

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

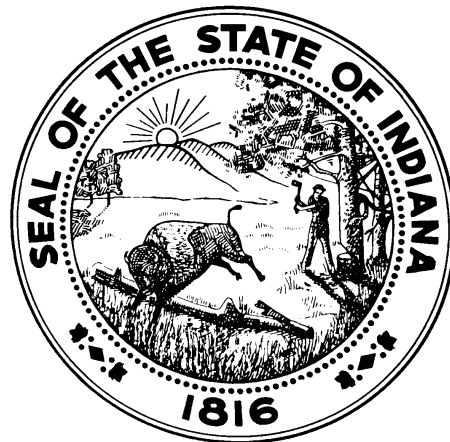
AUDIT REPORT

OF

COUNTY AUDITOR

VERMILLION COUNTY, INDIANA

January 1, 2008 to December 31, 2008



**FILED**

10/30/2009



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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Auditor	Sherrie A. Koma Phyllis Orman	01-01-05 to 12-31-08 01-01-09 to 12-31-12
President of the County Council	John Yoho (Vacant) John A. Cheesewright	01-01-08 to 06-06-08 06-07-08 to 07-13-08 07-14-08 to 12-31-09
President of the Board of County Commissioners	Tim J. Wilson	01-01-08 to 12-31-09



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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STATE BOARD OF ACCOUNTS  
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TO: THE OFFICIALS OF VERMILLION COUNTY

We have audited the records of the County Auditor for the period from January 1, 2008 to December 31, 2008, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Results and Comments. The financial transactions of this office are reflected in the Annual Report of Vermillion County for the year 2008.

STATE BOARD OF ACCOUNTS

September 30, 2009

COUNTY AUDITOR  
VERMILLION COUNTY  
AUDIT RESULTS AND COMMENTS

PENALTIES, INTEREST, AND OTHER CHARGES

Penalties and interest totaling \$11,856 were paid to the Internal Revenue Service on September 5, 2008. The penalties and interest were assessed due to the late filing of federal payroll tax withholding forms for the tax period ending March 2008.

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.

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 County Auditors, Chapter 14)

APPROPRIATIONS

The records presented for audit indicated the following expenditures in excess of budgeted appropriations:

<u>Fund</u>	<u>Year</u>	<u>Excess Amount Expended</u>
Cumulative Capital Development	2008	<u>\$ 25,172</u>

IC 6-1.1-18-4 states in part: ". . . the proper officers of a political subdivision shall appropriate funds in such a manner that the expenditures for a year do not exceed its budget for that year as finally determined under this article."

ANNUAL REPORT

The 2008 Annual Report for Vermillion County was not completed and filed with the State Examiner until April 14, 2009, and was not published until April 17, 2009.

During the audit period, IC 5-11-1-4(a) concerning annual reports, stated in part: ". . . these reports shall be prepared, verified, and filed with the state examiner within thirty (30) days after the close of each fiscal year."

CAPITAL ASSETS

As previously stated in the last five reports, the Capital Asset Ledger, County Form 146 is prescribed by the State Board of Accounts to be a record of capital assets purchased by the County. The forms maintained by the County contained such errors as: not all capital asset purchases and disposals

COUNTY AUDITOR  
VERMILLION COUNTY  
AUDIT RESULTS AND COMMENTS  
(Continued)

were recorded, items not defined as capital assets were recorded, the original cost was not recorded on the forms, and entries did not contain all necessary information such as purchase dates and serial numbers.

Every governmental unit should have a complete inventory of all capital assets owned which reflect their acquisition value. Such inventory should be recorded on the Capital Assets Ledger Form. 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 County Auditors of Indiana, Chapter 14)

PAYMENT FOR ACCRUED SICK, PERSONAL, AND COMPENSATORY TIME

Three employees of the County's Emergency Management Agency were paid in 2009 for accrued leave time balances earned through their last dates of employment in 2008. The payments were made from the Chemical Stockpile Emergency Preparedness Fund; however, local monies were used, as the amounts were not reimbursed by the Federal program. Included in the payments were amounts for sick, personal, and compensatory time, all of which were not allowed to have been paid at termination based on the Vermillion County Employee Handbook policies. The types of leave time and the amount paid for each employee are as follows:

<u>Employee</u>	<u>Title</u>	<u>Date of Employment</u>	<u>Check Date</u>	<u>Check Number</u>	<u>Leave Type</u>	<u>Amount Paid</u>
Ramon J. Colombo	Director	09-30-08	03-06-09		Sick Time	\$ 6,796.02
					Compensatory Time	<u>11,768.00</u>
Total paid				81316		<u>\$ 18,564.02</u>
Kirt E. Lowry	Logistics Specialist	10-01-08	03-06-09		Sick Time	\$ 4,575.62
					Personal Time	<u>157.78</u>
Total paid				81317		<u>\$ 4,733.40</u>
Bobette J. Warnick	Deputy Director	12-31-08	03-06-09	81318	Sick Time	<u>\$ 4,683.53</u>

