MISSION RESOURCE CONSERVATION DISTRICT

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January 29, 2021

To: Keene Simonds and LAFCo Board of Directors

Re: Draft RCD MSR Report Recommendations

The Board of Mission Resource Conservation District (MRCD) has reviewed and met to discuss the recommendations made by San Diego LAFCO (SDLAFCO) in its Draft Municipal Service Review report and offer their response in this document. In summary:

- MRCD will work together with SDLAFCO to develop viable long-term solutions that meet the needs of SDLAFCO, MRCD, Greater San Diego Resource Conservation District (GSDRCD) and Upper San Luis Rey Resource Conservation District (USLRRCD).
- MRCD will work to develop thoughtful, proactive, viable, and collaborative working relationships with SDLAFCO, GSDRCD and USLRRCD.
- MRCD's efforts will continue to focus on providing effective and responsive resource conservation services to our district, and as appropriate, the greater San Diego North County region.

The MRCD Board responses to the specific LAFCO Draft Municipal Service Review recommendations are provided below.

1. San Diego LAFCO affirms resource conservation functions are explicit municipal services under CKH and support – both through direct and indirect means – orderly growth and development in San Diego County. LAFCO should accordingly incorporate regular reviews of RCD functions as part of future municipal service review cycles.

MRCD Response

Resource Conservation Districts (RCDs) play a key role as a link between state conservation mandates and municipal service provision. The RCD function is to make available technical, financial, and educational resources, and focus or coordinate them so that they meet the needs of local land users for conservation of soil, water, and related natural resources. RCDs provide a unique "boots-on-the-ground" function to support conservation best practices for orderly and sustainable growth and development in their respective communities.

MRCD agrees that regular reviews of RCD functions as part of SDLAFCO's future Municipal Service Review cycles are important to ensure the continuation of essential, directed, and cost-effective conservation services and community support. The mission of MRCD is to promote the conservation of soil, water and other natural resources in the San Luis Rey and Santa Margarita watersheds through effective planning that ensures a healthy ecosystem and provides economic benefits and quality of life for landowners and the general public.

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MRCD anticipates working collaboratively with SDLAFCO and the other San Diego RCDs to meet the needs of the growing regional population coupled with the uncertainties of a changing climate and water scarcity. MRCD's services address the broad and shifting conservation needs (e.g., water, soil, wildlife) for effective service provision in San Diego County. Along the lines of the City of San Diego's Complete Communities program, "San Diegans' quality of life depends on a vibrant economy, a healthy environment and thriving neighborhoods." MRCD's efforts support all three of these goals in North County.

2. San Diego LAFCO should collaborate with the County of San Diego and SANDAG to develop buildout estimates specific to each affected agency and incorporate the information into the next scheduled municipal service review.

MRCD Response

MRCD supports SDLAFCO's collaboration with both the County of San Diego and SANDAG to develop buildout estimates specific to each RCD and incorporating this information into the next Municipal Service Review cycle. Future Municipal Service Reviews ought to include current data from SANDAG, such as the most current population estimates and demographics, including relevant data on disadvantaged unincorporated communities (DUCs). Housing and commercial buildout estimates and relevant economic profile data should also be included to provide a more complete picture of district trends and anticipated community needs. The inclusion of this data will assist with identifying demographic and societal changes that have "measurably expanded [the roles of RCDs] to be more holistic [in connection to] wildlife habitat, wildfire prevention, and climate change through technical, education and advocacy services" and meriting the expansion into incorporated communities and adjacent cities with shared watersheds (Municipal Service Review, 2020, p. 22).

Data on regional farming trends and crops collected by the County of San Diego, Department of Weights and Measures and the National Agriculture Census should also be included in future Municipal Service Review cycles. Agriculture is a significant contributor to San Diego County's economy[1] with over 5,000 farms, more than any other county in the U.S. (County of San Diego, Department of Weights and Measures). The majority of San Diego's commercial farms, including small and organic farms, are located in North County with many in MRCD's district. Relatedly, agricultural tourism is prominent in North County, including in MRCD's district. Data on agriculture and agricultural trends (as well as other regional economic and industry trends) will be particularly important in the coming years, as the COVID-19 pandemic shifts the food supply chain, agricultural economics, and agritourism in the region.

