

**SERRANO WATER DISTRICT**

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August 19, 2009

Honorable Kim G. Dunning  
Presiding Judge  
Orange County Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

Re: Response to Orange County Grand Jury Report "Water Districts: A New Era In Public Involvement"

Dear Judge Dunning:

Pursuant to California Penal Code § § 933(c) and 933.05, the Board of Directors of the Serrano Water District ("SWD"), which is the governing body of SWD, has reviewed and authorized me, as the General Manager of SWD, to provide these comments to the Presiding Judge of the Orange County Superior Court on the findings and recommendations contained in the Orange County Grand Jury's June 19, 2009 report entitled "Water Districts: A New Era in Public Involvement":

**Grand Jury Finding F.1:** Water Districts' procedures for the selection of professional consultants' contracts are somewhat lax, and in some instances non-existent, thereby creating a perception of bias in the selection of candidates, especially in the selection of board members from other member agencies to provide professional services.

**Response to Finding F.1:** SWD partially disagrees with finding F.1, insofar as SWD is concerned. SWD is unaware of any instance where its selection of consultants or contractors has a perception of bias or conflict.

**Grand Jury Finding F-2:** Some board members are conducting their professional practices with member agencies and use their elected positions to promote their competitiveness.

**Response to Finding F-2:** SWD disagrees with finding F-2, insofar as SWD is concerned. SWD has not observed its board members conducting their professional practices or businesses, or using their elected positions to promote their competitiveness.

**Grand Jury Finding F.3:** Codes of ethics among districts are quite varied. Some are very comprehensive and some do not exist other than to reference state laws.

**Response to Finding F.3:** SWD agrees with finding F.3.

**Grand Jury Finding F.4:** Water board meetings are frequently scheduled for times that discourage public attendance.

**Response to Finding F.4:** SWD disagrees with finding F.4, insofar as SWD is concerned. SWD changed the meeting time for its Board of Directors meetings from the evening to 8:30 a.m. on Board meeting dates, because the change increased public attendance at its Board of Directors meetings.

**Grand Jury Finding F.5:** An unusually high percentage of water board directors were originally appointed, not elected to their positions.

**Response to Finding F.5:** SWD disagrees with finding F.5, insofar as SWD is concerned. A majority of the incumbent members of the SWD Board of Directors were originally elected to their office.

**Grand Jury Finding F.6:** Some board members hold multiple elected positions that under certain circumstances could create an appearance of a conflict of interest unless the person recuses himself on an issue-by-issue basis.

**Response to Finding F.6:** SWD disagrees with finding F.6, insofar as SWD is concerned. None of the members of the SWD Board of Directors concurrently hold other elective governmental offices.

**Grand Jury Finding F.7:** There are no time limits for how long individuals can serve on any water district board in Orange County.

**Response to Finding F.7:** SWD agrees with finding F.7, insofar as SWD is concerned and aware.

**Grand Jury Recommendation R.1:** In addition to the laws set forth in the Political Reform Act of 1974 and Government Code § 1090, the water districts should promulgate rules requiring professionals seated on their boards of directors to formally disclose to their organizations any contacts they are pursuing or have obtained with member agencies. The water district should also adopt more encompassing rules regarding the selection of professional consultants.

**Response to Recommendation R.1:** The recommendation will not be implemented, because it is not warranted, insofar as SWD is concerned. SWD is unaware of any conflict of interest issue relating to any member of its Board of Directors that has arisen involving either a Director holding multiple offices or the Board's selection of professional consultants.

**Grand Jury Recommendation R.2:** Each water district should develop a specific code of ethics, hold training sessions and monitor its enforcement.

**Response to Recommendation R.2:** The recommendation will not be implemented because it is not warranted or reasonable, insofar as SWD is concerned. SWD is unaware of any conflict of interest or governmental ethics issues relating to any member of its Board of Directors. SWD Directors comply with State conflict of interest and governmental ethics requirements, and participate in biennial governmental ethics trainings as required by A.B. 1234. Any additional governmental ethics policies or training would be redundant to SWD's compliance with State law requirements, and impose additional, unnecessary costs upon SWD's customers.

**Grand Jury Recommendation R.3:** Water board meetings need to be scheduled at times that would generate maximum public attendance.

**Response to Recommendation R.3:** The recommendation has been implemented by SWD. A number of years ago, SWD modified its Board of Directors meeting times from the first Tuesday of the month in the evening to the first Tuesday of the month at 8:30 a.m., based on a determination that the change to a morning meeting schedule would increase public attendance. Since the Board of Directors meeting time was changed, SWD has confirmed that the change to morning meetings significantly increases the number of persons attending meetings of the SWD Board of Directors.

**Grand Jury Recommendation R.4:** Each water district should choose to hold elections to fill board vacancies. The appointment process should be used only in exceptional circumstances.

**Response to Recommendation R.4:** The recommendation will not be implemented because it is not warranted and is not reasonable, insofar as SWD is concerned. Special elections to fill vacancies on the Board of Directors can be prohibitively expensive. SWD determines whether to fill Director vacancies by appointment or election on a case-by-case basis (the most recent SWD Board vacancy having been filled by election), based in part upon the anticipated cost of the election. If SWD can fill a Board vacancy by conducting an election consolidated with other elections in Orange County, the cost may be sufficiently reasonable to warrant filling the vacancy by election rather than appointment. However, SWD has determined that special stand-alone elections to fill SWD Board vacancies are prohibitively expensive.

**Grand Jury Recommendation R.5:** Each water district should promulgate rules requiring each director to inform the other board members of any other offices including seats on boards of member agencies that he or she holds.

Honorable Kim G. Dunning  
August 19, 2009  
Page 4

**Response to Recommendation R.5:** The recommendation will not be implemented because it is not warranted, insofar as SWD is concerned. Although no SWD director has held concurrent elective public offices in the foreseeable past, the public offices held by an individual are a matter of public record and any public disclosure would be redundant and unnecessary.

**Grand Jury Recommendation R.5(a):** Water districts should consult their legal counsel to advise them whether there exists an incompatibility of offices when a board member holds multiple offices at the same time.

**Response to Recommendation R.5(a):** The recommendation has been implemented. SWD management and SWD Directors regularly consult SWD's General Counsel for advice regarding incompatibility of offices, conflicts of interest and related government ethics issues.

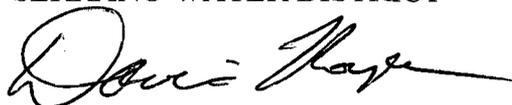
**Grand Jury Recommendation R.6:** Water districts should adopt self-imposed term limits for their members, not to exceed three terms of service.

**Response to Recommendation R.6:** The recommendation will not be implemented because it is not warranted and is not reasonable, at least insofar as SWD is concerned. SWD is unique among Orange County water agencies in that its principal source of supply is local surface water impounded at a reservoir (Irvine Lake). The numerous specific issues pertaining to SWD water rights, local surface water impoundments and deliveries, and the management of a surface water reservoir and its watershed lands require many years to fully understand and appreciate. SWD has determined that Directors with extensive tenure on the SWD Board develop expertise and experience in these areas that provide significant benefit to SWD, its residents and customers. Further, SWD believes that the voters within each division of SWD ultimately have the power every four years to determine whether their incumbent Director should be re-elected or replaced.

Please feel free to contact the undersigned should you have any questions about Serrano Water District's responses to the findings and recommendations in the Grand Jury's report entitled "Water Districts: A New Era in Public Involvement."

Very truly yours,

SERRANO WATER DISTRICT



David H. Noyes  
General Manager