

2023-2024 KERN COUNTY GRAND JURY



INYOKERN COMMUNITY SERVICES DISTRICT *A Plethora of Inaction*

Release Date
June 25, 2024

INYOKERN COMMUNITY SERVICES DISTRICT

A Plethora of Inaction

You have been elected or appointed to a special district board by your community. This is a tremendous honor that comes with much responsibility.

California Special Districts Alliance

SUMMARY:

How long can the Inyokern Community Services District (District) tread water?

This is a rhetorical question because the community could be just one breakdown away from **NOT** having water.

The District is broke and broken. Not only is it insolvent, but it is unable to function effectively to serve the community. The District Board has failed to address critical issues from the collection of revenues, to paying the District's bills, to maintaining the infrastructure.

The District does not have available assets to pay for daily operations.

District Board meetings are chaotic and have been known to resort to shouting matches. The District Board Members do not demonstrate the ability to run a public meeting, with some having their backs to the concerned citizens and disengaged from the proceedings.

The District states that approximately half of the water meters are not readable (covered in sand) or broken. There is only one part-time employee that handles all District infrastructure issues.

Many parcels have been dropped from the sewer and streetlighting tax rolls (including some board members). Many engaged citizens have been passionately working to help the previous and current General Manager, to bring the tax rolls current.

The District has failed to determine the cause of the back-up well failure or to find a solution. Both the pressure tank and the back-up generator on the working well are not functioning properly.

PURPOSE OF INQUIRY:

The 2023-2024 Kern County Grand Jury (Grand Jury) is authorized by Penal Code §933.5 to investigate special districts within Kern County. Upon receiving citizen complaints, the Grand Jury initiated an investigation into the operations and financial condition of the Inyokern Community Services District.

METHODOLOGY:

The Grand Jury conducted interviews, either in person or by telephone, with District personnel, Board Members, Officials from: Kern County Board of Supervisors, Kern County Local Agency Formation Commission (LAFCo), Kern County Auditor-Controller's Office, Kern County Elections Division, California State Water Resources Control Board, Indian Wells Valley Groundwater Authority, Self- Help Enterprises, citizens, and complainants. The Grand Jury attended two Special Board Meetings and toured the District's facilities. Also researched were the 2002-2003 past Grand Jury Report, various internet sites, District Board Meeting Agendas, and Meeting Minutes.

DISCUSSION OF FACTS:

The Inyokern Community Services District is located in Northeast Kern County in the community of Inyokern, with a population of 1,052. Its name derives from its location near the border between Inyo and Kern Counties. Inyokern is located 8 miles west of Ridgecrest, at an elevation of 2,434 feet. It is on the western side of the Indian Wells Valley.

The District was formed in 1985 to provide sewer, streetlighting, and water services. The District currently serves approximately 285 connections. The sewer and streetlighting are funded through parcel taxes. The water revenue is generated by usage.

A. **The District has stated that it is insolvent.** Even though the District has an annual budget of \$392,995 (2022 State of California Controllers Office), it currently has unpaid bills of over \$60,000, and is delinquent with water replenishment fees since June 2021. The District currently owes an excess of \$76,000 to the Indian Wells Valley Groundwater Authority. *The Sustainable Groundwater Management Act (SGMA) was passed into California law in fall of 2014 and took effect in January 2015. SGMA requires that state-designated medium and high-priority basins and sub-basins must form a groundwater sustainability agency and develop a long-term GSP. In Kern County, the designated basins/sub-basins are **Indian Wells Valley Sub-basin, Kern County Sub-basin, and Cuyama Valley Basin. These basins must comply with SGMA.***

B. The Board is failing to effectively address the following **crucial issues**:

1. Inoperable/inaccessible water meters are resulting in some customers only paying the flat connection charge and some are paying additional metered usage.

