

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

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PROPOSAL NO.: LAFCO 3009

HEARING DATE: October 15, 2008

RESOLUTION NO. 3025

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3009 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR MARIANA RANCHOS COUNTY WATER DISTRICT (sphere of influence expansion to encompass the combined existing spheres of influence of the Apple Valley Foothill, Apple Valley Heights and Mariana Ranchos County Water Districts excluding the territory southerly of Tussing Ranch Road currently served by the Golden State Water District creating a single sphere for all three agencies).

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

WHEREAS, a service review mandated by Government Code 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 the 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, a public hearing by this Commission was called for August 20, 2008 and continued to September 17, 2008 at the time and place specified in the 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 plans and proposed changes of organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the application, in evidence presented at the hearing;

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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 September 17, 2008. The Clerk was directed to file a Notice of Exemption within five working days of its adoption;

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 following sphere of influence determination is made: that the sphere of influence for the Mariana Ranchos County Water District, shall be expanded to include the territory within its existing sphere of influence and that of the Apple Valley Foothill and the Apple Valley Heights County Water Districts as depicted on the maps attached hereto as Exhibit "A" and "B"; and,

WHEREAS, the determinations required by Government Code Section 56430 and local Commission policy are included in the report prepared and submitted to the Commission dated September 8, 2008 and received and filed by the Commission on September 17, 2008, a complete copy of which is on file in the LAFCO office. The determinations of the Commission are:

1. Growth and population projections for the affected area:

The 2006 estimated population for the District was 1,097. Growth within the District's boundaries is anticipated to continue at a significant rate, keeping pace with the Town's anticipated growth rate for its sphere. Based on historic growth, the District expects ten new connections per year. However, the County has approved or is considering development applications along the Mojave River immediately outside the District's boundaries and spheres which may signal a more intensive growth pattern.

2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies:

Currently, the District provides water to 399 active connections and there are currently 454 serviceable units within its boundaries. It has two wells capable of producing 800 gallons per minute (gpm) or 1.34 million gallons per day and two storage tanks with storage capacity of 900,000 gallons. There is also one small hydroneumatic tank with booster pumps serving customers on Alegre Vista. The Plan indicates that the District had sufficient supply, storage, and distribution facilities to serve the existing connections in 2007. However it notes that it will continue to need other sources of supply (make up and replacement water) to meet service demands.

The District conducts monthly tests of the quality of the water in its system. All results have been within the prescribed limits.

The most recent improvement by the District, taking place in 2006, was the replacement of water mains and valves in portions of the District. This project was funded by connection fees and saved funds. The Plan indicates that the realistic proposed improvements will be centered in the northeast part of the District to replace all standpipes with three-way fire hydrants per the Apple Valley Fire Protection District. Also, the pipeline in Section 14 on Cerra Vista is planned to be replaced with an eight-inch piping. The total construction cost is estimated at \$290,500.

MRCWD has water production rights (also known as Base Annual Production) to assure 245 acre-feet (AF) annually. The District is within the Alto sub-region, and Free Production Allowance (FPA) is currently at 60% of Base Annual Production, which permits the district 147 AF of FPA for

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FY 2008-09. As noted in the most recent Watermaster Annual Report, “further rampdown is not warranted in Alto at this time”. Producers are required to replace any water pumped above their FPA by paying the Mojave Basin Area Watermaster to purchase supplemental water or by purchasing unused production rights from another party. As indicated in the table below, the historical trend for the District’s water production indicates that it produces more than its FPA. Thus, it has to purchase water from other agencies within the sub-basin to avoid paying the higher replacement water and make-up water rates charged by the Watermaster. However, since 2005-06 it has not purchased water from other agencies and has been obligated to pay the higher replacement water rates of the Watermaster.

Currently, the District provides water to 279 active connections. It has two wells and reservoir

Mariana Ranchos CWD Water Production and Water Obligations (units in acre feet unless otherwise noted)

Water Year	Free Production Allowance (FPA)	Carryover from Prior Year	Transfers from Other Water Agencies	Verified Production	Unused FPA or (Water Production in Excess of FPA)	Replacement Water Obligation (Agency overdraft)	Makeup Water Obligation (Watermaster replacement to the sub-basin)
2002-03	184	0	53	(234)	0	\$0	\$0
2003-04	172	0	194	(257)	109	\$0	\$0
2004-05	160	109	0	(223)	46	\$0	\$0
2005-06	147	46	0	(243)	(50)	\$12,300	\$0
2006-07*	147	0	0	(284)	(137)	n/a	n/a
2007-08**	147	0	n/a	n/a	n/a	n/a	n/a
2008-09	147	--	--	--	--	--	--

Sources: Mojave Basin Area Watermaster, Annual Reports of the Mojave Basin Area Watermaster for Water Years 2003/04 through 2006/07, (April 1, 2005 through April 1, 2008).

