

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 8, 2013
FROM: SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: Agenda Item #9: Discussion of Completion of Assembly Bill 54 Requirement of Submission of Service Area Maps by Mutual Water Companies

RECOMMENDATION:

Staff recommends that the Commission receive and file the information related to the service area maps of mutual water companies in San Bernardino County, in compliance with Assembly Bill 54.

BACKGROUND:

Assembly Bill 54 (AB 54) was introduced by Assembly member Jose Solorio, who was a former city councilman from Santa Ana, CA. He introduced the legislation in response to concerns regarding a small mutual water company (MWC) in Santa Ana. The company was experiencing problems with nitrates in its well and did not have the financial ability to solve its water quality issues. Ultimately, the City of Santa Ana took over the system which exposed the company's lack of organization and problems with its facilities and operations. The bill passed the Legislature on September 8, 2011 and was signed into law on October 7, 2011, which took effect on January 1, 2012.

The chaptered version of AB 54 (Attachment 1) imposes standards on a MWC such as the requirement that all construction on its system shall be designed and constructed to comply with the applicable California Waterworks standards, the requirement to maintain a financial reserve fund for repairs and replacements to its facilities, and others. One other provision of significance is the requirement that its board members complete a two-hour course offered by a qualified trainer regarding the duties of board members related to avoiding conflicts of interest and fiduciary responsibilities, duties of public water systems to provide clean drinking water that complies with the federal Safe Drinking Water Act, and long-term management of a public water system.

The one thing the bill is silent on is the role and/or requirements of the State Department of Corporations, who regulates MWCs throughout the State. In addition, the State Department

of Public Health and the County Environmental Health Services Department already have oversight over these entities. Nonetheless, AB 54 includes the following provisions related to LAFCO:

- Submission of Service Area Map. The bill requires each MWC operating as a public water system to submit to the LAFCO for its county by December 31, 2012 a map depicting the approximate boundaries of the area it serves.
- Information Requested. In connection with the preparation of a municipal service review or sphere of influence update, the bill also requires a MWC to provide all reasonably available non-confidential information related to the operation of its system within 45 days of the request.
- Annexation Provisions. The bill also gives LAFCO the power to approve (with or without amendment, wholly, partially, or conditionally) or disapprove the annexation of territory served by a MWC into the jurisdiction of a city or a special district; provided, however, that any such annexation that is approved is subject to the state and federal constitutional prohibitions against the taking of private property without the payment of just compensation.

It should also be noted that there are some that believe AB 54 applies not only to MWCs but to any corporation that serves water, including non-MWC water service providers.

SUBMISSION OF SERVICE AREA MAP:

San Bernardino LAFCO staff, like many other LAFCOs around the State, applied the service area map requirement to just MWCs that operate a public water system. LAFCO staff undertook this requirement by first assembling a list of all the MWCs in San Bernardino County. A letter was then sent out, dated July 19, 2012, to all the MWCs and requested that the companies provide a map of their service area. Then, a follow up letter was also sent out, dated December 12, 2012, that reminded those companies who have not responded about the AB 54 requirement.

The overall result of the request was tremendously successful with over 90% of the known MWCs responding (Attachment 2). There were a few companies listed that responded but did not provide a map; rather, replied by stating either they were not a MWC or were not subject to the requirements of AB 54. A few others simply did not respond. However, LAFCO staff was able to identify where the respective service areas are for these MWCs based on other sources available.

The maps submitted were in various forms: some were very detailed with clear boundary delineation; others were maps that showed basic boundaries; and a few simply were maps with general location information. LAFCO staff took all the maps submitted by the MWCs and digitized their boundaries based on the information provided by the entity or using other sources available to staff (Attachment 3). Some of the maps may not be accurately showing the boundaries of these entities; however, LAFCO staff made every effort to be as accurate as possible.

ANALYSIS:

Of the 49 MWCs in San Bernardino County (including those MWCs that are not subject to AB 54), 17 are located in the Valley Region, 15 are in the Mountain Region, 16 are in the North Desert Region, and one is located in the South Desert Region. In addition, 19 of these MWCs are regulated by the State Department of Public Health (MWCs with 200 or more water connections) and 27 are regulated by the County's Environmental Health Services Division (MWCs with less than 200 water connections). The remaining three MWCs are currently not regulated by either the State or the County (Attachment 4).

CONCLUSION:

This report accomplishes the requirement of AB 54 related to the submission of service area maps to LAFCO by the MWCs that operate a public water system. In the future, if the list of MWCs subject to AB 54 needs to be expanded to include other entities, LAFCO staff will bring it back to the Commission for review.

In addition, it should be noted that San Bernardino LAFCO already includes information related to the private and mutual water companies in our service reviews. Moving forward, as we begin the second round of service reviews, LAFCO staff will continue to request additional information from the mutual water companies (and private water companies) for our service reviews, which are now clearly identified in Government Code Section 56430(c) and 56430(d).

KRM/sm

Attachments:

1. [AB 54](#)
2. [Responses from Mutual Water Companies in San Bernardino County](#)
3. [Detailed Service Area Maps](#)
4. [Listing of Mutual Water Companies in San Bernardino County](#)