

From: David Mueller
Date: October 23, 2015 at 2:28:36 PM PDT
To: Lori Lamson
Subject: Response to Town of Apple Valley DEIR

This letter is in response to the DEIR that was done by Rincon Consultants concerning the town's contemplated takeover of Apple Valley Ranchos Water.

3-1

I read Rincon's comments and found the entire study lacks sufficient detail to make any determination as to the potential impacts to the environment, for this reason, I am challenging the entire report as defective.

The town requested that questions from the public during the scoping process be provided and I found that my questions weren't answered. Below is the letter I sent with questions during the scoping process in early August:

3-2

I wish to protest the entire document that was sent to me, because it is so vague, that I have no idea how Rincon consultants can even identify what major areas of CEQA and the environmental subheadings will be impacted. The document should have sufficient enough detail to delineate what is fact from pure speculation. As an example, Rincon has determined that as a result of the town acquiring the Apple Valley Ranchos Water Company, there would be no impact to the population of the town. That is pure speculation on the part of both the town and their consultants. If the town owns the water company, what would inhibit their approving even more development than they already have approved? There are numerous sites around the town that are already approved, graded, underground water and sewer installed, but haven't been finished because of the crash. I'll give just two examples of the many. Please see the development off of Yucca Loma Rd. across from Chateau Court- nearly one hundred pads ready to build out. Another example is near the intersection of Itoya Vista and Bear Valley Rd. behind the K-Mart. Just these two developments would add another 200 or more homes to our area. The markets are recovering from the crash and their is a shortage of homes now. This is nearly universally

3-3

acknowledged that growth is coming back to real estate. Which means more people moving here. I've listed more areas below that require some definitive answers before an EIR for acquisition should be approved:

3-3
(cont)

(#8) For instance, the town might manage the water system, or it could be subcontracted to someone else, or it might be turned over to another public agency? Each one of those options impacts a different set of possible environmental issues that would need to be addressed depending on who is going to be actually doing the work. The wording in this part of the amended document still doesn't definitively explain who will manage and run the Apple Valley Ranchos. This is a major flaw. We are talking about protecting the environment with this study, but the study seems to be more focused on obscuring what will be the ultimate end results, and thereby negating any legal options available to anyone from the public who didn't think of the potential environmental issues during this so called study. It is reprehensible and not legal in my opinion.

3-4

(#4 and #10 of the study) Town and Rincon consultants doesn't include all of the Apple Valley Ranchos Water Company assets in their scope. I'm assuming the recently court awarded and acquired Yermo Water District was not part of the study because it isn't within the jurisdiction of the town? Government Code Section 65402 requires the planning agency to make a finding of General Plan conformance whenever a governmental entity proposes to acquire or dispose of property. The town has decided to remove this asset from the study even though it is part of the Apple Valley Ranchos Water Company assets. They then include in Figure 1 of the study an area known as the Hacienda Project in Fairview Valley which is two miles east of the town and outside town boundaries but in their sphere of influence. This would be the yellow pipeline areas OUTSIDE the General Plan boundaries of the Town of Apple Valley. The town has been told that the Apple Valley Ranchos Water Company isn't for sale. Indeed, it is a division of Park Water Company, which is part of Western Water Holdings LLC., which in turn is owned by Carlyle Infrastructures, who recently sold Park Water Company to Liberty Utilities. On the macro scale, the town refuses to recognize that the Apple Valley Ranchos isn't for sale, because it has already been sold to someone else. On the micro scale, the town picks and chooses what assets of the Ranchos they will study for environmental impacts should their eminent domain seizure be successful. This EIR study must focus on the actual acquisition of ALL Ranchos assets, not just those the town would like to acquire.

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(IX) Groundwater is identified as potentially significant unless mitigation is incorporated. This should be a significant finding requiring substantial evidence to prove that SB 610 and a WSA is current and not just reference a UWMP by the Mojave Water Agency (MWA), but provide proof through study of the aquifer.

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The MWA has been telling the citizens of the High Desert that our aquifer is being seriously over drafted for the last fifty years. The Watermaster is tasked with tracking verified production from those wells that pump 10 acre feet of water or more from the aquifer. The verified production proves that we are indeed pumping more water than we are putting back into the aquifer as recharge from State Water Project (SWP) deliveries, or through reclamation projects. The last thorough study of the basin was done by the USGS in 1968. The State of California only recently has passed legislation that groundwater supplies be measured within the MWA boundaries. In the 1968 USGS study, the basin contained an estimated 30 million acre feet of water. That was forty-seven years ago. The above referenced Hacienda Project water supply was estimated to be 500,000 acre feet of water available and Terra Nova did their study in 2013. Please see both the Draft EIR and the FEIR for the project. The fact is, water is fluid and it moves around from one area to another depending on the geology and faults underground. We can't see what our groundwater levels are, so we use test well locations and measure depths in select areas. What we do know for certain is we use more than we put back in.

The MWA, without fail, always issues UWMP reports every five years that claim we have enough groundwater to last another twenty to thirty years beyond whatever project is being contemplated. In the case of the Hacienda project, the 2010 UWMP said we had enough water supplies to last until the year 2030. <http://www.desertnewspost.com/deserts-water-supply-approaching-historic-low/> note that one year after Terra Nova supplied their WSA for Hacienda, without any changes in water supply, water supply availability estimates increased fifteen years! The MWA are supposed to be the experts- more expert than Terra Nova apparently. The truth is, they have no idea beyond well measurements, what our aquifer condition truly is.

The adjudication doesn't limit how much water is pumped as long as the MWA is paid for replacement water. This explains why they said nothing when Victorville had Dr. Pepper Snapple Group come to the High Desert and build a west coast bottling plant, which uses millions of gallons of water a day. Likewise, the Town of Apple Valley needs development dollars to fund their ever growing budgets. It also explains why one housing project after another has been approved for development in every city or town in the High Desert. The latest is the Tapestry Project in Summit Valley that would become a new master planned city of nearly 70,000 people. The MWA uses SWP water deliveries, conservation, and reclaimed water to issue these UWMP pronouncements that the aquifer has plenty of water. The trouble with this is we aren't getting SWP deliveries because of the drought. In fact the MWA has never taken their full allotment of 89,800 acre feet of water, even when they could have gotten it before this severe drought came about. The MWA uses two water rights purchases from Dudley Ridge and Berrenda Mesa Water Districts in Kern County to "pad" their assessments of water availability into the future. As I said, they don't take full entitlements when they can get SWP water. I've tracked their water deliveries for years. When they became an approved water agency within California, they were allotted 50,800

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(cont)

acre feet of water. Only once have they ever brought in their full allotment in their entire history. This means that the water rights that were bought, also never delivered a single drop of that purchased water. It's just a paper transaction. We are living off of our groundwater.

The drought has all but eliminated the recharge we get in wet years. MWA board president Bev Lowry told the Daily Press newspaper that we have supplies to last three years. That was two years ago. If she is referencing "banked" water they claim in San Luis Reservoir, it isn't there. Even if it was, the state isn't moving much water this year in SWP. That leaves recharge from reclamation and conservation. People are pulling up grass to conserve, and water consumption is down, but we still are taking more water than we put back in. Most of Apple Valley isn't on sewer and the reclamation plant has broke ground but is not operational yet. My point here is nothing is slowing the approvals to build. The MWA has either lied to the public for fifty years about the actual status of our aquifer, or they are political appendages of the local municipalities, only doing the bidding of the BIA and local government by rubber stamping the UWMP every five years. Apple Valley has the Hacienda Project (3000 homes, 360 acres of park and a golf course), two recent large acreage General Plan zone changes for high density housing projects off of Sitting Bull Rd., and just approved the building of 400 homes in the Sun City senior living area (using a mitigated negative declaration to get around EIR) and has numerous previously approved tracts to build out that are in various stages of planning approvals. Please see above. The town will build this valley out. The MWA says there is plenty of water for all of these and more. Groundwater availability requires substantial evidence that this is so- not just an UWMP report from a proven biased authority which lacks a thorough investigation into its accuracy by a neutral third party.

