



Missouri Department of Natural Resources

High Risk Corrective Action Plan
Region G-Mark Twain Solid Waste Management District
January 1, 2005 – December 31, 2006

1. **Executive Board Minutes Not Signed or Attested to by a Member**

Auditor Recommendation:

We recommend that the District require the secretary and the Chairman of the Executive Board or another board member to sign and attest to the accuracy of the written content of the board minutes.

District Response:

The board concurred with the recommendation and indicated that this has been implemented.

SWMP Response:

The Solid Waste Management Program (SWMP) agrees with the auditor's recommendation and expands on this recommendation to include review of the monthly board financial reports. It is a good business practice for boards to ensure an adequate review of their meeting minutes as the permanent record of actions taken by the Executive Board. Additionally, the board should have available for their review accurate, timely, and complete financial reports as the district's only funding source is public monies provided by the Solid Waste Management Fund (SWMF). Additionally, accurate records of the meeting are useful for internal purposes and for creating a record to justify proper closure of a meeting under Section 610.021, RSMo. Note: Failure of the board to comply with Chapter 610, RSMO, commonly referred to as the Missouri Sunshine Law can result in fines for the Executive Board, or individual district board members

Without regular meeting minutes and financial report review by board members and signing of the minutes and reports by the reviewers, it is not possible to later establish if the minutes and reports accurately represented the board's decisions at that time. In the case of Region G, as an example, board minutes provided by the district do not adequately detail whether it was the intention of the board to enter into a bank loan with the district as the borrower. It was also not possible to determine if board members were provided information detailing the total amounts loaned and granted to the Mark Twain Waste and Energy Corporation over a number of years. Additionally, board financial reports do not appear to have been prepared to ensure the board was provided accurate information about the district's financial position. Specifically, reconciliation of the bank account statements to a general ledger do not appear to have been completed and reported to the board.

District Corrective Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #1:

- a. The Executive Board will review and make needed amendments to the district's policy and related procedure to ensure all Executive Board meeting minutes and board financial reports are timely reviewed, approved, and signed by the district chairperson and secretary or other board members, as assigned. The Executive Board will ensure that the district has an adequate accounting system in place to meet the requirement at 10 CSR 80-9.050(7)(B). The accounting system is required to meet generally accepted accounting principles which requires the system to accurately reflect all fiscal transactions, incorporate appropriate controls and safeguards and provide clear reference to the project as agreed to in the Financial Assistance Agreement (FAA).
- b. The Executive Board will review the district's policy and related procedure to ensure compliance with the Sunshine Law. Specifically, the Executive Board will pay particular attention to 1.) The requirement for a written policy regarding the release of information on any meeting, record, or vote and 2.) the requirement for publicizing the date, time, and place of open Executive Board meetings to the public; and
- c. Modifications or the addition of district policies must be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. This corrective action must be taken by January 31, 2008, with copies of the amended policies and procedures and samples of board financial reports provided to the SWMP.

2. Board Minutes Not Indicating Votes on Motions

Auditor Recommendation:

We recommend that the District include in the board minutes the votes of each Executive Board member when motions are made and voted upon, or note "Motion Carried Unanimously" when all are in favor of a motion.

District Response:

The board concurred with the recommendation and indicated this has been implemented.

SWMP Response:

The SWMP agrees with this recommendation. As noted in the audit report, 610.015, RSMo, requires that all votes of the board be recorded, and if a roll call is taken, as to attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body. As noted above, failure of the Executive Board to comply with Chapter 610, RSMo, can result in fines for the Executive Board, or individual district board members.

District Corrective Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #2:

- a. The Executive Board will review and amend the district's policy and related procedure to ensure all Executive Board votes on motions are appropriately recorded and attributed to the individual member, if applicable; and
- b. Modifications or the addition of district policies and procedures must be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. This corrective action shall be taken by January 31, 2008, with copies of the amended policies and procedures provided to the SWMP.

3. Board Minutes Regarding Information Presented

Auditor Recommendation:

We recommend that the District record in the minutes the names of the board members that are present and those that are absent from the meeting.

District Response:

The board concurred with the recommendation and indicated that this has been implemented.

SWMP Response:

The SWMP agrees with this recommendation. As noted in the audit report, 610.020.7, RSMo, requires that the board minutes contain the names of those board members both present and absent. As noted above, failure of the Executive Board to comply with Chapter 610, RSMO, can result in fines for the Executive Board, or individual district board members.

District Correction Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #3:

- a. The Executive Board will review and amend the district's policy and related procedure to ensure board members both present and absent are recorded in the board minutes; and
- b. Modifications or the addition of district policies and procedures must be in writing and approved by the Executive Board and documented within the district's signed

meeting minutes. This corrective action must be taken by January 31, 2008, with copies of the amended policies and procedures provided to the SWMP.

4. A Board Meeting Held without a Quorum of the Board Present

Auditor Recommendation:

We recommend that the District not hold a board meeting without a quorum of the total board present. The board should review this meeting again in a future board meeting with a quorum present and approve the actions from that meeting and document this in the board meeting minutes. The District should fill board positions for entities that are not participating and inform all board members that they must be active and participate to aid in establishing a legitimate quorum at the meetings.

District Response:

The board concurred with the recommendation and provided the following written comment:

At the time of this meeting, the District had been under the assumption that a quorum was a majority of the counties that were sending representatives to meetings and actively participating in the District's business. Due to two counties not actively participating for a significant amount of time, the District was under the assumption that a quorum for a meeting was three of five counties represented instead of four of seven counties represented.

