LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

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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,

WHEREAS, based on presently existing evidence, facts, and circumstances filed with the Local Agency Formation Commission and considered by this Commission, it is determined that the sphere of influence for the San Bernardino Valley Water Conservation District shall be reduced to a "zero" sphere of influence with the direction that the consolidation of the District with the San Bernardino Valley Municipal Water District should be pursued; and,

WHEREAS, the following findings are made in conformance with Government Code Section 56430 and local Commission policy:

1. **Infrastructure Needs and Deficiencies.**

The District has outlined its plans to reconstruct the percolation basins within the Borrow Site for the Seven Oaks Dam and has plans to construct seven basins upon adoption and completion of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (commonly known as "Plan B"). The District has outlined in its materials that its basic infrastructure of canals and percolation basins were constructed in 1930's and continue to comprise the District's primary infrastructure. These facilities total 75 percolation basins with a total wetted area of approximately 198 acres and surface storage capacity of approximately 2,000 acre feet. The materials submitted by the District indicate no requirement for new facilities or deficiencies in its existing infrastructure.

2. **Growth and Population.**

The District provides service to approximately 78 square miles (approximately 50,000 acres) within its current boundaries which includes portions of the incorporated and unincorporated areas of the Cities of Colton, San Bernardino, Highland, Loma Linda, Redlands, and Yucaipa. The materials submitted by the District indicates that its services primarily support the communities of San Bernardino, Loma Linda, Redlands and Highland and unincorporated areas of Mentone and islands within the Cities. The 2000 Census indicates a population of approximately 340,000 individuals within these communities in San Bernardino County and anticipates a 35% growth rate by 2020 to a population of 460,000. In addition its services support wells within the Bunker Hill Basin, owned by the City of Riverside, the Meeks and Daley Water Company, and Gage Canal Company, which serve as the primary water supply for the City of Riverside and other areas within Riverside County. The City of Riverside's population in the 2000 Census was 256,352 with a projected 2020 population of 338,712. Therefore, the water extraction from the Bunker Hill Basin is anticipated to support a projected population of 798,712 in the year 2020.

The establishment of a zero sphere of influence is proposed to point toward the consolidation of the San Bernardino Valley Water Conservation District with the San Bernardino Valley Municipal Water District to better serve the whole of the Bunker Hill Basin which supports the populations identified above.

3. **Financing Opportunities and Constraints.**

The primary funding mechanisms for the District are:

- Mining Revenues (estimated at $784,748 for FY 2004-05)
- Groundwater Assessments ($493,906 for FY 2004-05)

- Interest ($155,898 for FY2004-05)
- A share of the 1% general ad valorem levy (estimated at $53,140 for FY 2004-05)

The establishment of a zero sphere of influence for the San Bernardino Valley Water Conservation District points toward the consolidation of this agency with the San Bernardino Valley Municipal Water District in order to allow consolidating the requirements for water replenishment/recharge of the Bunker Hill Basin under a single entity. Such an action would mean that the revenue stream from the groundwater assessments would discontinue as the San Bernardino Valley Municipal Water District does not have the legal authority to assess this charge. Further review with the Districts and water stakeholders within the area needs to be undertaken to assure that there will be no loss of service with consolidation and reduction in revenue stream.

4. **Cost Avoidance Opportunities.**

The District has indicated that it has participated in a number of joint efforts with other agencies to assist in the performance of its focus on water recharge/ replenishment of the basin – these include the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan – a partnership with the Bureau of Land Management, the Cities of Redlands and Highland, mining interests, water agencies, the California Department of Fish and Game, the Santa Ana River-Mill Creek Cooperative Water Project – facilitates the transfer and/or exchange of water between ten public and private water agencies, the High Groundwater Mitigation Project – an effort to reduce the water level within the "pressure zone" of the southern City of San Bernardino and the Drought Mitigation Project.

There are two agencies which overlay the entirety of the San Bernardino Valley Water Conservation District which also have "water conservation" as an authorized power or function – the San Bernardino County Flood Control District and the San Bernardino Valley Municipal Water District. The San Bernardino County Flood Control District has indicated that water conservation or recharge/replenishment is a secondary focus of its operations, its primary function being to provide for the control of floodwaters for the health and safety of the County and its residents. The San Bernardino Valley Municipal Water District has indicated that its responsibilities for the maintenance of the Bunker Hill Basin provide a need to incorporate the water recharge/replenishment activities of all the water stakeholders in the Bunker Hill Basin into its master plans for the Basin.

5. **Rate Restructuring.**

The District operates a groundwater assessment pursuant to the provisions of Section 75500 et seq. of the Water Code. This rate is annually set by the Board of Directors through a process as prescribed by law. The groundwater assessment was established in 1993 as a funding mechanism to offset reductions in mining revenues and the reductions in property tax revenues received by the District. Based upon information on the history of this groundwater assessment, there has been a 66% increase since its inception in 1993. It would be anticipated that future increases would be anticipated to "help defray the costs for replenishment" operations. If consolidation with the San Bernardino Valley Municipal Water District were to occur, with that District identified as the successor entity, the groundwater assessment would be abolished, as such is not authorized under Municipal Water District law.

In addition, the District receives revenues from aggregate mining as a royalty rate set by lease contracts with specific durations. At the time that the contracts are due for renewal, adjustments in the lease rates could be applied. Existing contracts are with Cemex USA and Redlands Aggregate. In addition, the District has on account a $5,000,000 deposit from Robertson's Redi-Mix mining company as a pre-deposit for future mining royalties on lands to be leased in the future. The use of these revenues is dependent upon completion of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (Plan B) which anticipates the exchange of lands between the Bureau of Land Management and San Bernardino Valley Water Conservation District to solidify habitat preservation areas within the Santa Ana River and establish areas for aggregate extraction.

6. **Opportunities for Shared Facilities.**

The materials submitted by the District identify that it has shared its facilities for spreading of water for recharge with other parties within the groundwater basin. The District's facilities consist of a series of diversion structures on the Santa Ana River and Mill Creek used with a system of canals to transport water to percolation facilities. The San Bernardino County Flood Control District has detention basins along the course of the Santa Ana and in other tributary flood control facilities which can be used for recharge purposes. Responses to requests for information from other agencies have indicated that there are a number of facilities within this region that provide for shared facilities and resources to support and enhance recharge activities.

7. **Government Structure Options.**

The District was originally established in 1931 by election and took over the operation and assets of its predecessor, the Water Conservation Association in the Santa Ana River. In 1935 it acquired the water rights of the East Lugonia Mutual Water Company to provide for spreading and percolation within Mill Creek, a tributary to the Santa Ana River. In the materials submitted by the District, it indicates that it has been operating successfully for over 70 years and that its structure offers flexibility and a focused mission. The materials indicate that the hurdles to consolidation/reorganization are that it would require a vote by the registered voters within its boundaries and that the local groundwater producers would be reluctant to see such a change.

However, AB 2067 (Harmon) signed into law on September 10, 2004 and effective January 1, 2005 changed the possibilities for reorganization of this district. That change included the ability to consolidate special districts formed under different principal acts if certain findings can be made. In this instance, the election requirements would depend upon levels of protest as is the standard measure in any LAFCO proceeding. The alternatives for such a reorganization to combine agencies providing the same types of service would be: consolidation with the San Bernardino County Flood Control District, or consolidation with the San Bernardino Valley Municipal Water District.

Staff has reviewed these alternatives plus a possible sphere of influence expansion to encompass the whole of the Bunker Hill Basin with the affected Districts, the major water producers within the District, and by circulation of the staff report with those assessed the groundwater charge. In gathering and evaluating the materials for this municipal service review, LAFCO has solicited the positions of the affected districts and provided that to the Commission. No support for expansion of the District's sphere of

influence has been received, no support for consolidation with the San Bernardino County Flood Control District has been received, some support for consolidation with the San Bernardino Valley Municipal Water District has been received and some support for maintenance of the status quo has been received.

8. **Management Efficiencies.**

In response to questions regarding staffing levels, the District has responded that it is operated by a small, highly trained organization that includes a General Manager, Assistant General Manager, Administrative Services Manager, Project Manager, GIS/CADD Analyst, two (2) administrative assistants and two (2) Operation Specialists. The District adopts an annual budget which includes a review process at committee level, then public workshop with the Board of Directors and final adoption. The budget review includes discussion of long-range planning. As identified in the staff report, the financial materials submitted by the District identify that for every $1.00 spent on groundwater replenishment in Fiscal Year 2004-05 it cost $1.26 in administrative charges.

Through consideration of a potential consolidation with the San Bernardino Valley Municipal Water District, the full-time employees of the San Bernardino Valley Water Conservation District would be transferred as required by law. Consideration should also be given to the possible retention of a portion of the existing board of directors to allow for a smooth transition and an understanding of the operations of the District while achieving a reduction in administrative costs.

9. **Local Accountability and Governance.**

The District is governed by a seven (7)-member Board of Directors, elected from within divisions. Each member of the Board is required to be registered voters within his/her division of the District. The Board of Directors is elected to four-year fixed terms. While there is a requirement for an election in odd-numbered years, actual elections conducted by the District during the last twenty years total six. The elections conducted were:

Division #1 (Redlands)	1983 and 1999
Division #5 (Mentone)	1989
Division #6 (North San Bernardino)	1993, 1997 and 2001

No election has been held for Divisions #2, #3, #4 and #7 in the past twenty years according to the records of the County Registrar of Voters. These divisions were appointed in-lieu of election. Divisions #1, #3, #5, and #7 are due for election at the November 2005 consolidated election. As of August 4th, according to the County Registrar of Voters website, only one candidate has filed for Division #5. There was a mandatory redistricting required of the District following its 1993 annexation of the North San Bernardino area which became Division #6 identified above.

WHEREAS, the following findings are made in conformance with Government Code Section 56425 and local Commission policy:

1. The present and planned land uses in the area, including agricultural and open-space lands:

The present and planned land uses in the area comprising the existing boundaries and sphere of influence of the San Bernardino Valley Water Conservation District represent varying levels and intensities of urban development within unincorporated County areas as well as portions of the Cities of Colton, San Bernardino, Highland, Loma Linda, Redlands, and Yucaipa. This area includes approximately 78 square miles (50,000 acres) within San Bernardino County. This portion of the San Bernardino Valley is transitioning from an agrarian economy to an urban one which will affect the levels of water usage and define the level of service for water replenishment/recharge within this portion of the Bunker Hill Basin.

2. The present and probable need for public facilities and services in the area:

The present and probable need for water recharge/replenishment activities to sustain the overall Bunker Hill Basin will continue and expand as the population of this portion of the Valley grows and the agrarian land uses transitions to urban uses. The entire basin is experiencing drought conditions, water contamination issues and growth in the use of the groundwater supply. The services of water recharge/ replenishment as utilized under the water conservation powers of the San Bernardino Valley Water Conservation District is a need throughout the entirety of the basin in a coordinated effort, not isolated to the area within the boundaries of the District.

3. The present capacity of public facilities and adequacy of public services that the agency to be expanded provides or is authorized to provide:

Within the current boundaries of the San Bernardino Valley Water Conservation District it provides the service of water recharge/replenishment through the use of its allocation of the native surface waters of the Santa Ana River and/or, when necessary, State Project Water during drought conditions. The services of water recharge/ replenishment are also provided within this area by the overlapping agencies of the City of Redlands, the East Valley Water District, the Bear Valley Mutual Water Company and the San Bernardino Valley Municipal Water District.

4. The existence of any social or economic communities of interest in the area.

The Water Conservation District purpose is regional in scope as its mission statement specifies:

"The mission of the San Bernardino Valley Water Conservation District is to ensure recharge of the Bunker Hill Groundwater Basin in an environmentally and economically responsible way, using local native surface water to the maximum extent practicable.

We strive to improve the supply and quality of groundwater, balancing such demands with those of land, mineral and biological resources."

However, the Bunker Hill Basin is much larger than the boundaries and/or sphere of influence of the District and for this type of regional service the boundary of the Basin would be considered a single community of interest. Since the efforts of the District support the entirety of the Basin, either the sphere of influence of the agency should be expanded to include the whole of the Basin or the possibility of consolidation with the San Bernardino Valley Municipal Water District, an entity with responsibility for the entirety of the Bunker Hill Basin, through such responsibilities as administration of the

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.

