

- 2. LAFCO 2009 Service Review and Sphere of Influence Update for Daggett, Newberry Springs, and Yermo Communities**
 - a. Staff Report dated April 24, 2009**

Attachment 2a

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: APRIL 24, 2009

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
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TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #6: Municipal Service Reviews for the Communities of
Daggett, Newberry Springs, and Yermo

INITIATED BY:

San Bernardino Local Agency Formation Commission

INTRODUCTION

San Bernardino LAFCO has chosen to undertake its Municipal Service Reviews on a regional basis. By action taken in February 2002, the Commission divided the county into five separate regions, with the North Desert Region defined as the territory north of the San Bernardino/San Gabriel Mountains, east of the Los Angeles County line, south of the Inyo County line, and generally west of the Mojave Water Agency boundary. The Commission has further identified by policy declaration its community-by-community approach to sphere of influence identification.

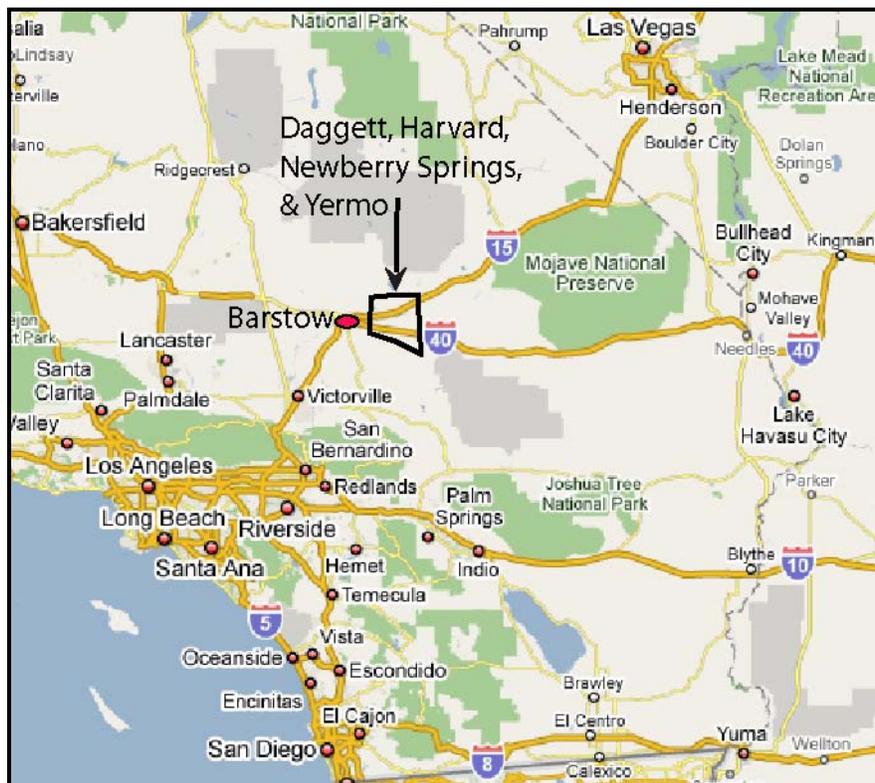
Presented in this report are the municipal service reviews and sphere of influence updates for the Daggett Community Services District (CSD), Newberry CSD, and Yermo CSD. Included within these districts are the defined communities of Daggett, Newberry Springs, Yermo, and a portion of the community of Harvard (within the Yermo sphere of influence). These communities are the northeastern most populated areas of the North Desert Region which are, or could be served by multi-function agencies.

These communities are presented in a single report due to their interrelationship, location within the Interstate 15 and Interstate 40 corridors, their historic divide from the larger Barstow community and their enclosure by public lands (military and preservation lands). These communities are generally east of the San Bernardino Meridian line (the line between Ranges 1 West and 1 East) which is generally the line dividing the communities of Daggett, Yermo, Harvard, and Newberry Springs from the City of Barstow. In addition, the

community services districts which serve these communities essentially provide the same services, operate under the same law (Community Services District Law [Government Code Section 61000 et. seq]), are located adjacent to one another, have a historic divide from the Barstow community, and rely upon each other for assistance in service delivery, such as fire protection. As this report will outline, these three districts strive to provide their range of services, generally fire protection, streetlighting and park and recreation, within their limited financial resources and they have succeeded in providing a governmental voice for their communities.

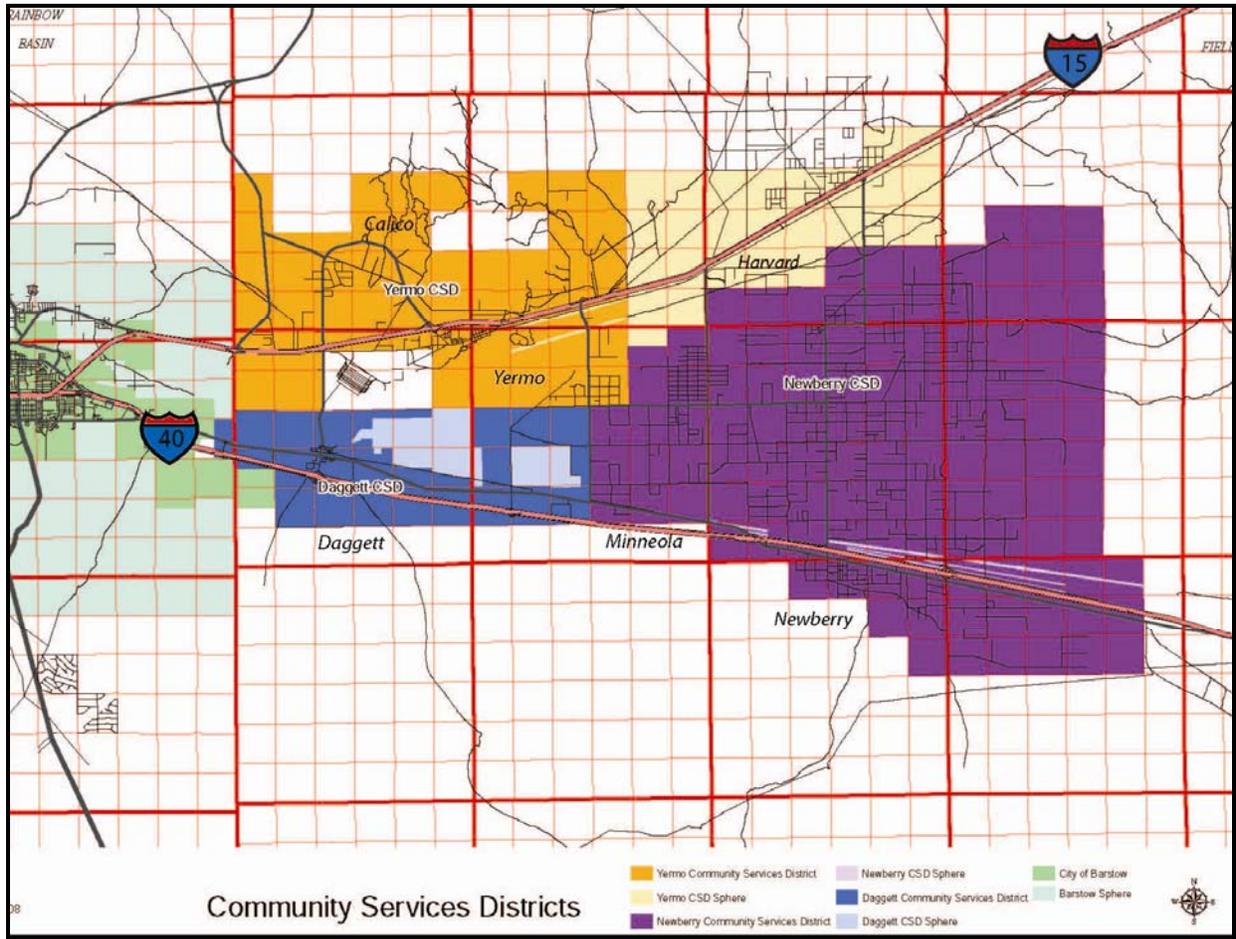
While the permanent population of these communities may be low, the transient activity is high. As shown in the map below, the communities are along two of the four major highway routes leaving southern California to the east. Additionally, railway traffic passes through the communities into and out of one of the largest rail classification yards in the country located in Barstow. Therefore, emergency response for the Interstate 15, Interstate 40 and rail corridors is important and warrants discussion in a single report.

Map Showing Major Routes Leaving Southern California



Below is a map of the communities in a regional context with the City of Barstow to the west, which is also included in Attachment #1.

Daggett, Harvard, Newberry Springs, and Yermo Communities



The residents and landowners within the communities of Daggett, Newberry Springs, and Yermo are directly served by the community services districts that overlay them:

- Daggett Community Services District
- Newberry Community Services District
- Yermo Community Services District

The residents and landowners of the Harvard community are within the Yermo CSD sphere of influence, and they receive their services through County operated special districts. Residents and landowners also receive direct services from regional service providers:

- County Service Area 40 (television)
- San Bernardino County Fire Protection District and its North Desert Service Zone

(areas within the sphere of influence of the community services districts but not within their boundaries, including the Harvard community, and the Marine Corps Yermo Annex)

Other regional service providers include:

Barstow Cemetery District (eight square miles within Daggett CSD and three square miles within Newberry CSD)
County Service Area 70 (unincorporated County-wide)
Mojave Desert Resource Conservation District
Mojave Water Agency
San Bernardino County Flood Control District

COMMUNITY HISTORY:

The following provides a historical perspective of the communities from information gathered from historic books¹, the San Bernardino County Regional Parks website², interviews³, and the municipal service review for the Mojave Water Agency (LAFCO 3033).

Human activity in these communities can be traced back thousands of years to native settlers and travelers. However, not until the early 1880s did this area begin to sprout defined communities, beginning with the community of Calico. Situated in the North Desert region of the County, Calico was roughly 12 miles east of what is now the City of Barstow and four miles north of Yermo in the Calico Mountains. Activity flourished in the Calico community towards the end of the 19th century (in the northern area of the current Yermo CSD) with prospectors seeking fortune. Founded in 1881, Calico was a mining boomtown with extractions of silver and borax and grew to a population of 1,200. The town supported bars, gambling halls, trading posts, churches, and a newspaper. Silver was the predominant strike and was abundant and high in quality. South of Calico, around the rail line junction connecting Calico with the main east-west rail lines through the State, arose the town of Daggett (formerly called Calico Junction and then renamed after then California Lieutenant Governor John Daggett).

In the mid-1890s the price of silver declined and silver was no longer used as a form of currency. The Calico silver mines were no longer economically viable so the Town's population began to shrink. Calico survived in the 1900s by shifting its focus to borax mining, which was a more labor intensive activity. With the price of silver down, Daggett as well shifted its focus to become a shipping center for borax mined in Calico. At the turn of the century, Daggett was larger than either Barstow or Victorville and was anticipated to become the metropolis of the Mojave Desert. But fate once again stepped in, and in 1907

¹ Casebier, Dennis G and the Friends of the Mojave Road. Guide to the East Mojave Heritage Trail. Tales of the Mojave Road Publishing Company, Norco, CA, 1989.

Various, Once Upon a Desert. Mojave River Valley Museum Association, Barstow, CA, 1994; Patricia Keeling, Editor.

² San Bernardino County, Regional Parks, Accessed May 22,2008, Last update April 12, 2008, <http://www.co.san-bernardino.ca.us/parks/calico.htm>.

³ Interview with Lawrence Alf and Beryl Bell of Daggett CSD, May 27, 2008.

borax mining moved to Death Valley and Calico was abandoned. After the borax companies moved, the surrounding communities of Yermo and Daggett became fractions of what they previously were.

East of Daggett and Calico, the first settlement in Newberry Springs was founded in about 1911. The Santa Fe Railway used the water from Newberry Springs for its steam engines and to deliver water east to Ludlow and Baghdad and created a rail stop in the community.

In 1926, Route 66 was established from Chicago to Santa Monica and quickly became known as the "Mother Road" primarily bringing travelers from the East. Route 66 traversed through the southern portions of the communities of Daggett and Newberry Springs. This portion of Route 66 was decommissioned in 1985, being replaced by Interstate 40 for east-west travel. CALTRANS provided on/off ramps within Daggett and Newberry; therefore, the closure of Route 66 did not adversely affect these communities to the extent as the other communities to the east within the County (such as Amboy and Ludlow).

In 1951, Walter Knott, founder of Knott's Berry Farm, purchased the Calico town and began restoring it to its original condition referencing old photographs as a tourist attraction. Five of the original town buildings exist today, and many others were recreated as replicas of their originals. In 1966, Walter Knott donated the town to San Bernardino County, and Calico became a county regional park. The last original inhabitant of Calico, before it was abandoned, Mrs. Lucy Bell Lane, died in the 1960s. Her house remains as the main museum in the town. Today, the park operates mine tours, gunfight stunt shows, gold panning, a restaurant, the Calico & Odessa Railroad and a number of general merchandise stores. Calico is a registered California historic monument and is the "official state silver rush ghost town" of California.

Today, the largest economic presences in the overall community are the Silver Valley Unified School District, the Yermo Annex to the Marine Corps Logistics Base Barstow, the San Bernardino County Regional Park at Calico Ghost Town, and Union Pacific Rail Yard. The Silver Valley Unified School District encompasses the four communities and Fort Irwin, and includes four schools and the district headquarters. The Yermo Annex encompasses approximately 1,859 acres and is primarily a storage and industrial complex. It was established in 1942 as a supply center for the United States Navy and was transferred to Marine Corps command in 1954. The Yermo Annex is surrounded by Yermo CSD on the west and north, and Daggett CSD on the south. The Yermo Annex is not within the boundary or sphere of either the Daggett or Yermo community services districts.

A brief history of the major Government events in the communities is described below, listed chronologically by end date:

1955 The application for formation of the Daggett CSD was directed for placement on the ballot by County of San Bernardino Board of Supervisors action and was originally approved by the voters with the authorized functions for providing water, sewer, refuse, fire protection, park and recreation, street lighting, mosquito abatement, and police services to the Daggett community.

- 1958 The application for formation of the Newberry CSD was directed for placement on the ballot by County of San Bernardino Board of Supervisors action and was originally approved by the voters with the authorized function for providing water, sewer, refuse, fire protection, park and recreation, police, and streetlighting to the Newberry community as those were then defined in law.
- 1962 The application for formation of the Yermo CSD was directed for placement on the ballot by County of San Bernardino Board of Supervisors action and approved by the voters, whereby it succeeded to the Yermo Fire Protection District. The District was originally approved by the voters with the authorized functions for providing water, sewer, refuse, fire protection, park and recreation, streetlighting, mosquito abatement, police protection, library, and road and incidental works construction and improvement services to the Yermo community. The initial active service powers were fire protection, park and recreation, and streetlighting.
- 1965-69 In 1965, the application for formation of County Service Area 40 was directed for placement on the ballot by County of San Bernardino Board of Supervisors action and approved by the voters to provide television translator signals for the area generally defined as Daggett, Newberry, and Yermo. Litigation against the formation was filed by John R. Beyers and heard in 1968. This action was resolved through special legislation and the District formed in 1969. Further information can be found in the municipal service review for County Service Area 40 (LAFCO 3022).
- 1972 Sphere of influence established for County Service Area 40 (LAFCO 1270). The sphere establishment comprised the communities of Daggett, Harvard, Newberry Springs, and Yermo, thereby reinforcing the concept of the combined community.
- 1973 Sphere of influence established for Newberry CSD (LAFCO 1261). The original sphere encompassed approximately 59 square miles (50% of present sphere) and mainly did not include the area between Minneola Road and Dune/Hereford Road (a part of present sphere).
- Sphere of influence established for Yermo CSD (LAFCO 1266). The original sphere is the same as its present configuration.
- Sphere of influence established for Daggett CSD (LAFCO 1271). The original sphere encompassed approximately six square miles and mainly consisted of the populated center of the district.
- 1976 When special districts were granted representation on the San Bernardino LAFCO Commission, all special districts were limited to the functions/services provided at that time. The affected districts responded to LAFCO's request to list their active functions and services by providing the following:

- Daggett CSD identified to LAFCO that the active functions were water, streetlighting, park and recreation, and fire protection (response included in Attachment #8).
- Newberry CSD identified to LAFCO that the active functions were streetlighting, park and recreation, and fire protection (response included in Attachment #8).
- Yermo CSD identified to LAFCO that the active functions were streetlighting, park and recreation, and fire protection (response included in Attachment #8).

Pursuant to adoption of the “Rules And Regulations Of The Local Agency Formation Commission Of San Bernardino County Affecting Functions And Services Of Special Districts” in 1976 and amendments thereafter, the functions and services active for Districts have been specified and the procedures required to apply to the Commission for activation of any other latent powers have been defined.

1978-79 Newberry CSD submitted an application to annex 111 square miles for the primary purpose of extending improved fire and emergency services to the area (LAFCO 1783). The application for annexation extended into the sphere of influence of Yermo CSD located outside the Yermo CSD’s boundaries by 28 miles and into the former Barstow Park and Recreation District within the overall Daggett community by six miles. After considering the district’s application, the Commission expressed concern regarding the district’s expansion into the Yermo CSD sphere of influence and the probable impact of the proposal on the operation of the “Daggett pool” located on the Barstow Daggett Airport property and continued its consideration of the proposal to the next hearing. Following the initial hearing, the Newberry CSD board of directors voted to exclude the six square miles within the Barstow Park and Recreation District from the proposal.

At the continued hearing, the Commission determined that there was not sufficient information to support the reduction of the Yermo CSD sphere of influence that Newberry requested. The annexation proposal was reduced by 59 square miles to encompass 52 square miles in five separate areas and subsequently completed January 9, 1979.

1981 Annexation of 175 acres to Daggett CSD initiated by property owner petition for the purposes of clarifying the District’s boundary to recognize service delivery. The territory already received the full range of services provided by the district (except for streetlighting) and wished to play an active role in the community (LAFCO 2127).

- 1982 The Commission approved the expansion of water and sewer powers for Newberry CSD in August 1982. The District defined the rationale for service expansion as the ability to provide the full range of services to a proposed development (LAFCO 2168) generally defined as being between I-40 and the Railroad, east of Newberry Springs Road. Water and sewer service as well as the proposed development never materialized.
- The Commission approved the expansion of water powers for Yermo CSD (LAFCO 2189) in October 1982. Referencing the staff report for LAFCO 2189, Yermo CSD hoped to form an improvement zone surrounding the private water system within its boundaries and acquire and improve the water system over time. At that time, the water system was deteriorated, under-sized, and without adequate water supply or storage. Costs for the effort were unknown. No record of the Yermo CSD pursuing acquisition of the private water system has been identified.
- 1984 In September 1983, the Daggett CSD Board of Directors initiated a sphere of influence expansion and annexation request to expand the district by approximately 30 sq. miles (LAFCO 2245 and 2246). The territory included the Barstow-Daggett Airport, Yermo Annex, and the Edison Solar One/Two Plant. Over a series of several hearings, LAFCO staff removed the Yermo Annex from the sphere consideration due to its military use and lack of need of the services available from the District but retained the Barstow Daggett Airport and Edison facilities within the sphere, encompassing approximately 24 sq. miles. In addition, the annexation request was reduced to encompass approximately 19 square miles for the purpose of providing fire services and to better identify the District's service area and gain additional revenues for emergency responsibilities. The annexation excluded the Barstow-Daggett Airport and the utility property and lands which surrounded them.
- 1985 Three square mile sphere expansion and annexation to Newberry CSD and detachment from Barstow Recreation and Park District, to better reflect the Newberry community (LAFCO 2306 and 2307). The territory was located at the southwestern corner of the District's boundary and was bisected east/west by National Trails Highway (formerly Route 66).
- 1989 Sphere expansion and annexation to Daggett CSD of 320 acres and detachment from Barstow Recreation and Park District in order for the area to receive CSD services (LAFCO 2492 and 2493).
- 1996 Newberry CSD submitted an application to expand its sphere of influence by 392 square miles to allow for the planning to ultimately provide fire protection and paramedic services to future industrial-type facilities to the south and east of the existing District (LAFCO 2798). The Commission denied the proposal based upon the following determinations:

- Future planning of the proposed sphere expansion area would not result in a comprehensive approach for services offered by the District;
- The District was primarily concerned about fire protection and paramedic services to future industrial-type facilities that may or may not be approved for construction or use. In addition, the Planning Conditions of Approval anticipated the delivery of these services through the County with funding provided by the industrial developments;
- Delivery of fire and paramedic services could reasonably be provided by County Service Area 38 (fire) through expansion of its service boundary; and
- The bulk of the area would not benefit from the District's services.

In response to the Commission's concerns, the District amended its sphere expansion request to include only 71 square miles generally southeast of the District's boundaries and north of Twentynine Palms Marine Corps Base (LAFCO 2798A). The Commission continued consideration of the alternative sphere expansion request to allow for submission of materials for further analysis. Soon after the continuance, the Newberry CSD withdrew its alternative sphere expansion request which the Commission acknowledged and accepted.

1984 - 2001 Since 1984 Daggett CSD has been providing water service within a portion of Yermo CSD territory. This expansion was prompted by the need for water service to the Silver Valley High School and Silver Valley Unified School District offices. In contemplating the construction needs of the School District, it requested that Daggett CSD provide the service because no other entity within the area was capable of providing the level of service required. Between 1984 and 2001, Daggett CSD allowed residents along the water main in Daggett Yermo/Ghost Town Road to connect.

AB 1335 (Gotch), effective January 1, 1994, required LAFCO approval prior to the extension of service by a city or district outside of its boundaries (Government Code Section 56133). During the fall of 1993, LAFCO staff requested that agencies respond to a survey regarding services provided outside an agency's boundary to clarify those contracts grandfathered by the legislation. Daggett CSD did not respond to LAFCO's request.

In 2001, the Commission reviewed and approved an out-of-agency service contract authorizing Daggett CSD to provide domestic water and water for fire protection purposes within a defined service area inside Yermo CSD territory. The application to the Commission was prompted by LAFCO staff's response to a County Planning Department referral on a proposed Conditional Use

Permit for a development project which indicated that Daggett CSD would serve the area, a part of Yermo CSD.

The service area defined by LAFCO SC#135 is approximately 1.25 square miles and comprised 66 parcels in 2001, surrounding the intersection of Interstate 15 and Calico Ghost Town Road and extending southerly along Daggett-Yermo Road to the Daggett CSD boundary. Currently, Daggett CSD serves water within this service area to 13 residential parcels, the Silver Valley High School, the Silver Valley Unified School District's offices, and 10 commercial parcels.

2004 - 2005 In November 2004 the Commission initiated the municipal service reviews and sphere of influence updates for the North Desert region of the County. In June 2005, LAFCO staff conducted a general meeting for all the North Desert agencies to discuss the municipal service review and sphere of influence update process.

2005 - 2006 LAFCO staff apprised all the community services districts within the County of the rewrite of Community Services District Law (Senate Bill 135 [Kehoe]), effective January 1, 2006. The update of CSD Law included new provisions related to governance and latent powers for community services districts.

Pursuant to the 2006 re-write of Community Services District Law, those services that LAFCO determined that a district did not actively provide prior to January 1, 2006 were to be designated as a "latent power" (Government Code Section 61002[h]). The districts' responses are summarized below and are included as Attachment #8:

- Daggett CSD identified that it provided water, streetlighting, park and recreation, and fire protection.
- Newberry CSD identified that it provided water (limited to its own facilities), sewer (not active - for planning purposes), streetlighting, park and recreation, and fire protection.
- Yermo CSD identified that it provided streetlighting, park and recreation, and fire protection.

1996 - 2008 In 1996 the Mojave Water Agency began construction on the Mojave River Pipeline in order to offset the depletion of groundwater in the upper reaches of the Mojave River Basin caused by population growth and over pumping from wells. The Pipeline was constructed in three phases and was completed in 2006. The Pipeline spans approximately 76 miles. It can supply up to

45,000 acre-feet of water each year to the upper Mojave River Basin where it percolates into groundwater recharge basins in the Centro subarea (Hodge and Lenwood), and Baja subarea (Daggett and Newberry Springs). It serves the communities of Barstow, Daggett, Hodge, Lenwood, Minneola, Newberry Springs, and Yermo. The recharge sites particular to this report are in the Baja subarea. The first deliveries to the Baja subarea began in 2003 to the Daggett recharge site. Since that time, through October 2008, the Mojave River Pipeline has delivered 12,803 acre-feet of water to the Daggett and Newberry Springs recharge sites. No deliveries are anticipated for the balance of 2008.

