

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

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PROPOSAL NO.: LAFCO 3005

HEARING DATE: October 15, 2008

AMENDED RESOLUTION NO. 3028

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3005 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR JUNIPER RIVERIA COUNTY WATER DISTRICT (expansion of sphere of influence to include the territory within the Este sub-basin to the north, south and east of existing District boundaries)

On motion of Commissioner McCallon, duly seconded by Commissioner Cox, 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;

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;

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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 following the sphere of influence determinations should be made:

(1) The sphere of influence expansion proposed by the Juniper Riviera County Water District for territory to the west and north of existing boundaries should be reduced to include only the territory within the Este Sub-basin of the Mojave River adjudication;

(2) The sphere of influence should be expanded to the south as requested by the District as more fully described and depicted on the maps attached hereto as Exhibit "A" and "B";

WHEREAS, this resolution is amended by the Executive Officer on November 14, 2008, pursuant to the authority provided in Government Code Section 56883 to correct an error which occurred inadvertently without requiring a process of reconsideration; 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:

According to the County's Land Use Services Department, the 2006 estimated population for the District was 650. Growth within the District's boundaries is anticipated to continue at a steady pace, but not at the significant rate of the Town's anticipated growth rate for its sphere. The District anticipates that most of the growth will take place within the developed areas within its boundaries.

The current development surrounding the District should also be noted. Historical trends indicate limited growth within this area; however, development applications in the general area have been received by the County. It was noted that there is a large development abutting the District's northern boundary which proposes the development of 336 units (known as the Richmond project).

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

The District currently has three employees, a general manager, a maintenance engineer, and a secretary. These three employees have been continuously employed with the District for more than 13 years.

The District has two wells located at similar elevations with the first well coming on line in 1979. The second well was constructed in 1982 and was renovated in 2002. Both wells are capable of producing approximately 0.42 acre feet of water per day for 12 hours of operation. The District has experienced a slight decrease in its water table. However, the production of the two service wells remains consistent with prior year's production, when no drought was present.

Three reservoirs serve the District with a combined capacity of 165,000 gallons. The District maintains continuous daily water storage levels (33% of capacity) in all reservoirs to meet the Apple Valley Fire Protection District requirements for fire protection water storage. Approximately 35% (56,030 gallons) of all stored water is consumed each day by consumers.

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With the addition of another well and reservoir, estimated completion for both within a few years, the District will be able to provide water under build-out conditions.

The basic infrastructure was constructed between 1979 and 1981 and includes steel reservoirs and 70% concrete pipes. Pumps, motors, hydrants, buildings, and other appurtenances are between 2 – 15 years old. Old pipe is replaced with PVC pipe as needed, and the District indicates that these pipe repairs have had a positive impact on water delivery to its customers. The District indicates that the overall condition of the distribution system, the storage system, and buildings are excellent.

The District’s capacity within its current boundaries at build-out is approximately 515 units and it is currently planning for the capital improvements necessary to accommodate this service level. According to the Study, the District’s distribution system does have the capacity to meet moderate growth patterns based upon growth not to exceed 275 meters. Future growth beyond 275 meters would require additional improvements to the system. Should a build-out situation occur within the near future, the District would not be in a position to handle the heavily increased demand. However, build-out in the near future is not likely. Nonetheless, revenues are being set aside specifically for capital improvements to serve at build-out capacity.

Juniper Riviera CWD has water production rights (also known as Base Annual Production) to assure 37 acre-feet (AF) annually. The District is within Este sub-region, and Free Production Allowance (FPA) is currently at 80% of Base Annual Production, which permits the District 30 AF of FPA for FY 2008-09. As noted in the most recent Watermaster Annual Report, further rampdown is not warranted in Este at this time but “any material increases in water production or changing conditions could result in an immediate rampdown in Este to 65% or lower...”. 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 has to 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.

Juniper Riviera 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	30	0	34	(64)	0	\$0	\$0
2003-04	30	0	42	(72)	0	\$0	\$0
2004-05	30	0	29	(47)	12	\$0	\$0
2005-06	30	12	30	(72)	0	\$0	\$0
2006-07*	30	0	30	(74)	(14)	n/a	n/a
2007-08**	30	0	n/a	n/a	n/a	n/a	n/a
2008-09	30	--	--	--	--	--	--

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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:**

The District's main sources of revenue are water consumption sales, meter installation charges, property tax receipts, a \$30 standby fee charge, and bond revenue collections. The District indicates that it has raised enough revenue to purchase additional land necessary to construct a new well without loans or other financial assistance. It estimates that it will have enough revenue to begin construction on a new well in 2008 and additional funding for another reservoir should be available within the next two years.