2. District Approved Rate Increase April 30,2024:

Table B: Minimum and Unit Charges; No Usage Allowance and No System Development Fee, Calculated by the Inyokern Community Services District, Inyokern, California, Water Meter-based Rates Model 2023-3

Water Meter Size in Inches	Monthly Minimum Charge, Including Peak Capacity	Unit Charge per 100 Cubic Feet
0.625	\$40.77	\$4.93
0.750	\$40.77	\$4.93
1.000	\$50.19	\$4.93
1.500	\$65.89	\$4.93
2.000	\$84.73	\$4.93
2.500	\$112.98	\$4.93
3.000	\$134.96	\$4.93
4.000	\$191.48	\$4.93
6.000	\$348.46	\$4.93
Bulk Water	\$0.00	\$21.02

Table by: Getting Great Rates.com

3. The District has not paid water replenishment fees to the IWVGA since 2021, even though they have been collecting a \$9 monthly (approximately \$20,000 annually) water replenishment fee from customers since August 2022.
4. There is an absence of monthly General Ledger financial statements.
5. Budgets and financial audits as required by California Government Code §61110 have not been submitted for at least the last seven years, per the Kern County Auditor-Controller Office.
6. The District does not adhere to Board approved procurement procedures.
7. The District's Policies and Procedures have not been updated in 30 years.
8. The District does not have a website as required by California Government Code §53087.8.
9. A Board member has failed to attend three or more consecutive scheduled meetings and therefore may be subject to removal per California Government Code §1770(g), *...ceasing to discharge the duties of his or her office for a period of three consecutive months, except when prevented by sickness, or when absent from the State with the permission required by law.*
10. The back-up well installed by Kern County in 2019 has failed, and there is no plan in place for an alternate source of water in the event the primary well fails.

- C. The Kern County Auditor-Controller-County Clerk is currently assessing the District's auditability in order to determine a course of action for bringing audits current.
- D. In accordance with California Government Code §56375, a Local Agency Formation Commission (LAFCo) has the power and duty to review and approve special districts consolidations, dissolutions, mergers, establishment of subsidiary districts, or reorganizations.

FINDING:

- F1. The Grand Jury finds that the District is financially insolvent and is facing multiple critical issues. The District has shown that it does not have the means or ability to rectify these issues. This has caused the citizens of the District to face water insecurity.

COMMENTS:

The District was unable to provide monthly General Ledger financial statements to the Grand Jury. The District has also failed to provide the Indian Wells Valley Groundwater Authority with water production figures since 2018. Many residents are outraged and engaged about the unfair billing practices with unserviceable water meters and missing tax assessments on some parcels. The District has been offered many types of support from various agencies from free water meters, to grant writing assistance, to Board Member training. The District has been unwilling or unable to accept this assistance.

RECOMMENDATIONS:

The 2023-2024 Kern County Grand Jury recommends that:

- R1. The District contact the Kern County Local Agency Formation Commission, and the Kern County Board of Supervisors to initiate reorganization by October 1, 2024. (Finding 1)
- R2. The Kern County Board of Supervisors work in cooperation with Kern County Local Agency Formation Commission to develop a plan by December 31, 2024, to reorganize the District in accordance with California Government Code §56375. (Finding 1)

NOTES:

- The Inyokern Community Services District, the Kern County Board of Supervisors, and the Kern County Local Agency Formation Commission should post a copy of this report where it will be available for public review.
- Persons wishing to receive an email notification of newly released reports may sign up at: <https://www.kerncounty.com/government/other-agencies/grand-jury>
- Present and past Kern County Grand Jury Final Reports and Responses can be accessed on the Kern County Grand Jury website at: <https://www.kerncounty.com/government/other-agencies/grand-jury>

RESPONSE DEADLINE:

REQUIRED WITHIN 90 DAYS FROM:

- The Inyokern Community Services District
 - Finding 1 and Recommendation 1
- The Kern County Board of Supervisors:
 - Finding 1 and Recommendation 2
- The Kern County Local Agency Formation Commission (LAFCo):
 - Finding 1 and Recommendation 2

RESPONSES ARE REQUIRED PURSUANT TO CAL. PENAL CODE §§933 (c) AND 933.05 WITHIN 90 DAYS TO:

- **PRESIDING JUDGE**
SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN
1415 TRUXTUN AVENUE, SUITE 212
BAKERSFIELD, CA 93301
- **FOREPERSON**
KERN COUNTY GRAND JURY
1415 TRUXTUN AVENUE, SUITE 600
BAKERSFIELD, CA 93301

Reports issued by the Grand Jury do not identify individuals interviewed. Cal. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.



