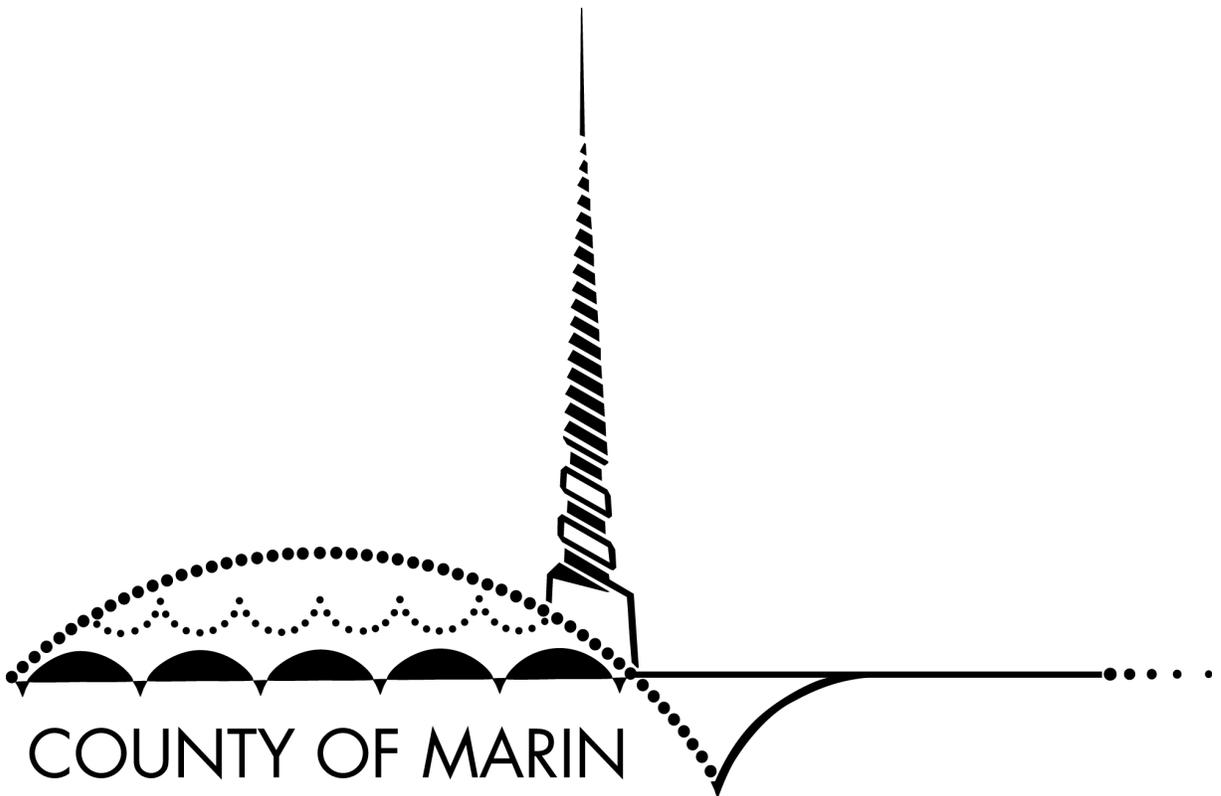
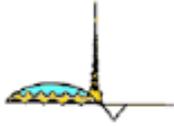


2013/2014 MARIN COUNTY CIVIL GRAND JURY

The Scoop on Marin County Sewer Systems: Part I

Report Date – June 10, 2014
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THE SCOOP ON MARIN COUNTY SEWER SYSTEMS: PART I

SUMMARY

The Marin County Civil Grand Jury determined that wastewater districts that collect, treat and dispose of wastewater from homes and businesses in Marin County received close to \$77M of tax and fee revenue in the fiscal year 2012-2013.¹ This represents approximately 58 percent of total tax and fee revenue going to independent special districts. In light of the amount of tax revenue going to wastewater special districts, the Grand Jury felt that this sector of special districts warranted some scrutiny.

In addition to special districts, we determined there are other government agencies operating in the wastewater business, including municipalities, park services and joint power authorities. In total, there are twenty-three wastewater agencies in Marin County, serving an estimated population of 258,000² people. That's a lot of agencies requiring oversight!

The Grand Jury conducted a survey of all wastewater agencies in Marin (except the park services), with the intention of shedding light on the operational, financial and governance aspects of these agencies. We also inquired about their experiences cooperating with each other and their views on consolidation. Additionally, we looked into the failed consolidation of four southern Marin sanitary districts in May 2013 and into the status of the Ross Valley Sanitary District (RVSD).

Due to the large amount of information gathered, we divided the report into two parts. Part I reports on the current state of affairs with wastewater agencies and is likely to be of greatest interest to taxpayers. It provides an agency overview, and it discusses aging infrastructure and asset management, sewer spills, duplications of costs, consolidation and the RVSD. Part II focuses exclusively on the data from the survey responses and attaches both the questionnaire and selected responses as appendices. The second report is potentially of greater interest to the wastewater community and the Marin Local Agency Formation Commission (LAFCO).

Marin County includes communities that were developed starting in the early 1900s. Many have aging sewer infrastructures that are susceptible to failure in wet weather, potentially resulting in health and environmental hazards, expensive repairs and fines.

¹ Marin County Tax Collector's Office report on Dependent/Independent Special Districts

² United States Census Bureau, State & County Quick Facts, Marin County, California, 2013 Estimate, <http://quickfacts.census.gov/qfd/states/06/06041.html>

In 2006 the State Water Resources Control Board (SWRCB) introduced legislation governing wastewater collection agencies that dramatically changed the operating environment and forced public agencies to take a critical look at their performance.

The last eight years have seen many improvements, but an alarming number of sewer spills continue to occur. According to the survey data, from 2011 to 2013 there were 96 reported Category 1 spills in Marin County. (A category 1 is a spill of any volume that reaches surface water and is considered to be the most serious spill category). A total volume of 688,548 gallons of wastewater spilled into neighborhoods, streams and the Bay in the same time period. In the last few years, the Novato Sanitary District and the RVSD have been charged fines amounting to \$1,839,100 for excessive sewer spill activity that occurred in previous years. For a County that prides itself on high environmental standards, Marin still has considerable room for improvement.

With the additional demand on financial and other resources created by a more rigorous regulatory environment, the issue of consolidation of agencies has been a hot topic in recent years. While there continues to be resistance to structural consolidation (two or more districts uniting into one district), as evidenced by the failed consolidation of four southern Marin wastewater districts in 2013, there is little or no resistance to functional consolidation (agencies working together in areas of mutual interest). We found that many districts are meeting and finding ways to cooperate for increased efficiency and effectiveness. Agencies are engaged in conversations and activities now that did not occur six years ago, and they recognize that there are additional opportunities for collaboration. We recommend that all agencies continue to pursue functional consolidation to reduce cost and increase value to taxpayers, as well as structural consolidation where possible.

