

From: Pellman, Lloyd W.
Sent: Saturday, April 3, 2021 1:55 PM
To: Blom, Erica
Subject: Revised Comment on 7b for Monday-PLEASE USE THIS ONE

This is to comment on item 7b on behalf of the San Luis Rey Indian Water Authority in support of the staff report and recommendations.

The letter filed late Friday on the Yuima Municipal Water District letterhead with its attachments consists of 105 pages. But not one page confirms written approval for this particular RCD to participate in forming a GSA. Ironically, in those 105 pages is a letter dated January 22, 2021 from the Executive Director of the California Association of Resource Conservation Districts (at page 65) stating that Department of Water Resources approval was required for an RCD to participate in a GSA.

The LAFCO statutes and the Sustainable Groundwater Management Act (SGMA) are two different statutory schemes. There is nothing in the Yuima letter that impacts the staff report which addresses LAFCO statutes and Commission adopted rules.

Your staff report recognizes that such SGMA approval rests with the state, not LAFCO. LAFCO only determines which powers exist under LAFCO statutes. Contrary to the argument in the Yuima letter, not all participants statewide will need prior approval from LAFCO as stated in their correspondence; only those who have not yet activated the powers they seek through LAFCO would need to do so. In any event each RCD would need to have separate approval from the state to form a GSA.

The anticipated dire consequences locally or statewide forecast in the Yuima letter should the Commission approve the staff report is pure speculation and conjecture and designed to elicit a response of fear. There is nothing in the record to indicate that any other RCD has not activated its necessary latent powers through its local LAFCO. And, again, the LAFCO and SGMA statutes are two distinct statutory schemes.

In any event, the situation is not of LAFCO's making. The San Diego LAFCO rules regarding activation of latent powers have existed for over two decades. Those rules should have been followed earlier by the RCD, and it was its responsibility to apply to activate any of its latent powers. For the Commission to not enforce those rules now would be sending a signal to the special districts within the county that the adopted rules don't need to be followed.

Three sets of statutes are at play here. The principal act for the RCD sets forth substantively the powers if they are properly activated. The LAFCO statutes provide the procedures for approval of the powers to be activated. SGMA does not override the LAFCO statutes. As stated in the Addendum submitted by the LAFCO Executive Officer and staff, the RCD must obtain LAFCO approval to exercise any water management powers and SGMA approval from the state to participate as a member of the GSA.

The fine efforts by Kim Thorner, Jack Bebee and Paul Bushee in reviewing the past activities of this particular RCD enabled them to marry the RCD's activities to the terminology of the SGMA statutes. However, those efforts did not fully recognize the existing procedural requirements for activation of

latent powers. Those activities of the RCD and as shown in the 105 page Yuima letter of objection involved activities for which the RCD had not obtained the prior approval from LAFCO.

LAFCO should not put itself in the position of arbiter of issues concerning principal acts of other public agencies as it is not a responsibility set out in the LAFCO statutes. The staff report is factually and legally correct and should be approved.

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