

Rio Linda/Elverta Community Water District

A Saga of Mismanagement and Water Problems

Foreword

The Rio Linda/Elverta Community Water District (RLECWD or District)¹³ has been torn by factionalism for many years and now faces an uncertain future. In 2007, the State of California Department of Public Health (CDPH)¹⁴ found that the water supplied by the District failed to meet state standards. Since then the District has made little progress in meeting those standards. Instead, the District has been mired in continual, messy squabbles that cost ratepayers money without supplying them with an additional drop of water. In our society, providing sufficient, safe water is a basic requirement which the District has failed to meet. Moreover, a year ago District auditors raised a question whether it could continue to operate as a viable enterprise. In order to go forward and meet its obligations, both financial and as a supplier of water, the District must make substantial changes.

The RLECWD, a local independent special district within Sacramento County, is within the oversight jurisdiction of the Sacramento County Grand Jury. The major issues for this investigation are the unacceptable condition of the existing water supply system; unreliability and inadequacy of water being provided to users within the District; and the mismanagement by the RLECWD executive staff.

The Sacramento County Grand Jury has received several complaints against the RLECWD concerning the quality of the District's water service and overall financial mismanagement by the board of directors and general managers. The grand jury finds the RLECWD is out of compliance with state water regulations and has been for several years. There are also ongoing problems of an aging water system infrastructure, and the inability to provide adequate water (flow, volume, and pressure) to extinguish fires.

Proper leadership and financial management are lacking within the RLECWD. Various facts and findings from this investigation suggest immediate actions are needed to rectify the water system problems even if it means reorganizing the District, such as joining an adjacent successful water utility.

¹³ See <http://www.rlecwd.com>

¹⁴ See <http://www.cdph.ca.gov>

Issues

During its investigation, the grand jury identified several issues that were raised repeatedly. The following are the specific issues which were examined during the available time and resources of the grand jury.

Does the District provide safe, adequate, and reliable water service?

Has the board of directors financed and implemented critically needed capital improvements?

Has the CDPH enforced the requirements of its two compliance orders issued to the RLECWD?

Have the boards of directors, general managers, and employees been working together in a cooperative manner to provide adequate water service to the community?

Method of Investigation

The grand jury interviewed various Rio Linda citizens, past and present general managers, board members, and the District's certified public accounting firm. Also interviewed were state and regional water managers and engineers regarding service standards of the water utility industry. These professionals also provided water service expectations of other agencies and the public. Members of the grand jury met with senior officers of the Sacramento Metropolitan Fire District (SMFD) who provided information from the fire rating office of the Insurance Services Office (ISO) regarding the RLECWD water service for fire suppression. A senior official of the Sacramento Local Agency Formation Commission (SacLAFCo) was interviewed regarding its responsibilities and powers to assess the adequacy of the service being provided by the RLECWD, and to react to the District's chronic deficiencies.

The grand jury reviewed board minutes, agendas, engineering reports, newspaper articles and other relevant documents. The grand jury reviewed state and local records regarding the formation, purposes, and approved service area of the RLECWD.

CDPH records were researched and a responsible officer of CDPH was interviewed regarding:

1. The status and requirements of the Water Supply Permit (# 3410018) issued by CDPH to the RLECWD.
2. Requirements and compliance records for drinking water quality standards, pressure standards, backflow prevention controls, and other public water supply standards.

3. Citations, requirements and status of compliance of the RLECWD with CDPH Compliance Orders # 01-09-07- CO-004 issued November 19, 2007, and # 01-09-09-CO-004 issued December 28, 2009.

Background and Facts

The water district was established in 1948 as the Rio Linda Water District. Its purpose was to provide water service to the unincorporated community of Rio Linda in northern Sacramento County. In 1998, the District was expanded to include the community of Elverta and was renamed the Rio Linda/Elverta Community Water District (RLECWD). It now covers 18 square miles and extends to the northern boundary of Sacramento County. Planned new developments in Elverta could accommodate about 5,000 new dwellings. Much of the developed portion of the District is comprised of low and medium density residential development. Some of the District's existing water wells date back to the 1950s. Eleven wells were constructed between 1957 and 1993. The RLECWD has a population of about 14,000 residents. Many residents have their own water wells on their property. The RLECWD ratepayers are served through 4,600 metered connections to the District's water system.

