CENTRAL MARIN SANITATION AGENCY

Jason R. Dow, P.E.
General Manager

1301 Andersen Drive, San Rafael, CA 94901 Telephone (415) 459-1455 Fax (415) 459-3971

November 28, 2007

The Honorable Lynn Duryee, Presiding Judge
Marin County Superior Court
P. O. Box 4988
San Rafael, CA 94913-4988

Ms. Roberta Robinson, Foreperson
Marin County Civil Grand Jury
3501 Civic Center Drive, Room 303
San Rafael, CA 94903

RE: Corrected Response from the Central Marin Sanitation Agency to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs.

Dear Presiding Judge Duryee and Ms. Robinson:

Attached is the Agency's corrected response to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs. The Agency has previously informed the Court and Grand Jury that it would not be able to able to respond by October 17, 2007 as requested because the next scheduled meeting of the Agency's Board of Commissioners was for November 27, 2007.

Pursuant to Penal Code Sections 933 and 933.05, attached is the corrected response from the Central Marin Sanitation Agency to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs.

The responses by the Agency's Board of Commissioner were conducted in accordance with Penal Code Section 933(c) and notice, agenda and open meeting requirements of the Ralph M. Brown Act. The transmittal of this response reflects the action taken by the Agency's Board of Commissioner at its scheduled meeting that took place on November 27, 2007.

Please contact me at (415) 459-1455 or at the above address should you have any questions about this matter.

Sincerely,

Jason R. Dow, P. E.
General Manager

Attachment

cc: Jack Govi, Assistant County Counsel

RESPONSE TO GRAND JURY REPORT FORM

Report Title: **Retiree Health Care Costs: I Think I'm Gonna Be Sick**

Report Date: **March 19, 2007**

Response by: **Jason R. Dow, P. E.** **Title:** **General Manager**

BOARD: **Central Marin Sanitation Agency**

FINDINGS

- I (we) agree with the findings numbered: 1 through 9
- I (we) disagree wholly or partially with the findings numbered: 10

The Agency had previously responded to Findings 1 through 10 on May 9, 2007.

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.

  (Attach a summary describing the implemented actions.)

- Recommendations numbered 3 and 4 have not yet been implemented, but will be implemented in the future.

  Attached is the Agency's corrected response to Recommendations 3 and 4.

- Recommendations numbered _____ require further analysis.

  (Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)

- Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.

Date: 11/29/07 Signed: _____

Attachment

Response Form

Revised Response from the Central Marin Sanitation Agency to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs.

Recommendation 3: *All municipalities and special districts do extensive research on the facts and seek professional help to determine vesting issues. This should be done by the end of 2007.*

CMSA Response (Revised): This recommendation has not been implemented but will be implemented by the end of calendar year 2008. Determination of vesting issues will be dependent on the GASB 45 valuation report; the Agency plans to retain an actuary to conduct a valuation report during FY 2007-08.

Recommendation 4: *The county, all municipalities and the special districts offering health care benefits consult with professional advisers to state clearly in employee and public communications whether retiree health care benefits are vested and the extent to which they can be changed, modified or eliminated.*

CMSA Response (Revised): This recommendation has not been implemented but will be implemented by the end of calendar year 2008. This recommendation can be implemented once the issues surrounding vesting in Recommendation 3 have been addressed. Determination of vesting issues will be dependent on the GASB 45 valuation report; the Agency plans to retain an actuary to conduct a valuation report during FY 2007-08.

CENTRAL MARIN SANITATION AGENCY

Jason R. Dow, P.E.
General Manager

1301 Andersen Drive, San Rafael, CA 94901 Telephone (415) 459-1455 Fax (415) 459-3971

October 15, 2007

The Honorable Lynn Duryee, Presiding Judge
Marin County Superior Court
P. O. Box 4988
San Rafael, CA 94913-4988

Ms. Roberta Robinson, Foreperson
Marin County Civil Grand Jury
3501 Civic Center Drive, Room 303
San Rafael, CA 94903

Subject: Corrected Response from the Central Marin Sanitation Agency to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs

Dear Presiding Judge Duryee and Ms. Robinson,

The Agency has received your notification that we submitted an incomplete response to the Marin County Civil Grand Jury's Report. While we did comply with the requirement to respond to the Report's recommendations by June 19, 2007, the Civil Grand Jury has noted that our response did not include a specific timeframe for the implementation of Recommendations 3 and 4.

