San Diego County
Local Agency Formation Commission
Regional Service Planning | Subdivision of the State of California

SPECIAL MEETING AGENDA
SPECIAL DISTRICTS ADVISORY COMMITTEE

Friday, October 17, 2025
9:30 A.M. to 11:30 A.M.

In-Person Participation
Sweetwater Authority's
Richard A. Reynolds Groundwater Desalination Facility
3066 N. 2nd Avenue, Hydro Station Room
Chula Vista, California 91910

Ann Baldridge RCD of Greater SDC	James Gordon Deer Springs FPD	Rachel Mason Fallbrook Regional HD	Joel Scalzitti Helix WD
Jack Bebee Fallbrook PUD	Tracy Largent Port of San Diego	Dave McQuead Rancho Santa Fe FPD	Mike Sims Bonita-Sunnyside FPD
Paul Bushee Leucadia WWD	Albert Lau Santa Fe ID	Marty Miller Vista ID	Kimberly Thorner Olivenhain MWD
Jeff Egkan North County FPD	Hector Martinez South Bay Water	Mark Robak Otay WD	

The Special Districts Advisory Committee is responsible for helping to inform the Commission on all germane items relating to San Diego LAFCO's regulatory and planning responsibilities affecting special districts.

The Committee will hold the October 17, 2025 meeting in person at the Sweetwater Authority's Richard A. Reynolds Groundwater Desalination Facility, Hydro Station Room (3066 N. 2nd Avenue, Chula Vista, California 91910). In person attendance by the public is welcomed. The public may also watch, listen, and otherwise participate in the meeting remotely by any of the following options.

1. The public may watch and listen to the meeting live on YouTube using the link provided on our website homepage (www.sdlafco.org).

2. The public may watch, listen, and participate in the meeting by Zoom (https://zoom.us/) or by telephone at (669) 900-9128 using Meeting/Webinar ID: 895 6767 7168 and Passcode 508649. Please use the "raise your hand" function in Zoom or push *9 by telephone if/when you wish to speak. Then wait until your name is called before speaking.

   a) The public may provide eComments on any item by emailing erica.sellen@sdcounty.ca.gov
      - eComments received before 4:00 P.M. on Thursday, October 16 2025, will be forwarded to the Committee and posted online before the meeting. They will also be referenced during the meeting.
      - eComments received during the meeting and before the subject item is concluded will be referenced and later posted online.

The Committee may proceed with the meeting, even where there is a disruption that prevents the Committee from broadcasting the meeting to members of the public or from receiving public comment from members of the public using a call-in option or internet-based service option, unless such disruption prevents a member of the Committee is participating under Government Code Section 54953, subdivision (e) or (f).

1. **9:30 A.M. – CALL TO ORDER BY CHAIR**
   a) **Roll Call**
   b) **Pledge Of Allegiance**

2. **AGENDA REVIEW BY CHAIR**

3. **OPEN EXPRESSION**
   This time is reserved for any member of the public to address the Committee on germane topics that are not directly part of the agenda. This includes requests for future Committee topics. Individuals are limited to three minutes.

4. **CONSENT ITEMS**

   a) **Approval of Meeting Minutes for July 18, 2025 (action)**
   The Committee will consider draft summary minutes prepared for the last meeting held on July 18, 2025. Staff recommends approval as presented. (Pages 5-10)

   b) **Progress Report on 2025-2026 Workplan (information)**
   The Committee will receive an update on the adopted workplan and activities related to the 30 special projects scheduled for 2025-2026. Information only. (Pages 11-16)

   c) **Legislative Report (information)**
   The Committee will receive a report on legislation introduced this session relevant to San Diego LAFCO's regulatory and planning responsibilities. The item also provides an update on the Committee's interest and related San Diego LAFCO workplan direction to pursue legislation addressing recent recommendations in a U.C. Berkeley study. Item is presented for information with the opportunity for the Committee to pull for discussion. (Pages 17-22)

   d) **Update on Commission Action to Join Monterey LAFCO Amicus Brief (information)**
   The Committee will receive an update on San Diego LAFCO's recent action to join an amicus brief in support of Monterey LAFCO's appeal of a trial court decision with potential statewide implications. The Commission approved participation at its October 6th meeting and authorized contribution of up to $1,200. The brief, led by Monterey LAFCO and prepared by Nossaman LLP, seeks to affirm LAFCO decisions are governed by substantial evidence as provided under LAFCO law. Information only. (Pages 23-58)

5. **BUSINESS ITEMS**

   a) **Updated Rolling Five-Year Study Schedule (information)**
   The Committee will receive a report on the Commission's rolling five-year study schedule. This update follows the Commission's action in October 2025 to roll the existing schedule forward and reset the coverage period from FY 2026 through FY 2030, and aligning the study schedule with the adopted workplan. Two notable adjustments are included: removal of the now-completed Oceanside regional review and addition of several new reviews. Consistent with prior practice, the first two years correspond to municipal service reviews authorized and funded in the adopted workplan, including the newly added review of the Port District. The final three years function as an advanced planning tool to signal long-term intentions and provide local agencies and the public with notice of upcoming reviews. This item is presented to the Committee for information with the opportunity to advance formal comments and/or recommendations to the Commission as needed. (Pages 59-68)

   Contact: Priscilla Mumpower, Assistant Executive Officer

BUSINESS ITEMS CONTINUED …

b) **Update on High Priority Project |**
Municipal Service Review on Wholesale Water Agencies in San Diego County (discussion)
The Committee will receive an update on San Diego LAFCO's municipal service review (MSR) of wholesale water agencies in San Diego County—one of ten high-priority projects in the adopted 2025–2026 workplan. The study includes a comprehensive review of the San Diego County Water Authority (CWA) and a proportional review of the Metropolitan Water District of Southern California (MET). This item is presented for discussion, with an opportunity for the Committee to provide input on interests or priorities related to wholesale water service delivery and governance on behalf of special districts in San Diego County. (Pages 69-78)

Contact: Priscilla Mumpower, Assistant Executive Officer

c) **Update on Sustainable Agricultural Lands Conservation Grant (SALC 2.0) (discussion)**
The Committee will receive an update on the Commission's ongoing Sustainable Agricultural Lands Conservation (SALC) planning grant, known as "SALC 2.0." This project is being conducted in partnership with the County of San Diego's Planning and Development Services and builds on findings from the initial SALC grant to analyze economic challenges facing small-scale agricultural operations and identify policy solutions. SALC 2.0 is currently in its fifth phase to develop a strategic plan for incentives, technical assistance, regulatory improvements, and other support mechanisms for small-scale agriculture. Staff seeks Committee input on two key topics: incorporating agricultural analysis into the municipal service review program and establishing a regional working group to promote affordable water access for farmers and potential special district participation. (Pages 79-84)

Contact: Michaela Peters, Analyst II

d) **Workplan Update on High-Mid Priority Project |**
San Diego LAFCO Website Refresh + Content Expansion (information)
The Committee will receive an update on one of San Diego LAFCO's high- to mid-priority projects included in the current adopted workplan: the redesign of the LAFCO website. The project is currently underway with consultant Chase Design and explores website enhancement options, with a focus on aesthetic design, accessibility, usability, and expanded content. As part of this broader modernization effort, the project also includes reimagining the LAFCO logo to reflect a more streamlined design. The Committee will receive a verbal report – including a walk-through presentation of the current website – with the opportunity to provide feedback and input to staff. (Pages 85-88)

Contact: Aiden Velasquez, Communications Associate

e) **Introduction | San Diego Unified Port District + Related Activities (information)**
The Committee will receive an introduction to the San Diego Unified Port District. This introduction follows recent actions by San Diego LAFCO to formally include the Port as a special district under its oversight. As part of this action, the Port is now contributing an annual apportionment to LAFCO and is featured in the FY 2025–2026 workplan through the initiation of an inaugural Municipal Service Review. Tracy Largent, Chief Financial Officer/Treasurer of the Port, will provide the Committee with an overview of the Port's mission, governance, and key activities relevant to special districts within San Diego County. The item is presented for information with an opportunity to provide feedback. (Pages 89-92)

Contact: Michaela Peters, Analyst II

BUSINESS ITEMS CONTINUED …

f) **Update: Development of Weighted Water Rate Comparison Formula (discussion)**
The Committee will receive a verbal report on the development of a weighted water rate comparison formula being prepared in collaboration with consultant Tom Kennedy. The formula is intended for use in upcoming Municipal Service Reviews (MSRs) to enhance the evaluation of agencies' water rates. The update will highlight progress to date and next steps in incorporating factors such as topography and infrastructure variations among agencies. This item is presented for discussion and feedback.

Contact: Tom Kennedy, LAFCO Consultant

6. COMMITTEE MEMBER REPORTS

7. EXECUTIVE OFFICER REPORT

8. ADJOURNMENT

Attest to Posting:

Erica A. Sellen

Erica Sellen
Committee Secretary

Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting.

4a

AGENDA REPORT
Consent | Action

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Erica Sellen, Commission Clerk

SUBJECT: **Approval of Meeting Minutes for July 18, 2025**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive action minutes prepared for the last meeting held on Friday, July 18, 2025. The minutes are in draft-form and being presented for formal approval with any corrections identified by the Committee.

BACKGROUND

The Ralph M. Brown Act was enacted in 1953 and establishes standards for the public to attend and participate in meetings of local government bodies. The "Brown Act" requires – and among other items – public agencies to maintain written minutes for qualifying meetings.

DISCUSSION

This item is for the Committee to consider approving action minutes prepared by the Committee Secretary for the July 18, 2025 meeting consistent with the Brown Act.

ANALYSIS

The attached action minutes for the July 18, 2025 meeting accurately reflect the Committee's deliberations as recorded by the Committee Secretary. A video recording of the meeting has also been posted online at www.sdlafco.org/meetings.

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Dane White, City of Escondido
John McCann Alt., City of Chula Vista
Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Vice Chair Barry Willis, Alpine Fire Protection
Jo MacKenzie, Vista Irrigation
David Drake, Alt., Rincon del Diablo
Brigette Browning, General Public
Eileen Delaney, Alt., General Public

RECOMMENDATION

It is recommended the Committee approve the draft action minutes prepared for the July 18, 2025 special meeting as presented and consistent with Alternative One in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternatives are available to the Committee through a single motion:

Alternative One (recommended):
Approve the draft action minutes prepared for the July 18, 2025 meeting with any desired corrections or clarifications.

Alternative Two:
Continue to the next regular meeting and provide direction to staff as needed.

PROCEDURES

This item has been placed on the Committee's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Committee.

Respectfully,

Erica A. Sellen

Erica Sellen
Commission Clerk

Attachment: as stated

DRAFT
SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION
SPECIAL DISTRICTS ADVISORY COMMITTEE
SPECIAL MEETING
July 18, 2025

Rancho Santa Fe Fire Protection District
18027 Calle Ambiente, Suite 101, Cielo Boardroom
Rancho Santa Fe, California 92067

1. 9:30 A.M. – CALL TO ORDER BY CHAIR

Chair Kimberly Thorner called the meeting to order at 9:32 a.m.

Item 1a
ROLL CALL

Chair Kimberly Thorner requested a roll call from the Committee Secretary.

Members Present:	Members Absent:
Chair Kimberly Thorner (Olivenhain MWD)	Paul Bushee (Leucadia WWD)
Vice Chair Jack Bebee (Fallbrook PUD)	Jeff Egkan (North County FPD)
Ann Baldridge (RCD Greater San Diego County)	Hector Martinez (South Bay ID)
James Gordon (Deer Springs FPD)	Marty Miller (Vista ID)
Albert Lau (Santa Fe ID) (arrived at 9:43 a.m.)	Joel Scalzitti (Helix WD)
Rachel Mason (Fallbrook Regional HD)	Oliver Smith (Valley Center MWD)
Dave McQuead (Rancho Santa Fe FPD)	
Mark Robak (Otay WD)	
Mike Sims (Bonita-Sunnyside FPD)	

The Committee Secretary confirmed a quorum with nine members present. The following members of San Diego LAFCO staff were present at roll call: Executive Officer Keene Simonds; Assistant Executive Officer Priscilla Mumpower; Local Government Analyst II Michaela Peters; Local Government Analyst I Meghan Traynor; Communications Associate Aiden Velasquez; GIS Analyst Dieu Ngu; and Commission Clerk Erica Sellen serving as Committee Secretary. LAFCO Consultants Pat Bouteller, Mike Stein, and Tom Kennedy were also present.

Item 1b
PLEDGE OF ALLEGIANCE

Dave McQuead (Rancho Santa Fe FPD) led the Pledge of Allegiance.

2. AGENDA REVIEW BY CHAIR

Chair Kimberly Thorner asked the Executive Officer if there were requests to remove or rearrange items on the agenda. The Executive Officer stated no changes were needed to the agenda.

Chair Thorner invited Chief Dave McQuead to go over house rules and discuss the option of taking a tour after the meeting.

3. OPEN EXPRESSION

Chair Kimberly Thorner asked if there were any members of the public who wished to address the Committee on a germane topic that is not directly part of the agenda.

The Committee Secretary confirmed there were no pre-registered speakers and no live email comments.

4. CONSENT ITEMS

a) Approval of Meeting Minutes for April 18, 2025 (action)
The Committee considered draft summary minutes prepared for the last meeting held on April 18, 2025. Recommendation to approve as presented.

b) Progress Report on 2025-2026 Workplan (information)
The Committee received an update on the adopted workplan and activities related to the 30 special projects scheduled for 2025-2026. Information only.

c) Policy Amendments |
Commission Approved Special Districts Advisory Committee Rules (information)
The Committee received an update on the recently approved amendments to its formal rules. These amendments were presented to the Commission at its June 2, 2025 meeting – following the Committee's approval in April – and received approval with a few modifications. Information only.

**

On motion by Mike Sims (Bonita-Sunnyside FPD) and seconded by Dave McQuead (Rancho Santa Fe FPD), the Committee unanimously approved the Consent Calendar.

5. BUSINESS ITEMS

a) Legislative Report (information)
The Committee received a report summarizing legislative items of interest related to LAFCO's regulatory and planning responsibilities. The report specifically highlights seven bills with potential material implications for LAFCOs, including two measures – AB 356 (Patel) and AB 448 (Patel) – that directly involve the Palomar Healthcare District. During the June 2, 2025 LAFCO meeting, the Commission formally voted to adopt a support position for AB 356, if amended, and AB 448. Information only.

Staff presentation provided by Local Government Analyst I Meghan Traynor.

Chair Thorner proceeded to invite questions and/or comments from the Committee.

General discussion followed. No action.

BUSINESS ITEMS CONTINUED…

b) **Current Workplan Update on High Priority Project | Municipal Service Review on Healthcare Districts in San Diego County (information)**
The Committee received an update on the current adopted workplan focusing on one of San Diego LAFCO's highest placed priorities involving a Municipal Service Review (MSR) on the four healthcare districts in San Diego County including: Fallbrook, Palomar, Grossmont, and Tri-City. The review will be divided into two parts and will encompass: an overarching analysis of the district's services (macro report), followed by a detailed examination (micro report). The update was provided for information with an opportunity for Committee members to provide feedback to staff on interests and/or priorities on behalf of special districts in San Diego County.

Staff presentation provided by Local Government Analyst II Michaela Peters.

Chair Thorner proceeded to invite questions and/or comments from the Committee.

General discussion followed. No action.

c) **Current Workplan Update on High Priority Project | Municipal Service Review on Wholesale Water Agencies in San Diego County (information)**
The Committee received an update on the current adopted workplan, with a focus on San Diego LAFCO's highest-priority project involving a Municipal Service Review (MSR) of wholesale water agencies operating within San Diego County. This MSR includes a comprehensive review of the San Diego County Water Authority (CWA) and a proportional review of the Metropolitan Water District of Southern California (MET). The update was provided for information with an opportunity for Committee members to provide feedback to staff on interests and/or priorities on behalf of special districts in San Diego County.

Staff presentation provided by Assistant Executive Officer Priscilla Mumpower with introduction of new LAFCO Consultant Pat Bouteller.

Chair Thorner proceeded to invite questions and/or comments from the Committee.

General discussion followed covering topics including CWA rates, financial matters, the recent settlement with MWD, and governance issues. No action.

d) **Special Governance Study on the Oceanside Small Craft Harbor District (discussion)**
The Committee reviewed a preliminary scope of work involving a special governance study on the Oceanside Small Craft Harbor District (SCHD). This study ties to the Commission's adopted workplan and a formal recommendation adopted as part of the Municipal Service Review (MSR) on the Oceanside region. This item was presented to the Committee for discussion with an opportunity to offer input prior to staff finalizing the scope of work.

Staff presentation provided by Local Government Analyst II Michaela Peters.

Chair Thorner proceeded to invite questions and/or comments from the Committee.

General discussion followed. The Executive Officer then invited members to form a working group to help inform the progression of the governance study. No action.

6. COMMITTEE MEMBER REPORTS

- Mike Sims noted that the SDCWA will provide a "Water 101" presentation to the Fire Chief's Association on August 7th at 9:30am.

- Dave McQuead thanked Albert Lau and Kimberly Thorner for their collaboration at a recent town hall meeting held on July 16th to discuss emergency preparedness and coordination between utility and fire service providers.

- Ann Baldridge provided a final SALC 1.0 bounded report.

- Chair Kimberly Thorner provided an update on a recent presentation she delivered at the State Senate.

7. EXECUTIVE OFFICER REPORT

Executive Officer Keene Simonds noted the following items:

- Introduced new LAFCO Consultant Pat Bouteller.

- Local Government Analyst I Joelle Burila welcomed a baby girl and will be on maternity leave through the balance of the calendar year.

- A regular public member is expected to be appointed at LAFCO's August 4th meeting.

8. ADJOURNMENT

With no further business, the Special Districts Advisory Committee meeting was adjourned at 10:47 a.m.