Water Utility Services

The RLECWD water supply and distribution systems have never met all of the requirements and standards that define desirable community water service. These standards include:

CDPH Water Supply Permit #3410018 issued to RLECWD by the state.

California Waterworks Standards (CCR¹⁵ Title 22)

Sacramento County Fire Code.

The RLECWD water system comprises some 63 miles of distribution pipelines, 11 wells and one 125,000 gallon elevated water storage tank. The District's well stations are not of modern design. Two wells (#3 and #5) were removed from service in 2006 due to changes in federal drinking water standards for arsenic concentration. Accordingly, these two wells can only be used in emergencies. Some of the well stations, and other District facilities, have inadequate security against illicit entry and vandalism.

On July 17, 2007, the RLECWD signed an agreement with the Sacramento Suburban Water District (SSWD) to provide an additional source of water in emergency and/or low pressure situations. This source of supplemental water is important but has a limited capacity due to piping limitations. Having additional interconnection capacity would be of value, especially in the short term, pending the availability of a reliable District water supply.

¹⁵ California Code of Regulations

On November 19, 2007, the California Department of Public Health (CDPH) issued a Compliance Order Number 01-09-07-CO-004 against the RLECWD. The compliance order addressed nine directives but primarily it requires the water district to correct ongoing water supply and pressure deficiencies. It also imposed a service moratorium on the RLECWD prohibiting any new service connections until all corrections listed in the compliance orders are completed.

The California Waterworks Standards (CCR Title 22, Section 64564) state the requirements for supply capacity and volume to meet system demands. The requirement for water pressure is 20 pounds per square inch (psi). In 2007, the water district hired a consulting engineer to provide an analysis of the RLECWD water demand. The analysis concluded that the District had a shortfall in reliable capacity of 1,060 to 1,900 gallons per minute (gpm) depending on how the system is used. In addition, the analysis established that the maximum fire flow requirement is 4,000 gpm. This requirement would be impossible to meet should a serious fire occur in the summer months. The analysis also stated many water pressure readings were as low as 8 psi.

The failures of the RLECWD to comply with acceptable water supply standards were documented by the CDPH 2007 Compliance Order. The compliance order found that the “...district is not providing a reliable and adequate supply of water at minimum pressures to ensure that the water delivered to its customers is at all times pure, wholesome, healthful, and potable. CDPH has determined that the district water system does not have sufficient capacity to serve its current customers.” The 2007 Compliance Order established a moratorium on new water connections and a series of detailed remedial requirements. Some of the ordered operational requirements have been complied with, but no significant supply improvements have been made under the 2007 Compliance Order.

As a result of lack of compliance with the 2007 Compliance Order, CDPH issued a second compliance order (# 01-09-09-CO-004) against the RLECWD on December 28, 2009. It cited the district’s two additional years of violations. In this new compliance order CDPH took the somewhat unusual action of setting forth a required series of steps and deadlines for implementing specific items of water supply improvements.

The 2009 CDPH compliance order specifies that both compliance orders shall remain in full force and effect until the district has complied. Obviously this has a major impact on impending community development in the RLECWD service area. CDPH has limited ability to force the correction of violations by its Water Supply Permit holders. In the final analysis, CDPH may refer the violations to the state attorney general, though such actions are rare. In a few such cases in the state over the past several decades, referral to the attorney general has resulted in fines.

The RLECWD has submitted a loan application to the State Revolving Fund. This fund, which is managed by the state and partially financed with federal grant funds, loans money at favorable interest rates to needy water utilities for basic capital improvements. The RLECWD is requesting a \$7.5 million 20-year loan. Without such a loan of public funds there is little chance that the District will obtain funding for needed capital improvements or even come close to meeting all conditions of the two existing CDPH Compliance Orders.

On numerous occasions in the past several years the District has failed to meet waterworks standards, as recorded by CDPH. In the years 2007, 2008, and 2009, there were many instances of system pressures below 20 psi cited by CDPH. CDPH stated that “Such low pressure events can allow infiltration and contamination of the water supply.” This public health risk is compounded by many pipeline leaks in the RLECWD system. The District has failed to maintain a legally acceptable cross-connection control program (to minimize back siphonage of contaminants into distribution pipelines) with prescribed testing and reporting.