According to the District's FY 2005-06 audit, its net assets increased by roughly \$69,000 to \$792,217 and its cash flow increased by roughly \$87,000 to \$230,374. In addition, the District ended FY 2006-07 with revenues in excess of expenditures by \$45,685.

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

There are no facilities that the District shares and it does not have any inter-ties with other agencies. It does state in the service review that it has verbal agreements with Mariana Ranchos CWD and Thunderbird CSD to lend equipment and provide water during emergency situations only.

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

The District indicates that as of 2006 it had not received any service complaints for six years. It does not participate in joint financing projects and has no joint powers agreements.

The District has not had an election for an open seat on the board of directors for over a decade. All current directors have been appointed.

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.

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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. The Commission could assign a zero sphere of influence to 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. However, staff's review indicates that the JRCWD is within the Este Sub-basin of the Mojave River adjudication while the balance of the public water districts are within the Alto sub-basin. A review of this question with the Mojave Water Agency indicates that this would create issues related to maintenance of the hydrologic balance in these basins, the transfers of water between basins and the accounting issues that would be needed to address cross basin districts.
2. A second option would be to retain the status quo; this would maintain a coterminous sphere and boundary.
3. The third option would be to expand the sphere of influence of the agency. Under this option there is the sphere expansion as requested by the District in its application. The Commission supports inclusion of the territory of the Este sub-basin area within the sphere of influence, modifying the proposal to exclude the approximate 10 square miles within the Alto Sub-basin of the Mojave River adjudication.

As indicated in the Municipal Service Review 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. However, at the time this was discussed the hydrologic divides were not specifically identified. Therefore, the Commission determines to approve option #3, expanding the sphere of influence only to include the territory within the Este sub-basin.

Local Accountability and Governance

The JRCWD 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
Gordonna C. Moore	Director	2007
Ricky Porter	Director	2007
Susan Mulvaney	Director	2009
Jeffrey Holmes	Director	2009
Lorrie Bassler	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 meeting on the third Thursday of each month. The District has indicated that it keeps regular office hours, five days a week.

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

1. Present and Planned Uses

Present uses within the District include vacant lands, equestrian uses, and residential lots with the majority of the parcels being 2 ½ acres in size. The County General Plan assigns the area land use designations of RL (Rural Living) one unit to 2.5 acres; RC (Resource Conservation) one unit to 40 acres.

The sphere expansion area has a population of approximately 400 and 125 dwelling units. Land uses include rural residential and agricultural. The majority of the land has a land use designation of Rural Living by the County of San Bernardino General Plan which allows one unit per 2.5 acres. Other designations include Residential and Commercial General. There are no agricultural contracts in the southern sphere expansion area.

The topography of the sphere expansion area is alluvial plain on the north and steep hills and canyons to the south, east, and west. Surrounding land uses include residential, agricultural, and vacant lands. Furthermore, current development in the proposed area is significant. Such developments include a large development project abutting the District's northern boundary anticipating 336 units. The proposed sphere expansion would not alter the land use of the area.

2. Present and Probable Need for Public Facilities and Services

The District currently meets the water operational demands of its customers within its boundaries. As mentioned, development in the Town's sphere is anticipated to continue, the District is within the Town's sphere. As the population increases and the uses of the land intensify, the area will require additional water production and supply to meet the increased demands. The District will need to address the issue of the purchase of additional water for distribution above its Free Production Allowance.

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

The District currently provides more than adequate water distribution services within its boundaries. Current facilities and services delivered are adequate to meet operational demands. The District owns and operates two wells and three reservoirs. Staffing levels meet the needs of the area.

4. Social and Economic Communities of Interest

The entirety of the District is within the sphere of the Town of Apple Valley. Since the area is unincorporated and at the most eastern reach of the sphere of influence, it is likely that some residents in the area do not believe they share social or economic ties with the Town of Apple Valley and may associate more with the Lucerne Valley community.

5. Additional Determinations

- Legal advertisement of the Commission's consideration has been provided through publications 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.

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- 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, pursuant to the provisions of Government Code Section 56425(h) the range of services provided by Juniper Riviera County Water District shall be limited to the following:

FUNCTIONS	SERVICES
Water	Retail and domestic

WHEREAS, having reviewed and considered the findings as outlined above, the Commission determines to modify the sphere of influence expansion request of the District to include territory within the Este sub-basin.

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 the Juniper Riviera 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 Juniper Riviera County Water District shall indemnify, defend, and hold harmless the Local Agency Formation Commission of the County of San Bernardino from any legal expense, legal action, or judgment arising out of the Commission’s designation of the modified sphere of influence, including any reimbursement of legal fees and costs incurred by the Commission.