MRCD's expertise in North County and technical assistance capabilities are an invaluable resource for addressing the impacts of climate change within the region. Given North County's geography and critical and sensitive watersheds and habitats, climate change will affect North County

[1] In 2019, the direct economic output from agricultural production totaled $1,795,528,573 (County of San Diego, Department of Weights and Measures, 2019, p. 5).

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differently than other parts of the region. Potential climate change vulnerabilities that have been identified include (but are not limited to):

- Increased risk and severity of wildfires
- Decreased imported water supply, groundwater supply, and surface water availability
- Water quality concerns
- Endangered rivers and impaired water basins
- Sea level rise
- Decreased availability of critical habitat
- Saltwater intrusion.

Now more than ever, expert and targeted services to meet the specific challenges facing regional agriculture and climate change in North County are essential.

3. San Diego LAFCO should coordinate with all three affected agencies in developing performance measurements to help quantify capacity-demand relationships in each jurisdiction to appropriately inform future studies and/or reorganizations.

MRCD Response

MRCD supports the development of performance measurements in coordination with SDLAFCO. All key performance indicators should provide meaningful measures of performance within context.

While conventional financial measures are important to the overall picture of a RCD, such measures do not fully reflect agency performance. As RCDs rely on external grant funding with a small portion of assessment funds provided, RCDs are increasingly in competition with other similarly focused agencies and nonprofit organizations.

The specific funding arrangements of many RCD grants also deserve mention. For many of its grants, MRCD provides technical assistance services for the grantor agency, in which only a small portion of the revenues for services provided are allocated to MRCD as revenue. The remainder of the income received through grants are "passed through."

The State Legislature has declared RCDs act as not-for-profit entities, as they are legal subdivisions of the state (Division 9, Public Resources Code, Section 9003). RCDs were designed to provide a cost-effective, affordable resource for other agencies and the public[2]. Thus, we recommend using *efficiency per dollar* as a key performance measure, as this measure more accurately reflects financial performance consistent with the Legislature's intent for RCDs to operate as not-for-profit entities for the public benefit.

Other performance measures of RCD capacities may include (but are not be limited to) infrastructure, facilities, and personnel. We would like to correct the statement made in the draft Municipal Service Review report stating that "[n]one of the affected agencies own or maintain substantial capital infrastructure, facilities, or equipment" (p. 27). MRCD purchased and upgraded

[2] The provision of cost-effective and affordable conservation services is particularly important, as many public agencies have experienced rate increases over the past few years.

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its building in 2017. It is important to note that the financial picture provided in the draft Municipal Service Review report does not take this purchase of MRCD's building into account.

MRCD has a large technical services component and provides more one-to-one technical assistance to property owners and property occupants than other RCDs across the state. MRCD's staff have diverse expertise and skill sets to provide high quality services, and subject-matter experts may be called on as needed for special projects. MRCD acts as "boots-on-the-ground" by providing educational outreach coupled with technical assistance to reduce barriers to understanding and the adoption of long-term conservation practices (i.e., we don't just tell you *what* to do, we show you *how* to do it).

MRCD's performance meets state and county requirements and has been instrumental in helping San Diego County achieve conservation-oriented goals. Part of our success is due to our collaborative relationships with cities, non-profits, local organizations, businesses, and partner agencies, including water districts.

RCD performance assessment should also consider how an RCD's Board of Directors is representative of its district:

- Directors should have diverse, relevant experience and be current on environmental issues
- Directors should be from various parts of the district to ensure that diverse district needs and interests are reflected in decision-making
- Directors should be committed and connected to their community.

4. San Diego LAFCO should work with stakeholders and local legislators to propose a comprehensive rewrite of the RCD principal act and – among other virtutes – clarify service function powers relative to current and anticipated community needs.

MRCD Response

MRCD looks forward to working collaboratively with SDLAFCO and local legislators to propose an update to the RCD Principal Act. MRCD's established relationships with local legislators can assist with the facilitation of legislative updates to meet current and future environmental needs.

