



LAFCO

**Local Agency
Formation Commission**
for San Bernardino County

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Established by the State of California
to serve the Citizens, Cities, Special Districts
and the County of San Bernardino

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LEGAL COUNSEL

CLARK H. ALSOP

August 25, 2015

Robert Springer, President
Newberry Community Services District
P.O. Box 206
Newberry Springs, CA 92365-0206

RE: LAFCO 3176 - Special Study for Daggett, Newberry
and Yermo Community Services Districts including
Plan for Service and Service Review

Dear Mr. Springer:

At the August 19, 2015 hearing, the LAFCO Commission received an update on the determinations that your district is not in compliance with certain constitutional and statutory requirements. Below are the non-compliant items with the status identified in *italics* below.

1. Adopt and annually review reserve policies pursuant to Community Services District Law Section 61112.

It is our understanding that adoption of reserve policies is scheduled for the district's August 25 meeting. Upon approval, please provide a copy to LAFCO.

2. Forward a copy of the final budget to the County Auditor pursuant to Community Services District Law Section 61110.

The district has completed this annual statutory requirement.

3. Adopt an annual appropriations limit by resolution allowing the expenditure of the proceeds of taxes and review the annual calculation as a part of the annual financial audit, pursuant to Article XIII B of the State Constitution, which is further acknowledged by Community Services District Law Section 61113.

LAFCO received documentation from the district that this requirement has been satisfied. As a reminder, the appropriations limit needs to be annually updated and approved by resolution.

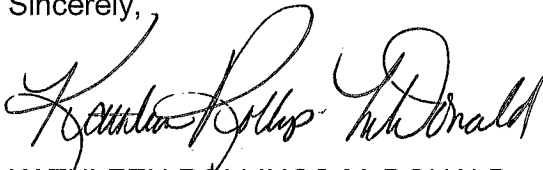
4. Recommendation #5 from the 2012-13 Grand Jury Report reads for Newberry CSD to: " Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual". The CSD's March 2014 response to the Grand Jury reads, "Due to limited resources and the intrinsic limitations of a part time staff, our audit firm and our own Treasurer, are developing an accounting manual based on generally accepted accounting principles, to be implemented in the immediate future".

LAFCO received documentation from the district that this Grand Jury recommendation has been satisfied.

Following publication of the August 12, 2015 LAFCO staff report for LAFCO 3176, LAFCO staff received an undated and unsigned letter addressed to LAFCO, David Whitford CPA, and the Grand Jury (copy attached to this letter). In short, the letter outlines possible budget and accounting errors as well as possible lack of compliance with Public Records Acts requests. LAFCO staff briefed the Commission on the letter.

The next update to the LAFCO Commission is tentatively scheduled for the February 17, 2016 hearing. Should your district have any questions, please feel free to contact Michael Tuerpe, Project Manager, of my office at the number listed above or by email at: mtuerpe@lafco.sbcounty.gov.

Sincerely,



KATHLEEN ROLLINGS-McDONALD
Executive Officer

KRM/MT

Attachments:

LAFCO staff report dated August 12, 2015
Unsigned and Undated Letter Received by LAFCO

cc: Paula Deel, Vice President
Robert Royalty, Director
Robert Shaw, Director
Robert Vasseur, Director
Le Hayes, General Manager
Ron Frame, Field Representative, First District

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DATE: AUGUST 12, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
MICHAEL TUERPE, Project Manager
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: Agenda Item #7 - Status Report on LAFCO 3176 -- Special Study for Yermo, Daggett and Newberry Community Services Districts

RECOMMENDATION:

Staff recommends that the Commission:

1. Note receipt of the status report and file.
2. Set the next status report for the February 2016 hearing.

BACKGROUND:

At the January 2015 hearing, the Commission completed the special study of the Daggett, Newberry, and Yermo Community Services Districts. The special study identified numerous areas where the districts fail to comply with the State Constitution, State Law, and generally accepted good-governance practices. These issues were outlined in the original service review in 2009 and continued through the special study. The Commission determined that the districts were not in compliance with the following requirements and directed staff to continue to monitor progress to rectify the problems and update the Commission every six months until all of the items below are satisfied.

