

Beaumont-Cherry Valley Water District



**Governance Study Commissioned by
The Board of Directors**

**President Albert Chatigny
Vice-President William Lash
Director Stella Parks
Director Blair Ball
Director Marquel Dopp**

FINAL REPORT



**Annette Hubbell and Jay Malinowski
November 14, 2007**

✦ Transmittal Letter

November 14, 2007

Honorable Board of Directors
Beaumont-Cherry Valley Water District
530 Magnolia Ave
Beaumont, CA 92223

Dear Members of the Board:

Submitted for your examination is the final report of the Governance Study. At the September 12 presentation of this report in its draft form, you requested time to review for accuracy and comment prior to its release to the public; these comments are included as an addendum. Of the comments submitted, Director Ball asked for a correction, and it will be discussed at the end of this letter.

The report is divided into five sections:

- I. **Statement of Purpose.** This section includes information about the Scope of Work. We'd also like to reiterate our caution that not all of the issues raised during discovery could be comprehensively addressed given the limit to the project's scope, and further that the range of documents specified for our research was the 2006 and 2007 minutes and the current budget. The authors would also like to emphasize that although this was a board governance study and not a management study, there were crossover issues, i.e., bidding specifications, personnel rules and regulations, etc., which caught our attention as requiring further review and which the Board may choose to investigate further.
- II. **Summary of interviews with the Board Members.** This section is a reporting of similar comments made by at least three board members.
- III. **Observations and comments of the authors based on a review of the documents provided and interviews with the General Manager and General Counsel.**
- IV. **Major Recommendations.** This section includes four major recommendations with supporting documentation and additional recommendations as steps to achieve desired ends.
- V. **Addendum of comments made by General Manager Butcher, and Directors Ball Chatigny, and Dopp.** Director Parks verbally accepted the report as it stands, and Director Lash will make his comments at the Board meeting.

We have not made any changes to the study as it was presented to you other than minor clean-up language. As noted above, we would like to clarify the issue raised by Director Ball in the last paragraph of his comments. On page 9, paragraph 2 of our report, and with regard to a disputed employment contract, we state the following: "Yet, the contract apparently went before and was approved by the Board at some time in the past." We said *apparently* because although the General Manager told us it had been approved, we had not seen supporting documentation. Director Ball, in his comments, stated the Board had never taken a vote on this item. The authors asked General Manager Butcher for clarification and/or documentation. His response was: "This issue was discussed at length in a closed session late in 2005. The Board approved the contract for education plan by a 4 to 1 vote. This can best be verified by Lash, Chatigny and Parks." According to California law, actions of this nature are to be taken in open session and there is, according to Butcher, no record of that vote in the minutes.

We thank the Board of Directors for their confidence in our work.

Respectfully submitted,



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**Beaumont-Cherry Valley Water District
Governance Study by
Annette Hubbell and Jay Malinowski**

I. Statement of Purpose

Annette Hubbell and Jay Malinowski were engaged by the Beaumont/Cherry Valley Water District (B/CV, or District) to assess the Board of Directors' (Board) governance policies and to facilitate a workshop at which Board members could openly discuss their individual styles and reach some consensus regarding their oversight of the District and how such oversight might be more efficient and/or effective.

Before getting to the point, however, the authors became aware of a number of issues not usually found at public boards at the high level noted at B/CV. These issues included:

- Misunderstandings regarding the role of a board of directors
- A level of mistrust between the Board and staff and within the Board
- A highly vocal and important community group that holds more influence over the Board than normally seen
- Calls to the consultants from within and outside the District alleging that the workshop would be "stacked" in favor of one faction or another
- A lack of understanding as to the exact purpose of the workshop.

Accordingly, Hubbell and Malinowski conferred with General Manager Butcher (General Manager) and General Counsel Shoaf (General Counsel) and conveyed the thought that such a workshop would be inappropriate at this time. Accordingly, it was agreed that the scope of services would be modified, with such modification going to the Board of Directors for approval. The Board approved that modification in July 2007 to include the following:

- Interviews with each director and the General Manager to determine individual philosophies about Board authority and processes
- Discussions concerning the individuals' distinctions between policy setting and policy implementation
- Tour District facilities to better understand the District's role
- Review a sampling of Board minutes and Board packets with the thought of making specific recommendations on improving these critical pieces of communication
- Present a final report with recommendations to be implemented subject to Board approval
- Make an oral presentation to the Board and respond to questions

It should be noted that this is a relatively small contract between the B/CV and Hubbell/Malinowski. Not all of the issues and problems detected can be covered in a comprehensive manner in this report. Nevertheless, the overarching finding is that B/CV has moved very rapidly from a small, little known water district that did business in the manner of a simplified, small rural community into an important water district in the center of one of the fastest growing urban areas in the United States (as a percentage). There has been a certain "small-town" approach that may have worked well for the District and the community over the past 80 years, but the significance of the area as a population center and the demands of those who have lived in the area for decades and would prefer to maintain the area's rural character are now in conflict. That the Board is embarking on a self-examination of its practices is indicative of its desire to provide contemporary leadership that is efficient, effective, transparent, and, of course, one that operates within applicable California law.

The purpose of this study is to offer the District some solid recommendations that will take them in that direction. The recommendations that follow at the end of the study are not cure-alls; they offer a pathway to improvements that we believe will assist the District in meeting the difficult challenges that face them in the immediate future.

II. Summary of Interviews with Board Members

For the most part, directors were in agreement about concerns raised. A majority of the Board members agreed:

- That Board members serve because they want to make a contribution; that it is an important civic duty; and that insuring a reliable supply of water to the community is important to all the citizens of the Beaumont-Cherry Valley area;
- That there is a need to improve communications between and among themselves, the staff, and the public;
- That there is a nexus between the rates and services provided; however, that rates are likely to increase as inflation increases, infrastructure ages, and especially if a drought situation remains;
- That there is a critical need to examine the responsibilities of the Board and to develop and publish appropriate policies;
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- That there is a critical need to examine the responsibilities and duties of staff and to develop and publish appropriate policies;
- That there is a critical need to establish and publish meeting protocols and processes;
- That a mission statement needs to be created;
- That the District could be better served with greater interaction between it and those of its sister agencies at the board level;
- That particular attention be paid to education reimbursement policies as well as other processes and policies that may be ambiguous.
- That nepotism and favoritism were voiced as serious issues of concern;
- That the General Manager is well-liked, and is a strong administrator with expert knowledge of the District's physical infrastructure; that the depth of his knowledge sometimes gets him ahead of the Board and that staff needs to do a better job of keeping the Board informed. Ordinarily there is a strong distinction between a board making policy and a general manager implementing policy. Such a distinction is weak at B/CV primarily because Board policies are either ambiguous or non-existent; and,
- That there is concern because the General Manager is unable to work productively with general managers of surrounding agencies.