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(#11) If the scope can't be defined, how can environmental areas of concern be defined? This document is fatally flawed.

The initial study document and amended initial study documents are fatally flawed. I'm protesting both in their entireties? The EIR shouldn't be done until ownership, management, and assets involved in the scope have been settled. CEQA law doesn't allow for Rubix's Cube scenarios wherein the public needs to guess what combination of events is going to happen with a potential future acquisition of the Apple Valley Ranchos and how those multiple combinations might impact the environment. This EIR has to do with the acquisition of the Apple Valley Ranchos. It isn't for sale and until the courts have ruled that the town does own them through an eminent domain decision, or subsequently after all appeal processes have been exhausted, this EIR study is premature. I'm challenging both studies as fatally flawed and a ridiculous waste of taxpayer money. At the last scoping meeting the consultants claimed that this EIR must be done first before ownership is resolved and that this is a normal occurrence. Nothing about this study is normal.

3-7

Sincerely,
Mr. David Mueller
Apple Valley

Lori, please use this amended letter and respond to my questions please.

Rincon Consultants hasn't addressed the above questions from me at the original scoping with sufficient detail to proceed to a FEIR status. The law requires that decisions made regarding CEQA must be factually based and not based on speculation. The town can't determine that parts of Apple Valley Ranchos assets aren't going to be considered, i.e., Yermo Water District, when in fact this district IS part of the Apple Valley Ranchos Water Company holdings. Rincon Consultants excludes the fact that Yermo Water District is near a federal superfund cleanup site and the aquifer in the area has been identified as having toxic plumes. Rincon simply burying their heads in the sand and proclaiming that Yermo will not be considered and then checking a box in the DEIR that says no superfund exists, doesn't satisfy the law as it relates to this study. In fact, it mandates a response from the town as to how the town would address these real world issues and factual environmental problems should the town successfully seize the Ranchos through eminent domain. The town will seize ALL assets of the Ranchos after an eminent domain proceeding, including all the debt and potential environmental issues from all of the holdings.

3-8

The DEIR still doesn't positively identify who will be running the water operations. If Rincon intends to use an a La Carte approach to who will be running the operations, then they need to provide separate studies for each possibility because each one potentially impacts the environment differently depending on who is running the water company.

3-9

The town and Rincon Consultants can't rely on a 2010 Urban Water Management Report (UWMP) to comply with SB 610 or an outdated Water Supply Assessment (WSA) from a consultant that is years old and was contradicted above by the MWA. Please see the supplied link. The Mojave Water Agency hasn't released the 2015 UWMP, so therefore no current WSA exists and when one is produced by any local agency, because of the droughts impacts, a serious study of this aquifer needs to be accomplished by the USGS or some other independent agency to make certain the aquifer can sustain the number of projects and developments the town already has approved and the region anticipates approving. This region lives on water in our aquifer, not water deliveries. Rincon had already checked the box that claims the town running the water company would have no impacts on development or population. The town plans to build out and plans for as much population and job growth as possible. Please see Vision 20/20.

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The entire DEIR is flawed. I'm not going to write a novel to emphasize just how badly flawed it is by doing Rincon's work for them. The basic starting points haven't even been identified. Don't attempt to pencil whip CEQA

3-11

requirements in the interest of expediting an eminent domain action.

| 3-11
| (cont)

Please acknowledge your receipt.

**Sincerely,
David Mueller**

Letter.3

COMMENTER: David Mueller, Public

DATE: October 23, 2015

RESPONSE:

Response 3.1

This comment is an introductory statement in which the commenter frames the nature of the comment letter as a whole and claims that the analysis in the EIR lacks sufficient detail. Because these statements are general in nature and because the statements do not raise specific environmental concerns about the Draft EIR or the proposed Project, no further response is required to this portion of the comment. (See *Browning-Ferris Indus. v. City of San Jose* (1986) 181 Cal.App.3d 852 [where a general comment is made, a general response is sufficient].) Specific concerns detailed in this letter are addressed in the following responses.

Response 3.2

The commenter alleges that the comments included in his previous letters (dated August 6, 2015 and included in Appendix A) were not addressed in the Draft EIR, and includes the comments in this new comment letter as well. Contrary to his claim, his comments were summarized and responses were provided in Table 1-1 in Section 1.3, Notice of Preparation and Scoping, of the Draft EIR. His restated comments are addressed in the responses below, which include the original responses contained in the Draft EIR as well as expanded information relating to his comments.⁵

Response 3.3

The commenter alleges that the Amended Initial Study lacks sufficient detail, and expresses concerns regarding existing approved development and potential growth inducement as a result of the proposed Project.⁶ As discussed in the initial response to this comment, growth inducement effects are addressed under Population and Housing in the Amended Initial Study in Appendix A, and in Section 5.0, Growth Inducement and Other CEQA Issues, in this EIR. Section 5.0, Growth Inducement and Other CEQA Issues, of this EIR explains that the proposed Project would not induce substantial population growth, including in the unlikely event of a reduction in water rates, nor would it result in a significant number of new employees to the community. Additionally, it would not result in any significant effect resulting from removing obstacles to growth. More specifically, and although some growth (such as the pending developments identified by the commenter) may occur in the Town and its general vicinity, any such growth would not be caused by the Project.

⁵ The numbering included at the start of some of the comments in the letter, refer to numbered items in the Amended Initial Study which is included in Appendix A of this EIR.

⁶ The commenter refers to an inadequate "document." Presumably this refers to the Amended Initial Study since the comment was initially written during the scoping period for the Draft EIR



The Draft EIR also addresses existing approved development and potential contributions from the proposed Project in Section 4.4, Land Use and Planning. Because the Project area for the proposed Project includes most of the Town's incorporated area, this analysis considers cumulative development in terms of total development across the Town. As such, the EIR relies on the General Plan EIR, which analyzes land use impacts associated with growth throughout the Town. According to the General Plan EIR, development proposed in Annexation 2008-001 was determined to result in a cumulatively significant land use impact. Please see the cumulative impact discussion in Section 4.4.2(a) where this information regarding cumulative development was disclosed. Although proposed development in the Town of Apple Valley would result in a cumulatively significant land use impact, the proposed Project's contribution to cumulative land use impacts would not be cumulatively considerable as it would not alter any land use designations nor conflict with land use plans, policies, or regulations.

Response 3.4

This comment relates to the Amended Initial Study and claims that the document does not definitively explain who would manage the AVR System after the acquisition. Contrary to this claim, the project description included in the Amended Initial Study was amended to refine the proposed Project to be defined as management by the Town following the acquisition; this refinement of the project description was one of the primary reasons for amending and redistributing the Initial Study and was made in response to comments received at the first scoping meeting for the EIR. As discussed in the previous response to this comment in Table 1-1 in Section 1.3, Notice of Preparation and Scoping, of the Draft EIR, the refined proposed Project is included in the Amended Initial Study and described in Section 2.0, Project Description, while potential alternate operators are discussed in Section 6.0, Alternatives as recommended by the commenter.