1985 - 2009 Since 1985 the Yermo Water Company has been of concern to the California Public Utilities Commission (PUC) and the California Department of Public Health (CDPH)⁴. In general, the concerns of the PUC, CDPH, and the customers of the Water Company center on the Water Company's failure to comply with PUC and CDPH directives and with the quality and pressure of the water.

On April 24, 2008 the PUC issued an Order Instituting Investigation (Order) of the Yermo Water Company (included as a part of Attachment #6). According to the Order, the Water Company has a record of deferred or non-existent maintenance, unmet regulatory mandates, and continuing problems with water quality and service. Pursuant to the Order, the Water Company is directed to show cause why the PUC should not penalize the Water Company in addition to not petitioning the San Bernardino County Superior Court for the appointment of a receiver to assume the operation of the Water Company and its water system. A Pre-hearing Conference convened by an administrative law judge took place on June 11, 2008 to determine if a hearing was necessary. A hearing was deemed necessary and opening testimony has begun. An evidentiary hearing was originally scheduled for November 4, 2008, but was rescheduled to November 20, 2008, and was deferred to January 13, 2009.

On April 6, 2009 the PUC issued a ruling related to its investigation of the Yermo Water Company, directing its legal division to seek receivership of the Company through petition to the San Bernardino Superior Court. On April 17, 2009 an extension to the required response time was provided, until August 2009.

2005-2009 Throughout the processing of the service review for Yermo CSD, LAFCO staff and representatives of the district have discussed the addition of water powers for Yermo CSD as a part of its service review. Yermo CSD's intent was to be considered an option for taking over the Water Company, either

⁴ The California Department of Public Health was formerly known as the California Department of Health Services.

through purchase or as a receiver if the court so determines. On July 9, the Commission approved a request by Yermo CSD to reduce the filing fees for activation of new services to direct cost only since the activation of water powers was intended to be considered as a part of the municipal service review and sphere of influence update process. On October 21, the Yermo CSD Board of Directors took an action to formally discontinue their pursuits to either acquire the Yermo Water Company or to be considered an option should the court determine a receiver for the Yermo Water Company was necessary.

However, in January 2009 the Board of Directors changed direction related to activation of water services due to actions taken by the Public Utilities Commission related to the operations of the Yermo Water Company. The District determined to once again pursue activation of their latent water functions. On April 6, 2009 the District submitted its official application for reactivation and LAFCO staff has assigned it the designation of LAFCO 3008A for processing.

DAGGETT, NEWBERRY, AND YERMO COMMUNITIES

The Commission's policy guidelines for spheres of influence identify that its approach is defined as a "community-by-community" consideration.⁵ This practice employs looking at the whole of the community as defined by the existence of inter-related economic, environmental, geographic and social interests. The Commission's policies point toward the designation of a single sphere of influence for all related service providers.

Discussion of Spheres of Influence Consolidation:

The preamble to LAFCO law reads that while the Legislature recognizes the critical role of many limited purpose agencies, especially in rural areas, it finds and declares that a single multipurpose governmental agency accountable for community service needs and financial resources may be the best mechanism for establishing community service priorities. As a part of this review, the Commission is to consider the spheres of influence of the three community services districts. The information outlined within this report opens a discussion of the following question:

"Should the three community services districts that are adjacent to each other and essentially provide the same services ultimately be consolidated?"

In addition, related to the governance and service provision of the districts, staff has concerns which include the apparent lack of familiarity with and adherence to the changes that took place in 2006 through the rewrite of Community Services District Law, as well as LAFCO Law and the State Constitution. The issues needing to be addressed include the following:

1. An adopted budget (Government Code Section 61110 et seq.) – CSD Law requires the annual adoption of a budget which conforms with generally accepted accounting and budgeting procedures and for the general manager to forward a copy of the final budget to the county auditor. Daggett has not adopted an annual budget since FY 1995-96 and has thus operated without a budget for over a decade. Newberry and Yermo have adopted budgets and have stated that they submit them annually to the County; however, neither district recognizes carryover funds or provides a breakdown of revenue categories. The submission by Yermo has not yet been verified by the County Auditor/Controller-Recorder Office. At present they are reviewing internal operations to provide this information.
2. Adoption of annual appropriations limits under the Gann Initiative⁶ (Article XIII B of the State Constitution and Government Code 61113) – The districts do not currently have nor have they ever adopted an annual appropriations limit according to the materials provided and interviews with the districts. Article XIII B of the State

⁵ San Bernardino LAFCO Commission Policy Guidelines for Spheres of Influence.

⁶ In 1979 the voters amended the California Constitution by passing Proposition 4 (the Gann Initiative), requiring each local Government to set an annual appropriations limit (the Gann Limit).

Constitution (Gann Limit) mandates local government agencies receiving the proceeds of taxes to establish an appropriations limit, which is further acknowledged by Government Code 61113. Without an appropriations limit, agencies are not authorized to expend the proceeds of taxes. Section 9 of this Article provides exemptions to the appropriations limit, such as Section 9 (c) exempts the appropriations limit for special districts which existed on January 1, 1978 and which did not levy an ad valorem tax on property in excess of \$0.125 (12 ½ cents) per \$100 of assessed value for the 1977-78 fiscal year. A copy of the FY 1977-1978 property tax rates as provided by the County with each CSD highlighted for reference, is included as Attachment #7. The tax rate for each district for FY 1977-1978 was over the \$0.125 tax rate per \$100 of assessed value (as shown in the chart below).

1977-78 Tax Rates per \$100 of Assessed Value

| District | Daggett CSD | Newberry CSD | Yermo CSD |
|-----------------|--------------------|---------------------|------------------|
| Tax Rate | \$1.2500 | \$0.9110 | \$1.0883 |

Being over the \$0.125 tax rate, the districts do not qualify for an exemption from the requirement of an appropriations limit. Therefore, each district must have an appropriations limit.

3. General Manger of a CSD (Government Code 61050) - Since 1955, CSDs have been required to have a General Manager as a separate, designated position, not the performance of these functions by a member of the Board of Directors. Historically, each district did not comply with CSD law; each had a member of the Board of Directors perform these duties. During the processing of this service review and discussion with LAFCO staff each of the districts has come into compliance. Currently, Newberry CSD has contracted for a part-time general manager, and Daggett CSD and Yermo CSD have assigned an employee to the position of general manager.

4. Implementation of board policies (Government Code 61051) - For years members of the Daggett CSD and Yermo CSD boards actively participated in the management and operation of the districts due to the limited financial resources for operation. However, beginning in January 1, 2006 Government Code Section 61050 requires the board of directors to appoint a general manager, who is not a member of the Board of Directors. The legislative intent for this section is to separate the functions of policymaking and implementation, making it clear that the person who holds the general manager’s title is responsible for implementing the board’s policies and supervising the CSD activities.

5. Requirement to have a Designated Treasurer who is bonded (Government Code 61050 61052 and 61053) – Current CSD law and its predecessor provisions have required that the Districts have an appointed Treasurer (Finance Officer prior to January 1, 2006) and that the revenues of the District be deposited into the County Treasury for payment of charges unless the District takes specific action to place

them in either a bank or savings and loan. Current provisions require that the appointed Treasurer be bonded. At the inception of this review, LAFCO staff was aware that the Daggett CSD complied with this provision. However, as of the date of this report, all Districts are in compliance through the Yermo CSD action of February 17, 2009 and Newberry CSD action on March 10, 2009.

6. Providing or engaging in unauthorized services (Government Code Section 56824.10 et seq. [LAFCO law] and 61106 [CSD law]) – If a community services district desires to provide a new or different service anywhere within its boundaries, it must first receive LAFCO approval according to LAFCO and CSD statutes. For LAFCO consideration of a request to provide a new or different service, a community services district must submit an application to LAFCO along with a resolution of initiation of application and a plan for services detailing how the district will finance and provide the service. Currently, there are two instances within the community of providing or engaging in unauthorized services:

- Newberry CSD has purchased and operates a road grader to provide road maintenance service, but the district has not been authorized nor has it formally requested authorization by LAFCO to provide said service pursuant to the Government Code and the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*. Further, Newberry CSD is actively grading on County roads and such an action requires written consent from the County, as outlined in CSD Law. To date, the District has provided its resolution seeking County consent, but not the consent from the County.
- Throughout the processing of the service review for Yermo CSD, LAFCO staff and representatives of the district have discussed the addition of water powers for Yermo CSD as a part of the service review. Yermo CSD's intent was to be considered an option for taking over the Yermo Water Company, either through purchase or as a receiver if the court so determines.

In anticipation of being an option to assume the service responsibilities of the Yermo Water Company, on July 22, 2008 the County Board of Supervisors approved the sale of tax defaulted property⁷ to the Yermo CSD for the stated purpose of providing a site for a future well/storage tank for local water service. However, Yermo CSD has not been authorized by LAFCO to provide or engage in water service in any manner pursuant to the Government Code and the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*. At the time of the preparation of this staff report, it is staff's understanding that completion of this sale has not occurred

⁷ Chapter 8 of the State of California Revenue and Taxation Code (§3771 et seq.) authorizes the Tax Collector to offer properties for sale that have been tax-defaulted for five years or more to taxing agencies or non-profit organizations.

because the mapping requirements of the State Controller have not been satisfied.

The preamble to Community Services District law states that the intent of the Legislature for CSD Law is:

To encourage local agency formation commissions to use their municipal service reviews, spheres of influence, and boundary powers, where feasible and appropriate, to combine special districts that serve overlapping or adjacent territory into multifunction community services districts.

These districts are adjacent to each other and actively provide essentially the same services with one exception. The following items alone do not support consolidation but together warrant further discussion of a potential future consolidation:

- The three districts can be considered a single community because:
 - Each identifies themselves as interstate corridor communities:
 - Daggett's urban core and industrial uses are located dependent upon access to Interstate 40,
 - Newberry Springs does not have an urban core to the extent of Daggett and Yermo, but its commercial and industrial core is dependent upon access to Interstate 40, and
 - Yermo has an urban core with commercial uses geared towards access to Interstate 15.
 - There is a clear and distinct divide between the Barstow community and the three communities (San Bernardino Meridian line - the line between Ranges 1 West and 1 East). This historic divide has been protected by the Daggett CSD for over 20 years.
 - They share similar General Plan land use designations assigned by the County of San Bernardino Board of Supervisors.
 - The districts actively provide essentially the same services, and there are no geographical impediments that would hinder delivery of the same services of the adjacent districts (streetlighting, park and recreation, and fire protection). The exception is Daggett CSD provides retail water service within its boundaries and it is also currently authorized to do so within the boundaries of the Yermo CSD.
 - The districts are dependent upon each other for service delivery.

- Daggett CSD provides retail water service within the boundaries of Yermo CSD.
- The districts experience challenges related to fire protection services given the limited resources available. Each provides its service through an extensive system of volunteers and rely upon one another and other fire protection agencies for mutual aid to fulfill this mission.
- The areas currently coordinate for community activities such as:
 - A disaster council made up of volunteer citizens of the communities meets to discuss community safety issues. The Council has established its mission and has begun the process of utilizing resources to create its disaster plan. FEMA representatives provided a three-day training session. There is no memorandum of understanding at this time.
 - Electronic Clean-up Program comprising the Daggett, Yermo, and Newberry Springs communities. The three communities rotate the drop-off location in order to assist residents.
- There is a general lack of familiarity with and adherence to the laws which govern these districts, including CSD Law. This is illustrated by the items discussed above.
- Lack of municipal water and sewer systems within the areas hinders the growth of communities and the needed revenue associated with growth to maintain and operate municipal services. Although the districts are rural and agricultural in nature, the populated centers could support a more intense growth based upon the general plan land use designations assigned by the County of San Bernardino.
- Of concern to LAFCO staff is the current and future viability of the three districts based upon their limited financial resources. Paramount to any agency is its financial health. A review of the financial documents of each district indicates that each is in either poor financial health or does not receive enough incoming revenue each year to adequately support the maintenance and ongoing operations of the district.
- Interest in the board of directors' candidacy of the districts appears to be limited. This is supported by the lack of elections held within the past decade. In general, poor financial health and lack of interest in governance are prime indicators of struggling agencies.
- Each of these districts has their own governing board, management systems, accounting/billing systems, bidding, and purchasing. While the districts grapple with financial issues, each agency has its own staff, facilities, and plans. A single district could achieve economies of scale and potentially reduce costs.

- Consolidation of service providers would also result in one or two agencies coordinating efforts to address the availability of water within the overall community.

Given the concerns and information listed above, it is the staff position that a consolidation is necessary in order to provide an opportunity for the districts to function more efficiently and effectively in the short-run and to secure a revenue stream to support the services to be provided. For this review, staff provides the Commission with four options to consider for the sphere of influence updates of the districts:

1. Consolidate the spheres of all three agencies into a single sphere excluding the community of Harvard: Consolidating the spheres would signal the Commission's intent to consolidate the districts while maintaining their ability to plan for future delivery of services within their territory and present sphere areas. Further, it would open the discussion for eventual consolidation. In addition, the exclusion of the Harvard community would separate a defined community from the sphere of influence since no service delivery planning has taken place since the 1970s when it was included in the Yermo CSD sphere. A sphere of influence designation requires that planning for service delivery take place; while the Harvard community's existing level of fire protection service exceeds that of any of the existing CSDs. Eventual replacement of multiple community services districts with a single district would be, in the staff view, the most effective and efficient delivery mechanism for service delivery. This is the primary recommendation of LAFCO staff.
2. Consolidate the spheres of influence of the Yermo and Daggett CSDs into a single sphere of influence excluding the community of Harvard and affirm the sphere of influence of the Newberry CSD. Consolidating the spheres of Yermo and Daggett would signal the Commission intent that they consolidate since they currently or are anticipated to provide the same range and level of service – park and recreation, streetlighting, fire protection and retail water service. The exclusion of the Harvard community would eliminate the planning for extension of service when the primary health and safety issue, fire protection, is currently provided at higher levels through the San Bernardino County Fire Protection District. Leaving the Newberry CSD as a separate entity would acknowledge the differing levels of service delivery.
3. Designate a zero sphere for each district: If the goal is consolidation of the three districts, then this goal would be better accomplished through a consolidated sphere rather than three zero spheres. Further, this option would eliminate the planning capability for the districts and stronger rather than reduced Governance is desired.
4. Affirm the sphere of each district as currently configured: Affirmation of the existing spheres would allow each district to operate as currently configured and plan for additional service capacity or service within its own sphere. This is the recommendation of the three districts.

Based upon a review of the materials submitted to the Commission during this service review, additional information gathered by LAFCO staff, prior Commission considerations,

the policies for spheres of influence adopted by the Commission, and the Legislature's intent in CSD Law and LAFCO Law for a single multipurpose governmental agency for a community, it is the staff's position that the Commission should take Option #1 or Option #2 for consolidation of the spheres of influence and separating the community of Harvard from the discussion. Staff bases its presentation of options on the financial and service delivery challenges and governance issues outlined in detail above.

On January 14, 2009, LAFCO staff provided each of the CSDs with a draft copy of the staff report for their review, comment and input. In addition, on January 21, 2009, LAFCO staff conducted a community meeting at the Silver Valley High School multi-purpose room to review:

- LAFCO's requirement for conducting municipal service reviews of special districts to include a review of the districts' operations, finances, and governmental structure.
- LAFCO's requirement for conducting sphere of influence updates to include a review of the functions and services that the districts are authorized to perform (i.e. water, fire protection) and an analysis of the potential government options for the area with the community the premise of a municipal service review,

Not surprisingly, the opinion of the districts and most of the residents in attendance at the community meeting is that affirmation of the existing spheres (Option #4) is the appropriate action. In general, the districts state that a future consolidation would fragment the degree of governance currently in place and that the districts operate sufficiently given the limited resources. The individual districts' responses are included as a part of Attachments #3, #4, and #5 to this report. After considering the districts' position, LAFCO staff modified its recommendation to support either Option #1 or Option #2 as identified. Staff does not recommend affirmation of the existing spheres because this would not provide the opportunity for a better response to the governance issues facing these agencies, including, but not limited to the financial and service challenges identified in this report.

Government Code Section 56076 defines a sphere of influence as a "plan for the probable physical boundaries and service area of a local agency, as determined by the commission". Should the Commission choose to move forward with either Option #1 or Option #2, it would not affect any district's current boundary or the services that they actively provide as authorized by the Commission. Rather, it would signal the Commission's position that eventual consolidation should take place. As for future governance of a consolidated district, there are mechanisms to ensure representation by existing board of directors on the new board to assure retention of historic/institutional knowledge of operations as well as protections for current resources impressed with a specific public purpose remain within their current area.

Additional Boundary Issues for Commission Consideration:

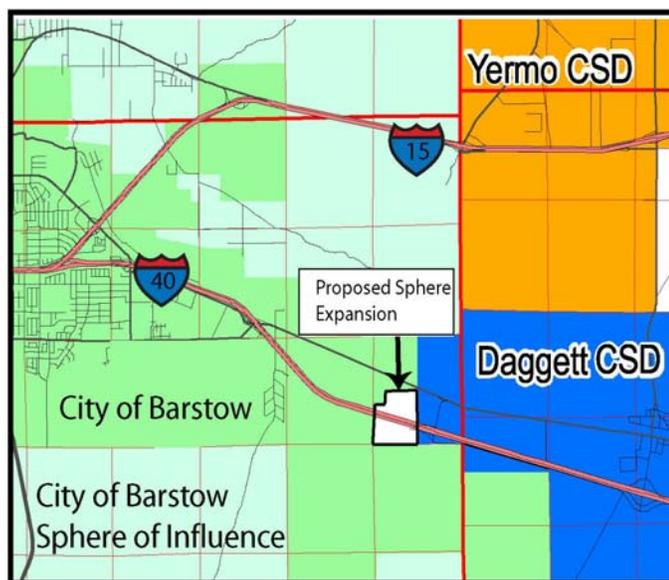
While conducting this review additional sphere issues were identified which will need to be addressed to provide for a clear and definable consolidated sphere boundary under either option. Those issues are identified as:

1. Sphere expansion for area west of Daggett CSD

In 1973, the Commission established the sphere of influence of the City of Barstow (LAFCO 1292) which excluded the area identified on the map below. In 1989, Daggett CSD expanded its sphere and annexed 320 acres which included a detachment from Barstow Recreation and Park District in order for the area to receive CSD services (LAFCO 2492 and 2493). The expansion area included the eastern half of Section 13 of T09NR01W. In 2001, the City of Barstow annexed the Marine Corps Logistics Base – Nebo Annex (LAFCO 2880). The expansion included the northwest quarter of Section 13. None of these actions addressed the southwest quarter of Section 13.

As shown on the map below, what remains is the southwest quarter of Section 13 not being within the sphere of influence of the Barstow community or Daggett CSD. The area is bordered by the City of Barstow (Marine Corps Nebo Annex) on the south, west, and north and by the Daggett CSD on the east.

Proposed Sphere Expansion



Even though the City of Barstow borders this area, the Barstow community would experience challenges in extending the full range of their services to the area. Given the current configuration of the City of Barstow and Daggett CSD and future service delivery, it is the staff's position that Daggett CSD, as currently configured or a future consolidated CSD would be the most appropriate agency for service delivery.

Therefore, staff recommends that the Commission expand the sphere of influence and include this area within the consolidated sphere. Daggett CSD in its response to the draft staff report did not comment on this sphere option. Sphere expansion to

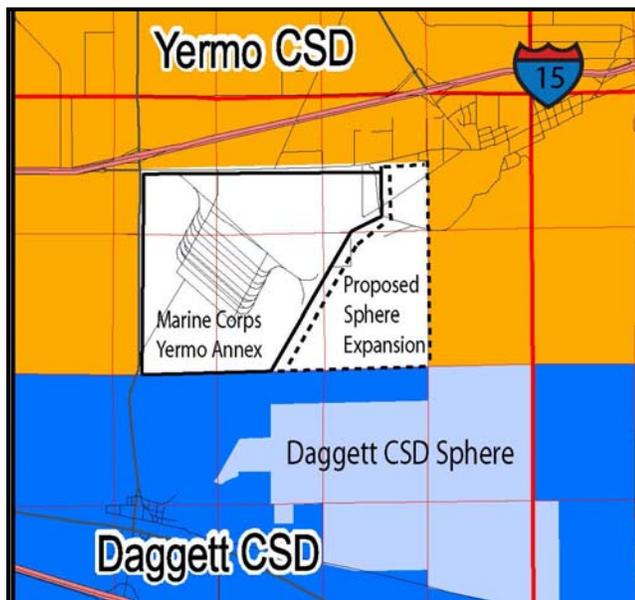
include this area within the consolidated sphere would allow for planning for future service delivery to the area. Should the Commission not move forward with staff's recommendation to consolidate the spheres, staff would nonetheless recommend that the Commission expand Daggett CSD's sphere to include the area.

2. Sphere expansion to include the area east of the Marine Corps Yermo Annex

As shown in the map below, the area east of the Marine Corps Logistics Base – Yermo Annex (hereafter identified as Yermo Annex) is not within the sphere of influence of either community services district. The area is bordered by the Yermo Annex and railway on west, Yermo CSD on the north and east, and Daggett CSD on the south.

In past LAFCO considerations, this area has been considered a part of the military facility; therefore, it has been excluded from sphere of influence discussions for the Daggett and Yermo CSDs. Staff has acquired updated mapping for the Yermo Annex which shows that the area shown on the map below is private property, not a part of the Yermo Annex.

Proposed Sphere Expansion – East of Marine Corps Yermo Annex



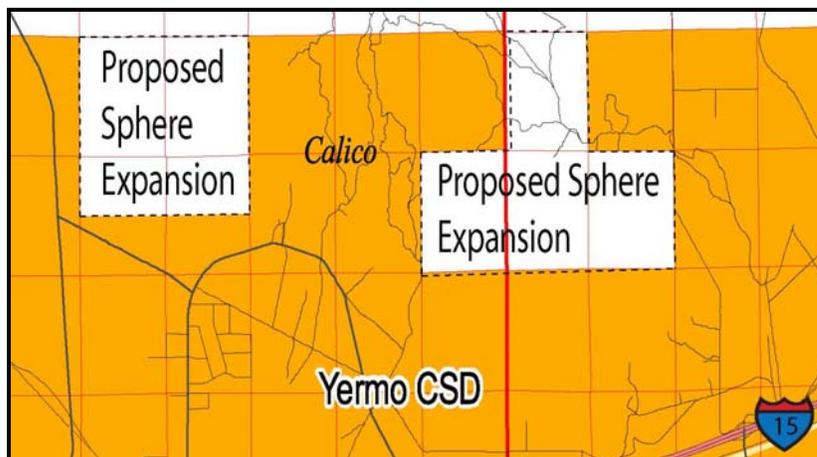
Given the current configuration of the Yermo and Daggett CSD spheres of influence and future service delivery, it is staff's position that the Yermo CSD would be the most appropriate agency to provide services. Service delivery to the area is accessible from the Yermo community, north of the Mojave River. Therefore, staff recommends that the Commission expand the sphere to include this area within the consolidated sphere. Yermo CSD in its response to the draft staff report on page 15 indicates its supports for staff's recommendation. Sphere expansion to include this area within the consolidated sphere would allow for planning for future service

delivery to the area. Should the Commission not move forward with staff's recommendation to consolidate the spheres, staff would nonetheless recommend that the Commission expand the Yermo CSD's sphere to include the area.

3. Sphere expansion to include areas in the northern portion of Yermo CSD

As described previously, LAFCO staff recommends a consolidated sphere. In either option for consolidation, staff recommends that the Commission expand the sphere to include the areas identified in the map below to provide a clear and definable consolidated sphere boundary.

