



South Orange County Wastewater Authority

September 3, 2015

The Honorable Glenda Sanders
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response of South Orange County Wastewater Authority to 2014-15 Orange County Grand Jury Report "Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency"

Judge Sanders:

On behalf of the South Orange County Wastewater Authority ("SOCWA"), I respectfully submit the following responses to the findings and recommendation in the June 29, 2015, report, "Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency."

Grand Jury Findings

F4. *"Vertical Joint Powers Authorities with a single controlling entity, such as a city council, have the potential to use this organizational structure as a shell company to avoid other legal constraints on the controlling entity and to obfuscate taxpayer visibility."*

Response: SOCWA disagrees wholly with Finding 4 with respect to the purpose, structure, functions and activities of SOCWA. As described by the Grand Jury's terms in the report, SOCWA is a "Horizontal JPA," and owns and operates three wastewater treatment plants, and two major ocean outfall disposal systems, serving 10 member water and special districts and cities in South Orange County. SOCWA is governed by the 10 member board of directors, which meets monthly to conduct SOCWA's business. It is not a 'shell entity' and is fully within the purpose and authority of the Joint Powers Act, conducting a common purpose for its members through the terms of a Joint Powers Agreement and associated project committee agreements that set forth detailed terms for SOCWA's ownership and operation of these POTW systems. SOCWA, a consolidated successor entity to two separate joint powers agencies, was originally formed for the purpose of constructing, financing (through Clean Water Act grants) and operating **regional** wastewater treatment, conveyance and disposal facilities for the benefit of South Orange County. SOCWA offers no opinion as to other JPAs.

F5. *"Vertical Joint Powers Authorities in which the controlling entity transfers assets from itself to a Joint Powers Authority for the purpose of obtaining additional funding, or signs a long-term lease to a Joint Powers Authority to obtain assets, are avoiding transparency and are not acting in the best financial interest of the taxpayers."*

Response: While there may be support for this finding (which SOCWA is, in any case, unaware of), SOCWA disagrees wholly with Finding 5 as to the functions and activities of SOCWA. As described by the Grand Jury's terms in the report, SOCWA is a "Horizontal JPA" and is funded in accordance with its Joint Powers Agreement and related project agreements through an annual budget, established and approved by a vote of its member agencies, with ratifications by those members' own boards and councils. Each SOCWA member agency provides funding for SOCWA's wastewater operations via public and transparent processes for setting sewer service rates, and also by the application of other funding and revenue sources consistent with State and local laws. SOCWA offers no opinion as to other JPAs.

Grand Jury Recommendations

R3. "All Joint Powers Authorities should take the following actions to insure transparency to the taxpayers: (1) have an annual outside audit, (2) post the complete audit on their city website as a separate Joint Powers Authority entity, (3) send the audit to the County Controller and the State Auditor, and (4) ensure the required reports are filed annually to the County and the State. (F.4., F.5.)"

Response: SOCWA agrees wholly with Recommendation 3, and annually prepares a fiscal year audit ('Financial Statements and Independent Auditor's Report') using an independent certified public accounting firm, that is consistent with GASB standards. SOCWA has performed annual audits in this manner since inception (as did its' predecessor entities). SOCWA will continue its long-time process of sending the annual audit to the County Controller and State Auditor, consistent with the express terms set forth in its Joint Powers Agreement that mandate those filings, and as required by Government Code section 6505. SOCWA will post the audit on its web-site.

SOCWA appreciates the opportunity to respond to the Report. This responsive letter was considered by the Board of Directors of SOCWA and approved at a Regular Board meeting held August 6, 2015.

Please contact Betty Burnett, SOCWA General Manager at 949-234-5400, ext. 420, in the event further information or explanation is required.

Respectfully submitted,

SOUTH ORANGE COUNTY WASTEWATER AUTHORITY



Betty Burnett
General Manager

cc: SOCWA Board of Directors