

**Municipal Service Review & Sphere of Influence Update:
Agencies Providing Floodwater and Sewage Control,
Waterworks Construction, and Groundwater
Management, Protection, and Exploration
in the Tijuana Watershed
(Western Hydrologic Unit)**

(MSR02-20; SR02-20[A]; SR02-20[B]; SR02-20[C])

**Report of the
San Diego Local Agency Formation Commission**

July 12, 2004

**San Diego Local Agency Formation Commission
1600 Pacific Highway • Room 452
San Diego, CA 92101**

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San Diego Local Agency Formation Commission

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EXECUTIVE SUMMARY

Legislation

Under the new provisions of the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, Local Agency Formation Commissions (LAFCO) have been given the responsibility of conducting comprehensive studies, called Municipal Service Reviews (MSR), to evaluate the delivery of municipal services by both cities and special districts in each county. This State Law requires that these reviews be conducted before, or in conjunction with, updating spheres of influence. Spheres of influence are essential planning tools, which provide guidance to LAFCO in establishing physical boundaries and service areas of cities and special districts. Service reviews will be important informational reports that will assist LAFCO, affected and subject agencies, as well as the public in coordinating efficient provision of public services to support the unprecedented growth that is expected in California during the next decade.

Procedures

LAFCO staff followed a three-step process for the Tijuana Watershed MSR and sphere update. The first step involved data collection and analysis; step two involved distribution of the draft document for comments and potential corrections as well as presenting the draft report to the Commission's Special Districts Advisory Committee for review and comment. The third and final step included updating existing data, incorporating additional information and relevant details, developing recommendations, and presenting a hearing draft document to the San Diego LAFCO. Based on a prior Grand Jury investigation, which recommended that the Tia Juana Valley County Water District (CWD) be dissolved, the District was placed on the list of those agencies included in the first phase of service reviews in San Diego County (refer to Attachment A). By virtue of the District's location in the Tijuana River Valley, the geographic region chosen for the service review was the area delineated by the State of California as the Tijuana Watershed (Western Hydrologic Unit). In 2001, LAFCO conducted a survey of services provided by each special district in the County. Based on the results of that survey, the service review was restricted to those services the Tia Juana Valley CWD claimed that it provided at that time – floodwater and sewage control, waterworks construction, and groundwater management, protection, and exploration. The governmental agencies located in the Tijuana Watershed (Western Hydrologic Unit) Municipal Service Review and Sphere of Influence Update include the Tia Juana Valley CWD and portions of the Cities of San Diego and Imperial Beach (refer to attached Map 1).

Agencies

- **Tia Juana Valley CWD**

Covering about seven square miles, the Tia Juana Valley CWD has a population of approximately 23,000 people. Inhabited areas are located primarily along the district's north central and eastern boundary and encompass approximately 700 acres. Most district territory is located in four major, open space parks that have been established in the Tijuana River Valley. The District was established in 1946 primarily as a defensive measure to protect the underground aquifer from depletion of its water and the subsequent intrusion of saltwater and other contaminants. In addition, the District was envisioned as a governmental body that would represent the interests of property owners in the Tijuana River Valley. Although formed as a county water district, the Tia Juana Valley CWD never was granted the authority to provide water service to area residents.

During the 1950s, the City of Imperial Beach incorporated, and the City of San Diego annexed the San Ysidro area. Since LAFCOs had not yet been formed to oversee changes to governmental jurisdiction, territory in the Tia Juana Valley CWD was not detached from either of the two Cities, but remained in their corporate boundaries. Thus, overlap areas between the District and the two Cities were created, and the Cities became the providers of municipal services (i.e., sewer, fire protection, flood control, etc.) to district residents. By the 1970s when imported water became available throughout the valley, the Cities became the public water service purveyors for area residents.

In 1989, the Tia Juana Valley CWD's Board of Directors voted to contribute district assets valued at approximately \$1.7 million in cash and property to the County of San Diego. The donation was intended to facilitate the County's purchase of land for the subsequent creation of parks for both recreational and passive pursuits in areas also encompassing wildlife habitat. In conjunction with the divesting of assets, board members also agreed to surrender the District's charter. However, the directors never adopted a resolution to dissolve the District nor submitted a dissolution application to LAFCO. Thus, in the ensuing election, other individuals were elected to the board and began the process of restoring the District to its former level of activity.

In LAFCO's 2001 survey, the District claimed to provide floodwater and sewage control, waterworks construction, acquisition of land and water rights, and groundwater management, protection, and exploration. A year later, the District explained that groundwater supply research and development and flood management services also were being provided. Groundwater management and protection, as well as floodwater and sewage control appear to be linked to the District's originally approved services. However, groundwater development and exploration may not be services LAFCO has sanctioned through the authorization

of latent powers; thus, the provision of those services may not be in compliance with State Law.

- **Cities of San Diego & Imperial Beach**

Because both the Cities of San Diego and Imperial Beach share sections of territory with the Tia Juana Valley CWD, they were included in the municipal service review for the Tijuana Watershed (Western Hydrologic Unit). Each City provides municipal level services to its residents, with Imperial Beach providing water via a contract with the California American Water Company, which purchases water from the City of San Diego. Information requested from the two Cities was restricted to specific services and limited to service provision in only the areas overlaying the District.

Sphere of Influence Updates

In December 1984, LAFCO adopted a “zero” sphere of influence for the Tia Juana Valley CWD, thus indicating that the agency should, at some point in the future, be dissolved and its service responsibilities reassigned. As a component of this service review, LAFCO staff is recommending that the zero sphere designation be affirmed for the Tia Juana Valley CWD. When the spheres for the Cities of Imperial Beach and San Diego were considered by LAFCO, the corporate boundary, which is located in the Tia Juana Valley CWD and separates the two Cities, was adopted as the partial sphere line for each city in that area. Staff is recommending that the existing sphere boundaries, which are coterminous with the corporate boundary between the Cities of San Diego and Imperial Beach, be affirmed as partial spheres for each City.

Infrastructure, Facilities, Services, and Governance – Tia Juana Valley CWD

Recently, the District reported that only groundwater supply research and development, and flood management services are provided. From 1993-1997, the District spent \$1 million developing a Groundwater Management Plan, conducting a flood control study, and completing the first phase of its Total Groundwater Exploration Project (TGEP). While the District claims to only provide groundwater supply research and development, the TGEP clearly involves groundwater exploration and production. This water-related project includes the extraction of groundwater for distribution and sale, as well as construction of a blending facility, a desalination plant, and a water delivery system. Water would be sold to a variety of customers including the Cities of San Diego and Tijuana, and the California American Water Company, which provides water to the City of Imperial Beach. In conjunction with those water-related projects is the planned construction of flood control facilities to capture floodwater and surface runoff for recharging the aquifer. The District funded and produced a report that provided information for the City of San Diego’s pilot flood control channel that is located in the Tijuana River Valley. While the Tia Juana Valley CWD neither owns nor operates flood control facilities, directors are

involved with the support and promotion of flood control efforts of other governmental agencies.

In 1995, the District reported that it lacked sufficient funding to complete either the construction or operation of water treatment and distribution facilities. In 2002, the District applied for \$1.3 million in federal grant money to finance the next phase of the TGEP, which involved further studies and reports, but not construction costs. In April 2003, the District received notification that \$500,000 had been awarded by the federal government to fund the next phase of the TGEP, which is the North River Groundwater Production Feasibility Study. However, that grant represents only partial funding of the project, and leaves the District with a serious lack of funds – approximately \$800,000 – to pay for the study. Additionally, with the costs of services and supplies escalating over time, the amount necessary to fund the project's next phase likely has surpassed the original \$1.3 million price tag. Thus, to make up the financial shortfall, additional financing must be acquired from other sources. Moreover, to fully implement the entire project, millions of dollars in additional financial assistance must be secured.

Furthermore, the published final findings of the Groundwater Management Plan indicated that it would not be cost effective to extract water from the aquifer since extraction, collection, treatment, and distribution costs would exceed the commercial value of water that could be obtained. Additionally, injecting large volumes of reclaimed water to recharge the aquifer has been found to be infeasible due to the low permeability of the San Diego Formation. Nevertheless, board members persist in pursuing the extraction of groundwater for ultimate sale and distribution. The Cities of Imperial Beach and San Diego already provide an adequate level of water service to residents. Lacking the expertise and financial resources to fully develop the Total Groundwater Exploration Plan, the District may not be the appropriate agency to lead a project of this magnitude and complexity even if, in the future, it would be deemed a financially feasible undertaking.

In addition to these proposed projects, the District began a watershed management program in 1999. However, when only a portion of the grant money was received, the District abandoned the watershed plan and shifted its focus to a wetlands restoration project. Strategies to contend with storm water runoff from the entire Tijuana Watershed currently are being coordinated by the County of San Diego in partnership with the Cities of San Diego and Imperial Beach; the Tia Juana Valley CWD has not been included as a participant in this endeavor. While still in the planning stages, the watershed program agencies are committed to developing a storm water management plan to address flooding in the Tijuana River Valley.

The Tia Juana Valley CWD Directors meet every other month with City of San Diego Councilmember Inzunza to discuss a variety of issues and problems in the Tijuana River Valley. During a meeting, which was attended by LAFCO staff, the matters under discussion seemed to be under the purview of either the City of

San Diego or the federal government. District directors appear to be completing tasks that city staff members should perform. Since directors are paid for attendance at these meetings, district funds are being used to pay for providing information to the City. It also seems that the information could be more efficiently conveyed through a letter, memo, or report that should be presented to the appropriate city department, rather than directly to the city councilman.

Overall, the Board is involved in providing data and advice to governmental agencies having projects located in the Tijuana River Valley and Watershed area. As advocates for the region, the Board may have assumed responsibilities only peripherally related to its goals – some of which may not be authorized by State Law. A civic association or advisory board may be able to perform these duties in a more efficient and cost effective manner. Since civic associations and advisory boards are voluntary and members do not receive payment for attendance at meetings, area residents would not have a financial obligation to support these activities.

Administration, Management, and Operations – Tia Juana Valley CWD

One of LAFCO's core responsibilities is to simplify and streamline government structure to achieve service efficiencies and cost savings. Since the 1950s, all district territory has been included in either the City of San Diego or Imperial Beach; all inhabited district territory is in the City of San Diego, which provides residents with municipal services. Based primarily on the location of district territory in both cities, LAFCO adopted a zero sphere of influence for the Tia Juana Valley CWD in 1984. This designation is recommended when an agency's services ultimately should be reassigned to another governmental entity.

While having no infrastructure and providing no direct municipal services, the District has funded and conducted studies related to flooding and sewage contamination in the Tijuana River Valley. Results of those studies, together with information and advice, have been disseminated by district directors to numerous federal, state, and local governmental agencies. The U.S. government participates in international efforts to address the issues of flooding and contamination resulting from sewage spills migrating across the border from the City of Tijuana. Both the City of San Diego and the federal government have financed and constructed flood control facilities to protect the valley.

Since the District's formation more than 55 years ago, significant changes in governmental organization have occurred. Perhaps the most important change is that all district territory is now contained in either the City of San Diego or Imperial Beach, and those cities are authorized to provide a full range of municipal services to residents. Additionally, the County has partnered with the cities to address surface water runoff and flooding problems affecting the Tijuana River Valley. While the District provides information and supports by resolution the projects of other governmental agencies, the District has neither directly financed nor constructed infrastructure to benefit the river valley or deal with its

chronic problems. Periodic flooding, sewage spills, and groundwater contamination are issues that have been and should continue to be addressed by the City of San Diego, the County of San Diego, and the federal government.

Thus, the District represents a redundant layer of government for the following reasons: (1) all territory in the Tia Juana Valley CWD also is contained in either San Diego or Imperial Beach; (2) flooding and sewage spills from Mexico are international problems that appropriately should be addressed by the federal government in coordination with the State, County, and affected municipalities; and (3) storm water management responsibility for the watershed is divided between the County and City of San Diego.

Fiscal – Tia Juana Valley CWD

In the past, the Tia Juana Valley CWD received a portion of property tax revenue. However, that revenue was last collected in the late 1950s. Since the District did not receive property tax revenue when Proposition 13 was enacted, the CWD is precluded from receiving an allocation of that revenue without concurrence from all other taxing entities. In 1992, the District adopted a resolution imposing a \$25 per parcel annual fixed charge special assessment, which was increased to \$50 per parcel in 1993, and has remained constant since that time. Area residents were not given the opportunity to vote on either the initial imposition of the special assessment or the increase. The District's FY 2002-03 budget lists \$200,000 as the annual total for the special assessment. Described for deposit into a "Water Research and Development Fund," the money actually pays for the District's operating costs. According to the District, federal and state grant monies will pay the expenses associated with completing the TGEP. All District property owners are subject to the special assessment, which is not paid by property owners in other portions of San Diego or Imperial Beach. Since the assessment is imposed for the purpose of obtaining water from the aquifer for future sale, it appears that ratepayers are subsidizing a project that is not producing any results.

In 1993, the District received a loan totaling \$117,000 from the County Water Authority. The money was earmarked to provide financial assistance for the District's groundwater management plan and initial phase of the total groundwater exploration project. According to CWA's Director of Water Resources, the agency is not required to repay the loan if the project is determined to be infeasible. At this time, the Tia Juana Valley CWD has not implemented the projects that were partially funded by CWA and, consequently, are not required to make payments.

The District's outstanding debt in 2003 was about \$134,000, which is the balance of a loan from the State of California. As of May 2004, the outstanding balance for repayment of the State loan was approximately \$70,000. In the past, the District attempted to have the balance of the loan forgiven by the State, but was unsuccessful since the loan is unconditional and cannot be absolved.

In 1990, the District inaugurated a policy to have an annual reserve of at least \$100,000 at the end of each fiscal year. That goal has been attained twice over the three fiscal years for which LAFCO requested information. The reported reserve at the end of Fiscal Year 2001-2002 was short by approximately \$6,000. However, the District has not indicated whether the funds in reserve are discretionary and may be used for any purpose, or if the money is restricted and can only be used for a specific project.

In the response to LAFCO's RFI, excess funds were reported as "reserve funds." Information obtained in May 2004 indicated that the District anticipates having excess funds at the end of FY 2003-2004. A portion of that amount has been identified as unused funds from a State grant that was awarded for the District's watershed project. As such, that money is designated for use only for that project. However, it also was reported that approximately \$65,000 to \$75,000 would be left at year's end in the District's account. That money consists of discretionary funds that can be utilized for general purposes, which includes discharging the District's existing debts.

Grand Jury Reports – Tia Juana Valley CWD

In 1999, the Grand Jury investigated the Tia Juana Valley CWD; based on that investigation, two reports have been produced. The 1999 report alleged that the CWD was insolvent, had devoted substantial resources to a project it could not complete, had poorly documented financial records, had overstepped its legal authority, and should be dissolved. The 2003 report reiterated the previous concerns.

In a letter to the Presiding Judge of the Superior Court, dated June 2000, the District President responded to the Grand Jury allegations that the District always had been and currently was a fiscally viable and financially responsible agency. The District's primary source of revenue comes from the annual special assessment levied at the rate of \$50 for each parcel; the total is approximately \$200,000. Income from the assessment covers the District's operating costs, leaving any other projects without funding unless grant monies can be procured. District assets consist of four wells – three monitoring wells and one pilot extraction well. The Grand Jury's appraisal attributes approximately 75 - 90 percent of the District's non-cash assets to the pilot well, which it claimed to be of no value. However, the District contends that the well has significant economic worth. According to the response to LAFCO's RFI, the District intends to continue pursuing extraction of water from the aquifer for sale and distribution as a means to improve its financial health and self-sufficiency. Nevertheless, as previously mentioned, reports financed by the District have verified that water extraction costs would exceed the water's wholesale value.

From Fiscal Year 1999 to 2002, the District identified a substantial decrease in expenses through the reduction and consolidation of staff duties. The savings amounted to \$154,000, or a 42 percent decrease. According to the current General

Manager, the anticipated \$1.7 million in expenses contained in the year 2003 budget for project engineering costs will not be incurred unless offsetting grant monies are received.

To support the allegation that the District has exceeded its authority, the Grand Jury report cited an incident when the board members discussed efforts to oppose the expansion of Brown Field as a regional cargo center. While that project could affect area residents, it lacks a connection to the services the District claims to provide. Other matters extraneous to the District's purview also were discussed during the meeting with Councilmember Inzunza that was attended by LAFCO staff members. A civic association or advisory board that could provide advice and make recommendations regarding studies and projects affecting the Tia Juana River Valley could complete many of the tasks and duties that board members currently perform.

Both Grand Jury Reports recommended that the Tia Juana Valley CWD be dissolved based on a variety of factors, including: a lack of need for service, duplication of service responsibility, efficacy, etc. Dissolving any governmental agency has complexities that must be considered. Since special districts usually have assets and liabilities that remain after dissolution, an appropriate successor agency is required that would absorb not only duties and responsibilities, but also take over ownership of a district's assets and pay off existing debt. As of 2004, the Tia Juana Valley CWD owns four wells, has between \$65,000 and \$75,000 in cash reserves, and has debt totaling approximately \$70,000, which represents the required repayment of a State loan. Another loan consisting of \$117,000 from the County Water Authority is outstanding, but would not have to be repaid if the projects it funded are not completed. If the District were dissolved, those projects would remain unfinished, and therefore the debt would not have to be repaid.

Since the City of San Diego contains the greater assessed valuation of taxable property located in the Tia Juana Valley CWD, by law it would become the successor agency if the District were dissolved. However, staff from the City Manager's Office has indicated to LAFCO that the City has no interest in becoming the Tia Juana Valley CWD's successor agency. It should be noted that the question was not presented to the City Council for consideration.

Advisory Committee Review

After reviewing the draft MSR/sphere update report, LAFCO's Special Districts Advisory Committee met to consider and discuss the document. During the meeting, some committee members indicated that information garnered from research conducted by the Tia Juana Valley CWD is valuable and has been utilized by other water purveyors in the region. Other members questioned whether the District is the appropriate agency to conduct this research. For example, the studies could be conducted either independently or as a joint effort by the Cities of San Diego and Imperial Beach since all district territory is contained in those two full-service cities. In addition, both cities are authorized to

conduct similar research, and the City Councils have the authority and ability to implement recommended changes when the studies are concluded.

Another topic the committee discussed pertained to the legality of the District collecting a fixed charge special assessment, and if an election to ratify this assessment should have been conducted to comply with the provisions of Proposition 218. According to subsequent research conducted by LAFCO staff and LAFCO's legal counsel, there is no provision in the law that authorizes the collection of a fixed charge special assessment except as a special tax that would require approval by a two-thirds vote of district electors. Therefore, collection of the special assessment is illegal because the Tia Juana Valley CWD did not comply with provisions in State Law and the State Constitution regarding special assessments and taxes. Consequently, if the City of San Diego were designated as successor agency following dissolution of the District, the City would be precluded from continuing to levy the special assessment without approval by two-thirds of district voters.

Advisory Committee members also requested staff to research the cost of an election should one be required to dissolve the District. The Registrar of Voters Office was contacted and provided an estimate of election costs. If the dissolution were considered at a regularly scheduled election, the estimated costs would be approximately \$1,700 to \$2,000.

In addition, a member of the public expressed concern regarding two specific issues: (1) whether only residents of the District should be burdened with financing studies that impact the entire region; and (2) that board members are being paid to attend meetings and provide advice to locally elected officials whose staff members could perform those functions. These matters are addressed in the MSR/sphere update report.

After deliberating, the Committee agreed to accept the draft report, subject to minor modifications, and requested staff to incorporate the conclusions of the specified additional research into a revised report. After formulating the required determinations, staff was requested to transmit the revised document to the Commission with the recommendation that the Commission pursue the dissolution of the Tia Juana Valley County Water District.

Municipal Service Review Determinations

Based upon the municipal service review conducted in the Tijuana Watershed (Western Hydrologic Unit), the Tia Juana Valley CWD represents an unnecessary layer of government. The City of San Diego not only provides floodwater and sewage control, and waterworks construction to area residents, but also provides other essential municipal services. While not having floodwater control infrastructure, the City of Imperial Beach does have a sewer system, which protects groundwater, and provides other urban services. On May 19, 2004, the Imperial Beach City Council voted to support the dissolution of the Tia Juana

Valley CWD (refer to Attachment F). The Tia Juana Valley CWD has no floodwater control infrastructure, and provides no urban services. Furthermore, because the Tijuana Watershed stretches beyond the City of San Diego into unincorporated territory, the County of San Diego is collaborating with the Cities of San Diego and Imperial Beach to develop a comprehensive plan to address flooding and surface water runoff problems in the Tijuana River Valley.

As it exists today, the Tia Juana Valley CWD primarily serves two purposes. One is as an agency that attempts to procure both state and federal grant monies to devote to the District's Total Groundwater Exploration Project. The second purpose is as an advocacy group, which gathers data and information that subsequently is distributed to other governmental agencies. Those agencies then utilize the relevant data for on-going projects as well as for assisting planning efforts for capital improvement projects. Among the agencies that receive the information are the City of San Diego, the International Boundary & Water Commission, the Army Corps of Engineers, the U.S. Bureau of Reclamation, and a variety of other state and federal agencies and departments.

The District's current major project – the Total Groundwater Exploration Project – consists of exploring the potential extraction of water from the underground aquifer for future distribution and sale, concurrent with capturing storm water runoff for aquifer recharge. As previously stated, this undertaking has yielded a report concluding that these endeavors are unlikely to be successful. Furthermore, we believe the District has misused public funds and has violated State Law pertaining to service provision.

Cost savings can be achieved if the Tia Juana Valley CWD were dissolved and District activities assumed by the City of San Diego. All of the District's inhabited territory is in the City, and the City could pursue the exploration of groundwater extraction if the City Council elected to do so. Moreover, dissolution of the District would relieve area taxpayers of an annual special assessment that was illegally imposed. Both LAFCO's Special Districts Advisory Committee and the Grand Jury have recommended that the District be dissolved.

Environmental Review

Sphere of Influence Update

Spheres of influence are subject to the provisions of the California Environmental Quality Act (CEQA). For the Tijuana Watershed area under consideration in this municipal service review, land use designations and decisions already are under the purview of either the City of San Diego or Imperial Beach. Thus, affirmation of spheres as previously adopted appears appropriate – a zero sphere for the Tia Juana Valley CWD, and coterminous partial spheres for those portions of the Cities of San Diego and Imperial Beach located in the District. Affirmation of the existing spheres is an administrative act that does not change the authorized land uses in the sphere territory and would be exempt from CEQA.

Municipal Service Review

The municipal service review consists of basic data collection, research, and evaluation activities, which will not result in any disturbances to environmental resources. Thus, pursuant to the San Diego LAFCO's Administrative Procedures for implementation of CEQA, the Tijuana Watershed (Western Hydrologic Unit) Municipal Service Review is exempt from the environmental impact evaluation process.

The information contained in the report pertains to infrastructure needs and deficiencies; growth and population projections for the subject area; financing constraints and opportunities; cost avoidance opportunities; opportunities for rate restructuring; opportunities for shared facilities; government structure options, including advantages and disadvantages of consolidation or reorganization of service providers; evaluation of management efficiencies; and local accountability and governance.

The following sections of this document report in greater detail the requirements of State Law concerning municipal service reviews, spheres of influence, processes and procedures, data summaries, and data analysis. The final section contains the nine determinations specified by the Cortese-Knox-Hertzberg Act, as well as the written Statements of Determinations that pertain to the sphere of influence updates. Therefore, it is

RECOMMENDED: That the Commission:

- (1) Find, in accordance with the Executive Officer's determination, that pursuant to Section 15306 of the State CEQA Guidelines, the municipal service review is not subject to the environmental impact evaluation process because the service review consists of basic data collection and research that will not result in a disturbance to an environmental resource;
- (2) Find, in accordance with the Executive Officer's determination, that pursuant to Section 15061(b)(3) of the State CEQA Guidelines affirming a zero sphere of influence for the Tia Juana Valley County Water District is not subject to the environmental impact evaluation process because it can be seen with certainty that there is no possibility for the proposed project to significantly impact the environment, and the activity is not subject to CEQA;
- (3) Find, in accordance with the Executive Officer's determination, that pursuant to Section 15061(b)(3) of the State CEQA Guidelines affirming coterminous partial spheres of influence for the portions of the Cities of San Diego and Imperial Beach located in the Tia Juana Valley County Water District is not subject to the environmental impact evaluation process because it can be seen with certainty that there is no possibility for

the proposed project to significantly impact the environment, and the activity is not subject to CEQA;

- (4) For the reasons set forth in the Tijuana Watershed (Western Hydrologic Unit) Municipal Service Review and Sphere of Influence Update Study, affirm a zero sphere of influence for the Tia Juana Valley CWD, affirm coterminous partial spheres for the boundary between the Cities of San Diego and Imperial Beach located in the Tia Juana Valley CWD as previously adopted, and adopt the written Statements of Determinations as proposed in Exhibits A, B, and C; and
- (5) For the reasons set forth in the Tijuana Watershed (Western Hydrologic Unit) Municipal Service Review, adopt the Determinations proposed in Section III.

