



August 8, 2022

The Honorable Erick L. Larsh
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

RE: IRWD Response to Grand Jury Report “*Water in Orange County Needs ‘One Voice’*”

Presiding Judge Larsh:

On June 22, 2022, the Orange County Grand Jury released a report titled “*Water in Orange County Needs ‘One Voice’*.” This report requested that Irvine Ranch Water District (IRWD) respond to findings and recommendations in the report. Per the 2021-2022 Orange County Grand Jury’s request, and in accordance with Penal Code 933.05, below are IRWD’s responses to Findings F1, F2, F3, F4, F5 and F6, and Recommendations R1 and R2.

Background Information:

IRWD provides high-quality drinking water, reliable wastewater collection and treatment, groundbreaking water recycling programs, and environmentally sound urban runoff treatment to approximately 445,000 residents and a daytime population of 600,000. IRWD remains a longstanding leader in the areas of water resource management and planning, with an emphasis on sustainability. We are uniquely positioned within Orange County as the only retail water agency that is part of both North/Central and South Orange County. This means that IRWD relies on the Orange County Water District (OCWD) to manage the groundwater basin in North/Central Orange County for the benefit of the groundwater producing agencies (including IRWD), and that IRWD purchase imported water from the Municipal Water District of Southern California (MWD) through the Municipal Water District of Orange County (MWDOC).

The prospect of merging MWDOC and OCWD has been reviewed and discussed periodically for nearly 40 years. In past reviews of consolidating these two entities, some economic and institutional efficiencies were identified. Incompatibilities between MWDOC’s and OCWD’s enabling acts make combining the agencies a statutorily complex undertaking. Other factors, such as the challenges in protecting the groundwater basin agencies’ interests and a lack of interest from retail water agencies resulted in consolidation discussions not moving forward

IRWD believes that good governance includes analyzing alternative arrangements that may improve how public agencies provide services. Accordingly, IRWD has thought extensively about and engaged in the discussion of the roles of both MWDOC and OCWD – including the issue of consolidation. Given this background, IRWD’s responses to the Grand Jury’s report are provided below.

IRWD Responses:

Finding F1: *“A singular water authority for Orange County’s wholesale water supply likely would result in further opportunities at the local, State, and federal levels in legislation, policy making and receiving subsidies and grants.”*

Response: IRWD wholly disagrees with this finding.

A singular wholesale water authority in Orange County would likely not result in further opportunities to shape legislation or policy at the local, state, and federal levels and would likely not result in Orange County receiving more subsidies or grants. Orange County’s voice on water policy and legislative issues is already heard by the State Legislature, Congress, and other policy decision makers. Having one wholesale water supplier would neither enhance this nor make Orange County’s collective voice louder or more influential.

The same holds true for Orange County receiving more subsidies and grants. Orange County, beyond the water community, has historically received less than its fair share of state and federal funding, either in the form of grants, subsidies, or other funding. This disparity in funding has to do with other political factors and is not a result of Orange County’s inability to reach decision makers. Having a singular wholesale water authority in Orange County would not change those factors or the dynamics that result in Orange County receiving less funding than other areas.

Finding F2: *“The current fragmented water system structure and operations provides challenges as it relates to development of new interconnected infrastructure as well as maintenance of existing systems.”*

Response: IRWD wholly disagrees with this finding.

IRWD disagrees that the current water system structure and operations are fragmented. MWDOC, OCWD and retail water agencies all have defined roles and responsibilities. MWDOC’s role is to provide Orange County representation at MWD and to purchase imported water from MWD on behalf of Orange County’s retail water suppliers. OCWD’s role is to manage the Orange County Groundwater Basin. Orange County’s retail water agencies are responsible for maintaining the local water infrastructure needed to provide water service to the Orange County residents and business they serve.

Based on these definitions, OCWD's and MWDOC's roles and responsibilities are well understood. For example, OCWD's role is limited to the development, ownership, and operation of the water infrastructure needed to manage and recharge the groundwater basin. It is IRWD's understanding that MWDOC does not own or operate infrastructure facilities because the regional storage, treatment, and conveyance systems for imported water are owned and operated by MWD.

Coordination among retail water suppliers, and when appropriate coordination with MWDOC and OCWD, regularly occurs with respect to the development of needed interconnected water infrastructure and the maintenance of existing systems. IRWD does not believe that a change in governance would eliminate any of perceived challenges related to the development or maintenance of water infrastructure in Orange County.

Finding F3: *“There is a great disparity between the North/Central and South Orange County water sources, management, and operations carried out by OCWD and MWDOC.”*

Response: IRWD agrees with this finding.

In California, the properties overlying a groundwater basin have the right to extract groundwater from that basin for beneficial use. In Orange County, the water agencies that overlie the Orange County Groundwater Basin (i.e., the groundwater producers) have the right to extract the water from that basin for the beneficial use for their customers. OCWD's role is to manage the Orange County Groundwater Basin for the benefit of the groundwater producers overlying the basin. Because the Orange County Groundwater Basin only lies under North and Central Orange County, OCWD only serves to those communities.

The right to groundwater does create a “disparity” between the water sources available to North/Central and South Orange County. In North and Central Orange County approximately 77 percent of the drinking water supply is from the Orange County Groundwater Basin, and the remaining 23 percent comes from imported water purchased from MWD/MWDOC. This contrasts to the nearly 100 percent of the drinking water in South Orange County coming from MWD imported water. OCWD does not have operations in or provide water management to South Orange County, which is outside of OCWD's District boundary.

