

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

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DATE: NOVEMBER 10, 2009

**FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Senior LAFCO Analyst**

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Items #8 -- LAFCO 3050 – Reorganization to Include City of San Bernardino Annexation No. 360 and Detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70 (Arrowhead Springs Specific Plan Area)

INITIATED BY:

City Council Resolution, City of San Bernardino

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3050 by taking the following actions:

1. With respect to the environmental review:
 - a. Certify that the Final Environmental Impact Report (FEIR) and other related environmental documents prepared by the City of San Bernardino for the Arrowhead Springs Specific Plan project, the Facts, Findings and Statement of Overriding Considerations and the Addendum prepared for the project have been independently reviewed and considered by the Commission, its staff and its Environmental Consultant;
 - b. Determine that the Addendum prepared by the Commission's Environmental Consultant as the Lead Agency and the FEIR for the project prepared by the City are adequate for the Commission's use for its determinations required under the California Environmental Quality Act (CEQA) related to LAFCO 3050;
 - c. Determine that the Commission does not intend to adopt alternatives or mitigation measures for LAFCO 3050 (the Arrowhead Springs Project) and that the mitigation measures identified for the project in the FEIR are the

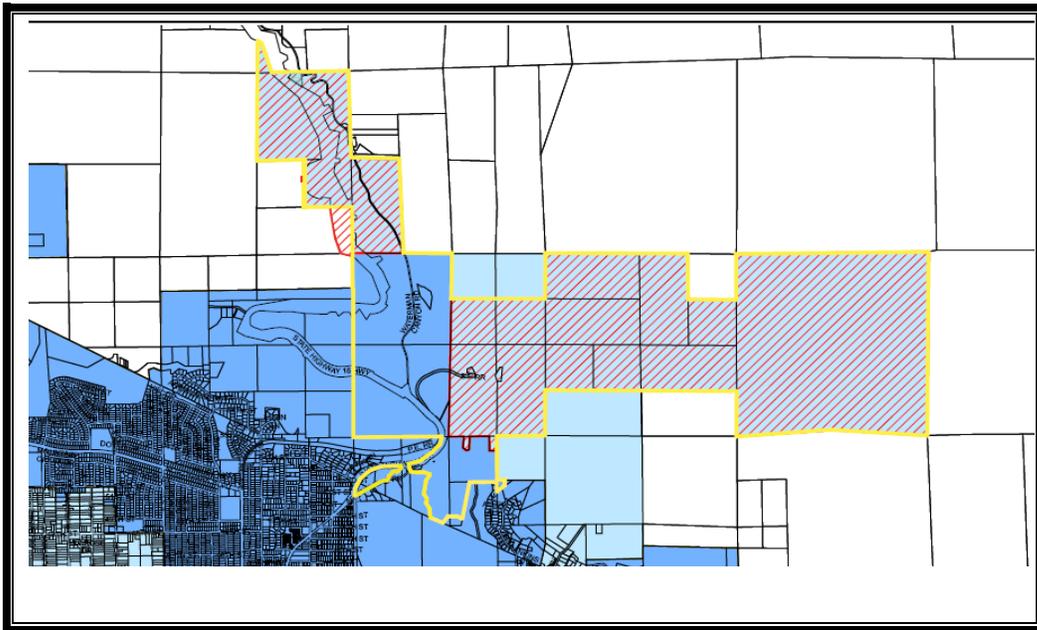
responsibility of the City and others, not the Commission;

- d. The Commission makes the finding that the addition of the acreage included within the State Route 18 right-of-way added to the project does not modify the conclusions in the environmental documentation submitted or provide for additional adverse environmental effects resulting from the addition that would require further environmental evaluation and have been adequately addressed in the Addendum prepared for the project;
 - e. Adopt the Candidate Findings of Fact and Statement of Overriding Considerations, as presented by the Commission's Environmental Consultant as attached to the staff report; and,
 - f. Direct the Executive Officer to file the Notice of Determination within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.
2. Modify LAFCO 3050 through expansion to include the State Route 18 right-of-way not a part of the original proposal within Sections 3 and 10, T1N, R4W which encompasses approximately 16.3+/- acres and Assessor Parcel Numbers (APNs) 0270-011-01 and 0270-111-01 encompassing approximately 1.78 +/- acres and retitling the proposal to include the detachments of the San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70.
3. Approve LAFCO 3050, as modified, with the following conditions:
- a. Standard terms and conditions that include the "hold harmless" clause for potential litigation costs, continuation of fees, charges, assessments, and the identification that the transfer of utility accounts will occur within 90 days of the recording of the Certificate of Completion; and,
 - b. A condition to address a service mechanism to accommodate the ongoing maintenance of approximately 900 linear feet of Waterman Canyon Road within Section 2, T1N, R4W as follows:

