

From: Greg Raven  
Sent: Sunday, November 01, 2015 3:52 PM  
To: Apple Valley Mailbox  
Subject: Opposing the Draft EIR Report

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

Via e-mail to [applevalley@applevalley.org](mailto:applevalley@applevalley.org)

Ms. Lamson,

I wish to register my opposition to the Draft EIR Report in its entirety.

It is clear as day that the Town of Apple Valley (TOAV) using the Environmental Impact Report process for nefarious purposes. There is no need for an EIR process when acquiring an existing business, as TOAV proposes to do, so the only reason why TOAV would spend the time and (taxpayer!) money on this process must be to create a fictitious aegis for their actions. Thus, any EIR that is not 100 percent negative serves their agenda of pushing forward with a decision made long ago. By misrepresenting the Project Objectives, they have guaranteed at least some positive outcome, upon which they will hang their hat in announcing this decision. To put it another way, for TOAV, this is not about water, it is about money. The EIR is a fig leaf behind which they will hide while doing what they have wanted to do anyway since 2006.

5-1

Additionally, I wish to object on specific grounds listed below.

Point 1 — Project Objectives: “The underlying purpose of the proposed Project is for the Town of Apple Valley to acquire, operate, and maintain the existing AVR System.”

Objection 1: This purpose contains one or more falsehoods. The obvious falsehood is that TOAV even has the ability to operate and/or maintain a water utility. Apple Valley Ranchos Water Company (AVRWC) has two class 5 water operators, and numerous certified employees. Given the relentless attacks on AVRWC by TOAV over the years, few if any of these qualified persons would transition to TOAV to operate and/or maintain the water system (assuming they were even asked), meaning TOAV would have no one with any substantive knowledge of water system operation. The one person typically put forward as the expert for TOAV is Dennis Cron, who doesn’t seem to know the difference between a booster station and a well head, nor the difference between potable water and portable water.

5-2

Point 2: Project Objectives: “Allow the Town to independently own and operate a water

production and distribution system;”

5-2  
(cont)

Objection 2: See Objection 1.

Point 3 — Project Objectives: “Provide for greater transparency and accountability, as well as increased customer service and reliability;”

Objection 3: TOAV has been utterly opaque both in terms of its true goals in seizing AVRWC, and in its finances in general. Currently, TOAV is running a deficit both with the Golf Course and in general, while cooking the books to make it appear to the public that things are going great. Also, TOAV continues to hide financial documents from public scrutiny, while publicly claiming not to be hiding anything. TOAV is simply not to be trusted on anything it says at this point. Even the “transparency reports” it promised would be available every month have failed to materialize. Furthermore, while I have lived in Apple Valley for a decade, I have yet to call Town Hall and actually reach anyone except for the receptionist, which I do not consider to be good customer service. Finally, it bears repeating that TOAV has experience with three different water projects over the last 16 years or so, each of which has come to grief: Apple Valley Water District, the MWA well (through Council Member Art Bishop), and the Apple Valley Golf Course. This history of failure shows TOAV is not, and probably never will be, suited to run a water utility. Evidence of this can be seen in the fact that after TOAV gained water rights through the purchase of Apple Valley Country Club, it immediately transferred all or some of the rights to other entities.

5-3

Point 4 — Project Objectives: “Enhance customer service and responsiveness to Apple Valley customers;”

Objection 4: With no idea how to operate and/or maintain a water system, there is no way TOAV can make this promise. And, given its financial situation, there is no way it can fulfill this promise no matter how sincere the promise or great the effort, short of massive increases in either water rates, taxes, or both. Also, as mentioned in Point 3 above, TOAV’s existing customer service is abysmal.

5-4

Point 5 — Project Objectives: “Provide greater local control over the rate setting process and rate increases;”

Objection 5: No one has yet been able to figure out what TOAV means by the vague and misleading term “local control.” The Town Council Members are not in control of TOAV staff, TOAV farms out its accounting, TOAV has allowed Outer Highway 18 to be destroyed piecemeal (which leaves residents at the mercy of CalTrans!), and Town Council Members are either too lazy to probe into obvious problems in the town, or are willfully ignorant of them. Also, TOAV has increased sewer rates at a faster rate than AVRWC has increased water rates, and unlike AVRWC, there is no oversight for TOAV increases. After securing its last sewer rate increase, TOAV turned around and loaned millions from the sewer fund to the general fund to help cover a budget shortfall. One Town Council Member referred to this as a surplus, saying, “Surpluses are good!” And, if TOAV farms out the operation and/or maintenance of the water system to an outside firm, this represents a loss of “local control.”

5-5

Point 6 — Project Objectives: “Provide direct access to locally elected policy makers for the water operations;”

5-6

Objection 6: We residents currently do not have what I would call direct access to elected officials for current TOAV business. True, we can contact them through e-mail or perhaps voicemail, but they virtually never respond, and never substantively. These are not the people we want running our water system.

5-6  
(cont)

Point 7 — Project Objectives: “Allow the Town to pursue grant funding and other types of financing for any future infrastructure needs, including grants and financing options which the CPUC does not allow private company to include in their rate base (such that private companies do not pursue advanced planning and investment for infrastructure); and”

Objection 7: AVRWC is a successful company that is a subsidiary of another successful company, and as such has already has figured out the funding for future infrastructure needs. The fact that TOAV is already saying it doesn’t have funding, indicates to me that TOAV will be skimming funds out of the water system and into the general fund, using underhanded and seamy tactics, to the point that there will be nothing left for future infrastructure needs. This means TOAV will be forced to encumber residents with even more debt (atop the mountain of debt needed to complete the condemnation process) to maintain what we have now, let alone for any speculative ventures.

