

MWDOC RESPONSE TO GRAND JURY REPORT

“Paper Water” – Does Orange County Have a Reliable Future?

Introduction to the Grand Jury Response

Thank you for your interest and examination of the reliability of water supplies to Orange County. We are grateful for your interest and believe it will add to the voices trying to raise awareness of our current water supply problems. We do not disagree that the state and Southern California have a water supply problem at this time. However, you will find that we are not in full accord with some of the findings and the recommendations.

Our disagreement arises from the specifics of the findings and/or recommendations. For example, we concur that the cutbacks on the State Water Project supplies beginning in 2007 have occurred due to issuance of an Endangered Species Act required biological opinion on the impacts of Delta export pumping on the Delta smelt. Prior to that time, our water supplies were much more reliable.

Where our disagreement arises is that the Grand Jury has issued a number of recommendations within Orange County to correct or raise the awareness of this situation. The water supply problem is primarily occurring outside of Orange County and therefore not necessarily within Orange County’s control. For example, we find it difficult to support a finding that there is inadequate coordination between local land-use planning agencies and local water supply agencies. We believe there is adequate coordination. The planning process begins at the most local level when the property developer prepares a land use plan and works to gain approval from the local land use planning entity (city or county). Furthermore, as the project progresses, the California Environmental Quality Act requires full consideration and compliance with environmental laws, including water resources. For developments of over 500 units, additional water supply assessments are required by law through SB-610 and SB-221 to demonstrate an adequate water supply. Finally, as the project moves into the construction phase, the local water supplier must provide a “will serve” letter to meet the project needs. In the planning process, uncertainties with respect to water remain at the state and regional level, but more coordination between planning entities and water supply entities will not result in more water being made available.

In summary, we would like to comment on 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 largely out of our hands.

- **The regulatory process causing impacts to our water supplies is very complex and getting the public to grasp the specifics of the situation is difficult and not necessarily required to get their help in responding to the call for additional levels of conservation.**
- **Our polling, and the public’s interest in water conservation rebates, indicate that a high percentage of consumers understand we currently face restrictions in our supplies.**
- **We have communication systems in place that provide ample opportunity for the public to find out specifics on the reliability of water supplies, if they desire. The Urban Water Management Plans and other documents can be readily obtained from every city and special district.**
- **The availability of water from the OCWD groundwater basin is controlled via legislative and water rights’ law; within those limitations, the basin and non-basin areas have a history of working well together.**
- **The Grand Jury Report mixes up issues associated with state-wide emergency preparedness with supplies from the Bay-Delta area and local 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 local emergency response in the County. Participation in the 2008 Golden Guardian exercise is exactly what was recommended by the Grand Jury.**
- **From the 1920s up until the 1980s, 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. There are no more “easy” or “inexpensive” solutions.**
- **The biggest urgency in solving the long term water supply problems that affect most all of us in the state of California is to get the Governor, the legislature (democrats and republicans), the Department of Water Resources and the Federal Regulatory entities all working in the same direction to solve the problem.**
- **To date, attempts to balance all of the competing interests required to solve the state-wide water supply problem have created an impasse. Work is underway to resolve this, but developing a long-term working Bay-Delta area is likely a 10 to 20-year issue that will cost between \$10 and \$20 billion to resolve, ONCE agreement is reached among stakeholders regarding a course of action.**
- **If allowed under their charter, a recommendation for a future Grand Jury would be to investigate progress at the state Level. Any help you can provide in resolving that situation**

would be valuable. Some believe that 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 to push through with a solution. We are prepared to assist the Grand Jury when called upon.

- We have a dilemma in our outreach messaging regarding water supplies over the short term and long term. Even given the recent state-wide shortages, the plan by the water community is to meet the needs of the public for the long run. Our short run messaging is that we are running short of water, we need to conserve supplies, we may have rationing in our future, but new developments can still be approved by local planning jurisdictions because the job of the water community is to supply water to meet appropriate demands.
- Today, as we respond to this Report, our agencies are operating under various levels of water rationing (from 3% up to 14%). 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 just a “problem” that will be solved in time. A very severe drought or an earthquake causing failure of the levees may help push us to 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 doing that. The “problem” group noted that things can turn around quickly and reservoirs can fill quickly and that we are officially in an El Nino position (wet year coming up).

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.

Disagree. Water agencies aren’t 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 us 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 is short, we are all short. 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 in the early 1990's following the defeat of the "peripheral canal" and 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."