**Kern Local Agency
Formation Commission**
5300 Lennox Ave. Suite 303
Bakersfield, CA 93309
661-716-1076
www.co.kern.ca.us/lafco/

DATE: August 21, 2024
TO: Kern County Grand Jury
FROM: Blair Knox, Executive Officer
RE: DRAFT: Response to Grand Jury Report on Inyokern CSD

Kern LAFCo has been aware of a multitude of problems at Inyokern Community Services District (CSD). The information that has been provided to LAFCo about the source of the problems varies depending on who is crafting the information. While LAFCo staff cannot specifically confirm or deny any of the issues identified by the Grand Jury, there isn't any surprise that there is a history of disfunction at the district.

Over the years, help has been offered to the district in a number of ways. The former LAFCo Executive Officer offered help and was turned away. Representatives from Self-Help Enterprises and the County of Kern have tried to help the district with grant funding opportunities. California Special District's Association (CSDA) directed the district towards grant funding available and training opportunities for the Board of Directors and management staff. All were ignored.

Recently, LAFCo approved an emergency authorization for Indian Wells Valley Water District to provide water to Inyokern CSD after several failures. LAFCo has the authority to allow the district to provide services outside their boundary when there has been deemed a health and safety concern. (California Government Code Section 56133 (c)).

Background

Kern LAFCo's involvement started with the formation of the Inyokern Community Services District in 1985. At its inception, the district was authorized to provide domestic water, fire protection, sewers and streetlights in the general area known as Inyokern. The formation combined several services allowing for the dissolution of:

- Inyokern Highway Lighting District
- Inyokern County Fire Protection District
- Inyokern Sanitation District
- County Service Area #64 (streetlights and fire hydrants)

In 1998, Kern LAFCo processed an annexation to the district boundaries. Since that time there has been little correspondence between the district and LAFCo. A mandatory Five-Year Sphere of Influence Review Questionnaire has not been completed and returned. Copies of their annual budget and audits have been requested without response.

When the Inyokern CSD was created in 1985 a district could operate with a small number of connections while providing a reasonable level of service. As regulations and other requirements have become more complex and onerous, it takes more resources than a small district has available to operate efficiently and within the regulatory framework currently required. If a district does not have the time or resources to properly meter water usage, follow the principal act of Community Service Districts (Government Code Section 61000), understand how to comply with Proposition 218 (Government Code Section 50075), follow and comply with the Brown Act (Government Code Section 54950) and follow acceptable accounting practices, it is time to consider other options.

There are several options available to the district.

State and Local Government Intervention

Water is a public health issue. As such, both the State and local government have a role to play to insure there is reliable and affordable water and sewer services. The County of Kern does not directly provide water services anywhere in the county and therefore has no staff available to help operate the water system, nor any staff on the east side of the county that could operate the sewer system of Inyokern CSD.

The State Water Board has the authority to take over operations of special districts that provide water and sewer for an interim amount of time until the district can operate on its own or consolidate. The State Water Board has indicated that grant funding is readily available for consolidations with a scarce amount of funds for general improvements. It should also be noted that the Water Board is assisting several mutual water companies in the basin to go through the process of being transferred and integrated to the Indian Wells Valley Water District.

Reorganization/Consolidation

The term reorganization means different things in different circumstances. For some reorganization might take the form of hiring new staff, creating a new service plan and the possible replacement of board members. That definition does not apply within LAFCo's authority because LAFCo does not have the power to enforce changes to the daily operations of a city or special district. In LAFCo terms, reorganization means:

"Reorganization" means two or more changes of organization contained within a single proposal. Gov. Code 56073

A typical reorganization would be an annexation of a property which overlaps with another district that provides the same or similar services requiring a detachment from the overlapping agency. Reorganization is not the same as a “consolidation” which means:

"Consolidation" means the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. (Gov. Code 56030)

Sustainable Groundwater Management Act (SGMA)

