

Chairman

Andrew Vanderlaan
Public Member

June 2, 2014

Vice Chairman

John Ingalls
Santa Fe
Irrigation District

TO: Local Agency Formation Commission

FROM: Executive Officer
Chief of Governmental Services

Members

Bill Horn
County Board of
Supervisors

SUBJECT: Request for Reconsideration:

Resolution Making Determinations, Approving, and Ordering the
"Meadowood Reorganization" (Valley Center Municipal Water
District) (Ref. No.: RO12-11)

Dianne Jacob
County Board of
Supervisors

Bud Pocklington
South Bay
Irrigation District

Supplemental Municipal Service Review and Sphere of Influence
Review: Study of Sewer, Water, and Recycled Water Services in
the Bonsall and Pala Hydrologic Subareas of the San Luis Rey
River Watershed
(Ref. No.: MSR/SR13-82; MSR/SR13-88; MSR/SR13-96)

Lorie Zapf
Councilmember
City of San Diego

Jim Janney
Mayor
City of Imperial Beach

Adoption of Amendments to the Spheres of Influence for the
Valley Center, Rainbow, and San Luis Rey Municipal Water
Districts (Ref. No.: SA12-11[a]; SA12-11[b]; SA12-11[c])

Sam Abed
Mayor
City of Escondido

RECONSIDERATION OF A COMMISSION DETERMINATION

Alternate Members

Greg Cox
County Board of
Supervisors

Sherri Lightner
Councilmember
City of San Diego

Jo MacKenzie
Vista Irrigation District

Lorraine Wood
Councilmember
City of Carlsbad

Harry Mathis
Public Member

Requests for reconsideration of a Commission determination for which a resolution was adopted shall be filed, scheduled, and considered in accordance with Government Code Section 56895 and San Diego LAFCO Rule 3.4. Per Government Code Section 56895, any person or agency may file a written request seeking amendments to or reconsideration of a resolution. At any time not later than 35 days after the conclusion of the hearing, LAFCO must adopt a resolution making determinations. This 35-day time period regarding the adoption of the resolution is considered directory and not mandatory per Government Code Section 56106. A request for reconsideration must state the specific modification to the resolution being requested and must also state what new or different facts that could not have been presented previously are claimed to warrant reconsideration. The request must be filed within 30 days of the adoption of the initial or superseding resolution. This 30-day time period regarding the submittal of a request of reconsideration is mandatory time limit per Government Code Section 56106.

Executive Officer

Michael D. Ott

Counsel

Thomas Bosworth

Per LAFCO Rule 3.4, the Commission will consider the request for reconsideration based on the following factors/questions:

- (a) Has significant new information been provided in the request that was previously unavailable at the time the Commission originally acted on the item?
- (b) Have compelling arguments been presented in the request that would justify a reconsideration?
- (c) Were substantive errors/omissions identified in the Commission's previous action needs to be corrected through the reconsideration process?

Upon receipt of a timely request, any transmittal, notification, or other action that should have occurred as a result of the Commission's original determination will be postponed during the time the Commission takes to act on the request. The Executive Officer must include the request on the next agenda for which notice can be given in the same manner as was given for the item that is the subject of the reconsideration request. The Executive Officer also may give notice in any other manner that is deemed desirable. At that meeting, the Commission shall consider the request and receive any oral or written testimony. The person or agency that filed the request may withdraw it at any time prior to the conclusion of the consideration by the Commission. The determinations of the Commission are considered final and conclusive. No person or agency may make any further request for the same change, or a substantially similar change, as determined by the Commission.

ADOPTION OF LAFCO RESOLUTION AND SUBMITTAL OF A REQUEST FOR RECONSIDERATION

On April 7, 2014, the San Diego LAFCO unanimously adopted the Executive Officer's recommendations which are referred to as the form of resolution in the April 7, 2014 staff report. Within 30 days of the April 7th action, the law firm of Aleshire & Wynder LLP, on behalf of the San Luis Rey Municipal Water District (hereafter referred to as "appellant"), filed a written request seeking reconsideration. While the request mentions the Resolution Approving the Supplemental Municipal Service Review and Sphere of Influence Review for the Bonsall and Pala Hydrologic Subareas of the San Luis Rey River Watershed, the issues presented in the request are specific to the Resolution making determinations, approving, and ordering the Meadowood Reorganization.

The reconsideration request appears to raise issues related to the LAFCO process rather than presenting new information obtained after the Commission's decision. The appellant states that defects with the Meadowood Reorganization resolution necessitate corrective action by LAFCO, arising from the following alleged deficiencies:

1. The Commission did not demonstrate (individually and collectively) independent judgment when it approved the Executive Officer's recommendations on April 7, 2014.

2. The Commission lacks authority or jurisdiction to adopt its Special Legal Counsel's opinion which declares that San Luis Rey MWD's water availability charge is unlawful.
3. The Meadowood Reorganization Resolution was back-dated to April 7, 2014 and the resolution contained items not included amongst the agenda materials.
4. The Meadowood Reorganization resolution does not include determinations as required per Government Code Section 56881.
5. The Commission improperly exercised its discretion by not awarding San Luis Rey MWD any fees incurred in connection with the Meadowood Reorganization and relied on erroneous and flawed legal opinion regarding San Luis Rey MWD's water availability charge.

AREAS COVERED BY THE REQUEST FOR RECONSIDERATION

Independent Judgment of Commission

The appellant claims that it was not awarded (detachment) fees because the Commission did not exercise independent judgment pursuant to Government Code Section 56325.1 in approving the Executive Officer's recommendations on April 7, 2014.

Response: LAFCO staff disagrees with the appellant. Government Code Section 56325.1 requires that while serving on the Commission, all Commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This statute does not require the abstention of any member on any matter, nor does it create a right of action in any person.

In terms of the Meadowood Reorganization, noticed public hearings were held on April 7th to deliberate on the reorganization and associated sphere and service review actions. Prior to the meeting, the Commissioners received written reports that thoroughly evaluated and addressed San Luis Rey MWD's request to be awarded fees pertaining to detachment of the Meadowood property. LAFCO Staff and its Special Counsel made presentations, public testimony was received, Commission discussion occurred, and Commission action(s) were adopted. There is no evidence in the record to support the appellant's claim that the Commission did not exercise independent judgment on behalf of the interests of residents, property owners, and the public as a whole.

In addition, it was reported to the Commission that a panel of 16 experts on LAFCO's Special Districts Advisory Committee had reached the same conclusion in December 2013 as the Commission did on April 7, 2014, regarding the lack of justification for the award of (detachment) fees payable to the San Luis Rey MWD. Furthermore, neither the Commission's disagreement with the appellant nor its agreement with its staff's recommendation constitute in

and of itself a lack of independent judgment. *In conclusion, the appellant's claims are speculative and baseless. The appellant presents no new evidence, compelling arguments, or errors and/or omissions to warrant reconsideration of the Meadowood Reorganization resolution of approval.*

LAFCO Lacks Authority to Adopt its Special Legal Counsel's Opinion

The appellant claims that LAFCO lacks authority or jurisdiction to adopt its Special Counsel's opinion declaring that San Luis Rey MWD's water availability charge is unlawful. The appellant states that Government Code Section 56375 does not permit LAFCO to opine and recommend that San Luis Rey MWD rescind and refund its water availability charge. The appellant also states that principles and doctrines of law reserve such judgment for the judicial branch. It is true that LAFCO cannot adjudicate the lawfulness of San Luis Rey MWD's water availability charge in the sense that it can create a ruling that compels others to agree. That is a judicial function. However, every government agency has authority to consider the legal impacts of the actions it may take and can consider the policy of our State Constitution's limits on local government revenues in determining whether and how to exercise its discretion to impose fiscal conditions on a reorganization for the benefit of a local government. In particular, Government Code Section 56430(a)(4) requires that LAFCO review the financial ability of agencies to provide services and it cannot reasonably do so without considering the existing revenues of affected agencies and the likelihood that those revenues can be maintained in the face of potential legal challenges. Moreover, the San Luis Rey MWD's failure to participate in the County's negotiation on its behalf in a Revenue & Taxation Code Section 99 agreement involving this reorganization is alone sufficient justification to reject the fiscal conditions the District sought.

As to the lawfulness of the District's standby charge, the appellant claims that "San Luis Rey's control and management of the local water supply in the local watershed is 'water service'." (Request for reconsideration pgs. 5–6.). However, San Luis Rey MWD has not obtained LAFCO authorization to provide water service, has no means to deliver water to property owners, and owns no water supplies. Rather, it advocates for the protection of groundwater supplies for the benefit of those who own them. In the opinion of LAFCO's special counsel, this is not a service directly to property owners that confers special benefit on them and therefore cannot be grandfathered from the demands of Propositions 218 and 26 by Article XIII D, Section 5. In any event, even if the standby charge were lawful, that fact would not oblige LAFCO to impose conditions to protect the District's finances in addition to the terms of the Revenue & Taxation 99 agreement reached for this reorganization.

The appellant also incorrectly states that LAFCO has recommended that San Luis Rey MWD rescind and refund the water availability charge. Rather, LAFCO directed San Luis Rey to **consider** rescinding and refunding the unlawfully collected charge. Whether to do so is a judgment for its Board, not for LAFCO. LAFCO is free, of course, to state its views and to provide such advice as it deems best. Whether and how to act on those views and advice is up to the elected directors of the District.

Response: LAFCO staff disagrees with the appellant. LAFCO's special counsel advises that LAFCO has inherent power to consider the legal effects of actions it is empowered to take, including its power to condition or to refuse to condition a reorganization in order to mitigate fiscal impacts on an affected agency. *In conclusion, special counsel maintains its professional opinion that the District's standby charge is an illegal special tax.*

Meadowood Reorganization Resolution was Dated April 7, 2014 and Contained Items not Included with Agenda Materials

The appellant states that within 35 days of the conclusion of the hearing, LAFCO must adopt a resolution making determinations and that the San Luis Rey MWD did not receive the resolution until 21 days into the 30-day statutory time period for making a request for reconsideration. The appellant also states that the resolution was back-dated to April 7, 2014. The appellant further claims that the resolution contains new information not presented to the Commission, including: (1) The Commission had considered the factors enumerated in Section 56425 prior to adopting the amendment to the sphere of influence and (2) establishment of an effective date.

Response: LAFCO staff disagrees with the appellant. On March 26, 2014, the related forms of resolution covering the Meadowood Reorganization and related sphere and service review actions were released to the public as contained in the Executive Officer's Recommendations. On April 7, 2014, the San Diego LAFCO adopted the forms of Resolution presented in the Executive Officer's recommendations. The April 7, 2014 Resolution formally restates the actions approved by the Commission at the meeting. Thus, the appellant possessed the Meadowood Reorganization form of resolution for a longer period than the minimum specified time period contained under law; therefore, the appellant's claim that that it was deprived of a full opportunity to challenge the resolution is incorrect. Furthermore, the date of adoption is the date that appears on the resolution and characterizing this as "back-dating" is misleading. Government Code Section 56895 does not specify that the adoption date of the resolution is the date of receipt of such resolution. The resolution reflects LAFCO's action when it acted, not the date its staff memorializes that fact.

The appellant also complained that the signed version of the resolution contained items not presented to the Commission in advance or on April 7th related to consideration of the factors enumerated in Government Code Section 56425. This statement is also incorrect, as the Commission adopted a sphere of influence amendment pursuant to the factors contained in Government Code Section 56425 as part of agenda items 7A and 7B on April 7th. Consideration of Section 56425 factors were therefore referenced in the Meadowood Reorganization resolution per the sphere of influence consistency requirements in Government Code Section 56375.5. The appellant also states that the executed resolution contains a reference to effective dates not considered by the Commission. The appellant's statement is based on a misunderstanding of State Law. The Meadowood Reorganization did not contain a term and condition specifying an effective date. Therefore, the resolution contained a default reference to a requirement in Government Code Section 57202 specifying that if an effective is not specified, the effective date shall be the date of recordation. This provision was referenced

in the resolution and is a requirement of State Law. *In conclusion, there are no new or valid facts, compelling arguments, or errors and/or omissions presented by the appellant to warrant reconsideration of the Meadowood Reorganization resolution of approval.*

Meadowood Reorganization Resolution Lacks Determinations Required per Government Code Section 56881

The appellant states that the LAFCO resolution must make determinations as required by Government Code Section 56881, namely subsection (a) and said resolution is completely void of any determinations. The appellant states that the determinations need to be incorporated into a revised resolution.

Response: LAFCO staff believes the appellant makes erroneous and false assertions regarding the Section 56881 determinations in relation to the Meadowood Reorganization. Government Code Section 56881 states that resolutions making determinations must include any of the findings or determinations pursuant to Section 56375. This provision does not mean that “all” of the findings and determinations in Section 56375 must or can be made, rather, only those that are applicable. This is the reason the word “any” appears in Section 56375. Furthermore, the vast majority of the determinations in Section 56375 do not apply to the Meadowood Reorganization as discussed below.

Section 56375(a) states that LAFCO may review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization, consistent with written policies, procedures, and guidelines of the Commission. This determination was made by the Commission and incorporated in the resolution approving the Meadowood Reorganization. The resolution contained required San Diego LAFCO CEQA determinations, a reference to the San Diego LAFCO’s Policy L-101, and a sphere consistency determination per Government Code Section 56425.

Section 56375 (a)(2-3) is not applicable because these determinations only relate to LAFCO initiated proposals. The Meadowood Reorganization was initiated by the Valley Center MWD and County of San Diego, not LAFCO.

Section 56375(4,5,7,8) pertains to city annexations and the Meadowood Reorganization does not involve city jurisdictional changes.

Section 56375(a)(5) pertains to conditions related to regulation of land use and is not applicable because LAFCO has not imposed any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

Section 56375(b) relates to whether the affected territory in the Meadowood Reorganization is inhabited or uninhabited. The resolution states that the Meadowood Reorganization area is owned by one property owner (Pardee Homes); the LAFCO staff report states that the property is uninhabited (fewer than 12 registered voters).

Section 56375(c-f) pertains to consolidations or city annexations and is not applicable to the Meadowood Reorganization.

Section 56375 (g-k) covers operational matters and is not applicable to the Meadowood Reorganization.

Section 56375(l) pertains to whether the boundaries of the territory in any proposal are definite and certain. The April 7th Meadowood Reorganization resolution contains determinations based on a report from the County Assessor that the boundaries of the Meadowood Reorganization are definite and certain, and do not conform to lines of assessment and ownership.

Section 56375 (m-p) pertains to city annexations and is not applicable to the Meadowood Reorganization.

Section 56375(q) pertains to multi-county proposals and is not applicable to the Meadowood Reorganization.

Section 56375(r) pertains to LAFCO authorities related to mutual water companies and is not applicable to the Meadowood Reorganization.

Section 56375.2 pertains to Marin LAFCO and is not applicable to the Meadowood Reorganization.

Section 56375.3 pertains to city island annexation proposals and is not applicable to the Meadowood Reorganization.

In conclusion, the appellant makes erroneous and false assertions regarding the Section 56881 determinations in relation to the Meadowood Reorganization. There are no new evidence, compelling arguments, or errors and/or omissions presented by the appellant to warrant reconsideration of the Meadowood Reorganization resolution of approval.

LAFCO Improperly exercised its Discretion by not Awarding San Luis Rey MWD any Fees Incurred in Connection with the Meadowood Reorganization and Relied on Erroneous and Flawed Legal Opinion Regarding San Luis Rey MWD's Water Availability Charge.

Response: LAFCO can be found to have abused its discretion only if it fails to act in the manner required by law or acts in a manner that is arbitrary, capricious, or entirely lacking in evidentiary support. Based on the discussion above, this allegation cannot be sustained. That the appellant disagrees with LAFCO's action does not make that action an abuse of discretion.

In conclusion, the appellant's claims are speculative and baseless. The appellant presents no new evidence, compelling arguments, or errors and/or omissions to warrant reconsideration of the Meadowood Reorganization resolution of approval.

Valley Center MWD's Original Terms and Conditions Calling for Reimbursement to San Luis Rey MWD of Fees in Connection with the Detachment Process

The appellant believes that San Luis Rey MWD should be reimbursed for fees associated with processing the Meadowood Reorganization in addition to receiving water availability charges since the District will continue to provide service to the property.

Response: LAFCO staff disagrees with the appellant. While Valley Center MWD's resolution of application from April 2012 did originally contain a term and condition stating that the property owner should pay detachment and processing costs to the San Luis Rey MWD, the Valley Center MWD subsequently submitted revised terms and conditions that removed the request pertaining to the San Luis Rey MWD. The revised terms and conditions were approved by LAFCO on April 7, 2014.

The appellant contends that LAFCO staff and the Commission not only ignored facts regarding the awarding of fees and continuation of service by San Luis Rey MWD, but also that the Commission's decision was wrong. This observation ignores the fact that per State Law a Request for Reconsideration must state new or different facts that could not have been presented previously and warrant reconsideration rather than disputing the Commission's conclusions. Moreover, LAFCO staff presented analysis and subsequent conclusions regarding the request for fees both in the written report sent prior to the meeting as well as in the oral presentation on April 7, 2014. Groundwater management consists of coordinating activities rather than providing a water service – San Luis Rey MWD has no latent powers for water service and has no water sources since the groundwater is not a District resource but belongs to the property owner(s). The reconsideration request also states that San Luis Rey MWD will continue supplying services to the Meadowood property. However, upon detachment of the territory, the District will relinquish service responsibility. It should be noted that the appellant's request for reconsideration also claims that the San Luis Rey MWD provides water service. LAFCO staff rejects this assertion for the reasons stated above.

In conclusion, the appellant makes false assertions regarding Section 56050.5 and there are no evidence, compelling arguments, or errors and/or omissions presented by the appellant to warrant reconsideration of the Meadowood Reorganization resolution of approval.

Incorporation of all Supplemental Data and Information Supplied by the Appellant and Agendas, Staff Reports, Notices, Minutes, and Recordings of Proceedings, Letters and Information Previously Submitted by the Appellant

The appellant presents a rambling statement at the end of the Request for reconsideration essentially stating that every conceivable report and document associated with LAFCO's action on the associated sphere and service review, and reorganization is a part of the request for reconsideration.

Response: The appellant has made an overly broad request that does not comport with requirements in Government Code Section 56895 and should therefore be rejected. Government Code Section 56895 requires that the appellant's request for reconsideration shall state the specific modification being requested and shall state what new or different facts are

claimed to warrant reconsideration. The appellant's broadening of the scope of the request does not comport with requirements in Government Code Section 56895. In any event, LAFCO staff has reviewed the record of this reorganization in light of the appellant's request for reconsideration and finds no basis to alter staff's previous recommendation that the reorganization be approved without imposition of the fiscal conditions sought by the appellant. *In conclusion, there are no specific modifications contained in the request, no new evidence, compelling arguments, or errors and/or omissions presented by the appellant per Government Code Section 56881 to warrant reconsideration of the Meadowood Reorganization resolution of approval.*

Refund of San Luis Rey MWD's request for reconsideration fee of \$1,030

San Luis Rey MWD states that it has paid LAFCO's \$1,030 request for reconsideration fee under protest and requests a waiver of the fee.

Response: Government Code Section 56383 (a (4) authorizes the collection of a fee associated with recovering LAFCO's costs associated with processing and reviewing a request for reconsideration. *LAFCO's actual cost exceeded \$1,030 and a refund is not justified.*

Therefore, it is

RECOMMENDED: That your Commission

- (1) Deny the San Luis Rey MWD's Request for Reconsideration for the reasons set forth in the Executive Officer's Report; and
- (2) Deny the San Luis Rey MWD's request for a waiver of the Request for Reconsideration fee.

Respectfully Submitted,

MICHAEL D. OTT
Executive Officer

INGRID E. HANSEN
Chief, Governmental Services

MDO:IEH:ra

Attachments:

- (1) Request for Reconsideration from San Luis Rey MWD
- (2) Memorandum from Michael G. Colantuono, Esq.
- (3) LAFCO's Resolution Approving the "Meadowood Reorganization" (Valley Center MWD)
- (4) LAFCO's Resolution Approving the Supplemental Municipal Service Review and Sphere Review for the Bonsall and Pala Hydrologic Subareas of the San Luis Rey River Watershed
- (5) Minutes of the April 7, 2014 LAFCO Meeting

Electronic Files for:

- (1) San Luis Rey MWD's Supplemental Data:
http://www.sdlafco.org/Agendas/June2014/2014_San_Luis_Rey_MWD_CDs.zip

- (2) April 7, 2014 LAFCO Reports:
http://www.sdlafco.org/Agendas/June2014/April2014_7AB_Supplemental_MSRSR_Bonsall_Pala.pdf

http://www.sdlafco.org/Agendas/June2014/April2014_7C_MeadowoodReorg.pdf

ATTACHMENTS

Request for Reconsideration:

Resolution Making Determinations, Approving, and Ordering the “Meadowood Reorganization” (Valley Center Municipal Water District) (Ref. No.: RO12-11)

Supplemental Municipal Service Review and Sphere of Influence Review: Study of Sewer, Water, and Recycled Water Services in the Bonsall and Pala Hydrologic Subareas of the San Luis Rey River Watershed (Ref. No.: MSR/SR13-82; MSR/SR13-88; MSR/SR13-96)

Adoption of Amendments to the Spheres of Influence for the Valley Center, Rainbow, and San Luis Rey Municipal Water Districts (Ref. No.: SA12-11[a]; SA12-11[b]; SA12-11[c])

- (1) Request for Reconsideration from San Luis Rey MWD**
- (2) Memorandum from Michael G. Colantuono, Esq.**
- (3) LAFCO’s Resolution Approving the “Meadowood Reorganization” (Valley Center MWD)**
- (4) LAFCO’s Resolution Approving the Supplemental Municipal Service Review and Sphere Review for the Bonsall and Pala Hydrologic Subareas of the San Luis Rey River Watershed**
- (5) Minutes of the April 7, 2014 LAFCO Meeting**

Attachment 1

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**Filing Fees Exempt,
Per Gov't Code § 6103**

May 7, 2014

San Diego County LAFCO and
LAFCO Executive Officer
9335 Hazard Way, Suite 200
San Diego, California 92123

Re: Request for Reconsideration - April 7, 2014 San Diego County LAFCO Meeting:
Agenda Item No. 7A (MSR/SR13-82; MSR/SR13-88; MSR/SR13-96);
Agenda Item No. 7B (SA12-11(a); SA12-11(b); SA12-11(c); and,
Agenda Item No. 7C (RO12-11))

Dear Honorable Commissioners and the LAFCO Executive Officer:

On behalf of San Luis Rey Municipal Water District ("San Luis Rey"), this letter serves as a Request for Reconsideration regarding the above-referenced matters ("Request") as reflected in the Resolution of the Local Agency Formation Commission of the County of San Diego Making Determinations, Approving, and Ordering The "Meadowood Reorganization" (Valley Center Municipal Water District) ("Resolution").¹ The Resolution follows from Agenda Item Nos. 7A through 7C, on April 7, 2014, by the San Diego LAFCO (referred to herein either as the "Commission" or "LAFCO").

As set forth in detail below, San Luis Rey's Request regarding the Resolution arises for various reasons, including: (i) new or different facts that could not have been presented before the Commission meeting on April 7, 2014; (ii) law that supports San Luis Rey's terms and conditions for recovery of fees and its water availability charge; and, (iii) in addition to information previously provided by San Luis Rey, supplemental data and additional information as provided herein and through attachments to this Request further demonstrating the legitimacy of San Luis Rey's water availability charge.

