

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: FEBRUARY 5, 2009

FROM: MICHAEL TUERPE, LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item # 7: Request for Reconsideration of LAFCO 3016 - Service Review/Sphere of Influence Update (amendment) for the City of Barstow; LAFCO 3031 - Service Review/Sphere of Influence Update (amendment) for the Odessa Water District; and LAFCO 3032 - Service Review/Sphere of Influence Update (amendment) for the Barstow Fire Protection District

INITIATED BY:

Executive Officer of the San Bernardino Local Agency Formation Commission

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Grant the request for reconsideration as submitted by the LAFCO Executive Officer pursuant to the provisions outlined in Government Code Section 56895 and rescind LAFCO Resolutions 3034, 3035, and 3036.
2. With respect to environmental review:
 - a. Certify that the sphere expansion and sphere reduction for each proposal is statutorily exempt from environmental review, and
 - b. Direct the Clerk to file the Notices of Exemption within five (5) days.
3. Determine that the sphere amendments do not change the previous municipal service review determinations required by Government Code 56430 for the City of Barstow, Odessa Water District, and Barstow Fire Protection District.
4. Approve the sphere amendments for LAFCO 3016, 3031, and 3032 to include:

- a. Sphere expansion for each agency to include the southeast quarter of Section 12 of T09N, R01W, and
 - b. Sphere reduction for each agency to exclude parcel 0516-012-03 located in the northern half of Section 19 of T09N, R01E.
5. Adopt LAFCO Resolutions 3048, 3049, and 3050 setting forth the Commission's findings and determinations.

BACKGROUND:

At the October 15, 2008 hearing, the Commission considered the municipal service reviews as required by Government Code Section 56430 and the sphere of influence updates as required by Government Code Section 56425 for the overall Barstow community which included the City of Barstow, Odessa Water District, and Barstow Fire Protection District (hereafter referred to as the City of Barstow and its related districts). The sphere of influence actions taken by the Commission for the City of Barstow and its related districts were:

- Expansion to include the remainder of the Hinkley community as defined by the boundaries of County Service Area 70 Improvement Zone W to allow for the planning of future service provision and community needs.
- Affirmation of the balance of the existing spheres of influence.

The resolutions were placed on the consent calendar for the November 19, 2008 hearing. The Commission adopted the resolutions, and the resolutions were signed by the Executive Officer on November 21, 2008.

After adoption of the resolutions, staff became aware of significant factors related to the City and its related districts that were previously overlooked. On December 18, 2008, the Clerk to the Commission received written correspondence from the Executive Officer of the Local Agency Formation Commission requesting that the Commission reconsider the sphere of influence updates for the City of Barstow, Odessa Water District, and Barstow Fire Protection District pursuant to the provisions outlined in Government Code Section 56895 (letter included as Attachment #2). According to the Commission's adopted policy for reconsideration requests, "Reconsideration requests will be granted only when the petitioner can present some compelling new evidence, or show that significant factors relative to the situation were overlooked or have changed."

