

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

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PROPOSAL NO.: LAFCO 2919

HEARING DATE: MARCH 15, 2006

RESOLUTION NO. 2893

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 2919, A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT (a sphere of influence reduction to a zero sphere of influence for the District).

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

WHEREAS, a service review mandated by Government Code Section 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 this 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, public hearings by this Commission were held on March 16, August 17, September 21 and November 16, 2005, and February 15 and March 15, 2006, at the time and place specified in the original 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 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 review, in evidence presented at the hearing; and,

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 March 15, 2006. The Clerk was directed to file a Notice of Exemption within five working days of adoption; and,

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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 sphere of influence for the San Bernardino Valley Water Conservation District shall be reduced to a “zero” sphere of influence with the direction that the consolidation of the District with the San Bernardino Valley Municipal Water District should be pursued; and,

WHEREAS, the following findings are made in conformance with Government Code Section 56430 and local Commission policy:

1. **Infrastructure Needs and Deficiencies.**

The District has outlined its plans to reconstruct the percolation basins within the Borrow Site for the Seven Oaks Dam and has plans to construct seven basins upon adoption and completion of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (commonly known as “Plan B”). The District has outlined in its materials that its basic infrastructure of canals and percolation basins were constructed in 1930’s and continue to comprise the District’s primary infrastructure. These facilities total 75 percolation basins with a total wetted area of approximately 198 acres and surface storage capacity of approximately 2,000 acre feet. The materials submitted by the District indicate no requirement for new facilities or deficiencies in its existing infrastructure.

2. **Growth and Population.**

The District provides service to approximately 78 square miles (approximately 50,000 acres) within its current boundaries which includes portions of the incorporated and unincorporated areas of the Cities of Colton, San Bernardino, Highland, Loma Linda, Redlands, and Yucaipa. The materials submitted by the District indicates that its services primarily support the communities of San Bernardino, Loma Linda, Redlands and Highland and unincorporated areas of Mentone and islands within the Cities. The 2000 Census indicates a population of approximately 340,000 individuals within these communities in San Bernardino County and anticipates a 35% growth rate by 2020 to a population of 460,000. In addition its services support wells within the Bunker Hill Basin, owned by the City of Riverside, the Meeks and Daley Water Company, and Gage Canal Company, which serve as the primary water supply for the City of Riverside and other areas within Riverside County. The City of Riverside’s population in the 2000 Census was 256,352 with a projected 2020 population of 338,712. Therefore, the water extraction from the Bunker Hill Basin is anticipated to support a projected population of 798,712 in the year 2020.

The establishment of a zero sphere of influence is proposed to point toward the consolidation of the San Bernardino Valley Water Conservation District with the San Bernardino Valley Municipal Water District to better serve the whole of the Bunker Hill Basin which supports the populations identified above.

3. **Financing Opportunities and Constraints.**

The primary funding mechanisms for the District are:

- Mining Revenues (estimated at \$784,748 for FY 2004-05)
- Groundwater Assessments (\$493,906 for FY 2004-05)

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- Interest (\$155,898 for FY2004-05)
- A share of the 1% general ad valorem levy (estimated at \$53,140 for FY 2004-05)

The establishment of a zero sphere of influence for the San Bernardino Valley Water Conservation District points toward the consolidation of this agency with the San Bernardino Valley Municipal Water District in order to allow consolidating the requirements for water replenishment/recharge of the Bunker Hill Basin under a single entity. Such an action would mean that the revenue stream from the groundwater assessments would discontinue as the San Bernardino Valley Municipal Water District does not have the legal authority to assess this charge. Further review with the Districts and water stakeholders within the area needs to be undertaken to assure that there will be no loss of service with consolidation and reduction in revenue stream.

4. **Cost Avoidance Opportunities.**

The District has indicated that it has participated in a number of joint efforts with other agencies to assist in the performance of its focus on water recharge/replenishment of the basin – these include the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan – a partnership with the Bureau of Land Management, the Cities of Redlands and Highland, mining interests, water agencies, the California Department of Fish and Game, the Santa Ana River-Mill Creek Cooperative Water Project – facilitates the transfer and/or exchange of water between ten public and private water agencies, the High Groundwater Mitigation Project – an effort to reduce the water level within the “pressure zone” of the southern City of San Bernardino and the Drought Mitigation Project.

There are two agencies which overlay the entirety of the San Bernardino Valley Water Conservation District which also have “water conservation” as an authorized power or function – the San Bernardino County Flood Control District and the San Bernardino Valley Municipal Water District. The San Bernardino County Flood Control District has indicated that water conservation or recharge/replenishment is a secondary focus of its operations, its primary function being to provide for the control of floodwaters for the health and safety of the County and its residents. The San Bernardino Valley Municipal Water District has indicated that its responsibilities for the maintenance of the Bunker Hill Basin provide a need to incorporate the water recharge/replenishment activities of all the water stakeholders in the Bunker Hill Basin into its master plans for the Basin.

