

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

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DATE: AUGUST 12, 2015
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TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: Agenda Item #7 - Status Report on LAFCO 3176 -- Special Study for Yermo, Daggett and Newberry Community Services Districts

RECOMMENDATION:

Staff recommends that the Commission:

1. Note receipt of the status report and file.
2. Set the next status report for the February 2016 hearing.

BACKGROUND:

At the January 2015 hearing, the Commission completed the special study of the Daggett, Newberry, and Yermo Community Services Districts. The special study identified numerous areas where the districts fail to comply with the State Constitution, State Law, and generally accepted good-governance practices. These issues were outlined in the original service review in 2009 and continued through the special study. The Commission determined that the districts were not in compliance with the following requirements and directed staff to continue to monitor progress to rectify the problems and update the Commission every six months until all of the items below are satisfied.

STATUS UPDATE:

The identified issues are outlined below in italics followed by LAFCO staff's analysis of the current situation:

All Districts

1. *Adopt and annually review reserve policies pursuant to Community Services District Law Section 61112.*

Newberry CSD has indicated that adoption of reserve policies is scheduled for its August 25 meeting and that it will provide a copy to LAFCO upon approval.

As of the date of this report, Daggett CSD and Yermo CSD have not provided information on this statutory requirement.

2. *Forward a copy of the final budget to the County Auditor pursuant to Community Services District Law Section 61110.*

Newberry CSD has completed this statutory requirement and has indicated that it will continue to adhere to it.

Daggett CSD has placed adoption of its FY 2015-16 budget for its August 12, 2015 meeting, and it has indicated that it will provide a copy to LAFCO and the County Auditor following approval. LAFCO staff will provide an update on this statutory requirement at the hearing.

As of the date of this report, Yermo CSD has not provided information on this statutory requirement.

3. *Adopt an annual appropriations limit by resolution authorizing the expenditure of the proceeds of taxes and review the annual calculation as a part of the annual financial audit, pursuant to Article XIII B of the State Constitution, which is further acknowledged by Community Services District Law Section 61113.*

Daggett CSD adopted its annual appropriations limit by resolution at the district's June 26, 2015 hearing (Resolution 2014/15-004). Newberry CSD adopted its annual appropriations limit by resolution at the district's June 23, 2015 hearing (Resolution 70-2015). The districts and its independent auditor are aware of the requirement to review the annual calculation as a part of the annual financial audit.

As of the date of this report, Yermo CSD has not provided information on this constitutional requirement. It should be noted that LAFCO staff provided background information to the district on March 19, 2015 to assist the district in adopting an appropriations limit.

Newberry CSD

4. *Recommendation #5 from the 2012-13 Grand Jury Report reads for Newberry CSD to: " Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual". The CSD's March 2014 response to the Grand Jury reads, "Due to limited resources and the intrinsic limitations of a part time staff, our audit firm and our*

own Treasurer, are developing an accounting manual based on generally accepted accounting principles, to be implemented in the immediate future”.

Newberry CSD formally approved its accounting procedures at its February 24, 2015 meeting (Item 19).

Daggett CSD

5. *Continue to work with the County to address and formalize a lease arrangement or title transfer for the Daggett Community Center.*

The Community Center is located on County property and was constructed with HUD funding. Therefore, the concerns about the use of the facility, insurance, maintenance, etc. need to be resolved to eliminate risk and the potential financial obligation to the County.

A draft contract between the County and the District was reviewed and approved by HUD. The contract is to be signed by Daggett CSD, then submitted to the County Board for final approval (anticipated for September at this time). Pursuant to HUD’s direction, the contract will state that the County will record a lien on the property for five years with Daggett CSD continuing maintenance and operation during that term. However, during this time the County will still be exposed to risk. Following the five-year term, the title (and risk) will transfer to Daggett CSD if it meets the conditions of the contract.

6. *Provide LAFCO with a copy of all future water quality information provided to the public, to include water quality control reports, occurrences of contamination, and boil water orders through the initiation of the second cycle North Desert Service Reviews.*

LAFCO staff confirmed with County Environmental Health Services that there has been no occurrences of contamination or boil water orders since January 2015.

7. *Adopt an annual budget that conforms to generally accepted accounting and budgeting procedures by September 1 of each year at a noticed hearing pursuant to Community Services District Law Section 61110. Failure to comply with this requirement will necessitate further action by the Commission to resolve the issue.*

The District has placed adoption of its FY 2015-16 budget for its August 12, 2015 meeting. LAFCO staff will provide an update on this statutory requirement at the hearing.

Daggett CSD audits

Originally not included as a monitoring item, Daggett CSD has not yet completed its FY 2012-13 and FY 2013-14 audits. Completion of annual audits are a requirement of Community Services District Law Section 61118, and the timeframe to complete an audit is one year from the end of the fiscal year (Government Code Section 26909).

Completion of audits requires proper bookkeeping, and the determinations from the 2009 service review and 2015 special study identify systemic governance and managerial issues with Daggett CSD. On a positive note, since January 2015, the district has adopted its appropriation limit, is scheduled to adopt its first budget since 1995, and is moving towards resolution of the Community Center ownership.

Nonetheless, Government Code Section 26909 states that unless an audit is made by a district through an independent auditor, the County Auditor shall either make or contract with a certified public accountant to make an annual audit and that any costs incurred for the audit shall be borne by the district. At the next scheduled status report in February 2016, if satisfactory progress to complete the overdue audits is not being made, LAFCO staff will recommend that the Commission request the County Auditor to either make or contract for the audits pursuant to Government Code Section 26909.

Water System Consolidations

As a follow up on SB 88 (water system consolidations), the State Water Resources Control Board (SWRCB) in March 2015 released a listing of water systems for potential consolidation. The March 2015 listing concerns systems that have had at least one violation relating to water quality. Daggett CSD (Chromium 6) is one of two public water systems identified from San Bernardino County (the other system is CSA 70 W-4 in Pioneertown).

Of note, SWRCB has not yet identified water systems located within a disadvantaged community or unable to supply water due to the drought. An updated list to include these categories should be forthcoming.

CONCLUSION:

In concluding this status report on compliance, all three districts have at least one outstanding statutory compliance requirement. LAFCO staff will continue to provide assistance to the districts as requested to help achieve compliance. For Daggett CSD, at the next scheduled status report in February 2016, if satisfactory progress to complete the overdue audits is not being made, LAFCO staff will recommend that the Commission request the County Auditor to either make or contract for the audits pursuant to Government Code Section 26909.

Staff recommends that the next status report on compliance be scheduled for the February 2016 hearing. Should the Commission have any questions, staff will be happy to answer them prior to or at the hearing.

KRM/MT