



**Item #: 6**

**Project:** Discussion/Action/Direction to consider the Municipal Service Review/Service Area Plan for the Salton Community Service District, the recent passage of a Proposition 218 rate increase, and to make a determination on the Commissions prior direction at the August 25, 2022 meeting to Commence the Initiation to dissolve the district pursuant to Resolution #2022-06.

**Meeting Date:** Thursday August 24, 2023

**Meeting Time:** 08:30 a.m.

**Location:** El Centro City Council Chambers  
1275 W. Main Street  
El Centro, CA 92243



# EXECUTIVE OFFICER'S REPORT

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## COMMISSIONERS


David H. West [Public]  
Maria Nava-Froelich, Chair [City]  
Javier Moreno, Vice-Chair [City]  
Ryan E. Kelley [County]  
Michael W. Kelley [County]

## ALTERNATES

Jose Landeros [Public]  
Robert Amparano [City]  
Jesus E. Escobar [County]

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**REPORT DATE:** August 1, 2023

**FROM:** Paula Graf, Assistant Executive Officer/Sr. Analyst 

**PROJECT:** Discussion/Action/Direction to consider the "Order of Dissolution approved by the Commission on August 25, 2022, and the Municipal Service Review/Service Area Plan for the Salton Community Service District, in addition to the recent passage of a Proposition 218 rate increase, to make a determination by the Commission regarding prior direction from the August 25, 2022, meeting at which the Commission initiated the Dissolution of the SCSD.

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**HEARING DATE:** August 24, 2023

**TIME:** 08:30 am.

**AGENDA ITEM #:** 6

**HEARING LOCATION:** El Centro City Council Chambers, 1275 Main St., El Centro, CA 92243

## **RECOMMENDATION(S) BY THE EXECUTIVE OFFICER** (In Summary & Order)

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- OPTION #1:** Conditionally rescind the Notice of Intent to Dissolve the Community Services District (SCSD) issued on August 25, 2022, according to partial compliance with Resolution #2022-06. The District shall be placed on a “probationary” status, during which the District shall provide the following:
1. Report all actions, including litigation or potential litigation, that could affect the financial health or viability of the District.
  2. Monthly accounting statements showing the revenues and expenditures and any of the financial information requested by the Executive Officer including audited financials
  3. Agenda and minutes from all board meetings, including special meetings.
  4. Any staff changes and the reasons.
  5. The District shall acknowledge through a resolution that they understand and agree that LAFCO may proceed with a dissolution at any time that LAFCO makes the necessary findings that the District is not in compliance or is in financial distress or other findings that support a dissolution
- OPTION #2:** Proceed with the Dissolution by giving the District Notice that LAFCO will conduct dissolution hearing on September 28, 2023.
- Proceed with the Dissolution by giving the District and the County of Imperial Notice that LAFCO will conduct the dissolution hearing on September 28, 2023 and direct the Executive Officer to continue discussions with the County of Imperial to commence the transition and for purposes of winding up the affairs of the District.
- If the Commission proceeds with this option, the County of Imperial would automatically become the successor entity pursuant to G.C. 57451(b).
- OPTION #3:** Continue the hearing not to exceed 60 days to provide additional information requested by the Commission.

## ANALYSIS/REPORT

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### I. Purpose of the ACTION:

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Imperial LAFCO must conduct a Service Area Plan (SAP)/Municipal Service Review (MSR)/Sphere of Influence update for the cities and special districts within Imperial County at least once every five years.

***The Salton Community Services District (SCSD) last updated SAP/MSR was completed in 2016. An update to the plan would have been due in 2021. However, a change in services (SCSD ceased providing Fire Protection in 2019) triggered an immediate update to its plan.***

This report is an update on the Salton Community Service District, including a discussion on the recent passage of Proposition 218, a sewer rate increase, and to make a recommendation to take one of three alternative actions to the Notice of Intent to Dissolve the Community Services District that was issued on August 25, 2022. **Exhibit A**

***Since the LAFCO issued a Notice of Intent to Dissolve the SCSD in August of 2022, the Commission must now consider whether to continue with the Dissolution or to rescind the Notice of Intent with or without conditions or to continue this hearing if the Commission requires additional information following this hearing.***

### II. Closure of the Fire Department & Immediate Update to the Service Area Plan/Municipal Service Review

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The Salton Community Services District operated a Fire Department with an all-volunteer staff from 1957 until its unilateral termination in 2019.

The Fire Department did not have a tax to support the service. Funding was limited to payments from the District's general fund, including property taxes, rental income, a contract with Red Earth Casino, and some support from the County of Imperial.

In early 2019, The SCSD Board adopted Resolution #2019-05-01, authorizing an election for a Special Tax to fund Fire Protection services. It stated in part, ***"The District does not have adequate financial resources to continue providing staffing, equipment, and facilities for Fire Protection Services."***

The tax that would have funded Fire Protection services failed to pass by the voters. Due to the failed measure, the entire Fire Department staff quit, leaving the residents without service.

