

# 1. *BURBANK SANITARY DISTRICT*

---

## AGENCY OVERVIEW

Burbank Sanitary District (BSD) provides sewer collection services for unincorporated islands within the City of San Jose. The District contracts with the San Jose-Santa Clara Regional Wastewater Facility for wastewater treatment and disposal. Additionally, BSD provides solid waste collection and street sweeping services through franchise agreements with private contractors. Santa Clara LAFCO last conducted a service review covering BSD in 2006.

BSD was established in 1940 to acquire, build, operate, and maintain a wastewater disposal system and provide solid waste and street sweeping services within an unincorporated area of Santa Clara County.

The principal act that governs the District is the Sanitary District Act of 1923.<sup>10</sup> The principal act empowers the District to acquire, plan, construct, reconstruct, alter, enlarge, lay, renew, replace, maintain, and operate all of the following: garbage dumpsites, garbage collection and disposal systems; sewers, drains, septic tanks, sewage collection, outfall, treatment works and other sanitary disposal systems; stormwater drains, collection, outfall and disposal systems; and water recycling and distribution systems.<sup>11</sup> Districts must apply and obtain LAFCO approval to exercise services authorized by the principal act but not already provided (i.e., latent powers) by the district at the end of 2000.<sup>12</sup>

---

### Boundaries

BSD consists of two non-contiguous unincorporated areas that are surrounded by the City of San Jose and within San Jose's Urban Service Area (USA). Since the last MSR, two areas have been detached from the District, subsequent to the territory being annexed into San Jose. The District's bounds presently encompass 0.28 square miles.

---

### Sphere of Influence

LAFCO adopted a zero SOI for the District in 1983, in order to recognize the long-term policy of LAFCO and the County that unincorporated islands within cities' USAs should annex to cities and receive city services.

As LAFCO and County policies regarding pocket areas and service provision remained the same since adoption of the existing SOI, LAFCO reaffirmed the zero SOI for BSD in 2006.

---

<sup>10</sup> California Health & Safety Code, Div. 6, Pt. 1, §§ 6400-6830.

<sup>11</sup> California Health & Safety Code §6512.

<sup>12</sup> Government Code §56824.10.

---

## Type and Extent of Services

---

### Services Provided

The District owns and maintains the sewer lines within the District's boundaries.

The District contracts with the San Jose-Santa Clara Regional Wastewater Facility (RWF) for wastewater treatment and disposal. Wastewater is conveyed from the areas within the District to the RWF in San Jose for treatment and then either used as recycled water or discharged through Artesian Slough into South San Francisco Bay.

Street sweeping services are provided through a service contract with Enviro-Commercial Sweeping, Inc. Streets within the District are cleaned once a week.

Solid waste collection services (including billing services) are currently provided through a service contract with Green Waste Recovery. Solid waste services include refuse, recyclable and yard trimmings collection.

### Service Area

The District serves properties in an area mainly from Forest Avenue south to Moorpark Avenue and from Bascom Avenue east to Richmond Avenue.

BSD serves only areas within its bounds, and does not presently provide these services outside of its bounds. The District is not aware of any unserved areas that rely on private septic systems within its bounds.

### Services to Other Agencies

The District does not provide services to other agencies.

### Contracts for Services

The District receives contract services in the form of wastewater treatment and discharge from RWF, which is co-owned by the Cities of San Jose and Santa Clara. BSD entered into a master agreement with these cities for wastewater treatment in 1985. The agreement establishes capacity rights and obligations for the operation, maintenance and capital costs of the plant by member agencies.

It should be noted that the District identified certain deficiencies with regard to the master agreement with the Cities of San Jose and Santa Clara, which may warrant an engineering review and update in the near future to ensure consistency and clarity in the document. Currently, BSD reportedly continues to pay the debt payment to the cities for annexed areas, even upon transfer of related capacity at the treatment plant, where improvements and expansion were financed by the debt in question. The City differs in its point of view on this and stated that the District was not required to take on debt as part of the SBWR improvements, and therefore the debt should continue to belong to the District. Finally, the District reports that the extent of its capital obligations with regard to master plan improvements at the plant are not fully described and are outdated. The City disagrees, and maintains that most of the planned master plan projects are similar in type to those covered in the Master Agreement.

As previously mentioned, the District also contracts with Enviro-Commercial Sweeping for street sweeping services. The contract started in January 2001 and expired in 2004. The cost for Enviro-Commercial's services is based on the terms of the expired contract. The District reported that a new contract will be negotiated this year.

Additionally, solid waste services are provided by franchise agreement with Green Waste Recovery. Green Waste Recovery also conducts its own billing for these services directly to district residents. The contract started in July 2007 and expires on June 30, 2017.

