

**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: OCTOBER 3, 2008

FROM: SAMUEL MARTINEZ, Senior LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #11: LAFCO 3086 – Reorganization to Include Annexations to the City of Barstow, Odessa Water District, and the Barstow Fire Protection District, and Detachment from the San Bernardino County Fire Protection District and its North Desert Service Zone (No. 07-02 – Rimrock Road)

INITIATED BY:

City of Barstow Council Resolution

RECOMMENDATION:

Staff is recommending that the Commission approved LAFCO 3086, as modified, by taking the following actions:

1. With respect to environmental review:
 - a) Certify that the City's Mitigated Negative Declaration for the Rimrock Road Annexation (General Plan Amendment GPA#07-04 and Pre-Zoning ZC#07-06) (SCH No. 2007011134), including the Addendum prepared by LAFCO's Environmental Consultant, has been independently reviewed and considered by the Commission and its staff;
 - b) Determine that the Addendum, together with the City's environmental assessment, are adequate for the Commission's use as a CEQA Lead Agency for its consideration of LAFCO 3086;
 - c) Adopt the Addendum as presented by the Commission's Environmental Consultant that addresses the acreage discrepancy between the total area identified in the City's environmental assessment and the actual acreage of the reorganization area;

- d) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the City’s environmental documents are the responsibility of the City and/or others, not the Commission; and,
 - e) Direct the Clerk to file a Notice of Determination within five (5) days.
2. Modify LAFCO 3086 to include detachment from the San Bernardino County Fire Protection District and its North Desert Service Zone;
 3. Approve LAFCO 3086, 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. County Service Area 40 shall continue to overlay and serve the reorganization area.
 4. Adopt LAFCO Resolution #3032, setting forth the Commission’s findings, determinations, and conditions for the proposal.

BACKGROUND INFORMATION:

In July 2007, the City of Barstow (hereinafter the “City”) submitted to LAFCO a City-initiated reorganization application which proposes to annex approximately 645+/- acres to the City, its subsidiary Odessa Water District (whose boundaries are coterminous with the City) and the independent Barstow Fire Protection District (FPD). LAFCO 3086 is a reorganization that encompasses an entire section of land (Section 16 of Township 9 North, Range 1 West), generally located a mile southeast of the I-15 and I-40 Freeway interchange. Location and vicinity maps are included as Attachment #1 to this report.

The City’s purposes in submitting this proposal, as outlined in its application, are as follows:

1. To provide municipal services for an area that is poised to be developed in the near future; and,
2. To “square-off” a City’s boundary. The reorganization area is bordered on three sides by the current boundaries of the City and districts, and annexation would reduce jurisdictional confusion between the City and County.

On July 1, 2008, the County Fire Reorganization (LAFCO 3000) became effective, which annexed the reorganization area into the San Bernardino County Fire Protection District (SBCFPD) and its North Desert Service Zone. Therefore, the overall reorganization has been modified to include detachment from the SBCFPD and its North Desert Service Zone.

This report will provide the Commission with the information related to the four major areas of consideration required for consideration for a jurisdictional change – boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations.

BOUNDARIES:

The reorganization area encompasses approximately 645+/- acres and is generally bordered by Rimrock Road (existing City boundaries) on the north, parcel boundaries (existing City boundaries) on the east, parcel boundaries on the south, and the natural extension of Higgins Road (existing City boundaries) on the west (see Fig. 1 below). The area lies within the City’s eastern sphere of influence.