"Prior to issuance of the Certificate of Completion for LAFCO 3050 the City of San Bernardino shall submit to LAFCO an out-of-agency service contract with the County of San Bernardino specifying the terms regarding maintenance of the 900 linear feet of Waterman Canyon Road within Section 2, T1N, R4W stranded outside City boundaries in County jurisdiction pursuant to Government Code Section 56133. The City of San Bernardino shall provide written consent to this condition within five (5) working days of the approval of this resolution."
4. Adopt LAFCO Resolution #2942 setting forth the Commission's terms, conditions, findings, and determinations for approval.

BACKGROUND:

On March 23, 2006, the City of San Bernardino initiated two proposals, one to address a sphere of influence expansion and one to annex the territory of the Arrowhead Springs Specific Plan not a part of the City, known as LAFCOs 3053 and 3050 respectively. The map below shows the boundaries of the Specific Plan, as adopted by the City, and its relationship to the City's existing boundary and sphere of influence:



In October of 2006 the Commission approved the sphere of influence changes included within LAFCO 3053, but continued discussion of the reorganization embodied in LAFCO 3050. The purpose of LAFCO 3050 is relatively simple -- to consolidate the land holdings of Campus Crusade for Christ within a single land use and service jurisdiction, the City of San Bernardino, which has approved a Specific Plan for the area. The application submitted was identified as follows:

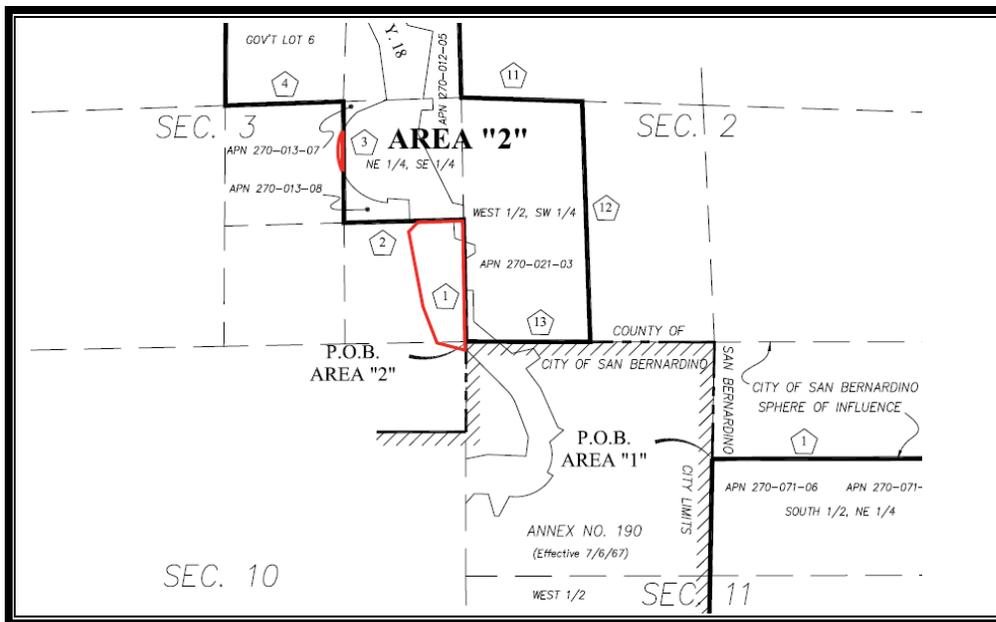
LAFCO 3050 – Reorganization to Include City of San Bernardino Annexation No. 360. This proposal involves two separate areas of annexation totaling approximately 1,572 +/- acres within the City of San Bernardino's northern sphere of influence. The two areas are identified as follows:

Area 1 – encompasses approximately 1,296 +/- acres generally located north of the City of San Bernardino boundaries, east of State Route 18. The annexation area includes the historic Arrowhead Springs Hotel and grounds. The area is generally bordered by the City of San Bernardino limits on the west and parcel lines on the north, east and south.