5-7

Point 8 — Project Objectives: “Enable the Town to use reclaimed water for public facilities without invoking potential duplication of service issues with AVR.”

Objection 8: There is a much easier way of using reclaimed water, and TOAV knows it. TOAV signed an agreement with AVRWC granting AVRWC the exclusive position of water retailer within its service area. AVRWC welcomes the use of reclaimed water, and TOAV knows this, too. TOAV is using this as a ploy in an attempt to justify the necessity of the multi-million dollar mistake it wants to make.

5-8

Each of the so-called Project Objectives is essentially a promise by TOAV to conduct business in a way utterly different from how they currently conduct business. If these Objectives are important, TOAV could start implementing them now. They don’t because they have no intention of fulfilling these implied promises. It will be business as usual, but with millions more (and our water system!) at stake.

5-9

I have some other objections, too.

Objection 9 — Alternatives: The only alternative that makes any sense is No Project. Victorville appears to have mismanaged millions in its own water utility, and has come under harsh criticism from both a Grand Jury investigation and a state water audit of our area. Former Hesperia council woman Diana Carloni is on record as saying that Hesperia took over its water utility for monetary reasons, not for any of the eyewash TOAV presents as goals. Neither of these entities is suitable to operate our water utility, and the very fact that TOAV proposes them reveals that they don’t care about what happens to our water system. Should either of them become the operator of the Apple Valley water system, they are going to charge us whatever it costs them, plus add something for profit. Because neither is as good at running a water utility as AVRWC, this means higher costs, poorer service, and possibly reduced water quality. As for Alternative 4, running a water utility is far more complex than running a town the size of Apple Valley. As it is, TOAV barely manages to run itself; there is no way it could run a water utility, so this is not a viable alternative. To recap, the only serious, sustainable option is Alternative 1 — No Project. TOAV will use any other

5-10

recommendation as proof of support for its hostile takeover.

5-10  
(cont)

Objection 10 — Areas of known controversy (hydrology and water quality): This section is bad fiction from beginning to end. First, it ignores the fact that TOAV has no ability to run a water system, so water quality is a key issue. Second, “required to comply” could mean that TOAV would just pay any fines associated with overuse of water, rather than conserving, because the ratepayers are picking up the tab. To date, TOAV has done virtually no conservation messaging, and hasn’t even joined AVRWC to support their conservation messaging. As the biggest user of water in the area, with the least knowledge of how a water utility must be run, TOAV is not to be trusted in this area.

5-11

Objection 11 — Areas of known controversy (Utilities impact U-3): TOAV has essentially claimed that everything AVRWC says is a lie. I believe these claims to be false, but here, TOAV is conveniently taking AVRWC at its word about the sufficiency of the water supply. I want to see proof.

5-12

Objection 12 — 1.1 Project background: AVRWC has holdings outside of Apple Valley. My understanding is that TOAV cannot run projects outside of their sphere of influence. There is no way for TOAV to buy all of AVRWC without Yermo. There is no way for TOAV to buy AVRWC without Yermo without incurring significant additional costs, potentially running into the millions.

5-13

Objection 13 — 1.2 Purpose and legal authority: This is the hook upon which TOAV will hang its hat in promoting the hostile takeover of AVRWC. Because of the flawed nature of the DEIR, there will be no “significant environment effects of the project,” therefore, TOAV can say they received the green light for the project on the strength of this flawed EIR.

5-14

Objection 14 — 1.3 Notice of preparation and scoping: Just looking at the responses to my earlier objections, TOAV would have us believe that it will spend millions pursuing eminent domain proceedings against AVRWC, and then be at the mercy of the SWRCB? Are you seriously proposing that as a response? If TOAV was worried about not being fit, it would be beaver away now so that it will be in a position to “demonstrate ... its ability to operate the system.” Instead, it is engaged in a propaganda war against AVRWC. Persons licensed and certified to run a water system in California do not grow on trees. Where is TOAV going to get these persons? Are they going to hire them before the trial, after the trial, during the trial, or when? Also, the failure of the EIR process to evaluate all aspects of the project is the very thing upon which TOAV is counting. The EIR process is being played, at the expense of the ratepayer.

5-15

Objection 15 — 1.6 Lead, responsible, and trustee agencies: TOAV does not have discretion over the acquisition of AVRWC. That entity is a court somewhere, at an eminent domain hearing. TOAV only has the discretion of mis-spending taxpayer monies in this insane jihad against AVRWC. Furthermore, there is no way TOAV will acquire AVRWC through “a negotiated purchase.” AVRWC is not for sale, and the TOAV’s so-called offer was pitifully low. The inclusion of this language in this document raises doubts about the entire document, as well as the purpose for this document.

5-16

Objection 16 — 2.4.4 System operation and maintenance: TOAV says it wants to use the existing AVRWC facilities. We already have a water system being run out of that building. Thus there is no benefit to ratepayers for TOAV to spend millions to obtain something we

already have.

5-16  
(cont)

I don't know what the term of art is for it, but the Final Report must urge TOAV not to pursue this course of action one moment longer. The only logical and ethical choice is the "no acquisition" option.

5-17

— Greg Raven, Apple Valley, CA

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I'm not a Democrat, and I'm not a Republican. I'm an American, and I want my country back.

Letter.5

**COMMENTER:** Greg Raven, Public

**DATE:** November 1, 2015

**RESPONSE:**

Response 5.1

This introductory comment expresses the commenter's dissatisfaction with the Town's decision to complete an EIR to evaluate the proposed Project, stating that it is a waste of time and money. The commenter goes on to claim that the project objectives are misrepresented. These statements are general in nature and do not raise specific environmental concerns about the Draft EIR or the Project; therefore, 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. Finally, the commenter states that the Town's CEQA process only serves to ratify "a decision made long ago." Contrary to the commenter's statements, the Town has not made a decision regarding whether to approve the Project. Indeed, the EIR process and other studies reviewed by the Town in recent times have been undertaken in a good-faith effort to fully study the proposed Project to determine whether an approval (if any) is appropriate. Such efforts are entirely consistent with CEQA's directive that planning processes proceed concurrently with the completion of CEQA review. (State CEQA Guidelines, § 15004.)

