

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490 • (909) 383-9900 • Fax (909) 383-9901
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: JANUARY 8, 2007

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #6 - REQUEST FOR DETERMINATION OF NON-DISTRICT STATUS FOR SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT RELATED TO LAFCO 3076 - CONSOLIDATION OF SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

RECOMMENDATION:

Staff recommends that the Commission:

1. Determine that the San Bernardino Valley Water Conservation District is not a district or special district, as required by Government Code Sections 56127 and 56128, for purposes of Part 4 (commencing with Section 57000 - protest proceedings) and Part 5 (commencing with Section 57300 - completion of action); therefore, the District's principal act shall apply; and,
2. Determine that pursuant to the District's principal act, Water Conservation District Law (Water Code Section 74000 et seq.), the statutory references return the authority for these proceedings to Parts 4 and 5 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

BACKGROUND:

On December 15, 2006, the San Bernardino Valley Water Conservation District (hereafter shown as "SBVWCD") submitted a request for the Commission to determine it to be a "non-district" for processing of the protest proceeding and completion actions related to LAFCO 3076 - Consolidation of the San Bernardino Valley Water Conservation District and San Bernardino Valley Municipal Water District (hereafter shown as "MUNI") (copy included as Attachment #1 to this report). LAFCO 3076 was submitted for processing by LAFCO on December 13, 2006, by MUNI. However, its

resolution initiating proceedings is currently the subject of litigation regarding CEQA compliance filed by the SBVWCD.

In evaluating the SBVWCD request, LAFCO is guided by the provisions of Government Code Sections 56127 and 56128 (copy included as Attachment #2 to this report). The provisions of Government Code Section 56128 require the Commission to grant non-district status if the District is not engaged in any of the following activities:

1. The distribution and sale for any purpose, other than for the purpose of resale, of water or of gas or electricity for light, heat, or power.
2. Furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users.
3. Providing fire or police protection.
4. Acquisition, construction, maintenance, lighting, or operations of streets and highways, street and highway improvements, or park and recreation facilities, except as incident to the exercise of other lawful powers of the applicant.

The SBVWCD does not engage in any of these activities; therefore, the Commission is required to determine that it has "non-district" status for the purposes of processing a jurisdictional change application.

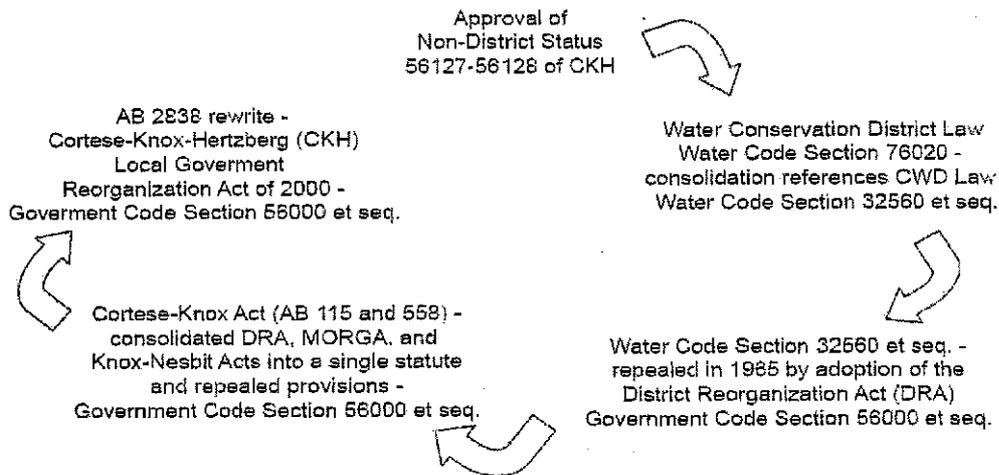
The materials submitted by the District as a part of its application include information from a previous determination of non-district status by the Commission in 1977, identified as LAFCO 1708. LAFCO 1708 related to the processing of an annexation of district-owned property consisting of approximately 40 acres identified as the "powerhouse". However, not included in the materials submitted by the District was information related to the District's reorganization application processed in 1993, LAFCO 2751 (copy of the final map and District's initiating resolution included as Attachment #3) where no request for non-district status was submitted. This proposal ultimately annexed 2,929 acres and included 12,308 registered voters at the time of processing. So, there have been two annexations to the District since 1963, one processed with the request for non-district status and one without.

The effect of the non-district status determination upon LAFCO 3076 - Consolidation of the SBVWCD and MUNI will be that the processing of the protest proceedings and completion activities are to be conducted under the provisions outlined by Water Conservation District Law (Water Code Section 72000 et seq.) for a consolidation.

