



September 2, 2009

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

**Re: 2008/09 Orange County Grand Jury Report "Paper Water – Does Orange County Have a Reliable Future?"**

Honorable Kim Dunning:

Thank you for your interest and examination of the reliability of water supplies to the Orange County area. We are grateful for your interest and believe it will add to the voices trying to raise awareness of our current water supply problems. Yorba Linda Water District ("YLWD") agrees that the state and Southern California has a water supply problem at this time. It is our intent to clarify a number of the findings and the recommendations.

For example, we concur that the cutbacks on the state Water Project supplies beginning in 2007 has occurred due to the issuance of the biological opinion related to the Endangered Species Act and the impacts of the Delta pumping on the Smelt fish. Prior to that time, our water supplies were much more reliable. This serves as an example that the water supply problem is primarily driven by external factors and therefore not necessarily within our span of control or the Metropolitan Water District of Orange County ("MWDOC").

In summary, we would like to comment in the following areas:

- Increasing Orange County's water supply, with the exception of development of local supplies such as conservation, ocean desalination and water recycling, is predominantly not within our control.
- The regulatory process causing impacts to our water supplies is very complex and educating the public to grasp the specifics of the situation is difficult and not necessarily required in soliciting their help in responding to the call for additional levels of conservation.
- MWDOC's polling, and the public's interest in water conservation rebates indicates that a high percentage of consumers understand we currently face restrictions in our supplies.
- Together with MWDOC, we have communication systems in place that provide ample opportunity for the public to learn specifics on the reliability of water supplies. Additionally, the Urban Water Management Plan and other documents can be readily obtained from YLWD.

- The availability of water from the Orange County Water District ("OCWD") groundwater basin is controlled via legislative and water rights law. Within these limitations, the basin and non-basin areas are already working well together.
- The Grand Jury Report has mixed up issues associated with emergency preparedness with supplies from the Bay-Delta area and emergency preparedness of supplies internal to the County. The Water Emergency Response Organization of Orange County (WEROC) does a very good job of planning for emergency response in the County. Participation in the 2008 Golden Guardian exercise is exactly what was recommended by the Grand Jury.
- From the 1920's up until the 1980's, federal, state and local governments spoke with one voice about water issues and designed the water supply system accordingly. In the 20 years since the defeat of the Peripheral Canal, Southern California has used water conservation, water recycling and the purchase of miscellaneous water rights to provide water for growth. The purchase of water rights is limited, we've maximized indoor conservation and water recycling has been met with varying degrees of success.
- The biggest urgency in solving the long term water supply problems that affect most of the state of California is for the Governor, the legislature (democrats and republicans), the Department of Water Resources and the Federal Regulatory entities working together to resolve the issues.
- Attempts to balance all of the competing interests required to solve the water supply problem have created an impasse. Work is underway to resolve this, but developing a long-term solution in the Bay-Delta area is likely a 20-year issue that will cost between \$10 and \$20 billion to resolve, IF agreement can be reached between all stakeholders.
- If allowed under their charter, a recommendation for a future Grand Jury is to investigate progress at the state Level. Any assistance the Grand Jury can provide in resolving that situation would be appreciated. Some believe that a long-term resolution of the Bay-Delta will never occur while others believe that a major water shortage or catastrophic event will have to occur to motivate the state in developing a solution. We are prepared to assist the Grand Jury in this effort, if called upon.
- Today, as we respond to this Report, YLWD is currently under a Stage 2 (10-20% water reduction) mandatory water conservation level. Because everyone is not in an immediately dire situation, members of the water community are mixed in their opinion of the current water supply situation. Some believe "crisis" is the proper characterization, while others believe it is a "problem" that will be solved in time. A very severe drought or an earthquake causing failure of levees may expedite a solution. The "crisis" group believes we dodged a bullet this year, we are living year to year and we can't be successful in the long run under the status quo. The "problem" group noted that reservoirs can quickly recover and that we are officially in an El Nino position (wet year coming up).

