

## Comment Sheet

Please let us know your concerns so we can address them in the EIR.  
Por favor, háganos saber sus preocupaciones para que podamos hacerles frente en el  
EIR.

Name / Nombre:

LEANE LEE

Affiliation / Afiliación:

(resident, businessperson, agency representative,  
community group member / residente, empresario,  
representante de la agencia, miembro de grupo de  
la comunidad)

Address / Dirección:

SEE ATTACHED

Phone / Teléfono:

Email/Email:

Leane Lee  
12277 Apple Valley Road, #311  
Apple Valley, CA 92308  
(760) 413-4427

July 7, 2015

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

Re: Initial Study - Apple Valley Ranchos Water System Acquisition Project

Comments:

1. **Inadequate “Project” Description:**  
Deficient “Project Description” – In General

“A correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267).

“The initial study must include a description of the project.” (*City of Redlands, supra*, 96 Cal.App.4th at pp. 405–406).

An accurate and complete project description is necessary to fully evaluate the project’s potential environmental effects (*El Dorado County, supra*, 122 Cal.App.4th at p. 1597).

The failure of the Initial Study to provide an accurate, complete, and coherent description of the “Project” is a fundamental deficiency, which permeates the entire document. The Initial Study fails to describe additional planned or reasonably foreseeable activities or actions by the Town or by other agencies in response to or associated with the proposal, or to address the cumulative impacts of this proposed Project in light of other related actions and plans, such as the commonly referred to “Yermo Water System” which is an integral part of the AVR system.

The Town, by their own admissions through CPUC filings, is in fact attempting to dismantle in piecemeal fashion an existing utility and gut it of all viable resources and support function abilities by segregating a defenseless segment of the population. The Town seeks to, after their other failed attempts to defeat, over-ride past CPUC and San Bernardino County Superior Court Conservatorship decisions.

The Initial Study, in no less than six (6) times (Pages 3, 5, 15, 21, 28 and 34), makes the definitive statement on their lack of any “plan” for the operations, but states with indecision their intent to operate, or a another private or public entity to operate, the system intended for acquisition, and is mere speculation as to the operation.

CEQA which calls for public review, critical evaluation, and comment on the scope of the environmental review proposed to be conducted in response to a Notice of Preparation, including the significant environmental issues, alternatives, and mitigation measures that should be analyzed in the proposed draft EIR 14 CCR 15082(b)(1).) (See, CEQA Guidelines, at Title 14 Cal. Code of Regulations, §§ 15000, *et seq.*)

It is anticipated that the proposed Project will have substantial impacts on other communities served by AVR and it is particularly important that the scope of this proposed review take into account jurisdictional and legal limitations, established state and local plans and policies, and other potentially feasible and less-impactful alternatives to the Project.

The distinct jurisdictional, legal, administrative, due process and procedural issues posed, as well as its semantic ambiguities, add new levels of complexity to the evaluation of the environmental impacts of the Project, which are not adequately explained or evaluated in the Initial Study.

“The scoping process is the screening process by which a local agency makes its initial determination as to which alternatives are feasible and merit in-depth consideration, and which do not.” (*Goleta II, supra*, 52 Cal.3d at p. 569; see Guidelines §15083.) It involves “consultation directly with any person or organization [the lead agency] believes will be concerned with the environmental effects of the project” in hopes of “solving many potential problems that would arise in more serious forms later in the review process.” (Guidelines, §15083.)”

“The determination of whether to include an alternative during the scoping process is whether the alternative is potentially feasible (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 489 (*Mira Mar*)), and the EIR “is required to make an in-depth discussion of those alternatives identified as at least potentially feasible.” (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1505, fn. 5].)” (*South County Citizens for Smart Growth v. County of Nevada* (3d Dist. 2013) 221 Cal.App.4th 316, 327 (*South County*.)

“A lead agency must give reasons for rejecting an alternative as ‘infeasible’ during the scoping process (Guidelines, § 15126.6, subd. (c)), the scoping process takes place prior to completion of the draft EIR. (*Gilroy Citizens for Responsible Planning v. City of Gilroy, supra*, 140 Cal.App.4th at p. 917, fn. 5; Guidelines, § 15083.)” (*South County*, p. 328.)”

