



September 12, 2024

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

SUBJECT: *Emerging Opportunities in South County Water/Wastewater Systems - Findings and Recommendations*

Dear Judge Hernandez,

Enclosed are the South Coast Water District's (SCWD) responses to Findings 3 and 4 and Recommendation 2 of the 2023-2024 Grand Jury Report – *Emerging Opportunities in South County Water/Wastewater Systems*. SCWD acknowledges and appreciates the time and effort that the OC Grand Jury put into analyzing the complexities and nuances of water resources in Orange County.

In summary, SCWD disagrees with the OC Grand Jury's findings and recommendations. SCWD also disagrees with some of the language included in the OC Grand Jury's report. Attachment A includes two areas listed in the Grand Jury's report that merit further explanation and clarity.

FINDINGS

F3 - SOCWA's member agencies have widely diverse populations, requirements, and revenues. This has led to conflicts over governance, facility operation, and control, affecting the evolving potential for wastewater reuse.

Response: PARTIALLY DISAGREE

SCWD agrees that "SOCWA's member agencies have diverse populations, requirements, and revenues", as well as diverse expectations.

However, SCWD disagrees with the statement "this has led to conflicts over governance, facility operation, and control, affecting the evolving potential for wastewater reuse."

Recycled water (Title 22) development has been successful at two of the three SOCWA facilities (i.e. Coastal Treatment Plant [CTP] and Regional Treatment Plant [RTP]) over the past decades. The third SOCWA treatment facility, JB Latham (JBL), is planned to be utilized for indirect or direct potable reuse (IPR/DPR). Currently, the SOCWA agreement policies limit SOCWA's operational abilities to develop IPR/DPR. However, these can be revised accordingly.

Board of Directors

Doug Erdman
President

Scott Goldman
Vice President

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Director

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Director

Joe Muller
Director

Furthermore, we acknowledge that like any other Joint Powers Authority (JPA), SOCWA has had conflicts over governance and control. However, SOCWA member agencies are working effectively to resolve these conflicts. The JPA structure works well for SOCWA in providing multiple services that ALL participating agencies have in common. This is reflected in the industry standard for Key Performance Indicators (KPIs) which show that SOCWA operates at an elevated level.

KEY PERFORMANCE INDICATORS:

The performance of water and wastewater agencies is typically evaluated using KPIs as benchmarks. SOCWA excels in performance-based industry standard KPIs. Below are several examples of SOCWA's performance as listed in the agency's Optimization Proposal, presented to the SOCWA Board of Directors in July 2023 from a KPI Study conducted by Carollo Engineers for 2020-2021:

- a. SOCWA had zero National Pollutant Discharge Elimination System (NPDES) wastewater violations, superior to the survey average of one violation for other similar agencies.
- b. SOCWA's planned maintenance equated to 86% of work orders for all equipment, whereas the industry median is 61%.
- c. SOCWA had 0.50 Million Gallons (MG) of wastewater processed per employee, whereas similar agencies had 0.19 MG processed per employee.
- d. SOCWA used 757 Kilowatt hours (kWh) per MG of wastewater processed, in comparison to the industry median of 868 kWh per MG of wastewater.

The examples above speak to the quality of SOCWA's work. SOCWA performs better than many of its peers and it does so efficiently and in an environmentally friendly manner, which is a significant benefit to all member agencies.

ENVIRONMENTAL STEWARDSHIP:

SOCWA is an important player in the South Orange County region in the environmental stewardship arena, something that is of critical importance to SCWD as a coastal agency with very strong regulatory and environmental protection requirements. SCWD has a zero-sewer spill policy necessitated by our proximity to the coastline and the negative impacts of a spill on the marine environment and our community. SCWD has a commitment to respond to both public and private sewer spills with the intent to contain and collect 100% of sewage that is discharged. Due to SCWD's strong commitment to collecting 100% of sewage spills, the last spill that reached surface ocean waters was seven years ago. In the last six years alone, SCWD has invested over \$100 million in its sewer system, whereas other agencies may not be required to invest as heavily in their sewer systems because they are not as close to the coastline.

