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

SPECIAL MEETING AGENDA
SPECIAL DISTRICTS ADVISORY COMMITTEE

Friday, December 20, 2019
County of San Diego Administration Center
1600 Pacific Highway, Room 302
San Diego, California 92101

Chair Kimberly Thorner
Olivenhain Municipal Water District

Vice Chair Julie Nygaard
Tri-City Healthcare District

9:30 A.M. – CALL TO ORDER BY CHAIR

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA REVIEW
The Chair will consider requests to remove or rearrange items on the agenda.

PUBLIC COMMENTS
This portion of the meeting is reserved for persons desiring to address the Committee on any germane matter not on the current agenda. All statements that require a response will be referred to LAFCO staff for reply in writing or will be placed on a future agenda.

PRESENTATIONS
Presentations are calendared by the Executive Officer and for information only.

1. **Chief Stephen Abbott, North County Fire Protection District**
   Presentation on partnership between North County Fire Protection District and Fallbrook Regional Health District to coordinate medical services in North County.

2. **Chris Palmer, California Special Districts Association**
   Update on CSDA activities and programs.

COMMITTEE MEMBER REPORTS AND ANNOUNCEMENTS
This portion of the meeting is dedicated to members providing brief updates on their respective agency activities and related community announcements.

CONSENT ITEMS
All items calendared as consent are considered ministerial or non-substantive and subject to a single motion approval. The Chair will also consider requests to pull an item for discussion.

1. **Approval of Meeting Minutes | October 11, 2019 (action)**
   The Committee will consider draft summary minutes prepared for the last meeting held on October 11, 2019. Staff recommends the Committee approve the summary minutes with any changes or clarification as needed.

2. **Update on Current and Pending Proposals (information)**
   The Committee will receive a report identifying current proposals on file with LAFCO. The report also identifies pending proposals staff anticipates being filed in the near-term. Information only.

BUSINESS ITEMS

3. **CONTINUATION**
   Request for Committee Recommendation |
   Leucadia Wastewater District's Authority to Provide Retail Recycled Water (action)
   This item has been continued from October 11, 2019 and is for the Committee to consider making an independent recommendation on the authority of the Leucadia Wastewater District to provide retail class recycled water service to the Omni La Costa Resort and Spa under LAFCO law. The Executive Officer will consider the Committee's recommendation in making a final determination in response to a written complaint and request for review from the Carlsbad Municipal Water District. TIME SPECIFIC FOR 10:00 AM

4. **Election Update and Related Committee Direction |**
   Special District Election to Appoint Regular Member to LAFCO (action)
   The Committee will discuss a proposed timetable to conduct a special district election for LAFCO ahead of a new four-year term beginning in May 2020. Feedback is also requested with respect to outreach and coordinating the election process with the San Diego County Chapter of the California Special Districts Association. The Chair will also consider making appointments to the Nominating Committee.

5. **Selection of Chair and Vice Chair (action)**
   The Committee will consider appointing officers – Chair and Vice Chair – for 2020.

EXECUTIVE OFFICER REPORT

ADJOURNMENT TO NEXT QUARTERLY MEETING
March 20, 2020

Attest to Posting:
Ruth Arellano

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. Please contact the LAFCO office at least three (3) working days prior to the meeting at 858-614-7755 for any requested arraignments or accommodations.

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AGENDA REPORT
Consent | Action

December 20, 2019

TO: Special Districts Advisory Committee

FROM: Ruth Arellano, Executive Assistant

SUBJECT: **Approval of Meeting Minutes for October 11, 2019**

SUMMARY

The Special Districts Advisory Committee ("Committee") will receive summary minutes prepared for the last meeting held on Friday, October 11, 2019. The minutes are in draft-form and being presented for formal approval with any desired corrections or clarifications as requested by the Committee.

BACKGROUND

The Ralph M. Brown Act was enacted by the State Legislature in 1953 and established 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 summary minutes prepared by staff for the October 11, 2019 meeting consistent with the Brown Act.

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Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

ANALYSIS

The attached summary minutes for the October 11, 2019 meeting accurately reflect the Committee's deliberations as recorded by staff. An audio recording of the meeting has also been posted on the San Diego County Local Agency Formation Commission's website.

RECOMMENDATION

It is recommended the Committee approve the draft summary minutes prepared for the October 11, 2019 meeting as presented. This recommendation is 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 summary minutes prepared for the October 11, 2019 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,

Ruth Arellano
Executive Assistant

Attachment: as stated

DRAFT MINUTES

SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION
SPECIAL DISTRICTS ADVISORY COMMITTEE
OCTOBER 11, 2019 SPECIAL MEETING

ROLL CALL

Chair Kimberly Thorner called the meeting to order at 9:30 a.m. and then requested a roll call from the Committee Clerk.

Committee Members Present:
Chair Kimberly Thorner (Olivenhain MWD); Vice Chair Julie Nygaard (Tri-City HCD); Jack Bebee (Fallbrook PUD); Fred Cox (Rancho Santa Fe FPD); Bill Haynor (Whispering Palms CSD); Sheryl Landrum (Resource Conservation District of Greater San Diego County); Hector Martinez (South Bay ID); Mark Robak (Otay WD); Augie Scalzitti (Padre Dam MWD); Joel Scalzitti (Helix WD); and Robert Thomas (Pomerado CD).

Committee members A. Scalzitti and J. Scalzitti left the meeting at 10:36 a.m.

Committee Members Absent:
Gary Arant (Valley Center MWD); Larry Converse (Ramona MWD); Tom Kennedy (Rainbow MWD); and Tom Pocklington (Bonita-Sunnyside FPD)

The following members of LAFCO staff were present at roll call: Executive Officer Keene Simonds; Commission Counsel Aleks Giragosian; Chief Policy Analyst Robert Barry; Analyst Linda Zambito; GIS Analyst Dieu Ngu; and Executive Assistant Ruth Arellano.

PLEDGE OF ALLEGIANCE
Chris Palmer with the California Special Districts Association led the Pledge of Allegiance.

AGENDA REVIEW
Chair Thorner asked if there were any revisions to the agenda. Executive Officer Keene Simonds indicated there were none and advised the Committee it can proceed as planned. Chair Thorner agreed with one modification to move the Committee member reports to the end of the agenda given audience interest in Agenda Item No. 3.

PUBLIC COMMENTS
Chair Thorner invited public comments. None received.

CONSENT ITEMS

Item 1
Approval of Minutes of June 21, 2019 (action)
The Committee considered draft summary minutes prepared for the last meeting held on June 21, 2019. Recommend approval.

Item 2
Update on Current and Pending Proposals (information)
A report was provided to the Committee members present regarding current and pending proposals on file and anticipated with LAFCO. Information only.

On motion of Joel Scalzitti and seconded by Julie Nygaard, and carried with one member abstaining, Sheryl Landrum, and the remaining Committee members present, to approve the consent calendar.

BUSINESS ITEMS

Item No. 3
Request for Committee Recommendation |
Leucadia Wastewater District's Authority to Provide Retail Recycled Water
Executive Officer Keene Simonds provided the staff presentation and summarized his referral to the Committee to make an independent recommendation on the authority of the Leucadia Wastewater District (WD) to provide retailed class recycled water service to the Omni La Costa Resort and Spa under LAFCO Law. Mr. Simonds noted he would consider the Committee recommendation in making his own determination and in doing so formally respond to a written request for determination on file from Carlsbad Municipal Water District (MWD). Additional staff presentation was provided by Commission Counsel Aleks Giragosian.

Chair Thorner invited representatives from both Carlsbad MWD and Leucadia WWD to address the Committee.

Speakers from Carlsbad MWD:
- Cindy McMahon, Legal Counsel

Speakers from Leucadia WWD:
- Dave Kulchin, Board Member
- Paul Bushee, General Manager
- Wayne Brechtel, Legal Counsel

Committee discussion followed.

At the invitation of the Chair, Brian Hughes with Omni La Costa Resort and Spa also addressed the Committee. Mr. Hughes noted Omni La Costa is neutral on the governance issue before the Committee but is concerned about the ability and costs therein if it becomes necessary to directly connect to Carlsbad MWD's recycled water system.

BUSINESS ITEMS CONTINUED…

Item No. 3 Continued

Additional Committee discussion followed with interest in further assessing context and specifically the costs and engineering issues associated with the current ability of both Leucadia WWD and Carlsbad MWD to directly retail recycled water services to Omni La Costa.

Committee member Bebee suggested it would be helpful to establish an Ad Hoc Committee to address the costs and engineer questions raised in the discussion in conjunction with further evaluating the key issues identified by LAFCO staff.

Committee discussion followed with agreement to proceed as suggested through an Ad Hoc Committee with volunteers Bebee, Haynor, and Thorner.

On motion of Jack Bebee, seconded by Bill Haynor, and carried unanimously by the remaining members present, the Committee approved the establishment of an Ad Hoc Committee consisting of members Bebee, Haynor, and Thorner. The motion also specified the Ad Hoc Committee shall review the item in more detail – including addressing cost and engineer issues – and report back in December with a recommendation.

Item No. 4
Election Update and Related Committee Direction | Nominations for the Special Districts Advisory Committee
The Committee received an update for the current election process to seat eight members to new four-year terms. The Committee members also discussed and concluded against forming a Nominating Committee.

COMMITTEE MEMBER REPORTS AND ANNOUNCEMENTS
None

EXECUTIVE OFFICER REPORT
None

ADJOURNMENT TO NEXT REGULAR MEETING
There being no further business to come before the Special Districts Advisory Committee, the meeting was adjourned at 11:11 a.m. to the next scheduled meeting on December 20, 2019.

Attest:
Ruth Arellano
Executive Assistant

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AGENDA REPORT
Consent | Information

December 20, 2019

TO: Special Districts Advisory Committee

FROM: Robert Barry, Chief Policy Analyst
Linda Zambito, Analyst I

SUBJECT: **Current Proposals and Related Activities**

SUMMARY

The San Diego County Special Districts Advisory Committee ("Committee") will receive a report summarizing active proposals on file with LAFCO. The report also summarizes substantive new proposals that are expected to be filed in the near-term. This item is being presented to the Committee for information only.

BACKGROUND

LAFCO proceedings to consider proposed changes of organization or reorganizations – which include incorporations, formations, annexations, detachments, mergers, consolidations, and service power activations or divestitures – are prescribed under statute and may be initiated by landowners, voters, or local agencies. LAFCOs may also initiate proposals specific to forming, consolidating, or dissolving special districts if consistent with the recommendations of approved municipal service reviews. Once proposals are deemed complete they are scheduled for Commission hearing. Proposals involving outside service extension requests follow separate proceedings and may be administratively approved by the Executive Officer if addressing documented public health or safety threats.

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Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

DISCUSSION

This item is being presented for information only and identifies all active proposals currently on file with LAFCO as detailed in Attachment One. Anticipated filings are also documented for purposes of telegraphing future workload.

ANALYSIS

LAFCO remains active in processing more than two dozen applicant proposals. This includes receiving two significant proposals within the last 30 days involving a latent powers expansion for Fallbrook Public Utility District as well as multiple requests associated with the planned Valiano project in Harmony Grove. Most proposals have been on file for less than one calendar year and are actively progressing through the review process.

RECOMMENDATION

It is recommended the Committee review the report on current and pending proposals with LAFCO with the invitation to discuss and ask questions of staff.

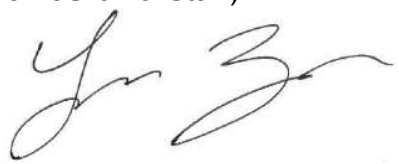
ALTERNATIVES FOR ACTION

This item is being presented for information only; no action.

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 staff,



Linda Zambito
Analyst I

Attachment: as stated

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
ACTIVE PROPOSALS | PENDING COMMISSION ACTION				
1	DA08-10	"Avocado Way-Potter Annexation" - Vallecitos WD (Annexation)	Robert Barry	Proposal application submitted in March 2008 for a proposed annexation to Vallecitos WD to obtain sewer service for two existing residences along Avocado Way but deemed incomplete in April 2008 status letter. A new status letter was sent to the applicant in January 2018 stating the proposal will be considered abandoned unless notified otherwise. The current property owner has responded and conveyed their interest to proceed with the annexation. Ongoing discussions with Vallecitos WD as of 2018.
2	RO08-09	"South Mollison Ave-Snyder Reorganization" - City of El Cajon (Annexation)	Robert Barry	Proposal application submitted in May 2008 for a proposed annexation to the City of El Cajon. The annexation area includes approximately 1.25 acres and is subject to a proposed multi-family residential project and was deemed incomplete in June 2008 status letter. A new status letter was sent in January 2018 to the applicant, new property owner, and City stating the proposal will be considered abandoned unless notified otherwise. No response to date.
3	RO08-15 SA08-15	"Crestlake Estates Reorganization" - San Diego County SD (Annexation) - Lakeside FPD (Annexation) - CSA 69 (Annexation)	Robert Barry	Proposal application submitted in May 2008 requesting a reorganization to provide sewer services to an approved Tentative Map allowing the development of 60 single-family residences and was deemed incomplete in June 2008 status letter. A new status letter was sent to the applicant in February 2018 stating the proposal will be considered abandoned unless notified otherwise. No response to date.
4	DA12-02	"Lorch Annexation" - Borrego WD (Annexation)	Robert Barry	Proposal application submitted in March 2012 to annex approximately 9.4 acres to the Borrego Water District to provide water service to one parcel. The site is within the adopted sphere. but deemed incomplete in an April 2012 status letter. A new status letter was sent in January 2018 stating the proposal will be considered abandoned unless notified otherwise. Borrego WD responded to the letter and has reinitiated discussions with the landowner regarding possible service terms.
5	RO06-17	"Tobacco Road Reorganization" - City of Escondido (Annexation)	Robert Barry	Proposal application submitted in March 2006 to annex six parcels to the City of El Cajon for wastewater Service. In 2006, LAFCO approved two out of service agreements to allow the City of Escondido to provide sewer service to two residences with failing septic systems located along Tobacco Road. The agreements between the City and landowners required the annexation of the two parcels. The proposal was deemed incomplete in April 2006 status letter. A new status letter was sent in January 2018 stating the proposal will be considered abandoned unless notified otherwise. Two of the affected landowners have responded to the letter and are now working with the City in determining if the other landowners are interested/willing to proceed with the annexation at this time.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
6	DA16-10	"CSA 17 Harmony Grove Annexation" - CSA 17 (Annexation)	Linda Zambito	Proposal submitted in May 2016 to approximately 3,600 acres to CSA 17 for ambulance service. It was required as cross-condition of the Rancho Santa Fe Fire Protection District Reorganization: Dissolution of CSA No. 107 (Elfin Forest/Harmony Grove). The proposal was deemed incomplete in June 2016 status letter. The CSA 17 Advisory Committee has opposed the annexation. A negotiated property tax exchange agreement is also necessary. LAFCO staff met with the applicant in August 2019 to provide assistance.
7	RO16-11	"Rancho Hills Annexation" - Rancho Santa Fe CSD (Annexation)	Robert Barry	Proposal submitted in October 2016 to annex a portion of a 37-lot residential subdivision titled "Rancho Hills" to Rancho Santa Fe CSD for wastewater service. A concurrent latent power expansion for Olivenhain MWD is needed to accommodate sewer to the remaining project site. The proposal was deemed incomplete in November 2016 status letter. Applicant has requested the proposal processing be placed on hold. Staff has remained in contact with the applicant and is awaiting their confirmation to proceed.
8	Ro19-04	"Ortega – Olde Highway 80 Change of Organization" - San Diego County Sanitation District (Annexation)	Linda Zambito	Proposal submitted in February 2019 by landowner petition, involves the annexation of two residential lots totaling approximately 5.07 acres for wastewater service. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
9	RO19-15 OAS19-15	"Hamilton-Felicita Reorganization" - City of Escondido (Annexation) - CSA No. 135 (Detachment) - Rincon del Diablo MWD (ID"E") (Exclusion)	Linda Zambito	Proposal submitted in August 2019 by landowner petition involving a reorganization of two unincorporated parcels totaling approximately 0.63 acres to the City of Escondido. Both parcels are developed with a single-family residence experiencing a failed/failing septic system with DEH documentation. Temporary wastewater OAS administratively approved by XO and ratified by Commission. Reorganization involves annexation to Escondido with concurrent detachment from CSA No. 135 (Regional Communications) and exclusion from RDDMWD ID"E." The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
10	DA19-12	"Las Flores Drive Change of Organization" - Vallecitos Water District (Annexation)	Robert Barry	Proposal submitted in July 2019 by landowner petition. Change of organization involves annexation of 0.6 acres to the Vallecitos Water District. The affected territory is parcel specific and comprises an existing single-family residence at 671 Las Flores Drive in the City of San Marcos. The County identifies the subject parcel as 219-062-27. The purpose of the proposal is wastewater to the existing single-family residence. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
11	DA19-17	"Valley Vista Road – Gutierrez Change of Organization" - San Diego County Sanitation District	Keene Simonds	Proposal submitted in August 2019 by landowner petition. Change of organization involves annexation of 0.6 acres of unincorporated territory to the San Diego County Sanitation District. The affected territory is parcel specific and comprises an existing single-family residence at 3626 Valley Vista Road in the unincorporated community of Bonita. The County identifies the subject parcel as 591-183-07. The purpose of the proposal is to accommodate an intensity improvement to add an accessory dwelling unit as allowed under County zoning. The submitted proposal application is incomplete and pending staff's analysis.
12	SA19-26 RO19-26 OAS19-26	"Valiano - Eden Valley Reorganization" City of Escondido (Sphere Amendment, Contractual Wastewater Service Agreement San Marcos FPD (Annexation) Rancho Santa Fe FPD (Sphere Amendment, Detachment)	Robert Barry	Proposal submitted in November 2019 by landowner petition and the City of Escondido requesting approvals for reorganization of one unincorporated parcel totaling approximately 10.76 acres involving annexation to the San Marcos Fire Protection District (FPD) with a concurrent detachment of the affected territory from the Rancho Santa Fe FPD and conforming sphere amendment for Rancho Santa Fe FPD to exclude the affected territory; and, amendments to the spheres of influence for the Cities of Escondido and San Marcos to respectively include and exclude a total of 82.9 acres comprised of two noncontiguous unincorporated parcels subject to an approximate 240.6 acre County of San Diego-approved Specific Plan (TM-5575) and approval of a contractual wastewater agreement between the landowner of the unincorporated Specific Plan area and the City of Escondido to extend City wastewater service to 326 single-family residences to be constructed within the Specific Plan area and within the Escondido sphere. The submitted proposal application is incomplete and pending staff's analysis.
13	LP(E)19-27	"Fallbrook Public Utility District Latent Power Expansion Park & Rec et,al."	Robert Barry	Proposal submitted in November 2019 by Board resolution, involves the activation of the Fallbrook PUD's latent power to exercise park and recreation, street lighting and roads and street functions within its boundaries. The submitted proposal application is incomplete and pending receipt of additional documentation and information from the applicant to complete staff's analysis.
ACTIVE | POST COMMISSION ACTION				
14	SA16-20 LP16-20	"CSA 135 Islands Reorganization" - CSA 135 – LP Fire Area (Latent Powers Expansion) - Bonita-Sunnyside FPD (Annexation) - Lakeside FPD (Annexation) - San Miguel FPD (Annexation) - Ramona MWD (Annexation)	Robert Barry	Proposal submitted November 2016 and involved the annexation of remaining unserved Islands 2, 3, and 4 within Heartland area and reorganization of local fire service territory among five agencies: CSA 135; Bonita-Sunnyside FPD; Lakeside FPD; Ramona MWD; and San Miguel FPD. Reorganization proposal submitted by resolution of the San Diego County Fire Authority. Involves annexation to the subject agencies and expansion of CSA No. 135's latent powers to provide fire protection and emergency medical services to three unincorporated and unserved island areas totaling approximately 21,048 acres. A concurrent amendment to add the affected territory to the subject agencies' spheres of influence is also required to accommodate the proposed action. The proposal was approved by the Commission on February 4, 2018 and is now pending recordation once all terms are satisfied. A noticed protest hearing was held on March 13, 2019 at the LAFCO office. No protest was received by affected registered voters or landowners.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
15	CO18-17 DA18-17	"Nordahl Road-Diaz Change of Organization" - Vallecitos Water District (Annexation)	Robert Barry	Proposal submitted in October 2018 by landowner petition, involves the annexation of an approximately 3.8 acre lot. The proposal was approved by the Commission on March 4, 2018 and is now pending recordation once all terms are satisfied.
16	SA18-07 OAS18-07	"Carmichael Drive – Wyman Service Agreement" - City of La Mesa (Sphere Amendment, OAS)	Robert Barry	Proposal involves an outside-of-agency wastewater service extension agreement between the property owner and the City of La Mesa for wastewater sewer service to one developed single-family residence located outside of the La Mesa sphere of influence. The purpose of the request is to allow the landowner to proceed with an intensity improvement to develop an accessory workshop unit, which exceeds the permitted capacity of the existing onsite septic system. The proposal was approved by the Commission on April 8, 2018 and is now pending recordation once all terms are satisfied.
17	DA19-14 SA19-14	"Hollow Glen Road Change of Organization" - Julian Community Services District (Annexation)	Linda Zambito	Proposal submitted by resolution of the Julian CSD. Involves annexation of one unincorporated parcel totaling approximately 0.65 acre to Julian CSD for water service. The affected territory contains a CALTRANS facility used for road sand storage. Water service is needed for fire suppression sprinklers. The affected territory is not within the Julian CSD sphere and a concurrent amendment to include the proposal area is required. The submitted proposal was approved by the Commission on November 4, 2019 and is now pending recordation once all terms are satisfied.
18	SA17-07 RO17-07	"San Marcos Highlands Reorganization" - City of San Marcos (Annexation) - San Marcos FPD (Annexation) - Vista FPD (Detachment) - Vallecitos WD (Sphere Amendment, Annexation) - Vista ID (Detachment) - Tri-City Healthcare District (Detachment) - Palomar Health Healthcare District (Annexation)	Robert Barry	Proposal submitted in June 2017 by resolution to annex approximately 125 acres 189-SFR development to the City of San Marcos. The proposal involves concurrent reorganizations between the San Marcos FPD and the Vista FPD for fire protection services, and between the Vallecitos WD and Vista ID for the provision of sewer and water services. The City of San Marcos has approved development plans and environmental review for the referenced development titled "San Marcos Highlands." The City's approvals included a condition requiring the City and the County to execute a habitat protection agreement with State and Federal agencies for the proposal area. A settlement was reached that has removed the environmental opposition and facilitated a draft Annexation Agreement to create a dedicated Natural Open Space Preserve. The City of San Marcos approved the draft Annexation Agreement on September 10, 2019. The County Board of Supervisors is scheduled to approve the draft Annexation Agreement on September 25, 2019. The submitted proposal was approved by the Commission on November 4, 2019 and is now pending recordation once all terms are satisfied.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
19	DA19-07 OAS19-07	"Acaia Ave–Rains Revocable Trust" - San Diego County Sanitation District (Sphere Amendment, OAS)	Robert Barry	Proposal submitted in April 2019 by landowner petition, involves the annexation of one developed unincorporated parcel totaling 0.45 acres for wastewater service. The existing residence uses an on-site septic system that has been documented by DEH as failing. The Executive Officer administratively approved an outside-of-agency water service agreement with the San Diego County SD in advance of the annexation. The submitted proposal was approved by the Commission on November 4, 2019 and is now pending recordation once all terms are satisfied.
20	RO19-16 SA19-16	"Sweetwater Road Reorganization" - City of National City (Annexation) - CSA No. 135 (Reg. Comm.) (Detachment) - Lower Sweetwater FPD (Detachment)	Robert Barry	Proposal submitted in August 2019 by landowner petition. Reorganization involves annexation to City of National City of two undeveloped unincorporated parcels totaling 0.24 acres with concurrent detachments from CSA No. 135 (Regional Communications) and the Lower Sweetwater FPD. (An additional change involving the South Bay Irrigation District may also be necessitated.) The affected territory is located within the National City sphere of influence. The City has approved prezoning of Major Mixed Use District (MXD-2) to facilitate a commercial development on the affected territory. The affected territory is recommended to be modified to include an approximately 50.24 acre adjacent I-805/SR-54 right-of-way to conform with the City's incorporated boundary. The submitted proposal was approved by the Commission on December 2, 2019 and is now pending recordation once all terms are satisfied.
21	RO19-13 SA19-13	"Catalina Avenue Reorganization" - Vista Irrigation District (Annexation) - Vallecitos Water District (Detachment)	Robert Barry	Proposal submitted in July 2019 by landowner petition. Change of organization involves annexation of 1.29 acres of unincorporated territory to the Vista Irrigation District and detachment from Vallecitos Water District. The affected territory is vacant with anticipated development of a single-family residence in the unincorporated area of Vista. The County identifies the subject parcel as 591-183-07. The purpose of the proposal is to connect water service up to the maximum density as allowed under County zoning. The submitted proposal was approved by the Commission on December 2, 2019 and is now pending recordation once all terms are satisfied.
22	RO19-08 OAS19-08	"Wilmott–Champagne Boulevard Reorganization" - Valley Center Municipal Water District (Annexation) - Vallecitos Water District (Detachment)	Robert Barry	Proposal was submitted in June 2019 by landowner petition, involves reorganization of one unincorporated parcel totaling approximately 1.4 acres developed with one single-family residence. The reorganization includes annexation of the affected territory to Valley Center MWD for water service with a concurrent detachment from Vallecitos WD. The residence uses an on-site well for domestic water needs that has been documented by DEH as failing. The subject parcel is presently within the Vallecitos WD but is within the sphere of influence for Valley Center MWD and has an existing MWD water line within the adjacent Champagne Boulevard frontage right-of-way. The Executive Officer administratively approved an outside-of-agency water service agreement with the Valley Center MWD in advance of the reorganization on June 18th. Ratification of the administratively-approved service agreement was approved by the Commission on August 5th, 2019. The submitted proposal was approved by the Commission on December 2, 2019 and is now pending recordation once all terms are satisfied.

SAN DIEGO LAFCO PROPOSAL SUMMARY

	File Number	Proposal Name | Affected Agencies	Project Manager	Proposal Summary
PENDING PROPOSAL SUBMITTALS (No project manager; inquiries should be direct to Robert Barry)				
23	Pending	"Safari Highlands Reorganization" - City of Escondido		This anticipated reorganization proposal is currently undergoing development and environmental review by the City of Escondido with an expected submittal to LAFCO later in 2018. The anticipated proposal involves annexation of approximately 1,098 acres to the City for the primary purpose of developing a 550-lot residential subdivision. All of the affected territory lies outside the current City sphere. Due to the scope of the proposal area a comprehensive update of the City's sphere is warranted along with preparing the supporting municipal service review document. These and issues have been communicated to the City and are currently under joint-review with other stakeholders.
24	Pending	"Rancho Lomas Verde Reorganization" - City of Vista		This anticipated reorganization involves annexation of approximately 300 acres to the City of Vista and concurrent detachments from CSA 135 and the Vista FPD to facilitate a 153-lot residential development. Close to three-fourths of the project area lies outside the current City sphere. Due to the scope of the proposal area a comprehensive update of the City's sphere is warranted along with preparing the supporting municipal service review document. These and issues have been communicated to the City and are currently under joint-review with other stakeholders.
25	Pending	"Sager Ranch Reorganization" - City of Escondido		This anticipated reorganization involves annexation of approximate 1,800 acres to the City of Escondido and concurrent detachments from CSA 135 and the Valley Center FPD. The reorganization would facilitate the development of approximately 200 acres to include 203 residential units and a 225-room resort. Portions of the project area lies outside the current City sphere. Due to the scope of the proposal area a comprehensive update of the City's sphere is warranted along with preparing the supporting municipal service review document. These and issues have been communicated to the City and are currently under joint-review with other stakeholders.
26	Pending	Harmony Grove Village South (TM-626)		This anticipated reorganization involves the Harmony Grove Village South project and specific to accommodating sewer services (among a variety of options) for the planned development of approximately 111 acres to include 453 residential units.
27	Pending	Fallbrook Public Utility District and Rainbow Municipal Water District Reorganization		This anticipated reorganization involves detachment of two retail member agencies from the overlying wholesale imported water provider – the San Diego County Water Authority – and concurrent annexation to Eastern Municipal Water District (Riverside County).

3

AGENDA REPORT
Business | Action

December 20, 2019

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer

SUBJECT: **CONTINUATION**
Request for Committee Recommendation |
Leucadia Wastewater District's Authority to Provide Retail Recycled Water

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SUMMARY

The Committee will continue its consideration of a referral by the San Diego LAFCO Executive Officer to independently recommend whether the Leucadia Wastewater District (WWD) is authorized under LAFCO statute and policy to provide retail class recycled water service to the south golf course at the Omni La Costa Resort and Spa. The Executive Officer has referred the item to the Committee in response to an earlier complaint and request for determination made by the Carlsbad Municipal Water District (MWD). The Committee initially reviewed this item at its October 11th meeting and received presentations from both Leucadia WWD and Carlsbad MWD representatives. Following discussion, the Chair continued the item and formed an Ad Hoc Committee (Bebee, Haynor, and Thorner) to address costs and engineering questions in step with further evaluating the key issues identified by the Executive Officer and return with recommendations to the full Committee.

A copy of original October 11th Executive Officer report is attached along with a report from the Ad Hoc Committee. Also attached is correspondence from Omni La Cosa Resort and Spa.

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San Diego, California 92123
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Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

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

3

AGENDA REPORT
Business | Action

October 11, 2019

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer

SUBJECT: **Request for Committee Recommendation | Leucadia Wastewater District's Authority to Provide Retail Recycled Water**

SUMMARY

The Committee will consider a referral by the San Diego LAFCO Executive Officer to independently recommend whether the Leucadia Wastewater District (WWD) is authorized under LAFCO statute and policy to provide retail class recycled water service to the south golf course at the Omni La Costa Resort and Spa. The Executive Officer has referred the item to the Committee in response to an earlier complaint and request for determination made by the Carlsbad Municipal Water District (MWD). The Committee is expected to receive presentations from both Leucadia WWD and Carlsbad MWD as part of its deliberations. The Executive Officer will draw on the Committee's recommendation in making his own final determination for subsequent consideration by the Commission.

BACKGROUND

Complaint from Carlsbad MWD

San Diego LAFCO received a written complaint from Carlsbad MWD in December 2018 asserting Leucadia WWD has initiated retail class recycled water service to the affected territory without first requesting and receiving necessary LAFCO approval under

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Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

Government Code Section 56824.10. The complaint notes Carlsbad MWD had been providing retail class recycled water service to the affected territory with wholesale class supplies from Leucadia WWD for approximately 35 years before the underlying contract arrangement between the two agencies ended in August 2018.[1] The complaint requests LAFCO determine whether Leucadia WWD has the authority to provide retail class recycled water service to the affected territory under the referenced statute. A copy of Carlsbad MWD's complaint and request for LAFCO determination is provided as Attachment One.

Preliminary Determination

San Diego LAFCO staff proceeded to review the complaint and request for determination made by Carlsbad MWD along with related documentation – including materials separately provided by Leucadia WWD – and the Executive Officer issued a preliminary determination in May 2019. The preliminary determination concludes Leucadia WWD is not currently authorized to provide retail class recycled water service based on a review of available information. The preliminary determination adds Leucadia WWD is only authorized to provide wholesale class recycled water service and – among other items – the District's previous delivery of recycled water to the affected territory between 1961 and 1991 did not meet a retail class relationship as contemplated under LAFCO statute. The Executive Officer premised the preliminary determination on an invitation for both Leucadia WWD and Carlsbad MWD to provide additional information ahead of making a final determination in September 2019 with the expectation of forwarding to the Commission for formal consideration. The preliminary determination – pertinently – encourages both agencies to revisit opportunities to renew the prior service arrangement in which Leucadia WWD provided wholesale supplies for retailing by Carlsbad MWD in lieu of a final determination. The preliminary determination also notes Leucadia WWD could apply for LAFCO approval to activate its retail class recycled water service pursuant to Government Code Section 56824.10. A copy of the preliminary determination is provided as Attachment Two.

Response from Leucadia WWD

Leucadia WWD provided a written response to the preliminary determination made by San Diego LAFCO's Executive Officer in June 2019. The response disagrees with the preliminary determination and asserts Leucadia WWD previously established retail class recycled water service for the affected territory based on a pre-1991 arrangement with the landowner. The response notes LAFCO's own policies on latent power activations most appropriately assign Leucadia WWD's recycled water activities as reclamation class under the sewer service function and do not distinguish between wholesale and retail, and as such no further approval is needed. Leucadia WWD adds this latter conclusion aligned with correspondence provided by the prior Executive Officer in February 2013. The response requests the Executive Officer reconsider his position in conjunction with making a final determination and/or forward the matter directly to the Commission for their deliberation. A copy of Leucadia WWD's response is provided as Attachment Three.

[1] The agreement was terminated by Carlsbad MWD.

DISCUSSION

San Diego LAFCO's Executive Officer has referred to the Committee the request made by the Carlsbad MWD to determine whether Leucadia WWD is authorized under LAFCO statute to provide retail class recycled water service to the affected territory. The referral is consistent with the Committee's policies and practices to assist the Executive Officer and the Commission in making informed decisions and help resolve jurisdictional disputes. The Executive Officer will consider the Committee's independent review and recommendation in finalizing his own determination with the expectation of presenting to the Commission for their own deliberation at a future meeting. Additional correspondence from Leucadia WWD and Carlsbad MWD following the notice to refer the item to the Committee is provided as Attachments Four and Five, respectively. Correspondence from the affected landowner is also provided as Attachment Six.

ANALYSIS

The decision to refer this item to the Committee is a byproduct of San Diego LAFCO Executive Officer's preliminary review and determination in May 2019 and subsequent receipt of additional information provided by both Leucadia WWD and Carlsbad MWD. The referral follows LAFCO staff's review of the additional information and readily recognizes different conclusions can be reasonably drawn in addressing Carlsbad MWD's request to determine whether Leucadia WWD has the authorization – and/or needs authorization – to provide retail class recycled water service to the affected territory. The Executive Officer, accordingly, intends to give great weight to the review and recommendation of the Committee and in doing so respectfully suggests consideration of the following two issues staff believes are particularly relevant to making an informed decision.

- **Leucadia WWD's Prior Service Relationship with Affected Territory**
  All parties attest Leucadia WWD provided recycled water to the affected territory between 1961 and 1991 as part of real estate transaction with the former landowner. Leucadia WWD asserts this prior arrangement establishes grandfather retail class rights.[2] The preliminary determination concluded this prior relationship was not retail class in nature given there did not appear to be a monetary value associated with the delivery of recycled water to the affected territory and clear exchange of compensation. The Committee may determine otherwise and tie compensation to the real estate transaction. Should the Committee make this latter determination it would reasonably serve to establish grandfathered retail class recycled water rights to the affected territory and negate the need for any LAFCO approval to activate a latent power under Section 56424.10.