Of particular note in this regard, however, is that for purposes of the conduct of these proceedings, the responsibility for processing, in the staff view, will ultimately return to LAFCO. This peculiar set of circumstances arises because of the following statutory direction:

1. Non-district status granted by LAFCO -- following consideration of the consolidation proposal by the Commission and the rendering of a determination of approval, the protest proceedings and completion process would turn to the SBVWCD principal act for direction. The principal act, Water Conservation District Law, within Chapter 4 - Consolidation, Section 76020 states, "A district may be consolidated in the same manner as is provided for the consolidation of county water districts in Chapter 3 (commencing with Section 32650) of Part 8 of Division 12 of this Code."
2. However, the County Water District Law sections identified were repealed in 1965 by the enactment of the "District Reorganization Act", Government Code Section 56000 et seq.
3. Therefore, you are guided to look to the District Reorganization Act for direction. However, in 1985, AB 115 and AB 558, among other bills, enacted the Cortese-Knox Government Reorganization Act which consolidated the District Reorganization Act, the Municipal Organization Act of 1977 (city annexation law) and the Knox-Nesbit Act (LAFCO enabling statute) into a single set of statutes governing the operations of LAFCOs statewide. This statute was contained within Government Code Section 56000 et seq.
4. In 2000, AB 2838 rewrote LAFCO law as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This statute is contained within Government Code Section 56000 et seq.

Therefore, by virtue of this chain of connecting statutes, the proceedings for protest and completion shall be conducted pursuant to the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act, Part 4 and Part 5 described above. Staff has reviewed this position with LAFCO Legal Counsel, Clark Alsop. Mr. Alsop has indicated his concurrence with this position. The illustration below shows how this connection of statutes occurs:



Based upon the information outlined in this report, staff's recommendation is that the Commission grant non-district status as required by Code Sections 56127 and 56128. In addition, it is staff's recommendation that the Commission note that pursuant to the provisions of the SBVWCD principal act, Water Conservation District Law, proceedings for protest and completion will be undertaken pursuant to Parts 4 and 5 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code Sections 57000 et seq. and 57300 et seq. respectively.

KRM

Attachments:

1. San Bernardino Valley Water Conservation District Request for Non-District Status
2. Government Code Sections 56127 and 56128
3. Map of LAFCO 2751 - San Bernardino County Water Conservation District Annexation No. 2 as completed and SBVWCD Resolution No. 314 Initiating the Reorganization

**San Bernardino Valley Water
Conservation District Request
for Non-District Status**

Attachment 1



SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

Established 1932

1630 West Redlands Boulevard, Suite A
Redlands, CA 92373-8032
(909) 793-2503
Fax: (909) 793-0188

P.O. Box 1839
Redlands, CA 92373-0581
Email: info@sbvwcd.dst.ca.us
www.sbvwd.dst.ca.us

RECEIVED
DEC 18 2006

December 18, 2006

LAFCO
San Bernardino County

Ms. Kathleen Rollings-McDonald
Executive Officer
Local Agency Formation Commission
215 North D Street, Suite 204
San Bernardino, CA 92415-0490

Dear Ms. Rollings-McDonald:

This letter serves as certification that the attached copy of Resolution No. 425,
Authorizing Filing of Request for Determination of Non-District Status, is a true and
valid copy.

Sincerely,

Lawrence M. Libeu
General Manager/Board Secretary

LML:cet

BOARD
OF
DIRECTORS

Richard W. Cornelle
Clare Henry Day

Arnold L. Wright
Glenda Douglas

Cheryl A. Tubbs
Melody Henriques-McDonald
Manuel Aranda, Jr.

GENERAL
MANAGER

Lawrence M. Libeu

3076

STAFF REPORT

To: Board of Directors – San Bernardino Valley Water Conservation District

From: Special Counsel

Re: Request for Determination of Non-District Status

Date: November 17, 2006

Staff became aware on Tuesday, November 14, 2006 that San Bernardino Valley Municipal Water District ("Muni") had agendized and would likely be taking formal action at its meeting on November 15, 2006 to initiate a proceeding with the San Bernardino County LAFCO to consolidate Muni and the District. As of the afternoon of November 14, we assume that Muni's Board will adopt the resolution authorizing the initiation of that proceeding.

An issue that has been discussed from time to time is whether the District has "non-district" status under the LAFCO statutes. The LAFCO statutes expressly include water conservation districts as local governmental entities which may be determined by LAFCO to have "non-district" status. In fact, San Bernardino County LAFCO in 1977 granted the District "non-district" status. Currently, Government Code Sections 56127 and 56128 set forth the procedure to be followed and requirements that must be met for an entity to be determined to have "non-district" status.

Section 56127 requires that if a proposal for a reorganization, including a consolidation, is initiated by another local agency (such as Muni here), the District's Board of Directors, as its legislative body, may within 10 days of notification by LAFCO of the initiation of the proposal, request that LAFCO determine that the District is not a district or special district for purposes of Parts 4 and 5 of the LAFCO Act. Section 56127 further requires that the request be presented to the LAFCO Board/Commission no later than at its next regular meeting.

In light of the action proposed by Muni, staff and counsel believe it is prudent for the Board to now take action to authorize staff and special counsel to request determination of non-district status for the District, pursuant to Government Code Section 56127, as set forth in the accompanying resolution.