The commenter suggests that the AVR System could be "subcontracted to someone else." Presumably, the commenter means that the AVR System's operation could be subcontracted to a private party. The EIR considers the whole of the action (i.e., the Project) as proposed by the Town, but also considers alternatives involving operation of the system by other public agencies and by the Town from an alternative location. This is a reasonable range of alternatives meeting CEQA's requirements. Nonetheless, if the commenter's recommended option were to be pursued, it is anticipated that the impacts from a private operator would be similar to the type and magnitude of impacts associated with the proposed Project, if the AVR System continued to be operated from the current O&M facility. This is mainly because the operation and maintenance activities associated with the AVR System are currently part of the existing environmental condition. If a private operator were to relocate the base for maintenance and operation activities to an alternate facility, impacts would likely be of similar type and magnitude as for Alternatives 2 and 3. Given that under any of these scenarios the Town would maintain ownership and thus final approval authority over the system, this option would also likely be consistent with the proposed Project objectives. If this is an option that the Town chose to consider at a later date, the Town would undertake any additional CEQA analysis required.



Response 3.5

This comment relates to the Project's proposed acquisition of the AVR System, excluding the recently acquired Yermo System, and makes the claim that the EIR needs to consider acquisition of all of Apple Valley Ranchos holdings (including the Yermo system) rather than only those that benefit or are in the vicinity of the Town (such as the portions of the system identified by the commenter that are located adjacent to but immediately outside of the Town's boundaries). The initial response in Table 1-1 in Section 1.3, Notice of Preparation and Scoping, of the Draft EIR explains that this EIR considers the whole of the action (i.e., the Project) as proposed by the Town, and any acquisition beyond that described in this EIR is not reasonably foreseeable at this time. Therefore, this EIR satisfies the requirements of CEQA for the Project, as described. In the event that the Town is unable to acquire the AVR System without the Yermo system, the Town would undertake any additional CEQA analysis required.

Additionally, the commenter claims that Government Code section 65402 requires General Plan conformity determinations when an agency "proposes to acquire or dispose of property." This is incorrect. Section 65402 requires a General Plan conformity report to be prepared prior to the actual acquisition of such property – not merely at the time such acquisition is proposed. Ultimately, the EIR identifies that the preparation of such reports will be part of the CEQA process going forward (EIR p. 36), and all such reports will be timely completed in the manner required by law. CEQA itself expressly states that an EIR may be included as part of any report prepared and submitted under Section 65402. (Pub. Res. Code, section 21151.)

Response 3.6

This comment relates to concerns regarding management of water supplies. The commenter observes that the Amended Initial Study identified impacts to groundwater to be potentially significant unless mitigation is incorporated, and claims that this finding should be significant, requiring substantial proof of water supplies. In the initial response in Table 1-1 in Section 1.3, Notice of Preparation and Scoping, of the Draft EIR, the commenter was directed to Section 4.3, Hydrology and Water Quality, for discussion of the concerns that were expressed in this comment. The Draft EIR includes additional information on groundwater resources and finds that this impact would be less than significant. For more specific information regarding this finding, please see Impact WAT-1, starting on page 71 of the Final EIR, in Section 4.3, Hydrology and Water Quality.

The commenter also states that the analysis should consider the Water Supply Assessment (WSA) and ensure it is current, rather than referencing the Urban Water Management Plan (UWMP), and expresses concern regarding sustainability of groundwater supplies. The discussion on page 66 of the Draft EIR in Section 4.3, Hydrology and Water Quality, explains that projects that are located in basins that are already adjudicated, such as the Upper Mojave River Valley Groundwater Basin, are exempt from requiring a WSA because implementation of an adjudication order would achieve the same goals towards water supply reliability planning as would a WSA. As part of the Adjudication Judgment, the MWA is required to file an annual Watermaster Report with the Court, detailing the information listed in Section 4.3.1(c) of the EIR on an annual basis, including hydrologic data, summary of water production, purchases of supplemental water and recharge with supplemental water (MWA, 2015). Information



provided in the annual Watermaster Report is used to ensure compliance with the Adjudication Judgment, thereby ensuring that management efforts conducted in the basin are making effective progress towards achieving sustainability and water supply reliability. Additionally, in 2014 a package of bills referred to as the Sustainable Groundwater Management Act was passed to require that certain priority groundwater basins throughout the State are managed under a Groundwater Management Plan per the direction of a Groundwater Sustainability Agency, although adjudicated basins may comply through implementation of the applicable Adjudication Judgment. As Watermaster of the Upper Mojave River Valley Groundwater Basin, the MWA considers the annual Watermaster Report to be useful for documenting sustainability of the groundwater basin in reference to the Sustainable Groundwater Management Act (MWA, 2015). Information from both the annual Watermaster Report and the UWMP was used during development of the Draft EIR. For more information, please see Section 4.3, Hydrology and Water Quality.

The Draft EIR also addresses sustainability of the groundwater basin in Subsection 4.3.1, Setting, of Section 4.3, Hydrology and Water Quality, where it states:

As described in MWA's most recent Watermaster Report, which is produced on an annual basis and filed with the Court for compliance with the Adjudication Judgment, the Alto Subbasin is considered to be in a sustainable state, meaning that overdraft conditions are no longer present... The 2015 Watermaster Report recommends to the Court that the FPA [Free Production Allowance] allocated to the Alto Subbasin for the coming 2015/2016 year should remain unchanged from the 2013/2014 year because groundwater levels within the Alto Subbasin are stable, including the Transition Zone area (along the Helendale Fault) (MWA, 2015).

Within the Alto Subbasin, the achievement of hydrologic balance described above is attributable to conservation, importation of State Water Project water, MWA's public outreach efforts, and implementation of the Adjudication Judgment. The current Watermaster Report states that under the conditions existing at this time, Rampdown of groundwater production in the Alto Subbasin is unnecessary, where "Rampdown" refers to the Court-ordered reduction in groundwater production rates to avoid potential overdraft conditions (MWA, 2015).

Accordingly, the commenter is incorrect that the data relied upon in the EIR is outdated and that the Project may result in impacts to the groundwater basin.

The commenter also claims that cumulative impacts to groundwater are occurring or will occur in future as a result of the management of the basin by MWA (including through certain water exchange and acquisition efforts) and several pending projects which have been approved in the region. While it is not the purpose of the EIR to speculate on the competency of the MWA in managing the groundwater basin, the proposed Project would not contribute to cumulative impacts to groundwater significant or otherwise since the proposed Project would not result in an increase in groundwater use as described in Impact WAT-1. Instead, the Project would simply maintain the existing baseline condition, albeit under a different operator. Furthermore, the purpose of an Adjudication Judgment is to account for basin-wide water usage (i.e., the

cumulative condition), and the nature of the annual Water Reports is to ensure that basin is continually managed to ensure a sustainable yield – thus protecting against impacts.

Finally, the commenter states that the CEQA process is “premature” until and unless the Town actually holds final title as to the AVR System. The commenter is incorrect. CEQA is clear that environmental review must be completed *prior to* – not after – a discretionary approval (such as the commencement of acquisition proceedings) is issued. (State CEQA Guidelines, section 15004(a).)

Response 3.7

This comment expresses concern regarding the definition of the scope of the proposed Project, claiming that it cannot be defined based on the commenter’s concern regarding the project description; these concerns include (1) clearly defining the operator who would manage the AVR System following acquisition and (2) potential issues regarding acquisition of the AVR System without the recently acquired Yermo System. These concerns were addressed under Response 3.4 (system operator) and Response 3.5 (system acquisition) above.

