

**LAFCO MEETING
AGENDA**

**Wednesday, December 7, 2011
1:15 PM**

**PLEASE NOTE
CHANGE IN VENUE**

**Board Meeting Chambers
70 West Hedding Street, First Floor, San Jose, CA 95110**

**CHAIRPERSON: Liz Kniss • VICE-CHAIRPERSON: Pete Constant
COMMISSIONERS: Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson
ALTERNATES: Al Pinheiro, Sam Liccardo, George Shirakawa, Terry Trumbull**

The items marked with an asterisk (*) are included on the Consent Agenda and will be taken in one motion. At the beginning of the meeting, anyone who wants to discuss a consent item should make a request to remove that item from the Consent Agenda.

Disclosure Requirements

1. Disclosure of Campaign Contributions

If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than \$250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than \$250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings.

If you or your agent have made a contribution of more than \$250 to any commissioner or alternate during the twelve (12) months preceding the decision, that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/PartyDiscForm.pdf>

2. Lobbying Disclosure

Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For disclosure forms and additional information see:

<http://www.santaclara.lafco.ca.gov/annexations&Reorg/LobbyDiscForm.pdf>

3. Disclosure of Political Expenditures and Contributions Regarding LAFCO Proceedings

If the proponents or opponents of a LAFCO proposal spend \$1,000 with respect to that proposal, they must report their contributions of \$100 or more and all of their expenditures under the rules of the Political Reform Act for local initiative measures to the LAFCO office. For additional information and for disclosure forms see:

http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html

1. ROLL CALL

2. PUBLIC COMMENTS

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

3. APPROVE MINUTES OF OCTOBER 5, 2011 LAFCO MEETING

CLOSED SESSION

4. CONFERENCE WITH LEGAL COUNSEL

Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code § 54956.9 (1 case)

PUBLIC HEARING

5. SARATOGA URBAN SERVICE AREA AMENDMENT 2011

A request by the City of Saratoga for an amendment of its urban service area boundary to include approximately 54 acres comprising of seven parcels (APNs 503-11-006, 008, 009, 503-74-001, 002, 003 and 004) located on Mt. Eden Road.

Possible Action: Open public hearing and continue the hearing to February 8, 2012.

6. 2011 COUNTYWIDE WATER SERVICE REVIEW FINAL REPORT AND SPHERE OF INFLUENCE UPDATES FOR WATER AND RESOURCE CONSERVATION DISTRICTS

Possible Action:

- a. Accept comments and consider any further revisions to the Revised Draft 2011 Countywide Water Service Review Report.
- b. Adopt the 2011 Countywide Water Service Review Report (Service Review Report) with revisions as necessary.
- c. Adopt service review determinations for each of the water agencies as included in the Service Review Report.
- d. Adopt sphere of influence (SOI) updates along with the sphere of influence determinations for the four water districts and two resource conservation districts as included in the Service Review Report:
 1. Reaffirm the existing SOI for the Santa Clara Valley Water District (SCVWD) as recommended in the Service Review Report.
 2. Expand the existing SOI for the Aldercroft Heights County Water District to include APN 558-22-019 as recommended and depicted in the Service Review Report.

3. Reaffirm the existing SOI for the Purissima Hills Water District as recommended and depicted in the Service Review Report.
 4. Do not consider any further expansions of the SOI for the San Martin County Water District until such time as the District complies with State law regarding requesting and receiving LAFCO approval before providing services outside of the District's boundaries. Retain the existing SOI for the District pending resolution of illegal service extensions.
 5. Request that the Guadalupe Coyote Resource Conservation District return to LAFCO within a year with a plan for services which does not overlap with the Santa Clara Valley Water District's (SCVWD) efforts and could not otherwise be provided by SCVWD through its enabling act. Reevaluate the District and its SOI at that time considering the District's plan and application for providing new or different services per Government Code §56654(b) and §56824.12. Retain the existing SOI for the District pending further evaluation of the District.
 6. Expand the existing SOI of Loma Prieta Resource Conservation District to include the remaining portions of the Cities of Gilroy and Morgan Hill and the community of San Martin as recommended and depicted in the Service Review Report.
- e. Direct staff to prepare the Final Report for the 2011 Countywide Water Service Review and to distribute the Final Report to all the affected agencies.
 - f. Direct staff to contact each agency and request a written response on how and when the agency plans to address the findings and/or implement the recommendations presented in the Final Report and to provide an explanation if the agency disagrees with a finding or recommendation.

ITEMS FOR ACTION / DISCUSSION

7. SARATOGA FIRE PROTECTION DISTRICT

Possible Action: Accept staff report and provide further direction to staff, as necessary.

8. EL CAMINO HOSPITAL DISTRICT AUDIT AND SERVICE REVIEW

Possible Action: Accept staff report and provide further direction to staff, as necessary.

9. LEGISLATIVE REPORT

Possible Action: Accept staff report and provide further direction to staff, as necessary.

10. 2012 SCHEDULE OF LAFCO MEETINGS

Possible Action: Adopt the schedule of LAFCO meetings and application filing deadlines for 2012.

11. APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2012

Possible Action: Appoint the Chairperson and Vice-Chairperson for 2012.

12. EXECUTIVE OFFICER'S REPORT

12.1 UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY

For information only.

12.2 LAFCO STRATEGIC PLANNING WORKSHOP

For information only.

12.3 CALAFCO UNIVERSITY CLASS: LAFCOs AND HEALTH CARE DISTRICTS

For information only.

13. PENDING APPLICATIONS / UPCOMING PROJECTS

13.1 MORGAN HILL URBAN SERVICE AREA AMENDMENT: MONTEREY-SOUTH OF WATSONVILLE PROJECT

14. COMMISSIONER REPORTS

15. NEWSPAPER ARTICLES / NEWSLETTERS

16. WRITTEN CORRESPONDENCE

17. ADJOURN

Adjourn to regular LAFCO meeting on Wednesday, February 8, 2012, at 1:15 PM in the Isaac Newton Senter Auditorium, 70 West Hedding Street, San Jose.

Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commission less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office at the address listed at the bottom of the first page of the agenda during normal business hours. In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415, or at TDD (408) 993-8272, indicating that the message is for the LAFCO Clerk.

LOCAL AGENCY FORMATION COMMISSION OF
SANTA CLARA COUNTY
MINUTES
WEDNESDAY, OCTOBER 5, 2011

CALL TO ORDER

Chairperson Liz Kniss called the meeting to order at 1:19 p.m.

1. ROLL CALL

The following Commissioners and Alternate Commissioners were present:

- **Chairperson Liz Kniss** (*left at 2:32 p.m.*)
- **Commissioner Margaret Abe-Koga**
- **Commissioner Mike Wasserman** (*left at 2:40 p.m.*)
- **Commissioner Susan Vicklund-Wilson**
- **Alternate Commissioner Terry Trumbull**

The following Commissioners were absent:

- **Commissioner Pete Constant**
- **Alternate Commissioner Al Pinheiro**
- **Alternate Commissioner George Shirakawa**
- **Alternate Commissioner Sam Liccardo**

The following staff members were present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Analyst Dunia Noel**
- **LAFCO Counsel Mala Subramanian**

2. PUBLIC COMMENT

There was no public comment.

3. APPROVE THE MINUTES OF AUGUST 3, 2011 LAFCO MEETING

The Commission approved the minutes of June 1, 2011 LAFCO meeting, as written.

Motion: Margaret Abe-Koga **Second:** Mike Wasserman

MOTION PASSED

AYES: Liz Kniss, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

Chairperson Kniss, there being no objection, announced that Item No. 8 would be taken out of order immediately after the closed session.

4. 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT

Ms. Noel presented a brief staff report and introduced the consultants. Bruce Baracco, Baracco and Associates, expressed appreciation to the cities and special districts for their cooperation.

Jennifer Stephenson, Policy Consulting Associates, provided a PowerPoint presentation on the 2011 Countywide Water Service Review. Oxana Kolomitsyna, Policy Consulting Associates, discussed recycled water issues in the County. Ms. Stephenson then discussed the accountability findings and governance structure recommendations in the report.

Chairperson Kniss declared the public hearing open.

At the request of Commissioner Wilson, Ms. Palacherla discussed the composition of the Technical Action Committee (TAC) and informed that it provided guidance and technical expertise throughout the project.

Jimi Fiedler, Santa Clara Valley Water District (SCVWD), stated that collaboration among wholesalers and retailers in the county has ensured water supply reliability and conservation program savings. He explained that the best way historically to provide water and related services has been through uniform governance structure. He continued that it is through the efforts of SCVWD's active recharge program that groundwater is available for pumping in the county. He informed that SCVWD supports the recommendations in the report.

Meg Giberson, Guadalupe-Coyote Resource Conservation District, stated that she would have had a greater comfort level if the SCVWD was not part of the TAC and did not have a role in finalizing the criteria for agency review. She explained that the District is providing services outside its boundaries because its mandate is to identify resource issues and, even though the District contains only the upper watershed, it comments on projects in the lower watersheds because of the potential for impacts to the upper watersheds.

The Commission considered the Draft Report for the 2011 Countywide Water Service Review and directed staff to revise the Report as necessary to and to set December 7, 2011 as the date for the public hearing to consider adoption of the Final Report.

Motion: Susan Vicklund-Wilson

Second: Mike Wasserman

MOTION PASSED

AYES: Liz Kniss, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

5. CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL

The Commission adjourned to Closed Session at 1:46 p.m. and reconvened at 2:14 p.m. Ms. Subramanian announced that there was no report from Closed Session.

***8. TAKEN OUT OF ORDER: SARATOGA FIRE PROTECTION DISTRICT**

Ms. Palacherla presented the staff report.

Eugene Zambetti, Director, Saratoga Fire Protection District, stated that the District, formed in 1929, is independent and accountable because its board members are elected directly by the people. He stated that the District has entered into a service agreement

with the Santa Clara County Central Fire Protection District because it is economical. He added that the District has a community center, an Explorer Scout unit, and a full-time volunteer engine response. He noted that the District is in the same situation as the Los Altos Hills Fire Protection District and directed attention to the letter from Harold S. Toppel, District Counsel.

In response to an inquiry by **Commissioner Wasserman**, Ms. Palacherla informed that while both the Saratoga Fire Protection District and the Los Altos Hills County Fire Protection District contract for fire services with the Santa Clara County Central Fire Protection District, the Saratoga Fire Protection District does not provide services outside of the contract unlike Los Altos Hills Fire Protection District which provides services such as brush clearance and weed abatement. In response, Mr. Zambetti informed that Saratoga Fire District maintains the City of Saratoga's Early Warning Alarm System.

Commissioner Wasserman stated that LAFCO's Fire Service Review Report indicated that if the Saratoga Fire Protection District is dissolved, there would be an annual cost savings of about \$100,000 without a reduction in the level of service or the number of firefighters. Mr. Zambetti informed that the cost savings would be less because of the cost of the dissolution study and elections. **Commissioner Wasserman** stated that the estimated annual cost savings would be confirmed through a study. **Commissioner Wilson** recommended that staff initiate a discussion with the City of Saratoga before a dissolution study is conducted. **Commissioner Wasserman** requested staff to provide a presentation to the Saratoga City Council in order to explain the issue, solicit feedback and facilitate exchange of information. **Commissioner Wilson** requested that this item be brought back to the Commission at the December 7, 2011 meeting.

The Commission directed staff to provide a presentation to the Saratoga City Council to solicit feedback, and report back to the Commission at the December 7, 2011 meeting.

Motion: Mike Wasserman

Second: Susan Vicklund-Wilson

MOTION PASSED

AYES: Liz Kniss, Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

6. EL CAMINO HOSPITAL DISTRICT AUDIT AND SERVICE REVIEW REQUEST FOR PROPOSALS

With Chairperson Kniss and Vice-Chairperson Constant absent, **Commissioner Wilson** was designated as Acting-Chairperson.

Ms. Palacherla presented the staff report. She also informed that the El Camino Hospital District is preparing the information requested by LAFCO regarding hospital districts that leased or sold their hospitals to other organizations and that the District provide the information to LAFCO soon.

In response to an inquiry by **Commissioner Abe-Koga**, Ms. Palacherla advised that the scope of work for the District audit and service review will cover the non-profit corporation's finances as far as necessary to resolve the issue of whether or not the

district is providing services outside its boundary. In response to a follow-up inquiry by **Commissioner Abe-Koga**, Ms. Palacherla advised that governance of the district will be covered under the topic of the relationship between the district and the non-profit corporation.

The Commission authorized staff to issue a Request for Proposals (RFP) for a professional service firm to prepare an audit and service review of the El Camino Hospital District.

Further, the Commission delegated authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$70,000 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

Motion: Margaret Abe-Koga

Second: Mike Wasserman

MOTION PASSED

AYES: Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

7. REVISED DRAFT RESPONSE TO THE 2010-2011 CIVIL GRAND JURY REPORT

Ms. Palacherla presented the staff report.

Commissioner Wasserman expressed appreciation to Commissioner Constant and staff for their work on the revised draft response.

The Commission considered and approved the revised response to the 2010-2011 Civil Grand Jury report of June 16, 2011 entitled "LAFCO's Responsibility for Special Districts: Overseen or Overlooked?"

The Commission further directed staff to forward the response to the Presiding Judge of the Santa Clara County Superior Court and the Foreperson of the 2010-2011 Civil Grand Jury.

Motion: Mike Wasserman

Second: Margaret Abe-Koga

MOTION PASSED

AYES: Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

9. ANNUAL REPORT

The Commission accepted the 2010-2011 Annual Report (July 1, 2010 to June 30, 2011).

Motion: Mike Wasserman

Second: Margaret Abe-Koga

MOTION PASSED

AYES: Margaret Abe-Koga, Mike Wasserman, Susan Vicklund-Wilson

NOES: None

10. ADJOURN

The meeting was adjourned at 2:40 p.m. to the next meeting on Wednesday, December 7, 2011 in Isaac Senter Auditorium, County Government Center, 70 West Hedding Street, San Jose, California.

Approved:

Susan Vicklund-Wilson, Acting Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO MEETING: December 7, 2011
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: **2011 COUNTYWIDE WATER SERVICE REVIEW FINAL REPORT
AND SPHERE OF INFLUENCE UPDATES FOR WATER DISTRICTS
AND RESOURCE CONSERVATION DISTRICTS**

STAFF RECOMMENDATIONS

CEQA ACTION

1. Determine that the 2011 Countywide Water Service Review Report which includes sphere of influence updates for six special districts and the recommendations of this staff report are exempt from the requirements of the California Environmental Quality Act (CEQA) under §15306 Class 6; §15061(b)(3) General Rule; §15378(b)(5); and §15320 Class 20 of the State CEQA Guidelines.

SERVICE REVIEW REPORT AND SPHERE OF INFLUENCE UPDATES

1. Accept comments and consider any further revisions to the Revised Draft 2011 Countywide Water Service Review Report.
2. Adopt the 2011 Countywide Water Service Review Report (Service Review Report) with revisions as necessary.
3. Adopt service review determinations for each of the water agencies as included in the Service Review Report.
4. Adopt sphere of influence (SOI) updates along with the sphere of influence determinations for the four water districts and two resource conservation districts as included in the Service Review Report:
 - a. Reaffirm the existing SOI for the **Santa Clara Valley Water District** (SCVWD) as recommended in the Service Review Report.
 - b. Expand the existing SOI for the **Aldercroft Heights County Water District** to include APN 558-22-019 as recommended and depicted in the Service Review Report.

- c. Reaffirm the existing SOI for the **Purissima Hills Water District** as recommended and depicted in the Service Review Report.
 - d. Do not consider any further expansions of the SOI for the **San Martin County Water District** until such time as the District complies with State law regarding requesting and receiving LAFCO approval before providing services outside of the District's boundaries. Retain the existing SOI for the District pending resolution of illegal service extensions.
 - e. Request that the **Guadalupe Coyote Resource Conservation District** return to LAFCO within a year with a plan for services which does not overlap with the Santa Clara Valley Water District's (SCVWD) efforts and could not otherwise be provided by SCVWD through its enabling act. Reevaluate the District and its SOI at that time considering the District's plan and application for providing new or different services per Government Code §56654(b) and §56824.12. Retain the existing SOI for the District pending further evaluation of the District.
 - f. Expand the existing SOI of **Loma Prieta Resource Conservation District** to include the remaining portions of the Cities of Gilroy and Morgan Hill and the community of San Martin as recommended and depicted in the Service Review Report.
5. Direct staff to prepare the Final Report for the 2011 Countywide Water Service Review and to distribute the Final Report to all the affected agencies.
 6. Direct staff to contact each agency and request a written response on how and when the agency plans to address the findings and/or implement the recommendations presented in the Final Report and to provide an explanation if the agency disagrees with a finding or does not plan to implement a recommendation.

BACKGROUND

SERVICE REVIEW AND SPHERE OF INFLUENCE REQUIREMENTS

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §56000 et seq.) requires that each LAFCO conduct service reviews prior to or in conjunction with the 5-year mandated sphere of influence (SOI) updates. A service review is a comprehensive review of municipal services in a designated geographic area in order to obtain information about services, evaluate provision of services, and recommend actions when necessary, to promote the efficient provision of those services. In Santa Clara County, service reviews are intended to serve as a tool to help LAFCO, the public and other agencies better understand the public service structure and to develop information to update the spheres of influence of the 29 special districts and 15 cities in the county.

As part of the service review, LAFCO must prepare an analysis and written statement of determinations regarding each of the following five categories:

- Growth and population projections for the affected area
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies
- Financial ability of agencies to provide services
- Status of, and opportunities for, shared facilities
- Accountability for community service needs, including governmental structure and operation efficiencies
- Any other matter related to effective or efficient service delivery, as required by commission policy.

As part of the sphere of influence update, LAFCO must prepare an analysis and written statement of determinations for each agency regarding each of the following categories:

- The present and planned land uses in the area, including agricultural and open-space lands
- The present and probable need for public facilities and services in the area
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide
- The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency
- The nature, location, and extent of any functions or classes of services provided by existing district (applies to special districts only).

The 2011 Countywide Water Service Review is a review of water services in Santa Clara County and includes service review determinations for each of the water service provider agencies in the County as well as sphere of influence recommendations and determinations for four water districts and two resource conservation districts.

SERVICE REVIEW PROCESS

A Technical Advisory Committee (TAC) was established to select the consultant, serve as a liaison between LAFCO and the various affected agencies, as well as to provide technical expertise and guidance throughout the service review process. In addition to **LAFCO Commissioner Susan Vicklund-Wilson**, the members of the TAC for the 2011 Countywide Water Service Review include:

Representing the Santa Clara County/Cities Managers' Association:

- **Brian Loventhal**, City Manager, City of Monte Sereno

Representing the County Municipal Public Works Officers' Association:

- **Karl Bjarke**, Deputy Director of Public Works, City of Morgan Hill

Representing the Santa Clara County Water Retailers Group:

- **Jim Fiedler**, Chief Operating Officer, Water Utility, Santa Clara Valley Water District
- **Chris de Groot**, Director of Water & Sewer Utilities, City of Santa Clara
- **Michael Bolzowski**, Water Resource Planning Engineer, California Water Service Company

In December 2010, LAFCO retained the consultant team of Baracco and Associates, Policy Consulting Associates, and The Shibatani Group to conduct the 2011 Countywide Water Service Review.

LAFCO staff, the TAC, and the consultant team met in mid February 2011, to formally kick-off the project and to discuss key water service issues in the county and the data collection and verification process. A newsletter outlining the project scope, process and schedule was then provided to all affected agencies, interested parties, and LAFCO Commissioners in late February. The consultants developed preliminary criteria for use in making the required service review determinations and LAFCO staff and the TAC met to review and finalize the criteria.

Subsequently, the consultants began gathering information on the affected agencies and organizations from online and central data sources. The consultants then provided each affected agency with a customized request for information form and created a dedicated website for agencies to upload the requested information. In early April, the consultants and LAFCO staff met individually with Directors/Managers of the four water districts and the two resource conservation districts in order to collect specific additional data. In June, individual meetings were held with Water Utility Department/Public Works Department directors of cities. The consultant team then drafted chapters on each of the agencies which were then provided to each respective agency for internal review and comment, to ensure factual accuracy. Next, the consultants analyzed the data and used the service review determination criteria to make the required determinations for each agency. Throughout the process, the TAC, the City Managers' Association, the Public Works Officers' Association, and the Santa Clara County Water Retailers Group were provided updates on the issues and the progress of the service review.

The County Planning Department prepared GIS maps of water service providers in the county for the Draft Report. An administrative draft of the Countywide Water Service Review Report was developed by the consultants and reviewed by LAFCO staff. Staff then worked with the consultants to prepare a Draft Report for public review.

On September 27, 2011, LAFCO sent a Notice of Availability/Notice of LAFCO's October 5th Workshop and Public Hearing to all affected agencies, and other interested parties announcing the release of the Draft Service Review Report for public review and comment. The Draft Report was then posted on the LAFCO Website.

LAFCO held a public hearing on October 5, 2011, to accept public comments. Subsequently, LAFCO received comments (Attachment C) from several agencies on the Draft Report. The Draft Report was then revised to address these comments and a

Revised Draft Report (dated October 31, 2011) was released on the LAFCO website on November 3, 2011. A Notice of Availability (Attachment A) for the Revised Draft Report was provided to all affected agencies and interested parties. A redline version of the October 31, 2011 Revised Draft Report is available on the LAFCO website.

LAFCO then received a few comments on the October 31, 2011 Revised Draft Report from the Cities of Gilroy and Milpitas and from the Guadalupe-Coyote Resource Conservation District and the Santa Clara Valley Water District. Attachment B includes all of the comment letters received. Attachment C includes a table listing all of the comments received to date along with information on how these comments are addressed in the Revised Draft Report dated October 31, 2011 or how they will be addressed in the Final Report.

ENVIRONMENTAL ANALYSIS

The 2011 Countywide Water Service Review Report is intended to serve as an information gathering tool to help LAFCO, the public and other agencies better understand water service provision in Santa Clara County and to develop information to update the spheres of influence of water districts, resource conservation districts, and cities in the county. The Service Review Report consists of the following items:

- Overview of the entire water service system in Santa Clara County
- Information on potential effects of climatic shifts on water supply in Santa Clara County
- Overview of the key federal and state regulations that affect water provider agencies
- Overview of the key laws affecting water supply analysis and planning,
- Profiles of all water districts, resource conservation districts, major private water purveyors, cities, and some organizations providing water services in Santa Clara County
- Issues related to the provision of water services in Santa Clara County and recommendations for addressing those issues, including measures to enhance the transparency and accountability of certain districts, and potential jurisdictional boundary changes or governance changes to improve services
- Service review determinations for all water service agencies
- Sphere of influence recommendations and determinations for four water districts and two resource conservation districts

LAFCO is not required to initiate boundary changes based on this service review. LAFCO, local agencies or the public may subsequently use the service review together with additional research and analysis where necessary, to pursue changes in jurisdictional boundaries. Any future changes in jurisdictional boundaries will be subject to CEQA review.

The Service Review Report recommends that the spheres of influence of the Santa Clara Valley Water District, the San Martin County Water District, Purissima Hills Water District, and the Guadalupe-Coyote Resource Conservation District be reaffirmed/retained. The Service Review Report also recommends the expansion of the spheres of influence of the Aldercroft Heights County Water District and the Loma Prieta Resource Conservation District.

In the case of the recommendation to expand Aldercroft Heights County Water District's SOI to include APN 558-22-019, a parcel which the District already currently serves, such a change would have no effect on the services that are currently being provided by the District or the territory that the District currently serves.

In the case of the recommendation to expand Loma Prieta Resource Conservation District's SOI to include the remaining portions of the Cities of Gilroy and Morgan Hill and the community of San Martin, this change would recognize that the District already provides services to these areas and therefore these areas should eventually be annexed by Loma Prieta RCD. Annexation of these areas would have to be initiated by Loma Prieta RCD. Resource conservation services do not themselves induce or encourage growth, and no change in the present or planned uses would result from the expansion of the District's SOI.

This staff report summarizes the recommendations from the Service Review Report to improve the accountability and transparency of special districts and recommendations for jurisdictional boundary changes to improve the services or the governance structure. Implementation of these recommendations will not result in direct or indirect physical changes in the environment.

Therefore, the Service Review Report is exempt from the requirements of the California Environmental Quality Act (CEQA) under §15306 Class 6; §15061(b)(3) General Rule; §15378(b)(5); and §15320 Class 20 of the State CEQA Guidelines, as described below:

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities that do not result in a serious or major disturbance to an environmental resource. According to the CEQA Guidelines, these may be strictly for information gathering purposes, or as part of a study leading to an action that a public agency has not yet approved, adopted, or funded.

Section 15061(b)(3) states that the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Furthermore, Section 15378(b)(5) states that a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

Class 20 consists of changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised.

IMPLEMENTATION STEPS FOR ADDRESSING FINDINGS/RECOMMENDATIONS IDENTIFIED IN THE 2011 COUNTYWIDE WATER SERVICE REVIEW REPORT

The service review report identifies several opportunities and includes several recommendations for improving services. The following recommendations / findings are extracted from the report in order to facilitate LAFCO follow up on their implementation and / or to prepare information on the next steps and in some cases to explore the various options for resolving the issues.

1. RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY OF AGENCIES THROUGH CHANGES IN OPERATIONS, MANAGEMENT AND ADMINISTRATION

The Service Review Report noted that certain agencies could improve the accountability and transparency of their operations. **Table 1** summarizes the recommendations from the Service Review Report for addressing these issues. The purpose of these recommendations is to positively impact or encourage:

- Public's knowledge and involvement in a local agency's actions and decision making processes
- Accountability and accessibility of agency staff and elected / appointed body of an agency
- Transparent operations and management of an agency.

The recommendations presented in **Table 1** are primarily of an operational or administrative nature and do not involve LAFCO action or approval. They include actions, such as establishing a website or newsletter for providing public information, preparing complete and timely financial records, preparing/submitting timely audits, widely advertising board vacancies and filling vacancies through elections, anticipating and appropriately planning for long-term capital improvements, establishing guidelines and procedures, and tracking staff workload and evaluating staff.

TABLE 1: RECOMMENDATIONS FOR IMPROVING ACCOUNTABILITY AND TRANSPARENCY

AGENCY	WEBSITE	FINANCIAL RECORDS	AUDITS	ELECTIONS	PLANS / PROGRAMS	OPERATIONAL PRACTICES	MANAGEMENT PRACTICES
Aldercroft Heights County Water	Establish a website or publish a newsletter	Statements need to be more comprehensive	Submit FY09-10 audit to County & prepare future audits on time	Widely advertise board vacancies to ensure contested elections	Establish multi-year capital improvement program	N/A	N/A
Purissima Hills Water District	N/A	N/A	N/A	N/A	Enhance water conservation program efforts to address large lots	N/A	N/A
Pacheco Pass County Water District¹	Establish a website or publish a newsletter	Statements need to be more comprehensive and completed on an annual basis	Submit audit for last 5 years to San Benito County & establish audit schedule	Widely advertise to fill extended board vacancies & to ensure contested elections	Consider long-term future of District Adopt a capital improvement plan & multi-year CIP for infrastructure needs	Track groundwater levels and usage, and water release through dams	Track workload and hours of District staff monthly
San Martin County Water District	Establish a website or publish a newsletter	N/A	Submit audit for last 5 years to the County & establish audit schedule for future audits	Widely advertise to fill extended board vacancies & to ensure contested elections	Prepare master plan & project future water demands and storage needs Establish multi-year capital improvement program	Seek LAFCO approval before extending services outside District boundary	Track District & staff workload
Guadalupe-Coyote Resource Conservation District	Continue to populate website with further information and documents	N/A	N/A	N/A	Prepare a plan for services that the District intends to provide that do not overlap with SCVWD efforts or SCVWD's enabling act	Establish policies and guidelines for reviewing development projects to increase transparency & provide consistency	Track workload of staff and evaluate staff on a regular basis
Loma Prieta Resource Conservation District	N/A	N/A	N/A	N/A	More closely align long range plan with functions in principal act		N/A

¹San Benito County LAFCO is principal LAFCO for the District. Santa Clara LAFCO will forward this information to San Benito LAFCO.

2. RECOMMENDATIONS FOR CHANGES IN JURISDICTIONAL BOUNDARIES OR GOVERNANCE STRUCTURE

The Service Review Report identified potential jurisdictional boundary changes to improve the services or the governance of agencies. **Table 2** summarizes these recommended changes and the keys steps and agencies that would be involved in implementing these recommendations.

TABLE 2: RECOMMENDATIONS FOR JURISDICTIONAL BOUNDARY CHANGES TO IMPROVE SERVICES OR GOVERNANCE

	RECOMMENDATIONS	KEY STEPS / ANALYSIS REQUIRED	REQUIRES LAFCO APPROVAL?	WHO MAY INITIATE A LAFCO APPLICATION?
ALDERCROFT HEIGHTS COUNTY WATER DISTRICT	Annex APN: 558-22-019 (parcel that the District is presently serving outside of its boundaries) to Aldercroft Heights County Water District	<ul style="list-style-type: none"> • District contacts property owner to inform them of District’s plans to annex parcel • District initiates annexation by resolution • District submits application to LAFCO 	Yes	District Petition of property owner or registered voter
SAN MARTIN COUNTY WATER DISTRICT	Address Illegal Water Service Connections	<ul style="list-style-type: none"> • LAFCO informs property owners and District of illegal connections and corrective measures • District initiates annexation by resolution • District submits application to LAFCO for SOI amendment & annexation, as necessary 	Yes	District Petition of property owners or registered voters within the proposed annexation area

Table 2 continues on next page

	RECOMMENDATIONS	KEY STEPS / ANALYSIS REQUIRED	REQUIRES LAFCO APPROVAL?	WHO MAY INITIATE A LAFCO APPLICATION?
LOMA PRIETA RESOURCE CONSERVATION DISTRICT	Annex to Loma Prieta RCD the remaining portions of the Cities of Gilroy and Morgan Hill, and the community of San Martin that are not currently within the District	<ul style="list-style-type: none"> • District initiates annexation by resolution • District works with County on property tax distribution • District submits application to LAFCO 	Yes	District Petition of property owners or registered voters within the proposed annexation area
	Update Tax Rate Area (TRA) records to reflect that Loma Prieta RCD includes areas in Santa Clara County that were previously within the Bolado-Fairview and San Felipe Soil Conservation Districts and resolve related property tax issues	<ul style="list-style-type: none"> • LAFCO works with County Controller's Office and SBE on this issue • LAFCO contacts SBE to determine if additional information or action by LAFCO or the District is required 	TBD	TBD
MORGAN HILL	Annex the Unincorporated Island Holiday Lake Estates to the City of Morgan Hill	<ul style="list-style-type: none"> • County, SCVWD, Morgan Hill, and LAFCO resume discussions with property owners on the issues of annexation and provision of sewer service 	No	City Petition of property owners or registered voters within the proposed annexation area
GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT	Reevaluation of Guadalupe-Coyote RCD and its SOI considering the District's plan and application for new or different services	<ul style="list-style-type: none"> • District returns to LAFCO within a year with a plan for services the District intends to provide that do not overlap with SCVWD's efforts and could not otherwise be provided by SCVWD through its enabling act • District initiates a request for a change in services and SOI amendment by resolution • District submits application to LAFCO 	Yes	District

3. EXPLORING OPTIONS FOR REORGANIZATION OF THE PACHECO PASS WATER DISTRICT (PPWD) IN ORDER TO ADDRESS FINANCIAL AND INFRASTRUCTURE ISSUES

The Service Review Report identified several concerns regarding the financing, operations, and management of the Pacheco Pass Water District, including the District's lack of necessary revenue (i.e. minimal property tax revenues) to complete essential capital improvements at their North Fork Dam. Furthermore, PPWD has indicated an interest in reorganizing with a larger, more established agency with greater financial resources that could fund the necessary capital improvements and continue the groundwater recharge services currently provided by the District. PPWD is unique in that it has territory in both Santa Clara and San Benito Counties and other water districts completely overlap PPWD's territory in each of these counties— Santa Clara Valley Water District (SCVWD) in Santa Clara and San Benito County Water District (SBCWD) in San Benito. Both SCVWD and SBCWD have indicated interest in some type of collaborative solution to address PPWD's issues, as the North Fork Dam and groundwater recharge into the Pacheco Subbasin are of interest to both agencies.

The Service Review Report identified the following potential reorganization options that could help address PPWD's issues:

- 1) Consolidation of PPWD into the San Benito County Water District (SBCWD)
- 2) Consolidation of PPWD into the Santa Clara Valley Water District (SCVWD)
- 3) Consolidation of PPWD's territory in each county into the respective water district
- 4) Formation of a joint powers authority (JPA) or other collaborative agreement between the affected agencies

LAFCO of San Benito is the principal LAFCO for the District based on the assessed value of the District's territory and therefore any changes in governance structure would ultimately need to be approved by LAFCO of San Benito. Furthermore, each of the options identified above has its own challenges, for example SCVWD's enabling act does not allow it to include territory outside of Santa Clara County and although SCVWD can obtain, retain, and protect water outside of its bounds, that water must be used for beneficial uses within the District. This and other restrictions may ultimately limit the options available to address PPWD's issues or may mean that additional actions may be required to implement a specific option.

LAFCO of Santa Clara County's primary role at this time would be to facilitate discussions between the Pacheco Pass Water District and other affected agencies such as Santa Clara Valley Water District, LAFCO of San Benito County, and the San Benito County Water District concerning the future of the District given the District's financial and infrastructure issues and the above options. LAFCO can also help determine the process/steps required to initiate any of the reorganization options and clarify what role each LAFCO would need to play in implementing the various options (the formation of a JPA would not require actions or approvals from either LAFCO).

Additionally, the Service Review Report indicated that there might be an issue with how property taxes in San Benito County are allocated to the District. LAFCO will forward this information to San Benito County and its LAFCO.

NEXT STEPS

Staff will make any necessary or directed changes to the Report. Upon adoption of the Final Service Review Report by the Commission, staff will post the Final Service Review Report on the LAFCO website and notify affected agencies and interested parties that the adopted Final Report is now available.

In addition, if directed by LAFCO, staff will contact each agency and request a written response from them on how they plan to address the findings and/ or implement the recommendations of the Final Report, and if they disagree with any finding, or do not plan to implement any recommendation, to provide an explanation. Staff will update LAFCO on each agency's response and on staff's implementation efforts and seek further direction where necessary.

ATTACHMENTS

- Attachment A:** Notice of Availability for the Revised Draft Report dated October 31, 2011 and public hearing notice of the December 7, 2011 LAFCO Public Hearing
- Attachment B:** Comment letters received as of December 1, 2011 on the Revised Draft Service Review Report dated October 31, 2011.
- Attachment C:** Table listing each of the comments received prior to December 1, 2011 and proposed response to the comments.

Note: The redlined version of the Revised Draft Countywide Fire Service Review Report dated October 31, 2011 is available on the LAFCO website. www.santaclara.lafco.ca.gov



**AGENDA ITEM #6
ATTACHMENT A**

DATE: November 3, 2011
TO: Special District Managers
City Managers and County Executive
City Public Works Directors
Private Water Companies
City Council Members and County Board of Supervisors
LAFCO Members
Interested Parties
FROM: Neelima Palacherla, Executive Officer
SUBJECT: **2011 COUNTYWIDE WATER SERVICE REVIEW REVISED DRAFT REPORT
Notice of Availability and Notice of Public Hearing**

Countywide Water Service Review Revised Draft Report is Available for Public Review and Comment

LAFCO's Countywide Water Service Review Revised Draft Report (with tracked changes shown and addressing comments received by October 24th) is now available for public review and comment on the LAFCO Website (www.santaclara.lafco.ca.gov) under "What's New." The Countywide Water Service Report provides a comprehensive review of water services in Santa Clara County. It also includes service review determinations for the agencies and sphere of influence recommendations for four water districts and two resource conservation districts.

You may provide written comments on the Revised Draft Report by mail to: LAFCO of Santa Clara County, 70 West Hedding Street, 11th Floor, East Wing, San Jose, CA 95110 **OR** you may email your comments to: neelima.palacherla@ceo.sccgov.org **OR** dunia.noel@ceo.sccgov.org. Written comments received by November 23rd will be included and addressed in the staff report that will be provided to the LAFCO Commission in advance of the December 7, 2011 Public Hearing. Written comments received after November 23rd will be provided to the LAFCO Commission at the December 7, 2011 Public Hearing and addressed at that time.

LAFCO Public Hearing on the Revised Draft Report: December 7, 2011

LAFCO will hold a Public Hearing to accept comments and consider adoption of the 2011 Countywide Water Service Review Revised Draft Report.

LAFCO Public Hearing: December 7, 2011
Time: 1:15 P.M. or soon thereafter
Location: Isaac Newton Senter Auditorium
70 W. Hedding Street, San Jose, CA 95110

Please feel free to contact me at (408) 299-5127 or Dunia Noel, LAFCO Analyst, at (408) 299-5148 if you have any questions or concerns. Thank you.



**AGENDA ITEM #6
ATTACHMENT B**

November 23, 2011

Ms. Neelima Palacherla, Executive Officer
Local Agency Formation Commission of Santa Clara County
70 W. Hedding Street, 11th Floor
San Jose, CA 95110

Subject: 2011 Countywide Water Service Review Draft Report

Dear Ms. Palacherla:

The Santa Clara Valley Water District (SCVWD) appreciates the opportunity to provide comments on the 2011 Countywide Water Service Review Revised Draft Report (Draft Report) prepared by the Local Agency Formation Commission (LAFCO) of Santa Clara County. In general, the Draft Report does a good job of accurately describing the mission, governance, finance and complex operations of SCVWD in providing wholesale water supply, flood protection and environmental stewardship to Santa Clara County.

We support key findings of the report, including the finding of significant overlap in watershed and stream stewardship services provided by SCVWD and the Guadalupe-Coyote Resources Conservation District (GCRCD).¹ Consolidation of GCRCD with SCVWD could provide greater efficiency in achieving resource conservation programs through enhanced leverage of property tax revenue and reduced administration costs. Toward that end, we support the Draft Report's sphere of influence recommendation that GCRCD return to LAFCO within a specified timeframe to outline what services GCRCD intends to provide (along with a timeline for implementation) that do not overlap with SCVWD's efforts and could not otherwise be provided by SCVWD through its enabling Act.

We also wish to suggest that the following sentence found on page 206, 2nd paragraph be restated. It currently reads:

"In 2001, an additional mandate to perform watershed stewardship and preservation functions was added to SCVWD's enabling act,..."

We request that it be replaced with the following:

"In 2001, additional authority to protect stream, riparian corridors and natural resources preservation functions were added to SCVWD's enabling act,..."

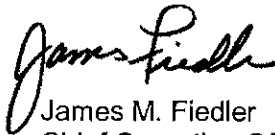
¹ The District's 2011 Stewardship Report can be found at
<http://www.valleywater.org/Services/HealthyCreeksandEcoSystems.aspx>.

Ms. Neelima Palacherla, Executive Officer
November 23, 2011
Page Two

In addition, SCVWD supports findings related to Pacheco Pass Water District (PPWD) and the need to improve existing governance, finance and operations. SCVWD has a vital interest in water supplies that originate in Santa Clara County and in the future of PPWD. We agree that the reorganization of PPWD with SCVWD and San Benito County Water District should be investigated.

Thank you again for the opportunity to participate in the 2011 Countywide Water Service Review process.

Sincerely,

A handwritten signature in black ink, appearing to read "James Fiedler". The signature is written in a cursive, flowing style.

James M. Fiedler
Chief Operating Officer
Water Utility Enterprise

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November 23, 2011

Via electronic mail

Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110
Neelima.palacherla@ceo.sccgov.org

Re: 2011 Countywide Water Service Review Revised Draft Report

Dear Ms. Palacherla:

The Guadalupe-Coyote Resource Conservation District (GCRCD) provides these comments on the 2011 Countywide Water Service Review Revised Draft Report (Nov. 3, 2011) (Draft Revised Report). These comments supplement our comments filed on October 24, 2011 (*see* letter from Meg Giberson to Neelima Palacherla) and October 27, 2011 (*see* email from Meg Giberson to Jennifer Stephenson). We appreciate LAFCO of Santa Clara County Staff's work to undertake the countywide review and prepare the report. These comments are intended to provide additional clarification, or correct inaccuracies, regarding the type and extent of services provided by the GCRCD. Our primary comment goes to the Draft Revised Report's perceived overlap between services provided by the GCRCD and the Santa Clara Valley Water District (SCVWD).

A We support the 2011 Countywide Water Service Review's aim to improve the accountability and efficiency of special districts and other agencies providing water-related services in Santa Clara County. As recommended by the Draft Revised Report, we intend to identify conservation services that we are uniquely qualified to provide—including those for which we may charge, initiate regular staff reviews, and implement other measures to increase our effectiveness. While we support many of the recommendations contained in the report, we are concerned by the proposed alternative whereby LAFCO may consider having the GCRCD subsumed by the SCVWD, or may otherwise prevent the GCRCD from engaging in watershed stewardship services. We believe this potential alternative is based on a misunderstanding of the GCRCD's role in watershed protection and restoration efforts in the County. We believe that "consolidation of the two agencies would limit the range of potential conservation services that could be provided in the northern portion of the County in the future," (Draft Revised Report, p. 221) and would not best serve the public interest.

Based on our review of the Draft Revised Report and discussions with LAFCO Staff, we understand that LAFCO will not make a final determination regarding the GCRCD's Sphere of

B

Influence at the December 7, 2011 meeting. Instead, it will wait until the GCRCD prepares a report describing services that the GCRCD can provide that the SCVWD cannot. We request that LAFCO Staff notify us immediately if our understanding of the process is not correct, and that LAFCO intends to make a final determination at the December 7th hearing. While the services we provide do not currently overlap with those provided by the SCVWD, we support the recommendation for the GCRCD to better identify and/or develop and implement conservation services that we are uniquely qualified to provide. We will coordinate with LAFCO Staff to prepare a follow-up report that will inform LAFCO's further review of the GCRCD's Sphere of Influence. Nevertheless, out of an abundance of caution we have memorialized our objection to the proposed alternative in the attached Resolution.

Our first comment addresses the perception in the Draft Revised Report that the GCRCD provides duplicative services to those provided by the SCVWD. Subsequent comments are organized according to the order of Chapter 8 of the Draft Revised Report.

I.
The GCRCD Does Not Duplicate Services

The Draft Revised Report states:

“[a]s identified in the agency Overview section of this chapter, there appears to be significant overlap in the services provided by SCVWD and GCRCD. Both agencies provide services directed at protecting watersheds, streams and ecosystems. This overlap has largely occurred due to SCVWD's evolving role in in [sic] flood control and watershed stewardship services, and GCRCDs [sic] growing interest in ensuring proper habitat preservation along the urbanized waterways.”

Id., p. 217; *see also id.*, p. 221.

C

The Draft Revised Report is correct that the GCRCD and SCVWD both work in the arena of watershed stewardship. It is wrong, however, to the extent it suggests that the services we provide are duplicative. The GCRCD serves the important function of environmental peer review for projects proposed and activities undertaken by the SCVWD. In other words, we review, often in consultation with outside experts, proposed actions by the SCVWD to confirm that they comply with applicable legal and regulatory authorities, and are consistent with best management practices and scientific methods for managing the affected resources.¹ *See* CA Public Resources Code § 9001(b)(1). This is consistent with the purposes for which resource conservation districts were created, which include

¹ We review and advocate for compliance with relevant legal and regulatory authorities (e.g., federal Clean Water Act, state Porter-Cologne Act, Fish and Game Code, in addition to “consisten[cy] with the conservation related policies of the various local, state and federal agencies.” Draft Revised Report, p. 211. We seek to assure that relevant agencies comply with the law, and exercise any discretion they have under the law in a manner that best serves the public interest.

“soil and water conservation, the control of runoff, the prevention and control of soil erosion, and erosion stabilization , including, but not limited to, these purposes in open areas, agricultural areas, urban development, wildlife areas, recreational developments, watershed management, the protection of water quality and water reclamation, the development of storage and distribution of water, and the treatment of each acre of land according to its needs.”

Id., § 9001(a)(2).