Attest:

Erica Sellen
Committee Secretary

4b

AGENDA REPORT
Consent | Information

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer
Priscilla Mumpower, Assistant Executive Officer

SUBJECT: **Progress Report on 2025-2026 Workplan**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive an update on the adopted 2025-2026 workplan and related activities. As the fiscal year proceeds into the second quarter, 10 of the 30 special projects are substantively underway with most activity focused on the Commission's top 10 high-priority items. Ongoing projects include municipal service reviews of wholesale water providers, local healthcare districts, and the San Diego Association of Governments. Other high-priority efforts underway include the preparation of a white paper on homeless services, administration of the SALC 2.0 grant, and a website refresh project. The item is provided to the Committee for information only.

BACKGROUND

San Diego LAFCO adopted its current fiscal year workplan at a public hearing in May 2025. The workplan includes 30 special projects divided into two distinct categories – statutory and administrative – with priority assignments established by the Commission.

DISCUSSION

This item provides the Committee with an update on the commencement and continuation of special projects approved as part of the 2025–2026 workplan. A full project status report

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is attached and shows eight of the ten high-priority projects are substantively underway. Staff resources are currently focused on advancing the first five priority projects, all of which involve municipal service reviews. Updates on these MSRs were provided at the Committee's July 18th meeting. A separate quarterly update on the top-priority MSR — covering the San Diego County Water Authority (comprehensive review) and the Metropolitan Water District of Southern California (limited review) — is included under Agenda Item 5b. Other high- and mid-priority projects are also advancing, with additional details provided below.

Priority No. 8 | White Paper on Homeless Services
LAFCO staff has held four meetings with consultant Technical Assistance Collaborative and initiated data collection to (a) map the regional ecosystem of homeless services and (b) research performance metrics to evaluate the regional continuum of care system. The project will conclude with an overview of best practice recommendations on existing services and governance models, along with potential alternatives to improve coordination among agencies and organizations serving the homeless within the County.

Priority No. 10 | SALC Planning Grant 2.0
LAFCO staff continues to collaborate with the County's Planning and Development Services Department and consultant RICK Engineering to develop a Strategic Plan under Task 5 of the grant contract. This effort integrates findings from the Market and Gap Analyses prepared by Agricultural Impact Associates LLC and incorporates stakeholder feedback. Additional details will be provided as part of Agenda Item 5c.

Priority No. 13 | Website Refresh and Content Expansion
LAFCO staff is working with consultant Chase Design to explore options for redesigning the LAFCO website, with a focus on aesthetic design, accessibility, usability, and expanded content. This project also includes redesign of the LAFCO logo as part of a broader modernization effort. Additional details will be provided as part of Agenda Item 5d.

Priority No. 15 | Special Study of the Oceanside Small Craft Harbor District
LAFCO staff has initiated this study with consultant Adam Wilson. An initial stakeholder meeting with Harbor District representatives and City of Oceanside staff was held on September 24th to review the draft scope of work and gather feedback. Staff is now working to finalize a list of potential consultants with experience in Harbor District operations. The consultant will assist in evaluating the District's finances and exploring alternative governance models.

ANALYSIS

None.

RECOMMENDATION

This item is presented to the Committee for information only.

ALTERNATIVES FOR ACTION

None.

PROCEDURES

This item has been placed on the Committee's agenda for information as part of the consent calendar.

On behalf of the Executive Officer,



Priscilla Mumpower
Assistant Executive Officer

Attachment:

1) 2025-2026 Workplan Status

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Priority	Tier	Type	Project	Description
Ongoing	…	Statutory	Applicant Proposals and Requests	Prioritize resources to address applicant proposals and related requests
Ongoing	…	Administrative	Targeted LAFCO Presentations	Coordinate timely public outreach; emphasis on informing stakeholders ahead of MSR work
Ongoing	…	Statutory	Workplan and Budget Management	Actively manage the workplan and budget resources with regular updates to the Commission

Priority	Tier	Type	Project	Description	Status
1a	Highest	Statutory	MSR | Wholesale Water Service Providers	Service-specific study on principal wholesale water suppliers – CWA (comprehensive) + MET (abbreviated)	
1b	Highest	Statutory	MSR | Healthcare Districts	Service-specific study of the four healthcare districts in San Diego County; addendum expected	
3	Highest	Statutory	MSR | SANDAG	Agency-specific study of SANDAG (transportation, housing planning, + climate adaption planning)	
4a	Highest	Statutory	MSR | Carlsbad-Encinitas Region I: Carlsbad	Region-specific study on City of Carlsbad + Carlsbad MWD	
4b	Highest	Statutory	MSR | Carlsbad-Encinitas Region II: Encinitas	Region-specific study on City of Encinitas + special districts (Olivenhain, Leucadia, San Dieguito)	
6a	High	Statutory	MSR | Vista-San Marcos Region I: San Marcos	Regional MSR on City of San Marcos + special districts (Vallecitos, San Marcos FPD, Vista ID)	
6b	High	Statutory	MSR | Vista-San Marcos Region II: Vista	Regional MSR on City of Vista + Buena SD	
8	High	Administrative	White Paper | Homeless Services	Evaluate the scope-scale of homeless services in SD County + potential governance options	
9	High	Administrative	White Paper | Public Recreation @ City Reservoirs	Assess public recreation at City of SD's unincorporated reservoirs + potential governance alternatives	
10	High	Administrative	SALC Planning Grant 2.0	Complete multi-year grant to inform + enhance small farming operations in SD County	
11a	High-Mid	Statutory	MSR | Solana Beach – Del Mar Region I: Cities	Region-specific study on mid coast I-5 municipalities (Solana Beach and Del Mar)	
11b	High-Mid	Statutory	MSR | Solana Beach – Del Mar Region II: Districts	Regional MSR on mid coast I-5 districts (Santa Fe ID + CSA 17)	
13	High-Mid	Administrative	Website Refresh + Content Expansion	Work with outside consultant to design and launch website refresh w/enhanced end-user features	
14	High-Mid	Statutory	MSR | San Diego Unified Port District	Agency-specific study of the Port (harbor, recreation, public safety, + community development)	
15	High-Mid	Statutory	Special Study | Oceanside SCHD	Prepare special study on SCHD detailing revenues/expenses + potential governance alternatives	
16	Mid	Administrative	Outside Audit | RFP + Selection	Prepare and circulate RFP and select new outside auditor beginning with FY2025 statements	
17	Mid	Administrative	Outside Audit | FY2025	Complete outside audit of financial statements for FY25 with supplemental information	
18	Mid	Administrative	Pilot Grant Program	Establish pilot program to explore grant opportunities to help fund special projects at LAFCO	
19	Mid	Administrative	Special Districts Advisory Committee	Provide administrative support to the SDAC and hold no less than three meetings in FY2026	
20	Mid	Administrative	Cities Advisory Committee	Provide administrative support to the CAC and hold no less than two meetings in FY2026	

Priority	Level	Type	Project	Description	Status
21	Mid-Low	Statutory	RCD Ad Hoc Committee: Part II	Complete part II of RCD boundary true ups to inform sphere updates for local RCDs	
22	Mid-Low	Statutory	MSR | South Coast Region I – Cities	Region-specific study on south coast Cities (Chula Vista, Coronado, Imperial Beach and National City)	
23	Mid-Low	Statutory	MSR | Healthcare Districts: Addendum	Address community healthcare needs and related resources + potential governance alternatives	
24	Mid-Low	Administrative	Alternative Membership Organization	Work with other LAFCOs to receive/provide ongoing education and legislative advocacy services	
25	Mid-Low	Administrative	Annual Local Agency Directory	Update and publish annual local agency directory subject to LAFCO oversight	
26	Low	Administrative	Legislative Proposal | UC Berkeley Report	Sponsor/facilitate legislation implementing UC report recommendations on LAFCO efficiencies	
27	Low	Administrative	Commissioner Onboarding	Create a digital toolkit for new Commissioners to help acclimatize to LAFCO	
28	Low	Administrative	Annual SOI-MSR Registry	Update and publish annual registry showing all recorded SOI and MSR actions	
29	Low	Statutory	Applicant Procedures	Update and streamline LAFCO application materials + establish related protocols	
30	Low	Administrative	Featured Work + Tutorial Videos	Produce videos featuring special projects as well as primers on LAFCO duties for online distribution	
	Bullpen	Statutory	MSR | City of San Diego	Agency-specific study and core municipal service functions (water, wastewater, public safety, etc.)	
	Bullpen	Statutory	White Paper | Community Choice	Evaluate the scope and scale of CCAs in SD County and connectivity to LAFCO duties and interests	
	Bullpen	Statutory	Outreach to Sunset/Melrose "Island"	Perform targeted outreach to the island between Oceanside + Vista to assess service needs + possible annexation interests	
	Bullpen	Administrative	Service + Fiscal Indicators	Develop online browser feature to depict service + fiscal indicators among local agencies in SD County	
	Bullpen	Administrative	Liaison with Local Tribes	Establish communication protocols with local tribes with respect to shared interests in regional services + CEQA consultations	
	Bullpen	Statutory	Morro Hills CSD Follow Up	Coordinate and/or otherwise facilitate discussions with County Sheriff to enhance traffic enforcement within the CSD	
	Bullpen	Statutory	Policy Review | Health + Safety Fee Reductions	Review options to revise existing fee reductions for proposals/requests involving public health or safety threats	
	Bullpen	Administrative	LAFCO Meeting Room	Explore opportunities to secure a dedicated LAFCO meeting room with scaled dais and A/V enhancements	
	Bullpen	Statutory	White Paper | Garbage + Landfill Services	Evaluate the scope and scale of garbage collection and disposal services in SD County	
	Bullpen	Statutory	Legislative Proposal | G.C. 56430	Sponsor and/or facilitate amendments establishing community engagement enhancements in MSR statute	
	Bullpen	Statutory	White Paper | School Districts	Evaluate scope and scale of school districts and their baseline capacities for reference in municipal service reviews	
	Bullpen	Statutory	Policy Review | Island Annexations	Consider options to define "substantially surrounded" and provide related mapping services	
	Bullpen	Administrative	LAFCO Workshop	Organize a special workshop for the Commission to discuss strategic objectives over the next five-year period	
	Bullpen	Administrative	Public Access Television	Establish public broadcasting LAFCO meetings on local government channels	
	Bullpen	Administrative	Procedural Flow Charts	Create user friendly flow charts for various LAFCO statutory processes for online publication	
	Bullpen	Statutory	Policy | Fee Schedule Update	Review and update fee schedule to sync with current costs and related considerations	
	Bullpen	Statutory	Policy | CEQA Guidelines	Review and update existing CEQA Implementation guidelines relative to current statute and best practices	
	Bullpen	Statutory	Disadvantaged Unincorporated Communities	Update DUC mapping designations (DUC) in San Diego County based on current census information	
	Bullpen	Administrative	County Planning Groups	Monitor regular meetings of the County's 28 Planning and or Sponsor Groups and directly engage as appropriate	
	Bullpen	Administrative	Local Agency Finder Tool	Develop online feature for users to enter address to identify all overlapping local jurisdictions (cities and districts)	
	Bullpen	Statutory	Policy | Commission Rule No. 4	Modernize Rule No. 4 and its provisions to regulate special districts' service functions and classes	
	Bullpen	Statutory	Special Study | Escondido + Rincon	Study options to consolidate (functional and political) the City of Escondido and Rincon del Diablo MWD	
	Bullpen	Statutory	White Paper | JPAs	Evaluate the status of JPA filings in SD County relative to LAFCO's task in SB 1261	
	Bullpen	Administrative	Policy | Cities Advisory Committee	Coordinate with CAD in updating bylaws and related procedures to sync with current interests/priorities	
	Bullpen	Statutory	Legislative Proposal | G.C. 56133	Sponsor/facilitate amendments to clarify LAFCOs' authority to determine out-of-agency exemptions in (e)	

Complete | Near Complete | Underway | Pending

4c

AGENDA REPORT
Consent | Information

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Meghan Traynor, Analyst I
Pat Bouteller, LAFCO Consultant

SUBJECT: **Legislative Report**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive a report on legislation introduced this session relevant to the San Diego County Local Agency Formation Commission's (LAFCO) regulatory and planning responsibilities. The item also provides an update on the Committee's interest and related San Diego LAFCO workplan direction to pursue legislation addressing recent recommendations in a U.C. Berkeley study to expand LAFCOs' ability to proactively extend water and wastewater services to communities in need. The item is being presented for information with the opportunity for the Committee to pull for discussion and provide additional feedback.

BACKGROUND

Legislative Resources and Deadlines

San Diego LAFCO staff actively monitors pending and proposed legislation affecting the LAFCO Commission's regulatory and planning responsibilities consistent with the workplan. Staff resources are supplemented through coordination with other agency members of the Alliance of California LAFCOs (ACL) on legislative inquiries, proposals, and positions. September 12th marked the last day for each house to pass bills with the California Legislature's adjourning its regular 2025 session on September 13, 2025. The 2026 session is scheduled to commence on January 5, 2026.

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Jo MacKenzie, Vista Irrigation
David Drake, Alt., Rincon del Diablo
Brigette Browning, General Public
Eileen Delaney, Alt., General Public

DISCUSSION

The Committee will receive a legislative report on active bills of interest to the LAFCO Commission's regulatory and planning responsibilities. The item also provides an update on the Commission's workplan direction to pursue a future bill to implement recommendations made recently in a U.C. Berkeley report to expand LAFCOs' ability to facilitate water and wastewater services. The item has been placed on consent for information purposes with the opportunity for the Committee to pull for discussion if interested.

Active Bills

This report follows the recent conclusion of the first year of the two-year session. Approximately 2,300 legislative proposals were introduced this session with ten having elevated interest to San Diego LAFCO given their potential direct and indirect impacts on the Commission and/or local agencies under its oversight. Four of these bills – AB 448, AB 351, AB 810 and SB 740 – did not pass out of the first house. Three of these bills – AB 339, SB 777, and SB 489 – passed the legislature and are now pending the Governor's signature, while two others – AB 259 and AB 356 – have become two-year bills. One bill – SB 707 – passed both houses and was signed into law by the Governor. These ten bills of interest are summarized below with their status.

Bills of Interest:
Failed to Pass 1st House

- **AB 448 (Patel, Darshana)**
  Extend Loan Repayment for Palomar Healthcare District
  This bill is of local interest and authorizes the State Treasurer's Office to extend and, if necessary, restructure a previously issued bridge loan to Palomar Healthcare District. The Commission took a support position on this bill in June given the extension provides administrative flexibility for Palomar to meet repayment obligations while continuing to provide essential healthcare services – including operating the only emergency room within the Escondido-Valley Center region. No substantive amendments were made to the bill to date after it was re-referred to the Assembly Appropriations Committee.

- **AB 351 (McKinnor, Tina)**
  Campaign Contributions Involving Agency Officers
  This bill is of statewide interest and proposes to raise the contribution limit for agency officers involved in permit or license proceedings under the Political Reform Act from $500 to $1,500. It also provides for future adjustments tied to inflation, based on changes in the Consumer Price Index. Although not the target of the bill, it is possible certain LAFCO actions – such as out-of-agency service approvals – could apply. The bill failed to pass out of committee in the Assembly on April 30, 2025, with a motion for reconsideration granted.

- **AB 810 (Irwin, Jacqui)**
  Government Website and Email Address Domains
  Existing law requires that a local agency that maintains an internet website for use by the public to ensure that the internet website uses a .gov top-level domain or a .ca.gov second-level domain no later than January 1, 2029. This bill is of statewide interest and would extend the due date for compliance with this law for special districts, joint powers authorities (including San Diego LAFCO) to January 1, 2031, while maintaining the January 1, 2029, deadline for cities and counties. A hearing of the bill by the Assembly Appropriations Committee was postponed on May 23, 2025.

- **SB 740 (Rubio, Susan)**
  Municipal Wastewater Filings with LAFCOs
  This bill is of statewide interest and proposes extending the deadline for municipal wastewater agencies to notify LAFCOs of new or amended agreements related to stormwater management services from 30 days to 40 days. The intent is to provide agencies with additional administrative flexibility in meeting reporting requirements. The bill did not pass out of the Senate by the June 6th deadline.

Bills of Interest:
Two-Year Bills

- **AB 259 (Rubio, Blanca)**
  Open Meetings and Continued Access to Teleconferences
  This bill is of statewide interest and would extend the authorization for legislative bodies of local agencies – including LAFCOs – to use modified teleconferencing procedures during declared emergencies through January 1, 2030. It preserves existing requirements related to public notice and agenda posting while allowing remote participation under defined emergency conditions. San Diego LAFCO adopted a support position on March 2nd. The bill passed the Assembly and a hearing of the bill by Senate Committees on Local Government and Judiciary have been postponed with it now reverting into a two-year bill.

- **AB 356 (Patel, Darshana)**
  Healthcare Districts in Northern San Diego County
  This bill is of local interest and was initially introduced to establish a state-directed working group to assess healthcare access in northern San Diego County and focusing on the Palomar Healthcare District's service area. In response to the Commission taking a support-if-amended position, the bill has been updated to include LAFCO as one of the listed stakeholders and in doing so providing connectivity to the Commission's oversight of Palomar and current municipal service review activities. LAFCO Consultant Adam Wilson provided supportive testimony for the author in conjunction with her accepting the Commission's amendments. While the bill passed through the Assembly, amendments requested by other stakeholders are currently under review, with the author agreeing to transition to a two-year bill.

Bills of Interest:
Passed Legislature + Awaiting Governor Signature

- **AB 339 (Ortega, Liz)**
  Local Public Employee Organizations: Notice Requirements
  This bill is of statewide interest and would require public agencies regulated by the Meyers-Milias-Brown Act to provide recognized employee organizations or unions with at least 60 days' written notice before issuing requests for proposals or quotes, or before renewing or extending existing contracts that cover services within the scope of job classifications represented by the recognized employee organization. San Diego LAFCO employees are not presently represented by a recognized employee organization though most agencies under its oversight have labor organizations.