### Collaboration

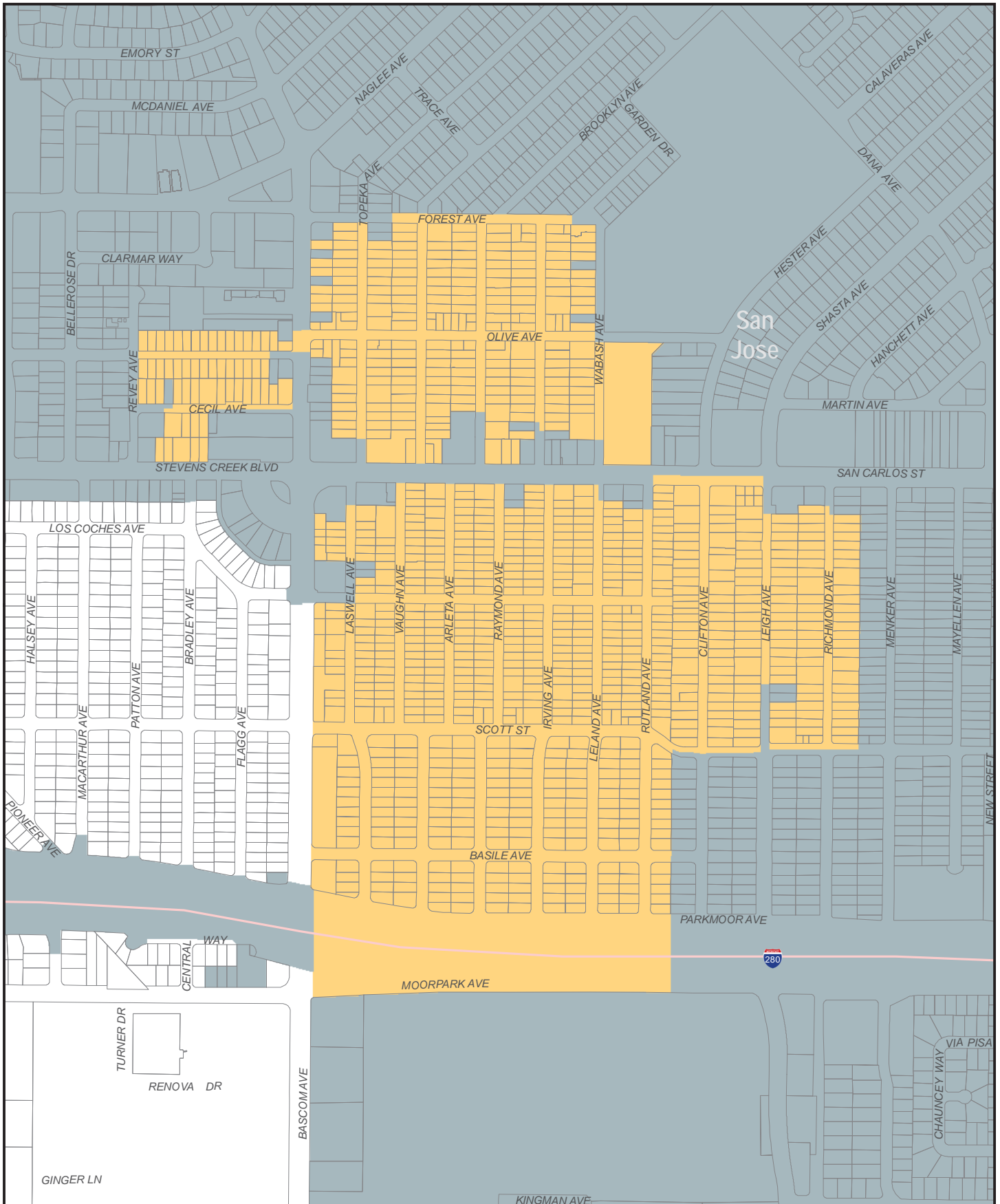
BSD collaborates and partners with other agencies in providing services. BSD participates in the South Bay Water Recycling (SBWR) in conjunction with the Cities of San Jose, Milpitas and Santa Clara, and several other special districts. In 1998, the facility and pipeline was constructed in response to discharge requirements at the RWF. The facility provides recycled water to wholesale water providers for irrigation, landscape and industrial uses. Wastewater treatment is provided by the RWF, while recycled water delivery is provided by SBWR. The City of San Jose manages and administers SBWR.

Similar to other special districts in the area, wastewater from within BSD flows through City of San Jose mains on its way to the treatment plant. Consequently, the District and the City of San Jose were parties to an agreement, which granted the District permission to discharge its sewage to the City's outfall sewer system, and granted the City permission to transport its sewage through the District's collection system and outfall under rare occasions. Under this exchange of rights, the District was to pay the City \$2,668.72 per year, and the City was to pay the District \$579.06 per year, for a net payment of \$2,089.66 from the District to the City. After the expiration of the agreement on June 30, 1983, the District continued to make payments to the City until approximately 1997. Since that time, the District has used the City's outfall but has not made payments.

Additionally, the District is a member of the California Association of Sanitation Agencies (CASA).

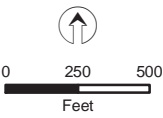
### Overlapping and Neighboring Service Providers

Services are not duplicated by other providers within BSD's bounds.



# Burbank Sanitary District

- Burbank Sanitary District
  - Parcels
  - Incorporated Areas
- District has a zero Sphere of Influence*



**LAFCO**  
 Local Agency Formation Commission of Santa Clara County  
 June 2013

This map created by the Santa Clara County Planning Office. The GIS data was compiled from various sources including the Department of Public Works, Santa Clara County, and other local agencies.

## ACCOUNTABILITY AND GOVERNANCE

The District is governed by a five-member Board, which is to be elected to four-year terms. However, the District has not held a contested election since at least 2005, and board members have generally run unopposed or have been appointed by the County Board of Supervisors.

Prior to an election (in an election year), the County Registrar of Voters publishes a legal notice in a local newspaper of the District's choice to announce any upcoming board terms that are expiring. Any persons interested in running for the position (incumbent or otherwise), must file with the County Registrar of Voters. If no more than one person is running for each available position, then the Board of Supervisors can consolidate the election and appoint individuals without conducting the election. If no one runs for a position, then the Board of Supervisors is empowered to appoint any person to the office who is qualified on the date when the election would have been held.<sup>13</sup>

The process for appointment by the Board of Supervisors differs by district. There are no formal policies or standardized procedures on the part of the Board of Supervisors defining how openings are to be announced, how long the application period should be open, and the manner for interviews, etc. BSD reported that when filling a vacant position mid-term, any interested candidate's information is solicited and interviews are agendaized and conducted as part of the Board's regular meeting. The district board then appoints someone to fill the position and the appointment is confirmed by the Board of Supervisors.

The current member names, positions, and term expiration dates are shown in Figure 1-2.

**Figure 1-2: BSD Governing Body**

<b>Burbank Sanitary District</b>					
<i>District Contact Information</i>					
<b>Contact:</b>	Richard Tanaka, District Manager				
<b>Address:</b>	20863 Stevens Creek Boulevard #100, Cupertino, CA 95014				
<b>Telephone:</b>	(408) 255-2137				
<b>Website:</b>	<a href="http://www.burbanksanitary.org/">http://www.burbanksanitary.org/</a>				
<i>Board of Directors</i>					
<b>Member Name</b>	<b>Position</b>	<b>Began Serving</b>	<b>Term Expires</b>	<b>Manner of Selection</b>	<b>Length of Term</b>
Soren Spies	President	2006	12/2013	Elected	4 years
Michelle Kaelker-Boor	Secretary	2012	12/2015	Appointed	4 years
Michael Yoder	Director	2005	12/2013	Elected	4 years
Keri Russo	Director	2010	12/2013	Elected	4 years
Bruce Smith	Director	2008	12/2015	Elected	4 years

<sup>13</sup> Elec. Code, § 10515(a).

<b>Meetings</b>	
<b>Date/Time:</b>	Every third Tuesday of each month at 7:00 pm
<b>Location:</b>	District Board Room, located at 20863 Stevens Creek Boulevard in Cupertino
<b>Agenda Distribution:</b>	Agendas are posted at the District office, Burbank Luther School District, and on the District's website.
<b>Minutes Distribution:</b>	Meeting minutes are part of the next meeting's agenda for board approval. The minutes are published on the District's website after approval.

The Board meets every third Tuesday of each month at 7:00 pm in the District Board Room, located at 20863 Stevens Creek Boulevard in Cupertino. Directors receive a \$115.50 stipend per meeting. Government Code §53235 requires that if a district provides compensation or reimbursement of expenses to its board members, the board members must receive two hours of training in ethics at least once every two years and the district must establish a written policy on reimbursements. As a member of CASA, district board members are eligible to receive ethics training annually through the association. All board members most recently completed ethics training in August 2012. The District does not have a policy regarding expense reimbursements. Additionally, the District is required to make available to the public a list of reimbursements over \$100 made to board members and employees over the last year.<sup>14</sup> The District reported that there were no reimbursements over \$100 in 2012.

