B&B	7.00
Crown Royal	6.00
Ice Cream (2 @5.25)	10.50
Vanilla Brulee	5.00
Chocolate Mousse	8.00
Keoki Coffee	6.50
Fonseca 10 yr. Tawny Port (2 @10.00)	20.00
Bowmore 17 yr	15.00
Macallan 18 yr	16.00
Dungeness Crab Cakes	10.00
Panko Fried Shrimp	10.00
Tropical Tuna Tartare	12.00
Gin Martini	8.00
Bombay	1.00
Cosmo	9.00
Belvedere	2.00
Bus Promo	-26.00
Name: PER ROSALIA	
Bus Promo	-26.00
Name: PER ROSALIA	
Sub Total	819.00
Tax	63.47
Total	882.47
Gratuity 18.00%	147.42
Total	1029.89
M/C	520.66
Tip	10.00

SM

APPENDIX C DISTRICT BOARD POLICY ADOPTED MAY 21, 1996 PROHIBITING REIMBURSEMENT FOR ALCOHOL

BOARD POLICIES

I. APPOINTMENT OF BOARD MEMBERS TO COMMITTEES/COMMISSIONS

At the last meeting of each fiscal year, or as the necessity arises during the year, the Board shall appoint members of the Board to serve as the District's representative or alternate on such commissions/committees or other organizations as the Board deems to be beneficial to the District.

Such appointments shall be for the following fiscal year or, if made during the year, for the balance of the fiscal year. Notwithstanding the above, the District's representatives to the Central Marin Sanitation Agency shall serve for a two-year term with the term of the two District representatives staggered so that the terms end in alternate years.

II. COMPENSATION OF BOARD MEMBERS

A. For regular or special meetings of the Board of Directors, each Board member shall receive \$100.00 per day up to a maximum of \$600.00 in any one month.

B. For service at the regularly scheduled meeting(s) of another commission, committee or other Board to which the member is appointed by the Board of Directors, each Board member appointed shall receive \$100.00 per day which, counted together with the compensation received as a member of the Board of Directors, shall not exceed \$600.00 per month, provided, however, the District's representatives to the Central Marin Sanitation Agency ("CMSA") shall not be compensated by the District but rather by CMSA directly. The members appointed as an alternate to CMSA shall be compensated by the District for attendance at regularly scheduled CMSA meetings if CMSA policy is not to pay alternates. After each regularly scheduled CMSA meeting, District staff shall contact CMSA to determine which Board member(s), if any, are to be compensated by the District for the CMSA meeting.

C. For service on a subcommittee of the Board, the appointee shall receive \$100.00 per day, which amount shall be applied to the \$600.00 per month maximum. No compensation will be paid by the District for subcommittee work or other duties performed or action taken on behalf of the District of any commission, committee or other agency to which appointed by the Board, without approval by the Board of Directors, nor will compensation be paid if the commission, committee or other agency being served provides compensation for such work. Board members shall receive \$100.00 per day for visits to the District Office requested by the District Manager or his designee, which amount shall be applied to the \$600 per month maximum.

D. If a Board member is the only member of the District Board in attendance at a meeting, conference, or seminar, it shall be the obligation of that Board member to provide a written or verbal report of such meeting to the other Board members.

III. REIMBURSEMENT/COMPENSATION RE CONFERENCES

A. Upon authorization from the Board of Directors, Board members attending any conference shall be paid for such attendance. Each new Board member shall receive authorization to attend his/her first conference. Authorization to attend future conferences shall be determined by the Board of Directors. It shall be the obligation of each Board member attending any conference to attend and fully participate in the conference activities.

B. Provided that the Board member attends and participates in the conference, compensation shall be \$100.00 per day, which amount shall be applied to the \$600.00 per month maximum. No Board member shall receive credit for more than two days attendance without prior approval of the Board.

C. Reimbursement of Expenses – Board Members and Management Personnel.

Conference Fee Reimbursement

The District will reimburse conference fee(s) for the Board member and District Manager only. If the Board member so wishes, after Board approval, the District will prepay the conference fee(s) for the Board member so requesting. If the Board member requesting prepayment of conference fee(s) does not attend the conference, the Board member shall repay the District said fee(s).

Room Reimbursement

The District will reimburse up to the special room rate established by the conference organizers for each scheduled night of the conference. The District Manager shall notify the Board of the scheduled length of the conference, the number of scheduled nights of the conference, and the special room rate established by the convention organizers one month prior to the convention date. Reimbursement for any stay in excess of the scheduled nights will require prior approval by the Board. If the Board or staff member so wishes, after Board approval, the District will prepay the special room rate established by the convention organizers for scheduled night(s) of the conference. If the Board or staff member requesting prepayment of room rate(s) does not attend the conference, the Board or staff member shall repay the District said room rate(s).