Specifically, the defects with the Resolution necessitating this Request, and subsequently corrective action to be taken by LAFCO, arise from at least the following items:

¹ The upper left corner of the first page of the Resolution identifies the Resolution as relating to "Minute Item: 6C," when presumably "7C" is the correct reference due to Agenda Item No. 7C from April 7, 2014 involving the Meadowood Reorganization addressed by the Resolution.

- (1) On April 7, 2014, the Commission rubber-stamped the Executive Officer's reports, rather than demonstrating (individually and collectively) independent judgment.
- (2) LAFCO lacks the authority or jurisdiction to adopt its legal counsel's opinion when, in effect, LAFCO declares San Luis Rey's water availability charge unlawful.
- (3) LAFCO back-dated the Resolution to April 7, 2014 when in fact a draft resolution was not included amongst the agenda materials for the April 7 meeting, thus triggering the thirty (30) day "clock" for this Request, despite the Resolution only being released last week, leaving San Luis Rey only days to submit this Request, and, the Resolution contains items that were not included amongst the agenda materials for the April 7 meeting.
- (4) The Resolution does not include "determinations" as required pursuant to Government Code section 56881.
- (5) The Commission improperly exercised its discretion by:
 - (a) following the Executive Officer's recommendations not to award San Luis Rey any fees incurred in connection with the Meadowood Reorganization process; and,
 - (b) relying on the erroneous and flawed legal opinion of its legal counsel regarding San Luis Rey's water availability charge, which only came to light on April 7, 2014 despite San Luis Rey asserting this item as a term and condition one (1) year earlier.

Accordingly, LAFCO should amend the Resolution to include an award of fees and water availability charge to San Luis Rey, as requested by San Luis Rey.

A. The Commission rubber-stamped the Executive Officer's reports, rather than demonstrating independent judgment, as required by law.

Pursuant to Government Code section 56325.1, in making determinations, commission members must "exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division." Yet, on April 7, 2014, no review or discussion occurred regarding the content of the letter submitted by San Luis Rey for that meeting, nor was there any discussion about awarding fees to San Luis Rey.

Rather, haste existed, with one (1) Commissioner stating "this" (presumably the Meadowood Reorganization) should have been done long ago. In turn, only a limited discussion

by two (2) Commissioners took place regarding the water availability charge, with each and every recommendation of the Executive Officer being adopted without discussion, much less modification or some other demonstration of independent judgment being exercised. *Thus, LAFCO did not fulfill its obligation of exercising independent judgment as it relates to the issues presented by San Luis Rey.*

B. LAFCO lacks the authority or jurisdiction to adopt its legal counsel's opinion when, in effect, LAFCO declares San Luis Rey's water availability charge unlawful.

LAFCOs make determinations regarding boundary changes cities and special districts, formation and dissolution of most special districts, and *annexation, consolidation, merger, and reorganization of cities and districts.* (See, Government Code sections 56001 and 56375.)

While LAFCO (through its staff) responded in writing to San Luis Rey earlier in this process about LAFCO's limited authority, LAFCO now asserts the authority to opine on the legality of San Luis Rey's water availability charge. Not a single section of LAFCO's limited authority enumerated in within Government Code section 56375 authorizes LAFCO to opine and recommend San Luis Rey rescind and refund its water availability charge, yet LAFCO directs San Luis Rey to "report back with the results within five years after LAFCO approval of this Municipal Service Review / Sphere Review[.]"² Moreover, fundamental principles and doctrines of law, including the separation of powers, reserves such judgment for the judicial branch. *Thus, LAFCO should rescind its position regarding San Luis Rey's water availability charge, as that position is set forth more fully in the Minutes described, supra, at footnote 2.*

C. LAFCO back-dated the Resolution to April 7, 2014 when in fact a draft resolution was not included amongst the agenda materials for the April 7 meeting, thus triggering the thirty (30) day "clock" for this Request, despite the Resolution only being released last week, leaving San Luis Rey only days to submit this Request, and, the Resolution contains items that were not included amongst the agenda materials for the April 7 meeting.

Within thirty-five (35) days of conclusion of the hearing, LAFCO must adopt a resolution making determinations approving or disapproving the proposal. (Government Code section 56880.) Section 56880 does not authorize, nor does any other provision, back-dating a resolution.

In this instance, the hearing occurred on April 7, 2014. LAFCO staff, as reflected in agenda packet materials and the Minutes, did not present a draft resolution to the Commission regarding the Meadowood Reorganization.

² Draft San Diego LAFCO Minutes of the Regular Meeting, April 7, 2014 ("Minutes"), page 10, number 11.

Instead, LAFCO sent the Resolution, dated April 7 by the Executive Officer, with San Luis Rey receiving the Resolution on April 28, 2014, which is approximately twenty-one (21) days into the thirty (30) day statutory time period for bringing a Request for Reconsideration. In addition, the Resolution released last week contains new information that was not presented in materials in advance of or on April 7, 2014, including: (i) "The Commission has considered the factors enumerated in Section 56425 prior to adopting the amendment to the sphere of influence for the Valley Center Municipal Water District"³; and, (ii) "The effective date for this annexation shall be the date of recordation but not before May 7, 2014."⁴

Thus, LAFCO's back-dating the Resolution and/or inclusion of new information, particularly reference to May 7, 2014, was improper and deprives interested stakeholders such as San Luis Rey the full opportunity to challenge the Resolution through a Request for Reconsideration.

D. The Resolution does not include "determinations" as required pursuant to Government Code section 56881.

The Resolution must make determinations as required by Government Code section 56881, namely subsection (a). In this instance, the Resolution is completely void of any "determinations." *Thus, corrective action should be taken by LAFCO to develop and/or duly incorporate such "determinations" in the Resolution.*

E. The Commission improperly exercised its discretion in following the Officer's recommendations not to award San Luis Rey any fees incurred in connection with the Meadowood Reorganization process, and, also by relying on the erroneous finding and legal opinion of its counsel regarding San Luis Rey's water availability charge.

1. San Luis Rey's Fees

As previously cited in San Luis Rey's correspondence in this process, Valley Center Municipal Water District's Application for the Meadowood Reorganization originally called for reimbursement to San Luis Rey of its fees incurred in connection with this process, just as does San Luis Rey's ordinance for deannexation.⁵

Yet these facts have been ignored by LAFCO, including the Commission on April 7 by denying any award of fees without discussion and simply adopting the Executive Officer's recommendation to deny fees.⁶ Even if LAFCO were to contend a "continuing service" is not provided in order to justify not awarding fees, LAFCO is wrong, as discussed below.

³ Resolution, page 2, number (5).

⁴ *Ibid.* at p. 5, number (13).

⁵ *See, e.g.*, San Luis Rey's April 7, 2014 letter.

⁶ *Idid.*, at pages 3-4.

Thus, LAFCO staff, and now most recently the Commission on April 7, have not properly exercised discretion pursuant, among other provisions, Government Code section 56886.

2. San Luis Rey's Water Availability Charge & Continuing Service.

LAFCO's Sphere of Influence and Municipal Service Review recognizes San Luis Rey's services to its property owners, yet LAFCO, through the Commission on April 7, 2014, chose not to validate San Luis Rey's services by awarding compensation, namely as to the water availability charge. Given the importance of this revenue stream to San Luis Rey, and in turn, its property owners, LAFCO's denial of compensation is all the more significant.

LAFCO attempts to justify its denial on the basis of the water availability charge being unlawful and San Luis Rey not providing a "continuing service" to the Meadowood property owner. Only on April 7, 2014, despite so many prior opportunities, did LAFCO reveal some analysis underlying its conclusion that the water availability charge is unlawful. ***Ultimately, LAFCO is wrong that the water availability charge is unlawful and LAFCO is wrong that the property owner does not receive a continuing service from San Luis Rey.***

a. The Water Availability Charge

Mr. Colantuono, Special Counsel for LAFCO, indicated on April 7 that San Luis Rey has statutory authority to impose a water availability charge; however, the fact that San Luis Rey neither provides nor has LAFCO given authorization to provide or distribute water or wastewater services renders the charge a special tax requiring voter approval. Mr. Colantuono indicated that the water availability charge is a charge collected on the property tax roll from individuals who do not currently receive "water service" and that it reflects the value to vacant parcels for future development. He said San Luis Rey monitors groundwater quality and advocates property owners who own groundwater.

With Mr. Colantuono's limited remarks, and LAFCO not citing or providing in writing or verbally any legal authority for its position, San Luis Rey is unable to decipher from LAFCO's minutes the analysis or support for Mr. Colantuono's conclusion that San Luis Rey's water availability charge is a special tax requiring voter approval. Although San Luis Rey has previously requested such legal analysis in writing, LAFCO has never provided any such analysis.

Nonetheless, San Luis Rey, as a matter of fact and law (which are before LAFCO through this Request and prior submissions) does provide a "water service" to its property owners, with its water availability charge being an assessment providing benefits to the property owners, and thus not making the water availability charge subject to voter approval. Accordingly, San Luis Rey is able to determine from LAFCO's Minutes is that Mr. Colantuono's

analysis is flawed, because it is based on the erroneous assumption that San Luis Rey does not provide water service to the parcels subject to its assessment or charge.

Case authorities establish that a "pipeline" is not required for "water service." The law establishes that groundwater management and preservation constitutes a "water service."

As Mr. Colantuono concedes, San Luis Rey is statutorily authorized to charge a water standby assessment, or availability charge, for the broad scope of the water management services it provides. (Water Code §§ 71610, 71630, 71637.5.)

Among the many powers of a Municipal Water District are the power to:

- "... acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water, including sewage and storm waters, for the beneficial use or uses of the district, its inhabitants, or the owners of rights to water in the district" (Water Code, § 71610);
- "... undertake a water conservation program ..." (Water Code, § 71610.5); and
- "... sell water under its control ..." (Water Code, § 71611.)

San Luis Rey is not required to exercise *all* these powers, nor is it required to *sell* water as a precondition to undertake any other power. Indeed, the costs to undertake water sales or the delivery of imported water are paid for by separate water charges, the rates applicable to such sales -- not by "the water standby assessment and water availability charges" that fund the District's water management services. (See, Water Code, §§ 71612, 71613, and 71614.)

San Luis Rey's "control" and management of the local water supply in the local watershed is "water service" that is authorized by the Act and is separate and distinct from the sale of water. It is this management of the water and the parcel owners' rights to that water supply that is supported by the "water standby assessment and water availability charges." As LAFCO concedes, San Luis Rey manages the supply, monitors the water quality, and advocates for the protection of the water rights for those who have rights to the water. Although it has not yet been required to do so, San Luis Rey is also authorized to spread water into the basin. All components of this service allow for the parcel owners to continue to exercise their pumping rights to provide service to their land.

"Water service" includes the basin management services San Luis Rey provides to the parcel owners, which insures they can continue pump and/or divert water. There is no place in the Act that requires San Luis Rey to provide domestic water service through pipes in order to exercise its powers to manage the groundwater supply. That is the key confusion in Mr. Colantuono's analysis, at least in how it was discussed on April 7, 2014 and is reported in the LAFCO Minutes.

Additionally, the Court of Appeal recently explained in *Griffith v. Pajaro* (2013) 220 Cal.App.4th 586, 595, that distinguishing “groundwater management” from “water service” “is a distinction without a difference.” The “Legislature has endorsed the view that water service means more than just supplying water. The Proposition 218 Omnibus Implementation Act, enacted specifically to construe Proposition 218, defines “water” as “any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water.” (*Gov. Code, § 53750, subd. (m).*) Pipes are not required to constitute “water service”. The service various types of groundwater public agencies provide involves “management [in the form of] planned and coordinated monitoring, operation, and administration of a groundwater basin or portion of a groundwater basin with the goal of long-term sustainability of the resource.” (*Griffith, supra*, 220 Cal.App.4th at 595.)

Like the management agency in the *Griffith*, San Luis Rey here is charged with management of the water levels for the protection of the landowners’ rights. The Pajaro Valley Water Management Agency’s purpose, whose service was the subject of *Griffith*, “is to efficiently and economically manage existing and supplemental water supplies in order to prevent further increase in, and to accomplish continuing reduction of, long-term overdraft and to provide and insure sufficient water supplies for present and anticipated needs within the boundaries of the agency.” (*AmRhein v. Pajaro* (2007) 150 Cal.App.4th 1371.) Similarly, San Luis Rey here is tasked with managing existing water supplies in order to prevent further increase in, and to accomplish continuing reduction of, long-term overdraft and to provide and insure sufficient water supplies within the boundaries of the agency. That San Luis Rey has not been required to import and spread water yet, does not change the fact that San Luis Rey provides water service ensuring the protection and production of the current water supply.

In *AmRhein, supra*, the Court of Appeal evaluated groundwater pumping fees of the Pajaro Valley Water Management Agency and in doing so explained that a direct charge on land for the property-related benefit of groundwater management would be an assessment subject only to the requirements of Article XIII D -- not the election requirements of Article XIII C for taxes. (*AmRhein, supra*, 150 Cal.App.4th at 1381-1382.) The Court in *AmRhein* distinguished between a fee imposed upon the activity of groundwater pumping and a charge imposed directly upon land “for the [groundwater management agency’s] purpose of paying the costs of initiating, carrying on, and completing any of the powers, projects, and purposes for which the agency is organized. (*Id.* at 1382.) “The latter provision arguably contemplates an “assessment” as defined in *Article XIII D, section 2, subdivision (b).*” (*Id.*)

The plain language of Proposition 218 supports the interpretation of *AmRhein*. Article III D, Section 2, subsection (b), defines “assessment” as “any levy or charge upon real property by an agency for a special benefit conferred upon the real property” and further adds that the term “Assessment,” “includes, but is not limited to, ‘special assessment,’ ‘benefit assessment,’ ‘maintenance assessment’ and ‘special assessment tax.’” (Cal. Const., art. XIII D, § 2, subd. (b).) Additionally, subsection (i) defines a “Special benefit” as “a particular and

distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” (*Id.* at subd. (i).) San Luis Rey provides a special service and benefit to the water producers within its area, thereby preserving their ability to pump. The special benefit is one that is not available to those who are not landowners. Moreover, even if the water service were limited to actual water importation, which it is not, an assessment may be charged for future services. (*See*, Cal. Const., art. XIII D, § 6, subd. (b)(5).)

In the case of San Luis Rey’s water availability charge, the Legislature has confirmed that the charge is an assessment -- not a tax, as it provides for compliance by the District with the procedural requirements for assessments in Proposition 218. (Water Code, § 71630.) Water Code section 71630 expressly requires that notice and voting rights for any standby assessment charge or water availability charge be given pursuant to Government Code, Section 53753, the Proposition 218 Omnibus Implementation Act’s procedural requirements for assessments subject to Article XIII D, Section 4. The voting requirements therein subject an assessment to a noticed majority protest hearing -- not an election.

San Luis Rey has complied with procedural requirements, evidenced by the record before LAFCO. ***Therefore, San Luis Rey has not violated the voter approval requirements of Proposition 218, with which San Luis Rey already complies.***

i. ***The Continuing Service By San Luis Rey To The Meadowood Property Owner.***

Property owners within San Luis Rey receive a special benefit upon which San Luis Rey imposes the water availability charge. This is evident from Valley Center Municipal Water District’s application dated July 25, 2012 to LAFCO for the Meadowood Reorganization, in which it is noted that: “Meadowood would continue to use some portion of the local groundwater supplies...”⁷ Not only is it evident that San Luis Rey benefits its property owners, including the Meadowood property owner, but that San Luis Rey *will continue to benefit such property owners because of the property owner continuing to exercise a water right that San Luis Rey serves to help protect.*

Further demonstrating the benefits to property owners provided by San Luis Rey, and its ongoing service even following potential detachment of the Meadowood property, are San Luis Rey’s historical documents, already on file with LAFCO through San Luis Rey’s previous submissions, and as provided herein through Attachments, which consist primarily of San Luis Rey agendas, minutes, resolutions, and letters to property owners, with these materials dating back decades.

⁷ Application, pages 10-11, item number 11 regarding local groundwater use.

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May 7, 2014
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Ultimately, LAFCO must properly exercise its discretion and weigh the factors, including those within Government Code section 56668, and San Luis Rey's due process rights require the same, rather than the partial analysis provided on April 7, 2014.

San Luis Rey submits concurrently with this letter, ***and under protest***, a fee of \$1,030 as indicated on LAFCO's website for submitting a Request for Reconsideration. Pursuant to LAFCO's discretion provided for by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 *et seq.*), San Luis Rey requests a waiver of this fee, with a full refund of this payment made under protest.

In addition to the supplemental data and information provided herein and though this Request's attachments, San Luis Rey hereby requests that all agendas, staff reports, notices, minutes and recordings of proceedings, letters and information submitted previously by San Luis Rey, and all other materials of record be incorporated in this Request for Reconsideration.

Thank you for your anticipated consideration.

Very truly yours,

ALESHIRE & WYNDER, LLP



Wesley A. Miliband

WAM:lmy
Enclosures

(Please see Attachments A & B for list of documents contained on the 2 CD's)

cc: San Luis Rey Municipal Water District Board Members (*w/o CD's*)
Thomas Steinke, Esq. (*including enclosures*)
Gary T. Arant (*including enclosures*)

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Reso 90-6	90-6	Resolution authorizing District to Borrow \$40,000
Budgets	83-09	Resolution approving and adopting budget for fiscal year 1983-84
Budgets	84-12	Resolution approving and adopting budget for fiscal year 1984-85
Budgets	85-7	Resolution approving and adopting budget for fiscal year 1985-86
Budgets	86-8	Resolution approving and adopting budget for fiscal year 1986-1987
Budgets	87-8	Resolution approving and adopting budget for fiscal year 1987-1988
Budgets	88-6	Resolution approving and adopting budget for fiscal year 1988-1989
Budgets	89-6	Resolution approving and adopting budget for fiscal year 1989-1990
Budgets	90-5	Resolution approving and adopting budget for fiscal year 1990-1991
Budgets	91-5	Resolution approving and adopting budget for fiscal year 1991-1992
Budgets	93-5	Resolution approving and adopting budget for fiscal year 1993-1994
Budgets	94-6	Resolution approving and adopting budget for fiscal year 1994-1995
Budgets	95-5	Resolution approving and adopting budget for fiscal year 1995-1996
Budgets	96-7	Resolution approving and adopting budget for fiscal year 1996-1997
Budgets	97-5	Resolution approving and adopting budget for fiscal year 1997-1998
Budgets	99-6	Resolution approving and adopting budget for fiscal year 1999-2000
Budgets	2000-8	Resolution approving and adopting budget for fiscal year 2000-2001
Budgets	2001-10	Resolution approving and adopting budget for fiscal year 2001-2002
Budgets	2002-9	Resolution Approving and Adopting Budget for Fiscal Year 2002-2003
Budgets	2003-9	Resolution Approving and Adopting Budget for Fiscal Year 2003-2004

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Budgets	2004-7	Resolution Approving and Adopting Budget for Fiscal Year 2004-2005
Budgets	2005-12	Resolution Approving and Adopting Budget for Fiscal Year 2005-2006
Budgets	2006-8	Resolution approving and adopting budget for fiscal year 2006-2007
Budgets	2007-12	Resolution Approving and Adopting budget for Fiscal Year 2007-2008
Budgets	2008-7	Resolution Approving and Adopting Budget for Fiscal year 2008-2009
Budgets	2009-10	Resolution Approving and Adopting Budget for Fiscal Year 2009-2010
Budgets	2010-5	Resolution Approving and Adopting a Budget for Fiscal Year 2010-11
Budgets	2011-11	Resolution Approving and Adopting a Budget for Fiscal Year 2011-12
Budgets	2012-6	Resolution Approving and Adopting a Budget for Fiscal Year 2012-13
Water Supply Availability 1983	83-4	Resolution Declaring Intention to Levy Water Availability Charge
Water Supply Availability 1983	83-5	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1983	83-6	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1983	83-7	Resolution Adopting Negative Environmental Assessment of the Imposition of a Water Availability Charge

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1983	83-8	Resolution Adopting an Ordinance Imposing a Water Availability Charge
Water Supply Availability 1984	84-3	Resolution Declaring Intention to Levy a Water Availability Charge
Water Supply Availability 1984	84-4	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1984	84-5	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1984	84-10	Resolution Adopting Negative Environmental Assessment of the Imposition of a Water Availability Charge
Water Supply Availability 1984	84-11	Resolution Adopting an Ordinance Imposing a Water Availability Charge
Water Supply Availability 1985	85-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1985	85-3	Resolution Declaring Intention to Levy a Water Availability Charge
Water Supply Availability 1985	85-4	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1985	85-6	Resolution Adopting an Ordinance Imposing a Water Availability Charge

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1986	86-3	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1986	86-4	Resolution Declaring Intention to Levy a Water Availability Charge
Water Supply Availability 1986	86-5	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1986	86-6	Resolution Regarding Environmental Assessment of Imposition of a Water Availability Charge
Water Supply Availability 1986	86-7	Resolution Adopting an Ordinance Imposing a Water Availability Charge
Water Supply Availability 1987	87-2	Resolution Declaring Intention to Levy a Water Availability Charge
Water Supply Availability 1987	87-3	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1987	87-4	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1987	87-7	Resolution Adopting an Ordinance Imposing a Water Availability Charge

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1988	88-1	Resolution Declaring Intention to Levy a Water Availability Charge
Water Supply Availability 1988	88-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1988	88-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1988	88-5	Resolution Adopting an Ordinance Imposing a Water Availability Charge
Water Supply Availability 1989	89-2	Resolution Declaring Intention to Levy a Water Availability Charge
Water Supply Availability 1989	89-3 (Rev)	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1989	89-4 (Rev)	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1989	89-5	Resolution Adopting an Ordinance Imposing a Water Availability Charge
Water Supply Availability 1990	90-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1990	90-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1990	90-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1990	90-4	Resolution Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 1991	91-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1991	91-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1991	91-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1991	91-4	Resolution Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 1992	92-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1992	92-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1992	92-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1993	93-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1993	93-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1993	93-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1993	93-4	Resolution Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 1994	94-2	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1994	94-3	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1994	94-4	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1994	94-5	Resolution Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 1995	95-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1995	95-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1995	95-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1995	95-4	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 1996	96-3	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1996	96-4	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1996	96-5	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1996	96-6	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 1996	96-001	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 1996	97-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1997	97-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1997	97-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Standby Assessments or Water Availability Charges
Water Supply Availability 1997	97-4	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1997	97-001	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 1998	98-2	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1998	98-3	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1998	98-4	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 1998	98-5	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 1998	98-001	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 1999	99-2	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 1999	99-3	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 1999	99-4	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 1999	99-5	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 1999	99-001	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2000	2000-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2000	2000-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2000	2000-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2000	2000-7	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2000	2000-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2001	2001-5A	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2001	2001-6	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2001	2001-7	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2001	2001-9	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 2001	2001-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2002	2002-5	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2002	2002-6	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2002	2002-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2002	2002-8	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2003	2003-5	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2003	2003-6	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2003	2003-7	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2003	2003-8	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2003	2003-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 2004	2004-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2004	2004-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2004	2004-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2004	2004-6	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2004	2004-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2005	2005-8	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2005	2005-9	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2005	2005-10	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2005	2005-11	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2005	2005-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 2006	2006-4	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2006	2006-5	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2006	2006-7	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2006	2006-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2007	2007-8	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2007	2007-9	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2007	2007-10	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2007	2007-11	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2007	2007-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2008	2008-3	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 2008	2008-4	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2008	2008-5	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2008	2008-6	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2008	2008-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2009	2009-6	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2009	2009-7	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2009	2009-8	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2009	2009-9	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2009	2009-01	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2010	2010-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 2010	2010-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2010	2010-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2010	2010-4	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2010	2010-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2011	2011-7	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2011	2011-8	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2011	2011-9	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2011	2011-10	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2011	2011-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2012	2012-2	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge

Attachment A

Document Name on CD	Reso/Ord Number	Document Description
Water Supply Availability 2012	2012-1	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2012	2012-3	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2012	2012-5	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2012	2012-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7
Water Supply Availability 2013	2013-5	Resolution Declaring Intention to Levy a Water Availability Charge Pursuant to Water Code Sections 71630 et. seq. and 71631.7
Water Supply Availability 2013	2013-6	Resolution Authorizing the Initiation of Proceedings for the Imposition of a Water Availability Charge
Water Supply Availability 2013	2013-7	Resolution, Fixing Time and Place of Hearing on Proposed Schedule of Water Availability Charge
Water Supply Availability 2013	2013-8	Resolution Authorizing Adopting an Ordinance Imposing a Water Availability Charge (Water Code Sections 71630 and 71631.7)
Water Supply Availability 2013	2013-1	Ordinance Imposing a Water Availability Charge Pursuant to Water Code Sections 71630, et. seq. and 71631.7

Attachment B

Name of Document on CD	Document	Description
Approval of Reso 2008	Agenda for Special Meeting of 7/9/2008 SLRMWD Board of Directors	Public Hearing - Year 2008-2009 Water Availability Charge; Item 3.A. Water Availability Charge; Adopt 2008-6 authorizing adoption of Ordinance 2008-1 Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2008-1 Imposing a Water Availability Charge.
Approval of Reso 2008	Minutes of Special Meeting of 7/9/2008 SLRMWD Board of Directors	Public Hearing - Year 2008-2009 Water Availability Charge; Item 3.A. Water Availability Charge
Approval of Reso 2008	Agenda of 5/21/2008 SLRMWD Board of Directors	Item E. Annual Actions for Imposition of Water Availability Charge - Notice of Hearing and Information Report
Approval of Reso 2008	Minutes of 5/21/2008	Item E.
Approval of Reso 2008	Agenda of 4/16/2008	Item D. Annual Actions for Imposition of Water Availability Charge; consider Resolutions 2008-3; 2008-4; and 2008-5
Approval of Reso 2008	Minutes of 5/21/2008	Item D.
Approval of Resol 2009	Agenda of 7/15/2009 of SLRMWD Board of Directors	Public Hearing - Year 2009-2010 Water Availability Charge; 3.A. Water Availability Charge; Adopt Resolution 2009-9 authorizing adoption of Ordinance 2009-1 Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2009-1 Imposing a Water Availability Charge.
Approval of Resol 2009	Minutes of 7/15/2009	Public Hearing on 2009-2010 Water Availability Charge; Item 3.A. Water Availability Charge
Approval of Resol 2009	Agenda of 5/20/2009 of SLRMWD Board of Directors	Item 2.A. Annual Actions for Imposition of Water Availability Charge; consider Resolutions 2009-6; 2009-7; 2009-8
Approval of Reso 2010	Agenda of 7/21/2010 of SLRMWD Board of Directors	Item 2.A. Year 2010-2011 Water Availability Charge; Item 3.A. Water Availability Charge; Adopt Resolution 2010-4 authorizing adoption of Ordinance 2010-1 Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2010-1 Imposing a Water Availability Charge.
Approval of Reso 2010	Minutes of 4/10/2010 of SLRMWD Board of Directors	Item 2.K. Annual Actions for Imposition of a Water Supply Availability Charge; consider Resolutions 2010-1; 2010-2; 2010-3
Approval of Reso 2011	Agenda of 7/20/2011 SLRMWD Board of Directors	Public Hearing - Year 2011-12 Water Availability Charge; 3.A. Water Availability Charge; Adopt Resolution 2011-10 authorizing adoption of Ordinance 2011-1 Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2011-1 Imposing a Water Availability Charge.

Attachment B

Name of Document on CD	Document	Description
Approval of Reso 2011	Minutes of the 7/20/2011 Board of Directors	Public Hearing on 2011-2012 Water Availability Charge; Item 3.A Water Availability Charge; Adopt Resolution 2011-10 authorizing adoption of Ordinance 2011-1 Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2011-1 Imposing a Water Availability Charge.
Approval of Reso 2011	Agenda 4/20/2011 SLRMWD Board of Directors	Item 2.D. Annual Actions for Imposition of a Water Supply Availability Charge; consider Resolutions 2011-7; 2011-8; 2011-9; Annual Report for Fiscal Year 2010/2011 Regarding Draft Letter to All Property Owner's
Approval of Reso 2011	Minutes of the 4/20/2011 Board of Directors	Item 2.D. Annual Actions for Imposition of Water Availability Charge; consider Resolutions 2011-7; 2011-8; and 2012-8 (sic); Annual Report for Fiscal Year 2010/2011
Approval of Reso 2012	Agenda of 4/18/2012 SLRMWD Board of Directors	Item 2.A Annual Actions for Imposition of Water Availability Charge; consider Resolutions 2012-1; 2012-2; and 2012-3; Annual Report for Fiscal Year 2011/2012 Regarding Draft Letter to All Property Owner's
Approval of Reso 2012	Minutes of 4/18/2012 SLRMWD Board of Directors	Item 2.A Annual Actions for Imposition of Water Availability Charge; consider Resolutions 2012-1; 2012-2; and 2012-3; Annual Report for Fiscal Year 2011/2012 Regarding Draft Letter to All Property Owner's
Approval of Reso 2012	Agenda of 7/18/2012 SLRMWD Board of Directors	Public Hearing on 2012-13 Water Availability Charge; 3.A. Water Availability Charge; Adopt Resolution 2012-5 authorizing adoption of 2012-1, Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2012-1, Imposing a Water Availability Charge
Approval of Reso 2012	Minutes of 7/18/2012 SLRMWD Board of Directors	Public Hearing- Year 2012-2013 Water Availability Charge; 3.A. Water Availability Charge; Adopt Resolution 2012-5 authorizing adoption of 2012-1, Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2012-1, Imposing a Water Availability Charge
Approval of Reso 2013	Agenda of 4/17/2013 SLRMWD Board of Directors	Item 2.A. Annual Actions for Imposition of Water Availability Charge; consider Resolutions 2013-5; 2013-6; and 2013-7; Annual Report for Fiscal Year 2012/2013 Regarding Draft Letter to All Property Owner's
Approval of Reso 2013	Minutes 4/17/2013 SLRMWD Board of Directors	Item 2.A. Annual Actions for Imposition of Water Availability Charge; consider Resolutions 2013-5; 2013-6; and 2013-7; Annual Report for Fiscal Year 2012/2013 Regarding Draft Letter to All Property Owner's
Approval of Reso 2013	Agenda of 7/17/2013 SLRMWD Board of Directors	Public Hearing on 2013-14 Water Availability Charge; 4.A. Water Availability Charge; Adopt Resolution 2013-8 authorizing adoption of 2013-1, Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2013-1, Imposing a Water Availability Charge

Attachment B

Name of Document on CD	Document	Description
Approval of Reso 2013	Minutes of 7/17/2013 SLRMWD Board of Directors	Public Hearing on 2013-14 Water Availability Charge; 4.A. Water Availability Charge; Adopt Resolution 2013-8 authorizing adoption of 2013-1, Imposing a Water Availability Charge; and Move to Adopt Ordinance No. 2013-1, Imposing a Water Availability Charge
Notice Letter 2008	To Property Owners	Annual Notice of Hearing; Fiscal Year 2007/2008 Annual Report
Notice Letter 2009	To Property Owners	Annual Notice of Hearing; Fiscal Year 2008/2009 Annual Report
Notice Letter 2010	To Property Owners	Annual Notice of Hearing; Fiscal Year 2009/2010 Annual Report
Notice Letter 2011	To Property Owners	Annual Notice of Hearing; Fiscal Year 2010/2011 Annual Report
Notice Letter 2012	To Property Owners	Annual Notice of Hearing; Fiscal Year 2011/2012 Annual Report
Notice Letter 2013	To Property Owners	Annual Notice of Hearing; Fiscal Year 2012/2013 Annual Report
Property Owner Letter 2011		Re: State Water Resources Control Board's "Notice of Opportunity to Comment on Guidance for Complying With Water Diversion Measurement Requirements for Statement Holders"
Property Owner Letter 2014		Re: Letter from State Water Resources Control Board re Disclosure of Personal Information Due to Civil Litigation

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MEMORANDUM

TO: Michael D. Ott
Executive Officer
San Diego LAFCO
9335 Hazard Way, Suite 200
San Diego, CA 92123

FILE NO: 49021.0002

FROM: Michael G. Colantuono, Esq.
Amy C. Sparrow, Esq.

DATE: May 15, 2014

RE: San Luis Rey MWD Request for Reconsideration

Questions Presented

1. Does the San Luis Rey Municipal Water District ("District") have authority to levy a water standby and availability charge ("Levy") to landowners, if the District neither provides nor has San Diego Local Agency Formation Commission ("LAFCO") authorization to provide or make available water or wastewater services?
2. In determining whether to impose conditions requested by the District ("Requested Conditions") that would require developers to make the District whole for future lost revenue resulting from detachment of land from the District, may LAFCO consider the lawfulness of the Levy?

Summary of Conclusions

1. While the District is authorized by the Water Code to levy a water standby and availability charge, the fact that it neither provides nor has LAFCO authorization to provide or make available water or wastewater services very likely renders its charge a special tax requiring voter approval under Proposition 13. Moreover, *Griffith v. Pajaro Valley Water Management Agency*, 220 Cal.App.4th 586 (2013) ("*Griffith*") does not support the conclusion that the District provides "water service" for purposes of Proposition 218, because unlike the District, the defendant in that dispute had a statutory mandate to purchase, capture, store, and distribute supplemental water. The case does not stand for the proposition that groundwater management planning in to pumpers is a "water service" for which a property related fee may be imposed.
2. In determining whether to impose the Requested Conditions, LAFCO may consider the lawfulness of the Levy.

Factual Background

The facts on which our conclusions rely follow. If these facts are incorrect or materially incomplete, let us know, as different facts might require us to alter our advice to you.

The Meadowwood Reorganization [Ref. Nos. RO12-11; SA12-11(b); SA12-11(c)] detached 244 acres from the District, which LAFCO has not authorized to provide water or wastewater service and does not recharge groundwater. The District does not have water infrastructure or access to local or imported water resources, and instead promotes educational and advocacy efforts to protect groundwater. Its largest expenditure is for legal fees, and all of its expenditures are funded by the proceeds of the Levy, which has never been approved by voters.

It is our understanding that there is no debt associated with the detachment territory that would support a condition to fund contractual obligations to retire debt. The District, however, requested that LAFCO condition the reorganization as follows:

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1. A one-time payment to the District equivalent to 30 years of standby assessments, which and are currently set at \$20 per acre, amounting to \$146,400; and
2. A one-time payment from the Valley Center MWD to the District to compensate for 30 years loss of \$1,115.64 annual property tax revenue, totaling \$33,469.20.

These fiscal protections for the District were not negotiated by the County in the Revenue & Taxation Code section 99 agreement for this reorganization. Moreover, the amounts requested are miscalculated. As to the first condition, the standby assessments are currently set at \$30 per acre pursuant to Water Code section 71631.7 (rather than \$20 per acre), but this will revert to \$10 per acre in 2015 under Water Code section 71631. Therefore, thirty years of standby assessments amounts to \$30 per acre during 2014, plus \$10 per acre during 29 subsequent years, totaling \$78,080, or approximately half of the requested \$146,400. As to the second condition, the District states that annual property tax revenue associated with the detachment is \$1,115.64. However, the Property Tax Division within the County of San Diego Auditor's Office has determined that the District will lose only \$404.85 in annual property taxes, which amounts to \$12,145.50 over 30 years, or approximately one-third of the requested \$33,469.20.

At its April 7, 2014 meeting, LAFCO adopted a resolution approving the reorganization without the conditions the District requested. The District requested reconsideration by letter dated May 7, 2013 ("Request for Reconsideration"), arguing that LAFCO was not entitled to consider the lawfulness of the Levy in considering whether to impose the conditions the District sought.

The Request for Consideration also argues, for the first time, that the Levy constitutes an assessment governed by Article XIII D, sections 4 and 5 of the California Constitution. There is no evidence, however, that the Levy was imposed in the manner required by section 4. In particular, the District has not submitted the engineer's report required by subdivision (b) of section 4, and the record includes no evidence of mailed balloting to property owners, as required under subdivisions (c) and (d). Nor is there any indication that a public hearing was conducted, as required under subdivision (e).

Analysis

A. VALIDITY OF STANDBY ASSESSMENT

As discussed below, we conclude that the Levy, which has never been approved by voters, is an illegal special tax under Proposition 13 notwithstanding arguable Water Code authorization. Moreover, *Griffith* has no application here.

1. The Standby Assessment Is an Illegal Special Tax.

In *Sinclair Paint Co. v. State Board of Equalization* (1997) 15 Cal.4th 866, the California Supreme Court distinguished assessment, development and regulatory fees from special taxes that require two-thirds voter approval under Proposition 13:

The cases recognize that “tax” has no fixed meaning, and that the distinction between taxes and fees is frequently “blurred,” taking on different meanings in different contexts. In general, taxes are imposed for revenue purposes, rather than in return for a specific benefit conferred or privilege granted. ...

The “special tax” cases have involved three general categories of fees or assessments: (1) special assessments, based on the value of benefits conferred on property; (2) development fees, exacted in return for permits or other government privileges; and (3) regulatory fees, imposed under the police power. ...

The cases uniformly hold that **special assessments** on property ... in amounts reasonably reflecting the value of the benefits conferred by improvements, are not “special taxes” under article XIII A, section 4. (*Sinclair Paint, supra*, 15 Cal.4th at p. 874 [internal citations omitted; original emphasis.])

Here, the District’s activities confer no special benefit upon assessed parcels. Nor could they, because the District does not have water infrastructure or access to local or imported water resources, does not recharge groundwater, and LAFCO has never authorized the District to exercise its latent powers to provide water or wastewater service. Instead, the District engages in educational and advocacy to benefit those who rely upon groundwater, and any benefit provided from the District’s activities amounts

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to a general benefit to property owners, their tenants and visitors, and the public at large, rather than a special benefit to the property owners who are subject to the Levy.

As noted above, the District now argues that the Levy qualifies as a lawful assessment, under either section 4 or section 5 of Article XIII D of the California Constitution. The Levy does not qualify under section 4, however, because it fails to comply with either the substantive or procedural requirements of that provision. The substantive requirements of subdivision 4(a) are not satisfied, because as discussed above, there is no special benefit conferred upon property owners. Nor are the procedural requirements of subdivisions 4(b), (c) and (d) satisfied, because there is no engineer's report supporting the Levy, and there was no mailed ballot proceeding that would have allowed property owners to vote against the Levy. Similarly, the procedural requirements of subdivision 4(e) were not satisfied, because the District did not conduct a public hearing on the imposition of the Levy.

Moreover, while the District might argue that section 5 of Article XIII D grandfathers certain assessments that do not comply with procedural requirements established under section 4, the fact that the Levy predates the adoption of Article XIII D does not mean that it is grandfathered under section 5. To the contrary, an assessment that is grandfathered under section 5 must still provide a special benefit to assessed properties, which the Levy does not. Instead, the activities of the District provide only a general benefit and therefore the Levy does not pass muster under the limited exceptions listed in section 5.

Nor can the Levy be defended as a fee for service under section 6 of Article XIII D, because the service is provided to all who benefit from groundwater, whether they pay the fee or not. Thus, the Levy fails to comply with subdivision (b)(5) of section 6, which forbids fees for services that are available to the general public on the same terms as to property owners. The Levy also fails to comply with subdivision (b)(4) of section 6, which bars fees for services that are not immediately available to a parcel.

Finally, we note that the Requested Conditions are inconsistent with the agreement that was negotiated under Revenue & Taxation Code section 99 ("R&T 99 Agreement"), which embodies the only legal duties that LAFCO had to consider fiscal impacts on the District, which failed to participate in the negotiation of the agreement. At this juncture, it is unclear whether LAFCO has authority to impose fiscal conditions

to augment or amend the R&T 99 Agreement, even if it were to conclude that the Levy is lawful.

For all of these reasons, we conclude that the Levy is a special tax requiring two-thirds voter approval under section 4 of article XIII A of the California Constitution, a provision of Proposition 13. Because vote approval was never obtained, the Levy violates both Propositions 13 and 218 in our opinion.

2. Arguable Water Code Authorization does not Overcome Proposition 13.

Water Code section 71630 authorizes water standby assessments as follows:

A district by ordinance may ... fix ... in each fiscal year, a water standby assessment or availability charge in the district ... **to which water is made available by the district**, whether the water is actually used or not. (Emphasis added.)

Here, it does not appear that the District “makes water available,” because it does not have water infrastructure or access to local or imported water resources, does not recharge groundwater, and LAFCO has not authorized it to activate its latent powers to provide water or wastewater service. Accordingly, a persuasive argument can be made that the District’s standby assessment violates the Water Code as well as the Constitution.

However, Water Code section 71631.7, which pertains specifically to the District and was last amended in 2004, allows the District to impose an annual standby assessment of \$30 per acre until January 1, 2015, after which time the general limit of \$10 per acre of Water Code section 71631 will apply. Section 71631.7 is more specific than, and therefore controls over, the more general rule of section 71631 and arguably reflects legislative intent to allow the District to collect a standby assessment, notwithstanding the fact that the District does not make water available to any landowner because the Legislature likely knew of the nature of the District’s services when it passed the bill. (*Freeny v. City of San Buenaventura* (2013) 216 Cal.App.4th 1333, 1345 [specific statutes control over general statutes].)

However, even if the District has authority under the Water Code to impose a standby assessment, no statute can overcome the constitutional requirement that a special tax be approved by two-thirds of voters. (Cal Const., art. XIII A, § 4; *Dye v.*

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Council of City of Compton (1947) 80 Cal.App.2d 486, 490 ["The Constitution is the fundamental and supreme law of this state as to all matters within its scope"].) Therefore, even if the Water Code authorizes the District's assessment, we conclude the Constitution does not.

3. *Griffith* Is Inapplicable.

In *Griffith*, the plaintiff argued that the Pajaro Valley Water Management Agency does not provide "water service" within the meaning of article XIII D, section 6, subdivision (c) of the California Constitution (a provision of Proposition 218), which exempts fees for water, sewer and trash service from its requirement that property related fees be approved by property owners or voters. The Sixth Appellate District disagreed:

The Proposition 218 Omnibus Implementation Act, enacted specifically to construe Proposition 218, defines "water" as "any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water." (Gov. Code, § 53750, subd. (m).) Thus, the entity who produces, stores, supplies, treats, or distributes water necessarily provides water service. Defendant's statutory mandate to purchase, capture, store, and distribute supplemental water therefore describes water service. (*Griffith, supra*, 220 Cal.App.4th at p. 595.)

That holding does not support the District's contention that it provides water service, because unlike the Pajaro Valley Water Management Agency, the District has no "system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water," and no "statutory mandate to purchase capture, store, and distribute water." Indeed, the District does not even have LAFCO's authorization to exercise its latent powers to provide water or wastewater service.

While the activities discussed in *Griffith* (some of which may overlap with the District's activities) can be lawfully funded by the proceeds of water service fees, it does not follow that each of these activities, considered in isolation, amounts to "water service" under Article XIII D section 6, subdivision (c). Thus, *Griffith* does not support the District's claim it provides "water service".

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B. THE DISTRICT PROPERLY CONSIDERED THE LEGALITY OF THE LEVY.

The Request for Reconsideration argues that LAFCO may not consider the lawfulness of the Levy in determining whether to approve the conditions the District sought. We disagree. LAFCO is entitled to consider the lawfulness of the requested conditions and properly determined that it would be inappropriate to require developers to make the District whole for future lost revenues resulting from the reorganization.

Furthermore, whether or not the Levy is lawful, LAFCO has discretion to determine whether to impose the requested conditions, and it lawfully exercised its discretion to refuse to do so. The only legal duties LAFCO had to consider fiscal impacts on the District were to ensure the negotiation of an R&T 99 Agreement. Here, an R&T 99 Agreement is in place, although the District failed to participate in its negotiation. Because LAFCO considered the terms of the R&T 99 Agreement along with the policy implications of the requested conditions, its decision to reject the conditions is lawful.

Conclusion

As discussed above, even if the District's standby assessment is authorized under the Water Code (a debatable point), we conclude it is a special tax, which requires two-thirds voter approval and is unlawful without that approval. Moreover, *Griffith* does not alter this conclusion, and it is unclear whether LAFCO has authority to impose conditions which are inconsistent with the R&T 99 Agreement. Finally, even if LAFCO could impose the conditions the District sought, it can decline the District's request on policy grounds. While that policy judgment is one for the Commission, we conclude the conditions do not serve the policy objectives of the Cortese-Knox-Hertzberg Act, because the Levy is a special tax that has not been submitted for voter approval.

Thank you for the opportunity to assist. If we can provide any further assistance, please contact Michael at (530) 432-7359 or MColantuono@CHWLAW.US or Amy at (213) 542-5716 or ASparrow@CHWLAW.US.