Response 5.2

The commenter questions the Town's ability to operate the AVR System. 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. Further, the commenter does not identify any environmental impacts that he believes may arise as a result perceived staffing issues. Thus, no further response is required. (State CEQA Guidelines, § 15088 [responses are required only for comments raising environmental issues].)

Response 5.3

The commenter questions the Town's objective to, "Provide for greater transparency and accountability, as well as increased customer service and reliability," and alleges that the Town has financial motivations for pursuing the proposed Project. Greater transparency and accountability and increased customer service are included in the EIR as some of the Town's stated objectives in pursuing the proposed Project; however, these particular objectives do not relate to potential effects to the physical environment. Therefore, analysis of effects to transparency, accountability, and customer service are not within the scope of CEQA and are



not included in the analysis contained in the EIR (State CEQA Guidelines, § 15131). This is also true of any unsupported allegations concerning the Town's financial motivation for pursuing the proposed Project. Nonetheless, and to be clear, the Town's website makes reference to financial transparency reports which the Town will attempt to post each "quarter." Such statements do not amount to a "promise" to post reports on a "monthly" basis as the commenter asserts. 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. In addition, the commenter references "three different water projects" involving Apple Valley Water District, the MWA well, and the Apple Valley Golf Course asserting that they all "came to grief." This comment is unclear and not supported by any fact. First, it is unclear what "MWA well" the commenter is referring to. Second, the Town did refurbish an existing well on the Golf Course to ensure it could support Golf Course irrigation needs. Third, the former Apple Valley Water District was dissolved and its function became an enterprise function of the Town (for political and administrative efficiency). Thus, it is unclear why the commenter believes these projects are problematic, and there is no explanation of why those projects are relevant in determining what environmental impacts the commenter believes may arise from *this Project*. Without further information on the meaning of this comment, no further response can be provided. (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 Town's intent in acquiring the AVR System is to provide 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. Please also see Global Response #1.

#### Response 5.4

The commenter also questions the Town's objective to provide increased customer service, and alleges that the Town does not have the expertise to operate the AVR System. As discussed in Response 5.3 above, increased customer service 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). The Town's ability to operate the AVR System is addressed under Response 5.2 above, which indicates that the SWRCB would evaluate the proposed change of ownership and determine if the Town should be approved to operate the system and issued a permit, as discussed on page 21 of the EIR. Please also see Global Response #1.

#### Response 5.5

The commenter indicates that it is unclear what the Town considers greater local control over the rate setting process and rate increases. 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.

Additionally, and to be clear, 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 8-3).

**Table 8-3  
 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 <sup>1</sup>	\$22.55	\$33.83	\$56.38	\$28.45	\$50.16 (+\$0.48) <sup>2</sup>	\$87.31 (+\$5.72) <sup>2</sup>
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 <sup>1</sup>	\$16.15	\$24.25	\$40.40	\$32.14	\$42.84	\$101.13
Helendale Community Services District	--	--	\$26.25	\$8.77	\$15.35	\$25.69

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

<sup>2</sup> 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. Please also see Global Response #1.

The commenter also alleges that the Town has raised sewer rates at a faster rate than Apple Valley Ranchos Water Company has increased water rates. While the commenter provides no evidence in support of this assertion, in response it is worth noting that sewer rate increases occurring as a result of “pass-thru rates” and charges that the Town must pay to the Regional Treatment Authority are not the same as the Town increasing rates for operation of its own system. These types of increased rates are necessary, and are accordingly passed on to Town sewer customers, to generate the necessary revenue to pay these pass-thru payments.

Response 5.6

The commenter indicates that he does not believe that the residents of Apple Valley have direct access to elected officials because he claims that these officials do not respond when contacted. The level of access to elected officials 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.

Response 5.7

The commenter objects to the statement that private companies do not have access to certain types of funding (such as grants limited to public agency applicants) that may be available to public agencies. To be clear, the Town is not suggesting that private companies are necessarily forbidden from doing advanced funding planning. However, private companies have more limited options with regard to funding operation and maintenance of public utilities, and they respond to different financial pressures (such as guaranteeing a rate of return to investors) than exist for public agencies.

In terms of the commenter’s allegations about the Town’s intent, this comment is an unfounded statement regarding the Town’s objective to secure additional funding to be used for water infrastructure improvements. As this comment relates to economic aspects of the proposed Project, it is not within the scope of CEQA, and thus not included in this EIR (State CEQA Guidelines, § 15002 and § 15131). Regardless, this comment has been passed to Town decision-



makers for consideration as part of the wider project review process and additional information has been provided below.

The Town has not indicated that it lacks funding for infrastructure improvements. The stated objective indicates only that the Town intends to pursue grant funding uniquely available to public agencies to provide additional funds to be used for infrastructure improvements, thereby reducing costs to rate payers. Additionally, 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.

#### Response 5.8

The commenter appears to claim that the Town’s objective of enabling the use of reclaimed water for public facilities without invoking potential duplication of service issues with Apple Valley Ranchos Water Company is misguided. Although it is unclear what “agreement” the commenter is referring to, the commenter appears to be referring to Town Ordinance No. 13, which granted Apple Valley Ranchos Water Company a franchise to operate, use, and construct a municipal water system within the Town. The commenter’s claim that the Project would violate that Ordinance is incorrect. Specifically, Section 4 of Ordinance No. 13 provides that:

The term or period of this franchise shall . . . endure in full force and effect until . . . [it] is voluntarily surrendered or abandoned by its possessor, or until the State of California or some municipal or public corporation authorized by law shall purchase by voluntary agreement or condemn under the power of eminent domain, all property actually used and useful in the exercise of this franchise.