[2] Leucadia WWD and Carlsbad MWD entered into an agreement in 1991 to collectively provide recycled water service to the affected territory in step with the enactment of the Water Recycled Act of 1991 (Water Code Section 13500 et al.)

- **Categorization of Recycled Water as a Service Function/Class**
  LAFCO Rule No. 4 was established in 1975 for the original purposes of categorizing service functions and classes for special districts in San Diego County. This includes establishing a matrix to identify special district service functions with applicable service classes with associated definitions. The policy has remained relatively stagnant with the notable exception of a comprehensive update following the 2001 rewrite of LAFCO law and enactment of Government Code Section 56824.10; the latter establishing explicit LAFCO oversight for special districts to provide new or different service functions or classes as well as divestitures. Two distinct provisions in the policy appear most pertinent and collectively address the issue of categorizing recycled water as a function and class and are detailed below.

  - The policy's matrix establishing service functions and classes for special districts does not identify recycled water. The absence of recycled water as its own service function and classes in the policy presumably ties back to the date of the original policy adoption over 40 years ago and the subsequent emergence of recycled water as a more definitive municipal service. With this absence noted it has been the past practice by LAFCO to regard recycled water as part of the reclamation class under the sewer function and without further distinctions (i.e., wholesale v. retail classes). Leucadia WWD cites these factors in asserting it does not need LAFCO approval to provide retail class recycled water.

  - The policy directs LAFCO to identify specific service functions/classes for special districts as part of the municipal service review and sphere of influence update process. The most recent municipal service review and sphere of influence document for Leucadia WWD was approved by LAFCO in June 2013 and identifies the District's recycled water activities as a stand-alone service function and apart from sewer. The document also characterizes Leucadia WWD's recycled water service as wholesale with a recommendation to update LAFCO Rule No. 4 to reflect changing service conditions with specific reference to recycled water and distinguish between production and supply (i.e., wholesale and retail classes). Carlsbad MWD cites the document and the referenced provisions in asserting Leucadia WWD requires LAFCO approval to provide retail class recycled water.

  The preceding subset considerations drawn from LAFCO Rule No. 4 underlie a need for the Committee to reconcile these policies specific to this item and assign deference in recommending the most appropriate service function/class category for Leucadia WWD and its recycled water activities. Should the Committee assign deference to the pre 2001 matrix table in the policy and associated practice to list Leucadia WWD's recycled water as a sewer function and reclamation class, it would be appropriate to determine the District does not require LAFCO approval to provide retail class recycled water. Should the Committee assign deference to the most recent municipal service review and sphere of influence document listing Leucadia WWD's recycled water as a stand-alone function with a wholesale class (implied), it would be appropriate to determine the District requires LAFCO approval to provide

retail class recycled water with additional considerations footnoted.[3]

RECOMMENDATION

It is recommended the Committee deliberate and make an independent recommendation on whether Leucadia WWD is authorized to provide retail class recycled water service to the affected territory without LAFCO approval.

ALTERNATIVES FOR ACTION

The following alternative actions are available to the Committee and can be accomplished with a single-motion:

Alternative One (recommended):
Make a recommendation on whether Leucadia WWD is authorized to provide retail recycled water service to the affected territory without LAFCO approval.

Alternative Two:
Continue consideration to a future meeting and provide additional direction as needed.

Alternative Three:
Take no action.

PROCEDURES

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

1) Receive a verbal report from LAFCO staff;
2) Receive presentations from Carlsbad MWD and Leucadia WWD;
3) Invite comments from interested attendees; and
4) Deliberate and consider the recommendation.

Respectfully,



Keene Simonds
Executive Officer

[3] Any approval would be at the discretion of the Commission and subject to making required findings under 56824.14 and presumably require either a concurrent amendment to LAFCO Rule No. 4 to explicitly provide for recycled water as a service function with retail and wholesale classes or a corresponding policy waiver.

Attachments:

1) Carlsbad MWD Complaint and Request, Dated December 24, 2018
2) LAFCO Executive Officer's Preliminary Determination, Dated May 6, 2019
3) Leucadia WWD Response to Preliminary Determination, Dated June 3, 2019
4) Leucadia WWD Supplemental Submittal, Dated September 26, 2019
5) Carlsbad MWD Supplemental Submittal, Dated September 27, 2019
6) La Costa Resort and Spa, Dated September 16, 2019
7) LAFCO Rule No. 4
8) Government Code Section 56824.10 – 56824.14

Carlsbad
Municipal Water District

VIA EMAIL AND U.S. MAIL

December 24, 2018

Keene Simonds, Executive Officer
San Diego Local Agency Formation Commission
9335 Hazard Way, Suite 200
San Diego, CA 92123
keene.simonds@sdcounty.ca.gov

RE: Complaint and Request for Determination of LAFCO Jurisdiction Under Cal. Gov. Code section 56824.10 (Latent Powers)

Dear Mr. Simonds:

As of August 1, 2018, I am the Executive Manager for the Carlsbad Municipal Water District (CMWD). CMWD is aware that Leucadia Wastewater District (LWD) has entered into an agreement commencing on September 1, 2018, with La Costa Resort & Spa -- one of CMWD's water customers -- to retail recycled water directly for use on La Costa Resort & Spa's golf course. CMWD has notified LWD that it objects to the proposed agreement, which appears to trigger the mandatory LAFCO approval process under California Government Code section 56824.10 *et seq*. because LWD is attempting to provide a different class of service by retailing recycled water. LWD asserts that LAFCO approval is not required based on an email from former San Diego LAFCO Executive Officer Michael Ott, dated Feb. 8, 2013. (See attached.) CMWD submits this complaint and request for a determination of LAFCO jurisdiction under Government Code section 56824.10.

Background

La Costa Resort & Spa is within CMWD's service area for water service, and within LWD's service area for sewer service. As stated in the 2013 Five-Year Sphere of Influence and Service Review for North County Coastal (San Dieguito) Water and Wastewater Agencies, CMWD "is authorized to provide potable water services to approximately 85% of the City of Carlsbad," and its service area totals approximately 32 square miles. (2013 SOI Review p. 23.) CMWD also has extensive recycled water supply infrastructure to serve its water customers' irrigation needs, including a recycled water pipeline available to serve La Costa Resort & Spa.

LWD, on the other hand, "is authorized to provide wastewater and reclaimed water services within a 15-square mile area that includes the northern portion of the City of Encinitas and the south easterly portion of the City of Carlsbad." (2013 SOI Review p. 9.) LWD owns and operates

the Gafner Water Reclamation Facility, which receives and treats secondary effluent delivered from the Encina Water Pollution Control Facility. The 2013 Sphere of Influence and Service Review correctly noted: "Recycled water produced at the Gafner Facility is sold, *on a wholesale basis*, to irrigate the La Costa Resort & Spa Golf Course via a sales agreement with Carlsbad MWD." (2013 SOI Review p. 46 (emphasis added).)

In 1991, CMWD and LWD first entered into an agreement in which CMWD purchased recycled water on a wholesale basis from LWD to provide to the La Costa Resort & Spa. This agreement was terminated on June 6, 2013. On September 1, 2013, CMWD and LWD entered into a new 5-year agreement for CWMD to purchase recycled water on a wholesale basis from LWD to provide to the La Costa Resort & Spa. That agreement terminated on Aug. 31, 2018. CMWD is aware that LWD negotiated with La Costa Resort & Spa to directly sell recycled water on a retail basis, and that LWD entered into such an agreement commencing on September 1, 2018. CMWD had notified LWD that such an agreement would violate the Water Recycling Act of 1991[1] and requires LAFCO approval to exercise a latent new or different class of service to provide retail recycled water service.

LAFCO Approval is Mandatory Prior to Exercising Latent Powers

Even if LWD could retail recycled water over CMWD's objection under the Water Recycling Act of 1991, retail sale of recycled water is a latent power that cannot be exercised without LAFCO approval. LWD would need to file a resolution of application with LAFCO and receive approval following a public hearing, prior to exercising that new or different function or class of service. Cal. Gov't Code §§ 56824.10 *et seq.*; *South San Joaquin Irr. Dist. v. Superior Court*, 162 Cal. App. 4th 146 (2008) (holding that retail electric service is a different class of service than wholesale and the LAFCO approval process is mandatory prior to exercising that latent power). The plan for service that must be submitted with the application would need to disclose the total estimated cost to provide the new or different class of service, the estimated cost of providing that service to customers within LWD's jurisdictional boundaries, and a plan to finance the new or different class of service. It is not at all clear that LWD would be able to justify the costs to its sewer ratepayers to provide retail recycled water to one customer.

Consistent with the statutes, the San Diego LAFCO's adopted Rules for Provision of New or Different Special District Services/Functions (Latent Powers) state that "[a]t such time as the Commission has identified the nature, location and extent of the functions and services of any district, such district shall not provide any new or different function or class of service except as authorized by this Article . . . ." San Diego LAFCO Rules, Article IV, Rule 4.9 (Restriction of District Functions and/or Services). Article IV sets forth the process for seeking LAFCO approval.

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[1] As a "recycled water producer" or "recycled water wholesaler" as defined under California Water Code section 13575(b)(4) and (5), LWD is not authorized to sell recycled water directly to a customer without the agreement of the of the retail water supplier for that customer, which is CMWD. Cal. Water Code §§ 13580.5; 13580(b). While this is not necessarily an issue for the San Diego LAFCO to decide, the Water Recycling Act's distinction between wholesale and retail sale of recycled water is relevant to the LAFCO issues.

In response to this authority, LWD has asserted in a letter dated July 24, 2018 (enclosed), that LAFCO approval is not required based on an email from former Executive Officer Michael Ott. The text of this email is included in the LWD letter. The email cites no legal authority and it is not entirely clear what question is being answered. From the facts stated in the email, however, it appears that Mr. Ott may have been addressing whether LAFCO approval would have been required for an out of service agreement under Government Code section 56133. Thus, CMWD requests a formal decision from the San Diego LAFCO on this matter.

While there does not appear to be an adopted procedure for resolution of this type of complaint, CMWD suggests using the process that has been used for resolution of similar LAFCO jurisdictional issues, such as out of service area agreements under Government Code section 56133. As CMWD understands this process, the Executive Officer will issue a Preliminary Determination after receiving comments from interested parties. Parties then have another opportunity to comment on the Preliminary Determination and may appeal to the full Commission if the issue is not resolved. Please do not hesitate to contact me at 760-434-2829 if you need any additional information from CMWD. Thank you for your attention to this matter.

Sincerely,

for Scott Chadwick
Executive Manager

Attachments:
Cease and Desist Letter (Feb. 14, 2018)
LWD Response (Mar. 5, 2018)
CMWD Letter (July 23, 2018)
LWD Response (July 24, 2018)

cc (by email only):
Celia Brewer, General Counsel, Carlsbad Municipal Water District
Paz Gomez, Public Works Director, City of Carlsbad/Carlsbad Municipal Water District
Vicki Quiram, Utilities Director, City of Carlsbad/Carlsbad Municipal Water District
Paul Bushee, General Manager, Leucadia Wastewater District
Wayne Brechtel, General Counsel, Leucadia Wastewater District
Brian Hughes, General Manager, La Costa Resort & Spa
Michael Colantuono, Legal Counsel, San Diego LAFCO

Carlsbad
Municipal Water District

February 14, 2018

VIA CERTIFIED MAIL

Paul Bushee, General Manager
Leucadia Wastewater District
1960 La Costa Avenue
Carlsbad, CA 92009

Re: Direct sale of recycled water to Omni La Costa Resort & Spa

CEASE AND DESIST

Dear Mr. Bushee:

It has come to the attention of Carlsbad Municipal Water District staff that Leucadia Wastewater District has been attempting to negotiate an agreement with Omni La Costa Resort & Spa to sell recycled water directly for use on the golf course. As a "recycled water producer" or "recycled water wholesaler" as defined under California Water Code section 13575(b)(4), Leucadia Wastewater District is not authorized to sell recycled water directly to a customer without the agreement of the retail water supplier for that customer, which is the Carlsbad Municipal Water District. Cal. Water Code §§ 13580.5(b); 13580(b). The Carlsbad Municipal Water District does not agree to Leucadia Wastewater District's direct sale of recycled water to our customer. As you are aware, our Agreement for Sale of Recycled Water is expiring this August, and we look forward to negotiating a new agreement to purchase recycled water from you.

If you do not cease and desist your attempts to negotiate for direct sale of recycled water to Omni La Costa Resort & Spa, then the Carlsbad Municipal Water District will have no alternative but to pursue legal remedies. We appreciate your prompt attention to this matter.

Sincerely,

Kevin Crawford,
Executive Manager

cc: Celia Brewer, General Counsel
Mathew Dunmyer, Golf Course Maintenance Director, Omni La Costa Resort & Spa

LEUCADIA WASTEWATER DISTRICT | LEADERS IN ENVIRONMENTAL PROTECTION

BOARD OF DIRECTORS
Elaine Sullivan, President
David Kulchin, Vice President
Judy Hanson, Director
Allan Juliussen, Director
Donald F. Omsted, Director
Paul J. Bushee, General Manager

March 5, 2018

VIA CERTIFIED MAIL

Ref: 18-6135

Kevin Crawford, Executive Manager
Carlsbad Municipal Water District
5950 El Camino Real
Carlsbad, California 92008

RECEIVED
MAR 8 18
PUBLIC WORKS
Utilities Division

Re: Direct Sale of Recycled Water to Omni La Costa Resort & Spa

Dear Mr. Crawford:

This letter is in response to your February 14, 2018 letter requesting that the Leucadia Wastewater District (LWD) discontinue discussions regarding the direct sale of recycled water to the Omni La Costa Resort and Spa (La Costa). Please note that, as a professional courtesy, LWD communicated its intent to potentially provide recycled water directly to La Costa at a meeting with Carlsbad Municipal Water District (CMWD) staff in December 2017. Unfortunately, this courtesy was not reciprocated when the CMWD Board took action on our agreement last week. We respectfully disagree with your analysis of the California Water Code as it pertains to recycled water and offer the following comments in response:

Your reference to provisions in the Water Recycling Water Act (Health & Safety Code § 13576 et seq.) incorrectly assumes the City is the only authorized retailer of recycled water to La Costa. The City and LWD are both authorized retailers of recycled water under the Act[1]. As a County Water District, LWD is statutorily authorized to provide recycled water directly to the South La Costa Golf Course. (Water Code § 30000 et seq.) LWD's authority was confirmed by the Local Agency Formation Commission ("LAFCO") in 2013, and LWD retains a Master Reclamation Permit authorizing delivery of water to the south course. LWD has provided recycled water directly to the La Costa Golf Course since 1961, at times via an agreement with the City of Carlsbad, and other times, a direct agreement with the customer, most recently in 2013 after the City noticed its intent to terminate its Agreement with the District at that time. The same statutory and permit authority to contract directly with La Costa remains in place today.

We are certainly open to discussions with CMWD regarding an agreement for the continued sale of recycled water. To help you better understand LWD's position on this matter, we thought it would be beneficial to provide a brief history of previous efforts with CMWD regarding recycled water.

[1] "Retailer" means the retail water supplier in whose service area is located the property to which a customer requests the delivery of recycled water service. Health & Safety Code Section 13580(b). The La Costa Golf Course is within LWD's jurisdictional service area.

We began discussions with CMWD regarding an extended longer-term agreement in 2007. These discussions continued through several generations of CMWD management staff. These efforts ultimately resulted in the execution of the existing five-year agreement in 2013. In terms of infrastructure related facilities such as this, we hope that you can appreciate that a five-year agreement is not optimal for recouping infrastructure improvement costs needed to keep the facility in working order. Since 2013, LWD has initiated several meetings with CMWD staff in an effort to facilitate negotiation of an extended or new agreement and virtually no progress has been made.

It is also important to note that CMWD adopted its Recycled Water Master Plan in 2012, which was concurrent with our discussions regarding an extended agreement. The Master Plan and its associated environmental documents clearly contemplated a new pipeline to serve the La Costa South Golf Course. The proposed CMWD pipeline was planned for the exact same delivery point that LWD has delivered to since the early 1960's and would have effectively stranded over $6 million in LWD assets that were and continue to be in good working order. We asserted then and maintain now that we do not believe this is the best use of public funds or in the best interest of the public in general.

Furthermore, the North San Diego Water Reuse Coalition, of which both LWD and CMWD are members, was formed to develop a regional approach to recycled water. We believe that the use of all existing assets within the Coalition is vital to helping resolve the State's water issues.

In summary, LWD has expended a great deal of effort over a long period of time to negotiate a long-term recycled water arrangement with CMWD with only the existing short-term agreement to show for it. We reiterate that we are open to discussions regarding a new recycled water agreement with CMWD. However, if reasonable terms cannot be negotiated, we reserve our right to continue discussions with La Costa regarding a direct recycled water arrangement.

Please do not hesitate to contact me at (760) 753-0155 ext. 3014 if you have any questions or would like to schedule a meeting to discuss this matter further.

Best regards,

Paul J. Bushee
General Manager

cc: Mathew Dunmyer, Omni La Costa Resort & Spa
Wayne Brechtel, Worden Williams, LLP

Carlsbad
Municipal Water District

VIA EMAIL AND U.S. MAIL

July 23, 2018

Board of Directors
Leucadia Wastewater District
1960 La Costa Avenue
Carlsbad, CA 92009
dkulchin@lwwd.org
ajuliussen@lwwd.org
esullivan@lwwd.org
domsted@lwwd.org
jhanson@lwwd.org

RE: Sale of Recycled Water to La Costa Resort & Spa

Dear Board Members:

Effective August 1, 2018, I will be the Executive Manager for the Carlsbad Municipal Water District. We are aware that your staff has continued to negotiate an agreement with La Costa Resort & Spa to sell recycled water directly for use on the golf course. We have reviewed the letter from General Manager Paul Bushee dated March 5, 2018, and do not believe that it provides a legal basis for your proposed agreement. I wanted to take the opportunity to state Carlsbad Municipal Water District's continued opposition to that agreement and set forth our legal position. As stated in our cease and desist letter dated February 14, 2018, such an agreement would violate California Water Code sections 13580.5(b) and 13580(b). As a "recycled water producer" or "recycled water wholesaler" as defined under California Water Code section 13575(b), Leucadia Wastewater District is not authorized to sell recycled water directly to La Costa Resort & Spa without the agreement of the retail water supplier for La Costa Resort & Spa, which in this case is the Carlsbad Municipal Water District. The Carlsbad Municipal Water District objects to Leucadia Wastewater District's direct sale of recycled water to our customer. If Leucadia Wastewater District has sold recycled water directly to La Costa Resort & Spa in the past, it was without the agreement of Carlsbad Municipal Water District.

Even if Leucadia Wastewater District could retail recycled water over Carlsbad Municipal Water District's objection, this is a latent power that cannot be exercised without approval of the San Diego County Local Agency Formation Commission (LAFCO). Leucadia Wastewater District would need to file a resolution of application with LAFCO and receive approval following a public hearing, prior to exercising that new or different function or class of service. Cal. Gov't

Code §§ 56824.10 *et seq.*; *South San Joaquin Irr. Dist. v. Superior Court*, 162 Cal. App. 4th 146 (2008) (holding that retail electric service is a different class of service than wholesale and the LAFCO approval process is mandatory prior to exercising that latent power). The plan for service that must be submitted with the application would need to disclose the total estimated cost to provide the new or different class of service, the estimated cost of providing that service to customers within Leucadia Wastewater District's jurisdictional boundaries, and a plan to finance the new or different class of service. It is not at all clear that LAFCO would be able to approve such an application for Leucadia Wastewater District to retail recycled water to one customer.

Finally, the Master Reclamation Permit that covers Leucadia Wastewater District prohibits delivery of recycled water except through an agreement with Carlsbad Municipal Water District, unless Leucadia Wastewater District complies with the regulations applicable to a Recycled Water Agency. (San Diego Regional Water Control Board Order No. R9-2004-0223). To our knowledge, Leucadia Wastewater District is not a qualified Recycled Water Agency at this time.

We hope that you take these issues into consideration. We will be requesting a meeting with Mr. Bushee and Mr. Brechtel to discuss these issues in an attempt to resolve this matter without having to resort to litigation.

Sincerely,

Scott Chadwick
Chief Operating Officer

cc (by email only):

Celia Brewer, General Counsel, Carlsbad Municipal Water District
Wendy Chambers, Utilities Director, City of Carlsbad/Carlsbad Municipal Water District
Paul Bushee, General Manager, Leucadia Wastewater District
Wayne Brechtel, General Counsel, Leucadia Wastewater District
Tom Kermabon, General Manager, La Costa Resort & Spa

LEUCADIA WASTEWATER DISTRICT | LEADERS IN ENVIRONMENTAL PROTECTION

BOARD OF DIRECTORS
Elaine Sullivan, President
David Kulchin, Vice President
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Donald F. Omsted, Director
Paul J. Bushee, General Manager

July 24, 2018

Ref: 19-6252

Scott Chadwick, Chief Operating Officer
Carlsbad Municipal Water District
5950 El Camino Real
Carlsbad, California 92008

Re: Direct Sale of Recycled Water to OMNI La Costa Resort and Spa

Dear Mr. Chadwick:

I am writing in response to your July 23, 2018 letter which, once again, seeks to compel the Leucadia Wastewater District (LWD) to discontinue discussions regarding the direct sale of recycled water to Omni La Costa Resort and Spa. As before, LWD respectfully disagrees with the legal contentions you assert on behalf of the Carlsbad Municipal Water District (CMWD). We addressed your Water Recycling Act claims in my March 5, 2018 letter to CMWD Executive Manager, Kevin Crawford. In addition, we urge you to consider the following.

CMWD has voluntarily relinquished its role as a retail purveyor of recycled water to the South La Costa Golf Course (South Course). The only facility able to deliver recycled water to the South Course is the Forest R. Gafner Plant, which is owned and operated by LWD. LWD has provided recycled water directly to the South Course since 1961, at times via an agreement with the City of Carlsbad, and other times, a direct agreement with La Costa. In other words, sometimes LWD acted as the retail purveyor and other times, the City acted in that capacity. Most recently, LWD and the City of Carlsbad entered into an agreement by which the City acted as the recycled water retailer. However, the City issued a notice of termination to LWD on March 8, 2018, and it takes effect on August 31, 2018. Given that CMWD does not have any facilities capable of delivering recycled water to the South Course, it follows that it is not capable of being a recycled water retailer to the South Course after August 31st. Given this reality, CMWD's continued objection to LWD reassuming it role as the retail purveyor of recycled water is difficult to understand.

LWD's delivery of recycled water to the South Course is not a latent power that must be approved by LAFCO. The LAFCO contention is not new. It was raised by former CMWD Employee Bill Plummer in an unsuccessful effort to stop LWD from acting as a direct purveyor of recycled water in 2013. You may not have been apprised of the following response by the LAFCO Executive Director, Mike Ott.

> Bill,
> Robert Barry forwarded your email to me and discussed the issue Carlsbad MWD is experiencing with Leucadia Wastewater District (WD) regarding the provision of reclaimed water service to the La Costa Resort. Your discussion of issues is very thorough & helpful; however, one comment needs to be clarified. You state that Leucadia WD is interested in providing reclaimed water directly to the La Costa Resort and you define this as a "new service". According to LAFCO records, the Leucadia WD has provided water reclamation

service (production and supply) to the La Costa Resort for about 30 years from 1961 to the mid-1990s. In addition, when LAFCO classified the various functions of all special districts in San Diego County about 40 years ago, Leucadia WD was recognized as a wastewater service provider, inclusive of reclamation service. In light of this fact and Leucadia WD's history of providing reclamation service, Leucadia WD's current decision to once again provide reclamation service directly to the La Costa Resort does not constitute a "new service". Therefore, LAFCO does not have purview over the matter. In addition, since the La Costa Resort is already located within the jurisdictional boundaries of the Leucadia WD, there does not appear to be any additional LAFCO issues. Nonetheless, we hope the two districts resolve this dispute in a cooperative and cost-effective manner for the ratepayers in Carlsbad. If you have any further questions, please contact us. – Mike

Michael D. Ott
Executive Officer
San Diego LAFCO

(E-mail dated February 8, 2013 from Mike Ott to Bill Plummer)

Finally, LWD qualified as a Recycled Water Agency under its Master Reclamation Permit in 2013 when it acted as a direct purveyor. LWD has notified the Regional Board that it will resume its role as a direct purveyor of water to the South Course in September 2018, and the change of status was accepted by the Board without objection.

In conclusion, I appreciate that you are stepping into an issue that has a long and complicated history. However, your recent demand does not change the legal reality that LWD is authorized to purvey recycled water directly to the South Course. CMWD's unilateral decision to terminate its agreement with LWD has created a circumstance in which LWD has no choice but to consider the option of resuming its role as a direct purveyor of recycled water to the South Course. I am sure you would agree that shutting down the only plant currently capable of delivering recycled water to the South Course and forcing La Costa to begin watering the South Course with more expensive and limited potable water would not be in the public interest.

We would be more than happy to meet with you to discuss this issue further. Please do not hesitate to contact me at (760) 753-0155 ext. 3014 if you have any questions or would like to schedule a meeting.

Best regards,

Paul J. Bushee
General Manager

cc: (by email only)
Wayne Brechtel, Worden Williams, LLP
LWD Board of Directors
Carlsbad City Council
Celia Brewer, CMWD General Council
Tom Kermabon, General Manager, La Costa Spa & Resort
Wendy Chambers, Utilities Director, City of Carlsbad

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

May 6, 2019

Delivered by Electronic Mail:
Mr. Scott Chadwick, General Manager
Carlsbad Municipal Water District
5950 El Camino Real
Carlsbad, California 92008
scott.chadwick@carlsbadca.gov

SUBJECT: **Preliminary Determination | Response to Request to Review Applicability of Government Code Section 56824.10 and Recycled Water Service to the La Costa Resort and Spa**

Mr. Chadwick:

This letter serves as a formal response to Carlsbad Municipal Water District's written request dated December 24, 2018 (attached). The request is for the San Diego County Local Agency Formation Commission (LAFCO) to review and determine the applicability of Government Code Section 56824.10 and whether the Leucadia Wastewater District is authorized therein to provide retail recycled water service to the La Costa Resort and Spa. Based on a review of available documentation along with germane policies, a **preliminary determination** follows.

1. The Leucadia Wastewater District is not currently authorized to provide recycled water service under statute; only wholesale service is presently permitted. The basis for this preliminary determination draws on the following factors.

    a) Leucadia Wastewater District's initial recycled water service relationship with the affected territory spans from 1961 to 1991 and appears to have been implicitly non-retail. The contract underlying the service delivery involved a property purchase and premised on Leucadia Wastewater District needing to "remove" recycled water from its treatment plant and the landowner for the affected territory willing to "accept" the recycled water. Neither of these terms suggest there was a positive monetary value associated with the delivery of recycled water as a good or commodity that would be consistent with a retail relationship.

Administration
Keene Simonds, Executive Officer
County Operations Center
9335 Hazard Way, Suite 200
San Diego, California 92123
T 858.614.7755 F 858.614.7766
www.sdlafco.org

Jim Desmond, County of San Diego
Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Serge Dedina, Alternate, City of Imperial Beach
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

b) Leucadia Wastewater District's recycled water service relationship with the affected territory from 1991 to 2018 was explicitly wholesaler and non-retail and memorialized in a contract with the Carlsbad Municipal Water District.

c) Carlsbad Municipal Water District previously inquired in an e-mail in 2013 whether Leucadia Wastewater District providing recycled water service to the affected territory would be considered a "new" service under statute. LAFCO responded it would not be considered a new service given Leucadia previously provided direct service to the lands (i.e., 1961-1991). LAFCO – however – was not asked and accordingly did not address the issue underlying the current inquiry involving "class function" (i.e., wholesaler versus retailer).[1]

2. Statute allows the Leucadia Wastewater District to file a resolution of application with LAFCO seeking approval to activate retail recycled water service as a new class function. This process would likely take two to four months to process ahead of a noticed hearing and would be subject to subsequent protest proceedings unless waived with the written consent of the landowner for the affected territory.

As premised, the preliminary determination that the Leucadia Wastewater District is not currently authorized to provide retail recycled water service is subject to the review of additional information provided to LAFCO. I would like to finalize this determination with or without augmentation by **September 6, 2019**. The ensuing period provides all interested parties' time to provide additional information as well as opportunity – should it choose – for Leucadia Wastewater District to file an application with LAFCO to activate retail recycled water service as a new class function. The ensuing period also provides Carlsbad Municipal Water District and the Leucadia Wastewater District the joint opportunity to revisit the previous service arrangement involving the affected territory and consider a renewal. I encourage both agencies to consider this latter option given it seemingly benefits all parties.

A copy of this letter is being transmitted to representatives with the Leucadia Wastewater District and the La Costa Resort and Spa. I am available to all parties by telephone at 858.614.7755 or by e-mail at keene.simonds@sdcounty.ca.gov.

Sincerely,



Keene Simonds
Executive Officer

Attachment: as stated

cc: Paul Bushee, General Manager, Leucadia Wastewater District
Wayne Brechtel, General Counsel, Leucadia Wastewater District
Celia Brewer, General Counsel, Carlsbad Municipal Water District
Amanda Guy, Deputy Counsel, Carlsbad Municipal Water District
Paz Gomez, Public Works Director, Carlsbad Municipal Water District
Vicki Quiram, Utilities Director, Carlsbad Municipal Water District
Brian Hughes, General Manager, La Costa Resort and Spa
Holly Whatley, Commission Counsel

[1] It is documented Leucadia Wastewater District directly provided recycled water to the affected territory between 1961 and 1991, but as outlined in 1(a) it appears this relationship was non-retail in nature.

Carlsbad
Municipal Water District

VIA EMAIL AND U.S. MAIL

December 24, 2018

Keene Simonds, Executive Officer
San Diego Local Agency Formation Commission
9335 Hazard Way, Suite 200
San Diego, CA 92123
keene.simonds@sdcounty.ca.gov

RE: Complaint and Request for Determination of LAFCO Jurisdiction Under Cal. Gov. Code section 56824.10 (Latent Powers)

Dear Mr. Simonds:

As of August 1, 2018, I am the Executive Manager for the Carlsbad Municipal Water District (CMWD). CMWD is aware that Leucadia Wastewater District (LWD) has entered into an agreement commencing on September 1, 2018, with La Costa Resort & Spa -- one of CMWD's water customers -- to retail recycled water directly for use on La Costa Resort & Spa's golf course. CMWD has notified LWD that it objects to the proposed agreement, which appears to trigger the mandatory LAFCO approval process under California Government Code section 56824.10 *et seq*. because LWD is attempting to provide a different class of service by retailing recycled water. LWD asserts that LAFCO approval is not required based on an email from former San Diego LAFCO Executive Officer Michael Ott, dated Feb. 8, 2013. (See attached.) CMWD submits this complaint and request for a determination of LAFCO jurisdiction under Government Code section 56824.10.

Background

La Costa Resort & Spa is within CMWD's service area for water service, and within LWD's service area for sewer service. As stated in the 2013 Five-Year Sphere of Influence and Service Review for North County Coastal (San Dieguito) Water and Wastewater Agencies, CMWD "is authorized to provide potable water services to approximately 85% of the City of Carlsbad," and its service area totals approximately 32 square miles. (2013 SOI Review p. 23.) CMWD also has extensive recycled water supply infrastructure to serve its water customers' irrigation needs, including a recycled water pipeline available to serve La Costa Resort & Spa.

LWD, on the other hand, "is authorized to provide wastewater and reclaimed water services within a 15-square mile area that includes the northern portion of the City of Encinitas and the south easterly portion of the City of Carlsbad." (2013 SOI Review p. 9.) LWD owns and operates

the Gafner Water Reclamation Facility, which receives and treats secondary effluent delivered from the Encina Water Pollution Control Facility. The 2013 Sphere of Influence and Service Review correctly noted: "Recycled water produced at the Gafner Facility is sold, *on a wholesale basis*, to irrigate the La Costa Resort & Spa Golf Course via a sales agreement with Carlsbad MWD." (2013 SOI Review p. 46 (emphasis added).)

In 1991, CMWD and LWD first entered into an agreement in which CMWD purchased recycled water on a wholesale basis from LWD to provide to the La Costa Resort & Spa. This agreement was terminated on June 6, 2013. On September 1, 2013, CMWD and LWD entered into a new 5-year agreement for CWMD to purchase recycled water on a wholesale basis from LWD to provide to the La Costa Resort & Spa. That agreement terminated on Aug. 31, 2018. CMWD is aware that LWD negotiated with La Costa Resort & Spa to directly sell recycled water on a retail basis, and that LWD entered into such an agreement commencing on September 1, 2018. CMWD had notified LWD that such an agreement would violate the Water Recycling Act of 1991[1] and requires LAFCO approval to exercise a latent new or different class of service to provide retail recycled water service.

LAFCO Approval is Mandatory Prior to Exercising Latent Powers

Even if LWD could retail recycled water over CMWD's objection under the Water Recycling Act of 1991, retail sale of recycled water is a latent power that cannot be exercised without LAFCO approval. LWD would need to file a resolution of application with LAFCO and receive approval following a public hearing, prior to exercising that new or different function or class of service. Cal. Gov't Code §§ 56824.10 *et seq.*; *South San Joaquin Irr. Dist. v. Superior Court*, 162 Cal. App. 4th 146 (2008) (holding that retail electric service is a different class of service than wholesale and the LAFCO approval process is mandatory prior to exercising that latent power). The plan for service that must be submitted with the application would need to disclose the total estimated cost to provide the new or different class of service, the estimated cost of providing that service to customers within LWD's jurisdictional boundaries, and a plan to finance the new or different class of service. It is not at all clear that LWD would be able to justify the costs to its sewer ratepayers to provide retail recycled water to one customer.

Consistent with the statutes, the San Diego LAFCO's adopted Rules for Provision of New or Different Special District Services/Functions (Latent Powers) state that "[a]t such time as the Commission has identified the nature, location and extent of the functions and services of any district, such district shall not provide any new or different function or class of service except as authorized by this Article . . . ." San Diego LAFCO Rules, Article IV, Rule 4.9 (Restriction of District Functions and/or Services). Article IV sets forth the process for seeking LAFCO approval.

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[1] As a "recycled water producer" or "recycled water wholesaler" as defined under California Water Code section 13575(b)(4) and (5), LWD is not authorized to sell recycled water directly to a customer without the agreement of the of the retail water supplier for that customer, which is CMWD. Cal. Water Code §§ 13580.5; 13580(b). While this is not necessarily an issue for the San Diego LAFCO to decide, the Water Recycling Act's distinction between wholesale and retail sale of recycled water is relevant to the LAFCO issues.

In response to this authority, LWD has asserted in a letter dated July 24, 2018 (enclosed), that LAFCO approval is not required based on an email from former Executive Officer Michael Ott. The text of this email is included in the LWD letter. The email cites no legal authority and it is not entirely clear what question is being answered. From the facts stated in the email, however, it appears that Mr. Ott may have been addressing whether LAFCO approval would have been required for an out of service agreement under Government Code section 56133. Thus, CMWD requests a formal decision from the San Diego LAFCO on this matter.