Respectfully submitted,

MICHAEL D. OTT
Executive Officer

INGRID E. HANSEN
Chief, Governmental Services

List of Exhibits and Attachments:

Exhibit A:	Statement of Determinations: Sphere of Influence for the Tia Juana Valley County Water District
Exhibit B:	Statement of Determinations: Partial Sphere of Influence for the City of San Diego
Exhibit C:	Statement of Determinations: Partial Sphere of Influence for the City of Imperial Beach
Attachment A:	San Diego LAFCO Municipal Service Review Guidelines
Attachment B:	Factors of Analysis – MSR Determinations
Attachment C:	Strategy for Conducting and Using MSRs
Attachment D:	LAFCO Letter to City of San Diego
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Regional Maps:

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BACKGROUND

Municipal Service Review

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires that comprehensive studies, known as Municipal Service Reviews (MSR), be conducted for all cities and special districts that provide municipal services to county residents. The term “municipal services” generally refers to the full range of services that a public agency provides or is authorized to provide. The primary goal of the MSR is to gather and evaluate information in order to make the following nine determinations that are required by statute. San Diego LAFCO developed standards for analysis to explain and clarify the required determinations (please refer to Attachment B).

1. Infrastructure needs or deficiencies
2. Growth and population projections for the affected area
3. Financing constraints and opportunities
4. Cost avoidance opportunities
5. Opportunities for rate restructuring
6. Opportunities for shared facilities
7. Government structure options
8. Evaluation of management efficiencies
9. Local accountability and governance

Municipal service reviews are to be conducted before, or in conjunction with updating spheres of influence. A sphere of influence is defined as a plan for the probable physical boundaries and service area of a local agency, and is determined by LAFCO. Characterized as a planning tool, a sphere provides guidance in reviewing individual proposals, promotes efficient service provision, and prevents duplication of service responsibilities. As a tool for long-range planning, a sphere may be used as one factor in forecasting an agency’s future service needs within a geographic area in order to anticipate infrastructure planning and financing.

Responding to the revision in State Law, San Diego LAFCO initiated its municipal service review program in 2002 after adopting service review guidelines. The guidelines provide the procedures to fulfill the municipal services review program. In addition to identifying goals and objectives, the Commission’s guidelines provide direction in determining geographical boundaries, preparing the report, and defining which services and agencies to address. In April 2003, the Commission adopted an implementation policy recommended by the Municipal Service Review Working Group and the Special Districts Advisory Committee for

preparing service reviews. Known as the *Strategy for Conducting and Using Municipal Service Reviews*, this policy establishes a framework to assist the Commission in MSR preparation (Attachment C). The Commission also adopted a schedule of which regions and corresponding agencies to include in the first phase of the service review program.

Among those agencies identified for the initial phase was the Tia Juana Valley County Water District (CWD). As the subject of a grand jury investigation in 1999-2000, the District wanted to participate in a service review to clarify questions raised during the investigation.

Process

The first task was to determine a geographic region in which to conduct a study that would include Tia Juana Valley CWD territory. A map of the Tijuana Watershed (United States portion) indicated that the majority of territory contained in the Tia Juana Valley CWD was included in the watershed. For the purpose of environmental resource management, watersheds in California have been divided into discrete sub-areas or hydrologic units that are geographically and topographically related. The westernmost hydrologic unit of the Tijuana Watershed contains nearly all of the Tia Juana Valley CWD. There are only two exceptions where small areas of district territory lie outside of the western hydrologic unit – one is located on the northern boundary in the center of the District, the other is the extreme southeastern corner of the District (refer to attached map). The second task was to identify the other agencies that provided municipal services to the specified area, and define which services should be subject to the review.

Selected for review were those public services that the Tia Juana Valley CWD reportedly provides. In 2001, the District's consultant completed a LAFCO survey form stating the types of services the District furnished. That information was the basis for the services chosen for review, which included floodwater and sewage control, waterworks construction, and groundwater management, protection, and exploration. It was further determined that both the Cities of Imperial Beach and San Diego would be subject to the review by virtue of sharing the geographic area and being the primary service providers in the region. The geographic area of the MSR is located entirely within the jurisdictional boundaries of the two cities. Since the County of San Diego does not provide services in the geographic area under review, it was not one of the governmental agencies included in the study.

With both the geographic region and services identified, an RFI was developed. Questions asked of each city were specific to those services reportedly provided by the Tia Juana Valley CWD in 2001. One determination required by a Municipal Service Review concerns potential government structure options. Thus, the cities were questioned about their ability and willingness to assume the responsibilities as well as the assets and liabilities of the Tia Juana Valley CWD if the District was dissolved in the future.

Formal Requests for Information were sent to the Tia Juana Valley CWD, and the Cities of Imperial Beach and San Diego with a response deadline of September 2002. Imperial Beach requested an extension of time and returned its form on October 24, 2002. The Tia Juana Valley CWD submitted its response on September 20, 2002. However, a serious discrepancy was noted in the information related to what services the District actually provided. While the District's response to the 2001 survey stated that the District was engaged in floodwater and sewage control, waterworks construction, and groundwater management, protection, and exploration, the RFI contained information that the District only provided groundwater supply research and development and flood management services. Even though the District claims that current services are limited, the District's on-going groundwater exploration project involves both the exploration and production of groundwater resources.

San Diego City Councilmember Inzunza, who represents the region, requested that he be allowed to submit comments, and did so on December 2, 2002. The City of San Diego's Wastewater Department had been tasked with answering LAFCO's questions and requested an extension of time to respond. As previously mentioned, one question pertained to the City's willingness to assume the Tia Juana Valley CWD's responsibilities if the District were dissolved. To answer that question, city staff expressed that the City Council should deliberate, vote, and adopt a position regarding a commitment to become the District's successor agency. Although stating that the item would be docketed for consideration by the City Council in February or March of 2003, a response from City Council was not received. On September 4, 2003, Senior Deputy City Manager George Loveland submitted a staff level response to LAFCO's RFI without having the matter presented to the City Council for consideration.

Sphere of Influence Requirements

In conjunction with the requirement to conduct Municipal Service Reviews, the Cortese-Knox-Hertzberg Act obligates LAFCO to review and update, as necessary, spheres of influence for each local agency within LAFCO's jurisdiction. Defined as a plan for the probable physical boundaries and service area of a local government agency, a sphere is considered to be a planning tool that is designed to provide guidance in reviewing proposals, promoting the efficient provision of municipal services, and preventing duplication of service responsibility. In determining a sphere, the Commission is required to consider specific factors and make written determinations related to: (1) present and planned land uses in the area, including agricultural and open space lands; (2) present and probable need for public facilities and services in the area; (3) present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide; and (4) existence of any social and economic communities of interest in the area.

Procedures

LAFCO staff has followed a three-step approach for this MSR. The first step involved compiling, reviewing, and analyzing the requested data and drafting the initial report. There are two elements of the draft report. Section I is the Data Summary – an extract of information submitted by the affected agencies – which is divided into three distinct segments (one for each responding agency). The amount of data for the agencies differs because the scope of information requested of the Tia Juana Valley CWD was more extensive than the information requested of the Cities of San Diego and Imperial Beach. Section II is the Data Analysis.

When the initial step was completed, the draft report was distributed for review to provide agencies, organizations, and individuals the opportunity to comment on the contents, and make appropriate corrections, if necessary. In addition, the draft report was reviewed and considered by LAFCO's Special Districts Advisory Committee. By providing technical insight and expertise, the Committee assists LAFCO in making decisions and performing its duties by reviewing special studies, offering comments, and making recommendations.

Advisory Committee Consideration

On December 12, 2003, the Special Districts Advisory Committee considered and discussed the contents of the draft report, and accepted oral testimony from members of the public who wished to speak. Topics of discussion and specific questions included:

- The value of the Tia Juana Valley CWD's research;
- Whether the District is the appropriate agency to conduct the research;
- Whether the City of San Diego, as successor agency, would continue the research if the District were dissolved;
- Whether the District's fixed charge special assessment is a legally imposed fee;
- Whether the special assessment had been approved through the election process or had been imposed by the District without voter approval;
- Whether the District should have conducted an election to ratify this special assessment to comply with the provisions of Proposition 218;
- Whether the District's continuing collection of the special assessment is legal in light of Proposition 218 provisions; and
- Whether the District should be dissolved since it appears to represent an unnecessary layer of government.

Members of the Advisory Committee requested LAFCO staff to research the legality of the collection of the fixed charge special assessment in light of Proposition 218 provisions. LAFCO research concluded that the District does not have the legal authority to impose the fixed charge special assessment, which has

never been presented to the voters for approval. Consequently, a two-thirds majority vote approval would be required to allow a special tax to be collected by the Tia Juana Valley CWD, or a successor agency.

Some questions committee members wished to have clarified included whether the City of San Diego would continue to provide not only groundwater protection service, but also the District's existing, on-going projects. Therefore, LAFCO staff requested from city staff additional information that would answer those inquiries (refer to Attachment D). Following several city-related delays, a letter was received on April 21, 2004 that partially answered the questions (Attachment E). The response stated that while the city's water department is not involved in efforts to protect groundwater in the Tijuana River Valley, the City owns and operates a sewer system, a water reclamation plant, and an ocean outfall in the area. In addition, the full range of city services are provided to area residents, except for those residents relying solely on wells or having septic systems available. However, property owners not currently connected to the water and sewer systems would be eligible for both services, if needed in the future.

Some of the committee's concerns pertained to the City of San Diego's role as a potential successor agency if the Tia Juana Valley CWD were dissolved. The City Manager's Office related that those questions required consideration by the City Council, and that, "... the issues raised by LAFCO's questions will be presented to the City Council, via the appropriate City Council Committee, for policy direction." Thus, the issues of whether the City would be willing to continue the District's research and studies, including the Total Groundwater Exploration Project, as well as assuming the District's assets and liabilities is unknown at this time. However, since LAFCO's request for further information was sent to the City in January, the City has had an adequate amount of time to prepare a thoughtful response.

Committee members also discussed potential costs if an election to dissolve the District was required. Therefore, LAFCO staff contacted the Registrar of Voters requesting an estimate of the costs involved in dissolving the District through the election process. The Registrar's Office subsequently provided an estimate of between \$1,700 and \$2,000 as the cost associated with a ballot measure consisting of only one issue.

A member of the public, who represents the Citizens' Action Committee for the Dissolution of the Tia Juana Valley County Water District, provided testimony. This group is concerned about two specific issues: of primary concern is the appropriateness of Tia Juana Valley CWD property owners shouldering the burden of financing reports that are utilized by agencies throughout the region. If the District's projects affect all residents of San Diego County, it appears inequitable that an assessment to finance the studies is imposed only on District property owners. A second concern is that the assessment is being used to pay District board members to attend meetings and provide advice to elected officials who employ a staff to perform those functions.

The Committee deliberated and subsequently agreed to accept the draft LAFCO staff report, subject to minor modifications. In addition, once the requested research was conducted and the additional information obtained, the results were to be incorporated into a revised version of the initial draft report. The Committee requested that the revised document be presented to the Commission along with the Committee's recommendation that the Commission pursue the dissolution of the Tia Juana Valley County Water District.

Advisory Committee Recommendations

After considering, discussing, and receiving testimony from members of the public, the committee voted to accept the report, subject to minor modifications and further research. Prior to transmitting the document to the Commission, staff was requested to revise the report to include the following information:

1. The determination related to government structure options should contain an evaluation of how services would be provided to the region by the successor agency.
2. Results of research regarding the legality of the \$50 per parcel fixed charge special assessment.
3. An explanation regarding LAFCO's ability to set terms and conditions to terminate collection of the \$50 per parcel fixed charge special assessment if the District is dissolved and its debts are paid.
4. An estimate of election costs should a proposal to dissolve the District require a vote by area residents.
5. A statement that the Special Districts Advisory Committee encourages the Commission to pursue the potential dissolution of the Tia Juana Valley CWD.

The last step involved finalizing the report by including additional information and updating specific facts, formulating the required nine determinations, and presenting the document for Commission deliberation. The goal of the review process is to assess the adequacy of public services in a specific geographic region or area rather than scrutinizing the agencies themselves. However, since municipal services are delivered by public agencies, the review of those entities is unavoidable.

SECTION I: DATA SUMMARY

TIA JUANA VALLEY COUNTY WATER DISTRICT

GENERAL INFORMATION

Agency Profile

The Tia Juana Valley County Water District (CWD) was formed as the result of a special election held January 17, 1946. On January 24, 1946, the Secretary of State issued a certificate of incorporation for the District. At that time, the District covered an area of unincorporated watershed located north of the United States/Mexico international border that stretched west to the Pacific Ocean. While the entire Tijuana Watershed contains roughly 1,700 square miles, only about one-third of that total is in the United States. The Tia Juana Valley CWD is located in the western hydrologic unit of the Tijuana Watershed, and encompasses approximately seven square miles or 5,570 acres.

Around 3,000 parcels are located in the Tia Juana Valley CWD; all territory located in the district's boundaries is included in either the City of San Diego or Imperial Beach. Thus, overlaps exist between the District and those two cities, and the District no longer contains any unincorporated territory. Having an estimated population of 23,574 in the year 2000, the District's anticipated population in 2020 is projected to drop to 22,162 (2000 Census & 2020 Forecast/SANDAG). Currently, there are three employees, who support the five-member board of directors.

The Tia Juana Valley CWD was formed under provisions of the California Water Code (Division 12, Section 30000, et. Seq.). Although formed as a "County Water District," the District was not established for the purpose of providing potable or non-potable water to residents within its boundary. According to the original formation petition, the "... purpose of bringing the district into existence is to organize a body to represent the farmers and residents and assert their legal rights in connection with the proposed construction of a dam at the Marron dam site by the International Boundary Commission." The document further states, "That the purpose of organizing the district is to protect the water rights of the entire Tijuana River Valley ..."

Information related by the staff indicates that the provision of services appears to have evolved over the years to include numerous services that are authorized by the principal act. However, these services have not been sanctioned by LAFCO through authorization of latent powers (e.g., groundwater supply research, development, and exploration, flood water management and protection services, and surface water quality and quantity protection). While the District

representative has reported that a variety of services are provided (please refer to the following section, question 2), the actual provision of services is limited to groundwater supply research and development, and floodwater management.

Mission Statement

In 1993, the District's original Mission Statement was amended and adopted to reflect that the primary responsibility at that time was to prevent both salt water and chemical intrusion into the water table that is located beneath the Tijuana River Valley, thereby maintaining an adequate supply of clean groundwater for agricultural and recreational purposes. The modification noted that since the District's formation, destructive seasonal flooding and untreated sewage flowing from Mexico have become substantial threats to the health and safety of area residents. Therefore, the Board of Directors initiated a groundwater management program to examine the feasibility of cleaning and desalting the unused groundwater, as well as capturing destructive surface floodwaters to provide a stable supply of water for domestic uses. The 1993 Mission Statement was revised again in 1999 to include preventing other contaminants from degrading the water table beneath the valley, and to utilize the groundwater for domestic purposes.

Budget and Audits

Please refer to the Fiscal Information Section that follows.

Annual Reports

The District's response to LAFCO's request for information stated that, "At the present time, the District provides groundwater supply research and development and flood management services. In the District's judgment, these are services that do not require an annual report."

INFRASTRUCTURE, FACILITIES, AND SERVICES

1. *What services does your agency currently provide?*

Residents in the Tia Juana Valley CWD receive municipal services from the City of San Diego; urban services are not required for the City of Imperial Beach overlap area because it is uninhabited. While not providing water service, the District indicates it furnishes the following services:

- Groundwater supply research and development.
- Protection of groundwater resources, including the prevention of salt water, chemical, and contaminant intrusion into the aquifer, as well as maintenance of clean groundwater for agricultural and recreational uses.
- Involvement in international border flooding abatement, groundwater supply, and sewage clean-up projects.

2. *What services is your agency authorized to provide?*

While not delivering services other than those listed above, the Tia Juana Valley CWD reported that the California State Water Code authorizes County Water Districts to provide the following:

- Water storage, preservation, acquisition, and delivery.
- Land purchase and construction of water supply projects.
- Flood control management and protection.
- Distribution, storage, treatment, and recapture of water including sewage and storm waters (for the beneficial use of the District or its inhabitants).
- Protection of property, water courses, and underground water supplies.
- Protection of natural flow of any surface stream.
- Use of water or land within district boundaries for recreational purposes.

3. *How many people reside within the District's boundary?
For each service provided, list number of customers served.
How is the cost per unit of service delivered calculated?*

SANDAG's estimate for the 2000 census indicates that approximately 23,574 people reside in the Tia Juana Valley CWD boundary; all residents receive the same services. According to SANDAG's forecast, the District's population in 2020 is projected to drop to 22,162. Each parcel in the District boundary is assessed an annual charge of \$50, which is a fixed charge special assessment. This charge is levied on behalf of the District and collected through the County's property taxing process.

4. *List capital facilities that are planned, owned or operated by the District, which are used for the provision of the service.*

The District currently operates three observation well clusters and a pilot extraction well; these facilities are peripherally involved with the services currently provided, but are directly related to the District's attempt to extract groundwater for future sale and distribution. The Tia Juana Valley CWD has plans to develop several projects that are described below.

5. *What plans has the District made to build new facilities and infrastructure such as desalinization plants, extraction of groundwater for sale, etc.*

Anticipated projects include four additional observation well clusters; a pilot injection well; a pilot extraction well; an aquifer injection and extraction well field; a groundwater blending facility; a blended groundwater and other surface water desalination plant; a pump station and pipeline connections; and pipeline connections to existing water supply distribution facilities utilized by the City of San Diego and California American Water Company.

During a four-year period (1993-1997), the Tia Juana Valley CWD spent approximately \$1 million to develop a groundwater management plan in order to gain an understanding of the geology and hydrology of the groundwater aquifers beneath the Tijuana River Valley. Grants and loans received from the U.S. Department of the Interior, Bureau of Reclamation, the State of California Department of Water Resources, MET of Southern California, and the San Diego County Water Authority funded the study and subsequent publication of the report. In 1995, the CWD published a Summary Report of the Groundwater Management Plan for the Tijuana River Valley, which included the following goals:

- To protect the quality and quantity of groundwater for existing and future property owners, as well as agricultural and recreational users.
- To develop the groundwater basin into a sub-regional water supply reservoir.
- To provide water to valley customers and sell excess groundwater outside the valley.
- To implement measures for groundwater recharge with surface floodwater containment and runoff control facilities as well as reclaimed water, if available.
- To prevent saltwater intrusion into the aquifer.
- To monitor water quality and regulate migration of contaminated water.
- To propose a floodwater and international wastewater control solution supported by appropriate local, state, and federal agencies.

Page 3 of the Groundwater Management Plan for the Tijuana River Basin: Phase III, dated October 1994 states, “Excessive extraction of groundwater will lead to the depletion of good quality groundwater and saltwater intrusion. The District intends to implement programs to actively recharge groundwater. The City of San Diego Water Utilities Department has expressed an interest in making excess water from the Barrett and Morena Reservoirs available for groundwater injection during years of heavy precipitation in the Tijuana River Watershed. However, no pipeline currently exists to convey this raw water to the Valley. The City of San Diego Metropolitan Wastewater Department has also expressed an interest in making excess treated sewer water available for groundwater injection.”

Phase IV of the Groundwater Management Plan for the Tijuana River Basin was issued in February of 1995. The section on project funding states that the Tia Juana Valley CWD will not have sufficient cash reserves available, nor is it likely that sufficient cash flow is being generated for either the construction or operation of water treatment and distribution facilities.

Moreover, undertaking a project of this scale requires myriad permits, development plans, engineering reports, environmental review, involvement of numerous agencies, and substantial funds. To implement construction of a system to extract groundwater for treatment and delivery is a monumental task; only some of the requirements are highlighted below.

- Obtain a permit to drill the wells.
- Process a conditional use permit to construct a water treatment facility.
- Undertake an engineering report to review the use of reclaimed water for aquifer recharge.
- Acquire a Regional Water Quality Control Board waste discharge permit.
- Conduct environmental review and publish an Environmental Impact Report.
- Obtain a California Coastal Commission permit.
- Acquire an Air Quality Control Board permit.
- Negotiate interagency agreements between the Tia Juana Valley CWD and (1) the City of San Diego; (2) the International Boundary & Water Commission (IBWC); and (3) Cal-American Water Company.
- Develop a financial plan and pricing policy.
- Establish a public awareness program.
- Process design review by the City of San Diego.
- Request bids and select a construction company.

In 1997, a report containing the findings of the Groundwater Exploration Project of the San Diego Formation was published. The report documents groundwater exploration to determine the feasibility of using the formation as a reclaimed water and groundwater injection, storage, and recovery aquifer for potable water supply purposes. Page E-2 of that report states, “The primary finding of this investigation is that there appears to be no potential for groundwater production on a municipal water supply scale from the San Diego Formation in the vicinity

of...” two existing observation well clusters and one pilot extraction well. However, the quality of the extracted water is good. In addition, testing of the aquifer indicates that the formation has low permeability and is unsuitable for injecting large volumes of reclaimed water to recharge the formation.

Nevertheless, in a September 2001 letter to LAFCO, the District’s General Manager stated that funds and grants were being sought to explore extraction of groundwater from the aquifer for sale of both potable and non-potable water. The General Manager also suggested that the District might embark on a project combining water and energy – a “... base-loaded production plant and water desalination plant.”

While the Groundwater Management Plan states that, “The Tia Juana Valley CWD intends to monitor water levels and the amount of groundwater in storage,” the International Boundary & Water Commission (IBWC) already has a program to measure groundwater levels in the aquifer. The IBWC has monitoring wells that were established for its border wastewater treatment plant and ocean outfall project. Should the IBWC discontinue its monitoring program, the District has stated that a proposal would be initiated to assume ownership and responsibility of the wells deemed essential for continued measurement of groundwater levels.

In conjunction with water level measurements, the IBWC also tests the quality of the groundwater. The District has indicated its intention to monitor water quality not only by reviewing results from sampling conducted by other entities, but also by performing annual tests, as necessary. To assist with the monitoring program, the District plans to seek financial support from state, federal, and international agencies interested in cleaning up contamination in the border area.

6. *What flood control facilities have been planned, constructed or are maintained by your agency?*

In January 1994, the Flood Control Study for the Tijuana River Valley was published. This report was the culmination of a four-month research study to evaluate historical flooding in the watershed, as well as to propose methods to alleviate the destruction of property, agriculture, wildlife, etc., associated with those periodic floods. “The District is publishing this report in an effort to encourage and generate the decisions necessary to plan, design, and build a long overdue flood control solution in the Tijuana River Valley.” Completion of a project of this magnitude would require coordinated effort and funding by several governmental agencies having jurisdiction in the region, including the Cities of San Diego and Imperial Beach, the County of San Diego, the State of California, Federal agencies, and the Tia Juana Valley CWD. At that time, the project’s estimated cost was \$31 million.

Major flooding in the region has myriad consequences in that it interrupts the everyday lives of residents and employees, destroys public roads and facilities,

necessitates emergency services, and may lead to public health and safety risks. For these reasons, the Tia Juana Valley CWD generated the flood control study to investigate alternative flood control measures that would capture and convey storm water runoff, which in turn would reduce the negative impacts related to the periodic flooding.

The flood control study concludes that a flood control channel sized for the 25-year frequency flood is a technically feasible solution to chronic flooding problems in the Tijuana River Valley. The Tia Juana Valley CWD supports the construction of a flood control channel, which would transition from an improved river channel in the Valley to a channel following the natural topography of the estuary as floodwaters move from east to west. Because the floodwater has been contaminated by sewage releases from Mexico, it is vital to collect and convey the floodwaters to prevent the runoff from entering the groundwater supply and possibly contaminating the aquifer.

Construction of a flood control system would have numerous benefits to the residents living in the Tijuana River Valley. In addition to preventing the loss of homes, livestock, and agriculture, controlling floods would: (1) increase the value of land based on the reduction of potential flood damage; (2) allow consistent provision of public services and activities, such as water, schools, roads, etc.; and (3) decrease potential health hazards due to disease transmission via floodwater, or by mosquitoes that breed in stagnant water.

At this time, the Tia Juana Valley CWD does not own, construct, or maintain flood control facilities to capture and regulate the flow of storm water within its boundaries. As an advocacy group, the District directors promote flood control projects in and around the Tijuana River Valley. While not directly involved in constructing facilities, the District has supported U.S. Army Corps of Engineers, State Coastal Conservancy, and City of San Diego projects that either are planned or already have been constructed. Among the projects already completed are two flood control bridges, and two flood control channels and berms. Future projects include a Tijuana River Valley Wetland Restoration and Water Quality Enhancement Project, two flood control and management projects, and removal of property protection berms that were illegally constructed. The Groundwater Management Plan for the Tijuana River Basin reported the District's intent to promote the channeling of storm water runoff to flood control facilities that ultimately would recharge the aquifer.

7. *What sewage contamination facilities and programs have been planned, constructed, implemented or already are maintained by your agency?*

Currently, the District neither owns nor has plans to construct sewage contamination facilities in the Tijuana River Valley. Both the Cities of San Diego and Imperial Beach provide sewer service to city residents. Thus, public sewer

service is provided to residents of the Tia Juana Valley CWD by the City of San Diego since the District/Imperial Beach overlap area is uninhabited. Nevertheless, District board members provide advice and participate in programs established by other state, federal, and international sewage control agencies. That participation includes meeting attendance and providing testimony for the following entities:

- International Boundary & Water Commission Citizen's Forum
- United States International Boundary and Water Commission, United States Environmental Protection Agency, and State Water Resources Control Board Sewage Control Task Force
- Border of Environment Cooperation Commission (BECC) Parallel Sewage Conveyance Project
- City of San Diego Metropolitan Wastewater Department Focus Group
- City of San Diego Flood Control Task Force
- County of San Diego Regional Parks and Recreation Task Force

8. *Describe the parks and/or recreation and acquisition services and facilities the District provides.*

The Tia Juana Valley CWD does not directly provide park and recreation services. In 1989, the District donated a combination of cash, certificates of deposit, and trust deeds to property valued at more than \$1.7 million to the County for the purpose of acquiring parklands in the Tijuana River Valley. Currently, the District is in partnership with the City of San Diego in a habitat restoration project for the Tijuana River Valley.

