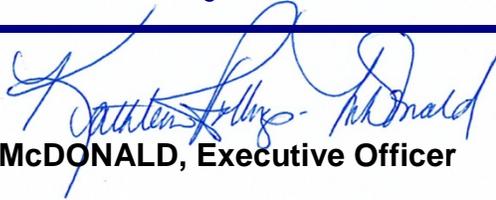


**LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

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DATE: JANUARY 13, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: AGENDA ITEM #7 -- LAFCO 3181 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE BIGHORN-DESERT VIEW WATER AGENCY AND DISSOLUTION OF COUNTY SERVICE AREA 70 ZONE W-1 AND FORMATION OF AN IMPROVEMENT DISTRICT OF BIGHORN-DESERT VIEW WATER AGENCY

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Modify LAFCO 3181 - Reorganization to include Annexations to the Bighorn-Desert View Water Agency and Dissolution of County Service Area 70 Zone W-1 ("CSA 70 Zone W-1") to include the formation of an improvement District of the Bighorn-Desert View Water Agency reflecting the boundaries of CSA 70 Zone W-1;
2. Certify that LAFCO 3181, as modified, is statutorily exempt from environmental review and direct the Executive Officer to file a Notice of Exemption within five (5) days;
3. Approve LAFCO 3181, as modified, with the following conditions:
 - a. Standard conditions for a change of organization;
 - b. The effective date of this reorganization shall be July 1, 2015;
 - c. The service area/territory of the dissolved CSA 70 Zone W-1, on the effective date of this reorganization, shall be formed as an improvement district of the Successor District ("Improvement District") and shall be required to maintain separate accounts for the purposes of keeping the existing assets and liabilities, including, but not limited to, capital funds, assessments and debt obligations of the dissolved CSA 70 Zone W-1 isolated and segregated;

- d. Upon the effective date of the reorganization, the Bighorn-Desert View Water Agency, as Successor District to CSA 70 Zone W-1, shall succeed to all rights, duties, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permits and approvals of the dissolved CSA 70 Zone W-1. It is anticipated that the transition period shall be from the date of completion of the protest process until the effective date of the reorganization assigned (July 1, 2015) allowing for the smooth transition of operations;
- e. Upon the effective date of the reorganization, the Improvement District shall receive all reserve fund balances from the dissolved CSA 70 Zone W-1 specifically identified in the Fiscal Year 2014-15 Adopted Reserve Program (Capital Replacement \$358,764 and Capital Expansion \$319,263; total \$678,027) to be held for the benefit of the ratepayers and property owners within the dissolved district. Transactions utilizing these funds shall be accounted for and described in the annual audit/comprehensive financial reports recognizing the improvement district. All other cash on hand or reserve funds shall transfer to the Successor District for use in providing the service to the area of the dissolved CSA 70 Zone W-1;
- f. Upon the effective date of the reorganization, the Successor District shall accept all system facilities transferred from the dissolved CSA 70 Zone W-1 in "as is" condition without any payment or repair obligation from the assets of CSA 70 (pursuant to Government Code Section 56886(h)). All system facilities and incidental liabilities, such as accounts payables, contract obligations and customer deposits shall be transferred to the Successor District. All assets including, but not limited to, water production equipment (pumps, storage tanks, etc.), water transfer infrastructure, transmission lines and rights-of-way, rolling stock, tools, office furniture, fixtures and equipment, all lands, buildings, real and personal property and appurtenances held by the dissolved CSA 70 Zone W-1 shall be transferred to the Successor District;
- g. The debt obligations of the dissolved CSA 70 Zone W-1 (including but not limited to bond debt and its share of Improvement District M of the Mojave Water Agency) shall remain with the ratepayers obligated to repay those debts through assignment to the Improvement District of the Successor District;
- h. The existing fees, taxes, assessments, and charges of CSA 70 Zone W-1 shall continue as the Improvement District's fee, taxes, assessment and charges for payment of the obligations for the duration of the debt obligation;
- i. Water rates for the CSA 70 Zone W-1 area shall transition to the previously established and authorized current rates of the Bighorn Desert View Water Agency. It is anticipated that the transition shall be phased to allow for transition in operating systems but shall be accomplished by the close of the

first fiscal year following the effective date of the reorganization;

- j. Upon the effective date of the reorganization, the Successor District shall succeed to all water and capacity rights of the dissolved CSA 70 Zone W-1, whether wholly or partially owned or held by the extinguishing district and shall succeed to the priorities of use or rights of use of water or capacity rights in any public improvements or facilities or any other property whether real or personal, to which the dissolved CSA 70 Zone W-1 is entitled to upon the effective date of this Reorganization. The successor district shall specifically succeed to all rights and interest held or claimed by the dissolved CSA 70 Zone W-1 under the Ames Judgment under Riverside Superior Court Case 211504;
- k. Upon the effective date of the reorganization, the Successor District shall specifically succeed to all rights and interests held or claimed by the dissolved CSA 70 Zone W-1 under all agreements and/or memoranda of understanding with the Department of the Interior, the Bureau of Land Management, the United States Geological Survey, the California Department of Fish and Game, the California Water Quality Control Board and the Regional Water Quality Control Board for the Lahontan Region, or any other public agency or private entity with which the dissolved CSA 70 Zone W-1 has an agreement or memoranda of understanding. The Successor District shall also assume all joint use flow agreements and maintenance agreements held by the dissolved CSA 70 Zone W-1 [(Government Code Section 56886(r)]. Amendments of existing agreements shall be completed prior to the effective date to address any changes in service [Government Code Section 56886(r)(v)];
- l. The appropriation limit of the dissolved CSA 70 Zone W-1 shall be added to the appropriation limit of the Successor District;
- m. Upon the effective date of this reorganization, the Successor District and its Improvement District shall succeed to all rights, duties, and obligations of the dissolved CSA 70 Zone W-1 with respect to the enforcement, performance or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the dissolved CSA 70 Zone W-1. This reorganization shall not impair any rights of any bondholder or creditor of the dissolved CSA 70 Zone W-1; and,
- n. As of the date of approval of the reorganization by LAFCO through the effective date pursuant to the provisions of Government Code 56885.5(a)(4), the Board of Supervisors of San Bernardino County as the governing body of CSA 70 Zone W-1 shall be prohibited from taking the following actions unless it first finds an emergency situation exists as defined in Government Code Section 54956.5:
 - i. **No Increase in Compensation or benefits:** No increase in calculation for payment of benefits or compensation to CSA 70 shall be allowed.

Exceptions to this prohibition include planned and budgeted increases identified in the adopted budget for Fiscal Year 2014-15.

