

Summary of 9-28-12 and 10-3-12 interviews of Kirk Sturm

Interviews and summary by Thomas M. Patton, Deputy Attorney General

Preface: Kirk Sturm was initially interviewed by telephone on September 28, 2012.

The transcript of that interview is cited herein as KStr1. On October 1, 2012, Sturm requested an opportunity to add to his comments. Sturm's follow-up interview was conducted October 3, 2012, and the transcript of that interview is cited as KStr2.

Background and Work History

Kirk Sturm worked for 31 years with the Department of Parks and Recreation. He started as a seasonal lifeguard in 1974, became a park ranger in 1979, and then a state park lifeguard by 1981. Sturm promoted to the position of chief lifeguard and came to Parks headquarters in Sacramento in 1996. In 1998, Sturm became assistant superintendent of Hearst Castle, and in 1999 was made interim superintendent. In 2003 Sturm returned to Sacramento as an operations division chief, and he supervised the central, northern, and southern operations divisions at various times before retiring in 2005. Since 2005, Sturm has worked for the Department intermittently as a retired annuitant. He has concurrently taught courses at Cal Poly San Luis Obispo in leadership and in facilities design and legal aspects of recreation. (KStr1, pp. 3-6.)

In early October 2011, then-director Ruth Coleman appointed Sturm interim deputy director of administrative services after Manuel Lopez left the position. Sturm's statements and Department organization charts show that Sturm served in the position a little over two months, into December 2011, while the Department advertised for and recruited a permanent administrative services deputy director. (KStr1, pp. 7-8.)

Disparities in State Parks and Recreation Fund Balance Reports

1. Dorothy Kroll's November 20, 2011 email to Kirk Sturm; first interview

Sturm was asked if he recalled receiving an email from Parks chief accounting officer Dorothy Kroll on November 20, 2011, accompanied by a one-page attachment entitled "QUESTIONS THAT NEED ANSWERS (mostly from the Budget Office)," and which attachment then set out a list of 23 questions.¹ Before Sturm responded, it was also noted that

¹ Kroll's email of November 20, 2011, and attached list of questions was directed to Sturm at his personal email address and is attached hereto as Exhibit K.

Kroll sent the message and attachment from a personal email account to a personal email account kept by Sturm. Sturm responded: "I don't recall the e-mail specifically," and "I couldn't tell you what any of the twenty things are specifically or even conceptually." Sturm then stated that it had occurred, and he had received the message and attachment, but "I couldn't tell you what was on it." (KStr1, p. 9)

When asked if he had looked at it, Sturm responded that he might have, but was not sure what was on it and he did not have any recollection "what were the twenty things that were on that and what did I do." Sturm was asked if he gave the email and list of questions to incoming administrative services deputy director, Aaron Robertson. Sturm stated that he did not recall giving it to Robertson and did not recall if he had read it. (KStr1, pp. 9-10.)

Sturm was then asked if he had ever heard that there was a discrepancy in the amount of money the Department reflected in reports to the State Controller versus the amount reported to the Department of Finance (DOF) with regard to the State Parks and Recreation Fund (SPRF). Sturm stated that he had never heard about such a discrepancy. (KStr1, pp. 10-11.)

This interviewer then pointed out question 19 on the one-page attachment Kroll had emailed to Sturm on November 20, 2011, and recited the question which reads:

Why do we for the State Park Recreation Fund (0392) submit a different amount than what the financial statements indicate? (approximately \$20 million difference that Manuel knew about, but I don't think Dave knows about.)

(KStr1, p. 11.)

This interviewer next quoted the first sentence of question 20, which reads:

How much is the real fund balance in 0392 and why are we not submitting the real dollar amount on our Fund Condition Statements to DOF?

(KStr1, p. 11.)

Sturm was asked: "None of that rings any bells?" Sturm responded: "I don't recall that as - - as triggering anything that was a red flag for me." (KStr1, p. 11.)

