

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
1112 I Street #100
Sacramento, California 95814
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May 5, 2010

TO: Sacramento Local Agency Formation Commission
FROM: Peter Brundage, Executive Officer *PB*
RE: Report Back on Response to April 5, 2010 Grand Jury Report –
Rio Linda/Elverta Community Water District

CONTACT: Don Lockhart, AICP, Assistant Executive Officer (916) 874-2937

RECOMMENDATION

Direct staff to finalize and forward the attached draft response to the Honorable Steve White, Presiding Judge of the Sacramento Superior Court.

SUMMARY

Pursuant to Penal Code sections 933 and 933.05, your staff and counsel have drafted the attached comments and responses to the 2009-2010 Sacramento Grand Jury Report on the Rio Linda/Elverta Community Water District.

DISCUSSION

The purpose of this memorandum is to provide the Commission with background information related to the Grand Jury investigation of the Rio Linda/Elverta Community Water District (RL/E CWD.)

Your staff has met and discussed the matter with staff of the CA Dept. of Public Health (CADPH). According to Kim Wilhelm, Regional Engineer, Northern CA Field Operations Unit, the RL/E CWD has been effectively meeting the directives imposed by the Compliance Orders (#01-09-07-CO-004 & #01-09-09-CO-004.) Adequate financing appears to be of the greatest concern. The RL/ECWD has a loan application pending with the CADPH. LAFCo staff efforts to make contact with RL/ECWD staff were unsuccessful.

The attached response to the Grand Jury summarizes the reorganization study that was commenced on September 6, 1995. Also, the LAFCo staff reports and the Base Study on the Rio Linda Elverta Community Water District are included in the Memo to the Grand Jury.

The previous reorganization study was initially funded by affected agencies. The effort was abandoned when the funding was withdrawn. The FY 2010-11 Proposed LAFCo Budget appears inadequate to fund a comprehensive reorganization study.



SACRAMENTO LOCAL AGENCY FORMATION COMMISSION

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DATE: April 19, 2010

TO: Honorable Steve White
Presiding Judge of the Sacramento Superior Court
720 9th Street, Department 47
Sacramento, California 95814

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FROM: Peter Brundage, Executive Officer
Sacramento Local Agency Formation Commission

RE: **Sacramento Local Agency Formation Commission Responses to the Grand Jury Report on the Rio Linda/Elverta Community Water District**

Pursuant to Penal Code sections 933 and 933.05, the Sacramento Local Agency Formation Commission ("Commission") submits the following comments and responses to the 2009-2010 Sacramento Grand Jury Report on the Rio Linda/Elverta Community Water District.

Grand Jury Finding 1.0: The Rio Linda/Elverta Community Water District (RLECWD) does not have adequate, reliable sources of water supply to meet requirements of its existing customers based on accepted standards of service and requirements of the California Department of Public Health (CDPH) Water Supply Permit.

Response: Based on a review of CDPH Compliance Order No. 01-09-09-CO-004 ("Compliance Order"), and the 2009-2010 Sacramento Grand Jury Report, the Commission agrees with Grand Jury Finding 1.0.

Grand Jury Recommendation 1.1: The RLECWD should give immediate priority to negotiating and implementing additional emergency and peak demand water supplies from its neighboring water utilities.

Response: The Commission cannot implement this recommendation because it does not have the power to force RLECWD to procure additional emergency and peak demand water supplies. However, the Commission will meet with CDPH to evaluate the progress of RLECWD towards satisfying the Compliance Order's requirements.

Grand Jury Recommendation 1.2: The RLECWD must give high priority to completion of at least one new high capacity well, while at the same time proceeding expeditiously with completion of additional supply improvements to meet CDPH Water Supply Standards and satisfy conditions of its two CDPH Compliance Orders



Response: The Commission cannot implement this recommendation because it does not have the power to expeditiously force RLECWD to complete one new high capacity well and complete additional, necessary, supply improvements. However, the Commission will meet with CDPH to evaluate the progress of RLECWD towards satisfying the Compliance Order's requirements.

