

THE TIA JUANA VALLEY COUNTY WATER DISTRICT: WHY?

SUMMARY

The Tia Juana Valley County Water District was formed by the State Legislature in January 1946 to basically provide water services for home and property owners in the river valley. During the passing of the years, the District functions have been absorbed by the City of San Diego. The City of San Diego now provides water and sanitation services for the District residents and property owners. The District has not provided and currently does not provide any water services for District residences and property owners. The District residents and property owners are assessed fifty dollars per year for a non-water related service. In all probability this special assessment will be increased by an estimated 10%. A review of the District's financial status indicates, along with other things, that the District is virtually insolvent, and the Grand Jury recommends that the home and property owners in the District, along with the Local Agency Formation Commission, advocate for absorption of the District by the City of San Diego.

PURPOSE OF THE STUDY

The study was conducted to determine the viability and effectiveness of the Tia Juana Valley County Water District (District). The purpose is to increase home and property owners' awareness of how their assessment dollars are used and to follow up on the 1996-1997 and 1999-2000 Grand Jury reports, which concluded that the District should be dissolved or consolidated.

BACKGROUND

The District was created by an act of the State Legislature in January 1946 and currently lies entirely within the boundaries of the City of San Diego. The District follows the westward flow of Tijuana River (the Spanish name of the river flowing westward through the District) from its entry into the United States at San Ysidro into the river estuary to the Pacific Ocean. The district comprises an area of approximately 5.1 square miles within the City of San Diego.

The 1999-2000 Grand Jury found the District to be insolvent; that is, liabilities exceed assets. The District was ineffectual and devoted its resources to issues not in the originally stated purposes. The District had been attempting to promote actions to restrain the flooding Tijuana River and to control the river water contamination from Mexican sewage sources.

The District Board of Directors disagreed with the 1999-2000 Grand Jury findings and concluded that the Grand Jury report was extremely one sided and lacked balance.

A five-member board of directors manages the District. A general manager conducts daily operations. The residents of the District elect the members of the board of directors for a four-year term. Two members are elected in one even numbered year and three members are elected two years later.

Currently the District claims to provide the following services:

- Advises local, state, and federal elected officials about the complex and very difficult environmental problems at the adjacent border with Mexico.
- Provides elected officials with clear and unambiguous information how the affected communities regard proposals concerning the securing of the International Border and the impact on public health and safety and the well being of district constituents.
- Provides policy makers with the highest quality and most recent technical information needed to develop reasonable and effective governmental solutions to border environmental protection, public safety and public health issues.

During rainy years the Tijuana River in the District has experienced flooding caused by excess water flowing into the U.S. from Mexico. In the 1990s the U.S. Army Corps of Engineers, with Federal financing, developed plans and procedures to eliminate or reduce the possibility of the Tijuana River flooding. Rock-soil berms, which are higher than the surrounding area, have channeled the river water to proceed to the river estuary and then to the sea.

The District raises funds by an annual assessment of \$50 per parcel of real property lying in the District. Additional monies have been received from various grants. Funds have been obtained from:

- A contract with the San Diego County Water Authority for \$116,678; repayment is due within five years after the completion of the Groundwater Exploration Project (GEP). Due to the non-completion of the GEP, a repayment due date cannot be determined.
- The State of California provided the District with a loan in the amount of \$422,168. This loan has a repayment schedule in semi-annual installments over five years; this repayment commenced April 1, 1998.

In 1995 two wells were drilled on the north side of the Tijuana River to determine if there was any usable water in the aquifers. No usable water, in commercially adequate amounts, was found.

There is a continuing problem with sewage contamination of the District land from Mexican sewage flowing “down hill” into the USA. The problem is worse when the Tijuana River is flooding. The U.S. Government provided the funding to direct flowing sewage through pipes to a sewage treatment plant, constructed by the U.S. Government, to treat the received Mexican effluent and to pump this treated material out to sea.