Lastly, concerned by the ongoing problems at the Ross Valley Sanitary District, the Grand Jury interviewed management and a board member. We found that progress is being made in addressing the district challenges, but we believe that management and the board must remain vigilant in executing their financial plan and the capital improvement projects needed to stabilize the district. We suggest that the current situation merits ongoing attention from the Ross Valley taxpayers and future Grand Juries. In addition, the troubles of RVSD should serve as a reminder to all those serving on the boards of directors of special districts to keep informed, pay attention, and practice caution in exercising their responsibilities.

BACKGROUND

Regulation of wastewater treatment plants began in 1972 with the National Pollution Discharge Elimination System, a component of the Clean Water Act. The collection of wastewater from each home or business and transportation to a treatment plant, known as collection systems, was the last major component of wastewater management to be regulated. In 2006, the State Water Resources Control Board (SWRCB) adopted Statewide General Waste Discharge Requirements (WDRs) for Sanitary Sewer Systems

(Water Quality Order No. 2006-0003).³ The Order requires public agencies that own or operate sanitary sewer systems greater than one mile in length to develop and implement Sewer System Management Plans (SSMPs) and to report all Sanitary Sewer Overflows (SSOs) to the State Water Board's online SSO database.⁴ It also requires agencies to develop and implement an Overflow Emergency Response Plan that identifies actions to be taken in the case of a spill to protect public health and the environment.

The 2006 legislation significantly changed the regulatory landscape for wastewater agencies in California. It forced agencies to do the following:

- Monitor and report their performance more rigorously
- Assess the condition of their assets
- Develop capital improvement plans
- Raise money from their existing tax base to fund the necessary upgrades.

Upgrading the aging infrastructure in Marin is proving to be a difficult and expensive undertaking, particularly for the older agencies with older pipes. While there has been significant progress overall, there have been and continue to be sizable spills throughout the County. For example, based on our survey responses, the RVSD had spills totaling 161,000 gallons in 2013. Marin County emphasizes high environmental standards and quality of life; yet the performance of some of its wastewater agencies is not always in line with this goal.

During the last thirty years, there have been many discussions related to the consolidation of wastewater districts in Marin, with limited consolidation actually occurring. In 1993 the RVSD annexed the sewer activities of the City of Larkspur, and in 2005 Sanitary District #5 (Tiburon) annexed Belvedere. The Marin Local Agency Formation Commission (LAFCO) exists to discourage urban sprawl and to encourage the orderly formation and development of local government agencies. In May 2013, Marin LAFCO attempted to consolidate four of the agencies in southern Marin: Alto Sanitary District (Alto), Almonte Sanitary District (Almonte), Homestead Valley Sanitary District (Homestead Valley) and Richardson Bay Sanitary District (Richardson Bay). Although Marin LAFCO had the authority to force a consolidation under the provisions of California Government Code Section 56375.2,⁵ they chose not to use this power. The consolidation went to a public vote and failed to pass.

³ State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, May 2, 2006,

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2006/wqo/wqo2006_0003.pdf

⁴ State Water Resources Control Board, Sanitary Sewer Overflow (SSO) Incident Map,

http://www.waterboards.ca.gov/water_issues/programs/sso/sso_map/sso_pub.shtml

⁵ Originally introduced as AB 1232 of 2009, which added Section 56375.2 to the California Government Code,

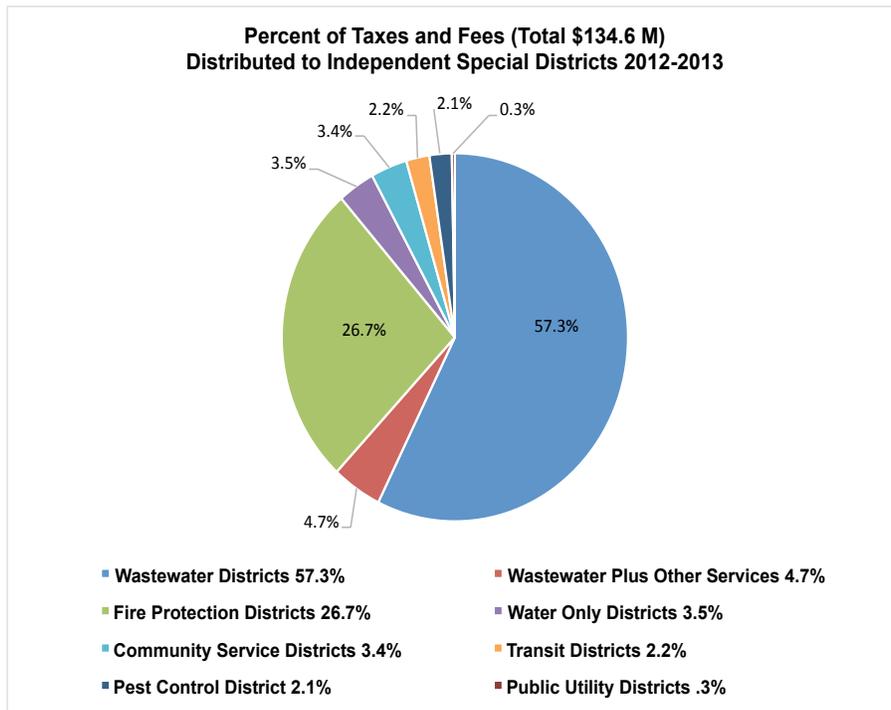
http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1201-1250/ab_1232_bill_20091011_chaptered.html,

<http://maplight.org/california/bill/2009-ab-1232/682334/history>

Local media has focused in recent years on the mismanagement of the RVSD that has led to the indictment and potential trial of the former district manager. Oversight of independent special districts, such as RVSD, is the responsibility of each board of directors elected by citizens. Not surprisingly, most citizens are not very interested in the sewer business except when it comes to a rate increase or when their service is failing. As a result, public attendance at board meetings is low, and wastewater agencies have a reputation for operating with a certain level of obscurity and impunity despite the magnitude of tax dollars they receive.

APPROACH

The Grand Jury determined that over half (approximately \$77M) of total basic property tax and fee revenue going to independent special districts in 2013 went to wastewater districts. Fee revenue comprises parcel taxes, sewer fees, refuse fees, and improvement and obligation bonds that all appear on property tax statements.



Data provided by Marin County Tax Collector October 2013

With so much tax money going to these districts, we decided to investigate the performance of wastewater agencies and report on the critical topics in the sector. As part of our approach:

- We reviewed the last five years of Marin County Civil Grand Jury reports related to local governance and wastewater districts.
- We reviewed agency websites and researched press coverage of the last few years.
- We determined the total number of wastewater agencies.