Response 3.8

The commenter restates his concerns regarding the Town’s proposal to purchase the AVR System without the Yermo system, indicating that these concerns are still applicable to the content of the Draft EIR. This comment is partially addressed under Response 3.5 above. In response to the commenter’s statements about the presence of a Superfund site and contaminated groundwater in proximity to the Yermo system, these comments are noted. However, the proposed Project does not include acquisition of the Yermo system, nor would the proposed Project result in environmental impacts in areas nearby the Yermo System due to the Yermo System being located many miles away from the Town. Therefore, these issues are outside the study area for the proposed Project and are not included in the scope of analysis of this EIR. Finally, issues related to existing Superfund sites within the Project study area are discussed in Section VIII, Hazards and Hazardous Materials, of the Amended Initial Study included in Appendix A of this EIR.

Response 3.9

The commenter restates his concern regarding the project description, indicating that the description in the Draft EIR also does not positively identify who would operate the AVR System after acquisition. This comment was addressed under Response 3.4 above.

Response 3.10

The commenter restates his concern regarding use of currently available water supply assessment information, indicating that newer information must be obtained in light of current drought conditions. He also restates his concern regarding potential future growth in the area. These concerns were previously addressed under Response 3.6 (water supply) and Response 3.3 (regional growth) above.



Response 3.11

This concluding comment restates the commenter's dissatisfaction with the Draft EIR. As this comment is general in nature and does not provide any specifics regarding these purported defects, no further response is required to this portion of the comment. (See *Browning-Ferris Indus. v. City of San Jose* (1986) 181 Cal.App.3d 852 [where a general comment is made, a general response is sufficient].)



19250 Red Feather Road
Apple Valley, CA 92307

RECEIVED

October 29, 2015

OCT 30 2015

Lori Lampson
Assistant Town Manager
Town of Apple Valley
14955 Dale Evans
Apple Valley, CA 92307

Community Development

Re: Apple Valley Ranchos Water System Acquisition Project Draft Environmental Impact Report (DEIR)

Dear Officials:

How can the RINCON Consultant Inc. contractor perform a Project study that they possess no comprehension nor expressed understanding of the assignment? **The Project is a TOTAL "ACQUISTION" change of OWNERSHIP ASSETS RIGHTS AND RESPONSIBILITIES of a water system** with 22,000 current connections with residential and business commercial properties and potential for a larger number of currently vacant additional land properties. **The report does not encompass nor focus directly on the ownership and management essentials of this Project.**

The State Water Resources Control Board's July 13, 2015 letter (page 9 and on page 27 of DEIR) clearly states that a Permit will be required and that the applicant demonstrate to the Division that it possesses adequate technical, managerial, and financial capability to assure the delivery of pure, wholesome and potable drinking water. "Every aspect" of any Acquisition resulting organization will originate at very top of organizational ownership and management including establishment of Rates, regulatory compliance, staffing and profitability or loss.

4-1

For example, Rate structure is not an exact science and if the Owner sets them top high or too low, impacts will occur down into how field operations perform in that and other environments. These many management tasks cannot be separated, they are very inter-connected and directly impact on the environment. DEIR mentions infra-structure improvements which all the result of Ownership decisions not just casual thinking about them appearing to take place in this Project area. These words and concepts are very meaningful. The TOAV cannot qualify for the above permit based on lack of qualifications required. The DEIR has not addressed this major deficiency and flawed analysis.

The **Report is a Stoic, Bland work product** apparently written in a location far-removed from the unique High Desert area. It communicates that the writers do not possess requisite or sufficient subject-matter knowledge of how ownership and management assets and functions of this company occur. There is no confirmation that the writers really believe in what is being stated, but socially hanging out working together. A story is required to convey the writer's emotional passion of their subject and this Report is not a story, but a series of words put into sentences and paragraphs.

4-2

The High Desert is known to be a living and complex grouping of dynamic variables. The authors have communicated that they do not have any direct knowledge of the cold nights, hot sun blinding days, sandy soil attributes, windy afternoons, low rain/water levels, low quiet Noise normal levels, unique vegetation growth requirements and all of the inter-relationships creating the Apple Valley ENVIRONMENT AND ITS IMPACTS. WHY? Therefore, this Report is considered as being non-compliant with CEQA and it is factually deficient in numerous details and with lacking material evidence being discussed including:

4-3

1. Is the **Project Area** of Approximately 50 square miles as stated on page 1? Does it include some of Town of Apple Valley (internet says Town of 72 square miles—50% greater), some in incorporated Victorville and some in unincorporated area of San Bernardino County? Is this the exact Project area size? Will it be expanded or changed?

4-4

2. Why is there **no Mandatory Findings of Significance** listed in the Potential Environmental Effects on page 2? 4-5
3. Project Objectives (page 1) include that **TOAV will provide enhanced Customer Service**, but no detailed evidence or plan is provided to accomplish. A recent CPUC conclusion is that AVRWC has satisfactory Customer Service performance. TOAV has no Customer Service record since the Sewer and Trash Service is contracted to an outside business firm. Where is ANY proof of substance or supporting details of an ability to perform this necessary enhanced service? 4-6
4. **There is zero (no) evidence provided** that the City of Hesperia or City of Victorville can accommodate the addition of AVRWC vehicles in their facility (page 2). Were either of these agencies even contacted and what, if any, was their Official response for denial or acceptance going forward for consideration or option? 4-7
5. Summary of Significant Environmental impacts and mitigation measures (page 4) appear to have all impacts as Class III which is “Less than Significant.” 4-8
6. Shouldn’t a #8 Mandatory Findings of Significance narrative be added on page 5? 4-9
7. Project Background (page 6) **fails to recognize and understand** that AVRWC not only owns and operates, but ALSO PROVIDES MANAGEMENT FUNCTIONS. The Town’s potential acquisition will necessitate critical MANAGEMENT which the Report’s analysis has FAILED to consider and analyze. The Report lacks any details for **the transfer of necessary Environment Impacts** and other highly attributes which will be required. 4-10
8. System Operations and Maintenance section (page 33) states that AVRWC has 20 office and 19 Maintenance employees. So **what are the details and conclusions of this data** going forward? **It attempts to ignore** functions and contributions which are essential and critical. Has anyone even gone inside this building/facility and studied the functions and duties being performed? Additional functions are performed outside the ⁴⁻¹ operation which the Report does not even consider and therefore confirms that the author ⁴⁻¹ is not intelligent and possess limited analysis and diligence in obtaining factual evidence. **The list of critical operations at this facility is deficient which could have been obtained from more observations and discussions.** ⁴⁻¹ 4-11
9. Project Objective 2.6 (page 36) states “Provide for greater transparency and accountability as well as increased customer service and reliability AND **Enhanced customer service** and responsiveness to Apple Valley customers.” Where are details and proof? 4-12
10. Comment (page 48): “System operation is expected to continue to require a staff of approximately 39 employees.” **What is the basis of this conclusion?** It ignores the fact that additional Management including legal and regulatory compliance and other functions are being performed by Park Water Company. 4-13
11. **No mention of current Ranchos Construction Improvement and future needs or projections** (page 48). Required Pipe Replacement/ upgrades—what is employee staff and/or contractor labor requirements currently taking place? Did any observations or discussions occur? 4-14
12. Replace water system with energy efficient motors, pumps and other equipment with energy efficient (page 59). **This comment recognizes that infrastructure improvements are required, but no details nor plan are provided to execute to accomplish. Why not? The TOAV has appeared at the CPUC and argued against Infrastructure improvements. Why?** 4-15

(The Ranchos Water system is about 70 years of age and considered to have environment impacts.)

4-15
(cont)

13. One objective of the Project is to achieve LOCAL Control over Rates (page 69). How is this planned to be carried out and accomplished? Where are the details?