The CEQA Guidelines contemplate that an Initial Study is to be used in defining the scope of environmental review (14 CCR §§ 15006(d), 15063(a), 15143.) However, as a result of the omissions, inconsistencies, and deficiencies in the Initial Study, the Town’s proposed scope of environmental assessment for this Project will be unduly narrowed and limited, and is likely to erroneously exclude issues, feasible alternatives, and mitigation measures from the proposed Environmental Assessment. It is important to consider the impacts of the proposed Project on the important missions, facilities, and **operations**

For the multiple reasons summarized above, and noted below, it is essential that the Notice of Preparation and Initial Study be withdrawn and further revised and corrected in order to properly fulfill the Town's role in seeking meaningful public input on the appropriate "scope" of the proposed environmental assessment for the Project to be more accurate, complete, and to be CEQA compliant.

2. Further, a Recirculated Initial Study should be prepared and released for public review, along with a new set of public meetings, to provide the public with sufficient time and opportunity to comment on the scope and adequacy of the revised Notice of Preparation and Initial Study, unlike the existing circulation that began on June 26, 2015, but was not noticed to the public until July 3, 2015, and prohibited public access, due to the holiday weekend and closure of Town Hall, to the Initial Study until the morning of July 7, 2015, the day of the Scoping Meeting. Which goes directly to the issue of the Town's lack of transparency, accountability, customer service, reliability and responsiveness to Apple Valley citizens.

**It is therefore respectfully urged that the Initial Study (and the related Notice of Participation), be recalled, corrected, and be recirculated for public review and comment as corrected before the Town proceeds with any further action in connection with the proposed Project.**

While the CEQA Guidelines do not specifically define "environmental setting" with regard to an initial study, they do explain, in regard to EIR preparation, that the "environmental setting" must be informative: "An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." (Guidelines, § 15125, subd. (a).) A description of the environmental setting must be sufficient to allow "an understanding of the significant effects of the proposed project and its alternatives." (Guidelines, § 15125, subd. (a).) That description should place "special emphasis on environmental resources that are rare or unique to that region and would be affected by the project" and "must permit the significant effects of the project to be considered in the full environmental context." (Guidelines, § 15125, subd. (c).)

"The Initial Study must include a description of the project, and the scope of the environmental review conducted for the initial study must include the *entire* project." (*Nelson v. County of Kern, supra*, 190 Cal.App.4th at 270, *emph. in original*.) The Initial Study here improperly fails to describe "the entire Project" and fails to consider all phases of the proposed Project. The CEQA Guidelines (14 C.C.R. §15063(a)(1)) make clear that an initial study must take a comprehensive view of the proposed project *as a whole*. "All phases of project planning, implementation, and **operation** must be considered in the initial study of the project." Since the Project also contemplates the possibility of future discretionary actions and measures which may in themselves have additional, not-yet-identified environmental impacts, the Initial Study should call for the scope of the environmental assessment to be expanded to include such issues.

I hereby request to be included on the list of interested persons to be notified of, and receive all notices and correspondence of any further processes related to this proposed project, and to receive a distribution list of those receiving notices and correspondence on this project..

Attached hereto are my oral comments offered at the scoping meeting of July 7, 2015, on the information obtained after I contacted the state on the issues of public notice of the scoping meeting and public participation.

A handwritten signature in blue ink that reads "Leane Lee". The signature is written in a cursive, flowing style.

Leane Lee

## Public Participation in CEQA

CEQA provides individuals with the opportunity to participate effectively in all steps of the environmental review process from notice about a pending project to the identification of potential environmental impacts. A large part of this participation process is in the form of commenting.

The public's right to participate in CEQA's environmental review process is mandated in the statute itself and is vigilantly protected by the California courts that interpret and enforce CEQA. CEQA requires every public agency in California to have procedures that provide full public participation to ensure the public agency can receive and evaluate public reaction to the environmental consequences of its actions.

