

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

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**DATE: FEBRUARY 10, 2010**

**FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer  
SAMUEL MARTINEZ, Senior LAFCO Analyst  
MICHAEL TUERPE, LAFCO Analyst**

**TO: LOCAL AGENCY FORMATION COMMISSION**

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**SUBJECT: Agenda Item #14: LAFCO 3084 – Hi-Desert Water District Expansion of Authorized Services to Include Collection, Treatment, Reclamation, and Disposal under its Authorized Sewer Function**

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**INITIATED BY:**

Hi-Desert Water District

**RECOMMENDATION:**

Staff recommends that the Commission make the following determinations and take the following actions for LAFCO 3084:

1. With respect to environmental review:
  - A. Certify that the Hi-Desert Water District's Final Mitigated Negative Declaration prepared for its Water Reclamation Facility, Wastewater Treatment Plant, and Sewer Collection System Project (SCH No. 2009061035) has been independently reviewed and considered by the Commission and its staff;
  - B. Determine that the Hi-Desert Water District's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's use as a California Environmental Quality Act (CEQA) Responsible Agency for its consideration of LAFCO 3084;
  - C. Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project, that the mitigation measures identified in

the District's environmental assessment are the responsibility of the Hi-Desert Water District and/or others, not the Commission; and,

- D. Direct the Executive Officer to file a Notice of Determination within five (5) days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the Hi-Desert Water District, as lead agency, has paid said fees.
- 2. Approve the request to expand the authorized services of the active Sewer function for the Hi-Desert Water District and amend the "Rules and Regulations Affecting Special Districts" to indicate the following as authorized for the Hi-Desert Water District:

	<b><u>FUNCTION</u></b>	<b><u>SERVICES</u></b>
Hi-Desert Water District	Water	Retail, agricultural, domestic, replenishment, fire flow, fire hydrants
	Sewer	Collection, transportation, treatment, reclamation, disposal, planning, and engineering
	Park and Recreation	Engineering, planning

- 3. Adopt LAFCO Resolution No. 3089 reflecting the Commission's findings and determinations.

**BACKGROUND:**

When Independent Special Districts were seated on the San Bernardino LAFCO in 1976, the Commission was required by law to adopt "Rules and Regulations Affecting Special Districts" which established the "active" and "latent" powers for each of the special districts under its purview. Active powers were those defined as being actually provided by the special district at that time; latent powers were those powers authorized the district by its respective principal act but which were not being actually provided at the time. The active authorized services of the Hi-Desert Water District (hereafter identified as "District") were identified as water, sewer, and park and recreation. The 1976 determination limited the sewer function to planning and engineering in preparation to eventually providing the actual service in the future.

In 1982, LAFCO staff requested the District to substantiate its claim that the District actively engaged in sewer and park and recreation services. The District informed LAFCO staff that it had been recognized by the Colorado River Basin Regional Water Quality Control Board as the appropriate sewerage agency in the area whenever such services become necessary. The District requested that sewer be retained as an active

function so that it can devote staff time and other expenditures to conduct long-term planning for the service. LAFCO retained sewer as an active function with service descriptions of planning and engineering (LAFCO 2218). Attachment #1 to this report presents maps of the boundaries of the District and its related projects.

In February 2007, the District contacted LAFCO staff and requested expansion of the service description to its active sewer function in order to actively provide the service. In October 2009, the District completed the materials for its application to LAFCO (included as Attachment #2). The three year delay between the District's initial request to LAFCO staff and Commission consideration has been due to the need for the District to complete its environmental assessment process related to its sewer project (described in detail below). LAFCO has circulated the District's application to interested and affected agencies and has solicited their review and comment. If the Commission approves this request to expand the range of services provided under its authorized Sewer function, no further public hearings or protest procedures are required.

The District is located in the South Desert region of the county in the area identified as the Morongo Basin. It is approximately 70 miles east of the City of San Bernardino and 30 miles north of Palm Springs. The District encompasses approximately 56 square miles with a population of roughly 21,000. The District is generally west of the Joshua Basin Water District and the area of the Joshua Tree Community Plan area, north of the Joshua Tree National Park, northeast of the Morongo Valley Community Plan area and the Morongo Community Services District, east of the unincorporated community of Pioneertown, and generally south of the Bighorn Desert View Water Agency and Flamingo Heights and Landers communities.