- We sent a comprehensive survey to 21 agencies covering questions on size and scope, operations, finances, governance and consolidation. (See Appendix A for list of agencies surveyed.)
- We interviewed 9 wastewater agency managers, 3 agency board members and representatives of the Marin LAFCO.
- We attended 5 wastewater agency board meetings and a Marin LAFCO strategy meeting.
- We toured a wastewater treatment plant.

DISCUSSION

In assessing how best to present all the information gathered, the Grand Jury decided to present it in two parts. This report, Part I, covers the issues that are likely to be of greatest interest to the general public. We obtained the information for this report from the survey responses, website research, agency interviews and attendance at agency board meetings. Specifically, this discussion will cover these subjects:

- Agency Overview
- Aging Infrastructure and Asset Management
- Sanitary Sewer Overflows – Spills
- Recycled Treated Wastewater
- Duplication of Costs and Activities
- Consolidation
- Ross Valley Sanitary District

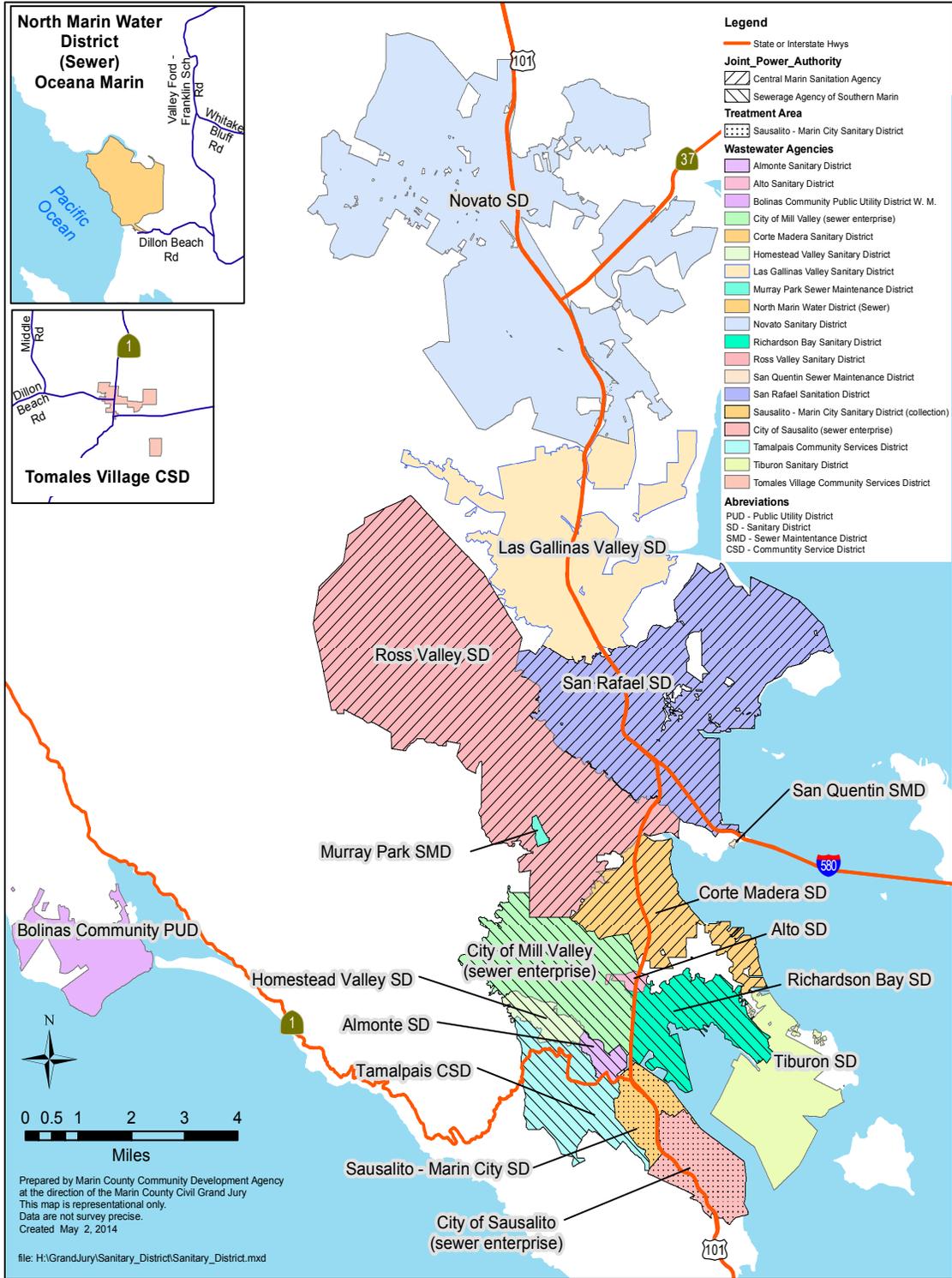
Part II of this report focuses on the survey responses, particularly in regards to operations, finances and governance. We attached the survey questionnaire and quantitative survey responses to Part II.

Agency Overview

The map on page 6 shows the location of wastewater agencies in Marin. In central and southern Marin, numerous smaller agencies provide collection services only. The smallest of these is the San Quentin Sewer Maintenance District, serving only 45 dwelling units. Most of the collection-only agencies are members of a Joint Power Authority (JPA) established to provide wastewater treatment service and governed by the member agencies. The JPAs are the Central Marin Sanitation Agency, serving the collection agencies of central Marin, and the Sewerage Agency of Southern Marin, serving the collection agencies of southern Marin. They are depicted on the map by hatched lines.

In the northern, more recently developed areas of Marin, there are larger agencies that collect, treat and dispose of wastewater. The largest district, Novato Sanitary District serves 56,000 people. In total, there are 17 special districts, 2 municipalities, 2 JPAs, the National Park Service and the California State Park Service providing wastewater services to a population of 256,000 in an area just over 100 square miles.

