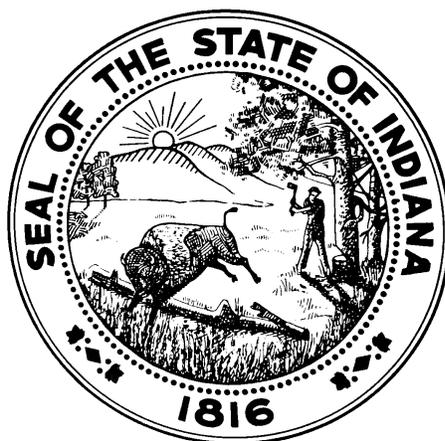


STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

EXAMINATION REPORT
OF
SIMONTON LAKE CONSERVANCY DISTRICT
ELKHART COUNTY, INDIANA
January 1, 2006 to December 31, 2007



FILED
01/14/2009

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OFFICIALS

Office

Official

Term

Financial Secretary

Jane Mollo
Linda Wilson

01-01-06 to 02-26-06
02-27-06 to 12-31-08

Chairman of the Board
of Directors

Robert Kelsey

01-01-06 to 12-31-08



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE SIMONTON LAKE
CONSERVANCY DISTRICT, ELKHART COUNTY, INDIANA

We have examined the financial information presented herein of the Simonton Lake Conservancy District (District), for the period of January 1, 2006 to December 31, 2007. The District's management is responsible for the financial information presented herein. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the financial information presented herein and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the financial information referred to above presents fairly, in all material respects, the financial information of the District for the years ended December 31, 2006 and 2007, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

The Schedule of Capital Assets and Schedule of Long-Term Debt, as listed in the Table of Contents, are presented for additional analysis and are not required parts of the basic financial information. They have not been subjected to the examination procedures applied to the basic financial information and, accordingly, we express no opinion on them.

STATE BOARD OF ACCOUNTS

November 3, 2008

SIMONTON LAKE CONSERVANCY DISTRICT
 SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES
 ALL PROPRIETARY FUND TYPES
 As Of And For The Years Ended December 31, 2006 And 2007

	<u>Cash and Investments 01-01-06</u>	<u>Receipts</u>	<u>Disbursements</u>	<u>Cash and Investments 12-31-06</u>
Proprietary Fund: Operating	\$ <u>271,230</u>	\$ <u>421,093</u>	\$ <u>442,638</u>	\$ <u>249,685</u>
	<u>Cash and Investments 01-01-07</u>	<u>Receipts</u>	<u>Disbursements</u>	<u>Cash and Investments 12-31-07</u>
Proprietary Fund: Operating	\$ <u>249,685</u>	\$ <u>408,945</u>	\$ <u>366,122</u>	\$ <u>292,508</u>

The accompanying notes are an integral part of the financial information.

SIMONTON LAKE CONSERVANCY DISTRICT
NOTES TO FINANCIAL INFORMATION

Note 1. Introduction

The District was established under the laws of the State of Indiana. The District provides the following services: collection, treatment, and disposal of sewage and other liquid waste from an unincorporated area.

Note 2. Fund Accounting

The District uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Funding

The District is financed by user fees.

Note 4. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statute (IC 5-13-9) authorizes the District to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

SIMONTON LAKE CONSERVANCY DISTRICT, ELKHART COUNTY
SUPPLEMENTARY INFORMATION
SCHEDULE OF CAPITAL ASSETS

As of December 31, 2007

Capital assets are reported at actual or estimated historical cost based on appraisals or deflated current replacement cost. Contributed or donated assets are reported at estimated fair value at the time received.