NOW, THEREFORE, BE IT RESOLVED by the Local Agency Formation Commission of the County of San Bernardino, State of California, that this Commission shall consider the sphere of influence for the San Bernardino Valley Water Conservation District to be a zero sphere, it being fully understood that establishment of such a sphere of influence is a policy declaration of this Commission based on existing facts and circumstances which, although not readily changed, may be subject to review and change in the event a future significant change of circumstances so warrants.

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission of the County of San Bernardino by the following vote:

AYES: COMMISSIONERS: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams

NOES: COMMISSIONERS: None

ABSENT: COMMISSIONERS: None

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, KATHLEEN ROLLINGS-McDONALD, Executive Officer of the Local Agency Formation Commission of the County of San Bernardino, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission, by vote of the members present, as the same appears in the Official Minutes of said Commission at its meeting of March 15, 2006.

DATED: March 16, 2006

KATHLEEN ROLLINGS-McDONALD
Executive Officer

LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

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DATE: MARCH 6, 2006

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: **Agenda Item #6: Consideration of LAFCO 2919 – Service Review and Sphere of Influence Update for San Bernardino Valley Water Conservation District (Continued Hearing)**

INITIATED BY:

Local Agency Formation Commission

RECOMMENDATION:

The staff recommendation is that the Commission approve the concept that a basin-wide water conservation entity should be pursued and take the following actions:

1. Determine that the designation of a zero sphere of influence for the San Bernardino Valley Water Conservation District is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

2. Designate a zero sphere of influence for the San Bernardino Valley Water Conservation District indicating that it is the position of the Commission that the District should ultimately consolidate with another; and,

3. Adopt LAFCO Resolution #2893 setting forth the Commission's findings and determinations related to this consideration.

However, if the Commission determines that the Stakeholders Committee report, the response from the San Bernardino Valley Water Conservation District and additional materials show affirmation of the District's existing sphere of influence or a coterminous sphere of influence is the appropriate action, it may take the following actions to close this consideration:

1. Determine that the affirmation of the District's existing sphere of influence or the amendment to a coterminous sphere of influence through LAFCO 2919 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

2. Make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence for the San Bernardino Valley Water Conservation District should be affirmed in its present configuration or amended to be coterminous with the District's boundaries; and,

3. Defer adoption of the resolution making these determinations to the consent calendar for the April 19, 2006 Commission hearing.

BACKGROUND:

At the February 15, 2006 hearing, the Commission continued consideration to March 15th at the request of Supervisor and Commissioner Hansberger. The Staff Report from the February 15th hearing, without attachments, is included as Attachment #1; the letter from the City of Redlands received at the February 15th hearing is included as Attachment #2; and the draft Resolution No. 2893 implementing the staff's recommendation is include as Attachment #3.

Staff will respond to questions on the materials at the hearing. As noted above, the staff recommendation remains unchanged.

KRM/

Attachments:
1. Staff Report dated February 6, 2006 for LAFCO 2919 Without Attachments
2. Letter from City of Redlands dated February 15, 2006
3. Draft LAFCO Resolution #2893

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DATE: FEBRUARY 6, 2006

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: **Agenda Item #6: Consideration of LAFCO 2919 – Service Review and Sphere of Influence Update for San Bernardino Valley Water Conservation District (Continued Hearing)**

INITIATED BY:

Local Agency Formation Commission

RECOMMENDATION:

That the Commission:

1. Determine whether or not to continue the matter to the March 15, 2006 hearing as requested by Commissioner Hansberger.

2. If the determination is to continue with its consideration at the February hearing and, after reviewing the report of the Stakeholders Committee and the San Bernardino Valley Water Conservation District response, the Commission supports the staff's position that the concept of a basin-wide water conservation entity should be pursued, staff recommends that it:

   a. Determine that the designation of a zero sphere of influence for the San Bernardino Valley Water Conservation District is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

   b. Designate a zero sphere of influence for the San Bernardino Valley Water Conservation District indicating that it is the position of the Commission that the District should ultimately consolidate with another agency; and,

c. Adopt LAFCO Resolution #2893 setting forth the Commission's findings and determinations related to this consideration.

3. However, if the Commission determines that the Stakeholders Committee report, the response from the San Bernardino Valley Water Conservation District and additional materials show affirmation of the District's existing sphere of influence or a coterminous sphere of influence is the appropriate action, it may take the following actions to close this consideration:

   a. Determine that the affirmation of the District's existing sphere of influence or the amendment to a coterminous sphere of influence through LAFCO 2919 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

   b. Make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence for the San Bernardino Valley Water Conservation District should be affirmed in its present configuration or amended to be coterminous with the District's boundaries; and,

   c. Defer adoption of the resolution making these determinations to the consent calendar for the March 15, 2006 Commission hearing.

BACKGROUND:

Attachment #1 to this report is a letter, dated January 25, 2006, from Supervisor and Commissioner Hansberger requesting that the Commission accept the materials presented related to this item and then continue its consideration to the March 15, 2006 Hearing so that he may participate in the consideration. A decision on this request will be the first determination required of the Commission. Staff has no recommendation on this matter as it is a policy decision for the Commission.

The current consideration is a continued hearing by the Commission. At the September 21, 2005 Commission hearing, the action taken was to indicate the Commission's intent to adopt the staff's recommendation, which was to determine that the Commission's decision was exempt from CEQA and to adopt a zero sphere of influence for the San Bernardino Valley Water Conservation District (hereinafter SBVWCD) and continue the matter to the February 15, 2006 hearing to request that a committee of stakeholders respond to three questions:

1. The effectiveness and efficiency of a potential future successor agency through consolidation;

2. Can the pre-1914 water rights of the SBVWCD be transferred in any future consolidation; and,

3. The preservation of the Wash Plan or Plan B currently in progress.

At the November 16, 2005, hearing an additional question was posed to the Committee for discussion and response:

> Is there any incompatibility in having the San Bernardino Valley Municipal Water District (hereinafter MUNI) administer both the Western Judgment and the Conservation District's traditional water recharge role, or in having MUNI serve both as the importer of State Project Water and the party primarily controlling the native water for groundwater recharge?

In addition, at the November hearing the makeup of the stakeholders Committee was expanded by the Commission to specifically include the Western Municipal Water District and the City of Highland. Copies of the minutes related to these hearings are included as a part of Attachment #2 to this report.

As directed by the Commission at the September 21, 2005 hearing and thereafter, the Committee has met on numerous occasions and discussed the four questions on which they were charged to respond. Attached to this staff report is a copy of the Committee Report (Attachment #3) representing the majority position of its membership outlining the response to the four questions.

Attachment #4 to this report is the response submitted on February 6th by the SBVWCD. Staff was able to review the materials submitted by the SBVWCD in a cursory manner, but would like to clarify one point at this time related to the materials submitted. The portion of the document entitled "Position Paper on LAFCO Matter 2919", on page 3, states that the City of Riverside "is (1) not within the boundaries of the Municipal Water District and (2) pays no taxes...". Staff would clarify that the City of Riverside has extensive land holdings within San Bernardino County that are a part of the Municipal Water District throughout the Santa Ana River area and pays taxes. Specifically, staff has reviewed two parcels owned by the City of Riverside against the County of San Bernardino's Assessment Rolls and Tax Bills. This review shows the following:

ASSESSOR PARCEL NUMBER	OWNER NAME	LAND VALUE 2004-05	GENERAL TAX LEVY 2004-05	SBVMWD DEBT SERVICE
0141-421-18	City of Riverside	$18,500	$185.00	$25.90
0141-431-18	City of Riverside	$ 3,906	$30.96	$4.95

So the statement that if the groundwater charge were to be removed from the City of Riverside, "all other taxpayers in the Municipal Water District will subsidize the City of Riverside" is inaccurate. It should also be noted that the City of Riverside currently has well sites within the boundaries of SBVWCD, as evidenced by their payment of the District's groundwater assessment charge; therefore, their payment of general levy taxes would also support the SBVWCD.

LAFCO staff has attended all of the Committee meetings, provided staff support in the preparation of the Committee Report, and has reviewed the response presented

by the SBVWCD. The information provided has not changed the staff's position that the Bunker Hill Basin should be considered as a single unit when evaluating agencies with recharge responsibilities or operations. It remains our position that the ability to maximize recharge efforts should be coordinated at the regional level, or basin-level. Given the discussion in the past regarding the expansion of the SBVWCD sphere of influence to include the whole of the Basin and the absence of support or desire for such action by SBVWCD or the water producers, the consolidation of the SBVWCD with a regional entity was, and still is, considered the appropriate planning decision by LAFCO staff. As outlined in the staff reports presented on this matter, following discussion with other regional entities with recharge authority, the potential for consolidation with either San Bernardino County Flood Control District or MUNI, the appropriate agency to be considered for consolidation was determined to be MUNI. The Flood Control District indicated, as included in the staff report for the August 17, 2005 hearing, that its mission of moving water through the area of the Santa Ana River as quickly and safely as possible did not coincide with the mission of SBVWCD to hold those waters for recharge of the Basin.

As outlined in the prior reports, the staff's position responds to the basic question which has been articulated throughout these considerations:

> "Why are there three overlapping agencies within this portion of the Bunker Hill Basin of the eastern San Bernardino Valley authorized to provide water conservation services? And is this appropriate?

Staff's response is that the regional service of water recharge should be addressed regionally and the overlapping of agencies is not appropriate.

The staff's review of the factors related to a municipal service review, as identified in Government Code Section 56430, and a sphere of influence update, as identified in Government Code Section 56425, has been provided to the Commission previously in reports presented on March 16th, August 17th , and September 21st 2005 and are not reiterated in this report.

CONCLUSION:

Based upon the information included in the reports presented to the Commission during its hearings on the Municipal Service Review and Sphere of Influence Update, LAFCO 2919, the Committee Report, and response by the SBVWCD, along with the policy directions of the State Legislature to LAFCO to develop the most efficient and effective service boundaries for agencies, LAFCO staff's recommendation remains that the Commission should amend the sphere of influence of the SBVWCD to a zero sphere, indicating that its planning perspective is that, over time, the agency should join with another.

Staff reiterates that its recommendation does not initiate the consolidation; it does not change the area in which the SBVWCD currently provides its services; does not

change its current operations or responsibilities related to the Wash Plan, Big Bear Watermaster, or Exchange Plan administration; nor does it eliminate the groundwater charge. Its intent is to fulfill the Commission's planning function as outlined by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The staff's position is not taken on the basis that the District is mismanaged or derelict in the performance of its responsibilities; the District is well-managed and performs its responsibilities. It is taken in response to State directives to look at the efficient and effective operations in a regional context.

However, if after reviewing the materials and the presentations at the hearing, the Commission does not support the staff's recommendation and believes that sufficient information has been presented to support retention of the District's sphere of influence, it can:

1. Affirm the District's existing sphere which includes approximately 1,980 acres outside its existing boundaries within the Santa Ana River, stretching from approximately Boulder Avenue on the east to the junction of the I-215 and I-10 freeways on the west; or,

2. It can establish a sphere of influence coterminous with the District's existing boundaries. This action would remove the ability of the District to expand its boundaries without a subsequent sphere of influence application and review.

KRM/

Attachments:
1. Letter from Commissioner Hansberger Requesting Continuance of the Consideration
2. Minutes from Commission Hearings Dated March 16, 2005, August 17, 2005, September 21, 2005, and November 16, 2005
3. Committee Report
4. SBVWCD Response to Committee Report
5. Maps of San Bernardino Valley Water Conservation District and Related Agencies
6. Responses from Commission Environmental Consultant, Tom Dodson of Tom Dodson and Associates
7. Draft LAFCO Resolution #2893

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DATE: NOVEMBER 7, 2005

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: **AGENDA ITEM #8** – CONSIDERATION OF CONSULTANT FOR STUDY RELATED TO LAFCO 2919 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

RECOMMENDATION:

Staff's recommendation is that the Commission:

1. Decline to hire a Consultant to prepare the report required for presentation at the February 15, 2006 Hearing related to LAFCO 2919; and,

2. Confirm the Committee Membership proposed by staff to include representation by the Western Municipal Water District and decline the request to expand the membership to include representatives of the City of Highland.

BACKGROUND:

The San Bernardino Valley Water Conservation District (hereinafter SBVWCD or District) in a letter submitted to the Commission (copy included as Attachment #1) has requested that the Commission consider hiring a consultant to assist the Committee formed by the Commission to prepare the study required for LAFCO 2919. The letter was received following closure of the October hearing agenda, but copies were forwarded to members upon receipt. Staff identified at the October hearing that the matter would be placed on the November Agenda.

