

# San Joaquin County Grand Jury



## The Great Unwatched - San Joaquin County's Special Districts 2012-2013 Case No. 0212 - Informational Report

### Summary

Special Districts are authorized by the by the State of California and/or the Local Agency Formation Commission; after their creation, special districts become independent and, seemingly, unwatched. An initial review by the 2012-2013 Grand Jury (Grand Jury) was intended to verify that all independent special districts within the county were operating in a manner that was in the best interests of the tax payers and their respective constituents. The Grand Jury was unable to meet this goal because of the complexity of the task and its limited term of service. Although there are administrative agencies that address the technical aspects of each district's operation, there remains a need for greater oversight of these independent special districts to ensure their policies and procedures are complete, current, transparent and in compliance with applicable laws.

The Grand Jury began the investigative process but quickly realized that it knew little about special districts. Much of its initial effort was directed towards becoming familiar with what special districts were, why they existed, how they provided services, how they were funded and what forms of oversight special districts received. This informational report is the result of a survey completed by all San Joaquin County independent special districts, document reviews as well as interviews conducted with eight districts by the Grand Jury.

### Glossary

**California Government Code** A general set of statutes that outlines the responsibilities and provides legal parameters for governance bodies within the State of California.

<b>Community Services District (CSD)</b>	An unincorporated area whose residents have formed a governing body that is authorized to perform a wide variety of services including water, garbage collection, waste water management, fire protection, police services, etc. similar to those services provided by a charter city. <i>These areas are self-governing.</i>
<b>County</b>	San Joaquin County
<b>County Service Area (CSA)</b>	An unincorporated area that has a wide variety of services including water, garbage collection, waste water management, fire protection, police, etc. provided the County. Residents have voted to receive types of services and improvements not available in other areas of the county. There is no cost to residents of other areas of the county. <i>These areas are governed by the County Board of Supervisors.</i>
<b>Dependent Special District</b>	District governed by another, existing legislative body such as a city council or a county board of supervisors.
<b>Enterprise District</b>	Special district that delivers services and charges for those services such as a water district or a port district.
<b>HSC</b>	Health and Safety Code. A set of statutes that outlines responsibilities and provides legal parameters dedicated to the well-being of citizens; special districts established and governed under this code include fire districts, hospital districts and mosquito and vector districts.
<b>Independent Special District</b>	District governed by an elected or appointed board; once elected or appointed the board is subject only to State law and its constituents.
<b>JPA</b>	Joint Powers Authority. An entity permitted under Government Code Section 6500 whereby two or more public authorities can operate collectively. It is distinct from its member authorities but derives its powers from them.
<b>LAFCo</b>	Local Agency Formation Commission. Government agency authorized by State law for the purpose of including timely changes in local government boundaries, establishing special districts as well as establishing and updating Spheres of Influence. In this text, LAFCo refers to the San Joaquin County Local Agency Formation Commission unless otherwise stated.

<b>MSR</b>	Municipal Service Review. A service review of independent special districts and other entities. These are conducted by the county LAFcos for the purpose of identifying opportunities to improve the quality, efficiency or cost effectiveness of local services. Districts are required to complete these reviews every five years.
<b>Non-enterprise District</b>	Special district that provides services that don't lend themselves to fees such as fire protection and mosquito abatement; these are services that benefit the entire community, not just individual residents or households.
<b>Special District</b>	An agency sanctioned under California law to perform a local government function within a specified boundary.
<b>Sphere of Influence</b>	A plan for the probable future physical boundaries and service area of a local government agency (Government Code 56076).

## **Background**

Special districts may be dependent or independent. GC Section 16271(e) describes a dependent (or subsidiary) district as one in “which the city has been empowered to act as *ex officio* members of the board of directors of such district.” This same principal applies to the counties.

