

June 3, 2010 (Agenda)

Local Agency Formation Commission  
105 East Anapamu Street  
Santa Barbara CA 93101

**Response to Santa Barbara County Grand Jury Report  
“Current and Undercurrents in the Santa Ynez Valley”**

Dear Members of the Commission

RECOMMENDATION

It is recommended the Commission provide direction to staff regarding the enclosed Grand Jury Report entitled “Current and Undercurrents in the Santa Ynez Valley,” with the formal response to be presented for approval at the July 1 Commission meeting.

DISCUSSION

Requirement to Respond to Grand Jury Report

It is unusual for LAFCO to be mentioned in a report by the County Grand Jury. Therefore staff proposes to seek direction from the Commission at the June 3 meeting and have the Commission adopt a formal response to the Grand Jury Report at the July 1 meeting.

The requirement to respond to a Grand Jury Report is set forth in Sections 933 and 933.05 of the California Penal Code, copies of which are enclosed as Exhibit A. If a Grand Jury’s final report addresses operations of a public agency such as LAFCO, the public agency “shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body . . .” not later than 90 days after the grand jury submits its final report.

For each finding the public agency shall indicate either (1) agreement with the finding or (2), disagreement either wholly or partially with the finding, with an explanation.

For each recommendation, the public agency shall respond that:

1. The recommendation has been implemented, with a summary of the implemented action,

2. The recommendation has not yet been implemented, but will be in the future, with a time frame for implementation
3. The recommendation requires further analysis, with an explanation of the scope of study and a time frame not exceed six months from the date of the grand jury report, or.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

#### Pertinent Findings in the Grand Jury Report

The Commission is obligated to indicate agreement or disagreement with these findings:

- Finding 1a

Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District, each provide some form of water service and have separate governing boards, administration, staff, and legal counsel.

- Finding 1b

A merger of Santa Ynez River Water Conservation District, Improvement District #1 and Santa Ynez Community Services District, establishing a new single publicly accountable agency to provide both water distribution and sewage collection that shares administrative and field staff, will provide opportunities for economic efficiencies.

- Finding 2

Agendas of Santa Ynez River Water Conservation District, Improvement District #1 and Local Agency Formation Commission did not provide adequate information to inform the public as to their legislative reorganization actions.

#### Pertinent Recommendations of the Grand Jury

The Commission is obligated to respond regarding implementation of these recommendations:

#### Recommendation 2b

The Local Agency Formation Commission provide wording in agenda items to fully inform the public of all items on the agenda to be discussed, in compliance with Section 54954.2 of the Ralph M. Brown Act – Open Meetings for Local Legislative Bodies: “The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of that body.”



- Recommendation 3b

Local Agency Formation Commission work with Santa Ynez River Water Conservation District, Improvement District #1 to resolve LAFCO jurisdictional issues efficiently and inexpensively.

Summary of LAFCO Involvement

The Grand Jury report discusses agencies providing water or wastewater services in the Santa Ynez Valley with specific reference to legislative efforts related to the Santa Ynez River Water Conservation District Improvement District No. 1 (i.e., District or ID#1).

The latest opinion by the Commission's Legal Counsel stating ID#1 is subject to the jurisdiction of LAFCO dated September 25, 2006 is enclosed as Exhibit B. It concludes ID#1 is a "special district" as defined by Government Code Section 56036 for both (a) regulation of its boundaries and service area and (b) making pro-rata annual contributions to LAFCO's budget.

The District has not conceded it is subject to LAFCO. Due to this conflict between LAFCO and the District it was felt that a court decision or, alternatively, a legislative change would be needed to have the District accept the conclusion it is a special district subject to LAFCO jurisdiction.

The ID#1 website states the following:

The Water District functions as an Improvement District, which means it is an independent unit of local government serving the needs of the community.

