



20

May 5, 2004

Joseph Judge  
Chairperson  
Board of Directors  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, California 95118-3686

Dear Chairperson Judge and Members of the Board of Directors:

The 2003-2004 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **Inquiry into Santa Clara Valley Water District Public Hearing Notices Policy**.

California Penal Code Section 933(c) requires that a governing body of the particular public agency or department which has been the subject of a Grand Jury final report shall respond within 90 days to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. California Penal Code Section 933.05 contains guidelines for responses to Grand Jury findings and recommendations and is summarized in the attached form, which should be filled out and returned.


**PLEASE NOTE:**

1. As stated in Penal Code Section 933.05, you are required to "Agree" or "Disagree" with each FINDING(S) – Numbered I. *If you disagree, in whole or part, you must include an explanation of the reasons you disagree.*
2. As stated in Penal Code Section 933.05, you are required to respond to each RECOMMENDATION(S) – Numbered IA and IB, *with one of four possible actions.*

Your comments are due in the office of the Honorable Thomas P. Hansen, Presiding Judge, Santa Clara County Superior Court, 191 North First Street, San Jose, CA 95113, no later than August 5, 2004.

Copies of all responses shall be placed on file with the Clerk of the Court.

Sincerely,

  
RICHARD H. WOODWARD  
Foreperson  
2003-2004 Civil Grand Jury

RHW:dsa  
Enc.



April 28, 2004

Joseph Judge  
Chairperson  
Board of Directors  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, California 95118-3686

Dear Chairperson Judge and Members of the Board of Directors:

Pursuant to Penal Code Section 933.05(f), the 2003-2004 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **Inquiry into Santa Clara Valley Water District Public Hearing Notices Policy**.

Penal Code Section 933.05(f)

A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity **two working days** prior to its public release and after the approval of the presiding judge. No officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report. Leg. H. 1996 ch. 1170, 1997 ch 443.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard H. Woodward'. The signature is fluid and cursive, written over a white background.

RICHARD H. WOODWARD  
Foreperson  
2003-2004 Civil Grand Jury

RHW:dsa  
Enc.

FOR YOUR INFORMATION

This report will be made public and  
released to the media on  
Wednesday, May 5<sup>th</sup>, A.M.  
Gloria Alicia Chacón, Executive Assistant  
408-882-2721

RCVD COB MAY 4'04

KIRI TORRE  
Chief Executive Officer/Clerk  
Superior Court of Santa Clara County  
BY \_\_\_\_\_ DEPUTY

**2003-2004 SANTA CLARA COUNTY CIVIL GRAND JURY**

**S. Marshall**

**INQUIRY INTO SANTA CLARA VALLEY WATER  
DISTRICT PUBLIC HEARING NOTICES POLICY**

**Summary**

An inquiry was conducted to determine what written policies the Santa Clara Valley Water District (SCVWD) has established to notify well owners and operators of water-producing facilities within the district of public hearings. The inquiry focused specifically on where and when the SCVWD provided notice of the public hearing held on April 15, 2003. The purpose of that public hearing was to consider proposed increased water rates for 2003-2004 fiscal year.

The 2003-2004 Santa Clara County Civil Grand Jury (Grand Jury) concluded its inquiry with one finding and two recommendations. The recommendations, if adopted, will improve the communication of public hearings to all interested parties.

**Discussion**

The Grand Jury conducted an inquiry into the SCVWD requirements for providing notice of public hearings. The Ralph M. Brown Act Government Code Section 54954.6 (Brown Act) requires the governing board of a local agency or district to conduct at least one public meeting that allows public testimony regarding proposed new or increased fees or general taxes. The SCVWD Board of Directors complied with this requirement by holding a public hearing on April 15, 2003.

The Brown Act also requires that notice of the public hearing with respect to a proposal for new or increased fees shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation and by a first-class mailing to those interested parties who have filed a written request with the local agency or district. The meeting notice was published in the *San Jose Mercury News* on March 25, 2003 and in the *San Jose Post Record* on March 26, 2003. Although not required by the Brown Act, the notice was also posted on the SCVWD website. In addition, individual letters were mailed to all well owners in the district on March 25, 2003 advising them of the hearing.

There are no written policies governing where the SCVWD publishes notices. In practice, the determination of where to publish is based on the specific notice in question. If the notice advertises a contract or another legally based item, the notice is published in the *San Jose Post Record*. If it is a notice of general interest to the public, it is placed in the *San Jose Mercury*

*News*, and if appropriate, in the local community newspapers. Also, it is the practice to mail notices to all owners of wells in the district.

## **Finding I**

There is no written policy governing where the SCVWD should publish notices. The SCVWD fulfilled the Brown Act Government Code requirements for publishing by placing the meeting notice in the *San Jose Mercury News* and *San Jose Post Record* and the SCVWD website; however, not all interested parties in the county read the *San Jose Mercury News* or *San Jose Post Record*.

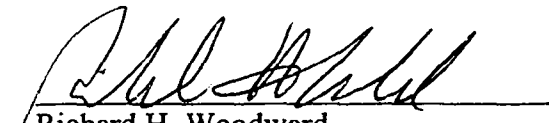
## **Recommendation IA**

A written policy and procedure should be established regarding the selection of publications to advertise notices of public hearings.

## **Recommendation IB**

Press releases announcing a public hearing should be submitted to local community newspapers, in addition to the current publishing of meeting notices in the *San Jose Mercury News* and *San Jose Post Record*, to increase the opportunity for all interested parties within the district to be informed of the public hearing.

**PASSED** and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 8<sup>th</sup> day of April 2004.

  
Richard H. Woodward  
Foreperson

## References

### Documents

Copy of the California Brown Act Government Code section 54954.6 regarding open meetings.

Correspondence dated October 10, 2003 which included a Copy of Agenda for Public Hearing of April 15, 2003; Posting notice for agenda; Proof of Publication of hearing and Minutes of Meetings of April 15, May 6 and May 20, 2003.

Letter dated November 24, 2003 from Chief of Public Affairs, SCVWD.

SCVWD website address – [www.scvwd.dst.ca.us](http://www.scvwd.dst.ca.us)

### Interviews

Meeting with Clerk of the Board, SCVWD on October 30, 2003.

Meeting with Chief of Public Affairs, SCVWD on November 19, 2003