The San Joaquin County Board of Supervisors (SJCBOs) serves as board of directors for dependent special districts. County dependent special districts include public works, parks, maintenance of roads and buildings, flood control, landscaping, and lights. These dependent special districts function as administrative divisions that enable the County to provide local services to people within a specific area of the County.

Independent special districts are governed differently and quite often they are governed in obscurity. Each independent special district has an elected (or appointed) board which acts as a separate self-regulated entity, detached from city/county oversight. The Board members are responsible only to their constituents and to the state laws applicable to that specific district. Typically, few citizens attend meetings unless there is a particular issue of interest to them. These independent special districts are agencies that have been created by California law to perform a particular local governmental service within specified geographical boundaries. Each has a unique mission and each is subject to a particular set of California Codes that govern issues related to that specific task or service. San Joaquin County is home to 100 special districts. This report does not review dependent districts that are set up by cities and the County solely to provide services, but focuses instead on the independent districts.

The State of California Government Code (GC) Section 16271(d) states “A ‘special district’ means any agency of the state for local performance of governmental or proprietary functions within limited boundaries. ‘Special district’ includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefitting that area.”

A less complicated way to describe a special district is to say that it is a separate local governmental agency that delivers a limited number of public services to a geographically defined area.

In San Joaquin County, the majority of these districts have to do with water. Reclamation Districts providing levee maintenance form the largest bloc, but there are also irrigation districts, water districts, storm drainage districts and sanitary/wastewater districts. A vector control district, a port district, fire districts, cemetery and community service districts also serve the people of San Joaquin County in numerous ways and in a variety of geographical areas.

The table 1 lists the independent special districts located in San Joaquin County by the number of each type, and the district function. It should be noted that there are 51 Reclamation Districts in the County.

San Joaquin County Independent Special Districts:

Type of District	Number of Districts	Function of Districts
Reclamation	51	Levee Maintenance
Fire	19	Fire Suppression
Irrigation	8	Water Provision
Water Agencies	8	Provide Potable Water
Drainage	3	Flood Control
Cemetery	2	Cemetery Maintenance
Community Services	2	General Services
Sanitary	2	Sewer Services
Levee	1	Flood Control
Mosquito Abatement	1	Vector Control
Port	1	Port Administration
Resource Conservation	1	Conservation Promotion
Storm Drainage	1	Flood Control
<b>Total</b>	<b>100</b>	

Table 1

Categories of independent special districts include *single function* and *multifunction*; *enterprise* and *non-enterprise*. Most of San Joaquin County’s special districts are single function providing one service, such as irrigation, fire protection or reclamation. In many cases, these districts have no employees but serve only as contracting agencies with the actual services provided by other

government entities or by private enterprise. Examples of these contracting districts in San Joaquin County are the many reclamation districts that use private firms for levee and gate maintenance or the Eastside, Lincoln and the Tuxedo-Country Club Fire Districts that contract with the City of Stockton for fire services within their regions of responsibility.

In contrast to the single function districts, the Stockton Port District and the Mountain House Community Service District provide a wide range of services as they operate within their respective areas. Services also may be provided through a Joint Powers Authority (JPA). As an example, the City of Tracy and the Tracy Rural Fire District agreed to form a JPA known as the South County Fire District. The District (JPA) is then contracted by the Mountain House Community Services District to provide fire services within its area. This arrangement works to the advantage of all involved by consolidating resources.

Enterprise districts deliver services and charge individual customers fees based upon services used; non-enterprise districts provide services to the general public and receive their revenue from taxes or assessments. The Linden County Water District and the Port of Stockton provide examples of enterprise districts while the San Joaquin County Mosquito and Vector Control Agency and Montezuma Rural County Fire District illustrate non-enterprise districts. Each of the examples cited (with the exception of the JPA and the City of Tracy) is an independent special district.