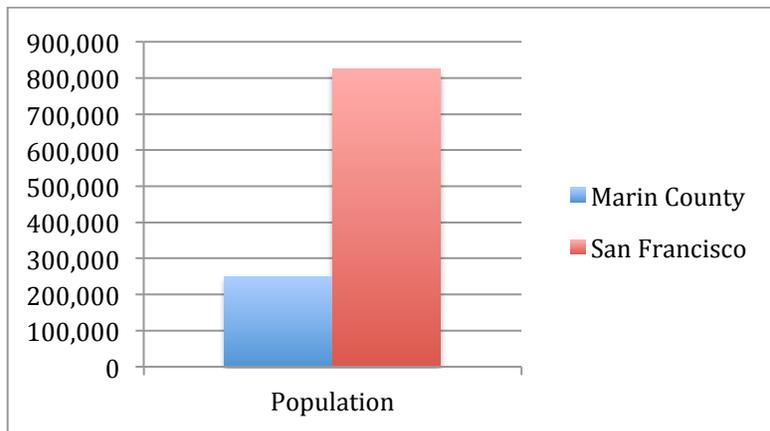
Marin County Wastewater Agencies



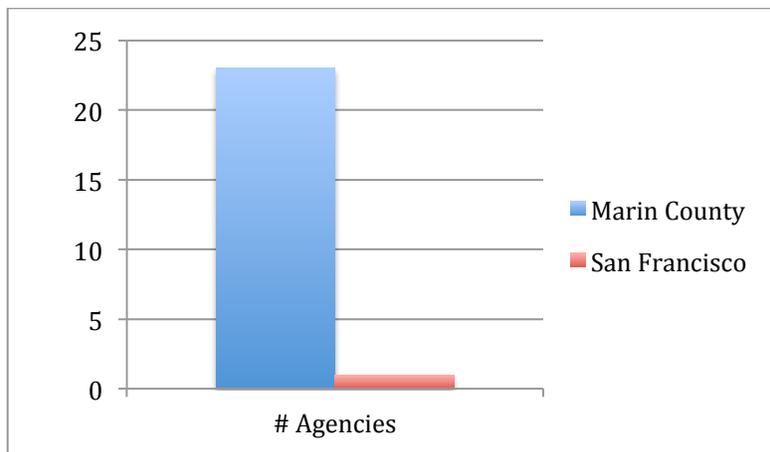
Recognizing that Marin County has a large number of wastewater agencies, the Grand Jury compared the number in our County with that of the two neighboring counties, Sonoma and Napa. We found that Napa and Sonoma have 9-19 wastewater agencies each. The three counties have rural beginnings where small communities, often geographically isolated from one another, each developed their own wastewater systems depending upon local terrain and the needs of their communities. These small wastewater districts still retain their local identities.

By contrast, the San Francisco Public Utilities Commission is the sole agency providing sewer sanitation services to the City of San Francisco, with an estimated population of 826,000⁶ in an area of 47 square miles. The following charts serve to emphasize that Marin has many agencies serving few people.

Population of Marin County and San Francisco



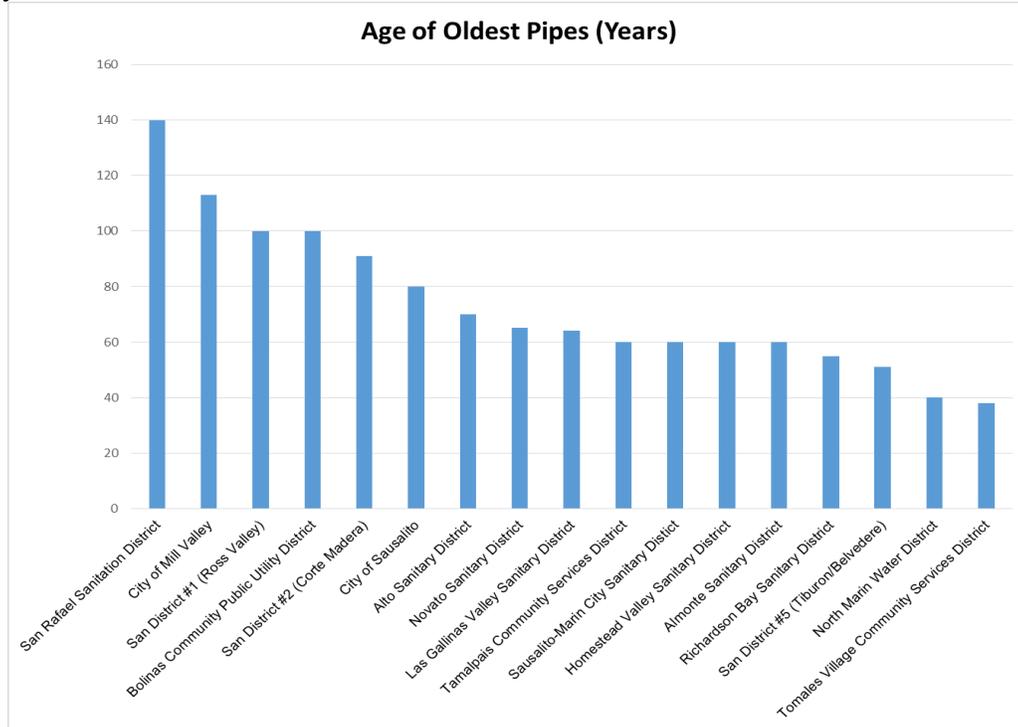
Number of Wastewater Agencies in Marin County and San Francisco



⁶ United States Census Bureau, State & County Quick Facts, San Francisco (city), California, Population, 2012 estimate, <http://quickfacts.census.gov/qfd/states/06/0667000.html>

Aging Infrastructure and Asset Management

There are approximately 950 miles of sewer system pipes across Marin, not including private laterals, which are pipes connecting homes and businesses to main sewer lines. As seen in the chart below there is a wide range in the age of the oldest pipes in each agency.



Data provided by the responses to the Marin County Civil Grand Jury Sanitation Agencies Survey. Murray Park Sewer Maintenance District and San Quentin Sewer Maintenance District did not report data.

With the life expectancy of sewer lines being 80 years (as reported by several agencies), potentially hundreds of miles of pipe need to be repaired or replaced in order to reduce wet weather inflow and sewer overflows. As pipes are underground and continually subject to damage from earth movement, tree root intrusion, and decay, this is an ongoing challenge. Televising the lines and evaluating the pipe conditions constitute a continuous process for most agencies.



Photo showing broken sewer pipe- Google image courtesy of Rick Adams

While the 2006 legislation forced agencies to focus on updating their infrastructure, the amount of aging infrastructure across the County is significant. Historically, sewer pipes in the County have been largely neglected, and now substantial expenditures must be made to catch up. Several of the district managers interviewed stated that Marin is 20 to 30 years behind other counties in the Bay Area with regard to upgrading sewer pipes and other infrastructure. All agencies except two reported that minimizing and managing sewer overflows is their top priority.

Most of the urbanized areas in central and southern Marin County are built out and have limited future development potential. As a result, financing of future capital improvement investments in infrastructure will be borne largely by existing tax and ratepayers. Annual household rates in Marin vary from \$246 (Richardson Bay) to \$1,928 (per Equivalent Dwelling Unit in Belvedere). However, this is not an apples-to-apples comparison, and comparing rates across wastewater agencies is misleading due to the uneven distribution of basic taxes that partially fund wastewater activities. Some districts have recently approved rate increases, and others are in the process of evaluating new rate structures. For example, the City of Sausalito and the RVSD have recently proposed 5-year rate increase plans.