- ii. **Bound by Current Budget:** Appropriating, encumbering, expending, or otherwise obligating any revenue of CSA 70 Zone W-1 beyond that provided in the current budget at the time of Commission approval unless agreed to by the Successor District.
4. Adoption of LAFCO Resolution No. 3194 outlining the Commission terms, conditions and determinations.

BACKGROUND

In April of 2014 the Bighorn-Desert View Water Agency (hereafter identified as "Agency") submitted an application to annex the territory included within County Service Area 70 Zone W-1 (hereafter identified as CSA 70 Zone W-1), map of the area included as Attachment #1. This proposal contemplates the dissolution of CSA 70 Zone W-1 and the transfer of its assets, liabilities, reserves, and properties to the Agency for operating the domestic water delivery to the community identified as Goat Mountain in the larger Landers community. The Agency identified in its application (a complete copy of which is included as a part of Attachment #3) that the approval of the reorganization would provide for local control and governance participation, and the ability to respond to periodic problems or issue in a more timely manner. The Agency identifies that the successful completion of the application would provide for a lower and more stable water rate based on the Agency's history of water service within its community.

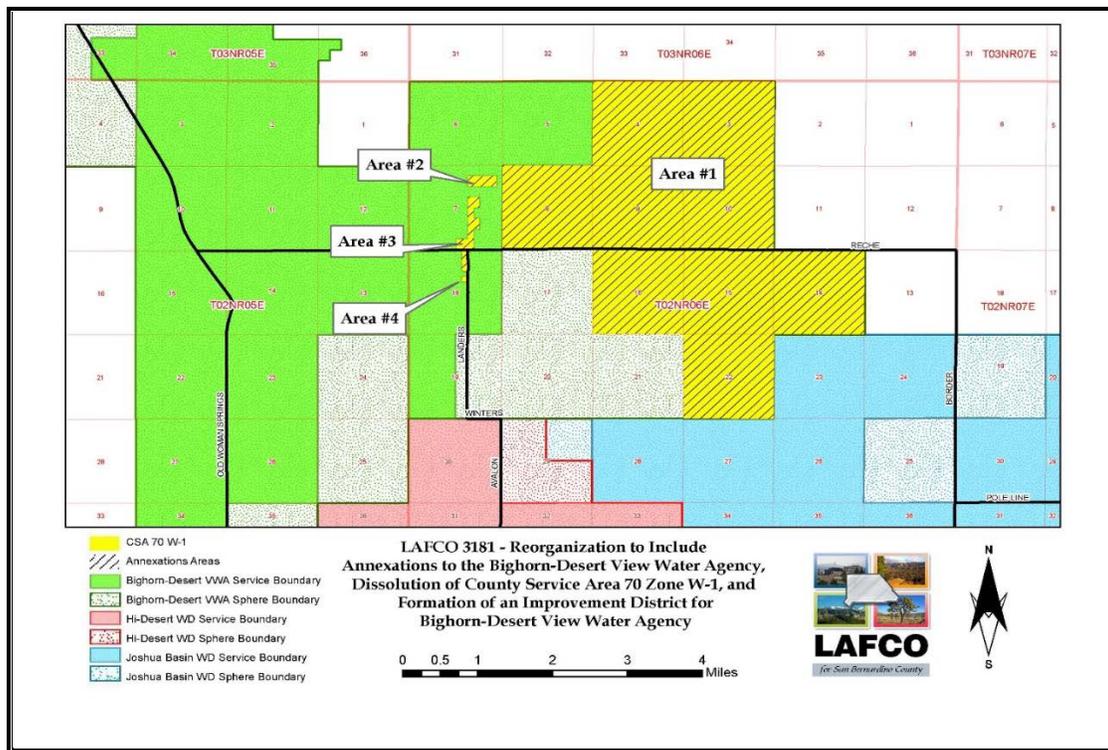
The Commission concluded its Service Review for the Homestead Valley community (Landers, Flamingo Heights, Goat Mountain and Johnson Valley) of the South Desert region in April 2012 through adoption of Resolution No. 3155 (copy included as a part of Attachment #2). As the Commission will recall, this determination was made after three hearings and the direction to staff to conduct a community meeting to review the options of including the CSA 70 Zone W-1 territory within the Agency's sphere of influence or the continued exclusion of the area from its sphere. In March 2012 the community meeting was conducted, a survey was provided, the Agency conducted its own survey and the results were presented to the Commission at the April 18, 2012 hearing. At that hearing the Commission determined that the sphere of influence should be expanded to include the whole of the W-1 system, that the "cross" area be included in the sphere, and on the west side, reduce the sphere of influence area by approximately 13,000 areas eliminating lands designated for resource conservation.

What followed was relative calm in the Landers/Goat Mountain communities until 2013 when the County Special Districts Department proposed water rate increases for the W-1 system. Without an advisory commission or body to review community concerns, the residents were provided a Prop 218 notice to protest the water rate increase proposed for FY 2013-14 and extending through FY 2015-16, at a minimum. This corresponded with changes proposed at

the County level for all County operated domestic water operations to guarantee financial coverage needs for reserves to address system repairs, replacement, and improvements. Residents and/or property owners in the Goat Mountain area were concerned with the impacts of this change, the costs to its fixed income residents and responded by putting together the Landers Community Task Force to research options. There were a number of options evaluated by the Task Force, one of which was the potential dissolution of CSA 70 Zone W-1 and the assumption of that service by the Agency through annexation, an option which for the past almost twenty years was unthinkable.

The Task Force reviewed the options for the community and system and met with LAFCO staff to review the process for change as well as conducting discussions with others. The Task Force ultimately filed a request with the Agency to proceed with annexation and in January 2014 the Agency adopted a resolution initiating the annexation request to LAFCO. In addition, the newly formed Morongo Basin Municipal Advisory Council (MAC) received a presentation on the proposal and responded with the adoption of Resolution No. MB-MAC-003 identifying its support for the reorganization.

The reorganization proposal as submitted is shown on the map below:



The submission of the application in April 2014 started the LAFCO process which includes the staff analysis of the application against the factors outlined in Government Code Section 56668, property tax transfer requirements pursuant to the Revenue and Taxation Code and an environmental determination under CEQA. Prior to circulating the proposal for review and comment, staff modified the application to include the formation of an improvement

district of the Agency to isolate CSA 70 Zone W-1 debt and the special tax revenues to repay it along with isolating the reserves saved by the Goat Mountain community.

In compiling the information for the Commission to evaluate the proposal, the County and its Special Districts Department were requested to identify their position on the proposal and if there were any anticipated negative effects on future retail water operations under the existing system of board-governed agencies. The response was received in August 2014 that it was neither in support nor opposition to the proposal. Earlier information had identified that possibly an additional response from the County Administrative Office would be forthcoming; however, none was provided. The Commission's environmental consultant evaluated the environmental effects of the proposal and determined that his recommendation would be for a statutory exemption as there was no change in the area in which service was to be provided therefore no significant effect upon the environment. The County adopted its resolution identifying that the share of the 1% general ad valorem property tax revenue generated by CSA 70 Zone W-1 would be transferred to the Agency upon successful completion of the proposal. So the stage is set for the Commission to evaluate the proposal.

