

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

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PROPOSAL NO.: LAFCO 3003

HEARING DATE: October 15, 2008

RESOLUTION NO. 3024

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3003 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR APPLE VALLEY FOOTHILL 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 Apple Valley Foothill County Water District, shall be expanded to include the territory within its existing sphere of influence and that of the Mariana Ranchos County Water District and the Apple Valley Heights County Water District 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 550. Growth within the District's boundaries is anticipated to continue. However, given its land use designation through the County General Plan it is not anticipated to keep pace with the Town's anticipated growth rate for its sphere. There are no known development projects within the area.

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

The District does not have a water master plan or study available for reference. The District provides domestic water to 209 metered water connections. The District currently has a 75,000 gallon water storage tank built in 1957. The tank was inspected in 2003 and was found to be in good condition. All the main lines are in good condition, and water is supplied with little interruption. It indicates that the area needs additional water storage and it has plans to build approximately an additional 250,000 – 300,000 gallon storage tank. Currently, there is not enough water storage space for any reserves.

The District production comes from two wells. The first well was installed in 1958 and was upgraded in 2003. The District distribution lines were installed in the same year. The second well was installed in 1991. The District currently has four employees: a general manager, a maintenance supervisor, an assistant, and a secretary.

Apple Valley Foothill CWD has water production rights (also known as Base Annual Production) to assure 167 acre-feet (AF) annually. The District is within Alto sub-region, and Free Production Allowance (FPA) is currently at 60% of Base Annual Production, which permits the district 101 AF of FPA for 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 could 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, the

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District does not purchase water from other agencies and is obligated to pay the higher replacement water rates of the Watermaster.

Apple Valley Foothill 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	126	11	0	(130)	7	0	9.55 AF for a cost of \$2,626
2003-04	117	7	0	(132)	(8)	8 AF for a cost of \$1,776	6.57 AF for a cost of \$1,064
2004-05	109	0	0	(125)	(16)	16 AF for a cost of \$4,496	\$0
2005-06	101	0	0	(127)	(26)	26 AF for a cost of \$6,396	\$0
2006-07*	101	0	0	(141)	(40)	n/a	n/a
2007-08**	101	0	n/a	n/a	n/a	n/a	n/a
2008-09	101	--	--	--	--	--	--

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:

In the service review materials submitted, the District indicates it does not utilize a yearly or biennial budget. It does, however, conduct a biennial audit completed by an independent auditing firm, a copy of the 2005/2006 Audit is on file in the LAFCO office.

The District's main sources of revenue are from water usage sales, sale of water meters and its \$30 per acre standby charge. The District is in the process of saving funds to enlarge its water storage capacity. It uses the funds collected from its standby charges and collections from meter installations for capital improvements and repairs. Monies collected from customer water usage is used for day-to-day operations of the District including the payments necessary for replacement and/or makeup water obligations to the Mojave Water Agency.

According to the District's most recent audits, for FY 2005-06 and FY 2004-05, the District increased in net assets by \$13,282 and \$32,042, respectively with a fund balance of \$193,983 on June 30, 2006. As for cash flows, it increased by \$9,143 and \$32,774, respectively.

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

There are no facilities that the District shares and it did not indicate that it has any inter-ties with other agencies.

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

The District is part of a joint powers insurance agency. It does not participate in any joint financing projects or any other joint agency practices. The District has determined it is more cost effective, in the long run, to contract with outside entities for repairs and service installations than to employ additional staff.

The District indicates it has no plans to incorporate additional areas into its boundaries through annexation.

The District has not had an election for an open seat on the board of directors for over a decade. The District indicates that there has been no contested election within the past decade because no one has run against members up for re-election. In turn, all members have been re-appointed by the Board of Supervisors in lieu of election.

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 and has by adoption of Resolution No. 114 on February 23, 2000 indicated it will not allow for extension of water service to territories outside its boundaries. It does not have an inter-tie with the surrounding districts for emergency service.

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.
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

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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.

Local Accountability and Governance

The AVFWD 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
Karen Madison	Director	2009
Charlotte V. Thompson	Director	2009
James A. Thompson Jr.	Director	2009
Anna L. Sikes	Director	2007
Thomas J. Buchanan	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. It provides office hours on Mondays and Wednesdays from 8:00 to 10:00 a.m.

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

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1. **Present and Planned Uses:**

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. For the AVFWD, the District has indicated the need for larger water storage to meet future needs and it has been preparing to expand its storage capacity by 250,000 to 300,000 gallons. The documents received in 2005 indicate that it will take the District approximately three years to set aside the money to construct this new facility. Due to the District's need for larger water storage, the Board of Directors, through a year 2000 resolution, will not approve any requests for water connections from outside the District's boundaries.

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

The AVFWD has facilities which consist of two wells. The first well was installed in 1958 and was upgraded in 2003. The District's system of distribution lines were installed in the same year, 1958. The second well was installed in 1991.

The District currently has a 75,000 gallon water storage tank. The tank was inspected in 2003 and was found to be in good condition. However, as noted in the Municipal Service Review materials, there is no room for reserve capacity in the District tank so additional storage is required. The District has not identified an inter-connect for emergency water with any surrounding agency. All the main lines are in good condition, and water is supplied with little interruption.

4. **Social and Economic Communities of Interest**

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The area proposed for inclusion within the AVFWD 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.

5. Additional Determinations

- The Commission's Environmental Consultant, Tom Dodson and Associates, has determined the changes outlined for the Apple Valley Foothill 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 Mariana Ranchos 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 Apple Valley Foothill 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 Foothill County Water District shall indemnify, defend, and hold harmless the Local Agency Formation Commission of the