Over the past five years the RLECWD has had water system master plans and source water capacity assessments by professional engineers, but has been unable to implement their recommendations to achieve consistent compliance with waterworks standards. To meet accepted standards the RLECWD would need to:

1. Add reliable water supply sources (wells, surface water sources, or a combination of these plus storage and emergency power supplies). These sources would supply peak hour water demand, and maximum daily demand plus fire suppression flows of 1,000 to 4,000 gallons per minute (gpm) sustained for two to four hours, depending on the area and structures to be protected.
2. Add several miles of high capacity pipelines with looping, connections and fire hydrants to convey the needed peak demands and fire flows to all portions of the service area and maintain a minimum pressure of 20 psi at all times.

One other aspect of the deficiencies of the RLECWD concerns the cost of insurance coverage for homeowners and businesses in the District. Most insurance consumers are not aware of it but the Insurance Services Office (ISO)¹⁶, a national organization, has a significant influence on the cost of insurance for residences and businesses in a community.

The ISO conducts periodic surveys of communities to evaluate conditions that affect insurance company risks. There are many factors, both individual home and community, that affect insurance rates but few have as much impact as the availability of water for fire suppression. Every community fire agency is reviewed for such things as equipment, proximity to fire hydrants and fire stations, and the capacity of the water systems. This

¹⁶ <http://www.iso.com>

organization assigns a relative rating to each aspect of a community's ability to support fire suppression.

Businesses and homeowners of the Rio Linda/Elverta Community Water District have been adversely impacted by having to pay higher insurance rates due to a poor evaluation of the fire suppression aspects of their community. A conservative estimate, based upon comparisons from an adjoining district, suggests at least a minimum of \$100 per year higher premium for each single family dwelling than if the water delivery capacity achieved a higher rating.

Board of Directors and Management

The elected board of directors¹⁷ has not done its job of providing fiscally prudent direction and sound water policy to the District. It has a long list of failures. For example, instead of doing its own job, board members often interfere with the operations of the RLECWD general manager. While the district's policy manual recommends that directors not go independently to other agencies on district business and should coordinate all inquiries through the general manager, board members do not follow this recommendation. Individual board members meet with outside agencies without the general manager. This results in contradictory and misleading information being presented to the District. A current director accused an earlier general manager of falsely reporting technical violations by the District to the CDPH in retaliation for activities of the board. This director claimed this action precipitated the 2007 CDPH Compliance Order.

Because of dissension and opposition among the public, the staff and the board, the board has been deterred from taking timely actions. The board has been shouted down in meetings. It has not obtained a physical inventory because staff members have told the board that it is interfering with the day-to-day running of the District, and it does not publish meeting minutes in a timely manner, sometimes being three months behind.

Some board members have repeatedly opposed planned capital improvements and deny the water system has serious problems, even after the 2007 CDPH Compliance Order. At a board meeting on January 12, 2009, a director stated she had met with CDPH and alleged the figures used in the CPDH Compliance Order were false and would be recalculated. The board authorized \$30,000 to have the figures recalculated by a consultant. The new analysis confirmed the existing figures were correct to within one percent.

For years conflicts among members of the board of directors have been played out in the pages of local daily, weekly and monthly newspapers. Not only does this coverage work against the best interest of the district, but may also involve a conflict of interest. One

¹⁷ Board of directors, board members and directors are terms often used here to refer to the same entity.

director owns a newspaper which has been used to attack other directors and general managers. Another director is a sales representative for the same newspaper. In August 2008, the newspaper stated the water shortage was manufactured by a former general manager and the CDPH said the problem was "...blown out of proportion." A CDPH representative denied making any such statement.

In 2008, the newspaper owner billed the District for a price quotation on publishing public notices in the paper which were not published. The sitting general manager refused to pay the bill, but a subsequent general manager did pay it. In August, September, October, and November 2008, the newspaper published what appeared to be an advertisement supporting certain water district candidates. It was not identified as paid political advertising, nor was any California Fair Political Practices Commission (FPPC) identification number included. In 2009, this newspaper billed the board for publishing a letter from the general manager. The board approved and paid the bill. It is unclear whether the newspaper owner voted to approve payment of the bill. In 2009, the newspaper published an advertisement for a vacancy on the board of directors for which it was paid four times what another paper was paid for a similar ad.