Car Rental

The District will reimburse car rental expense for a standard car for the scheduled length of the conference plus one day. Reimbursement for any car rental in excess of the scheduled conference plus one day will require specific prior approval by the Board. The District will pay the lessor of actual expenses or the weekly rate for a standard car.

Airfare Reimbursement

The District will reimburse up to the one-day round trip airfare to the convention site. The District Manager will contact a local travel agency to determine this rate and notify the Board of said maximum airfare one month prior to the conference. If the Board or staff member so wishes, after Board approval, the District will prepay the required airfare to the conference. If the Board or staff member requesting prepayment of airfare does not attend the conference, the Board or staff member shall repay the District said airfare.

Meal and Miscellaneous Reimbursement

The District will pay the per diem allowance approved by the Internal Revenue Service for meals and miscellaneous expenses of Board members or the District Manager in

attendance at an authorized conference or seminar. Prior Board authorization for the number of days of attendance is required for payment of the per diem allowance.

Other Expenses

For other expenses not covered by the per diem allowance, an itemized, signed statement of all actual and necessary other expenses in connection with the conference, together with all receipts, shall be submitted to the Board for review and approval. There shall be no reimbursement for alcoholic beverages.

Itemized Statement

An itemized, signed statement showing number of days of attendance at the conference and car rental expenses, room expenses, and airfare expenses in connection with the conference, together with receipts, shall be submitted for Board review and approval.

