



District Mission:
*Dedicated to Satisfying
our Community's
Water Needs*

August 26, 2009

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

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**BOWIE, ARNESON, WILES &
GIANNONE**
Legal Counsel

Subject: Mesa Consolidated Water District Response to the Grand Jury Report, "Water Districts: A New Era. In Public Involvement," dated June 19, 2009

Dear Judge Dunning:

Mesa Consolidated Water District (Mesa) Board of Directors applauds the Grand Jury for studying an issue as important as water and appreciates your interest and examination of the reliability of water supplies to Orange County. The following represents Mesa's response to the Grand Jury Findings and Recommendations. **All responses are from a Mesa perspective.**

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 member agencies to provide professional services.

F-1 Response: Mesa disagrees with the finding. Mesa's policy pertaining to Procurement Guidelines for Goods and Services is strictly enforced.

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

F-2 Response: Mesa disagrees with the finding. Mesa has no member agencies.

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.

F-3 Response: Mesa agrees with the finding.

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

F-4 Response: Mesa disagrees with the finding. Mesa's regular board meetings are held on the second and fourth Tuesday of each month at 7:00 p.m. Meetings are deliberately held in the evenings to facilitate constituent participation. Mesa provides, in advance, public meeting notices and on-line agendas and packets for all Board meetings.

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

F-5 Response: Mesa disagrees with the finding. In the last 12 years, only one member of Mesa's Board has been appointed and has since been re-elected.

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

F-6 Response: Mesa disagrees with the finding. Mesa's Board members hold no other elective public offices.

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

F-7 Response: Mesa disagrees with the finding. The terms are limited by the will of the people.

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. (F.1, F.2)

R-1 Response: The recommendation will not be implemented because it is not warranted. Mesa has no member agencies. In addition, Mesa has an adopted policy in place for Procurement Guidelines for Goods and Services and strictly adheres to all laws pertaining to conflict of interest and public disclosure.

COLEEN L. MONTELEONE
Interim General Manager/
District Secretary

VICTORIA L. BEATLEY
Treasurer/Auditor

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

R-2 Response: The recommendation will not be implemented because it is not warranted. Mesa has an adopted policy which includes Standards of Conduct and all members of the Board obtain ethics training as required by law.

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

R-3 Response: The recommendation will not be implemented because it is not warranted. Mesa's Board of Directors regular board meetings are held on the second and fourth Tuesday of each month at 7:00 p.m. Meetings are deliberately held in the evenings to facilitate constituent participation. Mesa provides, in advance, public meeting notices and on-line agendas and packets for all Board meetings.

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

R-4 Response: The recommendation will not be implemented because it is not warranted. Board members must be re-elected every four years during the general election. Since the formation of Mesa in 1960, only three members of Mesa's Board have resigned.

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. (F.6)

(a) 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. (F.6)

R-5 & R-5 (a) Response: The recommendation will not be implemented because it is not warranted. Mesa's Board is conscientious and devoted to preventing conflict of interest issues. In 2008, Mesa's Board requested its legal counsel to prepare a memorandum to describe the existing case law and statutory doctrine identified as the "Doctrine of Incompatible Public Offices" (Doctrine) and to provide information with regard to the potential application of the Doctrine to various elective public offices of public agencies and entities in Mesa's service area and the County of Orange.



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

R-6 Response: The recommendation will not be implemented because it is not warranted. Mesa's Board members serve four-year terms and are required to run in division-wide general elections. Every two years, alternating board seats are up for election. In the event of a vacant board seat, Mesa follows the process provided for by law to fill the vacancy in an expeditious and fair manner.

Respectfully submitted,

Shawn Dewane
President, Board of Directors

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c: Mesa Board of Directors
Central Files

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