9. *How are infrastructure needs for the services provided determined?*

Based on information provided by local and regional public water supply agencies (i.e., Cities of San Diego and Imperial Beach, and San Diego County Water Authority, etc.), consulting engineers retained by the District provide advice to District board members, who then determine future infrastructure needs.

10. *How will new or upgraded infrastructure be financed?*

Construction and development costs associated with planned facilities would be paid by federal and state grant funds. The District already has requested federal assistance totaling \$1.3 million to finance the next phase of the Total Groundwater Exploration Project. In April 2003, the District was granted \$500,000 by the federal government; however, this represents only about one-third of the funding for which the District applied. As it proceeds through further groundwater development projects, the District will pursue additional

federal and state grant funds as well as other local funding sources to finance the proposed projects.

11. *List infrastructure deficiencies and explain how deficiencies are being addressed; indicate if deficiencies have resulted in permit or other regulatory violations.*

Over the past 12 years, the Tia Juana Valley CWD reported that more than \$500 million have been spent by local, state, federal, and international public agencies in an effort to manage and control flooding and sewage spills in this bi-national watershed area. Nevertheless, unrestrained surface water runoff and raw sewage continues to flow periodically from Mexico into district territory, which, as previously mentioned, overlaps the Cities of San Diego and Imperial Beach. According to the Tia Juana Valley CWD, this flow of surface water and sewage creates significant infrastructure deficiencies, which are addressed by working closely with public agencies that have permitting or regulatory authority in the District's boundary (i.e., U.S. International Boundary & Water Commission, City and County of San Diego, Regional Water Quality Control Board, etc.). The coordinated effort is designed to ensure compliance with state and federal clean water laws, regulations, and ordinances.

12. *Does the District have water rights to underground water?*

The Tia Juana Valley CWD claims that regulatory water rights were established in conjunction with the District's formation in 1946. Moreover, the State of California Superior Court in the case *Marvin L. Allen et al. vs. California Water and Telephone Company* had adjudicated those rights in 1942. The Tia Juana Valley CWD also asserts that AB 3030 authorized the development of the Groundwater Management Plan and thus provided reinforcement of the District's rights to the water in the basins located beneath the river valley.

13. *Provide maps of service areas for all services provided.*

While providing information and advice related to groundwater, flood control, and contamination issues within its boundary, the District does not provide those services to residents. Water, sewer, flood control, park and recreation, as well as habitat restoration programs are under the authority of a variety of other public agencies, such as the Cities of San Diego and Imperial Beach, San Diego County, the U.S. Army Corps of Engineers, San Diego County Water Authority, etc. Therefore, maps of the various service areas are available from the agency that provides the service.

14. *How are service needs for individual customers determined? How does the District ensure that all customers receive services equally?*

The Tia Juana Valley CWD responded, “Since the District is not providing individual water services for constituents at the present time, this question is not applicable.”

15. *What is the status of the Total Groundwater Exploration Project (TGEP)? Provide a financial projection and describe the roles of the District, the San Diego County Water Authority, the California Water Commission, the United States Department of the Interior, and the Bureau of Reclamation in the funding and development of the project.*

As of September 2002, the Tia Juana Valley CWD had requested federal grant funds totaling \$1.3 million to pursue the next phase of the Total Groundwater Exploration Project (TGEP). In April of 2003, the District was notified that the federal government had granted a portion (\$500,000) of the requested funds. Both currently and in the past, funding for the TGEP has come from a series of financial agreements between the District, the San Diego County Water Authority, the State of California Department of Water Resources, and the U.S. Bureau of Reclamation. The total cost of the TGEP is estimated to be \$16.3 million.

As of August 2001, the District reported expending approximately \$975,000 on various phases of the TGEP. That funding came from the following agencies:

Agency	Contribution
U.S. Bureau of Reclamation	\$ 200,000
State of California Loan	425,000
San Diego County Water Authority Grant	115,000
Tia Juana Valley CWD Fixed Charge Special Assessment	150,000
Other *	85,000
TOTAL:	\$ 975,000

* The source of these funds was not disclosed.

For further information related to financial information associated with the Total Groundwater Exploration Project, please refer to the answer to Question No. 10.

As previously mentioned, between 1993 and 1997, the Tia Juana Valley CWD prepared a groundwater management plan and conducted a groundwater exploration project for the Tijuana River Valley. These studies examined and evaluated the feasibility of developing groundwater supplies from the San Diego Formation, which lies deep beneath the valley, and from the alluvial aquifer, which is adjacent to the Tijuana River. The results revealed that, “The low permeability of the San Diego Formation as indicated by the aquifer test results ... indicate that it would not be feasible to inject large volumes of reclaimed water to recharge the San Diego Formation.” (Pages E-2 & E-3, Groundwater Exploration Project of the San Diego Formation.) The report goes on to say that the presence of a substantial layer of permeable sand and gravel in the vicinity of one well indicates that a groundwater recharge and projection project using reclaimed water *may* potentially be feasible (page 28), but that, “No decisions regarding groundwater projection from the San Diego Formation should be based on the current groundwater model.” (Page 26.) Based on that finding, the report recommends that water quality of the deeper sand and gravel be investigated further to determine the feasibility of aquifer storage and recovery projects or projects involving groundwater recharge with reclaimed water.

The Tia Juana Valley CWD has joined with other water districts (Otay, Padre Dam, and Sweetwater Authority) and the Cities of San Diego, Escondido, and Poway in a cooperative effort to explore a comprehensive water reclamation project. The San Diego Area Water Reclamation Program is a long-term project designed to decrease regional reliance on imported water supplies. In March 2002, the agencies generated a report (San Diego Area Water Reclamation Program) outlining a system of water recycling projects, some of which are interconnected, that would make the best use of existing and planned water recycling facilities to efficiently use local water resources in a cost-effective manner. The project is an ambitious and extremely expensive proposal that would represent a large financial burden for local agencies. Federal participation would be needed to implement this water supply project. According to the report, all participating agencies would share in the costs; the budget proposes that the Tia Juana Valley CWD’s contribution would be approximately \$16.3 million. The CWD proposes to use recycled water from the South Bay regional system combined with other available supplies to recharge the Tijuana River Groundwater Basin. “The stored San Diego Formation groundwater would ultimately be extracted and treated at a reverse osmosis facility (the proposed Tijuana Valley Water Treatment Facility) for use as potable and non-potable water supplies.” (Page 7.)

16. *Describe the District's role in the preparation of the mid-Valley pilot flood control channel. Did the District contribute funding, service, or facilities to the project?*

The Tia Juana Valley CWD was an advocate for the mid-valley pilot flood control channel that was built by the City of San Diego. From 1993-1995, the District's Board of Directors, General Manager and other staff members devoted time and effort to work with City of San Diego staff to facilitate the construction of this project. While not providing direct monetary support, the District contributed time and preparation for approximately 50 meetings that were held during that two-year period; District Directors were paid for their attendance at those meetings. In 1993, the District spent approximately \$40,000 on a special report entitled Flood Control Study for the Tijuana River Valley, which provided information used in planning the flood control project.

17. *Describe your role in the Tijuana River Watershed Management Plan.*

The District has coordinated efforts with myriad public agencies, both from the United States and Mexico, to advocate the development of the Tijuana River Watershed Management Plan. At one time, the Tia Juana Valley CWD attempted to spearhead the campaign to develop the plan, but was unsuccessful in obtaining necessary federal and state grant monies to fund the project. Currently, the management plan is under the direction of the County of San Diego Public Works Department. In the meantime, the District has shifted its focus to a wetlands restoration project that would clean and mitigate the destruction of surface water flow in the Tijuana River Valley. To support this effort, applications have been submitted to both state and federal agencies for grant funds totaling \$800,000.

18. *What is the status of the cost-sharing agreement among the District, San Diego County Water Authority, and the Army Corps of Engineers to review the watershed history?*

As mentioned above, the District's role in the construction of the wetlands restoration project is dependent upon the receipt of federal and state funds. If funds are received, a cost-sharing agreement will be executed between the District and the Corps of Engineers. If funds are not forthcoming, the project will be abandoned, unless another funding source can be located.

19. *What studies has the District completed during the last five years that address the levels of groundwater and replenishment of the underground aquifers? Has the district conducted any studies regarding the upper aquifer within the last ten years?*

As previously mentioned, the District completed a four-year study – the Groundwater Management Plan for the Tijuana River Basin, which included a series of technical reports addressing groundwater levels and proposed methods for the replenishment of the aquifers under the Tijuana River Valley. Over the last ten years, the District has drilled three exploration wells and one limited production well strategically placed in various locations in the Valley. In conjunction with this activity, the District commissioned several technical studies related to both the upper and lower aquifers, and initiated a program in 1994 to monitor and report aquifer water levels.

20. *When does the permit expire that allows the District to use the well located on property owned by the International Boundary & Water Commission?*

The District actually owns two wells located on property belonging to the International Boundary & Water Commission (IBWC). One is an exploratory well with a 30-year lease. (No statement was submitted regarding the expiration date of that lease.) In October 1996, the District was granted a temporary land use permit from the IBWC to construct a pilot extraction well with the understanding that the permit would be renewable on a five-year basis for as long as the District maintained the well. No application has been made for an extension because the District believes that the permit is automatically extended in five-year increments; no information from the International Boundary & Water Commission to the contrary has been received.

21. *Identify areas in the District, which could be more efficiently served by another agency. Identify areas outside the District, which could be efficiently served by your agency's facilities.*

Although District residents receive water from the City of San Diego, the Tia Juana Valley CWD plans to become a wholesale purveyor of both potable and non-potable water, and has stated that there is no other public or private agency located in the District that could more efficiently provide this service. Depending upon the completion of the Total Groundwater Exploration Project, there may be opportunities to join other agencies in serving water needs outside the District boundary. Those other agencies include the City of San Diego, the California American Water Company, the Sweetwater Authority, and the Otay Water

District. In addition, the District is considering the possibility of providing water service to the City of Tijuana.

22. *Describe proposed or pending developments that would require agency services and include a list of anticipated jurisdictional boundary changes.*

The only anticipated change to the District's current jurisdiction would be the elimination of the existing service island located near its geographic center. The island area is in the City of San Diego and consists of property most of which is owned either by the City or the County of San Diego; a small portion is under federal ownership. In conjunction with this municipal services review, the District has expressed an interest in discussing annexation of that territory, but has not submitted a proposal to do so.

ADMINISTRATION, MANAGEMENT, AND OPERATIONS

1. *What awards or recognitions has your agency received?*

Recognition of District efforts has been received from elected officials (i.e., Congressman Bob Filner, State Senator Denise Ducheny, Assemblyman Juan Vargas, Mayor Dick Murphy, Councilmember Ralph Inzunza), as well as from public agencies (i.e., Army Corps of Engineers, State Coastal Conservancy, County Park and Recreation Department, etc.).

2. *Indicate how your District monitors progress toward fulfilling the purpose of the mission statement as well as meeting adopted goals and objectives.*

Progress toward meeting goals and objectives are regularly discussed at the Board of Directors meetings, which are held twice each month. To help update goals and objectives, the District occasionally will arrange a special meeting (i.e., retreat) for that purpose, and engages in a continuing series of meetings with the community, and both public and private entities. A variety of public relations tools that provide constituency outreach, such as newsletters, special bulletins, and correspondence are utilized in order to assess and monitor changing needs of district residents. In addition, the Board annually reviews its Mission Statement and periodically makes changes to it.

3. *List the number of employees by category and give the annual salary range for each.*

Category	Annual Salary	Miscellaneous Information
General Manager/Office Manager/Board Secretary	\$ 54,000	
Treasurer	\$ 4,800	Part time
Legal Counsel	(minimum) \$ 9,000	Part time/Retainer
Government Operations Consultant	\$ 5,000	By contract (one time fee)
General Purpose Lobbyist	\$ 3,000	By contract (one time retainer fee)

4. *Describe agency policies, rules, and procedures that regulate communication between elected officials and employees.*

The Tia Juana Valley CWD has adopted By-Laws containing all general purpose directions required for the efficient communication between officials and employees. In addition, the By-Laws contain a Code of Ethics, which specifically identifies ground rules for proper decorum for all District Directors, officers, and staff in dispatching all district related activities.

5. *Describe the level that elected officials can be involved in administrative, management, and personnel matters.*

In accordance with District By-Laws, the Board of Directors delegates supervisory responsibility for all district operational activities to the General Manager. Accountability for the daily administrative, management, and personnel decisions rests with the General Manager, who answers to the President of the Board of Directors and, ultimately, to the entire Board.

6. *Describe administrative/management/operational functions that are provided to the District by private organizations or other public agencies; explain management efficiencies and/or cost avoidance opportunities gained by these arrangements.*

The District attempts to contain costs by employing the least number of full time staff that is feasible. Whenever necessary, the District uses contract consultants on a one-time basis to accomplish various goals and objectives. Cost containment measures include the combining of the General Manager, Office Manager, and Board Secretary responsibilities into one position, and having financial duties fulfilled by a part-time treasurer. Moreover, the District obtains legal advice via a monthly retainer contract for counsel on an as-needed basis.

7. *Describe cooperative arrangements with other agencies that produce administrative, management, and/or operational efficiencies.*

To maintain a streamlined operational budget, the District has collaborated with both the City and County of San Diego on projects to improve the quality of life for district residents. These projects, which include flood control and protection, have been constructed without cost to the District.

8. *List and identify the cost for all competitive bidding and sole source procurement during the last three years.*

Purpose	Company/Consultant	Cost	Miscellaneous Information
Engineering	West Consultants	\$ 3,000	Watershed study scope of work (Jan. 2000)
Legal Advice	Wayne Brechtel	\$750/month (minimum)	Commenced July 2001
RFI Response	Art Letter	\$ 5,000	Reply to LAFCO's RFI: one time fee (Aug. 2002)
Lobbying Services	Brian Bilbray	\$ 3,000	One time fee (Sept. 2002)

FISCAL

Budget and Audits

The Tia Juana Valley CWD Board of Directors adopts a budget each fiscal year, and hires an independent auditor (Schilling & Hinzman) to assess the District's financial statements and produce an annual report. An examination of the last five budgets revealed that the District incorporates monies anticipated from grants as a funding source even if the monies have not yet been granted nor released. Also listed as expenditures in the budget are those costs that are anticipated to be offset by the grant monies.

The independent audit reported that in 1993 the San Diego County Water Authority (CWA) provided financial assistance to the District of approximately \$117,000. The funds were to help pay for the Groundwater Management Plan and the initial phases of the Groundwater Production Feasibility Studies. Repayment of money was to occur within five years after the successful completion of the Groundwater Development Program. CWA was to be reimbursed the full amount plus interest. However, because the Groundwater Development Program has not been completed, repayment dates are not determinable and the entire loan amount and related accrued interest is considered long term. In the auditor's opinion, the District's financial position over the previous five years is in conformity with accounting principles generally accepted in the United States.

However, as a result of the Grand Jury investigation of 2000, the County of San Diego's Chief Financial Officer was asked to conduct a special audit of the Tia Juana Valley CWD. The audit report, dated January 11, 2000, states that approximately 75 percent of the District's assets are "... represented by wells, which have never produced nor are likely to produce economically viable quantities of water." Also disclosed by the audit were concerns expressed in the August 5, 1997 meeting minutes by the board President that the Tia Juana Valley CWD was a water district with no water to sell. At the August 19, 1997 meeting, a representative from the firm conducting the groundwater exploration project stated that the economics of constructing the project to wholesale water from the aquifer no longer appeared to be financially viable. During Fiscal Year 1996-97, the District received a loan from the State of California for approximately \$425,000. Roughly 60 percent of the loan has been repaid in an arrangement with the State to make two payments per year of around \$25,000 each. According to the audit, the District had attempted to have repayment of the State loan forgiven, but later discovered that the loan is not the type that can be absolved.

1. *Describe all revenue sources, and provide budgets and audited financial statements for the previous five years.*

Currently, the District's sole revenue source is an annual Fixed Charge Special Assessment of \$50 per parcel. For FY 2002-2003, the yearly total was approximately \$200,000, which is earmarked for deposit into a "water research and development fund." Since that funding source is inadequate to finance the development of proposed projects, the District endeavors to obtain grant monies and other financial assistance from regional, state, and federal water related agencies. Due to the limited size of the annual budget, the District provides, per agreement with the County of San Diego, a bi-annual outside audit report to the County Auditor and the State Controller as well as an un-audited annual financial statement to the State Controller as required by State Law.

2. *Describe all grants and loans received or bonds issued during the past five years. Please indicate the purpose of each grant and the result, which loans have been repaid/forgiven, which loans are outstanding, and which bonds have been retired.*

The District has never issued bonds for any purpose.

The grant and loan mentioned below were combined to fund the development of the Total Groundwater Exploration Project. The District has reported that the results of the project have been very beneficial in providing important technical research necessary for the development of the aquifers beneath the Tijuana River Valley – a project that the District intends to pursue.

- Title XVI Grant: Under this grant, the District received \$200,000 from the Department of the Interior, Bureau of Reclamation.
- California Department of Resources Loan: Amounting to \$425,000, this loan is in the process of being repaid. As of September 2002, approximately 60 percent has been repaid – the balance at that time was \$172,000 and is being paid back at the rate of two payments each year of approximately \$25,000 each.

The following grant was designated to study the Tijuana River Valley watershed during a five-year period.

- State Parks and Recreation Grant (\$147,750): Now three years into the study, the District has used some of the funds to develop various watershed program and policy directions that will promote a comprehensive Tijuana River Watershed Management Plan Update. As of June 2002, approximately \$60,000 has been used for this purpose. The remaining \$85,000 will be utilized by the District to carry out activities related to the wetlands

restoration project that would clean and mitigate the destruction of surface water flow in the river valley.

3. *Describe policies and procedures for limiting expenditures, which staff or board members may make. Provide a summary of annual legal and lobbying expenditures for the past five years. What, if any, litigation has the District initiated during the past five years? What litigation has the District been involved with during the past five years?*

The treasurer provides a monthly report of all board member, officer, consultant, and staff expenditures to the Directors for review prior to payment. In addition, the General Manager provides monthly payroll and meeting expenditure information to both the treasurer and the Board of Directors.

Summary of Legal Expenses

<u>Fiscal Year</u>	<u>Amount</u>
FY 1997-98	\$ 15,575
FY 1998-99	11,509
FY 1999-00	16,989
FY 2000-01	6,711
FY 2001-02	8,259

During the past five years, the District stated that it has not made any independent lobbying expenditure, has not initiated any litigation, nor been the subject of any litigation initiated by an outside party. However, the District also reported a one-time payment of \$3,000 to Brian Bilbray for lobbying services in September 2002; this payment may have been overlooked in responding to this question.

4. *Explain the District's bond rating.*

The District has no bond rating.

5. *Describe policies and procedures for establishing and maintaining reserves. Provide a three-year history of reserve levels for each reserve category and identify the amount of current reserves.*

During the past 12 years, the District's policy has been to have an annual reserve of at least \$100,000 at the end of each fiscal year. District reserves for the past three years were as follows:

Fiscal Year	Reserve Amount
FY 1999-00	\$ 194,705
FY 2000-01	114,131
FY 2001-02	94,370

6. *Explain how rates, fees, taxes, etc., which are charged to District customers, are determined. Discuss increases or decreases in rates, fees, taxes, or other charges that have been implemented during the past five years.*

Customers are charged an annual Fixed Charge Special Assessment of \$50 per parcel, which has not increased over the past five years. No other fees or charges are assessed to district residents.

7. *Describe policies and practices for depreciation and replacement of infrastructure.*

Depreciation of district infrastructure is accounted for on an annual basis and verified by the District's independent auditor. Replacement for district facilities are discussed and implemented by the Board of Directors on an as needed basis.

GOVERNANCE

1. *Explain the composition of the Tia Juana Valley CWD's governing body and indicate if elections or appointments are at-large or by divisions in the District; provide resumes for each board member.*

The District's governing body is a Board of Directors composed of five local officials, who are elected at-large by registered voters within the district's boundary. Each director serves a four-year term with elections being staggered so that at two-year intervals some seats are subject to an election. At the November 2002 election, three district directors were reelected; the other two seats will be up for election in 2004.

2. *Please list all boards, commission, and committees on which a representative of the District is a seated member.*

Directors represent the Tia Juana Valley CWD on the following committees:

- City of San Diego Metropolitan Wastewater Department Focus Group
- City of San Diego Flood Control Task Force
- City of San Diego Water and Sewer Commission
- San Diego County Water Authority, Water Reclamation Advisory Committee
- Councilmember Ralph Inzunza's Valley Public Works Task Force
- South Bay Citizen's Forum for the United States International Boundary & Water Commission

3. *Are Board members paid for conducting District business? If so, what is the per diem limit each Board member receives for attending scheduled Board meetings? In what other ways are Board members compensated?*

Each Director receives compensation of \$100 for each official District meeting; there are two regular meetings held each month. Each Director also is paid \$50 for attendance at authorized outside meetings in accordance with District policy. Occasionally, travel expenses for attending official meetings are reimbursed as long as bona fide receipts are submitted. Although allowed, the Board generally discourages this practice.

4. *What is the maximum number of meetings that a Board member may receive compensation for each month? Is there a limit to the amount each Board member receives for payment each month?*

For meeting attendance, the maximum compensation for each Director is \$600 per month. There is no limit to the number of meetings that a District Director may attend without being compensated.

5. *List the amount of total compensation provided to individual board members each month for a 12 month period and include reimbursement of expenses, health and dental benefits, pension or retirement options, car allowance, travel expenses, etc.*

The amounts listed below are totals only for meeting attendance between September 2001 and August 2002. The District does not provide additional compensation for reimbursement of travel expenses (except outside San Diego County), health and dental benefits, pension or retirement options, car allowance or other costs for meeting attendance, except occasional parking expenses.

September 2001 through August 2002	Amount
David Gomez	\$ 6,500
Nick Inzunza	4,450
David Egger	2,300
Armando Gomez	4,600
Robert Egger	2,300
TOTAL:	\$ 20,150

6. *How frequently does the governing body meet? Also, provide a record of meetings of other committees, agencies, etc. for which Board members received compensation.*

Regular District meetings are conducted twice each month; if necessary, the Board of Directors may hold special meetings for various purposes. If the District schedules a meeting in addition to the two regular meetings, Directors who attend will receive the usual payment of \$100. Board members may be paid for their attendance at meetings conducted by numerous agencies other than the Tia Juana Valley CWD. These other agencies, committees, boards, etc. include, the U.S. International Boundary & Water Commission, California Special Districts

Association, Regional Water Quality Control Board, County Water Authority Reclamation Advisory Committee, SANDAG's Committee on Binational Relations, County Clean Water Task Force, San Diego/Tijuana River Flood Water Task Force, and Councilmember Ralph Inzunza's Bi-Monthly Task Force Meeting.

7. *Describe rules, procedures, and programs for public notification of agency operations, meetings, programs, etc. How is public participation encouraged? How does the district communicate with constituents? Are meetings accessible to the public (i.e., evening meetings, adequate meeting space, etc.)?*

The District indicated that it complies with applicable state and local government notification rules and regulations for authorized District meetings, including the Ralph M. Brown Act. The District stated that it encourages attendance at meetings by constituents and other agencies through notification in the newspaper, mailing of agendas, posting of public hearing notices, and informal contacts between Directors, officers, and staff with the public. Board meetings are scheduled for 6:30 in the evening, at a location the District believes is accessible to the public.

8. *Describe any violations or investigations in the past three years that are related to the Brown Act, the Political Reform Act, a grand jury inquiry, or law enforcement agency investigation.*

During the past three years, the District has not been involved in any investigation or violation of either the Brown Act or the Political Report Act. In 1999 and again in 2003, the Tia Juana Valley CWD was investigated by the San Diego County Grand Jury, and audited by the San Diego County Auditor and Controller's office. The Grand Jury has recommended that the District be dissolved and its functions assumed by the City of San Diego. For responses to the Grand Jury report, please refer to Question No. 3 of the Additional Information section that follows this section.

9. *Describe any prior involvement of the Tia Juana Valley CWD in a reorganization (i.e., merger, consolidation, etc.). Explain opportunities and obstacles for a potential reorganization.*

Since 1990, there have been no formal studies undertaken by the District pertaining to consolidation, merger, or reorganization with another public agency.

10. *In 1989, the Tia Juana Valley County Water District board began the process to surrender the District's charger to the State. Please explain the circumstances and reasons that effort was abandoned.*

No explanation was provided.

ADDITIONAL INFORMATION

1. *Please provide any additional information that LAFCO should evaluate as part of this Municipal Services Review.*

No additional information was provided.

