

TOWN HALL PRESENTATION

To the Town Council and Community

Regarding

The Apple Valley Water System

April 28, 2015

WELCOME

MAYOR LARRY CUSACK

OPENING REMARKS

**TOWN MANAGER
FRANK ROBINSON**

OVERVIEW

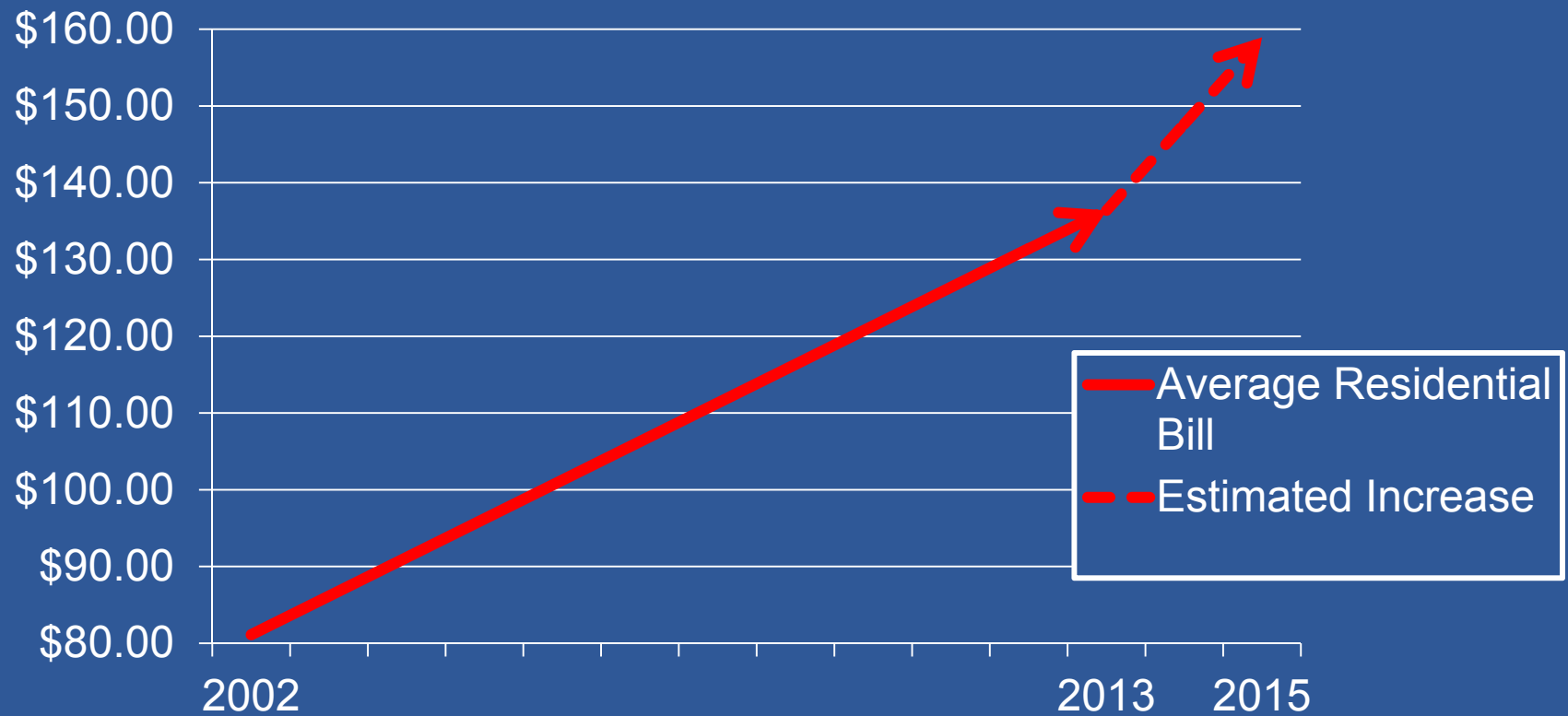
TOWN ATTORNEY

JOHN BROWN

Community's History Of Concern With Apple Valley Ranchos Water Company

- Community has voiced concerns to the Town Council about rising water rates
- Town has allocated resources to intervene in CPUC proceedings
- Town has achieved significant victories but rates are still too high
- Ownership of AVR has now transferred multiple times between hedge funds and multinational utility conglomerates