4-16

14. Land use and Planning (page 72). The 1.3 square mile Northeast Industrial Area, Hacienda/Fairview, Sitting Bull and several other vacant lands have been identified for Planning and Development with Town Council approvals awaiting Developers actions to add population of in excess of 150,000. Additionally, separate real estate properties continue to be constructed on an individual basis. The Report is deficient in addressing the realities of current growth and development and the near-term future projections details. This disclosure is Critical to determining Environment Impacts on the Project including Hydrology and Water Quality.

4-17

15. The symbol "DMIM" is used on pages 123 and 128, but has not been identified nor described?

4-18

16. All Report-noted 29 written and 4 verbal comments received have not been included nor are the issues addressed received a response. **An additional Alternative was commented and not addressed in the DEIR:** "With the possible Eminent Domain decision and Acquisition by the Town of Apple Valley, what would negate the possible re-sale later to another public or private entity?" Why was this Alternative not considered and addressed?

4-19

17. Where are the comments of the Mojave Water Agency, the Regional water provider, as well as other Critically-important High Desert Environment Impact Expertise? Was the Initial Study Distribution List deficient as previously commented and provided to Rincon consultant months ago? It is expected that the total Distribution List will be included in the Final EIR for transparency and accountability of the Lead Agency and Consultant.

4-20

18. The DEIR response to the wind/erosion "Valley Fever" issue is very indicative of how the Consultant writers analyze comments submitted and be dismissive as "Less than Significant."

4-21

19. Page 74 provides that "The purchase of Apple Valley Ranchos Water Company could, in fact, assist in the pursuit of some of the policies." This comment ignores the current opportunity for the TOAV to establish and work toward attainment of any goals at the present time leveraging the AVRWC expertise NOW. Why has this not already occurred in recent years?

4-22

It is important to note that the Purpose of this EIR is to serve as an information document. An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes into account environmental consequences. The Draft Environment Impact Report does not meet this standard. The Final EIR needs to incorporate a very large amount of higher-level analysis, additional supporting details and locally applicable High-Desert provisions which are required for completion.

4-23

Yours truly,



Al Rice

Apple Valley taxpayer

Letter.4

COMMENTER: Al Rice, Public

DATE: October 29, 2015

RESPONSE:

Response 4.1

This comment generally relates to the legal and economic aspects of the proposed Project and makes the claim that the Project cannot be analyzed for its environmental effects without first considering the capability of the Town to successfully manage the AVR System. As noted in the comment, the Town would have to obtain a permit from the SWRCB, which would first review the Town's application to ensure that it has adequate technical, managerial, and financial capability to manage the system. Furthermore, it is not the role of CEQA to perform analysis regarding the legal and economic aspects of a project, but rather to provide a robust and transparent review of the potential environmental effects that could occur if the project were to proceed. Therefore, legal and economic issues are not within the scope of CEQA, and thus not included in this EIR (State CEQA Guidelines, § 15002 and § 15131). Finally, the commenter does not identify any impacts he believes may occur as a result of mere economic conditions of a change in the identity of the system operator (from Apple Valley Ranchos Water Company to the Town), nor are any such impacts reasonably foreseeable. Regardless, this comment has been passed to Town decision-makers for consideration as part of the wider project review process.

Response 4.2

The commenter claims that the authors of the report do not have sufficient understanding of the Project area and that the report is "stoic" and "bland," lacking demonstration of the writers' "emotional passion" for the subject. It is the role of CEQA, and any practitioner of CEQA, to provide a clear, unbiased description, review, and analysis of a proposed Project and any potential environmental effects. In the case, *Citizens for Ceres v. The Superior Court of Stanislaus County* (July 8, 2013) 217 Cal.App.4th 889, the Court of Appeal noted that, "the agency is duty bound to analyze the project's environmental impacts objectively." This Draft EIR provides objective analysis of the proposed Project and its potential effects to the environment; thereby complying with the intent of CEQA.

Response 4.3

The commenter asserts that the authors of the EIR do not have direct knowledge of the specific environment and dynamic variables of the Apple Valley area. The EIR provides a description of the existing environment in Apple Valley as it relates to each resource area (see Section 4, Environmental Impact Analysis). These descriptions provide sufficient detail for evaluating the proposed Project in terms of its potential effects to the physical environment in Apple Valley. These descriptions provide the basis for CEQA analysis, as required under Section 15125(a) of the CEQA Guidelines, which states:



An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

Accordingly, the EIR fully complies with CEQA's requirements.

Response 4.4

This commenter questions the reported size of the Project area, stating that the Town is 72 square miles, which is much larger than the Project area of approximately 50 square miles reported in the Amended Initial Study and EIR. The Project area is based on the service area for the AVR System, as opposed to the Town of Apple Valley's incorporated boundary. As shown in Figure 2-1, the AVR System boundaries vary from the Town's incorporated boundary, with some portions of the Town not being included in the service area and some portions of the service area lying outside of the Town's boundaries. According to the 2010 Urban Water Management Plan, a report provided by Apple Valley Ranchos Water Company reporting on its system, the service area for this system is approximately 50 square miles (Apple Valley Ranchos Water Company 2011). According to the Town's community profile, the incorporated area of the Town is 78 square miles while its sphere of influence is 200 square miles (Town of Apple Valley 2015). As such, the Town's incorporated boundary is different from, and larger than, the proposed Project area, which is accurately described as being approximately 50 square miles.

Response 4.5

The commenter inquires why Mandatory Findings of Significance is not listed in the Potential Environmental Effects on page 2. Presumably, the commenter is referring to the Notice of Availability, which, on page 2, lists the resource areas that were evaluated for their potential impacts to the environment under the heading Potential Environmental Effects. This list does not include Mandatory Findings of Significance as one of the resource areas because it is not a specific resource area, but rather an analysis that relates to all of the resource areas evaluated in the EIR. During the Initial Study phase of a project, the Mandatory Findings of Significance analysis helps to inform the decision as to whether or not an EIR needs to be prepared (Section 15065 of the CEQA Guidelines). In writing the EIR, the issues discussed under this heading in the Amended Initial Study may be included in the EIR under each of the specific resource areas or in a separate section. This Draft EIR includes Section 4.8, Mandatory Findings of Significance, which addresses cumulative impacts and impacts to human beings. These potential impacts relate to any of the resource areas evaluated previously in the EIR, which includes all of the resource areas listed on page 2 of the Notice of Availability. Therefore, although a section was included that discusses Mandatory Findings of Significance, it is not a specific resource area for review and therefore is not listed in the Notice of Availability as such.



Response 4.6

This comment relates to the level of customer service that would be provided by the Town versus the current owner of the AVR System. Increased customer service is included in the EIR as one of the Town's stated objectives in pursuing the proposed Project; however, the level of customer service that would be provided does not relate to potential effects to the physical environment nor does the commenter identify how he believes it does. Therefore, analysis of effects to customer service is not within the scope of CEQA and is not included in the analysis contained in the EIR (State CEQA Guidelines, § 15131; § 15088 [responses are only required to comments raising environmental issues]). This comment has been passed to Town decision-makers for consideration as part of the wider Project review process.

Response 4.7

The commenter states that there is no evidence that either the City of Hesperia or Victorville would be able to accommodate the addition of vehicles associated with the operation and maintenance of the AVR System if they were to operate and maintain the system, as proposed in Alternatives 2 and 3. These two alternatives were proposed in order to provide a range of alternatives that allow for in-depth analysis of potential environmental impacts, evaluating the possibility of reducing potential effects through selection of one of these alternatives. In the event that either of these alternatives was selected, additional analysis if required by CEQA would be performed, including review of existing facilities and the ability of these facilities to support additional vehicles associated with AVR System operation and maintenance. However, given that these two alternatives were found to have slightly higher impacts to the environment, neither of them was selected as the environmentally superior alternative. Please see Section 6.5, Environmentally Superior Alternative, for a discussion of the various alternatives and selection of the proposed Project as being environmentally preferable to the alternatives evaluated in the EIR.