2. *Indicate any information that may be relevant to this Municipal Services Review that you believe LAFCO should obtain from other agencies.*

The District is not aware of other information held by other agencies that would be relevant to the MSR.

3. *Please provide an update of the Tia Juana Valley CWD's response to the 1999/2000 Grand Jury Final Report (Recommendations 00-1 through 00-4).*

Grand Jury Recommendation No. 00-1: That the District immediately revise its budget and increase revenues, reduce expenditures, or both as necessary to prevent insolvency.

District Response: The District believes it is not insolvent. During the past two years, the District has revised budget expenditures to reduce cash flow allocations in keeping with each annual adopted budget. The District stated that it meets all fiscal obligations within allotted deadlines, including semi-annual loan repayments to the State of California. Between fiscal years 1999 and 2002, the District's budget was reduced from \$371,000 to \$217,000, but no explanation for the decrease was provided. Nevertheless, the FY 2002-2003 budget climbed to \$1,905,000 in anticipation of expected grant monies totaling \$1.7 million from the U.S. government and the State of California. Thus, the District explained that \$205,000 actually is the true FY 2002-2003 budget number for regular District operations.

Grand Jury Recommendation No. 00-2: That the District establish procedures to ensure that the Directors and employees provide regular and complete documentation for each item claimed in the nature of reimbursable expense, including attendance at outside meetings.

District Response: The District contends that its policy, payroll, and financial accountability procedures have been revised to ensure that regular and complete

documentation for any item claimed as a reimbursable expense is clear and available for inspection by the public.

Grand Jury Recommendation No. 00-3: That the District determine by independent appraisal whether its wells have any value in light of the non-income producing nature and the indefinite term of the underlying permit for the Groundwater Exploration Project (GEP). If a value lower than the current valuation is received, the District should amend its financial statements.

District Response: The GEP consists of one limited production well and three strategically placed monitoring wells drilled at two different times. This project is one phase of the District's Total Groundwater Development Program. The three monitoring wells located in the Tijuana River Valley have been placed to determine changes in the quantity and quality of the groundwater over time. Results provided by the wells can be utilized to address the potential for achieving water production from the underground aquifers. The value of the wells is based on the cost of their drilling.

The District disagrees that the limited production well has no value; high quality potable water has been obtained from the aquifer via this well. The District is pursuing a public/private partnership project to extract this groundwater for use as a specialty bottled water. Therefore, the District is convinced that the well has significant economic value, and believes their independent auditor's appraisal is accurate.

Grand Jury Recommendation No. 00-4: That the District seriously consider whether it should follow the 1999 LAFCO recommendation and seek a way to turn over its responsibilities to the City of San Diego.

District Response: The District Board of Directors has not made a decision regarding this Grand Jury recommendation, and plans to await the completion of the Municipal Service Review prior to considering further District actions. However, letters supporting the District and its activities have been sent to LAFCO from a variety of public officials, who represent the area at the local, state, and federal levels.

4. *Please specify the amount of staff time and associated costs, which were expended in provides responses to this Request for Information (RFI).*

The District calculated that preparation of the responses to LAFCO's RFI totaled approximately \$11,500.

SECTION I: DATA SUMMARY

CITY OF SAN DIEGO (PORTION)

INFRASTRUCTURE, FACILITIES, AND SERVICES

1. *Does the city or your water provider operate any wells in the area? If yes, how many? What facilities relating to water service provision does the city own or operate?*

The City of San Diego neither owns nor operates any wells in the area that overlaps the Tia Juana Valley County Water District (CWD) territory. Residents receive water service from the City via infrastructure consisting of water mains, pump stations, pressure regulating valves, and other supporting equipment.

2. *Does the city already provide flood control services and have existing facilities in the area depicted on the attached map? Please list facilities and services provided. Has your agency received any funding or assistance from any other local agency in planning, constructing and/or operating those services and facilities?*

The City's Transportation/Streets Division provides flood control maintenance, without funding or assistance from any other agency, for the following three channel sections in the area:

- A. Pilot Channel – grading
- B. Northern Channel – hand clearing of vegetation
- C. Smugglers Gulch – grading

3. *Does the city provide sewer services or own/operate any facilities relating to sewer service in the geographic area defined for study?*

The City's Metropolitan Wastewater Department (MWWD) provides sewer service to City residents in the Tia Juana Valley CWD overlap area. MWWD owns and operates sewer mains, trunk sewers, pump stations, a wastewater treatment facility, and a land/ocean outfall line.

4. *What parks and/or recreation services and facilities does the city currently provide in the Tijuana Watershed area?*

The City has several parks and recreational facilities in the area, including 10 neighborhood and community parks, the San Ysidro Activity Center, the San Ysidro Athletic Area, and the La Mirada Joint Use Facility.

ADMINISTRATION, MANAGEMENT, AND OPERATIONS

5. *Does the city own water rights in the area? Does the city own property in the area? If yes, please indicate its location on the attached map, and return the map to LAFCO.*

The City's Water Department owns water rights in the Tijuana Watershed as well as numerous parcels scattered throughout the area.

6. *What past and current efforts has the city undertaken to protect groundwater within the city boundary that is located in the Tijuana Watershed?*

The City never has undertaken any efforts to protect groundwater in the Tijuana Watershed area that also is located in the City.

FISCAL

7. *How does the city fund new infrastructure? What is the maximum monthly compensation each City Council member receives?*

New infrastructure is funded in a variety of ways – some is funded on a cash basis and some on a debt basis. Funding sources include the City's General Fund and several Enterprise Funds. Each city council member receives an annual salary of \$75,386.00 or \$6,282.17 per month.

GOVERNANCE

8. *Does the city use lobbyists to advocate for border issues, protection of groundwater, sewage contamination prevention, or other issues?*

The City has retained the services of representatives in both Sacramento and Washington, D.C to advocate and support local issues and problems.

ADDITIONAL INFORMATION

9. *While conducting an MSR, LAFCO is obligated to examine and make a determination regarding potential government structure options, including advantages and disadvantages of the consolidation or reorganization of service providers. If the Tia Juana Valley CWD were dissolved in the future, would the city be willing and able to assume existing infrastructure as well as other assets and liabilities? What terms and conditions need to be developed to address the transfer of service responsibility from the Tia Juana Valley CWD to the city. Please explain how the city would view the transfer of service responsibility.*

The City's response indicated that there was no interest in assuming existing infrastructure or other assets and liabilities of the Tia Juana Valley CWD. However, it should be noted that the response was a staff level reply from the City Manager's office and was not a matter that had been presented for consideration by the City Council.

SECTION I: DATA SUMMARY

CITY OF IMPERIAL BEACH (PORTION)

INFRASTRUCTURE, FACILITIES, AND SERVICES

1. *Does the city or your water provider operate any wells in the area? If yes, how many? What facilities relating to water service provision does the city own or operate?*

Water service is provided to residents of Imperial Beach via a contract with the California American Water Company, which is a private corporation. Water is purchased from the City of San Diego (a member agency of the County Water Authority and Metropolitan Water District of Southern California) for distribution to customers.

2. *Does the city already provide flood control services and have existing facilities in the area depicted on the attached map? Please list facilities and services provided. Has your agency received any funding or assistance from any other local agency in planning, constructing and/or operating those services and facilities?*

The City does not provide flood control services and has no facilities to do so. In addition, the City has not received funding nor assistance to construct or operate flood control facilities in the future.

3. *Does the city provide sewer services or own/operate any facilities relating to sewer service in the geographic area defined for study?*

Imperial Beach provides sewer service to all parcels in the City except the area in the Tia Juana Valley CWD. The area of Imperial Beach that overlaps the CWD consists of the Tijuana Slough National Wildlife Refuge and Border Field State Park, which are uninhabited and do not require public sewer service. Sewage is transported via an underground piping system to the City of San Diego Metropolitan Wastewater System (METRO) for treatment and disposal. While Imperial Beach provides the infrastructure to transport the collected wastewater to the METRO system, the City neither owns nor operates a wastewater treatment plant.

4. *What parks and/or recreation services and facilities does the city currently provide in the Tijuana Watershed area?*

The City has four parks in the geographic area under consideration, and offers a variety of recreational opportunities at each. Recreational experiences include the following: playgrounds, baseball/softball fields, basketball courts, skateboard park, picnic areas, community centers, lifeguard services, etc.

ADMINISTRATION, MANAGEMENT, AND OPERATIONS

5. *Does the city own water rights in the area? Does the city own property in the area? If yes, please indicate its location on the attached map, and return the map to LAFCO.*

Imperial Beach does not own water rights in the service review area. Property owned by the City consists of the four parks, the Boys and Girls Club, and the Civic Center Buildings (City Hall, fire station, and sheriff's substation).

6. *What past and current efforts has the city undertaken to protect groundwater within the city boundary that is located in the Tijuana Watershed?*

To protect groundwater located in the aquifer, the City has implemented several strategies:

- Constructed a public sewage system to include all parcels within the corporate boundary.
- Mandated connection to the municipal sewer system of the five parcels in the city limits that remain on septic systems when either the septic systems fail, or any improvements to the property are proposed (required by the Municipal Code).
- Conducts daily inspection of the sewer system.
- Installed a remotely monitored, 24-hour alarm system.
- Developed a Sewer Spill Response Plan to address inadvertent sewer spills.
- Response by City Code Enforcement Officers to reported or observed illegal discharging of contaminants.
- Requires violators to cease and abate illegal dumping.
- Complies with the San Diego Regional Water Quality Control Board Order 2001-01 to protect and abate groundwater contaminates from illegal discharges onto the ground or street surfaces.

FISCAL

7. *How does the city fund new infrastructure? What is the maximum monthly compensation each City Council member receives?*

New infrastructure is financed through grants, Sewer Enterprise Fund monies, and/or general funds. Each council member receives compensation of \$1,100 per month.

GOVERNANCE

8. *How is the City governed? Does the city use lobbyists to advocate for border issues, protection of groundwater, sewage contamination prevention, or other issues?*

Imperial Beach is governed by a five-member council; each member is elected at large for a four year term. The council has oversight responsibilities for the public services that are provided by the City to the service review area (i.e., contractual water, parks, recreation, road maintenance, etc.). The City has used the services of lobbyists to advocate sewage contamination prevention and beach sand replenishment programs.

ADDITIONAL INFORMATION

9. *While conducting an MSR, LAFCO is obligated to examine and make a determination regarding potential government structure options, including advantages and disadvantages of the consolidation or reorganization of service providers. If the Tia Juana Valley CWD were dissolved in the future, would the city be willing and able to assume existing infrastructure as well as other assets and liabilities? What terms and conditions need to be developed to address the transfer of service responsibility from the Tia Juana Valley CWD to the city. Please explain how the city would view the transfer of service responsibility.*

The only area in both Imperial Beach and the Tia Juana CWD that is either developed or developable is Border Field State Park, which is located at the extreme south end of the City adjacent to the U.S./Mexico International Border. The remaining overlap area contains the Tijuana Slough National Wildlife Refuge

and the Tijuana River National Estuarine Sanctuary, which are governed and controlled jointly by the federal government and the State of California. Imperial Beach has no knowledge of the services, if any, that the CWD provides in the overlap area. Therefore, the City could not definitively state whether it would be willing to assume existing infrastructure as well as assets and liabilities of the District if it were dissolved. To adequately evaluate the ability of the City to assume service responsibility, more information would be needed concerning the facilities and services to be transferred.

SECTION II: ANALYSIS

AREA DESCRIPTION

As designated by the State of California, the entire Tijuana Watershed encompasses approximately 1,700 square miles and is split by the United States/Mexico international border. About one-third of the area is located in the United States. From Barrett Lake, Morena Reservoir, and the mountainous areas on the east, the U.S. portion of the watershed stretches to the Pacific Ocean. In California, major watersheds are divided into smaller sub-areas or hydrologic units. These are distinct sections of the watershed that have been identified, for the purposes of environmental resources management, as segments that are geographically, topographically, and hydrologically related.

The westernmost hydrologic unit of the Tijuana Watershed, which contains the Tijuana River, is the subject of this service review. The river is an intermittent stream having a basin of approximately 16 square miles, which also is divided between the two countries; about half of the basin is located in the United States. The river has created an estuary where it flows into the Pacific Ocean. Four parks have been established in the river valley – Tijuana Slough National Wildlife Refuge, Tijuana River National Estuarine Sanctuary, Border Field State Park, and Tijuana River Valley Regional Park.

Two major aquifers are located under the basin. The upper aquifer provided water for agricultural and domestic uses decades ago, but has not produced potable water for several years. There still is water in the lower aquifer. According to the Grand Jury Report of 1999-2000, the underlying water legally belongs to whoever can extract it. While the deep aquifer contains water, recent reports commissioned by the Tia Juana Valley County Water District (CWD), reveal that the water cannot be economically recovered.

AGENCY DESCRIPTIONS

TIA JUANA VALLEY COUNTY WATER DISTRICT

Encompassing approximately seven square miles (5,570 acres), the District has a current population of about 23,000. Inhabited areas are located mainly along the north central and eastern boundary and cover approximately 700 acres. The majority of the District's territory is included in the Tijuana Slough National Wildlife Refuge, Border Field State Park, Tijuana River National Estuarine Sanctuary, and Tijuana River Valley Regional Park (refer to attached map). Most

of the remaining open space is used for raising and stabling horses and other livestock; very few acres are devoted to raising crops. Since the 1950s, all District territory has been included in either the City of San Diego or Imperial Beach, with all inhabited property located in San Diego. For that reason, all District residents receive public services from the City of San Diego. The attached maps show the relationship between the District's inhabited and developed areas and each city's water, sewer, and storm water infrastructure.

Background

During the 1930s, the California Water & Telephone Company, as a landowner in the Tijuana River Valley, had obtained permission from the State of California to engage in the exportation of underground water for distribution and sale. In 1936, local citizens banded together and filed a lawsuit to prevent future issuance of the water exportation permits because the extraction of water from the underground aquifer had resulted in the lowering of the water table. The plaintiffs prevailed when the case, *Marvin L. Allen, et al. v. California Water & Telephone Company*, finally was concluded in 1942. The Court found that all overlying landowners had the right to use the surface and underground waters of the Tijuana River basin, but permitted the defendant water company "...to export water when there was surface water in the bed of the river." As a defensive measure, residents proposed the establishment of an independent special district to protect the area from further exploitation, and to protect the water rights for farmers and residents in the Tijuana River Valley.

Subsequently, the Tia Juana Valley CWD was formed in 1946 to perform specific functions for property located in the Tijuana River basin. At that time, the area was unincorporated and largely used for agricultural, farming, and ranching activities. Also during that time, potable water for area residents as well as water for agricultural irrigation was supplied from local wells. District territory overlaid two underground aquifers; the upper aquifer was being utilized as the source of potable water. In responding to LAFCO's Request for Information (RFI), the District claims regulatory water rights to any water remaining in the underground aquifers. This assertion is based upon both the final decision of the San Diego Superior Court in the 1942 judgment adjudicating the lawsuit and the subsequent formation of the District.

According to the original formation petition, the new district was established to: (1) protect the aquifer from contamination and intrusion of saltwater from the ocean; (2) organize an entity to represent farmers and residents; (3) assert the legal rights of residents in the proposed construction of a dam; and (4) defend water rights of the entire Tijuana River Valley. When underground water is extracted, the area from which the water has been removed is subject to intrusion of liquids located in the vicinity. With the Tijuana River Valley adjacent to the Pacific Ocean, it is highly likely that saltwater would migrate to the area to replace the groundwater that has been removed. This intrusion of saltwater contaminates not only the aquifer, but also local well water. Although formed as a

“County Water District,” the Tia Juana Valley CWD was not founded to provide water to area residents and farmers because an adequate supply of both drinking and irrigation water was available from local wells. Instead, the District was established to protect groundwater resources.

When formed, the Tia Juana Valley CWD covered approximately seven square miles, was bounded by the Pacific Ocean on the west and the United States/Mexico border on the south, and contained an island area near the geographic center. The island territory was the property owned by the California Water & Telephone Company, and was excluded when the District was formed. Some years ago, the company’s assets were purchased by the California American Water Company, and the property was sold. Current ownership of the island area is almost equally divided between the City of San Diego and the County of San Diego, with a small area under federal ownership. Given that the County Assessor has no record of any annexations or detachments of territory, the boundary has not changed since the District was established.

Page 14 of the Groundwater Management Plan for the Tijuana River Basin, Phase II, reported that from 1950-1970 the Mexican government installed a series of wells along the international border to supply water for the City of Tijuana. Initially, the extraction of water from those wells caused the groundwater level in the river valley to drop below sea level and, as a result, saltwater seeped into the aquifer. Extracting water also diminished groundwater quality and decreased the amount of water available to recharge the aquifer. During the 1970s, this problem was resolved when production from the wells ceased and imported water became available not only to the City of Tijuana, but also throughout the Tijuana River Valley.

Annexations to Cities

As previously mentioned, when the District was formed, it contained only unincorporated territory. In 1956, Imperial Beach incorporated and the area already in the Tia Juana Valley CWD was retained in the corporate boundary, thus creating an overlap between the City and the District. In 1957, the San Ysidro area was annexed to the City of San Diego; that area also remained in the Tia Juana Valley CWD, and created a second overlap. In each overlap area, District residents receive municipal services (i.e., water, sewer service, fire and police protection, emergency medical services, and parks and recreation, etc.) from the respective city; however, the Imperial Beach overlap area remains uninhabited.

Spheres of Influence

In December 1984, LAFCO adopted a “zero sphere of influence” for the Tia Juana Valley CWD. A zero sphere contains no territory and indicates that the agency eventually should be dissolved and its services and responsibilities assumed by another governmental entity. Since territory in the Tia Juana Valley

CWD also was contained in the Cities of San Diego (central and eastern portions), and Imperial Beach (western portion), all district residents already received municipal services from a city. Consequently, LAFCO acknowledged this service and boundary issue by designating a zero sphere for the District. Furthermore, district territory was divided along the corporate boundary that separates San Diego from Imperial Beach, and was included in the appropriate overlapping city's sphere. The decision to include Tia Juana Valley CWD territory in the two cities' spheres implied that, in the future, District functions should be reassigned.

Prior Dissolution Effort

In October 1989, the Tia Juana Valley CWD's Board of Directors approved Resolution No. 74. The resolution was an agreement between the District and the County to surrender the District's charter and donate its assets to the County. Those assets consisted of both cash and property that totaled approximately \$1.7 million. These actions were taken to support the establishment and continuing operations of public parks, and indicated that dissolving the District was anticipated. This decision may have been prompted by the approval of Proposition 70 in 1988. In part, Proposition 70 stated that "Parks, wildlife habitat, beaches, and open-space lands are vital to maintaining the quality of life in California. As the state's population increases, it is of growing importance to provide parks and recreational opportunities to the residents of California."

The agreement consisted of transferring Tia Juana Valley CWD funds to the County specifically for the purchase of land for recreation and recreational-related purposes. The contract acknowledged that, "(The) County has undertaken a program of acquiring land within the boundaries of the District for the purpose of developing facilities for public recreational and related purposes." The District had attempted to purchase land for a similar purpose, but the property owner had rejected the offer. Since the County had "... insufficient funds to acquire all of the property deemed necessary to fully develop and protect the area, it is in the interests of the parties, and the residents, property owners, and taxpayers, for the two public agencies to cooperate so that the maximum amount of land can be acquired for use for recreational and related purposes and for such land to be under the jurisdiction and control of a single agency."

Also contributing to the decision may have been the availability of imported water throughout district territory, knowledge that all municipal services already were being provided by the overlaying cities, and an understanding that the District represented a duplicative layer of government. Although the District transferred its money and other assets to the County, the Board of Directors did not initiate formal dissolution proceedings with LAFCO. Therefore, at the subsequent election, new board members were elected who chose to reinvigorate the District by renewing a commitment to provide service to area residents, and continuing to conduct business.

Service Provision

Service provision by the Tia Juana Valley CWD has been a source of ongoing confusion because it has been presumed that the primary purpose of a county water district is to provide water service. State Law (Water Code Sections 30000-33900) permits county water districts to provide services other than the delivery of water (e.g., electric power, wastewater and storm water management, and recreation, etc.). Services authorized by the principal act, but not being provided by county water district are considered latent powers. Since 1973, approval by the San Diego LAFCO has been required for activation and expansion of latent powers.

The Tia Juana Valley CWD originally was entitled to: (1) protect the aquifer from contamination and intrusion of saltwater from the ocean; (2) organize an entity to represent farmers and residents; (3) assert the legal rights of residents; and (4) defend water rights of the entire Tijuana River Valley. In 2001, LAFCO conducted a survey of all special districts in San Diego County to ascertain what services were being provided. Tia Juana Valley CWD indicated that subsequent to formation, the District added floodwater and sewage control, and acquisition of land and water rights as District activities. Since it can be reasonably interpreted that these services are linked to those originally authorized, provision of the additional services appears to be legitimate.

On page 3 of LAFCO's RFI, the Tia Juana Valley CWD stated that the District provides groundwater supply research and development, and floodwater management services. In the LAFCO survey of 2001, the District stated that it also provided groundwater exploration. Groundwater supply research appears to be associated with groundwater management and protection of groundwater resources, which is a permitted service function of the Tia Juana Valley CWD. However, groundwater exploration and development do not seem to be services that the District received LAFCO authorization to provide. Thus, the provision of those services may not be in compliance with State Law.

CITY OF SAN DIEGO

Since City of San Diego services will be comprehensively evaluated in a future service review, this city profile is brief. Questions asked of the City for this municipal services review were limited specifically to the Western Hydrologic Unit of the Tijuana River Watershed area, and pertained only to provision of water, sewer, flood control, and park and recreation services. Incorporated in 1850, the City of San Diego is a "full-service" city with departments that provide all municipal services (e.g., water, sewer, fire and police protection, parks and recreation, etc.). As already stated, the San Ysidro area was annexed to the City of San Diego in 1957, but was retained in the Tia Juana Valley CWD; this created an overlap between the two agencies. Accordingly, residents in the Tia Juana Valley CWD receive municipal services from the City of San Diego, but are assessed an

annual fee of \$50 per parcel by the Tia Juana Valley CWD. Other San Diego City residents are not subject to that assessment.

The City of San Diego's sphere of influence was adopted in phases between 1985 and 1987 and is, for the most part, coterminous with the City's corporate boundary. The shared boundary between the Cities of San Diego and Imperial Beach originally was designated a "special study area" pending adoption of the sphere for Imperial Beach. In conjunction with the 1999 adoption of a coterminous sphere for Imperial Beach, the special study area designation was removed, thus making a corresponding coterminous sphere boundary for that portion of the City of San Diego.

CITY OF IMPERIAL BEACH

As with the City of San Diego, this profile is brief because a future service review will be conducted involving the City of Imperial Beach. For the municipal services review, the City was asked questions that pertained to service provision limited to the Western Hydrologic Unit of the Tijuana River Watershed area. Imperial Beach was incorporated in 1956 and provides municipal services through city departments (sewer, parks and recreation, fire, etc.). Water service is supplied to city residents via a contract with the California American Water Company. After incorporation of Imperial Beach, the territory in the Tia Juana Valley CWD remained in the District resulting in an overlap between the City and the District. Although most of the overlap area is located in either the Tijuana Slough National Wildlife Refuge or Border Field State Park, parcels in the overlap area are subject to the Tia Juana Valley CWD's annual \$50 per parcel special assessment fee, which is not charged to other Imperial Beach residents.

Concurrent with the adoption of the City of San Diego sphere, the boundary shared by the Cities of San Diego and Imperial Beach was designated a special study area. On July 12, 1999, a coterminous sphere of influence was adopted for Imperial Beach and the special study area designation was removed. Since surrounded by the Pacific Ocean, the United States/Mexico border, and the Cities of Coronado and San Diego, Imperial Beach could not expand its corporate boundary unless the territory was concurrently detached from either of the two other cities. Thus, a coterminous sphere had been recommended and was adopted as the appropriate designation.

INFRASTRUCTURE, FACILITIES, AND SERVICES

Planning for Future Services

The ability of a local governmental agency to provide efficient and cost effective public services is linked to an integrated program of short and long-range planning. Determining future service needs – and developing strategic plans to ensure that physical and capital resources will be available as required – is a fundamental activity of local government. Generally, these agencies use master plans or capital improvement plans, or variations of these processes, as planning tools. Master plans are especially important for agencies that have abundant developable territory or are experiencing significant growth. There is no legal requirement regarding the frequency for preparing master plans; however, the five-year preparation standard is so prevalent in California that absence of a regularly updated master plan becomes noteworthy. Preparing and updating master plans at five-year intervals allows agencies to evaluate changing conditions.

The choice of appropriate planning processes can be influenced by such factors as an agency's geographic size, population density, or age of infrastructure. Agencies serving predominately built-out territory or areas with little expectation of growth are, as a rule, concerned with routine maintenance and the upgrade of aging infrastructure to meet new safety and regulatory standards. Preparing a master plan under such conditions should still occur, but should be based on a less intensive planning process.

Planning creates a vision for providing future services; however, the vision will not materialize if plans are not put into action. Timely funding choices must be pursued in order to achieve the service goals established by the planning process. Implementation schedules should be developed and strictly followed, and adequate resources must be dedicated to capital projects if proposed goals are to be achieved. Moreover, if maintenance or upgrade plans are deferred in the budget or capital improvement process, not only will planned goals go unrealized, but also the condition of infrastructure and existing levels of service could be degraded as well.

