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September 16, 2009

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

Re: Municipal Water District of Orange County's Response to the
2008-09 O.C. Grand Jury Reports:
→ (1) "Water Districts: A New Era in Public Involvement"
(2) "Paper Water" – Does Orange County Have a Reliable Future?

Dear Judge Dunning:

In accordance with California Penal Code Sections 933 and 944.05, enclosed please find the Municipal Water District of Orange County's (MWDOC) responses to the above-referenced 2008-09 O.C. Grand Jury Reports (as approved by the MWDOC Board of Directors at its meeting on September 16, 2009).

If you have any questions, or require additional information, please contact me, MWDOC's General Manager, at 714/593-5026, or the Assistant General Manager, Karl Seckel, at 714/593-5024.

Sincerely,

Kevin P. Hunt
General Manager

Enc.
cc: MWDOC Board of Directors

MWDOC Response to the Grand Jury Report Water Districts: A New Era in Public Involvement

Following is the response by Municipal Water District of Orange County to the Grand Jury Report findings and recommendations:

FINDINGS

Grand Jury Finding 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.

Response: Partially disagree. MWDOC believes that conflicts or the perception of bias are an exception and not the norm. MWDOC has a clearly spelled-out procurement code; however, within that code, contracts under \$25 K can be let at the General Manager's discretion, with reporting to the appropriate Committee.

Grand Jury Finding F.2

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

Response: Partially disagree. While no current director is conducting themselves inappropriately, the district can strengthen its administrative code to prohibit board members from providing services to its member agencies.

Grand Jury Finding 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: Disagree. MWDOC's ethics' policy in the code is appropriate and conforms to all State and Federal laws.

Grand Jury Finding F.4

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

Response: Partially disagree. MWDOC committee meetings are scheduled to include participation by our client agencies. In the past, the client agencies have indicated a preference for daytime meetings. However, our board meeting could be scheduled in the evenings, at a time more convenient to the general public.

Grand Jury Finding F.5

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

Response: Disagree. MWDOC rarely appoints directors; 6 current directors were elected to their first office. MWDOC recently appointed a director to fill a vacated seat at a savings of about \$700,000 to the ratepayers.

Grand Jury Finding 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.

Response: Agree.

Grand Jury Finding F.7

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

Response: Agree

GRAND JURY RECOMMENDATIONS

Grand Jury Recommendation 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)

Response: Agree. MWDOC will revise its code of ethics to require disclosure of contracts directors are pursuing or have attained with member agencies and will adopt more detailed rules on the selection of professional consultants.

Grand Jury Recommendation R.2

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

Response: Agree. MWDOC does this.

Grand Jury Recommendation R.3

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

Response: Agree. We believe that MWDOC's current schedule maximizes participation in our meetings.

Grand Jury Recommendation 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)

Response: Partially disagree. While a formal election is the most desirable process, the Board must weigh timing, cost and other factors into a potential decision to hold elections or appoint.

Grand Jury Recommendation 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)

Grand Jury Recommendation R.5a

Each Water District should consult their legal counsel to advise them whether there exists an incompatibility of office when a board member holds multiple offices at the same time. (F.6)

Response: Agree with both.

Grand Jury Recommendation R.6

Water districts should adopt self-imposed term limits for their members, not to exceed three terms of service.

Response: Disagree. There is no demonstrative need for term limits nor have they worked well when adopted in other areas of government.