### **DISCUSSION:**

The impetus for the District's application to expand the service description of its active sewer function is to allow it to begin providing sewer service. The District has been in the planning stages for its "Hi-Desert Water District Water Reclamation Facility, Wastewater Treatment Plant, and Sewer Collection System Project" (described in detail below) and is moving into actual implementation of the system. It is important to note that should the Commission approve the District's request, the activation of a function and/or expansion of service cannot be limited to a specific portion of a district; it is available throughout its jurisdiction. As the materials which follow related to the sewer system identify, the provision of sewer service is intended to be provided in a limited area at the outset.

However, there are other methods for the collection and treatment of wastewater which may need the management of the District such as package treatment plants. The most critical factor in the long term success of package treatment plants is a clear determination on proper design, installation and operation and maintenance. In many instances throughout the County, the operation and maintenance of these facilities are assigned to Homeowners Associations, a private or mutual water company, the private landowner for a commercial operation or an improvement zone of a County Service

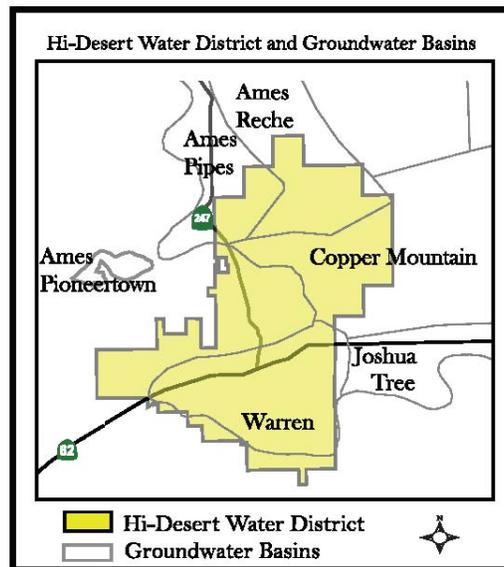
Area. Currently in the Town of Yucca Valley area there are several package treatment plants operated by landowners for commercial facilities, whose maintenance and operation in some cases have been problematic. Through development of the regional sewer system these developments will be connected to the regional collection system and the package treatment plants will cease to operate.

For the future, it is the staff's opinion, that the maintenance authority for package treatment plants for wastewater disposal should be regional in nature. Through augmentation of the services authorized under the District's existing sewer authority, it would become the entity responsible for the provision of sewer collection, treatment, and disposal/reclamation within its boundaries, which would include the operation and maintenance of package treatment plants. Any future requirement for such package treatment plants within the District's boundaries would be coordinated by the appropriate land use authority (either the County or the Town), the Regional Water Board, and the District, and will also include a subsequent environmental review and service level discussion for the specific project itself.

The information which follows outlines the specifics of the Hi-Desert Water District Reclamation Facility, Wastewater Treatment Plant and Sewer Collection System.

#### Warren Valley Groundwater Basin

The centrally populated portion of the District is located in the Warren Valley Groundwater Basin. A map of the District with the Warren Valley Groundwater Basin is shown below and included as a part of Attachment #1.



The Warren Valley Groundwater Basin is susceptible to and has high concentrations of nitrates due to two factors.

- First, according to the Regional Water Board, practically the whole of the District is on septic systems. In Yucca Valley, the area of greatest concern is the downtown area, which has a high density of septic systems. Further, the septic systems are on top of local drinking water aquifers, and wastes from septic systems can cause serious, widespread pollution. A 2003 United States Geologic Survey (USGS) report identifies that “Water-quality analysis indicate that septage from septic tanks is the primary source of the high-nitrate concentrations measured in the Warren Groundwater Basin.”<sup>1</sup>
- Second, from the late 1940s through 1994 water levels declined as much as 300 feet due to groundwater extraction. In response, the District instituted an artificial recharge program in 1995 to replenish the groundwater basin using imported State Water Project water. The artificial recharge program resulted in water-level recovery of about 250 feet between 1995 and present. However, the artificial recharge program increased nitrate concentrations in some wells from 10 mg/L to more than the U.S. EPA maximum contaminant level of 44 mg/L.