Water Bill Increases



Rate Comparison

May 2014 - High Desert Water Rate Comparison

Water Provider	Minimum Monthly Service Charge 5/8" x 3/4" meter (\$)	Minimum Monthly Service Charge 3/4" meter (\$)	Minimum Monthly Service Charge 1" meter (\$)	Water Usage Charge for 10 CCF (\$)	Water Usage Charge for 17 CCF (\$)	Water Usage Charge for 28 CCF (\$)
Apple Valley Ranchos Water Company	22.84	34.26	57.10	24.80	47.43	86.80
City of Hesperia	19.63	19.63	29.45	9.00	19.85	36.90
City of Victorville	17.50	17.50	17.50	14.70	24.99	41.16
County Service Area 64			22.10	8.10	9.96	22.98
Golden State Water	16.15	24.25	40.40	31.15	49.06	97.99
Helendale Community Services District			25.66	8.57	15.01	25.13

Topics To Be Covered #1

- **Background**

- ❖ **History, Ownership, and Status of AVR**

- **CPUC Update**

- ❖ **Status of Current Rate Case and Acquisition by Algonquin**

- **Acquisition Process**

- ❖ **Benefits of Local Control**
- ❖ **Appraisal Process**
- ❖ **Town's Efforts to Purchase AVR**
- ❖ **Condemnation Process**

- **Environmental Review**

- ❖ **CEQA – Preparation of EIR**

Topics To Be Covered #2

- **Operational Review**
 - ❖ **How Would the Town Operate the System?**
- **Financial Review**
 - ❖ **How Would the Town Pay for the System?**
 - ❖ **What Impact Will the Purchase Have on Rates?**
- **Summary**
 - ❖ **Pros and Cons**
- **Recommendations (and Alternatives)**

BACKGROUND ON AVR

TOWN ATTORNEY

JOHN BROWN

History of Apple Valley Ranchos Water Company

- Humble beginnings in 1945 when Newton T. Bass and Bud Westlund formed a small water company they then called the Apple Valley Mutual Water Company.
- Newton Bass and Bud Westlund are considered the modern founders of Apple Valley.
- Since that time, AVR has played a prominent and appreciated role in our Town.



Ownership of AVR

- Wholly owned subsidiary of Park Water Company which is owned by the Carlyle Group (TCG)
- TCG is a multi-national global asset management firm based in Washington DC with investors all over the world
- TCG also provides water service in Los Angeles (through Park Water Company) and in Missoula, Montana (through Mountain Water Company)
 - ❖ The City of Missoula is in the process of acquiring Mountain Water Company through condemnation

How the Carlyle Group's Investors Are Doing

- Since May 2012, share price increase from \$21.35 to around \$29.82 per share
- Each of the marks at the bottom of the graph indicates a dividend payment per share ranging from 11¢ (Aug. 2012) to \$1.61 (Feb. 2015)



The Carlyle Group

■ Income:

❖ 2012 – Economic Net Income of \$736 million

❖ 2013 – Economic Net Income of \$ 1.32 billion.

❖ 2014 – “This was our best year as a public company” – Carlyle Co-CEO David M. Rubenstein

- Distributable Earnings of \$973 million for 2014 were 16% higher than 2013
- Economic Net Income of \$962

■ Firm Assets:

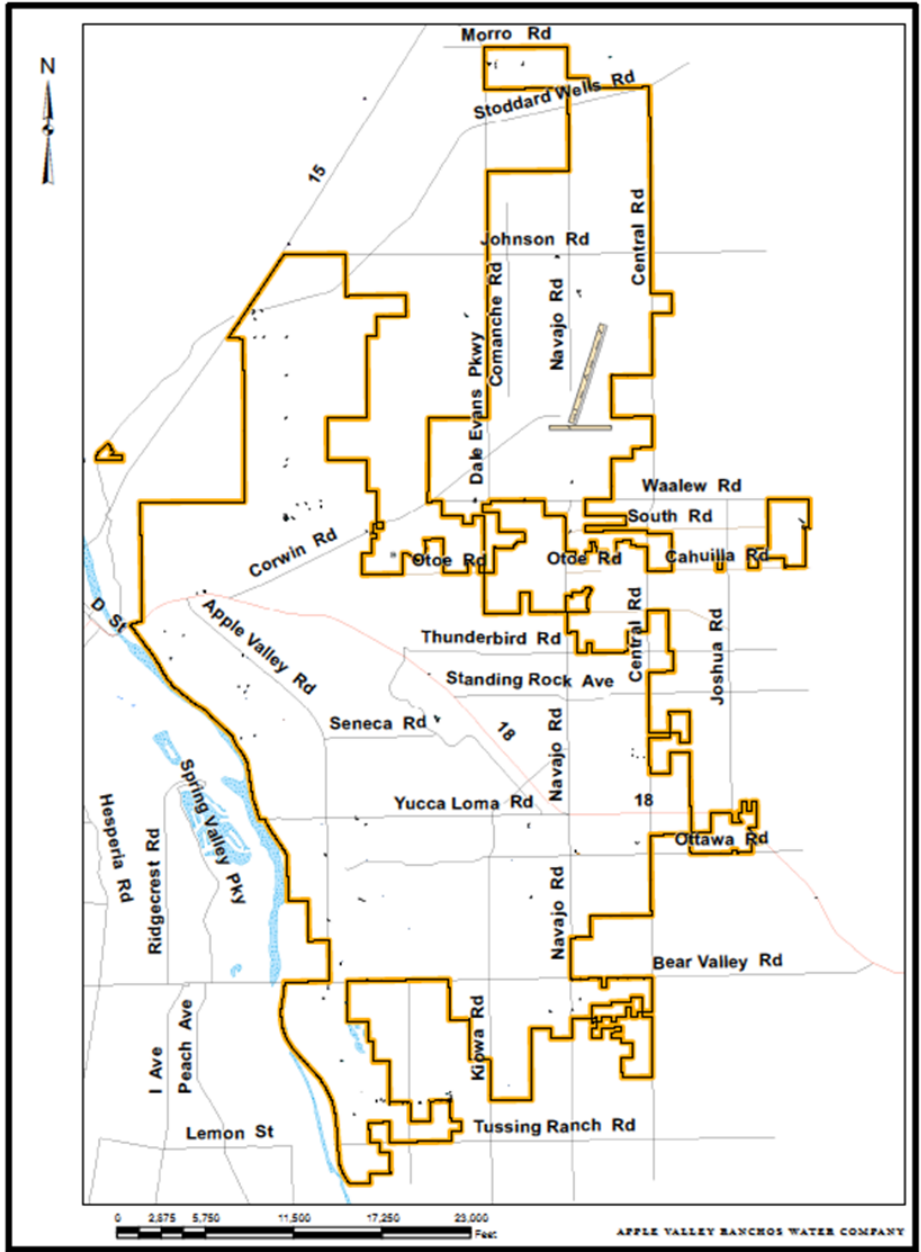
❖ \$188.8 billion in 2013, up 11% from 2012.

❖ \$194.5 billion in 2014

Apple Valley Ranchos Water Company (AVR)

- In California, AVR is organized and operated as an investor-owned utility regulated by the California Public Utilities Commission (CPUC)
- As a regulated water utility, AVR has a government protected private monopoly

MAP OF AVR'S SERVICE AREA



Apple Valley Water System

- **Approximately 20,000 connections**
- **Serves roughly 65,000 people within a 50 square mile service area**
- **Facilities:**
 - ❖ **465 miles of water mains; 24 wells; emergency generators; storage tanks; booster stations; and pressure zones**