Area 2 – encompasses approximately 276 +/- acres generally located east and west of State Route 18 in the Old Waterman Canyon area. This annexation area is generally bordered by the City of San Bernardino limits on the south and parcel lines on the west, north, and east.

Following submission of the applications, and in consultation with City staff, LAFCO staff expanded LAFCO 3050 to include the two parcels which would have become totally-surrounded islands of unincorporated territory. The expansion includes, within Area #1, Assessor Parcel Number (APN) 0270-111-01 along the southern boundary which is privately owned, and within Area #2, APN 0270-011-01 along the eastern edge of the annexation area owned by the Puritas Water Company. Location and vicinity maps are included as Attachment #1 to this report.

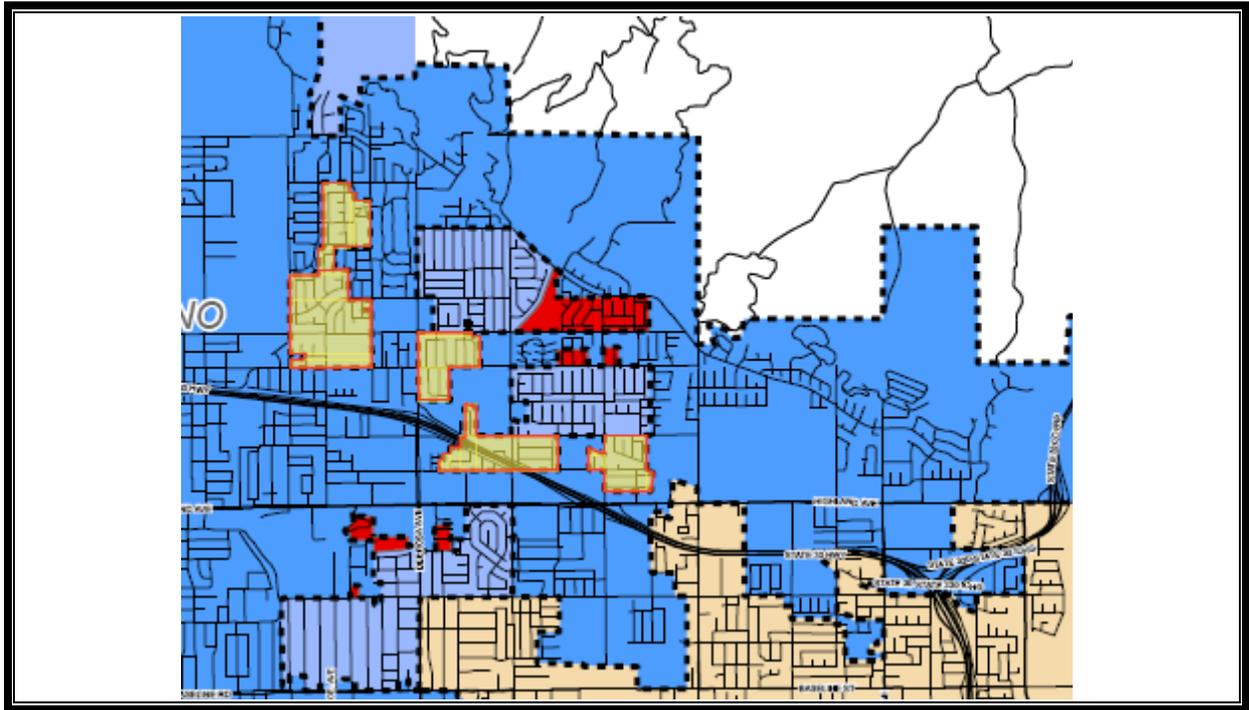
In addition, at the September 20, 2006 hearing, in discussion of the status of the City of San Bernardino applications, then Commissioner Dennis Hansberger questioned the exclusion of the State Route 18 right-of-way along the western boundary of the southern portion of Area #2 (territory within Section 3). The Commission concurred with the proposed expansion to the reorganization so that fire protection/paramedic and law enforcement responses are coordinated for the full length of State State Route 18 in the annexation area. The expansion areas are outlined in red on the map below.