This letter is to inform you that the Agency will not be able to comply with your request to submit a corrected response to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs by October 17, 2007. The Agency has been advised by County Counsel that a corrected response from the Agency is subject to the notice, agenda and open meeting requirements of the Ralph M. Brown Act. The Agency did not receive the Civil Grand Jury's notification in time to comply with the notice, agenda and open meeting requirements for its scheduled October 9, 2007 Board of Commissioners meeting.

The next meeting of the Agency's Board of Commissioners is scheduled for November 27, 2007. The Board will take action on the Agency's two corrected responses at that meeting. The responses will be forwarded to the Court and Civil Grand Jury by December 4, 2007.

Please contact me at (415) 459-1455, extension 145, or at the above address should you have any questions about this matter.

Sincerely,

Jason R. Dow, P. E.
General Manager

cc: Jack Govi, Assistant County Counsel

Marin County
Civil Grand Jury

October 3, 2007

Central Marin Sanitation Agency
1301 Andersen Drive
San Rafael, Ca 94913-4988

Re: **Incomplete Response** to Marin County Civil Grand Jury Report: *Retiree Health Care Costs: I Think I'm Gonna Be Sick*

The 2006-07 Marin County Civil Grand Jury sent you a letter in March, 2007 informing you of your requirement to respond to certain Findings and Recommendations contained in the report entitled *Retiree Health Care Costs: I Think I'm Gonna Be Sick,* dated March 19, 2007.

You are requested to respond in writing regarding the report pursuant to Penal Code Section 933.05 (another copy is enclosed). By law (Penal Code 933, which is also enclosed), you were obligated to respond by June 19, 2007, and we note that you did so. **However, you must attach timeframes for the implementation of Recommendations 3 and 4 (R3 and R4).**

Another response form is enclosed. You may view an electronic copy of the report on the Grand Jury website at: http://www.co.marin.ca.us/grandjury/ (click on 2006-07).

Please send one copy of your corrected response by October 17, 2007, to:

The Honorable Lynn Duryee
Marin County Superior Court
P.O. Box 4988
San Rafael, CA 94913-4988

Please send one copy of your corrected response by October 17, 2007, to:

Roberta Robinson, Foreperson
Marin County Civil Grand Jury
3501 Civic Center Drive, Room #303
San Rafael, CA 94913-4988

Responses are public records. The clerk of the public agency affected must maintain a copy of your response. Should you have any questions, please contact me at (415) 499-6132.

Sincerely,

Roberta Robinson

Roberta Robinson, Foreperson
2007-08 Marin County Civil Grand Jury

cc: Judge Lynn Duryee

Enclosures: Response to Grand Jury Report Form; California Penal Codes 933 and 933.05

CENTRAL MARIN SANITATION AGENCY

Jason R. Dow, P.E.
General Manager

1301 Andersen Drive, San Rafael, CA 94901 Telephone (415) 459-1455 Fax (415) 459-3971

May 9, 2007

The Honorable Lynn Duryee, Presiding Judge
Marin County Superior Court
P. O. Box 4988
San Rafael, CA 94913-4988

Ms. Karin J. Hern, Foreperson
Marin County Civil Grand Jury
3501 Civic Center Drive, Room 303
San Rafael, CA 94903

RE: Response from the Central Marin Sanitation Agency to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs.

Dear Presiding Judge Duryee and Ms. Hern:

Pursuant to Penal Code Sections 933 and 933.05, attached is the Central Marin Sanitation Agency's response to the Marin County Civil Grand Jury's Report – Retiree Health Care Costs.

The responses by the Agency's Board of Commissioner were conducted in accordance with Penal Code Section 933(c) and notice, agenda and open meeting requirements of the Ralph M. Brown Act. The transmittal of this response reflects the action taken by the Agency's Board of Commissioner at its scheduled meeting that took place on May 8, 2007.

Please contact me at (415) 459-1455 or at the above address should you have any questions about this matter.

Sincerely,

Jason R. Dow, P. E.
General Manager

Attachment

Overview
The Central Marin Sanitation Agency (CMSA) is a public agency formed under the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California. CMSA was established in 1979 under a joint powers agreement of the Sanitation District #1

RESPONSE TO GRAND JURY REPORT FORM

Report Title: **Retiree Health Care Costs: I Think I'm Gonna Be Sick**

Report Date: **March 19, 2007**

Response by: **Jason R. Dow, P. E.** **Title:** **General Manager**

BOARD: **Central Marin Sanitation Agency**

FINDINGS

- I (we) agree with the findings numbered: 1 through 9
- I (we) disagree wholly or partially with the findings numbered: 10

Attached is the Agency's response to Findings 1 through 10.