Missoula's Condemnation

- Mountain Water Company (MWC), the sister company of AVR, supplies water in Missoula, Montana
- High rates and decaying infrastructure prompted Missoula to look into acquisition
- Missoula tried to negotiate the purchase of MWC
- The Carlyle Group refuses to sell to Missoula
- In April 2014, Missoula filed for condemnation
- Town staff have been deposed by MWC's attorneys and one was a witness at the trial.
- **Where does that leave Park Water Company and AVR customers when a third of Park's customer base goes away?**

Town's Efforts to Purchase the System

- The Town has consistently indicated its desire to purchase the system from AVR through a negotiated purchase process
- The owners of AVR have refused to entertain offers or enter into negotiations to sell to the Town

CPUC UPDATE

TOWN CPUC ATTORNEY

JASON ACKERMAN

AVR's History of Rate Increase Requests

▪2002 Application (A.02-03-046)

- ❖27.1% in 2003
- ❖3.8% in 2004
- ❖3.7% in 2005

▪2005 Application (A.05-02-005)

- ❖8.56% in 2006
- ❖2.69% in 2007
- ❖5.46% in 2008

▪2008 Application (A.08-01-002)

- ❖22.73% in 2009
- ❖0.9% in 2010
- ❖1.32% in 2011

▪2011 Application (A.11-01-001)

- ❖20.0% in 2012
- ❖2.55% in 2013
- ❖3.32% in 2014

AVR's History of Rate Increases

■ 2002 Application

❖ 24.6% (D. 03-08-069)

■ 2005 Application

❖ 13.1% (D. 05-12-020)

■ 2008 Application

❖ 16.7% (D. 08-09-026)

■ 2011 Application

❖ 19.9% (D. 12-09-004)

THIS ASSUMES 200 CCF
USE OF WATER
ANNUALLY – ACTUAL
RATE INCREASES VARY
FROM INDIVIDUAL TO
INDIVIDUAL

SHOWS METER CHARGE
ONLY, NOT:

- WRAM
- LOW-INCOME
- BALANCING ACCOUNTS
- OTHER SURCHARGES

Bill Impacts

▪ Assuming 200 ccf per year and including WRAM and CARW but excluding other surcharges:

❖ Average Bi-Monthly Bill in 2002: \$81.12

❖ Average Bi-Monthly Bill in 2013: \$136.41

▪ Assuming AVR's Requested Rates are Granted:

❖ Average Bi-Monthly Bill in 2015: \$158.96

NOTE: Bill impacts are almost impossible to calculate because of the sheer number of surcharges.

AVR's Most Recent Rate Increase Application

- In its most recent application (A. 14-01-002), AVR requested the following increases:
 - ❖ 14.88% in 2015
 - ❖ 8.48% in 2016
 - ❖ 8.19% in 2017
- The Town filed papers to become a party, challenged this application, held public participation hearings, and pursued lower rates across the board.

Proposed Decision

▪Proposed Rate Increase:

- ❖ 2015 – 11.56%
- ❖ 2016 – To be determined by Advice Letter filings
- ❖ 2017 - To be determined by Advice Letter filings

▪Bill Impacts:

- ❖ In 2015, the average customer will see a 9.85% increase per month. This is too high, but better than it could have been
- ❖ Town successfully pushed to remove over \$8.5 million in new facilities.
- ❖ Ratepayer concerns raised by the Town resulted in a \$7 million reduction in unnecessary main replacement projects.

2015 Mandatory Water Reductions

- Executive Order B-29-15 – On April 1, 2015 Gov. Brown ordered the State Water Resources Control Board to impose restrictions to achieve 25% reduction in potable urban water usage; Encouraged CPUC to impose similar restrictions on regulated utilities.
- Conservation Standard for AVR is a 36% cut in water usage by February 2016. Comparisons:
 - ❖ Adelanto – 20%
 - ❖ Victorville – 26%
 - ❖ Hesperia – 32%

Yermo Acquisition

- Yermo Water Company, a private utility regulated by the CPUC, abandoned its system and failed to service its customers. It was placed in receivership in 2012.
- AVR is now acquiring Yermo Water Company - the CPUC has approved the sale of Yermo Water Company to AVR
- This sale will result in significant infrastructure improvements to the Yermo system at a cost of \$7.7 million to AVR (\$31,000 per existing connection on the Yermo system)
- The Town requested a rehearing on the basis that the CPUC did not comply with CEQA. The CPUC denied the Town's motion.