D While we appreciate and support the SCVWD’s increasing consideration of environmental protection in its projects, we respectfully submit that the SCVWD only has two mandates: water supply and flood control. See Santa Clara Valley Water District Act, § 4(a). In the course of providing water supply and flood control, it may “[e]nhance, protect, and restore streams, riparian corridors, and natural resources...” *Id.*, §§ 4(a), (c)(7). The examples below clearly demonstrate how the GCRCD has successfully advocated for environmentally superior projects that still serve the functions of water supply and/or flood control. However, some of the examples are unusual in the sense that they involved litigation prior to the initiation of collaborative processes. Ninety-nine percent of our efforts are done in collaboration with SCVWD and other stakeholders without need for litigation. Our participation in watershed activities has provided substantial public benefits that would not have been provided by the SCVWD without our input.

A. **Watershed Management**

E In July 1996, the GCRCD,² filed an administrative complaint before the State Water Resources Control Board (SWRCB) alleging that the SCVWD holds and uses water rights to store and divert flows in a manner that causes unlawful harm to the coldwater fisheries and other natural resources of the Guadalupe River and two adjacent streams, Coyote and Stevens. More specifically, the GCRCD alleged that SCVWD’s use of its water rights threatened to extirpate the coldwater fisheries, and had unlawfully degraded the waters for fish habitat, boating and non-developmental uses. In its answer to the complaint, SCVWD maintained that the status quo “...presently presents the appropriate balance of competing needs and interests...” and requested dismissal of the complaint.

On the GCRCD’s recommendation, the complaint was resolved by negotiation.³ The resulting Fish and Aquatic Habitat Collaborative Effort (FAHCE) Settlement Agreement establishes a perpetual program for restoration of the local streams that SCVWD uses for its water supply, including the Guadalupe River. It commits the SCVWD to \$126 million over 30 years to restore and maintain steelhead and salmon fisheries in good condition in the Guadalupe River and Coyote and Stevens creeks. It includes both flow and non-flow measures to restore

² The GCRCD was joined by Trout Unlimited and Pacific Coast Federation of Fishermen’s Associations as non-profit allies.

³ The GCRCD will formerly dismiss its complaint assuming the Settlement Agreement is approved without substantial modification following environmental review under the California Environmental Quality Act and National Environmental Policy Act.

and protect fish habitat. Given SCVWD's initial position, it is highly unlikely that SCVWD would have initiated such a program of restoration on its own.

B. Flood Plain Management

F The Draft Revised Report states that the GCRCD provides "Flood Plain Management" services: "[t]he District is in the process of providing comments on the Guadalupe River Flood Control Projects." This statement diminishes the fact that the GCRCD's work has directly resulted in flood control projects environmentally superior to those initially proposed, and in some cases approved, by SCVWD.

1. Downtown Guadalupe Flood Control Project

In May 1996, the GCRCD filed a Notice of Citizen Suit under the Clean Water Act to enforce the water quality certification for the U.S. Army Corps of Engineers (Corps) and SCVWD's construction of the Downtown Guadalupe Flood Control Project (FCP). The project had been authorized by Congress in 1986, and the water quality certification issued by the Regional Water Quality Control Board (RWQCB) in 1992 represented the final regulatory approval. The Corps and SCVWD already had completed the lower reaches (called Contracts 1 and 2) by 1996, and were preparing to construct Contract 3. The project was well on its way to completion.

On the GCRCD's recommendation, the notice was resolved by negotiation. The parties to the settlement negotiations agreed to an alternative bypass design that diverts flood flows underground and around a constricted reach of the river channel, as superior to the originally approved design that relied on very extensive hardscape of the channel. The settlement required the Corps and SCVWD to develop and implement a Mitigation and Monitoring Plan that (1) provides for replacement for any riparian vegetation, removed to provide flood conveyance, with new plantings for the benefit of coldwater fisheries; (2) includes other measures to prevent any harmful increase in water temperature during the transition period when replacement vegetation does not shade the river as well as removed vegetation, and (3) provides for adaptive management of the project over its 100-year useful life. Upon completion of construction in 2005, Corps Staff remarked that the project represented a new paradigm: "[t]he original project was a concrete box – kind of like the L.A. River ... We figured out that was a bad way to do a project. Now this is becoming the standard, where we balance flood control, wildlife and recreation." Paul Rogers, "A New Era in San Jose," SAN JOSE MERCURY NEWS (Jan. 15, 2005).

The GCRCD continues to play an important, peer-review role in the adaptive management of the Downtown Guadalupe FCP. We are a member of the Adaptive Management Team (AMT) for the Downtown and Lower FCPs. We also are a member of the Guadalupe Watershed Integrated Working Group. In March 2009, the GCRCD raised a dispute that several measurable objectives stated in the Mitigation and Monitoring Plan (MMP) were not being met and that changes to the MMP, or the SCVWD's plan for implementing the MMP, were necessary. The GCRCD and SCVWD agreed to a dispute resolution process. As part of this process, the GCRCD and SCVWD convened a science panel to review the disputed issues and

make technical recommendations. The recommendations include changes in monitoring to gather data more useful for identifying project impacts and designing mitigation measures, as well as implementation of mitigation measures. The GCRCD and SCVWD submitted agreed-to recommendations to the Adaptive Management Team for review, and now SCVWD will implement those recommendations approved by the Adaptive Management Team. Again, the GCRCD initiated actions that will result in better management of the project for the public's benefit.

2. Upper Guadalupe Flood Control Project

In early 2002, the GCRCD persuaded the SCVWD and Corps to undertake further design review of the preferred design for the Upper Guadalupe FCP, as identified in the Final Environmental Impact Report/Statement (Nov. 1999) for the project. We were concerned that the preferred design would not improve the geomorphic stability of the upper river, which would degrade water quality and beneficial uses of the river, and would result in high maintenance and repair costs as SCVWD struggled to deal with symptomatic erosion and sedimentation and debris accumulation issues. SCVWD and the Corps agreed in 2002 to have an independent technical panel review and make recommendations for improving the geomorphic function of the proposed project. Based on the panel's recommendation, the RWQCB included a suite of "design modification studies" as conditions of water quality certification. Under the water quality certification, the Corps and SCVWD are required to undertake further study to determine whether the project design can be modified to provide necessary flood flow capacity while also providing better stream function and habitat value than was provided under the original design.

The GCRCD is actively involved in assuring that the SCVWD and Corps implement the required design modification studies. We successfully advocated that the RWQCB condition its approval of SCVWD's design of Reach 6 of the Upper Guadalupe FCP on SCVWD's completion of the required studies and implementation of design modifications. Initial drafts of RWQCB's approval did not include such assurances. We presently are participating in development of study plans and review of study results.

3. Lower Silver Creek Flood Control Project

In the early 1990s the GCRCD played an important part in enhancing the environmental benefits of the SCVWD's proposed Lower Silver Creek FCP. The GCRCD, in concert with the Corps and other stakeholders, prevented the SCVWD from proceeding with its initial proposal to concretize the channel, and instead directly contributed to implementation of a more natural channel approach. The GCRCD obtained federal funding through the U.S. Department of Agriculture's Natural Resources Conservation Service's (NRCS) Small Watershed Program in California (*see* Public Law 83-566), which was directed to SCVWD to revise the proposed design to enhance native riparian and environmental habitat. It was the GCRCD's role in obtaining the NRCS funding, and then insisting on a better design for the project, that led to the successful conclusion. According to a press release by the NRCS, "[i]n addition to widening the creek the project is also notable for its significant 'green' project design that adds vegetation, wetland habitat, and aesthetic and recreational values to the original flood control focus of the

plan.” Anita Brown and Jessica Groves, “ARRA Brings Flood Control And Water Quality Work to California,” (Feb. 17, 2010), *available at* http://www.ca.nrcs.usda.gov/news/releases/2010/arra_2-17-10.html. The project recently received recognition from American Recovery and Reinvestment Act. *See id.*; *see also* Draft Revised Report, p. 203.

II.

Comments Regarding Types and Extent of Services

A. Watershed Protection & Restoration

G The GCRCD does not assist the Santa Clara County Creeks Coalition (SCCCC) “with manpower and distribution of information.” Draft Revised Report, p. 201. Rather, the GCRCD participates in the annual SCCC creeks conference by having a table there where the GCRCD distributes information. This year the GCRCD distributed “Soak it up” flyers originally prepared by Acterra (and updated by the Santa Clara Basin Watershed Management Initiative, Santa Clara Valley Urban Runoff Pollution Prevention Program, and California Native Plant Society). GCRCD also showed still photos and videos of what is right (e.g., salmon) and what needs correcting (e.g., trash) in our local waterways. We also made a modest contribution to the expenses of presenting the conference.

B. Vegetation/Habitat Preservation

H The GCRCD has worked in the past to protect butterfly habitat, but is not “trying to establish a large butterfly protection area in the northeastern portion of the County.” *Id.*, p. 202.

I The GCRCD is not presently “participat[ing] in a collaborative San Francisco Bay Area Livestock and Land program proposed by Ecology Action,” because “Ecology Action applied for funding through the EPA for this project, but was not awarded the grant.” *Id.* However, we may pursue a similar project in the future.

J The Draft Revised Report lists “agencies and organizations the District is working with.” *Id.*, p. 203. The Draft Revised Report should clarify that these are agencies and organizations that we are working with or have worked with in the past. Also, some of the bullets include two agencies/organizations and should be corrected.

C. Collaboration

K The Draft Revised Report states, “[t]he District does not provide services to or receive services from other public agencies under contract.” *Id.*, p. 204. This is not entirely true. In order to coordinate rather than duplicate efforts, the GCRCD has on occasion shared expenses with the SCVWD on review of a specific watershed project. *See id.*, p. 205. As stated above, most of our activities are undertaken in a collaborative manner.

III.
Comments Regarding Boundaries

L The Draft Revised Report states, “[t]he District’s bounds overlap with the Santa Clara Valley Water District, which covers the entire county and provides similar resource conservation services.” *Id.*, p. 205. As discussed above, while the GCRCD and SCVWD both provide watershed stewardship services, the GCRCD does not duplicate the SCVWD’s efforts, rather it works to assure water supply and flood control services provided by SCVWD and others are implemented in an environmentally-superior manner.

M In describing the SCVWD’s evolving role in flood control and watershed stewardship services, the Draft Revised Report appears to conflate incorrectly separate actions by the GCRCD which resulted in the FAHCE Settlement Agreement, and re-design of the Downtown Guadalupe FCP and formation of the Guadalupe Watershed Integration Working Group. *See id.*, p. 206. Further, FAHCE was not formed on the SCVWD’s own initiative, but rather was convened by the SCVWD and DFG in an effort to resolve the GCRCD’s complaint. Lastly, the SCVWD does not have a “mandate to perform watershed stewardship and preservation functions,” rather it has discretion to perform such functions. *See Santa Clara Valley Water District Act*, § 4(c)(7).

N We disagree that the “primary difference between the services provided by the two districts is that the GCRCD can act as a conduit for non-competitive federal funds through the NRCS that are not available to SCVWD.” Draft Revised Report, p. 206. While this may be a difference, we disagree that it is the *primary* difference between the districts. As discussed above, the GCRCD’s primary focus is environmental stewardship and we are not constrained to prioritize water supply and flood control services (as is the SCVWD).

IV.
Comments Regarding Financing

O We appreciate the Draft Revised Report’s recognition that we try very hard to be financially conservative with our limited resources. *See id.*, p. 211. As stated above, we intend to act on the Draft Revised Report’s recommendation that we explore opportunities to charge fees for technical services.

P The Draft Revised Report also states, “[a]t the end of FY 09-10, the District had a cash fund balance of \$274,889, which equates to almost 28 months of operating expenditures for the District.” *Id.*, p. 213. The balance of \$274,889 does not equate to almost 28 months of operating expenditures, as shown in Figure 8-3: Expenditures and Revenues (FYs 08-10). *See id.*

Q We note that the GCRCD’s budget is a fraction of SCVWD’s. *See Resolution* (attached). We provide a great deal of public benefit with limited resources. Regardless of whether it could perform the same environmental services given its overarching mandates for water supply and flood control, we do not believe that SCVWD could perform the same services at the same cost as the GCRCD. We do not believe that any proposed reorganization of the GCRCD to merge

with the SCVWD would reduce public service costs or promote “public access and accountability for community services needs and financial resources.” CA Gov’t Code §§ 56881(b)(1),(2).

V.

Comments Regarding Watershed Infrastructure and Facilities

A. Infrastructure

R

The Draft Revised Report states that the GCRCD’s bounds “include at least a part of four distinct watersheds that drain to the San Francisco Bay – the Lower Peninsula, West Valley, Guadalupe, and Coyote watersheds.” Draft Revised Report, p. 213. Based on our review of the SCVWD’s published watershed maps– the Lower Peninsula and West Valley watersheds should be divided further into multiple watersheds.

S

The Draft Revised Report does not address our previous comment that the Guadalupe River and Coyote Creek are “anchor watersheds” that provide habitat that is critical to efforts to restore coldwater fisheries like steelhead. *See id.*, p. 214. We believe it is important to recognize the impairment of designated beneficial uses of water, like cold freshwater habitat and fish migration, in addition to recognizing impairment of numeric water quality standards.

B. Shared Facilities

T

The GCRCD leases office space, not a building as reported in the Draft Revised Report. *See id.*, pp. 214, 216.

VI.

Comments Regarding Service Review Determinations

A. Reorganization with Santa Clara Valley Water District

B

The Draft Report states, “there appears to be significant overlap in the services provided by SCVWD and GCRCD.” *Id.*, p. 217. As stated in Section I, *supra*, while both districts are empowered to provide watershed stewardship services, there is little, actual overlap in the services provided by the SCVWD and GCRCD. The Draft Revised Report appears to acknowledge the distinction in services, only to dismiss the significance of the distinction: “both agencies direct efforts at many of the same projects, granted participation in these programs are at different stages in the project and to different degrees.”

N

The GCRCD’s resource conservation programs are not incidental to water supply or flood protection activities. Soil and water conservation, in a variety of forms, is our express purpose. *See* CA Public Resources Code, § 9001(a)(2). We provide peer review of the SCVWD’s activities and seek to assure that proposed projects comply with applicable environmental laws and regulations, and that SCVWD exercises its *discretion* to “[e]nhance,

L protect, and restore streams, riparian corridors, and natural resources in connection with carrying out [water supply and flood control] purposes” in a way that maximizes environmental restoration. Santa Clara Valley Water District Act, § 4(c)(7). Our participation has provided substantial public benefits that the SCVWD would not have provided otherwise, *see* Section I, *supra*. Our services add value; they do not duplicate the SCVWD’s efforts.

U The Draft Revised Report suggests that dissolution of the GCRCD and making SCVWD responsible for providing resource conservation programs “to the extent it is authorized in its enabling act,” or consolidating the districts “into a single agency designated as SCVWD with the same enabling act,” would be more cost effective. *See* Draft Revised Report, p. 218. We have not seen any information quantifying the potential cost savings. We would expect LAFCO to provide specific data as part of its review and in advance of any final determination. *See* CA Gov’t Code §§ 56881(b)(1). Given the GCRCD’s low operating costs, we do not believe dissolution or consolidation would provide comparable public benefits at the same or reduced cost. Further, the GCRCD and SCVWD already coordinate their activities and collaborate on projects to avoid duplication of effort or expense.

V We are supportive of the Draft Revised Report’s recommendation to report on services that the GCRCD can provide that the SCVWD cannot. However, the GCRCD reiterates its opposition to consolidating with SCVWD. *See* Draft Revised Report, p. 218; *see also* Resolution (attached). Given our collaborative, rather than duplicative, relationship with the SCVWD, we are surprised by the report that SCVWD supports reorganization of the two agencies in some form. Given the significance of the proposed recommendation to subsume the GCRCD into the SCVWD organization, SCVWD Staff should not have participated in the Technical Advisory Committee for the 2011 Countywide Service Review.

B. Consolidation with Loma Prieta Conservation District

W The Draft Revised Report identifies “consolidation of GCRCD with LPRCD” as another potential governance structure option. *Id.*, p. 218. We agree with the report that there are “several challenges and disadvantages to such a governance structure option,” and so do not support consolidation. *Id.*, p. 219. We do support the recommendation that we “explore further options to share resources and expertise and evaluate the potential to collaborate on achieving any common goals.” *Id.*

**VII.
Comments Regarding Sphere of Influence Update**

B As stated in Sections I and VI, *supra*, the GCRCD does not duplicate services provided by SCVWD. Rather, the GCRCD performs the critical function of peer review to assure that the SCVWD carries out its water supply and flood control functions in a manner that complies with applicable environmental laws and regulations, and otherwise uses the SCVWD’s discretion to incorporate environmental benefits into its activities. Nevertheless, we support and intend to file the requested report regarding services that we can provide that are distinct from those provided

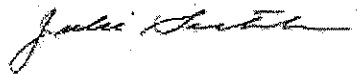
Ms. Palacheria
November 23, 2011
Page 10

by the SCVWD. As stated above, we will coordinate with LAFCO Staff regarding appropriate content and schedule for the report.

Conclusion

We thank LAFCO for the opportunity to review the Revised Draft Report and supplement our previous comments. We look forward to working with LAFCO Staff to improve our effectiveness in serving the interests of our constituents and the broader public.

Respectfully submitted,



Richard Roos-Collins
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2140 Shattuck Ave., Suite 801
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(510) 296-5590
rrcollins@waterpowerlaw.com
jgantenbein@waterpowerlaw.com

Attorneys for the Guadalupe Coyote Resource
Conservation District

Meg Giberson, President
Guadalupe Coyote Resource Conservation District
888 North First St., Room 204
San Jose, CA 95112
(408) 288-5888
gcrd@pacbell.net

Cc:

Dunia Noel, Analyst, Dunia.noel@celsccgov.org

Guadalupe-Coyote Resource Conservation District Resolution ____

PROVIDING A RESPONSE IN THE NEGATIVE TO THE SUGGESTION BY THE LAFCO OF SANTA CLARA COUNTY THAT THE GUADALUPE-COYOTE RESOURCE CONSERVATION DISTRICT (GCRCD) BE MERGED WITH THE SANTA CLARA VALLEY WATER DISTRICT (SCVWD)

WHEREAS the Guadalupe-Coyote Resource Conservation District (GCRCD) under its enabling act (California Public Resources Code, Division 9) has no other agenda than to conserve Santa Clara County soils, water, watersheds and biota dependent thereon; and

WHEREAS the SCVWD's enabling act (Santa Clara Valley Water District Act) only mandates that the Water District provide flood protection and water provision; and

WHEREAS the Santa Clara County water resources and its dependent biota would not have the same level of protection under a regimen directed solely by the Santa Clara Valley Water District (SCVWD); and

WHEREAS SCVWD's conservation services have historically been, and currently are, inadequate without the input GCRCD provides; and

WHEREAS GCRCD's pursuit of watershed conservation results from having identified SCVWD projects that have removed, degraded, and/or disturbed riparian habitat, with concomitant effects on threatened and/or endangered aquatic species; and

WHEREAS the SCVWD's actions caused a complaint (currently still active) to be filed with the State Water Resources Control Board in 1996, pointing to SCVWD violations of various state codes and the common law public trust doctrine, as well as the Porter-Cologne Water Quality Control Act, and alleging that SCVWD actions degraded the populations and distributions of steelhead trout, Chinook salmon, red-legged frogs, southwestern pond turtles, and other fish and wildlife resources; and

WHEREAS since 1996, the GCRCD has worked collaboratively with SCVWD, and state and federal agencies in efforts to promote amelioration of the blocked fish passages, the degraded riparian vegetation, channel forms and substrates and water quality of these streams caused by the SCVWD's actions; and

WHEREAS GCRCD has, with the support of expert consultants, offered fiscally- and environmentally- sound plans and specifications for construction of adequate local flood-control projects that would respect the waterways and preserve dependent biota; and

WHEREAS the important data supplied by GCRCD have laid the groundwork for the ongoing adaptive management efforts/interventions, without which area creek functions would be significantly more impaired; and

WHEREAS the GCRCD provides vital data and scientific reports regarding SCVWD stream channelization projects and affected biota, which data and reports differ significantly and importantly from SCVWD versions of its projects' impacts; and

WHEREAS the SCVWD subordinated the anticipated funding of "protecting, enhancing and restoring healthy creek and bay ecosystems" to instead "increasing the streams ability to convey the 100-year flow" in implementing the November 2000 Clean Safe Creeks ballot Measure B (SCVWD decision of May 2011); and

WHEREAS other RCDs' appropriate functions have included serving as watermaster; adopting a Groundwater Management Plan; managing watersheds in various ways; partnering with flood control districts, etc.; with no claim of "duplication" of efforts merely because a water/flood district happened to share area and some subject jurisdiction with an RCD; and

WHEREAS the importance of entire riparian areas—and thus the need to avoid segmenting those riparian areas— has received significant recognition by the Conservation Lands Network, which states, "[t]o achieve effective conservation of riparian ecosystems, the entire hydrologic continuum – including low-order headwaters and high-order streams – must be considered for conservation and restoration", and which recognizes Guadalupe River and Coyote Creek as especially important "anchor watersheds"; and

WHEREAS GCRCD is protecting resources that connect its headwater watersheds with the rest of the identified, and critical, anchor watersheds; and

WHEREAS merger of the GCRCD with the SCVWD would not be a cost-effective action when comparing SCVWD's \$1.7 billion of assets, and the billions SCVWD spends on capital improvement projects (\$2 billion over 5 years) with the extremely minimal budget of the GCRCD; (the SCVWD Clean Safe Creeks program, for instance, spends about \$26 million per year; the entire GCRCD yearly budget amounts to less than 1% of that figure); and

WHEREAS in Division 9 of the Public Resources Code, the Legislature identifies the fundamental importance of resource conservation to the prosperity and welfare of the people of this state, noting that the conservation purposes should: "provide for the organization and operation of resource conservation districts for the *purposes* of soil and water conservation, the control of runoff, the *prevention and control of soil erosion*, and *erosion stabilization*, including, but not limited to, these purposes in open areas, agricultural areas, *urban* development, *wildlife* areas, recreational developments, watershed management, ..., and the treatment of each acre of land according to its needs" [italics added]; and

WHEREAS the Legislature has made "conservation practices, including, but not limited to, farm, range, open space, urban development, wildlife, recreation, watershed, water quality, and woodland, best adapted to save the basic resources, soil, water, and air of the state from unreasonable and economically preventable waste and destruction" the specific province of RCD action;

BE IT RESOLVED by the Board of Directors of the Guadalupe-Coyote Resource Conservation District as follows:

FIRST: The Board therefore declines merger with the SCVWD as inappropriate.

SECOND: The Board determines that continued independent GCRCDC activities and sphere of influence, along with independent GCRCDC collaborative efforts with other agencies and private parties will better provide for the legislatively-mandated RCD conservation practices, including, but not limited to, farm, range, open space, urban development, wildlife, recreation, watershed, water quality, and woodland, best adapted to save the basic resources, soil, water, and air of the state from unreasonable and economically preventable waste and destruction.

PASSED and ADOPTED by the Board of Directors of the Guadalupe-Coyote Resource Conservation District on November 15, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Guadalupe-Coyote Resource Conservation District

By:
MEG GIBERSON
President, Board of Directors

ATTEST: NANCY BERNARDI



CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5411
GENERAL INFORMATION: 408.586.3000 www.ci.milpitas.ca.gov

November 23, 2011

Local Agency Formation Commission of Santa Clara County
70 W. Hedding Street, 11th Floor, East Wing
San Jose, CA 95110-1705

Attn: Neelima Palacherla, Executive Officer

Subject: Comments on LAFCO's Revised Draft 2011 Countywide Water Service Review

Dear Mr. Palacherla:

Thank you for incorporating our comments (dated October 24, 2011) on the first draft of LAFCO's "2011 Countywide Water Service Review." I have reviewed the sections of LAFCO's revised draft pertaining to the City, and our comments are given below:

Section 11, page 264, Figure 11-1

Remove this figure, as it pertains to City of Santa Clara. Keep the figure on page 265, as it correctly shows the information for City of Milpitas.

Section 11, page 266, 1st paragraph of "Management and Staffing"

Replace "115.0 full time equivalent (FTE) positions" with "89 full time equivalent (FTE) positions."

Section 11, page 280, last bullet in "Status and Opportunities for Shared Facilities"

Revise to read "The City is a member of the Bay Area Water Supply and Conservation Agency and serves on a number of BAWSCA committees. Milpitas also collaborates with the Santa Clara Valley Water District and serves on a number of SCVWD subcommittees."

If you have questions, please call Howard Salamanca at (408)586-3348 or me at (408)586-3345.

Sincerely,

Kathleen E. Phalen, P.E.
Acting Assistant City Engineer

cc: Greg Armendariz, City Engineer / Director of Public Works (via e-mail)
Howard Salamanca, Associate Civil Engineer (via e-mail)

Noel, Dunia

From: Abello, Emmanuel
Sent: Friday, November 04, 2011 8:23 AM
To: Palacherla, Neelima; Noel, Dunia
Subject: FW: 2011 Countywide Water Service Review Revised Draft Report (October 31, 2011) Notice of Availability and Notice of Public Hearing

Importance: High

Hi Neelima, Dunia:

I got this comment today.

Thank you,
Emmanuel Abello
LAFCO Clerk
(408) 299-6415

From: David Stubchaer [<mailto:David.Stubchaer@ci.gilroy.ca.us>]
Sent: Thursday, November 03, 2011 5:47 PM
To: Abello, Emmanuel
Subject: 2011 Countywide Water Service Review Revised Draft Report (October 31, 2011) Notice of Availability and Notice of Public Hearing
Importance: High

LAFCO water report comments – City of Gilroy (originally sent 10/21/11)

Pg. 254 *Services to Other Agencies*

The City of Gilroy does not provide services to other agencies.

- Should be: We provide emergency water to Gavilan College as requested.

Page 259

- Water rates shown are only for one zone – other rates apply to other zones

Page 266

Samples are tested by the City's certified laboratory and an independent laboratory using the latest testing procedures and equipment.

- Should be: Samples are tested by an independent laboratory using the latest testing procedures and equipment.

Page 268

City has tested for perchlorate since February of 2003, with all results showing nondetectible.

Should be: City has tested for perchlorate since February of 2003, with all results showing non-detect except at 3 Wells which are below the MCL.

Or: City has tested for perchlorate since February of 2003, with all results showing non-detect except at 3 Wells which are less than 1/2 the MCL.

Thanks, David

David Stubehaer, P.E.

Public Works Dept.
Operations Manager
City of Gilroy
(408) 846-0275



From: Abello, Emmanuel [<mailto:Emmanuel.Abello@ceo.sccgov.org>]

Sent: Thursday, November 03, 2011 3:10 PM

Subject: 2011 Countywide Water Service Review Revised Draft Report (October 31, 2011) Notice of Availability and Notice of Public Hearing

Importance: High

Attached for your information is the Notice of Availability for the 2011 Countywide Water Service Review Revised Draft Report (October 31, 2011). The Revised Draft Report is available on the LAFCO website at http://www.santaclara.lafco.ca.gov/revisedhearingdraft_2011_svce_reviews_water.html. LAFCO will hold a Public Hearing on December 7, 2011 to accept comments and consider adoption of the Revised Draft Report. Please see the attached memo for further information. Please feel free to forward this email to others that may be interested in the Revised Draft Report or the upcoming LAFCO Public Hearing.

Thank you,
Emmanuel Abello
LAFCO Clerk

Local Agency Formation Commission
of Santa Clara County
70 W. Hedding Street, 11th Floor
San Jose, CA 95110

Ph. (408) 299-6415 / Fax (408) 295-1613
www.santaclara.lafco.ca.gov



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twitter Follow County News - www.twitter.com/SCCgov

Noel, Dunia

From: Palacherla, Neelima
Sent: Tuesday, October 25, 2011 10:23 AM
To: Jennifer Stephenson; Oxana Kolomitsyna; Bruce Baracco
Cc: Noel, Dunia
Subject: FW: Palo Alto Comments on Water Service Review

Palo Alto's comments. I will send then the word document.

Neelima Palacherla
Executive Officer
LAFCO of Santa Clara County
70 West Hedding Street San Jose CA 95110
Ph: (408) 299-5127 Fax: (408) 295-1613
www.santaclara.lafco.ca.gov

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From: Procos, Nicolas [<mailto:Nicolas.Procos@CityofPaloAlto.org>]
Sent: Tuesday, October 25, 2011 10:16 AM
To: Palacherla, Neelima
Cc: Antonio, Romel
Subject: Palo Alto Comments on Water Service Review

Ms. Palacherla-

The City of Palo Alto has the following comments on the Draft 2010 Water Service Review. I also want to note that there appears to be some discrepancies between what was presented during the 10/19 SCVWD Retailer's meeting and the information in the draft document. See bullets below:

1. The City of Palo Alto is a CUWCC signatory
2. The description of the Purissima Hills contract with the SFPUC is not correct - the SFPUC supply limitation you reference has several triggers before it will be triggered. It is also distinct from an agencies' contractual supply guarantee, though in some cases it does equal the supply guarantee (confusing, I agree). For more information on the subject, please review Palo Alto's 2010 UWMP.
3. Slide 27 on the presentation attempts to describe emergency preparedness for each agency. The City of Palo Alto is currently refurbishing 5 existing wells, drilling three new ones, and installing a new, 2.5 million gallon storage tank in El Camino park. Once complete, the City will be able to meet 8 hours of maximum day demand + fireflows in each pressure zone in the City. I am not sure this slide captures this correctly nor is there an apples to apples comparison with other agencies.
4. The presentation mentions there were "violations" for Palo Alto and San Jose. While it is technically true that the City did have one reportable incident for the time period, the origin of the coliform is still the subject of debate. It is possible it may have originated outside of Palo Alto's system. I don't think a change is in order in your document, but it is good to be mindful of the complexities of interconnected water systems.

Regarding the document, can you please send me a word version so I can provide our comments. I am having trouble inputting comments in the PDF file.

