From:	Moutoux, Nicole
To:	Hoang, Kim
Cc:	Ramirez, Leslie
Subject:	FW: OCWD Article
Date:	Tuesday, February 03, 2015 9:02:01 AM

FYI

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From: Lyons, John
Sent: Monday, February 02, 2015 6:27 PM
To: thompson, rachelle; Shaffer, Caleb; Dreyfus, Bethany; Moutoux, Nicole
Subject: OCWD Article

See below for a letter published in the Orange County Register….

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Protecting O.C.'s water

Jan. 30, 2015
|
Updated 4:13 p.m.

BY MIKE MARKUS / Contributing writer

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Ensuring a bright future for Orange County requires many organizations and individuals working together at building and protecting a diverse portfolio of water resources.

That is exactly why the Orange County Water District and the Orange County Business Council last year agreed to a collaborative approach to resolve one of the biggest challenges facing our local groundwater basin – a plume of industrial chemicals in the north part of the basin that has polluted 109,000 acre feet of groundwater, an amount equal to one-third of the water used in Orange County in a year.

This agreement – to follow a well-defined federal process that is fair and transparent for the cost-effective removal of contaminants that threaten our local groundwater basin – has not changed. OCWD is doing exactly what OCBC supported: to adopt and follow the National Contingency Plan as the course of action to remove contamination and make responsible parties pay their share of the cleanup costs.

Yet OCBC CEO and President Lucy Dunn, in a recent op-ed, contended that we are not moving forward on the collaborative path that OCBC agreed to. The NCP provides a clear road that her organization asked we follow. One that puts it all out there for the public, regulators and responsible parties to review and scrutinize.

NCP will provide the highest level of investigation. It will provide the proof needed to identify responsible parties for the contamination. They will then need to properly clean up the contamination and/or pay reasonable costs to have regulators clean up onsite pollution and to OCWD to do the same for offsite pollution. It is the best process currently available to remediate the pollution and keep it from spreading further.

Equally important, the NCP process also provides the highest level of public and business participation in evaluating options for remediation. The residents and businesses of Orange County, including OCBC, will be given every opportunity to participate. Under the agreement with OCBC, OCWD will actively engage the business community at every step of this process.

The NCP, as recommended and supported by OCBC on multiple occasions, is best known for being the federal plan in responding to hazardous waste emergencies that threaten public health. In the worst cases, after a lengthy process these sites may end up being designated a “superfund” site and are effectively controlled and managed by federal agencies. However, OCWD does not want to have this happen here, nor does it intend to seek superfund designation at this time. As protectors and managers of the local groundwater basin, it’s OCWD’s responsibility to lead the clean-up effort.

Yet, as Ms. Dunn pointed out in her testimony on May 1, 2013, before a Senate Environmental Quality Committee on the matter, “superfund” rules are OCWD’s best option to recover clean-up costs. It was during this same testimony that Ms. Dunn said the NCP process is OCWD’s strongest option to proceed and to collaborate with the business community. The NCP provides a blueprint

for local agencies, like OCWD, to follow in developing a remediation and cost recovery plan. This is what OCBC wanted. This is what OCWD is doing.

Ms. Dunn points to an amended contract with legal counsel as a reason for concern. OCWD is not pursuing new litigation, but instead proceeding with the NCP process. If parties responsible for the contamination do not abide by the remediation plan that will come out of the NCP process, regulators and OCWD still reserve the right to seek recovery through the legal system. While we hope it does not come down to that, we will preserve that right in order to protect the ratepayers in the event that should happen.

In the meantime, OCWD has and will look for any reasonable opportunity to secure cost-effective, favorable settlements with responsible parties to help pay for the cleanup. After the NCP process was announced last year, OCWD reached favorable agreement with two responsible parties. Settlement efforts with other parties continue.

Does following the NCP process or, ideally, securing cost-saving settlements in advance require OCWD to engage legal expertise? Yes.

Does having a legal team in place mean OCWD is pursuing an aggressive litigation strategy outside the NCP process? No.

From OCWD's perspective, the ultimate clean-up solution remains a collaborative process.

A clean, fully functioning local groundwater basin that can be resupplied from multiple sources is part of our long-term supply strategy. Today, that basin is meeting 72 percent of Orange County's water needs for 2.4 million people.

Decades-old industrial pollution is threatening to put a severe dent in this supply. We've lost five wells to pollution, and we can't afford to lose more. Leaving pollution in the ground is not a solution.

Rather than squabbling over the process – one that OCWD and OCBC already agreed upon – let's get to work on securing Orange County's bright water future.

Mike Markus is general manager of the Orange County Water District.