

Responses to the Draft Report

**San Bernardino Valley Water
Conservation District**

Attachment 7d



SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT

Established 1932

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April 1, 2015

Kathleen Rollings-McDonald
Executive Officer
Local Agency Formation Commission
175 West Fifth Street, Second Floor
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Dear Executive Director McDonald:

The purpose of this letter is to provide specific comments, changes and additional information on the Local Agency Formation Commission Municipal Service Review report, dated March 12, 2015, for Water Conservation in the Valley Region of San Bernardino County. We appreciate your support of the Groundwater Sustainability Council we proposed and have developed a joint letter on general comments.

The District has specific information and detailed comments and provides them for your consideration under this cover and by email. We have significant support from the entities in the East Valley for the sphere the District requested in its application. We understand LAFCO staff's rationale for expanding the sphere to the Bunker Hill Basin. We believe consideration of additional expansion of the sphere is premature and recommend that this issue should be revisited when the Groundwater Sustainability Council is implemented and the needs and their recommendation can be taken into account.

Sincerely,

Daniel B. Cozad
General Manager, SBVWCD

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OF
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GENERAL
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Daniel B. Cozad

SBVWCD Comments on the Draft LAFCO Staff Report MSR 3-12-15

General Comments

The following are changes, comments and additional information submitted to the Local Agency Formation Commission on the Municipal Service Review Draft report, dated March 12, 2015, for Water Conservation in the Valley Region of San Bernardino County. The District sincerely appreciates your support of the Groundwater Sustainability Council the three districts proposed. The District and partners have continued to develop concepts of governance for the Groundwater Sustainability Council. The participants currently have reservations about the efficiency of a Joint Powers Authority and will utilize streamlined governance allowed in Section 10723.6 of the Water Code for the Council's formation. The Groundwater Sustainability Council will be implemented through an agreement that will provide for the equitable funding of groundwater recharge for each basin covered by the Council. The Groundwater Sustainability Council's purpose will in no way change the existing authority of the elected City Councils and Special District Boards of Directors that make up the Groundwater Sustainability Council. These governmental structures will fully retain their legislative authority to set rates, appropriate funds, etc. The Groundwater Sustainability Council, made up of General Managers or equivalent staff representatives, will perform the scientific studies to determine the water supply and funding needs and then develop recommendations for their respective Boards.

The District has gained significant support from the entities in the East Valley for the sphere the District requested in its application and provided letters documenting this support. We understand LAFCO staff's rationale for wanting to analyze a larger sphere to represent hydrology of the Bunker Hill Basin. We have taken LAFCO staff's suggestion to our partners, but, it has received little support. The consensus seems to be that any such expansion of the District's sphere at this time is premature, and is likely to be disruptive to the Groundwater Sustainability Council's formation process. We recommend that this issue should be revisited when the Groundwater Sustainability Council is implemented, and can serve its structural and service needs after they are better defined.

The District also provides information herein, for the record, on its belief that the Water Code provides authority for preparation and implementation of management plans addressing habitat on District-owned lands, and the District's ability to implement the habitat goals and requirements of the Wash Plan.

The District is providing specific comments, changes and additional information by page and section.

Executive Summary

Determination I – Growth and Population - No issues, concur

Determination II – Location of DUC - No issues, concur

Determination III –Page 3 -Paragraph 2

LAFCO Staff correctly states the District budgets very limited funding for Conservation Education, However, we do provide school and other outreach through IERCD, plus staff and directors provide assistance and outreach to commercial producers and small well owners who are not supplied by urban water suppliers, who have primary responsibility for implementing water conservation programs in their service areas We actively support and help fund the iEfficient initiative. We also lead a BTAC subcommittee for landscape education for implementing the qualified water efficient landscaper program (QWEL) and have a certified trainer on our staff.

Determination IV - General and Specific Comments

Page 3 - Last Paragraph

We appreciate LAFCO Staff’s recognition of reduction in costs and implementation of fiscal policies. We do enjoy, and have worked to achieve, relatively high liquidity. This is because the District reserve policy provides the basis and need for funding accumulated specific needs and capital projects. The report states:

“Therefore, a high unassigned fund balance seems disproportionate to the services the district provides.

The District currently has a counter-cyclic revenue and expense cycle. In drought, pumping from the groundwater basin increases and costs for maintenance moderate, while operations are somewhat reduced. During wet periods, the cost of vegetation removal operations and the cleanup of silt and sediment can be extensive, to prepare for the next season. Without accumulating this reserve for the Groundwater Enterprise, rates would be highly variable based on annual cost. During rate hearings the District had repeatedly heard that fluctuations in rates paid by cities and districts were difficult as they set rates for 3-5 years in advance.

