



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

8b

AGENDA REPORT
 Business | Action

August 7, 2023

TO: Commissioners

FROM: Priscilla Mumpower, Assistant Executive Officer
 Adam Wilson, LAFCO Consultant
 Aleks Giragosian, Deputy Commission Counsel

SUBJECT: **Resource Conservation Districts Ad Hoc Committee |
 Report on Year One Tasks and Proposed Year Two Tasks and Related Actions**

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a report on the first year activities of the Resource Conservation Districts (RCD) Ad Hoc Committee in addressing assigned tasks generated as part of a recent municipal service review. The Ad Hoc includes nine appointed members with representatives from all three RCDs and staffed by LAFCO Consultant Adam Wilson and Deputy Commission Counsel Aleks Giragosian. Most of the Ad Hoc’s work to date has involved navigating historical conflicts among the three RCDs in step with exploring new shared service opportunities and complying with LAFCO statutes. The latter consideration involves ensuring otherwise common out-of-agency service practices among the two largest RCDs – Mission and Greater San Diego – are properly reviewed, approved, or exempted by LAFCO. The first year concluded successfully with the Ad Hoc developing a master memorandum of understanding subsequently signed by all three RCDs to coordinate their service programs going forward as well as establish protocols to guide interagency projects whenever applicable. This includes agreeing to partner on grants that necessitate work beyond individual RCD boundaries and divide activities – either as a co applicant or subcontractor – based on expertise rather than geography with proper compensation.

<p>Administration Keene Simonds, Executive Officer 2550 Fifth Avenue, Suite 725 San Diego, California 92103-6624 T 619.321.3380 www.sdlafo.org lafco@sdcounty.ca.gov</p>	<p>Chair Jim Desmond County of San Diego</p> <p>Joel Anderson County of San Diego</p> <p>Nora Vargas, Alt. County of San Diego</p>	<p>Kristi Becker City of Solana Beach</p> <p>Dane White City of Escondido</p> <p>John McCann City of Chula Vista</p>	<p>Vice Chair Stephen Whitburn City of San Diego</p> <p>Marni von Wilpert, Alt. City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>David A. Drake, Alt. Rincon del Diablo</p>	<p>Andy Vanderlaan General Public</p> <p>Harry Mathis, Alt. General Public</p>
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Staff recommends the Commission receive the report on the first year and authorize a scope of work for a second year to develop contemporary RCD service function and class designations as well facilitate coordinated boundary changes among all three local RCDs. It is also recommended the Commission revise the composition of the Ad Hoc from nine to six members through the reduction of the three at-large members.

BACKGROUND

Recent Municipal Service Review on RCDs

San Diego LAFCO completed a countywide municipal service review (MSR) on RCDs in February 2021. The MSR concluded – and among other key items – the need for the RCDs to align their existing and future service practices to their jurisdictional boundaries with exceptions to be authorized through the LAFCO approval process outlined in Government Code Section 56133. The MSR relatedly recommended the Commission proceed with an advisory committee to help address this and other key conclusions – including serving as a format to explore possible consolidations – functional or political – opportunities. A prospectus summarizing the MSR and its key recommendations is provided as Attachment One.

Prior Fiscal Year Workplan

Establishing an Ad Hoc Committee & First Year Scope of Work

San Diego LAFCO’s adopted workplan for 2022-2023 included direction to commence with addressing the recommendations included in the MSR beginning with the creation of an Ad Hoc Committee to help advise the Executive Officer on related topics. In August 2022, the Commission proceeded to establish a nine-member Ad Hoc with six seats dedicated equally among the three RCDs via their general managers and selected board members. The other three members are at-large and represent agricultural, water, and fire protection industries. An initial scope of work was also approved to focus on addressing compliance issues for out-of-agency service practices and associated disputes between the RCDs. Additional details on the Ad Hoc and activities undertaken as part of the initial scope of work is detailed by Consultant Adam Wilson and provided as Attachment Two.

Current Fiscal year Workplan

Direction to Proceed with Second Year and Consider Expanded Scope of Work

San Diego LAFCO’s adopted workplan for the current fiscal year includes direction to continue the Ad Hoc Committee process. This includes receiving a report on completing the initial scope of work as well as considering expansions to address other related topics as recommended.

