

**LOCAL AGENCY FORMATION COMMISSION OF  
ORANGE COUNTY**

**REGULAR MEETING AGENDA**

**Wednesday, August 14, 2024  
8:15 a.m.**

**County Administrative North (CAN)  
First Floor Multipurpose Room 101  
400 W. Civic Center Drive, Santa Ana, CA 92701**

*Any member of the public may request to speak on any agenda item at the time the Commission is considering the item.*

**1. CALL THE MEETING TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION  
(Communications received after agenda distribution for agenda items.)**

**5. PUBLIC COMMENT**

This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken by the Commission on off-agenda items unless authorized by law.

**6. CONSENT CALENDAR**

**a.) July 10, 2024 – Regular Commission Meeting Minutes**

The Commission will consider approval of the July 10, 2024 meeting minutes.

**7. PUBLIC HEARING**

No public hearing items scheduled.

## 8. COMMISSION DISCUSSION AND ACTION

### a.) Grand Jury Report

The Commission will review and consider approval of response to the Orange County Grand Jury's Report, *"Emerging Opportunities in South County Water/Wastewater Systems,"* as required by state law.

### b.) Personnel Policies and Procedures

The Commission will consider a proposed amendment to the Personnel Policies and Procedures involving employment categories.

### c.) Rates Validation for Accounting Services

The Commission will receive a report and provide direction on validation of rates involving the provision of accounting services to the agency.

## 9. COMMISSIONER COMMENTS

This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken except to place the item on a future agenda if approved by the Commission majority.

## 10. EXECUTIVE OFFICER'S REPORT

Executive Officer's announcement of upcoming events and brief report on activities of the Executive Officer since the last meeting.

## 11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

No informational items and announcements.

## 12. CLOSED SESSION

### a.) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code section 54957

Title: Executive Officer

### b.) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Commission Chair Donald P. Wagner and William Kelly of Kelly Associates Management Group

Unrepresented employee: Executive Officer

### 13. ADJOURNMENT OF REGULAR COMMISSION MEETING

The next Regular Commission Meeting will be held on Wednesday, September 11, 2024 at 8:15 a.m. at the County Administrative North (CAN), First Floor Multipurpose Room 101, 400 W. Civic Center Drive, Santa Ana, CA 92701.

#### PUBLIC PARTICIPATION:

The Local Agency Formation Commission of Orange County welcomes your participation. The public may share general comments or comments on agenda items through the following options:

- 1) **In-person** comments may be provided during the general comment period on off-agenda items and during the hearing of a specific agenda item. In accordance with the OC LAFCO guidelines, each speaker's comments may not exceed three (3) minutes for the respective item. If you have documents for the Commission, please bring 15 copies and submit to the Commission Clerk for distribution.
- 2) **Written** general comments or comments on specific agenda items may be submitted by email to the Commission Clerk at [ccarter-benjamin@oclafco.org](mailto:ccarter-benjamin@oclafco.org). Comments received no less than twenty-four (24) hours prior to the regular meeting will be distributed to the Commission and included in the record.

Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the OC LAFCO website at <https://oclafco.org/meetings/>.

State law requires that a participant in an OC LAFCO proceeding who has a financial interest in a decision and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.

#### AMERICANS WITH DISABILITIES ACT (ADA)

All regular meeting agendas and associated reports are available at <https://oclafco.org/meetings/>. Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations shall be made with OC LAFCO staff at (714) 640-5100 at least three business days prior to the respective meeting.

# 2024 MEETING AND EVENTS CALENDAR

Approved November 8, 2023

2024



January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

October						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

May						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

August						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

March						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

September						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

- OC LAFCO Regular Meeting (*begins at 8:15 a.m.*)  
**Location:** County Administrative North, First Floor Multipurpose Room 101, 400 W. Civic Center Dr., Santa Ana, CA 92701.
- Office closure due to legal holidays and flexible work schedule.
- CALAFCO Annual Conference - October 16 - 18, 2024 at Tenaya Lodge at Yosemite.

## DRAFT MINUTES

### OC LAFCO REGULAR MEETING

Wednesday, July 10, 2024  
8:15 a.m.

County Administrative North (CAN)  
First Floor Multipurpose Room 101  
400 W. Civic Center Drive, Santa Ana, CA 92701

#### 1. CALL TO ORDER

**Chair Wagner** called the meeting of the Local Agency Formation Commission of Orange County (OC LAFCO) to order at 8:15 a.m. and noted the presence of Rebecca Lowery as the Acting Commission Clerk.

#### 2. ROLL CALL

The following Commissioners were present:

City Members

Wendy Bucknum (**Vice Chair**)  
Bruce Whitaker  
Carol Moore (**Alt.**)

County Member

Donald P. Wagner (**Chair**)

Special District Members

Douglas Davert  
James Fislser  
Kathryn Freshley (**Alt.**)

Public Members

Derek J. McGregor  
Lou Penrose (**Alt.**)

The following staff members and general counsel were present:

- Assistant Executive Officer Luis Tapia
- Policy Analyst II Gavin Centeno
- General Counsel Scott Smith
- Acting Commission Clerk Rebecca Lowery

#### 3. PLEDGE OF ALLEGIANCE

**Commissioner Penrose** led the Pledge of Allegiance.

#### 4. COMMISSION APPOINTMENTS

Chair noted the recent Commission appointments, and the Oath of Office was administered for the new appointments by Commission Clerk Rebecca Lowery.

#### 5. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION (Received After Agenda Distribution)

The Commission Clerk noted that no supplemental communication was received.

#### 6. PUBLIC COMMENT

**Chair Wagner** requested public comments on any non-agenda items. The Commission Clerk noted that there were no requests to speak from the public.

**Chair Wagner** closed the hearing of public comments.

#### 7. CONSENT CALENDAR

**Chair Wagner** called for any requests to pull the consent calendar and from the public to speak on the item. There were no requests to pull the consent calendar or Commission discussion, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Commissioner McGregor** motioned for approval of the consent calendar, and **Vice Chair Bucknum** seconded the motion.

#### 7a. – May 8, 2024 - Regular Commission Meeting Minutes

**MOTION:** Approve Consent Calendar (Derek McGregor)  
**SECOND:** Wendy Bucknum  
**FOR:** Derek J. McGregor, Wendy Bucknum, Douglass Davert, James Fisler,  
Bruce Whitaker, Donald P. Wagner  
**AGAINST:** None  
**ABSTAIN:** None

**MOTION PASSED: 6-0.**

#### 8. PUBLIC HEARING

**Chair Wagner** noted that there were no public hearing items scheduled for consideration by the Commission.

## 9. COMMISSION DISCUSSION AND ACTION

### 9a. – Fiscal Year 2023-2024 Year-End Comprehensive Report

Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration.

**Chair Wagner** called for Commission discussion and public comments. Commissioners asked questions involving protocols for anticipated absences and structure of the UC Berkeley working group referenced in the comprehensive report. Staff provided general responses, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Commissioner Davert** motioned to approve the staff recommended actions, and **Commissioner Bucknum** seconded the motion.

**MOTION:** Receive and file the Year-End Comprehensive Report for Fiscal Year 2023-2024; Approve update to the 2022-2025 Work Plan (Douglass Davert)  
**SECOND:** Wendy Bucknum  
**FOR:** Douglass Davert, Wendy Bucknum, James Fisler, Derek J. McGregor, Bruce Whitaker, Donald P. Wagner  
**AGAINST:** None  
**ABSTAIN:** None

**MOTION PASSED: 6-0.**

### 9b. – Legislative Report (July 2024)

Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration.

**Chair Wagner** called for Commission discussion and public comments. There was no discussion from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Commissioner Bucknum** motioned to approve the staff recommended action, and **Commissioner Wagner** seconded the motion.

**MOTION:** Adopt “Watch” position on SB 2661 (Wendy Bucknum)  
**SECOND:** Donald P. Wagner  
**FOR:** Wendy Bucknum, Donald P. Wagner, Douglass Davert, James Fisler, Derek J. McGregor, Bruce Whitaker  
**AGAINST:** None  
**ABSTAIN:** None

**MOTION PASSED: 6-0.**

### 9c. – Nomination and Appointments for 2024-2025 CALAFCO Elections Process

Assistant Executive Officer Luis Tapia presented the staff report and recommended actions for Commission consideration.

**Chair Wagner** called for Commission discussion and public comments. Commissioners made general comments, and the Commission Clerk noted that there were no requests from the public to speak on the item.

**Commissioner Davert** motioned to approve resolution nominating Commissioner McGregor for the CALAFCO Board and appoint Commissioners McGregor (primary) and Whitaker (alternate) as the CALAFCO voting delegates. **Commissioner Bucknum** seconded the motion.

- MOTION:** Adopt OC LAFCO Resolution No. CP 24-05 approving nomination of Derek J. McGregor for the CALAFCO Board of Directors and appointment of primary and alternate voting delegates for CALAFCO conference voting matters; Direct staff to submit required election documents to CALAFCO. (Douglass Davert)
- SECOND:** Wendy Bucknum
- FOR:** Douglass Davert, Wendy Bucknum, James Fisler, Derek J. McGregor, Bruce Whitaker, Donald P. Wagner
- AGAINST:** None
- ABSTAIN:** None

**MOTION PASSED: 6-0.**

**9d. – Alternate Appointment for the Southern Region Local Agency Formation Commissions**

Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration.

**Chair Wagner** called for Commission discussion and public comments. There was no discussion from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Commissioner Davert** motioned to approve the staff recommended action, and **Commissioner Bucknum** seconded the motion.

- MOTION:** Appoint the OC LAFCO Executive Officer as the alternate member for activities of the southern region LAFCOs. (Douglass Davert)
- SECOND:** Wendy Bucknum
- FOR:** Douglass Davert, Wendy Bucknum, James Fisler, Derek J. McGregor, Bruce Whitaker, Douglass P. Wagner
- AGAINST:** None
- ABSTAIN:** None

**MOTION PASSED: 6-0.**



**9e. – Orange County Grand Jury Report: “Emerging Opportunities in South County Water/Wastewater Systems”**

Assistant Executive Officer Luis Tapia presented the staff report, noting this was a discussion item and did not require action from the Commission at this time. He also noted that general counsel would be providing comments and available to address questions from Commissioners on the item. General Counsel provided general comments on the recommendations that the Commission is required to respond to in accordance with State law. Commission discussion ensued and feedback and directions was provided to staff for preparation of the draft response for Commission consideration at the next regular meeting.

**9f. – Commissioner Handbook**

Consultant Bill Kelly presented the latest revisions to the draft handbook and stated the alternatives of action by the Commission.

Commission discussion ensued. Commissioners made various comments, and general consensus of the Commission was that a handbook is not needed and self-imposed accountability is the best way to move forward involving responsibilities required of a Commissioner. **Commissioner Davert** motioned to approve the alternative option to not adopt the Commissioner Handbook, and **Commissioner Whitaker** seconded the motion.

- MOTION: To not adopt the Commissioner Handbook. (Douglass Davert)**  
**SECOND: Bruce Whitaker**  
**FOR: Douglass Davert, James Fisler, Derek J. McGregor, Bruce Whitaker, Donald P. Wagner**  
**AGAINST: Wendy Bucknum**  
**ABSTAIN: None**

**MOTION PASSED: 5-1.**

**10. COMMISSIONER COMMENTS**

**Commissioner Fisler** requested an update on the Orange County Water District Municipal Service Review. Assistant Executive Officer Tapia responded that currently, the schedule for the MSR is on track to being presented to the Commission in November.

**11. EXECUTIVE OFFICER’S REPORT**

Assistant Executive Officer noted that there were no additional items to report.

**12. INFORMATIONAL ITEMS & ANNOUNCEMENTS**

**Chair Wagner** noted that there were no informational items or announcements.

**13. CLOSED SESSION**

**Chair Wagner** and General Counsel Smith noted that there were no closed session items scheduled for discussion by the Commission. General counsel noted that the Executive Officer’s employment agreement requires an annual evaluation, and he would like to initiate the process for the next closed session. He added that in years past, the Commission hired Bill Kelly to facilitate the process and asked if he could proceed with executing an agreement with Bill Kelly for these services. Noting no comments from Commissioners, **Chair Wagner** responded that general counsel could initiate the process.

**14. ADJOURNMENT OF THE REGULAR COMMISSION MEETING**

**Chair Wagner** adjourned the Regular Commission Meeting at 9:28 a.m. to August 14, 2024.

Donald P. Wagner, Chair  
Orange County Local Agency Formation Commission

ATTEST:

By: \_\_\_\_\_  
Rebecca Lowery  
Acting Commission Clerk

**REGULAR MEMBERS**

- CHAIR  
**Donald P. Wagner**  
County Member
- VICE CHAIR  
**Wendy Bucknum**  
City Member
- IMMEDIATE PAST CHAIR  
**Douglass Davert**  
Special District Member

- James Fidler**  
Special District Member
- Derek J. McGregor**  
Special District Member

**Bruce Whitaker**  
City Member

**Vacant**  
County Member

**ALTERNATES**

**Kathryn Freshley**  
Special District Member

**Carol Moore**  
City Member

**Lou Penrose**  
Public Member

**Vacant**  
County Member

**STAFF**

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

**MEETING DATE:** August 14, 2024

**TO:** Local Agency Formation Commission of Orange County

**FROM:** Executive Officer

**SUBJECT:** OC LAFCO Response to Orange County Grand Jury Report: "Emerging Opportunities in South County Water/Wastewater Systems"

**SUMMARY**

At the July 10 regular meeting, the Commission discussed the recently released Orange County Grand Jury (OCGJ) report on opportunities for South County water and wastewater systems. In accordance with state law, OC LAFCO is required to respond to two recommendations within the report that are directed to the Commission. Attached to this staff report is a draft response for Commission discussion and direction.

**RECOMMENDED ACTION**

Staff recommends the Commission:

1. Approve response to the OCGJ report with or without revisions.

Respectfully Submitted,



CAROLYN EMERY

Attachments:

1. OC LAFCO Response to OCGJ Report (Draft Form)
2. OCGJ Report: Emerging Opportunities in South County Water/Wastewater Systems

**REGULAR MEMBERS**

CHAIR  
**Donald P. Wagner**  
County Member

VICE CHAIR  
**Wendy Bucknum**  
City Member

IMMEDIATE PAST CHAIR  
**Douglass Davert**  
Special District Member

**James Fisler**  
Special District Member

**Derek J. McGregor**  
Public Member

**Bruce Whitaker**  
City Member

**VACANT**  
County Member

**ALTERNATES**

**Kathryn Freshley**  
Special District Member

**Carol Moore**  
City Member

**Lou Penrose**  
Public Member

**VACANT**  
County Member

**STAFF**

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

August 14, 2024

The Honorable Maria Hernandez  
Presiding Judge of the Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

SUBJECT: OC LAFCO Required Response to the 2023-2024 Orange County Grand Jury Report, ***Emerging Opportunities in South County Water/Wastewater Systems***

Dear Judge Hernandez:

In compliance with *Penal Code 933.05(a) and (b)*, the Local Agency Formation Commission of Orange County (OC LAFCO) is providing the following response to all recommendations directed to our Commission. We commend the Grand Jury for its effort in reviewing the interrelationship of water and wastewater in South Orange County and OC LAFCO's relative powers and duties. Conversely, OC LAFCO appreciates the opportunity to respond and provide additional information relative to the each of the following recommendations.