Some district managers are concerned about the potentially large rate increases and the equity of those increases. Should the owners of a one-bedroom cottage with modest water usage pay the same as the owners of a six-bedroom home with much larger water demands? Can homeowners pay according to the amount of wastewater generated? We learned in the interviews that wastewater agencies have a large percentage of fixed costs (approximately 80 percent), and usage billing incurs the risk of not meeting necessary revenue targets to cover fixed costs. However, this could potentially be mitigated by a combination of fixed and volumetric charges, whereby larger consumers pay more. The City of Sausalito completed a rate study (February 27, 2014) and adopted a resolution in March 2014 whereby their rates will be increased over a 5-year period and a volumetric charge, based on annualized winter water consumption, will be incorporated into the base rate. The approach taken by this study could be considered by other agencies looking at rate increases and how to incorporate a usage element.

Private Laterals

The issue of private laterals (the privately owned portion of the sewer system that connects a home or business with the main line in the street) that have deteriorated and need replacement is equally pressing. Several district managers reported that this issue is as serious as the deteriorating pipe network owned by the collection agencies. Many agencies have developed financing and grant programs to assist homeowners wanting to repair or replace their sewer lateral. However, the issue of undetected problems and homeowners unwilling to upgrade their laterals persists. The City of Sausalito has a Sewer Ordinance that requires the inspection of a home's private lateral when there is a remodel or a proposed sale. The member agencies of Sewerage Agency of Southern Marin are currently working on creating a similar uniform ordinance for their agencies. In light of the reported problems with sewer laterals, the Grand Jury believes that it is in the

interests of the whole County for all agencies to adopt such an ordinance. We encourage other agencies to work together on a model ordinance that could be adapted for specific districts.

Sanitary Sewer Overflows - Spills

In 2013 the SWRCB adopted a revised Monitoring and Reporting Program that establishes monitoring, record keeping, reporting and public notification requirements for sanitary sewer overflows (spills). The SWRCB has three categories for spills, the worst being a category 1, which involves a spill of any volume that reaches surface water or a drainage channel tributary leading to surface water. (See Glossary for other Category definitions.) In 2013 there were 36 category 1 spills in Marin. An agency experiencing a category 1 spill of 1,000 gallons or more must now notify the California Office of Emergency Services within two hours of becoming aware of the spill.⁷



Photo of a Sanitary Sewer Manhole Overflowing⁸

Most wastewater agencies undertake routine pipe maintenance on a three to five year revolving basis. Despite this routine maintenance and the work done to upgrade old pipes, spills are still occurring. During wet winter months there can be a significant increase in rainwater infiltration and inflow through cracked pipes. The higher flow volumes present capacity and cost challenges for the treatment plants, which in some cases have to treat up to ten times the amount of dry weather flow. Keeping pipes clear of fats, oils, grease (FOG) and other debris helps to reduce the risk spills. District managers we interviewed agree that it is unlikely spills will ever be completely eradicated. We were told there was a perception that, since Marin is a semi-rural area, spills did not matter as much as they would in an urban environment. In fact, the reality is that most districts in Marin are adjacent to bodies of water; we therefore have a greater challenge and responsibility to prevent spills and protect our environment.

⁷ State of California Water Resources Control Board Order No. WQ 2013-0058-EXEC, Amending Monitoring and Reporting Program for Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, August 6, 2013, http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2013/wqo2013_0058exec.pdf

⁸ City of Raleigh, Sanitary Sewer Overflows, What You should Know! October 18, 2013, photograph, <http://www.raleighnc.gov/environment/content/PubUtilAdmin/Articles/SanitarySewerOverflows.html>

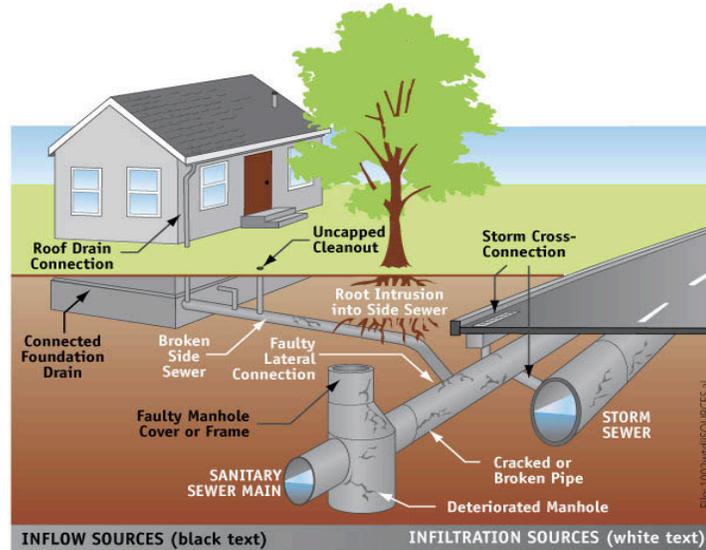


Diagram showing sewer connections and potential for inflow and infiltration⁹

The Ross Valley Sanitary District continues to have considerably higher numbers and quantities of spills than any other district. In 2011-2013, its total spill volume was 367,880 gallons, over three times more than the next highest spill total— City of Sausalito at 102,788 gallons. The Grand Jury recognizes that the accuracy of spill reports is somewhat subjective due to the inaccuracies of measuring spill flow, timing and accessibility of spill locations.

In 2012 and 2013, the San Francisco Bay Regional Water Quality Control Board (RWQCB) fined the Ross Valley Sanitary District and the Novato Sanitary District for spills related to previous years - \$1,539,100 and \$300,000 respectively. It was explained to the Grand Jury that RWQCB calculates the fine using a combination of factors including the volume of the spill and the impact to a water body. A typical fine ranges from \$0.30 to \$0.60 per gallon of spilled sewer. Paying fines reduces the amount of funds available for remediating infrastructure problems. Ultimately, the taxpayers are the ones paying the fines. As a community, we need to work harder at preventing spills.

Recycled Treated Wastewater

During the course of our work, the Grand Jury learned that the Central Marin Sanitation Agency (CMSA) is currently in the permitting process for using treated (recycled) water off site. Applications for treated water include dust control and sewer pipe flushing/maintenance. After CMSA receives the permit, the San Rafael Sanitation District hopes to use CMSA treated water for pipe flushing rather than using Marin Municipal Water District (MMWD) potable water. In a drought period, this is an important water conservation step for Marin. The Grand Jury recommends that all agencies consider using recycled treated water for pipe flushing.

