



**EAST
ORANGE
COUNTY
WATER
DISTRICT**

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September 17, 2009

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

**SUBJECT: Response to "Paper Water" – Does Orange County
Have a Reliable Future?**

Dear Judge Dunning:

The Board and staff of the East Orange County Water District (District) wish to thank the Grand Jury for their examination of the reliability of water supplies to Orange County. We are grateful for your interest, and hope that it will bring further awareness of our current water supply problems.

We completely agree that the State and Southern California have a water supply problem at this time. However, you will find that we disagree with several of the Grand Jury's Findings and the Recommendations.

Most of our disagreement lies with the fact that ultimately, the immediate solution to this particular problem lies outside of the Orange County water community's (and land planning community's) control. The *Wanger* decision and the resulting Biological Opinion (BOP) that imposes an estimated 30-40% reduction in the amount of water that can be sent to Southern California – that literally changed Southern California's water supply reliability condition in one day. That this reality comes - despite decades of planning, constructing, operating and maintaining a water system that is arguably a modern wonder - is at times overwhelming when we consider what may happen in the years ahead before we can plan, construct and pay for a solution.

We also note that we herein incorporate by reference, the detail and educational elements included in the response provided by the Municipal Water District of Orange County (MWD OC); District staff participated in the preparation of this response.

It is with this in mind that the District presents its response to the 2009 Grand Jury Findings and Recommendations.

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Response to Findings

F.1: There is inadequate coordination between local land-use planning agencies and local water supply agencies, resulting in a process that fails to fully engage the issues.

(a). Water agencies have tended to avoid interfering with or participating in growth-management decisions.

(b). Cities and the County have tended to not critically evaluate the limitations of the water agencies' supply projections.

Response to F1(a): Disagree.

Water agencies are not land planning agencies – by design. Historically and today, water communities have had the responsibility of providing water for approved land use. The District has, through its Master Plan and Urban Water Supply Plan, communicated water supply availability to the Orange County Planning Department, and incorporated their approved land use decisions into these documents. As evidenced by the growth and development of the District's service area, the coordination between the agencies has been more than adequate – therefore, the participants are fully engaged in the process.

Response to F1(b): Disagree.

The Grand Jury's finding implies that water agencies did not use due diligence to determine water supply availability, so cities and counties should have discounted the reliability of the projection. Nothing could be further from the truth. Working with the Metropolitan Water District of Southern California (MET)/MWDOC and the Orange County Water District (OCWD) we have dedicated significant resources towards producing accurate and reliable projections (e.g., MET's Integrated Resources Plan (IRP)). With the *Wanger* decision, additional significant resources have been and will continue to be dedicated to producing accurate and reliable forecasts to enable cities and counties to meet existing and future approved land use.

F.2: California's looming water supply crisis receives very little, if any, expressed concern from the public in comparison to the numerous other environmental issues presented during development project reviews.

(a). Orange County's citizens and interest groups do not appear to grasp the seriousness of the water supply situation or the complexity and urgency of the necessary solutions.

(b). Several recent, substantial water supply awareness efforts are underway (e.g. the O.C. Water Summit) that show promise but appear targeted to audiences that are already informed.

Response to F.2(a): Agree.

Since *Wanger*, the water community has made extraordinary efforts to publicize the effects the ruling and the BOp have had on Southern California. The fact that the public doesn't appear to grasp the seriousness of the situation is probably due to: 1) a split in the water community regarding how much of a crisis exists (so the message is diluted) and, 2) for a variety of reasons, the worst effects haven't been realized yet.

Along with just about every other water supplier in the county, the District has enacted a water conservation ordinance that includes provisions for several stages of water cutbacks – up to and including the 40% made possible under *Wanger*. Just as significantly, water rates have risen precipitously due to the increased cost of the combined effect of more expensive water and lower water sales. The combination of these two actions has generated awareness and reaction among our ratepayers.