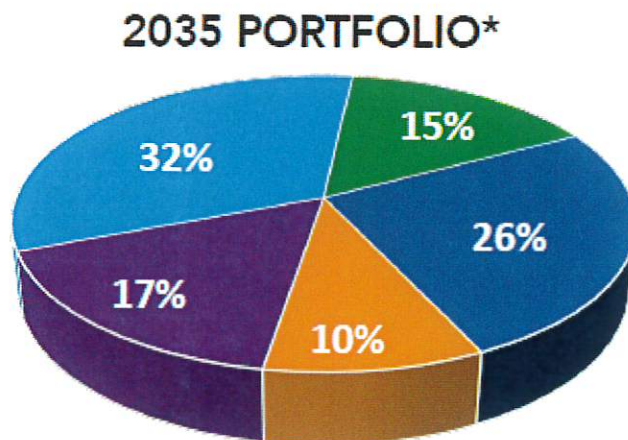
SOCWA provides a great benefit to SCWD and other member agencies because SOCWA coordinates and collaborates with its member agencies to monitor and ensure compliance with regulatory requirements such as National Pollutant Discharge Elimination System (NPDES) permit requirements which helps control water pollution in South Orange County. Specifically, SOCWA treats wastewater from all its member agencies to a level that is compliant with the NPDES permit before sending it out to the ocean via its two outfalls. SOCWA also provides weekly sampling and bacteriological testing services as well as chemical analysis of ocean water which helps ensure that ocean surface waters are safe for the public and the environment. Lastly, there are diversion structures (in SCWD's service area) that capture polluted dry weather runoff into the SCWD sewer system and convey it to SOCWA's treatment plants. SOCWA monitors and treats this runoff to prevent pollutants from reaching the ocean.

WASTEWATER REUSE:

In addition to the services listed above, SOCWA provides water recycling services to its member agencies and has been doing so since 1997 when the agency was issued a Master Recycled Water Permit allowing agencies to share recycled water across jurisdictional boundaries. SOCWA has developed and currently operates Advanced Water Treatment (AWT) facilities and has the potential to incorporate IPR and DPR if the agency were to revise its corresponding policies.

Updating SOCWA's policies to include IPR and DPR would allow SOCWA to provide its member agencies with recycled drinking water. Specifically, SCWD, like all partner agencies, is invested in advancing water reuse projects, including IPR and DPR. SCWD continues to be highly interested in expanding the beneficial use of wastewater, including IPR and DPR, which could potentially compose as much as 15% of our total water portfolio by 2035 as outlined in SCWD's Integrated Water Resources Plan (see figure 1 below).

Figure 1: SCWD's 2035 Water Portfolio



- Metropolitan Water District (MWD) Imported
- Local Groundwater
- Recycled Water
- Doheny Ocean Desalination
- Indirect/Direct Potable Reuse (IPR / DPR)

Additionally, as water usage requirements change and water becomes scarcer due to changing climate conditions, all SOCWA member agencies recognize that there is an increased need and value in ensuring that wastewater reuse continues to be developed in South Orange County. SOCWA can provide a regional solution, but changes need to be made in governing documents to facilitate IPR and DPR in the future. SCWD is also open to partnering with South County agencies in the development of IPR and DPR projects.

CURRENT NEGOTIATIONS:

As stated above, SOCWA member agencies have many differences, but despite these differences and the legal challenges in 2017, SOCWA and its member agencies have been working diligently over the last few years to achieve a governance structure and arrangement that fulfills all member needs. Those collaborative efforts have intensified since 2023 when facilitated discussions began at the SOCWA Board of Directors level to update the SOCWA agreements to address concerns related to the governance structure. At the time, SCWD presented Moulton Niguel Water District (MNWD) with a proposal allowing them to stay in SOCWA and immediately begin operating the RTP to facilitate their OASIS project. However, a decision was made by several member agencies to consider alternative proposals.

On March 7, 2024, SCWD presented an updated proposal to transition the Regional Treatment Plant to MNWD and facilitate MNWD's withdrawal from SOCWA. The proposal was later discussed on May 1, 2024, at a joint board meeting of the PC17 agencies (i.e. SCWD, MNWD, City of Laguna Beach, Emerald Bay Service District, and El Toro Water District). SCWD's proposal was unanimously agreed to in principle during the May 1, 2024 meeting. In response to the proposal, MNWD has drafted corresponding agreements to meet a number of objectives sought by all SOCWA member agencies, including MNWD's desire to own and operate the RTP. Furthermore, these agreements will allow SOCWA to continue its efficient and effective operations of the CTP and JBL Treatment Plants, outfalls, and permitting activities. The JBL and CTP can now move forward on the path towards proper optimization and modernization in a collaborative manner, potentially including the replacement of outdated facilities.

