

MAPLETON IRRIGATION DISTRICT

Findings and Recommendations
May 14, 2015

Report No. 15-MPIC-8L



OFFICE OF THE
UTAH STATE AUDITOR

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AUDIT LEADERSHIP:

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UTAH STATE AUDITOR

REPORT NO. 15-MPIC-8L

May 14, 2015

Board of Directors
Mapleton Irrigation District
25 West 200 South #9
Springville, UT 84663

Dear Board Members:

We have completed our review of Mapleton Irrigation District's (the District's) financial activity from January 2006 to April 2015. Our findings resulting from the review are included in the attached Findings and Recommendations section of this report.

Our procedures were more limited than would be necessary to express an audit opinion on compliance or on the effectiveness of the District's internal control or any part thereof. Accordingly, we do not express such opinions. Alternatively, we have identified the procedures we performed and the findings resulting from those procedures. Had we performed additional procedures or had we made an audit of the effectiveness of the District's internal control, other matters might have come to our attention that would have been reported to you.

By its nature, this report focuses on exceptions, weaknesses, and problems. This focus should not be understood to mean there are not also various strengths and accomplishments. We appreciate the courtesy and assistance extended to us by the personnel of the District during the course of the engagement, and we look forward to a continuing professional relationship. If you have any questions, please contact me.

Sincerely,

Van Christensen
Audit Director
801-538-1394
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MAPLETON IRRIGATION DISTRICT
FOR THE PERIOD JANUARY 2006 THROUGH APRIL 2015

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MAPLETON IRRIGATION DISTRICT

FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 2006 THROUGH APRIL 2015

BACKGROUND

The Mapleton Irrigation District (the District) was established by Utah County in 1914 to provide irrigation water to residents within the District's boundaries. The main operating revenue of the District consists of fees charged for irrigation water. The District is governed by an elected five-member board.

FINDINGS AND RECOMMENDATIONS

1. THEFT OF DISTRICT FUNDS

Our analysis indicates that the District's financial officer stole between \$103,093 and \$116,797 from January 2006 to April 2015. The funds were stolen as follows:

- By issuing checks to herself as the payee (\$42,419–\$56,123).
- By issuing checks to a company she owns (\$27,253).
- By issuing checks to her credit card company for payments on her personal credit card (\$33,421).

In all instances noted above, the checks were signed solely by the financial officer. When confronted, the financial officer admitted to taking \$103,093 through "loans" to herself. Per our discussion with board members, these loans were not approved by the board and a promissory note indicating the amount, interest rate and repayment period was not prepared. Clearly, these payments were not loans but were a theft of District funds.

Recommendations:

We recommend that the District:

- **Seek restitution of misappropriated funds.**
- **Establish internal controls that minimize the risk of theft or loss without detection.**
- **Inform the county attorney of the misappropriated funds and assist with any criminal prosecution**

District's Response:

We have closed all accounts and opened new accounts that require two signatures on all transactions. We have contacted the Utah County Attorney's office for assistance in criminal prosecution.

MAPLETON IRRIGATION DISTRICT

FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 2006 THROUGH APRIL 2015

2. FAILURE OF GOVERNING BOARD TO PROVIDE ADEQUATE OVERSIGHT

The money identified in finding No. 1 was stolen from the District over a period of 9¼ years by the District's financial officer. The theft occurred because the governing board failed to exercise proper oversight of the financial activity of the District. The board's inadequate oversight is particularly concerning because:

- The methods of theft were very basic and simple reviews could have easily detected the theft.
- The frequency of the theft occurrences should have been detected by even a limited or infrequent review of expenditures.
- The amount of the theft averaged nearly 6% of the District's annual revenues, which would likely impact the District's ability to operate and should have been noticed by the board.
- The length of time over which the theft occurred was approximately 9¼ years, indicating that the board has failed to exercise proper oversight for an extended period of time.

The board also failed to comply with laws designed to minimize the potential for fraud to occur without detection. *Utah Code* 17B-1-631 to 638 requires that:

- The board appoint a treasurer and clerk.
- The treasurer and clerk may not be the same person.
 - The treasurer is responsible for making sure all funds are received and recorded in the accounting system and for signing checks.
 - The clerk is responsible for maintaining the financial records and preparing checks.
- "The person maintaining the financial records may not sign any single signature check." (*Utah Code* 17B-1-635)

The board did not appoint a treasurer and clerk; rather, the financial officer performed the responsibilities of both the treasurer and clerk and was able to sign single signature checks while maintaining the financial records. In fact, between April 2008 and March 2015, 326 of 1,617 (20%) District checks were written to the financial officer or her company with no other authorizing signature other than her own.

Utah Code 17B-1-642 requires that the board review at least quarterly all expenditures authorized by the financial officer; however, the board did not perform this review.

These errors were caused by the board's failure to take an active interest in financial matters and learn and understand laws applicable to the operation of the District.

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Recommendations:

We recommend that the board:

- **Establish internal controls that minimize the risk of theft or loss without detection.**
- **Comply with *Utah Code 17B-1-631 to 638* by appointing separate individuals to function as a treasurer and a clerk and not allow the person maintaining the financial records to sign a single signature check.**
- **Comply with *Utah Code 17B-1-642* by reviewing at least quarterly all expenditures authorized by the financial officer, including the review of all bank statements.**
- **Take an active interest in financial matters and develop or hire the financial expertise necessary to effectively operate the District.**

We also recommend that each board member either: (1) commit the time necessary to ensure that District funds are safeguarded and efficiently used, or (2) promptly resign from the board.