PROCEDURES EMPLOYED

The 2002-2003 San Diego County Grand Jury:

- Reviewed the 1999-2000 Grand Jury report regarding the District, together with the District’s responses to that Grand Jury’s recommendations.
- Reviewed the District’s financial status for Fiscal Years 2001 and 2002.
- Reviewed a copy of the San Diego County Water Authority contract with the District.
- Interviewed the District General Manager, the Chairman of the District Board of Directors, the former District General Manager, and the San Diego City Council Representative for the District

FACTS AND FINDINGS

- A. The City of San Diego provides both water and sewage services to District residents and property owners.
- B. The aquifers in the District do not provide, to any District property owner or Resident, any personal potable water nor water for agricultural or irrigation purposes. The upper layers of the aquifers are contaminated with seawater intrusion and sewage seepage.
- C. The San Diego Water Authority contract for \$116,678, dated 24 March 1994, has not been paid and will not be repaid by the District. In accordance with the terms of this contract and since the cost of extraction of any possible potable or irrigation water exceeds its commercial value, the \$116,678 will not be repaid.
- D. At the end of Fiscal Years 2001 and 2002, Profit and Loss statements were prepared by the District. From these statements, the following information is available:

	<u>FY01</u>	<u>FY02</u>
• Assessment income	\$179,970.38	\$188,995.95
• Salaries of manager, directors, And office staff (Does not include FY01 Directors/Office expense of \$2,2298.00 and payroll burden of \$6,145.75)	\$ 99,593.56	\$ 65,744.00
• Professional fees and consulting	\$ 30,982.00	\$ 59,304.73
• Operating income/<loss> ¹	\$<21,308.00>	\$ 959.49

- E. The District has placed a current value of \$200,000 on the Ground Water Exploration (GEP) wells. This asset originally was capitalized in 1997 at \$350,000, to be depreciated over 30 years. Since 1997, the wells have not produced any potable or irrigational water. A San Diego County financial official stated that changes in government entities can only happen because of two events: an agreed upon “solution” or a “crisis”. The Grand Jury finds that, if the District were not to carry the non-producing wells as an asset, the District would be in crisis.
- F. The District claims to measure the political environment of the Tia Juana Valley County Water District, and acts as an “advisor” to elected officials. The assessment funding received from the District property owner is paying for District payroll expenses and lobbying. A senior water official of the City of San Diego advised the Grand Jury “the District is an enigma. They spend a lot of money. They have no customers and produce no water. Their only value would have to be as an advocacy group.”
- G. According to conversations with the District General Manager and the Board President, the District has applied for a Federal Grant. As per the District’s “Budget Cash Flow 2002-2003”, the grant amount requested is for \$1,575,000.00. These monies are to be used to permit the District to attempt to drill wells in order to establish a source of potable water. None of the water, if developed and found to be potable, would be used for the citizens of the District but would be sold to other water districts. The grant has not been approved as of this date and, in light of the current financial situation of the Federal Government, the chances do not appear encouraging that this grant will be approved.
- H. On July 24, 2002, the District Board of Directors passed and adopted Resolution #115. This Resolution estimated that the District needed \$200,000.00 for

¹ During FY 01-02, consultant fee of \$48,000 replaced manager fee.

operating expenses for the fiscal year 2002-2003. The Board of Directors authorized that this sum be raised by a special assessment on the residents of the District . This means that the present \$50.00 assessment will be increased by an estimated 10%. This open-ended assessment imposes upon the estimated 3600 District home and land owners an unfair financial burden not borne by other home and landowners in the City of San Diego.

- I. Supplemental funds, in the form of grants or loans, have resulted in no benefits to any taxpayers in the District.
- J. The biggest issues for the home and landowners in the District are flood control and pollution. The District officials claim their efforts were primarily responsible for the creation of the flood control berm. However, the Grand Jury found that the City of San Diego and the U.S. Corps of Engineers were the agencies fully responsible for the creation, planning and construction of the flood control berm. It is a Federal and City problem and has been completely addressed by them.
- K. At the last election, two of the present Board of Directors members were elected on a platform of dissolving the District thereby eliminating the assessment, but changed their positions once elected.
- L. Many home and land owners may not be aware of the assessment as it is included as a line item on their annual San Diego County property tax bill.

RECOMMENDATIONS

The 2002-2003 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

- 03-82:** Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

The 2002-2003 San Diego County Grand Jury recommends that the San Diego Local Agency Formation Commission:

- 03-83:** Educate other public agencies and the public about the non-effective and costly efforts of the Tia Juana Valley County Water District to provide water to District home and property owners.
- 03-84:** Review the activities of the Tia Juana Valley County Water District and initiate proceedings for the dissolution of the District, so that District tax payers are freed from an unnecessary, open-ended tax assessment.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires 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 agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (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 therefor.
- (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 time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame 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 time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) 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.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required by the date indicated from:

<u>RESPONDING AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DATE</u>
SAN DIEGO COUNTY BOARD OF SUPERVISORS	03-82	09/25/03
SAN DIEGO LOCAL AGENCY FORMATION COMMISSION	03-83, 03-84	09/25/03

Filed: June 27, 2003