



El Toro Water District

"A District of Distinction"

Serving the Public - Respecting the Environment

September 11, 2009

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

Subject: I El Toro Water District Response to the 2008/2009 Orange County Grand Jury Report, "*Paper Water*" – *Does Orange County Have a Reliable Future?*"
II El Toro Water District Response to the 2008/2009 Orange County Grand Jury Report, "*Water Districts: A New Era in Public Involvement.*"

Dear Presiding Judge Dunning:

The following represents the El Toro Water District's (District) formal response to the findings and recommendations contained in the above referenced 2008/2009 Orange County Grand Jury Reports. Section I responds to the "Paper Water" – Does Orange County Have a Reliable Future?" report and Section II responds to the "Water Districts: A New Era in Public Involvement" report. The responses are specific to the role and responsibilities of the District as a retail water supplier formed under the laws applicable to California Water Districts. The format for each section will identify the finding and recommendation followed by a specific response to same.

I "Paper Water" – Does Orange County Have a Reliable Future?"

The District appreciates your interest in the current and future water supply challenges facing California and more locally here in Orange County. The District is committed to continued investment in local, regional and statewide water infrastructure, supply resources and conservation measures/practices that cost effectively, equitably and reliably preserve and extend our most precious resource to meet constituent demands today and into the future. As a South County Retail Water Agency primarily dependent upon import water, we are intimately familiar with the local, regional and statewide water issues and are fully engaged in the collaborative development of local resources and pursuit of long term water supply solutions at the regional and statewide level.

RESPONSES TO THE GRAND JURY FINDINGS:

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

Board of Directors

Ted F. Martin
M. Scott Goldman
John S. Dudley
William H. Kahn
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General Manager

Robert R. Hill

Response *This finding is not applicable to the District. The District is not a land-use planning agency. As such, speculating with regards to the adequacy or not of City and County planning coordination would not be appropriate or useful. It is important to note that the District's service area is essentially built out. That said, the District does work closely with the Municipalities that it serves to provide timely water related information necessary for planning departments to assess and approve proposed new development, redevelopment and infill projects within its service area boundary. The District reviews and offers comments on updates and/or amendments to applicable City General Plan documents. Proposed General Plan developments and water requirements are incorporated into the District's near and far term Water System Master Planning Document. Further, the Cities that the District serves are provided an opportunity to review and comment on the District's Urban Water Management Plan which is updated every five years. The District serves all of the City of Laguna Woods and portions of the City of Lake Forest, Laguna Hills, Mission Viejo and Aliso Viejo.*

F.1 (a) Water agencies have tended to avoid interfering with or participating in growth-management decisions.

Response *This finding is not applicable to the District as growth management decisions are determined and regulated by other agencies. The District is not a land-use planning agency. As such, the District does not encourage or discourage growth within its service area. It is the District's responsibility to accommodate development and corresponding growth in accordance with the terms and conditions contained in prevailing law and a Conditional Water Will Serve Agreement prepared by the District and issued to the requesting new development, redevelopment or infill project. Availability of water supply during drought and/or supply interruptions/restrictions is a consideration when the District commits to servicing a new water demand.*

F.1 (b) Cities and the County have tended to not critically evaluate the limitations of the water agencies' supply projections.

Response *Disagree. The District is unaware of any inadequacy in the Cities and/or County evaluation process with regards to water supply projections. The Cities and the County typically rely upon the serving water agency to conclude that adequate water supply will be available to meet existing and future water demands.*

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.

Response *This finding is not applicable to the District. The District's service area is essentially built out and thus no developments requiring significant environmental review have come before the governing board. As such, it would be difficult for the District to speculate with regards to the public's expressed concerns over competing environmental issues.*

F.2 (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.