The District will consider a quorum as four of seven for any meetings in the future.

SWMP Response:

The SWMP agrees with this recommendation. As noted in the audit report, 260.320.1, RSMo, states "A majority of the members of the board shall constitute a quorum." Article VI of the District's by-laws states that a quorum shall be any four Executive Board voting members and said majority shall have the right of the full Executive Board. Business of the district cannot be conducted without a quorum present. Any business conducted at the meeting where a quorum did not exist needs to be presented again to the board for action.

District Corrective Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #4:

- a. The Executive Board will review and amend the district's policy and related procedure to ensure a sufficient number of Executive Board members are present to constitute a quorum and that such determination is recorded in the board minutes;

- b. The Executive Board should amend the district's by-laws to require participation by board members and to establish procedures for notifying and taking appropriate action including removal of board members who do not attend board meetings on a regular basis;
- c. The Executive Board should review and determine any business conducted at the January 15, 2005, board meeting where a quorum was not present and the board will need to again act on those business matters at a meeting where a quorum is present; and
- d. Modifications or the addition of district policies and procedures must be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. Corrective action related to this finding must be taken by January 31, 2008. Copies of the amended policies and procedures and of minutes where the items from the meeting where a quorum was not present are acted upon by the board must be provided to the SWMP.

5. Surety Bond not on File to Cover Board Members

Auditor Recommendation:

We recommend that the District obtain a surety bond in a sufficient sum for the Treasurer and all Executive Board members of the District.

District Response:

The board concurred with the recommendation and indicated they have been accepted for fiduciary bond coverage to cover the Executive Director and applicable board members.

SWMP Response:

The SWMP agrees with the auditor's recommendation. Failure of the executive board to ensure adequate coverage by either obtaining surety bonds, fidelity insurance, or errors and omissions insurance increases to an unacceptable level the risk for loss of public monies entrusted to the district. Surety bonds are used in situations to secure the proper performance of fiduciary duties by persons in positions of private or public trust. Fidelity insurance protects organizations from loss of money, securities, or inventory resulting from crime. Common fidelity claims frequently allege employee dishonesty, embezzlement, forgery, fraud, and other criminal acts. Errors and omissions insurance covers damages resulting from negligence or mistakes that occurred in the course of doing business. The "Receivable—Other" amount of \$86,785 disallowed by the SWMP potentially would have been mitigated had the district maintained adequate coverage to reduce the risk of loss to an acceptable level.

District Corrective Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #5:

- a. The Executive Board must review and amend the district's policy and related procedure to ensure adequate fidelity coverage is maintained at all times for district staff and Executive Board members; and
- b. Modifications or the addition of district policies are required to be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. A copy of the district's fidelity coverage should be sent immediately to the SWMP. Other documentation related to amended policies and procedures shall be provided to the SWMP by December 31, 2007.

6. Board not Reviewing Monthly Bank Reconciliations (Repeat Finding)

Auditor Recommendation:

We recommend that the District Board review and approve the monthly bank reconciliations.

District Response:

The board concurred with the recommendation and indicated that the board now reviews all expenditures, monthly bank statements, and bank reconciliations.

SWMP Response:

The SWMP agrees with this recommendation. Quarterly project and financial summary reports submitted by the district to the SWMP were frequently inaccurate. It appears Region G Quarterly Project Financial Summary Reports were filed without being reconciled to the district's bank account. It also appears the reports submitted for board approval did not accurately reflect the financial position of the district over time. An example of this is shown as the district was over-obligated to subgrantees throughout the audit period (January 1, 2005 through December 31, 2006) and failed to take action to address the apparent shortfall in cash to reimburse subgrantees. It is important that the Executive Board has available accurately prepared financial reports and for the SWMP to be provided Quarterly Project Financial Summary Reports that are comparable and reliable and fairly present the financial position of the district.

District Corrective Action Required:

This issue was cited in a limited review conducted by the MDNR, Division of Administrative Support, Internal Audit Program for fiscal years 1993 through 1995 dated January 1996. Corrective action was not taken by the district to address the concern.

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #6:

- a. The district must maintain adequate accounting and internal control systems. The Executive Board should monitor and make modifications to the district's accounting system to ensure compliance with 10 CSR 80-9.050(7)(B) which states, "An executive board receiving funds from the Solid Waste Management Fund for district grants shall themselves maintain, and require recipients of financial assistance to maintain, an accounting system according to generally accepted accounting principles that accurately reflects all fiscal transactions, incorporates appropriate controls and safeguards, and provides clear references to the project as agreed to in the Financial Assistance Agreement. Accounting records must be supported by source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contract, and agreement award documents." This system must be sufficient to meet all objectives of safeguarding assets including appropriate receipt, disbursements (check/cash), and reconciliation procedures as follows:
 - i. Use of prenumbered checks with identification of the solid waste district as the account owner for all checking accounts and the requirement for dual signatures on checks establishes an appropriate control. Preferably once a year, or anytime a change in board membership occurs, the Executive Board should review signatories on all bank accounts;
 - ii. Segregate duties related to the depositing of monies, recording of financial transactions in the general ledger, and preparation of financial reports. At a minimum, independent responsible persons, such as board members familiar with district activity, must review the financial reports monthly. Once reviewed, the reports should be dated and signed by those performing the review as acceptance and approval of the reports;
 - iii. Bank accounts must be reconciled monthly and the reconciliation documented. The bank balances must be reconciled to the checkbook balances, the general ledger, and the DNR Quarterly Project Financial Status Report. The bank reconciliations must be reviewed by independent responsible persons, such as board members familiar with district activity, and the reconciliations must be dated and signed as reviewed and approved. The Board must give particular attention to a process for authorizing and approving any adjustments required to reconcile the district's bank statements to the general ledger. The process must ensure reasons for any such adjustments are adequately documented in the accounting records and are approved and included in the district's Executive Board meeting minutes, as applicable; and

