

**LAFCO Resolution 3248 for
LAFCO 3187 and Executive
Summary from LAFCO 3187**

Attachment 1

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

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PROPOSAL NO.: LAFCO 3187

HEARING DATE: JULY 19, 2017

RESOLUTION NO. 3248

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON LAFCO 3187 – COUNTYWIDE SERVICE REVIEW FOR WATER (RETAIL, WHOLESALE, RECYCLED).

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

WHEREAS, a service review mandated by Government Code 56430 has been conducted by the Local Agency Formation Commission for San Bernardino County (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 July 19, 2017 at the time and place specified in the notice of public hearing and in any order or orders continuing the hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written support and opposition; the Commission considered all objections and evidence which were made, presented, or filed; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the service review, in evidence presented at the hearing; and,

WHEREAS, at this hearing, this Commission certified that the service review is statutorily exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA) and such exemption was adopted by this Commission on July 19, 2017. The Commission directed its Executive Officer to file a Notice of Exemption within five working days of its adoption; 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 July

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5, 2017 and is recommended for acceptance and filing by the Commission on July 19, 2017, a complete copy the service review is on file in the LAFCO office.

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

- A stakeholder group was convened within each region (Valley on May 8, 2017; Mountain on June 15, 2017; North Desert on January 31, 2017; and South Desert on May 15, 2017) to provide a peer review of the service review's purpose, objective, and methodology. The stakeholder groups were composed of a variety of public agencies and at least one private system.
- Following the peer review, each water system identified in this review was provided a draft of the report for review and comment. Comments from the water purveyors are included in Appendix A of the service review.
- As required by State Law, notice of the hearing was provided through publication in newspapers of general circulation within the area, the *Big Bear Grizzly*, *Daily Press*, *Desert Dispatch*, *Hi-Desert Star*, *Inland Valley Daily Bulletin*, *Mountain News*, and *San Bernardino Sun*. Individual notice was not provided as allowed under Government Code Section 56157 as such mailing would include more than 1,000 individual notices. As outlined in Commission Policy, in-lieu of individual notice the notice of hearing publication was provided through an eighth page legal ad.
- As required by State law, individual notification of the hearing was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- Due to the size and scope of the report, the service review document was provided in advance of the staff report to allow additional time for review. The service review document was published July 5, 2017 and a copy was provided to affected and interested agencies and County departments, as well as those agencies and individuals requesting mailed notice. The service review document was also made accessible on the LAFCO website.

NOW, THEREFORE, BE IT RESOLVED by the Local Agency Formation Commission for San Bernardino County, State of California, that this Commission shall:

1. Accept and file the Countywide Service Review (Retail, Wholesale, Recycled), included as Exhibit A to this resolution, which sets forth the written statements for the six determinations outlined in Government Code Section 56430 as presented and as amended at the hearing.
2. Initiate the establishment of a sphere of influence for Metropolitan Water District of Southern California within San Bernardino County to be coterminous with the sphere of influence of its member agency, Inland Empire Utilities Agency.
3. Direct LAFCO staff to continue to monitor County Service Area 70 Zone CG (Cedar Glen) and provide an update to the Commission by February 2018.

Executive Summary

This service review consists of a countywide service review on water (wholesale, retail and recycled) within San Bernardino County. It fulfills the service review requirements identified in the Cortese-Knox-Hertzberg Local Reorganization Act of 2000 (Government Code §56000 et. seq.). The report is organized geographically by the county's four major regions: Valley, Mountain, North Desert and South Desert. A stakeholder group was formed within each region to provide a peer review of the service review's purpose, objectives and methodology. A draft copy was circulated to all water systems reviewed in this report as well as interested parties for review and comment. The final version of this report includes LAFCO staff's responses to the comments. LAFCO may use this report as a basis to initiate agency sphere of influence updates, where warranted, and to help address identified service deficiencies.

Approach

Legislation adopted since 2012 impacting service reviews or the provision of services has been incorporated into the report's analysis. These laws are detailed in the Introduction portion of this report and address:

- Mutual water companies in service reviews
- Disadvantaged unincorporated communities
- Pilot program for San Bernardino LAFCO regarding services outside an agency sphere of influence
- The Sustainable Groundwater Management Act of 2014, and
- Authorization for the State Water Resources Control Board to consolidate water systems that are serving disadvantaged communities with unreliable and unsafe drinking water with other water systems.