III. Observations / Comments Based on Reviews of 2006 / 2007 Agendas and Minutes, the Current Budget, and Interviews with the General Manager and General Counsel

- Individual Board members and the General Manager displayed an openness and willingness to candidly discuss all aspects of governance. The General Manager encouraged us to be straightforward and to frankly document administrative strengths and weaknesses.
- There is a need to clarify certain components of the Ralph M. Brown Act for the Board, staff, and members of the public. Ongoing challenges to Board and staff procedures tend to be divisive and create doubt among staff, the public and the Board. In some instances staff invoked the “Brown Act” mantra as a means to delay action or withhold information. The intent of the Brown Act is to create a more open and transparent process. A better understanding by all concerned of the provisions of the Brown Act might help end such divisiveness.
- Staff and directors do not have a complete understanding of AB 1234 - standards of accountability for water agency officials. Director’s expenses are required by law to be submitted to the Board for approval prior to payment. None of the minutes reviewed complied with this requirement. Indeed a public agency may only reimburse directors’ expenses for travel, meals, lodging and other actual and necessary expenses *if* it has a written policy adopted in a public meeting (California Government Code Section 53232.2(b)). There may be policy to this effect, but we did not see it. Additionally, expenses and per diems for any outside meetings must be accompanied by an oral or written report at a Board meeting. General Counsel should be consulted as to remedy.
- Some Board members feel that outreach efforts to the community as a whole are inadequate. This may be resolved somewhat when the District’s website is re-activated but could be addressed more fully with an additional staff member charged with community outreach.
- It seems that a certain segment of the public either does not trust the actions of the District or they feel compelled to take on the persona of a sixth board member.
- There is also a lack of trust, and/or consideration, between some Board members and staff.

[Note: Newspaper reports and individual recollections recount somewhat of a checkered past at B/CV. Recovering from this history requires a rededication to integrity and openness. This would include even those activities that may be proper, but appear improper. In other words, the belief that a problem exists – even if one doesn’t – is a problem in and of itself. As an example, one director requested a great

deal of information regarding a particular subject. Because the District's new headquarters is under construction, the information requested apparently is stored away and difficult to access at the moment. This explanation sounds reasonable, but under the current atmosphere of mistrust it sounds as though staff wants to delay or not make available the requested material – especially since the staff letter in response to the request was excessively long and cumbersome. In a more trusting atmosphere, the request might not have been made at all – but if it *had* been made an explanation regarding the non-availability of the material would likely have been accepted.]

- There is not a clear understanding of the differences between the actions of an individual Board member and the actions of the Board as a whole. This issue must be part of an overall discussion to define the Board's role and responsibilities.
- Some felt there is a tendency of Board members to unilaterally give direction to staff. Such direction from individual Board members to staff should not occur. All direction should come from the Board as a whole and direction to staff subordinate to the General Manager should come from the General Manager.
- Because there is not a clear understanding of roles, the Board has a tendency to involve itself in administrative functions.
 - Example: The Board currently approves specific salaries of certain individuals other than the General Manager. This is not required. The Board's oversight function occurs during the annual budget process when 1) a salary range for each job classification is considered and approved, and 2) during discussions of proposed budgets for each department. With established salary ranges, it is the General Manager who has the prerogative to move individuals within those ranges. To the extent that the Board disagrees with such changes, that disagreement should be aired during the General Manager's evaluation and should not involve individual employees who report to the General Manager or to one of his subordinates.
- On the other hand, management erroneously takes on the role of policy-maker. Our opinion is that this is partly because staff responsibilities are not defined, and partly because management sees itself as the policy maker or, perhaps, self-defines what is policy and what is implementation. Important from a perception standpoint, for example, it is noted that the Organization Chart does not reflect that the General Manager reports to the Board of Directors, or that the Board reports to its constituency (ratepayers). Although the Organization Chart is easily fixed, this seems to reflect a philosophy that the Board and staff have come to accept.

- Documents are not professionally prepared and are not designed for clarity and transparency (transparency meaning that relevant facts are easy to discern). There is also, at times, a tone of disrespect.
 - Documents apparently are not proofread. This results in spelling and typographical errors, incorrect syntax in sentence construction, and poor grammar. On the one hand, such typographical errors are only annoying; on the other hand they sometimes present confusing information as the reader is left with the task of discerning what was meant by a particular entry. Proofreading would insure greater clarity as well as consistency between the agenda and its minutes (for example when cross-referencing numbered agenda items).
 - The Board pack information could be more user-friendly and presented in a manner to better facilitate good decisions.
 - Agenda items should be presented with enough information to enable a good decision process. The information, often called a board report or board letter, should provide the item's purpose, background, fiscal impact, alternative actions, and recommendation.
 - Financial documents, e.g., budgets and monthly financial statements, should have comparative numbers that indicate the percentage increase or decrease to the base.
 - Minutes, which report actions taken at the meetings, should be consistent. Existing conditions are such that there is great detail written about some items while other items are only vaguely covered. The minutes should give the reader a clear understanding of what happened at the meeting without having to wade through minutia.
 - If a vote is anything but unanimous, each director's vote should be so noted.
 - Minutes do not record who is present (with a tie to the District), which they should (first and last name, and title). In addition to directors and staff, this would include any member of the public who addresses the board. (A sign-in sheet should note that *signing in* is voluntary unless one wishes to address the Board. Speakers must be identified by first and last name in the minutes.)
- A review of the minutes revealed two situations in which public hearings were apparently not noticed. (Publication notices must be made in a general circulation newspaper as specified in Section 60606 of the California Government Code.) The first instance was at the April 12, 2006 meeting in which an item to consider director compensation was not noticed as required by law (California Water Code Sections 20201-20204). The second instance occurred at the July 12, 2006 meeting in which an item to consider a CEQA negative declaration, tabled from the June meeting, was added to the agenda. Although a public hearing is not

required for a negative declaration, if the District chooses to hold one, as it did in this case, the public hearing must be properly noticed; this one was not since it was added at the meeting. In addition, a legally sufficient explanation must be given for the last minute addition; this also was not done. Again, General Counsel should be consulted as to remedy.