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF SAN DIEGO
MAKING DETERMINATIONS, APPROVING, AND ORDERING THE
"MEADOWOOD REORGANIZATION"
(VALLEY CENTER MUNICIPAL WATER DISTRICT)**

On motion of Commissioner Pocklington, seconded by Commissioner Horn, the following resolution is adopted:

WHEREAS, a resolution of application was submitted to this Commission for annexation of territory to the Valley Center Municipal Water District, the San Diego County Water Authority, the Metropolitan Water District of Southern California, and the North County Fire Protection District, with concurrent detachment from San Luis Rey Municipal Water District, which resolution was adopted by the Board of Directors of the District as Resolution No. 2012-05, dated April 16, 2012, pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

WHEREAS, a resolution of application was submitted to this Commission for divestiture of territory from the structural fire protection and emergency medical services latent powers area of County Service Area No. 135, which resolution was adopted by the Board of Directors of the District (San Diego County Board of Supervisors) as Resolution No. 13-063, dated June 19, 2013, pursuant to Government Code Section 56824.12; and

WHEREAS, the reason for the proposed reorganization is that the property owner proposes to construct 355 single-family homes, 164 detached condominiums, 325 townhomes, a park and recreation center, and an elementary school with approximately 50 acres retained in agricultural use per Tentative Map 5354 approved by the County of San Diego. Final Tentative Map approval requires annexation for water and sewer services as well as annexation to the North County Fire Protection District; and

WHEREAS, the territory proposed for reorganization is as described in the application on file with the Local Agency Formation Commission; and

WHEREAS, the Executive Officer of the Commission has filed his report on said reorganization, which report was received and considered by the Commission; and

WHEREAS, it has been determined that the proposal consists of an annexation or detachment or a reorganization consisting of annexations or detachments, or the formation of a County Service Area. The commission hereby waives protest proceedings because all of the following have occurred: (1) mailed notice has been given to landowners and registered voters within the affected territory; (2) written notice has been given pursuant to

Government Codes Section 56000 et seq., disclosing that unless written opposition is received before conclusion of commission proceedings, the commission intends on waiving protest proceedings; and (3) the written notice has disclosed that there is the potential for extension or continuation of previously authorized charges, fees, assessments, or taxes;

NOW THEREFORE, pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000, et seq.) the Local Agency Formation Commission of the County of San Diego does hereby resolve, determine, and order as follows:

- (1) The Commission certifies, pursuant to Section 15091 of the State CEQA Guidelines, that the Commission has reviewed and considered the EIR for this project prepared by the County of San Diego. The mitigation measures approved by the County of San Diego for the impacts identified in the EIR have been adopted by the County, and that the mitigation is under the jurisdictions of the Districts and not LAFCO because the affected resources and the extension of public services will be within the boundaries of the Districts upon annexation.
- (2) The Commission adopts, pursuant to Section 15096(h) of the State CEQA Guidelines, the Findings of Fact and Statement of Overriding Considerations previously adopted by the County of San Diego as lead agency, as shown in Exhibit 1.
- (3) The Commission finds that the reorganization is in compliance with LAFCO Policy L-101 in that the project would promote the planned, orderly, efficient development of the property based on conclusions reached in the environmental document because adjacent projects are bringing infrastructure to the area.
- (4) The Commission in accordance with State Law will waive protest proceedings unless written opposition to the proposal from landowners or registered voters in the affected territory is received before the conclusion of the commission proceedings because mailed notice has been given to the subject landowners and registered voters of the proceedings and the notice disclosed that there is potential for the extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency in the affected territory.
- (5) The Commission has considered the factors enumerated in Section 56425 prior to adopting the amendment to the sphere of influence for the Valley Center Municipal Water District.
- (6) The Commission hereby approves the reorganization with boundaries as described in Exhibits A-1, A-2, and A-3 attached hereto for the reasons set forth in the Executive Officer's report, waives the conducting authority proceedings pursuant to Government Code Sections 56662 or 56663, and orders the following actions:

- (a) Annexation of the territory described in Exhibit A-1 to the Valley Center Municipal Water District, the San Diego County Water Authority, and the Metropolitan Water District of Southern California;
- (b) Detachment of the territory described in Exhibit A-2 from the San Luis Rey Municipal Water District; and
- (c) Annexation of the territory described in Exhibit A-3 to the North County Fire Protection District; and
- (d) Divestiture of the territory as described in Exhibit A-3 from County Service Area No. 135's fire and medical emergency services zone.

(7) The territory to be reorganized is hereby designated the "Meadowood Reorganization"(Valley Center Municipal Water District). The exterior boundaries of such territory, as approved by the Commission and described in Exhibits A-1, A-2, and A-3 attached hereto, are definite and certain.

(8) The territory includes 389.52 acres and the boundaries do not conform to lines of assessment and ownership.

(9) The terms and conditions of the proposed reorganization as approved by the Commission are as follows:

(a) Valley Center Municipal Water District

- 1) Pardee Homes shall pay all costs and fees associated with the proposed Meadowood Reorganization, including but not limited to the following:
 - a) All Valley Center Municipal Water District annexation and processing fees and charges; and
- 2) All water, wastewater, and recycled water service to the Proposed Territory for ownership and operation by Valley Center Municipal Water District shall be subject to, and in accordance with, the rules and regulations for Valley Center Municipal Water District.
- 3) The area to be annexed to Valley Center Municipal Water District shall be subject to all special taxes, fees, charges, and assessments currently applicable to Valley Center Municipal Water District, San Diego County Water Authority, and Metropolitan Water District of Southern California and/or other agency charges.
- 4) The area to be annexed to Valley Center Municipal Water District shall be subject to all ad valorem property taxes, assessments, fees, and Standby/Availability charges that apply

to Valley Center Municipal Water District and relate to the area to be annexed to Valley Center Municipal Water District that are in existence on the effective date of the Meadowood Reorganization.

- 5) The area to be annexed to Valley Center Municipal Water District shall be subject to taxation after annexation thereof including the payment of principal and interest on bonds and other obligations of Valley Center Municipal Water District and/or outstanding at the time of annexation, in the same manner as if the annexed area had always been part of Valley Center Municipal Water District.

(b) North County Fire Protection District

- 1) Prior to recordation of the Meadowood Reorganization, Pardee shall enter into an agreement with the District establishing the timing for payment to the District the following annexation fees:
 - a) \$1,000 for each acre or portion of an acre within Meadowood. \$390,000 to be paid to District upon the annexation becoming final.
 - b) \$500 for each dwelling unit within Meadowood to be paid to the District as each building permit is issued by the County for a residential unit within Meadowood.
 - c) \$1,000 for any commercial/industrial structure. \$1,000 to be paid to District as each building permit is issued by the County for a commercial or industrial building within Meadowood.
- 2) Pardee agrees to file an application with the County of San Diego and pursue County's processing and approval of the application to form a CFD/Mello Roos district (or a similar funding mechanism) that will collect and pay to the District an amount no greater than 5% of the 1% real property taxes disbursed by the State of California to the County of San Diego. These CFD/Mello Roos funds will supplement the portion of the real property taxes that the District currently receives as a disbursement from the County of San Diego for District operating and maintenance expenses (as per tax exchange rate agreement previously approved by the Board of Supervisors in the year 2013).
- 3) District agrees that the Meadowood Community will not be subject to existing bonded indebtedness or contractual obligations because no such indebtedness or obligation exists,

or will exist, at the time the Meadowood Reorganization will become final.

(c) LAFCO

- 1) Annexation to the Metropolitan Water District of Southern California (MET) and the San Diego County Water Authority (CWA) subject to the terms and conditions of the MET and CWA.
 - 2) Removal/divestiture of the entire Meadowood ownership consisting of 390[±] acres from the fire and emergency medical services zone of County Service Area No. 135 is contingent upon annexation of that territory to the North County Fire Protection District.
- (10) These districts are registered-voter districts.
- (11) The regular County assessment role is utilized by these districts.
- (12) The affected territory will not be taxed for existing general bonded indebtedness of any agencies whose boundaries are changed.
- (13) The effective date for this annexation shall be the date of recordation but not before May 7, 2014.
- (14) The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Sections 56880-56882 of the Government Code.
- (15) The Executive Officer is further authorized and directed to prepare, execute, and record a Certificate of Completion, make the required filings with the County Assessor, County Auditor, and the State Board of Equalization as required by Section 57200, et seq., of the Government Code.

Passed and adopted by the Local Agency Formation Commission of the County of San Diego this 7th day of April, 2014, by the following vote:

AYES: Commissioners Abed, Horn, Ingalls, Jacob, Janney, Pocklington and Vanderlaan

NOES: None

ABSENT: Alternate Commissioners Cox and Lightner

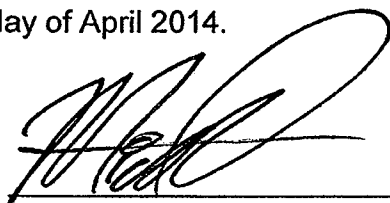
ABSTAINING: None

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

I, MICHAEL D. OTT, Executive Officer of the Local Agency Formation Commission of the County of San Diego, State of California, hereby certify that I have compared the foregoing copy with the original resolution adopted by said Commission at its regular meeting on April 7, 2014, which original resolution is now on file in my office; and that same contains a full, true, and correct transcript therefrom and of the whole thereof.

Witness my hand this 7th day of April 2014.



MICHAEL D. OTT, Executive Officer
San Diego Local Agency Formation Commission

ENVIRONMENTAL FINDINGS
MEADOWOOD MASTER PLANNED COMMUNITY
GPA04-002; SP04-001; R04-004; TM5354RPL⁴; S04-005, S04-006, S04-007; P08-023;
and Log No. ER 04-02-004;
SCH #2004051028

1. Find that the Planning Commission has reviewed and considered the Environmental Impact Report (EIR) for the proposed project dated August 12, 2011, on file with the Department of Planning and Land Use as Environmental Review Number 04-02-004, before making its recommendation on the project.
2. Certify that the Environmental Impact Report (EIR) dated January 11, 2012, on file with the Department of Planning and Land Use as Environmental Review Number 04-02-004, has been completed in compliance with CEQA and the State CEQA Guidelines, that the Board of Supervisors reviewed and considered the information contained therein before and approved the project, and that the EIR reflects the independent judgment and analysis of the Board of Supervisors.
3. Adopt the findings concerning mitigation of significant environmental effects pursuant to State CEQA Guidelines Section 15091. (Attachment K)
4. Adopt the Decision and Explanation Regarding Recirculation of the Draft Environmental Impact Report pursuant to State CEQA Guidelines section 15088.5(e). (Attachment K)
5. Adopt the Statement of Overriding Considerations pursuant to State CEQA Guidelines section 15093. (Attachment K)
6. Find that the proposed project is consistent with the Resource Protection Ordinance (County Code, section 86.601 et seq.).
7. Find that plans and documentation have been prepared for the proposed project that demonstrate that the project complies with the Watershed Protection, Stormwater Management, and Discharge Control Ordinance (County Code, section 67.801 et seq.).
8. Adopt the Mitigation and Monitoring Program as incorporated into the project conditions of approval pursuant to CEQA Guidelines section 15091(d).

Approved by the Local Agency Formation
Commission of San Diego

APR - 7 2014



STATEMENT OF OVERRIDING CONSIDERATIONS
MEADOWOOD PROJECT
SP04-001; GPA04-002; R04-004; TM5354; S04-005, S04-006, S04-007; P08-023;
and Log No. ER 04-02-004; SCH #2004051028

January 11, 2012

Background

Pursuant to Section 21081 of the California Environmental Quality Act (CEQA) and Section 15091 of the State CEQA Guidelines, the County of San Diego Board of Supervisors ("Board") finds that mitigation was not feasible for: (1) temporary, short-term adverse visual impacts related to project construction; (2) significant cumulative impacts related to overall changes in view composition from surrounding areas; (3) significant, direct short-term traffic/transportation impacts to segments of State Route 76 [EIR (dated 4/11/11) page 2.3-16 indicates that the project will have significant and unmitigated long term direct and cumulative impacts]; (4) significant air quality impacts during Project operation; and (5) significant cumulative air quality impacts related to inconsistency with RAQS and applicable SIP.

Significant temporary, short-term adverse visual impacts would occur during the proposed construction due to removal of existing vegetation and the introduction of new, visually dominant elements such as cut or fill slopes, construction fencing, construction equipment, and construction materials stockpiling and storage, which would cause the site character to temporarily conflict with the surrounding characteristics (Impact A-1, as discussed in EIR Section 2.1.3 and in the Visual Impact Assessment [VIA]). With regard to construction-period effects, phasing of the construction activities would restrict the amount of site under active build at any one time. Installation of landscaping subsequent to each construction phase (hydroseeding) would also help to minimize visual effects of grading activities and building construction. Nonetheless, incompatible changes to the existing visual character due to construction-period effects related to vegetation removal and the introduction of built elements into a rural setting would degrade the quality of views from the surrounding areas in the short term. No feasible mitigation beyond Project design features already incorporated is available for these impacts.

Implementation of the Proposed Project in combination with cumulative projects would result in significant cumulative impacts related to overall changes in view composition from surrounding areas (Impacts A-2 and A-3, as discussed in EIR Section 2.1.4 and in the VIA). The Proposed Project has been designed to include a number of important elements that serve to avoid a majority of the potential significant impacts to visual resources. Project design features such as landscaping, building setbacks, and architectural details all would help to reduce the visual impacts created by the Proposed Project by screening buildings and lighting at Project buildout. These features would not affect the dominance of the cumulative projects due to their scale; and therefore would not reduce the Project's contribution to cumulative visual impacts to less than significant levels. In addition, while each of the cumulative projects will likely provide design measures, like the Proposed Project, to reduce direct visual impacts, the cumulative visual change in the region is unavoidable. These effects remain unmitigable and long-term for Impacts A-2 and A-3.

For significant direct traffic/transportation impacts along State Route (SR) 76 between Via Monserate to Gird Road and from the I-15 Southbound Ramp to I-15 Northbound Ramp (Impact TR-2), the changes or alterations are within the responsibility and jurisdiction of another government agency and have been adopted by that other agency. These direct impacts are

contains smart growth features, which would serve to reduce motor vehicle use, a major goal of the RAQS Transportation Control Measures (TCMs), this would not eliminate this inconsistency with RAQS for the SDAB. This inconsistency can only be rectified when SANDAG updates the RAQS based on the growth projections after the Proposed Project has been approved. Therefore, upon implementation of the Proposed Project, the direct and cumulative impacts will remain significant and unmitigable.

Pursuant to Section 15093 of the State CEQA Guidelines, when the lead agency approves a project that may result in the occurrence of significant effects that are identified in the Final Environmental Impact Report (EIR), but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record.

Statement of Overriding Considerations

The Board declares that it has adopted all feasible mitigation measures with respect to the above-remaining unavoidable significant effects, and finds that they are acceptable due to each of the specific economic, legal, social, technological, or other Overriding Benefits that will result from approval and implementation of the Proposed Project, as listed below. All of these benefits are based on the facts set forth in the CEQA Findings Regarding Significant Effects, the Final EIR, and the record of the proceedings for the Proposed Project. Each of these benefits is a separate and independent basis that justifies approval of the Proposed Project, so that if a court were to set aside the determination that any particular benefit will occur, the Board finds that it would stand by its determination that the remaining benefit(s) are sufficient to warrant Proposed Project approval.

Overriding Benefits

The Board finds that the Proposed Project would have the following substantial Overriding Benefits:

1. The Proposed Project will preserve a substantial block of biological open space. Specifically, the Project will preserve 122.4 acres of land of which 115.6 acres will be dedicated as part of the proposed North County MSCP preserve. Since only 65.8 acres are required for mitigation, the Project will preserve 49.8 acres in excess of that required to mitigate impacts to sensitive biological resources.

County by contributing a range of housing types to County residents who may otherwise be unable to reside in this part of the County.

8. The Proposed Project will participate in the contribution of funds for the acquisition, design and construction of a Transit Node. The Transit Node will provide a benefit to the County by contributing to a public transportation-friendly community which will reduce miles driven, and support basin-wide and localized reductions in air emissions.
9. The Proposed Project, in conjunction with other projects in the area, will contribute to the construction of a future sheriff's station. The new facility, to be located along the I-15 corridor, will provide a benefit to the County by contributing to increased law enforcement capabilities required to adequately serve the future and existing surrounding communities.

EXHIBIT A

PROPOSED ANNEXATION TO VALLEY CENTER MUNICIPAL WATER DISTRICT

THAT PORTION OF FRACTIONAL SECTION 36, TOWNSHIP 9 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, TOGETHER WITH A PORTION OF RANCHO MONSERATE, ACCORDING TO MAP NO. 827 ON FILE IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, CALIFORNIA BEING DESCRIBED AS FOLLOWS:

COMMENCING AT CORNER NO. 1 AS SHOWN ON MAP OF A PORTION OF RANCHO MONSERATE, ACCORDING TO MAP NO. 827 ON FILE IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, CALIFORNIA, THE EAST ¼ CORNER OF FRACTIONAL SECTION 36 BEARS NORTH 02°12'43" EAST A DISTANCE OF 2612.27 FEET; THENCE LEAVING SAID POINT OF COMMENCEMENT AND ALONG THE EASTERLY LINE OF SAID SECTION 36, NORTH 02°12'43" EAST 1120.10 FEET TO THE POINT OF BEGINNING;

1. THENCE LEAVING SAID EASTERLY LINE NORTH 72°47'22" WEST 369.00 FEET;
2. THENCE NORTH 47°47'22" WEST 536.00 FEET;
3. THENCE SOUTH 44°12'00" WEST 703.00 FEET;
4. THENCE SOUTH 15°13'42" EAST 228.00 FEET;
5. THENCE SOUTH 81°12'38" WEST 93.00 FEET;
6. THENCE SOUTH 55°42'38" WEST 93.00 FEET;
7. THENCE NORTH 67°47'22" WEST 760.00 FEET;
8. THENCE SOUTH 64°12'38" WEST 823.59 FEET TO THE WESTERLY SIDELINE OF THE 60.00 FOOT WIDE EASEMENT DESCRIBED IN DEED RECORDED APRIL 13, 1981 AS FILE NO. 81-112046 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;
9. THENCE ALONG SAID WESTERLY SIDELINE THE FOLLOWING COURSES: SOUTH 25°20'32" EAST 208.85 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET;
10. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°23'00" A DISTANCE OF 110.92 FEET;
11. THENCE SOUTH 12°02'28" WEST 248.63 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
12. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°02'00" A DISTANCE OF 32.25 FEET;
13. THENCE SOUTH 04°00'28" WEST 665.08 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
14. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°46'00" A DISTANCE OF 99.42 FEET;
15. THENCE SOUTH 20°45'32" EAST 174.56 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET;

Approved by the Local Agency Formation
Commission of San Diego

APR - 7 2014

Michael D. Hill

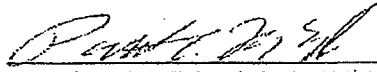
16. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°19'48" A DISTANCE OF 30.65 FEET;
17. THENCE SOUTH 10°25'44" EAST 301.07 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
18. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°09'59" A DISTANCE OF 44.82 FEET;
19. THENCE SOUTH 21°35'43" EAST 1098.52 FEET TO THE NORTHERLY SIDELINE OF COUNTY HIGHWAY COMMISSION ROUTE 18, DIVISION 1 (PALA ROAD);
20. THENCE LEAVING THE WESTERLY SIDELINE OF SAID 60.00 FOOT WIDE EASEMENT SOUTH 21°35'43" EAST 329.97 FEET TO THE BEGINNING OF A NON-TANGENT 1722.44 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY TO WHICH A RADIAL LINE BEARS SOUTH 21°24'34" EAST;
21. THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°45'45" A DISTANCE OF 323.55 FEET;
22. THENCE NON-TANGENT TO SAID CURVE NORTH 15°00'00" WEST 21.19 FEET;
23. THENCE SOUTH 83°00'00" WEST 51.00 FEET;
24. THENCE SOUTH 05°00'00" EAST 21.00 FEET;
25. THENCE SOUTH 40°00'00" WEST 3.96 FEET TO THE BEGINNING OF A NON-TANGENT 1722.44 FOOT RADIUS CURVE CONCAVE NORTHERLY TO WHICH A RADIAL LINE BEARS SOUTH 08°43'46" EAST;
26. THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°09'14" A DISTANCE OF 124.88 FEET;
27. THENCE NON-TANGENT TO SAID CURVE NORTH 04°34'32" WEST 6.57 FEET;
28. THENCE SOUTH 85°25'28" WEST 143.14 FEET;
29. THENCE SOUTH 89°37'04" WEST 314.40 FEET TO THE WESTERLY BOUNDARY OF LAND DESCRIBED IN DEED RECORDED APRIL 14, 1978 AS FILE NO. 78-149646 OF OFFICIAL RECORDS, BEING THE SOUTHERLY TERMINUS OF THE LINE DESCRIBED AS NORTH 03°49'46" WEST 2479.80 FEET IN SAID DEED;
30. THENCE ALONG SAID WESTERLY BOUNDARY NORTH 03°49'38" WEST 2480.11 FEET;
31. THENCE CONTINUING ALONG SAID WESTERLY BOUNDARY NORTH 26°41'47" WEST 1561.66 FEET TO THE SOUTHERLY BOUNDARY OF LAND DESCRIBED AS PARCEL 1A OF CERTIFICATE OF COMPLIANCE, RECORDED MARCH 25, 1983 AS FILE NO. 83-095254 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;
32. THENCE ALONG THE BOUNDARY OF SAID PARCEL 1A NORTH 26°41'47" WEST 32.19 FEET;
33. THENCE NORTH 00°02'58" EAST 1328.09 FEET;
34. THENCE NORTH 65°22'42" EAST 681.59 FEET TO THE SOUTHERLY TERMINUS OF A LINE DESCRIBED AS NORTH 06°09'01" WEST 239.79 FEET ACCORDING TO DEED TO DAON CORPORATION, RECORDED MARCH 27, 1981 AS FILE NO. 81-092782 OF OFFICIAL RECORDS;
35. THENCE ALONG THE EASTERLY BOUNDARY OF DAON CORPORATION PROPERTY THE FOLLOWING COURSES: NORTH 06°12'08" WEST 239.82 FEET;
36. THENCE NORTH 14°06'59" EAST 123.37 FEET;
37. THENCE NORTH 49°12'04" EAST 664.01 FEET
38. THENCE NORTH 47°46'04" EAST 221.11 FEET;

39. THENCE NORTH 24°37'43" WEST 1588.78 FEET TO THE NORTHERLY BOUNDARY OF RANCHO MONSERATE;
40. THENCE LEAVING SAID BOUNDARY OF DAON CORPORATION PROPERTY, AND ALONG THE NORTHERLY BOUNDARY OF RANCHO MONSERATE SOUTH 87°28'07" EAST 83.69;
41. THENCE LEAVING SAID NORTHERLY BOUNDARY SOUTH 24°50'26" EAST 211.82 FEET;
42. THENCE SOUTH 41°21'02" EAST 325.65 FEET;
43. THENCE SOUTH 36°24'13" EAST 65.36 FEET;
44. THENCE SOUTH 01°11'40" EAST 74.70 FEET;
45. THENCE SOUTH 12°08'24" EAST 184.62 FEET;
46. THENCE SOUTH 02°57'41" EAST 52.62 FEET;
47. THENCE SOUTH 24°42'16" EAST 135.96 FEET;
48. THENCE NORTH 60°55'02" EAST 543.16 FEET;
49. THENCE NORTH 10°05'56" EAST 213.68 FEET;
50. THENCE NORTH 54°29'09" EAST 39.24 FEET;
51. THENCE NORTH 13°57'35" EAST 227.25 FEET;
52. THENCE SOUTH 81°00'42" EAST 306.31 FEET;
53. THENCE SOUTH 43°25'25" EAST 195.38 FEET;
54. THENCE SOUTH 08°45'22" WEST 181.25 FEET;
55. THENCE SOUTH 51°37'59" EAST 130.66 FEET;
56. THENCE SOUTH 06°33'25" EAST 263.91 FEET
57. THENCE SOUTH 18°50'50" WEST 225.70 FEET;
58. THENCE SOUTH 37°43'08" WEST 144.16 FEET;
59. THENCE SOUTH 04°58'13" WEST 229.66 FEET;
60. THENCE SOUTH 19°37'26" EAST 181.55 FEET;
61. THENCE SOUTH 39°57'08" EAST 149.31 FEET;
62. THENCE SOUTH 74°23'30" EAST 360.80 FEET;
63. THENCE SOUTH 39°27'16" EAST 104.27 FEET;
64. THENCE NORTH 47°44'11" EAST 154.49 FEET;
65. THENCE NORTH 81°11'35" EAST 30.32 FEET;
66. THENCE SOUTH 06°43'27" EAST 235.00 FEET;
67. THENCE NORTH 87°10'13" EAST 101.01 FEET;
68. THENCE SOUTH 03°53'00" EAST 442.76 FEET;
69. THENCE SOUTH 81°23'41" EAST 200.27 FEET;
70. THENCE SOUTH 01°42'24" EAST 178.15 FEET;
71. THENCE SOUTH 16°27'33" WEST 81.56 FEET;
72. THENCE SOUTH 04°24'51" WEST 7.93 FEET;
73. THENCE SOUTH 07°38'10" EAST 331.12 FEET;
74. THENCE SOUTH 47°14'35" WEST 156.53 FEET;
75. THENCE SOUTH 06°57'11" WEST 201.93 FEET;
76. THENCE SOUTH 60°30'31" EAST 358.64 FEET;
77. THENCE SOUTH 11°43'16" EAST 65.63 FEET;
78. THENCE NORTH 75°17'30" EAST 89.34 FEET;
79. THENCE NORTH 43°06'44" EAST 217.42 FEET;
80. THENCE NORTH 38°04'39" WEST 153.54 FEET;
81. THENCE NORTH 19°20'33" WEST 87.97 FEET;
82. THENCE NORTH 86°24'00" WEST 194.59 FEET;

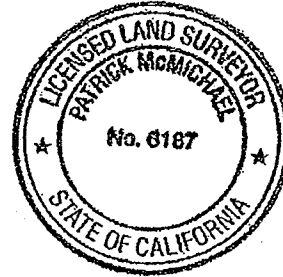
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83. THENCE NORTH 00°00'06" WEST 583.43 FEET;
84. THENCE NORTH 89°59'54" EAST 243.50 FEET;
85. THENCE SOUTH 08°06'39" EAST 541.42 FEET;
86. THENCE SOUTH 19°24'11" EAST 388.03 FEET;
87. THENCE SOUTH 80°23'38" EAST 208.46 FEET TO THE EASTERLY LINE OF FRACTIONAL SECTION 36;
88. THENCE ALONG SAID EASTERLY LINE, SOUTH 02°12'43" WEST 564.52 FEET TO THE POINT OF BEGINNING.