In addition, Section 9 of Ordinance No. 13 (which mirrors Public Utilities Code Section 6262) states as follows:

The franchise granted hereunder shall not in any way or to any extent impair or affect the right of the Town to acquire the property of the Grantee either by purchase or through the exercise of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the Town’s right of eminent domain with respect to the Grantee or any public utility, nor shall this franchise ever be given any value before any court or other public authority in proceedings of any character in excess of the cost to the Grantee of the necessary publication and any other sum paid by it to the Town at the time of the acquisition thereof.

Here, because the Town is a municipal corporation authorized to acquire property by purchase, eminent domain, gift, devise, contract, “or other means,” the plain language of these provisions make it clear that the Town may acquire the AVR System from Apple Valley Ranchos Water Company and terminate the franchise agreement, if the proposed Project is approved. (Gov. Code, §§ 37350, 37350.5.)



### Response 5.9

This comment is a conclusionary paragraph regarding the Project objectives, in which the commenter asserts that the Town does not intend to fulfil the implied promises. 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].)

### Response 5.10

The commenter states his objections to the potential alternate operators of the AVR System that are considered in the alternatives analysis, claiming that neither of these operators is suitable and that their operation of the system would result in higher costs, poorer service, and possibly reduced water quality. He goes on to state that the Town (and other agencies identified in the EIR as potential alternative operators) is also incapable of effectively operating the system and that the No Project Alternative is the only suitable option (e.g., continued ownership and operation by Apple Valley Ranchos Water Company).

As discussed under Response 5.2, 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 – or any other proposed operator - 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. The proposed Project or alternative that is selected would be reviewed by the SWRCB taking into consideration the specific operator defined in the selected action. The permit would only be issued if the SWRCB found that the selected operator has proven that they are capable of effectively managing the water system. Finally, the Town is not proposing to approve the operation of the system by the Cities of Victorville or Hesperia. Instead, those options are analyzed for purposes of meeting CEQA's alternatives requirements and providing a basis for comparing the Project's potential impacts to those of other options.

### Response 5.11

The commenter restates his opinion that the Town is incapable of operating the water system, indicating that water quality is a key issue. He goes on to claim that the Town would not work toward conservation, but would instead overuse water and increase fees to their customers in order to cover fines associated with their overuse. The first of these comments is addressed in Response 5.2, which explains that 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, as stated on page 21 in Section 1.6, Lead, Responsible, and Trustee Agencies of the EIR. Further, the commenter does not explain why, how, where, or to what extent he believes that the Town's operation of the system would result in water quality impacts. Unsupported and conclusion opinions are not substantial evidence showing that impacts will occur or that the Town's good-faith EIR analysis is incorrect. (See State CEQA Guidelines, § 15384 [defining substantial evidence].)



In response to the commenter's accusations as to how the Town would manage the water supply for conservation purposes, these claims, too, are speculative and the commenter again does not provide any supportive evidence, much less substantial evidence contradicting the Town's good-faith analysis. It is the Town's objective to work toward conservation of water rather than overuse. 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].) Regardless, this comment has been passed to Town decision-makers for consideration as part of the wider project review process.

#### Response 5.12

The commenter requests proof that the information provided by Apple Valley Ranchos Water Company about the sufficiency of the water supply is accurate, referencing the use of this information in Impact U-3. Presumably, the commenter is referring to the UWMP that was written by Apple Valley Ranchos Water Company. Page 27 in Section 2.3, Regulatory Setting, of the EIR, includes the following discussion regarding UWMP's:

Pursuant to the Urban Water Management Planning Act (California Water Code §§ 10610 - 10656) urban water suppliers having more than 3,000 service connections or water use of more than 3,000 acre-feet per year (AFY) for retail or wholesale uses are required to submit an Urban Water Management Plan (UWMP) every five years to the California Department of Water Resources (DWR). The Water Conservation Act of 2009 (often referred to as SBX7-7) requires increased emphasis on water demand management and requires the state to achieve a 20 percent reduction in urban per capita water use by December 31, 2020. Retail urban water suppliers are required to report baseline and compliance data in their UWMPs in accordance with the requirements of SBX7-7. UWMPs are prepared by California's urban water suppliers to support their long-term resource planning and to ensure that reliable and adequate water supplies are available to meet existing and future water demands over a 20-year planning horizon during normal, single-dry, and multiple-dry year periods.

UWMPs must be submitted to DWR every five years, at which time DWR reviews the submitted plans. As Apple Valley Ranchos Water Company's most recent UWMP was the 2010 UWMP adopted June 23rd, 2011, and the next update is due to be completed in July 1, 2016, the 2010 UWMP is the most up to date plan and was used to inform analysis in this EIR. Furthermore, CEQA does not require that an EIR present definitive and incontrovertible proof. Instead, an EIR must provide a good-faith and reasoned analysis supported by substantial evidence. The above UWMP, which has been adopted by Apple Valley Ranchos Water Company and reviewed by DWR, constitutes substantial evidence supporting the Town's conclusions.



Response 5.13

The commenter alleges that the Town cannot purchase the AVR System without also acquiring the Yermo System. The initial response on page 15 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.

