

**ADMINISTRATIVE INVESTIGATION REPORT**

S & A CASE NO. 2009-0224

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**RIO DELL WHISTLEBLOWER INVESTIGATION**

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# INTRODUCTION



## ADMINISTRATIVE INVESTIGATION REPORT

DATE: March 24, 2009  
TO: David E. Martinek, Attorney at Law  
FROM: Floyd T. Stokes, Supervising Investigator, Stokes & Associates  
SUBJECT: S & A Case No. 20090224; Rio Dell Whistleblower Investigation

### SECTION I. INTRODUCTION

On February 24, 2009 David E. Martinek, Rio Dell City Attorney, retained the services of this firm to conduct an independent investigation concerning reports that were made pursuant to Rio Dell's whistleblower regulation. Specifically, the reports focused on Public Works Director (PWD) Jim Hale. Mr. Martinek provided me with copies of the City of Rio Dell's Resolution No. 1028-2009, which established its whistleblowing policy, and an interoffice memorandum of allegations dated 1/20/2009 from [REDACTED] in [REDACTED] added two additional issues to include in our investigation (Items 28 and 29 under Summary of Allegations).

Because this case involved a significant number of allegations—and because a number of individuals were named in those allegations, I assigned Joe Silva, one of this firm's more experienced associate investigators, to assist me in order to complete the investigation in a timely manner.

## **SYNOPSIS**

## SECTION II. SYNOPSIS

In [REDACTED] which was addressed to the mayor and members of the Rio Dell City Council and which was forwarded about two weeks after the City's whistleblower regulation (Exhibit A) was enacted, [REDACTED] addressed a number of allegations of misconduct by Public Works Director (PWD) Jim Hale. These allegations ranged from reports of drinking alcohol and smoking marijuana while on duty, drunkenness on duty resulting in unreported damage to city property, chronic absenteeism, harassment of his employees, dishonesty, verbal abuse of other city staff members, and improper political activity—and the allegations included reports of criminal behavior, such as theft of city property. (Note: This is not an all-inclusive list.)

For ease of reference, I separated the content of [REDACTED] of allegations into an outline format of numbered and lettered items, or issues (refer to Section III. Summary of Allegations). I did this because [REDACTED] memo contained allegations that involved [REDACTED] and [REDACTED] as well as [REDACTED] more than 20 allegations (Items 1 through 22) involving Mr. Hale. In addition, I added the two allegations listed by [REDACTED] (Items 27 and 28). I also added three additional issues of concern to interviewers (Items 29, 30 and 31) and four prior non-reported incidents involving PWD Hale that came to our attention during our inquiries (Items 31 A, 31 B, 31 C, and 31 D). All of these items are listed in the Summary of Allegations that follows.

## SUMMARY



### SECTION III. SUMMARY OF ALLEGATIONS

Items 1 through 26 below follow word-for-word the content of [REDACTED] except that the items are numbered or lettered for ease of reference. Items 1 through 22 deal with allegations concerning misconduct by PWD Hale, with occasional references to [REDACTED] and [REDACTED]. Items 23 through 26 deal with allegations specifically directed [REDACTED]. Items 27 and 28 were added by [REDACTED]. Items 29 through 31 were added by this firm:

1. [REDACTED] reported that PW employees have been allowed for multiple years to purchase tools for personal use on the City's accounts as Christmas presents from the PWD. This was reported to [REDACTED].
2. [REDACTED] reported that employees have worked on the PWD's private property on the PWD's personal activities during business hours.
3. Employees have witnessed the PWD drinking alcohol at the PW corporation yard during working hours on multiple occasions.
4. Employees have witnessed the PWD under the influence of marijuana and alcohol at work during working hours.
5. Employees reported that the PWD retreats to his house during working hours and returns smelling like alcohol and behaving as if under the influence on a daily basis. This has been reported to [REDACTED].
6. PWD smoking marijuana on the job:
  - A. The PWD has been seen by employees smoking marijuana on the job, during working hours.
  - B. [REDACTED] witnessed this during the decorating of the fire-hall in December 2008.
7. Camouflage tarp issue:
  - A. It has been said that the PWD purchased a camouflage tarp at the Rio Dell feed store for personal use, then later returned it to the store and asked them to charge it on the City account because he was not going to be able to make use of it at home, and that he would utilize it at the City. During a recent inventory the tarp could not be located. It has been said that [REDACTED] felt awkward about what they were asked to do.
  - B. It has also been said that the tarp was seen leaving on a personal vehicle belonging to [REDACTED].
8. City Backhoe at [REDACTED] incident:
  - A. PW staff was told to leave the City backhoe at the [REDACTED] site for [REDACTED] to load a personal dump truck w/City owned asphalt grindings from the Wildwood Ave. project. It was estimated that he was allowed to take approximately 5 loads of the grindings.
  - B. The next day [REDACTED] arrived with a truck load of firewood for the PWD and wanted to drop it off at the PW corporation yard. The staff person at the time felt uncomfortable about the transaction, and would not let [REDACTED] leave the wood. The next day, the staff person found the wood left at the corporation yard.
9. Sometime later, the [REDACTED] arrived at the yard, to cut some of "his firewood." It is believed by [REDACTED] that the grindings were traded for personal firewood.

10. Employees reported that the John Deere sludge tractor was traded by the PWD for money and/or a gun. The PWD stated to council during open session that the tractor was scrapped. However, at a later date, [redacted] from [redacted] loaned/rented the tractor back to the City for use for [a] period of a "few months." After allowing the City to rent/borrow the tractor back, he was seen loading it back up and taking possession of it. It has not been seen since. This was reported to [redacted]
11. [redacted] reported that the PWD conducted a job interview at the bar (Mingo's) during working hours. This was reported to [redacted]
12. Employees reported that the PWD has been working from 10:00 a.m. to 3:00 p.m. on a daily basis for several months, and much of that time is spent in his home. This has been reported to [redacted] by [redacted]
13. The following two items deal with the issue of sidewalk installation on private property with public funds:
  - A. The PWD authorized a sidewalk to be installed at [redacted] home with public funds.
  - B. The PWD authorized a sidewalk to be installed at [redacted] home with public funds.
14. The PWD made repairs to the street in front of [redacted] planned development on [redacted] Drive. It was said that these repairs were ordinarily made by the developer as a part of the development, and that the repairs were inappropriate for the City to pay for. The PWD made these arrangements outside of the agreement between the planning commission and [redacted]
15. It has been alleged by multiple employees that PW timecards have been abused in multiple ways: not reporting sick leave, not reporting vacation leave, etc. This was reported to [redacted]
16. Employees reported that funds received from scrap metal are put in the "fun fund" instead of being turned over to the City for proper accounting.
17. It has been said by multiple employees that they feel belittled and intimidated by the PWD and that he yells and swears at them. It has been said that more than one employee has quit because of that [behavior].
18. Employees reported that they felt the PWD misused his authority to persuade them to hang political signs after work without pay for [redacted]
19. An employee reported that the PWD built a large garage without a building permit.
20. Employees reported that the PWD purchased tires and paid for other vehicle maintenance on his personal vehicle with public funds.
21. Employees reported that the PWD was operating the backhoe under the influence of alcohol at the Fireman's Park in the summer of 2007. While operating the equipment he crashed into and damaged the children's play equipment. Subsequently, PW staff was asked to remove the equipment and store it at the PW corporation yard. At a later date, staff was directed to "scrap it." This was reported to [redacted]
22. Employees reported that the PWD has directed staff to destroy evidence of and mislead anyone who asks about the misuse of property, conduct, etc.

*The following four items involve allegations about words or actions to [redacted] by [redacted] in response to the preceding 22 allegations:*

23. Employees reported that [redacted] has discouraged employees from relaying the above-mentioned issues to the Council, stating that these discussions need to be kept "in house," and that we need to be "kinder to one another."

24. In addition to what [REDACTED] told by staff, [REDACTED] have also made attempts to bring employees' concerns to the attention of [REDACTED]. As a result, [REDACTED] was told that [REDACTED] was "critical," and on multiple occasions told that we need "to be kinder to one another." In response [REDACTED] have been told that we shouldn't "eat our own." At the time [REDACTED] was shocked that [REDACTED] was being discouraged from communicating the concerns.
25. I believed that my discussions with [REDACTED] have prompted [REDACTED] to make statements such as "you better watch yourself.... you better watch how you drive this... you better tread lightly."
26. On Friday [REDACTED] stated that [REDACTED] was "devious" in reference to [REDACTED] documenting employee statements per [REDACTED] recommendation.

*The following two items involve the additional allegations listed in [REDACTED]*

27. A claim that the Public Works Department used the city credit card for purchases of gas and diesel for personal purposes.
28. A claim that Mr. Hale required a city contractor to put in two water lines to his house, one of which is not metered.

*In addition to the above-listed allegations, our questions to persons interviewed during this investigation included the following three items. The question posed in Item 31 resulted in four prior non-reported allegations involving PWD Hale. The responses are listed under that item:*

29. Have you been contacted by Jim Hale after he was placed on administrative leave? What were the circumstances of the contact? If so, do you feel you were intimidated by Mr. Hale during that contact?
30. Has anyone attempted to influence you or intimidate you in any way regarding this investigation?
31. Are there any other issues concerning this investigation that you wish to bring to our attention?
- A. The allegation that in early 1996 a Rio Dell Public Works crew under the direction of PWD Hale assisted [REDACTED] by installing a water supply line for which PWD Hale received a \$500 cash payment—cash he kept for himself without informing the City of Rio Dell.
  - B. The allegation that items belonging to the City of Rio Dell may have been taken to [REDACTED] property at Ruth Lake.
  - C. The allegation that PWD Hale would utilize PW employees to work on [REDACTED] personal property during work hours.
  - D. The allegation that PWD Hale would trade services, materials, or financial incentives to individuals or contractors for personal gain.

# **INVESTIGATION OVERVIEW**

## SECTION IV. INVESTIGATION OVERVIEW

During the course of this investigation, which began on February 25, 2009 and concluded on March 31, 2009, Investigator Joe Silva and I completed the following activities:

1. We viewed various facilities, items, and locations in and around Rio Dell, Loleta, and Eureka, and we photographed those deemed pertinent to this investigation. Specific photographs of interest are included in the Exhibits section of this report.
2. We examined numerous documents, including policy manuals, agreements, personnel files, financial records, and bookkeeping records pertinent to this investigation. Specific documents of interest are included in the Exhibits section of the report.
3. We completed a public records check of the principle subject of the investigation, PWD Jim Hale (Exhibit N).
4. We documented our investigation, findings, and conclusions in this report, which was completed on April 5, 2009.

During the course of our investigation we interviewed over 40 individuals. In certain instances, we re-interviewed selected individuals. The investigation was delayed for a few days until PWD Hale made himself available.

The investigation culminated in our interview of PWD James Hale on March 21, 2009 at Rio Dell City Council chamber, [REDACTED] present. At the beginning of the interview, I presented PWD Hale with the Stokes & Associates *City of Rio Dell Employee Information and Acknowledgement of Investigation Form*, which he signed. Refer to Exhibit O for a copy of the signed form. The original is held at our office. The interview was digitally recorded with PWD Hale's permission, and the recording is held at our office. PWD Hale also recorded most of the interview with his personal tape recorder.

Our investigative activity ended on March 31, 2009—after we checked into certain issues disputed by Mr. Hale and other last-minute issues. The individuals interviewed are listed below:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]

- 19. [REDACTED]
- 20. [REDACTED]
- 21. [REDACTED]
- 22. [REDACTED]
- 23. [REDACTED]
- 24. [REDACTED]
- 25. [REDACTED]
- 26. [REDACTED]
- 27. [REDACTED]
- 28. [REDACTED]
- 29. [REDACTED]
- 30. [REDACTED]
- 31. [REDACTED]
- 32. [REDACTED]
- 33. [REDACTED]
- 34. [REDACTED]
- 35. [REDACTED]
- 36. [REDACTED]
- 37. [REDACTED]
- 38. [REDACTED]
- 39. [REDACTED]
- 40. [REDACTED]
- 41. [REDACTED]
- 42. [REDACTED]
- 43. [REDACTED]
- 44. [REDACTED]

## **FINDINGS**

## SECTION V. FINDINGS (Listed by Allegation)

In the **FINDINGS** that follow, each of the allegations has been classified with one of the below-listed dispositions.

The dispositions were reached after careful consideration of the evidence, much of which was testimonial (i.e., witness statements). In a number of cases, however, testimonial evidence<sup>1</sup> was corroborated by documentary or tangible evidence (i.e., written documents, business records, photographs, digital recordings, and, in one instance, a complete, working sludge tractor).<sup>2</sup>

The **Sustained** allegations were then compared with the provisions of the following policies, rules, regulations, or agreements: City of Rio Dell Workplace Harassment Policy, City of Rio Dell Drug-Free Workplace Policy, Personnel Rules of the City of Rio Dell, the Rio Dell Public Works Department Rules & Regulations, and the City of Rio Dell Public Works Director Contract Agreement Dated 7/9/07. Refer to the Exhibits section, Items A through E, of this document for the applicable provisions.

These are the dispositions, with an explanation of each:

- **Unfounded** (i.e., the investigation disclosed that the alleged act did not occur);
- **Exonerated** (i.e., the investigation disclosed that the alleged act occurred, but that the act was justified, lawful and/or proper—and not just a matter of past practice or expediency);
- **Not Sustained** (i.e., the investigation disclosed that there was insufficient evidence to either sustain the allegation or fully exonerate the employee);
- **Sustained** (i.e., the investigation disclosed sufficient evidence to establish that the act occurred. If it was determined that the act constituted misconduct, the bold-face statement **"This act [or actions] constituted violations of one or more of the above-listed policies, rules, regulations or agreements"** was added to the explanation);
- **Sustained in Part** (i.e., the investigation disclosed that part, but not all, of the allegation was sustained);
- **Unresolved** (i.e., the investigation into a particular allegation could not be completed for the reasons specified.)

### ALLEGATIONS:

1. **Sustained** – As to the allegation that PWD Hale purchased tools as Christmas gifts. A review of PWD Hale's reimbursement account revealed that he did purchase tools as Christmas presents for his employees. During his interview, this issue was not disputed by Mr. Hale. He acknowledged that he purchased such items as Leatherman tools as Christmas presents and later requested reimbursement from the City for those purchases. He explained that he believed such actions were within his purview and a matter of past practice.