**Recommendations**

**R1.** The OCGJ recommends that by January 1, 2025, LAFCO studies a policy of conducting post-consolidation agency review to be held within 24 months of agency reorganizations to determine their overall impact on the public. (F1, F2)

**Response:** The recommendation has not yet been implemented but will be implemented. Over the years and in accordance with State law, the Commission has adopted local policies to facilitate legislative and procedural requirements and address varying circumstances involved in the review and consideration of complex applications, such as special district consolidation proposals. While LAFCOs are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), OC LAFCO generally supports the adoption of local policies, when warranted, to guide Commission actions in its processing of changes of organization and reorganization and efficient municipal service delivery by our local agencies.

Relative to implementation of this recommendation, OC LAFCO will convene meetings of the OC LAFCO Executive Committee to study a policy

for conducting post-consolidation reviews and provide a report with recommended actions to the full Commission by February 1, 2025.

**R2.** The OCGJ recommends that by January 1, 2025, LAFCO forms a task force comprising representatives of affected water agencies to study the transformation of SOCWA and prepare a report on the future of water/wastewater in South Orange County. (F3, F4)

**Response:** The recommendation will not be implemented because it is not warranted nor reasonable. Like other LAFCOs across the State, OC LAFCO's budget and staffing resources to carry out its statutory responsibilities are, respectively, limited and small. With a total operational budget of approximately \$1.8M and only five full-time positions, it is not reasonable for OC LAFCO to fund and undertake the significant financial and staffing resources required involving the formation and facilitation of a task force to study water and wastewater governance in South Orange County. In addition to OC LAFCO staff knowledge and expertise, an effort of this magnitude would also require external professional expertise that is also not feasible for OC LAFCO to fund.

Secondly, the South Orange County Wastewater Authority (SOCWA) as noted in the Grand Jury's report is a joint powers authority governed by agreements established by the SOCWA member agencies. While OC LAFCO reviews the municipal services delivered through SOCWA in accordance with the Commission's legislative mandate for MSRs, OC LAFCO does not have any authority involving SOCWA's governance, including a potential transformation. During the most recent MSR involving SOCWA conducted by OC LAFCO, the Commission was informed by SOCWA staff and member agencies of ongoing discussions to address issues involving governance, facility operation, and other matters to support effective delivery of wastewater services. Because OC LAFCO has no authority involving these issues and SOCWA and its member agencies have expended significant resources towards the discussions still underway, the Commission finds that involvement of OC LAFCO in this effort is not warranted and may impair any progress involving these discussions.

Finally, it is worth noting that OC LAFCO will continue to fulfill our legislative mandate involving MSRs in accordance with the provisions of the CKH Act, which includes a review of water and wastewater services delivery in South Orange County. Additionally, if a city, special district, or otherwise affected party files an application in accordance with the requirements of the CKH Act and Commission adopted policies and fee schedule, OC LAFCO will process the application accordingly and transparently.

On behalf of OC LAFCO, I hope the information provided satisfies the Commission's required response to the OCGJ's recommendations and offers additional insight of OC LAFCO's powers and resources.

Respectfully Submitted,

Donald P. Wagner  
OC LAFCO Chair



# Emerging Opportunities in South County Water/Wastewater Systems



Emerging Opportunities in South County Water/Wastewater Systems

**TABLE OF CONTENTS**

**SUMMARY..... 3**

**BACKGROUND..... 3**

**REASON FOR THE STUDY ..... 7**

**METHOD OF STUDY..... 7**

**INVESTIGATION AND ANALYSIS..... 9**

**WATER SYSTEMS – THE CONSOLIDATION PROCESS ..... 9**

*Case Study: City of San Juan Capistrano and Santa Margarita Water District..... 9*

*LAFCO’s Regulatory Role: Municipal Service Reviews..... 9*

*Summation ..... 13*

**WASTEWATER SYSTEMS - REGIONAL COLLABORATION ..... 13**

*Case Study: South Orange County Wastewater Authority (SOCWA)..... 13*

*Joint Power Authority: Governing Structure..... 15*

*SOCWA: Disputes and Succession..... 16*

*Summation ..... 18*

**THE PATH FORWARD ..... 19**

**COMMENDATIONS..... 21**

**FINDINGS ..... 22**

**RECOMMENDATIONS..... 22**

**RESPONSES..... 23**

**Responses Required ..... 24**

**REFERENCES..... 25**

**GLOSSARY ..... 29**

**APPENDICES..... 31**

**APPENDIX 1..... 31**

*South Orange County Water Resource Agencies..... 31*

**APPENDIX 2..... 32**

*South Orange County Water Resource Agencies Summary Data..... 32*

**APPENDIX 3..... 33**

*South Orange County Water Districts/Providers..... 33*



## Emerging Opportunities in South County Water/Wastewater Systems

**SUMMARY**

This Orange County Grand Jury (OCGJ) report examines the 2021 consolidation of the City of San Juan Capistrano's (SJC) water and wastewater utilities with the Santa Margarita Water District (SMWD). It sheds light on the challenges encountered and benefits achieved through consolidation. The reorganization revealed unforeseen infrastructure costs. Also, different rate structures between the combined systems resulted in a dramatic fire line service rate increase for non-residential customers that prompted protest from some of the affected ratepayers. Going forward, the lessons learned from the SMWD experience are relevant for future consolidations. Based on the findings presented in this report, the OCGJ recommends that the Orange County Local Agency Formation Commission (LAFCO) develop an ongoing practice of evaluating post-consolidation outcomes and public impacts.

Further, this OCGJ report delves into the interrelationship of water and wastewater in South Orange County. The OCGJ studied the South Orange County Wastewater Authority (SOCWA), one of the largest collaborations of wastewater service providers in the region. Disputes among its member agencies, including litigation, have strained relations causing a bureaucratic entanglement that hinders operational effectiveness. Proposals and negotiations are underway that could ultimately affect the status of its members and the realignment of treatment plants serving South Orange County.

SOCWA is a long-standing joint powers authority (JPA) that shares several wastewater facilities managed through agreements that are due to expire in 2030. Its continuance as a JPA is tenuous yet its regulatory function remains relevant. As such, the OCGJ recommends LAFCO form a task force comprising representatives from affected water agencies to study the transformation of SOCWA and prepare a report identifying the optimal future of water and wastewater systems in South Orange County.

Technologies, innovation, and increased State and federal funding are on the horizon for the water and resource recovery industry. The OCGJ finds an urgent need to unite the South Orange County water and wastewater agencies so that South Orange County is in a better position to seize the opportunities that lie ahead.

**BACKGROUND**

Providing water and processing wastewater in Orange County has consistently captured the public's attention. Over the past 25 years, Grand Juries have issued 15 reports addressing various water-related challenges. Many of these reports emphasize the importance of consolidating water and wastewater agencies. Orange County is home to numerous governmental entities, including special districts and JPAs that oversee an array of countywide functions, particularly those related to water and wastewater service

## Emerging Opportunities in South County Water/Wastewater Systems

providers. Specifically, there are 29 retail water suppliers<sup>1</sup> in Orange County with their own independent governing boards and associated bureaucracies.

Previous OCGJs have raised concerns about the redundancy, laden costs, and complexity of public agencies for decades. Reports investigated the intricate web of independent special districts. Consolidating the large number of public agencies overseeing water and wastewater systems is a matter of significant concern.<sup>2</sup>

Over the past six decades, Orange County's history reflects a transformation from an agricultural hub to a thriving residential and commercial community. Rapid growth during this period caused a proliferation of water districts throughout the county. This resulted in an overabundance of water retailers operating within one of the geographically smallest counties in California.

In more recent times, water districts have found it necessary and advantageous to consolidate with other compatible public agencies. The Irvine Ranch Water District (IRWD) successfully acquired 5 water agencies in the last 27 years, with the most recent consolidation occurring in 2008.<sup>3</sup> The latest annexation within Orange County occurred in 2021 when the Santa Margarita Water District (SMWD) acquired the water and wastewater systems of the City of San Juan Capistrano (SJC) through annexation.

Additionally, the potential consolidation of Orange County Water District (OCWD) and Municipal Water District of Orange County (MWDOC)—the county's two major water wholesalers—is currently under review by the Orange County LAFCO. This is highlighted in the 2021-2022 OCGJ report titled "Water in Orange County Needs One Voice."<sup>4</sup>

Advancing technology has made wastewater a sought-after commodity essentially adding to the water supply. In the realm of Orange County wastewater, there are two main wastewater service providers: the Orange County Sanitation District (OCSAN) and SOCWA. Both handle regional wastewater collection and treatment within their respective areas. Despite providing similar services, they operate under different governance structures. OCSAN is a special district, while SOCWA operates as a JPA. OCSAN serves 25 agencies covering north and central Orange County, totaling 2.5 million residents, while SOCWA currently represents 7 water and sewer agencies in South Orange County, serving approximately 600,000 residents. (See figures 1 and 2)

---

<sup>1</sup> Retail water suppliers provide potable municipal water to more than 3,000 end users or supply more than 3,000 acre-feet of potable water annually at retail for municipal purposes. (Cal. Water Code § 10608.12.)

<sup>2</sup> 2011-2012 Orange County Grand Jury report titled "[Dragging Special Districts from The Shadows](#)"

<sup>3</sup> [Consolidations \(irwd.com\)](https://www.irwd.com)

<sup>4</sup> 2021-2022 Orange County Grand Jury report titled "Water in Orange County Needs One Voice" [https://www.ocgrandjury.org/sites/jury/files/2023-06/2022-06-22\\_Water\\_in\\_Orange\\_County\\_Needs\\_One\\_Voice.pdf](https://www.ocgrandjury.org/sites/jury/files/2023-06/2022-06-22_Water_in_Orange_County_Needs_One_Voice.pdf)

Emerging Opportunities in South County Water/Wastewater Systems

**Orange County Wastewater Agencies**

	<b>OCSAN</b>	<b>SOCWA</b>
<b>Services</b>	Regional wastewater collection and treatment	Regional wastewater collection and treatment
<b>Governing Structure</b>	Special District	JPA
<b>Agencies Served</b>	25 agencies covering North and Central Orange County	7 water and wastewater agencies covering South Orange County
<b>Funding</b>	Property taxes, utility bills, grants and loans	Directly from member agencies. (no taxing authority)
<b># Residents Served</b>	~2.5 million	~600,000

Figure 1-Wastewater Agencies

Emerging Opportunities in South County Water/Wastewater Systems

**Water Agencies in South Orange County**



Figure 2

Courtesy of SOCWA

Note: Santa Margarita Water District annexed the City of San Juan Capistrano Utilities in 2021. Laguna Beach County Water District serves the City of Laguna Beach and the Emerald Bay Service District.

## Emerging Opportunities in South County Water/Wastewater Systems

**REASON FOR THE STUDY**

The public is generally unaware of the intricate processes and unseen operators who control the flow of their household water and sewage. However, the public has recently become keenly aware of rising utility bills. Media coverage has highlighted various water agencies raising rates to address escalating water costs, aging infrastructure, lack of upgrades, and deferred maintenance. The condition of water and wastewater infrastructure must be regularly assessed for an effective capital improvement program to maintain optimum performance.<sup>5</sup> A recent example is the proactive April 16, 2024 “Huntington Beach Water/Wastewater Rate Report” proposal needed to ensure reliable water and wastewater systems through 2040.<sup>6</sup> Over the past few years, several water agencies across Orange County have faced backlash from ratepayers for massive hikes to cover such expenses.

In 2023, public attention was drawn to the aftermath of the SMWD’s 2021 annexation of the SJC water systems. Media reports cited SMWD officials claiming neglect under prior SJC management. News coverage also focused on proposed rate increases so excessive that they generated protests from some of the most severely impacted customers. This being the most recent water systems consolidation, OCGJ was curious about the overall process, pre-existing condition of city’s water systems, and reasons underlying these major rate differences.

Additionally, with an interest in regional water matters, the OCGJ decided to extend its scope and examine the broader network of water and wastewater entities in South Orange County. The OCGJ identified a group of major water/wastewater providers that, through a long-standing JPA, manage and provide regional collection and treatment of wastewater to support their respective service areas. The OCGJ then undertook an investigation to assess the governance structure and operational effectiveness of this collaborative legal network. The OCGJ was particularly interested in the interrelationship of these water and wastewater providers and the prospect of future consolidations in South Orange County.

**METHOD OF STUDY**

The OCGJ conducted interviews with key personnel, attended tours, observed meetings, and reviewed documents relevant to the topic. Research focused primarily on public agencies serving South Orange County.

---

<sup>5</sup> Capital Improvement Program, <https://efc.sog.unc.edu/resource/capital-planning-resources-for-water-and-wastewater-utilities/>

<sup>6</sup> Huntington Beach Water / Wastewater Rate Report, <https://huntingtonbeach.legistar.com/View.ashx?M=F&ID=12846347&GUID=CF0B144A-8C49-4FFE-BC0F-EADFC70C317C>

## Emerging Opportunities in South County Water/Wastewater Systems

**Interviews:**

- Shea Therapeutic Riding Center
- City of Laguna Beach
- ATS Financial Services
- City of San Clemente
- City of San Juan Capistrano
- South Coast Water District
- Santa Margarita Water District
- Moulton-Niguel Water District
- Irvine Ranch Water District
- Laguna Beach County Water District
- Municipal Water District of Orange County
- Trabuco Canyon Water District
- El Toro Water District
- South Orange County Wastewater Authority
- Orange County Water District
- Orange County LAFCO
- Berkson Associates Consulting
- Emerald Bay Service District

**Site Visits:**

- Orange County Emergency Operating Center at Loma Ridge
- Orange County Sanitation District
- Santa Margarita Water District
- Irvine Ranch Water District
- San Clemente Public Works Department
- South Coast Water District
- South Orange County Wastewater Authority
- Coastal Treatment Plant
- Municipal Water District of Orange County
- Orange County Water District
- Moulton Niguel Water District
- Laguna Beach County Water District
- JB Latham Treatment Plant
- City of Laguna Beach Public Works
- El Toro Water District
- Robert B. Diemer Treatment Plant

**Meetings:**

- LAFCO
- Municipal Water District of Southern California
- OCWD Water Summit
- Water Advisory Committee of Orange County (WACO)

**Documents and Websites Reviewed:**

- Previous Grand Jury reports
- M1 Manual-Association of California Water Agencies the *Manual of Standard Practices* by the American Water Works Association
- Websites, staff reports, agendas, and meeting recordings for water agencies in South Orange County
- Review of applicable State and local laws and regulations
- Local news articles and reports

## INVESTIGATION AND ANALYSIS

### WATER SYSTEMS – THE CONSOLIDATION PROCESS

#### Case Study: City of San Juan Capistrano and Santa Margarita Water District

The City of San Juan Capistrano's (SJC) water utilities transfer offers an insightful case study highlighting the challenges and benefits with consolidating its municipal water systems with the Santa Margarita Water District (SMWD). Records dating back to 2000 reveal a decades-long struggle marked by local political tensions, financial strain from ratepayer lawsuits, deferred maintenance, and insufficient capital reinvestment in the water system. These factors, compounded by a reluctance to adjust rates to cover ongoing water costs, culminated in a critical junction where the city eventually found itself seeking a more capable water provider to assume control of its water systems.