- **SB 777 (Richardson, Laura)**
  Expanding LAFCOs Role to Include Endowment-Funded Cemeteries
  This bill is of statewide interest and was initially introduced to require LAFCOs to identify local agencies to assume ownership and long-term maintenance responsibilities for abandoned (private) endowment-funded cemeteries, including title and fund transfers coordinated with the Cemetery and Funeral Bureau's procedures. In response to stakeholder feedback, the bill has been amended to remove direct mandates on LAFCOs and instead establish a state-convened working group with LAFCO participation – set to convene by March 1, 2026 – to evaluate the issue and develop policy recommendations.

- **SB 489 (Arreguín, Jesse)**
  Permit Streamlining Act
  This bill is of statewide interest and would improve the Permit Streamlining Act (PSA) by requiring all public agencies post online the information necessary for a housing development application to be deemed complete. The intent is to reduce costly delays in the permitting process and facilitate approval and construction of housing. LAFCO will be required to comply with these PSA requirements to post application information online for applications in connection with housing development projects. SB 489 would not apply any other provisions of the PSA to LAFCO approvals.

Bills of Interest:
Passed Legislature + Signed into Law

- **SB 707 (Durazo, María Elena)**
  Open Meetings: Meeting and Teleconference Requirements
  This bill is of statewide interest and makes various changes to the Ralph M. Brown Act (Brown Act), governing public meetings of local agencies. Beginning July 1, 2026, and through January 1, 2030, eligible legislative bodies will be required to allow remote public participation in their meetings. Additionally, before July 1, 2026, these bodies must, at a noticed public meeting, adopt a policy – in open session – addressing procedures for disruptions in telephonic or internet service during such meetings

subject to these provisions. San Diego LAFCO currently offers remote public participation for its Commission and Advisory Committee meetings and will work with legal counsel to ensure full compliance prior to the July 1, 2026 effective date.

U.C. Berkeley Proposal

In January 2024, a report published by UC Berkeley's Agriculture and National Resources Department (Professor Kristin Dobbin and PhD Candidate Justin McBride) examined the relationship between State regulators and LAFCOs in economizing and improving public water systems through notional consolidations to ensure safe and dependable drinking water, particularly for disadvantaged communities. An update on the implementation of the recommendations of this report was provided to the Committee on April 18, 2025.[1]

San Diego LAFCO and other stakeholders are working to refine the language of the proposed amendments to LAFCO statute while also preparing to engage with key state legislators in the upcoming legislative cycle to identify an author for the measure. The proposed amendments include the following:

Empowering LAFCOs to Initiate Annexations

- Amending California Government Code 56375(a) and its enumeration of LAFCO initiating powers to include change of organizations or reorganizations necessary to provide timely water or wastewater services consistent with community needs.

Amplifying MSRs' Role in Communicating Community Needs

- Amending California Government Code 56430 and its provisions on preparing municipal service reviews to require LAFCOs to take up these studies at noticed hearings as well as require the affected agencies to formally receive the studies at their own noticed hearing and provide confirmation in doing so back to LAFCOs.

Addressing Service Barriers for Mutual Water Companies and Mobile Home Parks

- Amending California Government Code 56036 and its definition of "special district" for LAFCO purposes to include mutual water companies. Similarly, amend California Corporations Code Section 14300 to expand the definition of mutual water companies to capture mobile homes.

Further updates on this legislative effort in coordination with Alameda, Butte, Napa, Orange County and Sacramento LAFCOs will be provided to the Special Districts Advisory Committee as they become available.

[1] Link: Special Districts Advisory Committee April 18, 2025 Report on UC Berkeley Legislative Effort

ANALYSIS

In the upcoming legislative session, San Diego LAFCO will focus its legislative monitoring on the two aforementioned two-year bills – AB 259 and AB 356 – in addition to providing updates on the pending signature of AB 339, SB 777, and SB 489. Staff will continue to report on additional legislative items of interest to the Committee as they arise, including the UC Berkeley legislative effort carried out in coordination with five other LAFCOs.

RECOMMENDATION

This item is presented to the Committee for information only.

ALTERNATIVES FOR ACTION

None.

PROCEDURES

This item has been placed on the Committee's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Committee.

On behalf of the Executive Officer,

Meghan Traynor
Analyst I

4d

AGENDA REPORT
Consent | Information

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer
Priscilla Mumpower, Assistant Executive Officer

SUBJECT: **Update on Commission Action to Join Monterey LAFCO Amicus Brief**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive an update on San Diego LAFCO's recent action to join an amicus brief in support of Monterey LAFCO's appeal of a trial court decision with potential statewide implications. The Commission approved participation at its October 6, 2025 meeting and authorized a contribution of up to $1,200 toward preparation of the filing. The brief, led by Monterey LAFCO and prepared by Nossaman LLP, seeks to affirm that LAFCO decisions are governed by substantial evidence as provided under LAFCO law, rather than more restrictive legal standards that could limit LAFCO authority. This item is provided to the Committee for information only.

BACKGROUND

Monterey Peninsula Water Management District v. Monterey LAFCO

In 2022, Monterey LAFCO denied an application seeking activation of latent powers for the Monterey Peninsula Water Management District to provide retail water service. The District challenged the decision in court, asserting LAFCO exceeded its discretion in considering relevant factors. While the trial court acknowledged that some reasons cited by Monterey LAFCO were well-supported by substantial evidence, the court ruled in favor of the District, determining LAFCO's decision lacked a "rational connection." Monterey LAFCO is now

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appealing, arguing the trial court misapplied the legal standard by requiring more than what the Cortese-Knox-Hertzberg Act specifies. Under the Act, LAFCO decisions may only be overturned if they lack "substantial evidence" and cause substantial harm.[1]

DISCUSSION

This item provides the Committee with an update on the Commission's recent action to join an amicus brief supporting Monterey LAFCO's appeal of a trial court decision that applied a stricter legal standard than required under LAFCO law. The case involves whether LAFCO decisions should only need "substantial evidence" to be upheld in court, or if they must also demonstrate a "rational connection" as the trial court ruled. At its October 6, 2025 meeting, the Commission approved joining the amicus filing and authorized a contribution of up to $1,200 toward legal costs.[2] Staff will provide updates as the appellate proceedings progress.

ANALYSIS

San Diego LAFCO's participation in Monterey LAFCO's amicus brief provides a strategic opportunity to help safeguard LAFCOs' decision-making authority under existing law. Allowing the trial court's heightened "rational connection" standard to stand could expose all LAFCO decisions to greater legal vulnerability beyond what the Cortese-Knox-Hertzberg Act requires. The modest funding contribution supports efforts to preserve LAFCO's right to make decisions based on substantial evidence alone.

RECOMMENDATION

This item is presented to the Committee for information only.

ALTERNATIVES FOR ACTION

None.

PROCEDURES

This item has been placed on the Committee's agenda for information as part of the consent calendar.

On behalf of the Executive Officer,



Priscilla Mumpower
Assistant Executive Officer

Attachment:

1) Lower Court Decision:
Monterey Peninsula Water Management District v. Monterey LAFCO

[1] Reference to Government Code, § 56107(c).
[2] Other LAFCOs joining the amicus brief to date are Sacramento, San Mateo, Orange, Los Angeles, and Marin.

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 10/25/2023
By Deputy: Conder, Perla

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY

Monterey Peninsula Water Management District Petitioner(s)/Plaintiff(s) vs. Local Agency Formation Commission of Monterey County, et al. Respondent(s)/Defendant(s)	Case No.: 22CV000925 INTENDED STATEMENT OF DECISION

The instant matter came on for hearing and trial on the merits on September 21, 2023 at 8:30 a.m. in Department 15. Petitioner Monterey Peninsula Water Management District ("MPWMD") was represented by Edward Schexnayder and Peter Damrosch. Respondent Local Agency Formation Commission ("LAFCO") was represented by Richard Egger and Reed Gallogly. Intervenor California-American Water Company ("Cal-Am") was represented by George Soneff.

Oral argument was heard, and the Court allowed the parties until October 12, 2023 to file additional citations to the administrative record, at which time the matter would be taken under submission.

Now, at a later time, the Court rules that a peremptory writ of mandate shall issue, as follows, for the reasons set forth below:

I. Factual and Procedural Background

This petition for writ of mandate filed by Petitioner Monterey Peninsula Water Management District ("Petitioner," "MPWMD" or "District") against Respondents Local

Agency Formation Commission[1] of Monterey County ("Monterey LAFCO" or the "Commission" or "LAFCO") and the Commissioners of LAFCO (collectively "Respondents"), arises out of the ongoing saga involving water management in Monterey County.

By way of brief background, the Petition alleges that on November 6, 2018, Monterey voters approved Measure J which directed the District to acquire all the assets of California-American Water ("Cal-Am"), the private utility that has owned and operated the Monterey Water System ("MWS") for more than 55 years.[2] Proponents of the measure contended that Cal-Am had mismanaged the MWS for decades, leading to recurring moratoria on water connections and some of the highest water rates in the country. Following Measure J's adoption, the District has worked to comply with the voters' directive to acquire Cal-Am's system. The District prepared an economic feasibility study in 2019 and an environmental impact report ("EIR") in 2020 to study acquisition of the Cal-Am system. In 2020, Cal-Am also filed a lawsuit in this Court to challenge the District's EIR (Case No. 20CV003201), but this Court concluded on November 19, 2021 that Cal-Am's suit was meritless.

As further alleged in the petition, the District applied to Monterey LAFCO to annex 58 parcels, update its Municipal Service Review and Sphere of Influence Study, and activate its "latent power"[3] to sell water to retail customers, a power the District believes it has already used but felt Monterey LAFCO approval would reinforce. However, throughout the Monterey LAFCO proceedings, Cal-Am repeatedly demanded additional studies and raised various concerns regarding the District's proposal. In response, Monterey LAFCO hired an independent financial consultant who concluded the District's proposal would result in cost savings to Cal-Am's customers under a range of reasonable assumptions. The Monterey LAFCO Executive Officer agreed and recommended that Respondents approve the District's proposal, but on

[1] Local agency formation commissions are agencies that oversee the physical boundaries and structures of local governments.

[2] The text of Measure J appears at AR 9679-9681.

[3] The Cortese-Knox-Hertzberg Local Government Reorganization Act ("CKH"), Government Code sections 56000 et seq., which governs LAFCO proceedings, includes a procedure for special districts to request activation of a "latent service or power" – a power granted by enabling legislation but that a district does not currently exercise.

December 6, 2021, following relentless lobbying by Cal-Am, the Monterey LAFCO Commissioners voted 5-2 to reject the staff's recommendation.

The District contends that multiple Monterey LAFCO Commissioners were biased against the District, including one Commissioner who openly stated his belief that public agencies were incapable of providing services effectively and another Commissioner who co-authored the official ballot argument against Measure J. For example, the District pleads that Commissioner Gourley, who introduced the motion to deny staff's recommendation, expressed animus against public entities providing public services, stating: "I'm definitely from a private sector [background], not the public sector. I don't think the government can run anything efficiently, and I think we've seen that." Additionally, Petitioner contends Commissioner Poitras demonstrated bias on behalf of the Monterey County Regional Fire District ("Fire District") and against the proposal, stating: "The district I represent, personally, is Monterey County Regional Fire District. They are slated to lose $140,000 per year if this goes through. That is a considerable concern to me." Commissioner Poitras further indicated that he had been coordinating with the Fire District and represented that district's unique interests.

The District further asserts that the Commission voted to reject the District's proposal without a written basis for its decision, but then instructed staff to prepare a post-hoc resolution to justify the decision. Lastly, the District alleges the Commission's final resolution departed from the grounds of the December 6 deliberations in significant ways, omitting some of the Commissioners' indefensible statements and citing new evidence that went unmentioned at the December 6 hearing.

On January 31, 2022, the District sought reconsideration of the Monterey LAFCO decision and also requested that several of the Commissioners recuse themselves from further consideration of the District's proposal. On February 28, 2022, the Commission denied those requests and terminated the proceeding.

The District filed the present First Amended Petition for Writ of Mandate, alleging that Respondents' decision failed to satisfy the requirements of the Cortese-Knox-Hertzberg Act and violated key provisions of the California Environmental Quality Act ("CEQA") and state law.

Among other things, Petitioner pleads the Commission mishandled the essential inquiry for a latent powers proposal, which is whether the District would have sufficient revenue to carry out its proposal; disregarded its own internal policies when it engaged in an unstructured and ill-informed review of potential environmental impacts of the District's proposal; and denied the District a neutral and unbiased hearing. As such, Petitioners requested that the Court issue (a.) a writ of mandate directing Respondent to vacate and set aside its denial of the District's proposal and reconsider that proposal in compliance with all applicable law, and (b.) an injunction directing three of the LAFCO Commissioners to recuse themselves from participation in proceedings related to the District's proposal.

Subsequently, Cal-Am filed a motion for leave to intervene. On August 2, 2022, this Court signed an order permitting Cal-Am to intervene subject to various conditions, including the conditions that Cal-Am would not delay or prolong the proceedings or request an extension of time without first obtaining consent from the parties; would coordinate its briefing with Monterey LAFCO to avoid duplication; would not address whether the Monterey LAFCO Commissioners were biased or failed to exercise their independent judgment as Monterey LAFCO was the proper party to argue this issue; would apply to the Court to obtain a ruling on whether it could object to any settlement reached between the parties; and would not advance affirmative defenses not advanced by Respondents or otherwise enlarge the issues in this case.[4]

On September 15, 2022, the District filed the First Amended Petition ("FAP") which is the presently operative pleading. Subsequently, Respondents and Cal-Am demurred to and moved to strike the FAP. On December 13, 2022, this Court issued a ruling sustaining without leave to amend the demurrer to the first cause of action for decisionmaker bias and granted in part the motion to strike certain allegations relating to the issue of decisionmaker bias. However, the Court also denied the motion to strike relative to allegations of bias that could inform the analysis of the second cause of action for violations of the Cortese-Knox-Hertzberg Act's

[4] Since 2019, the Court has heard the following matters, among others: a challenge to the construction of a desalination plant in *Marina Coast Water District v. County of Monterey, et al.* (19CV003305); a dispute over various agencies' competing claims to manage groundwater in the Marina area in *City of Marina, et al. v. Nemeth, Karla, et al.* (19CV005270); and Cal-Am's challenge to the EIR prepared for the potential acquisition and operation of the Monterey Water System in *Cal-Am v. Monterey Peninsula Water Management District* (20CV003201).

requirement that LAFCO Commissioners exercise independent judgment on behalf of the public as a whole. Lastly, the Court on that date issued an order to show cause why Cal-Am's complaint in intervention should not be dismissed given the fact Cal-Am's demurrer apparently violated two of the conditions of intervention. On April 28, 2023, the Court discharged the order to show cause and set this matter for a hearing on the petition for writ of mandate.

Currently before the Court is the petition for writ of mandate. Petitioners filed an opening brief which was opposed by LAFCO and responded to by intervenor Cal-Am. Petitioners also submitted requests for judicial notice in support of their opening brief and reply brief, while Cal-Am submitted a request for judicial notice in support of its response to the opening brief.

REQUESTS FOR JUDICIAL NOTICE

The parties' respective requests for judicial notice are GRANTED, and are as follows:

Petitioner requested, in conjunction with its Opening Brief, judicial notice of

a. January 27, 2020 letter from Manatt, Phelps law firm to Petitioner;

b. Monterey LAFCO Policies and Procedures Relating to Spheres of Influence and Changes of Organization and Reorganization (adopted February 24, 2020);

c. excerpts from The Commission on Local Governance for the 21st Century Growth Within Bounds: Report of the Commission on Local Governance for the 21st Century (Jan. 2000); and

d. Assembly Floor Analysis (July 23, 2001) of A. B. 948, as amended June 26, 2001 (2001-2002 Reg. Sess.)

Intervenor Cal-Am requests judicial notice of

a. a District Special Board Meeting slide presentation dated April 3, 2023;

b. the District's April 3, 2023 Purchase Offer for Monterey Water System and Transmittal of Appraisal Report in lieu of Summary Statement of Appraisal; and

c. Cal-Am's April 28, 2023 Response to the MPWMD Purchase Offer.

Petitioner also subsequently requested, in support of its Reply Brief, judicial notice of

a. Senate Floor Analysis (June 5, 2008) of A.B. 2484, as amended May 21, 2008 (2007-2008 Reg. Sess.);

b. excerpts from the Legislative History of A. B. 2838 (1999-2000) Reg. Sess.;

c. Supplemental Excerpts from The Commission on Local Governance for the 21st Century, Growth Within Bounds: Report of the Commission on Local Governance for the 21st Century (Jan. 2000).

The parties' respective requests for judicial notice are granted, although the Court notes not all are actually necessary for the Court to reach its decision in this matter.

Threshold Issues

Cal-Am requests the Court rule whether a decision by LAFCO was necessary in the first place for Petitioner MPWMD to activate its latent power to sell water to retail customers.

As noted by Petitioner's Opening Brief at p.11, fn.3, "[w]hether LAFCO approval is necessary for the District to provide retail water service was not at issue before Monterey LAFCO, and is not before the Court in this action." What Cal-Am is requesting the Court to do, therefore, is issue an advisory opinion, which would be inappropriate. Cal-Am's request additionally runs counter to the conditions imposed by the Court in allowing intervention: the Court's August 2, 2022 Order Granting California-American Water Company's Motion For Leave To Intervene specifically states: "Cal-Am may not raise any affirmative defenses that LAFCO does not raise *or otherwise enlarge the issues in this case.*" [Emphasis added].

Accordingly, the Court will not address, and it was in violation of the terms of the Court's order permitting intervention for Cal-Am to request a ruling on, this issue.

Standard of Review

Government Code section 56107(c) provides that "[i]n any action or proceeding to attack, review, set aside, void, or annul a determination by a commission on grounds of noncompliance with this division, any inquiry shall extend only to whether there was fraud or a prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that the determination or decision is not supported by substantial evidence in light of the whole record."