5. **Rate Restructuring.**

The District operates a groundwater assessment pursuant to the provisions of Section 75500 et seq. of the Water Code. This rate is annually set by the Board of Directors through a process as prescribed by law. The groundwater assessment was established in 1993 as a funding mechanism to offset reductions in mining revenues and the reductions in property tax revenues received by the District. Based upon information on the history of this groundwater assessment, there has been a 66% increase since its inception in 1993. It would be anticipated that future increases would be anticipated to “help defray the costs for replenishment” operations. If consolidation with the San Bernardino Valley Municipal Water District were to occur, with that District identified as the successor entity, the groundwater assessment would be abolished, as such is not authorized under Municipal Water District law.

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In addition, the District receives revenues from aggregate mining as a royalty rate set by lease contracts with specific durations. At the time that the contracts are due for renewal, adjustments in the lease rates could be applied. Existing contracts are with Cemex USA and Redlands Aggregate. In addition, the District has on account a \$5,000,000 deposit from Robertson's Redi-Mix mining company as a pre-deposit for future mining royalties on lands to be leased in the future. The use of these revenues is dependent upon completion of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan (Plan B) which anticipates the exchange of lands between the Bureau of Land Management and San Bernardino Valley Water Conservation District to solidify habitat preservation areas within the Santa Ana River and establish areas for aggregate extraction.

6. **Opportunities for Shared Facilities.**

The materials submitted by the District identify that it has shared its facilities for spreading of water for recharge with other parties within the groundwater basin. The District's facilities consist of a series of diversion structures on the Santa Ana River and Mill Creek used with a system of canals to transport water to percolation facilities. The San Bernardino County Flood Control District has detention basins along the course of the Santa Ana and in other tributary flood control facilities which can be used for recharge purposes. Responses to requests for information from other agencies have indicated that there are a number of facilities within this region that provide for shared facilities and resources to support and enhance recharge activities.

7. **Government Structure Options.**

The District was originally established in 1931 by election and took over the operation and assets of its predecessor, the Water Conservation Association in the Santa Ana River. In 1935 it acquired the water rights of the East Lugonia Mutual Water Company to provide for spreading and percolation within Mill Creek, a tributary to the Santa Ana River. In the materials submitted by the District, it indicates that it has been operating successfully for over 70 years and that its structure offers flexibility and a focused mission. The materials indicate that the hurdles to consolidation/reorganization are that it would require a vote by the registered voters within its boundaries and that the local groundwater producers would be reluctant to see such a change.

However, AB 2067 (Harmon) signed into law on September 10, 2004 and effective January 1, 2005 changed the possibilities for reorganization of this district. That change included the ability to consolidate special districts formed under different principal acts if certain findings can be made. In this instance, the election requirements would depend upon levels of protest as is the standard measure in any LAFCO proceeding. The alternatives for such a reorganization to combine agencies providing the same types of service would be: consolidation with the San Bernardino County Flood Control District, or consolidation with the San Bernardino Valley Municipal Water District.

Staff has reviewed these alternatives plus a possible sphere of influence expansion to encompass the whole of the Bunker Hill Basin with the affected Districts, the major water producers within the District, and by circulation of the staff report with those assessed the groundwater charge. In gathering and evaluating the materials for this municipal service review, LAFCO has solicited the positions of the affected districts and provided that to the Commission. No support for expansion of the District's sphere of

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influence has been received, no support for consolidation with the San Bernardino County Flood Control District has been received, some support for consolidation with the San Bernardino Valley Municipal Water District has been received and some support for maintenance of the status quo has been received.

8. Management Efficiencies.

In response to questions regarding staffing levels, the District has responded that it is operated by a small, highly trained organization that includes a General Manager, Assistant General Manager, Administrative Services Manager, Project Manager, GIS/CADD Analyst, two (2) administrative assistants and two (2) Operation Specialists. The District adopts an annual budget which includes a review process at committee level, then public workshop with the Board of Directors and final adoption. The budget review includes discussion of long-range planning. As identified in the staff report, the financial materials submitted by the District identify that for every \$1.00 spent on groundwater replenishment in Fiscal Year 2004-05 it cost \$1.26 in administrative charges.

Through consideration of a potential consolidation with the San Bernardino Valley Municipal Water District, the full-time employees of the San Bernardino Valley Water Conservation District would be transferred as required by law. Consideration should also be given to the possible retention of a portion of the existing board of directors to allow for a smooth transition and an understanding of the operations of the District while achieving a reduction in administrative costs.

9. Local Accountability and Governance.

The District is governed by a seven (7)-member Board of Directors, elected from within divisions. Each member of the Board is required to be registered voters within his/her division of the District. The Board of Directors is elected to four-year fixed terms. While there is a requirement for an election in odd-numbered years, actual elections conducted by the District during the last twenty years total six. The elections conducted were:

Division #1 (Redlands)	1983 and 1999
Division #5 (Mentone)	1989
Division #6 (North San Bernardino)	1993, 1997 and 2001

No election has been held for Divisions #2, #3, #4 and #7 in the past twenty years according to the records of the County Registrar of Voters. These divisions were appointed in-lieu of election. Divisions #1, #3, #5, and #7 are due for election at the November 2005 consolidated election. As of August 4th, according to the County Registrar of Voters website, only one candidate has filed for Division #5. There was a mandatory redistricting required of the District following its 1993 annexation of the North San Bernardino area which became Division #6 identified above.

