

San Joaquin County Grand Jury



French Camp McKinley Fire District

A District in Disarray

2018 - 2019 Case #0518



Summary

Although the French Camp McKinley Fire District serves a relatively small population of residents, it is also responsible for protecting many of San Joaquin County's critical facilities. The Grand Jury investigated the processing of employee grievances and expanded the investigation into the management of the District and the effectiveness of the Fire District Board of Directors. The Grand Jury found an excessive number of grievances and lawsuits filed against the District, high employee turnover, a lack of policies and procedures, and ineffective Board oversight. Some of the key recommendations include:

- The French Camp McKinley Board of Directors initiate and implement the process for consolidating with another fire district.
- The San Joaquin County Board of Supervisors conduct an independent review to ascertain whether French Camp McKinley Fire District is the most viable option for providing fire protection services for this important jurisdiction.
- Update and follow the District's Policy Manual in order to ensure grievances and employee complaints are appropriately resolved and firefighter's rights are protected.
- The French Camp McKinley Board of Directors adopt and follow the San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts to ensure sound fiscal management.

The magnitude of the issues facing the French Camp McKinley Fire District will require years of dedicated effort to resolve. Considering the historical inadequacy of its Board of Directors, it is unlikely that the District can resolve these issues on its own.

Glossary

- **Board of Directors or Board:** French Camp McKinley Board of Directors
- **District:** French Camp McKinley Fire District
- **Local Agency Formation Commission (LAFCO):** Regional service planning agency that oversees the establishment, expansion, governance, and dissolution of local government agencies and their municipal service areas to meet current and future community needs
- **Municipal Service Review (MSR):** A comprehensive study to determine the adequacy of governmental services being provided by the local agencies under LAFCO jurisdiction
- **Policy Manual:** French Camp McKinley Fire District Fire Services Manual
- **San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts:** A manual developed by the County Auditor-Controller to aid the Boards of special districts in managing their finances

- **Special District:** An agency of the state for the local performance of specific functions such as fire protection or flood control within limited boundaries. These districts are governed by a Board of Directors

Background

The French Camp McKinley Fire District was formed in 1946 and serves approximately 16 square miles surrounding French Camp. In September 2015, the community of Mountain House contracted with the District to provide fire protection service. The community of French Camp has a population of 3,700 and Mountain House has a population of 14,000.

The District is responsible for protecting many of the County's critical facilities which are open 24-hours a day, seven days a week. These facilities include:

- San Joaquin County Sheriff's Office
- San Joaquin County Juvenile Justice Center
- San Joaquin General Hospital
- Mary Graham Children's Center
- San Joaquin County Jail and Honor Farm

The institutions listed above employ an estimated 2,000 staff members, and houses 1,600 inmates and patients. Within its jurisdictional boundary, the District serves approximately 21,300 people.

Additionally, Sharpe Army Depot and the Union Pacific Intermodal Facility are within the District's service area. The French Camp Veterans Administration Clinic is scheduled to open in 2022 and will also be served by the District.

French Camp McKinley Fire District is an Independent Special District. As such, the only oversight of the District is provided by a five-member Board of Directors, who are elected by French Camp residents and serve staggered four-year terms. Three directors have been associated with the District for more than 25 years.

One of the most important responsibilities of the Board of Directors is to hire and supervise the Fire Chief. The District has had four different Fire Chiefs in the last nine years. The current Fire Chief has been on leave since July 2018. In August 2018, the Board appointed an Interim Fire Chief from outside the District with 27 years of experience.

Staff turnover has also been challenging for the District. The normal staffing level for the District is 25 firefighters. Due to the number of recent resignations, terminations, and firefighters on administrative leave, the current staffing level is 16 firefighters. The District staff includes an Administrative Services Assistant who was recently terminated. The Fire Chief's absence and the

Administrative Services Assistant's termination made it extremely difficult for the Interim Fire Chief to provide the Grand Jury with all of the requested documentation.

In 2016, the District's Fire Chief purchased an off-the-shelf Policy Manual. The Manual has not been customized for the District and has yet to be updated. Although it includes detailed procedures for processing and documenting employee grievances, this investigation discovered that these procedures were not followed, resulting in an unusually high number of investigations and lawsuits.