- B/CV does not have a Mission Statement, Employee Handbook (other than an Employee Memorandum of Understanding), Investment Policy, Administrative Code, Director's Reference Book, or various other policies and procedures needed to effectively manage administrative functions.
- There is no succession planning in place that allows the Board to make an informed decision regarding the replacement of senior management.
- Board policies are inadequate to address issues of nepotism and favoritism.
- Although the District's Regulations Governing Water Service lay out annexation requirements, the minutes do not reflect the status of these proceedings and the Board should be provided this information.
- We did not note any presentation or status report by the auditors responsible for the preparation of the 2004, 2005, 2006 audits although we are aware that there has been a problem accomplishing annual audits over the past three years. This problem is being resolved; however, according to the minutes the Board has not heard from the auditors directly during this period of non-audits.
- The budget document is extraordinarily long, but lacking meaningful detail about major projects. One reason for the length is that individual account numbers are explained in some detail. While this is a fine idea, the document lists, for example, 1-5-5400-505 as "Holidays." This same "505" account is then re-defined for each new budget account – such as, 1-5-5500-505 – "Holidays." This pattern is repeated with a number of account numbers throughout the document. While this is full disclosure, it makes the document more onerous than it needs to be and less likely to be read in detail. The "505- Holidays" (and others) could have been defined once and the document would be as informative, but more condensed.
- Investments of the District are not reviewed by the Board on a regular basis.
- The practice of listing every check written by the District for inclusion in the board packet/minutes is unnecessary. Furthermore, because this is simply a truncated computer listing of checks written, it is unclear what the purpose of each check is. By way of example, checks written to "Tom Lara" show up frequently and in large amounts. Assuming this is the contractor doing work at the District's recharge ponds, the charges are most likely appropriate and are

being paid to a firm for the work of a large number of employees. Yet, to the uninitiated, it would appear that “Tom Lara” is getting wealthy from the District when that is not the case. In other words, the all-inclusive listing is time-consuming and holds the potential of leaving the wrong impression. Tom Lara could also be confused with his son Tony Lara, the District’s Operations Superintendent. [This brings up another subject which should be reviewed -- that of policies and practices relative to bidding specifications -- which is beyond the scope of this report.]

- Certain actions must be acted upon by the Board, and a review of the 2006-2007 minutes did not reflect consideration of the following items (not necessarily all-inclusive):
 - Annual review of director expenses (AB1542)
 - Public Hearing to consider directors’ compensation (should be considered yearly, whether acted upon or not)
 - Bids for Capital Projects approved *prior* to commencement of work
 - Annual adoption of an Investment Policy (GC Sections 53600–53584) and a delegation of authority to make investments on behalf of the District pursuant to GC Section 53607.
 - Permission to write-off uncollectible accounts (required because it affects the receivables of the District)
 - Declaration of official intent of the District to reimburse certain expenditures from proceeds of indebtedness. (Not required, but an important financial tool as it would allow the District (as per Federal Treasury Regulations) to refinance previously funded capital projects.)

- As a matter of routine, General Counsel is not supplied with agendas or minutes, and generally is not asked to review contracts and is not invited to attend Board meetings regularly. With regard to litigation matters, an attorney must be present at Closed Sessions. (B/CV refers to Closed Sessions as Executive Sessions. This may be misleading as “Executive Sessions” could be construed to mean a meeting of the officers of the Board.) Also, General Counsel feels he is not consulted on legal matters except at the discretion of the General Manager.

- General Counsel has explained to management the public bidding requirements but has not reviewed the District’s actual practices.

IV. Major Recommendations

First and foremost, the board members and staff must realize the seriousness of the situation and agree that steps will be taken to ensure the viability of the District. (A note of caution that policies and procedures should not be so stringently designed that certain flexibilities needed to govern properly are constrained.) The magnitude of the work ahead requires a commitment by each Board member to unite its efforts toward a common goal. This can be accomplished by discussing their options openly, non-defensively, and with an acknowledgment and understanding that the individual members resolve to act as one. While individual directors may differ on certain policies or projects over the course of time (after all, that is why there is a board rather than a dictator) the Board must be unanimous in recognizing existing shortcomings and agree that they need to be fixed. Given that required unanimity, the individual Board members might appropriately debate the nature of the repair.

It is also important to note that this report contains no findings of intentional wrong doing on anyone's part. Where lapses are noted it is our belief that they result from either a lack of understanding of certain requirements or they result from interpretations of loose policies or the absence of such policies. As an example, and most recently, concern has been expressed over a contract written with an individual employee concerning educational expenses. In this case, the employee has signed a contract with the District that he will remain there for some number of years after his graduation from college as an engineer. In return, B/CV is paying his educational expenses and apparently paying a full-time salary even as the employee attends classes rather than working full-time. Some are now expressing the opinion that this arrangement should be cancelled and that the General Manager exceeded his authority in agreeing to the contract. Yet, the contract apparently went before and was approved by the Board at some time in the past. Either the Board should have rejected the agreement at that time or the Board should have insisted on an educational reimbursement policy that is more definitive and confining than the one that exists in the Memorandum of Understanding.