An update of the RCD Principal Act should also include a clause clearly stating that one RCD cannot bring a lawsuit against another RCD. Given the critical need for conservation services and limited operating budgets for RCDs, lawsuits between RCDs are frivolous and redirect public funds away from the essential conservation services in the public interest. In the event of disagreements between RCDs, both agencies should seek to act professionally and engage in civilized discussion to develop a mutually beneficial resolution, as the goal of all RCDs should be to provide conservation services in the best interest of the public. Should a situation arise where an objective third party is needed to help facilitate discussion towards a mutually beneficial resolution, the regional LAFCO should be consulted.

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5. Irrespective of other efforts, San Diego LAFCO should proceed and address RCDs in the scheduled update to Rule No. 4 and the associated statutory directive for the Commission to formalize and regulate special districts' functions and classes.

MRCD Response

MRCD will support SDLAFCO in its efforts to update to Rule No. 4 to formalize and regulate RCD functions and classes. Currently, as described in the Rules for LAFCO under the Classification of Functions and Services (4.4, p. 17), the functions and services relevant to RCDs list water, weed abatement, and soil conservation. MRCD would like to work collaboratively with SDLAFCO to ensure the update accurately reflects RCD functions and services.

6. All three affected agencies should voluntarily proceed in taking necessary corrective measures to ensure regulatory compliance with San Diego LAFCO and statutory emphasis therein to align municipal services with jurisdictional boundaries.

MRCD Response

MRCD seeks to be compliant in all areas of its work and services and will continue to work collaboratively with SDLAFCO to maintain compliance.

The alignment of municipal services within jurisdictional boundaries highlights several underlying challenges for RCDs in San Diego County under the current jurisdictional boundaries. First, as stated in item No. 4 of the draft Municipal Service Review, the funding status and dependency on outside grants requires RCDs to take on projects and/or service programs beyond the clear and/or explicit provision statute (p. 21). A RCD cannot make profits, per Division 9, Public Resources Code, Section 9003, but must cover costs and not lose money when performing its contracts. Second, the responsibilities of RCDs have been expanded (outside of the scope of the statute) to meet state mandates, the demands of a growing population, and to address the immediate impacts of climate change (e.g., wildfires). Governmental and public pressures to address a myriad of highly technical environmental issues create a real need for RCDs to provide municipal services in areas beyond their jurisdictional boundaries. Finally, the COVID-19 pandemic has caused an economic recession, further limiting the availability of funding sources. Broader impacts on funding sources for RCDs and potentially dramatic changes to key industries in San Diego County (e.g., agriculture; tourism) from the COVID-19 pandemic should also be considered when seeking to align services within jurisdictional boundaries, as well as in broader strategies for resource conservation and climate change mitigation in San Diego County.

7. All three affected agencies are reminded to request and receive written approval or confirmation of exemption before entering contracts or agreements to provide municipal services outside their jurisdictional boundaries per G.C. Section 56133. None of the affected agencies are authorized to self-exempt under this statute.

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MRCD Response

MRCD will comply with G.C. Section 56133 to request and receive written approval before entering into any new contracts and agreements that include providing services outside of our jurisdictional boundary.

8. San Diego LAFCO recently issued a cease-and-desist order to Mission RCD to terminate unauthorized out-of-agency services provided within the boundary and sphere of influence of RCD of Greater San Diego. It is unclear whether Mission RCD has complied with this order and accordingly additional action by LAFCO may be appropriate.

MRCD Response

MRCD has been operating in North County since 1947, well prior to the formation of GSDRCD. As such, MRCD is recognized as a trusted agency in North County and has consistently provided services in this region. With the consolidation of many smaller RCDs in the San Diego region into GSDRCD in 1995, we assume that the intention of such consolidation efforts was to streamline services and funding for conservation services across San Diego County.

