



September 7, 2023

Hon. Maria D. Hernandez, Presiding Judge
Superior Court of California for the County of Orange
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Grand Jury 2022-2023 investigation titled "**Historic Rain, Yet Drought Remains,**"

in accordance with California Penal Code Sections 933 and 933.05, the Yorba Linda Water District (YLWD), which was "requested" to respond, addresses the Grand Jury's findings and recommendations as follows:

F1 FUTURE WATER SUPPLIES ARE IMPACTED BY CLIMATE CHANGE AND CURRENT SUPPLIES WILL NOT MEET FUTURE DEMANDS.

YLWD Response to F1: YLWD is not prepared to offer an opinion as to whether climate change has a material effect on local water supplies. YLWD respectfully asserts that current California and imported supplies will continue to meet the needs of of current and future Orange County residents. However, appropriate investments in storage infrastructure and in conveyance systems on a regional and statewide basis are necessary to improve reliability of supplies.

F2 CLIMATOLOGISTS PREDICT FUTURE EXTENDED PERIODS OF LOW MOISTURE WITH OCCASIONAL WET YEARS.

YLWD Response to F2: Historical records of California show that annual rainfall is highly variable and difficult to predict. For example, the winter of 2022-2023 was predicted to be another dry year and we know what happened. We expect both dry and wet years to continue with accurate predictions being difficult. As demonstrated recently, however, these predictions are often grossly inaccurate. In California, the winter of 2023 was predicted to be very dry. It ended up being one of the wettest winters in recent memory. Long-range forecasts also predicted the winter of 2024 to be dry, but it is now predicted to be wetter than average. Relying on extended forecasts is not a practical or reasonable metric in developing water policy or planning infrastructure.

F3 CLIMATE CHANGE IS INEVITABLE AND IS EXACERBATED BY HUMAN BEHAVIOR.

YLWD Response to F3: Climate change is a global phenomenon and the current warming is caused by many factors that are outside the jurisdiction of the YLWD. YLWD does follow all climate and other policies set by California legislative and regulatory bodies.

F4 SOUTH ORANGE COUNTY RELIES PRIMARILY ON THE IMPORTATION OF WATER.

YLWD Response to F4: YLWD is situated in northern Orange County and has prepared their mandated twenty-five-year water reliability plan (Urban Water Management Plan) and the required Urban Shortage Contingency Plan. All California agencies, like South County, prepare these plans.

F5 LOCAL WATER SUPPLIERS RECOGNIZE THAT ENHANCED STORMWATER CAPTURE AND STORAGE, WASTEWATER RECYCLING, AND INFRASTRUCTURE IMPROVEMENTS WILL NOT BE SUFFICIENT TO ADDRESS THE LONG-TERM FORECAST OF DROUGHT AND ITS EFFECTS ON SUPPLY.

YLWD Response to F5: YLWD does not agree with this finding. While stormwater capture and wastewater recycling alone will be insufficient to meet future demands, YLWD asserts that proper investment at the regional, state and federal levels would almost certainly assure a system that meets all local water demands. Over the past 50 years, Metropolitan and local water providers within Metropolitan's service area have invested billions of dollars in water infrastructure for storage (Diamond Valley Lake is a prime example), conveyance, and wastewater recycling (such as the Orange County Groundwater Replenishment System which produces up to 130 million gallons per day of clean water). The same cannot be said for state and federal efforts that provide the source water for local consumption. YLWD asserts that future local demands can be met with significant investment in water infrastructure at the state and federal levels.

YLWD also notes that stormwater capture via Prado Dam is viable but other options are prohibitively expensive (up to 25 times more expensive than more conventional water sources or \$25,000 per acre foot). With Southern California's sporadic rainfall, investing in infrastructure to capture storm runoff from streets and gutters a few days a year is a poor investment. The better investment would be in large dams and reservoirs that would capture mountain snowpack and storm flows.

F6 THERE IS SIGNIFICANT WATER INFRASTRUCTURE PLANNING, BUT INADEQUATE IMPLEMENTATION.

YLWD Response to F6: YLWD agrees in part and disagrees in part with this finding. YLWD agrees that implementation at the state and federal levels falls short. The lingering Sites Reservoir project is a glaring example. At the local level, however, YLWD respectfully asserts that Metropolitan and agencies within the Metropolitan service area (and specifically within Orange County) have excelled in the funding and implementation of significant water infrastructure. Again, examples of forward-thinking, innovative investment include Diamond Valley Lake and the Orange County Groundwater Replenishment System.