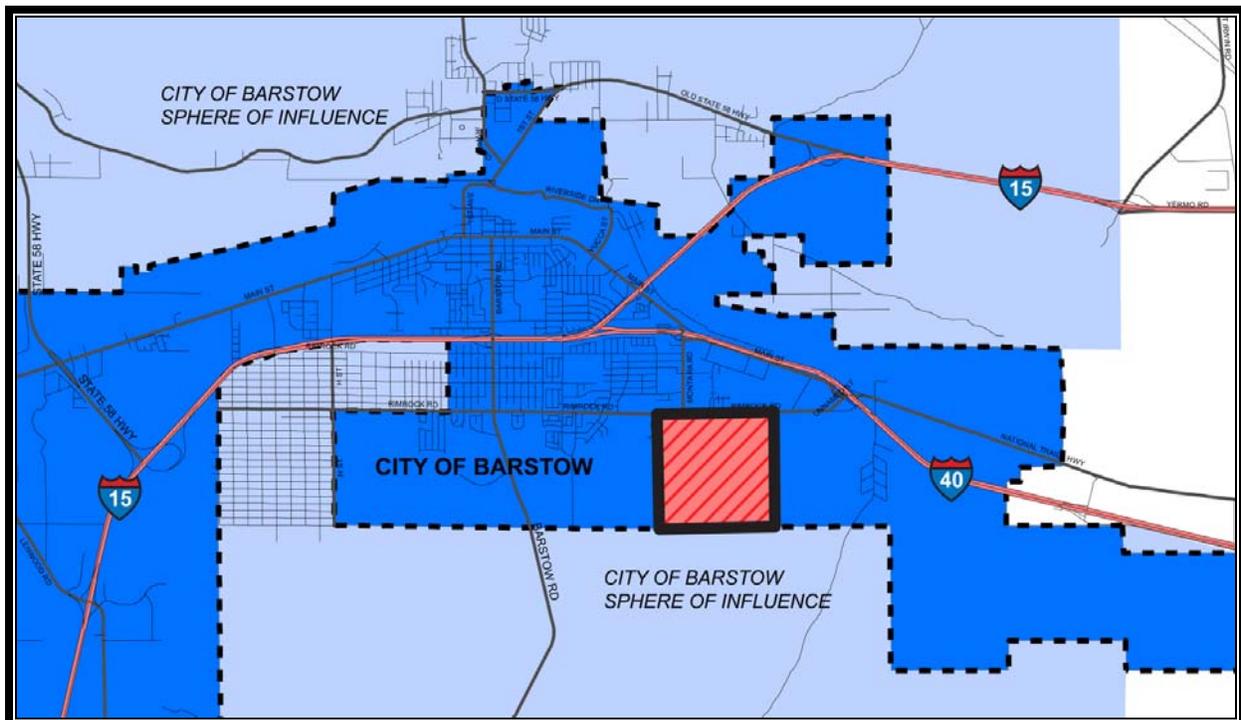


FIGURE 1

It is LAFCO staff’s position that this reorganization proposal provides for a logical boundary since it squares off the southern edge of the City’s boundary. This will provide for an easily identifiable boundary for service delivery.

Boundary Issue for Commission Review:

The City has a number of unincorporated islands (see Fig. 2 below) that, in years past, the Commission has required the City to address when considering a City annexation proposal. In 2001, when the annexation of the Martin Corps Logistics Base/Nebo was considered, the City was directed to initiate the “Mojave Manor” island within a year. The City fulfilled this obligation within the given timeframe. More recently, the Commission considered LAFCO 3085, which had a similar directive to initiate the “West Lenwood” island within a one-year timeframe. This process is currently on-going.

