



El Toro Water District

"A District of Distinction"

Serving the Public - Respecting the Environment

Board of Directors

Ted F. Martin
M. Scott Goldman
John S. Dudley
William H. Kahn
Jerard B. Werner

General Manager

Robert R. Hill

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.

See page 2
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.

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

recently renewed by the District in May 2009. This accreditation provides the District with an independent acknowledgement of our understanding of the responsibilities inherent to providing essential public services in a transparent and fiscally responsible manner.

RESPONSES TO THE GRAND JURY FINDINGS:

F.1 Water Districts' procedures for the selection of professional consultants' contracts are somewhat lax and in some instances non-existent, thereby creating a perception of bias in the selection of candidates, especially in the selection of board members from other agencies to provide professional services.

Response *Disagree. While we cannot comment on the professional consultant selection policies and procedures of other local agencies, the District maintains contract document selection procedures for professional consultants as follows:*

Selection criteria is based on a detailed evaluation of all facets of each solicited proposal and their responsiveness to all provisions of a specific RFP. The District uses some or all of the following criteria in its evaluation and comparison of proposals submitted. The following list of criteria is not intended to be all inclusive and the order is not intended to indicate their relative importance.

- The firm's experience on similar types of projects and professional qualifications of the Consultant's team and, in particular, the Project Manager assigned to the District's project.*
- The team's demonstrated ability to perform the work as indicated in the RFP's scope of services will be essential.*
- The organizational structure of the proposed project team.*
- Recent references from local clients on similar type work performed by Consultant.*
- The Consultant's technical approach and methodology to performing the scope of services will be evaluated based upon completeness, demonstrated capability, responsiveness to the District's needs and demonstrated understanding of the work requirements.*
- The Consultant's level of effort will be evaluated based on an analysis of the hours and fees proposed.*
- The proposed fee for completing the scope of services.*
- The proposed project schedule.*
- The financial stability of the Consultant.*
- The Consultant's demonstrated ability to meet all of the District's administrative requirements including insurance, liability, equal opportunity practices and any exceptions taken to the District Professional Services Contract.*

F.2 Some board members are conducting their professional practices with member agencies and use their elected positions to promote their competitiveness.

Response *The District does not have any "member agencies. As such, this finding is not applicable to the District.*

F.3 Codes of ethics among districts are quite varied. Some are very comprehensive and some do not exist other than to reference state laws.

Response *Agree. While we have not surveyed other districts, it is probably safe to assume that variances in codes of ethics would exist.*

The District maintains a comprehensive Code of Ethics and Board Conduct Policy which is revisited on a regular basis. The District 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's commitment to ethics was independently validated by the District of Distinction accreditation which was awarded to the District by the California Special District Association – Special District Leadership Foundation.

F.4 Water board meetings are frequently scheduled for times that discourage public attendance.

Response *Disagree. The District has scheduled board and committee meetings at various times of the day. We have not determined that there is a correlation between the time of the board or committee meeting and the degree to which public attendance is influenced or better accommodated. The District does not schedule meetings with the intent of discouraging public attendance.*

F.5 An unusually high percentage of water board directors were originally appointed, not elected to their position.

Response *Agree. The decision to fill vacancies on the board via appointment or election will continue to be driven by individual circumstances on a case-by-case basis taking into consideration cost and maintaining compliance with applicable state law.*

F.6 Some board members hold multiple elected positions that under certain circumstances could create an appearance of conflict of interest unless the person recuses himself on an issue-by-issue basis.

Response *The El Toro Water District does not have any board members holding multiple elected positions.*

F.7 There are no time limits for how long individuals can serve on any water district board in Orange County.

Response *Agree.*

RESPONSES TO THE GRAND JURY RECOMMENDATIONS:

(R-1) In addition to the laws set forth in the Political Reform Act of 1974 and Government Code section 1090, the water districts should promulgate rules requiring professionals seated on their boards of directors to formally disclose to their organizations any contracts they are pursuing or have attained with member agencies. The water districts should also adopt

more encompassing rules regarding the selection of professional consultants. (Finding F.1 and F.2)

Response *This recommendation has been implemented. The recommendation refers to disclosure of contractual relationships with "member agencies". The District does not have member agencies.*

The District already employs and maintains a comprehensive professional consultant selection procedure and process. See response to Finding F.1.

(R-2) Each water district should develop a specific code of ethics, hold training sessions and monitor its enforcement. (Finding F.3)

Response *This recommendation has been implemented. The District maintains a comprehensive Code of Ethics and Board Conduct Policy which is revisited on a regular basis. The District board members and executive staff take part in ethics, governance and leadership training workshops in accordance with State legislative requirements and Board adopted policy. See response to Finding F.3.*

(R-3) Water Board meetings need to be scheduled at times that would generate maximum public attendance. (Finding F.4)

Response *This recommendation has been implemented. The District is of the opinion that its current public meeting schedule conveniently accommodates the public.*

(R-4) Each water district should choose to hold elections to fill board vacancies. The appointment process should be used only in exceptional circumstances. (Finding F.5)

Response *This recommendation has been implemented. The decision to fill vacancies on the board will continue to be driven by individual circumstances on a case-by-case basis taking into consideration cost and maintaining compliance with applicable state law.*

(R-5) Each water district should promulgate rules requiring each director to inform the other board members of any other offices including seats on boards of member agencies that he or she holds. (Finding F.6)

Response *This recommendation has been implemented. The District maintains compliance with its current policies (Board Conduct) as it pertains to compatible and potentially incompatible offices held by board members.*

(R-5a) Water Districts should consult their legal counsel to advise them whether there exists an incompatibility of offices when a board member holds multiple offices at the same time. (Finding F.6)

Response *This recommendation has been implemented. The District maintains compliance with its current policies (Board Conduct) as it pertains to potentially incompatible offices held by board members.*

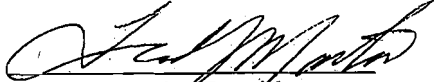
(R-6) Water districts should adopt self-imposed term limits for their members, not to exceed three terms of service. (Finding F.7)

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