

# CITY OF YORBA LINDA

P. O. BOX 87014

CALIFORNIA 92686-8714

(714) 961-7110

FAX 993-7530

OFFICE OF THE MAYOR

**RECEIVED**  
December 7, 2009

DEC 15 2009  
SUPERIOR COURT  
PRESIDING JUDGE

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

**Re: 2008-2009 Orange County Grand Jury Report "Paper Water – Does Orange County Have a Reliable Future?"**

Dear Honorable Judge Dunning:

Thank you for the opportunity to comment on the Grand Jury's report on water supplies for Orange County. The City of Yorba Linda's responses are as follows:

***Finding 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.***

Disagree.

Planning agencies don't have the technical expertise and ability to evaluate and assess the availability and adequacy of water supply. They must depend on water agencies to perform this assessment and rely on the results as accurate. Coordination with water agencies occurs at various levels of the planning process. Water agencies participate in the General Plan process (long range planning); in the CEQA review process (environmental planning); and in the development review process through Water Supply Assessments (WSA's) and/or "Will Serve" letters. There is an existing system of coordination in place that provides opportunities for public engagement and discourse.

The CEQA process currently requires that new development projects evaluate the ability for public utilities to be provided to the project, including water. Cities and planning agencies are dependent upon local water providers to assess water demand and evaluate their ability to provide the resources to service that demand. This evaluation, however, must be conducted on a long-range basis and cannot feasibly account for any unforeseen short-term shortages in water supply. Conversely, to forecast or plan on the basis of the "worst case scenario" of potential short-term shortages could result in the conclusion that almost any new development could not be supported, a result that is infeasible and undesirable for the economic health of the County.

Another important factor to consider is that Orange County is a mature county. In the future, providing water to accommodate new development will represent a declining demand on the overall water supply. Most likely, any self-induced limitation on new development would have very negligible impact on resolving any potential water shortages. The potential impact of other reasonable water conservation measures would have much greater impact and effectiveness in controlling limited water resources in comparison to potential limitations on new development.

These measures would also be more effective in raising public consciousness of water supply as an issue.

The current practice of utilizing Urban Water Management Plans (UWMP's) as resources in general plan preparation and environmental analysis, along with requiring WSA's for larger development projects is adequate. The perception of inadequate coordination may be created by WSA's that find water agencies are able to provide for new development, while water agencies talk about a long-term water "crisis."

City responsibilities include providing for the development of new housing for a growing population. Water agencies view their jobs as accommodating growth. Cities and the County provide water agencies with adopted Housing Elements to assist them with planning, as required by State law. Existing State Law (AB 1881) supports water conservation issues and requires local planning agencies to adopt water efficient landscape measures in concert with the local water purveyors.

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

Disagree.

Water agencies do participate in long-term land-use planning through UWMPs, provision of information for General Plans and environmental analyses. To the extent that the water agencies are consulted in an effort to determine whether they can and will accommodate development, they are active participants in the review and decision making process.

See additional comments under Finding F.1.

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

Agree.

It would appear by this statement that the Grand Jury believes cities/County should provide an independent water analysis in order to evaluate the accuracy of water agency supply projections. This is not a charge that normally falls to cities; nor do they have the staff expertise to perform such an evaluation. Planners rely on water agencies as experts on water supply and delivery, just as we rely on archaeologists, biologists, geologists, hydrologists, traffic engineers and others as experts in their fields.

Planning agencies are mindful of short-term water problems, and include mitigation measures and conditions of approval for new development that require water conservation, but are not qualified to "second guess" water agencies with regard to long-term analysis and water agencies' progress in developing new sources of water and securing water transfers. Opportunities currently exist to regularly evaluate water supply limitations through the UWMP process and CEQA.

See comments under Finding F.1.

***Finding 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.***

Agree.

Local planning agencies cannot control public concern about an issue. Education on conservation efforts and behavior modification would be substantially more effective in tackling the water supply crisis. With limited development opportunities left in the County, focusing efforts on new development will not have a significant impact on water usage. The extent to which the public should and can be educated and informed about the impacts of potential water shortages can be accomplished much more effectively through other means than through any revisions to the CEQA/EIR process.

Planning agencies are charged with presenting all environmental review information in an objective and factual manner, with no advocacy or bias toward or against any issue. The extent to which there may be a perception that water supply issues are not appropriately brought to the attention of the public through this process is more likely a result of: (1) the fact that water is one of many issues usually addressed in a lengthy technical document; and (2) the public itself is typically drawn more to traffic and other impacts that are of a more immediate and direct impact on their quality of life.