Response 5.14

This comment claims that the Draft EIR is flawed, implying that the findings of significance are inaccurate. First, the Town's EIR is fully supported by substantial evidence and provides a good-faith and reasoned explanation as to why the Project (a mere title transfer) will not result in any significant impacts. Second, this comment is vague and does not provide any specific examples regarding what findings are purportedly inaccurate. Because these statements are general in nature and because the statements do not raise specific environmental concerns about the Draft EIR or the 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].)

Response 5.15

The commenter expresses concern regarding the Town's potential denial of an operators permit following the acquisition of the water system, and goes on to enquire how the Town would secure appropriate staff to manage the system. The Town would need to secure a permit to operate the system prior to operating the system. Furthermore, nothing prevents the Town from securing - as necessary - appropriate personnel to operate the system.

The commenter implies that, in light of the "missing" information regarding staffing, the EIR has not evaluated all aspects of the project. However, the commenter fails to identify any particular impact for which he believes the EIR has failed to account. Moreover, the EIR provides a description of the proposed Project that fully complies with the requirements of CEQA (Pub. Res. Code § 21000 et seq.: "CEQA") and the State Guidelines for Implementation of CEQA. The State CEQA Guidelines specifically provide that the "degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR." (State CEQA Guidelines, § 15146.)

Here, the degree of specificity in the Draft EIR corresponds to the degree of specificity involved in the underlying action. As explained in the Draft EIR, the underlying purpose of the proposed Project is for the Town to acquire, operate, and maintain the AVR System. CEQA does not require that the Town provide an exhaustive explanation regarding the details of how the Town would manage the system and from where they would source their employees. (See State CEQA Guidelines, §15151 ["evaluation of environmental effects of a propose Project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible"]).



With respect to operations, the Draft EIR explains that the Town intends to continue operations substantially in their current form and no expansion of operations would occur with the proposed Project. Moreover, the Draft EIR clearly states that no new facilities are proposed by the Project and it is thus assumed that the system would require the same number of employees to operate and maintain it as under existing conditions. Thus, the Town has made all reasonable assumptions predicated on facts with respect to the number of employees that would be needed to operate and maintain the system. (State CEQA Guidelines, § 15384.)

Finally, and contrary to the commenter's statement that the Town has engaged in a "propaganda war against Apple Valley Ranchos Water Company," the Town's EIR and public outreach process are intended only to meet CEQA's informational disclosure and public involvement requirements.

#### Response 5.16

The commenter indicates that Apple Valley Ranchos Water Company will not settle for a negotiated purchase and the Town would have to engage in a legal battle to acquire the AVR System, and goes on to state that there is no benefit to spending millions to obtain existing Apple Valley Ranchos Water Company facilities since the existing supplier. This comment relates to legal and financial issues, which are issues that do not relate to potential effects to the physical environment. Therefore, this comment 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. Please also see Global Response #1.

#### Response 5.17

The commenter expresses his opinion that the Final EIR should urge the Town not to pursue the proposed Project. However, the concerns expressed in this comment letter are largely financial and legal in nature. As discussed in the responses above, the EIR process is intended to provide analysis of the physical environmental setting and potential impacts of the proposed Project and alternatives in terms of the physical environment. In reviewing these factors, the EIR finds that environmental impacts of the proposed Project are less than significant. However, the commenter's suggestion that the No Project Alternative be selected has been passed to Town decision-makers for consideration as part of the wider Project review process. Please also see Global Response #1.



Leane Lee  
12277 Apple Valley Road, #311  
Apple Valley, CA 92308  
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RECEIVED

NOV 2 2015

November 2, 2015

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

Community Development

Re: Draft Environmental Impact Report - Apple Valley Ranchos Water System Acquisition Project

I again reaffirm my comments made July 7, 2015 on the Initial Study, and again on August 19, 2015 on the Amended Initial Study.

6.1

The CEQA process has been nothing less than disingenuous and lacks a good faith effort to be compliant. Statements are inconsistent and contradictory of the facts.

The document suggests the Town would acquire the AVR System through a negotiated purchase, which is known to be a non-option. Even the Town has informally and publicly indicated it would pursue the AVR System through eminent domain, and therefore presumes to know in advance what a court of law may decide, particularly as it relates to the Yermo portion of the AVR System.

6.2

Page 1 - Page 34 Section 2.5:

“The Town’s proposed acquisition of the AVR System would include all associated assets...”

6.3

To suggest an acquisition of “ALL” while excluding Yermo is less than factual and offers no detail of how this would be accomplished. The only offering for exclusion is the distance of Yermo from Apple Valley which is an admission by the Town’s inability to operate the AVR system. This convoluted aspect has resulted in a narrow and limited focus and fails to conduct any analysis of impact relative to Yermo. Additionally there did not appear to be any notification provided from the beginning to anyone in Yermo.

Page 2 Objectives:

Objectives lists numerous claims which fall flat and lack any justification, nor does the lead agency currently comply with their existing services with respect to the following:

6.4

Transparency/Accountability  
Customer Service  
Rate Setting/Rate Increases  
Funding for infrastructure

Currently the Town, as a public agency, makes every attempt to circumvent the state laws relating to transparency and accountability while the CPUC enforces disclosures by AVRWC. The Town's provision of customer service is not provided by the Town, but is contracted out as it relates to their existing sewer service. While the CPUC performs extensive rate reviews, justifications and formulas to establish rates and consider the impact to ratepayers the Town conducts no such review or justification, nor do they even comply with the state Proposition 218 requirements with their existing enterprise funds. Finally, the issue of funding for infrastructure, it has been apparent their overriding concern is merely for new infrastructure and not for addressing aging infrastructure, as is evidenced by their objections through the CPUC in opposing AVRWC's efforts to address aging infrastructure. This alone is of paramount importance from an environmental and public safety impact. This failing could result in serious bodily injury or death to the public and cannot be ignored.