Reason for Investigation

The 2018-2019 Grand Jury received a complaint alleging the lack of response to employee grievances against the District. Initial research revealed the number of grievances and lawsuits filed against the District seemed excessive. The amount of employee turnover and the lack of policies and procedures raised additional concerns.

Method of Investigation

Materials Reviewed

- Surveyed all San Joaquin County Fire Districts and Fire Departments
- French Camp McKinley Fire District Policy Manual (2016)
- *LAFCO Municipal Service Review of Rural Fire Protection Districts*, San Joaquin County (October 2011)
- French Camp McKinley Fire District Internal Investigation Reports and lawsuit settlement documents
- French Camp McKinley Fire District Website
- Union Pacific Environmental Impact Report (2012)
- California Government Code 53891(a) Special Districts Financial Report filings
- California Government Code 26909 (a)(1) Special District Audit Requirements
- *San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts* (December 31, 2017)

Interviews Conducted

- Interim Fire Chief and a former Fire Chief of French Camp McKinley Fire District
- French Camp McKinley Fire District Board Members
- Current and former French Camp McKinley Fire District Firefighters
- San Joaquin County Auditor-Controller and Assistant Auditor-Controller
- California Special Districts Association

Site Visited

- French Camp McKinley Fire District Board meeting

Discussions, Findings, and Recommendations

1.0 Procedures, Policies, and Documentation

Policy Manual

In 2016, the District purchased a policy manual from Lexipol, a widely used private, for-profit company that produces policy manual templates for public safety agencies. The intent of this type of manual is to provide a formatted foundation for policy guidance, which a district tailors, customizes, amends, and updates to meet its own specific and ongoing needs. The policy manual includes best practices, process descriptions, and the specific methods and standards for how work is performed. The Lexipol manual is the only procedural Manual currently used by the District.

The District has not customized the purchased Policy Manual to meet the needs of the District and no documented updates have occurred since its adoption in February 2016. Section 106.5 of the Manual states that an electronic version will be made available. This would serve two important purposes: 1) all firefighters would have access to the District's policies, and 2) the Manual could be easily updated to reflect new policies or emerging best practices. No electronic version of the Policy Manual exists.

Significant ongoing changes to the California Fire Code require updates to policies and procedures as statutes, case law, and regulations change. Regularly updating the Policy Manual would also communicate clear and concise policy guidance to employees. As the community of French Camp continues to grow and new facilities are constructed, further updates to the Manual will be necessary.

Policies and Procedures

The French Camp McKinley Policy Manual assigns policy making authority to the District's Board of Directors. The Policy Manual details the responsibilities of the Board as a whole, as well as the basic responsibilities of individual members. Individual board members are required "To be familiar with policies governing the operation of the District" and the Board must "Ensure the District business is conducted in accordance with all applicable laws, statutes, regulations, and codes, etc." The Policy Manual gives the Board important policy oversight functions but does not specify how the Board is to be informed of policy changes.

The Policy Manual does not include procurement policies or procedures for disposing of surplus equipment. The lack of procurement policies has resulted in wasteful spending and mismanagement of equipment.

In December 2017, the County Auditor-Controller developed a reference guide to aid special districts with their financial reporting and conducted a follow-up survey with the districts. The survey queried 102 districts "To what degree has your district developed financial policies and procedures?" The District responded that it was in the process of developing policies for purchasing and spending limits. Although the Board has been aware of the District's financial policy deficiencies for quite some time, they have taken no action.

The District Policy Manual contains no policies related to testing for promotion. Testing policies would provide a transparent process for merit-based, competitive promotions. Comprehensive testing ensures that firefighters have the critical skills necessary to effectively respond to any number of incidents affecting public safety.

Comparison Survey

A survey of fire departments and fire districts in the County revealed that all respondents have procedures in place to periodically update their policy manuals. Furthermore, all but one of the districts has a written purchasing policy. French Camp McKinley was among the districts/departments that did not respond to the survey.