Proposed Sphere Expansion – Northern Yermo

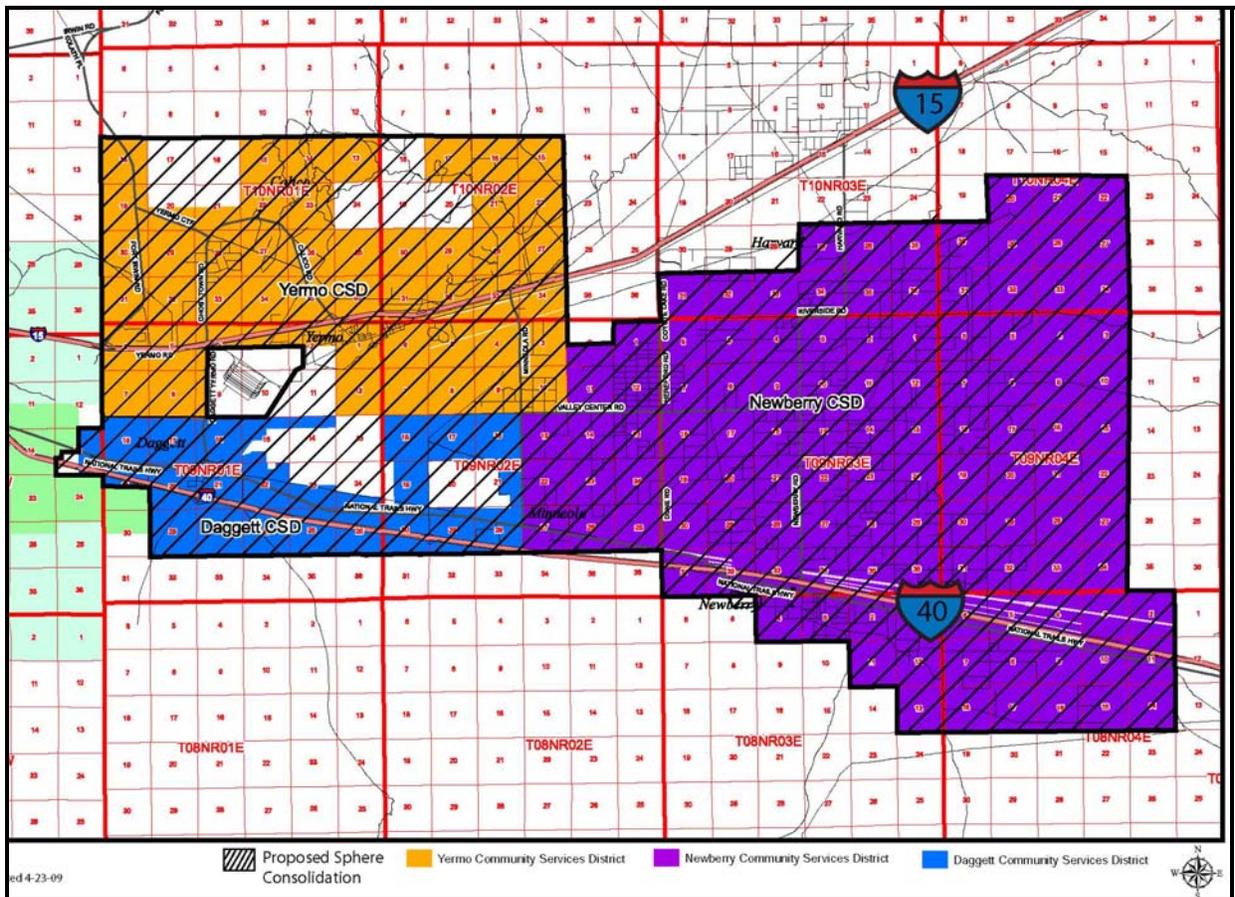


The proposal files related to Yermo CSD do not indicate why these areas were excluded from Yermo CSD's sphere of influence in the 1970s. Currently, the areas are a combination of Government and private lands. The private lands are predominantly owned by mining entities. The western area has County of San Bernardino General Plan land use designations of Resource Conservation and Rural Living, and the eastern area has a designation of Resource Conservation.

Because of the type of activities present in these areas and future service needs, staff believes that Yermo CSD, either individually or as a part of the consolidated sphere, would be the most appropriate agency to provide services since the areas are accessible only through the Yermo community. Therefore, staff recommends that the Commission expand the sphere of influence and include these areas within the consolidated sphere. Yermo CSD in its response to the draft staff report on page 15 outlines its support for staff's recommendation. Sphere expansion to include these areas within the consolidated sphere would allow for planning for future service delivery to the areas. Should the Commission not move forward with staff's recommendation to consolidate the spheres of the three districts, staff would recommend that the Commission continue the discussion of this sphere of influence to the next Commission hearing.

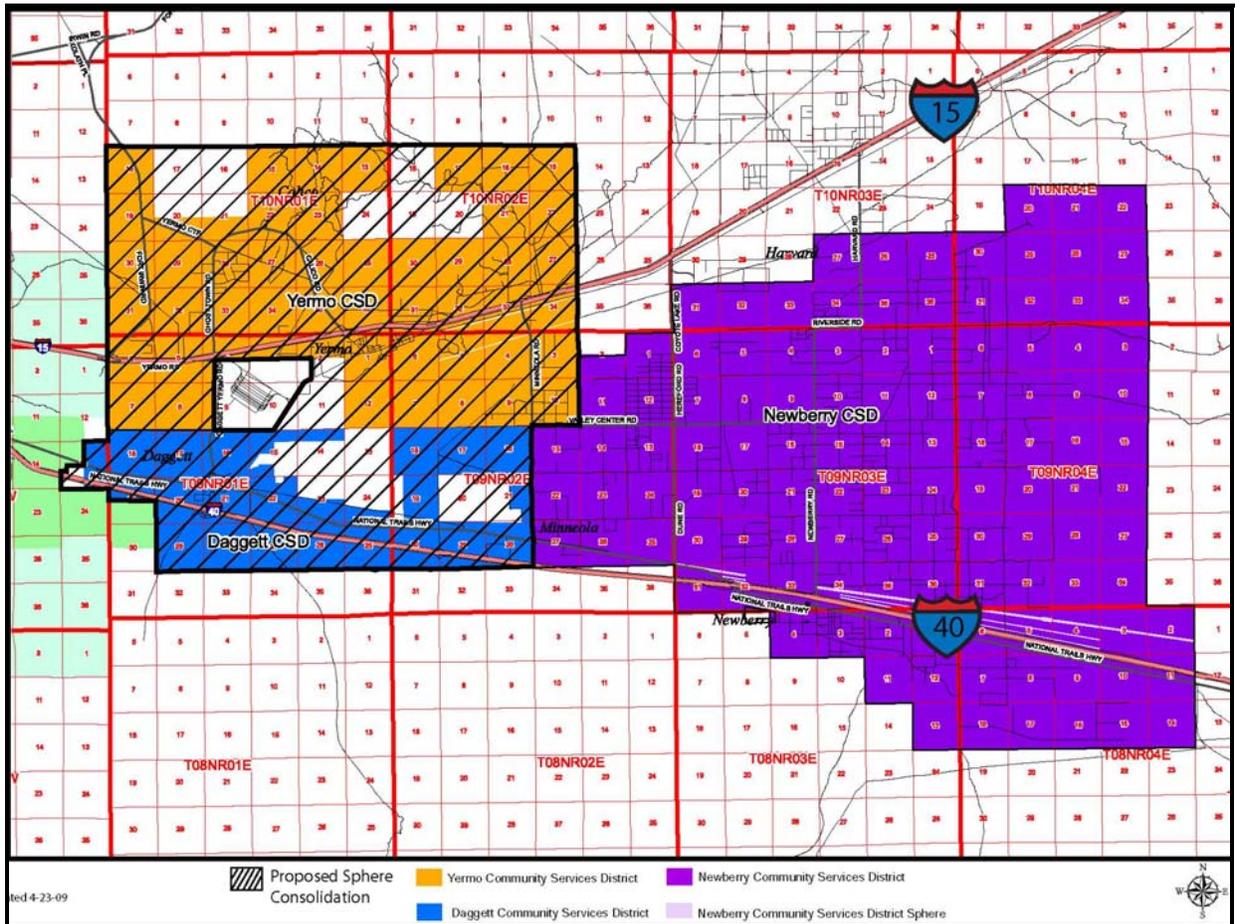
The maps shown below represent LAFCO staff's recommended options for this municipal service review/sphere update as described above.

OPTION #1
Proposed Consolidated Sphere of Influence for all
Three CSDs with Sphere Modifications



Or

OPTION #2
Consolidation of Yermo and Daggett CSD Spheres of Influence
And affirmation of Newberry CSD sphere with Sphere Modifications



The balance of the municipal service review discussion and sphere of influence updates will outline the data provided or acquired upon which the staff's recommendations are based.

MUNICIPAL SERVICE REVIEWS AND SPHERE OF INFLUENCE UPDATES

INTRODUCTION:

Municipal service reviews pursuant to Government Code Section 56430 and sphere of influence updates pursuant to Government Code Section 56425 are being conducted for the Daggett Community Services District (LAFCO 3045), Newberry Community Services District (LAFCO 3046), and Yermo Community Services District (LAFCO 3008). The districts' responses and supporting materials are included as Attachments 3, 4, and 5, respectively, to this report and are summarized in the following information.

Daggett CSD (hereafter identified as Daggett) is an independent special district governed by a five member board of directors, elected at-large. Daggett was formed in 1955 with the authorized function to provide water, sewer, refuse, fire, park and recreation, street lighting, mosquito abatement, and police services to the Daggett community. Currently, Daggett is authorized by LAFCO to provide water, street lighting, park and recreation, and fire protection pursuant to the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*.

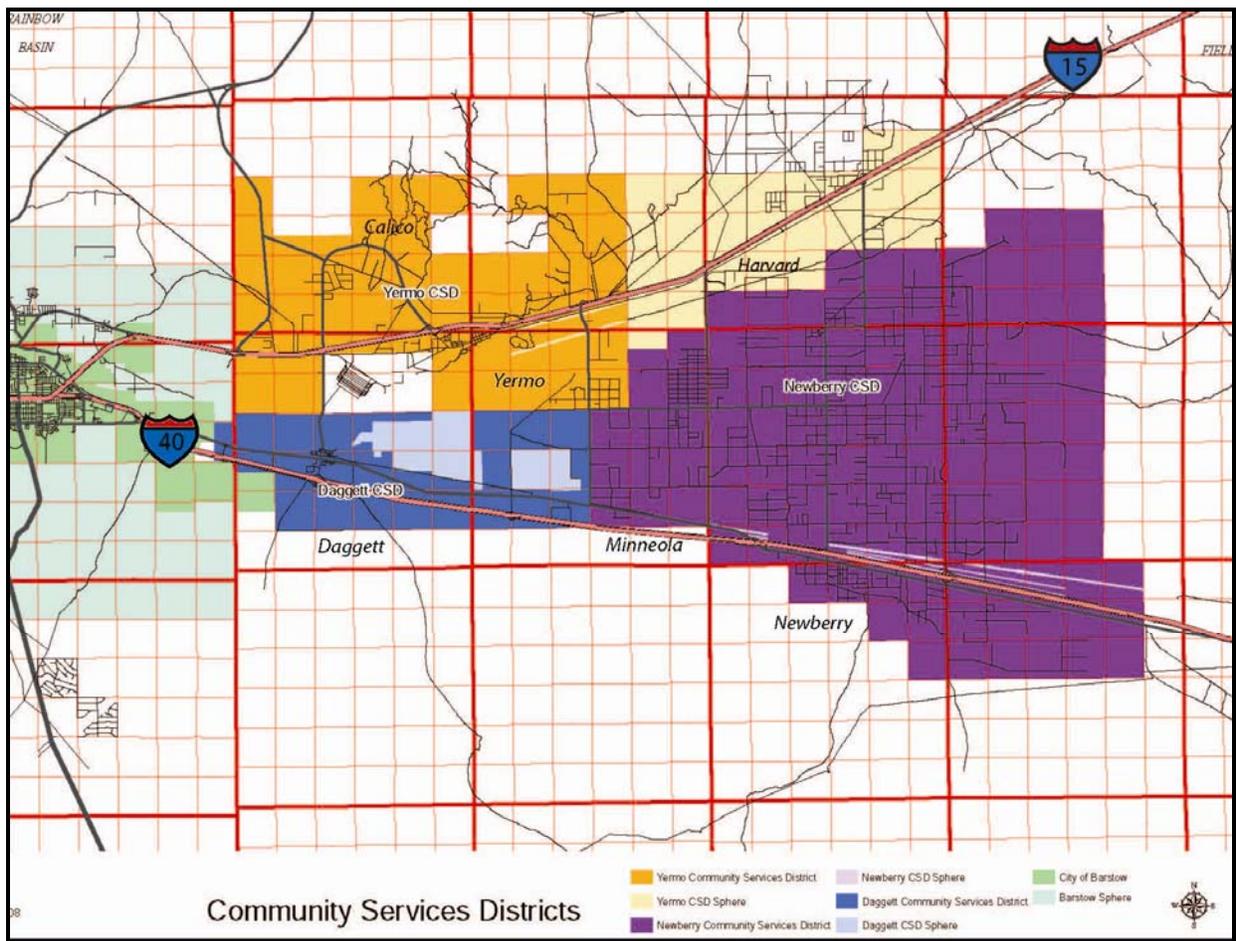
Newberry CSD (hereafter identified as Newberry) is an independent special district governed by a five member board of directors, elected at-large. Newberry was formed in 1958 with the authorized function to provide water, sewer, refuse, fire protection, park and recreation, police, and streetlighting to the Newberry Springs community. Currently, Newberry is authorized by LAFCO to provide water, fire protection, streetlighting, park and recreation, and sewer services. Newberry is not a retail water provider; rather it utilizes water from its own wells for its facilities and for fire protection purposes. Although authorized sewer service, Newberry does not actively provide the service but has the power in order to ultimately plan for a sewer collection and treatment system. As discussed later in this report, LAFCO staff recommends modification of the service description of Newberry's sewer powers to more accurately reflect the service provided.

Yermo CSD (hereafter identified as Yermo) is an independent special district governed by a five member board of directors, elected at-large. Yermo was formed in 1962 through a reorganization which included dissolution of the Yermo Fire Protection District and succession to its responsibilities. The District was originally approved by the voters with the authorized function to provide water, sewer, refuse, fire protection, park and recreation, streetlighting, mosquito abatement, police protection, library, and road services to the Yermo community. The initial active service functions were fire protection, park and recreation, and streetlighting. Currently, Yermo is authorized by LAFCO to perform fire protection, streetlighting, and park and recreation powers.

LOCATION AND BOUNDARIES:

The service reviews and sphere study areas are located in the north desert portion of the County and are generally bordered by a combination of section lines and the City of Barstow boundary and sphere on the west which includes area west of Fort Irwin and Ord Mountain Roads; a combination of section lines and half-section lines on the north; a combination of section lines and Manix Road on the east which includes areas one mile east of Troy Dry Lake; and a combination of the City of Barstow boundaries and section lines on the south which includes area south of Interstate 40 and a small portion of the City of Barstow sphere of influence. A map of the three districts with the City of Barstow to the west is shown below and is included in Attachment #1.

Map of the Daggett, Newberry Springs, and Yermo Communities

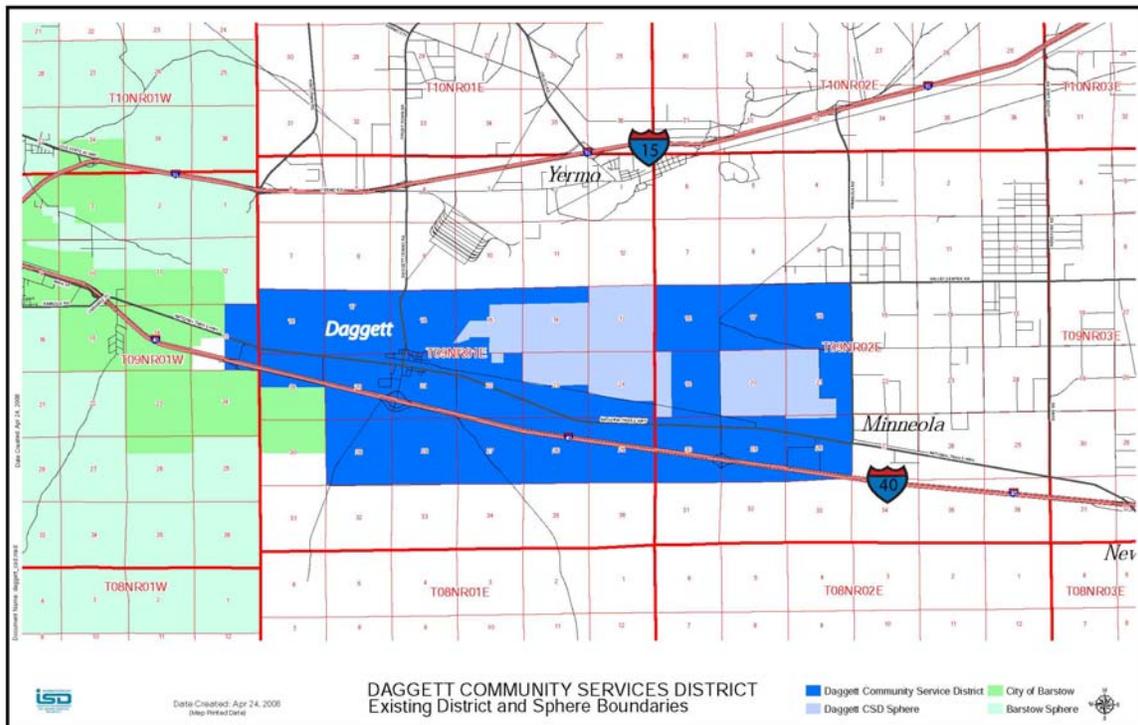


Daggett CSD

As shown on the map below and included in Attachment #3, Daggett’s boundary and sphere of influence comprise approximately 26 square miles and within the sphere but not

within Daggett’s boundaries are the Barstow-Daggett Airport and the utility facilities known as Solar One and Two. Geographical reference points within Daggett or its sphere are Interstate 40, the Barstow-Daggett Airport, and the former Solar One and Two solar energy projects.

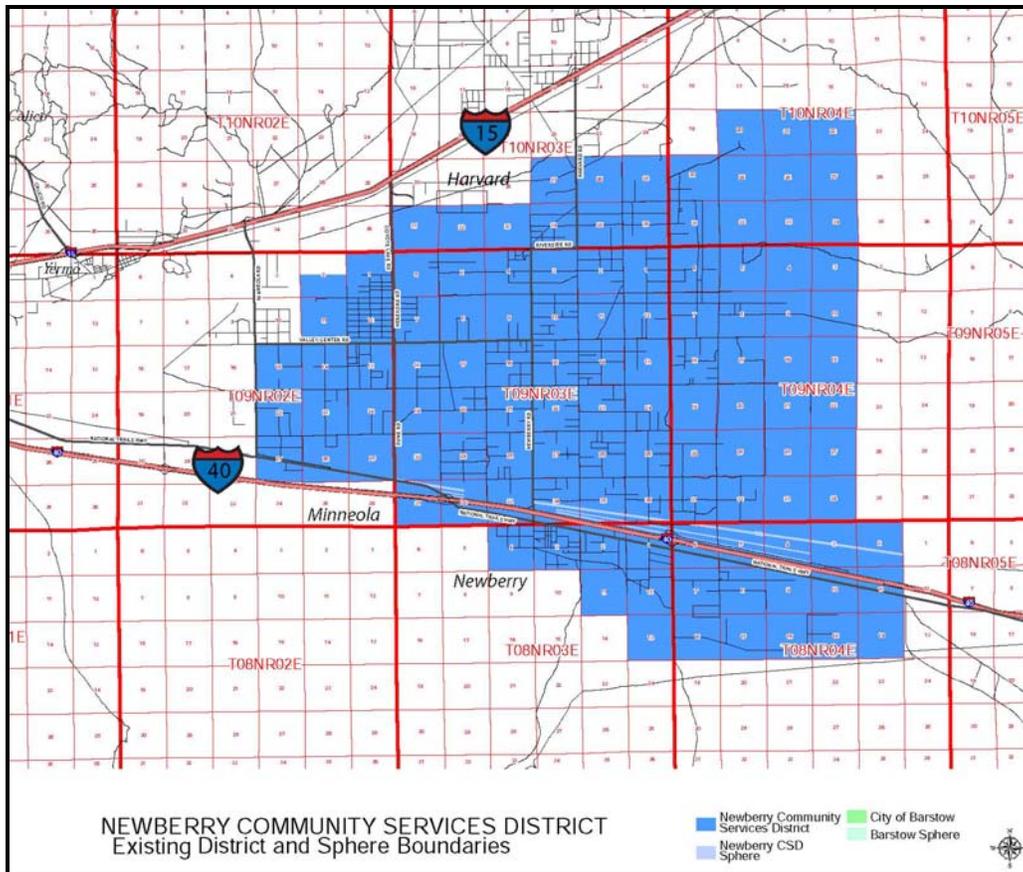
Daggett Community Services District



Newberry CSD

Newberry’s boundary comprises approximately 117 square miles. Newberry’s exterior boundary and sphere of influence boundary line are coterminous, as shown in the map below and included in Attachment #4. Newberry’s sphere includes the exclusion areas of portions of pipelines owned by Pacific Gas and Electric Company and portions of the railway lines located in the southern area of the District. Geographical reference points within Newberry Springs are Troy Dry Lake, Interstates 15 and 40, and the Mojave River.

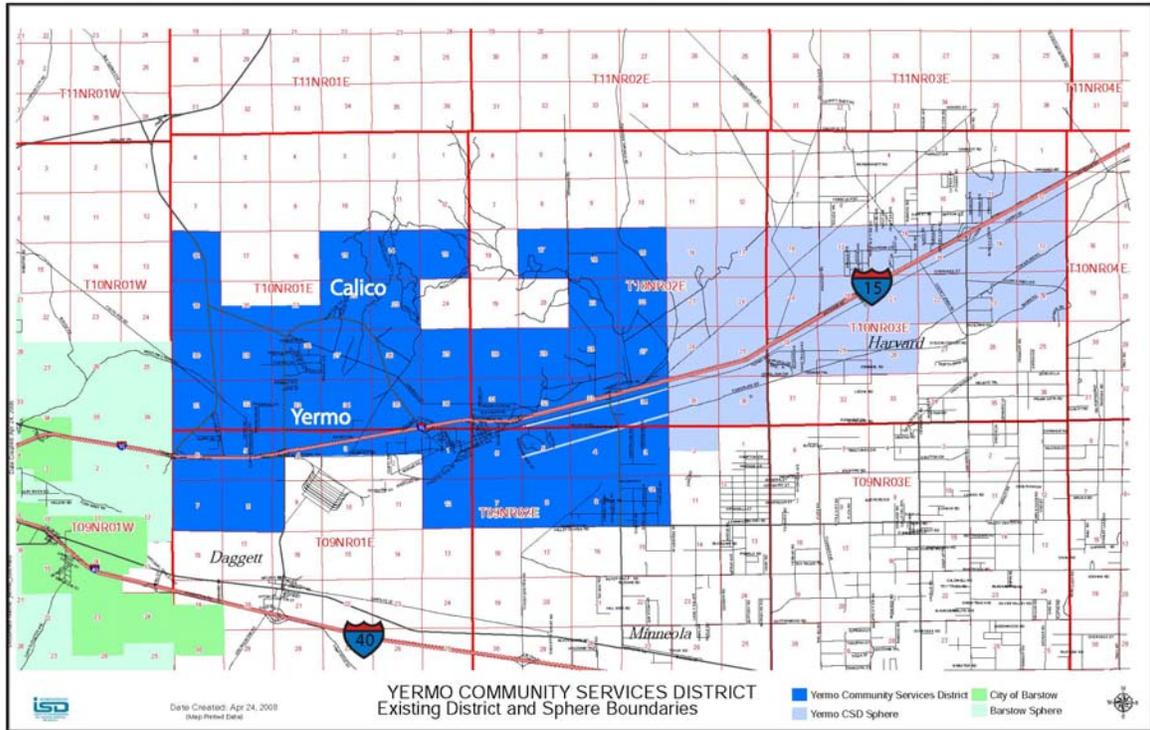
Newberry Community Services District



Yermo CSD

Yermo's boundary and sphere of influence comprise approximately 74 square miles. As shown on the map below and included in Attachment #5, the sphere extends easterly of Yermo and includes the community of Harvard. Yermo's sphere includes the exclusion areas of portions of railway lines and portions of electrical lines located in the eastern area of Yermo. Geographical reference points within Yermo are Interstate 15, the Mojave River, Calico Early Man Archaeological Site, and Calico Ghost Town, a County regional park, and the now closed Lake Delores.