At the April 2006 hearing, the Commission outlined its direction to LAFCO staff and the City to implement its directives to initiate annexation of the City's totally- or substantially-surrounded islands when approving development-related annexations. In response to that action, the City indicated it would move forward with submitting applications for thirteen (13) island annexations which fulfilled its position that the definition of substantially surrounded

would equal 75% of the boundary. The City noted, however, that the constraints of the then sunset clause on the island provisions (completion by January 1, 2007) created major obstacles to fulfilling that requirement.

In July 2006, the City of San Bernardino submitted an application for annexation of six (6) islands (LAFCO 3067). The initiation resolution indicated that it was the City's position that the costs for serving all the islands previously identified for annexation were much higher than the revenues received so the City could not afford to pursue them all at one time. The City then proposed a schedule of annexation included in its Resolution No. 2006-348 to fulfill its commitment to the Commission to address the island issues while recognizing the financial constraints. It was noted that the island identified as the "Del Rosa Island" had already been initiated and completed. The map below identifies the areas proposed to be processed as island annexations.



While the Commission acknowledged the City's contention that the annexation of older areas, where development potential is limited and the infrastructure is aging, can be a financial burden to a City, it reiterated its position that coupling those annexations with areas where the revenues will exceed costs to balance the City's obligations remains the best course to address the situation. This position is further borne out by the Fiscal Impact Analysis provided as a part of the City's original application. This document indicates, on Table 3-1, page 12 that at build-out a surplus of \$2,800,731 will be provided to the City based upon total annual recurring revenues and total annual recurring costs.

In October 2006, AB 2223 (Salinas) was signed into law extending the sunset for island annexations to January 1, 2014 eliminating some of the constraints on processing the additional islands. At the October 18, 2006 hearing the action of the Commission was to indicate its intent to approve LAFCO 3050 upon receipt of additional information related to the provision of water, sewer and fire protection services. The concerns identified were related to the method chosen for service provision for domestic, irrigation and recycled water delivery and wildland fire protection services.

The following identifies the staff's areas of concern and/or question in regard to the service plan presented by the City of San Bernardino and the project proponent, Campus Crusade for Christ and its then partner, American Development Group as identified in the staff report dated October 10, 2006 (copy included as Attachment #5 to this report. Excerpts from that report are listed below:

1. Water service needs for this project are anticipated to be provided by the existing mutual water companies within the area. The domestic water service is to be provided by the Del Rosa Mutual Water Company, a company which has existed since 1922. The management of this Company is identified by the Secretary of State Office in the following manner – the address for delivery of notices is listed as the Office of General Counsel in Orlando, Florida, which is the corporate headquarters of Campus Crusade for Christ, with a service delivery address on Arrowhead Springs Road in San Bernardino.

The Water Supply Assessment provided as a part of the application indicates that there is sufficient water to serve the anticipated development. However, during the processing of this application, staff has questioned the service choice of utilizing the Del Rosa Mutual Water Company, an entity whose only currently known water customer is the Arrowhead Springs Hotel, as the provider of domestic water to 1,350 dwelling units, two major hotels, and significant commercial/office space over that of the City of San Bernardino Municipal Water Department. Numerous requests for supplemental information and responses have been taken place between LAFCO staff and representatives of the City of San Bernardino. The City Manager and the City Municipal Water Department have indicated their support for the use of the Del Rosa Mutual Water Company for the provision of this service as most recently outlined in their letters of October 5, 2006 and October 4, 2006 respectively.

These discussions have not dispelled staff's concern that for the future inhabitants of this area, a shareholder-owned mutual water company providing this service, when a public body is available, is not the best choice for service delivery. However, the City of San Bernardino Municipal Water Department would be the expert to evaluate these service plans and it has indicated its support for the mutual water company option.

In the staff view, since it is not clear what the ultimate number of shares will be or their anticipated ownership, nor when the application will be presented to the Department of Corporations for consideration, and, therefore, consideration of LAFCO 3050 should be continued. This position is taken on the basis that without

this information on one of the primary service responsibilities to support the development, the staff is hesitant to recommend approval at this time. Once the record is clear on how this service mechanism will be utilized, staff would support approval of the reorganization.