In the pivotal year of 2011, the financial hardships plaguing SJC intensified. A series of multimillion dollar lawsuits led to a substantial decrease in the city's bond rating, creating an additional \$7.5 million deficit in the city's budget. Faced with this fiscal crisis, the city resorted to extreme budgetary measures with city-wide cutbacks affecting the utility sector.

This financial rollercoaster persisted through Fiscal Years 2012 to 2014, until 2015 delivered yet another major economic hit. There was an unfavorable Court of Appeal's decision in a lawsuit concerning the City's billing rate system that impacted affluent and high-water users. It mandated an additional \$4.1 million refund, exacerbating the City's already precarious financial state.<sup>7</sup> It was at this point, in 2015, that the City began to explore divesting its water and wastewater utilities. By August 2016, the City took a decisive step by filing an application with Orange County LAFCO to conduct a focused Municipal Service Review (MSR). The purpose was to explore the potential transfer of its water and wastewater operations and facilities to a public successor agency.

#### LAFCO's Regulatory Role: Municipal Service Reviews

LAFCOs are independent regulatory commissions throughout California that were created by the legislature in 1959 and are charged with controlling and adjusting the boundaries of cities and most special districts in all 58 counties. (See Cal. Gov. Code §§ 56001, 56325.) Besides regulating local government boundaries, LAFCOs play an important role in evaluating municipal services within their counties and making recommendations for improvements. LAFCOs review and update the designated sphere of influence for each city and special district under their jurisdiction. Prior to establishing or updating a sphere of influence, LAFCO must perform a special MSR. MSRs are comprehensive studies to determine the adequacy of governmental services being provided by the local agencies under LAFCO jurisdiction. MSRs can be conducted

---

<sup>7</sup> Meghann M Cuniff, "San Juan Capistrano to pay \$4.1 million to refund customers for illegal water rates" *Orange County Register*, June 18, 2015.

## Emerging Opportunities in South County Water/Wastewater Systems

individually for specific cities or districts, covering all services, or on a county-wide or regional basis focused on specific services.

As the local regulatory agency, Orange County's LAFCO was tasked with reviewing the annexation proposal submitted by SJC and analyzing the financial suitability and operational capability of potential public successor agencies. On October 10, 2018, LAFCO issued its Focused MSR,<sup>8</sup> which assessed the SJC's utilities and identified potential successor public agencies to assume their operations.<sup>9</sup> This report held significant weight in the City's search for a solution to off-loading its distressed assets.

The MSR identified three interested special water districts for further consideration: South Coast Water District (SCWD), Santa Margarita Water District (SMWD), and Moulton Niguel Water District (MNWD). Notably, the report underscored that all three potential agencies were generally better positioned than the city to provide water and sewer services to the community,<sup>10</sup> thus marking a turning point in SJC's search for a viable solution to its long-standing water system challenges.

Following presentations from three qualified special districts and input from the public, SJC selected SMWD on February 19, 2019, for further discussion on the transfer of the City's water and sewer utility systems. The City Council's rationale for this decision was based on the potential for an economy of scale, enhanced operations, infrastructure improvements, and stabilized utility rates for its ratepayers.<sup>11</sup> Subsequently, on January 21, 2020, the City unanimously approved the annexation agreement with SMWD<sup>12</sup> and in late winter of 2020, SMWD filed an annexation application with LAFCO.<sup>13</sup> As part of the process, SMWD submitted a Plan of Service proposing enhanced efficiency and cost-effective delivery of services to the affected ratepayers.<sup>14</sup>

On August 19, 2021, LAFCO approved the SMWD annexation of SJC's water and wastewater utilities, citing such benefits as stabilization of rates and immediate, long-term improvements of both utilities.<sup>15</sup> SMWD assumed operational control of the City's water systems on November 15, 2021<sup>16</sup>, designating the area formerly serviced by the

---

<sup>8</sup> FOCUSED MUNICIPAL SERVICE REVIEW (oclafco.org)

<sup>9</sup> Orange County Local Agency Formation Commission Agenda Report Proposed "Santa Margarita Water District Annexation of the City of San Juan Capistrano Water and Wastewater Utilities" August 19, 2021, p. 1.

<sup>10</sup> *Ibid.* pp. 1-2.

<sup>11</sup> *Ibid.*

<sup>12</sup> San Juan Capistrano City Council Meeting Minutes dated January 21, 2020, p. 4.

<sup>13</sup> Santa Margarita Water District Letter to Local Agency Formation Commission, Orange County Subject: City of San Juan Capistrano Potable Water, Recycled Water, and Wastewater Utilities – Santa Margarita Water District's Plan of Service and Application Form, December 23, 2020, pp. 1-2.

<sup>14</sup> *Ibid.*

<sup>15</sup> Orange County Local Agency Formation Commission Agenda Report Proposed "Santa Margarita Water District Annexation of the City of San Juan Capistrano Water and Wastewater Utilities" August 19, 2021, pp. 21-22.

<sup>16</sup> FAQs • Why does SMWD want to take over San Juan Capistrano's Water and Wastewater service from the City? <https://www.smwd.com/faq.aspx?qid=180>



## Emerging Opportunities in South County Water/Wastewater Systems

SJC as Improvement District 9 (ID 9), distinct from SMWD's Improvement Districts 1 through 8.<sup>17</sup>

In May 2023, SMWD issued a Cost of Service and Rate Study concerning ID 9 that focused on determining rates necessary to cover water service costs as required by the California Constitution under Proposition 218.<sup>18</sup> The study found 135 prominent ratepayers, including shopping centers, industrial buildings, schools, churches, and a major non-profit, that would be significantly impacted by the proposed monthly rate increases,<sup>19</sup> specifically for their fire service lines. For instance, businesses faced increases from nearly \$9,700 to over \$14,000 annually for fire service lines, a result of SMWD's new rate methodology based on capacity. In contrast, residential lines saw more modest increases of no more than \$30 a month.<sup>20</sup>

SMWD responded to the rate increase concerns by sending out required notices to new ID 9 ratepayers and met with those severely impacted. The proposed rate increases were publicized by local media, leading to protests from some affected ratepayers. At a July 12, 2023, public hearing on proposed rates, SMWD staff highlighted the City's deferred maintenance of infrastructure, and the lack of rate increases since July 2018. They argued that the increases were necessary to align ID 9 with the rest of the district. Protesting ratepayers claimed the proposed rate hikes were unjust. One ratepayer hired a consultant to evaluate the SMWD rate study. Thirteen water districts in Orange and Riverside Counties were included in the investigation. The rate methodology employed in the SMWD Cost of Service and Rate Study was not used in any of the 13 districts that were studied.<sup>21</sup>

In response to this feedback, SMWD's Board of Directors voted to continue the meeting to August 2, 2023. On that date, the Board approved ID 9 water rate increases proposed by staff, except for the capital charge component for fire meter owners. Additionally, the Board ordered a new Cost of Service and Rate Study for all districts within SMWD to be completed by June 30, 2024.

---

<sup>17</sup> <https://www.smwd.com/DocumentCenter/View/4247/SMWD-ID-9-Cost-of-Service-and-Rate-Study> p.3.

<sup>18</sup> *Ibid.*

<sup>19</sup> Santa Margarita Water District Memorandum to: Board of Directors From Daniel Ferons, Erica Castillo Subject: Public Hearing on Proposition 218 Rate Structure; and Consideration and Action on Adoption of Resolution No. 2023-07-01 Adopting Adjustments in its Potable Water, Recycled Water, and Wastewater Service Charges and Water Shortage Contingency Rates for Improvement District No. 9 (San Juan Capistrano) Agenda Packet July 12, 2023, p.7.

<sup>20</sup> Brandon Pho, Noah Biesiada, San Juan Capistrano Businesses Shocked over Staggering Proposed Water Bill Hike, Voice of OC, June 22, 2023.

<sup>21</sup> Findings Report, ATS Financial Services, July 6, 2023 "Analysis of ID 9 (SJC) of the SMWD Cost of Service and Rate Study and Proposed Rate Adjustments."

Emerging Opportunities in South County Water/Wastewater Systems

**SJC/SMWD Consolidation Timeline**

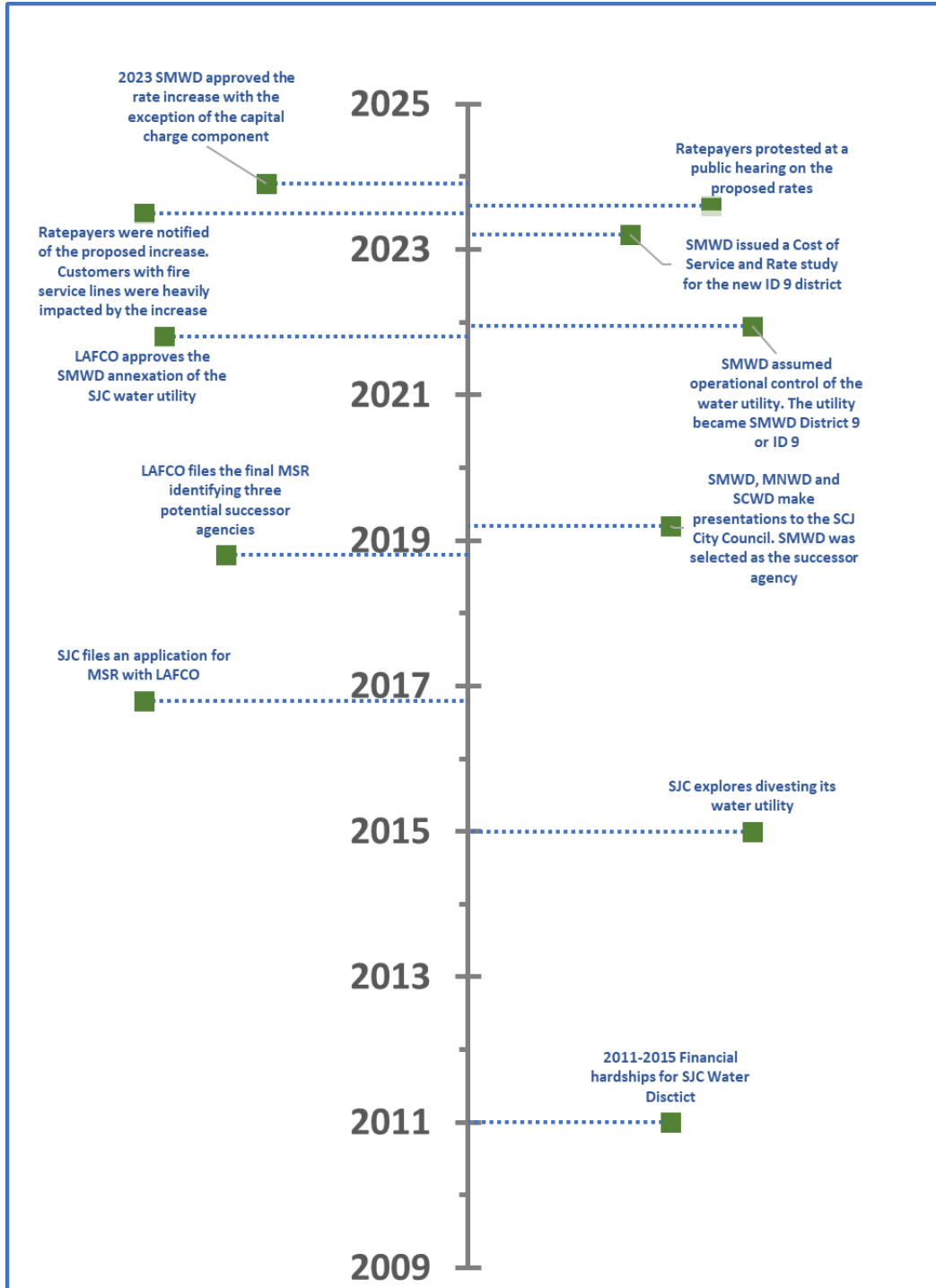


Figure 3

## Emerging Opportunities in South County Water/Wastewater Systems

**Summation**

Although initial rate increases drew some criticism from the community, after the consolidation, the average monthly residential rate went up \$30. Overall, the SMWD consolidation signaled a positive direction for SJC's water future. Since the transfer, new SMWD customers have generally expressed satisfaction with their new provider's service and water quality, as reflected in polls and customer surveys.<sup>22</sup> Additionally, SMWD is actively addressing deferred maintenance needs and making necessary infrastructure capital improvements neglected over time. Also, customer rates for ID 9 are on schedule to be consistent with the entire district by 2030.<sup>23</sup>

The case of the SJC's water systems having undetected deficiencies underscores the need for an extensive assessment of the utilities in advance of such reorganizations. Transparency and more due diligence would have mitigated some consolidation concerns and helped smooth the transition of service providers. Research also suggests the need for a more extensive analysis of rate increases for non-residential customers.

**WASTEWATER SYSTEMS - REGIONAL COLLABORATION****Case Study: South Orange County Wastewater Authority (SOCWA)**

SOCWA was formed in 2001 when the South East Regional Reclamation Authority, Aliso Water Management Agency, and South Orange County Reclamation Authority consolidated to meet the wastewater needs of more than 500,000 homes.

The mission of SOCWA is to collect, treat, beneficially reuse, and dispose of wastewater in a manner that protects and respects the environment; maintains the public's health; and meets local, state, and federal regulations.<sup>24</sup> (See figure 4)

SOCWA exists to handle the wastewater needs of homes and businesses throughout South Orange County. It oversees the entire process from collection to disposal, ensuring water is treated properly. Additionally, SOCWA plays an important role in producing recycled water for irrigation and commercial purposes, saving a substantial amount of domestic water annually. This translates to preserving around 1.6 billion gallons of water, equivalent to 16,259 acre-feet.