DISCUSSION

This item is for San Diego LAFCO to receive a report on the first-year activities of the Ad Hoc Committee and related accomplishments. The item is also for the Commission to consider a recommendation to expand the scope of work in the second year to transition towards two related and otherwise next-up topics. These proposed topics involve (a) developing contemporary RCD service function and class designations as required under LAFCO statute as well as (b) facilitating coordinated boundary changes among all three local RCDs. The Commission will relatedly consider modifying the Ad Hoc to no longer include the three at-large members.

ANALYSIS

As detailed in Consultant Adam Wilson's memorandum (Attachment Two), the first year of the Ad Hoc Committee has been a success and marked by achieving its primary focus via the initial scope of work to bring RCDs' out-of-agency service practices into statutory compliance. Continuing the Ad Hoc for a second year is contemplated under the current workplan and meritorious with respect to developing contemporary RCD service function and class designations and facilitating coordinated boundary changes among all three local RCDs. The more technical focus of the expanded scope of work in the second year similarly supports modifying the Ad Hoc composition from nine to six and include RCD representation.

RECOMMENDATION

It is recommended San Diego LAFCO receive the report on the first-year activities of the Ad Hoc Committee and specific recommendations for the second year as detailed in the proceeding section under Alternative One.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO:

Alternative Action One (recommended):

Receive and file the written report – including the memorandum from Consultant Adam Wilson – and proceed with all of the following:

- a) Modify the Ad Hoc Composition to include the following six members:
 - General Manager and Board Member from Mission RCD
 - General Manager and Board Member from RCD of Greater San Diego
 - General Manager and Board Member from Upper San Luis Rey RCD

- b) Task the Ad Hoc to work on the following items:
 - Advise LAFCO staff in developing a contemporary list of RCD service function and class designations
 - Advise LAFCO staff in identifying appropriate boundary changes for all three RCDs – including opportunities to replace out-of-agency service activities

Alternative Action Two:

Continue consideration of the item and provide direction to staff as needed.

Alternative Action Three:

No action.

PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of the business calendar. The following procedures are suggested.

1. Receive verbal presentation from staff and consultants unless waived.
2. Receive comments from Ad Hoc Committee members.
3. Consideration the alternative actions and the staff recommendation.

On behalf of the Executive Officer,



Priscilla Mumpower
Assistant Executive Officer

Attachments:

- 1) MSR Prospectus
- 2) Memorandum from LAFCO Consultant Adam Wilson



Municipal Service Review

RESOURCE CONSERVATION DISTRICTS

FINAL

REPORT SUMMARY | February 2021



General Themes and Conclusions

RCDs – originally known as Soil Conservation Districts – first emerged in California in the late 1930s and memorialized the State Legislature’s interest to empower local landowners to proactively remedy soil erosion by water, wind, and other sources. RCDs’ enabling legislation followed the Federal government’s lead and the Soil Conservation Act of 1935, which responded to the “Dust Bowl” and created the Natural Resources Conservation Services to partner with states and local agencies to protect against soil erosion and loss of farmland. California’s legislation, notably, initially focused RCDs in creating a local property tax base to supplement work by the Natural Resources Conservation Services through community engagement and technical expertise. Subsequent legislation through the early 1970s reoriented RCDs as stand-alone agencies with an expanded focus to also include wildlife.

An initial round of RCD formations in San Diego County started in the early 1940s with additional formations continuing through the 1960s. At the height, there were 15 RCDs operating throughout San Diego County. New restrictions in raising tax revenues tied to Proposition 13 coupled with land use changes beginning in the 1970s led to a course reverse and a trend in consolidations through the 1990s as smaller RCDs (Borrego, Julian, Lakeside, Penasquitos, Valley Center, etc.) folded into larger RCDs with greater economies of scale. Changes in land uses, pertinently, involved a significant expansion of urban development in step with San Diego County’s population more than doubling between 1970 and 2000 from 1.357 million to 2.815 million; a difference translating to the average net addition of 135 new residents in San Diego County each day over a 30-year period. The substantive result was the methodical drawn-down in RCDs to the remaining three in operation

» General Themes and Conclusions

today along with the realignment of service activities to be largely guided by available grant funding.

A review of the three RCDs operating in San Diego County relative to San Diego LAFCO's growth management tasks and interests as prescribed under statute produces eight central themes or conclusions. These conclusions are in

linear order and collectively address the availability, demand, and performance of RCD services as well as challenges and opportunities proceeding forward. The conclusions are independently drawn and sourced to information collected and analyzed between 2015 and 2019 and detailed in the agency profiles.

