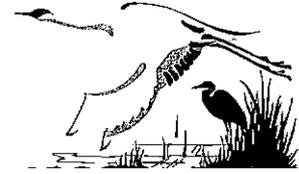


**Letter from
Tom Dodson and Associates
Recommending Statutory Exemption for
LAFCO 3168**

Attachment 5

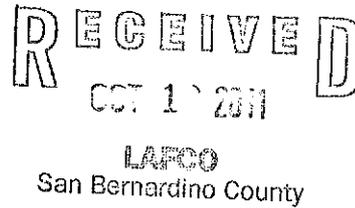
TOM DODSON & ASSOCIATES

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SAN BERNARDINO, CA 92405
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October 10, 2011

Ms. Kathleen Rollings-McDonald
Local Agency Formation Commission
215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490



Dear Kathy:

LAFCO 3168 consists of a request by the Victorville Water District (District) to activate latent sewer powers. The District encompasses approximately 54,352 acres located in the northern portion of the Victor Valley. The District can be described as being bordered by a combination of the Helendale Sphere of Influence, Victorville Water District Sphere of Influence boundary and Desert Flower Road on the north; by the Town of Apple Valley boundary and Sphere of Influence on the east; a combination of sections lines, City of Hesperia boundary and Sphere of Influence on the south; and a combination of section lines, Victorville Water District Sphere of Influence and boundary and City of Adelanto boundary on the west. The rationale for this request is the District's objective of obtaining authorization of these powers to operate the Industrial Wastewater Treatment Plant (WWTP) and to collect wastewater for treatment at the WWTP. The District will also be able to continue to directly serve reclaimed water to customers within the District's boundaries. These services, that would be authorized by activating the District's latent sewer powers would be consistent with the District's existing water conservation program. In order to accomplish this objective the District must receive authorization to implement latent sewer powers activated.

As proposed, the District's request would not lead to any direct physical changes in the environment. Installation of new collection and delivery facilities and commitment to serve future customers reclaimed/recycled water would require compliance with the California Environmental Quality Act (CEQA) and before it could carry out any activities other than routine maintenance and operations, it would have to comply with the CEQA. Therefore, I recommend that the Commission find that a Statutory Exemption (as defined in the California Environmental Quality Act, CEQA) applies to LAFCO 3168 under Section 15061(b) (3) of the State CEQA Guidelines, which states: "A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." It is my opinion, and recommendation to the Commission, that this circumstance applies to the activation of latent sewer powers to the District.

Allowing the District to assume these sewer powers, is consistent with existing activities and before the District could further physically modify the environment, subsequent CEQA review would be required. Based on this review of LAFCO 3168 and the pertinent sections of CEQA and the State CEQA Guidelines, I conclude that LAFCO 3168 does not constitute a project under CEQA and adoption of the Statutory Exemption and filing of a Notice of Exemption is the most appropriate determination to comply with CEQA for this action. The Commission can approve the review and findings for this action and I recommend that you notice LAFCO 3168 as statutorily exempt from CEQA for the reasons outlined in the State CEQA Guideline sections cited above. The Commission needs to file a Notice of Exemption with the County Clerk to the Board for this action once the action is completed.

A copy of this exemption should be retained in LAFCO's project file to serve as verification of this evaluation for LAFCO 3168 and as the CEQA environmental determination record. If you have any questions, please feel free to give me a call.

Sincerely,

A handwritten signature in black ink that reads "Tom Dodson". The signature is written in a cursive, slightly slanted style.

Tom Dodson