- iv. The district must prepare financial statements that include district assets, liabilities and fund balance on a timely basis. The district must timely complete the financial statement audit process and provide the report to the SWMP.
- b. The district must immediately take action to reconcile the cash balances per the bank reconciliation to the district's official accounting records and provide a copy of the reconciliation to the SWMP; and
- c. Modifications or the addition of district policies and procedures should be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. This corrective action must be taken by April 30, 2008, with copies of the amended policies and procedures, reconciliation, and sample board reports provided to the SWMP.

7. District Accounting Records not Available for Review

Auditor Recommendation:

We recommend that the District maintain and properly retain all necessary accounting records for review in accordance with state guidelines.

District Response:

None requested for this particular finding.

SWMP Response:

The SWMP agrees with the recommendation. At the time of the performance audit, the district did not have available for review its bank reconciliations, a check register, and a general ledger or detailed grant ledgers to reflect transactions and balances of grants awarded. The MDNR contract auditor noted the former Executive Director stated the bank accounts were being reconciled monthly by the outside firm that contracts with the District. The MDNR contract auditor notes that this information was not verified through audit procedures. From discussions with board members, the SWMP was unable to determine if board members were aware of an outside accounting firm working on the district's accounting records.

Further, the district's new financial statement auditor worked with the new administrative contractor to reconstruct the accounting records of the district from bank statements, cancelled checks, copies of invoices, grant applications, and other supporting documentation as the district did not have a general ledger or check register for the audited periods. The district's financial statement auditor was unable to locate any reconciled bank statements in the district files. The new administrative contractor obtained copies of the bank statements from the district's bank. The records of the district failed to meet the requirements for an accounting system developed and maintained according to generally accepted accounting principles.

District Corrective Action Required:

The district will need to take the following actions to resolve Finding #7:

- a. As noted in Finding #6 above, the Executive Board must establish and begin to periodically monitor the district's accounting system to ensure compliance with 10 CSR 80-9.050(7)(B) which states, "An executive board receiving funds from the Solid Waste Management Fund for district grants shall themselves maintain, and require recipients of financial assistance to maintain, an accounting system according to generally accepted accounting principles that accurately reflects all fiscal transactions, incorporates appropriate controls and safeguards, and provides clear references to the project as agreed to in the Financial Assistance Agreement. Accounting records must be supported by source documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contract, and agreement award documents."
- b. The Executive Board must review and amend the district's policy and related procedure to ensure the district's accounting system and internal controls are maintained at all times and are reviewed periodically for weaknesses in accordance with 10 CSR 80-9.050(7)(B) to ensure assets are adequately safeguarded; and
- c. Modifications or the addition of district policies are required to be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. Copies of these modifications and additions must be provided to the SWMP by April 30, 2008.

8. District's Quarterly Project Financial Summary Report not Properly Prepared (Questioned Costs: \$155,573)

Auditor Recommendations:

The District properly prepare a financial record by subgrant noting the receipts and disbursements from each grant and reconcile the balances remaining in each subgrant to the total cash balance held by the District. Any deficient funds may need to be recovered and repaid to the MDNR.

District Response:

The board concurred with the recommendation and provided the following written comments:

In 1997, the District incorporated the Mark Twain Waste & Energy Corporation (MTWEC) to carry on the development of a waste-to-energy (WTE) facility that will replace a WWII coal fired powerhouse located at the Hercules facility in Louisiana, Missouri.

Conventional wisdom concerning the status that governed solid waste districts at that time said that the District could not own or operate the WTE facility. As a result, the District created MTWEC specifically to carry on the District's work on the WTE facility.

MDNR/SWMP has been aware of the District's significant and ongoing support of the WTE facility since 1997. MDNR has approved several grants to Pike County, the University of Missouri Agriculture Department and MTWEC in the intervening years to keep the momentum of the WTE facility project in tact.

MDNR/SWMP have approved designation of District operations funding for possible debt service on bank loans MTWEC has obtained and the District has guaranteed.

Until just last year, the District provided office space, supplies and personnel for the WTE facility project to assist MTWEC in keeping the project's momentum. At that time, several other parties with vested interest in the success of the WTE facility project began funding MTWEC and its operations.

The difference between the QSR financial summaries and the bank statements is the additional support that the District has provided to the MTWEC WTE facility project, which is in essence the District's project.

During the research for the FY 2000 through FY 2003 financial audit, the auditor notes a cumulative amount through FY 2003 of \$128,724 that the District has used from its operations funding to assist MTWEC. That amount, while less than the difference stated by the Performance/Compliance Auditor will surely grow somewhat when the financial audit for FY 2004, FY 2005, and FY 2006 are complete.

The District considers this support crucial to the MTWEC WTE facility project due to the fact that the District initiated the project, created MTWEC to further the project's development and is financially tied to MTWEC and the project via the guaranteed bank loans. Were it not for the one single line in the statute governing solid waste districts that prohibit districts from owning and operating waste processing facilities, MTWEC would not exist and the District would be the entity facilitating the development of the WTE facility.

