

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

EXAMINATION REPORT
OF
VALPARAISO LAKES AREA CONSERVANCY DISTRICT
PORTER COUNTY, INDIANA
January 1, 2008 to December 31, 2010



FILED
05/17/2011

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OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
General Manager	Robert A. Minarich	01-01-08 to 12-31-11
Financial Secretary	Katherine Kostantios Alexis Rubin Ellen McMeans Dale Brewer	01-01-08 to 06-08-09 06-09-09 to 12-20-09 12-21-09 to 11-16-10 11-17-10 to 12-31-11
Chairman of the Board of Directors	Mark Ennes Richard Brychell	01-01-08 to 12-31-08 01-01-09 to 12-31-11



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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE VALPARAISO LAKES AREA CONSERVANCY DISTRICT

We have examined the financial information presented herein of the Valparaiso Lakes Area Conservancy District (District), for the period of January 1, 2008 to December 31, 2008. The District's management is responsible for the financial information presented herein. Our responsibility is to express an opinion based on our examination.

We were also engaged to examine the financial information presented herein of the Valparaiso Lakes Area Conservancy District (District), for the period from January 1, 2009 to December 31, 2010. The District's management is responsible for the financial information presented herein.

Our examination of the financial information presented for the period of January 1, 2008 to December 31, 2008, 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 year ended December 31, 2008, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

We were unable to verify the financial information presented for the years ended December 31, 2009 and 2010. The District failed to produce monthly bank reconciliations for the years ended December 31, 2009, and 2010. For the year ended December 31, 2010, not all vendor disbursements were posted to the records, while voided transactions remained posted as valid transactions. For the year ended December 31, 2010, the Schedule of Receipts, Disbursements, and Cash and Investment Balances was abstracted from the bank statements. For the years ended December 31, 2009 and 2010, payroll transactions were not properly posted to the records, and the inaccurate postings were not detected by the District.

Since records were not in the proper condition to examine as described in the previous paragraph, and we were unable to apply alternative examination procedures, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the financial information of District for the years ended December 31, 2009 and 2010.

The Schedule of Long-Term Debt, as listed in the Table of Contents, is presented for additional analysis and is not a required part of the basic financial information. It has not been subjected to the examination procedures applied to the basic financial information and, accordingly, we express no opinion on it.

STATE BOARD OF ACCOUNTS

January 26, 2011

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES
ALL GOVERNMENTAL AND FIDUCIARY FUND TYPES
As Of And For The Years Ended December 31, 2008, 2009 And 2010

	Cash and Investments 01-01-08	Receipts	Disbursements	Cash and Investments 12-31-08
Governmental Funds:				
General	\$ (22,626)	\$ 295,485	\$ 185,400	\$ 87,459
Rainy Day	53,080	-	-	53,080
Cumulative Improvement	391,431	85,017	25,003	451,445
Fiduciary Funds:				
Enterprise:				
Water Utility:				
Operating	162,735	437,052	416,996	182,791
Customer Deposit	36,477	1,080	160	37,397
Wastewater Utility:				
Operating	191,976	428,707	422,109	198,574
Totals	<u>\$ 813,073</u>	<u>\$ 1,247,341</u>	<u>\$ 1,049,668</u>	<u>\$ 1,010,746</u>
	Cash and Investments 01-01-09	Receipts	Disbursements	Cash and Investments 12-31-09
Governmental Funds:				
General	\$ 87,459	\$ 450,398	\$ 363,285	\$ 174,572
Rainy Day	53,080	-	19,949	33,131
Cumulative Improvement	451,445	348,246	544,392	255,299
Fiduciary Funds:				
Enterprise:				
Water Utility:				
Operating	182,791	836,919	827,922	191,788
Customer Deposit	37,397	36,340	38,977	34,760
Wastewater Utility:				
Operating	198,574	835,790	838,229	196,135
Totals	<u>\$ 1,010,746</u>	<u>\$ 2,507,693</u>	<u>\$ 2,632,754</u>	<u>\$ 885,685</u>
	Cash and Investments 01-01-10	Receipts	Disbursements	Cash and Investments 12-31-10
Governmental Funds:				
General	\$ 174,572	\$ 173,759	\$ 125,829	\$ 222,502
Rainy Day	33,131	33	-	33,164
Cumulative Improvement	255,299	34,972	-	290,271
Fiduciary Funds:				
Enterprise:				
Water Utility:				
Customer Deposit	34,760	12,281	-	47,041
Operating	191,788	-	-	-
Wastewater Utility:				
Operating	196,135	-	-	-
Total Water and Wastewater Operating	<u>387,923</u>	<u>932,688</u>	<u>1,024,291</u>	<u>296,320</u>
Totals	<u>\$ 885,685</u>	<u>\$ 1,153,733</u>	<u>\$ 1,150,120</u>	<u>\$ 889,298</u>