Grand Jury Recommendation 1.3: The RLECWD should acquire enough standby power capability (engine-driven generators, or equivalent) to meet at least average system demand during an electrical power outage.

Response: The Commission cannot implement this recommendation because it does not have the power to force RLECWD to quickly acquire necessary standby power. However, the Commission will meet with CDPH to evaluate the progress of RLECWD towards satisfying the Compliance Order's requirements.

Grand Jury Finding 2.0: The defective RLECWD water system poses significant risks to public health and safety. The District must make a series of improvements to mitigate these risks.

Response: Based on a review of CDPH Compliance Order No. 01-09-09-CO-004, and the 2009-2010 Sacramento Grand Jury Report, the Commission agrees with Grand Jury Finding 2.0.

Grand Jury Recommendation 2.1: The RLECWD must institute and maintain a backflow prevention program meeting all requirements of CDPH.

Response: The Commission cannot implement this recommendation because it does not have the power to force RLECWD to institute and maintain a backflow prevention program. However, the Commission, in conducting a Municipal Service Review (MSR) of RLECWD's operations will evaluate RLECWD's progress towards a backflow prevention program.

Grand Jury Recommendation 2.2: The RLECWD must improve its water supply for fire suppression by increasing the available reliable water supply to meet fire flow standards (flow, volume and pressure) of the county fire code and the Sacramento Metropolitan Fire District (SMFD) throughout the distribution system.

Response: The Commission cannot implement this recommendation because it does not have the power to force RLECWD to increase the available reliable water supply to meet fire flow standards. However, the Commission, in conducting a MSR of RLECWD's operations will evaluate RLECWD's progress towards a reliable water supply that meets fire flow standards.

Grand Jury Recommendation 2.3: The RLECWD should retain an independent consultant to conduct a risk survey concerning all security and illicit access deficiencies and the District should correct them.

Response: The Commission cannot implement this recommendation because it does not have the power to force RLECWD to retain an independent consultant to conduct a security and illicit access risk survey. However, the Commission, in conducting a MSR of RLECWD's operations will evaluate RLECWD's progress on a risk survey of security and illicit access deficiencies. If

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RLECWD's progress is lacking, the Commission, through the MSR, will conduct its own risk survey of security and illicit access deficiencies.

Grand Jury Finding 5.0: The Board of Directors has wasted the District's assets. The Board of Directors and general managers have spent funds on unsound purchases, investments, and legal expenses arising from inappropriate or ill-advised actions.

Response: The Commission is unable to agree or disagree with Grand Jury Finding 5.0. The Commission will conduct a MSR of RLECWD to determine whether the Commission agrees or disagrees with Grand Jury Finding 5.0. The Commission expects to have the MSR completed by October 2010.

Grand Jury Recommendation 5.1: The board should retain and take the counsel of professional experts in accounting, law, human resources, water utility management, engineering, and utility rate analysis.

Response: The Commission cannot implement this recommendation because it does not have the power to force RLECWD to retain professional experts. However, the Commission, in conducting the MSR, will assess RLECWD's progress in this area and, if necessary, recommend RLECWD retain professional experts to stop the waste of assets.

Grand Jury Recommendation 5.2: The board should develop and implement an effective financial plan which includes capital improvements.

Response: The Commission cannot implement this recommendation because it does not have the power to force RLECWD to implement an effective financial plan. However, the Commission, in conducting the MSR, will assess RLECWD's financial status and its progress towards implementing an effective financial plan. If necessary, the Commission will recommend an effective financial plan to RLECWD for implementation.

Grand Jury Finding 8.0: Without major changes in governance, management, and resource utilization the RLECWD is unable to satisfactorily correct its problems and provide high quality water utility services to its present service area and remainder of the district area.