## **Findings**

Following are our specific responses on the 2009 Grand Jury Findings and Recommendations:

**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.**

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

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

#### **YLWD disagrees with this Finding**

Water agencies are not land planning agencies – by design. Historically and today, water communities have had the responsibility of providing water for the approved land use. Planning being performed at the local, regional and state levels is aimed at using our existing water supplies more efficiently and developing new supplies and systems to accommodate the current and future needs of our residents and businesses and to improve supply reliability where necessary.

What sometimes causes a bit of a dilemma is that since the formation of Metropolitan Water District of Southern California (MET) in 1928, all entities in Southern California have come under the MET water supply umbrella. This prevents the District from assigning specific imported water rights to any single entity or property. On a regional basis, when MET has surplus, we all have surplus and when MET has a shortfall, we all have a shortfall. With water supplies to MET being cut back, as discussed below, it can be somewhat difficult to quantify the water supply reliability to a particular area.

The linkage of regional and local water supplies within the MET service was strengthened and clarified after the defeat of the “peripheral canal” beginning in the early 1990’s with the development of MET’s Integrated Resources Plan (IRP) where it was declared “through the implementation of the IRP, MET and its member agencies will have the full capability to meet full-service demands at the retail level at all times.” Through this commitment it was recognized that retail water supply reliability is dependent on the development and efficient management of both local water resources and imported water sources. A significant responsibility was placed on MET to develop: (1) water management programs that support the development of cost-effective local resources, in conjunction with the local agencies, (2) securing additional imported supplies as necessary through programs that increase the availability of water delivered through the Colorado River Aqueduct and the state Water Project, (3) providing the infrastructure needed to integrate imported and local sources (treatment, distribution, storage), (4) establishing a comprehensive management plan dealing with periodic surplus and shortage conditions, and (5) developing a rate structure to strengthen MET’s financial capabilities to implement water supply programs and make infrastructure improvements.

Through the IRP commitment, an equal burden was placed on the local retail agencies to explore and develop local supplies in a systematic manner and use all water resources efficiently while providing financial stability to MET for the development of its system. Collectively this “partnership” was envisioned to provide the ability “to meet full-service demands at the retail level at all times.”

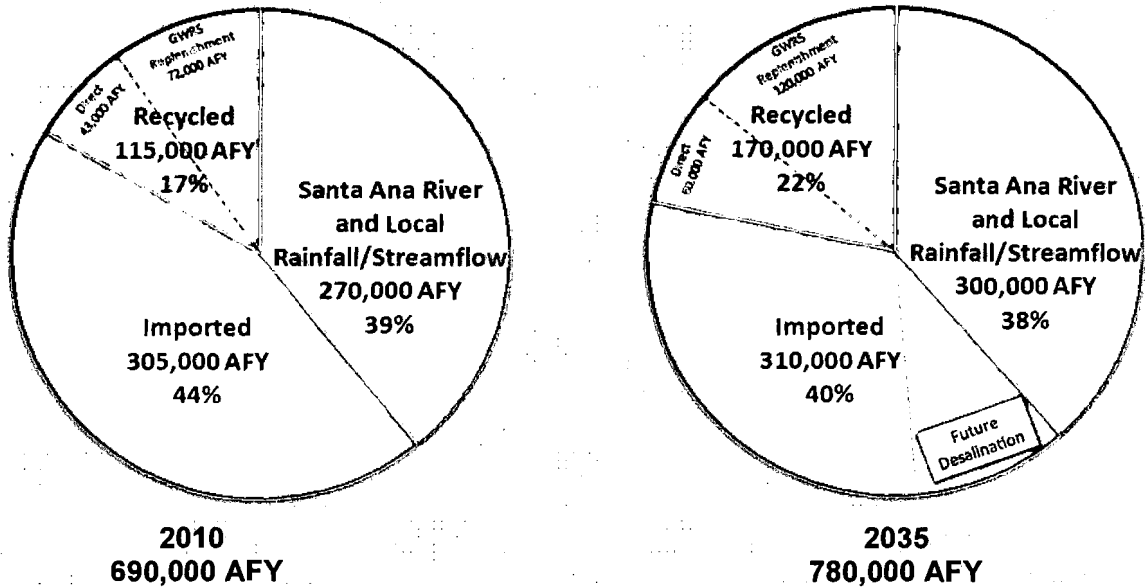
Although the water supply situation has changed drastically since the judicial ruling handed down in 2007, the same framework and goals still apply. The change in the underpinning of our water supplies, as noted by the Grand Jury, is the significant immediate loss of a large portion of supplies from the State Water Project due to enforcement of the Endangered Species Act on a species by species basis starting with the Delta Smelt beginning in 2007. Until that time, the joint regional and local systems were meeting all demands and plans were in place to meet actual and projected demands out to 2035.

