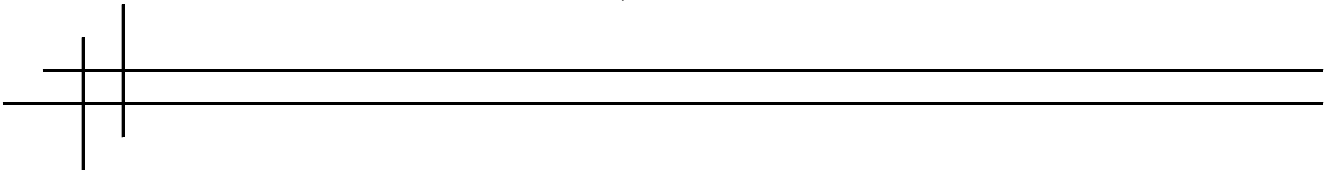


SUNSET DITCH COMPANY
Virden, New Mexico

Independent Accountants' Report on
Applying Agreed-Upon Procedures
June 30, 2010

De'Aun Willoughby CPA, PC
Certified Public Accountant
Clovis, New Mexico



SUNSET DITCH COMPANY
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SUNSET DITCH COMPANY

Official Roster

June 30, 2010

BOARD OF DIRECTORS

Edward Kilby
Stanfird Jones
Kent Clause
Robert Brunson

Mayordomo
Commissioner
Commissioner
Commissioner

Hollie Jones

Administrative Assistant

Independent Auditor's Report on Applying Agreed Upon Procedures

Mr. Tim Keller
State Auditor of the State of New Mexico
Board Members of Sunset Ditch Company

We have performed the procedures enumerated below for Sunset Ditch Company (District), for the year ended June 30, 2010. The District was determined to be a Tier 4 entity under the Audit Act, Section 12-6-3 B (4) NMSA 1978. The procedures were agreed to by the District through the Office of the New Mexico State Auditor. The District's management is responsible for the organization's accounting records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. Our procedures and findings are as follows:

1. Cash

- a) Determine whether bank reconciliations are being performed in a timely manner and whether all bank and investment statements for the fiscal year are complete and on-hand.
- b) Perform a random test of bank reconciliations for accuracy. Also, trace ending balances to the general ledger, supporting documentation and the financial reports submitted to DFA-Local Government Division.
- c) Determine whether the local public body's financial institutions have provided it with the 50% of pledged collateral on all uninsured deposits as required by Section 6-10-17 NMSA 1978, NM Public Money Act, if applicable.

Results:

The District has one checking account. The bank reconciliations were performed within days of receiving the bank statements and all were complete and on-hand. The reconciliations were accurate and agreed to the general ledger. However no financial reports have been submitted to DFA. See finding 2010-004. The cash in the bank was fully insured by FDIC.

2. Capital Assets

Verify that the local public body is performing a yearly inventory as required by Section 12-6-10 NMSA 1978.

Results:

The District is not performing a yearly inventory. However the District only owns one piece of equipment. See finding 2010-009.

3. Revenue

Identify the nature and amount of revenue from sources by reviewing the budget, agreements, rate schedules, and underlying documentation.

- a) Perform an analytical review; test actual revenue compared to budgeted revenue for the year for each type of revenue. Select a sample of revenues based on auditor judgment and test using the following attributes:
- b) Amount recorded in the general ledger agrees to the supporting documentation and the bank statement.

c) Proper recording of classification, amount, and period per review of supporting documentation and the general ledger. Perform this revenue work on the same accounting basis that the local public body keeps its accounting records on, cash basis, modified accrual basis, or accrual basis.

Results:

We could not perform the analytical review and test of actual revenue compared to budgeted revenue for the year for each type of revenue. There was not a budget. See finding 2010-007. Amounts recorded in the general ledger agreed with supporting documentation and bank statements.

Amounts were properly recorded on the cash basis as to classification, amount and period per review of supporting documentation.

4. Expenditures

Select a sample of cash disbursements based on auditor judgment and test using the following attributes:

- a) Determine that amount recorded as disbursed agrees to adequate supporting documentation. Verify that amount, payee, date and description agree to the vendor's invoice, purchase order, contract and
- b) Determine that disbursements were properly authorized and approved in compliance with the budget, legal requirements and established policies and procedures.
- c) Determine that the bid process (or request for proposal process if applicable), purchase orders, contracts and agreements were processed in accordance with the New Mexico Procurement Code (Section 13-1-28 through 13-1-199 NMSA 1978) and State Purchasing Regulations (1.4.1 NMAC) and Regulations Governing the Per Diem and Mileage Act (2.42.2 NMAC).