2. Irrigation water is proposed to be provided by the West Twin Creek Water Company, a mutual water company originally incorporated in 1891. As noted in the October 5th letter from the City Manager, this company has 720 shares and “during recent years all of the stock has gone back to the company”. However, the following paragraph indicates that 443 shares are owned by Campus Crusade for Christ with the company holding the balance. Again, the City of San Bernardino Municipal Water Department supports the use of the West Twin Creek Water Company as one of the sources of irrigation water and the delivery system for irrigation water from water sources including wells. However, as noted above, staff concern remains that until the application is reviewed and approved by the Department of Corporations, the Plan for Service mechanism for providing this service is not assured. Therefore, staff would propose to continue this consideration to the November 15th Commission hearing.

Sewage collection services are currently provided to the Arrowhead Springs Hotel facility by the package treatment operated by the Del Rosa Mutual Water Company. The Plan anticipates that this responsibility will be expanded under the provisions of the Water Company to include the operation of the collection and conveyance system, the operation of the package treatment plant to provide tertiary treatment and the reconveyance of recycled water for use on the golf course and other agricultural operations within the community. The Plan’s definition indicates that this would be a “no change in this service” through the reorganization process.

Staff has expressed its concern to City staff on several occasions as to the choice of utilizing the Del Rosa Mutual Water Company as the entity to provide this service. LAFCO staff knows of no mutual water company within our County that provides this level of service, while there are a number of package treatment plants for mobilehome parks, large commercial developments in the desert, and a large commercial complex in the West Valley where a sewerage entity is not available. In addition, there is no description within the materials submitted which provides an explanation of the mechanics for operating this system, such as how this will be operated against the shareholder requirements of the Company. For instance, are there shares assigned to the capacity of the treatment plant? Again, the City of San Bernardino Municipal Water Department has indicated their support for this option.

3. Fire protection services are currently the responsibility of County Service Area 38 (CSA 38) for structural fire protection and the California Department of Forestry and Fire Protection (State DFFP) for wildland fire protection. Upon annexation, structural and wildland fire protection responsibilities will be transferred to the City of San Bernardino Fire Department.

The area of LAFCO 3050 is currently designated as State Responsibility Area (SRA)

lands by the State DFFP. This designation is removed upon annexation of territory by a City and the financial burden for this protection, where reciprocity is not available, becomes a responsibility of the City. Typically, these relate to services for bulldozers, aircraft, and specialized hand crews, etc. The State DFFP offers a program where cities can avail themselves of this service on a per-acre contract basis. The City's Plan for Service makes no reference to this arrangement; however, the City's response to the prior discussion indicates that it is amenable to such an arrangement. Based upon the high fire hazard in the area, staff would like to receive a more definitive response on this service.

The staff's recommendation was to continue LAFCO 3050 to the November 15, 2006 hearing to allow for reconciliation of the questions on service delivery. The questions on fire protection were responded to at the October hearing by Fire Chief Michael Conrad, indicating that the City had in place agreements for wildland fire protection and wildland/urban interface which addressed the concerns.

What staff believed would be a fairly straightforward response to the questions related to the provider/operator of the water and sewer service; however, turned into a three (3) year odyssey of continuances for LAFCO 3050. That odyssey ended in August 2009 when the "Agreement in Principle" for provision of water and sewer service through the City was signed by the City of San Bernardino Municipal Water Department, Campus Crusade for Christ Inc. and Arrowhead Springs Corporation. Attachment #2 to this report is a copy of the Agreement in Principle and Attachment #3 is the amended portions of the Plan for Service related to water and sewer service being provided through the City of San Bernardino.

On November 3, 2009, LAFCO staff met with City and County Public Works staff to address a new concern regarding the maintenance of roadways within the area. The concern relates to a 900 foot length of Waterman Canyon Road that would be stranded outside the proposed City boundaries following completion of LAFCO 3050. The area is shown on the aerial below:



It was determined that the best alternative, based upon the parcel configurations in the area, would be to require an out-of-agency agreement between the City and County identifying that the City would provide for ongoing maintenance of the roadway. It was agreed that a letter signed by both the City and County along with a draft agreement would be provided. However, at the time of the final preparation of this report, LAFCO staff has not received the letter providing the commitment for this service. However, a draft of the proposed agreement was provided by the County Transportation Department and has been included as a part of Attachment #7. LAFCO staff is recommending, as a condition of approval, that the Commission require the submission of the agreement prior to issuance of the Certificate of Completion. This will alleviate any service concerns for the area in the future.