- **Tia Juana Valley CWD – Planning**

In responding to LAFCO's 2002 RFI, the District representative explained that consulting engineers, who are retained by the District, gather information from local and regional public water suppliers and then provide advice regarding future infrastructure needs. The response also indicated that at this time the District only provides "...groundwater supply research and development, and flood management services." Currently, the District is not involved in any activities related to sewage disposal or parks and recreational services, nor does the District intent to participate in the provision of those services in the future.

However, the District has published a Groundwater Management Plan for the Tijuana River Basin, and has stated that additional water-related projects are anticipated. Those future projects include the drilling of several wells to extract groundwater as well as the construction of a groundwater blending facility, a desalination plant, a pump station, and pipelines for water delivery. Despite reporting that only flood management services and groundwater supply research and development were being provided, the District's primary project directly involves groundwater exploration and development. Also planned for the future are two flood control and management projects that would be developed in conjunction with the City of San Diego and the Coastal Conservancy. While the Tia Juana Valley CWD does not currently own, construct, nor maintain flood control facilities, District Directors claim to actively advocate and promote flood control efforts, including projects authorized by the Army Corps of Engineers, the State Coastal Conservancy, and the City and County of San Diego. In 1993, the District spent approximately \$40,000 to produce a special report – Flood Control Study for the Tijuana River Valley – that provided information used in planning the City of San Diego's mid-Valley pilot flood control channel.

Paying for Infrastructure

Water and sewer services are infrastructure intensive compared to those public services that depend on human capital not physical infrastructure to provide service. For example, treatment facilities, pipeline systems, and reservoirs consume a significant portion of an agency's budget both to construct and maintain. Local public agencies generally do not pay for expensive infrastructure with cash. Because projects such as potable water or wastewater systems are costly, it usually is not feasible to budget such projects as single-year expenses. If local agencies need to underwrite costly projects, they must either defer implementation of the project until sufficient funds can be accumulated or they must borrow money to spread the expense, with interest added, over time. When feasible and legal, an agency may impose assessments to increase revenues, obtain grants to fund specific projects, or incur long-term debt through loan procurement.

- **Tia Juana Valley CWD – Paying for Infrastructure**

The Tia Juana Valley CWD encompasses approximately seven square miles of territory most of which is rural in nature – containing a significant amount of vacant property and open space. All land in two large parks (Tijuana River Valley Regional Park and Border Field State Park), the majority of territory in the Tijuana River National Estuarine Sanctuary, and approximately half of the Tijuana Slough National Wildlife Refuge are located in the District. The District has a population of approximately 23,000 with urbanized areas located mainly along the north central and eastern boundary. The District does not currently provide services that require infrastructure, but does own and operate three observation wells and a pilot extraction well. In responding to LAFCO's RFI, the

District has stated that additional projects are anticipated, including the drilling of several wells and the construction of a groundwater blending facility, a desalination plant, a pump station, and pipelines. These projects are elements of the District's strategic Groundwater Management Plan and Total Groundwater Exploration Project (TGEP). While intending to pursue these activities, the District has not developed a Capital Improvement Plan to address issues associated with implementing these projects, nor has the District published an annual report. According to the RFI, the services provided (groundwater supply research and development, and flood management) do not require a report of that kind.

According to the District, any construction and development costs associated with the planned facilities would be paid through federal and state grant money. The District already has requested \$1.3 million federal grant assistance to finance the next phases of the TGEP. That request was made prior to September 2002 with the funds, when available, to be utilized specifically to conduct further studies, not for implementation of the project. Development or construction of infrastructure related to the project would necessitate procurement of future financial assistance.

In April 2003, the District was notified that the federal government had approved a grant amounting to \$500,000 for the TGEP's next phase, which is the North River Groundwater Production Feasibility Study. Since the original request was for \$1.3, the award still leaves the District with a shortfall of around \$800,000. To offset reduced funding, additional financing must be acquired from other sources. With costs escalating over time, the amount required to fund the next phase probably has already surpassed the original \$1.3 million estimate. To fully implement the entire project, millions of dollars must be secured.

- **Tia Juana Valley CWD – Projects**

- ***Groundwater Management Plan***

- On September 26, 1992, Governor Wilson signed Assembly Bill 3030. This State legislation allowed agencies providing water service, or agencies whose service area included a groundwater basin to adopt and implement a groundwater management plan. Following the devastating floods of January 1993, the District's Board of Directors, despite having neither a Capital Improvement Plan nor a Master Plan, voted to develop a groundwater management plan under the auspices of AB 3030 and apply for grant monies to fund the project.

- Tia Juana Valley CWD's Resolution No. 81, dated February 18, 1993, defined the goals for the groundwater management plan as a strategy to: (1) protect groundwater quality and quantity in the Tijuana River Valley for existing and future property owners, agricultural, and recreational users; (2) develop the groundwater basin into a sub-regional water supply reservoir; (3) provide water to valley customers and sell excess groundwater to customers outside the basin;

(4) implement measures for groundwater recharge with surface floodwater containment and runoff control facilities and reclaimed water, if available; and (5) work with the City and County of San Diego, and appropriate state and federal agencies, to propose a workable flood water and international wastewater control solution for the valley. Thus, the District's ultimate goal was to find a suitable location for drilling wells where potable water could be obtained from the aquifer. The water would then be sold and distributed via a pipeline to a variety of customers, including the Cities of San Diego and Tijuana, California-American Water Company, Otay Water District, and South Bay Irrigation District. In addition, the Tia Juana Valley CWD expressed an interest in establishing a facility to bottle and sell water as a commercial enterprise.

From 1993 through 1997, the District spent approximately \$1 million to develop the groundwater management plan believing that the study would explain the geology and hydrology of the groundwater aquifers. With the expectation of eventually extracting water, the District proposed to recharge the aquifer with excess water from two City of San Diego reservoirs. However, in conjunction with the overall plan, a pipeline to convey the raw water would have to be constructed. As previously explained, replacing extracted water is a critical component in preventing the potential intrusion of saltwater into the aquifer. In 1995, Phase IV of the Groundwater Management Plan projected that the District would not have sufficient funds for either the construction or operation of water treatment and distribution facilities.

As the water provider for the Tijuana River Valley, the City of San Diego could have developed the groundwater management plan. Instead, the Tia Juana Valley CWD embarked on this program to protect groundwater resources via a groundwater management plan; the State Water Resources Control Board sent a letter to the District Board supporting the project.

Tia Juana Valley CWD never has provided any type of water service to area residents. With increasing urbanization of the region and a corresponding need for water, exploring extraction of water from aquifers has become a countywide issue. However, extracting water is a massive and expensive undertaking requiring numerous permits, myriad studies and reports, approval by various state and local agencies, as well as the construction of large-scale infrastructure. Thus, it is questionable whether the District is the appropriate agency to initiate a plan to extract that water, or if another agency with more expertise should take the lead in the endeavor.

Groundwater Exploration Project

In conjunction with the Groundwater Management Plan for the Tijuana River Basin, the District has conducted a study related to groundwater exploration. Exploration of the groundwater aquifer was performed to determine the feasibility of using the formation (aquifer) as a reclaimed water and groundwater injection, storage, and recovery aquifer for potable water supply purposes. The Tia Juana

Valley CWD already has spent approximately \$1 million over a 5-year period (1993-1997) to gain an understanding of the geology and hydrology of the groundwater aquifers beneath the Tijuana River Valley. The U.S. Department of the Interior, Bureau of Reclamation, the State of California Department of Water Resources, MET of Southern California, and the San Diego CWA provided funding through grants and loans.

Even so, the summary of the final findings of the Groundwater Exploration Project indicated that extracting the water would be very costly and probably would not be a profitable endeavor. Specifically, Page E-2 of the report declares that, "...there appears to be no potential for groundwater production on a municipal water supply scale from the San Diego Formation." Moreover, the document states, "The low permeability of the San Diego Formation as indicated by the aquifer test results ... indicate that it would not be feasible to inject large volumes of reclaimed water to recharge the San Diego Formation."

Flood Control Study

A component of the Total Groundwater Exploration Project is a flood control study for the Tijuana River Valley. In partnership with the City of San Diego, the District intends to construct a channel to capture and divert the storm water that results from periodic flooding of the river valley. One objective of constructing this system would be to prevent the damage to property, agriculture, and livestock associated with this flooding. A secondary purpose would be to capture the water for recharge into the aquifer. Again, the results of both the groundwater exploration project and flood control study have indicated the futility of this undertaking since the formation has low permeability and is unsuitable for injecting large volumes of reclaimed water for recharge. Another issue relates to what entity would finance such a major public facility and how the funding would be structured.

San Diego Area Water Reclamation Program

Although not developing a Capital Improvement Plan, the District has agreed to partner in a water reclamation program. The San Diego Area Water Reclamation Program is a cooperative effort by the Cities of San Diego, Escondido, and Poway; the Sweetwater Authority; the Otay Water District and Padre Dam Municipal Water District; and the Tia Juana Valley County Water District. The goal of the program is to add more than 23 billion gallons of water annually to the region's local water supply. According to the March 2002 report, the projected cumulative expenditures through FY 2003 total \$664 million. These costs represent a substantial financial burden for local agencies; thus, federal participation is essential to complete a water supply project of this magnitude. Implementation of this program would reduce reliance on imported water supplies. Tia Juana Valley CWD's portion of the financing plan is reported to be approximately \$16 million. The District proposes to use the recycled water in combination with other supplies to recharge the Tijuana River Groundwater

Basin. The water stored in the San Diego Formation ultimately would be extracted and treated at a reverse osmosis facility for use as potable and non-potable water supplies.

The report fails to document how the Tia Juana Valley CWD would be able to accumulate the necessary funding for its share of the costs involved in the program. In addition, as previously mentioned, studies of the San Diego Formation have indicated that permeability renders the formation unsuitable for recharge with reclaimed water.

Tijuana River Watershed Management Plan

The District's response to LAFCO's RFI contains a discrepancy regarding the Tijuana River Watershed Management Plan. The answer to Question 17 in the Infrastructure Section indicates that the Tia Juana Valley CWD had anticipated spearheading a watershed management program for the Tijuana River, but was unable to obtain the necessary federal or state grants to fund the project. However, the District's answer to Question 2 in the Fiscal Section identifies a State Parks and Recreation grant of \$147,750 for watershed studies. The response goes on to state that \$60,000 of that money already has been spent to study the watershed, but that the remainder is targeted for use in a wetlands restoration project.

The District's former General Manager responded to LAFCO's RFI; the District's current General Manager provided clarification of the apparent discrepancy noted above. When the Tia Juana Valley CWD embarked on a watershed management program for the valley, an application for an \$800,000 grant was submitted. In 1999, a grant for \$147,750 was approved, but only \$132,975 was actually received. This significant reduction of financial resources caused the District to modify its plan. A portion of the grant money paid the costs already incurred for studying the watershed with the remainder shifted to carry out a wetlands restoration project.

Lacking the financial resources to develop and implement the Tijuana River Watershed Management Program, the District abandoned the project, which now is under the purview of the County of San Diego Public Works Department. County staff has verified that a partnership has been established among the County and the Cities of Imperial Beach and San Diego to develop a Watershed Urban Runoff Management Plan to address storm water management. At this time, the project is, for the most part, at the planning stage.

Since not a participant in developing the watershed management plan, the District has shifted its focus as well as the remaining grant monies (approximately \$73,000) to initiate a wetlands restoration project. The District already has applied for both state and federal grant funds to supplement the existing funds and provide the additional financial support necessary to carry out this effort. However, should those grants not be approved or are drastically reduced, the project would be abandoned unless another source of funding could be found. It is

unknown what would happen to the remaining \$73,000 of grant money if the wetlands restoration project remains under funded.

Discussion – Projects

Results of the studies conducted for the groundwater management plan, the groundwater exploration project, and the flood control study, indicate that extracting groundwater is an impractical plan. Nevertheless, the Tia Juana Valley CWD Board of Directors has persisted in the quest to complete the groundwater exploration project and pursue the goal of extracting groundwater for ultimate sale to water purveyors. Board members insist that a sufficient supply of groundwater is available in the aquifer, that it has the potential to become a viable source of potable water, and that it could be extracted and bottled or distributed via pipes to potential customers. In addition, the District continues to contend that the aquifer can be recharged with captured surface floodwater and/or reclaimed water even though the results of the studies – conducted at District expense – report this as an unrealistic proposition.

In a September 12, 2001 letter, the District’s former General Manager transmitted to LAFCO’s Executive Officer an update of the District’s program management activities. The letter stated that the District was seeking funds and grants to explore extraction of groundwater from the aquifer to sell and distribute both potable and non-potable water. In addition, the District was proposing a “... public and private sector water and energy project to develop a combined energy base-load production plant and water desalination plant ...” in conjunction with the groundwater development program. While the California Water Code does allow a county water district to generate and sell electric power in connection with a water conservation project, the Tia Juana Valley CWD currently does not have authorization to provide electric power. Moreover, the District’s Resolution concerning the preparation of the Groundwater Management Plan defined the goals for that plan, which do not include the generation of electric power.

The Cities of San Diego and Imperial Beach (via contract with the California American Water Company) currently provide an adequate supply of water to the area. Therefore, it would appear that if the Tia Juana Valley CWD were successful in its endeavor to extract and distribute groundwater, potential new customers would be outside the District’s current boundary. Page 23 of Phase I of the Groundwater Management Plan, published in May 1993, relates that the General Manager of the California American Water District said that the company would be very interested in the Tia Juana Valley CWD developing the groundwater supply and becoming a second source of potable water. Since there was some concern about a long-term, consistent supply from the City of San Diego, having another source to supplement the existing supply was an attractive proposition. However, it was noted that desalination would be necessary for the basin’s groundwater, and that process would attach additional costs to the price of the water. The need for desalination was reinforced in Phase II of the

Groundwater Management Plan of April 1994, which states, "... the groundwater is slightly brackish and will require demineralization" (page 54). Since these reports are 10 years old, it is unknown whether the California American Water Company continues to be interested in this undertaking. Nevertheless, the District clearly intends to pursue the business of extracting groundwater for potential sale. The September 2002 response to LAFCO's RFI reported that the Board had submitted a request for \$1.3 of federal grant funds to continue the Total Groundwater Exploration Project. Although notification was received in April 2003 that \$500,000 of grant monies had been awarded, the District has been left with a deficit of approximately \$800,000. Even if the District were able to secure additional funding, the amount required would likely have escalated due to the passage of time and concomitant increasing costs.

Since the Tia Juana Valley CWD neither owns nor operates infrastructure, many problems associated with periodic flooding, intrusion of salt water into the aquifer, and groundwater contamination from sewage spills must be addressed by other agencies. In fact, the federal government and the City and County of San Diego already have addressed these issues. For example, the U.S. International Boundary & Water Commission (IBWC) is a federal agency delegated to overseeing the reduction of water pollution discharges from the Mexican side of the border. To fulfill this responsibility, the IBWC and the U.S. Environmental Protection Agency constructed a treatment plant designed to reduce contaminants to a secondary level in the flows originating in Mexico. In 1999, the District passed a resolution supporting that project as an alternative to construction of sewage treatment ponds. In 1963, the Board of Directors adopted Resolution No. 40, which urged the Army Corps of Engineers to take the "...necessary steps for the construction of a flood control channel..." Then, in 2000, Resolution No. 108 was adopted that supported the Tijuana River Valley Estuary and Beach Seawater Cleanup Act of 2000 (Bilbray and Filner). While the District adopts resolutions supporting the projects of other governmental agencies that benefit the river valley, the District itself has neither directly financed nor constructed infrastructure to address the valley's chronic sewage contamination and flooding problems.

In addition, the County of San Diego Public Works Department has the responsibility for developing and implementing the Tijuana River Watershed Management Plan. The County has partnered with the Cities of Imperial Beach and San Diego to formulate a Watershed Urban Runoff Management Plan to address storm water management. Tia Juana Valley CWD is not a participant in that partnership.

Conclusion – Projects

The Tia Juana Valley CWD no longer provides the services for which it originally was established as outlined in the formation resolution. Board members have assumed additional responsibilities beyond the scope of the District's official, legitimate activities, and have not been authorized by LAFCO to do so. Instead,

resources are being diverted to large-scale projects for which the District lacks expertise, and which logically could be undertaken by another governmental entity. The Grand Jury reports assert that problems associated with periodic flooding, intrusion of salt water into the aquifer, and groundwater contamination from sewage spills have been and should continue to be addressed primarily by the City of San Diego and the federal government.

Discussion – Bi-Monthly Meeting with Councilmember Inzunza

LAFCO staff members attended one of the bi-monthly meetings held by the Tia Juana Valley CWD and San Diego City Councilman Ralph Inzunza, who represents that portion of the City that overlays the Tia Juana Valley CWD territory. Issues on the agenda for that meeting included the City's annual maintenance of the Tijuana River Valley, a status report regarding Smugglers Gulch Holding Basin, an update of a proposed grant requested of the U.S. Army Corps of Engineers to remove illegal fill, a report on the status of the Tijuana Aquifer Study, and an overview of LAFCO's Municipal Service Review mandate and process.

Among the topics discussed was the need for vegetation removal along the river. During the rainy season, vegetation may be uprooted, flow downstream, and be trapped between the rising water and road overpasses. This clogs the riverbed, forms a dam, and impedes the water's flow. Unable to travel down its usual course, the water moves over the riverbank and floods the surrounding area. While vegetation removal is a key to preventing floodwater damage and destruction, this activity is under the purview of the City and is not considered to be a District function. The issues related to fill removal and the holding basin also appear to be matters that are within the purview of the City and not the District.

The Board of Directors appears to be completing tasks that city staff members already have the responsibility of performing. Since Directors are paid for their attendance at these meetings, the District essentially is paying the Directors to provide information to the City, rather than the City paying its own employees to gather information and make reports. In this case, the District could be characterized as an entity lobbying for the specific needs and interests of the region.

While information provided directly to Councilman Inzunza in the special meetings may be beneficial both to the City of San Diego and the Tijuana River Valley region, perhaps the information could be conveyed through a letter, memo, or report. Transmitting the data in that manner might be more efficient. In addition, it would appear that the primary recipient of this information should be the appropriate city department that addresses issues related to floodwater management, illegal dumping, water quality, etc.

Discussion – Informational Activities

While assuming responsibilities beyond those for which it was established, the District has secured grants and loans that funded studies and reports pertaining to groundwater management, potential water extraction from the aquifer, flood control measures, and watershed management. Board members provide important information and advice to numerous local, state, and federal agencies regarding the problems associated with periodic flooding and groundwater protection in the Tijuana River Valley and Watershed area.

Overall, the Board appears to be heavily involved in providing data and advice to agencies having ties to the valley/watershed area, as well as assuming an advocacy role for activities related to preservation of the river valley. Some responsibilities the District has assumed may be only peripherally related to its stated goals, and may not be authorized by State Law (Government Code Sections 56000, et seq.).

Conclusion

While the District does provide information and assistance to the City of San Diego regarding problems plaguing the residents of the Tijuana River Valley, a civic association or advisory board quite possibly could perform these duties. As with other communities located in the city limits, these groups provide advice and recommendations to the City Council regarding matters affecting their neighborhoods. These associations are voluntary and, as such, the members do not receive payment for their attendance at meetings, and are not empowered to assess fees on property owners.

Since the District's formation more than 55 years ago, significant governmental changes have occurred. The most important change is that all district territory now overlaps two cities, which provide all critical municipal services to residents, including water, sewer, flood control, and fire protection. In addition, the County has implemented a partnership with the cities to address problems related to surface water runoff and flooding in the valley. The affected territory should have been detached from the Tia Juana CWD when the City of Imperial Beach incorporated and when San Ysidro was annexed to the City of San Diego. However, those jurisdictional changes occurred prior to the establishment of LAFCO in 1963. As a consequence, the lack of regulatory oversight caused an overlap of service responsibility between multiple jurisdictions. Therefore, it is possible that the services the Tia Juana Valley CWD currently provides could be assumed at a comparable level by the City of San Diego, which overlays the District's inhabited territory.

ADMINISTRATION, MANAGEMENT, AND OPERATIONS

Appropriate Boundaries

The boundaries of local governments should define territory where agencies can logically provide service(s). Accordingly, spheres of influence should be adopted to identify areas where a determination can be made that the agency will be prepared to provide efficient service(s) in the future. Including territory in an agency's boundary that cannot logically be served or, conversely, excluding territory that can logically be served can cause inefficiencies and indicate that a boundary adjustment is appropriate. In addition, local agencies generally should avoid providing service(s) outside of their boundaries because that type of service arrangement may introduce complexity into regional service delivery and strain an agency's infrastructure system.

- **Tia Juana Valley CWD – Appropriate Boundaries**

The boundary of the Tia Juana Valley CWD was established in 1946 when the agency was formed. The District was founded to protect the groundwater from contamination, protect the aquifer from saltwater intrusion, represent area farmers and residents, and defend the valley's water rights. Since that time, the boundary has remained constant because no jurisdictional changes have been processed. However, all district territory now is included in the corporate boundary of either the City of San Diego or Imperial Beach. Since the District's inhabited area is in the City of San Diego, all district residents receive municipal services from that city. Given that all district territory is under the jurisdiction of a city, the current district boundary could be construed as inappropriate.

Consolidating Services

Under certain circumstances, regional services could be reorganized or consolidated to gain service efficiencies and cost savings. This is particularly true when multiple agencies within a geographic region either provide the same or similar services, or could be empowered to provide the same or similar services. A primary objective of LAFCO is to review ways to reorganize, simplify, and streamline governmental structure, so that public services are efficiently and economically provided to area residents.

- **Tia Juana Valley CWD – Consolidating Services**

Since all territory in the Tia Juana Valley CWD also is in either the City of San Diego or Imperial Beach, all urban services are provided by those cities, including water, sewer, fire protection, park and recreation, and flood control. Moreover, the federal government has participated in the construction of storm water and flood control facilities in the area. Problems associated with periodic flooding,

contamination of the aquifer, and groundwater pollution caused by sewage spills from the City of Tijuana are the responsibility of the City of San Diego and the federal government and should be addressed by those agencies. Thus, the District represents a redundant layer of government.

Spheres of Influence

In accordance with the California Government Code, each LAFCO is obligated to develop and adopt spheres of influence for each city and special district in the county. A sphere of influence is defined as a plan for the probable physical boundaries and service area of a local government agency as determined by the Commission. Spheres are characterized as planning tools used to provide guidance for individual proposals involving jurisdictional changes, and are intended to encourage efficient provision of organized community services and prevent duplication of service delivery. Spheres may be amended periodically; recent State Law directs that they be reviewed every five years, as necessary.

- **Tia Juana Valley CWD and Cities of San Diego and Imperial Beach – Spheres of Influence**

As previously mentioned, the Tia Juana Valley CWD provides no municipal services. Consequently, LAFCO adopted a zero sphere of influence for the District in 1984. Adoption of a zero sphere, which contains no territory, is appropriate when an agency's functions should be reassigned to another governmental entity. The zero sphere is the appropriate designation for the District, and should be reaffirmed for the following reasons: (1) District territory overlays the Cities of San Diego and Imperial Beach; (2) the District does not directly provide services; and (3) the District does not anticipate extending service outside of its existing boundary.

The adopted spheres for the Cities of San Diego and Imperial Beach in the Tijuana River Valley region are coterminous with the boundary that separates the two cities. Furthermore, those sphere lines are coterminous with the cities' corporate boundaries and also should remain as adopted in 1999.

FISCAL

Revenue Sources

All units of local government – counties, cities, and special districts – are financially autonomous. Within the parameters of State Law, each local government has the ability to craft an individual fiscal policy and associated practices. Each agency is equally empowered to make independent fiscal decisions, however, the agency is not equally empowered to generate the revenue to support those decisions.

Generally, special districts, as limited purpose agencies, are categorized as either enterprise or non-enterprise districts. Enterprise districts operate in a manner similar to a private entity where the cost of providing service is recovered through user fees or service charges. While each local agency determines its own rate and fee structure based on local circumstances, there should be a link or nexus between the amount of the fees or rates imposed and the cost of producing and delivering the service. Historically, the courts, as in *Shasta County v. Trinity County* 1980, have supported the relationship between fees and the cost of service delivery by stating, “... a fee which exceeds the reasonable cost of service is a disguised tax.” Accordingly, rates and fees must be responsibly set to ensure that revenue will be sufficient to compensate for the cost of service provision. These districts do not rely, or only minimally rely, on property tax revenue to fund operating costs.

Conversely, non-enterprise districts, such as those providing fire protection and emergency medical, render services that benefit entire communities. Typically, those districts receive their revenue as an allocation of the property tax. While non-enterprise districts may impose special taxes and assessment charges, to do so they are subject to the provisions of Proposition 218, which stipulates that approval must be granted through the election process. Furthermore, approval requires either simple majority or a two-thirds majority to pass.

As limited purpose agencies, special districts may impose only the types of taxes, assessments, and fees that have been authorized through legislation. The revenue sources available to each class of special district are specifically defined in the different principal and special legislative acts. The range of revenue sources available to local agencies is a critical element in accruing funds. For limited purpose agencies, the revenue sources are scarce and generally restricted to specific, inflexible uses.

