

“The 20 METER Study”

SUMMARY

The Orange County Sanitation District (OCSD) is one of the largest sanitation districts in the country. In 1996 OCSD completed an offshore water-testing program referred to as “The 20 Meter Study.” The results were not published for over five years. While making no comment on the validity or significance of the data, the OCSD needs to ensure that all relevant data are passed on to its Board of Directors, and the public in a timely manner.

PURPOSE

The Grand Jury was informed that the results of a publicly funded study performed by OCSD have not been disseminated to the public in a timely manner; specifically “The 20 Meter Study.” The purpose of this study is to determine how OCSD disseminates their research findings to the public and if OCSD accurately conveys research findings in a timely manner to its management, the Board of Directors and the public.

BACKGROUND

The OCSD is a public agency responsible for the treatment and disposal of sewage for northern Orange County, serving over 2.2 million people. It is the third largest treatment system west of the Mississippi. OCSD discharges a combination of primary and secondary treated sewage through a 120-inch outfall pipe into the ocean. Two hundred forty million gallons of sewage daily (or 88 billion gallons annually) are discharged through a series of openings in the outfall pipe onto the seabed at a distance of approximately four and one half miles from shore. The OCSD has an active ocean testing and monitoring program.

The Clean Water Act of 1972 and 301(h) Permit

The Clean Water Act of 1972, 33 U.S.C.A. Section 1251, et seq., was enacted to restore and maintain the integrity of the nation’s waters and prohibits the discharge of any pollutant into navigable waters of the United States, except in compliance with the

provisions of the Act. The Act requires that all sewage discharged into the ocean be treated to secondary treatment standards. However, Section 301(h) of the Clean Water Act allows site-specific requirements to be established for qualifying agencies to treat to less than full secondary standards. OCSD discharges a mixture of treated sewage; part is treated to primary treatment levels and part is treated to secondary treatment levels.

It has been OCSD's practice to apply for a Section 301(h) permit (or waiver) of the Clean Water Act granted by the United States Environmental Protection Agency (EPA); this permit has been granted. The State of California Regional Water Quality Control Board (RWQCB) is responsible for monitoring adherence to the conditions of the EPA permit. The permit is granted for five-year intervals. The current permit will be up for renewal in the year 2003. The decision to continue to request a Section 301(h) permit is a policy decision made by the OCSD Board of Directors and is not within the purview of the Grand Jury.

The Sewage Plume

The 240 million gallons of sewage dispersed daily form an underwater plume. This resultant plume of sewage is not stationary. It is dispersed by ocean currents that vary dependent upon many factors such as wind, tide, water temperature, and weather patterns which make it practically impossible to model accurately.

Oversight

The RWQCB exercises general oversight as the regulatory agency; however OCSD is essentially self-monitored and, with the exception of Clean Water Act and permit requirements, is free to decide what data or research to reveal to RWQCB and the public. Failure to disclose scientific data compromises the decision-making process.

“The 20-Meter Study”

In late 1996, OCSD undertook a study to obtain and test ocean water samples along a line of 20 meters in depth (or approximately 60 feet) to more accurately capture the

movement of the sewage plume at that moment in time. This study was paid for by OCSD, whose funds are derived in most part by rates passed on to users. The Grand Jury found no evidence that the results from this study were presented to the OCSD Board of Directors, the RWQCB, the Orange County Health Care Agency, or the public.

Five years later, in early 2001, the results of "The 20 Meter Study" were revealed for the first time in a slide included in an OCSD presentation. This presentation was made at a conference attended by environmental activists, representatives from the Orange County Health Care Agency, and OCSD. In response to questions from the audience, OCSD stated that a report on "The 20 Meter Study" would be prepared. In August of 2001, OCSD committed to make the report available within the following thirty to sixty days.

The Grand Jury reviewed OCSD Board of Directors minutes from late 1996 to mid 1998 and found no mention of the "20 Meter Study." A separate review of the minutes of the OCSD Operations, Maintenance and Technical Services Committee for the same time period also found no mention of the "20 Meter Study." There was no evidence that the study was presented to OCSD Board of Directors. Furthermore, the RWQCB had no written record of receiving a report on the "20 Meter Study." The report was finally published at the end of March 2002.

Dissemination of Information to the Public

The OCSD recognizes the benefit of communicating with the public. It has hired communication staff and updated its website. The portion of the ocean monitoring program required under the permit is published on the website and is available in print or on compact disk. The results of other studies not required by the Clean Water Act permit are not included. Interviews with OCSD indicate that no written procedures currently exist to cover the preparation or dissemination of research studies.

The OCSD maintains two servers. A server is a computer, usually on the World Wide Web, which provides information to a client, for example a desktop computer. The first is a web server for the OCSD web site (www.ocsd.com). The second is a file server that is

a repository of research information. It is an unlisted repository used by OCSD researchers and staff to post and share study data, findings, and results. A file server gives a directory listing of files, but provides neither information on the content of the files nor any instructions on how to use the file server to acquire information. Furthermore, the existence of this file server is not widely publicized. The website makes no reference of it, nor provides access to it.

METHOD OF STUDY

The Grand Jury conducted interviews with administrative, technical, and operational staff of OCSD, a representative of the Regional Water Quality Control Board, Orange County Health Care Agency, as well as university consultants, environmentalists, and concerned citizens. The Grand Jury has attended meetings at OCSD, including meetings of its Board of Directors, and toured the OCSD plant. The Grand Jury also reviewed published information from OCSD including its Strategic Plan, minutes of OCSD Board of Directors, and minutes of the OCSD Operations, Maintenance and Technical Services Committee.

FINDINGS

Under *California Penal Code* Section 933 and Section 933.05, responses are required to all findings. The Orange County 2001-2002 Grand Jury arrived at seven findings:

1. Relevant data, including the “20 Meter Study” have not been released to the public in a timely manner.
2. Publicly funded studies are vital to ongoing research of water quality.
3. OCSD has not disclosed the existence of all publicly funded studies.
4. OCSD has no written procedure regarding the preparation of reports or the dissemination of study results.
5. The results of some OCSD studies have not been published.
6. There is no single listing available of approved OCSD study topics.
7. There is limited public access to unpublished OCSD research data.

A response to Findings 1 through 7 is required from the Board of Directors of the Orange County Sanitation District.

RECOMMENDATIONS

In accordance with *California Penal Code* Section 933 and Section 933.05, each recommendation must be responded to by the government entity to which it is addressed. These responses are submitted to the Presiding Judge of the Superior Court. Based on the findings, the 2001-2002 Orange County Grand Jury recommends that:

1. Ensure that all relevant data are released to the public in a timely manner. (Finding 1)
2. Continue to fund and perform studies beyond those required by the permit. (Finding 2)
3. Ensure disclosure of all publicly funded studies. (Finding 3)
4. Establish and follow a written procedure on the preparation and dissemination of all studies. (Finding 4)
5. Publish the results of all studies. (Finding 5)
6. Compile a list of approved study topics and publish this list on the OCSD website. (Finding 6)
7. Provide public access to research data. (Finding 7)

A response to Recommendations 1 through 7 is required from the Board of Directors of the Orange County Sanitation District.