CONTAINING 266.945 ACRES, MORE OR LESS.


Patrick A. McMichael, L.S. 6187

3-28-2012
Date



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EXHIBIT A

PROPOSED DETACHMENT FROM THE SAN LUIS REY MUNICIPAL WATER DISTRICT

THAT PORTION OF FRACTIONAL SECTION 36, TOWNSHIP 9 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, TOGETHER WITH A PORTION OF RANCHO MONSERATE, ACCORDING TO MAP NO. 827 ON FILE IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, CALIFORNIA BEING DESCRIBED AS FOLLOWS:

COMMENCING AT CORNER NO. 1 AS SHOWN ON MAP OF A PORTION OF RANCHO MONSERATE, ACCORDING TO MAP NO. 827 ON FILE IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, CALIFORNIA, THE EAST $\frac{1}{4}$ CORNER OF FRACTIONAL SECTION 36 BEARS NORTH 02°12'43" EAST A DISTANCE OF 2612.27 FEET; THENCE LEAVING SAID POINT OF COMMENCEMENT AND ALONG THE EASTERLY LINE OF SAID SECTION 36, NORTH 02°12'43" EAST 1120.10 FEET TO **THE POINT OF BEGINNING;**

1. THENCE LEAVING SAID EASTERLY LINE NORTH 72°47'22" WEST 369.00 FEET;
2. THENCE NORTH 47°47'22" WEST 536.00 FEET;
3. THENCE SOUTH 44°12'00" WEST 703.00 FEET;
4. THENCE SOUTH 15°13'42" EAST 228.00 FEET;
5. THENCE SOUTH 81°12'38" WEST 93.00 FEET;
6. THENCE SOUTH 55°42'38" WEST 93.00 FEET;
7. THENCE NORTH 67°47'22" WEST 760.00 FEET;
8. THENCE SOUTH 64°12'38" WEST 823.59 FEET TO THE WESTERLY SIDELINE OF THE 60.00 FOOT WIDE EASEMENT DESCRIBED IN DEED RECORDED APRIL 13, 1981 AS FILE NO. 81-112046 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;
9. THENCE ALONG SAID WESTERLY SIDELINE THE FOLLOWING COURSES: SOUTH 25°20'32" EAST 208.85 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET;
10. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°23'00" A DISTANCE OF 110.92 FEET;
11. THENCE SOUTH 12°02'28" WEST 248.63 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
12. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°02'00" A DISTANCE OF 32.25 FEET;
13. THENCE SOUTH 04°00'28" WEST 665.08 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
14. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°46'00" A DISTANCE OF 99.42 FEET;
15. THENCE SOUTH 20°45'32" EAST 174.56 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET;

EXHIBIT A-2

Approved by the Local Agency Formation
Commission of San Diego

APR - 7 2014

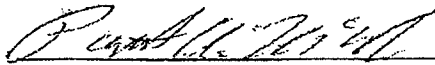


16. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°19'48" A DISTANCE OF 30.65 FEET;
17. THENCE SOUTH 10°25'44" EAST 301.07 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
18. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°09'59" A DISTANCE OF 44.82 FEET;
19. THENCE SOUTH 21°35'43" EAST 1098.52 FEET TO THE NORTHERLY SIDELINE OF COUNTY HIGHWAY COMMISSION ROUTE 18, DIVISION 1 (PALA ROAD);
20. THENCE LEAVING THE WESTERLY SIDELINE OF SAID 60.00 FOOT WIDE EASEMENT SOUTH 21°35'43" EAST 329.97 FEET TO THE BEGINNING OF A NON-TANGENT 1722.44 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY TO WHICH A RADIAL LINE BEARS SOUTH 21°24'34" EAST;
21. THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°45'45" A DISTANCE OF 323.55 FEET;
22. THENCE NON-TANGENT TO SAID CURVE NORTH 15°00'00" WEST 21.19 FEET;
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24. THENCE SOUTH 05°00'00" EAST 21.00 FEET;
25. THENCE SOUTH 40°00'00" WEST 3.96 FEET TO THE BEGINNING OF A NON-TANGENT 1722.44 FOOT RADIUS CURVE CONCAVE NORTHERLY TO WHICH A RADIAL LINE BEARS SOUTH 08°43'46" EAST;
26. THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°09'14" A DISTANCE OF 124.88 FEET;
27. THENCE NON-TANGENT TO SAID CURVE NORTH 04°34'32" WEST 6.57 FEET;
28. THENCE SOUTH 85°25'28" WEST 143.14 FEET;
29. THENCE SOUTH 89°37'04" WEST 314.40 FEET TO THE WESTERLY BOUNDARY OF LAND DESCRIBED IN DEED RECORDED APRIL 14, 1978 AS FILE NO. 78-149646 OF OFFICIAL RECORDS, BEING THE SOUTHERLY TERMINUS OF THE LINE DESCRIBED AS NORTH 03°49'46" WEST 2479.80 FEET IN SAID DEED;
30. THENCE ALONG SAID WESTERLY BOUNDARY NORTH 03°49'38" WEST 2480.11 FEET;
31. THENCE CONTINUING ALONG SAID WESTERLY BOUNDARY NORTH 26°41'47" WEST 1561.66 FEET TO THE SOUTHERLY BOUNDARY OF LAND DESCRIBED AS PARCEL 1A OF CERTIFICATE OF COMPLIANCE, RECORDED MARCH 25, 1983 AS FILE NO. 83-095254 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;
32. THENCE ALONG THE BOUNDARY OF SAID PARCEL 1A NORTH 26°41'47" WEST 32.19 FEET;
33. THENCE NORTH 00°02'58" EAST 1328.09 FEET;
34. THENCE NORTH 65°22'42" EAST 681.59 FEET TO THE SOUTHERLY TERMINUS OF A LINE DESCRIBED AS NORTH 06°09'01" WEST 239.79 FEET ACCORDING TO DEED TO DAON CORPORATION, RECORDED MARCH 27, 1981 AS FILE NO. 81-092782 OF OFFICIAL RECORDS;
35. THENCE LEAVING SAID BOUNDARY OF DAON CORPORATION PROPERTY: NORTH 67°03'38" EAST 720.57 FEET;
36. THENCE NORTH 72°47'13" EAST 483.54 FEET;
37. THENCE SOUTH 15°56'45" EAST 57.87 FEET;
38. THENCE NORTH 79°30'29" EAST 109.12 FEET;

J15956-A

39. THENCE SOUTH 26°33'58" EAST 97.75 FEET;
40. THENCE SOUTH 89°43'01" EAST 2068.36 FEET; TO THE EASTERLY LINE OF FRACTIONAL SECTION 36;
41. THENCE ALONG SAID EASTERLY LINE, SOUTH 02°16'45" WEST 604.73 FEET; THE POINT OF BEGINNING.
42. THENCE CONTINUING ALONG SAID EASTERLY LINE SOUTH 02°12'43" WEST 1492.17 FEET TO THE POINT OF BEGINNING.

CONTAINING 243.428 ACRES, MORE OR LESS.



Patrick A. McMichael, L.S. 6187

4.3.2017

Date

Ec:k:files/15956/15956A_San_Luis_Rey

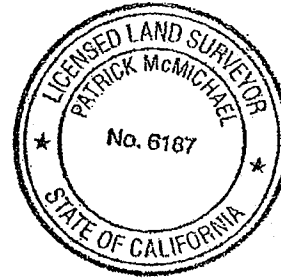


EXHIBIT A

**PROPOSED ANNEXABLE AREA TO NORTH COUNTY FIRE PROTECTION
DISTRICT/DETACHMENT FROM COUNTY COMMUNITY SERVICES
DEPARTMENT**

THAT PORTION OF FRACTIONAL SECTION 36, TOWNSHIP 9 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, TOGETHER WITH A PORTION OF RANCHO MONSERATE, ACCORDING TO MAP NO. 827 ON FILE IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, CALIFORNIA BEING DESCRIBED AS FOLLOWS:

BEGINNING AT CORNER NO. 1 AS SHOWN ON MAP OF A PORTION OF RANCHO MONSERATE, ACCORDING TO MAP NO. 827 ON FILE IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, CALIFORNIA, THE EAST ¼ CORNER OF FRACTIONAL SECTION 36 BEARS NORTH 02°12'43" EAST A DISTANCE OF 2612.27 FEET; THENCE ALONG THE EASTERLY LINE OF SAID SECTION 36, NORTH 02°12'43" EAST 1120.10 FEET TO THE **TRUE POINT OF BEGINNING;**

1. THENCE LEAVING SAID EASTERLY LINE NORTH 72°47'22" WEST 369.00 FEET;
2. THENCE NORTH 47°47'22" WEST 536.00 FEET;
3. THENCE SOUTH 44°12'00" WEST 703.00 FEET;
4. THENCE SOUTH 15°13'42" EAST 228.00 FEET;
5. THENCE SOUTH 81°12'38" WEST 93.00 FEET;
6. THENCE SOUTH 55°42'38" WEST 93.00 FEET;
7. THENCE NORTH 67°47'22" WEST 760.00 FEET;
8. THENCE SOUTH 64°12'38" WEST 823.59 FEET TO THE WESTERLY SIDELINE OF THE 60.00 FOOT WIDE EASEMENT DESCRIBED IN DEED RECORDED APRIL 13, 1981 AS FILE NO. 81-112046 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;
9. THENCE ALONG SAID WESTERLY SIDELINE THE FOLLOWING COURSES: SOUTH 25°20'32" EAST 208.85 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET;
10. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°23'00" A DISTANCE OF 110.92 FEET;
11. THENCE SOUTH 12°02'28" WEST 248.63 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
12. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°02'00" A DISTANCE OF 32.25 FEET;
13. THENCE SOUTH 04°00'28" WEST 665.08 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
14. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°46'00" A DISTANCE OF 99.42 FEET;

Approved by the Local Agency Formation
Commission of San Diego

EXHIBIT A-3

APR - 7 2014



15. THENCE SOUTH 20°45'32" EAST 174.56 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET;
16. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°19'48" A DISTANCE OF 30.65 FEET;
17. THENCE SOUTH 10°25'44" EAST 301.07 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 230.00 FEET;
18. THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°09'59" A DISTANCE OF 44.82 FEET;
19. THENCE SOUTH 21°35'43" EAST 1098.52 FEET TO THE NORTHERLY SIDELINE OF COUNTY HIGHWAY COMMISSION ROUTE 18, DIVISION 1 (PALA ROAD);
20. THENCE LEAVING THE WESTERLY SIDELINE OF SAID 60.00 FOOT WIDE EASEMENT SOUTH 21°35'43" EAST 329.97 FEET TO THE BEGINNING OF A NON-TANGENT 1722.44 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY TO WHICH A RADIAL LINE BEARS SOUTH 21°24'34" EAST;
21. THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°45'45" A DISTANCE OF 323.55 FEET;
22. THENCE NON-TANGENT TO SAID CURVE NORTH 15°00'00" WEST 21.19 FEET;
23. THENCE SOUTH 83°00'00" WEST 51.00 FEET;
24. THENCE SOUTH 05°00'00" EAST 21.00 FEET;
25. THENCE SOUTH 40°00'00" WEST 3.96 FEET TO THE BEGINNING OF A NON-TANGENT 1722.44 FOOT RADIUS CURVE CONCAVE NORTHERLY TO WHICH A RADIAL LINE BEARS SOUTH 08°43'46" EAST;
26. THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°09'14" A DISTANCE OF 124.88 FEET;
27. THENCE NON-TANGENT TO SAID CURVE NORTH 04°34'32" WEST 6.57 FEET;
28. THENCE SOUTH 85°25'28" WEST 143.14 FEET;
29. THENCE SOUTH 89°37'04" WEST 314.40 FEET TO THE WESTERLY BOUNDARY OF LAND DESCRIBED IN DEED RECORDED APRIL 14, 1978 AS FILE NO. 78-149646 OF OFFICIAL RECORDS, BEING THE SOUTHERLY TERMINUS OF THE LINE DESCRIBED AS NORTH 03°49'46" WEST 2479.80 FEET IN SAID DEED;
30. THENCE ALONG SAID WESTERLY BOUNDARY NORTH 03°49'38" WEST 2480.11 FEET;
31. THENCE CONTINUING ALONG SAID WESTERLY BOUNDARY NORTH 26°41'47" WEST 1561.66 FEET TO THE SOUTHERLY BOUNDARY OF LAND DESCRIBED AS PARCEL 1A OF CERTIFICATE OF COMPLIANCE, RECORDED MARCH 25, 1983 AS FILE NO. 83-095254 OF OFFICIAL RECORDS OF SAN DIEGO COUNTY;
32. THENCE ALONG THE BOUNDARY OF SAID PARCEL 1A NORTH 26°41'47" WEST 32.19 FEET;
33. THENCE NORTH 00°02'58" EAST 1328.09 FEET;
34. THENCE NORTH 65°22'42" EAST 681.59 FEET TO THE SOUTHERLY TERMINUS OF A LINE DESCRIBED AS NORTH 06°09'01" WEST 239.79 FEET ACCORDING TO DEED TO DAON CORPORATION, RECORDED MARCH 27, 1981 AS FILE NO. 81-092782 OF OFFICIAL RECORDS;
35. THENCE ALONG THE EASTERLY BOUNDARY OF DAON CORPORATION PROPERTY THE FOLLOWING COURSES: NORTH 06°12'08" WEST 239.82 FEET;
36. THENCE NORTH 14°06'59" EAST 123.37 FEET;

37. THENCE NORTH 49°12'04" EAST 664.01 FEET
38. THENCE NORTH 47°46'04" EAST 221.11 FEET;
39. THENCE NORTH 24°37'43" WEST 1588.78 FEET TO THE NORTHERLY BOUNDARY OF RANCHO MONSERATE;
40. THENCE LEAVING SAID BOUNDARY OF DAON CORPORATION PROPERTY, AND ALONG THE NORTHERLY BOUNDARY OF SAID RANCHO MONSERATE SOUTH 87°28'07" EAST 676.24 FEET TO CORNER NO. 21 OF SAID RANCHO MONSERATE;
41. THENCE LEAVING SAID NORTHERLY BOUNDARY ALONG THE NORTHERLY LINE OF SAID FRACTIONAL SECTION 36 NORTH 87°38'24" EAST 2592.01 FEET TO THE NORTHEAST CORNER OF SAID FRACTIONAL SECTION 36;
42. THENCE LEAVING SAID NORTHERLY LINE ALONG THE EASTERLY LINE OF SAID FRACTIONAL SECTION 36 SOUTH 02°17'19" EAST 2777.60 FEET TO THE EAST QUARTER CORNER OF SAID FRACTIONAL SECTION 36;
43. THENCE CONTINUING ALONG SAID EASTERLY LINE SOUTH 02°12'43" WEST 1492.17 FEET TO THE **TRUE POINT OF BEGINNING.**

CONTAINING 389.525 ACRES, MORE OR LESS.



Patrick A. McMichael, L.S. 6187

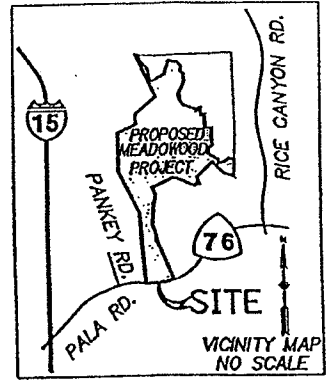
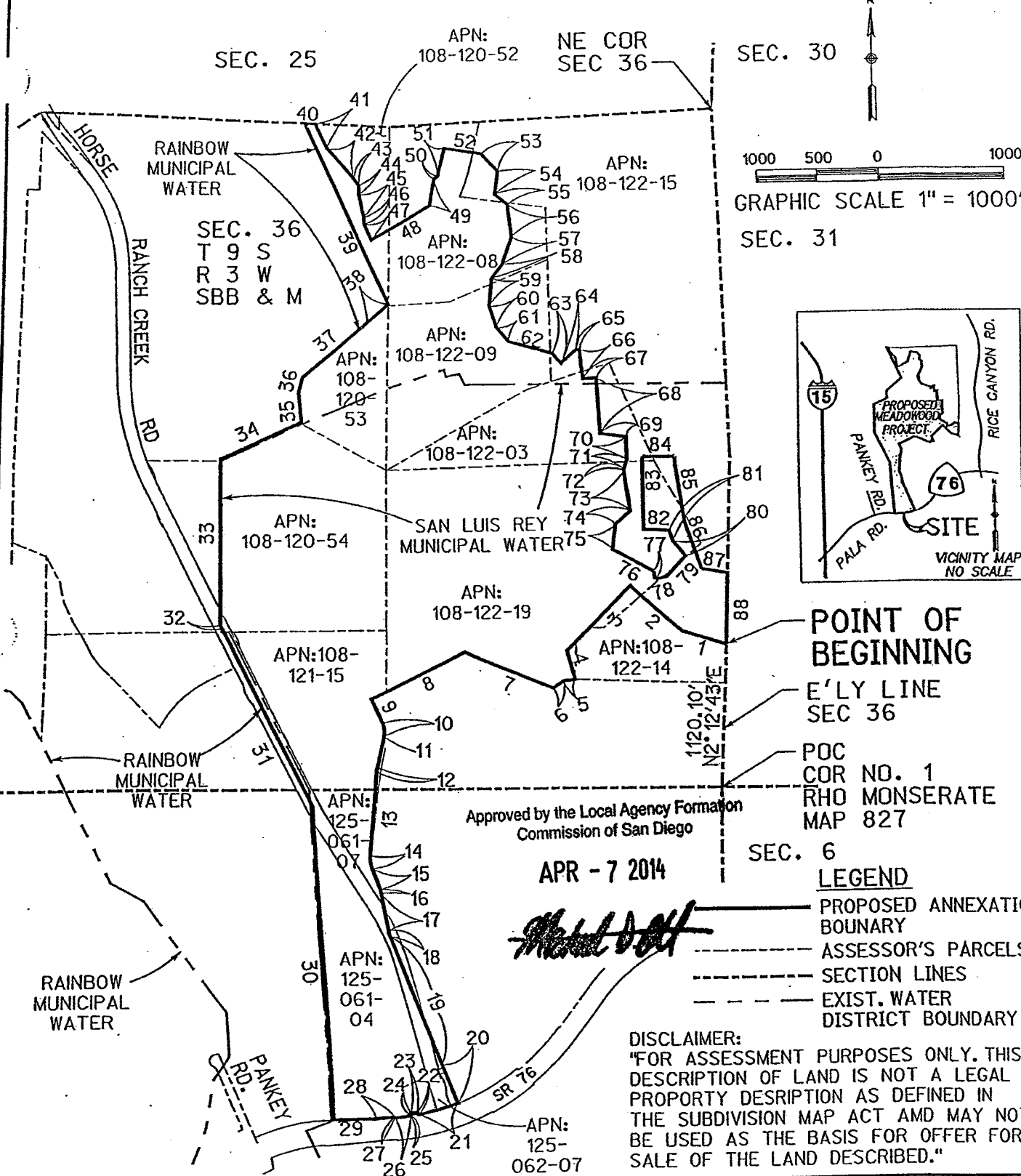
1-10-2013

Date

Ec:k:files/15956/15956A_Ig_Annex_NC_Fire_Protect_District



PROPOSED ANNEXATION TO VALLEY CENTER MUNICIPAL WATER DISTRICT



POINT OF BEGINNING

E'LY LINE
SEC 36

POC
COR NO. 1
RHO MONSERATE
MAP 827

SEC. 6

LEGEND

- PROPOSED ANNEXATION BOUNDARY
- - - ASSESSOR'S PARCELS
- - - SECTION LINES
- - - EXIST. WATER DISTRICT BOUNDARY

DISCLAIMER:
"FOR ASSESSMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR OFFER FOR SALE OF THE LAND DESCRIBED."

Approved by the Local Agency Formation Commission of San Diego

APR - 7 2014

Michael D. ...