While there does not appear to be an adopted procedure for resolution of this type of complaint, CMWD suggests using the process that has been used for resolution of similar LAFCO jurisdictional issues, such as out of service area agreements under Government Code section 56133. As CMWD understands this process, the Executive Officer will issue a Preliminary Determination after receiving comments from interested parties. Parties then have another opportunity to comment on the Preliminary Determination and may appeal to the full Commission if the issue is not resolved. Please do not hesitate to contact me at 760-434-2829 if you need any additional information from CMWD. Thank you for your attention to this matter.

Sincerely,

for Scott Chadwick
Executive Manager

Attachments:
Cease and Desist Letter (Feb. 14, 2018)
LWD Response (Mar. 5, 2018)
CMWD Letter (July 23, 2018)
LWD Response (July 24, 2018)

cc (by email only):
Celia Brewer, General Counsel, Carlsbad Municipal Water District
Paz Gomez, Public Works Director, City of Carlsbad/Carlsbad Municipal Water District
Vicki Quiram, Utilities Director, City of Carlsbad/Carlsbad Municipal Water District
Paul Bushee, General Manager, Leucadia Wastewater District
Wayne Brechtel, General Counsel, Leucadia Wastewater District
Brian Hughes, General Manager, La Costa Resort & Spa
Michael Colantuono, Legal Counsel, San Diego LAFCO

Carlsbad
Municipal Water District

February 14, 2018

VIA CERTIFIED MAIL

Paul Bushee, General Manager
Leucadia Wastewater District
1960 La Costa Avenue
Carlsbad, CA 92009

Re: Direct sale of recycled water to Omni La Costa Resort & Spa

CEASE AND DESIST

Dear Mr. Bushee:

It has come to the attention of Carlsbad Municipal Water District staff that Leucadia Wastewater District has been attempting to negotiate an agreement with Omni La Costa Resort & Spa to sell recycled water directly for use on the golf course. As a "recycled water producer" or "recycled water wholesaler" as defined under California Water Code section 13575(b)(4), Leucadia Wastewater District is not authorized to sell recycled water directly to a customer without the agreement of the retail water supplier for that customer, which is the Carlsbad Municipal Water District. Cal. Water Code §§ 13580.5(b); 13580(b). The Carlsbad Municipal Water District does not agree to Leucadia Wastewater District's direct sale of recycled water to our customer. As you are aware, our Agreement for Sale of Recycled Water is expiring this August, and we look forward to negotiating a new agreement to purchase recycled water from you.

If you do not cease and desist your attempts to negotiate for direct sale of recycled water to Omni La Costa Resort & Spa, then the Carlsbad Municipal Water District will have no alternative but to pursue legal remedies. We appreciate your prompt attention to this matter.

Sincerely,

Kevin Crawford,
Executive Manager

cc: Celia Brewer, General Counsel
Mathew Dunmyer, Golf Course Maintenance Director, Omni La Costa Resort & Spa

LEUCADIA WASTEWATER DISTRICT | LEADERS IN ENVIRONMENTAL PROTECTION

BOARD OF DIRECTORS
Elaine Sullivan, President
David Kulchin, Vice President
Judy Hanson, Director
Allan Juliussen, Director
Donald F. Omsted, Director
Paul J. Bushee, General Manager

March 5, 2018

VIA CERTIFIED MAIL

Ref: 18-6135

Kevin Crawford, Executive Manager
Carlsbad Municipal Water District
5950 El Camino Real
Carlsbad, California 92008

RECEIVED
MAR 8 18
PUBLIC WORKS
Utilities Division

Re: Direct Sale of Recycled Water to Omni La Costa Resort & Spa

Dear Mr. Crawford:

This letter is in response to your February 14, 2018 letter requesting that the Leucadia Wastewater District (LWD) discontinue discussions regarding the direct sale of recycled water to the Omni La Costa Resort and Spa (La Costa). Please note that, as a professional courtesy, LWD communicated its intent to potentially provide recycled water directly to La Costa at a meeting with Carlsbad Municipal Water District (CMWD) staff in December 2017. Unfortunately, this courtesy was not reciprocated when the CMWD Board took action on our agreement last week. We respectfully disagree with your analysis of the California Water Code as it pertains to recycled water and offer the following comments in response:

Your reference to provisions in the Water Recycling Water Act (Health & Safety Code § 13576 et seq.) incorrectly assumes the City is the only authorized retailer of recycled water to La Costa. The City and LWD are both authorized retailers of recycled water under the Act[1]. As a County Water District, LWD is statutorily authorized to provide recycled water directly to the South La Costa Golf Course. (Water Code § 30000 et seq.) LWD's authority was confirmed by the Local Agency Formation Commission ("LAFCO") in 2013, and LWD retains a Master Reclamation Permit authorizing delivery of water to the south course. LWD has provided recycled water directly to the La Costa Golf Course since 1961, at times via an agreement with the City of Carlsbad, and other times, a direct agreement with the customer, most recently in 2013 after the City noticed its intent to terminate its Agreement with the District at that time. The same statutory and permit authority to contract directly with La Costa remains in place today.

We are certainly open to discussions with CMWD regarding an agreement for the continued sale of recycled water. To help you better understand LWD's position on this matter, we thought it would be beneficial to provide a brief history of previous efforts with CMWD regarding recycled water.

[1] "Retailer" means the retail water supplier in whose service area is located the property to which a customer requests the delivery of recycled water service. Health & Safety Code Section 13580(b). The La Costa Golf Course is within LWD's jurisdictional service area.

We began discussions with CMWD regarding an extended longer-term agreement in 2007. These discussions continued through several generations of CMWD management staff. These efforts ultimately resulted in the execution of the existing five-year agreement in 2013. In terms of infrastructure related facilities such as this, we hope that you can appreciate that a five-year agreement is not optimal for recouping infrastructure improvement costs needed to keep the facility in working order. Since 2013, LWD has initiated several meetings with CMWD staff in an effort to facilitate negotiation of an extended or new agreement and virtually no progress has been made.

It is also important to note that CMWD adopted its Recycled Water Master Plan in 2012, which was concurrent with our discussions regarding an extended agreement. The Master Plan and its associated environmental documents clearly contemplated a new pipeline to serve the La Costa South Golf Course. The proposed CMWD pipeline was planned for the exact same delivery point that LWD has delivered to since the early 1960's and would have effectively stranded over $6 million in LWD assets that were and continue to be in good working order. We asserted then and maintain now that we do not believe this is the best use of public funds or in the best interest of the public in general.

Furthermore, the North San Diego Water Reuse Coalition, of which both LWD and CMWD are members, was formed to develop a regional approach to recycled water. We believe that the use of all existing assets within the Coalition is vital to helping resolve the State's water issues.

In summary, LWD has expended a great deal of effort over a long period of time to negotiate a long-term recycled water arrangement with CMWD with only the existing short-term agreement to show for it. We reiterate that we are open to discussions regarding a new recycled water agreement with CMWD. However, if reasonable terms cannot be negotiated, we reserve our right to continue discussions with La Costa regarding a direct recycled water arrangement.

Please do not hesitate to contact me at (760) 753-0155 ext. 3014 if you have any questions or would like to schedule a meeting to discuss this matter further.

Best regards,

Paul J. Bushee
General Manager

cc: Mathew Dunmyer, Omni La Costa Resort & Spa
Wayne Brechtel, Worden Williams, LLP

Carlsbad
Municipal Water District

VIA EMAIL AND U.S. MAIL

July 23, 2018

Board of Directors
Leucadia Wastewater District
1960 La Costa Avenue
Carlsbad, CA 92009
dkulchin@lwwd.org
ajuliussen@lwwd.org
esullivan@lwwd.org
domsted@lwwd.org
jhanson@lwwd.org

RE: Sale of Recycled Water to La Costa Resort & Spa

Dear Board Members:

Effective August 1, 2018, I will be the Executive Manager for the Carlsbad Municipal Water District. We are aware that your staff has continued to negotiate an agreement with La Costa Resort & Spa to sell recycled water directly for use on the golf course. We have reviewed the letter from General Manager Paul Bushee dated March 5, 2018, and do not believe that it provides a legal basis for your proposed agreement. I wanted to take the opportunity to state Carlsbad Municipal Water District's continued opposition to that agreement and set forth our legal position. As stated in our cease and desist letter dated February 14, 2018, such an agreement would violate California Water Code sections 13580.5(b) and 13580(b). As a "recycled water producer" or "recycled water wholesaler" as defined under California Water Code section 13575(b), Leucadia Wastewater District is not authorized to sell recycled water directly to La Costa Resort & Spa without the agreement of the retail water supplier for La Costa Resort & Spa, which in this case is the Carlsbad Municipal Water District. The Carlsbad Municipal Water District objects to Leucadia Wastewater District's direct sale of recycled water to our customer. If Leucadia Wastewater District has sold recycled water directly to La Costa Resort & Spa in the past, it was without the agreement of Carlsbad Municipal Water District.

Even if Leucadia Wastewater District could retail recycled water over Carlsbad Municipal Water District's objection, this is a latent power that cannot be exercised without approval of the San Diego County Local Agency Formation Commission (LAFCO). Leucadia Wastewater District would need to file a resolution of application with LAFCO and receive approval following a public hearing, prior to exercising that new or different function or class of service. Cal. Gov't

Code §§ 56824.10 *et seq.*; *South San Joaquin Irr. Dist. v. Superior Court*, 162 Cal. App. 4th 146 (2008) (holding that retail electric service is a different class of service than wholesale and the LAFCO approval process is mandatory prior to exercising that latent power). The plan for service that must be submitted with the application would need to disclose the total estimated cost to provide the new or different class of service, the estimated cost of providing that service to customers within Leucadia Wastewater District's jurisdictional boundaries, and a plan to finance the new or different class of service. It is not at all clear that LAFCO would be able to approve such an application for Leucadia Wastewater District to retail recycled water to one customer.

Finally, the Master Reclamation Permit that covers Leucadia Wastewater District prohibits delivery of recycled water except through an agreement with Carlsbad Municipal Water District, unless Leucadia Wastewater District complies with the regulations applicable to a Recycled Water Agency. (San Diego Regional Water Control Board Order No. R9-2004-0223). To our knowledge, Leucadia Wastewater District is not a qualified Recycled Water Agency at this time.

We hope that you take these issues into consideration. We will be requesting a meeting with Mr. Bushee and Mr. Brechtel to discuss these issues in an attempt to resolve this matter without having to resort to litigation.

Sincerely,

Scott Chadwick
Chief Operating Officer

cc (by email only):
Celia Brewer, General Counsel, Carlsbad Municipal Water District
Wendy Chambers, Utilities Director, City of Carlsbad/Carlsbad Municipal Water District
Paul Bushee, General Manager, Leucadia Wastewater District
Wayne Brechtel, General Counsel, Leucadia Wastewater District
Tom Kermabon, General Manager, La Costa Resort & Spa

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Allan Juliussen, Director
Donald F. Omsted, Director
Paul J. Bushee, General Manager

July 24, 2018

Ref: 19-6292

Scott Chadwick, Chief Operating Officer
Carlsbad Municipal Water District
5950 El Camino Real
Carlsbad, California 92008

Re: Direct Sale of Recycled Water to OMNI La Costa Resort and Spa

Dear Mr. Chadwick:

I am writing in response to your July 23, 2018 letter which, once again, seeks to compel the Leucadia Wastewater District (LWD) to discontinue discussions regarding the direct sale of recycled water to Omni La Costa Resort and Spa. As before, LWD respectfully disagrees with the legal contentions you assert on behalf of the Carlsbad Municipal Water District (CMWD). We addressed your Water Recycling Act claims in my March 5, 2018 letter to CMWD Executive Manager, Kevin Crawford. In addition, we urge you to consider the following.

CMWD has voluntarily relinquished its role as a retail purveyor of recycled water to the South La Costa Golf Course (South Course). The only facility able to deliver recycled water to the South Course is the Forest R. Gafner Plant, which is owned and operated by LWD. LWD has provided recycled water directly to the South Course since 1961, at times via an agreement with the City of Carlsbad, and other times, a direct agreement with La Costa. In other words, sometimes LWD acted as the retail purveyor and other times, the City acted in that capacity. Most recently, LWD and the City of Carlsbad entered into an agreement by which the City acted as the recycled water retailer. However, the City issued a notice of termination to LWD on March 8, 2018, and it takes effect on August 31, 2018. Given that CMWD does not have any facilities capable of delivering recycled water to the South Course, it follows that it is not capable of being a recycled water retailer to the South Course after August 31st. Given this reality, CMWD's continued objection to LWD reassuming it role as the retail purveyor of recycled water is difficult to understand.

LWD's delivery of recycled water to the South Course is not a latent power that must be approved by LAFCO. The LAFCO contention is not new. It was raised by former CMWD Employee Bill Plummer in an unsuccessful effort to stop LWD from acting as a direct purveyor of recycled water in 2013. You may not have been apprised of the following response by the LAFCO Executive Director, Mike Ott.

> Bill,
> Robert Barry forwarded your email to me and discussed the issue Carlsbad MWD is experiencing with Leucadia Wastewater District (WD) regarding the provision of reclaimed water service to the La Costa Resort. Your discussion of issues is very thorough & helpful; however, one comment needs to be clarified. You state that Leucadia WD is interested in providing reclaimed water directly to the La Costa Resort and you define this as a "new service". According to LAFCO records, the Leucadia WD has provided water reclamation

service (production and supply) to the La Costa Resort for about 30 years from 1961 to the mid-1990s. In addition, when LAFCO classified the various functions of all special districts in San Diego County about 40 years ago, Leucadia WD was recognized as a wastewater service provider, inclusive of reclamation service. In light of this fact and Leucadia WD's history of providing reclamation service, Leucadia WD's current decision to once again provide reclamation service directly to the La Costa Resort does not constitute a "new service". Therefore, LAFCO does not have purview over the matter. In addition, since the La Costa Resort is already located within the jurisdictional boundaries of the Leucadia WD, there does not appear to be any additional LAFCO issues. Nonetheless, we hope the two districts resolve this dispute in a cooperative and cost-effective manner for the ratepayers in Carlsbad. If you have any further questions, please contact us. – Mike

Michael D. Ott
Executive Officer
San Diego LAFCO

(E-mail dated February 8, 2013 from Mike Ott to Bill Plummer)

Finally, LWD qualified as a Recycled Water Agency under its Master Reclamation Permit in 2013 when it acted as a direct purveyor. LWD has notified the Regional Board that it will resume its role as a direct purveyor of water to the South Course in September 2018, and the change of status was accepted by the Board without objection.

In conclusion, I appreciate that you are stepping into an issue that has a long and complicated history. However, your recent demand does not change the legal reality that LWD is authorized to purvey recycled water directly to the South Course. CMWD's unilateral decision to terminate its agreement with LWD has created a circumstance in which LWD has no choice but to consider the option of resuming its role as a direct purveyor of recycled water to the South Course. I am sure you would agree that shutting down the only plant currently capable of delivering recycled water to the South Course and forcing La Costa to begin watering the South Course with more expensive and limited potable water would not be in the public interest.

We would be more than happy to meet with you to discuss this issue further. Please do not hesitate to contact me at (760) 753-0155 ext. 3014 if you have any questions or would like to schedule a meeting.

Best regards,

Paul J. Bushee
General Manager

cc: (by email only)
Wayne Brechtel, Worden Williams, LLP
LWD Board of Directors
Carlsbad City Council
Celia Brewer, CMWD General Council
Tom Kermabon, General Manager, La Costa Spa & Resort
Wendy Chambers, Utilities Director, City of Carlsbad

LEUCADIA WASTEWATER DISTRICT | LEADERS IN ENVIRONMENTAL PROTECTION

BOARD OF DIRECTORS
David Kulchin, President
Allan Juliussen, Vice President
Judy Hanson, Director
Donald F. Omsted, Director
Elaine Sullivan, Director
Paul J. Bushee, General Manager

June 3, 2019

Ref: 19-6670

Keene Simonds, Executive Officer
San Diego County
Local Agency Formation Commission
County Operations Center
9335 Hazard Way, Suite 200
San Diego, CA 92123

Re: Preliminary Determination Regarding Recycled Water Service to La Costa Resort and Spa

Dear Mr. Simonds:

The Leucadia Wastewater District (LWD) respectfully requests that you reconsider and reverse your May 6, 2019 Preliminary Determination that LWD needs Local Agency Formation Commission (LAFCO) approval to continue providing recycled water to the Omni La Costa Resort and Spa (La Costa). In the alternative, LWD requests that the Preliminary Determination be submitted to the LAFCO Board of Directors so that it can make a final decision on the issue. LWD submits that the Preliminary Determination is premised on a misunderstanding of the facts and applicable law and would require a result that would be contrary to the basic purposes for which LAFCO exits, the efficient and cost-effective provision of services to the residents of San Diego County.

A. The Preliminary Determination Would Lead to An Illogical Result.

The Preliminary Determination would require LWD to ask permission to continue doing what it has done for more than 50-years – provide recycled water to the South La Costa Golf Course (South Course). It was made in response to a request by the Carlsbad Municipal Water District (CMWD), which claims to have "a recycled water pipeline available to serve La Costa Resort & Spa[1]." This statement is misleading at best. CMWD does provide recycled water to the La Costa's North Golf Course at a higher cost than is charged by LWD. However, CMWD does not have facilities capable of delivering water to the South Golf Course. The recycled water delivered to the South Golf Course is produced at LWD's Forest R. Gafner Plant, which is owned and operated by LWD, and is delivered with infrastructure that is also owned and operated by LWD. For Carlsbad to provide water to the South Course, additional piping and infrastructure would be required. It is LWD's understanding that CMWD has requested that La Costa pay the cost of the necessary infrastructure. Thus, if your Preliminary Determination is upheld and CMWD takes over, La Costa would be required to expend substantial sums to install a new recycled water delivery system so that it could then pay CMWD more for recycled water than is currently being charged by LWD. LWD does not believe this result was intended when the Preliminary Determination was drafted, but it is a real possibility if the determination is not reversed.

[1] Letter from Scott Chadwick, Executive Manager, Carlsbad Municipal Water District dated December 24, 2018, page 1.

B. The Preliminary Determination Seeks to Answer the Wrong Question.

The Preliminary Determination concludes that LWD's direct delivery of recycled water to the South Golf Course from 1961 to 1991 was "not consistent with a retail relationship" because it was negotiated as part of a property purchase.[2] This begs an obvious question. What type of relationship was it because CMWD was not acting as the retailer at the time? LWD had a direct agreement with La Costa. The Preliminary Determination goes on to state that LWD's "recycled water service . . .from 1991 to 2018 was explicitly wholesaler and non-retail" [3] This is incorrect. In 2013, LWD entered into a contract with La Costa to provide recycled water directly – a contractual relationship that was indisputably "retail" in nature. Attached for your review, please find payment receipt stubs from 2013 and an invoice from 1965 clearly indicating that LWD has historically provided recycled water directly to La Costa. In end, however, there is no need to resolve the nuances of retail versus wholesale because the correct question is not whether the current Executive Officer feels the current relationship between La Costa and LWD is "retail in nature". The correct question is whether LWD is providing a new class of service that requires LAFCO consent. As explained below, the answer to this question is no because there is no new class of service.

C. The Preliminary Determination is Inconsistent with The Prior Determination Made by LAFCO's Executive Director in 2013

The issue addressed in the Preliminary Determination is not new. LWD has provided recycled water directly to the South Course since 1961, at times via an agreement with the City of Carlsbad, and other times, a direct agreement with La Costa. In other words, sometimes LWD provided recycled water directly to La Costa and other times, the City acted in that capacity. However, in all instances, it was LWD facilities that produced and delivered the recycled water. The only difference was who billed La Costa each month.

In 2013, the question addressed by the Preliminary Determination was presented to the former LAFCO Executive Officer, Michael Ott. CMWD had previously notified LWD that it was terminating its contract to act as the retail purveyor of water to the South Course. In response, LWD negotiated a contract with La Costa to continue providing the South Course with recycled water. At the time, Mr. Ott was asked by a CMWD employee whether LWD's agreement with La Costa required LAFCO approval. Mr. Ott concluded that LAFCO approval was not required because the delivery of reclaimed water to the South Golf Course was not a new service as summarized in his email below:

> *"According to LAFCO records, the Leucadia WD has provided water reclamation service (production and supply) to the La Costa Resort for about 30 years from 1961 to the mid-1990s. In addition, when LAFCO classified the various functions of all special districts in San Diego County about 40 years ago, Leucadia WD was recognized as a wastewater service provider, inclusive of reclamation service. In light of this fact and Leucadia WD's history of providing reclamation service,* ***Leucadia WD's current decision to once again provide reclamation service directly to the La Costa Resort does not constitute a "new service". Therefore, LAFCO does not have purview over the matter.*** *In addition, since the La Costa Resort is already located within the jurisdictional boundaries of the Leucadia WD, there does not appear to be any additional LAFCO issues."*
>
> (Excerpt from e-mail dated February 8, 2013 from LAFCO Executive Officer Michael Ott to CMWD Employee, Bill Plummer).

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[2] Preliminary Determination, Page 1, Section 1.(a).

[3] Preliminary Determination, Page 2, Section 1.(b).

Mr. Ott understandably found that LWD's continued provision of reclamation service to La Costa was not a new service or service that required LAFCO approval. The Preliminary Determination is responding to the same question answered by Mr. Ott. In March of 2018, CMWD provided notice to LWD that it was terminating its contract to provide recycled water to the South Course. In response, LWD negotiated a contract with La Costa to continue providing the South Course with recycled water. CMWD again requested an opinion regarding the need for LAFCO approval. The question has been asked and answered and there are no valid grounds for a new opinion that differs from the one issued by Mr. Ott in 2013.

The Preliminary Determination suggests that Mr. Ott's Determination did not reach the question of whether there was a new "class function" that required LAFCO approval. To the contrary, Mr. Ott clearly understood the applicable facts and determined that LAFCO did "not have purview over the matter." Mr. Ott could not have reached this conclusion without considering whether LWD's decision in 2013 "to once again provide reclamation service directly to La Costa Resort" constituted a new class function. It is clear, Mr. Ott recognized that the class of service provided by LWD was reclamation regardless of its contractual relationship with La Costa. Accordingly, the question of LWD's right to continue providing reclaimed water directly to the South Golf Course has already been decided by LAFCO. The 2013 determination was not challenged by CMWD and is final. There are no new facts, rules or regulations to justify a different determination at this time.

D. The Preliminary Determination Did Not Correctly Apply San Diego LAFCO Rules That Establish Service Classifications for Local Agencies.

The San Diego Local Agency Formation Commission Rules (San Diego LAFCO Rules) Section 4.4 sets forth the following classification of functions and services applicable to LWD:

Function	**Services**
Sewer	Collection, Transportation, Treatment, **Reclamation**, Disposal[4].

Under San Diego LAFCO Rules, there is no wholesale or retail class of service found in the categories applicable to LWD. The only class of service applicable to LWD is reclamation. This was recognized by Mr. Ott in 2013 when he noted the class of service provided to La Costa by LWD since 1961 was and remains reclamation. Thus, to the extent the Preliminary Determination seeks to reclassify LWD's provision of recycled water to La Costa as "retail" it is an improper attempt to reclassify LWD's reclamation services to a category that is not found in the San Diego LAFCO Rules for classifications.

The Preliminary Determination also disregarded Section 4.5 of the San Diego LAFCO Rules which provides the following guidance to be used when determining whether a district is providing a particular service:

> *For purposes of these rules and regulations a district shall be deemed to be providing a function or service if bonds have been heretofore authorized therefore, if substantial sums have been expended, if substantial financial obligations have been incurred therefore, if property, facilities or equipment have been acquired or constructed for such purpose, or if the district is actually*

[4] San Diego LAFCO Rules Article IV – "Provision of New or Different Special District Services/Functions (Latent Powers)", Page 15, Section 4.4 (emphasis added)

exercising its powers to provide such function or service for the benefit of lands or inhabitants within the district[5].

LWD's provision of recycled water directly to La Costa falls squarely within the standards outlined above. LWD expended substantial sums to construct the Forest R. Gafner Plant; LWD incurred substantial financial obligations to finance the construction; facilities and equipment have been acquired and constructed; and reclaimed water has been delivered continuously since the plant's construction. There could not be a clearer example of an agency providing a function and service. The Preliminary Determination otherwise is simply not supportable.

E. Continued Delivery of Recycled Water to the South Golf Course is Not a New or Different Class of Service Under Government Code Section 56824.10.

The Preliminary Determination concludes that Government Code Section 56824.10 requires LAFCO approval for the continued provision of recycled water to La Costa because it is a new class of service. As discussed above, LWD's continued delivery of recycled water to La Costa falls under the reclamation class of service, which has not changed. The Preliminary Determination may have relied upon a case cited by CMWD in its request, *South San Joaquin Irrigation District v. Superior Court* (2008) 162 Cal.App.4th 146 (*San Joaquin*). *San Joaquin* does not support a finding that LWD's continued provision of recycled water to the South Course is a new or different class of service. In *San Joaquin*, the South San Joaquin Irrigation District desired to expand its wholesale electrical service component to include the delivery of retail electrical service. The court of appeal found this constituted a new service that required LAFCO approval based upon three key factors:

1. The new retail electrical service involved a different customer base;

2. The new retail electrical service required a new distribution system. The irrigation district did not have existing facilities; instead, it would have had to purchase a distribution system owned by Pacific Gas & Electric; and

3. The new retail electrical service fell under a completely different regulatory scheme. As a wholesaler of electricity, the irrigation district was regulated by Federal Energy Regulatory Commission. As a retailer, it would have been regulated by the California Public Utilities Commission[6].

The *San Joaquin* factors do not apply to LWD's agreement to continue providing recycled water to the South Course. There is no new customer base. There has always been one customer, La Costa. A new distribution system is not required. LWD has always owned and operated the same distribution system. Finally, the regulatory scheme governing LWD's continued delivery of recycled water to La Costa has not changed. LWD's delivery of recycled water to La Costa is governed by a Master Reclamation Permit issued by the California Regional Water Control Board, San Diego (Regional Board) Order No. R9-2004-0223. LWD notified the Regional Board of its intent to once again directly provide recycled water to La Costa in September 2018 and was informed that no change or amendment of its permit was required. Thus, the facts that were dispositive in *San Joaquin* have no application to LWD's continued

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[5] San Diego LAFCO Rules, Page 16, Section 4.5

[6] *(San Joaquin 162* Cal.App.4th 146, 157.)

delivery of recycled water to La Costa. There is no new class of service that requires LAFCO approval under Section 56824.10 of the Government Code.

F. Conclusion

LWD appreciates that the Preliminary Determination sought to address a complicated and unusual set of circumstances. However, LWD believes the Preliminary Determination was based upon a misunderstanding of the applicable facts and law. When all is said and done, the issue it is not complicated. LWD has provided recycled water to La Costa since 1961. The class of service is – and always has been – reclamation. There has been no change beyond who sends La Costa the bill. The Preliminary Determination that would require LWD to seek LAFCO permission to continue providing this service not supported by the facts, law or policies that require LAFCO to promote the efficient provision of government services. LWD requests that the Preliminary Determination be reversed or, in the alternative, be submitted to the LAFCO Board of Directors for consideration.

Please do not hesitate to contact me at (760) 753-0155 ext. 3014 if you have any questions or would like to schedule a meeting to discuss this matter further.

Best regards,

Paul J. Bushee
General Manager

PJB:

Attachments:
2013 Payment Receipt Stubs
1965 Invoice

Cc (via email):
Wayne Brechtel, Worden Williams, LLP
Scott Chadwick, Executive Manager, Carlsbad Municipal Water District
Brian Hughes, Managing Director, Omni La Costa Spa & Resort

REORDER 905 - U.S. PATENT NO. 5538290, 5575509, 5641183, 5785353, 5984364, 6030000

OMNI RESORTS
la costa
2100 COSTA DEL MAR ROAD
CARLSBAD, CA 92009

REMITTANCE ADVICE

No. 1330000313

:08-AUG-13 Vendor Name: LEUCADIA WASTE WATER DISTRICT Vendor No.: 192439

INVOICE NO.	INVOICE DATE	DESCRIPTION	DISCOUNT AMOUNT	NET AMOUNT
11144	05-JUL-13	RECLAIM WATER	0.00	7,843.08
		TOTAL	0.00	7,843.08

RECEIVED
AUG 15 2013
LEUCADIA WASTEWATER DISTRICT

THIS CHECK IS VOID WITHOUT A BURGUNDY & GRAY BORDER AND BACKGROUND PLUS A KNIGHT & FINGERPRINT WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

OMNI RESORTS
la costa
2100 COSTA DEL MAR ROAD
CARLSBAD, CA 92009

BANK OF AMERICA
ATLANTA
DEKALB COUNTY
Georgia
64-1278/611

1330000313

Date 08-AUG-13

PAY: **SEVEN THOUSAND EIGHT HUNDRED FORTY-THREE DOLLARS AND 08 CENTS*****

VOID

$ **7,843.08**

TO THE ORDER OF
LEUCADIA WASTE WATER DISTRICT
1960 LA COSTA AVE
CARLSBAD, CA 92009

Authorized Signature

Authorized Signature

52

⑈1330000313⑈ ⑆061112788⑆ 003299839979⑈

REORDER 905 • U.S. PATENT NO. 5536290, 5575508, 5641183, 5785353, 5984364, 60300

OMNI RESORTS
la costa
2100 COSTA DEL MAR ROAD
CARLSBAD, CA 92009

REMITTANCE ADVICE

No. 1330001103

Date:16-AUG-13 Vendor Name: LEUCADIA WASTE WATER DISTRICT Vendor No.: 192439

INVOICE NO.	INVOICE DATE	DESCRIPTION	DISCOUNT AMOUNT	NET AMOUNT
070113	31-JUL-13	JULY 1, - JULY 31/2013	0.00	27,488.67
		TOTAL	0.00	27,488.67

#11146

THIS CHECK IS VOID WITHOUT A BURGUNDY & GRAY BORDER AND BACKGROUND PLUS A KNIGHT & FINGERPRINT WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

OMNI RESORTS
la costa
2100 COSTA DEL MAR ROAD
CARLSBAD, CA 92009

BANK OF AMERICA
ATLANTA
DEKALB COUNTY
Georgia
64-1278/611

1330001103

Date 16-AUG-13

PAY: **TWENTY-SEVEN THOUSAND FOUR HUNDRED EIGHTY-EIGHT DOLLARS AND 67 CENTS**********

VOID

$ **27,488.67**

TO THE ORDER OF
LEUCADIA WASTE WATER DISTRICT
1960 LA COSTA AVE
CARLSBAD, CA 92009

Authorized Signature

Authorized Signature

⑈1330001103⑈ ⑆061112788⑆ 003298399791⑈

REORDER 905 • U.S. PATENT NO. 5538280, 5575508, 5641103, 5785353, 5964364, 6030000

OMNI RESORTS
la costa
2100 COSTA DEL MAR ROAD
CARLSBAD, CA 92009

REMITTANCE ADVICE

No. 1330001949

:12-SEP-13 Vendor Name: LEUCADIA WASTE WATER DISTRICT Vendor No.: 192439

INVOICE NO.	INVOICE DATE	DESCRIPTION	DISCOUNT AMOUNT	NET AMOUNT
11150	04-SEP-13	AUG 1-31	0.00	44,428.55
		TOTAL	0.00	44,428.55

RECEIVED
SEP 17 2013
LEUCADIA WASTEWATER DISTRICT

THIS CHECK IS VOID WITHOUT A BURGUNDY & GRAY BORDER AND BACKGROUND PLUS A KNIGHT & FINGERPRINT WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

OMNI RESORTS
la costa
2100 COSTA DEL MAR ROAD
CARLSBAD, CA 92009

BANK OF AMERICA
ATLANTA
DEKALB COUNTY
Georgia
64-1278/611

1330001949

Date 12-SEP-13

PAY: **FORTY-FOUR THOUSAND FOUR HUNDRED TWENTY-EIGHT DOLLARS AND 55 CENTS

VOID

$ **44,428.55**

TO THE ORDER OF
LEUCADIA WASTE WATER DISTRICT
1960 LA COSTA AVE
CARLSBAD, CA 92009

Authorized Signature

Authorized Signature

⑈1330001949⑈ ⑆061112788⑆ 003298399799⑈

October 28, 1965

Rancho La Costa, Inc.
Costa Del Mar Road
Carlsbad, California

Attention: Mr. Irv Roston

Gentlemen:

The testing of irrigation water used on the golf course for the third quarter of 1965 has been completed and invoices for same received.

The biochemical testing of the effluent was done by Marlil Laboratories and a copy of this report has been sent to you. The cost of these tests for irrigation water only was $36.00, your share of which is $18.00.

The bacteriological tests performed by the County Department of Public Health were six in number at a cost of $33.66, your share being $16.83. Copies of test results have been previously sent to you. A copy of the invoice is enclosed.

The total for half the cost of the irrigation water testing is $34.83. The remainder of the expense is to be borne by the District for in plant process quality testing. We would appreciate receiving your check for this amount.

Yours very truly,

Judy Hill
Secretary

JH:ye

Enclosures: Copy of Marlil Invoice
Copy of County Health Department Invoice

cc: Glenn C. Knowles, Auditor

July 12, 1965

J. B. Askew, M.D.
Director of Public Health
Department of Public Health
Civic Center
San Diego 1, California

Dear Dr. Askew:

In answer to your letter of June 17, 1965, regarding water samplings for bacteriological analysis from an irrigation bib on the Rancho La Costa Golf Course, we would like to take advantage of these samplings.

Rancho La Costa has agreed to reimburse the Leucadia County Water District for these samplings, so please bill us for these services.

Please send us three copies of the analysis report and three copies of the statement so that we may forward copies to Rancho La Costa for their information.

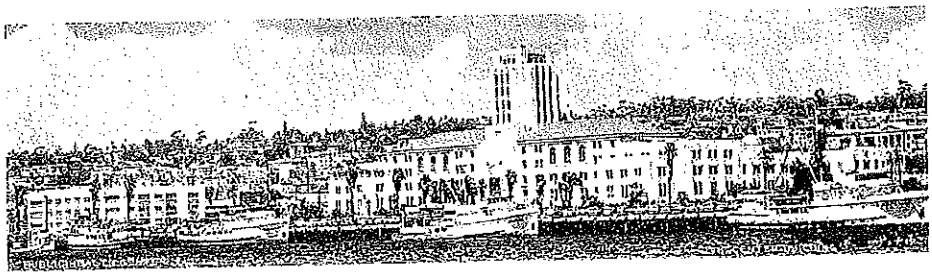
Thank you for your cooperation in this matter.

Very truly yours,

Gene A. Uhrick
Secretary-Manager

GAU:jh

County of San Diego



J. B. ASKEW, M. D., M. P. H.
DIRECTOR OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

CIVIC CENTER SAN DIEGO 1, CALIFORNIA
TELEPHONE BELMONT 9-7711

June 17, 1965

Mr. Gene A. Uhrick, Secretary-Manager
Leucadia County Water District
7670 El Camino Real
Leucadia, CA 92024

Dear Mr. Uhrick:

Your letter of June 14, 1965 is acknowledged in which you request this department to secure one water sample for bacteriological analysis from an irrigation bib on the Rancho La Costa Golf Course.