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

VALPARAISO LAKES AREA 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: water, wastewater, drainage improvement, erosion control, and flood prevention and control.

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. Budgets

The operating budget is initially prepared and approved at the local level. In addition, funds for which property taxes are levied are subject to final approval by the Indiana Department of Local Government Finance.

Note 4. Property Taxes

Property taxes levied are collected by the County Treasurer and are distributed to the District in June and December. State statute (IC 6-1.1-17-16) requires the Indiana Department of Local Government Finance to establish property tax rates and levies by February 15. These rates were based upon the preceding year's March 1 (lien date) assessed valuations adjusted for various tax credits. Taxable property is assessed at 100% of the true tax value (determined in accordance with rules and regulations adopted by the Indiana Department of Local Government Finance). Taxes may be paid in two equal installments which become delinquent if not paid by May 10 and November 10, respectively.

Note 5. 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.

Note 6. Water Rate Structure

The current rate structure was approved by the Indiana Utility Regulatory Commission in 1991. The District has 984 customers.

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
 SUPPLEMENTARY INFORMATION
 SCHEDULE OF LONG-TERM DEBT
 December 31, 2010

The District has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Governmental activities:		
Notes and loans payable:		
2008 Sierra Truck	\$ 8,308	\$ 3,858
Cardinal Lift	<u>100,180</u>	<u>42,198</u>
Total governmental activities debt	<u>\$ 108,488</u>	<u>\$ 46,056</u>
Business-type activities:		
Water Utility:		
Notes and loans payable:		
SRF Edgewater Beach Road Water Line	\$ 136,674	\$ 23,654
Total Water Utility	<u>\$ 136,674</u>	<u>\$ 23,654</u>

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS

OPINION MODIFICATION

A disclaimer of opinion was issued on the financial schedules presented for the years 2009 and 2010 due to the following deficiencies in recordkeeping, many of which are expanded upon in subsequent examination results and comments:

1. Bank accounts were not reconciled.
2. Payroll amounts posted to the cash accounts could not be verified to detail payroll reports.
3. Checks not issued through the computer system (handwritten checks) were not posted to the ledger.
4. Checks issued through the system, but noted as voided on the check stub or duplicate, remain posted to the ledger as valid transactions.
5. For voided checks, originals were not always retained for examination.

Due to the condition of the records presented for 2010, the transactions reported were based upon the deposits and withdrawals from the bank accounts.

Accounting records and other public records must be maintained in a manner that will support accurate financial statements. Anything other than an unqualified opinion on the Independent Auditors' Report on the financial statements may have adverse financial consequences with the possibility of an increase in interest rate cost to the taxpayers of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

RECORDS

Annual Report and Financial Records

The SDAR has not been prepared by the District for the years 2008 and 2009. As of the date of this report, the SDAR for 2010 was not yet due.

IC 5-11-1-4 states:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be filed electronically, in a manner prescribed by the state examiner that is compatible with the technology employed by the political subdivision."