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No. 1 Introductory Municipal Service Review

This report marks San Diego LAFCO's first municipal service review on RCDs in San Diego County and in doing so serves as a substantive new introduction of the Commission to all three affected agencies. Marking this introduction is addressing relatively new LAFCO statutes and responsibilities to the affected agencies in real-time while proceeding with an otherwise unfamiliar and relatively detailed service review process. Similarly, this introduction for the Commission reorients this municipal service review to focus on establishing baseline information for all three affected agencies with the intention of expanding the analysis – and specifically providing more quantitative measurements – in future municipal service reviews.

No. 2 And Then There Were Three

Over the last 40 years the number of RCDs in San Diego County have gradually decreased from 15 to the three – Mission, Greater San Diego County, and Upper San Luis Rey – remain today. This draw-down reflects a statewide trend and follows multiple consolidations where smaller RCDs have voluntarily folded into larger RCDs. The underlying attributes to the draw-down involve restrictions in generating new tax revenues paired with changes in land uses and expansion of the urban footprint.

No. 3

Outdated Principal Act

RCDs' principal act has remained largely unchanged since the 1970s and has become increasingly antiquated in aligning service powers with current resource conservation practices and needs. The principal act – relatedly and pertinently – has also fallen out of step with LAFCOs' oversight role of RCDs and highlighted by creating ambiguity in the Commission's task in statute to establish and regulate functions and classes of services. The cumulative effect of the principal act's antiquation are higher levels of local discretion needing to be exercised by the affected agencies as well as the Commission that may or may not sync with legislative expectations.

No. 4

Influence of Grant Funding

RCDs represent a unique outlier among special districts given their funding status and dependency on outside grants fall outside the traditional criteria of operating either as an enterprise (direct fees for services) or non-enterprise (tax supported) agency. Alternatively, and as illustrated locally, the three RCDs in San Diego County operate more similarly to non-profit organizations with grants more so than other factors guiding decision-making in delivering municipal services. This dynamic also further illuminates the antiquation of the RCD principal act given the nature of grant funding to address current interests and needs and increasingly prompts the affected agencies – and more specifically Mission RCD and RCD of Greater San Diego County – to take on service programs beyond the clear and/or explicit provision in statute.

No. 5

RCD Services Need to Reflect Boundaries

Two of the three affected agencies – Mission RCD and RCD of Greater San Diego County – have invested significant resources in providing services outside their jurisdictional boundaries without having received approval from San Diego LAFCO as required under statute. These irregular service activities – while premised on good intentions – diminish the function and role of jurisdictional boundaries and have contributed to conflict among the agencies. These conditions require correction and may lead to substantive changes in these agency operations and/or fiscal standing.



Anza-Borrego Desert from Volcan Mountain Preserve view point in Julian, California