Once MNWD begins operating the RTP, MNWD will continue being involved with SOCWA through contract service agreements. Specifically, MNWD will continue providing solids handling services to several member agencies at RTP. MNWD will also continue receiving wastewater treatment services from SOCWA at the JBL Treatment Plant on a contract basis. These agreements are currently being finalized.

F4 - *There is currently no unified strategy for the future of water/wastewater provision in South Orange County.*

Response: DISAGREE

SCWD disagrees with this finding. The future of water and wastewater in South Orange County is one that is best addressed with a holistic approach that has many moving components; as such, there is no singular strategy or body that can address the varied needs of different agencies throughout the region. However, there are regional documents and collaborative efforts that help address overarching challenges and the needs of South Orange County. SCWD strongly believes that absent SOCWA, this strategic regional planning approach for South Orange County would not be as effective and well coordinated.

SOCWA:

A prime example of the strategic approach and unified strategy to wastewater is SOCWA's extensive regional planning and development of recycled water availability and use in South Orange County over the last several decades. Since 2007, SOCWA has produced a total of 67 billion gallons of recycled water, or an annual total of 3.74 billion gallons. This is equivalent to supplying the daily water needs of approximately 186,000 South Orange County residents (assuming 55 gallons of usage per capita per day). Over the last 10 years, SOCWA has also invested over \$169M in wastewater treatment to provide a high level of service and be able to produce the amount of recycled water that they have achieved thus far. Over the next 10 years, SOCWA is expected to invest an additional \$256M in wastewater treatment to continue providing and expanding recycled water and other services to its member agencies and the region.

SOCWA also manages a Salt and Nutrient Management Plan (SNMP) which is yet another example of the unified approach to wastewater and water supply in the region. The SNMP aims to identify and evaluate management strategies that support the planned level of recycled water use within SOCWA's service area. The SNMP specifically seeks to offset demands for imported water by increasing the use of recycled water, local groundwater, stormwater, and urban runoff. Additionally, the plan also seeks to expand existing programs to desalt groundwater in the Lower San Juan Basin to increase local supply, remove salt from the basin, and stabilize or improve groundwater quality. This plan is particularly important to SCWD because the Doheny Ocean Desalination Project (Doheny Desal), currently underway, provides a new local source of water and helps lower the salinity levels in the region.

Municipal Water District of Orange County (MWDOC):

MWDOC provides South Orange County and other Orange County agencies with a unified strategy for the future of water use in the region. Since 2016, MWDOC has released

various versions of Water Reliability Studies that break out multiple regions countywide, including South Orange County, and estimate future water needs along with potential projects that have been identified to meet these needs. The 2016 study, specifically, contained a breakdown of potential South Orange County water supply projects expected to come online by the year 2040, including the San Juan Basin Groundwater Expansion Project which includes multiple regional partners as of 2024, the Doheny Desal project, the Laguna Beach County Water District Groundwater project, and others. The study detailed the 2040 supply needs and how much water supply each project could provide. With MWDOC being the wholesale agency for South Orange County, its water reliability studies help all South County agencies gain an understanding of future demands, potential water supply projects, and regional collaboration opportunities.

SCWD:

In addition to SOCWA's and MWDOC's regional planning and coordination efforts, SCWD is working diligently to increase regional water reliability and potentially expanding the beneficial use of wastewater in South Orange County through the Doheny Desal Project, which is estimated to come online by 2028. The project will initially yield five Million Gallons per Day (MGD) of potable desalinated water, of which SCWD will receive a portion and the rest will be delivered to partner agencies in the South Orange County region including City of Laguna Beach and City of San Clemente who is a tentative partner. In the future, Doheny Desal will have the capability to be expanded to 15 MGD, which would allow other entities in the region to participate in the project, adding desalinated water to their water portfolio. The project also has the ability to incorporate recycled water from SOCWA's JBL Plant, as identified by a concept study completed by Dudek in 2022, resulting in another source of DPR in the region should this direction be approved by SCWD's board in the future. Adding recycled water to the Doheny Plant will provide yet another opportunity to collaborate and partner with SOCWA to increase reliability in South Orange County.