Table 1. Survey Results from Responding Fire Districts/Departments

District	Policy Manual Update Schedule	Written Grievance Policy	Written Purchasing policy
Woodbridge	As needed	Yes	Yes
Montezuma	Approximately three times per year	Yes	No
Lathrop	Annual review, update as needed	Yes	Yes
Ripon	Ongoing	Yes	Yes
Escalon	Currently processing new policy	Yes	Yes
Mokelumne	Annual review, update as needed	Yes	Yes
Lodi	As needed	Yes	Yes
Stockton	As needed	Yes	Yes

Findings

F1.1 The District's Policy Manual requires significant customization in order to adequately meet the needs of the District.

F1.2 The District does not review and regularly update the Policy Manual, placing the District at risk for financial liability.

F1.3 The lack of access to an electronic Policy Manual makes it more difficult for staff and Board members to receive, review, and implement policy updates.

F1.4 Not having procurement policies and procedures for disposing of surplus equipment, the District risks excess spending without accountability, and financial loss when the sale of surplus is not maximized.

F1.5 Not requiring the Board to approve policy updates leaves them without the ability to provide appropriate policy oversight for the District.

F1.6 Without clearly defined testing procedures, firefighters are deprived of the opportunity for promotions based upon their training, experience, and qualifications.

F1.7 Public safety may be compromised when department promotions are not based on the results of objective testing procedures.

Recommendations

R1.1 The French Camp McKinley Board of Directors customize and approve its Policy Manual to reflect the needs of the District by December 31, 2019.

R1.2 The French Camp McKinley Board of Directors develop and follow a written policy to systematically review and update their Policy Manual on a regular schedule by December 31, 2019.

R1.3 The French Camp McKinley Board of Directors post its updated Policy Manual and all updates electronically by December 31, 2019.

R1.4 The French Camp McKinley Board of Directors develop policies for purchasing and disposing of equipment by December 31, 2019.

R1.5 The French Camp McKinley Board of Directors develop policies for testing and promotions that maintain the integrity of test scores by December 31, 2019.

2.0 Personnel Issues

Toxic Work Environment

This investigation revealed a significant number of dysfunctional relationships among the firefighters within the District. The Grand Jury found many instances of disrespectful treatment between firefighters and their peers, as well as between firefighters and their supervisors. The Grand Jury also found that supervisors retaliated against firefighters for filing grievances.

Employee Grievances

The District's Policy Manual defines an employee grievance process. The District's manual states that oral or written grievances will be:

- Promptly documented
- Handled quickly and fairly
- Resolved in a reasonable period of time, generally within seven days

The Grand Jury found that the District never followed the steps outlined in this policy. Currently, when an employee files a grievance with the Fire Chief, the Chief conducts his own internal investigation. Often the complainant does not receive a response. Some employees who filed a grievance experienced retaliation by their supervisors. The District failed to follow policies designed to prevent retaliation against grievance filers and to ensure confidentiality.

Another requirement of the grievance process is that an annual audit be conducted with results documented in a confidential memorandum to the Fire Chief. However, the current Policy Manual does not require the grievance memorandum to be presented to the Board of Directors. An annual grievance audit can provide the Fire Chief and Board with insight into underlying personnel issues within the District. The grievance audit can also identify policy, procedure, or training changes that may be necessary. The Board of Directors was unaware that an annual grievance audit was required and has never received a grievance audit memorandum.

The Grand Jury could not substantiate the actual number of grievances filed by employees since 2013, as the District was unable to provide complete documentation. Board members were unsure of the number of grievances filed over the last five years; one estimated between 15 and 20, while another estimated 2 or 3.

Personnel Investigations

The toxic work environment in the District has been highlighted in multiple internal investigations. The District has utilized the services of external investigators several times to investigate personnel issues. A summary of those findings include:

- The District had a very high possibility of “severe litigation” due to the action of individuals employed by the District and the inaction of Board members in resolving employee issues.
- Inadequate recordkeeping by the District that could be in violation of the terms of a prior lawsuit settlement.
- A Battalion Chief’s behaviors warranted a serious written reprimand and the recommended disciplinary action was not implemented.