Customer Deposits

The Conservancy District maintains a list of customers and the balance of their customer meter deposit. This list or detail report should be reconciled to the customer meter deposit bank account and general ledger balance, but the Conservancy District does not perform such a reconciliation. Due to the record keeping, we could not determine the reason for the significant decrease in the general ledger amount during 2010. The following discloses the balances for each for comparative purposes:

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

	<u>Bank Balance</u>	<u>General Ledger</u>	<u>Detail Record</u>
December 31, 2009	\$ 33,760.00	\$ 33,800.00	\$ 33,760.00
December 31, 2010	46,050.00	900.00	34,260.00

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

INTERNAL CONTROLS

Internal Controls Over Electronic Payments on Customer Accounts

Customers may elect to pay their water and sewage bills electronically by having the billed amount automatically withdrawn from either their checking or savings account. Such electronic payments are automatically posted by the Conservancy District's computer software against the customer's water and sewage accounts receivable balance as of the billing due date. The Financial Secretary, who reviews the Conservancy District's bank account activity, is responsible for communicating any nonpayments to the Accounts Receivable Clerk. It is then up to the Accounts Receivable Clerk to correct the customer's accounts receivable balance. During 2010, this review was not performed by the Financial Secretary. As a result, not only were the accounts receivable balances not corrected for the initial nonpayment, but customers whose bank accounts were closed continued to receive services without making a payment. Additionally, the overall accounts receivable balances are understated by these uncorrected nonpayments.

Internal Controls Over Adjustments to Customer Accounts

The Conservancy District's written policy regarding adjusting customer accounts requires that all adjustments which would result in a credit (reduction) to the customer account due to a water leak go before the Board for consideration and approval. Other adjustments including meter reading entry errors, payment adjustments, etc., are performed by the Accounts Receivable Clerk. The Accounts Receivable Clerk is responsible for billing customers, collecting and posting payments against customer accounts, and preparing the deposits to take to the bank. No other individual oversees or approves the adjustments. For the year 2010, \$20,769 in adjustments were made to customer accounts without oversight by management.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of managements' objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

BANK ACCOUNT RECONCILIATIONS

The reconciled bank balance presented for December 31, 2008, was short by \$14,015 due to the inclusion of the Rainy Day Fund cash balance of \$14,015 in the record balance of the Conservancy District. This Rainy Day cash account was established in the records in 2006 in error, as previously reported. The error was corrected by 2010.

Depository reconciliations were not presented for examination from May 2009 through December 2010.

IC 5-13-6-1(e) states in part: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

PAYROLL TRANSACTIONS AND REPORTS

The Conservancy District processes payroll using computer software. One of the payroll reports generated through the computer software is a "Payroll History Report." The Payroll History Report is the equivalent of an Employee Earnings History in that it reports by employee each check the employee receives, the gross pay, net pay, and all deductions. The Payroll History Report is the basis for preparing and supporting amounts reported to the Federal and State Governments on the Wage and Tax Statements (Form W-2). Furthermore, since the computer software is also used to maintain financial records of the Conservancy District, amounts not accurately accounted for in the payroll processing system could affect the accuracy and accountability for funds maintained in the financial records of the Conservancy District.

The following discrepancies were noted regarding the processing of payroll and the reports generated for 2010:

1. Some paychecks were handwritten using a different check number than that documented in the computer generated reports; thus, the check number clearing the bank did not agree to the check number reported in the Payroll History Report. Furthermore, some of the check numbers used were duplicates of check numbers already posted, but the computer software did not reject the posting of those checks. Use of computer software that provides controls over posting of duplicate transactions further enhances the overall internal controls of the unit as a whole.
2. One employee was occasionally paid through electronic transfer of funds (instead of the issuance of the paycheck). All but one of these electronic transfers was included on his Payroll History Report. This omission, if not detected could result in underpayment of withholdings and fringe benefits, as well as the underreporting of wages and withholdings on the Form W-2 Statement.
3. On the Payroll History Report for another employee, on two occasions two different check numbers were posted on the same date. In the first instance, the checks were for the same dollar amounts, in the second instance, the checks were for different amounts. In both cases, only one check cleared the bank, indicating the other was voided; however, the voided transactions were not corrected through the computer software. By not properly voiding these transactions in the computer software, the Conservancy District may have overpaid withholdings and fringe benefits, as well as over reporting the wages and withholdings on this employee's Form W-2 Statement.

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

4. For a third employee, a handwritten check was provided to him (instead of computer generated) in the amount of his gross pay resulting in this employee being overpaid for the year by \$284.85 (the dollar amount of his payroll deductions).
5. Most employees of the Conservancy District are paid based upon on hourly rate of pay. All paychecks are issued based upon the current period worked, and are issued on the last date worked. Since the paychecks must be prepared in advance, this process allows for an employee to be paid for hours not actually worked.