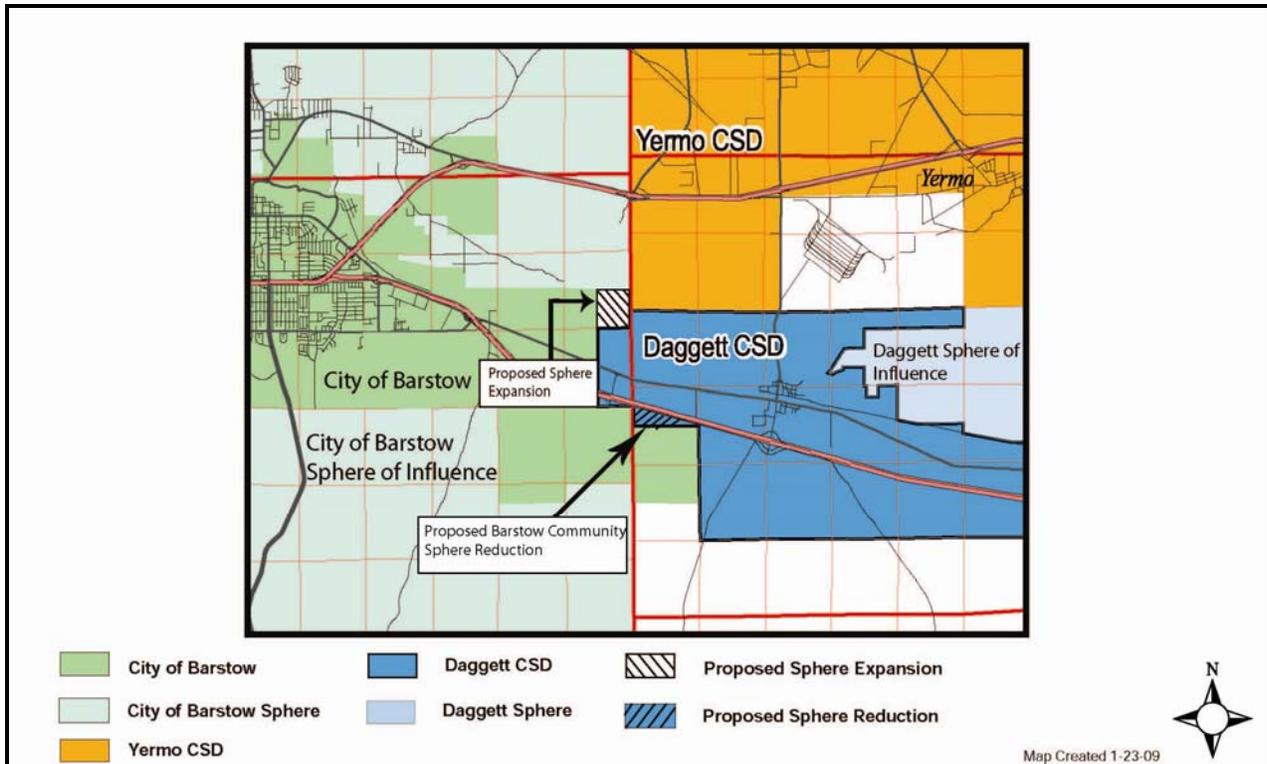
Due to oversight during the processing of the service reviews and sphere updates, staff is requesting that the Commission open and reconsider the spheres of influence of the City of Barstow and its related districts. This request is being made to correct the Barstow community definition along the eastern boundary by amending the spheres of influence of the City of Barstow, Odessa Water District, and Barstow Fire Protection District. The proposed sphere amendments are identified as follows and are shown in the map below (included in Attachment #1):

1. Expansion to include the remainder of the southeast quarter of Section 12 of T09N, R01W. The area is generally located east of the City of Barstow, south of the City of

Barstow sphere of influence, east of a combination of the Yermo CSD and Daggett CSD, and north of Daggett CSD.

2. Reduction to exclude parcel 0516-012-03 located in the northern half of Section 19 of T09N, R01E. The area is generally located southwest of Interstate 40, west of the western line of Section 20, and north and east of the City of Barstow (Marine Corps Firing Range).

Map of Sphere Amendments



Although staff is recommending two sphere amendments, the basic issues considered by the Commission at the October hearing remain unchanged. The balance of this report presents the Commission with the information that staff overlooked relative to the Barstow community designation. The City of Barstow/Odessa Water District has indicated no objection and the Barstow Fire Protection District has indicated support for the proposed sphere amendments (letters included as Attachment #3).

SPHERE AMENDMENT AREAS:

The following is information on each of the proposed sphere amendment areas.

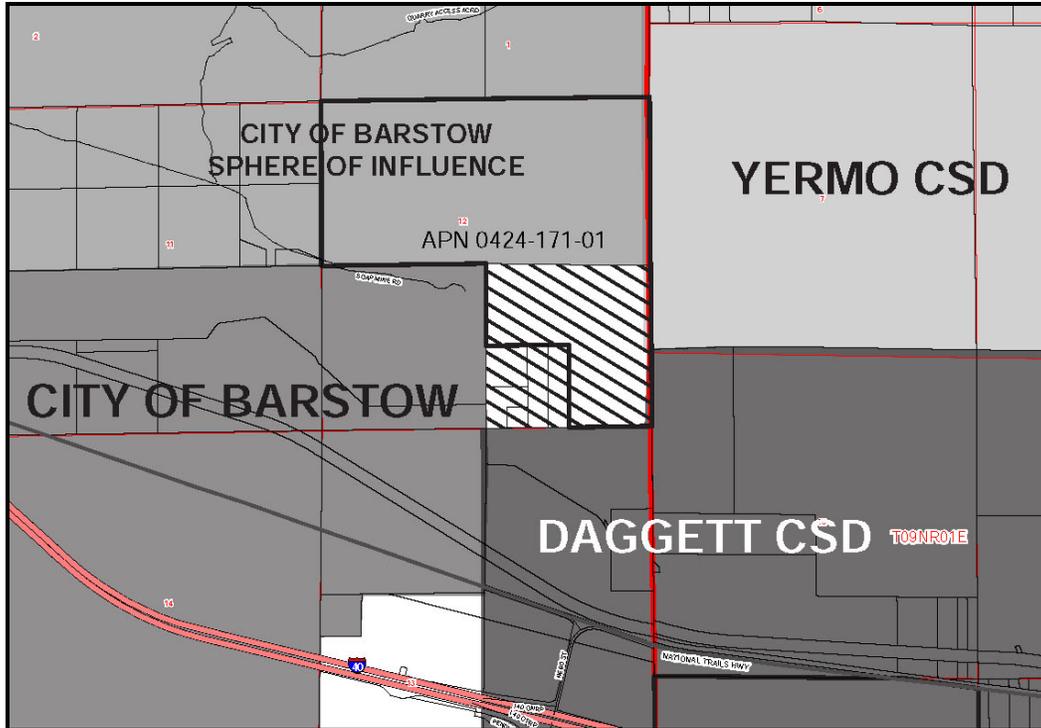
1. Expansion to include the remainder of the southeast quarter of Section 12 of T09N, R01W.