Additionally, the District is presently designing capital improvements which will use much of the reserve attributable to Groundwater. Future land management costs will utilize land management funds.

Legislative Authority to Implement Habitat Mitigation for Projects

LAFCO's MSR Staff Report ("Staff Report") suggests the Conservation District lacks the legislatively-conferred authority to oversee habitat mitigation required for its operation and projects, including cooperative implementation of such projects under the Wash Plan. (See, e.g., Staff Report pp. 3, 58, 91, 94.)

“Should the district desire to actively provide habitat management and enhancement (related to the Wash Plan), it would need to receive special legislation to expand the scope of its authorized activities as well as submit an application to LAFCO to request authorization to provide said service.”

The District respectfully disagrees.

Water Code sec. 74501 confers broad authority to any conservation district to "make contracts and do all acts necessary for the full exercise of its powers." Courts have cited and interpreted this section broadly. (See *City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 307 [sec. 74501 cited as upholding water conservation districts' authority to manage and allocate salvaged groundwater].)

The organic Water Conservation District Act confers a broad array of powers for which the ability to enter into and administer a cooperative agreement for habitat preservation and management would be necessary. These include:

- Water Code sec. 74523 – A district may "maintain, operate and repair" dams, reservoirs, canals, ditches, and spreading basins, among other facilities.
- Water Code sec. 74550 – Conservation Districts may hold use, enjoy, manage, occupy, possess, lease or dispose of real and personal property of every kind.
- Water Code sec. 74552 – Such districts "may take conveyance or other assurances for all property acquired by it."
- Water Code sec. 74570 – Confers authority to cooperate and contract with one or more other districts or public corporations or agencies, whenever, in the opinion of the Board, such cooperation is desirable or advantageous to the District.
- Water Code sec. 74571 – Similar power is granted to join with other Districts in acquisition, purchase, or construction of works, and conduct the actual construction and operation of the works.
- Water Code secs. 74610-618 – This entire article of the Water Conservation District Law confers specific authority to enter into cooperative agreements with the United States.

Implementation of the Wash Plan touches, at least in part, on all of these statutorily conferred powers. A critical component of the Wash Plan is cooperation with San Bernardino Valley Municipal Water District ("Valley District") in constructing and operating additional water spreading basins for groundwater recharge enhancement. (See, LAFCO Staff Report p. 51.) Under a lease agreement with Valley District, the District will maintain these new basins, in addition to its traditionally-held facilities. (Staff Report, p. 55.) Because these basins cannot go forward without mitigating biological impacts from their placement and operation, mitigation is a necessary incident of both the development and operation of the contemplated basins, and the cooperative agreement between the two agencies.

Further, the Wash Plan implicates a land exchange with the Bureau of Land Management ("BLM"), and contemplates activities on areas of habitat for threatened and endangered species under the jurisdiction of both the California Fish and Wildlife Department and the United States Fish & Wildlife Service ("USFWS"). Therefore, both state and federal cooperative agreements are essential to secure the habitat conservation plan management and financing assurances, without which the contemplated new water facilities, along with all the other Wash Plan covered activities, simply would not become a reality. Certainly, the District's Board of Directors can determine (and has determined) that such inter-agency

cooperation is "desirable or advantageous to the District," and equally benefits many others. (See, Water Code sec. 74570.)

LAFCO itself has already taken the position that a strict reading of the statutorily-conferred powers the Legislature grants to special districts is inappropriate. In the Environmental Impact Report accompanying the rejected consolidation proposal, LAFCO 3076, LAFCO implied Valley District's ability to make surveys and investigations of water supply and resources of the District, as necessarily incident to its other statutory powers. It did so despite the absence of any specifically conferred authority to do so in the Water Code's Municipal Water District Law. (See, LAFCO 3076 EIR, SCH No. 2007091035, pp. 3-12.) A strict reading of the Conservation District's powers here would appear to be inconsistent with that precedent.

Moreover, if any agency must seek specific legislative authorization to perform habitat conservation oversight on regional cooperative plans, the District would be one of many who would have to petition Sacramento. Our research indicates San Bernardino County Flood Control District, which oversees and manages the Woollystar Preserve Area in the same vicinity of the Wash Plan, has no specific authorization in its organic act to conduct or manage habitat conservation activities. County Flood Control District's present power to conduct such activities would have to be necessarily implied in the conferral of other broader powers, similar to those listed above for Conservation Districts. (See, e.g., Water Code Appendix secs. 43-2, 43-6.)