SOCWA operates in collaboration with member agencies, including local water providers and local cities. It manages various programs to fulfill the Clean Water Act and National Pollutant Discharge Elimination System (NPDES)<sup>25</sup> permit requirements. It also operates two ocean outfalls and three wastewater treatment plants. The facilities

---

<sup>22</sup> [One Year Later: A Look at Santa Margarita Water District's Acquisition of San Juan Capistrano's Water Utilities | Eye on SJC | picketfencemedia.com.](#)

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> [National Pollutant Discharge Elimination System \(NPDES\) | US EPA](#)

Emerging Opportunities in South County Water/Wastewater Systems

owned and/or operated by SOCWA include the Coastal Treatment Plant located in the City of Laguna Beach, the JB Latham Treatment Plant located in the City of Dana Point, and the Regional Treatment Plant located in the City of Laguna Niguel. Together these three plants provide regional collection and treatment to approximately one third of the County’s population.

**Wastewater Purification and Recycling**

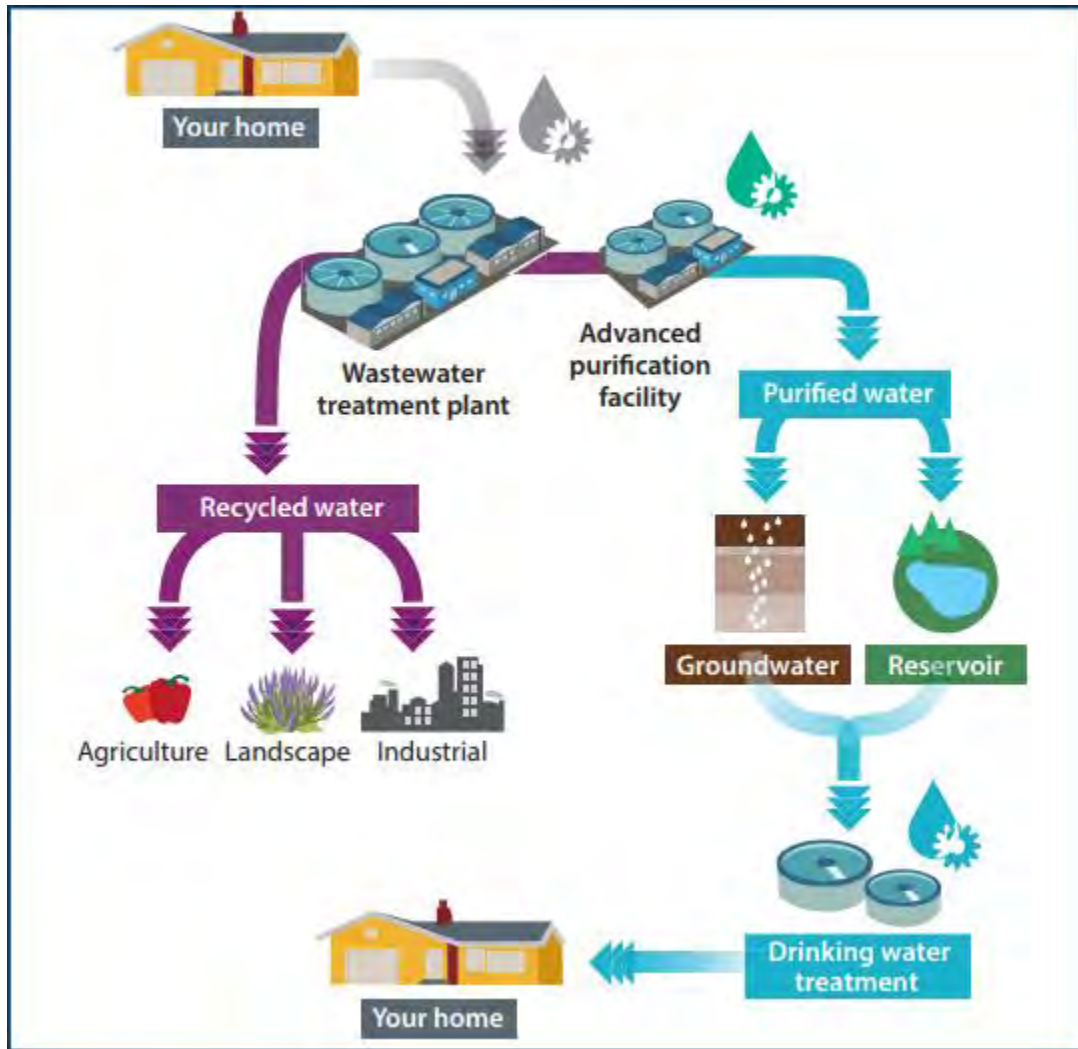


Figure 4

Source: [sdwa.org](http://sdwa.org) [waternewsnetwork.com](http://waternewsnetwork.com)

## Emerging Opportunities in South County Water/Wastewater Systems

**Joint Power Authority: Governing Structure**

SOCWA is a JPA originally founded by 10 member agencies consisting of local water and service districts and cities. A JPA is a membership between two or more public agencies to jointly exercise common powers.<sup>26</sup> SOCWA currently has 7 member agencies which include two cities, four water districts, and a community services district. The four water districts in SOCWA provide sewer and water service to their customers. (See Appendices 1 and 2).

SOCWA's Board of Directors is made up of one representative from each of SOCWA's members. Each director has one vote regardless of their individual levels of contribution to SOCWA's revenues or the size of the population or territory they serve. Among other functions, the Board is responsible for approving SOCWA's budget, appointing its general manager, and taking other administrative actions. While SOCWA's Board governs matters that affect SOCWA as a whole, members enter into agreements with each other to establish project committees to serve their specific needs.<sup>27</sup>

A project committee forms when members enter into agreements to share the cost of an existing SOCWA wastewater processing facility or to construct a new facility in exchange for their use of the facility for processing their wastewater products or for other purposes. By entering into these agreements, members establish a right to a certain amount of capacity in a SOCWA facility. Capacity here refers to the member's right to use the facility to process wastewater liquids and solids or to perform advanced water treatment. Project committee agreements and budgets express these capacities as a percentage of the total capacity of the facility for its different functions.<sup>28</sup>

Voting at the project committee level also follows a one-member, one-vote structure. Members of a project committee vote on matters directly related to that project committee, including budgets to maintain or expand the facility. Members of project committees are bound by the terms of their agreements to pay their share of project costs. Members may only be relieved of this obligation by mutual consent of all participating members of the particular project committee.<sup>29</sup>

SOCWA has no direct taxing authority, and nearly all funding for its operations comes directly from the contribution of members. SOCWA bills project committee members for their share of SOCWA's costs to construct, operate, and maintain the facilities the project committees utilize. Project committee agreements establish each participating

---

<sup>26</sup> <https://www.auditor.ca.gov/reports/2017-113/introduction>.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

## Emerging Opportunities in South County Water/Wastewater Systems

member's share of operation and maintenance costs and capital costs generally based on the member's level of usage or capacity rights.<sup>30</sup>

**SOCWA: Disputes and Succession**

In May 2017, SOCWA, along with three of its members, filed a lawsuit alleging that one of its members – Moulton Niguel Water District (MNWD) had failed to pay its contractual share of project costs for the Coastal Treatment Plant (CTP).<sup>31</sup> MNWD entered into a project committee with the City of Laguna Beach, SCWD, and Emerald Bay Service District (EBSD) in 1999 to use CTP's capacity to process up to 1.96 million gallons per day (MGD) of its wastewater products. In response, MNWD stated it no longer used any of its contractual capacity to CTP and filed an answer and cross-complaint in August 2017 alleging fiscal mismanagement, fiscal improprieties, and poor retention of financial records on the part of SOCWA.<sup>32</sup>

In March 2018, the California State Auditor released its audit report (SOCWA State Audit Report)<sup>33</sup> concerning the financial management practices and governance structure of SOCWA. It found that the elements of SOCWA's governance structure were generally similar to that of other wastewater and water JPAs in California. The report found evidence of financial mismanagement and inadequate record keeping but indicated that SOCWA had taken steps to correct its fiscal and record keeping practices. In response to the audit SOCWA agreed to the recommendations contained in the report.<sup>34</sup>

In February 2019, the Riverside Superior Court issued its tentative ruling holding that MNWD was legally obligated to pay its proportional share of all costs, including capital costs and items necessary to maintain and operate the Coastal Treatment Plant until February 19, 2030 when the CTP project agreement ended.<sup>35</sup> In May 2019, SOCWA, MNWD, SCWD, EBSD, and the City of Laguna Beach issued a public statement regarding the litigation on the coastal treatment plant, and that the parties had agreed to resolve their differences on mutually agreeable terms.<sup>36</sup>

On August 9, 2023, LAFCO issued its MSR Sphere of Influence Reviews covering the Southwest Region (OCLAFCO SW MSR).<sup>37</sup> It identified all agencies in the region that receive wastewater services in some capacity from SOCWA. Services provided by SOCWA generally fit into two areas:

---

<sup>30</sup> <https://www.auditor.ca.gov/reports/2017-113/introduction>.

<sup>31</sup> *Ibid*

<sup>32</sup> *Ibid*.

<sup>33</sup> <https://www.auditor.ca.gov/reports/2017-113/summary.html>

<sup>34</sup> <https://www.auditor.ca.gov/reports/2017-113/response.html>

<sup>35</sup> <https://www.oregister.com/2019/02/27/judge-rules-on-2-million-dispute-over-orange-county-sewage-plant/>

<sup>36</sup> <https://www.oregister.com/2019/05/20/moulton-niguel-water-district-agrees-to-pay-4-8-million-in-wastewater-dispute/>

<sup>37</sup> [https://oclafco.org/wp-content/uploads/2024/01/OCLAFCO\\_Southwest\\_MSR\\_-\\_Final\\_8.28.23.pdf](https://oclafco.org/wp-content/uploads/2024/01/OCLAFCO_Southwest_MSR_-_Final_8.28.23.pdf)

## Emerging Opportunities in South County Water/Wastewater Systems

1. Permitting and regulatory support for the operation of all wastewater treatment plants in south Orange County
2. Operation of three wastewater treatment plants

The MSR also noted the SOCWA's JPA agreement previously included ten agencies but had recently been reduced to seven voting members including the El Toro Water District (ETWD), MNWD, SCWD, EBSD, the City of Laguna Beach, SMWD, and the City of San Clemente. As of July 1, 2023, the following three agencies were no longer members of SOCWA: Irvine Ranch Water District (IRWD), Trabuco Canyon Water District (TCWD), and SJC. San Juan Capistrano's wastewater services and infrastructure were assumed by SMWD through an annexation to the district in 2021 and TCWD and IRWD had arranged for former SOCWA services to be provided through other means.<sup>38</sup>

The MSR stated SOCWA staff were aware of the evolving issues regarding SOCWA's management, purpose, and structure, and had hired a facilitator at the request of SCWD to assist in moving the discussion forward. Additionally, SOCWA staff noted that the agencies have full authority to make any changes they desire to the JPA agreement, provided they get the appropriate majority.

The MSR further noted within SOCWA there are numerous shared facilities for wastewater collection and treatment. These are managed by SOCWA through separate project agreements or committees among various member agencies. Many of these agreements predate SOCWA and are due to expire in 2030. MNWD had expressed strong interest in assuming the operational responsibility of one of SOCWA's regional facilities, the Regional Treatment Plant. In its justification, MNWD saw a potential benefit if several of SOCWA's assets were operated by each member agency. In their view, which was shared by SMWD, SOCWA is not structured to meet the wastewater service needs of some member agencies and should focus on providing enhanced permitting and regulatory compliance support for the SOCWA member agencies.

The MSR found that SCWD had expressed a strong interest in preserving the existing structure of SOCWA while also expressing openness to evaluating the agreements for efficiency and improvement. The other agencies reviewed in the MSR did not express similar interest in a reexamination of the SOCWA arrangements, nor did they share any complaints or concerns about SOCWA's service level. While they did not express a desire to advance these ideas during the MSR process, they stressed their openness to reevaluating the project agreements as they approach their respective expiration dates. After the MSR, SOCWA members conducted facilitator directed meetings to address member concerns.

At the Board of Directors meeting on March 7, 2024, SOCWA presented a \$20 million buyout proposal to transition the Regional Treatment Plant to MNWD and other

---

<sup>38</sup> *Ibid*

## Emerging Opportunities in South County Water/Wastewater Systems

considerations to facilitate MNWD's withdrawal from SOCWA.<sup>39</sup> The proposed agreement will become effective on June 30, 2024, and is contingent on several conditions including the required unanimous vote of all SOCWA members to authorize MNWD's withdrawal from SOCWA.<sup>40</sup>

On May 1, 2024, a special meeting was held to address the March 7, 2024, proposal to transition the Regional Treatment Plant to MNWD and to facilitate MNWD's withdrawal from SOCWA. There was unanimous approval of the proposal in principle with members set to return to their respective boards for official approval by June 1, 2024.

The steps ahead are to continue negotiations and require MNWD to provide its official response. If consensus is reached, then terms and conditions would be laid out to adopt the necessary amendments to various JPA agreements and Project Committee agreements. MNWD would need to develop and adopt an agreement with SCWD, EBSD, City of Laguna Beach, and ETWD for handling solid waste. Treatment, conveyance, and outfall agreements would need to be developed and adopted between SOCWA and MNWD.

Lastly, upon MNWD's withdrawal from SOCWA, and after the buyout payment, the transfer of the Regional Treatment Plant and its operation to MNWD would be complete.

### Summation

The history of SOCWA shows the divergent approaches of its member agencies. While some agencies embraced long-range regional collaboration, it could be argued that smaller districts with overweighted voting authority hindered them. Past litigation among JPA members has created a legacy of distrust, and Balkanized decision-making among its governing directors. Water officials interviewed by the OCGJ clearly indicated tension among rival SOCWA members. It appears some members are entrenched in transactional approaches aimed solely at addressing ownership, operation, and modernization of treatment plants within their own boundaries.

Water and wastewater agencies, like SOCWA, have worked together through legal agreements in the past. However, SOCWA's collaborative efforts have not always been successful which may be reflective of its JPA governing structure.<sup>41</sup> Over time, changes in local support, leadership, and financial pressures have led member agencies to reconsider their involvement in the JPA.

---

<sup>39</sup> [https://www.socwa.com/event/board-of-directors-meeting-3-7-2024/?instance\\_id=716](https://www.socwa.com/event/board-of-directors-meeting-3-7-2024/?instance_id=716)

<sup>40</sup> <https://www.socwa.com/wp-content/uploads/2023/12/7f-2024-03-06-SOCWA-Proposal-to-Transition-RTP-to-MNWD.pdf>

<sup>41</sup> Trish Cypher and Colin Grinnell, "Governments Working Together: Citizen's Guide to JPAs" (California State Legislature, 2007).