Payroll Interface

Because the Conservancy District uses computer software to maintain the financial records of the District, the payroll processing software must "interface" with the financial record keeping software to post payroll transactions to the general ledger. When the interface is finished, one of the results should be that the cash accounts are reduced by the net pay of each employee; however, this is not the case. The cash accounts are being reduced by the correct net pay amounts for some employees, but not all. We found that net pay for at least two employees was being posted against the payroll withholding accounts. The former Financial Secretaries were responsible for entering new employee information into the payroll processing software. Upon the termination of Ellen McMeans as the Financial Secretary, the Conservancy District Manager did find errors she had made in entering the payroll information, which once he had corrected them, corrected that position's interface for future payrolls, but not for previously posted payrolls. Additionally, there is at least one employee whose pay is still not interfacing correctly with the general ledger. The payroll interfacing problems also existed under Alexis Rubin's term as Financial Secretary, which included a portion of 2009.

The computerized accounting system must provide input edits and controls to assure that information entered into the system is accurate, that all appropriate information is entered into the system, and that information is entered into the system only once. All information entered into the system must be authorized through effective manual or electronic controls. Transaction dates should be based upon system generated dates which cannot be modified by the user. If necessary, the system may provide an additional effective date of the transaction that is user controlled. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 11)

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

Accounting records and other public records must be maintained in a manner that will support accurate financial statements. Anything other than an unqualified opinion on the Independent Auditors' Report on the financial statements may have adverse financial consequences with the possibility of an increase in interest rate cost to the taxpayers of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

IC 5-7-3-1(a) states: "Public officers may not draw or receive salaries in advance."

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

PAYROLL WITHHOLDING REMITTANCES AND SALES TAX REMITTANCES

The Conservancy District did not remit state and county withholdings timely. Based upon information provided for examination, it was indicated that amounts due for May, June, and July of 2009 were paid late, shorted, and overpaid, respectively. The Financial Secretary in a faxed statement to the Indiana Department of Revenue dated October 21, 2009, instructed them to bill the District for any penalties and interest due. The only other documentation provided to support any payments to the Indiana Department of Revenue regarding this issue was a "Final Notice of Warrant and Appearance Date," which was issued by the Porter County Sheriff. In this Final Notice, it was indicated that the District had been previously notified of a judgment and corresponding warrant for failure to pay taxes owed to the State of Indiana. The amount due was \$1,034.21 which was paid through a money order purchased by the Financial Clerk on May 12, 2010. Based upon the information provided, it could not be determined how much of this amount was fees due the Sheriff for the service of the warrant, the amount attributable to unpaid taxes, or the amount applied to penalties and interest.

The Conservancy District continued the trend of not remitting state and county withholdings timely, and added state sales tax collections to the list. In November, 2010, the Conservancy District was notified by the bank that their checking account had been frozen by the Indiana Department of Revenue due to the nonpayment of the withholding taxes and sales tax. The Conservancy District Board terminated the Financial Secretary. On November 29, 2010, the Conservancy District's General Manager remitted \$5,107.76 in withholding taxes due for the periods from December 2009 through November 2010 as well as penalties and interest totaling \$580.10. He also remitted \$24,474.67 in sales tax due for the periods from November 2009 to November 2010, and penalties and interest totaling \$3,086.04. On December 16, 2010, the Conservancy District also paid another penalty of \$230 to the Indiana Department of Revenue for the late filing of the State's Annual Withholding Tax Form (Form W-3) which is a transmission report of the Report of Wage and Tax Statements Federal Form W-2 to the State of Indiana.

All of the Employer's Quarterly Federal Tax Returns (Forms 941), which report to the Internal Revenue Service the wages, federal withholding taxes, social security and Medicare tax amounts due and amounts remitted, were filed late. None of these reports were filed until December 27, 2010.