Agendas for board meetings are posted online and outside the front entrance of the district office, and at the Burbank Luther School District. Meeting minutes are a part of the next meeting's agenda for board approval. The minutes are published on the District's website after approval. The District conducts constituent outreach in addition to legally required agenda posting via its website and by sending flyers regarding the annual spring clean-up to district residents. BSD's website contains information on the District's services, Board of Directors, Board of Directors' meeting agendas and minutes, meeting schedule, and rates. It is recommended that the District also make available its budget and audited financial statement on its website.

Complaints to BSD are received in person or via phone, email, or letter. The District tracks all complaints to resolution. The district manager is responsible for ensuring all complaints are addressed. The District reported that it did not receive any formal complaints in 2012.

BSD has operational regulations and several policy resolutions that provide a framework for the District's operations. The District does not have policies specific to Brown Act compliance, public requests for information, or code of ethics. While the District is not legally required to have policies related to these specific topics, it is considered a best management practice for agencies to maintain such policies.

The Political Reform Act (Government Code §81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (California Code of Regulations §18730)

---

<sup>14</sup> Government Code 53065.5

which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. The District does have a policy regarding conflicts of interest.<sup>15</sup>

Government Code §87203 requires persons who hold office to disclose their investments, interests in real property and incomes by filing appropriate forms with the Fair Political Practices Commission each year. All BSD directors have filed the required Form 700 Statement of Economic Interest forms in 2013, as reported by the County.

## **MANAGEMENT AND STAFFING**

The District does not have employees of its own. Management services are provided by contract with Mark Thomas & Company, Inc. The district manager, provided by Mark Thomas & Company, is responsible for the day-to-day operations of the District. Operation of the District is overseen by the Board of Directors. Currently, Mark Thomas & Company, Inc. dedicates one full-time equivalents (FTEs) to administration, management, and inspection of the District. Maintenance is provided by contracting companies, including Able Construction, Rotor Rooter, and S&M Construction. The number of personnel dedicated to maintenance of the District's system through the contractors is dependent on the need at any given time; however, the District estimated that there were roughly one FTEs regularly maintaining the system.

All contract vendors, the field inspectors, and office accounting report to the head of administration. The head of administration and operations manager report to the district manager/engineer, who in turn reports to the Board of Directors.

BSD has retained a certified public accountant to audit the District's Comprehensive Annual Financial Report and prepare the annual financial transaction reports, which are required by the State Controller under Government Code §53891. Additionally, the District retains Ms. Jennifer Faught from Myers Nave as legal counsel.

BSD maintains several plans and documents to guide district efforts. The District adopts an annual budget, biennially audits its financial statements, and has developed a sewer system management plan (SSMP). The District's SSMP outlines several general service goals, such as "Prevent sewer system overflows, protect the public health and keep the environment clean."

The District reviews its operations in its annual report, which assesses what has been completed and accomplished over the last fiscal year. Additionally, the District conducts benchmarking with other similar agencies, particularly with regard to rates. The District also regularly assesses the cause of any sewer system overflows in order to better target maintenance and repair services.

As the District does not have any staff, there are no formal staff evaluations. Administrative services (provided by Mark Thomas) are reviewed through invoices to the District's Board and regular reports at the monthly board meetings. District and contractor

---

<sup>15</sup> Resolution 237, adopted October 17<sup>th</sup>, 2012.

workload are tracked in timesheets, which include the tasks completed for both administrative and maintenance activities. Inspectors are issued weekly duty lists to be completed. Maintenance services offered by the contract companies are also tracked in a daily maintenance log.

Government Code §53901 states that within 60 days after the beginning of the fiscal year each local agency must submit its budget to the county auditor. These budgets are to be filed and made available on request by the public at the county auditor's office. The County has reported that in recent years, it has not been the practice for special districts to file their budgets with the County. BSD has submitted its budget to the County for FY 14.

Special districts must submit a report to the State Controller of all financial transactions of the district during the preceding fiscal year within 90 days after the close of each fiscal year, in the form required by the State Controller, pursuant to Government Code §53891. If filed in electronic format, the report must be submitted within 110 days after the end of the fiscal year. The District has complied with this requirement.

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>16</sup> In the case of BSD, the District must submit audits every two years.<sup>17</sup> The most recent audit for BSD was completed for FYs 09 and 10. The District is in the process of completing its audit for FYs 11 and 12. The audit for FY 12 has been submitted to the County.

## **POPULATION AND PROJECTED GROWTH**

---

### **Land Uses**

---

The district area is located within an unincorporated island of the City of San Jose. The District is generally built out and comprised of predominately single-family residential and some commercial uses. Planned land uses throughout the District area are generally similar to those of the existing uses.

---

### **Current Population**

---

Based on 2010 Census data, the District's population as of 2010 was approximately 3,756.

#### ***Disadvantaged Unincorporated Communities***

LAFCO is required to evaluate disadvantaged unincorporated communities as part of this service review, including the location and characteristics of any such communities. A disadvantaged unincorporated community is defined as any area with 12 or more

---

<sup>16</sup> Government Code §26909.

<sup>17</sup> BOS Resolution No. 2011-537.



registered voters, or as determined by commission policy, where the median household income is less than 80 percent of the statewide annual median.<sup>18</sup>

The California Department of Water Resources (DWR) has developed a mapping tool to assist in determining which communities meet the disadvantaged communities median household income definition.<sup>19</sup> DWR did not identify any disadvantaged communities within Santa Clara County.<sup>20</sup>

However, DWR is not bound by the same law as LAFCO to define communities with a minimum threshold of 12 or more registered voters. Because income information is not available for this level of analysis, disadvantaged unincorporated communities that meet LAFCO's definition cannot be identified at this time.

---

## Projected Growth

---

Association of Bay Area Governments (ABAG) has projected a population growth rate of 41 percent from 2010 to 2035, or 1.4 percent annually, for the City of San Jose. As BSD is an unincorporated island within the City, this growth rate could be applied to the District as well. However, the territory within the District is generally built out, meaning most lots are developed, and most future growth would be limited to infill development and redevelopment at greater densities, which can only occur following annexation to San Jose. Therefore, actual growth within the District is expected to be minimal. For the purposes of this report it is assumed that the population of the District will remain roughly the same through 2035 with minimal growth.

Water conservation will likely offset (if not overcome) population growth as the primary factor affecting the amount of sewage coming from the District.

