

Director Lloyd's Response to LEAPS Committee Response to Grand Jury Report

May 14, 2009

Finding 1:

I believe the response by the LEAPS Committee is semantics and not to the core of the issue. The concern implied by the Grand Jury was that only one organization actually bid on the project. If the LEAPS Committee has four responses from separate bidders agreeing to take on the entire project, we should provide copies of those four bids with our response.

In the response regarding the lack of "History, Experience and Financing" I believe the Grand Jury has reason for concern. If the district received only one bid on a budgeted capital project and it came from a startup corporation with limited finances we would go out for bid again with a better scope of work, at minimum we would meet with the parties that chose not to bid to understand their concerns on the project.

The concern of the Grand Jury that the contract has no end date has been a concern of many in the community. To sign a contract with a start-up corporation without either an end date, scheduled review dates or other trigger statements to require review of the project is wrong. Verbiage should have been included that requires the verification over time that the company we are under contract with is acting in the best interest of the District or that they have been able to obtain adequate financing to properly support the project.

Finding 2:

The LEAPS Committee doesn't address the main concern of the Grand Jury regarding the funding of the project. While it is correctly pointed out that the project itself isn't required to be completed prior to repayment of District funds expended, They do have to acquire full project funding for construction and operation of the project prior to any repayment. Expenditures in excess of at least four million dollars by the District, in the hopes that a start-up corporation with limited finances would eventually repay them is in my opinion what the Grand Jury wanted addressed.

Regarding the Grand Jury's concerns on the Van Vactor Reports from 2006 and the Shir Power Report from 2007, I don't believe pulling three positive statements from the report answers the questions posed. The verbiage of the conclusions is to focus energy on ways to make the project become viable, but their summary stated very frankly that the project, as described, was not financially viable.

The Grand Jury Stated that FERC approved of only the power line project as being accepted for Rate basing. This means the pumped storage project must be able to operate as a merchant plant. The February 6th report concludes the LEAPS Project is not viable as a merchant plant. The LEAPS Committee only addresses this major issue with a statement that "...benefits not yet quantified..." from the April 12th 2007 Shir Report should demonstrate a viable project. The Shir Report is based on a report performed for Cal ISO. In contacting Cal ISO they stated the report in question was never completed, was based in part on incomplete reports and as such they did not ever accept it themselves. Since the first two reports show the project was not financially viable, and they were in existence for over a year unrefuted, the unaddressed concern is, why was there was never any consideration of stepping away from the project during that time. Why instead did the District spend money on a LEAPS PR campaign that's stated goal was to update the community on the project and clear up misconceptions regarding financial viability, yet failed to mention the issues brought up in the reports?

Our response regarding excluding the Public and Board members from knowledge of the reports states the District did not hide the reports; but yet the long standing LEAPS committee never reported the existence of these reports to the Board or the community. How does one request a document that is not known to exist? For a committee to expend funds to research data behind closed doors and then not report on it, effectively hides the information.

The LEAPS Committees response to the Grand Jury's concerns that Morgan Stanley had showed interest in funding the lines project while not having funding for the pumped storage project was misleading. The representative from Morgan Stanley was very clear that at the time of that meeting his company was only willing to fund the lines project. While the pumped storage project intrigued them, they did not have funding for it but hoped by funding the lines it would get the District a little closer to getting the project completed. Without funding for the pumped storage, the contract does not require repayment of expended funds to the District.

The LEAPS Committee does not deny, nor does it even address the issue of the Grand jury's concern of the District never being repaid for its continuing investment in this project. A non-budgeted, continuing investment, currently in excess of \$4M, with a start-up corporation with limited finances is a concern that should be addressed.

Findings 3:

The Grand Jury's concern that the District was accounting the benefits of Black Start too highly was responded to by the LEAPS Committee as being considered incorrectly. The LEAPS Committee discussed black start potential when considered with other forms of potential financial benefit. The reports paid for by the LEAPS Committee in 2006 included "Black Start and many other forms of potential financial benefit, but still, the reports stated the project, as they reviewed it, was not financially viable.

Recommendation 1:

No Additional Comment

Recommendation 2:

The LEAPS Committee's refusal to acknowledge the limitations of financial viability stated in the reports comes as no surprise. The committee has shown predetermination and bias towards this project for many years. More than 50% of all costs incurred by the District on this project have occurred since the first Van Vactor report was received. The cost of the project has accelerated from \$2M in 10 years to over \$2M in last three years. After all this time and money Nevada Hydro still has not brought forth a contract with any company to provide funding for the project.

Recommendation 3:

The LEAPS Committee's definition of implementation of this recommendation is insufficient. The District should create a detailed report, as we do for budgeted capital projects, this report should itemize all expenditures for this project, their purpose, and to whom the funds were expended. We should post this information on the web site for easy access to the ratepayers.