The fact that County Flood currently implements the multi-agency effort managing the Woollystar Preservation Area in the Santa Ana Wash proves both the reasonableness, and practical efficacy, of a broad reading of statutorily conferred powers. Such broad reading appears to be the present interpretation of the courts, the present practice of agencies already undertaking multi-agency habitat management services, and is consistent with the literal wording of the statutes themselves.

Determination V – Shared Facilities – No issues, concur

Determination VI –Accountability Structure and Operating Efficiency

Paragraph 1 of VI – We question whether the absence of contested elections signals voter indifference. For vacancies occurring mid-term at least, appointing candidates in lieu of election is more efficient and costs less. On terms expiring through the elections cycle, if there was significant dissatisfaction opponents would have run to unseat incumbents. While the table is accurate as written our Board does not consist solely of appointees. Director Hendriques-McDonald was elected in 2005, Director Raley was elected in 2009 and Director Glaubig was elected in 2011. All of our directors regularly stand for election, and are more directly accountable than agencies that have boards appointed by other elected officials.

Paragraph 2 of VI Presents 2 options

1. Consolidate the two water conservation districts to a single District serving the entire valley
2. Two water conservation districts consolidate with their respective Municipal Water Districts

Given the state of development of the Groundwater sustainability council we recommend the following changes to paragraph 5. As indicated in section 10723(a) of the Sustainable Groundwater Management Act any local agency or combination of agencies overlying a groundwater basin may elect to be a groundwater sustainability agency for a basin. The Groundwater Sustainability Council is proposed be formed as efficiently as possible without hiring additional staff, increasing overhead or adding additional layers of government under an agreement among the parties considering the Interests of Groundwater users.

“However, as a part of this service review these agencies, along with East Valley Water District, have submitted an outline to form a Groundwater Sustainability Council (GSC) for stormwater capture, water import funding and groundwater recharge. This effort proposes in essence a functional manner to coordinate key functions and shared services and facilities, absent formal consolidation. The GSC would be the responsible entity for ensuring adequate stormwater capture, imported water funding, and groundwater recharge efforts. The GSC board of directors would be composed of producers representatives from the basin as member agencies. While this scenario does not achieve consolidation it fulfills LAFCO’s initiatives toward shared services and facilities, and it provides a means to move toward the most efficient provision of this service in the East Valley area. Therefore, LAFCO staff would support this option.”

LAFCO Staff Sphere Proposal

The LAFCO staff proposal (page 5 paragraph 2) regarding the Conservation District’s sphere is:

- *“Modify LAFCO 3173 to include the analysis of the following alternatives for consideration:*
 - *expansion of the sphere of influence to be coterminous with the sphere of influence of MUNI,*
 - *include the whole of the Bunker Hill Basin, or*
 - *the request initiated by the District to expand the sphere of influence by 1,973 acres.”*

The District has received significant support for the requested sphere in our application. We did so hoping to come to LAFCO with a broadly supported, non-controversial sphere request. That hope was realized; our request is supported by all of our partners.

We have vetted LAFCO staff’s other options among our partners, and those involved in the GSC formation efforts. Given the feedback we have received, we feel considering other sphere boundaries is premature until the GSC has better defined membership, and better defined roles and responsibility. While those detailed discussions occur, parallel, external definitions of future service responsibility may limit the flexibility and creativity the GSC efforts will require, and may even be disruptive of efforts at formation of the GSC. We therefore recommend that LAFCO Commission grant our requested sphere, and if needed reassess the changes to that sphere after our role, and the roles of all GSC participants, are further clarified.

Full Report Text

Full Report Comments are by Section and Page Number

Page 16 – Paragraph 2

Report should indicate that both the SBVMWD and SBVWCD monitor and report on surface and groundwater. The SBVWCD provides the Daily Flow Report for surface water and annual Engineering Investigation Report for groundwater levels and change in storage as required by the Water Code.

Page 47 – Recharge Table

SAR Spreading Grounds – Diversion capacity at Cuttle Weir is approximately 900 CFS, current capacity under Greenspot trail is 200-250 CFS. Enhanced Recharge Cooperative project is designed to increase to 500 CFS.

Mill Creek Row - Two 50 CFS canals can deliver a peak of 100 CFS. Improvements are in design to upgrade the reliability at this capacity during more productive storm events.

Page 51 – Second Paragraph

The Enhanced Recharge Project is a partnership between SBVMWD, SBVWCD, and Western Municipal Water District. A grant from the Santa Ana Watershed Project Authority provides additional funding and SBVWCD provides land, environmental mitigation support and long term operations.