The appropriate standard of review, by the trial court in an ordinary mandamus proceeding, of LAFCO's action is not confined to whether the agency failed to apply or properly interpret the law, and whether the decision was arbitrary, capricious or failed to follow the procedure required by law or lacks evidentiary support. The court must ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute. (*McBail & Co. v. Solano County Local Agency Formation Comm'n.* (1998) 62 Cal.App.4th 1223, 1227, 1228, citing *California Hotel & Motel Assn. v. Indus. Welfare Com.* (1979) 25 Cal.3d 200, 212.) While "LAFCO decisions do not require formal findings, [they] do require a statement of basis sufficient for judicial review of the decision." (*San Joaquin County Local Agency Formation Commission v. Superior Court* (2008) 162 Cal.App.4th159, 171, fn.4.)

The Petitioner, of course, bears the burden of pleading and proving the facts upon which the claim for relief is based. (*California Pub. Recs. Rsch., Inc. v. City of Alameda* (2019) 37 Cal.App.5th 800, 805.)

The Court proceeds to rule on the Petitioner's substantive challenges as follows:

Argument #1: Did LAFCO Fail To Consider Properly Whether MPWMD Would Have Sufficient Revenue To Expand Its Water Service?

Analysis of this issue starts with the applicable statutory language from the CKH Act.

Government Code section 56824.14(a) states in pertinent part that a LAFCO "…shall not approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district unless the commission determines that the special district will have sufficient revenues to carry out the proposed new or different functions … ." The section expressly forbids approval of a proposed action unless a LAFCO determines the agency will have sufficient revenue to carry out the proposed function.

Government Code section 56668 lists a variety of factors for consideration in evaluating an application for a change of organization to provide new services. This statute is prefaced with the following language: "Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following: … ." This language tells us two things: first, all of the

factors listed in the section *must* be considered. Second, other factors *can also* be considered – the list is not exhaustive. "The touchstone of statutory interpretation is the probable intent of the Legislature." (*Quarterman v. Kefauver* (1997) 55 Cal.App.4th1366, 1371.) "Because the statutory language is generally the most reliable indicator of legislative intent, we first examine the words themselves, giving them their usual and ordinary meaning and construing them in context. When statutory language is clear and unambiguous, there is no need for construction and courts should not indulge in it." (*Uber Techs. Pricing Cases* (2020) 46 Cal.App.5th 963, 973.)

All parties acknowledge the applicability of and discuss the factor listed in subsection (k) of Government Code section 56668, which lists as a mandatory factor for consideration "[t]he ability of the newly formed or receiving entity to provide the services that are the subject of the application to the area, *including the sufficiency of revenues for the services following the proposed boundary change.*" [Emphasis added.]

But the parties part company on whether LAFCO here properly – or actually - considered that topic. Petitioner District contends that Respondent LAFCO improperly addressed this factor based on the costs of mounting an eminent domain action to *acquire* the Cal-Am system, and particularly on the monetary consequences to Respondent if such an action were *unsuccessful* – without considering the ability of Petitioner to generate sufficient revenue *following* a successful acquisition.

Petitioner District proposed several means by which it could generate revenue following acquisition. Specifically, Petitioners state the District proposed to finance acquisition of Cal-Am's system, a necessary prerequisite to expanding its water service, "primarily [through] water rates and charges," including (1) volumetric rates and meter charges, (2) water supply availability charges, (3) connection and impact fees, (4) capacity and development charges, (5) system capacity charges, (6) fire service rates, (7) drought and surcharge rates, (8) permit fees, and (9) other "water rates, water connection fees, [and] surcharges" as needed (Opening Brief at p. 17, citing AR 03697, 03743-44.) The District indicated these funding mechanisms ensured a "full cost recovery of all operating, capital, and interest costs" for the proposed service. (*Id.* at p. 18, citing AR 03744.) Further, Petitioners state that LAFCO's own Executive Officer extensively

analyzed the District's sources of revenue and recommended approving the District's application, concluding the "District's broad financial powers . . . support a finding that the District will have sufficient revenues to implement the proposed" service expansion. (*Ibid.*, citing AR 01852-53.)

In response, LAFCO contends that it considered the 'financial feasibility' of Petitioner's proposal, and that such was sufficient to meet its statutory obligation to consider factor (k).

The actual reference to factor (k) in LAFCO's Denial Resolution is contained in Section 2 of the Denial Resolution:

The Commission has considered feasibility-related information in the record for this proposal, including the Berkson Associates report dated October 11, 2021. Among other findings generally in agreement with the methodology used in the District's financial feasibility analysis (the Raftelis Report), key findings in the Berkson report[5] also cautioned that:

- "The eminent domain process will resolve many of the uncertainties of the District proposal, however, the outcome may reduce the District proposal's financial feasibility."
- "In the event of District loss, abandonment, or failure to finance and acquire the system, significant additional District costs could be incurred."
- "Public acquisition and ownership of the Cal-Am system will reduce property tax revenue to public agencies."

"In considering factor (k), the Commission determines that the District's proposal and other evidence in the record does not adequately establish that District acquisition and ongoing ownership of the water system would be financially feasible."

(AR 00013.)

> Yes, LAFCO did recite that it was considering factor (k). But there was clearly a misunderstanding in LAFCO's interpretation and application of this statutorily mandated factor. There are two flaws in LAFCO's approach: (1.) The standard which LAFCO

[5] Berkson was a consultant for Respondent LAFCO; Raftelis was an economic consultant for Petitioner District.

> employed was 'financial feasibility' -- not the statutorily prescribed sufficiency-of-revenues standard of Government Code section 56668(k)[6]; and (2.) it was based upon (a.) costs of acquisition via an eminent domain action by MPWMD and the chances of success of such an action without addressing the ability to absorb such costs through revenue following acquisition, as well as upon (b.) the property tax loss potential to other governmental agencies. Neither of these financial aspects bears any rational relationship to the statutory standard of whether the District could through water rates or other charges generate *sufficient revenues to provide the proposed services following* the proposed action. "Mandamus will not lie to control an exercise of discretion, i.e., to compel an official to exercise discretion in a particular manner. Mandamus may issue, however, to compel an official both to exercise his discretion (if he is required by law to do so) and *to exercise it under a proper interpretation of the applicable law*." (*Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 442 [citations omitted; emphasis added].)

Given that the list of factors in Government Code section 56668 is by that section's very terms not exclusive, the Court is not in this ruling stating that LAFCO could not have considered other economic consequences as it did. But those cannot be substituted for the statute's mandate - that sufficiency of revenues following the proposed action be considered.

Similarly, Section 3 of the Denial Resolution, addressing the related requirement of Government Code section 56824.14(a), recited that "the District has failed to demonstrate that it will have sufficient revenue to carry out the proposed new or different functions or class of services, and failed to demonstrate it has the ability to finance an unsuccessful eminent domain action" (AR00015), pointing to "the Commission['s] voiced concerns over the potential costs to the District if it is unsuccessful in an eminent domain action against Cal-Am." (AR00015). LAFCO then stated its reasoning as follows:

> "The Commission considered Berkson Associate's October 11, 2021 memo which, on page 5, detailed the financial consequences to the District if it loses, abandons, or fails to finance and acquire Cal-Am's system. Berkson's memo finds significant District costs could be incurred, specifically as much as $34 million."

[6] The 'feasibility' standard employed by Respondent appears to result from conflation of language from Measure J, Section IV, adding Rule 19.8 to the Petitioner District's Rules and Regulations language which states in part that "[i]t shall be the policy of the District, if and when feasible, to secure and maintain public ownership of all water production, storage and delivery system assets and infrastructure providing services within its territory." (AR 09680-09681.)

Additionally, the Commission considered Cal-Am's October 19, 2021 letter on page 5 and Tab C, which stated, in part:

> "The mere prosecution of the eminent domain lawsuit carries considerable financial risk for MPWMD, and hence to Monterey residents...If MPWMD fails in its eminent domain lawsuit, it will be required to pay all attorneys' fees and costs incurred by Cal-Am, as well as its own – with nothing to show for it...Data from the Claremont and Apple Valley cases suggest that a $25 million to $34 million loss estimate is conservative. There has been no proof that MPWMD could sustain such a financial loss without impairment of operations or assumption of costs new debt."

(AR 00015.)

This determination by LAFCO focused on economic consequences in the event an eminent domain action by District failed – in which event, of course, it would not be "…carry[ing] out the proposed new or different functions or class of services." Again, the language of Government Code section 56668 (k) is specifically directed to determining whether "… the special district will have sufficient revenues to carry out the proposed new or different services. … ." There is no rational connection between the sufficiency of revenues to carry out the proposed service upon successful acquisition of the water service by eminent domain and non-recoupable costs in the event the eminent domain action failed and the District does not proceed to carry out the proposed service.

Since the 'rational connection analysis needs to occur at the inception of the court's analysis', *McBail, supra*, 62 Cal.App.4th at 1230, and the lacking rational connection is a procedural error, the Court need not address whether substantial evidence supported LAFCO's decision.

Argument #2: Was Denial Improperly Based Upon Impacts To Property Tax Revenue?

The Denial Resolution asserted that the District's "proposal's effects on property tax revenues would be detrimental to the finances and operations of local public agencies." (AR00009). LAFCO reasoned that because publicly-owned property is tax-exempt, the District's acquisition of the Monterey System – a necessary step for the District to provide the proposed water service – would remove property from the tax rolls. That would in turn reduce tax

revenues to other agencies, a factor which LAFCO concluded weighed against approving the application. Petitioner's challenge to this is twofold.

A. Petitioner argues that LAFCO lacks the authority to consider tax consequences because the Legislature never authorized LAFCO to approve or disapprove the District's acquisition of private property. Petitioner's contention is that the Legislature *only* gave LAFCO authority in Government Code section 56824.14 to consider the District's ability to provide the new class of services and its impacts on existing providers.

The Court is not persuaded by this argument. Government Code section 56824.14 addresses certain information which *must* be submitted by a special district in its plan for services, and does not, when read in context with the rest of the statutory scheme, appear to limit the factors which LAFCO may evaluate in considering a special district's proposal for a Change of Organization to provide new services. On the other hand, Government Code section 56668 sets forth the factors which LAFCO must consider -- and which necessarily carry with them the authority for LAFCO to do so. Among those are subsection (b) [probable effect of the proposed action on the cost and adequacy of services in the area and adjacent areas] and subsection (c) [the effect of the proposed action on adjacent areas and on mutual social and economic interests, and on the local governmental structure of the county]. LAFCO's consideration of the probable tax revenue consequences upon other governmental service agencies here was properly within the scope of these factors and hence of LAFCO's authority.

B. Petitioner also argues that the administrative record does not support LAFCO's position that the District's proposal will significantly affect the services which other agencies provide.

The Court believes that the evidence from the Monterey Peninsula Unified School District ["MPUSD"] and Monterey County Regional Fire District ["MCRFD"] expressing concern about tax revenue impacts upon their respective operations is alone sufficient, substantial evidence to support LAFCO's conclusions in this regard. Neither Government Code section 56668 subsections (b) nor (c) set any minimum threshold which must be met before a factor can be deemed to weigh against approval of a proposal. MCRFD represented that it would

lose $139,591.60 annually, which equates to the loss of one firefighter position, and stated: "As we have discussed on multiple occasions, staffing our fire engines continues to be a struggle and even the loss of a single firefighter is a critical loss for our District, impacting our mission to provide emergency medical, fire and rescue operations." (AR 00012). As for the MPUSD, it has not been shown – i.e., there is no evidence showing – that 'backfill funding' from the State would be at the same level that MPUSD receives from property tax revenues presently.

Argument #3: Was LAFCO'S Determination That Granting the District's Application Would Impose Undue Hardship on Ratepayers Outside of District's Territory, and Impair Environmental Justice, Incorrect?

There are 5 smaller water systems and 8 wastewater systems outside Petitioner MPWMD's boundaries which Cal-Am also presently operates (referred to as 'satellite' or 'remaining' systems) and would retain to serve in the event its Monterey water system operations are acquired by Petitioner. One community within such a satellite system is Chualar, which has been designated by the State Water Resources Control Board as a 'disadvantaged community,' i.e., one with a median household income less than 80% of the statewide median. (AR00011). LAFCO concluded Petitioner District's acquisition of the Monterey system would (A.) probably result in undue hardship on ratepayers within those satellite systems and (B.) impair environmental justice, in derogation of the factor listed in Government Code section 56668(p).

LAFCO's analysis of this factor was as follows:

The Commission further determines that potential future cost increases to areas served by Cal-Am's remaining "satellite" water systems and wastewater systems would be an undue hardship for residents of these communities. The likely future rate increases have no certainty of being adequately limited or mitigated through the California Public Utilities Commission's rate-setting processes.

The District's proposed activation of latent powers was to provide and maintain potable water production and distribution services for retail customers to implement the District's efforts to implement Measure J, which was approved by District voters in 2018. Pursuant to Measure J, the District seeks to acquire Cal-Am's Monterey Main Water

System, which is almost completely within the District's jurisdictional boundaries. The planned acquisition effort does not include five small "satellite" water systems in the area, but outside of the District's jurisdictional boundaries (Ambler Park, Chualar, Garrapata, Ralph Lane, and Toro). Chualar, one of the satellite-system communities, is designated as a disadvantaged community, i.e. a community with a median household income less than 80% of the statewide median, by the California State Water Resources Control Board.

The District's acquisition would also not include eight small wastewater operations owned by Cal-Am located both within and outside the District's boundaries: the Carmel Valley Ranch, Indian Springs, Las Palmas, Oak Hills, Pasadera, Spreckels, Village Green, and White Oaks systems.

In considering factor (b) and making determinations, the Commission has reviewed – among other evidence - the Executive Officer's December 6 report. The report discussed the possibility of future rate increases in Cal-Am's remaining water and wastewater systems, as well as mechanisms, such as the California Public Utilities Commission rate-setting process, that may help limit future increases.

The Commission has also considered an October 11, 2021 report prepared by LAFCO's independent financial consultant, Berkson Associates, which stated in part:

> • "These smaller operations could experience some reduction in scale efficiencies and resulting impacts on costs depending on the number of additional staff required by these small systems. While these impacts may not directly impact Cal-Am, a portion of increased costs could be added to the rate base of these small operations and thereby increase rates to ratepayers served by those small operations."

A November 22, 2021 supplemental memo by Berkson Associates further stated, in part:

> • "It is correct that excluding a number of small water and sewer systems from MPWMD's acquisition of the Monterey system will reduce current economies of scale and could result in increased costs to serve those systems. The specific

impacts on rates have not been determined; assertions of rates doubling have not been documented and impacts could be mitigated in a number of ways[.]"

• "During the eminent domain trials, Cal-Am may be awarded severance charges for lost value attributable to the remaining systems; the potential magnitude of charges and their rate effects are not known."

The Commission has also considered written comments submitted by Cal-Am and several residents of the remaining Cal-Am water and wastewater systems and described under factor (n), below.

Based on the totality of evidence in the record, the Commission determines that that potential future cost increases to areas served by Cal-Am's remaining "satellite" water systems and wastewater systems would be a probable undue hardship for residents of these communities." (AR 00011-00012.)

Petitioner's Arguments

A. **UNDUE HARDSHIP**

As to the finding of undue hardship on the satellite systems, Petitioner initially argues that the record is barren of substantial evidence to support LAFCO's conclusion that its acquisition of the Monterey system would impose undue hardship on the ratepayers in the satellite systems because

(a.) the Berkson Associates report in the record states that 'impacts on rates have not been determined' (AR05952);

(b.) Respondent LAFCO asserted 'likely future rate increases [in the satellite systems] have no certainty of being adequately limited or mitigated through the California Public Utility Commission's ["CPUC"] rate-setting process' – an incorrect standard; and

(c.) since 2006, CPUC has protected Chualar ratepayers by preventing water rates from rising faster than inflation, and such rates will remain in place unless changed by CPUC order (AR 05703-05704);

(d.) Cal-Am has instituted a number of mechanisms which spread the cost of small water systems across its entire statewide territory, including setting rates on a regional basis and providing discounts to low-income customers (AR 02510-02511, 05397); and

(e.) Respondent LAFCO failed to consult with the CPUC to determine any impact on water rates from Petitioner's proposal.

B**. <u>ENVIRONMENTAL JUSTICE</u>**

Petitioner points out that the CKH Act defines environmental justice as "fair treatment and meaningful involvement of people of all races [etc.] ... such that the effects of pollution are not disproportionately borne by any particular populations." Gov. Code section 56668(p). LAFCO's denial resolution cites this definition but

(1.) does not point to any effects of pollution from proposed acquisition by Petitioner; and

(2.) the EIR prepared in connection with this proposed project demonstrated no significant and unmitigated environmental impacts from Petitioner's acquisition.

<u>Respondent's Arguments</u>

A. **<u>UNDUE HARDSHIP</u>**

LAFCO counters that

(1.) There would be increased cost and hence economic hardship if the remaining systems were run independently of the Monterey area. All of these satellite or remaining systems are operated as part of an integrated system within the Cal-Am Central Division (AR01466), and 95.5% of Cal-Am's Monterey Operations would be taken by Petitioner, along with systems which monitor and control all operations in the Central Division. LAFCO also argues that as a consequence there would be 'near full elimination' of the 95 Cal-Am employees that operate both the main and remaining satellite systems – leaving Cal-Am to operate them as 'stand-alone' systems without the ability for Cal-Am to spread workload and cost throughout its Monterey County customers (AR01470-01476, AR 05716-05718);

(2.) The Raftelis report states that added costs to customers of the remaining satellite systems is difficult to evaluate but acknowledges that 'increased marginal operating costs' would likely be passed on to those customers (AR 04026);

(3.) There is no certainty CPUC would maintain the same rate caps [citing portions of the CPUC tariff and the CPUC's resolution when Cal-Am acquired Chualar and several other of the remaining systems].

(4.) Hence Mr. Linam's[7] conclusion at AR 05718 that Petitioner was 'wrong' in asserting the CPUC will assure rate increases will be limited to inflation in event of a takeover is supported.

B. **ENVIRONMENTAL JUSTICE**

LAFCO has, instead of addressing this issue discretely, asserted that several of the CKH Act factors required consideration of acquisition's financial impact on low-income residents, citing Government Code section 56668(b) [probable effect of proposed action on cost and adequacy of services and controls in the area and adjacent areas], (c) [effect on adjacent areas, on mutual social and economic interests …], and (p) [environmental justice], as well as 56824.12 (a)(3) [a district's 'plan for services' must contain potential fiscal impact to customers of existing providers].