***The County of Imperial, not the District, notified LAFCO that the District ceased providing service and began providing Fire Protection service on November 5, 2019. The District ceasing Fire Protection triggered an immediate update to its plan.***

### III. Service Area Plan/Municipal Service Review

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In late 2019, LAFCO informed the District that because the District stopped providing Fire Protection, an update to its Service Area Plan/Municipal Service Review was due immediately.

The District retained the services of Rick Engineering Company to complete the update.

LAFCO, as part of its review process and to assist staff in gaining an understanding of the services the District provides, started working with the District's general manager and team, spending a substantial amount of time requesting and analyzing information.

Information requested as part of the review process:

- Audited Financial Statements
- Current and Prior Budgets
- Bank & Credit Card Statements
- Policies and Procedures
- Status of the wastewater facilities with the Regional Water Quality Control Board
- Resolutions adopted by the Board of Directors

*G.C. Section 56430 states in part (a) that the Commission shall conduct a service review of the municipal services provided in the County or other appropriate areas designated by the Commission. The Commission shall include in the area designated for service review the County, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed and shall prepare a written statement of its determinations concerning each of the following:*

- Growth and population projections for the affected area.
- Disadvantaged Unincorporated Communities within or contiguous to the sphere of influence.
- The location and characteristics of disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- Present and planned Capacity of public facilities
- Adequacy of public services and infrastructure needs or deficiencies, including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- Financial ability of agencies to provide services.
- Status of, and opportunities for, shared facilities.
- Accountability for community service needs, including governmental structure and operational efficiencies.
- Any other matter related to effective or efficient service delivery, as commission policy requires.
- In conducting a service review, the Commission shall comprehensively review all agencies that provide the identified service or services within the designated geographic area. The Commission may assess various alternatives for improving the efficiency and affordability of infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies.

## What we learned about the District

The Salton Community Service District (SCSD) has operated as the successor agency to the previously established Desert Shores Community Services District since 1957. Formed under the Community Service District Act, the District's service area covers approximately 20,480 acres and serves 6,307 residents. The District is enabled to provide Wastewater, Solid Waste, and Parks & Recreation.

|                              |  |
|------------------------------|--|
| <b>Authorized Services:</b>  | Parks & Recreation, Wastewater Treatment, and Solid Waste Services (no additional services may be provided unless approved by LAFCO) |
| <b>Service Area:</b>         | Desert Shores, Salton City, Salton Sea Beach   |
| <b>Estimated Population:</b> | 6,307  |
| <b>Local Representation:</b> | 5-Member Board of Directors  |
| <b>Meetings:</b>             | 2 <sup>nd</sup> Wednesday of each month at 1:00 pm   |
| <b>Website:</b>              | <a href="http://www.saltoncsd.ca.gov">www.saltoncsd.ca.gov</a>   |

### i. Fire Protection Service

The SCSD operated a Fire Department with an all-volunteer staff from 1957 until its closure in 2019.

The Fire Department did not have particular tax revenue to support the service. Funding was limited to the District's general fund payments, including property taxes, rental income, and a contract with Red Earth Casino.

In early 2019, The SCSD Board adopted Resolution #2019-05-01, authorizing an election for a Special Tax to fund Fire Protection services. It stated in part, ***"The District does not have adequate financial resources to continue providing staffing, equipment, and facilities for Fire Protection Service."***

The special tax that would have funded Fire Protection services failed to pass by the voters. Due to the failed particular tax measure, the entire Fire Department staff quit, leaving the residents without service. The District, although required, failed to notify LAFCO.

On November 5, 2019, LAFCO was made aware of the closure by the County of Imperial's Fire Department. As of this report, the County continues to provide Fire Protection services to the service area.

***If the District wishes to provide Fire Protection services in the future, it must first obtain the approval of LAFCO.***

### ii. Solid Waste

The District provides Solid Waste services through a contract with Burrtec. In August 2020, the District adopted an ordinance establishing parcel fees to collect solid waste. Funding is received through a special tax assessment placed on the county tax roll or billed directly if requested by the property owner. The District gets 5% of the annual revenue for administration.

### **iii. Parks & Recreation**

The District maintains two park facilities, the Salton Community Park (10.5 acres) and the Desert Shores Park (4.59 acres). The District owns an additional 117.46 of undeveloped parkland.

The Parks Department does not have a particular tax revenue to support the service. Funding is limited to the District's general fund payments, including property taxes, and rental income.

There is one full-time employee responsible for collecting recreational fees, mowing, and providing general park oversight for both parks.

#### **Salton Community Park**

The Salton Community Park is approximately 10.5 acres at the northwest corner of Harbor Drive and Iridescent Avenue.

The District is currently seeking a Park Host.

#### **Desert Shores Community Park**

The Desert Shores Community Park is approximately 4.59 acres within the Community of Desert Shores. The park has a host that is responsible for maintaining the park.

### **iv. Wastewater Treatment Facilities and Conveyance System**

LAFCO, after commencing the review, was made aware of the District's sewer treatment facilities operating at, near, or above its current capacities. The wastewater conveyance system is aging, and portions of the system are in poor condition, requiring replacement of sewer force mains and upgrades to pump stations and manholes.