The following is in progress to resolve the water supply situation:

1. New sources are being developed (conservation, transfers, desalination and recycled water).
2. Water transfers have been secured; more are being investigated; despite cutbacks, the Colorado River Aqueduct will be almost full in 2009.
3. Legal challenges and appeals have been filed on behalf of the water users to resolve some of the cutbacks and to explore what is necessary to resolve issues within our current framework.
4. Appeals have been made to the Governor and the Legislature. The state has initiated environmental review for the Bay Delta Conservation Plan (BDCP). The EIR/EIS evaluates the impacts of BDCP, including studies on new conveyance and ecosystem restoration. The Delta Vision Committee has submitted its final implementation report to the Governor with recommended actions on how the California Delta should be managed to fulfill its equal goals of water supply reliability and ecosystem restoration. The plan sets priorities based on the Delta Vision Strategic Plan developed by the Governor's Delta Vision Blue Ribbon Task Force.
5. Progress is being made on installation of the two-gate barrier system in Old River and Middle River to provide a barrier to keep the Delta Smelt away from the pumps. When this is constructed, it should result in recouping some of the supplies recently lost.
6. MET is embarking on an update of its IRP which is looking long term at sources for meeting the needs of customers in Southern California, under the changed circumstances (as can best be predicted) out to 2035. Updates for course corrections occur about every five years.
7. At the local level within Orange County, many efforts are underway to help mitigate the imported supply losses and to improve supply reliability. Orange County is a leader in water recycling, implementation of water use efficiency efforts and management of the OCWD groundwater basin. The Grand Jury rightly acknowledged OCWD for development of the GWRS Project; Phase 2 of the Project is now under design to increase production from 72,000 AF per year up to 102,000 AF per year. In addition, local agencies are continuing development of production wells, well head treatment in areas where needed, brackish water desalting and in Orange County we are currently looking at two potential ocean desalination plants to produce new supplies. Orange County's

current and future water supply and demand scenarios for 2010 and 2035 are illustrated below. Supplies from ocean desalination projects are shown at about 9% (Dana Point and Huntington Beach) of the total demand in Orange County and would offset an equal amount of imported water. Key to development of ocean desalination projects is how we can design these systems to be environmentally friendly as well as being cost-effective solutions.

### Orange County Water Supply and Demand



**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.**

**(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.**

**(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 informed.**

#### YLWD agrees with this Finding

While YLWD may agree that the water crisis receives little concern, it is not for lack of effort by the water community. Water is not as visible as traffic congestion because the public cannot feel the "water congestion" until cutbacks become mandatory. This is part of the difficulty and the challenge of stressing water issues that the public will recognize and understand. What are outlined below are the outreach efforts that are currently being utilized along with several questions:

- Is this a crisis? What should we do about it? What can we do about it? Crisis communications cannot be sustained over the long run. Some in the water community believe that we have reached a crisis, while others believe it is a problem to be resolved over time. The water community itself does not speak with one voice.
- What do we want the public to do about it? How can the public best be motivated? Do we want to scare the public?
- What course of action will maintain the best working relationship with the public and build the most trust for the long run? The public needs to trust what the water community is doing and support investments in our water future. Also, a course of action to develop and sustain long term changes in the efficiency of use by customers is critical in addition to an informed constituency for decision-making and voting (when necessary).
- The water community has been extremely successful, leading to complacent consumers.