Mike Lamb/Desert Dispatch

Algonquin Takeover

▪ Liberty Utilities Company, a subsidiary of Algonquin Power & Utilities Corporation, is in the process of acquiring the owner of AVR (Western Water Holdings, LLC) for \$250 million, plus a \$75 million assumption of debt

- ❖ No reasonable explanation has been offered for this excessive price.
- ❖ We are concerned that when Algonquin pays too much – the Town's ratepayers may pay more to compensate.
- ❖ Algonquin and the Carlyle Group have not been forthcoming with requested information requested
- ❖ Town has intervened to protect ratepayer interests
- ❖ Town is looking for guarantees that rates will not be affected by the acquisition.

ACQUISITION BENEFITS AND PROCESS

TOWN ACQUISITION/LITIGATION COUNSEL

KEN MACVEY

Benefits of Local Control #1

- **Publicly Owned System**
 - ❖ **In California, the overwhelming majority of water service is provided by municipal water systems and other public water agencies.**
- **“People-Driven” not “Profit-Driven”**
 - ❖ **No authorized rate of return in Town rates**
 - ❖ **No taxes paid by the Town**
 - ❖ **No WRAM**
 - ❖ **Town has no profit incentive**

Benefits of Local Control #2

▪ Local Accountability and Transparency

- ❖ Decisions made in Apple Valley not in San Francisco, Los Angeles, Washington D.C., or Canada
- ❖ Not accountable to foreign hedge fund investors
- ❖ Ratepayers vote on the ultimate decision-makers
- ❖ AVR not subject to Public Records Act or Brown Act

▪ Cost Control

- ❖ Town rates would be subject to Propositions 26 and 218
- ❖ Town residents have majority protest rights

Benefits of Local Control #3

- Town will work with VVWRA to utilize recycled water where possible
 - ❖ AVR does not have a recycled water source
 - ❖ AVR has threatened the Town with legal action if the Town uses recycled water
- Avoids costly regulatory process
 - ❖ Skewed incentives reward gold-plating and inefficiency for private utilities (see Yermo)
 - ❖ Micromanagement of ordinary decisions (e.g. postage)
 - ❖ CPUC has history of industry capture
- Local Control of Rate Design (within Constitutional limits)

Case Study – Ojai, CA

- A for-profit regulated utility, much like AVR, has a monopoly in providing water service in Ojai.
- Concerned about “sky high water bills,” a public water district “concluded that the Ojai community would benefit from having its water utility run by a locally controlled entity rather than an out-of-area-corporation seeking to maximize profits for its owners.”
- 87 percent of the voters approved using Mello-Roos property taxes to finance the water district’s acquisition by eminent domain of the Ojai water system. The water company challenged the ability of the public entity to do this.
- The court ruled in favor of the public entity, noting that the private utility advocated “for a rule that would shift the bargaining power decisively in its favor, allowing it to hold out for a sale price far above the market rate while it continues to extract monopoly rents from the people of Ojai. This is neither sound policy nor supportable by the statutory text. Like the trial court, we will not set the will of the voters aside.”

Uncertainties in Acquisition

The picture for acquisition is not all rosy. There are significant costs and uncertainties.

- Acquisition will be a costly venture
 - ❖ How will these costs affect rates?
- System is a somewhat unknown quantity
 - ❖ What are the personnel costs?
 - ❖ What is the state of the system?