Additionally, the City of San Jose continues to annex bits and pieces of property, which will put small downward pressure on our population. The District encompasses unincorporated islands within the City of San Jose and will shrink in size as portions are annexed to the City. Hence, the maximum service area of the District is defined by its current boundaries. The District anticipates that eventually all territory will be annexed into San Jose, and the District will cease to exist.

The District forecasts service needs based on historical demand and growth data and current census information. The District has stated that the existing infrastructure has the ability to accommodate infill development within the District's service area. However, overall growth is expected to be minimal, as the District lands are generally built out with some potential for redevelopment or expansion on existing residences. In 2012, the District made use of 72.5 percent of its treatment plant capacity allocation of 0.4 million gallons per day. Additionally, a recent flow study conducted by the District showed that at

---

<sup>18</sup> Government Code §56033.5.

<sup>19</sup> Based on census data, the median household income in the State of California in 2010 was \$57,708, 80 percent of which is \$46,166.

<sup>20</sup> DWR maps and GIS files are derived from the US Census Bureau's American Community Survey (ACS) and are compiled for the five-year period 2006-2010.

peak usage mains in the system reached a maximum of 50 percent of available capacity of the pipeline.

## **FINANCING**

---

### **Financial Adequacy**

---

BSD reported that the current financing level was generally adequate. There have been reportedly no impacts on the District's revenues from the recent recession. However, it is anticipated that greater maintenance and capital improvement costs at the treatment plant, as well as pressure by the State to upgrade collection systems will create a need for enhanced revenues in the coming years.

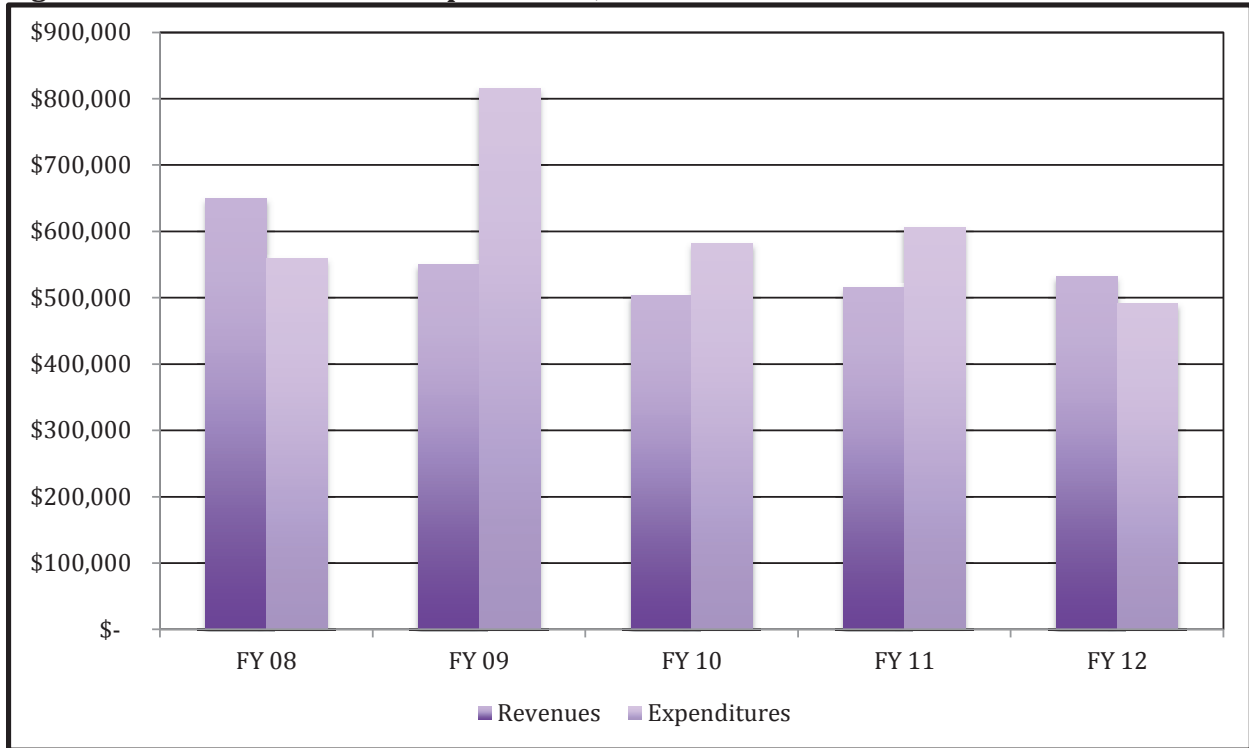
The City of San Jose is facing a major rebuild of the wastewater treatment plant during the next decade, which is projected to be \$680.9 million in capital improvement projects that will be constructed over the next five years FYs 14-18. The District's share of capital costs of future improvements and operation and maintenance costs are 0.239 percent and 0.276 percent, respectively, as defined in the District's Master Agreement with the City. As this project is implemented, BSD's payments for the plant are anticipated to take up a significantly greater portion of the District's annual expenditures. The District recently completed three consecutive rate increases for FYs 12, 13, and 14 of four percent each. The District will review the rates again next year, to assess the need for a new rate increase schedule to cover anticipated RWF costs.

In addition, there are plans to make enhancements to the RWF plant through the Master Plan Update to improve operations, enhance use of renewable energy sources, and develop habitat and open space areas, among other improvements. These improvements are anticipated to cost approximately \$1.52 billion over a period of 30 years. As many of these improvements are considered supplemental to the operations of the sewer treatment plant by the Districts, and not essential to the proper functioning of the plant, member agencies have sent letters to the City of San Jose in opposition of financing these improvements. The City has reported that it is pursuing third party funding for the habitat projects. Depending on the City's final financing plan for these capital improvements, the District may need to further enhance its revenue sources to finance its obligations.

Over the past five fiscal years (FYs 08 to 12), district revenues have exceeded expenditures in two years, as shown in Figure 1-3. The District is reportedly spending down its reserves, as it anticipates the territory it is presently serving will be taken on by the City of San Jose, and the District will cease to exist.

It should be noted that in the previous service review, it was identified that as part of the District's FY 05 audit there certain deficiencies found in the operation of internal control that could adversely affect the District's ability to initiate, record, process, and report financial data. Since then, these deficiencies have been rectified, and no deficiencies were identified in the District's FY 10 audit.

**Figure 1-3: BSD Revenues and Expenditures, FYs 08-12**



Source: BSD Financial Statements

## Revenue Sources

In FY 12, the District received \$0.53 million in revenue. The District’s revenues are derived principally from service charges, which consisted of 97.8 percent of revenue sources. Figure 1-4 below provides the District’s sources of revenues in FY 12.