With the above in mind, the District has begun negotiations with MTWEC to begin repayment of the operations assistance that has been advanced. MTWEC has already agreed that the bank loans will be repaid from the construction financing for the WTE facility, thereby relieving the District of that financial burden and allowing the District to delete the debt service line item from its annual budget. MTWEC has agreed in the FAA for its last grant to repay that grant from the WTE construction financing, as well as, verbally agreeing to repay all grants to the project from the WTE construction financing. The District believes that the difference between the QSR financial summary and the bank statements will be repaid, as well, and are negotiating to receive reassurance from MTWEC to this affect in writing.

Therefore, the District would request approval from MDNR/SWMP to continue to negotiate written agreements with MTWEC to obtain the repayment assurances that should satisfy this issue.

SWMP Response:

A separate "Monitoring Report" performed by the Missouri Department of Natural Resources, Division of Administrative Services, Internal Audit Section dated January 10, 2003 on the Mark Twain Solid Waste Management District contained six findings. The district did not resolve four of those findings as detailed below.

The Executive Director reviewed, evaluated, and ranked the ten applications that were received by Region G SWMD and was shown as the authorized official and the project manager for two applications. This was contrary to 10 CSR 80-9.050(1)(C)4. A similar finding was again noted during the two years ended December 31, 2006, with the Mark Twain Waste to Energy subgrants and the finding is again included in the performance audit report.

Three individuals served on the Executive Board for Region G SWMD and also on the board of directors of the Mark Twain Waste and Energy Corporation (MTWEC). Two of the three board members participated in the approval of the application for MTWEC for \$90,000 and did not recuse themselves from the vote of approval. During the two years ended December 31, 2006, no Executive Board members also served on the MTWEC board of directors.

Since 2003, the Executive Board members no longer serve as board members of the MTWEC. Since sometime in 2006, the Executive Director is no longer employed by the MTWEC. However, the Executive Director is currently listed as project manager on two grants to this facility during the two year review period. The Executive Director reviews and evaluates all projects for board consideration, but does not vote on any approval of the grant projects for state funding. This condition may still be considered a potential conflict of interest.

The SWMP requested Region G's Executive Board be separated from the MTWEC board of directors following issuance of the 2003 Monitoring Report. The district notified the SWMP that the separation of the two entities had occurred. The district states in their response to this finding that "Until just last year, the District provided office space, supplies and personnel for the WTE facility project to assist MTWEC in keeping the project's momentum. At that time, several other parties with vested interest in the success of the WTE facility project began funding MTWEC and its operations." Further, the district's performance audit response included the following statement "**The difference between the QSR financial summaries and the bank statements is the additional support that the District has provided to the MTWEC WTE facility project, which is in essence the District's project.**" It appears from this statement that the district failed to take appropriate action to separate from the MTWEC as required by

the SWMP. The SWMP had not approved such use of funds during the period referenced by the district.

The only SWMP approvals during this time period were for a one year loan guarantee for \$50,000 in State Fiscal Year (SFY) 2005. This loan guarantee required the district to maintain in the district's account \$50,000 to guarantee a loan made to MTWEC. In approving the use of SWMF for this purpose, the district was required by SWMP to notify the SWMP if the district was required to meet any of the guarantee using SWMF. No such notification was received by the SWMP. From records available at the district, the demand loan was made to Region G-Solid Waste Management District with MTWEC shown as the co-signor. Further, the district's financial statement auditor notes the loan occurred during or before FY2004, which was prior to the SWMP approval of the loan guarantee and of the \$50,000 amount \$20,000 had already been paid prior to FY 2004 from SWMF. These transactions occurred without SWMP approval of the use of district grant funds.

The SWMP approved a grant project in SFY 2006 loaning the MTWEC \$100,000. The application approval notes MTWEC's agreement to repay the \$100,000 upon completion of their construction financing agreement. Region G failed to establish a loan agreement and repayment schedule with the MTWEC for these funds. It is a standard good business practice and required by 10 CSR 80-9.050(7)(C) for accounting records to be supported by source documentation including contracts and agreement award documents such as loan agreements.

The district's financial statement audits indicate another \$124,039 was loaned to the MTWEC without FAA(s) and without submission of any documentation to the SWMP allowing for approval of the loan(s). The district's financial statement audits also indicate the district is shown as a co-signor on \$220,150 in bank loans to the MTWEC. The district did not seek approval from the SWMP for use of future SWMF to support these bank loan guarantees should the MTWEC be unable to repay the loans. During the audit period, the district had no other source of funding then the SWMF monies provided by the SWMP.

The SWMP is concerned about the ability of the district to meet its current subgrantee award obligations, as the cash available in the district's accounts is insufficient to meet those obligations. Additionally, the ability of the district to meet the Solid Waste Management Law and regulations related to the terms and conditions for use of these public monies is questionable -- given the future financial stability of the district should the MTWEC be unable to repay the bank loans co-signed by the district. We believe the following action plan will assist the district in returning to a compliant status; the timeframe being provided for full recovery of disallowed costs will ensure the district's return to a stable financial condition; and will enable the district to continue supporting solid waste management district grant projects during this period at a reduced level.