YLWD respectfully asserts that the State of California's lackluster progress on the development of water infrastructure is the result of political and special interest influences rather than a lack of available funds. The State Water Project was completed 50 years ago (1973 – the exact year that CEQA was born), and there has been virtually no development of significant water infrastructure (other than local projects) since then. The only notable exception to this is the construction of Diamond Valley Lake (810,000 acre feet of new storage) by Metropolitan which was funded 100% by local ratepayers. Environmental special interests nearly halted that project forcing Metropolitan to expend significant ratepayer dollars for mitigation to address environmental "concerns." It is these types of issues that delay or derail significant projects.

Similarly, the "twin tunnel" conveyance project through the Sacramento-San Joaquin River Delta has been blocked by political and special interest objections. Metropolitan had guaranteed the entirety of the project with its local ratepayer dollars only to see it thwarted by these other forces.

F7 THE REVIEW AND APPROVAL PROCESS FOR MAJOR WATER CAPITAL PROJECTS IS CUMBERSOME AND OVERLY RESTRICTIVE.

YLWD Response to F7: YLWD agrees with this finding. The proposed desalination in Huntington Beach, which could have provided a significant supply of water, endured two decades of review only to be denied approval on environmental concerns. The California Environmental Quality Act (CEQA) is excessively burdensome. The costs associated with CEQA coupled with the bureaucracy and the labyrinth-like process to comply with CEQA are often enough to derail otherwise worthy projects.

F8 FAILING TO FIND SOLUTIONS TO WATER SHORTAGES WILL HAVE A SIGNIFICANT IMPACT ON THE ORANGE COUNTY ECONOMY.

YLWD Response to F8: YLWD disputes that there is a water shortage. As stated herein, YLWD believes there is a shortfall of planning and execution to provide adequate storage and conveyance infrastructure on a state and federal

level. This lack of infrastructure renders the State of California unable to capture and store runoff from its record 2023 snowpack resulting in most of that water ending up in the ocean. To the extent that such lack of infrastructure contributes to an actual water shortage in Orange County, then YLWD agrees that such an actual shortage may have an impact on the economy in Orange County.

F9 CONTINUED DEVELOPMENT IN ORANGE COUNTY CREATES ADDITIONAL WATER SUPPLY NEEDS.

YLWD Response to F9: YLWD agrees with this finding to the extent that such new development is actually “new” and not merely replacement of other development and that such development is not offset by other efficiencies. Moreover, the newer, higher density infill projects create the most demand on local water supplies as many more people are occupied using water in the areas where infrastructure is designed for fewer users.

F10 CONSERVATION AND EFFICIENT USE OF WATER IS ESSENTIAL.

YLWD Response to F10: YLWD respectfully asserts that conservation and water use efficiency have a minimal effect on overall water supply. Moreover, “conservation” is not new supply and should never be considered as such. While all retail water agencies should encourage responsible water use, the effort and money put into draconian mandates would be better invested in developing actual new supplies through new storage and conveyance.

F11 INCREASED OUTREACH AND PUBLIC EDUCATION ARE NECESSARY.

YLWD Response to F11: Water agencies in Orange County and Metropolitan at a regional level, all have robust public outreach and education programs that are implemented on a daily basis. These programs are necessary to stress the importance of water in our lives, to reinforce the need to use water responsibly, and to educate ratepayers on the value they receive from their local agencies. Any increase in these efforts may be superfluous and reach a point of diminishing return on investment. YLWD asserts that investment in outreach to state and federal officials/governing bodies may be more worthwhile. YLWD believes that the impacts of significant state and federal investment will have more impact on local water supply than more repetitive conservation messaging to consumers.

F12 Desalination has proven to be technologically and environmentally feasible and is slowly being embraced as a drought-resistant source of water.

YLWD Response to F12: Desalination is a proven process and the 20,000 operating plants provide water for more than 300 million people, according to the International Desalination Association. YLWD adds the caveat that water produced with the desalination process is expensive primarily due to

significant capital and energy costs. While desalination appears to be environmentally and technically feasible, the California Coastal Commission denied a permit for the \$1.4 billion seawater desalination plant in Huntington Beach and cited concerns about the impact on ocean habitat, the cost to operate the plant and its location along an earthquake fault zone.