The crisis facing us is a combination of regulatory, judicial/legal, political, environmental and to a lesser degree, financial. There are considerable challenges for the public to understand the intricacies and nuances of this framework. However, the gains from having a better informed public are to motivate them towards an improved efficiency with which they use water, have them understand the need for additional investments for new supplies and to have them educated for purposes of securing positive votes on water related initiatives, if needed. Water is not a sexy topic unless there is a line break with a major sink hole, a sewer spill, or people forced to curtail their use. Typically, people do not see the intricacies of providing water to homes and businesses. Many take water for granted, which causes it to be undervalued. Customers turn on the tap and the water comes out - sprinklers turn on and the water comes out. The water industry typically does not have brown outs or black outs, but has a high degree of reliability and safety, probably somewhere beyond 99.99% (% of time water comes out of the tap). Many have the belief that the water supply system is something that they – and prior generations – have invested in and that artificial constraints limit the supply of water from it.

The water industry has many communication and outreach avenues, but the spending by public entities is generally low compared to industries that would spend at much higher levels to brand or market new products. Still, water industry communications can be and are effective. In recent years, the water industry has collectively advertised itself as the "Family of Southern California Water Agencies" and promoted "Bewaterwise.com" to promote the water supply situation and water conservation tips and opportunities. YLWD utilizes bill stuffers, newsletters and websites to inform the public. In Orange County, a monthly Public Affairs Workgroup meeting occurs made up of the staffs from all of the retail agencies. They work to develop and implement consistent message points for the public. MET also has a Public Information Officer's workgroup that coordinates outreach and communication among the MET member agencies. Due to the expense and the limited budgets of the retail agencies, the brunt of the TV and radio media outreach has been developed via MET through an advertising campaign for the LA & San Diego markets.

While YLWD is open to new methods of communication, we believe the existing communication system works. Polling conducted from time to time to track water industry messages and the understanding of the public indicates that high percentages of people understand there is a water crisis (76% in a recent survey by MWDOC). Furthermore, 78% indicated they would change their water using habits to conserve to prevent water rationing and 67% believe that their water agency does an effective job of keeping them informed about water supply. We also believe high percentages of the public are engaged because of recent actions such as the "run" on rebates for water conservation devices, which pushed spending up to a point where the available funding was exceeded several times over. Furthermore, with the formation of a YLWD Citizens Advisory Committee comprised of local residents, this group serves as a conduit for communicating to the public on various issues.

The following is an outline of current outreach efforts:

- In June of 2008, Public Affairs Workgroup began developing a regional message that incorporated three critical elements of a long term communication strategy:
  - The message must be positive
  - Focus on water-use efficiency and eliminating water waste
  - Adaptable at the retail level
- A comprehensive, strategic communication plan was developed that incorporates grassroots education, strategic partnerships and guerrilla marketing techniques. Research has shown that this approach has been most successful in achieving social change.
- This plan augments and enhances the large media campaign that Metropolitan is orchestrating
- Increases visibility throughout the region
- Integrates new technology and social marketing channels as well.
- Critical part of the plan is to engage strategic partners to help carry the message. Everyday new partners are signing on. Current strategic partners include:
  - IBM
  - Hurley Sportswear
  - Volcom
  - Sempra Energy
  - Surfer Magazine
  - Latino Water Coalition
  - TransWorld Media
  - Sunset Magazine
  - Fuel TV
- Other parts of the program include:
  - Huell Howser contracted with the Association of California Water Agencies to produce 15 episodes about California Water. This series is being utilized to help inform citizens.