Yermo Community Services District



MUNICIPAL SERVICE REVIEW SUMMARY

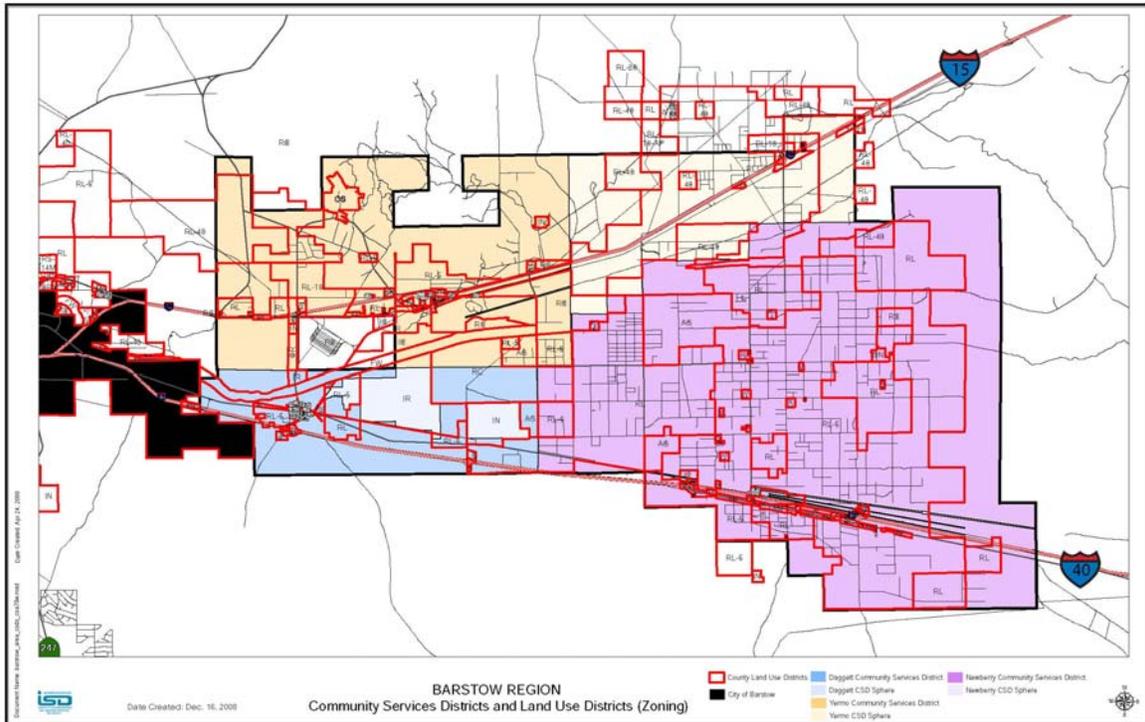
Newberry and Yermo prepared a service review consistent with LAFCO's policies and procedures and the factors required by Government Code 56430. The districts' response to LAFCO's requests for materials includes, but is not limited to, financial information.

Daggett did not prepare a service review consistent with San Bernardino LAFCO policies and procedures, failing to complete the requested Municipal Service Review form. The District's response to LAFCO's requests for materials includes, but is not limited to, its response to the District Profile Sheet and financial transaction reports. Additional information was obtained from an interview with Daggett personnel on May 27, 2008 at the Daggett CSD facility in Daggett, CA and follow-up phone conversations and e-mail transmittals.

I. Growth and Population Projections for the Affected Area.

While the north desert portion of San Bernardino county, in general, has experienced significant growth, Daggett, Harvard, Newberry, and Yermo can be characterized as a rural and agricultural community that have historically experienced slow growth. This is, in the staff opinion, due to its rural, agricultural, and industrial nature and the lack of a region wide provider for water and sewer services. As shown in the map below, the vast majority of the land use designations assigned by the County of San Bernardino are Resource Conservation (RC) allowing one unit to 40 acres and varying levels of Rural Living (RL). Other land use designations include Agricultural (AG), Institutional (IN), Community Industrial (IC), Highway Commercial (CH), Floodway (FW), Regional Industrial (IR), Residential Single (RS), and Open Space (OS). There are existing Williamson Act contracts within the Harvard area (RS-10-AP) outside the existing sphere which restricts the land uses to agriculture for a minimum period of 10 years.

Map of County General Plan Land Use Designations



Population

As of August 14, 2008, Daggett had 195 registered voters, Newberry had 1,001 registered voters, and Yermo had 632 registered voters. Utilizing the growth forecast for transportation analysis zones, as identified in the Southern California Association of Governments (SCAG) 2008 Regional Transportation Growth Forecast, the 2000 Census estimates and the population growth projections are as follows:

| District | 2000* | 2010 | 2015 | 2020 | 2025 | 2030 |
|-------------|-------|-------|-------|-------|-------|-------|
| Daggett | 775 | 885 | 1,005 | 1,102 | 1,214 | 1,378 |
| Harvard ** | 824 | 941 | 1,068 | 1,171 | 1,290 | 1,464 |
| Newberry ** | 2,071 | 2,366 | 2,686 | 2,944 | 3,242 | 3,682 |
| Yermo | 1,500 | 1,713 | 1,945 | 2,132 | 2,349 | 2,667 |

* 2000 Census estimate

** The 2000 Census estimate and SCAG forecasts both include Harvard in the Newberry figures. For the purposes of this report, staff extrapolated the 2000 Census block data for the general Harvard area and applied the same growth increase for the population forecasts from 2010 to 2030.

These areas are not anticipated to experience significant growth (including Harvard within the Yermo CSD sphere) within the coming years. This determination is made due to about one-third of the land being publicly owned, the land use designations assigned by the County, the historical divide from the Barstow community to the west, and the surrounding geographic barriers. The land ownership breakdown of each district's boundary is as follows:

Daggett CSD

| Land Owner | Sq Miles | Percentage |
|------------------------------|-----------------|-------------------|
| Private | 13.2 | 64.1% |
| US Bureau of Land Management | 6.1 | 29.4% |
| County of San Bernardino | 0.7 | 3.8% |
| United States of America | 0.4 | 1.5% |
| State of California | 0.2 | 1.2% |
| | | |
| Total | 20.6 | 100.0% |

Newberry CSD

| Land Owner | Sq Miles | Percentage |
|------------------------------|-----------------|-------------------|
| Private | 90.2 | 78.9% |
| US Bureau of Land Management | 23.9 | 20.9% |
| State of California | 0.1 | 0.1% |
| County of San Bernardino | 0.1 | 0.1% |
| Total | 114.3 | 100.0% |

Yermo CSD

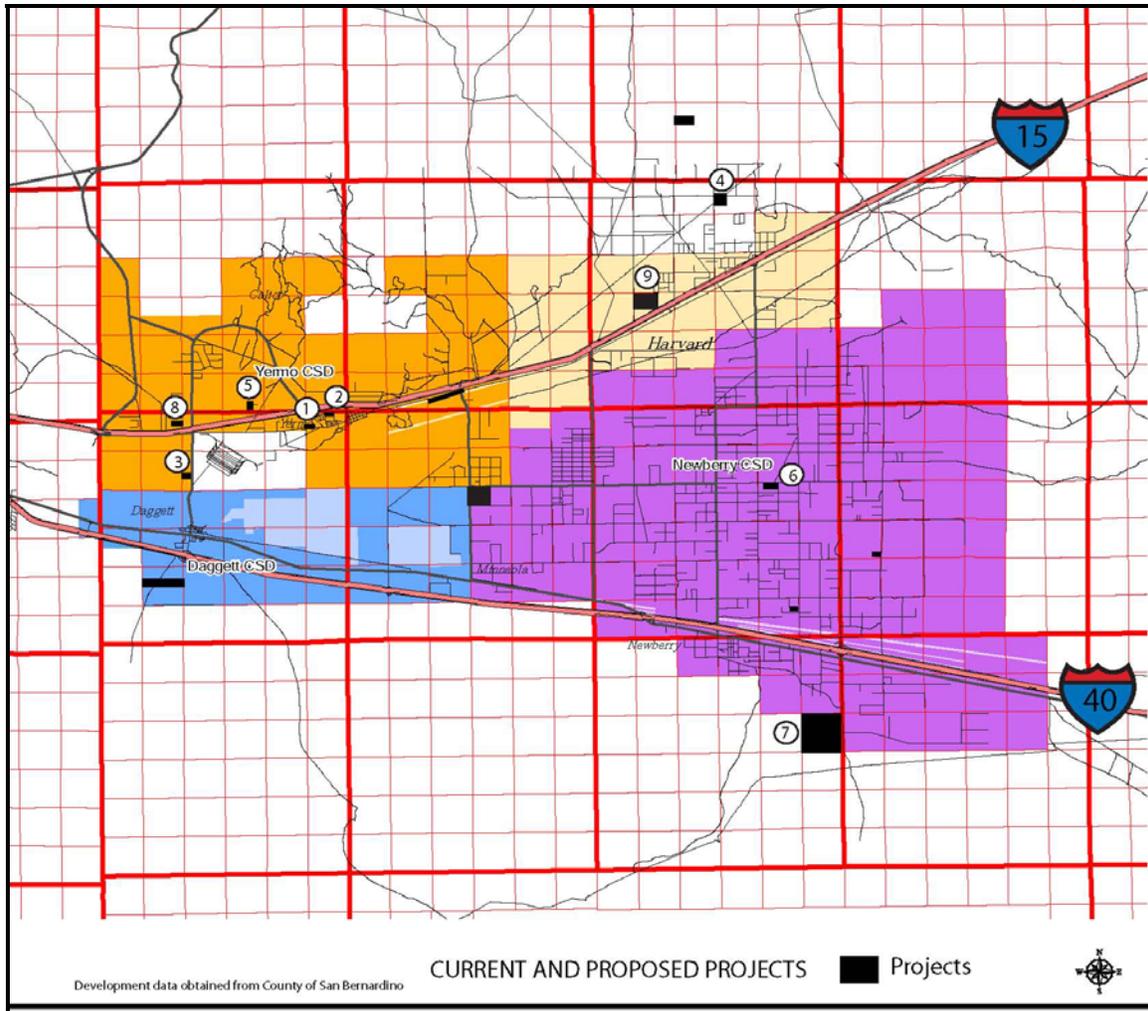
| Land Owner | Sq Miles | Percentage |
|------------------------------|-----------------|-------------------|
| Private | 25.7 | 52.9% |
| US Bureau of Land Management | 20.6 | 42.3% |
| County of San Bernardino | 1.4 | 2.8% |
| State of California | 0.9 | 2.0% |
| Total | 48.6 | 100.0% |

Historical trends indicate low growth in the community in comparison with other urban areas of the North Desert region of the County. However, LAFCO staff has received project notices which anticipate General Plan Amendments, tentative tract developments, and Conditional Use Permits for increased residential and commercial development within the area. The most significant of these projects are anticipated for large commercial and service-oriented uses geared toward the busy Interstate 15 traffic. These future projects will increase the need for public services within the community. However, the single most tangible factor that could limit growth will be the availability of water. These projects are adequately accounted for in the projections listed above. Since 2005, the larger of these projects are included in the following with the respective project identified on the map below.

| Map No. | PROJECT NAME | YEAR SUBMITTED | AREA | NUMBER OF RESIDENTIAL UNITS/LOTS PROJECT DESCRIPTION |
|---------|------------------------------------|----------------|----------|--|
| 1 | Calico Yermo Partners | 2008 | Yermo | General Plan amendment from Rural Living and Highway Commercial to Service Commercial on 16 acres; Conditional Use Permit to establish 149,139 sq. ft. of retail space, 23,679 sq. ft. for restaurants, 2,256 sq. ft. for motel, 4,851 sq. ft. theater all in several structures, and a major variance to allow 100' sign height of 25' by 75' on 16 acres; Merge three lots on 16 acres |
| 2 | 15 & Minneola LLC | 2008 | Yermo | General Plan amendment from Rural Living to Highway Commercial on 37.76 acres; Tentative Parcel Map 18457 to create seven commercial lots on 48.6 acres; five Conditional Use Permits to establish a travel center that includes a motel/convenience store/gas station/RV park/several restaurants in five phases on 37.76 acres |
| 3 | TPM 18932 | 2008 | Yermo | Three commercial lots on 17.4 acres |
| 4 | TPM 18722 | 2008 | Harvard | 27 residential lots on 138.05 acres |
| 5 | P200700175/CF | 2007 | Yermo | General Plan amendment from Rural Living to Retail Commercial on 5.59 acres; Conditional Use Permit to establish a used car dealership with a caretakers residence and an office on a portion of 5.59 acres |
| 6 | P200601271/CF | 2007 | Newberry | General Plan amendment from RL-5 to Retail Commercial on 40 acres; Conditional Use Permit to establish an outdoor RV storage area with a 1,200 SF Office on 20 acres and a nursery with a 1,200 SF office on 20 acres |
| 7 | Kiewit Pacific Company | 2006 | Newberry | Reclamation Plan for Fort Cady Rd quarry to modify conditions of approval |
| 8 | Old Grove Properties | 2006 | Yermo | Revision to an approved action to add 66 RV site and tent sites to an existing campground on a portion of 37.17 acres |
| 9 | KHL Development LLC (Lake Dolores) | 2005 | Harvard | General Plan amendment from Rural Living to Planned Development; Tentative Tract 17345 to create 1,408 residential lots and 33 lettered lots; Planned development to establish a senior residential community on 262.57 acres |

The figure below shows the location of the projects submitted to the County Land Use Services Department since 2005:

Location of Current and Proposed Projects



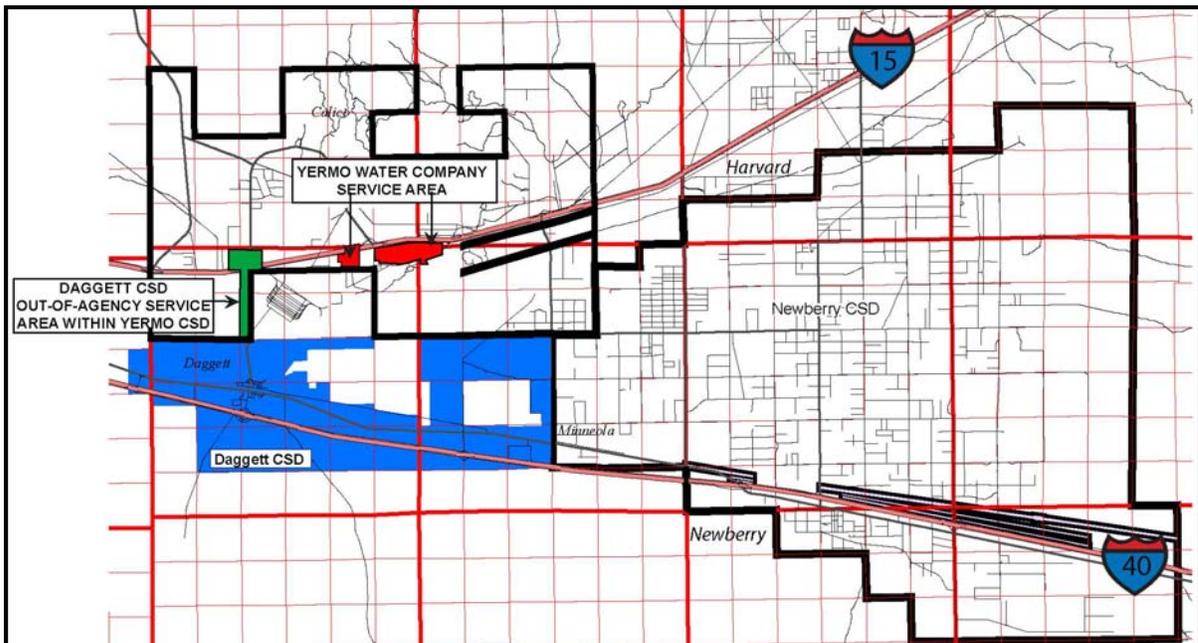
II. Present and Planned Capacity of Public Facilities and Adequacy of Public Services, including Infrastructure Needs or Deficiencies.

A. Water

Currently, the Daggett CSD and Yermo Water Company are the only domestic water service providers within this region. These service providers are shown on the map below which is included as a part of Attachment #1. Daggett delivers water within its boundaries and to a 1.25 mile area within Yermo CSD territory. The Yermo Water Company, a private water company regulated by the California Public Utilities Commission (PUC), provides water to a small portion of the Yermo community. The Yermo Water Company has been under investigation by the PUC, culminating in the April 2009 order to place it in mandatory receivership. Final action on this order is

anticipated to be provided by August 2009. In the areas not within a municipal water provider, including Harvard, water service is provided on-site through wells.

**Map of Water Providers within the Region:
Daggett CSD and Yermo Water Company**



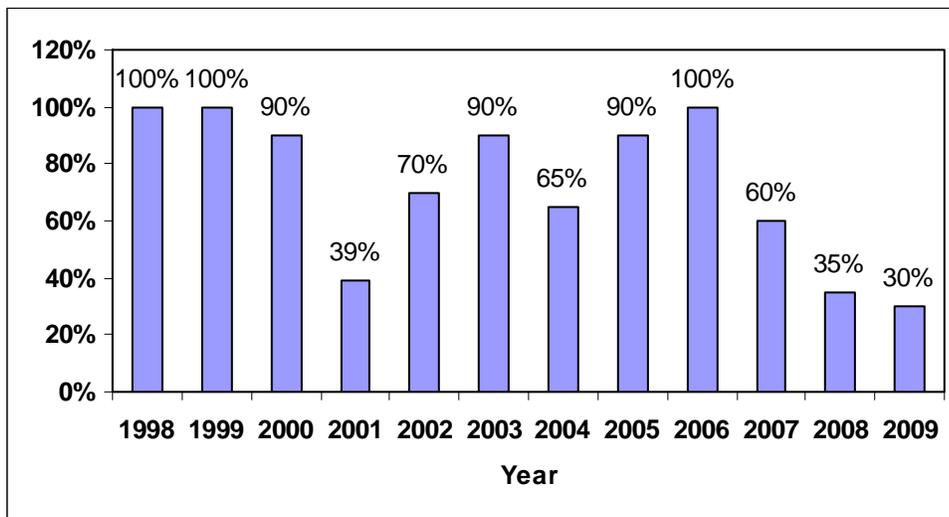
Regional Water

As LAFCO staff has stated on many occasions, water is the lifeblood for communities located in the desert and those that have access to water thrive, while those without adequate supply will see their service abilities deteriorate. Therefore, the most significant regional issue is present and future water supply. The *2007 State Water Project Delivery Reliability Report* indicates that State Water Project (SWP) deliveries will be impacted by two significant factors. First, climate change is altering hydrologic conditions in the State. Second, a ruling by the Federal Court in December 2007 imposed interim rules to protect delta smelt which significantly affects the SWP. Further, the *Report* shows, "...a continued eroding of SWP delivery reliability under the current method of moving water through the Delta" and that "annual SWP deliveries would decrease virtually every year in the future..." The *Report* assumes no changes in conveyance of water through the Delta or in the interim rules to protect delta smelt.

The figure below shows the allocation percentage that State Water Contractors were allowed to purchase for the past eleven years. For example, Mojave Water Agency (MWA) (the State Water Contractor that overlays the community) is entitled to purchase up to 75,800 acre-feet of imported water per year. For 2009 the allocation percentage is 30%; therefore, MWA can purchase up to 22,740 acre-feet in 2009. In May the final 2009

allocations will be set and if the percentage remains at 30%, it will match the lowest in SWP history, which occurred in 1991⁸. This sharp reduction in supplemental water supply will reduce the amount of water that MWA can place into the groundwater basin from which the community pumps its water.

**Department of Water Resources State Water Project
Allocation Percentages Statewide (1998-2009)**



source: Department of Water Resources

The water supplied for consumption and/or use within the community is pumped from the local groundwater basin. The high growth rate in the lower North Desert region, coupled with a continued overdraft⁹ of the Mojave groundwater basin in its entirety, which is the primary source of supply, is an infrastructure deficiency. The groundwater basin is adjudicated¹⁰ under a stipulated judgment that specifies the amount of groundwater that can be extracted by major groundwater producers (those using over 10 acre-feet per year), the purpose of which is to balance water supply and demand and address the groundwater overdraft. Producers are required to replace any water pumped above their Free Production Allowance by paying the Watermaster to purchase supplemental water or by purchasing unused production rights from another party. Due

⁸ “California Remains in Third Year of Drought Despite Slight Increase in State Water Project Allocation”, Press Release. 16 April 2009.

⁹ Overdraft is defined as “the condition of a groundwater basin in where the amount of water withdrawn exceeds the amount of water replenishing the basin over a period of time”. Department of Water Resources, California Water Plan Update - Bulletin 160-98, pg. G-3 (November 1998).

¹⁰ Adjudication is defined in the 2005 California Water Plan as the “Act of judging or deciding by law. In the context of an adjudicated groundwater basin, landowners or other parties have turned to the courts to settle disputes over how much groundwater can be extracted by each party to the decision.” Department of Water Resources, California Water Plan Update 2005, Vol 4, Glossary (2005).

to the ongoing over-draft of the basin and challenges associated with the State Water Project, future supplies are limited and demand will exceed supplies unless the Department of Water Resources allocates additional amounts. This prompts water purveyors to scale back consumption annually, to aggressively promote water conservation measures, and to buy more expensive imported water. Finding efficiencies in managing limited supply sources is critical for the future of the communities.

Baja Subarea of the Mojave River Basin

The United States Geological Survey estimates that since about 1950, more than 1,000,000 acre-feet has been depleted from storage in the Baja subarea of the Mojave River basin. Further, the most recent Watermaster report states that, "The continued overdraft in Baja will cause continued depletion of water from storage thereby impacting all water users".¹¹

Pursuant to the Adjudication Judgment for the Mojave River basin, additional Rampdown in Baja is warranted. Free Production Allowance (FPA) exceeds the Production Safe Yield and current water production and consumptive use exceeds the average net long-term supply in Baja. The Court issued an Order dated December 29, 2005 concerning FPA in Baja. Paragraph (5) of the Order provides that the ten year moratorium on Rampdown and FPA will be re-visited by Watermaster and by the Court if production in Baja materially changes. The purpose of the moratorium was to allow certain Baja producers to continue to pump at the production rate of 2003-04, with restrictions, for ten years and at that time to re-evaluate the FPA in Baja. During the 2006-07 Water Year, water production increased in Baja by 13.48% over 2003-04. The Court found that the increase in production was material and therefore triggered the reevaluation of the moratorium and the recalculation of free production allowance and the necessary rampdown needed to bring the Baja Subarea into balance as required by the Judgment. On September 8, 2008, the Court lifted the moratorium for Baja and returned Baja to the Judgment. Therefore, rampdown in Baja shall continue pursuant to the terms of the Judgment, and FPA was set at 70% of Base Annual Production for 2008-09.

For Water Year 2009-10, pursuant to the Judgment additional rampdown is warranted and FPA has been set at 65%. The Watermaster Report notes that water production in Baja during 2007-08 declined from 2006-07 by 6.7%, but remains higher than the long-term average water supply which further reduces water levels.¹²

In 1996 the Mojave Water Agency began construction on the Mojave River Pipeline in order to offset the depletion of groundwater in the upper reaches of the Mojave River Basin caused by population growth and over pumping from wells. The Pipeline was

¹¹ Mojave Basin Area Watermaster, 14th Annual Report of the Mojave Basin Watermaster: Water Year 2006-07, (April 1, 2008), Ch. 5.

¹² Mojave Basin Area Watermaster, Draft 15th Annual Report of the Mojave Basin Watermaster: Water Year 2007-08, (25 Feb 2009), Ch. 5.

constructed in three phases and was completed in 2006. The Pipeline spans approximately 76 miles. It can supply up to 45,000 acre-feet of water each year to the upper Mojave River Basin where it percolates into groundwater recharge basins in the Centro subarea (Hodge and Lenwood recharge sites), and Baja subarea (Daggett and Newberry Springs recharge sites). It serves the communities of Barstow, Daggett, Hodge, Lenwood, Minneola, Newberry Springs, and Yermo. The recharge sites particular to this report are in the Baja subarea. As shown in the chart below, the first deliveries to the Baja subarea began in 2003 to the Daggett recharge site. Since that time, through October 2008, the Mojave River Pipeline has delivered 12,803 acre-feet of water to the Daggett and Newberry Springs recharge sites.