The District owns and operates three Wastewater Treatment Facilities (ponds). Funding is received through an assessment placed on the county tax roll and consists of sewer capacity, connection, and sewer user fees.

#### **Lansing**

|                           |                         |
|---------------------------|-------------------------|
| <b>i. Capacity</b>        | 120,000 Gallons per Day |
| <b>ii. Current Demand</b> | 120,000 Gallons per Day |
| <b>iii. Adequacy</b>      | <b>100% Capacity</b>    |

#### **Desert Shores**

|                       |                         |
|-----------------------|-------------------------|
| <b>Capacity</b>       | 200,000 Gallons per Day |
| <b>Current Demand</b> | 160,000 Gallons per Day |
| <b>Adequacy</b>       | <b>80% Capacity</b>     |

#### **Thomas R. Cannell**

|                       |                         |
|-----------------------|-------------------------|
| <b>Capacity</b>       | 185,000 Gallons per Day |
| <b>Current Demand</b> | 170,000 Gallons per Day |
| <b>Adequacy</b>       | <b>90% Capacity</b>     |

## **Wastewater Rate Study & Infrastructure Deficiencies**

In January 2020, the District retained the services of the Rural Community Assistance Corporation (RCAC) to conduct a Sewer Rate Study in compliance with Proposition 218, that would “address the existing and future revenue needs of the wastewater treatment facilities and to develop a five-year rate structure and annual fee schedule that produces revenues adequate to meet the operating and capital financial needs of SCSD.”

The Rate Study was finalized in January 2023 and on July 19, 2023, the SCSD adopted the following:

- Resolution #2023-07-19-05, adopting the annual sewer maintenance standby charge
- Resolution #2023-07-19-02, establishing rates for wastewater fees

## **IV. Analysis of Information & Recommendation to Commence Dissolution**

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From late 2019 and up until the 2<sup>nd</sup> quarter of 2022, LAFCO started working with the District's general manager and staff, requesting information, and reviewing the operations of the District.

LAFCO met with staff several times and attended district board meetings to present status updates and answer questions. The District experienced management and staff turnover during the review, leaving LAFCO with more questions and concerns.

### *Areas of concern:*

- Inadequate funding to support Fire Protection Services and their unilateral decision to end service without notice.
- Wastewater Facilities at, nearing, or exceeding Capacity
- Inadequate funding to support Wastewater Facilities Infrastructure Upgrades
- Lack of Policies & Procedures for Personnel and Board of Directors
- Management and staff turnover
- Potential financial irregularities
- Potential regulatory issues

LAFCO, after spending a substantial amount of time reviewing the financials and operations of the District, and the District's failure to remediate the deficiencies, the Executive Officer, at the August 25, 2022, hearing recommended the Commission commence the Dissolution of the District based on the findings listed below.

- *The District has one or more documented chronic service provision deficiencies that substantially deviate from industry or trade association standards or other governmental regulations. Its board or management needs to be actively engaged in efforts to remediate the documented service deficiencies.*
- *The District spent public funds unlawfully or recklessly inconsistent with the principal act or statute governing the District and has not taken any action to prevent similar future spending.*
- *The District must consistently adhere to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and other public disclosure laws to which the agency is subject.*
- *The District needs to meet the minimum number of times required in its principal act in the prior calendar year and has yet to take action to remediate the failures or ensure future meetings are conducted on a timely basis.*



## VI. Remediation Period & Conclusion

(August 2022-August 2023)

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 grants a "remediation period" of 12 months, during which the District may remedy the deficiencies. If, after the remediation period, the Commission finds that the District has failed to rectify the defects, it may adopt a resolution to dissolve the District.

**The recommendation to Conditionally Rescind the Notice of Intent to Dissolve is based in part on the following findings:**

1. The District, with the support of the Rural Community Assistance Corporation (RCAC) is in the process of applying for grant funding to address the capital improvements and upgrades to the sewer conveyance system.
2. A Sewer Rate Study was finalized in January 2023 and on July 19, 2023, the SCSD adopted the following resolutions to support the operations and capital improvements to the Wastewater Facilities.
  - Resolution #2023-07-19-05, adopting the annual sewer maintenance standby charge.
  - Resolution #2023-07-19-02, establishing rates for wastewater fees.
3. The Pun Group was retained by the District to provide the following:
  - Aid the District to organize and reconcile all financial statements and accounting records for fiscal years ending June 30, 2021, and 2022.
  - Review of internal financial records.
  - Finalizing year end-procedures and gathering documents for the audits.

The Pun Group has provided an overall positive status of the District's financial operations.

**Exhibit B**

4. Rick Engineering Company was retained by the District to update its Service Area Plan/Municipal Service Review. The update is in process and a revised Draft is expected to be received in mid-September.
5. The District is actively engaged in communications with the Regional Water Quality Control Board regarding the Wastewater Facilities.
6. The District is actively engaged in communications with LAFCO staff.
7. The District hired a full-time staff member for the Parks & Recreation Department.
8. The District is in the process of obtaining grant funding to support improvements to the Salton City and Desert Shores Parks. The District will need to show that it can adequately provide this service.