A comparison was made of amounts remitted by the Conservancy District for garnishments, health savings accounts, and simplified employee pension (SEP) plan contributions to amounts withheld from employees (based upon the Payroll History Reports) and the amounts the Conservancy District agreed to contribute. In all cases, amounts remitted were less than amounts determined to be contributed by \$1,798, \$2,280, and \$1,187.76, respectively; however, one of the sources of information used to determine the amounts due was the Payroll History Report, which has been established as inaccurate. Thus, officials should prepare a corrected Payroll History Report to determine correct withholding amounts, compute employer contributions, and determine if amounts remitted need to be corrected. Differences were also noted for the federal withholding taxes in the amount of \$460.18, which was also under remitted.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

Accounting records and other public records must be maintained in a manner that will support accurate financial statements. Anything other than an unqualified opinion on the Independent Auditors' Report on the financial statements may have adverse financial consequences with the possibility of an increase in interest rate cost to the taxpayers of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

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 Special Districts, Chapter 10)

VENDOR DISBURSEMENTS

For the year 2010, accounts payable vouchers or claims were not used. By not using claims, there were not any assurances that the vendor invoices were audited by the financial clerk as to the accuracy and authority for the Conservancy District to pay the claims.

For the checks issued, cancelled checks from the bank were not available for audit for the months of January through March 2010.

Invoices could not be located for audit for 30 of the 95 checks selected for review in 2010, and for 9 out of 69 claims tested in 2009. Numerous items were paid late including two payments made on a loan for the purchase of a truck, for which the Conservancy District paid \$100 in late payment fees.

A total of 120 checks covering the months of April, May, and October 2010 were compared to check numbers and dollar amounts posted to the cash account in the General Ledger for the Water and Sewage accounts. Seven (7) of the checks totaling \$7,202.92 were not posted. All of these checks were handwritten, not computer generated. One of the seven checks not posted was a check made payable to "Cash", which was used by the former Financial Secretary to purchase a money order to pay to the Porter County Sheriff for the outstanding warrant for the non-payment of taxes to the Indiana Department of Revenue. Additionally, one check posted in the amount of \$375 did not clear the bank. The original check that was located for audit was voided.

Checks indicated as void per the check duplicate or check stub were not always retained for audit.

In 2008, 2009, and 2010 payments totaling \$24,045, 51,617, and 61,271, respectively, were made to a law firm without a contract.

Finally, the board is not approving any claims for payment until at least one month after the checks had been issued. In 2010, many of the invoices paid were not approved by the Board, as a claim docket was not prepared by the Financial Secretary for presentation to the Board for approval.

The State Board of Accounts is charged by law with the responsibility of prescribing and installing a system of accounting and reporting which shall be uniform for every public office and every public account of the same class. [IC 5-11-1-2]

A prescribed form is one which is put into general use for all offices of the same class, whereas an approved form is a computerized form for special use in a particular office.

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

All governmental units are required by law to use the forms prescribed by this department; however, if it is desirable to use a different form or to have a prescribed form modified to conform for computer applications, a letter and three copies of the proposed form may be submitted to the State Board of Accounts for approval. No form should be printed and placed into use, other than a prescribed form, without prior approval. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

All claims, invoices, receipts, accounts payable vouchers, including those presented to the governing body for approval in accordance with IC 5-11-10, should contain adequate detailed documentation. All claims, invoices, receipts, and accounts payable vouchers regarding reimbursement for meals and expenses for individuals must have specific detailed information of the names of all individuals for which amounts are claimed, including the nature, name, and purpose of the business meeting, to enable the governing body to authorize payment. Payments which do not have proper itemization showing the business nature of the claim, may be the personal obligation of the responsible official, employee or other person for whom the claim is made. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

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)

All financial transactions pertaining to the governmental unit should be recorded in the records of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

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 Special Districts, Chapter 10)

UNPAID INVOICES

Upon termination of the former Financial Secretary, the Conservancy District's Manager received calls from many vendors indicating actions would be taken if payments were not received for goods or services they had provided. The General Manager paid these delinquent invoices in December 2010. The invoices held for over a month totaled \$12,008. One of invoices paid was from the Indiana Department of Workforce Development from February 2010 in the amount of \$2,976.92, which included penalties of \$361.93, and interest of \$171.49.

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. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

CONFLICT OF INTEREST

The District had a strategic plan consulting contract with Town and City Engineering in 2010 totaling \$1,700. Town and City Engineering is owned by the husband of a Board member. A Uniform Conflict of Interest Disclosure Statement does not appear to have been filed.