In addition to the possible conflicts of interest, board members, individually and as a group, do not consistently follow the law. In the 2008 election, it appears board members did not file any information with relevant agencies regarding campaign financing. The board has violated the Brown Act¹⁸ by using closed board sessions inappropriately. In 2009, the board had multiple closed board sessions regarding planning and potential site acquisitions which appear to violate the Brown Act including, but not limited to, California Government Code Section 54956.8. This section requires the property address or plat number of the site being discussed and information regarding the negotiating parties be disclosed to the public. In response to public questions, the board asserted the sites could not be disclosed. On February 9, March 4, March 9, and April 13, 2009, the board of directors met in closed sessions, without satisfying public disclosure requirements, to consider the purchase, sale, exchange, or lease of real property for future water well and water storage tank sites. Rio Linda/Elverta residents have alleged the proposed site for a new well is owned by a relative of a director.

Within the last two years the District has employed four general managers, most of whom occupied interim positions. One person with no water utility management experience was hired as general manager. General managers have been hired without having background checks. New general managers have accused earlier general managers of misconduct or mismanagement. General managers and directors have blamed each other for the District's problems. The present general manager states one of the District operators refused to follow his instructions despite the fact that he is a district employee.

¹⁸ See California Government Code Section 54950 or follow the link <http://www.leginfo.ca.gov/>

In 2008, the general manager asked that one of the directors be censured for interfering with his work. The director then filed an assault complaint with the Sacramento County Sheriff's Department against the general manager. The general manager reported the director for FPPC violations. Another director moved that the first director be removed from the board. The director was not removed and wrote a vituperative essay in the local newspaper. The general manager later sued the district, the newspaper, and individual board members for defamation. The District settled the case.

The frequent change of general managers has contributed to the District's instability. These new managers lack institutional knowledge, credibility with employees, and confidence to be candid with the board. The board has changed district general counsel several times and does not direct the counsel to attend all board meetings. As a consequence, legal and conduct issues have often gone unaddressed and uncorrected.

The District has also had years of conflict with its employees and their union. Currently the District only has six employees and has never had more than ten employees; yet the District has spent hundreds of thousands of dollars on labor negotiations and employee lawsuits.

The on-going conflicts within and among the board members, the general managers, citizens and employees have seriously affected the board's ability to make sound policy decisions and undermine the general manager's ability to conduct District business. It is unclear who--if anyone--is running the district.

Fiscal Accountability

A major concern was identified during the grand jury's review of the District's most recent financial statement and auditor's report (for the fiscal year beginning July 1, 2007). This report questions the District's ability to continue as a going concern, i.e., does the District have the financial resources to stay in business?

For many years the RLECWD has prepared an annual financial transactions report (District bookkeeper's report), but the only recent independent (CPA) audit was for the fiscal year 2007/2008. According to California law, a financial transaction report and an annual independent audit report shall be submitted each year.

The 2007/2008 audit report also raised serious concerns about deficit budgets and operating expenses exceeding operating revenues by \$429,194 in that fiscal year. The auditor found that fees charged to ratepayers do not meet expenses, nor do they permit funding capital improvements. The audit report suggests a negative long-term impact on the district's finances going forward. The auditor also noted the compliance order, issued by the CDPH. This order imposed a moratorium on all new development which led to the loss of developer fees and contributions to capital assets.

To partially satisfy the CDPH Compliance Order, the District ordered construction of a new well, #14. The well was drilled and cased at a reported cost of approximately \$800,000. Test pumping revealed that well #14 could produce between 2,000 to 2,500 gallons of water per minute, more than three times the average of the existing wells and enough to bring the District's total sustainable capacity up to its maximum day demand. Unfortunately, well #14 contained arsenic levels above the drinking water standard. Since the well would be such a high producer, the advice of the general manager was to proceed with the completion of the well and add treatment facilities to correct the arsenic levels. Without further engineering or economic analysis, the board of directors decided instead to abandon this well.

The next logical step would be to construct a new well in another location, but the District lacks the funds to proceed. The only way forward is to borrow money from the State Revolving Fund, a state fund designated for this purpose. However, to access these funds, the District must present a financial plan which satisfies the lender the District has the ability to repay the loan. Thus far, the District has been unable to demonstrate this ability. The District's efforts to create a viable financial situation involved cutting costs by terminating and demoting employees, which has led to litigation by the labor union which represents these employees.