**Figure 1-4: BSD Revenues ,FY 12**

Type of Revenue	Amount of Revenue	% of Total
Charges for Services	\$519,920.71	97.88%
Other fees	\$1,080.00	0.21%
Interest and Investment Income	\$10,281.30	1.94%
<b>TOTAL</b>	<b>\$531,282.01</b>	<b>100%</b>

Source: As reported by BSD.

## Rates

The purpose of the sewer service charge is to raise revenues to pay the costs of maintenance, operation, construction, and reconstruction of the District's wastewater facilities used for the collection, conveyance, treatment, and disposal of wastewater,

Sewer rates most recently changed for FY 14, and this is the last year of a three-year rate increase. Residential and non-residential rates changed by four percent between FYs 12 and 13 and by four percent between FYs 13 and 14. Rates are reviewed annually by the District. The District plans to review the rates again next year to assess the need for a new rate increase schedule.

Residential customers are charged a set monthly rate for wastewater services, while commercial customers are charged rates that are based on the type of business and the amount of water used (hundred cubic feet of consumption). These rates are collected on the property tax bill. The current rates for FY 14 are shown in Figure 1-5.

**Figure 1-5: BSD Wastewater Rates, FY 14**

Rate Category	Rate
<b>Residential (Monthly Rate)</b>	
Single Family Connection	\$34.60
Multiple Family Connection (each dwelling)	\$19.67
<b>Commercial (per hundred cubic feet)</b>	
Garages and Service Stations	\$3.33
Restaurants and Bars	\$7.63
Retail, commercial, office, school, other	\$2.86

Charges for street sweeping services are levied and contained within property tax bills. The current charge for street sweeping services is \$13.08 annually per parcel.

The District's rates for solid waste services are dependent upon the size of the garbage cart used. The service includes recycling, and disposal of yard trimmings. The contract provider directly bills residents for these services and collects the revenues. The following are the residential curbside collection rates effective July 1, 2013.

20 gallons -	\$18.33
35 gallons -	\$22.53
65 gallons -	\$35.30
95 gallons -	\$48.08

---

## Expenditures

---

In FY 12, the District's total expenditures amounted to \$0.5 million, as depicted in Figure 1-6. Payments to RWF for treatment and outfall maintenance constituted 52 percent of expenditures in that year. Other significant expenditures included management, accounting, and repairs and maintenance.

**Figure 1-6: BSD Expenditures, FY 12**

Type of Expenditure	Amount	% of Total
RWF	\$77,321.49	15.72%
Management/Engineering	\$143,321.50	29.14%
Supplies	\$165.84	0.03%
Repairs and Maintenance	\$38,612.00	7.85%
Outfall Maintenance	\$177,634.00	36.12%
Depreciation	\$15,487.00	3.15%
Membership Fees	\$1,193.00	0.24%
Insurance	\$2,497.15	0.51%
Emergency Funds	\$2,385.00	0.49%
Miscellaneous	\$33,179.63	6.75%
<b>TOTAL</b>	<b>\$491,796.61</b>	<b>100%</b>

Source: As reported by BSD.

### Capital Outlays

BSD does not have a formal multi-year capital improvement plan (CIP). Capital projects are identified on an annual basis during the budget process, as well as when needs are identified throughout the year. Additionally, the District has developed a repair and replacement program that is updated annually.

---

### Reserves

At the end of FY 12, the District maintained \$1.7 million in unrestricted assets. As previously mentioned, the Board's goal is to have no reserves once the entire district is annexed into the City of San Jose. Consequently, BSD is spending down the reserves in anticipation of dissolution.

---

### Debt

The District does not hold title to any treatment plant assets, nor is it directly or legally responsible for any related outstanding long-term debt. However, as long as the District continues to be a part of agreements with RWF, it will be responsible for a predetermined share of the plant's annual debt service payments.

The District makes debt service payments on two bonds and a loan used to finance the SBWR projects. In September 2005, the District entered into a financing agreement with the Cities of San Jose and Santa Clara and the other tributary agencies of the RWF whereby \$54 million of revenue refinancing bonds were issued. The Series A bonds have a fixed interest rate. The Series B bonds in the amount of \$21.4 million were refinanced in 2009. The proceeds from both bonds were used to fully refund the 1995 Series A and B bond issue. The agreement calls for semi-annual payments to the City of San Jose.

In FY 99, the District entered into a financing agreement with the cities of San Jose and Santa Clara and the other tributary agencies of RWF whereby \$73,566,018 in State Revolving Fund (SRF) Loan program funds were received, in addition to other federal and state sources. These funds have a fixed interest rate of 1.803 percent. The proceeds were

used to additionally finance the SBWR Project. The agreement calls for semi-annual payments in April and October to the City of San Jose.

## **INFRASTRUCTURE AND FACILITIES**

---

### **Wastewater Collection**

---

The District owns and operates approximately 5.3 miles of sanitary sewer main lines and lateral sewers. The majority of the District's sewer lines were constructed prior to 1955 and are made out of vitrified clay pipe. The entire system is gravity fed with no pump stations. A system-wide videotape inspection of all sewer mains was conducted in 2006-07 and revealed that most of the lines were in fair to good condition. Deficient areas were identified and added to the repair and replacement program. All issues identified in 2006-07 have reportedly been repaired. In 2013, BSD completed another video inspection. The District has since prepared a map of defects and severities, which should guide repair and replacement efforts for the next several years.

The mains convey sewage from the District and eventually to the City of San Jose sewer system, ending up for treatment at the RWF in Alviso. The District contracts with RWF for wastewater treatment and disposal. The District's contract gives the District rights to a percentage of the capacity of their sewage treatment facilities. The contract requires the District to pay its share (based on its capacity ratio) of debt service, operation, maintenance, and improvement costs. The District has a fixed capacity allocation of the plant of 0.4 mgd, of which the District used 0.29 mgd or 72.5 percent in 2012.

#### *Infrastructure Needs*

The District developed a repair and replacement program in 2007 and has completed numerous repairs and pipe replacement since that time. Data revealed that during times of peak sewage flows, the pipes were less than half full. Average flows in the pipes were less than one quarter full at all five metered locations. Because no flow capacity issues have been identified within the system, all capital projects focus on replacement or repair of existing pipes. Because the District is completely built out and no new developments are expected to significantly impact the sewer system, upsizing the system capacity has not been necessary. Additionally, inflow and infiltration does not play a major role in the District's system capacity. This can be attributed to the soil conditions, lack of trees, and flat elevations within the District. The replacement program is updated each year as new projects are identified and the District has adequate reserve funds to complete at least \$100,000 in projects each fiscal year.

As the District lands are expected to eventually become a part of the City of San Jose, the District should coordinate with San Jose regarding the financing of infrastructure upgrades.