Our recommendations are as follows:

1. That the Board approves an action plan designed to bring the District into compliance with county, state, and federal law. General Counsel should be consulted immediately; he will probably suggest that contracts be reviewed, especially those with financial implications; public hearings assessed, personnel rules and regulations evaluated; bid specifications examined for adherence to prevailing wage and other state requirements; and state mandated policies (as discussed) be written and brought before the Board for consideration and approval. This plan should also incorporate the engagement of an auditing firm to perform an Internal Controls Audit, which differs from a financial audit in that it is designed to provide reasonable assurance regarding the achievement of objectives as to the a) effectiveness and efficiency of

operations; b) the reliability of the financial reporting; and, c) compliance with applicable laws and regulations.

2. Concurrently with Number 1 above, the Board can begin with a discussion of its role and responsibilities as elected officials. We recommend the Board schedule a workshop to review this report in greater detail, achieve consensus regarding their oversight of the District, and begin the development of its own policies and procedures. We also recommend an additional workshop to better understand the Brown Act, guidelines for compliance to AB 1234, and meeting protocols. The public should be actively invited. (The public's role is explored in greater detail in the discussion section below.)
3. Practices that befit a well-managed, efficient, and responsive operation must be implemented. This can be accomplished with an aggressive set of goals and objectives as outlined in the discussion section. Practically the Board, with assistance from the General Manager, should develop goals for the General Manager. These goals should be reviewed annually in a performance evaluation and salary should be commensurate with the attainment of these goals. (Progress toward those goals can be reviewed monthly through a "District Activities Report" as described later in this document.)
4. A comprehensive job classification review should be undertaken to determine if staff has the required expertise to perform their assigned duties.
 - o This review should include the need for staff involvement in conservation and community outreach activities.

Supporting Discussion and Additional Recommendations

As we have said before, an open and transparent exchange of information is critical to any well-managed district. In order for B/CV staff to manage efficiently and effectively, well-defined policies and procedures must be in place; otherwise, accountability, responsibility, and excellence in work product are open to interpretation. The creation of broad-based policy is the responsibility of the Board of Directors. The General Manager is charged with the development and implementation of administrative policies that support the goals, objectives, and strategic planning efforts of the Board. The General Manager is responsible for reporting the status of operations, making recommendations to assist the Board in fulfillment of its mission and in general keeping the Board informed and prepared at all times.

The Board should charge the General Manager with the preparation and development of basic institutional documents to be brought before the Board for

consideration and approval. (Note, virtually any water district can provide copies of policies and procedures which can be used as templates.)

Mission Statement

- We highly recommend the development of a mission statement. In a few sentences a mission statement explains purpose, what is hoped to be achieved in the future, and makes clear its core values in simple, easy language. A mission statement should be reviewed every five years or so for relevancy.

Administrative Code

- Existing rules and regulations should be codified into a comprehensive Administrative Code, i.e., rules and regulations covering the full range of district activities and operations – everything from appropriate use of petty cash funds, employee use of district vehicles, personnel issues, emergency procedures, bidding policies, backflow requirements, rates and fees, investment policies, reserve fund policies, to name a few. It is the play book, so to speak. As policies are developed they should be brought before the Board for approval and subsequent inclusion into the Administrative Code.

- It is beyond the scope of this work to determine all the areas of activity that should have policies in place. In addition to recommendations made under other sections of this report, we also recommend policy development in the following areas:
 - Investment Policy - the purpose of which is to identify various policies and procedures that provide opportunities for the development of a prudent and systematic investment policy, and to organize and formalize investment related activities.
 - Policies relating to the Governance of the Board, such as:
 - Board Officers and Terms of Office
 - Responsibilities of Board Officers
 - Procedure for Placing Items on the Agenda
 - Rules for Conducting Meetings
 - Committees
 - Adoption of Ordinances and Resolutions
 - General Authorization for Memberships, Attendance at Conferences and Other Functions (applicable to staff also)
 - Payment of Expenses Incurred on District Business
 - Payment of Directors' Fees
 - Policies for Employees - Employee Handbook
 - This would be the portion of the Administrative Code that pertains to all rules and regulations governing employees – their behavior, what is expected of them, and what they can expect from the District. This would include clarification on issues regarding nepotism and favoritism. Such a handbook also contains the District's policies on sexual harassment, discrimination and other

policies that the District is obligated to inform the employees about. (If, for example, there is no policy prohibiting the creation of a hostile work atmosphere, how does the District discipline an employee for creating a hostile work atmosphere?) It is critical that every employee receives a handbook and signs a receipt for it.

Director's Reference Book (Handbook)

- A Director's Handbook is a critical reference tool and would be the director's counterpart to staff's Administrative Code. Following is a sample of what it might contain:
 - General District Information
 - Mission Statement
 - Ethics Policy
 - Legislative Procedure
 - History
 - Statistical Overview of the District (fact sheet)
 - Maps (aerial, boundary, etc.)
 - Rates, Fees, and Charges
 - Procedures and Timelines for Election to Office
 - The Role of the Board
 - Overview – Role of the Board / Role of the General Manager
 - Organization Chart
 - Emergency Procedures
 - Biography of Current Members
 - Board Member's Addresses, Phone Numbers, E-Mails
 - Major Board Actions (by year)
 - Administrative Code that pertains to Directors and Governance (as outlined above)
 - The Brown Act and AB 1234 (ACWA publishes excellent guidelines)
 - Forms (Per Diem and Expense Reports, Form 700)

Board Meetings

- Reformatted Agendas and Minutes
 - Agendas and minutes need to be revised for clarity, consistency, brevity, and adherence to law.
 - Board letters should be expanded to include (in sections) purpose, fiscal impact, previous board actions related to this issue, background, summary and recommendation (which may include alternatives as appropriate).
 - Monthly Board packets should have a standardized monthly written staff activities report concerning District operations and activities, e.g. pending developer projects, status of pending annexation proceedings, types of water sales, personnel items such as safety training meetings held, pending retirements, customer delinquent accounts, types of customer inquiries, General Manager's calendar, etc. This allows the Board to be apprised of needed information, builds trust, and reduces the need to be involved in the management of day-to-day affairs. Because a director has limited

exposure to the District by virtue of the fact that meetings are held only once or twice per month, this kind of report allows the director to access information that is needed when making broad or strategic decisions concerning the direction of the District.