- **Tia Juana Valley CWD – Revenue Sources**

Since the Tia Juana Valley CWD predates Proposition 13, it was authorized to levy a tax on the property located in its boundary. When established in 1946, the District imposed a tax rate of \$.85 per \$100 of assessed valuation (Resolution

No. 4, dated August 1, 1946). Property tax revenue was last collected by the Tia Juana Valley CWD during FY1957-58, at which time the tax rate was \$.88 per \$100 of assessed valuation (Pete Redmann, Property Tax Services, oral interview October 7, 2003).

On October 23, 1989, the Board of Directors of the Tia Juana Valley CWD adopted Resolution No. 74, which transferred \$107,700 in cash to the County of San Diego to be used for the "... purchase of land for recreational and related purposes." On October 24, 1989, the District board entered into Contract No. 71205-R with the County of San Diego to transfer its "... right, title, and interest in accounts, moneys, notes, and property of the District ..." that had an approximate value of \$1.7 million. In conjunction with divesting its funds and property, the District Board had voted to "surrender its charter." However, dissolution proceedings were never initiated, and new directors were elected at the subsequent election. Despite having transferred significant assets to the County, the Tia Juana Valley CWD continued to conduct business and consistently submitted to the County resolutions adopting the budgets between 1989 and 1992.

- **Tia Juana Valley CWD – Fixed Charge Special Assessment**

While the Tia Juana Valley CWD is a non-enterprise district, it does not currently receive a portion of the property tax revenue generated within the district boundary. As a consequence of not receiving a portion of property taxes when Proposition 13 was enacted, the District was not permitted to receive an allocation of that revenue source without concurrence from all other taxing entities. Instead, the District imposed an annual fixed charge special assessment. Resolution No. 79, dated May 7, 1992, contains the approval by the Board of Directors to levy an annual special assessment of \$25 per parcel. The assessment was doubled to \$50 in 1993 after two public hearings had been conducted. Described by the District for assimilation into a "Water Research and Development Fund," this assessment continues at the annual rate of \$50 per parcel. Research of the results of past elections did not uncover documentation that the imposition of this assessment and the subsequent increase were subject to a vote by area residents. The District contends that there was no need for an election because these actions predate Proposition 218, which came into effect in 1996. According to the FY 2002-03 budget, the fixed charge special assessment totals approximately \$200,000 per year and is deposited in the District's bank accounts (checking and savings). Since this is the primary source of revenue, the special assessment is used to pay the District's management costs (salaries, legal fees, stipends, and other expenses).

Discussion

Each member of the Tia Juana Valley CWD is eligible to receive a payment of \$100 for each District meeting – there are two each month – as well as \$50 for attending meetings of other commissions, boards, and committees related to local water issues. Maximum compensation for each director has been set at \$600 per

month. To receive the maximum, a Board member would need to attend both Tia Juana District meetings as well as eight meetings of other boards, committees, etc. The District reported that from September 2001 to August 2002 the combined expenses for Board Members' meeting attendance totaled \$20,150. (Refer to Question 5 in the Governance Section of the Data Summary.) In addition, Directors may be reimbursed for expenses incurred for travel outside San Diego County.

Although a non-enterprise district, the Tia Juana Valley CWD does not receive property tax revenue. For that reason, the District operates more like an enterprise district where the cost of providing service usually is recovered through user fees or service charges. When a local agency determines its own rate and fee structure, there should be justification for the amount of the fees or rates imposed based on the cost of producing and delivering the service. In addition, the courts have supported the need to demonstrate a relationship between fees and the cost of service delivery. Resolution No. 76 from Fiscal Year 1990-1991, stated that the District's estimated annual operating costs exceeded income, and thus would be inadequate to pay expenses. The amount of money the District required to meet its anticipated budgetary requirements for that fiscal year was \$35,000. Consequently, the Board approved the imposition of a fixed charge special assessment to offset the shortage. However, the assessment was to be collected to meet the budgetary requirements for operations, rather than any costs associated with groundwater supply research and development. Since no estimate for groundwater research and development costs was incorporated into the FY 1990-1991 budget, there appears to be no justification for the amount of the assessment and no nexus between the assessment and the cost of service delivery.

The District's FY 2002-2003 budget indicates that all expenses associated with groundwater research and development projects will be paid with anticipated grant monies. So, even though the annual \$50 per parcel special assessment is described for use in "water research and development," the funds actually are used to pay District expenses (salaries, Director meeting attendance stipends, legal fees, office expenditures, etc.). Consequently, property owners in the Tia Juana Valley CWD are paying an assessment to cover the District's operating expenses in addition to paying regular property taxes.

Also, since special assessment funds are used to pay the Directors for their attendance at bi-monthly meetings with Councilman Inzunza, District property owners are paying the Directors to meet with the City Councilmember who already represents the area. Moreover, the City of San Diego has reported that the services of lobbyists in both Sacramento and Washington D.C. are retained to convey local needs and interests to elected officials and representatives; the City of Imperial Beach also retains lobbyists to advocate the prevention of sewage contamination. Thus, it appears that District funds are being used to duplicate efforts that address regional issues and problems.

If the District continues its efforts and ultimately succeeds in extracting groundwater for distribution, what benefit would property owners who contributed to the “Water Research and Development Fund” receive? Since the assessment was imposed for the purpose of obtaining water from the aquifer and creating a water delivery system, and since those property owners have participated in financing the endeavor, it appears that they should be compensated in some fashion. The District’s documents discuss the sale of potable water, but fail to address the distribution of any realized profits.

▪ **Tia Juana Valley CWD – Other Funding Sources**

Money to finance the groundwater and flood management studies, which comes from grants and loans, is deposited into separate accounts that the District maintains. Other governmental agencies, including the San Diego County Water Authority, the State of California, and the federal government, have been the sources of those grants and loans.

Grants

Historically, the Tia Juana Valley CWD has utilized both federal and state grant funds to offset expenses for a variety of projects. The State Parks and Recreation Department awarded a grant to the District to underwrite the costs associated with a five-year study of the Tijuana River Valley Watershed. Approximately 40 percent of the funds were used to develop the watershed program and policy direction. The District has earmarked the remaining money to complete activities related to the District’s wetlands restoration project that involves cleaning surface water and mitigating the destruction of its flow in the Tijuana River Valley. However, any flood control effort in the valley is the joint responsibility of the Cities of San Diego and Imperial Beach. Furthermore, the County of San Diego, in a combined undertaking with the two cities, is participating in the development of a Watershed Urban Runoff Management Plan that currently is in the planning stage.

Loans

In addition to grant money, the District has obtained loans from both the State of California and the San Diego County Water Authority (CWA). During FY 1996-1997, the District received a loan from the State of California for \$425,000. In 2002, approximately 65 percent of that loan had been repaid in an agreement whereby the District reportedly was making two \$25,000 payments per year. In March 2003, the State of California loan had an outstanding balance of approximately \$134,000; as of May 2004, the remaining balance was \$70,000.

In 1993, CWA provided a loan of \$117,000 to help pay for the District’s Groundwater Management Plan, as well as the initial phase of the feasibility studies related to the total groundwater exploration project. In a letter to the San Diego County Grand Jury dated September 13, 2002, CWA’s Director of Water

Resources explained how the Financial Assistance Program (FAP) is structured. Matching funds are provided to local water agencies that conduct studies related to the development of water recycling or groundwater projects in CWA's service area. The Tijuana River basin is partially located in CWA's service area by virtue of being in the City of San Diego, which is a member agency. In the event that the project is feasible, agencies are required to repay the funds plus interest. "Project feasibility is defined as the project having final environmental certification under the California Environmental Quality Act (CEQA) or project implementation resulting in funding from some other source. In the event that a project is determined to be infeasible and is not implemented, the agency is not required to repay the FAP amount to CWA. To date the Tia Juana Valley CWD has not implemented the projects funded by the FAP."

According to an audit for fiscal years 1999-2001 conducted by Schilling & Hinzman, the Tia Juana Valley CWD will be required to repay the loan from CWA, including interest, within five years following the successful completion of the Groundwater Development Program. Since that project has not yet been completed, repayment dates are undeterminable and the loan and related accrued interest are considered long-term. Therefore, no payments have been made on the outstanding balance.

Reserves

In the context of this MSR, the term "reserves" refers to unrestricted funds that could be made available for whatever purposes deemed necessary by an agency's board of directors. On May 4, 2000, a Public Finance Special Report issued by Fitch IBCA (an International Rating Agency) recounted that, "Maintaining an operating reserve or 'rainy day fund' is perhaps the most effective practice that can enhance an issuer's credit rating." (Page 2.) However, according to the Government Finance Officers Association, a significant level of reserve funds should not of itself be interpreted as evidence of overall economic health. For example, a local agency could increase a reserve fund by obtaining a long-term debt. Although rating agencies that evaluate an entity's creditworthiness are likely to favor high reserve levels, other groups, consisting of taxpayers, citizens, or union members, may view high levels of reserves as an indication that taxpayers' money is being hoarded.

While the California Constitution and the statutes that empower local governments contain provisions for fiscal management, no standards for managing reserves have been adopted. Government Code Section 53600 et seq. defines the objectives for safeguarding principal, meeting liquidity needs, and achieving a return on investments, but offers no direction regarding accumulating or using reserve funds. While annually collecting local agency financial reports with information about reserves, the County Auditor does not assess the economic well being of individual agencies based on reported reserve fund levels. "Moreover, it appears there are no universally accepted standards upon which decision-makers may rely in determining what level of reserves to maintain"

(Southern San Diego County Water and Sewer Municipal Service Review, Page 31). Even though no standards for reserve funds have been approved by the State, there is a widely accepted belief that decisions concerning these funds should be shaped by policy.

- **Tia Juana Valley CWD – Reserves**

Over the past 12 years, the Tia Juana Valley CWD’s policies include having an annual reserve of at least \$100,000 at the end of each fiscal year. While, indicating that the goal has been achieved in two of the past three fiscal years, the District reported having a reserve fund at the end of FY 2001-2002 of approximately \$94,000. However, the District did not indicate whether the money in the reserve fund is discretionary and can be used for a variety of purposes or is restricted money that must be used for a specific project.

In the response to LAFCO’s RFI, excess district funds were reported as reserve funds. In May 2004, a District representative stated that the CWD anticipates having excess funds at the end of FY 2003-2004. Part of this “reserve fund” consists of unused State grant money that was awarded for the District’s watershed project and, as such, can only be used for costs associated with that project. However, it is estimated that by the end of FY 2003-04 the District’s account will contain approximately \$65,000 to \$75,000, which is money that can be utilized for general purposes.

- **Tia Juana Valley CWD – Budget**

The District’s FY2002-2003 budget contains a figure of \$1,905,000 as “Total Anticipated Expenditures.” Of that amount, roughly \$1.6 million is earmarked as engineering consultants’ expenses related to the groundwater exploration and development project and the wetlands restoration project. Another item is the \$50,000 loan payment to the State. The remaining costs cover expenses associated with district business, including staff salaries, stipends for the Directors, insurance, legal expenses, accounting, etc. The budget indicates that funding sources include income from the special assessment totaling \$200,000, and a State grant for the watershed study of \$20,000. A total of \$1.7 million also is listed as “anticipated” funding from two sources – a federal grant for the North River project (\$1.3 million) and a State grant for the wetlands restoration project. Thus, it appears that the dependable sources for financing District activities totals only about \$220,000 for the fiscal year. The request for the federal grant was submitted prior to September 2002. In October 2003, the District reported that the Department of the Interior has approved an award of \$500,000, which represents only a portion of the total \$1.3 million request. Unless another governmental agency steps in, it appears that the District will experience an \$800,000 shortfall in its request for federal aid.

Incorporating non-recurring revenues in a budget may be characterized as a concern in the context of fiscal matters. Management always has been viewed as a critical component of financial stability in both public and private sector enterprises. As stated in the previously referenced Fitch report, “Over-reliance on nonrecurring revenue items (one shots) to pay for on-going and recurring expenses is a credit concern.” (Page 3.) Reliance on grant money may be risky since not only are grants speculative and subject to rejection, but also the applicant may not receive the entire amount requested.

Discussion

Historically, the District’s budgets include monies associated with grants that have been applied for but not yet funded. This practice may leave the District vulnerable because monies may have been spent with the expectation of financial reimbursement; however, reimbursement funding may be rejected or may be less than anticipated. For example, the Tia Juana Valley CWD applied for a State grant of \$800,000 for a watershed/surface runoff study and infrastructure plan, but only received about \$132,000. With the significant reduction to the amount requested, the District was forced to abandon the project because it could not be fully funded.

Incorporated into the FY 2002-2003 budget is a significant expense amounting to nearly \$1.6 million that is related to engineering studies associated with District projects (groundwater management plan, total groundwater exploration project, etc.). However, the District has no dependable income source to pay these expenditures. Traditionally, the District has relied heavily on both loans and grants to finance studies and fund programs because the annual special assessment monies are only sufficient to pay the administrative costs of District activities. According to the District representative, the \$1.6 million will not be spent unless grant funding is received beforehand to pay the costs. Presenting unreliable funding options and undifferentiated expenses in a budget often leads to confusion and incorrect interpretation.

Conclusion

Based on research conducted by LAFCO staff and LAFCO’s legal counsel, the District never had the authority to impose its fixed charge special assessment. To gain authorization for the lawful collection of an assessment, the District must conduct an election to allow the public to vote on the matter, pursuant to provisions in the Municipal Improvement Acts of 1911 or 1913. However, the fixed charge special assessment was not imposed pursuant to those acts. County Water District Law does authorize the imposition of a special tax on real property subject to approval by two-thirds of the electors. Again, the Tia Juana Valley CWD did not comply with the special tax provisions of State Law or the State Constitution.

GOVERNANCE

Authority

The California Government Code authorizes the creation of special districts, which are units of government that often provide municipal services to areas that are unincorporated (i.e., not included in the boundary of a city). Nearly 30 different principal acts comprise the foundation for forming agencies having distinct capabilities to provide various public services. Each principal act defines a range of services that may be provided, delineates the territory that may be served, specifies the composition of the governing board, and details the procedures for adding or removing territory after district formation. With the introduction of State legislation in 1963, Local Agency Formation Commissions (LAFCOs) were established in each county and empowered to oversee the formation of new special districts.

Depending on the principal act under which it is formed, a special district may only provide specified services. For example, a municipal water district may provide fire protection services in addition to water, but is precluded from generating or transmitting electrical power. The service(s) a district provides also may be restricted or limited by LAFCO's responsibility to regulate latent powers, which are the services authorized by the principal act but not provided by the agency. In accordance with Government Code Section 56824.10, special districts may submit a resolution to LAFCO requesting that the district be authorized to supply additional service(s).

Board of Directors & Administration

Each special district has a degree of independence that allows it to govern without interference from other units of local government. Absent indictable criminal activity, the special district is accountable only to the electorate. The governing body of an independent special district is the Board of Directors. According to Elections Code Section 201, directors are required to be residents and registered voters in the district where the duties of office are exercised. Directors are elected to represent their constituency in making decisions affecting the district. Board members are elected to a specific term, sworn into office, and expected to adhere to laws governing the District as specified in the principal act. In addition, the Board may adopt by-laws, policies, ordinances, and standards to provide guidance in governing the District and complying with legal requirements.

Often, a special district will hire a general manager, who conducts the district's daily business. Districts commonly have a clerk or secretary who is responsible for publishing hearing notices, taking accurate minutes of all meetings, and ensuring compliance with legal mandates. Office staff members may be employed to perform various administrative duties and, depending on the type(s) of service(s) provided, personnel with expertise in a particular field also may be

hired to perform the functions required for service delivery. As local agencies, special districts must comply with the provisions of the Brown Act as specified in the California Government Code (refer to Conduct of Meetings in the following section). Open meetings are held to permit scrutiny by constituents, to make board members accountable for decisions, and to offer a forum for public testimony, comments, and complaints.

Should a member of the public wish to register a legal complaint against a board member or the board as a whole, the method of recourse would entail contacting the affected board, Grand Jury and/or the District Attorney. Beyond legal action, dissatisfied citizens can utilize the election process to remove seated members and change the board's composition.

Conduct of Meetings

Government Code Sections 54950 to 54962 govern the meetings that are conducted by public commissions, boards, and councils, as well as other public agencies that exist to aid in carrying out the people's business. Accordingly, it is the intent of the law that the deliberations and actions taken by those agencies be open, so that the people will be informed and retain control over the governmental institutions they have created. District board meetings must be conducted in a manner that allows public attendance as well as an opportunity for the public to provide testimony. Specifically, Section 54953 stipulates that, "All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency." In addition, Section 54954.2 requires that prior to a regular meeting an agenda containing a brief description of each item of business to be conducted shall be posted. The agenda shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public. These requirements also pertain to special meetings. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting. Every agenda for both regular and special meetings also must provide an opportunity for members of the public to comment on any matter under the purview of the district board as long as it is not being discussed or considered at that meeting.

▪ Tia Juana Valley CWD – Conduct of Meetings

Tia Juana Valley CWD Directors convene regular board meetings at the District's headquarters. In addition, the Board Members, District staff, as well as City of San Diego staff attend regularly scheduled, bi-monthly meetings at Councilmember Inzunza's office at San Diego City Hall. LAFCO staff members were invited to attend one of these meetings and received an agenda. However, the agenda neither provided an opportunity for public comments on items not listed, nor provided speaker slips for comments by members of the public regarding listed items. Attendees at this meeting included three District Board

Members, which for the Tia Juana Valley CWD constitutes a quorum. Since a quorum had been invited and was present, a notice specifying the date, time, and place of the meeting should have been posted near the meeting site. According to District staff, a notice was posted at the post office substation located in the same business complex where the Tia Juana Valley CWD business office is located.

Discussion – Conduct of Meetings

Even if the Tia Juana Valley CWD published and posted notice of these meetings, the public's ability to attend is problematic. Although the meetings are held at the City of San Diego Administration Building in downtown San Diego, the meeting notice is posted near the District's office, which is located in the community of Nestor in the southernmost section of the City of San Diego, just west of San Ysidro. Access to the meeting was limited and unavailable to the general public. At the meeting attended by LAFCO staff members, admittance to the Councilmember's office was carefully monitored and meeting rooms were locked. If not recognized by reception staff, an individual wishing to attend a meeting in the Council offices must provide his or her name. The name is then compared to a list of individuals who have been invited to attend. Since LAFCO staff members were invited guests, their names appeared on the list. It is unknown whether procedures are in place to allow admittance to the office if a person not listed wishes to gain entry. Monitoring the right of entry to a public meeting appears to negate the provisions of the Brown Act.

Conclusion

Compliance by the Tia Juana Valley CWD with all provisions of the Government Code is questionable. The argument could be made that a meeting in a City Councilmember's office is not being conducted in a public place, nor is it accessible to the general public, especially with the implementation of heightened security measures.

ADDITIONAL INFORMATION

The additional information section of the RFI is designed to: (1) permit submittal of information that will enhance LAFCO's understanding of a service provider's operations; (2) determine whether information relative to the review should be obtained from any other source(s); (3) allow the service providers to address issues that may be indirectly related to provision of service(s); and (4) provide the opportunity for service providers to respond to reports or allegations regarding how business is conducted.

- **Additional Information – Tia Juana Valley CWD**

In its response to the RFI, the Tia Juana Valley CWD did not provide additional information, nor were any additional resources or contacts identified that would enhance understanding of the District's operations. However, the District did take the opportunity to update some of its responses to the Grand Jury Final Report of 1999/2000.

Grand Jury Reports

In 1999, the Grand Jury conducted an investigation of the Tia Juana Valley CWD and produced two reports. The first report was published in 1999 and made several allegations and recommendations, including that: (1) the District is insolvent with expenses exceeding revenues, and has devoted substantial resources to a project that has no hope of succeeding – extraction of groundwater for commercial sale; (2) the District should improve its record keeping procedures; (3) the District is ineffectual and should not be involved in flood control service, which already is provided by the City of San Diego; (4) the District has exceeded its legislative boundaries by involvement in issues not within its purview; and (5) the District should be dissolved. The second Grand Jury Report of 2003 echoes the issues and concerns contained in the first report.

Issue No. 1 – Insolvency

The first Grand Jury Report recommended that the District immediately revise its budget to increase revenues, reduce expenditures, or both as necessary to prevent insolvency. In a letter to the Presiding Judge of the Superior Court dated June 12, 2000, the Board President contends that the District always has been and remains a fiscally viable and financially responsible entity. In the response to LAFCO's RFI, the District admitted that the only source of revenue is the fixed charge special assessment fee that currently has an annual total of approximately \$200,000. Income from that fee covers the District's operating costs, leaving all other projects without funding absent state and federal grants. The costs of developing the groundwater management plan and subsequent initial phase of the

groundwater exploration project were approximately \$1 million. According to the District, half was paid with grant monies and the rest paid by a State of California loan, which had a balance of around \$134,000 in 2003, but has a current balance of roughly \$70,000.

Listed as assets in the District's budget are its wells. Their value is the subject of a disparity of interpretation between the District and the Grand Jury findings. According to the Grand Jury and Auditor's reports, between 75-90 percent of the District's non-cash assets is attributed to the groundwater exploration project pilot well, which is characterized as having no commercial value and unable to generate income. In the initial response to the Grand Jury, the District appraised the value as at least that of construction costs. Updated information submitted in the RFI response states that while the value of the three monitoring wells is the construction cost, the limited production (pilot) well has significant economic worth. This assessment is based on the claim that the pilot well produces high quality drinkable water. However, even if the well does have potable water, the water has no value unless an adequate amount can be economically extracted for distribution.

Between Fiscal Years 1999 and 2002, the District's budget was decreased by approximately 42 percent from \$371,000 to \$217,000. Contributing to the reduction was a reconfiguration of staff positions. In 1999, the District employed a General Manager, Office Manager, and part-time Secretary; these positions have been consolidated with the General Manager assuming all duties. In reviewing those budgets, LAFCO staff noted the amount earmarked for the annual repayment of the State loan was reduced from \$100,000 to \$50,000 in the FY 1998-1999 to FY 2002-2003 budgets. It appears that either the District initially was attempting to repay the loan at an accelerated pace in 1998, or decided to decrease its latest payments.

In responding to the first Grand Jury report, the District President expressed the opinion that the District's financial health will be improved when the Total Groundwater Exploration Project is implemented. The District's President anticipated that the project would be completed in 2005. Yet, even in 2003, the District continued to seek federal grants to finance the next phase of the project, which only includes studies and subsequent reports – not the actual construction of infrastructure. With all of the tasks involved in this massive project, 2005 is an extremely ambitious time frame. The District has funded several reports in conjunction with the groundwater management plan and exploration project. In 1997, those studies determined that the cost of extracting water exceeds the commercial value of any water that could be produced.

Nevertheless, the FY 2002-2003 budget climbed to \$1.9 million in anticipation of engineering expenditures associated with the wetlands restoration project and the groundwater exploration and development project. According to the current District Manager, these expenses will not be incurred unless grant monies totaling \$1.7 million are received from the State and the U.S. government. Thus, as the

District explained, the figure of \$205,000 is the true budget number for regular operations. The Board continues to assert that the Total Groundwater Exploration Project will be a viable project that will re-invigorate the District and will lead to financial self-sufficiency through the sale and distribution of potable water.

Issue No. 2 – Record Keeping

LAFCO's RFI asked if the District had been involved in any litigation. Although denying being a party to any lawsuits, the year 2000 County Auditor's report (conducted in conjunction with the Grand Jury investigation of 1999) identified a \$3,000 payment to a former Office Secretary related to a sexual harassment case. The General Ledger entry was made in August of 1997. Due to the "attorney-client privilege" alleged by the District, those conducting the audit were unable to ascertain if other costs, such as legal expenses, were charged to the District in conjunction with this case. The District may not have mentioned this circumstance in the RFI response because the case was never litigated. However, the payment was made with District funds and, as such, if a Board member was responsible, the Grand Jury recommended that the individual should have reimbursed the District for costs associated with the case. It is unknown if reimbursement was made subsequent to the Auditor's report.

Issue No. 3 – Efficacy

The Grand Jury claims that the District has been ineffective at preventing contamination of the local groundwater and intrusion of saltwater into the aquifer. However, the report acknowledges that the circumstances leading to these problems are beyond the District's control. Projects that will diminish surface runoff, decrease flooding, reduce groundwater contamination, and eliminate sewage from Mexico are federal, state, County of San Diego, and City of San Diego endeavors and not under the District's purview.

The District President's response to the Grand Jury Report of 1999 admits that former District Directors did not adequately protect the aquifer from contamination by sewage draining from Mexico, or from surface water runoff coming from the watershed. He claims that, since 1990, the Directors have worked closely with a variety of governmental agencies to design and construct projects to address and correct those significant health and safety problems. The District contends that the City of San Diego has constructed several flood control and flood management projects based on the opinions, technical analyses, and reports prepared by the District. While the District has provided information from studies conducted on its behalf, supported by resolution the implementation of projects, and provided lobbying efforts, the District itself has neither funded, constructed, nor operated any flood control facilities. Those efforts appropriately have been led by a number of state, federal, or local agencies. The District's letter agreed that the City of San Diego, in particular, is responsible for providing flood control protection in the Tijuana River Valley.

Issue No. 4 – Extraneous Issue Involvement

Evidence of involvement with matters unrelated to the District's authority has been discovered. One example is contained in the minutes of the Tia Juana Valley CWD meeting of September 1999. In reference to that meeting, the January 2000 Audit noted that the District began discussing efforts to oppose the expansion of Brown Field as a regional cargo center. While this project potentially could affect the quality of life in the Tijuana River Valley, it bears no direct relationship to water service, nor to the services the District claims to provide.