San Joaquin County independent special districts and their boards must abide by all Federal and State laws, are responsible to their constituents and, in a limited way, to the San Joaquin County Local Agency Formation Commission (LAFCo). As with all governmental agencies, independent districts must comply with the directives from the Office of the State Controller. The function of a district may bring it under other governance codes that further define responsible operation and governance of the district. For example, all fire districts in San Joaquin County and the San Joaquin County Mosquito and Vector Control District must follow sections of the Health and Safety Code (HSC) as well as the Government Code.

The district's registered voters usually choose an independent special district's governing body but the district boards may be appointed by a city council and/or the San Joaquin County Board of Supervisors instead of being elected. Once in office, board members are responsible only to their constituents and not to the appointing body.

LAFCo is a regulatory agency with County-wide jurisdiction and provides limited oversight to special districts within the County. The San Joaquin County LAFCo (one of 58 located throughout California) was formed by State Law in 1963 to help the State government manage the tremendous growth the state was experiencing at the time. The intent was to create county (or area) agencies that could bring order and planning into the overlapping jurisdictional and service boundaries that were becoming common during the period. Since 2003 all county LAFCo's have been required by State Law to prepare an informational report called a *municipal service review* (MSR) for each city and special district within their County. The MSRs measure services, projected growth, financial abilities, use of shared facilities and community service needs and are completed by districts on a five-year cycle determined by district function.

In San Joaquin County, LAFCo began the MSR cycle with cities beginning in 2007 when the City of Stockton completed its first review. Other cities were less responsive, but by 2012 all had finalized their reviews. In October 2011, the County fire districts became the most recent group to complete the MSR process. On its website, LAFCo has posted the MSRs of all cities, Mountain House Community Services District, the Naglee-Burke Irrigation District, all sewer districts, and all fire districts within the County. However, these relatively limited postings illustrate that many of the 100 special districts in the County have not kept pace with their scheduled due dates for MSR completion.

Information from the MSR is used to establish a potential geographical service area or *sphere of influence* for each city and district. These spheres are used to make decisions on city or district annexations and other boundary changes within the County. *Spheres of influence* are extremely important to every taxpayer because they often determine the city of residence, what police and fire services are received, the provider of a resident's drinking water, how roads are maintained and, most importantly, what taxes citizens will pay. As part of the Grand Jury's review of the considerable material available on special districts, it discovered that just finding where a special district is located can be a frustrating exercise.

As the investigation continued, additional concerns presented themselves regarding how tax/rate payers were represented and served by these special districts, particularly since governance structures vary considerably among special districts and measures of their effectiveness are obscure. The complexities in determining their geographic areas, individual infrastructures and relationships to other similar entities added to the Grand Jury's confusion in understanding their operations.

While LAFCo is an integral part of the state-wide special district complex network, its structure and responsibilities are quite limited. In San Joaquin County, LAFCo is governed by a commission that consists of five regular members and three alternates. Two members are from the San Joaquin County Board of Supervisors and two members are elected representatives from the County's seven cities. These members serve fixed terms that rotate to give each city periodic representation. The final commissioner is a public member who is selected by the LAFCo commissioners and serves the same fixed term.

By state law, members are elected officials chosen from the cities and County therefore they are subject to the codes and regulations that apply to independent special districts. One half of LAFCo's budget is provided by the County; the remainder is apportioned among the cities according to their population. Special districts are not represented on the Commission and therefore do not contribute to its funding.

During its research of special districts, the Grand Jury learned that reviews and investigations of special districts are not uncommon. The Little Hoover Commission is a bipartisan, independent investigative state body established by the State of California whose members are appointed by the Governor and the Legislature. The Commission's goal is to promote effectiveness and efficiency in programs within the State. It is sometimes called *The State's Grand Jury*.

In its Report of May 2000, the Little Hoover Commission found that California's independent special districts often lacked the kind of oversight and citizen involvement necessary to promote their efficient operation and evolution. Its authors stated that "...without robust mechanisms of public accountability, inefficiency can become routine and the occasional scandal inevitable."