This department would be willing to secure a water sample once every two weeks and the cost of such sample, based on laboratory costs for examining the specimen, mileage and sanitarian's costs, would be $5.61 per sample. However, this department would prefer to bill the Leucadia County Water District in that you are a public agency whereas the Rancho La Costa is a private agency. Therefore, if you can make arrangements with the Rancho La Costa Golf Course to reimburse you for said water sample and the Leucadia County Water District is willing to pay for this sample, we will be glad to honor your request.

If you are desirous of our securing said water sample, may we hear from you at an early date with an indication from your district that they are willing to pay for this sampling.

Sincerely yours,

J. B. Askew

J. B. ASKEW, M.D.
Director of Public Health

also notify of sampling.

3 copies of analysis Rec'd

JBA:fs/WBW

will wait

LEUCADIA COUNTY WATER DISTRICT
RECEIVED
JUN 23 1965
BY

ATTENTION Gene Uhrick
ACTION Answer letter upon meeting
FILE Rancho La Costa Golf Course

Need sampling tap on golf course

Page is Blank for Photocopying

LEUCADIA WASTEWATER DISTRICT | LEADERS IN ENVIRONMENTAL PROTECTION

BOARD OF DIRECTORS
David Kulchin, President
Allan Juliussen, Vice President
Judy Hanson, Director
Donald F. Omsted, Director
Elaine Sullivan, Director
Paul J. Bushee, General Manager

September 26, 2019

Ref. 20-6842

Special Districts Advisory Committee
Local Agency Formation Commission (LAFCO)
County Operations Center
9335 Hazard Way, Suite 200
San Diego, CA 92123

Re: Recycled Water Service to Omni La Costa Resort & Spa South Golf Course

Dear Committee Members:

The purpose of this letter is to briefly summarize the Leucadia Wastewater District's (LWD) key points regarding recycled water service to the Omni La Costa South Golf Course (South Course). This information is submitted to assist the LAFCO Special District Advisory Committee (SDAC) in its consideration of this matter at its October 11, 2019 meeting[1].

Overall Perspective:

Carlsbad has initiated this matter with LAFCO and asserts that LWD does not have the right to provide recycled water to the South Course without LAFCO approval, despite the fact that LWD has provided water to the South Course since the 1960s by way of facilities owned and operated by LWD. Carlsbad makes this assertion in spite of the fact that Carlsbad does not have facilities capable of providing recycle water to the South Course. Carlsbad's stated goal is to compel LWD to discontinue service to the South Course and require the customer to construct new facilities that would enable Carlsbad to deliver recycled water to the South Course, water that would be at higher cost than is currently charged by LWD. Should LAFCO rule in Carlsbad's favor, LWD could be forced to shut-down its recycled water facility and ultimately strand $9 million worth of public assets. LWD's water recycling facility is operating well, and we do not believe that Carlsbad's action constitutes the best use of public funds nor does it make any logical or legal sense.

Brief History:

LWD constructed the Forest Gafner Water Reclamation Plant (Gafner Plant) and its associated distribution pipeline in the early 1960's. LWD's direct recycled water service to the adjacent South Course also began at that time. It is important to note that recycled water deliveries to the South Course have been exclusively through LWD owned facilities from the early 1960s to the present.

In 1991, LWD entered into an agreement with Carlsbad in which LWD continued to physically provide recycled water to the South Course with Carlsbad providing the direct billing service to La Costa. A key purpose of this arrangement was to facilitate financing required to upgrade the Gafner Plant to meet more stringent water quality standards. In 2012, Carlsbad terminated the agreement and indicated that it planned to provide service to the South Course through its facilities. However, Carlsbad did not have facilities capable of providing recycled water to the South Course, and in any event, LWD retained its right to provide water to the South Course. As a result of these circumstances, LWD continued to provide

[1] LWD provided a more detailed response to the Preliminary Determination in a letter to the Executive Director dated June 3, 2019. LWD understands that this letter will be included in the agenda packet for the Committee.

recycled water to the South Course during the summer of 2013 pursuant to an agreement with Omni La Costa. In September 2013, LWD came to terms with Carlsbad and entered into a five-year agreement that allowed Carlsbad to once again directly bill Omni La Costa for recycled water delivered by LWD.

In 2018, Carlsbad again terminated its recycled water agreement with LWD. As before, however, Carlsbad was unable to provide this service, and LWD entered into an agreement with Omni La Costa in September 2018 to continue providing recycled water service directly to the South Course

Carlsbad Service to La Costa South Course Would Contradict a Key LAFCO Goal:

One of LAFCO's primary goals is to "Promote logical and efficient public services for cities and special districts". Should LAFCO rule against LWD, Carlsbad would require Omni La Costa to construct a transmission pipeline to the exact same delivery point that LWD has utilized since the early 1960s. The estimated cost of the pipeline is over $1 million. In addition, Carlsbad's recycled water rate is approximately $250 per acre-foot greater than LWD's, which equates to an additional annual cost to the customer of $60,000 or more. This would place a significant financial burden on a private customer that is already receiving reliable recycled water service from LWD (see attached letter from Omni La Costa). LWD does *not* believe this constitutes logical or efficient public service.

LAFCOs Preliminary Determination Comes to the Wrong Conclusion:

We recognize that the May 2019 LAFCO Preliminary Determination is not final. However, we are concerned it will weigh heavily in the decision process of the SDAC and the Commission. LWD disagrees with the preliminary determination and offers the following comments for LAFCO's consideration:

Preliminary Determination Answers the Wrong Question – it states that LWD's delivery of recycled water from 1961 to 1991 was not consistent with a retail relationship because it was negotiated as part of the property purchase. LWD questions what type of relationship was it because Carlsbad was not acting as the retailer at the time. The reality is that LWD was directly providing recycled water to the South Course in accordance with LAFCO's classification of services (see below) and LWD's long history with Omni La Costa clearly depicts that this is not a new or different class of service.

Preliminary Determination Did Not Correctly Apply LAFCO Rules – under LAFCO's rules establishing service classifications there is no wholesale or retail class of service for recycled water. The service function applicable to this issue is reclamation, which is found under the sewer class function. LWD's recycled water service is in conformance with LAFCO's classification of reclamation service. In addition, LWD's ownership of the recycled water facilities clearly complies with all aspects of Section 4.5 of the LAFCO Rules which provides guidance in determining whether a district is providing a particular service.

Preliminary Determination is Inconsistent with Prior Determination by LAFCO's Executive Officer in 2013 – Carlsbad previously challenged LWD's ability to provide recycled water to the La Costa South Course with LAFCO in 2013. Using the same body of facts that are before you today, the Executive Officer determined that LWD's decision to once again provide direct reclamation service to the South Course does not constitute a new service and that LAFCO does not have purview over this matter. LWD believes that the 2013 determination correctly applied LAFCO's rules.

Regulators Acknowledge LWD's Ability to Provide Direct Service to La Costa:

LWD operates the Gafner Facility under a permit from the San Diego Regional Water Quality Control Board (Regional Board) that contemplates delivery of recycled water to the La Costa South Course via Carlsbad or directly to Omni La Costa. The Regional Board has approved LWD's continued delivery of recycled water to the South Course pursuant to our current agreement with Omni La Costa.

Summary:

LWD appreciates that the Preliminary Determination sought to address a complicated and unusual set of circumstances. However, the following summarizes why LWD should continue to provide direct recycle water services to the La Costa South Course:

- LWD has historically provided direct service to La Costa, therefore, this is not a new service
- LWD's service represents the best use of public funds
- LWD's service is in conformance with all LAFCO goals and rules
- LWD's service has been fully authorized by the Regional Board
- LWD's service is the most cost effective and reliable option for Omni La Costa

Based on these facts, LWD urges the SDAC and the Commission to confirm LWD's authority to provide direct water recycling services to the South Course without the need for further LAFCO approval. We appreciate this opportunity to provide comments and look forward to presenting this information at the upcoming meeting.

Best regards,

Paul J. Bushee
General Manager

PJB:

Attachment

OMNI HOTELS & RESORTS

September 16, 2019

Keene Simonds, Executive Officer
San Diego County
Local Agency Formation Commission
County Operations Center
9335 Hazard Way, Suite 200
San Diego, CA 92123

Re: Business Impacts of Switching Recycled Water Delivery to Carlsbad at the Omni La Costa Resort & Spa's South Golf Course

Dear Mr. Simonds:

It is our understanding that the LAFCO Special Districts Advisory Committee is scheduled to consider at its October 11, 2019 meeting whether the Leucadia Wastewater District ("Leucadia") may continue to deliver recycled water to the Omni La Costa South Golf Course. The purpose of this letter is to provide further context on the long-standing operational relationship with Leucadia, the disruption of which would result in significant business impacts on the Omni La Costa Resort & Spa.

The La Costa South Course has historically received recycled water produced by Leucadia's treatment facility located adjacent to the La Costa South Course. Our day-to-day communications regarding irrigation schedules, special events and other logistics are with Leucadia operations staff and we have been satisfied with the service Leucadia provides. Although the formalities of our billing arrangement have varied over the years, Omni La Costa Resort & Spa's operational relationship has always been directly with Leucadia as the entity delivering water, as continues to be the case.

The La Costa South Course plays an integral role in the services that the Omni La Costa Resort & Spa provides and keeping the course in excellent condition is a top priority. The business impacts of switching recycled water service from Leucadia to Carlsbad Municipal Water District ("Carlsbad") would be significant.

Carlsbad currently has no reliable means to deliver recycled water to the La Costa South Course and connecting directly to the Carlsbad system would require an investment of over $1 million on the part Omni La Costa Resort & Spa to construct the necessary infrastructure for this to happen. In addition, the recycled water rate for Carlsbad is approximately $250 more per acre-foot than the Leucadia rate, which would equate to an additional expense to Omni La Costa Resort & Spa of $60,000 or more per year. Although difficult to quantify, the business interruption costs of implementing a construction project concurrent with resort operations would also be significant.

Leucadia has served, and to our knowledge could continue to serve, as a reliable recycled water source for the La Costa South Course. A switch to Carlsbad would result in a high cost to Omni La Costa Resort & Spa without a measurable improvement in the Course's circumstances. We hope that this information is of assistance in evaluating whether LAFCO may allow Leucadia to continue its role as a recycled water provider to the La Costa South Course.

Please do not hesitate to contact me at (760) 929-6300 or brian.hughes@omnihotels.com should you have any questions or need further clarification.

Sincerely,

Brian Hughes
Managing Director

Omni La Costa Resort & Spa
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global hotel alliance

Carlsbad
Municipal Water District

VIA ELECTRONIC AND REGULAR MAIL

September 27, 2019

Mr. Keene Simonds
Executive Officer
San Diego Local Area Formation Commission
9335 Hazard Way, Suite 200
San Diego, CA 92123
Keene.simonds@sdcounty.ca.gov

RE: Preliminary Determination | Response to Request to Review Applicability of Government Code Section 56824.10 and Recycled Water Service to the Omni La Costa Resort and Spa

Dear Mr. Simonds:

The Carlsbad Municipal Water District (Carlsbad MWD) thanks the San Diego Local Agency Formation Commission (San Diego LAFCO) for this opportunity to submit additional comments on the above-reference preliminary determination in anticipation of the Special Districts Advisory Committee (Committee) meeting on October 11, 2019. Carlsbad MWD has confined its additional comments to those necessary to respond to the points raised in the June 3, 2019, correspondence of Leucadia Wastewater District (Leucadia WWD).

Leucadia WWD's correspondence contained five main assertions. Carlsbad MWD disagrees with each assertion.

The Preliminary Determination Would Not Lead to an Illogical Result

Leucadia WWD firstly asserted the preliminary determination would lead to an illogical result. More particularly, Leucadia WWD asserted it is the only agency currently capable of supplying recycled water to the south golf course (south course) of the Omni La Costa Resort & Spa (Resort) unless the Resort makes the necessary infrastructure improvements to connect to Carlsbad MWD's recycled water facilities near the south course.

The Resort is required to make these infrastructure improvements under Carlsbad MWD Ordinance No. 43 (mandatory use ordinance), which mandates a customer's connection to Carlsbad MWD's recycled water system when Carlsbad MWD facilities are available to serve to the customer. (Exhibit 1, § 4.2.5.) The mandatory use ordinance implements state policies and statutes prohibiting the waste or unreasonable use of potable water for, among other purposes, golf course irrigation. (See, e.g., Water

Code, § 13550.) The mandatory use ordinance also increases demand for recycled water, which has aided Carlsbad MWD in developing the most extensive recycled water system in the region.

The Resort is one of Carlsbad MWD's largest customers for recycled water service. Carlsbad MWD constructed recycled water facilities near the south course based on Carlsbad MWD's 2012 Recycled Water Master Plan, which relied on the mandatory use ordinance to ensure demand for the facilities. (Exhibit 2.) By directly selling recycled water to the Resort for the south course, Leucadia WWD has undermined both Carlsbad MWD's mandatory use ordinance and its 2012 Recycled Water Master Plan.[1]

Even if Carlsbad MWD had not constructed recycled water facilities near the south course to which the Resort was required to connect, Carlsbad MWD has had recycled water facilities near the Resort's north golf course (north course) since 1994. The Resort is already connected to these facilities and they currently serve the north course. Carlsbad MWD has previously requested the Resort use these facilities to serve the south course by opening an existing valve in the Resort's irrigation system between holes 10 and 11 on the south course. (Exhibit 3.) Although the Resort has not assented to Carlsbad MWD's request, the Resort has not demonstrated the request is infeasible. The Resort also has not accepted Carlsbad MWD's offer to assist in testing the feasibility of the request. Absent a demonstration of infeasibility, Carlsbad MWD believes it is currently capable of supplying recycled water for the south course through the north course connection.

The Preliminary Determination Correctly Focused on Leucadia WWD's Predominant Historical Role in Providing Recycled Water Service

Leucadia WWD secondly asserted the preliminary determination wrongly focused on whether Leucadia WWD's prior direct delivery of recycled water to the Resort was as a retailer instead of on whether Leucadia WWD's direct delivery of recycled water to the Resort was a new service. Carlsbad MWD believes these two questions are intertwined and must be considered in the context of San Diego LAFCO's overarching responsibility to promote logical and efficient public services for cities and special districts and to prevent duplicate service delivery. Fulfillment of this responsibility necessitated San Diego LAFCO's inquiry into Leucadia WWD's predominant historical role in providing recycled water service in order to determine whether Leucadia WWD's currently claimed role is "new or different," requiring San Diego LAFCO's approval.

On this point, San Diego LAFCO's most recent North County Coastal Sphere of Influence and Service Review (Sphere and Service Report) identified Carlsbad MWD as the retail provider and Leucadia WWD as the wholesale provider of recycled water services to the Resort. The report specifically stated the recycled water produced at Leucadia WWD's Gafner Water Reclamation Facility (Gafner Facility) "is sold, *on a wholesale basis*, to irrigate [the Resort] via a sales agreement with Carlsbad MWD." (Exhibit 4, italics added.)

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[1] Carlsbad MWD approved an update to the 2012 Recycled Water Master Plan on September 17, 2019. Because the updated plan also relies on the mandatory use ordinance to create demand and anticipates the Resort's connection to Carlsbad MWD's recycled water facilities, Leucadia WWD's direct sale of water to the Resort undermines the updated plan as well.

Documents on the website of the North San Diego Water Reuse Coalition (Coalition), of which Leucadia WWD is a member, also characterize Leucadia WWD as a wholesale provider of recycled water, not a retail provider. (Exhibit 5.) Documents on Leucadia WWD's own website do not contradict these characterizations of Leucadia WWD's role. Leucadia WWD's 2018 Asset Management Plan Update simply states that recycled water produced at the Gafner Facility is "used for irrigation at the South La Costa Golf Course." (Exhibit 6.)

Nonetheless, Leucadia WWD asserted in its June 3, 2019, correspondence that it had effectively served as a retail recycled water service provider to the Resort at least twice in the past. The first time period occurred between 1961 and 1991 and the second time period occurred between June and September 2013.

In response to a request by Carlsbad MWD, Leucadia identified only one contract governing the first time period. (Exhibit 7.) The contract was not styled as a retail recycled water service contract. Instead, the contract required the Resort to: (1) sell Leucadia WWD real property upon which to construct a sewer treatment plant facility; (2) sell Leucadia WWD related easements; and (3) *at no expense to the Resort*, accept from Leucadia WWD up to .75 million gallons per day of reclaimed water for the succeeding 35 years. (Italics added.) The contract's recitals and terms, coupled with Leucadia WWD's resolution approving the contract (Exhibit 8), indicate the primary purpose of the contract was to consummate a real estate transaction, not to establish retail recycled water service. Rather, Leucadia WWD's delivery of recycled water to the Resort appears to have been part of the price Leucadia WWD paid to purchase the real property and easements. Therefore, this contract lends little support to Leucadia WWD's claim of having historically been a retail recycled water service provider to the Resort.

The contract governing the second time period, while more conventionally styled as a recycled water service contract, was limited in scope and duration. (Exhibit 9.) Leucadia WWD intended the contract to be an interim measure allowing Leucadia WWD to continue providing recycled water to the Resort while Leucadia WWD negotiated with Carlsbad MWD. (Exhibit 10.) The contract does not appear to have been prompted by Leucadia WWD's desire to change its service model from being a wholesale recycled water service provider to being a retail recycled water service provider.

Carlsbad MWD believes Leucadia WWD's current, nearly identical agreement with the Resort (Exhibit 11) is also an interim measure and not an indication Leucadia WWD has changed its service model. Indeed, there is an important indication the opposite is true.

Under California Regional Water Quality Control Board, San Diego Region (Regional Board) Order No. R9-2004-0223 (Exhibit 12), which specifies the waste discharge requirements for the Gafner Facility, Leucadia WWD may not directly purvey reclaimed water to parties other than itself (for onsite use only) or the Carlsbad MWD, unless Leucadia WWD completes several steps. Included in these steps is notifying "the Regional Board 120 days prior to commencement of the purveyance." (*Id.*) Also included in these steps is certifying "it has developed and submitted for approval a program to conduct compliance inspections of recycled water reuse sites to the Regional Board, State DHS and County DEH." (*Id.*)

To Carlsbad MWD's knowledge, Leucadia WWD did not take these steps when it directly provided recycled water service to the Resort in 2013 and it has not taken these steps since it began directly providing recycled water service to the Resort in August 2018. Carlsbad MWD continues to perform the required compliance inspections under the terms of Carlsbad MWD's Master Reclamation Permit contained in Regional Board Order No. 2001-352, as amended by Order No. R9-2012-0227. (Exhibit 13.)

The above-referenced documents, along with Leucadia WWD's apparent inaction under its waste discharge permit, show Leucadia WWD is not and has not historically been a retail recycled water service provider. Instead, they show, consistent with the preliminary determination, Leucadia WWD is and has historically been a wholesale recycled water service provider.

The 2013 Remarks of San Diego LAFCO's Former Executive Director Do Not Bind San Diego LAFCO in this Proceeding

Leucadia WWD thirdly asserted the preliminary determination is inconsistent with the 2013 remarks by San Diego LAFCO's former Executive Director. (Exhibit 14.) Even if this assertion were true, Leucadia WWD has not identified any statute, regulation or rule precluding San Diego LAFCO from reconsidering and overruling the former Executive Director's remarks. In addition, the former Executive Director's remarks appear to have been extemporary and were not made in connection with a formal proceeding such as this one, in which the parties have had an opportunity to present documents and arguments to support their respective positions. More importantly and for the reasons discussed in this submittal, the former Executive Director's remarks are contrary to law and policy. Therefore, the former Executive Director's remarks should not bind San Diego LAFCO in this proceeding.

The Preliminary Determination Does Not Misapply San Diego LAFCO's Classification Rules

Leucadia WWD fourthly asserted the preliminary determination misapplies San Diego LAFCO's Rule 4.4, which classifies the functions and services of various special districts.[2] Rule 4.4's function classifications include "Water" and "Sewer." Rule 4.4's service classifications for the "Water" function are "Wholesale, Retail, Replenishment, Injection." Rule 4.4's service classifications for the "Sewer" function are "Collection, Transportation, Treatment, Reclamation, and Disposal." Because the Reclamation service classification is not further subdivided into retail and wholesale classifications, Leucadia WWD asserted the Reclamation service classification necessarily encompasses and authorizes both retail and wholesale services.

Assuming Leucadia WWD correctly interpreted the breadth of Reclamation service classification,[3] the breadth of the classification and the service Leucadia WWD is actually authorized to provide are not

[2]Further rule references are to Article IV of San Diego LAFCO's Rules. (Exhibit 15.)

[3]The Sphere and Service Report stated reclaimed/recycled water is not an individual function or service under San Diego LAFCO's rules. The report further recommended the rules be updated to better define the terms the special districts use to describe reclamation/recycled water services and to clarify the production and supply of reclaimed/recycled water service between special districts. (Exhibit 4.)

necessarily coextensive. Rule 4.3.2 gives San Diego LAFCO the power to "[i]dentify the nature, location *and extent* of any functions *or classes of service*" provided by an existing special district. (Italics added.) Rule 4.8 states San Diego LAFCO identifies the nature, location and extent of a special district's functions or services by preparing and approving a report on those functions and services. As previously discussed, the Sphere and Services Report stated the recycled water produced by Leucadia WWD "is sold, *on a wholesale basis*, to irrigate [the Resort] via a sales agreement with Carlsbad MWD." (Exhibit 4.) Thus, San Diego LAFCO has identified the extent of Leucadia WWD's recycled water service as being limited to producing recycled water for wholesale distribution. Because the preliminary determination is wholly consistent with this identification, the preliminary determination does not violate Rule 4.4. (See also, *San Joaquin Irrigation Dist. v. Superior Court* (2008) 162 Cal.App.4th 146, 157 (*San Joaquin*) [while retail service and wholesale service may be the same type of service, they are different classes of service].)

Leucadia WWD's Retail Recycled Water Service is a New or Different Service Requiring San Diego LAFCO Approval

Leucadia WWD finally asserted its delivery of recycled water service to the Resort is not a "new or different" class of service requiring San Diego LAFCO's approval. (See Gov. Code § 56824.10; *San Joaquin, supra*, 162 Cal.App.4th 146 at pp. 148-149 [a special district must obtain LAFCO approval to provide a new or different class of service].) However, under Rule 4.9, a "new or different" class of service in this context refers to a class of service that is new or different from the classes of services San Diego LAFCO identified in the Sphere and Service Report. Because the Sphere and Service Report identified Leucadia WWD as a wholesale provider of recycled water services, Leucadia WWD's delivery of retail recycled water service would be a new or different class of service requiring San Diego LAFCO's approval.

Conclusion

Carlsbad MWD appreciates the Committee's and San Diego LAFCO's efforts to clarify Leucadia WWD's role as a recycled water service provider. If both parties are authorized to provide retail water services to the Resort's south course as Leucadia WWD contends, there is a significant duplication of services not identified in the current Sphere and Service Report that is fostering competition, rather than cooperation, among the two agencies. Carlsbad MWD believes the preliminary determination produces the only result consistent with the Leucadia WWD's historical role, the applicable statutes and rules, and San Diego LAFCO's charge of encouraging and providing for the planned, efficient, and well-ordered delivery of municipal services. Consequently, Carlsbad MWD respectfully requests the Committee and San Diego LAFCO approve the preliminary determination.

Sincerely,

Scott Chadwick
Executive Manager

Enclosures:

Exhibit 1 – Excerpts from Carlsbad MWD Ordinance No. 43
Exhibit 2 – Excerpts from Carlsbad MWD's 2012 Recycled Water Master Plan
Exhibit 3 – Letter of Aug. 27, 2018 from Carlsbad MWD to the Resort
Exhibit 4 – Excerpts from the Sphere and Service Report
Exhibit 5 – Excerpts from the North San Diego Water Reuse Coalition Website
Exhibit 6 – Excerpt from Leucadia WWD's 2018 Asset Management Plan
Exhibit 7 – 1961 Agreement Between Leucadia WWD and the Resort
Exhibit 8 – Leucadia WWD's Resolution Approving the 1961 Agreement
Exhibit 9 – 2013 Agreement Between Leucadia WWD and the Resort
Exhibit 10 –Leucadia WWD Email, Staff Report, and Minutes Re: 2013 Agreement
Exhibit 11 – 2018 Agreement Between Leucadia WWD and the Resort
Exhibit 12 – Excerpts from Leucadia WWD's Water Discharge Permit
Exhibit 13 – Excerpts from Carlsbad MWD's Master Reclamation Permit
Exhibit 14 – Email from Former San Diego LAFCO Executive Director
Exhibit 15 – Excerpts from SD LAFCO Rules

cc (by email only):

Celia A. Brewer, General Counsel, Carlsbad Municipal Water District
Gary Barberio, Deputy City Manager, Community Services, City of Carlsbad
Paz Gomez, Deputy City Manager, Public Works, City of Carlsbad
Vicki Quiram, General Manager, Carlsbad Municipal Water District
Cindie K. McMahon, Assistant General Counsel, Carlsbad Municipal Water District
Paul Bushee, General Manager, Leucadia Wastewater District
Wayne Brechtel, General Counsel, Leucadia Wastewater District
Brian Hughes, General Manager, Omni La Costa Resort & Spa
Michael Colantuono, Legal Counsel, San Diego LAFCO

Exhibit 1

ORDINANCE NO. 43

AN ORDINANCE OF THE BOARD OF DIRECTORS OF CARLSBAD MUNICIPAL WATER DISTRICT (CMWD), CARLSBAD, CALIFORNIA, MANDATING USE OF RECYCLED WATER AND RESCINDING ORDINANCE NO. 31

WHEREAS, the people of the State of California have a primary interest in the development of facilities to reclaim water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the state; and (California Water Code Section 13510); and

WHEREAS, conservation of all available water resources requires the maximum reuse of wastewater for beneficial uses of water (California Water Code Section 461); and

WHEREAS, continued use of potable water for irrigation of greenbelt areas may be an unreasonable use of such water where recycled water is available (California Water Code Section 13550);

NOW, THEREFORE, the Board of Directors of the Carlsbad Municipal Water District (CMWD) of the City of Carlsbad, California, hereby ordains as follows:

SECTION 1: FINDINGS

The state policies described above are in the best interest of the District. The majority of jurisdictions in San Diego County have adopted measures to promote water reclamation. This ordinance is necessary to protect the common water supply of the region which is vital to public health and safety, and to prevent endangerment of public and private property. San Diego County is highly dependent on limited imported water for domestic, agricultural, and industrial uses. The reliability of the supply of imported water is uncertain. By developing and utilizing recycled water, the need for additional imported water can be reduced. In light of these circumstances, certain uses of potable water may be considered unreasonable or to constitute a nuisance where recycled water is available or production of recycled water is unduly impaired. Recycled water would be more readily available in seasons of drought when the supply of potable water for nonessential uses may be uncertain.

SECTION 2:WATER RECLAMATION POLICY

It is the policy of the District that recycled water shall be used within the jurisdiction wherever it has determined that its use is economically justified, financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare, and the environment.

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SECTION 4:WATER RECLAMATION MASTER PLAN

4.1 GENERAL: Upon adoption of this ordinance, the District shall prepare and adopt by resolution a Water Reclamation Master Plan to define, encourage, and develop the use of recycled water within its boundaries. The Master Plan shall be updated not less often than every five years.

4.2 CONTENTS OF THE WATER RECLAMATION MASTER PLAN: The Water Reclamation Master Plan (Master Plan) will include the following:

4.2.1 PLANTS AND FACILITIES. Evaluation of the location and size of present and future reclamation treatment plants, distribution pipelines, pump stations, reservoirs, and other related facilities, including cost estimates and potential financing methods.

4.2.2 RECYCLED WATER SERVICE AREAS. A designation of the lands within the District service area that can or may in the future use recycled water in lieu of potable water. Recycled water uses may include, but are not limited to, the irrigation of greenbelt and agricultural areas, filling of artificial lakes, and appropriate industrial and commercial uses.

4.2.3 QUALITY OF WATER TO BE RECLAIMED. For each water reclamation treatment facility, an evaluation of water quality with respect to the effect on anticipated uses of recycled water to be served by each treatment facility.

4.2.4 WATER QUALITY PROTECTION MEASURES. Recommend control measures and management practices to maintain or improve the quality of recycled water.

4.2.5 MANDATORY RECYCLED WATER USE. Within the recycled water service area, a description shall be prepared of where greenbelt irrigation, agricultural irrigation, commercial office buildings, filling of artificial lakes, or industrial processes can be limited to the use of recycled water. This information shall be used by District officials to mandate construction of recycled water distribution systems or other facilities in new and existing developments for current or future recycled water use as a condition of any development approval or continued water service if future reclamation facilities are proposed in the Master Plan that could adequately serve the development.

4.2.6 RULES AND REGULATIONS FOR RECYCLED WATER USE. Establish by resolution, general rules and regulations governing the use and distribution of recycled water.

4.2.7 COORDINATION AMONG AGENCIES FOR RECYCLED WATER USE. An examination shall be made of the potential for initiating a coordinated effort between the Carlsbad Municipal Water District and other regional agencies to share in the production and utilization of recycled water.

SECTION 5: PROCEDURES

5.1 EXISTING POTABLE WATER SERVICE:

5.1.1 PRELIMINARY DETERMINATION. Based upon the Master Plan, and upon the designation of each recycled water service area or the commencement of the design of new recycled water facilities, the District shall make preliminary determinations as to which existing potable water customers shall be converted to the use of recycled water. Each water customer shall be notified of the basis for a determination that conversion to recycled water service will be required, as well as the proposed conditions and of the need for a plan of implementation for such conversion.

5.1.2 NOTICE. The notice of the preliminary determination, including the proposed conditions and time schedule for compliance, shall be sent to the water customer by certified mail.

Exhibit 2

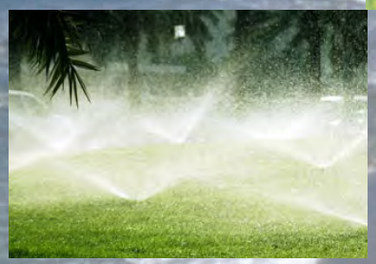
FINAL REPORT



Carlsbad
Municipal Water District

2012
RECYCLED WATER
Master Plan





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As shown in Table 2.2, CMWD's total demand has steadily increased between 2004 and 2009 due to the implementation of Phase II and the connection of new customers. However, in 2010 the demand reduced significantly. The reasons for the reduction are discussed in more detail in Chapter 3, but include the recent economic downturn, increases in recycled water rates, increased conservation (efficiency), watering restrictions associated with potable water, and cooler than average weather.

Table 2.2 also shows that CMWD serves most of its recycled water to the Home Owners Associations (HOAs), Golf Courses, and Commercial Properties for landscape irrigation. Table 2.3 lists the demands for CMWD's five largest users. Note that some of the demand associated with each of the five largest users may be considered multiple use types.

Table 2.3 **Largest Existing Recycled Water Customers**
Recycled Water Master Plan
Carlsbad Municipal Water District

	Average Annual Demand (afy)						
Customer Name	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
La Costa Resort - North Course	167	273	287	178	263	335	272
La Costa Resort - South Course[1]	239	262	250	278	193	198	146
Park Hyatt Aviara Resort[2]	319	298	265	328	320	325	266
Aviara Resort Association	190	168	176	185	184	195	159
Kemper Sports Management[3]	0	0	0	139	396	405	274
Legoland	141	170	141	129	122	137	104
Total Top 5 Users	**1,056**	**1,171**	**1,119**	**1,237**	**1,478**	**1,595**	**1,221**

Notes:
(1) Supplied by Gafner WRP, not connected to the rest of the recycled water distribution system.
(2) Named the Four Seasons Resort prior to June 21, 2010.
(3) This user represents the golf course "The Crossings at Carlsbad".

As seen by comparing Table 2.3 to Table 2.2, CMWD's five largest customers comprise over one-third of the total demand for 2009 and 2010. As shown, the decline in the overall system demands is also seen in the five largest users. The locations of CMWD's five largest recycled water customers are shown on Figure 2.1.

- **System Identification.** All appurtenances related to the system (sprinkler heads, valve boxes, tags, quick couplers, etc.) must be color coded purple. All valve boxes shall be tagged with recycled water tags. On retrofit jobs, underground piping does not need to be changed.
- **Sprinkler Location.** Sprinklers located close to swimming pools, eating areas, and sand-filled play areas for children should be of the bubbler non-spray type or have adjustable nozzles. Alternatively, sprinklers can be located so that these areas are not oversprayed. 180-degree turf sprinkler heads adjacent to sidewalks are not acceptable since they overspray and cover 190 degrees.
- **Sprinkler Coverage.** Sprinklers must only cover the designated area. Measures need to be taken to avoid misting and wind blown mist.
- **Drinking Fountains.** Drinking fountains must be protected from recycled water runoff, spray, or mist.
- **Ponds.** If a pond is receiving recycled water, potable water to the pond must be delivered through an air gap. Ponds can have fountains provided that the County's design guidelines are followed.
- **Food Establishments.** Recycled water should not be installed near drive-through windows or outdoor patio eating areas.
- **Hours of Irrigation:** The County's Manual describes standard plan notes requiring hours for irrigation to be between 10:00 p.m. and 6:00 a.m. However, if the recycled water meets tertiary treatment standards, the local water authority may modify the hours for irrigation under the qualification that irrigation during public use periods is supervised. Thus, CMWD could modify the hours of irrigation for customer sites where supervision during public hours is possible.
- **Cross-Connection Testing:** The County's manual also specifies testing procedures and frequency to ensure that there are no cross connections with the potable water system.

5.5.2 District Mandatory Use Ordinance

CMWD currently has an ordinance mandating the use of recycled water in accordance with California Water Code, Sections 461, 13510, and 13550. This ordinance is included in Appendix E of this report and summarized below.

The ordinance recognizes that recycled water can reduce dependence on imported water and that certain uses of potable water may pose a nuisance where recycled water is available. Accordingly, the ordinance declares that recycled water shall be used within the jurisdiction wherever it is economically justified, financially and technically feasible, and

consistent with legal requirements for preservation of public health, safety and welfare, and the environment.

CMWD is responsible for making the preliminary determination as to which existing potable water customers shall be converted to recycled water. Notice of this determination is sent to the customer, and upon receipt the customer has 90 days to submit an implementation plan to CMWD. The cost for the preparation of this plan should be paid by the customers with the exception of customers that decide to ask CMWD to prepare this plan and are willing to sign an acknowledgement to accept and install the proposed improvements in the plan prepared by CMWD. Once approved, the plan must be implemented within six months. The customers have 30 days to contest any preliminary determination after notice of receipt.