CEQA is a self-executing statute. Public agencies are entrusted with compliance with CEQA and its provisions are enforced, as necessary, by the public through litigation and the threat thereof. While the Resources Agency is charged with the adoption of CEQA Guidelines, and may often assist public agencies in the interpretation of CEQA, it is each public agency's duty to determine what is and is not subject to CEQA. As such, the Resources Agency does not review the facts and exercise of discretion by public agencies in individual situations. In sum, the Agency does not enforce CEQA, nor does it review for compliance with CEQA the many state and local agency actions which are subject to CEQA.

## Comment Sheet

Please let us know your concerns so we can address them in the EIR.  
Por favor, háganos saber sus preocupaciones para que podamos hacerles frente en el EIR.

Name / Nombre:

Tamara Alaniz

Affiliation / Afiliación:

resident

(resident, businessperson, agency representative, community group member / residente, empresario, representante de la agencia, miembro de grupo de la comunidad)

Address / Dirección:

22732 Hasca Road

Phone / Teléfono:

Email/Email:

alanizh20@gmail.com

- Exploring acquisition is not a project under CEQA
- Rate stabilization is a myth perpetuated by government to fool residents into giving them more power. It is not a project under CEQA.
- The I/S is flawed in that assumptions are made as if the included bullet points are facts, when they are internal goals and not mitigative environmental impacts. This resulted in a flawed document.
- The only identified impacts are implications that water use will increase under Town operation — during an epic drought! — and a fraction of an acre of turf removal doesn't scratch the surface of conservation needed.
- The noticing was not transparent, with no I/S available on the Town website or other location, and violates the spirit of the 30-day review period

• #1 project alternative: no project & no unnecessary take!

## Comment Sheet

Please let us know your concerns so we can address them in the EIR.  
Por favor, háganos saber sus preocupaciones para que podamos hacerles frente en el EIR.

Name / Nombre:

ALVIN RICE

Affiliation / Afiliación:

Resident

(resident, businessperson, agency representative, community group member / residente, empresario, representante de la agencia, miembro de grupo de la comunidad)

Address / Dirección:

19250 Red Feather Rd  
Apple Valley CA 92307

Phone / Teléfono:

(760) 242-7861

Email / Email:

OWLRICE@MSN.COM



19250 Red Feather Road  
Apple Valley, CA 92307

July 7, 2015

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

RE: Initial Study – TOAV – Apple Valley Ranchos Water System Acquisition Project

At 7:30 a.m. today, I came to Town Hall requesting a copy of the Initial Study Document and was told that there was **no document available**, but that I needed to submit a Public Records Act Request which would take 10 days. I told L. Pearson, Town Clerk and others that this was unacceptable since the meeting to discuss this document was tonight. As I understand, F. Robinson, Town Manager said on a phone call to him that there was no document. I sent an e-mail to John Brown, Town Attorney, at about 10: a.m. notifying him of this lack of timely response DEFECT – (he had sent me an e-mail yesterday) to notify him of any problems.

I told Ms. Pearson that I would go to Apple Valley Ranchos Water Company and determine if I could obtain a copy. They gave me a copy of the document they received recently of the 40+page June, 2015 Initial Study document and the 3-page Cover signed by Lori Lamson with date of 6-24-15.

**I am appalled, but not really surprised on several TOAV Noticing Defects in this document**, which I have observed frequently in the last 4 or so years and addressed before the Town officials. This document should have been made available immediately **following “approval” and not hidden from their Public with the time clock running toward the 30-day July 27, 2015 Comment deadline**.

Additionally, the meeting tonight is to allow the Public to provide comments and this fact has not been communicated in the appropriate – perhaps, Unlawful - manner **so that the Public can legitimately participate in the critical future of THEIR Water System**. The Town’s staff departed on Thursday evening with a 4-day weekend to report on Tuesday morning for a Public meeting tonight.