⁹ King County, Washington, Department of Natural Resources and Parks, Wastewater Treatment Division, Regional Infiltration and Inflow Control Program, <http://www.kingcounty.gov/environment/wastewater/II.aspx>

Duplication of Costs and Activities

With so many wastewater agencies serving Marin, the question of duplication of administrative costs and activities arises. While each agency may have some unique characteristics, five district managers interviewed confirmed that a lot of time and money are spent doing the same things in different agencies. Some examples (from the survey responses and interviews) of duplicated costs related to management and administration include these:

- District managers' salaries and benefits: The total amount spent in fiscal year 2012-2013 for district managers' salaries and benefits (excluding pensions) in all agencies was close to \$2.4M.
- Board member expenses: The 109 board members serving on wastewater agencies received approximately \$250,000 in compensation last fiscal year.
- Board member time: Assuming each board member attends a two hour meeting once per month, they collectively spend close to 2,600 hours per year at board meetings.
- Legal Fees: The total amount of legal fees spent in the two years from July 2011 to June 2013 by all agencies was approximately \$2.9M. Some smaller agencies use County Counsel, but most hire outside law firms and often use more than one firm. Some district managers interviewed commented that their boards require legal counsel to be present at all board meetings and seek legal advice on almost every issue. Costs are also escalating due to union negotiations.
- Cost of SSMP: Each Agency is required to produce a Sanitary Sewer Management Plan (SSMP) and keep it current. Hiring a consultant to produce a plan can cost \$30,000-\$50,000. All agencies, regardless of the population size served, are required to conduct an internal audit of the SSMP every two years.¹⁰
- Insurance Coverage: Agencies are each paying \$25,000-\$150,000 per year for insurance coverage related to sewer system back-ups, spills, workers' compensation and other liabilities.

Other examples of duplicated activities include creating personnel policies and procedures, Memoranda of Understanding with employees, compliance with the Public Records Act, and compliance with State and regional reporting requirements.

Consolidation

With so many wastewater agencies serving relatively few people, the issue of consolidation has been a topic of conversation for many years among the central and southern Marin agencies. The Grand Jury interviewed district managers and board

¹⁰ Letter from San Francisco Bay Regional Water Quality Control Board dated October 3, 2102, subject "Discontinuation of Requirements for Annual Reports of Sanitary Sewer Overflows (SSOs), and annual Sewer System Management Plan (SSMP) Audits"

members and found there is a range of opinions on consolidation from “it needs to happen” to “everything works fine as it is.” Those who favor consolidation feel that the potential benefits are:

- Better management and governance
- Improved regional planning
- Improved ability to comply with federal and state regulatory requirements
- Administrative cost savings from having one manager, one administration, one Board and improving efficiencies in organization management
- Better customer service

Those against consolidation focus on the potential challenges:

- A potential loss of local control and knowledge
- Small districts could be overruled by a larger district and the interests of all citizens may not be represented equally
- Finances: how to handle different sewer rates and the protection of previously collected reserve funds
- Different asset conditions and capital investment levels among the districts
- Resolution of employee status (pay, retirement plans, benefits, etc.)
- Board consolidation
- The variety of topography in Marin and geographical specificity of each district

Through our interviews we learned that district managers see two approaches to consolidation: structural and functional. Structural consolidation is the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. Functional consolidation involves two or more districts working jointly on specific functions or activities that allow for greater efficiencies and cost savings. While most, but not all, agencies interviewed are not interested in pursuing structural consolidation, all of them are cooperating with other agencies and are effectively engaged in functional consolidation to some extent.

Functional Consolidation

While structural consolidation is viewed as a politically charged topic, functional consolidation can offer potential solutions to challenges presented by so many agencies operating in a small area while maintaining the local control that some residents value. Here are examples of functional consolidation activities:

- Equipment sharing
- Fleet management
- Joint education programs
- Joint safety programs
- Administrative work, including:
 - Human resource services
 - Back office functions
 - State reporting and public records

We also found that there are opportunities for managers to meet and discuss issues of common interest. For example, the Marin Association of Sanitation Systems (MASS) is a monthly forum for the districts involved in wastewater treatment. Additionally, the central Marin agencies that are part of CMSA have their own meetings. All managers interviewed confirmed that the meetings are useful for information sharing and lead to solutions that involve agencies working together in areas of mutual interest. The Grand Jury recommends that all agencies continue to pursue avenues for functional consolidation.

Central Marin

Consolidation of the wastewater agencies in central Marin (CMSA, the RVSD, the San Rafael Sanitation District, Sanitary District #2) has been studied formally on three occasions since 1984. In 2007 the agencies took some early steps toward consolidation but then halted when the RVSD declined to proceed. In 2012 the RVSD commissioned a consultant to produce a consolidation report that addressed the economic benefit to each district in different consolidation scenarios.¹¹ (A draft report was found on the RVSD's website, but it does not reflect the information available in the final report. The final report is not available on the RVSD's website. *See* recommendation R7.) In order to maintain impartiality to each agency involved, the study did not remove any operating or administrative costs that are potentially duplicative. The final report concluded that for any consolidation to be equitable to the four agencies, additional cost efficiencies to the tune of \$1,000,000 would be required. According to one of the agencies, by creating an optimized organizational structure, those savings (salary, benefits, board fees) and possibly more could be realized. The Grand Jury recommends that the central Marin agencies take the findings of this report and explore options for further functional consolidation and potential structural consolidation.

Southern Marin – SASM and its Member Agencies

Special provisions of the California Government Code Section 56375.2¹² provide the ability for Marin LAFCO to force the consolidation of the 6 member districts and SASM into one agency. In 2013, Marin LAFCO pushed for the consolidation of 4 districts in southern Marin (Alto, Homestead Valley, Almonte and Richardson Bay) but did not use its authority to enforce the consolidation. Ultimately, the consolidation was put to a special vote, Measure C. One district with less than 50 percent support vote, irrespective of voter turnout, was sufficient to defeat the measure. The voter turnout was 38 percent of registered voters, and three districts voted no. In reviewing this failed consolidation, the Grand Jury was told by several representatives of the districts in question that the voters were not well informed about the advantages of the consolidation or the ultimate goal. Marin LAFCO admits the process could have been handled better.

¹¹ StepWise Utility Advisors, LLC, *Final Report, The Economic Costs and Benefits of Four Potential Consolidation Scenarios Involving Sanitary District No.1 of Marin County, Sanitary District No.2 of Marin County, The Central Marin Sanitation Agency, and the San Rafael Sanitation District*, July 2, 2012,

http://rvsd.org/Portals/0/Documents/pdfs/Exec_Summary_Marin_Consolidation_FINAL.pdf

¹² Originally introduced as AB 1232 of 2009, which added Section 56375.2 to the California Government Code, http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1201-1250/ab_1232_bill_20091011_chaptered.html, <http://maplight.org/california/bill/2009-ab-1232/682334/history>

Alto, Homestead Valley and Almonte together serve just over 5,100 residents. In light of the failed consolidation, the Grand Jury wanted to understand these districts better and how they are positioning themselves to meet the ongoing challenges of the regulatory environment. We found:

- All three have one part-time employee each.
- For many years, one district manager managed both Alto and Homestead Valley; however, he has recently retired from his position with Homestead Valley. The current manager of Almonte will also manage Homestead Valley.
- Through interviews and attending board meetings, we learned that the potential exists for all three districts to be managed by the same person.
- Three members of the Alto Board of Directors have been on the board for more than 20 years. Managers interviewed told us there is some institutional knowledge benefit to long-term service, but with this comes a reluctance to change.
- Alto does not have an office, nor a website presence, and board meetings are posted at Whole Foods in Mill Valley. The District's SSMP is available for viewing at Nute Engineering in San Rafael.
- Alto and Homestead Valley contract with Roto Rooter for emergency response to spills, but neither District has an Overflow Emergency Response Manual for Roto Rooter staff.
- Homestead Valley failed to report some spills for 2011-2013 that were caught by the new incoming manager and later reported to SWRCB.
- Sewerage Agency of Southern Marin is facing a major plant upgrade in the \$20-\$25 million range that will have to be financed by its member agencies through rate increases. Homestead Valley also needs to raise funds for its own capital improvements. The district will need to present rate increases that provide for both major projects.
- SASM member agencies are committed to cooperating where possible, and managers believe there is room for further cooperation. Currently, they are working on a joint project to create a model ordinance concerning private laterals.
- We learned at a board meeting that private laterals are a big problem, but "it's difficult for the part time manager of a district to keep up with lateral replacements."
- Alto, Homestead Valley and Almonte are discussing merger activities.

While the southern Marin agencies interviewed continue not to be interested in structural consolidation at this time, a "merging" of the smallest districts, as reported to us, might be workable. Additionally, all the districts in SASM could continue to find additional avenues for functional consolidation.

City of Sausalito/Sausalito-Marin City Sanitary district (SMCSD)

The Grand Jury met with management from the City of Sausalito and SMCSD. We learned that these agencies are currently on the path of functional consolidation and that they see further opportunities for combined efforts and improved efficiencies. Examples include sharing resources, pre-treatment of FOG, pollution prevention, sewer collection

cleaning, disposal of bio solids, information sharing, water quality monitoring, joint training, emergency coordination, and upgrades to the private sewer lateral ordinance. The City of Sausalito and SMCSO are in the process of crafting a new agreement between the two agencies that will formalize functional consolidation activities.

Ross Valley Sanitary District (RVSD)

The Ross Valley Sanitary District has experienced a number of difficult years. Recently, in June 2012, the district was assessed \$1,539,100 in fines for spills between January 1, 2008, and April 21, 2011. In July 2012 the former district manager resigned and fled the country. He was apprehended and is now in County Jail awaiting the outcome of charges against him. In October 2012 the District was audited by staff of the Regional Water Quality Control Board (RWQCB) and received a notice of violation that included failing to allocate adequate resources for the proper operation, maintenance and repair of its collection system. In May 2013, the RWQCB served a Cease and Desist Order on the District to cease and desist discharging waste in violation of State requirements. In the fall of 2013, there were more large spills. The Grand Jury interviewed management and a board member to assess how the district is addressing its challenges. We found that progress is being made and the following steps have been taken:

- A new district manager with experience in public sector utility management and engineering consulting was hired one year ago.
- The district is undertaking financial restructuring and adopting a 5-year plan that will incorporate asset management and investment. For many years insufficient attention was paid to deteriorating district assets.
- The district has prepared a capital improvement plan that totals \$57,000,000. This would provide for a vastly improved, stable system that should quantifiably reduce the amount of spills.
- It will be necessary to increase rates to provide partial financing for the above capital improvement plan. At a May 2014 meeting, the board approved a 5-year rate increase schedule.
- Management and the Board are focused on enhancing the system of financial controls.
- Management is paying attention to personnel planning to meet the district's needs further down the road. The Grand Jury found that the average cost per employee is 15 percent higher than in other wastewater agencies in Marin. From an April 2014 board meeting, the Grand Jury learned that there are challenges with the approach being taken regarding human resource management.
- A forthcoming election will fill three Board positions.

Management and the Board will need to be vigilant in implementing the financial plan and capital improvements projects to stabilize the district. We feel that the current situation merits ongoing attention from Ross Valley taxpayers and future Grand Juries.

FINDINGS

The Grand Jury found:

- F1. A significant portion, representing 57 percent (\$77M), of the total tax and fee revenue going to independent special districts in Marin County in fiscal year 2012-2013 went to wastewater special districts.
- F2. Despite the stated priority that agencies have towards minimizing sanitary sewer overflows, Marin County still experiences an unacceptable level of overflows. During the period 2011-2013 a volume reported as 688,548 gallons of wastewater spilled into neighborhoods, streams and the Bay.
- F3. Taxpayers ultimately bear the burden of fines resulting from excessive sewer spill activity, which in the period 2011-2013 amounted to \$1,839,100.
- F4. The City of Sausalito's rate study dated February 27, 2014, presents a combination of fixed and variable fees to meet capital improvement projects and create greater equity among ratepayers.
- F5. The member agencies of Sewerage Agency of Southern Marin are addressing the critical problem of spills from private laterals by working on a model ordinance with triggers that will require private laterals to be inspected and repaired at the time of sale or remodels above a certain dollar amount.
- F6. CMSA is in the process of obtaining a permit to allow the use of treated wastewater for off-site purposes, such as sewer pipe flushing and maintenance. The water could be available to its member agencies and potentially other agencies, offering an important water conservation opportunity during a drought time.
- F7. The Final Report of the Ross Valley Sanitary District's July 2012 consolidation study is not posted on RVSD's website and therefore not easily accessible to the public.
- F8. The Final Report of the Ross Valley Sanitary District's July 2012 consolidation study states that for any consolidation to be equitable to the four central Marin agencies, additional cost efficiencies to the tune of \$1,000,000 would be required. This could represent significant savings to the taxpayers of Marin.
- F9. There are many costs that are duplicated among wastewater agencies, particularly with regards to management, administration, overhead and governance.
- F10. Alto, Almonte and Homestead Valley are merging some personnel and administrative functions and considering merging additional activities, potentially resulting in a more effective management approach for these very small agencies.
- F11. The City of Sausalito and Marin City-Sausalito Sanitation District are pursuing functional consolidation that could lead to improved practices, greater efficiencies and cost-savings.

F12. Districts are working together across the County, demonstrating an increasing level of commitment to cooperation and resource sharing. Most districts agree that there is potential for greater collaboration and cost reduction.

RECOMMENDATIONS

The Grand Jury recommends:

- R1. All districts must work to eliminate spills, through in-depth analysis and investment in infrastructure.
- R2. The City of Sausalito share its rate study dated February 27, 2014, with all the collection agencies in Marin.
- R3. All agencies adopt an ordinance that will require private laterals to be inspected routinely and repaired as necessary.
- R4. All agencies conduct an analysis to determine the feasibility of using treated waste water for flushing pipes in routine maintenance work.
- R5. All agencies continue to cooperate with each other and find further ways to reduce costs.
- R6. Alto, Almonte and Homestead Valley pursue further merging of operations and administration, including creating one website for the three districts.
- R7. The Ross Valley Sanitary District place the July 2012 consolidation study final report on its website and have it be easily accessible to the public.
- R8. The central Marin agencies continue to pursue consolidation efforts, both functional and structural.