- Public hearings require a 10-day notice in a publication of general circulation.
 - Standing committee meetings of the Board are public meetings and must be noticed.
 - At this stage in the growth of the District, it is now appropriate to have agendas sent to General Counsel in advance of the meetings and he should be present at all Board meetings. General Counsel should also be reviewing all contractual documents.
 - General Counsel can assist with questions relating to parliamentary procedure. In addition, the general manager and recording secretary should also be trained in parliamentary procedures.
 - Under the present circumstances, the Board may want to consider temporarily hiring an experienced executive secretary to produce the agenda and record and publish the minutes. (Normally this would be under the purview of the General Manager.)
- Management of meetings
 - Improving meeting management skills is strongly encouraged. Not only for purposes of accurately recorded minutes, the meetings would be more productive and efficient if conducted according to parliamentary procedure. The chair should recognize each speaker and the public and staff should not speak until recognized. Such recognition should be even-handed and board members wishing to address an issue should be recognized before members of the general public unless such director agrees to defer his or her comment or questions.
 - Seating arrangements for board members and staff should be a result of considered thought. Should the chair be at one end of the table so that she can collectively interact with her fellow board members - rather than having to turn her back to some while speaking or listening to others? Should the manager be seated next to the chair to assist in proceedings?
 - Meeting participants must be identified at the meeting and in the minutes.
 - Participation by the public is critical and necessary. The current process is not working and consideration should be given to creating protocols that 1) will better address the needs of the public to be heard and 2) allow board members to deliberate among themselves. Staff should present the issue and then be available to answer questions at the Board's request. The public should speak during the public input portion although they may request to be heard when their particular issue comes up on the agenda. General comments about issues not on the agenda should be heard only during the "public comments" portion of the agenda. (The use of a podium for those who wish to address the Board would allow the Board to

- focus on the speaker and his or her concerns.) Once staff and the public have addressed the Board, it must be allowed the respect of discourse until the vote is taken. While the public has a right to be heard, the interaction that now occurs between the directors, the Board president and members of the public (at times) while only the Board itself should be deliberating is counterproductive. The general public should be encouraged to participate, but they should do so in turn and not in an open debate format.
- To increase the working relationships with its sister agencies, the Board may want to consider joint board meetings with directors of those agencies. These meetings would bring directors together for the purpose of considering partnerships that would benefit multiple agencies and reduce costs to the ratepayer.

Staff Activities and Internal Reports

- Financial Reporting. Financial information should provide the Board, customers, and interested citizens with information relative to the reliability and fiscal health of the District. Work required to increase the usefulness of the financial statements, budgets, and monthly invoices has been discussed. In addition, the budgets should always have a section devoted to actions taken to reduce expenses. To attain a level of excellence in this arena, goals of the District should include earning certifications by the following organizations:
 - Government Finance Officers Association for the United States and Canada. (GFOA) This certificate is awarded to government agencies whose comprehensive annual financial reports (CAFRs) achieve the highest standards in government accounting and financial reporting.
 - California Municipal Treasurers Association (CMTA). The CMTA is an organization dedicated, among other things, to assisting California agencies with developing or modifying policies and procedures that will not only comply with regulatory requirements, but that will also provide comprehensive documentation relating to integral financial functions. CMTA has instituted a program that provides an opportunity for agencies to submit their Investment Policies and Procedure Manuals (with prescribed format and language content), for examination and certification.
 - Investments reports should be included for the Board's review on a monthly or quarterly basis.
- The Audit. The District's auditor should make a presentation to the Board on the current status of the three audits. This should include a review of the issues, timelines, reporting requirements, and any processes needed to be implemented to stay in compliance.
- Administrative Policies and Procedures. Any district will have administrative policies and procedures not monitored by a board; however, this Board should

know of their existence, and adherence thereof. Again, this is beyond the scope of our report, but at this point the Board should request information relative to what is now in place to determine the adequacy of controls in general. These could include, for example, Standard Operating Procedures (SOPs) for operations and maintenance purposes; disaster preparedness plans; internal financial control procedures; and something we call a "Critical Task List." [A Critical Task List, much like a Gantt chart, is used as a production control checklist to ensure timely completion of, and compliance to, such things as county, state and federal requirements, sampling dates, annual equipment testing timelines, budget preparation timelines, etc.] The Critical Task List is a dynamic document and items are added as necessary. For instance, the Critical Task List would normally show an update to the Urban Water Management Plan (UWMP) every five years, as required by law. However, because of the volatility of the economy since the preparation of the 2005 UWMP, the Board (or staff) may determine that a mid-period review is necessary. With these kinds of tools in place, board members are apt to feel more confident that administrative functions are being handled correctly and efficiently.

- Employee Base. Three people report to the Board: the General Manager, General Counsel, and the Auditor, and they serve at its pleasure. All others work for the General Manager. The General Manager may make recommendations as to his successor, but the responsibility and authority for assigning that position rests with the Board. The creation of a comprehensive succession plan is recommended as an effective way for a manager to formulate a recruiting, hiring, and development strategy for promoting. It is also useful in identifying areas where promoting from within is not possible so that alternate plans can be developed. Succession plans also include the development of standard operating procedures (SOP) so that individual institutional *memories*, which are a collective of facts, concepts and experiences, becomes written institutional *knowledge*, and can be relied upon as a critical reference tool. This ensures stability not only during management transitions, but provides valuable assistance when a key employee(s) is suddenly or temporarily unavailable. In addition, the Board should be considering what would happen tomorrow if the current general manager and operations supervisor left the District today for one reason or another. SOPs and adequate training allow for sharing intellectual knowledge about the District and its infrastructure as well as committing that knowledge to writing for future District leaders.

Some board members have also expressed concern with the liberal education policies currently in place. What should be of equal concern is the perception of preferential treatment, especially as it applies to the practice of giving promotions, basic employment, higher earnings, and other benefits to employees who are relatives of other employees. Education policies and the

practice of hiring relatives need to be reviewed with respect to all facets, positive and negative. Educational training is an important tool for recruitment and retaining of employees, but it must be balanced with the benefit provided to the District. Nepotism can foster cries of discrimination on both sides – one of favoritism on one hand, and cries of unfairness on the other if relatives of employees are passed up for jobs for which they are qualified.