The Advisory Committee's first meeting was held on October 28th and a copy of the Agenda for that meeting is included as Attachment #2 to this report. As

noted, a discussion of the directions to the Committee was presented as those were identified in the minutes of the September hearing. Those areas are defined as follows:

a. If a consolidation were to be considered, could the San Bernardino Valley Water Conservation District pre-1914 water rights be transferred to a successor agency?

b. Effectiveness and efficiency of any potential successor agency within a consolidation proposal with regard to water conservation activities.

c. Preservation of the "Wash Plan" or "Plan B" in any potential consolidation.

In addition, the letter from the District was reviewed and the Committee members were polled as to their position on the question of the hiring of a consultant and payment of those costs. The consensus of the Committee members was that a consultant was not required; but, if the Commission chooses to move in that direction, financial participation would be provided from a majority of the Committee members.

Staff does not believe that a consultant is required to prepare the report back to the Commission on the areas outlined above since the information necessary to complete the report is readily available from the Districts. In addition, staff does not believe that the Commission's revenues, which are generated from revenues for proposal processing and the shares from the County, Cities, and Independent Special Districts, should be utilized to prepare the report. Therefore, we do not support the hiring of a consultant.

At the meeting an additional question arose from the SBVWCD regarding the actual composition of the Committee membership. At the September hearing, the Commission adopted Item #3 of the staff's recommendation which reads as follows:

> "Direct the Executive Officer to establish a committee to review the possible consolidation of the San Bernardino Valley Water Conservation District with the San Bernardino Valley Municipal Water District, to be made up of the LAFCO Executive Officer and the General Manager, or designee, of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District; and a representative from each of the major water stakeholders identified as: the City of Redlands, the City of San Bernardino Municipal Water Department, East Valley Water District, Bear Valley Mutual Water Company, and the City of Riverside, to develop the parameters needed for consolidation. A report of the terms and conditions

needed for such a consolidation, developed by the Committee, will be due back to the Commission no later than the February 15, 2006 hearing.

Included with the staff report was a letter from the Western Municipal Water District, dated September 13, 2005, requesting that the staff's recommendation for composition be modified for its inclusion and outlining its rationale (copy included as Attachment #3). No specific action was taken during the Commission's considerations regarding this request. Staff in soliciting the designee and alternates for the Committee included a request for a representative of the Western Municipal Water District on the Committee. At the October 28th meeting, the representatives for SBVWCD requested that (a) Western not have a representative on the Committee and (b) if Western was a part of the Committee, that the membership also be expanded to include the City of Highland as a further interested party.

The City of Highland City Council is scheduled to discuss a request for inclusion on the Committee at its November 8th City Council meeting. The City Council agenda item #12A, included as Attachment #4 to this report, outlines the request for inclusion related to discussion of the Wash Plan or Plan B, as shown as Item #c of the Commission's direction to the Committee. At the time of the preparation of this report, the Council position was not known but will be provided to the Commission at the hearing.

The composition of the Committee as identified by staff was intended to include the major water stakeholders within the Bunker Hill Basin. As the letter from Western indicates, it has a major stake in the Bunker Hill Basin regarding the amount of water withdrawal as it relates to maintenance of the flows under the Orange County judgment; therefore, staff included its representatives on the Committee. The City of Highland is represented on the Committee by the representatives of the East Valley Water District who provide for the City's water and sewer needs. Staff has provided the City of Highland with notices of the Committee meetings; they have had a presence at the meeting; and can comment on the matters being discussed. As with all meetings conducted by or for the Commission, copies of materials are provided to interested agencies and persons and the public's participation is encouraged.

Therefore, it is the staff position that the composition of the Committee should include the Western Municipal Water District as a major water stakeholder but not include the City of Highland. Staff believes that in reference to the hiring of a consultant, the preparation of the report to the Commission for the February hearing can be provided without a consultant and the costs for such a consultant should not be required of the Commission.

KRM/

Attachments:

1. September 28, 2005 Letter from the San Bernardino Valley Water Conservation District
2. Agenda for October 28, 2005 Committee Meeting
3. September 13, 2005 Letter from the Western Municipal Water District
4. City of Highland Council Agenda Item #12A

LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

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DATE: SEPTEMBER 13, 2005

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: **Agenda Item #7:** Consideration of LAFCO 2919 – Service Review and Sphere of Influence Update for San Bernardino Valley Water Conservation District

RECOMMENDATION:

If the Commission supports the staff's position that the concept of a basin-wide water conservation entity should be pursued, it is recommended that it support the ultimate consolidation of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District, by taking the following actions:

1. Determine that the designation of a zero sphere of influence for the San Bernardino Valley Water Conservation District is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

2. Designate a zero sphere of influence for the San Bernardino Valley Water Conservation District indicating that it is the position of the Commission that the District should ultimately consolidate with the San Bernardino Valley Municipal Water District;

3. Direct the Executive Officer to establish a committee to review the possible consolidation of the San Bernardino Valley Water Conservation District with the San Bernardino Valley Municipal Water District, to be made up of the LAFCO Executive Officer and the General Manager, or designee, of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District; and a representative from each of the major water stakeholders identified as: the City of Redlands, the City of San Bernardino Municipal Water Department, East Valley Water District, Bear Valley Mutual Water Company, and the City of Riverside, to develop the parameters needed for consolidation. A report of the terms and conditions

needed for such a consolidation, developed by the Committee, will be due back to the Commission no later than the February 15, 2006 hearing.

4. Adopt LAFCO Resolution #2893 setting forth the Commission's findings and determinations related to this consideration.

However, if the Commission determines that the municipal service review shows affirmation of the District's existing sphere of influence or a coterminous sphere of influence is appropriate, it may take the following actions to close this consideration:

1. Determine that the affirmation of the District's existing sphere of influence or the amendment to a coterminous sphere of influence through LAFCO 2919 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

2. Make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence for the San Bernardino Valley Water Conservation District should be affirmed in its present configuration or amended to be coterminous with the District's boundaries; and,

3. Defer adoption of the resolution making these determinations to the consent calendar for the October 19, 2005 Commission hearing.

BACKGROUND:

At the August 17th hearing, the Commission continued consideration of LAFCO 2919 to the September hearing at the request of the San Bernardino Valley Water Conservation District (hereinafter SBVWCD). Its request was to allow the District sufficient time to respond to the Staff Report presented. A copy of the Staff Report for the August Hearing including only its Attachment #1 maps, Attachment #9 LAFCO Environmental Consultant responses, and Attachment #10 the draft resolution is provided as Attachment #1. The entire report is available on the LAFCO website.

Included with this report, as Attachment #2, is the SBVWCD's response to the August Staff Report which also provides additional information on its position related to the options presented by staff. The District's response indicates that new information is available since the prior report related to a Settlement Agreement with San Bernardino Valley Municipal Water District (hereinafter Muni) and the Western Municipal Water District regarding their competing water interests and to eliminate protest to the various Water Rights Applications filed with the State Department of Water Resources. This is important new information for the Commission's consideration. This Settlement Agreement (included as Exhibit A in the District's response) and its Exhibit "A" provides that the protests to the Water Rights Applications for SBVWCD and Muni and Western Municipal

Water District will be rescinded. The terms of the Settlement Agreement also require that the Seven Oaks Accord will be modified to include SBVWCD.

The District identifies in its materials that the staff has omitted critical information related to the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan, also known as the "Wash Plan" under the first factor required by Government Code Section 56425. Staff's response is that the Wash Plan was discussed, but not in the context of existing and planned land uses related to the District. The land use authorities for the territory of the District in its entirety are the Cities of Highland, Loma Linda, Redlands, San Bernardino and Yucaipa and the County of San Bernardino. The land use authorities within the Wash Plan are the Cities of Highland and Redlands and the County of San Bernardino. The District has no land use authority within this area known to staff; therefore, the response provided in the previous materials described the myriad of land use types available throughout the area of the District's jurisdiction. It is the staff's understanding that the District has spearheaded this effort to identify future recharge and mining areas given the sensitive environmental nature of the Santa Ana River Basin.

However, the response by the District still does not answer the basic question asked by staff since the inception of this review, which is:

> "Why are there three overlapping agencies within the eastern portion of the Bunker Hill Basin authorized to provide the same service – water conservation – and is this division appropriate?"

While the District's response indicates that "if it ain't broke don't fix it" is the appropriate position to take, staff believes that the answer is that such a duplication is not appropriate. The staff's position remains that groundwater recharge/replenishment efforts for the entirety of the Bunker Hill Basin are the appropriate service area to be considered. Therefore, in its opinion, the options for the Commission remain:

1. Expand the sphere of influence of the SBVWCD to include the whole of this Basin; or,

2. Evaluate the possibilities of consolidating this agency with one of the other entities who have authority to perform groundwater recharge/replenishment activities throughout the Bunker Hill Basin.

In addition, two new questions were asked of staff at the August hearing:

1. Who are the members of the Upper Santa Ana Water Resources Association to which the question of support for the options was posed?

2. Is there a potential for double taxation as outlined in the City of Rialto response?

In response to Question #1, the members of the Upper Santa Ana Water Resources Association are identified in its "Articles of Association", copy included as Attachment #3, as the water producers within the Upper Santa Ana River watershed. These agencies include:

East Valley Water District
West Valley Water District
Elsinore Valley Municipal Water District
San Bernardino Valley MWD
Western Municipal Water District
San Bernardino Valley WCD
City of San Bernardino
Municipal Water Department
City of Redlands
City of Rialto
City of Riverside
Bear Valley Mutual Water Company
Riverside-Highland Water Company
Fontana Water Company
County Flood Control District (by the Public Works Department)
Robertson's Redi-Mix

Additional participants in the meetings of the Association include the State Department of Health Services, Santa Ana Watershed Project Authority, Consultants, the California State University San Bernardino's Water Resources Institute, and others. The options presented to the Commission were reviewed with this Association in an effort to reach the water producers within the territory of SBVWCD and their individual positions on these options requested. However, since the publication of the Staff Report for the August hearing, the positions of some of these agencies have been modified. The City of Riverside has shifted its position to one of supporting the consolidation with Muni through discussions with Muni and Western Municipal Water District. A copy of its letter and the draft memorandum of understanding are included as Attachment #4 to this report. The following is a revised listing of the water producers' positions on the options before the Commission:

Water Producer	Service Review Option Chosen	Amount of Water Pumped from January 1, 2004 through December 31, 2004	Amount of Groundwater Assessment Paid
East Valley Water District	Supports Status Quo	22,755.2	$131,723.01
City of Riverside	Supports consolidation with Muni	19,973.1	$115,917.15
Gage Canal Company (understood to be a part of the City of Riverside)	No separate position provided	10,717.6	$40,320.41
City of Redlands	Supports consolidation with Muni	17,320.1	$95,403.48
City of San Bernardino	Supports consolidation with Muni	7,055	$40,917.82
Meeks & Daley (primary owners are City of Riverside and Elsinore Valley Municipal Water District)	Supports Status Quo	2,037	$9,336.63
SBVMWD	No position	776.2	$4,667.80
Bear Valley Mutual Water Company	Supports consolidation with Muni	0	$0.00

Lugonia Water Company	Supports consolidation with Muni	not identified on listing	
Redlands Water Company	Supports consolidation with Muni	not identified on listing	

In response to Question #2, regarding the possibility of double taxation, the staff response is that the situation exists today within the boundaries of the SBVWCD and Muni. Municipal Water District law allows for the charging of an assessment or a special tax, through a separate review and protest process, which could be proposed within the area where the SBVWCD currently charges a groundwater assessment or outside it. In the response provided by the SBVWCD, Exhibit B illustrates that in 1980 a water production assessment was considered by Muni in order to finance needed capital facilities. No such tax was imposed; however, the possibility remains unchanged by the potential consolidation of the agencies. However, the question as outlined in the City of Rialto letter indicates its concern that if the SBVWCD was consolidated with Muni, it would allow Muni to charge a pump tax, in the same manner as the existing pump tax imposed by SBVWCD. Such a change would not occur as a result of this consolidation.