STATUS UPDATE:

The identified issues are outlined below in italics followed by LAFCO staff's analysis of the current situation:

All Districts

1. *Adopt and annually review reserve policies pursuant to Community Services District Law Section 61112.*

Newberry CSD has indicated that adoption of reserve policies is scheduled for its August 25 meeting and that it will provide a copy to LAFCO upon approval.

As of the date of this report, Daggett CSD and Yermo CSD have not provided information on this statutory requirement.

2. *Forward a copy of the final budget to the County Auditor pursuant to Community Services District Law Section 61110.*

Newberry CSD has completed this statutory requirement and has indicated that it will continue to adhere to it.

Daggett CSD has placed adoption of its FY 2015-16 budget for its August 12, 2015 meeting, and it has indicated that it will provide a copy to LAFCO and the County Auditor following approval. LAFCO staff will provide an update on this statutory requirement at the hearing.

As of the date of this report, Yermo CSD has not provided information on this statutory requirement.

3. *Adopt an annual appropriations limit by resolution authorizing the expenditure of the proceeds of taxes and review the annual calculation as a part of the annual financial audit, pursuant to Article XIII B of the State Constitution, which is further acknowledged by Community Services District Law Section 61113.*

Daggett CSD adopted its annual appropriations limit by resolution at the district's June 26, 2015 hearing (Resolution 2014/15-004). Newberry CSD adopted its annual appropriations limit by resolution at the district's June 23, 2015 hearing (Resolution 70-2015). The districts and its independent auditor are aware of the requirement to review the annual calculation as a part of the annual financial audit.

As of the date of this report, Yermo CSD has not provided information on this constitutional requirement. It should be noted that LAFCO staff provided background information to the district on March 19, 2015 to assist the district in adopting an appropriations limit.

Newberry CSD

4. *Recommendation #5 from the 2012-13 Grand Jury Report reads for Newberry CSD to: " Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual". The CSD's March 2014 response to the Grand Jury reads, "Due to limited resources and the intrinsic limitations of a part time staff, our audit firm and our*

own Treasurer, are developing an accounting manual based on generally accepted accounting principles, to be implemented in the immediate future”.

Newberry CSD formally approved its accounting procedures at its February 24, 2015 meeting (Item 19).

Daggett CSD

5. *Continue to work with the County to address and formalize a lease arrangement or title transfer for the Daggett Community Center.*

The Community Center is located on County property and was constructed with HUD funding. Therefore, the concerns about the use of the facility, insurance, maintenance, etc. need to be resolved to eliminate risk and the potential financial obligation to the County.

A draft contract between the County and the District was reviewed and approved by HUD. The contract is to be signed by Daggett CSD, then submitted to the County Board for final approval (anticipated for September at this time). Pursuant to HUD’s direction, the contract will state that the County will record a lien on the property for five years with Daggett CSD continuing maintenance and operation during that term. However, during this time the County will still be exposed to risk. Following the five-year term, the title (and risk) will transfer to Daggett CSD if it meets the conditions of the contract.

6. *Provide LAFCO with a copy of all future water quality information provided to the public, to include water quality control reports, occurrences of contamination, and boil water orders through the initiation of the second cycle North Desert Service Reviews.*

LAFCO staff confirmed with County Environmental Health Services that there has been no occurrences of contamination or boil water orders since January 2015.

7. *Adopt an annual budget that conforms to generally accepted accounting and budgeting procedures by September 1 of each year at a noticed hearing pursuant to Community Services District Law Section 61110. Failure to comply with this requirement will necessitate further action by the Commission to resolve the issue.*

The District has placed adoption of its FY 2015-16 budget for its August 12, 2015 meeting. LAFCO staff will provide an update on this statutory requirement at the hearing.

Daggett CSD audits

Originally not included as a monitoring item, Daggett CSD has not yet completed its FY 2012-13 and FY 2013-14 audits. Completion of annual audits are a requirement of Community Services District Law Section 61118, and the timeframe to complete an audit is one year from the end of the fiscal year (Government Code Section 26909).