As part of the application process for a new development project, CMWD staff review planning documents to determine if the proposed development requires recycled water, if the proposed development should include provisions for future recycled water use, or if the development is considered suitable for recycled water. Provisions for a current or future recycled water connection may be required as a condition of approval. In addition, applications for remodeling of a property may also be reviewed for recycled water use feasibility. If the property in question is considered suitable for existing or future recycled water use, the use of recycled water may be conditioned on the remodeling application.

The ordinance also specifies CMWD policies for requested recycled water service, plan approval, field inspection, temporary use of potable water (until recycled water is available), and the recycled water rate.

The ordinance is adequate for CMWD's purposes as it defines CMWD's authority in requiring recycled water use, clearly lists criteria for identifying potential users, and outlines the process for new customer connections.

5.5.3 District Regulations and Design Standards

CMWD has also developed rules and regulations for the use of recycled water. These rules and regulations are in included in the following three chapters of CMWD's General Design Standards, Volume 2 – Potable and Recycled Water Standards (CMWD, 2010):

- **Chapter 2 – Rules and Regulations for Use of Recycled Water:** This chapter sets forth the general requirements and conditions as well as the administrative requirements pertaining to the use of recycled water in CMWD as required by the Master Reclamation Permit, the CDPH, and the DEH.
- **Chapter 3 – Design Guidelines and Procedures:** This chapter provides the design procedures, planning and design criteria, as well as the specifications for the location, type, and size of water facilities.

incorporating the existing private pump station and pipeline into CMWD's system; rather the costs for Expansion Segment 6 consist solely of new pipeline to reach the 3 additional customers. Note that the capacity of the existing pump station was not evaluated; it was assumed that the pump station would have sufficient spare capacity to accommodate the additional demands.

9.3.1.7 Expansion Segment 7

Expansion Segment 7 consists of 2,500 feet of pipeline to serve 1 customer with an ultimate system demand of 64 afy. Expansion Segment 7 provides service to the Quarry Creek development from Zone 580. Based on an estimated elevation of 117 ft-msl, static pressures could exceed 200 psi. Thus, a pressure regulator may be required. However, it is anticipated that this would be constructed on site and paid for by the developer. Based on input from CMWD staff, it is anticipated that the alignment along Tamarack Avenue and down the hillside, crossing approximately 300 feet of HOA property outside the public right of way, is preferable to the alignment along Milford Place or College Boulevard and Marron Road, portions of which would extend outside CMWD's service area.

9.3.1.8 Expansion Segment 8 (OMWD and La Costa Resort and Spa)

Expansion Segment 8 consists of 6,500 feet of pipeline to serve La Costa Resort and Spa and OMWD's demands lower zone demand with an ultimate system demand of 520 afy. This segment would be a part of Zone 384. Expansion Segment 8 consists of a pipeline along El Camino Real, connecting CMWD's recycled water system to OMWD and existing landscape irrigation at La Costa Resort and Spa. The feasibility of developing this alternative depends greatly on the timing of recycled water needs from OMWD.

Alternatively, this alignment could also be used to connect LWWD's (Leucadia Wastewater District) currently isolated Gafner WRP distribution system to CMWD's extensive recycled water distribution system, assuming appropriately sized pumps would be installed at Gafner WRP to deliver flows to Zone 384. Based on alternative 4 supply recommendation in Chapter 4, Gafner would not be utilized as a supply source. If another supply alternative from Chapter 4 is used, use of Gafner may be beneficial to CMWD.

9.3.1.9 Expansion Segment 9

Expansion Segment 9 consists of 5,800 feet of pipeline to serve 5 customers with an ultimate system demand of 78 afy. This segment would be a part of Zone 318, expanding the recycled water system south to the San Pacifico HOA and various existing landscape irrigation and potential development. A portion of this alignment extends Zone 318 south along Avenida Encinas to the Poinsettia Village shopping center and the Lake Shore Garden mobile home park.

9.3.4 Alternatives Ranking and Prioritization

The expansion segments presented in Section 9.3.1 were prioritized based on unit conveyance cost estimates presented in Table 9.4. The resulting ranking is presented in Table 9.5 and graphically shown in Figure 9.6. This figure also shows the cumulative demand added to the existing system if all expansion segments were constructed in the order of increasing unit cost. The total cumulative demand listed in Table 9.5 includes CMWD's existing and near-term demands as well as all potential demands discussed in Chapter 3.

Table 9.5 Expansion Segments Ranking
Recycled Water Master Plan
Carlsbad Municipal Water District

Rank	Expansion Segment	Pipeline Length (ft)	Capital Cost[1]	Alignment Unit Cost ($/af)	Cumulative Potential Demand (afy)	Total Cumulative Demand (afy)[2]
0	0	-	$185,000	$20	598	4,215
1	4A	700	$485,000	$69	1,046	4,663
2	8	6,500	$1,505,000	$184	1,566	5,183
3	3	8,600	$1,755,000	$335	1,898	5,515
4	7	2,500	$460,000	$458	1,963	5,580
5	10	3,400	$650,000	$504	2,045	5,662
6	2	17,500	$7,700,000	$626	2,827	6,444
7	9	5,800	$1,090,000	$894	2,904	6,521
8	4B	23,200	$5,220,000	$1,005	3,234	6,851
9	14	5,900	$1,070,000	$1,166	3,293	6,910
10	15	2,300	$445,000	$1,319	3,314	6,931
11	4C	63,800	$14,820,000	$1,615	3,896	7,513
12	16	1,400	$265,000	$1,753	3,906	7,523
13	1	15,400	$3,025,000	$1,833	4,011	7,628
14	5	54,200	$9,995,000	$1,969	4,333	7,950
15	18	5,400	$1,045,000	$2,145	4,364	7,981
16	13	5,900	$1,145,000	$2,303	4,396	8,013
17	6	3,900	$725,000	$2,330	4,416	8,033
18	12[3]	8,100	$1,545,000	$2,391	4,457	8,074
19	17	19,000	$3,410,000	$2,558	4,541	8,158
20	11[3]	25,700	$4,955,000	$2,614	4,662	8,279
Total[4]		**279,200**	**$61,495,000**		**4,662**	**8,279**

Notes:
(1) Cost estimates and cost assumptions are discussed in detail in Chapter 9.
(2) Includes existing plus near-term demand of 3,617 afy (based on reduced 2010 demands).
(3) Expansion Segment 12 requires implementation of Expansion Segment 11, which requires Expansion Segment 2.
(4) Excludes Expansion Segment 19 and thus differs from Table 9.1 total by 4 afy.

capture approximately 71 percent of the remaining potential demand. A summary of the demands and costs of the Phase III expansion segments is presented in Table 9.6.

Table 9.6 Preferred Alternative – Phase III
Recycled Water Master Plan
Carlsbad Municipal Water District

Expansion Segment	Retrofit AAD[(1)] (afy)	Ultimate AAD[(1)] (afy)	Pipeline Length (ft)	Capital Cost[(2,3)]	Alignment Unit Cost[(4)] ($/af)
0	126	598	-	$185,000	$20
4A[(5)]	448	448	700	$485,000	$69
8	520	520	6,500	$1,505,000	$184
3	53	333	8,600	$1,755,000	$335
7	0	64	2,500	$460,000	$458
10	82	82	3,400	$650,000	$504
2	782	782	17,500	$7,700,000	$626
4B	330	330	23,200	$5,220,000	$1,005
9	65	78	5,800	$1,090,000	$894
14	58	58	5,900	$1,070,000	$1,166
15	22	22	2,300	$445,000	$1,319
Total	**2,485**	**3,314**	**76,400**	**20,565,000**	**$378[(6)]**

Notes:
(1) Phase III AAD includes temporary agricultural demands but excludes development demands, which are not anticipated to be fully in place by the time Phase III is constructed. Ultimate AAD includes development demands, but excludes agricultural demands, which will be replaced by development.
(2) Includes costs for pipelines as well as pressure regulating stations and booster pumping stations as required. These additional facilities are discussed in Section 9.3.1.
(3) Capital Costs include a construction cost contingency of 20 percent and additional markups for engineering and legal costs of 27.5 percent. Cost estimates and cost assumptions are discussed in detail in Chapter 10.
(4) Unit cost assumes a useful life of 50 years and 6.0 percent interest.
(5) Pipeline lengths for Expansion Alternative 4A are not anticipated to be significant due to the utilization of the existing unused failsafe pipeline from Shadowridge.
(6) Overall unit cost for all expansion segments listed as a part of Phase III.

As shown in Table 9.6, it is estimated that Phase III demand of the segments listed in this table will add approximately 3,314 afy of new demand to CMWD's existing recycled water system for a distribution system capital cost of about $20 million.

It is anticipated that the implementation of Phase III will take approximately 10 years, five years for building the infrastructure to support Phase III and five years to connect the customers. The combined unit cost of the expansion segments of Phase III without treatment is estimated at $394 per acre-foot. The total Phase III demand with the existing and near-term demand of 4,100 afy is estimated to reach about 7,414 afy.

Exhibit 3

Carlsbad
Municipal Water District

VIA EMAIL AND US MAIL

August 27, 2018

Tom Kermabon, General Manager
Omni La Costa Resort and Spa
2100 Costa Del Mar Road
Carlsbad, CA 92009

RE: Recycled Water Service Connection for South Golf Course

Dear Mr. Kermabon:

This letter is to inform you that beginning September 1, 2018, the Carlsbad Municipal Water District (CMWD) will no longer be purchasing recycled water from our wholesaler, the Leucadia Wastewater District (LWD), for use on the South Golf Course of the Omni La Costa Resort and Spa (Omni). Beginning on this date, we request that Omni use its current recycled water service connection at your north course as your supply point for the south course also. CMWD's operations staff has met several times with your golf course maintenance staff over the past few weeks to verify that this connection will provide an uninterruptable and on demand supply of water for both golf courses.

Over the past couple of decades, CMWD has made significant investment in the expansion of its treatment facilities and distribution system to ensure a reliable supply of high quality recycled water to over 829 recycled water customers. We believe the new supply point for Omni's south course will simplify your operations and significantly improve the reliability of your water supply so that you will not need to use the more expensive potable water backup connection that your staff has been using when LWD is not able to provide recycled water.

Should you have any questions or concerns about using this connection point to serve both courses, please do not hesitate to contact me or my staff in the water operations division. I can be reached at (760) 603-7354.

Sincerely,

Terry L Smith

Terry L Smith
Interim Utilities Director

CC (by email only):
Celia Brewer, General Counsel, Carlsbad Municipal Water District
Paz Gomez, Public Works Director, City of Carlsbad

Exhibit 4

May 6, 2013

REVISED: JUNE 3, 2013

8

TO: Local Agency Formation Commission

FROM: Executive Officer
Local Governmental Analyst III

SUBJECT: Five-Year Sphere of Influence and Service Review: North County Coastal (San Dieguito) Water and Wastewater Agencies: Carlsbad Municipal Water District (MSR13-20,SR13-20); Fairbanks Ranch Community Services District (MSR13-21, SR13-21); Leucadia Wastewater District (MSR13-22, SR13-22); Olivenhain Municipal Water District (MSR13-23, SR13-23); Rancho Santa Fe Community Services District (MSR13-24, SR13-24); San Dieguito Water District (MSR13-25, SR13-25); Santa Fe Irrigation District (MSR13-26, SR13-26); and Whispering Palms Community Services District (MSR13-27, SR3-27)

EXECUTIVE SUMMARY

The North County Coastal (San Dieguito) Sphere of Influence and Service Review (MSR) covers the public agencies in the San Dieguito area providing water, wastewater, and/or recycled water services: Carlsbad Municipal Water District (MWD); Fairbanks Ranch Community Services District (CSD); Leucadia Wastewater District (WWD); Olivenhain MWD; Rancho Santa Fe CSD; San Dieguito Water District (WD); Santa Fe Irrigation District (ID); and the Whispering Palms CSD.

The subject agencies' spheres are being evaluated as part of the comprehensive *2012-2013 Sphere of Influence and Service Review* that will sequentially address all local agency spheres in San Diego County and is required by State Law and San Diego LAFCO Policy. Portions of the subject local area were previously reviewed in the *North Central San Diego County Municipal Service Review* (MSR) *and Sphere of Influence Update Study* that was adopted in 2005 (MSR02-18; SR02-18 [A-D]).

development within its service area. The CSD has capacity to serve approximately 130 additional EDU.

While the Fairbanks Ranch CSD does not currently treat wastewater to Title 22 standards, the CSD could potentially add tertiary treatment facilities in the future, pending results of an ongoing feasibility analysis. Due to high TDS levels, demineralization facilities would also be required.

Planning for Areas Outside of Sphere

The Fairbanks Ranch CSD has stated that the district's current wastewater flow and contractual/physical treatment capacity is adequate to serve the territory both within the district's service area and within the existing coterminous sphere. The Fairbanks Ranch CSD sphere is bordered by existing special districts; therefore, the Fairbanks Ranch CSD is not actively planning for service provision outside of its sphere.

Cooperative Agreements/Regional Coordination

Fairbanks Ranch CSD is not a member agency of the North San Diego County Regional Recycled Water Project due to its isolated location in relation to the other member agencies' infrastructure and the economic infeasibility of interconnection to regional tertiary treatment facilities.

- **Leucadia Wastewater District**

Established in 1959, Leucadia Wastewater District (WWD) is authorized to provide wastewater collection, treatment, disposal and service to a population of approximately 60,000 across a service area of approximately 16-square miles that includes La Costa, Leucadia and the Village Park area of Encinitas. The WWD is a member of the Encina Wastewater Authority (EWA) and joint owner of the EWA's Encina Water Pollution Control Facility (EWPCF) along with the cities of Carlsbad, Encinitas, and Vista, the Vallecitos Water District, and the Buena Vista Sanitation District. Leucadia WWD also provides wastewater collection services to a portion of the City of Carlsbad.

Service planning documents

2008 Asset Management Plan and 2009 Sewer System Management Plan.

Wastewater Flow/Treatment Capacity

Leucadia WWD reports its wastewater treatment capacity at 7.11 MGD or 215 EDU, and an average wastewater flow volume of 4.01 MGD or 144 EDU. Collected wastewater is delivered to the Encina Wastewater Authority, where it is treated by the Encina Water Pollution Control Facility (EWPCF) and either released into the ocean or treated further and used as recycled water.

Flows generated within the Leucadia WWD are monitored on a continual basis by both the District and the Encina Wastewater Authority (EWA). The EWPCF presently has a capacity of

approximately 41 MGD; the Leucadia WWD owns capacity of 7.11 MGD. With an ultimate flow projection of 6.46 MGD, the WWD has approximately 0.55 MGD of emergency reserve capacity.

Facilities/Disposal

The District owns approximately 20% of the treatment capacity at EWPCF and presently transports an average of 4.5 MGD of wastewater to the Encina facility. Leucadia WWD maintains an approximately 190-mile gravity collection system.

Leucadia WWD also owns and operates the Gafner Water Reclamation Facility (WRF), which has tertiary treatment capacity of 1.0 MGD. The WRF receives and treats secondary effluent delivered from the EWPCF. Recycled water produced at the Gafner Facility is sold, on a wholesale basis, to irrigate the La Costa Resort & Spa Golf Course via a sales agreement with Carlsbad MWD.

Anticipated Build-Out/Capacity

The Leucadia WWD service area is at approximately 92% build out with an anticipated 100 to 200 EDUs connecting to the system annually over the next 20 years. EDU build out is assumed at 30,045 EDUs. The WWD has transitioned its capital improvement program from growth-based projects to replacement-based projects.

Planning for Areas Outside of Sphere

The Leucadia MWD has stated that the district's current wastewater flow and contractual/physical treatment capacity is adequate to serve the territory both within the district's service area and within the existing larger-than-district sphere. The Leucadia MWD sphere is bordered by existing special districts and incorporated cities; therefore, the Leucadia WWD is not actively planning for service provision outside of its sphere.

Cooperative Agreements/Regional Coordination

Leucadia WWD is a member agency of the North San Diego County Regional Recycled Water Project, which is a cooperative of ten local agencies to study greater interconnection and development of northern San Diego County's recycled water infrastructure. This regional recycled water supply project could potentially supply a demand of 16,554 AF. The member agencies are coordinating efforts to obtain funding opportunities for the regional project.

- **Olivenhain Municipal Water District**

Olivenhain MWD is authorized to provide wastewater collection and treatment services in the 4S Ranch and Rancho Cielo communities. The 4S Ranch and Rancho Cielo areas include approximately 5,300 acres and will ultimately contain approximately 7,200 equivalent dwelling units (EDU). The District presently provides sewer collection and treatment services for approximately 6,943 EDU.

The 4S Ranch Water Reclamation Facility (WRF) was expanded to meet projected demand at built-out and was completed in 2003. The new and expanded wastewater plant is able to

WWD. Carlsbad MWD supplies recycled water to the south course of the La Costa Resort and Spa from the Leucadia WWD's Gafner WRP through a separate distribution system.

Anticipated Build-Out/Capacity

Nearly 20% of the potable water provided within Carlsbad MWD is for irrigation uses. Development of an expanded recycled water system within the Carlsbad MWD service area would provide incentives for irrigation users to switch from potable water to recycled water, potentially lowering the MWD's total potable water demands.

The MWD reports that recycled water deliveries are projected to be 6,500 AFY (5.8 MGD) by the year 2020, which is an increase of approximately 85% over existing recycled water demands. Recycled water use is expected tol increase as the distribution system is expanded into future development areas and from conversion of existing potable water customers to the recycled water system.

Planning for Areas Outside of Sphere

Through an agreement dated September 24, 2008 with Vallecitos WD, Carlsbad MWD provides recycled water service to Vallecitos WD customers located within the City of Carlsbad. In 2010, Carlsbad MWD reports that it sold 75-acre feet of recycled water through nine meters within Vallecitos WD's service area.

Cooperative Agreements/Regional Coordination

Carlsbad MWD is a member agency of the North San Diego County Regional Recycled Water Project, which is a cooperative of ten local agencies to study greater interconnection and development of northern San Diego County's recycled water infrastructure. This regional recycled water supply project could potentially supply a demand of 16,554 AF. The member agencies are coordinating efforts to obtain funding opportunities for the regional project.

- **Leucadia Wastewater District**

The Leucadia Wastewater District (WWD) sends treated secondary effluent from the EWPCF to their Gafner Water Reclamation Facility (WRF). This water reclamation facility presently produces 86 million gallons of recycled water per year (0.25 MGD), and has the design capacity to produce up to 350 million gallons per year (approx. 1.0 MGD). Presently, this recycled water is sold to the Carlsbad MWD, who sells it to the La Costa Resort & Spa Golf Course for irrigation purposes.

Service planning documents

2008 Asset Management Plan and 2009 Sewer System Management Plan.

Facilities/Distribution

In 1993, the District upgraded the Gafner Water Reclamation Facility (WRF) to meet new regulatory standards for recycled water. The new upgrades included a 1.0 MGD filtration

plant that provided a third tertiary stage of treatment to the WRF's original primary and secondary facilities. The District opted to decommission the original primary and secondary facilities in 1997, and began piping treated secondary effluent from the Encina plant to the new Gafner filtration facility.

Anticipated Build-Out/Capacity

Leucadia WWD can produce up to 350 million gallons of recycled water per year at the Gafner WRF. The WWD has plans to expand their wastewater recycling program, with a goal of 1.0 billion gallons per year.

Planning for Areas Outside of Sphere

Recycled water produced at the Gafner Facility is sold, on a wholesale basis, to irrigate the La Costa Resort & Spa Golf Course via a sales agreement with Carlsbad MWD.

Cooperative Agreements/Regional Coordination

Leucadia WWD is a member agency of the North San Diego County Regional Recycled Water Project, which is a cooperative of ten local agencies to study greater interconnection and development of northern San Diego County's recycled water infrastructure. This regional recycled water supply project could potentially supply a demand of 16,554 AF. The member agencies are coordinating efforts to obtain funding opportunities for the regional project.

- **Olivenhain Municipal Water District**

Olivenhain MWD serves two areas in its recycled water system: the Northwest quadrant and Southeast quadrant. Since 2003, Olivenhain Municipal Water District (MWD) has produced approximately 1.0 MGD of recycled water at the 4S Ranch Water Reclamation Facility (WRF).

Recycled water produced at the WRF is used throughout Olivenhain MWD's Southeast Quadrant for major irrigation users such as golf courses, large landscape areas, parks, and school grounds. Demand for recycled water in the Southeast Quadrant is supplemented by recycled water purchased from the City of San Diego and Rancho Santa Fe Community Services District. Olivenhain MWD also serves recycled water customers in its Northeast Quadrant with recycled water purchased from Vallecitos Water District.

Service planning documents

2012-2013 Operating and Capital Budget, 2011 Potable and Recycled Water Master Plan and Capital Improvement Program.

Connections/EDUs

Olivenhain MWD reports that it delivers an approximate total of 3,000 AF per year of recycled water to 250 metered accounts. The MWD purchases a total of 1,040 AF of recycled water

CONCLUSION AND RECOMMENDATIONS

The San Dieguito Sphere and MSR conclusions and recommendations confirm that the subject agencies are adequately providing water and wastewater services to the study area. The report recommends that your Commission:

- Affirm the current *larger-than dist*rict spheres of influence for the Leucadia Wastewater District (WWD), Olivenhain MWD, Rancho Santa Fe CSD, and the Whispering Palms CSD;
- Affirm the current *smaller-than district* spheres for the San Dieguito Water District (WD), and the Santa Fe Irrigation District (ID);
- Affirm the *coterminous* spheres for the Carlsbad Municipal Water District (MWD), and the Fairbanks Ranch Community Services District (CSD);
- Affirm the existing *service-specific* spheres for the Olivenhain MWD (Wastewater), and the Rancho Santa Fe CSD (Utility Undergrounding); and,
- Remove the existing special study area designations from the Olivenhain MWD sphere, retain the special study area designations for the sphere of the Rancho Santa Fe CSD (Sun Valley, Bridges Project); and,
- Discuss the potential expansion of the Rancho Santa Fe CSD (Sun Valley) special study area to include the unincorporated portion of the adjacent Flower Hill development area. (Attached map)

Approval of staff recommendations for the spheres of the eight special districts reviewed in the foregoing report is part of a comprehensive sphere review program that will sequentially review and affirm, minimally adjust, or update all spheres in San Diego County. Affirmation of the existing spheres for the Carlsbad MWD; Fairbanks Ranch CSD; Leucadia WWD; Olivenhain MWD; Rancho Santa Fe CSD; San Dieguito WD; Santa Fe ID; and the Whispering Palms CSD will bring these local agencies into compliance with State Law [Government Code § 56425(g)] and San Diego LAFCO Policy L-102, which require review of all spheres at five-year intervals. Municipal Service Review and Sphere of Influence Determinations will be developed for the subject San Dieguito MSR agencies following the Commission's determination of this report.

Staff is also recommending that your Commission discuss the potential need to update LAFCO's Rules regarding special district functions and services. The LAFCO Rules were originally adopted in the 1970s when special districts were first seated on the Commission. As the provision of water and sewer functions and services have evolved over time, there is a need to better define related terms that the special districts use for describing those functions and services. An example is the terms "wastewater" and "recycled water" services, which are currently used by the special districts and regulatory bodies in reference to "sewer" and "reclaimed water" services. Another example is the need to clarify the production and supply of reclaimed/recycled water between special districts. It is therefore,

Exhibit 5

LEUCADIA WASTEWATER DISTRICT

Paul Bushee
General Manager
Leucadia Wastewater District
1960 La Costa Avenue
Carlsbad, CA 92009

pbushee@lwwd.org
760-753-0155 x 3014
http://www.lwwd.org/

Leucadia WWD wholesales recycled water to the City of Carlsbad for use on the south golf course at the Omni La Costa Resort and Spa. Leucadia WWD owns and operates the Gafner WRF, which has a 1 MGD capacity to treat water to tertiary levels. Secondary effluent is provided to the Gafner WRF from the Encina WPCF. Tertiary-treated recycled water from the Gafner WRF is supplied directly to the Omni La Costa Resort and Spa via a distribution system owned and maintained by Leucadia WWD.

Leucadia WWD has a 900 foot recycled water pipeline installed from the Gafner WRF to the east edge of El Camino Real in readiness for a future connection and supply of recycled water to other agencies' recycled water distribution systems. As part of the Project, pipelines and a pump station will be constructed to enable Leucadia to supply recycled water to adjacent agencies.

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OLIVENHAIN Municipal Water District

Kimberly Thorner
General Manager
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, CA 92024

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760-753-6466
https://www.olivenhain.com

Olivenhain MWD currently supplies recycled water to two separate portions of its service area. In the southeastern portion of the service area, wastewater is collected and treated to tertiary levels at the 4S Ranch WRF, which is a 2 MGD capacity water reclamation facility. The 4S Ranch WRF currently treats all wastewater that it receives to tertiary levels, and recycled water from the facility is used for non-potable irrigation. To meet recycled water demands in the southern portion of Olivenhain MWD's service area, Olivenhain MWD also purchases additional recycled water from the City of San Diego (800 acre-feet per year [AFY]) and the Rancho Santa Fe Community Services District (CSD) (110 AFY). In the northwestern portion of the service area, Olivenhain MWD purchases recycled water from Vallecitos WD's Meadowlark WRF and San Elijo JPA's San Elijo WRF. Olivenhain MWD's 4S Ranch WRF does not currently have the capacity to provide additional recycled water to the northwest portion of Olivenhain MWD's service area.

Facilities associated with the 4S Ranch WRF include a 3 MG recycled water blending reservoir, several pump stations, a 1 MG recycled water tank, and approximately 33 miles of recycled water pipeline. Recycled water facilities in the northwest area also include approximately 15 miles of recycled water pipelines. As part of the Project, this distribution system will be expanded with over 29,000 feet of recycled water pipelines, pump stations, reservoirs, pressure reducing stations, or other facilities as necessary.

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industrial purposes associated with the cooling tower at the Sempra Energy Power Plant. Recycled water storage is provided at the HARRF (1 MG) and Leslie Lane Reservoir (2 MG) (Escondido 2011b).

City of Oceanside

The City of Oceanside owns and operates two wastewater treatment plants (WWTPs): La Salina WWTP and San Luis Rey WWTP. Currently, only a small amount of recycled water from the San Luis Rey WWTP is used at a local golf course and Whelan Lake, both within the City of Oceanside. The City of Oceanside also has some previously constructed recycled water pipelines that will ultimately serve existing potable water users and future development.

The La Salina WWTP currently has a secondary treatment capacity of 5.5 MGD. Due to limited customer base in the downtown service area associated with the La Salina WWTP, there is limited ability to add tertiary treatment facilities. The City of Oceanside has estimated about 1 MGD of tertiary treatment capacity could be constructed at the site, though there are no current plans for expansion.

The San Luis Rey WWTP provides secondary treatment for most of the wastewater generated within the City of Oceanside's service area, some of which is further treated to tertiary levels. The secondary treatment capacity of the existing San Luis Rey WWTP is 13.5 MGD, while the tertiary capacity is 0.7 MGD. Secondary effluent is discharged through a land outfall and the Oceanside Ocean Outfall, which is also utilized by Fallbrook Public Utility District and Camp Pendleton (up to 2.4 MGD). The City of Oceanside is currently conducting integrated water, recycled water, and wastewater master planning efforts. As a result of these efforts, it is currently anticipated that the tertiary facilities at the San Luis Rey WWTP would be expanded to a capacity of 6.5 MGD by 2025 and 13.5 MGD by 2035 to produce recycled water to serve the northern portion of the City of Oceanside, as well as other development projects. Further, the integrated master planning efforts indicate that San Luis Rey WWTP could be upgraded to include Advanced Water Treatment (AWT) capabilities for potable reuse (refer to Section 2.4 below for more information).

The City of Oceanside is further considering development of facilities at the El Corazon site (a development site) to serve nearby recycled water demands, which is centrally located within the City of Oceanside, south of the San Luis Rey WWTP. Current planning efforts for the El Corazon site indicate that this site will likely contain recycled water pumping, storage, and equalization facilities that will hold recycled water produced at San Luis Rey WWTP for distribution to nearby areas. After planning studies are finalized, the El Corazon site could contain additional recycled water facilities, and could even house a stand-alone water reclamation facility to treat and serve recycled water to nearby users.

Encina Wastewater Authority

Encina Wastewater Authority's 40.5 MGD Encina WPCF, which is located adjacent to the Carlsbad WRF, treats wastewater from several of the agencies included in the Coalition to secondary levels. Secondary effluent is currently pumped to both the Carlsbad WRP and the Gafner WRP for further treatment. Secondary effluent that is not treated to tertiary levels (by other facilities) is sent to the Pacific Ocean via the Encina Ocean Outfall. There are no plans to upgrade the Encina WPCF to tertiary levels at this time. While the Encina Wastewater Authority is not included within the Coalition, its service area and facilities are explained where appropriate. The Encina Wastewater Authority is comprised of six member agencies including: Buena Sanitation District, City of Carlsbad, City of Encinitas, City of Vista, Leucadia WWD, and Vallecitos WD.

Leucadia Wastewater District

Leucadia WWD wholesales recycled water to the City of Carlsbad for use at the Omni La Costa Resort and Spa. Leucadia WWD owns and operates the Gafner WRF, which has a 1 MGD capacity to treat water to tertiary levels. Secondary effluent is provided to the Gafner WRF from the Encina WPCF. Tertiary-treated

Exhibit 6

LEUCADIA WASTEWATER DISTRICT
ASSET MANAGEMENT PLAN
2018 UPDATE

May 25, 2018

Prepared by:
Dexter Wilson Engineering, Inc.
2234 Faraday Avenue
Carlsbad, CA 92008
(760) 438-4422



Job No. 103-017

CHAPTER 10

RECYCLED WATER FACILITIES

The District's recycled water facilities consist of the pump station at the Encina WPCF which pumps secondary effluent to the Gafner WRF via the force main B1 (also known as the fail-safe line). The Gafner WRF treats water to a tertiary level. The recycled water is then used for irrigation at the South La Costa Golf Course.

Additionally, the District is participating in the North San Diego County Regional Recycled Water Project.

Secondary Effluent Pump Station at Encina WPCF

Recent improvements at the pump station include:

- FY16 – Rehabilitation of Pump #2
- FY15 – Rehabilitation of Pump #1 and upgrade to cellular telemetry
- FY12 – Update of radio alarm telemetry

The Secondary Effluent Pump Station was included in the 2014 Pump Station Assessment. Some of those recommendations were completed in FY15 and FY16. The outstanding recommendations are included in the Encina Effluent Pump Station Rehab Project (minor mechanical improvements, painting, and others). The detailed components of the projects may be found with the remainder of the pump stations in Appendix H

Financial Planning. There is one specific pump station project identified in the 5-Year CIP. There is a line item for General Secondary Effluent Pump Station and Force Main Improvements which is based on the pump station replacement report provided in Appendix I. As such, based on the replacement report (and the addition of 35% soft costs), $536,333 is included in the 5-Year CIP for this pump station for potential projects. The District should inspect portions of this pump station as part of the overall FY19 pump station condition assessment to confirm the project scope.

Exhibit 7

A G R E E M E N T

THIS AGREEMENT is between LEUCADIA COUNTY WATER DISTRICT, a County Water District organized and existing under the County Water District Law, hereafter referred to as "DISTRICT," and RANCHO LA COSTA, a limited partnership, hereinafter referred to as "SELLER," and is made at LEUCADIA COUNTY WATER DISTRICT on May 4, 1961.

W I T N E S S E T H:

RECITALS:

DISTRICT wishes to construct, operate, and maintain a sewage treatment plant facility on property presently owned by SELLER in the vicinity of Los Batiquitos Lagoon. DISTRICT also wishes to arrange by contract for the removal of reclaimed water produced by the facility for a period of time. SELLER is willing to sell upon the terms hereafter set forth the property desired by DISTRICT to DISTRICT and to contract for the removal of the reclaimed water produced by the facility in the manner hereafter provided.

AGREEMENT:

IT IS THEREFORE AGREED AS FOLLOWS:

1. SELLER will sell and DISTRICT will buy that certain real property situated in the County of San Diego, State of California, described in Exhibit "A" to this Agreement. SELLER will also sell and DISTRICT will buy the easements described in Exhibit "B" and Exhibit "C" to this Agreement. Title to said real property and easements shall be transferred by way of a Grant Deed and Grants of Easement, respectively, upon payment of the purchase price by DISTRICT. DISTRICT will pay SELLER for said real property and easements the sum of Ten Thousand Dollars ($10,000.00) in cash, payable

on or before six months after the effective date of this Agreement.

2. When DISTRICT constructs upon the real property described in Exhibit "A," a sewage treatment plant facility, SELLER agrees for a period of 35 years after completion of the facility, to accept from DISTRICT up to three quarters of a million gallons per day annual average of effluent (reclaimed water) when delivered by the DISTRICT to the following described location:

A point 7,000 feet up that certain canyon known as San Marcos Canyon to elevation 40 United States Geodetic Survey Datum, approximately as set forth in Exhibit "D."

If the pumping is to be an elevation higher than Elevation 40 then the cost of pumping to the higher elevation shall be paid by SELLER on a pro rata basis of the additional height to the total height pumped.

DISTRICT agrees to construct at its expense a twelve (12) inch internal diameter pipe line from the sewage treatment plant to the above described location. DISTRICT will deliver, at no expense to SELLER, all effluent processed by said plant (up to the maximum amount provided herein) to SELLER at said location by means of said pipe line. The DISTRICT will not be required, at its expense, to connect the pipe line to SELLER'S facilities or to build an outlet structure at the point of delivery.

Collecting sewers connected to the treatment plant shall not be disconnected by the DISTRICT in such a manner as to reduce the quantity of effluent delivered to the SELLER.

Except as hereinafter provided all sewage collected in the District shall be processed at the sewage treatment plant being constructed under this agreement up to the capacity

of said plant. The only sewage which may be treated in other plants or by other means (for example, as by joint powers arrangements with other governmental agencies) is that portion of the enlarged District which is not tributory to the treatment plant by means of collection lines or which furnishes flow quantities over the maximum quantity in this contract.

The DISTRICT will not sell or assign effluent for use as irrigation waters to others than the SELLER without the SELLER'S permission, with the exception of quantities over those outlined in this contract.

SELLER agrees to construct, operate and maintain, during the term of this Agreement and any extension thereof, appropriate facilities to remove the effluent that the DISTRICT discharges at said delivery point. SELLER agrees to comply with all applicable laws, rules and regulations of governmental agencies relevant to its facilities and their operation.

3. The DISTRICT understands that the effluent will be used by SELLER for watering a golf course, dairy pasture (but not including use by milk cows) and other similar agricultural uses after twenty-four hour storage by SELLER at the point of delivery. The DISTRICT agrees to so treat the effluent that after twenty-four hour storage it may be used for such purposes and will meet the applicable requirements of the State or Federal Departments of Public Health and Agriculture for such uses. The SELLER shall keep the DISTRICT informed as to the general uses being made by it of the effluent. The DISTRICT shall furnish, install, operate, and maintain chlorinating facilities for the purpose of furnishing effluent which will meet the above requirements. The capacity of each piece of equipment shall be adequate to meet the above

requirements and shall be adequate to introduce not less than ten parts per million of chlorine at peak flow. The plant shall be so operated as to confine all objectionable odors strictly to the premises of the treatment plant facilities. There shall be no raw or digested sludge discharged to the open air within the premises of the treatment plant. In addition, the DISTRICT agrees to cause the facility to be designed, operated, and maintained so that the dissolved sulfides in the primary clarifier influent do not exceed one-half parts per million. DISTRICT agrees not to operate the plant in excess of designed capacities and in the event usage approaches such capacity to construct additional facilities if needed.