**State Water Project Deliveries to the Recharge Sites of the Mojave River Pipeline
Calendar Years 1999 through 2008**

| Recharge Site | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 * | Total |
|-----------------------|--------------|--------------|------------|------------|--------------|--------------|--------------|---------------|--------------|-----------|---------------|
| Centro Subarea | | | | | | | | | | | |
| Hodge | 994 | 2,144 | 0 | 0 | 2,680 | 931 | 2,234 | 3,869 | 564 | 2 | 13,418 |
| Lenwood | 2,673 | 1,476 | 0 | 0 | 1,331 | 1,091 | 1,519 | 1,963 | 422 | 9 | 10,484 |
| Total Centro | 3,667 | 3,620 | 0 | 0 | 4,011 | 2,022 | 3,753 | 5,832 | 986 | 11 | 23,902 |
| Baja Subarea | | | | | | | | | | | |
| Daggett | n/a | n/a | n/a | n/a | 1,890 | 1,488 | 3,114 | 4,168 | 483 | 0 | 11,143 |
| Newberry | n/a | n/a | n/a | n/a | n/a | n/a | n/a | 1,227 | 433 | 0 | 1,660 |
| Total Baja | n/a | n/a | n/a | n/a | 1,890 | 1,488 | 3,114 | 5,395 | 916 | 0 | 12,803 |
| Grand Total | 3,667 | 3,620 | 0 | 0 | 5,901 | 3,510 | 6,867 | 11,227 | 1,902 | 11 | 36,705 |

* 2008 through October
source: Mojave Water Agency

As the above chart indicates, continued deliveries to the Baja Subarea are dependent upon deliveries to the Mojave Water Agency through the State Water Project, whose pumping is currently restricted by court order.

Service by Daggett CSD within Yermo CSD

Since 1984 Daggett CSD has been providing water service within the western portion of Yermo CSD territory due to the need for service to the Silver Valley High School and Silver Valley Unified School District offices. The School District originally requested that Daggett CSD provide the service because no other entity was capable of providing the level of service needed. Between 1984 and 2001, Daggett CSD allowed residents along the water main to connect. However, Assembly Bill 1335 (Gotch), effective 1994, required LAFCO to review, and approve or deny requests for a city or district to provide service outside of its boundaries. In 1993 LAFCO staff requested that agencies respond to a LAFCO survey regarding services provided outside an agency's boundary. Daggett CSD did not respond to LAFCO's request; therefore, it was unaware of the service.

In 2001, the Commission approved an out-of-agency service contract (Service Contract 135) authorizing Daggett CSD to provide domestic water and water for fire protection

purposes within a defined service area within Yermo CSD territory from Daggett's eight-inch pipeline in Daggett-Yermo Road. The application to the Commission was prompted by LAFCO staff's response to a County Planning Department referral on a proposed Conditional Use Permit for a development project which indicated that Daggett CSD would provide water service within the western portion of the Yermo CSD. The service area is approximately 1.25 square miles and comprised 66 parcels in 2001, surrounding the intersection of Interstate 15 and Calico Ghost Town Road and extending southerly along Daggett-Yermo Road to the Daggett CSD boundary. Currently, Daggett CSD serves water to 13 residential parcels, the Silver Valley High School, the Silver Valley Unified School District's offices, and 10 commercial parcels within the area.

Any request submitted for the expansion of the service area would require that Daggett CSD provide a study showing the capacity for service through lines and storage facilities and a payment schedule that would acknowledge buy-in-costs for the facilities. The LAFCO staff report for SC 135 stated a reservation that the service capacity of an eight-inch water line given the commercial use and fire flow requirements was a concern. The eight-inch water line is still in use and the commercial use and fire flow requirements remains a concern.

Daggett CSD

Daggett CSD has water production rights (also known as Base Annual Production) to assure 304 acre-feet (AF) annually. Daggett is within Baja sub-region, and Free Production Allowance (FPA) was at 70% of Base Annual Production for 2008-09, which permitted Daggett 213 AF of FPA. For FY 2009-10, FPA has been set at 65%, which currently permits Daggett 198 AF and will be subject to further rampdowns in the future.

Producers are required to replace any water pumped above their FPA by paying the Mojave Basin Area Watermaster to purchase supplemental water or by purchasing unused FPA from another party. As indicated in the table below, the historical trend for Daggett's water production indicates that it does produce more than its FPA. However, until 2003-04 it had purchased water from other agencies to make up the difference along with purchasing additional water for future use. Thus, it has had no replacement obligation to the Watermaster. However, given the trend of water production in excess of its FPA, its carryover from prior year has been lessened each year, with 35 AF carried over into 2007-08 and zero AF carried over into 2008-09. Based on this trend and the additional rampdown, Daggett is currently resuming the purchase of water from other agencies in order to avoid having to pay the higher Watermaster rates for overproduction. This will translate into increased costs for ratepayers. However, Daggett purchased 50 AF of permanent base annual production rights in September 2008 in order to mitigate the higher Watermaster costs.

Daggett CSD Water Production and Water Obligations
(units in acre-feet unless otherwise noted)

| Water Year | Free Production Allowance (FPA) | Carryover from Prior Year and Transfers from Other Agencies | Verified Production | Unused FPA ³ or (Agency Overdraft) | Replacement Water Obligation (District overdraft) | Makeup Water Obligation (Watermaster replacement to the Baja sub-basin) |
|----------------------------|---------------------------------|---|---------------------|---|---|---|
| 2001-02 | 204 | 252 | 259 | 197 | \$0 | \$0 |
| 2002-03 | 204 | 297 | 262 | 239 | \$0 | \$0 |
| 2003-04 | 204 | 399 | 255 | 330 | \$0 | \$0 |
| 2004-05 | 204 | 330 | 248 | 204 | \$0 | \$0 |
| 2005-06 | 191 | 204 | 258 | 137 | \$0 | \$0 |
| 2006-07 | 191 | 137 | 293 | 35 | \$0 | \$0 |
| 2007-08¹ | 228 | 35 | 270 | (7) | 7 AF at a cost of \$2,359 | \$0 |
| 2008-09² | 213 | 0 | N/A | N/A | N/A | N/A |
| 2009-10 | 198 | -- | -- | -- | -- | -- |

sources: Mojave Basin Area Watermaster, Annual Reports of the Mojave Basin Area Watermaster for Water Years 2002/03 through 2006/07, (April 1, 2004 through April 1, 2008).

Mojave Basin Area Watermaster, Request for Assignment of Carryover Right in Lieu of Payment of Replacement Water Assessments Recommended for Filing, For Water Years 2002/03 through 2006/07.

¹ Transfers from other water agencies not reconciled yet and data is subject to amendment in Appendix I in Sixteenth Annual Report of the Watermaster due April 2010.

² Draft data (Appendix B) not available until January 2010.

³ Unused FPA is equal to the total FPA (FPA, carryover, and transfers) minus total Verified Projection, but not greater than FPA and FPA transfers.

Daggett Facilities

Daggett’s water facilities are comprised of 185 active connections, four active wells, four tanks, and mostly eight-inch pipes with some four, six, and ten-inch pipes. According to staff at the County Department of Community Development and Housing, the District received a Community Development Block Grant in FY 06-07 for security fencing for the water storage tanks. Below is a listing of the tank capacities:

- Tank 1 – 200,000 gallon steel bolted
- Tank 2 – 150,000 gallon steel welded
- Tank 3 – 3,000 gallon steel welded
- Tank 4 – 135,000 gallon in-ground

Indicated in the chart above, Daggett CSD produced 293 acre-feet in 2006-07. Utilizing this figure, LAFCO staff calculated a maximum daily demand (emergency storage) of 470,833 gallons per day and compared it to the system’s 488,000 gallons of tank storage

capacity. Based on these figures (shown in the chart below), the district has enough storage capacity to meet maximum daily demand.

| Connections | Average Daily Demand (ADD) | | Max Daily Demand (1.8 x ADD) [Emergency Storage] | | Operational Storage (gallons) |
|-------------|----------------------------|---------|---|-----|-------------------------------|
| | AF/Yr | gpd | gpd | gpm | |
| 285 | 293 | 261,574 | 470,833 | 454 | 488,000 |

Daggett CSD has no water management plan or strategic plan to reference in order to provide technical information for this report such as average daily demand, maximum daily demand, operational storage, fire storage, or hydraulic modeling. Further, Daggett has no plans for significant upgrades of its water system.

Newberry CSD

The Newberry Springs community has no existing public water system to serve residents and water service is characterized by the acquisition through private wells. This service deficiency limits the development capacity for the Newberry Springs area but also supports the retention of its rural nature. Furthermore, Newberry CSD does not supply water to residents; it only supplies its own facilities and provides water for fire protection purposes (water trucks). Newberry CSD’s Strategic Plan indicates that water service is a long range goal and a study would have to be conducted to determine the funding for such an endeavor which would include the need to purchase additional water rights.

Newberry CSD has water production rights (also known as Base Annual Production) to assure 23 acre-feet (AF) annually. Newberry is within Baja sub-region, and Free Production Allowance (FPA) was 70% of Base Annual Production for 2008-09, which permitted the district 17 AF of FPA. For 2009-10, FPA has been set at 65%, which currently permits Newberry 15 AF.

Producers are required to replace any water pumped above their FPA by paying the Mojave Basin Area Watermaster to purchase supplemental water or by purchasing unused production rights from another party. The historical trend for Newberry’s water production indicates that it does not produce more than its FPA. Thus, it has no replacement obligation to the Watermaster. Additionally, a review of the Watermaster’s water transfer records for the past four years indicates that Newberry has neither received nor transferred annual production rights with other entities.

Newberry CSD Water Production and Water Obligations
(units in acre feet unless otherwise noted)

| Water Year | Free Production Allowance (FPA) | Carryover from Prior Year | Verified Production | Unused FPA ³ or (Agency Overdraft) | Replacement Water Obligation (District overdraft) | Makeup Water Obligation (Watermaster replacement to the Baja sub-basin) |
|-----------------------------|---------------------------------|---------------------------|---------------------|---|---|---|
| 2002-03 | 19 | 19 | 16 | 19 | \$0 | \$0 |
| 2003-04 | 19 | 19 | 16 | 19 | \$0 | \$0 |
| 2004-05 | 19 | 19 | 16 | 19 | \$0 | \$0 |
| 2005-06 | 18 | 19 | 16 | 18 | \$0 | \$0 |
| 2006-07 | 18 | 18 | 18 | 18 | \$0 | \$0 |
| 2007-08 ¹ | 18 | 18 | 18 | 18 | \$0 | \$0 |
| 2008-09 ² | 17 | 18 | N/A | N/A | N/A | N/A |
| 2009-10 | 15 | -- | -- | -- | -- | -- |

sources: Mojave Basin Area Watermaster, Annual Reports of the Mojave Basin Area Watermaster for Water Years 2002/03 through 2006/07, (April 1, 2004 through April 1, 2008).

Mojave Basin Area Watermaster, Request for Assignment of Carryover Right in Lieu of Payment of Replacement Water Assessments Recommended for Filing, For Water Years 2002/03 through 2006/07.

¹ Transfers from other water agencies not reconciled yet and data is subject to amendment in Appendix I in Sixteenth Annual Report of the Watermaster due April 2010.

² Draft data (Appendix B) not available until January 2010.

³ Unused FPA is equal to the total FPA (FPA, carryover, and transfers) minus total Verified Projection, but not greater than FPA and FPA transfers.

Yermo CSD

In 1982, the Commission approved the expansion of Yermo CSD's powers to include water (LAFCO 2189). The rationale for this approval was the desire of the Yermo CSD to form an improvement zone surrounding the private water system within its boundaries and to acquire and improve the water system over time. At that time, the water system was deteriorated, under-sized, and without adequate water supply or storage. Costs for the effort were unknown. Following that approval, Yermo did not acquire the private water system. The LAFCO staff report for LAFCO 2189 and the district resolution are included as a part of Attachment #8.

In 2006, as a requirement of the update of Community Service District Law (SB135), LAFCO was to inventory the active services provided by CSDs and to determine that those not actively provided would become latent powers. In December 2005, LAFCO staff requested the submission of data on active services and the Yermo CSD identified that water service was not actively provided. At the January 2006 LAFCO hearing the Commission amended the authorized functions for the District to exclude water service.

Yermo CSD's Current Request to Activate its Latent Water Function

Throughout the processing of the service review for Yermo CSD, LAFCO staff and representatives of the district have discussed the potential addition of water powers for Yermo CSD as a part of the service review. Yermo CSD's stated intent was to be considered an option for taking over the Yermo Water Company, either through purchase or as a receiver if the court so determined. It has been the District's opinion that activation of its latent Water function would provide an opportunity for Yermo CSD to be considered an option by the PUC to take over the Water Company. On October 21, 2008, the Yermo CSD Board of Directors approved an action to formally discontinue their pursuits to either acquire the Yermo Water Company or be considered an option should the court determine a receiver for the Yermo Water Company.

However, in response to actions taken by the Public Utilities Commission related to the operations of the Yermo Water Company, Yermo CSD determined to once again pursue activation of their latent water functions. On April 6, 2009 the District submitted its official application for reactivation and LAFCO staff has assigned it the designation of LAFCO 3008A for processing. However, due to a change in LAFCO Law effective January 1, 2009, proposals for the exercise of a new or different function or class of service requires completion of a property tax transfer process as outlined in the Revenue and Taxation Code. Therefore, Commission consideration for LAFCO 3008A could not be undertaken by the Commission at the May 2009 hearing and is anticipated to be presented to the Commission at the June 2009 hearing.

In anticipation of being an option to assume the service responsibilities of the Yermo Water Company, the Yermo CSD in 2008 requested County Board of Supervisors approval for the sale of tax defaulted property¹³ to the District for the stated purpose of providing for a future well/storage tank site for local water service (included as a part of Attachment #5). On July 22, 2008 the County Board of Supervisors approved this request. However, Yermo CSD has not been authorized by LAFCO to provide or engage in water service in any manner pursuant to the Government Code and the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*. The Board Agenda Item authorizing the sale lists the purchase price of this parcel at \$2,850. LAFCO staff requested from the district the source of the funding for the parcel purchase, specifically from which district fund (fire, park and recreation, etc). To date, LAFCO staff has not received a reply from the District. Staff is of the understanding that completion of this sale has not yet occurred because the mapping requirements of the State Controller have not been satisfied.

¹³ Chapter 8 of the State of California Revenue and Taxation Code (§3771 et seq.) authorizes the Tax Collector to offer properties for sale that have been tax-defaulted for five years or more to taxing agencies or non-profit organizations.

The Yermo Water Company

In order to provide a comprehensive analysis of water delivery within the communities, LAFCO staff requested the Yermo Water Company (Water Company) to provide information regarding its services, boundaries, and operations. The Water Company did not respond to LAFCO staff's request. However, staff has gathered information from other sources to provide a description about the Water Company and its operations.

Yermo Water Company has water production rights (also known as Base Annual Production) to assure 453 acre-feet (AF) annually. Yermo Water Company is within the Baja sub-region, and Free Production Allowance (FPA) was set at 70% of Base Annual Production for 2008-09, which permitted Yermo Water Company 318 AF of FPA. For FY 2009-10, FPA has been set at 65%, which currently permits Yermo Water Company 295 AF.

Producers are required to replace any water pumped above their FPA by paying the Mojave Basin Area Watermaster to purchase supplemental water or by purchasing unused FPA from another party. As indicated in the table below, the historic trend for Yermo Water Company's water production indicates that it produces less than half of its FPA. Thus, it has had no replacement obligation to the Watermaster. In 2005-06 its unused FPA was 203 AF and in 2006-07 unused FPA was 340. A review of the Watermaster transfers records does not list Yermo Water Company as having transferred or leased its unused FPA to another agency.

Yermo Water Company Water Production and Water Obligations
(units in acre-feet unless otherwise noted)

| Water Year | Free Production Allowance (FPA) | Carryover from Prior Year and Transfers from Other Agencies | Verified Production | Unused FPA ³ or (Agency Overdraft) | Replacement Water Obligation (District overdraft) | Makeup Water Obligation (Watermaster replacement to the Baja sub-basin) |
|----------------------|---------------------------------|---|---------------------|---|---|---|
| 2001-02 | 363 | 0 | 363 | 0 | \$0 | \$0 |
| 2002-03 | 363 | 0 | 122 | 241 | \$0 | \$0 |
| 2003-04 | 363 | 241 | 137 | 363 | \$0 | \$0 |
| 2004-05 | 363 | 363 | 137 | 363 | \$0 | \$0 |
| 2005-06 | 340 | 363 | 137 | 340 | \$0 | \$0 |
| 2006-07 | 340 | 340 | 137 | 340 | \$0 | \$0 |
| 2007-08 ¹ | 340 | 340 | 137 | 340 | \$0 | \$0 |
| 2008-09 ² | 318 | 340 | N/A | N/A | N/A | N/A |
| 2009-10 | 295 | -- | -- | -- | -- | -- |

sources: Mojave Basin Area Watermaster, Annual Reports of the Mojave Basin Area Watermaster for Water Years 2002/03 through 2006/07, (April 1, 2004 through April 1, 2008).

Mojave Basin Area Watermaster, Request for Assignment of Carryover Right in Lieu of Payment of Replacement Water Assessments Recommended for Filing, For Water Years 2002/03 through 2006/07.

¹ Transfers from other water agencies not reconciled yet and data is subject to amendment in Appendix I in Sixteenth Annual Report of the Watermaster due April 2010.

² Draft data (Appendix B) not available until January 2010

³ Unused FPA is equal to the total FPA (FPA, carryover, and transfers) minus total Verified Projection, but not greater than FPA and FPA transfers.

The Water Company is regulated by the California Public Utilities Commission (PUC) and provides water to four tracts within the Yermo community. The number of connections has remained relatively static since 1993 when it had 343 metered connections; currently it has 350 connections with most of the connections to single-family-residences. The service area is divided into two pressure zones with three wells and three storage tanks. The capacity of all three wells is about 450 gallons per minute. The tanks are hydro-pneumatic with one 10,000 gallon tank and the two other tanks have a combined capacity of 15,000 gallons. The Water Company utilizes two to four-inch distribution mains and laterals to serve the customers.

Since 1985 the Yermo Water Company has been of concern to the PUC and the California Department of Public Health (CDPH)¹⁴. In general, the concerns of the PUC, CDPH, and the residents within the Water Company center on the Water Company's failure to comply with PUC and CDPH directives and with the quality of water and the pressure within the delivery system.

On April 24, 2008 the PUC issued an Order Instituting Investigation (Order) of the Yermo Water Company (included as a part of Attachment #6). According to the Order, the Water Company has a record of deferred or non-existent maintenance, unmet regulatory mandates, and continuing problems with water quality and service. Pursuant to the Order, the Water Company was directed to show cause why the PUC should not penalize the Water Company in addition to not petitioning the San Bernardino County Superior Court for the appointment of a receiver to assume the operation of the Water Company and its water system. A Prehearing Conference convened by an administrative law judge took place on June 11, 2008 to determine if a hearing was necessary. A hearing was deemed necessary and conducted with the Division of Water and Audits of the PUC having served the opening testimony by stating that, "The record amply supports a [PUC] Commission order to place Yermo [Water Company] under a court-appointed receiver." It supports its conclusion by addressing and affirming the eight areas of concern raised by the Order regarding the Yermo Water Company and its owner:

¹⁴ The California Department of Public Health was formerly known as the California Department of Health Services.

1. Yermo Water Company has not filed an official general rate increase application since 1993.
2. Yermo Water Company fails to respond to and comply with PUC orders, rules, and regulations.
3. Yermo Water Company fails to comply with PUC requirements to file PUC Annual Reports and pay annual fees.
4. The owner has disregarded PUC directions to improve infrastructure; employed inexperienced, untrained, and unlicensed water operators; and appears to have attempted to sell the Yermo Water Company without prior PUC approval.
5. The owner has been unable or unwilling to adequately serve its ratepayers.
6. The owner has failed to fulfill their promises to PUC staff to provide plans for remedying Yermo Water Company's operational problems.
7. The owner has apparently abandoned Yermo Water Company.

The owner has persistently failed to comply with CDPH orders, rules, and regulations. A series of citations have been issued.

The Presiding Officer's Decision regarding authorizing Superior Court action for appointment of a receiver for Yermo Water Company was made available on April 6, 2009 (included as a part of Attachment #6). The Decision authorizes and directs the PUC's Legal Division to commence proceedings in Superior Court of San Bernardino County for appointment of a receiver to take possession and operate Yermo Water Company. If no appeal or request for review is filed by August 2009, the Presiding Officer's Decision shall become the decision of the PUC.

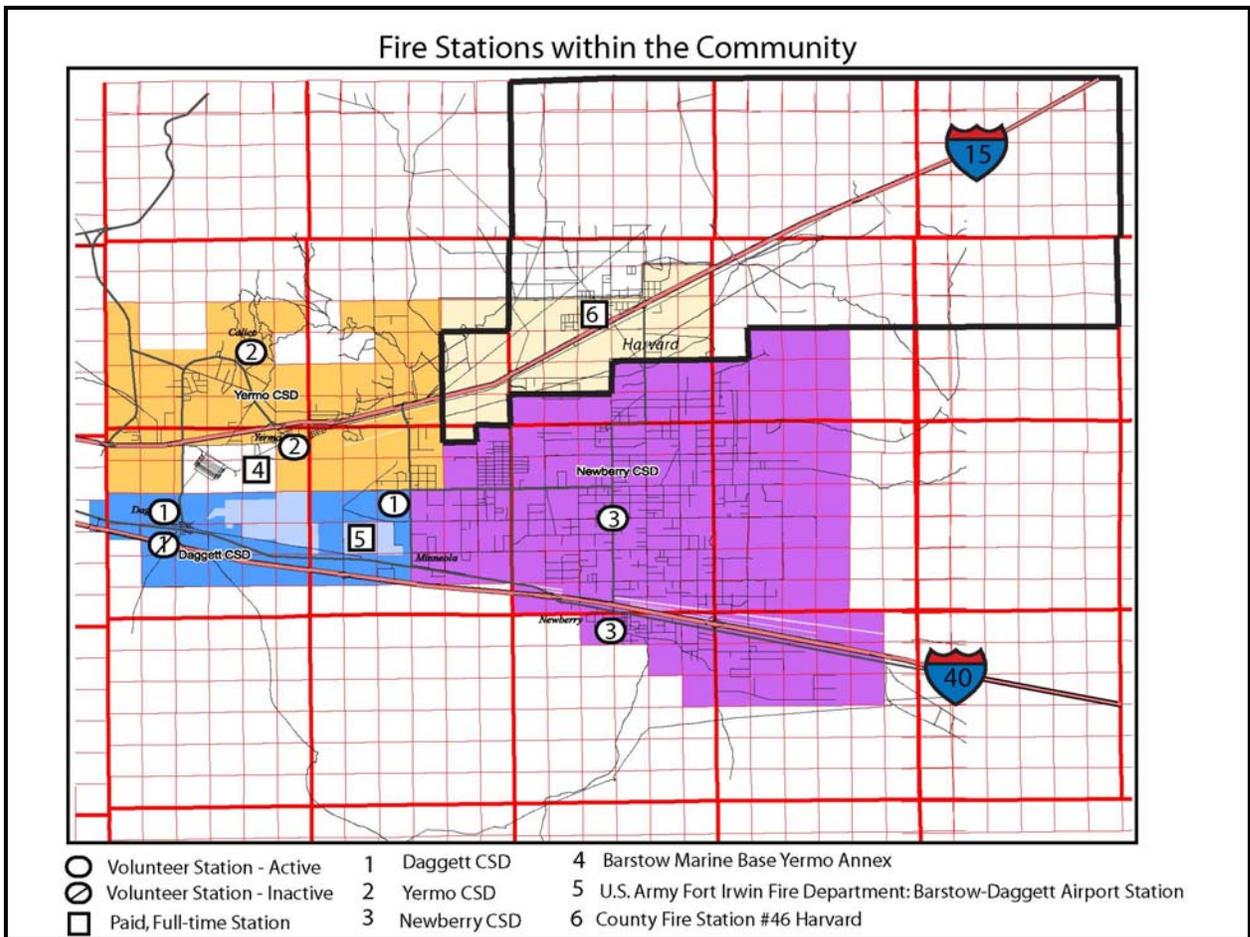
B. Sewer

The entirety of the communities utilize on-site wastewater disposal through septic tanks or leach field systems. There is no schedule for installation of sewer improvements. This service deficiency limits the development options for the community. The districts do not currently provide sewer service and there are no other existing entities to provide sewer service.

