

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: FEBRUARY 11, 2014

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: AGENDA ITEM #6– ADOPTION OF MITIGATED NEGATIVE
DECLARATION FOR LAFCO 3157 – SPHERE OF INFLUENCE
ESTABLISHMENT FOR COUNTY SERVICE AREA 120

RECOMMENDATION:

Staff recommends that the Commission make the following determinations with respect to the environmental assessment for LAFCO 3157:

1. Certify that the Commission and its staff have reviewed and considered the environmental assessment and Mitigated Negative Declaration prepared by the Commission's Environmental Consultant, Tom Dodson and Associates; and have reviewed, considered and responded to any comments received;
2. Adopt the Mitigated Negative Declaration prepared for this project;
3. Find and determine that the Commission, upon approval of the project, may adopt an alternative identified within the Initial Study and it does intend to adopt the Mitigation Monitoring and Reporting Program that identifies the mitigation measures for the project; and,
4. Direct the Executive Officer to file the Notice of Determination within five days following the Commission's decision on the project, provided the County Special Districts Department submits the funds necessary to pay the required California Fish and Wildlife Filing Fee (\$2,231.95), with the Clerk to the Board of Supervisors.

BACKGROUND:

At the April 2010 hearing the Commission initiated the sphere of influence establishment for County Service Area 120 (hereafter shown as CSA 120) formed by

Commission action effective July 1, 2009. In March 2012, the County of San Bernardino submitted the sphere of influence establishment request that proposed a sphere of influence including the current territory of CSA 120 (9,557 acres) and additional territory stretching from the Los Angeles County line along the foothills of the San Gabriel Mountains into the Lytle/Cajon Creek area comprised of approximately 35,745 acres (55+ square miles).

The Commission is the lead agency for review of the potential environmental consequences on the sphere of influence establishment for CSA 120. In order to fulfill that requirement, the Commission's Environmental Consultant, Tom Dodson and Associates, prepared and LAFCO staff reviewed, advertised, and circulated an Initial Study and a proposed Mitigated Negative Declaration for this proposal pursuant to the requirements of the California Environmental Quality Act and Commission Environmental Policies. This document evaluated the project as proposed by the County of San Bernardino, and the alternatives identified during the processing of the proposal, shown as follows:

1. A proposed Sphere of Influence minus the City of Fontana's Multiple Species Habitat Conservation Plan (MSHCP) area, particularly south of the Interstate 15 Freeway.
2. A Sphere of Influence that is coterminous with the existing CSA 120 boundary, minus the Fontana MSHCP area encompassed within the existing CSA 120 boundary.
3. A Sphere of Influence that is coterminous with the Inland Empire Resource Conservation District (IERCD) Sphere of Influence, excluding those portions in Riverside County.
4. A zero Sphere of Influence for CSA 120 indicating LAFCO believes CSA 120 should ultimately be dissolved and the open space and habitat conservation management services should be assumed by Fontana (within its MSHCP boundaries) and the IERCD for the remainder of the CSA 120 property.

ENVIRONMENTAL CONSIDERATIONS:

The Initial Study and proposed Mitigated Negative Declaration (included as part of Attachment #1), as well as the Notice of Availability/Intent to Adopt a Mitigated Negative Declaration were circulated to all interested and affected agencies on October 25, 2013. The documents were posted on the LAFCO website the same day. The distribution of the document was provided to all local libraries within the Valley region (23 locations), individuals requesting notification on this particular proposal (218) and individuals who have routinely expressed interest in LAFCO projects within this region (24). In addition the Notice of Availability was published on October 28, 2013 in *The Sun* and the *Inland Valley Daily Bulletin* newspapers of general circulation within the Valley region of the County.

In accordance with Section 15073(a) of the CEQA Guidelines and Commission Environmental Policies, the 30-day public review period for the document was from October 28 through December 2, 2013. At the close of the review period eight (8) comment letters were received from the following agencies/individuals:

- Office of Planning and Research, State Clearinghouse
- Mr. Steve Loe, Certified Wildlife Biologist
- California Department of Fish and Wildlife
- Ms. Lynn M. Boshart
- Ms. Jane Hunt
- City of Rancho Cucamonga
- Mr. Tim Millington, Regional Manager (CSA 120) County Special Districts Department
- O'Neil, LLP, on behalf of Lytle Development Company

The comments received through the circulation of the materials have been evaluated by the Commission's Environmental Consultant and a response to comments has been prepared (included as Attachment #2 to this report). The response to comments has been forwarded to each individual commenter for their information.

As of the date of this report, no other comments have been submitted related to the Initial Study and proposed Mitigated Negative Declaration. Therefore, the original Initial Study will be utilized as the description of the environmental impacts anticipated for LAFCO 3157. Since mitigation measures have been required for this project, a Mitigation Monitoring and Report Program (MMRP) has been prepared (copy included as Attachment #3 to this report). The MMRP identifies that LAFCO will be responsible for monitoring and reporting on Mitigation Measure IV-1 (Biological Resources) if LAFCO 3157 as proposed is approved and that CSA 120 will be responsible for Mitigation Measure V-1.

Staff is recommending that the Commission direct the Executive Officer to file the Notice of Determination with the Clerk to the Board of Supervisors within five days following the Commission's decision on the project. Such filing must be accompanied by the payment of California Department of Fish and Wildlife Fee in the amount of \$2,231.95. Staff will not submit the required filing until such time as the County Special Districts Department transfers the required funds to LAFCO for processing. Failure to file within the required five days of action will lengthen the period for legal challenge to 180 days rather than the 30-day period when timely filed.

CONCLUSION:

The Response to Comments, Mitigation Monitoring and Report Program and the Initial Study constitutes the final Mitigated Negative Declaration package for use by the Commission to consider the environmental effects of implementing the proposed project, LAFCO 3157, or any of the alternatives identified in the Initial Study. Therefore,

the necessary environmental actions required of the Commission as the lead agency under CEQA include the following:

1. Certify that the Commission and its staff have reviewed and considered the environmental assessment and Mitigated Negative Declaration prepared by the Commission's Environmental Consultant, Tom Dodson and Associates; and have reviewed , considered and responded to any comments received;
2. Adopt the Mitigated Negative Declaration prepared for the project;
3. Find and determine that the Commission, upon approval of the project, may adopt an alternative identified within the Initial Study and it does intend to adopt the Mitigation Monitoring and Reporting Program, which identifies the mitigation measures for the project; and,
4. Direct the Executive Officer to file the Notice of Determination within five days following the Commission's decision on the project, provided that the County Special Districts Department submits the funds necessary to pay the required California Fish and Wildlife Filing Fee to the Clerk to the Board of Supervisors.

Taking action on the environmental determination presented to the Commission is the first step in the consideration process. Approval of this item will allow for moving forward with the Commission's consideration of the service review of habitat preservation services within the Valley region and the sphere of influence establishment consideration identified in LAFCO 3157. The service review is mandated by Government Code Section 56430(e) and the establishment of the sphere of influence was mandated by Government Code Section 56426.5.

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ATTACHMENTS:

1. [Notice of Availability and Intent to Adopt a Mitigated Negative Declaration and Initial Study prepared by Tom Dodson and Associates](#)
2. [Letter from Tom Dodson and Associates, Response to Comments Mitigated Negative Declaration and Notice of Determination](#)
3. [Mitigation Monitoring and Report Program for LAFCO 3157](#)