



August 16, 2022

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

Subject: MWDOC Responses to the Orange County Grand Jury Report's Findings and Recommendations

Dear Judge Larsh,

Please accept this letter as the Municipal Water District of Orange County's (MWDOC) timely response to the 2021-22 Orange County Grand Jury report, **Water in Orange County Needs "One Voice."** The responses to the Orange County Grand Jury Report's findings (F1-F6) and recommendations (R1-R2) are attached.

Water and the provision of water services at both the wholesale and retail level, are highly complex issues with multiple factors that must be fully assessed and understood when considering changes. MWDOC understands the Grand Jury has limitations on comprehensively researching the issue of consolidation or conducting the level of detailed analysis required to substantiate many of its findings. Potential consolidation of Orange County Water District (OCWD), and MWDOC has been evaluated and considered on numerous occasions in the past, and neither MWDOC nor OCWD have previously concluded that the benefits of consolidation are compelling enough to overcome the substantial financial, institutional, and statutory challenges.

While MWDOC appreciates the Grand Jury's time and efforts in preparing this report, we find the report did not conduct an in-depth analysis of the advantages and disadvantages of consolidation nor did it look at how the water providers and system interact and function. The simplicity of the report lacks compelling facts and evidence to support its findings and recommendations. Although MWDOC currently believes that consolidation is not in the best interest of the Orange County water providers and the public, we are committed to identify the avenues to improve its coordination, communication, and services and with OCWD and all the water providers throughout the county.

We thank the Grand Jury for its hard work on the report and interest in Orange County water issues.

Sincerely,

Megan Yoo Schneider, M.S., P.E.
Board President

**RESPONSES TO THE ORANGE COUNTY GRAND JURY REPORT
WATER IN ORANGE COUNTY NEEDS “ONE VOICE”
FINDINGS AND RECOMMENDATIONS**

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: Disagree wholly with this Finding

MWDOC does not agree with this finding. The state and federal advocacy efforts of MWDOC and OCWD, combined with our respective member retail agencies (many of which also have their own state and federal advocacy programs), have resulted in substantial influence with state and federal legislators, as well as numerous successes in obtaining outside subsidies and grants. A simple reason for this effectiveness stems from the fact that *multiple* voices advocating for Orange County water interests resonate with more influence. Having multiple agencies with their own staff and advocacy resources actively involved in water policy and legislation increases our collective success rate and enhances, rather than diminishes, the County’s influence. MWDOC, OCWD, and retail agencies each bring their own unique perspectives to the table on particular issues, whether those issues relate to imported water, groundwater, wholesale, or retail agency experience and knowledge. Recurring meetings and venues have been established in which MWDOC, OCWD and their member agencies actively collaborate on policy and legislative advocacy, as well as outside funding opportunities.

This coordinated structure has also resulted in numerous grant awards for groundwater clean-up, water use efficiency programs, and local water resource project development. This success is due to coordination among the agencies; and there is a long history of utilizing each agencies’ area of expertise, whether it be local versus regional and/or groundwater versus imported water. MWDOC retains a specialized consultant who produces a monthly tracking report and identifies matching grants for all water providers’ current infrastructure projects throughout the County. Upon request, the consultant assists agencies in applying for and securing available grants. This MWDOC cooperative service seeks to ensure that any available funding that will advance water interests in Orange County is identified and pursued by all interested agencies.

It should be noted, the Grand Jury report does not identify any specific instances in which there have been forgone grant opportunities, or conflicts in securing outside funding among MWDOC or OCWD. Similarly, the report does not identify instances of materially conflicting policy positions among MWDOC and OCWD. As such, the conclusion of the Grand Jury that a single wholesale entity will improve legislative advocacy or the potential for securing outside funding is unfounded.

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: Disagree wholly with this Finding

MWDOC disagrees with this finding and is unaware of any circumstance in which the presence of two wholesale agencies – one responsible for groundwater and one responsible for imported water – has created challenges in developing “interconnected infrastructure.” The imported water system is owned by the regional water supplier, Metropolitan Water District, while the groundwater replenishment infrastructure, owned by OCWD, provides water to the groundwater basin that is subsequently pumped and delivered by its retail agencies using their own infrastructure.

Several Orange County retail water agencies have implemented interconnected regional infrastructure, and there have been successful efforts among those agencies to complete joint water supply projects, emergency interconnections and other system reliability initiatives. These initiatives have been supported by both MWDOC and OCWD.

Wholesale and retail water agencies are successfully working together under the existing governance structure to ensure all residents have enough water during an emergency. One such initiative currently being worked on among several retail water agencies is a pilot program on the East Orange County Feeder No. 2 to move local water during emergency conditions. This initiative is supported by both MWDOC and OCWD; and MWDOC is currently working with Metropolitan Water District to have an emergency connection for south Orange County during unexpected events. Another successful coordinated emergency planning effort took place during a recent emergency when the Upper Feeder shutdown by Metropolitan Water District affected imported water deliveries to all of Orange County. Retail agencies quickly organized as a collective group, along with MWDOC and OCWD, to coordinate messaging, system operations and contingency planning.

