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**Elsinore Valley Municipal Water District**

*Our Mission...*

EVMWD will provide reliable, cost-effective, high quality water and wastewater services that are dedicated to the people we serve.

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**General Manager**  
Ronald E. Young  
**District Secretary**  
Terese Quintanar  
**Legal Counsel**  
Best Best & Krieger

DATE: May 14, 2009

TO: Board of Directors

FROM: General Manager

**SUBJECT: REVIEW AND CONSIDER RESPONSE TO THE 2008-09 GRAND JURY REPORT REGARDING THE LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT**

**PURPOSE**

Response to inquiry.

**RECOMMENDATION**

The members of the Ad Hoc Committee recommend that the Board of Directors:

1. Approve filing of the attached response before the May 23, 2009, 90-day due date.

**BACKGROUND**

Charity Schiller of Best Best and Krieger will be present at the meeting to review the attached response letter and answer questions.

**ENVIRONMENTAL WORK STATUS**

Not applicable for this action.

**FISCAL IMPACT**

Not applicable

Originated by: Ronald Young – Administration  
Reviewed by: Terese Quintanar – Administration

Attachments:

Draft response letter.  
Grand Jury Report

May 14, 2009

Riverside County Grand Jury  
Attn: Nikki L. Harris, Foreperson  
P.O. Box 829  
Riverside, CA 92502

**Re: 2008-09 Grand Jury Report "Elsinore Valley Municipal Water District Lake Elsinore Advanced Pumped Storage Project"**

Dear Ms. Harris,

The Elsinore Valley Municipal Water District (the "District") is in receipt of the February 23, 2009 Grand Jury Report regarding the Lake Elsinore Advanced Pumped Storage ("LEAPS") Project (the "Report"). Pursuant to Penal Code section 933 et seq., the District is providing these written responses and reports as to the Grand Jury's Findings and Recommendations.

**Response to Finding 1: The District disagrees partially with Finding 1.**

The Report states that "[o]nly one bidder ... responded" to the RFP released by the District. The District, however, received four responses through the RFP process, one of which was from The Hydro Company, Inc. ("Nevada Hydro").

The Report states that The Nevada Hydro Company, Inc. ("Nevada Hydro") was "lacking history, experience, and financing" at the time that the 1997 Development Agreement was executed. This statement is true insofar as Nevada Hydro was a company formed specifically for the LEAPS Project and concurrently with the execution of the Development Agreement, such that it was not a longstanding entity at the time the Agreement was executed. However, the founding members of Nevada Hydro came from three companies and a law firm and were working on other water projects in the area, such that the group had the experience necessary to carry the Project forward. Finally, and regarding financing, it is generally accepted in the industry to raise capital as each phase of a project is brought forward, rather than to have full financing at the outset of the development period. (See also Response to Finding 2, below.)

The Report states that "[c]ontrary to standard business practice, the Development Agreement had no end date." It is true that the Development Agreement did not include a specific calendar date as the end-date. However, Paragraph 4.4 of the Development Agreement did provide specific factual occurrences that would result in the termination

of the Development Agreement, including default by a party, denial of the FERC license application, Nevada Hydro's transfer of its interest in LEAPS Project, or the end of the life of the Project. These termination events were appropriate given that the District was unable to predict by what specific calendar date the FERC process would conclude. Because the District was seeking permitting services rather than entering into a public works contract, the procedures followed by the District were appropriate and consistent with public agency contracting practices.

The Report states that "[n]o follow-up meetings were held with solicited bidders to determine the reasons for the no-bid response." The District did not solicit responses from particular companies, accordingly there were no "no-bid responses." Instead, the District invited responses by publishing the RFP in The Engineering News-Record where qualified firms were likely to see it. As noted above, there were four responses to those RFP publications.

**Response to Finding 2: The District disagrees partially with Finding 2.**

The Report states that Nevada Hydro "must acquire financing for an estimated 1.3 billion dollars from outside sources and complete the entire LEAPS Project before it is obligated to repay the [District] for its expenditures." Paragraph 3.1 of the Development Agreement, however, states that Nevada Hydro must reimburse the District upon "successful closing of all financing and/or equity contribution required to construct and operate the Project." Accordingly, it is the financing of the Project, not the Project's completion, that would trigger any reimbursement obligation. Additionally, and as a practical matter, it is the District's understanding that Nevada Hydro has raised capital from time to time – for example, from Enron, Siemens, and Morgan Stanley – as was needed to carry the Project forward in the permitting process.