Public Accountability

The public has an expectation of vigilance by its elected Board of Directors. The Board must demonstrate its stewardship by taking a leadership role in acknowledging the situation and pledging to earn the public's trust through an open and transparent process.

With respect to the public members who attend and participate in Board meetings, we would not presume to suggest how and when they should act - or react. Nonetheless, we will note that the manner in which certain members of the public are provided unfettered access to discuss Board items at any time tends to be disruptive and, at times, even combative. Should the Board determine to hold a governance workshop, which we recommend, the public should be strongly urged to attend to learn how they might be even more effective advocates for their respective positions. The Board members tend to respect the public members in the audience to a greater degree than the public members respect some or all of the board members. To disagree with one's position does not require disrespect – it only requires a firm grasp of the facts and a process that allows those facts to be heard. The relationship between the Board members and the public members should be one of mutual respect.

Outreach Activities

We recommend that the Board, as part of an overall scope of work for the General Manager, assign him goals to increase the level of public outreach, conservation activities and communications in general. If the General Manager decides this goal requires the creation of a new position, we strongly recommend your consideration. For example, the operation of the public access portion of the new settling ponds/conservation facility is an excellent project that should be well-received by the public and the recipient of any number of accolades. Putting aside, for the moment, some issues involving cost and/or contracting, the design and expected use makes this project a crown jewel in conservation and recharge activities in Southern California, if not the state. In addition to publicizing this site and working with schools and other organizations to maximize its use, this communications person would also work with other groups and the media to broadcast the District's messages. These activities could be undertaken by a well-qualified new staff member or by a contract employee from a nearby communications/public affairs firm.

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The suggestions made in this report do not come without price tags. One is literal and requires the Board to give direction to staff concerning costs and associated budget adjustments to make any or all of these recommendations. The second price tag is figurative, but perhaps the most important. It requires an agreement by all parties to develop a working relationship of trust and teamwork.

On trust, President Reagan said, "Trust, but Verify."

On teamwork, Peter Drucker said: "The leaders who work most effectively, it seems to me, never say 'I.' And that's not because they have trained themselves not to say 'I.' They don't think 'I.' They think 'we;' they think 'team.' They understand their job to be to make the team function. They accept responsibility and don't sidestep it, but 'we' gets the credit.... This is what creates trust, what enables you to get the task done."

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V. ADDENDUM

Board Members of the Beaumont Cherry Valley Water District, as well as the General Manager, decided to offer the opportunity to submit any comments or corrections regarding the content of this report during its draft phase by individual Directors and the General Manager.

Director Blair Ball

First I would like to thank Annette Hubbell and Jay Malinowski for undertaking this report. Their courage to identify problems within the district and commit them to print is commendable.

As per the recommendations to the board -- we will better serve the ratepayers of this district when we better understand the Brown Act and AB1234 and act according to these documents. The Brown Act deals with transparency and being up front and forthright with the ratepayers. AB1234 deals with ethics, honesty and integrity. As the board sets this example and requires it of management then a feeling of trust will prevail between the public and the board, the public and management and the board and management. Government code 54950 states, "The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for the people to know. The people insist on remaining informed so that they may retain control over the instruments they have created." This is the goal of the Brown Act. When we, (management and/or board) undertake to hide our dealings with such actions as improperly used closed sessions, deceitful communications, or giving the perception that the public is meddling into the water district's affairs then we have failed the very people who have put us in this position of trust. We lack integrity when we vote in favor of an agenda item simply because the general manager recommends it. If we are not willing to read the agenda packet and research and ask questions about the issues at hand then we have failed the public. We should resign our position as director if we are unable or unwilling to make the necessary commitment to be knowledgeable and understand district and water issues.

The rightful role of the board is to set policy that will be in the best interests of the ratepayers as a whole. The rightful role of the general manager is to implement board adopted policy. Actions other than this will continue to feed the mistrust knowledgeable members of the public feel toward management and the board. Trust is a fragile commodity. It is easily broken and can be difficult to regain. At stake is the personal integrity of each board member and the general manager. To quote Rod Pacheco, Riverside County District Attorney, "The basis of our government [district] is integrity and integrity allows it to exist."

The key to the success of a district, in my opinion, rests mainly with the general manager. The board and the general manager are a check and balance with each other much like the three branches of the federal government check and balance one another. It is that way by design. For that reason there should exist a certain respect and distance between each other. If board members and the general manager share the same vision and goals then great things can happen within the district and for the public. If directors and the general manager (or employees) become too involved personally or socially then their vision for what is good and beneficial for the public can become distorted to the detriment of the public. There is that imaginary line that cannot be crossed if we are to protect the public's interest. The personal integrity of a general manager must be unwavering and absolute. In large measure, his integrity reflects the perceived integrity of a district. This lack of integrity puts the board of directors in a difficult position, as the board is both an employer and an employee. The board is an employer in that it hires a general manager who serves at the pleasure of the board to implement policy which cannot be done successfully without integrity. It is the board's duty to dismiss a general manager who lacks integrity and is insubordinate to the board or its policies. By the same token it is the public's duty to dismiss the members of the board at election time if the directors have been insubordinate to the public who employs them.

This district was established in 1919. It is inconceivable to me how this board can be told by the general manager that no district policy exists. How can this be? In reality a Beaumont-Cherry Valley Water District Personnel Policies and Practices Manual does exist. It was delivered to my office one Friday afternoon after I had already left for the day. I made a copy for each director and would encourage each director to read and be familiar with it. Why it was not brought forth when this board asked the general manager for any written district policies remains unanswered. While a few may think that policy is threatening and suffocating, it is in fact the opposite. Well-conceived policy is liberating. It allows a district to function in an open, honest manner. It provides guidelines for all to see and follow. Once established by a board it remains in effect until another board acts upon it to modify or refine it. The general manager does not set or change policy. He should not seek to hide or discount district policy. His obligation is to implement board policy. No standing or ad hoc committee has the right to establish or modify policy. That rests solely with a full board. The president of the board is only one member of the board and has no right to set or modify policy. He cannot direct the general manager against board policy. The general manager cannot lobby board members to vote a certain way. He is bound by the Brown Act in that regard and also by AB1234. He must give factual information to the board and the public in word and in writing. The general manager has no right to enter into contracts that are in conflict with board policy or to enter into contracts without board approval as has been done numerous times in the past. In so doing he invalidates his own contract with the district and violates established district policy regarding personnel standards of conduct.