In addition, LAFCO staff attended a bi-monthly meeting convened with District Directors and Councilman Inzunza. Among the matters discussed were the District's attempt to obtain a U.S. Army Corps of Engineers grant to remove illegal fill as well as a reported need to eliminate overgrown vegetation. Thus, the Board appears to be inserting itself into several matters that are unrelated to functions within the District's purview, and the District also may be operating outside of its legislative boundaries.

Issue No. 5 – Dissolution

Both Grand Jury Reports recommend the dissolution of the Tia Juana Valley CWD. Dissolving a governmental agency, such as a special district, has complexities that must be addressed. Special districts usually have assets and liabilities that remain after the agency is dissolved. One aspect of dissolution would be the requirement for an entity, as successor agency, not only to assume the duties of the dissolved district, but also to assume responsibility for assets and paying off outstanding debts. Currently, the Tia Juana Valley CWD owns four wells – three are observation wells and the fourth is a pilot extraction well. The Grand Jury has concluded that the pilot well has no commercial value.

As previously acknowledged, approximately \$117,000 was received from the County Water Authority's Financial Assistance Program to provide partial funding for the District's Groundwater Management Plan. However, according to a letter from CWA to the Grand Jury, should the District's project be determined to be infeasible and not implemented, the agency is not required to repay the loan. The District also has outstanding debt resulting from the procurement of a loan from the State of California. In 2003, the balance was about \$134,000; as of May 2004, the balance was roughly \$70,000. In the past, the District attempted to have the loan forgiven by the State, but was unsuccessful because this loan is absolute, unconditional, and cannot be absolved. Therefore, to dissolve the Tia Juana CWD, a successor agency must be designated that would be willing to assume ownership of district assets as well as assuming payment of financial obligations.

In 1984, LAFCO adopted a zero sphere of influence for the Tia Juana Valley CWD. Because portions of the District overlay portions of the Cities of San Diego and Imperial Beach, a city eventually should assume the District's functions. Thus, if the District were dissolved, the Cities of Imperial Beach and San Diego

are candidates to be the successor agency. According to Government Code Section 57451[c], if a district overlays two cities, upon dissolution of the district, the city containing the territory with the most assessed valuation is designated as the successor agency. For Imperial Beach, the overlap area is uninhabited, and the majority is located in either the Tijuana Slough National Wildlife Refuge or the Border Field State Park. Therefore, the District property in Imperial Beach has minimal assessed valuation as verified with the County's Property Tax Services Department (Pete Redmann, October 17, 2003).

Since the City of San Diego contains the greater assessed valuation of taxable property located in the Tia Juana Valley CWD, it would become, by law, the successor agency if the District were dissolved. In addition, the District-owned wells are located in the City, so it also appears logical that San Diego assume ownership of the wells. If San Diego were the successor agency, the City would have to repay the State of California loan, which in May 2004 had an outstanding balance of approximately \$70,000. In responding to LAFCO's RFI, the City Manager's Office indicated no interest in assuming existing assets and liabilities of the Tia Juana Valley CWD. It should be noted that the reply from the City of San Diego was a staff level response and that the matter was not presented to the City Council for a decision.

Discussion – Grand Jury Reports

The Board President's letter of June 12, 2000, expressed the Tia Juana Valley CWD's belief that, "Under present state and local government law and regulations, the ultimate responsibility for directly representing the water-related needs of the communities in and around the Tijuana River Valley resides with the District's elected Board of Directors." Board Members do provide information and advice to numerous state, federal, and local government agencies regarding the problems associated with periodic flooding and groundwater protection in the Tijuana River Valley and Watershed area. In addition, as an independent special district, the Tia Juana Valley CWD is eligible to apply for grants and loans to fund studies and reports pertaining to groundwater and flooding issues in the region.

While representing a layer of government that may not be critical to governance, a number of elected officials communicated to LAFCO staff their support of the District (Congressman Bob Filner, State Senator Denise Ducheny, Assembly member Juan Vargas, and Councilman Ralph Inzunza). However, these elected officials may have formed a perception of the District's activities, functions, and duties based upon inaccurate information. While board members may provide advice and information to other agencies, and attend their meetings, the District does not directly finance nor construct facilities or infrastructure.

The Tia Juana Valley CWD has neither the infrastructure to provide water or flood control services, nor the expertise to do so since the District never has provided those services to residents. Moreover, the District never has requested

that LAFCO activate the latent powers that would allow the provision of water and flood control services. Despite this, the District has spent more than \$1 million over a 10-year period to pursue a groundwater management plan and exploration and development project to study the potential extraction of water from the underground aquifer for distribution. In conjunction with drawing water from the aquifer, the plan involves diverting floodwater to recharge the aquifer. This undertaking would be extremely expensive and would involve numerous permits and approvals by various governmental agencies. It would seem that an entity with pertinent expertise and financial resources would be better equipped to embark on such an ambitious project. Since most of the District's territory also is located in the City of San Diego – which already does provide water and other urban services to the area – the City appears to be the logical governmental agency to lead this type of undertaking.

In addition, four major parks that protect the estuary and support the wildlife that congregates in the area are located in the Tijuana River Valley. Extracting and delivering water and collecting flood water would involve drilling wells, installing water distribution pipes, building a desalination plant, and constructing flood control channels. All of these are extremely disruptive activities with some having long-term impacts on the area. Even if located remote from the parkland property, there likely would be effects of the water extraction processes on the estuary and wildlife habitat.

Conclusion – Grand Jury Reports

As previously mentioned, a civic association or advisory board could carry out many of the tasks and duties currently performed by the District's Board Members should the District be dissolved, the City of San Diego would be the successor agency for purposes of assuming debts and liabilities. A civic association or advisory board would be able to make recommendations to the City of San Diego regarding studies and projects affecting that portion of the Tijuana Watershed surrounding the Tijuana River.

The District's assets include three monitoring wells, one pilot extraction well, and approximately \$100,000 in "reserve funds." If the Total Groundwater Exploration Project is not completed, the \$117,000 loan from the County Water Authority will not have to be repaid. Therefore, the District's single current debt is the California State loan with an existing balance of approximately \$70,000. If the District were dissolved with the City of San Diego designated as successor agency, the City would have to assume responsibility for the wells and repayment of the loan.

When this MSR was initiated, it was believed that if reserve funds could not be utilized to lessen the debt, the current annual fixed charge special assessment could continue to be collected until the debt was repaid. Since the annual income from that fee totals approximately \$200,000, it appeared that the District's debt could be paid off in approximately one year. However, if reserve funds could be used to reduce the debt, the financial obligation would be substantially decreased.

Information acquired since the MSR commenced disclosed three critical facts regarding fiscal issues associated with dissolution of the District. First, the District has reported that between \$65,000 and \$75,000 of excess discretionary funds are expected to be available at the end of FY 2003-2004. Secondly, as of May 2004, the balance of the State loan was approximately \$70,000. Therefore, it appears that the District may have sufficient funds on hand to fully repay the loan's existing balance. Lastly, LAFCO staff concluded that the District does not have the authority to collect a fixed charge special assessment. Since the District lacks the legal authority to collect its fixed charge special assessment, the successor agency – should the District be dissolved – would be legally prohibited from continuing to collect that assessment.

SECTION III: MSR DETERMINATIONS

GOVERNMENT CODE SECTION 56430

Government Code § 56430 requires LAFCO to conduct comprehensive reviews of municipal services and prepare a written statement of determinations for nine categories of inquiry. Determinations are not findings of fact; rather, they are "... declaratory statements that make a conclusion, based on all the information and evidence presented to the Commission."¹ The determinations are based on a comprehensive analysis of local agency service information. This evaluation establishes the basis for commission determinations and conclusions about the adequacy of service provision. The commission, other agencies, or the public may use the determinations to provide guidance for future decisions; however, the determinations themselves do not represent recommendations for action.

By definition, a Municipal Service Review (MSR) is based on two factors – (1) the provision of specific services (2) in a particular geographic region.

Services

The governmental agencies located in the Tijuana Watershed (Western Hydrologic Unit) Municipal Service Review and Sphere of Influence Update include the Tia Juana Valley County Water District (CWD) and the Cities of San Diego and Imperial Beach. In 2001, LAFCO conducted a survey of services provided by each special district in the County. Based on the results of that survey, the service review was restricted to those services the Tia Juana Valley CWD claimed that it provided at that time – floodwater and sewage control; waterworks construction; and groundwater management, protection, and exploration. Both prior to and subsequent to the 2001 LAFCO survey, the Tia Juana Valley CWD has claimed to furnish certain services despite LAFCO staff's questions regarding the legality of the District providing those services.

In 2002, LAFCO staff asked the Tia Juana Valley CWD to complete a Request for Information (RFI) that was used to collect data for the MSR. In the response to LAFCO's RFI, the District identified only "groundwater supply research and development and flood management services" as the services the District provides. Nevertheless, based on information contained in the District's Groundwater Exploration Project report dated December 1997, it appears that the District is involved in groundwater exploration to find a suitable source of water not only for production on a municipal supply scale, but also for bottling and

¹ *Final Local Agency Formation Commission Municipal Service Review Guidelines*, Governor's Office of Planning and Research, August 2003, pg. 44

subsequent distribution and sale. Contradictory information such as this has made the MSR/sphere update process a challenge – it also has raised questions about the overall candor of the responses the Tia Juana Valley CWD provided to LAFCO staff.

Geographic Region

The entire Tijuana Watershed encompasses roughly 1,700 square miles and is split by the United States/Mexico International Boundary. Approximately one-third of the area (550 square miles) is located in the United States. Selected for this review is the area identified by the State of California as the Tijuana Watershed’s Western Hydrologic Unit, which includes only United States territory and encompasses approximately 15 square miles. Located in the Western Hydrologic Unit are the Tia Juana Valley County Water District (CWD), and portions of the Cities of San Diego and Imperial Beach. All CWD territory, which covers roughly seven square miles, is included in either the City of San Diego or Imperial Beach, with all inhabited district land located in the City of San Diego. Based on the proximity of the United States/Mexico International Border to this geographic region, and the national and regional parks located there, both state and federal governmental agencies also are involved in matters pertaining to service provision in the area. In addition, matters pertaining to the entire watershed have bi-national implications.

The designated hydrologic unit is only a small portion of the entire watershed; most of the watershed is located east of the City of San Diego, is unincorporated and, therefore, under the jurisdiction of the County of San Diego. While not included in this service review, that area comprises a major component of the watershed and is inextricably linked to the area under study. Therefore, each determination category has been divided into two subgroups – regional and local; each subgroup has corresponding applicable determinations.

The “regional” category refers to territory included in the Tijuana Watershed that stretches to the mountains in eastern San Diego County beyond the Tijuana River Valley and the Western Hydrologic Unit. “Local” determinations have been made for those public agencies having territory located in the watershed’s Western Hydrologic Unit, which includes the Tia Juana Valley CWD and the Cities of San Diego and Imperial Beach.

DETERMINATION 1: INFRASTRUCTURE NEEDS OR DEFICIENCIES

In authorizing the preparation of municipal service reviews, the State Legislature has focused on one of LAFCO's core missions — encouraging the efficient provision of public services. Infrastructure needs or deficiencies, which refers to the adequacy of existing and planned public facilities in relation to how public services are – and will be – provided to citizens, impacts the efficient delivery of public services. For an MSR, “adequate level of service” is defined as the norm for the area under study. Infrastructure can be evaluated in terms of capacity, condition, availability, quality; and correlations among operational, capital improvement, and finance plans. It is recognized that there may be unmet infrastructure needs due to budget constraints or other factors; nevertheless, identification of deficiencies may promote public understanding and support for needed improvements.

Regional:

Determination 1.0: Based on their location in the Tijuana Watershed, it is appropriate that the County of San Diego, and the Cities of San Diego and Imperial Beach oversee storm water management in the region.

The Tijuana Watershed stretches from the mountainous unincorporated areas located in eastern San Diego County to the Pacific Ocean. Storm water, which flows through the Tijuana River Valley and empties into the ocean, originates throughout the Tijuana Watershed most of which is located in the region east of both the Tia Juana Valley CWD and the City of San Diego. Since the majority of the watershed is under the County's jurisdiction, it appears appropriate that the County has implemented a partnership with the Cities of San Diego and Imperial Beach to address problems related to surface water runoff and flooding in the Tijuana River Valley.

Determination 1.1: Issues associated with periodic flooding, sewage spills, and contamination of the aquifer have been and should continue to be the responsibility of agencies other than the Tia Juana Valley CWD.

The Tia Juana Valley CWD neither owns nor operates infrastructure that would prevent damage and contamination related to floodwater migrating into the Tijuana River Valley, or sewage spills coming from the City of Tijuana. The City and County of San Diego, and the federal government have assumed responsibility for addressing these problems in the valley. For example, two

federal agencies – the U.S. International Boundary & Water Commission and the Environmental Protection Agency – and the City of San Diego have constructed a treatment plant in the river valley to reduce cross-border contamination from sewage spills that originate in Mexico.

Local:

Determination 1.2: The Tia Juana Valley CWD does not provide flood control, sewage control, or storm water management services.

While the Tia Juana Valley CWD’s consultant stated in 2001 that the District is authorized to provide flood control and sewer services, the District never has been empowered by LAFCO to do so. Since 1973, LAFCO has had the discretion to approve activation of a special district’s latent powers. While County Water District State Law (Water Code Sections 30000-33900) permits county water districts to provide a variety of services (e.g., electric power, wastewater and storm water management, fire protection, etc.), a CWD is precluded from furnishing those services unless it first receives approval from LAFCO. The Tia Juana Valley CWD has never made the request of LAFCO to activate the provision of additional services.

Moreover, the District has neither directly financed nor constructed infrastructure to address the valley’s flooding problems. Although interested in spearheading the development of the Tijuana River Watershed Management Program, the District was unable to obtain the necessary financial support to fund the project, which has been assumed by the County of San Diego.

Determination 1.3: The City of San Diego is responsible for providing floodwater control and sewage service to inhabited territory in the Tia Juana Valley CWD.

A portion of the City of San Diego’s southern region is located in the area under review. While much of the territory is parkland, inhabited territory is concentrated along two freeway corridors. The City owns and operates a sewer system as well as an ocean outfall line, which provide sewer service to area residents. Flood control maintenance is achieved via three channel sections the City constructed to reduce damage from the periodic flooding that occurs in the river valley. No infrastructure deficiencies associated with the services under review that are provided by the City of San Diego have been noted.

Determination 1.4: The City of Imperial Beach has implemented measures to protect groundwater resources in the service review area.

The portion of the City of Imperial Beach located in the western hydrologic unit consists of uninhabited parcels located primarily in two parks. Since city territory in that area is undeveloped, sewer service is not required. However, the City has existing infrastructure that provides sewer service in the city's inhabited area, which is adjacent to the north. This strategy is meant to protect groundwater in the aquifer from contamination. Other protective measures include daily inspections of the sewage system, alarms to warn of sewage spills, and a response plan to address a health and safety threat in the event of a spill. While not providing flood control services and having no facilities to do so, Imperial Beach has joined with the County and City of San Diego to develop the Watershed Urban Runoff Management Plan for the Tijuana River Watershed to address storm water management in the region.

Determination 1.5: Groundwater supply research and development should be performed by the City of San Diego and/or the City of Imperial Beach.

The Tia Juana Valley CWD's response to LAFCO's request for information in 2002 stated that the District provides groundwater supply research and development. Since the groundwater resources are under the jurisdiction of both the Cities of San Diego and Imperial Beach, either city also has the statutory authority to provide those services.

Determination 1.6: Results of the Tia Juana Valley CWD's studies indicate that extracting water from the aquifer and utilizing storm water runoff for aquifer recharge is an impractical plan.

Conclusions resulting from the District's Total Groundwater Exploration Project stated that removing groundwater from the aquifer is economically unprofitable because the cost of extraction exceeds the water's commercial value. Another component of the project involves capturing and injecting storm water to recharge the aquifer. However, the studies also determined that the permeability of the aquifer is not conducive to this plan.

DETERMINATION 2: GROWTH & POPULATION PROJECTIONS FOR THE AFFECTED AREA

Efficient provision of public services is linked to an agency's ability to plan for future need. For example, a water purveyor must be prepared to supply water for existing *and* future levels of demand, and also be able to determine *where* future demand will occur. Municipal service reviews will give LAFCO, affected agencies, and the public the means to examine both the existing and future need for public services and will evaluate whether projections for future growth and population patterns are integrated into service planning functions.

Regional:

Determination 2.0: Since population projections anticipate a significant regional increase for the year 2020, strategic planning is critical for seamless service provision.

Projected growth increases translate into increased need for services, and the need to anticipate where services will be required, especially in areas where no services currently are being provided. Since service demand influences both location and capacity of future public facilities, it is critical that population and development forecasts be incorporated into the region's planning processes.

Local:

Determination 2.1: Planning for floodwater control is being performed by San Diego County and the Cities of San Diego and Imperial Beach.

As previously mentioned, the County of San Diego, is leading a collaborative effort with the Cities of San Diego and Imperial Beach to determine the region's future flood control needs. While the project is still in the planning stage, the partnership is based on the development and implementation of a storm water management plan to address periodic flooding problems in the Tijuana River Valley.

Determination 2.2: To comply with State Law, the Cities of San Diego and Imperial Beach adopt general plans to address the demand for future urban services.

With the incorporation of Imperial Beach and the annexation of San Ysidro to the City of San Diego, all territory in the Tia Juana Valley CWD has been included in a city since the 1950s. Each city has land use and regulatory authority over its corporate territory, and planning departments that engage in strategic planning for future service needs.

Special districts, such as the Tia Juana Valley CWD, do not exert control over land use because they are not empowered to designate land usage, nor to adopt zoning designations – those powers have been granted by the State to cities and counties. Thus, the Tia Juana Valley CWD does not have the authority to adopt development plans that define where public services are needed, or will be needed in the future. All plans for future development in the District would be processed by the appropriate city, thus ensuring that the capability to provide sewage and floodwater services would be available for future residents.

DETERMINATION 3. FINANCING CONSTRAINTS AND OPPORTUNITIES

LAFCO must weigh a community's public service needs against the resources available to fund the services. During the municipal service review, the financing constraints and opportunities, which have an impact on the delivery of services, will be identified and enable LAFCO, local agencies, and the public to assess whether agencies are capitalizing on financing opportunities. For example, a service review could reveal that two or more water agencies that are each deficient in storage capacity and, which individually lack financial resources to construct additional facilities, may benefit from creating a joint venture to finance and construct regional storage facilities. Service reviews may also disclose innovations for contending with financing constraints, which may be of considerable value to numerous agencies.

Regional:

Determination 3.0: Service providers in the region are financially independent and limited to funding sources allowed under State Law.

Within the parameters of State Law, each of the region's agencies is a fiscally autonomous unit of local government with independent control over its ability to obtain funding to support operations and activities.

Determination 3.1: The region's floodwater and sewage control, waterworks construction, and groundwater management and protection needs can be adequately financed by agencies other than the Tia Juana Valley CWD.

As already pointed out, the watershed is located in multiple jurisdictions (San Diego County and Cities of San Diego and Imperial Beach), which are equipped and financially prepared to provide important regional services (i.e., floodwater and sewage control, waterworks construction, and groundwater management and protection). Through the County's Public Works Department, funding has been made available to develop a storm water management plan for the Tijuana River Valley. Moreover, the federal government has financed and built a treatment plant to address cross border sewage spills and, in conjunction with the federal government, the City of San Diego has constructed a flood control channel.

Determination 3.2: Tia Juana Valley CWD's property owners are subsidizing the District's special studies and projects, which have regional implications.

Because special studies and projects conducted and financed by the Tia Juana Valley CWD may impact the region, a great number of municipal residents may be affected by the District's activities. However, only property owners in the Tia Juana Valley CWD are assessed an annual per parcel fixed charge special assessment that provides the funding. Thus, those property owners are unduly burdened with the obligation to finance these regional studies. Property owners in the area whose land is outside of the District's boundary are not subject to the special assessment and, consequently, have not made a financial contribution. This appears to be inequitable.

Local:

Determination 3.3: Because the primary source of funding is an annual fixed charge special assessment, the Tia Juana Valley CWD has a limited long-term ability to finance projects.

The Tia Juana Valley CWD has not received an allocation of property tax revenue since the late 1950s. When Proposition 13 went into effect, the District was not collecting a portion of property tax monies, and now is precluded from doing so, unless agreement from all other taxing entities is obtained. This restriction limits the District's ability to finance planning studies and infrastructure construction.

Identified in the District's FY 2002-03 budget is \$200,000, which represents the annual total of funds collected for the per parcel special assessment. Upon inspection, it can be determined that these monies are utilized to finance the District's operating costs, leaving the District dependent on grant monies and loans to complete the projects it wishes to carry out.

Determination 3.4 The Tia Juana Valley CWD has capitalized on financing opportunities through the procurement of state and/or federal grants.

Since the Tia Juana Valley CWD's special assessment only covers annual operating costs, the District has secured grant funding to pay expenses associated with its projects, which includes the Total Groundwater Exploration Project. An advantage to the District is that grant monies do not have to be repaid, but are made available for specific projects.

Determination 3.5: The Tia Juana Valley CWD could save funds by eliminating duplicative lobbying efforts.

Currently, Tia Juana Valley CWD directors receive financial compensation for attending bi-monthly meetings with the City of San Diego Council member who represents the area. Information related at those meetings could be provided via reports or letters, which would relieve the District of paying this cost. Both the Cities of San Diego and Imperial Beach reported the retention of lobbyists in Sacramento and Washington D.C. to convey local needs and interests to elected officials and representatives.

Determination 3.6: Tia Juana Valley CWD resources are being diverted to finance a large-scale project that is unlikely to be implemented.

The Tia Juana Valley CWD continues to pursue the Total Groundwater Exploration Project, which is a multi-million dollar effort to extract water from the aquifer for treatment and distribution. An additional component is the capture of storm water runoff to recharge the aquifer. The District has never provided water to its residents and lacks the expertise, infrastructure, permits, funding, and legal authority to do so. Furthermore, district studies have concluded that the project is impractical with little chance of success.

Determination 3.7: The Tia Juana Valley CWD has misused public funds.

Funds associated with the fixed charge special assessment are designated on the property tax bill as being collected for a “water research and development fund.” However, the money is not used for that purpose. Instead, the district budget reveals that the money is used to finance the District’s operating costs that include employee salaries, stipends for Directors’ meeting attendance, repayment of a State loan, as well as legal expenses, rent, insurance, etc. According to the District, any construction and development costs associated with the Total Groundwater Exploration Project would be paid with federal and state grant money.

Determination 3.8: The Tia Juana Valley CWD’s fixed charge special assessment is illegally imposed.

In the early 1990s, the Tia Juana Valley CWD adopted a resolution to impose a fixed charge special assessment without concurrence from the electorate. According to the District representative, the CWD was not required to comply with the provisions of Proposition 218 and, thus did not present the assessment to the voters for approval. However, LAFCO staff conducted legal research and concluded that the District does not have legal authorization to impose and collect the special assessment. LAFCO staff found no provision in the California Water

Code that allows the CWD to levy the fixed charge special assessment. To be authorized to collect a special assessment, the District is obligated to place the matter before the electorate for a vote pursuant to the Municipal Improvement Acts of 1911 or 1913. However, the District did not impose the assessment pursuant to those acts. County Water District Law does allow the imposition of a special tax on real property subject to approval by two-thirds of the electors. Again, the Tia Juana Valley CWD did not comply with the special tax provisions of State Law or the State Constitution.

Determination 3.9: Dissolution of the Tia Juana Valley CWD could relieve district property owners of an illegally collected fixed charge special assessment.

Since LAFCO staff concluded that the fixed charge special assessment is illegally collected, dissolution of the District would terminate the imposition of that charge.

Determination 3.10: The County is encouraged to institute a program that scrutinizes all special assessments, taxes, fees, and charges imposed by local agencies.

Based on the results of legal research conducted by LAFCO staff and LAFCO's legal counsel, it would appear prudent for the County to examine the legality of methods used by local agencies to obtain funding. To ensure compliance with State Law as well as the State Constitution, county officials should verify that collecting monies in addition to property tax revenue is legally authorized.

DETERMINATION 4: COST AVOIDANCE OPPORTUNITIES

LAFCO's role in encouraging efficiently provided public services depends, in part, on helping local agencies explore cost avoidance opportunities. The municipal service review will explore cost avoidance opportunities including, but not limited to: (1) eliminating duplicative services; (2) reducing high administration to operation cost ratios; (3) replacing outdated or deteriorating infrastructure and equipment; (4) reducing inventories of underutilized equipment, buildings, or facilities; (5) redrawing overlapping or inefficient service boundaries; (6) replacing inefficient purchasing or budgeting practices; (7) implementing economies of scale; and (8) increasing profitable outsourcing.

Regional:

Determination 4.0: To maximize efficiency and avoid costs, a collaborative effort to address storm water runoff and flood control management has been initiated in the region.

A regional and integrated approach generally translates into more cost-effective and efficient provision of public services than a system that is fragmented and divided among several governmental agencies. To prevent duplication of service responsibility, streamline efforts, and reduce costs, the Cities of San Diego and Imperial Beach have joined the County in formulating a comprehensive, multi-jurisdictional plan to address problems related to flooding and storm water that can damage life and property in the Tijuana River Valley. This collaboration avoids costs that would be associated with each agency devising its own independent plan.