Response *Disagree. The current drought combined with the regulatory conveyance restrictions has given rise to a heightened awareness within our communities. The District along with other local retail agencies, regional wholesalers and statewide industry associations have been and continue to provide extensive media coverage regarding the water supply situation and the necessity to implement local, regional and statewide water and environmental solutions. While we recognize that more can be done, the District strives to provide all of its customers with timely and pertinent information regarding the District's services and the statewide water supply situation. We accomplish this through a combination of mediums including periodic newsletters, customer meetings, direct mailers, closed-circuit TV presentations, press releases, community group and city council presentations.*

F.2 (b) Several recent, substantial water supply awareness efforts are underway (e.g. the O.C. Water Summit) that show promises but appear targeted to audiences that are already informed.

Response *Disagree. Each time a county-wide outreach forum is held there are lessons learned. As such, future county-wide forums are targeting the appropriate public audiences and elected officials. A concentrated effort on the part of Metropolitan Water District, the Association of California Water Agencies, the State Water Project Contractors, the Southern California Water Coalition, the State Department of Water Resources, the California Special District Association and the Southern California Water Committee is underway to further heighten public awareness of the statewide water supply situation and the necessity to support Delta solutions that balance the needs of the environment and water supply.*

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 the Orange County retail water agencies, acting on their behalf with their surface water supplier Metropolitan.

Response *Agree.*

F.3 (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.

Response *Agree that there are a number of points of governance disagreement between MWDOC and several of its member agencies.*

Disagree that the current LAFCO process is creating an impediment to the on-going effectiveness of these agencies. The LAFCO process is a normal, routine process all governmental agencies go through from time to time to insure that local and regional service provision entities are structured appropriately and operating in the most efficient and effective manner. All stakeholders involved in the process are professional organizations that are not distracted by this necessary evaluation process.

F.3 (b) The current disagreement is a distraction from the greater good of the agencies working toward Orange County's water future.

Response *Disagree with the notion that the current disagreement is a distraction from the greater good of the agencies working toward Orange County's water future. The current process for evaluating the best form of governance is a normal part of the political process. It is only through detailed analysis and meaningful dialog that public officials and the public are able to evaluate the proper form a governing body should assume. Further, the output of the process should be of benefit to the ratepayers.*

F.3 (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 *Disagree. The District has been an active and "responsive" stakeholder during the LAFCO process. However, the District has no control over compliance with designated or projected schedule milestones. Further, the complexity of the issues and the possible solutions to same should not be influenced by study duration over due diligence and public vetting. The process and outcome are too important to expedite based upon a pre-established dead line.*

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

Response *Agree.*

F-4 (a) The difference in groundwater availability creates the "haves versus the have-nots" situation that is conducive to inherent conflicts.

Response *Agree.*

F.4 (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 *Agree.*

RESPONSES TO THE GRAND JURY 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 F.1, F.1(a), F.1(b), F.2, F.2(a) and F.2(b))

Response *This recommendation is not applicable to the District. The District is not a land-use planning agency. That said, the District will continue to be responsive and keep planning agencies aware of relative water supply availability and projections as requested and necessary. See responses to F.1, F.1(a), and F.1(b).*

(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 large issues surrounding water supply constraints facing Orange County (1). 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 (2). (Finding F.2, F.2(a) and F.2(b))

Response *(1) This recommendation has been implemented. In addition to the District's current innovative outreach and education program, the District has partnered with MWDOC, Metropolitan Water District, the Association of California Water Agencies and the legislature to expose the larger issues surrounding water supply constraints facing Southern California and Orange County.*

(2) Simulating water supply interruptions and the impact to retail agencies and the public they serve has been implemented. In addition to the District's periodic internal emergency preparedness/response planning and exercises, the District is a member of WEROC which exists to plan, coordinate and facilitate a regional response to short and long term water supply interruptions. The most recent being the "Golden Guardian" exercise conducted through out the State of California. These exercises are invaluable in preparing agencies such as the District for an actual emergency. Part and parcel to our routine customer outreach is a discussion about water supply vulnerabilities and interruptions. The fact of the matter is that interruptions in the water supply and delivery system are inevitable. The District's infrastructure, resource investment and emergency planning is intended to minimize the impacts and the duration of an unplanned interruption. The message emphasis for the public is and continues to be prepared and self sustaining for 3 to 5 days.