No. 6

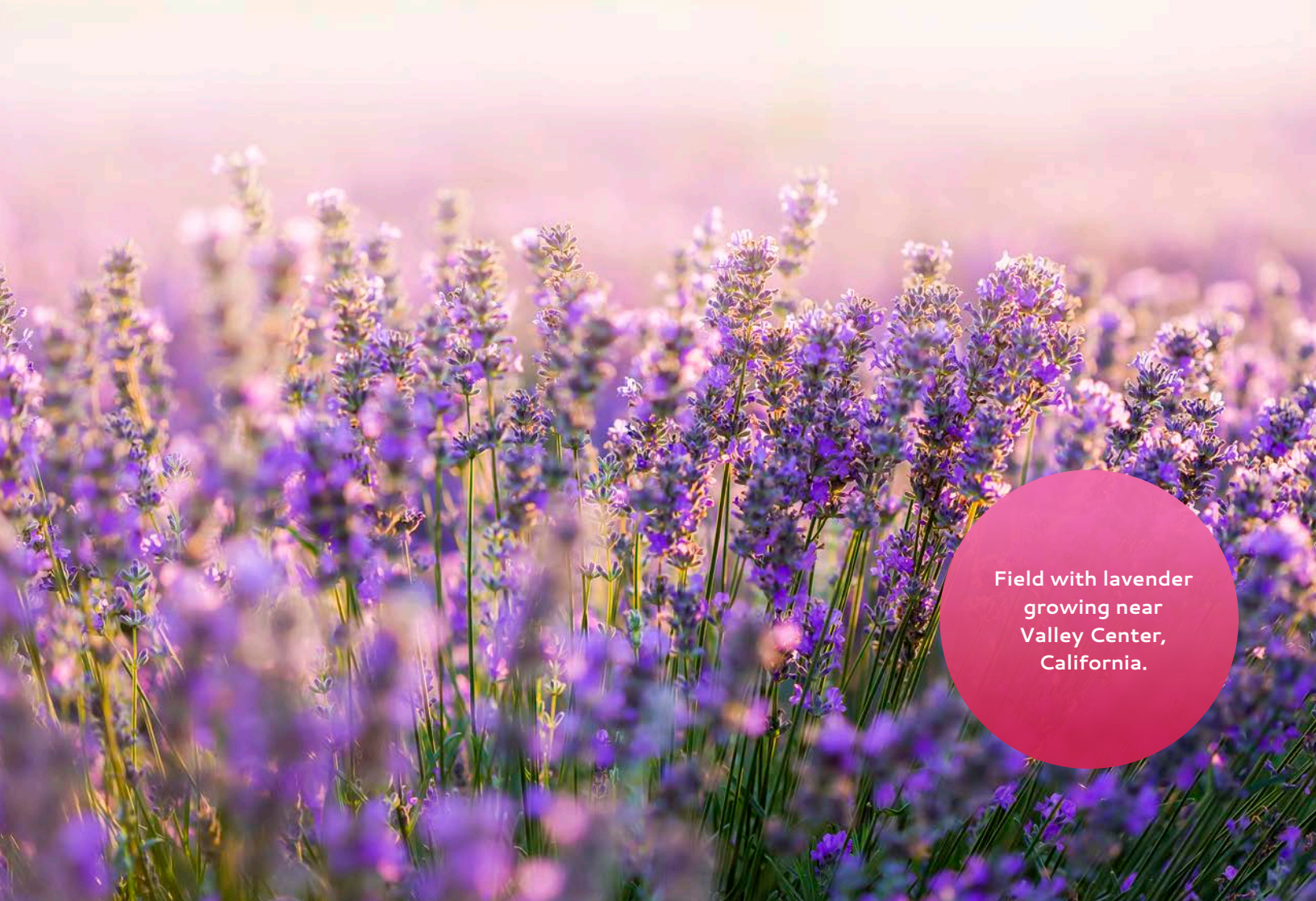
Expanded – and Expanding – Role for RCDs

The three affected agencies' formations date to a period where constituency needs were focused on receiving water and soil expertise to protect and enhance farmland with the related assumption these interests were limited to unincorporated lands. Subsequent demographic and societal changes have measurably expanded these roles to be more holistic and now connect to wildlife habit, wildfire prevention, and climate change through technical, education, and advocacy services. These benefits, pertinently, also extend into the incorporated communities and merit expansion of RCD boundaries into adjacent cities lying in shared watersheds where appropriate.

No. 7

Recent Downward Fiscal Trends for Two RCDs

Two of the three affected agencies – Mission RCD and RCD of Greater San Diego RCD – finished the five-year report period trending negatively in standard measurements used by San Diego LAFCO in the municipal service review process. Both agencies finished with overall negative total margins over the 60-month period paired with double-digit percentage decreases in liquidity levels. These changes were most impactful Mission RCD as it finished the report period with only one month of unassigned monies in its General Fund to meet average operating costs.



Field with lavender growing near Valley Center, California.

» General Themes and Conclusions

No. 8 Clarifying Upper San Luis Rey RCD's Role in Managing Groundwater

Upper San Luis Rey RCD is a member of the Pauma Valley Groundwater Sustainable Agency (GSA) along with Yuima Municipal Water District and the Pauma Valley Community Services District and responsible for developing and implementing a plan to achieve long-term groundwater sustainability in the local basin. RCD's participation began in 2017 and ties to its water conservation powers under the RCD principal act and – notably – provides the GSA complete coverage of the subbasin as required under statute. However, and in response to stakeholder comments in preparing this report, additional review is needed to determine whether the RCD's water conservation powers were "active" at the time of joining the GSA or if the District should request and receive activation approval from LAFCO.

No. 9 Purposeful LAFCO Pause

The introductory role of this municipal service review coupled with other noted factors – including the more immediate need to sync services and boundaries – suggest a purposeful pause is merited before proceeding with next level analyses. Most notably, this includes deferring the Commission's evaluation of shared resource opportunities, such as functional and/or political consolidations, to the next municipal service review cycle.



