

Denham Springs Wastewater: Audit Uncovers Fund Misuse and Ethics Lapses

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Briefing Document: Denham Springs Wastewater Department Audit Findings (2016-2024)

Date: October 26, 2023

Subject: Review of Louisiana Legislative Auditor Reports concerning the Denham Springs Wastewater Department.

Executive Summary:

Audits by the Louisiana Legislative Auditor (LLA) from 2016 to 2024 reveal two primary areas of concern within the Denham Springs Wastewater Department: **the uncompensated loaning of City equipment and personnel to other jurisdictions, potentially constituting an illegal donation of public funds,** and **potential ethics violations by the Wastewater Superintendent due to personal contracts with entities receiving City resources.** While the City of Denham Springs has acknowledged the issues and committed to implementing corrective actions, a recurring procedural deficiency concerning ethics policy documentation persists in the latest reports.

Main Themes and Most Important Ideas/Facts:

1. Uncompensated Loaning of City Equipment and Personnel (Donation of Public Funds)

- **The Core Issue:** The Denham Springs Wastewater Department "regularly loans out its vacuum truck and operator to other jurisdictions without a written agreement" and "does not receive reimbursements for the use of the truck or the wages paid to the truck's operator." This practice, occurring approximately once a month, involves entities such as Livingston Parish Sewer District No. 1 & 2, the Town of Livingston, and the City of Walker.
- **Legal Violation:** This practice is considered a potential "donation of public funds," which is "forbidden by the Louisiana Constitution, Article VII, Section 14(A)." The LLA cited Attorney General Opinion 09-0018, which states that for public fund transfers to be permissible, the entity must have legal authority, the

transfer "does not appear to be gratuitous," and the entity has "a demonstrable, objective, and reasonable expectation of receiving at least equivalent value."

- **Lack of Documentation:** Auditors found a significant lack of records. "The Department does not maintain any records, such as log books, to document the use of the vacuum truck." Furthermore, "the City was unable to produce an intergovernmental agreement or a cooperative endeavor agreement authorizing the work."

- **Wastewater Superintendent's Acknowledgment (and partial denial):** Wastewater Superintendent James Clark "stated that he receives requests from other government agencies to use the vacuum truck and that he sends the vacuum truck and an operator to help the other agencies save money." However, in his formal response, he later stated, "I did not authorize any equipment to be loaned to other agencies. This was the job and responsibility of Tom Walton, our former Public Works Director." He added that other requests received by him "were approved by Mayor Durbin or Mayor Landry prior to the loaning of the truck."

- **Management's Response & Corrective Actions (2016):** Mayor Gerard Landry acknowledged the "long-standing tradition in Denham Springs to cooperate with neighboring municipalities," but recognized the difficulty in ensuring "equal value." The City committed to:

- Working with legal counsel to "construct an Ordinance under which FEMA rates and hours spent will be charged to other governmental agencies."

- Implementing "new policies...to ensure that the City of Denham Springs is reimbursed for each use by another governmental agency and to ensure that the use of City equipment is properly documented and monitored."

- Superintendent Clark also confirmed that "log books will be maintained to reflect the use of City equipment by other entities" and that "City supervisors were responsible for and did ensure that the vehicle was refueled by the agency to which it was loaned prior to its return."

- **Follow-up (2016 Annual Report):** The City's management response in the annual report indicated that the Wastewater Department "has begun to log all work performed for outside agencies" and is "tracking anything received from the agencies for the performance of the work and any reciprocal help received from those outside agencies." They are also "working to put a Cooperative Endeavor Agreement in place with each agency."

2. Ethics Violations - Prohibited Transactions with GRC Construction

- **Conflict of Interest:** "Between January 2014 and March 2016, GRC Construction, a company owned by the superintendent of the Wastewater Department, contracted with Livingston Parish Sewer District No. 1 and Livingston Parish Sewer District No. 2 to perform grass-cutting services." During this same period, the superintendent "appears to have authorized the loan of the Department's vacuum truck and operator to the sewer districts."
- **Legal Violation:** This situation suggests a potential violation of "state's ethics laws," specifically Louisiana Revised Statute (La. R.S.) 42:1113(A)(1)(a) and 42:1112(A). These statutes prohibit public servants from entering into contracts under the supervision or jurisdiction of their agency where they have a controlling interest, or participating in transactions with a substantial personal economic interest involving the governmental entity.
- **Recommendation:** The LLA recommended that the City "consult with its legal counsel and the Louisiana Board of Ethics to ensure compliance with the state ethics laws" and suggested that "the Louisiana Board of Ethics review this information and take appropriate action."
- **Superintendent's Denial:** James Clark stated, "I did not authorize the use of equipment by any other agency, and therefore do not feel that I violated any ethical rules. However, I will fully cooperate with the investigation of the Board of Ethics and make any changes they recommend."
- **Management's Response:** Mayor Landry confirmed that the City "has required all employees to complete annual training given by the Louisiana Board of Ethics." He also stated the City "will request and take action upon any recommendations given by the Louisiana Board of Ethics."

3. Recurring Ethics Policy Documentation Deficiency (2022-2024)

- **Persistent Finding:** From the June 30, 2022, annual LLA report through the June 30, 2024, report, a consistent exception has been noted regarding the City's written ethics policies.
- **Specific Deficiency:** The City "does have written policies and procedures but the written policies do not address item (4)," which is "a requirement that documentation is maintained to demonstrate that all employees and officials were notified of any changes to the entity's ethics policy."

- **Employee Training Compliance:** Despite this written policy gap, the audit procedures consistently found "No exceptions" regarding employees completing the required one hour of ethics training annually (2022, 2023, 2024). Also, documentation demonstrating notification of policy changes was maintained (2022, 2023, 2024), indicating a gap in the *written policy itself* rather than a failure in practice.

- **Management's Response:** Each year, the City's response to this finding is the same: "The City will update it's written policies to include how employees are notified of any changes to the entity's ethics policy." This indicates a continued commitment to addressing the formal documentation requirement.

Conclusion:

The audits highlight significant compliance failures in 2016 related to the unauthorized donation of public resources and potential conflicts of interest within the Denham Springs Wastewater Department. While the City and its management have acknowledged these findings and outlined corrective actions, particularly concerning the intergovernmental agreements and reimbursement for loaned equipment, the recurring finding regarding the completeness of their written ethics policies suggests an ongoing need for meticulous review and updates to formal procedures. The consistent compliance with annual ethics training requirements, despite the written policy gap, indicates the City is taking some proactive steps in ethics education.