District Corrective Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #8:

- a. The district shall take immediate action to establish written loan agreements for those district funds identified as "Due from Mark Twain Waste and Energy Corporation" in the district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006.
 - i. The district shall take immediate action to establish written loan agreements with entities receiving district loan funds. No later than January 31, 2008, written loan agreements must be in place and a copy of such agreements must be provided to the SWMP by the district.
 - ii. At a minimum, the district's loan agreement(s) with the MTWEC must identify the total amount of the loan; the interest rate to be charged on such district loan funds; the period of such loan agreement; proof of any collateral provided by the loan recipient; and a loan repayment schedule.
 - iii. The district's financial statement audits for the periods ended December 31, 2006, identify the district as over-obligated to district subgrantees in the amount of \$147,367. Of this amount, \$124,039 represents district grant funds loaned without SWMP approval to the MTWEC. If the district is unsuccessful in establishing and collecting on a loan repayment plan for these district grant funds, the amount unrecovered shall be disallowed by the SWMP. The SWMP shall withhold unrecovered funds from future district allocations and such withholdings shall be reallocated as set forth in 10 CSR 80-9.050(9)(E).
 - iv. Additionally, the district has a loan agreement for \$100,000 with the MTWEC. If the district is unsuccessful in establishing and collecting on a loan repayment plan for these loan funds, the unrecovered funds shall be disallowed by the SWMP. The SWMP shall withhold the unrecovered funds from future district allocations and such withholdings shall be reallocated as set forth in 10 CSR 80-9.050(9)(E).
 - v. All district grant loan funds repaid by MTWEC to the district will be obligated for district subgrant projects. Funds shall not be used for district operations or plan implementation.
- b. The district shall take immediate action to recover district grant funds identified in the district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006 as "Receivable--other".
 - i. Recovery action by the district in regard to these district grant funds must be taken no later than January 31, 2008.
 - ii. As noted in III.a.iii. above, the district's financial statement audits for the periods ended December 31, 2006, identify the district as over-obligated to district subgrantees in the amount of \$147,367. Of that amount, \$23,328 represents district grant funds inappropriately disbursed by the district. This \$23,328 is a

part of the \$86,785 disallowed by SWMP from the district's administrative allocation as a result of inappropriate disbursements identified as "Receivable-other" within the district's financial statement audit reports.

- iii. Any district grant funds later recovered by the district or MDNR actions will be obligated for district subgrant projects. Funds shall not be used for district operations or plan implementation.

9. Interest Income not Properly Reported on Quarterly Report (Repeat Finding)

Auditor Recommendation:

We recommend the District properly reflect the total interest income earned on its quarterly reports in the future.

District Response:

The board concurred with the recommendation and will implement this.

SWMP Response:

The SWMP agrees with this recommendation. The weaknesses identified in the district's method of maintaining accounting records, recording transactions, and failure to timely and accurately complete reconciliations of the district's bank accounts is believed to have directly impacted the district's ability to identify interest income, either obligated or unobligated. Further, as noted above, the district misreported, whether intentional or not, the financial position of the agency to the SWMP including information related to available interest income on the Quarterly Project Financial Summary Reports.

District Corrective Action Required:

This issue was cited in a limited review conducted by the MDNR, Division of Administrative Support, Internal Audit Program for fiscal years 1993 through 1995 dated January 1996. Corrective action was not taken by the district to address the concern.

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #9:

- a. The Executive Board will monitor and make modifications to the district's accounting system to ensure compliance with 10 CSR 80-9.050(7)(B) which states, "An executive board receiving funds from the Solid Waste Management Fund for district grants shall themselves maintain, and require recipients of financial assistance to maintain, an accounting system according to generally accepted accounting principles that accurately reflects all fiscal transactions, incorporates appropriate controls and safeguards, and provides clear references to the project as agreed to in the Financial Assistance Agreement. Accounting records must be supported by source

documentation such as cancelled checks, paid bills, payrolls, time and attendance records, contract, and agreement award documents”;

- b. The district must immediately take action to reconcile the cash balances per the bank statements to the district’s official accounting records, identify the interest income currently unobligated and provide a copy of the reconciliation to the SWMP as noted in Finding 6, 7, and 8 above; and
- c. Modifications or the addition of district policies and procedures should be in writing and approved by the Executive Board and documented within the district’s signed meeting minutes. This corrective action must be taken by March 31, 2008, with copies of the amended policies and procedures, reconciliations and sample board reports provided to the SWMP.

10. Annual Financial Statement Audit not Obtained

Auditor Recommendation:

We recommend that the District obtain an annual audit of its records and accounts as required by the Special Terms and Conditions, Missouri Law, and Article VIII of its bylaws.

District Response:

The board concurred with the recommendation and indicated that the District was making every effort to finish the required audits. The District is in the process of obtaining an audit for fiscal years 2004-2006. The audit for fiscal years 2000 through 2003 is completed and was submitted to the Department. (A copy of the audit was submitted with the district’s written responses dated May 17, 2007.)

SWMP Response:

The audit for the fiscal years 2000 through 2003 was received on May 21, 2007. The audit did not fully meet the reporting requirements contained in the general terms and conditions. The general terms and conditions set forth the following financial statement audit requirements:

- a. The audited financial statements shall, at a minimum, provide for all fund types and account groups and include the following statements:
 - i. Financial Statements with the following minimum account categories:
 - 1) Total Assets: cash, investments, receivables, fixed assets.
 - 2) Total Liabilities: accounts payable, deferred grant revenue obligated for grants, deferred interest revenue obligated for grants.
 - 3) Net Assets: fund balance.
 - ii. Statement of Revenues, Expenditures, and Changes in Fund Balance with the following minimum account categories:

- 1) Beginning Fund Balance.
 - 2) Revenues: grant revenue, interest revenue, other revenue sources.
 - 3) Expenditures: salaries, fringe benefits, travel, equipment, supplies, contractual, subgrant expenditures.
 - 4) Ending Fund Balance
- iii. Report on Internal Controls Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.
 - iv. Statement of Subgrant Expenditures that provides expenditures by subgrant and provides clear references to the projects as agreed to in the Financial Assistance Agreement.