- Cable channels are being used to get the word out
- Educational trips are provided by MET for each of its Directors to host community leaders to promote water issues
- MWDOC has one of the best School Education Programs in the state for water awareness education in grades K-6; it reaches about 90,000 students per year and has reached about 3,000,000 since 1972.
- Water Heroes – a new program aimed at kids and families, focuses on identifying water wasting habits and eliminating them. Over the past two years 7500 kids have signed up on [www.ocwaterhero.com](http://www.ocwaterhero.com)

Within the last six months, the following YLWD activities have also occurred to further communicate with the public related to water conservation:

- Worked with stakeholder groups (HOAs, City, Large Residential Users and Developers) to determine their needs and how they can best apply YLWD's conservation ordinance to their specific situation.
- Expanded the website to include detailed information and common questions related to the conservation ordinance and to include additional landscaping information to assist customers with their landscape.
- Redesigned the quarterly Customer Newsletter and monthly Bill Inserts to convey the water conservation message.

Given all of this communication and work that is planned, will there still be shortages as part of the "looming water crisis"? As discussed in other locations in this response, there are many issues that need to be resolved to fix the state's water crisis. Until then, we fully expect that water shortages will occur from time to time.

***F.3: LAFCO is the agency charged with facilitation 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 of the Orange County retail water agencies, acting on their behalf with their surface water supplier Metropolitan.***

***(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.***

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

***(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.***

YLWD agrees with this Finding



The ongoing disagreement is primarily between MWDOC and various water agencies located in the southern portion of Orange County. While YLWD is not directly involved with these disagreements, YLWD is in agreement that resolution of these pending issues would benefit all water suppliers in Orange County.

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

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

***(b). The difference in groundwater availability provides opportunities for responsible participants to develop and construct long-term solutions which will benefit the entire County.***

#### **YLWD agrees with Finding F.4(a)**

This recognition of water rights mirrors the manner in which Orange County was developed. Development in South County was enhanced by the south county water agencies ability to obtain imported supplies and develop extensive recycled water programs.

#### **YLWD disagree partially with Finding F.4(b)**

The finding is not clearly stated, but appears to include two implications that we believe require expanded information. The first implication is that local resources are not being fully developed in south Orange County. This is not correct. Critical groundwater, recycled water and ocean water supplies are all being developed in south Orange County.

While the Grand Jury is correct in its supposition that there are opportunities presented in this issue as well as problems, the second implication here is that the OCWD Groundwater Basin has the capacity to serve the entire county. This is not correct. The groundwater basin is managed and utilized to provide water supplies to its overlying constituent landowners. The operable storage in the basin has been developed at substantial cost and is insufficient to meet all demands within the basin. Currently, the groundwater basin meets about 62% of the needs of the overlying agencies (historically, has ranged from 62% to 80%) and the groundwater cost is substantially less than the cost of imported water. If additional supplies can be developed, the % distribution to the overlying entities would increase. It will never reach 100% and so it can be concluded that the supplies from the basin must remain in the basin to benefit the basin constituents. This is also consistent with water rights law and the OCWD Act that formed OCWD and governs how it operates and manages the basin.

Use of storage in the OCWD basin is allowed by agreement with OCWD. OCWD has entered into storage arrangements that allow MET to store up to 66,000 AF of imported water and to recall as much as 20,000 AF out of this same storage in any one year. This additional yield out of storage benefits everyone in Southern California. In addition, a February 2006 Emergency Services Program Agreement was developed with OCWD

that allows emergency water supplies from the basin to be exchanged with south Orange County. This program is currently being used to allow exchange of water to south Orange County during emergency situations. Finally, development of projects by OCWD like GWRS benefit the south County area as well as all of southern California.

Allowing access to the lower cost groundwater outside of the basin or allowing access to more storage by south Orange County would increase the cost to the basin agencies and put them at risk.

### **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 F1 a & b, and F2 a & b)***

#### **This Recommendation will not be implemented**

This recommendation does not directly apply to YLWD since the municipal planning agency is the City of Yorba Linda. However, it should be noted that YLWD is the respective water agency and prepares an Urban Water Management Plan and updates it every five years. In addition, MET prepares an UWMP, its IRP and updates and its Water Supply Outlook periodically. The CEQA process also provides YLWD the opportunity to provide comments on developments. Collectively, these documents provide what has been suggested. For new developments of greater than 500 units, a Water Supply Assessment must be completed – this is existing law. In addition, the water community measures performance (supplies vs. demands) as we move forward and will be able to make adjustments in the process.