RECOMMENDATIONS

- Recommendations numbered _____ have been implemented.

  (Attach a summary describing the implemented actions.)

- Recommendations numbered 3, 4, 5, and 6 have not yet been implemented, but will be implemented in the future.

  Attached is the Agency's response to Recommendations 3 through 6.

- Recommendations numbered _____ require further analysis.

  (Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)

- Recommendations numbered _____ will not be implemented because they are not warranted or are not reasonable.

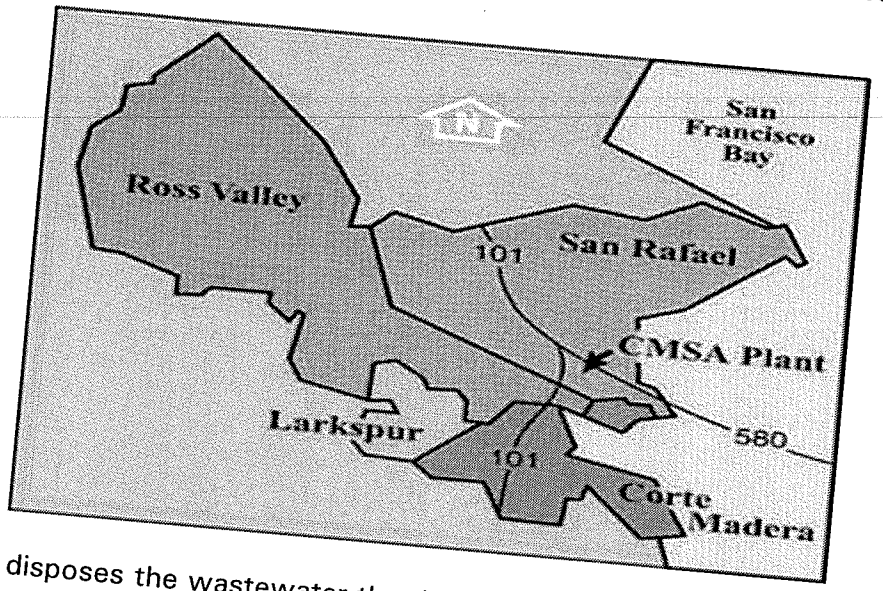
Date: 5/9/07 Signed: _____

Attachment

Central Marin Sanitation Agency's response to the Marin County Civil Grand Jury's Report: *Retiree Health Care Costs.*

Overview

The Central Marin Sanitation Agency (CMSA) is a public agency formed under the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California. CMSA was established in 1979 under a joint powers agreement of the Sanitation District #1 (Ross Valley Sanitation District) and Sanitation District #2 (City of Corte Madera) of Marin County, the City of Larkspur and the San Rafael Sanitation District. CMSA operates the largest of the six wastewater treatment facilities in Marin County and serves over 120,000 residents and businesses in the four member districts' service area as well as San Quentin State Prison.



CMSA treats and disposes the wastewater that is collected by the member districts and transported to the treatment plant. The treatment plan can process about 90 million gallons of wastewater per day during peak rainfall periods.

Response to the Findings of the Grand Jury Report

Finding 1: *Health care coverage is a valuable benefit to attract and retain employees.*

CMSA Response: The Agency concurs with this finding.

Finding 2: *Government entities generally pay more of their compensation in the form of benefits than the private sector.*

CMSA Response: The Agency neither concurs nor disagrees with this finding because there is no basis for comparison as it applies to Agency.

Finding 3: *Most government entities providing retiree health care and other non-pension retirement benefits must disclose the future and accrued cost of those benefits to the public within the next four years pursuant to GASB 45.*

CMSA Response: The Agency concurs with this finding. The Agency will be required to disclose the valuation of these benefits in its financial statements for the reporting period ending June 30, 2009.

Finding 4: *Government budgets and union negotiations will be affected by the implementation of GASB 45.*

CMSA Response: The Agency concurs with this finding.

Finding 5: *Unless legally determined otherwise, the issue of vesting for retiree health care benefits requires a fact-specific analysis.*

CMSA Response: The Agency concurs with this finding.

Finding 6: *Some government entities have not done the extensive research to determine if retiree health care benefits and the manner in which they are calculated are vested or can be changed or eliminated.*

CMSA Response: The Agency concurs with this finding.