The district's financial statement audit did not provide the Report on Internal Controls Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States and the Statement of Subgrant Expenditures that provides expenditures by subgrant and provides clear references to the projects as agreed to in the Financial Assistance Agreement.

District Corrective Action Required:

The district will need to take the following actions to resolve Finding #10:

- a. The district will have the missing reports prepared for the financial statement audit for the four year period ended December 31, 2003;
- b. The district will provide the SWMP with a copy of the final audit reports for the periods ending December 31, 2004, 2005, and 2006 for SWMP review, comment, and additional follow-up, if warranted;
- c. The Executive Board must review and amend the district's policy and related procedure to ensure the district's financial statement audits are completed in accordance with 10 CSR 80-9.050(7)(J) which requires completion and submission of the audit within 180 days of the end of the period covered by the audit; and
- d. Modifications or the addition of district policies are required to be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. Copies of these modifications and additions must be provided to the SWMP by December 31, 2007.

11. No Detailed Listing of Capital Assets Maintained

Auditor Recommendation:

We recommend that the District maintain a detailed listing of capital assets purchased with district grant funds and owned by the subgrantees in accordance with the requirements of the General Terms and Conditions.

District Response:

The board concurred with the recommendation and will implement this.

SWMP Response:

The SWMP agrees with the auditor's recommendation. All required items must be maintained in the property records and a physical inventory of property must be taken and the results reconciled with the property records at least once every two years in accordance with the general terms and conditions.

District Corrective Action Required:

The district will need to take the following actions to resolve Finding #11:

- a. The district will establish a written policy and related procedure to account for and report capital assets including equipment in accordance with the general terms and conditions. I.M.2, Equipment Management.
- b. By June 30, 2008, the district should provide to SWMP a copy of a physical inventory as verification of the district's compliance with this requirement; and
- c. Modifications or the addition of district policies should be in writing and approved by the Executive Board and documented within the district's signed meeting minutes with a copy provided to the SWMP.

12. Annual Statements of use of Equipment not Filed by Subgrantees

Auditor Recommendation:

We recommend that the District require an annual statement from each subgrantee certifying that the use of the equipment bought through state grants is for project activities.

District Response:

The board concurred with the recommendation and will implement this.

SWMP Response:

We concur with the auditor's recommendation.

District Corrective Action Required:

The district will need to take the following actions to resolve Finding #12:

- a. The district will establish a written policy and related procedure to obtain an annual use statement from subgrantees for equipment purchased, in whole or in part, with SWMF monies;
- b. By June 30, 2008, the district should provide to SWMP a copy of the FY2008 use statements provided by subgrantees as verification of the district's compliance with this requirement; and
- c. Modifications or the addition of district policies should be in writing and approved by the Executive Board and documented within the district's signed meeting minutes with a copy provided to the SWMP.

13. UCC-1 Security Interest Forms not Filed by the District or Subgrantees

Auditor Recommendation:

We recommend that the District and the subgrantees use and file the required UCC-1 forms for the capital assets (equipment, construction of buildings or site improvements and for equipment items) costing \$5,000 or more as required under the Special Terms and Conditions for the District Grants.

District Response:

The board concurred with the recommendation and indicated that this has been implemented.

SWMP Response:

We concur with the auditor's recommendation and expand it to include other forms of security interest.

The district should note that if the equipment is owned by the district or district subgrantee and is purchased with SWMF monies and is titled through the Missouri

Department of Revenue (MDOR), the SWMP or district, as applicable, must be listed as a lien holder on the title. For equipment owned by the district if the equipment is not required to be titled through the MDOR, the district must provide the SWMP with documentation that the SWMP is listed as a lien holder on the certificate of title, UCC-1 form, deed of trust, deed restriction or other instrument to secure interest in a specific piece of equipment. For equipment owned by the district subgrantee if the equipment is not required to be titled through the MDOR, the district subgrantee must provide the district with documentation that the district is listed as a lien holder on the certificate of title, UCC-1 form, deed of trust, deed restriction or other instrument to secure interest in a specific piece of equipment.

District Corrective Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #13:

- a. The district will review and amend their current written policy and related procedures for obtaining a security interest for equipment purchased by the district or district subgrantees to ensure accurate and timely filing of security interests; and
- b. Modifications or the addition of district policies and procedures should be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. This corrective action must be taken by February 28, 2008, with copies of the amended policies and procedures provided to the SWMP.

14. Executive Director Reviews, Evaluates, and Discussed Projects as Project Manager (Repeat Finding)

Auditor Recommendation:

We recommend that the Executive Director excuse himself from the discussion with the Executive Board for those projects, which he is considered as a Project Manager.

District Response:

The board concurred with this recommendation.

SWMP Response:

The SWMP agrees with this recommendation. A conflict of interest is a situation in which someone in a position of trust has a competing professional or personal interest. A conflict of interest exists even if no unethical or improper act results from it. Conflicts of interest can create the appearance of impropriety where none exists, undermining confidence in an organization or individual. The best way to handle conflicts of interest is to avoid them entirely. However, when this is not possible, having appropriate policies and procedures in place will assist the district in responding to public inquiries. All board

and senior staff members should be required to sign the district's policy and disclose any conflicts of interest at the time they join the board and at the beginning of each new board year. They should be expected to refrain from attempting to influence other board members or staff decision-makers regarding matters in which they or their family members have a conflict of interest. The board should ensure that the practice of full disclosure is fostered at board meetings, particularly those involving discussions of issues that could pose a conflict of interest for any board member, and steps should be taken to ensure that board members with conflicts recuse themselves from the board discussion and votes on such issues.