Clearly, this differs from the statutory definition of "improvement district" which is set forth in Government Code Section 56041 as follows:

A district, area, or zone formed for the sole purpose of designating an area which is to bear a special tax or assessment for an improvement benefiting that area.

It was felt that amending this section to specify it excludes any district with an independently elected board of directors would resolve whether ID#1 is a special district comparable to other special districts within LAFCO jurisdiction.

In contrast, the ID#1 attorney suggested in the enclosed December 5, 2006 letter (Exhibit C) that only by amending the Water Code will LAFCO attain jurisdiction over ID#1. The Commission's Legal Counsel concluded the law was already clear and LAFCO had jurisdiction over ID#1, but if legislation were pursued, Legal Counsel did not agree that the desired goal could only be achieved through an amendment to the Water Code.

Nonetheless ID#1 decided to pursue and LAFCO did not oppose legislation that involved substantial amendments to the Water Code. The Commission supported this bill only to the extent it proposed to resolve the jurisdictional dispute between LAFCO and ID#1.

The ID#1 staff and attorneys drafted a legislative proposal and LAFCO was able to contribute some language to that effort. The bill was put across the desk by Assemblymember Pedro Nava and became known as AB 2686.

This matter has been considered by LAFCO on many occasions. Attached for the Commission's reference as Exhibit D is a chronology beginning in August 2006 of LAFCO agenda items and minutes pertaining to this subject.

#### Preliminary Thoughts for Responding to the Recommendations

The staff has been considering the following suggested responses to the two recommendations that are directed to the Commission:

Recommendation 2b - LAFCO should word agenda items to fully inform the public of the items to be discussed by providing brief general description of the subject matter.

The recommendation has been implemented. Since the time concerns were expressed by Santa Ynez Valley residents that they could not tell from the way items were listed on LAFCO agendas much about the item to be considered, the staff has made a concerted effort to be more complete and explanatory in how items are worded. For example, instead of just stating "Legislative Report" the agenda title lists each bill by name and author.

Moreover, the LAFCO staff will continue to make efforts to ensure that the manner in which agenda items are posted provides a brief description of the matter to be considered.

- Recommendation 3b – LAFCO should work with ID#1 to resolve jurisdictional issues efficiently and inexpensively.

An ad hoc committee of Commissioner Cathy Schlottmann, former Commissioner Brooks Firestone, Executive Officer and Legal Counsel held several meetings with representatives of the SYRWCD and ID# in an attempt to resolve the jurisdictional issue. The efforts made to resolve the dispute were substantial, but proved unsuccessful.

We thought legislation would cure the impasse between LAFCO and the District as to whether it is subject to LAFCO jurisdiction. Such legislation was vetoed.

Legislation could be proposed again, although it is recommended that any legislative change be narrowed to that needed to resolve the jurisdictional dispute. Short of either litigation or legislation, the only apparent way to resolve this matter that is acceptable to LAFCO would be for the District to acknowledge that it is a "special district" as defined in Section 56036.

It is noted that while professing it is not subject to LAFCO jurisdiction, ID#1 has been paying its pro-rata share of the special districts third of the LAFCO budget as illustrated by the enclosed letters from the SYRWCD (Exhibit E) and ID#1 (Exhibit F). Perhaps this is an indication that ID#1 will accept the conclusion that it is a special district comparable to others in the County that are within LAFCO's jurisdiction.

Conclusion

Based upon the Commission's discussion of these matters at the June 3 meeting our office plans to draft a formal response to the Grand Jury Report for consideration at the July 1 meeting.

Please contact the LAFCO office if you have any questions.

Sincerely,



BOB BRAITMAN  
Executive Officer

cc: Santa Ynez Community Services District  
Santa Ynez River Water Conservation District  
SYRWCD Improvement District No. 1





Penal Code Section 933

(a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury.

A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. (Emphasis added)

In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.

A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

Penal Code Section 933.05

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following: (Emphasis added)

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions: (Emphasis added)

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.