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

1. The present and planned land uses in the area, including agricultural and open-space lands:

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The present and planned land uses in the area comprising the existing boundaries and sphere of influence of the San Bernardino Valley Water Conservation District represent varying levels and intensities of urban development within unincorporated County areas as well as portions of the Cities of Colton, San Bernardino, Highland, Loma Linda, Redlands, and Yucaipa. This area includes approximately 78 square miles (50,000 acres) within San Bernardino County. This portion of the San Bernardino Valley is transitioning from an agrarian economy to an urban one which will affect the levels of water usage and define the level of service for water replenishment/recharge within this portion of the Bunker Hill Basin.

2. The present and probable need for public facilities and services in the area:

The present and probable need for water recharge/replenishment activities to sustain the overall Bunker Hill Basin will continue and expand as the population of this portion of the Valley grows and the agrarian land uses transitions to urban uses. The entire basin is experiencing drought conditions, water contamination issues and growth in the use of the groundwater supply. The services of water recharge/replenishment as utilized under the water conservation powers of the San Bernardino Valley Water Conservation District is a need throughout the entirety of the basin in a coordinated effort, not isolated to the area within the boundaries of the District.

3. The present capacity of public facilities and adequacy of public services that the agency to be expanded provides or is authorized to provide:

Within the current boundaries of the San Bernardino Valley Water Conservation District it provides the service of water recharge/replenishment through the use of its allocation of the native surface waters of the Santa Ana River and/or, when necessary, State Project Water during drought conditions. The services of water recharge/replenishment are also provided within this area by the overlapping agencies of the City of Redlands, the East Valley Water District, the Bear Valley Mutual Water Company and the San Bernardino Valley Municipal Water District.

4. The existence of any social or economic communities of interest in the area.

The Water Conservation District purpose is regional in scope as its mission statement specifies:

"The mission of the San Bernardino Valley Water Conservation District is to ensure recharge of the Bunker Hill Groundwater Basin in an environmentally and economically responsible way, using local native surface water to the maximum extent practicable.

We strive to improve the supply and quality of groundwater, balancing such demands with those of land, mineral and biological resources."

However, the Bunker Hill Basin is much larger than the boundaries and/or sphere of influence of the District and for this type of regional service the boundary of the Basin would be considered a single community of interest. Since the efforts of the District support the entirety of the Basin, either the sphere of influence of the agency should be expanded to include the whole of the Basin or the possibility of consolidation with the San Bernardino Valley Municipal Water District, an entity with responsibility for the entirety of the Bunker Hill Basin, through such responsibilities as administration of the

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Orange County Judgment and the *Western Judgment*, responsibility for the State Project within the eastern portion of the San Bernardino Valley, etc., would be the appropriate decision.

5. **OTHER FINDINGS**

- A. Notice of the original March 16, 2005 hearing was published as required by law and directed by the Commission in The Sun, and the Riverside Press Enterprise, newspapers of general circulation in the area. As required by state law, individual notification of all hearings was provided to affected and interested local agencies, County departments, and those agencies and individuals wishing mailed notice.
- B. Comments from water stakeholders and the affected and interested local agencies have been reviewed and considered by the Commission. Protest has been received and considered by the Commission in making its determination; and,

WHEREAS, the following functions and services are provided by the District, as outlined in the Rules and Regulations affecting the functions and services of Special Districts (originally adopted on November 10, 1976); and Exhibit "A" of the Rules and Regulations lists each special district and its services and functions pursuant to the requirements of Section 6 of the Rules and Regulations; and,

WHEREAS, the Local Agency Formation Commission of the County of San Bernardino is required to review and update the Exhibit "A" of the Rules and Regulations of Special Districts to outline the services provided by the San Bernardino Valley Water Conservation District:

SERVICE	FUNCTIONS
Water Conservation	Appropriation, acquisition, and conservation of water and water rights for any useful purpose. Acquisition and construction of dams, reservoirs, canals, conduits, spreading basins, and sinking basin in order to conserve, store, spread and sink water.
Surveys of Water Supply and Resources	Make surveys and investigation of the water supply and resources of the Water Conservation District.

WHEREAS, pursuant to the provisions of Government Code Section 56425(h) the range of services provided by the San Bernardino Valley Water Conservation District is limited to those identified above, and such range of services shall not be changed unless approved by this Commission; and,

WHEREAS, having reviewed and considered the findings as outlined above, the Commission determines that a zero sphere of influence for the San Bernardino Valley Water Conservation District is appropriate, signaling the Commission's position that the consolidation of the San Bernardino Valley Water Conservation District with the San Bernardino Valley Municipal Water District should be evaluated.