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: Disagree partially with this Finding

MWDOC agrees with the general and rather obvious statement that there is “disparity” (or more accurately stated, a “difference”) in “...sources, management, and operations” provided by MWDOC and OCWD within North/Central and South Orange County. However, MWDOC does not agree with the implied conclusion of the finding – that the difference exists because of the presence of two wholesale agencies. Differences between the two agencies are the result of a variety of practical factors, including the geographical location of the Orange County Groundwater Basin and the different purposes for which the agencies were formed.

The sources of water supply used throughout Orange County are not uniform and, therefore, require different management at the wholesale level from MWDOC and OCWD. Retail agencies in North/Central Orange County overlay a groundwater basin that provides them exclusive access to groundwater to meet the majority of their demands, with the remaining balance coming from imported supplies. Further, it should be noted that the cities of Brea and La Habra get a significant proportion of their supplies from a groundwater basin that lies outside of the Orange County Basin.

In contrast, South Orange County agencies do not have access to a large naturally occurring groundwater basin, resulting in heavy reliance on imported water and the development of local supplies. In addition, pursuant to the OCWD District Act, South Orange County agencies do not have access to “water or water rights” from groundwater sources within OCWD’s service area to meet day-to-day demands.

Furthermore, South Orange County retail agencies are mostly comprised of independent special districts, while North Orange County agencies are primarily city water departments. The wholesale agency services needed by the special districts can be significantly different than those needed by city water departments. MWDOC supports this diversity of need by providing resources and certain services that can be selected and are tailored to the specific needs of retail agencies.

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: Disagree wholly with this Finding

MWDOC does not agree with this finding. At the outset it is important to clarify that South Orange County does not have “many smaller retail water districts” as stated in the Grand Jury report finding. In fact, South Orange County special districts (such as Santa Margarita Water District, Irvine Ranch Water District and Moulton Niguel Water District) cover a much larger geographical area than most of the North Orange County water districts and city water departments, with the remaining South Orange County agencies and cities being of comparable size.

Moreover, there is no supporting rationale that there is a need (or desire on behalf of the retail agencies) for increased “formal centralized leadership.” It has been our experience that retail agencies throughout Orange

County value coordination efforts with MWDOC and OCWD, but wish to exercise autonomy on many water issues and are proud of their roles and responsibilities as independent local agencies. Agencies embrace their local viewpoint of water management and policymaking, and most do not find a single “centralized” voice best speaks for retail ratepayer needs and expectations because of their local diversity.

At the regional level, MWDOC ensures that in its role as the imported water wholesaler to Orange County, it provides coordinated leadership among its retail member agencies and OCWD on imported water issues through its representation on the Metropolitan Water District. This coordination includes access to and the ability to interface with MWDOC’s Metropolitan delegation through multiple open meetings and venues. MWDOC also provides regional leadership through offering multiple regionally based programs, services, and water resource planning support to retail agencies.

However, it is important to acknowledge that MWDOC concurs with the portion of the Grand Jury’s statement that: “South Orange County retail agencies have displayed effective collaboration when dealing with one another.” MWDOC sees this successful coordination among the agencies through multiple programs and projects, including but not limited to: local water supply development, water/wastewater treatment, storage, as well as shared recycling and emergency supply systems.

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: Agree with this Finding

MWDOC agrees with the finding. OCWD is clearly a recognized leader in groundwater resource management and water recycling. We encourage and support knowledge sharing between OCWD, MWDOC, and the Orange County retail water suppliers on resource management. The sharing of OCWD’s expertise and experience in groundwater management and water recycling is welcomed and can certainly be an asset for retail agencies developing innovative and beneficial projects within Orange County. Concurrently, it should be noted that many Orange County agencies are already at the forefront of innovation in local supply development with projects such as recycled seasonal storage reservoirs including Upper Oso Reservoir (Santa Margarita Water District and Moulton Niguel Water District), Trampas Canyon Reservoir (Santa Margarita Water District), in addition to Doheny Desalination Plant (South Coast Water District), and the Strand Ranch integrated groundwater storage and water banking program (Irvine Ranch Water District).

While it is valuable to leverage OCWD’s expertise in groundwater resource management and water recycling, it is also worthwhile to acknowledge MWDOC’s expertise and leadership on imported water resource management, representation at Metropolitan, and expertise in emergency planning and water conservation. MWDOC and OCWD each have distinctive areas of expertise, and that knowledge and leadership should be leveraged to benefit all of Orange County.