6.5

Page 2 - Alternatives:

Alternative 1 - Is a shallow option since that has not received any consideration by the lead agency, and the decision for acquisition has already been informally decided.

Alternatives 2 and 3 - Are offered without even the minimal effort to meet with the adjoining agencies to know if they would even entertain such propositions.

6.6

Alternative 4 - Again, not a viable option because the lead agency only contracts services and lacks the minimal requirements to qualify as an operator of AVRWC, and as other agency comments reflect, the lead agency failed to even identify correctly the regulating agencies. It begs the question how a lead agency puts forward an alternative, or even a project, that had not been examined prior to embarking on such an acquisition, and shows a complete inability to plan, analyze and fully examine prior to taking affirmative steps to accomplish.

There is another alternative which was voiced by an individual at the second scoping meeting, but the comment was not included. However, a similar suggestion was quite minimally noted in the DEIR, but treated in a fashion that suggests it is closer to being the intent but would not be politically wise, so it has been played down and not addressed at all.

6.7

The minimally acknowledged alternative is the Town's acquisition and private contracting of AVRWC in a public private partnership that would result in a multi-million dollar cash wind fall to the Town, which would resolve their long standing financial problems, at the expense of the unsuspecting tax and rate paying public. It is believed the alleged project and CEQA process has been perpetrated under false pretenses.

Page 20 - Section 1.6 Responsible and Trustee Agencies

The fact that the town failed to correctly identify "responsible" agencies and their approval process demonstrates a clear lack of knowledge on the part of the town of the necessary steps required for their alleged project. That alone leaves serious doubt regarding their capabilities, and certainly shows no forethought or plan of action for their alleged project.

6.8



“Prior” to a change of ownership the lead agency must comply with the SWRCB requirements. The mandatory steps must be complete prior to even the issuance of financing.

The lead agency must meet all the Technical, Managerial and Financial Elements “...to assure the delivery of pure, wholesome, and potable drinking water.” The required process is identified in no less than 15 pages of instruction and although clearly the provision of the above described water, not one part of this has been treated as an environmental consideration in this process. This process is premature since there is nothing more environmentally significant than the “delivery of pure, wholesome, and potable drinking water” and should therefore be address during the CEQA process and should have been recognized without a demand from the public.

It is appropriate to point out at this point the lead agency has offered nothing more than having one employee with water background, and that individual has already announced his retirement a very short time after the expected completion of this CEQA process. Probably a good thing he is retiring since he recently in a council meeting referred to potable water as being “portable.”

Page 64 - Section 4.3 Hydrology and Water Quality (Also referred to in Section 5.1.2):

Although the DEIR states, “The Town of Apple Valley Municipal Code includes Ordinances that apply to water conservation towards the goals of minimizing per capita water demands and maintaining sustainable water supply to the area. These include Chapter 6.40, *Water Conservation Plan*, Section 6.40.030, *Water Regulations*, which requires that all water users in the Town of Apple Valley comply with specific water conservation measures. Exemptions are allowed to avoid undue hardship to a water user, to protect public health and safety, or under special circumstances subject to approval.” The Town Council has for months, repeatedly “embraced” the public declarations of individuals failing to meet conservation mandates of the state and made no attempts to even seek compliance or apply their own ordinances in the current drought situation. To the contrary, the Town Council repeatedly attacked the successful efforts of AVRWC to enforce conservation as mandated by the state. Once member of the Town Council even declined utilizing the free conservation services of AVRWC, but complained, after wasting and exceeding reasonable water consumption, about the cost. This same whining was conducted publicly by the town’s water wasters, and was actually encouraged by the town. This clearly shows the lead agency has no regard for even state mandated conservation measures, nor their own, so what assurance can the public expect in the future? Likely not much.

Finally, it is unreasonable that the public must train and instruct the lead agency on addressing issues in the CEQA process. Something as simple as “water neutral” solutions for conservation and environmental protections should have been an automatic issue addressed in the CEQA process, and yet is completely lacking in the DEIR. This lack of regard suggests there does not exist a competency nor necessary professionalism and understanding of their responsibilities. This gives rise to a reasonable belief the town also lacks the ability to competently manage a water distribution system, and in an environmentally safe manner, nor would it be state mandate compliant.

6.9

6.10

6.11

Since energy use is a major factor in producing drinking water, this document fails to address the energy conservation issues and has ignored "energy neutral" issues as well.

6.12

Page 86 - Section 4.6 Transportation and Traffic; and Appendix C:

6.13

The alleged "study" of traffic and noise was sorely lacking in substance and duration, which lacks professionalism and regard for the importance of an adequate study.

Many references are duplicated throughout the DEIR and any comment made is applicable to all the references which occur in the DEIR.

6.14

As the county previously pointed out, referring to implementation and mitigation by a plan that is not applicable (WMHCP), and another which is incomplete (MSHCP), confirms just how unprofessional, inadequate, insincere and premature the undertaking of this process has been.

6.15

The best choice for project alternative is clearly, for all the stated reasons and more, alternative #1, No Project.

6.16

I made requests to receive copies of the mailing lists utilized in this CEQA process, as I know others have, and no such lists were provided to date.

6.17

For the reasons stated previously and above, this DEIR is inadequate and sorely lacking and is not CEQA compliant.

6.18

I hereby continue to request to be included on the list of interested persons to be notified of, and receive all future notices and correspondence related to this project.

6.19

Leane Lee

Received by Town of Apple Valley

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

Letter.6

**COMMENTER:** Leanne Lee, Public

**DATE:** November 2, 2015

**RESPONSE:**

Response 6.1

The commenter references previous comment letters submitted (dated July 7 and August 19, 2015 and included in Appendix A), and expresses dissatisfaction with CEQA process for the proposed Project to date. Because the statement does not raise specific environmental concerns about the Draft EIR or the 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].) See also Table 1-1 in Section 1.3, Notice of Preparation and Scoping, of the Draft EIR for responses to the commenter's previous letters.