Although authorized sewer service, Newberry does not actively provide the service but has the power in order to plan for a sewer collection and treatment system. Actual provision of sewer service would require an application to LAFCO, along with a plan for services, and Commission approval. Should Newberry desire to provide this service to only the populated segments within the district, it would need to form an improvement district pursuant to CSD Law. This option would require voter or landowner approval due to the need for funding the development of the system and would require LAFCO approval to provide the service.

C. Fire Protection

Each of the districts is authorized by LAFCO to provide fire protection services. However, each of the districts experiences challenges in providing fire protection services given the limited resources available, and they are reliant upon one another and other fire protection agencies through mutual aid to fulfill this mission. The stations which provide fire service are outlined on the map shown below:



The nearest San Bernardino County Fire Protection District (County) Fire Station is Station #46 in Harvard. Station 46 staffing consists of a full-time captain and two paid firefighter positions on duty 24 hours a day. Paid-call firefighters who live in the area augment the service. Equipment consists of one ICS Type 1 structure engine, one ICS Type 4 brush patrol unit with four wheel drive, and one Type 3 brush fire engine. Currently, Station #46 responds to the Harvard area, the heavily traveled Interstate 15 between Barstow and Baker, portions of Interstate 40, the exclusion areas within

Newberry just north of Interstate 40, and assists the CSDs through mutual aid.¹⁵ Further, Station #46 serves roughly four square miles of Daggett sphere territory that is wholly surrounded by CSD territory. This area is the western sphere area of Daggett and is primarily comprised of industrial uses. The Harvard community receives a higher level of service based upon its low population, proximity to County Fire Station #46, and the funding structure in place due to the reorganization of County Fire (LAFCO 3000). Prior to the reorganization of County Fire, Station #46 received its funding from revenues generated within Harvard. Since the reorganization, Station #46 receives revenues generated from within Harvard and the North Desert Service Zone of the County Fire Protection District. On the basis of this service advantage, LAFCO staff is recommending the exclusion of the Harvard community from either the consolidated spheres of influence or the Yermo sphere of influence.

As discussed for each district below, each faces its own challenges. Daggett and Yermo do not have a fire master plan or operational plan to reference in order to provide information on ISO ratings, average response times, personnel training and certifications, station additions or upgrades, and short and long-term goals. Newberry has the largest area to cover and in January 2009 the District re-activated its second fire station. During 2008 it provided fire protection with one operational fire station. There may be a better avenue for fire provision within these areas due to the lack of resources.

In the view of LAFCO staff, removal of the districts' fire protection powers with County Fire as the successor would provide the best mechanism for fire protection and emergency services to the areas along Interstate 15 between Barstow and Baker and along Interstate 40 between Barstow and Needles. While there are benefits to regionally providing fire protection services and potential economies of scale that could be achieved, there is not sufficient revenue available from the three communities to support such a change. Not surprisingly, none of the three community services districts has indicated support for this option, and County Fire also has not indicated support for this option due to the limited revenue stream for the service.

LAFCO staff would support this option, in the long-run, if revenues would support such a change as it would result in a regional fire agency providing service to the area, as it already does to the sphere of influence areas in these communities, it could potentially result in economies of scale, and would allow residents of the communities to participate on the advisory board for determining levels of service for the North Desert. Without the revenues to support such change, LAFCO staff would recommend the potential for the agencies to use joint powers agreements or other contractual mechanisms to allow for the economies of scale.

Daggett CSD

Daggett provides fire protection within its boundaries from three fire stations through an all-volunteer department. Currently, staffing includes six fire personnel including a fire

¹⁵ San Bernardino County Fire Protection District. website. www.sbcfire.org. Accessed 8 Dec 2008. Last update unknown.

chief and assistant fire chief all on a paid-call basis. Daggett currently owns and operates four vehicles for fire fighting: one water tender with a 1,600 gallon tank, two structural fire trucks, and one brush truck. There is no fire master plan or operational plan to reference in order to provide information on ISO ratings, average response times, personnel training and certifications, station additions or upgrades, and short and long-term goals.

Within the Daggett CSD sphere of influence is the Barstow Daggett Airport, a county-operated airport facility. Fire service is provided at this facility by personnel from Fort Irwin as it houses aircraft at the facility through a contract with the County Airports Department. This fire station is manned during operational hours and provides for mutual aid response.

Daggett has mutual aid agreements with the surrounding fire agencies which include Fort Irwin, Marine Corps Logistics Base Fire, Yermo Fire, Newberry Fire, Barstow Fire, Bureau of Land Management, and San Bernardino County Fire.

Newberry CSD

Newberry provides fire protection through the Newberry Fire Department. The Fire Department has an ISO rating¹⁶ of 9 and answers on average 400 to 500 calls per year. A sampling of the calls indicates an average response time of 12.5 minutes. The Fire Department provides mutual aid to over 100 calls and receives aid on 60 to 80 calls. Newberry Fire has mutual aid agreements with the surrounding fire agencies which include Fort Irwin, Marine Corps Logistics Base Fire, Yermo Fire, Daggett Fire, Barstow Fire, Bureau of Land Management, and San Bernardino County Fire.

The Department currently is staffed with 22 volunteers. Each volunteer participates in an average of 400 hours of training per year. In January 2009 there were 20 volunteers. Of the 20, ten are qualified as Type II wild land firefighters, six are emergency medical technician basic, three are California State Fire Marshall certified Firefighter II, two are hazardous materials technicians, one is a Specialist, two meet FEMA Urban Search and Rescue qualifications, and one is Fire Officer certified by the California State Fire Marshal.

Newberry has two fire stations with the second station being re-activated in January 2009. Due to the addition of personnel, Station #391 was re-activated with the relocation of a water tender and a rescue vehicle. The new fire station, Station #392 – Mid Valley Station, is located on Silver Valley Unified School District property and is leased for \$1 per year. Newberry states that if the lease is not continued, then the community would not have a centrally located station.

¹⁶ According to ISO's website (www.isomitigation.com – Accessed May 16, 2008), Class 1 represents exemplary fire protection, and Class 10 indicates that the area's fire-suppression program does not meet ISO's minimum criteria.

Newberry has plans to build a training room at Fire Station #392. Currently, the firefighters train in facilities that are not temperature controlled and the planned training room would be temperature controlled. Newberry anticipates that the addition of a temperature controlled room would decrease response times since the all-volunteer firefighting force would be more likely to remain at the facility.

There are also plans to build an additional fire station within the district and install 10,000 gallon water tank structures throughout the district. The Department conducted a comprehensive survey to locate and record major water source points for placement of the station and the tanks, but the exact locations are not yet determined. This would improve Newberry's ISO rating and lower insurance premiums.

The Fire Department currently owns and operates the following equipment:

- Type 1 municipal engine, a 1999 Freightliner with a 1,000 gallon tank, a 1,250 gallon per minute (gpm) pump, a 2000 foot hose, and air and hydraulic rescue tools
- Type 2 water tender, 2000 Freightliner with a 2,200 gallon tank and a 500 gpm pump
- Type 2 water tender, 1970 Peterbuilt with a 4,000 gallon tank and a 1,500 gpm pump
- Type 1 ambulance/rescue truck, 2003 E-350, first responder – non transport, equipped to ICEMA standards
- Type 6 brush engine, 2007 Ford 350 4 x 4 with a 300 gallon tank and a 350 gpm pump.
- Trailer equipped to light rescue standards.

In addition to the storage tanks listed above, the Department has also coordinated with Mojave Water Agency to place seven connection points at strategic locations along the Mojave River Pipeline. The connections provide water at the rate of 500 gallons per minute. Additionally, the Fire Department has an agreement with the Santa Fe Railroad for access to the 220,000 gallon railroad water tank located near Elementis Specialties Plant at Pioneer and Mountain View.

According to the District's Fire Operational Plan, the short-term and long-term goals of the Fire Department are:

Short-term goals (3 to 5 years):

- Develop a headquarters station, training center, and emergency operations center near the center of the District
- Secure at least five 10,000 to 15,000 gallon portable tanks.
- Reduce ISO Rating to 8 or better.
- Develop a large volume well and tank.
- Replace 1970 Peterbuilt water tender.

Long term goals (5 to 10 years):

- Construct headquarters station/training center/emergency operations center
- Relocate Station 391 two miles east, moving off the Newberry fault and out of a radio dead zone
- Assist in promotion of local water district [*while this goal may be part of the Fire Operational Plan, it appears to be for the district overall*]
- Add two Type 3 Fire Engines

Yermo CSD

Yermo provides fire protection within its boundaries from two fire stations through an all-volunteer department consisting of 16 active volunteers. Recently, seven personnel have graduated from the Barstow College Emergency Technician training program. One station is located in the populated center of Yermo and second is located at the San Bernardino County Regional Park at Calico Ghost Town. Yermo has mutual aid agreements with the surrounding fire agencies which include Fort Irwin, Marine Corps Logistics Base Fire, Yermo Fire, Newberry Fire, Barstow Fire, Bureau of Land Management, and San Bernardino County Fire. LAFCO staff spoke with the Yermo CSD Fire Chief on December 15, 2008, and the Fire Chief indicates that Yermo CSD currently owns and maintains the following operational vehicles:

- 2008 Ford F350 rescue vehicle (purchased in 2008)
- 1980 GMC 7000 brush engine (donated in 2008 by the County)
- 1998 Dodge RAM Type 6 pumper
- 1987 GMC 2,500 gallon water tender

LAFCO staff has concerns regarding Yermo CSD's ability to adequately provide fire protection services. There is no fire master plan or operational plan to reference in order to provide information on ISO ratings, average response times, personnel training and certifications, station additions or upgrades, and short and long-term goals. Yermo has indicated that it experiences challenges in providing adequate fire protection due to the inadequate water pressure within its boundaries.

Additionally, Yermo experiences equipment challenges for fire protection and has historically been dependent upon County Fire for fire vehicles. According to Yermo CSD Board President Bob Smith, in August 2008 the loss of an emergency response vehicle due to an accident left Yermo without a functioning fire fighting vehicle for several weeks. During that time, fire crews at the Yermo Annex responded to calls within Yermo CSD. Upon receiving the insurance payment for the non-operational truck, the Yermo CSD Board authorized the purchase of a new truck (2008 Ford F350). However, information obtained from County Fire identifies that within the past 20 years, County Fire has donated six fire fighting apparatuses to Yermo CSD, shown below. The district has sent those vehicles that it does not use to surplus.

| <u>Year donated</u> | <u>Vehicle donated</u> |
|---------------------|--------------------------------|
| 2008 | 1980 GMC 7000 Engine (active) |
| 2006 | 1983 Ford F700 Engine (active) |
| 1997 | 1979 Ford Engine |
| 1995 | 1966 American La France |
| 1990 | 1960 Ford ALF |
| 1990 | 1972 Chevy Ambulance |

The most recent transfer from County Fire was approved on September 16, 2008. Referencing the County Board of Supervisors staff report for the transfer, Yermo operated one fire apparatus, which was not operating efficiently for Yermo’s needs. County Fire inspected the fire engine and determined a cost of approximately \$10,000 to repair. Based on the age of the apparatus and the cost of the repairs, it was not cost effective for Yermo to invest funds into repairing this older unit. Further, Yermo did not have the funding available to purchase a replacement fire engine at the time. The Board of Supervisors authorized County Fire to transfer the title of a 1980 GMC 7000 series fire engine that was in fair condition with no value to County Fire.

Given the lack of information available regarding fire services provided by the district, the lack of equipment, the lack of funding, and historical dependency upon the County for donations of fire apparatuses, LAFCO staff expresses concern regarding the adequacy of the fire protection and emergency services provided by Yermo CSD. In the view of LAFCO staff, this service deficiency needs to be addressed as soon as possible. The options available to address the deficiencies identified in the materials are to provide for a joint powers agreement with County Fire or other local fire entities or a functional consolidation through contract with the other CSDs in order to provide the necessary level of service required in the district and along the highly traveled Interstate corridors.

D. Park and Recreation

Each of the districts actively provides park and recreation services. Due to age of each of the community center buildings, upgrades and improvements are necessary. Further, each district is dependent upon grant funding, such as Community Development Block Grants, to construct and improve the park facilities. Since grant funding is not an assured revenue stream, should CDBG funding not be received in the future, the limited property tax revenues received by the districts would need to be used to pay for facility upgrades.

Daggett CSD

Daggett owns and operates two parks located adjacent to the district headquarters and operates a community center that is located on County property. The parks are located in the northern portion of the district and are approximately one-half acre each. In FY 2005-06 Daggett received a \$4,500 Community Development Block Grant for installation of playground equipment.

The Community Center is located on County property at 35277 Afton Street in the southern portion of the District. The five-acre property also includes a basketball court and a storage facility. The community center is used for senior events, community meetings, and recreation. Daggett indicates that the Community Center was funded by a Community Development Block Grant in the early 1980s. Community Development Block Grant funding provided for re-roofing of the Community Center in 1999. According to staff at the County Department of Community Development and Housing, there is a lease agreement from 1982 between the County and Daggett CSD for the facility to be on County property. The term of the lease is for 30 years with two 10 year options to renew. Neither the County Department of Community Development nor Housing, County Real Estate Services nor Daggett CSD staff could provide a copy of the lease to substantiate the terms of the agreement.

Daggett has no park master plan or strategic plan to reference in order to provide information on park improvements or meeting the needs of the residents.

Newberry CSD

Newberry owns and operates one park on 9.8 acres that includes a community center, Fire Station #391, the caretaker's home, playground, picnic area, and ball field. The ball field has lights for night play and can be configured as a baseball diamond or soccer field.

The Community Center was built in 1954 and provides a location for food distribution, shelter in case of a disaster, health clinics, veterinary clinics, and community and group events. Maintenance and upkeep of the park and the community center is provided by the live-in caretaker. Newberry states that the building is in above average condition due to ongoing upkeep and maintenance. Due to the age of the facility, Newberry indicates that future remodeling projects need to occur. Plans include remodeling the kitchen and restrooms and installation of energy efficient windows. Revenues have been set aside for major repairs of the park facilities and the caretaker's home.

According to staff from the County Community Development and Housing Department, Newberry applied for and received a Community Development Block Grant in FY 2006-07 to improve the parking lot at the park. The District intends to construct new restrooms at the park but plans or details were not provided. In 2008, the First District of the County Board of Supervisors awarded a \$5,000 grant to Newberry CSD for eight picnic tables for the park.

Yermo CSD

Yermo owns and operates one community park and a community center. The community center and community park are on the same parcel on approximately 1.1 acres located on McCormick Street off of Yermo Road. The community center has a gymnasium with facilities for basketball and volleyball. The community park has grass fields with grilling and playground equipment.

Yermo operates a sports park located on a four-acre portion of Silver Valley Unified School District property (9.6 acres) located next to the Yermo Elementary School. The sports park has two soccer fields and a softball field. Yermo CSD owns all the facilities that are located on the land. To facilitate the use of this land for its sports park, Yermo entered into an agreement with the School District for use of each other's property. LAFCO staff inquired into the possibility of a property exchange to secure this property. Yermo states that the intent was to enter into a use agreement in the short run and then exchange properties; however, the exchange of properties has not taken place. Pursuant to the agreement:

- Yermo has granted the School District use of its property on Bedford Drive behind the Silver Valley High School. The school uses the land to park its buses.
- The School District has granted Yermo use of a portion (four acres) of its property (10 acres) on School Road located behind the Yermo Elementary School. Additionally, the School District pays all the utility costs for the park (water and electricity) and pays Yermo \$7,200 annually for Yermo to maintain the park. The Elementary School is also allowed use of the park during school hours.

According to staff from the County Community Development and Housing Department, Yermo applied for and received Community Development Block Grant funding within the past few years. Since 2003, Yermo has received funding for improvements at the sports park and heating and cooling improvements to the community center. On September 9, 2008 the County Board of Supervisors approved a contract with Yermo in the amount of \$16,325 for construction of improvements to the ceiling and walls of the Yermo Community Center. Under the terms of the contract, the County will utilize Community Development Block Grant funds to construct the project. Yermo CSD will continue to maintain and operate the community center facility for not less than 15 years following the completion of the improvements and will pay for all costs necessary for maintenance and operation.

Yermo has no park master plan or strategic plan to reference in order to provide information on park improvements or meeting the demands of the residents.

E. Streetlights

LAFCO staff has verified that within their boundaries, Daggett CSD maintains 24 streetlights, Newberry CSD maintains 39 streetlights, and Yermo CSD maintains 48 streetlights.

Southern California Edison owns the streetlights, and the districts provide for payment of the utility costs for operation of the streetlights. There are no plans at this time to increase the number of the streetlights. There is no other existing service provider for streetlights in the area (County Service Area 70 which overlays the agencies is authorized streetlighting services, but requires creation of an Improvement Zone to

provide), and the service is adequately provided. The future need for streetlights will increase as the population grows, dependent upon the implementation of the County's Night Sky Ordinance¹⁷ within this portion of the desert. The purpose of the Night Sky Ordinance is to encourage outdoor lighting practices and systems that will minimize light pollution, conserve energy, and curtail the degradation of the nighttime visual environment. Future developments may require public streetlights for major intersections for public safety purposes.

F. Road Maintenance

Newberry CSD is not currently authorized through LAFCO to provide road services, however the district purchased a grader in August 2006 for roughly \$49,000 with funds from the \$350,000 one-time donation received in 2004 from the Kiewit Pacific Corporation. After Newberry received the donation, it conducted a survey asking its residents how to utilize the windfall. The results of the survey indicated that approximately 85% of the respondents wanted the funds to be used for roads - grading in particular. In turn, Newberry purchased the grader and began grading roads. No documentation has been produced by Newberry as to whether or not the purchase complied with CSD Law by going to bid. However, the District in its response to the draft staff report has indicated that the road grader purchased is used and that a bid process was not utilized nor required for the purchase of used machinery. The District further states that it considered 18 machines and chose a machine that was owned by a municipality and that it considered cost and previous use in making its determination.

According to Newberry, grading does not occur on private or County dedicated roads. Primarily, the grader was purchased in order to keep the non-maintained County roads in acceptable condition for fire protection and EMS services. Rain and other varied weather conditions result in road conditions that make it difficult for emergency vehicles to arrive on the scene. In 2006 and 2007 Newberry graded about 25 miles of road, and road grading continued into 2008. No information has been provided related to the 2009 grading activities anticipated by the District.

LAFCO staff informed District representatives of the potential for incurred liability when an agency performs road services. Newberry stated that its insurance company covers the grader but is not aware that road service, in the form of grading, is actually provided. As for funds to operate and maintain the service, road service is not an enterprise activity. Therefore, the funds to maintain the road grader and pay for the service use portions of the property tax revenues generated from throughout the entirety of the district that are also used to pay for streetlighting, park and recreation, and fire services.

LAFCO staff also informed the District on more than one occasion that in order for Newberry CSD to actively provide road service either within a portion or to the entirety of the district, CSD Law requires the activation of latent powers subject to LAFCO approval (Government Code Section 61106). Newberry has not formally requested or been authorized by LAFCO to perform this function and/or service. As a part of this municipal

¹⁷ County of San Bernardino, Development Code Chapter 83.07, Adopted Ordinance 4011 (2007).

service review and sphere of influence update, Newberry has indicated that it would like its latent road powers to be activated for providing the limited services described above and then possibly in full capacity in the future if the growth of the community warrants it. Staff has informed Newberry that activation of its latent road powers would require the submission of an application to LAFCO with a plan for service which would include the identification of the financing for the service provision. If Newberry's request was simply to activate Road powers for planning purposes, then its request could be included as a part of the municipal service review and sphere of influence update. However, as noted above, Newberry is actively grading on public roads and such an action requires written consent from the County, as outlined in CSD Law (Section 61100(I)).

Staff provided the District with a copy of the draft staff report in January 2009 which in essence included the narrative above. The District's response to the draft staff report (included as Attachment #4) on pages 16 and 17 states that it was not asking for full road powers and that Government Code Section 61100 (I) of CSD Law permits a CSD to maintain the roads of another public agency if it obtains written permission from that public agency. Newberry provided LAFCO staff with a copy of its resolution dated November 25, 2008 requesting County permission to grade non-maintained County roads (well after the inception of the service in 2006, and continuing through 2008 prior to the resolution adoption). On page 18 of Newberry CSD's comments, the District writes that based upon its legal advice and the statutes it cited, "...we intend to keep the County non maintained roads passable for emergency vehicles as resources allow." The District expands on this comment on page 39 by stating, "...Newberry feels that it is within its jurisdictional powers to provide this intermittent service...."

While a CSD may perform road services on another public agency's roads, if it obtains written permission, two preceding actions are paramount. First, as noted above, Section 61106 (a) requires a CSD to obtain LAFCO approval in order to activate a latent power; regardless if the service is to be provided to a portion or to the entirety of the district. Newberry CSD has not received LAFCO authorization to perform road services.

Second, according to CSD Law and County requirements, Newberry CSD needs to obtain written permission from the County allowing the District to perform road maintenance on public roads. The District has adopted a resolution requesting County permission, but the District has not provided LAFCO with a copy of the written consent from the County. Staffs at the County Public Works, Transportation Division office and the Clerk to the Board of Supervisors have indicated that there is no record of receipt of Newberry's resolution requesting consent. According to County Transportation staff, in order to grade non-maintained roads the District would need to submit an "Application for Encroachment Permit". If the County determines that the roads are in their system and do not object to the grading, then a "Letter of No Objection" would be issued. LAFCO staff has informed Newberry CSD of the County's response and application process.

While the intent and purpose for providing the service are a benefit to the community, the extent of the road grading without authorization and the lack of adherence to CSD Law, LAFCO Law, and County Public Works/Transportation application requirements

described above is a serious concern to LAFCO staff. Further, as quoted above, the District in written correspondence has indicated that it intends to continue providing this service even though it has neither LAFCO authorization nor County permission. It continues to be LAFCO staff's recommendation that Newberry CSD immediately submit the application materials, including a plan for services and the County's Letter of No Objection to LAFCO so that Commission consideration for activation can commence to secure compliance with applicable provisions of law

III. Financial Ability of Agencies to Provide Services.

Each of the districts experiences financial challenges stemming from lack of incoming revenue each year in comparison to annual expenditures. With the exception of water charges collected by Daggett CSD, the ongoing operations of the districts are entirely funded by property taxes. Fire protection and related activities comprise the largest expense for each of the agencies and its cost increases annually. Moreover, a comprehensive review of the districts' finances could not be completed due to the lack of current audits. Further, the districts do not adhere to the constitutional requirements for the establishment of an appropriations limit and statutes related to finances of a community services district.

A. Requirements of CSD Law

Community Services District Law (Government Code Section 61000 et seq.) promotes financial accountability by requiring:

- An adopted budget (§61110 et seq.) – CSD Law requires the adoption of an annual budget and requires the general manager to forward a copy of the final budget to the county auditor.
 - Daggett has not adopted an annual budget since FY 1995-96 and has thus operated without a budget for over a decade.
 - Newberry and Yermo adopt annual budgets. However, Yermo's budgets only provide a total revenue figure with no breakdown of receipts, and Newberry's budget provided for FY 2008-09 does not provide any revenue sources. Neither budget provides a figure for the fund balance carried forward.
 - According to staff at the County Auditor-Controller/Recorder, records indicate that the most recent budgets received are FY 2008-09 for Newberry. A submission by Yermo has not been verified by the County Auditor to date. There are no records of receipt for Daggett's budget, particularly since it has not adopted one since 1995-96.