RESOLUTION NO. 425

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
AUTHORIZING FILING OF REQUEST FOR DETERMINATION
OF NON-DISTRICT STATUS**

WHEREAS, the San Bernardino Valley Water Conservation District (the "District") is a water conservation district formed under Division 21 of the California Water Code; and

WHEREAS, Subdivision (e)(1)(E) of Government Code Section 56036 provides that a water conservation district is among those types of local governmental entities which a local agency formation commission ("LAFCO") may determine to not be a "district" or "special district" pursuant to Government Code Sections 56127 and 56128; and

WHEREAS, Exhibit A to the San Bernardino County LAFCO Resolution Establishing the Rules and Regulations Affecting the Functions and Services of Special Districts, adopted November 10, 1976, has confirmed the function and service of the District is water conservation, and that the District does not provide retail water service; and

WHEREAS, the San Bernardino County LAFCO, by its Resolution No. 1319, duly adopted on July 13, 1977, previously granted the District "non-district" status; and

WHEREAS, Government Code Section 56127 authorizes the District's Board of Directors, as its legislative body, to request a determination by LAFCO that the District is not a district or special district for purposes of Parts 4 (commencing with Government Code Section 57000) and 5 (commencing with Government Code Section 57300) of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the San Bernardino Valley Water Conservation District hereby authorizes and directs its special counsel and staff to prepare and file with the San Bernardino County Local Agency Formation Commission, at such time as special counsel shall deem appropriate, a request for determination of non-district status for the District, pursuant to Government Code Section 56127, and to take such additional actions as are necessary to perfect the filing of that request.

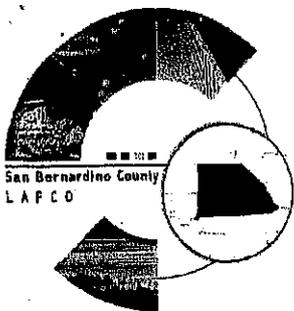
Passed and adopted this 17th day of November, 2006.



Cheryl Tubbs, President

Attest:


Secretary



LOCAL AGENCY FORMATION COMMISSION

215 North "D" Street, Suite 204 • San Bernardino, CA 92415-0490

(909) 383-9900 • Fax (909) 383-9901

E-mail: lafco@lafco.sbcounty.gov • www.sbciafco.org

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Board of Supervisors

BOB COLVEN, Vice Chair
Special District

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Special District

DENNIS HANSBERGER
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RICHARD P. PEARSON
Public Member

ALTERNATES

JAMES V. CURATALO
Special District

JOSIE CONZALES
Board of Supervisors

A.R. "TONY" SEDANO
Public Member

DIANE WILLIAMS
City Member

STAFF

KATHLEEN ROLLINGS-McDONALD
Executive Officer

SAMUEL MARTINEZ
LAFCO Analyst

MICHAEL A. TIERPE
LAFCO Analyst

DEBBY CHAMBERLIN
Clerk to the Commission

ANGELA M. SCHELL
Deputy Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

December 18, 2006

(Sent via mail and fax (909) 793-0188)

Mr. Lawrence Libeu, General Manager
San Bernardino Valley Water Conservation District
1630 W. Redlands Blvd, Suite A
Redlands, CA 92373-0581

Dear Mr. Libeu:

On Friday, December 15, 2006, the Local Agency Formation Commission (LAFCO) received the District's request identified as follows, "request for determination of non-district status of San Bernardino Valley Water Conservation District" (copy attached) related to the processing of LAFCO 3076 – Consolidation of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District. As required by Government Code Section 56127, this matter has been placed upon the Commission's next Agenda. That hearing is scheduled for January 17, 2007. A copy of the Notice of Hearing and staff report related to the item will be forwarded to you.

The document requesting this determination indicates in the last paragraph, page one, that, "By action of its legislative body duly taken at a meeting held on November 17, 2006, the Conservation District hereby requests a determination by the Commission pursuant to Government Code Section 56127 and 56128 that it is not a district." The materials submitted to our office on December 15th did not include a copy of the official action taken by the District. Please forward a certified copy of the action taken by the District and the background materials provided for its determination. The materials are requested to be provided to the LAFCO office no later than December 21, 2006.

Should you have any questions regarding the information within this letter or the request for information, please do not hesitate to contact me directly at (909) 383-9900.

Sincerely,

KATHLEEN ROLLINGS-McDONALD
Executive Officer

Attachment

cc: Clark H. Alsop, LAFCO Legal Counsel
Robert Reiter, General Manager, San Bernardino Valley Municipal Water District

RECEIVED
DEC 15 2006

LAFCO
San Bernardino County

**TO: SAN BERNARDINO COUNTY LOCAL AGENCY FORMATION
COMMISSION**

**REQUEST FOR DETERMINATION OF NON-DISTRICT STATUS OF SAN
BERNARDINO VALLEY WATER CONSERVATION DISTRICT**

San Bernardino Valley Water Conservation District ("Conservation District") has received notice from the Commission of the initiation of a proceeding for a change of organization. A copy of the Notice is attached as Exhibit 1.