THE COURT'S RULING ON ARGUMENT #3.

Environmental justice. It is clear to the Court that 'environmental justice,' as that phrase is defined in Government Code section 56668(p), is not implicated in Petitioner District's proposal here. That subsection mandates that LAFCO consider "[t]he extent to which the proposal will promote environmental justice. As used in this subdivision, *'environmental justice' means* the fair treatment and meaningful involvement of people of all races, cultures, incomes and national origin with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such *that the effects of pollution* are not disproportionately borne by any particular populations or communities." [Emphasis added.]

[7] This person is not identified by LAFCO in its opposition, but the administrative record citation indicates he is the Senior Director of Rates for Cal-Am.

The subsection plainly deals with pollution and no party has seriously contended pollution is a factor present or actually considered by LAFCO, notwithstanding LAFCO's recitation of 'environmental justice.' There is no support in the record for a finding that the proposal in question would have any impact whatsoever on pollution. Moreover, LAFCO's finding is not rationally related to the standard it recited it was evaluating: the resolution makes no reference to pollution and only makes reference to possible future rate impacts as 'represent[ing] an environmental justice concern.'

Hence, Government Code section 56668(p) cannot provide a basis for LAFCO's denial. In its briefing and oral argument, LAFCO has not demonstrated anything contrary. There is no rational relationship between the purpose of the statute's subsection and LAFCO's decision, nor any substantial evidence to support the decision that the subsection weighed against approval of the proposed action of Petitioner. Petitioner is correct that this standard was incorrectly applied by LAFCO.

Undue financial hardship. The remaining portion of Petitioner's challenge in this section of its argument is LAFCO's finding of probable undue financial hardship in its consideration of Government Code section 56668, subdivision (b)(1). "Substantial evidence … must be of ponderable legal significance, which is reasonable in nature, credible and of solid value." *JKH Enterprises, Inc. v. Dep't. of Indus. Rels.* (2006) 142 Cal.App.4th 1046, 1057.

Government Code section 56668(b)(1) lists as a statutorily mandated factor for LAFCO's consideration "[t]he need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; *and probable effect* of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action *on the cost* and adequacy of services and controls in the area and adjacent areas." [Emphasis added.]

LAFCO has shown that there is substantial evidence in the record that the economies of scale would be adversely impacted by the removal of the Monterey water system from Cal-Am's operations – i.e., that it will be more costly to operate the satellite systems. But whether LAFCO's finding that any such potential future cost increases to Cal-Am would (a.) be passed

on to the satellite system customers and (b.) result in "an undue hardship for the residents of these communities," is supported by substantial evidence is another matter. Likewise, whether the finding that "likely future rate increases have no *certainty* of being adequately limited or mitigated through the [CPUC] rate-setting process" (emphasis added), AR 00011, is sufficient to address the statutory 'probable effect' standard presents a further issue.

There appears to be no serious dispute that any rate change would have to be approved by the CPUC, and that there is presently a set tariff applicable to Chualar which 'caps' any rate increases to the rate of inflation and which remains the same unless changed by the CPUC. The Court has not been directed to any evidence, not even an estimate, as to the amount of any potential rate increase. Cal-Am has not provided any evidence of the number of its customers among whom any increased costs of operation would be distributed, assuming the CPUC approved a rate increase. Nor has anyone pointed to any evidence of what the CPUC has done historically with requests for rate changes following a change in composition of a water system. While Respondent found there is no 'certainty' of future rate increases being 'adequately limited or mitigated,' that is not the correct standard, as Petitioner points out. The lack of certainty that present rates will remain capped is not the evidentiary equivalent of a probability that they won't be. The express language of the subsection (b) of Government Code section 56668 mandates consideration of the 'probable' effects of a proposed action – not merely possible ones. LAFCO has cited an extended string of citations to a series of letters, reports and emails without any explanation or argument as to how those citations support its determination. As Petitioner correctly points out, points that are not supported by adequate factual or legal analyses are deemed waived. *Singh v. Lipworth* (2014) 227 Cal.App.4th 813, 817 [considering arguments forfeited when unsupported by "adequate factual or legal analysis"].

Based on the record here, it cannot be said that there is substantial evidence to support LAFCO's decision that any increase in rates from decreased economies of scale is (a.) probable, and that if it did occur, that it would cause (b.) financial hardship on other ratepayers which (c.) is undue.

ARGUMENT #4. Did Respondent Incorrectly Consider Impacts to Water Supply?

Petitioner contends that LAFCO incorrectly concluded that public ownership of Cal-Am's system would 'potentially harm the Salinas Valley groundwater basin' [citing AR 00013]. Section 2 of the Denial Resolution states

"Government Code section 56668(l):

l) Timely availability of water supplies adequate for projected needs as specified in Government Code section 65352.5

The District develops and maintains 20-year water supply projections. Among other approved and proposed projects, the District, Monterey One Water, and Cal-Am are working to develop a replacement water supply known as the Pure Water Monterey Expansion project, which would include several water sources from the Salinas Valley. The project's goal is to meet the 2009 State Water Resources Control Board's cease and desist order, as extended in 2016, to terminate unauthorized diversions from the Carmel River.

In considering factor (l), the Commission finds that the District's proposal, as well as the evidence in the record, does not adequately establish that the District's current efforts to expand the Peninsula area's water supply will be sufficient to meet current and future needs, especially in times of drought, and to do so without utilizing water from the Salinas Valley and potentially harming the Salinas Valley groundwater basin." (AR 00013)

LAFCO did not cite any evidentiary support for its conclusion in this portion of its determination, but later in the resolution (where LAFCO addressed factor (n), comments from landowners and residents of the affected community), it mentioned the Salinas Valley Water Alliance's October 22, 2021 letter, Monterey Peninsula Chamber of Commerce's October 25 and December 3, 2021 letters, Monterey County Farm Bureau's November 22, 2021 letter, and Sustainable Agriculture and Energy's ("SAGE") December 6, 2021 letter, which each raised concerns regarding water supplies. (*Ibid.*) LAFCO then goes on to quote this portion of the Monterey County Farm Bureau's letter: "While Monterey County Farm Bureau has no position on the public ownership of the water supply system of the Monterey Peninsula, it makes little to

no sense to grant additional authority to an agency that will ultimately rely on a single facility resource[8] for the water it supplies to its customers, especially if that source water supply is interruptible and not drought-proof." (*Ibid.*)

Petitioner's arguments are as follows:

A. Government Code section 56668(l) is inapplicable. Government Code section 56668(l) requires for a Change of Organization that LAFCO consider 'timely availability of water supplies adequate for project needs as specified in [Gov C] section 65352.5. The latter section only applies where an agency with land use authority proposes to adopt or amend a general plan. Here, Petitioner District did not propose to do either. LAFCO's finding of potential harm to SVGB is not rationally related to the standard set forth in the specific language of Government Code section 56668(l) ["… as specified in (Gov. Code) section 65352.5"].

B. Lack of substantial evidence and irreconcilably inconsistent findings. Even if Government Code section 56668(l) applied here, (i.) there is no substantial evidence in the record to support LAFCO's conclusion, nor reasoning to support the conclusion, that the District's application, which is simply for a change in ownership, may harm groundwater in the Salinas Valley. No change in operation or in exercise of ownership rights is involved; and (ii.) LAFCO findings are inconsistent with its findings made the same day, that "District's analysis shows that … [either of the two supply projects] will be more than sufficient to meet anticipated water demand." Citing AR 01810.

C. Failure of LAFCO to follow its own local written policies and procedures. The CKH Act requires LAFCO to follow its own local policies, and here it did not because (i) those require LAFCO to consider analysis of the Lead Agency – here, Petitioner District – and LAFCO's review is triggered only when the Lead Agency determines under CEQA that the project will lead to potentially significant groundwater impacts. Here, District determined it would not lead to potentially significant impacts; (ii) LAFCO is required to treat a Lead Agency's EIR as adequate unless it follows statutory procedures to supplement the EIR or challenge it in court –

[8] This is a reference to the Pure Water Monterey Expansion project.

neither of which occurred here; and (iii.) "LAFCO's own procedures required it to consult with water resource agencies and incorporate their recommendations as appropriate into its decision for any proposal that "may significantly impact the groundwater basin, as documented by the Lead Agency pursuant to CEQA," and LAFCO didn't here: Petitioner contends there is no evidence of any consideration or incorporation of comments of any "expert water agency," including Monterey County Water Resources Agency, Seaside Water Master, or Monterey Conservation District – all of which reviewed Petitioner's application.

Regarding the applicability of Government Code section 56669(l), Respondent argues in opposition that Government Code section 56021, which defines Changes of Organization, does not include adoption or amendment of general plans, and therefore LAFCO's inquiry into water is not limited to general plan adoption or amendment. Respondent contends that the language of section 56668(l) referencing Government Code section 65352.5 is only providing a guideline for LAFCO, not defining an exclusive area of LAFCO inquiry. Government Code section 56668(l) does otherwise and without limitation allows LAFCO to consider water supply and management as a factor when evaluating a Change of Organization.

In reply to this argument, Petitioner points out that some Changes of Organization do include general plan adoptions or amendments, but only in cases where adoption or amendment of a general plan is sought would Government Code section 56668(l) apply.

In response to Petitioner's lack of substantial evidence and inconsistent findings contentions, LAFCO asserts that it properly relied on comments from the Salinas Basin Water Alliance and Salinas Valley Farm Bureau which expressed concerns regarding overreliance on source water for the Pure Water Monterey Project (which is part of the joint effort by Petitioner District, Cal-Am and Monterey One Water to develop a replacement water supply which would include several water sources from the Salinas Valley) to find that the proposal and evidence in the record does not adequately establish Petitioner's current efforts to expand Peninsula's water supply will be sufficient to meet current and future needs without utilizing water from Salinas Valley and potentially harming the SVGB; and Petitioner presented no evidence to address these concerns.

Petitioner points out in its Reply that Respondent does not address the issue of inconsistent findings.

In opposition to Petitioner's argument that LAFCO failed to follow its own written procedures and policies, LAFCO counters that its own procedures cannot override the authority given in Government Code section 56668(l) and (n) [consider comments from landowners, voters or residents – which would presumably mean such comments relevant to the factors set forth in the list of factors in Government Code section 56668].

In replying to this issue, Petitioner points out that all LAFCO decisions must be consistent with LAFCO's written policies and procedures, citing Government Code 56735(a)(1); *McBail,* 62 Cal.App.4th at 1228-1230.

RULING ON ARGUMENT #4.

A. Does Government Code section 56668(l) apply here? LAFCO'S reference to subsection(l) in its Resolution of Denial incorrectly applied that subsection as a factor for the proposal here. By its very terms, that subsection applies to "[t]imely availability of water supplies adequate for projected needs as specified in Section 65352.5." The latter section only applies where an agency with land use authority proposes to adopt or amend a general plan. No general plan adoption or amendment was involved with Petitioner District's proposal, and hence the cited standard was not mandated for consideration by Government Code section 56668(l).

However, that does not mean that Respondent LAFCO could not consider availability of water supply and effects, if any, on the adjacent Salinas Valley water supply. Government Code section 56668 starts with the following language: "Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following: … ." Here, LAFCO has considered a factor which is not necessarily removed from its consideration, but its determination misapplied the SVGB concern as the factor in subsection (l) – to which it bears no rational relationship, as that factor does not even apply to the proposed action here. This alone is probably not a significant or prejudicial error, since LAFCO was not required to consider the factor in subsection (l) at all.

Nonetheless, once it elected in its discretion to consider the sufficiency of water supply, LAFCO's determination on that issue must still have been rationally based on substantial evidence and not have been arbitrary or capricious. In that regard, it is not possible to reconcile LAFCO's Denial Resolution under challenge here with its findings – on the very same day – in its adoption of the 2021 Municipal Service Review and Sphere of Influence for the District, which concluded that "completion of either Cal-Am's MPWSP desalination plant or M1W/MPWMD's Pure Water Monterey Expansion Project will be more than sufficient to meet anticipated water demand for at least the next 20 years." (AR 01810). The diametrically opposed findings are arbitrary and accordingly cannot be upheld.

B. (1.) Is there substantial evidence to support LAFCO's determination regarding impact to the Salinas Valley groundwater basin if Petitioner's proposal goes forward?

As noted above and below, the irreconcilable, contrary findings of LAFCO regarding sufficiency of water supply are arbitrary and alone require a writ issue directing the LAFCO decision to be set aside.

As for Petitioner's additional contention that there is no substantial evidence to support LAFCO's determination that Petitioner did not adequately establish that its current efforts to expand the Peninsula area's water supply will be sufficient to meet current and future needs without potentially harming the Salinas Valley groundwater basin, it is important to note at the outset that, as Cal-Am pointed out, LAFCO did not make a finding of harm to the SVGB in the event that the proposed acquisition goes forward. It found that Petitioner did not adequately establish that its current efforts to expand the Peninsula's water supply would be sufficient and could be accomplished in a way that did not utilize water from the Salinas Valley or potentially harm the basin.

LAFCO relies upon, among other items in the record, a November 22, 2021 letter from the Director of the Monterey County Farm Bureau suggesting that Petitioner's opposition to Cal-Am's proposed desalination plant means that Petitioner District "will ultimately rely on a single facility resource for the water it supplies to its customers." (AR 22485-22486). LAFCO cites AR 22485-22486 in support of the proposition the Salinas Basin Water Alliance's statements were

supported by the Monterey County Farm Bureau's comments to LAFCO, which outlined the Bureau's concerns of granting additional authority to the District that will ultimately rely on a single facility resource which has a finite supply of water. AR 22485-22486 appears to be the letter LAFCO quoted in its denial resolution (AR 00014). In it, the Executive Director of the Monterey County Farm Bureau suggests that the District's opposition to the desalination plant proposed by Cal-Am means the District "will ultimately rely on a single facility resource for the water it supplies to its customers[,]" (AR 22486), referring to an earlier statement in the same letter, implying that Petitioner relies on the Pure Water Monterey Expansion project "… as a single resource for the water supply of the Monterey Peninsula." The Bureau letter goes on to say that this is "unwise and unjustified, placing the entire community at risk" because the "source water supply is interruptible and not drought-proof." (*Ibid.*) The letter also quotes the letter from the Salinas Basin Water Alliance (found at AR 05628-05629) which states: "Salinas Valley does not have surplus water and should not be considered a reliable source for the Peninsula's needs." (*Ibid.*)

The October 22, 2021 letter from the Salinas Basin Water Alliance (AR 05628-05629) states "… the Pure Water Monterey project is a vital component of MPWMD's plans as they turn their back on desalination. However, Pure Water Monterey is heavily dependent on source water from the Salinas Valley (even more so if they are required to increase output to meet the peninsula's demands. Salinas Valley does not have surplus water and should not be considered a reliable source for the peninsula's needs."

The foregoing letters depend largely for support on a presumption that the Petitioner District relies solely upon Pure Water Monterey as its water supply source if the proposed acquisition were to succeed. The only basis brought to the Court's attention in the record for such a claim is the suggestion in Monterey County Farm Bureau's letter that because the District opposes desalination, it would end up relying on Pure Water Monterey as the "single source for the water supply of the Monterey Peninsula." (AR 22486.) Petitioners point out in their papers there is evidence there are multiple sources of water supply beyond the desalination plant or the Pure Water Monterey project, including 3,376 acre-feet per year ("afy") from the Carmel River,

774 afy from the Seaside Basin, 1,300 afy from the Aquifer Storage & Recovery Project, and 94 afy from the Sand City Desalination Plant. (AR 03690.)

When asked at oral argument whether this assertion that the District would be relying upon a single water source for its proposal in light of the evidence that there are multiple sources of water supply beyond the Cal-Am desalination plant or Pure Water Monterey project – such as 3,376 afy from the Carmel River, 774 afy from the Seaside Basin, 1,300 afy from the Aquifer Storage & Recovery Project and 94 afy from the Sand City desalination plant, LAFCO counsel indicated he was unable to answer that question.

Ultimately, however, the Court believes that whether or not Pure Water Monterey ("PWM") was the sole source, or simply a source, of water supply proposed for Petitioner, there was sufficient evidence from which LAFCO could conclude that Petitioner had not shown its use of PWM water diverted from Salinas Valley wastewater, intended for use in the Salinas Valley, would not utilize Salinas Valley water supply.

In the Court's estimation, characterizing the proposed acquisition as a mere change in ownership is an oversimplification and does not resolve the substantial evidence question. There was evidence before LAFCO that Petitioner opposes the Cal-Am desalination plant and, Respondent argues, also evidence that without the desalination plant the source of water supply available to Petitioner District would be greatly limited.

(2.) Whether or not there is substantial evidence which would support LAFCO's determination in the Denial Resolution regarding water supply, is the determination nonetheless irreconcilable with LAFCO's opposite findings the same day – and hence arbitrary and capricious? As noted above, LAFCO's conclusions relative to adequacy of water supply mentioned in the context of Government Code section 56668(l) are irreconcilable with LAFCO's nearly concurrent adoption of the 2021 Municipal Service Review and Sphere of Influence for the District (AR01810), which concluded that "completion of either Cal-Am's MPWSP desalination plant or M1W/MPWMD's Pure Water Monterey Expansion Project will be more than sufficient to meet anticipated water demand for at least the next 20 years." Accordingly, a writ of mandate should issue on this basis alone.

C. Did LAFCO fail to follow its own procedures, in contravention of Government Code section 56375?

Government Code section 56375 and its subsection (a)(1) direct that once a LAFCO adopts written procedures and policies it must review proposals in a manner consistent with those policies:

"The commission shall have all of the following powers and duties, subject to any limitations upon its jurisdiction set forth in this part: (a)(1) To review and approve … or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures and guidelines adopted by the commission." Government Code section 56375(a)(1).