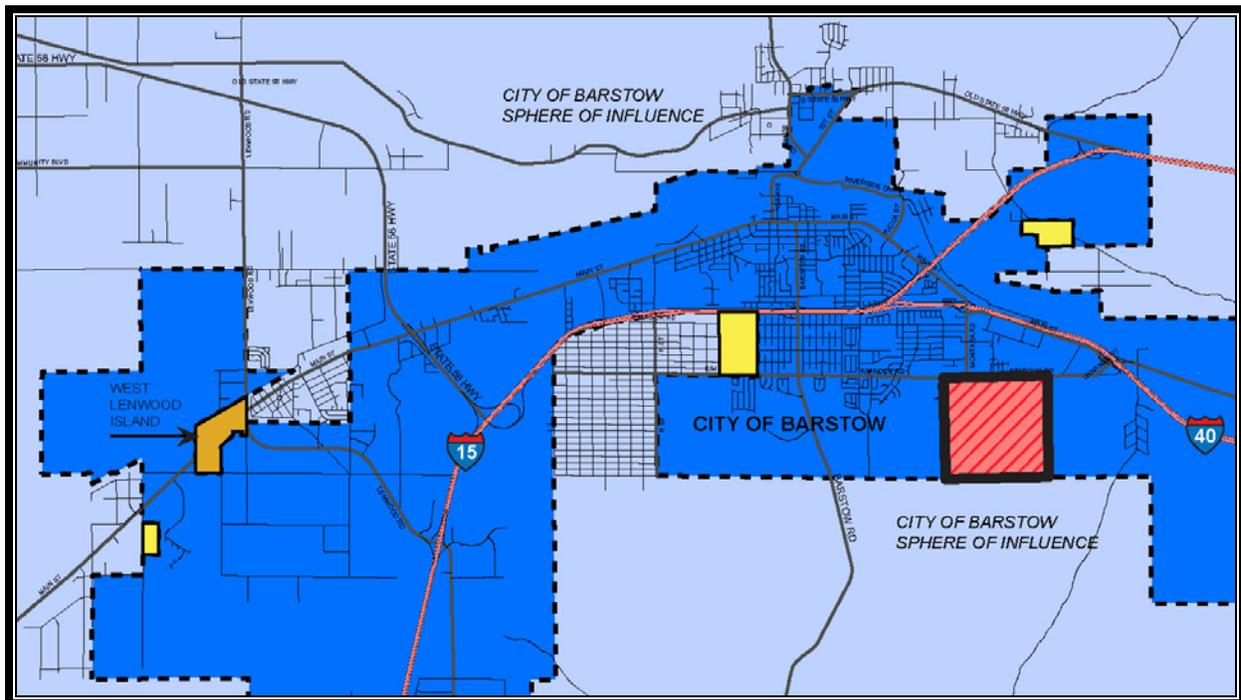


FIGURE 2

In reviewing LAFCO 3086, however, LAFCO staff is recommending that the proposal should not be subject to the Commission’s directives to require the City to address any additional substantially-surrounded island at this time, based on the following reasons:

1. Previously, a determination was made by the Commission that there must be a relationship between the proposed annexation and the island that the City is being required to address based on proximity. None of the City’s remaining substantially-surrounded islands are near the proposed reorganization area; and,
2. The City is currently trying to comply with the Commission’s directive from the annexation proposal that was approved in April 2008 (LAFCO 3085),

which required the City to initiate the “West Lenwood” island within a year. City staff has been working diligently to address this requirement. Included as Attachment #4 to this report is the City Council’s Agenda staff report from September 15, 2008, which approved the contract with the Consultant that will prepare the documents for the proposed island annexation.

No other boundary issues have been identified.

LAND USE:

Existing Land Uses:

The reorganization area is currently vacant except for a parcel located at its northwest corner. This parcel is currently developed as a Southern California Edison Company facility. Existing land uses surrounding the area include: a mix of vacant land and single-family residential uses to the north, and vacant lands to the east and west, within the City; and vacant lands to the south in the unincorporated County area.

County Land Use Designations:

The County’s current land use designations for the area is Resource Conservation (RC) which allows for open space and recreational activities, single-family homes on 40 acres (minimum), and other similar and compatible uses.

City’s General Plan:

The City of Barstow’s General Plan designation for the area is primarily Specific Plan (maximum 15 dwelling units per acre) which allows for a number of uses subject to a specific plan.

City’s Pre-Zone Designations:

The City has pre-zoned the reorganization area for the following land uses: DL (Desert Living) on 472.8+/- acres, which would allow approximately 189 residential units; RS-6 (Single-Family Residential/6,000 sq. ft. lots) on 28.8+/- acres, which anticipates the development of approximately 125 single-family detached dwelling units; RM-2 (Multi-Family Residential) on 4.0+/- acres, which anticipates the development of approximately nine 4-plex units; CG (General Commercial) on 31.0+/- acres; and M-2/T (General Industrial, with Precise Plan Required for mineral extraction) on 103+/- acres. These pre-zone designations were determined through the City’s consideration of Ordinance No. 826-2007, which was adopted by its City Council on March 19, 2007. These land use designations are consistent with the City’s General Plan designations for the area and are also consistent with surrounding land uses. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in

effect for a period of two (2) years following annexation. The law allows for a change in designation if the City Council makes the finding, at a public hearing, that a substantial change has occurred in circumstances that necessitate a departure from the pre-zoning outlined in the application made to the Commission.

SERVICE ISSUES AND EFFECTS ON OTHER LOCAL GOVERNMENTS:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. Current County service providers within the reorganization area include the newly reorganized San Bernardino County Fire Protection District and its North Desert Service Zone, County Service Area 40 (television translator) and County Service Area 70 (multi-function entity). In addition, the Barstow Public Cemetery District, the Mojave Desert Resource Conservation District, and the Mojave Water Agency (the State Water Contractor) overlay the entire reorganization area. The Golden State Water Company, a private water company that provides retail water service, overlay most of the reorganization area except for a portion along its southern end.

The City has submitted a Plan for Service for itself and its subsidiary Odessa Water District and the Barstow FPD has submitted a plan for service as required by law and Commission policy. The City's plan is included as part of Attachment #2 and the Barstow FPD's plan is included as Attachment #3.