Results:

From a sample of sixteen expenditures from a population of fifty two, two invoices could not be located. One bill was paid from a quote instead of a bill. See finding 2010-005. One bill was for fuel allowance to an employee that was not included on the W-2 as a fringe benefit. See finding 2010-006. The other expenditures were recorded as disbursed and agreed to supporting documentation. Amount paid, payee, date and description agreed with the vendor's invoice, contract and cancelled check, as appropriate. We also noted that a 1099 was not issued to the lawyer. See finding 2010-008.

Disbursements were properly authorized and approved in compliance with the legal requirements and established policies and procedures. There was not a budget. See finding 2010-007.

The New Mexico Procurement Code (Section 13-1-28 through 13-1-199 NMSA 1978) and State Purchasing Regulations (1.4.1 NMAC) and Regulations Governing the Per Diem and Mileage Act (2.42.2 NMAC) were not violated. There were no disbursements for per diem or mileage.

5. Journal Entries

If non-routine journal entries, such as adjustments or reclassifications, are posted to the general ledger, test significant items for the following attributes:

- a) Journal entries appear reasonable and have supporting documentation.
- b) The local public body has procedures that require journal entries to be reviewed and there is evidence the reviews are being performed.

Results:

There were no journal entries. The district has procedures set in place. The procedures include the district providing all journal entries to the board for their review.

6. Budget

Obtain the original fiscal year budget and all budget amendments made throughout the fiscal year and perform the following:

- a) Verify, through a review of the minutes and correspondence, that the original budget and subsequent budget adjustments were approved by the local public body's governing body and DFA-LGD.

- b) Determine if the total actual expenditures exceeded the final budget at the legal level of budgetary control; if so, report a compliance finding.
- c) From the original and final approved budgets and general ledger, prepare a schedule of revenues and expenditures – budget and actual on the budgetary basis used by the local public body (cash, accrual or modified accrual basis) for each individual fund.

Results:

Because the District did not have a budget and a budget was not submitted to DFA caused the total actual expenditures to exceed budgeted expenditures at the fund level, the legal level of budgetary control. See finding 2010-007.

Other

If information comes to the IPA's attention (regardless of materiality) indicating any fraud, illegal acts, noncompliance, or any internal control deficiencies, such instances must be disclosed in the report as required by Section 12-6-6 NMSA 1978. The findings must include the required content per Section 2.2.2.10(I)(3)(C) NMAC.

We noted an Internal Revenue Service letter asking for Form 990 for the tax year ended December 31, 2006. The non-profit status has been forfeited. The definition of acequia and community ditch associations under Section 73-2-28, NMSA 1978 states in part: "are political subdivision of this state." We conclude the District is not a non-profit and should not be filing a form 990.

We noted that the Agreed Upon Procedures contract was submitted late to the New Mexico State Auditors Office. See finding 2010-001.

We noted that the Agreed Upon Procedures Report will be submitted late to the New Mexico State Auditors Office. See finding 2010-002.

We noted that the District was filing a Form 943 yearly instead of the quarterly 941's for payroll and that four of the twelve months federal tax deposits were filed late. We also noted that the District has not reported any quarterly state unemployment reports. See finding 2010-003.

No additional information came to our attention indicating fraud, illegal acts, noncompliance or internal control deficiencies.

We were not engaged to and did not conduct an audit or examination of the subject matter, the objective of which would be the expression of an opinion on the SDC's compliance with results of procedures required of a Tier 4 examination. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the management, the board members, the Office of the State Auditor, the Department of Finance and Administration, and the New Mexico State Legislature and is not intended to be and should not be used by anyone other than these specified parties.