In closing, I must take exception to one item on page 9, paragraph two to illustrate my points. It concerns the formal education of employees and a contract the general manager signed with that employee. This board never approved or saw that employment contract

before it was signed. There already exists in the recently discovered personnel manual what classes the district will allow and pay for and it does not include a formal education but includes “water industry meetings, conferences, seminars, and/or other workshops”. (Education and travel policy for employees - adopted 4 June 1998). The general manager entered into a contract not seen or approved by the board with an employee and disregarded an existing education policy that was in effect. This board never approved sending this employee to receive an engineering degree. One will find no reference to this on any board agenda or minutes including the Dec. 14, 2005 meeting. The general manager may claim he acted against this policy as directed by the president of the board, or as we have also heard, by the personnel committee. Neither entity has the authority to set policy or direct the general manager to act against district policy. Even if this did occur, the general manager should have the integrity to educate the directors as to proper protocol. The current directors have a major problem now because the general manager did not follow established district policy. More will be said on this at a later date.

Director Al Chatigny

The board of directors of BCVWD asked for a facilitators’ report for the purpose of gaining control over themselves and staff and the quality of their board meetings. (They were asked to) look into the policies of board and staff and help unify the whole process. The report has served as a starting point for the board and staff to reach out to each other and hold each other accountable for good governance. This report could tear it all apart or be a starting point for the successful governance of BCVWD. My comments are that we take this report for what it is -- some true, some false. Accounts of mistrust board-to-staff, staff-to-board needs time to heal. The first order of business is to get our house in order:

- Implement board policy
- Implement staff policy
- Implement employment policy and housing policy
- Implement education policy
- Education of the public & their roll and behavior at meetings

Keep in mind that this is a dynamic situation. There will be disagreements & personality conflicts, but we must put the best interest of the whole district first, not just our favorite part. Goals to strive for:

- INTEGRITY
- TRUST BETWEEN BOARD AND STAFF
- CONFIDENCE FROM RATE PAYERS
- RESPECT FOR EACH OTHER
- RESPECT FOR RATE PAYERS
- ADQUATE WATER SUPPLY
- WATER QUALITY
- CONSERVATION – WATER & ENERGY
- EMERGENCY PREPARDNESS

I would like to thank Annette Hubbell and Jay Malinowski for their time and hope to see them soon.

Director Marquel Dopp

I am good with whatever they decide. I like most of everything in there. I think it's fine.

General Manager Chuck Butcher

Please see attached five-page letter.

BEAUMONT CHERRY VALLEY WATER DISTRICT

DIRECTORS

Albert Chatigny

President

William Lash

Vice President

Dr. Blair Ball

Marquel Dopp

Stella Parks

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OFFICERS

C.J. Butcher

Secretary/Treasurer

J.C. Reichenberger

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Gerald Shoaf

Redwine & Sherrill

General Counsel

October 16, 2007

Redwine & Sherrill
Attn: Mr. Gerald Shoaf
1950 Market Place
Riverside, CA 92501

Re: Facilitators Report

Dear Gerry,

Following are my comments on some of the points made by the Facilitators in their report:

Page #3, "There is a critical need to establish and publish meeting protocols and processes." This is in part the most important issue surrounding the current problems facing the District. In the last eight (8) to ten (10) months meetings have degraded to a point where they have become chaotic with the Chair gaveling down Directors in favor of audience members. Public Input rules, as stated on the agendas, are not followed resulting in wasted time. This issue seems to be downplayed by the Facilitators.

Page #3, "There is concern because the General Manager is unable to work productively with General Managers of surrounding agencies." This concern has no basis in fact; I have had a very good relationship with all General Managers of the surrounding agencies. This is shown in the interactions that occur at the Watermaster, STWMA and STWMA PC 1 meetings where I interact with four (4) other General Managers, City Engineers and Public Works Directors. Minutes of these meetings do not show any controversy issues and/or demonstrate any animosity between agency members.

*See attached letter from the Chief of Watermaster Services

Page #4, “There is a lack of trust, and or consideration, between some Board members and staff.” Example given is Director Ball’s request for all data invoices and actions related to the recharge project cost. Facilitators state “under current atmosphere of mistrust it sounds as though staff wants to delay or not make available the requested material – especially since the staff letter (GM Memorandum) in response was excessively long and cumbersome.” The Memorandums that I produce are sometimes long by design considering Director Ball’s past actions. Director Ball, in public meetings, repeatedly questions staff actions trying to find inaccuracies or errors. He refuses to communicate questions and issues directly to the General Manager, choosing to go around the GM to individual staff members often times outside of his authority as a Director. He then makes issue at Board meetings usually based on incomplete data and misunderstandings of the material presented. The audience and Board would be best served if questions were asked directly and in a timely manner allowing staff to prepare memos and collect data and documentation as requested.

Page #5, “... management erroneously takes on the role of policy-maker.” Example given, “Organization Chart does not reflect that the General Manager reports to the Board of Directors or the Board reports to its constituency”. “... this seems to reflect a philosophy that the Board and staff have come to accept.” Actually the Organization Chart has historically been used as an internal chart to show the employee organization for State and local agencies. As an internal chart or document, staff does not believe the lack of a Board or rate payer position on the chart reflects a “philosophy” amongst the Board members and staff that the General Manager is a policy-maker. It is my opinion that if asked who sets the policies, a Director might reply, “The Board sets policies and the staff carries them out.”

Page # 6 “Documents are not professionally prepared and are not designed for clarity and transparency.....” This comment illustrates that the Facilitators probably should have spent additional time investigating and developing their comments and recommendations. While I agree there have been issues related to misspelling and there has been a problem with proofreading, the Facilitators missed the fact that senior staff members have been out on extended medical leave.