The Grand Jury found no evidence that the Board or the Fire Chief took any action in response to these reports. Some Board members claimed they were unaware of these reports.

The Grand Jury found that there were irregularities in documentation and manipulation of test scores for promotion. Firefighters with lower test scores were promoted into supervisory positions. This type of behavior is not only unethical but also has a negative impact on firefighter morale.

Lawsuits

Over the past three years, the French Camp McKinley Fire District has settled at least three employee lawsuits because their grievances were not managed according to the District policies. The total cost to settle these lawsuits was over \$400,000. While some of the total cost was covered by insurance, the unavailability of detailed financial records prevented the Grand Jury from determining the exact cost of those lawsuits. Table 2 below lists legal costs for the last four years taken from the District’s budget. Legal fees include costs to settle lawsuits not covered by the District’s insurance.

Currently there are several additional lawsuits pending against the District.

Table 2. French Camp McKinley District Legal Fees for the Past Four Years

Fiscal Year	Budgeted legal fees	Legal fees paid	FY Total Budget
2015-2016	\$16,000	\$15,387	\$2,423,010
2016-2017	\$96,100	\$99,681	\$2,983,057
2017-2018	\$173,617	\$169,265	\$3,010,200
2018-2019	\$40,000	\$48,464*	\$2,825,874
*as of February 2019			

Table 3 below compares the number of grievances and investigations, and the amount of money spent settling lawsuits by other fire districts/departments in the County from 2013-2018.

Table 3. Survey Results from Fire Districts/Departments in San Joaquin County for the Years 2013-2018.

District	Budget (Millions)	Number of Firefighters	Grievances	Investigations	Lawsuit settlements
French Camp*	\$2.8	16	>12	>5	>\$400,000
Woodbridge	\$3.4	27	3	2	0
Montezuma	\$1.31	11FT,15Res	1	3	0
Lathrop	\$9.5	33FT,25Res	1	3	0
Ripon	\$2.77	12FT,18Res	0	0	0
Escalon	\$1.22	7FT/17Res	0	2	0
Mokelumne	\$1.14	10FT/15PT	0	1	0
Lodi	\$12	55FT/4Res	8	0	0
Stockton	\$55.6	179	14	17	0

*Best estimates based on information available to the Grand Jury (FT: full time, PT: part time, Res: reserve, >: more than)

Findings

F2.1 Public safety may be put at risk when testing procedures allow less qualified candidates to be promoted into positions that require them to make critical decisions based on qualifications, training, and experience.

F2.2 By not following their grievance procedures, the District’s Fire Chief and Board left their employees without recourse to resolve problems other than litigation.

F2.3 The District’s leadership failed to address grievances and complaints of a toxic work environment, requiring the District to settle three employment-related lawsuits totaling over \$400,000.

F2.4 The District’s failure to conduct an annual grievance audit may have resulted in unnecessary financial liability.

Recommendations

R2.1 The French Camp McKinley Board of Directors develop a clear and concise grievance policy and form by December 31, 2019.

R2.2 The French Camp McKinley Board of Directors revise the District Policy Manual to require that an annual grievance audit be sent to the Board of Directors no later than February each calendar year by March 1, 2020.

R2.3 By December 31, 2019, the French Camp McKinley Board of Directors develop a policy that requires the Board receive a copy of all internal investigative reports within 10 days of completion.

3.0 Board Oversight

Roles and Responsibilities

Special Districts in California are local government agencies that provide essential services to millions of residents. Each District provides a specific type of service. The Fire Protection District Law of 1987 is the statutory authority for fire protection districts. Some of the provisions of the law include:

- Every district shall be governed by a legislative body known as a board of directors.
- Claims against a district shall be audited, allowed, and paid by order of the district board.

French Camp McKinley Fire District is governed by a five-member Board of Directors whose primary responsibilities include providing financial oversight and formulating and overseeing strategic policy direction. The District Policy Manual lists 15 responsibilities of Board members including:

- Developing a list of qualifications, job description, and evaluation process for the Fire Chief
- Hiring and supervising the Fire Chief
- Developing goals and measurable objectives for the District and the Fire Chief
- Monitoring progress towards reaching established goals
- Developing policies which ensure that District business is conducted in accordance with all applicable laws, statutes, regulations, and codes

The Grand Jury found that some members of the Board of Directors do not fully understand their roles and responsibilities as outlined in the District Policy Manual.