Mojave Basin Area Watermaster, Request for Assignment of Carryover Right in Lieu of Payment of Replacement Water Assessments Recommended for Filing, For Water Years 2002/03 through 2006/07.

* Subject to amendment in Appendix I in Fifteenth Annual Report of the Watermaster due April 2009.

** Draft data (Appendix B) not available until January 2009.

3. Financial ability of agencies to provide services:

The District's main sources of revenue are customer charges for water, standby fees of \$30 per acre, connection fees, and investment income. According to the District's most recent audit for FY 2005-06, its net assets increased 8.8% to \$1,121,000 and revenues were in excess of expenditures by \$36,300.

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The District has an assessment district known as Assessment District 88-1 (Circle M Rancheritos). Bonds were sold to provide water facilities within this area in 1988 for a total of \$481,000. The assessment district was repaid and dissolved in September of 2005.

To pay for improvements and additions to the system, the District plans to increase the connection fees coupled with a supplemental water charge. This supplemental charge would be \$1,800 per dwelling unit, representing a two-year deposit for overdraft charges, and will be reviewed each year.

4. Status of, and opportunities for, shared facilities:

There are no facilities that the District shares and it states that it does not foresee sharing facilities

5. Accountability for community service needs, including governmental structure and operational efficiencies:

The District is governed by a five-member board of directors and has four employees. The District holds its regular meetings on the third Thursday of the month at the District office, is open to the public, and encourages public comments and suggestions. Furthermore, the District uses monthly newsletters to communicate with customers and to stress conservation. It utilizes an electronic billing system.

The District has held five elections within the past decade with the last one taking place in November 2007.

The District does not participate in joint financing projects and has no joint powers agreements.

Government Structure Options

There are two types of government structure options:

- Out-of-agency service agreements where an agency provides service outside its boundaries; or,
- Other potential government structure options such as consolidation, reorganization, or dissolution.

Out-of-Agency Service Agreements:

The District has identified that it does not currently provide service outside its boundaries.

Other Government Structure Options:

While the discussion of some government structure options may be theoretical, a service review should address all possible options. The options would be:

1. Assignment of a zero sphere of influence for the District. This option would send a signal that the Commission anticipates a future consolidation of the public water districts within the Town's southern sphere.

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- 2. A second option also sends a signal that the Commission anticipates a future consolidation of the three county water districts within the Town’s southern sphere a part of the Alto sub-basin of the Mojave River adjudication. This option would assign the same sphere of influence to all three water districts within the southern Apple Valley sphere of influence a part of the Alto sub-basin. This would signal that these County Water Districts should meet to discuss a potential consolidation.
- 3. Retain the status quo; this would maintain a coterminous sphere and boundary. As mentioned within the staff report, numerous inefficiencies exist by having three separate yet contiguous county water districts in one portion of the area. Maintenance of the status quo would continue such inefficiencies.

As indicated in the discussion of water issues, the Commission has indicated, since 1973, that the public water agencies in the Apple Valley area should consolidate for efficiencies in service delivery, economies of scale for purchasing the services necessary to operate the district – well testing, meter installation, etc., and to address the service needs for potential development in the area. Failure to address the issue at this juncture, will mean that the private water companies in the area will expand to surround the four public water districts within the Alto sub-basin limiting their future options. Based upon these determinations, it is the position of the Commission that the three County Water District will have the same sphere of influence designation pointing towards a consolidation. The materials submitted by the District indicate that they oppose any effort to consolidate with the surrounding agencies even if conditions of approval to the consolidation would protect its revenues for use within its system.

Local Accountability and Governance

The Mariana Ranchos CWD is governed by a five-member Board of Directors elected at-large to four-year staggered terms. The figure below lists the current Board of Directors, their titles, and terms of office:

Board Member	Title	Term
Eugene L. Buchanan	Director	2009
Benjamin Crimmins	Director	2009
Joseph W. Monroe	Director	2009
Dennis J. Russell	Director	2007
Mitchell E. Whaley	Director	2007

The information identified above was taken from documents available on the Registrar of Voters website. No information related to an extension of the term of office from 2007 has been provided. In addition the District maintains a routine hearing schedule of the third Thursday of the month.