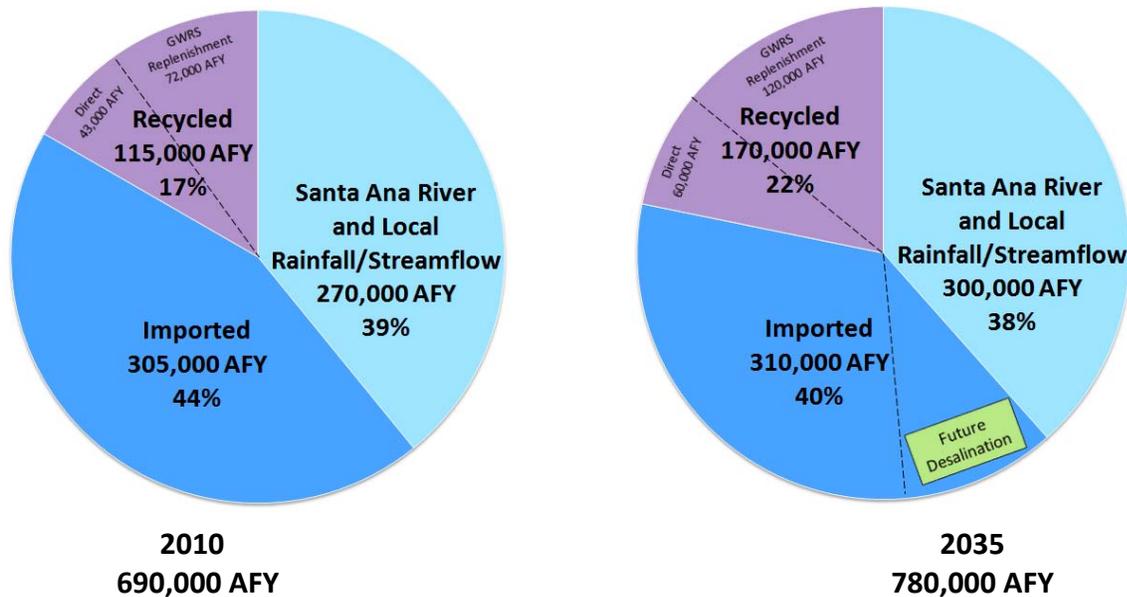
Although the water supply situation has changed drastically since the judicial ruling handed down in 2007, the same framework and goals still apply. The change in the underpinning of our water supplies, as noted by the Grand Jury, is the significant immediate loss of a large portion of supplies from 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 (our current planning horizon).

One observation is that the Grand Jury report references a looming crisis but does not give sufficient credit of the water communities' understanding of the problem or what is being done 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 is planned to result in recouping as much as half of the supplies that we have 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.

We agree that the water crisis receives too little concern, but it is not for lack of trying 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 of getting water issues to be recognized by the public. If water were to be turned off for only a couple of hours today, the county would be in an uproar in short order. 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 as will be having an informed constituency for decision-making and voting (when necessary).**
- **The water community has been extremely successful, leading to complacent consumers.**

There are considerable challenges to getting 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 have them educated for purposes of securing positive votes on water related initiatives, if needed. Water is not an interesting topic unless there is a line break with a major sink hole, a sewer spill on the other end of the system or people being forced to curtail their use. Typically, people do not see all that it takes to provide water to our homes and businesses. Many take water for granted, which causes it to be under valued. 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).

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 get the word out on the water supply situation and water conservation tips and opportunities. Retail agencies utilize bill stuffers, newsletters and websites to inform the public. In Orange County, we have monthly meetings of a Public Affairs Workgroup made up of the staff from all of the retail agencies. They work to develop and implement consistent message points for the public. MET also has a Public Information Officers 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 by MET through an advertising campaign.

While we are always open to new methods of communication, we believe the existing communication system works. Polling conducted 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.

Following is an outline of our 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. The following logo was adopted:



- 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.
- A 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 Inspection Tours are provided by MET for each of its Directors to host community leaders to get the word out on water issues
 - We have 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

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. That means until these issues are resolved, we fully expect that water shortages will occur from time to time.

F.3: LAFCO is the agency charged with facilitating 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.

Agree. This issue needs to be resolved – the sooner the better.

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.

Agree on finding 4.a., that the difference in groundwater availability creates a “haves versus have-nots”, but we do not find a problem with this. This recognition of water rights mirrors the way 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.

Disagree partially on finding 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 benefits 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.

GRAND JURY 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 because each agency that serves water already 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. 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), and as we move forward we will be able to make adjustments in the process. However, complying with the Grand Jury request for every municipal planning agency would be a duplication of efforts and ineffective in accomplishing the goal of the recommendation.

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)

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

The recommendation has already been implemented, but more innovative types of communications should be considered along with cost containment options. 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

The recommendation has already been implemented. “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 to the best of our ability to do so. MWDOC has dedicated quite a bit of time and resources to development of information, not only in the LAFCO process, but in numerous discussions with our client agencies.

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 developed. 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 provide and receive support with other agencies through the network of emergency interties between adjacent agencies that allows water to be shuttled back and forth during emergency situations. WEROC's focus and the focus of emergency planning in general is to improve "system reliability", the ability to continue meeting demands when parts of the water system have suffered outages. This is contrasted with "supply" reliability which has to do with having supplies to deliver through the system.

With respect to regional system, MWDOC has successfully engaged 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 agencies complete their Urban Water Management Plans. 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.

We would also like to correct the Grand Jury statement that South County System reliability is only 10% of the way to meeting our system reliability needs. Our goal is for the south Orange County area to be able to withstand an outage of the MET system for at least 7 days under average annual demand levels. With the projects that are mostly under design or construction (1 is under planning), 6 of the 8 south County agencies will have the ability to continue meeting demands for about 10 days without the MET system at annual average demand levels. Significant accomplishments have been made in system reliability over the past 10 years in south Orange County. The agencies are sharing costs in proportion to the benefits in the following projects:

- **Emergency Services Program (Irvine Interconnection Projects)**
- **Upper Chiquita Storage Reservoir**
- **Baker Water Treatment Plant**
- **South Orange Coastal Ocean Desalination Plant (Dana Point)**