Finding 7: *Public comments on vesting by government entities could result in creating a vested right when none previously existed.*

CMSA Response: The Agency concurs with this finding.

Finding 8: *Unless government employers prudently manage the liability for retiree health care benefits, they will be forced to cut services, reduce benefits, and/or raise taxes to satisfy credit agencies.*

CMSA Response: The Agency concurs with this finding.

Finding 9: *Financially weak government entities faced with staggering liabilities will be required to reduce benefits, raise taxes or reduce services. Failure to manage the liability could well result in bankruptcy for those government entities.*

CMSA Response: The Agency neither concurs nor disagrees with this finding. The Agency is not in the position to evaluate or comment on the financial management of other governmental entities.

Central Marin Sanitation Agency's response to the Marin County Civil Grand Jury's Report: *Retiree Health Care Costs.*

Finding 10: *The municipalities and special districts have not taken appropriate aggressive steps to understand and begin to comply with the requirements of GASB 45.*

CMSA Response: The Agency neither concurs nor disagrees with this finding. The Agency is not in the position to evaluate what steps other municipalities and special districts have taken to comply with GASB 45.

The Agency does plan to comply with GASB 45 by retaining an actuary to conduct a valuation report during Fiscal Year 2007-08. The Agency intends to include the value of its other post employment benefits on its financial statements for the period ending June 30, 2009. The Agency's financial statements will be in compliance with GASB 45 reporting requirements one year ahead of the required implementation date.

Finding 11: *Whether elected **or** appointed, public employees managing the retiree health care liability **may** also be eligible to receive the retiree health care benefits they manage. They are subject to a conflict of interest.*

CMSA Response: The Agency does not concur with this finding. The Agency's appointed Board of Commissioners are not eligible for retiree health benefits in their capacity as Commissioners. While it is accurate that the appointed management employees of the Agency are also eligible to receive the same level of retiree health benefits as other Agency employees, there is no evidence that management employees place their own interest before those of the Agency or all its employees when it comes to making decisions or recommendations to the CMSA Board that may impact the financial well-being of the Agency.

Findings 12 and 13 do not apply to the Agency and a response is not required.

Response to the Recommendations of the Grand Jury Report

Recommendations 1 and 2 do not apply to the Agency and a response is not required.

Recommendation 3: *All municipalities and special districts do extensive research on the facts and seek professional help to determine vesting issues. This should be done by the end of 2007.*

CMSA Response: This recommendation has not been implemented but will be implemented in the future. Given the complexity and ramifications of this issue, the Agency plans to let larger governmental entities take the lead in performing the legal analysis. Additionally, the Agency believes that it would be costly to undertake this legal analysis on its own and that its financial resources will better served towards preparing the actuarial analysis.

Central Marin Sanitation Agency's response to the Marin County Civil Grand Jury's Report: *Retiree Health Care Costs.*

Recommendation 4: *The county, all municipalities and the special districts offering health care benefits consult with professional advisers to state clearly in employee and public communications whether retiree health care benefits are vested and the extent to which they can be changed, modified or eliminated.*

CMSA Response: This recommendation has not been implemented but will be implemented in the future. This recommendation can be implemented once the issues surrounding vesting in Recommendation 3 have been addressed.

Recommendation 5: *Unless they are certain of the status of vesting for retiree health care benefits, no government entity should comment publicly on the question of vesting because doing so may create a vested right where none exists currently.*

CMSA Response: The Agency concurs with this recommendation. The implementation of this recommendation becomes effective with the CMSA Board's approval to transmit this response to the Marin County Civil Grand Jury pursuant to Penal Code Sections 933 and 933.05.

Recommendation 6: *The municipalities and special districts take immediate, aggressive steps to understand now the requirements of GASB 45 reporting and that these entities, including the county, begin using the information generated for GASB 45 in labor negotiations and in budgeting.*

CMSA Response: The Agency does plan to comply with GASB 45 by retaining an actuary to conduct a valuation report during Fiscal Year 2007-08. The Agency intends to include the value of its other post employment benefits on its financial statements for the period ending June 30, 2009. The Agency's financial statements will be in compliance with GASB 45 reporting requirements one year ahead of the required implementation date.

The Agency appreciates the concerns of the Grand Jury with respect to labor negotiations and budgeting and will take the recommendation to "begin using the information generated for GASB 45 in labor negotiations and in budgeting" under consideration.