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission of the County of San Bernardino by the following vote:

- | | |
|----------------|---|
| AYES: | COMMISSIONERS: Cox, Hansberger, Pearson, Colven, McCallon, Williams |
| NOES: | COMMISSIONERS: None |
| ABSENT: | COMMISSIONERS: Biane, Nuaimi (Commissioner Williams voting in his stead) |

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

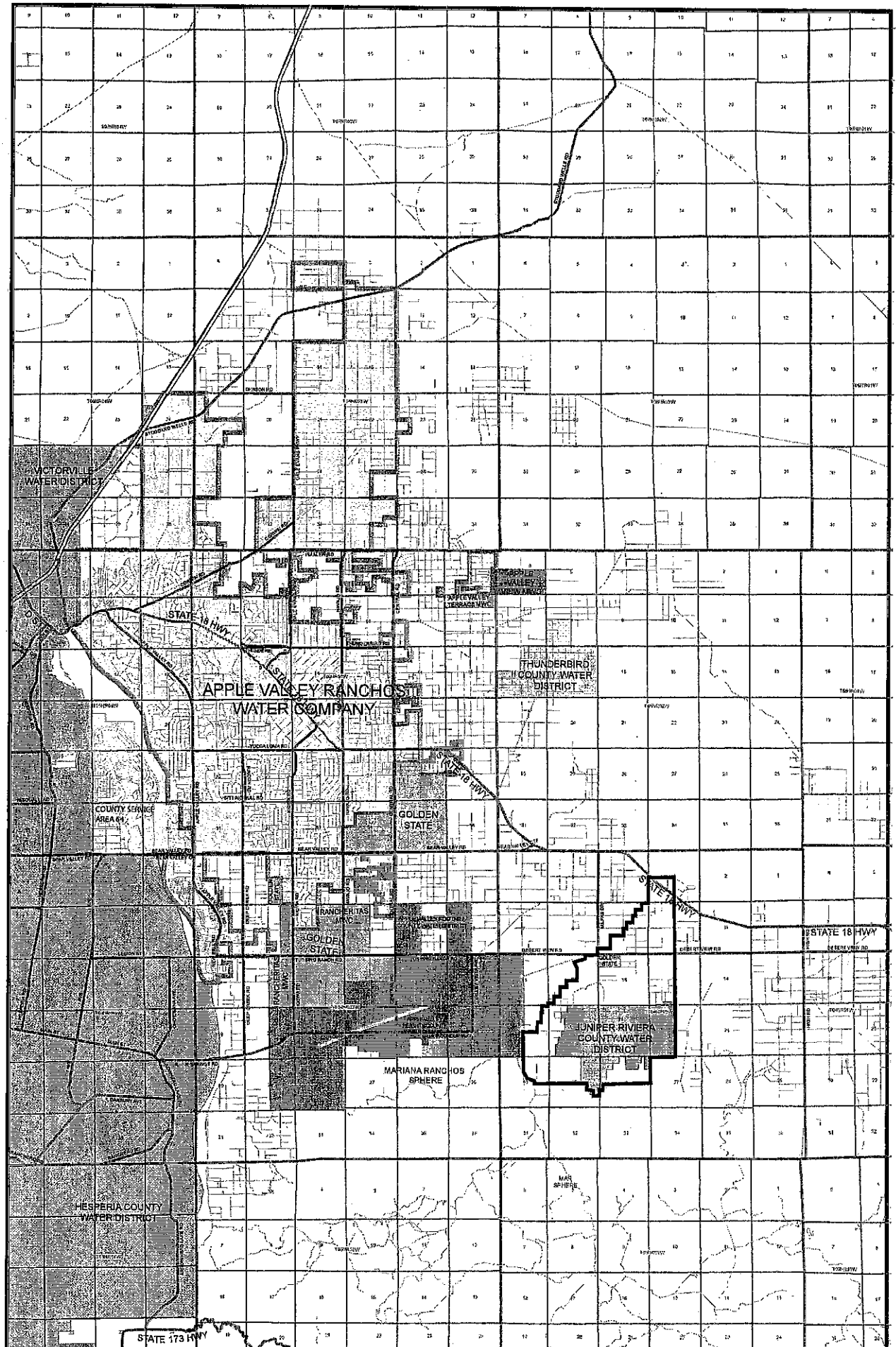
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I, KATHLEEN ROLLINGS-McDONALD, Executive Officer of the Local Agency Formation Commission of the County of San Bernardino, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission, by vote of the members present, as the same appears in the Official Minutes of said Commission at its meeting of October 15, 2008.