4. The sewage delivered to the treatment plant by the DISTRICT shall be normal domestic and commercial sewage and shall contain no significant amounts of toxic materials or highly mineralized waste. No waste shall be accepted which interferes with the normal operation of the treatment facilities or renders the treated effluent after twenty-four hour storage unacceptable to the Water Pollution Control Board or the Health Department or other public agency having proper jurisdiction or makes it unuseable for the purposes heretofore specified.

5. In constructing said sewage treatment plant facility, the DISTRICT agrees that it will not construct or maintain any portion of the treatment facilities (except covered, underground units) within the buffer strip delineated in Exhibit "E" attached hereto. The DISTRICT further agrees to screen plant the buffer zone and maintain the planting for the purposes of disguising the nature and existence of the facility. The type and extent of such planting shall be established by mutual agreement.

6. During the term of this Agreement DISTRICT agrees to operate, maintain, and replace the pumps in order that adequate pumps for the removal of reclaimed water will be available to SELLER.

7. If SELLER claims that DISTRICT is breaching its promise contained in the above paragraphs, it may enforce said promise by the following procedures:

A. SELLER shall deliver to DISTRICT a Notice setting forth the breach alleged and demand that the breach terminate.

B. If DISTRICT does not terminate the alleged breach within 48 hours after delivery of said Notice, SELLER may, by written notice, demand that the matter be submitted to arbitration. Said demand shall contain the names of three persons, any of which would be an acceptable arbitrator, to SELLER, and from the list, the DISTRICT may select one acceptable to it. Said potential arbitrators must be registered engineers qualified by reason of training and experience to pass upon the questions of fact created by reason of the alleged breach.

C. Within 30 hours after the delivery of the Notice, DISTRICT shall advise SELLER which, if any, of the arbitrators is acceptable to it. If the parties are unable to agree upon an acceptable arbitrator, either may proceed to have an arbitrator appointed pursuant to California Code of Civil Procedure, Sec. 1283. The parties specifically agree that said application be made on 24 hours notice to the other party.

D. The arbitrator selected by the parties or pursuant to the above-referred to Section of the California Code of Civil Procedure shall determine whether it is a fact that the DISTRICT is breaching its Agreement contained

in Paragraph No. 4 above. If the arbitrator determines that there is in fact a breach of this Agreement he shall recommend what the DISTRICT should do to remedy the breach. For this purpose the arbitrator shall prepare an arbitration award setting forth his factual findings and his recommended action. SELLER may then proceed pursuant to Section 1287 of the California Code of Civil Procedure to have a mandatory injunction entered ordering the DISTRICT to take the recommended action.

E. If the arbitrator finds that there has in fact been a breach of the DISTRICT'S agreement contained in Paragraph 4 above, all expenses of arbitration, including reasonable attorney fees shall be paid by the DISTRICT and said amount may be included in any order entered pursuant to subparagraph D above. If the arbitrator finds that there has not in fact been such a breach, all of said expenses and fees shall be borne by SELLER.

F. Any corrective action taken by DISTRICT after notice given pursuant to subparagraph B above shall be reasonably calculated to permanently correct the breach.

8. Two years prior to the termination of SELLER'S Agreement to accept delivery of reclaimed water, it may, at its option, renew this Agreement for an additional 25-year period subject to the same terms and conditions here set forth, except as to the charge, if any, to be made by the DISTRICT for the reclaimed water. As to the matter, if the parties are unable to agree as to the charge for the new term, each of the parties hereto shall select an arbitrator and the two arbitrators so selected shall select a third arbitrator. The three arbitrators so selected shall determine the charge for the additional term and their decision shall be binding upon the parties including any decision they may make as to their

fees in connection with arbitration and its manner of apportionment among the parties. This option must be exercised by a writing delivered to DISTRICT.

Upon the termination of this agreement or if extended upon the termination thereof the DISTRICT shall retain title to the site described in Exhibit "A" but all right to the easements described on Exhibit "B" and "C" and to the outfall line constructed pursuant to Paragraph 2 hereof shall terminate, provided that the DISTRICT shall have the right to remove any equipment, pipes, or other installations. The DISTRICT shall execute and deliver to SELLER such deeds or other conveyances necessary to implement this paragraph.

9. This Agreement, except as to Paragraph 5 shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.

10. Until such time as the parties designate a new address, all notices shall be sent as follows:

TO DISTRICT: Leucadia County Water District
Post Office Box 184
Leucadia, California

TO OWNER:

11. The parties hereto agree that upon demand to execute all documents which are necessary, desirable, or convenient for the purpose of carrying out the terms of this Agreement.

12. The effective date of this Agreement is the date upon which the last party to sign does so sign.

13. Performance of this Agreement by the DISTRICT is conditioned upon the receipt of sufficient money from the sale of bonds to enable the DISTRICT to construct the planned sewer collection and treatment works relating to the plant

site described herein. If the DISTRICT is unable to realize sufficient funds from the sale of its bonds within six (6) months after the effective date of this Agreement, then this Agreement shall terminate and the DISTRICT and the SELLER shall be released from all obligations hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set opposite their names.

LEUCADIA COUNTY WATER DISTRICT

May 4, 1961
Date

By _____
President

By _____
Secretary

RANCHO LA COSTA

May 9th 1961
Date

By _____
General Partner

By _____

That portion of Lot 9 in Section 35, Township 12 South, Range 4 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to United States Government Survey approved October 25, 1875, described as follows:

Beginning at a point in the East line of said Lot 9 that is distant thereon South 0°09'10" East 69.76 feet from the Northeast corner of said Lot 9; thence along the said East line of Lot 9 South 0°09'10" East 495 feet; thence South 89°50'50" West 440 feet; thence North 0°09'10" West 495 feet; thence North 89°50'50" East 440 feet to the POINT OF BEGINNING.

EXHIBIT A

That portion of Lot 9 in Section 35, Township 12 South, Range 4 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to United States Government Survey approved October 25, 1875, described as follows:

An easement for ingress and egress and for public utility and sanitary purposes (including the right to construct, install, maintain, repair and replace road surfacing, sewer pipelines and utilities such as water lines, gas lines, power lines and telephone lines,) in, over and across that portion of said Lot 9, within a strip of land 20 feet wide, lying 10 feet on each side of the following described centerline:

Beginning at a point in the West line of Parcel A described below, that is distant thereon North 0°09'10" West 15.58 feet from the Southwest corner of said Parcel A; thence South 51°09'05" West 640 feet more or less to the center line of the County Road known as Road Survey No. 682 filed in the office of the County Surveyor of said County.

The Northerly line of said 20 foot shall be prolonged Northeasterly so as to terminate in the West line of said Parcel A.

The easement herein described is hereby declared to be appurtenant to Parcel A, described below, and for the use and benefit of the present and future owners of all or any portion of said Parcel A.

PARCEL A

That portion of Lot 9 in Section 35, Township 12 South, Range 4 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to United States Government Survey approved October 25, 1875, described as follows:

Beginning at a point in the East line of said Lot 9 that is distant thereon South 0°09'10" East 69.76 feet from the Northeast corner of said Lot 9; thence along the said East line of Lot 9 South 0°09'10" East 495 feet; thence South 89°50'50" West 440 feet; thence North 0°09'10" west 495 feet; thence North 89°50'50" East 440 feet to the POINT OF BEGINNING.

EXHIBIT B

An easement for the construction, operation, maintenance, repair and replacement of a sewer pipeline in, over and across a strip of land ten (10) feet wide, lying five (5) feet on each side of the following described centerline:

Beginning at a point on the south line of that parcel of land designated herein as Exhibit "A" that is distant thereon 48.17 feet westerly of the easterly boundary of said parcel thence in a northerly direction approximately 320 feet to the intersection of a line which lies parallel to and 80 feet southerly of the centerline of the proposed flood control channel in San Marcos Canyon, thence easterly along said last mentioned line approximately 6,680 feet (to the point of discharge of the sewer effluent in accordance with the Agreement).

The exact location including bearings, distances, etc., will be established by survey.

Exhibit "C"

The point of delivery of said reclaimed effluent shall be as follows:

Beginning at a point on the south line of that parcel of land designated herein as Exhibit "A" that is distant thereon 48.17 feet westerly of the easterly boundary of said parcel thence in a northerly direction approximately 320 feet to the intersection of a line which lies parallel to and 80 feet southerly of the centerline of the proposed flood control channel in San Marcos Canyon, thence easterly along said last mentioned line approximately 6,680 feet to the point of discharge.

The exact location including bearings, distances, etc., will be established by survey.

The permanent easement will follow above approximate route and will be 10 feet in width.

Exhibit "D"

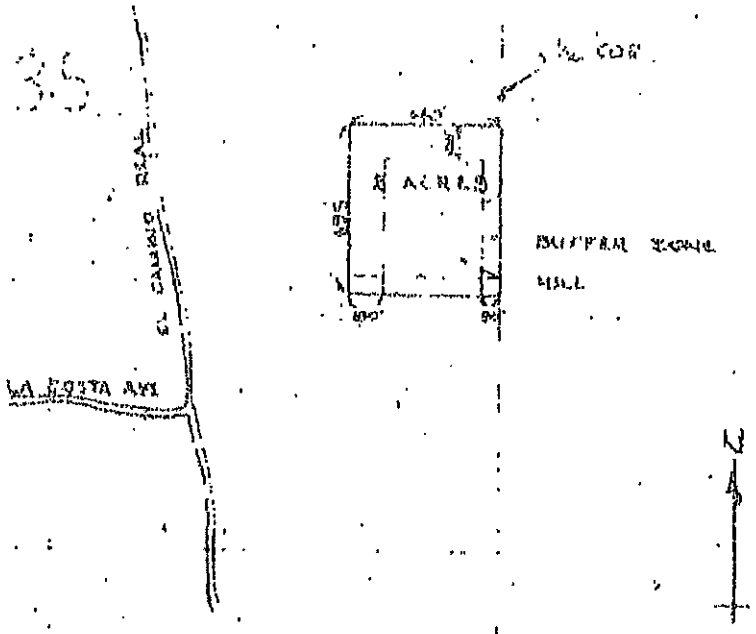


Exhibit "E"

Exhibit 8

1961

RESOLUTION NO. 44

RESOLUTION OF THE BOARD OF DIRECTORS OF LEUCADIA COUNTY WATER DISTRICT AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN LEUCADIA COUNTY WATER DISTRICT AND RANCHO LA COSTA FOR PURCHASE BY THE DISTRICT OF A SEWER TREATMENT PLANT SITE AND EASEMENTS

IT IS HEREBY RESOLVED by the Board of Directors of Leucadia County Water District that the President and the Secretary be, and they are hereby, authorized and directed to execute, for and on behalf of the District, an Agreement with Rancho La Costa, a limited partnership, for purchase by the District of a sewer treatment plant site and easements, which Agreement shall be in the form attached hereto, marked Exhibit "A" and by this reference made a part hereof.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of Leucadia County Water District held May 4, 1961, by the following vote, to-wit:

AYES: Directors McMichael, Persinger, Taylor, McKenney and Land.

NOES: None.

ABSENT: None.

Pearl R. Land
President

ATTEST:

Secretary

(SEAL)

Exhibit 9

AGREEMENT FOR THE SALE OF RECYCLED WATER

Ref: 13-3710

This Agreement for the Sale of Recycled Water ("Agreement") is by and between the Leucadia Wastewater District ("District") and LC TRS INC., a Delaware corporation, d/b/a La Costa Resort and Spa®, by its authorized agent KSL LC Management 2010, LLC ("La Costa").

RECITALS

WHEREAS, District supplies recycled water produced at its Forest R. Gafner Water Reclamation Plant ("Gafner Plant") to the south La Costa Golf Course pond ("South Course") pursuant to an agreement with the City of Carlsbad that expires on June 6, 2013; and

WHEREAS, the parties wish to continue the delivery of recycled water from the Gafner Plant to the South Course,

NOW, THEREFORE, the parties agree as follows:

SECTION 1. CONTINUATION OF RECYCLED WATER DELIVERY

1.1 District agrees to continue delivering recycled water produced at the Gafner Plant to the South Course pond for irrigation purposes, using the same production methods, quality control and facilities in place prior to execution of this Agreement. Recycled water will continue to be processed in accordance with state regulations, including standards established by the California Regional Water Quality Control Board.

SECTION 2. TERM

2.1 The term of this Agreement will commence on June 7, 2013 and will continue on a month-to-month basis until either party provides thirty (30) days written notice of its intent to terminate.

SECTION 3. QUANTITY TO BE DELIVERED

3.1 Delivery shall be on an as-needed basis, and District shall bill La Costa on a monthly basis for the actual amount of water delivered.

SECTION 4. PRICE

4.1 La Costa shall pay District $950 per acre foot for all recycled water delivered pursuant to this Agreement.

SECTION 5. ADDITIONAL ACTIONS

5.1 The parties agree to cooperate and to take all additional actions reasonably necessary to implement this Agreement, including any actions required by regulatory agencies with jurisdiction over the use or delivery of recycled water.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and be effective on June 12, 2013.

Leucadia Wastewater District

By: _____
Elaine Sullivan, President

ATTEST:

By: _____
Paul J. Bushee, General Manager

Date: 6/13/2013

LC TRS INC, a ., a Delaware corporation,
d/b/a La Costa Resort and Spa®
By: KSL LC Management 2010, LLC
Its authorized agent

By: _____
Brian McGinnis, Vice President and
Chief Financial Officer

Exhibit 10

Ronald Kemp

From: Wayne Brechtel <dwb@wordenwilliams.com>
Sent: Wednesday, June 05, 2013 1:30 PM
To: Ronald Kemp
Subject: Leucadia Wastewater District Recycled Water Agreement

Ron,

I am writing to let you know that the Leucadia Wastewater District has negotiated an interim agreement with La Costa to continue supplying recycled water to the south golf course. La Costa will be billed directly for recycled water delivery beginning on June 7, 2013. Leucadia remains interested in negotiating a long term agreement with the City for the delivery of recycled water, and is committed to negotiating a fair resolution of the rebate issue.

D. Wayne Brechtel, Attorney at Law
WORDEN WILLIAMS, APC
462 Stevens Avenue, Suite 102
Solana Beach, CA 92075
phone: 858-755-6604
fax: 858-755-5198
e-mail: *dwb@wordenwilliams.com*
web site: *www.wordenwilliams.com*

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Please Note: The information in this E-mail message is legally privileged and confidential information intended only for the use of the individual(s) named above. If you, the reader of this message, are not the intended recipient, you are hereby notified that you should not further disseminate, distribute, copy, or forward this E-mail message. If you have received this E-mail in error, please notify the sender and delete the E mail from your records. Thank you.

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LEUCADIA WASTEWATER DISTRICT

Minutes of a Regular Board Meeting
June 12, 2013

A regular meeting of the Board of Directors of the Leucadia Wastewater District (LWD) was held Wednesday, June 12, 2013 at 5:00 p.m., at the District Administration Office at 1960 La Costa Ave., Carlsbad, California.

1. **Call to Order**
   President Sullivan called the meeting to order at 5:00 p.m.

2. **Roll Call**

DIRECTORS PRESENT:	Sullivan, Kulchin, Juliussen, Omsted, and Hanson
DIRECTORS ABSENT:	None.
OTHERS PRESENT:	General Manager Paul Bushee, District Counsel Wayne Brechtel, Administrative Services Manager Chuck LeMay, Technical Services Manager Robin Morishita, Field Services Superintendent Jeff Stecker, Executive Assistant Trisha Hill, Field Services Technician I Mauricio Avalos, District Engineer Steve Deering with Dudek, CPA Richard Duffey with Brownell & Duffey, Jamie Fagnant with Infrastructure Engineering Corp., Brian Jewett with Black & Veatch, Craig Barry with Piperin and Jennifer Beales with TRG & Associates.

3. **Pledge of Allegiance**

4. **General Public Comment Period**
   None.

5. **Approval of Agenda**
   Upon a motion duly made by Director Juliussen, seconded by Director Omsted, and carried, the Board of Directors approved the agenda.

6. **Presentations and Awards**
   A. Achievement of an Individual Award – Mauricio Avalos

   GM Bushee introduced Field Services Technician II Mauricio Avalos stating that he recently received the CWEA Collection System Maintenance Grade II certification. He also presented background information about Mauricio and congratulated him for his efforts. He stated that Mauricio is eligible for a $500 incentive as authorized under LWD's Incentive Program.

   GM Bushee also noted that Mauricio was promoted to FS Technician II.

   President Sullivan presented Mauricio with his certification and an incentive check for $500 as authorized under LWD's Incentive Program.

   The Board of Directors congratulated Mauricio for his efforts.

NOES: None
ABSENT: None
ABSTAIN: None

24. Approving the Recommended Encina Wastewater Authority FY 14 Budget

Adopt Resolution No. 2235 Approving the Recommended Encina Wastewater Authority (EWA) Fiscal Year 2014 (FY 14) Operating and Capital Budgets.

ASM LeMay presented this item stating that the EWA Budget was approved by their Board and the Joint Advisory Committee. He stated that the operating budget for FY 14 is approximately $13.9 million and the capital budget is approximately $10.5 million. He noted that LWD's share is $1.7 million each for the operating and the capital budgets respectively.

Upon a motion duly made by Director Juliussen, seconded by Director Omsted and carried the Board of Directors adopted Resolution No. 2235 Approving the Recommended Encina Wastewater Authority (EWA) Fiscal Year 2014 (FY 2014) Operating and Capital Budgets by the following vote:

AYES: Directors: Sullivan, Kulchin, Hanson, Juliussen, and Omsted
NOES: None
ABSENT: None
ABSTAIN: None

25. Approval of an interim agreement with La Costa Resort & Spa for the Sale of Recycled Water.

GM Bushee presented the item stating that this agreement is a month to month agreement with La Costa Resort & Spa to provide recycled water to the South Golf course at a rate of $950 per acre-foot. He noted that this is the same offer that was provided to the city of Carlsbad to renew the contract with them. He provided brief background on the negotiation process between the city of Carlsbad and La Costa Resort & Spa. He indicated that this price will cover the District's operating, overhead, and half of the replacement costs to produce and deliver the recycled water to the golf course.

GM Bushee noted that the District received new information from the city of Carlsbad this morning regarding the expired contract with them. He introduced Counsel Brechtel to the further explain the information that was received today.

General Counsel Brechtel stated that staff is recommending that the Board authorize the General Manager to execute the interim recycled water agreement with La Costa Resort & Spa and also authorize the General Manager to provide a 30 day termination notice of the agreement at an appropriate time.

General Counsel Brechtel stated that during the negotiations with La Costa Resort & Spa, the District was also negotiating with the city of Carlsbad. The District was able to come to an agreement with La Costa in order to keep the facilities running, because the recycled water agreement with the city of Carlsbad expired on June 7, 2013. He stated that during the city of Carlsbad's Board meeting last night, the agenda included a closed session item to discuss the recycled water negotiations with the LWD. He indicated that council members may have authorized their staff to accept the District's recycled water agreement under certain conditions. He noted that these conditions will be discussed later in closed session regarding the recycled water

rebates. He stated that the District needs this interim agreement until the negotiation with the city of Carlsbad is final. He noted that the date of this contract is retroactive to June 7, 2013.

Director Kulchin asked why it is taking so long to come to an agreement with the city of Carlsbad. General Counsel Brechtel indicated that the issue of the rebates may have extended the negotiations and staff would like to resolve both issues. General Counsel Brechtel indicated that he doesn't know the exact reason, why it took La Costa a long time to sign the recycled water agreement with the District.

Following discussion, upon a motion duly made by Director Omsted, seconded by Director Juliussen and carried the Board of Directors authorized the General Manager to execute an Agreement for sale of recycled water to LC TRS Inc. (La Costa Resort & Spa) on a month-to-month basis at a cost of $950 per acre-foot; and authorize the General Manager to provide La Costa Resort & Spa with a 30-day termination of the agreement at an appropriate time.

26. Reimbursement of Expenses for Scripps Circle of Life 100 Luncheon

Authorize reimbursement of expenses for attendance at the Scripps Circle of Life Luncheon Honoring Ann and David Kulchin.

EA Hill presented the item stating that the Board members and the General Manager received invitations to attend the Scripps Circle of Life Luncheon honoring Director Kulchin and his wife Ann Kulchin. She stated the District's Travel and Reimbursement Policy includes a list of pre-approved meetings, training and conferences. She indicated that this event is not a pre-approved event listed in the policy and that this event requires Board approval if Board members would like for the District to reimburse them for the cost of the event, which is $95 per attendee.

Director Hanson stated that she is not in favor of the District funding the cost of the ticket for the event. She stated that she would pay for a ticket and not ask the District for a reimbursement. Director Omsted agreed. Vice President Kulchin stated that he is not asking for the District to pay for the cost of tickets.

The Board reached consensus not to have the District reimburse expenses associated with this event.

INFORMATION ITEMS

27. Project Status Updates and Other Informational Reports

A. LWD 2013 Employee Luncheon is scheduled for Thursday, July 11, 2013.

GM Bushee announced the date, time and location of the employee luncheon.

B. Carlsbad Chamber of Commerce State of the City Luncheon is scheduled for Friday, August 23, 2013 form 11 AM to 1:30PM at the Sheraton Carlsbad Resort & Spa.

GM Bushee announced the event noting that the luncheon conflicts the CASA Conference in August. President Sullivan indicated that she may attend the event.

28. Directors' Meetings and Conference Reports

A. The 2013 CSDA Legislative Days Conference was held at the Sheraton Grand in Sacramento, CA on May 14-15, 2013.

MEMORANDUM

Ref: 13-3711

DATE: June 6, 2013
TO: Board of Directors
FROM: Paul J. Bushee, General Manager
SUBJECT: **Agreement for the Sale of Recycled Water**

RECOMMENDATION:

Staff recommends that the Board of Directors:

1. Authorize the General Manager to execute an Agreement for the Sale of Recycled Water to LC TRS Inc. (La Costa Resort & Spa) on a month to month basis at a cost of $950 per acre-foot.

2. Discuss and take other action as appropriate.

BACKGROUND:

As you are aware, the District has been concurrently attempting to negotiate an agreement to continue the operation of its water recycling program with the City of Carlsbad and the La Costa Resort & Spa for some time now.

District staff initiated negotiations with Carlsbad in 2007 and these negotiations continued sporadically through June 2012 when the City provided LWD with the required 1 year notice to terminate the agreement, effective June 6, 2013. Carlsbad also began implementing a plan to provide recycled water directly to the La Costa south course, which would have effectively forced LWD to shut-down the Gafner Facility.

Shortly thereafter, LWD began evaluating its options to supply recycled water directly to La Costa and ultimately determined that it was feasible. LWD subsequently initiated discussions with La Costa and submitted a proposal in December 2012.

Having not reached agreement with La Costa, LWD staff reinitiated negotiations with Carlsbad in March 2013. LWD staff and legal counsel met with Carlsbad staff and legal counsel on 5 separate occasions to determine if an agreement could be reached. The last meeting was held on May 29th and, although significant progress had been made, it became apparent that no arrangement could be reached prior to the June 6th termination date.

In an effort to keep the Gafner Facility in operation, LWD staff resumed discussions with La Costa on June 3rd and was able to negotiate a short term agreement to provide recycled water to the south course.

DISCUSSION:

The term of the agreement is on a month to month basis and can be terminated by either party given 30 day notice. The price of the recycled water is $950 per acre-foot based on the actual quantity delivered. There are not minimum or maximum quantities to be delivered under the agreement. The pricing is consistent with that originally proposed to La Costa and Carlsbad. Staff believes this pricing is fair and reasonable based what the current recycled water market will bear. La Costa has already

signed the agreement and it is awaiting LWD approval. A copy of the agreement has been attached for your review.

La Costa has also indicated that it is interested in discussing a longer term agreement over the course of the next few months. Staff plans to engage those discussions as well as continue our discussions with Carlsbad to determine the best option for LWD over the longer term.

FISCAL IMPACT:

As previously indicated, the pricing has been set at $950 acre-foot based on the actual quantity delivered. The pricing will allow LWD to capture 100% of its operating and overhead costs, and approximately 50% of its replacement costs.

Attachment

PJB:

Exhibit 11

AGREEMENT FOR THE SALE OF RECYCLED WATER

Ref: 19-6305

This Agreement for the Sale of Recycled Water ("Agreement") is by and between the Leucadia Wastewater District ("District") and LC INVESTMENT 2010, a LC Investment 2010, LLC, a Delaware limited liability company, d/b/a Omni La Costa Resort & Spa ("La Costa")

RECITALS

WHEREAS, District supplies recycled water produced at its Forest R. Gafner Water Reclamation Plant ("Gafner Plant") to the south La Costa Golf Course pond ("South Course") pursuant to an agreement with the City of Carlsbad that expires on August 31, 2018; and

WHEREAS, the parties wish to continue the delivery of recycled water from the Gafner Plant to the South Course,

NOW, THEREFORE, the parties agree as follows:

SECTION 1. CONTINUATION OF RECYCLED WATER DELIVERY

1.1 District agrees to continue delivering recycled water produced at the Gafner Plant to the South Course pond for irrigation purposes, using the same production methods, quality control and facilities in place prior to execution of this Agreement. Recycled water will continue to be processed in accordance with state regulations, including standards established by the California Regional Water Quality Control Board.

SECTION 2. TERM

2.1 The term of this Agreement will commence on September 1, 2018 and will continue on a month-to-month basis until either party provides thirty (30) days written notice of its intent to terminate.

SECTION 3. QUANTITY TO BE DELIVERED

3.1 Delivery shall be on an as-needed basis, and District shall bill La Costa on a monthly basis for the actual amount of water delivered.

SECTION 4. PRICE

4.1 La Costa shall pay District $1,400 per acre foot for all recycled water delivered pursuant to this Agreement.

SECTION 5. ADDITIONAL ACTIONS

5.1 The parties agree to cooperate and to take all additional actions reasonably necessary to implement this Agreement, including any actions required by regulatory agencies with jurisdiction over the use or delivery of recycled water.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and be effective on 8/16/2018.

Leucadia Wastewater District

By: _____
Paul J. Bushee, General Manager

Date: 8/16/2018

LC INVESTMENT 2010, LLC, a Delaware limited liability company, d/b/a Omni La Costa Resort & Spa

By: Omni Hotels Management Corporation, its authorized agent

By: _____

Paul Guccini, Director of Finance

Exhibit 12

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2004-0223

WASTE DISCHARGE REQUIREMENTS
FOR
LEUCADIA WASTEWATER DISTRICT
FOREST R. GAFNER WATER RECLAMATION PLANT
SAN DIEGO COUNTY

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. On May 21, 1979, this Regional Board adopted Order No. 79-35, "Waste Discharge Requirements for Leucadia County Water District (LCWD), Forest R. Gafner Water Reclamation Plant (FRGWRP), San Diego County." Order No. 79-35 and addenda thereto established requirements for the disposal of reclaimed water to the La Costa Golf Course, which is located within the Batiquitos (4.51) Hydrologic Subarea (HSA) between El Camino Real and Highway 78. Addendum No. 1 to Order No. 79-35 specifically excepted the La Costa Golf Course reclaimed water storage pond from the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) requirement that all waste treatment, containment, and disposal facilities be protected against a 100-year, 24-hour storm and a 100-year frequency peak stream flow event.

2. On May 4, 1987, this Regional Board adopted Order No. 87-82, "Waste Discharge Requirements for Leucadia County Water District Forest R. Gafner Water Reclamation Plant, San Diego County." Order No. 87-82 superseded Order No. 79-35 and authorized the disposal of up to 0.75 millions gallons per day (MGD) of reclaimed water to the La Costa Golf Course. Addendum No. 1 to Order No. 87-82 authorized the LCWD to supply up to 0.75 MGD of reclaimed water to the Carlsbad Municipal Water District (CMWD) for distribution within portions of the Carlsbad Hydrologic Unit (HU) (904.00) in the following Hydrologic Areas (HA) and Subareas (HSA):

   a. Buena Vista Creek (4.20) HA, El Salto (4.21) HSA within the City of Carlsbad;
   b. Agua Hedionda (4.30) HA, Los Monos (4.31) HSA within the City of Carlsbad;
   c. Encinas (4.40) HA within the City of Carlsbad;
   d. San Marcos (4.50) HA, Batiquitos (4.51) HSA within the City of Carlsbad; and
   e. San Marcos (4.50) HA, Richland (4.52) HSA.

3. On December 20, 1993, this Regional Board adopted Order No. 93-41, "Waste Discharge Requirements for Leucadia County Water District Forest R. Gafner

analyses have been completed and the number of total coliform bacteria shall not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30 day period. No sample shall exceed an MPN of 240 total coliform bacteria per 100 milliliters.

3. Turbidity concentration of the recycled water effluent from the FRGWRP shall not exceed a 24-hour average value of 2 NTU (nephelometric turbidity units), shall not exceed 5 NTU more than 5% of the time during a 24-hour period, and shall not exceed 10 NTU at any time.

C. RECYCLED WATER PURVEYANCE REQUIREMENTS

1. If the LWD begins purveyance of reclaimed water directly to parties other than itself (for onsite use only) or the CMWD, the LWD shall be considered a Recycled Water Agency and shall be subject to the provisions of this section. The LWD shall notify the Regional Board 120 days prior to commencement of the purveyance of reclaimed water directly to parties other than the CMWD.

2. The Recycling Water Agency shall establish new Regional Board, State DHS and the San Diego County Department of Environmental Health (County DEH) approved *Rules and Regulations for Recycled Water Users* governing the design and construction of recycled water use facilities and the use of recycled water. The Recycled Water Agency shall ensure that the rules and regulations are implemented and enforced with respect to the recycled water users. The Recycled Water Agency shall certify prior to the commencement of purveyance, that the Recycled Water Agency's *Rules and Regulations for Recycled Water Users* are consistent with the requirements contained in Attachment No. 2 of this Order.

3. The Recycled Water Agency shall certify, prior to commencement of purveyance, that it has developed and submitted for approval a program to conduct compliance inspections of recycled water reuse sites to the Regional Board, State DHS and County DEH. Inspections shall determine the status of compliance with the Recycled Water Agency's approved rules and regulations for recycled water users.

4. The Recycled Water Agency shall certify, prior to commencement of purveyance, that the following information has been developed and is available to the State DHS and the County DEH, for all current recycled water use areas:

   a. The number, location, and type of facilities within the use area

proposing to use domestic and recycled water. "Facility" means any type of building or structure, or defined area of specific public use that utilizes or proposes to utilize a dual plumbed system.

b. The average number of persons estimated to be served by each facility on a daily basis.

c. The specific boundaries of the proposed use site area including a map showing the location of each facility, drinking water fountain and impoundment to be served.

d. The person or persons responsible for operation of the recycled water system at each use area.

e. The specific use to be made of the recycled water at each use area.

f. The methods to be used by the Recycled Water Agency to assure that the installation and operation of the recycled system will not result in cross connections between the recycled water piping system and the potable water piping system. This shall include a description of pressure, dye or other test methods to be used to test the system.

g. Plans and specifications shall include the following and shall be submitted to the State DHS and County DEH for approval:

(1) Proposed piping system to be used,

(2) Pipe locations of both the recycled and potable systems,

(3) Type and location of the outlets and plumbing fixtures that will be accessible to the public,

(4) The methods and devices to be used to prevent backflow of recycled water into the public water system,

(5) Plan notes relating to recycled water specific installation and use requirements.

5. The Recycled Water Agency shall do the following for all reuse sites:

a. Enforce recycled water rules and regulations,

b. Conduct recycled water reuse site compliance inspections in accordance with the program submitted in compliance with *Recycled Water Purveyance Requirements C.3* of this Order,

c. Notify the State DHS and the County DEH of any incidence of recycled water backflow into the potable water system as soon as possible, but in no case later than 24 hours of finding the incident, and

d. Maintain a current list of all on-site recycled water supervisors.

6. Prior to providing recycled water to a dual plumbed system as defined in Title 22, Chapter 3, Article 1, of the California Code of Regulations, the Recycled Water Agency shall obtain an amendment to this Order.

7. Recycled water shall not be supplied to parties who use, transport, or store such water in a manner which causes a pollution, contamination or nuisance, as defined by Section 13050 of the California Water Code.

D. FACILITY DESIGN AND OPERATION SPECIFICATIONS

1. PROPER OPERATION

The LWD shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the LWD to achieve compliance with conditions of this Order. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Order.

2. WET WEATHER STORAGE

The discharger shall provide adequate storage facilities to contain recycled water, or have in place alternate recycled water disposal methods approved by the Regional Board, during and after periods of rainfall when disposal by irrigation cannot be successfully practiced and to prevent the discharge of treated or untreated recycled water to any surface water body.

3. COAGULATION ALTERNATIVE

Coagulation need not be used as part of the treatment process provided that the filter effluent turbidity does not exceed 2 NTU, the turbidity of the influent to the filters is continuously measured, the influent turbidity does not exceed 5 NTU for more than 15 minutes and never exceeds 10 NTU, and that there is capability to automatically activate chemical addition or divert wastewater should the turbidity of the influent to the filters exceed 5 NTU for more than 15 minutes.

Exhibit 13

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. 2001-352 AS AMENDED BY ORDER NO. R9-2012-0027

MASTER RECLAMATION PERMIT
WITH WASTE DISCHARGE REQUIREMENTS
FOR THE PRODUCTION AND PURVEYANCE OF RECYCLED WATER

FOR

CARLSBAD MUNICIPAL WATER DISTRICT
CARLSBAD WATER RECYCLING FACILITY
SAN DIEGO COUNTY

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. On January 23, 1984, this Regional Board adopted Order No. 84-10, "Water Reclamation Requirements for the City of Carlsbad for the Purveyance of Reclaimed Water, San Diego County." Order No. 84-10 established requirements under which the City of Carlsbad could purchase wholesale reclaimed water from the San Marcos County Water District's Meadowlark Water Reclamation Plant and sell the water to various users within the city.

2. On May 20, 1991, this Regional Board adopted Order No. 91-60, "Water Reclamation Requirements for the Purveyance of Reclaimed Water by the Carlsbad Municipal Water District, San Diego County." Order No. 91-60 superseded Order No. 84-10 and added the Shadowridge and Gafner Water Reclamation Plants as additional recycled water suppliers.

3. On December 16, 1998, this Regional Board adopted Order No. 98-200. The order established water reuse areas and required the discharger to implement appropriate and reasonable measures to prevent the discharge of reclaimed water from the reclaimed water storage ponds at the North La Costa Golf Course to San Marcos Creek and Batiquitos Lagoon. The measures included the termination of the discharge to the reservoirs when there is a potential for overflow.