The Grand Jury focused on the specific issues of the Inyokern CSD, which is appropriate for the scope of the report. In the opinion of LAFCo, there is a larger issue that needs to be brought into consideration. The entire groundwater basin is in critical overdraft. The Indian Wells Valley has approximately 7,600 acre feet of natural inflow yearly and a demand of 28,000 acre feet per year. The water table continues to drop and wells have failed. The management of the basin involves several entities that need to be considered when looking at options:

- Indian Wells Valley Groundwater Authority
- Inyokern CSD
- Indian Wells Valley Water District
- U.S. Naval Weapons Center, China Lake
- City of Ridgecrest
- Farming Interests
- Local Property Owners with their own wells
- Mutual Water Companies
- County of Kern

A simplified look at the issue points to a basin that has been in overdraft for a significant amount of time. It's the mismanagement of the entire Indian Wells Basin and others like it that led to the passage of the Sustainable Groundwater Management Act (SGMA) which requires an initial plan to stabilize a groundwater basin and implementation by 2040. Meanwhile, lawsuits over who is responsible and who will pay for additional surface water to be brought into the basin continues to be heard by the courts. Recently the courts determined that several entities are to pay a specific amount. Additional lawsuits continue to make their way through the court.

From a LAFCo perspective, it's difficult to risk getting ahead of the courts.

Dissolution

To dissolve the district would require an agency to take over the services currently being provided. This is what's known as the successor agency. Ideally, there would be one agency that would manage and operate the entire water system within the Indian Wells Valley. To consolidate the districts together is possible for LAFCo to process and consider.

The consolidation would require a vote of the registered voters. As the amounts owed for the delivery of surface water required by the courts varies significantly, it is likely that many voters will not be willing to take on the debt of other agencies or private landowners. It's possible to craft a consolidation that separates the liability, but that will likely be worked out between the attorneys.

Consolidation

From a governing standpoint, reducing the number of entities managing the water table would be advantageous over the long term. Creating a big enough system to have professional management and staff would be preferable to continuing to struggle under the current organizational structure.

Wildcard

The Federal Government can decide that groundwater is a national security interest and take over management of the water basin. Water supplies are essential to the operations of a military base such as China Lake Naval Weapons Station. Historically, the military has been reluctant to step into the role of management, but it's not out of the realm of possibility that they will want to be involved.

Conclusion

A determination of what is the most advantage's operational structure for water delivery in the Indian Wells Valley would start with a Feasibility Study/Municipal Services Review. The Feasibility Study would look at a number of organizational options, infrastructure, costs, funding availability, etc. From this document it is hopeful that an educated response and path forward would be evident.

RECOMMENDATION: It is recommended that the State Water Board take over operations of the district on an interim basis, assess the infrastructure needs and find funding to repair, replace and consolidate systems across the Indian Wells Valley. At the same time, several agencies including Inyokern CSD, LAFCo, the Indian Wells Valley Water District and other interested parties, would begin the process to consolidate services under one agency. This would include a Feasibility Study/Municipal Services Review that would analyze multiple reorganizational options.

BOARD OF SUPERVISORS

SUPERVISORS

Phillip PetersDistrict 1
VacantDistrict 2
Jeff FloresDistrict 3
David CouchDistrict 4
Leticia PerezDistrict 5



KATHLEEN KRAUSE
Clerk of the Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301
Telephone (661) 868-3585
TTY Relay (800) 735-2929

September 10, 2024

The Honorable J. Eric Bradshaw, Presiding Judge
Kern County Superior Court
1415 Truxtun Avenue
Bakersfield, CA 93301

Dear Judge Bradshaw:

Transmitted herewith is the Board of Supervisors' response to the 2023-2024 Grand Jury's Final Report titled Inyokern Community Services District – A Plethora of Inaction.
The Board of Supervisors appreciates the Grand Jury's review and input.

Sincerely,

A handwritten signature in black ink, appearing to be "David Couch", written over a horizontal line.