The Conservation District is a water conservation district formed under the provisions of Division 21 of the California Water Code. The Conservation District has functioned as a water conservation district since 1931.

In its Resolution No. 2893, duly adopted on March 15, 2006 (the pertinent excerpt of which is attached hereto as Exhibit 2), the San Bernardino County Local Agency Formation Commission ("LAFCO") confirmed that the services provided by the Conservation District are: (i) water conservation (consisting of the functions of appropriation, acquisition and conservation of water and water rights for any useful purpose; acquisition and construction of dams, reservoirs, canals, conduits, spreading basins, and sinking basin in order to conserve, store, spread and sink water); and (ii) surveys of water supply and resources (consisting of making surveys and investigation of the water supply and resources of the Water Conservation District).

As evidenced by the Declaration of Arnold "Bud" Wright attached hereto as Exhibit 3, the Conservation District does not provide retail water service, sanitary sewer service or garbage and refuse collection services to any end user or consumer, or fire or police protection service. The Conservation District also has not acquired, constructed, maintained, lighted or operated any streets or highways, street and highway improvements or park and recreation facilities, except as incidental to the exercise of the Conservation District's other lawful powers.

By its Resolution No. 1319, duly adopted July 13, 1977, LAFCO previously granted the Conservation District "non-district" status. The Conservation District's services and functions have not changed since July 13, 1977. A copy of that resolution is attached as Exhibit 4.

By action of its legislative body duly taken at a meeting held on November 17, 2006, the Conservation District hereby requests a determination by the Commission pursuant to Government Code Sections 56127 and 56128 that it is not a district.

The Conservation District hereby petitions the Commission to consider this request at its next meeting.

Dated: December 15, 2006

SAN BERNARDINO VALLEY
WATER CONSERVATION DISTRICT

By: 
Cheryl Tubbs, President



LOCAL AGENCY FORMATION COMMISSION

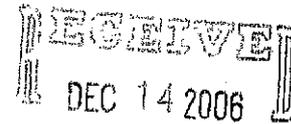
215 North "D" Street, Suite 204 • San Bernardino, CA 92415-0490

(909) 383-9900 • Fax (909) 383-9901

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Established by the State of California to serve the Citizens, Cities, Special Districts and the County of San Bernardino

December 13, 2006



COMMISSIONERS

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Board of Supervisors

BOB COLVEN, Vice Chair
Special District

KIMBERLY COX
Special District

DENNIS HANSBERGER
Board of Supervisors

LARRY McCALLON
City Member

MARK NUAIMI
City Member

RICHARD P. PEARSON
Public Member

Robert Reiter, General Manager
San Bernardino Valley Municipal Water District
P.O. Box 5906
San Bernardino, CA 92412-5906

Dear Mr. Reiter:

This will acknowledge receipt of the District's application for the consolidation of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District. We have assigned the application the following case number and all future correspondence will identify the proposal as:

LAFCO 3076—Consolidation of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District.

ALTERNATES

JAMES V. CURATALO
Special District

JOSIE CONZALES
Board of Supervisors

A.R. "TONY" SEDANO
Public Member

DIANE WILLIAMS
City Member

The staff's preliminary review indicates that the information required for application submission has been received. As the review process progresses, you may be contacted by members of our staff for additional information to assist in the analysis of the proposal.

This proposal is scheduled for review by the Departmental Review Committee on Thursday, January 25, 2007, at 10:00 a.m. You will receive notice of this meeting.

STAFF

KATHLEEN ROLLINGS-McDONALD
Executive Officer

SAMUEL MARTINEZ
LAFCO Analyst

MICHAEL A. TIERPE
LAFCO Analyst

DEBBY CHAMBERLIN
Clerk to the Commission

ANGELA M. SCHELL
Deputy Clerk to the Commission

Should you have any questions or concerns on the processing of this application, please do not hesitate to contact our office.

Sincerely,

DEBBY CHAMBERLIN
Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

/dc

cc: Doug Headrick, Deputy General Manager
David Aladjem, Downey Brand Attorneys LLP
Lawrence Libeu, General Manager, San Bernardino Valley WCD
~~Jess Senecal, Lager of Senecal Gosney & Kruse LLP~~
Clark Alsop, LAFCO Legal Counsel, Best Best & Krieger LLP

EXHIBIT 2

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

175 West Fifth Street, Second Floor
San Bernardino, CA 92415-0490 • (909) 387-5866 • Fax (909) 387-5871
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

PROPOSAL NO.: LAFCO 2919

HEARING DATE: MARCH 15, 2006

RESOLUTION NO. 2893

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 2919, A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT (a sphere of influence reduction to a zero sphere of influence for the District).