The primary goal of this service review is to provide the Commission with recommendations to: (1) update the determinations from previous service reviews, and (2) initiate sphere of influence updates where appropriate. To arrive at these recommendations, the service review focuses on two areas:

- (1) Identification of "hot spots" – Those areas or agencies within the county which have significant water-related issues including, but not limited to, insufficient water supply, water quality related issues, deficient infrastructure, financial constraints, and/or inadequate oversight and monitoring.
- (2) Service review update – Update of water agencies' determinations since the prior service review.

To identify the County's water "hot spots," staff utilized a multi-pronged approach using prior service reviews, audits, budgets, consumer confidence reports, sanitary survey reports, and GIS data to identify future population growth areas, disadvantaged communities, and small community water systems. This Executive Summary summarizes the hot spots identified in the report and staff recommendations. Additionally, staff has identified opportunities for efficiencies for the community at large to consider – these do not have a recommendation for Commission action.

What Did We Learn?

Countywide

- 80% of the land in the county (roughly 16,200 sq. miles) is primarily vacant and outside the governing control of the County's Board of Supervisors and 24 cities.
- Significant opportunities for economies of scale via consolidation exist in the Mountain, North Desert, and South Desert regions.
- San Bernardino County and the broader Inland Empire region are anticipated to see more population growth in the near term than the coastal regions of Southern California. The high cost of housing in the coastal counties of Los Angeles, Orange and San Diego has made the Inland Empire a destination of choice for many residents willing to commute to those areas.
- The Metropolitan Water District of Southern California has never been assigned a sphere of influence in San Bernardino County.
- LAFCO staff has comprehensively digitally mapped all the water systems identified in this report. The following entities requested access to this data which LAFCO has provided: Department of Water Resources, Division of Drinking Water of the State Water Resources Control Board, California Environmental Health Tracking Program of the Department of Public Health, and the County of San Bernardino as a part of its upcoming general plan update.

Legislation/Regulations

- Senate Bill 88 authorizes the State Water Board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This authority provides an opportunity for water system improvements by offering inducements or by ordering consolidation of systems.
- Other State agencies, such as the California EPA, use alternative criteria to identify disadvantaged communities for grant funding purposes. The different criteria at the local and state government levels is confusing and complicates implementation of a consistent approach to address our disadvantaged residents. While staff recognizes the difficulty in developing a one-size-fits-all definition, LAFCO staff's position is that additional work needs to be done state-wide to develop a method for identifying disadvantaged communities that is more consistent yet recognizes the diversity of communities and geographies in California.
- Agencies have adopted resolutions to form Groundwater Sustainability Agencies for areas identified as fringe areas – areas outside a local agency boundary.
- There is a systemic lack of understanding and compliance with the California Land Conservation Act of 1965 (known as the Williamson Act) statutes and implementation by the County and cities. Government Code §51243 states that when annexing properties into a city, "...the city shall succeed to all rights, duties, and powers of the county under the contract." As a whole, the data provided to LAFCO by the County and cities is either incomplete, outdated, and/or not in compliance between Agricultural Preserves and Williamson Act parcels. LAFCO staff will continue work on this matter and present a final product to the Commission as a part of the wastewater service review.

Water Systems

- Many systems identified in the first round of service reviews as having experienced significant challenges, remain as having significant challenges.
- There are clusters where challenges are difficult to overcome due to groundwater quality and economic status (being defined as a disadvantaged community).
- There are areas where agencies provide, or plan to provide, service outside of its sphere of influence: (1) City of Colton, (2) City of Big Bear Lake via its Department of Water and Power, and (3) Town of Apple Valley (potential condemnation and purchase of the Liberty Utilities system). This is addressed in the context of Gov't. Code §56133.5 - a pilot program, through 2020, for Napa and San Bernardino LAFCOs to authorize a city or district to extend services outside of a sphere for additional purposes beyond responding to threat to public health or safety.
- During the course of the service review, two areas were identified that warrant identification but are not considered a hot spot as remediation efforts are well underway: (1) Rockets, Fireworks, and Flares Site (Rialto area), and (2) County Service Area 70 CG – Cedar Glen.
- During the drought, many local agencies that self-reported water usage data to the state (which meant that a zero state conservation standard was applied) opted to implement a higher conservation standard.
- On average, the 33 water systems that were required to report to the State their water usage during the drought reported in February 2017 a 16.7% cumulative savings as compared to the same month in 2013.

