



**Board of Directors**

Wayne Rayfield  
*President*

September 10, 2015

Rick Erkeneff  
*Vice President*

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

Dick Dietmeier  
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*Director*

**Re: Response of South Coast Water Financing Authority to 2014-15 Orange County Grand Jury Report "Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency."**

Judge Sanders:

On behalf of the South Coast Water District Financing Authority, South Coast Water District submits the following responses to the findings and recommendation in the June 29, 2015, report, "Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency."

**Grand Jury Findings**

**F4.** "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 to obfuscate taxpayer visibility."

**Response:** SCWD disagrees wholly with Finding 4. The South Coast Water District Financing Authority (the "Authority") is a joint powers authority duly organized and existing under the laws of the State of California, operating pursuant to Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code and pursuant to a Joint Exercise of Powers Agreement dated as of March 25, 2010 by and between the South Coast Water District (the "Water District") and the California Municipal Finance Authority ("CMFA"). Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California authorizes the Water District and CMFA to create a joint exercise of powers entity which has the power to exercise any powers common to the Water District and CMFA and to exercise additional powers granted to it under the Act.

The Water District is authorized to buy, sell, lease and use property and to incur indebtedness for public purposes pursuant to the County Water District Law (comprising Division 12 of the Water Code of the State of California at Section 30,000 *et seq.*) and other laws of the State of California.

CMFA, composed of over 200 members, is authorized to buy, sell and lease property and to issue bonds, expend bond proceeds, and borrow and loan money for any of its corporate purposes pursuant to the Act and a Joint Exercise of Powers Agreement Relating to the California Municipal Finance Authority, dated as of January 1, 2004, by and among the cities, counties, districts and other political subdivisions that are parties to that agreement.

The Authority was organized to assist with the financing and refinancing of capital improvement projects of the South Coast Water District and is subject to the Brown Act, Public Hearings and required to have an approved Conflict of Interest Code.

**F5.** “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 sign 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.”

**Response:** SCWD disagrees wholly with Finding 5. The South Coast Water District Financing Authority has allowed the District to achieve a lower cost of financing for the District’s capital projects which translates to lower rates that directly benefit the District’s ratepayers.

### **Grand Jury Recommendation**

**R3.** “All Joint Powers Authorities should take the following actions to ensure transparency to the taxpayers: (1) have an outside annual 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. (F.4., F.5.).

**Response:** South Coast Water District agrees with the finding.

- 1) South Coast Water District files the required reports for the South Coast Water District Financing Authority annually to the State and will ensure that all required reports continue to be filed annually.
- 2) South Coast Water District is audited annually by an outside independent auditing firm. The debt financed through the South Coast Water District Financing Authority currently is included in the District’s financial statements and footnotes and not as part of a separate audit. The District will look into the cost of conducting an annual audit for the South Coast Water District Financing Authority separately and implement for FY16.
- 3) South Coast Water District will send the annual audit to the County Controller and State Auditor.

- 4) The District's annual audit is posted on the District's website annually. The Separate audit for the South Coast Water District Financing Authority will be posted to the website starting in FY16.

SCWD appreciates the opportunity to respond to the Report. Should you have further questions, concerns or require additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Brunhart". The signature is stylized with a large initial "B" and a horizontal line extending from the end.

Andrew Brunhart  
General Manager