On motion of Commissioner Pearson, duly seconded by Commissioner Nuaimi, and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, a service review mandated by Government Code Section 56430, and a sphere of influence update mandated by Government Code Section 56425 have been conducted by the Local Agency Formation Commission of the County of San Bernardino (hereinafter referred to as "the Commission") in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.); and,

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by this Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, public hearings by this Commission were held on March 16, August 17, September 21 and November 16, 2005, and February 15 and March 15, 2006, at the time and place specified in the original notice of public hearing and in an order or orders continuing the hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written protests; the Commission considered all objections and evidence which were made, presented, or filed; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the review, in evidence presented at the hearing; and,

WHEREAS, a statutory exemption has been issued pursuant to the provisions of the California Environmental Quality Act (CEQA) indicating that this service review and sphere of influence update are statutorily exempt from CEQA and such exemption was adopted by this Commission on March 15, 2006. The Clerk was directed to file a Notice of Exemption within five working days of adoption; and,

Orange County Judgment and the *Western Judgment*, responsibility for the State Project within the eastern portion of the San Bernardino Valley, etc., would be the appropriate decision.

5. **OTHER FINDINGS**

- A. Notice of the original March 16, 2005 hearing was published as required by law and directed by the Commission in The Sun, and the Riverside Press Enterprise, newspapers of general circulation in the area. As required by state law, individual notification of all hearings was provided to affected and interested local agencies, County departments, and those agencies and individuals wishing mailed notice.
- B. Comments from water stakeholders and the affected and interested local agencies have been reviewed and considered by the Commission. Protest has been received and considered by the Commission in making its determination; and,

WHEREAS, the following functions and services are provided by the District, as outlined in the Rules and Regulations affecting the functions and services of Special Districts (originally adopted on November 10, 1976); and Exhibit "A" of the Rules and Regulations lists each special district and its services and functions pursuant to the requirements of Section 6 of the Rules and Regulations; and,

WHEREAS, the Local Agency Formation Commission of the County of San Bernardino is required to review and update the Exhibit "A" of the Rules and Regulations of Special Districts to outline the services provided by the San Bernardino Valley Water Conservation District:

SERVICE	FUNCTIONS
Water Conservation	Appropriation, acquisition, and conservation of water and water rights for any useful purpose. Acquisition and construction of dams, reservoirs, canals, conduits, spreading basins, and sinking basin in order to conserve, store, spread and sink water.
Surveys of Water Supply and Resources	Make surveys and investigation of the water supply and resources of the Water Conservation District.

WHEREAS, pursuant to the provisions of Government Code Section 56425(h) the range of services provided by the San Bernardino Valley Water Conservation District is limited to those identified above, and such range of services shall not be changed unless approved by this Commission; and,

WHEREAS, having reviewed and considered the findings as outlined above, the Commission determines that a zero sphere of influence for the San Bernardino Valley Water Conservation District is appropriate, signaling the Commission's position that the consolidation of the San Bernardino Valley Water Conservation District with the San Bernardino Valley Municipal Water District should be evaluated.

EXHIBIT 3

DECLARATION OF ARNOLD "BUD" WRIGHT

I, Arnold "Bud" Wright, declare as follows:

1. The facts set forth in this declaration are true of my own knowledge and if called upon as a witness to testify to such facts, I could and would testify competently thereto.
2. I am currently a director for the San Bernardino Valley Water Conservation District (the "District"). I was first appointed to that position in November, 1971 and have served on the District's Board of Directors continuously since then.
3. During my tenure on the District's Board of Directors, the District has not provided: (a) retail water service; (b) sanitary sewer service or garbage and refuse collection service to any end user or consumer; or (c) fire or police protection service.
4. In addition, during my tenure on the District's Board of Directors, the District has not acquired, constructed, maintained, lighted or operated any streets or highways, street and highway improvements or park and recreation facilities, except as incidental to the exercise of the District's other lawful powers.
5. In June 1976, the District's Board of Directors took action to seek exclusion from the Rules and Regulations of the San Bernardino County Local Agency Formation Commission ("LAFCO").
6. In July 1977, San Bernardino County LAFCO adopted a resolution that determined the District had "non-district" status.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17th day of November, 2006 in Redlands, California.

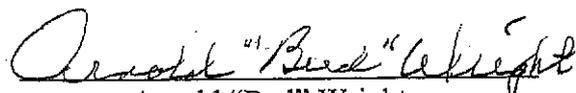

Arnold "Bud" Wright

EXHIBIT 4

RESOLUTION NO. 1319

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF SAN BERNARDINO MAKING A DETERMINATION
OF "NON-DISTRICT" STATUS PERTAINING TO THE SAN
BERNARDINO VALLEY WATER CONSERVATION DISTRICT

On Wednesday, July 13, 1977, on motion of Commissioner Frketch,
duly seconded by Commissioner Forrest and carried, the following resolution is
adopted:

WHEREAS, the statutes provide that certain special districts, under
conditions outlined and for specific actions, contemplated by the districts, may
be declared to have "non-district" status, and

WHEREAS, under these circumstances the district does not fall under
the jurisdiction of the Local Agency Formation Commission and may for the specific
action contemplated proceed with that specific change without review and approval
of the Local Agency Formation Commission, and

WHEREAS, the San Bernardino Valley Water Conservation District at
this point in time and for the annexation proposed to the district qualifies in all
respects for "non-district" status (ref. Gov. Code 56015);

NOW THEREFORE BE IT RESOLVED that the Local Agency Formation
Commission determines that the San Bernardino Valley Water Conservation District
has "non-district" status until such time as the district anticipates another
change in organization. At that time the Local Agency Formation Commission will
require a review of the status of the district and make an appropriate determination.

