

May 23, 2007

Honorable Judge Rodney Melville  
Superior Court  
312-M East Cook Street  
Santa Maria, CA 93455-5165

and

Santa Barbara County Grand Jury  
Attention: Foreperson  
1100 Anacapa Street  
Santa Barbara, CA 93101

Re: Response to Grand Jury Audit and Finance Committee Report, "Certificates of Participation in Public Finances - Is More Scrutiny Needed" dated March 26, 2007.

Dear Judge Melville,

The purpose of this letter is to provide responses of the Governing Board of the Carpinteria Valley Water District (CVWD) as requested for Findings 1 through 5 and Recommendations 1 through 5 contained in the Santa Barbara County Grand Jury Report dated March 26, 2007 entitled "Certificates of Participation in Public Finances - Is More Scrutiny Needed." The Findings and Recommendations set forth in this Grand Jury Report, together with the District's responses, are set forth below.

#### FINDINGS

**Finding 1** Projects funded by COPs are not subject to a well-regulated, mandatory public notice process, and this deficiency can preclude the general public from either registering opposition or participating as investors.

**Response to Finding 1:** CVWD *disagrees* with this finding. All CVWD Board of Director meetings and actions relative to "projects funded by COPs" are subject to the public noticing requirements of the Ralph M. Brown Act. The Board of Directors of CVWD follows the Brown Act carefully. The Board also holds specially focused meetings, usually televised on the local cable channel, and publishes extra notices of such meetings.

**Finding 2** Taxpayers and/or investors may be at risk if standard assurances (e.g. environmental and "escrow") are not consistently required prior to issuance of COPs.

**Response to Finding 2:** CVWD *disagrees* with this finding. CVWD taxpayers incur no obligation from the issuance of CVWD COPs, as COPS are not secured by taxes. CVWD follows all legal disclosure requirements.

**Finding 3** The maturity terms of COPs are often comparable to those (20-30 years) for General Obligation and Revenue Bonds, suggesting that COPs may be an inappropriate substitute for such bonds.

**Response to Finding 3:** CVWD *disagrees* with this finding. Applicable State law does not set term limits, and authorizes purchases over time. The State and Federal tax rules do require that the term match the useful life of the project.

**Finding 4** The regulations regarding the sales of COPs and the use of the proceeds from those sales are inadequate.

**Response to Finding 4:** CVWD *disagrees* with this finding. Both state and federal regulations on the sale of COPs are extensive as are IRS restrictions on the use of proceeds.

**Finding 5** Districts and government agencies are not required to give notification of the use of COPs to County or city governments which might be affected.

**Response to Finding 5:** CVWD *agrees* with this finding. Nevertheless, CVWD notifies everyone who requests Board agendas.

## RECOMMENDATIONS

**Recommendation 1** A consistent, mandatory public notice and approval process should be implemented and sale of COPs should not proceed until completion of that process.

**Response to Recommendation 1:** This recommendation *has been implemented* by the District's compliance with the Ralph M. Brown Act. Moreover, CVWD holds workshops and publishes extra notices.

**Recommendation 2** All projects funded by COPs should receive the necessary assurances that are demanded of projects funded by General Obligation and Revenue Bonds.

**Response to Recommendation 2:** This recommendation *will not be implemented* due to the leading role played by the State legislature in regulating projects to be financed by COPs.

**Recommendation 3** The use of COPs should be restricted to short-term projects. Long-term projects should be funded with General Obligation or Revenue Bonds.

**Response to Recommendation 3:** This recommendation *will not be implemented* due to the leading role played by the State legislature in regulating projects. Moreover CVWD

believes it is in the interest of customer ratepayers that the terms of COPs also extend over the useful life of the project.

**Recommendation 4** COPs should be sold only as needed to fund the specific project for which they were approved, and the funds should not be used for other projects. In particular, COPs should not be sold for the sole purpose of earning interest on the funds.

**Response to Recommendation 4:** This recommendation *has been implemented*. CVWD COPs fund only specific projects and substitution is permitted only under certain circumstances. Since 1986 it is illegal to issue bonds or COPs to earn arbitrage interest on the bond proceeds. Interest earned on COPs in excess of interest costs on the COPs must be refunded to the Federal Government.

**Recommendation 5** Any district or government agency within the County that is planning to issue any COPs should give notification to the County government and any affected municipal government.

**Response to Recommendation 5:** This recommendation *has not yet been implemented*, but CVWD will be happy to provide notice to the County if requested.

In conclusion, the Governing Board of the Carpinteria Valley Water District wishes to thank the Santa Barbara County Grand Jury for its efforts and recommendations to ensure that Carpinteria Valley Water District effectively and efficiently fulfills its mission as the public water purveyor for the Carpinteria Valley.

Sincerely

Frederick Lemere  
President of the Board of Directors

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