The District reported that there is a challenge with multiple parcels on the same lateral, which causes access issues. BSD has contracted with Pacific Underground Construction to build a new sewer line on Olive Avenue to allow each parcel to have its own lateral connection. Once the separate Olive Avenue connections are made, the District will have eliminated all known lateral sharing amongst parcels.

The District also identified a particular challenge related to access to lower laterals. A minority of properties served by the District have property line clean outs. Those without cleanouts are hard to enter in order to perform maintenance and inspections. There are no plans to address this issue in the near future. As new buildings are constructed, clean outs are installed as a requirement.

### Shared Facilities

As previously mentioned, the District practices extensive facility sharing by receiving wastewater treatment from RWF and as a member of SBWR. Additionally, BSD shares some mains that lead to the treatment plant with the City of San Jose.

As the District's facilities are limited, no other opportunities for sharing facilities have been identified.

---

## Street Sweeping

---

The District does not own any facilities and equipment with regard to street sweeping. This service is provided entirely by the contracting agency.

### Infrastructure Needs

The contracting agency is responsible for any necessary infrastructure improvements. No infrastructure needs on the part of the District were identified with regard to street sweeping.

### Shared Facilities

The District does not conduct facility sharing with regard to street sweeping.

---

## Solid Waste Collection

---

The District does not own any facilities and equipment with regard to solid waste collection. This service is provided entirely by the contracting agency.

### Infrastructure Needs

The contracting agency is responsible for any necessary infrastructure improvements. No infrastructure needs on the part of the District were identified with regard to solid waste collection.

### Shared Facilities

The District does not directly conduct facility sharing with regard to solid waste collection; however all of the waste collected from within the District is disposed of at regional facilities that process waste from other areas as well.

## DEMAND FOR SERVICES

### Wastewater Collection

The District provides sewer service to approximately 1,623 customers—1,574 residential customers and 49 commercial customers. The District maintains an inventory of connections throughout the service area.

The District reported that flow had slightly declined in recent years, due to annexations of territory by the City of San Jose. The District's average daily flow over the last four years is shown in Figure 1-7.

**Figure 1-7: BSD Average Daily Flow (mgd), 2009-2012**

Service Level	2009	2010	2011	2012
Average Daily Flow	0.33	0.303	0.29	0.29

Source: As reported by BSD.

### Street Sweeping

The District is responsible for street sweeping on 14 miles of streets (gutters on both sides of seven miles of streets) within the District. All streets within the District are cleaned once a week.

### Solid Waste Collection

In 2012, Green Waste Recovery collected 874 tons of solid waste from within BSD.

## SERVICE ADEQUACY

### Wastewater Collection

This section reviews indicators of service adequacy, including regulatory compliance, sewer system overflows (SSOs), and collection system integrity. These service adequacy measures are outlined in Figure 1-8.

BSD has had no violations related to sewer services in the period from January 1, 2010 to July 7, 2013. Consequently, there have been no enforcement actions issued by the RWQCB during that time.

Wastewater agencies are required to report sewer system overflows (SSOs) to SWRCB. Overflows reflect the capacity and condition of collection system piping and the effectiveness of routine maintenance. One way of measuring collection system performance is to calculate an annualized sewer overflow rate. Some collection system agencies only have a responsibility to maintain sewer mains, while others are similar to the District and are responsible for both sewer mains and laterals. To provide a universally comparable sewer overflow rate, the sewer overflow rate is calculated as the number of overflows per 100 miles of mainline collection piping. BSD reported zero overflows during the period from January 1, 2010 thru July 1, 2013, and consequently the annual overflow rate during this 3.5 year period is zero.



There are several measures of integrity of the wastewater collection system, including peaking factors, efforts to address infiltration and inflow (I/I), and inspection practices. Peaking factor is defined as the ratio of peak flow (peak wet weather flow of 0.61 mgd) to average dry weather flow (0.3 mgd). A peaking factor of about 3.0 is a generally accepted factor for the design of small diameter pipe. Based on a flow study conduction in 2009, the District has a peaking factor of 2, which is general within industry standards.

**Figure 1-8: BSD Wastewater Service Adequacy Indicators**

<b>Wastewater Service Adequacy and Efficiency</b>			
<b>Regulatory Compliance Record, 2010-13</b>			
Formal Enforcement Actions	0	Informal Enforcement Actions	0
<b>Enforcement Action Type</b>		<b>Description of Violations</b>	
None		N/A	
<b>Total Violations, 2010-13</b>			
Total Violations	0	Priority Violations	0
<b>Service Adequacy Indicators</b>			
Total Employees (FTEs)	1.0	Sewer Overflows 2010 - 2013 <sup>2</sup>	0
MGD Collected per FTE	0.290	Sewer Overflow Rate <sup>3</sup>	0
Sewer Miles per FTE	7.0	Peaking Factor	2.0
<b>Infiltration and Inflow</b>			
BSD conducted a flow study in 2009 and 2010. During that time, there were a number of rain events, but it was determined by the contracting firm that conducted the study that the District's system did not exhibit symptoms of excessive infiltration and inflow.			
<b>Collection System Inspection Practices</b>			
BSD recently started the process of conducting CCTV inspections of all pipes within the system. It was anticipated that all lines would be inspected within a month of implementation. The inspection will aid the District in rating all pipelines with a National Association of Sewer Service Companies (NASSCO) score, which ranks sewer mains between one (excellent condition) and five (worst condition).			
Notes:			
(1) Order or Code Violations include sanitary sewer overflow violations.			
(2) Total number of overflows experienced (excluding those caused by customers) from January 1, 2010 to July 1, 2013 as reported by the agency.			
(3) Sewer overflows from January 1, 2010 to July 1, 2013 (excluding those caused by customers) per 100 miles of collection piping.			

---

## Street Sweeping

---

Street sweeping service adequacy may be gauged based on customer satisfaction. For the purposes of this report, the number of complaints related to street sweeping is used as the indicator of resident contentment with services received. In 2012, BSD reported that it had received no complaints related to street sweeping.

---

## Solid Waste Collection

---

The California Public Resources Code (PRC 41780) requires all jurisdictions to achieve 50 percent solid waste diversion after the year 2000. Diversion rates are defined as the percentage of total solid waste that a jurisdiction diverted from being disposed in landfills through reduction, reuse, recycling programs, and composting programs. Of the waste collected in 2012, approximately 55 percent was diverted. Based upon this information, the District was above this goal.

## GOVERNANCE STRUCTURE OPTIONS

Over the course of this review two governance structure options were identified with regard to Burbank Sanitary District—1) continued existence and service within its existing boundaries until all areas have been annexed to the City of San Jose and 2) dissolution within a certain timeframe with services continued by the City of San Jose outside of city limits in anticipation of annexation.