██████████ stated that ██████████ had no direct knowledge about tools being given as Christmas gifts and has not heard anything about tools. However, ██████████ recalled ██████████ reporting to ██████████ that on one occasion that PWD Hale had purchased coats or jackets for his employees as Christmas presents. ██████████ thought that this was an appropriate action as ██████████ was contemplating obtaining "labeled" tee shirts for the PW staff. ██████████ did not even question PWD Hale about this.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

<sup>1</sup> In a court of law, witness testimony, under oath or affirmation, is considered admissible evidence to prove an allegation.

<sup>2</sup> In an administrative investigation, the burden of proof to show that an act occurred is "a preponderance of the evidence" (i.e., 51% or more of the evidence). This is the same standard required to prove a case in civil court. In a criminal investigation the standard to arrest is "probable cause" (i.e., reasonable cause to believe), and in a criminal trial the burden of proof to prove guilt is "beyond a reasonable doubt" (i.e., a much higher level of proof).



2. **Sustained** – As to the allegation that employees worked on the PWD's private property and activities during business hours. Our investigation revealed, through interviews of [REDACTED] that many had performed numerous tasks on PWD Hale's personal property during business hours, including: loading and stacking firewood; construction on his garage; assisting with roofing and painting on his home and garage; and servicing, performing tune-ups, and detailing his personal vehicles. Additionally, according to [REDACTED] PWD Hale utilized City equipment (and PW employees to operate the equipment) on his property, including the City backhoe and City dump truck.

**These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

[REDACTED] stated that there were "rumors and discussions about that." [REDACTED] confronted Jim about this issue after [REDACTED] was told about it in 2007 or 2008, and he told [REDACTED] that his employees would stack wood for him on their days off and he paid them separately for that work. [REDACTED] had a "serious discussion and counseling [session]" with Jim that it was not appropriate behavior. [REDACTED] did not document [REDACTED] counseling.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

3. **Sustained** – As to the allegation that employees witnessed the PWD drinking alcohol at the corp. yard during working hours on multiple occasions. Our investigation revealed, through interviews of [REDACTED] that nearly every one not only witnessed him drinking in the corporation yard, but also knew the brand of Tequila ("Jose Cuervo") and beer ("Coors") he consumed daily. **These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

The only part disputed by PWD Hale was the issue of his drinking while "on duty." During our interview with him on 3/21/09, he admitted that he is [REDACTED] and is currently still drinking, yet he stated he "never drank while on duty." He then told us that he simply "went off duty" when he drank and returned to duty when he had finished drinking. He further stated, "I drank or did drink every day.... that's my business."

[REDACTED] stated that [REDACTED] did not have any direct knowledge of this issue—except, during a City Council meeting (or meetings) after he had been to dinner, "you could tell he'd had some wine or maybe a beer," but [REDACTED] has never seen him "inebriated or in that condition on the job."

A few, but not all, of the [REDACTED] stated that they were aware of PWD Hale's drinking problems, mood swings, and absenteeism.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

4. **Sustained** – As to the allegation that employees witnessed the PWD under the influence of marijuana and alcohol at work during business hours. **These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

Refer to Item #3 for an explanation of the alcohol issue.

Regarding marijuana influence, our investigation revealed that PWD Hale did smoke, and has been smoking, marijuana on occasion, on and off duty, for several years.

In our 3/21/09 interview of Jim Hale, he first denied that the allegations were true, stating that they were rumors stemming from when he smoked marijuana while working in the woods for Pacific Lumber Company. After we explained that we had witnesses who were present when he smoked

marijuana in his assigned PW vehicle, witnesses who had smelled marijuana on his clothing when he returned to work from his home, and a statement from ██████████ who claimed to have sold him marijuana for \$350 cash, he responded by saying, "What I do on my own time is my business."

██████████ stated during ██████ interview that, "This was such a shock to ██████ No, I have not." ██████ also stated that ██████ is sensitive to that aroma.... "and ██████ cannot believe that ██████ would not have noticed that."

Only a few of the ██████████ stated they suspected PWD Hale's use of marijuana.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

5. **Sustained** – As to the allegation that the PWD retreats to his house during working hours and returns smelling like alcohol and behaving as if under the influence on a daily basis. ██████████ stated to us that [recently] PWD Hale did retreat to his house on nearly a daily basis—or would not show up until later in the morning and then be gone early in the afternoon. When he did return, he would often appear in a better mood—consistent with a person under the influence [of marijuana and/or alcohol]. Refer to Items 3 and 4 for additional details about alcohol and marijuana use. **These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

During our interview of PWD Hale on 3/21/09, he disputed the issue about his work hours, stating that his contract stipulated that he could determine his own work schedule.

██████████ stated during ██████ interview that there are misunderstandings about Jim Hale's work hours, now that he has been elevated to an exempt employee status—and that he is not an hourly employee, but rather he is on duty or on call 24/7.

It should be pointed out that, under the provisions of PWD Hale's contract, he "may be expected to work in excess of eighty (80) hours per pay period" and the "Employer agrees to accommodate a flexible schedule in the form of a modified work week and/or working from home so long as the needs of the City are met." It does not appear that his [recent] work habits and his substance abuse were meeting the needs of the City.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

6. PWD Hale smoking marijuana on the job:

- A. **Sustained** – As to the allegation that the PWD has been seen by ██████████ smoking marijuana on the job, during working hours. As discussed in Item 4 above, our investigation revealed that PWD Hale did smoke, and has been smoking, marijuana on occasion, on and off duty, for several years.

As previously stated in Item 4 above, in our 3/21/09 interview of Jim Hale, he first denied that the allegations of him smoking marijuana were true, stating that they were rumors stemming from when he smoked marijuana while working in the woods for Pacific Lumber Company. After we explained that we had witnesses who were present when he smoked marijuana in his assigned PW vehicle, witnesses who had smelled marijuana on his clothing when he returned to work from his home, and a statement from ██████████ who claimed to have sold him marijuana for \$350 cash, he responded by saying, "What I do on my own time is my business."

**These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

- B. **Sustained** – As to the allegation that [REDACTED] witnessed this during the decorating of the fire-hall in December 2008. Our investigation revealed that the Public Works Director was witnessed smoking marijuana during the decorating of the fire-hall in December of 2008. When PWD Jim Hale was asked about smoking marijuana while decorating the fire-hall in December 2008, he responded, "...when we were decorating the fire-hall, I was volunteering...and aw...what I do on my own time is my own business...not that I'm denying or substantiating your claim..."

**This action constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

7. Camouflage tarp issue:

- A. **Sustained** – As to the allegation that the PWD purchased a camouflage tarp at Rio Dell Feed on his personal account—then later returned to the store and asked them to charge it on the City account. Our investigation revealed that these actions took place. During our interview of PWD Hale on 3/21/09, he admitted the events, and he stated that the camouflage tarp was in his back yard, covering miscellaneous City tools. **These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

- B. **Unfounded** – As to the allegation that the tarp was seen leaving on a personal vehicle belonging to [REDACTED]. We could find no evidence to support this allegation. As explained in 7A above, on 3/21/09 PWD Hale admitted that the camouflage tarp was in his back yard.

8. City backhoe at [REDACTED] incident:

- A. **Sustained** – As to the allegation that PWD Hale told PW staff to leave the City backhoe at the [REDACTED] site for [REDACTED] to load a personal dump truck with City-owned asphalt grindings. Our investigation revealed that Jim Hale did in fact instruct his staff to take the City backhoe and leave it at the [REDACTED] site for [REDACTED] and others to load City asphalt grindings. According to our interviews of public works employees, staff also helped to load some of the grindings into [REDACTED] truck, and individuals other than City workers were allowed to use the City's backhoe to load grindings.

Although the allegation, itself, is sustained, because of conflicting statements given by PWD Hale and the recipients of the asphalt grindings, it is difficult to determine what verbal agreements existed between PWD Hale and [REDACTED]—and thus, to what extent misconduct was involved. During our interview of Jim Hale on 3/21/09, he contended that his actions were in the interests of the City.

In any event, the excess asphalt grindings from the Wildwood Street project, which are now almost completely gone, appears to have had an estimated value that totaled approximately \$32,000 (based on an estimated total of 80 – 20 yard dump truck loads of excavated asphalt grinding that were delivered to the [REDACTED] site, at an approximate value of \$18.75 [plus tax] per yard). The estimated 120 yards that [REDACTED] hauled away had an approximate value of \$2,413. The City has since had to purchase  $\frac{3}{4}$ " road base for public works related projects.

**These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

- B. **Sustained** – As to the allegation that [REDACTED] arrived with a truckload of firewood [logs] for the PWD and wanted to drop the logs off at the PW corporation yard. And, even though the staff person felt uncomfortable about his doing so and would not allow him to leave the wood, the next day the staff person found the wood left there. In fact, most of the logs are still in the corporation yard.

Again, although the allegation, itself, is sustained, it is difficult to determine exactly the terms of the verbal agreement between PWD Hale and [REDACTED] because their versions varied. During our interview of Jim Hale on 3/21/09, he claimed that he agreed to pay [REDACTED] \$250 for the firewood logs, which he claimed were not seasoned—and the grindings had nothing to do with firewood logs. [REDACTED] told Investigator Silva that his firewood logs sold for about \$550-\$600 a truckload. According to both PWD Hale and [REDACTED] no money has yet been paid for the firewood. The firewood logs were apparently delivered shortly after [REDACTED] hauled away about 120 yards of the City's asphalt grindings.

Regardless of Jim Hale's attempted justification, the facts stand that [REDACTED] was provided a City backhoe to load about 120 yards of City asphalt grindings for his personal use (with an estimated value of \$2,413.00), and Jim Hale received from [REDACTED] one dump truck load of firewood for his personal use (valued by [REDACTED] at \$550-\$600). And, according to both parties, no money exchanged hands for the firewood.

**Certain of these actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

9. **Sustained** – As to the allegation that sometime later [REDACTED] arrived at the yard, to cut some of "his firewood." According to [REDACTED] paid Jim Hale \$100 for [REDACTED] share of the firewood logs from [REDACTED]—and [REDACTED] had no knowledge of any exchange of grindings for firewood. During our interview of PWD Hale on 3/21/09, he claimed he never received any money from [REDACTED]

Added to this allegation was the following sentence: "It is believed by [REDACTED] that the grindings were traded for personal firewood." Again, as explained in Item 8, it is difficult to determine exactly what the verbal agreement was. It appears that an exchange deal was struck—because of the reduced price that PWD Hale claims he was to pay for the firewood logs. [REDACTED] and PWD Hale's accounts vary. [REDACTED] claimed [REDACTED] was to be paid between \$550-\$600 for the firewood logs (but has not yet been paid), and PWD Hale denied making any deal with [REDACTED] regarding the exchange of asphalt grindings for personal firewood. Without question in this issue, a lot of the City's property, which appears to have had a significant value, was given to a number of individuals by PWD Hale for undetermined reasons.

Although PWD Hale claimed he did nothing wrong in making his deal with [REDACTED] for firewood logs, **these actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as Each Allegation for additional details.)

10. **Sustained** – As to the allegation that the John Deere sludge tractor was traded by the PWD for money and/or a gun, and PWD Hale was dishonest with the City Council when he later told them in open session that the tractor was scrapped.

██████████ a technician for ██████████ in Eureka, admitted to Investigator Stokes that ██████████ had traded a gun (.38 or .357 caliber revolver) to PWD James Hale in 2006 for a John Deere tractor that was disabled at the time. ██████████ subsequently repaired the tractor and later loaned it back to public works for about 4-5 months. After that time had passed, ██████████ returned to the Rio Dell corporation yard to discover it was being abused by the drivers, so ██████████ took it back and still retains possession of it. The tractor is currently located at ██████████ in working condition.

██████████ current possession of the tractor, and ██████████ willingness to explain in a recorded interview how ██████████ came to possess it, along with ██████████ admission to Investigator Stokes that ██████████ knew better than to make a personal exchange of a gun for City property (rather than go through the normal surplus sale process), adds significant weight to ██████████ credibility as a witness.

Review of John Deere Company records obtained from ██████████ shows that the tractor was a 1991 John Deere Model 855 that was purchased new by the City of Rio Dell. According to ██████████ the current value of this model tractor in reasonable condition would be between \$4,500 and \$5,500.

During our interview of PWD Hale on 3/21/09, he denied trading a gun for the tractor, claiming it was, "bullshit." When asked if he had ever made any trades or purchased any weapons in the past from ██████████ he stated, "I don't remember.... I have over 50 guns, and I can't remember who I bought them from."

**PWD Hale's actions in trading the tractor for an item of personal gain rather than disposing of the tractor through the City's normal surplus sale procedure constituted a violation of either California Penal Code Section 503 or 487 (both felonies) Additionally, these actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

The April 15, 2008 Rio Dell City Council meeting minutes contains the following entry: "Councilmember Woodall asked what happened to the last John Deere tractor; Hale said it was purchased in 1978 and dismantled and put in the recycling bin." During our interview of Mr. Hale on 3/21/09, he claimed that part of the tractor was scrapped, and he answered [Julie Woodall's question] at the time how he felt he needed to answer; that he had done what he had done with the okay of the city manager, and, that this issue didn't need to be aired out in a council meeting. In short, his answers were vague, conflicting, and unconvincing.

Based upon the content of the April 15, 2008 City Council meeting minutes—and PWD Hale's responses to our query regarding that issue—that it appears he was dishonest to the Council about what had happened to the John Deere sludge tractor. **This action constituted a violation of one or more of the above-listed policies, rules, regulations or agreements.**

This allegation included the sentence, "This was reported to ██████████. Resultantly, ██████████ was queried about ██████████ knowledge of this issue. ██████████ stated ██████████ had no direct knowledge about the sludge tractor being traded by Jim for money or a gun, and ██████████ stated that, if this allegation was sustained, "That would make it completely inappropriate and something that would be a very serious offense."

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

11. **Sustained** – As to the allegation that the PWD conducted a job interview at the bar (Mingo's) during working hours. ██████████ recalled being present at Mingo's when this occurred. The

witness was positive that [REDACTED] observed the interview taking place. According to the witness, Jim Hale and [REDACTED] with drinks on the table in front of them, conducted the interview, which took place after 5:00 p.m., as the subject of the interview could not be available before then because [REDACTED] was working another job. The witness believed that the location was not appropriate for this activity.