	<u>Ending Balance</u>
Capital assets, not being depreciated:	
Buildings	\$ 228,190
Improvements other than buildings	2,643,474
Office equipment	<u>15,072</u>
Total capital assets	<u>\$ 2,886,736</u>

SIMONTON LAKE CONSERVANCY DISTRICT, ELKHART COUNTY
 SUPPLEMENTARY INFORMATION
 SCHEDULE OF LONG-TERM DEBT
 As of December 31, 2007

The District has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Revenue bonds:		
1998 Revenue Bond	\$ 1,595,000	\$ 172,505

SIMONTON LAKE CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS

PREScribed FORMS

The Simonton Lake Conservancy District does not use General Receipt Form 352 to account for collections that are not associated with the regular collection of user fees. The District uses Keystone software for general ledger and billings, but has not submitted the reports generated by the software to the State Board of Accounts for approval. Mileage General Form 101 was not used when submitting mileage claims for payment. The District does not use Capital Assets Ledger Form 369 for their list of capital assets. A similar comment appeared in prior Report B28305.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

CONFLICTS OF INTEREST

The Simonton Lake Conservancy District has purchased materials and services, and rented office space, from the businesses of Jane Mollo, former Financial Secretary and Board member and current Board member. A Uniform Conflict of Interest Disclosure Statement was not filed.

Joe Mollo performs maintenance work on the lift and bioxide stations and has assisted in the office. He is the spouse of Jane Mollo, former Financial Secretary and Board member and current Board member. A Uniform Conflict of Interest Disclosure Statement was not filed.

The Simonton Lake Conservancy District has purchased materials and services from Zimmerman Industrial Piping, Inc., which is owned by Bob Kelsey, District Board President. A Uniform Conflict of Interest Disclosure Statement was not filed.

Linda Wilson, Financial Secretary of the Simonton Lake Conservancy District, is the spouse of Paul Wilson, Simonton Lake Conservancy District Board member. A Uniform Conflict of Interest Disclosure Statement was not filed.

Paul Wilson, Simonton Lake Conservancy District Board member, is paid to perform inspections of pump installations. A Uniform Conflict of Interest Disclosure Statement was not filed.

Indiana Code 35-44-1-3 states in part:

"(a) A public servant who knowingly or intentionally: (1) has a pecuniary interest in; or (2) derives a profit from; a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony. . . ."

"(c) This section does not prohibit a public servant from having a pecuniary interest in or deriving a profit from a contract or purchase connected with the governmental entity served . . . (3) if the public servant; (A) is an elected public servant. . . . and (B) makes a disclosure under subsection (d)(1) through (d)(6)."

"(d) A disclosure required by this section must: (1) be in writing; (2) describe the contract or purchase to be made by the governmental entity; (3) describe the pecuniary interest that the public servant has in the contract or purchase; (4) be affirmed under penalty of perjury; (5) be submitted to the governmental entity and be accepted by the governmental entity in a public

SIMONTON LAKE CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

meeting of the governmental entity prior to final action on the contract or purchase; (6) be filed within fifteen (15) days after final action on the contract or purchase with: (A) the state board of accounts; and (B) . . . the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase. . . ."

"(g) A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of: (1) the public servant; or (2) a dependent of the public servant who: (A) is under the direct or indirect administrative control of the public servant; or (B) receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant. . . ."

"(k) As used in this section, 'dependent' means any of the following: (1) The spouse of a public servant. (2) A child, stepchild, or adoptee (as defined in IC 31-9-2-2) of a public servant who is: (A) unemancipated; and (B) less than eighteen (18) years of age. (3) Any individual more than one-half (2) of whose support is provided during a year by the public servant."

SUPPORTING DOCUMENTATION

Several payments were observed which were not supported by adequate documentation, such as detailed receipts on meal purchases, cell phone reimbursement detail of charges, customer refund explanation, receipts for reimbursements to former Financial Secretary, and other public records.

Cancelled checks or optical images of checks were not available for examination beginning with checks cashed in February 2007.

Due to the lack of supporting information, the validity and accountability for some money disbursed could not be established.

Supporting documentation such as receipts, canceled checks, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 12)

PERSONAL EXPENSES

Two board members met at a local restaurant on three separate occasions to discuss District business. The board members were reimbursed for their meals in the amount of \$69.61.