Recommendations

The following recommendations call for specific action either from San Diego LAFCO and/or one or more of the affected agencies in the Fallbrook region based on information generated as part of this report and outlined below in order of their placement in Section 5.0 (Written Determinations). Recommendations for Commission action are dependent on a subsequent directive from the membership and through the annually adopted work plan.

1. San Diego LAFCO affirms resource conservation functions are explicit municipal services under CKH and support – both through direct and indirect means – orderly growth and development in San Diego County. LAFCO should accordingly incorporate regular reviews of RCD functions as part of future municipal service review cycles.
2. San Diego LAFCO should collaborate with the County of San Diego and SANDAG to develop buildout estimates specific to each affected agency and incorporate the information into the next scheduled municipal service review.
3. San Diego LAFCO should coordinate with all three affected agencies in developing performance measurements to help quantify capacity–demand relationships in each jurisdiction to appropriately inform future studies and/or reorganizations.
4. San Diego LAFCO should work with stakeholders and local legislators to propose a comprehensive rewrite of the RCD principal act and – among other benefits – clarify service function powers relative to current and anticipated community needs.
5. Irrespective of other efforts, San Diego LAFCO should proceed and address RCDs in the scheduled update to Rule No. 4 and the associated statutory directive for the Commission to formalize and regulate special districts’ functions and classes.
6. All three affected agencies should voluntarily proceed in taking necessary corrective measures to ensure regulatory compliance with San Diego LAFCO and statutory emphasis therein to align municipal services with jurisdictional boundaries.
7. All three affected agencies are reminded to request and receive written approval or confirmation of exemption before entering contracts or agreements to provide municipal services outside their jurisdictional boundaries per G.C. Section 56133. None of the affected agencies are authorized to self–exempt under this statute.
8. San Diego LAFCO recently issued a cease and desist order to Mission RCD to terminate unauthorized out-of-agency services provided within the boundary and sphere of influence of RCD of Greater San Diego. It is unclear whether Mission RCD has complied with this order and accordingly additional action by LAFCO may be appropriate.
9. Upper San Luis Rey RCD should review the prescriptive requirements recently enacted (Assembly Bill 2257 and Senate Bill 929) and make conforming changes to their website and improve communication with constituents. Most urgently, this includes posting agendas and minutes online and in a timely manner as required under the Brown Act.



Agricultural lands in Fallbrook, California.



Lake Cuyamaca

» Recommendations

10. The County of San Diego should consider expanding their permit process to include erosion and sediment control plan reviews by applicable RCDs to enhance coordination among government agencies for the benefit of shared constituencies.
11. All three affected agencies can enhance their accountability to the public by providing video-recordings of board meetings online in step with their increasingly emphasized roles to educate and disseminate information on resource conservation best practices.
12. Notwithstanding other recommendations, San Diego LAFCO should immediately proceed with an addendum to determine if Upper San Luis Rey RCD has authority under LAFCO statute to provide water conservation and/or similar services under the principal act necessary to be a member of the Pauma Valley Subbasin GSA.
13. San Diego LAFCO should expand on the baseline information collected in this introductory municipal service review and provide a more quantified assessment of the three affected agencies services and related trends. The subsequent review should also – markedly – dutifully explore reorganization options, including functional and/or political consolidation opportunities.
14. San Diego LAFCO should proceed and update all three affected agencies' spheres with no changes and in doing so satisfy its planning requirement under G.C. Section 56425.

Memorandum to San Diego LAFCO

To: Mr. Keene Simonds, Executive Officer
From: Mr. Adam Wilson, Consultant
Date: July 28, 2023

RE: RESOURCE CONSERVATION DISTRICTS AD HOC COMMITTEE FIRST YEAR REPORT

OVERVIEW:

This memorandum serves to provide a first-year update to the Executive Officer and LAFCO Commission regarding the overall efforts and results of the Resource Conservation Districts (RCD) Ad Hoc Committee. Additionally, this report provides recommendations that would complement the recent accomplishments and facilitate next steps for San Diego LAFCO.

BACKGROUND:

On August 1, 2022, the LAFCO Commission approved agenda item 7c to establish an advisory committee to directly assist the Commission in implementing recommendations included in a recent municipal service review on RCD's. The purpose of this committee would be to align their existing and future service practices to their jurisdictional boundaries with exceptions as authorized through the LAFCO approval process outlined in Government Code Section 56133. Additionally, the committee would be tasked to resolve other jurisdictional matters and seek opportunities that would help promote independently and collectively a more effective and efficient delivery of RCD programs and services.