[REDACTED] stated that the interview did take place at Mingo's. The subject of the interview, [REDACTED] was not queried about this issue.

During our interview of PWD Hale on 3/21/09, he denied that the job interview took place at Mingo's; however, he acknowledged that he and [REDACTED] were at the bar, after 5:00 p.m., discussing questions they were going to ask of each of the candidates (of which there were more than one).

Although the allegation is sustained, it is questionable whether this act rose to the level of misconduct—rather than simply an inappropriate method of conducting a job interview—or an exercise of poor judgment. It could be construed that PWD Hale was on duty because of the task he was performing, even though it apparently took place after 5:00 p.m.

This allegation included the sentence "This was reported to [REDACTED]." Resultantly we queried [REDACTED] about this. [REDACTED] stated [REDACTED] was not present at Mingo's when the alleged act occurred, but [REDACTED] heard about it. [REDACTED] spoke to both the Mayor at the time and Jim about this, and they told [REDACTED] that the interview had already been conducted, that [REDACTED] was not hired there, and they were celebrating at the bar—after work hours.

12. **Sustained** – As to the allegation that the PWD has been working from 10:00 a.m. to 3:00 p.m. on a daily basis for several months. Refer to the explanations contained in Items 3, 4 and 5 for details. In addition to [REDACTED] [REDACTED] stated they noticed PWD Hale's daily absences during the workday over the past several months, as well. The PWD's [REDACTED] at City Hall stated [REDACTED] would have to phone him at home for him to come in for scheduled meetings, but [REDACTED] did not feel it was [REDACTED] place to question his work habits.

Our investigation revealed that PWD Hale worked when he wanted and retreated to his home at his own pleasure. He stated during our interview that he worked as a "contract employee" and had a "flex schedule" known by [REDACTED]. He did not dispute this allegation.

**These actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

Because this allegation ended with the sentence, "This has been reported to [REDACTED] by [REDACTED]" we queried [REDACTED] about this issue. [REDACTED] response was that this was not true. Further, [REDACTED] said [REDACTED] has only been here since [REDACTED] and Jim has been here for about 14 years. [REDACTED] did say that [REDACTED] has told [REDACTED] reported this to [REDACTED]. [REDACTED] believes that PWD Hale works 60-70 hours a week regularly. [REDACTED] did say there was a time last year when Jim was given time off to go [REDACTED].

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

13. Sidewalk installation with public funds:

A. **Sustained** – As to the allegation that the PWD authorized a sidewalk to be installed at [REDACTED] home with public funds. A tour of that location showed that the sidewalk was installed. According to PWD Hale, the sidewalk was installed as "a mitigation item," and [the installation] was decided in a meeting by the different entities involved, including [REDACTED].

According to [REDACTED] [REDACTED] researched this issue (after receiving the memo of allegations) and suspects that there may have been [REDACTED] involved in this development. [REDACTED] came to the conclusion that the installation of the sidewalk may have been a "trade-off" with [REDACTED] who may have had responsibility to pave only one-half the street but ended-up by paving the whole street, with the City covering the sidewalks.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

- B. **Sustained** – As to the allegation that the PWD authorized a sidewalk to be installed at the [REDACTED] home with public funds. (The [REDACTED] are known to be [REDACTED]) A tour of that location showed that the sidewalk was in fact installed. However, it appears that, based on Jim Hale's statement, he was off the job during this period because of injuries sustained when he was [REDACTED] in the [REDACTED] incident, and [REDACTED] was actually the [REDACTED] at the time.

According to [REDACTED] at the time of this event, there was a water leak coming from the meters in front of the [REDACTED] residence. In order to repair the leak, the sidewalk surrounding the meters had to be removed. Since the sidewalk was already in disrepair and was considered to be a tripping hazard, [REDACTED] had the entire sidewalk in that section replaced. Authorization to repair the leaks was granted by [REDACTED] and the city council at the time. The City only paid for the labor and equipment use; the [REDACTED] paid for the concrete.

[REDACTED] stated that [REDACTED] was "out of the loop on that one."

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

14. **Sustained** – As to the allegation that the PWD made repairs to the street in front of [REDACTED] planned development on Riverside Drive, outside the agreement between the planning commission and [REDACTED] According to PWD Hale during his interview on 3/21/09, he researched the Riverside Drive road problems after complaints and accidents, checked with [REDACTED] about available funding, then determined it was within his purview as public works director to pave the road at that location, so he did have it done [at City expense]. He stated at first that he did not discuss this issue with [REDACTED] then he stated that, if he did talk with [REDACTED] about the paving, it would have been only about the transition from the street to [REDACTED] property.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

15. **Sustained** – As to the allegation that PW time cards have been abused in multiple ways. Our investigation revealed that the Public Works Director did allow this to occur—and at times did instruct [REDACTED] to manipulate (i.e., falsify or abuse) their time cards as trade for labor or equipment used on his personal property or while painting the City Hall building.

Additionally, our investigation revealed that in at least one instance, [REDACTED] were paid by the City of Rio Dell while working outside the City on a project for [REDACTED] [REDACTED]—at the direction of PWD Hale. (Refer to Item 31A for additional details regarding the [REDACTED] issue.) According to PWD Hale, in the past Rio Dell PW employees have assisted other water districts (including [REDACTED] and [REDACTED]) and have been paid separately for their work—while in some cases being paid by Rio Dell.

During our interview on March 21, 2009, Public Works Director Jim Hale stated (concerning the time card abuse allegation), "It seems like they're screwing themselves there...they're in charge of their own timecards and the finance staff okays those. I have nothing to do with that." Later in our interview he stated that he authorized employees to take sick leave and/or vacation leave to work on projects outside the City of Rio Dell, including [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

Although PWD Hale denied responsibility for [redacted] time cards, our interviews of [redacted] and [redacted] revealed that PWD Hale, as the public works department head, was indeed responsible for the content of [redacted] time cards—as he had to approve them before submission to [redacted]. In fact, our investigation revealed that the timecards for PW employees were prepared on PWD Hale's assigned computer. According to [redacted] [redacted] received the time cards directly from the department heads.

This allegation included the sentence, "This was reported to [redacted]" Resultantly we queried [redacted] about this. [redacted] stated there was one occasion where [redacted] came to [redacted] regarding a question about a check for [redacted] for a trip, and [redacted] authorized payment because [redacted] was gone at the time. [redacted] took issue with this when [redacted] returned. According to [redacted], [redacted] could not recall any other issues about [public works] time cards.

**These actions by PWD Hale constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

16. **Sustained** – As to the allegation that funds received from scrap metal were put in a "fun fund" instead of being turned over to the City for proper accounting. Our investigation revealed that Public Works employees were permitted by PWD Hale to have a "fun fund." [redacted] [redacted] we interviewed was able to describe the "fun fund" in detail—and how the funds for scrap metal were utilized.

According to [redacted] they were allowed by PWD Hale to gather discarded City metal (and at times include metal from their homes or metal that they collected along the river banks) and periodically load it into the City dump truck and haul it to Hansen's Truck Stop for recycling. With the exception of two recorded special projects (the Dinsmore water tank and [redacted] [redacted], the recycled metal would be weighed at Hansen's, and a check would be written out to the person driving the City dump truck. Then the check would be cashed by the driver and used to purchase food and drink for the staff on duty at that time. In some cases, the employee driving the truck would purchase breakfast or lunch, as well as soft drinks, energy drinks and bottled water for the PW staff.

During our interview on March 21, 2009 with Public Works Director Jim Hale regarding this issue, he began by stating, "[redacted] is in charge of all that scrap metal.... cleaning up the yard, and I know for a fact that the City has all the checks from Hansen's regarding any of that." He went on to say that, "This is a left-over rumor from when we used to replace a lot of meters"—apparently implying that the "fun fund" has been around for a long time and in the past was used to buy beverages (to include beer) for the PW staff. To our surprise, he denied knowing anything about its current use, stating that the City had received every check for recycled City metal since he has been the Director of Public Works.

Our investigation revealed that the finance records for the City of Rio Dell only showed six checks received from Hansen's Truck Stop for recycled metal since the advent of computerized finance records back in mid-2003. Only three checks showed to have been received from Hansen's and recorded by the City during Jim Hale's tenure as the Public Works Director. Those three checks included one for \$29.20 dated 8/29/2006 (for the [redacted] abatement), one for \$9.50 dated 11/22/2006, and one written in May of 2008 for \$188.00 (this one was received specifically for the recycling of the metal from the dismantling of the Dinsmore water tank).

During our investigation, the "fun fund" issue was resolved. [redacted] instructed PW employees to discontinue this method of metal scrap recycling. [redacted] retrieved the "fun fund" jar



and turned it over to [REDACTED] for accounting. [REDACTED] counted the contents of the jar, which contained \$11.06.

**These actions by PWD Hale constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

17. **Sustained** – As to the allegation that multiple employees felt belittled, intimidated, and sworn at by the PWD, [REDACTED] and [REDACTED] corroborated this allegation in their statements.

Our investigation revealed that the Public Works Director did at times engage in fits of rage over minor issues and resultantly would yell and swear at his employees and some co-workers, as well as outside City contract employees. Employees we interviewed stated he would at times return from his home during the work hours (believed under the influence of marijuana and/or alcohol), would find something he didn't like, and then would start "chewing" on someone.

[REDACTED] we interviewed told us the following: [REDACTED] quit after PWD Hale yelled and belittled [REDACTED] in front of others, claiming [REDACTED] had poor work ethics. [REDACTED] got upset and responded by questioning the Public Works Director's work ethics of going home during the day and drinking, smoking and swearing throughout the workday. [REDACTED] stated that the Public Works Director responded [to [REDACTED] remarks] with more aggression and started yelling at [REDACTED], claiming [REDACTED] only got married so that [REDACTED] could get [REDACTED] health benefits. With that, the employee quit, stating the job was not worth putting up with the abuse.

[REDACTED] told us the following: PWD Hale ran the public works department "with an iron fist," yelling and intimidating employees, claiming it was his city and he was their father. [REDACTED] also left when [REDACTED] had had enough. According to the employee, what finally got to [REDACTED] was how Jim Hale favored [REDACTED] after [REDACTED], ignoring issues when [REDACTED] conduct was involved, claiming [REDACTED] could do no wrong since Jim owed [REDACTED] for [REDACTED] that day [REDACTED].

During our 3/21/09 interview with PWD Hale, we informed him of the allegation. He responded by stating, "I have no response to that...its bullshit."

**These actions by PWD Hale constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

18. **Sustained** – As to the allegation that employees felt the PWD misused his authority to persuade them to hang political signs after work without pay for [REDACTED]. According to [REDACTED] some of them felt coerced into doing this because PWD Hale asked them to do it, and, since he was their boss, they felt obligated to please him.

During our 3/21/09 interview with PWD Hale, he did not dispute the allegation. He merely stated, "I supported [REDACTED] from many years back and will continue to support [REDACTED] until the day [REDACTED] dies. [REDACTED] a mentor, a friend, a [REDACTED]; [REDACTED] everything to me."<sup>3</sup>

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

<sup>3</sup> It should be noted that, prior to our interview with PWD Hale, we were notified that [REDACTED] wished to speak with us on PWD Hale's behalf. When Investigator Stokes spoke with [REDACTED], [REDACTED] learned from [REDACTED] that PWD Hale had provided [REDACTED] with a document listing the allegations in this matter. When we queried PWD Hale about this during his 3/21/09 interview, he told us he had received the document from [REDACTED].

19. **Sustained** – As to the allegation that the PWD built a large garage without a building permit. A review of incomplete building permits in [REDACTED] files revealed that two permits were started for the large garage (26' X 40' two-story gambrel shop/garage)—one for the foundation and one for the garage. However, the one for the garage was never been paid for—and it never was signed off by the building inspector, [REDACTED]. According to [REDACTED] has asked Jim to complete the permit application so [REDACTED] but Jim has not done so. A third permit, for the house roof and bathroom, has been issued but not paid.

(Refer to Section VI – Evidence as to Each Allegation for additional details.)

20. **Sustained in Part / Unfounded in Part** – As to the allegation that the PWD purchased tires and paid for other vehicle maintenance on his personal vehicle with public funds. Our investigation revealed, through [REDACTED] statements and corroboration through review of City payments to Napa Auto Parts, that PWD Hale did have [REDACTED] work on his personal vehicles, specifically washing, cleaning, or periodically servicing his Chevrolet 4-wheel drive pickup.

During our interview of PWD Hale on 3/21/09, he stated that both of his personal pickups have tires he purchased at Les Schwab. Subsequent inspection of both his personal pickup's tires (with his permission) on 3/24/09 revealed that his second pickup, a 1995 teal-colored 4WD Chevrolet, had three Firestone tires and one Goodyear Wrangler tire. The Goodyear Wrangler tire was the same size (and similar in tread design) as two tires purchased in 2006 from Hummel Tire Co. for the City's 1995 Chevrolet 4WD service pickup. Based upon a review of City records, these two tires were later replaced at 4,000 miles but not turned in for recycling—and they could not be found in the City corporation yard.

According to [REDACTED] the proper accounting method for the use of personal vehicles for City business is to submit a request for mileage reimbursement—not to have the City purchase vehicle parts or have employees service someone's personal vehicles in exchange for their use. Also, according to [REDACTED] this method was explained to PWD Hale, but he refused to follow it.

**These actions by PWD Hale constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

21. **Sustained** – As to the allegation that the PWD was operating the backhoe under the influence of alcohol at the Fireman's Park in the summer of 2007 when he "crashed into" and damaged children's play equipment, subsequently having staff remove the equipment and store it at the PW corporation yard—then later directing them to "scrap it."

Our investigation revealed that the allegation was true. Although the PWD first denied the allegation, claiming the children's swing was removed because it sustained damage from a fallen limb and was unsafe for children to play on, [REDACTED] we interviewed stated he damaged the children's play equipment while operating the City backhoe while under the influence of alcohol. Further, that after damaging the children's swing set he used the backhoe to remove the swing set immediately and haul the damaged metal to the PW corporation yard for later disposal (for the PW "Fun Fund"). [REDACTED] were then instructed to fill in the holes the following day. [REDACTED] stated they believed the swing set could have been repaired after being struck by the City backhoe, but PWD Hale instead removed it immediately in what they believed was an act to cover up his accident while intoxicated.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

22. **Sustained** – As to the allegation that the PWD has directed ██████ to destroy evidence of and mislead anyone who asks about the misuse of property, conduct, etc.