The Report states that "FERC approved only the TE/VS transmission portion of the application. [and] Nevada Hydro's explanation was that this was merely a postponement and not a rejection." In fact, and although a Final Environmental Impact Statement has been prepared, FERC has not approved for construction any portion of the Project. In fact, FERC's jurisdiction over approval of the LEAPS Project is limited to the hydroelectric facility and ancillary structures, so it does not appear that FERC could separate the pumped storage and transmission aspects of the Project even if so desired. FERC has, however, considered whether it is appropriate for the Project to be included in the rate-base structure for California. On March 24, 2008, FERC issued its Order on Rate Incentives and Compliance Filings, which states that FERC is "approving incentives for Nevada Hydro's proposed TE/VS Interconnect." The FERC Order also states that the "pumped hydro storage facility may not be ... functionalized as transmission for rate recovery purposes."

The Report states that "Nevada Hydro requested California Public Utilities (CPUC) authorization to be the sole and lead agency on the transmission line." The October 9, 2007 application to the CPUC actually states that the District has agreed to serve as

lead agency for the Project; “however, if the Commission determines that this approach is not feasible ...then the Commission may, sua sponte, determine to issue and certify an EIR (or Mitigated Negative Declaration) itself.” Additionally, the determination of which public agency is the “lead agency” for purposes of the California Environmental Quality Act (“CEQA”) is a determination made pursuant to the law, rather than any request made by a party.

The Report states that the “CPUC controls only transmission lines in California.” The CPUC has authority over many things, including public utility rate-setting and transmission line siting. The District’s understanding is that the CPUC is looking to FERC for ultimate approval of the LEAPS Project.

The Report states that the District “promptly responded to this action” by Nevada Hydro by sending out a November 21, 2006 letter. Although a letter of that date was sent by the District to Nevada Hydro, it was not sent specifically in response to the CPUC application by Nevada Hydro. Rather, it was intended to address a number of issues, including matters pending before FERC and the status of environmental review under CEQA.

The Report lists the dates, titles, and authors of three financial reports, but incorrectly states the title and date of the February 2006 report and the authors and date of the third report. For clarity, the three reports are as follows:

- “An Economic Evaluation of the LEAPS Project” (dated January 17, 2006) by Economic Insight, Inc.
- “An Economic Evaluation of the LEAPS Project and Associated Transmission” (dated February 6, 2006) by Economic Insight, Inc.
- “A Preliminary Economic Assessment and Strategic Review of the LEAPS Project” (dated April 12, 2007) by Shir Power Engineering Consultants, Inc. and Economic Insight, Inc.

The Report states that these three reports conclude that the LEAPS Project is not economically viable. This summary statement, however, draws conclusions from reports which draw their own conclusions. The primary conclusions of the January 17<sup>th</sup> report are:

- Nevada Hydro “overlooked the opportunities for selling into the California Independent System Operator’s (Cal ISO’s) balancing and ancillary (A/S) market.”
- “Since the base case annual revenue is less than that assumed Nevada Hydro it is important to explore other alternatives, even if they are not well defined at this time.”
- A “trend that could improve LEAPS economics is the growth of intermittent energy sources – solar, wind, and tidal power, to name three.”

- “When revenue and cost factors are considered we conclude that the LEAPS project is not viable at this time.”

The primary conclusions of the February 6<sup>th</sup> report are:

- “Although the chances of obtaining a long-term contract with a large capacity payment are close to zero, there are important marketing opportunities in the Cal ISO’s [ancillary services] market.”
- “Nevada Hydro projects no revenue from [ancillary services] sales that we have concluded would be LEAPS’ primary source of income.”
- A “trend that could improve LEAPS economics is the growth of intermittent energy sources – solar, wind, and tidal power, to name three.”
- “When revenue and cost factors are considered, we conclude that the LEAP project, as a merchant plant, is not viable at this time. The primary problem is the low differential between off-peak energy prices and on-peak energy prices.”