(1.) Petitioner asserts that the Respondent failed to follow pages 32-34 of its own written procedure, which requires that "[i]n considering a proposal which may significantly impact the groundwater basin, as documented by the Lead Agency pursuant to the California Environmental Quality Act (CEQA), LAFCO shall review the following information … ." (Petitioner's Request For Judicial Notice, Ex B, p.32). However, it appears undisputed that Petitioner was the CEQA Lead Agency and did *not* document that its proposal may significantly impact the groundwater basin. The triggering language thus was not operative nor does the cited language purport to limit LAFCO's consideration of groundwater impacts only in circumstances where a CEQA Lead Agency determines there might be such impacts. Consequently, there does not appear to be any basis for the argument that LAFCO failed to follow its own procedures.

(2.) Petitioner also maintains that LAFCO failed to follow its own procedural rules when it failed to treat the District's EIR for the proposed acquisition as adequate, pursuant to Section VII 1 of LAFCO's Local Rules, which states "All environmental factors introduced by the proposal shall be considered as outlined in [CEQA] and the State Guidelines [under CEQA]." Petitioner argues that CEQA, specifically Public Resources Code section 21167.2[9] requires that

[9] Public Resources Code section 21167.2 states: "If no action or proceeding alleging that an environmental impact report does not comply with the provisions of this division during the period prescribed in subdivision (c) of section 21167, the environmental impact report shall be conclusively presumed to comply with the provisions of this division for purposes of its use by responsible agencies, unless the provisions of Section 21166 are applicable."

LAFCO treat Petitioner's Lead Agency EIR as adequate unless LAFCO followed the statutory procedures to supplement the EIR or challenge it in court – neither of which was done here.[10] The contention of Petitioner, which is not further elaborated, is that LAFCO is thus precluded from making a determination – i.e., that there might be a significant impact on the Salinas Valley groundwater basin or supply – because the EIR stands and is conclusive on the topic.

The Court does not believe, based upon the arguments presented, that this Local Rule binds LAFCO to an EIR's determination outside the context of a direct CEQA challenge. Neither the language of Public Resources Code section 21167.2 [… the environmental impact report shall be conclusively presumed to comply with the provisions *of this division* … ."; emphasis added] nor the corresponding CEQA Guideline 15231 [" … shall be conclusively presumed to comply with CEQA … ."] contains language which indicates an EIR has preclusive effect for all purposes.

(3.) Finally, Petitioner argues that LAFCO failed to follow its own Local Rule X, GROUNDWATER STANDARDS, Information Requirements, section 3, which provides: "Any proposal considered by LAFCO that uses water will be referred to the Monterey County Water Resources Agency, the Pajaro Valley Water Management Agency, the Monterey Peninsula Water Management District [i.e., Petitioner here], or any other affected water agency. Recommendations of the agencies will be considered by LAFCO and, where appropriate, should be incorporated into the project design prior to approval of the boundary change proposal." This language of this particular provision does not require a CEQA Lead Agency finding in order to become operative. Petitioner's argument is that there is "no evidence that LAFCO considered or incorporated the comments of any expert water agency." Monterey County Water Resources Agency, one of the agencies specifically listed in the Local Rule, as well as Seaside Water Master, and Monterey County Resource Conservation District all reviewed the District's application and did not identify any potential impacts to groundwater, AR 12323, 00399, 11956.

Section 21166 provides for certain circumstances in which a supplemental environmental impact report may be required.

[10] Intervenor unsuccessfully challenged the EIR in Monterey County Superior Court case of *California-American Water Co. v. Monterey Peninsula Water Management District* (20CV003201); Respondent did not participate in that challenge or otherwise the challenge the EIR.

LAFCO also rejected the groundwater analysis and recommendations of Petitioner, which is also one of the specifically listed agencies in the Local LAFCO Rule.

LAFCO does not address these arguments, other than to argue that "LAFCO's policies concerning CEQA compliance do not override the statutory authority stated in Section 56668(l) or (n) [[mandatory consideration of information or comments from the landowner, or landowners, voters, or residents of the affected territory].

The language of the Local Rule does not lead to the conclusion Petitioner urges, i.e., that the Rule was violated. First, the language of the rule regarding referral to agencies is in the disjunctive and does not by its terms require referral to all agencies. Secondly, LAFCO did receive the recommendation of Petitioner, one of the named agencies. And LAFCO did consider it, but ultimately elected not to incorporate it. The Local Rule provides that a recommendation is to be considered and, where appropriate" to be incorporated. LAFCO's action clearly leads to the conclusion it did not deem it appropriate to incorporate Petitioner's recommendation. It has not been shown that it abused its discretion in doing so.

Argument #5: Was There A Violation of Statutory Duty, By One Of The Three Commissioners Challenged, To Exercise Independent Judgment On Behalf Of The Public As A Whole?

Government Code section 56331.4 states that "[w]hile serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole . … Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. Three commissioners in this matter made statements on the record as follows: (1.) Chair Lopez stated he was "the guy who represents Chualar" and was uncomfortable moving forward because he "still ha[d] questions about the impact to [his] community, specifically, the community of Chualar" and was unwilling to support the application until Chualar "ha[d] its interest taken care of." (AR 03178-79); (2.) Commissioner Poitras identified himself as representing the Monterey County Regional Fire District and emphasized his concerns that several special districts have the potential to lose a great deal of

money if Petitioner's application were approved; and (3.) Commissioner Leffel stated she, "like Commissioner Poitras, represent[s] the special districts on this Commission. And … you are going to save so much money on this district. But, meanwhile, all the other districts give it up to save that money."

Petitioner's Arguments:

A. Standing. Although there is a provision in Government Code section 56331.4 stating that there is no private right of action created by section 56331.4, this is to prevent actions seeking to hold Commissioners personally liable and does not preclude an action in ordinary mandamus. *California Hospital Association v. Maxwell-Jolly* (2010) 188 Cal.App.4th 559, 568-569 [Even without a private right of action under the Medicaid Act, an interested party can still "enforce the act by means of a writ of mandate under Code of Civil Procedure 1085"]; legislative history to Government Code section 56331.4.

B. Three Commissioners did not exercise independent judgment representing the public as a whole.

RULING ON ARGUMENT #5.

On the issue of standing, the Court believes that Government Code section 56331.4 does not eradicate any standing Petitioner would have had but for that section. The starting point of analysis is the statutory language. *Uber Techs. Pricing Cases, supra*. The language of the section states "*This section* does not … *create* a private right of action in any person." [Emphasis added.] It does not suggest that it is intended to abrogate the previously existing right to maintain an action for mandamus regarding (1.) the performance of an act which the law specifically enjoin, as a duty resulting from office, CCP 1085(a) and (2.) a beneficially interested party, with no plain, speedy or adequate remedy at all. CCP 1086. *California Hospital Association, supra*, 188 Cal.App.4th at 568-569.

The Court is satisfied that both requirements are met here. The right of action to compel the enforcement of a duty of office existed independently of Government Code section 56331.4.

On the substantive merits of the challenge, the Court notes at the outset that the issue is not one of 'bias' in its commonly used context of a consciously exercised prejudice for or against a certain group, interest or person in an unfair way. One might exercise independent judgment in the mistaken belief that one is required to vote according to the desires of the authority which appointed her or him as its representative, however, and that is the issue presented by Petitioner here. Although "[m]andamus will not lie to control the exercise of discretion, i.e., to compel the exercise of discretion in a particular manner [, it] may issue to compel an official both to exercise his discretion (if he is required by law to do so) and to exercise it under a proper interpretation of the applicable law." *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 442.

There is a distinction, which the Court believes Government Code section 56331.4 expresses, between bringing the viewpoints and experience of a particular appointing authority to the table for discussion, on one hand, and voting or taking other action in a manner which serves only the appointing authority's interest rather than the interests of the public as a whole, on the other. The statutory scheme of the CKH Act – which requires the appointment of persons by County and City governmental entities and by Special Districts (in addition to a member of the public appointed by the other commission members), Government Code section 56325, but requires that "all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole," Government Code section 56331.4, draws the distinction. To this extent, LAFCO's argument here that section 56331.4 does not preclude a commissioner from *considering* the interests of his or her appointing authority is sound, as is LAFCO's acknowledgment that " 'solely' taking into account the interest of one's district" would be inappropriate. But the apparent intention of this section goes further: if the language of section 56331.4 is to be given effect, it would be equally improper to take action based on the interests of anything less than the public as a whole -- viz., the *entire public's* interests.

A LAFCO commissioner thus has a fine line to walk: she or he may be a representative of the appointing authority, and can present and consider that authority's interests, but cannot take action based on anything less than the interests of the public as a whole.

It is Petitioner's burden in a mandamus proceeding to show violation of a public duty**.** *California Pub**.** Rsch., Inc. supra*. Here, the burden has not been met as to Commissioner/Supervisor Lopez. His statements do not show that he was considering the interests of less than those of the public as a whole. His statements expressed concerns about unanswered questions affecting various segments of the public community – not simply those of Chualar, and his statements expressing that he considered Chualar's interests does not compel an inference that he based his vote solely on Chualar's interests as its representative. Commissioner Leffel's statements do not demonstrate that she did, either. Her statement that "I do not believe that, in good faith, I can take from one part of my community just to make another part of the community happy" actually indicates an unwillingness to take action based on the interests of less than the public as a whole.

With respect to Commissioner Poitras, the Court does not believe it has been shown that he failed to exercise independent on behalf of the public as a whole. The focus of Petitioner's challenge is upon statements Commissioner Poitras made at the December 6, 2021 hearing; he made no statement at the January 5, 2022 hearing other than to cast his vote in support of the resolution. At the December 6, 2021 hearing it is true that he said he represented several special districts and that several of them have the potential to lose money as a result of the proposed action. However, he also went on to state "… we can't afford to lose a frontline firefighter as a result of this." (AR 03181, lines 8-9). The loss of a public safety officer position – a firefighter – seems to this Court to be a concern for the public welfare as a whole. Accordingly, the Court finds Petitioner has not shown Commissioner Poitras failed to exercise independent judgment on behalf of the public as a whole.

The Court does not believe the accusations of bias made by members of the public are of probative value on the issue of whether a commissioner failed to exercise independent judgment on behalf of the public as a whole. The only evidence of value on this issue is the content of the commissioner's respective statements.

Conclusion:

In summary, the Court orders that a writ of mandate shall issue on the grounds that (1.) Respondent LAFCO failed properly to consider whether Petitioner will have sufficient revenue to carry out the proposed new or different services following the proposed change, pursuant to Government Code section 56668 (k); (2.) LAFCO improperly applied the 'Environmental Justice' factor of Government Code section 56668(p), since there is no evidence in the record of any pollution; (3.) there is no substantial evidence to support its finding that the proposed action would pose an undue economic hardship on other County residents in satellite water systems; and (4.) LAFCO's findings regarding the sufficiency of water supply for the proposed action here are inconsistent and irreconcilable with its findings the same day in its adoption of the 2021 Municipal Service Review and Sphere of Influence for the District, which concluded that 'completion of either Cal-Am's MPWSP desalination plant or M1W/MPWMD's Pure Water Monterey Expansion Project will be more than sufficient to meet anticipated water demand for at least the next 20 years."

Petitioner is to prepare and submit a proposed Writ of Mandate consistent with this ruling.

This Statement of Intended Decision shall serve as the Statement of Decision, subject to any objections of the parties.

Dated: October 25, 2023

Thomas W. Wills
Judge of the Superior Court

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CERTIFICATE OF MAILING
(Code of Civil Procedure Section 1013a)

I do hereby certify that I am employed in the County of Monterey. I am over the age of eighteen years and not a party to the within stated cause. I placed true and correct copies of the **Statement of Intended Decision** for collection and mailing this date following our ordinary business practices. I am readily familiar with the Court's practices for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Services in Monterey, California, in a sealed envelope with postage fully prepaid. The names and addresses of each person to whom notice was mailed is as follows:

Edward Terry Schexnayder
396 Hayes Street
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2001 N. Main Street, Ste 390
Walnut Creek, CA 94596

George Michael Soneff
2049 Century Park East, Suite 1700
Los Angeles, CA 90067

Richard Tait Egger
2855 E Guasti Road, Suite 400
Ontario, CA 91761

Dated: **10/25/2023**

Clerk of the Court,

By: P. Conder

P Conder, Deputy Clerk

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5a

AGENDA REPORT
Business | Discussion

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer
Priscilla Mumpower, Assistant Executive Officer

SUBJECT: **Updated Rolling Five-Year Study Schedule**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive an update on the Commission's rolling five-year study schedule. This update follows the Commission's action in October 2025 to roll the existing schedule forward and reset the coverage period from Fiscal Year 2026 through Fiscal Year 2030, and aligning the study schedule with the Commission's adopted workplan. Two notable adjustments are included: removal of the now-completed Oceanside regional review and addition of several new reviews. Consistent with prior practice, the first two years (FY26–FY27) correspond to municipal service reviews authorized and funded in the adopted workplan, including the newly added review of the San Diego Unified Port District. The final three years (FY28–FY30) function as an advanced planning tool to signal the Commission's long-term intentions and providing local agencies and the public with notice of upcoming reviews. This item is being presented to the Committee for information with the opportunity to advance formal comments and/or recommendations to the Commission as needed.

BACKGROUND

Study Directive | Municipal Service Reviews and Sphere of Influence Updates

State law requires San Diego LAFCO to prepare municipal service reviews to independently

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Dane White, City of Escondido
John McCann Alt., City of Chula Vista
Chair Stephen Whitburn, City of San Diego
Marni von Wilpert, Alt., City of San Diego
Vice Chair Barry Willis, Alpine Fire Protection
Jo MacKenzie, Vista Irrigation
David Drake, Alt., Rincon del Diablo
Brigette Browning, General Public
Eileen Delaney, Alt., General Public

assess the availability and adequacy of local services relative to community needs with the Commission's policies on preparing these reviews codified as L-106 and including direction to maintain a five-year study schedule. These municipal service reviews directly inform the mandated sphere of influence updates that State law directs LAFCO to complete approximately every five years, through which the Commission actively manages local agencies' appropriate current and future boundaries and service areas.

Rolling Study Schedule + Implementation Practices

San Diego LAFCO annually reviews and resets a five-year rolling study schedule to calendar municipal service reviews and corresponding sphere of influence updates consistent with adopted policy. Approvals to reset are guided by two implementation practices as summarized below.

1. The first two years of the five-year study schedule are combined and cover all municipal service reviews separately authorized and funded by the Commission under the annual adopted workplan. The combination of the first two years provides LAFCO flexibility to pace work in line with accommodating the agencies' resources and abilities to participate in the data collection and review process.

2. Years three, four, and five of the five-year study schedule serve as telegraphing tools to the affected agencies and other interested stakeholders with respect to the Commission's expectations of initiating future municipal service reviews. Actual work on any municipal service review will not occur until the Commission formally authorizes the expenditure of LAFCO resources as part of the annual workplan.

DISCUSSION

This item is for the Committee to receive an update on SD LAFCO's five-year rolling study for the purpose of calendaring municipal service reviews.

- The approved update has reset the five-year coverage period from FY2025–FY2029 to FY2026–FY2030.

- **Years One and Two** of the updated study schedule are consistent with the adopted workplan, covering all authorized reviews with continued emphasis on wholesale water agencies, healthcare districts, SANDAG, and the north and north-coastal communities. A key structural adjustment was approved for the Carlsbad–Encinitas region: Part I will now focus solely on the City of Carlsbad and its subsidiary, the Carlsbad Municipal Water District, while Part II will address the City of Encinitas and its overlapping special districts (Leucadia WD, Olivenhain MWD, and San Dieguito WD). This structural approach is also applied to the Del Mar-Solana Beach and San Marcos-Vista regions. The Del Mar-Solana Beach MSR is further revised by moving the scheduled review of County Service Area 17 into a newly proposed review in FY 2030, as detailed in the proceeding section. Additionally, a review of the San Diego Unified Port District has been added consistent with the adopted workplan.

- **Years Three through Five** of the updated study schedule remain largely consistent with the prior version, although several adjustments have been made to reset existing scheduled reviews into new groupings where merited and most notably within the greater East County region. These final three forecast years also introduce five new service-specific reviews, added primarily in response to feedback and insights gathered through the preparation of earlier studies, and include the following:

    - San Diego County Wastewater JPAs
    - Countywide Recycled Water Service Providers
    - County Service Areas
    - Countywide Police Protection Services
    - Geological Hazard Abatement Districts

ANALYSIS

None.

RECOMMENDATION

This item is presented to the Committee for information and possible discussion.

ALTERNATIVES FOR ACTION

None.

PROCEDURES FOR CONSIDERATION

This item has been placed on the Committee's agenda for information as part of the business calendar. The following procedures are recommended:

1) Receive verbal presentation from staff unless waived.
2) Invite comments from interested audience members if any.
3) Discuss and provide general feedback as needed.

On Behalf of the Executive Officer,



Priscilla Mumpower
Assistant Executive Officer

Attachment:

1) Updated Five-Year Rolling Study Schedule (FY 2026-2030)

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Commission Rolling Study Schedule 5-YEAR PLAN

FY2026 Through FY2030

Regional Service Planning
Subdivision of the State of California



Study Directive

State law directs San Diego LAFCO to review spheres of influence for all cities and special districts and update as needed (affirm, expand, reduce, etc.) every five years and by extension mark the agencies' appropriate current and future boundaries and service areas. Pertinently, local agencies cannot annex and/or extend services outside their spheres with limited exceptions. State law also specifies San Diego LAFCO must inform the sphere updates by preparing comprehensive evaluations – titled municipal service reviews – to determine the availability and adequacy of local governmental services as well as governance responsiveness relative to community needs.

Study Schedule

San Diego LAFCO has established a five-year rolling Study Schedule to guide its statutory task to review and update as appropriate the spheres of influence of cities and special districts under the Commission's oversight. The rolling Study Schedule is premised on the Commission's policy interest to proactively calendar municipal service reviews and use these documents to determine the subsequent scope of any related sphere of influence updates for the affected agencies. The Commission also regularly draws on the municipal service reviews to inform its decision-making on boundary changes.