This interviewer proceeded to recite to Sturm the remainder of question 20:

Why are we not asking DOF for the authority to spend this extra twenty million? Why can't we use this extra money to keep our parks open? Isn't it time to come clean with DOF and save our

parks? This discrepancy has been on the books since Becky Brown was the budget officer, and Manuel has full knowledge that this discrepancy exists. Both he and, back in the day, Becky felt it was a political decision to not inform DOF of the discrepancy as they felt if DOF knew about it, they would increase our SPRF authority and cut our general fund authority by that amount which then is a net wash of that cash and doesn't help DPR [Parks]. At this point, our general fund budget has been so badly cut anyways, why are we not admitting the error and asking to keep our parks open with these dollars?

(KStr1, pp. 11-12.)

When it was pointed out that Kroll's statements regarding \$20 million dollars not being disclosed to the DOF appeared to be a real headline, Sturm responded that he did not dispute he received the email. Sturm then stated that he would "have loved to have been able to figure that out at the time and appreciate that," but that it "just didn't click - - - you know, in terms of me understanding the nuances and scope of the particulars in the budget. I didn't even know that there was even a report that went to the legislature on that." (KStr1, pp. 12-13.)

Sturm noted he came from operations, and that "there were hundreds of other data points that were coming at me." He stated that given all the things being reported to him in administrative services, including budgets, personnel, Kroll's email was "layers below anything I was doing at the conceptual level, and so I just didn't have an appreciation for it." Sturm also indicated that anything Kroll would have asked him relating to budgets, he would have relied on the financial staff, such as budget officer Elsie Brenneman, to deal with. (KStr1, pp. 13-16.)

Next, Sturm recounted that while he was interim administrative services deputy director a Parks group referred to as the "Heilbron Team" had been doing a top-to-bottom evaluation of the Department's finances. Sturm recalled that the team included various operations and financial managers, and then pointed out that "they didn't come up with this, as you called it, discrepancy in reporting to Finance. You know what I'm saying?" Sturm noted that eight to ten of the brightest people at Parks had spent weeks examining the Department, and that they did not discover the discrepancy either. (KStr1, pp. 16-19.)

When asked if he had spoken with anyone from Parks after the story came out in July 2012, Sturm indicated he had engaged in "chitchat" but did not specify with whom. When asked if he had spoken with former operations deputy directors Tony Perez or Ted Jackson, Sturm

stated he might have, but did not specifically recall. Sturm stated that he has not spoken with either former director Coleman or former chief deputy director Harris. (KStr1, pp. 20-21.)

October 3, 2012 follow-up interview with Kirk Sturm

On October 1, 2012, Sturm left this interviewer a telephone message stating he would like to provide additional comments. On October 3, 2012, a recorded telephonic follow-up interview was conducted.

Sturm stated that in the prior interview he was frustrated by his difficulty with recall. Sturm then stated that he did receive the subject email from Dorothy Kroll and his two thoughts at the time were to follow up with Kroll and hand the matter off. Sturm stated that he met with Kroll in her office and that he recalls discussing “a slush fund,” which Sturm then stated Manuel Lopez had created, and about which Sturm was curious. (KStr2, pp. 2-3)

Sturm reports that Kroll told him Lopez would encumber funds at the beginning of a fiscal year and unencumber them at the end. Sturm stated that Lopez was thus able to provide money at the end of the year for whatever issues arose, and could be a hero by helping solve such problems. When Sturm was asked if he had ever talked with Lopez about that, Sturm stated he had not. (KStr2, pp. 3-4.)

This interviewer asked Mr. Sturm about item 11 on Kroll’s attached list of 23 questions, and recited the question: “I’m hearing about a checkbook. What is the checkbook? How much was in the checkbook in FY10-11? How much is in there now?” Sturm was asked if he recalled any discussion with Kroll about this so-called “checkbook.” Sturm stated he did not recall discussing a “checkbook,” and only recalled discussing “encumbrances.” (KStr2, p. 6.)

This interviewer then recited Kroll’s questions 12 and 13. Question 12 asked: “What are ‘programmatic encumbrances?’ When did the department start doing these types of encumbrances and why? Are they legal???” Question 13 asked: “How much in each of the last two fiscal years has been ‘programmatically encumbered’ at year end?” Sturm was asked if he recalled the phrase “programmatic encumbrances.” Sturm responded: “No, unless it had something to do with that’s how that slush fund was created.” He was then asked if he recalled sitting down with Kroll with her email and attached piece of paper in hand. Sturm responded “no.” Sturm was then asked if he recalled reading the email, and he stated “Yeah - - oh, yeah, uh-huh.” (KStr2, pp. 6-7.)