A more in-depth review of past agendas and actions would show a more professional agenda structure with few, if any, spelling errors. Further review would have also shown that over the past several months, agendas have been altered in an attempt to control the unruly audience. Recommendations have also been eliminated or significantly curtailed as a direct result of the Board Chair/ Vice President’s approach at public meetings. This was completely overlooked by the Facilitators.

Spelling and grammar errors aside, the General Manager and staff’s overall work in agenda, memorandum and other documentation preparation is only as good as the Board of Directors allows it to be. When the staff expects to be attacked in open meetings they have a tendency to not provide all of the material and recommendations it otherwise would place in the agenda packages choosing to wait until the meeting to fully discuss the issues. While the Board and public may consider this statement to be disrespectful, respect goes both ways. The Board and the General Manager should work together however, actions by some Board members has made this difficult, if not impossible.

Page #7, “The budget is extraordinarily long, but lacks meaningful detail about major projects. One reason for the length is the individual account numbers are defined in detail.” The Facilitators report uses “Holidays” as an example indicating that there were several entries under different accounts. It goes on to state Holidays and several other accounts “could have been defined once and the document would be as informative.” The statement above reflects the Facilitators’ opinion regarding “major projects.” I respectfully suggest that the Facilitators only reviewed one budget report “2006 Year End Report and Proposed Budget for 2007.” It is important to note that most, if not all, major projects were reported on and approved in preceding years. Most of the 2007 “major projects” were for the most part carried over from past years. To name a few: wells 25, 26 and 29, the Recharge Project (actually began in 2000), the New Headquarters, Vineland Tank no. III, Cherry Tank no. III, and the Hannon Tank were all approved and discussed in previous years however, they were finished or are still under construction in 2007.

The “Holiday” accounts issue: The budget is developed the way it is to show the District projected costs as open and transparent as possible. The Facilitators may have missed the point in their discussion concerning Holidays. Actually, the account numbers are different based on which Department the Holiday expense accrues to. For example, the account numbers discussed in the report by the author (1-5-5400-505 and 1-5-5500-505) were used as examples to show that they could be stated as one number. I have highlighted the four digit number in the General Ledger number that designates which Department of the operation the cost falls under. This separation of expenses was done last year in an effort to better show costs in the four departments (5200 Source of Supply, 5300 Transmission Distribution, 5400 Customer Service and 5500 Administration).

They highlighted 505 which designates “Holidays” and they suggested this only need appear once presumably for all Departments. The current budget format may on the surface seem “extraordinarily long” however, it is designed to be more transparent showing each department rather than expenses expressed in totals.

Again, these are just a few of my comments on the report. If you would like to discuss these or any other parts of the reports, please contact me at (951) 845-9581, ext. 17.

Respectfully,

C.J. Butcher
General Manager

STWMA

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September 20, 2007

Beaumont Cherry Valley Water District
Board of Directors
Attn: Stella Parks, President
% C.J. Butcher
560 Magnolia Avenue
Beaumont, CA 92223

Dear Stella Parks,

This letter is to express to you and the BCVWD Board of Directors my appreciation for the cooperation and working relationship that your General Manager has assisted me with to achieve the establishment of STWMA, the Beaumont Basin Watermaster and STMMA Project Committee No. 1 during my six-year tenure in this area.

His cooperative efforts in working with the four Agencies involved with STWMA and the five Agencies of the Watermaster has provided the Pass area with the necessary *Planning and Implementation Programs* to be achieved which can and will assure that adequate water supply resources are available and in place in a timely manner to provide for the land use plans in our areas. As you know, planning and implementation of various elements of water supply can be difficult to achieve. In the water industry there is an old saying, "whiskey is for drinking, water is for fighting." However, as in any negotiation, the proof of cooperation and working relationships is embodied in the final result. Expressed herein are a few of the successes achieved:

- Formation and implementation of STWMA – prior to the formation of STWMA of which your Manager was a major participant, there was a major void in watershed planning – the formation of the authority involved bringing together four (4) major entities with different perspectives of water management strategies to work together to develop a *Water resources Plan*. This plan is now used by the State and others as a guideline for similar efforts elsewhere. This planning effort involved a lot of give and take by all parties involved.
- Beaumont Basin Watermaster – The development of the Beaumont Basin Watermaster is a classic example of five (5) Agencies and twenty (20) major Overlyers of diverse interest working together to achieve a management concept for the Beaumont Basin, your major source of local water supply.

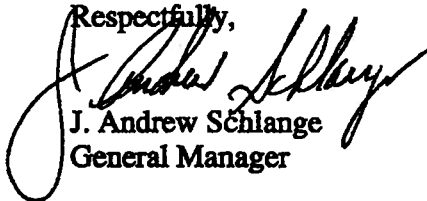
It was only successfully completed because your manager negotiated a final commitment with the City of Banning for their inclusion in the adjudication. For your information, this work was completed in eighteen (18) months, the fastest adjudication in California history.

- **Financing for a Recycled Water System and New Water Supply – Your Manager, working with the City of Beaumont, created a financing program to build a non-potable water supply system and to replace a major portion of the domestic water supply system at very little cost to the existing consumers.**
- **State Water Project Water Supply – Sometimes a great deal of patience is required when working with agencies. Such was the situation in dealing with the San Gorgonio Pass Water Agency in getting a connection to their system. These negotiations for the one reason or another took four (4) long years to complete successfully. The result is that the District is the first Pass Agency customer to purchase and spread State Project Water in this area.**
- **Currently there is a lot of discussion in the area regarding water quality and its impact on water supply. I assure you that it has been my experience that such issues can be very difficult because of the need to protect water quality vs. the desire of people not wanting to change their way of doing things. The end result from such discussion is that a better program is implemented.**

These are just a few examples of what has been achieved in the area and this is a positive reflection of the cooperative spirit of your Manager and Staff. However, there is a lot yet to achieve. Your Manager has set the example as to what can be done by working with others to achieve maximum benefit for all Pass area consumers at a cost well below the norm of others.

Thank you for the opportunity of expressing my opinions.

Respectfully,



J. Andrew Schlange
General Manager

cc: C.J. Butcher