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: Disagree wholly with this Finding

MWDOC has a long-standing history of leading and coordinating water use efficiency and conservation efforts and policy implementation throughout Orange County in partnership with the retail water agencies that are required to achieve water use efficiency targets with their customers. It is important to emphasize that the State mandated “Making Conservation a California Way of Life” water use efficiency regulations, are structured for compliance at a retail agency level. While MWDOC has and will continue to provide resources and support locally appropriate responses to the regulations, a one-size fits all water conservation “policy” would neither be productive nor recognize the diversity of needs found throughout Orange County. Retail water agencies have independent

relationships and unique understanding of their customer base and in many cases, uniform countywide policies or customer messaging may not be compatible with local needs. The Grand Jury report did not detail the “difficulty” experienced by retail water agencies in meeting state-mandated conservation regulations or support the conclusion that a county-wide conservation “policy” would address such difficulties. The finding does not support the Grand Jury’s broader recommendation for a change in Orange County’s wholesale water agency structure.

MWDOC provides leadership, coordination, and support to all the Orange County water suppliers on implementation of water use efficiency and conservation programs. Programs include both rebate incentives and customer education resources accessed by Orange County residents and businesses. In addition, MWDOC has been very successful in acquiring and managing local, state, and federal grant funding to implement water use efficiency programs. Many of these programs are implemented exclusively with a combination of grant funding acquired by MWDOC and availability of Metropolitan Water District funding, and therefore require minimal or no funding from the retail water agencies. Since 2001, MWDOC has brought in more than \$113 million in local, state, and federal grant funding for water use efficiency program implementation throughout Orange County. These investments are saving more than 57,000 acre-feet of water per year - enough water to serve 171,200 households per year.

Below are several significant milestones through the years that demonstrate MWDOC leadership in setting a coordinate effort among the agencies in the County regarding State Mandated Conservation regulations:

- 1991 MWDOC led the effort to voluntarily implement cost effective Best Management Practices within California Urban Water Conservation Council Memorandum of Understanding for urban water use efficiency standards.
- 2009 MWDOC led the formation of the Orange County Regional Alliance as part of the Conservation Act of 2009, known as 20% by 2020. The formation of the alliance allowed for Orange County retail agency investments in water use efficiency to be “pooled” for collective compliance with the law and successfully met the objective prior to 2020.
- 2018 “Making Conservation a California Way of Life” sought to take mandatory water use efficiency beyond the 20% by 2020 framework through implementing a retail agency budget-based approach. MWDOC has been a leader in the discussions with the California Department of Water Resources and State Water Resources Control Board in finalizing the details of this framework.
- 2018 Requirements focusing on distribution system water loss were enacted by the State through SB 555. In response, MWDOC developed a Technical Assistance Program to provide one-on-one technical assistance to comply with the regulations. To provide further services, MWDOC developed an innovative Water Loss Shared Services Program that provides specialized MWDOC staff to perform annual water balance validation, distribution system leak detection, customer water meter accuracy testing, and distribution system flushing.
- 2021 MWDOC and the retail agencies developed a model water conservation ordinance to have a coordinated, but locally appropriate response to water shortage conditions. Many of the retail agencies are currently implementing their ordinances with the Governor’s call for agencies to be at Level 2 of their Water Shortage Contingency Plans.
- 2022 MWDOC, in partnership with Santa Margarita Water District, is developing a tool for use by water agencies across the state to demonstrate the costs and efforts needed to meet the proposed new volumetric standards.

R1 - BY JANUARY 2023, ORANGE COUNTY WHOLESAL WATER AGENCIES SHOULD FORMALLY BEGIN ANALYSIS AND COLLABORATION TOWARDS FORMING A SINGLE WHOLESAL WATER AUTHORITY OR COMPARABLE AGENCY TO OPERATE AND REPRESENT WHOLESAL WATER OPERATIONS AND INTERESTS OF ALL IMPORTED AND GROUND WATER SUPPLIES.

RESPONSE: Will not be Implemented

MWDOC will not implement this recommendation because it places an arbitrary date by which MWDOC and OCWD should “formally” begin analysis and collaboration towards “forming a single wholesale water authority...,” which as phrased, presumes consolidation is the ultimate goal of the formal process. As illustrated above and again below, the issue of consolidation has been discussed and studied many times in the past and MWDOC currently believes that consolidation is not in the best interest of the Orange County water providers and the

public. Any solutions implemented should provide clear cost-saving benefits to the rate payers of Orange County; should enhance and/or improve services to the retail agencies; and have support from all the impacted agencies within Orange County.