Consolidation efforts through the formation of GSDRCD further centralized services and efforts in the central and southern parts of the county, which largely have not been extended into the North County areas within GDSDRCD's boundaries, presumably due to limited resources and a very large territory. Over the years, MRCD and GSDRCD have worked collaboratively to provide services in the North County areas within their respective boundaries. Two MOUs were signed between MRCD and GSDRCD on April 7, 2009 to continue providing irrigation water management in GSD's district boundaries, which MRCD had been providing since the 1980s and prior to the grandfather date for compliance with Government Code Section 56133.

Government Code Section 56133 requires that agencies contracting to provide services outside their district boundaries ("extended services") obtain Local Agency Formation Commission approval and meet certain statutory requirements. Subsection 56133(e) lists certain types of contracts which are exempted from these requirements. One of these is subsection (4) which states: "An extended service that a city or district was providing on or before January 1, 2001."

The above analysis of the contracts, Judy Mitchell's declaration and other evidence of MRCD's operations outside its boundaries, persuasively demonstrates that these programs commenced before January 1, 2001 and have continued to the present. Therefore, a determination may properly be made that these programs are exempt from the requirements of Section 56133 and are not subject to LAFCO approval pursuant to that section.

Following SDLAFCO's initial letter dated August 2, 2019, MRCD has sought to work cooperatively with SDLAFCO to address SDLAFCO's concerns about services provided outside of MRCD's boundaries, including meeting with SDLAFCO Executive Director, Keene Simmonds, and providing detailed information including (but not limited to) information about MRCD's services, contracting

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arrangements and compliance under Code Section 56133, and MOUs with GSDRCD. Additionally, MRCD has sought advice from legal counsel specializing in special districts and LAFCO law to ensure:

- compliance with Government Code 56133, consistent with the Legislature's intent
- fulfilling existing contractual obligations
- meeting state mandates for water and related resources conservation
- ensuring continuity in the provision of critical and expert conservation services.

A timeline of communications between MRCD and SDLAFCO, as well as MRCD and GSDRCD, is provided in the Appendix. Substantial documentation has previously been provided to SDLAFCO, and MRCD will gladly provide additional documentation if needed to demonstrate that MRCD is in compliance and is happy to speak further to answer any questions.

9. Upper San Luis Rey RCD should review the prescriptive requirements recently enacted (Assembly Bill 2257 and Senate Bill 929) and make conforming changes to their website and improve communication with constituents. Most urgently, this includes posting agendas and minutes online and in a timely manner as required under the Brown Act.

MRCD Response

MRCD supports efforts to make RCD websites more accessible and to improve communication with constituents, including the timely posting of agendas and minutes online.

10. The County of San Diego should consider expanding their permit process to include erosion and sediment control plan reviews by applicable RCDs to enhance coordination among government agencies for the benefit of shared constituencies.

MRCD Response

MRCD brings over 74 years of conservation knowledge and expertise in the North County region, including (but not limited to) sediment and erosion control. Soil and water are the traditional foci for RCD services and MRCD has worked collaboratively with NRCS and other local partners for many years in providing these services. However, the above recommendation that MRCD expands its services to provide erosion and sediment control plan reviews as part of San Diego County's permit process, should this recommendation be adopted, would be an unfunded mandate. As MRCD (like other RCDs) already provides substantial conservation services and technical assistance on a lean operating budget, the recommended expansion of MRCD's responsibilities would require the allocation of additional funding.

The unique design of RCDs combines the accountability and transparency of a public agency with the flexibility and non-regulatory approach of a non-profit organization. This nimbleness allows us to adapt to the ever-changing needs of our communities, build trusted relationships, and act as the crucial bridge that connects individuals with state and federal partners and programs. MRCD's

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expertise in erosion and sediment control and extensive knowledge of the North County region would be best utilized in the form of education and technical assistance to the County to aid in the permit process review. Education and technical assistance provided by MRCD would support greater coordination among government agencies to address critical erosion and sediment control issues in the North County region.

11. All three affected agencies can enhance their accountability to the public by providing video-recordings of board meetings online in step with their increasingly emphasized roles to educate and disseminate information on resource conservation best practices.

MRCD Response

MRCD has recorded its Board Meetings since COVID-19 restrictions were initiated last spring, and we are happy to provide video-recordings of Board meetings as part of our broader outreach strategy to increase the accessibility of information and educational content on resource conservation best practices. This will come as MRCD's digital storage capacity and cost-effective technology is increased, or as additional funding becomes available to provide video-recordings of Board meetings online.