## **EXECUTIVE OFFICERS RECOMMENDATION**

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**The Executive Officer recommends that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action:**

**OPTION #1:** Conditionally rescind the Notice of Intent to Dissolve the Community Services District according to partial compliance with Resolution #xxxx presented by the Executive Officer. The District shall be placed on a "probationary" status, during which the District shall provide the following:

1. Monthly accounting statements showing the revenues and expenditures
2. Report any actions, including litigation or potential litigation, that could affect the District's financial health.
3. Agenda and minutes from all board meetings, including special meetings.
4. Any changes in staff
5. The District shall acknowledge through a resolution that they understand and agree that LAFCO may proceed with a dissolution at any time that LAFCO makes the necessary findings that the District is not in compliance or is in financial distress.

**OPTION #2:** Proceed with the Dissolution by giving the District and the County of Imperial Notice that LAFCO will conduct the dissolution hearing on September 28, 2023 and direct the Executive Officer to continue discussions with the County of Imperial to commence the transition and for purposes of winding up the affairs of the District.

If the Commission proceeds with this option, the County of Imperial would automatically become the successor entity pursuant to G.C. 57451(b).

**OPTION #3:** Continue the hearing to be at most 60 days to provide additional information requested by the Commission.

**Exhibits:**

Exhibit A        Resolution #2022-06  
Exhibit B        Letter from The Pun Group

**Cc:**        SCSD, Interim General Manager  
              County of Imperial, CEO  
              County of Imperial, Public Works

# EXHIBIT A

Resolution #2022-06



**RESOLUTION #2022-06**

**August 25, 2022**

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL MAKING A DETERMINATION AND COMMENCING THE INITIATION FOR THE DISSOLUTION OF THE SALTON COMMUNITY SERVICE DISTRICT.**

**RESOLVED** by the Local Agency Formation Commission of Imperial, State of California, that

**WHEREAS** the Commission at the August 25, 2022, hearing, met and discussed the Salton Community Service District; and

**WHEREAS** the Commission voted unanimously to Initiate the Dissolution of the Salton Community Service District.

**NOW THEREFORE, BE IT DETERMINED, ORDERED AND RESOLVED AS FOLLOWS:**

- I. Initiate the Dissolution of the Salton Community Service District based on the finding that:
  - (A) The district has one or more documented chronic service provision deficiencies that substantially deviate from industry or trade association standards or other government regulations and its board or management is not actively engaged in efforts to remediate the documented service deficiencies.
  - (B) The district spent public funds in an unlawful or reckless manner inconsistent with the principal act or other statute governing the district and has not taken any action to prevent similar future spending.
  - (C) The district has shown willful neglect by failing to consistently adhere to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and other public disclosure laws to which the agency is subject.
  - (D) The district has failed to meet the minimum number of times required in its principal act in the prior calendar year and has taken no action to remediate the failures to ensure future meetings are conducted on a timely basis.
- II. The District is granted a remediation period of 12 months, during which the district may take steps to remedy the deficiencies.
- III. If, at the conclusion of the remediation period, the Commission finds that the district has failed to remedy the deficiencies, they may adopt a resolution to dissolve the district.

**CERTIFICATION**

I hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted by the IMPERIAL LOCAL AGENCY FORMATION COMMISSION at the meeting thereof held on August 25, 2022.

AYES: FROELICH, KELLEY, CASTILLO, WEST  
NAYS: NONE  
ABSENT: MORENO  
ABSTAIN: NONE

David H. West, Chair

A handwritten signature in black ink, appearing to read 'Jurg Heuberger', is written over a horizontal line.

Jurg Heuberger, Executive Officer

# EXHIBIT B

Letter from The Pun Group



200 E. Sandpointe Avenue, Suite 600  
Santa Ana, California 92707



August 3, 2023

[www.pungroup.cpa](http://www.pungroup.cpa)



Imperial County Local Agency Formation Commission  
1122 W. State St., Suite D  
El Centro, CA 92243

**Subject: Update on the Current State of Salton Community Services District**

Dear Commissioners,

Hope this letter finds you well. As the external consultant of the Salton Community Services District (the "District"), we are writing to provide you with an update on the overall status of the District's operations.

**FY2021 and FY2022 Audits**

Our firm has been instrumental in aiding the District to organize and reconcile all financial statements and accounting records for the fiscal years ending June 30, 2021 and 2022. The audit process is presently underway, carried out by our designated Independent Auditors, O'Connor & Company, whose responsibility is to render professional auditing services to the District. Our firm is collaborating diligently with O'Connor & Company to guarantee the audits' finalization within a practical and acceptable time period.

**FY2023 Financials Records**

We are currently in the midst of the FY2021 and FY2022 audit and are delighted to report that our internal financial records are current through June 30, 2023. As we approach the completion of this fiscal year, we are in the process of finalizing year-end procedures and gathering the requisite documents for the audit.