***Finding 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 solutions.***

Neither agree nor disagree.

As a planning agency, have no information on which to comment or base a more detailed response

Finding F.2 (a) is a broad, general statement. There is a lot of material that has been circulated to the public including public service campaigns and water bill inserts. The City of Yorba Linda, in cooperation with the Yorba Linda Water District has provided the public with a number of informational materials on the seriousness of the current water supply crisis. One example is the series of signs that have been installed throughout the community informing the public of a "Water/Drought Emergency" and a phone number to call for additional information. The City has also undertaken other measures to reduce local water consumption (limitations on irrigations of landscaped greenbelts) and education (presentation of "water-friendly plants" from the Fullerton Arboretum).

See comments under Finding F.2.

***Finding F.2 (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 well informed.***

Neither agree nor disagree.

As a planning agency, have no information on which to comment or base a more detailed

response.

See comments under Finding F.2.

***Recommendation 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 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.***

The recommendation will not be implemented.

General Plan mandates are the purview of the State. A requirement to add an additional Element to all Orange County General Plans would not be in compliance with State Law (which currently mandates seven elements – none of which is a Water Element). Each city should have the discretion and autonomy to decide regulations and requirements that are best for it. In this regard, the City will be embarking upon an update to the 1993 Yorba Linda General Plan beginning in 2010. Included within the scope of this work will be an assessment of public services and facilities, including the provision of adequate water supplies (as currently required by State General Plan Law).

There is already a mandatory requirement for General Plans to include a Conservation Element, providing the opportunity to include appropriate policies regarding water supply and conservation. Discussion and policy related to water quality, supply and delivery may already be included in this Element. In addition, when the Land Use Element of a city's General Plan is updated, the "build out" of the land use plan must consider the ability to provide public utilities and services, including water supply.

The development of a General Plan Element would take at least 18 months, while General Plan Updates can take several years to complete. In addition, city budgets for this Fiscal Year have already been adopted and costs associated with such a requirement have not been included. Requiring another General Plan element would constitute an unfunded government mandate, at a time when cities and counties are struggling to meet other State requirements while the State depletes city and county resources

Water planning is more appropriately and effectively done by water agencies, which are special districts under State law, than by municipal government. City and water district boundaries often do not coincide, so cities would have to work with multiple water agencies and water agencies would have to work with multiple cities to prepare Water Elements. This could result in conflicting policies within a city's Water Element, while State law requires that General Plans be internally consistent.

Water supply is a statewide and regional issue. Policies and implementation measures adopted by local governments cannot change state or regional policies. Even if a Water Element were to be adopted as part of a city's General Plan, local agencies have very limited powers to

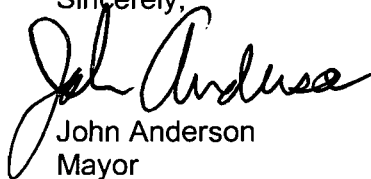
The Honorable Kim Dunning  
2008-2009 Orange County Grand Jury Report  
December 7, 2009

implement and enforce meaningful measures to ration or conserve water supplies.

As noted above, the City intends to begin a comprehensive update to the 1993 General Plan beginning next year. At that time there will be an assessment pertaining to the appropriate location of water supply issues. In addition to the water demand and supply issues that were the focus of the Grand Jury's Water Report, the Yorba Linda community faces potential public safety issues relating to the adequacy of water supply and fire flows in neighborhoods within the Wildland-Urban Interface Fire areas. These and other public safety issues will be addressed in a thorough update to the mandated Public Safety Element. It is anticipated that the Yorba Linda Water District and the Orange County Fire Authority will be active participants in this effort.

Once again, thank you for the opportunity to respond to these Findings and Recommendations. Should you have any questions or need clarification of any of the aforementioned items, please feel free to contact David Adams, Yorba Linda City Manager, at 714/961-7110.

Sincerely,

A handwritten signature in black ink, appearing to read "John Anderson". The signature is fluid and cursive, with the first name "John" being more prominent and the last name "Anderson" following in a similar style. The signature is positioned above the printed name and title.

John Anderson  
Mayor

cc: Orange County Grand Jury  
Yorba Linda City Council  
David Adams, City Manager  
Sonia Carvalho, City Attorney