District Corrective Action Required:

The district has indicated this recommendation has been implemented. Please document the following actions to resolve Finding #14:

- a. The executive board must amend or add a district policy related to conflicts of interest including a requirement for disclosure statements by executive board members and staff. Further, the district's policy must include an annual update to these disclosure statements and review and approval of the statements by the executive board;
- b. The district should provide copies of the signed individual disclosure statements of executive board members and staff to SWMP by December 31, 2007, as verification of the district's compliance with this requirement;
- c. Modifications made to the district's policies and procedures should be in writing and approved by the executive board and documented within the district's signed meeting minutes with a copy provided to the SWMP; and
- d. For the next grant cycle, we request the district submit to SWMP, upon approval and signing by the board, a copy of the board meeting minutes for the meetings where grant awards are discussed and made as verification of the district's compliance with the conflict of interest procedures. This documentation can be submitted with the next quarterly project and financial summary reports.

15. Retainage on a Project Grant Released Before Final Report Filed (Repeat Finding)

Auditor Recommendation:

We recommend that the District properly withhold the fifteen percent retainage amount for each grant award until the final report and the final accounting of project expenditures has been submitted and approved by the Executive Board.

District Response:

The board concurred with the recommendation and will implement this.

SWMP Response:

We concur with the auditor's recommendation. However, effective October 30, 2007, the amended 10 CSR 80-9.050(7)(D) allows for a district board to approve release of the 15% retainage prior to completion of the grant project with prior approval of the executive board and SWMP. Should the district elect to allow release of the retainage before completion of the project, the board must have a policy and procedure to ensure the prior approvals of the board and SWMP are obtained in compliance with the implementing regulations and such approvals are adequately documented in the district's meeting minutes and grant records.

District Corrective Action Required:

This issue was cited in a limited review conducted by the MDNR, Division of Administrative Support, Internal Audit Program for fiscal years 1993 through 1995 dated January 1996. Corrective action was not taken by the district to address the concern.

The district will need to take the following actions to resolve Finding #15:

- a. The district will review and ensure the written policy and related procedures reduce to a minimum the likelihood of recurrence of this finding. Specific attention should be paid to processes used by the staff responsible for entry, authorization, and approval of payment transactions which provides oversight and internal control over these functions that directly impact district cash assets; and
- b. Modifications or the addition of district policies and procedures should be in writing and approved by the Executive Board and documented within the district's signed meeting minutes. This corrective action must be taken by February 28, 2008, with copies of the amended policies and procedures provided to the SWMP.

MISSOURI DEPARTMENT OF NATURAL RESOURCES
Solid Waste Management Program
Special Terms and Conditions

These special terms and conditions apply to the award of solid waste management district grant funds to the Mark Twain Solid Waste Management District – Region G by the Missouri Department of Natural Resources (MDNR), Solid Waste Management Program (SWMP).

Effective November 1, 2007, and continuing through March 31, 2009, or such further time as determined by the SWMP, the district is designated as "high risk". Significant deficiencies were noted in the independent accountant's report on applying agreed upon procedures for the period January 1, 2005, through December 31, 2006, conducted by MDNR's contract audit firm, Casey and Company, L.L.C. and the district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006 conducted by the district's audit firm, Charles E. Montgomery, CPA. Specifically, the audits identified weaknesses in the district's management system; nonconformance with terms and conditions of previous grant awards; and an unstable financial position. For these reasons, the SWMP has determined the district to be at "high risk" in accordance with Section I, subsection 10., of the SWMP General Terms and Conditions.

The intent of these special terms and conditions is to provide the district with the actions the district must take to return to compliant status. Failure of the district to comply with these special terms and conditions will result in enforcement actions by the SWMP under Section I, subsection AE., of the SWMP General Terms and Conditions or any other remedy that may be legally available, including cost recovery, breach of contract, and suspension or debarment with respect to the district, the district's subgrantees, or other entities loaned district grant funds.

I. Payment on a Reimbursement Basis.

- a. Effective upon execution of the Financial Assistance Agreement (FAA) between the MDNR, SWMP and the district, and ending no earlier than December 31, 2008, the SWMP shall make payments directly to the district's subgrantees and other vendors on behalf of the district.
 - i. The district's executive board and the SWMP shall establish an agreed upon list of subgrantees and other vendors to be paid directly by the SWMP from the district's allocation of solid waste management district grant funds.
 - ii. The district shall, with the prior approval of the SWMP, issue a letter to each subgrantee notifying the subgrantee of a change in the reimbursement process and requirement for submittal of reports directly to the SWMP. The district shall include forms provided by the SWMP in the mailing to the subgrantees.
 - iii. The district executive board shall designate a representative of the board to sign as approver of the district's vendor invoices for payment by the SWMP. The district shall promptly mail such invoices to the SWMP to allow for timely processing of the district's invoices.
 - iv. The SWMP shall provide a monthly expenditure report to the district for presentation to the executive board identifying the payment period; the check number; project number, if applicable; name of the subgrantee or vendor; description of payment type; the date of payment; the amount of payment made by the SWMP on behalf of the district; and the amount of obligated district grant funds and unobligated district grant funds remaining in the district's allocation.
 - v. The district shall monthly provide to the SWMP a copy of the signed and approved executive board meeting minutes including review; comments, if applicable; and board action taken in regard to the SWMP produced monthly expenditure report.
- b. Effective upon execution of the FAA between the SWMP and the district, the district may immediately fully remit from district grant funds the \$30,000 amount identified as "Notes Payable" in the district's financial statement audits for the periods ended December 31, 2004, 2005, and

2006. Such amount may be remitted to the holder of the note, United Missouri Bank (UMB) of Monroe City, Missouri with a copy provided to the SWMP.

