

August 26, 2008

Honorable Nancy Wieben Stock
Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response to Orange County Grand Jury Report "Water Budgets, Not Water Rationing"

Dear Judge Wieben Stock:

This office provides legal services to the City of La Palma, and I serve as the La Palma City Attorney. Pursuant to California Penal Code sections 933(c) and 933.05, the City Council of the City of La Palma, which is the governing body of that public agency, has reviewed, and hereby provides these comments to the Presiding Judge of the Orange County Superior Court on, the findings and recommendations pertaining to the Orange County Grand Jury's May 22, 2008 report entitled "Water Budgets, Not Water Rationing:"

Finding F-1: Opportunities for further water conservation exist, especially with regard to landscape watering.

Response: Pursuant to Penal Code section 933.05(a)(1), the City of La Palma agrees with the finding.

Finding F-2: Conservation pricing, or tiered pricing, with a fair and reasonable base allotment, followed by tiers of higher rater, can be an effective tool to motivate further conservation.

Response: Pursuant to Penal Code section 933.05(a)(1), the City of La Palma agrees with the finding.

Recommendation R-1: Continue to emphasize methods and availability of tools that assist customers in understanding weather-based irrigation practices by:

- **Providing a hotline for assisting the public with landscape irrigation information.**
- **Providing a countywide soil texture map on the MWDOC website.**

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- **Developing an Orange County specific water calculator on the MWDOC website.**

Response: Pursuant to Penal Code section 933.05(b)(2), the recommendation has not yet been implemented, but will be implemented in the future. The City of La Palma anticipates that implementation will occur during the next six months, and notes that MWDOC has committed to implementation of these recommendations by November 20, 2008 on behalf of itself and the retail water agencies in Orange County..

Recommendation R-2-B: Develop monthly water allocations for each customer based on both of the following:

- **A per person indoor water allotment that satisfies basic needs.**
- **An outdoor water allotment that applies the weather-based method over the customer's landscape area.**

Response: Pursuant to Penal Code section 933.05(b)(3), the recommendation requires further analysis with respect to the financial and technical feasibility of the City of La Palma implementing the specific recommendations, and whether the City of La Palma has sufficient staff and/or resources budgeted in this fiscal year to implement the recommendation. It is anticipated that such analysis will be conducted within six months from the date of the Grand Jury report.

Recommendation R-2-B: Develop a tiered-pricing structure with the first tier based on individual customer water allocation priced at a commodity rate, and subsequent tiers priced significantly higher to encourage conservation. The pricing should be structured in a manner that will preclude the necessity of price increases as a result of reduced water use.

Response: Pursuant to Penal Code section 933.05(b)(3), La Palma determines that this recommendation requires further analysis, in order to determine if the recommendation can legally be implemented in compliance with Article 13D of the California Constitution, as interpreted by the California Supreme Court in *Bighorn-Desert View Water Agency v. Vergil*, 30 Cal.4th 205 (2006), and the California Court of Appeal in *Pajaro Valley Water Management Agency v. Amrhein*, 150 Cal.App.4th 1364 (2007).

Recommendation R-2-C: Modify water bills to clearly explain monthly allotment and monthly water usage.

Response: Pursuant to Penal Code section 933.05(b)(3), the recommendation requires further analysis with respect to the feasibility of the City of La Palma including such monthly allotment and water usage information in customer water bills by means of the City's existing

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water billing software. It is anticipated that such analysis will be conducted within six months from the date of the Grand Jury Report.

Please feel free to contact the undersigned or La Palma Public Works Director Ismile Noorbaksh (714-690-3311) should you have any questions regarding the responses of the City of La Palma to the Orange County Grand Jury's report entitled "Water Budgets, Not Water Rationing."

Very truly yours,

RUTAN & TUCKER, LLP


Joel D. Kuperberg

JDK:t

cc: Laurie Murray, City Clerk
Ismile Noorbaksh, Director of Public Works