Response 6.2

The commenter references Section 1.6, Lead, Responsible and Trustee Agencies, of the Draft EIR, which states that if the AVR System is acquired through a negotiated purchase, then the Town would also need to obtain approval from the CPUC for transfer of ownership and operation. Per State CEQA Guidelines § 15381, "Responsible Agency" means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the Lead Agency which have discretionary approval power over the project. Because the acquisition pathway for the proposed Project was unknown at the time that the Draft EIR was released, the CPUC was been identified as a potential responsible agency for the proposed Project and the required consultation with that agency has been conducted as per State CEQA Guidelines § 15082 and § 15086. No comments in response to either the Notice of Preparation or Notice of Availability for the proposed Project were received from the CPUC.

Response 6.3

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 focus is too narrow and does not include analysis of impacts relative to the Yermo system. 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 are neither proposed nor 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.



The comment also incorrectly notes that notification for the proposed Project does not extend to the Yermo area. The newspaper notices for both the Amended Notice of Preparation and the Notice of Availability of a Draft EIR were both published in the Victorville Daily Press, which is a regional newspaper with circulation in the Yermo area. In addition, the Notice of Availability was posted with the San Bernardino County Clerk as per the requirements of State CEQA Guidelines § 15087. The Notices of Preparation of a Draft EIR were also posted with the San Bernardino County Clerk.

#### Response 6.4

This comment is an assertion regarding the Project objectives, stating that the objectives lack justification and the Town does not achieve the stated objectives with existing services. As this comment is general in nature and does not provide any specifics regarding these purported shortcomings of the objectives themselves, 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].)

#### Response 6.5

The commenter also alleges that the Town has previously attempted to circumvent state laws regarding transparency and accountability and does not comply with Proposition 218 requirements. The commenter also states that the Town contracts out its sewer service. The commenter asserts that the Town's focus is on new infrastructure rather than existing infrastructure, and that this is important from an environmental and public safety perspective.

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. Construction improvements and future system 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 proposed as part of the Project, nor are reasonably foreseeable at this time. If any when the Town approves the Project and is able to undertake its own inspection of the AVR System, the Town would assess at that time whether improvements are merited, when they would be appropriate, and to what extent they are required. Additionally, such 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.

This remainder of this comment relates to current Town services and the commenter's speculation on the motivation for the proposed Project beyond the stated objectives in the Draft EIR and does not relate to the contents and analysis contained in the Draft EIR, nor does it relate to potential impacts to the physical environment as a result of the Project. Therefore, this opinion is not within the scope of CEQA, and therefore not included in this EIR (State CEQA Guidelines, § 15131); see also State CEQA Guidelines, § 15088(a) [requiring responses only to comments that raise "environmental issues"]. Nonetheless, and to briefly respond, the proposed Project, which would result in the Town's ownership of the system, would place



system funding under the requirements of Proposition 218. As such, the Town would be required to comply with Proposition 218 and all public notification requirements therein.

Finally, the Town's comments in the CPUC proceedings referenced by the commenter 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.

This comment has been passed to Town decision-makers for consideration as part of the wider Project review process.

#### Response 6.6

In this comment, the commenter expresses dissatisfaction with the alternatives examined in Section 6.0, Alternatives, of the Draft EIR. The commenter provides feedback stating that Alternative 1 (No Project) has not received consideration from the Town and that the decision for acquisition has been informally decided. The commenter does not provide any evidence that the decision for acquisition has been made, even informally, at this time; therefore, 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].) With regards to the level of analysis provided for each of the alternatives, the following information is provided to summarize why the analysis of alternatives is fully adequate under CEQA. Under State CEQA Guidelines § 15126.6, the alternative analysis shall:

...include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison. If an alternative would cause one or more significant effects in addition to those that would be caused by the project as proposed, the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed. (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1).

The Draft EIR includes a description of each of the alternatives and, for each alternative, analysis of all of the resource areas that were evaluated for the proposed Project, regardless of the level of impact. As there are no significant impacts associated with the proposed Project or any of the alternatives, this analysis was performed in addition to the base analysis that is required under CEQA. In addition to this analysis, the alternative analysis in the Draft EIR includes a matrix of impacts for each of the alternatives relative to those associated with the proposed Project. This matrix was used to further support the conclusion of the EIR regarding the environmentally superior alternative.

Further, and in response to the commenter's erroneous statement regarding whether the cities of Hesperia and Victorville 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 proposed Project or the EIR's analysis.

Finally, see Response 6.2, regarding to the commenter's statement about the Town's ability to operate the system under Alternative 4 and the identification of the responsible agencies for the proposed Project.

#### Response 6.7

In this comment, the commenter references omission of a possible additional alternative provided verbally at the second scoping meeting, but goes on to say that it was in fact minimally addressed in the EIR but does not specifically indicate where in the EIR it is discussed. The commenter goes on to state the opinion that the alternative to contract operation of the system to a private company was not addressed in the EIR because it is the ultimate intent of the Project and that the CEQA process has been undertaken under false pretenses.

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.

See also Response 3.4 for a discussion of potential impacts associated with operation of the AVR System by a private operator rather than by the Town. Finally, no evidence supporting the allegations by the commenter that the Town's purpose for the proposed Project is economic is provided. This comment 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.

#### Response 6.8

The commenter expresses the opinion that the Town did not correctly identify responsible agencies and their associated approval processes in the EIR. However, no specific concerns or deficiencies regarding the information provided in the EIR is provided. Because the statement does not raise specific environmental concerns about the Draft EIR or the 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].) It is, however, worth noting that each of the potentially responsible agencies denoted in the EIR received the Notice of Availability of the Draft EIR and no comments on the content of the document were received.