Evaluating the Fire Chief

Including the current Interim Fire Chief, the District has had four Fire Chiefs in the past nine years. The Board has failed to set goals and expectations or provide feedback for the Fire Chief. Some

Board members said that in the past, they took the word of the Fire Chief that all was well within the District, and admitted they had no objectives by which to measure performance.

Inadequate Financial Reporting

California Government Code section 53891(a) requires that special districts furnish the State Controller with a report of all financial transactions that took place during the prior fiscal year. These reports are to be filed within seven months after the close of each fiscal year. California Government Code section 26909(a)(1) also requires that an audit for every special district be filed with the County Auditor-Controller annually. The audit must be filed within 12 months of the end of the special district's fiscal year.

While the French Camp McKinley Fire District is current with the State Controller filings, the most recent annual audit filed with the County Auditor-Controller is for fiscal year 2014-2015. Annual audits are critical because they can identify financial improprieties and enable the Board to take appropriate action. Some Board members were unaware that the District is delinquent in filing these audits with the County.

Financial Misconduct

Alleged financial misconduct by District employees was identified by the Interim Fire Chief and confirmed by the County Auditor-Controller's office. The misconduct may cost the District over \$100,000 and went undetected by the Board of Directors Finance Subcommittee.

Findings

F3.1 Board responsibilities are not clearly understood by all board members, which has contributed to ineffective leadership of French Camp McKinley Fire District.

F3.2 Without a formalized annual review process, the Board is unable to measure the Fire Chief's performance.

F3.3 Board members have not held the Fire Chief accountable for failing to communicate critical personnel issues, which has led to significant employee turnover and expensive investigations and lawsuits.

F3.4 The Board is failing in their fiduciary responsibilities as evidenced by the District's delinquency in filing annual audits, the lack of policies providing financial controls, and inadequate financial oversight.

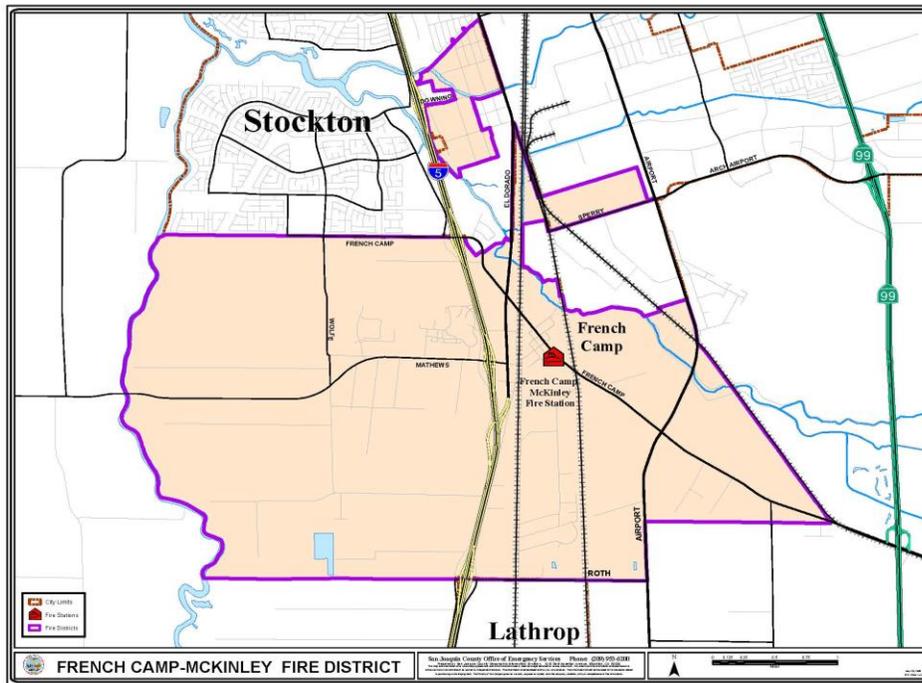
Recommendations

R3.1 French Camp McKinley Board members perform an annual review of the Fire Chief no later than July of each calendar year, beginning July 2020.