The City's plan includes a Fiscal Impact Analysis which indicates that the property tax revenues anticipated to be received, sales tax revenues, utility user's tax, development impact fees, and other revenue are sufficient to fund the delivery of its services.

The plan for service, in general, identifies the following:

- The City provides the sewage collection and treatment system within its boundaries. Sewage collection services are currently not available within the annexation area. However, there is adequate sewer service capacity to serve any proposed development within the reorganization area.
- The Golden State Water Company, a private water company regulated by the Public Utilities Commission (PUC), currently overlay most of the reorganization area except for 160+/- acres along the southern end of the site (the south ½ of the south ½ of Section 16, Township 9 North, Range 1 West). This area, which is outside the water company's service area, is entirely within 1,350 feet from its current service area boundary. Under the PUC regulations, service area expansion is automatic (becomes effective through routine statutory notice) if the service area expansion is within 2,000 ft. of an existing boundary. Therefore, upon expansion of the Golden State Water Company service area through the PUC process, it will be able to serve the entire reorganization area. Currently, there are no water service

connections within the reorganization area. The Edison facility, which is the only development within the reorganization area, is currently served by an on-site well. Additional water mains and reservoirs may be required in the future in order to meet fire flow standards for any new development within the reorganization area.

Odessa Water District, a subsidiary district of the City, was formed as a special act water agency that is authorized to provide water service within its boundaries. However, the district currently does not provide any service. It was created to serve as “backstop” in the event that the existing water purveyor serving the Barstow area (Golden State Water Company) becomes unable to provide service or opportunities to provide additional water resources were required.

- Law enforcement responsibilities will shift from the San Bernardino County Sheriff’s Department and California Highway Patrol to the City Police Department. The City has indicated that the department’s personnel and equipment can adequately serve the area.
- Fire protection and emergency services are to be provided by the Barstow FPD through annexation. A plan for service provided by the Barstow FPD, which is included as Attachment #3 to this report, outlines the services to be provided by the district and the mechanism for funding the operation of these services.

It is the position of staff that LAFCO 3086 is a straightforward and logical extension of service delivery boundaries through the City and the Barstow FPD. As required by Commission policy and State law, the Plan for Services submitted by the City and the Barstow FPD indicate that the extension of services within the reorganization area will maintain, and/or exceed, current service levels provided through the County and its special districts.

ENVIRONMENTAL CONSIDERATIONS:

The City prepared an Initial Study and Mitigated Negative Declaration which included a General Plan Amendment (GPA#07-04) and Pre-Zoning (ZC#07-06) for the Rimrock Road Annexation (SCH No. 2007011134). It is to be noted that the City’s documents identify that the proposed annexation area is 640 acres, which encompasses an entire section of land (Section 16 of Township 9 North, Range 1 West). However, the actual acreage of the entire reorganization area is 645 acres (not 640 acres, which normally equates to an entire section of land). In light of this, the Commission’s Environmental Consultant, Tom Dodson and Associates, prepared an Addendum to the City’s environmental assessment that addresses the acreage discrepancy between what was identified in the City’s documents and the actual acreage of the reorganization area. Mr. Dodson has determined that if the Commission approves LAFCO 3086, the Addendum, together with the City’s

environmental assessment, are adequate for the Commission's use as a lead agency under CEQA.

Mr. Dodson has indicated that the necessary environmental actions to be taken by the Commission are as follows:

- a) Certify that the Commission, its staff and its Environmental Consultant, have independently reviewed and considered the City's environmental assessment and Negative Declaration, including the Addendum prepared by LAFCO's Environmental Consultant;
- b) Determine that the Addendum, together with the City's environmental assessment, are adequate for the Commission's use as a CEQA Lead Agency for its consideration of LAFCO 3086;
- c) Adopt the Addendum as presented by the Commission's Environmental Consultant that addresses the acreage discrepancy between the total area identified in the City's environmental assessment and the actual acreage of the reorganization area;
- d) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the City's environmental documents are the responsibility of the City and/or others, not the Commission; and,
- e) Direct the Clerk to file the Notice of Determination within five (5) days.

CONCLUSION:

In compliance with directives of State law and Commission policies, it is staff's position that this reorganization is a straightforward boundary change and should be supported. As outlined in the staff report, the reorganization provides for a logical service boundary since it squares-off the city's southern boundary. In addition, the area has been pre-zoned and planned for the type of land use that requires the full range of municipal-type of services. For these reasons, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3086, as modified.