The Big Uncertainty

- **Uncertain future for water in California**
- **Drought will likely continue**
- **AVR is currently in the highest bracket for required cutbacks under the State Water Board's latest proposed regulations**
- **AVR must cut 36%**

Appraisal Process #1

Town retained appraiser who specializes in public utility appraisals

Appraiser reviewed financial data and toured the Apple Valley Water System with AVR

Appraiser applied fair market value principles (highest price fully informed buyer and seller would agree under no pressure to buy or sell)

Appraisal Process #2

In accordance with California's Eminent Domain Law, the Apple Valley water system is being appraised as a water system

Appraisal Process #3

- **Appraiser used several approaches and methods to determine the value of AVR:**
 - ❖ **Income Approach**
 - ❖ **Cost (Asset) Approach**
 - ❖ **Market Approach**

Conclusion of Value

Approach/Method	Value
Asset/Cost Approach (Rate Base)	\$46.3 million
Market Approach	N/A (No comparable sales exist)
Income Approach Enterprise DCF	\$50.6 million
<u>CONCLUSION OF VALUE</u>	
Enterprise DCF <u>Marketability Discount (10%)</u> FINAL VALUE	\$50.6 million <u>(\$5.06 million)</u> \$45.54 million

Acquisition

- **The Town has been willing to negotiate the purchase of the water system from the Carlyle Group**
- **So far, the Carlyle Group has refused to entertain this approach with the Town**
- **Town staff remain willing to discuss the Carlyle Group's voluntary sale of the system**

Acquisition

- **No decision to condemn has occurred**
- **The only place and time that decision can be made is at a noticed public hearing on a Resolution of Necessity**

Acquisition Procedure

- **Finalize Appraisal**
- **Formal Approval of Final Appraisal and Make a Fair Market Value Offer to AVR's Owner**
 - ❖ **Note: If AVR accepts or is willing to negotiate reasonably, there is no need for litigation.**
- **Prepare Environmental Documentation**
- **File a Notice of Determination**
- **Litigate Condemnation**
- **Take Possession**
- **Litigate Valuation**

ENVIRONMENTAL REVIEW

TOWN CEQA ATTORNEY

ALISHA WINTERSWYK

CEQA Review

- **CEQA review should occur prior to the consideration of a Resolution of Necessity**
- **Town would most likely prepare an Environmental Impact Report or EIR**
 - ❖ **An Environmental Impact Report is a disclosure document that examines the direct and reasonably foreseeable indirect environmental effects of the proposed project**

CEQA Review Process

- Hire CEQA Consultant
- Hold Staff Kick-Off Meeting
- Draft and Finalize Project Description
- Prepare Initial Study
- Circulate Initial Study and Notice of Preparation
- Hold a Scoping Meeting
- Prepare Draft EIR
- Circulate EIR for state agency and public review
- Draft Responses to Comments and Prepare Final EIR
- Distribute Final EIR to Commenting Public Agencies
- Consider CEQA Findings with Resolution of Necessity
- File Notice of Determination

CEQA Timeline

■ **Preparation of an Environmental Impact Report can take 8-12 months**

❖ **The length of time depends upon a number of factors but is heavily driven by the extent of state agency and public input received**

❖ **Key Dates for Public Input:**

- Notice of Preparation of EIR (Scope) – At least 30 days
- Scoping Meeting – To be held during NOP period
- Notice of Availability of EIR (Analysis) – At least 45 days
- Final EIR Released to Commenting Public Agencies – At least 10 days prior to public hearing on Resolution of Necessity

OPERATIONAL REVIEW

ASSISTANT TOWN MANAGER

DENNIS CRON

Municipal Ownership is Normal

Remember:

In California, the overwhelming majority of water service is provided by municipal water systems and other public water agencies

Private ownership of water systems is the exception not the rule

Over 80% of water providers across California and the United States are municipally owned

The Town Can Run the System

- Town staff (with help) can run a water system
- Town has a finance department that bills residents for wastewater, trash, and business licensing.
- Town has an effective customer service team.
- The Town has a public works department.
- A number of Town employees have spent part of their careers working in the water industry
 - ❖ I, for one, have spent over 40 years in the industry with a number of water districts.