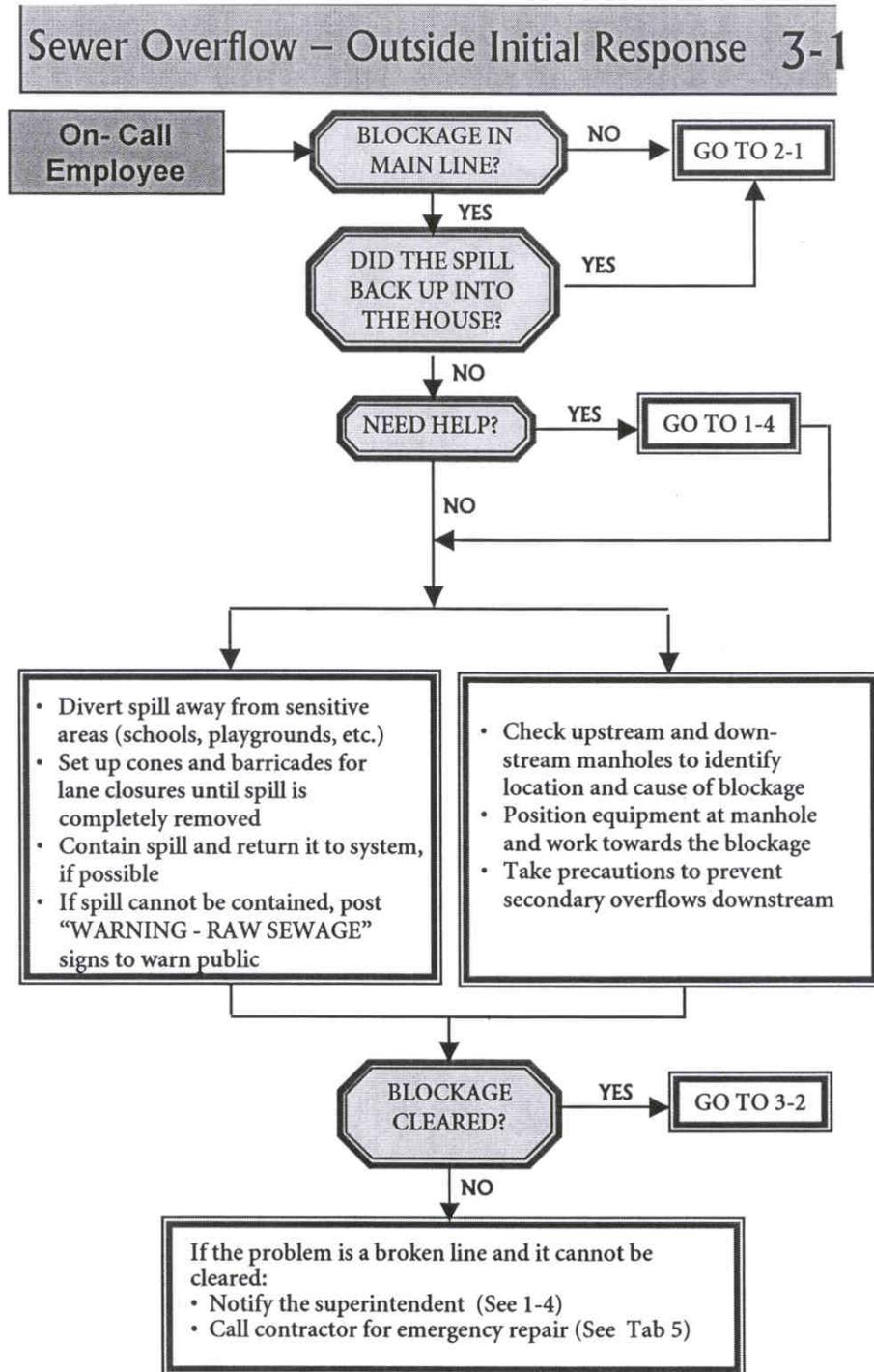
**IV. GENERAL EXPENSE POLICIES – BOARD MEMBERS AND DISTRICT MANAGER**

A. Board members and District Manager incurring expenditures, not prepaid by the District, in the conduct of District business, shall submit an itemized, signed statement, together with all receipts, to the Board for review and approval at the next regular Board meeting. All Board approved expenses shall be paid at the next signing of checks.

B. Authorized Use of Private Car. Board members and District Manager shall receive the amount per mile approved by the Internal Revenue Service for use of a private car on authorized District Business. Prior Board authorization for the use of a private car on District business is required for mileage reimbursement. No mileage reimbursement shall be provided for travel within Marin County.

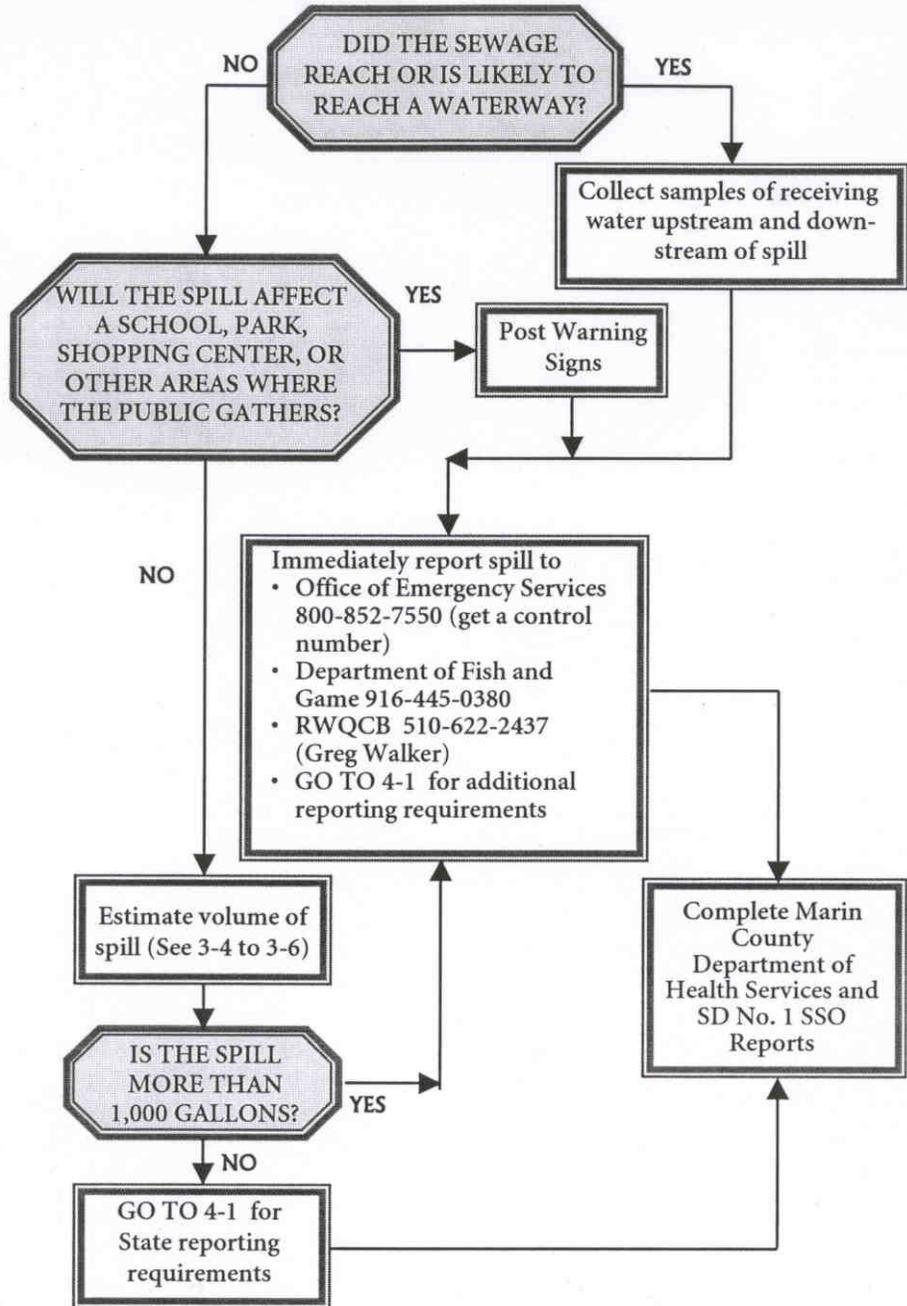
(DPolicy/board policies)