Successes

The following provides one positive effort for each region:

- *Valley Region* - There is extensive coordination amongst agencies within groundwater basins. Between certain basins conflict is present.
- *Mountain Region* - The County purchased a failing water system in Cedar Glen which is now operated under County Service Area 70 Zone CG. Great progress has been made to improve this once failing system, although challenges remain.
- *North Desert Region* - To assist small water systems within the boundaries of Mojave Water Agency ("MWA"), MWA's Small Water Systems Assistance Program provides resources for disadvantaged and severely disadvantaged small water systems that lack staff, expertise, and funding to meet their individual water reliability, conservation and quality standards. The MWA service area includes 36 small water systems of which 65% meet the criteria of disadvantaged communities.
- *South Desert* – The Twentynine Palms Water District ("TPWD") has become a test district for the EPA's research into an economical method for small, low-income water agencies to remove arsenic. This new method brings the TPWD drinking water into compliance with the new maximum contaminant levels for arsenic and saves the district over \$20,000 annually. Not only does this clean the local water, the results from this test case will support the removal of arsenic in other areas of the country with a lower cost method. Additionally, the District operates a 3MGD Fluoride Removal Plant that removes high levels of naturally occurring fluoride from the Mesquite Lake sub-basin.

Staff Recommendations for Commission Action

The following outlines staff's recommendations for the Commission. The first recommendation concerns the lack of a sphere of influence for the Metropolitan Water District of Southern California within San Bernardino County. The remaining five recommendations stem from the agencies being identified a "hot spot".

Metropolitan Water District of Southern California

- Issue - Metropolitan Water District of Southern California lacks sphere of influence within San Bernardino County. Metropolitan is a special district subject to LAFCO purview. Therefore, San Bernardino LAFCO is obligated to establish a sphere of influence. This issue is detailed in Section III.
- Staff Recommendation - *Initiate the establishment of a sphere of influence for Metropolitan within San Bernardino County to be coterminous with the sphere of its member agency, Inland Empire Utilities Agency.*

County Service Area 70 Zone CG (Cedar Glen)

- Issue - County Service Area 70 Zone CG (Cedar Glen) experiences ongoing challenges due to County's purchase of a failing water system as detailed in Section IV.
- Staff Recommendation - *Direct staff to continue to monitor the Zone CG system and provide an update to the Commission by February 2018.*

City of Adelanto

- Issue - Water operations of the Adelanto Public Utilities Authority, a component of the City, in significant debt to the City; 2014 audit (most recent completed) questions agency's ability to continue given inability to secure financing to address debt payments; City's water system has multiple deficiencies; City under a conservation order from the State Board; City has inadequate water storage facilities to accommodate future growth.
- Hot Spot Identification – The City of Adelanto has been identified in this service review as a hot spot due to the issues identified above and detailed in Section V.
- Staff Recommendation - *Indicate the Commission's intent to initiate a sphere of influence review to reduce the City's sphere of influence following the completion of the wastewater and fire service reviews.*

Apple Valley Foothill County Water District

Apple Valley Heights County Water District

Mariana Ranchos County Water District

- Issue:
 - Apple Valley Foothill County Water District - Lack of audit internal controls; lack of inter-tie with another water system; classified as a disadvantaged community.
 - Apple Valley Heights County Water District - Lack of audit internal controls; lack of inter-tie with another water system. The Sanitary Survey Report identifies that additional source capacity is needed to meet State regulation and for reliability. Additionally, the District is deficient in storage capacity and must develop a plan of action to meet the storage capacity requirements.

Deterioration of its tanks and failure of its existing pipeline resulted in emergency repairs.