PASSED AND ADOPTED by the Local Agency Formation Commission of the
County of San Bernardino, State of California, by the following vote:

AYES: COMMISSIONERS: Hartzell, Bartolotti, Gilliam, Forrest

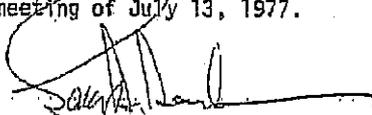
NOES: COMMISSIONERS: None

ABSENT: COMMISSIONERS: Jimenez, Mayfield, Hammock

STATE OF CALIFORNIA }
COUNTY OF SAN BERNARDINO } ss.

I, ROBERT B. RIGNEY, Executive Officer of the Local Agency Formation
Commission of San Bernardino County, California, hereby certify this record to be a
full, true and correct copy of the record of the action taken by said Commission,
by vote of said Commission at its meeting of July 13, 1977.

Dated July 13, 1977



ROBERT B. RIGNEY
Executive Officer
Local Agency Formation Commission

**Government Code Sections
56127 and 56128**

Attachment 2

improvement district or for the annexation of territory to, or detachment of territory from, an existing improvement district shall have no application.

Assessor to furnish estimated assessed valuations

56126. Upon request by the executive officer or the clerk of any county or district, the assessor of any city, county, or district shall furnish estimated assessed valuations, determined by the same methods and valuations used in preparing the last equalized assessment roll, in both of the following cases:

Public agency ownership

(a) Where real property is owned by a public agency and no assessed value for that real property is shown on the roll.

(b) Where a single assessment parcel shown on the last equalized assessment roll either:

(1) Has been split into two or more parcels by reason of the sale or conveyance of any portion of the original assessment parcel.

(2) Overlaps two or more counties, cities, districts, or election precincts, or any combination of those entities or precincts. Any of these estimates shall be conclusively presumed to be assessed values for the purpose of this division, but shall be given no force or effect for other purposes.

Determination that a district is not a district

56127. If the legislative body of any of the districts, agencies, or authorities enumerated in subdivision (c) of Section 56036 desires a determination by the commission that the district, agency, or authority is not a district or a special district, for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), the legislative body, prior to the adoption of any ordinance, resolution, or order proposing, declaring an intention, or initiating proceedings to make a change of organization, shall make application to the commission of the principal county describing the proposed change of organization and requesting that determination. If a proposal is initiated by other than the legislative body of a district or special district, the district or special district may, within 10 days of notification by the commission of the initiation of the proposal, request a determination by the commission that it is not a district or special district for purposes of Part 4 (commencing with Section 57000) or Part 5

(commencing with Section 57300). That application shall be filed with the executive officer and shall be presented to the commission not later than its next regular meeting. The executive officer shall give the legislative body filing the application mailed notice of the time and place at which the application shall be presented to the commission. No other notice is required to be given. However, the commission may, prior to making its findings and determinations, order the executive officer to give notice of the filing and presentation of the application by publication or by mailing to other affected counties, cities, and districts, or by both publication and mailing.

**Application for determination;
commission findings**

56128. (a) Upon presentation of any application filed pursuant to Section 56127, the commission shall determine that the applicant district, agency, or authority is not a district or special district for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), if the commission finds that the applicant is not engaged in any of the following:

(1) The distribution and sale for any purpose, other than for the purpose of resale, of water or of gas or electricity for light, heat, or power.

(2) Furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users, as defined in subdivision (b), of those services.

(3) Providing fire or police protection.

(4) The acquisition, construction, maintenance, lighting, or operation of streets and highways, street and highway improvements, or park and recreation facilities, except as an incident to the exercise of other lawful powers of the applicant.

"Ultimate user"

(b) "Ultimate user" means any user or consumer other than the state, the United States, a city, a county, or a district, or any agency, department, or office of any of those entities or a public utility. If the commission determines that any applicant district, agency, or authority enumerated in subdivision (c) of Section 56036 is not a district or special district, for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), then those provisions shall not apply to the change of organization or reorganization described in the application and proceedings for the change of

organization or reorganization shall be taken under and pursuant to the principal act. If no application is made to the commission, or if the commission in passing upon an application does not determine that the applicant is not a district or special district for the purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), then, except as otherwise provided in Section 56115, this division shall provide the sole and exclusive authority for the initiation, conduct, and completion for a change of organization or reorganization by that district, agency, or authority and, to the extent of any inconsistency between this division and the principal act of the applicant, this division shall control.

Public utility; certificate of public convenience and necessity; gas or electric service

56129. (a) If a public utility has been granted a certificate of public convenience and necessity authorizing and requiring it to furnish gas or electric service within a certain service area and, as a result of a change of organization or a reorganization, territory consisting of all, or any part, of that service area becomes a part of, or is formed into, a district authorized by its principal act to furnish gas or electric service, the district shall not furnish that service within the territory except upon approval by both of the following:

Report of Public Utilities Commission

(1) The commission after receipt and consideration of the report of the Public Utilities Commission made as provided in Section 56131.

