

**Draft Resolution No. 3082 (LAFCO 3141)**

**Attachment 6**

PROPOSAL NO.: LAFCO 3141

HEARING DATE: January 20, 2010

RESOLUTION NO. 3082

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3141, AS MODIFIED, AND APPROVING THE SPHERE OF INFLUENCE AMENDMENT FOR SAN GORGONIO PASS WATER AGENCY (EXPANSION) AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (REDUCTION). The sphere of influence expansion encompasses approximately 1,899+/- acres in the eastern Yucaipa/Oak Glen area. The sphere of influence amendment area is generally bordered by a combination of the centerline of Oak Glen Road and parcel boundaries on the west, parcel boundaries on the north, and the Riverside/San Bernardino County line (San Gorgonio Pass Water Agency's existing boundary and sphere of influence) on the east and south.

On motion of Commissioner \_\_\_\_\_, duly seconded by Commissioner \_\_\_\_\_, and carried, the Local Agency Formation Commission adopts the following resolution:

**WHEREAS**, an application for the proposed sphere of influence amendment in the County of San Bernardino was filed with the Executive Officer of this Local Agency Formation Commission (hereinafter referred to as "the Commission") in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.); and,

**WHEREAS**, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

**WHEREAS**, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

**WHEREAS**, the public hearing by this Commission was held upon the date and at the time and place specified in the notice of public hearing and in an order or orders continuing the hearing; and,

**WHEREAS**, at the hearing, this Commission heard and received all oral and written protests; the Commission considered all plans and proposed changes of organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and

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be heard in respect to any matter relating to the application, in evidence presented at the hearing;

**WHEREAS**, the Commission determines that a Service Review as outlined in Government Code Section 56430 is not required for this sphere of influence amendment; and,

**WHEREAS**, based on presently existing evidence, facts, and circumstances filed with the Local Agency Formation Commission and considered by this Commission, it is determined that the sphere of influence for San Geronio Pass Water Agency should be expanded to include an additional 1,899+/- acres, with a concurrent reduction in the sphere of Influence for San Bernardino Valley Municipal Water District, as more specifically described on the attached Exhibits "A" and "A-1"; and,

**WHEREAS**, the following findings are made:

1. **PRESENT AND PLANNED LAND USES**

The proposed sphere of influence amendment area, as modified to include approximately 1,899 acres, is also generally vacant with few residential developments. Some of the vacant lands are used for agricultural use. The unincorporated portion of the area is within the Oak Glen Community Plan area, which include: RL (Rural Living, 2.5 acres minimum lot size), RL-5 (5 acres minimum lot size), and RL-20 (20 acres minimum lot size). The portion of the area located within the City of Yucaipa has a land use designation of RL-5. No change in land use is anticipated for the area.

2. **PRESENT AND PROBABLE NEED FOR PUBLIC FACILITIES AND SERVICES IN THE AREA**

The current regional service providers within the sphere amendment area are the following: County of San Bernardino, City of Yucaipa, Inland Empire Resource Conservation District, San Bernardino County Fire Protection District and its Valley Service Zone, and County Service Area 70 (multi-function unincorporated area Countywide).

The Pass Agency has no facilities within the sphere of influence amendment area. The area consists of mostly rough terrain with a handful of residential development. Some of the lands are currently used for agricultural activities. Most of the private properties are on private wells and septic systems. Since there are no plans currently to develop the area, there is no need for additional services or facilities.

3. **THE PRESENT CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES PROVIDED**

The Pass Agency is a water wholesaler that provides imported supplemental water to retail water providers within its service area. As a State Water Project Contractor, the Pass Agency imports supplemental water from the Delta through the California Aquaduct. The Pass Agency's supplemental water is primarily used for groundwater replenishment. The replenishment activities of the Pass Agency support the local water retailers in the area including Beaumont-Cherry Valley Water District.

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The Pass Agency provides adequate service and has the capacity to serve the retail water purveyors within its service area.

### 4. COMMUNITIES OF INTEREST IN THE AREA

The proposed sphere of influence amendment area is generally considered a part of the communities of Yucaipa and Oak Glen with a small portion within the City of Yucaipa. The Oak Glen community is known for its apple orchards and farms.

### 5. ADDITIONAL DETERMINATIONS

- A. The San Bernardino Valley Municipal Water District consents to the reduction of its sphere of influence;
- B. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- C. All notices required by State law and local Commission policies have been provided. Individual notice was mailed to landowners and registered voters within the sphere of influence amendment area (totaling 43 notices) and to landowners and registered voters within approximately 1,350 feet of the exterior boundaries of the sphere of influence amendment area (totaling 307 notices). Comments from landowners, registered voters and any affected local agency have been reviewed and considered by the Commission in making its determination.
- D. The Local Agency Formation Commission has determined that this proposal is statutorily exempt from environmental review since it does not have the potential for resulting in physical changes in the environment, directly or ultimately (Sections 15061 and 15378 of the State Guidelines for the California environmental Quality Act). The basis for this determination is that the sphere of influence expansion for San Gorgonio Pass Water Agency and the sphere of influence reduction for San Bernardino Valley Municipal Water District will not result in any changes in the existing physical environment. Therefore, without any identifiable physical changes, this proposal does not constitute a project and is not subject to environmental review under the provisions of the State CEQA Guidelines sections cited above or the Commission's adopted CEQA Guidelines. The Commission hereby adopts the Statutory Exemption and directs its Executive Officer to file a Notice of Exemption within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors.

**WHEREAS**, having reviewed and considered the findings as outlined above, the Commission expands the sphere of influence of San Gorgonio Pass Water Agency and reduces the sphere of influence of San Bernardino Valley Municipal Water District.

**NOW, THEREFORE, BE IT RESOLVED** by the Local Agency Formation Commission of the County of San Bernardino, State of California, that this Commission shall consider the territory described in Exhibits "A" and "A-1" as being within the sphere of influence of San Gorgonio Pass Water Agency and removed from the sphere of influence of San Bernardino Valley Municipal Water

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District, it being fully understood that the amendment of such sphere of influence is a policy declaration of this Commission based on existing facts and circumstances which, although not readily changed, may be subject to review and change in the event a future significant change of circumstances so warrants.

**BE IT FURTHER RESOLVED** that the Local Agency Formation Commission of the County of San Bernardino, State of California, does hereby determine that San Gorgonio Pass Water Agency shall indemnify, defend, and hold harmless the Commission from any legal expense, legal action, or judgment arising out of the Commission's approval of this proposal, including any reimbursement of legal fees and costs incurred by the Commission.

**THIS ACTION APPROVED AND ADOPTED** by the Local Agency Formation Commission of the County of San Bernardino by the following vote:

**AYES: COMMISSIONERS:**

**NOES: COMMISSIONERS:**

**ABSENT: COMMISSIONERS:**

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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN BERNARDINO )

I, **KATHLEEN ROLLINGS-MCDONALD**, Executive Officer of the Local Agency Formation Commission of the County of San Bernardino, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission by vote of the members present as the same appears in the Official Minutes of said Commission at its regular meeting of January 20, 2010.

**DATED:**

\_\_\_\_\_  
**KATHLEEN ROLLINGS-MCDONALD**  
Executive Officer