De'Ann Willoughby CPA PC

Clovis, New Mexico
May 10, 2016

SUNSET DITCH COMPANY

Statement of Revenues, Expenditures, and Changes in Cash Balance -
Budget and Actual (Budgetary Basis)
For the Year Ended June 30, 2010

	Budgeted Amounts		Actual (Budgetary Basis)	Variances Positive (Negative) Final to Actual
	Original	Final		
Revenues				
Assessments	\$ 0	\$ 0	\$ 44,600	\$ 44,600
Grant from NM Department of Agriculture	0	0	10,292	10,292
Sale of Priority Water Rights	0	0	10,267	10,267
Miscellaneous	0	0	551	551
Total Revenues	<u>0</u>	<u>0</u>	<u>\$ 65,710</u>	<u>\$ 65,710</u>
Budgeted Cash	<u>0</u>	<u>0</u>		
Total Revenues and Cash	<u>\$ 0</u>	<u>\$ 0</u>		
Expenditures				
Globe Equity Assessment	0	0	10,137	(10,137)
Chemicals	0	0	1,177	(1,177)
Insurance	0	0	121	(121)
Legal Fees	0	0	11,085	(11,085)
Maintenance and Repairs	0	0	17,676	(17,676)
Office Expense	0	0	122	(122)
Salaries	0	0	19,100	(19,100)
Payroll Taxes	0	0	2,017	(2,017)
Vehicle Expense	0	0	4,800	(4,800)
Postage	0	0	88	(88)
Fees	0	0	10	(10)
Utilities for Water Well	0	0	2,479	(2,479)
Total Expenditures	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 68,812</u>	<u>\$ (68,812)</u>

There is not a DFA report. See Finding 2010-004

SUNSET DITCH COMPANY
Schedule of Findings and Responses
June 30, 2010

Prior Year Audit Findings

Status

None. This is the first report issued for this entity.

Current Year Audit Findings

2010-001 Late Agreed Upon Procedures Contract-Compliance and Other Matters

Condition

The Agreed Upon Procedures contract was not received by the Office of the State Auditor by the required due date of May 1, 2010. OSA received the IPA recommendation February 22, 2016.

Criteria

Paragraph (6) or Subsection G of 2.2.2.8 NMAC requires the contract be received by the Office of the State Auditor by May 1, 2010.

Cause

Management was unaware of the deadline.

Effect

Paragraph (6) or Subsection G of 2.2.2.8 NMAC was violated.

Recommendation

The District should contract with an approved auditor timely.

Response

The District was unaware that there were filing requirements they need to report to the State Auditors Office. Now that the District is aware of this the administrative assistant will comply with OSA deadlines for audit requirements in the future.

2010-002 Late Agreed Upon Procedures Report -Compliance and Other Matters

Condition

The Agreed Upon Procedures report was not timely submitted to the State Auditor by the due date.

Criteria

All audit reports should be submitted to the State Auditor by the required due date according the State Auditors Rule 2.2.2 9 A (1) (d).

Cause

Management was unaware of the requirements or deadline.

Effect

Those relying on the Agreed Upon Procedures report including but not limited to the NM Department of Finance and Administration (DFA) Local Government Division (LGD) did not have Agreed Upon Procedures report to facilitate their oversight function.

Recommendation

Management should engage a qualified auditor in a time fashion.

Response

The District was unaware that there were filing requirements they need to report to the State Auditors Office. Now that the District is aware of this the administrative assistant will comply with OSA deadlines for audit requirements in the future.

2010-003 Payroll-Compliance-Significant Deficiency

Condition

During our audit

- 1) Yearly IRS form 943 was filed instead of filing the required quarterly 941s to the Internal Revenue Service.
- 2) State Unemployment quarterly reports were not submitted.
- 3) 4 of the 12 months federal tax deposits were not paid timely causing the District to pay \$61.98 in penalties.

Criteria

IRS Tax Code Title 29 requires the filing of Form 941 after each quarter reporting wages paid and employer payroll taxes to be paid. According to the New Mexico Department of Workforce Solutions, all governmental agencies are required to file and pay unemployment taxes. The reports and taxes are due by the 15th day following the quarter end.

Cause

Management was not aware that a 943 agriculture reporting of employees was not appropriate for the District nor were they aware unemployment reports and taxes had to be filed.

Effect

The District could be obligated to pay penalties and interest for the payroll issues noted in the condition, reducing the money that should be spent on other services for the members.

Recommendation

Management should file 941s and Workforce Solution reports.

Response

Because the District is agriculture related we thought that 943's were the correct reports that needed to be filed. However, after discussing and researching we agree that quarterly 941's and state unemployment reports should be completed. The administrative assistant immediately file and pay monthly 941 federal tax deposits, file quarterly 941 reports and Workforce Solution reports beginning with January 1, 2016.