District's Response:

We have set a policy-protocol with the new office clerk/secretary, Board Treasurer and the Board of Directors whereby a financial committee meeting will be held at least monthly to discuss payroll, payments, and accounts receivable. Then the Board of Directors will approve all transactions before payment is made. Proper handling, logging and cross filing of reports will be available to the board in the office and at financial committee and board meetings. The clerk will prepare accounts receivable and payable and the treasurer will approve all transactions. Two signatures are now required for all checks written.

3. FAILURE TO OBTAIN TREASURER'S BOND

The District did not obtain a treasurer's bond for the financial officer (who acted as a public treasurer) as required by Rule Number 4 of the Utah State Money Management Council. *Utah Code 51-7-3(27)* states that, "A 'Public Treasurer' includes ... the official of any...political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds." The responsibilities of the District's financial officer fall within the definition of a "public treasurer"; therefore, the financial officer should have been bonded. This bond might have allowed the District to be reimbursed for funds misappropriated by the financial officer. This error was caused by the board's failure to learn, understand, and comply with laws applicable to the operation of the District.

MAPLETON IRRIGATION DISTRICT

FINDINGS AND RECOMMENDATIONS FOR THE PERIOD JANUARY 2006 THROUGH APRIL 2015

Recommendations:

We recommend that the District obtain treasurer's bonds for all applicable persons, as required by Rule Number 4 of the Utah State Money Management Council. We also recommend that board members learn, understand, and comply with laws applicable to the District.

District's Response:

We contacted our insurance agent to obtain the proper bond or director's insurance.

4. BOARD MEMBER IMPROPERLY EMPLOYED BY THE DISTRICT

During our review of the District, we noted that the water master, an employee of the District, was also serving as a board member. This is a violation of *Utah Code 17B-1-311*, which states that, "No person employed by a local district, whether as an employee or under a contract, may serve on the board of that local district." The District board was unaware of this provision.

Allowing an employee to serve as a board member creates a potential conflict where the board members personal interest (such as compensation) might benefit from official actions taken as a member of the board.

Recommendation:

We recommend that the District follow State law ensuring that employees of the District never serve on its governing board.

District's Response:

The water master is now classified as an employee. The office secretary/clerk is also now classified as an employee. The Board of Directors appointed Scott Jeffers to serve out the remainder of the term, and will hold an election at the annual public meeting.

5. FAILURE TO SUBMIT REQUIRED FINANCIAL REPORTS

The District has not submitted a financial statement to the Office of the State Auditor (the Office) since 2009. In addition, the District has not submitted an adopted budget for the 2015 fiscal year.

The governing board of each local government entity is required to have a financial report made *at least* annually and filed with the Office within six months of the close of the entity's fiscal year in accordance with *Utah Code 51-2a-201* and *202*. In addition, in

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accordance with *Utah Code* 17B-1-614, the board of each local district shall adopt a budget and file it with the Office within 30 days after adoption.

This error may have been an intentional effort by the financial officer to not allow an independent CPA to have access to the books and records of the District. The error was also caused by the board's failure to take an active interest in financial matters.

The failure to adopt a budget or prepare financial reports prevents the public from providing input or seeing how public funds are used. It also obstructs oversight of District operations.

Recommendations:

We recommend that:

- **The District file with the Office an annual financial report within six months of each fiscal year end and a budget within 30 days of adoption, as required by law.**
- **Promptly adopt a budget for the current fiscal year and submit a copy to the Office.**
- **File annual reports for any fiscal years that have not been submitted since 2009.**
- **Provide a letter of explanation for the failure to submit timely budgets sufficient to inform the public of each failure by fiscal year. This will be posted on the Office's website in lieu of the required budget.**

District's Response:

The board is currently discussing the District needs with two CPA local firms who have experience with Local District Government. And will hire one to provide the required financial statements. On May 11, 2015 the Mapleton Irrigation District held a publically noticed special meeting to discuss the budget for 2015. The 2015 budget was properly approved by the board and will be submitted.

6. FAILURE TO PROPERLY CLASSIFY FINANCIAL OFFICER AS AN EMPLOYEE

While determining the amount of valid compensation for the financial officer we asked the board whether the financial officer was compensated as an employee or independent contractor. This determination was necessary to verify who was responsible for certain payroll taxes. The board responded that she was an employee; however, compensation records show she was paid as an independent contractor.

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IRS Publication 1779 outlines factors to consider when determining whether a worker is an employee or independent contractor. Financial factors found in this guidance strongly indicate that the financial officer is an employee. These factors include:

- The District rented the working space and provided it to the financial officer.
- The District provided the computer, phones, and internet.

There are certain behavioral factors that are mixed such as:

- The District did specify certain hours of operation.
- The District specified the tasks; however, the financial officer determined the manner in which they were performed (partly due to lack of oversight).

When all factors are considered, the financial officer is likely an employee rather than an independent contractor. This determination is significant, because the District could be liable for certain payroll taxes. We are also concerned that the board was not aware of her classification.

Recommendations:

We recommend that the District become familiar with IRS rules regarding a worker's classification as an employee or independent contractor. We also recommend that the District structure employee or independent contractor relationships in a manner that meets the District's needs and complies with IRS regulations.

District's Response:

Payroll will reflect the water master, clerk and annual day laborers as employees.