Regional Collaboration in South Orange County:

South Orange County water agencies do not operate in a vacuum. In order to ensure all our residents are served properly, agencies are in constant communication and collaborate on many projects that enhance the region's water reliability. In addition to the Doheny Desal Project, other great examples of regional collaboration include the Baker Water Treatment Plant, which is owned and operated by Irvine Ranch Water District (IRWD), the Joint Regional Water Supply System (JRWSS), which is operated by SCWD, and the Chiquita Reservoir with Santa Margarita Water District (SMWD) being the leading agency. Below are some details about each of these projects:

1. The Baker Water Treatment Plant is a local water supply that treats raw imported MWD water for regional use in South Orange County. Though not an initial partner in the Baker Water Treatment Plant project, in 2024 the

SCWD Board of Directors thoroughly reviewed the agency's comprehensive water portfolio with regards to resiliency and identified the Baker Water Treatment Plant as an advantageous option, subsequently executing an agreement with IRWD to become a partner in the project.

2. The JRWSS is operated by SCWD and delivers potable water to six member agencies in South Orange County and three in North San Diego County through a system of large transmission mains which cross multiple jurisdictions from Irvine to the San Onofre Nuclear Generating Station (SONGS) and from San Clemente to Dana Point.
3. The Chiquita Reservoir is operated by SMWD. SCWD, City of San Juan Capistrano, City of San Clemente, and MNWD are participating agencies that hold capacity at the Chiquita Reservoir for emergencies and can draw water from it whenever necessary. Potable water from the Chiquita Reservoir is supplied via the South County Pipeline and conveyed into the SCWD-operated Water Importation Pipeline for its customers use.

South Orange County agencies also collaborate and provide mutual aid when regional emergencies occur, such as large sewer spills, wildfire mitigation, water line breaks, and more. Most recently, there was a regional water nitrification event at the end of MWD's water supply system in Orange County which could have resulted in widespread drinking water quality issues throughout South Orange County. SCWD, as contract operator of the JRWSS, and member agencies took immediate action to mitigate the impact of the water quality issue which ultimately ensured the protection of the water supply in South Orange County to prevent regional water disruptions. Subsequently, SCWD worked with MWDOC and other South Orange County agencies to open a dialogue with MWD so that all parties involved in the nitrification event gain a better understanding of MWD's and OC agencies' imported water systems, resulting in better coordination in the future should another nitrification event occur.

Lastly, as mentioned under our response to Finding #3, South Orange County agencies are currently working on the future of SOCWA by updating multiple existing agreements. It is envisioned that these agreements will be finalized and approved by the end of calendar year 2024.

RECOMMENDATIONS

R2 - The OCGJ recommends that by January 1, 2025, LAFCO form a task force comprising representatives of affected water agencies to study the transformation of SOCWA and prepare a report on the future of water/wastewater in South Orange County.

Response: DISAGREE

A LAFCO task force to review SOCWA is neither warranted nor reasonable. SOCWA member agencies are currently working on updating and creating new agreements that work for all parties involved. The agreements would also allow MNWD to operate the RTP. LAFCO's creation of a task force to study SOCWA would be premature, unnecessary and unprecedented.

Moreover, LAFCO's focus is on Cities and Special Districts - Joint Powers Authorities are outside the purview of LAFCO as is stated in LAFCO's response to the Orange County's Grand Jury report, presented at the LAFCO Board Meeting held on August 14, 2024. The current LAFCO Board has also previously indicated that they do not initiate consolidations and annexations or support consolidations where one party does not support such an action; rather, LAFCO seeks to assist in the process when approached by parties desiring to divest themselves of services, such as the City of San Juan Capistrano. In addition to being outside of LAFCO's purview, JPAs such as SOCWA are entered into willingly by each agency involved, and agencies that deemed their membership in SOCWA no longer necessary have exited the JPA in the past without the need for intervention from LAFCO or other governing bodies. All remaining parties have opted to remain in SOCWA because they recognize the value that a regional wastewater treatment solution provides to them. An agency like SOCWA provides economies of scale for all parties involved and is especially beneficial to agencies that may not have the resources to carry out their own wastewater treatment.

Having LAFCO prepare a report on the future of water/wastewater in South Orange County would also be redundant as South Orange County has been doing an excellent job in planning and implementing various water supply reliability projects. This works for South Orange County because agencies collaborate in areas that they have in common but are also able to undertake individual projects and initiatives that serve their specific communities which may have different needs than another. As previously stated under Finding #3, SCWD has very specific needs because it is a coastal agency which might not apply to all other agencies in South Orange County. For example, SCWD takes into account the impact that each of our projects has on the Pacific Ocean. We also have environmentalist groups and Native American tribes that may be concerned with the geology where our projects are located, and we are under the purview of the Coastal Commission which means our projects are strictly vetted and must meet stringent environmental requirements. We also have a strong level of customer service because our customers and tourists visiting the region demand that water quality be of the highest level. By providing high quality water and keeping sewer spills from reaching the ocean, SCWD supports the community and the local economy.