The narrative which follows provides a discussion to evaluate the proposal against the mandatory criteria the Commission is required to review as set forth in Government Code Section 56000 et al. The narrative provides a more detailed discussion of the various specific aspects of the proposal and consequences of the change from this snapshot in time. As with all applications for jurisdictional change, the Commission's review will center on determinations related to the following:

1. **BOUNDARIES:** Do the boundaries presented for the reorganization represent a division which makes sense from a service delivery perspective for current and future growth? Are the boundaries definite, certain and easily recognizable? Do the boundaries promote efficient and effective service delivery?
2. **LAND USE:** Will approval of the proposal affect the land use authority or the decisions upon land use options?
3. **FINANCIAL AND SERVICE CONSIDERATIONS:** Does the reorganization represent the best available service option for the affected communities? Does it provide for a more efficient, effective and accountable form of government? Can the annexing or successor district continue to provide the level of services which existed prior to the change? Would the approval of the reorganization impair the ability of any other agency to continue providing its range and level of services?
4. **ENVIRONMENTAL:** Will the proposed reorganization have an adverse environmental effect that cannot be mitigated to a level of non-significance? If it does, can those adverse effects be overridden by other benefits?

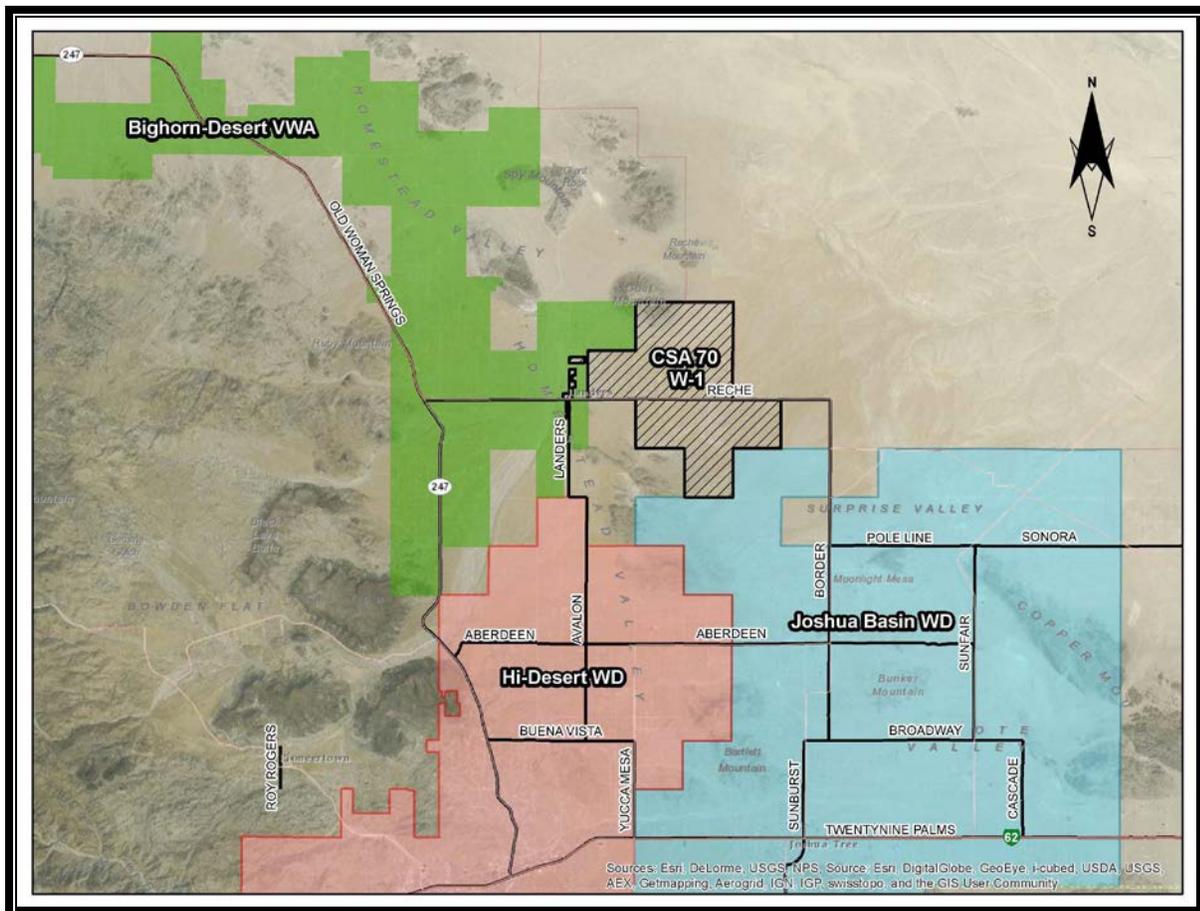
As with most considerations presented to the Commission, the final determination of success or failure rests with the landowners and registered voters of the area. LAFCO 3181 will

provide an opportunity for the landowners and voters to determine their future should the Commission chose to approve the application as modified by the staff.

BOUNDARY DISCUSSION:

The proposal as submitted by the Agency anticipates the inclusion of the entirety of the CSA 70 Zone W-1 system into its jurisdiction. Of note, the three island areas (Areas 2, 3 and 4) are currently provided service by the Agency through an out-of-agency agreement with CSA 70 Zone W-1.

The map which follows provides the topographic relief for the area which represents a clear and efficient service delivery boundary.