This interviewer then returned the topic to Kroll's questions 19 and 20, and observed that number 19 asked the very specific question: "Why do we for the State Park and Recreation Fund submit a different amount than what the financial statements indicate (approximately \$20M difference that Manuel knew about, but I don't think Dave knows about)." (KStr2, p. 7.)

This interviewer then recited from the first six sentences in question 20: "How much is the real fund balance in 0392 and why are we not submitting the real dollar amount on our Fund Condition Statements to DOF? Why are we not asking DOF for the authority to spend this extra \$20M. Why can't we use this extra money to keep our parks open? Isn't it time to come clean with DOF and save our parks. (This discrepancy has been on the books since Becky Brown was the budget officer and Manuel has full knowledge that this discrepancy exists. Both he and back in the day Becky felt that it was a political decision to not inform DOF of the discrepancy as they felt if DOF knew about it, they would increase our SPRF authority and cut our General Fund authority by that amount which is then a net wash of that cash and doesn't help DPR [Parks]." (KStr2, p. 8.)

After doing so, it was pointed out to Sturm that these statements appeared very significant and were quite clear and easy to understand, specifically: "why are we hiding \$20 million from Finance and having our parks closed?" "Why can't we come clean with DOF and save them?" Sturm replied: "I don't disagree with you." He then maintained he had no recollection of reading the questions that had been recited. Instead, he only recalled discussing "encumbrances" which he recalled had something to do with Lopez creating a "slush fund," a topic he again stated he never discussed with Lopez. (KStr2, pp. 8-9.)

Sturm was asked why he referred to what appeared to be the maintenance of a reserve as "Manny's slush fund." Sturm responded: "That was the word on the street that he had a slush fund." Sturm then stated that the phrase originated with parks operations personnel whom he did not identify. When Sturm was asked if either former operations deputy directors Tony Perez or Ted Jackson had told Sturm about the so-called "slush fund," Sturm responded that neither Perez nor Jackson had, and that "I can't tell you where I picked that up from." He stated he heard the phrase and report from unidentified operations field personnel, likely parks superintendents, and not from anyone in Parks headquarters. He added that it was widely known

throughout field operation that “there’s money, we just don’t know exactly what.” (KStr2, pp. 10-16.)

As the follow-up interview concluded, Sturm stated that he did recall opening Kroll’s email and that he did read through the one-page attached document Kroll sent to his personal email address on November 20, 2011. Sturm continued to maintain, however, that he did not recall Kroll’s questions regarding why the Department was not asking the DOF for authority to spend the undisclosed \$20 million in the SPRF fund, and did not recall her question “isn’t it time to come clean and save out parks? Sturm stated: “I get the importance of all twenty-three items. You know, do I - - I’m not picking up on that being more important than - - or the magnitude of that versus the other things. But again, there’s a step 2 which is the handoff, you know?” (KStr2, pp. 18-20.)

Interviewer’s comments:

Dorothy Kroll states that she sent the subject email and attached questions to Kirk Sturm’s personal email address because he had invited her to do so and had asked Kroll to tell him the “questions I should be asking.” (Dorothy Kroll 8-22-12 interview transcript, p. 126.) Sturm does not deny receiving, opening, and reading through the email and attachment. Sturm’s claims of ignorance are not credible, as the revelations in Kroll’s email concerning undisclosed funds are unambiguous and unmistakable. Moreover, Sturm’s claims of ignorance are at odds with the statements of Elsie Brenneman and David Saxby. Brenneman states she informed Sturm about all issues in the budget office, and while she does not specifically recall her discussion with Sturm about the discrepancy, is confident they did discuss it. (Elsie Brenneman 12-13-12 interview transcript, pp. 2-5.) Saxby reports that Sturm asked Saxby to tell Sturm everything Sturm needed to know, and that Saxby did so and advised Sturm about the undisclosed millions in the SPRF. Saxby further specifically recalls and reports that Sturm, Saxby, and Harris then met and discussed the discrepancy, and Harris instructed that the discrepancy had existed a long time and would remain buried. (David Saxby 8-2712 interview transcript, pp. 90-92.)