RCD AD HOC COMMITTEE:

The RCD Ad Hoc Committee met five (5) times commencing on October 11, 2022 and concluded their work on May 11, 2023. I served as moderator for each meeting and support was provided by LAFCO's administrative staff and Deputy General Counsel, Aleks Giragosian.

The Ad Hoc Committee's first task was to establish a working agenda (Attachment A) which served as their compass to the overall process and main objectives. The Committee was able to then define and detail how RCDs operate to better understand their purpose and function. Additionally, they each identified their current boundaries and provided a comprehensive list of the programs and services they deliver.

However, the issue that became most illuminated and with heavy interest involved the delivery of regional water audits through a San Diego County Water Authority program. In fact, this had historically been a major area of contention between RCDs due to services being provided outside of district boundaries. Ultimately, this led to a cease-and-desist action from one RCD to another. Furthermore, we received public comment from Valley Center Municipal Water District which requested immediate resolution to this issue so services to the community would

not be disrupted now and into the future. To find resolve to this matter in a more harmonious way, item 3 on our working agenda became the natural and principal focus of the Ad Hoc Committee's effort and specifically, to reconcile out-of-agency service delivery via three options:

1. LAFCO approval or exemption determination via Government Code 56133.
2. Expand organizational boundaries through the LAFCO process.
3. Develop a Memorandum of Understanding (MOU) between the 3 RCDs.

KEY ACCOMPLISHMENT:

The RCD Ad Hoc Committee determined the best and most appropriate option would be to develop a MOU amongst the 3 agencies. The MOU was developed collaboratively with participation by all 3 RCDs including key contributions from their legal representatives. The premise of the MOU is to serve as the guiding document which provides the terms and conditions on how the 3 RCDs perform services – both independently and cooperatively. The MOU also served to outline a mediation process to resolve any future disputes. The full RCD Ad Hoc Committee unanimously approved the MOU at their last meeting on May 11, 2023.

It was with great appreciation and pleasure to have had an engaged committee that was able to put their historic differences aside and focus on the future with the greater good in mind.

RECOMMENDATIONS:

Given the most recent MOU, it appears the most appropriate next step – and my recommendation – to transition into a second year of collaborative work and complete the following tasks relative to previous efforts.

1. LAFCO Commission should receive and file the MOU as a participatory party to the agreement.
2. Conduct a GIS mapping exercise to update and formally codify each RCD's boundaries.
3. Provide an overlay in the mapping that illustrates each RCD's programs and services.
4. Reconstitute the existing RCD Ad Hoc Committee from 9 members to 6 members (eliminating the at-large members).
5. Work with new RCD Ad Hoc Committee to advise LAFCO staff in developing a new contemporary list of RCD service functions and class designations to align with the updated Principal Act.
6. Work with new RCD Ad Hoc Committee to identify any appropriate boundary changes.
7. Work with new RCD Ad Hoc Committee to identify any future changes to RCD funding mechanisms.

Thank you for the opportunity over the last year and the Commission's consideration of the continuation of our collective effort to a more effective and efficient service delivery in the region.

RCD AD HOC COMMITTEE WORKING AGENDA

October 10, 2022

1. Define and detail how RCD's are structured, financed and operated to better understand their purpose and function.
2. All 3 RCD's need to identify any inconsistencies between RCD boundaries and current service activities
 - a) task them to provide LAFCO their known boundary and all the current services they provide / and where.
3. If any RCD wants to continue and/or start services beyond their boundaries they need to resolve via 3 potential solutions:
 - a) LAFCO approval via Government Code 56133 (out of service contract with LAFCO approval to service or exemption)
 - b) expand their boundaries through LAFCO process
 - c) potential MOU's between organizations
4. LAFCO will work with the RCD's and other stakeholders in proposing rewrite to the RCD Principal Act.

(This matter will be tabled but will be kept on our radar since issues that come up during our Ad Hoc efforts may warrant action on this item through other possible avenues).
5. Help define and establish appropriate listing of RCD's existing functions and applicable classes under LAFCO statues (i.e., latent powers / process)
6. Explore opportunities for shared service arrangements (i.e. grant writing, financial resources)

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