Finding F4: *“South Orange County has many smaller retail water districts that lack a formal centralized leadership. Notwithstanding this lack of structure, South Orange County retail water districts have displayed effective collaboration when dealing with one another.”*

Response: IRWD agrees with this finding.

South Orange County currently has eight retail water districts and one city that provide water services to the southern portion of the county. There is no centralized water leadership. Despite this, South Orange County’s retail water agencies collaborate effectively on water management, infrastructure development and water policy.

One good example of this collaboration and effectiveness is the Baker Water Treatment Plant. The Baker Water Treatment Plant is a 28.1 million gallon per day drinking water treatment plant located in Lake Forest. The plant is a joint regional project by five South Orange County water districts. The plant provides increased water supply reliability to South Orange County by increasing local water treatment capability from multiple water supply sources, including imported untreated water purchased from MWD and IRWD’s share of runoff collected in Irvine Lake. The plant provides a reliable local drinking water supply during emergencies, increases operational flexibility by creating redundancy within the water conveyance system, and produces water that meets standards stricter than current regulatory requirements, resulting in a consistent, high-quality source of drinking water for South Orange County.

Finding F5: *“Orange County Water District is a recognized worldwide leader in groundwater resource management and reclamation. Its leadership, innovation, and expertise can be further utilized to serve all of Orange County in developing additional innovative and beneficial programs.”*

Response: IRWD partially disagrees with this finding.

IRWD agrees that OCWD is a recognized worldwide leader in groundwater resources management and indirect potable reuse. OCWD’s Groundwater Replenishment System (GWRS) is the world’s largest water purification system for indirect potable reuse, and OCWD is recognized for its leadership in the areas of groundwater management and water reuse. Its expertise has been and should continued to be a resource for others looking to implement water reuse projects, especially projects that focus on groundwater recharge.

IRWD disagrees that OCWD should serve all of Orange County by developing additional innovative and beneficial programs. Instead of unilaterally expanding its wholesale role, OCWD should remain focused on managing the Orange County Groundwater Basin and should remain a resource on water reuse.

Finding F6: *“Orange County currently does not have a countywide coordinated policy regarding water conservation, which results in difficulty when complying with any new State-mandated conservation regulations.”*

Response: IRWD wholly disagrees with this finding.

There is agreement on the importance of water use efficiency and conservation within Orange County, and historically, Orange County, as whole, has complied with any new State-mandated conservation regulations. Orange County water agencies already coordinate and similarly message overarching and shared water conservation and water efficiency policies.

Approaches to conservation require thoughtful consideration of a variety of policies and factors. This is why, fundamentally, water use efficiency and conservation programs and policies should be designed to reflect local needs and water use practices. Accordingly, local water use efficiency and conservation programs and policies will vary from agency to agency – even within Orange County.

In general, water efficiency and conservation programs and policies are most successful if they are locally designed, implemented and managed to reflect a community’s needs. Water use efficiency and conservation programs should also be cost effective and economically viable. Employing a one-size-fits-all policy approach to conservation is very inefficient and would not enhance the county’s ability to comply with further State-mandated conservation regulations.

Recommendation R1: *“By January 2023, Orange County wholesale water agencies should formally begin analysis and collaboration towards forming a single wholesale water authority or comparable agency to operate and represent wholesale water operations and interests of all imported and ground water supplies. (F1, F2, F3, F4, F6)”*

Response: The recommendation will not be implemented by IRWD because any formal analysis and collaboration towards forming a single wholesale water authority or comparable agency should start between MWDOC and OCWD. It also should include each agency’s “member agencies” along with the cities of Anaheim, Fullerton, and Santa Ana, which purchase imported water directly from MWD (they are not member agencies of MWDOC).

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The concept of consolidating MWDOC and OCWD is not new. The merger of the agencies has been discussed periodically for almost 40 years. Incompatibilities between MWDOC's and OCWD's enabling acts make combining the agencies a statutorily complex undertaking. Before tackling consolidation challenges, the two agencies should first prioritize collaboration on existing and future water policy and management.

After a period of close collaboration and cooperation, a future analysis of wholesale supplier governance alternatives should first establish objectives and desired benefits. This would improve the chances that the any changes would be more successful. The alternatives analysis should be open, comprehensive, and collaborative, and include the participation of all of Orange County's retail water suppliers and staff of the Orange County Local Agency Formation Commission.

Recommendation R2: *"Any future "One Voice" consolidated Orange County wholesale water authority should have Directors that examine and vote on issues considering the unique needs of all water districts. (F1, F2, F3, F4, F6)."*

Response: The recommendation will not be implemented by IRWD because the voting structure of any consolidated Orange County wholesale water authority will need to consider a number of factors, including the following:

- Providing a voting structure that ensures imported water financial, management, and administrative decisions are voted on by weighted representation based upon cost responsibility or imported water usage;
- Maintaining the current number of total MWD board seats for Orange County, including Fullerton, Santa Ana, and Anaheim representatives;
- Ensuring the MWD representation for Orange County is cohesive and well-positioned to work with other MWD member agencies to maintain reliable and cost-effective imported water for the county; and
- Providing a governance structure that ensures board members for groundwater producing areas exclusively vote on groundwater management, pricing, and production matters.

If you need further information regarding this response, please contact me at (949) 453-5590.

Sincerely,



Paul A. Cook, P.E.
General Manager

cc: Orange County Grand Jury
IRWD Board of Directors