The following excerpts taken from the Vermillion County Employee Handbook, adopted August 5, 2004, and still in effect, address each type of leave time and it's authorization to be paid, or not, at termination of employment:

"Personal Days . . . personal days are not wages and will not be paid upon separation from employment." (page 22)

"Sick Leave . . . #11. A regular full-time employee or regular part-time employee who leaves the employment of the County will not be compensated for unused Sick Leave." (page 25)

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(Continued)

Regarding compensatory time, the Handbook states:

"The County is not required to compensate an exempt employee for overtime worked. However, the County has elected to establish a policy for granting compensatory time off to exempt employees for exceptional circumstances. Under no circumstances will an exempt employee receive monetary compensation for hours worked over (forty (40) in a work week. . . . However, an exempt employee may be granted compensatory time under those exceptional circumstances when the Elected Official believes that the temporary job demands require more time for completion by the employee than would normally be required. The purpose of granting this exceptional compensatory time is to provide the exempt employee additional time off during his or her County employment when the workload permits. This exceptional compensatory time is not to be construed as wages earned or an entitlement as an exempt employee is paid on a salary basis regardless of hours worked." (page 12)

In addition, the Handbook lists these definitions (pages 6 and 7):

"EXEMPT EMPLOYEE - An employee who is not covered by the overtime pay provisions of the Fair Labor Standards Act."

"NON-EXEMPT EMPLOYEE - An employee whose position is covered by the overtime provisions of the Fair labor Standards Act."

Different rules for earning and using compensatory time apply based on whether the employee is considered an "exempt" or "non-exempt" employee, the definitions of which the Handbook references the Fair Labor Standards Act. Under 29 United States Code 213(a)(1) of the Fair Labor Standards Act, an exempt employee is an "employee employed in a bona fide executive, administrative, or professional capacity." For an employee to be classified as an exempt employee under the "executive capacity" exemption under 29 CFR 541.100, the employee must be compensated on a salary basis at a rate of not less than \$455 per week, have a primary duty of management of the organization or department in which the employee is employed, customarily and regularly direct the work of two or more employees and have the authority to either hire and fire other employees or be an employee whose suggestions and recommendations as to hiring, firing, advancement, promotion or any other change in status of other employees is given particular weight. For an employee to be classified as an exempt employee under the "administrative capacity" exemption under 29 CFR 541.200, the employee must be compensated on a salary basis at a rate of not less than \$455 per week and as their primary job duty perform office or nonmanual work directly related to the management or general business operations of the employer which includes the exercise of discretion and independent judgment with respect to matters of significance.

Mr. Colombo's final weekly salary was approximately \$954 per week. He was the Vermillion County Emergency Management Agency Director and as such was the department head of the Vermillion County Emergency Management Agency. Under IC 10-14-3-17(d)(2)(A), a county emergency management director has "direct responsibility for the organization, administration, and operation of the emergency management program in the county" and he did perform these job duties for Vermillion County and was responsible for setting policy for his department. In addition, he supervised two employees in the Emergency Management Agency. It is our position that Mr. Colombo would be classified as an exempt employee under either of the Fair Labor Standards Act definitions, and by the County's policy would not be eligible for monetary compensation for compensatory time.



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(Continued)

Ramon J. Colombo, former Emergency Management Agency Director, was requested to reimburse the overpayment of sick and compensatory time totaling \$18,564.02 to the Vermillion County CSEPP Fund. (See Summary in Supplemental Report on Vermillion County Emergency Management Agency January 1, 2008 to December 31, 2008)

Kirt E. Lowry, former Emergency Management Agency Logistics Specialist, was requested to reimburse the overpayment of sick and personal time totaling \$4,733.40 to the Vermillion County CSEPP Fund. (See Summary in Supplemental Report on Vermillion County Emergency Management Agency January 1, 2008 to December 31, 2008)

Bobette J. Warnick, former Emergency Management Agency Deputy Director, was requested to reimburse the overpayment of sick time totaling \$4,683.53 to the Vermillion County CSEPP Fund. (See Summary in Supplemental Report on Vermillion County Emergency Management Agency January 1, 2008 to December 31, 2008)

Each governmental unit should adopt written policy regarding the accrual and use of leave time and compensatory time and the payment of overtime. Negotiated labor contracts approved by the governing board would be considered as written policy. The policy should conform to the requirements of all state and federal regulatory agencies. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 8)

OVERDRAWN CASH BALANCES

The cash balance of the Jail Lease Rent Fund, Homestead Credit Rebate Fund, and Payroll Clearing Fund were overdrawn on December 31, 2008, by \$38,657, \$16,564, and \$37,804, respectively.

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

COUNTY AUDITOR  
VERMILLION COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on September 30, 2009, with Phyllis Orman, Auditor; Tim J. Wilson, President of the Board of County Commissioners; and John A. Cheesewright, President of the County Council. The officials concurred with our audit findings.

The contents of this report were discussed by telephone on September 23, 2009, with Sherrie A. Koma, former Auditor. The official concurred with our audit findings.