

THE AUDIT

Mike Cathcart has asked for my comments regarding the audit conducted by the California Auditor's Office. Hence this short history.

For several years a committee, including Mike Casey and myself, Andy Andersen, have been trying to get a bill through the California Legislature. The need for this bill flows from the El Dorado County District Attorney's opinion that if you do not live at Fallen Leaf full time, but you register at Fallen Leaf to vote in CSD elections, you may be committing voting fraud, which the DA threatened to prosecute. Forest Service permit holders at Fallen Leaf are in an even more difficult position than fee simple landowners when it comes to voting. Forest Service permits state that they are recreational permits and the holder cannot use the cabin as a permanent residence. Hence a permit holder would jeopardize their permit if they register claiming residency at Fallen Leaf. The proposed legislation would permit cabin owners to vote in CSD elections even if Fallen Leaf is not their primary residence.

If the District Attorney's opinion is correct, and without our expansion of voters at Fallen Leaf, the Fallen Leaf CSD will fail due to a lack of eligible voters and eligible Board members willing to serve. You must be a lawful registered voter in the district to serve on the CSD Board. Should the CSD fail, the consequences for our Fire Department and the Community Area are enormous.

On one of our legislative attempts, our proposed bill passed the Senate and then all committees in the Assembly but one. It was our last committee review, but the chairperson had concerns regarding whether (1) the voting problem at Fallen Leaf was so severe that it required special legislative action, and (2) if legislative action was required, was our proposed bill the best solution. The committee chairperson referred our matter the State Auditor's office for a report, and we understood that the referral was to answer those two questions.

When the Auditor's report came out it was mixed. The good news is that the Auditor believed that the voting problem at Fallen Leaf is sufficiently severe that it requires a legislative solution, and that our proposed legislation was the most appropriate fix. However, the Auditor's report went beyond the issues that we believed had been referred to them. Two of the additional opinions of the auditor were significant. The first is that the firemen at Fallen Leaf were improperly working as independent contractors, rather than employees of the CSD. The second opinion was that the CSD had overcharged the Office of Emergency Services (OES) for the work which our strike teams had done during the prior fire seasons. They believed the overcharge amounted to some \$700,000.00.

It should be noted that an Auditor's opinion is not the final word on an issue. It is their opinion regarding the subject matter and is only an advisory opinion to the agencies involved. It is not binding on those agencies. Further, in our case, we believe the two negative opinions of the Auditor are incorrect.

With regard to the employee issue: Contrary to the Auditor's opinion, it was the opinion of the CSD attorney that what we were doing was proper. This was later confirmed by the

California State Employment Development Department. That department issued a letter which confirmed that the Auditor's opinion on this issue was wrong. The firemen could properly be classified as independent contractors. Despite this, the CSD has converted our firemen to employees, as we do not want to appear to be recalcitrant before the legislature.

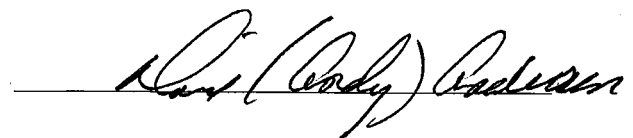
With regard to the issue of the overcharging OES: The CSD believes that the auditor was once again incorrect. Our opinion is based on two things. The first is the opinion of the CSD's accountant who is also the CSD's independent auditor. That accountant handles a number of CSDs and believes that our billing was consistent with other agencies and consistent with common practice. That accountant also does the CSD's annual audit, and consistent with his opinion, he has not listed the Auditor's opinion as a potential liability in that audit. He would be required to do so if he believed the auditor's opinion was a potential liability.

The second reason we believe the Auditor was incorrect is the action of the OES itself. Each year, Gary Gerren, as our fire chief, files a survey with OES. That survey lays out what our CSD will charge in the upcoming fire season for the services which we can provide. In the year following the Auditor's report, Gary was particularly conservative in his cost estimates. Once again, we did not want to rock the boat or appear that we were not taking the Auditor's report seriously. However, in response to our low-ball survey, the OES contacted Gary to tell him that his survey was not correct. He was charging too little, and the survey should be revised upwards. Further, in the years following the Auditor's report, our relationship with the OES remains unchanged. We are the number one fire department in the Tahoe Basin for the number of OES call outs for assistance, and that agency has continued to pay for these strike teams without any questions regarding our billing.

The CSD has followed the recommendation of the Auditor. That recommendation was to work with the OES to determine if there was overpayment and if so, to return it. We met with the OES at Fallen Leaf following the Auditor's report. At that meeting there was a great deal of discussion regarding the fact that the regulations regarding payment, rate of payment, etc., are complex and may be misinterpreted. However, the CSD agreed to return any money which OES believed was improperly obtained. The OES has not requested the return of funds for nearly three years. Nor has the OES indicated that our billing was in any way improper.

The Audit also had several lesser, collateral recommendations. The CSD responded to each recommendation by accepting and implementing some, pointing out inaccuracies to some, and further reviewing and evaluating some. The CSD's responses, like the Audit, have been posted on the Auditor's website.

The CSD believes it is in full compliance with all the requirements of the Audit's opinions and recommendations.

A handwritten signature in black ink, appearing to read "Gary Gerren", is written over a horizontal line.