CONCLUSION:

In conclusion, the staff's position remains unchanged by the additional materials submitted by SBVWCD. The staff applauds the efforts of the District in negotiating its Settlement Agreement related to the Seven Oaks Accord, but on the basis of the elements outlined in the August hearing staff report, outlined below, the position remains to support a further review of a potential consolidation. Those elements are:

1. During the hearings by the Commission on Local Governance for the 21st Century and adoption of Assembly Bill 2838 rewriting LAFCO law, the direction has been emphasized that the Commission is to provide for the most efficient and effective service boundaries for the agencies under its purview. The Municipal Service Review/Sphere of Influence update process requires that the Commission evaluate, as a part of its review, local governance issues, hurdles to consolidations and reorganizations. The most efficient and effective boundary, in the staff's view, would be to address the whole of the Bunker Hill Basin. That would require either the expansion of the SBVWCD sphere of influence to encompass that territory or the consolidation of the District with Muni.

2. Passage of AB 2067 which allows for the consolidation of special districts not formed under the same principal act. Absent this legislation, the only alternative available would be through dissolution of the Water Conservation District. Such an action would require the completion of the processes as specified by Water Conservation District Law, which requires the submission of a petition to initiate dissolution and a vote which must exceed 60% in support.

3. The position that the Bunker Hill Basin should be considered as a single unit when evaluating agencies with recharge responsibilities or operations. In evaluating this economic community of interest, the changed circumstances in the Bunker Hill Basin through the completion of the Seven Oaks Dam and the subsequent signing of the Seven Oaks Accord and the proposed amendment with SBVWCD should be considered. As staff understands it, 90% of the recharge of the Basin occurs through natural recharge (snow melt, rainfall, river water through the area, etc.) and the remaining 10% is through artificial recharge efforts. To maximize those efforts, they should, in the staff view, be coordinated at the regional level, or basin-level, and that would point toward either the expansion of the San Bernardino Valley Water Conservation District sphere of influence to include the whole of the Basin, or the consolidation with a regional entity.

Therefore, it remains the staff's opinion that an evaluation of consolidation of the San Bernardino Valley Municipal Water District and the San Bernardino Valley Water Conservation District should be pursued as outlined in the staff recommendation on pages 1 and 2 of this report. It should be clear that the actions presented by staff do not mandate that this consolidation will occur. There are a number of reviews, stakeholder and Commission considerations, and a protest proceeding that would be required if such an application were to be submitted by joint application of the Districts or initiated by the Commission. The staff's recommendation includes the establishment of a committee to gather information to evaluate such a consolidation, with the specific direction that a report back to the Commission occur no later than February 15, 2006.

However, if after reviewing the original materials submitted, the supplemental materials in this report, and the presentations at the hearing, the Commission does not support the staff's recommendation and believes that sufficient information has been presented to support retention of the District, it can:

1. Affirm the District's existing sphere which includes approximately 1,980 acres outside its existing boundaries within the Santa Ana River stretching from approximately Boulder Avenue on the east to the junction of the I-215 and I-10 freeways on the west; or,

2. It can establish a sphere of influence coterminous with the District's existing boundaries. This action would remove the ability of the District to expand its boundaries without a subsequent sphere of influence application and review.

The necessary actions to be taken by the Commission for this determination have also been included as part of the recommendation outlined at the start of this report.

KRM/

Attachments:

1. Staff Report dated August 9, 2005 with only the Attachments #1 copy of maps, #9 response from LAFCO Environmental Consultant and #10 draft Resolution 2893
2. Response dated September 7, 2005 from the San Bernardino Valley Water Conservation District
3. Articles of Association of the Upper Santa Ana Water Resources Association
4. Responses from other Agencies including Letter from the City of Riverside dated September 12, 2005 regarding its position

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DATE: AUGUST 9, 2005

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: **Agenda Item #6: Consideration of LAFCO 2919 – Service Review and Sphere of Influence Update for San Bernardino Valley Water Conservation District**

INITIATED BY:

Local Agency Formation Commission

RECOMMENDATION:

If the Commission supports the staff's position that the concept of a basin-wide water conservation entity should be pursued, it is recommended that it support the ultimate consolidation of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District, by taking the following actions:

1. Determine that the designation of a zero sphere of influence for the San Bernardino Valley Water Conservation District is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

2. Designate a zero sphere of influence for the San Bernardino Valley Water Conservation District indicating that it is the position of the Commission that the District should ultimately consolidate with the San Bernardino Valley Municipal Water District;

3. Direct the Executive Officer to establish a committee to review the possible consolidation of the San Bernardino Valley Water Conservation District with the San Bernardino Valley Municipal Water District to be made up of the

LAFCO Executive Officer and the General Manager, or designee, of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District; and a representative from each of the major water stakeholders identified as: the City of Redlands, the City of San Bernardino Municipal Water Department, East Valley Water District, Bear Valley Mutual Water Company, and the City of Riverside to develop the parameters needed for consolidation. A report of the terms and conditions needed for such a consolidation, developed by the Committee, will be due back to the Commission no later than the January 18, 2006 hearing.

4. Adopt LAFCO Resolution #2893 setting forth the Commission's findings and determinations related to this consideration.

However, if the Commission determines that the municipal service review shows affirmation of the District's existing sphere of influence or a coterminous sphere of influence is appropriate, it may take the following actions to close this consideration:

1. Determine that the affirmation of the District's existing sphere of influence or the amendment to a coterminous sphere of influence through LAFCO 2919 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

2. Make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence for the San Bernardino Valley Water Conservation District should be affirmed in its present configuration or amended to be coterminous with the District's boundaries; and,

3. Defer adoption of the resolution making these determinations to the consent calendar for the September 21, 2005 Commission hearing.

BACKGROUND:

At the March 16th Commission hearing the consideration of the municipal service review and sphere of influence update required for the San Bernardino Valley Water Conservation District (hereinafter SBVWCD) was initially presented (a map of this district is included as Attachment #1 and the original staff report is included as Attachment #2). The basic questions presented in that staff report in response to the municipal service review factors were and remain today to be:

On the issue of agencies: "Why are there three overlapping agencies within this portion of the Bunker Hill Basin of the eastern San Bernardino Valley authorized to provide water conservation services? Is this division appropriate?", and,

> If the division of responsibility is appropriate then the question would be: "If the Bunker Hill Basin is to be addressed for water recharge and replenishment as a unit, why isn't the SBVWCD sphere of influence drawn to address the whole of the Basin, rather than being isolated to the eastern portion?*

The staff's review of the factors related to a municipal service review as identified in Government Code Section 56430 and sphere of influence update as identified in Government Code Section 56425 have attempted to answer these questions. The Commission continued its consideration of LAFCO 2919 to the June hearing to allow staff additional time to gather information regarding the mandatory factors to be considered by Government Code Section 56430. In addition, the Commission directed LAFCO staff to review the options presented in the original staff report regarding a potential change in the future government structure for water conservation services to the water producers within the boundaries of the District and request their opinion and position on these options. An additional continuance was requested by LAFCO staff at the May 18, 2005 hearing, with support from the staff of SBVWCD, to the August hearing.

The staff views this service review/sphere of influence update as timely for two reasons. First, this service review discussion is timely due to changes that have occurred in the eastern portion of the San Bernardino Valley related to water recharge and replenishment activities. These changes occurred primarily through the completion of the Seven Oaks Dam as a part of the Santa Ana River Mainstem Project. The completion of the construction of the Seven Oaks Dam to fulfill its responsibility in controlling the flood waters has resulted in a number of applications to the State Water Resources Control Board related to the appropriation of the waters of the Santa Ana River. In addition, it has resulted in an auspicious agreement, known as the Seven Oaks Accord, signed by Bear Valley Mutual Water Company, the City of Redlands, the East Valley Water District, Lugonia Water Company, North Fork Water Company, Redlands Water Company, San Bernardino Valley Municipal Water District and Western Municipal Water District related to future water diversion from the Santa Ana River. A copy of this agreement is included in Attachment #5 to this report. Missing from this group was the San Bernardino Valley Water Conservation District, who has filed a separate application to the State Water Resources Control Board for diversion from the Santa Ana River.

Second, SB 2067 (Harmon) signed by the Governor on September 10, 2004 with an effective date of January 1, 2005 has altered the possibilities for reorganization/ consolidation that the Commission is required to evaluate during its Service Review process. This change in statute allows for the consolidation of two special districts formed under different principal acts (the legislative act that defines a special district's abilities and responsibilities). The signing of this legislation allows the Commission to consider the possibility of consolidating the San Bernardino Valley

Water Conservation District with the San Bernardino Valley Municipal Water District or the San Bernardino County Flood Control District.

Mandatory Service Factors:

The areas of the mandatory service review factors were originally reviewed and outlined in the materials provided in the original staff report (copy included as Attachment #2) and will not be reiterated here. However, areas where questions were identified included District Finance issues primarily related to achieving a better understanding of the District's groundwater charge, its mining revenues and any restrictions on their use, and the costs for the Board of Directors, and Government Structure Options primarily related to an understanding of the positions of the water producers within the District on the possible options for changes, as they are identified as the primary constituents of the District. Those areas are more fully discussed below.

Financial Issues:

On May 17th staff forwarded a letter to the District requesting additional financial information summarized as follows:

a. An explanation of the District's expenditures for the current and past two fiscal years related to water spreading activities, including, but not limited to, purchase of state project water and the agreed upon repayment schedule, if any.

b. An outline of existing District policies related to expenditures for the Board of Directors, including, but not limited to, payment for attendance at meetings, conferences, travel costs, etc. as well as the expenditures for the current and past two fiscal years related to payments to the Board of Directors.

c. An explanation of the District's revenues for the current and past two fiscal years related to the groundwater assessment charge. It was requested that the information provided include a description of the restricted use of these revenues, if any, how the expenditures are separated by the District from its other activities, and the process by which the charge is established each year.

d. An explanation of the District's revenues from mining leases or other mining-related income, including a description of any restrictions on the use of these revenues, how expenditures are separated by the District from its other activities, the lease rate policy for current and future mining leases on District lands including any annual inflationary factor, etc.

e. An explanation of the $5,000,000 pre-payment of mining leases, including, but not limited to, an identification of the source of the revenue, the terms of

the payment, the adjustment for lease increases upon actual lease signing, etc.

On June 17th the District submitted its response to the LAFCO staff request and a copy of that response is included as Attachment #3 to this report.

As the financial materials in the response were reviewed, one item still resonated with the staff and that is the question of the cost for replenishment activities versus administration. The information provided shows that for every dollar spent in replenishment it has an expenditures of more than 100% of that amount for administration. The following illustrates this point:

In FY 2002-03 for every $1.00 spent on replenishment there was an expenditure of $1.42 for administrative costs (identified as General Fund).
In FY 2003-04 for every $1.00 spent on replenishment there was an expenditure of $1.77 for administrative costs.
In FY 2004-05 for every $1.00 spent on replenishment there was an expenditure of $1.26 for administrative costs.

During the District's annual determination of the groundwater assessment charge, it identifies in its staff reports that "the groundwater charge should continue to help defray the increasing costs of operations and investigations that are necessary to conduct the recharge program" (taken from March 2, 2005 report to the Board of Directors on the required engineering investigation). So its intent is to supplement the other revenues of the District for the provision of this service. However the financial documents show that it almost funds the entirety of the replenishment activities.

The documents included in the materials identified as the "Profit and Loss by Class for July 2004-May 2005" show that the District has made efforts to control its expenditures. The staff's question in the original report related to concerns that the expenditures of the District, on a yearly basis, exceeded its revenues. The Profit and Loss by Class documents for Fiscal Year 2002-03 identify this shortfall at $604,602 and Fiscal Year 2003-04 at $591,903. The material provided through the end of May 2005 appears to show that expenditures will be at least covered by revenues received during this Fiscal Year.

In response to the questions raised regarding the costs for the District's Board of Directors, the District has provided supplemental materials for review. In these materials they note that the District's policy allows for payment of up to a maximum of 10 meetings per month (as authorized by law), a stipend payment at the present time of $162 per meeting with an allowance for an annual 5% increase dependent upon certain conditions, and the payment of specific expenses. In addition, the supplemental response materials provide a table identifying director expenses per

year. Based upon the information presented by the District, the estimated per Director cost by Fiscal Year has been calculated by LAFCO staff to be:

FY 02-03	$11,445
FY 03-04	$12,093
FY 04-05 (estimated yearly total $90,154)	$12,879

However, if the maximum number of meetings were paid for each member of the Board of Directors at the present stipend rate of $162, the cost for stipend alone would be $136,000 ($19,440 per Director for seven Directors).