The report was published in 2000, yet the Grand Jury was unable to identify any significant changes San Joaquin County governing agencies or County legislators have initiated or made to address the concerns described in that document. For example, since 2002, 26% (47) of all San Joaquin County Grand Jury investigations have focused on some facet of independent special districts. However, grand juries have limited resources with which to accomplish the formidable task of monitoring all districts. This Grand Jury seeks to ensure the public has sufficient information to fully address appropriate aspects of overseeing these districts as they provide service to the community by publishing this informational report. It is the residents of each district who must determine if the level of services is satisfactory, if the cost is reasonable and whether funds are allocated judiciously and appropriately within the respective districts' budgets. In order to guarantee that each citizen has enough information to make these determinations, all actions of every district must be open and clearly visible to all concerned.

### **Method of Investigation**

The Grand Jury requested and received a list of addresses and contacts for each independent district within San Joaquin County from LAFCo. The Grand Jury created a Special Districts Survey and mailed one to addresses listed for each independent special district. When more than 20% of the surveys were not returned because of incorrect addresses, the Grand Jury used a variety of alternate approaches to ascertain the proper contact for each district. From these surveys, the Grand Jury completed a matrix listing each district's responses to every question. In conducting the survey and building the matrix, it was discovered that since there are different types of independent special districts, the survey did not fully apply to all. Yet another lesson learned from the results of the survey was that some of the respondents were not familiar with the terms *Municipal Service Review* or *Sphere of Influence*.

The Grand Jury reviewed numerous California Government Codes and other appropriate sources related to independent special districts. The Grand Jury interviewed management and met with staff from the San Joaquin County LAFCo office. Grand Jury members spoke with an independent special district board member and with staff members of nine districts. These districts were chosen from among various categories to obtain information about special district policies, procedures, operations, staffing and responsibilities. The Grand Jury also was able to tour several district facilities. The Grand Jury found that while most of the facilities toured were in general compliance with regulations, a cursory review of other districts revealed that many board meetings were not conducted within the district (as required) and that not all policies and procedures were up to date as stipulated in applicable laws and regulations.

## **Materials Reviewed**

- Applicable California Government Codes
- California Harbor Code
- California Health and Safety Code
- California Special Districts Association Website
- California Water Code
- California Senate Local Government Committee Report, February, 2002 *What's So Special About Special Districts?*
- California Senate Local Government Committee Report, October, 2010 *What's So Special About Special Districts?*
- Cities and Special Districts Profiles in San Joaquin County – August 16, 2002
- LAFCo website
- Little Hoover Commission Report, May 2000 *Special Districts: Relics of the Past or Resources for the Future?*

## **Sites Visited**

- French Camp-McKinley Fire District
- Linden-Peters Fire Protection District
- Reclamation District #2096
- San Joaquin County Local Agency Formation Commission Office

## Conclusion

The processes used to produce this informational report were complicated. The initial goal was to determine the number, type and function of independent special districts within the County and whether taxes collected/used by these districts were in accordance with applicable laws. Data from the surveys generated a variety of additional concerns for the Grand Jury including issues pertaining to the purpose, governance, accountability and the general oversight of the districts as well as the fact that more than 20% of the surveys were returned for lack of a current address. Survey results also revealed a majority of the districts were unaware of their responsibilities regarding *Municipal Service Reviews and/or Sphere of influence*.

Due to the sheer number of special districts, their complex laws, organization, governance and variations in purpose, the Grand Jury did not have sufficient time to focus on any specific aspect of district operations and generate an investigation. However, this report ends with a sincere wish that all citizens, elected officials, appointees to special districts, their constituents and future grand juries work together with appropriate state officials to develop the concepts brought forth by the Little Hoover Commission regarding oversight for all 3,400 special districts in California.

While these various districts provide critical services and contribute to the value of our daily life, there is little doubt they will continue to be *special*, but the question remains will they also continue to be the *Great Unwatched*?

## Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).