- Adoption of annual appropriations limits under the Gann Initiative¹⁸ (§61113) – Article XIII B of the State Constitution (Gann Limit) mandates local Government agencies to establish an appropriations limit, which is further acknowledged by Government Code 61113. As shown in the chart below, each district falls within the requirements of Article XIII B of the State Constitution, as each was over the \$0.125 (12 ½ cents) per \$100 of assed value tax rate in 1977-78, and therefore, must have an appropriations limit. A copy of the FY 1977-1978 property tax rates, with each CSD highlighted for reference, is included as Attachment #7.

1977-78 Tax Rates per \$100 of Assessed Value

| District | Daggett CSD | Newberry CSD | Yermo CSD |
|-----------------|-------------|--------------|-----------|
| Tax Rate | \$1.2500 | \$0.9110 | \$1.0883 |

After meeting with LAFCO staff, the districts are now aware of the requirement for annual appropriations limits. Newberry staff has informed LAFCO staff that it obtained the formula to establish an appropriations limit from the County Auditor and is attempting to contact personnel at the County Auditor Property Tax Division to help establish the appropriations limit. Although Newberry does not have an appropriations limit, the district is making a fair attempt to establish the limit.

As of the time of this writing, LAFCO staff is unaware if either Daggett or Yermo are making an attempt to establish an appropriations limit. Further, the establishment of an appropriation limit would require Daggett to adopt a budget.

- Regular audits and annual financial reports (Sections 26909 and 61118) – Section 26909 of the Government Code requires regular audits of district accounts and records, which is further acknowledged by Government Code 61118. Additionally, CSDs are required to forward their audits to the State Controller and County Auditor.
 - The last audit performed of Daggett's finances was for FY 2002-03. According to records from the County Auditor and State Controller, the last audit received for Daggett CSD was for FY 2002-03.
 - According to records on file at the State Controller and County Auditor, the last audit received for Newberry CSD was for FY 2006-07 received in January 2009.
 - For Yermo CSD, according to records from the State Controller the last audit received was for FY 2007-08 received in February 2009. However, the State Controller has no record receiving an audit for FY 2006-07. According to records at the County Auditor, the two most recent audits

¹⁸ In 1979 the voters amended the California Constitution by passing Proposition 4 (the Gann Initiative), requiring each local Government to set an annual appropriations limit (the Gann Limit).

received were for FY 2006-07 received January 2009 and FY 2007-08 received in February 2009.

B. Daggett CSD

The most recent budget is from FY 1995-96 and the most recent audit submitted for this review is for FY 2002-03. The district provided copies of the mandatory financial transaction reports that were submitted to the State Controller for FY 2005-06 and 2006-07.

According to Daggett staff, the board of directors approved the first water rate increase since the 1980s for customer water use. The current rate is .0075 cents per cubic foot, and the rate took effect July 1, 2008 of 1.5 cents per cubic foot. The revenues to be generated by the rate increase will provide Daggett with needed additional revenue. Further, Daggett charges the same rate for water service to those outside its boundary as those it services within its boundaries. The additional costs to serve outside of the boundaries could be recouped by charging a higher out of boundary rate for water service.

Financial Transaction Reports

Since the district does not have an operating budget and the last audit is for FY 2002-03, a comprehensive review of the district's finances could not be completed by staff. For this report, staff reviewed the financial transaction reports for FY 2004-05, FY 2005-06 and FY 2006-07. LAFCO staff's review of the financial transaction reports indicates that the district experiences financial challenges.

The general fund is comprised of the fire, streetlighting, and park and recreation activities. As indicated below, the activities (non-enterprise) of the general fund do not generate enough revenue to support the current levels of service. However, the district receives enough revenue through water rates to operate the day-to-day activities of the water system (enterprise fund). To compensate for the shortfall for fire services, the district transfers revenues from the water enterprise fund to the general fund. For example, in FY 2005-06 \$22,591 was transferred and in FY 2006-07 \$19,216 was transferred. Essentially, the water enterprise fund subsidizes the non-enterprise activities of the district. The annual transfers deplete needed revenue from the water fund and have the potential to adversely affect the water system's long term viability to adequately fund capital projects and needed major improvements for the water system.

As identified in the FY 2006-07 Financial Transaction Report, \$50,000 is reflected as a one-time receipt of revenue. In the summary charts below, the \$50,000 is a part of the \$165,982 Total Revenues for FY 2006-07, which resulted in a Net Income of \$54,325. LAFCO staff has verified with staff of the auditor that prepared the FY 2006-07 Financial Transaction Report that the \$50,000 was actually an asset and not revenue. The district was awarded \$50,000 in Community Development Block Grant funding by the County for the installation of a security fence around one of the district's water tanks. The grant

funding was paid by the County and the district received the asset. Therefore, the Total Revenue for FY 2006-07 should be \$115,982 and Net Income should be \$4,325.

Daggett CSD Financial Transaction Report Summary

| Activity | Total Revenues | Total Expenditures | Transfer In (Out) | Net Income (Loss) | Total Debt |
|--|-------------------|--------------------|-------------------|-------------------|-------------------|
| FY 2006-07 | | | | | |
| Fire Protection | \$ 37,717 | \$ 37,743 | \$ 19,216 | \$ 19,190 | \$ - |
| Streetlighting | \$ 3,785 | \$ 6,391 | \$ - | \$ (2,606) | \$ - |
| Recreation and Park | \$ 53,536 | \$ 59,645 | \$ - | \$ (6,109) | \$ 55,000 |
| Water Enterprise | \$ 165,982 | \$ 92,441 | \$ (19,216) | \$ 54,325 | \$ 66,150 |
| Total | \$ 261,020 | \$ 196,220 | \$ - | \$ 64,800 | \$ 121,150 |
| Note: Total Revenues and Net Income should be reduced by \$50,000 for the water enterprise fund and be reclassified as an asset that the district received but did not directly pay for. | | | | | |
| FY 2005-06 | | | | | |
| Fire Protection | \$ 27,670 | \$ 33,986 | \$ 22,591 | \$ 16,275 | \$ - |
| Streetlighting | \$ 2,781 | \$ 4,457 | \$ - | \$ (1,676) | \$ - |
| Recreation and Park | \$ 45,098 | \$ 46,633 | \$ - | \$ (1,535) | \$ 58,000 |
| Water Enterprise | \$ 108,413 | \$ 90,941 | \$ (22,591) | \$ (5,119) | \$ 70,150 |
| Total | \$ 183,962 | \$ 176,017 | \$ - | \$ 7,945 | \$ 128,150 |
| FY 2004-05 | | | | | |
| Fire Protection | \$ 28,136 | \$ 25,523 | \$ 18,972 | \$ 21,585 | \$ 10,014 |
| Streetlighting | \$ 2,367 | \$ 6,863 | \$ - | \$ (4,496) | \$ - |
| Recreation and Park | \$ 38,401 | \$ 47,028 | \$ - | \$ (8,627) | \$ 61,000 |
| Water Enterprise | \$ 100,050 | \$ 94,629 | \$ (18,972) | \$ (13,551) | \$ 75,150 |
| Total | \$ 168,954 | \$ 174,043 | \$ - | \$ (5,089) | \$ 146,164 |

source: State of California. California State Controller. *Special Districts Annual Report*, for fiscal years 2004-05, 2005-06, and 2006-07.

Long-term Debt

Long-term debt is comprised of two bonds. The first is a general obligation bond for recreation and park services which was authorized in 1979 and matures in 2019. As of June 2007, the un-matured amount of the bond was \$55,000. The second is a revenue bond to upgrade water delivery which was authorized in 1980 and matures in 2020. As of June 2007, the un-matured amount of the bond was \$66,150.

Capital Improvements

Daggett CSD has not identified any capital improvements.

C. Newberry CSD

The district's most recent audit submitted for this review is for FY 2006-07 and financial transaction reports were submitted for FY 2005-06 and 2006-07. Since the last audit performed was for FY 2006-07, a comprehensive review of the district's finances could not be completed. The materials provided do, however, reveal that nearly all of the district's revenues are from the receipt of the district's share of the one percent ad valorem property tax. Additionally, in FY 2004-05 the Kiewit Pacific Corporation provided a one-time \$350,000 donation to the district to garner support for operation of a rock quarry and asphalt batch plant for approximately two years in the southern portion of the district.

The District states that the lump-sum donation funds were deposited into a dedicated fund. Since the receipt of the funds, capital purchases have been comprised of the purchase of the road grader and a 2007 Ford 350 Type 6 Brush Engine. It cannot be determined from what fund the purchases were from because the district did not have a capital projects fund for those years. When comparing the year-end balance of \$496,906 from the FY 2004-05 audit with the year-end balance of \$320,401 from the FY 2006-07 financial transaction report, the district's funds decreased by \$176,505. In addition it is understood that an annual allocation of funds is made to the community senior center to support their operations.

In addition, the District provides for the maintenance of 39 streetlights, which, as described above, includes the payment of electricity charges for their operation. However, for FY 2005-06 and 2006-07 the District identifies its expenditures for this service as being \$32,377 and \$29,270 respectively. No clarification of this expenditure has been received by LAFCO staff.

The district is dependent on its share of the one-percent general levy and grants and rebates. The information provided indicates that this is not enough to fund capital and needed improvements in the long-run.

Newberry CSD Financial Transaction Report Summary

| Activity | Total Revenues | Total Expenditures | Net Income (Loss) | Total Debt |
|---|------------------|--------------------|---------------------|-------------------|
| FY 2006-07 | | | | |
| Fire Protection | \$ 113,179 | \$ 174,866 | \$ (61,687) | \$ 49,410 |
| Lighting and Lighting Maintenance | \$ 2,032 | \$ 29,270 | \$ (27,238) | \$ - |
| Recreation and Park | \$ 91,550 | \$ 143,990 | \$ (52,440) | \$ - |
| Total | \$206,761 | \$ 348,126 | \$ (141,365) | \$ 49,410 |
| FY 2005-06 | | | | |
| Fire Protection | \$ 121,765 | \$ 125,038 | \$ (3,273) | \$ 72,292 |
| Lighting and Lighting Maintenance | \$ 1,723 | \$ 32,377 | \$ (30,654) | \$ - |
| Recreation and Park | \$ 77,746 | \$ 61,574 | \$ 16,172 | \$ - |
| Total | \$201,234 | \$ 218,989 | \$ (17,755) | \$ 72,292 |
| FY 2004-05 | | | | |
| Fire Protection | \$ 91,753 | \$ 100,327 | \$ (8,574) | \$ 105,401 |
| Lighting and Lighting Maintenance | \$ 1,576 | \$ 1,596 | \$ (20) | \$ - |
| Recreation and Park | \$422,103 | \$ 59,674 | \$ 362,429 | \$ - |
| Total | \$515,432 | \$ 161,597 | \$ 353,835 | \$ 105,401 |
| Note: Includes \$350,000 one-time donation from Kiewit Foundation | | | | |

source: State of California. California State Controller. *Special Districts Annual Report*, for fiscal years 2004-05, 2005-06, and 2006-07.

Salaries and Stipends

For FY 2007-08, the district budgeted \$43,270 for salaries and stipends.

| Salary/Stipend | FY 2007-08 |
|-------------------------|------------------|
| Administrator Salary | \$ 9,600 |
| Chairperson Stipend | \$ 6,000 |
| Secretary Salary | \$ 7,500 |
| Fire Department Stipend | \$ 16,570 |
| Caretaker Salary | \$ 3,600 |
| Total | \$ 43,270 |

According to the Fiscal Year 2007-08 budget, the Caretaker's Salary is \$3,600. LAFCO staff is not aware if Newberry CSD rents the caretaker's residence to the caretaker at a reduced rate and if the district identifies it as a paid benefit subject to income tax withholding.

Fire Department

Revenues for the Fire Department are comprised of billing for services, monies received by the Newberry CSD, and grants. According the documents provided by the district, residents within the district are not charged for fire and emergency medical services. As

a cost recovery mechanism, non-residents are billed for emergency services. Because Newberry CSD utilizes property tax revenues to fund its operations, the Fire Department relies upon grants to fund its ongoing activities and special projects. According to the budget, grants are a significant source for the acquisition of equipment, are sought to promote public safety, and will be the primary source for disaster planning, mitigation and response projects in the future. The district applied for three grants during FY 07-08:

- Firefighter Assistance Grant – for fire and emergency response equipment, \$52,920. The Department applied for but has not yet been approved for the grant.
- Community Development Block Grant – for medical equipment, \$18,787. The Fire Department applied for and has been approved for this grant.
- Homeland Security Grant – for purchase of a cargo trailer with generator to house and respond with rescue equipment, \$11,500. The district has applied for but has not yet received the grant.

Staff has a concern that grants will be the primary source for disaster planning, mitigation and response projects in the future. Grants are not a steady source of revenue, and the dependence on grants is an indicator of the challenges that the district will encounter in the short and long-run to support ongoing maintenance and operation of fire and safety services.

Newberry CSD activities

The district's general budget is for the district's activities, excluding fire, and includes the district's payroll and operations and maintenance. As for revenues, the district's budgets do not break-down the sources of revenues. Rather, revenues are simply listed as Deposits, Funds Transferred, and Interest. Further, revenues are not differentiated between the Fire Department and remainder of the district's activities. A more detailed revenue section of the budget is needed in order to adequately review the district's revenue stream and the distribution of revenues among its activities. However, the annual Final Transaction Reports that the district files with the State Controller, also submitted as a part of this review, does break down the District's revenue by source and activity. LAFCO staff recommends that the district incorporate a revenue breakdown in future budgets. In response to the draft staff report, the District has indicated that it is developing a general ledger type of accounting that will provide for better accounting and data presentation.

As described in the previous section of this report, Newberry CSD is not authorized by LAFCO to perform road services, yet has purchased a road grader from one-time donation funds. According to the district's budgets the annual costs for operating and maintaining the road grader are roughly \$5,000 per year. The costs identified for the grader are for supply, repair, wages, fuel, upgrade, and insurance, no identification of salary for operator was included. Funding to support the on-going costs come from revenue sources that also pay for the authorized services (fire protection, park and recreation, and streetlighting).

Outstanding Debt

In January 2009 the District made the final payment to Kansas State Bank of Manhattan for the purchase of a fire truck. The District states that it currently does not have any outstanding debt.

D. Yermo CSD

A review of the financial documents available indicates that the primary source of revenue is from property taxes and fire protection comprises roughly half of expenditures. The two most recent audits provided are for FY 2005-06 and FY 2006-07. Therefore, a comprehensive review of the district's finances could not be completed.

LAFCO staff's review of the financial transaction reports indicates that Yermo CSD experiences financial challenges in operating the district. As shown in the chart below, the district has operated in the past with revenues in excess of expenditures. However, the excess revenues have not been enough to support long-term maintenance and capital improvements. This is evidenced by its reliance upon County approval for Community Development Blocks Grants for park and recreation improvements and County Fire for the donation of fire apparatus.

Yermo CSD Financial Transaction Report Summary

| Activity | Total Revenues | Total Expenditures | Net Income (Loss) | Total Debt |
|-----------------------------------|-------------------|--------------------|-------------------|-------------|
| FY 2006-07 | | | | |
| Fire Protection | \$ 48,943 | \$ 77,296 | \$(28,353) | \$ - |
| Lighting and Lighting Maintenance | \$ 9,504 | \$ 7,914 | \$ 1,590 | \$ - |
| Recreation and Park | \$ 43,950 | \$ 41,718 | \$ 2,232 | \$ - |
| Total | \$ 102,397 | \$ 126,928 | \$(24,531) | \$ - |
| FY 2005-06 | | | | |
| Fire Protection | \$ 137,607 | \$ 135,575 | \$ 2,032 | \$ - |
| Lighting and Lighting Maintenance | \$ 8,138 | \$ 7,550 | \$ 588 | \$ - |
| Recreation and Park | \$ 45,502 | \$ 33,971 | \$ 11,531 | \$ - |
| Total | \$ 191,247 | \$ 177,096 | \$ 14,151 | \$ - |
| FY 2004-05 | | | | |
| Fire Protection | \$ 39,491 | \$ 31,816 | \$ 7,675 | \$ - |
| Lighting and Lighting Maintenance | \$ 7,480 | \$ 13,737 | \$(6,257) | \$ - |
| Recreation and Park | \$ 40,284 | \$ 31,816 | \$ 8,468 | \$ - |
| Total | \$ 87,255 | \$ 77,369 | \$ 9,886 | \$ - |

source: State of California. California State Controller. *Special Districts Annual Report*, for fiscal years 2004-05, 2005-06, and 2006-07.

The district's budgets identify Regular Salary and Employee Benefits but do not breakdown or include the Director stipends, if any. For example, the FY 2007-08 budget indicates a budgeted amount of \$15,000 for Regular Salary and \$4,000 for Employee Benefits. If the Directors receive a stipend, it should be included a separate line item. Should the Directors forgo a stipend, then such documentation has not been provided to LAFCO. Additionally, a review of the budgets available do not compare budgeted and actual amounts and identify tax receipts as the sole source of revenue when the audits identify investments and charges for services. LAFCO staff recommends that Yermo CSD include these items in its budget to promote transparency.

Capital Improvements

Yermo CSD has not identified any capital improvements.

Outstanding Debt

The financial documents do not indicate that the district has outstanding debt.

IV. Status of, and Opportunities for, Shared Facilities.

Newberry CSD does not currently share facilities with other agencies.

Daggett CSD has its community center facility on County land. It is understood that a lease agreement exists between the County's Department of Community Development and Housing and the District; however, neither the County nor the District has been able to produce the document.

Yermo CSD has an arrangement with the Silver Valley Unified School District for use of the community park. Yermo CSD pays for all maintenance costs for the park and allows the School District use of the park. In turn, the School District pays all the water and electricity costs for the park.

V. Accountability for Community Service Needs, including Governmental Structure and Operational Efficiencies.

A. Local Government Structure and Community Service Needs

CSD Law requires the appointment of a general manager to implement the policies of the board of directors. However, the Daggett CSD staff members in conjunction with the Board of Directors implement policy. Government Code Sections 61050 and 61051 distinguish the roles of directors and general managers.

- Section 61050 requires the board of directors to appoint a general manager. The legislative intent for this section is to increase the professionalism of CSD's operations by making it clear that the person who holds the general manager's

title is responsible for implementing the board's policies and supervising the CSD activities.

- Section 61051 lists the general manager's duties:
 - implementation of board policies for operation of the district
 - appoint, supervise, discipline, and dismiss employees
 - supervise facilities and services
 - supervise finances

Daggett CSD

Daggett is an independent district and is governed by a five-member board of directors. Representation on the board of directors is at-large and members are voted on by the electorate or are appointed by the County Board of Supervisors to four-year staggered terms. A review of the County Registrar of Voters records indicates that within the past ten years, the district has had elections in 2003 and 2007. As of August 14, 2008, the district had 195 registered voters. The lack of elections can be attributed to the size of the district, the number of residents and registered voters, and the need to eliminate the cost of conducting elections. Below is the composition of the board, their positions, and terms of office as of November 1, 2008:

| Board Member | Title | Term |
|--|-----------|------|
| Mentie B. Hazelett | Director | 2009 |
| Joseph Morris, Jr. (Appointed 12-14-2005) | Director | 2009 |
| Lawrence Alf | President | 2011 |
| Irene L. Koch | Director | 2011 |
| Ramon A. Rodriguez | Director | 2011 |

Board hearings are held on the second Wednesday of each month at 6:00 p.m. at the district office. Agendas are posted 72 hours prior to regularly scheduled hearings and 24 hours prior to special hearings. As described in the Financial Section for Daggett, it does not operate with an annual balanced budget or an appropriations limit. As for staff, the district employs a general manager/treasurer and fire staffing includes the following volunteers: six fire personnel including an appointed fire chief and assistant fire chief.

Newberry CSD

Newberry is an independent district and is governed by a five-member board of directors. Representation on the board of directors is at-large and members are voted by the electorate or are appointed by the County Board of Supervisors. A review of the County Registrar of Voters records indicates that within the past ten years, the district has had elections in 2001, 2003, and 2007. As of August 14, 2008, the district had 1,001 registered voters. Below is the composition of the board, their positions, and terms of office as of November 1, 2008:

| Board Member | Title | Term |
|----------------------|-----------------------------|------|
| Sandra Wise Brittian | Chair (President) | 2009 |
| Diana Williams | Finance Officer | 2009 |
| Wesley S. Sperry | Director | 2009 |
| Debbie Farrington | Vice Chair (Vice President) | 2011 |
| Robert Royalty | Director | 2011 |

Newberry contracts with an administrative consultant to function as the general manager. The contracted person also is an elected official and full-time employee for another local government agency. Office hours for the district are Tuesday, Wednesday, and Thursday from 9:30 am – 2:30 pm. LAFCO staff has a concern regarding the office hours of the district in relation to the contracted general manager being an elected official and employee for another local Government agency. This situation does not allow for the supervision of the District office staff during office hours and could conflict with their other position. This, in the staff position, does not lend to available and responsive governance of an agency.

Also employed by Newberry are a caretaker that handles facility upkeep and minor repairs and a secretary. On March 10, 2009 the Newberry CSD board included the duties of the Treasurer with the position of the secretary. This position is bonded through the Special Districts Risk Management Authority. The board appoints a volunteer Fire Chief to run the Fire Department.

Board hearings are held on the fourth Tuesday of each month at 6:00 p.m. at the Newberry Community Center. Agendas are posted 72 hours prior to regularly scheduled hearings and 24 hours prior to special hearings. Newberry has a website to inform the residents of activities, events, and district services. Residents can also use the website to submit comments and concerns.

Newberry operates with an annual balanced budget. The budget is adopted at a public hearing and the public is invited to attend the budget workshops. The board is provided with a monthly finance report, and a quarterly finance report is available to the public and available at the general manager’s office. An independent bookkeeper accounts for Newberry’s finances. The general manager processes payroll and payments with the Finance Director overseeing the process.

Yermo CSD

Yermo CSD is an independent district and is governed by a five-member board of directors. Representation of the board of directors is at-large and members are voted by the electorate or are appointed by the County Board of Supervisors to four-year staggered terms. A review of the County Registrar of Voters records indicates that within the past ten years, the District has had elections in 2003, 2007, and 2008. As of August 14, 2008, the District had 632 registered voters. Below is the composition of the board, their positions, and terms of office as of January 1, 2009:

| Board Member | Title | Term |
|--------------------|-----------------------------------|------|
| Geoffrey L. Berner | Clerk | 2010 |
| Scott Walker | Commissioner (Director) | 2010 |
| Orlando Chavez | Fire Commissioner (Fire Director) | 2010 |
| Bob Smith | President | 2012 |
| Loney Weems | Maintenance Director | 2012 |

Board hearings are held on the third Tuesday of each month at 6:00 p.m. at the Yermo Community Center. Agendas are posted 72 hours prior to regularly scheduled hearings and 24 hours prior to special hearings. As for staff, the district employs a general manager/treasurer and has ranged between eight and eleven volunteer fire fighters within the past year. The position of the general manager assumed the duties of the district treasurer through board of directors’ action on February 18, 2009. The position is bonded through the California Special Districts Risk Management Authority.

B. Operational Efficiency

The three districts participate in the Special Districts Risk Management Authority, a joint-powers authority, for either general insurance or workers compensation. The districts also participate in the Electronic Clean-up Program for the Daggett, Yermo, and Newberry communities. The communities rotate the drop-off location in order to assist residents.

Daggett and Newberry participate in the disaster council made up of volunteer citizens of the communities and meets to discuss community safety issues. The Council has established its mission and has begun the process of utilizing resources to create its disaster plan. FEMA representatives provided a three-day training session. There is no memorandum of understanding at this time.

C. Governmental Structure Options

There are two types of Government structure options:

1. Areas served by the agency outside its boundaries through “out-of-agency” service contracts;
2. Other potential Government structure changes such as consolidations, reorganizations, dissolutions, etc.

Out-of-Agency Service Agreements:

Since 1984 Daggett CSD has been providing water service within a portion of Yermo CSD territory due to the need for service to the Silver Valley High School. In 2001, the Commission approved an out-of-agency service contract authorizing Daggett CSD to provide domestic water and water for fire protection purposes within a defined service area within Yermo CSD territory from Daggett’s eight-inch pipeline in Daggett-Yermo Road. The service area is approximately 1.25 square miles and

comprised 66 parcels in 2001, surrounding the intersection of Interstate 15 and Calico Ghost Town Road and extending southerly along Daggett-Yermo Road to the Daggett CSD boundary. Currently, Daggett CSD serves water to 13 residential parcels, the Silver Valley High School, Silver Valley Unified School District offices, and 10 commercial parcels within the area.