Issues related to Local Governance Options:

In its letter to the District, staff requested the official position of the Board of Directors of the SBVWCD as to the options presented for its future governance. Of no surprise, the District has responded through submission of Resolution No. 409 (copy included as a part of Attachment #3 – Appendix F) that it wishes to maintain its current sphere of influence and operations – not as a part of San Bernardino Valley Municipal Water District or the San Bernardino County Flood Control District or with an expanded sphere of influence.

SBVWCD indicates that it does not favor consolidation with the County Flood Control District since the fulfillment of the mission of SBVWCD and the County Flood Control District are at cross purposes – noting that effective flood control requires the movement of the waters safely through the watershed as quickly as possible; while the efforts of water conservation are to retain the waters within the facilities long enough to allow percolation to occur. The response by Mr. Patrick Mead, Director of the County Department of Public Works, on behalf of the County Flood Control District in general concurs with this position (copy included as Attachment #4).

SBVWCD has also indicated it does not favor consolidation with the San Bernardino Valley Municipal Water District (hereinafter "MWD") since the purposes identified during the creation of the agencies, in their view, are different. Specifically noted in the SBVWCD response is its position that it was formed to conserve water in the Bunker Hill Basin. Staff would note, however, that the previous materials submitted by SBVWCD indicated that the District was formed to "protect against excessive export of the local surface water by downstream agencies" -- not necessarily the same purpose. The SBVWCD response continues that the purpose for creation of the MWD in 1954, in their opinion, was to serve as the agent for importation of State Project Water into the eastern portion of the San Bernardino Valley. Supporting statements for this position within the SBVWCD's materials submitted are:

1. SBVWCD's commitment to groundwater maintenance and enhancement of the Bunker Hill basin is its paramount mission.

2. SBVWCD has significantly more experience in groundwater recharge than does the MWD since its spreading activities began more than 70 years ago.

3. SBVWCD has "no potentially conflicting interests or responsibilities" which might result in a shift of water priorities.

Mr. Robert Reiter, General Manager of the MWD has provided a response to the LAFCO staff request for information and to the positions of SBVWCD as outlined in their materials on file with the Commission. A copy of this response is included as Attachment #5. This response indicates Mr. Reiter's opinions that the consolidation is viable, especially in light of the signing of the Seven Oaks Accord, identifies the position that should such a consolidation be supported for the two agencies the financing of the groundwater replenishment/ recharge functions would be funded by the existing revenue stream from property tax, mining revenues and interest income and the groundwater assessment would be abolished.

Integrated Water Management Plan:

At the March hearing, questions were raised regarding the status of an Integrated Groundwater Management Plan or Regional Water Management Plan for the Basin. The response submitted by the SBVWCD indicates that no such document exists at the present time but that a Regional Water Management Group has been formed to develop such a document. The MWD response to the question raised by the Commission and the response of the District notes concurrence that no such document currently exists, but indicates that a group made up of the Water Conservation District, San Bernardino Valley Municipal Water District, and other agencies are working to prepare a Planning Grant Application for filing with the State of California. This application, according to the document, is to be filed by the MWD, as the lead agency. If the grant application is successful, the MWD will work with SBVWCD and the other members of the water community to meet the requirements of the Seven Oaks Accord, as well as addressing the needs of other water producers not a party to the accord.

Water Spreading Activities:

In the staff's view additional information was needed to clarify the water spreading, water recharge relationship of entities within the overall Bunker Hill Basin. In an effort to gather that information, staff requested that the County Flood Control District and MWD outline their efforts at recharge. Mr. Patrick Mead, on behalf of the San Bernardino County Flood Control District notes that the District's facilities are used for recharge purposes during non-flood periods and they have a number of agreements with various water agencies in place to allow for water percolation and replenishment to occur. The District however does not track the amounts of water spread but does provide reports on storm water captured. His response indicates that within the western portion of the Valley stormwater captured during the period

from 10/1/04 to 6/30/05 was 11,144 acre feet. Mr. Robert Reiter's response, on behalf of the MWD, indicates that it has spread a total of 42,814 acre feet over the five-year period. Other water agencies within the basin also recharge water, such as the City of Redlands, Bear Valley Mutual Water Company, and East Valley Water District, but due to time constraints staff has not requested information on the amounts of water recharge by these agencies. A comparison of the known recharge within the Bunker Hill Basin is identified as follows:

Entity	Water Spread Fiscal Year 2000-01	Water Spread Fiscal Year 2001-02	Water Spread Fiscal Year 2002-03	Water Spread Fiscal Year 2003-04	Water spread Fiscal Year 2004-05
Water Conservation District (Santa Ana and Mill Creek)	6,811	1,750	15,622	13,820	2,934
San Bernardino Valley Municipal Water District (various areas)	4,705	10,772	16,805	8,147	2,385

An average of the water spreading accomplished by these agencies over the five (5)-year period shows that the SBVWCD spread an average of 8,187 acre feet and the MWD spread an average of 8,563 acre feet. The waters spread by the Conservation District include its native Santa Ana River waters and supplemental water purchased during the drought period. No information was provided as to the types of water spread by the MWD, but it is assumed to be State Project Water.

Review of Options with Water Producers:

Of particular importance during the discussion of local governance issues at the prior hearing, was the need to initiate discussions with the major water producers within the boundaries of SBVWCD and outline the governance options presented to the Commission for its consideration. In order to accomplish this, staff included in its letter to SBVWCD the request for a listing of the name and address of the water producers within the District's boundaries. Staff's purpose was to send a letter outlining the options being reviewed and seeking each entity's position on those options identified as:

a. Consolidation with the County Flood Control District,
b. Consolidation with the San Bernardino Valley Municipal Water District,
c. Expansion of the SBVWCD sphere of influence to include the area identified by engineers as the "Bunker Hill Basin" to address the regional water conservation efforts, or,
d. Retention of the SBVWCD as it is presently configured - the status quo option.

In discussion between the LAFCO Executive Officer and SBVWCD General Manager, it was determined that rather than contact each producer, large and small, that

LAFCO staff should review the materials with the group identified as the "Upper Santa Ana Water Resources Association", which, in the District's opinion, provided a broad cross-section of the water stakeholders within the District. The Executive Officer met with this group on June 9th to review the service review/sphere of influence update for the SBVWCD currently being processed, outlined the options being discussed by the Commission, and requested that each agency within the boundaries of the SBVWCD provide a response to LAFCO staff by August 1st on their position on these options (copies included as Attachment #6). The following chart provides an outline of the responses received from the various water producers, the total amount of water they pump from within the District's boundaries during the 2004 calendar year which includes agricultural and non-agricultural water, and the total cost of their groundwater assessment for that period:

Water Producer	Service Review Option Chosen	Amount of Water Pumped from January 1 2004 through December 31, 2004	Amount of Groundwater Assessment paid
East Valley Water District	Supports Status Quo	22,755.2	$131,723.01
City of Riverside	Supports the receipt of additional information prior to position on consolidation, supports maintenance of sphere	19,973.1	$115,917.15
Gage Canal Company (understood to be a part of the City of Riverside)	No separate position provided	10,717.6	$40,320.41
City of Redlands	Supports Consolidation	17,320.1	$95,403.48
City of San Bernardino	No position as yet identified	7,055	$40,917.82
Meeks & Daley (primary owners are City of Riverside and Elsinore Valley Municipal Water District)	Supports Status Quo	2,037	$8,336.63
SBVMWD	No position	776.2	$4,657.80
Bear Valley Mutual Water Company	Supports Consolidation	0	$0.00
Lugonia Water Company	Supports Consolidation	not identified on listing	
Redlands Water Company	Supports Consolidation	not identified on listing	

In addition, correspondence was received from water producers outside the boundaries of SBVWCD. These include the Riverside-Highland Mutual Water Company, the City of Rialto and the West Valley Water District who have indicated their support for maintenance of the status quo. A copy of each of these responses is included as Attachment #7 to this report.

In establishing its position of support for consolidation, the City of Redlands City Council included the requirement that a memorandum of understanding be signed by both the City of Redland and the MWD. A draft copy of this memorandum is included in the City of Redlands staff response included as Attachment #8 to the report. This memorandum outlines the City's position that the employees of the District must be protected, that the operations of recharge are protected, that the revenue stream of the Water Conservation District be isolated and accounted for by

the MWD to support solely these activities, and its position related to the return of certain facilities to the City of Redlands.

CONCLUSION:

Based upon the information outlined above, and in the original staff report, for the review of LAFCO 2919 and the policy directions of the State Legislature to LAFCO to develop the most efficient and effective service boundaries for agencies, LAFCO staff's recommendation is that the Commission should amend the sphere of influence of the San Bernardino Valley Water Conservation District to a zero sphere indicating its position that a consolidation with the San Bernardino Valley Municipal Water District should be undertaken. The staff's recommendation does not initiate the consolidation, it does not change the area in which the Water Conservation District currently provides its services, nor does it eliminate the groundwater charge. Its intent is to set forth a method for gathering the specific detailed information that could be used by the SBVWCD and MWD to file a joint application for consolidation, much like that initiated by the Resource Conservation Districts, or for a future presentation to the Commission to initiate an application on its own volition to consolidate the districts pursuant to the provisions of Government Code Section 56375.

The staff's position is not taken on the basis that the District is mismanaged or derelict in the performance of its responsibilities, the District is well-managed and performs its responsibilities. The staff's recommendation is, however, based upon three elements:

1. During the hearings by the Commission on Local Governance for the 21st Century and adoption of Assembly Bill 2838 rewriting LAFCO law, the direction has been emphasized that the Commission is to provide for the most efficient and effective service boundaries for the agencies under its purview. The Municipal Service Review/Sphere of Influence update process requires that the Commission evaluate, as a part of its review local governance issues, hurdles to consolidations and reorganizations. The most efficient and effective boundary, in the staff's view, would be to address the whole of the Bunker Hill Basin. That would require either the expansion of the SBVWCD sphere of influence to encompass that territory or the consolidation of the District with the MWD.

2. Passage of AB 2067 which allows for the consolidation of special districts not formed under the same principal act. Absent this legislation, the only alternative available would be through dissolution of the Water Conservation District. Such an action would require the completion of the processes as specified by Water Conservation District Law which requires the submission of a petition to initiate dissolution and a vote which must exceed 60% in support.

3. The position that the Bunker Hill Basin should be considered as a single unit when evaluating agencies with recharge responsibilities or operations. In evaluating this economic community of interest, the changed circumstances in the Bunker Hill Basin through the completion of the Seven Oaks Dam and the subsequent signing of the Seven Oaks Accord should be considered. As staff understands it, 90% of the recharge of the basin occurs through natural recharge (snow melt, rainfall, river water through the area, etc.) and the remaining 10% is through artificial recharge efforts. To maximize those efforts they should, in the staff view, be coordinated at the regional level, or basin-level, and that would point toward either the expansion of the San Bernardino Valley Water Conservation District sphere of influence to include the whole of the Basin, or the consolidation with a regional entity.

In reviewing the option of a sphere of influence expansion to encompass the whole of the Bunker Hill Basin with the SBVWCD and its major water production stakeholders, no support for this option was received; therefore, staff has not evaluated this option further. In reviewing the option for consolidation with the San Bernardino County Flood Control District, no support for this option was received; therefore, staff has not evaluated that option further. However, some support from the water producer stakeholders for further review of the option of consolidation with the MWD has been received.

In addition, staff supports the consideration of this option for the following reasons:

1. The San Bernardino Valley Municipal Water District has responsibilities for the maintenance of the safe yield of the Bunker Hill Basin as the watermaster for *The Orange County Judgment* and *The Western Judgment*.

2. A reduction in cost for the operation of the general fund administrative activities could be achieved through a reduction in the Board of Director and meeting expenses, legislative services, while maintaining the replenishment activities. A reduction in the expense to the water producers in the area could be achieved through the abolition of the groundwater assessment charge currently imposed while maintaining the groundwater replenishment/ recharge activities with the balance of the SBVWCD revenue stream.

3. The Seven Oaks Accord specifies agreements between the water producers within the eastern end of the Bunker Hill Basin as to the diversion of waters within the Santa Ana River. In addition, the MWD is working with these stakeholders, the SBVWCD, and others to develop a grant application to the State of California, which if successful, will fund the development and implementation of an Integrated Groundwater Management Plan.

