

August 11, 2015

Honorable Glenda Sanders, Presiding Judge of the Superior Court  
Orange County Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

Re: Response of San Juan Basin Authority to Orange County Grand Jury Report *Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency*

Dear Honorable Glenda Sanders:

This office is general counsel to the San Juan Basin Authority (“SJBA”) and presents this letter on behalf of the SJBA in response to the Orange County Grand Jury Report *Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency* (“Report”). Pursuant to Penal Code section 933.05 and the instructions contained in the Report, the SJBA hereby responds to Findings No. 4 and 5, and Recommendation No. 3 of the Report.

**Finding No. 4:** “Vertical Joint Powers Authorities with a single controlling entity, such as a city council, have the potential to use this organizational structure as a shell company to avoid other legal constraints on the controlling entity and obfuscate taxpayer visibility.”

The SJBA disagrees wholly with Finding No. 4. The SJBA is not a “Vertical Joint Powers Authority.” The Report states that, “JPAs were determined to be vertical if their members were not similar entities but rather the same entity with a different organizational structure. That is, all of the members of the JPA were controlled by a single authority.” (Report, Pg. 10.) The current member agencies of the SJBA are: (1) Santa Margarita Water District; (2) City of San Juan Capistrano; (3) South Coast Water District; and, (4) Moulton Niguel Water District. Each member agency is responsible for providing water service to the customers within its jurisdiction and is controlled by its own Board of Directors or City Council.

**Finding No. 5:** “Vertical Joint Powers Authorities in which the controlling entity transfers assets from itself to a Joint Powers Authority for the purpose of obtaining additional funding, or signs a long-term lease to a Joint Powers Authority to obtain assets, are avoiding transparency and are not acting in the best financial interest of the taxpayers.”

The SJBA disagrees wholly with Finding No. 5. The SJBA is not a “Vertical Joint Powers Authority.” The Report states that, “JPAs were determined to be vertical if their members were not similar entities but rather the same entity with a different organizational structure. That is, all of the members of the JPA were controlled by a single authority.” (Report, Pg. 10.) The current member agencies of the SJBA are: (1) Santa Margarita Water District; (2) City of San Juan Capistrano; (3) South Coast Water District; and, (4) Moulton Niguel Water District. Each member agency is

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responsible for providing water service to the customers within its jurisdiction and is controlled by its own Board of Directors or City Council.

**Recommendation No. 3:** "All Joint Powers Authorities should take the following actions to insure transparency to the taxpayers: (1) have an annual outside audit, (2) post the complete audit on their city website as a separate Joint Powers Authority entity, (3) send the audit to the County Controller and the State Auditor, and (4) ensure the required reports are filed annually to the County and the State."

The SJBA agrees with and already follows most of the recommendations contained in Grand Jury Recommendation No. 3:

- (1) SJBA retains a reputable accounting firm to conduct an annual outside audit. Most recently, SJBA retained McGladrey LLP to perform the annual audit for the fiscal year 2014/2015.
- (2) After the annual audit is completed, the audit is attached to SJBA's agenda and presented to SJBA's Board of Directors for consideration and action. Once approved, the annual audit is distributed and posted to SJBA's website (sjbauthority.com).
- (3) To the extent that the SJBA does not already do so, SJBA will send the annual audit to the County Controller and the State Auditor.
- (4) SJBA files all required reports with the County and the State.

The SJBA is confident that this response adequately replies to all findings and recommendations made by the Grand Jury that apply to the SJBA. However, should you have any further questions, concerns or require additional information, please do not hesitate to contact me.

Very truly yours,



David C. Palmer  
STRADLING YOCCA CARLSON & RAUTH, P.C.