Thanks

-Nico

~~~~~  
*Nicolas Procos  
Resource Management Division  
City of Palo Alto Utilities  
250 Hamilton Avenue  
Palo Alto, CA 94301  
(v) 650.329.2214  
(f) 650.326.1507*

# **1. CITY OF PALO ALTO**

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## **AGENCY OVERVIEW**

The City of Palo Alto was incorporated on April 23, 1894, and became a charter city on July 1, 1909. Palo Alto is a full service city providing a range of services including: planning and community environment (planning, transportation, building inspection and code enforcement); police protection including animal control; fire protection; libraries; community services (arts and sciences, human services, community centers, art in public places, open space, parks, golf course, and recreation); and public works (public facilities, streets, sidewalks, street trees, parking lots, and storm drainage). City services (including wastewater, solid waste, parks and recreation, storm water drainage, law enforcement, and libraries) were studied in the October 2007 Northwest Santa Clara County Service Review.

The City has an integrated Utilities Department, and is the only city owned utility in California that operates its own electric, fiber optic, natural gas, water, and wastewater services. Palo Alto has been providing utility services to residential and business customers within the City since 1896. Water services were studied as part of the Countywide Water Service Review in June 2005.

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### **Type and Extent of Services**

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#### ***Services Provided***

The Water Division of the Utilities Department provides drinking water to residential, commercial, industrial and institutional customers within the City. The Water Division oversees water quality, water conservation, system maintenance, water distribution system extensions for new development, and backflow prevention. The recycled water program is the responsibility of the Public Works Department and is presently in collaboration with the Utilities Department who are spearheading the efforts in pursuing an EIR to expand the recycled water service. Palo Alto has a water conservation program for both residential and commercial customers, is a signatory to the California Urban Water Conservation Council (CUWCC) best management practices, and is supported by the Santa Clara Valley Water District (SCVWD) water conservation program.

The City of Palo Alto has two sources of potable water, and one recycled water source. Potable water is obtained from the San Francisco Public Utilities Commission (SFPUC) Regional Water System, and from emergency stand-by wells. Recycled (non-potable) water for irrigation purposes is produced at the Palo Alto Regional Water Quality Control Plant (RWQCP).

Service Area

The City's water service area includes all water service customers within the city limits with the exception of the open space areas (Arastradero Preserve, Foothills Park, Foothill Open Space Preserve, Los Trancos Open Space Preserve, and Monte Bello Open Space Preserve). Stanford University, adjacent to the City, has its own water system. There are no water service connections outside the city limits.

Services to Other Agencies

Palo Alto does not provide potable water to any other agency. The Palo Alto RWQCP provides recycled water to the RWQCP itself, the Palo Alto Golf Course, the Palo Alto Duck Pond, Emily Renzel Marsh, Greer Park, and the North Bayshore Area in Mountain View. Recycled water is also provided via water trucks to construction sites for dust suppression.

Contracts for Water Services

The City contracts with City and County of San Francisco for treated potable water.

Collaboration

The City collaborates with the Bay Area Water Supply and Conservation Agency (BAWSCA); serves on the SFPUC-BAWSCA Water Quality Committee, the SCVWD-San Jose Water Company Emergency Management Sub-committee, the Northern California Pipe Users Group (PUG), the Water System Distribution Roundtable, the SCVWD Groundwater Committee, and the BAWSCA Technical Advisory Committee.

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**Boundaries**

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The Palo Alto water service boundary is the same as the City Limits. The present bounds encompass approximately 25.8 square miles. Palo Alto is located within the Santa Clara Groundwater Sub-basin.

## ACCOUNTABILITY AND GOVERNANCE

The City operates under a city council-city manager form of government, with a nine-member City Council elected at-large and a City Manager appointed by the City Council.

Council Members are elected to four-year terms. The City Charter limits Council Members to serving no more than two consecutive terms. The Mayor and Vice Mayor are selected by the Council to serve one-year terms. Current member names, positions, and term expiration dates are shown in Figure 14-1.

The City Council meets on the first three Mondays of each month in the City Council Chamber. Agendas are posted on the City website, at King Plaza in front of City Hall, and published in the 'Palo Alto Weekly.' Agendas, minutes and reports are available on the City website.

**Figure 14-1: City of Palo Alto City Council**

| <b>City of Palo Alto</b>                        |                                                                                                              |                        |                            |                       |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------|------------------------|----------------------------|-----------------------|
| <b>Utilities Department Contact Information</b> |                                                                                                              |                        |                            |                       |
| <b>Contact:</b>                                 | Romel Antonio, Senior Project Engineer                                                                       |                        |                            |                       |
| <b>Address:</b>                                 | 1007 Elwell Court (P.O. Box 10250) Palo Alto, CA 94303                                                       |                        |                            |                       |
| <b>Telephone:</b>                               | 650-566-4518                                                                                                 |                        |                            |                       |
| <b>E-mail/Website:</b>                          | romel.antonio@cityofpaloalto.org/www.cityofpaloalto.org                                                      |                        |                            |                       |
| <b>City Council</b>                             |                                                                                                              |                        |                            |                       |
| <b>Member Name</b>                              | <b>Position</b>                                                                                              | <b>Term Expiration</b> | <b>Manner of Selection</b> | <b>Length of Term</b> |
| Pat Burt                                        | Council Member                                                                                               | December 2012          | Elected At-large           | 4 years               |
| Sid Espinosa                                    | Mayor                                                                                                        | December 2012          | Elected At-large           | 4 years               |
| Karen Holman                                    | Council Member                                                                                               | December 2014          | Elected At-large           | 4 years               |
| Larry Klein                                     | Council Member                                                                                               | December 2014          | Elected At-large           | 4 years               |
| Gail A. Price                                   | Council Member                                                                                               | December 2014          | Elected At-large           | 4 years               |
| Greg Scharff                                    | Council Member                                                                                               | December 2014          | Elected At-Large           | 4-years               |
| Greg Schmid                                     | Council Member                                                                                               | December 2012          | Elected At-Large           | 4 years               |
| Nancy Shepherd                                  | Council Member                                                                                               | December 2014          | Elected At-large           | 4 years               |
| Yiaway Yeh                                      | Vice Mayor                                                                                                   | December 2012          | Elected At-large           | 4 years               |
| <b>Meetings</b>                                 |                                                                                                              |                        |                            |                       |
| <b>Date:</b>                                    | First three Mondays of each month at 7:00 PM                                                                 |                        |                            |                       |
| <b>Location:</b>                                | City Council Chamber, City Hall, 250 Hamilton Avenue, Palo Alto                                              |                        |                            |                       |
| <b>Agenda Distribution:</b>                     | Posted on the City website and at King Plaza in front of City Hall, and published in the 'Palo Alto Weekly.' |                        |                            |                       |
| <b>Minutes Distribution:</b>                    | Available on the Agendas/Minutes/Reports page of the City website; along with agendas and reports.           |                        |                            |                       |

The Utilities Advisory Commission (UAC) is charged with providing advice to the City Council with respect to acquisition and development of electric, fiber optic, gas and water resources; review of joint projects with other public or private entities which involve

electric, fiber optic, gas, ~~or~~ water resources or wastewater collection services; environmental implications of electric, fiber optic, gas ~~or~~ water projects, or wastewater collection services; and conservation and demand management. The Commission is composed of seven members appointed by the City Council for three year terms. The UAC meets at 7:00 PM on the first Wednesday of each month.

The Utilities Department webpage offers a variety of information on the Department's primary functions of electric, fiber optic, water, gas, and wastewater collection. Water utility information is presented through a 'frequently asked question' (FAQ) format on the Utilities Department webpage. Links are readily accessible to the 2010 Urban Water Management Plan, Annual Water Quality Reports, current projects, and the Water Conservation programs. A detailed contact list of personnel is not provided, but inquiries can be phoned in to the Utilities Operations Division or Customer Support Services. An electronic complaint form is not available on the website.

If a customer is dissatisfied with the City's water services, that customer may write a letter to the Assistant Director of Utility Operations or call the Customer Support Services office. In calendar year 2009, there were a total of 40 water-related complaints; 17 for odor/taste, 12 for color, zero for turbidity, nine for pressure, and two for suspended solids. These complaints accounted for 0.20 percent of the 20,238 metered customers served.

The City of Palo Alto demonstrated full accountability and transparency in its disclosure of information and cooperation with Santa Clara LAFCO. The Water Division responded to the questionnaires and cooperated with all document requests.

## MANAGEMENT AND STAFFING

Daily operations of the Utilities Department are under the direction of the Director of Utilities, who reports directly to the City Manager. As an integrated electric-fiber optic-water-gas-wastewater operation, the Utilities Department has a total of 251.11 full time equivalent (FTE) positions organized into five major functions: Utilities Administration; Electric and Water-Gas-Wastewater Engineering; Electric and Water-Gas-Wastewater Operations; Customer Support Services; and Resource Management. The Water Division has a total of 45.65 FTE positions dedicated to the Water Enterprise Fund, as detailed in Figure 14-2.



**Figure 14-2: Water Division Staff Allocation**

| <b>Position</b>                                                    | <b>FTE</b> | <b>Position</b>                           | <b>FTE</b>  |
|--------------------------------------------------------------------|------------|-------------------------------------------|-------------|
| <b>Administration</b>                                              |            | Utility Account Rep                       | 1.0         |
| Director of Utilities                                              | 0.3        | Senior Resource Planner                   | 0.3         |
| Communications Manager                                             | 0.3        |                                           |             |
| Compliance Manager                                                 | 0.3        | <b>Electric and WGW Operations</b>        |             |
| Administrative Assistant                                           | 0.3        | Assistant Director Utility Operations     | 0.3         |
| Senior Administrator                                               | 0.3        | Manager of Utility Operations – WGW       | 0.3         |
| Senior Business Analyst                                            | 0.6        | Coordinator – Utility Safety & Security   | 0.3         |
| Program Assistant                                                  | 0.6        | Administrative Associate II               | 0.3         |
|                                                                    |            | Heavy Equipment Operator                  | 2.0         |
| <b>Electric and WGW Engineering</b>                                |            | Utility Locator                           | 0.5         |
| Assistant Director Utility Engineering                             | 0.3        | Coordinator Utility Projects              | 1.0         |
| Engineering Manager – WGW                                          | 0.3        | Supervisor – WGW                          | 1.6         |
| Utility Engineering Estimator                                      | 0.5        | Supervisor Water Transmission             | 1.0         |
| Engineering Tech III                                               | 0.3        | Senior Water System Operator              | 2.0         |
| Administrative Associate II                                        | 0.3        | Restoration Lead                          | 0.3         |
| Business Analyst                                                   | 0.5        | Maintenance Mechanic – Welding            | 0.8         |
| Senior Project Engineer                                            | 1.0        | Utility Installer/Repairer                | 4.0         |
| Project Engineer                                                   | 2.0        | Utility Installer/Repairer – Lead         | 1.25        |
| Engineer                                                           | 1.0        | Water System Operator II                  | 3.5         |
| Inspector, Field Services                                          | 1.0        | Water Meter Cross Connection Tech         | 3.0         |
|                                                                    |            | Inspector, Field Services                 | 0.3         |
| <b>Customer Support Services</b>                                   |            | Field Service Representative              | 1.5         |
| Asst Dir Utility – Customer Support Manager – Customer Services/MR | 0.3        | Senior Field Service Representative       | 0.5         |
| Administrative Associate II                                        | 0.7        |                                           |             |
| Manager – Utility Market Services                                  | 0.3        | <b>Resource Management</b>                |             |
| Senior Market Analyst                                              | 0.3        | Assistant Director Utility Resource Mgmt. | 0.25        |
| Customer Service Specialist – Lead                                 | 0.7        | Senior Resource Planner                   | 1.15        |
| Customer Service Rep                                               | 1.5        | Resource Planner                          | 0.2         |
| Customer Service Specialist                                        | 0.7        | Administrative Associate II               | 0.2         |
| Utility Credit/Collection Specialist                               | 0.3        | Manager - Utility Rates                   | 0.3         |
| Meter Reader – Lead                                                | 0.3        |                                           |             |
| Meter Readers                                                      | 2.0        |                                           |             |
| Utility Key Account Rep                                            | 0.5        | <b>Total</b>                              | <b>45.6</b> |

Formal performance evaluations of all employees are conducted annually, with less formal evaluations every four months. The probation period for new employees is six months, with evaluations at the end of probation. The agency tracks the employees' workload through the 'Microsoft Project' program, work logs, and service requests.



Operational efficiencies are being improved through the Geospatial Design and Management Solution project, which will place all data for electric, water, gas, wastewater, fiber optic, traffic signal, and street light utilities on a single asset management platform using the existing GIS data base. This will allow the various utilities to interface a computer mapping system, including water system improvements and water line replacement project. In FY 10-11, the Utilities Department exceeded all of its electric, natural gas and water efficiency goals.

The City adopted the 2010 Urban Water Management Plan on June 13, 2011, and prepared a Recycled Water Facility Plan in March 2009. The Water Shortage Implementation Plan was adopted in January of 2010. Capital improvements are considered over a five-year planning period as part of the annual budget process.

## **POPULATION AND PROJECTED GROWTH**

The 2010 United States Census population for Palo Alto is 64,403. The average household size is 2.41 per the United States Census. Adjacent to the City is the Stanford census designated place (CDP) which has a 2010 United States Census population of 13,809 and an average household size of 1.96 per the United States Census.

ABAG projects that the population of Palo Alto will increase to 84,000 by the year 2035, a 30.4 percent increase over the twenty-five year period.

The Palo Alto Comprehensive Plan (General Plan) 1998-2010 addresses policies and programs (including best management practices) for Water Resources as part of the Natural Environment Element. The City is currently amending its Comprehensive Plan to cover the period 2010-2020.

## **FINANCING**

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### **Financial Adequacy**

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The Water Fund is an enterprise fund in which charges for services generate the necessary funds to provide the services. No General Fund monies are utilized by the Fund. ~~Because wholesale water rates have been increasing and water use has been declining (due to cooler weather and water conservation), recent revenues generated by the Water Fund have not equaled expenditures. The City has been utilizing its Rate Stabilization Reserve to make up the difference. Expenditures for the Water Fund are expected to increase in the future, mainly due to the increases in water supply costs and planned capital improvement projects.~~ The City's FY 11-12 budget narrative indicated that rate increases to water customers are expected to increase revenues so as to equal expenditures.

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### **Revenue Sources**

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In FY 08-09, the Water Fund generated \$27.1 million, in FY 09-10 the Fund generated \$26.2 million, and in FY 10-11 the Fund was projected to generate \$31.3 million. With a new rate increase in place, FY 11-12 revenues are expected to be in excess of \$33 million.

In FY 10-11, the Water Fund generated in excess of \$31 million in revenues from the sources shown in Figure 14-3.

**Figure 14-3: Funding Sources**

As indicated above, significant revenues are derived from water sales. The City's capital improvement program also contributes significant funds as described below.

|                 |               |       |
|-----------------|---------------|-------|
| Net Sales       | \$ 27,248,635 | 86.9% |
| Interest Income | 1,050,100     | 3.3%  |
| Other Income    | 3,074,144     | 9.8%  |
| Total           | \$ 31,372,879 | 100%  |

Rates

A significant portion of the Water Fund's total costs are related to the cost of purchased water. Water supply costs increased by about 38 percent in FY 11-12 and are expected to double by 2016. These increases are the result of the infrastructure projects undertaken by SFPUC to upgrade the regional water distribution system at a cost of \$4.6 billion. Based on wholesale water rate projections by SFPUC, costs will increase an average of 10 percent per year over the next six years.

As a result of these wholesale price increases, the City is proposing to raise the water rate charge to its customers beginning October 1, 2011. For the nine month period (October-June) a system-wide increase of 20.9 percent is being proposed. ~~An additional drawdown from the Rate Stabilization Reserve Fund of \$2.8 million would also be required to cover the wholesale water price increase.~~ The City has implemented an 'inclining block tier' rate structure which charges proportionally higher water rates for higher water users. One objective of this rate structure is to promote efficient water use.

Rates proposed by the City Council for residential customers for implementation effective on October 1, 2011 are shown in hundred cubic feet (CCF)<sup>1</sup> in Figure 14-4.

<sup>1</sup> One hundred cubic feet (CCF) equals 748 gallons.

**Figure 14-4: Water Use per Month**

|             | Rates          | Increase         | % Increase |
|-------------|----------------|------------------|------------|
| 0 to 6 CCF  | \$3.60 per CCF | -\$0.349 per CCF | - 8.8%     |
| 7 to 29 CCF | \$6.08 per CCF | \$0.456 per CCF  | 8.1%       |
| Over 29 CCF | \$7.64 per CCF | \$2.016 per CCF  | 35.8%      |

In addition, the monthly meter charge for a residential 5/8 inch meter will increase from \$5.00 to \$10.00. A small residential customer with a 5/8 inch meter that uses 6 CCF per month will see a monthly water bill increase from \$28.69 to \$31.60, a \$2.91 increase (10.1 percent). A medium residential customer who uses 14 CCF will see an increase from \$72.10 to \$80.24, an \$8.23 increase (11.4 percent); while a large residential customer who uses 35 CCF per month will see an increase from \$190.12 to \$217.28, a \$27.17 increase (14.3 percent).

Based on the anticipated costs for wholesale water, it is expected that monthly water bills will continue to increase in the foreseeable future.

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## Expenditures

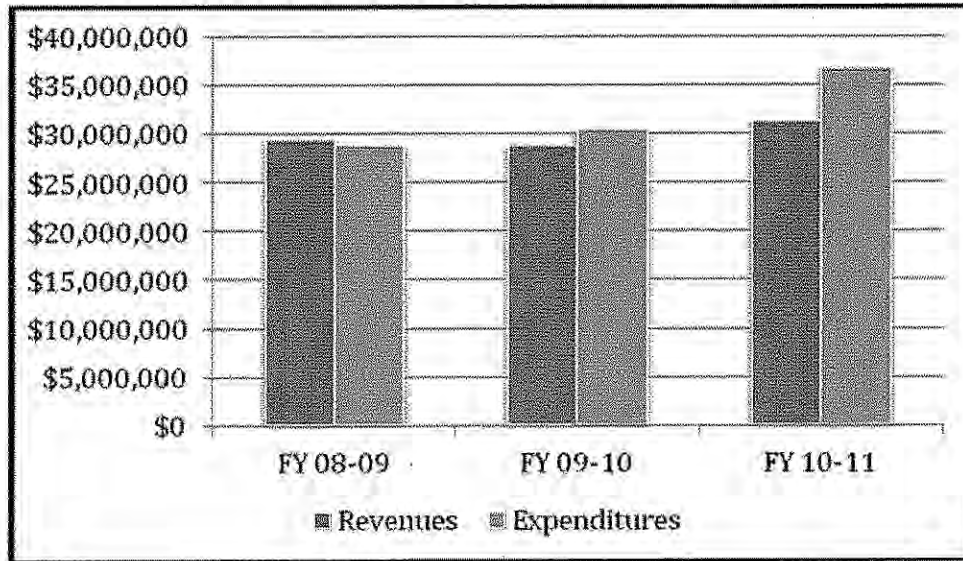
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For FY 11-12, the Water Fund expenditure (including capital improvement projects) is expected to total \$36.6 million, which is 8 percent of the City's total expenditures (all funds) of \$450.2 million.

In FY 08-09, the Water Fund spent a total of \$20.3 million, in FY 09-10 the Fund spent \$21.0 million, and in FY 10-11 the Fund was projected to spend \$36.8 million. Increased expenditures are attributed to increased costs for wholesale water and infrastructure projects. Revenues and Expenditures of the Fund for the past three fiscal years are shown in Figure 14-5.

Beginning in FY 10-11, Water Fund expenditures, including bond financed CIP, exceeded revenues. Some of the increased expenditures were financed by the \$35 million bond issued by the water utility. The City has also been utilizing its Rate Stabilization Reserve (which stood at \$17.2 million and is projected to be at \$11.8 million at the end of FY 11-12) to make up the difference. The Rate Stabilization Reserve is used as a 'balancing account' to keep the Water Fund expenditures equal to fund revenues.

Figure 14-5: Expenditures and Revenues (FYs 08-10)



Primary expenses in FY 10-11 were:

|                                  |                       |              |
|----------------------------------|-----------------------|--------------|
| <b>Administration</b>            | <b>\$2.7 million</b>  | <b>7.3%</b>  |
| <b>Operations</b>                | <b>6.0 million</b>    | <b>16.3%</b> |
| <b>Purchased Water</b>           | <b>12.0 million</b>   | <b>32.6%</b> |
| <b>Capital Expenditures</b>      | <b>8.9 million</b>    | <b>24.2%</b> |
| <b>Customer Support Services</b> | <b>1.7 million</b>    | <b>4.6%</b>  |
| <b>Debt Service</b>              | <b>2.9 million</b>    | <b>7.9%</b>  |
| <b>Rent</b>                      | <b>2.1 million</b>    | <b>5.7%</b>  |
| <b>Miscellaneous</b>             | <b>0.5 million</b>    | <b>1.4%</b>  |
| <b>Total</b>                     | <b>\$36.8 million</b> | <b>100%</b>  |



### Capital Outlays

The current budget includes seven capital improvement projects (CIP) totaling \$4.4 million. Particular focus is being placed on replacement of aging water lines and seismic upgrades of water reservoirs (tanks). The water replacement line CIP has been ongoing since 1986 and funds approximately \$3.1 million to replace 15,800 lineal feet of water mains each year. The seismic system upgrade CIP provides structural reinforcement for the Monte Bello, Corte Madera, Park, Boronda, and Dahl reservoirs, and funds \$9.7 million over the next three years.

The Emergency Water Supply and Storage project is ongoing and involves a number of construction projects to enable the City to have an eight-hour supply of water available should the SFPUC go down. The project involves the rehabilitation of up to five of the City's existing stand-by wells, to construct three new wells, to construct a new 2.5 million gallon (MG) storage reservoir, and to augment the existing Mayfield Pump Station. Two new emergency stand-by wells have been completed, and the Mayfield Pump Station contract was awarded in July 2011. These improvements are funded by the \$35 million revenue bond issued in 2009.

The Utilities Department also funds \$215,000 annually for water meter replacement and upgrades, and \$217,000 annually for fire hydrant replacements and upgrades.

### Long-term Debt

A \$35 million water revenue bond was issued on October 6, 2009 to finance the Emergency Water Supply project. Interest ranges from 1.80 percent to 4.65 percent, with annual payments of \$825,000. Repayment will be made from net revenues of the Water Supply and Distribution Enterprise Fund and will be retired in 2035.

A \$26 million utility revenue bond was issued on January 24, 2002 to finance improvements to the City's water and natural gas utility system. Interest ranges from 3.00 percent to 5.00 percent, with annual payments of \$835,000. Repayment will be made from net revenues of the Water Services and Gas Services Funds and will be retired in 2026.

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### Reserves

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The City maintains a Rate Stabilization Reserve which currently stands at \$15.1 million, a Debt Service Reserve (currently \$3.3 million), and an Emergency Plant Replacement Reserve (maintained at \$1.0 million). The City's Rate Stabilization Reserve Policy requires that the City maintain a minimum of ~~1520~~ percent of budgeted water sales revenue (currently \$5,449,7274.3 million) in the Rate Stabilization Reserve Fund. The current reserve is ~~25177~~ percent of minimum reserve guideline levels in FY 2011 ~~water sales revenues in FY 10-11~~. The City does not maintain a specific reserve fund for operations.

## WATER SUPPLY

The City of Palo Alto depends on a combination of surface water and recycled water to meet the water needs of its customers. All surface water is pre-treated by SFPUC. The City also owns and maintains wells in order to make use of groundwater during emergency or drought conditions; however, groundwater has not been used since 1991.

The City of Palo Alto depends solely on SFPUC for domestic surface water supply through its 2009 Master Agreement. The agreement between the City and SFPUC was negotiated by the Bay Area Water Supply and Conservation Agency (BAWSCA). Per the agreement, the 269 SFPUC wholesale customers have a combined supply assurance of 184 million gallons per day. The City of Palo Alto's guaranteed portion of the supply assurance is referred to as the individual supply guarantee. Palo Alto's individual supply guarantee is 17.07 million gallons per day (or approximately 19,118 acre feet per year (AFY)). As shown in Figure 14-6, the City anticipates that surface water supply requirements will not exceed 14,971 AFY through 2030, which is approximately 78 percent of the City's guaranteed supply from SFPUC.

**Figure 14-6: Current and Planned Water Supply Sources**

| Water Supply Sources<br>AFY | 2010   | 2015   | 2020   | 2025   | 2030   |
|-----------------------------|--------|--------|--------|--------|--------|
| SFPUC                       | 12,263 | 14,253 | 14,157 | 14,353 | 14,971 |
| Recycled Water              | 802    | 850    | 850    | 850    | 850    |
| Total                       | 13,065 | 15,103 | 15,007 | 15,203 | 15,821 |

Source: City of Palo Alto 2010 UWMP, June 2011; Table 5: Current and Planned Water Supply Sources.

The SFPUC water supply is subject to reductions during drought conditions. As part of the water supply agreement, a water shortage allocation plan between SFPUC and its wholesale customers was adopted in 2009, and addresses shortages of up to 20 percent of system-wide use. The Tier 1 Shortage Plan allocates water from the regional water system between San Francisco Retail and the wholesale customers during system-wide shortages of 20 percent or less. The water supply agreement also includes a Tier 2 Shortage Plan, which allocates the available water among the SFPUC wholesale customers. A new Tier 2 plan was approved by the BAWSCA agencies in 2011, which provides the framework for allocating the wholesale Tier 1 water allocation between the different BAWSCA agencies. The new Tier 2 water shortage plan is in effect until 2018. For details, refer to the 'Drought Allocations' section of Chapter 23, San Francisco Public Utility Commission, City of Palo Alto 2010 UWMP.



The City's existing water well system consists of seven wells (Hale, Rinconada, Peers, Fernando, Matadero, Eleanor Pardee, and Main Library) with a combined total permitted capacity of 6,000 gallons per minute (gpm). Additionally, a new well at El Camino Park, which is currently under construction, will enhance production capacity by 1,000 gpm once completed in December 2012. Besides normal annual operational testing, these wells have not been used for City potable water since 1991. The City is in the midst of constructing and completing an emergency water supply and storage project to rehabilitate existing wells and construct additional wells and emergency storage. Upon completion of these enhancements, the City's wells would have the combined capacity to pump 11,000 gpm (or 15.8 mgd). In addition to enhancing the City's emergency water supply capabilities, the groundwater system may also be used to a limited extent for water supply during drought conditions (up to 1,500 AFY),<sup>2</sup> and would be capable of providing normal wintertime supply needs during extended shutdowns of the SFPUC system. Given the limitations identified for groundwater during drought conditions, and the City's sufficient available surface water supply, the City has no plans to use groundwater during a drought, at this time. Once the water supply and storage project is complete, the City will re-evaluate the feasibility of using groundwater as a supplemental supply during a drought.

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## Recycled Water

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The City of Palo Alto operates the Palo Alto Regional Water Quality Control Plant (RWQCP), a wastewater treatment plant, for the East Palo Alto Sanitary District, Stanford University, the Town of Los Altos Hills, and the cities of Los Altos, Mountain View, and Palo Alto. Wastewater from these communities is treated by the Palo Alto RWQCP prior to discharge to the Bay.

The Palo Alto RWQCP provides recycled water to the RWQCP itself, the Palo Alto Golf Course, the Palo Alto Duck Pond, Emily Renzel Marsh, Greer Park, and the North Bayshore Area in Mountain View, including the Shoreline Golf Course. Recycled water is also provided via water trucks to construction sites for dust suppression. The Palo Alto RWQCP currently produces about 800 AFY of recycled water. Palo Alto is currently studying a potential extension of the recycled water distribution system by constructing a new recycled water line to serve the Stanford Research Park area, as well as commercial uses and public spaces along the backbone and lateral pipeline routes. For more details on the Palo Alto RWQCP, refer to Chapter 26.<sup>[n]</sup>

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<sup>2</sup> As specified in the EIR for the Emergency Water Supply and Storage Project, concern over prolonged groundwater pumping in the area resulted in a maximum production limitation of 1,500 AFY during a drought.

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## Emergency Preparedness

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### Water Supply Hazards

The City has undertaken a systematic program to replace aging water lines. While the water line replacement project has been on-going since 1986, it will be a number of years before all of the old lines have been replaced. The Water Division is prepared to respond to any leaks or breaks in a timely manner, and is able to be on site within 60 minutes of dispatch.

The City is addressing the vulnerability of its water storage reservoirs to seismic events. In 2009, the City Council approved an emergency water supply and storage project as described in the Capital Outlays section.

### Emergency Water Supply

Once the emergency water supply and storage project is complete, the City's groundwater system would be capable of providing normal wintertime supply needs during extended shutdowns of the SFPUC system.

At the present time, the storage and water well supply capacity of the existing system can provide approximately three hours of emergency water under a maximum day demand plus fire scenario.

### Interties and Back-up Supply

Palo Alto has interties with Stanford University (2), Mountain View (2), and East Palo Alto (1) for use during emergency situations.

## WATER DEMAND

Water consumption has fluctuated over the last 25 years in the City. Water consumption peaked between 1985 and 1987, and then hit an all-time low in 1993 during a drought year. Consumption in 2010 was low compared to previous years, as a result of the drier than normal conditions from 2006 to 2009, conservation measures implemented during the drought, permanent water conservation measures implemented during the past 25 years, and the concurrent economic recession. Water use decreased by 27 percent during the past nine years, and by 16 percent from 2007 to 2010. The City's water consumption is forecast to remain relatively stable in the future, with a slight increase due to a rebound in the economy.

In 2010, the City sold 11,236 acre feet of surface water or 59 percent of the City's supply guarantee from SFPUC.<sup>[2]</sup> The City of Palo Alto projected water demands, as forecasted sales to 2030, are set out in Figure 14-7. The City adjusts water sales projections to account for its water conservation efforts, which are also called demand management measures. After incorporating the impact of demand management measures, total sales are expected to increase by 17 percent from the period 2010 to 2030. Based on

these projections, the City of Palo Alto's water demand (13,702 AFY) will be well within the City's SFPUC supply guarantee (19,118 AFY) in 2030.

**Figure 14-7: Past, Current and Projected Water Sales AFY**

| Actual Sales Data                |        |        | Projected Forecast |        |        |
|----------------------------------|--------|--------|--------------------|--------|--------|
| 2005                             | 2010   | 2015   | 2020               | 2025   | 2030   |
| 12,217                           | 11,236 | 14,201 | 14,970             | 14,970 | 15,949 |
| Demand Management Incorporated   |        | -1,083 | -1,651             | -1,810 | -2,247 |
| Projected Net Water Requirements |        | 13,118 | 12,986             | 13,160 | 13,702 |

*Source:* Adapted from City of Palo Alto 2010 UWMP, June 2011; Table 10: Past, Current, and Projected Water Sales, page 41.  
*Note:* These numbers exclude recycled water usage.

The water sales projections shown in Figure 14-7 do not include sales of recycled water, which are anticipated to increase by only six percent to 850 AFY in 2030. The City projected minimal growth in the use of recycled water, as the City has not made a commitment to expand the recycled water system or its use.

Residential water use per capita in Palo Alto is one of the highest among the BAWSCA member agencies. Of the 24 cities and water districts who are members of BAWSCA, Palo Alto ranks fourth at 120 gallons per capita per day. Over the past three calendar years, the Utilities Department has exceeded its annual water reduction goal of 0.34 percent per year (as a percentage of total retail sales). In 2008, retail sales were reduced by 0.72 percent, in 2009 by 0.98 percent, and in 2010 by 1.35 percent.

## WATER INFRASTRUCTURE AND FACILITIES

The Palo Alto water system is a comprehensive water delivery system. The City is divided into nine pressure zones. Zones 1, 2 and 3 are located in the lower elevations of the City (generally northwest of the Foothill Expressway), while Zones 4, 5, 6, 7, 8, and 9 extend south into the higher elevations and the open space areas.

The City receives its potable water from SFPUC at five connection points (Lytton, California, Page Mill, Arastradero, and Sand Hill). Water received from SFPUC is treated and fluoridated.

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### Water Treatment Facilities

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Palo Alto does not have any water treatment facilities.

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### Water Storage Facilities

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The City has six water storage reservoirs with a combined storage capacity of 10.5 million gallons (MG); with a new 2.5 MG storage tank, plus an additional emergency well currently under construction. The existing reservoirs are in the process of being



seismically retrofitted to further stabilize the City water supply system and ensure reliability. These tanks are currently utilized to maintain optimum water pressure between zones, and are a source for normal potable water use and for emergency purposes.

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## Conveyance and Distribution Facilities

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The City's water system is composed of approximately 50 miles of 12-inch to 30-inch diameter transmission lines and over 160 miles of 4-inch to 10-inch diameter distribution mains. There are still remaining approximately 15 miles of 4-inch diameter pipes, which are being replaced with 8-inch diameter lines, which is the City's current minimum standard.

The City's water system also consists of seven booster pump plants (Lytton, Mayfield, Quarry, Corte Madera, Boronda, and Dahl) each with two to three pumps, one of which is on standby for emergency purposes. The system also features eight pressure regulating stations, 1,944 fire hydrants, 287 City-owned backflow prevention devices, and 20,238 water service connections. The system also includes the automated Supervisory Control and Data Acquisition (SCADA) System that controls distribution of water throughout the system.

When the City's water main replacement program was first incepted in the mid 1980's, over 60 percent of the water main pipelines were constructed prior to the 1960's. The 1960's vintage pipes are approaching their estimated 50-year useful service life and are in need of replacement. The City's annual water capital improvement project replaces structurally deficient water mains and appurtenances. Some mains are inadequate in size to supply required flows and pressures for fire protection, and others are subject to recurring breaks. Mains are selected by researching the maintenance history of the system and identifying those that are undersized, corroded, and subject to breaks. The rate of main replacement was increased from one mile per year to three miles per year in Fiscal Year 93-94. In addition, an analysis of cost effective system improvements was initiated in the same year. This analysis helped determine the best materials and construction methods to use with a goal of reducing the accelerated main replacement program's cost.

The City reported that in calendar year 2010 there were 23 main line breaks or leaks, and 22 service connection breaks or leaks. The City did not issue any 'boil water' orders or report any water outages.

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## Infrastructure Needs & Capital Improvement Program

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The current capital improvement program identifies seven capital improvement projects scheduled over the five-year planning period. Particular focus is being placed on replacement of water lines, rehabilitation and maintenance of water tanks, and replacement of water meters and fire hydrants. Refer to the Financing Section for details.

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## Shared Facilities

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The City does not share any facilities with any other agencies or organizations, with the exception of the emergency interties.

## WATER QUALITY

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### Source Water

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For the SFPUC system, the major water source originates from spring snowmelt flowing down the Tuolumne River to the Hetch Hetchy Reservoir, where it is stored. This pristine water source is located in the well-protected Sierra region and meets all Federal and State criteria for watershed protection. DPH and the EPA have granted the Hetch Hetchy water source a filtration exemption, based on the SFPUC's disinfection treatment practice, extensive bacteriological-quality monitoring, and high operational standards. In other words, the source is so clean and protected that the SFPUC is not required to filter water from the Hetch Hetchy Reservoir. Water from the Hetch Hetchy is supplemented by run-off collected in the Alameda and Peninsula Watersheds. This water is treated at two water treatment plants prior to distribution.

### Treated Water

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Quality of treated water can be evaluated according to several measures. For the purposes of this report, the following indicators are used: the number of violations as reported by the EPA since 2000, the number of days in full compliance with Primary Drinking Water Regulations in 2010, and any deficiencies identified by DPH as prioritized health concerns.

The City of Palo Alto does not treat water derived from the City's stand-by wells other than adding disinfectant. Treated water is received from the SFPUC Hetch Hetchy system. The City's water wholesalers, SFPUC and SCVWD, conduct their own testing. Of the parameters tested, none were found to be higher than CDPH allows.

According to the federal Environmental Protection Agency (EPA) through its Safe Drinking Water Information System (SDWIS), the City of Palo Alto had one violation during the 2000-2010 period. This was a Health Based Violation in July 2010 for coliform which has been cleared by State Administrative Order without penalty.

The City's 2010 Water Quality Report indicates that the City's potable water supply from all sources met all state and federal drinking water health standards. In order to insure that water quality standards are met, drinking water samples are collected daily throughout the City and analyzed for a variety of regulated and unregulated contaminants. Samples are tested by the City's certified laboratory and an independent laboratory using the latest testing procedures and equipment. Of the parameters tested, none were found to be higher than CDPH allows.

The most recent water system inspection by CDPH (December 2010 and January 2011) identified seven minor deficiencies which have been corrected by the City.

## **CITY OF PALO ALTO SERVICE REVIEW DETERMINATIONS**

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### **Growth and Population Projections**

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- ❖ The current 2010 population of Palo Alto is 64,403.
- ❖ ABAG estimates that Palo Alto will grow by 30.4 percent over the next 25 years to an estimated population of 86,803.

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### **Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs and Deficiencies**

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- ❖ The City will be able to purchase sufficient water to meet its needs under its current contract with the San Francisco Public Utilities Commission.
- ❖ The Palo Alto water supply and distribution system has sufficient capacity to serve all water customers within its service area.
- ❖ Water use decreased by 27 percent during the past nine years, and by 16 percent from 2007 to 2010. The City's water consumption is forecast to remain relatively stable in the future.
- ❖ Continued emphasis on water conservation, rebates for water efficient appliances, and an 'inclining block tier' water rate structure are expected to result in static demand for water.
- ❖ The City is placing increased emphasis on utilizing recycled water for landscape irrigation. The Public Works Department and the Utilities Department are collaborating on a project to expand the recycled water service beyond the 850 acre feet per year currently projected. Recycled water currently makes up six percent of the City's water supply.
- ❖ The Palo Alto water system has seven emergency wells to address any water supply shortfalls and as backup should the SFPUC system be out of service. The City is currently implementing an Emergency Water Supply and Storage project to augment its emergency supply.
- ❖ The City currently has adequate water storage to provide three hours of water in an emergency. With the addition of water storage and improvements to the well system under the Emergency Water Supply and Storage project, an eight hour emergency water supply will be available.
- ❖ The Utilities Department has an ongoing program to replace its aging water distribution system, water meters and fire hydrants. These replacements and upgrades will insure adequate fire flow for fire suppression.



- ❖ Existing water reservoirs (tanks) are being seismically retrofitted to further stabilize the City water supply system and ensure reliability.
- ❖ The City provides high quality water based on district compliance with drinking water regulations, a lack of health and monitoring violations since 2000, and timely thorough district response to California Department of Public Health infrastructure and operational concerns.
- ❖ City management methods appear to generally meet accepted best management practices. The City prepares a budget before the beginning of each fiscal year, has a detailed Capital Improvement Program, conducts periodic financial audits, maintains relatively current transparent financial records, regularly evaluates rates and fees, tracks employee and department workload, and has established a process to address complaints.

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### Financial Ability of Agency to Provide Services

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- ❖ The Water Enterprise Fund for the Palo Alto water system has ~~not had sufficient financial resources as it gradually increases its rates to match increasing expenses to maintain a positive fund balance.~~ The Rate Stabilization Reserve Fund has ~~adequate reserves been utilized to allow Water Fund revenues to equal expenditures.~~
- ❖ Increased costs to provide services (expenditures) have ~~kept pace with~~ outpaced revenues since FY 09-10, ~~due to annual adjustments to rates consistent with expected expenditure increases necessitating the need to utilize the Rate Stabilization Reserve Fund and to implement a new rate structure which raises water rates 20.9 percent for the period October 2011 through June 2012.~~
- ❖ Water rate increases will continue to be required over the next several years to finance SFPUC Hetch Hetchy water system seismic improvements.
- ❖ The City has an ongoing multi-year capital improvement program that includes repair, replacement and rehabilitation projects that are designed to improve the overall water storage and distribution system.

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### Status and Opportunities for Shared Facilities

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- ❖ The City practices facility sharing by receiving potable water through the SFPUC distribution system, sharing emergency water line interties with Stanford University, Mountain View and East Palo Alto, and receiving recycled water from the Palo Alto Regional Water Quality Control Plant.
- ❖ The City collaborates with the Santa Clara Valley Water District, the Bay Area Water Supply and Conservation Agency, the Northern California Pipe Users Group, and the Water System Distribution Roundtable.

- ❖ The City has not identified further opportunities for facility sharing.

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### Accountability for Community Services, Including Governmental Structure and Operational Efficiencies

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- ❖ Accountability is best ensured when contested elections are held for governing body seats, constituent outreach is conducted to promote accountability and ensure that constituents are informed and not disenfranchised, and public agency operations and management are transparent to the public. The City demonstrated accountability with respect to all of these factors.
- ❖ The City has a water advisory committee, the Utilities Advisory Commission, to provide advice and recommendations to the City Council regarding water resources, project review, environmental issues, and rate structure.
- ❖ Operational efficiencies are being improved through the use of an asset management system, by utilizing an 'inclining block tier' water rate structure which promotes more efficient use of water; and by carrying out an aggressive water conservation program.
- ❖ No governance structure options have been identified for Palo Alto.



# CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5411  
GENERAL INFORMATION: 408.586.3000 www.ci.milpitas.ca.gov

October 24, 2011

Local Agency Formation Commission of Santa Clara County  
70 W. Hedding Street  
San Jose, CA 95110

Attn: Neelima Palacherla, Executive Officer

Subject: Comments on LAFCO's Draft 2011 Countywide Water Service Review

Dear Mr. Palacherla:

The City of Milpitas has reviewed the sections of the Santa Clara County Local Agency Formation Commission's (LAFCO) draft "2011 Countywide Water Service Review Report" pertaining to the City. Our comments are given below:

Section 11, page 273, Figure 11-1

Figure 11-1 incorrectly shows information for the City of Santa Clara. Substitute "Water and Sewer Utilities Department Contact Information" with "Utility Engineering Section Contact Information." Substitute Santa Clara contact and council info with Milpitas contact and council info.

Section 11, page 275, paragraph #3

Substitute "adopted May 3, 2011" with "accepted by Council on February 15, 2011."

Section 11, page 275, last paragraph

Substitute "principal" with "principle."

Section 11, page 278, Capital Outlays

Align "\$1,600,000" with other dollar figures.

Section 11, page 279, paragraph #4

Substitute "SFPUC (55 percent)" with "SFPUC (60 percent)," "SCVWD (40 percent)" with "SCVWD (30 percent)," and "The remaining five percent is recycled water..." with "The remaining 10 percent is recycled water..."

Section 11, page 281, paragraph #1  
Substitute "Utility Commission" with "Utilities Commission."

Section 11, page 281, paragraph #2  
Substitute "Plan" with "Plant."

Section 11, page 288, last paragraph  
Revise the paragraph to read "The City is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA) and serves on a number of BAWSCA committees. Milpitas also collaborates with SCVWD and serves on a number of SCVWD subcommittees."

If you have questions, please call Howard Salamanca at (408)586-3348 or me at (408)586-3345.

Sincerely,



Kathleen E. Phalen, P.E.  
Acting Assistant City Engineer

cc: Greg Armendariz, City Engineer / Director of Public Works (via e-mail)  
Howard Salamanca, Associate Civil Engineer (via e-mail)

## Noel, Dunia

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**From:** JLucas1099@aol.com  
**Sent:** Monday, October 24, 2011 10:10 AM  
**To:** jennifer@pacteam.com  
**Subject:** LAFCO Service Review of GCRCD

Jennifer Stephenson  
LAFCO Service Review consultant  
[jennifer@pacteam.com](mailto:jennifer@pacteam.com) Ph. (310) 936-2639

October 24, 2011

Dear Jennifer Stephenson,

In regards your LAFCO Service Review of the Guadalupe-Coyote Resource Conservation District I would like to make a few observations as a former director of the district.

~ There seems to be some concern expressed on the overlap of jurisdictions or duplication of service areas in regards the GCRCD and the Santa Clara Valley Water District. In the past decade SCVWD has sought to take on the watershed resource stewardship role that had originally been promoted in the CRMP process of the State Resource Conservation Districts. However in the last legislative session of 2009-10 SCVWD is said to have sponsored and supported bill AB 2483 Regular Session which sought to have eliminated the purpose of 'environmental water resources stewardship' from the SCVWD Act as it establishes purposes and powers of Santa Clara Valley Water District. The final form of this bill (which evidently did not pass in this session) would have left only the two basic SCVWD purposes: "comprehensive water management for all beneficial uses and protection from flooding". "Stewardship" in bill's last version was eventually crossed out?

In consideration of present challenging costs facing the SCVWD in all aspects of retrofitting its infrastructure elements of reservoirs, dams and percolation ponds, of upgraded water treatment plants and pump systems, of Delta water delivery conduits and integrity of through-Delta conveyance channels, in addition to upgrading flood control channels to capacity anticipated necessary due to increased storm intensity of global warming, it is understandable that costs incurred by watershed stream stewardship must fall to insignificant levels.

As the majority of acreage SCVWD reviewed for watershed and stream stewardship is in private ownership or public openspace, this is predominately out of the control of the District and more in the advisory jurisdiction of cities and regulatory resource agencies. It was a bit of empire building practised by former management to the detriment, I believe of its basic mandated public utility service needs.

As a representative of the state and federal agriculture departments, GCRCD's mandate to conserve soil and water resource in an advisory capacity to landowners and open space park preserves should be able to be accomplished in an economical manner. Habitat preservation, conservation of springs, seeps, streams and wetlands, riparian and ridgeline wildlife corridors, can all be folded into land use best management practices. RCD's issue pamphlets on grazing protocols, woodland management, integrated pest and invasives control, road design and drainage. There are very few tools for effective land management that have not been devised.

~ RCD Board of Directors are volunteers and services are free. That alone should be high recommendation to retain the status quo of this conservation district.

~ The Guadalupe-Coyote Resource Conservation District boundary extends over the eastern third of Santa Clara County that is Alameda Creek's upper watershed for Calaveras Reservoir and is entirely outside of the SCVWD jurisdiction. This area includes San Antonio Valley (proposed as a Santa Clara County Park prior to Proposition 13) which still supports exceptional ecosystems and species of California native plants. It is vital that GCRCD represents Santa Clara County interests in helping to preserve such prime habitat for posterity.