At present, BSD faces a particular challenge in planning for its eventual dissolution. It has been the long-term goal of LAFCO and the County that unincorporated islands should be annexed to the cities. Likewise, the City of San Jose has a General Plan policy that states that unincorporated islands should be annexed. BSD is entirely surrounded by the City of San Jose and consists of territory that is anticipated to be eventually annexed by the City in its entirety. As areas are annexed into the City, they are concurrently detached from BSD. All infrastructure and related capacity is transferred to the City, and wastewater services are continued by the City of San Jose. This process poses three challenges to BSD—difficulties in coordinating maintenance of mains with San Jose, struggles in planning for eventual nonexistence in an unknown timeframe, and a declining number of connections that will eventually reach (or may already have reached) a level that lacks economies of scale for the District to provide services.

As areas are annexed, only the related infrastructure associated with the particular parcels is transferred to the City, which can occasionally consist of an access point for an entire main—portions of which BSD still owns and is responsible for maintaining. BSD has reported that at times it has been difficult to receive the City of San Jose's approval to access district-owned sections of the main through the access point now owned by the City. Additionally, an annexation may result in the transfer of a large segment of main, through which flow from the District collects, and the operations of which impact the upstream operations of BSD's system. Mains of this nature require collaboration with the City, given the dual impact that the function of the main has on both agencies. BSD has offered assistance in maintaining mains outside of its bounds, which impact services within its bounds; however, the City of San Jose has not accepted these offers to date.

While it is anticipated that San Jose will annex all territory within BSD, the timeframe within which this will occur is unknown. The City, as the land use authority, controls the schedule of the annexations, and BSD has no input as to timing. As such, BSD must attempt to plan for financing of its system's capital needs and spend down its reserves without a deadline, which places the District in a continual planning limbo.

Finally, as connections are detached from BSD, it results in less revenue for the District. Eventually, the overhead and operations of the District will become inefficient given the dwindling number of connections being served. This lack of economies of scale will result in high rates compared to other providers to continue the operations of the District.

In consideration of the challenges faced by BSD discussed here, two governance options were identified. First, BSD could continue to exist and provide services within its existing boundaries until all areas have been annexed to the City of San Jose. Under this option, the City could annex territory within the District, but BSD would continue to own the

infrastructure and provide services to the territory that is within the District as its boundaries exist now. Once all properties within BSD had been annexed by the City, the District would be dissolved and the City would take on wastewater, solid waste collection, and street sweeping services. In this manner, the outcome would ultimately be the same with BSD dissolving and the City providing services, but it would allow the District to continue to provide services until that time, eliminating some of the challenges previously identified.

This alternative would have the following potential advantages and disadvantages, should conditions remain unchanged.

**Figure 1-9: Advantages and Disadvantages of BSD Continuing Services**

Advantages	Disadvantages
Issues revolving around future coordination of services and maintenance and operations of the systems between BSD and the City would be minimized, and the agencies would only have to address existing issues.	There is the potential that this option could cause confusion among residents as to whether they reside within the City of San Jose.
The option may eliminate the struggles that the District might face should its customer base become even smaller, leading to greater inefficiencies..	The District would continue to struggle with the timeframe for which it should plan for the conclusion of its business.

Another alternative is the dissolution of BSD within a certain timeframe to allow for the District to adequately plan for and complete its capital improvement plans and make use of remaining funds for the benefit of the District’s customers. Upon dissolution, all district infrastructure would be transferred to the City of San Jose and the City would take over the provision of wastewater, solid waste, and street sweeping services outside of the city limits. Given that eventual annexation of the territory in question is anticipated, services outside of the City’s bounds would adhere with LAFCO’s policies regarding extra-territorial service provision. While both alternatives would ultimately have the same outcome with the City taking on all services offered by the District, this option would clearly identify a schedule for dissolution, thus allowing the District to better plan for the conclusion of its business.

This alternative would have the following potential advantages and disadvantages, should conditions remain unchanged.

**Figure 1-10: Advantages and Disadvantages of BSD Dissolution**

Advantages	Disadvantages
Issues revolving around coordination of services and maintenance and operations of the systems between BSD and the City would be eliminated.	There is the potential that this option could cause confusion among residents as to whether they reside within the City of San Jose.
The option may eliminate the struggles that the District might face should its customer base become too small to efficiently provide services.	
Allows the District to better plan for the conclusion of its business.	

Customers may become accustomed to the City's services, which may expedite annexation.	
Cost savings may occur, which could be passed on to the rate payer, by reducing administrative and Board of Director costs.	

Given that there were more advantages to the dissolution of BSD identified, it is recommended that this option be the subject of additional study to determine the level of benefit in terms of services and anticipated costs and savings. It is also recommended that LAFCO facilitate a meeting between the two parties, BSD and the City of San Jose, to discuss these alternatives, identify a preferred option, and outline how to proceed with the collaboration. BSD has reported that it is amenable to meeting with the City to begin discussions of next actions.

## BURBANK SANITARY DISTRICT SERVICE REVIEW DETERMINATIONS

---

### Growth and Population Projections

---

- ❖ Based on GIS analysis of 2010 Census data, Burbank Sanitary District (BSD) encompasses a population of approximately 3,756.
- ❖ As the area is entirely built-out, it is anticipated that the District will experience nominal inflow growth over the next 25 years.
- ❖ BSD consists of an unincorporated island surrounded by the City of San Jose and will shrink in size as areas are annexed to the City. Hence, the maximum service area of the District is defined by its current boundaries.

---

### Location and Characteristics of any Disadvantaged Unincorporated Communities Within or Contiguous to the Sphere of Influence

---

- ❖ There are no disadvantaged unincorporated communities within or adjacent to the District's service area based upon mapping information provided by the State of California Department of Water Resources. However, given the large size of the defined community in the census data used, it cannot be discounted that a smaller community that meets the required income definition and has 12 or more registered voters may exist within or adjacent to the District.

---

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

---

- ❖ In 2012, the District used approximately 73 percent of its treatment capacity allocation. The District appears to have sufficient capacity at present and for the minimal anticipated growth well into the future.
- ❖ Although the master agreement has not yet expired and is still legally in effect, it is recommended that BSD and the cities of San Jose and Santa Clara update the master agreement with regard to the treatment plant in the near future to describe in detail the extent of the District's capital obligations with regard to master plan improvements. The District would also like the agreement to address district debt payments when capacity is transferred to the City upon annexation.
- ❖ BSD and the City of San Jose share a portion of their sewer systems and lines that lead to the treatment plant. The District and the City previously operated under a joint-use agreement that expired in 1983. It is recommended that the District negotiate a new agreement with the City.
- ❖ There are opportunities for enhanced collaboration and coordination with the City of San Jose, with respect to financing the upgrading of mains that flow into and

affect the city system, as well as coordination of access and maintenance as small sections of the District's system are annexed and transferred into the City.