Completion of audits requires proper bookkeeping, and the determinations from the 2009 service review and 2015 special study identify systemic governance and managerial issues with Daggett CSD. On a positive note, since January 2015, the district has adopted its appropriation limit, is scheduled to adopt its first budget since 1995, and is moving towards resolution of the Community Center ownership.

Nonetheless, Government Code Section 26909 states that unless an audit is made by a district through an independent auditor, the County Auditor shall either make or contract with a certified public accountant to make an annual audit and that any costs incurred for the audit shall be borne by the district. At the next scheduled status report in February 2016, if satisfactory progress to complete the overdue audits is not being made, LAFCO staff will recommend that the Commission request the County Auditor to either make or contract for the audits pursuant to Government Code Section 26909.

Water System Consolidations

As a follow up on SB 88 (water system consolidations), the State Water Resources Control Board (SWRCB) in March 2015 released a listing of water systems for potential consolidation. The March 2015 listing concerns systems that have had at least one violation relating to water quality. Daggett CSD (Chromium 6) is one of two public water systems identified from San Bernardino County (the other system is CSA 70 W-4 in Pioneertown).

Of note, SWRCB has not yet identified water systems located within a disadvantaged community or unable to supply water due to the drought. An updated list to include these categories should be forthcoming.

CONCLUSION:

In concluding this status report on compliance, all three districts have at least one outstanding statutory compliance requirement. LAFCO staff will continue to provide assistance to the districts as requested to help achieve compliance. For Daggett CSD, at the next scheduled status report in February 2016, if satisfactory progress to complete the overdue audits is not being made, LAFCO staff will recommend that the Commission request the County Auditor to either make or contract for the audits pursuant to Government Code Section 26909.

Staff recommends that the next status report on compliance be scheduled for the February 2016 hearing. Should the Commission have any questions, staff will be happy to answer them prior to or at the hearing.

KRM/MT

To: Joe Serrano of LAFCO
David B. Whitford/CPA
Melonee Vartanian of San Bernardino County Grand Jury

RECEIVED
AUG 12 2015
LAFCO
San Bernardino County

We are writing this letter to hopefully gain the attention of your Agencies because we have had no luck with our CSD; The Newberry Community Services District.

They have repeatedly refused requests from us and the General Public to obtain basic "Public Records Requests". These requests stem mainly from the non-transparency of the financial status and activities taking place within the Newberry CSD.

The essence of our concern is the proposed 2015-2016 Budget for the Newberry CSD. Based on Warrant Registers presented and doing simple calculations the numbers are not presented accurately. In the days and age of computers with checks and balances this shouldn't ever happen.

Example: The Staff presented the Board and eventually the Public with 2014-2015 "Actual" numbers and based on those numbers created a Budget for 2015-2016. The problem arises when the income and expenses for 2014-2015 are understated to the tune of approximately \$57,000.00 of the actual "real" numbers.

Regardless of the size of the Community that amount of money showing an error percentage of more than 25% is not acceptable.

Chart of Accounts have appeared to justify over spending by the Newberry Springs Volunteer Fire Department. Manipulating numbers after the fact might be construed as fraud, all without Board Approval or noting any changes.

Simple running totals as to how much interest our accounts generate are incorrect.

Live Scans costing \$49.00 per individual show 5.03 individuals were live scanned.

Invoices paid to our State Auditor only reflect a portion of the amount actually paid.

Our frustration level is on high alert as we could go on and on, but what's the use when it appears that no one is listening? Misappropriation of funds is a serious matter.

We are asking for your assistance in this matter, not in the form of assistance of "Let's call the Newberry CSD and see what is going on thereby giving them a heads up to your visit and inquiry", but someone to actually review the past Budget and Accounting and verify and correct the errors so that the next years Budget can also be true and accurate.

Our Community has spent the last four (4) plus years being lied to and the bottom line is this is the Community's money and we all deserve to have a right and say as to how the monies are spent. Those sole decisions are NOT the Board of neither Directors, nor the General Manager's decision as they represent the Community and to be perfectly honest "We the Community are tired of being ignored and there should be zero tolerance for repeated errors."