~ To contribute some history as to the evolution of recent activities of GCRCD it should be noted that in early 1990's a collapse of the coldwater fisheries of the South Bay seemed to occur due to unwarranted CalTrans drybacks of Coyote Creek during construction of the #85 flyover of #101 and Coyote Creek, and due to #237 bridge replacement over Guadalupe River that incorporated a steel dam blockage of the river at a time when salmon were incoming. There was also removal of three miles of the historic riparian corridor of Guadalupe River in downtown San Jose in a location which supported extensive salmon spawning a few years earlier. At this time it appeared that the historical coldwater fishery of



both rivers was critically threatened and if no fish would be migrating upstream to more official GCRCD jurisdiction, it was necessary to monitor downstream stream gages and flood control design and activity. Understand coldwater fishery issues remain unresolved.

Thank you for consideration of my concerns, and let me know if you need substantiation of any references.

Libby Lucas, 174 Yerba Santa Ave., Los Altos, CA 94022

October 24, 2011

Ms. Neelima Palacherla, Executive Officer  
Local Agency Formation Commission of Santa Clara County  
70 W. Hedding Street, 11th Floor  
San Jose, CA 95110

Subject: 2011 Countywide Water Service Review Draft Report

Dear Ms. Palacherla:


The Santa Clara Valley Water District (SCVWD) appreciates the opportunity to provide comments on the 2011 Countywide Water Service Review Draft Report (Draft Report) prepared by the Local Agency Formation Commission (LAFCO) of Santa Clara County. In general, the Draft Report does a good job of accurately describing the mission, governance, finance and complex operations of SCVWD in providing wholesale water supply, flood protection and environmental stewardship to Santa Clara County.

We support key findings of the report, including the finding of significant overlap in watershed and stream stewardship services provided by SCVWD and the Guadalupe-Coyote Resources Conservation District (GCRCD). Consolidation of GCRCD with SCVWD could provide greater efficiency in achieving resource conservation programs through enhanced leverage of property tax revenue and reduced administration costs. Toward that end, we support the Draft Report's sphere of influence recommendation that GCRCD return to LAFCO within a specified timeframe to outline what services GCRCD intends to provide (along with a timeline for implementation) that do not overlap with SCVWD's efforts and could not otherwise be provided by SCVWD through its enabling Act.

In addition, SCVWD supports findings related to Pacheco Pass Water District (PPWD) and the need to improve existing governance, finance and operations. SCVWD has a vital interest in water supplies that originate in Santa Clara County and in the future of PPWD. We agree that the reorganization of PPWD with SCVWD and San Benito County Water District should be investigated.

Thank you again for the opportunity to participate in the 2011 Countywide Water Service Review process.

Sincerely,

  
James M. Fiedler  
Chief Operating Officer  
Water Utility Enterprise





GUADALUPE - COYOTE  
RESOURCE CONSERVATION DISTRICT

388 NORTH FIRST STREET RM. 204, SAN JOSE, CA 95112  
OFFICE (408) 288-5888 FAX (408) 993-8728

October 24, 2011

Neelima Palacherla ([neelima.palacherla@ceo.sccgov.org](mailto:neelima.palacherla@ceo.sccgov.org))

Executive Officer

LAFCO of Santa Clara County

70 West Hedding Street

11th Floor, East Wing

San Jose, CA 95110

**RE: GCRCD response to 2011 LAFCO Service Review, Draft Report,  
pursuant to September 27, 2011 notice**

Dear Ms. Palacherla:

The Guadalupe-Coyote Resource Conservation District (GCRCD, "District") thanks LAFCO for the opportunity to comment on the draft LAFCO service review of the GCRCD, pursuant to notice dated September 27, 2011. We appreciate the massive effort involved and LAFCO's dedication to public purposes, and welcome the many constructive suggestions that LAFCO offers. We write to amplify our August 31, 2011, comment letter in order to correct some information and supplement items LAFCO's consultant may have failed to include in the draft review, such as not sufficiently differentiating the functions of Santa Clara Valley Water District (SCVWD) and the GCRCD in the "Provider Overlap" section. Below please find segments containing corrections to the draft text available online.

GCRCD supports the conclusion that the current sphere of influence (SOI) be continued, and thanks LAFCO for recognizing the importance of work in the areas of resource conservation and watershed stewardship. We hope to incorporate many LAFCO suggestions and meet and exceed LAFCO's expectations for the district.

The GCRCD questions the interpretation of California Government Code section 56824.10 as requiring LAFCO approval to exercise services authorized by the principal act, *but not already provided by the district at the end of 2000*. There would appear to be no restriction limiting services to those already provided. Rather, it would seem that this code section simply applies to a proposed expansion or divestiture of powers listed in the principal act. The GCRCD does not agree that there is a temporal restriction that would preclude authorized services not yet provided as of 2000. We will seek discussion with our legal counsel to help our understanding of LAFCO's conclusion.

## Type and Extent of Services

- **Watershed Management:** In addition to listed functions, the GCRCD provides vital data and scientific reports regarding SCVWD stream channelization projects and affected biota, which data and reports differ significantly and importantly from SCVWD versions of its projects' impacts. The important data supplied by GCRCD have laid the groundwork for the ongoing adaptive management efforts/interventions, without which area creek functions would be significantly more impaired. GCRCD also was instrumental in the establishment of the FAHCE collaborative to protect riparian-dependent resources.

- **Waterway Protection & Restoration:** The GCRCD does not currently provide financial support to the Santa Clara County Creeks Coalition (SCCCC); rather GCRCD supports—and disseminates information to the public through a booth set up at—the annual creeks conference sponsored by the SCCC group.

- **Scientific Studies/Education:** As mentioned above, the GCRCD provides education services through the annual SCCC creeks conference.

GCRCD directors also work as volunteers at Guadalupe River Park & Gardens at outreach and education functions. These functions include: the Pumpkins in the Park event (“harvest fair with a strong environmental education component” where GCRCD’s exhibit demonstrates the importance of keeping toxins out of the storm sewers), and the Water Wizard Festival (teaching children about the Guadalupe Watershed, the science of water, the water cycle, water conservation and pollution prevention).

GCRCD also provided important seminal funding and encouragement for Veggielution, a non-profit organization operating within GCRCD boundaries, which “empowers youth and adults from diverse backgrounds to create a sustainable food system in San Jose. [It is an] urban farm [that] engages the community by providing access to healthy and local food, creating youth leadership opportunities, and developing creative solutions to social and environmental justice issues.” A community farm, which fosters “stewardship for our local environment”, Veggielution produces food that is given to entities such as the soup kitchen Loaves and Fishes.

- **Vegetation/Habitat Preservation:** Through intervention by the GCRCD some years ago, important butterfly habitat was protected from loss that would otherwise have occurred as a result of encroaching development.

- **Farm/Range Land Management:** GCRCD participated with other RCDs (from Napa, Solano, Contra Costa and Alameda counties)<sup>1</sup> in a collaborative San Francisco Bay Area Livestock and Land program grant proposal coordinated by Ecology Action

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<sup>1</sup> Loma Prieta RCD did not participate, as its watersheds do not impact the San Francisco Bay.

early this year. The group's application, although ultimately unsuccessful, was ranked highly among those submitting. GCRCD will seek to continue these kinds of efforts to address the significant amount of rangeland in our district's watersheds.

### Collaboration

The list of partners in the LAFCO report includes agencies and organizations with which the District has worked, or is working. It should include Guadalupe River Park & Gardens (ongoing education), Veggielution (seminal grants, support) and Salmonid Restoration Federation (education/conference support).

The GCRCD's function in the Lower Silver Creek restoration project was as described in our August 31, 2011, letter (incorporated by reference, as if fully set forth herein) to LAFCO consultant Jennifer Stephenson, responding to the first LAFCO draft review report prepared by her firm. Our district did not supply the funding details mentioned in that recent LAFCO report.

### Service Area

The LAFCO consultant's report claims that GCRCD is "presently providing more services in the urban centers, outside of its bounds." Yet the waters and the dependent fishery resources that are distinctly within our District, are intimately tied to the urban areas of the watersheds. Fish cannot gain access to the headwaters within our district without clear passage through those urban areas. The GCRCD's jurisdiction and duty to protect those fisheries extend to ensuring their passage through the urban areas so that they can access the important habitat that lies within our district.

The importance of entire riparian areas—and thus the need to avoid segmenting those riparian areas—has received significant recognition. For instance, the Conservation Lands Network (CLN)<sup>2</sup>—a five-year science-based study by over 125 organizations and individuals tasked to identify the most essential lands needed to sustain the "natural infrastructure" of our region—states:

The ecological processes of nearly all Bay Area riparian ecosystems have been disrupted, in some cases radically, and as much as 95% of riparian habitat has been lost (CCMP 2007). To achieve effective conservation of riparian ecosystems, the entire hydrologic continuum – including low-order headwaters and high-order streams – must be considered for conservation and restoration.

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<sup>2</sup> <http://www.bayarealands.org/about/>. The CLN is funded by California Resources Agency, US Fish and Wildlife Service Coastal Program at San Francisco Bay, California State Coastal Conservancy, and others.

The CLN further has identified eight of the SF Estuary's watersheds as accounting for roughly 75% of the regional steelhead-rearing habitat. These "watersheds with the most extensive habitat were deemed *Anchor Watersheds* to indicate their significance. Anchor Watersheds [include] ..., Coyote ... Creek[] and the Guadalupe ...River[.]”<sup>3</sup>

The GCRCDD's focus on our district's extended watersheds—the important anchor watersheds— recognizes this, and fulfills as well our statutory mandate which charges RCDs with identification of resource issues within the district for purposes of conservation planning.<sup>4</sup>

As California's Wildlife Conservation Board notes:

Scientists have long recognized the unique value riparian habitat holds for fish and wildlife species. Unfortunately, this valuable habitat has been removed, degraded, and disturbed at an alarming rate since the first settlers..... In recognition of this major loss of California's riparian habitat and in an effort to reverse this trend to the extent possible, many conservation organizations, state and federal agencies, and local governments are actively developing programs to protect these valuable ecosystems. The legislation which enabled the CRHCP [California Riparian Habitat Conservation Program] also recognized that the responsibility for protecting and restoring riparian habitat must be shared by all state agencies whose activities impact riparian habitat.<sup>5</sup>

GCRCDD is one of those state agencies whose activities impact riparian habitat—as is the SCVWD— and is consequently one of the conservation organizations actively seeking to collaborate to protect those riparian areas. GCRCDD's pursuit of watershed conservation results from having identified SCVWD projects that have removed, degraded, and/or disturbed riparian habitat, with concomitant effects on threatened and/or endangered aquatic species. GCRCDD watershed activities, therefore, represent a sharing of the responsibility for protecting and restoring riparian habitat. The 15-year FAHCE effort that resulted from the GCRCDD's complaint filed with the SWRCB in 1996 (pursuant to SCVWD's dewatering of the Guadalupe River, and other deleterious stream actions) demonstrates how the watershed protection and restoration responsibilities shared among agencies can work to protect these valuable ecosystems.

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<sup>3</sup> *Id.*

<sup>4</sup> Cal. Pub. Res. Code § 9413(b)(1).

<sup>5</sup> <http://www.wcb.ca.gov/Riparian/>. The California Riparian Habitat Conservation Program (CRHCP) was created within the Wildlife Conservation Board (WCB) by legislation in 1991. The program has a basic mission to develop coordinated conservation efforts aimed at protecting and restoring the state's riparian ecosystems.



As LAFCO has recognized regarding our sister district, the Loma Prieta RCD (LPRCD), there is some similarity between some SCVWD's water services and our District's. However, we are like LPRCD in that our focus diverges from that of the SCVWD. Pursuant to government mandate, GCRCD has, since 1944, steadily focused on conservation and the environment, whereas the Water District's primary focus has been on flood control and providing water. SCVWD's "environmental stewardship" plays only a secondary or tertiary role, dependent on its primary purposes. In fact, for about 50 years the SCVWD had no environmental stewardship role at all.<sup>6</sup> The environmental stewardship that was finally added to the SCVWD's enabling act about 10 years ago was nearly eliminated by a bill, AB2483, sponsored and supported by the SCVWD last year.<sup>7</sup> The unstable nature of SCVWD's "environmental stewardship" role makes GCRCD steady focus on the environment all the more important.

### Boundaries

The LAFCO report (page 209) incorrectly identifies GCRCD boundaries as ending just north of Anderson Reservoir. As its report correctly depicts on page 213, GCRCD boundaries include the northern part of Anderson Reservoir.

### Provider Overlap

SCVWD jurisdiction within GCRCD boundaries is actually not so broad as the RCD's. As SCVWD's own maps show (see attached maps), the water district neither owns (in fee title) nor does it have easements over a majority of the creeks and rivers within GCRCD boundaries. SCVWD holdings are actually quite limited. It cannot act in large areas of watershed in the county. Therefore, the Santa Clara Valley Water District's bounds cannot be said to "cover[] the entire county" as the LAFCO report had claimed. (page 209).

GCRCD has provided much more than comments on projects. As previously noted, it was the GCRCD complaint, filed with the State Water Resources Control Board (SWRCB) in 1996, that pointed out SCVWD violations of various state codes and the common law public trust doctrine, as well as the Porter-Cologne Water Quality Control Act, alleging that the SCVWD's actions blocked fish passages, degraded riparian vegetation, channel forms and substrates and water quality of

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<sup>6</sup> The history of the severely restricted role SCVWD's environmental stewardship has played historically was described at some length in GCRCD's August 31, 2011, letter to LAFCO's consultant.

<sup>7</sup> The Senate version of AB 2483 (a bill to broaden and codify SCVWD powers, as amended June 28, 2010) lacked the specific environmental directives of its predecessors, stating, for instance, only two purposes of the bill: "to authorize...comprehensive water management ... and protection from flooding..." (Sec. 1). "Stewardship", in the June 28 iteration occurred only as a crossed-out remainder from previous versions. "Watershed", in the June 28 version, occurred only in relation to management of floodwater, storm waters, wastewater, etc.—and as a crossed-out reference in the Legislative Counsel's Digest. The "environmental water resources stewardship" purpose had been eliminated. Such stewardship would have become merely a permitted, not mandated, SCVWD activity.

certain local waterways. It was that GCRC D complaint that galvanized the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE). As SCVWD acknowledges, the FAHCE was “formed to resolve [GCRC D’s] complaint”.<sup>8</sup> SCVWD listed, among FAHCE accomplishments by August 2011, a number of improvements, including the following: 23 fish barrier remediations, a creek corridor restoration project, ten construction or other planning studies completed, and three reservoir release and flow improvements.<sup>9</sup> By any standards, the GCRC D’s input has been not only separate from, but critically important to resource improvements and conservation in our area. These are arguably improvements that would not have occurred without the watchdog functions of the GCRC D. (The GCRC D “watchdog” function was acknowledged in the previous LAFCO review report.)

### Accountability and Governance

GCRC D has in the past taught salmonid education, stream monitoring programs, etc. The District believes that the complaint the disappointed developer brought in the past was dismissed by the court where it had been filed.

### Management and Staffing

GCRC D staff reports that the County asks GCRC D for an audit every three years (after the close of the last fiscal year). The audit then covers the previous two full Fiscal Years.

### Population and Projected Growth

The GCRC D is not considering or evaluating the Ross Creek Reserve development, which the District believes is not within our bounds.

GCRC D review of projects is based appropriately on state and federal laws and regulations governing resource conservation and the environment; the GCRC D does not merely judge consistency with various agencies’ policies, as was stated in the LAFCO report. While each project is different, each project must meet state and federal standards.

Consequently, GCRC D’s reviewers’ comments tend to be uniform and consistent with accepted environmental standards. It would be duplicative and wasteful of time and funding resources for GCRC D to promulgate its own policies regarding such projects. In fact, “Division 9 does not require districts to develop policies”<sup>10</sup> although the CARCD acknowledges that policies can be useful in managing district operations. In contrast, some of the reviewed agencies, such as

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<sup>8</sup> See SCVWD’s “Summary Chronology of FAHCE/Three Creeks HCP Project”.

<sup>9</sup> See “Fish Habitat Improvement Accomplishments, August 2011” prepared by SCVWD.

<sup>10</sup> California Resource Conservation District Directors’ Handbook, California Department of Conservation, page 18.



the SCVWD, may have numbers of self-defined goals; meeting those goals then may not be a difficult challenge.

### Financing

As noted above, the District disputes that it is “presently providing more services in the urban centers, outside of its bounds”. LAFCO report, page 208. It is clear, in view of the recognized importance of the entire hydrologic continuum and dependent biota, that benefits accrue to the whole county from preservation of these vital resources. Rather than acting outside its boundaries, GCRCD is protecting resources that connect its headwater watersheds with the rest of the identified, and critical, Anchor Watersheds. Perhaps, as in the case of the LPRCD, the recommendation should be made to expand the GCRCD’s boundaries to include the more urban core through which the important Anchor Waterways pass. This would contribute to the financial adequacy of GCRCD funding. (The LAFCO report indicates that GCRCD receives .0058 of the 1% property tax that funds such efforts in the County).

### Watershed Stewardship Infrastructure

GCRCD refers the reader to the Service Area discussion, *supra*, for discussion of the CLN designation of Anchor Watersheds in the area.

### Guadalupe-Coyote Resource Conservation District Service Review Determinations

As stated earlier, the GCRCD welcomes helpful suggestions from the LAFCO review. Charging fees for services, and so forth, would definitely help the District to function more smoothly.

### Financial Ability of Agency to Provide Services

As recommended by the California Resource Conservation District Directors’ Handbook, published by the California Department of Conservation, the GCRCD seeks to “anticipate unexpected costs” and build “a financial cushion and even a reserve into the budget.”

### Status and Opportunities for Shared Facilities

GCRCD takes advantage of its long-term, low-cost office, which is centrally located for District constituents.

### Accountability for Community Services

GCRCD Directors are appointed by the County Board of Supervisors, pursuant to provisions of § 9314 of the Cal. Public Resources Code. Accountability

to the public therefore is similar to that of other agencies and commissions appointed by elected officials (as is the LAFCO Commission).

### Governance Structure Options

Reorganization with Santa Clara Valley Water District: As identified in the Provider Overlap and Service Area sections of this response, duplication of services does not occur because there are differing mandates regarding the Water District and the GCRC. While the SCVWD's primary functions are water provision and flood control, the GCRC is guided by its decades-old mandates to protect and conserve soil, water and the wildlife resources and their habitat.

As the SCVWD Act directs, in section 4, "Objects and purposes": (a) The purposes of this act are to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County."<sup>11</sup> The Water District is first and foremost a water provide and a protector from flooding.

Notably, the Legislature also designated its intent that the SCVWD work collaboratively with other appropriate agencies,<sup>12</sup> in which work the GCRC has actively engaged for the past 15 years. *Please see* "Service Area" discussion, *supra*.

An enumerated power of the SCVWD, but not a mandate, is listed in sub-section 7 of section (c) which states that the SCVWD may also: "(7) Enhance, protect, and restore streams, riparian corridors, and natural resources in connection with carrying out the purposes set forth in this section."<sup>13</sup> As this enhancement, protection and restoration are not mandated activities, they are necessarily of lesser importance in the legislative scheme, and in the Water District's implementation of that scheme.

In Division 9 of the Public Resources Code, the Legislature identifies the fundamental importance of resource conservation to the prosperity and welfare of the people of this state.<sup>14</sup> It notes that the conservation purposes should:

provide for the organization and operation of resource conservation districts for the *purposes* of soil and water conservation, the control of runoff, the *prevention and control of soil erosion*, and *erosion stabilization*, including, but not limited to, these purposes in open areas, agricultural areas, *urban* development, *wildlife* areas, recreational developments, watershed

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<sup>11</sup> Downloaded from <http://www.valleywater.org/About/DistrictAct.aspx>.

<sup>12</sup> *Id.* (b) It is the intent of the Legislature that the district work collaboratively with other appropriate entities in Santa Clara County in carrying out the purposes of this act.

<sup>13</sup> *Id.*

<sup>14</sup> Cal. Pub. Res. Code § 9001(a)

management, ..., and the treatment of each acre of land according to its needs.<sup>15</sup> [italics added]

The Legislature has made “conservation practices, including, but not limited to, farm, range, open space, urban development, wildlife, recreation, watershed, water quality, and woodland, best adapted to save the basic resources, soil, water, and air of the state from unreasonable and economically preventable waste and destruction[.]”<sup>16</sup> the specific province of RCD action. It is concern for SCVWD-project-induced soil erosion, wildlife endangerment and water quality problems that has prompted many GCRCD actions. GCRCD therefore would respectfully point out that merger with the SCVWD would be inappropriate, as continued collaborative efforts will better provide for legislatively-mandated control of these problems.

Merger of the GCRCD with the SCVWD would not be a cost-effective action. Compared with SCVWD’s \$1.7 billion of assets, and the billions it spends on capital improvement projects (\$2 billion over 5 years), the budget of the GCRCD is extremely minimal. (The SCVWD Clean Safe Creeks program, for instance, spends about \$26 million per year; the entire GCRCD yearly budget amounts to less than 1% of that figure. In another example, it would take over 15 years of GCRCD budget income to pay for the SCVWD gazebo project that was recently in the news.) GCRCD appreciates the stated concern about lack of certainty as to how the property tax funding would be used if the GCRCD were dissolved.

#### Recommended Sphere of Influence Boundary

The GCRCD welcomes the LAFCO determination of maintaining a coterminous SOI for GCRCD. As noted in the previous discussion, GCRCD does provide, and seeks to provide, services that are outside of the purview of SCVWD. Pursuant to LAFCO’s recommendation, GCRCD suggests a reconsideration of the SOI in about a year, December 2012, to allow for submittal and receipt of grants through RFPs and to allow agency implementation of many of the excellent review suggestions.

Please do not hesitate to contact us if there is any other information the GCRCD can supply. The District thanks LAFCO again for the tremendous effort in reviewing the various agencies.

Respectfully submitted,

Meg Giberson  
President, Guadalupe-Coyote Resource Conservation District

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<sup>15</sup> *Id.* (a)(2)

<sup>16</sup> *Id.* (a)(1)

**FISH HABITAT IMPROVEMENT ACCOMPLISHMENTS  
AUGUST 2011**

| <b>BARRIER REMEDIATION COMPLETED</b>                                  | <b>YEAR</b> |
|-----------------------------------------------------------------------|-------------|
| <b>GUADALUPE</b>                                                      |             |
| San Jose Water Company Low-Flow Crossing AB14                         | 1998        |
| Alamitos Drop Structure Fish Ladder AB20                              | 1999        |
| Mazzone gabion weir CB02                                              | 2000        |
| Masson Diversion Dam DB02 Fish Ladder                                 | 2000        |
| Hillsdale Avenue Bridge AB13 (City of San Jose)                       | 2000        |
| SF 43 gauging weir DB05                                               | 2004        |
| St. John Street Gage Weir AB07                                        | 2004        |
| Almaden Expressway/Confluence sediment/critical riffle formation DB01 | 2005        |
| Camden Ave. sediment/critical riffle formation DB03                   | 2007        |
| U-Frame channel DB06                                                  | 2008        |
| <b>STEVENS CREEK</b>                                                  |             |
| Stream Gage 35 HB10                                                   | 2002        |
| Blackberry Farm Vehicle Ford #1 HB24 (City of Cupertino)              | 2009        |
| Blackberry Farm Vehicle Ford #2 HB25 (City of Cupertino)              | 2009        |
| Blackberry Farms Vehicle Ford #3 HB26 (City of Cupertino)             | 2009        |
| Blackberry Farm Irrigation Diversion HB27 (City of Cupertino)         | 2009        |
| <b>COYOTE</b>                                                         |             |
| Mabury Diversion Fish Screen & Ladder GB02                            | 1998        |
| Ford Road percolation facility FB25                                   | 1998        |
| Coyote Percolation Pond Fish Ladder FB26                              | 1999        |
| Penitencia Recharge Pond Diversion Fish Ladder GB03                   | 1999        |
| Coyote Percolation Pond Fish Ladder FB26                              | 1999        |
| Coyote Canal Diversion Fish Ladder and Screen FB27                    | 2000        |
| Standish Dam FB01                                                     | 2000        |
| Critical Riffle formation at Upper Penitencia Hwy 680 GB16            | 2002        |

| <b>OTHER CONSTRUCTION/IMPROVEMENTS COMPLETED</b>               | <b>YEAR</b> |
|----------------------------------------------------------------|-------------|
| Stevens Creek Corridor Restoration Project (City of Cupertino) | 2009        |

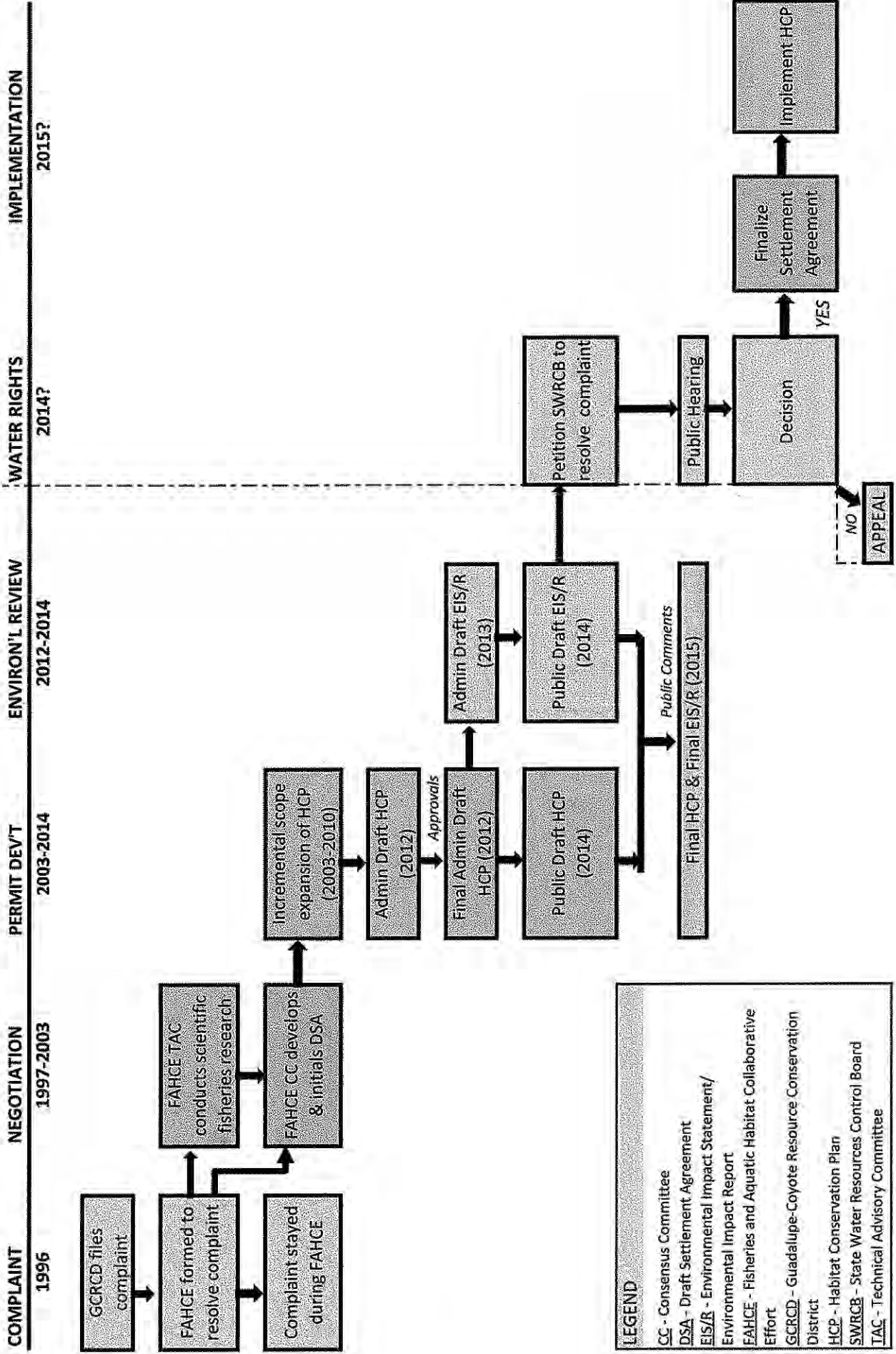
| <b>CONSTRUCTION PLANNING STUDIES COMPLETED</b> | <b>YEAR</b> |
|------------------------------------------------|-------------|
| <b>STEVENS CREEK</b>                           |             |
| Evelyn Fish Ladder HI2                         | 2010        |
| Fremont Fish Ladder HI3                        | 2010        |
| Moffet Fish Ladder HI1                         | 2010        |
| Stevens Creek Multi-port Outlet                | 2010        |
| Robert Gross Perc Pond Fish Screen Design      | 2011        |

| <b>OTHER STUDIES COMPLETED</b>                                                                                  | <b>YEAR</b> |
|-----------------------------------------------------------------------------------------------------------------|-------------|
| <b>GUADALUPE</b>                                                                                                |             |
| Geomorphic Baseline Assessment of the Guadalupe River Watershed                                                 | 2002        |
| Opportunities & Constraints Report on Lake Almaden                                                              | 2011        |
| <b>COYOTE</b>                                                                                                   |             |
| Geomorphic Evaluation: Assessment of Stream Ecosystem Functions for the Coyote Creek Watershed                  | 2003        |
| Evaluation Streamflow Augmentation On Upper Silver Creek, A                                                     | 2003        |
| <b>ALL WATERSHEDS</b>                                                                                           |             |
| Adopt general guidelines for bank stabilization projects: User Manual: Guidelines & Standards for Land Use Near | 2005        |

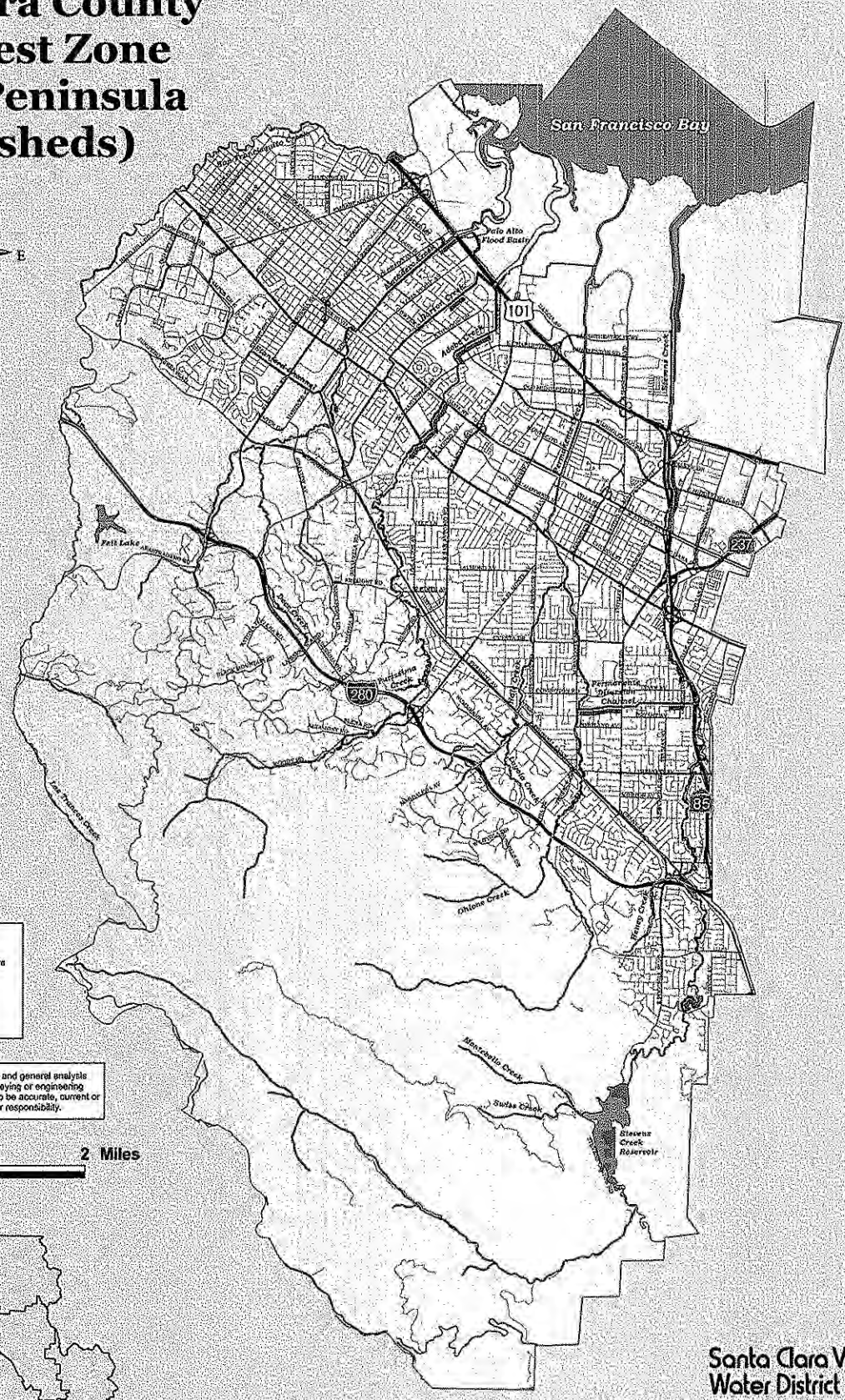
| <b>RESERVOIR RELEASE AND FLOW IMPROVEMENTS</b>         | <b>YEAR</b> |
|--------------------------------------------------------|-------------|
| <b>STEVENS CREEK</b>                                   |             |
| Summer Cold Water Releases for Stevens Creek Reservoir | 2007-2010   |
| <b>GUADALUPE</b>                                       |             |
| Summer Cold Water Releases for Almaden Reservoir       | 2007        |
| Summer Cold Water Releases for Guadalupe Reservoir     | 2007        |



# Summary Chronology of FAHCE/Three Creeks HCP Project



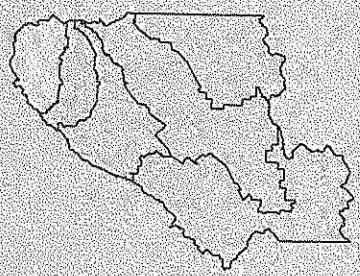
# Santa Clara County Northwest Zone (Lower Peninsula Watersheds)



**LEGEND**

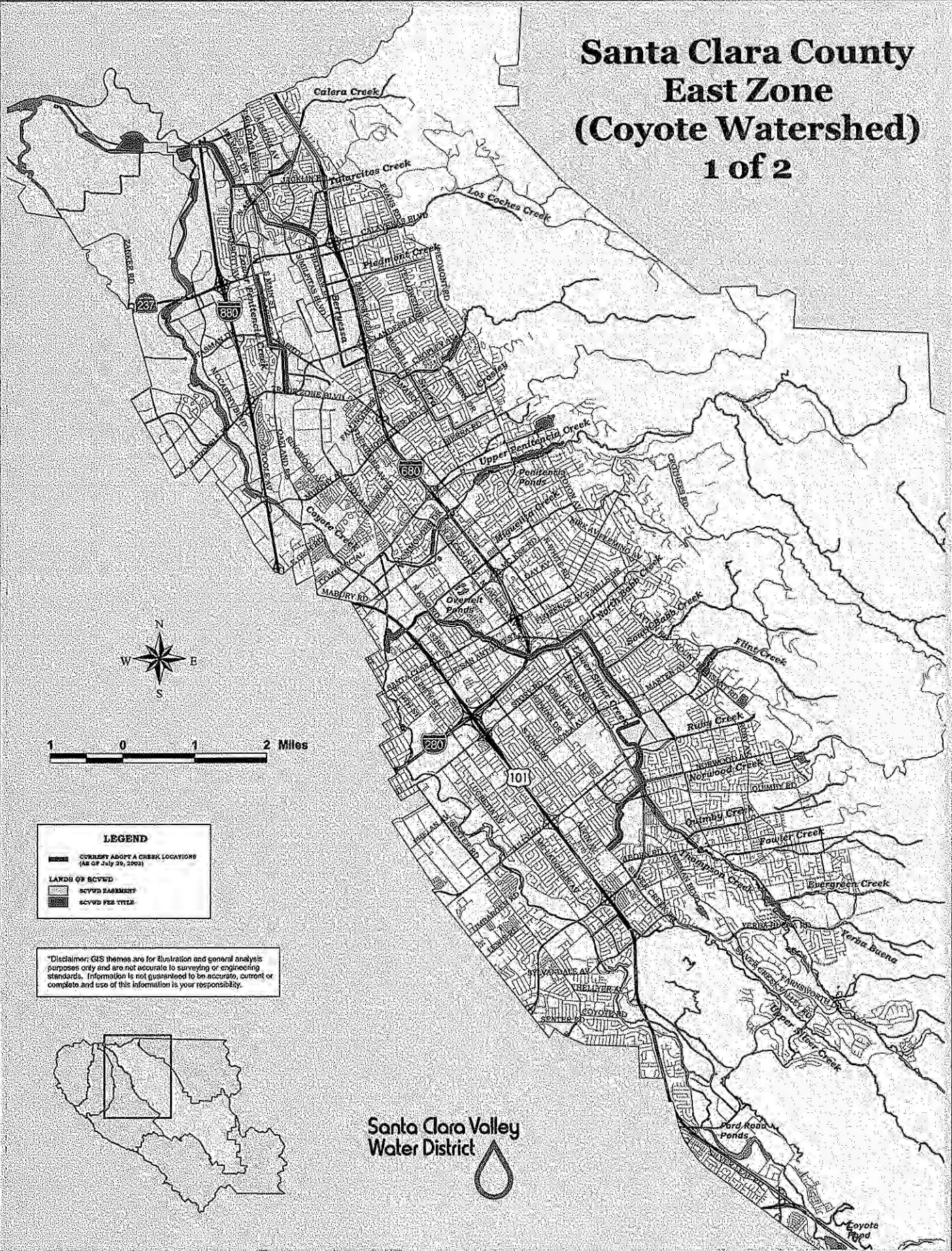
- CURRENT ADOPT A CREEK LOCATIONS (AB OF July 29, 2003)
- LANDS OF SCVWD**
- SCVWD EASEMENT
- SCVWD FEE TITLE

\*Disclaimer: GIS themes are for illustration and general analysis purposes only and are not accurate to surveying or engineering standards. Information is not guaranteed to be accurate, current or complete and use of this information is your responsibility.





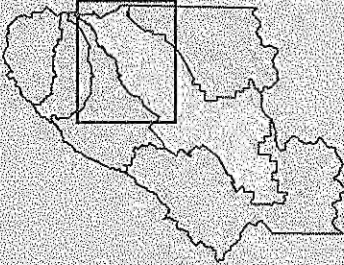
# Santa Clara County East Zone (Coyote Watershed) 1 of 2



**LEGEND**

- CREEKS ADOPT A CREEK LOCATIONS (As of July 28, 2004)
- LANDS OF SCVWD
  - SCVWD EASEMENT
  - SCVWD FEE TITLE

\*Disclaimer: GIS themes are for illustration and general analysis purposes only and are not accurate to surveying or engineering standards. Information is not guaranteed to be accurate, current or complete and use of this information is your responsibility.



Santa Clara Valley  
Water District



## Noel, Dunia

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**From:** Patrick Walter [pwalter@purissimawater.org]  
**Sent:** Friday, October 21, 2011 12:37 PM  
**To:** Noel, Dunia  
**Subject:** RE: 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing  
**Attachments:** Purissima Hills Water District Public Review Draft.docx

Hi Dunia,

Attached is the Word document with my "track changes" edits. Unfortunately, the "track changes" cannot be cut and pasted to this email. Since the slides were a summary of this document, my comments apply to them as well.

On page 17, the primary infrastructure need was misstated. In the course of our rolling 5-year CIP, mains for replacement are always identified and are replaced relative to priority.

- ❖ The primary infrastructure need related to the PHWD water system is the installation of mains to promote more efficient movement of water to fully utilize existing storage. The District has also identified in its capital improvement plan mains for replacement that have a history of leaks. The District spends approximately one million dollars per year for capital upgrades. PHWD has taken a proactive approach in replacing and upgrading these mains prior to failure.

On page 18, unfortunately from a water conservation standpoint, Los Altos Hills is acre minimum. Due to this, residences will use more water. Given this and given that the customer is responsible for their conservation, I think it's unfair to imply that we have failed in our conservation efforts. While other districts may be of similar size, none have a district comprised of 98% acre-minimum lots.

- ❖ Water demand within the District remains higher than typically found in districts of similar size, due to the Los Altos Hills acre minimum zoning and landscaped area. There is a need to continue conservation programs with a particular focus on landscaping.

On Page 18, its more accurate to say that we conduct annual audits. I don't understand the use of "relatively". Our financial records are current, transparent, comprehensive and provided on request.

- ❖ District management methods appear to generally meet accepted best management practices. The District prepares a budget before the beginning of the fiscal year, conducts annual financial audits, maintains current transparent financial records, regularly evaluates rates and fees, tracks employee and district workload, and has an established process to address complaints.

On page 18, added "rolling" for better accuracy. We approve a multi-year CIP every year.

- ❖ The District appropriately plans for capital needs in a rolling multi-year capital improvement plan and regularly reinvests in its capital assets at a rate that greatly exceeds wear and tear.

On page 19, I made changes to more accurately reflect history. At no time did PHWD approach either SJW or CWS. Both approached PHWD and was not viewed as beneficial for the District, as is stated. Any comments regarding a change water source of supply are speculative and there is no agreement that would be made that would involve PHWD losing the Hetch Hetchy water supply.



- ❖ In light of the terms of the new contract with SFPUC, PHWD believes that an additional water supply may need to be developed or purchased to ensure water delivery for both the near and long term future, and especially in time of drought. PHWD continues to explore various possibilities for this additional supply. Options to enhance water supply include either receiving additional water from an outside water source (i.e., SCVWD) or participating in BAWSCA's efforts to develop an additional water supply. Given that the District is presently experiencing declining demand for water and less overages on its SFPUC allocation, PHWD has deferred pursuing an additional water source.

On page 20, we're not pursuing a consolidation to gain additional water supply or for any other reason.

- ❖ Governance structure options for Purissima Hills Water District are limited. There is the potential to consolidate into either San Jose Water Company or Cal Water; however, the District is not actively pursuing this option.

On page 22, my comments as iterated previously apply to this section as well.

- ❖ Water facilities and services appear to be adequate based on State inspection reports, recent regulatory compliance, and management methods. The primary infrastructure need related to the PHWD water system is the upgrade and replacement of aging undersized mains that are prone to breaks and leaks. PHWD conducts multi-year capital improvement planning to provide for such improvements. The District should continue to provide conservation programming to promote customer water use efficiency while recognizing that the acre-minimum lots in Los Altos Hills require more landscaping water than those other water providers.

Thank you again for providing the Word document. It truly saved me a ton of time.

Please call to discuss for further clarification, if needed,

Thanks,  
Patrick

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**From:** Noel, Dunia [mailto:Dunia.Noel@ceo.sccgov.org]

**Sent:** Thursday, October 20, 2011 4:14 PM

**To:** Patrick Walter

**Subject:** RE: 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing

**Hi Patrick-** Attached is the MSWord Version of the Purissima Hills Water District Chapter. As discussed, it would be great if we could receive your comments by 5 PM of October 24<sup>th</sup>. Thanks.

---

**Dunia Noel**

LAFCO Analyst

Local Agency Formation Commission of Santa Clara County

[www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)

70 W. Hedding St.

# 1. *PURISSIMA HILLS WATER DISTRICT*

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## AGENCY OVERVIEW

The Purissima Hills Water District (PHWD) was formed in 1955 as an independent special district. It provides water services in the northern portion of Santa Clara County. The District was originally formed as Purissima Hills County Water District, but formally dropped the word “County” from its name in 1981.<sup>1</sup> A water service review for the District was last conducted in 2005.

The principal act that governs the District is the County Water District Law.<sup>2</sup> The principal act empowers the District to “store water for the benefit of the district, conserve water for future use, and appropriate, acquire, and conserve water and water rights for any useful purpose.”<sup>3</sup> Districts must apply and obtain LAFCO approval to exercise latent powers or, in other words, those services authorized by the principal act but not provided by the district at the end of 2000.<sup>4</sup>

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## Type and Extent of Services

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### Services Provided

PHWD provides domestic water services to its residents in the form of distribution to its customers. The District does not provide treatment, as all water is pre-treated by the San Francisco Public Utilities Commission (SFPUC) and delivered through SFPUC’s HetchHetchy Water System. The District relies solely on SFPUC’s surface water. The District has a water conservation program in conjunction with SCVWD, which is coordinated by a part-time employee. Recycled water is not available within the District’s bounds.

### Service Area

The District’s service area is primarily low-density residential, characterized by estate homes on minimum one-acre lots. There are also some institutional uses, including Foothill College. The District’s infrastructure is extended to all developed lots within its bounds. There are approximately three parcels that are operating off of private wells, where the landowners have chosen not to connect to the system; however, the District

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<sup>1</sup>PHWD Resolution 1981-6.

<sup>2</sup>California Water Code §30000-33901.

<sup>3</sup>California Water Code §31021.

<sup>4</sup>Government Code §56824.10.

reported that these properties could easily connect to the system if they desired. There are also approximately 300 private wells scattered throughout the District that are used to supplement each property's water supply.

In the 2005 water service review, it was identified that the District served two parcels outside of its bounds. These parcels have been annexed. Three additional extraterritorial parcels were identified during the 2007 SOI update; however, it has been determined that these parcels are in PHWD's bounds. PHWD does not provide services outside of bounds.

Services to Other Agencies

The District does not provide services to other agencies under contract.

Contracts for Water Services

The District receives treated water through an agreement with SFPUC. All district operations are provided directly by district staff.

Collaboration

PHWD is a member of the Bay Area Water Supply & Conservation Agency (BAWSCA), utilizing the functions of that agency to represent the District's interests with SFPUC.

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**Boundaries**

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The District's boundary is entirely within Santa Clara County. The present bounds encompass approximately 13.4 square miles. The District's bounds encompass about two-thirds of the town of Los Altos Hills and an unincorporated area to the south. The California Water Service Company (Cal Water) serves the remaining eastern and southeastern portions of Los Altos Hills. The District abuts the City of Palo Alto to the north and west and the Cal Water service area to the east. The area to the south is designated as hillside and other public open lands per the County Land Use Plan (2005) and is undeveloped.

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**Sphere of Influence**

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The District's SOI is coterminous with its boundaries. The SOI was last updated in 2007.



**Figure 5-1: Purissima Hills Water District Boundaries and SOI**

TO BE PROVIDED BY LAFCO.

## ACCOUNTABILITY AND GOVERNANCE

Purissima Hills County Water District is governed by a five-member Board of Directors, elected at large to serve staggered four-year terms. There are currently five board members, all of whom were elected. Each board member is compensated \$100 per meeting attended. Current board member names, positions, and term expiration dates are shown in Figure 5-2. The District conducts Brown Act training immediately after new members get elected to the Board of Directors.

Board meetings are held at the district office at 6:30 in the evening on the second Wednesday of every month. Agendas are posted at the office on Fridays before meetings and on the district website. Upon request, the District provides written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Minutes are available on the District's website or by request.

**Figure 5-2: PHWD Governing Body**

| <b>Purissima Hills County Water District</b> |                                                                                                                                                                            |                        |                            |                       |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|----------------------------|-----------------------|
| <b><i>District Contact Information</i></b>   |                                                                                                                                                                            |                        |                            |                       |
| <b>Contact:</b>                              | Patrick Walter, General Manager                                                                                                                                            |                        |                            |                       |
| <b>Address:</b>                              | 26375 Fremont Road, Los Altos Hills, CA                                                                                                                                    |                        |                            |                       |
| <b>Telephone:</b>                            | 650-948-1217                                                                                                                                                               |                        |                            |                       |
| <b>Fax:</b>                                  | 650-948-0961                                                                                                                                                               |                        |                            |                       |
| <b>Email/website:</b>                        | <a href="http://www.purissimawater.org/home.html">http://www.purissimawater.org/home.html</a> , <a href="mailto:pwalter@purissimawater.org">pwalter@purissimawater.org</a> |                        |                            |                       |
| <b><i>Board of Directors</i></b>             |                                                                                                                                                                            |                        |                            |                       |
| <b>Member Name</b>                           | <b>Position</b>                                                                                                                                                            | <b>Term Expiration</b> | <b>Manner of Selection</b> | <b>Length of Term</b> |
| Robert N. Anderson                           | President                                                                                                                                                                  | December 2014          | Elected                    | 4 years               |
| Brian Holtz                                  | Vice-President                                                                                                                                                             | December 2012          | Elected                    | 4 years               |
| Stephen A. Jordan                            | Director                                                                                                                                                                   | December 2012          | Appointed                  | 4 years               |
| Ernest Solomon                               | Director                                                                                                                                                                   | December 2012          | Elected                    | 4 years               |
| Gary Kremen                                  | Director                                                                                                                                                                   | December 2014          | Elected                    | 4 years               |
| <b><i>Meetings</i></b>                       |                                                                                                                                                                            |                        |                            |                       |
| <b>Date:</b>                                 | Second Wednesday of every month at 6:30pm.                                                                                                                                 |                        |                            |                       |
| <b>Location:</b>                             | District Office at 26375 Fremond Road, Los Altos Hills, CA                                                                                                                 |                        |                            |                       |
| <b>Agenda Distribution:</b>                  | Posted at the office and on the website.                                                                                                                                   |                        |                            |                       |
| <b>Minutes Distribution:</b>                 | Available on the website.                                                                                                                                                  |                        |                            |                       |

In addition to the legally required agendas and minutes, the District attempts to reach its constituents through its website and newsletters. The District's newsletter is typically published monthly. The District also maintains a thorough website where documents and information are made available to the public.

If a customer is dissatisfied with the District's services, that customer may write a letter or call the District office. The district secretary is responsible for handling operational and general complaints, and the billing manager handles complaints regarding accounts. The

District reported that there were 48 complaints in CY 2010. Two were regarding odor or taste, 13 about leaks, 16 about pressure and 17 regarding turbidity.

Purissima Hills County Water District demonstrated accountability and transparency in its disclosure of information and cooperation with Santa Clara LAFCO. The District responded to the questionnaires and cooperated with the document requests.

## **MANAGEMENT AND STAFFING**

The District has 10 staff members. A general manager oversees district operations performed by two office staff, a part-time conservation coordinator, and a five-person field crew. In addition, there is an intern who works on GIS. There are a total of nine FTEs, five of whom are directly employed in water distribution services. In addition, the District contracts with Pakpour Consulting Group for engineering services. The contractor is accountable to the general manager.

District staff are evaluated annually. The foreman is evaluated by the general manager. All other staff are evaluated by the foreman. The general manager reports the Board of Directors at monthly meetings.

Currently, the District uses timesheets to track its employees' workload, but reported that it does not find it informative or useful in evaluating efficiency or demand. Consequently, the District is in the process of setting up a more sophisticated system to better track projects and workload efficiencies. Elements Software will be implemented to manage inventory, work orders, workload and assets, etc. The system set up is scheduled to be completed by the end of summer 2011.

District-wide performance is evaluated during the general manager's evaluation, as well as during the annual audit and budget processes and the regular California Department of Public Health (DPH) inspections. The District reported that evaluating district performance is a challenge, as the system dictates the productivity of the employees. The District places an emphasis on safety and high quality work.

To improve its operational efficiency the District installed radio-read heads on all meters, which has reduced staff time dedicated to meter reading from approximately one week to one day. The District also recently completed a main replacement and extension project, which replaced asbestos cement main with ductile iron, improved water quality, and enhanced fire suppression flow and service to customers by augmenting pressure and seismic safety.

The District's financial planning efforts include an annually adopted budget, annually audited financial statement, a rate study, and a rolling five-year capital improvement plan. Other planning documents adopted by the District include a strategic plan and an emergency/contingency plan. The District is in the process of drafting and adopting the strategic plan.

County water districts are required to complete annual audits per the district enabling act.<sup>5</sup> Additionally, all special districts are required to submit annual audits to the County within 12 months of the completion of the fiscal year, unless the Board of Supervisors has approved a biennial or five-year schedule.<sup>6</sup> In the case of PHWD, the District must submit audits annually. The District has submitted its audit to the County for FY 09-10 within the required 12 month period.

## **POPULATION AND PROJECTED GROWTH**

The District's system serves 2,176 connections, comprised of 2,059 residential, 35 commercial and institutional, eight landscape irrigation, and 74 inactive connections.<sup>7</sup> Based on an average household size throughout the County of 2.98 people,<sup>8</sup> the estimated population of PHWD is 6,136.

Since the District's boundaries overlap significantly with that of the City of Los Altos Hills, ABAG projections for the town may be used to estimate the future population of PHWD. According to the 2010 Census, Los Altos Hills has a population of 7,722. ABAG projects that the population of the town will grow by three percent by 2035, with an average annual growth rate of 0.1 percent. ABAG's population projections for 2010 were slightly higher than the actual population reported in the 2010 Census. Population projections have been adjusted assuming ABAG's projected rate of growth from the 2010 Census population. In 2035, it is projected that the District will serve an estimated population of 6,180 residents.

The District reported that demand for water over the last decade had generally increased until 2004, when the District experienced peak demand, and has steadily declined since then. PHWD attributes the decrease in demand to cooler summers, higher utility rates and difficult economic conditions. However, water demand within the District remains higher than typically found in districts of similar size, likely due to the size of the homes and landscaped area associated with the minimum one-acre parcels.

The District previously anticipated a high rate of future growth due to landscaping associated with new construction, but currently believes that demand will remain stable or decline due to increases in SFPUC water costs and new irrigation legislation. The District is expecting ten additional connections at build out. Potential growth through new development within the District's boundaries is limited to infill. There are presently between 20 to 40 empty lots scattered throughout the District, some of which may not be developable. The District was not aware of any planned or proposed development projects on these lots.

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<sup>5</sup>California Water Code §30540.

<sup>6</sup>Government Code §26909.

<sup>7</sup>Purissima Hills WD, *Annual Report to the Drinking Water Program for Year Ending December 31, 2010, 2010.*

<sup>8</sup>U.S. Census Bureau, American Community Survey, 2009.



To assist in projecting future demand, the District contracted with an engineering firm to estimate the amount of new development and the resulting impact on demand. The firm concluded that the majority of expected construction would result from tear-downs and not from new development. Additionally, due to the legislation (AB 2717) requiring landscaping to be more efficient, the District anticipates that people will likely plant less grass and use less water.

There is little potential for growth through expansion of the District as well. The District is surrounded by other providers to the north, east and west. Territory adjacent to PHWD in the south is not served, but the topography of the area limits the potential for development.

The District coordinates with SFPUC in planning for future growth and service needs by annually reporting anticipated use.

## **FINANCING**

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### **Financial Adequacy**

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The District reported that the current financing level is generally sufficient to provide an adequate level of service. Rates are evaluated annually and increased as needed by the Board. There have reportedly been no particular challenges related to the recent recession, although there has generally been a lower use of water (13 percent reduction from FY 08-09 to FY 09-10) and thus lower revenues. While the District has experienced relatively little impact from the recession, it has taken steps to minimize expenditures, including changing healthcare programs and benefitting from reduced insurance costs as a result of consistent capital spending to increase reliability and reduce water related damage payouts.

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### **Revenue Sources**

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In FY 09-10, the District's total revenue was \$4.4 million. The District's primary source of revenue is water sales (70 percent), property taxes (13 percent) and service charges (11 percent). Other charges, rental income and investments earnings made up approximately six percent of revenue sources.

The District charges rates for water services provided. Rates were last updated in 2010 and are evaluated annually. Rates are structured to cover all anticipated operating and capital costs. Currently, the District charges a flat "readiness to serve" charge for each connection based on meter size. A residential connection would pay \$15 per month. In addition, customers are charged for the amount of water used. The District has a six tier system, where the customer pays:

- ❖ \$2.70 for every 100 cubic feet for the first 1,000 cubic feet,
- ❖ \$4.15 for every 100 cubic feet between 1,100 cubic feet and 3,000,



- ❖ \$5.60 for every 100 cubic feet from 3,100 to 6,000,
- ❖ \$7.05 for every 100 cubic feet from 6,100 to 10,000 cubic feet,
- ❖ \$8.50 for every 100 cubic feet from 10,100 to 20,000 cubic feet, and
- ❖ \$9.95 for every 100 cubic feet in excess of 20,000.

The District is looking into additional revenue sources. Presently, the District leases six antennae sites to cellular service providers. The District is looking into developing two more antennae sites for rental purposes. Also, the District aggressively pursues grant opportunities. Between 2005 and 2010, the District was able to secure over two million dollars from the Los Altos Hills County Fire District for capital improvement projects.

## Expenditures

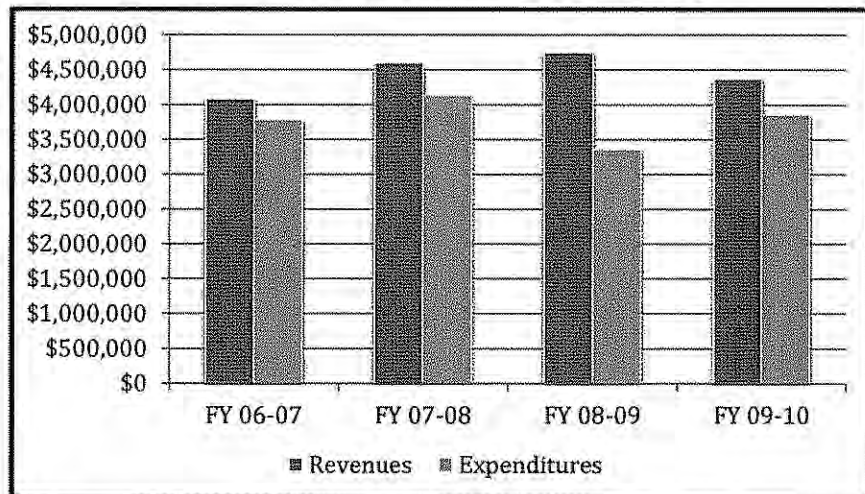
In FY 09-10, the District spent a total of \$3.9 million. Primary expenses in FY 09-10 were water purchases (39 percent), operation of the transmission and distribution system (28 percent) and administration (24 percent).

The District purchases water from SFPUC. In FY 10-11, PHWD paid a rate of \$1.90 per 100 cubic feet (ccf) plus a \$3,000 monthly meter charge. For FY 11-12, SFPUC raised its rates to \$2.63 per ccf. Additional rate increases are anticipated over the next 10 years. The increases are attributed to SFPUC's significant \$4.3 billion capital improvement program intended to make its water system more reliable in the event of an earthquake or other disaster.

In addition, SFPUC initiated an environmental enhancement surcharge (EES) for agency purchases of water in excess of their allotted amount. The surcharge is to be in effect beginning in FY 11-12 through FY 17-18. The EES is based on each agencies' water use in million gallons per day. If the entire HetchHetchy regional system uses more than 265mgd, then those agencies over their supply assurance will pay a surcharge based on a rate of \$850,000 per mgd over the supply assurance.

**Figure 5-3: Expenditures and Revenues (FYs 07-10)**

District expenditures and revenues over the last four fiscal years are shown in Figure 5-3. Revenues peaked in FY 08-09, and have slightly declined since then. Revenues have exceeded district expenditures every year.

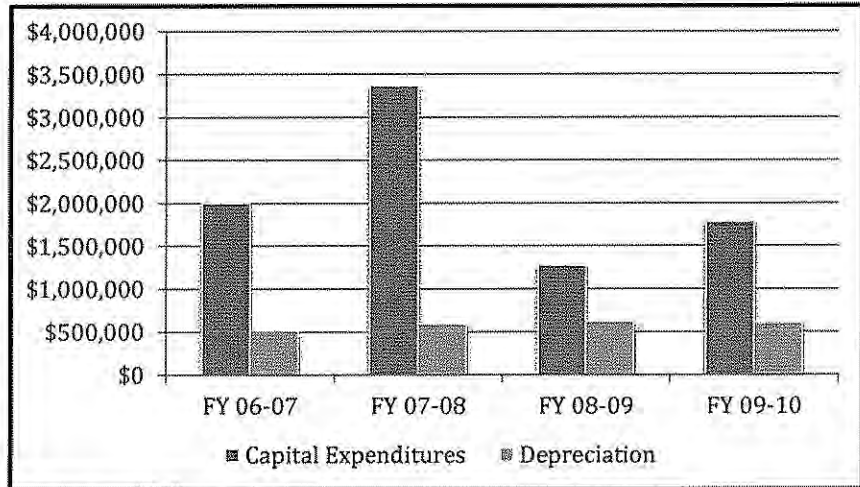


### Capital Outlays

The District plans for its capital improvement needs in its five-year capital improvement plan. The District uses a “pay as you go” approach, financing the majority of infrastructure projects out of reserves. The District has also taken out loans to finance previous capital improvement projects.

**Figure 5-4: Capital Outlays and Depreciation (FYs 07-10)**

The District’s capital outlays and estimated depreciation of assets is shown in Figure 5-4. The capital outlays shown here reflect both the District’s direct expenditures and capital contributions. Given that capital outlays have exceeded depreciation in each of the last four fiscal years, it appears that the District regularly reinvests in its capital assets at a rate that greatly exceeds wear and tear.



Long-term Debt

At the end of FY 09-10, the District had \$1.6 million in long-term debt in the form of two loans used to finance capital improvements.

In 2007, PHWD took out a \$500,000, 3-year loan to assist in financing the construction of the administration building. Principal and interest payments of \$90,396 were payable semi-annually at a rate of 4.75 percent. On June 30, 2010, the loan was paid in full.

In 2010, PHWD entered into a \$2 million loan payable agreement with the Los Altos Hills County Fire District (LAHCFD) to assist in financing the construction of the Zone 2.5 Phase II and III main projects. Terms of the agreement provide for principal and interest payments payable semi-annually, maturing in 2015. Interest is calculated based on the Local Agency Investment Fund average monthly effective yield rate.

Reserves

The District maintains a single reserve account for both emergency and capital reserves. The District has an informal policy to maintain about \$750,000 in its reserve fund for emergency use. At the end of FY 09-10, the District had unrestricted net assets of \$2 million, which equates to approximately six months of operating expenditures.

**WATER SUPPLY**

SFPUC provides PHWD with 100 percent of its water supply requirements via two turnouts from the HetchHetchy pipeline along the Foothill Expressway on the northern

edge of the District. The SFPUC water supply is gravity-fed through 18" transmission mains to two pump stations that pump to tanks distributed throughout the District. All water is pre-treated by SFPUC.

The Master Agreement between PHWD and the SFPUC was negotiated by the Bay Area Water User's Association (BAWUA), which preceded BAWSCA, and authorized by PHWD in 1984. The agreement allocates the District 1.62 million gallons per day (based on system capacity). This individual supply guarantee was originally based on historical usage by PHWD and was last adjusted in 1993. For FY 08-09, the total water purchased by PHWD was 24 percent over its individual supply guarantee. For the last few years, there have been no water shortages, and PHWD has been able to purchase the additional water from SFPUC at current rates without any additional charges for exceeding its individual supply guarantee. In 2009, PHWD, through BAWSCA, negotiated a new contract for delivery of water with SFPUC. The new contract was adopted by PHWD in 2009.<sup>9</sup> During contract negotiations, the District attempted to increase its allocation; however, the final contract did not change the individual supply guarantee of any BAWSCA member and, therefore, PHWD continues to expect its requirements to exceed its water supply.

In light of the terms of the new contract with SFPUC, PHWD believes that an additional water supply may need to be developed or purchased to ensure water delivery for both the near and long term future, and especially in time of drought. PHWD continues to explore various possibilities for this additional supply. Groundwater is not used by PHWD, and it has no existing wells. The District has performed extensive research to develop a well both inside and adjacent to the District and ultimately drilled two testholes based on the best potential of this research. Results of these test holes have indicated poor water quality and quantity. The District is no longer pursuing a well as a supply alternative. Current supply allocations from the SFPUC are set out in Figure 5-5.

**Figure 5-5: PHWD Water Supplies**

| Supply Source                                     | Total Water Supplies (mgd) |
|---------------------------------------------------|----------------------------|
| SFPUC                                             | 1.62                       |
| Source: 2010 PHWD Water Rate Study, February 2010 |                            |

SFPUC attempts to limit how much water the District uses by collecting an environmental enhancement surcharge if its annual purchase exceeds 1.62 mgd and the overall SFPUC demand of 265 mgd is exceeded. Supply limitations started in FY 11-12 and will last through FY 17-18.<sup>10</sup>

<sup>9</sup>Resolutions No. 2009-2, 2009-3 and 2009-4.

<sup>10</sup> SFPUC, Agenda item: Environmental Enhancement Surcharge beginning FY 2011-12, Commission meeting May 10, 2011.



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## Emergency Preparedness

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### Water Supply Hazards

Although the District has adequate storage, there is a concern regarding the reliability of SFPUC supply in the event of a natural or manmade disaster. The District has not identified any specific water supply hazards.

### Emergency Water Supply

Emergency backup supply is provided by 11 water storage tanks. The District's current storage capacity is equal to just over two days of maximum day demand.

### Interties and Back-up Supply

In the 2005, the District had one emergency intertie with Cal Water and a temporary connection with Palo Alto. The 2005 Water Service Review identified this as an infrastructure deficiency, and reported that if SFPUC's supply were interrupted for any extended period of time, the District's ability to provide service would be limited. Since then, the District has added three permanent interties to its system. Presently, in addition to the two SFPUC turnouts, the District has four back-up interties with neighboring purveyors—two with Cal Water and two with Palo Alto, each with the ability to transfer about 1,000 gpm. The District continues to investigate using Quarry Hills Lake as a non-potable water source for health fire suppression purposes as a last resort in the event of an extended water outage.

## WATER DEMAND

As of December 2009, the PHWD serves 2,060 residential services and 53 institutional services including Foothill College, Pinewood High School and the Town's Little League Baseball field. In calendar year 2010, the District purchased 620 million gallons or 105 percent of the available water supply from SFPUC. The District has experienced a reduction in its water demand by 13 percent over the last two years, since 2008.

District customers have a relatively higher use of water than other water agencies in the County. On average, a residential connection used 889 gallons per day in FY 08-09.

The majority of the PHWD service area is built out, and only a few parcels remain that are not served by the District's water distribution system. Future development will primarily be a result of subdividing parcels, replacing existing homes with larger homes and construction of second units. While the District previously anticipated two percent growth in water use per year, the District now projects that there will be no or declining growth in demand for water in the near term due to increased rates and conservation efforts.

## WATER INFRASTRUCTURE AND FACILITIES

The District's water system includes 81 miles of pipelines, 11 reservoirs, and 10 million gallons of storage capacity. The District's only water source is imported water purchased from SFPUC; groundwater and recycled water are not available

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### Water Storage Facilities

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The District owns and maintains 11 storage tanks with a combined capacity of 9.8 million gallons (mg). The storage tanks are as follows:

- ❖ McCann 1 (1957) - 0.13 mg
- ❖ McCann 2 (1966) - 1.0 mg
- ❖ Neary 1 (1965) - 0.2 mg
- ❖ Neary 2 (1981) - 3.0 mg
- ❖ Page Mill (1965) - 0.5 mg
- ❖ Altamont 1 (1962) - 0.2 mg
- ❖ Altamont 2 (1964) - 0.25 mg
- ❖ Elena (1960) - 0.5 mg
- ❖ Hungry Horse (1976) - 3.0 mg
- ❖ La Cresta 1 (1957) - 0.1 mg
- ❖ La Cresta 2 (1992) - 0.9 mg



These tanks were all identified by the District as being in good condition. All of the tanks have been relined or recoated within the last 15 years, with the exception of La Cresta 2, and all tanks have been cleaned since 2008.

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## Conveyance and Distribution Facilities

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The total distribution system is composed of 81 miles of primarily ductile (40 percent) and cast iron (42 percent) with some asbestos cement (15 percent), PVC (two percent) and steel (one percent) pipelines. There are five pump stations, 14 pumps, and four pressure zones. The system utilizes tank elevation and gravity to provide pressurized flow. There are no hydro-pneumatic pressure zones in the District. All connections are metered with radio read heads.

The District identified the distribution system as generally being in good condition. Portions of the system are old and undersized dating back to 1957, primarily due to acquisitions of mutual water systems. The distribution system pipe size is mostly 6-inch and 8-inch (80 percent) with just 1 percent of the mains less than 6-inch. In the last fifteen years, the priority has been to replace the undersized and high risk cross country mains for reliability. As part of its capital improvement plan, the District has identified cross country mains with recent breaks in Duval Way, Julietta Lane, and Deer Springs Way, and a main with a history of breaks and leaks along Altamont Road in Zone 4. The District has identified one million dollars per year in capital improvement projects over the next five years (through 2015) which focus on repair and replacement of aging infrastructure to maintain and improve system reliability. Most recently, the District completed a major main replacement project (Zone 2.5 Phases I, II and III) to improve water quality and increase throughput and pressure to enhance fire protection and service to customers in a low pressure and seismically vulnerable area. The project was completed in summer 2011 and cost approximately \$4.4 million (including contributed capital).

The distribution system's integrity is indicated by the District's rate of distribution loss and number of breaks and leaks in 2010. The District estimates that there is less than five percent unaccounted for distribution loss from the point of treatment to the delivery point to each of the connections. There were approximately 12 main breaks or leaks in 2010.

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## Infrastructure Needs

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The District expanded its service area by taking over five to six smaller mutual water companies within Los Altos Hills back in the 1970's. Some of its current infrastructure was originally owned by these companies and was incorporated into the system at the time of acquisition. The system is aging and the District has taken a proactive approach to making upgrades and replacements prior to failure.

Additionally, the most recent DPH inspection from 2010 found several needs or deficiencies related to the system's infrastructure. With few exceptions, the District has addressed DPH's concerns since that time. Deficiencies identified were as follows:

- ❖ Removal of the roof drainage system on Neary Tank #2;
- ❖ Replacement of the large-sized mesh on the La Cresta #2 roof vent;
- ❖ Elimination of rust on the hatches of the McCann 2, Elena and La Cresta 1 tanks;
- ❖ Welding of side vents on Page Mill Tank;
- ❖ Installation of vent covers on the McCann 2, La Cresta 2, Hungry Horse, Altamont 2, and Neary 1 tanks (The District has completed a temporary upgrade for McCann 2, La Cresta 2 and Altamont 2 and a permanent upgrade for Neary 2. The District has the parts on hand to make the upgrade in the near future.);
- ❖ Installation of steel overhangs at the Page Mill, Neary 1, and Altamont 2 tanks;
- ❖ Repair of a leaking pump; and
- ❖ Destroy two test wells that the District does not intend to use.

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### Capital Improvement Plans

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The District's capital improvement plan outlines nine projects totaling \$4.9 million. Five of the projects are planned to be completed by FY 14-15, while four projects are yet unfunded and there is no timeline for completion. Planned projects include:

- ❖ Improvements to the McCann pump station in FY 11-12 (\$300,000);
- ❖ Extension of main along Altamont Road to the storage tank to be completed in FY 13-14 (\$1.6 million);
- ❖ Installation of a main from Elena Road to Taaffe Road to solidify Zone 3 and enable cross-country abandonment in FY 13-14 (\$330,000);
- ❖ Replacement of an abandoned cross-country pipeline from Julietta Lane to Deer Springs Way in FY 14-15 (\$275,000);
- ❖ Replacement of main along Altamont Road in Zone 4 in FY 14-15 (\$220,000);
- ❖ Installation of new pumps at the Elena pump station sometime after FY 14-15 (\$500,000);

- ❖ Abandonment of two cross country mains, in the Liddicoat subdivision, due to safety concerns during an emergency, to be completed sometime after FY 14-15 (\$375,000); and
- ❖ Replacement of asbestos cement water main along Taaffe Road to be completed sometime after FY 14-15 (\$710,000).

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## Shared Facilities

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The District practices facility sharing by receiving water through facilities owned and operated by SFPUC. Additionally, PHWD shares emergency intertie facilities with Cal Water and Palo Alto.

PHWD is a member of BAWSCA, utilizing the structure and functions of that agency to represent the District's interests with the SFPUC. The District also participates in a joint effort with the Los Altos County Fire District to upgrade water mains and fire hydrants within the water service area. The upgrades are made to improve system reliability, fire flows and circulation.

The District did not identify any other potential facility sharing opportunities.

## WATER QUALITY

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### Source Water

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For the SFPUC system, the major water source originates from spring snowmelt flowing down the Tuolumne River to the HetchHetchy Reservoir, where it is stored. This pristine water source is located in the well-protected Sierra region and meets all Federal and State criteria for watershed protection. DPH and the EPA have granted the HetchHetchy water source a filtration exemption, based on the SFPUC's disinfection treatment practice, extensive bacteriological-quality monitoring, and high operational standards. In other words, the source is so clean and protected that the SFPUC is not required to filter water from the HetchHetchy Reservoir.

Water from the HetchHetchy is supplemented by run-off collected in the Alameda and Peninsula Watersheds. This water is treated at two water treatment plants prior to distribution.

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### Treated Water

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Quality of treated water can be evaluated according to several measures. For the purposes of this report, the following indicators are used: the number of violations as reported by the EPA since 2000, the number of days in full compliance with Primary Drinking Water Regulations in 2010, and any deficiencies identified by DPH as prioritized health concerns.

According to the EPA Safe Drinking Water Information System, PHWD has had no health or monitoring violations within the last 10 years with regard to its water treatment system.

PHWD was not out of compliance with Primary Drinking Water Regulations throughout 2010.

Overall, in 2010, DPH found the system to be in satisfactory condition. In addition to the infrastructure deficiencies outlined under the Infrastructure section of this chapter, DPH identified several operational concerns regarding the District's system and operating plans. DPH made the following requirements and recommendations, of which, the District has addressed to the satisfaction of DPH:

- ❖ Provide DPH with the regular test results for TTHM, HAA5 and disinfectant residuals, which had not been filed with DPH since 2006;
- ❖ Develop valve maintenance and routine flushing programs;
- ❖ Develop a plan to prevent and control nitrification in the storage tanks and distribution system;
- ❖ Recommended revisions to the District's cross connection control policies;
- ❖ Ensure that the District reports only the results of samples collected from sampling locations specified in the approved bacteriological sampling plan.



## PURISSIMA HILLS WATER DISTRICT SERVICE REVIEW DETERMINATIONS

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### Growth and Population Projections

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- ❖ The estimated population of PHWD is 6,136.
- ❖ It is projected that the District will serve an estimated population of 6,180 residents, in 2035, with an average annual growth rate of 0.1 percent over the next 25 years.
- ❖ Potential for growth within the District is minimal. New development will be limited to infill of approximately 10 additional lots through build-out and tear downs of existing structures. Additionally, there is little potential for growth through expansion of the District.
- ❖ PHWD experienced peak demand in 2004, and demand for water has steadily declined since then, due to cooler summers, higher utility rates and difficult economic conditions.
- ❖ As water rates increase and new legislative requirements on landscaping go into effect, demand for water is expected to continue to decline, outweighing any increase in demand as a result of population growth.

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### Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs and Deficiencies

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- ❖ Although demand for water in the District has declined over the past five years, the District regularly exceeds its individual supply guarantee, as allocated by the San Francisco Public Utilities Commission (SFPUC), and must purchase additional water supply from the SFPUC in order to meet demand.
- ❖ The District appears to have sufficient water storage to weather a short-term water outage and adequate back up supply through four interties with other systems for periods of extended SFPUC water supply interruption.
- ❖ No capacity constraints related to district infrastructure were identified.
- ❖ The primary infrastructure need related to the PHWD water system is the installation of mains to promote more efficient movement of water to fully utilize existing storage. The District has also identified in its capital improvement plan mains upgrade and for replacement of aging undersized mains that are prone to breaks and have a history of leaks. The District spends approximately one million dollars per year for capital upgrades.



PHWD has taken a proactive approach in replacing and upgrading these mains prior to failure.

- ❖ California Department of Public Health identified several infrastructure deficiencies and operational issues during its most recent inspection. With few exceptions, the District has addressed these concerns.
- ❖ Water demand within the District remains higher than typically found in districts of similar size, ~~likely due to the size of the homes~~ Los Altos Hills acre minimum zoning and landscaped area. There is a need to ~~enhance~~ continue conservation ~~programming programs~~ with a particular focus on landscaping.
- ❖ PHWD provides high quality water based on district compliance with drinking water regulations, a lack of health and monitoring violations since 2000, and timely thorough district response to California Department of Public Health infrastructure and operational concerns.
- ❖ District management methods appear to generally meet accepted best management practices. The District prepares a budget before the beginning of the fiscal year, conducts ~~periodic~~ annual financial audits, maintains ~~relatively current~~ transparent financial records, regularly evaluates rates and fees, tracks employee and district workload, and has an established process to address complaints.
- ❖ The District has complied with audit requirements and submitted audits to the County in a timely manner.

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### Financial Ability of Agency to Provide Services

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- ❖ Although PHWD has experienced decreasing revenue as a result of declining water use, the current financing level appears sufficient to provide an adequate level of service. Rates are evaluated annually and increased as needed to cover all expenditures. The District maintains sufficient reserves to cover contingencies.
- ❖ The District appropriately plans for capital needs in a rolling multi-year capital improvement plan and regularly reinvests in its capital assets at a rate that greatly exceeds wear and tear.

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### Status and Opportunities for Shared Facilities

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- ❖ The District practices facility sharing by receiving water through facilities owned and operated by SFPUC and four emergency interties with Cal Water and Palo Alto.
- ❖ The District participates in collaborative efforts with other agencies, including membership in the Bay Area Water Supply and Conservation

Agency, and a joint effort with the Los Altos Hills County Fire District to improve system reliability, fire flows and circulation.

- ❖ No further facility sharing opportunities were identified.

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### Accountability for Community Services, Including Governmental Structure and Operational Efficiencies

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- ❖ Accountability is best ensured when contested elections are held for governing body seats, constituent outreach is conducted to promote accountability and ensure that constituents are informed and not disenfranchised, and public agency operations and management are transparent to the public. PHWD demonstrated accountability with respect to all of these factors.

#### Governance Structure Options

Governance structure options are limited for the Purissima Hills County Water District. There is little potential for growth through expansion of the District. The District is surrounded by other providers to the north, east and west. Territory adjacent to PHWD in the south is not served, but the topography of the area limits the potential for development.

The District has considered consolidating into either the Cal Water or San Jose Water Company systems in order to augment water supply at a potentially lower cost than what the District is presently paying to SFPUC. In the mid 1990's, Cal Water expressed interest in acquiring the District. At the time, the change was not supported by the residents. However, the District's unusually high demand per connection for water has led to the District regularly exceeding its SFPUC allocated amount. PHWD hoped for an enhanced allocation during the 2009 renegotiation of the master agreement; however, the District's individual supply guarantee remained the same. Moreover, SFPUC has initiated a surcharge on usage in excess of the combined BAWSCA members' allocated amount.

In light of the terms of the new contract with SFPUC, PHWD believes that an additional water supply may need to be developed or purchased to ensure water delivery for both the near and long term future, and especially in time of drought. PHWD continues to explore various possibilities for this additional supply. Options to enhance water supply include either receiving additional water from an outside water source (i.e., SCVWD) or participating in BAWSCA's efforts to develop an additional water supply, or completely consolidating into a neighboring purveyor's service area (Cal Water or San Jose Water Company). ~~Based on the District's contract with SFPUC, PHWD may lose its SFPUC allotment, if such a complete consolidation were made. Consequently, either private purveyor would need adequate existing water supply to fully serve the entire District before this kind of~~

~~consolidation could take place.~~ Given that the District is presently experiencing declining demand for water and less overages on its SFPUC allocation, PHWD has deferred indefinitely any discussions of consolidation pursuing an additional water source.

- ❖ Governance structure options for Purissima Hills Water District are limited. There is the potential to consolidate into either San Jose Water Company or Cal Water; however, the District is not actively pursuing this option ~~in light of the recent decline in water demand.~~

# PURISSIMA HILLS WATER DISTRICT SPHERE OF INFLUENCE UPDATE

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## Existing Sphere of Influence Boundary

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The District's SOI is coterminous with its boundaries. The SOI was last updated in 2007.

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## Recommended Sphere of Influence Boundary

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Given that there is little opportunity for expansion of PHWD's bounds, it is recommended that the District's coterminous SOI be retained.

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## Proposed Sphere of Influence Determinations

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### *Present and planned land uses in the area, including agricultural and open-space lands*

The District serves a majority of the Town of Los Altos Hills and unincorporated area to the south. The District's service area is primarily low-density residential, characterized by estate homes on minimum one-acre lots. There are also some institutional public utilities, hillside and open space. PHWD's largest customer is Foothill College.

### *Present and probable need for public facilities and services in the area*

There is a clear and present need for PHWD domestic water services within the existing service area, as shown by demand for water services. The District serves a developed area, and water services are needed to serve the existing homes and future development on existing parcels. Present needs for water service are currently being met solely by the District.

There is a probable need for continued PHWD domestic water services within the existing bounds at a level similar to or lower than existing demand. Population growth is anticipated to be minimal, averaging 0.1 percent a year through 2035. As water rates increase and new legislative requirements on landscaping go into effect, demand for water is expected to continue to decline, outweighing any increase in demand as a result of population growth.

There is little potential for growth through expansion of the District as well. The District is surrounded by other providers to the north, east and west. Territory adjacent to PHWD in the south is not served, but the topography of the area limits the potential for development.



Present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide

The District faces water supply capacity constraints. Although demand for water in the District has declined over the past five years, the District regularly exceeds its individual supply guarantee, as allocated by the San Francisco Public Utilities Commission (SFPUC), and must purchase additional water supply from the SFPUC in order to meet demand. In recent years, the District has been able to purchase the necessary water. However, SFPUC recently adopted a surcharge for additional water purchases in excess of the combined wholesaler allotment.

Water facilities and services appear to be adequate based on State inspection reports, recent regulatory compliance, and management methods. The primary infrastructure need related to the PHWD water system is the upgrade and replacement of aging undersized mains that are prone to breaks and leaks. PHWD conducts multi-year capital improvement planning to provide for such improvements. The District ~~could~~ should continue to provide ~~improve upon its~~ conservation programming to bring promote customer water use efficiency while recognizing that the acre-minimum lots in Los Altos Hills require more landscaping water than those more into line with other similar water providers.

Existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency

The District serves a majority of the Town of Los Altos Hills and unincorporated area to the south. The District is funded through a portion of the one-percent property tax, and the residents and landowners have an economic interest in the services provided by the District. The SOI update will not affect the existence of any social or economic communities of interest in the area that are relevant to the District.

The nature, location, extent, functions, and classes of services provided

The present PHWD bounds encompass approximately 13.4 square miles. The District's bounds encompass about two-thirds of the town of Los Altos Hills and an unincorporated area to the south. PHWD provides domestic water services to its residents in the form of distribution to its customers. The District does not provide treatment, as all water is pre-treated by the San Francisco Public Utilities Commission (SFPUC) and delivered through SFPUC's HetchHetchy Water System. The District relies solely on SFPUC's surface water. The District has a water conservation program in conjunction with SCVWD, which is coordinated by a part-time employee. Recycled water is not available within the District's bounds.



## Noel, Dunia

---

**From:** Laporte, Margaret L. [martyl@bonair.stanford.edu]  
**Sent:** Monday, October 17, 2011 10:57 AM  
**To:** Noel, Dunia  
**Cc:** Abello, Emmanuel  
**Subject:** RE: 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing  
**Attachments:** SU comments on Draft LAFCO report10.17.11.pdf

Dear Ms. Noel,

Stanford University appreciates the opportunity to comment on the Draft Report of the LAFCO of Santa Clara County 2011 Countywide Water Service Review, currently available for public review.

As we noted earlier, Stanford University purchases 100% of its domestic water from SFPUC and is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA). As a member of BAWSCA, Stanford annually reports its water consumption and updates water conservation and related facility information.

We would appreciate LAFCO adding the following statement to p. 427 (Stanford University) in the Draft LAFCO report:

“Stanford University purchases 100% of its domestic water from SFPUC and is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA). As a member of BAWSCA, Stanford annually reports its water consumption and updates water conservation and related facility information. Current information about Stanford’s water use can be found in the most recent BAWSCA Annual Survey Report: [http://bawsca.org/docs/BAWSCA%202009-10%20Survey\\_rev2\\_FINAL.pdf](http://bawsca.org/docs/BAWSCA%202009-10%20Survey_rev2_FINAL.pdf) ”

We appreciate LAFCO’s consideration to include our comment. If you would like to discuss this further, please contact me at 650-725-7864.

Sincerely,

Marty Laporte

---

**From:** Abello, Emmanuel [mailto:Emmanuel.Abello@ceo.sccgov.org]  
**Sent:** Tuesday, September 27, 2011 3:55 PM  
**Subject:** 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing  
**Importance:** High

Attached for your information is the Notice of Availability for the 2011 Draft Countywide Water Service Review Report. The Draft Report is available on the LAFCO Website at [http://www.santaclara.lafco.ca.gov/hearingdraft\\_2011\\_svce\\_reviews\\_water.html](http://www.santaclara.lafco.ca.gov/hearingdraft_2011_svce_reviews_water.html). LAFCO will hold a Workshop and Public Hearing for the Draft Report on October 5th. Please see the attached memo for further information. Please feel free to forward this email to others that may be interested in the Draft Report or the upcoming LAFCO Workshop and Public Hearing.

Thank you,  
Emmanuel Abello  
LAFCO Clerk

Local Agency Formation Commission  
of Santa Clara County  
70 W. Hedding Street, 11th Floor  
San Jose, CA 95110

Ph. (408) 299-6415 / Fax (408) 295-1613  
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**Stanford University**  
**Sustainability and Energy Management**

UTILITIES DIVISION  
327 BONAIR SIDING, 2<sup>ND</sup> FLOOR  
STANFORD, CA 94305-7272

OCTOBER 17, 2011

LAFCO of Santa Clara County  
70 West Hedding Street, 11th Floor, East Wing,  
San Jose, CA 95110  
Sent via Email: [dunia.noel@ceo.sccgov.org](mailto:dunia.noel@ceo.sccgov.org)

Attention: Ms. Dunia Noel

Dear Ms. Noel,

Stanford University appreciates the opportunity to comment on the Draft Report of the LAFCO of Santa Clara County 2011 Countywide Water Service Review, currently available for public review.

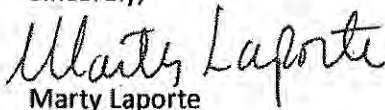
As we noted earlier, Stanford University purchases 100% of its domestic water from SFPUC and is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA). As a member of BAWSCA, Stanford annually reports its water consumption and updates water conservation and related facility information.

We would appreciate LAFCO adding the following statement to p. 427 (Stanford University) in the Draft LAFCO report:

"Stanford University purchases 100% of its domestic water from SFPUC and is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA). As a member of BAWSCA, Stanford annually reports its water consumption and updates water conservation and related facility information. Current information about Stanford's water use can be found in the most recent BAWSCA Annual Survey Report: [http://bawasca.org/docs/BAWSCA%202009-10%20Survey\\_rev2\\_FINAL.pdf](http://bawasca.org/docs/BAWSCA%202009-10%20Survey_rev2_FINAL.pdf) "

We appreciate LAFCO's consideration to include our comment.

Sincerely,

  
Marty Laporte

Margaret (Marty) Laporte  
Associate Director of Utilities for  
Environmental Quality and Water Conservation  
Stanford Utilities Division  
Department of Sustainability and Energy Management  
Stanford University

[http://lbre.stanford.edu/sem/water\\_conservation](http://lbre.stanford.edu/sem/water_conservation)

<http://lbre.stanford.edu/sem/environmental>

## Noel, Dunia

---

**From:** Nasser, Mansour [Mansour.Nasser@sanjoseca.gov]  
**Sent:** Friday, October 07, 2011 2:27 PM  
**To:** Palacherla, Neelima; Noel, Dunia  
**Subject:** 2011 Countywide Water Service Review

Neelima/Dunia,

I attended the public hearing on October 6<sup>th</sup> and I have the following comments. There was a slide that showed reserves by each agency that left the impression that low reserves are bad. I would like to point out that reserves are subject to Prop 218 and utilities can not charge ratepayers to maintain high reserve amounts.

On the report, page 367 states that "the City could improve upon health and monitoring violations that they received over the last 10 years."

I would like to point out that we have implemented measures that eliminated inconsistent results and over the last year we did not experience any water quality violations and all samples have met state and federal requirements. Measures we have implemented are:

- inspected the Water Quality lab that was performing the water sampling and ensured the bacteriological bottles delivered were not tampered with
- reviewed current SOP's for our staff, sampling conditions , and made any changes necessary to ensure proper sampling procedures
- installed new dedicated sample stations to replace old ones with a combination air relief valve where needed
- serviced all sample stations by replacing old fittings, disinfecting all parts, and ensure sample port does not splash
- Installed programmable security cyber locks on all sample stations and reservoir hatches
- Changed to new sample lab that performed a more accurate reliable testing
- Scheduled quarterly distribution disinfection and flushing in the Edenvale System
- Ensured hydrant flushing was not performed the day before collecting samples

Please let me know if you need further information.

Mansour Nasser P.E.

Deputy Director

Environmental Services Department

City of San Jose

408-277-4218

## Noel, Dunia

---

**From:** Art Jensen [AJensen@bawasca.org]  
**Sent:** Wednesday, October 05, 2011 3:03 PM  
**To:** Palacherla, Neelima  
**Cc:** Noel, Dunia  
**Subject:** 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing  
**Attachments:** 11\_Oct4\_AJ\_LTO\_LAFCO\_CountywideWaterServiceReview.pdf

Ms. Palacherla,

Attached is my comment on the 2011 Countywide Water Service Review Draft Report. It was also emailed to Mr. Abello by my assistant, Lourdes Enriquez.

I appreciate the opportunity to provide input. Please call the BAWSCA office at 650-349-3000 if you have any questions.

Thank you,  
Art Jensen

Arthur R. Jensen  
Chief Executive Officer  
Bay Area Water Supply and Conservation Agency  
650-349-3000 Office  
415-308-4263 Cell  
[www.BAWSCA.org](http://www.BAWSCA.org)

---

**From:** Abello, Emmanuel [<mailto:Emmanuel.Abello@ceo.sccgov.org>]  
**Sent:** Thursday, September 29, 2011 11:04 AM  
**To:** Art Jensen  
**Subject:** 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing  
**Importance:** High

Attached for your information is the Notice of Availability for the 2011 Draft Countywide Water Service Review Report. The Draft Report is available on the LAFCO Website at [http://www.santaclara.lafco.ca.gov/hearingdraft\\_2011\\_svce\\_reviews\\_water.html](http://www.santaclara.lafco.ca.gov/hearingdraft_2011_svce_reviews_water.html). LAFCO will hold a Workshop and Public Hearing for the Draft Report on October 5th. Please see the attached memo for further information. Please feel free to forward this email to others that may be interested in the Draft Report or the upcoming LAFCO Workshop and Public Hearing.

Thank you,  
Emmanuel Abello  
LAFCO Clerk

Local Agency Formation Commission  
of Santa Clara County  
70 W. Hedding Street, 11th Floor  
San Jose, CA 95110



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October 4, 2011

Ms. Neelima Palacherla, Executive Officer  
Local Agency Formation Commission  
Santa Clara County  
70 W. Hedding Street, 11th Floor  
San Jose, CA 95110

**Subject: 2011 Countywide Water Service Review Draft Report Notice of Availability  
and Notice of LAFCO Workshop & Public Hearing**

Dear Ms. Palacherla,

Thank you for sending us the "2011 Draft Countywide Water Service Review Report."

We reviewed the sections pertaining to the Bay Area Water Supply and Conservation Agency, the San Francisco Public Utilities Commission and the Santa Clara Valley Water District. We found the report factual with the exception of only three statements that require revision. This letter cites the pages requiring correction, suggests revisions to the text, and provides an explanation.

**Section 23, page 429, paragraph #1:**

Text of draft report: "Under contractual agreements, 27 wholesale water agencies in Alameda, San Mateo, and Santa Clara Counties also purchase water supplies from the SFPUC. The 27 wholesale customers comprise the Bay Area Water Supply and Conservation Agency (BAWSCA)."

Suggested revised text: Under contractual agreements, 26 wholesale water agencies in Alameda, San Mateo, and Santa Clara Counties also purchase water supplies from the SFPUC. The 26 wholesale customers comprise the Bay Area Water Supply and Conservation Agency (BAWSCA).

Explanation: The correct number of Wholesale Customers is 26.

**Section 23, page 429, paragraph #3:**

Text of draft report: "SFPUC wholesale customers in Santa Clara County include: 1) Santa Clara Valley Water District 2) City of Milpitas, 3) City of Mountain View, 4) City of Palo Alto, 5) City of San Jose, 6) City of Santa Clara, 7) City of Sunnyvale, 8) Purissima Hills Water District, and 9) Stanford University."

Suggested revised text: SFPUC wholesale customers in Santa Clara County include: 1) City of Milpitas, 2) City of Mountain View, 3) City of Palo Alto, 4) City of San Jose, 5) City of Santa Clara, 6) City of Sunnyvale, 7) Purissima Hills Water District, and 8) Stanford University.

Ms. Palacherla, Executive Director  
October 4, 2011  
Page 2 of 2

Explanation: The Santa Clara Valley Water District (SCVWD) is not a wholesale customer of the San Francisco Public Utility Commission (SFPUC), and does not purchase water from the SFPUC. The SFPUC and the SCVWD do have an emergency intertie between their respective water systems for emergency purposes. The suggested wording is accurate.

**Section 24, page 440, paragraph #3:**

Text of draft report: "BAWSCA is funded through assessments of each of its member agencies, based on a percentage of each agency's annual budget. The percentage is proportionate to the amount of SFPUC water used in FY 00-01."

Suggested revised text: BAWSCA is funded through assessments of each of its member agencies. The percentage of the agency budget paid by each member is proportionate to the amount of SFPUC water each agency purchased in FY 00-01."

Explanation: The statement that assessments are based on a percentage of each agency's annual budget is incorrect. The suggested wording is accurate.

Please contact me at 650-349-3000 if you would like more information.

Sincerely,



Arthur R. Jensen  
Chief Executive Officer

**Noel, Dunia**

---

**From:** Abello, Emmanuel  
**Sent:** Wednesday, September 28, 2011 8:19 AM  
**To:** Allen, James  
**Cc:** Palacherla, Neelima; Noel, Dunia  
**Subject:** RE: 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing

Good morning, Jamie.

We will take note of this update. Thank you for your comments.

Thank you,  
Emmanuel Abello  
LAFCO Clerk  
(408) 299-6415

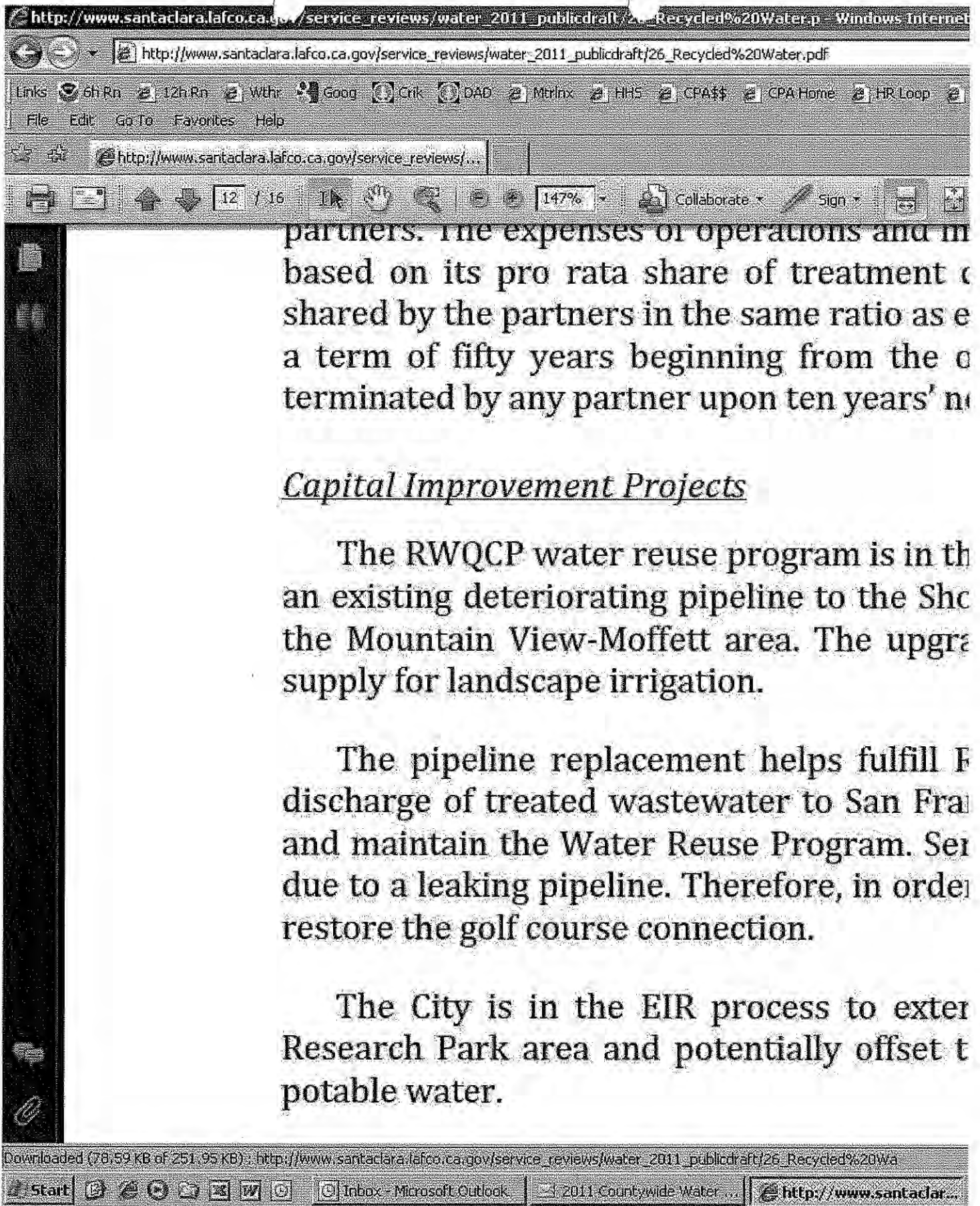
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**From:** Allen, James [<mailto:James.Allen@CityofPaloAlto.org>]  
**Sent:** Wednesday, September 28, 2011 7:08 AM  
**To:** Abello, Emmanuel  
**Subject:** RE: 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing

Emmanuel,

We completed construction of the recycled water pipeline to reconnect the Mountain View Shoreline Golf Course and expand to the North Bayshore area in Mountain View in June 2009 with formal operations beginning January 2010. Please update the 1<sup>st</sup> two sentences of the 1<sup>st</sup> para under CIP on p. 461.

Jamie Allen



partners. The expenses of operations and maintenance are based on its pro rata share of treatment costs that are shared by the partners in the same ratio as their ownership. As a term of fifty years beginning from the date of construction, terminated by any partner upon ten years' notice.

### Capital Improvement Projects

The RWQCP water reuse program is in the process of installing an existing deteriorating pipeline to the Shoreline area and the Mountain View-Moffett area. The upgrade will provide a supply for landscape irrigation.

The pipeline replacement helps fulfill the requirement for the discharge of treated wastewater to San Francisco Bay and maintain the Water Reuse Program. Sewerage is currently due to a leaking pipeline. Therefore, in order to restore the golf course connection.

The City is in the EIR process to extend the water supply to the Research Park area and potentially offset the need for potable water.



Plant Manager  
Water Quality Control Plant  
Public Works Department  
650-329-2243 - office  
650-444-6356 - cell

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**From:** Abello, Emmanuel [<mailto:Emmanuel.Abello@ceo.sccgov.org>]

**Sent:** Tuesday, September 27, 2011 3:55 PM

**To:** Undisclosed recipients

**Subject:** 2011 Countywide Water Service Review Draft Report Notice of Availability and Notice of LAFCO Workshop & Public Hearing

**Importance:** High

Attached for your information is the Notice of Availability for the 2011 Draft Countywide Water Service Review Report. The Draft Report is available on the LAFCO Website at [http://www.santaclara.lafco.ca.gov/hearingdraft\\_2011\\_svce\\_reviews\\_water.html](http://www.santaclara.lafco.ca.gov/hearingdraft_2011_svce_reviews_water.html). LAFCO will hold a Workshop and Public Hearing for the Draft Report on October 5th. Please see the attached memo for further information. Please feel free to forward this email to others that may be interested in the Draft Report or the upcoming LAFCO Workshop and Public Hearing.

Thank you,  
Emmanuel Abello  
LAFCO Clerk

Local Agency Formation Commission  
of Santa Clara County  
70 W. Hedding Street, 11th Floor  
San Jose, CA 95110

Ph. (408) 299-6415 / Fax (408) 295-1613  
[www.santaclara.lafco.ca.gov](http://www.santaclara.lafco.ca.gov)



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| Comment # | Commenter/Agency                                            | Report Page/Section                   | Comment                                                                                                                                                                                                                                                                                                                                                                                                                      | Response                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------|-------------------------------------------------------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1         | Palo Alto Regional Water Quality Control Plant, Jamie Allen | 461                                   | Update 1st two sentences of 1st paragraph under CIP: the City completed construction of the recycled water pipeline to reconnect Mountain View Shoreline Golf Course and expand to the North Bayshore area in Mountain View in June 2009 with formal operations beginning in January 2010.                                                                                                                                   | Updated.                                                                                                                                                                                                                                                                                                                                                                                                            |
| 2         | City of San Jose, Mansour Nasser                            | Public Hearing Presentation, Slide 14 | Slide gave impression that low reserves were bad. Reserves are subject to Prop 218 and utilities cannot charge ratepayers to maintain high reserve amounts                                                                                                                                                                                                                                                                   | This figure was intended to demonstrate the existing condition of each agencies' reserves and the norm across the agencies covered. While Proposition 218 requires that the fee or charge "not exceed the funds required to provide the property related service," (California Constitution, Article XIII D, Section 6(b)(1)) it does not cap how much can reasonably be kept for reserve purposes. No change made. |
| 3         |                                                             | 380                                   | Update information regarding the recommendation to improve upon health violations. The City implemented measures that eliminated inconsistent results and over the last year the City did not experience any water violations; all samples have met State and Federal requirements. (Examples of specific measures implemented are provided)                                                                                 | Added content in City chapter regarding the efforts to elimination health and monitoring violations.                                                                                                                                                                                                                                                                                                                |
| 4         | Stanford University, Marty Laporte                          | 445                                   | Add statement: Stanford University purchases 100 percent of its domestic water from SFPUC and is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA). As a member of BAWSCA, Stanford annually reports its water consumption and updates water conservation and related facility information. Current information about Stanford's water use can be found in the most recent BAWSCA Annual Survey Report. | Additional content added.                                                                                                                                                                                                                                                                                                                                                                                           |
| 5         | Purissima Hills Water District, Patrick Walter              | 164                                   | The primary infrastructure need was misstated. In the course of the District's rolling 5-year CIP, mains for replacement are always identified and are replaced relative to priority.                                                                                                                                                                                                                                        | Clarifying text added to determination.                                                                                                                                                                                                                                                                                                                                                                             |

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| Comment # | Commenter/Agency      | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                                                                                 | Response                                                                                                                                                                                                                                    |
|-----------|-----------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6         |                       | 165                 | Because Los Altos Hills has acre minimum zoning, residents use more water. Given this and given the fact that customers are responsible for their conservation the District believes it's unfair to imply that the District has failed its conservation efforts. While other districts may be of similar size, none have a district comprised of 98% acre-minimum lots. | Clarified that the acre-minimum zoning lends to the high rate of use in the District. The determination does not imply that the District has failed at conservation efforts, but states that there is room for improvement. No change made. |
| 7         |                       | 165                 | It's more accurate to say that the District conducts annual audits. "Relatively current" is not correct; the District's financial records are current, transparent, comprehensive and provided on request.                                                                                                                                                              | Changes made.                                                                                                                                                                                                                               |
| 8         |                       | 165                 | Add word "rolling" before multi-year capital improvement plan. The District approves a multi-year CIP every year.                                                                                                                                                                                                                                                       | Text added.                                                                                                                                                                                                                                 |
| 9         |                       | 166                 | Make changes to more accurately reflect history. At no time did PHWD approach either SJW or CWS. Both approached PHWD, and it was not viewed as beneficial to the District. Any comments regarding a change in source of supply are speculative and there is no agreement that would be made involving PHWD losing the Hetch Hetchy water supply.                       | Text clarified to reflect that " no agreement that would be made involving PHWD losing the Hetch Hetchy water supply."                                                                                                                      |
| 10        |                       | 167                 | The District is not pursuing a consolidation to gain additional water supply or for any other reason.                                                                                                                                                                                                                                                                   | Wording changed to reflect that the District is not pursuing consolidation, but it is still a governance option.                                                                                                                            |
| 11        |                       | 169                 | Make changes regarding acre-minimum lots in Los Altos Hills.                                                                                                                                                                                                                                                                                                            | Added content regarding lot size in Los Altos Hills.                                                                                                                                                                                        |
| 12        | BAWSCA, Arthur Jensen | 456                 | Correction: there are 26 wholesalers, not 27                                                                                                                                                                                                                                                                                                                            | Change made throughout document.                                                                                                                                                                                                            |
| 13        |                       | 456                 | SCVWD is not a wholesale customer of the SFPUC, and does not purchase water from SFPUC. SCVWD and SFPUC do have an emergency intertie between their respective water systems for emergency purposes.                                                                                                                                                                    | Change made.                                                                                                                                                                                                                                |