R3.2 French Camp McKinley Board members file annual audits with the County Auditor for 2015-2016, 2016-2017, and 2017-2018, with copies sent to the Grand Jury by December 31, 2019.

R3.3 French Camp McKinley Board members adopt and follow the financial guidance provided in the document “*San Joaquin County Best Practices for Accounting and Reporting for Locally-Governed Special Districts*” by December 31, 2019.

4.0 The Future of French Camp McKinley Fire District



The map illustrating the boundaries of the District shows a small island surrounded by larger fire districts. The map can be deceiving in that it does not reflect the large number of facilities and people under the protection of the District. Furthermore, it does not convey the potential for accidents involving hazardous materials, given the traffic generated by the Union Pacific Intermodal station and the Pilot Flying J Truck Stop. The District provides fire services to the Pilot Flying J facility, while Lathrop Manteca Fire District is mandated to provide hazardous materials cleanup.

Consolidation

Consolidation of French Camp McKinley Fire District has been a topic of discussion for more than 30 years. The last Municipal Services Review (MSR) for all County fire districts, performed in 2011 by LAFCO, determined the French Camp McKinley Fire District should “explore other organizational structures” in order to achieve greater operational efficiencies. The MSR recommended the District either:

- a. Contract with the City of Stockton, or
- b. Consolidate with a neighboring fire district.

More recently, the *Manteca Bulletin* has called for re-evaluation of the efficiency and viability of smaller independent fire districts. In an article published June 25, 2018, “*Sounding the Alarm for Fire Service Consolidations*,” the editor speculated that citizens would be better served through consolidations among the small surrounding districts. The newspaper revisited the issue on January 22, 2019, in an article titled, “*Time to Rethink Fire Service for Manteca, Lathrop, Ripon & French Camp*.” The *Manteca Bulletin’s* proposals for consolidation are not based on French Camp McKinley’s internal deficiencies, but on economies of scale, population growth patterns, financial viability, and improved levels of fire protection service.

Considering the absence of steady leadership, excessive turnover of personnel, and financial instability, the ability of the District to adequately protect some of the County’s critical assets and facilities that serve its constituents is questionable.

Findings

F4.1 Considering the history of failed leadership from French Camp McKinley’s Board of Directors, excessive turnover of the District’s Fire Chiefs, profound personnel problems, lawsuits, and investigations, the ability of French Camp McKinley Fire District to effectively provide fire protection services to its constituents, including the critical County facilities within its jurisdiction is questionable.

F4.2 The District’s Board has failed to follow-up on repeated recommendations to explore consolidation.

Recommendations

R4.1 The Board of Directors of French Camp McKinley Fire District initiate the process, including an analysis, for consolidating with another fire district by October 31, 2019.

R4.2 The San Joaquin County Board of Supervisors conduct an independent review to ascertain whether French Camp McKinley Fire District is the most viable option for providing fire protection services for critical County facilities by March 31, 2020.

Conclusion

French Camp McKinley Fire District has been struggling on multiple fronts for the last decade and is currently in disarray. Continual turnover of the Fire Chief position and failed oversight by the District's Board of Directors has exposed the District to expensive investigations and litigation. Although the Interim Fire Chief has made progress in his short tenure at the District, the process required to transform the District into a fully functional, efficient Fire District will take many years at best. The constituents of this District, and the hard-working firefighters that serve them, deserve better.

Disclaimers

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911. 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

Response Requirements

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The French Camp McKinley Fire District Board of Directors shall respond to all Findings and Recommendations except R4.2.

The San Joaquin County Board of Supervisors shall respond to Recommendation R4.2

Mail or hand deliver a hard copy of the response to:

Honorable Linda L. Lofthus, Presiding Judge
San Joaquin County Superior Court
180 E Weber Ave, Suite 1306J
Stockton, California 95202

Also, please email a copy of the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury, at grandjury@sjcourts.org