The board of directors has steadfastly refused to raise water rates to its customers. In 2008, the board approved a "surcharge" for the purpose of amortizing the proposed State Revolving Fund loan. The adopted surcharge would amortize a major portion of the capital cost of improvements required by the CDPH Compliance Orders. The surcharge is the same for each water customer (now \$15 per bimonthly billing period) regardless of the type or size of premises. Opinions from a professional accountant, a manager, and a consultant are that this surcharge violates California Proposition 218. Proposition 218 requires, among other things, that agency utility rates be proportional to the cost of providing service. Obviously, it costs much more to provide water to a manufacturer, school, or park than to a single family residence. Further, Proposition 218 requires a complete cost-of-service study and a public hearing before changing the design (structure) of a utility rate.

The auditor identified other shortcomings in the District's financial management. Among these were the lack of inventory control and off-site backup for computer records. In addition, payroll and recording of accounts receivable were identified as needing improvement. The auditor noted that CalPERS and workers compensation contributions were not always made on time.

Sacramento County Local Agency Formation Commission (SacLAFCo)¹⁹

SacLAFCo is responsible for coordinating logical and timely changes in local governmental boundaries; conducting periodic reviews of the adequacy and efficiency of each agency's performance of public services; and performing special studies that review ways to reorganize, simplify, and streamline governmental structure. It also prepares a Sphere of Influence (service area) report for each city/special district within the county. A goal of the LAFCo process is to provide efficient and economical services, while agricultural and open-space lands are protected. State law requires SacLAFCo to conduct a Municipal Service Review (MSR) for each agency within the county to evaluate the provision of public services. SacLAFCo has never conducted an MSR for RLECWD.

Any agency reorganization (change of political structure) requires LAFCo approval. Approval is preceded by a study, preparation of an updated MSR and Sphere of Influence, and a LAFCo public hearing. Most agency changes, whether reorganizations, changes of functions, or service area, are expeditiously processed by LAFCo. This follows the receipt of a request and statements of support from the affected agencies. SacLAFCo generally requests funding for organizational studies and reorganization proceedings from the interested parties (agencies) but this is not required by law.

Reorganizations that make fundamental changes in a district's form, or its very existence, are usually more difficult. LAFCos have the power, under California Government Code Section 56375 (the Gotch provision), to initiate and conduct a reorganization proceeding and its required components.

An effort to use SacLAFCo's reorganization powers and expertise to improve the RLECWD was started in 1995. The Rio Linda Chamber of Commerce requested and offered to pay for a SacLAFCo study of consolidation of the (then) Rio Linda Water District and the Rio Linda Parks and Recreation District into a single community services district. A study was commenced but was interrupted by many debates, arguments, withdrawals of support and continuous wrangling. The project morphed into a SacLAFCo study of reorganization (merger) of the Rio Linda Water District and the adjacent Northridge Water District (now the Sacramento Suburban Water District). Lack of cooperation between the affected agencies and lack of mutual interest led to an April 1997 abandonment of the SacLAFCo proceeding.

This reorganization attempt amply demonstrated that, unless there is common endeavor and mutual support, a reorganization proceeding is not smooth or easy. SacLAFCo must decide what the public interest requires and take strong action to initiate and manage a reorganization

¹⁹ See <http://www.saclafco.org>

proceeding to a successful conclusion. SacLAFCo has not fulfilled its mandate of determining the efficiency and viability of this District.

Findings and Recommendations

Finding 1.0 The Rio Linda/Elverta Community Water District (RLECWD) does not have adequate, reliable sources of water supply to meet requirements of its existing customers based on accepted standards of service and requirements of the California Department of Public Health (CDPH) Water Supply Permit.

Recommendation 1.1 The RLECWD should give immediate priority to negotiating and implementing additional emergency and peak demand water supplies from its neighboring water utilities.

Recommendation 1.2 The RLECWD must give high priority to completion of at least one new high capacity well, while at the same time proceeding expeditiously with completion of additional supply improvements to meet CDPH Water Supply Standards and satisfy conditions of its two CDPH Compliance Orders.

Recommendation 1.3 The RLECWD should acquire enough standby power capability (engine-driven generators, or equivalent) to meet at least average system demand during an electrical power outage.