The basis for sphere expansion in this area is that the current sphere designations split parcel 0424-171-01. This situation arose from LAFCO 2809 in 1996 when the

Commission approved the expansion of the sphere of influence of the Barstow community. At that time, the southeast quarter of Section 12 of T09N, R01W was inadvertently not included as a part of the sphere expansions. This resulted in parcel 0424-171-01 (under government ownership) being partially within and partially excluded from the Barstow community spheres. Also included within the southeast quarter of Section 12 are five other parcels that are under private ownership. The illustration below shows the parcels within the proposed sphere expansion and the City of Barstow sphere splitting parcel 0424-171-01.

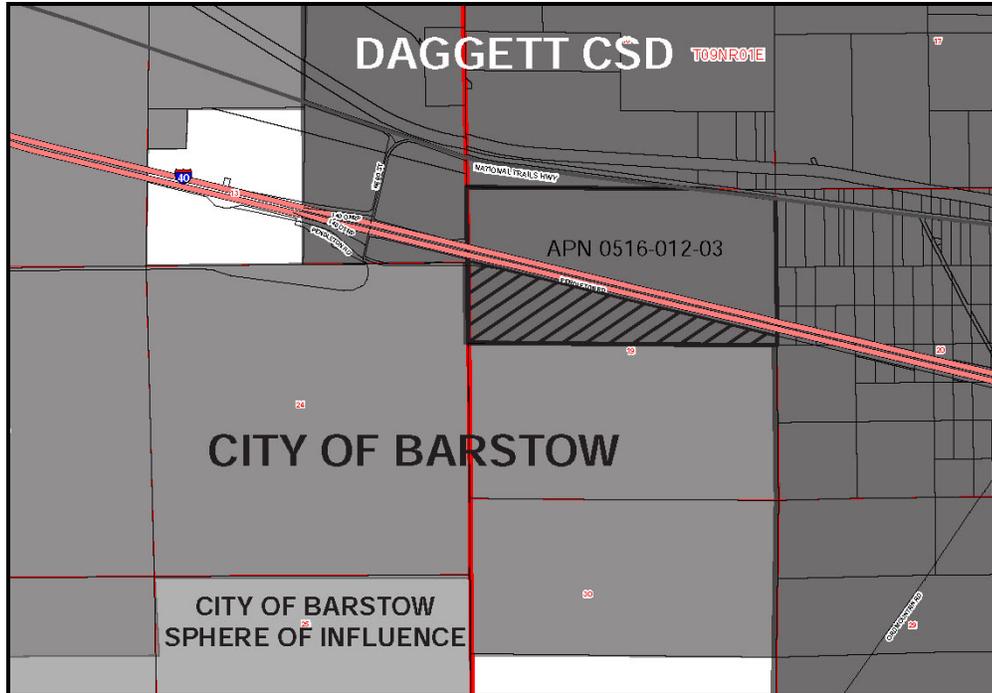
The proposed sphere expansion area encompasses approximately 160 acres and is generally located east of the City of Barstow (Nebo Annex to the Barstow Marine Corps Base), south of the City of Barstow sphere of influence, east of a combination of Yermo CSD and Daggett CSD, and north of Daggett CSD. Generally, the amendment area is currently vacant, abuts the mountain range on the north, and the private lands are traversed by the Mojave River. The land use designations assigned by the County of San Bernardino General Plan for the government parcel are mainly Resource Conservation with some Floodway. The five private parcels have land use designations mainly of Floodway with some Resource Conservation and have a Flood Plain Safety Overlay District designation of FP-1 (Zone A – Inside 100 year flood plain).

This area is currently not within the boundary or sphere of a local agency that provides services. In this case, the local agencies surrounding the area are the City of Barstow and its related districts, Daggett CSD, and Yermo CSD. As mentioned, parcel 0424-171-01 is partially within and outside the Barstow community spheres. In the opinion of staff, inclusion of this area within the overall Barstow community is the logical choice and would allow for planning for future service delivery to the area by the Barstow community. Therefore, staff is recommending that the Commission expand the spheres of influence of the City of Barstow and its related districts to include the southeast quarter of Section 12, identified by the hatch lines in the illustration below.