As of the fiscal year-end on June 30, 2023, the District reported a net position of \$2.48 million (unaudited) across its entire governmental activities. During the year concluding on June 30, 2023, the District recognized revenues of \$2.6 million and incurred expenses totaling \$2.1 million. This resulted in a net increase of \$500,000 in the District's net position.

As you are aware, transparency, accountability, and good governance are fundamental to our operations and to maintaining the public's trust. Therefore, I would like to assure you that our firm is steadfast in ensuring all employees involved in financial transactions are held accountable for their actions. This includes meticulous tracking of all monetary exchanges, detailed record-keeping, and rigorous internal checks.



We will continue to strive for the highest standards in our financial management practices and we understand the importance of this audit in demonstrating our commitment to fiscal responsibility and transparency. Once the audit is completed, we will promptly share the results and any relevant documents with LAFCO.

We appreciate LAFCO's continued support and guidance. If you require any additional information, please do not hesitate to contact me at [ken.pun@pungroup.cpa](mailto:ken.pun@pungroup.cpa) or (949) 777-8801.

Thank you for your attention and cooperation.

Best regards,

**The Pun Group, LLP**

A handwritten signature in blue ink, appearing to read "K.H. Pun".

Kenneth H. Pun, CPA, CGMA  
Engagement Partner



# ITEM #6 SCSD

INFORMATION ITEM

Petition of Writ of Administrative Mandamus (CCP 1094.5)

1 Jose Luis Fuentes, SBN 192236  
2 **LAW OFFICE OF JOSE LUIS FUENTES**  
3 2198 Cleveland Avenue  
4 Thermal, CA 92274  
5 Tel. (213) 454-0997  
6 Fax. (213) 444-3154  
7 E-Mail: fuentes@jlflaw.net

8 Attorney for Petitioner: Jalynda Ellen Alexander

9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **IN AND FOR THE COUNTY OF IMPERIAL COUNTY**

11 JALYNDA ELLEN ALEXANDER, )

12 Petitioner, )

13 vs. )

14 SALTON COMMUNITY SERVICES DISTRICT )

15 Respondent, )

16 Immanuel Ramos; Manuel Henry Ramos )

17 Real Parties in Interest. )

**Case No.:**

**PETITION FOR WRIT OF  
ADMINISTRATIVE MANDAMUS (CCP §  
1094.5)**

**Date:**

**Time: 8:30 a.m.**

**Dept.**

18 Petitioner, Jalynda Ellen Alexander, petitions this Court for a writ of mandate under Code  
19 of Civil Procedure section 1094.5, directed to respondent Salton Community Services District  
20 ("SCSD"), and by this verified petition alleges as follows:

21 1. Petitioner, Jalynda Ellen Alexander, is a resident of Imperial County, and a client/sewage  
22 payor of SCSD, who has been subjected to paying for services not provided by SCSD and will  
23 be subjected to an illegal sewage increase fee by SCSD for July 2023 to July 2028. Petitioner  
24 appealed the determination of real party in interest, Michelle Gilmore, SCSD Board President,  
25 that Mrs. Alexander is legally subjected to a sewage increase fee by SCSD for July 2023 to July  
26 2028. The SCSD conducted a hearing as required by law and upheld the decision of the real  
27 party in interest by a vote of 3-2. As such, petitioner is beneficially interested in and aggrieved  
28 by the decision of respondent as alleged below.

2. Respondent is authorized and required to conduct a hearing, give proper notice and to  
Notice of Motion and Motion for Peremptory Writ of Mandamus

1 render a final decision on a fee increase to clients of SCSD under Cal Const, Art. XIII D § 6;  
2 Proposition 218 Omnibus Implementation Act (Gov C §§ 53750-53753.5).

3 Respondent conducted a hearing on the Sewer System Rate Increase and rendered a final  
4 decision to increase the sewer system rate to petitioner by a vote of 3-2.

5 3. Real party in interest Emmanuel Ramos is named here in his representative capacity as  
6 the general manager of SCSD, and is the person vested by SCSD with the power to direct the  
7 implementation of the Sewer System Rate Increase. Real party in interest determined that  
8 Sewer System Rate Increase was legal and defended that action, through a representative-  
9 Rural Community Assistance Corporation ("RCAC"), at the hearing before respondent.

10 Therefore, real party in interest has an interest in the outcome of petitioner's proceeding to set  
11 aside the decision of respondent.

12 4. Real party in interest Manuel Henry Ramos is named here in his representative capacity  
13 as a Directors for SCSD, and is the person vested by SCSD with the power to direct his son and  
14 general manager Emmanuel Ramos to implement the Sewer System Rate Increase. Real party  
15 in interest determined that Sewer System Rate Increase was legal and defended that action,  
16 through a representative-RCAC, at the hearing before respondent. Therefore, real party in  
17 interest has an interest in the outcome of petitioner's proceeding to set aside the decision of  
18 respondent.

