LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY

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DATE: **OCTOBER 8, 2015**

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

TO: **LOCAL AGENCY FORMATION COMMISSION**

SUBJECT: **Agenda Item #4: LAFCO 3196 – Reorganization to include City of Big Bear Lake Annexations and Detachments from County Service Area 53 and its Zones B and C, County Service Area 54, and County Service Area 70 and its Zones R-3 and R-5 (Non-contiguous Municipally-owned Parcels)**

INITIATED BY:

Resolution of the City Council of the City of Big Bear Lake

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3196 by taking the following actions:

1. Determine that the proposed contracts between the City of Big Bear Lake and County Service Area 70 Zones R-3 and R-5 for continuing road maintenance service comply with the exemption criteria listed within Government Code Section 56133 Subsection (e) and, therefore, do not require Commission approval to proceed;

2. Certify that LAFCO 3196 is statutorily exempt from the provisions of the California Environmental Quality Act and direct the Executive Officer to file the Notice of Exemption within five (5) days;

3. Approve LAFCO 3196, with the standard LAFCO terms and conditions that include the “hold harmless” clause for potential litigation costs by the applicant;

4. Waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner consent to the reorganization; and,

5. Adopt LAFCO Resolution #3206 setting forth the Commission’s determinations and conditions of approval concerning the reorganization proposal.

BACKGROUND:

LAFCO 3196 is a proposal that consists 19 separate areas totaling approximately 6.95 acres of non-contiguous, municipally-owned parcels. The City of Big Bear Lake (City) is proposing to annex its properties used by its Department of Water and Power (DWP) for water system facilities including well pumping plants, booster stations, water reservoirs, and other water related facilities. The proposal will also include detachments from various board-governed entities including County Service Area (CSA) 53 and/or its Zones B and C, CSA 54, and/or CSA 70 and its Zones R-3 and/or R-5.

All the parcels are scattered throughout the unincorporated Bear Valley community including three parcels located in the community of Fawnskin, a parcel generally located southwest of the City of Big Bear Lake, three parcels located in the Moonridge area, four parcels located in the Lake Williams area, five parcels generally located in and around the unincorporated community of Sugarloaf, and four parcels generally located in and around Erwin Lake for a total of 20 parcels comprising 19 separate areas (one area having two adjacent parcels). The areas vary between 5,000 and 101,916 square feet in size. Figure 1 below provides a general location of all the areas (in red) that are being considered in this reorganization proposal.