The high-nitrate concentrations persist in the groundwater basin. In a study dated April 27, 2009, the USGS states that nitrate concentrations are above the U.S. EPA maximum contaminant level.”<sup>2</sup>

As a result of the conditions in the Warren Groundwater Basin, the Regional Water Board (the authority responsible for protecting the State’s groundwater) has identified Yucca Valley as a high priority to protect the groundwater from contamination of the aquifers. The Regional Water Board is amending the Warren Basin Plan to address the threat caused by septic systems and will develop regulations and phase out discharges from on-site systems. Additionally, the Regional Water Board has indicated that if the community does not construct a wastewater treatment facility the State will mandate its construction, which would remove local control and could possibly result in higher costs.

In the interim, the Regional Water Board has established discharge regulations to address the problem until a permanent facility is constructed to properly treat the wastewater. The Regional Water Board developed a cooperative agreement with the Town and the District that provides outreach and education, an interim permitting scheme for new residential septic systems, and guidance on operation and maintenance of existing septic systems (included as a part of Attachment #5). Within the Town’s boundaries, the Regional Water Board has granted the Town interim approval authority for specified septic tank treatment (serving 10 or fewer dwelling units or less than 2,500 gallons per day) until the permanent facility is operational. All other

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<sup>1</sup> U.S. Department of the Interior. United States Geological Survey. Nishikawa, Tracy, Jill N. Densmore, Peter Martin, and Jonathan Matti. *Water-Resources Investigations Report 03-4009: Evaluation of the Source and Transport of High Nitrate Concentrations in Ground Water, Warren Subbasin, California*. Prepared in cooperation with the Hi-Desert Water District and the Mojave Water Agency. 2003. Sacramento, CA.

<sup>2</sup> USGS. Nishikawa, Tracy. Unnamed Study, 27 April 2009. Copy available at the LAFCO staff office.

proposed new systems will continue to be regulated and approved by the Regional Water Board.

### Hi-Desert Water District Project

In direct response to the Colorado Regional Water Quality Control Board's determination that nitrates be reduced in the groundwater from the unregulated discharge of wastewater, a technical advisory committee was formed consisting of the Town of Yucca Valley, the District, residents, and business representatives. In a letter from the Town of Yucca Valley to the District dated June 27, 2007, the Town indicates its support for the construction of a wastewater treatment system in Yucca Valley and through majority vote allowed the District to take the lead in the development of the system, with the Town lending support (letter included as Attachment #3).

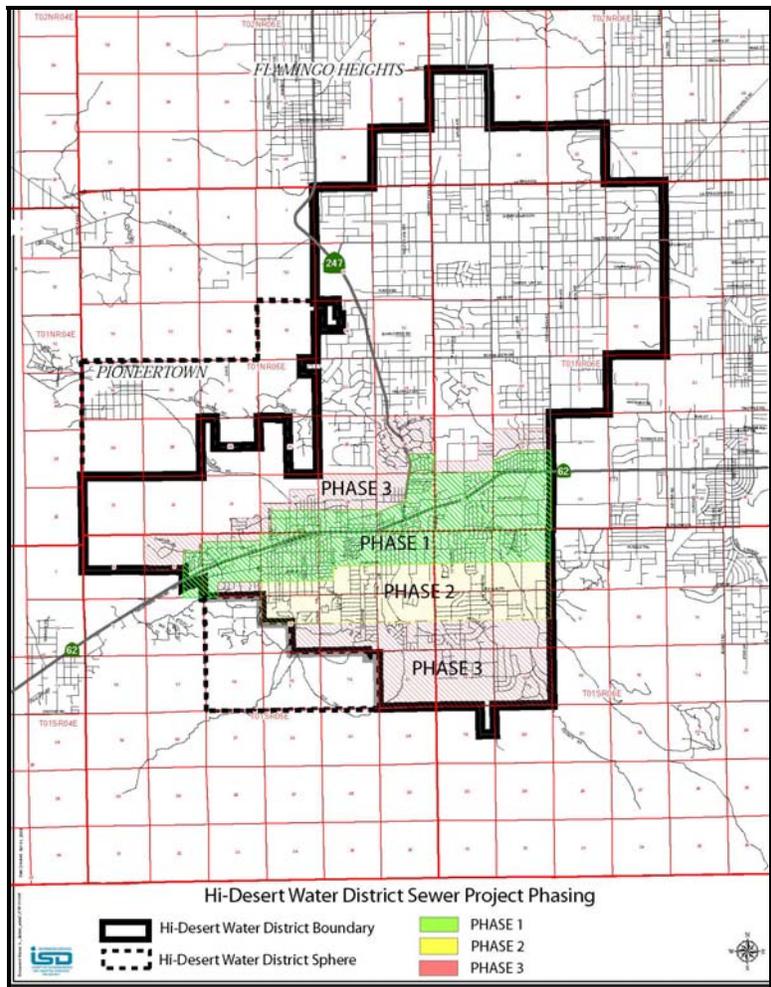
As lead agency, the District undertook the project titled "Hi-Desert Water District Water Reclamation Facility, Wastewater Treatment Plant, and Sewer Collection System Project". In line with this project, the District has completed a *Water Reclamation Facility Preliminary Design Report* (2009) as well as a *Sewer Master Plan* (2009), which updates the master plan that was prepared in 1998. The project consists of three phases:

- Phase 1 – The District intends to initially sewer the central portion of the Town of Yucca Valley to convey an annual average flow of two million gallons per day of wastewater to the Wastewater Reclamation Facility currently discharged to septic tanks and existing package treatment plants. In addition, the proposed project will generate treated effluent for percolation into the groundwater basin. As proposed, Phase 1 is estimated to cost \$121 million. The proposed wastewater treatment plant facilities are planned to be located approximately 1,000 feet south of State Route 62 (Twentynine Palms Highway) in Yucca Valley. Construction is estimated for completion by 2012.
- Phase 2 – In the future, if Phase 1 facilities do not adequately protect groundwater quality, or if the Regional Water Board requires more areas to be sewered, or if additional capacity is needed, the collection, treatment, and disposal facilities will be expanded to collect an additional one million gallon per day of sewage.
- Phase 3 – Should further capacity be needed, Phase 3 facilities will be designed to collect an additional one million gallon per day of wastewater flow for a total system capacity of four million gallons per day.

Additionally, the District has confirmed that the proposed plant is anticipated to accept septage from individual septic tanks and subsurface disposal systems from within the entirety of its boundaries.

As shown on the map below in green shade and included as a part of Attachment #1, Phase 1 of the project is anticipated to initially convey wastewater from the central portion of the Town of Yucca Valley along Twentynine Palms Highway currently discharged to septic tanks and existing package treatment plants to the proposed Wastewater Reclamation Facility. The map depicts the southwestern-most portion of the Phase 1 boundary extending beyond the District's boundaries and sphere of influence. This area includes include three private parcels. LAFCO staff has notified the District of the mapping irregularity and recommends that the boundaries of Phase 1 be wholly within the District by the time it adopts its assessment proceedings for Phase 1.

### Project Phase Map



The wastewater will be treated to meet Title 22 recycled water requirements and will be delivered to recharge basins operated by the District on the wastewater reclamation facility site to percolate the treated effluent into the Warren Valley Groundwater Basin.

In support of the project, the Regional Water Board adopted Resolution No. R7-2007-0074 on September 19, 2007. In a cover letter to the District, the Regional Water Board summarizes its resolution as follows (resolution included as Attachment # 4 with referenced memorandum of agreement included as Attachment #5):

“The enclosed Board Resolution No. R7-2007-0074, adopted on September 19, 2007, is a declaration of the Regional Board’s support of the District and Town of Yucca Valley in their efforts to phase out discharges of wastes from septic systems that are degrading groundwater and adversely affecting its beneficial uses. The Regional Board considers the construction of the Regional Wastewater Treatment Facility to be a strategic regional water quality priority that will set the example for responsible growth within the Colorado River Basin Region. The resolution also directs the Executive Officer to develop a memorandum of agreement with the Town of Yucca Valley to mitigate water quality impacts from septic systems.”