Our investigation revealed several incidents where the Public Works Director directed ██████ to destroy evidence and/or mislead anyone who asked about misuse of property or conduct. A review of the allegations listed in this report revealed several examples, including: 1) His use of alcohol on the job, while neglecting his performance and supervisory responsibilities; 2) His use of marijuana at his home, while hunting, at the fire hall while decorating for Christmas, and in the City's PW Jeep Liberty; 3) The damage, with the City's backhoe while intoxicated, of the children's play equipment, then the immediate removal of the damaged play equipment with instructions to have it hauled to the City's corporation yard for scrap; 4) His claim that the play equipment was damaged by a tree limb and poorly constructed and dangerous as constructed; 5) His untruthfulness to the City Council about the disposition of the John Deere sludge tractor; 6) The "Fun Fund" that he allowed to exist to personally benefit the PW employees; 7) Working outside the City on water projects, including ██████ and ██████, etc., and allowing ██████ to receive pay on projects outside the City while the City had to deal with its own storm damage; 8) Discarding City property as scrap, only to haul it to ██████ property at Ruth Lake; 9) Utilizing the City's PW crew to work on selected (past) ██████ property or ██████ property; 10) Instructing ██████ to mislead others about the reason he was in the Painter Street trench when it collapsed (e.g., supposedly to retrieve a portable radio—when he should not even have gone into the trench without shoring in place); 11) Allowing poker tournaments to take place on a poker table in the City's corporation yard. According to ██████ the table was ordered to be destroyed, but PWD Hale instead kept it in the PW yard and told ██████ to keep quiet about it.

**These actions by PWD Hale constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

*Note: Items 23 through 26 involve allegations about words or actions to ██████ by ██████ in response to the preceding 22 allegations, which were directed primarily toward PWD Hale. Although these items are included in our total list of allegations, we did not investigate them as allegations of misconduct, per se—but rather we viewed them as complaints addressed to the Mayor and City Council about how ██████ dealt with staff regarding the initial 22 allegations. Thus, we did not render a FINDING—only the ██████ during Investigator Stokes' interview of ██████ It is our opinion that these four items should be dealt with as a personnel issue rather than a misconduct issue. The allegations and ██████ responses follow:*

23. In ██████ memo, ██████ alleged that ██████ has discouraged employees from relaying the above mentioned issues to the Council, stating that these discussions need to be kept "in house," and that we need to be "kinder to one another."
24. In ██████ memo, ██████ alleged that ██████ told ██████ was "critical" and needed to "be kinder to one another"—and that "we shouldn't eat our own." These words caused ██████ to become shocked that ██████ was being discouraged from communicating the concerns.
25. In ██████ memo, ██████ alleged that ██████ made statements such as, "You better watch yourself.... you better watch how you drive this.... you better tread lightly."
26. In ██████ memo, ██████ alleged that ██████ told ██████ that ██████ was "devious" in reference to ██████ documenting ██████ statements per ██████ recommendation.

████████████████████ responses to ██████ four above-listed allegations were as follows:

relationship with [REDACTED] is a difficult one. [REDACTED] has made it clear that [REDACTED] intends to be [REDACTED]. [REDACTED] does try to talk to [REDACTED] about gossip and innuendos—that they need to be specific and professional—and not perpetuate “these stories” unless they can really talk about them [through first-hand knowledge]. Regarding the statement that “we need to be kinder to one another,” [REDACTED] acknowledged saying that, especially on two occasions: once when referring to Jim’s [REDACTED] and once referring to Jim’s [REDACTED] (from the [REDACTED] in the [REDACTED] issue) when Jim chose to drive rather than fly to an out-of-state location to view equipment for the City. [REDACTED] acknowledged that [REDACTED] did tell [REDACTED] that [REDACTED] was “devious.”

During Investigator Stokes’ initial interview of [REDACTED] [REDACTED] voiced strong support for PWD Hale and skepticism of the validity of many of the allegations listed in [REDACTED]. As the investigation progressed, [REDACTED] was kept apprised of its status, and [REDACTED] was made aware of the allegations that showed to be sustained. We did this to ensure [REDACTED] cooperation in the investigation as [REDACTED] (and PWD Hale’s [REDACTED]—and to facilitate PWD Hale’s participation in his interview, which we were able to complete on 3/21/09.

It should be noted that [REDACTED] apparent lack of awareness regarding PWD Hale’s self-acknowledged [REDACTED] and/or marijuana usage was echoed by [REDACTED]. Consider the following:

Subsequent to his interview of [REDACTED] Investigator Stokes interviewed [REDACTED] past Rio Dell [REDACTED] who is currently [REDACTED] of the [REDACTED] stated [REDACTED] believed Jim Hale to be dedicated, hard-working City employee and one [REDACTED] would hire [at [REDACTED]. [REDACTED] did not recall any disciplinary action regarding his performance—and only one “run-in” where heated words were exchanged. [REDACTED] was not aware of any issues involving Jim’s use of alcohol, except perhaps a few beers after work, and [REDACTED] was surprised to learn that his alleged use of marijuana was as one of the issues.

During our interview of [REDACTED] who has worked as [REDACTED] in the past, [REDACTED] stated [REDACTED] had no knowledge regarding Jim’s alleged marijuana use. Further, [REDACTED] stated that [REDACTED] avoided dealing with the City’s other personnel issues while acting as [REDACTED] because it would have been too much for [REDACTED] to handle in addition to [REDACTED] own [REDACTED].

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

*The following two items involve the additional allegations listed in [REDACTED] original tasking letter to Stokes & Associates:*

**27. Sustained** – As to the allegation that the Public Works Department used the City credit card for purchases of gas and diesel for personal purposes. Based on our interviews of [REDACTED] [REDACTED] we determined that these acts took place. However, the credit card accounting system in place prior to [REDACTED] memo did not track specific vehicles by license number. And, neither the Rio Dell Shell Station’s card tracking system—nor its video surveillance system—could provide us with information showing specific purchases by individuals or vehicles. Resultantly, we were unable to determine which employees did this and how much fuel was involved.

During our investigation, we learned that [REDACTED] has now revised the Public Works credit card fueling procedure to eliminate the possibility of employees fueling personal vehicles with City credit cards.

**These actions by Public Works employees constituted violations of one or more of the above-listed policies, rules, regulations or agreements, but we were unable to identify specific employees.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

28. **Sustained** – As to the allegation that Mr. Hale required [REDACTED] to put in a second, unmetered water line to his house. Our investigation revealed that PWD Hale did in fact have [REDACTED] (a sub-contractor for [REDACTED] and working under the direction of [REDACTED]) install a secondary, unmetered water line to his property at [REDACTED] Rigby Ave. near the end of the “water infrastructure rehabilitation project” (electronic meter and pipe installation project). The cost of the installation of this unmetered line was about \$600.

PWD Hale’s purpose in having the unmetered line installed is unclear, but it led us to speculate that it did not appear to be in the City’s interests for this to be done. During his interview on 3/21/09, he stated that he intended to have 11 secondary lines installed in locations throughout the City for chlorine testing and that it was recommended [to him] that this be done. His explanation about how the second, unmetered line for chlorine testing would work did not follow how the procedure is done in other Cities—or for that matter, how the testing is done currently in Rio Dell (i.e., using a spigot at various locations to draw a test tube-sized vial of water for chlorine testing).

In any event, our examination of the unmetered line at PWD Hale’s property revealed that it was not actively being used. Thus, the question as to why it even exists was not resolved, and it cannot be determined if misconduct was involved in PWD Hale’s decision to have it installed.

During our investigation, we did learn of a second property where a second unmetered line had apparently been installed during the “water infrastructure rehabilitation project.” [REDACTED] and Investigator Silva examined the installation work completed at that location, but they could not locate the second, unmetered water line at the time of their examination.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

*In addition to the above-listed allegations, our questions to persons interviewed during this investigation included the following three items. The question posted in Item 31 resulted in three previously non-reported allegations involving PWD Hale. The responses are listed under that item:*

29. This was not an allegation but rather a question posed to interviewees by the investigators. The question was: “Have you been contacted [with an attempt to intimidate] by Jim Hale after he was placed on administrative leave?” The responses were negative.
30. This was not an allegation but rather a question posed to interviewees by the investigators. The question was: “Has anyone attempted to influence you or intimidate you in any way regarding this investigation?” The responses were negative.
31. This was not an allegation but rather a question posed to interviewees by the investigators. The question was: “Are there any other issues concerning this investigation that you wish to bring to our attention?” This question did result in additional allegations, as discussed below:
- A. **Sustained** – As to the allegation that in 2006 [REDACTED] were paid by the City of Rio Dell while working outside the City on a week-long water pipe installation project for the [REDACTED]—at the direction of PWD Hale. Further, that [REDACTED] paid PWD Hale \$500 for this work—money which he kept for himself instead of turning it over to the City.

Based on our interviews of [REDACTED] and [REDACTED], as well as review of pertinent documents, we determined that [REDACTED] requested the assistance, and PWD Hale volunteered his employees to do the work. At the end of the project, which took about a week and involved laying a four-inch pipe down steep terrain and under railroad tracks to a well in pasture land below, the [REDACTED] paid PWD Hale \$500 as an "honorarium" for the workers. PWD Hale bought the workers lunch but kept the money for himself. Our review of Rio Dell time card records revealed that only one of the workers, [REDACTED] took vacation time during this period. None of [REDACTED] time cards for that week identified their involvement in the [REDACTED] project.

During his interview on 3/21/09, PWD Hale claimed that he had put the \$500 in the "fun fund." During our investigation, we could find no record or accounting of him doing this.

**PWD Hale's actions in keeping the \$500 given to him by [REDACTED] for the work done by [REDACTED] rather than turning the money over to the City of Rio Dell, constituted a violation of either California Penal Code Section 503 or 487 (both are felonies). Additionally, these actions constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to to Each Allegation for additional details.)

- B. **Sustained** – As to the allegation that items belonging to the City may have been taken to [REDACTED] property at Ruth Lake. Our investigation revealed that several items from the City's corporation yard were taken to [REDACTED] at Ruth Lake.

During our interview of [REDACTED] stated the following: [REDACTED] has property at Ruth Lake which is used at times as a hunting camp. Over the past few years, personnel from the City of Rio Dell have visited the property, including PWD Hale. A few discarded items from the City have been used on the property, including: a 200 gallon poly-tank, old piping, a 40 gallon galvanized receiving tank, an old water pump, and a water pressure tank (bladder tank). Some of the City equipment was reported as being delivered by PW employees during work hours.

It appears that most of the above-listed items were in fact discarded. However, according to [REDACTED] the 200 gallon poly-tank is needed back at the City because it fits the bed of a [REDACTED] and [REDACTED] has no replacement for it. A question exists about whether or not this tank was actually discarded—or if it was made to appear discarded because sewage was pumped into it to make it seem unusable. According to [REDACTED] the tank is currently being used at [REDACTED] property for fresh water storage.

In this particular item, the issue of misconduct—or who exactly was involved in the misconduct—has not been resolved.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

- C. **Sustained** – As to the allegation that PWD Hale utilized PW employees to work on [REDACTED] personal property during working hours. Our investigation revealed that PWD Hale did assign PW employees to work on projects for [REDACTED] and [REDACTED] including: [REDACTED] property (grading his gravel roadway leading to his house), and [REDACTED] property (mowing and cleaning a drainage ditch).

Whether or not this issue rose to the level of misconduct has not been resolved; however, it apparently had the appearance of impropriety to City workers, or it would not have been brought to our attention.

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

- D. **Sustained in Part** – As to the allegation that PWD Hale would trade services, materials, or financial incentives to individuals or contractors for personal gain.

Our investigation revealed that, in certain instances, the PWD did trade services, materials, or financial incentives for personal gain (e.g., the sludge tractor incident, the \$500 from [REDACTED] incident, etc.).

In other instances his actions gave the appearance that they were intended for his own personal benefit (e.g., providing asphalt grindings to [REDACTED] and receiving, but not paying for, firewood logs from [REDACTED] etc.).

In yet other instances, PWD Hale's actions were questionable, but the issue of misconduct was not resolved. For example, on two occasions in the past he hired a personally-owned boat belonging to [REDACTED] (owner of [REDACTED]), for what appeared to be a high rental rate for this use (totaling \$900 for both occasions), and he rented [REDACTED] for sludge removal (totaling \$1,020). Then, [REDACTED] performed [REDACTED] on PWD Hale's new garage, but [REDACTED] did not charge PWD Hale for [REDACTED] services.

**Those actions by Public Works employees that were shown to be for personal gain constituted violations of one or more of the above-listed policies, rules, regulations or agreements.**

(Refer to Section VI. Evidence as to Each Allegation for additional details.)

**EVIDENCE**



## SECTION VI. EVIDENCE AS TO EACH ALLEGATION

The following is a synopsis of our investigative activities and interviews. To document each interview with a word-for-word transcript would be too labor-intensive and costly to the City. However, most of our interviews were digitally recorded with the permission of the interviewee, including the primary subject of this investigation, PWD James Hale (with [REDACTED] present), and the recordings are stored at our facility for evidentiary purposes, if necessary.

1. Regarding our investigation into the allegation that employee tools were purchased with City funds, a review of PWD Hale's reimbursement account revealed that he did purchase tools as Christmas presents for his employees. Also, our investigation revealed that [REDACTED] including James Hale, have received various tools or tool sets as gifts for Christmas from whoever was public works director at the time. This practice was said to have gone on for many years, and it appeared to have been justified as an employee incentive for morale and retention by past public works directors. [REDACTED] stated they received socket sets, screw driver sets and Leatherman tools as Christmas gifts.

During our interview with James Hale, he stated the following: He has a \$500.00 account for safety clothing for his employees. This past year he purchased "multi-tools" from Costco for Christmas gifts for his employees. He paid for the tools with his personal funds and was later reimbursed by the City of Rio Dell from his Public Works account. Refer to Exhibits 1-(a) through 1-(c) for City financial records information.<sup>1</sup>

[REDACTED] stated that [REDACTED] had no direct knowledge about tools and has not heard anything about tools. However, [REDACTED] recalled [REDACTED] reporting to [REDACTED] that on one occasion that PWD Hale had purchased coats or jackets for his employees as Christmas presents. [REDACTED] thought that this was an appropriate action as [REDACTED] was contemplating obtaining "labeled" tee shirts for the PW staff. [REDACTED] did not question PWD Hale about this issue.