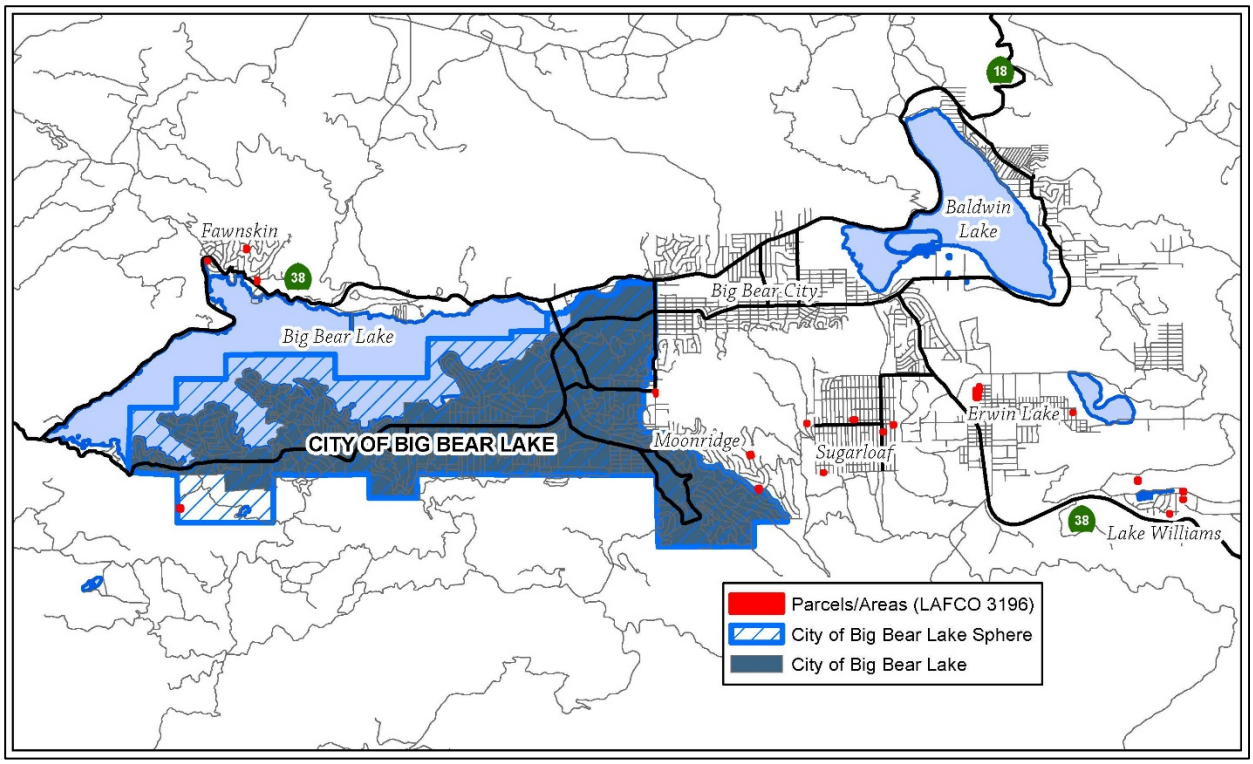

Fig. 1: Vicinity Map

A public agency is exempt from paying property taxes on lands that it owns provided the lands are within the agency's boundaries. However, in this case, these lands that are owned by the City of Big Bear Lake are not within its corporate boundaries. Therefore, the

City is obligated to pay property taxes on all of these parcels since all are located outside of the City's corporate boundaries.

Pursuant to Government Code Section 56742, a city can annex non-contiguous territory if it meets certain criteria:

1. The parcels are located in the same county as that in which the city is situated;
2. The parcels are owned by the city; and,
3. The parcels are being used for municipal purposes.

The parcels that are being proposed for annexation are all within the County of San Bernardino, all are owned by the City of Big Bear Lake, and are all used as public facilities for its Department of Water and Power either as its well site, a booster station, a water storage facility, and/or other related facilities. Therefore, this proposal meets the basic requirements for annexation of non-contiguous territory as allowed under the provisions of Government Code Section 56742.

Upon annexation, these parcels will be part of the City and therefore would be relieved of a total of approximately $110,000 in annual property tax obligation – the primary reason the City has submitted this reorganization proposal.

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

BOUNDARIES:

The 19 areas being considered for LAFCO 3196 encompass a total of approximately 302,571 square feet of land (6.5+/- acres) that encompass a total of 20 parcels. In detail, these areas are described as follows:

- *Areas 1, 2 & 3 - Annexation to the City of Big Bear Lake and Detachment from CSA 53 and its Zones B & C, CSA 54, and CSA 70*

  Area 1 (5,095+/- sq. ft.), Area 2 (15,000+/- sq. ft.), and Area 3 (8,663+/- sq. ft.) are three individual parcels located in the unincorporated community of Fawnskin.

- *Areas 4, 5, 7, 8, 9, 10, 11, 12, & 13 - Annexation to the City of Big Bear Lake and Detachment from CSA 53 and CSA 70*

  Area 4 (22,500+/- sq. ft.) is a parcel generally located southwest of the City of Big Bear Lake. Area 5 (19,801+/- sq. ft.), Area 11 (6,153+/- sq. ft.), and Area 12 (20,914+/- sq. ft.) are three individual parcels generally located in the unincorporated Moonridge area. Area 7 (15,000+/- sq. ft.), Area 8 (8,055+/- sq. ft.), Area 9 (15,612+/- sq. ft.), and Area 10 (9,519+/- sq. ft.) are four individual parcels generally located in the Lake Williams area. Area 13 (10,000+/- sq. ft.) is a parcel located westerly of the unincorporated community of Sugarloaf (Sawmill Canyon).