DATED: November 17, 2008



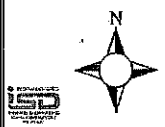
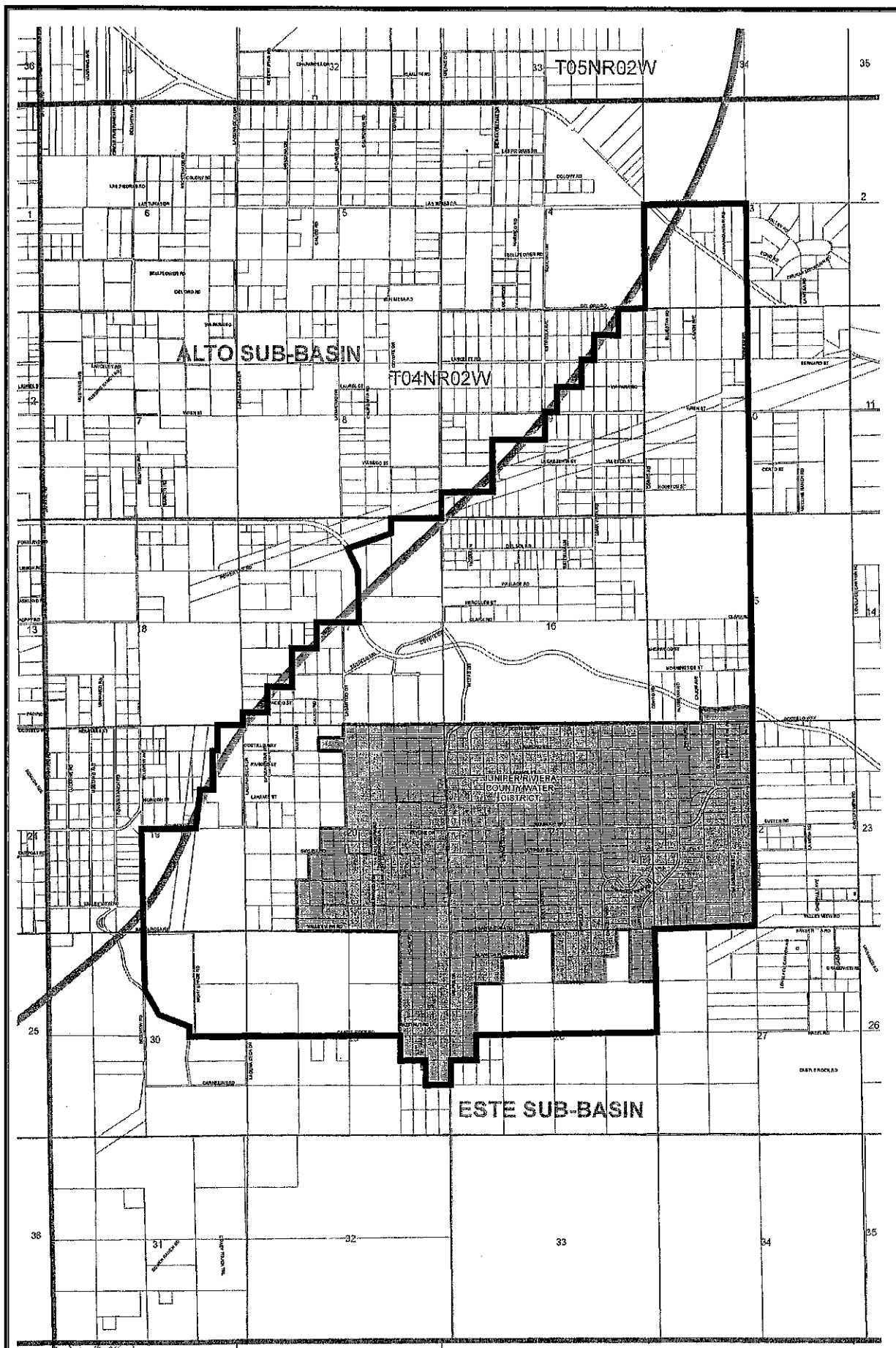
KATHLEEN ROLLINGS-McDONALD
Executive Officer






LAFCO 3005 - JUNIPER RIVIERA COUNTY WATER DISTRICT SPHERE OF INFLUENCE

 JRCWD's Sphere of Influence
 JRCWD's Boundary





**LAFCO 3005 - JUNIPER RIVIERA COUNTY
WATER DISTRICT SPHERE OF INFLUENCE**

-  Sub-Basin Line (Alto/Este)
-  JRCWD's Sphere of Influence
-  JRCWD's Boundary