## Emerging Opportunities in South County Water/Wastewater Systems

It was evident from the SOCWA special meeting of May 1, 2024, that leaving a JPA can be complicated.<sup>42</sup> SOCWA started with 10 members but is now down to 7, and negotiations are ongoing for yet another member to leave. Now, SOCWA needs new agreements to govern its operations going forward. This leaves uncertainty about SOCWA's future beyond the expiration of its original contracts in 2030. However, with California's ocean discharge regulations being so extensive, JPA members have expressed support for SOCWA to continue in some form to handle permitting as well as other regulatory support functions within its purview.

### THE PATH FORWARD

#### Water System - Consolidations

Consolidating, restructuring, or merging agencies is a function of assessing the costs and benefits regarding safety, security,<sup>43</sup> reliability, financial and operational efficiencies, and economies of scale, versus the attraction of local control. A thorough assessment of this "balancing act" will benefit future generations of Orange County residents.

South Orange County is served by ten water providers in jurisdictions ranging in size from 540 customers in EBSD to 116,000 customers in IRWD (Appendices 1 and 2). To advance consolidations, over the past decade the State of California has developed financial incentives for larger water systems to absorb small systems, introduced new authorities to mandate consolidation under specific circumstances, and invested significantly in technical assistance resulting in over 200 completed projects throughout the State with more underway.<sup>44</sup> Interviews identified the benefit of having a single entity to discuss the optimal management/structure of water, wastewater, and reuse operations with a common vision for the future of Southern Orange County.

In recent years, water districts have experienced the benefits of consolidation with one another, as evidenced by IRWD. It has successfully acquired five other agencies over the past twenty-seven years, including the Santa Ana Heights Mutual Water Company in 1997, Carpenter Irrigation District in 2000, Los Alisos Water District in 2001, Santiago County Water District in 2006, and the Orange Park Acres Mutual Water Company in 2008.<sup>45</sup>

Irvine Ranch Water District's process involves a selective approach, emphasizing efficiencies and mutual benefits. It begins with a consolidation request to IRWD from the prospective water agency, followed by mutual agreement on terms, and then an application to LAFCO for their evaluation. Irvine Ranch Water District has a proven track

---

<sup>42</sup> <https://www.socwa.com/wp-content/uploads/2023/12/7f-2024-03-06-SOCWA-Proposal-to-Transition-RTP-to-MNWD.pdf>

<sup>43</sup> [EPA warns of increasing cyberattacks on water systems | AP News](#)

<sup>44</sup> Luskin Center for Innovation, Trends in California Water Systems Consolidation (December 2023) [Policy-Brief-Trends-in-California-Water-Systems-Consolidation.pdf \(ucla.edu\)](#)

<sup>45</sup> [Consolidations \(irwd.com\) https://www.irwd.com/about-us/consolidations](#)

## Emerging Opportunities in South County Water/Wastewater Systems

record since 1997 of having successfully unified five providers benefitting 57,000 residents with improved water reliability and standardized rates. With extensive cash reserves, IRWD is poised to maintain and enhance its water systems over the next fifty years.

It is evident that past consolidations among water agencies have yielded positive outcomes by enhancing efficiencies and fostering mutual benefits through shared expertise and resources. With the multitude of water districts and the risk of financial strain comparable to SJC, future consolidations are not just probable but beneficial. Hence, it is imperative to draw lessons from past experiences. By reviewing the issues and concerns encountered by SMWD and by adopting the strategies employed by IRWD, there is an opportunity to improve the process for future consolidations (Appendices 1 and 2).

### **Wastewater Systems - Collaboration**

In South Orange County, collaboration among water and wastewater providers can drive positive changes for the region's future. Despite past challenges posed by differing governing boards and environmental perspectives across separate jurisdictions, officials have shown the willingness to unify and address shared concerns. The future of SOCWA involves reorganizing the structure so that it can resolve the operational issues of treatment plants. This allows major water agencies to focus on maximizing wastewater reuse and to minimize ocean discharge, with the aspirational goal of zero discharge. Collaboration among all agencies operating treatment plants is paramount, to adopt a more integrated management approach.

The Moulton Niguel Water District, one of the leading service providers, has embraced a transformative drive to water management. Since 2019, MNWD has pursued federal funds to strengthen its infrastructure against seismic and severe storm damage. In 2024 the district was awarded \$10.3 million in federal grants to strengthen and improve its wastewater infrastructure. The grant is administered by the California Office of Emergency Services and funded by the Federal Emergency Management Agency (FEMA) to replace sewer lines that move more than half of all district wastewater.<sup>46</sup> Advocating for funding as a region to address aging infrastructure is vital to ensure the long-term sustainability of water management efforts. By working collectively towards these goals, South Orange County can lead the way in sustainable water management practices for the benefit of current and future generations.

The Moulton Niguel Water District is also working on a reverse osmosis project called OASIS (Optimal, Adaptive, Sustainable, Integrated, Supply) to receive wastewater from homes and businesses, and treat it for potable reuse. The OASIS project emerges as a beacon of innovation and sustainability, offering not only reliable water reuse but also an opportunity for education and public engagement. By demonstrating the safety and effectiveness of direct potable reuse, South Orange County can pave the way for similar

---

<sup>46</sup> <https://www.mnwd.com/moulton-niguel-water-district-awarded-federal-grant/>

## Emerging Opportunities in South County Water/Wastewater Systems

projects across California. Building partnerships with neighboring regions, environmental organizations, and governmental bodies will be crucial to securing state, federal, and private funding dedicated to advancing water reuse in South Orange County, with OASIS as the flagship project, being a top priority.

Another transformative advancement is the Doheny Ocean Desalination Project, planned by the South Coast Water District as part of the Joint Regional Water Supply System. This project would create a new, local, drought-proof water supply that would provide emergency water supplies.<sup>47</sup> Benefits would provide a water source at a reasonable cost, up to 5 million gallons per day of drinking water and the potential for long-term regional benefits. The proposed facility would be located near Doheny State Beach in the City of Dana Point and is planned to be on-line in 2028.

Looking ahead, the integration of treatment plant operations and the advancement of technologies like direct potable use and desalination are key focal points. As such, the OCGJ recommends LAFCO form a task force comprising representatives of affected water districts to study the transformation of SOCWA and prepare a report identifying the optimal future of water and wastewater systems in South Orange County.

In an era of emerging opportunities, a comprehensive regional plan developed in conjunction with all stakeholders is needed for guiding future projects and addressing evolving needs. As the task force facilitator, LAFCO can also play a pivotal role in studying future consolidations and a unified regional approach to water and wastewater management and service delivery. By planning and working together, South Orange County is poised to lead the way in securing a better future for generations to come.

## COMMENDATIONS

**Irvine Ranch Water District (IRWD)** - The Irvine Ranch Water District successfully acquired 5 water providers serving 57,000 residents since 1999. These consolidations provide reliable water supply at equitable rates, which are mutually beneficial to all customers.

**City of San Clemente** – Based on interviews and a comprehensive site visit, the OCGJ found the City of San Clemente does an excellent job in maintaining and operating its water and wastewater utility systems. This integrated system augments the City's local recycled water sources and is beneficial in reusing urban runoff and reducing biosolids.

---

<sup>47</sup> [South Coast Water District, CA \(scwd.org\)](http://scwd.org)

## Emerging Opportunities in South County Water/Wastewater Systems

**FINDINGS**

In accordance with California Penal Code Sections 933 and 933.05, the 2023-2024 Grand Jury requires responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation described here, the 2023-2024 OCGJ has arrived at the following principal findings:

- F1. San Juan Capistrano’s deferred maintenance of the water/wastewater utility resulted in the need to transition the facility to a larger water provider to allow more efficient management and maintenance of the infrastructure.
- F2. The SMWD proposed rate increase severely impacted San Juan Capistrano’s non-residential customers and led to protests of unfairness and negative attention from the local media.
- F3. SOCWA’s member agencies have widely diverse populations, requirements, and revenues. This has led to conflicts over governance, facility operation, and control, affecting the evolving potential for wastewater reuse.
- F4. There is currently no unified strategy for the future of water/wastewater provision in South Orange County

**RECOMMENDATIONS**

In accordance with California Penal Code Sections 933 and 933.05, the 2023–2024 Grand Jury requires responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation titled “Emerging Opportunities in South County Water/Wastewater Systems,” the 2023-2024 OCGJ makes the following two recommendations:

- R1. The OCGJ recommends that by January 1, 2025, LAFCO studies a policy of conducting a post-consolidation agency review to be held within 24 months of agency reorganizations to determine their overall impact on the public. (F1, F2)
- R2. The OCGJ recommends that by January 1, 2025, LAFCO form a task force comprising representatives of affected water agencies to study the transformation of SOCWA and prepare a report on the future of water/wastewater in South Orange County. (F3, F4)

## Emerging Opportunities in South County Water/Wastewater Systems

**RESPONSES**

California Penal Code Section 933 requires the governing body of any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court). Additionally, in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected county official shall comment on the findings and recommendations pertaining to the matters under that elected official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code Section 933.05 specifies the manner in which such comment(s) are to be made as follows:

- (a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:
  - (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 therefore.
- (b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:
  - (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, thereof.

Emerging Opportunities in South County Water/Wastewater Systems

(c) 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.

**Responses Required**

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code Section 933.05 are required from:

**Findings – 90 Day Response Required**

City of Laguna Beach	F3, F4
City of San Clemente	F3, F4
City of San Juan Capistrano	F1, F2
El Toro Water District	F3, F4
Emerald Bay Service District	F3, F4
Irvine Ranch Water District	F4
Laguna Beach County Water District	F4
Moulton Niguel Water District	F3, F4
Santa Margarita Water District	F1, F2, F3, F4
SOCWA Board of Directors	F3, F4
South Coast Water District	F3, F4
Trabuco Canyon Water District	F4

**Recommendations – 90 Day Response Required**

Orange County LAFCO Board of Commissioners	R1, R2
City of Laguna Beach	R2
City of San Clemente	R2

## Emerging Opportunities in South County Water/Wastewater Systems

El Toro Water District	R2
Emerald Bay Service District	R2
Irvine Ranch Water District	R2
Laguna Beach County Water	R2
Moulton Niguel Water District	R2
Santa Margarita Water District	R2
SOCWA Board of Directors	R2
South Coast Water District	R2
Trabuco Canyon Water District	R2

## REFERENCES

American. 2000. *Principles of Water Rates, Fees, and Charges*. American Water Works Association.

Berkeley Water Systems Consolidation: [Policy-Brief-Trends-in-California-Water-Systems-Consolidation.pdf \(ucla.edu\)](#)

CALAFCO - [Calif Assn of Local Agency Formation Commissions - About LAFCOs \(calafco.org\)](#)

California Department of Water Resources [All Programs \(ca.gov\)](#)

“Capital Planning Resources for Water and Wastewater Utilities | UNC Environmental Finance Center.” n.d. [efc.sog.unc.edu](https://efc.sog.unc.edu). Accessed May 27, 2024.  
<https://efc.sog.unc.edu/resource/capital-planning-resources-for-water-and-wastewater-utilities/>.

City of San Juan Capistrano Agenda Report Resolution Approving Annexation Agreement Pertaining to Transfer of the City's Water and Sewer Utility Systems to the Santa Margarita Water District, January 21,2020:  
[https://sjc.granicus.com/MetaViewer.php?view\\_id=3&clip\\_id=2066&meta\\_id=122976](https://sjc.granicus.com/MetaViewer.php?view_id=3&clip_id=2066&meta_id=122976)

“Consolidations.” Irvine Ranch Water District. Accessed May 27, 2024.  
<https://www.irwd.com/about-us/consolidations>.

## Emerging Opportunities in South County Water/Wastewater Systems

Cypher, Trish and Grinnell, Colin, “Governments Working Together: Citizen’s Guide to JPAs” (California State Legislature, (2007). [GWTFinalversion2 \(ca.gov\)](#)

Dispatch, Capo. 2022. “One Year Later: A Look at Santa Margarita Water District’s Acquisition of San Juan Capistrano’s Water Utilities.” Picket Fence Media. November 23, 2022. [https://www.picketfencemedia.com/thecapistranodispatch/eye-on-sjc/one-year-later-a-look-at-santa-margarita-water-district-s-acquisition-of-san-juan/article\\_c7c7baee-a4df-588d-b826-65e81622c1a7.html](https://www.picketfencemedia.com/thecapistranodispatch/eye-on-sjc/one-year-later-a-look-at-santa-margarita-water-district-s-acquisition-of-san-juan/article_c7c7baee-a4df-588d-b826-65e81622c1a7.html).

EPA Warns of Increasing Cyberattacks on Water Systems | AP News.” AP News, May 21, 2024. <https://apnews.com/article/water-utilities-cyberattack-epa-russia-1435b3e6a569aa046e05c7947f0a0f3d>.

FAQs • Why Does SMWD Want to Take over San Juan Capistrano’s.” n.d. Wwww.smwd.com. Accessed May 27, 2024. <https://www.smwd.com/faq.aspx?qid=180>.

Final Report Cost of Service and Rate Study for Improvement District 9 of the Santa Margarita Water District May 2023:  
<https://www.smwd.com/DocumentCenter/View/4247/SMWD-ID-9-Cost-of-Service-and-Rate-Study>

Findings Report, ATS Financial Services, July 6, 2023 “Analysis of ID 9 (SJC) of the SMWD Cost of Service and Rate Study and Proposed Rate Adjustments.”

“Governance | Santa Margarita Water District, CA.” n.d. Smwd.com. Accessed May 27, 2024. <https://smwd.com/224/Governance>.

Hirsh, Danita. n.d. “Board of Directors Meeting 3-7-2024 (2024-03-07).”  
[https://www.socwa.com/event/board-of-directors-meeting-3-7-2024/?instance\\_id=716](https://www.socwa.com/event/board-of-directors-meeting-3-7-2024/?instance_id=716)

Joint Regional Water Supply System (JRWSS) - A water transmission pipeline was constructed in 1961 to convey potable water from a Metropolitan Water District connection in Irvine, to water agencies serving communities from Irvine to San Clemente, including the California State Parks, San Onofre Nuclear Generating Station, and USMC Camp Pendleton in northern San Diego County.

Luskin Center for Innovation, Trends in California Water Systems Consolidation (December 2023) [Policy-Brief-Trends-in-California-Water-Systems-Consolidation.pdf \(ucla.edu\)](#)

“Municipal Service Review and Sphere of Influence Reviews Southwest Region.” Orange County Local Agency Formation Commission 2023. [https://oclafco.org/wp-content/uploads/2024/01/OCLAFCO\\_Southwest MSR - Final 8.28.23.pdf](https://oclafco.org/wp-content/uploads/2024/01/OCLAFCO_Southwest_MSR_-_Final_8.28.23.pdf).