19 5. The Week of March 31st, 2023, real party in interest caused to be mailed to petitioner the  
20 first Proposed Sewer Rate Increase Protest Form and information. The mailing had conflicting  
21 public hearing times – pamphlet enclosed in mailing state May 17th, 2023 @ 2:00p.m. but  
22 Protest Form stated May 17th, 2023 @ 7:00 p.m.

23 6. On May 4th, 2023- Rostros y Corazon (RyC), a non-profit based in Salton City, Imperial  
24 County and who was assisting petitioner, sent a letter to SCSD regarding violations of Cal  
25 Const, Art. XIII D § 6; Proposition 218 Omnibus Implementation Act ( Gov C §§ 53750-53753.5)  
26 and requested that SCSD cancel May 17th, 2023 public hearing.

27 7. On May 5th, 2023- SCSD responded to RyC letter stating the public hearing would not  
28 be cancelled and public hearing would begin @2:00 p.m. and would continue through 7:00

Notice of Motion and Motion for Peremptory Writ of Mandamus

1 p.m.

2 8. On May 17th, 2023 respondent's public hearing started at 2pm & 7 pm. Residents  
3 protested on the number of residents that never received notice mailed the week of March  
4 31st. Attorney for district recommended that sewer rate increase not be voted on and the  
5 process redone, and the hearing continued to a future date to be announced.

6 9. On May 18th, 2023 – a request was made to real party in interest Emmanuel Ramos to  
7 provide the mail number of protest forms that were returned to district by post office as  
8 undeliverable. SCSC provided petitioner's representative with almost 200 protest forms that  
9 were returned to SCSD by post office as undeliverable.

10 10. On June 1st, 2023, real party in interest caused to be mailed to petitioner a second  
11 mailing for Prop 218 sewer rate increase with notice of a Public hearing date of July 19th, 2023.

12 11. On July 19th, 2023- SCSD commenced the second public hearing at 2p.m. After  
13 hearing Protest, Manuel Henry Ramos did not recuse himself and voted to approve sewer rate  
14 increase thereby approving the sewer rate increase with a 3 to 2 vote. Manuel Henry Ramos  
15 ignored SCSD conflict of interest policy and did not recuse himself from voting due to conflict  
16 of interest. Manuel Henry Ramos' son Emmanuel Ramos is Interim General Manager who  
17 directed the sewage increase consideration so he can keep his job. Emmanuel Ramos is subject  
18 to hire and fire by the Board of Directors of SCSD that includes his father Manuel Henry  
19 Ramos. If sewer rate Prop 218 increase did not pass, the Imperial Local Agency Formation  
20 Commission (LAFCO) had stated that they might execute their already made decision to  
21 dissolved SCSD, and a Prop 218 majority protest would affect Manuel Henry Ramos' son  
22 Emmanuel Ramos employment.

23 12. On July 27, 2023, SCSD held a special meeting to pass a resolution related to the Sewer  
24 Rate Increase fee. Petitioner protest the resolution because Manuel Henry Ramos did not  
25 rescue himself due to a conflict of interest on July 19, 2023. Again, Manuel Henry Ramos did  
26 not recuse himself on July 27, 2023 and voted in favor of the resolution related to the Sewer  
27 Rate increase fee. Petitioner also protested that the first and second mailing for Prop 218 sewer  
28 rate increase with notice of a Public hearing date of July 19th, 2023 did not include the  
Notice of Motion and Motion for Peremptory Writ of Mandamus

1 mandated language dictated by the Proposition 218 Omnibus Implementation Act (Gov C §§  
2 53750-53753.5).

3 13. Respondent's decision to approve a sewer rate increase, and by extension real party in  
4 interest's vote, is invalid under Code of Civil Procedure section 1094.5, for the following  
5 reasons:

6 a. Respondent committed a prejudicial abuse of discretion, in that real party in interest  
7 Manuel Henry Ramos did not rescue himself from voting due to a conflict of interest- his son  
8 Immanuel Ramos being the designated employee making decisions which may foreseeably  
9 have a material effect on financial interests, or member of his immediate family for SCSC.

10 CONFLICT OF INTEREST CODE OF THE SALTON COMMUNITY SERVICES DISTRICT  
11 (Adopted March 15, 2017), Gov't Code § 18730 (b)(2); Id. ((9) Section 9. Disqualification.

12 b. Respondent committed a prejudicial abuse of discretion, in that respondent sustained the  
13 determination of real party in interest Manuel Ramos, including the following implied  
14 findings:

15 i. Finding No. 1 (Gov. Code, § 53759 is inapplicable.) Petitioner protested that pursuant to  
16 Gov. Code, § 53759 the SCSC Proposed Sewer System Rate Increase Protest Form mailed to  
17 petitioner did not include the mandated statutory language [ "shall include in the written  
18 notice a statement that there is a 120-day statute of limitations for challenging any new,  
19 increased, or extended fee or charge."]. RCAC rate study directed respondent to include such  
20 language, but respondent chose not to include the mandatory language.