- i. Payment of the notes payable by the district as the named loan holder shall not prevent the district from taking actions against any parties to recover any funds inappropriately expended as a result of alleged unauthorized actions by former employees or agents acting outside their authority.
- ii. For the periods ended December 31, 2006, the district's financial statement auditor identified the district as having paid a total of \$20,000 to the UMB of Monroe City, Missouri on the notes payable with a remaining balance of \$30,000, as stated above. The SWMP disallows the \$50,000 total of the notes payable from the district's administrative allocation.
- iii. Any district grant funds later recovered by the district or MDNR related to such unauthorized actions will be obligated for district subgrant projects. Funds shall not be used for district operations or plan implementation.

II. Project Monitoring.

- a. Commencing with the quarter ending December 31, 2007, the district shall report each quarter on the progress made during that period on the "high risk" corrective action plan. The "high risk" corrective action plan shall be the SWMP approved district resolution plan for the agreed upon procedures audit conducted by the MDNR contract auditor. These quarterly "high risk" reports shall be due no later than thirty (30) days after the end of each state fiscal year quarter.
- b. Commencing with the quarter ending March 31, 2007, and continuing during the "high risk" period, the SWMP shall periodically monitor and provide a report to the executive board and other interested parties regarding the district's progress towards compliance.
- c. Other compliance issues identified in the periodic monitoring reports shall be added and addressed by the district as a part of the "high risk" corrective action plan and related completion dates will be mutually agreed upon by the district and the SWMP.
- d. The district shall agree to pay the MDNR's contract auditor for completion of a follow-up agreed upon procedures (i.e., performance) audit for the period January 1, 2007 through December 31, 2008.
- e. A final report on the district's "high risk" corrective action plan compliance as determined by the SWMP shall be issued no later than March 31, 2009. The SWMP shall notify the district of removal of the "high risk" designation or the areas preventing removal of such designation.

III. Technical and Management Assistance.

- a. The district shall take immediate action to establish written loan agreements for those district funds identified as "Due from Mark Twain Waste and Energy Corporation" in the district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006.
 - i. The district shall take immediate action to establish written loan agreements with entities receiving district loan funds. No later than December 31, 2008, written loan agreements must be in place and a copy of such agreements must be provided to the SWMP by the district.
 - ii. At a minimum, the district's loan agreement(s) with the Mark Twain Waste and Energy Corporation must identify the total amount of the loan; the interest rate to be charged on such district loan funds; the period of such loan agreement; proof of any collateral provided by the loan recipient; and a loan repayment schedule.
 - iii. The district's financial statement audits for the periods ended December 31, 2006, identify the district as over-obligated to district subgrantees in the amount of \$147,367. Of this amount, \$124,039 represents district grant funds loaned without SWMP approval to the Mark Twain Waste and Energy Corporation. If the district is unsuccessful in establishing a loan repayment plan for these district grant funds, the amount unrecovered shall be disallowed by the SWMP. The SWMP shall withhold unrecovered funds from future district allocations and such withholdings shall be reallocated as set forth in 10 CSR 80-9.050(9)(E).

- iv. Additionally, the district has a loan agreement for \$100,000 with the Mark Twain Waste and Energy Corporation. If the district is unsuccessful in establishing a loan repayment plan for these loan funds, the unrecovered funds shall be disallowed by the SWMP. The SWMP shall withhold the unrecovered funds from future district allocations and such withholdings shall be reallocated as set forth in 10 CSR 80-9.050(9)(E).
 - v. All district grant funds repaid by Mark Twain Waste and Energy Corporation to the district will be obligated for district subgrant projects. Funds shall not be used for district operations or plan implementation.
- b. The district shall take immediate action to recover district grant funds identified in the district's financial statement audits for the periods ended December 31, 2004, 2005, and 2006 as "Receivable--other".
- i. Recovery action by the district in regard to these district grant funds must be taken no later than January 31, 2008.
 - ii. As noted in III.a.iii. above, the district's financial statement audits for the periods ended December 31, 2006, identify the district as over-obligated to district subgrantees in the amount of \$147,367. Of that amount, \$23,328 represents district grant funds inappropriately disbursed by the district. This \$23,328 is a part of the \$86,785 disallowed by SWMP from the district's administrative allocation as a result of inappropriate disbursements identified as "Receivable-other" within the district's financial statement audit reports.
 - iii. Any district grant funds later recovered by the district or MDNR actions will be obligated for district subgrant projects. Funds shall not be used for district operations or plan implementation.
- c. The district must take action to address the findings in the independent accountant's report on applying agreed upon procedures for the period January 1, 2005, through December 31, 2006, conducted by MDNR's contract audit firm.
- i. The district must work with the SWMP to establish and implement an audit resolution plan to address the findings within the report and compliance must be achieved by December 31, 2008.
 - ii. When executed by the district and the SWMP, the audit resolution plan shall become an attachment to these special terms and conditions and shall be identified as the "high risk" corrective action plan.