Sincerely,

Two (2) concerned Directors
Please see attached Income and Expense Sheet

Newberry Springs Community Service District
Proposed FY 2015/16 Budget
Vs. 2014/15 Budgeted/Actual

	2014/15 B	2014/15 A	Differential 14/15	2015/16 P	% Differential B	% Differential A	Notes
5000.0 INCOME							
5001.0 Interest							
5001.1 Checking Interest	\$250.00	\$239.87	-4%	\$250.00	No Change	4%	\$336.05
5001.2 CD Interest	\$400.00	\$314.22	-27%	\$400.00	No Change	27%	\$472.21
5001.3 Savings Interest	\$36.00	\$29.40	-22%	\$36.00	No Change	22%	\$38.97
Interest Total	\$686.00	\$583.49	-18%	\$686.00		22%	\$847.23 difference of \$263.74
5002.0 Rental Income							
5002.1 Building Rental	\$500.00	\$315.00	-59%	\$500.00	No Change	59%	\$0.00
5002.2 Equipment Rental	\$0.00	\$0.00	N/A	\$0.00	No Change	N/A	\$0.00
Rental Income Total	\$500.00	\$315.00	-59%	\$500.00			unknown
5003.0 Fire Department Income							
5003.1 FD, Burn Permits	\$2,300.00	\$2,330.00	1%	\$2,500.00	9%	7%	\$0.00
5003.2 FD, Response Charges	\$300.00	\$78.00	-285%	\$300.00	No Change	285%	\$0.00
5003.3 FD, Grant Income	\$0.00	\$0.00	N/A	\$0.00	No Change	No Change	\$0.00
5003.4 FD, Donations	\$0.00	\$0.00	N/A	\$0.00	No Change	No Change	\$0.00
5003.5 FD, General/Reserve Fund	\$0.00	\$17,784.34	N/A	\$0.00	N/A	N/A	FD General Fund will increase upon approval of final 14/15 Budget NOT INCOME
Fire Department Income Total	\$2,600.00	\$2,408.00	-8%	\$2,800.00	8%	16%	unknown
5004.0 Other Income							
5004.2 Purchase Card Rebate	\$100.00	\$107.05	7%	\$100.00	0%	-7%	\$0.00
5004.3 Copies	\$20.00	\$14.19	-41%	\$20.00	0%	41%	\$0.00
5004.4 Fireworks Donations	\$2,500.00	\$1,270.00	-97%	\$2,500.00	0%	97%	\$0.00
5004.5 Misc. Income	\$0.00	\$1,921.00	100%	\$0.00	N/A	-100%	\$0.00
Other Income Total	\$2,620.00	\$3,312.24	21%	\$2,620.00	0%	-21%	\$0.00
5005.0 San Bernardino County Tax Share	\$194,994.00	\$194,078.50	0%	\$202,394.00	4%	4%	\$226,843.43
TOTAL	\$201,400.00	\$200,697.23	0%	\$209,000.00	4%	4%	\$26,993.43 - not accounted for

	2014/15 B	2014/15 A	Differential 14/15	2015/16 P	% Differential B	% Differential A	Notes
EXPENSE TOTALS							
1000.0 Administration	\$79,000.00	\$50,695.15	36%	\$81,150.00	3%	60%	\$58,200.52 difference of \$7505.37
2000.0 Park and Recreation	\$37,550.00	\$35,601.73	5%	\$43,050.00	15%	21%	\$36,073.08 difference of \$471.35
3000.0 Street Lights	\$5,000.00	\$4,807.11	4%	\$5,500.00	10%	14%	\$4,807.11
4000.0 Fire Department	\$79,850.00	\$64,355.01	19%	\$79,300.00	-1%	23%	\$84,941.06 (not including \$17,784.34) from Fire Dept gen exp acct
TOTAL	\$201,400.00	\$155,459.00	23%	\$209,000.00	4%	34%	\$184,021.77

\$185,439.06 is apx expenses for 2014-2015
Leaving a difference of \$1417.20
\$512.99 (Home Depot) \$100 (NSHPOA)
\$68.37 (County Treasurer) \$637.77 (SCE)
Leaving \$98.07 unexplained
Bottom line is \$56,973.47 missing