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| Comment # | Commenter/Agency     | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Response                                                                                                                                                                                                                                                                                                       |
|-----------|----------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14        |                      | 458                 | Correction that the percentage of the agency budget paid by each member is proportionate to the amount of SFPUC water each agency purchased in FY 00-01. The statement that assessments are based on a percentage of each agency's annual budget is incorrect.                                                                                                                                                                                                                                                                                                                                                                              | Change made.                                                                                                                                                                                                                                                                                                   |
| 15        | Guadalupe-Coyote RCD | General             | GCRCD supports the conclusion that the current SOI be continued.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Comment noted.                                                                                                                                                                                                                                                                                                 |
| 16        |                      | 206                 | The GCRCD does not agree that there is a temporal restriction that would preclude authorized services not yet provided as of 2000.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | This applies to those powers that were not being provided but authorized to provide per the District's enabling act at the end of 2000 (Government Code §56824.10). In order to provide services that are not in the agency's principal act, a change of State law would be required, not approval from LAFCO. |
| 17        |                      | 207-208             | Clarification regarding watershed management that in addition to listed functions, the GCRCD provides vital data and scientific reports regarding SCVWD stream channelization projects and affected biota, which data and reports differ significantly and importantly from SCVWD versions of its projects' impacts. The important data supplied by GCRCD have laid the groundwork for the ongoing adaptive management efforts/interventions, without which area creek functions would be significantly more impaired. GCRCD also was instrumental in the establishment of the FAHCE collaborative to protect riparian-dependent resources. | Additional information was added regarding the FAHCE.                                                                                                                                                                                                                                                          |
| 18        |                      | 207-208             | Clarification regarding waterway protection and restoration: GCRCD does not currently provide financial support to the Santa Clara County Creeks Coalition (SCCCC); rather GCRCD supports—and disseminates information to the public through a booth set up at—the annual creeks conference sponsored by the SCCC group.                                                                                                                                                                                                                                                                                                                    | Content corrected to show that support is in the form of manpower as opposed to financial.                                                                                                                                                                                                                     |

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| Comment # | Commenter/Agency | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                         | Response                                                                                                                                                                                                                                                          |
|-----------|------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 19        |                  | 207-208             | As part of scientific studies/education GCRCD directors work as volunteers at Guadalupe River Park & Gardens at outreach and education functions.                                                                                                                                                               | Content added.                                                                                                                                                                                                                                                    |
| 20        |                  | 207-208             | As part of scientific studies/education GCRCD also provided important seminal funding and encouragement for Veggielution, a non-profit organization operating within GCRCD boundaries, which empowers youth and adults from diverse backgrounds to create a sustainable food system in San Jose.                | Content added.                                                                                                                                                                                                                                                    |
| 21        |                  | 207-208             | In regards to vegetation/habitat preservation through intervention by the GCRCD some years ago, important butterfly habitat was protected from loss that would otherwise have occurred as a result of encroaching development.                                                                                  | Clarification added.                                                                                                                                                                                                                                              |
| 22        |                  | 207-208             | Farm/Range Land Management: GCRCD participated with other RCDs in a collaborative San Francisco Bay Area Livestock and Land program grant proposal coordinated by Ecology Action early this year.                                                                                                               | This content is already in the report. No change made.                                                                                                                                                                                                            |
| 23        |                  | 208-210             | The list of partners in the LAFCO report includes agencies and organizations with which the District has worked, or is working. It should include Guadalupe River Park & Gardens (ongoing education), Veggielution (seminal grants, support) and Salmonid Restoration Federation (education/conference support) | Content added.                                                                                                                                                                                                                                                    |
| 24        |                  | 208-210             | The GCRCD's function in the Lower Silver Creek restoration project was as described in the District's August 31, 2011, letter to LAFCO consultant Jennifer Stephenson. The district did not supply the funding details mentioned in that recent LAFCO report.                                                   | Per correspondence with GCRCD, the District believes funding was through the NRCS Small Watershed Program in California (Public Law 83-566) that GCRCD was able to obtain funding (likely federal), which went directly (or ultimately) to SCVWD. No change made. |



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| Comment # | Commenter/Agency | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Response                                                                                                                                                           |
|-----------|------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 25        |                  | 210                 | Providing services within urban core is justified because the waters and the dependent fishery resources that are within the District, are tied to the urban areas of the watersheds. Fish cannot gain access to the headwaters within the district without clear passage through those urban areas. The importance of entire riparian areas—and thus the need to avoid segmenting those riparian areas—has received significant recognition. GCRCD is one of those state agencies whose activities impact riparian habitat.                                                   | Content added to clarify that watershed boundaries extend beyond the District's bounds, thus the need to provide services outside of bounds.                       |
| 26        |                  | 210                 | GCRCD's pursuit of watershed conservation results from having identified SCVWD projects that have removed, degraded, and/or disturbed riparian habitat, with concomitant effects on threatened and/or endangered aquatic species. The 15-year FAHCE effort that resulted from the GCRCD's complaint filed with the SWRCB in 1996 (pursuant to SCVWD's dewatering of the Guadalupe River, and other deleterious stream actions) demonstrates how the watershed protection and restoration responsibilities shared among agencies can work to protect these valuable ecosystems. | Content added regarding the history of the complaint to SWRCB, the formation of FAHCE, and the evolution of SCVWD's stewardship activities.                        |
| 27        |                  | 210                 | As in the case of LPRCD there is some similarity between some SCVWD's water services and GCRCD. However, like with LPRCD the District's focus diverges from that of the SCVWD. GCRCD has focused on conservation and the environment, whereas the Water District's primary focus has been on flood control and providing water. SCVWD's "environmental stewardship" plays only a secondary or tertiary role and was almost eliminated. The unstable nature of SCVWD's "environmental stewardship" role makes GCRCD steady focus on the environment all the more important.     | Content added regarding the complaint submitted to the SWRCB, the formation of FAHCE and the addition of watershed stewardship activities to SCVWD's enabling act. |

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| Comment # | Commenter/Agency | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                                                                                                                                             | Response                                                                                                                                                                      |
|-----------|------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 28        |                  | 211                 | The LAFCO report incorrectly identifies GCRCD boundaries as ending just north of Anderson Reservoir, but later on correctly depicts that GCRCD boundaries include the northern part of Anderson Reservoir.                                                                                                                                                                                                                          | Corrected.                                                                                                                                                                    |
| 29        |                  | 211                 | Santa Clara Valley Water District's bounds cannot be said to "cover the entire county" as the LAFCO report had claimed. SCVWD jurisdiction within GCRCD boundaries is not as broad as the RCD's. As SCVWD's own maps show, the water district neither owns nor has easements over a majority of the creeks and rivers within GCRCD boundaries. SCVWD holdings are limited. It cannot act in large areas of watershed in the county. | SCVWD's enabling act states that the District is countywide. Ownership of the land within the district does not preclude SCVWD from providing services there. No change made. |
| 30        |                  | 211-212             | Clarification that GCRCD has provided much more than comments on projects. GCRCD's input has been not only separate from, but critically important to resource improvements and conservation. These are improvements that would not have occurred without the watchdog functions of the GCRCD.                                                                                                                                      | Content added regarding the complaint submitted to the SWRCB, the formation of FAHCE and the addition of watershed stewardship activities to SCVWD's enabling act.            |
| 31        |                  | 215                 | The District believes that the complaint the disappointed developer brought in the past was dismissed by the court where it had been filed.                                                                                                                                                                                                                                                                                         | Per correspondence with GCRCD, the complaint was not taken to court. No change made.                                                                                          |
| 32        |                  | 216                 | Clarification that County asks GCRCD for an audit every three years (after the close of the last fiscal year). The audit then covers the previous two full Fiscal Years.                                                                                                                                                                                                                                                            | Footnote added regarding source of audit requirements.                                                                                                                        |
| 33        |                  | 216-217             | The GCRCD is not considering or evaluating the Ross Creek Reserve development, which the District believes is not within its bounds.                                                                                                                                                                                                                                                                                                | Content removed.                                                                                                                                                              |

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| Comment # | Commenter/Agency | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Response                                                                                                                                                                             |
|-----------|------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 34        |                  | 216-217             | Correction that the GCRCD does not judge consistency with various agencies' policies, as stated in the report. GCRCD review of projects is based on state and federal laws and regulations governing resource conservation and the environment. It would be duplicative and wasteful for GCRCD to promulgate its own policies regarding such projects.                                                                                                                                                                                               | Comment noted.                                                                                                                                                                       |
| 35        |                  | 217                 | Again the RCD disputes that it provides more services in urban areas than within its boundaries. Rather than acting outside its boundaries, GCRCD is protecting resources that connect its headwater watersheds with the rest of the identified, and critical, Anchor Watersheds. Suggested that as in the case of the LPRCD, the recommendation should be made to expand the GCRCD's boundaries to include the more urban core through which the important Anchor Waterways pass. This would contribute to the financial adequacy of GCRCD funding. | Consideration of expansion of the SOI could be addressed during the next SOI update, upon GCRCD meeting the Commission's recommendations resulting from this report. No change made. |
| 36        |                  | 220                 | GCRCD would like to refer the reader to the Service Area discussion, <i>supra</i> , for discussion of the CLN designation of Anchor Watersheds in the area.                                                                                                                                                                                                                                                                                                                                                                                          | See response to Comment # 26.                                                                                                                                                        |
| 37        |                  | 221                 | GCRCD welcomes helpful suggestions from the LAFCO review. Charging fees for services would definitely help the District to function more smoothly.                                                                                                                                                                                                                                                                                                                                                                                                   | Comment noted.                                                                                                                                                                       |
| 38        |                  | 222                 | As recommended by the California Resource Conservation District Directors' Handbook, the GCRCD seeks to "anticipate unexpected costs" and build "a financial cushion and even a reserve into the budget."                                                                                                                                                                                                                                                                                                                                            | Comment noted.                                                                                                                                                                       |

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| Comment # | Commenter/Agency | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                                                                                      | Response                                                                                                                                                                                                                                                                                                                        |
|-----------|------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 39        |                  | 222                 | GCRCD takes advantage of its long-term, low-cost office, which is centrally located for District constituents                                                                                                                                                                                                                                                                | Comment noted.                                                                                                                                                                                                                                                                                                                  |
| 40        |                  | 221                 | GCRCD Directors are appointed by the County Board of Supervisors. Accountability to the public therefore is similar to that of other agencies and commissions appointed by elected officials.                                                                                                                                                                                | Content added regarding state law on appointment of governing body members.                                                                                                                                                                                                                                                     |
| 41        |                  | 223                 | Reorganization with SCVWD: duplication of services does not occur because there are differing mandates regarding the Water District and the GCRCD. While the SCVWD's primary functions are water provision and flood control, the GCRCD is guided by its mandates to protect and conserve soil, water and the wildlife resources and their habitat.                          | The SCVWD enabling act does not prioritize the District's three primary functions: water provision, flood control and watershed stewardship. GCRCD's authorized services per its enabling act to protect and conserve soil and wildlife resources differ from the functions of the SCVWD, as stated in the MSR. No change made. |
| 42        |                  | 223                 | Merger of the GCRCD with the SCVWD would not be a cost-effective action. Compared with SCVWD's \$1.7 billion of assets, and the billions it spends on capital improvement projects, the budget of the GCRCD is extremely minimal. GCRCD appreciates the stated concern about lack of certainty as to how the property tax funding would be used if the GCRCD were dissolved. | Comment noted.                                                                                                                                                                                                                                                                                                                  |
| 43        |                  | 228                 | The GCRCD welcomes the LAFCO determination of maintaining a coterminous SOI for GCRCD. GCRCD suggests a reconsideration of the SOI in about a year, December 2012, to allow for submittal and receipt of grants through RFPs and to allow agency implementation of many of the excellent review suggestions.                                                                 | Comment noted.                                                                                                                                                                                                                                                                                                                  |



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| Comment # | Commenter/Agency                   | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                                                                                      | Response                                                                                                                                                                                                                                                                               |
|-----------|------------------------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 44        | Libby Lucas, former GCRCD director | 211                 | Disagree about duplication of services. In the past decade SCVWD has sought to take on the watershed resource stewardship role. However in the last legislative session of 2009-10 SCVWD is said to have sponsored and supported bill AB 2483 Regular Session which sought to have eliminated the purpose of 'environmental water resources stewardship' from the SCVWD Act. | AB 2483 is inactive. The most current language of AB 2483 does include authorization for the District to "Enhance, protect and restore the health of streams, waterways, riparian corridors, baylands, ecosystems, and natural resources..." AB 2483 Section 4 (d)(7). No change made. |
| 45        |                                    | 211                 | In consideration of present challenging costs facing the SCVWD costs incurred by watershed stream stewardship must fall to insignificant levels.                                                                                                                                                                                                                             | While every agency has been impacted by the recent recession, SCVWD has budgeted \$28.2 million toward its watershed stewardship functions in FY 11-12. It does not appear to be likely that these numbers will decline to insignificant levels in the near future. No change made.    |
| 46        |                                    | 211                 | In addition, as the majority of acreage SCVWD reviewed for watershed and stream stewardship is in private ownership or public open space, this is predominately out of the control of the District and more in the advisory jurisdiction of cities and regulatory resource agencies.                                                                                         | SCVWD's enabling act states that the District is countywide. Ownership of the land within the district does not preclude SCVWD from providing services there. No change made.                                                                                                          |
| 47        |                                    | 211                 | GCRCD's mandate to conserve soil and water resource in an advisory capacity to landowners and open space park preserves should be able to be accomplished in an economical manner. There are very few tools for effective land management that have not been devised                                                                                                         | Commented noted.                                                                                                                                                                                                                                                                       |
| 48        |                                    | 223                 | RCD Board of Directors are volunteers and services are free. That alone should be high recommendation to retain the status quo of this conservation district.                                                                                                                                                                                                                | Commented noted.                                                                                                                                                                                                                                                                       |
| 49        |                                    | 211                 | The District's boundary extends over the eastern third of Santa Clara County that is Alameda Creek's upper watershed for Calaveras Reservoir and is entirely outside of the SCVWD jurisdiction.                                                                                                                                                                              | SCVWD's enabling act states that the District is countywide.                                                                                                                                                                                                                           |



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| Comment # | Commenter/Agency                   | Report Page/Section                   | Comment                                                                                                                                                                                                                                                                                                                                                                                                     | Response                                                                                                                                           |
|-----------|------------------------------------|---------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| 50        |                                    | 211                                   | Contributed historical facts as to coldwater fishery issues that still remain unresolved and the role of GCRCD.                                                                                                                                                                                                                                                                                             |                                                                                                                                                    |
| 51        | SCVWD, Jim Fiedler                 | 223                                   | Supporting key findings, particularly that consolidation of GCRCD and SCVWD could provide greater efficiency.                                                                                                                                                                                                                                                                                               | Commented noted.                                                                                                                                   |
| 52        |                                    | 228                                   | Concur that GCRCD SOI recommendation.                                                                                                                                                                                                                                                                                                                                                                       | Commented noted.                                                                                                                                   |
| 53        |                                    | 194                                   | Agree with findings regarding PPWD's need to improve governance, finance and operations.                                                                                                                                                                                                                                                                                                                    | Commented noted.                                                                                                                                   |
| 54        |                                    | 203                                   | Support investigation into the reorganization of PPWD with SCVWD and SBCWD.                                                                                                                                                                                                                                                                                                                                 | Commented noted.                                                                                                                                   |
| 55        | City of Palo Alto, Nicholas Procos | 337                                   | The City of Palo Alto is a CUWCC signatory                                                                                                                                                                                                                                                                                                                                                                  | This content was already included in the City's chapter, and was added to the executive summary.                                                   |
| 56        |                                    | 157                                   | The description of the Purissima Hills contract with the SFPUC is not correct - the SFPUC supply limitation referenced in the report has several triggers before it will be triggered. It is also distinct from an agencies' contractual supply guarantee, though in some cases it does equal the supply guarantee. For more information on the subject, review Palo Alto's 2010 UWMP.                      | Description in document is accurate. Presentation has been corrected to accurately represent the situation under which the EEC would be triggered. |
| 57        |                                    | Public Hearing Presentation, Slide 27 | The City of Palo Alto is currently refurbishing 5 existing wells, drilling three new ones, and installing a new, 2.5 million gallon storage tank in El Camino park. Once complete, the City will be able to meet 8 hours of maximum day demand + fire flows in each pressure zone in the City. The slide doesn't capture this information correctly and doesn't make adequate comparison to other agencies. | These projects are described in detail in the City's chapter. No change made.                                                                      |
| 58        |                                    | Public Hearing Presentation           | No change to the document is requested. Clarification that while it is technically true that the City did have one reportable violation, the origin of the coliform is still the subject of debate. It is possible it may have originated outside of Palo Alto's system.                                                                                                                                    | Noted.                                                                                                                                             |

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| Comment # | Commenter/Agency                  | Report Page/Section | Comment                                                                                                                                                                                                                                                                                                           | Response                                                                                                                                                           |
|-----------|-----------------------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 59        |                                   | 340                 | Clarification regarding assistance provided by the Utility Advisory Commission to the City Council.                                                                                                                                                                                                               | Clarification added.                                                                                                                                               |
| 60        |                                   | 342                 | Substitute sentence to: Expenditures for the Water Fund are expected to increase in the future, mainly due to the increases in water supply costs and planned capital improvement projects.                                                                                                                       | Clarification added.                                                                                                                                               |
| 61        |                                   | 343                 | Delete sentence about drawdown from the Rate Stabilization Reserve Fund.                                                                                                                                                                                                                                          | Deleted.                                                                                                                                                           |
| 62        |                                   | 344                 | Clarification regarding increased expenditures financed by bond issued by the water utility.                                                                                                                                                                                                                      | Content added.                                                                                                                                                     |
| 63        |                                   | 346                 | Corrections in regards to financial reserves.                                                                                                                                                                                                                                                                     | Corrected.                                                                                                                                                         |
| 64        |                                   | 347                 | For details regarding SFPUC shortage allocation plan see City of Palo Alto 2010 UWMP instead of Drought Allocations section of Chapter 23, SFPUC.                                                                                                                                                                 | Drought allocation is discussed in detail within the SFPUC Chapter of the MSR. No change made.                                                                     |
| 65        |                                   | 348                 | Question about Chapter 26 of which document the sentence is referring to.                                                                                                                                                                                                                                         | The Water Service MSR.                                                                                                                                             |
| 66        |                                   | 350                 | The City did not check numbers in the report on how much water was sold in 2010, though the measurement of how close the City is to the supply guarantee is not retail sales to its customers, which does not include losses. The City suggests that amount the City purchases from the SFPUC is a better metric. | The amount purchased from SFPUC is discussed in the Water Supply section of this chapter. This section is intended to illustrate demand for water. No change made. |
| 67        |                                   | 355                 | Disagree that Water Enterprise Fund does not have sufficient financial reserves                                                                                                                                                                                                                                   | Wording changed to reflect that expenditures have exceeded revenues over the last 2 fiscal years.                                                                  |
| 68        |                                   | 355                 | Disagree that increased costs outpaced revenues                                                                                                                                                                                                                                                                   | As shown in Figure 14-5, expenditures have exceeded revenues in the last 2 fiscal years. No change made.                                                           |
| 69        | City of Milpitas, Kathleen Phalen | 276                 | Figure 11-1 incorrectly shows information for the City of Santa Clara. Substitute "Water and Sewer Utilities Department Contact Information" with "Utility Engineering Section Contact Information." Substitute Santa Clara contact and council info with Milpitas contact and council info.                      | Corrected.                                                                                                                                                         |
| 70        |                                   | 279                 | Substitute "adopted May 3, 2011" with "accepted by Council on February 15, 2011."                                                                                                                                                                                                                                 | Corrected.                                                                                                                                                         |
| 71        |                                   | 279                 | Substitute "principal" with "principle."                                                                                                                                                                                                                                                                          | Corrected.                                                                                                                                                         |

**Log of Comments**  
**Santa Clara Public Review Draft Countywide Water Service Review**

| Comment # | Commenter/Agency | Report Page/Section | Comment                                                                                                                                                                                                                                               | Response                                                                                                                                                           |
|-----------|------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 72        |                  | 282                 | Align "\$1,600,000" with other dollar figures.                                                                                                                                                                                                        | Corrected.                                                                                                                                                         |
| 73        |                  | 284                 | Substitute "SFPUC (55 percent)" with "SFPUC (60 percent)," "SCVWD (40 percent)" with "SCVWD (30 percent)," and "The remaining five percent is recycled water..." with "The remaining 10 percent is recycled water..."                                 | Corrected percentages to reflect numbers from 2010 as shown in Figure 11-4 from the City's UWMP (SFPUC 61 percent, SCVWD 32 percent and 7 percent recycled water). |
| 74        |                  | 285                 | Substitute "Utility Commission" with "Utilities Commission."                                                                                                                                                                                          | Corrected throughout document.                                                                                                                                     |
| 75        |                  | 285                 | Substitute "Plan" with "Plant."                                                                                                                                                                                                                       | Corrected.                                                                                                                                                         |
| 76        |                  | 293                 | Revise the paragraph to read "The City is a member of the Bay Area Water Supply and Conservation Agency (BA WSCA) and serves on a number of BA WSCA committees. Milpitas also collaborates with SCVWD and serves on a number of SCVWD subcommittees." | Added the word SCVWD.                                                                                                                                              |

## Log of Comments 2

### Santa Clara Revised Public Review Draft Countywide Water Service Review

| Comment # | Commenter/Agency                  | Page Section | Comment                                                                                                                                                                                                                                                                                                                    | Response                                                                                                                                                                                                   |
|-----------|-----------------------------------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1         | David Stubchaer, City of Gilroy   | 247          | The City provides emergency water to Gavilan College as requested.                                                                                                                                                                                                                                                         | Content added.                                                                                                                                                                                             |
| 2         |                                   | 251          | Water rates shown are only for one zone – other rates apply to other zones                                                                                                                                                                                                                                                 | Content added.                                                                                                                                                                                             |
| 3         |                                   | 258          | Samples are tested by an independent laboratory using the latest testing procedures and equipment.                                                                                                                                                                                                                         | Comment noted.                                                                                                                                                                                             |
| 4         |                                   | 258          | City has tested for perchlorate since February of 2003, with all results showing non-detect except at 3 Wells which are below the MCL. or City has tested for perchlorate since February of 2003, with all results showing non-detect except at 3 Wells which are less than 1/2 the MCL.                                   | Content added.                                                                                                                                                                                             |
| 5         | Kathleen Phalen, City of Milpitas | 264          | Remove Figure 11-1 as it pertains to the City of Santa Clara. Keep figure on page 265 as it correctly shows the information for the City of Milpitas.                                                                                                                                                                      | This figure was revised to reflect the City of Milpitas' information during the prior revision process. (The revised draft retains the former table until the change is accepted.) No further change made. |
| 6         |                                   | 266          | Replace "115.0 full time equivalent (FTE) positions" with "89 full time equivalent (FTE)positions"                                                                                                                                                                                                                         | Content corrected.                                                                                                                                                                                         |
| 7         |                                   | 280          | Revise last bullet in Status and Opportunities for Shared Facilities to read "The City is a member of the Bay Area Water Supply and Conservation Agency and serves on a number of BAWSCA committees. Milpitas also collaborates with the Santa Clara Valley Water District and serves on a number of SCVWD subcommittees." | Content revised.                                                                                                                                                                                           |
| 8         | James Fiedler, SCVWD              | 206          | Rephrase sentence to read: "In 2001, additional authority to protect stream, riparian corridors and natural resources preservation functions were added to SCVWD's enabling act,..."                                                                                                                                       | Content revised.                                                                                                                                                                                           |
| 9         | Richard Roos-Collins, GCRCD       |              | The District submitted a letter which is attached to this comment log. The primary points of the letter are summarized here to the extent possible with the related response or revision. Please refer to the District's letter for the specific wording of each comment.                                                  |                                                                                                                                                                                                            |



**Log of Comments 2**

**Santa Clara Revised Public Review Draft Countywide Water Service Review**

| Comment # | Commenter/Agency | Page Section | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                             | Response                                                                                                                                                                                                                                                                                                                       |
|-----------|------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10        |                  |              | A. The District is concerned by the proposed alternative whereby LAFCO may consider having the GCRCDC subsumed by the SCVWD, or may otherwise prevent the GCRCDC from engaging in watershed stewardship services. The District believes that such a consolidation would limit the range of potential conservation services that could be provided in the northern portion of the County in the future and would not best serve the public interest. | The District's concerns are noted in the report. No additional content added.                                                                                                                                                                                                                                                  |
| 11        |                  |              | B. While the District believes that it does not presently overlap services provided by SCVWD, it supports the recommendation for the GCRCDC to better identify and/or develop and implement conservation services that they are uniquely qualified to provide.                                                                                                                                                                                      | Comment noted.                                                                                                                                                                                                                                                                                                                 |
| 12        |                  |              | C. GCRCDC does not duplicate services with SCVWD. While both agencies work in the arena of watershed stewardship, GCRCDC serves the important function of environmental peer review for projects proposed and activities undertaken by the SCVWD.                                                                                                                                                                                                   | The District's functions are described in detail, including the peer review of SCVWD projects. Content added regarding the District's disagreement with the determination of duplication of services.                                                                                                                          |
| 13        |                  |              | D. The SCVWD only has 2 mandates: water supply and flood control, it <i>may</i> "enhance, protect, and restore streams, riparian corridors, and natural resources..." SCVWD §4(a).                                                                                                                                                                                                                                                                  | SCVWD's enabling act "authorizes" and does not mandate any of the functions that the District provides, including water management and flood protection. §4(c) of the District's act enumerates the functions that the District may take action to do. Text in the report revised to change the word "mandate" to "authorize." |
| 14        |                  |              | E. Additional description on the type and extent of services - watershed management                                                                                                                                                                                                                                                                                                                                                                 | Additional content added regarding GCRCDC's role in the administrative complaint against SCVWD in 1996.                                                                                                                                                                                                                        |



**Log of Comments 2****Santa Clara Revised Public Review Draft Countywide Water Service Review**

| Comment # | Commenter/Agency | Page Section | Comment                                                                                                                                                                                                                                                                                    | Response                                                                                                                                                                             |
|-----------|------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15        |                  |              | F. Additional description on the type and extent of services - flood plain management. The description diminishes the fact that the GCRCD's work has directly resulted in flood control projects environmentally superior to those initially proposed and in some cases approved by SCVWD. | Additional content added regarding GCRCDs role in the Downtown Guadalupe Flood Control Project, Upper Guadalupe Flood Control Project, and Lower Silver Creek Flood Control Project. |