As outlined in the original staff report, and the amended documents outlining service through the operations of the City's Municipal Water Department, the Arrowhead Springs Specific Plan anticipates and requires the full range of municipal-level urban services, and the most appropriate provider of those services is the City of San Bernardino. The original and modified documents show that the anticipated revenues and expenditures associated with service delivery are sufficient to provide the services and their ongoing maintenance

and operation costs. Therefore, LAFCO staff continues its support for approval of this proposal with the addition of the condition related to Waterman Canyon Road.

ENVIRONMENTAL CONSIDERATIONS:

The City's processing of the General Plan Update and the Arrowhead Specific Plan has included the adoption of the project's environmental documents. LAFCO's Environmental Consultant, Tom Dodson and Associates has reviewed these documents and indicated that they are adequate for the Commission's use for LAFCO 3050. A copy of the environmental documents, including, but not limited to, the Final EIR, Mitigation Monitoring Plan, and Statement of Overriding Considerations were originally forwarded to Commission members on September 22, 2006 and were again provided to the Commission on October 21, 2009.

In November Mr. Dodson prepared an Addendum for the project to evaluate the addition of 1.7 acres added to the original proposal but pre-zoned by the City of San Bernardino in its General Plan Update approved in October 2006 (APNs 0270-111-01 and 0270-011-01) and to address approximately 16.3 acres not included in the original proposal or the pre-zoning which are within the State Route 18 right-of-way. Mr. Dodson has indicated in his letter to the Commission the actions that are appropriate for the review of LAFCO 3050 as a Lead Agency for the Addendum. A copy of Mr. Dodson's analysis is included as Attachment #8 to this report. The actions are:

- Certify that the Commission, its staff, and its Environmental Consultant have independently reviewed the materials compiled in the referenced FEIR, the Candidate Findings of Fact and Statement of Overriding Considerations and the Addendum and determined that they are adequate for the Commission's use in making its decision related to LAFCO 3050.
- Certify that the Commission has considered the Addendum and the FEIR and the environmental effects as outlined in these documents prior to reaching a decision on the project.
- Determine that the Commission does not intend to adopt alternatives or mitigations measures for the project. Mitigation measures required for the project are the responsibility of the City and others, not the Commission.
- Determine to make the finding that the addition of the acreage included within the State Route 18 right-of-way added to the project does not modify the conclusions in the environmental documentation submitted nor provide for additional adverse environmental effects resulting from the addition that would result in requiring further environmental evaluation.
- Adopt the Candidate Findings of Fact and Statement of Overriding Considerations as presented by Mr. Dodson. A copy of this Statement is included as a part of Attachment #8 to this report.

- Direct the Executive Officer to file the Notice of Determination within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.

CONCLUSION:

The Commission, its staff and consultants have reviewed mountains of paperwork for this project, as has the City of San Bernardino staff. The continuances over the past three years to address the most critical issues of water and sewer delivery to the anticipated 1,350 homes, hotels, business, etc., while frustrating to the Commission, its staff, City staff and property owners has provided a much better service delivery mechanism for the future. In compliance with the directives of State law and Commission policies, LAFCO staff is recommending the approval of the reorganization known as LAFCO 3050 in order to provide the full range of municipal-level urban services to this project through the most efficient and effective service entity, the City of San Bernardino.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that the study area is legally uninhabited, containing 0 registered voters as of April 4, 2006 and as of October 13, 2009.
2. The study area is within the sphere of influence, as amended by LAFCO 3053, assigned to the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for the area as modified is \$3,648,455 (\$1,151,258 land; \$2,497,197 improvements) as of April 2006.
4. Legal advertisement of the Commission's original and current considerations has been provided through publication in *The Sun*, a newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individual and agencies having requested such notification.
5. LAFCO staff has provided individual notices to landowners (totaling 9 notices) within the reorganization area and to landowners and registered voters surrounding the study area (totaling 330 notices) in accordance with State law and adopted Commission policies. To date, no expression of concern or opposition has been received.
6. The City of San Bernardino has processed land use approval for the area through adoption of the Arrowhead Springs Specific Plan and its General Plan Update which has pre-zoned the territory. The range of land uses is outlined in the Arrowhead

Specific Plan. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following reorganization unless specific actions are taken by the City Council at a public hearing.

7. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the City environmental documents for the reorganization proposal which includes the Final EIR and Mitigation Monitoring Program prepared by the City for the General Plan Update and adoption of the Arrowhead Springs Specific Plan (SCH No. 2004111132). In addition, Mr. Dodson prepared an Addendum to the City's environmental document to address the addition of 1.7 acres to the original proposal pre-zoned by the City and 16.3 acres included within the State Route 18 right-of-way to the reorganization. Mr. Dodson recommends that, if the Commission approves the proposal, the Addendum together with the City's environmental documents and the Candidate Findings of Fact and Statement of Overriding Considerations are adequate for the Commission's review of the reorganization proposal as lead agency. A copy of the Addendum and Candidate Findings of Fact and Statement of Overriding Considerations are included as Attachment #8 to this report. Copies of the City's environmental documents were originally provided to Commission members in September 2006 and again provided on October 21, 2009.

8. Upon reorganization, the City of San Bernardino will extend its services as required by the progression of development. The Fiscal Impact Analysis portion of the original Plan for Service provides a general outline of the anticipated revenues/costs for the reorganization area and Specific Plan as a whole. The Plan indicates that revenues are anticipated to be sufficient to provide the level of services identified through the City and other agencies. Through the identified financing mechanisms, the Plan shows that the level of service will be adequate for the development anticipated and that the revenues anticipated are sufficient to provide for the infrastructure and ongoing maintenance and operation of these services.

The City of San Bernardino Municipal Water Department, Campus Crusade for Christ, Inc. and Arrowhead Springs Corporation in August 2009 entered into an Agreement in Principle regarding the future delivery of domestic, irrigation and recycled water and wastewater service. The City of San Bernardino Municipal Water Department has provided updated sections for the Plan for Service related to water and sewer service amplifying the Agreement in Principle. The City of San Bernardino has indicated that the service delivery documents and fiscal impact analysis for the delivery of those services will be refined during future considerations as specific tract developments are processed through the City.

9. The areas in question are presently served by the following public agencies:

County of San Bernardino
Inland Empire Resource Conservation District
San Bernardino Valley Municipal Water District (all of Area 1 and a portion of Area 2)

Crestline-Lake Arrowhead Water Agency (a portion of Area 2)
San Bernardino County Fire Protection District and its Valley Service Zone
(formerly known as County Service Area 70 and County Service Area
38 respectively)
County Service Area 70 (County-wide multi-function agency)

The San Bernardino County Fire Protection District, its Valley Service Zone, and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

10. The reorganization proposal complies with Commission policies and directives and State law that indicate the preference for areas proposed for urban intensity development to be included within a multi-function agency for the provision of those services in the most efficient and effective service delivery system.
11. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, opposition to this annexation has been received and considered by the Commission in making its determination.
12. The reorganization area can benefit from the availability of municipal-level services from the City of San Bernardino.
13. This proposal will have an effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it proposes the addition of 1,350 residential units.
14. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City while, at the same time, will not result in unfair treatment of any person based upon race, culture or income
15. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this reorganization. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
16. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

KRM/SM

Attachments:

- 1 -- [Maps – Vicinity and Location](#)

- 2 -- [Agreement in Principle between the City of San Bernardino Municipal Water Department, Campus Crusade for Christ Inc and Arrowhead Springs Corporation Related to the Delivery of Domestic Water, Recycled Water, Irrigation Water and Wastewater Services](#)
- 3 -- [Amended Plan for Services For Water and Wastewater Services Submitted by City of San Bernardino Municipal Water Department](#)
- 4 -- [Minutes from the October 18, 2006 LAFCO Hearing Related to LAFCO 3050/3053](#)
- 5 -- [Staff Report Dated October 10, 2006 for LAFCO 3053/3050](#)
- 6 -- [Excerpts from the Arrowhead Springs Specific Plan Dated November 1, 2005](#)
- 7 --- [Aerial Display and Letter Related to Waterman Canyon Road](#)
- 8 -- [Letter from Tom Dodson and Associates, Addendum prepared by Tom Dodson and Associates, Candidate Findings of Fact and Statement of Overriding Considerations](#)
- 9 -- [Draft Resolution No. 2942 for LAFCO 3050](#)