The District has identified that construction of the project will not commence until adequate funds are obtained for Phase 1, estimated cost of \$121 million. The District has identified the following possible funding sources for Phase 1 of the project:

Source	Status	Total Available	Received or Obligated to District
United States Bureau of Reclamation	Requires annual appropriation	\$20,000,000	\$2,499,500
U.S. EPA Grant	Waiting on local match waiver request	\$692,000	\$0
Loan from Town of Yucca Valley	Funds received, to be paid back to Town of Yucca Valley	\$350,000	\$350,000
Loan from HDWD Water Fund	Funds received, to be paid back to Water Fund	\$2,000,000	\$2,000,000
State Revolving Fund	On priority list	\$105,000,000	\$0
California Proposition 84 Grant Funding	\$ 36 Million allocated to entire Colorado River Region	Unknown	\$0
HDWD Assessment District	<b>Limited to Phase 1 boundaries,</b> Requires Proposition 218 process	Unknown	\$0
<b>TOTAL FUNDS</b>		<b>\$128,042,000</b>	<b>\$4,849,500</b>

**ENVIRONMENTAL CONSIDERATIONS:**

he Commission is a responsible agency for review of the potential environmental consequence for expansion of the range of services provided under the District’s existing sewer function. The District’s environmental consultant, Tom Dodson of Tom

Dodson and Associates, prepared an Initial Study and Mitigated Negative Declaration for its review of the Hi-Desert Water District Water Reclamation Facility, Wastewater Treatment Plant, and Sewer Collection System Project (SCH No. 2009061035), which was circulated for review and comment from June 9, 2009 through July 9, 2009. The Final Mitigated Negative Declaration, which incorporates the original initial study, the response to comments, and the Mitigation Monitoring and Reporting Program, was adopted by the District at its August 5<sup>th</sup> 2009 Board hearing. Mr. Dodson is the Commission's environmental consultant and has recused himself from the LAFCO processing of this application. On February 1, 2010 LAFCO staff forwarded to Commission members copies of the following documents: Notice of Determination; District Resolution No. 09-22 Approving the Water Reclamation Facility, Wastewater Treatment Plant and Sewer Collection System Project and direction to file the CEQA Notice of Determination; District Resolution No. 09-16 Adopting the Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program for the Project; Mitigation Monitoring and Reporting Program for the Project; Response to Comments; and Mitigated Negative Declaration and Initial Study for the Hi-Desert Water District Water Reclamation Facility, Wastewater Treatment Plant and Sewer Collection System Project (SCH #2009061035).

The District's Final Mitigated Negative Declaration, which has been reviewed by LAFCO staff, has been determined to be adequate for the Commission's use as a CEQA Responsible Agency for LAFCO 3084. LAFCO staff's analysis and recommendations are included as Attachment #6 to this report. The necessary actions to be taken by the Commission, as a responsible agency, are outlined below:

- Certify that the District's Final Mitigated Negative Declaration for its Water Reclamation Facility, Wastewater Treatment Plant, and Sewer Collection System Project (SCH No. 2009061035), has been independently reviewed and considered by the Commission and its staff;
- Determine that the District's environmental assessment and Mitigated Negative Declaration are adequate for the Commission's use, as a CEQA responsible agency, for its consideration of LAFCO 3084;
- Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified for the project are the responsibility of the District and/or others, not the Commission;
- Direct the Executive Officer to file a Notice of Determination within five (5) days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the District, as lead agency, has paid said fees.

**FINDINGS:**

The following findings and determinations are required to be provided by Commission policy and Government Code Section 56668 for all applications considered:

1. The County Registrar of Voters has determined that the District contains 10,896 registered voters as of November 5, 2009.
2. The County Assessor has determined that the total assessed value of land and improvements within the District is \$1,614,663,459 (land - \$469,315,384; improvements - \$1,145,348,075).
3. Notice of this hearing has been provided through publication in the *Hi-Desert Star*, a newspaper of general circulation through publication of an 1/8<sup>th</sup> page legal ad, as required by law. In accordance with Commission Policy #27, an 1/8<sup>th</sup> page legal ad was provided in lieu of individual notice because the number of notices to be provided would have exceeded 1,000. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
4. All notices required by law for this hearing have been provided. To date, no opposition to this consideration has been received. This determination will be updated at the Commission hearing.
5. The study area has been assigned land uses through the County of San Bernardino General Plan and the General Plan of the Town of Yucca Valley. This application will have no effect on these land use designations.
6. As a function of the Hi-Desert Water District District's review of its water reclamation facility, wastewater treatment plant, and sewer collection system project, the District prepared a Mitigated Negative Declaration as CEQA Lead Agency.

LAFCO staff has reviewed the Final Mitigated Negative Declaration that was prepared for the District's project and has determined that the District's environmental assessment is adequate for the Commission's review of LAFCO 3084 as a CEQA Responsible Agency. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the Environmental Considerations portion of this report. LAFCO staff's analysis and recommendation, including the District's environmental assessment, are included as Attachment #6 to this report.