IC 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 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 31-3-4-1) 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."

OFFICIAL BOND

Official bonds for the District Financial Secretary were not obtained for 2008, 2009, or 2010.

IC 14-33-5-18(b) states: "A financial clerk shall execute a surety bond in the manner prescribed by IC 5-4-1."

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

CONTRIBUTIONS TO UNAUTHORIZED PENSION PLAN

As noted in prior examination reports, on July 19, 1995, the Board of Directors approved a Simplified Employee Pension Program (SEP) for District employees beginning August 1, 1995. They also approved a 4% employer contribution for full-time employees with at least one year of service. In the previous reports, officials were informed that there was no statutory authority for the SEP plan and they were advised to discontinue all employer contributions to the plan. The employer contributions to the SEP plan since its inception total \$97,806.

Political subdivisions may participate in the Public Employees Retirement Fund. The benefits specified in IC 5-10.2 provide the retirement, disability, and survivor benefits for public employees. This is the only retirement plan in which political subdivisions may participate unless the unit established a pension plan before January 1, 1995. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 14)

VALPARAISO LAKES AREA CONSERVANCY DISTRICT
EXIT CONFERENCE

The contents of this report were discussed on January 26, 2011, with Donald Kareiva, Board member; Robert A. Minarich, General Manager; Dale Brewer, Financial Secretary; David Hollenbeck, Legal Counsel; and Christina Max, Accounts Receivable Clerk. The official response has been made a part of this report and may be found on pages 17 through 23.

The Examination Results and Comments were sent on January 26, 2011, to Katherine Kostantios, Alexis Rubin, and Ellen McMeans, former Financial Secretaries.



BLACHLY, TABOR, BOZIK & HARTMAN, LLC

February 5, 2011

David L. Hollenbeck
Thomas F. Macke
Randall J. Zromkoski
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Patrick Lyp
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Mr. Bruce A. Hartman
State Examiner
Indiana State Board of Accounts
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Tracey S. Wetzstein
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RE: 2008/2010 Audit Findings for Valparaiso Lakes Area
Conservancy District/LAC Utilities

OF COUNSEL
Glenn J. Tabor
James S. Bozik
Duane W. Hartman
Kingsley G. Regnier

Dear Mr. Hartman:

Quentin A. Blachly
(1934-1997)

I initiate this correspondence in my capacity as legal counsel to the Governing Board of the Valparaiso Lakes Area Conservancy District and by way of my client's response to the recently completed audit conducted by your agency. The audit covered January 1, 2008 through December 31, 2010. I would ask that this correspondence be handled by your agency as the VLACD response to the audit findings and that this correspondence be included in the final version of the audit document.

Before I comment on the specific audit findings, I wanted to express my client's appreciation and gratitude for the handling of this matter by your audit staff. The audit was conducted in a professional and constructive manner. They offered suggestions which have already been implemented. The Governing Board of the Valparaiso Lakes Area Conservancy District takes this matter exceedingly seriously. Significant actions have already been taken to alleviate the deficiencies and those efforts will continue.

Unfortunately, VLACD has experienced significant turnovers of office staff. Three different individuals have served as the Conservancy District Financial Clerk in the past three years. Each of those individuals seemingly had excellent credentials and seemed qualified to function as a Conservancy District Financial Clerk/Secretary. Your agencies audit findings proved that not to be the case.

Indeed, the most recent VLACD Financial Clerk/Secretary (Ms. Ellen McMeans) was actually terminated prior to completion of the audit due to significant discrepancies in her performance. On an interim basis, VLACD has hired Ms. Dale Brewer to rectify the past problems and bring VLACD books and records into full

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compliance. As you may know, Ms. Brewer has many years of experience in Porter County Government and is currently employed in the Valparaiso City Clerk's Office. I am confident that Ms. Brewer can resolve the accounting issues raised in your agencies audit and implement practices and procedures which will avoid recurrence.

I would now like to address the specific issues identified in your agency's audit findings. My comments will be structured so as to follow the structure used in the "Examination Results and Comments" section of the audit.