Finding 2.0 The defective RLECWD water system poses significant risks to public health and safety. The District must make a series of improvements to mitigate these risks.

Recommendation 2.1 The RLECWD must institute and maintain a backflow prevention program meeting all requirements of CDPH.

Recommendation 2.2 The RLECWD must improve its water supply for fire suppression by increasing the available reliable water supply to meet fire flow standards (flow, volume and pressure) of the county fire code and the Sacramento Metropolitan Fire District (SMFD) throughout the distribution system.

Recommendation 2.3 The RLECWD should retain an independent consultant to conduct a risk survey concerning all security and illicit access deficiencies and the District should correct them.

Finding 3.0 The RLECWD does not have a complete inventory of all equipment and assets owned by the District.

Recommendation 3.1 The RLECWD should immediately conduct an inventory to account for all equipment and assets.

Finding 4.0 The RLECWD has been torn by factionalism for years. Contentious behaviors by the board of directors, general managers, employees, employee unions, concerned citizens and ratepayers have led to a dysfunctional organization. Self interest has prevailed over quality public service.

Recommendation 4.1 The board of directors and staff at the RLECWD should be trained in professional management and conduct, ethics, and respect for others.

Recommendation 4.2 The board of directors should confirm and enforce performance standards for all levels of the District.

Finding 5.0 The board of directors has wasted the District's assets. The board of directors and general managers have spent funds on unsound purchases, investments, and legal expenses arising from inappropriate or ill-advised actions.

Recommendation 5.1 The board should retain and take the counsel of professional experts in accounting, law, human resources, water utility management, engineering and utility rate analysis.

Recommendation 5.2 The board should develop and implement an effective financial plan which includes capital improvements.

Finding 6.0 The board of directors is dysfunctional and misguided. Directors have often ignored recommendations of the general managers and experts on financing and implementation of capital improvements to the detriment of the District. The board has interfered with the day-to-day operations of the RLECWD.

Recommendation 6.1 The board of directors should adhere to its own internal policies and stop micromanaging the daily operations of the water district.

Finding 7.0 On numerous occasions board members have violated the Brown Act and their own regulations regarding public meetings.

Recommendation 7.1 The board of directors should regularly seek and follow legal advice concerning their obligations under existing meeting laws and regulations.

Finding 8.0 Without major changes in governance, management, and resource utilization the RLECWD is unable to satisfactorily correct its problems and provide high quality water utility services to its present service area and the remainder of the district area.

Recommendation 8.1 One solution to these problems is a reorganization of the District. All affected public agencies (CDPH, SacLAFCo, Sacramento County Board of Supervisors, Sacramento Metropolitan Fire District, Sacramento County Department of Health and Human Services, and Rio Linda-Elverta Chamber of

Commerce) and interest groups should formally urge the RLECWD Directors to declare their intent to reorganize the District.

Recommendation 8.2 SacLAFCo should immediately initiate a reorganization proceeding which includes completion of a Municipal Service Review (MSR), and a study of feasibility and alternatives for reorganization of the RLECWD.

Response Requirements

Penal Code sections 933 and 933.05 require that specific responses to indicated findings and their associated recommendations contained in this report be submitted to the Presiding Judge of the Sacramento County Superior Court by July 6, 2010, from:

- **The Sacramento County Board of Supervisors (Findings 1.0, 2.0, 5.0, 7.0, 8.0)**
- **Sacramento County Local Agency Formation Commission (Findings 1.0, 2.0, 5.0, 8.0)**
- **Rio Linda/Elverta Community Water District (Findings 1.0, 2.0, 3.0, 4.0, 5.0, 6.0, 7.0, 8.0)**

The Grand Jury requests the following entities respond to this report:

- **California Department of Public Health (Findings 1.0, 2.0, 5.0, 8.0)**
- **Rio Linda-Elverta Chamber of Commerce (Findings 1.0, 2.0, 5.0, 6.0, 8.0)**
- **Sacramento Metropolitan Fire District (Findings 1.0, 2.0, 8.0)**

Mail or hand-deliver a hard copy of the response to:

**Hon. Steve White, Presiding Judge
Sacramento County Superior Court
720 9th Street, Dept. 47
Sacramento, CA 95814**

In addition, e-mail the response to Becky Castaneda, Grand Jury Coordinator, at castanb@saccourt.com