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December 4, 2011

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

Dear Kathy:

LAFCO 3148 consists of a municipal service review for the Bighorn Desert View Water Agency (Agency) pursuant to Government Code Section 56430 and Sphere of Influence Study pursuant to Government Code 56425. The current study area encompasses approximately 45 square miles that encompass the communities of Johnson Valley, Landers, and Flamingo Heights. At the present time there appear to be two options for the sphere boundary of the Agency. These are: affirm the existing sphere; or modification of the sphere to include expansions and reductions.

As we have learned from previous sphere modifications, the designation of a sphere, which is a planning boundary, does not by itself cause any modifications to the physical environment. Only when the subsequent step is taken to physically revise the boundary of a service agency does a potential for physical changes in the environment occur. I believe this conclusion is appropriate, regardless of where the sphere boundary is located. This conclusion is based on the fact that modifying a sphere encompassing additional area allows only planning activities to be conducted, not actual water service changes. Given this condition, I support a conclusion that the sphere can be modified under any of the above alternatives without causing physical changes in the environment.

Based on this information, it appears that LAFCO 3148 can be implemented with any of the sphere boundary options without causing any physical changes to the environment or any adverse environmental impacts. Therefore, I recommend that the Commission find that a Statutory Exemption (as defined in the California Environmental Quality Act, CEQA) applies to LAFCO 3148 regardless of sphere boundary configuration 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 LAFCO 3148. In this case, assigning the same or a modified Sphere to the Agency, does not alter their existing operations or obligations, it only indicates that the Commission has the opinion that in the future the Agency should, <u>not must</u>, consider reassessing its boundaries (not if the existing sphere is retained).

Based on this review of LAFCO 3148 and the pertinent sections of CEQA and the State CEQA Guidelines, I conclude that LAFCO 3148 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 3148 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 hearing is completed.

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

Sincerely,

Tom Dodson

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