2. Reduction to exclude parcel 0516-012-03 located in the northern half of Section 19 of T09N, R01E.

The basis for sphere reduction of this area is that the spheres of the City of Barstow and its related districts extend into the Daggett CSD by approximately 100 acres, as identified by the hatch lines in the illustration below. The area is under government ownership, is currently vacant, and has a land use designation assigned by the County of San Bernardino General Plan of Resource Conservation. The area is generally located southwest of Interstate 40, west of the western line of Section 20, and north and east of the City of Barstow (Marine Corps Firing Range). The illustration below shows that parcel 0516-012-03 is entirely within the Daggett CSD boundary.



This situation arose in 1973 and continues through the present day. The information about this area is as follows:

- In 1973 the Commission established the spheres of influence for the City of Barstow and the Barstow Fire Protection District. Particularly, in Section 19 of T09N, R01E the spheres of influence were established and bordered by Interstate 40 to the north. However, Interstate 40 bisected parcel 0516-012-03.
- In 1984 the Commission received a district initiated application for sphere expansion and annexation to Daggett CSD (LAFCO 2246). At that time, LAFCO did not receive comment from either the City of Barstow or the Barstow Fire Protection District as to the proposed extension of Daggett CSD into their spheres of influence. Further, LAFCO staff inadvertently did not include the reduction of the spheres of the City of Barstow and the Barstow Fire Protection District as part of the processing of the proposal. The Commission approved the annexation of Daggett CSD to include the entirety of parcel 0516-012-03.
- In 1993 Odessa Water District was formed (LAFCO 2734) and the sphere of influence was established at that time to be coterminous with that of the City of Barstow (LAFCO 2735).

Since 1973 the spheres of the City of Barstow and its related districts have split parcel 0516-012-03, and since 1984 the spheres within said area have been within the Daggett CSD. Therefore, staff is recommending that the Commission reduce the spheres of influence of the City of Barstow and its related districts to exclude this area. The area is within the Daggett community and the responsible agency for service provision at this time is Daggett CSD. Reduction of the spheres would support the Commission's policy guidelines for sphere of influence identification of the separate communities.

ADDITIONAL DETERMINATIONS:

- The Commission's Environmental Consultant, Tom Dodson and Associates, has determined that sphere of influence modifications are statutorily exempt from environmental review. Mr. Dodson's response is included as Attachment #4.
- As required by State Law notice of the reconsideration by the Commission was provided in the same manner as for the original consideration through publication in a newspaper of general circulation, the *Desert Dispatch*. Individual notice of the request for reconsideration was not provided as allowed under Government Code Section 56157 as such mailing would include more than 1,000 individual notices. As outlined in Commission Policy #27, in-lieu of individual notice the publication was provided through an eighth page legal ad.
- As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

CONCLUSION:

Due to staff oversight during the processing of the service reviews and sphere updates for the Barstow community, staff is requesting that the Commission correct the Barstow community definition along the eastern boundary by amending the spheres of the City of Barstow, Odessa Water District, and the Barstow Fire Protection District. The proposed sphere amendments are:

1. Expansion to include the remainder of the southeast quarter of Section 12 of T09N, R01W.
2. Reduction to exclude parcel 0516-012-03 located in the northern half of Section 19 of T09N, R01E.

Although staff is recommending two sphere amendments, the basic issues considered by the Commission at the October hearing remain unchanged. The proposed sphere amendments do not change the previous staff report determinations required by Government Code 56430 for the municipal service reviews, and modification of the spheres is necessary in order to adhere to the Commission's definition for the Barstow community. In addition, the sphere expansion that the Commission previously approved at the October hearing is not affected by this reconsideration request (expansion to include the remainder of the Hinkley community as defined by boundaries of County Service Area 70 Improvement Zone W).

MT/

Attachments:

1. Maps of Sphere Expansion Approved on October 15, 2008 and Reconsideration Areas
2. Request for Reconsideration Submitted December 18, 2008
3. Letter from the City of Barstow/Odessa Water District Dated January 13, 2009 and Letter from the Barstow Fire Protection District Dated December 30, 2008
4. Response from the Commission's Environmental Consultant, Tom Dodson and Associates
5. Excerpts from Staff Report Dated October 7, 2008 for the Barstow Community
6. Draft Resolution 3048 for the City of Barstow
7. Draft Resolution 3049 for the Odessa Water District
8. Draft Resolution 3050 for the Barstow Fire Protection District