It should be noted that after reviewing "Accounts Payable Distribution" documents for the City of Rio Dell, there appeared to be a large amount of funds that Public Works utilized for the purchase of small tools. During our interview with PWD Hale on 3/21/09, he indicated that he had City tools in his backyard that belonged to the City of Rio Dell. It appeared that employees were allowed to purchase and borrow City tools at any time for their own personal use. Accountability for such tools appears to have been lacking.

2. Regarding our investigation into the allegation that employees worked on the PWD's private property and activities during business hours, our investigation revealed, through interviews of [REDACTED] that many had performed numerous tasks on PWD Hale's personal property during business hours, including: loading and stacking firewood; construction on his garage; assisting with roofing and painting on his home and garage; and servicing, performing tune-ups, and detailing his personal vehicles. Additionally, according to [REDACTED] PWD Hale utilized City equipment (and PW employees to operate the equipment) on his property, including the City backhoe and City dump truck.

[REDACTED] stated that there were "rumors and discussions about that." [REDACTED] confronted Jim about this issue after [REDACTED] was told about it in 2007 or 2008, and he told [REDACTED] that his employees would stack wood for him on their days off and he paid them separately for that work.

<sup>1</sup> Note: All original receipts are retained in secured files at the City of Rio Dell finance department. Public Works financial records indicate that hundreds of dollars are spent each year for the purchase of small tools. Records of accountability for small tools purchased in the past were not available and therefore we were unable to determine if past tool purchases were distributed as gifts and/or for personal use and/or possession.

█████ had a "serious discussion and counseling [session]" with Jim that it was not appropriate behavior. █████ did not document this.

3. Regarding our investigation into the allegation that employees witnessed the PWD drinking alcohol at the corp. yard during working hours on multiple occasions, our investigation revealed, through interviews of █████ that nearly every one not only witnessed him drinking in the corporation yard, but also knew the brand of Tequila ("Jose Cuervo") and beer ("Coors") he consumed daily.

The only part disputed by PWD Hale was the issue of his drinking while "on duty." During our interview with him on 3/21/09, he admitted he is █████ and is currently still drinking, yet he stated he "never drank while on duty." He then told us that he simply "went off duty" when he drank and returned to duty when he had finished drinking. He further stated, "I drank or did drink every day.... that's my business."

█████ stated that █████ did not have any direct knowledge of this—except during a City Council meeting (or meetings) after he had been to dinner, "you could tell he'd had some wine or maybe a beer," but █████ has never seen him "inebriated or in that condition on the job."

4. Regarding our investigation into the allegation that █████ witnessed the PWD under the influence of marijuana and alcohol at work during business hours, refer to Item #3 for an explanation of the alcohol issue. Regarding marijuana influence, our investigation revealed that PWD Hale did smoke, and has been smoking, marijuana on occasion, on and off duty, for several years.

In our 3/21/09 interview of Jim Hale, he first denied that the allegations were true, stating that they were rumors stemming from when he smoked marijuana while working in the woods for Pacific Lumber Company. After we explained that we had witnesses who were present when he smoked marijuana in his assigned PW Jeep Liberty, witnesses who had found a homemade marijuana bong in the Jeep Liberty while detailing it, witnesses who had smelled marijuana on his clothing when he returned to work from his home, and a statement from █████ who claimed to have sold him marijuana for \$350 cash, he responded by saying, "What I do on my own time is my business." Refer to Exhibit 4-(a) for █████ detailing billing showing detailing date.

█████ stated during █████ interview that, "This was such a shock to me. No, I have not." █████ also stated that █████ is sensitive to that aroma.... "and I cannot believe that I would not have noticed that."

Only a few of █████ stated they suspected PWD Hale's use of marijuana.

5. Regarding our investigation into the allegation that the PWD retreats to his house during working hours and returned smelling like alcohol and behaving as if under the influence on a daily basis, █████ stated to us that [recently] PWD Hale did retreat to his house on nearly a daily basis—or would not show up until later in the morning and then be gone early in the afternoon. When he did return, he would often appear in a better mood—consistent with a person under the influence [of marijuana and/or alcohol]. Refer to Items 3 and 4 for additional details about alcohol and marijuana use.

Additionally, █████ told us there were many times when he displayed unusual mood swings, displaying anger and hostility toward his PW staff as well City co-workers and the city manager. █████ told us they would see the public works director early in the day at the PW yard and he would give █████ instructions. Then, while █████ were carrying out his instructions, █████ would see his vehicle at his residence for much of the day. At the end of the day he would

return to the PW yard smelling of alcohol or occasionally marijuana, and he would yell at them, claiming [REDACTED] were not doing what he wanted or the way he wanted it.

During our interview of PWD Hale on 3/21/09, he admitted he was [REDACTED] and drank [at times] throughout the day, on a daily basis. The only matter in dispute by him was whether he behaved as if "under the influence" on a daily basis. He stated, "In my opinion, if the drinking and the pot was such a huge problem, then 1) I must have handled it pretty well because my office is next door to the police chief's, and 2) wouldn't you think that the police chief and some of the officers would have arrested me?"

PWD Hale disputed the issue about his work hours, stating that his contract stipulated that he could determine his own work schedule.

It should be noted that, under the provisions of PWD Hale's contract, he "may be expected to work in excess of eighty (80) hours per pay period" and "Employer agrees to accommodate a flexible schedule in the form of a modified work week and/or working from home so long as the needs of the City are met." It does not appear that his [recent] work habits of working only part of a day and his alcohol and substance abuse were meeting the needs of the City.

[REDACTED] stated during [REDACTED] interview that there are misunderstandings about Jim's work hours, now that he has been elevated to an exempt employee status, and he is not an hourly employee, but rather he is on duty or on call 24/7. Comparing [REDACTED] statement with those of PWD Hale's employees, it appears [REDACTED] was unaware of his true work schedule—and his alcohol and marijuana abuse.

6. PWD smoking marijuana on the job:

- A. Regarding our investigation into the allegation the PWD has been seen by [REDACTED] smoking marijuana on the job during working hours, as discussed in Item 4 above, our investigation revealed that PWD Hale did smoke, and has been smoking, marijuana on occasion, on and off duty, for several years.

As previously stated in Item 4 above, in our 3/21/09 interview of Jim Hale, he first denied that the allegations of him smoking marijuana were true, stating that they were rumors stemming from when he smoked marijuana while working in the woods for Pacific Lumber Company. After we explained that we had witnesses who were present when he smoked marijuana in his assigned PW vehicle, witnesses who had smelled marijuana on his clothing when he returned to work from his home, and a statement from [REDACTED] who claimed to have sold him marijuana for \$350 cash, he responded by saying, "What I do on my own time is my business."

[REDACTED] stated [REDACTED] had no direct knowledge of that [PWD Hale's marijuana use on the job].

- B. Regarding our investigation into the allegation that [REDACTED] witnessed this during the decorating of the fire-hall in December 2008. Our investigation revealed that the Public Works Director was witnessed smoking (or smelling of) marijuana during the decorating of the fire-hall in December of 2008. When Public Works Director Jim Hale was asked about smoking marijuana while decorating the fire-hall in December 2008, he responded, "...when we were decorating the fire-hall, I was volunteering...and aw...what I do on my own time is my own business...not that I'm denying or substantiating your claim..."

[REDACTED] stated [REDACTED] had no direct knowledge of this; further, [REDACTED] stated [REDACTED] had no knowledge of [the issue of] PWD Hale using marijuana until [REDACTED] read [REDACTED] memo.

7. Camouflage tarp issue:

- A. Regarding our investigation into the allegation that the PWD purchased a camouflage tarp at Rio Dell Feed on his personal account then later returned to the store and asked them to charge it on the City account. Investigator Silva confirmed this allegation with [REDACTED] and he obtained store and Rio Dell financial receipts, which were initialed by "JH." Refer to Exhibits 7-(a) and 7-(b) for copies of receipts.

During our interview of PWD Hale on 3/21/09, he admitted the events, and he stated that the camouflage tarp was in his back yard, covering miscellaneous City tools.

[REDACTED] stated [REDACTED] had no knowledge of this incident prior to reading [REDACTED] memo.

- B. Regarding our investigation into the allegation that the tarp was seen leaving on a personal vehicle belonging to [REDACTED] as explained in 7A above, on 3/21/09 PWD Hale admitted that the tarp was in his back yard. We did not question [REDACTED] about this issue.

8. City backhoe at [REDACTED] incident:

- A. Regarding our investigation into the allegation about the disposition of the City-owned asphalt grindings at the [REDACTED] site, our investigation revealed that Jim Hale did in fact instruct his staff to take the City backhoe and leave it at the [REDACTED] site for [REDACTED] and others to load City asphalt grindings. According to our interviews of [REDACTED] staff also helped to load some of the grindings into [REDACTED] truck, and individuals other than City workers were allowed to use the City's backhoe to load grindings.

Refer to Exhibit 8-(a) for photo of remaining asphalt grindings at [REDACTED] as of 3/14/09.

Although the allegation, itself, is sustained, because of conflicting statements given by PWD Hale and [REDACTED] it is difficult to determine what verbal agreements existed between PWD Hale and [REDACTED]—and thus, to what extent misconduct was involved.

During Investigator Silva's interview of [REDACTED] on 3/9/09, [REDACTED] stated the following: [REDACTED] had permission from Jim Hale to pick up asphalt grindings from the [REDACTED] site. [REDACTED] originally asked for the grindings in exchange for the firewood logs that Jim Hale had requested from [REDACTED]. The firewood logs normally sell for \$550 to \$600 per dump truck load.

According to [REDACTED], Jim Hale refused the deal. However, apparently without any exchange of cash, PWD Hale arranged for the City's backhoe to be left at the [REDACTED] site for loading the City's asphalt grindings into [REDACTED] personal dump truck. [REDACTED] took a total of 12 – 10 yard truck loads of asphalt grindings, for a total of about 120 yards of material. Approximately five truck loads were loaded by [REDACTED] and the remainder [REDACTED] loaded himself, using the City's backhoe (and diesel fuel).

During Investigator Silva's interview of [REDACTED] owner of [REDACTED] on 3/24/09, [REDACTED] told him the following: [REDACTED] was approached by Jim Hale and asked if the City of Rio Dell and [REDACTED] could utilize [REDACTED] property in order to off load excess asphalt grindings from the Wildwood Ave. road project. The deal was that [REDACTED] would get half the grindings for the rental use of [REDACTED] property. However, that never happened. [REDACTED] only received a very small amount of the grindings due to the fact that Jim Hale allowed others to take the grindings at will, utilizing the City backhoe for loading.

During our interview of Jim Hale on 3/21/09, he contended that his actions were in the interests of the City.

In any event, the excess asphalt grindings from the Wildwood Street project, which are now almost completely gone, appear to have had an estimated value that totaled approximately \$32,000 (based on an estimated total of 80 – 20 yard dump truck loads of excavated asphalt grinding that were delivered to the [redacted] site, at an approximate value of \$18.75 [plus tax] per yard). The estimated 120 yards that [redacted] trucked away had an approximate value of \$2,413. The City has since had to purchase ¾" road base for public works related projects.

Refer to Exhibit 8A-(b) for copy of City of Rio Dell's Guide to Construction and Demolition Reuse and Recycling (dated 7/1/05).

- B. Regarding our investigation into the allegation about [redacted] truckload of logs, our investigation revealed that [redacted] did arrive with a truckload of firewood [logs] for the PWD and wanted to drop it [the logs] off at the PW corporation yard. And, even though [redacted] felt uncomfortable about [redacted] doing so and would not allow [redacted] to leave the wood, the next day [redacted] found the wood left there. In fact, most of the logs are still in the corporation yard. Refer to Exhibit 9-(a) for photo of firewood logs at the corporation yard as of 3/24/09.

Again, although the allegation, itself, is sustained, it is difficult to determine exactly the terms of the verbal agreement between PWD Hale and [redacted] because their versions varied. During our interview of Jim Hale on 3/21/09, he claimed that he agreed to pay [redacted] \$250 for the firewood logs, which he claimed were not seasoned—and the grindings had nothing to do with firewood logs. [redacted] told Investigator Silva that [redacted] firewood logs sold for about \$550-\$600 a truckload. According to both PWD Hale and [redacted] no money has yet been paid for the firewood. The firewood logs were apparently delivered shortly after [redacted] trucked away about 120 yards of the City's asphalt grindings.

Regardless of Jim Hale's attempted justification, the facts stand that [redacted] was provided a City backhoe to load about 120 yards of City asphalt grindings for [redacted] personal use (with an estimated value of \$2,413.00), and Jim Hale received from [redacted] one dump truck load of firewood for his personal use (valued by [redacted] at \$550-\$600 dollars). And, according to both parties, no money exchanged hands for the firewood.

9. Regarding our investigation into the allegation about [redacted] arriving to cut some of "firewood," our investigation revealed that this occurred. According to [redacted] paid Jim Hale \$100 for [redacted] share of the firewood logs from [redacted]—and [redacted] had no knowledge of any exchange of grindings for firewood. During our interview of PWD Hale on 3/21/09, he claimed he never received any money from [redacted]

Added to this allegation was the following sentence: "It is believed by [redacted] that the grindings were traded for personal firewood." Again, as explained in Item 8, it is difficult to determine exactly what the verbal agreement was. It appears that an exchange deal was struck—because of the reduced price that PWD Hale claims he was to pay for the firewood logs. [redacted] and PWD Hale's accounts vary. [redacted] claimed [redacted] was to be paid between \$550-\$600 for the firewood logs (but has not yet been paid), and PWD Hale denied making any deal with [redacted] regarding the exchange of asphalt grindings for personal firewood. Without question in this issue, a lot of the City's property, which appears to have had a significant value, was given to a number of individuals by PWD Hale for undetermined reasons.

During his interview on 3/21/09, PWD Hale claimed he did nothing wrong in making his deal with [REDACTED] for firewood logs—and that he intended to get his share of the logs out of the corporation yard—if he had to have a police escort there while he did it.