FINDINGS:

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/ reorganization proposal:

1. The County Registrar of Voters Office has determined that the reorganization area is legally uninhabited, containing no registered voters as of September 9, 2008.
2. The County Assessor has determined that the total assessed value of land and improvements within the reorganization area is \$1,781,113 (land - \$1,702,507 -- improvements - \$78,606).
3. The area is within the sphere of influence assigned the City of Barstow.
4. Commission review of this proposal has been advertised in the *Desert Dispatch*, a newspaper of general circulation within the reorganization area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
5. LAFCO staff has provided individual notice to the landowners within the reorganization area (totaling 40) and to landowners and registered voters surrounding the reorganization area (totaling 848) in accordance with State law and adopted Commission policies. To date, no written comments in support or opposition have been received from area landowners or registered voters.
6. The City has pre-zoned the reorganization area for the following land uses: DL (Desert Living), RS-6 (Single-Family Residential), RM-2 (Multi-Family Residential), CG (General Commercial) and M-2 (General Industrial – Precise Plan Required for Mineral Extraction). Pursuant to the provisions of Government Code Section 56375(e), these pre-zone designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council.
7. The Commission’s Environmental Consultant, Tom Dodson and Associates, has reviewed the Initial Study and Mitigated Negative Declaration prepared by the City for the General Plan Amendment and Pre-Zoning (SCH No. 2007011134). In addition, Mr. Dodson prepared an Addendum to the City’s environmental assessment to address the acreage discrepancy between the total acreage identified in the City’s documents and the actual acreage of the reorganization area. Mr. Dodson recommends that, if the Commission approves the proposal, the Addendum together with the City’s environmental assessment, are adequate for the Commission’s review of the reorganization proposal as lead agency. A copy of the Addendum and the City’s environmental assessment are included as Attachment #5 to this report.
8. The area in question is presently served by the following local agencies:

County of San Bernardino

Mojave Desert Resource Conservation District
Mojave Water Agency
Barstow Public Cemetery District
San Bernardino County Fire Protection District and its North Desert
Service Zone (fire protection)
County Service Area 40 (TV translator)
County Service Area 70 (multi-function unincorporated area
Countywide)

The proposal will annex the territory to Odessa Water District and the Barstow FPD and will detach the territory from SBCFPD and its North Desert Service Zone as a function of the reorganization. The detachment of CSA 70 will automatically occur upon successful completion of this proposal as required by Government Code Section 25210.90. CSA 40, a district that provides TV translator services on a regional basis, will continue to overlay and serve the area. Pursuant to the provisions of Government Code Section 56375(n) the Commission determines that the continued overlay of CSA 40 is necessary and will not impair the ability of the City to provide any of its services. None of the other agencies are affected by this proposal as they are regional in nature.

9. The City has submitted a plan for the extension of municipal services to the reorganization area, as required by law, for itself and the Odessa Water District. The financial information presented within the Plan for Service indicates that the extension of services can be maintained and operated after the reorganization through existing and potential revenue resources available through the transfer of property taxes, extension of utility tax, sales tax, and fees for service. This plan is included as part of Attachment #2 to this report, which indicates that the City can, at a minimum, maintain the level of service delivery and can improve the level and range of selected services currently available in the area.

Fire protection and emergency services are to be provided by the Barstow FPD. The plan for service provided by the Barstow FPD outlines the services to be provided by the District and the mechanism for funding the operation of these services. This plan is included as Attachment #3 to this report, which indicates that the District can, at a minimum, maintain the level of fire protection and emergency services, and can improve the level and range of these services currently available in the area.

10. The reorganization proposal is consistent with State law and complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.

11. The reorganization area can benefit from the availability and extension of municipal services from the City.
12. This proposal will assist the City's ability to achieve its fair share of the regional housing needs within the reorganization area upon future development of the parcels that have an assigned residential land use designation.
13. With respect to environmental justice, LAFCO staff believes that the reorganization area would benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based on race, culture or income.
14. The County of San Bernardino (on its own behalf and that of the Barstow FPD) and the City of Barstow have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
15. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

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Attachments:

1. Vicinity and Location Maps of the Reorganization Area
2. City's Application and Plan for Services for City and Odessa Water District
3. Barstow FPD's Plan for Service
4. September 15, 2008 City Council Agenda Item Regarding Consulting Services for the West Lenwood Annexation
5. Addendum prepared by Tom Dodson and Associates and the City's Environmental Assessment and Mitigated Negative Declaration for the Rimrock Road Annexation
6. Draft Resolution No. 3032