**My limited comments prepared in this extremely short notice time-period today** are:

Critical **Defective Notice of Initial Study 30-day Comment Period AND NO TOAV Notice of Public Meeting** on July 7, 2015 at 5:00 p.m. as identified above when approval was signed 10 days ago which reduces the Public Comment period to only 20 days. The Town Hall Bulletin Board does not even have any Posting and the L. Pearson, Town Clerk says her office is not involved.

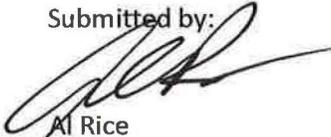
Critical Initial Study **Defect with NO inclusion of Yermo Water System** which is an Apple Valley Ranchos Water Asset (in accord with CPUC Section 240).

**Initial Study is Defective in that the TOAV Scoping Plans** for future of the AVR Acquisition Assets is Pure Vision Speculation and lacks **hard factual foundation evidence** involving several critical issues which are key for any success including:  
**- Management of all assets and operations**. This will require the hiring/contracting, but the most important - and CRITICAL - Real-time Management over the 24/7 REQUIRED Operational Processes of WATER DISTRIBUTION. This Document is vague and essential requirements have not been addressed in a necessary clear, concise and unambiguous manner and language is too general to be considered as significant in its thought and conceptual expressions.

Therefore, for the above reasons and statements included in attached document, **I REJECT the contents of this Initial Study IN TOTAL** and would not have signed it had it come to me for any final signature. I have been responsible for producing POTABLE WATER and **would not allow the TOAV to be involved in any way** based on my experience as a Resident, Taxpayer and attendee of numerous Council and Planning Commission Meetings for several years. I have observed once again the errors and omissions of the TOAV Planning staff in this study document which may negatively impact on the Public and AVR customers.

I hereby request to be included on the list of interested persons to be notified of and receive the recirculated Notice of Preparation and Initial Study, as well as all future notices and correspondence related to this project.

Submitted by:



Al Rice  
Apple Valley taxpayer  
760 242 7861

**SUBJECT: INITIAL STUDY FOR ACQUISITION OF APPLE VALLEY RANCHOS (AVR) BY TOWN OF APPLE VALLEY (TOAV)**

Date: July 7, 2015

**Issue A: Defects in Noticing Public of Initial Study 30-day Comment Period**

The 3-page Cover Letter of the NOTICE OF PREPARATION OF AN ENVIRONMENT IMPACT REPORT FOR THE PROPOSED APPLE VALLEY RANCHOS WATER SYSTEM ACQUISITION PROJECT EIR has the signature of Lori Lamson, Assistant Town Manager and date of 6-24-15.

Directly above the signature states: "Thirty-Day Comment Period: Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than "30 day after receipt of this notice. The Notice of Preparation/Initial Study comment period begins on June 26, and ends on July 27, 2015. ...." **TODAY is Tuesday, July 7, 2015, TEN (10) days later.**

**Issue B: Defects in Noticing Public of Initial Study Meeting, Tuesday, July 7, 2015, Town Hall 5:00 p.m.**

Local High Desert Newspaper, Daily Press, issue of Friday, July 3, 2015 reported in a small article that this Meeting would be held. This publication **is NOT the commonly used newspaper of public notice/record for TOAV.**

The TOAV uses the Apple Valley News, which has a weekly USPS mailing only subscriber base of 300 within the Apple Valley population of 60,000+, as its chosen publication and this **factual Noticing defect** has been communicated on at least 3 separate occasions in Public Comments to the Town Council.

In addition, in a Letter of Demand to Cease and Desist and Cure was presented to: the Managing Partner of BBK, Town Manager, Mayor - with copies to Town Attorney and Council Members. Six months has passed since this letter was submitted. To date, no written response has been received from anyone.

Town Manager Robinson and Council Member Nassif stated from the dais during a Public Meeting several weeks after this mailing – in the absence of the Town Attorney John Brown - that the Town would "Continue to use the Apple Valley News."

TOAV website homepage **maintains an Event News section** for on-going information matters including topics regarding Acquisition of AVR and specifically a logo hot-button for H2o – related issues. **NO REPORT has been announced regarding this meeting** which follows by one day the Town's 4-day weekend and NO information regarding where to obtain ANY copy of the Initial Study is provided to the critical Public and AVR customers.