However, MWDOC is committed to working in conjunction with OCWD to initially determine if conditions or cost considerations have materially changed since the last comprehensive review of consolidation in 2013. In July 2022, MWDOC and OCWD each formed Ad Hoc Committees to cooperatively review and discuss the Grand Jury's findings and recommendations. While MWDOC and OCWD will carefully evaluate the Grand Jury's report and recommendation for consolidation on its own merits, MWDOC will also be engaging with OCWD to investigate various options to improve services including functional consolidation opportunities and joint regionalization efforts. The goal will be to identify options that may offer comparable, or increased benefits, at a fraction of the cost to full consolidation, while specifically addressing concerns identified in the Grand Jury report and allowing the agencies to remain independent.

The Grand Jury report acknowledges the complexity of consolidating MWDOC and OCWD, and that full consolidation would be challenging from a staffing and governance standpoint, requiring state legislation. The primary goals of consolidating agencies should be to significantly enhance or improve the services provided to the residents, business, and agencies in the County, and provide clear and demonstrated cost savings to the ratepayers. When wholesale water service in Orange County was last examined in 2013, both agencies elected not to move forward with consolidation at that time. MWDOC determined that consolidation would not materially improve services or policy influence, provide substantive cost savings, or result in a more unified and coordinated approach to water resource management in the County. As highlighted in the responses to the Grand Jury's findings above, MWDOC does not believe overall services significantly improve with a single agency.

There are also multiple significant challenges that accompany a potential consolidation of MWDOC and OCWD that require further detailed analysis and consideration. These include but are not limited to:

- The statutory inability for OCWD to be a Metropolitan Water District member agency.
- The unique nature of OCWD's hybrid elected and appointed Board and incompatibility with provisions of the Municipal Water District Act.
- The potential losses of multiple Orange County Metropolitan Board representatives through the consolidation of the OCWD's service area (which includes the cities of Anaheim, Fullerton, and Santa Ana – each of which have a Metropolitan Board representative) with MWDOC's service area. Under a consolidation, it is unlikely the cities of Anaheim, Fullerton, and Santa Ana would be able to maintain their Metropolitan Board seats since the cities would overlap with the consolidated Metropolitan member agency.
- The incompatibility of the agencies' retirement and benefit programs. As of June 30, 2022, the estimated cost of unifying MWDOC's and OCWD's retirement systems through a buyout of MWDOC's CALPERS obligation and transition to OCWD's 401K retirement program would be between \$28-36 million.
- The issue of converting OCWD to a CALPERS agency has not been evaluated.

Further deliberation of consolidation should also be largely supported and endorsed by Orange County's retail water agencies that will be directly impacted by changes in wholesale service. The Grand Jury surveyed only a subset of the retail agencies, and MWDOC believes it would be prudent to solicit the opinion of all the retail agencies to determine their potential issues, concerns, and level of interest in advancing wholesale agency consolidation. Of note, several city water agencies were not surveyed. Their unique feedback is important as cities, due to their limited resources, often rely heavily on MWDOC's services and depend on MWDOC's leadership in water policy and management.

R2 – ANY FUTURE "ONE VOICE" CONSOLIDATION ORANGE COUNTY WHOLESAL WATER AUTHORITY SHOULD HAVE DIRECTORS THAT EXAMINE AND VOTE ON ISSUES CONSIDERING THE UNIQUE NEEDS OF ALL WATER DISTRICTS.

RESPONSE: Will not be Implemented

MWDOC agrees with this statement, however it is more of a general statement than a recommendation and it is premature for MWDOC to indicate that it will implement such a recommendation regarding a consolidated agency because it currently may not agree that consolidation is in the best interest of water providers or the public. If after further analysis and discussions, MWDOC and OCWD were to find that conditions have changed, consolidation may be the best avenue to pursue. Nonetheless, MWDOC agrees it is important that a regional water provider “director examine and vote on issues considering the unique needs of all water districts.”

In fact, among MWDOC’s Board of directors and Metropolitan Water District delegates, there has always been an understanding that issues acted upon by the Board must be evaluated and examined “considering the unique needs of all water districts.” This practice is a basic tenant of MWDOC, and any evaluation undertaken with OCWD of potential changes in the wholesale water service delivery model for Orange County would be viewed accordingly.

Finally, it is important to note that MWDOC has embarked on a collaborative process with all of its member agencies, including OCWD, to receive feedback and direction on how to improve services, increase collaboration and best meet the needs of the agencies and the customers they serve. This effort began in 2021 with a comprehensive engagement and interview process, which was conducted over several months and included 37 interviews involving the managers and elected officials from each of MWDOC’s retail agencies and OCWD. The second phase involves facilitated discussions, which commenced mid-2022, which seek to develop a “process” or list of actions designed specifically to improve the working relationship among MWDOC, OCWD and the agencies. This effort has already generated positive dialogue among the agencies and is anticipated to yield significant gains in communication, coordination and the refinement of MWDOC’s services.