Rolling Study Schedule Format

The Study Schedule is a living or rolling document that the Commission resets yearly in concert with the annual budget and workplan adoptions. The rolling study schedule spans 5 fiscal years with only the first year being set. The second through fifth years are tentatively calendared, and done so to help guide and telegraph future decision-making. This approach allows the Commission the flexibility to redirect staff resources where needed should calendar studies extend beyond one year while also granting staff the ability to prioritize applicant proposals.

THE COMMISSIONERS »

2025-2026 + 2026-2027: **SET**

NORTH COUNTY FOCUS

Carlsbad + Encinitas Region

- **Part I: Carlsbad**
  - City of Carlsbad
  - Carlsbad MWD
- **Part II: Encinitas**
  - City of Encinitas
  - Leucadia WWD
  - Olivenhain MWD
  - San Dieguito WD

San Marcos + Vista Region

- **Part I: San Marcos**
  - City of San Marcos
  - Vallecitos WD
  - San Marcos FPD
  - Vista ID
- **Part II: Vista**
  - City of Vista
  - Buena SD

San Diego County Healthcare Districts

- **Part I: Macro + Part II: Micro**
  - Palomar HD
  - Tri-City HD
  - Fallbrook HD
  - Grossmont HD
  - County Partners

Council of Governments

- San Diego Association of Governments (SANDAG)

Wholesale Water Service Providers

- San Diego County Water Authority
- Metropolitan Water District of Southern California

Del Mar + Solana Beach Region

- City of Del Mar
- City of Solana Beach
- Santa Fe ID

San Diego Unified Port District

*Denotes a special district included in more than one study.

Oceanside State Beach ▶





Chula Vista is the second largest city in the San Diego metropolitan area.

2027-2028: **TENTATIVE**

SOUTHWEST COUNTY FOCUS

Rancho Santa Fe Region

- Fairbanks Ranch CSD
- Questhaven MWD
- Rancho Santa Fe CSD
- Rancho Santa Fe FPD
- Whispering Palms CSD

San Diego County Wastewater JPAs

- Encinitas JPA
- San Elijo JPA
- Metro JPA

City of San Diego

Silver Strand Cities

- City of Coronado
- City of Imperial Beach

South Coast Region

- **Part I: Cities**
  - City of Chula Vista
  - City of National City
- **Part II: Special Districts**
  - South Bay Water District
  - Sweetwater Authority
  - Bonita-Sunnyside
  - Sweetwater FPD

Transit Service Providers

- North County TD
- Metropolitan Transit Service

*Denotes a special district included in more than one study.



2028-2029: **TENTATIVE**

EAST COUNTY FOCUS

Otay WD

La Mesa - Lemon Grove Region

- City of La Mesa
- City of Lemon Grove
- Lemon Grove SD

El Cajon - Santee Region

- City of El Cajon
- City of Santee

East County Water Districts

- Lakeside WD
- Helix WD
- Padre Dam MWD

East County FPDs

- Lakeside FPD
- San Miguel Consolidated FPDs
- Alpine FPD

San Diego County Sanitation District

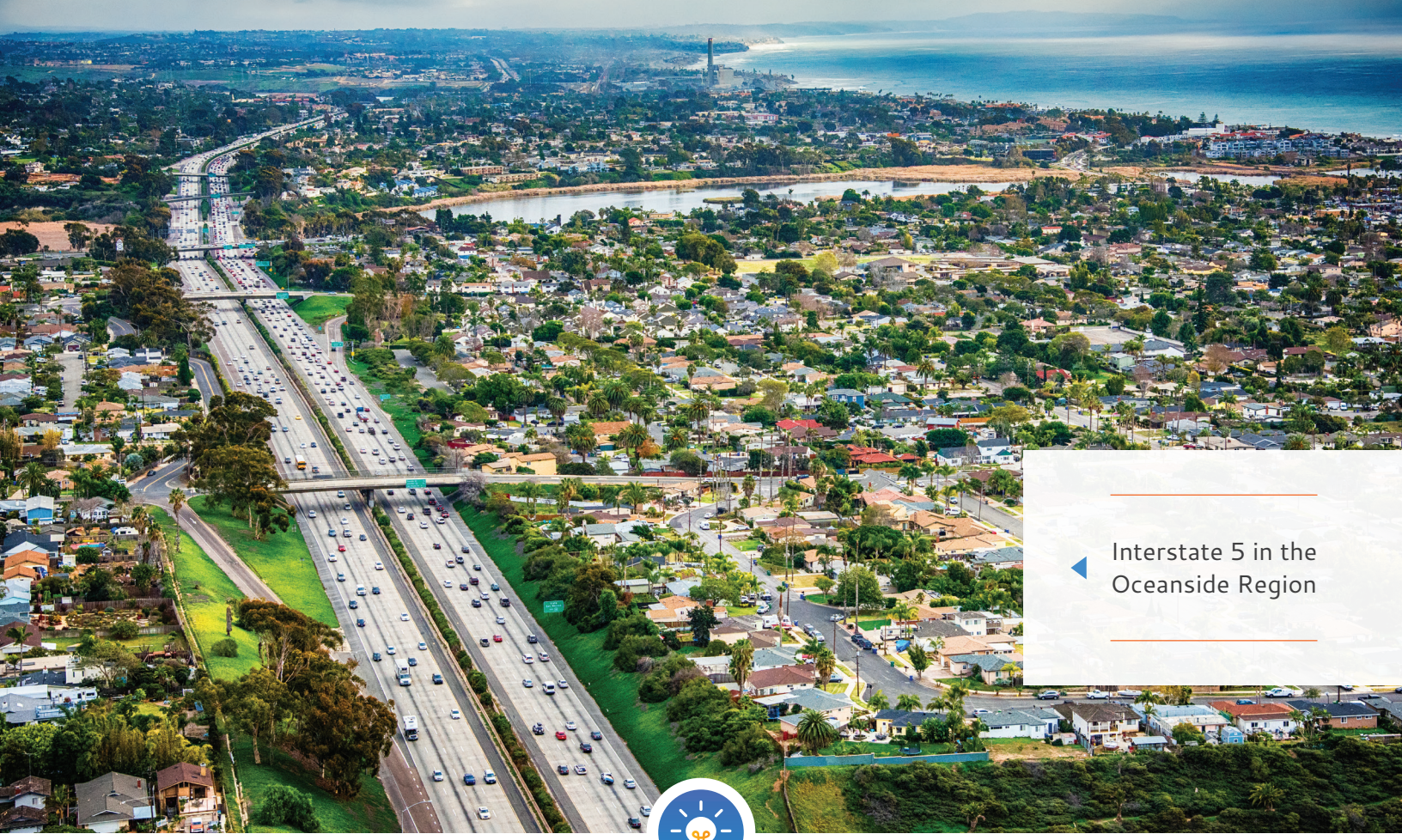
Countywide Recycled Water Services

Cemetery Districts

- North County
- Pomerado
- Ramona
- Valley Center

San Diego County Airports

*Denotes a special district included in more than one study.



Interstate 5 in the Oceanside Region

2029-2030: **TENTATIVE**

MISCELLANEOUS

Countywide Fire Protection Services (Fire, Rescue, and EMS)

County Service Areas

- CSA 17 - Ambulance, San Dieguito
- CSA 26 - Parks and Recreation, Rancho San Diego
- CSA 81 - Parks and Recreation, Fallbrook
- CSA 83 - Parks and Recreation, San Dieguito
- CSA 122 - Infrastructure Planning, Otay East
- CSA 128 - Parks and Recreation, Spring Valley
- CSA 135 - Regional Communications, Countywide
- CSA 136 - Flood Control and Drainage, Lakeside
- CSA 137 - Retail Water Services, Live Oak Springs
- CSA 138 - Parks and Recreation, Valley Center

Countywide Police Protection Services

San Diego County Flood Control District

Pauma Valley Region

- Mootami MWD
- Rincon Ranch CSD
- Pauma CSD
- San Luis Rey MWD
- Yuima MWD

Borrego Region

- Borrego WD
- Coachella Valley WD

East Laguna Summit Region

- Canebrake WD
- Descanso WD
- Jacumba CSD

Geological Hazard Abatement Districts

- Casa de Playa Geologic Hazard Abatement District
- Oceanus Geologic Hazard Abatement District



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5b

AGENDA REPORT
Business | Discussion

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer
Priscilla Mumpower, Assistant Executive Officer

SUBJECT: **Update on High Priority Project | Municipal Service Review on Wholesale Water Agencies in San Diego County**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive an update on San Diego LAFCO's municipal service review (MSR) of wholesale water agencies in San Diego County—one of ten high-priority projects in the adopted 2025–2026 workplan. The study includes a comprehensive review of the San Diego County Water Authority (CWA) and a proportional review of the Metropolitan Water District of Southern California (MET). This item is presented for discussion, with an opportunity for the Committee to provide input on interests or priorities related to wholesale water service delivery and governance on behalf of special districts in San Diego County.

BACKGROUND

San Diego LAFCO's current fiscal year work plan includes 30 projects with assigned priorities. A scheduled municipal service review of the two wholesale water agencies operating in San Diego County has been carried over from the prior work plan and designated by the Commission as the highest priority as indicated by its placement as No. 1a. This project stems from the confluence of two factors: (a) LAFCO's directive from the Legislature to regularly perform municipal service reviews covering all cities and special districts and (b) Commission questions generated in its deliberations over two recent reorganization proposals in north

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county seeking detachment from CWA in favor of joining Eastern MWD in Riverside County. LAFCO retains discretion in determining the appropriate scope of each municipal service review and currently does so through policy delegation to the Executive Officer. Nonetheless, all municipal service reviews must meaningfully address the following statutory factors:

- Growth and Population Projections
- Present and Planned Infrastructure and Service Capacities
- Adequacy of Services Relative to Community Needs
- Financial Standing to Provide Services
- Opportunities for Shared Facilities
- Accountability of Governmental Structure and Alternatives
- Any Other Factors Required by Local Policy
    - Environmental Justice (local policy)

DISCUSSION

This item provides an update on San Diego LAFCO's highest-priority workplan project for FY 2025–2026: the comprehensive MSR of wholesale water service providers, CWA and MET. The project represents the first dedicated MSR for these agencies and is being prepared by LAFCO staff in collaboration with Dr. Michael Hanemann of Arizona State University. The study follows LAFCO's standard MSR framework, extended to cover a 15-year period (FY 2009–2023). Staff anticipate releasing an administrative draft for agency review as early as October 2025, with a public draft targeted for March 2026.

A summary of progress and emerging themes – specific to the CWA – follows.

MSR Progress + Emerging Themes

Transformation Period
The review highlights CWA's significant progress in diversifying its water supply portfolio to meet approximately 80% of regional demand through a mix of imported water, Colorado River transfers under the Quantification Settlement Agreement (QSA), and desalinated water from the Carlsbad Desalination Plan.

- These investments reduced CWA's dependence on MET supplies from 88% in 2008 to 19% in 2023.
- However, the benefits came at a steep cost, with member agency water rates tripling over the same period.

Structural Imbalance
An evaluation of CWA's revenue structure and reserve position highlights growing constraint:

- CWA's budget is heavily weighted toward fixed costs with approximately 87% of costs being fixed, while only about 29% of revenues are fixed.

- Heavy reliance on the Rate Stabilization Fund between FY 2019–2023 reduced reserves to near the Board's minimum threshold. [1]
- Since 2023, the Board has taken a number of corrective actions, including:
  - Negotiating a water transfer agreement with the U.S. Department of the Interior.
  - Reducing capital expenditures.
  - Settling long-standing litigation with MET, allowing QSA water resale and tying conveyance charges to inflation.
  - Approving multi-year rate increases.

Decline in Water Demand + Challenge Ahead

Regional water demand continues to decline due to conservation, local supply development, and emerging potable reuse projects and points to challenges ahead.

- By 2035, new reuse projects are projected to reduce imported water sales—already at record lows—by an additional one-third (approximately 115,000 acre-feet per year).

LAFCO-Oriented Themes

- Governance and Accountability
  CWA's voting structure, based on historical financial contributions, raises emerging equity concerns as water purchases decline. For example, the City of San Diego currently retains roughly 42% of voting power—an imbalance likely to grow as its Pure Water Project expands local supply and reduces CWA dependence.

- Potable Reuse Coordination
  While potable reuse expansion strengthens regional water reliability and environmental sustainability, it creates wholesale-level coordination challenges. Over time, this may signal the need for governance or organizational adjustments to better align local water development with wholesale procurement strategies.

- Defining Service Adequacy
  The MSR considers how LAFCO should define "service adequacy" when water supply reliability is strong but financial sustainability is increasingly uncertain.

- Encouraging Sign
  Recent changes in executive leadership and the resolution of litigation with MET mark a positive turning point for CWA. These developments reflect improved interagency collaboration and a more strategic focus on long-term financial health and governance.

ANALYSIS

None.

[1] The CWA has a 150-day reserve policy.

RECOMMENDATION

This item is presented to the Committee for information and feedback.

ALTERNATIVES FOR ACTION

None.

PROCEDURES FOR CONSIDERATION

This item has been placed on the Committee's agenda for discussion as part of the business calendar. The following procedures are recommended:

1) Receive verbal presentation from staff unless waived.
2) Invite comments from interested audience members if any.
3) Discuss and provide general feedback as needed.

On Behalf of the Executive Officer,



Priscilla Mumpower
Assistant Executive Officer

Attachments:

1) Summary Handout of Key Emerging Themes
2) Letter from Commissioner David Drake, Future Mission of the San Diego CWA

San Diego County LAFCO

OCTOBER 2025 UPDATE |
MSR ON WHOLESALE WATER SERVICE PROVIDERS

⚠ Critical Acknowledgment

San Diego County Water Authority—or CWA—has made remarkable progress in diversifying water supply, but these achievements have come at a steep financial cost. The cost structure created over the past 15 years is now colliding with dramatically changing water demand patterns.

1 The Transformation Period: 2008-2023

Major Infrastructure Investments

- ✓ **Quantification Settlement Agreement:** Colorado River water secured via IID transfers and canal lining
- ✓ **Carlsbad Desalination Plant:** Partnership with Poseidon for drought-resilient supply
- ✓ **Emergency Storage Infrastructure:** $1.5 billion investment in water security

The substantive result...
CWA reduced its dependency on MET supplies from 88% to 19% between 2008 and 2023.

2 The Structural Problem

Critical Financial Imbalance

90%
Fixed costs (don't decline with lower sales)

30%
Fixed revenue (rest is variable)

2023 Tipping Point: New Reality + Impacts on Rates

! For the first time, demand fell below take-or-pay commitments with Imperial ID for 322,000 acre feet, forcing CWA to begin paying for water it could not use/sell

40%
Three-Year Rate Increase Approved for 2025-2027

YEAR ONE
14%
2025 rate increase

YEAR TWO
16.4%
2026 rate increase

YEAR THREE
9.6%
2027 rate increase

3 Approaching Cliff: 33% Demand Decrease Coming with Reuse

The combined reuse projects already in the queue in San Diego County will take away an estimated 112,000 annual acre-feet in demand by 2035—that is another 33% drop in potable sales.

SD Pure Water Phase 1

38,110

ACRE-FEET/YEAR • 2027

Equals 11% of Total CWA Demand in 2023

SD Pure Water Phase 2

59,407

ACRE-FEET/YEAR • 2035

Equals 17% of Total CWA Demand in 2023

East County AWP

12,890

ACRE-FEET/YEAR • 2026

Equals 4% of Total CWA Demand in 2023

Oceanside Expansion

1,680

ACRE-FEET/YEAR • ONGOING

Equals 1% of Total CWA Demand in 2023

4 Emerging LAFCO Themes

LAFCO's Balancing Act: Using the MSR as Information Resource v. Using MSR as Initiating Action

THEME ONE

Governance and Accountability

Vote allocation based on historical contributions while 70% of revenue remains volumetric—potential divergence between decision-makers and cost bearers.

THEME TWO

Potable Reuse Coordination

While beneficial for water security, reuse buildout creates wholesale-level coordination challenges that may signal need for fundamental reorganization.

THEME THREE

Defining Service Adequacy

How does LAFCO define "service adequacy" when physical water supply is secure but financial sustainability is increasingly uncertain?

THEME FOUR

Encouraging Sign

Recent changes in leadership on the Board and within executive management are making a positive difference and—among other things—have helped restore organizational focus, punctuated by the long-awaited settlement with MET.

TO: The San Diego County Local Area Formation Commission

FROM: David Drake, Alternate Commissioner for Special Districts

RE: The future mission of the San Diego County Water Authority

DATE: October 6, 2025

Introduction

Several serious factors have impacted the current mission of the SDCWA. Among these are; water demand reduction through conservation and local recycling, loss of agricultural use due to high water costs, inaccurate demand forecasting, poor legal guidance concerning take or pay water contracts, over-extended facility fixed costs, member agency anger due to higher water costs, and high staff costs to support previous projects. Item 7c on the October 6, 2025 LAFCO agenda illuminates many of these issues, in support of a needed Municipal Service Review. With apologies to the Fair Political Practices Commission, while trying to avoid a Brown Act violation, I would like to express my opinion before an MSR hearing. This issue has been exacerbated by recent findings that we may face a substantial reduction of access to water from the Colorado River, on an urgent basis. This could impact both MWD and IID water sources. **We must find a strategic and reliable alternative to the Colorado River supply.** We must endeavor to use the investments we have already made to help control costs. There is probably no silver bullet, but we have a quiver of arrows that could be sharpened. Frankly we need a much more comprehensive circular water plan to succeed in San Diego County. If we did not have an SDCWA, we would need to invent one. The issue is **what mission** should the SDCWA have?