Page 52

Please add the Plunge Creek Conservation project to the Current and Future Projects List.

- Plunge Creek Conservation Project. New infrastructure and operations to direct and slow stormwater increasing recharge and habitat quality. The joint project with the USFWS and funding from Proposition 84 IRWM funding through the Santa Ana Watershed Project Authority, it will increase recharge by approximately 1200 Acre feet per year on average and increase habitat for the endangered species in the lower Plunge Creek area.

Please indicate under basin monitoring that SBVMWD and SBVWCD cooperatively monitor and report on surface and groundwater. The SBVWCD provides the Daily Flow Report for surface water and annual Engineering Investigation Report for groundwater levels and change in storage as required by the Water Code.

Page 53

We believe the Mill Creek spreading grounds are mischaracterized. Since the time of the referenced letter the facility has been built and operates seamlessly with District facilities. The District has provided a graphic showing the history of groundwater recharge for the report.

Page 58 and 91

The LAFCO Staff report also raises a question whether activation of latent powers would be required for implementation of the Wash Plan's habitat conservation and mitigation components:

Habitat Management and Enhancement

Several strategic goals are related to this planning effort that are summarized by the Wash Plan's commitments to effective stewardship of easement lands owned and managed by the SB Valley WCD. According to SB Valley WCD, habitat management and enhancement in accordance with the Wash Plan is both a requirement and an opportunity for the district. However, SB Valley WCD is not authorized by LAFCO or State Law the function or service of habitat management or similar activity. Further, Water Conservation District Law does not allow for a water conservation district to provide habitat management services. Since March 2006, SB Valley WCD is authorized by LAFCO to provide "water conservation" and "surveys of water supply and resources" pursuant to the Rules and Regulations of the Local Agency Formation Commission for San Bernardino County Affecting Functions and Services of Special Districts. Should the district desire to actively provide habitat management and enhancement, it would need to receive special legislation to expand the scope of its authorized activities in Water Conservation District Law as well as submit an application to LAFCO requesting authorization to provide said service. As an alternative to SB Valley WCD providing habitat management and enhancement, the Inland Empire Resource Conservation District could perform this service as its parent act and LAFCO authorize it to do so."

This appears to be a departure from past findings and indications from LAFCO.

Our review of the "Listing of Special Districts Functions and Services," included as Exhibit "A" to the "Policy Statement Adopted by Independent Special Districts and San Bernardino LAFCO Regarding Independent Special District Representation" (see, LAFCO Policy and Procedure Manual pp. 183-202), includes few specific authorizations for habitat preservation or conservation. The only agencies so listed appear to be the Mojave Desert Resource Conservation District (LAFCO Policy and Procedure Manual, p. 189), CSA 70 (*Id.* at p. 199) and CSA 120 (*Id.* at p. 200). The Conservation District presumes that a number of other special districts can and do implement habitat conservation and preservation activities in connection with mitigation requirements of their own projects, undertaken alone or collaboratively with other agencies, whether under CEQA, NEPA, or otherwise. We are unaware that LAFCO has previously preconditioned such mitigation on an activation of latent powers.

Further, LAFCO staff seems to imply that the Wash Plan implementation the District contemplates could be done by Inland Empire Resources Conservation District ("IERCD"). (LAFCO Staff Report, p. 58.) While the District has considered this as a possibility, IERCD likewise currently lacks habitat preservation or conservation in its roster of approved services. (LAFCO Policy & Procedure Manual, p. 129.) Therefore, no administrative efficiencies would appear to result from asking IERCD to step into the District's shoes for the Wash Plan effort at this late date.

We also note the latent powers issue was not highlighted in the proceedings on LAFCO 3076 in 2008, when consolidation with Valley District was being considered. Then, LAFCO's approved EIR concluded that Valley District not only had agreed to accept a lead agency role to complete the project (see, LAFCO 3076 EIR, pp. 3-17), but that it was obligated to continue processing the Wash Plan, including subsequent implementation measures, such as the required EIS and "other permits/approvals." Presumably, the "other permits/approvals" contemplated State and Federal "take" permits and accompanying HCD requirements, which were even then being negotiated. Certainly, LAFCO's approved EIR did not include activation of latent powers as a discretionary approval for either the District nor Valley District, and specifically stated: "Other than actions related to transferring of title, responsibilities, and assets from the District to Valley District, no other discretionary permits or approvals have been identified at this time that would be necessary for LAFCO 3076." (Id. at pp. 3-30.) The clear implication of this LAFCO finding was that latent powers activation was not intended to be required by LAFCO of either agency.