1) **OPINION MODIFICATION**

VLACD apologizes for the condition of the financial records. The Governing Board acknowledges that the prior Financial Clerk/Secretary failed miserably in performing her job responsibilities. Accounting records must be maintained in a manner that will support accurate financial statements. This did not occur during the employment of the previous Financial Clerk/Secretary. Upon learning of these deficiencies, the Governing Board terminated the employment of Ms. McMeans and hired Ms. Dale Brewer to alleviate the bookkeeping deficiencies and resolve the matters identified in the audit.

2) **RECORDS**

Annual report and financial records

Unbeknownst to the Governing Board at VLACD, the special district annual report (SDAR) as required by IC5-11-1-4 was not prepared or filed by the previous Financial Clerks. The SDAR for 2010 is also in arrears. The district has contacted Mr. Karl Cender to seek his assistance in completing and filing the delinquent Special District Annual Reports. Those reports will be forwarded to your agency immediately upon completion.

3) **CUSTOMERS DEPOSITS**

As indicated in the audit findings, VLACD maintains a list of customers and the balance of their customer meter deposit. That being said, the list or detail report



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has not in the past been reconciled to the customer meter deposit bank account and general ledge balance. This deficiency is in the process of being rectified and VLACD will hence forth reconcile the detail report to the bank and general ledger balance.

4) INTERNAL CONTROLS

Internal controls over electronic payments on customer accounts

Again, the prior Financial Clerk failed to perform her responsibilities in monitoring the Conservancy District bank account activity and failed to communicate any nonpayment of electronic sewer and water bills to the Accounts Receivable Clerk. This resulted in customers whose accounts were closed continuing to receive services without making a payment and other electronic payment customers having delinquencies without termination of service. An internal office procedure has been initiated so that the Financial Clerk/Secretary will be communicated with the Accounts Receivable Clerk regarding nonpayment of electronic payments on customer accounts. This should alleviate this problem in the future.

Internal Controls Over Adjustments to Customer Accounts

The specific issue raised in the audit finding involves a faulty meter reading provided by the City of Valparaiso. VLACD has sewer customers who receive water service from the Valparaiso Utility. Those customers are billed for sewer service based upon a water usage reading provided to VLACD by the City of Valparaiso. During 2010, the City of Valparaiso provided inaccurate water usage readings which resulted in the VLACD sewer customers being overcharged. Virtually all of the adjustments referenced in the audit finding for 2010 resulted from this one occurrence. That being said, VLACD will initiate office procedures which comply with the audit suggestion requiring greater oversight and accountability for billing adjustments.

5) BANK ACCOUNT RECONCILIATIONS

Previous Financial Clerks failed to reconcile bank balances to the VLACD



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financial records. Current VLACD Financial Clerk/Secretary Dale Brewer is in the process of retroactively accomplishing that task and will establish procedures so that bank reconciliation occurs in the future.

6) PAYROLL TRANSACTIONS AND REPORTS

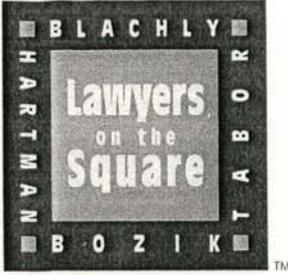
As indicated in the audit findings, VLACD processes payroll using computer software. The office staff has had significant problems in utilizing the computer software. There were occasions when the software was "overridden" so as to produce an employee paycheck. These transactions were not necessarily reflected in the "payroll history report". VLACD is evaluating its use of the computer software and will be implementing a strategy which alleviates the software problem including establishing an appropriate procedure for voiding the checks and assuring that employees are paid only for that work actually performed. The one employee who received his "gross pay" without the appropriate payroll deductions has agreed to repay the overpayment.

Payroll Interface

The former VLACD Financial Clerk was responsible for entering new employee information into the payroll processing software. Upon her termination, the VLACD District Manager did find errors she had made in entering the payroll information and those have been corrected. Generally speaking, the payroll computer software is not properly "interfacing" with the financial record keeping at VLACD. Ms. Dale Brewer has been assigned the task of attempting to resolve that problem and to alleviate the issues raised in the audit finding. Obviously, the Governing Board at VLACD will monitor this process closely and will take whatever steps may be necessary to solve the interface problem.