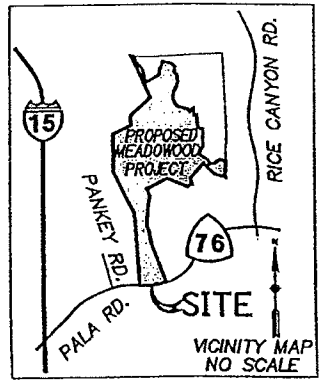
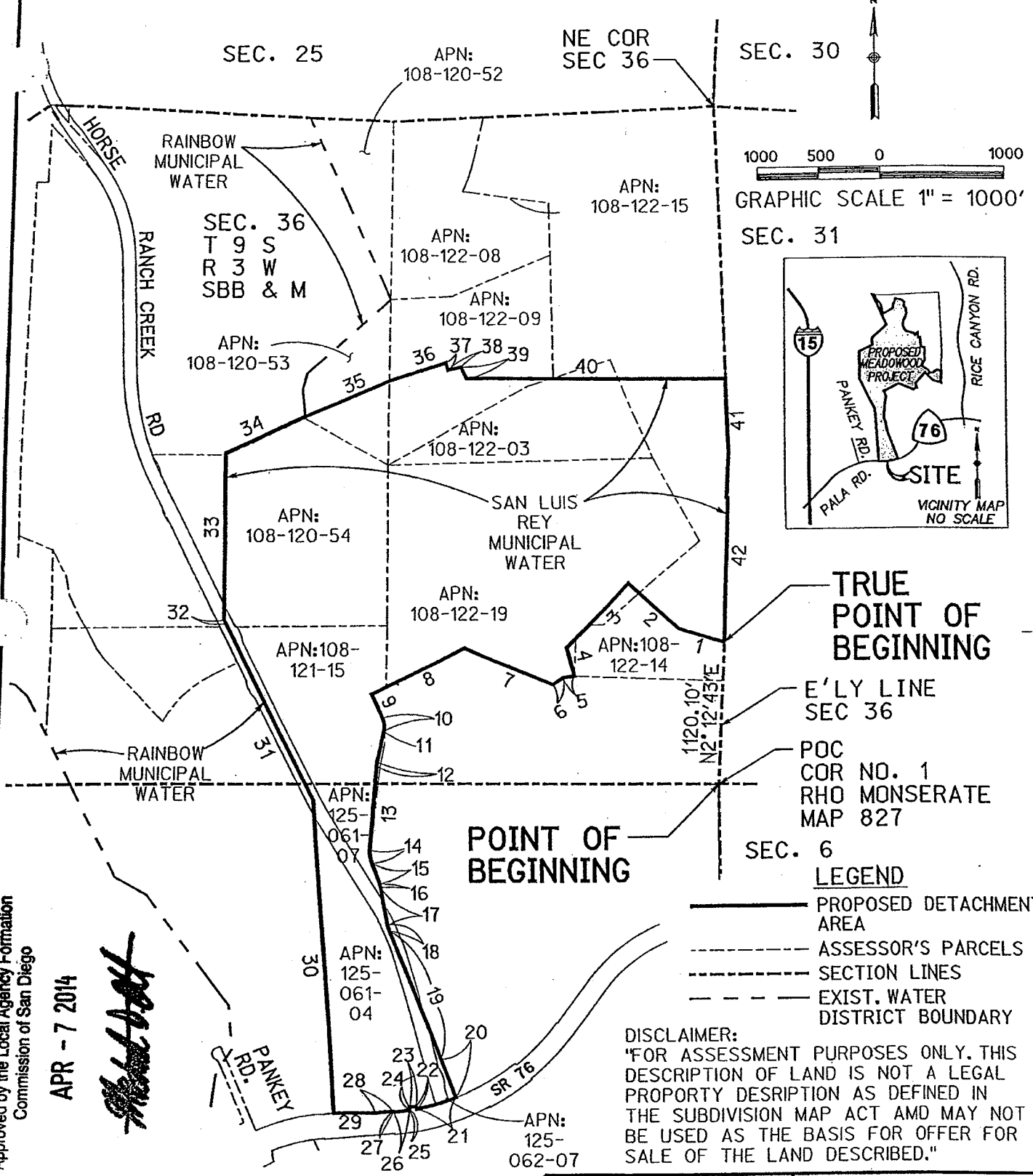
DATE: 08/21/12	SCALE: 1"=100'	LAFCO RESOLUTION NO. X
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MAP A-1
Page 1 of 1

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RICK
ENGINEERING COMPANY

5620 FRIARS ROAD
SAN DIEGO, CA 92110
619.291.0707
(FAX) 619.291.4165

PROPOSED DETACHMENT FROM THE SAN LUIS REY MUNICIPAL WATER DISTRICT



TRUE POINT OF BEGINNING

E'LY LINE
SEC 36

POC
COR NO. 1
RHO MONSERATE
MAP 827

SEC. 6
LEGEND

- PROPOSED DETACHMENT AREA
- - - ASSESSOR'S PARCELS
- - - SECTION LINES
- - - EXIST. WATER DISTRICT BOUNDARY

DISCLAIMER:
"FOR ASSESSMENT PURPOSES ONLY, THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR OFFER FOR SALE OF THE LAND DESCRIBED."

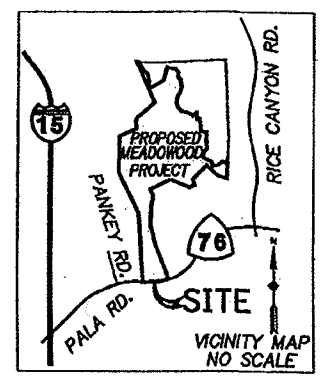
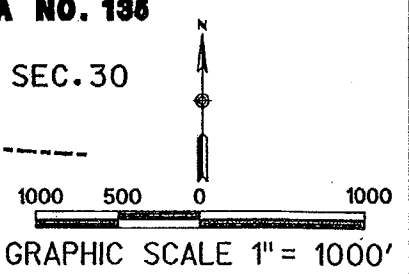
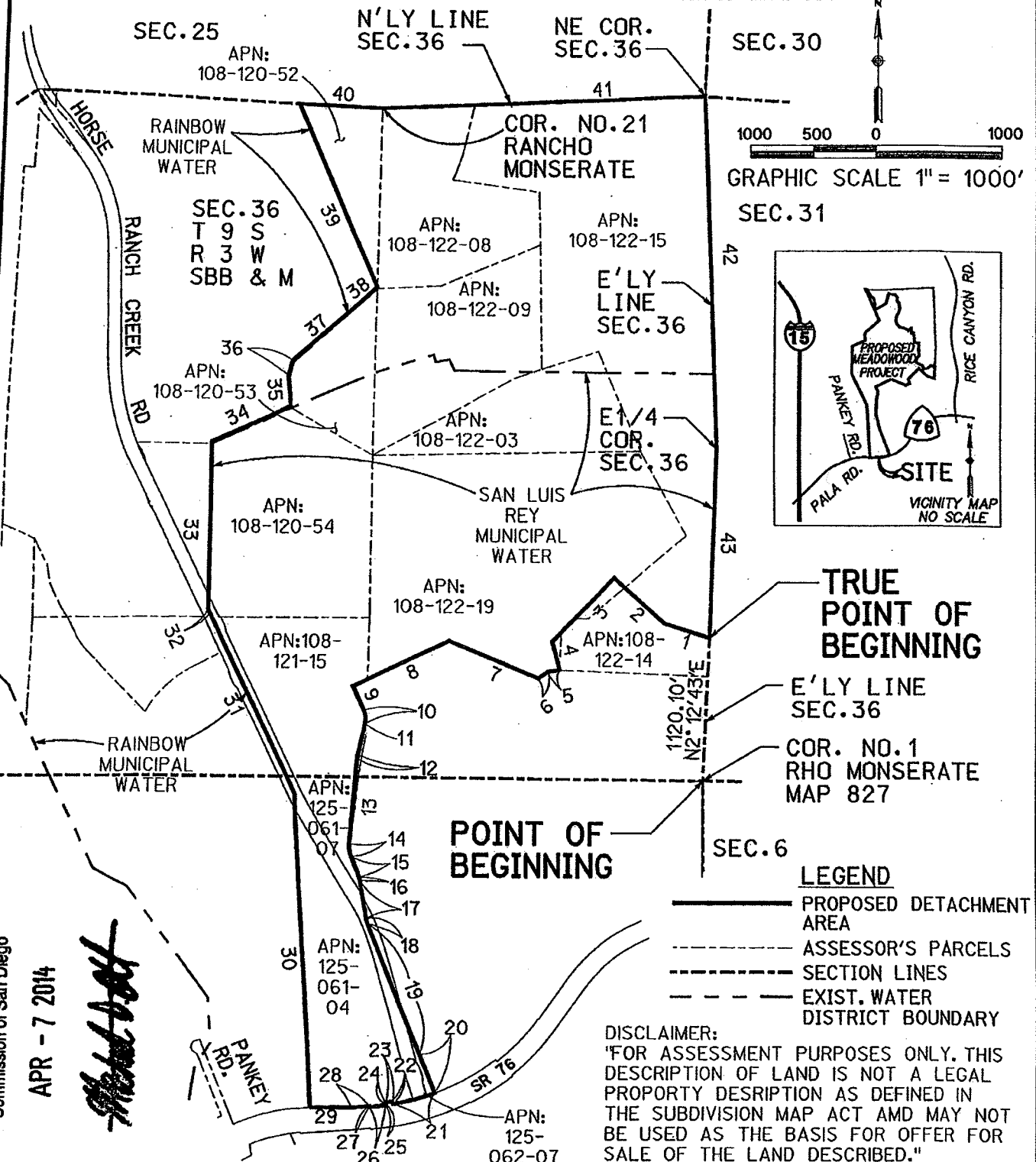
Approved by the Local Agency Formation Commission of San Diego

APR - 7 2014

Michael D. Bell

DATE: 08/23/12	SCALE: 1"=100'	LAFCO RESOLUTION NO. X
ACREAGE: 243.428	ASSESSOR'S PARCEL NUMBERS 108-120-52,53,54 • 108-121-15 • 108-122-03,08,09,15,19 • 125-061-04,07 • 125-062-07	

**PROPOSED ANNEXABLE AREA TO NORTH COUNTY FIRE PROTECTION DISTRICT
DETACHMENT FROM COUNTY SERVICE AREA NO. 135**



TRUE POINT OF BEGINNING

E'LY LINE SEC. 36

COR. NO. 1 RHO MONSERATE MAP 827

POINT OF BEGINNING

SEC. 6

LEGEND

- PROPOSED DETACHMENT AREA
- ASSESSOR'S PARCELS
- SECTION LINES
- EXIST. WATER
- DISTRICT BOUNDARY

DISCLAIMER:
"FOR ASSESSMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR OFFER FOR SALE OF THE LAND DESCRIBED."

DATE: 12/14/12	SCALE: 1"=100'	LAFCO RESOLUTION NO. X
ACREAGE: 389.523	ASSESSOR'S PARCEL NUMBERS 108-120-52,53,54 • 108-121-15 • 108-122-03,08,09,15,19 • 125-061-04,07 • 125-062-07	

Approved by the Local Agency Formation Commission of San Diego

APR - 7 2014

Michael D. Bell

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619.291.0707
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MAP A-3
Page 1 of 1

Minute Items: 7A and 7B
Ref. Nos.: MSR13-88; SR13-88; SA12-11(c)

**RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF SAN DIEGO APPROVING THE
SUPPLEMENTAL MUNICIPAL SERVICE REVIEW AND SPHERE OF
INFLUENCE REVIEW: STUDY OF SEWER, WATER, AND RECYCLED
WATER SERVICES IN THE BONSALL AND PALA HYDROLOGIC
SUBAREAS OF THE SAN LUIS REY RIVER WATERSHED
AND AMENDING AND AFFIRMING THE SPHERE OF INFLUENCE FOR
THE SAN LUIS REY MUNICIPAL WATER DISTRICT**

On motion of Commissioner Horn, seconded by Commissioner Pocklington, the following resolution is adopted:

WHEREAS, pursuant to Government Code Section 56430, the San Diego Local Agency Formation Commission is required to conduct a service review before, or in conjunction with an action to establish or update a sphere of influence; and

WHEREAS, pursuant to Government Code Section 56425, the San Diego Local Agency Formation Commission is required to develop and determine a sphere of influence for each local governmental agency within the County, and review and update, as necessary, the adopted sphere not less than once every five years; and

WHEREAS, the Commission originally adopted a sphere of influence for the San Luis Rey Municipal Water District on May 4, 1987 and affirmed it in 2007; and

WHEREAS, the San Luis Rey Municipal Water District has undergone a sphere of influence and service review study; therefore, the San Luis Rey Municipal Water District sphere is proposed to be amended to a smaller-than-district sphere and the amended sphere is to be affirmed; and

WHEREAS, the Executive Officer of the Commission has filed his report, which was received and considered by the Commission; and

WHEREAS, pursuant to Government Code Section 56427, the Executive Officer of this Commission set a public hearing on the proposed sphere of influence and service review for April 7, 2014, and gave notice of the date, time, and place of said hearing in accordance with Government Code Sections 56660 and 56661.

NOW THEREFORE, BE IT RESOVED, that the Commission hereby finds, determines, and orders as follows:

- (1) The hearing was held on the date set therefore, and due notice of said hearing was given in the manner required by law.
- (2) At that hearing the Commission called for, heard, and considered all interested parties and read and considered the report of the Executive Officer.
- (3) The Commission finds in accordance with the Executive Officer's determination that pursuant to Section 15061 of the State CEQA Guidelines, the municipal service review is not subject to the environment impact evaluation process because the service review consists of basic data collection and research that will not result in a disturbance to an environmental resource.
- (4) The Commission certifies pursuant to Section 15091 of the State CEQA Guidelines, that the Commission has reviewed and considered the EIR for this sphere of influence review prepared by the County of San Diego. The mitigation measures approved by the Board of Supervisors for the impacts identified in the EIR have been adopted by the County of San Diego, and that the mitigation is under the jurisdiction of the County and not LAFCO because the affected resources and the extension of public services will continue to be the responsibility of the County and special districts since the subject territory will remain unincorporated.
- (5) The Commission adopts pursuant to Section 15096(h) of the State CEQA Guidelines, the Findings of Fact and Statement of Overriding Considerations previously adopted by the County of San Diego as lead agency, as shown in Exhibit 1.
- (6) The Commission finds in accordance with the Executive Officer's determination, that pursuant to Section 15061(b)(3) of the State CEQA Guidelines removing the Special Study Area designation overlaying the I-15 and road corridor and adjusting the Rainbow Municipal Water District, Valley Center Municipal Water District, and Vallecitos Water District spheres are not subject to the environmental impact evaluation process because it can be seen with certainty that there is no

possibility for the proposed project to significantly impact the environment, and the activity is not subject to CEQA.

(7) The Commission finds that the proposed Meadowood Reorganization is in compliance with LAFCO Policy L-101 in that the project would promote the planned, orderly, efficient development of the property based on conclusions reached in the environmental document because adjacent projects are bringing infrastructure to the area.

(8) The Commission accepts the proposed Supplemental Municipal Service Review and Sphere of Influence Review for the Bonsall and Pala Hydrologic Subareas, and adopts the required Determinations as outlined in the document and also included as Attachment B.

(9) The Commission amends and affirms the sphere of influence for the San Luis Rey Municipal Water District to a smaller-than-district sphere. The District's non-contiguous territory and the Meadowood Project site have been excluded from the sphere with a coterminous sphere adopted for the remainder of the District. A Special Study Area is designated for the southeastern portion of the Gregory Canyon Landfill site that is outside of any water or sewer service provider. The affirmed sphere is shown on the attached map.

(10) The Commission adopts the written Statement of Determinations as proposed in Exhibit B, attached hereto.

(11) The Commission removes the Special Study Area designation from the I-15 corridor and make the following changes as shown on the attached map:

- (a) Place Rainbow Municipal Water District territory located east of I-15 in the Valley Center Municipal Water District sphere;
- (b) Include Valley Center Municipal Water District territory located west of I-15 in the Rainbow Municipal Water District sphere; and
- (c) Add Vallecitos Water District's territory located east of I-15 to Valley Center Municipal Water District's sphere.

(12) The Commission adopts the form of resolution approving this Municipal Service Review and Sphere of Influence Study for the Bonsall and Pala Hydrologic Subareas for the reasons set forth in said report.

(13) The Commission affirms and amends the sphere of influence for the San Luis Rey Municipal Water District as that territory shown on the attached Map, and described in the Supplemental Municipal Service Review and Sphere of Influence Sphere of Influence Review: Study of Sewer, Water, and Recycled Water Services in the Bonsall and Pala Hydrologic Subareas of the San Luis Rey Watershed and adopts the written Municipal Service Review and the Statement of Determinations (attached hereto) for that agency pursuant to Sections 56425(e) and 56430 of the Government Code.

(14) The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56880-56882 of the Government Code.

Passed and adopted by the Local Agency Formation Commission of the County of San Diego this 7th day of April, 2014, by the following vote:

AYES: Commissioners Abed, Horn, Ingalls, Jacob, Janney, Pocklington and Vanderlaan

NOES: None

ABSENT: Commissioner Zapf and Alternate Commissioners Cox and Lightner

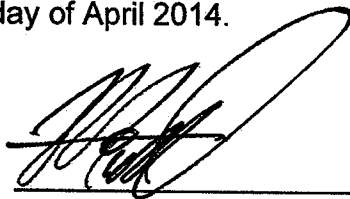
ABSTAINING: None

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

I, MICHAEL D. OTT, Executive Officer of the Local Agency Formation Commission of the County of San Diego, State of California, hereby certify that I have compared the foregoing copy with the original resolution adopted by said Commission at its regular meeting on April 7, 2014, which original resolution is now on file in my office; and that same contains a full, true, and correct transcript therefrom and of the whole thereof.

Witness my hand this 7th day of April 2014.



MICHAEL D. OTT, Executive Officer
San Diego Local Agency Formation Commission

ENVIRONMENTAL FINDINGS
MEADOWOOD MASTER PLANNED COMMUNITY
GPA04-002; SP04-001; R04-004; TM5354RPL⁴; S04-005, S04-006, S04-007; P08-023;
and Log No. ER 04-02-004;
SCH #2004051028

1. Find that the Planning Commission has reviewed and considered the Environmental Impact Report (EIR) for the proposed project dated August 12, 2011, on file with the Department of Planning and Land Use as Environmental Review Number 04-02-004, before making its recommendation on the project.
2. Certify that the Environmental Impact Report (EIR) dated January 11, 2012, on file with the Department of Planning and Land Use as Environmental Review Number 04-02-004, has been completed in compliance with CEQA and the State CEQA Guidelines, that the Board of Supervisors reviewed and considered the information contained therein before and approved the project, and that the EIR reflects the independent judgment and analysis of the Board of Supervisors.
3. Adopt the findings concerning mitigation of significant environmental effects pursuant to State CEQA Guidelines Section 15091. (Attachment K)
4. Adopt the Decision and Explanation Regarding Recirculation of the Draft Environmental Impact Report pursuant to State CEQA Guidelines section 15088.5(e). (Attachment K)
5. Adopt the Statement of Overriding Considerations pursuant to State CEQA Guidelines section 15093. (Attachment K)
6. Find that the proposed project is consistent with the Resource Protection Ordinance (County Code, section 86.601 et seq.).
7. Find that plans and documentation have been prepared for the proposed project that demonstrate that the project complies with the Watershed Protection, Stormwater Management, and Discharge Control Ordinance (County Code, section 67.801 et seq.).
8. Adopt the Mitigation and Monitoring Program as incorporated into the project conditions of approval pursuant to CEQA Guidelines section 15091(d).

Approved by the Local Agency Formation
Commission of San Diego

APR - 7 2014



**STATEMENT OF OVERRIDING CONSIDERATIONS
MEADOWOOD PROJECT
SP04-001; GPA04-002; R04-004; TM5354; S04-005, S04-006, S04-007; P08-023;
and Log No. ER 04-02-004; SCH #2004051028**

January 11, 2012

Background

Pursuant to Section 21081 of the California Environmental Quality Act (CEQA) and Section 15091 of the State CEQA Guidelines, the County of San Diego Board of Supervisors ("Board") finds that mitigation was not feasible for: (1) temporary, short-term adverse visual impacts related to project construction; (2) significant cumulative impacts related to overall changes in view composition from surrounding areas; (3) significant, direct short-term traffic/transportation impacts to segments of State Route 76 [EIR (dated 4/11/11) page 2.3-16 indicates that the project will have significant and unmitigated long term direct and cumulative impacts]; (4) significant air quality impacts during Project operation; and (5) significant cumulative air quality impacts related to inconsistency with RAQS and applicable SIP.

Significant temporary, short-term adverse visual impacts would occur during the proposed construction due to removal of existing vegetation and the introduction of new, visually dominant elements such as cut or fill slopes, construction fencing, construction equipment, and construction materials stockpiling and storage, which would cause the site character to temporarily conflict with the surrounding characteristics (Impact A-1, as discussed in EIR Section 2.1.3 and in the Visual Impact Assessment [VIA]). With regard to construction-period effects, phasing of the construction activities would restrict the amount of site under active build at any one time. Installation of landscaping subsequent to each construction phase (hydroseeding) would also help to minimize visual effects of grading activities and building construction. Nonetheless, incompatible changes to the existing visual character due to construction-period effects related to vegetation removal and the introduction of built elements into a rural setting would degrade the quality of views from the surrounding areas in the short term. No feasible mitigation beyond Project design features already incorporated is available for these impacts.

Implementation of the Proposed Project in combination with cumulative projects would result in significant cumulative impacts related to overall changes in view composition from surrounding areas (Impacts A-2 and A-3, as discussed in EIR Section 2.1.4 and in the VIA). The Proposed Project has been designed to include a number of important elements that serve to avoid a majority of the potential significant impacts to visual resources. Project design features such as landscaping, building setbacks, and architectural details all would help to reduce the visual impacts created by the Proposed Project by screening buildings and lighting at Project buildout. These features would not affect the dominance of the cumulative projects due to their scale; and therefore would not reduce the Project's contribution to cumulative visual impacts to less than significant levels. In addition, while each of the cumulative projects will likely provide design measures, like the Proposed Project, to reduce direct visual impacts, the cumulative visual change in the region is unavoidable. These effects remain unmitigable and long-term for Impacts A-2 and A-3.

For significant direct traffic/transportation impacts along State Route (SR) 76 between Via Monserate to Gird Road and from the I-15 Southbound Ramp to I-15 Northbound Ramp (Impact TR-2), the changes or alterations are within the responsibility and jurisdiction of another government agency and have been adopted by that other agency. These direct impacts are

contains smart growth features, which would serve to reduce motor vehicle use, a major goal of the RAQS Transportation Control Measures (TCMs), this would not eliminate this inconsistency with RAQS for the SDAB. This inconsistency can only be rectified when SANDAG updates the RAQS based on the growth projections after the Proposed Project has been approved. Therefore, upon implementation of the Proposed Project, the direct and cumulative impacts will remain significant and unmitigable.

Pursuant to Section 15093 of the State CEQA Guidelines, when the lead agency approves a project that may result in the occurrence of significant effects that are identified in the Final Environmental Impact Report (EIR), but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record.

Statement of Overriding Considerations

The Board declares that it has adopted all feasible mitigation measures with respect to the above-remaining unavoidable significant effects, and finds that they are acceptable due to each of the specific economic, legal, social, technological, or other Overriding Benefits that will result from approval and implementation of the Proposed Project, as listed below. All of these benefits are based on the facts set forth in the CEQA Findings Regarding Significant Effects, the Final EIR, and the record of the proceedings for the Proposed Project. Each of these benefits is a separate and independent basis that justifies approval of the Proposed Project, so that if a court were to set aside the determination that any particular benefit will occur, the Board finds that it would stand by its determination that the remaining benefit(s) are sufficient to warrant Proposed Project approval.

Overriding Benefits

The Board finds that the Proposed Project would have the following substantial Overriding Benefits:

1. The Proposed Project will preserve a substantial block of biological open space. Specifically, the Project will preserve 122.4 acres of land of which 115.6 acres will be dedicated as part of the proposed North County MSCP preserve. Since only 65.8 acres are required for mitigation, the Project will preserve 49.8 acres in excess of that required to mitigate impacts to sensitive biological resources.

County by contributing a range of housing types to County residents who may otherwise be unable to reside in this part of the County.

8. The Proposed Project will participate in the contribution of funds for the acquisition, design and construction of a Transit Node. The Transit Node will provide a benefit to the County by contributing to a public transportation-friendly community which will reduce miles driven, and support basin-wide and localized reductions in air emissions.
9. The Proposed Project, in conjunction with other projects in the area, will contribute to the construction of a future sheriff's station. The new facility, to be located along the I-15 corridor, will provide a benefit to the County by contributing to increased law enforcement capabilities required to adequately serve the future and existing surrounding communities.

