

# SUTTER COMMUNITY SERVICES DISTRICT

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August 4, 2016

**ENDORSED FILED**

SEP 22 2016

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SUTTER  
CLERK OF THE COURT  
By JACKIE LASWELL Deputy

Honorable Brian R. Aronson  
Presiding Judge  
Sutter County Superior Court  
1175 Civic Center Blvd.  
Yuba City, CA 95993

Re: Sutter Community Services District's Response to 2015/2016 Grand Jury Report

Honorable Judge Aronson:

Pursuant to California Penal Code section 933.05, Sutter Community Services District (SCSD or District) submits this response to the findings and recommendations of the 2015/2016 Grand Jury Report, as it pertains to the District (Report). Please post this response on the Superior Court's website and make copies available to the public, as necessary.

## RESPONSE TO FINDINGS IN REPORT

F1. *Well 2B was shut down after being in use for three years due to exceeding the State Levels for arsenic.*

District Response to F1: The District agrees with this finding. (Penal Code § 933.05(a)(1).)

F2. *SCSD is evaluating whether to consolidate Well 2B with Well 1 and Well 3 to continue to utilize Well 2B.*

District Response to F2: The District disagrees wholly with this finding. (Penal Code § 933.05(a)(2).) The District previously considered consolidating Well 2B with its other operable wells, but has since determined that such consolidation is not feasible.

F3. *The SCGJ found that some residents with one water meter hookup have been billed since at least 2002 for two monthly Base Rates fees. The SCSD and SCGJ were unable to substantiate that a second Base Rate fee should have been applied.*

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COUNTY OF SUTTER  
TRAFFIC DIVISION

District Response to F3: The District agrees with the first sentence of F3. (Penal Code § 933.05(a)(1).) The District disagrees partially with the second sentence of F3. (Penal Code § 933.05(a)(2).) The District charges double base rates for 10 properties, primarily duplexes, and in all cases where the property has more than one premises or family residential unit. The District's Water System Ordinance No. 91-05 dated October 3, 1991 (1991 Ordinance) requires one meter for each premises or family residential unit, unless approval is obtained from the District. (1991 Ordinance, §§ 711, 901, 902.) A duplex, for example, is required pursuant to the District's 1991 Ordinance to have one meter for each separate premises. The 10 properties that are charged double base rates sought and were granted an exemption from the District's 1991 Ordinance and are permitted to have one meter serving more than one premises or family residential unit. This accommodation by the District saves the property owners the cost in labor and materials of having an additional meter installed. The District, however, charges double its base rate to recover the loss in revenue to the District are a result of these accommodations. The District cannot offer an opinion or explanation on why SCGJ was unable to substantiate the foregoing.

F4. *The SCSD billing does not provide a detailed breakdown of charges. The SCGJ found that the two Monthly Base Rate charges were not itemized on the bill/statements as two separate line items.*

District Response to F4: The District disagrees wholly with this finding, but avers that it has modified its billing software to more clearly show that the 10 properties are being billed two base rate charges. (Penal Code § 933.05 (a)(2).)

F5. *The SCGJ found that the SCSD did not bill the residents the correct amount for water usage on two occasions, March 2105 and January 2016, which caused a loss of revenue (\$3,173.38) to the District.*

District Response to F5: The District agrees with this finding. (Penal Code § 933.05 (a)(1).)

F6. *The SCSD Ordinance 91-05 Article 10 Section 1008 allows the SCSD to estimate water consumption based upon prior use when a water meter is no longer functioning.*

District Response to F6: The District agrees with this finding. (Penal Code § 933.05 (a)(1).)

F7. *The SCSD Board of Directors/Officers and representatives of the SCSD lack a full understanding of the SCSD Bylaws, Ordinances, and Code Compliance Policies and Procedures.*

District Response to F7: The District disagrees wholly with this finding. (Penal Code § 933.05 (a)(2).) Board members are legally required and do in fact receive training, such as training on board ethics and avoidance of conflicts of interest. Additionally, when a new member is appointed or elected to the Board, District staff provides copies of District policies, rules for the distribution of water, and significant District ordinances. The District's General Manager also conducts legally required training and has reviewed and has available copies of the various District rules, ordinances, and policies.

F8. *The SCSD By-Laws are outdated in regards to meeting place/time and posting of meeting requirements. There is no clear definition of election qualifications and terms of directors.*

District Response to F8: The District disagrees wholly with this finding. (Penal Code § 933.05 (a)(2).) The District is a community services district formed and existing under the Community Services District Law (Title 6, Division 3 of the California Government Code commencing with section 61000). It conducts a regular meeting on the first Monday of every month beginning at 6:30 p.m. The date of the regular meeting has been changed historically to accommodate the schedules of the Board members, but on each occasion the change was voted upon by the then-sitting Board of Directors and was published in accordance with applicable law. Special meetings are occasionally called by the District upon not less than 24 hour notice. The District's agendas for regular and special meetings are posted onsite and offsite and all its meetings are open to the public and conducted in accordance with the Brown Act.

The Community Services District Law governs the qualifications and term of directors.

F9. *The SCSD Ordinance 91-05 Article 9 Section 901 makes a reference to outdated Section 434.*

District Response to F9: The District disagrees wholly with this finding. (Penal Code § 933.05 (a)(2).) The District's 1991 Ordinance does not contain the cited reference.