Voter approval

(2) The voters within the territory, given at an election as provided in Section 56130.

(b) If both of those approvals are given, upon assumption of service by the district the public utility may at any time thereafter withdraw service within the territory, unless otherwise ordered by the Public Utilities Commission.

(c) "Gas or electric service," as used in this section and in Sections 56130, 56131, and 56875, means the distribution and sale for any purpose, other than for the purpose of resale, of gas or electricity for light, heat, or power.

(Amended by Stats. 2000, Ch. 761.)

Election requirements; Section 56129

56130. Voter approval within the territory, as required by Section 56129, shall be given at an election. The question submitted at the election shall

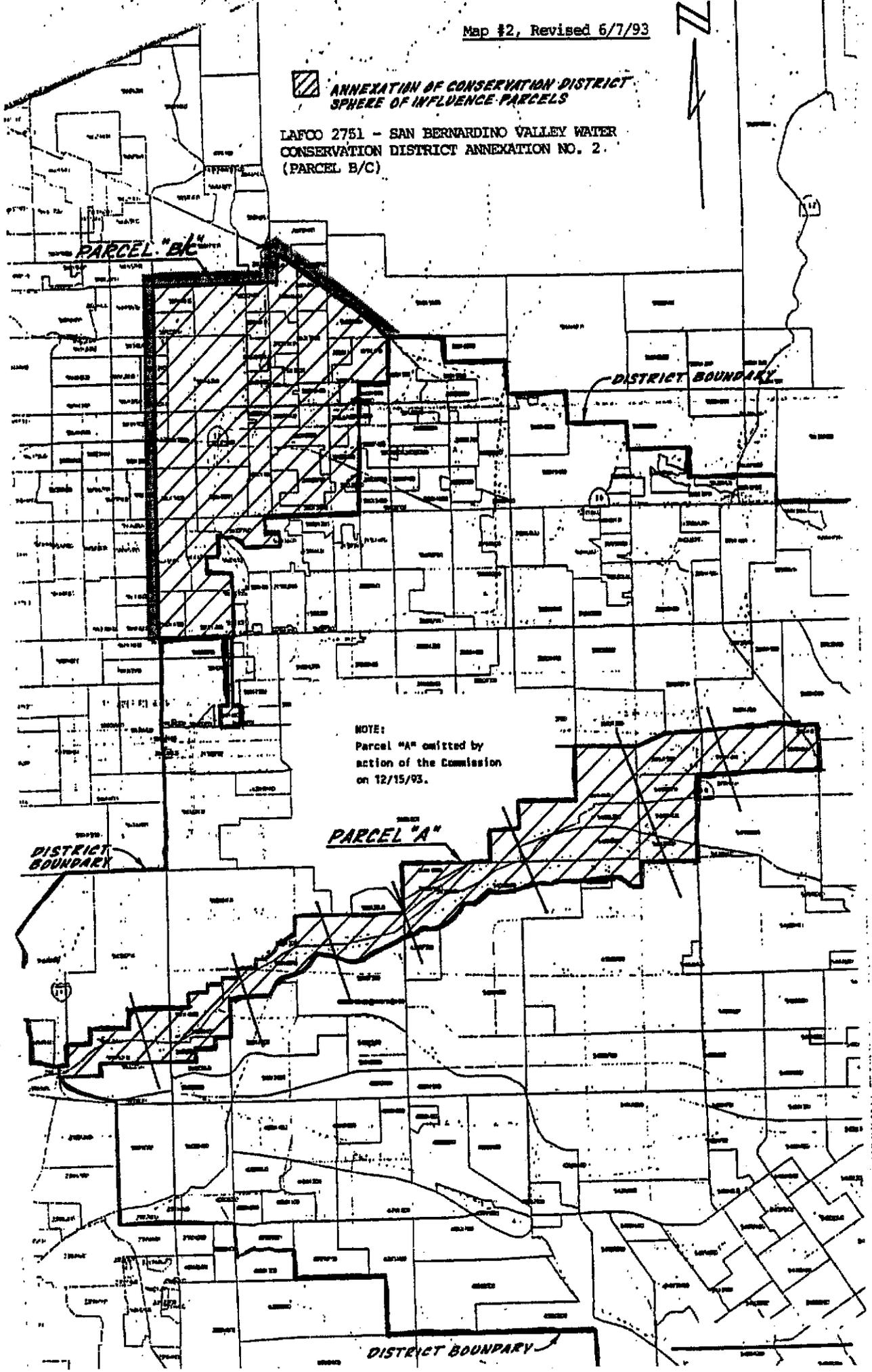
**Map of LAFCO 2751 -
San Bernardino County Water
Conservation District Annexation
No. 2 as Completed and
SBWCD Resolution No. 314
Initiating the Reorganization**

Attachment 3



 ANNEXATION OF CONSERVATION DISTRICT
SPHERE OF INFLUENCE PARCELS

LAFCO 2751 - SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT ANNEXATION NO. 2
(PARCEL B/C)



NOTE:
Parcel "A" omitted by
action of the Commission
on 12/15/93.

