

**UVSD Response to the 2013 Grand Jury Report – City of Ukiah vs. Ukiah Valley
Sanitation District *Round Three***

Board’s Response

Findings

The Board agrees with Findings F1, F2, F3, & F4.

We disagree with Finding F5 for the following reasons:

The issues between the City and UVSD are issues regarding their contractual arrangement (Participation Agreement, as amended in 1999 and 2004) and the City’s breach of their fiduciary duties. These issues have nothing to do with LAFCO purposes, powers or duties. The conflicts that exist between the City and District are not conflicts that LAFCO can “facilitate resolution” by means of the “municipal service review and sphere of influence”.

LAFCO MSRs are not even capable of adequately describing or addressing the existing issues, let alone understand all of the details and circumstances associated with City/District issues. It is our opinion that the GJ places an inordinate amount of faith in LAFCO as to their abilities and capacities and has little understanding of LAFCO’s actual role. Please, see our response to the GJ’s Report, “Forming and Reforming a Community” for a more in-depth exposition as to why we hold this opinion.

Recommendations

Regarding R2: The Board agrees and has begun a process of developing its own financial information system.

Regarding R3 and R4: We interpret these recommendations as telling the UVSD to sue the City which is what it would take to pursue these two Recommendations. The Board will take these Recommendations under advisement.

Regarding R5: The UVSD has conducted a feasibility study as to consolidation. Various water agencies and UVSD are pursuing discussions as to the possibility of reorganization into a larger regional water/wastewater agency in an effort to determine whether or not consolidation will better serve the property owners and ratepayers as distinguished from maintaining the status quo.

In the event these agencies cooperatively decide to reorganize into a single agency, LAFCO cannot deny their right to do so. G.C. Section 56853 indicates: “If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, the commission **shall**

approve, or conditionally approve the proposal.” (bold added) The use of the word “shall” is mandatory.

In our opinion, the community, districts and LAFCO would be best served by a process mutually agreed upon by the agencies involved rather than any “forcing” that may be attempted by LAFCO.

For UVSD to engage in a consolidation or reorganization process with the indicated agencies, will require removal of the Participation Agreement as a contractual document between the City and UVSD, thus that takes us back to R3 and R4.

Regarding the second half of R5 whereby the GJ indicates that LAFCO “provide conflict resolution between the UVSD and the City of Ukiah”. We do not see LAFCO, as it is presently constituted, as having an unbiased view which is essential for there to be meaningful conflict resolution; nor do they have the authority to intrude upon a legal dispute between two independent agencies. One of the major difficulties presently being encountered by the DISTRICT is the result of certain actions taken by LAFCO Commissioners to exclude DISTRICT representatives from numerous committee meetings that involved the City’s MSR and the DISTRICT as an affected agency. For that reason, the DISTRICT believes that LAFCO’s pattern of exclusion is reflective of their biased position against the DISTRICT and is not in position to mediate any dispute that may exist between the DISTRICT and CITY.

Please see our response to F5 and also see our more extended response about LAFCO capabilities and capacities that we provided for the GJ Report “Forming and Reforming A Community”.