Should the City of Yorba Linda choose to adopt a dedicated Water Element within their General Plan, YLWD is committed in assisting the City with that endeavor by providing all necessary support.

***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 larger issues surrounding water supply constraints facing Orange County. 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. (Findings F2 a & b)***

## **This Recommendation has been implemented**

We believe the response to this question should be separated into two points, the first associated with the public outreach programs and the second with respect to emergency planning.

### Public Outreach

While the recommendation has already been implemented, more innovative types of communications will be considered. The communications systems in place provide sufficient opportunities for the public to become informed. The description of these communication systems was previously provided. We can always do better and look for an expansion of opportunities. This is especially important as new Bond Issues come before the voters, as is anticipated heading into 2010.

### Emergency Planning

"A complete sudden break in the imported supplies" was a component of the statewide Golden Guardian exercise in 2008 in which 20 of Orange County's water and wastewater utilities participated. This type of exercise or variations of it are repeated periodically.

WEROC has expanded its preparedness efforts regarding water supply by initiating a new partnership with the Orange County Health Care Agency's Point of Dispensing planning and exercises. WEROC is exploring ways to enhance public education of "water preparedness" through the 2009 Point of Dispensing exercises. However, the purpose of the exercises is for water and wastewater agencies to practice their procedures and communications systems to ensure that restoration of service will be in as short a period as is possible. These exercises are not for general consumers. When a large earthquake strikes, we know we cannot protect the entire water system and there will be outages. Our recommendation to consumers is to be prepared to go without water systems for 72 hours or longer.

***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. (Findings F3 a, b & c)***

## **This Recommendation will be implemented.**

YLWD is committed to providing resources and the assistance necessary to resolve these pending governance issues.

***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 F4 a & b)***

## **This Recommendation is already being implemented**

The Water Emergency Response Organization of Orange County (WEROC) has been established to conduct emergency planning and preparedness at the regional level and response to disaster type events that impact the water and wastewater agencies within the County. WEROC participates with Regional and statewide forums as well. Each retailer also has plans and activities they conduct to be in a state of emergency preparedness. The retail agencies also work together to support one another through the network of emergency interties between agencies that allow water to be shuttled back and forth during emergency situations. WEROC's focus and the focus of emergency planning is to improve "system reliability", the ability to continue meeting demands when parts of the water system have suffered outages. This is distinguished against "supply" reliability which has to do with having supplies to deliver through the system.

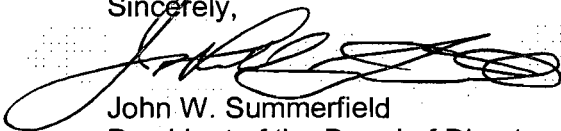
With respect to regional system reliability, Orange County has been successful in requesting MET to improve the reliability of the Diemer Filtration Plant in Yorba Linda. MET is in the process of making substantial investments to protect the plant from being damaged by seismic shaking. The Diemer Plant treats most all of the imported drinking water in Orange County.

We also believe there was confusion in the Grand Jury Report between a "catastrophic" impact of a Delta Failure, which is more of a long term water "supply" issue, and therefore different than a WEROC test exercise type of "system" event. Much work is underway on resolution of the Delta issues, but not through WEROC. WEROC does conduct test exercises in Orange County of the type noted by the Grand Jury.

We would also like to note that responses to drought situations are included when YLWD completes the Urban Water Management Plan. Responses must include supply analyses for normal years, single dry years and multiple dry years and must also include drought response measures for up to a 50% level of shortage. The Urban Water Management Plans address many of the issues raised by the Grand Jury.

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 Ken Vecchiarelli, General Manager of Yorba Linda Water District.

Sincerely,



John W. Summerfield  
President of the Board of Directors

Cc: **Orange County Grand Jury**  
Board of Directors  
Ken Vecchiarelli, General Manager