



**Marin Chapter  
California Civil Grand Jurors' Association**

January 6, 2015

City of Sausalito  
Attention: Mr. R. M. Withy  
Mayor  
420 Litho Street  
Sausalito  
CA 94965

Dear Mr. Withy,

Re: The Scoop on Marin County Sewer Systems, Parts I and II

I am writing to you as a member of the Implementation Review Committee of the Marin Chapter of the California Civil Grand Jurors' Association. Our Association's goals are to support the civil grand jury system and promote local government accountability. Our Chapter is composed of former Marin County Civil Grand Jurors. One of the tasks of the Implementation Review Committee is to follow-up on responses to prior Grand Jury recommendations to ascertain the status of their implementation.

Specifically, we are following up on recommendation responses presented in your September 10 2014 letter concerning the Marin County Civil Grand Jury's June 16, 2014 reports, titled "**The Scoop on Marin County Sewer Systems, Parts I and II**". The recommendations and your responses are attached in Exhibit 1. For your ease of reference, we have also attached Exhibit II - Penal Code Section 933.05, which governs the requirements for responses to grand jury reports.

**Part I**

The City of Sausalito responses to Recommendations 1, 4 and 5 are legally inadequate because it is stated that the recommendations have been implemented, however there is no summary of the implemented actions as outlined by the Penal Code. Please provide summaries of implemented actions for these recommendations.

**Part II**

The City of Sausalito's response to Recommendation 9 is legally inadequate because it is not stated if the recommendation has been implemented, has not yet been implemented but will be implemented in the future (with a timeframe for implementation), will not be implemented or requires further analysis. Please advise the status of this recommendation.

I will call in the middle of January to answer any questions that you may have regarding this request. Please send your reply by January 31, 2015, electronically, to the undersigned, Helene Marsh, at [marsh.helene@gmail.com](mailto:marsh.helene@gmail.com). We appreciate your cooperation.

Sincerely yours,

Helene Marsh  
Member of the Implementation Review Committee  
Director, Marin Chapter of the California Grand Jurors' Association  
Tel: 415-300-7233  
[marsh.helene@gmail.com](mailto:marsh.helene@gmail.com)



**Marin Chapter  
California Civil Grand Jurors' Association**

**EXHIBIT 1**

**Recommendations and Responses**

**“The Scoop on Marin County Sewer Systems, Parts I and II”, June 16, 2014**

(partial list only)

**PART I**

- R1. Recommendation R1:** All districts must work to eliminate spills, through in-depth analysis and investment in infrastructure  
**Response:** The Mayor and City Council of the City of Sausalito agree with Recommendation R1.
- R4. Recommendation 4:** All agencies conduct an analysis to determine the feasibility of using treated wastewater for flushing pipes in routine maintenance work.  
**Response:** The Mayor and City Council of the City of Sausalito agree with the objective of Recommendation R4. Should tertiary wastewater become economically available to the City of Sausalito and the relevant regulatory agencies permit it, the City of Sausalito would reduce or eliminate the use of potable water for sewer maintenance and other purposes.
- R5. Recommendation 5:** All agencies continue to cooperate with each other and find further ways to reduce costs.  
**Response:** The Mayor and City Council of the City of Sausalito agree with Recommendation R5.

**PART II**

- R9. Recommendation 9:** The board members at Almonte, Sanitation District #2, San Rafael and Sausalito update their ethics training to be in compliance with state law.  
**Response:** The Mayor and City Council of the City of Sausalito agree with Recommendation R9.



**Marin Chapter  
California Civil Grand Jurors' Association  
EXHIBIT II**

**Penal Code Section 933.05**

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following: (1) The respondent agrees with the finding. (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision

(b) Of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action. (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation. (3) The recommendation requires further analysis, with 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 head 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. (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.