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

1. Present and Planned Uses:

Present uses within the district include vacant lands and residential lots that range from one to forty acres contained within the County General Plan and 960 acres within the Town of Apple Valley General Plan. According to the Plan, 98% of the service area is designated for residential uses.

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The majority of the District that remains to be developed is located in Sections 14 and 15 and the southern part of Section 21. Large portions of the District's sphere are undeveloped. Present and planned uses within the staff modified area includes vacant lands, residential lots that vary from one-half acre to 5 acres for a rural residential land use occupied by single family residences.

The County General Plan land use designations for the area include: Single Family Residential land use designations (RS-1) with a one-acre minimum lot size, Rural Living (RL) which requires a 2.5 acre minimum parcel size, Resource Conservation (RC) which allows one unit per 40 acres, and Special Development (SD-PD) for approximately 50 acres. There are no commercial, industrial, or urban intensity land use designations assigned within the area.

The Town of Apple Valley overlays approximately 960 acres within the area southerly of Tussing Ranch Road and its General Plan identifies Residential lands for the majority of the area, which includes Single Family Residential, Low Density Residential and Estate Residential uses, and approximately 12 acres of General Commercial.

The sphere of influence designation will have no direct impact on the land use designations of the County or Town.

2. Present and Probable Need for Public Facilities and Services:

The districts taken together currently meet the water operational demands of their customers. As mentioned, development in the Town's sphere is anticipated to continue and all three districts are within the Town's sphere. As the population increases and the uses of the land intensify, the area will require additional water production.

Individual service needs for the districts are identified under each of their municipal service reviews. The District estimates its build-out population at 3,019 or 1,098 connections. The District currently meets the water demands of its customers. As mentioned, development in the Town's sphere is anticipated to continue, and developments within the area surrounding the existing District have been filed with the County Land Use Services Department. As the population increases and the uses of the land intensify, the area will require additional water production and water sources.

3. Present Capacity of Public Facilities and Adequacy of Public Services:

As noted in the Municipal Service Review materials, the District will need to provide for additional water sources to accommodate its rampdown of Free Production Allowance (FPA) or increase monthly charges to offset the cost of make up or replacement water. The Water Plan provided indicates that ongoing planned improvements will meet the needs of the existing customers.

4. Social and Economic Communities of Interest:

The area proposed for inclusion within the Mariana Ranchos CWD sphere of influence representing the consolidation of the three districts is entirely within the Apple Valley community sphere as well as the current sphere of influence assigned the Town of Apple Valley. The areas of the modified sphere of influence are identified as being in Apple Valley, but the residents in the area do not believe they share social or economic ties with the Town. However, the Town is the economic hub for the area and provides for the shopping, organized recreational activities, and employment for the area. The Community of Interest for the Water Districts notes that the territory is within the same sub-basin of the Mojave River adjudication, its wells and facilities are in close proximity to one another, and they share a common land use direction, rural residential.

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5. Additional Determinations

- The Commission's Environmental Consultant, Tom Dodson and Associates, has determined the changes outlined for the Apple Valley Heights County Water District sphere of influence are statutorily exempt from environmental review
- Legal advertisement of the Commission's consideration has been provided through publication in *The Daily Press* through publication of a 1/8 page legal ad and in *The Apple Valley News*, as required by law. In accordance with Commission Policy #27, a 1/8th page legal ad was provided in lieu of individual notice because the service review sphere of influence update for the community of Apple Valley would have exceeded 1,000 notices.
- As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

WHEREAS, having reviewed and considered the findings as outlined above, the Commission determines to expand the sphere of influence to encompass:

- 1) The District's existing sphere of influence;
- 2) The entirety of the sphere of influence for the Apple Valley Foothill and Apple Valley Heights County Water Districts, excluding the territory currently served by the Golden State Water Company south of Tussing Ranch Road; and,
- 3) Expansion of the sphere to include the territory southerly of the Apple Valley Heights County Water District boundary which is private land to the southern section line.

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 this to be the sphere of influence for Mariana Ranchos County Water District; 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;

BE IT FURTHER RESOLVED that the Local Agency Formation Commission of the County of San Bernardino, State of California, does hereby determine that Apple Valley Heights County Water District shall indemnify, defend, and hold harmless the Local Agency Formation Commission of the County of San Bernardino from any legal expense, legal action, or judgment arising out of the Commission's designation of the modified sphere of influence, including any reimbursement of legal fees and costs incurred by the Commission.

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

AYES:

COMMISSIONERS:

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NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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 October 15, 2008.

DATED:

KATHLEEN ROLLINGS-McDONALD
Executive Officer