It is also worth noting that SCWD has always worked towards the future and is highly skilled at delivering services because of the high standard required from a coastal agency. Over the years, SCWD has made significant investments to ensure that we are a resilient

agency today and for many years to come. This is proven by SCWD's low water loss rate which is the lowest in all of Orange County and one of the best in the State – this has been achieved through proper rehabilitation and replacement investments over the years. SCWD's water conservation levels are also impressive, with a 31% reduction in water usage in our service area during 2023 in comparison to the 2013 drought – this has been achieved through proper investments in community education as well as significant investments in recycled water and other resiliency projects. The District has also invested heavily in water recycling since the 1980s – we currently recycle 70% of sewage that we send to SOCWA's CTP and have plans to eventually recycle 100% of it. Other important investments include SCWD's Groundwater Recovery Facility which treats high salinity brackish water for beneficial reuse, provides our area with an additional source of potable water, and reduces our dependence on imported water. All this work is made possible by the fact that SCWD is highly specialized and in tune with the needs of our service area. SCWD will continue making strong investments in water and wastewater to ensure a reliable future.

In conclusion, SCWD disagrees with the Grand Jury's findings and recommendations. South Orange County agencies are on track to update current agreements and complete new ones that will satisfy the needs of South Orange County's water and wastewater agencies. Such agreements will ensure that South Orange County residents continue receiving the highest level of wastewater service. It is also an incorrect statement to say that South Orange County does not have a unified strategy for water and wastewater provision because there are multiple agencies and planning documents that help coordinate these efforts – MWDOC, SOCWA, and other systems and projects operated by individual agencies such as JRWSS, the Baker Water Treatment Plant, the Chiquita Plant, Doheny Desal in the future, and others. All agencies in South Orange County collaborate with each other via different channels to ensure that all our communities, despite differences in their populations and geography, receive excellent services. Lastly, a LAFCO taskforce or report on SOCWA are not warranted nor does SOCWA fall under the purview of LAFCO as indicated by LAFCO itself. South Orange County agencies are well on their way to update the SOCWA agreements and will continue to plan, collaborate, and move towards a future that continues to ensure the delivery of safe and reliable water and wastewater services for its diverse populations.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. Erdman', with a long horizontal line extending to the right.

Doug Erdman
Board President, South Coast Water District

ENCLOSURE: Attachment A



**ATTACHMENT A:
OC GRAND JURY REPORT CORRECTIONS**

As stated in SCWD's response to the OC Grand Jury report titled "Emerging Opportunities in South County Water/Wastewater Systems", SCWD disagrees with some of the language in the Grand Jury's report. Below are two areas that merit further clarity:

- A1. Page 16 states that the 2017 PC17 litigation against Moulton Niguel Water District (MNWD) resulted in an agreement being reached in 2019 on mutually agreeable terms to settle the lawsuit. SCWD believes it is important to add the following underlined details to the OCGJ's language:

"In February 2019, after denial of MNWD's motion for summary judgement followed by phase 1 of a bifurcated trial, the Riverside Superior Court issued its tentative ruling holding that MNWD was legally obligated to pay its proportional share of all costs, including capital costs and items necessary to maintain and operate the Coastal Treatment Plant until February 19, 2030 when the CTP project agreement ended. In May 2019, SOCWA, MNWD, SCWD, EBSD, and the City of Laguna Beach issued a public statement regarding the litigation on the Coastal Treatment Plant, and that the parties had agreed to resolve their differences on mutually agreeable terms, as set forth in a written Consent Decree entered by the Court, over which the Court retained jurisdiction to enforce its terms."

The language above means that the Court reached a tentative ruling against MNWD, after which the parties agreed to settle.

- A2. Page 19 states that SOCWA needs new agreements to govern its operations going forward. This is an inaccurate statement because SOCWA currently has agreements in place. The "Project Committee 2 Agreement", governing operation of the JB Latham Treatment Plant, is currently set to expire on June 30, 2025, with pending discussions to, within the next couple of months, extend that term to February 1, 2030. While the operative agreements for other of SOCWA's Project Committees are set to start expiring within the upcoming few years, SOCWA itself continues as a joint powers authority unless, or until, its Joint Exercise of Powers Agreement is rescinded or terminated by written consent of all SOCWA Member Agencies.

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