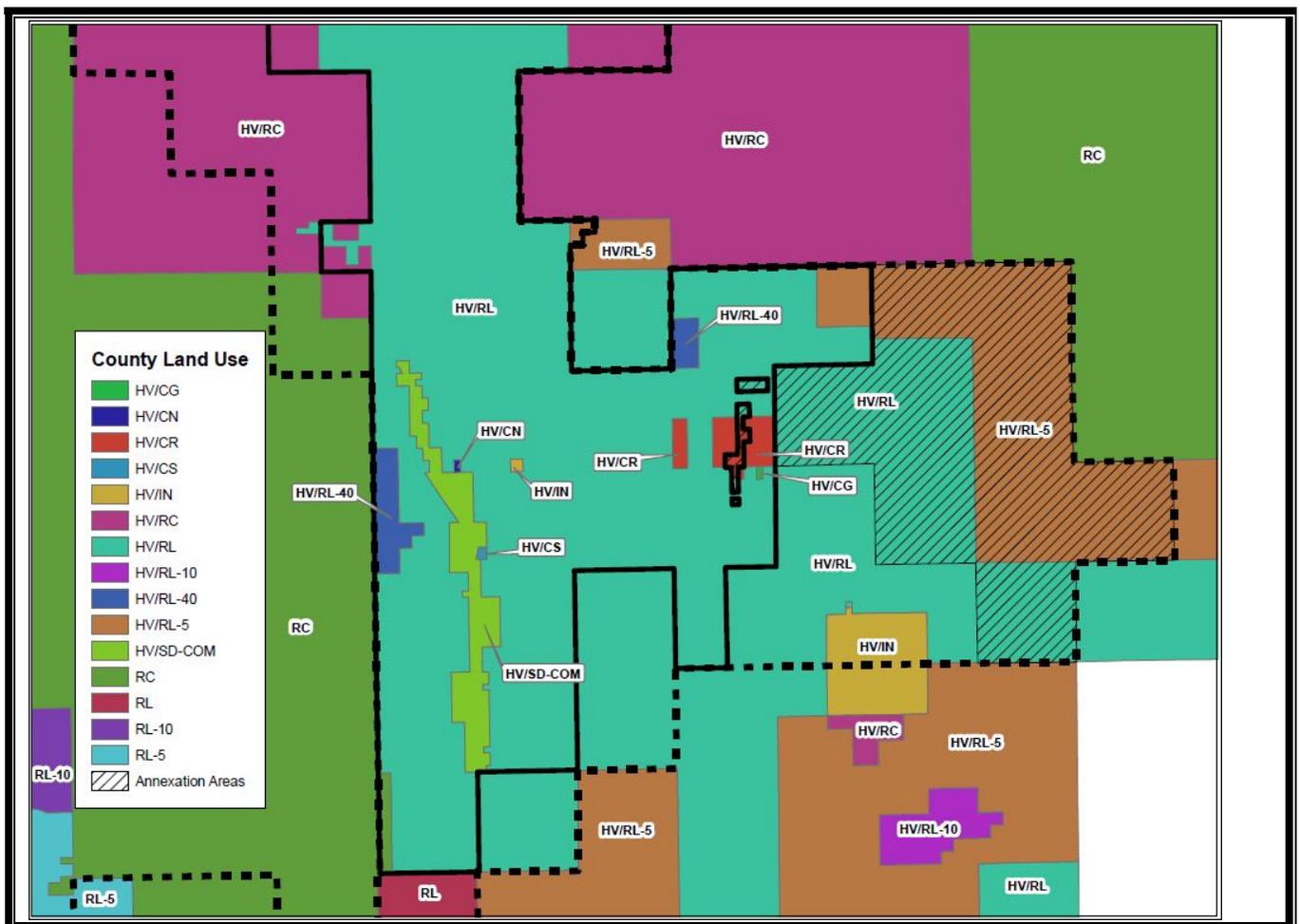
The proposal provides for the Homestead community to be served by a single retail water entity. In addition, staff is recommending the modification to the proposal to include the formation of an improvement district which will provide for the isolation and segregation of revenues received from and debts incurred by the former CSA 70 Zone W-1. It is the staff's position that LAFCO 3181 provides for a definite and certain boundary as required by LAFCO law.

LAFCO staff is recommending the inclusion of a specific condition related to boundaries outlined as follows:

1. The service area/territory of the dissolved CSA 70 Zone W-1, on the effective date of the reorganization, shall be formed as an improvement district of the Successor District and shall be required to maintain separate accounts for the purpose of keeping the existing assets and liabilities, including but not limited to, capital funds, assessments and debt obligations of the dissolved CSA 70 Zone W-1 isolated and segregated.

LAND USE:

The review and approval of LAFCO 3181 will have no direct effect on the land use designations assigned by the County. It will, however, assist in implementing the goals as established by the County General Plan Update which are to require the delivery of a safe and sustainable retail water service. The following figure is an excerpt of the map presented in the service review and identifies the existing land uses within the reorganization area:



As the figure above illustrates, Area 1 of the reorganization is designated for residential use; Areas 2 is designated for residential use, Area 3 is designated residential and commercial use, and Area 4 is designated for residential use.

The Southern California Associated Governments (SCAG) has adopted a Regional Transportation Plan and Sustainable Community Strategy pursuant to the provisions of Government Code Section 65352.5 and approval of LAFCO 3181 will have no direct impact on those determinations. However, of note, the Sustainable Community Strategy includes as a determination the need to assure the ongoing availability of a reliable water supply and approval of LAFCO 3181 will support that determination.

SERVICE CONSIDERATIONS AND FINANCIAL EFFECTS:

The questions related to the service considerations and financial effects of LAFCO 3181 are the heart of the issue for Commission consideration. In the staff view, and that of LAFCO law, it is the responsibility of the Commission to determine whether or not the proposal will provide for an efficient and effective delivery of retail water service, and will that delivery system be sustainable, meaning can it continue to provide for the level of service contemplated. So the task for the Commission is to evaluate the information which has been provided for the operations and answer the questions of:

Does the change represent the best available service option for the community?
Does it provide for a more efficient, effective and accountable form of government?
Can the successor entity continue to provide the level of services which were previously provided by CSA 70 Zone W-1? Would the approval of the reorganization impair the ability of any other agency to continue providing its range and level of services?

In preparing the analysis, requesting information, and discussing questions related to this reorganization proposal, staff encountered an avalanche of statements submitted regarding the current operations of both agencies. Staff's response has been to maintain the focus on the evaluation of the transfer of the operations from one agency to another as each agency has the statutory authority to operate their system in accordance with the direction of their governing body and each has operated in that manner. The service review conducted for these districts in 2012 reviewed the operations of the both districts and no further evaluation of them is required to evaluate the current proposal. Excerpts from the Service Review/Sphere of Influence Update report are included as a part of Attachment #2. Therefore, no discussion in this report will relate to the appropriateness of capital improvement program decisions, choice of contractors, or timing of improvements, repairs or purchases.

Financial Effects:

The Bighorn-Desert View Water Agency submitted a Plan for Service along with a fiscal impact analysis identifying the expenditures and revenues for assuming the responsibility for providing service to the CSA 70 Zone W-1 territory. Of importance in this material is the determination made by the Agency to immediately include the CSA 70 Zone W-1 system in its current established water rate structure. This will reduce the existing rates paid by CSA 70 Zone W-1 water recipients. The Agency supplemented the Plan for Service information with the preparation of a five-year projection for the agency as a whole with the merged operations.