21 ii. Finding No. 2 (Cal Const, Art. XIII D § 6 (a)(2); Gov. Code, § 53755.5 is inapplicable.)  
22 Petitioner protested that pursuant to Gov. Code, § 53755.5 the SCSC Proposed Sewer System  
23 Rate Increase Protest Form mailed to petitioner did not include the mandated statutory  
24 language [ "shall include ... the person's support or opposition to the proposed fee."]

25 iii. Finding No. 3 (Cal Const, Art. XIII D § 6 (a)(1) is inapplicable.) Petitioner protested that  
26 pursuant to Cal Const, Art. XIII D § 6 (a)(1) not all "record owner of each identified parcel  
27 upon which the fee or charge is proposed for imposition" was mailed a "written notice by mail  
28 of the proposed fee".)

Notice of Motion and Motion for Peremptory Writ of Mandamus

1 iv. Finding No. 4 (Cal Const, Art. XIII D § 6 (b)(3) is inapplicable.) Petitioner protested that  
2 pursuant to Cal Const, Art. XIII D § 6 (b)(3) "The amount of a fee or charge imposed upon any  
3 parcel or person as an incident of property ownership shall not exceed the proportional cost of  
4 the service attributable to the parcel.")

5 c. Respondent committed a prejudicial abuse of discretion, in that respondent's implied  
6 findings regarding Cal Const, Art. XIII D § 6 (b)(1) ["Revenues derived from the fee or charge  
7 shall not exceed the funds required to provide the property related service"] not being  
8 applicable is not supported by the weight of the evidence. SCSD Wastewater Rate Study that  
9 was the bases of respondent imposition of a sewer increase fee states that the fee increase is for  
10 "reserve funding projected at \$2,379,072" over five years for "operating reserve, emergency  
11 reserve, and Capital improvement Reserve".

12 d. Respondent committed a prejudicial abuse of discretion, in that respondent's implied  
13 findings regarding Cal Const, Art. XIII D § 6 (b)(2) ["Revenues derived from the fee or charge  
14 shall not be used for any purpose other than that for which the fee or charge was imposed."] not being  
15 applicable is not supported by the weight of the evidence. SCSD Wastewater Rate  
16 Study that was the bases of respondent imposition of a sewer increase fee states that the fee  
17 increase is for "operating reserve" which include "legal fee, membership/association dues,  
18 election cost, property tax collection services, professional services, advertising, SM Finance,  
19 Budgeting & Audit Expense."

20 e. Respondent committed a prejudicial abuse of discretion, in that respondent's implied  
21 findings regarding Cal Const, Art. XIII D § 6 (b)(5) ["No fee or charge may be imposed for  
22 general governmental services including, but not limited to, police, fire, ambulance or library  
23 services, where the service is available to the public at large in substantially the same manner  
24 as it is to property owners"] not being applicable is not supported by the weight of the  
25 evidence. SCSD Wastewater Rate Study that was the bases of respondent imposition of a  
26 sewer increase fee states that the fee increase is for "operating reserve" which include  
27 "advertising, SM Finance, Budgeting & Audit Expense."

28 14. Respondent is a local agency. A fundamental vested right is involved in that Mrs.  
Notice of Motion and Motion for Peremptory Writ of Mandamus

1 Alexander had a right to be free of non-property related fee increase as a client of SCSD  
2 pursuant to Cal Const, Art. XIII D § 6. Therefore, the scope of review is under the independent  
3 judgment test.

4 15. Petitioner has exhausted the available administrative remedies required to be pursued  
5 by her, as follows: SCSD has not implemented any claim for damages administrative  
6 procedure or appeal process for fee increase hearing decision.

7 8. Petitioner does not have a plain, speedy, and adequate remedy in the ordinary course of  
8 law.

9 9. Petitioner will offer, at the hearing on this petition, evidence of statements by third  
10 parties attesting to the hearings at issue in Mrs. Alexander's appeal to respondent.

11 11. Petitioner is personally obligated to pay her attorney for attorney services to prosecute  
12 this action. Petitioner is entitled to recover attorney fees as provided in Government Code  
13 section 800(a) if she prevails in this case, on the ground that respondent's decision was the  
14 result of arbitrary and capricious conduct as set forth above.

15 12. On August 2, 2023, petitioner, through petitioner's representative, requested that the  
16 SCSD prepare a true and correct copy of the administrative record. A true and correct copy of  
17 the record will be lodged with the court as expeditiously as possible after it is prepared and  
18 delivered at least five days before the hearing date.

19 WHEREFORE, petitioner prays:

20 1. For a peremptory writ of mandate, under Code of Civil Procedure section 1094.5,  
21 directed to respondent, and compelling respondent to set aside its ordinance dated July 19,  
22 2023;

23 2. That petitioner recover his costs in this action, including attorney fees under Government  
24 Code section 800(a); and

25 3. That such other relief be granted that the Court considers proper.