## Emerging Opportunities in South County Water/Wastewater Systems

Orange County Local Agency Formation Commission ([LAFCO](#)) - County's 34 cities and 34 Special Districts ([BoundaryAnnexationReport\\_2022-23\\_20230608.pdf \(oclafco.org\)](#)) ... [Quilt of Overlapping Governments](#)

Orange County Local Agency Formation Commission. "Focused Municipal Service Review City of San Juan Capistrano Water and Wastewater Utilities," October 10, 2018. <https://oclafco.org/wp-content/uploads/2024/01/Final-SJC-MSR-Report-Without-Attachment-Reference-2.pdf>.

Orange County Local Agency Formation Commission. Proposed "Santa Margarita Water District Annexation of the City of San Juan Capistrano Water and Wastewater Utilities" August 19, 2021. [https://oclafco.org/wp-content/uploads/2021/08/7a\\_SMWD-Annexation\\_Revised.pdf](https://oclafco.org/wp-content/uploads/2021/08/7a_SMWD-Annexation_Revised.pdf)

Orange County Register and Meghann M. Cuniff, "San Juan Capistrano to Pay \$4.1 Million to Refund Customers for Illegal Water Rates," Orange County Register, June 18, 2015: [San Juan Capistrano to pay \\$4.1 million to refund customers for illegal water rates – Orange County Register \(ocregister.com\)](#)

Pho, Noah Biesiada, Brandon. 2023. "San Juan Capistrano Businesses Shocked over Staggering Proposed Water Bill Hike." Voice of OC. June 22, 2023. <https://voiceofoc.org/2023/06/san-juan-capistrano-businesses-shocked-over-staggering-proposed-water-bill-hike/>

rbhatt. 2024. "Moulton Niguel Water District Awarded \$10.3 Million Federal Grant." MNWD. January 3, 2024. <https://www.mnwd.com/moulton-niguel-water-district-awarded-federal-grant/>.

Register, Martin Wisckol | Orange County. 2019. "Moulton Niguel Water District Agrees to Pay \$4.8 Million in Wastewater Dispute." Orange County Register. May 20, 2019. <https://www.ocregister.com/2019/05/20/moulton-niguel-water-district-agrees-to-pay-4-8-million-in-wastewater-dispute/>

Register, Orange County, and Meghann M. Cuniff. "Court: San Juan Capistrano's Tiered Water Rates Are Illegal, May Hinder Conservation." Orange County Register, April 21, 2015. <https://www.ocregister.com/2015/04/21/court-san-juan-capistranos-tiered-water-rates-are-illegal-may-hinder-conservation/>.

"Report 2017-113." n.d. Information.auditor.ca.gov. Accessed May 27, 2024. <https://www.auditor.ca.gov/reports/2017-113/introduction>.

"Report 2017-117." n.d. Information.auditor.ca.gov. <https://www.auditor.ca.gov/reports/2017-113/response.html>.

## Emerging Opportunities in South County Water/Wastewater Systems

“Report 2017-113.” n.d. Information.auditor.ca.gov.  
<https://www.auditor.ca.gov/reports/2017-113/summary.html>.

“Ruling on San Juan Capistrano’s Water Rates May Mean Higher Prices for Some.”  
 Orange County Register, April 22, 2015. <https://www.ocregister.com/2015/04/22/ruling-on-san-juan-capistranos-water-rates-may-mean-higher-prices-for-some/>

San Juan Basin Authority ([SJBA](#)), a Joint Powers Authority ([JPA](#)) that manages the local groundwater and desalinization plant. The JPA is managed by SMWD and SCWD.  
 See: [AMENDED AND RESTATED PROJECT IMPLEMENTATION AGREEMENT](#)

Santa Margarita Water District Letter to Local Agency Formation Commission, Orange County Subject: City of San Juan Capistrano Potable Water, Recycled Water, and Wastewater Utilities – Santa Margarita Water District’s Plan of Service and Application Form, December 23, 2020

Santa Margarita Water District Memorandum to: Board of Directors From Daniel Ferons, Erica Castillo Subject: Public Hearing on Proposition 218 Rate Structure; and Consideration and Action on Adoption of Resolution No. 2023-07-01 Adopting Adjustments in its Potable Water, Recycled Water, and Wastewater Service Charges and Water Shortage Contingency Rates for Improvement District No. 9 (San Juan Capistrano) Agenda Packet July 12, 2023:  
<https://santamargaritawaterdistrictca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=1603&Inline=True>

“South Coast Water District, CA.” n.d. [www.scwd.org](http://www.scwd.org).  
[https://www.scwd.org/about/district\\_projects/doheny\\_ocean\\_desalination\\_project/index.php](https://www.scwd.org/about/district_projects/doheny_ocean_desalination_project/index.php).

“South Orange County Wastewater Authority (SOCWA) Proposal to Transition the Regional Treatment Plant (RTP) to Moulton Niguel Water District (MNWD) & Facilitate MNWD’S Withdrawal from SOCWA.” n.d. <https://www.socwa.com/wp-content/uploads/2023/12/7f-2024-03-06-SOCWA-Proposal-to-Transition-RTP-to-MNWD.pdf>

State Water Resources Control Board Consolidation Steps (SWRC) [SWRCB Consolidation Steps](#)

US EPA. 2019. “National Pollutant Discharge Elimination System (NPDES) | US EPA.”  
 US EPA. August 27, 2019. <https://www.epa.gov/npdes>

Water Advisory Committee of Orange County [WACO](#)

## Emerging Opportunities in South County Water/Wastewater Systems

“Water & Sewer Rate Adjustment.” n.d. Accessed May 27, 2024.

<https://huntingtonbeach.legistar.com/View.ashx?M=F&ID=12846347&GUID=CF0B144A-8C49-4FFE-BC0F-EADFC70C317C>.

## GLOSSARY

**Acre-foot** - A unit of measure used to calculate volumes of water. One acre-foot equals the volume of water that would cover an acre of land at a depth of one foot.

**AWWA** - American Water Works Association is a non-profit organization. Its mission is to improve water quality and supply.

**Desalination** - A process that removes salt and other minerals from water.

**ISDOC** - Independent Special Districts of Orange County is an association that advocates for Orange County’s independent special districts.

**JPA** - Joint Powers Authority is a membership between two or more public agencies to jointly exercise common powers.

**LAFCO** - Local Agency Formation Commission is a countywide commission, required in each California county. LAFCO’s powers include approving, establishing, expanding, reorganizing, and, in limited circumstances, dissolving cities and special districts.

**MSR** - Municipal Service Review is a comprehensive analysis conducted by LAFCO to assess the performance of municipal services within a specific geographic area.

**NPDES** - National Pollutant Discharge Elimination System

**OASIS** - A initiative for advanced integrated water management started by MNWD. (Optimal, Adaptive, Sustainable, Integrated, Supply)

**OCSAN** - Orange County Sanitation District provides wastewater collection, treatment, and recycling North and Central Orange County.

**Potable Water** - Water that is suitable for human consumption.

**Recycled Water** - Wasterwater that has been treated (filtered and disinfected). It is used as irrigation for golf courses and parks.

**Special District** - A local government entity that was created to provide a specific public service. Examples are water service, cemeteries and fire protection.

**SOCWA** - South Orange County Wastewater Authority is a Joint Powers Authority with seven member agencies, consisting of local retail water agencies and cities that provide

Emerging Opportunities in South County Water/Wastewater Systems

water to their residents. SOCWA manages the collection, transmission, treatment, and disposal of wastewater across South Orange County.

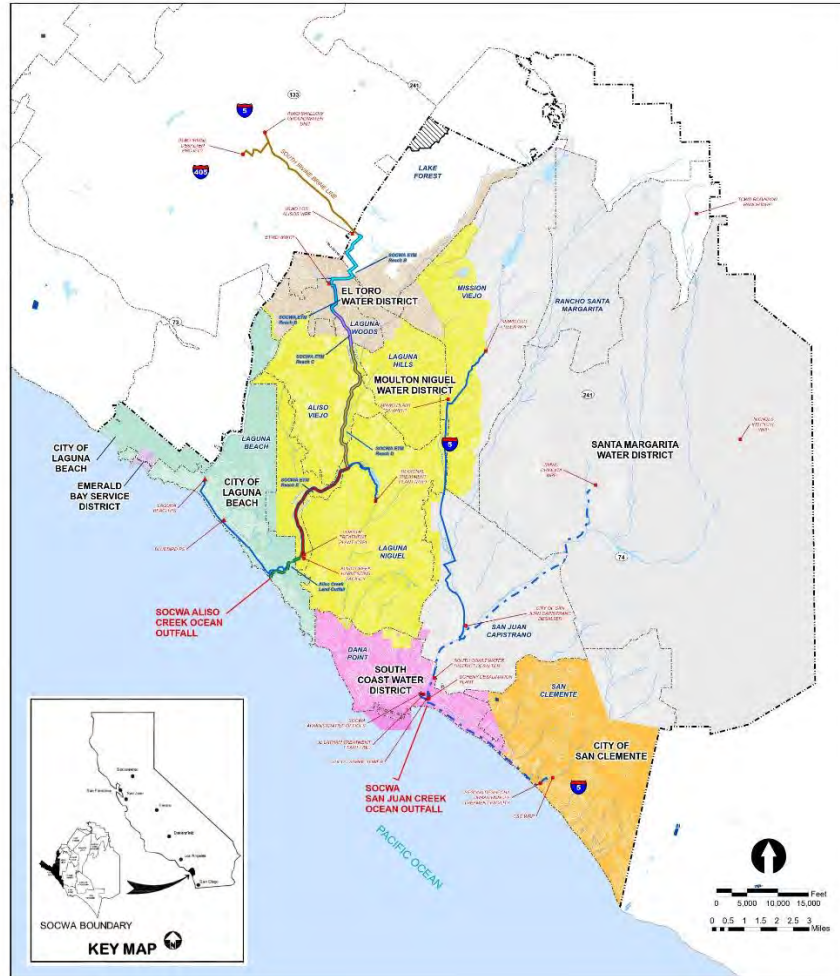
**WACO** - Water Advisory Committee of Orange County

Emerging Opportunities in South County Water/Wastewater Systems

APPENDICES

APPENDIX 1

South Orange County Water Resource Agencies



- |   |  |   |   |
|---|--|---|---|
| <p><b>Member Agencies</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #90EE90; border: 1px solid black; margin-right: 5px;"></span> City of Laguna Beach</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFD700; border: 1px solid black; margin-right: 5px;"></span> City of San Clemente</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFD700; border: 1px solid black; margin-right: 5px;"></span> El Toro Water District</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #90EE90; border: 1px solid black; margin-right: 5px;"></span> Emerald Bay Service District</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFE0; border: 1px solid black; margin-right: 5px;"></span> Moulton Niguel Water District</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #D3D3D3; border: 1px solid black; margin-right: 5px;"></span> Santa Margarita Water District</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFB6C1; border: 1px solid black; margin-right: 5px;"></span> South Coast Water District</li> <li><span style="display: inline-block; width: 15px; height: 10px; border: 1px dashed black; margin-right: 5px;"></span> OCSD Annexation Area</li> </ul> | <p><b>SOCWA Facilities</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF0000; border: 1px solid black; margin-right: 5px;"></span> Desalter/Treatment Facility</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF0000; border: 1px solid black; margin-right: 5px;"></span> Pump Station</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF0000; border: 1px solid black; margin-right: 5px;"></span> Treatment Facility</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF0000; border: 1px solid black; margin-right: 5px;"></span> SOCWA Administrative Offices</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF0000; border: 1px solid black; margin-right: 5px;"></span> Transmission Line</li> <li><span style="display: inline-block; width: 10px; border-bottom: 1px dashed blue; margin-right: 5px;"></span> Land Outfall</li> <li><span style="display: inline-block; width: 10px; border-bottom: 1px solid orange; margin-right: 5px;"></span> South Irvine Brine Line</li> <li><span style="display: inline-block; width: 10px; border-bottom: 1px solid red; margin-right: 5px;"></span> Ocean Outfall</li> </ul> | <p><b>SOCWA Effluent Transmission Line</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #00BFFF; border: 1px solid black; margin-right: 5px;"></span> ETL - Reach A</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #008000; border: 1px solid black; margin-right: 5px;"></span> ETL - Reach B</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #800080; border: 1px solid black; margin-right: 5px;"></span> ETL - Reach C</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #8B4513; border: 1px solid black; margin-right: 5px;"></span> ETL - Reach D</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #FF0000; border: 1px solid black; margin-right: 5px;"></span> ETL - Reach E</li> <li><span style="display: inline-block; width: 10px; border-bottom: 1px dashed green; margin-right: 5px;"></span> Aliso Creek Land Outfall</li> </ul> | <p><b>SOCWA Boundary</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 10px; border-bottom: 1px dashed black; margin-right: 5px;"></span> SOCWA Boundary</li> <li><span style="display: inline-block; width: 10px; border-bottom: 1px dotted black; margin-right: 5px;"></span> City Boundaries</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #ADD8E6; border: 1px solid black; margin-right: 5px;"></span> Lake/Pond</li> <li><span style="display: inline-block; width: 10px; height: 10px; background-color: #0000FF; border: 1px solid black; margin-right: 5px;"></span> Reservoir</li> <li><span style="display: inline-block; width: 10px; border-bottom: 1px solid blue; margin-right: 5px;"></span> Streams</li> </ul> |
|---|--|---|---|



## Emerging Opportunities in South County Water/Wastewater Systems

## APPENDIX 2

## South Orange County Water Resource Agencies Summary Data

Location	Type	Established	Services	SOCWA Member	Water Lines (Miles)	Sewer Lines (Miles)	Sewage Treatment Plants	Residents Served	Service Connections	Area (sq mi)	# Employees	Board / Council Members
<a href="#">Emerald Bay Service District (EBSU) *</a>	Community Services District	1961	Water & Sewer	Yes	6	6	0	2,000	540	1	1	5
<a href="#">Trabuco Canyon Water District (TCWD)</a>	Special District	1961	Water & Sewer	No	66	45	1	14,000	4,200	13	21	5
<a href="#">City of Laguna Beach</a>	Municipal Utility	1927	Sewer	Yes	n/a	95	0	23,000	8,000	9	14	5
<a href="#">Laguna Beach County Water District (LBCWD)</a>	Dependent Special District**	1925	Water	n/a	135	n/a	n/a	25,000	8,450	9	40	5
<a href="#">South Coast Water District (SCWD)</a>	Special District	1932	Water & Sewer	Yes	158	136	0	39,000	12,600	8	85	5
<a href="#">El Toro Water District (ETWD)</a>	Special District	1960	Water & Sewer	Yes	170	158	1	51,000	10,000	9	61	5
<a href="#">City of San Clemente</a>	Municipal Utility	1928	Water & Sewer	Yes	230	162	1	64,000	17,800	19	45	5
<a href="#">Moulton Niguel Water District (MNWD)</a>	Special District	1960	Water & Sewer	Yes	656	500	1	170,000	55,000	37	163	7
<a href="#">Santa Margarita Water District (SMWD)</a>	Special District	1964	Water & Sewer	Yes	1,080	665	3	200,000	65,000	111	200	5
<b>South Orange County Totals</b>				<b>7</b>	<b>2,501</b>	<b>1,767</b>	<b>7</b>	<b>588,000</b>	<b>181,590</b>	<b>216</b>	<b>630</b>	<b>47</b>
<a href="#">Irvine Ranch Water District (IRWD)</a>	Special District	1961	Water & Sewer	No	1,976	1,374	2	465,000	122,000	181	337	5
<a href="#">South Orange County Wastewater Authority</a>	Joint Powers Authority	2001	Sewage Treatment	n/a	n/a	51	3	600,000	n/a	n/a	64	7***

## Notes

Data obtained from agency websites and interviews.