- **Hot Spot Identification** – The Apple Valley Foothill CWD and Apple Valley Heights CWD have been identified in this service review as a hot spots due to the issues identified above and detailed in Section V. Mariana Ranchos CWD is not identified as a hot spot but is contiguous to the other two districts.
- **Staff Recommendation** - *Reaffirm the Commission's position that Apple Valley Foothill, Apple Valley Heights, and Mariana Ranchos County Water Districts have a combined sphere of influence signaling the Commission's preference that the three districts consolidate.*

County Service Area 70 Zone J

- **Issue** - All sources have hexavalent chromium above MCL; Zone J is currently working on a hexavalent chromium compliance plan under Senate Bill 385 to achieve compliance; previous service review determined the need to resolve boundary conflicts between the Hesperia Water District and Zone J in the Maple/Topaz strip which is currently a part of the City of Hesperia.
- **Hot Spot Identification** – CSA 70 Zone J has been identified in this service review as a hot spot due to the issues identified above and detailed in Section V.
- **Staff Recommendation** - *Indicate the Commission's preference that the Hesperia Water District and Zone J implement a mechanism (e.g., joint powers agreement or memorandum of understanding) to provide stability to the water source and boundary challenges in the overall Hesperia and Oak Hills communities.*

Although LAFCO staff is working with the Hesperia Water District and CSA 70 Zone J on a mechanism to resolve the boundary conflicts, staff recommends that the Commission direct staff to continue to monitor the Zone J system and provide an update to the Commission by February 2018.

Daggett Community Services District

- **Issue** - Classified as a disadvantaged community; lacks intertie with an adjacent agency; significant deficiencies identified in sanitary survey report; located within the Mojave Basin Baja subarea which is at 45% ramp down; significant financial challenges identified in audits; prior service review identified concerns with the aging pipes; lack of adequate managerial oversight.
- **Hot Spot Identification** – Daggett CSD has been identified in this service review as a hot spot due to the issues identified above and detailed in Section V.
- **Staff Recommendation** - *Reaffirm the Commission's position that Daggett CSD and Yermo CSD have a combined sphere of influence signaling the Commission's position for consolidation.*

Systems Identified as Hot Spots – No Staff Recommendations

The following outlines water systems identified as hot spots but are either not under Commission purview or where no tangible Commission action is recommended. In the Mountain Region, no water systems were identified as hot spots.

In the Valley Region, staff identified one private water purveyor as a “hot spot”:

| Hot Spots | Rationale | Summary |
|---|--|---|
| San Antonio Canyon Mutual Service Company | Non-compliance with source capacity requirements and interim drought measures. | Not under LAFCO purview. See “Opportunities” below. |

In the North Desert, staff identified the following seven public water agencies and three private water purveyors as “hot spots”:

| Hot Spots | Rationale | Summary |
|------------------------|---|---|
| Baker CSD | Located within a disadvantaged unincorporated community; is an isolated area with no access to another water system; gross alpha and uranium levels exceed the MCL; Well #2 and Well #3 exceed the MCL for hexavalent chromium, Cr (VI), of 10 µg/L; lack of quarterly monitoring of Cr (VI) in violation of state regulations. | System is not eligible for SB 88 grant funds since there are no adjacent systems for potential consolidation. |
| Bar Len MWC | The sanitary survey report identifies significant deficiencies of the water system; system is under consideration by the State Water Board for potential Water System (SB 88) consolidation with the adjacent Hi Desert Mutual Water Company. | Not under LAFCO purview. |
| County Service Area 42 | Classified as a disadvantaged community; system lacks an inter-tie connection; previous service review determined system did not meet required storage capacity; substantial rate increases have been implemented in order to pay for capital upgrades. | There are no recommendations for the Commission. |
| Desert Springs MWC | The sanitary survey report identifies issues with system leaks and inadequate storage capacity; 2015 Consumer Confidence Report indicates inadequate water quality testing. | Not under LAFCO purview. |
| Gordon Acres WC | System not complying with sampling requirements for a community water system; two violations issued by County Public Health in 2017 regarding failure to monitor and test for inorganic chemicals, perchlorate and secondary standards; system is under consideration by the State Water Board for potential Water System (SB 88) consolidation with the adjacent Jubilee Mutual Water Company. | Not under LAFCO purview. |