**ADOPTED STATEMENT OF DETERMINATIONS
MUNICIPAL SERVICE REVIEW
SAN LUIS REY MUNICIPAL WATER DISTRICT
MSR13-88**

The following statement of determinations is prepared pursuant to Section 56430 of the Government Code and fulfills LAFCO requirements regarding a sphere review for the Rainbow Municipal Water District (MWD). A written statement specifying the functions or classes of services provided by the District and establishing the nature, location, and extent of the functions or classes of district services is on file with the San Diego Local Agency Formation Commission.

(1) Growth and population projections for the affected area.

Efficient provision of public services is linked to an agency's ability to plan for future need. For example, a water purveyor must be prepared to supply water for existing *and* future levels of demand, and also be able to determine *where* future demand will occur. MSRs will give LAFCO, affected agencies, and the public the means to examine both the existing and future need for public services and will evaluate whether projections for future growth and population patterns are integrated into an agency's planning function.

Determination 1.1: SANDAG growth projections to 2030 show minimal growth in the San Luis Rey MWD service area. However, there are proposed development projects currently in the existing boundary as well as proposed projects that are outside but adjacent to San Luis Rey MWD.

(2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

As of July 1 2012, no disadvantaged unincorporated communities associated have been identified within or contiguous to the San Luis Rey MWD's sphere of influence; therefore, the SB 244-related determinations do not apply.

(3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

Approved by the Local Agency Formation
Commission of San Diego

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Attachment B



As of July 1 2012, no disadvantaged unincorporated communities associated have been identified within or contiguous to the San Luis Rey MWD's sphere of influence; therefore, the SB 244-related determinations do not apply.

(4) Financial ability of agencies to provide services.

LAFCO must weigh a community's public service needs against the resources available to fund the services. During the MSR, the financing constraints and opportunities, which have an impact on the delivery of services, will be identified and enable LAFCO, local agencies, and the public to assess whether agencies are capitalizing on financing opportunities. For example, a MSR could reveal that two or more water agencies that are each deficient in storage capacity and which individually lack financial resources to construct additional facilities, may benefit from creating a joint venture to finance and construct regional storage facilities. Service reviews may also disclose innovations for contending with financing constraints, which may be of considerable value to numerous agencies.

Determination 4.1: Historically, the District's revenues have exceeded expenditures and there are no existing financing constraints.

Determination 4.2: If the San Luis Rey MWD transitioned into an urban water and wastewater service provider, extensive financial resources would be required to develop and construct infrastructure, and hire a professional staff in addition to obtaining numerous required permits, and access to imported water by virtue of membership in San Diego County Water Authority (CWA) and Metropolitan Water District of Southern California (MET), as well as legal authority to furnish those services via latent powers activation by LAFCO.

Determination 4.3: The District adopted a Land Secured Financing Policy that provides for funding of regional and/or multi-project/core facilities through formation of Community Facilities District(s) and/or Improvement Districts. These financing methods would need to be implemented in order to fund the infrastructure necessary to provide water and wastewater services.

Determination 4.4: The District determined that the costs associated with studies related to the activation of latent powers should be borne by those seeking service, and adopted a policy that provides financing from landowners to avoid placing the District in financial risk.

Determination 4.5: The District levies an annual water availability charge assessment. The rates are reviewed and adopted annually at a public meeting.

Determination 4.6: Legal research has determined that the water availability charge assessment is unlawful, should immediately be rescinded, and retroactive reimbursements should be given to affected property owners.

Determination 4.7: Research indicates that the San Luis Rey MWD's annual water availability assessment charge was never approved by voters as required by Proposition 218.

Determination 4.8: The majority of the District's revenue is derived from the water availability charge assessment. Since the water availability charge assessment has been deemed unlawful, the District may be insoluble if that revenue source is terminated. Furthermore, any District reserves may be depleted if property owners are retroactively reimbursed for prior years' water availability charges.

(5) Status of, and opportunities for, shared facilities.

Public service costs may be reduced and service efficiencies increased if service providers develop strategies for sharing resources. For example, service providers in San Diego County currently share communication centers, wastewater treatment facilities, and distribution lines. Sharing facilities and excess system capacity decreases duplicative efforts, may lower costs, and minimizes unnecessary resource consumption. Options for future shared facilities and services should be considered. LAFCO may examine efficiencies that could be gained through: (1) functional reorganizations within existing agencies; (2) amending or updating spheres of influence; (3) annexations or detachments from cities or special districts; (4) formation of new special districts; (5) special district dissolutions; (6) mergers of special districts with cities; (7) establishment of subsidiary districts; or (8) any additional reorganization options found in Government Code § 56000 et. seq.

Determination 5.1: Because SLRMWD does not have infrastructure, there are no opportunities to share facilities with another agency.

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

LAFCO's role in encouraging efficiently provided public services depends, in part, on helping local agencies explore opportunities that could: (1) eliminate duplicative services; (2) reduce high administration to operation cost ratios; (3) replace outdated or deteriorating infrastructure and equipment; (4) reduce inventories of underutilized equipment, buildings, or facilities; (5) reconfigure overlapping or inefficient service boundaries; (6) replace inefficient purchasing or budgeting practices; (7) implementing economies of scale; and (8) increase profitable outsourcing.

Determination 6.1: Several government structure options have been evaluated within this MSR area. Since the San Luis Rey MWD does not have the authority to provide water and sewer services in the region, the study involved an evaluation of each MWD's ability to serve territory in the San Luis Rey MWD's service area. These include: potential reorganization and dissolution of San Luis Rey MWD; consolidation among agencies; no change; and the viability of contractual arrangements for service provision. The alternatives provide LAFCO, local agencies, and the public with the information to pursue potential jurisdictional changes, expansion of services, and sphere of influence adjustments.

(7) Any other matter related to effective or efficient service delivery, as required by commission policy.

In authorizing the preparation of MSRs, the State Legislature has focused on one of LAFCO's core missions—encouraging the efficient provision of public services. The adequacy of existing and planned public facilities and infrastructure impacts the efficient delivery of public services. Management efficiency refers to the effectiveness of an agency's internal organization to provide efficient, quality public services. Efficiently managed agencies consistently implement plans to improve service delivery, reduce waste, contain costs, maintain qualified employees, maintain adequate contingency reserves, and encourage open dialogue with the public as well as other agencies. Also of importance is the degree to which the agency fosters local accountability whereby the decision making body makes agendas and reports readily available, encourages public participation, solicits public input, and discloses district operations.

Determination 7.1: The District's Board of Directors has a history of long-term stability and takes an active role in administrative matters.

Determination 7.2: The District does not have any direct employees. The District uses contract professionals on an as-needed basis. This allows for efficiency in providing the current services, such as legal, engineering, and environmental consulting, as the District does not pay for employee overhead expenses and only pays for direct services.

Determination 7.3: The District's processes to provide information to the public is inadequate. Specifically, access to Board meeting agendas and other materials is hampered because the District's website has been dismantled. The monthly agenda is posted by post office boxes along Highway 76. Also, documents distributed less than 72 hours prior to a meeting are available for public inspection at the District's General Counsel's office, which is located in Irvine, CA.

Determination 7.5: Public access to meetings is problematic since meetings are now held in a farm operations building located on a private, unmarked, unimproved dirt road, and having no public transit available.

**ADOPTED STATEMENT OF DETERMINATIONS
AFFIRMED AND ADOPTED AN AMENDMENT
TO THE SPHERE OF INFLUENCE FOR THE
SAN LUIS REY MUNICIPAL WATER DISTRICT
SR13-88**

APR - 7 2014



The following statement of determinations is prepared pursuant to Section 56425 of the Government Code for designation of the area shown on the attached map as an amendment to the sphere of influence for the San Luis Rey Municipal Water District (MWD). A written statement from the affected District specifying the functions or classes of services provided was approved on August 6, 2007.

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

San Luis Rey MWD encompasses approximately 3,000 acres of unincorporated land in northern San Diego County. At this time, the majority of the District is undeveloped and primarily designated as open space/agricultural with some spaced rural residential land uses scattered throughout the District's service area. According to SANDAG's 2009 data, the population totals 100. The westernmost territory in San Luis Rey MWD is a non-contiguous island area of 327 acres that is separated from the majority of the District by a corridor of land in Rainbow MWD. The areas in the District's boundary that contain prime agricultural land are City Home, Fritz property, and Pala Rey Ranch; City Home is located in the District's island area. Any development plans that include prime agricultural land would need to discuss and address LAFCO's Agricultural Lands Policy

The County-approved General Plan Update made significant changes to large areas previously designated for agriculture or vacant use. Many of those areas are now designated as spaced rural residential. Other changes included having denser residential development in the Interstate 15 (I-15) corridor and adjacent to the intersection of I-15 with State Route 76 (SR 76). Additionally, the area east of I-15 and north of SR 76 is designated as single-family residential.

The SANDAG growth projections and existing planned developments along the I-15 corridor are consistent with the expected transition in that area from predominantly agricultural uses to that of a suburban residential community.

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

The County has anticipated and planned to accommodate residential growth in this geographic area for the past 30 years. Thus the need for water and sewer infrastructure and services will need to increase to meet projected demand. To accommodate the associated future need for water and sewer services, territory should be removed from San Luis Rey MWD's sphere and placed in the spheres for the Rainbow and Valley Center MWDs. The

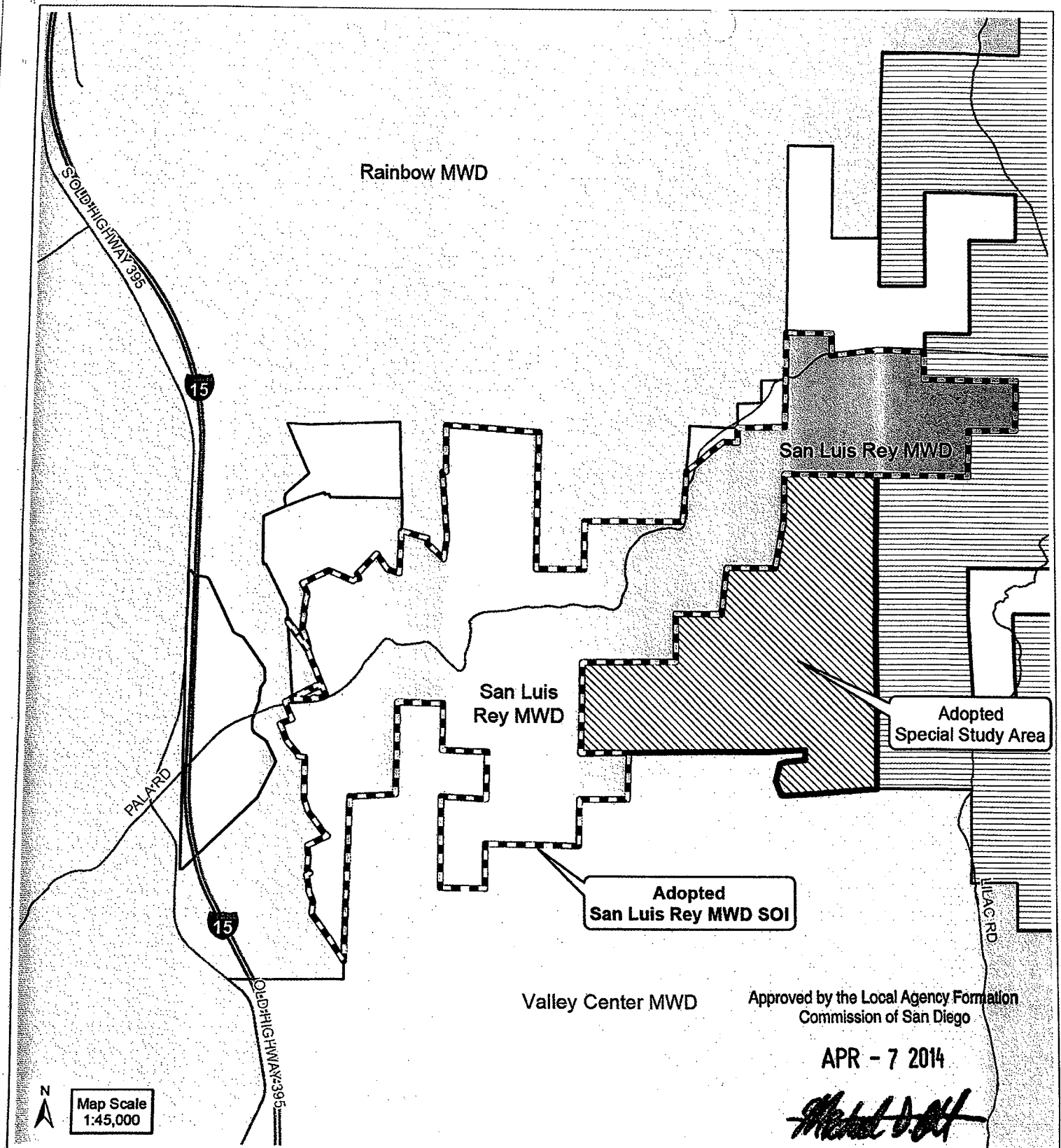
327-acre non-contiguous portion of San Luis Rey MWD should be placed in the Rainbow MWD's sphere, and the 390-acre Meadowood Project site should be added to the Valley Center MWD's sphere. Adoption of the proposed sphere amendment will facilitate provision of water and sewer services to areas where development is planned.

- (3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.**

San Luis Rey MWD is only authorized to protect groundwater resources and provide advocacy for property owners' water rights. The District has no infrastructure and does not have the authority to provide water and sewer services. For these reasons, areas in the District that are planned for residential development should be placed in the spheres for the surrounding districts that do provide water and sewer services – Rainbow and Valley Center MWDs.

- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.**

Social and economic communities of interest would include the proposed developments that would be constructed and the anticipated growth that is expected to occur in the proposed sphere amendment areas.



Approved by the Local Agency Formation Commission of San Diego




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Michael D. Hill

Adopted San Luis Rey MWD Sphere of Influence and Special Study Area

MSR/SR13-82; SA12-11(b)
MSR/SR13-88; SA12-11(c)
MSR/SR13-96; SA12-11(a)

Adopted Amendment to the Sphere of Influence for the San Luis Rey MWD (SA12-11(c))

-  San Luis Rey MWD
 -  Adopted San Luis Rey MWD SOI
 -  Adopted Special Study Area
- SOI = Sphere of Influence

SAN DIEGO **LAFCO**

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APPROVED
SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
APRIL 7, 2014

There being a quorum present, the meeting was convened at 9:00 a.m. by Chairman Andrew Vanderlaan. Also present were: Regular Commissioners – Supervisor Bill Horn; Supervisor Dianne Jacob; Mayor Sam Abed; Mayor Jim Janney; Special District Member/Vice Chairman John Ingalls; Special District Member Bud Pocklington; Councilmember Lori Zapf. Alternate Commissioners – Public Member Harry Mathis; Special District Member Jo MacKenzie; City Councilmember Lorraine Wood. LAFCO Staff – Executive Officer Michael Ott, Local Government Analyst Robert Barry, Chief of Governmental Services Ingrid Hansen; Legislative Consultant Harry Ehrlich; Legal Counsel Thomas Bosworth; and Special Legal Counsel Michael Colantuono (Colantuono, Highsmith, and Whatley, PC). Absent were: Alternate Commissioners – Supervisor Greg Cox and Councilmember Sherri Lightner.

Item 1

Roll Call

The Commission Secretary performed the roll call for the April 7, 2014, LAFCO meeting. With the exception of Alternate Commissioners Supervisor Greg Cox and Councilmember Sherri Lightner, all other Commissioners present. Commissioner Lorie Zapf left at 9:40 am.

Item 2

Approval of Minutes of Meeting Held March 3, 2014

On motion of Commissioner Horn, seconded by Commissioner Janney, and carried unanimously by the Commissioners present; the Commission dispensed with reading the minutes of March 3, 2014 and approved said minutes.

Item 3

Executive Officer's Recommended Agenda Revisions

Chairman Andrew Vanderlaan asked the Executive Officer if there were any agenda revisions. Executive Officer Michael Ott indicated that there were no agenda revisions.

Item 4

Commissioner / Executive Officer Announcements

a. Distribution of the 50th Year LAFCo's 2013 Special Edition Procedures Guide

Chairman Andrew Vanderlaan asked the Commission and Executive Officer if there were any announcements. Commissioner Bud Pocklington thanked everyone for their prayers and thoughts during his time of surgery and recovery. Michael Ott re-introduced LAFCO's Special Counsel Michael Colantuono to the Commission. Mr. Ott indicated that Mr. Colantuono would be addressing issues related to Items 7A-7C on the agenda.

Mr. Ott said that the Commission approved the LAFCO Procedures Guide in 2013 and the final version has been distributed. He said that the Procedures Guide has been distributed to the Cities, Special Districts, and County. He indicated that this is a 50th Year Special Edition and that it is available for purchase for \$30. He distributed each Commissioner a copy of the Procedures Guide.

Item 5

Public Comments

Chairman Andrew Vanderlaan asked the public if anyone requested to speak on an item that is not related. He indicated that there was one speaker slip received from the public for comments.

Jack Griffiths, a private citizen, addressed the Commission regarding consolidation of Fallbrook Public Utility District and Rainbow Municipal Water District and requested that LAFCO terminate all actions. He also indicated that there will be a meeting held at the Rainbow Municipal Water District regarding consolidation.

Item 6

Proposed "Robert Ironside Reorganization" (Alpine Fire Protection District) (RO13-45)

Michael Ott indicated that agenda Item 6 involves an annexation of 60.14-acres to the Alpine Fire Protection District with a detachment from San Diego Rural Fire Protection District. He asked the Commission to waive the staff presentation.

On motion of Commissioner Jacob, seconded by Commissioner Pocklington, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Find that the Commission, acting as a responsible agency, has considered the environmental effects of the project as shown in the attached mitigated negative declaration prepared by the County of San Diego. The mitigation is under the jurisdiction of the County and not LAFCO because the affected resources and the extension of public services continue to be the responsibility of the County and special districts since the subject territory will remain unincorporated; and
- (2) Adopt the form of resolution approving this reorganization for the reasons set forth in the Executive Officer's Report, waiving the Conduction Authority proceedings according to Government Code Section 56663(c), and ordering the reorganization subject to the following conditions:
Payment by the property owners of district fees, and State Board of Equalization charges.

Item 7A

Supplemental Municipal Service Review and Sphere of Influence Review: Study of Sewer, Water, and Recycled Water Services in the Bonsall and Pala Hydrologic Subareas of the San Luis Rey River Watershed

(MSR13-82; SR13-82; MSR13-88; SR13-88; MSR13-96; SR13-96)

Item 7B

Proposed Adoption of an Amendment to the Spheres of Influence for the Valley Center Municipal Water District (13-96)(a); Rainbow Municipal Water District (13-82)(b); and San Luis Rey Municipal Water District (13-88)(c). The sphere amendments are in association with the Supplemental Municipal Service Review and Sphere of Influence Review covered in Item 7A

(SA12-11(a); SA12-11(b); SA12-11(c))

Chairman Vanderlaan indicated to the Commission that the public hearing Items 7A, 7B and 7C would be presented all together and that each item would be voted upon separately.

Michael Ott indicated that agenda Items 7A and 7B are related the Five-Year Municipal Service Review and Sphere Review for the Bonsall and Pala Hydrological Sub-Area. He said that Item 7C is the Meadowood Reorganization that involves annexation to the Valley Center Municipal Water District and other jurisdictions. Mr. Ott said that Ingrid Hansen will provide a PowerPoint presentation and that LAFCO's Special Legal Counsel, Michael Colantuono would provide information related to taxation issues.

Ingrid Hansen, Chief of Governmental Services, provided a PowerPoint presentation. Ms. Hansen said that the Municipal Service and Sphere of Influence Review summary would cover six topics: (1) statutory provisions pertaining to the municipal service review requirement and sphere of influence review; (2) background information and procedures related to the municipal service review and sphere of influence study; (3) descriptions and information related to each subject agency; (4) analysis and conclusions resulting from the study; (5) details of both the proposed and recommended sphere changes; and (6) environmental review.

Ms. Hansen said that the Municipal Service Review and Sphere of Influence area surrounds a transit node of the I-15 corridor and State Route 76. She indicated that the proposed area includes special study areas in the Rainbow, San Luis Rey Municipal Water Districts and the northern portion of the Valley Center Municipal Water District. She said that the County planned for development in this region of the I-15 corridor for a number of years.

Ms. Hansen said that the Meadowood property owner entered into a pre-annexation agreement with Rainbow Municipal Water District but the district terminated the agreement after about a year reinforcing the position of elected board members that there would be no changes to the district or sphere. She stated that the property owner then approached the San Luis Rey Municipal Water District as a potential water and sewer provider and that a Municipal Service Review and Sphere of Influence proposal was prepared by the district. She said that the Meadowood Project was approved by the Board of Supervisors with Valley Center Municipal Water District being identified as the most logical service provider after San Luis Rey Municipal Water District withdrew its sphere of influence and municipal service review proposal.

Ms. Hansen indicated that in 2006 three lawsuits were filed against the EIR document that covered San Luis Rey Municipal Water District master's plan municipal service review and sphere proposal, and latent powers proposal for water and wastewater services. She indicated that San Luis Rey Municipal Water District had been preparing a master plan because it has no infrastructure and has not obtained the legal authority (latent powers activation) to provide water or sewer services; in addition, it is not a member agency of the San Diego County Water Authority and has no access to imported water.

Ms. Hansen stated that the San Luis Rey Municipal Water District engages in activities to protect and preserve groundwater resources and advocates for property owners' water rights. She said that the District petitioned the San Diego County Water Authority to gain membership but the application was denied. She said that the San Luis Rey Municipal Water District submitted terms and

conditions for the Meadowood Reorganization requesting payment for detachment fees; reimbursement of future property tax revenues and water availability / standby charges. She indicated that LAFCO staff does not support these requests since there will be no cost associated with the transfer of equipment, no continuation of service responsibility, and no bonded debt to be paid; in addition, research indicates that the water availability / standby charges do not meet the legal requirements to impose a fee because the district lacks latent powers to make water available to property owners.

Michael Colantuono, LAFCO, Special Legal Counsel, addressed the Commission regarding the following questions presented by LAFCO staff: (1) Does the San Luis Rey Municipal Water District ("District") have the authority to levy a water standby and availability charge to landowners, if the District neither provides nor has San Diego Local Agency Formation Commission ("LAFCO") authorization to provide or make available water or wastewater services? (2) Does the agreement between the County of San Diego and the Valley Center Municipal Water District that was negotiated pursuant to Revenue and Taxation Code section 99 ("Section 99 Agreement) preclude LAFCO from imposing equivalent to the District's collection of standby assessments and water availability charges, plus property taxes, over a 30-year period? (3) If the Section 99 Agreement does not preempt LAFCO's authority to reallocate revenue that is the subject matter of that agreement, does LAFCO have authority to impose the Requested Conditions?