4. Numerous agencies currently spread water for recharge within the Bunker Hill Basin within and outside the boundaries of the Water Conservation District. Coordination and maximizing these efforts to secure the water

supply for the 400,000 plus residents anticipated within the boundaries of the SBVWCD and the 500,000 plus residents within Riverside County that rely on this Basin for their domestic water supply should be the paramount consideration.

Therefore, in the staff's opinion, an evaluation of consolidation of the San Bernardino Valley Municipal Water District and the San Bernardino Valley Water Conservation District should be pursued.

In closing, it should be clear that the actions presented by staff do not mandate that this consolidation will occur. There are a number of reviews, stakeholder and Commission considerations, and a protest proceeding that would be required if such an application were to be submitted by joint application of the Districts or initiated by the Commission. The staff's recommendation includes the establishment of a committee to gather information to evaluate such a consolidation, with the specific direction that a report back to the Commission occur no later than January 18, 2006.

However, if after reviewing the materials and the presentations at the hearing, the Commission does not support the staff's recommendation and believes that sufficient information has been presented to support retention of the district, it can:

1. Affirm the District's existing sphere which includes approximately 1,980 acres outside its existing boundaries within the Santa Ana River stretching from approximately Boulder Avenue on the east to the junction of the I-215 and I-10 freeways on the west; or,

2. It can establish a sphere of influence coterminous with the District's existing boundaries. This action would remove the ability of the District to expand its boundaries without a subsequent sphere of influence application and review.

The necessary actions to be taken by the Commission for this determination have also been included as part of the recommendation outlined at the start of this report.

KRM/

Attachments:
1. Maps of San Bernardino Valley Water Conservation District and related agencies
2. Original Staff Report for March 16, 2005 hearing on LAFCO 2919 with Attachment #4 only (a full copy of staff report with attachments is available on the Commission's website at www.sbclafco.org)
3. Supplemental Information on the Municipal Service Review/Sphere of Influence Update from the San Bernardino Valley Water Conservation District dated June 17, 2005

4. Memorandum from Patrick Mead, Director, County Department of Public Works on behalf of San Bernardino County Flood Control District
5. Letter from Robert Reiter, General Manager, San Bernardino Valley Municipal Water District with copy of Attachments #7 and #20 Included
6. Response on Four Options Presented in Service Review from Water Producers within the Boundaries of the San Bernardino Valley Water Conservation District
7. Response on Four Options Presented in Service Review from Water Producers outside the Boundaries of the San Bernardino Valley Water Conservation District
8. Letter from Douglas Headrick, Chief of Water Resources for the City of Redlands Dated August 2, 2005
9. Response from Commission Environmental Consultant, Tom Dodson of Tom Dodson and Associates Dated January 20, 2005 on Affirmation of the District's Sphere of Influence and August 8, 2005 on Reduction to a Zero Sphere of Influence
10. Draft LAFCO Resolution #2893

LOCAL AGENCY FORMATION COMMISSION
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DATE: MARCH 7, 2005

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #6 – LAFCO 2919 – Service Review and Sphere of Influence Update for the San Bernardino Valley Water Conservation District

INITIATED BY:

Local Agency Formation Commission for San Bernardino County

RECOMMENDATION:

Staff's recommendation is that the Commission continue consideration of LAFCO 2919 to the May 18, 2005 hearing with the direction to staff to review questions with San Bernardino Valley Water Conservation District staff to provide additional information on:

1. District expenditures for the past two fiscal years and the current fiscal year related to costs associated with the Water Rights Application, expenditures for Board of Directors, spreading of water, etc.

2. District revenues generated for the past two fiscal years and the current fiscal year related to receipts from mining interests and groundwater spreading charge.

3. The statutory provisions related to potential consolidation of districts formed under different principal acts including, but not limited to, the transfer of groundwater charges, succession to mining leases between the District and mining interests.

4. If consolidation is not considered, would the appropriate sphere of influence designation for this District be the limits of the Bunker Hill Basin rather than merely a portion of its eastern area.

However, if the Commission feels that adequate information has been provided by the District for the affirmation of its existing sphere of influence and that the questions surrounding the distinction of the Bunker Hill Basin are answered, it may take the following actions to close this consideration:

1. Determine that the affirmation of the District's existing sphere of influence through LAFCO 2919 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;

2. Make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence for the San Bernardino Valley Water Conservation District should be affirmed in its present configuration; and,

3. Defer adoption of the resolution making these determinations to the consent calendar for the April 20, 2005 Commission hearing.

BACKGROUND INFORMATION:

This proposal was initiated by the Local Agency Formation Commission on January 15, 2003, in response to State mandates requiring service reviews and sphere of influence updates for all cities and special districts on a rotating five-year schedule. This is the final agency to be discussed within the East Valley agency reviews. Included in this report are the following attachments:

#1 -- maps which identify the boundaries and sphere of influence for San Bernardino Valley Water Conservation District (hereafter SBVWCD) along with overlay maps showing the relationship of the District to the Cities and Water Districts within its jurisdiction.

#2 -- outline of the purposes and structure of a Water Conservation District.

#3 -- staff report for LAFCO 2751, consideration of an annexation to the San Bernardino Valley Water Conservation District.

#4 -- District Summary Profile Sheet and the response provided by the District to the LAFCO survey of the factors required by Government Code Section 56430 for a service review.

WATER CONSERVATION DISTRICTS:

Attachment #2 to this report includes a general outline of a Water Conservation District and the services it can perform under its principal act, prepared by LAFCO staff. As noted, Water Conservation District Law has been in existence since 1931 as a means to address locally the conservation of water and water rights within an area which is defined as the "watershed providing the water supply to its inhabitants". The services that can be offered by a Water Conservation District include:

1. Appropriate, acquire and conserve water and water rights for any useful purpose;

2. Make surveys and investigations of the water supply and resources of the district;

3. Acquire and construct dams, reservoirs, canals, conduits, spreading basins and sinking basins in order to conserve, store, spread and sink water;

4. Provide for the construction, operation, and maintenance of such works, facilities and operations within or outside the district's boundaries to protect the land or property in the district from damage by flood or overflow;

5. Drill, construct, install and operate wells, pumps, pipelines, conduits, valves, etc. and may pump water from these facilities for sale, delivery, distribution or other disposition;

6. Sell, deliver, distribute or otherwise dispose of any water that may be stored or appropriated, owned or controlled by the district;

7. Acquire, construct, maintain, and operate recreational facilities in connection with any dams, reservoirs or other works owned or controlled by the District.

As this outline notes, the functions and purposes of these types of districts are limited to the preservation of the water supply within a given area. In San Bernardino County there are two water conservation districts, both serving within the Valley portion of the County (their service areas are outlined on the vicinity maps within Attachment #1). In each case they are located and serve within managed water basins – Chino Basin Water Conservation District serving the west-

end area of the Valley associated with the Inland Empire Utilities Agency service area, and the SBVWCD serving the east end of the Valley associated with the San Bernardino Valley Municipal Water District service area. Due to the regional nature of these agencies and their minimal annexation activity, they have had little official contact with LAFCO during the past 40 years.

In 1993, the Commission reviewed and approved an annexation proposal involving the SBVWCD expanding its boundaries by approximately 2,929 acres (LAFCO 2751). LAFCO 2751 was highly controversial due to the District's recent imposition of a groundwater charge and ultimately resulted in a modification to the boundaries to exclude the area of the District's sphere of influence within the Santa Ana River comprising 1,980 acres. This exclusion was based upon agreements reached between the District and the major water producers within the area which included the City of Riverside, the Western Municipal Water District of Riverside County, the Aqua Mansa Water Company, Meeks and Daley Water Company and the Riverside Highland Water Company. This 1,980 acre area remains the District's sphere of influence area outside its boundaries. A copy of the LAFCO staff report related to this proposal is included as Attachment #3.

SERVICE REVIEW:

The SBVWCD was formed in 1931, immediately following the implementation of Water Conservation District law as a means "to protect against excessive export of the local surface water by downstream agencies". The District operates recharge facilities in two areas – the Santa Ana River and Mill Creek. The SBVWCD is an independent special district formed under the provisions of Water Conservation District law (Water Code Sections 74000 through 76501).

In reference to the factors and findings required for a service review, the District provided a response in 2003 for Commission consideration along with numerous appendices, a copy of which is available for review in the LAFCO office. The report prepared by the SBVWCD is comprehensive in its review of the factors required by Government Code Section 56430. During the interim period, staff has met with the District on two occasions to discuss the service review/sphere update and to request updated materials due to the time delay in processing. The District has provided additional materials to assist staff in its review. The survey response contained in the District's response will not be reiterated in this report and is included as an attachment to this report along with some of the appendix documents (Attachment #4).

Appendix materials included as a part of Attachment #4 are:

1. The District's Draft "Program for Effective Recharge Coordination" or PERC dated June 2004, which defines the methods it will use in performing its functions, and a spreadsheet listing of the water spread for conservation purposes in Mill Creek and the Santa Ana river;

2. A copy of the letter received from the District in regard to the Seven Oaks Dam Borrow Site Restoration Project;

3. The Proposed Land Management and Habitat Conservation Plan for the Upper Santa Ana River Wash; and,

4. A spreadsheet outlining the amount of water spread historically in the Santa Ana River and Mill Creek by the District.

The District's materials include the identification of its mission statement as follows:

"The mission of the San Bernardino Valley Water Conservation District is to ensure recharge of the Bunker Hill Groundwater Basin in an environmentally and economically responsible way, using local native surface water to the maximum extent practicable.

We strive to improve the supply and quality of groundwater, balancing such demands with those of land, mineral and biological resources."

A summary of the major points of consideration within the response provided by SBVWCD and those areas which have prompted additional staff questions are outlined as follows:

1. Infrastructure Needs and Deficiencies:

   The District materials have indicated that most of the District's canals and percolation basins were constructed in the 1930's and remain in good condition at the present time. Their purpose has been to divert water from the Santa Ana River and Mill Creek for spreading and percolation within District facilities for recharge of the Bunker Hill Basin for better than 90 years. The materials indicated that the District plans to reconstruct its percolation basin in the "Borrow Site" for the Seven Oaks Dam which has been non-operational during that facility's construction period. The total acreage owned by the District for percolation purposes includes approximately 185 acres in the Santa Ana River area and 65.5 acres in Mill Creek.

The materials identify that the highest level of recharge during the District's history was 52,172 acre feet in the Santa Ana River in 1978 and 19,800 acre feet in 1993 in Mill Creek. The District's ability to perform its function is directly related to the amount of surface water within the Santa Ana River and Mill Creek tributary available for spreading. The District anticipates that, under the auspices of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan, additional percolation basins and ancillary facilities could be constructed for a total of 45 acres for percolation within the Santa Ana River, depending upon determinations of that study.

The District has indicated that it is one of many entities that have been working together to manage the groundwater in the Bunker Hill Basin (PERC, page 15). The District has indicated that due to the number of agencies involved in the Bunker Hill Basin and the number of uses of the water of the Santa Ana River, a coordinated, inter-agency approach is required.

According to the District's Audit Report for 2003-04, one of its unanticipated, one-time expenses relates to its Water Rights application before the State Water Resources Control Board. This application is one of a series related to changes to the Santa Ana River since the construction of the Seven Oaks Dam. The Water Conservation District, the San Bernardino Valley and Western Municipal Water Districts, and the Orange County Water District all have or had applications on file with the State Water Resources Control Board for permits to divert water from the Santa Ana River.

2. Financial Constraints and Opportunities:

The District is currently in sound financial condition with limited debt and significant reserves.

The 2004 Audit Report (included as part of Attachment #5) for the District identified a shortfall between revenues received and actual expenditures of $686,497 for the period. The report identifies that this situation was predicated upon a number of one-time expenses for the District, including costs associated with its Water Rights Application identified as $361,585 and a $414,000 purchase of State Project water which were partially offset by additional revenues. The District anticipates a full reimbursement of the costs for State Project water over time through payments of the water purveyors in the area. This report also identifies that the budgets for ensuing years will recognize the need to bring costs into balance against the

revenues received in each fiscal year.

The Audit Report identifies that the District has pooled investments of $8,257,618 with the State of California State Treasurer's Local Agency Investment Fund. However, $5,000,000 of this amount is deferred revenue received as an advance from mining interest for pre-paid mining royalties. The notes within the Audit Report indicated that this amount may be required to be repaid, however, "the District does not expect such conditions to arise and through its participation in the Wash Plan is helping to ensure this is the case".