# CITY OF SAUSALITO

420 Litho Street • Sausalito, CA 94965  
Telephone: (415) 289-4100  
www.ci.sausalito.ca.us

## Via Electronic Message and US Mail

April 24, 2015

The Honorable Faye D'Opal  
Presiding Judge  
**Marin County Civil Grand Jury**  
3501 Civic Center Drive, Room 275  
San Rafael, California 94903-4257

**Subject: Implementation Status**  
**City of Sausalito's Responses to Recommendations R1, R4, R5 and R9**  
***The Scoop on Marin County Sewer Systems: Parts I and II***  
**Marin County Civil Grand Jury, Report Date – June 10, 2014,**  
**Public Release Date – June 16, 2014**  
**In compliance with California Penal Code, Section 933 (c), and the**  
**Ralph M. Brown Act (California Government Code, Section 54950 et seq.)**

Dear Judge D'Opal:

I am honored to write to you as both the Mayor and as the designated representative of the City Council of the City of Sausalito regarding the implementation status of the City's subject responses to the 2013/2014 Marin County Civil Grand Jury Report (the "Report"). This letter responds to a letter dated January 6, 2015 from Ms. Helene Marsh, Member of the Implementation Review Committee and Director of the Marin Chapter of the California Grand Jurors' Association (copy attached) advising that additional documentation of implementation was required.

As you know, the Report is divided into two parts, I and II. The implementation status of the subject recommendations for each part as stated in the Report are provided below. In each such section, the responses are provided in indented, italicized paragraphs following a restatement of the relevant numbered finding or recommendation.

### **Recommendations Part I**

R1 -- All districts must work to eliminate spills, through in-depth analysis and investment in infrastructure

*The City of Sausalito's implementation of this recommendation is ongoing, with significant milestones occurring well before the June 16, 2014 Marin County Civil Grand Jury's reports, and significant milestones occurring in the course of the City's continued compliance with applicable or relevant and appropriate laws or regulations under which the sewer enterprise operates. Since 1991, the Municipal Code of the City of Sausalito ("SMC") has required that private sewer laterals be inspected when a building served by waste plumbing is remodeled or proposed for sale (see, for example, SMC § 18.12.100*

FAX NUMBERS:

Administration: (415) 289-4167  
Recreation: (415) 289-4189

Community Development: (415) 339-2256

Library: (415) 331-7943  
Public Works: (415) 289-4138

*(<http://www.codepublishing.com/ca/sausalito/html/sausalito18/Sausalito1812.html#18.12.100>) and the 2007 Administrative Interpretation of SMC § 18.12.100 (<http://www.ci.sausalito.ca.us/Modules/ShowDocument.aspx?documentid=3379>). Further, as the Grand Jury was advised by the City in its response to the Sanitation Agencies Survey completed March 31, 2014, the San Francisco Bay Regional Water Quality Control Board Letter, New Requirements for Reporting Sanitary Sewer Overflows, dated November 14, 2004, as well as the California State Water Resources Control Board ("State Board"), Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (Order No. 2006-0003-DWQ) issued May 2, 2006 and subsequently modified as to monitoring and reporting requirements by State Board Order No. 2008-0002-EXEC (the "2008 Modified State Order"), and Order no. WQ 2013-0058-EXEC, Amending Monitoring And Reporting Program For Statewide General Waste Discharge Requirements For Sanitary Sewer Systems (effective September 9, 2013) regulate the City's operation of its sewer operations. In addition, the City operates under United States Environmental Protection Agency ("EPA") Findings of Violation and Amended Order for Compliance (Docket No CWA-309(a)-08-031) dated November 24, 2008 (the "2008 Amended Order") issued to the City, Sausalito-Marín City Sanitary District ("SMCSD") and Tamalpais Community Services District ("TCSD"). This information was also provided by the City in its March 31, 2014 response to the Grand Jury's Sanitation Agencies Survey.*