On Tuesday, the date of the meeting, only Lori Lamson knows what information is to be provided - if any - prior to the meeting and this is over 10 days since the start of comment period commencement date.

This website contain Letters and notifications from the TOWN Manager Robinson **which they want to publish immediately - including several regarding Water and AVR issues. Why is this meeting and report not even mentioned???**

The above **facts are considered Notification Defects of the State's Mandated 30-days**, but reinforce the TOAV's continued strategic efforts to CONTROL, and reduce significantly – or - to possibly eliminate – any - Public Notice, thereby resulting in very limited participation and important public dialogue.

The Town has frequently demonstrated that it does not want or solicit ANY Public Participation and their record of this fact is very Historically Significant in their Meetings which can be viewed on videotapes accessible for several years.

The TOWN's Municipal Development Notification Code has been commonly discussed as being DEFECTIVE - by the public - and more importantly, by members of the Planning Commission (appointed

by Town Council Members) who have voiced their concerns regarding defects to Lori Lamson, to cure and present changes to the Town Council. The Town Council has common knowledge of these Notification Defects which are their responsibility and has chosen to IGNORE even to the detriment of their designees and Town Staff and not even agendize this important legal responsibility.

The Planning Staff, under Lori Lamson, have made numerous errors and omissions – and - constructive suggestions which have been communicated during Public Comments and the Planning Commission are, in all appearances, ignored, frequently NOT even acknowledged – and often, public questions and observations are never answered.

This is a Common TOAV strategy to let the Public make a statement and have Town Staff fumble with words and opinions, but then the Chair quickly moves to the next issue. Fact: Very few (less than 10) members of the Public attend any of the bi-monthly Town Council and Planning Commission Meetings and only 1 or 2 are willing to make any comments. Public is not attending meetings and many have “TRUST” issues.

**Regarding the above stated facts and DEFECTS, the 30-day Notification Process should commence AGAIN and contain proper notice to AVR’s 22,200 customers and 60,000 TOAV public citizens who are negatively impacted.**

**Issue C: Project Initial Study Report contains DEFECT with no inclusion in study of Yermo Water System; which is an AVR Asset (under CPUC Section 240 defining assets)**

It is common knowledge that Apple Valley Ranchos (AVR) Water Company purchased the deficient Yermo Water System which was approved by the CPUC and recently by the San Bernardino County Superior Court for \$ 300,000. However, the 40+page Initial Study is DEFECTIVE as it does not include ANY mention of this AVR asset in the Town of Apple Valley (TOAV) Project Acquisition Initial Study subject.

YERMO Water Company has 300+ customers, ( ? ) miles of pipelines and **parent AVR has made plans for Capital Improvements for new pipelines and numerous mechanical additions which are required** to bring this newly-acquired system up to regulatory standards requiring millions of dollars.

A recent TOAV News website article authored by Town Manager Robinson states that “The CPUC authorized \$732,000 in initial repairs with an expected \$ 7. Million in additional short-term upgrades.”

Even though the CPUC ruled that no CEQA was needed in the initial purchase, now several years later and follow-on actions have been taken with the AVR ownership.

This **Initial Study is considered to be DEFECTIVE and INCOMPLETE if the CEQA work is not accomplished and done regarding the YERMO asset within the Proposed AVR Acquisition Project.**

**Issue D: Project Initial Study Report contains DEFECT in that the TOAV Scoping Plans for future of the AVR Acquisition Assets is Pure Speculation and without a hard factual foundation “EVIDENCE” involving several critically key issues to insure that the Water System is operationally reliable for its Public Mandates.**

**Providing Water is process-oriented requiring 24/7 diligence and emphasis on reliability and compliance with regulatory standards. This document does not even address and provide a small level of confidence that the Town of Apple has the capability nor understanding of what ownership necessitates to possess and have any level of success in providing this most critical of Public services: WATER!**

**MORE TO COME, BUT I ONLY HAD A DOCUMENT COPY FOR A FEW HOURS FROM ANOTHER SOURCE, THAN TOWN OF APPLE VALLEY - WHO SAID THAT THEY DON’T HAVE A COPY FOR THE PUBLIC – MAYBE IN 10 DAYS.**

**From:** ALVIN RICE  
**Sent:** Friday, July 17, 2015 6:09 AM  
**To:** Karen Kelley  
**Subject:** RE: TOAV NOP Bulletin and Distribution

Good morning Mr. Brown and others.