10. Regarding the allegation that PWD Hale traded a City-owned John Deere sludge tractor for money and/or a gun, our investigation revealed the following: During Investigator Stokes' recorded interview of [REDACTED] a [REDACTED] [REDACTED] explained that [REDACTED] is a service technician for [REDACTED], which services equipment for Rio Dell, and [REDACTED] has been at the City's corporation yard. The Rio Dell Public Works Department had a "broke-down" [John Deere sludge] tractor that [REDACTED] was told] was not cost effective to repair. About a year and a half ago, while [REDACTED] was at the Rio Dell corporation yard, [REDACTED] made an offer on it to Jim Hale, the public works director. [REDACTED] had a part to "put it back together" (a four-wheel drive hub for the left front wheel). [REDACTED] offered to fix it and let Rio Dell use it until they could afford to buy another tractor, with the understanding that there would be only one operator using it. [REDACTED] initial offer of \$1,000 was turned down [by Jim].

About four to five months later, [REDACTED] stopped by to show Jim Hale a revolver that had come into [REDACTED] possession because [REDACTED] knew Jim liked guns as well. Jim said, "I'll trade you that tractor for the gun." [REDACTED] said, "All right, if that is what you want to do. I'll stick to my original offer to let you guys use it until you can get one." And, [REDACTED] did live up to [REDACTED] part of the bargain.

[REDACTED] was surprised that the offer to exchange the tractor for a gun was made when [REDACTED] first offer of \$1,000 was turned down. [REDACTED] said someone else was in the office the day the transaction over the tractor was completed, but [REDACTED] did not recall who that person was.

[REDACTED] described the gun as a .38 or .357 caliber, nickel or chrome plated Smith & Wesson revolver that [REDACTED] valued at about \$350. [REDACTED] had acquired the revolver, which was [not new, but] new to [REDACTED] from an elderly friend who moved away, and [REDACTED] had not registered the gun. Thus, [REDACTED] had no written record of [REDACTED] ownership. Time went by. [REDACTED] stopped by [Rio Dell's PW corporation yard] with a trailer, and they used a backhoe to load it because the [left four-wheel drive] front wheel hub was broken. [REDACTED] repaired it and brought it back a couple of weeks later. [REDACTED] left it at Rio Dell [for] about 4 to 5 months. [REDACTED] stopped by one day and saw that the tractor was not being taken care of. Parts were missing again, and it was "kinda tore up." [REDACTED] then loaded it up and "took it back into my possession." [REDACTED] repaired it again, and this time [REDACTED] did not return it to Rio Dell.

[REDACTED] stated that [REDACTED] did not want to get anyone in trouble and [REDACTED] did not want to get into trouble [over the tractor]—and if someone [at Rio Dell] felt [REDACTED] should pay more for it, [REDACTED] would be willing to discuss the matter.

After Investigator Stokes concluded the recorded interview, [REDACTED] showed him the tractor, which was parked next to [REDACTED] shop spaces. Investigator Stokes photographed the tractor, which [REDACTED] said was in working condition. [REDACTED] also told Investigator Stokes that [REDACTED] knew that [REDACTED] should not have traded the gun for the tractor because [REDACTED] had purchased a dump truck from Rio Dell before and knew how surplus sales normally took place. Refer to Exhibit 10-(a) for photo of the John Deere Model 855 tractor at [REDACTED]

On 3/5/09 [REDACTED] left a message at Stokes & Associates' office that [REDACTED] wished to speak with Investigator Stokes. Investigator Stokes returned his phone call on 3/6/09. [REDACTED] related the following:

After [REDACTED] interview on March 3<sup>rd</sup>, [REDACTED] started thinking about what [REDACTED] said. He talked to [REDACTED] by phone—to try to figure out when the deal for the tractor had actually taken place. [REDACTED] now recalled that the tractor exchange actually took place about two and half to three years ago—rather than a year or so ago. [REDACTED] also recalled that parts of the tractor were in the metal (recycling)

bin when [redacted] picked up the tractor (for example, the belly mower). [redacted] never charged Rio Dell for the tractor when [redacted] loaned it back to the city.

[redacted] also stated [redacted] had been told two different prices to fix the tractor (about \$4,500, based on a bid from Ferndale Tractor—according to Jim, and about \$1,300 to get it working as a two-wheel drive tractor—according to [redacted]).

When Investigator Stokes asked [redacted] how much [redacted] would have charged the city to fix the tractor, since [redacted] had the parts for it, [redacted] stated [redacted] would have charged the city about \$2,000, based upon one day's labor [redacted] is paid about \$25 an hour) and the half price [redacted] would have charged for [redacted] used parts.

Investigator Stokes subsequently obtained the tractor's model number and serial number.

During the course of his investigation into this issue, Investigator Stokes interviewed [redacted] owner of [redacted] [redacted] identified the tractor as a Model 855, 4 wheel drive John Deere tractor, and [redacted] valued it at \$4,500-\$5,500 in working condition. [redacted] had no bid on file to repair it. A records check with John Deere Company revealed that it is a 1991 model that was purchased new in June 1991 by the City of Rio Dell. Refer to Exhibit 10-(b) for John Deere factory printout on the Model 855 tractor.

During our interview of PWD Hale on 3/21/09, he denied trading a gun for the tractor, claiming it was, "bullshit." When asked if he had ever made any trades or purchased any weapons in the past from [redacted] of [redacted] he stated, "I don't remember.... I have over 50 guns, and I can't remember who I bought them from."

Although, PWD Hale denied trading a City-owned tractor valued at \$4,500-\$5,500 for a gun, sufficient evidence exists to prove otherwise. [redacted] is currently in possession of the tractor, and [redacted] would be willing to testify in court about the transaction. [redacted] testimony would be convincing to a jury. Even if one were to deduct half the value of the tractor to offset the cost of repairs, the value would still be well in excess of the amount to prove the felony-level offense embezzlement of property entrusted to PWD Hale by the City. Thus, PWD Hale's actions in trading the tractor for an item of personal gain rather than disposing of the tractor through the City's normal surplus sale procedure constituted a violation of either California Penal Code Section 503 or 487 (both felonies) Additionally, these actions constituted violations of one or more of Rio Dell's policies, rules, regulations or agreements.

Regarding the allegation that PWD was dishonest to the City Council about the disposition of the John Deere sludge tractor, our investigation revealed the following: The April 15, 2008 Rio Dell City Council meeting minutes (Exhibit 10-(c)) contains the following entry: "Councilmember Woodall asked what happened to the last John Deere tractor; Hale said it was purchased in 1978 and dismantled and put in the recycling bin." Refer to Exhibit 10-(c) for copy of April 15, 2008 City Council meeting minutes.

During our interview of Mr. Hale on 3/21/09, he claimed that part of the tractor was scrapped, and he answered [Julie Woodall's question] at the time how he felt he needed to answer; that he had done what he had done with the okay of the city manager; and, that this issue didn't need to be aired out in a council meeting. In short, his answers were vague, conflicting and unconvincing.

When [redacted] was queried about [redacted] knowledge about this issue, [redacted] stated [redacted] had no direct knowledge about the sludge tractor being traded by Jim for money or a gun, and [redacted] stated that, if this allegation was sustained, "That would make it completely inappropriate and something that would be a very serious offense."

Based upon the content of the April 15, 2008 City Council meeting minutes—and PWD Hale's responses to our query regarding that issue, it appears that he was dishonest to the Council about what had happened to the John Deere sludge tractor. This action constituted a violation of one or more of the City's policies, rules, regulations or agreements.

11. Regarding our investigation into the allegation that PWD Hale conducted a job interview at the bar (Mingo's) during working hours, our investigation revealed that the interview did occur.

██████████ recalled being present at Mingo's when this occurred. The witness was positive that ██████████ observed the interview taking place. According to the witness, Jim Hale and ██████████ with drinks on the table in front of them, conducted the interview, which took place after 5:00 p.m., as the subject of the interview could not be available before then because ██████████ was working another job. The witness believed that the location was not appropriate for this activity.

██████████ stated that the interview did take place at Mingo's. The subject of the interview, ██████████ was not queried about this issue.

During our interview of PWD Hale on 3/21/09, he denied that the job interview took place at Mingo's; however, he acknowledged that he and ██████████ were at the bar, after 5:00 p.m., discussing questions they were going to ask of each of the candidates (of which there were more than one).

Although the allegation is sustained, it is questionable whether this act rose to the level of misconduct—rather than simply an inappropriate method of conducting a job interview—or an exercise of poor judgment. It could be construed that PWD Hale was on duty because of the task he was performing, even though it apparently took place after 5:00 p.m.

This allegation included the sentence "This was reported to ██████████ Resultantly we queried ██████████ about this. ██████████ stated ██████████ was not present at Mingo's when the alleged act occurred, but ██████████ heard about it. ██████████ spoke to both the Mayor at the time and Jim about this, and they told ██████████ that the interview had already been conducted, that ██████████ was not hired there, and they were celebrating at the bar—after work hours.

12. Regarding our investigation into the allegation that the PWD has been working from 10:00 a.m. to 3:00 p.m. on a daily basis for several months, our investigation revealed that this was occurring on a regular basis. (Refer to the explanations contained in Items 3, 4 and 5 for details.) In addition to ██████████, ██████████ stated they noticed PWD Hale's daily absences during the workday over the past several months, as well. The ██████████ at ██████████ stated ██████████ would have to phone him at home for him to come in for scheduled meetings, but ██████████ did not feel it was ██████████ place to question his work habits.

Our investigation revealed that PWD Hale worked when he wanted and retreated to his home at his own pleasure. He stated during our interview that he worked as a "contract employee" and had a "flex schedule" known by ██████████ He did not dispute this allegation.

Because this allegation ended with the sentence, "This has been reported to ██████████ by ██████████" we queried ██████████ about this issue. ██████████ response was that this was not true. Further, ██████████ said ██████████ has only been here since ██████████ and Jim has been here for about 14 years. ██████████ did say that ██████████ has told ██████████ reported this to ██████████ ██████████ believes that PWD Hale works 60-70 hours a week regularly. ██████████ did say there was a time last year when Jim was given time off to go back and forth to San Francisco to take ██████████ for ██████████

13. Sidewalk installation with public funds:



- A. Regarding our investigation into the allegation that the PWD authorized a sidewalk to be installed at [redacted] home with public funds, our investigation revealed this did occur. We toured that location and saw that the sidewalk had been installed. We queried PWD Hale about this issue during our interview on 3/21/09. He told us the sidewalk was installed as "a mitigation item," and [the installation] was decided in a meeting by the different entities involved, including [redacted].

According to [redacted], [redacted] researched this issue (after receiving the memo of allegations) and suspects that there may have been four city managers involved in this development. [redacted] came to the conclusion that the installation of the sidewalk may have been a "trade-off" with the developer, who may have had responsibility to pave only one-half the street but ended-up by paving the whole street, with the City covering the sidewalks.

- B. Regarding our investigation into the allegation that the PWD authorized a sidewalk to be installed at [redacted] home with public funds, our investigation revealed this did occur. A tour of that location showed that the sidewalk was in fact installed. However, it appears that, based on Jim Hale's statement, he was off the job during this period because of injuries sustained when he was [redacted] in the [redacted] incident, and [redacted] was actually the [redacted] at the time.

According to [redacted] at the time of this event, there was a water leak coming from the meters in front of the [redacted] residence. (The [redacted] are known to be [redacted]) In order to repair the leak, the sidewalk surrounding the meters had to be removed. Since the sidewalk was already in disrepair and was considered to be a tripping hazard, he had the entire sidewalk in that section replaced. Authorization to repair the leaks was granted by [redacted] and the city council at the time. The City only paid for the labor and equipment use; the [redacted] paid for the concrete.

[redacted] stated [redacted] was "out of the loop on that one."

14. Regarding the allegation that the PWD made repairs to the street in front of [redacted] planned development on Riverside Drive, outside the agreement between the planning commission and [redacted], our investigation revealed that this did occur. A tour of the area showed that extensive paving work was done to that intersection. Refer to Exhibit 14-(a) for photo of asphalt work.

During Investigator Stokes' interview of [redacted] owner of [redacted], [redacted] stated [redacted] owns property near [redacted] property at Ruth Lake. In September 2008, [redacted] loaned PWD Hale and [redacted] small excavator to dig a trench (for an hour or two) on [redacted] property—as a good neighbor. As far as the issue of the paving at the street entrance to [redacted] subdivision is concerned, [redacted] hired [redacted] to do [redacted] improvements. [redacted] was not involved in the decision to pave the entrance to [redacted] subdivision. [redacted] believed that it was worked out with [redacted] who had the equipment [to do the paving] in place [at the time]. Refer to Exhibit 14-(b) for billing info from [redacted] for asphalt work at Riverside Drive adjacent to new subdivision (\$6,600).

According to PWD Hale during his interview on 3/21/09, he researched the Riverside Drive road problems after complaints and accidents and checked with [redacted] about available funding. He showed [redacted] the site, then since funding was available, determined it was within his purview as public works director to pave the road at that location, so he did have it done [at City expense]. He stated at first that he did not discuss this issue with [redacted] then he stated that, if he did talk with [redacted] about the paving, it would have been only about the transition from the street to [redacted] property.

15. Regarding the allegation that PW time cards have been abused in multiple ways, our investigation revealed the following: The Public Works Director did allow this to occur—and at times did instruct

██████████ to manipulate (i.e., falsify or abuse) ██████████ time cards as trade for labor or equipment used on his personal property or while painting the City Hall building.

Additionally, our investigation revealed that in at least one instance, ██████████ were paid by the City of Rio Dell while working outside the City on a project for ██████████ ██████████—at the direction of PWD Hale. (Refer to Item 31A for additional details regarding the ██████████ issue.) According to PWD Hale, in the past Rio Dell PW employees have assisted other water districts (including ██████████ and ██████████) and have been paid separately for their work—while being in some case being paid by Rio Dell. Refer to Exhibit 15-(a) for PW employees' timecards during time of ██████████ incident.

During our interview on March 21, 2009, Public Works Director Jim Hale stated (concerning the time card abuse allegation), "It seems like ██████████ themselves there... they're in charge of their own timecards and the finance staff okays those, I have nothing to do with that." Later in our interview he stated that he authorized employees to take sick leave and/or vacation leave to work on projects outside the City of Rio Dell, including ██████████, ██████████, ██████████ and "██████████ ██████████"

Although PWD Hale denied responsibility for ██████████ time cards, our interviews of ██████████ ██████████ and ██████████ revealed that PWD Hale, as the public works department head, was indeed responsible for the content of his employees' time cards—as he had to approve them before submission to ██████████. In fact, our investigation revealed that the timecards for PW employees were prepared on PWD Hale's assigned computer. According to ██████████, ██████████ received the time cards directly from the department heads.