Other Government Structure Options:

The districts, in preparing the municipal service review, did not indicate that there were consolidations or other structure options available. While the discussion of some government structure options may be theoretical, a service review should address all possible options.

- Dissolution of the districts. The communities have a present and probable need for municipal services, and dissolution of any of the three districts is not desirable, let alone feasible at this time. Rather, more effective and responsive Government is needed for the communities in addition to the growing activities and traffic along Interstates 15 and 40.
- Removal of the districts' fire protection powers with County Fire as the successor. One theoretical possibility would be to remove the individual districts' fire protection powers, expand the sphere of influence of the San Bernardino County Fire Protection District, and concurrently annex the territory to County Fire and its North Desert Service Zone. The Board of Supervisors would be the ex-officio board of directors, and County Fire would then succeed to the property tax revenues attributable to fire protection of the three community services districts.

While there are benefits to regionally providing fire protection services and potential economies of scale that could be achieved, none of the three community services districts nor has County Fire indicated support for this option due to the limited financial resources available. LAFCO staff would support this option in the long-run if the revenues were available to support the service as it would result in a regional fire agency providing service to the area, as it already does to the sphere of influence areas in these communities, could potentially result in economies of scale, and would allow residents of the communities to participate on the advisory board for determining levels of service for the North Desert. Without the revenues, LAFCO staff would suggest the potential for joint powers contracts to achieve economies of scale or functional consolidations of service.

- Consolidation of the three community services districts. Consolidation would allow for economies of scale and provide the opportunity for streamlined governance and compliance with CSD Law. LAFCO staff supports this option in the long-run based on the same reasoning as for the sphere consolidation option for the three CSDs as proposed in this report.

In order to express the Commission's long-term position related to these districts, a consolidation of the spheres of influence of Daggett CSD, Newberry CSD, and Yermo CSD is being proposed. Staff recommends this option because more effective and efficient governance could be achieved in the long-run through consolidation with the adjacent community services districts rather than through dissolution or maintenance of the status quo. These districts essentially provide the same services, operate under the same law (Community Services District Law), experience financial challenges, have adjacent territories, identify themselves as communities along the interstate corridors, have a historic divide from the Barstow community, and are dependent upon each other for service delivery, such as fire protection.

Consolidating the spheres would signal the Commission's intent to consolidate the districts while maintaining their ability to plan for future delivery of services within their territory and present sphere areas. Further, it would open the discussion for eventual consolidation. Eventual replacement of multiple community services districts with a single district would be, in the staff view, the most effective and efficient delivery mechanism for service delivery.

- Consolidation of the Yermo and Daggett CSD. Much like the consolidation of all three districts, the staff would recommend this option because more effective and efficient governance could be achieved in the long-run through consolidation with the adjacent community services district rather than through dissolution or maintenance of the status quo. These two districts currently provide, or are proposed to provide, the same type and range of services, operate under the same law (Community Services District Law), experience financial challenges, have adjacent territories, identify themselves as communities along the interstate corridors, have a historic divide from the Barstow community, and are dependent upon each other for service delivery, such as fire protection and water service.
- Maintain the districts in their current status. In this option, there are no changes to the districts and it is the option supported by the three districts as identified in responses received during the review of the draft report and conveyed during the January 21, 2009 community meeting. The districts state that there are no recommendations as to government structure options.

As discussed in the *Community Discussion* section of this staff report, LAFCO staff recommends either the consolidation of the spheres of influence of the three districts or the consolidation of the Yermo and Daggett spheres of influence, with the exclusion of the Harvard community in either option. Staff bases its recommendation on the financial and service delivery challenges and governance issues outlined in detail in the *Community Discussion*.

SPHERE OF INFLUENCE UPDATES

A. Sphere of Influence

The three districts have indicated they do not support any consolidation or restructuring options. Detailed in the Community Discussion section and described throughout this report, more effective and efficient governance could be achieved through eventual consolidation. LAFCO staff recommends that the Commission take one of two options:

- **Option #1** -- Consolidate the spheres of influence for Daggett CSD, Newberry CSD, and Yermo CSD thereby signaling the Commission's position that the three CSDs should be consolidated into a single community services district and include four separate areas within the consolidated sphere of influence to provide for a clear and definable consolidated sphere boundary.
- **Option #2** -- Consolidate the spheres of influence of Daggett CSD and Yermo CSD thereby signaling the Commission's position that they should be consolidated into a single community services district, affirm the Newberry CSD sphere of influence and include four separate areas within the consolidated sphere of influence to provide for a clear and definable consolidated sphere boundary.

Additionally, in its response to the draft staff report, Newberry CSD requests that its sphere of influence be extended to Interstate 15 to include the Ironwood Academy residential area that exists for the operation of the Ironwood Christian Academy (page 25 of Newberry response included in Attachment #4). However, the District's request does not include justification for such a request nor a map of the area mentioned. Further, the request was received after issuance of the draft staff report does not provide a clear delineation of the area proposed for consideration, and there is not enough information provided to evaluate the request. Should the District desire to consider the inclusion of this area within its sphere of influence, it will need to submit an application to LAFCO for Commission consideration.

B. Functions or classes of services

When updating a sphere of influence for a special district, the Commission is required to establish the nature, location, and extent of any functions or classes of services provided by the district (Government Code §56425(i)). Although LAFCO staff's recommendation is that three CSDs should be consolidated into a single agency, an evaluation of the current services provided by each district and an update of their service provision is required by State law.

Daggett CSD

Daggett CSD did not propose amendment of its authorized services. However, LAFCO staff recommends that the Commission modify the service description for the Park and

Recreation function to more accurately reflect the service provided by Daggett CSD as follows (changes identified in bold italic):

| FUNCTIONS | SERVICES |
|---------------------|--|
| Water | Retail, wholesale, domestic, industrial, irrigation, fire protection, sanitation |
| Streetlighting | Streetlighting |
| Park and Recreation | Local park development, <i>operation, maintenance</i> |
| Fire Protection | Structural, watershed, suppression, prevention |

Newberry CSD

Newberry CSD in its responses to the MSR has not proposed amendment of its authorized services. However, LAFCO staff proposes clarification of Newberry’s authorized services.

- The sewer function is currently listed as Collection, Treatment, and Disposal of sewage waste and storm water. Although authorized sewer service, Newberry does not actively provide the service but has the power in order to plan for a sewer collection and treatment system. Modification of the service description to be “Planning and engineering” will better reflect the extent of the district’s Sewer powers and will allow the district to plan for sewer delivery, as outlined below.
- The district engages in fire suppression and prevention services as a part of its Fire Protection function. Modification of the service description for the Fire Protection function would be consistent with the service descriptions of the other districts.

LAFCO staff recommends that the Commission modify the service descriptions for the Sewer and Fire Protection functions to more accurately reflect the services provided by Newberry CSD as follows (changes identified in bold italic):

| FUNCTIONS | SERVICES |
|------------------|---|
| Water | Management, domestic use, irrigation, sanitation, industrial, fire protection, recreation |
| Fire Protection | Structural, watershed, <i>suppression, prevention</i> |
| Streetlighting | Streetlighting |

| | |
|---------------------|---|
| Park and Recreation | Local park development, operation, maintenance |
| Sewer | <i>Planning and engineering, Collection, treatment, disposal of sewage waste and storm water</i> |

Throughout the staff’s presentation of materials for this Municipal Service Review the provision of road grading services by Newberry has been outlined. LAFCO staff reiterates its position that the District submit the materials to LAFCO requesting the authorization of this service. LAFCO staff is committed to assisting the District in bringing its operations into compliance with LAFCO and CSD law.

Yermo CSD

Neither LAFCO staff nor Yermo CSD proposes amendment of Yermo CSD’s basic authorized services. LAFCO staff recommends that the Commission affirm the function and services provided by the Yermo CSD as follows:

| FUNCTIONS | SERVICES |
|---------------------|--|
| Fire Protection | Structural, watershed, suppression, prevention |
| Streetlighting | Streetlighting |
| Park and Recreation | Local park development, operation, maintenance |

However, the Yermo CSD has submitted a request for activation of its latent water functions and services, identified as LAFCO 3008A for processing. A separate consideration for request needs to be undertaken, rather than within this sphere update, due to changes in LAFCO law and the provisions of the Revenue and Taxation Code.

C. Factors of Consideration

The districts were requested to provide information regarding their sphere of influence updates as required by State law. Newberry CSD and Yermo CSD responded in full to LAFCO’s requests for information regarding their respective spheres of influence. Daggett CSD provided a response to LAFCO’s request for information but did not provide a response to the mandatory Factors of Consideration. LAFCO staff interviewed District personnel on May 27, 2008 at the Daggett CSD facility in Daggett, CA. Staff responses to the mandatory factors of consideration for a sphere of influence review for the three districts (as required by Government Code Section 56425), including the Harvard community, are identified as follows:

Present and Planned Uses

It is the staff’s position that the three districts are a single community because each identifies themselves as interstate corridor communities and they share similar General

Plan land use designations assigned by the County of San Bernardino Board of Supervisors. The vast majority of the land use designations assigned is Resource Conservation (allowing one unit to 40 acres) and varying levels of Rural Living. Other land use designations include Agricultural, Institutional, Commercial (Industrial and Highway), Freeway, Regional Industrial, Residential Single, and Open Space. There are existing Williamson Act contracts within the Harvard area, outside the existing Yermo CSD sphere of influence, which restricts the land uses to agriculture for a minimum period of 10 years.

These communities (including Harvard within the current Yermo CSD sphere) are not anticipated to experience significant growth within the coming years due to about one-third of the land being publicly owned, the land use designations assigned by the County, the historically low growth rate, the historical divide from the Barstow community to the west, and the surrounding geographic barriers. The landownership breakdown of each district's boundary is as follows:

Daggett CSD

| Land Owner | Sq Miles | Percentage |
|------------------------------|-------------|---------------|
| Private | 13.2 | 64.1% |
| US Bureau of Land Management | 6.1 | 29.4% |
| County of San Bernardino | 0.7 | 3.8% |
| United States of America | 0.4 | 1.5% |
| State of California | 0.2 | 1.2% |
| Total | 20.6 | 100.0% |

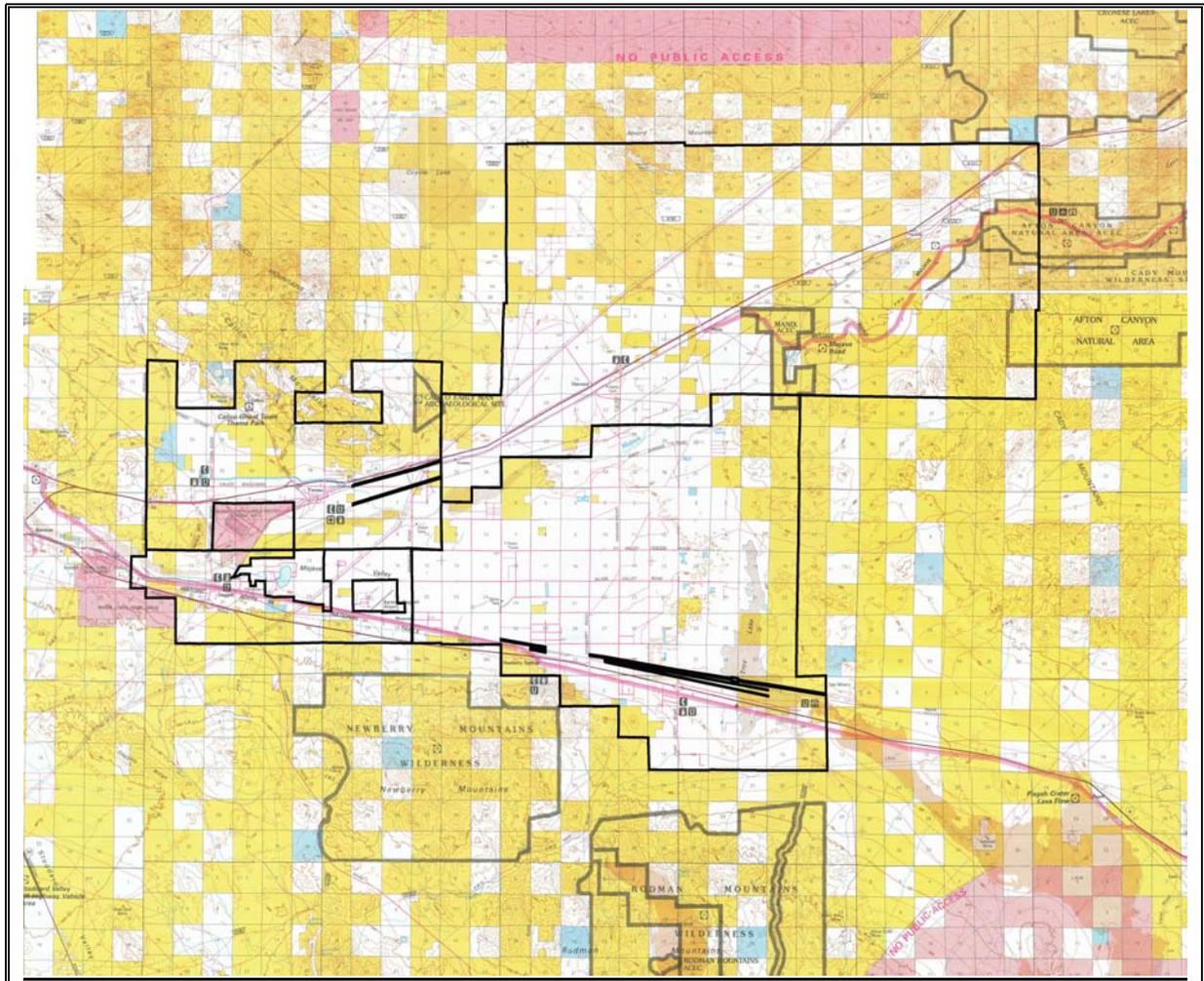
Newberry CSD

| Land Owner | Sq Miles | Percentage |
|------------------------------|--------------|---------------|
| Private | 90.2 | 78.9% |
| US Bureau of Land Management | 23.9 | 20.9% |
| State of California | 0.1 | 0.1% |
| County of San Bernardino | 0.1 | 0.1% |
| Total | 114.3 | 100.0% |

Yermo CSD

| Land Owner | Sq Miles | Percentage |
|------------------------------|-------------|---------------|
| Private | 25.7 | 52.9% |
| US Bureau of Land Management | 20.6 | 42.3% |
| County of San Bernardino | 1.4 | 2.8% |
| State of California | 0.9 | 2.0% |
| Total | 48.6 | 100.0% |

This is illustrated on the following map with shaded areas identified as public lands, wilderness areas or areas of critical environmental concern by the Bureau of Land Management:



Source: United States Department of the Interior, Bureau of Land Management.
Desert District. "Surface Management States Desert Access Guide"
Newberry Springs and Soda Mountains maps. 1998. (overlay of the three districts
defined by LAFCO staff)

Present and Probable Need for Public Facilities and Services

Lack of municipal level water and sewer service throughout the region hinders the growth of the communities and the needed revenue associated with growth to maintain municipal services. Although the districts are rural and agricultural in nature, the populated centers are anticipated to support growth based upon the general plan land use designations assigned by the County of San Bernardino. A municipal water service provider to serve all of the populated centers of the communities would provide a reliable and safe source of water for domestic, industrial, commercial, and fire protection uses. This need will exist until such a provider is available in each community either through individual district or a consolidated agency.

The entirety of the community utilizes on-site wastewater disposal through septic tanks or leach field systems. There is no schedule for sewer improvements. This service deficiency limits the development capacity for the community. The districts do not currently provide sewer service and there are no other existing entities available to provide sewer service. County Service Area 70 overlays the entirety of the community and is authorized sewer functions; however, County policy and practice requires the creation of improvement zones in order to deliver the service. Although authorized sewer service, Newberry does not actively provide the service but has the power in order to plan for a sewer collection and treatment system.

The districts experience challenges related to fire protection services given the limited resources available, and each is reliant upon one another and other fire protection agencies for mutual aid to fulfill this mission. The need for fire services is also anticipated to remain constant within the districts but the needs of the transient traffic along Interstates 15 and 40 and the railroads traveling through the area will increase as traffic is anticipated to increase.

The need for park and recreation is anticipated to generally remain constant as the population is not anticipated to increase significantly.

The need for streetlighting is also anticipated to remain generally constant. Southern California Edison owns the streetlights, and the districts provide for payment of the utility costs for operation of the streetlights. There are no plans at this time to increase the number of the streetlights. There is no other existing service provider for streetlights in the area even though County Service Area 70 overlays the entirety of the community and is authorized streetlighting services, and the service is adequately provided. The future need for streetlights will increase as the population grows, dependent upon the implementation of the County's Night Sky Ordinance¹⁹ within this portion of the desert. The purpose of the Night Sky Ordinance is to encourage outdoor lighting practices and systems that will minimize light pollution, conserve energy, and curtail the degradation of the nighttime visual environment. Future developments may require public streetlights for major intersections for public safety purposes.

Present Capacity of Public Facilities and Adequacy of Public Services

Daggett CSD generally meets the water needs of the community by the level of service provided. However, no water plans or studies were provided, therefore the quality of the facilities could not be determined. The provision of water service within the Yermo area has been outlined as presenting capacity and facility questions as well as questions regarding its maintenance and operation. These questions are currently under review of the California Public Utilities Commission for the potential request for receivership. The Yermo CSD has requested consideration of the activation of its water powers to be able to participate in the determinations for water service for its citizens.

¹⁹ County of San Bernardino, Development Code Chapter 83.07, Adopted Ordinance 4011 (2007).

The park and recreation services are adequately met by the districts but they are generally dependent upon grants for improvements and construction.

Each of districts is authorized by LAFCO to provide fire protection services. However, each of the districts experiences challenges in providing fire protection services given the limited resources available, and each is reliant upon one another and other fire protection agencies for mutual aid to fulfill this mission. Daggett and Yermo do not have a fire master plan or operational plan to reference in order to provide information on ISO ratings, average response times, personnel training and certifications, station additions or upgrades, and short and long-term goals. Newberry has the largest area to cover and as of January 2009 has two operational fire stations, and provides for a fire master plan identifying its operations and future considerations. The continual transfer of funds for Daggett CSD from the other funds, including the enterprise activity of the District, to the fire activities could result in decrease in the level of service of both the other services and fire protection services. There may be a better avenue for fire provision within these areas due to the lack of resources.

Each of the districts experiences financial challenges stemming from lack of revenue in comparison to expenditures. With the exception of water charges collected by Daggett CSD, the operations of the districts are funded by the ad valorem property taxes. Fire protection and related activities comprise the largest expense and increase annually. Moreover, a comprehensive review of the districts' finances could not be completed due to the lack of current audits. Further, to varying degrees, each of the districts does not adhere to the statutes related to finances of a community services district. Of concern to LAFCO staff is the current and future viability of the three districts. Paramount to any agency is its financial health. A review of the financial documents of each district indicates that each is experiencing financial challenges or does not receive enough incoming revenue to adequately support the ongoing operations of the district. The interest in governance of the district appears to be limited. In general, poor financial health and lack of interest in governance are prime indicators of struggling agencies.

Social and Economic Communities of Interest

The social community of interest is the individual community services districts and their residents. There is an intra-relational structure in place between the three community services districts and they can be considered a single community of interest. This is due to their adjacent territories, their common service provision, identifying themselves as communities along the interstate corridors, having a historic divide from the Barstow community, and dependency upon each other for service delivery, such as fire protection.

Economic communities of interest are the Interstate 15 and 40 corridors, Barstow-Daggett Airport, agriculture, mining industries, the Marine Corps Yermo Annex, and the Silver Valley Unified School District, San Bernardino County Regional Park at Calico Ghost Town and the Union Pacific Rail Yard.

ADDITIONAL DETERMINATIONS

- The Commission's Environmental Consultant, Tom Dodson and Associates, has determined the options/changes outlined in this report for the various agencies are statutorily exempt from environmental review. Mr. Dodson's response for each of the reviews is included in their respective attachments to this report.
- Legal advertisement of the Commission's consideration has been provided through publication in The Desert Dispatch through a publication of an 1/8th page legal ad, as required by law. In accordance with Commission Policy #27, an 1/8th page legal ad was provided in lieu of individual notice because the service reviews for the communities, in aggregate, would have exceeded 1,000 notices.
- As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

RECOMMENDATIONS

Staff recommends that the Commission take the following actions:

1. For environmental review certify that the options outlined in the staff report for this consideration are statutorily exempt from environmental review and direct the Clerk to file the Notices of Exemption within five (5) days.
2. Receive and file the municipal service reviews for the Daggett Community Services District, Newberry Community Services District, and Yermo Community Services District and make the findings related to the service reviews required by Government Code 56430 as outlined in the staff report.
3. Take the actions outlined in the staff report to either:
 - a. Consolidate the spheres of influence for Daggett CSD, Newberry CSD, and Yermo CSD and remove the Harvard community from the sphere of influence; or,
 - b. Consolidate the spheres of influence for Daggett CSD and Yermo CSD, remove the Harvard community from the sphere of influence, and affirm the existing sphere of influence of the Newberry CSD.

And,

- c. Include four separate areas within the consolidated sphere of influence to provide for a clear and definable consolidated sphere boundary.

- d. Modify the service descriptions for the authorized functions of Daggett CSD and Newberry CSD as identified in the staff report.
4. Continue the adoption of the appropriate resolutions reflecting the Commission's determinations for adoption on the consent calendar of the June 17 hearing.

KRM/MT

ATTACHMENTS

1. Maps
 - a. [Regional](#)
 - b. [Water Providers within the Communities](#)
2. [Maps of LAFCO Staff Proposed Options for Sphere Updates](#)
3. Daggett Community Services District
 - a. [Map of District and its Existing Sphere of Influence](#)
 - b. [Municipal Service Review Information and Fiscal Year 2006-07 Financial Transactions Report Submitted to the State Controller](#)
 - c. [Information Related to Water Service Provision Within Yermo CSD](#)
 - d. [Correspondence from District dated March 13, 2009 on Response to Draft Staff Report of January 13, 2009](#)
 - e. [Response from Tom Dodson and Associates](#)
4. Newberry Community Services District
 - a. [Map of District and its Existing Sphere of Influence](#)
 - b. [Municipal Service Review Information including Fire Operational Plan and Strategic Plan, Fiscal Year 2006-07 Audit and Budget Resolution No. 2008-29 for Fiscal Year 08-09.](#)
 - c. [Correspondence from LAFCO Staff dated May 16, 2008 with the District's Response dated June 13, 2008 and Email Correspondence Dated September 18 and 19, 2008](#)
 - d. [Correspondence from District dated March 23, 2009, Received on April 14, 2009, Response to Draft Staff Report of January 13, 2009 including Exhibits F-1, F-2, and H](#)
 - e. [Response from Tom Dodson and Associates](#)
5. Yermo Community Services District
 - a. [Map of District and its Existing Sphere of Influence](#)
 - b. [Municipal Service Review Information, Fiscal Year 2006-07 Audit and Budgets for Fiscal Year 2006-07, 2007-08, and 2008-09](#)
 - c. [Board of Supervisors Agenda Item 38 from July 22, 2008 Regarding Sale of Property to Yermo CSD](#)

- d. [Minutes of January 20, 2009 Board of Directors Regular Meeting Action to Apply for Acquisition of Yermo Water Company and Water Powers through LAFCO](#)
 - e. [Correspondence from District dated March 9, 2009, Regarding Response to Draft Staff Report of January 13, 2009](#)
 - f. [Response from Tom Dodson and Associates](#)
6. [Maps of Yermo Water Company, Order Extending Statutory Deadline, Presiding Officer's Decision Authorizing Superior Court Action for Appointment of a Receiver for Yermo Water Company, Order Instituting Investigation of the Yermo Water Company Issued by the California Public Utilities Commission](#)
 7. [Fiscal Year 1977-78 Tax Rates for Appropriation Limit Requirement](#)
 8. [Response to LAFCO Staff's 2006 Request to List Services Actively Provided as required by CSD law for Daggett, Newberry and Yermo CSDs including background on function/service definition within LAFCO Rules and Regulations Affecting Functions and Services of Special Districts](#)