The primary conclusions of the April 12<sup>th</sup> report are:

- The report “offer[s] a review of project benefits that have yet to be quantified or are qualitative. These include: Operational Benefits ... Environmental Benefits ... Lake Elsinore Water Quality Benefit ... [and] Forest Firefighting Benefit.”
- “Our preliminary benefit assessment of the LEAPS project is based on existing economic studies covering the quantified benefits of the project.”
- “Revenue sources from commercial operation simply do not reflect the full benefits of the LEAPS pumped storage project.”
- “Although there is less demand for electricity storage between night and day, there is increased demand for grid balancing – a task perfectly suited for hydroelectric pumped storage plants.”
- “A careful study of benefits based on less conservative assumptions and the assignment of some value to benefits not yet quantified should demonstrate a viable project.”

The Report states that “some board members” were deliberately excluded from knowledge of the reports for more than two years. There was no deliberate act taken to deny Directors access to the financial reports. To the contrary, these reports were available upon request to any Director.

The Report states that the District was “forced” to publicly release the three financial reports. This is incorrect. After one of the reports was made public, the District’s Board of Directors decided to formally waive the privilege over all three reports and release them to the public, so that the public would have a full and complete picture of all the financial analysis available.

The Report states that the District knew “that LEAPS was not financially viable using a market-based approach”. This statement is true insofar as it is limited to the sale of

The Report states that the consultant reports concluded that building the LEAPS Project “solely for a ‘black start’ is economically prohibitive in comparison to gas turbine generation.” Again, the reports concluded that there are many potential benefits from the LEAPS Project, but considering the “black start” benefit alone to the exclusion of other benefits would be more expensive than a gas turbine generation alternative. (Please see Response to finding 2, above.)

**Report as to Recommendation 1: The Recommendation will not be fully implemented.**

The District agrees with and will implement the Grand Jury’s Recommendation insofar as the District has followed, and must continue to follow, public contracting laws and established contract policies and procedures. However, the remainder of the Recommendation would unreasonably expand the District’s obligations beyond those required by the law. Under public contracting law, there is a difference between general services agreements and contracts for public works projects. Recommendation 1 does not acknowledge that difference and would require the District to follow the same procedures for “all future contracts.” Additionally, the District cannot implement the Recommendation that “meeting with all solicited bidders should be mandatory.” This Recommendation overlooks situations where, for example, bidders may not want to meet with the District such that the District would have to “force” a meeting; bidders may be located a great distance away such that significant travel costs would be incurred; or solicited bidders may not bid on the contract at all. Because the Recommendation would significantly expand the District’s obligations in a manner that is not feasible and is inconsistent with what the law requires, the District will not implement all of Recommendation 1.

**Report as to Recommendation 2: The Recommendation will not be implemented.**

As discussed under “Response to Finding 2,” above, the consultant reports do not flatly conclude “that the LEAPS project is not economically viable, especially the pumped storage portion.” Instead, the consultant reports speak for themselves and reach a number of conclusions predicated on specific factual circumstances. As such, the District cannot implement Recommendation 2 because it does not acknowledge the limitations on the consultant reports and, thus, is unwarranted. However, the District’s Board of Directors will continue – as it has done in the past – to evaluate all information and options available with respect to the LEAPS Project. The District’s ongoing evaluation will include the consultant reports and all other information available.

**Report as to Recommendation 3: The Recommendation has been implemented.**

An accounting of LEAPS Project financials is currently available to the public. The District is a public agency and, as such, it maintains financial records that are open for public inspection and subject to disclosure under the Public Records Act. Receivables related to the LEAPS Project are part of those records and may be obtained and inspected upon request.

electricity on a market-based approach. However, and as quoted above, the April 12<sup>th</sup> financial report concluded that “[r]evenue sources from commercial operation simply do not reflect the full benefits of the LEAPS pumped storage project.” Ultimately, the April 12<sup>th</sup> report concluded that “[a] careful study of benefits based on less conservative assumptions and the assignment of some value to benefits not yet quantified should demonstrate a viable project.”