4. On December 5, 2000, this Regional Board received a Report of Waste Discharge (RWD) submitted by the Carlsbad Municipal Water District (CMWD) for the Carlsbad Water Recycling Facility.

5. The proposed Carlsbad Water Recycling Facility (CWRF) is to be owned and operated by the CMWD. The facility is located immediately south of the Encina Water Pollution Control Facility (EWPCF) in the city of Carlsbad in San Diego County in Hydrologic Subarea (HSA) 904.51.

6. Secondary effluent from the EWPCF is to be used as influent for the CWRF.

3. Turbidity concentration of the recycled water effluent from the CWRF shall not exceed a daily average value of 2 NTU (nephelometric turbidity units), shall not exceed 5 NTU more than 5% of the time during a 24-hour period, and shall not exceed 10 NTU at any time.

4. Discharges to a landscape impoundment must be terminated whenever an overflow of the impoundment is imminent.

5. Recycled water from the CWRF shall not contain constituents in excess of the following limitations:

Constituent	Unit	Daily Maximum[1]	30-day Average[2]	Annual Average[3]
TDS	mg/L	1,200	--	1,100
Chloride	mg/L	400	350	--
Sulfate	mg/L	400	--	350
Boron	mg/L	0.75	0.75	0.75
Iron	mg/L	--	--	0.3
Manganese	mg/L	--	--	0.1
Fluoride	mg/L	--	--	1.0
Methylene blue active substances	mg/L	--	--	0.5

[1] The daily maximum effluent limitation shall apply to the results of a single composite or grab sample

[2] The 30-day average effluent limitation shall apply to the arithmetic mean of the results of all samples collected during any calendar month.

[3] The annual average effluent limitation shall apply to the arithmetic mean of the results of all samples collected during a calendar year.

C. RECYCLED WATER PURVEYANCE REQUIREMENTS

1. Prior to the initiation of the purveyance of recycled water project, the Recycled Water Agency must complete all of the following:

   a. Develop and submit for approval *Rules and Regulations for Recycled Water Users* governing the design and construction of recycled water use facilities and the use of recycled water to the Regional Board, the State DHS and the County of San Diego Department of Environmental Health (County DEH). Rules and regulations shall, at a minimum, include the requirements that are contained in Attachment No. 1 of this Order.

b. Develop and submit for approval a program to conduct compliance inspections of recycled water reuse sites to the Regional Board, State DHS and County DEH. Inspections shall determine the status of compliance with the Recycled Water Agency's approved rules and regulations for recycled water users.

c. Submit a report to the State DHS and the County DEH containing the information listed below. The Recycled Water Agency may submit a Master Plan report that covers more than one reuse site. The report shall include a detailed description of each reuse site identifying all of the information below:

(1) The number, location, and type of facilities within the use area proposing to use domestic and recycled water. "Facility" means any type of building or structure, or defined area of specific public use that utilizes or proposes to utilize a dual plumbed system.

(2) The specific boundaries of the proposed use site area including a map showing the location of each facility, drinking water fountain and impoundment to be served.

(3) The person or persons responsible for operation of the recycled water system at each use area.

(4) The specific use to be made of the recycled water at each use area.

(5) The methods to be used by the Recycled Water Agency to assure that the installation and operation of the recycled system will not result in cross connections between the recycled water piping system and the potable water piping system. This shall include a description of pressure, dye or other test methods to be used to test the system.

(6) Plans and specifications shall include the following and shall be submitted to the State DHS and County DEH for approval:

(a) Proposed piping system to be used,

(b) Pipe locations of both the recycled and potable systems,

(c) Type and location of the outlets and plumbing fixtures that will be accessible to the public,

(d) The methods and devices to be used to prevent backflow of recycled water into the public water system,

(e) Plan notes relating to recycled water specific installation and use requirements.

2. Subsequent to initiation of the purveyance of recycled water and prior to providing recycled water to a new use site, the Recycled Water Agency shall do the following:

a. Submit for review and approval a report that either certifies (by the agency) that the project conforms with what is described in the master plan or information to supplement what is described in the master plan to the State DHS and the County DEH. A certification report shall document that all criteria described in *Recycled Water Purveyance Requirements C.1c* has been submitted to and approved by the appropriate regulatory agency. Information submitted as a supplement to the master plan shall document compliance with any criteria, as described by *Recycled Water Purveyance Requirements C.1c,* not met through submittal of the master plan.

b. The City of Carlsbad will perform a complete cross-connection shut down test, performed by a certified cross-connection control specialist, with oversight and monitoring provided by the County DEH.

c. Submit for review and approval documentation confirming the information submitted as part of Monitoring and Reporting Program No. 2001-352, Recycled Water Users Summary Report F.2 to the Regional Board.

d. Perform an alarm simulation shut down test after completion of the construction of CWRF, in the presence of a staff from the Regional Board and a sanitary engineer from the State DHS, to ensure that CWRF is properly operating.

e. Verify the modal contact time of the chlorination chamber, as defined under Title 22, Division 4, Chapter 3, Section 60301.600, through a tracer study to ensure that the effluent meets the requirements of Title 22. The results of this tracer study shall be submitted to the State DHS for review and approval.

3. The Recycled Water Agency shall do the following for all reuse sites:

   a. Enforce recycled water rules and regulations,

   b. Conduct recycled water reuse site compliance inspections in accordance with the program submitted in compliance with *Recycled Water Purveyance Requirements C.1b* of this Order,

   c. Notify the State DHS and the County DEH of any incidence of recycled water backflow into the potable water system as soon as possible, but in no case later than 24 hours of finding the incident, and

   d. Maintain a current list of all on-site recycled water supervisors.

D. FACILITY DESIGN AND OPERATION SPECIFICATIONS

1. PROPER OPERATION

The Recycled Water Agency shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Recycled Water Agency to achieve compliance with conditions of this Order. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this Order.

2. CERTIFICATION REPORT

The wastewater treatment and disposal facilities for the CWRF shall be completely constructed and operable prior to the initiation of the discharge. The complete facilities shall have adequate capacity for the full design flow of 4 MGD. A report from the design engineer certifying the adequacy of each component of the treatment, storage, and disposal facilities shall be submitted by the discharger prior to commencement of the discharge. The certification report shall contain a requirement-by-requirement analysis based on acceptable engineering practices, of how the process and physical designs of the facilities will ensure compliance with the master reclamation permit. The design engineer shall affix their signature and engineering license number to the certification report and should submit it prior to construction of the facilities. Recycled water shall not be purveyed to a user until all of the following have occurred:

ATTACHMENT NO.1

TO

ORDER NO. 2001-352

RULES AND REGULATIONS FOR RECYCLED WATER USE PROJECTS

Pursuant to California Water Code (CWC) section 13523.1(b)(3), this Order requires the recycled water agency to establish and to enforce rules and regulations governing the design, construction and use of recycled water distribution and disposal systems by its customers. The rules and regulations shall be consistent with the following criteria:

- Title 22, Division 4, Chapter 3, *Wastewater Reclamation Criteria;*
- Title 17, Division 1, Chapter 5, Group 4, Article 1 & 2, of the California Code of Regulations;
- The State Department of Health Services (State DHS) *Guidelines For Use of Recycled Water, Guidelines for Use of Recycled Water for Construction Purposes, and the County of San Diego Department of Environmental Health (County DEH) Recycled Water Plan Check and Inspection Manual*;
- Any measures that are deemed necessary for protection of public health, such as the American Water Works Association (AWWA) California/Nevada section, *Guidelines for the Distribution of Non-Potable Water and Guidelines for Retrofitting To Recycled Water* or alternate measures that are acceptable to the State DHS.

At a minimum, the rules and regulations shall notify the users that:

1. The use of recycled water shall not cause pollution, contamination, or nuisance, as defined by section 13050 of the California Water Code.

2. The Recycled Water Agency, the Regional Board, the State DHS, and the County DEH or an authorized representative of these parties, upon presentation of proper credentials, shall have the right to enter upon the recycled water use site during reasonable hours, to verify that the user is complying with the Recycled Water Agency's rules and regulations.

3. The recycled water user shall provide written notification, in a timely manner, to the Recycled Water Agency of any material change or proposed change in the character of the use of recycled water.

4. Prior to the initiation of recycled water service, the recycled water user shall

submit plans and specifications for recycled water distribution facilities to the Recycled Water Agency.

5. The recycled water user shall designate a recycled water supervisor who is responsible for the recycled water system at each use area under the user's control. Specific responsibilities of the recycled water supervisor include the proper installation, operation, and maintenance of the irrigation system; compliance of the project with the Recycled Water Agency's rules and regulations, prevention of potential hazards and preservation of the recycled water distribution system plans in "as built" form. Designated recycled water supervisors shall obtain instruction in the use of recycled water from an institution approved by the State DHS and County DEH. Additional guidance regarding recycled water supervisor responsibilities and instruction requirements is provided in Attachments 17 and 18 of the *Recycled Water Plan Check and Inspection Manual* developed by the County DEH, and which are incorporated herein by reference.

6. The Recycled Water Agency may terminate service to a recycled water user who uses, transports, or stores such water in violation of the Recycled Water Agency's rules and regulations.

7. All recycled water storage facilities owned and/or operated by recycled water users shall be protected against erosion, overland runoff, and other impacts resulting from a 100-year, 24-hour frequency storm unless the Regional Board Executive Officer approves relaxed storm protection measures for the facility.

8. All recycled water storage facilities owned and/or operated by recycled water users shall be protected against 100 - year frequency peak stream flows as defined by the San Diego County flood control agency unless the Regional Board Executive Officer approves relaxed storm protection measures for the facility. An exemption from this requirement has been granted for the reclaimed water storage ponds at the North La Costa Golf Course, which shall be operated to prevent discharges of reclaimed water from the reservoirs to San Marcos Creek and Batiquitos Lagoon. The measures shall include the termination of the discharge to the reservoirs when there is a potential for overflow.

9. The Regional Board may initiate enforcement action against any recycled water user who discharges recycled water in violation of any applicable discharge requirement prescribed by the Regional Board or in a manner which creates or threatens to create conditions of pollution, contamination, or nuisance, as defined in Water Code section 13050.

10. A copy of the recycled water rules and regulations, irrigation system layout

map, and a recycled water system operations manual shall be maintained at the use area. These documents shall be available to operating personnel at all times.

11. Irrigation with disinfected tertiary recycled water shall not take place within 50 feet of any domestic water supply well unless all of the following conditions have been met:

    a. A geological investigation demonstrates that an aquitard exists at the well between the uppermost aquifer being drawn from and the ground surface.

    b. The well contains an annular seal that extends from the surface into the aquitard.

    c. The well is housed to prevent any recycled water spray from coming into contact with the wellhead facilities.

    d. The ground surface immediately around the wellhead is contoured to allow surface water to drain away from the well.

    e. The owner of the well approves of the elimination of the buffer zone requirement.

12. Impoundment of disinfected tertiary recycled water shall not occur within 100 feet of any domestic water supply well.

13. Irrigation with, or impoundment of, disinfected secondary-2.2 or disinfected secondary -23 recycled water shall not take place within 100 feet of any domestic water supply well.

14. Irrigation with, or impoundment of, undisinfected secondary recycled water shall not take place within 150 feet of any domestic water supply well.

15. Reclaimed water facilities shall be operated in accordance with best management practices (BMP's) to prevent direct human consumption of reclaimed water and to minimize misting, ponding, and runoff. BMP's shall be implemented that will minimize both public contact and discharge onto areas not under customer control.

16. Irrigation with reclaimed water shall be during periods of minimal human use of the service area. Consideration shall be given to allow an adequate dry-out time before the irrigated area will be used by the public.

17. All drinking fountains located within the approved use area shall be protected by location and/or structure from contact with recycled water spray, mist, or runoff. Protection shall be by design, construction practice, or system operation.

18. Facilities that may be used by the public, including but not limited to eating surfaces and playground equipment and located within the approved use areas, shall be protected to the maximum extent possible by siting and/or structure from contact by irrigation with recycled water spray, mist, or runoff. Protection shall be by design, construction practice or system operation.

19. Spray irrigation with recycled water, other than disinfected tertiary recycled water, shall not take place within 100 feet of the property line of a residence or a place where public exposure could be similar to that of a park, playground, or school yard.

20. All use areas where recycled water is used and that are accessible to the public shall be posted with conspicuous signs, in a size no less than 4 inches by 8 inches, that include the following wording and picture in a size no less than 4 inches high by 8 inches wide: "RECYCLED WATER - DO NOT DRINK". See Attachment No. 2 for the acceptable symbol. The sign(s) shall be of a size easily readable by the public.

21. No physical connection shall be made or allowed to exist between any recycled water system and any separate system conveying potable water.

22. The recycled water piping system shall not include any hose bibs. Quick couplers that are different from that used on the potable water system may be used.

23. The public water supply shall not be used as a backup or supplemental source of water for a recycled water system unless the connection between the two systems is protected by an air gap separation which complies with the requirements of sections 7602(a) and 7603(a) of Title 17 and the approval of the public water system has been obtained. If a "Swivel-ell" type connection is used it must be used in accordance with the provisions of the Department of Health Services Policy Memo 95-004. Approved backflow prevention devices shall be provided, installed, tested, and maintained by the recycled water user in accordance with the applicable provisions of Title 17, Division 1, Chapter 5, Group 4, Article 2.

24. No person other than the Recycled Water Agency shall deliver recycled water to a facility. Connection to the irrigation system by an individual residence is prohibited.

25. All recycled water piping and appurtenances in new installations and appurtenances in retrofit installations shall be colored purple or distinctively wrapped with purple tape in accordance with Chapter 7.9, section 4049.54 of the California Health and Safety Code.

26. Reuse site shut down tests and inspections shall be monitored by the County DEH or the State DHS.

27. Customer complaints concerning recycled water use that may involve public illness shall be reported to the County DEH and the State DHS, and to the Recycled Water Agency who shall maintain a log of all customer complaints regarding recycled water.

28. Any backflow prevention device installed to protect the public water system shall be inspected and maintained in accordance with section 7605 of Title 17.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

MONITORING AND REPORTING PROGRAM NO. 2001-352
AS AMENDED BY ORDER NO. R9-2012-0027
FOR CARLSBAD MUNICIPAL WATER DISTRICT
CARLSBAD WATER RECYCLING FACILITY
SAN DIEGO COUNTY

A. MONITORING PROVISIONS

1. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this Order and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water or substance. Monitoring points shall not be changed without notification to and the approval of the Executive Officer.

2. Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to ensure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than +10 percent from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring must be conducted according to United States Environmental Protection Agency (USEPA) test procedures approved under Title 40, Code of Federal Regulations (CFR), Part 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants Under the Clean Water Act" as amended, unless other test procedures have been specified in this Order.

4. All analyses shall be performed in a laboratory certified to perform such analyses by the California Department of Health Services or a laboratory approved by the Executive Officer.

5. Monitoring results must be reported on discharge monitoring report forms approved by the Executive Officer.

6. If the discharger monitors any pollutants more frequently than required by this Order, using test procedures approved under 40 CFR, Part 136, or as

specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the discharger's monitoring report. The increased frequency of monitoring shall also be reported.

7. The discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.

8. Records of monitoring information shall include the following:

   a. The date, exact place, and time of sampling or measurements,
   b. The individual(s) who performed the sampling or measurements,
   c. The date(s) analyses were performed,
   d. The individual(s) who performed the analyses,
   e. The analytical techniques or method used, and
   f. The results of such analyses.

9. All monitoring instruments and devices that are used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy.

10. The discharger shall report all instances of noncompliance not reported under Provision F.6 of Order No. 2001-352 at the time monitoring reports are submitted. The reports shall contain the information described in Provision F.6.

11. The monitoring reports shall be signed by an authorized person as required by Provision F.21.

12. A composite sample is defined as a combination of at least eight sample aliquots of at least 100 milliliters, collected at periodic intervals during the operating hours of a facility over a 24-hour period. For volatile pollutants, aliquot must be combined in the laboratory immediately before analysis. The composite must be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot. Aliquot may be collected manually or automatically.

13. A grab sample is an individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes.

14. Sampling and analysis shall, at a minimum, be conducted in accordance with Article 6 of California Code of Regulations, Title 22, Division 4, Chapter 3 (Reclamation Criteria).

B. EFFLUENT MONITORING

1. Samples of the effluent discharged from the Carlsbad Water Recycling Facility (CWRF) shall be collected at a point downstream of the disinfection process and prior to any dilution.

2. The discharger is responsible for monitoring and reporting in accordance with the following criteria:

Monitoring and Reporting Program No. 2001-352
As Amended by Order No. R9-2012-0027

CONSTITUENT	UNIT	TYPE OF SAMPLE	SAMPLING FREQUENCY[3]	REPORTING FREQUENCY
Flowrate[1]	Gallons/Day	Continuous	Continuous	Monthly
Turbidity	NTU	Continuous	*	Monthly
Chlorine Residual[2]	mg/L	Continuous	**	Monthly
Chlorine Contact Time (CT)[2]	mg-min/L	Continuous	**	Monthly
Total Coliform	MPN/100ml	Grab	***	Monthly
Biochemical Oxygen Demand (BOD_5 @ 20°C)	mg/L	Composite	Once every 30 days	Quarterly
Total Suspended Solids	mg/L	Composite	Once every 30 days	Quarterly
Volatile Suspended Solids	mg/L	Composite	Once every 30 days	Quarterly
pH	Unit	Grab	Once every 30 days	Quarterly
Total Dissolved Solids	mg/L	Composite	Once every 30 days	Quarterly
Chloride	mg/L	Composite	Once every 30 days	Quarterly
Sulfate	mg/L	Composite	Once every 30 days	Quarterly
Boron	mg/L	Composite	Once every 30 days	Quarterly
Percent Sodium	%	Composite	Quarterly	Quarterly
Adjusted Sodium Adsorption Ratio[4]	---	Composite	Quarterly	Quarterly
EC	dS/m	Composite	Quarterly	Quarterly
Iron	mg/L	Composite	Once every 30 days	Quarterly
Manganese	mg/L	Composite	Once every 30 days	Quarterly
Methylene Blue Active Substances	mg/L	Composite	Annually	Annually
Aluminum	mg/L	Composite	Annually	Annually
Arsenic	mg/L	Composite	Annually	Annually
Barium	mg/L	Composite	Annually	Annually
Cadmium	mg/L	Composite	Annually	Annually
Chromium	mg/L	Composite	Annually	Annually
Copper	mg/L	Composite	Annually	Annually
Fluoride	mg/L	Composite	Annually	Annually
Lead	mg/L	Composite	Annually	Annually
Mercury	mg/L	Composite	Annually	Annually
Nickel	mg/L	Composite	Annually	Annually
Selenium	mg/L	Composite	Annually	Annually
Silver	mg/L	Composite	Annually	Annually
Zinc	mg/L	Composite	Annually	Annually

Notes: MPN/100 ml = Most Probable Number per 100 milliliters
mg/L = milligrams per liter
NTU = Nephelometric Turbidity Units
dS/m = deciseimens per meter

1 Report the daily total for influent, reclaimed effluent, recycled flows to Encina Water Pollution Control Facility, and discharge to the Encina Ocean Outfall.

2 Required if chlorine disinfection process is used. Disinfection using UV Irradiation will require additional monitoring requirements not currently specified in Order No. 2001-352.

3 The discharger shall increase the sampling frequency from once every 30 days to once every 7 days, from quarterly to monthly, and from annually to quarterly for any noted constituent that exceeds the limit specified by Discharge Specification B.1, B.2, B.3, and B.5 of Order No. 2001-352. The increased frequency of monitoring shall continue until the discharger achieves compliance with the limitations for three consecutive periods. After compliance is achieved, the discharger shall resume sampling at the specified frequency.

4 The adjusted sodium adsorption ratio (Adj. SAR) is calculated as follows:

$$\text{Adj. SAR} = \frac{Na}{\sqrt{(Ca_x + Mg)/2}}$$

where Na, Ca_x, and Mg are in milliequivalent per liter (meq/L)

Ca_x is a modified Ca value calculated using Table 3-2 contained in *Irrigation with Reclaimed Municipal Wastewater, A Guidance Manual.*

* Effluent turbidity analyses shall be conducted continuously using a continuous monitoring and recording turbidimeter. Compliance with the daily average operating filter effluent turbidity limit of 2 NTU shall be determined by averaging the recorded turbidity levels at a minimum of four-hour intervals over a 24-hour period. Compliance with the turbidity standard of not exceeding 5 NTU more than 5 percent of the time over a 24-hour period shall be determined using the levels of recorded turbidity taken at intervals of no more than 1.2-hours over a 24-hour period. Should the continuous turbidity meter and/or recorder fail, grab sampling at a minimum frequency of 1.2 hours may be substituted for a period of up to 24 hours. The discharger shall report monthly results of four-hour turbidity readings, average effluent turbidity (24-hours), 95 percentile effluent turbidity (24-hours), and daily maximum turbidity readings. Continuous turbidity monitoring must also be provided prior to filtration to ensure adequate process control, and automatically actuate coagulant feed when the turbidity of the secondary treated effluent is greater than 10 NTU.

** Chlorine concentrations shall be recorded by a continuous recording meter. Calculated CT (chlorine concentration multiplied by modal contact time) values shall be collected and recorded continuously. Compliance with CT requirements shall be determined at least daily. Minimum daily chlorine residual shall be reported monthly.

*** Samples for total coliform bacteria shall be collected at least daily and at a time when wastewater characteristics are most demanding on the treatment facilities and disinfection procedures. Results of daily total coliform bacteria monitoring, running 7-day

median determination, and maximum daily coliform reading in each of previous 12 months shall be reported monthly.

3. The discharger shall review the monitoring results for compliance with Order No. 2001-352 and submit a statement of compliance as part of the Monitoring and Reporting Program No. 2001-352. The statement of compliance shall identify and report all effluent limitation violations of Discharge Specifications B.1, B.2, B.3, and B.5 of this Order.

C. FILTRATION PROCESS MONITORING

If coagulation is not used as part of the treatment process, the turbidity of the filter influent and effluent shall be continuously measured. The discharger shall report orally to the Regional Board staff within 24-hours if effluent turbidity exceeds 2 NTU or if the influent turbidity exceeded 5 NTU, and shall describe the measures taken to automatically activate chemical addition or to divert wastewater should the turbidity of the influent to the filters exceed 5 NTU. The discharger shall submit a written report of the incident as part of the monthly monitoring report.

D. SEWAGE SOLIDS AND BIOSOLIDS

A record of the type, quantity, and manner of disposal and/or reuse of solids removed in the course of sewage treatment shall be maintained at the CWRF and be made available to Regional Board staff upon request.

A biosolids certification, certifying that the use and disposal of biosolids complies with existing Federal and State laws and regulations, including permitting requirements and technical standards included in 40 CFR 503 shall be submitted annually.

E. STORAGE PONDS

The Recycled Water Agency shall record storage pond monthly inflow and outflow, the volume of water in storage at the end of each month, the monthly volume of ground, municipal, and recycled water used, and total water consumption.

F. RECYCLED WATER USERS SUMMARY REPORT

1. The Recycled Water Agency shall submit a quarterly recycled water users summary report containing the following information:

   a. Total volume of recycled water supplied to all recycled water users for each month of the reporting period,
   b. Total number of recycled water use sites,

c. Address of the recycled water use sites and
d. Basin Plan name and number of hydrologic subarea underlying the recycled water use site.

2. The Recycled Water Agency shall submit an annual recycled water users compliance report containing the following information:

a. Recycled water use site summary report.

(1) Name of the reclaimed water reuse site
(2) Owner of the reclaimed water use facility
(3) Address of the reuse site
(4) Name of the reclaimed water user supervisor
(5) Phone number of the on-site water user supervisor
(6) Mailing address of the recycled water use supervisor, if different from site address
(7) Volume of reclaimed water delivered to the reuse site on a monthly basis

b. Recycled water user site inspections.

Number of reclaimed water reuse site inspections conducted by discharger/producer staff and identification of sites inspected for the year.

c. Recycled water user violations of the Recycled Water Agency's rules and regulations.

The Recycled Water Agency shall identify all recycled water users known to be in violation of the Recycled Water Agency's rules and regulations for recycled water users. The report shall include a description of the noncompliance and its cause, including the period of noncompliance, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

G. REPORT SCHEDULE

Monitoring reports shall be submitted to the Executive Officer in accordance with the following schedule:

Monitoring and Reporting Program No. 2001-352
As Amended by Order No. R9-2012-0027

Reporting Frequency	Report Period	Report Due
Monthly	January, February, March, April, May, June, July, August, September, October, November, December	By the 1st day of the second month following the month of sampling
Quarterly	January - March April - June July - September October - December	May 1st August 1st, November 1st February 1st
Annually	January-December	February 1st

Monitoring reports shall be submitted to:

California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Ordered by: 
DAVID W. GIBSON
Executive Officer

Date: December 12, 2001, amended on, February 8, 2012

Exhibit 14

From: Bill Plummer <Bill.Plummer@carlsbadca.gov>
Sent: Friday, February 08, 2013 11:33 AM
To: Ronald Kemp
Subject: FW: Leucadia Wastewater District

Importance: High

fyi

From: Ott, Mike [mailto:Mike.Ott@sdcounty.ca.gov]
Sent: Friday, February 08, 2013 11:13 AM
To: Bill Plummer
Cc: Barry, Robert
Subject: FW: Leucadia Wastewater District
Importance: High

Bill,
Robert Barry forwarded your email to me and discussed the issue Carlsbad MWD is experiencing with Leucadia Wastewater District (WD) regarding the provision of reclaimed water service to the La Costa Resort. Your discussion of issues is very thorough & helpful; however, one comment needs to be clarified. You state that Leucadia WD is interested in providing reclaimed water directly to the La Costa Resort and you define this as a "new service". According to LAFCO records, the Leucadia WD has provided water reclamation service (production and supply) to the La Costa Resort for about 30 years from 1961 to the mid-1990s. In addition, when LAFCO classified the various functions of all special districts in San Diego County about 40 years ago, Leucadia WD was recognized as a wastewater service provider, inclusive of reclamation service. In light of this fact and Leucadia WD's history of providing reclamation service, Leucadia WD's current decision to once again provide reclamation service directly to the La Costa Resort does not constitute a "new service". Therefore, LAFCO does not have purview over the matter. In addition, since the La Costa Resort is already located within the jurisdictional boundaries of the Leucadia WD, there does not appear to be any additional LAFCO issues. Nonetheless, we hope the two districts resolve this dispute in a cooperative and cost-effective manner for the ratepayers in Carlsbad. If you have any further questions, please contact us. – Mike

Michael D. Ott
Executive Officer
San Diego LAFCO
9335 Hazard Way, Suite 200
San Diego, CA 92123
Phone: (858) 614-7755
Fax: (619) 614-7766
sdlafco.org

From: Bill Plummer [mailto:Bill.Plummer@carlsbadca.gov]
Sent: Wednesday, February 06, 2013 8:23 AM
To: Barry, Robert
Subject: Leucadia Wastewater District

We are responding to your request for information regarding the new service LWD wants to provide. Please see below:
Since 1952, the Carlsbad Municipal Water District (CMWD) has been providing retail potable water service to its customers. Beginning in 1990 CMWD began developing a recycled water system to lower its dependence on imported water supplies. This required CMWD to obtain tertiary treated recycled water so that it could be used for all purposes except drinking water. CMWD obtained a discharge order from the regional board in 1991 to retail recycled water within its entire service area. CMWD had no tertiary treatment facility initially, but Vallecitos Water District and LWD did have small satellite wastewater treatment plants that could be used as a source of recycled water if tertiary facilities were constructed. CMWD entered into agreements with Vallecitos Water District and also LWD to obtain this supply.

In particular, LWD constructed a small 1 MGD Tertiary treatment process through a State loan program and then through the agreement with CMWD began delivering recycled water to CMWD. CMWD then provided this tertiary treated water to La Costa for their golf course. The agreement with LWD ended in 2011. Negotiations on a new agreement was pursued, CMWD submitted a letter in June 2012 indicating that the agreement would not be renewed because CMWD was not able to negotiate an equitable cost for the tertiary treated water compared to other available sources.

Since June 2012, LWD initiated efforts to supply La Costa directly from their tertiary treatment plant by submitting a written proposal to La Costa. This is beginning to result in a bidding war by La Costa to see which agency can supply the lowest cost tertiary treated recycled water. Removing the La Costa golf course demand is a financial impact to CMWD's recycled water distribution system.

We hope the information above answers your questions.

Exhibit 15

RULES
SAN DIEGO
LOCAL AGENCY FORMATION COMMISSION

ARTICLE IV
PROVISION OF NEW OR DIFFERENT
SPECIAL DISTRICT SERVICES/FUNCTIONS
(LATENT POWERS)

4.1 Authorization
4.2 Definitions
4.3 Powers of the Commission
4.4 Classification of Functions and Services
4.5 Requirements of Special Districts
4.6 Commission Determination
4.7 Commission Disapproval of Report
4.8 Commission Determination of District Functions and/or Services
4.9 Restriction of District Functions and/or Services
4.10 Provision of Additional Functions and Services
4.10a Exception to Requirement for LAFCO Approval of the Provision of Additional Functions and/or Services
4.11 Application Materials for Latent Powers
4.12 Public Hearing Requirements
4.13 Commission Disapproval of Application
4.14 Commission Approval
4.15 Commission Procedures

4.1 AUTHORIZATION -

As provided in Government Code Section 56821, Chapter 761, Statutes 2000; amended by Chapter 667, Statutes 2001 and applicable predecessor statutes, the Commission adopts this Article as its rules and regulations governing the provision of new or different services/functions (latent powers) of special districts and reaffirms the representation upon the Commission of independent special districts.

4.2 DEFINITIONS -

The following definitions shall apply under this Article:

1. "Commission" means the San Diego County Local Agency Formation Commission.
2. "District" means an agency of the State as defined by Section 56036 of the Government Code for which the County of San Diego is its principal county as defined by Section 56066 of the Government Code.
3. "Executive Officer" means the executive officer appointed by the Commission or the County officer acting as the executive officer.

4. "Function" means any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or property (Government Code Section 56040).
5. "Legislative body" means the legislative body or the governing board of a district as defined in this Article.
6. "Proceedings" means proceedings taken pursuant to this Article.
7. "Proposal" means a request or statement of intention made by a resolution of application of a legislative body proposing proceedings for the provision of additional functions or services.
8. "Service" means a class established within a single local agency function including the public facilities necessary to perform the function. The San Diego LAFCO's adopted service classification system adopted per Government Code Section 56074 is applicable to all local agencies for purposes of defining functions and services.

4.3 POWERS OF THE COMMISSION -

The Commission may:

1. Require existing districts to file written reports with the Commission specifying the functions or classes of service provided by such districts (Government Code Section 56425 (h) (1)). Commission proceedings for the exercise of new or different functions or classes or services by special districts may be initiated by a special district by a resolution of application, including all of the matters specified for a petition in Government Code Section 56700, and submitted to the Executive Officer with a plan for services prepared pursuant to Section 56653 (Government Code Sections 56824.10, added by Chapter 667, Statutes 2001; and 56824.12).

2. Identify the nature, location, and extent of any functions or classes of service provided by existing districts (Government Code Section 56425 (h) (2)).

3. Determine that, except as otherwise authorized by such rules and regulations, no new or different function or class of service shall be provided by any existing district (Government Code Section 56824.14). The Commission shall review and approve or disapprove with or without amendments, wholly, partially, or conditionally, proposals for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district after a public hearing is called and held for that purpose. The expansion of latent powers shall not require a public hearing.

4. Modify (expand, increase, decrease, or eliminate) services or functions within the boundaries of an existing special district if requested by resolution of a special district that is subject to the proposed service or function modification.

These rules and regulations shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service that the Commission, pursuant to this Article has determined is currently being provided by such special district. However, if LAFCO has restricted the geographic area of any special district function or

service as a condition of latent powers activation, then LAFCO retains authorization over any extension, expansion, or enlargement, of such function or service within the boundaries of an existing special district.

4.4 CLASSIFICATION OF FUNCTIONS AND SERVICES -

The following classifications of functions and services are hereby established:

FUNCTION	SERVICES
Water	Wholesale, Retail, Replenishment, Injection
Sewer	Collection, Transportation, Treatment, Reclamation, Disposal
Public Transportation	Land, Sea, Air
Street Lighting	
Power	Generation, Distribution
Gas	Distribution
Cable Television	
Telephone/Communications	
Police	
Fire	Watershed, Structural
Ambulance	
Rescue/Disaster	
Parks and Recreation	Regional Park Development/Maintenance Local Park Development/Maintenance Recreation
Flood Control	
Cemeteries	
Hospitals	
Solid Waste	
Pest Control	
Vector Control	
Libraries	
Weed Abatement	
Planning	
Soil Conservation	
Roads, Streets and Highways	Improvement/Maintenance

Section 4.14 added: 9/16/74

4.5 REQUIREMENTS OF SPECIAL DISTRICTS -

Upon the adoption of this Article, each special district shall, at the request of the Executive Officer, provide, to the satisfaction of the Commission, the following materials within 30 days of such request:

1. A report of which functions and services are currently being provided by that district;
2. A statement as to the legal provisions regarding the rendering of such functions and services;
3. A map, showing the boundaries of the district and the location(s) where functions and services are provided.

For purposes of these rules and regulations a district shall be deemed to be providing a function or service if bonds have been heretofore authorized therefore, if substantial sums have been expended, if substantial financial obligations have been incurred therefore, if property, facilities or equipment have been acquired or constructed for such purpose, or if the district is actually exercising its powers to provide such function or service for the benefit of lands or inhabitants within the district.

4.6 COMMISSION DETERMINATION -

Following the receipt of such materials from a district as provided for in Section 4.5, the Commission shall determine:

1. To approve with or without amendment, wholly or partially or to disapprove the report on the functions and services currently being provided by the district and the location(s) where such functions or services are being provided;
2. To refer the report back to the district having submitted it and request modification of such report; the Commission shall set a reasonable date for the re-submittal of such modified report.

4.7 COMMISSION DISAPPROVAL OF REPORT -

In the event the Commission disapproves a report on the functions and services, the Commission may make its own study and report on the functions and services being provided by a district; the Commission shall, at the request of the affected district, consider its report at a public hearing prior to making a final determination on same.

4.8 COMMISSION DETERMINATION OF DISTRICT FUNCTIONS AND/OR SERVICES -

By approving the report of a special district as provided in Section 4.5 or by making its own report on the functions and services of a district as provided in Section 4.7, the Commission shall thereby identify the nature, location and extent of the functions or services provided by such a district.

4.9 RESTRICTION OF DISTRICT FUNCTIONS AND/OR SERVICES -

At such time as the Commission has identified the nature, location and extent of the functions and services of any district, such district shall not provide any new or different function or class of service except as authorized by this Article, provided that this rule shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service which the Commission, pursuant to this Article, has determined is currently being provided by such special district. In approving a new or different function of class or service, the San Diego LAFCO may restrict the provision of the new or different function or class of service to a geographically specific area within the district. If the Commission imposes this restriction, any subsequent extension or enlargement of the service area will be subject to LAFCO review.