Determination 4.1: Lack of regulatory oversight created overlaps of territory between the Tia Juana Valley CWD and portions of the Cities of San Diego and Imperial Beach.

The Tia Juana Valley CWD is a layer of government left over from the time when there was no entity to oversee jurisdictional boundary changes and evaluate governmental structure. The City of Imperial Beach incorporated and the City of San Diego annexed San Ysidro prior to the establishment of LAFCO. Consequently, Tia Juana Valley CWD territory was retained in each city boundary. Not detaching district territory from the cities has created two overlap areas between the District and each city. Had those jurisdictional boundary changes occurred, the District and the services it provided at the time would have been absorbed by each corresponding city, thus eliminating the overlap of territory and an unnecessary layer of government.

Local:

Determination 4.2: The Tia Juana Valley CWD represents a redundant layer of government and is no longer necessary.

In 1946 when the Tia Juana Valley CWD was formed, the river valley was unincorporated. Twenty years later, district territory was split between the Cities of San Diego and Imperial Beach as the result of an incorporation and annexation. With all district territory now included in the corporate boundary of a city, retention of the District is no longer necessary.

Determination 4.3: Between 1999 and 2000, the Tia Juana Valley CWD decreased operating costs through a reorganization of staff positions.

The Tia Juana Valley CWD achieved cost savings by consolidating the General Manager, Office Manager, and part-time secretary positions. The General Manager has assumed the responsibility for performing all tasks previously carried out by other staff members.

Determination 4.4: The Tia Juana Valley CWD is a duplicative layer of government that is wasting taxpayer money.

The Total Groundwater Exploration Project is a multi-million dollar project that involves extracting water from the underground aquifer to allow sale and distribution to other governmental agencies (i.e., Cities of San Diego, Tijuana, Otay Water District, etc.). Over \$1 million already have been spent with a projected cost of an additional \$1.5 million to finance the project's next phase, which consists of further research, planning, and the completion of various studies and reports. While completion of the project would require the expenditure of an additional several million dollars, studies have indicated that this endeavor would not be a cost-effective undertaking. There is no guarantee that the necessary permits, environmental review, and discretionary consents could be obtained.

DETERMINATION 5: OPPORTUNITIES FOR RATE RESTRUCTURING

When applicable, the municipal service review will review agency rates, which are charged for public services, to examine opportunities for rate restructuring without impairing the quality of service. Agency rates will be scrutinized for: (1) rate setting methodologies; (2) conditions that could impact future rates; and (3) variances among rates, fees, taxes, charges, etc., within an agency and region. Service reviews will identify strategies for rate restructuring, which would further the LAFCO mission of ensuring efficiency in providing public services.

Regional:

Determination 5.0: Privately owned parcels located in the Tia Juana Valley CWD are subject to higher total taxes than other parcels in the region.

As previously reported, only property owners in the Tia Juana Valley CWD are assessed an annual \$50 per parcel fixed charge special assessment, which financially supports district operations. Accordingly, there is a taxation disparity in the region.

Local:

Determination 5.1: The Tia Juana Valley CWD has implemented a per parcel assessment to finance its operations.

When formed in 1946, the Tia Juana Valley CWD collected a portion of property tax revenues assessed to property located in its boundary. That revenue was collected until the late 1950s when resolutions to the County Board of Supervisors indicated that the District had adequate funds to meet its financial needs and obligations. In 1989, the Directors voted to transfer all assets, which consisted of cash and property, to the County to facilitate the purchase of land that would be utilized for public parks. Although divested of assets, the District was not dissolved, and was reactivated when new Directors were elected.

In 1991, the District Board adopted a resolution stating that funds were inadequate to continue operations. Thus, the District requested the imposition of a “fixed charge special assessment” on each district parcel. Initially, a \$25 per parcel fee was collected to offset the shortage. The following year, the District indicated that the deficit was twice the amount of the previous year. Accordingly, the parcel assessment was raised to \$50, and has not changed since that time.

Determination 5.2: There does not appear to be a nexus between the amount collected for the fixed charge special assessment and the funds required for the water research and development fund.

While the Tia Juana Valley CWD's budget includes anticipated expenses related to the Total Groundwater Exploration Project, it also includes anticipated grant monies to pay those costs. Thus, the funds collected from the fixed charge special assessment are not utilized for the project, but for the District's operating expenses. According to the District's own resolutions, the fixed charge special assessment is imposed to offset the financial shortfall projected when the District's budget is developed, not for actual costs associated with groundwater supply and research.

DETERMINATION 6: OPPORTUNITIES FOR SHARED FACILITIES

Public service costs may be reduced and service efficiencies increased, if service providers develop strategies for sharing resources, such as communication centers, wastewater treatment facilities, and distribution lines. Sharing both facilities and excess system capacity decreases duplicative efforts, may lower costs, and minimizes unnecessary resource consumption. The service review will inventory facilities in the study area to determine if facilities are currently being utilized to capacity and whether efficiencies can be achieved by accommodating the facility needs of adjacent agencies. Options for planning for future shared facilities and services also will be considered.

Determination 6.0: Because the Tia Juana Valley CWD has neither facilities nor infrastructure, there does not appear to be opportunities for the District to share facilities with another agency.

Since the District has neither facilities nor infrastructure, there are limited opportunities to share facilities among service providers.

DETERMINATION 7: GOVERNMENT STRUCTURE OPTIONS, INCLUDING ADVANTAGES AND DISADVANTAGES OF CONSOLIDATION OR REORGANIZATION OF SERVICE PROVIDERS

The municipal service review provides a tool to comprehensively study existing and future public service conditions and to evaluate organizational options for accommodating growth, preventing urban sprawl, and ensuring that critical services are efficiently and cost-effectively provided. While the service review does not require LAFCO to initiate changes of organization based on service review finding, LAFCO, local agencies, and the public may subsequently use service reviews to pursue changes to services, local jurisdictions, or spheres of influence. LAFCO may examine efficiencies that could be gained through: (1) functional reorganizations within existing agencies; (2) amending or updating spheres-of-influence; (3) annexations or detachments from cities or special districts; (4) formation of new special districts; (5) special district dissolutions; (6) mergers of special districts with cities; (7) establishment of subsidiary districts; or (8) any additional reorganization options found in Government Code § 56000 et. seq.

Regional:

Determination 7.0: The Tia Juana Valley CWD has been ineffective in its endeavors to protect the aquifer.

The Tia Juana Valley CWD inherited a legacy from former Directors who failed to protect the aquifer from contamination by sewage draining in from Mexico, and from surface water runoff coming from the watershed. Although working with a variety of governmental agencies since 1990, the District has been unable to prevent intrusion of saltwater and contaminants into the aquifer primarily because the circumstances leading to these problems are beyond the scope of the District's authority. Projects designed to diminish surface runoff, decrease flooding, reduce groundwater contamination, and eliminate sewage originating in Mexico are federal, state, and city undertakings and not within the District's control.

Local:

Determination 7.1: Through the sphere of influence process in 1984, LAFCO indicated that the Tia Juana Valley CWD should be dissolved.

In 1984, LAFCO adopted a zero sphere of influence for the CWD. A zero sphere designation indicates that an agency should be dissolved. Contributing to that LAFCO decision were the jurisdictional changes that had occurred in the area

since the District was formed in 1946. In the 1950s, all district territory was included in either the City of San Diego or Imperial Beach. Thus, the District was identified as a duplicative layer of government that ultimately should be dissolved with its service responsibilities reassigned to another governmental entity. In conjunction with adopting a zero sphere for the District, all CWD territory was divided along the boundary between the two cities and subsequently included in the sphere for the corresponding city.

Determination 7.2: No reduction in the level of service provision would occur should the Tia Juana Valley CWD be dissolved.

Despite the unsubstantiated claims that a variety of public services are provided to area residents by the Tia Juana Valley CWD, LAFCO staff has concluded that the District currently provides no valuable service other than *studying the development of a potential, future water supply*. A sufficient level of water service already is efficiently and cost-effectively provided to area residents by the City of San Diego; district territory in Imperial Beach is uninhabited. Hence, the CWD could be eliminated without an adverse impact to the region; this conclusion has been supported by two Grand Jury investigations, which also recommended that the District be dissolved. San Diego LAFCO's Special District's Advisory Committee also has reviewed information contained in the draft MSR and recommended that the District be dissolved.

Determination 7.3: In compliance with State Law, the City of San Diego would become the successor agency should the Tia Juana Valley CWD be dissolved.

Since the Tia Juana Valley CWD overlays portions the Cities of San Diego and Imperial Beach, those cities could be designated as the successor agency should the CWD be dissolved. According to the Government Code, if a district overlays two cities, the city containing territory with the greater total assessed valuation is designated as the successor upon dissolution of the district. In this case, that would be the City of San Diego.

DETERMINATION 8: EVALUATION OF MANAGEMENT EFFICIENCIES

Management efficiency refers to the organizational effectiveness of service delivery. Efficiently managed agencies consistently implement plans to improve service delivery, reduce waste, eliminate duplications of effort, contain costs, maintain qualified employees, build and maintain adequate contingency reserves, and encourage and maintain open dialogues with the public and other public and private agencies. The service review evaluates management efficiency by analyzing agency functions, operations, and practices – as well as the agency’s ability to meet current and future service demands. Services will be evaluated in relation to available resources and consideration of service provision constraints.

Regional:

Determination 8.0: The Tia Juana Valley CWD has financed studies, and distributed reports to several agencies.

Studies that provide information have been conducted by the Tia Juana Valley CWD to address water, sewer, and flood control concerns throughout the region. Since water related issues and problems do not conform to jurisdictional boundaries, these are regional matters that are under the purview of a variety of entities including the County, cities, special districts, and the federal government. According to the Tia Juana Valley CWD, its floodwater study was a component in designing and constructing the City of San Diego’s floodwater channel in the Tijuana River Valley.

Local:

Determination 8.1: The Tia Juana Valley County Water District has neither developed nor adopted capital improvement and finance plans to support the Total Groundwater Exploration Project.

The Tia Juana Valley CWD is in the process of assembling its Total Groundwater Exploration Project (TGEP) based on numerous studies and research. This is a large-scale project requiring significant resources not only to implement and finance the undertaking, but also to tackle the associated increase in personnel needed to operate the proposed facilities. For such a complex endeavor, capital improvement and finance plans are critical components to guide the project and determine how financing will be obtained. Thus, should the District continue to pursue the TGEP, both capital improvement and finance plans should be prepared to address the processes, procedures, and financial implications of this project.

Determination 8.2: The Tia Juana Valley CWD considers matters that are outside its purview.

Documents reveal that the Tia Juana Valley CWD Directors discussed and subsequently became involved in matters that bear no direct relationship to service provision, and are not related to district functions. Examples include taking a position on the establishment of a cargo airport at Brown Field, as well as seeking a grant to remove illegal fill that had been dumped in the river valley.

Determination 8.3: The Tia Juana Valley CWD has assumed responsibilities beyond the scope of its legally authorized functions.

The Tia Juana Valley CWD originally was formed to prevent groundwater depletion, to protect the underground aquifer from intrusion of saltwater and other contaminants, and to defend the water rights of property owners. However, in recent surveys, the District appears to have expanded service provision and has claimed the right to provide floodwater and sewage control; waterworks construction; and groundwater supply research, development, management, and exploration. While these additional services may be allowed under provisions of the California Water Code, the authority to provide additional services is not under the District's jurisdiction, unless approved by LAFCO. Laws that regulate service provision cannot be ignored and do not permit a District to exercise allowable services just because they choose to do so.

Determination 8.4: The Tia Juana Valley CWD has not adhered to State Law regarding activation of latent powers to provide additional services, and has not been authorized to provide groundwater development and exploration.

In addition to supplying water, State Law permits county water districts to provide a variety of services, such as wastewater and storm water management, recreation, electric power, etc. Services authorized by the principal act, but not granted to a district under the provisions of its formation resolution are characterized as latent powers.

In 1973, special districts in San Diego County relinquished the right to self-approve expansion of their latent powers in exchange for representation on the Local Agency Formation Commission (LAFCO). Responsibility for the activation of latent powers was then assigned to the Commission. At that time, the Tia Juana Valley CWD's services were limited to the protection of the underground aquifer and halting the exportation of groundwater. Over the years, the District has reported the provision of other services, including groundwater development and

exploration. Groundwater development and exploration move far beyond the authorization LAFCO has allowed and do not qualify as latent powers that the District can provide without prior LAFCO approval. The Tia Juana Valley CWD should limit its activities to conform to its legally authorized functions.

Determination 8.5: The Tia Juana Valley CWD should conform to all of the District's own fiscal policies.

In responding to LAFCO's request for information, the Tia Juana Valley CWD noted a district policy to have an annual reserve of at least \$100,000 at the end of each fiscal year. According to the District, that goal was achieved in two of the three fiscal years between 1999 and 2002. However, there was no indication whether the reserve contained discretionary funds or included unspent grant money that was restricted for specific uses.

DETERMINATION 9: LOCAL ACCOUNTABILITY AND GOVERNANCE

In making a determination of local accountability and governance, LAFCO will consider the degree to which local accountability is fostered in the region. *Local accountability and governance* refers to public agency decision making and operational and management processes that: (1) include an accessible and accountable elected or appointed decision making body and agency staff; (2) encourage and value public participation; (3) disclose budgets, programs, and plans; (4) solicit public input when considering rate changes and work and infrastructure plans; and (5) evaluate outcomes of plans, programs, and operations, and disclose results to the public.

Regional:

Determination 9.0: The regions' agencies should limit their activities to services lawfully authorized.

While the Cities of San Diego and Imperial Beach are authorized by State law to furnish specific municipal services, the Tia Juana Valley CWD receives legal permission to provide service(s) via its principal act and Government Code Section 56000, et seq. None of the agencies should violate the provisions of those laws by providing additional services, unless specifically empowered to do so.

Local:

Determination 9.1: As currently configured, the Tia Juana Valley CWD annual budget is misleading and confusing.

Typically, the Tia Juana Valley CWD incorporates into its annual budget both tentative expenses for the Total Groundwater Exploration Project and anticipated funding from state and federal grants. Placing into the budget applied for but not yet funded grants, as well as expenditures that are dependent on receipt of funding leads to confusion and does not accurately reflect the District's fiscal condition. Grants are sources of revenue that are undependable in nature and, even if received, may be critically under funded and leave an agency with a serious financial shortfall. In its budget, the District should segregate general expenditures and revenue from one-time expenditures that are dependent on the receipt of grant monies.

Determination 9.2: The Tia Juana Valley CWD Board of Directors and employees are encouraged to comply with all provisions of the Ralph M. Brown Act.

LAFCO staff attended a regularly scheduled meeting that included District Directors and staff, as well as Councilmember Inzunza and City of San Diego staff. The agenda for that meeting failed to provide opportunities not only for public comments on items not listed, but also for comments regarding items appearing on the agenda. While the District stated that a notice of the meeting was posted, the location of that posting was approximately 20 miles from where the meeting was to be conducted. To ensure that the elected decision-making body and agency staff are accountable and accessible to the public, the Tia Juana Valley CWD should revise the agenda to include a public comment period, provide an opportunity for accepting public testimony on listed subjects, and post an additional notice of the meeting in the vicinity of where the meeting is to be held.

Determination 9.3: Tia Juana Valley CWD’s regularly scheduled meetings with the City Council member should be conducted at a location other than city hall.

Since Tia Juana Valley CWD business is discussed and a quorum of Directors may be present, meetings with the City Council member should be conducted in a location that is accessible to the public, and that would facilitate constituency attendance. Currently, some meetings are held in the Council member’s office at the City Administration Center in downtown San Diego. Not only is this location nearly 20 miles from district territory, but also the city building has security measures in place that significantly limit access.

Determination 9.4: The Tia Juana Valley CWD Board of Directors and employees are encouraged to participate in sexual harassment training.

Subsequent to the Grand Jury investigation, an audit of the Tia Juana Valley CWD finances identified a payment to a former district employee related to a sexual harassment case. Although this may be an isolated case, it would be beneficial for all directors and employees to obtain training that would prevent any such cases in the future, unless this training has been provided since the Grand Jury investigation.

Determination 9.5: The Tia Juana Valley CWD is diverting state and federal grant money that could be used for other projects.

Recently, the Tia Juana Valley CWD has procured and spent considerable amounts of both state and federal grant funds that were awarded for the Total Groundwater Exploration Project. Results from the preliminary studies concluded that the project is infeasible. Because the District continues to secure grants for

this project, those funds are being diverted from other, more worthy projects, which may have a better chance of succeeding.

Determination 9.6: To continue operating, the Tia Juana Valley CWD should immediately rescind the fixed charge special assessment and locate another reliable funding source to finance its business activities.

Since the fixed charge special assessment has been deemed an illegally collected fee, the Tia Juana Valley CWD needs to immediately stop collection of the assessment. Absent that sole, reliable revenue source, board members will need to find an alternative plan to finance district operations.

Determination 9.7: Tia Juana Valley CWD Directors are performing tasks that City of San Diego staff members have the responsibility to complete.

Tia Juana Valley CWD Directors and staff meet with the San Diego City Council member who represents that portion of the City where the District is located. Issues discussed at those meetings include subjects such as vegetation removal, illegal dumping, the City's maintenance of the river valley, and other matters only peripherally related to district business. Since directors are paid for their attendance at these meetings, the District essentially is paying for the provision of information to the City, rather than the City paying its employees to gather information and produce reports. Furthermore, transmitting the data to the appropriate city department rather than to the council member would seem to be more efficient and proper.

Determination 9.8: If the Tia Juana Valley CWD is dissolved, the City of San Diego should form a civic association or advisory committee to provide assistance and guidance to city officials regarding regional issues and problems.

As previously discussed, Tia Juana Valley CWD directors have some knowledge regarding problems unique to the Tijuana River Valley, and provide information to several local, state, and federal agencies. Thus, if the District were dissolved, formation of a civic association or advisory committee to continue the District's advocacy role may be useful to the City, and could provide assistance to the City Council in making decisions.

**RECOMMENDED STATEMENT OF DETERMINATIONS
PROPOSED AFFIRMATION OF A ZERO
SPHERE OF INFLUENCE FOR THE
TIA JUANA VALLEY COUNTY WATER DISTRICT**

The following statement of determinations is prepared pursuant to Section 56425 of the Government Code for affirmation of a zero sphere of influence designation for the Tia Juana Valley County Water District (CWD).

- (1) The present and planned land uses in the area, including agricultural and open space lands.

The Tia Juana Valley CWD encompasses approximately seven square miles and, consequently, includes a variety of land use designations. However, much of the territory is in the Tijuana River floodplain, and a majority of the land is contained in four large parks having parkland/open space designations. Since its formation, all District territory has become part of either the City of San Diego or Imperial Beach in conjunction with the annexation of San Ysidro to the City of San Diego and the incorporation of Imperial Beach. Because all territory in the District's boundary also is in either the City of San Diego or Imperial Beach, all land use decisions are guided by the general plan of the corresponding city. Imperial Beach's land use designation for the district/city overlap area is almost exclusively parkland, while the City of San Diego overlap includes not only parkland/open space, but also agriculture and light industry with single and multi-family residential uses located along a freeway corridor.

- (2) The present and probable need for public facilities and services in the area.

When the District was formed in 1946, it included only unincorporated territory, and was designed to represent the water rights of property owners as well as to protect the underground aquifer from saltwater intrusion and contamination. Since that time, the District's responsibilities have evolved; the District recently reported that current services are restricted only to include flood management and groundwater supply research and development. The District serves only the area in its boundaries with no expectation that there will be a future need for service beyond the existing boundary.

As previously mentioned, all territory located in the Tia Juana Valley CWD has become part of either the City of San Diego or Imperial Beach. Currently, all inhabited territory in the District also is in the City of San Diego and receives essential urban services from that City. While SANDAG projections indicate that the

population of the region is expected to decrease in the future, both San Diego and Imperial Beach are full service cities capable of providing needed municipal services to future residents and businesses should demand increase.

In 1984, the Commission established a zero sphere of influence for the District. That designation was based on the following circumstances: (1) there was no anticipated future need for service beyond the District's existing boundary; and (2) all District territory had become part of either Imperial Beach or San Diego. Because the majority of District land was in the City of San Diego and because the land contained in Imperial Beach was primarily undeveloped and uninhabited, it was determined that the City of San Diego should assume future responsibility for service provision in the area. Affirmation of a zero sphere appears appropriate because the factors that were evaluated and analyzed during the original sphere study have not changed significantly. In addition, the County of San Diego, together with the Cities of San Diego and Imperial Beach, has initiated a Watershed Urban Runoff Management Plan to address storm water management in the Tijuana River Valley.

- (3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.

The District has no infrastructure and provides no public services. As previously indicated, all District residents receive municipal services from the City of San Diego. The Tia Juana Valley CWD has stated that currently it provides only groundwater supply research and development and flood management services, and has never requested activation of latent powers to include the provision of any other services.

- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

Social or economic communities of interest are not relevant to this affirmation of a zero sphere of influence for the Tia Juana Valley CWD.

**RECOMMENDED STATEMENT OF DETERMINATIONS
PROPOSED AFFIRMATION OF A COTERMINOUS
PARTIAL SPHERE OF INFLUENCE FOR THE PORTION
OF THE CITY OF SAN DIEGO LOCATED IN
THE TIA JUANA VALLEY COUNTY WATER DISTRICT**

The following statement of determinations is prepared pursuant to Section 56425 of the Government Code for affirmation of a coterminous partial sphere of influence designation for the portion of the City of San Diego located in the Tia Juana Valley County Water District (CWD).

- (1) The present and planned land uses in the area, including agricultural and open space lands.

When the Tia Juana Valley CWD was formed in 1946, it encompassed unincorporated territory, most of which was located in the Tijuana River floodplain. When the City of San Diego annexed the San Ysidro area in 1957, the central and eastern portions of the Tia Juana Valley CWD became part of the City, which created an area of overlap between the District and the City. Since a city has jurisdiction over land use and planning matters within its corporate boundary, all land use decisions pertaining to territory in this overlap area are guided by the City's general plan. The majority of this overlap area is designated for open space use with a large portion contained in two parks – Tijuana River National Estuarine Sanctuary and Tijuana River Valley Regional Park. Other large areas are either vacant or used for agricultural pursuits. The remaining land contains a variety of uses including both single and multi-family residential development located along the freeway corridor, as well as light industry and educational facilities.

- (2) The present and probable need for public facilities and services in the area.

The developed territory located in the City of San Diego/Tia Juana Valley CWD overlap area receives essential public services from the City of San Diego. While the majority of the overlap territory currently is in open space and park uses, if development should occur, the City has the authority and responsibility to provide necessary urban services.

- (3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.

Currently, the City of San Diego provides public services to the developed areas shared with the Tia Juana Valley CWD although the majority of that territory is

uninhabited and primarily contained in two large parks. If in the future development occurs, the City is authorized to provide all municipal services to residents.

- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

Social or economic communities of interest are not relevant to this affirmation of a coterminous partial sphere of influence designation for that portion of the City of San Diego located in the Tia Juana Valley CWD.

**RECOMMENDED STATEMENT OF DETERMINATIONS
PROPOSED AFFIRMATION OF A COTERMINOUS
PARTIAL SPHERE OF INFLUENCE FOR THE PORTION
OF THE CITY OF IMPERIAL BEACH
LOCATED IN THE
TIA JUANA VALLEY COUNTY WATER DISTRICT**

The following statement of determinations is prepared pursuant to Section 56425 of the Government Code for affirmation of a coterminous partial sphere of influence designation for the portion of the City of Imperial Beach located in the Tia Juana Valley County Water District (CWD).

- (1) The present and planned land uses in the area, including agricultural and open space lands.

When the Tia Juana Valley CWD was formed in 1946, it encompassed unincorporated territory, most of which was located in the Tijuana River floodplain. In 1956, the City of Imperial Beach incorporated and the western portion of the District was retained in the city limits; this created an area of overlap between the two agencies. Since a city has jurisdiction over land use and planning matters, all land use decisions affecting the overlap area, which currently is uninhabited, are guided by the City's general plan. Almost all of the overlap area is contained in two parks designated as open space (Tijuana Slough National Wildlife Refuge and Border Field State Park). The remaining overlap area is located in the Imperial Beach Naval Air Station facility, and contains a portion of an airplane landing strip and adjacent open space.

- (2) The present and probable need for public facilities and services in the area.

The territory located in the Imperial Beach/Tia Juana Valley CWD overlap area is uninhabited, and currently requires no public services. Because the majority of the territory already is in open space and park uses, it is unlikely that essential urban services would be required in the future. However, should development occur, the City would have the authority and responsibility to provide municipal services to the overlap area.

- (3) The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.

Currently, the City of Imperial Beach provides no public services to the area shared with the Tia Juana Valley CWD because the territory is uninhabited and primarily

contained in two large parks. If the area develops in the future, the City would be authorized to provide all municipal services to residents.

- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

Social or economic communities of interest are not relevant to this affirmation of a coterminous partial sphere of influence designation for that portion of the City of Imperial Beach located in the Tia Juana Valley CWD.

If you wish to review the attachments to
this document, please contact the San
Diego LAFCO office at 619-531-5400