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the President of the Board of Directors of the following agencies:

- Almonte Sanitary District (F5, F9, F10, F12, R1, R3, R4, R5, R6)
- Alto Sanitary District (F5, F9, F10, F12, R1, R3, R4, R5, R6)
- Bolinas Community Public Utility District (F9, F12, R1, R3, R4, R5)
- Central Marin Sanitation Agency (F6, F8, F9, F12, R1, R3, R4, R5, R8)
- Homestead Valley Sanitary District (F5, F9, F10, F12, R1, R3, R4, R5, R6)
- Las Gallinas Valley Sanitary District (F9, F12, R1, R3, R4, R5)
- North Marin Waster District (F9, F12, R1, R3, R4, R5)
- Novato Sanitary District (F3, F9, F12, R1, R3, R4, R5)
- Richardson Bay Sanitary District (F5, F9, F12, R1, R3, R4, R5, R6)

- San Rafael Sanitation District (F6, F8, F9, F12, R1, R3, R4, R5, R8)
- Sanitary District #1 (Ross Valley) (F3, F6, F7, F8, F9, F12, R1, R3, R4, R5, R7, R8)
- Sanitary District #2 (Corte Madera) (F6, F8, F9, F12, R1, R3, R4, R5, R8)
- Sanitary District #5 (Tiburon) (F9, F12, R1, R3, R4, R5)
- Sausalito Marin City Sanitary District (F9, F11, F12, R1, R3, R4, R5)
- Sewerage Agency of Southern Marin (F5, F9, F12, R1, R3, R4, R5)
- Tamalpais Community Services District (F5, F9, F12, R1, R3, R4, R5)
- Tomales Village Community Services District (F9, F12, R1, R3, R4, R5)

From the Marin County Board of Supervisors for the following agencies:

- Murray Park Sewer Maintenance District (F9, F12, R1, R3, R4, R5)
- San Quentin Sewer Maintenance District (F9, F12, R1, R3, R4, R5)

From the City Council of the following municipalities:

- City of Mill Valley (F5, F9, F12, R1, R3, R4, R5)
- City of Sausalito (F4, F9, F11, F12, R1, R2, R3, R4, R5)

The governing bodies 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.

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Please Note: Some of the links listed in the footnotes and bibliography may not be active and might require copying the information into a search engine. At the time this report was prepared, the information was available at the sites listed.

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 Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

GLOSSARY

Agency – Term used to describe a governing organization, including but not limited to Cities, Joint Power Authorities, Special Districts.

Capital Improvement Plan – A document that defines the scope, schedule, and costs of infrastructure improvements.

Community Service District – A type of Special District that provides multi-function services to a specific community.

Equivalent Dwelling Unit (EDU) – A service unit measured in relation to the characteristics of the average daily discharge produced by a typical single dwelling unit.

Infiltration – Extraneous water that enters the sewer system over long periods of time (e.g., groundwater seepage.)

Inflow – Extraneous water that enters the sewer system as the direct result of rain or a high water table.

Joint Powers Authority (JPA) – A type of Special District that is formed when two or more agencies agree to create another legal entity, establish a joint approach to work on a common problem, or act as the representative body for a specific activity.

Local Area Formation Commission (LAFCO) – This State entity reviews/approves incorporations, annexations, and consolidations of cities and Special Districts; determines city and Special District spheres of influence; and conducts studies of existing governmental agencies.

Lateral – The portion of the sewer system that connects a home or business with the main line in the street. Laterals are often privately owned. Sometimes sewer system agencies own or maintain a portion of the lateral.

Overflow Emergency Response Plan – A written plan that establishes proper cleanup procedures and safety measures to be followed during sewage spill and remediation efforts.

Public Utility District – A special purpose district that provides public utilities (e.g., electricity, natural gas, sewage treatment, waste collection/management, water, etc.) to the residents of that district.

San Francisco Bay Regional Water Quality Control Board (RWQCB) – This is one of nine Regional Water Quality Control Boards in the State of California. It is responsible for protecting the surface, ground and coastal water of the Bay Area.

Sanitary Sewer Overflow (SSO) – A spill, release, or unauthorized discharge of wastewater from a sanitary sewer system at any point upstream of a wastewater treatment facility that is caused by a problem in or with sewer system authorities' sewer lines, including laterals owned by the authorities.

SSO Category 1 – A spill of any volume that reaches surface water

SSO Category 2 – A spill of greater than or equal to 1,000 gallons that does not reach surface water.

SSO Category 3 – A spill of less than 1,000 gallons that does not reach surface water.

Sewer Collection – The collection of wastewater from homes and businesses through a network of pipes that transport the effluent to a sewage treatment facility.

Sewer Treatment – The process of removing contaminants from wastewater that includes physical, chemical, and biological processes to remove contaminants and render the water suitable for disposal.

Sewer Disposal – The disposal of treated wastewater into San Francisco Bay.

Sewer System Management Plan (SSMP) – The document that describes the activities that a wastewater agency uses to manage wastewater collection effectively. The requirements for the Plan are defined in the State Water Resources Control Board Water Quality Order No. 2006-0003.

Special District – A separate local government that delivers a limited number of public services to a geographically limited area

State Water Resources Control Board (SWRCB) – SWRCB is one of the five branches of the California Environmental Protection Agency and coordinates the State’s nine Regional Water Quality Control Boards. Its mission is to oversee the allocation of California’s water resources, and safeguard the cleanliness and purity of those resources.

Wastewater – All water used in homes, businesses and institutions that goes into the sewage system.

APPENDIX A – LIST OF WASTEWATER AGENCIES SURVEYED

- Almonte Sanitary District (Almonte)
- Alto Sanitary District (Alto)
- Bolinas Community Public Utility District
- Central Marin Sanitation Agency (CMSA)
- City of Mill Valley (Mill Valley)
- City of Sausalito (Sausalito)
- Homestead Valley Sanitary District (Homestead Valley)
- Las Gallinas Valley Sanitary District
- Murray Park Sewer Maintenance District
- North Marin Water District
- Novato Sanitary District
- Richardson Bay Sanitary District (Richardson Bay)
- San Quentin Sewer Maintenance District
- San Rafael Sanitation District (San Rafael)
- Sanitary District #1 (Ross Valley) (RVSD)
- Sanitary District #2 (Corte Madera)
- Sanitary District #5 (Tiburon)
- Sausalito Marin City Sanitary District
- Sewerage Agency of Southern Marin (SASM)
- Tamalpais Community Services District
- Tomales Village Community Services District