| 16        |                  |              | G. GCRCD participates in the annual SCCCC creeks conference by having a table there where the GCRCD distributes information. The District also made a modest contribution to the expenses of presenting the conference.                                                                    | Content revised.                                                                                                                                                                     |
| 17        |                  |              | H. GCRCD has worked in the past to protect butterfly habitat.                                                                                                                                                                                                                              | Content revised.                                                                                                                                                                     |
| 18        |                  |              | I. The San Francisco Bay Area Livestock and Land Program was denied grant funding and is not active.                                                                                                                                                                                       | Content revised.                                                                                                                                                                     |
| 19        |                  |              | J. Add that list of collaborative agencies includes past collaborations as well.                                                                                                                                                                                                           | Content added.                                                                                                                                                                       |
| 20        |                  |              | K. It is not true that the District does not provide services to or receive services from other public agencies under contract as it undertakes activities in a collaborative manner.                                                                                                      | The collaborative nature of the District's activities does not speak to whether the District provides or receive contract services. No change made.                                  |
| 21        |                  |              | L. The District does not duplicate the SCVWD's efforts, rather it works to assure water supply and flood control services are implemented in an environmentally superior manner.                                                                                                           | Comment noted.                                                                                                                                                                       |
| 22        |                  |              | M. The report conflates separate actions which resulted in the FAHCE Settlement Agreement, redesign of the Downtown Guadalupe FCP and formation of the Guadalupe Watershed Integration Working Group.                                                                                      | Text clarified to reflect the various actions by GCRCD.                                                                                                                              |
| 23        |                  |              | N. SCVWD does not have a mandate to perform watershed stewardship and preservation functions rather it has discretion to perform such functions.                                                                                                                                           | All of SCVWD's functions are done at its discretion, including flood control and water management functions. Similarly, GCRCD provides these services at its discretion.             |

**Log of Comments 2**

**Santa Clara Revised Public Review Draft Countywide Water Service Review**




| Comment # | Commenter/Agency | Page Section | Comment                                                                                                                                                                                                             | Response                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------|------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 24        |                  |              | O. Disagree that the primary difference between the services provided by the 2 districts is that the GCRCD can act as a conduit for non-competitive federal funds through the NRCS that are not available to SCVWD. | Clarified that this is a significant difference in watershed stewardship services provided.                                                                                                                                                                                                                                                                                                                                                            |
| 25        |                  |              | P. The reserve balance does not equate to 28 months of operating expenditures.                                                                                                                                      | Content corrected.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 26        |                  |              | Q. GCRCD's budget is a fraction of SCVWD's.                                                                                                                                                                         | Comment noted.                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 27        |                  |              | R. Based on review of watershed maps, the Lower Peninsula and West Valley watershed should be divided further into multiple watersheds.                                                                             | As this is not a technical report, only the major watersheds are recognized here and not subdivided into subwatersheds. No change made.                                                                                                                                                                                                                                                                                                                |
| 28        |                  |              | S. The Revised report does not address the District's previous comment that anchor watersheds provide habitat that is critical to efforts to restore coldwater fisheries.                                           | Summary sentence on the importance of anchor watersheds added.                                                                                                                                                                                                                                                                                                                                                                                         |
| 29        |                  |              | T. GCRCD leases office space not a building.                                                                                                                                                                        | Content revised.                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 30        |                  |              | U. Given GCRCD's low operating costs, we do not believe dissolution or consolidation would provide comparable public benefits at the same or reduced cost.                                                          | The document identifies three general ways in which such a consolidation would be more cost effective 1) elimination of duplication of efforts, 2) by eliminating the governmental structure of one agency, a smaller portion of the available funding pool would be used for administrative purposes, 3) enhancing leveraging of property tax revenue. The marginal fiscal benefit of such a consolidation is also noted in the text. No change made. |
| 31        |                  |              | V. Given the significance of the proposed recommendation to subsume the GCRCD into the SCVWD organization, SCVWD should not have participated in the TAC for the County Service Review.                             | Comment noted.                                                                                                                                                                                                                                                                                                                                                                                                                                         |

**Log of Comments 2****Santa Clara Revised Public Review Draft Countywide Water Service Review**

| Comment # | Commenter/Agency | Page Section | Comment                                                                                                                                                                                                                            | Response       |
|-----------|------------------|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 32        |                  |              | W. GCRCD does not support consolidation with LPRCD but does support the recommendation that they explore further options to share resources and expertise and evaluate the potential to collaborate on achieving any common goals. | Comment noted. |





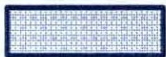
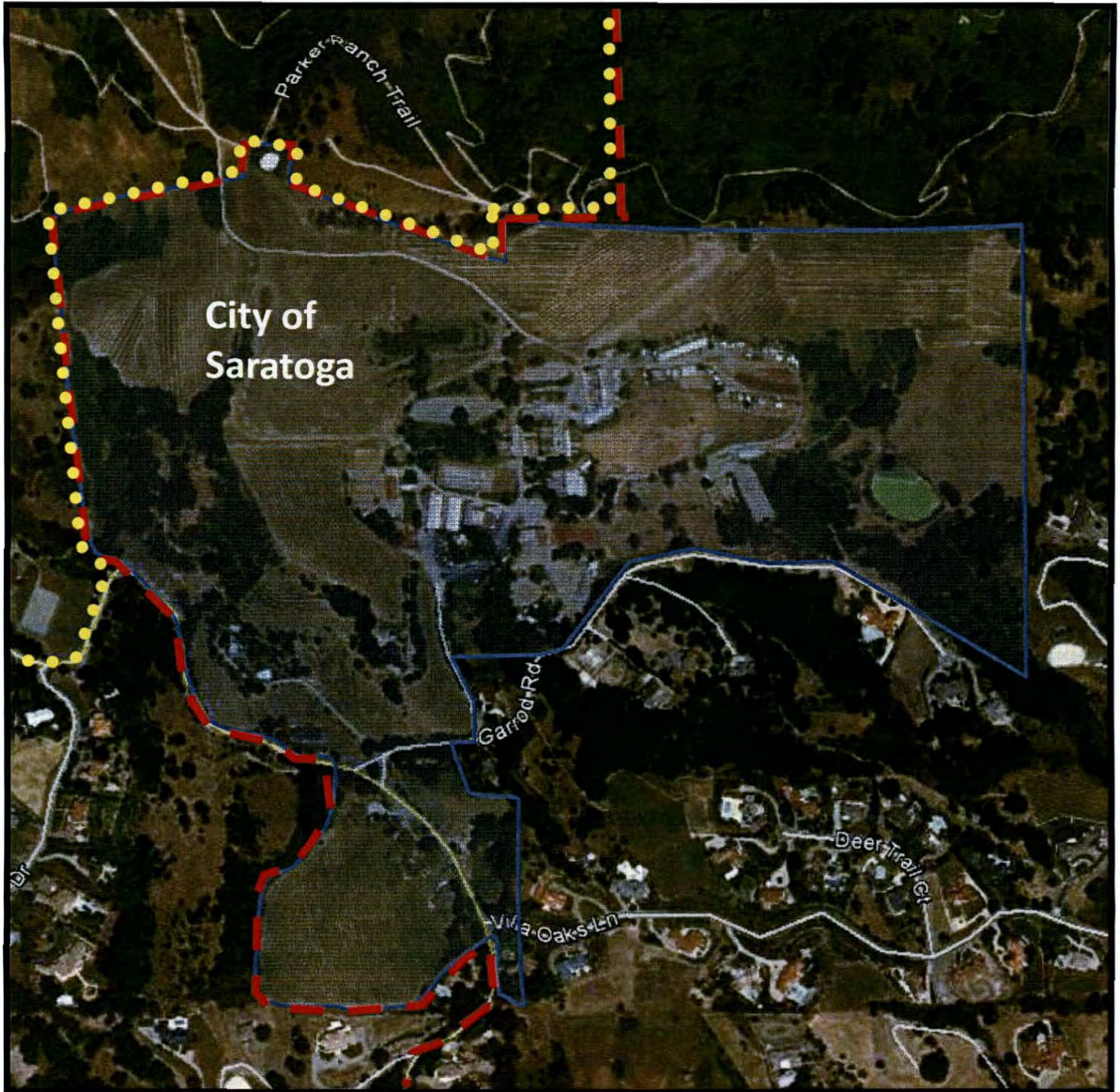
-  Garrod Properties
-  Urban Service Area
-  City Limits

## SARATOGA URBAN SERVICE AREA AMENDMENT 2011

Existing Conditions







Garrod Properties



Urban Service Area



City Limits

## SARATOGA URBAN SERVICE AREA AMENDMENT 2011

### Proposed Amendments



**CITY OF SARATOGA'S VOTER-ADOPTED LAND USE MEASURES AND GENERAL PLAN  
POLICIES AS RELATED TO THE  
ANNEXATION OF THE GARROD TRUST PROPERTIES**

The following polices demonstrate that the City of Saratoga has adopted effective measures to protect the agricultural status of the Garrod Trust properties.

**THE HILLSIDE SPECIFIC PLAN (Implementation of Measure A)**

The Hillside Specific Plan was adopted to meet the requirements of the voter-approved 1980 Measure A initiative which had the primary purpose "to conserve the City's natural rural character." The Plan has been incorporated into Saratoga's Land Use Element and the Garrod Trust properties are located within the Plan's boundaries.

**MEASURE G**

The voter-approved initiative Measure G (approved in 1996), incorporated in the Land Use Element, provides assurance by giving greater stability to the City's General Plan to protect residential and recreational open space areas in the City. This measure provides further evidence of the Saratoga electorate's intent and dedication to protect the rural character and beauty of its city.

**WILLIAMSON ACT CONTRACTS AND AGRICULTURAL PROTECTION**

Goal LU 7 of the Land Use Element of the General Plan is to "Protect existing agricultural resources and encourage their expansion." Among the Policies and Implementation Measures for this Goal which are relevant to the Garrod Trust Properties to be annexed are the following:

- Policy LU 7.1:** Encourage renewal and discourage cancellation of Williamson Act contracts to preserve agricultural lands.
- Policy LU 7.2:** Encourage agricultural and open space landowners to voluntarily protect their land.
- Policy LU 7.3:** Encourage agricultural use of suitable land with protection for nearby residences as appropriate.

**OPEN SPACE PROTECTION**

The Open Space Element specifically identifies as existing open space resources agricultural sites which are protected and restricted to agricultural or open space use only, as defined in the specific Williamson Act contracts applicable to the subject properties.

- Policy OSC 8.1:** In evaluating future land uses, efforts shall be made to maintain agricultural lands as a component of open space and to preserve the rural and agricultural heritage of Saratoga. The City shall discourage the cancellation of Williamson Act contracts.

**Implementation Measure OSC 8.a:** The City shall continue to apply the Agricultural



**LAFCO Meeting:** December 7, 2011  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, LAFCO Analyst  
**SUBJECT:** SARATOGA FIRE PROTECTION DISTRICT

## **STAFF RECOMMENDATION**

---

1. In order to inform the decision on whether or not to initiate dissolution of the Saratoga Fire Protection District (SFD) and annex its territory to the Santa Clara County Central Fire Protection District (CCFD), authorize staff to conduct a special study on the impacts of dissolution/annexation, including a detailed analysis of the cost savings and fiscal impacts.
2. Authorize staff to seek a professional service firm through a Request for Proposals (RFP) process to conduct the special study referenced above.
3. Delegate authority to the LAFCO Executive Officer to enter into an agreement with the most qualified consultant in an amount not to exceed \$8,000 and to execute any necessary amendments subject to LAFCO Counsel's review and approval.

## **BACKGROUND AND ANALYSIS**

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At the October 2011 LAFCO meeting, the Commission directed staff to provide a presentation to the Saratoga City Council regarding the potential dissolution of the Saratoga Fire Protection District in order to solicit input on the issue.

Staff provided a presentation to the Saratoga City Council on November 2, 2011. The City Council had several questions for LAFCO staff regarding the dissolution process and its impacts, such as who would bear the cost of elections, what would happen to assets of the dissolved district, how would the protest process work, how to ensure level of service does not change if district is dissolved, what are the benefits to the residents, what happens to the SFD directors after dissolution, is there confusion about who currently provides fire service in Saratoga, does CCFD have a role in the dissolution study or in LAFCO recommendations regarding service levels and costs, what is a zero sphere of influence, can SFD call its own election and so on. The Council discussed the issue at length and noted that the current model/process works well and should be given a chance to continue, that dissolution of the SFD will not provide any significant benefits or cost savings, that they find it valuable to have fire commissioners in the community and that if LAFCO conducts a study, then the City would be interested in reviewing it.

More background on this issue and detailed information regarding the dissolution process was provided in the October staff report which is included as Attachment A.

#### **NEXT STEPS**

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Upon Commission direction to proceed, staff will prepare a work plan and a Draft Request for Proposals for consultants to conduct a special study focused on the potential savings and impacts of dissolution of Saratoga Fire District and annexation to CCFD.

#### **ATTACHMENTS**

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Attachment A: LAFCO Staff Report on the Saratoga Fire Protection District from the October 5, 2011 Meeting.

**LAFCO Meeting:**     **October 5, 2011**  
**TO:**                     LAFCO  
**FROM:**                 Neelima Palacherla, Executive Officer  
                              Mala Subramanian, LAFCO Counsel  
**SUBJECT:**             **SARATOGA FIRE PROTECTION DISTRICT**

**STAFF RECOMMENDATION**

---

1. Direct staff to prepare a work plan for the potential dissolution of the Saratoga Fire Protection District and annexation of its territory to the Santa Clara County Central Fire Protection District under the current process which may require an election, and hire a consultant to conduct a special study to prepare a detailed analysis of the cost savings and fiscal impacts.

**BACKGROUND AND ANALYSIS**

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On December 15, 2010, LAFCO adopted the 2010 Countywide Fire Service Review which indicated that approximately \$118,000 in annual administrative costs could be reduced by dissolving the Saratoga Fire Protection District (SFD) and annexing its territory to the Santa Clara County Central Fire Protection District (CCFD). At that meeting, LAFCO also directed staff to pursue further research / analysis of this option and report back to the Commission. Staff has been in the process of preparing information on the dissolution process and meeting with the various affected agencies including the County of Santa Clara and the CCFD. Staff met with the chairperson of the SFD in June 2011 to discuss this issue.

In early August, AB 912 was signed into law by the Governor and effective January 1, 2012, would allow for a more streamlined approach to dissolutions by eliminating requirements for election. Soon after, we received correspondence from the SFD's Counsel expressing the SFD's strong opposition to its dissolution and alleging that LAFCO cannot utilize AB 912 to dissolve the SFD. (See Attachment A for the letter)

Upon further review and research into the bill, we believe that a strong argument can be made that AB 912 only applies to dissolutions and therefore, should not be utilized by LAFCO for proposals which involve dissolution of a district followed by annexation to another district.

The Commission however, may choose to proceed with initiation of the dissolution under the regular LAFCO process, which may require an election.



The following is a summary of key steps necessary in a LAFCO initiated dissolution of a district with concurrent annexation to another district.

### **LAFCO Initiation & Determinations**

Dissolution may be initiated by a petition of landowners or voters, by a district, or by LAFCO. LAFCO may initiate a dissolution or a reorganization which includes a dissolution only if the proposal is consistent with a conclusion or recommendation in the service review, sphere of influence update or special study and the Commission makes both of the following determinations required in Government Code § 56881. [GC §56375(a)(2)(F) & (a)(3)]:

1. Public service costs of the proposal is likely to be less than or substantially similar to the costs of alternative means of providing the service.
2. The proposal promotes public access and accountability for community services needs and financial resources.

While the 2010 Countywide Fire Service Review contained information regarding this issue and concluded that the dissolution of the SFD and annexation to the CCFD would result in annual administrative cost savings in the amount of \$118,000, additional analysis is required to verify the data, address issues regarding the district's assets and liabilities in detail, and make the necessary findings. A detailed analysis of the cost savings and fiscal impacts will require review of the agencies' financial statements and audits by an independent expert. Staff recommends that LAFCO retain an independent financial consultant to prepare this analysis. It is anticipated that the cost could be approximately \$10,000, and should not exceed \$15,000 for such review, analysis and report / statement.

### **Property Tax Exchange**

For jurisdictional changes that would affect one or more special districts, pursuant to Revenue and Tax Code §99(b)(5), the County Board of Supervisors are required to establish the amount of property tax transfer between the affected special districts. Because this proposal involves the dissolution of SFD and annexation of its territory to CCFD, the key decision would be to establish how much property tax allocation CCFD should receive. CCFD, upon taking over the service responsibility from SFD, is expected to receive the same portion of the 1% tax allocation as SFD was receiving and it is expected that no other agency would be affected by this transfer.

### **LAFCO Public Hearing and Protest Proceeding**

LAFCO is required to hold a public hearing and provide appropriate notice on the proposed dissolution / reorganization proposal. At the hearing, LAFCO may approve, deny or approve with terms and conditions and set a date for holding a protest proceeding in the affected territory. Based on the level of written protest received at the

protest proceeding, the proposal may be terminated, ordered without election or be subject to an election.

#### **Election may be Required**

The proposal is terminated if written protest is received from 50% or more of the voters residing in the territory. [GC §57078]

If protest is received from at least 10% of the number of landowners within the district's affected territory who also own 10% of assessed value of land within the territory or from at least 10% of registered voters in the district's affected territory, then an election is required. [GC §57113(a)(1)&(b)]

The proposal is ordered without election if it does not meet the above listed protest thresholds. [GC §56854(a)(3)]

In the case of a dissolution proposal initiated by LAFCO, AB 912 eliminates the requirement for an election – that is, the proposal is terminated if majority protest exists and the proposal is ordered without an election if majority protest does not exist.

Flow charts depicting the regular dissolution process and the AB 912 streamlined process are attached. (See Attachment B and Attachment C)

#### **NEXT STEPS**

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Upon Commission direction to proceed, staff will prepare a work plan and a Draft Request for Proposals for consultants to prepare a special study focused on the potential savings and impacts of dissolution of Saratoga Fire District and annexation to CCFD.

#### **ATTACHMENTS**

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- Attachment A: Letter dated August 16, 2011, from Harold S. Toppel, District Counsel for the Saratoga Fire Protection District.
- Attachment B: Flow Chart for LAFCO Initiated Dissolution with Concurrent Annexation
- Attachment C: Flow Chart for LAFCO Initiated Dissolution under AB 912

Attachment A

**ATKINSON • FARASYN, LLP**

ATTORNEYS AT LAW

660 WEST DANA STREET

P.O. BOX 279

MOUNTAIN VIEW, CALIFORNIA 94042

TELEPHONE (650) 967-6941

FACSIMILE (650) 967-1395

REPLY TO:

HAROLD S. TOPPEL

J.M. ATKINSON (1892-1982)

L.M. FARASYN (1915-1979)

August 16, 2011

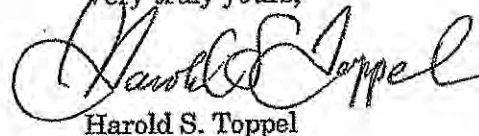
Neelima Palacherla  
Executive Officer  
Santa Clara County LAFCO  
70 West Hedding Street  
11<sup>th</sup> Floor  
San Jose, CA 95110

Re: Saratoga Fire Protection District  
Request for Special Notice

Dear Ms. Palacherla:

Pursuant to Government Code Section 54954.1, request is hereby made for a copy of the agenda for any regular or special meeting of the Santa Clara County Local Agency Formation Commission which contains any item pertaining to the Saratoga Fire Protection District. The copy should be mailed to the undersigned at the above address.

Very truly yours,



Harold S. Toppel

cc: Saratoga Fire District

**ATKINSON • FARASYN, LLP**

ATTORNEYS AT LAW

660 WEST DANA STREET

P.O. BOX 279

MOUNTAIN VIEW, CALIFORNIA 94042

TELEPHONE (650) 967-8941

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REPLY TO:

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August 16, 2011

Neelima Palacherla  
Executive Officer  
Santa Clara County LAFCO  
70 West Hedding Street  
11<sup>th</sup> Floor  
San Jose, CA 95110

Re: Saratoga Fire Protection District

Dear Ms. Palacherla:

The undersigned is the District Counsel for the Saratoga Fire Protection District ("the District" or "SFD").

The District's Board of Directors has been advised by its Chairman, Joe Long, that he recently met with you, at your request. It would appear that you requested this meeting for the purpose of discussing the possible consolidation of SFD with the Santa Clara County Central Fire Protection District ("CCFD"). It is my understanding that during this meeting you referred to Assembly Bill No. 912, which amends Section 57077 of the Government Code to expand the power of LAFCO to order the dissolution of a special district without first obtaining a request for dissolution by the governing body of the district and without a vote by the residents of that district. As you probably know, AB 912 has now been passed by the Legislature and was signed into law by the governor on July 25, 2011. Since it was not enacted as an urgency measure, it will take effect on January 1, 2012.

It is unclear to the SFD Board of Directors whether your meeting with Mr. Long was simply a preliminary inquiry to determine whether the District had any interest in exploring the possibility of consolidation with CCFD, or whether this meeting was an advance, informal notice of an intention by LAFCO (or its staff) to initiate proceedings for dissolution of SFD pursuant to Section 57077, as amended by AB 912. If only an inquiry was intended, we are informed that Mr. Long stated unequivocally that SFD had no interest whatsoever in dissolving itself and consolidating with CCFD. Mr. Long further stated to you that any attempt by LAFCO to initiate a dissolution would be vigorously opposed by the District and its many supporters in the community. I should remind you that when the District went to its constituents for approval of assessments to finance construction of its new fire station, the measure received over 88% approval by the voters.



Although the District's opposition to an involuntary dissolution has been clearly communicated, we feel it is necessary to offer some additional comments on AB 912, just in case serious consideration is still being given to a LAFCO initiated dissolution of SFD. For starters, it should be noted that the Saratoga Fire District does not fit the description of a special district suitable for dissolution pursuant to AB 912. As stated by the Senate Rules Committee Office of Senate Floor Analyses, AB 912 is intended to facilitate dissolution of "identified vestigial districts that linger because no one wants to take the time to get rid of them." The SFD can hardly be classified as "vestigial." It is actively conducting its business, as it has done for the last 88 years. No desire to dissolve the District has been expressed by the SFD Board, the residents of the District, or the CCFD Board. During his recent meeting with you, Mr. Long asked what actual benefits the residents of the District would obtain from a dissolution of SFD. He received no response.

It is our understanding that LAFCO has not consulted with CCFD concerning a proposal to dissolve SFD. We assume you are aware of the fact that a dissolution is not the same thing as a consolidation and each has a different definition in the Act (compare §56030 and §56035). AB 912 only applies to dissolutions and does not give LAFCO the power to order a consolidation or merger of the special district being dissolved with any other special district or the annexation of its territory to any other district. This is consistent with the presumption inherent in AB 912 that only the "vestigial" remains are being dissolved of a special district that is no longer actively performing any governmental functions – which certainly is not the case with regard to the SFD.

Government Code Section 57077 is part of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §§56000 et seq.) ("the Act"). A careful analysis of Section 57077, as now amended by AB 912, shows that LAFCO cannot simply adopt a resolution to dissolve a special district. Commission initiated proceedings for dissolution must be consistent with prior action of the Commission pursuant to Section 56378 [service area study], 56425 [sphere of influence], or 56430 [service review]. §57077(b). To satisfy this requirement, we assume you would be relying upon the 2010 Countywide Fire Service Review Report as constituting such "prior action." However, as you may recall, the SFD raised numerous objections to the draft Report, as set forth in a letter to LAFCO dated October 18, 2010, a copy of which is enclosed for your reference. The defects mentioned in our letter were not corrected in the final Report and we still consider that Report to be factually and legally flawed.

Since a dissolution of SFD would not be initiated by the District Board, it would necessarily be a commission-initiated proceeding governed by paragraph (b)(2) of Section 57077, which reads as follows (*italics added*):

- 2) If the dissolution is initiated by an affected local agency, *by the commission pursuant to Section 56375*, or by petition pursuant to Section 56650, order the dissolution after conducting at least one noticed public hearing, *and after conducting protest proceedings in accordance with this part*. Notwithstanding any other law, the commission shall terminate proceedings if a majority protest exists in

accordance with Section 57078. If a majority protest is not found the commission shall order the dissolution without an election.

So the starting point of a commission initiated dissolution proceeding would be Section 56375 of the Act. That Section requires adoption by the commission of a resolution of application for dissolution of a district. §56375(a)(2)(B). Subsection 56375(a)(3) would require that a dissolution proposal not only be consistent with the service review, but the commission must also make the determinations specified in Subsection 56881(b), which consist of both of the following:

- (1) Public service costs of a proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service; and
- (2) A change or organization or reorganization that is authorized by the commission promotes public access and accountability for community services needs and financial resources.

As stated in our objections to the draft service review, there is no evidence that dissolution of the District will result in any material cost savings. The District Board receives no compensation for its services and the functions now being performed by District employees would still need to be performed by a successor agency. Many of the District costs are fixed and cannot be reduced, such as debt service on its bond issue and the cost of owning and operating the newly constructed fire station.

Even if the commission purports to make finding No. (1), it is difficult to see how finding No. (2) can honestly be made. The District Board is comprised of elected members who reside in the District and are readily accessible to its residents. Board meetings are conducted monthly at the fire station and each regular meeting includes financial, service, and facility reports. The District's budget is determined by the District Board which exercises direct control over the cost and level of fire protection service provided to the community. The revenue and expenses of the District are not buried in some obscure location within a massive County budget. Persons having business with the District only need to attend a meeting in the immediate neighborhood rather than travel to the County Building. The District is not engaged in any other activity besides fire protection service and its Board is directly accountable to the community. How this existing access and accountability would be improved by a dissolution of the District is a question LAFCO has utterly failed to answer. The legal burden would be upon LAFCO to set forth substantial evidence to support finding No. (2) in the resolution of application and we do not believe that such burden can lawfully be sustained.

Should the commission adopt a resolution of application, the above-quoted language of Section 57077(b)(2) requires that protest proceedings be conducted "in accordance with this part." The term "this part" refers to all of Part 4 of the Act, consisting of Sections

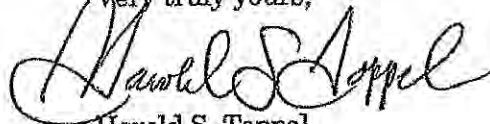
Neelima Palacherla  
August 16, 2011  
Page 4

57000 through 57204.<sup>1</sup> Notice of the protest hearing must be given not less than 21 or more than 60 days prior to the hearing. §57002. Even if the number of voters in the District exceeds 1,000 (which might then permit notice to be given by publication and posting only) we believe that the serious nature of the proposal dictates that notice be given by mail to each registered voter in the District. The protest hearing must be conducted within the territorial boundaries of the District. §57008. The notice must contain all of the information required by Section 57026 of the Act, including a statement of the manner in which and by whom the dissolution proceedings were initiated and the reasons for the proposed dissolution. We believe the requirements for adequate notice would obligate the commission to set forth the legal and factual justifications for the dissolution proceedings it has elected to initiate.

Subsection 57077(b)(2) states that the dissolution proceedings must be terminated if a majority protest exists in accordance with Section 57078 of the Act, which is 50% or more of the voters residing in the territory. However, AB 912 did not amend Section 56854 of the Act, which requires the conduct of an election "notwithstanding Section 57077" if written protests are filed that meet the requirements of Section 57113 of the Act, which is 10% of the registered voters. So what is the applicable percentage for a protest? We do not think the statement "notwithstanding any other law" contained in Section 57077 resolves the issue. It can be argued that these sections can be reconciled by an interpretation that they are not mutually exclusive, especially since Section 57077 is expressly excluded from the application of Section 56854. In other words, a 10% protest under Section 56854 will mandate an election but will not terminate the proceedings, whereas a 50% protest under 57078 will terminate the proceedings. In any case, if LAFCO seeks to pursue a dissolution of SFD, this may become a legal question for a court to resolve.

We hope the objections and legal issues raised in this letter will encourage LAFCO to discontinue any further consideration of initiating proceedings for dissolution of the Saratoga Fire District. If you have any questions concerning the foregoing, please feel free to contact me.

Very truly yours,



Harold S. Toppel  
District Counsel

cc: Board of Fire Commissioners  
LAFCO Commissioners

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<sup>1</sup> This language should negate the provision in Section 57000(a) that protest proceedings "not described in Section 57077" be conducted in accordance with Part 4. Consequently, all of Part 4 is applicable to dissolutions pursuant to Section 57077.





## SARATOGA FIRE DISTRICT

SERVICE SINCE 1923

October 18, 2010

LAFCO of Santa Clara County  
70 West Hedding Street  
11<sup>th</sup> Floor, East Wing  
San Jose, CA 95110

Re: Draft 2010 Countywide Fire Service Review Report

Dear Commissioners:

The Board of Fire Commissioners of the Saratoga Fire Protection District ("SFD") has reviewed the Draft 2010 Countywide Fire Service Review Report ("the Report") and we would offer the following comments with regard to the sections of the Report dealing with SFD.

The Report makes a blanket assumption, with absolutely no factual support, that a dissolution of SFD and annexation of its territory to the County Central Fire Protection District ("CCFD") "would result in reduced administrative costs and would make accountability for service more transparent." (Section 1.4.3). Elsewhere in the Report, it is stated that consolidation of SFD with CCFD would produce estimated annual savings of \$188,000, but the Report contains no discussion as to how this number was determined.

Whether or not SFD is consolidated with CCFD, certain operating and administrative costs will be incurred and we seriously question the so-called "savings" that are assumed in the Report. Moreover, we strongly dispute the claim that a consolidation will increase accountability for service. The SFD has been an integral part of the community for 87 years. When a measure was placed on the ballot for voter approval of a bond issue to finance the construction of a new fire station, it received over 88% support by the voters. Persons having business with the District Board need only attend a regular meeting at the fire station and will be given primary attention, as opposed to being an incidental item of business on the large agenda of the County Board of Supervisors. The SFD budget is a separate document, adopted by the District Board and the financial status of the District is reported to the Board at each regular monthly meeting. The notion that greater "transparency" can be achieved by having the SFD revenue and expenses buried within a massive County budget simply defies common sense.

We cannot determine from the Report whether the recommendation is for a dissolution, consolidation, annexation or other proceeding, and we understand from our legal counsel that there are differences between these terms, but one common feature seems to be that if any such proceedings are initiated by LAFCO, they would be subject to protest and if sufficient protests are filed, an election must be conducted to obtain voter approval. Please keep in mind that neither the SFD or the CCFD has expressed any interest in dissolution of SFD or a consolidation of both districts. Since CCFD is a





## SARATOGA FIRE DISTRICT

SERVICE SINCE 1928

dependent district governed by the Board of Supervisors, we do not believe that consolidation is even a legal option. In any case, LAFCO will not be receiving a petition from the governing board of SFD requesting dissolution, annexation, consolidation or any other form of merger with CCFD. If LAFCO desires to pursue this course of action, it would have to be through a proceeding initiated by LAFCO, and should this occur, you can certainly expect very strong opposition from SFD. We believe that such LAFCO-initiated proceedings would also be opposed by CCFD.

In the past, concerns have been expressed over the fact that two separate districts were providing fire protection service for the City of Saratoga. With the transfer of SFD employees to CCFD and the establishment of a unified command along with a Service Agreement between SFD and CCFD, these concerns have been eliminated. However, the continued existence of SFD still provides a point of local contact and control over the cost and level of service and the availability of a governing body that can be responsive to community needs and requests regarding its fire protection service. Yet the Report completely ignores these continued benefits.

We have no objection to the establishment of a zero sphere of influence for SFD. However, it does not logically follow that because the District has no SOI it should therefore be dissolved, as suggested in Section 7.4.3 of the Report. The District has never existed for the purpose of annexing territory within an adjacent SOI; it was established to provide fire protection service within its own territory and is still serving that function 87 years later and does not require an SOI to do so.

Since the Report is only in draft form, we request that all references to the dissolution, consolidation, or annexation of SFD and its merger with CCFD be deleted from the final report.

Very truly yours,

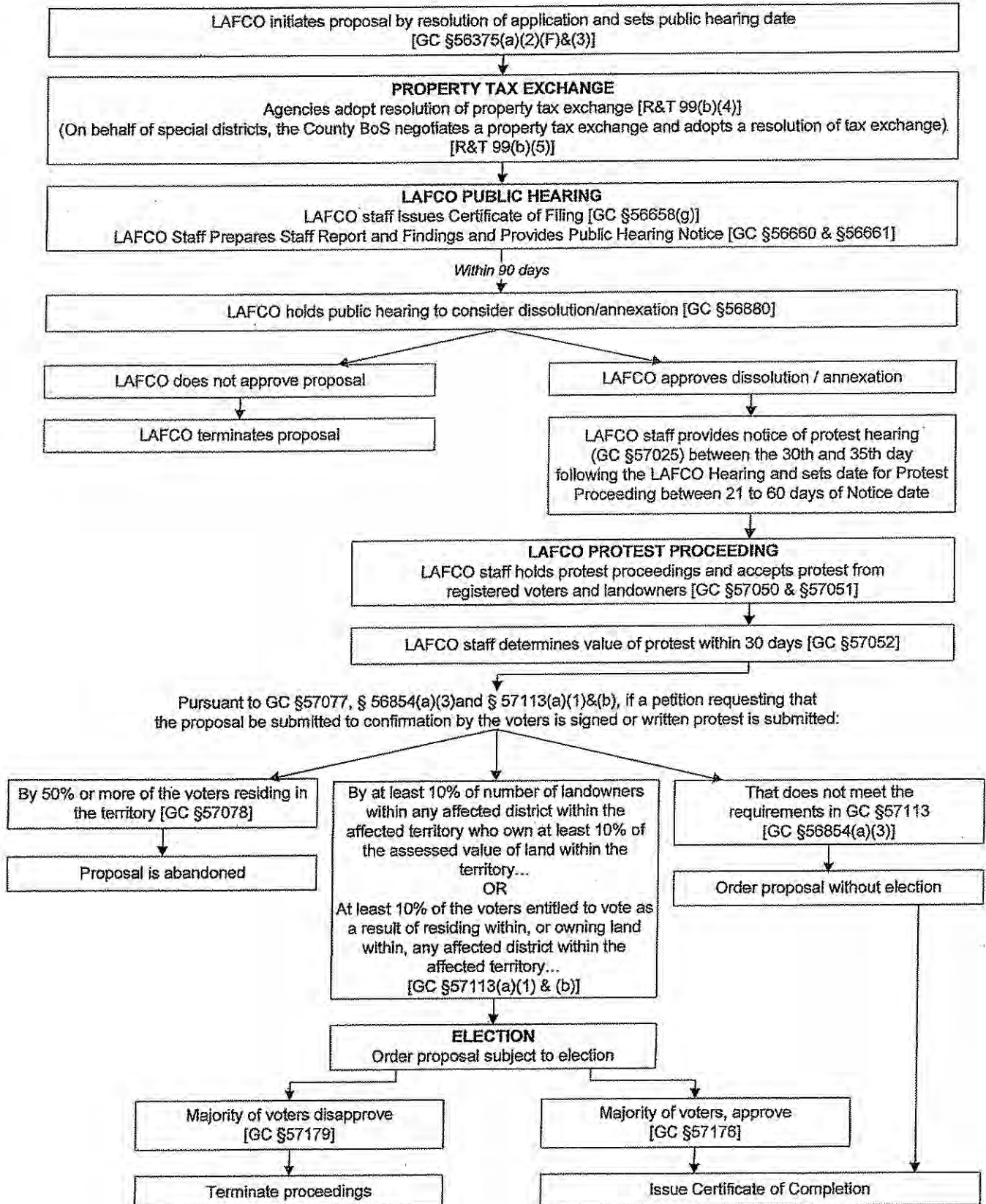
SARATOGA FIRE PROTECTIO DISTRICT

By: \_\_\_\_\_

  
Joe Long, Chairman

cc: Board of Fire Commissioners

**LAFCO-Initiated Dissolution with Concurrent Annexation  
GC §56375(a) (2)(F) & (3)**

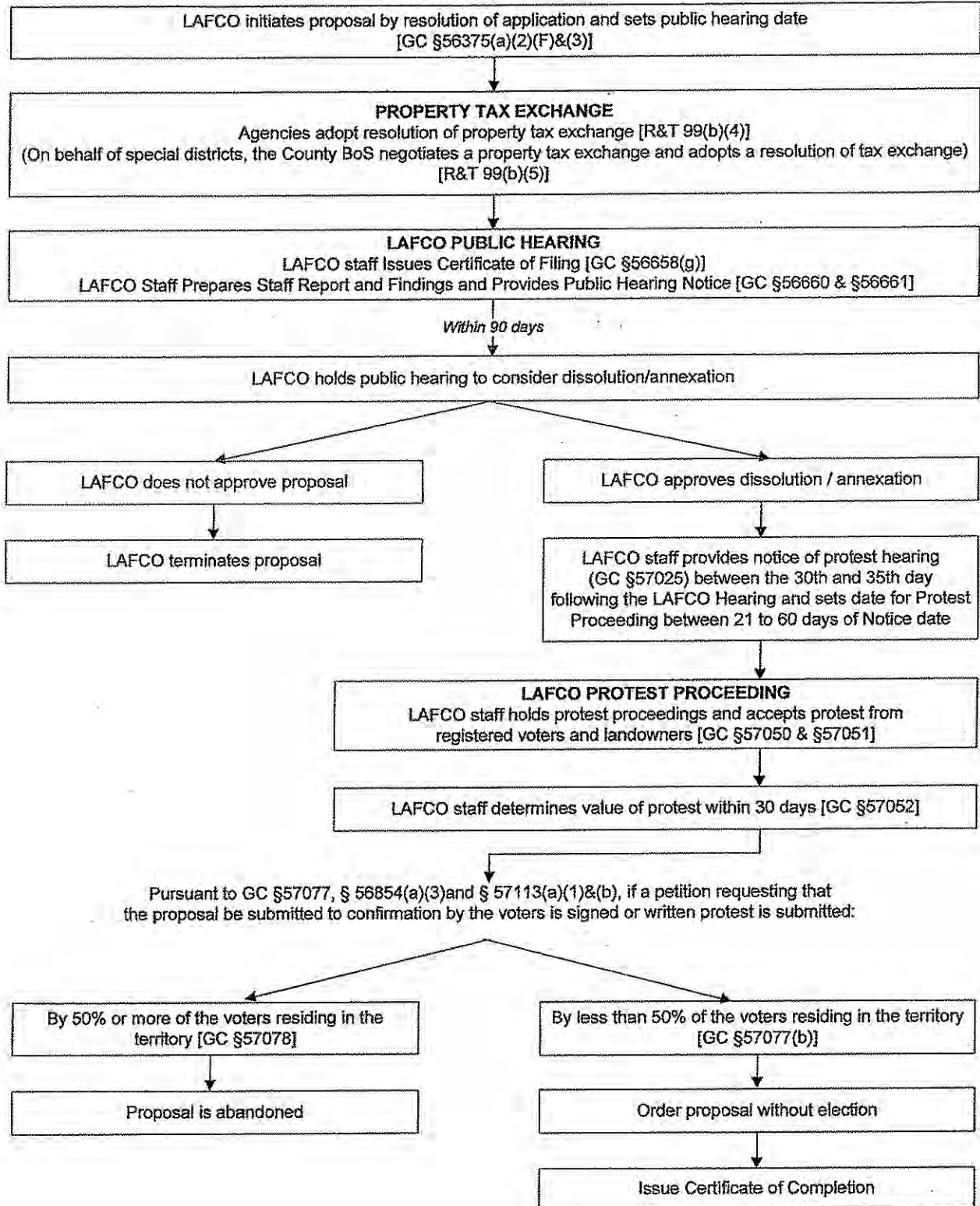


**Attachment C**

**LAFCO-Initiated Dissolution Under AB 912**

**GC §56375(a) (2)(F) & (3) and §57077(b)\***

\*Effective January 1, 2012





**LAFCO MEETING: December 7, 2011**  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT: EL CAMINO HOSPITAL DISTRICT AUDIT & SERVICE REVIEW**

## **STAFF RECOMMENDATIONS**

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1. Accept staff report and provide further direction to staff, as necessary.

## **AUDIT AND SERVICE REVIEW OF EL CAMINO HOSPITAL DISTRICT (ECHD)**

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On October 10, 2011, LAFCO released a Request for Proposals (RFP) for a professional services firm to prepare an audit and service review of the El Camino Hospital District. The consultant selection committee selected Harvey M. Rose (HRM) as the consultant for LAFCO's project. Staff is in the process of finalizing a contract with HRM who will begin their work soon. LAFCO staff will inform the ECHD and set up an initial meeting with HRM. It is expected that LAFCO's ad-hoc committee, consisting of Commissioners Abe-Koga and Vicklund Wilson, will meet periodically with LAFCO staff and the consultants to discuss the progress of the project and to provide advice as needed. The Audit and Service Review of the El Camino Hospital District should be completed by August 2012. LAFCO staff will provide updates to the Commission on this project as it progresses.

Also, attached for your information are two letters:

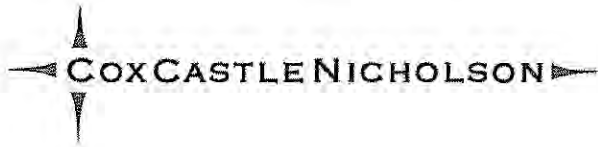
- Letter from El Camino Hospital District (see Attachment A) responding to LAFCO's request for information regarding local health care districts in California, particularly those that, like El Camino Hospital District, have leased or sold their hospital facilities to for-profit or nonprofit health systems
- Letter from El Camino Hospital (see Attachment B) informing LAFCO of the Hospital's intent to respond to a Santa Clara County Request for Proposals for purchase of real property for two properties that are currently owned by the County and are located in the vicinity of the Los Gatos campus of El Camino Hospital. The letter also states that if the Hospital is the successful bidder, the District will not fund the purchase, operation or maintenance of these properties.

## **ATTACHMENTS**

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- Attachment A: Letter from Gregory Caligari on behalf of the ECHD (dated 11/4/2011)  
Attachment B: Letter from Ken King, Chief Administrative Services Officer, ECHD (dated 11/10/2011)





**AGENDA ITEM #8  
ATTACHMENT A**

Cox, Castle & Nicholson LLP  
555 California Street, 10<sup>th</sup> Floor  
San Francisco, California 94104-1513  
P 415.392.4200 F 415.392.4250

Gregory B. Caligari  
415.262.5111  
gcaligari@coxcastle.com

November 4, 2011

File No. 62721

**BY EMAIL (.PDF)**

Santa Clara County Local Agency Formation Commission  
70 West Hedding Street  
11th Floor, East Wing  
San Jose, CA 95110

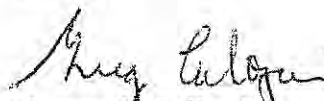
Attention: Neelima Palacherla, Executive Officer  
(Neelima.Palacherla@ceo.sccgov.org)

Re: El Camino Hospital District – Response to Request for Information Re Local  
Health Care Districts

Dear Ms. Palacherla:

As requested by Chairperson Kniss, attached please find a document being submitted on behalf of the El Camino Hospital District containing information regarding other local health care districts in California, particularly those that, like the El Camino Hospital District, have leased or sold their hospital facilities to for-profit or nonprofit health systems. We hope you find this information helpful. Please do not hesitate to contact me if you have any comments or questions regarding the attached document.

Sincerely,



Gregory B. Caligari

62721\4118367v1

cc: (by email)

Emmanuel Abello, LAFCO Clerk (Emmanuel.Abello@ceo.sccgov.org)

Malathy Subramanian, LAFCO Counsel (Malathy.Subramanian@bbklaw.com)

El Camino Hospital District  
Information Re Local Health Care Districts  
As Requested by Santa Clara County LAFCO  
November 4, 2011

A. Laws Applicable to Local Health Care Districts.

According to the Association of California Healthcare Districts, districts originated in 1946 in the aftermath of World War II in response to an acute hospital bed shortage. The Legislature responded by enacting the Local Hospital District Act (now the "Local Health Care District Law," Health & Safety Code §§ 32000, *et seq.*) which authorized communities to form special districts and impose property tax assessments, with voter approval, to help subsidize the construction and operation of hospitals and other health care facilities to meet local needs. District directors are elected officials whose mission is to promote the health and welfare of the residents of the communities serviced by the district. In 1993, the State legislature amended hospital district enabling legislation renaming hospital districts "health care districts" and expanding the definition of health care facilities to reflect changes in medical practice in which health care was increasingly being provided through outpatient services (and clarifying that any reference in any statute to a "hospital district" is deemed to be a reference to a "health care district").

Local health care districts are unique in that, because of the type of services provided, the people served by district facilities are not limited to the physical boundaries of the service area of the district. Unlike special districts that provide services limited by physical infrastructure within the boundaries of that district (e.g., sewer districts that provide wastewater collection and conveyance services based upon connections of wastewater facilities to property owners within such district's service area), district hospitals and other health care facilities provide services to people who elect to use those facilities whether or not those people reside within the service area boundaries of the health care district. This was recognized in the Santa Clara County LAFCO's 2007 Service Review of the El Camino Hospital District, which states that "[i]t should be noted that due to the type of services that are provided by the District, it does provide services to persons living outside of its boundaries." (*quotation from Section 15.1, but also noted in Sections 15.4, 15.8 and 15.9 of 2007 ECHD LAFCO Service Review.*)<sup>1</sup>

Local health care districts are also unique in that the enabling legislation providing for the formation of the districts expressly states that districts are authorized to operate both inside and outside the geographical limits of the districts. For example, Section 32121 of the Local Health

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<sup>1</sup> This has also been observed by other LAFCOs. For example, the 2011 Marin Healthcare District SOI Update prepared by the Marin County LAFCO states that the "use of property tax has been largely lost to healthcare districts [due to the passage of Proposition 13 in 1978] and health care district boundaries no longer determine their service area or role in provision of health services." The Marin County LAFCO also states in this SOI Update that "LAFCO's boundary setting authority is generally connected with land use planning, orderly local government relationships and the protection of the environment rather than regional or social services" and that "LAFCO's authority has little connection to healthcare services" other than in connection with the dissolution of health care districts. (*Page 4 of 2011 Marin Healthcare District SOI Update; see link to this SOI Update in Section C.5 below.*)

Care District Law, which enumerates the powers of local health care districts, provides that districts have and may exercise powers including the following:

(c) To purchase, receive, have take, hold, lease, use, and enjoy property of every kind and description *within and without the limits of the district*, and to control, dispose of, convey and encumber the same and create a leasehold interest in the same of the benefit of the district; and

(j) To establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to, outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities; or other health care programs, services, and facilities and activities *at any location within or without the district* for the benefit of the district and the people served by the district. (emphasis added)

The Local Health Care District Law also expressly provides that each local health care district shall have and may exercise the power “[t]o establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships for the benefit of the health care district.” (*Health and Safety Code § 32121(o)*) In addition, local health care districts are authorized to “transfer, at fair market value, any part of its assets to one or more nonprofit corporations to operate and maintain the assets” and to “transfer, for the benefit of the communities served by the district, in the absence of adequate consideration, any part of the assets of the district . . . to one or more nonprofit corporations to operate and maintain the assets.” (*Health and Safety Code § 32121(p)*) The Legislature’s stated reason for allowing such transfers is to permit local health care districts “to remain competitive in the ever changing health care environment.” (Stats.1985, ch. 382, § 5, No. 3 Deering’s Adv. Legis. Service, p. 953). Sections 32121.7 and 32121.8 of the Local Health Care District Law were enacted specifically in relation to the El Camino Hospital District transfer and ground lease of the El Camino Hospital campus located in Mountain View to El Camino Hospital, a California nonprofit public benefit corporation, pursuant to Health and Safety Code section 32121(p).

In addition, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code sections 56000 et seq. (the “Cortese-Knox Act”) includes provisions that uniquely apply to local health care districts formed pursuant to the Local Health Care District Law, including Government Code § 56131.5, which provides that:

Upon the filing of an application for the formation of, annexation to, consolidation of, or dissolution of a local hospital district created pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code or of an application for a reorganization including any of those changes of organization or the initiation by the commission of any of those changes of organization or any reorganization including any of those changes of organization, the commission shall notify all state agencies that

have oversight or regulatory responsibility over, or a contractual relationship with, the local hospital district that is the subject of the proposed change of organization or reorganization, of its receipt of the application or the initiation by the commission of the proposed change of organization or reorganization and the proposal, including, but not limited to, the following:

(a) The State Department of Health Services, including, but not limited to, Licensing and Certification and the Medi-Cal Division.

(b) The Office of Statewide Health Planning and Development, including, but not limited to, the Cal-Mortgage Loan Insurance Division.

(c) The California Health Facilities Financing Authority.

(d) The California Medical Assistance Commission.

A state agency shall have 60 days from the date of receipt of notification by the commission to comment on the proposal. The commission shall consider all comments received from any state agency in making its decision.

In addition, the Cortese-Knox Act provides that "Any order in any resolution adopted by the [LAFCO] on or after January 1, 1986, ordering the dissolution of a local hospital district, organized pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, is subject to confirmation by the voters." (*Government Code § 51073*) This year, California Assembly Bill No. 912 was passed and becomes effective January 1, 2012. This legislation, which modifies Government Code Section 57077 and streamlines the process for special district dissolutions by eliminating requirements for an election in certain circumstances, did not amend or eliminate Government Code Section 51073, and therefore does not eliminate election requirements related to dissolutions of local health care districts.

#### B. California SB 1240 (2010) -- Vetoed.

In situations where a local health care district has elected under the Local Health Care District Law to operate its facilities through one or more corporations, joint ventures, or partnerships, or has transferred any part of its assets to one or more nonprofit corporations, there is no requirement under California law that revenues or assets of any such corporation, joint venture or partnership must be used within the boundaries of the district.

That issue was specifically taken up by the California legislature in 2010 in the form of SB 1240 (which was ultimately vetoed by Governor Schwarzenegger). This legislation would have, with certain exceptions, required all revenues generated by a district facility or facilities that are operated by another entity, to be used exclusively for the benefit of a facility within the geographic boundaries of the district and owned by the district. The author of the bill stated that the legislation would have, among other things, prohibited private corporations that lease district hospitals from transferring assets out of the district or crediting operating losses of the district hospital against any purchase price.

The legislative history of SB 1240 provides helpful background information regarding issues being faced by health care districts in California. According to the author of SB 1240, due



to rapid changes in health care delivery, technology, and reimbursement, hospitals owned and operated by districts must compete with other health care providers in addition to complying with the state's hospital seismic requirements. The author stated that all of these factors have forced districts to ponder arrangements with nonprofit or for-profit entities in order to keep their districts solvent and maintain a strong presence in their communities. The author noted that, in some cases, district boards had entered into a contract with larger, private health care systems to manage the district hospitals which, in some cases, ended up with assets being transferred out of the district to the benefit of the contracting private health system.

The author cited as examples of the need for this legislation the 2007 agreement between the Eden Township Healthcare District in Alameda County and Sutter Health, under which Sutter obtained a right of first refusal to purchase San Leandro Hospital, and the right to first deduct their operating losses from the purchase price, and the agreement between Marin Healthcare District and Sutter Health, under which the author of the bill stated that \$90 to \$200 million was transferred from Marin General Hospital to Sutter over a two-year period. (Both of these arrangements are discussed further in Section C below.)

It is worth noting that the April 28, 2010 amendments to SB 1240 carved out exemptions for certain districts, including the El Camino Hospital District. The author of the legislation recognized that, in some cases, a district creates a nonprofit entity to operate its hospital, which it controls, rather than leasing to an outside nonprofit entity. The author noted that an example of this type of arrangement is the relationship between the El Camino Hospital District and the nonprofit entity that operates El Camino Hospital. The author stated that the hospital license in such an instance is held by the operating nonprofit entity and keeping the contractual arrangements in place greatly eases the transition and operations of the hospital. Otherwise, the author noted, all HMO contracts, labor agreements retirement programs, employee contracts, hospital licenses, etc., would have to be cancelled and remade.

Ultimately, as noted above, SB 1240 was vetoed by Governor Schwarzenegger, who stated that the bill would have limited the discretion of a local health care district when entering into a contract with another operating entity – and have the unintended consequence of reducing the incentive for such arrangements when hospitals are struggling to remain open. Governor Schwarzenegger stated that existing law already provided for balanced safeguards, and that the bill would have “disrupt[ed] the balance between local discretion by local elected officials and state policy for assuring access to health care” and therefore declined to sign the bill.

### C. California Local Health Care Districts.

As noted in the 2011 Marin Healthcare District SOI Update prepared by the Marin County LAFCO, since the inception of local health care districts, health care costs have increased and reimbursement from insurance and federal and state sources have become more restricted. Changes in costs and funding, advances in medicine and new approaches to medical business administration that have reduced the length of hospital stays has resulted in a shift of emphasis in health care practice to include both hospital operation and diverse outpatient services. District boards have become increasingly concerned about the ability of publicly operated districts to compete with managed care as well as their competitive ability to attract staffing. They have responded in some cases by divesting themselves of hospitals or, more

often, by forming partnerships with private hospital and clinic operators. (Page 5 of Marin Healthcare District SOI Update; see link to this SOI Update in Section C.5 below.)

According to the Association of California Healthcare Districts, as of 2010, there were 72 operating districts in California, 46 of which operate hospitals within their district boundaries. Eleven of the 72 have either leased or sold their hospital facilities to for-profit or nonprofit health systems but still provide or support health related services to the people served by their district. The remaining 15 districts provide health-related services to those served by their district through a variety of outpatient clinics and programs.

The eleven hospital districts that have leased or sold their hospital facilities to for-profit or nonprofit health systems consist of the El Camino Hospital District and the following other ten (10) hospital districts:

1. Desert Health Care District (Palm Springs). In 1986, the District Board leased hospital operations to an established medical facility provider and for the next decade, District revenues ran Desert Regional Medical Center. In 1997, the District voted to lease DRMC to Tenet Health Systems for 30 years, enabling the hospital to become part of a nationwide healthcare company. Today, Tenet runs the hospital while the District retains ownership of the lease as well other assets including Las Palmas Medical Plaza. Through the system implemented in 1998, much of the impact for District residents today results from programs and grants approved by the District. More than \$3 million/year is allocated for projects large and small improving the health of District residents. Desert Regional Medical Center appears to operate a related medical center, known as La Quinta Medical Center in La Quinta, which does not appear to be within the Desert Health Care District's boundaries. Tenant, as a large hospital operator, clearly provides healthcare services beyond the District's boundaries.