The Financial Secretary has been receiving assistance from an outside accountant, who did not wish to be paid for his services. As a thank you for his services, the Financial Secretary and her spouse, a District board member, took the accountant and his spouse out to dinner on four separate occasions. The District credit card was used, resulting in charges to the District of \$373.54.

The District paid for a Christmas party at a local restaurant on December 13, 2007, for board members, spouses, and a vendor and his spouse. The amount paid was \$187.38.

SIMONTON LAKE CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

A fruit basket was purchased for a board member on May 30, 2007, in the amount of \$28.

The personal expenses listed above total \$658.53. The Financial Secretary should reimburse the Simonton Lake Conservancy District for the personal expenses paid by the District.

Public funds may not be used to pay for personal items or for expenses which do not relate to the functions and purposes of the governmental unit. Any personal expenses paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

ALCOHOL PURCHASES

Alcohol was purchased by the District at the Christmas party held on December 13, 2007.

Due to the lack of supporting documentation, it could not be determined if alcohol was purchased on other occasions when meals were charged to the District.

Purchases of alcoholic beverages may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

DONATIONS

The Simonton Lake Conservancy District donated \$1,000 to the Simonton Lake Sportsman's Club as a thank you for allowing the District to meet in their establishment from the years 1999 to 2005.

Governmental funds should not be donated or given to other organizations, individuals, or governmental units unless specifically authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

COMPENSATION OF BOARD MEMBERS

Members of the Board of Directors were compensated a fixed amount of \$75 per month in 2007 for additional duties performed for the District outside of board meetings. No detail of the dates the work was performed, the work that was done, or the hours worked were provided. It could not be determined if the board members performed the work or devoted a major part of the day to the work of the District in order to receive the compensation for each month.

Indiana Code 14-33-5-16(Section 16) effective July 1, 2007, states: "As compensation the directors are entitled to an amount that the court orders, but not to exceed: (1) one hundred (\$100) for not more than two (2) regular or specially called board meetings per month; and (2) fifty dollars (\$50) for not more than five (5) days per month devoted to the work of the district in addition to any day for which payment is received under subdivision (1). In addition, the directors shall be reimbursed for actual expenses, including traveling expense at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement must be accompanied by an itemized written statement approved by a recorded motion of the board."

"The directors are entitled to an amount that the court orders, but not to exceed fifty dollars (\$50) for each day devoted to the work of the district." (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 1, effective prior to July 1, 2007)

SIMONTON LAKE CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

PUBLIC NOTICE

Public notice of the regular meetings of the Simonton Lake Conservancy District Board of Directors was not placed in the newspaper or posted at the District office.

Indiana Code 5-14-1.5-5 states in part: "(a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda. (b) Public notice shall be given by the governing body of a public agency by: (1) posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and (2) delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency."

FORM 1099

A Form 1099 required by the Internal Revenue Service is to be prepared for each nonemployed individual who receives more than \$600 from the unit for compensation for services provided. In 2006, Linda Wilson received \$945 for part-time office work assisting the former financial secretary. No taxes were withheld from her check, nor was a Form 1099 issued to her.

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

Each governmental unit is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

PENALTIES, INTEREST AND OTHER CHARGES

Penalties and interest, in the amount of \$13.48, was paid to the Indiana Department of Revenue for State and County withholding taxes for the tax period April 2006.

The District also paid a notice of unpaid Federal withholding taxes to the Internal Revenue Service from the 2005 4th quarter 941 form in the amount of \$45.57, including \$1.55 interest.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

SIMONTON LAKE CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

CONTRACTS

Payments were made to Joe Mollo for maintenance of the lift and bioxide stations in 2006 and 2007 without a contract.

Payments were made to Paul Wilson for inspections of pump installations in 2006 and 2007 without a contract.