Regarding the Grand Jury’s characterization of the District’s June 20, 2007 meeting, a publicly noticed study session meeting was held by the District on June 20, 2007. Representatives of both Nevada Hydro and Morgan Stanley attended that meeting. During the public comment portion of the meeting, a representative of Morgan Stanley stated that Morgan Stanley was financially interested in the Project.

The Report states that “[t]he 1997 Development Agreement requires reimbursement to [the District] only when the entire project is fully completed.” As discussed above in Response to Finding 1, Paragraph 3.1 of the Development Agreement states that Nevada Hydro must reimburse the District upon “successful closing of all financing and/or equity contribution required to construct and operate the Project.”

The Report states that, “[r]ecognizing the financial vulnerability of the project, Nevada Hydro requested that the approval for licensing be cost-based rather than market-based.” In fact, Nevada Hydro filed an application for cost/rate-base treatment with FERC on December 1, 2005 – more than 18 months prior to the June 2007 meeting.

The Report states that stakeholders which objected to rate-base treatment of the LEAPS Project “own the operation of the transmission lines.” Those stakeholders (such as San Diego Gas & Electric and Southern California Edison) own the physical transmission lines, but the operation of those lines are fully managed by the California ISO and the use of the lines is dedicated to the benefit of the California energy grid.

The Report states that the District’s Board of Directors voted to investigate the legal complexities of the Project on August 26, 2008. This meeting actually occurred on June 26, 2008.

**Response to Finding 3: The District disagrees partially with Finding 3.**

The Report states that the District is looking at a black start benefit as a “backup approach” to the sale of power from the LEAPS Project. In actuality, the potential of black start benefits, as well as other benefits, have always been a part of the analysis of the Project potential benefits.

The Report states that the consultant reports concluded that the LEAPS Project was “not economically viable.” The conclusions of the consultant reports, however, were actually that the LEAPS Project may provide several benefits that have not yet been quantified. (Please see Response to Finding 2, above.)

The District considers the above to provide thorough and full responses and reports to the Grand Jury's Findings and Recommendations in compliance with Penal Code section 933 et seq. Should you have any questions or require any further clarification, please do not hesitate to contact me at the District's offices.

Sincerely,

Ronald Young, P.E., DEE  
General Manager  
Elsinore Valley Municipal Water District

Cc: Board of Directors



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ADMIN. DEPT.  
EVMWD

## RIVERSIDE COUNTY GRAND JURY

(951) 955-8990 OFFICE • (951) 955-8989 FAX

February 23, 2009

Elsinore Valley Municipal Water District Board  
Attn: Ronald Young, General Manager  
31315 Chaney Street  
Lake Elsinore, CA 92531

Subject: 2008-09 Grand Jury Report:  
Elsinore Valley Municipal Water District  
Lake Elsinore Advanced Pumped Storage Project

Dear Mr. Young:

Please note that Penal Code Section 933 et seq., specifies that you respond within ninety days. Further, it specifies that this report be kept **confidential for a minimum of two working days** prior to public release. The contents of this report will be made public after the close of business **February 25, 2009**.

Sincerely,

Nikki L. Harris, Foreperson  
2008-09 Riverside County Grand Jury

NLH:gs  
Attach.

# 2008-2009 GRAND JURY REPORT

## Elsinore Valley Municipal Water District

### Lake Elsinore Advanced Pumped Storage Project

#### Background

Elsinore Valley Municipal Water District (EVMWD), governed by and elected five-person board, was created with a mission statement, which stipulates: "The District will provide reliable, cost-effective, high quality water and wastewater services that are dedicated to the people we serve." In addition, the EVMWD is responsible for the quality and water level of Elsinore Lake. Currently, reclaimed water is purchased to maintain the prescribed water level. The current annual EVMWD revenue is seventy-five million dollars, two-thirds of which comes from ratepayers and the remainder of which comes from various grants.

EVMWD provides water and sewer services to a ninety-seven square mile area located between the cities of Corona and Temecula in the western portion of Riverside County. Elsinore Lake is five miles long and two miles wide. Its primary source of water is the San Jacinto River. In the mid 1980's, the water level was extremely low due to drought and the amount of algae had increased. Reclaimed water was purchased to stabilize the level of Elsinore Lake.

