

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

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**DATE: MAY 7, 2007**

**FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer**

**TO: LOCAL AGENCY FORMATION COMMISSION**

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**SUBJECT: AGENDA ITEM #9 – REVIEW AND ADOPTION OF RESOLUTION  
NO. 2959 FOR LAFCO 2991 -- CONSOLIDATION OF BALDY MESA  
WATER DISTRICT AND VICTOR VALLEY WATER DISTRICT ETC.**

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**RECOMMENDATION:**

That the Commission approve LAFCO 2991 – Reorganization to Include Consolidation of the Baldy Mesa Water District and Victor Valley Water District, to be known as the Victorville Water District, Establishment as a Subsidiary District of the City of Victorville, Formation of Improvement District No. 1 (Victor Valley Water District boundaries) and Improvement District No. 2 (Baldy Mesa Water District boundaries), and to annex five separate areas to the Victorville Water District and Improvement District No1, as modified and adopt LAFCO Resolution No. 2959 reflecting its determinations, terms and conditions related to that approval.

**BACKGROUND:**

At the March 21, 2007, hearing the Commission indicated its intent to approve a modified LAFCO 2991 to: a) consolidate the Baldy Mesa Water District and the Victor Valley Water District; to rename the District the Victorville Water District and establish it as a subsidiary district of the City of Victorville; b) to form two improvement districts of the Victorville Water District, identified as Improvement District No. 1 representing the Victor Valley Water District and Improvement District No. 2 representing the Baldy Mesa Water District; and c) to annex five separate areas to the Victorville Water District and Improvement District No. 1.

In addition, the Commission required that specific details related to the proposal be provided prior to further consideration, described as follows:

- A. That staff modify the Terms and Conditions for the proposal to address the consolidation with establishment as a subsidiary district of the City of Victorville

at this time. Staff has completed this requirement and presents Draft Resolution No. 2959 which includes these modified Terms and Conditions (Attachment #1 to this report).

- B. That an agreement between the Victor Valley Water District, Baldy Mesa Water District and the City Council of the City of Victorville, as the governing body of the Successor District, be provided to LAFCO for its review which outlines the transfer of liabilities, assets, contracts and obligations. In addition, it was required that the appropriate bond counsel reviews this agreement and indicates that there would be no impairment to bondholders through implementation of the agreement and consolidation.

In compliance with this request, Attachment #2 to this report includes: a copy of the agreement signed by the City of Victorville, the minute action indicating approval and the signature page of the agreement from the Baldy Mesa Water District, and the minute action of the Victor Valley Water District approving the agreement, subject to the addition of specific items and clarification of the Commission's determination.

Attachment #3 to this report is a copy of the letter submitted by the Baldy Mesa Water District bond counsel indicating there would be no impairment to bondholders through the transfer of liabilities through the consolidation.

- C. That the City of Victorville submit an "Employee Transition Plan" which detailed the transition of employees from the existing two Districts to status as City employees, the assignments of these employees to either the new Victorville Water District or comparable City jobs, and an outline of the benefits to be provided. Attachment #2 also includes the City of Victorville Employee Transition Plan, the minute action of the Baldy Mesa Water District approving the Plan as amended and the minute action of the Victor Valley Water District indicating its position that the Plan was incomplete.

Of importance to LAFCO is that the Employee Transition Plan addresses the issue raised by existing Victor Valley Water District employees regarding the continuation of their retirement medical benefits. The issue relates to a specific segment of the employee base which was hired prior to August 2003. These employees enjoy a different benefit from those hired after August 2003, which includes full payment of the costs for coverage of employee and spouse. The Victor Valley Water District has an existing liability to fund the medical payments, which will be required to be implemented by the City following the consolidation; therefore, it is the position of staff that the matter has been resolved.

On May 4<sup>th</sup>, LAFCO staff received a letter, dated May 3<sup>rd</sup>, from the Victor Valley Water District outlining its concerns on the Employee Transition Plan submitted by the City of Victorville, as the anticipated governing body of the Victorville

Water District (a copy of which is included as a part of Attachment 2(c)). This letter outlines five (5) issues which the Board of Directors believes fail to protect its existing employees during the transition. The four (4) issues requiring a response, in the staff view, are identified below:

- a. Prior “Employee Transitions Plans” and Uncertainty – The District identifies the revisions to the Transition Plan presented to the District as an issue regarding the process and the adequacy of the Plan. It is the understanding of LAFCO staff that representatives from the City Administration, Victor Valley Water District administrative personnel and Baldy Mesa Water District administrative personnel worked to complete this Employee Transition Plan. The prior plans identified in the letter were submitted prior to the Commission’s action identifying that a completed Transition Plan be provided. Staff does not believe that this is a concern.
- b. Status of Current Employees as Employees of the Successor Subsidiary District – The District has identified concerns regarding the transfer of its existing employees to be employees of the City, most of whom will be assigned permanently to the Victorville Water District. The citations in the letter refer to the draft Terms and Conditions and Staff Alternative in the original staff report as identifying that the employees would transfer to the new District rather than the City. However, the City of Victorville presentation, and supplemental information to its Plan for Service, have always identified that the employees would become City employees with direct assignment to the District. In addition, the Commission’s motion to indicate its intent to approve the proposal establishing the subsidiary district at this time, not the staff’s recommendation, required that the Terms and Conditions be modified to address that change. Staff believes that this concern has been discussed and does not agree with the conclusion drawn by the Victor Valley Water District.
- c. Statement “Draft Plan is Vague and Fails to Protect Current Employees Salaries, Benefits and Rights” – The District has identified that it does not believe that the Transition Plan provides for the necessary protections for future salary increases nor the Medical Retirement Benefit for current employees. As identified in the Plan, and by actions of the Victor Valley Water District Board of Directors, the Medical Retirement Benefit for employees hired prior to August 1, 2003 is a liability of the District that will be succeeded to by the consolidated District. Employees will be given the option to maintain this benefit or opt-out to receive the \$10,000 payment and access to the City’s medical retirement plan. No information is provided in the District’s response that indicates that the employees hired after August 1, 2003 have a vested right to this benefit and the City does provide this benefit, simply not in the same manner and amount. In the staff’s view, this is a “comparable” benefit.

- d. Statement “The Plan does not address current retirees” – This is correct. However, revised and restated Resolution No. 07-037 does in Section 6, which reads as follows:

*”Existing retirees of the Baldy Mesa Water District and Victor Valley Water District, as of the effective date of this resolution, shall continue to receive health insurances subsidiaries in the same manner as previously agreed upon at the time of separation from his or her respective district.”*

Staff believes that this addresses the issue of maintaining this benefit.

Therefore, in the staff view, the information necessary to finalize the consolidation is before the Commission as outlined in its action at the March 21<sup>st</sup> hearing. Staff recommends that the Commission formally approve the consolidation and adopt the resolution establishing a 30-day protest period to commence following completion of the mandatory 30-day reconsideration period.

In addition to the materials outlined above, the Board of Directors of the Victor Valley Water District has submitted a letter, dated April 23, 2007 (revised May 1, 2007), which responds to statements made to the Commission by representatives of the City of Victorville at the March 21<sup>st</sup> hearing regarding its operations. The Board has requested that it become a part of the record of these proceedings. Attachment #4 provides a full copy of the letter received by LAFCO staff. The information included within the letter does not reflect upon the issues involved in the consolidation proposal, in the staff view; therefore, LAFCO staff is not providing a response.

Not surprisingly, the City of Victorville has responded to the Victor Valley Water District’s revised letter. A copy of that response is included as Attachment #5 to this report and is made a part of the record for LAFCO 2991. In addition, at the request of the City of Victorville, a copy of the original letter from Victor Valley Water District dated April 23, 2007 and the City of Victorville’s response to that letter dated May 3, 2007 have been provided to the Commission and made a part of the record.

In conclusion, staff is recommending the adoption of Resolution No. 2959 reflecting the Commission’s approval of LAFCO 2991 setting in motion the protest process to determine whether the proposal will be approved, be sent to an election, or terminated. Staff will be happy to respond to any questions at the hearing.

/krm

ATTACHMENTS:

- 1 -- [Draft Resolution No. 2959 for LAFCO 2991](#)

- 2 -- a. Minute Action of the City of Victorville Approving Employee Transition Plan and Transfer Agreement Including a Copy of the Asset and Liability Report and a Copy of Amended and Restated Resolution No. 07-037
- b. Minute Action Approving Agreement and Employee Transition Plan with Signature Page of the Agreement from the Baldy Mesa Water District, and
- c. Minute Action of the Victor Valley Water District Approving the Transfer Agreement Subject to the Addition of Specific Items and Determining Employee Transition Plan is Incomplete and a Copy of Letter Dated May 3, 2007 on Employee Transition Plan Issues
- 3 -- Letter from Baldy Mesa Water District Bond Counsel
- 4 -- Letter Dated April 23, 2007 (Revised May 1, 2007) from Victor Valley Water District Board of Directors
- 5 -- Letter Dated May 3, 2007 (Revised May 4, 2007) from City of Victorville Responding to the Revised Letter from Victor Valley Water District
- 6 -- Original Letter Dated April 23, 2007 from Victor Valley Water District Board of Directors (Without Exhibits) and City of Victorville's Original Response to that Letter Dated May 3, 2007 (Without Exhibits) (Attached at Request of City of Victorville)