4.10 PROVISION OF ADDITIONAL FUNCTIONS AND SERVICES -

Any district making a proposal to provide functions and/or service in addition to those identified by the Commission pursuant to this Article shall file with the Executive Officer a resolution of its governing board making application for the provision of additional functions and/or services.

4.10a EXCEPTION TO REQUIREMENT FOR LAFCO APPROVAL OF THE PROVISION OF ADDITIONAL FUNCTIONS AND/OR SERVICES -

A district which is authorized by state law to provide for generation and distribution of electric power is not required to make application to nor obtain authorization from the Commission before providing that function, although the district has not provided that function previously (9/14/81).

4.11 APPLICATION MATERIALS FOR THE PROVISION OF NEW OR DIFFERENT SERVICES/FUNCTIONS (LATENT POWERS) -

A resolution of application shall be in such form as the Commission may prescribe and shall be accompanied by:

1. A statement of the nature of the proposal and the reasons therefore;
2. A legal description of the territory which is the subject of the proposal;
3. A map showing the boundaries of the subject territory;
4. Such additional date and information as may be required by the Executive Officer, pertaining to any of the matters or factors which may be considered by the Commission;
5. The name of the officers or persons, not to exceed three, who are to be given mailed notice of hearing.

4.12 PUBLIC HEARING REQUIREMENTS FOR LATENT POWERS ACTIVATION -

Upon the filing of a resolution of application, the Executive Officer shall set the matter for hearing by the Commission.

1. The date of the hearing shall not be more than 90 days after such filing.
2. The Executive Officer shall cause notice of hearing to be published in a newspaper of general circulation within the area for which the provision of additional functions and/or services are proposed, as specified in Government Code Section 6061 and 56824.14.
3. The Executive Officer shall also cause notice of such hearing to be mailed at least twenty-one (21) days prior to the date of hearing to:
   (a) the district adopting the resolution of application;
   (b) each city or district within three miles of the subject district;
   (c) each person who is designated in the application to receive notice or any person who has filed a written request for special notice with the Executive Officer.
4. Such hearing may be continued from time to time for a period not to exceed 70 days from the original date of such hearing. The conduct of such hearing shall be governed by the provisions of Section 56666 of the Government Code and by the Rules of the Commission. At any time not later than 35 days after the conclusion of the hearing, the Commission shall adopt a resolution making determinations approving or disapproving the provision of the additional functions and/or services by the District.

4.13 COMMISSION DISAPPROVAL OF APPLICATION -

If the Commission wholly disapproves any proposal involving the provision of such additional functions and/or services by the subject district, no proceeding shall be taken for the provision of such additional functions and/or services by the subject district for a period of one year after the date of such disapproval unless said period is waived by the Commission.

4.14 COMMISSION APPROVAL -

If the Commission approves the provision of additional function(s) and/or service(s), the Executive Officer shall, within 30 days of such approval, forward to the subject district a copy of the Commission's resolution.

4.15 COMMISSION PROCEDURES -

The procedures provided by this Article shall be generally guided by the provisions of Chapter 5 (commencing with Section 56821, Chapter 761, Statutes of 2000; amended by Chapter 667, Statutes 2001) of the Government Code.

Adoption History: Article IV, Sections 4.1 to 4.15

Adopted June 30, 1975
Re-affirmed and adopted December 4, 2000
Administratively Revised and Updated May 17, 2005
Administratively Revised and Updated August 7, 2006
Comprehensively Updated and re-adopted March 3, 2008

OMNI HOTELS & RESORTS

September 16, 2019

Keene Simonds, Executive Officer
San Diego County
Local Agency Formation Commission
County Operations Center
9335 Hazard Way, Suite 200
San Diego, CA 92123

Re: Business Impacts of Switching Recycled Water Delivery to Carlsbad at the Omni La Costa Resort & Spa's South Golf Course

Dear Mr. Simonds:

It is our understanding that the LAFCO Special Districts Advisory Committee is scheduled to consider at its October 11, 2019 meeting whether the Leucadia Wastewater District ("Leucadia") may continue to deliver recycled water to the Omni La Costa South Golf Course. The purpose of this letter is to provide further context on the long-standing operational relationship with Leucadia, the disruption of which would result in significant business impacts on the Omni La Costa Resort & Spa.

The La Costa South Course has historically received recycled water produced by Leucadia's treatment facility located adjacent to the La Costa South Course. Our day-to-day communications regarding irrigation schedules, special events and other logistics are with Leucadia operations staff and we have been satisfied with the service Leucadia provides. Although the formalities of our billing arrangement have varied over the years, Omni La Costa Resort & Spa's operational relationship has always been directly with Leucadia as the entity delivering water, as continues to be the case.

The La Costa South Course plays an integral role in the services that the Omni La Costa Resort & Spa provides and keeping the course in excellent condition is a top priority. The business impacts of switching recycled water service from Leucadia to Carlsbad Municipal Water District ("Carlsbad") would be significant.

Carlsbad currently has no reliable means to deliver recycled water to the La Costa South Course and connecting directly to the Carlsbad system would require an investment of over $1 million on the part Omni La Costa Resort & Spa to construct the necessary infrastructure for this to happen. In addition, the recycled water rate for Carlsbad is approximately $250 more per acre-foot than the Leucadia rate, which would equate to an additional expense to Omni La Costa Resort & Spa of $60,000 or more per year. Although difficult to quantify, the business interruption costs of implementing a construction project concurrent with resort operations would also be significant.

Leucadia has served, and to our knowledge could continue to serve, as a reliable recycled water source for the La Costa South Course. A switch to Carlsbad would result in a high cost to Omni La Costa Resort & Spa without a measurable improvement in the Course's circumstances. We hope that this information is of assistance in evaluating whether LAFCO may allow Leucadia to continue its role as a recycled water provider to the La Costa South Course.

Please do not hesitate to contact me at (760) 929-6300 or brian.hughes@omnihotels.com should you have any questions or need further clarification.

Sincerely,

Brian Hughes
Managing Director

Omni La Costa Resort & Spa
2100 Costa Del Mar Road • Carlsbad, CA • 92009
760-438-9111 • 760-930-7087 fax
omnihotels.com

global hotel alliance

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RULES
SAN DIEGO
LOCAL AGENCY FORMATION COMMISSION

ARTICLE IV
PROVISION OF NEW OR DIFFERENT SPECIAL DISTRICT SERVICES/FUNCTIONS (LATENT POWERS)

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4.1 AUTHORIZATION -

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The following definitions shall apply under this Article:

1. "Commission" means the San Diego County Local Agency Formation Commission.
2. "District" means an agency of the State as defined by Section 56036 of the Government Code for which the County of San Diego is its principal county as defined by Section 56066 of the Government Code.
3. "Executive Officer" means the executive officer appointed by the Commission or the County officer acting as the executive officer.

4. "Function" means any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or property (Government Code Section 56040).
5. "Legislative body" means the legislative body or the governing board of a district as defined in this Article.
6. "Proceedings" means proceedings taken pursuant to this Article.
7. "Proposal" means a request or statement of intention made by a resolution of application of a legislative body proposing proceedings for the provision of additional functions or services.
8. "Service" means a class established within a single local agency function including the public facilities necessary to perform the function. The San Diego LAFCO's adopted service classification system adopted per Government Code Section 56074 is applicable to all local agencies for purposes of defining functions and services.

4.3 POWERS OF THE COMMISSION -

The Commission may:

1. Require existing districts to file written reports with the Commission specifying the functions or classes of service provided by such districts (Government Code Section 56425 (h) (1)). Commission proceedings for the exercise of new or different functions or classes or services by special districts may be initiated by a special district by a resolution of application, including all of the matters specified for a petition in Government Code Section 56700, and submitted to the Executive Officer with a plan for services prepared pursuant to Section 56653 (Government Code Sections 56824.10, added by Chapter 667, Statutes 2001; and 56824.12).

2. Identify the nature, location, and extent of any functions or classes of service provided by existing districts (Government Code Section 56425 (h) (2)).

3. Determine that, except as otherwise authorized by such rules and regulations, no new or different function or class of service shall be provided by any existing district (Government Code Section 56824.14). The Commission shall review and approve or disapprove with or without amendments, wholly, partially, or conditionally, proposals for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district after a public hearing is called and held for that purpose. The expansion of latent powers shall not require a public hearing.

4. Modify (expand, increase, decrease, or eliminate) services or functions within the boundaries of an existing special district if requested by resolution of a special district that is subject to the proposed service or function modification.

These rules and regulations shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service that the Commission, pursuant to this Article has determined is currently being provided by such special district. However, if LAFCO has restricted the geographic area of any special district function or

service as a condition of latent powers activation, then LAFCO retains authorization over any extension, expansion, or enlargement, of such function or service within the boundaries of an existing special district.

4.4 CLASSIFICATION OF FUNCTIONS AND SERVICES -

The following classifications of functions and services are hereby established:

FUNCTION	SERVICES
Water	Wholesale, Retail, Replenishment, Injection
Sewer	Collection, Transportation, Treatment, Reclamation, Disposal
Public Transportation	Land, Sea, Air
Street Lighting	
Power	Generation, Distribution
Gas	Distribution
Cable Television	
Telephone/Communications	
Police	
Fire	Watershed, Structural
Ambulance	
Rescue/Disaster	
Parks and Recreation	Regional Park Development/Maintenance Local Park Development/Maintenance Recreation
Flood Control	
Cemeteries	
Hospitals	
Solid Waste	
Pest Control	
Vector Control	
Libraries	
Weed Abatement	
Planning	
Soil Conservation	
Roads, Streets and Highways	Improvement/Maintenance

Section 4.14 added: 9/16/74

4.5 REQUIREMENTS OF SPECIAL DISTRICTS -

Upon the adoption of this Article, each special district shall, at the request of the Executive Officer, provide, to the satisfaction of the Commission, the following materials within 30 days of such request:

1. A report of which functions and services are currently being provided by that district;
2. A statement as to the legal provisions regarding the rendering of such functions and services;
3. A map, showing the boundaries of the district and the location(s) where functions and services are provided.

For purposes of these rules and regulations a district shall be deemed to be providing a function or service if bonds have been heretofore authorized therefore, if substantial sums have been expended, if substantial financial obligations have been incurred therefore, if property, facilities or equipment have been acquired or constructed for such purpose, or if the district is actually exercising its powers to provide such function or service for the benefit of lands or inhabitants within the district.

4.6 COMMISSION DETERMINATION -

Following the receipt of such materials from a district as provided for in Section 4.5, the Commission shall determine:

1. To approve with or without amendment, wholly or partially or to disapprove the report on the functions and services currently being provided by the district and the location(s) where such functions or services are being provided;
2. To refer the report back to the district having submitted it and request modification of such report; the Commission shall set a reasonable date for the re-submittal of such modified report.

4.7 COMMISSION DISAPPROVAL OF REPORT -

In the event the Commission disapproves a report on the functions and services, the Commission may make its own study and report on the functions and services being provided by a district; the Commission shall, at the request of the affected district, consider its report at a public hearing prior to making a final determination on same.

4.8 COMMISSION DETERMINATION OF DISTRICT FUNCTIONS AND/OR SERVICES -

By approving the report of a special district as provided in Section 4.5 or by making its own report on the functions and services of a district as provided in Section 4.7, the Commission shall thereby identify the nature, location and extent of the functions or services provided by such a district.

4.9 RESTRICTION OF DISTRICT FUNCTIONS AND/OR SERVICES -

At such time as the Commission has identified the nature, location and extent of the functions and services of any district, such district shall not provide any new or different function or class of service except as authorized by this Article, provided that this rule shall not apply to the extension or enlargement, within the boundaries of an existing special district, of any function or service which the Commission, pursuant to this Article, has determined is currently being provided by such special district. In approving a new or different function of class or service, the San Diego LAFCO may restrict the provision of the new or different function or class of service to a geographically specific area within the district. If the Commission imposes this restriction, any subsequent extension or enlargement of the service area will be subject to LAFCO review.

4.10 PROVISION OF ADDITIONAL FUNCTIONS AND SERVICES -

Any district making a proposal to provide functions and/or service in addition to those identified by the Commission pursuant to this Article shall file with the Executive Officer a resolution of its governing board making application for the provision of additional functions and/or services.

4.10a EXCEPTION TO REQUIREMENT FOR LAFCO APPROVAL OF THE PROVISION OF ADDITIONAL FUNCTIONS AND/OR SERVICES -

A district which is authorized by state law to provide for generation and distribution of electric power is not required to make application to nor obtain authorization from the Commission before providing that function, although the district has not provided that function previously (9/14/81).

4.11 APPLICATION MATERIALS FOR THE PROVISION OF NEW OR DIFFERENT SERVICES/FUNCTIONS (LATENT POWERS) -

A resolution of application shall be in such form as the Commission may prescribe and shall be accompanied by:

1. A statement of the nature of the proposal and the reasons therefore;
2. A legal description of the territory which is the subject of the proposal;
3. A map showing the boundaries of the subject territory;
4. Such additional date and information as may be required by the Executive Officer, pertaining to any of the matters or factors which may be considered by the Commission;
5. The name of the officers or persons, not to exceed three, who are to be given mailed notice of hearing.

4.12 PUBLIC HEARING REQUIREMENTS FOR LATENT POWERS ACTIVATION -

Upon the filing of a resolution of application, the Executive Officer shall set the matter for hearing by the Commission.

1. The date of the hearing shall not be more than 90 days after such filing.
2. The Executive Officer shall cause notice of hearing to be published in a newspaper of general circulation within the area for which the provision of additional functions and/or services are proposed, as specified in Government Code Section 6061 and 56824.14.
3. The Executive Officer shall also cause notice of such hearing to be mailed at least twenty-one (21) days prior to the date of hearing to:
   (a) the district adopting the resolution of application;
   (b) each city or district within three miles of the subject district;
   (c) each person who is designated in the application to receive notice or any person who has filed a written request for special notice with the Executive Officer.
4. Such hearing may be continued from time to time for a period not to exceed 70 days from the original date of such hearing. The conduct of such hearing shall be governed by the provisions of Section 56666 of the Government Code and by the Rules of the Commission. At any time not later than 35 days after the conclusion of the hearing, the Commission shall adopt a resolution making determinations approving or disapproving the provision of the additional functions and/or services by the District.

4.13 COMMISSION DISAPPROVAL OF APPLICATION -

If the Commission wholly disapproves any proposal involving the provision of such additional functions and/or services by the subject district, no proceeding shall be taken for the provision of such additional functions and/or services by the subject district for a period of one year after the date of such disapproval unless said period is waived by the Commission.

4.14 COMMISSION APPROVAL -

If the Commission approves the provision of additional function(s) and/or service(s), the Executive Officer shall, within 30 days of such approval, forward to the subject district a copy of the Commission's resolution.

4.15 COMMISSION PROCEDURES -

The procedures provided by this Article shall be generally guided by the provisions of Chapter 5 (commencing with Section 56821, Chapter 761, Statutes of 2000; amended by Chapter 667, Statutes 2001) of the Government Code.

Adoption History: Article IV, Sections 4.1 to 4.15

Adopted June 30, 1975
Re-affirmed and adopted December 4, 2000
Administratively Revised and Updated May 17, 2005
Administratively Revised and Updated August 7, 2006
Comprehensively Updated and re-adopted March 3, 2008

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commission within 60 days, the advisory committee shall be deemed to have approved the proposed changes in the report and recommendation.

Within 30 days after the conclusion of the hearing, the commission shall adopt a resolution approving the report and recommendation, either as filed or as those regulations may be changed by the commission.

Resolution approving report and recommendation of advisory committee; orders

56824.7. Any resolution approving the report and recommendation of a special district advisory committee, either as filed or as changed by the commission, shall order both of the following:

(a) The repeal of regulations, in accordance with the recommendations of the approved report.

(b) The chairperson of the commission to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution if special district representatives on the commission are to be selected pursuant to Section 56332.

Article 1.5. New or Different Services

New or different services; resolution of application

56824.10. Commission proceedings for the exercise of new or different functions or classes of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, may be initiated by a resolution of application in accordance with this article.

District's proposal to provide new or different services

56824.12. (a) A proposal by a special district to provide a new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, shall be made by the adoption of a resolution of application by the legislative body of the special district and shall include all of the matters specified for a petition in Section 56700, except paragraph (6) of subdivision (a) of Section 56700, and be submitted with a plan for services prepared pursuant to Section 56653. The plan for services for purposes of this article shall also include all of the following information:

Plan for services

(1) The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.

(2) The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.

(3) An identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

(4) A written summary of whether the new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.

(5) A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.

(6) Alternatives for the establishment of the new or different functions or class of services within the special district's jurisdictional boundaries.

(b) The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer. Except as provided in subdivision (c), the commission shall process resolutions of application adopted pursuant to this article in accordance with Section 56824.14.

Noticed public hearing on district's application

(c) (1) Prior to submitting a resolution of application pursuant to this article to the commission, the legislative body of the special district shall conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154.

(2) Any affected local agency, affected county, or any interested person who wishes to appear at the hearing shall be given an opportunity to provide oral or written testimony on the resolution.

Commission review and approval

56824.14. (a) The commission shall review and approve with or without amendments, wholly, partially, or conditionally, or disapprove proposals for the establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, after a public hearing called and held for that purpose. The commission 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 of class of services except as specified in paragraph (1).

(1) The commission may approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district where the commission has determined that the special district will not have

sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that if the revenue sources pursuant to Section 56886 are not approved, the authority of the special district to provide new or different functions or class of services shall not be established.

(2) Unless otherwise required by the principal act of the subject special district, or unless otherwise required by Section 57075 or 57076, the approval by the commission for establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, shall not be subject to an election.

(b) At least 21 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted.

(c) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

Article 2. Reorganization

56825. The commission shall have the powers and duties set forth in Part 2 (commencing with Section 56300) and the additional powers and duties specified in this chapter.

Provisions; one or more changes

56826. A reorganization or a plan of reorganization shall provide for one or more changes of organization of any type for each of the subject districts and may provide for the formation of one or more new districts pursuant to the principal act or acts designated in the reorganization or plan of reorganization and Section 56100.

Consolidation of special districts not formed pursuant to the same principal act; conditions for approval

56826.5. (a) A proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act shall only be approved by the commission if both the following conditions are met:

(1) The commission is able to designate a successor or successors, or form a new district or districts, authorized by their

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Simonds,Keene

From: Brian Hughes <brian.hughes@omnihotels.com>
Sent: Monday, December 09, 2019 1:57 PM
To: Simonds,Keene
Cc: David Smallwood
Subject: FW: [EXTERNAL] RE: Omni La Costa Resort update
Attachments: La Costa Water Cost Analysis.pdf

Good afternoon Keene,

Please find our consultant's analysis. I just realized that I did not send it to you. I apologize for the delay. The key impact points for our business are:

- Doubling the power cost currently incurred for running the North Course pump station.
- Would cut the life expectancy of the pump station in half. The typical lifespan is 15-20 years and the replacement cost is $200k
- The ability of the maintenance staff to irrigate either the North or South Course during the day will be severely limited.
- Concerns about the existing meter not being able to keep up with demand during peak irrigation requirements of around 1.6 million gallons/day
- A new meter could be installed. The cost is estimated at $211k
- There would be an additional need to install a new transfer line to the South Course irrigation pond along with equipment needed to automate the lake fill process. Estimated one-time cost is $100k.
- The annual cost of CMWD water versus Leucadia water is estimated at $80k.

Please let me know if you have any follow up questions or preparation for the December 20th. Otherwise, I look forward to attending this important meeting.

Best regards, Brian

BRIAN HUGHES
Managing Director
Omni La Costa Resort & Spa

760-929-6300
brian.hughes@omnihotels.com

Book Direct. Feed a Family. SayGoodnightToHunger.com

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BRYANT TAYLOR GORDON
IRRIGATION DESIGN & CONSULTING

Transmittal

From: DAVE TAYLOR *Ref:* PROJECTED WATER COST

To: BRIAN HUGHES, MANAGING DIRECTOR
DAVID SMALLWOOD, DIRECTOR OF AGRONOMY

Date: 11/20/19

PROJECTED WATER COST ANALYSIS

We were asked to evaluate the possibility of changing the water purveyors for the South Course irrigation supply from the Leucadia Water District (LWD) to the Carlsbad Municipal Water District (CMWD).

In our view, there are several factors that need to be considered, some of which are strictly cost impacts, and others are relationship driven.

Our understanding of the current delivery system is that the LWD rates are $1,400/acre-foot of water. Water is delivered to the South Course irrigation pond through a dedicated line that originates at the water plant and terminates on the north side of the irrigation pond. It is our understanding that this line was installed by, and is maintained by LWD. We do not have any as-built plans of where this line is located, but we were shown the approximate routing of the line by one of the LWD employees. It is presumed that this line is 10" in diameter for the majority of the length of the line, but this has not been confirmed. Water is delivered to La Costa on an as needed basis, with LWD turning on their transfer pumps and moving water to the irrigation pond through a manual process.

It is our further understanding that the La Costa South Course irrigation pond is a primary storage location for LWD for the reclaimed water they produce since their on-site storage capacity is very limited according to conversations we had with the LWD employee that showed us the approximate routing of their transfer line to the South Course irrigation pond. Without the added holding capacity of the South Course irrigation pond we presume LWD would need to make alternate arrangements for disposal of their Reclaimed Water product. We did not inquire about this in any further detail.

We prepared a standard Estimated Water Requirement for the South Course irrigation on a per month, annualized basis. A copy of that estimate is attached for your review. We based this estimate on Evapotranspiration Rates (ET) for San Diego as published by the University of California from historical data. Our estimate is that for the acreage covered by the South Course pump station, the basic irrigation requirement will be approximately 500 acre-feet annually. Note that this is essentially a worst-case analysis and does not allow for any reductions in water requirement due to rain fall. Nor does it account for any reductions in irrigation of out of play areas that may be in effect.

That being said, we estimate that the annual water cost for irrigation of the South Course using LWD as the provider should amount to approximately $700,000 per year.

The option to change purveyors from LWD to CMWD has been discussed. At this point, there is not a viable supply line that can feed the South Course irrigation pond from CMWD. There were discussions about using the existing supply to the North Course located off of Alga Road and transferring water from that source down to the South Course irrigation pond using the North Course irrigation pump station. We do not believe this is a viable option for several reasons. First and foremost is that it would be an added cost to the club to re-pump water from the North Course irrigation pond down to the South Course irrigation pond through the existing golf course irrigation main lines. This would essentially double the power costs currently incurred for running the North Course pump station. Water would need to be pumped to the South Course irrigation pond after the irrigation cycle was completed for the North Course. The added run time for the pump station would also shorten the life span of that pump station, presumably cutting it roughly in half. We project that the replacement for this pump station will exceed $200,000. Typical life spans for pump stations in our climate are 15-20 years. Since the station is approximately half way through its life cycle, you can expect about another 8-10 years of service from it. If it is used for transferring water to the South Course as well, we would estimate the remaining life span to be about 5 years. It should also be noted that if the irrigation main lines are in use for transferring water from the North Course irrigation pond to the South Course irrigation pond, the ability of the maintenance staff to irrigate either the North or South Course during the day will be severely limited. There will also be a one-time costs to the club to create an automated fill line into the South Course irrigation pond from the existing South Course irrigation main line system.

We also have concerns that the existing meter may not be able to keep up with demand during peak irrigation requirements of around 1.6 million gallons per day.

If this is eliminated as a viable option, the remaining option is to install a new meter and transfer line as close as possible to the South Course irrigation pond. Presumably, this would be somewhere along El Camino Real adjacent to the driving range. The cost of this meter was reported to us to be in the vicinity of $211,000 to establish a new supply and meter. On top of this, the cost of installing a new transfer line to the South Course irrigation pond along with equipment needed to automate the lake fill process is estimated to be a one-time cost of

approximately $100,000 or possibly more depending on the costs incurred to bore under the stream bed a couple times.

Based on information we have been provided, it is our understanding that the cost of the CMWD water is somewhere around $1,560 per acre foot. This increase in the cost per acre-foot of water would add about $80,000 per year to the cost of water for the club above what the current costs are.

From our view, there do not seem to be any cost incentives for the club to change water purveyors for the South Course; in fact doing so will result in significant up front costs of over $300,000 plus ongoing costs of potentially $80,000 per year due to the increased cost of the water from CMWD as compared to the current rates from LWD.

LA COSTA RESORT AND SPA
ESTIMATED WATER COSTS - SOUTH COURSE

Preliminary Estimate of Water Costs - South Course

	WATER COST/AF	
Estimated Area:	LEUCADIA	1,400
	CARLSBAD	1,561

MONTH	BASE ET (IN)	AVE DAILY ET (IN)	DAILY H20 GAL/ACRE	DAILY H20 TOTAL GAL	MONTHLY H20 TOTAL GAL	MONTHLY H20 TOTAL AF	LEUCADIA EST COST	CARLSBAD EST COST
JAN	2.10	0.068	1,846.5	238,199	7,384,154	23	$ 31,726	$ 35,374
FEB	2.40	0.086	2,335.2	301,241	8,434,742	26	$ 36,239	$ 40,407
MAR	3.40	0.110	2,986.9	385,310	11,944,613	37	$ 51,319	$ 57,221
APR	4.60	0.153	4,154.6	535,943	16,078,302	49	$ 69,080	$ 77,024
MAY	5.10	0.165	4,480.4	577,972	17,917,120	55	$ 76,980	$ 85,833
JUN	5.30	0.177	4,806.3	620,013	18,600,381	57	$ 79,916	$ 89,106
JUL	5.70	0.184	4,996.3	644,523	19,980,204	61	$ 85,844	$ 95,716
AUG	5.60	0.181	4,914.9	634,022	19,654,685	60	$ 84,445	$ 94,157
SEP	4.30	0.143	3,883.0	500,907	15,027,210	46	$ 64,564	$ 71,989
OCT	3.60	0.116	3,149.9	406,337	12,596,450	39	$ 54,120	$ 60,344
NOV	2.40	0.080	2,172.3	280,227	8,406,801	26	$ 36,119	$ 40,273
DEC	2.00	0.065	1,765.0	227,685	7,058,235	22	$ 30,325	$ 33,813
ANNUAL	46.50				163,082,897	500	$ 700,678	$ 781,256

ET = Evapotranspiration Rate measured in inches.
Based on Evapotranspiration for San Diego CA from University of California Reference Evapotranspiration Tables
Rain Allowance = 0%

4

AGENDA REPORT
Business | Discussion

December 20, 2019

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer
Tamaron Luckett, Executive Assistant

SUBJECT: **Election Update and Related Committee Direction | Special District Election to Appoint Regular Member to LAFCO**

SUMMARY

The San Diego County Special Districts Advisory Committee ("Committee") will review and discuss a tentative timeline to conduct a special district election for LAFCO ahead of a new four-year regular term beginning on May 4, 2020. Feedback is also requested with respect to the Chair appointing members to the Nominating Committee for purposes of reviewing nominees' qualifications and making related recommendations.

BACKGROUND

Statutory Provisions

State law prescribes the composition of San Diego LAFCO shall include 13 Commissioners divided between eight regular and five alternate members. Members are drawn from five distinct categories and this includes three representatives from independent special districts (two regular and one alternate). The Independent Special District Committee (board presidents) is responsible under statute for making the three appointments by election with administration therein provided by LAFCO staff.

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Dianne Jacob, Vice Chair, County of San Diego
Greg Cox, Alternate, County of San Diego
Mary Casillas Salas, City of Chula Vista
Bill Wells, City of El Cajon
Paul McNamara, Alternate, City of Escondido
Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

Existing District Representation

San Diego LAFCO's current regular special district representatives are Jo MacKenzie with Vista Irrigation District and Barry Willis with Alpine Fire Protection District. The current alternate representative is Erin Lump with Rincon del Diablo Municipal Water District. A complete Commissioner roster with term dates is attached.

DISCUSSION

This item is for the Committee to review and discuss a tentative timeline to conduct a special district election for LAFCO ahead of a new four-year term beginning in May 2020 involving the regular seat currently held by Jo MacKenzie. The Committee will also consider providing feedback to the Chair in appointing a Nominating Committee to review candidates and make a recommendation for distribution to all independent special districts.

Tentative Election Timeline

On December 5, 2019, LAFCO staff provided written notice to all 58 independent special districts in San Diego County inviting nominations to serve as a regular member on the Commission. The nominating period is open through Friday, February 7, 2020 with the option to extend if needed. Staff anticipates issuing ballots to all independent districts on February 14th within an opportunity for a Nominating Committee to meet beforehand and make recommendations. An eight-week election is planned with ballots due back by April 20th.

Nominating Committee

The Committee's adopted policies provides for the establishment of a three-person Nominating Committee to make recommendations with respect to special district candidates running for election on LAFCO. The Nominating Committee shall consist of eligible Committee appointees made by the Chair whose terms will not expire until the following year. Committee members currently eligible for appointment to the Nominating Committee are Gary Arant, Bill Haynor, Sheryl Landrum, Hector Martinez, Julie Nygaard, Augie Scalzitti, and Joel Scalzitti.

ANALYSIS

The tentative election timeline outlined in the preceding section follows recent practice and provides additional time beyond the minimum 30-day noticing requirement under statute for both nominations and ballots to be returned to LAFCO. It also allows for LAFCO staff to incorporate recommendations from the Nominating Committee into the ballot materials as applicable as well as coordinate a candidate forum with the San Diego Chapter of CSDA at their next quarterly meeting on February 20, 2020. Nonetheless, and at its collective preference, the election timeline can be amended by the Committee to allow for additional nominating and/or balloting time. This includes utilizing an allowance under statute for the incumbent to retain their seat on LAFCO until their successor has been duly appointed. Separately, the Committee may also provide feedback to the Chair on the appointments and tasks of a Nominating Committee as well as any additional outreach to be performed by LAFCO staff.

RECOMMENDATION

This item is presented to the Committee for review and discussion. It is recommended the Committee provide feedback and direction to the LAFCO staff (election timeline) and/or the Chair (Nominating Committee) as needed.

ALTERNATIVES FOR ACTION

This item is being presented for information only; no action.

PROCEDURES

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

1) Receive verbal report from staff unless waived; and
2) Discuss item and provide direction as needed.

Respectfully,



Keene Simonds
Executive Officer

Attachment:

1) Commission Roster

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GENERAL DISTRIBUTION
SAN DIEGO LAFCO COMMISSIONER ROSTER

OFFICERS 2019 ***CHAIRWOMAN: JO MACKENZIE***
VICE CHAIRMAN: DIANNE JACOB

REGULAR MEMBERS

County Representatives

* **Supervisor Jim Desmond** 05/23
1600 Pacific Hwy., Room 335
San Diego, CA 92101
(619) 531-5555

* **Supervisor Dianne Jacob** 05/20
1600 Pacific Hwy., Room 335
San Diego, CA 92101
(619) 531-5522

City Representatives

Mayor Mary Casillas Salas 05/23
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
(619) 691-5044

Mayor Bill Wells 5/21
City of El Cajon
200 Civic Center Way
El Cajon, CA 92020-3916
(619) 441-1716

City of San Diego Representatives

* **Councilmember Mark Kersey** 5/21
202 C Street, 10th Floor
San Diego, CA 92101
(619) 236-6655

Special Districts Representatives

Jo MacKenzie 05/20
Vista Irrigation District
1391 Engineer St
Vista, CA 92083
(760) 597-3131

Barron "Barry" Willis
Alpine Fire Protection District 05/23
1364 Tavern Road
Alpine, CA 91901
(619) 445-2635

Public-at-Large Representatives

Andrew Vanderlaan 05/21
9335 Hazard Way, Suite 200
San Diego, CA 92123
(858) 614-7755

ALTERNATE MEMBERS

County Alternate

* **Supervisor Greg Cox** 05/20
1600 Pacific Hwy., Room 335
San Diego, CA 92101
(619) 531-5511

City Alternate

Mayor Paul McNamara 5/23
City of Escondido
201 North Broadway Street
Escondido, CA 92025
(760) 839-4610

City of San Diego Alternate

* **Councilmember Chris Cate** 5/21
202 C Street, MS 10A
San Diego, CA 92101
(619) 236-6616

Special Districts Alternate

Erin Lump 05/23
Rincon del Diablo Municipal Water District
1920 North Iris Lane
Escondido, CA 92026
(760) 745-5522

Public-at-Large Alternate

Harry Mathis 05/23
9335 Hazard Way, Suite 200
San Diego, CA 92123
(858) 614-7755

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5

AGENDA REPORT
Business | Action

December 20, 2019

TO: Special Districts Advisory Committee

FROM: Keene Simonds, Executive Officer
Tamaron Luckett, Executive Assistant

SUBJECT: Selection of Chair and Vice Chair

SUMMARY

The San Diego County Special Districts Advisory Committee ("Committee") will consider making officer appointments for the Chair and Vice Chair positions for the 2020 calendar year.

BACKGROUND

The Committee's adopted policies call for the annual selection of a Chair and Vice Chair ahead of the first meeting of the new calendar year. Terms are one year unless otherwise specified by a vote of the Committee. Recent appointments follow.

Recent Chair and Vice Chair Appointments

Calendar Year	Chairperson	Vice Chairperson
2015	Kimberly Thorner	Judy Hanson
2016	Kimberly Thorner	Julie Nygaard
2017	Kimberly Thorner	Julie Nygaard
2018	Kimberly Thorner	Julie Nygaard
2019	Kimberly Thorner	Julie Nygaard

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Mark Kersey, City of San Diego
Chris Cate, Alternate, City of San Diego
Jo MacKenzie, Chair, Vista Irrigation
Barry Willis, Alpine Fire Protection
Erin Lump, Alternate, Rincon del Diablo MWD
Andy Vanderlaan, General Public
Harry Mathis, Alternate, General Public

DISCUSSION

This item is for the Committee to appoint a Chair and Vice Chair for 2020. The Chair and Vice Chair actively work with the Executive Officer throughout the calendar year and highlighted by setting Committee meeting agendas. The Chair is also responsible for making appointments to subcommittees as well as filling unexpired terms on the Committee.

ANALYSIS

The Committee's policies provide the membership broad discretion in selecting a Chair and Vice Chair each year; there is no formal rotation or otherwise slotting system. However, it has been the Commission's standing practice to either reappoint the Chair and Vice Chair and/or promote the Vice Chair with the latter necessitating a follow up appointment.

RECOMMENDATION

It is recommended the Committee consider the merits of proceeding with past practice in selecting a Chair and Vice Chair as described in the preceding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to the Committee and can be accomplished with a single-motion:

Alternative One (recommended)
Make appointments to the Chair and Vice Chair positions as appropriate.

Alternative Two
Continue the item to a future meeting and provide direction to staff with respect to any additional analysis or information requested.

PROCEDURES

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

1) Receive verbal report from staff unless waived; and
2) Discuss item and consider recommendation.

Respectfully,



Keene Simonds
Executive Officer

Attachments: none