David Couch, Chair
Kern County Board of Supervisors

NA/SH.COMPL_GJ Inyokern CSD

Attachment

cc: Grand Jury

Kern County Board of Supervisors
Response to Grand Jury Final Report
Inyokern Community Services District – A Plethora of Inaction

Response to Finding F1:

The County agrees that the Grand Jury’s findings are entirely possible, based on the information presented in the report; however, determinations that the Inyokern Community Services District is “financially insolvent” and “does not have the means or ability to rectify these issues” may require additional analysis and corroboration, as they appear partially based on representations by the District, which is also represented as not maintaining required records and financial documentation. Regardless, the County is very concerned for residents that depend on the District for their water and we hope to see quick resolution to the issues.

Response to Recommendation:

R1: The District contact the Kern County Local Agency Formation Commission, and the Kern County Board of Supervisors to initiate reorganization by October 1, 2024.

This recommendation requires action by the Inyokern Community Services District and is not directed at or under the responsibility of the Board of Supervisors.

R2: The Kern County Board of Supervisors work in cooperation with Kern County Local Agency Formation Commission to develop a plan by December 31, 2024, to reorganize the District in accordance with California Government code Section 56375.

This recommendation will not be implemented, based on currently available information. The Kern Local Agency Formation Commission (LAFCo) issued the attached response to the Grand Jury’s report on August 21, 2024. In the response, Kern LAFCo provides further information on the processes of reorganization, consolidation, and dissolution of districts, including possible complicating factors such as involvement of federal or State agencies, potential approval from the impacted electorate, and issues of debt and operational feasibility. Since the District is a State-regulated water system, the County concurs with Kern LAFCo’s recommendation that the State Water Board assist with operations in the short term, while Kern LAFCo and other interested parties can conduct further analysis and review to determine the best operational structure for water delivery in the Indian Wells Valley.

BOARD OF SUPERVISORS
COUNTY OF KERN

TRACKING PAGE

September 10, 2024

TUESDAY - 2:00 P.M.



COUNTY ADMINISTRATIVE OFFICE

CA-30) Proposed response to Grand Jury report titled Inyokern Community Services District (Fiscal Impact: None) - APPROVED; AUTHORIZED CHAIRMAN TO SIGN CORRESPONDENCE

Peters-Flores: 3 Ayes; 1 Absent - Perez



DIRECTORS

T. LYSTER
W. ERNST
R. CLINE
T. CARROLL
D. REYNOLDS



P.O. Box 1418
1429 Broadway
Inyokern, CA 93527

Phone: (760) 377-4708

C. White, General Manager
R. Walton, District Water Operator

September 20, 2024

Presiding Judge
Kern County Superior Court
1415 Truxtun Ave., S. 212
Bakersfield, CA 93301

Foreperson
Kern County Grand Jury
1415 Truxtun Ave., S. 600
Bakersfield, CA 93301

Re: Inyokern Community Services District Grand Jury Report

To the Honorable J. Eric Bradshaw, judge presiding, and Grand Jury Foreperson:

Inyokern Community Services District respectfully submits its responses to the Grand Jury's Finding and Recommendations, in accordance with law.

Finding 1: The District acknowledges that it has a number of critical issues it faces involving its system and finances. In the past few months the District has taken steps to correct course, including working with Garrison Brothers Well Service to repair the water system and develop an O&M plan, retaining legal counsel to advise on legal and compliance matters, and initiating the Prop 218 process to set water rates in accordance with the 2023 Carl Brown rate study. The District has also started discussions with the Shoshone Tribe regarding the proposed casino development in Inyokern, including contributing to the cost of improvements to the system. Though the District faces a number of critical issues, the District believes it can solve these issues, and the Board of Directors and members of the community want to continue the District as it rebuilds.

Recommendation 1: The District has already been in contact and held meetings with LAFCo, State Water Resources Control Board, and Indian Wells Valley Water District about the possibility of a reorganization. Whether initiating a reorganization is the best path forward is yet to be determined, though if that is the conclusion, the District will pursue that pathway.


Recommendation 2: It is premature to conclude a reorganization is necessary. However, if it is determined that a reorganization is necessary, the District will work with the Board of Supervisors and LAFCo to develop a plan.

The District thanks the Grand Jury for all its work, and we look forward to diligently working to resolve issues faced by the District.

Sincerely,



Wally Ernst, Director



Roger Cline, Director



David Reynolds, Director



Terry Lyster, Director

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BY