In an attempt to recoup the cost of reclaimed water, a pump/storage power plant was proposed to pump water from Elsinore Lake to a yet-to-be-built reservoir in the Cleveland National Forest. The difference in height between Elsinore Lake and the proposed reservoir is 1,200 feet, which is conducive to the method of pump/storage. The pumping to the reservoir would be scheduled during the night when the market cost of electricity is lower. Then, during the day, the process would be reversed allowing the water from the reservoir to flow back down through large pipes, thus creating electricity in a manner similar to a hydroelectric dam. Electricity would be generated in the daytime when the market cost electricity is more expensive.

This newly-generated electricity would then be connected to a yet-to-be approved and constructed transmission line through the Cleveland National Forest to connect San Diego Gas and Electric (SDG&E) with Southern California Edison (SCE) farther north. This transmission line is known as the Telega-Escondido/Valley-Serano (TE/VS) line. It was stated, by a board member, that the difference between the cost of hydro-pumping and electricity generation would be favorable. The revenue realized would pay for Elsinore Lake's cleanup and water addition. The project is known as Lake Elsinore Advanced Pumped Storage (LEAPS).

## Findings

1. In 1997, the EVMWD issued a Request For Proposal (RFP) seeking a company to lead the project in development and financing. Only one bidder, a newly formed company incorporated in Nevada, responded. This company, called Nevada-Hydro, then became licensed to operate in California as The Nevada Hydro Corporation (Nevada-Hydro). On May 15, 1997, the EVMWD entered into a Development Agreement with Nevada-Hydro a company lacking history, experience, and financing. Contrary to standard business practice, the Development Agreement had no end date. The President of Nevada-Hydro, the President of the EVMWD Board, and legal counsel for EVMWD, signed this Development Agreement. No follow-up meetings were held with solicited bidders to determine the reasons for the no-bid response.
2. The Development Agreement, signed May 15, 1997, stated on page 2, paragraph 1.4: (In the following quote, FERC refers to Federal Energy Regulatory Commission.) "The Company will provide all necessary funding and will pay all expenses and costs to complete and submit the FERC license application to obtain the FERC license and to obtain related entitlements." Anticipating repayment from Nevada-Hydro, the EVMWD has spent approximately four million dollars in support of LEAPS.

The Development Agreement outlines payment to EVMWD on page 3, paragraph 3.0. It details full repayment plus interest; however, there are disclaimers to the repayment found in the Development Agreement on page 3, paragraph 3.1 which states: ". . . the successful closing of all financing and/or equity contribution required to construct and operate the project and solely contingent upon such successful closing, the company will pay, within (30) days thereafter, District as follows, which amounts, unless otherwise agreed herein, shall comprise the sole consideration to which District is entitled herein." In essence, this three-man company must acquire financing for an estimated 1.3 billion dollars from outside sources and complete the entire LEAPS project before it is obligated to repay the EVMWD for its expenditures.

FERC approved only the TE/VS transmission line portion of the application, potentially leaving EVMWD and its pump/storage plan out of the picture. Nevada-Hydro's explanation was that this was merely a postponement and not a rejection. The credibility of this position was challenged when Nevada-Hydro requested California Public Utilities Commission (CPUC) authorization to be the sole and lead agency on the transmission line. The CPUC controls only transmission lines in California.

On November 21, 2006, EVMWD Management promptly responded to this action by issuing a letter to Nevada-Hydro outlining EVMWD's future course of action. In part it reads: "As a public agency, the District is sensitive to situations which suggest that a private party is representing the District's interests. . ."

There have been three separate reports, which were compiled by outside consultants and paid for by EVMWD. Two by Economic Insight Inc. entitled "An Economic Evaluation of the LEAPS Project" dated January 17, 2006, and February 7, 2006. The executive summary begins by noting that Nevada-Hydro made mistakes in analyzing potential revenue by over valuing the differential between off-peak and on-peak energy. Nevada-Hydro provided a spreadsheet dated July 20, 2005, utilizing peak pricing of sixty-five dollars per megawatt hour (MWh) and twenty-five dollars per non-peak MWh. These values were valid ten years ago when there was escalation in pricing caused by deregulation. They are no longer valid as there is an insignificant difference between peak and non-peak pricing. Essentially, the report concludes that LEAPS is not economically viable. It also states: ". . .of the thousands of pages submitted only ten are devoted to economics." The third report entitled "A Preliminary Economic Assessment and Strategic Review of the LEAPS Project" by SHIR Consultants Inc. dated April 2008, also indicated that the project is "not economically viable."