Payroll Withholding Remittances and Sales Tax Remittances

The prior Financial Clerk's failure to properly withhold and remit taxes including sales tax collected from VLACD customers was painfully brought to the attention of the VLACD Governing Board when the Indiana Department of Revenue froze the VLACD account. Upon learning of her indiscretion, VLACD terminated the Financial Secretary and since November, 2010 the VLACD General Manager and



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Ms. Dale Brewer are working with the state and federal agencies to resolve the problem. To date, the state sales tax remission problem has been resolved. Dale Brewer continues to work on the Federal tax matter.

6) VENDOR DISBURSEMENTS

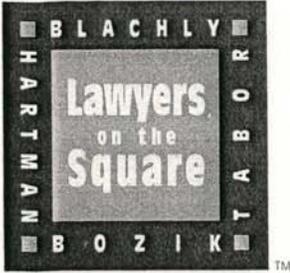
Pursuant to the audit findings, the prior Financial Clerk failed to utilize accounts payable vouchers or claim forms. There were also no cancelled checks from the bank for the months of January through March, 2010. The Financial Clerk also failed to bring some vendor claims to the Board for payment. She failed to prepare a claim docket for presentation to the Governing Board for approval. These shortcomings were all contributing factors to her termination. Ms. Dale Brewer has gone back retroactively and reconstructed the claims payment process and will be preparing a claim docket for monthly presentation to the VLACD Governing Board.

7) UNPAID INVOICES

Upon termination of the former Financial Clerk, the Conservancy District General Manager received numerous calls from vendors indicating they had not been paid for services rendered. The VLACD General Manager paid those delinquent invoices in December, 2010. VLACD has initiated procedures to assure that claims are paid promptly and pursuant to proper approval and procedures.

8) CONFLICT OF INTEREST

Mr. Stu Summers provided VLACD with assistance in convening a strategic planning retreat through his consulting company. The husband/wife relationship was disclosed at a VLACD public meeting and acknowledged by the VLACD Governing Board as acceptable. There is also a question whether the services performed actually constituted a "pecuniary interest" as defined in IC 35-44-1-3. Furthermore, Mr. Summers continues to perform tasks under that agreement and I will assist in preparation of the "Uniform Conflict of Interest Disclosure Statement" in a timely fashion.



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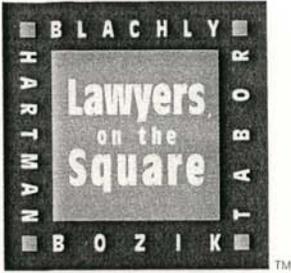
9) OFFICIAL BOND

As a result of the audit findings, VLACD learned that the prior Financial Secretary has failed to purchase or file with the Office of the County Recorder the required official bond. In previous years, the official bond was purchased and filed. Again, this is directly attributable to the failure of the prior Financial Clerk to complete and fulfill her obligations. The VLACD Governing Board has delegated to the General Manager the responsibility to assure that the Financial Clerk/Secretary has purchased the statutorily required bond and filed it with the Office of the County Recorder.

10) CONTRIBUTIONS TO UNAUTHORIZED PENSION PLAN

Since 1995 the VLACD Governing Board has approved a simplified employee pension program (SEP) for district employees. When the district originally discussed implementation of the plan, Indiana law specifically allowed participation. In the past, VLACD has consulted with representatives from the Public Employees Retirement Fund concerning conversion of the program. Conversion has proven difficult if not impossible. Continuation of the program seemed at the time and continues to be the best and fairest option for the district and its employees.

In conclusion, VLACD has terminated the employee whose failure to perform resulted in most of the audit findings. She has been replaced by someone with extensive background and experience in matters related to Indiana governmental accounting. Significant progress has been made in rectifying the audit deficiencies. Those efforts will continue as expeditiously as possible. The VLACD Governing Board understands the need for greater oversight and control. That is already occurring and will continue.



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There is little else that can be said other than to reiterate my client's ongoing commitment to address the audit deficiencies and implement practices and procedures which will avoid reoccurrence.

Sincerely,

BLACHLY TABOR BOZIK & HARTMAN
Attorneys at Law

By: 
David L. Hollenbeck

DLH/clv