APPENDIX D SEWER OVERFLOW RESPONSE MANUAL (EXCERPT)



APPENDIX E SEWER OVERFLOW RESPONSE MANUAL (EXCERPT)

Sewer Overflow – Outside Response 3-3



Revised: July 2005

APPENDIX F VALLEJO SANITATION AND FLOOD CONTROL DISTRICT LATERAL REPLACEMENT PROGRAM RESOLUTION

RESOLUTION NUMBER 99-4533

A RESOLUTION ADJUSTING REIMBURSEMENT VALUES REGARDING OWNER INITIATED SEWER REPAIRS

BE IT RESOLVED by the Board of Trustees of Vallejo Sanitation and Flood Control District as follows:

WHEREAS, Ordinance No. 94-69, adopted by the Board of Trustees on July 13, 1994, requires the establishment by resolution of procedures, criteria for evaluation, and reimbursement values, if any, pertaining to repair of the upper sewer lateral initiated by a property owner;

WHEREAS, Resolution Number 94-4408, adopted by the Board of Trustees on August 24, 1994, established such procedures, criteria, and reimbursement values; and provided for their annual adjustment by resolution;

WHEREAS, increases in construction cost have made an adjustment of the reimbursement values necessary;

NOW THEREFORE, said reimbursement values are adjusted for owner initiated sewer repairs.

REIMBURSEMENT VALUES FOR OWNER INITIATED REPAIR

THE FOLLOWING reimbursement values are established for owner initiated sewer lateral repairs which have complied with procedures and criteria for evaluation for owner initiated repairs and have been determined to be eligible for reimbursement upon completion of the repair.

FIXED REIMBURSEMENT STEPS

The following table shall be used when determining reimbursement amounts:

LENGTH RANGE OF LATERAL (Center of two-way cleanout to center of District cleanout)	BASIC REIMBURSEMENT
0 to 5ft.	\$815
5 to 10 ft.	\$1035
10 to 20 ft.	\$1255
20 to 30 ft.	\$1530
30 to 40 ft.	\$1805
40 to 50 ft.	\$2025

For laterals exceeding 50 feet in length, the basic reimbursement shall be increased by \$25 per foot in excess of 50 feet.

## APPENDIX G CASTRO VALLEY GRANT PROGRAM FOR LATERAL REPLACEMENT PRESS RELEASE

### Grants Are Here Again!

Castro Valley Sanitary District is pleased to announce the continuance of the Lateral Replacement Grant Program (LRGP), scheduled to start July 1, 2005, in the amount of \$50,000. The District is offering financial assistance to replace your entire defective lateral at 50% of the approved cost, up to a maximum reimbursement of \$2,000 per building lateral.

Residents may see advertisements in local papers or flyers from contractors promoting the program. These advertisements may be misleading or confusing to residents who are interested in participating in the LRGP. The Castro Valley Sanitary Districts is here to attempt to demystify the LRGP to its customers.

1. Only Castro Valley Sanitary District residents may submit an application to the District for consideration for the program. Some contractors will tell you they can submit the application, but they cannot.
2. Applications must be submitted with at least three (3) bids from contractors. If the bids seem too high to District staff, you may be advised to obtain additional bids. It is recommended that you do not share price information between contractors to avoid confusion and misconduct.
3. An inspection of the existing lateral is required prior to funds being obligated to a resident. You are to contact the District to schedule an inspection to observe a contractor's video inspection of the lateral no sooner than July 1<sup>st</sup>. You may request the District perform the video inspection of the lateral; however, this may take 4 to 6 weeks to schedule.
4. Finally, a resident should not enter into any type of agreement with a contractor until receiving written confirmation from the District that funds have been obligated for the project.

For further information, please contact the Castro Valley Sanitary District, 21040 Marshall Street, Castro Valley, (510) 537-0757; or visit our website at [www.cvsan.org](http://www.cvsan.org).