Investigation revealed that some board members and members of the public were deliberately excluded from knowledge of the reports for more than two years. In April 2008, an EVMWD Board Member released one of the reports to the media, forcing EVMWD to release the remaining reports. The board and/or management knew years earlier that LEAPS was not financially viable using a market-based approach; however, they proceeded in spite of this knowledge.

At a public meeting on June 20, 2007, Nevada-Hydro announced that Morgan-Stanley Commodities, a division of the investment firm of Morgan-Stanley, would serve as the principal investor for the LEAPS project. The announcement did not immediately clarify that funding would cover only the TE/VS transmission line. This excluded the hydro pump/storage portion of LEAPS, thereby leaving EVMWD unsure of repayment. The 1997 Development Agreement requires reimbursement to EVMWD only when the entire project is fully completed.

Recognizing the financial vulnerability of the project, Nevada-Hydro requested that the approval for licensing be cost-based rather than market-based. California Independent System Operators (CAISO)

stakeholders unanimously rejected this proposal. These stakeholders own the operation of the transmission lines.

After more than two years of negotiations, EVMWD's effort to enter into a new formal contract with Nevada-Hydro to ensure repayment reached an impasse. Worst-case scenario would be that repayment will never be made, nor will the pump/storage portion of the project ever be built. EVMWD's legal counsel has verified this. In a letter dated July 7, 2006, a board member had inquired: "What happens if the project doesn't go? How is EVMWD going to get their money back from Nevada-Hydro?" The response from legal counsel was: "If the project does not come to fruition, the amount that has been recorded as a receivable will be written off the District's financials." A present board member estimated the current expenditures at four million dollars.

At the August 26, 2008, board meeting, EVMWD voted (four to one) to investigate the legal complexities involved in removing itself from the LEAPS project. The investigation will be performed by EVMWD's legal counsel and reported upon in closed session.

3. As a backup approach, EVMWD is justifying the virtues of using the pump/storage for a so-called "black start". During a wide-area power outage, the fossil fuel or nuclear power generators turn off and need electrical power to restart. In the absence of this grid power, a "black start" needs to be performed to reactivate the power grid because time is of the essence in re-establishing electrical power. One of the stated advantages of hydroelectric power, unlike gas turbines, is the ability to start quickly with very little power (just enough to open the intake gates). This process would provide power online to start up the fossil fueled and/or nuclear operated stations. According to the consulting reports, the LEAPS project, while not economically viable for continuous operation, would provide such a quick start. According to outside experts, building the pumped storage portion solely for a "black start" is economically prohibitive in comparison to gas turbine generation.

## Recommendations

### **Elsinore Valley Municipal Water District Board Elsinore Valley Municipal Water District General Manager**

1. EVMWD must follow established contract policies and procedures, which require due diligence, in the selection of bidders in all future contracts. In addition, meeting with all solicited bidders should be mandatory.
2. The EVMWD Board of Directors should accept the results of the consultant reports, which conclude that the LEAPS project is not economically viable, especially the pumped storage portion.
3. The EVMWD Board of Directors should make available to ratepayers an itemized accounting of the approximately four million dollars spent thus far on the LEAPS project, including direct and indirect expenses and pass-through expenses paid to legal counsel.

**Requirements in Responding to Grand Jury Recommendations  
Pursuant to Section 933.5 of the California Penal Code**

To further clarify the requirements for the organizational responses to recommendations made by the grand jury, the following are the applicable sections of the California Penal Code:

**§933.05. Response to Grand Jury Recommendations-Content Requirements; Personal Appearance by Responding Party; Grand Jury Report to Affected Agency.**

- (a) For purposes of subdivision (c) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
  - (1) The respondent agrees with the finding.
  - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
  
- (b) For purposes of subdivision (c) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
  - (1) The recommendation has been implemented, with a summary regarding the implemented action.
  - (2) The recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation.
  - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
  - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (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.