Further, and in response to the commenter's question regarding whether the cities were contacted regarding the proposed Project, both cities were included on the distribution list for each of the CEQA notices (including the Notice of Availability identifying the completion of the Draft EIR). Ultimately, neither city submitted comments raising concerns regarding the Project or the EIR's analysis.

Response 4.8

The commenter observes that the summary table on page 4 of the Draft EIR indicates that all impacts analyzed in the document were determined to be Class III, Less than Significant. This observation is accurate, as all impacts that were evaluated for this project were indeed found to be less than significant. Please see Section 4.0, Environmental Impact Analysis, and its subsections that relate to each of the resource areas for discussion regarding the potential impacts and how each impact was determined to be less than significant.

Response 4.9

The commenter inquires as to whether there should be a narrative added on page 5 of the document to address Mandatory Findings of Significance. The table on pages 4 and 5 addresses



all of the potential impacts for each of the resource areas, including their specific impact statements. The section on Mandatory Findings of Significance is different from the evaluations included in the resource area analyses, in that it includes an overview and discussion of cumulative impacts and impacts to human beings. These discussions relate to all of the potential impacts discussed previously under the specific resource areas, and do not include specific impact statements. Therefore, this information was not included in the table on pages 4 and 5. However, in consideration of this comment information has been added to Table ES-1 as follows:

| <u>MANDATORY FINDINGS OF SIGNIFICANCE</u> | | |
|---|----------------------|------------------------------|
| <u>Cumulative Impacts</u> Cumulative impacts are addressed in this EIR for Air Quality, Greenhouse Gas Emissions, Hydrology and Water Quality, Land Use and Planning, Noise, Transportation/Traffic, Utilities and Service Systems. In total, those analyses determine that the proposed Project would not have environmental effects that are individually limited but cumulatively considerable. Therefore, the proposed Project would have a less than significant impact in this regard. | <u>None required</u> | <u>Less than significant</u> |
| <u>Impacts on Human Beings</u> While changes to the environment that could indirectly affect human beings would be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, greenhouse gas emissions, hydrology and water quality, noise, transportation and traffic, and utilities and service systems, each of which is addressed in this EIR. According to these analyses, the proposed Project would have less than significant impacts on human beings, and therefore would not have the potential to cause substantial adverse effects on human beings. | <u>None required</u> | <u>Less than significant</u> |

Note: As discussed in Section IV, Biological Resources, and Section V, Cultural Resources, of the Amended Initial Study (Appendix A) implementation of the proposed Project would not have the potential to physically impact species or habitats, nor would it have the potential to physically affect historical, archaeological, or paleontological resources, or to disturb any human remains. Therefore, this environmental factor was scoped out of the EIR.

Response 4.10

The commenter alleges that the EIR does not address the change in management functions that would occur as a result in the change in ownership. However, as discussed throughout the EIR, the proposed Project entails the acquisition, operation, and maintenance of the AVR System; these activities inherently include management associated with these activities. Additionally, Section 1.6, Lead, Responsible, and Trustee Agencies, addresses the proposed change in terms of management of the system, including the SWRCB’s role in evaluating the proposed change of ownership. As stated on page 21 of the EIR, the Town would have to, “demonstrate to the SWRCB that it possesses adequate technical, managerial, and financial capability to assure the delivery of pure, wholesome and potable drinking water,” before it would be approved for a permit to operate the AVR System. Ultimately, and because the Town already provides management functions for other utilities (sewer) and because Apple Valley Ranchos Water Company already provides management functions that are proposed to be undertaken by the Town, no changes in any environmental impacts (if any) associated with provision of those management functions are reasonably foreseeable, nor does the commenter identify any impacts that he believes are not accounted for.



Response 4.11

The commenter alleges, without support, that there are additional functions not accounted for in the project description provided in the EIR that are currently performed outside the existing Apple Valley Ranchos Water Company O&M facility. The comment accurately reflects that the EIR identifies the existing operation as having approximately 20 office and 19 maintenance employees. This information was obtained from the annual report for Apple Valley Ranchos Water Company, which does not identify any other employee positions related to this operation (Apple Valley Ranchos Water Company 2015a). Accordingly, the Town's analysis is fully supported by substantial evidence.

Response 4.12

The commenter requests details and proof regarding the Town's objective to, "Provide for greater transparency and accountability, as well as increased customer service and reliability." As discussed under Response 4.6 above, the purpose of an EIR is to evaluate a project for its potential effects to the physical environment. The Town's objective regarding transparency, accountability, and increased customer service does not relate to potential effects to the physical environment nor does the commenter identify how he believes it may, and therefore is not within the scope of CEQA and is not included in the analysis contained in the EIR (State CEQA Guidelines, § 15131). However, this comment has been passed to Town decision-makers for consideration as part of the wider Project review process, and a brief description regarding increased transparency and accountability is included below in response to this comment.

Ownership of the AVR System by the Town would lead to more open, transparent operations and rate setting. Currently, some of the rate decisions made by the CPUC occur at behind-closed-door sessions that are not accessible to the public. Under the Town's control, operation decisions and rate setting would be subject to California's open public meeting and disclosure requirements, including the Brown Act and the Public Records Act. Apple Valley Ranchos Water Company is not subject to these public access and disclosure requirements. Thus, Town ownership would result in greater local accountability and public transparency in the operation and rate-setting process for the AVR System.

Response 4.13

The commenter requests the basis of the conclusion that operation of the AVR System would continue to require 39 employees, and states that this assumption does not account for legal and regulatory compliance functions that the commenter alleges are currently being performed by Park Water Company, the parent company of Apple Valley Ranchos Water Company. As discussed in Response 4.11 above, the annual report for Apple Valley Ranchos Water Company indicates that the company's current operation is supported by 20 office and 19 maintenance employees. The report does not identify any other employee positions related to this operation (Apple Valley Ranchos Water Company 2015a). Accordingly, the EIR is fully supported by substantial evidence. Furthermore, as discussed on page 52 of this EIR, the AVR System would maintain its existing size and capacity, and would continue to be operated and maintained in a manner similar to existing operations. For these reasons, this EIR assumes that approximately the same number and level of staff would be required to support operation and maintenance of the system following acquisition.



Response 4.14

The commenter states that the EIR does not include discussion of current construction improvements being performed by Apple Valley Ranchos Water Company or of any future needs projections for the water system. In a previous comment letter (dated August 4, 2015 and included in Appendix A), the commenter provided a similar comment expressing the need for an analysis of the condition of existing infrastructure and any necessary upgrades. As discussed in response to that comment in the Draft EIR on page 13 (located on page 14 in the Final EIR), the Town would acquire the AVR System in its existing condition; no system upgrades are proposed at this time that would require review under CEQA. The Town would maintain the system with the degree of prudence and caution required of a municipal operator of a water system. It should be noted that, these maintenance activities would be the same as those required by any owner and operator of the system, including Apple Valley Ranchos. The continuation of ongoing maintenance activities by the Town is considered and evaluated in Section 4.0, Environmental Impact Analysis, of this EIR.