In addition, LAFCO staff requested information from the County Special Districts Department on the expenditures and revenues for CSA 70 Zone W-1 and the position of the County on the proposal. The County has responded to the information requests but has taken no direct position on the proposal; stating that they would leave that determination up the staff's analysis for the Commission. One specific question asked was whether or not there would be an impact to the ongoing operations of the County Special Districts Department Water and Sanitation Division. No written response was provided so the staff has taken that to mean no impact is anticipated. As the Commission will recall, in the Baldwin Lake Fire reorganization this was the significant determination requiring environmental assessment and discussion.

To begin this review, it is important to understand the financial position of each of the agencies. Staff has taken information from the audits prepared for these agencies to compile charts of the activities for the last five years of operation. Those are shown below:

COUNTY SERVICE AREA 70 ZONE W-1						
STATEMENT OF CASH FLOWS FROM AUDITS						
Account Name	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
CASH FLOWS FROM OPERATING ACTIVITIES:						
Receipts from Customers	\$260,892	\$342,566	\$340,788	\$327,754	\$350,247	\$399,325
Payments to suppliers	-\$108,323	-\$154,828	-\$157,706	-\$144,942	-\$150,472	-\$22,759
Payments to employees	-\$275,443	-\$265,552	-\$283,447	-\$290,197	-\$229,889	-\$132,571
Total Operating	-\$122,874	-\$77,814	-\$100,365	-\$107,385	-\$30,114	\$243,995
CASH FLOWS FROM NON CAPITAL FINANCING ACTIVITIES:						
Property Taxes	\$108,271	\$104,085	\$123,271	\$123,077	\$125,973	\$115,521
Special Assessments	\$78,435	\$74,140	\$74,038	\$73,480	\$93,558	\$83,951
State Assistance	\$2,301	\$2,205	\$3,101	\$0	\$0	\$0
Penalites	\$8,175	\$8,947	\$14,690	\$8,123	\$6,767	\$8,921
Other taxes	\$10,029	\$1,343	\$1,273	\$297	\$282	\$263
Other nonoperating revenues	\$11,968	\$7,879	\$6,479	\$234	\$2,985	\$12,335
Intergovernmental	\$22,000	-\$9,992	\$0			
Total Non Operating	\$241,179	\$188,607	\$222,852	\$205,211	\$229,565	\$220,991
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:						
Principal paid on bonds	-\$55,000	-\$55,000	-\$60,000	-\$65,000	-\$65,000	-\$70,000
Interest paid on bonds	-\$38,750	-\$36,000	-\$33,250	-\$30,250	-\$27,000	-\$23,750
Acquisition of Capital Asset			-\$37,421		-\$439	-\$400,712
Net Cash Used for financing	-\$93,750	-\$91,000	-\$130,671	-\$95,250	-\$92,439	-\$494,462
CASH FLOW FROM INVESTING ACTIVITIES:						
Investment earnings	\$40,745	\$14,925	\$10,587	\$5,753	\$13,002	\$6,981
Gain on Sale of Asset			\$1,304			
Net Cash provided			\$11,891			
Net Increase (decrease) in Cash	\$65,300	\$34,718	\$3,707	\$8,329	\$120,014	-\$22,495
Cash and Cash Equivalents						
Beginning fo the Year	\$973,682	\$1,038,982	\$1,073,700	\$1,077,407	\$1,085,736	\$1,205,750
End of the Year	\$1,038,982	\$1,073,700	\$1,077,407	\$1,085,736	\$1,205,750	\$1,183,255

Two issues need to be addressed when reviewing the financial data for CSA 70 Zone W-1. First, is that CSA 70 Zone W-1 receives approximately \$23,000 in ad valorem property taxes annually; while the amount shown in the Audit for FY 2013-14 is \$115,521 (copy included as a part of Attachment #4). The difference is that the accounting for stand-by charges, delinquent user charges, interest on penalties and interest earnings are all shown in the property tax category. This was identified as a transparency issue in the service review conducted in 2012 and the response from the Special Districts Department was that it would look into methods to deposit the revenues in appropriate accounts to provide for a clearer understanding (page 88 of 2012 report). This has not occurred and at this time it is unclear how much revenue is received from the District's stand-by charges. Second, the information in the audit identifies payments for employees, but the Commission will recall that CSA 70 Zone W-1 has no employees it pays for a share of the Water and Sanitation Division as well

as Special District administration through an annual transfer. The cost for types of employees funded, the number of Full-time Equivalents (FTEs) needed to operate the system are not identified in the audit or budget materials.

The materials identify that in five out of the last six years expenses for operating the system exceeded revenues from operations, requiring non-operating revenues to balance. In addition, no grant revenues for system improvements are shown for this operation.

BIGHORN-DESERT VIEW WATER AGENCY						
STATEMENT OF CASH FLOWS FROM AUDITS						
Account Name	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
CASH FLOWS FROM OPERATING ACTIVITIES:						
Receipts from Customers	\$959,708	\$1,137,079	\$1,059,597	\$1,048,694	\$1,198,494	\$1,102,151
Payments to suppliers	-\$427,035	-\$360,292	-\$343,707	-\$394,179	-\$681,748	-\$710,581
Payments to employees	-\$512,938	-\$530,380	-\$597,097	-\$503,633	-\$388,004	-\$422,177
Other Miscellaneous Revenues			\$9,036	-\$5,352	-\$5,187	-\$1,734
Total Operating	\$19,735	\$246,407	\$127,829	\$145,530	\$123,555	-\$32,341
CASH FLOWS FROM NON CAPITAL FINANCING ACTIVITIES:						
Property Taxes	\$113,960	\$113,732	\$95,783	\$98,568	\$99,207	\$99,712
Total Non Operating	\$113,960	\$113,732	\$95,783	\$98,568	\$99,207	\$99,712
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:						
Property Tax - Long Term Debt	\$142,572	\$123,379	\$127,981	\$196,618	\$181,440	\$182,014
Other Revenue - Long Term Debt	\$47,744	\$50,345	\$50,206	\$50,006	\$49,967	\$49,843
Principal paid on bonds	-\$85,000	-\$90,000	-\$95,000	-\$102,000	-\$105,000	-\$110,000
Interest paid on bonds	-\$71,186	-\$58,699	-\$54,199	-\$49,369	-\$45,024	-\$39,180
Principal Paid on Capital Lease	-\$14,087	-\$14,087	-\$2,346	\$0	\$0	\$0
Acquisition of Capital Asset	-\$201,835	-\$343,605	-\$425,284	-\$278,408	-\$444,837	-\$17,221
Mojave Pipeline Support	-\$73,198	-\$73,254	-\$73,097	-\$73,181	\$0	
Other Income	\$233	-\$4,099	\$0	\$0		\$318,171
Grant Revenue Received	\$42,855	\$360,552	\$302,396	\$128,217		
Net Cash	-\$211,902	-\$49,468	-\$169,343	-\$128,117	-\$363,454	\$383,627
CASH FLOW FROM INVESTING ACTIVITIES:						
Investment earnings	\$9,537	\$4,234	\$3,549	\$4,281	\$3,142	\$6,227
Net Increase (decrease) in Cash	-\$68,670	\$314,905	\$57,818	\$120,262	-\$137,550	\$457,225
Cash and Cash Equivalents						
Beginning fo the Year	\$458,166	\$389,496	\$704,401	\$762,219	\$882,481	\$744,931
End of the Year	\$389,496	\$704,401	\$762,219	\$882,481	\$744,931	\$1,202,156

The information taken from the Agency's audits shows that for the past five out of six years operating revenues have exceeded expenses. In addition, the Agency has undertaken the acquisition of significant capital assets while still growing its cash balance. The audit

materials identify that the agency has been able to receive grant approval in five straight years for projects, totaling \$845,097 in grant revenue.