I appreciate receipt of the TOAV Bulletin announcing the August 4, 2015 meeting. I believe that it needs to be amended with additional Action-type words of: "Please Post" or "Approved for Posting" or other similar words at the top and bottom, otherwise based on my experience or opinion, it will be only be limited to circulation and would not result in a larger, but very necessary more-continued exposure impact.

Second: I have rec'd several calls that the Town's Homepage Hyperlink Hot Bottom of "View Initial Study Documents" is very small and difficult to determine on the 1st attempt. I suggest that the font be enlarged a couple of sizes so that folks will be quickly enabled to access the important documents currently under consideration. People become very frustrated when they fail to gain access and become emotional, negatively.

Third: I have concluded that the Distribution List which was used is insufficient for the Critical Outreach deemed appropriate for this important project study. I suggest and provide several different groups which I believe need to be contained on the Notice distribution in order to go beyond just the basic Legal Notice threshold. Additionally, at the Initial Study Meeting, many attendees wanted to review the list as they want to see some recipients that they believe should be included just by looking at this list. (Face Validity?) These groupings are considered as a minimum by members of the public, etc. and there may be more to be recommended in the next several days:

Town of Apple Valley:  
Each Town Council Member  
Each Planning Commissioner  
The Town Hall Bulletin Board  
Planning / Development Bulletin Board  
The Apple Valley Golf Course Country Club  
James Woody Center  
Water Park  
Parks and Recreation Office

Each attendee at the Town's Meeting at the Conference Center about 8 weeks ago. As I recall there was a sign-in so the list should be used as those people spent time and effort to come out.

Board of Directors  
Mojave Desert Air Quality Management District

Board of Directors  
Mohave Water Agency

City of Hesperia  
Water / Public Works Dept

San Bernardino County Library (This is a temporary relocation)  
c/o Victor Valley Museum  
Apple Valley Road

Commanding Officer  
Marine Corps Logistics Base (They need to be aware as a potential user of the Yermo Water)

I know that there are some other recipients and will make effort to provide these to you in the next several days.

Thank you in advance for your timely assistance.

Al Rice  
Apple Valley  
760 242 7861

**From:** william mcleod  
**Sent:** Thursday, July 30, 2015 5:39 PM  
**To:** Apple Valley Mailbox  
**Subject:** Amended AVR Water System Acquisition Project Study

30 Jul 2015

Lori,

Suggest the following changes:

-Yermo is **EAST** of Barstow; I don't know where the Yermo Water System is located, but if it is in the City of Yermo it is not west of Barstow.

-Page 10, Suggest you be more specific on what part of Highway 18 you are talking about since Hwy 18 passes through Apple Valley.

-Page 26, Potential to conflict with what framework? You are just taking over the system, isn't the "framework" already in place?

--Page 31, The Library is CLOSED, and currently operating from a small temporary location on south Apple Valley Road. My guess is that it will not reopen in the near future.

--Page 36, I seriously doubt that there is any possibility that the acquisition of AVR will allow the Town to lower water rates. Get rid of Surcharges--yes, and slow increases--probably, but there is no way the Town will be able to lower rates--especially in a drought with severely reduced water usage. Why don't you just say that the Town does not expect to be able to lower rates and leave it at that.

--Buying AVR allows the Town to keep more of the "Money" local (except for the bond interest) rather than sending the profit to New York and eventually Canada (if the sale to Liberty takes place). And if the Bonds could be financed within the State of California the Bond Interest could be kept within the State as well.