For all the foregoing reasons, the District believes that its ability to go forward with its planned mitigation activities for the Wash Plan is consistent both with its organic legislative-conferred powers, and what it understands has been LAFCO's past practices regarding how mitigation activities fit with other specifically listed functions and services. To the extent there may be disagreement on this point, it will best be resolved after the Wash Plan implantation planning is complete.

The Wash Plan Task Force is still working on forming the specific structure of how the State and Federal "take" permits will be held, and how the mitigation obligations under the Habitat Conservation Plan and its Implementing Agreement will be funded, overseen, and implemented. At this juncture, questions of what agencies involved in the Wash Plan, standing alone, have what mitigation authority, are largely academic. Once the full roster and structure of the Wash Plan mitigation implementation is decided, all parties will have a definitive organizational structure to assess, and a better perspective to gauge who may legally, and most effectively, do what. Should that result in valid requirements to come to LAFCO for implementing authority, the District will do so, with the prior consensus of the participating Wash Plan Task Force members that will be required to define the optimum organizational structure.

Page 67

SBVWCD is the local sponsor (with the Basin Technical Advisory Committee, Conservation Subcommittee) to provide QWEL training for Landscapers. Instructors are to be drawn from local district conservation staff and IERCD staff. The District cosponsored the cost of the training for participants from the service area. The training was held in cooperation with CBWCD at their facilities in December 2014. While the report accurately describes the District's judicious spending on outside efforts, we work closely with agricultural and commercial groundwater producers to address conservation opportunities and are an active participant in the regional iEfficient program and help fund the program.

Page 74

We appreciate LAFCO Staff's recognition of reduction in costs and implementation of fiscal policies. We have relatively high liquidity however the District reserve policy provides the basis and need for funding

accumulated specific needs and capital projects. We suggest these be included in the discussions on this page.

We also suggest the report recognize the unusual circumstance that replenishment and conservation districts face.

The District currently has a counter-cyclic revenue and expense cycle. In drought, pumping from the groundwater basin increased and costs for maintenance increase slightly while operation are somewhat reduced. During wet periods the cost of operations and the cleanup of silt and sediment can be very large to prepare for the next season. Without accumulating the reserve for the Groundwater Enterprise, rates would be highly variable based on annual cost. During rate hearings the District had repeatedly heard that annual changes to rates paid by cities and districts were difficult as they set rates for 3-5 years in advance. Additionally, currently the District is designing capital improvements which will use much of the reserve attributable to Groundwater. Future land management costs will utilize significant land management funds.

Page 82

The Report text is inaccurate and incomplete as written. The District first completed an OPEB actuarial study in 2011. The Study indicated an annual contribution for OPEB at \$962 per year with an accrued liability of \$3118. The District contributed the \$3118 in 2011 and has contributed at least the \$962 per year for the following 2 years (2012 and 2013). In 2014, the District, as required, updated the actuarial study which concluded that based on experience, the annual OPEB contribution should be \$8,883. The unfunded liability was estimated at \$29,305. Based on Board direction the unfunded liability difference was funded in 2014. The District budgets the \$8,883 annually to fund the OPEB Reserve. The District intends to convert the OPEB Reserve to a Trust in the coming fiscal year.

Page 87

In the second sentence: While the District's assets are mostly unrestricted from an accounting perspective, we would appreciate if it noted that they are subject to the Districts Reserve Policy.

In the Table: There is an error in the 2009-2010 Cash and Investments shown as \$66,913,884 Cash and Investments should be \$6,613,884 and other should be \$250,297 rather than \$60,049,703.

Page 90 - First Paragraph

“General Fund Reserve

According to the FY 2014-15 budget, the General Fund Reserve is the only existing reserve (with the exception of the Prepaid Royalty Reserve and counter to the reserves identified in the 2012-13 and 2013-14 audits) and it has been significantly depleted in the past two years due to the general economy and litigation costs. The district envisions that this reserve level balance be maintained, once achieved, at a level equal to two years budgeted General Fund operating expenses or approximately \$1,200,000.

Similar”

This text is accurately taken from the budget document, but is not presently correct. This text was accurate in 2011 and reflects the status before the Board approved the Reserve Policy. The District has

funded its reserves in all critical areas of risk. As the report indicates, the General Fund Reserve may contain up to 2 years of the General Fund costs of the District. It currently contains \$540,273 which is about one year of General Fund operations. The District's other reserves are allocated by policy. The Groundwater Reserves are funded at about \$1.6 million, about 90% of the maximum by policy, however a significant portion of that will likely be needed in Capital Improvements for Mill Creek Diversion Rehabilitation. The land resources reserve is currently over funded at \$968,387; however this reserve is used to make safety repairs and improvements planning for the next two fiscal years. The District has a Capital Improvement/Equipment reserve currently funded at about \$400,000, which provides capacity for pay-go project and equipment replacement.