*Among other actions taken by the City in compliance with the above-listed regulations and orders, the City Council of the City of Sausalito does, from time to time, adopt updated Sewer System Management Plans ("SSMPs"), the most recent of which was adopted with Resolution No. 5442 of February 11, 2014. Both the current SSMP (<http://www.ci.sausalito.ca.us/modules/showdocument.aspx?documentid=14935>) and Resolution No. 5442 (<http://www.ci.sausalito.ca.us/modules/showdocument.aspx?documentid=14919>) are available from the City's website as the Grand Jury was advised with the City's March 31, 2014 response to the Sanitation Agencies Survey. The SSMP contains several sections pertinent to the City's implementation of efforts to "eliminate spills, through in-depth analysis and investment in infrastructure." Specifically, the SSMP establishes the policies of the City regarding allocation of resources for system operations and maintenance, inspection and prioritization of both maintenance and capital replacement activities, provision of critical equipment, other resources and training to quickly and effectively mitigate the effects of spills, whether public or private, and ensure that the causes of spills are diagnosed and improvements made, whether public or private, to reduce or eliminate recurrence. In addition, the SSMP requires that the City measure the effectiveness of each of its SSMP elements and modify its programs as warranted to achieve the goals and objectives of the City's sanitary sewer operations as set forth in the SSMP:*

- *Properly manage, operate and maintain the collection system*
- *Provide capacity to convey base and peak flows*
- *Minimize the frequency and severity of sanitary sewer overflows ("SSOs") and private sewer lateral discharges ("PLSDs")*
- *Mitigate the impact of SSOs and PLSDs*

*With the adoption of Resolution No. 5406 during the course of its regularly-scheduled meeting of June 4, 2013, and based on Council goal-setting, strategic planning and priority calendar actions as expressed in the Fiscal Year 2012/13 Budget adopted in June 2012; and as discussed with both Capital Projects status and EPA Order Compliance updates provided to Council in May, July, and October of 2012 and February of 2013, the City retained NBS Government Solutions to prepare a Sewer Rate Study Report to identify equitable sewer charges to cover the cost of sustainable utility services that address essential sewer upgrade needs and to allocate those costs among customers in proportion to the cost of service and recommend sewer charges for Fiscal Years 2014–2015 through 2018–2019, computed in conformity with said report pursuant to Section 5473 of the California Health & Safety Code . With the adoption of Resolution No. 5447 during the course of its regularly-scheduled meeting of March 4, 2014, the City Council of the City of Sausalito, basing its decision to do so on the findings that:*

- its 75-year-old sewer system is old and deteriorated and needs upgrades, with many of the sewer pipes literally falling apart and unable to keep hazardous sewage from spilling into our environment and polluting the Bay*
- that the City has done everything it can to reduce the frequency and volume of sewage spills that pollute the environment by increasing the maintenance, evaluation, and repairs of our sewage collection system*
- that we have a responsibility to keep the Bay clean and protect the health and safety of residents, and spills of raw sewage from our system are still too frequent*
- that our deteriorated sewer pipes and infrastructure need significant upgrades to reduce sewage spills and continue to comply with a 2008 Environmental Protection Agency Administrative Order and clean water requirements;*

*stated its intention to adopt increased sewer rates on the basis of NBS' Sewer Rate Study Report dated February 27, 2014 and directed Staff to properly notice a public hearing on that intent pursuant to California Proposition 218.*

*With the first reading of Ordinance No. 1218 during the course of its regularly-scheduled meeting of May 6, 2014, and second reading during the course of its regularly-scheduled meeting of May 20, 2014, the City Council of the City of Sausalito found that doing so was exempt from the application of the California Environmental Quality Act, California Public Resources Code Section 21000, et seq., ("CEQA") under § 15273 (a)(1), (a)(2), (a)(3) (a)(4) and (a)(5), adopted said sewer fee schedule and directed the transmittal of said sewer fee schedule to the Marin County Auditor-Controller for entry of the resulting charges against the respective lots of parcels of land as they appear on the current assessment roll.*