South Orange County imports approximately 90% of Water from Metropolitan Water District of Southern California

TCWD operates the only potable water treatment facility in South Orange County

IRWD Listed Separately as Majority of Customers in Central Orange County

SOCWA operates the two ocean outfalls: Aliso Creek and San Juan Creek

\* Water system operated and maintained by LBCWD

\*\* LBCWD is a Subsidiary (Dependent) District of the City whose Council serves as the Board.

\*\*\* 7 Appointed by Member Agencies

## Emerging Opportunities in South County Water/Wastewater Systems

**APPENDIX 3****South Orange County Water Districts/Providers**

El Toro Water District (ETWD) - Provides water and wastewater service in the cities of Laguna Hills, Laguna Woods, Lake Forest, Aliso Viejo, and Mission Viejo.

Emerald Bay Service District (EBSD) - Provides fresh water supply under contract with the Laguna Beach County Water District. Collects wastewater and transmits to Laguna Beach.

Irvine Ranch Water District (IRWD) - Serves Central Orange County, including the following cities: Irvine, Newport Beach, Tustin, Orange, Lake Forest, and Costa Mesa.

Laguna Beach County Water District (LBCWD) - Provides water service to portions of the city of Laguna Beach, a portion of Crystal Cove State Park, and the unincorporated community of Emerald Bay.

City of Laguna Beach - Provides wastewater collection and/or transmission services to the city of Laguna Beach, a portion of Crystal Cove State Park, and the unincorporated community of Emerald Bay.

Moulton Niguel Water District (MNWD) - Provides water and wastewater services to customers in Laguna Niguel, Aliso Viejo, Mission Viejo, Laguna Hills, and Dana Point.

Municipal Water District of Orange County (MWDOC) is a wholesale water provider. It purchases imported water through the Metropolitan Water District of Southern California (MET) and delivers this water to its 27 member agencies, who in turn, provide retail water services to the public. It is the only agency with members from all water providers in South Orange County.

Orange County Water District (OCWD) - Manages the ground water supply for Orange County. It is a wholesale agency.

City of San Clemente - Provides water/wastewater services to the residents of San Clemente

Santa Margarita Water District (SMWD) - Serves the cities of Mission Viejo, San Juan Capistrano, Rancho Santa Margarita, and the communities of Coto de Caza, Las Flores, Ladera Ranch, Rancho Mission Viejo, and Talega in San Clemente.

South Coast Water District (SCWD) - Serves the communities of Dana Point, South Laguna Beach, and areas of San Clemente and San Juan Capistrano.

Trabuco Canyon Water District (TCWD) - Serves the Communities of Trabuco Canyon, Robinson Ranch, Trabuco Highlands, Walden, Rancho Cielo, Portola Hills, Santiago Canyon Estates, and Dove Canyon.

**8b** | Commission  
Discussion

**MEETING DATE:** August 14, 2024

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer  
Assistant Executive Officer

**SUBJECT:** Personnel Policies and Procedures

**BACKGROUND**

The OC LAFCO Personnel Policies and Procedures were adopted by the Commission to establish and clarify the relative rights and responsibilities of the agency and OC LAFCO employees. Generally, the policies provide employment practices for the following areas: at-will employment, salary and wage administration, employee health, leave and other benefits, and procedures involving employee conduct and other areas.

Over the past several years, the Commission has experienced vacancies of positions through attrition and temporarily involving scheduled and unanticipated extended leaves. While OC LAFCO staffing is small, during those instances, workloads have been redistributed when necessary among other staff positions. This report includes a proposed amendment to the OC LAFCO personnel policy to formalize the process for when these instances occur.

**PROPOSED AMENDMENT**

The frequency and impacts on office operations and resources involving staff attrition and extended leaves have increased over recent years. During these situations, employees may be assigned additional temporary duties outside of their current position description to support internal efficiencies and administrative operations.

Staff is requesting the Commission to consider a proposed amendment to the OC LAFCO Personnel Policies and Procedures, as referenced in Attachment 1 to accommodate the temporary assignment of duties and appropriate compensation during specific situations.

**REGULAR MEMBERS**

CHAIR  
**Donald P. Wagner**  
County Member

VICE CHAIR  
**Wendy Bucknum**  
City Member

IMMEDIATE PAST CHAIR  
**Douglass Davert**  
Special District Member

**James Fisler**  
Special District Member

**Derek J. McGregor**  
Public Member

**Bruce Whitaker**  
City Member

**VACANT**  
County Member

**ALTERNATES**

**Kathryn Freshley**  
Special District Member

**Carol Moore**  
City Member

**Lou Penrose**  
Public Member

**VACANT**  
County Member

**STAFF**

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

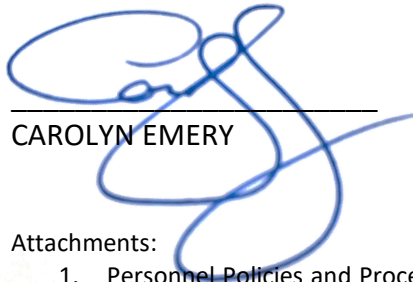


**RECOMMENDED ACTION**

Staff recommends the Commission:

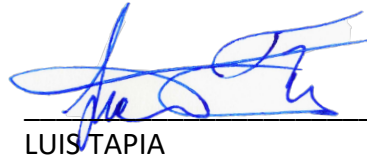
1. Adopt the personnel policies and procedures, as amended.

Respectfully Submitted,



---

CAROLYN EMERY



---

LUIS TAPIA

Attachments:

1. Personnel Policies and Procedures of the Orange County Local Agency Formation Commission (Section 2) (Redline)
2. Personnel Policies and Procedures of the Orange County Local Agency Formation Commission (Section 2, as amended)

**PART 2 – SALARY AND WAGE ADMINISTRATION****3.1 HIRING AND STAFFING****A. Overview**

The intent of this policy is to provide guidelines on the hiring and staffing practices of OC LAFCO.

**B. Policy**

To attract and retain qualified staff for OC LAFCO, it is the policy of OC LAFCO to use a criterion-based recruitment process and behavioral-based interview process to ensure the most qualified candidates are hired.

**C. Recruiting**

Recruiting applicants will be aggressive enough to assure an adequate supply of qualified candidates. The recruitment process may include, but is not limited to, the use of professional recruitment firms, referrals from current or past employees, walk-in applicants, and/or web-based postings.

**D. Interviews**

The employment interview is a major element in the selection process. It allows the applicant an opportunity to demonstrate his or her capabilities to perform the job and provides information to the candidate about the position. Interviews may be conducted by telephone or in face-to-face sessions.

All interview questions must be job-related and have direct bearing on the tasks of the position. Interviews and questions are standardized so that all applicants are evaluated equally. Questions that express (directly or indirectly) any preference, limitation, or general reference to any individual on the basis of a protected category are prohibited.

**E. Probationary Period**

All OC LAFCO new hires will have a twelve-month probationary period beginning on the first day of employment. The OC LAFCO supervisor will provide job training during this time period and the employee will be evaluated every three months during the probationary period. OC LAFCO may terminate an employee during this twelve-month probationary period at any point in time therein. OC LAFCO retains the right to extend the probationary period. Nothing in this

provision shall alter the at-will status of any employee.

### 3.2 COMPENSATION PRACTICES

#### A. Overview

The intent of this policy is to provide guidelines on the compensation practices of OC LAFCO.

#### B. Policy

It is OC LAFCO's policy to provide salaried exempt and salaried non-exempt employees with equitable salary compensation for the specific job assignment. The OC LAFCO salary compensation program is a "pay for performance" system and is designed to ensure OC LAFCO maintains an equitable value of its jobs while encouraging excellent employee performance. Consideration is given to relevant external factors such as economic conditions and the OC LAFCO annual budget. The program is implemented through established salary structures and grades, with salary ranges for both exempt and non-exempt employees. These grades provide different rates of pay for positions requiring different degrees of responsibility, experience, skills and knowledge.

Utilization of these criteria permits OC LAFCO to give individual consideration to each employee's pay in relation to his or her responsibilities, degree of contribution to the success of the agency, and job performance.

#### C. Salary Increases

Individual salary increases are not awarded on the basis of length of service but based on performance and OC LAFCO affordability.

#### D. Merit Reviews

1. Merit increases may be awarded during the compensation year in recognition of the employee's performance. The employee's performance is measured primarily on the following criteria as documented in the annual performance review: (1) did the employee successfully achieve his/her agreed upon goals and objectives? (2) what is the employee's overall value to the organization?

2. The following factors may be considered in the determination of the

amount of increase: the employee's position in the pay range; compensation compared to other employees in comparable jobs; and the annual budget of the organization.

3. Merit increases, if awarded, are typically effective at the beginning of the fiscal year but may also be deferred to any effective date within the compensation year. Employees may also receive a "pass" on any merit increase in base salary if (1) his/her performance in the fiscal year has not been worthy of an increase, and/or (2) the agency's budget does not have sufficient funds for increases.

4. Probationary Merit Increase

If an employee is appointed at Step 1 of the salary range, he/she may be eligible to receive a 2.5% step increase upon completion of six-months of service based on his/her performance.

5. Merit Performance Incentive Pay Program for Employee at Top-Step

Once an employee reaches the top-step of the salary range for his/her classification, each year, in conjunction with the annual performance evaluation, the employee may be eligible to receive Merit Performance Incentive Pay ranging from zero to three percent of his/her annual base salary.

#### E. Organizational Promotion

1. A promotional increase may be awarded to an employee who experiences a significant change in the level or kind of work performed.
2. A promotional increase may be awarded to an employee who performs at a high level of competence and has demonstrated readiness to assume broader, more complex assignments if these assignments become available.

Proposed promotions from non-exempt to exempt salaried status, or from hourly to salaried status, must meet the exemption tests of the California Department of Industrial Relations, Industrial Welfare Commission Wage Order (California Wage Orders) and the Federal Fair Labor Standards Act.

### 3.3 EMPLOYMENT CATEGORIES

#### A. Overview

The intent of this policy is to define employment classifications so that employees understand their employment status and benefit eligibility.

#### B. Policy

These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and OC LAFCO.

#### C. Exempt/Nonexempt

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the Executive Officer. Generally, EXEMPT employees (as defined by the Fair Labor Standards Act of 1938) are not eligible for overtime pay and are paid on a salary basis. Conversely, NON-EXEMPT employees are generally paid on an hourly basis and are eligible for overtime pay.

#### D. Employment Categories

In addition to the above categories, each employee will belong to one other employment category:

1. Regular Full Time – Employees who are not in an extra help status and who are regularly scheduled to work OC LAFCO's full-time schedule. Generally, they are eligible for OC LAFCO's benefit package, subject to the terms, conditions, and limitations of each benefit program.
2. Part-Time – Employees who are not assigned to an extra help status and who are regularly scheduled to work less than 30 hours per week. While part time employees do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they may be ineligible for some of OC LAFCO's other benefit programs.
3. Extra Help – Employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any

way imply a change in employment status. Extra help employees retain that status unless and until notified of a change in writing signed by the Executive Officer. Extra help employees are ineligible for OC LAFCO's benefit programs unless otherwise required by law.

4. Intern – OC LAFCO sometimes utilizes the services of paid student interns. Interns are used to supplement the OC LAFCO work force and provide opportunities for local students to gain local government work experience. Employment is for a specified period of time. Interns are ineligible for OC LAFCO's benefit programs.

5. Temporary Assignment Category (outside of regular full-time/part-time employment categories) – Occasionally, employees may be assigned additional temporary duties outside of their current position description when there is a business need, which may be due to new duties to be performed by OC LAFCO which have not yet been permanently assigned, a vacancy during a recruitment or extended leave of another employee. The term of a temporary assignment will be limited and include duties that are required to support internal efficiencies and administration operations. All temporary assignments will be approved by the Executive Officer and will be compensated at a maximum two and a half percent temporary increase to the affected employee's current bi-weekly salary. At the end of the temporary assignment, the affected employee's bi-weekly salary will be returned to the previous bi-weekly salary. This additional amount will not be reportable for retirement purposes. Employees that are required to perform additional duties on a short-term basis (for less than two weeks) will not be eligible for additional pay.

This provision does not apply to the position of Executive Officer.

#### E. Job Descriptions

Job descriptions are adopted by the Commission in the Classification and Compensation Resolution. Please refer to Resolution CP 18-04 for the current job descriptions.

### 3.4 PAY POLICIES

#### A. Overview

The intent of this policy is to explain and clarify wage administration, work hours and timekeeping.

B. Payment of Wages

All employees are paid biweekly (every two weeks). There are 26 pay periods each year with paydays being every other Friday. In the event that the normal payday falls on an OC LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

C. Pay Advances

OC LAFCO does not give advances against wages or un-accrued vacation time.

D. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. Payment due to a correction will be processed in accordance with state law.

E. Overtime Pay

When OC LAFCO's needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work for nonexempt employees must receive prior authorization of the Executive Officer. Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour laws, based on actual hours worked. OC LAFCO will make an effort to evenly distribute overtime based on business necessity among the employees with the necessary skills, knowledge, and abilities. When possible, advance notification will be provided. Employees who refuse to work overtime shall be subject to corrective action, up to and potentially including termination.

*OC LAFCO policy is that all overtime should be pre-approved by the Executive Officer. OC LAFCO will pay any overtime worked, regardless if pre-approved. However, the working of overtime that has not been approved may be grounds for discipline, up to and including termination of employment.*

All employees who are classified as "non-exempt employees," as defined under applicable laws or regulations, will be eligible for overtime pay. Exempt employees are not entitled to overtime pay. Overtime is typically defined under federal law as hours worked by non-exempt employees in excess of forty (40) hours in a workweek. In California, overtime is also typically applied to hours worked over eight (8) in a standard work day; though alternate work weeks allow variance. OC LAFCO follows the applicable state and federal laws when calculating overtime. Please note that only actual hours worked in a given workday or work week apply in calculating overtime. In other words, sick leave, vacation, holidays, or other paid

time off is not considered hours worked for purposes of calculating overtime. Employees are obligated to accurately report their overtime worked; any error in overtime payment must be reported in writing to management for correction.