Furthermore, construction improvements and future system needs, such as pipeline replacements and upgrades, would remain the same as those currently required for the AVR System, regardless of who owns the system. Therefore, there would be little to no change to the physical environmental setting in terms of the needs of the system. Any future upgrades of the system are not reasonably foreseeable. Additionally, future upgrades (if any) would be proposed and analyzed as required by CEQA and would require associated environmental review and documentation. The EIR has been updated in Section 4.0, Environmental Impact Analysis, on page 44 to include this explanation regarding potential construction improvements and future system needs.

Response 4.15

The commenter enquires about why the proposed Project does not provide specific details about how the Town would meet the requirements of the following policy in the Town's Climate Action Plan:

Policy MO-24: Encourage Apple Valley Ranchos, Golden State and other water purveyors to replace water systems with energy efficient motors, pumps and other equipment.

The proposed Project is the acquisition of the existing AVR System, and ongoing operation and maintenance by the Town. Replacement of water system components (when and if proposed by the Town) would occur over time as part of these ongoing maintenance activities, at which time the Town would implement upgrades to more efficient motors, pumps and other equipment - thus furthering the Town's GHG reduction efforts.

The commenter also alleges that the Town has appeared at the CPUC and argued against infrastructure improvements, and enquires why the Town made these arguments. The Town's comments in those proceedings primarily related to the potential need and cost of such improvements - costs which the Town sought to curtail in order to prevent the imposition of further rate-increases by Apple Valley Ranchos Water Company through the CPUC process. One of the purposes behind the proposed Project is to allow Town ownership in order to



stabilize those very same water rates. In that regard, the Town's prior concerns regarding (unnecessary and unjustified) costs is entirely consistent with the Project proposed here.

Response 4.16

The commenter asks how the proposed Project would achieve its objective of achieving local control over rates. As discussed under Response 4.6 above, the purpose of an EIR is to evaluate a project for its potential effects to the physical environment. The Town's objective of achieving local control of water rates is an economic issue and does not relate to potential effects to the physical environment, and therefore is not within the scope of CEQA and is not included in the analysis contained in the EIR (State CEQA Guidelines, § 15131). However, this comment has been passed to Town decision-makers for consideration as part of the wider Project review process, and a brief description regarding how the proposed Project would increase local control over rates is included below.

The proposed Project would provide greater local control of the AVR System because the Town's ownership of the system would put it under Proposition 218, which does not permit municipalities to make a profit in water service operations. For decades the Apple Valley community has been concerned about the increasing water rates charged by Apple Valley Ranchos Water Company. As an investor-owned utility regulated by the CPUC, Apple Valley Ranchos Water Company is entitled to charge its users a "rate of return," or profit on its water service. By contrast, municipal water providers are not permitted to charge a rate of return for water service. Thus, acquisition of the AVR System by the Town would result in a savings to the consumers of any pass-through of the rate of return or profit.

Additionally, as a publically traded company, Apple Valley Ranchos Water Company is incentivized to pay dividends to its stock-holders, which in-turn puts pressure on the company to increase water rates to pay those dividends to provide a reasonable rate of return to investors. Ownership of the AVR System by the Town would put an end to the payment of dividends and the upward pressure that puts on water rates.

Also, as an investor-owned for-profit utility, Apple Valley Ranchos Water Company is required to pay income taxes. Because municipal utilities are not-for-profit entities, they are not required to pay taxes. Thus, acquisition by the Town would avoid this expense.

Another issue affecting rates under Apple Valley Ranchos Water Company's ownership is the Water Rate Adjustment Mechanism (WRAM), which is unique to the CPUC and does not affect municipal purveyors. Under the WRAM, where there is a drop in water demand, such as in periods of drought that California is now experiencing, Apple Valley Ranchos Water Company is entitled to impose a surcharge to water users. Municipal public utility owners are not entitled to charge a WRAM.

Not only are Apple Valley Ranchos Water Company's rates increasing, but they are higher than the rates charged by nearby municipal and investor-owned purveyors. As an illustration, in October 2015, the water rates for Apple Valley Ranchos Water Company were higher than for neighboring water service providers (Table 8-2).



**Table 8-2
 Rate Comparison of Nearby Water Service Suppliers**

| Water Provider | Minimum Monthly Service Charge | | | Water Usage Charge | | |
|---|--------------------------------|------------|----------|--------------------|-----------------------------------|-----------------------------------|
| | 5/8" x 3/4" meter | 3/4" meter | 1" meter | 10 CCF | 17 CCF | 28 CCF |
| Apple Valley Ranchos Water Company ¹ | \$22.55 | \$33.83 | \$56.38 | \$28.45 | \$50.16 (+\$0.48) ² | \$87.31 (+\$5.72) ² |
| City of Hesperia | \$19.63 | \$19.63 | \$29.45 | \$9.00 | \$19.85 | \$36.90 |
| City of Victorville | \$18.25 | \$18.25 | \$18.25 | \$15.30 | \$26.01 | \$42.84 |
| County Service Area 64 | -- | \$14.10 | \$23.50 | \$8.50 | \$14.84 | \$25.62 |
| Golden State Water Company ¹ | \$16.15 | \$24.25 | \$40.40 | \$32.14 | \$42.84 | \$101.13 |
| Helendale Community Services District | -- | -- | \$26.25 | \$8.77 | \$15.35 | \$25.69 |

¹ Does Not Include Additional CPUC Taxes, Fees, WRAM and MCBA Surcharges and Other CPUC Approved Balancing Account.

² Apple Valley Ranchos Water Company also has a drought surcharge in addition to the water usage charge of \$0.48 for 17 CCF and \$5.72 for 28 CCF; these charges are in addition to the rates quoted above.

Source: Town of Apple Valley, October 2015

Ownership of the AVR System by the Town, would also increase local control of the system and rate-setting. Under Apple Valley Ranchos Water Company’s ownership, water rates are set at CPUC proceedings located in San Francisco, California. By contrast, under the ownership and control of the Town, rates would be set based on local needs and demand and at proceedings within the Town, where affected ratepayers would have greater access to the process.

Response 4.17

The commenter alleges that the EIR is insufficient in its disclosure and analysis of recently approved projects and associated current growth and development. Because the Project area for the proposed Project includes most of the Town’s incorporated area, this analysis considers cumulative development in terms of total development across the Town. In addition, the EIR considers other specific development projects proposed in the vicinity of the Project Area, which are listed in Table 3-1 of the EIR and are included in the cumulative impacts analysis.

The EIR relies on the General Plan EIR for analysis of land use impacts associated with growth throughout the Town, and other available documentation such as the Final Environmental Impact for the Hacienda at Fairview Valley Specific Plan Project (2013), where applicable, for analyses of land use impacts outside the Town boundaries, such as the Hacienda at Fairview Valley Specific Plan referenced by the commenter. According to the General Plan EIR, development proposed in Annexation 2008-001 was determined to result in a cumulatively significant land use impact. Please see the cumulative impact discussion in Section 4.4.2(a) where this information regarding cumulative development was disclosed. Section 7.0, References, has been amended to clarify where these references can be located.

As discussed in Section 4.4, Land Use and Planning, of this EIR, although proposed development in the Town of Apple Valley would result in a cumulatively significant land use impact, the proposed Project’s contribution to cumulative land use impacts would not be cumulatively considerable as it would not alter any land use designations nor conflict with land use plans, policies, or regulations. The proposed Project would not contribute to cumulative land use impacts in the parts of the Project area outside of the Town boundaries, which include



portions of Victorville and San Bernardino County, for the same reasons. In those areas, no land use designation changes are proposed and no conflicts with land use plans, policies or regulations have been identified. Additionally, as discussed in Section 5.0, Growth Inducement and Other CEQA Issues, of this EIR, the proposed Project would not induce substantial population growth, in either the Town or outside the Town boundaries, including in the unlikely event of a reduction in water rates, nor would it result in a significant number of new employees to the community. Finally, no comments on the Draft EIR were received from either the County or Victorville with regards to land use or other project-specific or cumulative impacts. Additionally, it would not result in any significant effect resulting from removing obstacles to growth.