DISTRICT BOUNDARY

PARCEL "A"

DISTRICT BOUNDARY

DISTRICT BOUNDARY

RESOLUTION NO. 314

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SAN BERNARDINO VALLEY WATER
CONSERVATION DISTRICT MAKING
APPLICATION TO THE LOCAL AGENCY
FORMATION COMMISSION OF SAN BERNARDINO
COUNTY FOR THE ANNEXATION OF
APPROXIMATELY 5,036 ACRES TO THE DISTRICT
CURRENTLY WITHIN THE DISTRICT'S SPHERE
OF INFLUENCE**

WHEREAS, the San Bernardino Valley Water Conservation District is a Water Conservation District (the "District") formed and operating under the Water Conservation District Law of 1931, as amended, California Water Code Section 74000, *et seq.*; and

WHEREAS, for over eighty years, the District and its predecessor-in-interest have conducted groundwater replenishment activities for the purpose of conserving local water supplies and increasing the supply of groundwater for the lands and residents within the boundaries of the District; and

WHEREAS, the District intends to undertake groundwater management, water quality and conservation activities in the near future, in order to further enhance the groundwater supplies within the boundaries of the District; and

WHEREAS, the Local Agency Formation Commission of San Bernardino County ("LAFCO") has designated those lands more particularly described as Parcels A, B and C in Exhibit "A" hereto, and shown on the plat attached hereto as Exhibit "B", as within the sphere of influence of the District; and

WHEREAS, the District has determined that its present groundwater replenishment activities will be enhanced, its proposed groundwater management and groundwater quality programs will be more effective, and the present and future residents and lands within the District will benefit from a more comprehensive and uniform groundwater management, water quality and groundwater replenishment program, if all of the lands within the District's sphere of influence are included within the District's boundaries.

WHEREAS, The District has determined that all of the lands within the District's sphere of influence presently derive some benefit from the District's groundwater replenishment activities, and will benefit significantly from the District's proposed groundwater quality, replenishment and management activities.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. This proposal is made pursuant to Part 3 (commencing with Section 56650) of the Cortese-Knox Local Government Reorganization Act of 1985, as amended, Government Code Section 56000. *et seq.*

Section 4. The District proposes that the reorganization be made subject to the following terms and conditions:

(a) All of the affected territory, and all of the existing and future groundwater production facilities within the affected territory, shall be subject to all of the current and future rates, groundwater charges, assessments and fees generally applicable to the groundwater production facilities and lands within the boundaries of the District as of the effective date of the reorganization.

(b) The territory proposed to be annexed under this proposal shall be apportioned to one or more existing divisions of the District, or the divisions of the District shall be redrawn to include all such territory, by action of the District's Board of Directors subsequent to the filing of the Certificate of Completion for the reorganization.

Section 5. It is hereby found and determined, and the reasons for the proposed reorganization are, as follows:

(a) The District's present groundwater replenishment activities will be enhanced, and its proposed groundwater management and groundwater quality programs will be more effective, if all of the lands within the District's sphere of influence are included within the District's boundaries.

(b) The present and future residents and lands within the District will benefit from a more comprehensive and uniform groundwater management, water quality and replenishment program, if all of the lands within the District's sphere of influence are included within the District's boundaries.

(c) All of the lands within the District's sphere of influence presently derive some benefit from the District's groundwater replenishment activities, and all of the lands within the District's sphere of influence will benefit significantly from the District's proposed groundwater quality, replenishment and management activities.

Section 6. The District hereby requests that LAFCO undertake proceedings for the proposed reorganization pursuant to Part 3 (commencing with Section 56650) of the Cortese-Knox Local Government Reorganization Act of 1985, as amended, Government Code Section 56000, et seq.

Section 7. It is hereby found and determined that the proposed reorganization is consistent with the sphere of influence of the District.

Section 8. The following persons shall be designated as chief petitioners on the proposal:

- (a) Stanley Berger, President
San Bernardino Valley Water Conservation District
101 East Redlands Boulevard, Suite 247
P O Box 1820

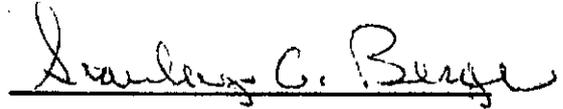
incorporated herein by this reference, and any further data and information which may be required by LAFCO regulations or which may be required by LAFCO or its executive officer pertaining to any of the matters or factors which may be considered by LAFCO.

PASSED AND ADOPTED at a regular meeting of the Board of Directors held on January 4, 1993, by the following roll call vote:

DIRECTORS: YES: Marcum, Huffstutler, Woodbury, Paine, Henriques

DIRECTORS: NO: None

DIRECTORS: ABSENT: Wright



President, San Bernardino Valley
Water Conservation District

ATTEST:



Secretary, San Bernardino Valley
Water Conservation District