- ❖ Based on the District's regulatory compliance history, sewer system overflow rate, and collection system integrity, as indicated by comprehensive collection system inspection practices and infiltration and inflow rates within industry standards, BSD's wastewater services appear to be adequate.
- ❖ No significant infrastructure needs were identified related to the collection system's integrity or capacity. Capital needs are identified and addressed on an annual basis.
- ❖ BSD recently started the process of conducting CCTV inspections of all pipes within the system. The inspection will aid the District in prioritizing capital improvement needs.
- ❖ The District identified a particular challenge related to access to lower laterals. Approximately 15 to 20 percent of properties served by the District have property line clean outs. Those without cleanouts are hard to enter to perform maintenance and inspections. There are no plans to address this issue in the near future.
- ❖ No capacity concerns were identified regarding street sweeping and garbage collection services.
- ❖ BSD does not own any infrastructure related to street sweeping and solid waste collection services.
- ❖ The District continues to operate under an expired contract with Enviro-Commercial Sweeping. The District plans to negotiate a new contract in 2013.

---

### Financial Ability of Agency to Provide Services

---

- ❖ BSD reported that the current financing level was generally adequate. There have been reportedly no impacts on the District's revenues from the recent recession.
- ❖ There are certain anticipated challenges to ensuring adequate revenues in the future. Greater maintenance and capital improvement costs at the San Jose-Santa Clara Regional Wastewater Facility and pressure by the State to upgrade collection systems will create a need for enhanced revenues in the coming years.
- ❖ The District recently completed three consecutive rate increases for FYs 12, 13, and 14 of four percent each. The District will review the rates again next year, to assess the need for a new rate increase schedule to cover anticipated RWF costs.
- ❖ In the previous service review, it was identified as part of the District's FY 05 audit there were certain deficiencies found in the operation's internal controls. Since then, these deficiencies have been rectified, and no deficiencies were identified in the District's FY 10 audit.
- ❖ Depending on the City of San Jose's final financing plan for projects identified in the Master Plan Update, there may be a need for enhanced revenues on the part of the District.
- ❖ In three of the past five fiscal years the District's expenditures exceeded revenues.

- ❖ BSD maintains a high level of reserves equivalent to almost three years of district expenditures.

---

### Status and Opportunities for Shared Facilities

---

- ❖ BSD practices extensive facility sharing by receiving wastewater treatment from the San Jose-Santa Clara Regional Wastewater Facility and as a member of South Bay Water Recycling. Additionally, BSD and the City of San Jose share a portion of their sewer systems and lines that lead to the treatment plant.
- ❖ No additional opportunities for facility sharing were identified.

---

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

---

- ❖ BSD demonstrated accountability and transparency in its various aspects of operations. The governing body updates constituents, solicits constituent input, and posts public documents on its website. While BSD keeps its financial reporting and budgets up-to-date, it is recommended that the District also make available its budget and audited financial statement on its website. The District fully cooperated with LAFCO requests for information.
- ❖ BSD has operational regulations and several policy resolutions that provide a framework for the District's operations. While not legally required, the District does not have policies specific to Brown Act compliance, public requests for information, nor code of ethics, which is considered a best management practice. Additionally, the District should adopt a policy on expense reimbursements as legally required.
- ❖ Two governance structure options were identified for BSD—1) continued existence and service within its existing boundaries until all areas have been annexed to the City of San Jose and 2) dissolution within a certain timeframe with services continued by the City of San Jose outside of city limits in anticipation of annexation.



## **BURBANK SANITARY DISTRICT SPHERE OF INFLUENCE UPDATE**

---

### Existing Sphere of Influence Boundary

---

Burbank Sanitary District has a zero SOI.

---

### Recommended Sphere of Influence Boundary

---

Given that LAFCO and County policies regarding pocket areas and service provision have remained unchanged and continue to encourage the annexation of unincorporated islands to the surrounding cities, it is anticipated that the City of San Jose will eventually annex all territory within BSD. Consequently, regardless of the outcome of the governance structure options presented in this report, it is anticipated that BSD will ultimately cease to exist. It is recommended that in anticipation of the eventual dissolution of the District, that LAFCO reaffirm BSD's zero SOI.

---

### Proposed Sphere of Influence Determinations

---

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

- ❖ Burbank Sanitary District (BSD) provides sewer collection services for unincorporated islands within the City of San Jose. The District contracts with the San Jose-Santa Clara Regional Wastewater Facility for wastewater treatment and disposal. Additionally, BSD provides solid waste collection and street sweeping services through franchise agreements with private contractors.

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

- ❖ The district is located within an unincorporated island of the City of San Jose. The District is generally built out and comprised of predominately single-family residential and some commercial uses. Planned land uses throughout the District area are generally similar to those of the existing uses.
- ❖ There are no agricultural or open space lands within the District's bounds.

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

- ❖ BSD encompasses an unincorporated island within the City of San Jose and will shrink in size as portions are annexed to the City. Hence, the maximum service area of the District is defined by its current boundaries.
- ❖ The District reported that growth has been minimal and is not affecting demand for services. The area within the District is largely built out, and most future growth would be limited to infill development and redevelopment. Therefore, actual growth within the District's boundaries is anticipated to be low.

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

- ❖ In 2012, the District used approximately 73 percent of its treatment capacity allocation. The District appears to have sufficient capacity at present and for the minimal anticipated growth well into the future.
- ❖ It is recommended that BSD and the cities of San Jose and Santa Clara update the master agreement with regard to the treatment plant in the near future to describe in detail the extent of the District's capital obligations with regard to master plan improvements. The District would also like the agreement to address district debt payments when capacity is transferred to the City upon annexation.
- ❖ BSD and the City of San Jose share a portion of their sewer systems and lines that lead to the treatment plant. The District and the City previously operated under a joint-use agreement that expired in 1983. It is recommended that the District negotiate a new agreement with the City.
- ❖ There are opportunities for enhanced collaboration and coordination with the City of San Jose, with respect to financing the upgrading of mains that flow into and affect the city system, as well as coordination of access and maintenance as small sections of the District's system are annexed and transferred into the City.
- ❖ Based on the District's regulatory compliance history, sewer system overflow rate, and collection system integrity, as indicated by comprehensive collection system inspection practices and infiltration and inflow rates within industry standards, BSD's wastewater services appear to be adequate.
- ❖ No capacity concerns were identified regarding street sweeping and garbage collection services.
- ❖ The District continues to operate under an expired contract with Enviro-Commercial Sweeping. The District plans to negotiate a new contract in 2013.

*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 encompasses an unincorporated island that is entirely surrounded by the City of San Jose. The District is part of the social and economic community of San Jose.