Employees of OC LAFCO designated as exempt employees shall not be subject to the provisions of this section.

F. Work Hours

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week, at the discretion of the Executive Officer.

G. Timekeeping

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require OC LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Nonexempt employees shall accurately record the actual time they begin and end their work electronically. Each employee is responsible for the daily recording of all time worked on this device. Each employee MUST record their start and finish times for the work day and for meal periods daily. Nonexempt employees must also record departure from work for any non-work-related reason. Failure to do so will subject an employee to discipline, up to and including discharge. Submitting time for another employee is grounds for discipline, up to and including termination. Altering, falsifying, or tampering with time records may result in termination.

OC LAFCO's time keeping policies must be followed at all times. Employees are responsible for reviewing their time entries for accuracy and confirming that their paychecks accurately reflect their actual hours worked. If there are any errors on your paycheck, you should report the error immediately in writing. Any pay correction will be included in the pay period for the time period in which the correction occurred, unless otherwise stated at the time of the correction. Any modifications to a time record must be initialed by the employee, supervisor and the Executive Officer. Exempt employees are expected to also keep track of their hours on a timesheet to be provided by OC LAFCO.

### 3.5 COMPENSATION STRUCTURE

The compensation structure is performance-based with ten-step salary ranges for each



classification (See the Classification and Compensation Resolution CP 18-04 for details).

**PART 2 – SALARY AND WAGE ADMINISTRATION****3.1 HIRING AND STAFFING****A. Overview**

The intent of this policy is to provide guidelines on the hiring and staffing practices of OC LAFCO.

**B. Policy**

To attract and retain qualified staff for OC LAFCO, it is the policy of OC LAFCO to use a criterion-based recruitment process and behavioral-based interview process to ensure the most qualified candidates are hired.

**C. Recruiting**

Recruiting applicants will be aggressive enough to assure an adequate supply of qualified candidates. The recruitment process may include, but is not limited to, the use of professional recruitment firms, referrals from current or past employees, walk-in applicants, and/or web-based postings.

**D. Interviews**

The employment interview is a major element in the selection process. It allows the applicant an opportunity to demonstrate his or her capabilities to perform the job and provides information to the candidate about the position. Interviews may be conducted by telephone or in face-to-face sessions.

All interview questions must be job-related and have direct bearing on the tasks of the position. Interviews and questions are standardized so that all applicants are evaluated equally. Questions that express (directly or indirectly) any preference, limitation, or general reference to any individual on the basis of a protected category are prohibited.

**E. Probationary Period**

All OC LAFCO new hires will have a twelve-month probationary period beginning on the first day of employment. The OC LAFCO supervisor will provide job training during this time period and the employee will be evaluated every three months during the probationary period. OC LAFCO may terminate an employee during this twelve-month probationary period at any point in time therein. OC LAFCO retains the right to extend the probationary period. Nothing in this

provision shall alter the at-will status of any employee.

### 3.2 COMPENSATION PRACTICES

#### A. Overview

The intent of this policy is to provide guidelines on the compensation practices of OC LAFCO.

#### B. Policy

It is OC LAFCO's policy to provide salaried exempt and salaried non-exempt employees with equitable salary compensation for the specific job assignment. The OC LAFCO salary compensation program is a "pay for performance" system and is designed to ensure OC LAFCO maintains an equitable value of its jobs while encouraging excellent employee performance. Consideration is given to relevant external factors such as economic conditions and the OC LAFCO annual budget. The program is implemented through established salary structures and grades, with salary ranges for both exempt and non-exempt employees. These grades provide different rates of pay for positions requiring different degrees of responsibility, experience, skills and knowledge.

Utilization of these criteria permits OC LAFCO to give individual consideration to each employee's pay in relation to his or her responsibilities, degree of contribution to the success of the agency, and job performance.

#### C. Salary Increases

Individual salary increases are not awarded on the basis of length of service but based on performance and OC LAFCO affordability.

#### D. Merit Reviews

1. Merit increases may be awarded during the compensation year in recognition of the employee's performance. The employee's performance is measured primarily on the following criteria as documented in the annual performance review: (1) did the employee successfully achieve his/her agreed upon goals and objectives? (2) what is the employee's overall value to the organization?

2. The following factors may be considered in the determination of the

amount of increase: the employee's position in the pay range; compensation compared to other employees in comparable jobs; and the annual budget of the organization.

3. Merit increases, if awarded, are typically effective at the beginning of the fiscal year but may also be deferred to any effective date within the compensation year. Employees may also receive a "pass" on any merit increase in base salary if (1) his/her performance in the fiscal year has not been worthy of an increase, and/or (2) the agency's budget does not have sufficient funds for increases.

4. Probationary Merit Increase

If an employee is appointed at Step 1 of the salary range, he/she may be eligible to receive a 2.5% step increase upon completion of six-months of service based on his/her performance.

5. Merit Performance Incentive Pay Program for Employee at Top-Step

Once an employee reaches the top-step of the salary range for his/her classification, each year, in conjunction with the annual performance evaluation, the employee may be eligible to receive Merit Performance Incentive Pay ranging from zero to three percent of his/her annual base salary.

#### E. Organizational Promotion

1. A promotional increase may be awarded to an employee who experiences a significant change in the level or kind of work performed.
2. A promotional increase may be awarded to an employee who performs at a high level of competence and has demonstrated readiness to assume broader, more complex assignments if these assignments become available.

Proposed promotions from non-exempt to exempt salaried status, or from hourly to salaried status, must meet the exemption tests of the California Department of Industrial Relations, Industrial Welfare Commission Wage Order (California Wage Orders) and the Federal Fair Labor Standards Act.

### 3.3 EMPLOYMENT CATEGORIES

#### A. Overview

The intent of this policy is to define employment classifications so that employees understand their employment status and benefit eligibility.

#### B. Policy

These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and OC LAFCO.

#### C. Exempt/Nonexempt

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the Executive Officer. Generally, EXEMPT employees (as defined by the Fair Labor Standards Act of 1938) are not eligible for overtime pay and are paid on a salary basis. Conversely, NON-EXEMPT employees are generally paid on an hourly basis and are eligible for overtime pay.

#### D. Employment Categories

In addition to the above categories, each employee will belong to one other employment category:

1. Regular Full Time – Employees who are not in an extra help status and who are regularly scheduled to work OC LAFCO's full-time schedule. Generally, they are eligible for OC LAFCO's benefit package, subject to the terms, conditions, and limitations of each benefit program.
2. Part-Time – Employees who are not assigned to an extra help status and who are regularly scheduled to work less than 30 hours per week. While part time employees do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they may be ineligible for some of OC LAFCO's other benefit programs.
3. Extra Help – Employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any

way imply a change in employment status. Extra help employees retain that status unless and until notified of a change in writing signed by the Executive Officer. Extra help employees are ineligible for OC LAFCO's benefit programs unless otherwise required by law.

4. Intern – OC LAFCO sometimes utilizes the services of paid student interns. Interns are used to supplement the OC LAFCO work force and provide opportunities for local students to gain local government work experience. Employment is for a specified period of time. Interns are ineligible for OC LAFCO's benefit programs.
5. Temporary Assignment Category (outside of regular full-time/part-time employment categories) – Occasionally, employees may be assigned additional temporary duties outside of their current position description when there is a business need, which may be due to new duties to be performed by OC LAFCO which have not yet been permanently assigned, a vacancy during a recruitment or extended leave of another employee. The term of a temporary assignment will be limited and include duties that are required to support internal efficiencies and administration operations. All temporary assignments will be approved by the Executive Officer and will be compensated at a maximum two and a half percent temporary increase to the affected employee's current bi-weekly salary. At the end of the temporary assignment, the affected employee's bi-weekly salary will be returned to the previous bi-weekly salary. This additional amount will not be reportable for retirement purposes. Employees that are required to perform additional duties on a short-term basis (for less than two weeks) will not be eligible for additional pay.

This provision does not apply to the position of Executive Officer.

#### E. Job Descriptions

Job descriptions are adopted by the Commission in the Classification and Compensation Resolution. Please refer to Resolution CP 18-04 for the current job descriptions.

### 3.4 PAY POLICIES

#### A. Overview

The intent of this policy is to explain and clarify wage administration, work hours and timekeeping.

B. Payment of Wages

All employees are paid biweekly (every two weeks). There are 26 pay periods each year with paydays being every other Friday. In the event that the normal payday falls on an OC LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

C. Pay Advances

OC LAFCO does not give advances against wages or un-accrued vacation time.

D. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. Payment due to a correction will be processed in accordance with state law.

E. Overtime Pay

When OC LAFCO's needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work for nonexempt employees must receive prior authorization of the Executive Officer. Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour laws, based on actual hours worked. OC LAFCO will make an effort to evenly distribute overtime based on business necessity among the employees with the necessary skills, knowledge, and abilities. When possible, advance notification will be provided. Employees who refuse to work overtime shall be subject to corrective action, up to and potentially including termination.

*OC LAFCO policy is that all overtime should be pre-approved by the Executive Officer. OC LAFCO will pay any overtime worked, regardless if pre-approved. However, the working of overtime that has not been approved may be grounds for discipline, up to and including termination of employment.*

All employees who are classified as "non-exempt employees," as defined under applicable laws or regulations, will be eligible for overtime pay. Exempt employees are not entitled to overtime pay. Overtime is typically defined under federal law as hours worked by non-exempt employees in excess of forty (40) hours in a workweek. In California, overtime is also typically applied to hours worked over eight (8) in a standard work day; though alternate work weeks allow variance. OC LAFCO follows the applicable state and federal laws when calculating overtime. Please note that only actual hours worked in a given workday or work week apply in calculating overtime. In other words, sick leave, vacation, holidays, or other paid

time off is not considered hours worked for purposes of calculating overtime. Employees are obligated to accurately report their overtime worked; any error in overtime payment must be reported in writing to management for correction.

Employees of OC LAFCO designated as exempt employees shall not be subject to the provisions of this section.

F. Work Hours

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week, at the discretion of the Executive Officer.

G. Timekeeping

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require OC LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Nonexempt employees shall accurately record the actual time they begin and end their work electronically. Each employee is responsible for the daily recording of all time worked on this device. Each employee MUST record their start and finish times for the work day and for meal periods daily. Nonexempt employees must also record departure from work for any non-work-related reason. Failure to do so will subject an employee to discipline, up to and including discharge. Submitting time for another employee is grounds for discipline, up to and including termination. Altering, falsifying, or tampering with time records may result in termination.

OC LAFCO's time keeping policies must be followed at all times. Employees are responsible for reviewing their time entries for accuracy and confirming that their paychecks accurately reflect their actual hours worked. If there are any errors on your paycheck, you should report the error immediately in writing. Any pay correction will be included in the pay period for the time period in which the correction occurred, unless otherwise stated at the time of the correction. Any modifications to a time record must be initialed by the employee, supervisor and the Executive Officer. Exempt employees are expected to also keep track of their hours on a timesheet to be provided by OC LAFCO.

### 3.5 COMPENSATION STRUCTURE

The compensation structure is performance-based with ten-step salary ranges for each



classification (See the Classification and Compensation Resolution CP 18-04 for details).

**REGULAR MEMBERS**

CHAIR  
**Donald P. Wagner**  
County Member

VICE CHAIR  
**Wendy Bucknum**  
City Member

IMMEDIATE PAST CHAIR  
**Douglass Davert**  
Special District Member

**James Fisler**  
Special District Member

**Derek J. McGregor**  
Public Member

**Bruce Whitaker**  
City Member

**VACANT**  
County Member

**ALTERNATES**

**Kathryn Freshley**  
Special District Member

**Carol Moore**  
City Member

**Lou Penrose**  
Public Member

**VACANT**  
County Member

**STAFF**

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

**MEETING DATE:** August 14, 2024

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer  
Assistant Executive Officer

**SUBJECT:** Rate Validation for Accounting Services

**BACKGROUND**

During the May 8 regular meeting, the Commission approved the second amendment to the professional services agreement with Eide Bailly LLP to provide accounting services, and directed staff to conduct a rate validation to ensure that the firm’s current rates continue to be competitive.

This report includes consultant rate information for accounting services provided by two other LAFCOs. While staff inquired with a total of eight LAFCOs located in the southern, central and coastal regions, six LAFCOs continue to receive accounting services through their local County, and therefore, rate information is not provided in this report.

**DISCUSSION**

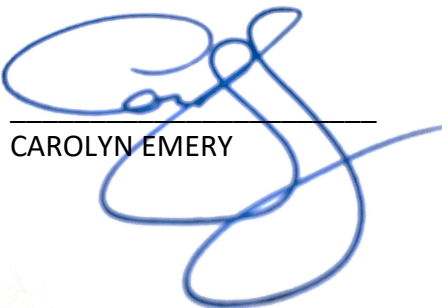
The table on the next page depicts the rates for professional accounting services provided by Los Angeles and San Diego LAFCOs. Similar to OC LAFCO, the two LAFCOs maintain agreements with independent consulting firms and a certified public accountant to provide a variety of accounting services, including bookkeeping, financial reporting, and audit preparation. As recognized in the information provided, the rates of Los Angeles and San Diego LAFCOs are comparable to the current rates provided in the agreement between OC LAFCO and Eide Bailly for similar services.

Rate Comparison for Professional Accounting Services		
LAFCO	Compensation Rates (Hourly)	General Services
Orange	\$165 - \$325	<ul style="list-style-type: none"> <li>• Bookkeeping</li> <li>• Budget Preparation</li> <li>• Financial Reporting</li> <li>• Auditing Preparation</li> <li>• Bank Reconciliation</li> <li>• IRS Document Preparation &amp; Validation</li> <li>• Investment Portfolio Monitoring</li> </ul>
Los Angeles	\$150 - \$375	<ul style="list-style-type: none"> <li>• Bookkeeping</li> <li>• Budget Preparation</li> <li>• Financial Reporting</li> <li>• Auditing Preparation</li> <li>• Bank Reconciliation</li> <li>• Payroll</li> </ul>
San Diego	\$150 - \$280	<ul style="list-style-type: none"> <li>• Bookkeeping</li> <li>• Budget Preparation</li> <li>• Financial Reporting</li> <li>• Bank Reconciliation</li> <li>• Auditing Preparation</li> </ul>

**RECOMMENDED ACTION**

This is a receive and file report. However, the Commission may provide additional direction to staff on the item.

Respectfully Submitted,



CAROLYN EMERY



LUIS TAPIA