The Town Will Not Be Alone

- AVR has mounted a campaign of fear to convince its employees that they'll all be fired by the Town. THIS IS NOT TRUE.
- If the Town were to acquire the system, the Town would likely try to retain AVR's talented and hardworking employees
 - ❖ Many of the employees have expertise that cannot be easily replaced. They are residents of the Town, our neighbors and our friends
 - ❖ Arguably, those employees retained by the Town would have more secure jobs as public employees

Alternatives

- **Other Operational Options:**
 - ❖ **Contract experienced local public agency**
 - ❖ **Contract experienced water management team**

Operational Review

- **There will be some important differences in operation:**
 - ❖ **Town Council would be responsible for oversight, not the CPUC**
 - ❖ **Profits would not be considered during ratesetting**
 - ❖ **Ratesetting would be subject to Proposition 218 and its majority protest rules**
 - ❖ **CPUC would no longer be involved**
 - ❖ **Town would actively seek grants to lessen the burden on ratepayers**
 - ❖ **Town would look to implement a water reuse program without the threat of interference from a private utility**

FINANCIAL REVIEW

ASSISTANT TOWN MANAGER

MARC PUCKETT

Revenue Requirements: Town vs AVR

Standard Components	Differences
Water Supply Costs (Leases on rights, imported water costs, etc)	Authorized Rate of Return 9.7% (Profit) for AVR only
Commodity Costs (fuel, energy etc)	Taxes paid by AVR only - \$3,510,481 (based upon 2013 Annual Report to CPUC)
Administrative and Overhead Costs	Inter-company service agreements – approx. 30% of operating exp. plus a “percentage”
Capital, Repair, and Maintenance	Town would have to fund acquisition – based upon conclusion of value

System Financing Requirements

- Acquisition Price
- Acquisition Costs (Legal/Engineering/Financial)
- Working Capital Reserve (optimum - 90 days expenses)
- Capital Reserve (\$3 million)
- Capital Expenses (Based on Eng. Assessment)
- Bond Reserve Fund
- Capitalized Interest (1st year interest on bonds)
- Costs of Issuance

Initial Financial Feasibility Analysis

Table 14
Financing Options for AVR Acquisition
Detail of Financing Costs

	<u>GO Bonds</u>		<u>Revenue Bonds/Installment Sale COPs</u>		<u>CFD Special Tax Bonds</u>		<u>Assessment Bonds</u>	
	Stock Price	RCNLD	Stock Price	RCNLD	Stock Price	RCNLD	Stock Price	RCNLD
AVR System Acquisition	\$45,430,235	\$127,200,632	\$45,430,235	\$127,200,632	\$45,430,235	\$127,200,632	\$45,430,235	\$127,200,632
Transaction Cost (1)	1,817,209	5,088,025	1,817,209	5,088,025	1,817,209	5,088,025	1,817,209	5,088,025
Total	\$47,247,444	\$132,288,657	\$47,247,444	\$132,288,657	\$47,247,444	\$132,288,657	\$47,247,444	\$132,288,657
Bond Counsel	80,000	110,000	90,000	120,000	100,000	130,000	100,000	130,000
Disclosure Counsel	40,000	60,000	45,000	65,000	45,000	65,000	45,000	65,000
Financial Advisor	70,000	90,000	80,000	100,000	90,000	120,000	90,000	120,000
Ratings	30,000	50,000	35,000	55,000	35,000	55,000	35,000	55,000
Trustee	10,000	13,000	10,000	13,000	10,000	13,000	10,000	13,000
Printing/Posting	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Special Tax Consultant	0	0	0	0	100,000	100,000	0	0
Assessment Engineer	0	0	0	0	0	0	100,000	100,000
Costs of Issuance	\$240,000	\$333,000	\$270,000	\$363,000	\$390,000	\$493,000	\$390,000	\$493,000
Underwriting Discount (2)	\$190,720	\$465,815	\$256,025	\$642,870	\$464,940	\$1,150,680	\$464,940	\$1,150,680
Reserve Fund (3)	\$0	\$0	\$3,429,412	\$9,562,687	\$3,556,975	\$9,899,150	\$3,556,975	\$9,899,150
Total Issue Size	\$47,680,000	\$133,090,000	\$51,205,000	\$142,860,000	\$51,660,000	\$143,835,000	\$51,660,000	\$143,835,000
Term	30	30	30	30	30	30	30	30
Interest Rate (4)	4.75%	4.75%	5.25%	5.25%	5.50%	5.50%	5.50%	5.50%
Annual Debt Service	\$2,984,231	\$8,414,500	\$3,429,412	\$9,562,687	\$3,556,975	\$9,899,150	\$3,556,975	\$9,899,150