Mr. Colantuono said that the San Luis Rey Municipal Water District has statutory authority to impose a water availability charge; however, the fact that the District neither provides nor has LAFCO authorization to provide or make water available or wastewater services renders it a special tax requiring voter approval. Mr. Colantuono indicated that the water availability charge is a charge collected on the property tax roll from individuals who do not currently receive water service and that it reflects the value to vacant parcels for future development. He said that the District does not provide water and it monitors groundwater quality and advocates property owners who own groundwater. He indicated that if the district wishes to maintain the revenue source they would need to hold an election (registered voters).

Mr. Colantuono said that LAFCO staff also asked if San Luis Rey Municipal Water District is entitled to account for the loss property tax revenues going forward notwithstanding the fact that there is a Revenue and Taxation Code Section 99 Agreement among the local agencies. He indicated that when the County of San Diego negotiated the 99 Agreement on behalf of the districts, San Luis Rey Municipal Water District had the opportunity to be heard and did not

participate at that time and that the issues were considered and cannot be addressed by the Commission retroactively.

Mr. Colantuono said that the question was further asked if LAFCO has the authority to impose the requested conditions. He indicated that the terms and conditions that the San Luis Rey Municipal Water District is requesting are risky and the risks are too high for the Commission to impose.

Commissioner Sam Abed asked what the significance is of the I-15 corridor being the physical bearer for delivering services. In response, to the question, Mr. Ott said that the staff recommendations would address the issue to resolve the I-15 corridor boundary discrepancy and the associated service boundary alignment changes.

Mr. Ott stated that several letters were submitted from the proponents and opponent regarding the agenda items. He said that letters were submitted by the Valley Center Municipal Water District; a letter from the law firm of, Procopio, Cory, Hargreaves, and Savitch LLP, representing Rainbow Municipal Water District. The law firm requests a deferral for the agenda items 7A, 7B, and 7C. Aleshire & Wynder LLP, Attorney at Law also submitted a letter representing San Luis Rey Municipal Water District.

Commissioner Lorie Zapf left at 9:40 a.m.

Chairman Andy Vanderlaan opened the public hearing for Items 7A, 7B and 7C. He indicated that there were several speaker slips from individuals with support and opposition that wished to provide comments to these items.

Gary Arant, General Manger, Valley Center Municipal Water District addressed the Commission in support of the items. He provided clarification to the previous question that Commissioner Abed asked and explained the boundary changes of the I-15 corridor related to the special study area. Mr. Arant addressed the Commission regarding the letter from Procopio, Cory, Hargreaves, and Savitch LLP concerning the request of a delay. He clarified that Valley Center Municipal Water District has not made a decision on changing how wastewater services would be provided to the Meadowood project. He said that the district has not made an agreement with the Rainbow Municipal Water District regarding the construction of a wastewater treatment plant and that there is only a Memorandum of Understanding between Valley Center and Rainbow for discussion of joint use of the facilities. Mr. Arant indicated that Valley Center Municipal Water District is bound by the project as approved by the County.

Dana Freihauf, San Diego County Water Authority; Bill Metcalf, Fire Chief, North County Fire Protection District; Wally Grabble, Valley Center Municipal Water District; Jimmy Ayala, Property Owner; Alan Zegaus, Representative; Thomas

Steinke, Representative, supported the items, but wished not to speak with the Commission.

Jack Griffiths, Resident, addressed the Commission and provided comments regarding the water availability, building of a low grade sewer capacity storage facility and treatment plant for the area.

Supervisor Bill Horn asked Mr. Arant for clarification regarding the building of a treatment plant. In response, Mr. Arant indicated that a high grade on-site system will be constructed on the Meadowood project and for other development sites in the area and that a low grade treatment facility will not be built.

Supervisor Horn indicated that several issues should have been addressed regarding the I-15 corridor and the areas of the proposed project a long time ago and that the issues have been finally resolved and addressed by LAFCO staff and recommended that the Commission approve these items. Supervisor Horn said that the staff report was detailed and excellent and that he supports Items 7A, 7B and 7C.

Michael Ott, Executive Officer, addressed the Commission regarding the letter that was received from Greg Moser (not present) of Procopio, Cory, Hargreaves, and Savitch LLP. Mr. Ott said that Mr. Moser letter requested a deferral of Items 7A, 7B and 7C. He said that Mr. Moser addressed concerns and issues about the recommended exemption of a portion of the project from CEQA that involves a road corridor special study area and discussions that Valley Center Municipal Water District had with other entities regarding options of sewer services. Mr. Ott indicated that the County Board of Supervisor approved an onsite sewage system for the proposed project and that it is the only authorized method of sewage treatment disposal. Mr. Ott further noted that the CEQA exemption cited in the staff report pertains to realigning the boundaries of the Valley Center Municipal Water District, Vallecitos Water District, and Rainbow Municipal Water District to reflect the I-15 freeway alignment.

Wes Miliband, Representative, Aleshire & Wydner, LLP (San Luis Rey Municipal Water District), addressed the Commission in opposition to the items. Mr. Miliband addressed concerns and issues regarding the water availability charge, the Executive Officer's recommendations, and Statement and Determinations for the San Luis Rey Municipal Water District. He indicated that the district does not charge for a standby charge and that the district has a legal water availability charge that has been imposed on property owners in the area. He said that the district uses the special legislation Water Code 71630 that defines the district's abilities.

Supervisor Horn said that LAFCO does not have the authority to reimburse the district. He also asked how water availability fees could be charged if the district does not have the authority to sell water.

Mr. Colantuono indicated that according to the statute of the Water Code 71630, *a district by ordinance may...fix...in each fiscal year, a water standby assessment or availability charge in the district.* He indicated that San Luis Rey Municipal Water District's argument is even weaker if it believes its charge is a availability charge and not a standby charge, since the District did not receive voter authority as of July 1, 1997.

Supervisor Dianne Jacob asked LAFCO's Special Legal Counsel, Michael Colantuono, if the Executive Officer's recommendations in the staff report were legally defensible. In response, Mr. Colantuono indicated that the recommendations are legally defensible.

With no more speakers from the public and no further discussion from the Commission, on motion of Commissioner Horn, seconded by Pocklington to approve Items 7A and 7B, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Find, in accordance with the Executive Officer's determination, that pursuant to determination, that pursuant to Section 15306 of the State CEQA Guidelines, the municipal service review is not subject to the environmental impact evaluation process because the service review consists of basic data collection and research that will not result in a disturbance to and environmental resource;
- (2) Certify, pursuant to Section 15091 of the State CEQA Guidelines, that the Commission has reviewed and considered the attached EIR. The mitigation measures approved by the Board of Supervisors for the impacts identified in the attached EIR have been adopted by the County of San Diego, and that the mitigation is under the jurisdiction of the County and not LAFCO because the affected resources and the extension of public services will continue to be the responsibility of the County and special districts since the subject territory will remain unincorporated;
- (3) Adopt, pursuant to Section 15096(h) of the State CEQA Guidelines, the Findings of Fact and Statement of Overriding Considerations previously adopted by the County of San Diego as lead agency, as shown in Exhibit 1;
- (4) Find, in accordance with the Executive Officer's determination, that pursuant to Section 15061(b)(3) of the State CEQA Guidelines removing

the I-15 Special Study Area designation and adjusting the Rainbow Municipal Water District, Valley Center Municipal Water District, and Vallecitos Water District spheres not subject to the environmental impact evaluation process because it can be seen with certainty that there is not possibility for the proposed project to significantly impact the environment, and the activity is not subject to CEQA;

- (5) Find that the reorganization is in compliance with LAFCO Policy L-101 in that the project would promote the planned, orderly, efficient development of the property based on conclusions reached in the environmental document because adjacent projects are bringing infrastructure to the area;
- (6) Accept the proposed Supplemental Municipal Service Review and Sphere of Influence Review for the Bonsall and Pala Hydrologic Subareas, and adopt the required Determinations as outlined in the document and also include as Attachments A-C;
- (7) Amend the Rainbow Municipal Water District sphere as shown on Map 7 to include the non-contiguous portion of the San Luis Rey Municipal Water District, the Warner Property, as well as three areas located north of San Luis Rey Municipal Water District and south of Rainbow Municipal Water District in the Rainbow Municipal Water District sphere as well as changes consistent with resolution of the I-15 Special Study Area, and adopt the written Statement of Determinations as proposed in Exhibit A, attached hereto;
- (8) Amend the sphere of influence for the San Luis Rey Municipal Water District as presented in Option 2 to exclude the District's non-contiguous territory and the Meadowood Project site from the sphere and adopt a coterminous sphere for the remainder of the District as shown on Map 5, and adopt the written Statement of Determinations as proposed in Exhibit B, attached hereto;
- (9) Amend the Valley Center Municipal Water District to include the entire Meadowood Project site as well as changes consistent with resolution of the I-15 Special Study Area, as shown on Map 8, and adopt the written Statement of Determinations as proposed in Exhibit C, attached hereto;
- (10) Remove the Special Study Area designation and make the following changes (Map 6):

- (a) Place Rainbow Municipal Water District territory located east of I-15 in the Valley Center Municipal Water District sphere;
 - (b) Include Valley Center Municipal Water District territory located west of I-15 in the Rainbow Municipal Water District sphere; and
 - (c) Add Vallecitos Water District's territory located east of I-15 to Valley Center Municipal Water District's sphere;
- (11) Direct the San Luis Rey Municipal Water District to consider rescinding the standby assessment / water availability charge immediately and reimburse property owners retroactively for the maximum time period authorized under State Law, and report back with the results within five years after LAFCO approval of this Municipal Service Review / Sphere Review; and
- (12) For the reasons set forth in this report, adopt the form of resolution approving this Municipal Service Review and Sphere of Influence Study for the Bonsall and Pala Hydrologic Subareas.

Item 7C

Proposed "Meadowood Reorganization" (Valley Center Municipal Water District) (RO12-11)

Ingrid Hansen indicated that this proposal involves annexation to the Valley Center Municipal Water District, San Diego County Water Authority, Metropolitan Water District of Southern California, and North County Fire Protection District, with a concurrent detachment from the San Luis Rey Municipal Water District and a divestiture removal from the structural fire protection and emergency medical services zone of the County Service Area No. 135 that would avoid an overlap of service responsibility between the districts.

Ms. Hansen indicated that the Meadowood Reorganization is located in the San Luis Rey Municipal Water District and that it does not deliver water; therefore, the property will be detached from the district. She said that the development plans include constructing 355 single family homes; 164 detached condominiums; 325 townhomes; a park and recreation center; an elementary school; and 50 acres retained for agricultural use. She also said that the availability of reliable and adequate long term water will be sufficient for future development in the area.

Commissioner Vanderlaan closed the public hearing after asking if there were any public comments.

Commissioner Jim Janney left at 10:08 a.m.

On motion by Commissioner Pocklington and seconded by Commissioner Horn to approve Item 7C involving annexation to the Valley Center Municipal Water District San Diego County Water Authority, Metropolitan Water District of Southern California, and North County Fire Protection District, with a concurrent detachment from the San Luis Rey Municipal Water District and a divestiture (removal) from the structural fire protection and emergency medical services zone of the County Service Area No. 135 that would avoid an overlap of service responsibility between the districts. The motion carried unanimously by the commissioners present (Vanderlaan, Ingalls, Abed, Horn, Jacob, and Pocklington) with the Commission taking the following actions:

- (1) Certify, pursuant to Section 15091 of the State CEQA Guidelines, that the Commission has reviewed and considered the attached EIR. The mitigation measures approved by the County of San Diego for the impacts identified in the attached EIR have been adopted by the County, and that the mitigation is under the jurisdiction of the Districts and not LAFCO because the affected resources and the extension of public services will be within the boundaries of the Districts upon annexation;
- (2) Adopt, pursuant to Section 15096(h) of the State CEQA Guidelines, the Findings of Fact and Statement of Overriding Considerations previously adopted by the County of San Diego as lead agency, as shown in Exhibit 1;
- (3) Find that the reorganization is in compliance with LAFCO Policy L-101 in that the project would promote the planned, orderly, efficient development of the property based on conclusions reached in the environmental document because adjacent projects are bringing infrastructure to the area;
- (4) In accordance with State Law, the Commission will waive protest proceedings unless written opposition to the proposal from landowners or registered voters in the affected territory is received before the conclusion of the commission proceedings because mailed notice has been given to the subject landowners and registered voters of the proceedings and the notice disclosed that there is potential for the extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency in the affected territory; and

- (5) Adopt the form of resolution approving this reorganization for the reasons set forth in the Executive Officer's Report, delegating to the Executive Officer of the Local Agency Formation Commission the responsibility for holding protest proceedings if protest has been submitted prior to the conclusion of the commission proceedings, subject to the following terms and conditions:

Valley Center Municipal Water District

- 1) Pardee Homes shall pay all costs and fees associated with the proposed Meadowood Reorganization, including but not limited to the following:
 - a) All Valley Center Municipal Water District annexation and processing fees and charges; and
- 2) All water, wastewater, and recycled water service to the Proposed Territory for ownership and operation by Valley Center Municipal Water District shall be subject to, and in accordance with, the rules and regulations for Valley Center Municipal Water District; and
- 3) The area to be annexed to Valley Center Municipal Water District shall be subject to all special taxes, fees, charges, and assessments currently applicable to Valley Center Municipal Water District, San Diego County Water Authority, and Metropolitan Water District of Southern California and/or other agency charges.
- 4) The area to be annexed to Valley Center Municipal Water District shall be subject to all ad valorem property taxes, assessments, fees, and Standby/Availability charges that apply to Valley Center Municipal Water District and relate to the area to be annexed to Valley Center Municipal Water District that are in existence on the effective date of the Meadowood Reorganization; and
- 5) The area to be annexed to Valley Center Municipal Water District shall be subject to taxation after annexation thereof including the payment of principal and interest on bonds and other obligations of Valley Center Municipal Water District and/or outstanding at the time of annexation, in the same manner as if the annexed area had always been part of Valley Center Municipal Water District.

North County Fire Protection District

- 1) Prior to recordation of the Meadowood Reorganization, Pardee shall enter into an agreement with the District establishing the timing for payment to the District the following annexation fees:
 - a) \$1,000 for each acre or portion of an acre within Meadowood. \$390,000 to be paid to District upon the annexation becoming final.
 - b) \$500 for each dwelling unit within Meadowood to be paid to the District as each building permit is issued by the County for a residential unit within Meadowood.
 - c) \$1,000 for any commercial/industrial structure. \$1,000 to be paid to District as each building permit is issued by the County for a commercial or industrial building within Meadowood.
- 2) Pardee agrees to file an application with the County of San Diego and pursue County's processing and approval of the application to form a CFD/Mello Roos district (or a similar funding mechanism) that will collect and pay to the District an amount no greater than 5% of the 1% real property taxes disbursed by the State of California to the County of San Diego. These CFD/Mello Roos funds will supplement the portion of the real property taxes that the District currently receives as a disbursement from the County of San Diego for District operating and maintenance expenses (as per tax exchange rate agreement previously approved by the Board of Supervisors in the year 2013).
- 3) District agrees that the Meadowood Community will not be subject to existing bonded indebtedness or contractual obligations because no such indebtedness or obligation exists, or will exist, at the time the Meadowood Reorganization will become final.

LAFCO

- 1) Annexation to the Metropolitan Water District of Southern California (MET) and the San Diego County Water Authority (CWA) subject to the terms and conditions of the MET and CWA.

- 2) Removal/divestiture of the entire Meadowood ownership consisting of 390± acres from the fire and emergency medical services zone of County Service Area No. 135 is contingent upon annexation of that territory to the North County Fire Protection District.

Item 8

Proposed/Final FY 2014-15 LAFCO Budget

Chairman Vanderlaan opened the public hearing.

Michael Ott presented the Proposed/Final FY 2014-15 LAFCO Budget to the Commission. He said that there will be a budget reduction of about \$40,000 based on the gross appropriations for FY 2014-15. Mr. Ott indicated that the expenditures will decrease for FY 2014-15 due to the staffing reductions and completion of the Records Management project.

Mr. Ott said that the Commission adopted the FY 2013-14 budget and modified it in mid-year after the County enacted a new wage and benefit plan for its employees and said that the plan was ratified by LAFCO. He said that the FY 2014-15 baseline budget includes actions that the Commission authorized in FY 2013-14 (e.g., 2% one-time pay and benefit adjustment, plus 2% one-time performance-based pay for one position). He also indicated that the FY 2014-15 proposed Salaries and Benefits figures include provisions for a 1% performance-based increase and a 1% equity adjustment that the County approved for its employees.

A motion to approve the budget was made by Commissioner Abed and seconded by Commissioner Pocklington.

Supervisor Jacob asked for clarification that the salary recommendations for the Executive Officer will be determined by the Performance Review Committee. Mr. Ott indicated that as with all staff, the salaries for employees are determined through a performance review process. Supervisor Horn indicated that the staffing schedule is labeled "proposed" for that purpose. Supervisor Jacob's comments were included in the motion.

Chairman Vanderlaan closed the public hearing.

With no speakers from the public and no further discussion from the Commission, on motion of Commissioner Abed, seconded by Pocklington, and carried unanimously by the commissioners present (Vanderlaan, Ingalls, Pocklington, Horn, Jacob, and Abed), the Commission took the following actions:

- (1) Open the hearing on the Proposed/Final FY 2014-15 LAFCO Budget and close the hearing after receiving public comments; and
- (2) Adopt the Proposed/Final FY 2014-15 Budget and direct the Executive Officer to implement all related budget recommendations in the staff report, including but not limited to:
 - (a) Direct the County Auditor/Chief Financial Officer to request payment from the Board of Supervisors and each city and independent district no later than July 1, 2014 for the amount owed and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity (Government Code Section 56381).
 - (b) Authorize the Executive Officer and the County Auditor/Chief Financial Officer to determine an appropriate method of collecting the required payment if payment is not remitted within 60 days. Per State Law, the Executive Officer may request the Auditor to collect an equivalent amount from the property tax or any fee or eligible revenue owed to the County, City, or District. Any expenses incurred by the Commission or Auditor in collecting late payments shall be added to the payment owed the Commission [Government Code Section 56381(c)]. Request the Auditor to use the budget adoption date as the basis for selecting the most recent editions of the accounting publications that must be used under State Law to prepare the cost apportionment allocation.
 - (c) Ratify the continuation of approved fund balance designations supporting the waiver of associated LAFCO processing fees for the dissolution of the Julian-Cuyamaca, Pine Valley, and Rural Fire Protection Districts and related expansion of County Service Area No. 135 latent powers (fire protection and emergency medical services), Santa Fe Fire Protection District, reorganization of County Service Area No. 115 (Pepper Drive); and the Greenwood Memorial Park Cemetery Island Reorganization proposal.
 - (d) Ratify the continuation of the fund balance designations and amount of funds contained within each designation for application in FY 2014-15.
 - (e) Direct the Executive Officer to make conforming changes to LAFCO's fund balance designations based on amounts added to or removed from associated fund balance accounts, and to advise the Commission upon make such changes.
 - (f) Authorize the transfer of unspent funds from LAFCO's FY 2013-14 and FY 2014-15 Budgets to Account 46726 (Special Projects Trust Fund)

and direct the Executive Officer to inform the Commission of the amount of the fund transfer during the quarterly budget update.

- (g) Direct the Executive Officer to make appropriations adjustments and fund transfers (additions or deletions, services and supplies adjustments, and staffing level changes) to contain LAFCO's FY 2014-15 gross cost of \$1,723,121 and net cost of \$1,395,035.
- (h) Authorize the implementation of the FY 2014-15 Proposed Staffing Schedule per Figure 3; establish a maximum cap for performance-based (merit) increase for staff not to exceed 1% of annualized salary (overall performance ratings for LAFCO staff must be at an above-standard level for eligibility);
- (i) Authorize the Executive Officer to direct the County Auditor to establish LAFCO's budget and appropriations at the gross and net levels contained in Figures 1–3 of the Proposed/Final FY 2014-15 LAFCO Budget.
- (j) Ratify the application of the County of San Diego's Employer and Employee Retirement Contribution Rates and Compensation Ordinance Amendments per in attached March 11, 2014 staff report (Attachment 1). Ratification will result in the compensation and benefit adjustments for comparable LAFCO positions with the following labor code designations: EM/SD1 (Exec. Officer); MA/SD2 (Asst. Exec. Officer, Chief Analyst, Analyst III; CE/SD6 (Exec. Asst., Admin. Asst., Admin Aide); CE/SD2 (Local Governmental Analyst I & II; PS/SD5 (Records Clerk, Graphic Arts Specialist; SD0 (Student Worker). Specifically, this action will result in the following:
 1. 1% equity salary adjustment for LAFCO employees in job codes/classifications designated SD1, SD2, SD6, effective June 27, 2014.
 2. 2% across the board salary increase in job codes/classifications designated SD2 and SD6, effective June 26, 2015 and 2%, effective June 24, 2016.
 3. Base pay increase for all eligible employees (SD1, SD2, and SD6) as even exchange for the remaining retirement offset elimination, effective June 9, 2017.
 4. Per the amounts specified in the County of San Diego's March 11, 2014 memorandum (Attachment 1), increase the contribution to LAFCO employee Flexible Benefits comparable to similar county

positions with the following labor code designations: EM/SD1 (Exec. Officer); MA/SD2 (Asst. Exec. Officer, Chief Analyst, Analyst III; CE/SD6 (Exec. Asst., Admin. Asst., Admin Aide); CE/SD2 (Local Governmental Analyst I & II; PS/SD5 (Records Clerk, Graphic Arts Specialist; SD0 (Student Worker), effective January 1, 2016 and January 1, 2017.

5. Per the County of San Diego's March 11, 2014 memorandum (Attachment 1), eliminate the LAFCO/County retirement offset contributions on June 9, 2017 for all LAFCO job classifications.

Item 9

“Harmony Grove Villiage Reorganziation” [County Service Area No. 107 (Elfin Forest/Harmony Grove); Rincon del Diablo Municipal Water District” (RO13-47)

“Amendment to the Sphere of Influence for Rincon Del Diablo Municipal Water Dstrict” (SA13-47)

Michael Ott, provided introductory information to the Commission regarding Item 9. Mr. Ott said that Robert Barry will provide brief information and that this is an information item and no action is required.

Robert Barry, Local Governmental Analyst III, provided a brief report to the Commission. Mr. Barry said that the proposed area involves two areas: (1) Proposal Area 1 involves a detachment from the San Marcos Fire Protection District and concurrent annexation to County Service Area No. 107; and (2) Proposal Area 2 involves a detachment from Vallecitos Water District and concurrent annexation to Rincon Del Diablo Municipal Water District. He indicated that the reorganization consists of two parcels that will consolidate for the provison of fire protection and water services. This was an information item and no action was required by the Commission.

Item 10

**“Crest Drive–Keller Annexation” to the
San Diego County Sanitation District (DA14-02)**

Michael Ott explained to the Commission that Item 10 involves an annexation to obtain sewer services. He asked the Commission to waive the staff presentation. This was an information item and no action was required by the Commission.

Item 11

April 2014 Legislative Status Report

Harry Ehrlich, Director of Legislative provided an update to the Commission regarding the current state legislation. He informed the Commission that two new bills have been introduced. Mr. Ehrlich provided details on the new bills impacting LAFCOs and recommended the Commission for a Watch position. The Commission accepted the report.

There being no further business to come before the Commission, the meeting adjourned at 10:21 a.m. to the May 5, 2014 meeting, in Room 302, County Administration Center.

**Tameron Lockett
Administrative Assistant
San Diego Local Agency Formaiton Commission**