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In the South Desert, staff identified the following three public agencies and one private water purveyor as “hot spots”:

| Hot Spots | Rationale | Summary |
|--|--|---|
| CSA 70 Zone F (Morongo Valley) | 2015 Consumer Confidence Report states source water violates gross alpha and uranium MCLs; 2016 Sanitary Survey Report notes water exceeds uranium MCL, and system has aging distribution lines requiring frequent maintenance. | No Commission action because zones do not have spheres of influence. See “Opportunities” below. |
| CSA 70 Zone W-3 (Hacienda Heights, Morongo Valley) | 2015 Consumer Confidence Report notes that source water exceeds uranium MCL; 2016 Sanitary Survey Report reports that distribution lines are old and require frequent maintenance; Well #1 exceeds MCL for gross alpha and uranium; Well #2 is very close to the MCL; system lacks an emergency response plan. | No Commission action because zones do not have spheres of influence. See “Opportunities” below. |
| CSA 70 Zone W-4 (Pioneertown) | Notice of Violation issued in March 2016 by U.S. EPA indicating water system in violation of Safe Drinking Water Act for exceeding MCL for arsenic, fluoride and uranium; state grant funding provides customers with bottled water supplies every two weeks. | No Commission action because zones do not have spheres of influence. See “Opportunities” below. |
| Golden State Water Company – Morongo del Norte | 2016 Sanitary Survey Report identifies Elm Well exceeding uranium MCL; well will not be placed in service until a uranium treatment system is in place and operational, or district submits a compliance plan; gross alpha and uranium levels are at or near MCL for Bella Vista and Highway Wells. | Not under LAFCO purview. |

Opportunities for Future Consideration

The following identifies opportunities for the Commission and the water systems to consider.

Opportunities – Valley Region

| Agency | Issue | Opportunity |
|---|-------------------------------|--|
| San Antonio Canyon Mutual Service Company | Insufficient source capacity. | Consolidation of San Antonio Canyon Mutual Service Company with Mt. Baldy HOA would allow eligibility for SB 88 funding to upgrade facilities. |

Opportunities – Mountain Region

| Agencies | Issue | Opportunity |
|---|--|--|
| Crest Forest-Crestline Village Water District and Crestline Sanitation District | Overlapping territory | Consolidation of water and wastewater services under a single agency would benefit the community and likely reduce staffing and admin costs. |
| CSA 70 Zone CG, Lake Arrowhead Community Services District, and Crestline-Lake Arrowhead Water Agency Improvement Districts | Multiple public agencies overlaying the same area providing the same service. | Consolidate or form a community services district to increase service delivery efficiency through a single agency. |
| Running Springs Water District, Arrowbear Park County Water District, CSA 79 (sewer only) | Adjacent agencies, which work together and share facilities, providing similar services under the same parent act. | Consolidation of water and wastewater services under a single agency would provide for an efficient delivery pattern. |

Opportunities – North Desert Region

| Agencies | Issue | Opportunities |
|---|---|---|
| Apple Valley Foothill County Water District, Apple Valley Heights County Water District | Lack of financial internal controls; lack of inter-ties with another system; Apple Valley Heights County Water District is deficient in storage capacity and water source capacity. | Districts should consider initiating consolidation and include Mariana Ranchos County Water District – all three share a single sphere of influence; consolidation would open up opportunities for SB 88 grant funding. |
| Bar Len Mutual Water Company | Sanitary survey report identifies significant deficiencies | Under consideration by State Water Board for potential water system (SB 88) consolidation with Hi-Desert Mutual Water Company. |
| Gordon Acres Water Company | Non-compliance with water quality monitoring requirements. | Under consideration by State Water Board for potential Water System (SB 88) consolidation with Hi-Desert Mutual Water Company. |
| Daggett Community Services District and Liberty Utilities Yermo | Significant deficiencies/financial challenges. | Consolidation of Daggett Community Services District and Liberty Utilities Yermo would allow eligibility for SB 88 funding to upgrade facilities. |

Opportunities – South Desert Region

| Agencies | Issue | Opportunities |
|--|---|--|
| CSA 70 Zone F, CSA Zone W-3, Golden State WC Morongo del Norte and Golden State WC Morongo del Sur | High gross alpha, uranium levels; ongoing operation and maintenance issues. | All classified as small water systems; eligible for SB 88 funds if consolidated; all four agencies should consider jointly initiating a consolidation application to the state since additional resources are available when three or more agencies consolidate. |
| CSA 70 W-4 | Water system exceeds MCLs for arsenic, fluoride and uranium. | Classified as a small water system and eligible for SB 88 funds; funding requires consolidation with an adjacent system; CSA 70 W-4 under consideration for potential SB 88 consolidation with Hi-Desert Water District. |