(1) Transaction Cost is assumed to be 4.0%

(2) \$4.00 and \$3.50 per Bond for GO Bonds; \$5.00 and \$4.50 per bond for Rev. Bonds; \$9.00 and \$8.00 per bond for rated CFD and AD.

(3) Reserve fund equal to one year debt service. GO Bonds do not require a reserve fund.

(4) Current interest rate assumption for planning purposes. Interest rates are subject to change with market conditions.

Source: Urban Futures, Inc.

Expected Range of Values

- The Town's draft appraisal concludes that the fair market value of the Apple Valley system is \$45.54 million.
- AVR will likely assert that the system is worth much more. (i.e. $\$250\text{m}/3 = \83.3m).

Estimated Annual Debt Service

(Based on Expected Range of Values – 30 yr financing at 4.75%)

- Town's Conclusion of Value is \$45.54 million - \$46 million bond issue including \$460,000 est. costs of issuance.
 - Annual Debt Service Payments: **\$2,883,000**
- AVR projected value based upon Algonquin offer to purchase is \$83.3 million ($\$250\text{m}/3 = \83.3m) - \$84.145 million bond issue including \$841,450 costs of issuance.
 - Annual Debt Service Payments: **\$5,270,000**

Financing of Acquisition

Source of Funding – Selected Data (2013)

▪ Avg. Annual Active Service Connections	<u>19,233</u>
▪ Operating Income	\$3,653,523
▪ Total Taxes	\$3,510,481
▪ Anticipated Corporate Office Savings	<u>\$1,000,000</u>
❖ Available for Debt Service	<u>\$8,164,004</u>
▪ 2015 AVR 9.85% rate increase	\$8,968,158

Financing of Acquisition

Source of Funding – Debt Service Pmts.,
30 yr financing at 4.75%

- Available for Debt Service (current rates) **\$8,164,004**

Based on equal payments of \$6.5m including issuance costs of \$1,037,000 - **Bond sizing: \$103,690,000.**

Addtl. funding available for capital improvements:
\$1.664m annually.

- 2015 AVR 9.85% rate increase **\$8,968,158**

Based on equal payments of \$7m including issuance costs of \$1,116,700 – **Bond sizing: \$111,670,000.**

Addtl. funding available for capital improvements:
\$1.968m annually.

Financing of Acquisition

Source of Funding – Debt Service Pmts.,
30 yr financing at 4.75%

- Available for Debt Service (current rates) **\$8,164,004**
Based on equal payments of \$8.16m including issuance costs of \$1,301,750 - **Bond sizing: \$130,175,000.**
- 2015 AVR 9.85% rate increase **\$8,968,158**
Based on equal payments of \$8.96m including issuance costs of \$1,429,400 – **Bond sizing: \$142,940,000.**

The bond sizing includes the cost of acquisition

STAFF RECOMMENDATIONS

**TOWN MANAGER
FRANK ROBINSON**

Alternatives

- **The Town has a number of options, including:**
 - 1. Pursue the potential acquisition of the Town's water system;**
 - 2. Request additional information or reports;
or**
 - 3. Direct staff to take no further action.**

Staff Recommendations

- **Direct staff and legal counsel to proceed with CEQA, financial, and other legal documents necessary to pursue potential acquisition the Apple Valley Ranchos water system and to bring those documents back for council consideration.**
- **Direct staff to bring back a proposed budget adjustment to make funds available to complete these tasks.**