R1 THE COUNTY OF ORANGE BOARD OF SUPERVISORS SHOULD TAKE A LEADERSHIP ROLE BY THE END OF CALENDAR YEAR 2023 TO EXPLORE THE ESTABLISHMENT OF A "CLIMATE RESILIENCY DISTRICT" OR JOINT POWERS AUTHORITY TO FUND AND EXPEDITE IMPLEMENTATION OF A DROUGHT-RESISTANT SOURCE OF WATER.

YLWD Response to R1: YLWD strongly disagrees with this recommendation. Water is already one of the most highly regulated and bureaucratic industries in California. Another oversight agency or Joint Powers Authority (JPA) would provide no benefit to enhancing local water supply. Requiring local water suppliers to yield to yet another level of authority and a new set of rules will only hamper efforts to increase resiliency and reliability in our local water systems. This would also further erode the local control of elected bodies throughout Orange County and cram down yet another "one size fits all" mandate.

R2 ORANGE COUNTY WATER AGENCIES SHOULD EXPEDITE THE PLANNING, DEVELOPMENT, AND CONSTRUCTION OF DESALINATION PLANTS OVER THE NEXT FIVE YEARS TO INSURE A SUSTAINABLE AND RELIABLE DROUGHT-RESISTANT SOURCE OF WATER.

YLWD Response to R2: YLWD neither agrees nor disagrees with this statement. Determining the level of effort and money that should be devoted to desalination requires consensus on how much water is actually needed, at what cost, who would pay for it, and how the water would be distributed. Beyond that, such planning and development would be futile without the upfront approval of state and/or federal superpowers like the California Coastal Commission and other permitting agencies outside of Orange County.

R3 THE COUNTY OF ORANGE AND ALL ORANGE COUNTY CITIES SHOULD FORMULATE AN EMERGENCY DEVELOPMENT MORATORIUM PLAN IN ANTICIPATION OF THE COLORADO RIVER WATER SUPPLY BEING CONSTRAINED. THE EMERGENCY MORATORIUM PLAN SHOULD BE DEVELOPED BY THE END OF CALENDAR YEAR 2023.

YLWD Response to R3: YLWD strongly disagrees with this recommendation. Among the most obvious problems with this idea is the fact that the State of California has declared a severe housing shortage that only can be addressed by the development of new housing. Beyond that, YLWD believes that a cessation of development presents a far more negative impact to the Orange County

economy than a theoretical future water shortage. YLWD strongly believes that any impacts from the modest 3-year reductions in supplies from the Colorado River can be more than offset through other means as set forth herein. The Colorado River is only one source of supply in a robust statewide, regional and local water portfolio. The mandated temporary reduction in water supply from one of many sources is manageable. Shutting down development in this instance amounts to panic in YLWD's opinion. Doing so would unnecessarily result in widespread business failures, unemployment, and stagnation in the local economy.

R4 ORANGE COUNTY WATER AGENCIES SHOULD UPDATE THEIR PUBLIC COMMUNICATION STRATEGIES, BY CALENDAR YEAR END 2023, TO INFORM THE PUBLIC OF LIFESTYLE CHANGES IF ADDITIONAL WATER SOURCES ARE NOT DEVELOPED.

YLWD Response to R4: YLWD's demonstrated practice is continually to update its communications with the public to reflect current trends and issues facing YLWD and its ratepayers. That said, YLWD does not believe in using its communications tools in a coercive or threatening way as this recommendation clearly suggests. YLWD does not believe that "lifestyle changes" are in any way imminent for its ratepayers. YLWD uses physical science and engineering rather than social science and social engineering as the basis of its water policy and infrastructure plans. As a producer in the Orange County Groundwater Basin, and as a Metropolitan member agency (through the Municipal Water District of Orange County), YLWD and its ratepayers have invested heavily in a reliable and resilient portfolio of water supply. YLWD objects to the notion that it should stray from the promises it has made to its ratepayers that it is providing, and will continue to provide, a safe, reliable, and resilient supply of drinking water that meets all standards for water quality.

Respectfully submitted,



Brett R. Barbre, President
Yorba Linda Water District