26 Dated: August 14, 2023,

Law Office of Jose Luis Fuentes

27 By: 

28 Jose Luis Fuentes,  
Attorney for Petitioner

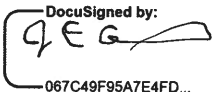
Notice of Motion and Motion for Peremptory Writ of Mandamus

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**VERIFICATION**

I, Jalynda Ellen Alexander, am the petitioner in the above-entitled proceeding. I have read the foregoing petition and know the contents thereof. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: August 14, 2023

By:   
067C49F95A7E4FD...  
Jalynda Ellen Alexander



**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**  
Salton Community Services District

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
Jalynda Ellen Alexander

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL

Civil

939 Main St, El Centro, CA 92243

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jose Luis Fuentes (Bar # 192236)

Law Office of Jose Luis Fuentes

2198 Cleveland Avenue, Thermal, CA 92274

DATE:

(Fecha)

Clerk, by

(Secretario)

, Deputy

(Adjunto)

CASE NUMBER:  
(Número del Caso):

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify): Salton Community Services District

- |  |   |
|--|---|
| under: <input type="checkbox"/> CCP 416.10 (corporation)         | <input type="checkbox"/> CCP 416.60 (minor)             |
| <input type="checkbox"/> CCP 416.20 (defunct corporation)        | <input type="checkbox"/> CCP 416.70 (conservatee)       |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (authorized person) |
| <input type="checkbox"/> other (specify):                        |   |

4.  by personal delivery on (date):

|   |                           |
|---|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br><b>Jose Luis Fuentes (Bar # 192236)</b><br><b>Law Office of Jose Luis Fuentes</b><br><b>2198 Cleveland Avenue, Thermal, CA 92274</b><br>TELEPHONE NO.: (213) 454-0997 FAX NO. (Optional): (213) 444-3154<br>E-MAIL ADDRESS (Optional): fuentes@jlflaw.net<br>ATTORNEY FOR (Name): <b>Jalynda Ellen Alexander, Petitioner</b> | <b>FOR COURT USE ONLY</b> |
| <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL</b><br>STREET ADDRESS: 939 Main St<br>MAILING ADDRESS: 939 Main St<br>CITY AND ZIP CODE: El Centro 92243<br>BRANCH NAME: Civil  |                           |
| PLAINTIFF/PETITIONER: <b>Jalynda Ellen Alexander</b><br><br>DEFENDANT/RESPONDENT: <b>Salton Community Services District</b>   | CASE NUMBER:              |
| <b>PROOF OF SERVICE OF SUMMONS</b>  | Ref. No. or File No.:     |

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a.  summons
  - b.  complaint
  - c.  Alternative Dispute Resolution (ADR) package
  - d.  Civil Case Cover Sheet (served in complex cases only)
  - e.  cross-complaint
  - f.  other (specify documents): See Attachment 2f
3. a. Party served (specify name of party as shown on documents served):  
     **Salton Community Services District**
  - b.  Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
     **Thania Garcia, SCSD Board Secretary**
4. Address where the party was served: **1209 Van Buren Avenue**  
     **Thermal, Ca 92274**
5. I served the party (check proper box)
  - a.  **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): \_\_\_\_\_ (2) at (time): \_\_\_\_\_
  - b.  **by substituted service.** On (date): \_\_\_\_\_ at (time): \_\_\_\_\_ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): \_\_\_\_\_
    - (1)  **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2)  **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3)  **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4)  I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): \_\_\_\_\_ from (city): \_\_\_\_\_ or  a declaration of mailing is attached.
    - (5)  I attach a **declaration of diligence** stating actions taken first to attempt personal service.

|   |              |
|---|--------------|
| PLAINTIFF/PETITIONER: <b>Jalynda Ellen Alexander</b>            | CASE NUMBER: |
| DEFENDANT/RESPONDENT: <b>Salton Community Services District</b> |              |

5. c.  **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on *(date)*: \_\_\_\_\_ (2) from *(city)*: \_\_\_\_\_
- (3)  with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4)  to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d.  **by other means** (*specify means of service and authorizing code section*):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (*specify*):
- c.  as occupant.
- d.  On behalf of (*specify*): **Salton Community Services District**  
under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                     | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input checked="" type="checkbox"/> 416.50 (public entity)        | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input type="checkbox"/> other:                                       |

7. **Person who served papers**

- a. Name:
- b. Address: **Thermal, CA 92274**
- c. Telephone number:
- d. **The fee** for service was: \$
- e. I am:

- (1)  not a registered California process server.
- (2)  exempt from registration under Business and Professions Code section 22350(b).
- (3)  a registered California process server:
- (i)  owner  employee  independent contractor.
- (ii) Registration No.:
- (iii) County:

8.  **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9.  **I am a California sheriff or marshal and I certify** that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

\_\_\_\_\_  
(SIGNATURE)

## Attachments

### Attachment 2f

Petition for Writ of Administrative Mandate, Notice of Motion and MOTION FOR PEREMPTORY WRIT OF MANDAMUS; DECLARATIONS OF JALYNDA ELLEN ALEXANDER AND JOSE LUIS FUENTES IN SUPPORT THEREOF, MPA