During the service review several items of concern were identified but the in reference to financial operations of the Agency was the lack of an appropriation limit. Subsequent to the service review, the Agency has taken the steps necessary to develop its appropriation limit and has annually taken the steps required to update.

Supplemental material submitted by the Agency identifies its projection for the first five-years following completion of the reorganization which will merge the operations of the two systems (a full copy of the supplemental data is included as a part of Attachment #3). This projection includes the reduction in water rates to those currently authorized by the Agency, anticipates an incremental increase in operation staff to manage the combined systems which benefits both systems and economies of scale for overhead and day-to-day operations. The materials show that operating revenues are projected to cover expenses; that debt service will be covered by revenues generated for that activity (the improvement district will assume payment responsibility), and that replacement reserves for each system will remain segregated. The following summary table has been taken from those materials:

SUMMARY						
	Current FY Combined Base Projection	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20
		Year 1	Year 2	Year 3	Year 4	Year 5
TOTAL REVENUE	\$1,912,886	\$1,912,886	\$1,989,159	\$2,026,393	\$2,064,613	\$1,834,949
OPERATING REVENUE	\$1,397,959	\$1,397,959	\$1,473,000	\$1,508,989	\$1,545,953	\$1,583,920
<i>ADMINISTRATION EXPENSE</i>	\$714,121	\$744,165	\$757,479	\$785,963	\$806,404	\$838,216
<i>OPERATION EXPENSE</i>	\$610,514	\$633,782	\$657,971	\$683,116	\$709,257	\$736,436
<i>NET Operating Revenue Projection</i>	\$73,324	\$20,011	\$57,551	\$39,910	\$30,292	\$9,268
NON-OPERATING REVENUE	\$514,927	\$514,927	\$516,159	\$517,403	\$518,660	\$251,029
<i>DEBT EXPENSE BDVWA</i>	\$223,200	\$220,972	\$221,822	\$220,372	\$221,622	\$35,149
<i>DEBT EXPENSE W-1</i>	\$101,887	\$101,887	\$101,887	\$101,887	\$101,887	\$0
<i>NET Non-Operating Revenue Projection</i>	\$189,840	\$192,068	\$192,450	\$195,144	\$195,151	\$215,880
ANNUAL PROJECTED NET REVENUE	\$263,164	\$212,079	\$250,001	\$235,055	\$225,443	\$225,149
<i>Total Operating and Non-Operating Revenue</i>	\$1,912,886	\$1,912,886	\$1,989,159	\$2,026,393	\$2,064,613	\$1,834,949
<i>Total Operating and Non-Operating Expense</i>	1,649,722	1,700,807	1,739,158	1,791,338	1,839,170	1,609,801
<i>Revenue after Expense</i>	263,164	212,079	250,001	235,055	225,443	225,149
<i>Percentage Net Revenue after Expenses</i>	13.8%	11.1%	12.6%	11.6%	10.9%	12.3%
RESERVE BALANCE						
<i>BDVWA</i>	\$1,363,164	\$150,576	\$177,501	\$166,889	\$160,065	\$159,856
<i>W-1 (FAS dated 1/8/2015)</i>						
<i>Replacement Reserve</i>	\$261,136	\$61,503	\$72,500	\$68,166	\$65,378	\$65,293
<i>Expansion Reserve</i>	\$329,252					
<i>BDVWA plus W-1(Combined Agency Contributions)</i>		\$212,079	\$250,001	\$235,055	\$225,443	\$225,149
TOTAL PROJECTED RESERVE BALANCE *	\$1,953,552	\$2,165,631	\$2,415,632	\$2,650,687	\$2,876,130	\$3,101,279
* Reserve account used to fund annual projects which include new capital improvements, repair/replacement of existing infrastructure (eg. Pumps, Pressure Reducing Valves, chlorinators) and equipment replacement (eg. Service trucks).						

The supplemental materials submitted by the Agency identify that the existing reserve balances of CSA 70 Zone W-1 as being \$261,136 for the capital replacement reserve and \$329,252 for its Expansion Reserve. However, LAFCO staff has identified the reserve balance as of January 8, 2015 for these accounts as: \$261,136 for the Capital Replacement Reserve and \$329,252. The Adopted Budget for the County Special District Department identifies that these accounts are to be: \$358,764 and \$319,263 respectively. Since the audits received for CSA 70 Zone W-1 do not identify these reserve accounts there is no independent determination of their value. Therefore, LAFCO staff will be addressing further action related to their transfer based upon the adopted budget for the Special Districts Department for an isolation of reserve revenues totaling \$678,027.

It is the position of LAFCO staff that the approval of this reorganization will provide for an efficient delivery of retail water service within the combined area representing the Landers community. As required by Commission policy and State law, the Plan for Service and the

supplemental data provided by the Agency show that the delivery of service will maintain and/or exceed current service levels provided by the County to the territory of CSA 70 Zone W-1.

Given the staff's support for the reorganization, the Commission will need to address the terms and conditions that are required to effectuate the change. Specifically, the terms and conditions will address the transition of service, transfer of obligations, discussion of water rates and more. Since the reorganization proposes the dissolution CSA 70 Zone W-1, the approval process will need to address the transition of service. First, staff is recommending that the effective date be set as July 1, 2015. This will allow for a clean break in financial operations; will allow for a transition period for the Special Districts Department to transfer operation; and hopefully allow for the staff of CSA 70 Zone W-1 to acclimate the personnel of the Agency to the system. Next, as shown in the financial materials above, CSA 70 Zone W-1 has current debt for development of its system which is proposed to be transferred to the new improvement district of the Agency. Approval of this will need to be conditioned in a manner to protect the bond holders as required by State law. Also the terms and conditions will need to address the transfer of the assets of the district, contractual obligations, etc. CSA 70 Zone W-1 is a party to the Ames Judgment and those responsibilities will need to transfer to the Agency. All in all, a number of specific conditions are needed to accommodate the dissolution and assumption of service. The full range of conditions is outlined as follows:

- Upon the effective date of the reorganization, the Bighorn-Desert View Water Agency, as Successor District to CSA 70 Zone W-1, shall succeed to all rights, duties, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permits and approvals of the dissolved CSA 70 Zone W-1. It is anticipated that the transition period shall be from the date of completion of the protest process until the effective date of the reorganization assigned (July 1, 2015) allowing for the smooth transition of operations;
- Upon the effective date of the reorganization, the Improvement District shall receive all reserve fund balances from the dissolved CSA 70 Zone W-1 specifically identified in the Fiscal Year 2014-15 Adopted Reserve Program (Capital Replacement \$358,764 and Capital Expansion \$319,263; total \$678,027) to be held for the benefit of the ratepayers and property owners within the dissolved district. Transactions utilizing these funds shall be accounted for and described in the annual audit/comprehensive financial reports recognizing the improvement district. All other cash on hand or reserve funds shall transfer to the Successor District for use in providing the service to the area of the dissolved CSA 70 Zone W-1;
- Upon the effective date of the reorganization, the Successor District shall accept all system facilities transferred from the dissolved CSA 70 Zone W-1 in "as is" condition without any payment or repair obligation from the assets of CSA 70 (pursuant to Government Code Section 56886(h)). All system facilities and incidental liabilities, such as accounts payables, contract obligations and customer deposits shall be

transferred to the Successor District. All assets including, but not limited to, water production equipment (pumps, storage tanks, etc.), water transfer infrastructure, transmission lines and rights-of-way, rolling stock, tools, office furniture, fixtures and equipment, all lands, buildings, real and personal property and appurtenances held by the dissolved CSA 70 Zone W-1 shall be transferred to the Successor District;

- The debt obligations of the dissolved CSA 70 Zone W-1 (including but not limited to bond debt and its share of Improvement District M of the Mojave Water Agency) shall remain with the ratepayers obligated to repay those debts through assignment to the Improvement District of the Successor District;
- The existing fees, taxes, assessments, and charges of the dissolved CSA 70 Zone W-1 shall continue as the Improvement District's fee, taxes, assessment and charges for payment of the obligations for the duration of the debt obligation;
- Water rates for the dissolved CSA 70 Zone W-1 area shall transition to the previously established and authorized current rates of the Bighorn Desert View Water Agency. It is anticipated that the transition shall be phased to allow for transition in operating systems but shall be accomplished by the close of the first fiscal year following the effective date of the reorganization;
- Upon the effective date of the reorganization, the Successor District shall succeed to all water and capacity rights of the dissolved CSA 70 Zone W-1, whether wholly or partially owned or held by the dissolved district, and shall succeed to the priorities of use or rights of use of water or capacity rights in any public improvements or facilities or any other property whether real or personal, to which the dissolved CSA 70 Zone W-1 is entitled to upon the effective date of this Reorganization. The Successor District shall specifically succeed to all rights and interest held or claimed by the dissolved CSA 70 Zone W-1 under the Ames Judgment under Riverside Superior Court Case 211504;
- Upon the effective date of the reorganization, the Successor District shall specifically succeed to all rights and interests held or claimed by the dissolved CSA 70 Zone W-1 under all agreements and/or memoranda of understanding with the Department of the Interior, the Bureau of Land Management, the United States Geological Survey, the California Department of Fish and Game, the California Water Quality Control Board and the Regional Water Quality Control Board for the Lahontan Region, or any other public agency or private entity with which the dissolved CSA 70 Zone W-1 has an agreement or memoranda of understanding. The Successor District shall also assume all joint use flow agreements and maintenance agreements held by the dissolved CSA 70 Zone W-1 [(Government Code Section 56886(r)]. Amendments of existing agreements shall be completed prior to the effective date to address any changes in service [Government Code Section 56886(r)(v)];

- The appropriation limit of the dissolved CSA 70 Zone W-1 shall be added to the appropriation limit of the Successor District;
- Upon the effective date of this reorganization, the Successor District and its Improvement District shall succeed to all rights, duties, and obligations of the dissolved CSA 70 Zone W-1 with respect to the enforcement, performance or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the dissolved CSA 70 Zone W-1. This reorganization shall not impair any rights of any bondholder or creditor of the dissolved CSA 70 Zone W-1; and,

The final element that will need to be addressed is that during the transition period, State law specifies that the dissolving entity be limited in scope in its authority for expenditures and encumbering obligations. Therefore, staff is recommending that the following condition be included to address this issue which will limit the operation from the point in time that the Commission approves the reorganization (adoption of its resolution) through the effective date proposed to be July 1, 2015.

- As of the date of approval of the reorganization by LAFCO through the effective date pursuant to the provisions of Government Code 56885.5(a)(4), the Board of Supervisors of San Bernardino County as the governing body of CSA 70 Zone W-1 and its staff shall be prohibited from taking the following actions unless it first finds an emergency situation exists as defined in Government Code Section 54956.5:
 - **No Increase in Compensation or benefits:** No increase in calculation for payment of benefits or compensation to CSA 70 shall be allowed. Exceptions to this prohibition include planned and budgeted increases identified in the adopted budget for Fiscal Year 2014-15.
 - **Bound by Current Budget:** Appropriating, encumbering, expending, or otherwise obligating any revenue of CSA 70 Zone W-1 beyond that provided in the current budget at the time of Commission approval unless agreed to by the Successor District.

Staff would note that the condition includes the proviso that if an issue arises that requires expenditure of funds or the obligation for payment, if the Agency agrees to the encumbrance then the Special Districts Department could move forward to address the issue.

ENVIRONMENTAL CONSIDERATIONS

The Commission is the lead agency for review of the potential environmental consequences of the reorganization evaluated in this report. LAFCO staff has provided the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, with the application materials and responses provided by the County Special Districts Department. Mr. Dodson has reviewed this proposal and has indicated that it is his recommendation that the

reorganization is statutorily exempt from the California Environmental Quality Act (CEQA) (copy of letter included as Attachment #5). This determination is based on the fact that the reorganization will transfer the operations of the water system from one entity to another which will not result in any physical impacts on the environment. Therefore, this action is exempt as defined under Section 15061(b)(3) of the State CEQA Guidelines. It is recommended that the Commission adopt the Statutory Exemption for this proposal by taking the actions outlined in the recommendation section of this report.