(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. (Finding F.3, F.3(a), F.3(b) and F.3(c))

Response *This recommendation has been implemented. The District has been an active, supportive and cooperative stakeholder in the LAFCO study process and remains committed to resolving and implementing agreed upon solutions to the outstanding issues. However, the*

process and outcome are too important to expedite for the sake of drawing the study to a close.

- (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 F.4, F.4(a) and F.4(b))

Response *Collaboration within the County is not constrained by political boundaries. However, the reality is that there are varying available water resources and needs within the County. With regards to south Orange County, this recommendation is being implemented. Various water system reliability projects are in study, design and construction phases. Projects include increased local water storage, water treatment facilities, ocean and brackish water desalination, interagency pipeline connections and emergency groundwater connections. Each of the projects was identified in a regionally prepared South Orange County Water Reliability Study. The projects that are underway are being funded by the beneficiaries of a particular project. Funding includes state and federal grants, state low interest loans and conventional financing and use of dedicated capital facility reserves. MWDOC continues to coordinate with the Orange County Water District and the Central and North County agencies to identify projects and groundwater management opportunities that can potentially provide county wide reliability benefits that compliment the Metropolitan Water District's evolving detailed Southern California Integrated Water Resources Plan.*

WEROC is not the appropriate association to facilitate or administer funding/financing arrangements. In South Orange County the project beneficiaries are securing project funding. To the extent that MWDOC can secure financial subsidies from Metropolitan for Orange County supply and delivery system reliability projects, such subsidies are and will continue to be pursued.

(II) "WATER DISTRICTS: A NEW ERA IN PUBLIC INVOLVEMENT"

The District recognizes the need for governance transparency and public involvement with regards to the development and provision of essential water related services. At a time when special districts are often criticized for how we act, how we conduct our finances, and how we relate to the public, it is of great importance that special districts, our boards, and our management perform all operations with the utmost moral integrity.

To validate our commitment to good governance and to ethical and sound operating practices, the District applied for and successfully received the first California District of Distinction Accreditation awarded by the California Special District Association – Special District Leadership Foundation. In meeting the accreditation criteria, ETWD submitted a detailed analysis of District records, policies and procedures, and a commitment by the board of directors and the executive staff to continued education. Current financial audits and evidence of training completed by each of the District's board members and executive staff in ethics, governance and leadership were also included. The District's board members and executive staff take part in ethics, governance and leadership training workshops in accordance with State legislative requirements and Board adopted policy. The District of Distinction accreditation was

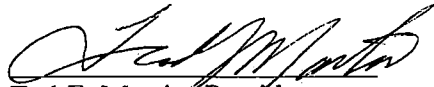
(R-6) Water districts should adopt self-imposed term limits for their members, not to exceed three terms of service. (Finding F.7)

Response *This recommendation will not be implemented. The District maintains strict compliance with existing state law as it pertains to board member service qualifications and duration. Any such change should require special legislation. Further, the issue of term limits is of a state-wide concern and if deemed appropriate or necessary, such legislation should be uniformly applied to local agencies across the state.*

If you have questions or require further information do not hesitate to contact the undersigned at (949) 837-7050 or the District's General Manager, Mr. Robert Hill, at (949) 837-7050, Ext. 219. The District appreciates your interest in the current and future water supply challenges facing California and more locally here in Orange County. The District remains committed to continued collaborative investment in local, regional and statewide water infrastructure, supply resources and conservation measures/practices that cost effectively, equitably and reliably preserve and extend our water supply to meet constituent demands today and into the future. Further, the District recognizes the need for governance transparency and public involvement with regards to the development and provision of essential water related services.

Respectfully Submitted,

EI TORO WATER DISTRICT


Ted F. Martin, President

Cc: ETWD Board Members