Staff apologizes for the old text remaining in the budget and the resulting misinformation. We trust the report can be revised to represent the actual present situation.

Page 90 - Second Paragraph

“Similar to Chino Basin WCD, the district has high liquidity, no long-term debt, and meets its service obligations (after capital projects). Therefore, an unassigned fund balance of this magnitude seems disproportionate to the services the district provides.”

As stated previously the District currently has a counter-cyclic revenue and expense cycle. In drought, pumping from the groundwater basin increased and costs for maintenance increase slightly while operation are somewhat reduced. During wet periods the cost of operations and the cleanup of silt and sediment can be very large to prepare for the next season. Without accumulating the reserve for the Groundwater Enterprise, rates would be highly variable based on annual cost. During rate hearings the District had repeatedly heard that annual changes to rates paid by cities and districts were difficult as they set rates for 3-5 years in advance. Additionally, currently the District is designing capital improvements will use much of the reserve attributable to Groundwater. Future land management costs may utilize land management funds.

Page 90 - Paragraph #3 Director Expenses

In regard to Director Expenses, the District requests the following changes in red and additional information.

“The figure below identifies Director Expenses as outlined in its budgets. The board of director per-diem of \$197 per meeting up to a maximum of 10 meetings per month and expenses for District and other meetings is set by Ordinance No. 2014-1 and Resolutions No. 509A & 509B. A review of the district's minutes identifies that the district board meets roughly 13 times a year with quarterly meetings of the finance committee, operations committee and outreach committee. Therefore, a fair estimate for stipends and travel expenses for district Board and Committee meetings would be \$18,000. Board members do not receive health, life insurance, or retirement benefits. This leaves over \$64,000 annually (from 2010-11 through 2013-14) for what is believed to be fees for partner agency attending association meetings, seminars and conferences. To illustrate the point, dividing the 2013-14 Directors Fees (\$68,000) by the per diem (\$197) and five board members equates to 69 meetings a year per director. This additional

amount related to Directors Fees appears to be high for any district, more so given the limited nature of the district.”

Activity	2010-11	2011-12	2012-13	2013-14	2014-15 Budget
Director Fees	\$64,155	\$66,487	\$69,541	\$68,000	\$82,000
Mileage	879	2,145	2,850	3,000	2,750
Air Fare	1,201	2,822	5,100	4,750	6,412
Other Travel	165	192	350	500	750
Meals	1,021	1,333	2,930	2,930	2,430
Lodging	6,414	3,029	3,758	3,500	4,900
Conference/Seminar	11,627	5,000	4,500	4,590	8,032
Total	\$85,462	\$81,008	\$88,029	\$87,270	\$107,274
No. of Directors	7	7	5	5	5

We recommend the deletion the budgeted amount for 2014-15, because the Board has limited its meetings and as of the end of February (7 months) the total Board expenses are less than \$58,000. It is expected that the year will end with expenses being closer to \$85,000-\$88,000.

Page 91 – Habitat Authority

Report Text indicates:

“Since March 2006 SB Valley WCD is authorized by LAFCO to provide water conservation, and survey of water supply and resources pursuant to the Rules and Regulations of the LAFCO for SB County Affecting Functions and Services of Special Districts”.

The District commented on page 2 of this document that believes it has the legislative authority and will either request activation of latent powers, continue to work with IERCD or contract with non-profit based on the Wash Plan Task Force recommendation.

Page 97 – Last three rows of the table

The listed Pipeline Ownership is in error; SBVWCD does not have ownership in any of the pipelines listed. Texas Street is owned by Redlands and Muni has purchased capacity. We do not have the data to correct the Virginia and 10th street ownership.

Page 102 – Elections and Appointments

For vacancies occurring mid-term at least, appointing candidates in lieu of election is more efficient and costs less. On terms expiring through the elections cycle, if there was significant dissatisfaction opponents would have run to unseat incumbents. While the table is accurate as written our Board does not consists solely of appointees. Director Hendriques-McDonald was elected in 2005, Director Raley was elected in 2009 and Director Glaubig was elected in 2011. All of our directors regularly stand for election, and are more directly accountable than agencies that have boards appointed by other elected officials. Additionally, all existing Board members have filed for election and prepared candidates statements and were not “appointed” by the Board.