F10. *The SCSD BOD Meetings' minutes are not posted for public viewing on the SCSD's website or within the SCSD's office.*

District Response to F10: The District disagrees wholly with this finding. (Penal Code § 933.05 (a)(2).) The District's adopted minutes are posted electronically on the District's website and in hardcopy form in its office.

## **RESPONSES TO RECOMMENDATIONS IN REPORT**

R1. *An environmental review be done to determine if the consolidation of Well 2B with Well 1 and Well 3 will compromise the potable water supply with high arsenic levels.*

District Response to R1: The recommendation will not be implemented by District because it is not warranted and not reasonable. (Penal Code § 933.05(b)(4).) Consolidation of Well 2B with Well 1 and Well 3 is not feasible given the District's looped system, among other factors. See Response to F2, above.

R2. *If Well 2B cannot be consolidated into Well 1 and Well 3's potable water supply, that Well 2B be isolated for use as fire suppression and construction utilization.*

District Response to R2: The recommendation will not be implemented by District because it is not warranted and not reasonable. (Penal Code § 933.05(b)(4).) Use of Well 2B for fire

suppression is not economically feasible given it would require designing and installing a new fire suppression water distribution system that is separate from the District's treated water distribution system.

R3. *No further wells be drilled at the same site as Well 2 and Well 2B.*

District Response to R3: The recommendation will be implemented. (Penal Code § 933.05(b)(1).) The District has no present plan to drill new wells at the same site as Well 2 and Well 2B.

R4. *The SCSD immediately hire an outside auditor to review and determine the duplicate amount that was charged erroneously to residents that had only one water meter hookup. The time frame that the outside auditor should review is from January 01, 2001 to June 2016. Upon completion of the audit, the SCSD should immediately reimburse the residents affected by the additional base rate fee the full amount plus interest.*

District Response to R4: The recommendation will not be implemented by District because it is not warranted and not reasonable. (Penal Code § 933.05(b)(4).) The double base rate for the 10 affected parcels with more than one premises or residential dwelling unit was not charged erroneously. See District response to F3.

R5. *The SCSD should evaluate the billing/statements and have an itemized line for each fee charged to the residences of the SCSD (i.e.: Base Rate Fee #1, Base Rate Fee #2).*

District Response to R5: The recommendation has been implemented. (Penal Code § 933.05(b)(1).) See District response to F4.

R6. *Training to be implemented to all appropriate representatives of the SCSD on how to use the water usage billing system. When a consumptive rate is changed within the billing system, two people should verify the rate change for accuracy. Sample billings should be printed prior to mailing to residents to ensure that the billing rates are correct.*

District Response to R6: This recommendation has been implemented. (Penal Code § 933.05(b)(1).) The General Manger of the District will ensure that all staff are instructed on when and how to implement rate changes in the billing system.

R7. *Remove the SCSD estimating bill Ordinance 91-05 Article 10 Section 1008.*

District Response to R7: This recommendation will not be implemented because it is not warranted or is not reasonable. (Penal Code § 933.05(b)(4).) The District must have rules that govern the District's process to estimate water usage for meters that malfunction (either through equipment failure or deliberate third party tampering).

R8. *The SCSD's Bylaws and Ordinances be reviewed for accuracies in regards to compliance with current law. Additionally, identifying term limits for the SCSD Board of Directors*

*and make proper references in the SCSD Bylaws in regards to the exact Government Code being referenced.*

District Response to R8: The first sentence of this recommendation will be implemented in 2016; the Board of Directors has instructed its General Legal Counsel to conduct the review with regular updates on progress to the Board of Directors. (Penal Code § 933.05(b)(2).) The second sentence of this recommendation will not be implemented because it is not warranted or not reasonable. (Penal Code § 933.05 (b)(4).) The District's elections, qualifications of candidates, term of office, etc. are governed by the Community Services District Law.


R9. *All representatives of the SCSD are educated on the SCSD Ordinances. Additionally, the District Manager and the BOD should familiarize themselves with the Bylaws and the Board of Directors Policy Manual.*

District Response to R9: The recommendation has been implemented. (Penal Code § 933.05(b)(1).) See District response to F7, above.

R10. *The SCSD BOD Meetings' minutes for the prior six months be posted for public viewing on the SCSD's website and the most recent SCSD BOD meeting minutes on the bulletin board within the SCSD's office.*

District Response to R10: The recommendation requires further analysis that will be conducted in 2016. (Penal Code § 933.05(b)(3).) The District's current practice is to post to its website the immediately prior month's minutes, once approved by the Board of Directors. The Board has directed its General Manager to investigate whether the District's current webpage is capable of maintaining the prior six months' minutes and if modification/update is needed the anticipated cost to the District. The District's current practice includes posting the most recent approved minutes on the bulletin board within the District's office. Lastly, the District notes that, as a local public agency, it is subject to the California Public Records Act and disclosure of public records, including approved meeting minutes, upon request and payment of any direct duplication expenses by interested members of the public.

APPROVED BY THE BOARD OF DIRECTORS OF SUTTER COMMUNITY SERVICES DISTRICT ON AUGUST 1, 2016

  
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President of the Board of Directors

ATTEST:

  
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Secretary, Sutter Community Services District