Response to F.2 (b): Disagree.

The Grand Jury has cited but one of a myriad of water supply awareness efforts being undertaken at a regional level – most of these efforts targets the man/woman-in-the-street. On the District level, we have been and will continue to communicate with our customers more often and on a regular basis regarding water conservation. In a short newsletter, we will be providing practical water reduction tips, point them towards informational websites and remind them of the water conservation services the District provides. We have also started a targeted personal outreach program to our 50 largest users. Our plan is to meet face-to-face with each of them in order to review with them essential conservation information and seek their commitment to reducing their consumption by at least 5-10%. We are pleased to report that for the month of July, consumption has decreased by 6%.

F.3: LAFCO is the agency charged with facilitating constructive changes in governmental structure to promote efficient delivery of services. To this end, LAFCO is conducting a governance study of MWDOC which is the designated representative for nearly all of the Orange County retail water agencies, acting on their behalf with their surface water supplier Metropolitan.

(a). There are a number of points of governance disagreement between MWDOC and several of its member agencies. This is creating

an impediment to the on-going effectiveness of these agencies in critical areas of Orange County's water supply management.

(b). The current disagreement is a distraction from the greater good of the agencies working toward Orange County's water future.

(c). The stakeholders in LAFCO's study failed to meet their March 11, 2009 deadline for LAFCO's public hearing on this matter. Continued delays are unacceptable.

Response to F3 (a) and (b): Partially Agree.

Resolution of this situation is important to the water community and we will work cooperatively with all our partner agencies towards resolution of the issues raised by all parties. However, we are unaware of any serious problem with water supply management due to this issue.

Response to F3 (b): Partially Disagree.

There may be valid and reasonable reasons for delay (e.g., public information and notification); government is typically better at seeking participation and inclusiveness than efficiency. Such participation may make it difficult to meet deadlines that may have been set in anticipation of a different and less participative process. If entities are not meeting deadlines due to legitimate delays, they should be allowed to suggest a revised time schedule.

However, if delays are being employed to avoid resolution of issues, then we concur that those delays are unacceptable to the process. The priorities in resolving this issue should be: 1) Orange County should speak with one voice on water issues to carry more weight at the state level; 2) management style is less important than addressing water shortage issues and, 3) a moratorium should be placed on the South County spin-off until water shortage issues are resolved.

F.4: Orange County is uniquely fortunate to have a vast, high-quality, well-managed groundwater basin serving its north geographical area. However, in its south reaches, it has an equally large, high-growth area with virtually no available groundwater resources.

(a). The difference in groundwater availability creates a "haves-versus have-nots" situation that is conducive to inherent conflicts.

(b). The difference in groundwater availability provides opportunities for responsible participants to develop and construct long-term solutions which will benefit the entire County.

Response to F4(a): Partially Disagree.

While it is true that the groundwater basin is only available to North County agencies, the rights to that water bear little relationship to Orange County boundaries. These rights (nor the agency formed to administer them – OCWD) do not apply to the entire county. Taxes and fees to construct basin facilities are charged only to communities in this district, and not to the southern areas. In our experience, once this is explained to the average person, they have no problem with it. In the event that South County experiences a prolonged emergency however, everyone should be made aware that provisions have been made so that the water resources of North County will be available to South County through planned and partially completed interconnections and emergency agreements.

There are many locations in the state where great differences exist between neighboring agencies with regard to water availability. This is simply one of many examples; some are man-made, and some are because of natural geographic differences.

Response to Finding 4(b): Agree.

There are many opportunities for long-term solutions: increased water use efficiency, increased use of recycled wastewater, development of desalinated ocean water and increased storage. The District assumes that one or all of these solutions will be employed to mitigate the cutbacks required under *Wanger*, whether or not other solutions (based in the California Delta) are successful in restoring some of the water cutback. However, in terms of the availability of the largest quantities of water for Orange County, priority and emphasis should be placed on an equitable California Delta solution.