Pursuant to the District's PERC, it maintains a policy of "pay as you go" which requires that facilities maintenance, enhancement or new construction are identified during the District's annual budget process and funding of activities through current resources or reserves identified.

Questions of staff related to the financial information presented to the Commission by the District include the following:

a. For 2003-2004 the audited actual expenditures for the District were $2,359,693. Subtracting the one-time expenses identified in the report of $686,497 leaves operating expenditures of $1,673,196 to administer and spread a total of 6,025 acre feet of water within both the Santa Ana River and Mill Creek areas in pursuit of the District's legislative charge. However, the revenues associated with Groundwater Replenishment are listed as $501,300 and include the groundwater assessments, but do not include the Mining Income from lands the District owns for future use as water conservation areas.

b. The annual costs identified in the 2003-04 budgets and the 2004-05 budgets for Director expenses are $55,000, which is approximately $7,857 per director for the year. Meeting costs in 2003-04 were estimated at $32,000. However, in 2004-05 the budget accounts were renumbered and retitled so that LAFCO staff, at the present time, can only assume that the meeting expenses would be a compilation of Account # 6063 Meeting support expense ($2,500), a portion of Conference/Seminar Registrations Account #6081 ($18,000), a portion of lodging expense Account #6078 ($22,900), and meals Account #6075 ($7,900).

c. No mention is made of an Appropriation limit for this District.

3. Cost Avoidance Opportunities and Shared Facilities Opportunities:

   Much of the District's activities outlined in its survey response have historically been projects with other agencies. The report identifies the following joint efforts by the District:

   a. Upper Santa Ana River Wash Land Management and Habitat Conservation Plan – This is a joint effort with the Cities of Highland and Redlands, the County, SBVWCD, and the U.S. Bureau of Land Management as landowners and/or agencies with responsibility within the area (information included as a part of Attachment #4). One outcome anticipated through this effort has been the designation of areas for future mining activities to be consolidated as well as defining future locations for water conservation activities. This is of special importance to the District as lands it owns are leased for sand and gravel extraction and the leases and royalties for these activities represents approximately 50% of the District's revenues as well as their identified need for restoration and/or expansion of percolation basins in the easterly portion of this project. One concern of staff regarding this effort is the lack of designation of the on-going maintenance and operation entity for the Habitat lands.

   b. Santa Ana River-Mill Creek Cooperative Water Project (the Exchange) – This is an agreement between ten public and private water agencies to allow for transfer of water among the agencies. SBVWCD has been assigned the responsibility to monitor the transfers, account for the waters exchanged, and report these matters to the other members.

   c. High Groundwater Mitigation Project – The District is participating in a program which will address the issues of the high groundwater within the reaches of the Bunker Hill Basin with the water producers and retailers in the area.

   d. Drought Mitigation Project – District purchased State Water Project waters at a discounted cost to spread within the District's boundaries to alleviate low groundwater levels brought on by the drought. The costs of this water will be charged back to the entities using the water and the District's investment refunded.

4. Government Structure Options:

   The District was originally established in 1931 by election and the assets of

its predecessor, the Water Conservation Association in the Santa Ana River, were transferred for use and operation by the District. In 1935, it acquired the assets of the East Lugonia Mutual Water Company to provide for water spreading and percolation within Mill Creek, a tributary to the Santa Ana River. Today, the District's boundaries include approximately 50,000 acres (78+ square miles) including territory within portions of the Cities of San Bernardino, Colton, Loma Linda, Highland, Redlands and Yucaipa, along with the unincorporated community of Mentone and various unincorporated areas. This area is served by a number of water retailers including the East Valley Water District, Yucaipa Valley Water District, and the Cities of San Bernardino, Loma Linda, Redlands, and Colton.

Also overlying the boundaries of the District, as outlined on maps within Attachment #1, are two other agencies authorized to provide water conservation services – the San Bernardino Valley Municipal Water District and the San Bernardino County Flood Control District:

a. The San Bernardino Valley Municipal Water District operates under Municipal Water District Law (Water Code Section 71000 through 73000) and is authorized the power to:

   "Acquire, control, distribute, store, spread, sink, treat, purify, reclaim, recapture, and salvage any water, including sewage and storm waters, for the beneficial use or uses of the District, its inhabitants or the owners of rights to water in the district..." as well as "...Acquire waterworks or a waterworks system, waters, water rights, lands, rights, and privileges; construct, maintain, and operate conduits, pipelines, reservoirs, works, machinery, and other property useful or necessary to store, convey, supply or otherwise make use of water for a waterworks plant or system for the benefit of the district..."

   In addition, this agency along with its Riverside counterpart, is the Water Master for the 1969 judgment determining the amount of water allowed for withdrawal to maintain the waterflow received by Orange County. The flows of the Santa Ana River are directly affected by the Bunker Hill Basin and the San Bernardino Valley Municipal Water District overlays the majority of this basin.

b. The San Bernardino County Flood Control District operates under provision of the Water Code Appendix 43-1 and was formed in 1939. It is authorized under Section 43-2(6) the powers of "water conservation; water rights; litigation", outlined in part as follows:

"To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district; to conserve and reclaim water for present and future use within the district..."

This entity as well overlays the whole of the Bunker Hills Basin, while its flood zones divide the area of the District.

SBVWCD has indicated its opinion that a future consolidation of the District would require an election of the people, as well as its opinion that its customers, the Cities, retail water providers and entities extracting water from the basin, would not support such a consolidation. Staff's response to these positions is that the provisions of AB 2067 (Harmon), effective January 1, 2005 and not initiated at the time the response was prepared, allows for the consolidation of districts not formed under the same principal act. In such a circumstance, the election requirements would depend upon levels of protest. This is a new circumstance since the survey response has been drafted by the District. In addition, the question of consolidation has not been addressed specifically to these customer entities and a part of the staff's recommendation is intended to remedy that question through a continuance.

In addition, staff would indicate that if the SBVWCD is charged with the responsibility to recharge and assist in the maintenance of the Bunker Hill Basin, then absent a consolidation, its sphere of influence should encompass the whole of that Basin, not just the eastern end. The electorate charged with selecting the governing body should represent the whole of the Basin rather than the limited territory at its eastern extreme. This question has not been addressed by LAFCO staff with the SBVWCD, the other agencies overlaying the area with ability to provide this service, or with the customer entities of the water retailers, cities, and water producers within the area. In regard to that circumstance, staff is recommending that the Commission continue this matter to the May 18th hearing, with the direction to staff to seek the response from these agencies regarding: (a) their position on a possible consolidation with either the County Flood Control District or San Bernardino Valley Municipal Water District, and (b) what would their position be to the expansion of the District's sphere of influence to include the area identified by engineers as the "Bunker Hill Basin".

5. Local Accountability and Governance:

The District is governed by a seven (7) member Board elected from within Divisions. The District conducts its business at regularly scheduled monthly

meetings of the Board of Directors at its administrative facilities open to the public. In addition, the District conducts monthly meetings of its three standing committees, Resources, Administration, and Outreach, composed of three members of the Board of Directors. Since the District does not provide a service, per se, to a specific customer, it has limited feedback or participation with its electorate. However, the materials provided indicate that the District does have feedback with the water purveyors or those extracting water from within its boundaries regarding its operations through its mandatory annual Engineering Assessment required for imposition of its groundwater charge, currently set at $6.05 per acre foot for non-agricultural water and $1.65 per acre foot for agricultural water, and through its participation on various committees and task forces.

The seven members of the Board of Directors are elected to four-year fixed terms and must be a registered voter within the boundaries of their respective divisions. While there is a requirement for an election in odd-numbered years, the following provides an outline of the elections actually conducted by the District during the last twenty years:

Division #1 (Redlands)	1983 and 1999
Division #5 (Mentone)	1989
Division #6 (North San Bernardino)	1993, 1997, 2001

No election has been held for Divisions 2, 3, 4, and 7 in the past twenty years according to the records of the Registrar of Voters. These divisions would have been appointed in-lieu of election with application papers filed by a single candidate.

6. When Special Districts were seated on the San Bernardino LAFCO in 1976, a listing of services and functions was prepared, as required by law, acknowledging the services actively provided by the special districts at that time. This document is identified in the Commission's Policy and Procedure Manual, Section V – Special Districts as "Exhibit A – Listing of Special Districts Functions and Services". According to this document, the SBVWCD is currently authorized the active function and service as follows:

FUNCTION	SERVICE
Water Conservation	Water Conservation

Latent powers are those powers authorized to a special district through its principal act, but which are not being actively provided. According to the SBVWCD's principal act, the Water Conservation District Law (Water Code

Sections 74000 to 76501), the latent powers of the District on the basis of the definition above would be:

FUNCTION	SERVICE
Surveys of Water Supply and Resources	Make surveys and investigations of the water supply and resources of the Water Conservation District
Flood or Overflow Control	Provide for the construction, operation, and maintenance of such works, facilities and operations within or outside the District's boundaries to protect the land or property in the District from damage by flood or overflow
Water	May sell, deliver, distribute or otherwise dispose of any water that may be stored or appropriated, owned or controlled by the District
Park and Recreation	Acquire, construct, maintain and operate recreational facilities in connection with any dams, reservoirs, or other works owned or controlled by the District

It is unclear what was intended by the definition of the function and service as "water conservation" as the definition in Water Conservation Law provides specific language in this regard. It will be staff's recommendation that the Commission update this designation to more clearly outline the function and service authorized the District. Staff would suggest, based upon the materials provided, that the District's function and services be updated as follows:

FUNCTION	SERVICE
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 basins in order to conserve, store, spread and sink water
Surveys of Water Supply and Resources	Make surveys and investigations of the water supply and resources of the Water Conservation District

In summary, the District has indicated that it performs a much-needed service, working in conjunction with the water retailers and wholesaler within the area to assure a safe and sufficient water supply. It is noted that at the time the report was prepared, none of the adjacent or overlaying agencies had identified any

concerns with the existing sphere of influence for the SBVWCD; however, their notice of this consideration has been limited. To date, no concern has been expressed from the water producers associated with the District's sphere of influence who indicated their opposition to the District's annexation twelve years ago; however, they too have had limited information regarding this consideration.

SPHERE OF INFLUENCE UPDATE:

Pursuant to the requirements of Government Code Section 56425, every sphere of influence review is required to consider four factors of consideration. Due to the regional nature of this District and the limitations of the District's boundary and sphere within the defined Bunker Hill Basin, a response to these factors is difficult to provide. However, a summary response follows based upon the existing area of the District and its sphere of influence:

1. The present and planned land uses in the area, including agricultural and open-space lands:

   The present and planned land uses in the area comprising the area of the SBVWCD represent varying levels and intensities of urban development within unincorporated County areas as well as portions of the Cities of Colton, San Bernardino, Highland, Loma Linda, Redlands, and Yucaipa. The SBVWCD comprises approximately 50,000 acres (78+ square miles) within San Bernardino County.

2. The present and probable need for public facilities and services in the area:

   The present and probable need for the services provided by the District to sustain the Bunker Hill Basin will continue and expand as the population of this portion of the Valley grows. However, the relationship of this entity's boundaries to the Bunker Hill Basin it is charged with providing water conservation and recharge efforts is of concern to LAFCO staff. The entire area of this basin is experiencing drought conditions, water contamination, and growth of the use of the groundwater supply. Water conservation is a need within the entirety of the basin, not just the eastern portion as defined by the boundaries of the SBVWCD.

3. The present capacity of public facilities and adequacy of public services that the agency to be expanded provides or is authorized to provide:

   Within its current boundaries, the District provides its services of water conservation through recharge of surface water and/or State Project water

during drought conditions in performance of its legislatively prescribed powers and responsibilities.

4. The existence of any social or economic communities of interest in the area.

   Due to the regional nature of this agency, it is difficult to address this issue. However, as noted in the materials and the mission statement of the District, its efforts are to maintain an adequate water level in the Bunker Hill Basin. The Bunker Hill Basin is much larger than the boundaries and/or sphere of influence of the District and could be considered a single community of interest. If the District's recharge efforts support this Basin, then staff would question the definition of the sphere – either it should be expanded to include the whole of this Basin, or the possibility of consolidation with a district with responsibility for this larger area should be considered.

CONCLUSION:

At this time, the primary staff recommendation is that the Commission continues this consideration to the May 18, 2005 hearing and direct staff to compile responses to the questions regarding the District's expenditures, revenues, agency positions on consolidations and agency positions on the possibility of expanding the District's sphere of influence to include the whole of the Bunker Hill Basin. As outlined in the staff report, this is based on a number of questions that the materials have raised but staff has not has sufficient to time to address.