Payments made or received for contractual services should be supported by a written contract. Each governmental unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

ORDINANCES AND RESOLUTIONS

The Simonton Lake Conservancy District has a sewer rate ordinance that states that all rates and charges not paid by the 25th day of the month following receipt will be charged a ten percent penalty. The District is charging penalties after the 20th of the month. A resolution has not been passed changing the date at which penalties will be assessed.

It could not be determined if penalties had been charged for delinquent accounts in January and February 2006.

According to Bond Resolution 98-1, the District is required to deposit receipts into the Revenue Fund, from which funds are transferred into the Operating Fund and the Sinking Fund's Bond and Interest account and Reserve account. The District has an operating fund only.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

DEPOSITS

In numerous instances, receipts were deposited later than the next business day. A review of the District's records indicates that deposits are made five to ten times a month, with gaps in between deposits as long as eight days. A similar comment appeared in prior Report B28305.

Indiana Code 5-13-6-1 requires all public funds shall be deposited not later than the business day following the receipt of funds on business days of the depository.

The statute also provides public funds deposited shall be deposited in the same form in which they were received. This simply means all daily receipts received by the political subdivision must be deposited intact. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 15)

SIMONTON LAKE CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

INTEREST ON INVESTMENTS

Interest earned on certificates of deposit was automatically added to the principal. In some instances, the interest was not recorded in the records.

Interest on investments should not be automatically added into the investment. Instead, interest on investments should be paid to the governmental unit at each maturity date and posted to the appropriate fund. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

CAPITAL ASSETS

The Capital Asset list maintained by the Simonton Lake Conservancy District does not include all assets purchased by the District since its inception. The beginning asset balance is the amount of the 1998 bond issue. The only other asset listed by the District is the generator purchased in 2007. The District does not use Capital Assets Ledger Form 369 or an approved form for their list of capital assets.

Every governmental unit should have a complete inventory of all capital assets owned which reflects their acquisition value. Such inventory should be recorded on the applicable Capital Asset Ledger. A complete inventory should be taken at least every two years for good internal control and for verifying account balances carried in the accounting records. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 16)

OFFICIAL BOND

Linda Wilson, Financial Secretary, had an official bond with Western Surety Company for a term beginning March 21, 2006. The bond provides \$15,000 of coverage.

SIMONTON LAKE CONSERVANCY DISTRICT
EXIT CONFERENCE

The contents of this report were discussed on November 3, 2008, with Linda Wilson, Financial Secretary; and Robert Kelsey, Chairman of the Board of Directors. The official response has been made a part of this report and may be found on page 15.

SIMONTON LAKE CONSERVANCY DISTRICT
Board of Directors
P.O. Box 4304
Elkhart, IN 46514
574-206-8485

November 13, 2008

Attention: State Board of Accounts, Official Response
Subject: Explanation of Donations and Personal Expenses

The Simonton Lake Conservancy District is responding to Examination Discussion Item of personal expenses discussed at the meeting on November 3, 2008. The district board based on the following items doesn't feel obligated to reimburse the Conservancy for the items listed in the examination.

1. Prior to 2007, District board members were never compensated for duties performed.
2. The costs incurred to the conservancy, regarding the outside accountants services was a fraction of the costs that would have been incurred if an accounting agency had been used.
3. The District has been very frugal with funds and had the District been aware of the infractions, we would have handled the situations differently.
4. Based on the items listed above and the efficiency that the District has demonstrated. We feel that the personal expenses should not be reimbursed. The District has obtained the Compliance Guidelines for Special Districts and in the future assures the State Board of Accounts that the Simonton Lake Conservancy District Board will follow these guidelines

Sincerely,
The Simonton Lake Conservancy District Board

SIMONTON LAKE CONSERVANCY DISTRICT
ELKHART COUNTY
SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Linda Wilson, Financial Secretary:			
Personal Expenses, pages 9 and 10	<u>\$ 658.53</u>	<u>\$ -</u>	<u>\$ 658.53</u>