12. San Diego LAFCO should expand on the baseline information collected in this introductory municipal service review and provide a more quantified assessment of the three affected agencies services and related trends. The subsequent review should also – markedly – dutifully explore reorganization options, including functional and/or political consolidation opportunities.

MRCD Response

MRCD would like to work with SDLAFCO on a quantified assessment of RCD services and related trends in San Diego County as part of this introductory Municipal Service Review.

Reorganization options under consideration should include a redrawing of district boundaries along the area's watershed boundaries to provide effective and cohesive river basin water management, in which MRCD's boundaries would include the complete watersheds in the North County region, with GSDRCD continuing to serve the remaining territory. Letters submitted to San Diego LAFCO by the SDCWA, FPUD, and several water districts have proposed expanding MRCD's southernmost boundary to the northern boundary of the City of San Diego to allow MRCD to encompass the area with approximately 95% of the County's commercial agriculture. This suggestion is not unreasonable, given MRCD is the oldest RCD in San Diego County with over 74 years of experience, including specialized expertise in agricultural practices, irrigation and water management, and crop cultivation.

The watersheds located within the North County region are critical and sensitive ecological areas. Without the effective conservation of these areas, as is currently provided by MRCD, there would be detrimental impacts to habitat and wildlife, water quality, and this would further increase the risk of wildfires (among other environmental impacts). Additionally, consistent, expert conservation of

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the watersheds located in North County is necessary to prevent negative consequences to surrounding developed areas. For example, due to the San Luis Rey Watershed's proximity to the coast, sea level rise has the potential to impact several municipalities and resources within the watershed (San Diego Regional Integrated Water Management, 2019).

MRCD is uniquely qualified to provide vital technical assistance that is critical to conservation practices and mitigating the impacts of climate change, including:

- holding the required permits necessary to work in these areas
- is positioned to address agricultural runoff into the ocean
- has established relationships with partner and collaborative organizations and leaders, and deep connections to the communities within the North County region.

Furthermore, this proposed redrawing of MRCD's and GSDRCD's boundaries would allow for the carving out of spheres of regional expertise and programming between both RCDs to facilitate regional collaboration, as opposed to competition for the same limited financial resources.

The exception to the suggested redrawing of RCD boundaries is any current territory within Upper San Luis Rey RCD's boundaries, as their focus is on groundwater issues and includes substantial tribal land. Collaboration with tribes and service provision on tribal land requires the long-term relationships that have already been developed by USLRRCD.

The proposed redrawing of MRCD's district boundaries that encompasses the complete watersheds located in North County also addresses the more fundamental issue of representation of North County in regional governance. North County has long been underrepresented in San Diego County governance, which impacts resource allocation and service provision (among other factors), despite significant population growth, development, and key industries (e.g., agriculture) in the North County region. Sustaining this vibrant region of San Diego County requires agencies, such as an RCD, dedicated to meeting the unique needs of this region. Given the current lack of services provided in North County within GSDRCD's boundaries, any consolidation efforts in San Diego would further suppress representation and essential conservation service provision in North County. Consolidation of RCDs in such a large and diverse region would have negative consequences on regional conservation efforts and the communities whom RCDs are intended to serve.

13. San Diego LAFCO should proceed and update all three affected agencies' spheres with no changes and in doing so satisfy its planning requirement under G.C. Section 56425.

MRCD Response

MRCD seeks to work collaboratively with SDLAFCO to develop a viable, long-term solution that allows all regions of San Diego County to be served effectively, cohesively, and consistently. MRCD respectfully asks that SDLAFCO consider the proposed redrawing of boundaries outlined in Item 12. We look forward to working with SDLAFCO to develop an effective, viable solution that meets the needs of all stakeholders. We recognize and support SDLAFCO's wisdom in taking a

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purposeful pause for a forward-thinking and steady approach to sustainable environmental conservation across San Diego County.

Respectfully submitted,

Darcy Cook

Darcy Cook
District Manager

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