Response: The Commission is unable to agree or disagree with Grand Jury Finding 8.0. The Commission will conduct a MSR of RLECWD to determine whether the Commission agrees or disagrees with Grand Jury Finding 8.0. The Commission expects to have the MSR completed by October 2010.

Grand Jury Recommendation 8.1: One solution to these problems is a reorganization of the District. All affected public agencies (CDPH, SacLAFCo, Sacramento County Board of Supervisors, Sacramento Metropolitan Fire District, Sacramento County Department of Health and Human Services, Rio Linda-Elverta Chamber of Commerce) and interest groups should formally urge the RLECWD Directors to declare their intent to reorganize the District.

Response: The Commission will implement this recommendation by meeting with all affected public agencies in an attempt to formally urge the RLECWD Directors to declare their intent to reorganize the District. The Commission will attempt to meet and confer with all

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affected public agencies over the next few months with a hope that a formal resolution could be adopted by all affected public agencies urging the RLECWD Directors to declare their intent to reorganize the District. The Commission anticipates completing this effort by September 2010.

Grand Jury Recommendation 8.2: SacLAFCO should immediately initiate a reorganization proceeding which includes completion of a Municipal Service Review (MSR), and a study of feasibility and alternatives for reorganization of the RLECWD.

Response: The Commission will implement this recommendation in parts. First, the Commission will conduct a MSR of RLECWD. The Commission anticipates completing the MSR by October 2010. Depending on the MSR findings, RLECWD's progress in resolving the issues identified by the 2009-2010 Grand Jury Report and the Compliance Order, and RLECWD's willingness to reorganize, the Commission may initiate a Reorganization Study.

The Commission will conduct a MSR even though the law only requires a MSR before, or in conjunction with, but no later than the time the Commission is considering an action to establish a Sphere of Influence in accordance with Government Code section 56425 or section 56426.5 or to update a Sphere of Influence pursuant to Government Code section 56425. Municipal Service Reviews are not required until there is a Sphere of Influence update or proposal. Sphere of Influence updates are required every five years, if there is a need to update the Sphere. Government Code section 56425, subdivision (g) states on or before January 1, 2008, and every five years thereafter, the Commission shall, *as necessary*, review and update each Sphere of Influence. The Office of Planning and Research recommended a five year schedule for MSR's in conjunction with Sphere of Influence updates. In Sacramento County most Special Districts' Sphere of Influence boundaries are coterminous with their District boundaries because there are relatively few unserved areas in Sacramento County. Consequently Sphere of Influence updates are not required in many cases unless there is a proposed change in boundaries between special districts.

If necessary, the Reorganization Study would be conducted in accordance with the Cortese-Knox-Hertzberg Reorganization Act of 2000. The Commission would conduct an outreach with customers of RLECWD, affected agencies, and interested parties to assess the level and quality of service provided by the District. In the event, it appears that the District is incapable or unwilling to comply with the CDPH Compliance Orders and the recommendations of the 2009-2010 Grand Jury Report, the Commission could convene a reorganization committee to examine options to reorganize the District to provide services in an more reliable and accountable manner. While the Commission has the authority to initiate such studies and proposals and approve the potential reorganization of the District, current State Law provides that a Commission initiated reorganization proposal is subject to the following protest provisions:

- a. At least 10 percent of the number of landowners within the affected territory who own at least 10 percent of the assessed value of land within the territory; or
- b. At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory.

Thus, if 10 percent of RLECWD's voters or landowners submit a protest petition an election is triggered. If a majority does not approve the reorganization, the reorganization is terminated.

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The Commission submits the foregoing responses in an attempt to constructively and effectively respond to the findings and recommendations of the Grand Jury. If the Grand Jury has any additional questions or concerns, the Commission will assist the Grand Jury in any way that it can.

Respectfully,

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION

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Peter Brundage,
Executive Officer

cc: LAFCo Commissioners
County Board of Supervisors
RL/E CWD Board of Directors