However, if the Commission believes that sufficient information has been provided by the District, it can take the actions to approve the service review/sphere of influence update for the District affirming its existing sphere of influence designation and direct staff to return at the April 20, 2005 hearing with the resolution of approval for adoption on the consent calendar.

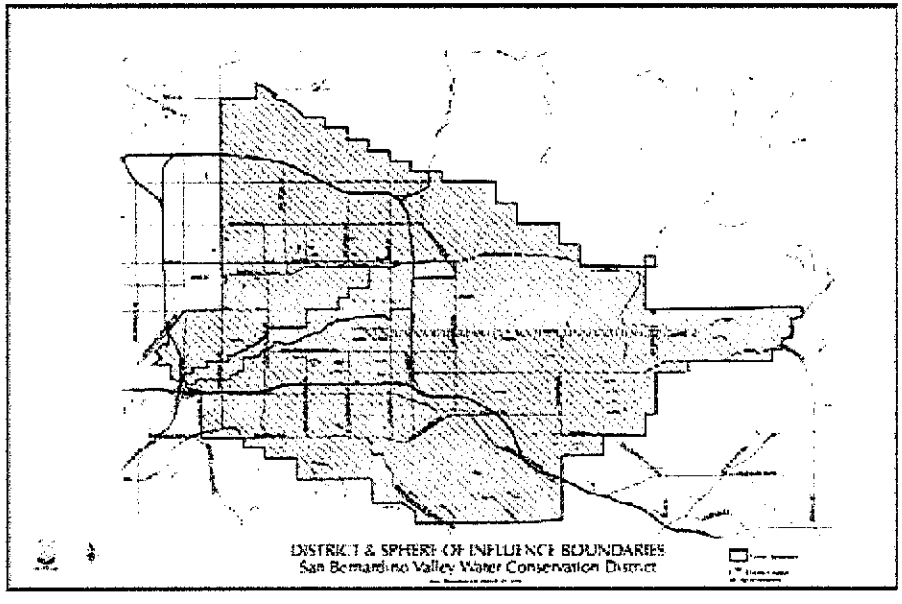
Attachments:

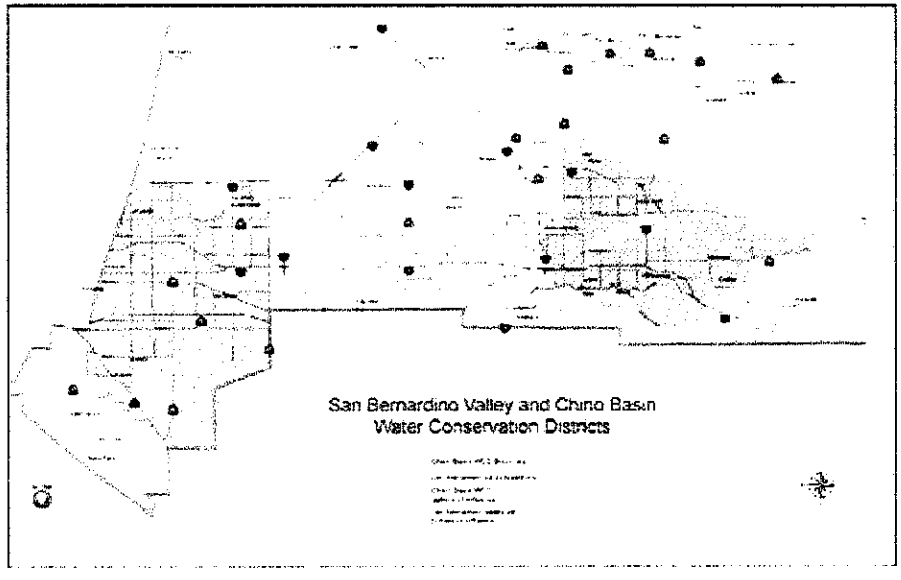
1. Maps of the District's boundaries, its Regional Location, and its Relationship to Cities, San Bernardino Valley Municipal Water District, and County Water Districts
2. Outline of a Water Conservation District Prepared by LAFCO Staff
3. Staff Report for LAFCO 2751, dated December 3, 1993
4. Survey Response Provided by the District Including the Appendix Materials Identified in the Staff Report
5. District Budget for 2004-2005, Budget for 2003-04 and Audit Report for 2003-2004

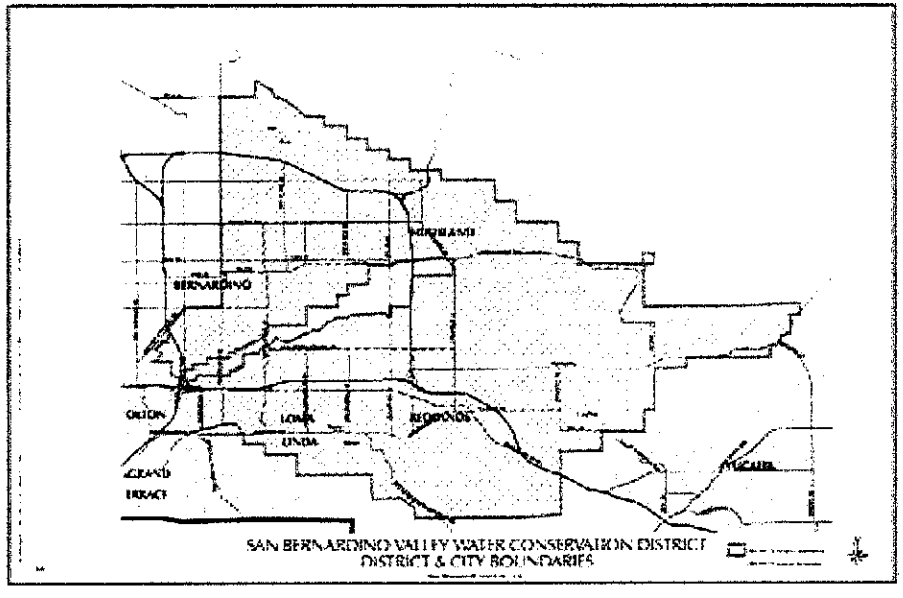
6. Response from Tom Dodson, Tom Dodson and Associates, LAFCO Environmental Consultant, Identifying Determination for Maintaining Existing Sphere of Influence Boundaries

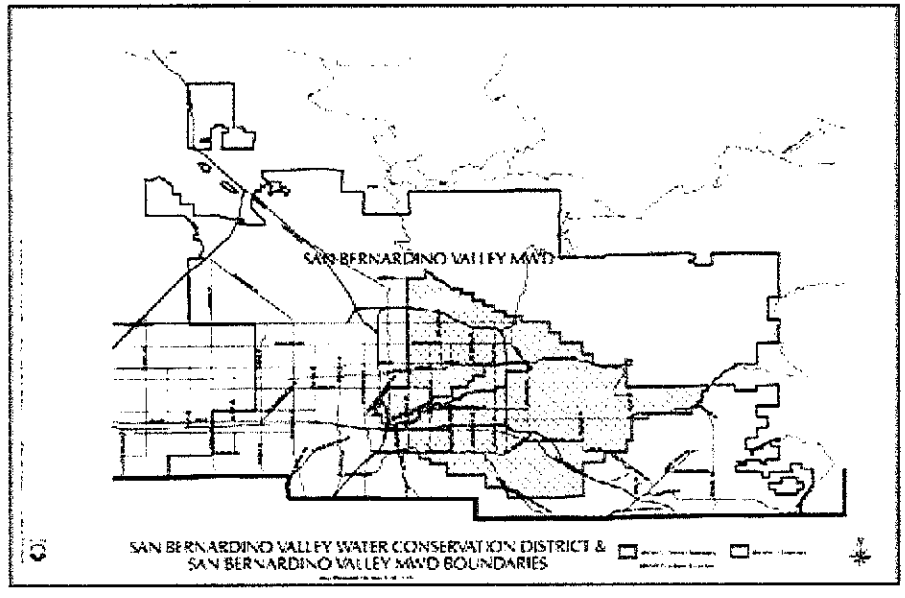
Maps of the District's Boundaries, it's Regional Location, and its Relationship to Cities, San Bernardino Valley Municipal Water District, and County Water Districts

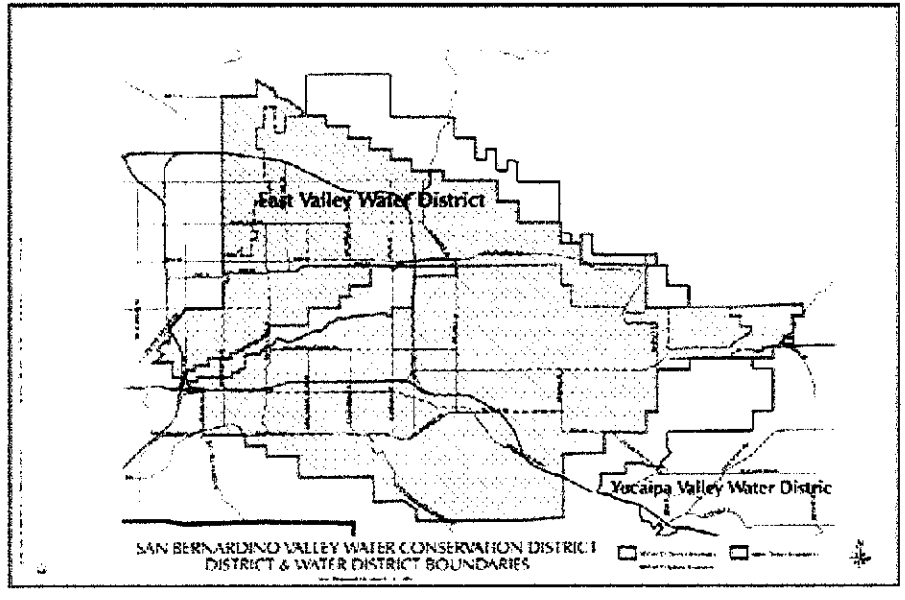
Attachment 1

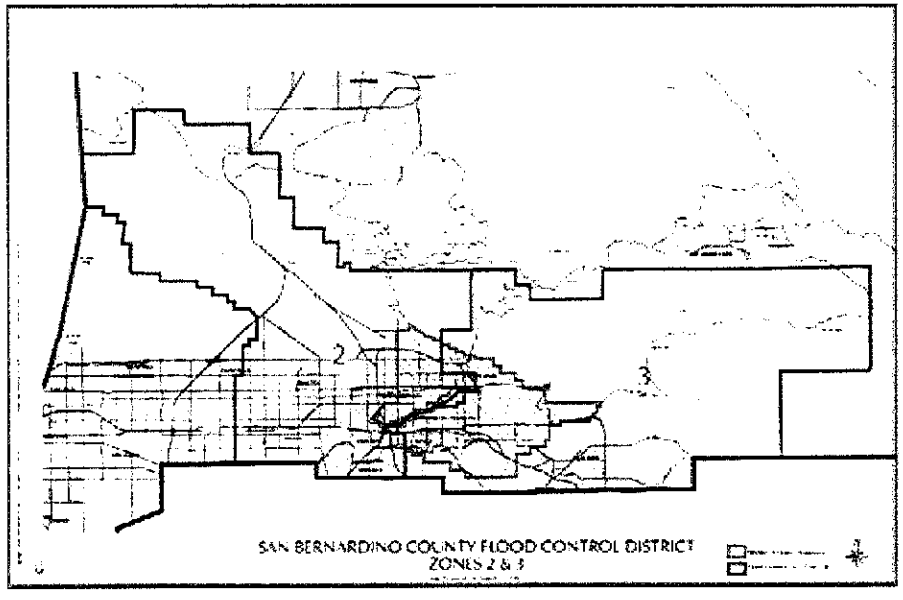

DISTRICT & SPHERE OF INFLUENCE BOUNDARIES
San Bernardino Valley Water Conservation District


San Bernardino Valley and Chino Basin
Water Conservation Districts


SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
DISTRICT & CITY BOUNDARIES


SAN BERNARDINO VALLEY MWD
SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT &
SAN BERNARDINO VALLEY MWD BOUNDARIES


East Valley Water District
Yucaipa Valley Water Distric
SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
DISTRICT & WATER DISTRICT BOUNDARIES


2
3
SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT
ZONES 2 & 3