2010-004 DFA Reports not Submitted-Compliance and Internal Control-Significant Deficiency

Condition

The District has not submitted quarterly reports to Department of Finance and Administration (DFA).

Criteria

As per LGD's budgeting and reporting requirements as set forth in Section 6-6-2, NMSA 1978 quarterly financial reports are due to DFA no later than the succeeding month after the close of a quarter. These reports should include actual revenue and expenses compared to the budget.

Cause

Management was not aware they had to submit quarterly financial reports to DFA.

Effect

DFA is not able to provide oversight of the District's financial condition.

Recommendation

The District should file the report for the year ending June 30, 2016 timely.

Response

The District was unaware that quarterly reports were to be submitted to DFA. The administrative assistant will contact DFA and with their assistance, will file the June 30, 2016 report timely.

2010-005 Expenditure Issues-Compliance and Internal Control-Significant Deficiency

Condition

From a sample of sixteen expenditures from a population of fifty two expenditures, two invoices could not be located totaling \$2,689.00. One bill was paid from a quote instead of a bill totaling \$8,229.71.

Criteria

In accordance with Tier 4 of the Audit Act Section 12-6-3 B (4) NMSA 1978 Section 2.2.2.16 NMAC requires expenditures have supporting documentation.

Cause

There was a change in bookkeepers during the fiscal year and over six years, records can be misfiled.

Effect

Without proper documentation and following the procurement act, there are not adequate controls over expenditures. Results could be over spending.

Recommendation

The system in place is adequate and we expect that after this AUP process, record keeping will improve.

Response

We will be more diligent in keeping bill packages filed and paying from invoices rather than quotes.

2010-006 Fuel Allowance-Compliance-Significant Deficiency

Condition

From a sample of sixteen expenditures from a population of fifty two expenditures, one check was for fuel allowance to an employee that was not included on the W-2, \$400.00 a month for 12 months totaling \$4,800.00.

Criteria

IRS publication 463 clearly states that if the allowance does not meet the accountable plan, the amount should be included on the W-2.

Cause

Management was not aware of the accountable plan.

Effect

Federal and state income taxes were underpaid by the employee.

Recommendation

Mileage logs should be kept by the employee, turned into the bookkeeper and reimbursed based on the approved mileage rate.

Response

We will implement a mileage log reimbursement system consistent with the accountable plan allowed by the Internal Revenue Service.

2010-007 No Budget-Compliance and Internal Control-Significant Deficiency

Condition

The District does not have a budget.

Criteria

As per LGD's budgeting and reporting requirements as set forth in Section 6-6-2, NMSA 1978 annual budgets must be approved by the governing board by June 1st. The budget must include beginning cash balance, proposed revenues, proposed expenditures, and cannot have any projected deficits. The District must also submit a signed resolution or minutes showing where the governing body has approved the budget, and a current bank statement.

Cause

Management was not aware a budget was required.

Effect

A budget a tool to control spending and without it, excessive spending may result in a going concern issue.

Recommendation

A budget should be prepared and approved before the next fiscal year begins July 1st.

Response

We have prepared a budget for 2016-17 and are in the process of getting it approved.

2010-008 1099's-Compliance and Internal Control-Significant Deficiency

Condition

During our review of 1099's we noted that there was not a 1099 issued to the lawyer. The 1099 that was not issued totaled \$10,292.14

Criteria

Internal Revenue Code (IRC) Section 6721

Cause

Management was not aware of the requirement to send lawyers 1099s.

Effect

A penalty could be proposed for each 1099 (information return) that was not filed or not filed correctly by the due date. Because it has been longer than 30 days from the original due date the penalty could be \$100 per information return, up to a maximum of \$500,000. There could also be a late filing penalty.

Recommendation

1099s should be issued for legal services.

Response

We will add the lawyer to our other vendors we issue 1099s to.

2010-009 Inventory-Compliance and Internal Control-Significant Deficiency

Condition

The District is not performing an annual inventory of equipment.

Criteria

Section 12-6-10 NMSA 1978.

Cause

Management was not aware of the requirement.

Effect

Violation of Section 12-6-10 NMSA 1978.

Recommendation

The equipment list should be prepared, reviewed and certified each year.

Response

We will prepare an inventory list and approve it annually in a board meeting.

Exit Conference

An exit conference was held on May 5, 2016. Those present were Edward Kirby-Mayordomo, Hollie Jones, Administrative Assistant and De'Aun Willoughby, CPA.