*Since the issuance of the June 16, 2014 Marin County Civil Grand Jury's reports, during the course of its regularly-scheduled meeting of November 18, 2014, the City Council of the City of Sausalito adopted Resolution No. 5482 creating -- through a joint exercise of powers agreement between the City and the California Municipal Finance Authority -- the Sausalito Financing Authority. Further, during the course of its regularly-scheduled meeting of December 2, 2014, the City Council of the City of Sausalito adopted*

*Resolution No. 5483 approving the issuance of Sewer Revenue Bonds by the Sausalito Financing Authority for the purpose of providing the capital for the acquisition and construction of certain improvements and facilities (the "Project") to the City's municipal sewer enterprise. The need for and details of the Project were described in the Sewer Rate Study Report available on the City's website*

*(<http://www.ci.sausalito.ca.us/modules/showdocument.aspx?documentid=15619>)*

R4 -- All agencies conduct an analysis to determine the feasibility of using treated waste water for flushing pipes in routine maintenance work

*The Mayor and City Council of the City of Sausalito agreed with the objective of Recommendation R4. The City's Director of Public Works and City Engineer has since contacted the Marin Municipal Water District and requested an application for service to allow Sausalito to pick up and utilize reclaimed water from either the Las Gallinas Valley reclaimed water system in San Rafael (<http://www.marinwater.org/326/Recycled-Water>) or from the Sewerage Agency of Southern Marin facility in Mill Valley for flushing of sanitary sewer and stormdrain maintenance in conformance with applicable laws and regulations.*

R5 -- All agencies continue to cooperate with each other and find further ways to reduce costs

*As indicated in the City's March 4, 2014 response to the Grand Jury's Sanitation Agencies Survey, since the issuance of the 2008 USEPA Administrative Order the City and SMCSO have jointly developed and trained on Pump Station Operation Emergency Response Plans (OERP's) including bypass pumping training and field exercises. SMCSO's Locust Street Pump Station Spill Response Training occurred on November 6, 2012; a broader field exercise was performed using personnel from both agencies on June 12, 2013; and the City's Gate 5 Pump Station-specific training and exercise was completed December 4, 2013. Following a Category 1 SSO that occurred in November, 2013, the City, SMCSO and Ross Valley Sanitary District personnel jointly planned bypass pumping' cleaning and inspection of a City main line to confirm that the conditions that caused the SSO had been mitigated. Staff from the City and SMCSO jointly performed the bypass, cleaning and inspection.*

*The City, SMCSO and TCSD formed an inter-agency committee in response to the investigation leading to the 2008 USEPA Administrative Order. While the primary emphasis of that committee's work was ensuring that the respondents were efficiently and completely preparing and implementing consistent and cost-effective plans and related responses to the regulatory requirements, a number of opportunities for collaboration, shared-services, cross-training and other practices intended to enhance operations and value to the ratepayer were identified and continue to be pursued with varying priorities. The prospect of combining agencies in some form continues to be a topic of discussion at several levels including the Sausalito City Council's Strategic Planning process and at the staff level in the context of developing an amendment to the original 1953 agreement between the City (as a sewer enterprise) and the SMCSO.*

**Recommendations Part II**

R9 -- The board members at Almonte, Sanitation District #2, San Rafael and Sausalito update their ethics training to be in compliance with state law.

*As of the date of this letter, four of the City's five Councilmembers are current in the training required for AB1234 compliance, while the last is in the process of obtaining the certification.*

\* \* \*

Please do not hesitate to contact me directly if you or the Grand Jury has questions regarding the City's responses, or if the City can provide any additional information to benefit the public in these matters.

Sincerely,  
**City of Sausalito**



Thomas Theodore  
Mayor

Attachment: Letter from Helene Marsh, Member of the Implementation Review Committee, Director of the Marin Chapter of the California Grand Juror's Association dated January 6, 2015

cc: Helene Marsh, Member of the Implementation Review Committee, Director of the Marin Chapter of the California Grand Juror's Association  
File -- Response to Marin County Civil Grand Jury,  
*The Scoop on Marin County Sewer Systems: Parts I and II*  
Report Date – June 10, 2014, Public Release Date – June 16, 2014