This allegation included the sentence "This was reported to ██████████." Resultantly we queried ██████████ ██████████ about this. ██████████ stated there was one occasion where ██████████ came to ██████████ regarding a question about a check for ██████████ for a trip, and ██████████ authorized payment because ██████████ was gone at the time. ██████████ took issue with this when ██████████ returned. According to ██████████, ██████████ could not recall any other issues about [public works] time cards.

16. Regarding the allegation that funds received from scrap metal were put in a "fun fund" instead of being turned over to the City for proper accounting, our investigation revealed that Public Works employees were permitted by PWD Hale to have a "fun fund." ██████████ we interviewed was able to describe the "fun fund" in detail—and how the funds for scrap metal were utilized.

According to ██████████ they were allowed by PWD Hale to gather discarded City metal (and at times include metal from their homes or metal that they collected along the river banks) and periodically load it into the City dump truck and haul it to Hansen's Truck Stop for recycling. With the exception of two recorded special projects (the Dinsmore water tank and ██████████ abatement), the recycled metal would be weighed at Hansen's, and a check would be written out to the person driving the City dump truck. Then the check would be cashed by the driver and used to purchase food and drink for the staff on duty at that time. In some cases, the employee driving the truck would purchase breakfast or lunch, as well as soft drinks, energy drinks and bottled water for the PW staff.

During our interview on March 21, 2009 with Public Works Director Jim Hale regarding this issue, he began by stating, "██████████ is in charge of all that scrap metal... cleaning up the yard, and I know for a fact that the City has all the checks from Hansen's regarding any of that." He went on to say that, "This is a left-over rumor from when we used to replace a lot of meters"—apparently implying that the "fun fund" has been around for a long time and in the past was used to buy beverages (to include beer) for the PW staff. He denied knowing anything about its current use, stating that the City had received every check for recycled City metal since he has been the Director of Public Works.

Our investigation revealed that the finance records for the City of Rio Dell only showed six checks received from Hansen's Truck Stop for recycled metal since the advent of computerized finance records back in mid-2003. Only three checks showed to have been received from Hansen's and recorded by the City during Jim Hale's tenure as the Public Works Director. Those three checks included one for \$29.20 dated 8/29/2006 (for the John Edwards abatement), one for \$9.50 dated 11/22/2006, and one written in May of 2008 for \$188.00 (this one was received specifically for the recycling of the metal from the dismantling of the Dinsmore water tank). Refer to Exhibit 16-(a) for accounts payable information on the water tank.

During our investigation, the "fun fund" issue was resolved. [REDACTED] instructed PW employees to discontinue this method of metal scrap recycling. He retrieved the "fun fund" jar, itself, and turned it over to [REDACTED] for accounting. [REDACTED] counted the contents of the jar, which contained \$11.06.

17. Regarding the allegation that multiple employees felt belittled, intimidated and sworn at by the PWD, our investigation revealed that this did occur. [REDACTED] corroborated this allegation in their statements.

According to the witnesses we interviewed, PWD Hale did at times engage in fits of rage over minor issues and resultantly would yell and swear at his employees and some co-workers, as well as outside contract employees. [REDACTED] stated he would at times return from his home during the work hours (believed under the influence of marijuana and/or alcohol), would find something he didn't like and then would start "chewing" on someone.

[REDACTED] we interviewed told us the following: [REDACTED] quit after PWD Hale yelled and belittled in front of others, claiming [REDACTED] had poor work ethics. [REDACTED] got upset and responded by questioning the Public Works Director's work ethics of going home during the day and drinking, smoking and swearing throughout the workday. [REDACTED] stated the Public Works Director responded [to [REDACTED] remarks] with more aggression and started yelling at [REDACTED] claiming [REDACTED] only got married so that [REDACTED] could get [REDACTED] health benefits. With that, the employee quit, stating the job was not worth putting up with the abuse.

[REDACTED] told us the following: PWD Hale ran the public works department "with an iron fist," yelling and intimidating employees, claiming it was his city and he was their father. [REDACTED] also left when [REDACTED] had had enough. According to [REDACTED] what finally got to [REDACTED] was how Jim Hale favored [REDACTED] after [REDACTED] ignoring issues when [REDACTED] conduct was involved, claiming [REDACTED] could do no wrong since Jim owed [REDACTED] for that day [REDACTED]

During our 3/21/09 interview with PWD Hale, we informed him of the allegation. He responded by stating, "I have no response to that...its bullshit." He demonstrated for us (during our recorded interview) how it would have been if he had acted in this manner.

18. Regarding the allegation that employees that employees felt the PWD misused his authority to persuade them to hang political signs after work without pay for [REDACTED] our investigation revealed this did occur. According to [REDACTED] some of them felt coerced into doing this because PWD Hale asked them to do it, and, since he was their boss, they felt obligated to please him.

During our 3/21/2009 interview with PWD Hale, he did not dispute the allegation. He merely stated, "I supported [REDACTED] from many years back and will continue to support [REDACTED] until the day [REDACTED] dies. [REDACTED] a mentor, a friend, a [REDACTED] everything to me."<sup>2</sup>

<sup>2</sup> It should be noted that, prior to our interview with PWD Hale, we were notified that [REDACTED] wished to speak with us on PWD Hale's behalf. When Investigator Stokes spoke with [REDACTED], [REDACTED] was surprised to learn from [REDACTED] that PWD Hale had provided [REDACTED]

19. Our investigation into the garage permit allegation revealed that the Public Works Director did in fact build a large (26' x 40') two story, gambrel roof garage without first obtaining a City building permit.

██████████ Rio Dell's ██████████ told us the following during ██████████ interview: In mid 2008 Jim Hale phoned ██████████ and asked for a final inspection on his garage. ██████████ told PWD Hale that ██████████ first needed to apply for a City building permit [for the building, itself and not just for the foundation, which had been processed in 2005] and pay the fees required for ██████████ services. ██████████ informed PWD Hale that ██████████ only gets paid ██████████ are paid. When ██████████ later arrived at PWD Hale's residence for the final inspection, ██████████ learned that PWD Hale still had not applied for a building permit. So, on September 9, 2009 ██████████ completed ██████████ portion of PWD Hale's "City of Rio Dell Application for Permit to Construct," and ██████████ explained to PWD Hale of ██████████ necessary fee for the City permit. (A review of City records shows that the building permit fee of \$921.19 for the garage—and a building permit for re-roofing his residence and repairs to a bathroom for \$47.50 have still not been paid. Refer to Exhibits 19-(a) through 19-(d) for copies of building permits. Refer to Exhibit 19-(e) for photos of PWD Hale's garage.

During our 3/21/09 interview with PWD Hale and ██████████ he first denied that he didn't have a completed building permit on file for his newly constructed garage, passing the blame on to ██████████ and ██████████ however, contradicted his statement by stating ██████████ had contacted the City a short while back and was aware of the past debt for the building permit. During our interview both PWD Hale and ██████████ appeared to be evading the truth when asked specific questions as to when the garage was completed and ready for final inspection, who worked on it, and how much (and how) they were paid.<sup>3</sup>

At one point in our interview, PWD Hale stated he was told by ██████████ not to worry about paying for the permit until the garage was completely finished, but he also stated that the garage was completed in mid 2008. Additionally, PWD Hale acted as if he was ignorant of the City's building permit process, when in fact he had obtained three previous building permits at his ██████████ Rigby Avenue property. Again, refer to Exhibits 19-(b), 19-(c) & 19-(d) for copies of permits.

Additionally, our investigation revealed that the Humboldt County Assessor's Office was unaware of any construction of a garage at Jim Hale's residence. According to County Assessor's records, Jim Hale had only applied for a building permit for the foundation of a future 26' x 40' garage. Their records indicated that they inspected the site in 2005 and a conducted a final inspection on the foundation in mid 2006. The County Assessor's Office had not been notified of any permit for a structure to be built on the foundation, nor were they notified that the structure had been started, let alone completed. Therefore the County Assessor's Office did not have knowledge of the construction of the garage and did not bill for required property taxes.

Our evidence of three prior building permits along with the unsigned building permit prepared by ██████████ on 09/09/2009, displays sufficient evidence that PWD Hale possessed both the knowledge and understanding of the City of Rio Dell's building permit process. Additionally, it appeared evident in our interview that PWD Hale was attempting to complete his garage without early notification to the County Assessor's Office—in what appeared to be an effort to avoid paying increased property taxes and possibly so as not to have to pay required State Worker's Compensation fees required in case of injury to paid workers.

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██████████ with a document listing the allegations in this matter. When we queried PWD Hale about this during his 3/21/09 interview, he told us he had received the document from ██████████

<sup>3</sup> These questions were asked because: 1) County and City tax revenues are based on percentages of construction completed to completion; 2) Worker Comp coverage is required for qualifying paid labor employees; and 3) the losses to the City of Rio Dell in labor, materials and equipment use needed to be assessed. As outlined on the City of Rio Dell's Application for Permit to Construct, PWD Hale was required to sign (as he did on prior City applications) that he would not "...employ any person in any manner so as to become subject to the Workers Compensation Laws of California."

20. Our investigation into the allegation that the PWD purchased tires and paid for other vehicle maintenance on his personal vehicle with public funds revealed, through [REDACTED] statements and corroboration through review of City payments to Napa Auto Parts, that PWD Hale did have his employees work on his personal vehicles, specifically washing, cleaning or periodically performing minor service (tune-ups) on his Chevrolet 4-wheel drive pickup.

Our investigation also revealed that a total of ten tires were purchased for the City's 1995 Chevy 4x4 PW service pickup in a period of approximately 24 months (16,500 miles). A closer look at invoices from Hummel Tire in Fortuna revealed that originally four Goodyear Wrangler tires were purchased and installed on this vehicle on 12/26/2004, and four tires were discarded for disposal. On 06/02/2005 (approximately 12,500 miles later) two tires were purchased and two Goodyear Wrangler tires were discarded for disposal. Then, on 12/21/2006 (about 4,000 miles later), four new Goodyear Wrangler tires were purchased for the 1995 Chevy service truck, but only two tires were discarded for disposal, (i.e., two tires were apparently taken back by the driver). This caused us to question where the two slightly used Goodyear Wrangler tires ended up. An inspection of the Public Works corporation yard did not reveal the missing tires. According to [REDACTED] we interviewed, they believed PWD Hale had installed the two tires on his personal Chevrolet pickup. Refer to Exhibits 20-(a) and 20-(b) for accounts payable and invoice information on tires purchased by the City.

During our interview of PWD Hale on 3/21/09, he stated that both of his personal pickups have Les Schwab tires. Permission was granted to inspect his personal pickup and verify the Les Schwab tires purchased with his personal funds.

On 03/24/09, while inspecting the 1995 Chevy Pickup owned by PWD Hale at his [REDACTED] Rigby residence, Investigator Silva discovered that was equipped with three Firestone tires and one Goodyear Wrangler tire similar in size, type and tread pattern as the two tires taken off the 1995 City of Rio Dell Chevrolet PW service truck and not discarded by Hummel Tire on 06/02/2005. Refer to Exhibit 20-(c) for photos of PWD Hale's Chevrolet pickup and its tires.

It was noted by Investigator Silva that, during his inspection of PWD Hale's personal 1995 Chevrolet pickup, it did not have a spare.

21. Regarding the allegation that the PWD was operating the backhoe under the influence of alcohol at the Fireman's Park in the summer of 2007 when he "crashed into" and damaged children's play equipment, subsequently having staff remove the equipment and store it at the PW corp. yard—then later directing them to "scrap it," our investigation revealed the following:

[REDACTED] we interviewed stated he damaged the children's play equipment while operating the City backhoe while under the influence of alcohol. Further, that after damaging the children's swing set, he used the backhoe to remove the swing set immediately and haul the damaged metal to the PW corporation yard for later disposal (into the PW "Fun Fund"). [REDACTED] were then instructed to fill in the holes the following day. [REDACTED] stated they believed the swing set could have been repaired after being struck by the City backhoe, but PWD Hale instead removed it immediately in what they believed was an act to cover up his accident while intoxicated.

During his interview on 3/21/09, PWD Hale first denied the allegation, claiming the children's swing was removed because it sustained damage from a fallen limb and was unsafe for children to play on. He then claimed that the play equipment was poorly constructed and dangerous as constructed

22. As to the allegation that PWD has directed staff to destroy evidence of and mislead anyone who asks about the misuse of property, conduct, etc., our investigation revealed several incidents where the Public Works Director directed staff to destroy evidence and/or mislead anyone who asked about misuse of property or conduct.

A review of prior allegations revealed several examples, including: 1) His use of alcohol on the job, while neglecting his performance and supervisory responsibilities; 2) His use of marijuana at his home, while hunting, at the fire hall while decorating for Christmas, and in the City's PW Jeep Liberty; 3) The damage, with the City's backhoe while intoxicated, of the children's play equipment, then the immediate removal of the damaged play equipment and instruction to have it hauled to the City's corporation yard for scrap; 4) His claim that the play equipment was damaged by a tree limb and poorly constructed and dangerous as constructed; 5) His untruthfulness to the City Council about the disposition of the John Deere sludge tractor; 6) The "Fun Fund" that he allowed to exist to personally benefit the PW employees; 7) Working outside the City on other jurisdictions' water projects, including [redacted] and [redacted], etc., and allowing employees to receive pay on projects outside the City while the City had to deal with its own storm damage (the [redacted] incident); 8) Discarding City property as scrap, only to haul it to [redacted] property at Ruth Lake; 9) Utilizing the City's PW crew to work on selected (past) City Council members, other city employee's property or contractor friends' property; 10) Instructing employees to mislead others about the reason he was in the Painter Street trench when it [redacted] (e.g., supposedly to retrieve a portable radio—when he should not even have gone into the trench without shoring in place); 11) Allowing poker tournaments to take place on a poker table in the City's corporation yard. According to [redacted] the table was ordered to be destroyed, but PWD Hale instead kept it in the PW yard and told employees to keep quiet about it.

Refer to other items in this report for additional details outlined in the above paragraph.