Information Sources:

District Web Site: [www.dhcd.org/index.php](http://www.dhcd.org/index.php)

Desert Regional Medical Center: [www.desertregional.com/en-US/Pages/default.aspx](http://www.desertregional.com/en-US/Pages/default.aspx)

Riverside County LAFCO: [www.lafco.org/opencms/index.html](http://www.lafco.org/opencms/index.html)

Service Review: None available

District Boundary Map: [www.dhcd.org/about/DHCD-boundaries.php](http://www.dhcd.org/about/DHCD-boundaries.php)

2. Eden Township Healthcare District (Alameda County). The community hospital, known then as the Eden Township Hospital, opened its doors on November 15, 1954. In 1997, the District entered into an agreement with Sutter Health to create a nonprofit corporation to operate the medical center. Since January of 1998, Eden Medical Center has operated as a private, nonprofit medical center and an affiliate of Sutter Health. The nonprofit corporation has an 11 member board of directors which includes the 5 District board members, 5 appointed members who live and work in the community and the CEO of Eden Medical Center. The District shares governance of Eden Medical Center, owns San Leandro Hospital, and oversees its Community Health Fund. Sutter operates San Leandro Hospital as a campus of the Eden Medical Center, leasing the facility from the District. It does not appear that the Medical Center or nonprofit corporation operates facilities outside the District's boundaries; however, Sutter as a large hospital operator clearly provides healthcare services beyond the District's boundaries.

Information Sources:

District Web Site: [www.ethd.org/default.aspx](http://www.ethd.org/default.aspx)

Eden Medical Center: [www.edenmedicalcenter.org/](http://www.edenmedicalcenter.org/)

Alameda County LAFCO: [www.acgov.org/lafco/](http://www.acgov.org/lafco/)

Service Review (2004): [www.acgov.org/lafco/msrcycle1.htm#edenhealth](http://www.acgov.org/lafco/msrcycle1.htm#edenhealth)

District Boundary Map: (See Service Review Link)

3. Fallbrook Healthcare District (Fallbrook). The District was established in 1950, opening the original 20 bed Fallbrook Hospital in 1960. In 1997, the District Board voted to begin utilizing a private operator to run the hospital, and after contracting with Columbia/HCA for a short period, entered into a long term agreement with Community Health Systems which began leasing the facility for 30 years after a District-wide election to do so was approved by 95% of voters. It does not appear that the District or hospital is providing health services outside the district boundaries; however, Community Health Systems, as a large hospital operator, clearly provides healthcare services outside of the District's boundaries.

Information Sources:

District Web Site: [www.fallbrookhealthcaredistrict.org](http://www.fallbrookhealthcaredistrict.org) (under construction)

Fallbrook Hospital: [www.fallbrookhospital.com/About/Pages/About%20Us.aspx](http://www.fallbrookhospital.com/About/Pages/About%20Us.aspx)

San Diego County LAFCO web site: [www.sdlafco.org/](http://www.sdlafco.org/)

Service Review (None posted): [www.sdlafco.org/Webpages/agency\\_maps\\_links.htm](http://www.sdlafco.org/Webpages/agency_maps_links.htm)

District Boundary Map: [www.sdlafco.org/images/11x17maps/HCD\\_Fallbrook.pdf](http://www.sdlafco.org/images/11x17maps/HCD_Fallbrook.pdf)

Web research: <http://home.znet.com/schester/fallbrook/history/hospital.html>

4. Grossmont Healthcare District (San Diego County). Founded in 1952, the District built the Grossmont Hospital which opened in 1955, which operated under the control of a publicly elected five member board of directors. In 1991, the District decided to turn over the hospital operations to Sharp HealthCare. The affiliation agreement included the establishment of the Grossmont Hospital Corporation, a nonprofit public benefit corporation, created as a subsidiary of Sharp. A lease between the District and the nonprofit corporation (Grossmont Hospital Corporation) for 30 years was entered into as well. Possession of the hospital and its assets was transferred to the corporation in exchange for payments on district bond indebtedness. In 2001, the lease was modified to give the District 5 seats on the nonprofit corporation board. While it is not clear whether Grossmont Hospital Corporation provides medical services outside the District boundaries, Sharp, as a large hospital operator, clearly does so.

Information Sources:

<http://www.grossmonthealthcare.org/>

<http://www.sharp.com/grossmont>

San Diego County LAFCO web site: [www.sdlafco.org/](http://www.sdlafco.org/)

Service Review (None posted): [www.sdlafco.org/Webpages/agency\\_maps\\_links.htm](http://www.sdlafco.org/Webpages/agency_maps_links.htm)

District Boundary Map: [www.sdlafco.org/Webpages/agency\\_maps\\_links.htm](http://www.sdlafco.org/Webpages/agency_maps_links.htm)

5. Marin Healthcare District (Marin County). Marin Healthcare District built Marin General Hospital (MGH), which opened in 1952. For 25 years the District operated Marin General Hospital. In 1981 the District built MGH's West Wing, adding 78 beds to the hospital. In 1985, the Marin Healthcare District Board entered into a 30-year lease of the Hospital to a



new nonprofit, Marin General Hospital Corporation. MGH Corp. affiliated with California Healthcare Systems soon after forming. Then in 1995, California Healthcare Systems merged with Sutter Health. In 2006, the Marin Healthcare District, Marin General Hospital Corporation, and Sutter Health, entered into a Settlement and Transfer agreement that returned control of Marin General Hospital to the District. On July 1, 2010, control of the hospital returned to the District, which became the sole member of the nonprofit corporation. The District is comprised of five elected members. None of them sit on the MGH Corp. board. Based on a review of the information sources below, it does not appear that Marin Healthcare District or the nonprofit corporation provides medical services outside of the District's boundaries; however, Sutter Health, as a large hospital operator, clearly provides healthcare services outside of the District's boundaries.

Information Sources:

District Web Site: [www.marinhealthcare.org](http://www.marinhealthcare.org)

Marin General Hospital: <http://www.maringeneral.org/>

Marin LAFCO Web Site: <http://lafco.marin.org/>

Service Review (2011)

<http://lafco.marin.org/studies/pdf/MarinHealthcareDistrictapprovedmsroi.pdf>

District Boundary Map (Included in service review)

6. Mark Twain Health Care District (San Andreas). Established in 1946, the Mark Twain Hospital District opened the Mark Twain Hospital in 1951. In 1990, Mark Twain Hospital District formed a partnership with St. Joseph's Regional Health System (an affiliate Catholic Healthcare West) in Stockton, creating Mark Twain St. Joseph's Healthcare Corporation. Catholic Healthcare West now oversees the management and operations of the hospital and its related services. CHW and SJRHS are both nonprofit public benefit corporations. Direction of the hospital is through the Board of Trustees of the of Mark Twain St. Joseph's Healthcare Corporation, consisting of seven members, three of whom are District board members, 2 members from CHW and two appointed members at large that are residents of Calaveras County. The MTSJ Healthcare Corporation provides healthcare services in a number of locations; based on the information available it is not possible to determine whether the services are all within the District's boundaries.

Information Sources:

District Web Site: [Does Not Exist]

Mark Twain St. Joseph's Hospital Web Site:

[www.marktwainhospital.org/Who\\_We\\_Are/History/index.htm](http://www.marktwainhospital.org/Who_We_Are/History/index.htm)

Calaveras County LAFCO Web Site:

[www.co.calaveras.ca.us/cc/Departments/Administration/LAFCO.aspx](http://www.co.calaveras.ca.us/cc/Departments/Administration/LAFCO.aspx)

Service Review:

[http://ccwgov.co.calaveras.ca.us/Portals/0/Archives/Admin/LAFCO/Studies/Public%20Health%20Care/Public\\_Health\\_Care\\_\(Draft\)2005.pdf](http://ccwgov.co.calaveras.ca.us/Portals/0/Archives/Admin/LAFCO/Studies/Public%20Health%20Care/Public_Health_Care_(Draft)2005.pdf)

District Boundary Map: (None located)

7. Mt. Diablo Health Care District (Concord). Formed in 1948, the district financed and built Mt. Diablo Community Hospital. In 1997 the District entered into an agreement with John Muir Medical Center that resulted in the transfer of the District assets to a new entity called



John Muir Health, a nonprofit provider of integrated health services. It appears that the organization provides healthcare services outside of the District's boundaries, operating a medical center, which is part of John Muir Medical Center, in Walnut Creek, among others.

Information Sources:

District Web Site: [www.mt Diablohealthcaredistrict.ca.gov](http://www.mt Diablohealthcaredistrict.ca.gov)

John Muir Health Web Site: [www.johnmuirhealth.com](http://www.johnmuirhealth.com)

Contra Costa County LAFCO Web Site: [www.contracostalafco.org/](http://www.contracostalafco.org/)

Service Review:

[www.contracostalafco.org/municipal\\_service\\_reviews/final%20healthcare%20services%20MSR%20report/HealthCare%20MSR%20Approved%208-8-07.pdf](http://www.contracostalafco.org/municipal_service_reviews/final%20healthcare%20services%20MSR%20report/HealthCare%20MSR%20Approved%208-8-07.pdf)

District Boundary Map:

[www.contracostalafco.org/municipal\\_service\\_reviews/final%20healthcare%20services%20MSR%20report/Mt%20Diablo%20Health%20Care%20District%20Boundary%20and%20Coterminous%20SOI%20Map.pdf](http://www.contracostalafco.org/municipal_service_reviews/final%20healthcare%20services%20MSR%20report/Mt%20Diablo%20Health%20Care%20District%20Boundary%20and%20Coterminous%20SOI%20Map.pdf)

8. Peninsula Health Care District (San Mateo). Established in 1947, the District constructed and opened Peninsula Medical Center in 1954. In 1985, the District leased the hospital, including all operations to Mills-Peninsula Health Services, a private nonprofit group that owned and operated Mills Health Center in San Mateo. In 1996 Mills-Peninsula Health Services joined Sutter Health, a nonprofit health system of 27 hospitals in Northern California. After considerable controversy and a lawsuit between the District and MPHS, a modified lease was signed for a new hospital financed with District bond funds in 2007. While Mills-Peninsula Health Services does not appear to provide healthcare services beyond the District's boundaries, Sutter Health, as a large hospital operator, clearly does so.

Information Sources:

District Web Site: [www.peninsulahealthcaredistrict.org/index.html](http://www.peninsulahealthcaredistrict.org/index.html)

Mills-Peninsula Medical Center: [www.mills-peninsula.org/](http://www.mills-peninsula.org/)

San Mateo County LAFCO Web Site: [www.co.sanmateo.ca.us/portal/site/lafco](http://www.co.sanmateo.ca.us/portal/site/lafco)

Service Review:

[www.co.sanmateo.ca.us/portal/site/lafco/menuitem.b02c2c656500bb1874452b31d17332a0/?vnextoid=ac919889e99a2210VgnVCM1000001937230aRCRD&cpsextcurrchannel=1](http://www.co.sanmateo.ca.us/portal/site/lafco/menuitem.b02c2c656500bb1874452b31d17332a0/?vnextoid=ac919889e99a2210VgnVCM1000001937230aRCRD&cpsextcurrchannel=1)

District Boundary Map: [www.peninsulahealthcaredistrict.org/about\\_boundaries.html](http://www.peninsulahealthcaredistrict.org/about_boundaries.html)

9. Petaluma Valley Hospital (Petaluma). The District owns Petaluma Valley Hospital and now leases its operations to St. Joseph's Health Care System of Sonoma County. The District remains an active landlord and advocate for the healthcare needs of the community. The operator is a nonprofit entity and ministry of the Sisters of St. Joseph of Orange. St. Joseph's Health Care System of Sonoma County provides health care services in many locations; based on the information available it is not possible to determine whether healthcare services are provided outside the District's boundaries. However, St. Joseph's Health System is a large hospital operator and so clearly provides healthcare services beyond the District's boundaries.

Information Sources:

District Web Site: <http://www.phcd.org/>

Petaluma Valley Hospital: [www.stjosephhealth.org/Facilities/Petaluma-Valley-Hospital/default.aspx](http://www.stjosephhealth.org/Facilities/Petaluma-Valley-Hospital/default.aspx)

Sonoma County LAFCO Web Site: [www.sonoma-county.org/lafco/](http://www.sonoma-county.org/lafco/)

Service Review: (None Posted)

District Boundary Map: (None Located)

10. Sequoia Health Care District (Redwood City). Formed in 1946, the District issued bonds and built Sequoia Hospital which opened in 1950. In 1996, District voters approved transfer of assets to a nonprofit public benefit corporation to be known as Sequoia Health Services in return for a \$30 million dollar payment from Catholic HealthCare West (CHW). Sequoia Health Services, consisting of the District and CHW, contracted with CHW to operate and manage the hospital. The original agreement with CHW gave the company the right to manage the hospital for a period of 30 years and the district the right to have 50% of the 10 votes on the hospital governing board, the right to approve changes in key services and the requirement that in the event of sale, all proceeds must be given to the District. It does not appear that Sequoia Health Services provides healthcare services outside of the District's boundaries; however, CHW as a large operator of hospitals clearly does so.

Information Sources:

District Web Site: [www.sequoiahealthcaredistrict.com/](http://www.sequoiahealthcaredistrict.com/)

Sequoia Hospital Web Site: [http://www.sequoiahospital.org/Who\\_We\\_Are/index.htm](http://www.sequoiahospital.org/Who_We_Are/index.htm)

San Mateo County LAFCO Web Site: [www.co.sanmateo.ca.us/portal/site/lafco](http://www.co.sanmateo.ca.us/portal/site/lafco)

Service Review:

[www.co.sanmateo.ca.us/portal/site/lafco/menuitem.b02c2c656500bb1874452b31d17332a0/?vgnnextoid=ac919889e99a2210VgnVCM1000001937230aRCRD&cpsexcurrchannel=1](http://www.co.sanmateo.ca.us/portal/site/lafco/menuitem.b02c2c656500bb1874452b31d17332a0/?vgnnextoid=ac919889e99a2210VgnVCM1000001937230aRCRD&cpsexcurrchannel=1)

District Boundary Map:

[www.co.sanmateo.ca.us/vgn/images/portal/cit\\_609/10670965sequoia-hospital-district.pdf](http://www.co.sanmateo.ca.us/vgn/images/portal/cit_609/10670965sequoia-hospital-district.pdf)

District Boundary Map: [www.sequoiahealthcaredistrict.com/about-us/basic-information/map/](http://www.sequoiahealthcaredistrict.com/about-us/basic-information/map/)

D. Conclusion.

We hope you find the above information helpful and responsive to Chairperson Kniss' request for additional information regarding other local health care districts in California, particularly those that, like the El Camino Hospital District, have leased or sold their hospital facilities to for-profit or nonprofit health systems.

As noted above, local health care districts are unique in that they provide services to persons living outside of their boundaries because of the type of services they provide. The Local Health Care District Act provides that districts have the authority to operate both inside and outside the geographical limits of the districts. There are also provisions of the Cortese-Knox Act that are unique to local health care districts formed pursuant to the Local Health Care District Act, including Government Code section 51073, which specifically requires voter confirmation of any LAFCO resolution ordering dissolution of a local health care district.

Where a local health care district's facilities are operated through a separate for-profit or nonprofit corporation, joint venture or partnership, there is no requirement under California law that revenues or assets of any such entity must be used within the boundaries of the district, and legislation that would have imposed such a requirement in certain circumstances was vetoed in 2010. There are numerous local health care districts in the State that have leased or sold their hospital facilities to for-profit or nonprofit health systems, including to some large hospital operators who provide healthcare services beyond the districts' boundaries.





**AGENDA ITEM #8  
ATTACHMENT B**



2500 Grant Road  
Mountain View, CA 94040-4378  
Phone: 650-940-7000  
www.elcaminohospital.org

November 10, 2011

**VIA E-MAIL (NEELIMA.PALACHERLA@CEO.SCCGOV.ORG)  
AND U.S. MAIL**

Neelima Palacherla, Executive Officer  
Santa Clara Local Agency Formation Commission  
70 West Hedding Street  
11th Floor, East Wing  
San Jose, CA 95110

Re: El Camino Hospital – Notice of Intent to Respond to Santa Clara County  
Requests for Proposals for Purchase of Real Property

Dear Ms. Palacherla:

El Camino Hospital, a California nonprofit public benefit corporation (“El Camino Hospital”) has received from Santa Clara County (the “County”) Requests for Proposals for Purchase of Real Property for the following two properties that are currently owned by the County and are located in the vicinity of the Los Gatos campus of El Camino Hospital:

(a) Former County Clinic Building and Vacant Property (a 3.34-acre portion of APN 406-28-032), 375 Knowles Drive, Los Gatos, California; and

(b) Los Gatos Courthouse (a 1.8-acre portion of APN 406-28-032), 14205 Capri Drive, Los Gatos, California.

In the interest of transparency, accountability and full disclosure, we are writing to inform the Santa Clara County LAFCO that El Camino Hospital plans to submit responses to these RFPs for the potential acquisition of these properties by El Camino Hospital.

We also want to reassure the Santa Clara LAFCO that the El Camino Hospital District will not fund the purchase, operation or maintenance of these properties (which are located outside the District’s existing service area boundaries) if El Camino Hospital is the successful bidder, just as the El Camino Hospital District has not funded the purchase, operation or maintenance of the Los Gatos campus of El Camino Hospital.

Please do not hesitate to contact me if you have any questions or comments or would like us to provide you with any additional information regarding this matter.

Sincerely,



Ken King  
Chief Administrative Services Officer  
El Camino Hospital

Cc: (by email)  
Emmanuel Abello, LAFCO Clerk (Emmanuel.Abello@ceo.sccgov.org)  
Michael Kay, El Camino Hospital (Michael\_Kay@elcaminohospital.org)  
Mitch Olejko, Esq., Buchalter Nemer (molejko@buchalter.com)  
Gregory B. Caligari, Esq., Cox Castle Nicholson (gcaligari@coxcastle.com)

**LAFCO MEETING:** December 7, 2011  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT:** LEGISLATIVE UPDATE

**STAFF RECOMMENDATION**

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Accept report and provide further direction to staff, as necessary.

**LEGISLATION OF PARTICULAR INTEREST TO SANTA CLARA LAFCO**

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The following four bills signed by the Governor (at the end of the first year of the 2011-2012 legislative session) are of significant interest to LAFCO of Santa Clara County.

**AB 1430 (Assembly Local Government Committee) – Cortese Knox Hertzberg (CKH) Omnibus Bill**

Along with several technical revisions to the CKH Act, this bill includes a major update to the CKH definitions to improve clarity and consistency in the Act.

**AB 912 (Gordon) - Special District Dissolution**

This bill provides LAFCO the authority to dissolve a special district under certain specific circumstances – without an election, unless it is terminated with a majority protest.

**SB 244 (Wolk) – Disadvantaged Unincorporated Communities**

Among other things, this bill requires LAFCO review of disadvantaged unincorporated communities. It adds a definition for disadvantaged unincorporated communities and requires LAFCO to review water, sewer and fire services to these communities in the next sphere of influence update and requires LAFCO to identify service deficiencies to these communities in the service reviews. This bill also adds requirements to city and county general plans.

**AB 54 (Solorio) - Mutual Water Companies**

This bill requires mutual water companies to respond to LAFCO requests for information, requires that the mutual water companies provide LAFCO with a map of their service area and allows LAFCOs to include information regarding compliance with drinking water standards in service reviews.

The full text of these bills is available on the legislature’s website: [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

## **CALAFCO LEGISLATIVE COMMITTEE**

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Commissioner Wilson and the LAFCO Executive Officer will continue to serve on the CALAFCO Legislative Committee. The Committee meets on a regular basis (5 times per year) to review, discuss, and provide recommendations to the CALAFCO Board of Directors on new legislation that is of interest to LAFCOs. The Committee's actions are guided by the CALAFCO Board's adopted policies, which are annually reviewed and amended to reflect its priorities. The committee reconvened in San Diego on November 18<sup>th</sup> in preparation for the second half of the 2011-2012 legislative session.

In addition to seeking changes to legislation and reviewing proposed legislation that affects LAFCOs, the Committee will monitor California Forward's ballot initiative which is based on the organization's Framework document along with the State Legislative Analysts' report on special districts. The next meeting of the Committee will be on January 20<sup>th</sup> in Sacramento. CALAFCO's daily Legislative Report which includes a list of all the bills that CALAFCO is tracking including information on CALAFCO's position on the bills is available on its website at [www.calafco.org/leg.htm](http://www.calafco.org/leg.htm)



**PROPOSED 2012 SCHEDULE OF LAFCO MEETINGS AND  
APPLICATION FILING DEADLINES**

| LAFCO MEETING                                                 | DEADLINE<br>TO FILE APPLICATION |
|---------------------------------------------------------------|---------------------------------|
| Wednesday<br>February 8, 2012<br>Board Meeting Chambers       | December 8, 2011                |
| Wednesday<br>April 4, 2012<br>Isaac Newton Senter Auditorium  | February 9, 2012                |
| Wednesday<br>May 30, 2012<br>Isaac Newton Senter Auditorium   | April 5, 2012                   |
| Wednesday<br>August 1, 2012<br>Isaac Newton Senter Auditorium | May 31, 2012                    |
| Wednesday<br>October 10, 2012<br>Board Meeting Chambers       | August 2, 2012                  |
| Wednesday<br>December 12, 2012<br>Board Meeting Chambers      | October 11, 2012                |

TIME OF MEETINGS: 1:15 PM

LOCATION OF MEETINGS: County Government Center  
70 West Hedding Street, 1st Floor  
San Jose, CA 95110

FILING LOCATION: LAFCO Office  
70 West Hedding Street, 11th Floor  
San Jose, CA 95110  
(408) 299-6415

**LAFCO MEETING: December 7, 2011**

**TO: LAFCO**

**FROM: Neelima Palacherla, Executive Officer**

**SUBJECT: APPOINTMENT OF 2012 LAFCO CHAIRPERSON AND VICE-CHAIRPERSON**

**RECOMMENDATION**

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Per the rotation schedule, appoint Commissioner Pete Constant, the City of San Jose representative, as Chairperson for 2012, and Commissioner Mike Wasserman, the County representative, as the Vice Chairperson.

**BACKGROUND**

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Appointment of Chair and Vice Chair is made on a calendar year basis. LAFCO's rotation schedule is as follows:

- Cities representative
- County representative
- San Jose representative
- County representative
- Public representative

The Chairperson for the previous year was Commissioner Liz Kniss, County representative and the Vice Chairperson was Commissioner Pete Constant, City of San Jose representative. In accordance with the rotation schedule, the City of San Jose representative is appointed as the 2012 Chairperson and County representative as the Vice Chairperson.



**LAFCO MEETING: December 7, 2011**  
**TO:** LAFCO  
**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, Analyst  
**SUBJECT: EXECUTIVE OFFICER'S REPORT**

### **12.1 UPDATE ON ISLAND ANNEXATIONS IN SANTA CLARA COUNTY**

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#### **For Information Only**

In early May 2011, LAFCO staff provided each city (except Campbell and Palo Alto which do not have unincorporated islands) with a customized letter concerning the status of unincorporated islands within the city's Urban Service Area and requesting information on their island annexation plans. LAFCO staff has now received responses or inquiries from nearly all of the affected cities and some cities are currently in the process of annexing some of their remaining islands. In addition, some cities have requested confirmation of the existence and/or boundaries of certain unincorporated islands. LAFCO staff is currently working with the City of San Jose and the County Surveyor's Office to research and resolve several boundary discrepancies.

### **12.2 LAFCO STRATEGIC PLANNING WORKSHOP**

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#### **For Information Only**

LAFCO's last strategic planning workshop was held on February 16, 2006. Since that time, there have been many changes, both at the state and local level, which have affected LAFCOs. Similarly, there is a growing interest in encouraging the efficiency of local government agencies. It is important to examine LAFCO's role in relation to these changes. Staff is recommending that LAFCO hold a strategic planning workshop in April 2012 (specific date to be determined) in order to review LAFCO's mission, discuss key issues for LAFCO and potential LAFCO projects/studies in the next 2-3 years, and to develop a LAFCO workplan. Staff will provide more information on potential topics for the workshop and the proposed format, date, time and location at LAFCO's February 2012 meeting.

### **12.3 CALAFCO UNIVERSITY CLASS: LAFCOs AND HEALTH CARE DISTRICTS**

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#### **For Information Only**

CALAFCO University will be holding a class on LAFCOs and health care districts on Friday, February 3, 2012 from 10:00 AM to 3:30 PM in San Jose. The class is open to CALAFCO Members and to Non-Members as well. A fee will be charged to cover class expenses. Please inform staff of your interest in attending the class so that staff can make the necessary arrangements.



October 31, 2011

Rebecca Tolentino, Senior Planner  
Development Services Center  
City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037

**RE: Morgan Hill's Notice of Intent to Adopt a Mitigated Negative Declaration for Monterey – South of Watsonville Project**

Dear Ms. Tolentino:

Thank you for providing the Santa Clara County Local Agency Formation Commission (LAFCO) the opportunity to review and comment on Morgan Hill's Initial Study (IS) and proposed adoption of a Mitigated Negative Declaration (MND) for the Monterey – South of Watsonville Project that was received by LAFCO on October 10, 2011. As indicated in the documents, the Project includes a proposal to expand the City's Urban Service Area (USA) to allow for urban development on a 67.30 acre project site, some of which is currently developed and or located within the City of Morgan Hill but outside of the USA. The documents do not provide a specific time-frame for when the City plans to seek approval from LAFCO to expand the City's USA boundary or when development is likely to begin on the project site.

Per the IS and MND:

- The proposed USA expansion, general plan amendments, and rezoning "provide regulatory changes that guide future development of the project area, and would not result in any immediate physical construction," and
- "Future project specific environmental review would occur prior to any actual development of the parcels, with the exception of the Oakwood Country School site, where project-level CEQA review has already been completed in conjunction with the approved Use Permit."

However, State CEQA Guidelines define a "project" as "the whole of an action, which has potential for resulting in either a direct physical change in the environment, or a reasonable foreseeable indirect physical change in the environment..." (CEQA Guidelines, Section 15378(a)). Therefore, the above statements in the IS and proposed MND are misleading because approval of an USA amendment facilitates the development of the project site, which will have a physical effect on the environment,



and therefore all potential development impacts must be fully analyzed in the environmental document and such analysis must not be deferred.

Inclusion of lands within a city's USA results in those lands being committed in perpetuity for urban development. Because an USA amendment is the immediate precursor to and the first and potentially the only discretionary action directly related to annexation which in turn would allow specific development within the city, and because the reason for inclusion of lands within an USA is to enable future development of those lands, a request for an USA amendment must include specific information about the proposed development and the CEQA document must analyze and evaluate the impacts of not just moving the USA boundary but also the impacts of the development proposed for the site to fullest extent possible.

The IS and MND each indicate that a "program-level" environmental analysis of "likely and/or anticipated future development that would be allowed under the proposed General Plan Amendments and pre-zonings/zonings" was conducted for the proposed project. CEQA requires that the IS must analyze the proposed project based on the maximum amount of development allowed by the proposed General Plan land use and zoning designations because specific development proposals are not being proposed at this time and any proposal could be submitted in the future. It difficult to determine if such an analysis was conducted for the proposed project based on the information found in the IS and MND and this should be clarified and corrected if such analysis was not completed.

**INITIAL STUDY AND PROPOSED MITIGATED NEGATIVE DECLARATION FAIL TO ADEQUATELY DISCLOSE, ANALYZE OR MITIGATE SEVERAL IMPACTS OF THE PROPOSED PROJECT**

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**Biological Resources**

Based on the 20-day public review period discussed in the Notice of Intent for the Proposed MND and the absence of the MND from the State Clearinghouse online database, it appears that the City has not submitted the IS and proposed MND to the State Clearinghouse for review by state agencies. Such a review is required as the IS indicates that the proposed project could significantly impact biological resources that are under the jurisdiction of state agencies and therefore these state agencies are considered Responsible Agencies under CEQA. Furthermore, the public review period in such a case is no less than 30 days, unless a shorter period is approved by the State Clearinghouse.

**Greenhouse Gas Emissions**

The IS indicates that future development on the project site would exceed BAAQMD thresholds for greenhouse gases and identifies this as a significant impact. The IS then states that significant greenhouse gas impacts resulting from future development on the project site would be mitigated by two pending General Plan policies which mandate the development of a Climate Action Plan (CAP) and that such a Plan is being developed by the City. The IS also states that future development proposals will be

required to analyze greenhouse gas emissions as part of the project level environmental review and demonstrate consistency with the CAP.

However, the IS clearly states that the City does not currently have an adopted Greenhouse Gas Reduction Strategy as defined under the CEQA Guidelines or BAAQMD CEQA Guidelines. Based on this information it appears that the City is deferring analysis of this issue and is relying on mitigation that does not currently exist. This is a clear example of the deferral of any meaningful analysis of the nature of the impact (i.e., the City has not calculated any GHG emission numbers for any development scenario nor evaluated the project's consistency with GHG emission reduction plans) as well as the deferral of the formulation and disclosure of the mitigation (i.e., the CAP) that the City is relying upon to substantiate its conclusion that there is no potential that a significant impact would result, thereby preventing the public and decision makers from ascertaining that this actually is the case. The City's approach to addressing this issue does not meet the requirements of CEQA and the proposed project's greenhouse gas emissions are a potentially significant impact.

#### **Land Use**

The IS fails to analyze whether the project is consistent with some of the applicable key policies that were adopted to avoid or mitigate a physical adverse environmental effect, such as but not limited to the City's General Plan Policies, Desirable Infill Criteria, and Residential Development Control System. Similarly, the IS also fails to analyze whether the project is consistent with applicable LAFCO Policies (i.e. Urban Service Area Amendment Policies, Agricultural Mitigation Policies, and Island Annexation Policies). These Policies are the key policies that LAFCO must consider when reviewing such an urban service area amendment request.

#### **Project's Consistency with LAFCO's Urban Service Area (USA) Policies**

LAFCO's Urban Service Area Policies (Attachment A) discourage USA expansions that include agricultural and open space land. These Policies also address issues such as availability of adequate water supply, local and regional impacts, regional housing needs, ability of school districts to provide school facilities, ability of the city to provide urban services to the growth areas without detracting from current service levels, whether the conversion of agricultural and open space lands is premature and if there are other areas into which to channel growth, fiscal impact on other agencies, and consistency with city and county general plans and specific plans.

LAFCO also requires that the City provide information on the current supply of vacant land within its Urban Service Area for the land use designations that allow for the type of uses that the City proposes to include within the Urban Service expansion area. As part of the vacant lands inventory and based on previous years, the City should also indicate the absorption rate for each of the lands use categories. If a city has a substantial supply of vacant land within its Urban Service Area and applies for an USA expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO's mandate, will be maintained. Therefore, the IS should include

an evaluation of whether the project is consistent with all of LAFCO's Urban Service Area Policies.

#### Project's Consistency with LAFCO's Agricultural Mitigation Policies

In April 2007, LAFCO adopted Agricultural Mitigation Policies. The purpose of these policies is to provide specific guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands.

Therefore, the IS should include an evaluation of whether the proposed project is consistent with LAFCO's Agricultural Mitigation Policies (see Attachment B), and specifically whether the proposed project meets LAFCO's definition of prime agricultural land and how any direct and/or indirect impacts to agricultural resources will be mitigated. LAFCO will require that a plan for agricultural mitigation that is consistent with these policies be submitted at the time that the proposal is filed with LAFCO.

#### Project's Consistency with LAFCO's Island Annexation Policies

In February 2005, LAFCO adopted Island Annexation Policies which state that in the interest of orderly growth and development, cities should annex urban unincorporated islands existing within their current Urban Service Areas, before seeking to add new lands to their USAs. As you know, the City has some remaining unincorporated islands, most notably Holiday Lake Estates (HLE Unit 1). The City currently provides water service to HLE Unit 1 and sewer service to several parcels in HLE Unit 1. Therefore, the IS should include an evaluation of whether the proposed project is consistent with LAFCO's Island Annexation Policies (Attachment C).

#### **Population and Housing**

The IS indicates that the Residential Development Control System (RDCS) allocation for development has been determined through 2011. It would be helpful to include information on how and when the proposed project will be addressed through the City's RDCS allocation process, particularly if there are several other projects already waiting in the queue for an allocation. As the City is aware, the Urban Service Area (USA) is a 5 year boundary and includes only those lands that the City plans to and has the ability to annex and provide with urban services/infrastructure within the next 5 years. Therefore, it is only those lands that are ready to be developed in the next 5 years that should be included in a city's USA.

#### **Public Services**

The IS states that "as future projects are developed they will incrementally increase the demand for fire and police protection, but are not expected to require construction of fire or police facilities." However, no information or analysis is provided to support this conclusion.



Also, the IS states that "school impact fees and the school district's methods of implementing measures would reduce a future development project's impacts to schools to a less than significant level." However, no information or analysis is provided to support this conclusion. The IS also states that "the Morgan Hill School District will review future development projects for each site during the RDCS process and, at that time, will determine whether existing school facilities are adequate to serve the proposed project." Failing to analyze project impacts now and deferring that analysis to a later date violates CEQA. Furthermore, per LAFCO's Urban Service Area Policies, LAFCO must consider the ability of school districts to provide school facilities in response to a proposed project. Therefore, such analysis cannot be deferred.

### **Utilities and Service Systems**

The IS reports that there are no City storm drainage pipeline or inlet structures within the project area and that stormwater flows are currently conveyed in the open West Little Llagas channel, culverts under Watsonville Road and Monterey Road, and in a local drainage ditch adjacent to Watsonville Road.

The IS indicates that the City's Storm Drain Master Plan does not call for any improvements to the existing storm drain system with the exception of the Llagas Creek Flood Protection Project and that the proposed project would allow development on sites that are currently vacant or are primarily pervious which may increase stormwater runoff when these sites redevelop. The IS then finds that future development of the site would increase stormwater runoff, which could require the construction of new stormwater drainage facilities and identifies this as a significant impact. The IS concludes that this significant impact will be mitigated through the implementation of the following City General Plan Policies:

*"Sewer Capacity, Water Supply and Storm Drainage Policy 22a – Address issues related to flooding throughout the city."*

*"Sewer Capacity, Water Supply and Storm Drainage Policy 22b – Ensure that those residents who benefit from, as well as those who contribute to the need for, local drainage facilities pay for them (SCJAP 13.02)"*

The above referenced policies are too general and vague to be considered an effective mitigation measure for the proposed project and this is a potentially significant impact.

### **Mandatory Findings of Significance**

The Initial Study (IS) concludes that the proposed project would not result in significant environmental impacts, including cumulative effects of past, current, and reasonable foreseeable development in the project vicinity. However, no information or analysis is provided to support this conclusion (except the information provided in the Transportation section of the IS). Analysis of cumulative impacts is required by CEQA and is of great importance to LAFCO because of its regional responsibilities for ensuring orderly growth and development, preservation of open space and agricultural lands, and for promoting efficient service provisions.



## CONCLUSION

For the foregoing reasons, we urge the City Council to not approve the proposed Mitigated Negative Declaration at this time. As you know, LAFCO is a Responsible Agency for the proposed project and therefore has an independent obligation to review the Initial Study and Mitigated Negative Declaration for legal adequacy under CEQA prior to issuing any approvals for the project. (CEQA Guidelines, §15096.) Therefore, we respectfully request that the City prepare revised documents that address the identified deficiencies and that the City then circulate new documents or the revised documents to affected agencies and the public for their review and comment, as required by CEQA. Thank you.

Sincerely,

 1DN

Neelima Palacherla,  
LAFCO Executive Officer

Cc: LAFCO Members  
County of Santa Clara Planning and Development Department

## URBAN SERVICE AREA POLICIES

### A. General Guidelines

1. Review and amendment of Urban Service Area (USA) boundaries is the Commission's primary vehicle for encouraging orderly city growth.
2. LAFCO will review/amend a city's Urban Service Area once a year, if such review is desired by the city and initiated by city resolution and application. Until a city's application has been heard and acted upon by the Commission, no further Urban Service Area amendments will be accepted for filing from that city. LAFCO may make an exception to the once a year limitation upon Urban Service Area amendment requests where amendment is needed to carry out some special institutional development or activity that is in the public interest. Such exceptions shall not normally be extended in connection with proposed residential, commercial, or industrial development.
3. Within the Urban Service Areas, LAFCO does not review city annexations and reorganizations if the proposals are initiated by city resolution and meet certain conditions. State law gives cities in Santa Clara County the authority to approve such reorganizations.

### B. Urban Service Area Amendment Policies

1. LAFCO will require application of an appropriate general plan designation to territory proposed for inclusion in an Urban Service Area.
2. LAFCO encourages contractual agreements and/or plans between the cities and the County which define:
  - a. Growth at the urban fringe; and
  - b. Potential new growth areas.
3. LAFCO will consider factors included in Government Code section 56668 as well as factors such as the following to determine the local and regional impacts of a proposed Urban Service Area amendment:
  - a. The ratio of lands planned for residential use to lands planned for employment-producing use
  - b. The existence of adequate regional and local transportation capabilities to support the planned city growth;

- c. Ability of the city to provide urban services to the growth areas without detracting from current service levels;
  - d. The ability of school districts to provide school facilities;
  - e. Whether the conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth;
  - f. The role of special districts in providing services;
  - g. Environmental considerations which may apply;
  - h. The impacts of proposed city expansion upon the County as a provider of services;
  - i. Fiscal impacts on other agencies;
  - j. Regional housing needs;
  - k. Availability of adequate water supply; and
  - l. Consistency with city or county general and specific plans.
4. LAFCO will consider the applicable service reviews and discourage urban service area amendments that undermine adopted service review determinations or recommendations.
  5. When a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained.
  6. The Commission will discourage Urban Service Area expansions which include agricultural or other open space land unless the city has accomplished one of the following:
    - a. Demonstrated to LAFCO that effective measures have been adopted for protecting the open space or agricultural status of the land. Such measures may include, but not limited to, the establishment of agricultural preserves pursuant to the California Land Conservation Act, the adoption of city/County use agreements or applicable specific plans, the implementation of clustering or transfer-of-development-rights policies; evidence of public acquisition; or
    - b. Demonstrated to LAFCO that conversion of such lands to other than open space uses is necessary to promote the planned, orderly, efficient development of the city.

7. The Commission will consider whether an Urban Service Area amendment leading to the conversion of agricultural or other open space land, will adversely affect the agricultural or open space resources of the County. Factors to be studied include, but are not limited to:
  - a. The agricultural significance of the amendment area relative to other agricultural lands in the region (soil, climate, water-related problems, parcel size, current land use, crop value, Williamson Act contracts, etc.)
  - b. The economic viability of use of the land for agriculture;
  - c. Whether public facilities, such as roads, would be extended through or adjacent to other agricultural lands in order to provide services to anticipated development in the amendment area or whether the public facilities would be sized or situated to impact other agricultural lands in the area
  - d. Whether the amendment area is adjacent to or surrounded by existing urban or residential development.
8. If an Urban Service Area proposal includes the conversion of open space lands or agricultural lands, LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. LAFCO will require an explanation of why the inclusion of agricultural and open space lands is necessary and how the loss of such lands will be mitigated.

Mitigation measures include, but are not limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county, participation in other development programs such as transfer or purchase of development rights, payments to recognized government and non-profit organizations for such purposes, and establishment of buffers to shield agricultural operations from the effects of development.

9. Where appropriate, LAFCO will consider adopted policies advocating maintenance of greenbelts or other open space around cities in reviewing Urban Service Area amendments.
10. LAFCO will require evidence that an adequate water supply is available to the amendment areas and that water proposed to be provided to new areas does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already charged for city water services. In



determining water availability, LAFCO will evaluate, review and consider:

- a. The city's plan for water service to the area and statement of existing water supply in terms of number of service units available; service units currently allocated; number of service units within city (and current USA) boundaries that are anticipating future service and service units needed for amendment area.
  - b. Whether the city is able to provide adequate water supply to the amendment area in the next 5 years, including drought years, while reserving capacity for areas within the city and Urban Service Area that have not yet developed.
  - c. Whether the city is capable of providing adequate services when needed to areas already in the city, in the city's Urban Service Area or to other properties entitled to service.
  - d. If capacity is not reserved for unserved property within the city and its Urban Service Area boundary, the current estimate of potential unserved properties and related water supply needs
  - e. Whether additional infrastructure and or new water supplies are necessary to accommodate future development or increases in service demand. If so, whether plans, permits and financing plans are in place to ensure that infrastructure and supply are available when necessary including compliance with required administrative and legislated processes, such as CEQA review, CEQA mitigation monitoring plans, or State Water Resources Board allocation permits. If permits are not current or in process, or allocations approved, whether approval is expected.
  - f. Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water.
11. LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will consider:
- a. Whether the proposal creates conditions that promote local and regional policies and programs intended to remove or minimize impediments to fair housing including city/ county general plan housing elements, Analysis of Impediments to Fair Housing or Consolidated Plans for Housing and Community Development and ABAG's regional housing needs assessment and related policies.

- b. Whether the proposal introduces urban uses into rural areas thus increasing the value of currently affordable rural area housing and reducing regional affordable housing supply.
- c. Whether the proposal directs growth away from agricultural / open space lands towards infill areas and encourages development of vacant land adjacent to existing urban areas thus decreasing infrastructure costs and potentially housing construction costs.
- d. Whether funding of infrastructure to support development in the amendment area imposes an unfair burden on residents or customers within the existing boundaries thus impacting housing construction costs in the area.

Amended December 11, 2002

# **AGRICULTURAL MITIGATION POLICIES**

## **Background**

LAFCO's mission is to encourage orderly growth and development, discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with other factors in its evaluation of proposals. LAFCO's Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

## **Purpose of Policies**

The purpose of these policies is to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands.

## **General Policies**

1. LAFCO recommends provision of agricultural mitigation as specified herein for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policy #6. Variation from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.
2. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies.
3. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with these policies.
4. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.

5. LAFCO will review and revise these policies as necessary.

#### **Definition of Prime Agricultural Lands**

6. "Prime agricultural land" as defined in the Cortese Knox Hertzberg Act means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:
  - a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
  - b. Land that qualifies for rating 80 through 100 Storie Index Rating.
  - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
  - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
  - e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

#### **Mitigation Recommendations**

7. Proposals involving the conversion of prime agricultural lands should provide one of the following mitigations at a not less than 1:1 ratio (1 acre preserved for every acre converted) along with the payment of funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and maintenance of agriculture on the mitigation lands:
  - a. The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
  - b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.



- c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund\*:
  - 1. The cost of acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
  - 2. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of maintaining agriculture on the mitigation lands.

\* with provisions for adjustment of in-lieu fees to reflect potential changes in land values at the time of actual payment
- 8. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity should be located in Santa Clara County and be lands deemed acceptable to the city and entity.
- 9. The agricultural mitigation should result in preservation of land that would be:
  - a. Prime agricultural land of substantially similar quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, and
  - b. Located within cities' spheres of influence in an area planned/envisioned for agriculture, and
  - c. That would preferably promote the definition and creation of a permanent urban/agricultural edge.
- 10. Because urban/ non-agricultural uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. Examples of such measures include, but are not limited to:
  - a. Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
  - b. Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.
  - c. Development of programs to promote the continued viability of surrounding agricultural land.

### **Agricultural Conservation Entity Qualifications**

11. The agricultural conservation entity should be a city or a public or non-profit agency. LAFCO encourages consideration of agricultural conservation entities that:
  - a. Are committed to preserving local agriculture and have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
  - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
  - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and are operating in compliance with those standards.

### **Timing and Fulfillment of Mitigation**

12. LAFCO prefers that agricultural mitigation be in place at the time of LAFCO approval or as soon as possible after LAFCO approval. The mitigation (as detailed in the Plan for Mitigation) should be fulfilled no later than at the time of city's approval of the final map, or issuance of a grading permit or building permit, whichever occurs first.
13. Cities should provide LAFCO with information on how the city will ensure that the agricultural mitigation is provided at the appropriate time.
14. Cities should provide LAFCO with a report on the status of agricultural mitigation fulfillment every year following LAFCO approval of the proposal until the agricultural mitigation commitments are fulfilled.
15. The agricultural conservation entity should report annually to LAFCO on the use of the in-lieu fees until the fees have been fully expended.

### **Plan for Mitigation**

16. A plan for agricultural mitigation that is consistent with these policies should be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO. The plan for mitigation should include all of the following:
  - a. An agreement between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property owner(s) to provide the mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation. Upon LAFCO approval of the proposal, the agreement should be recorded with

the County Recorder's office against the property to be developed. The agreement should specify:

1. The type of mitigation that will be provided in order to mitigate for conversion of agricultural lands. (purchase of fee title or easement or payment of in-lieu fees)
  2. The agricultural conservation entity that will be involved in holding the lands, easements, or in-lieu fees.
  3. The acreage that would be preserved through mitigation and /or the amount of in-lieu fees that would be paid (with provisions to adjust fees to reflect land values at time of payment) along with the methodology adopted by the entity for calculating the in-lieu fees.
  4. The location of the mitigation lands, when possible.
  5. Information on the specific measures adopted by the city as encouraged in Policy #10 (mitigation for impacts to adjacent agricultural lands)
  6. The time-frame within which the mitigation will be fulfilled, which should be no later than at the time of city's approval of the final map, or issuance of the grading permit or building permit, whichever occurs first.
  7. The mitigation agreement is to be contingent on LAFCO approval of the proposal.
- b. Applicant should provide all other supporting documents and information to demonstrate compliance with these policies.

## ISLAND ANNEXATION POLICIES

1. In order to fulfill the intent of the state legislature and implement the joint urban development policies of the cities, County and LAFCO, and in the interests of efficient service provision and orderly growth and development, the cities should annex unincorporated urban islands.
2. LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands.
3. LAFCO will provide a LAFCO fee waiver for annexations that result in the elimination of entire unincorporated islands. This fee waiver will remain effective until rescinded by the commission.
4. Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than conducting single parcel annexations.
5. In the interests of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs.
6. Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:
  - a. Initiate and complete annexation proceedings pursuant to Government Code Section 56375.3(a)(1), for all unincorporated islands that meet the provisions of Government Code Section 56375.3, unless the island constitutes publicly owned land, and,
  - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for the islands after holding community meetings, to apply a pre-zoning designation and to adopt resolutions to initiate annexation.
7. LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
8. LAFCO will provide information on the island annexation procedures to each of the cities. LAFCO will develop process flow charts and public hearing notice / resolution templates for cities to use. LAFCO staff will conduct workshops on island annexation process for city staff.
9. LAFCO will work with the County, the cities and other interested parties/agencies to find ways to reduce or share the cost of processing unincorporated island annexations.
10. LAFCO staff will report to the Commission at each LAFCO meeting on the status of each city's island annexation efforts.

Adopted: February 9, 2005

Amended: October 14, 2009