

IMPROVEMENTS NEEDED IN TOWN OF WINDSOR



SUMMARY

The 2010 – 2011 Sonoma County Grand Jury investigated a complaint filed against the Town of Windsor (Town), alleging irregularities in the reporting of the non-permitted discharge of recycled water to the Regional Water Quality Control Board (Regional Board). The complainant believed that town management had coerced the reporting staff to provide false information to the regulatory agency in order to avoid possible fines. The complainant further alleged that members of the town management harassed the staff involved.

The Grand Jury found that there was disagreement among staff regarding the amount of the discharges, the causes of the discharges, when the discharges occurred and what areas were affected. Our investigation showed that changes made to the reports were the result of a review by more experienced staff and that there was no evidence of false reports having been made to the Regional Board.

However, the Grand Jury did find that working relationships among employees, particularly the interaction of management staff with subordinates, are strained, producing an uncomfortable work environment. As the investigation into the issue of inappropriate reporting of discharges was found to be without merit, the Jury focused its efforts on a review of the town's human resources procedures.

We recommend that the Town Manager clarify the existing written guidelines that apply to any required reporting of non-permitted discharges, including an outline of appropriate methods by which the department manager may resolve any differences of professional opinions. It is also recommended that the Town Manager provide for additional training for managers and staff who deal with interpersonal relations within a work environment.

GLOSSARY

Regional Board: Regional Water Quality Control Board: North Coast Regional Water Quality Control Board/
RWQCB www.waterboards.ca.gov/northcoast

BACKGROUND

State regulations require public agencies to report all non-permitted discharges of recycled water and/or sewage, up to 1000 gallons, to the Regional Board, which is the state's local regulatory agency. A verbal notification must be made to the Regional Board within 2 hours of the discovery of the discharge and a "Certification of Category 1 Discharge Notification" must be faxed to the Regional Board within 24 hours. If the discharge is estimated to exceed 1000 gallons, local agencies also need to file a report with the County Public Health Department, County Department of Emergency Services, California Department of Health Services, California Department of Fish and Game, as well as the State Department of Emergency Services and the California Highway Patrol if the discharge reaches state or federal highway systems. The Town of Windsor has developed such a reporting plan as part of their written protocol.

In September 2010, the Grand Jury received a citizen complaint alleging that, on two separate occasions, managers in the Town's Public Works Department directed that changes be made to reports of non-permitted discharges of recycled water prior to those reports being sent to the Regional Board. In one instance, it was alleged by the complainant that the amount of the discharge was altered, and in another instance, it was alleged that the cause of the discharge was altered, resulting in the filing of false reports. The complainant further alleged retaliation as the result of reporting possible wrongdoing.

APPROACH

The Grand Jury interviewed seven employees of the Town of Windsor, including staff members of the Public Works Department, Human Resources and the Town Manager's offices. We also conducted an interview with staff from the Regional Board.

We reviewed a number of documents provided by the Town management staff and the Regional Board, as well as on-line information. The complainant also provided additional documentation relative to the issues surrounding the complaint. This information was reviewed by the Grand Jury and was utilized in developing interview questions.

DISCUSSION

While we found that information had been altered in the reports sent to the Regional Board, the new figures submitted were the result of a re-evaluation of the data and a management decision to override the initial technical opinion. Such activity is consistent with the established lines of authority expected within an agency where technical level staff report to licensed professionals.

The ultimate responsibility for the content and accuracy of all reports developed by the department lies with the Town's department director. Accordingly, the director must utilize all available resources and information in reviewing and approving reports. The changes made to the reports identified in the complaint were made by experienced staff after a review of the available information and were accepted and approved by the Director of Public Works.

In our discussions with staff from the Regional Board, we were advised that, given the size and complexity of its water management system, the Town was well within the norm for the number of reported problems. The Regional Board noted one incident of late reporting, but currently there are no outstanding problems or complaints. It was further stated that the relationship between the Regional Board and the Town's assigned reporting staff was a positive one.

Interviews with several of the Town staff members revealed a climate of tension, continued conflict and disputes over the reporting of discharges, along with the delivery of utility maintenance services. The ongoing conflicts involve prioritization of projects, staff assignments and the administration of personnel rules and regulations.

The Jury learned from several interviewees that confidentiality of witness testimony required in the investigative phase of the Grand Jury process appeared to have been breached. Each witness is admonished verbally not to discuss his/her interview statements with others. The privacy obligation is confirmed by signature on a written admonition at the time of questioning. The admonition is taken very seriously and provides each person who testifies before the Grand Jury the freedom to give open and honest information without fear of exposure or any possible consequences to them either personally or professionally. There is concern that these indiscretions between staff members may have, or could lead to, retaliation against the complainant or others who provided testimony. A proven violation of this admonition is punishable as contempt of court.

FINDINGS

F1. There was disagreement among town staff regarding the amount of recycled water that was discharged, the cause of the discharge, when, and in what areas, the discharges occurred.

F2. No false reports were submitted to the Regional Board.

F3. The changes to reports alleged in the complaint were the result of review by more experienced staff as authorized by the department director.

F4. The Town has provided its employees opportunities for additional training through courses given by Santa Rosa Junior College and other educational providers. In spite of such efforts, the interpersonal relationships of several employees remain strained, causing an uncomfortable, and occasionally confrontational, work environment, which interferes with the efficient execution of required job duties.

F5. The Grand Jury has determined through our interview process, that there appears to have been some violations of the confidentiality admonition given to, and signed, by each person interviewed by the committee.

RECOMMENDATIONS

R1. The Public Works Department should ensure that guidelines clarify the chain of command with respect to the handling of non-permitted discharges. These should become part of each written description for job classes involved in reporting discharges.

R2. Each job description should be reviewed to ensure that it includes a clear, specific definition of reporting responsibilities of all supervisory and management staff in order to clarify the chain of command.

R3. The Town Manger should address the issue of employees who are currently engaged in the continuation of longstanding interpersonal conflicts, which have created a stressful and possibly inefficient work environment.

R4. The Town Manger should confirm the right of any employee to provide sworn, secret testimony to any legal body without fear of exposure or retaliation.

REQUIRED RESPONSES

From the following individuals:

- Windsor Town Manager: R1, R2, R3 and R4
- Windsor Public Works Director/Town Engineer: R1 and R2

From the following governing bodies:

- Windsor Town Council: R1, R2, R3 and R4

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

BIBLIOGRAPHY

Documents Reviewed:

- California Regional Water Control Board Administrative Civil Liability Complaint Case File
- Town of Windsor - Personnel Policies and Procedures
- Town of Windsor - Utility Maintenance Standard Operating Procedures (Sanitary Sewer Overflow)
- Town of Windsor – Public Works Website
- Town of Windsor – Public Works Organization Chart
- Town of Windsor – Class Specifications
- Sonoma County Water Agency Spill Response and Notification Plan
- City of Santa Rosa – Sewer System Management Plan
- Town of Windsor – interoffice emails dealing with non-permitted discharge of recycled water and evidence of a possible hostile work environment.
- Town of Windsor – Employee Performance Review
- State Water Resources Control Board Legally Responsible Official Registration Form for the 550 Database.

Interviews:

- Town of Windsor, Management Staff
- Town of Windsor, Public Works Staff
- North Coast Water Quality Control Board Staff