7. The area of the Hi-Desert Water District is currently served by the following agencies:

County of San Bernardino  
Town of Yucca Valley  
County Service Area 70 (multi-function unincorporated county-wide) and  
its Improvement Zones R-26, R-29, and TV-5  
Hi-Desert Memorial Healthcare District

Mojave Desert Resource Conservation District  
Mojave Water Agency and its Improvement Zones M and 1  
San Bernardino County Fire Protection District and its South Desert  
Service Zone  
Yucca Valley Airport District

None of the agencies are affected by this application.

8. The Hi-Desert Water District submitted a plan for service, as required by law and Commission policy. The plan combined with the other documents submitted by the District as a part of the application has been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that such plan conforms to those adopted standards and requirements.
9. LAFCO 3084 is consistent with Commission policies and the directives of State law indicating a preference for a multi-purpose entity to provide service to communities in order to provide a more accountable form of government.
10. The study area can benefit from the expansion of the range of services available under the District's sewer function. The District has noted that Phase 1 of the provision of a collection and treatment system is anticipated to be limited to the core of the Town of Yucca Valley along Twentynine Palms Highway.
11. This application will have no effect on the ability of the Town of Yucca Valley or the County of San Bernardino to achieve their fair share of the regional housing needs.
12. With respect to environmental justice, the application will not result in the unfair treatment of any person or agency based on race, culture, or income.

**CONCLUSION:**

Approval of the expansion of service under the District's existing sewer function will allow for:

1. The District to actively collect, transport, treat, reclaim and dispose of wastewater within the territory of the district as envisioned by its proposed reclamation facility, wastewater treatment plant and sewer collection system.
2. The District, being authorized the full range of services for the sewer function including engineering and planning, would be able to coordinate with the appropriate land use authority and the Colorado River Basin Regional Water Quality Control Board on developments or projects within

the District's boundaries that would be required to connect to its sewer facilities.

3. If a development or project within the District's boundaries is conditioned to install a package wastewater treatment plant by the land use authority or Colorado River Basin Regional Water Quality Control Board, the District may be requested to operate and maintain such plants as an authorized and active wastewater collection and treatment agency.

The Colorado Regional Water Quality Control Board has identified the Yucca Valley area as a high priority area due to existing groundwater contamination conditions and the need to protect the aquifers from further contamination. The Regional Board has indicated that if the Yucca Valley community does not construct a wastewater treatment facility the State will mandate its construction, which would remove local control and could possibly result in higher costs.

Based upon the reasons outlined in this report, LAFCO staff supports expansion of authorized services of the active sewer function for Hi-Desert Water District in order for the District to actively provide sewer service within its boundaries. Approval would support local control of this project and protect the water supply from further potential contamination by minimizing the unregulated discharge of wastewater.

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Attachments:

1. Maps
  - a. [District Boundary and Sphere](#)
  - b. [Proposed Project Phases](#)
  - c. [Groundwater Basins](#)
2. District Application to LAFCO
  - a. [Letter from Hi-Desert Water District to LAFCO Dated February 27, 2007](#)
  - b. [LAFCO Request for Information Forms for Expansion of Authorized Services of its Active Sewer Function](#)
  - c. [Water Reclamation Facility Preliminary Design Report Volume 1 \(Jan 2009\)](#)
  - d. [Sewer Master Plan \(Final Report – Jan 2009\)](#)
3. [Letter dated June 27, 2007 from Town of Yucca Valley to District Supporting the Construction of a Wastewater Treatment System and Allowing the District to be Lead Agency in the Project](#)
4. [Colorado River Basin Regional Water Quality Control Board Resolution No. R7-2007-0074 in Support of Sewage Collection System and Reclamation](#)
5. [Memorandum of Agreement Dated June 25, 2008 between the District, Town of Yucca Valley, and the Colorado River Basin Regional Water Quality Control Board](#)
6. [Environmental Response and Final Mitigated Negative Declaration for the Hi-Desert Water District Water Reclamation Facility, Wastewater Treatment Plant, and Sewer Collection System Project \(SCH No. 2009061035\)](#)
7. [Draft LAFCO Resolution No. 3089](#)