Page 105 – Paragraph 3

The Report Text indicates:

“Consolidation offers the greatest level of benefit for resource management, seamless operations, and standardized coverage. For stormwater capture, overhead would reduce as shared equipment and labor would result in savings. All areas would participate in capital costs for new equipment and station upgrades.”

Given that this text appears to come from earlier analysis of fire or another service type, it may be that it is less applicable to services like that provided by the SBVWCD. Because of the Enhanced Recharge agreement with SBVMWD and WMWD facility upgrades are currently shared across a broad two county area. In addition, successful State Grant applications the cost of some facilities is paid for 75% by taxpayers Statewide.

“It would be expected that a single agency could use resources more effectively, and water education activities could consolidate thereby resulting in a streamlined message.”

The agencies in the East Valley already do this through their combined use of IERCD and the iEfficient program. Such efforts have extended their outreach and reduced costs, without consolidation.

Page 105 and 106

Regional - One Water Conservation District for the Valley Region

The Report text Indicates:

“Since the formation of the two water conservation districts in the Valley, there are significant gaps in coverage of a water conservation district, particularly within the Rialto-Colton basin. This scenario would include consolidation of the two water conservation districts and annexation of the remainder of the Valley Region...”

The benefits of a single regional agency responsible for water conservation is that the consolidated agency could be the primary agency responsible for water conservation for the entire Valley Region to include storm water capture and public education. The area in between the two water conservation districts is covered by the Lytle Creek Water Conservation Association.”

We believe that for this scenario to be considered further there would need to be agreement of the Lytle Creek WCA and companies and agencies who are currently engaged in recharge in that area. We suggest that this be added to the following paragraphs indicating the rationale for not further considering this scenario.

Additionally for public education, the report states that consolidation:

“...would provide a single voice on the matter thus removing the fractured message, program, and educational opportunities.”

We believe that the local nature of water conservation is important. While it does benefit from coordination and unification such as is done in the East Valley with iEfficient and cooperatively funding IERCD programs, we do not believe that it is specifically enhanced by consolidation.

The fourth Paragraph on page 106 indicates:

“However, the primary function for the water conservation districts is changing and appears to be moving toward a concentration of education opportunities while the Groundwater Sustainability Agencies will assume direct control of recharge activities. Therefore, a single Water Conservation District for the Valley region coordinating the educational activities and programs would be an improvement for the region.

The transition of water conservation districts to primarily consumer education is not occurring statewide. Most Water Conservation Districts are primarily focused on groundwater recharge, management and sustainability in the ways and methods most important to their local area. It is likely premature to propose governance changes based on some local experience. Moreover, water conservation efforts in rural, agricultural and unincorporated areas differ significantly from those in urbanized areas.

Page 108 – Paragraph two and three

“The first step to implement the Act is for local agencies to form local groundwater sustainability agencies (GSAs) by June 1, 2017. The second step is the adoption of groundwater sustainability plans (GSPs) by January 31, 2020 for basins determined by the Department of Water Resources to be in critical overdraft and by January 31, 2022 for those not in critical overdraft. Once the GSPs are in place, local agencies have 20 years to fully implement them and achieve the sustainability goal.”

Current interpretation of the Act reads that adjudicated basins are exempt from creating a GSA and a GSP, but still requires reporting to the state. In this case, the court-appointed receivers (Chino Basin Watermaster and MUNI) can fulfill the reporting requirement to the state.”

We recommend that the report note that the proposed Groundwater Sustainability Council, is intended to be in place and implement programs prior to 2017. The structure and ground rules are currently being discussed by the producers with excellent progress.

Page 108 – Paragraph 3 continues:

“Further, in the Chino Basin the IEUA and the Chino Basin Watermaster jointly report to the court on basin monitoring. Additionally, some basins extend beyond the adjudicated boundary, and in this case the larger agency may be the best suited to perform the task of the GSA, being the municipal water districts in the Chino Basin and San Bernardino Basin Area.”

Muni and Western Municipal Water District are the Watermaster for the San Bernardino Basin Area. All agencies cooperate with the Watermaster, BTAC, CASGEM and SBVWCD’s annual Engineering Investigation. Additionally, the District provides monitoring of surface water diversions in the mouth of

the Santa Ana Canyon and Mill Creek that many agencies depend upon and cooperatively fund. In the GSC outline, it is proposed that the GSC provide reporting in the SBBA because some basins are adjudicated and others are not. We propose subcommittees to integrate these differences in a streamlined manner.

Page 111 – Second to last paragraph

“While this scenario does not achieve the full range of economies of scale in a consolidation, the formation of this Council would in essence be a functional consolidation, an effort that this Commission has historically supported.”