#### Response 6.9

The commenter correctly notes that the Town (as a new owner) would be subject to the SWRCB operational permitting requirements, as was described in Section 1.6, Lead, Responsible and



Trustee Agencies, of the EIR. 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. Furthermore, nothing prevents the Town from securing – as necessary – appropriate personnel to assist in the operation of the AVR System. The requirement to complete this administrative process was considered in the EIR and no further analysis is required.

#### Response 6.10

The comment correctly quotes page 67 of the Draft EIR and goes on to incorrectly opine that the Town is not currently enforcing State water reduction mandates. As discussed under Response 3.6 above, the purpose of an EIR is to evaluate a Project for its potential effects to the physical environment. In addition, the commenter does not explain how the Town’s alleged reactions to State and local water conservation mandates relates to the impacts of the proposed Project or how a simple title transfer would result in such impacts. Further, and in response to the commenter’s erroneous statement, the Town does not currently provide water service within the AVR System service area and as such is not charged with the responsibility for enforcement of the State mandate on water conservation; that responsibility is assigned to the water purveyor in the Governor’s April 2015 mandate. The Town has made every effort to comply with the Governor’s mandate in each of its own facilities and the Town enforces its own long-standing water conservation ordinance, as appropriate, but the Town is not the party charged with the responsibility of enforcement under the terms of the Governors mandate. Accordingly, no further response can be provided. This comment has been passed to Town decision-makers for consideration as part of the wider Project review process.

#### Response 6.11

The commenter expresses the opinion that “water neutral” solutions for conservation and environmental protection should have been included in the Draft EIR. First, it is unclear what the commenter means by referring to “water neutral” solutions. Second, Section 4.3, Hydrology and Water Quality, and Section 2.3, Regulatory Setting, of the Draft EIR already describe the existing regulatory requirements regarding water conservation applicable to the proposed Project. These include the requirement for the operator of the AVR System, whether it be Apple Valley Ranchos or the Town, to comply with the Water Conservation Act of 2009 (often referred to as SBX7-7), which requires increased emphasis on water demand management and requires the state to achieve a 20 percent reduction in urban per capita water use by December 31, 2020.

As described in Impact WAT-1 on page 72 of the EIR, any operator of the system would be required to comply with the water use reduction strategies and goals contained within the California Water Conservation Act of 2009. If the Town acquires the AVR System, it would be required to prepare a UWMP to support long-term resource planning and ensure that reliable and adequate water supplies are available to meet existing and future water demands over a 20-year planning horizon during normal, single-dry, and multiple-dry year periods, including through identification of water conservation measures. In addition, the EIR explains that the Town intends to continue operations substantially in their current form and no expansion of operations would occur with the proposed Project. Moreover, as discussed in Section 5.0,



Growth Inducement and Other CEQA Issues, of this EIR, the proposed Project would not induce substantial population growth, including in the unlikely event of a reduction in water rates, in that it would not alter any existing land use designations or zoning 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. As a result, the proposed Project would not result in an increase in water use and opportunities to introduce water conservation measures as a result of the Town's operation of the system would be identified as part of the water supply planning process.

Response 6.12

The commenter expresses the concern that the Draft EIR fails to address energy conservation issues and "energy neutral" issues associated with drinking water production. Again, it is unclear what the commenter means by referring to "energy neutral" solutions. However, Section 5.3, Growth Inducing Effects and Other CEQA Considerations, describes the supply and use of energy as a result of the proposed Project. State CEQA Guidelines Appendix F requires that EIRs analyze energy conservation consistent with Public Resources Code section 21100(b)(3). As described in Section 5.3 of the EIR, implementation of the proposed Project would not require new construction and operation of energy-related facilities nor would it result in an increase in energy demand. Also, as discuss in Section 4.2, Greenhouse Gas Emissions, operation of the system is not currently subject to the Town's GHG reduction goals for community and municipal operations. If the Town acquires the AVR System, it would fall within the Town's purview as a municipal operation and would allow the Town to work toward reducing GHG emissions associated with operation of the system, which may include energy conservation.

Response 6.13

The commenter expresses the opinion that the traffic and noise studies were lacking in substance and duration. Section 4.5, Noise, and Section 4.6, Transportation and Traffic, describe the potential impacts from the proposed Project in the context of the current environmental setting as per the requirements of CEQA. Because no specific environmental concerns are raised, no further response is required. (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].)

Response 6.14

The commenter states that many references are duplicated throughout the Draft EIR and any comment made is applicable to all the references which occur in the Draft EIR. The comment being made here is unclear and because the statement does not raise specific environmental concerns about the Draft EIR or the 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].)

Response 6.15

The commenter references the letter received from the County of San Bernardino in response to the Notice of Preparation. See Table 1-1 of the EIR for a response to the County's comment





regarding applicability and context of the HCPs discussed in the Amended Initial Study for the proposed Project.

Response 6.16

The commenter expresses her support for Alternative 1, No Project. This opinion is noted and has been passed to Town decision-makers for consideration as part of the wider Project review process.

Response 6.17

The commenter requests that copies of the mailing lists used for the CEQA process be provided. 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.

Response 6.18

The final comment is a conclusory statement regarding the commenter's dissatisfaction with the Draft EIR, for the reasons stated previously in her letter. 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 on the content of the EIR has been passed to Town decision-makers for consideration as part of the wider Project review process.

Response 6.19

The commenter requests to be included on the list of interested persons to be notified of, and receive, all future notices and correspondence related to the Project. This request is noted and the commenter will be included on all future notification lists.