*Note: Items 23 through 26 involve allegations about words or actions to [redacted] by [redacted] in response to the preceding 22 allegations, which were directed primarily toward PWD Hale. Although these items are included in our total list of allegations, we did not investigate them as allegations of misconduct, per se—but rather we viewed them as complaints addressed to the Mayor and City Council about how [redacted] dealt with staff regarding the initial 22 allegations. Thus, we did not render a FINDING—only [redacted] responses during Investigator Stokes' interview of [redacted] on 3/2/2009. It is our opinion that these four items should be dealt with as a personnel issue rather than a misconduct issue. The allegations and [redacted] responses follow:*

23. In [redacted] memo, [redacted] alleged that [redacted] has discouraged employees from relaying the above mentioned issues to the Council, stating that these discussions need to be kept "in house," and that we need to be "kinder to one another."
24. In [redacted] memo, [redacted] alleged that [redacted] told [redacted] was "critical" and needed to "be kinder to one another"—and that "we shouldn't eat our own." These words caused [redacted] to become shocked that [redacted] was being discouraged from communicating the concerns.
25. In [redacted] memo, [redacted] alleged that [redacted] made statements such as, "You better watch yourself.... you better watch how you drive this.... you better tread lightly."
26. In [redacted] memo, [redacted] alleged that [redacted] told [redacted] that [redacted] was "devious" in reference to [redacted] documenting [redacted] statements per [redacted] recommendation.

[redacted] responses to [redacted] four above-listed allegations during Investigator Stokes' interview of [redacted] on 3/2/2009 were as follows:

[redacted] relationship with [redacted] is a difficult one. [redacted] has made it clear that [redacted] intends to be [redacted] does try to talk to the staff about gossip and innuendos—that they need to be specific and they need to be professional—and not perpetuate "these stories" unless they can really talk about them [through first-hand knowledge]. Regarding the statement that "we need to be kinder to one another," [redacted] acknowledged saying that, especially on two occasions: once when referring to Jim's [redacted] and once referring

to Jim's [REDACTED] (from the [REDACTED]) when Jim chose to drive rather than fly to an out-of-state location to view equipment for the City. [REDACTED] acknowledged that [REDACTED] did tell [REDACTED] that [REDACTED] was "devious."

During Investigator Stokes' initial interview of [REDACTED] [REDACTED] voiced strong support for PWD Hale and skepticism of the validity of many of the allegations listed in [REDACTED]. As the investigation progressed, [REDACTED] was kept apprised of its status, and [REDACTED] was made aware of the allegations that showed to be sustained. We did this to ensure [REDACTED] cooperation in the investigation as [REDACTED] (and PWD Hale's [REDACTED])—and to facilitate PWD Hale's participation in his interview, which we were able complete on 3/21/09.

It should be noted that [REDACTED] apparent lack of awareness regarding PWD Hale's self-acknowledged [REDACTED] and/or marijuana usage was echoed by [REDACTED]. Consider the following:

Subsequent to his interview of [REDACTED], Investigator Stokes interviewed [REDACTED] who is currently the [REDACTED]. [REDACTED] stated [REDACTED] believed Jim Hale to be dedicated, hard-working City employee and one [REDACTED] would hire [at the [REDACTED]]. [REDACTED] did not recall any disciplinary action regarding his performance—and only one "run-in" where heated words were exchanged. [REDACTED] was not aware of any issues involving Jim's use of [REDACTED] except perhaps a few beers after work, and [REDACTED] was surprised to learn that his alleged use of marijuana was one of the issues.

During our interview of [REDACTED] who has worked as [REDACTED] in the past, [REDACTED] stated [REDACTED] had no knowledge regarding Jim's alleged marijuana use. Further, [REDACTED] stated that because [REDACTED] had to deal with [REDACTED] issues during [REDACTED] times as [REDACTED], [REDACTED] avoided getting involved with the City's other personnel issues.

*The following two items involve the additional allegations listed in [REDACTED] original tasking letter to Stokes & Associates:*

27. Regarding the allegation that that the Public Works Department used the City credit card for purchases of gas and diesel for personal purposes, our investigation revealed the following:

Based on our interviews of [REDACTED], we determined that these acts took place. However, the credit card accounting system in place prior to [REDACTED] memo did not track specific vehicles by license number. And, neither the Rio Dell Shell Station's card tracking system—nor its video surveillance system—could provide us with information showing specific purchases by individuals or vehicles. Resultantly, we were unable to determine which employees did this and how much fuel was involved.

During our investigation, we learned that [REDACTED] has now revised the Public Works credit card fueling procedure to eliminate the possibility of employees fueling personal vehicles with City credit cards.

28. Regarding the allegation that Mr. Hale required a city contractor to put in a second, unmetered water line to his house, our investigation revealed the following:

PWD Hale did in fact have [REDACTED] (a sub-contractor for [REDACTED] and working under the direction of [REDACTED]) install a secondary, unmetered water line to his property at [REDACTED] Rigby Ave. near the end of the "water infrastructure rehabilitation project" (electronic meter and pipe installation project). The cost of the installation of this unmetered line was about \$600.

PWD Hale's purpose in having the unmetered line installed is unclear, but it led us to speculate that it did not appear to be in the City's interests for this to be done. During his interview on 3/21/2009, he stated that he intended to have 11 secondary lines installed in locations throughout the City for chlorine testing and that it was recommended [to him] that this be done. His explanation about how the second, unmetered line for chlorine testing would work did not follow how the procedure is done in other cities—or for that matter, how the testing is done currently in Rio Dell (i.e., using a spigot at various locations to draw a test tube-sized vial of water for chlorine testing).

In any event, our examination of the unmetered line at PWD Hale's property revealed that it was not actively being used. Thus, the question as to why it even exists was not resolved, and it cannot be determined if misconduct was involved in PWD Hale's decision to have it installed.

During our investigation, we did learn of a second property where a second unmetered line had apparently been installed during the water infrastructure rehabilitation project. [REDACTED] and Investigator Silva examined the work at that location, but its status has not yet been determined.

Refer to Exhibit 28-(a) for photos of reported unmetered lines at [REDACTED] Rigby Ave. and [REDACTED] Wildwood Ave.

*In addition to the above-listed allegations, our questions to persons interviewed during this investigation included the following three items. The question posted in Item 31 resulted in three prior non-reported allegations involving PWD Hale. The responses are listed under that item:*

29. This was not an allegation but rather a question posed to interviewees by the investigators. The responses to the question, "Have you been contacted [with an attempt to intimidate] by Jim Hale after he was placed on administrative leave?" were negative.
30. This was not an allegation but rather a question posed to interviewees by the investigators. The responses to the question, "Has anyone attempted to influence you or intimidate you in any way regarding this investigation?" were negative.
31. This was not an allegation but rather a question posed to interviewees by the investigators. However, this question, "Are there any other issues concerning this investigation that you wish to bring to our attention?" did result in additional allegations, as discussed below:

- A. Our investigation into the [REDACTED] incident, as described in Page 5 of this report, revealed the following:

According to [REDACTED], in April 2006 certain of them were paid by the City of Rio Dell while working outside the City on a week-long water pipe installation project for [REDACTED]—at the direction of PWD Hale. Further, that [REDACTED] paid PWD Hale \$500 (as an "honorarium") for this work—money which he kept for himself instead of turning it over to the City.

Based on our interviews of [REDACTED] and [REDACTED]—and review of pertinent documents, we determined that [REDACTED] requested the assistance and PWD Hale volunteered his employees to do the work. At the end of the project, which took about a week and involved laying a four-inch pipe down steep terrain and under railroad tracks to a well in pasture land below, the [REDACTED] paid PWD Hale \$500 as an "honorarium" for the workers. PWD Hale bought the workers lunch but kept the money for himself. Our review of Rio Dell time card records revealed that only one of the workers, [REDACTED] took vacation time during this period. None of the PW employees' time cards for that week identified their involvement in the [REDACTED] project.



During his interview on 3/21/09, PWD Hale claimed that he had put the \$500 in the "fun fund." During our investigation, we could find no record or accounting of him doing this.

Refer to Exhibit 31A-(a) for copies of minutes of Rio Dell City Council meetings and study sessions conducted around the time of Rio Dell PW's assistance with the [REDACTED] water pipe laying project in early 2006.

Refer to Exhibit 31A-(b) for copies of minutes of [REDACTED] meetings conducted around the time of Rio Dell PW's assistance with the water pipe laying project in early 2006.

Refer to Exhibit 31A-(c) for a copy of the [REDACTED] April 2006 General Manager's report.

Refer to Exhibit 31A-(d) for photos of the completed [REDACTED] 2006 water pipe laying project (photos taken on 3/14/09).

- B. Our investigation into the allegation about City property being taken to [REDACTED] property at Ruth Lake, as initially described in Page 5 of this report, revealed the following:

According to [REDACTED] several items from the City's corporation yard were taken to [REDACTED] property at Ruth Lake.

During our interview of [REDACTED] [REDACTED] stated the following: [REDACTED] has property at Ruth Lake which is used at times as a hunting camp. Over the past few years, personnel from the City of Rio Dell have visited the property, including PWD Hale. A few discarded items from the City have been used on the property, including: a 200 gallon poly-tank, old piping, a 40 gallon galvanized receiving tank, an old water pump, and a water pressure tank (bladder tank). Some of the City equipment was reported as being delivered by PW employees during work hours.

It appears that most of the above-listed items were in fact discarded. However, according to [REDACTED] the 200 gallon poly-tank is needed back at the City because it fits the bed of a pickup truck and [REDACTED] has no replacement for it. A question exists about whether or not this tank was actually discarded—or was made to appear discarded because sewage was pumped into it to make it seem unusable. [REDACTED] the tank is currently being used at [REDACTED] property for fresh water storage.

In this particular item, the issue of misconduct—or who exactly was involved in the misconduct—has not been resolved.

- C. Our investigation into the allegation that PWD Hale would utilize employees to work on other City officials' personal property during working hours, as initially described in Page 5 of this report, revealed the following:

According to [REDACTED] PWD Hale did assign them to work on projects for City department heads and former City council members, including: [REDACTED] property (grading his gravel roadway leading to his house), and [REDACTED] property (mowing and cleaning a drainage ditch).

Whether or not this issue rose to the level of misconduct has not been resolved; however, it apparently had the appearance of impropriety to City workers, or it would not have been brought to our attention.

- D. Our investigation into the allegation that PWD Hale would trade services, materials or financial incentives to individuals or contractors for personal gain, as initially described in Page 5 of this report, revealed the following:

In certain instances, the PWD did trade services, materials or finance incentives for personal gain, e.g., the sludge tractor incident, the \$500 from [REDACTED] incident, etc.

In other instances his actions gave the appearance they were intended for his own personal benefit, e.g., providing asphalt grindings to [REDACTED] and receiving but not paying for firewood logs from [REDACTED] etc.

In yet other instances, PWD Hale's actions were questionable, but the issue of misconduct was not resolved. For example, on two occasions in the past he hired a personally-owned boat belonging to [REDACTED] (owner of [REDACTED]) for what appeared to be an unusually high rental rate for this use (totaling \$900 for both occasions) and [REDACTED] skid steer for sludge removal (totaling \$1,020). Then, [REDACTED] performed [REDACTED] on PWD Hale's new garage—but he did not charge PWD Hale for his services.

Refer to Exhibit 31D-(a) for copies of miscellaneous invoices and bills from [REDACTED]

## **CONCLUSION**

## SECTION VII. CONCLUSION

Based upon this firm's investigation into the above-described issues, we conclude that most of the allegations listed in this report were **Sustained**—either in part or in total—and most of the sustained allegations were violations of one or more of the provisions of the following: City of Rio Dell Workplace Harassment Policy, City of Rio Dell Drug-Free Workplace Policy, Personnel Rules of the City of Rio Dell, Rio Dell Public Works Department Rules & Regulations, and/or the City of Rio Dell Public Works Director Contract Agreement (Dated 7/9/07) (Exhibits C, D, E, G, I and K).

Additionally, it appears that, based on a review of California Penal Code Sections 487 and 503 (Exhibits L and M), at least two of the issues (Item No. 10 and Item No. 31A) could be construed as felony-level criminal violations because each issue involved personal gain with a monetary value or amount in excess of \$400.

Certain factors need to be considered when reviewing our conclusions:

First of all, a review of PWD Hale's personnel file revealed a lack of mandated periodic performance evaluations after he was promoted to his present position. In fact, the only performance evaluations we could find in his file were completed back in 1995-1999—when he was utility lead worker. And, his personnel file lacked documentation of any counseling or disciplinary action taken by [REDACTED] him over the years, including [REDACTED]. In other words, there is no way to determine—outside of [REDACTED] verbal statements to us during this investigation—if any of Mr. Hale's conduct (or misconduct) as Public Works Director was either observed or dealt with in the past by higher authority.

Secondly, regardless of the lack of evaluations, counseling, or other disciplinary action documentation, Mr. Hale's personnel file did contain five acknowledgement and agreement forms, which were signed by him: City of Rio Dell Workplace Harassment Policy (1999 – Exhibit C), City of Rio Dell Drug-Free Workplace Policy (Undated – Exhibit D), Personnel Rules of the City of Rio Dell (2000 – Exhibit F), City of Rio Dell Department of Public Works Rules and Regulations (2000 – Exhibit H), 1999-2000 Memorandum of Understanding between the City of Rio Dell and Rio Dell Employees Association (2000 – Exhibit J). His personnel file also contained his signed, three-year City of Rio Dell Public Works Director Contract Agreement (Dated 7/9/07) (Exhibit K). These signed forms and his signed contract as an "at will" employee show that he acknowledged and understood the City's policies and agreed to abide by them.

It should be pointed out that some of the sustained actions did not appear to rise to the level of misconduct because they were not necessarily for personal gain. Rather, they appeared to have been a matter of poor judgment or a practice that was tacitly allowed to continue—or they may have been an action that occurred as a matter of expediency or in the City's interests. Additionally, one item was shown to be Unfounded (Item No. 7B), one item was shown to be Unfounded in Part (Item No. 20), and one Sustained item did not involve Mr. Hale (Item 13B). Although Item No. 27 was Sustained, we were unable to determine the extent of misconduct or to identify specific involved parties.

Finally, it should be pointed out that it appears Mr. Hale was able to successfully conceal his [REDACTED] and long-time marijuana abuse from a number of persons with whom he had contact, including his superiors, past and present. Regardless, these two issues, along with his strong, and at times, controlling personality—and his tendency to shift the blame to others—were clearly evident during his recorded interview on 3/21/09. Although these issues should not negate his accomplishments as a trusted department head in the City's employ, they were self-serving, and they broke the City's trust by regularly exposing the City to unnecessary liability.