We suggest the same changes as indicated on page 4 of this document as below:

“Of note, this option does not require LAFCO approval except in the instance of service outside an agency’s boundaries. Pursuant to Government Code Section 56133, LAFCO is charged with the responsibility for reviewing and taking action on any city or district contract to extend service outside of its jurisdiction. If an agency is anticipated to actively provide a service outside of its boundary it would need to submit an application to LAFCO requesting either approval or exemption from Section 56133. In this scenario, if the San Bernardino WCD is intended to perform activities outside its boundaries, that contract would need to be reviewed and approved by LAFCO.”

We agree that upon development and implementation the GSC and agencies should engage LAFCO to assess if additional approvals may be needed to satisfy Government Code Requirements.

Page 112 – Paragraph 2

Report text indicates:

“4. East Valley – Sphere of Influence Expansion for the San Bernardino Valley Water Conservation District to encompass the Remainder of the Bunker Hill Basin

The San Bernardino Valley Water Conservation District has submitted an application to LAFCO requesting expansion of its sphere of influence from a zero sphere designation to one that extends beyond its boundary to include territory along the Santa Ana River (LAFCO 3173). Per Government Code Section 56076, a "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the commission.

However, LAFCO and its staff have continually expressed its sentiments that the district move towards expanding its sphere of influence to encompass the entirety of the Bunker Hill Basin. Therefore, the staff would recommend that LAFCO 3173 be modified to address the boundaries of MUNI as an alternative for further discussion.”

The District requested in LAFCO 3173, a sphere that was supported by the agencies it currently serves. Our request has not changed. However, to address LAFCO suggestions, the 2014 Groundwater Management Act and build on the broad cooperative environment building in East Valley, the District with Muni, East Valley Water District and others is organizing the Groundwater Sustainability Council to

address the same issues LAFCO raises here. We feel that there is an opportunity to solve several issues in this cooperative coordinated effort that would not be solved in consolidation or changes to spheres themselves. However we do agree that the sphere, as ultimate service area, should be addressed with the GSC. We strongly believe that LAFCO should allow the GSC to form and implement its programs and assess the needs for changes to services based on its efforts and the developing changes being considered.

“5. Maintenance of the Status Quo

The maintenance of the current government structure is always an option. It is likely that the two municipal water districts (IEUA and MUNI) will be designated as the Groundwater Sustainability Agencies for their respective basins as they already report to the court in some manner regarding the respective adjudications. Therefore, the role of the water conservation districts would remain duplicative.”

In the East Valley as indicated above, the GSC is proposed to be the Ground Water Sustainability Agency. We do not have information about whether IEUA or Chino Basin Watermaster would be the GSC in the Chino Basin.

Second to last Paragraph:

With regard to elections please see discussion on page 2.

Page 113 – Paragraph 1

Text States:

“For SB Valley WCD, in July 2008 a proposed consolidation of the SB Valley WCD and the MUNI was denied by LAFCO. During the processing of this service review, both the SB Valley WCD and MUNI have expressed the lack of desire to consolidate given the contentious nature of the previous consolidation and the deep and painful wounds that linger. However, as a part of this service review these agencies along with East Valley Water District have submitted an outline to form a joint powers authority (“JPA”) for stormwater capture and recharge, in essence a functional consolidation. The JPA would be the responsible entity for all stormwater capture and recharge efforts with a board of directors composed from the member agencies. While this scenario does not achieve the full range of economies of scale in a consolidation, the formation of this Council would in essence be a functional consolidation. Therefore, LAFCO staff supports this option for the basin.”

The District believes nobody wants to return to the controversies, enmity, and inefficiencies that resulted from LAFCO 3076. We also believe, however, that its legacy lies not so much in wounds that linger from the prior consolidation process, but more in the healing process that followed, which has resulted in open cooperative changes between both agencies. The Enhanced Recharge Agreement, as well as other efforts, are producing a high functioning cooperative atmosphere in the East Valley. This

benefits not only Muni and the District, but all water users. Also, please reference the prior comments and requested changes on page 4 for the JPA and this section.

As indicated in section 10723(a) of the Sustainable Groundwater Management Act any local agency or combination of agencies overlying a groundwater basin may elect to be a groundwater sustainability agency for a basin. The Groundwater Sustainability Council is proposed be formed as efficiently as possible without hiring additional staff, increasing overhead or adding additional layers of government under an agreement among the parties. We therefore recommend that LAFCO Commission grant our requested sphere including the 1,973 expansion, and if needed reassess the changes to that sphere after our role, and the roles of all GSC participants, are further clarified.

Acre Feet of Conserved Water Recharge to the Bunker Hill Basin