The following text has been added to Section 4.4, Land Use and Planning, on page 78 of the EIR under Impact LU-1 to clarify this analysis:

Most of the portions of the AVR System service area that fall within San Bernardino County are currently zoned HF/SP (Hacienda Fairview Specific Plan) and AV/RL-40 (Apple Valley/Rural Living - 40 acre minimum). The remaining areas are zoned AV/RL-20 40 (Apple Valley/Rural Living - 20 acre minimum), AV/RL (Apple Valley/Rural Living), AV/IC (Apple Valley/Community Industrial), AV/CN (Apple Valley/Neighborhood Commercial) and AV/RS-1 (Apple Valley/Single Residential 1 acre minimum). The location of Well 7 in the City of Victorville is zoned SP (Specific Plan). In both cases, the proposed Project would not alter existing compliance with applicable land use plans, policies, or regulations, given that the proposed Project would alter the entity that owns and operates the existing Apple Valley Ranchos Water System, but would not alter the nature or intensity of operation and maintenance of the water system.

Response 4.18

This comment points out the acronym “DMM” was used without being defined on its first use. In this document, DMM is used to abbreviate Demand Management Measures. The Final EIR has been updated on page 129, where the acronym was first used, to include the full term.

Response 4.19

The commenter states that the Draft EIR did not respond to all comments that were provided during the scoping process. As discussed under Response 2.4 above, in total, there were 27 written comments received during the scoping process. All of these comments are tabulated and summarized in Table 1-1 of the Draft EIR; no comments were omitted. Page 8 of the Draft EIR erroneously reported that 29 comments were received. This number has been updated to 27 on page 9 of the Final EIR to reflect the correct number of comments received during the scoping process for the Draft EIR.

The commenter expressed concern regarding alleged omission of verbal comments from the scoping meeting, and claims that the following comment was made and no response was provided: “With the possible Eminent Domain decision and Acquisition by the Town of Apple Valley, what would negate the possible re-sale later to another public or private entity?” The commenter goes on to ask why this particular comment was not addressed.



At the scoping meetings, all commenters were asked to provide their specific comments on the comment cards provided or through email or by hard copy mail after the meeting as well so that they could be fully addressed. The Town is not aware of any comments (including any regarding additional alternatives) that have not been addressed. Ultimately, all comment cards received at the scoping meetings are included in the appendix of the Draft EIR and responses are included in the main document. Therefore, this comment did not previously receive a response.

To respond to this comment as it is presented here, the comment does not appear to be an additional alternative for consideration, but rather a question regarding a potential hypothetical result of the Town's acquisition of the AVR System. It is not the Town's intention to resell the AVR System to another public or private entity, and this action would not be consistent with the stated objectives of the proposed Project. Therefore, this action is not part of the proposed Project and is not a foreseeable consequence of the proposed Project. Thus, the potential indirect impacts that this comment attempts to establish are highly speculative and unsubstantiated conjecture (State CEQA Guidelines, § 15384 [substantial evidence does not include unsubstantiated opinion or speculation]) and this scenario need not be analyzed in detail in the EIR. (See *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1178 [CEQA does not require speculation]; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692 [EIR upheld – despite claims that project description was incomplete – because operation of plant beyond stated 20-year life was speculative].)

Response 4.20

The commenter asks, "Where are the comments of the Mojave Water Agency... as well as other Critically-important High Desert Environment Impact Expertise?" He goes on to imply that their lack of comment may be due to insufficient noticing, and indicates that he expects the full distribution list to be included in the Final EIR.

During the scoping process, the Mojave Water Agency was sent both the initial and revised Notice of Preparation inviting it to provide comments on the proposed Project; however, the agency did not provide a comment. The Mojave Water Agency was also sent the Notice of Availability of the Draft EIR. Additionally, in terms of environmental agencies with high desert expertise, the California Department of Fish and Wildlife was noticed, including Region 6, Inland Deserts Region, specifically, which serves Imperial, Inyo, Mono, Riverside, and San Bernardino counties. This agency did not provide a comment on the proposed Project; however, it has since issued a No Effects Determination for the proposed Project, indicating that the agency has reviewed the Project and determined that it would have no effect on fish, wildlife or their habitat. Additional environmental agencies and organizations within the region were noticed and did not provide comments on the proposed Project.

As discussed in Response 2.7 above, the commenter provided a comment letter during the scoping process (dated July 17, 2015 and included in Appendix A), providing suggestions regarding additional recipients for the Notice of Preparation. This request was received after publication of the revised Notice of Preparation on July 16, 2015. Nonetheless, in response to this request, the Town sent the Notice of Availability of the Draft EIR to all recipients that were

specified in the letter. Accordingly, the Town has “followed-through” regarding the suggested notifications previously provided by the commenter.

As with the Notice of Preparation, a full list of public agencies, responsible agencies, and others who were provided with the Notice of Availability will be provided either by e-mail or as a hard copy to anybody who requested it from the Town; however, it will not be included in the document itself.

Response 4.21

The commenter alleges that the response to his concern regarding Valley Fever that is included in the Draft EIR is dismissive of his concerns. As discussed under Response 2.8, in a previous comment letter (dated August 13, 2015 and included in Appendix A), the commenter requested information regarding whether the Project would result in impacts related to Valley Fever. Contrary to the commenter’s claim that this concern was dismissed without proper evaluation, the Draft EIR included a response regarding his specific concern. As discussed in the previous response on page 17 of the Draft EIR (located on page 18 in the Final EIR), Valley Fever is associated with the mobilization of particulate matter (dust) and subsequent inhalation by area residents, and the potential for the Project to result in air quality impacts, including emission of particulate matter, is included Section 4.1, Air Quality. The Draft EIR found that the proposed Project would not result in an increase in air emissions from operation or maintenance activities because no construction or operational changes that might result in ground-disturbance or increased air emissions are proposed. Given that there would be no increase in air emissions, the proposed Project would not contribute to increased risks associated with Valley Fever. Nonetheless, the above explanation has now been added to the discussion in Section 4.1, Air Quality, to specifically state that the proposed Project would not result in any impacts associated with generation of dust.

Response 4.22

The commenter claims that the Town could be working toward achieving some of the goals outlined in Section 4.4, Land Use and Planning, and expresses disappointment the Town is not currently working toward attaining these goals with Apple Valley Ranchos Water Company as the owner. The commenter goes on to ask why this has not already occurred. This comment does not relate to the proposed Project, but to the Town’s purported actions or inaction prior to proposing this Project. As such, this comment is not within the scope of CEQA and is not included in the analysis contained in the EIR. However, this comment has been passed to Town decision-makers for consideration as part of the wider Project review process.

Response 4.23

The final comment is a conclusory statement regarding the commenter’s dissatisfaction with the Draft EIR, which he claims lacks sufficient detail and high-level analysis. As this comment is general in nature and does not provide any specifics regarding these purported shortcomings, no further response is required to this portion of the comment. (See *Browning-Ferris Indus. v. City of San Jose* (1986) 181 Cal.App.3d 852 [where a general comment is made, a general response is sufficient].) The commenter’s opinion that the EIR should include additional higher-

level analysis, supporting details, and locally applicable High-Desert provisions has been passed to Town decision-makers for consideration as part of the wider Project review process.