DETERMINATIONS

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for any proposal considered:

1. The County Registrar of Voters Office has determined that the study area is legally inhabited with 319 registered voters as of January 5, 2015.
2. The study area is within the sphere of influence assigned the Bighorn-Desert View Water Agency by approval of LAFCO 3148 in 2012 as a part of the Service Review/ Sphere of Influence Update process for the Homestead Valley community of the South Desert Region.
3. The County Assessor's Office has determined that the total assessed valuation of land and improvements for the area is \$36,759,776 as of May 21, 2014. This figure is broken down as follows:

Area 1	\$35,848,657 (\$14,077,335 land; \$21,771,322 improvements)
Area 2	\$ 352,623 (\$110,251 land; \$242,372 improvements)
Area 3	\$ 448,496 (\$176,622 land; \$271,874 improvements)
Area 4	\$ 110,000 (\$25,000 land; \$85,000 improvements)

4. Legal advertisement of the Commission's consideration of the proposal has been provided through publication in *The Hi-Desert Star* a newspaper of general circulation in the area. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notice.
5. In compliance with Commission policy and Government Code Section 56157, the Notice of Hearing for the hearing on this proposal was provided by publication in *The Hi-Desert Star* in a 1/8th page legal ad. In addition, as requested by the Agency, individual notice of the hearing was provided to registered voters and landowners within the area of LAFCO 3181. Comments from registered voters and landowners and any affected local agency in support or opposition will be reviewed and considered by the Commission in making its determination.

6. The proposed reorganization, including annexation and formation of an improvement district, of the Bighorn-Desert View Water Agency and the assumption of the functions and services previously provided by the dissolving CSA 70 Zone W-1 does not conflict with the established County General Plan or its adopted Homestead Valley Community Plan within this territory. The proposed reorganization has no direct impact on such land use designations.
7. The Southern California Associated Governments (SCAG) has adopted a Regional Transportation Plan and Sustainable Community Strategy pursuant to the provisions of Government Code Section 65352.5 and approval of LAFCO 3181 has no direct impact on these determinations. The Sustainable Community Strategy includes as a determination the need to assure the ongoing availability of a reliable water supply which approval of LAFCO 3181 will support.
8. The Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has indicated his recommendation that the review of this reorganization proposal is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that that the proposal will not change the area in which the service is provided; therefore, no physical affect upon the environment can be seen. With that determination a General Rule Statutory Exemption as authorized under Section 15061(b)(3) of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as Attachment #5 to this report.
9. The study area is presently served by the following public agencies:

County of San Bernardino
Mojave Desert Resource Conservation District
Mojave Water Agency and its Improvement Districts Zone 01 and M
Hi-Desert Memorial Healthcare District
San Bernardino County Fire Protection District and its South Desert Service
Zone,
County Service Area 70 (unincorporated County-wide multi-function
agency) and its Zones W-1, R-15, and TV-5

Zone W-1 of CSA 70 will be dissolved through successful completion of this reorganization and its services and functions transferred to Bighorn-Desert View Water Agency and an improvement district of the Agency to be formed. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

10. The Bighorn-Desert View Water Agency has submitted a Plan for Service including a Fiscal Impact Analysis for the assumption of the water service through dissolution of CSA 70 Zone W-1 which addresses the issues required in a plan for the provision of services as required by Government Code Section 56653. This Plan is included as a part of Attachment #3 to this report which indicates that the Bighorn-Desert View Water Agency can, at a minimum, maintain the level of service delivery currently

received by the area. In addition, the District has provided supplemental information providing budget projections for the first five years following annexation which is also included as a part of Attachment #3. The Plan for Service and supplemental information submitted by the District have been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The LAFCO staff has determined that such Plan for Service and the supplemental data submitted conform to those adopted standards and requirements.

11. The proposal complies with Commission policies and the determinations made within the Homestead Valley Community service review. The reorganization area can benefit from the assumption of water service through the Bighorn-Desert View Water Agency as evidenced by the Plan for Service and through the ability to directly participate in the governance of this service through voting for the Board of Directors.
12. This proposal will not affect the fair share allocation of the regional house needs as the entire area is unincorporated with the Regional Housing Needs Allocation (RHNA) numbers assigned to the County of San Bernardino.
13. With respect to environmental justice, the reorganization provides for the continuation of existing retail water services within the area and will not result in the unfair treatment of any person based upon race, culture or income.
14. The County of San Bernardino has successfully completed the process for the determination of the transfer of ad valorem property tax revenues upon successful completion of this reorganization to the Bighorn-Desert View Water Agency. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
15. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's office.

CONCLUSION

Water service is a requirement to sustain the habitation of an area. Water service in the desert environs of the County needs the full participation of the agencies and residents to assure that a sufficient supply is available and that all viable conservation measures are utilized. Approval of LAFCO 3181 will provide the residents of the Goat Mountain community of the Landers area with a direct voice in governance of this critical service and it will provide for a local office where payments, service questions and complaints can be responded to. Local control in a democracy can be a messy proposition, but this form of government is designed to provide everyone a voice. The current provision of service has limited the voice of the community since there is no advisory body for CSA 70 Zone W-1.

In years past, CSA 70 Zone W-1 was a part of Bighorn-Desert View Water Agency, a duplication of service. Based upon local controversy in the 1990s the determination of the residents of CSDA 70 Zone W-1 with the support of the Board of Directors of Bighorn was to

detach the area. LAFCO staff reluctantly approved that proposal which would reduce controversy in the community but not embrace the policy and directives of State law and Commission policy to consolidate and unify community services. So, the Commission is now at a new crossroads to determine whether the consolidation of service under Bighorn-Desert View Water Agency should move forward for the registered voters to decide their governance. Staff believes that it is time for the service to be consolidated within the community and the question of local governance to be answered by the voters; therefore, recommends approval of LAFCO 3181 as modified.

KRM/

Attachments:

1. [Map of LAFCO 3181](#)
2. [LAFCO Resolution No. 3155 for Service Review/Sphere of Influence Update for Bighorn-Desert View Water Agency and Excerpts from Staff Report Dated January 9, 2012](#)
3. Bighorn-Desert View Water Agency Application:
 - a. [Application and Plan for Providing Services and Fiscal Impact Analysis Submitted by Bighorn](#)
 - b. [Five-year Revenue and Expense Projections provided by District](#)
 - c. [Comprehensive Financial Report for June 30, 2014 and 2013 including Audits](#)
 - d. [Copy of Stipulated Judgment in Case Number 211504 \(Riverside Superior Court\)](#)
4. County Department of Special Districts Response to Application submitted by Bighorn and Questions of LAFCO staff:
 - a. [Email Response on Rate Study Question and Capital Improvement Program](#)
 - b. [August 27, 2014 Response to DRC Request for Information](#)
 - c. [County Adoption of Fees for Fiscal Year 2014-15 \(Agenda Item of May 6, 2014\)](#)
 - d. [Request for Information Response dated July 25, 2014](#)
5. [Letter from Tom Dodson of Tom Dodson and Associates, LAFCO Environmental Consultant, Recommending Adoption of Statutory Exemption for LAFCO 3181](#)
6. [Draft LAFCO Resolution No. 3194](#)