Response to Recommendations

R.1: Each Orange County municipal planning agency, in cooperation with its respective water supply agency, should prepare for adoption by its city council, a dedicated Water Element to its General Plan in conjunction with a future update, not to exceed June 30, 2010. This document should include detailed implementation measures based on objective-based policies that match realistic projections of the County's future water supplies. These objectives, policies and implementation measures should address imported supply constraints, including catastrophic outages and incorporate the realistic availability and timing of "new" water sources such as desalination, contaminated groundwater reclamation and surface water recycling. (Findings F1 a & b, and F2 a & b)

Response to R.1: Will not be implemented because it's unwarranted.

The District is not a land planning agency, and doesn't have a General Land Use Plan. The District does have a General Plan to plan for water distribution including projection for water needs of the future.

While we defer to the land planning agencies on this issue, for the record we believe

that: 1) the existing communication and coordination that is mandated under a variety of state regulations is adequate to provide water supply information to the land-use planning agency without being overly burdensome and bureaucratic.

R.2: Each Orange County retail and wholesale water agency should affirm its responsibility to develop new, additional, innovative public outreach programs, beyond water conservation and rationing programs, to expose the larger issues surrounding water supply constraints facing Orange County. The objective should be to connect the public with the problem. The outreach effort should entail a water emergency exercise that simulates a complete, sudden break in imported water deliveries. The exercise should be aimed directly at the public and enlist wide-spread public participation on a recurring basis beginning by June 30, 2010. This recommendation may be satisfied by a multi-agency exercise but the inability to coordinate such an event should not preclude the individual agency's responsibility. (Findings F2 a & b)

Response to R.2: Has already been implemented.

With regards to public outreach, our small district has taken steps to communicate the water conservation ordinance provisions; assistance with water conservation and water rate increases (i.e., reasons for and what can be done to mitigate the effects). We also take advantage of services offered by MWDOC/MET to communicate to our customers (see also our detailed response to Finding 2(b)).

The District participates in the Water Emergency Response Organization of Orange County (WEROC) and is in the process of preparing our own internal emergency preparedness plan in the event of short- and long-term disruptions to our water supply and distribution system.

R.3: Each MWDOC member agency should reaffirm to LAFCo that it will assign the resources necessary to expediently resolve regional governance issues. While the subject study is being facilitated by LAFCo, the options are with the agencies to decide what is best for all. Once

conclusions are reached, the parties need to agree quickly and, hopefully, unanimously to adopt a course of action. (Findings F3 a, b & c)

Response to R.3: Has already been implemented.

The District has allocated such resources as are necessary for this effort.

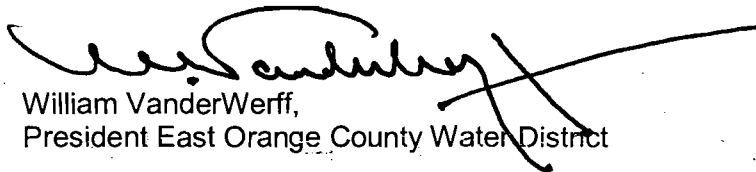
R.4: Each Orange County retail and wholesale water agency should affirm its commitment to a fair-share financial responsibility in completing the emergency water supply network for the entire County. The entire County should be prepared together for any conditions of drought, natural or human-caused disaster, or any other catastrophic disruption. WEROC should commence meetings of all parties, to facilitate consensus on an equitable funding/financing agreement. (Finding F4 a & b)

Response to R.4: Has already been implemented.

As a MWDOC member, the District pays for and supports WEROC. All of the conditions cited in the recommendation have been or are being addressed through WEROC. As noted previously, District staff is also in the process of developing procedures and obtaining equipment and supplies in preparation for catastrophic events.

Again, thank you for the opportunity to comment on the report.

Respectfully Submitted,



William VanderWerff,
President East Orange County Water District

cc: Orange County Grand Jury