Current Circumstances

1. The SDCWA has seen a dramatic improvement in management and quality of decisions. This opens the door to a major improvement in strategic direction and success.
2. Water costs are rising and there is significant pushback from SDCWA member agencies and the public. The SDCWA delivers about 300,000 acre feet per year.
3. The City of San Diego is headed to the opening of the Pure Water Project, which will dramatically reduce water demand at SDCWA, placing financial pressure on all other members. It will deliver about 93,000 acre feet per year, about ½ of city demand. Assume the SDCWA will need to deliver 200,000 acre feet in the future. Currently at a cost of about $2000/ AF. As has been suggested by Mike Smolens of the UT, an

alternative would be to slow down Phase 2 of Pure Water to lower immediate costs and give the SDCWA breathing room to sell excess water to other parties.

4. Desalinated water from either the Bud Lewis plant or Pure Water is about $3400/AF.
5. The water community is smack in the middle of evaluation of water rates, with no joy in sight.
6. The SDCWA is bound to “take-or-pay” contracts that require us to pay for water we may not even use. SDCWA management is working hard at finding markets for this water and to obtain the approval to sell it out of our area. They need to be encouraged.
7. The current SDCWA mission is focused on water supply and does not currently intersect with wastewater treatment. Most wastewater treatment is handled by local special districts.

Opportunities for the SDCWA

1. The existing San Onofre Nuclear Power Station, (SONGS), has about 3 megawatts of heat available from dry cask storage on site. This along with heat and electricity from solar sources, could be used with reverse osmosis at about 8 megawatt hours per acre foot. The wholesale price of power can vary a lot, but at the near lowest rate it can be as low as $10 per MWH. This is an energy cost of about $80-100 per acre foot, as we can select when we produce water, with good storage. The SONGS site also has permits for water intake and discharge, it has infrastructure built for both, and additional infrastructure for transportation, natural gas, and dock access. The possibility exists to create desalinated water at near the current price of MWD water. Note that desalinated water made at San Onofre could be piped using a line ten miles long to the east and connect to any of several aqueducts south of Fallbrook. Thus takes full advantage of all existing wholesale distribution assets already built.
2. The north county wastewater agencies discharge about 500 AF per day, of highly treated water. This is close to the target of 200,000 AF/year we need. This discharge could instead be piped to San Onofre at 1500 parts per million of dissolved salts. This contrasts with ocean water at 30,000 parts per million. This vastly reduces the cost of desalination and reduces the ocean discharge. One of the outfalls has been estimated to need $800 million in repairs, which could be avoided. An alternative might be to convert one or more of these wastewater treatment plants to direct potable reuse. Then, similar to the Bud Lewis plant, pipe the water inland, probably to the Twin Oaks plant for distribution.
3. The Twin Oaks plant, which has been seriously underutilized, could be part of a blending and storage system.
4. The San Vicente Dam pumped storage project could be completed and used to store daytime solar power for electrical dispatch to any of several desalination facilities.
5. From a strategic planning standpoint, no water processing project should be proposed or built without renewable energy as a part of the construction and financial costs. All

existing facilities should be destined to employ renewable resources and not to depend upon investor-owned facilities.

6. Existing RO facilities can be made more efficient by heating the feed water to about 85 to 90 degrees F, reducing viscosity and enhancing membrane flow. This could be done using direct solar heating, without using electric power. This makes current investments more productive and valuable. The SDCWA could be a partner in this process.
7. How did the City of Escondido pay for its expansion of wastewater treatment in the early 90's without issuing bonds? They pre-sold wastewater hookups to developers guaranteeing a fixed price for the hookups. These hookup licenses gained in value before use and could be resold. This program was highly successful and won an award from the state for creativity. The SDCWA could form a captive corporation, like a captive insurance company, to sell water hookups at a rate of about 10,000 units per year. These would include fees for both the SDCWA and local water agencies. These funds could cover all of the above expenses, assuming strict adherence to the rules for municipal enterprise accounts. (i.e. no embezzlement allowed…)

Disclaimer

Probably at least half of the above is felony wrong. It needs a clearer goal and sharper minds to bring to ground. The new mission for the SDCWA is to craft and operate a countywide circular water system that reuses every drop of water, reduces ocean discharge by 90%, reduces dependence on the Colorado River by 90% over current values, and makes affordable water by clever use of existing infrastructure, use of renewable energy, and a strong focus on better forecasting. **The San Diego County Water Authority (SDCWA) becomes the San Diego County Circular Water Authority (SDCCWA).**

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AGENDA REPORT
Business | Discussion

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Michaela Peters, Local Government Analyst II
Meghan Traynor, Local Government Analyst I

SUBJECT: **Update on Sustainable Agricultural Lands Conservation Grant (SALC 2.0)**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive an update on the Commission's ongoing Sustainable Agricultural Lands Conservation (SALC) planning grant, known as "SALC 2.0." This project is being conducted in partnership with the County of San Diego's Planning and Development Services and builds on findings from the initial SALC grant to analyze economic challenges facing small-scale agricultural operations and identify policy solutions. SALC 2.0 is currently in its fifth phase to develop a strategic plan for incentives, technical assistance, regulatory improvements, and other support mechanisms for small-scale agriculture. Staff seeks Committee input on two key topics: incorporating agricultural analysis into the municipal service review program and establishing a regional working group to promote affordable water access for farmers and potential special district participation.

BACKGROUND

Sustainable Agricultural Lands Conservation Program

SALC was created in 2014 as a component of the California Strategic Growth Council and administered by the Department of Conservation. The SALC program is primarily funded through California Climate Investments, a statewide program that provides cap-and-trade

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funds through agricultural conservation acquisition and planning grants for programs intended to reduce greenhouse gas emissions. The principal goals of SALC are stated as:

- Protect at-risk agricultural lands from sprawl, promote growth within existing jurisdictions, maintain open space, and support a healthy agricultural economy.

- Further the purpose of Assembly Bill 32 by avoiding increases in greenhouse gas emissions associated with conversion of agricultural lands to higher-emission uses.

SALC 2.0 | San Diego LAFCO and County of San Diego PDS

In September 2022, San Diego LAFCO, in partnership with PDS submitted a planning grant application under SALC to perform a market analysis for existing and emerging crops – with a focus on small farms – while identifying government opportunities to bridge economic gaps. The Commission – notably – authorized the grant proposal as lead applicant. LAFCO was subsequently awarded a two-year grant in the full amount of $500,000 with work commencing in June 2023 and through May 2026.[1] San Diego LAFCO has since formally partnered with two consultants – Agricultural Impact Associates and Rick Engineering – in collaboration with PDS on the SALC grant and relative to its six main tasks and deliverables:

1. Grant Management
2. Market Analysis
3. Gap Analysis
4. Outreach & Education Plan
5. Strategic Plan
6. Final Report – "Cultivating Solutions"

Tasks 2 and 3 are now complete. The Market Analysis identified key cost drivers and profitability trends across the county, while the Gap Analysis highlighted the "profitability gap" in four targeted crops: strawberries, lemons, tomatoes, and avocados. These findings are now guiding the development of the Strategic Plan.

Information on public engagement to date is provided in the accompanying footnote.[2]

[1] San Diego LAFCO and PDS signed a Memorandum of Understanding (MOU) in August 2023 following the Commission's approval of a draft MOU at its August 7, 2023 meeting. The MOU formalized roles and responsibilities in proceeding with SALC 2.0 and highlighted by bisecting and designating specific tasks to San Diego LAFCO and PDS. The grant was originally scheduled through September 2025 and has since been amended to reach completion by May 2026.

[2] As part of the SALC 2.0 process, three public workshops have been conducted to engage stakeholders and gather input. The first workshop was held virtually on November 14, 2023 and served as a kickoff to provide an overview of the initiative and approach for the Market and Gap Analyses. The second workshop was held on July 24, 2024 as an in-person open house at the San Diego County Farm Bureau and featured a presentation of market analysis findings and discussion of gap analysis opportunities. The third workshop was held on January 27, 2025 at the Farm Bureau and brought together producers, industry experts, County staff, and community members to review major Gap Analysis findings.

DISCUSSION

The Committee will receive an update on the progress of SALC 2.0 and its focus on the economics of sustaining current and future small farming in the County – including draft strategic recommendations that are developed to date presented as an appendix. Committee feedback is requested with LAFCO staff seeking input on two specific policy topics:

1) Feedback on LAFCO's draft contents for an agricultural analysis to be incorporated into the municipal service review program.

2) Feedback on establishing a regional working group to promote affordable water access for farmers – including potential special district participation.

ANALYSIS

San Diego LAFCO – in partnership with PDS – is making steady progress on SALC 2.0 activities as described in the preceding section. This progress is marked by remaining on pace to complete all work by Spring 2026. The current phase of the grant (Task 5) focuses on identifying actionable strategies and potential policy recommendations to mitigate profitability shortfalls identified in the Gap Analysis. The final Strategic Plan Report is scheduled for completion by October 2025 with the full SALC 2.0 report anticipated for presentation to the Board of Supervisors in Spring 2026.

RECOMMENDATION

Review and discuss as requested.

ALTERNATIVES FOR ACTION

None.

PROCEDURES

This item has been placed on the Committee's agenda for discussion as part of the business calendar. The following procedures are recommended in the consideration of this item:

1) Receive verbal presentation from staff and any comments from the audience.
2) Discuss item and provide feedback as requested.

Respectfully,

Michaela Peters

Michaela Peters
Local Government Analyst II

Appendix:

A) LAFCO Draft Strategic Plan Recommendations

Attachments: (Online Only)

1) SALC 1.0: Final Report
2) SALC 2.0: Market Analysis
3) SALC 2.0 Gap Analysis

Appendix A
LAFCO Draft Strategic Plan Recommendations

The Strategic Plan is being developed collaboratively by San Diego LAFCO staff and the County of San Diego PDS, with support from contract consultant RICK Engineering. Based on feedback from the Market and Gap Analyses, LAFCO has identified three draft recommendations for inclusion in the Strategic Plan:

1. **Integrating an Agricultural Analysis into Municipal Service Reviews:**

    - Highlight the economic contributions of agriculture within an agency's boundaries, including vendors and agritourism.

    - Map agricultural acreage within jurisdictions to highlight communities with meaningful agricultural activity for contextual analysis. In urbanized areas, consider urban agriculture and local food systems.

    - Review jurisdictional policies that support agriculture, such as water conservation, recycled water, crop swap programs, and climate-smart practices.[3]

    - Review city general plans and specific plans for relevant land use policies related to agriculture, such as the promotion of farmworker housing.

2. **Water Affordability**: Supporting the establishment of a regional working group focused on promoting affordable water access for farmers.

3. **Ongoing Reporting**: Incorporate an annual report into San Diego LAFCO's workplan to update the Commission on the progress and status of SALC 2.0 Strategic Actions.

[3] The SALC 1.0 policy inventory may serve as a valuable framework for assessing local participation in best practices, including land lease programs and other ag-supportive policies. A copy of the final report is provided as Attachment One.

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AGENDA REPORT
Business | Information

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer
Aiden Velasquez, Communications Associate

SUBJECT: **Workplan Update on High-Mid Priority Project | San Diego LAFCO Website Refresh + Content Expansion**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive an update on one of San Diego LAFCO's high- to mid-priority projects included in the current adopted workplan: the redesign of the LAFCO website. The project is currently underway with consultant Chase Design and explores website enhancement options, with a focus on aesthetic design, accessibility, usability, and expanded content. As part of this broader modernization effort, the project also includes reimagining the LAFCO logo to reflect a more streamlined design. The Committee will receive a verbal report – including a walk-through presentation of the current website – with the opportunity to provide feedback and input to staff.

BACKGROUND

2025-2026 Adopted Workplan & Priority Project No. 13: Website Refresh + Content Expansion

San Diego LAFCO's current fiscal year workplan includes 30 projects and is divided into two distinct categories – statutory and administrative – along with priority assignments set by the Commission. A scheduled project involving the refresh of the San Diego LAFCO website with enhanced end-user features as part of a broader modernization effort.

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DISCUSSION

This item is for the Committee to receive an update on one of San Diego LAFCO's high-to-mid priority projects involving the redesign of the LAFCO website. Committee feedback is requested with LAFCO staff seeking input on the website's aesthetic design, accessibility, usability, and opportunities for expanded content. The project also includes a refresh of the LAFCO logo with an emphasis on simplicity and alignment with the new website design. The Committee will receive a verbal report – including a walk-through presentation of the current website – by LAFCO staff Communications Associate Aiden Velasquez.

Priority Project No. 13 | Website Refresh + Content Expansion

Project Manager Aiden Velasquez
Outside-Consultant Chase Design

San Diego LAFCO staff, in collaboration with consultant Chase Design, continues to make steady progress on the website redesign project. The first phase has focused on the technical and logistical aspects of transitioning from the current website host (Granicus) to an independent, LAFCO-managed platform. This includes shifting from our existing .org domain to a .ca.gov domain to align with state guidelines. Concurrently, staff has been mapping the structure of the existing website – evaluating content organization, file management, and functionality – to improve user experience and site performance.

This process has also prompted broader discussions on aesthetic design, leading to the inclusion of a logo redesign as part of the overall project. The new logo aims for a simple, modern design that continues to reflect LAFCO's mission and countywide role. After several iterations, staff have begun sharing preliminary concepts with Commissioners and seeking input. Both the redesigned logo and the new website are planned to launch simultaneously, with full transition and rollout anticipated by Summer 2026.

ANALYSIS

None.

RECOMMENDATION

This item is presented to the Committee for information and feedback.

ALTERNATIVES FOR ACTION

None.

(over)

PROCEDURES FOR CONSIDERATION

This item has been placed on the Committee's agenda for information as part of the business calendar. The following procedures are recommended:

1) Receive verbal presentation from staff unless waived.
2) Invite comments from interested audience members if any.
3) Discuss and provide general feedback as needed.

On Behalf of the Executive Officer,



Aiden Velasquez
Communications Associate

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AGENDA REPORT
Business | Information

October 17, 2025

TO: Special Districts Advisory Committee

FROM: Priscilla Mumpower, Assistant Executive Officer
Michaela Peters, Analyst II

SUBJECT: **Introduction | San Diego Unified Port District + Related Activities**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive an introduction to the San Diego Unified Port District ("Port"). This introduction follows recent actions by the San Diego Local Agency Formation Commission (LAFCO) to formally include the Port as a special district under its oversight. As part of this action, the Port is now contributing an annual apportionment to LAFCO and is featured in the FY 2025–2026 workplan through the initiation of an inaugural Municipal Service Review (MSR). The Committee will hear from Tracy Largent, Chief Financial Officer/Treasurer of the Port, who will provide an overview of the Port's mission, governance, and key activities relevant to special districts within San Diego County. The item is presented for information with an opportunity to provide feedback.

BACKGROUND

LAFCO Oversight of the San Diego Unified Port District & Related MOU

In October 2023, San Diego LAFCO directed staff to assess whether its statutory oversight authority extended to include the San Diego Unified Port District. This request was prompted by a Civil Grand Jury report that identified the Port as a special district lacking formal local oversight. Staff's assessment, expanded upon a prior internal review, was presented to the

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Commission during two publicly noticed hearings held on December 4, 2023, and March 4, 2024. At this latter meeting, the Commission took action to accept a final administrative assessment to approve a conforming policy statement confirming the San Diego Port as an independent special district subject to LAFCO's oversight.

This action prompted several months of discussions with the Port that ultimately culminated in the Commission approving a Memorandum of Understanding (MOU) with the Port on December 2, 2024, which was subsequently approved by the Board of Port Commissioners on December 10, 2024. The adopted MOU establishes a collaborative framework to guide LAFCO's statutory responsibilities regarding the Port, including – among other tasks – a clean-up reorganization and the preparation of an inaugural MSR.

2025–2026 Adopted Workplan & Priority Project No. 14 | Inaugural Municipal Service Review of the Port of San Diego

San Diego LAFCO's 2025-2026 fiscal year workplan was adopted May 2025 and includes 30 projects and is divided into two distinct categories – statutory and administrative – along with priority assignments set by the Commission. A scheduled inaugural MSR has been introduced to cover the Port of San Diego and is placed as priority number fourteen (14). LAFCO tentatively expects the municipal functions covered in the document to include (a) harbor and port, (b) recreation, (c) public safety, and (d) community (waterfront) development.

DISCUSSION

This item provides the Committee with an introduction to the Port of San Diego and an overview of LAFCO's planned activities for the current fiscal year. The introduction follows recent Commission action formally confirming the Port as an independent special district under LAFCO's jurisdiction, and the execution of an MOU that establishes a framework for ongoing collaboration. Among other elements, this includes the initiation of an inaugural MSR and a proposed reorganization to reconcile jurisdictional boundary discrepancies and in doing so align the Port of San Diego's boundary with its five member cities: San Diego, Coronado, National City, Chula Vista, and Imperial Beach.

As part of the proposed boundary "clean-up":

- LAFCO staff anticipates identifying and reconciling discrepancies between the Port's current jurisdictional boundaries and those of its member agencies, concluding with a reorganization proposal to be heard by the LAFCO Commission.

As part of the MSR process, LAFCO staff further anticipates:

- Engaging a mutually agreed-upon subject matter consultant to provide expert analysis of the Port's municipal service functions, which are tentatively expected to include: (a) harbor and port operations, (b) recreation services, (c) public safety functions, and (d) community (waterfront) development activities;

- Identifying and documenting all grandfathered out-of-agency service agreements;
- Determining all activated and latent service powers of the Port; and
- Establishing a stakeholder working group—including representatives from the San Diego Waterfront Association—to provide input on the preparation of the MSR.

The Committee will first receive a brief contextual overview from LAFCO staff, followed by an introduction and presentation by Ms. Tracy Largent, Chief Financial Officer/Treasurer of the Port of San Diego. This item is for information with an opportunity for Committee members and the public to ask questions and offer general feedback.

ANALYSIS

None.

RECOMMENDATION

This item is presented to the Committee for information and general feedback.

ALTERNATIVES FOR ACTION

None.

PROCEDURES FOR CONSIDERATION

This item has been placed on the Committee's agenda for information as part of the business calendar. The following procedures are recommended:

1) Receive verbal presentation from staff unless waived.
2) Invite comments from interested audience members if any.
3) Discuss and provide general feedback as needed.

On behalf of staff,

Michaela Peters

Michaela Peters
Analyst II

Attachments: None

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