- *Areas 6, 16, & 17 - Annexation to the City of Big Bear Lake and Detachment from CSA 53, CSA 70 and its Zone R-3*

  Area 6 (two parcels totaling 101,916+/- sq. ft.), Area 16 (a parcel containing 9,343+/- sq. ft.), and Area 17 (a parcel containing 5,000+/- sq. ft.) are generally located in the Erwin Lake area.

- *Areas 14, 15, 18 & 19 - Annexation to the City of Big Bear Lake and Detachment from CSA 53, CSA 70 and its Zone R-5*

  Area 14 (5,000+/- sq. ft.), Area 15 (10,000+/- sq. ft.), Area 18 (5,000+/- sq. ft.), and Area 19 (10,000+/- sq. ft.) are four individual parcels generally located in the unincorporated community of Sugarloaf.

The maps that follow provide the general location of each of the 19 areas. Location and other vicinity maps for the reorganization proposal are also included as Attachment #1 to this report.

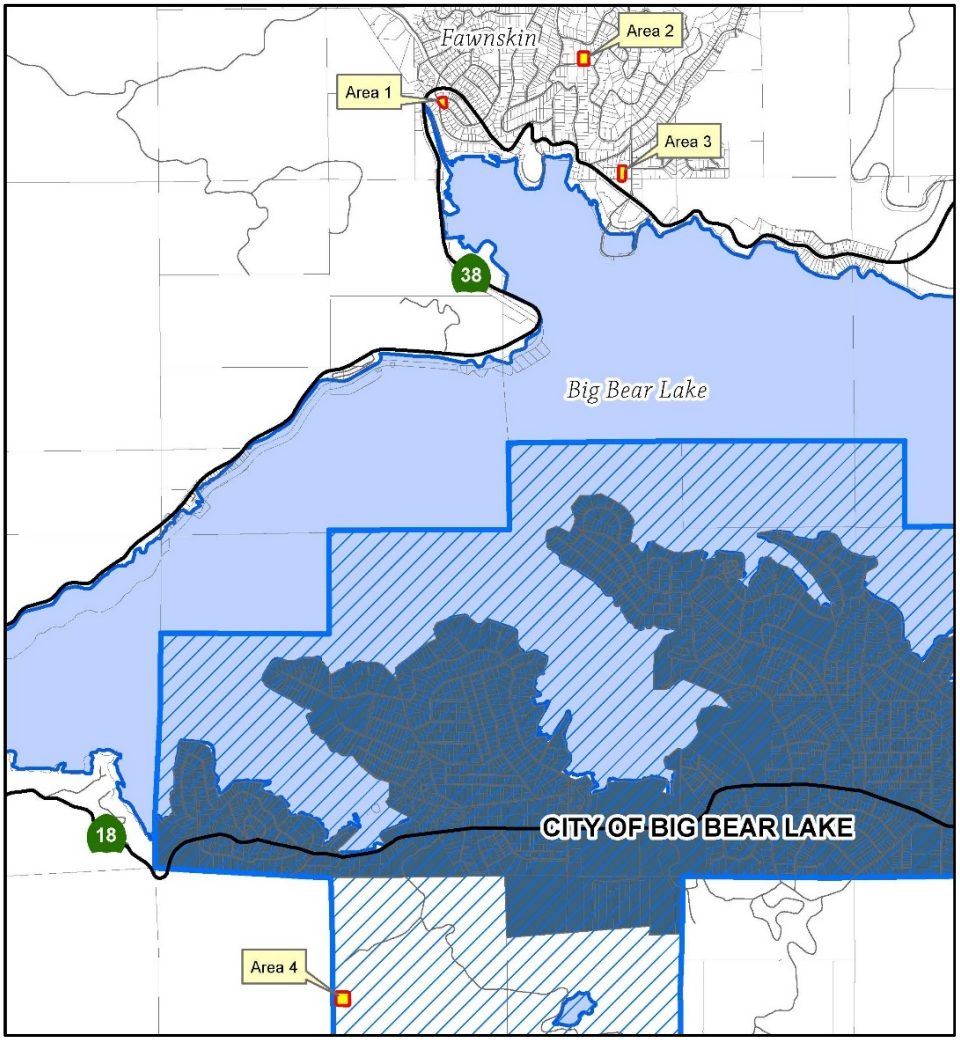

Fig. 2: Fawnskin area and portion southwesterly of the City

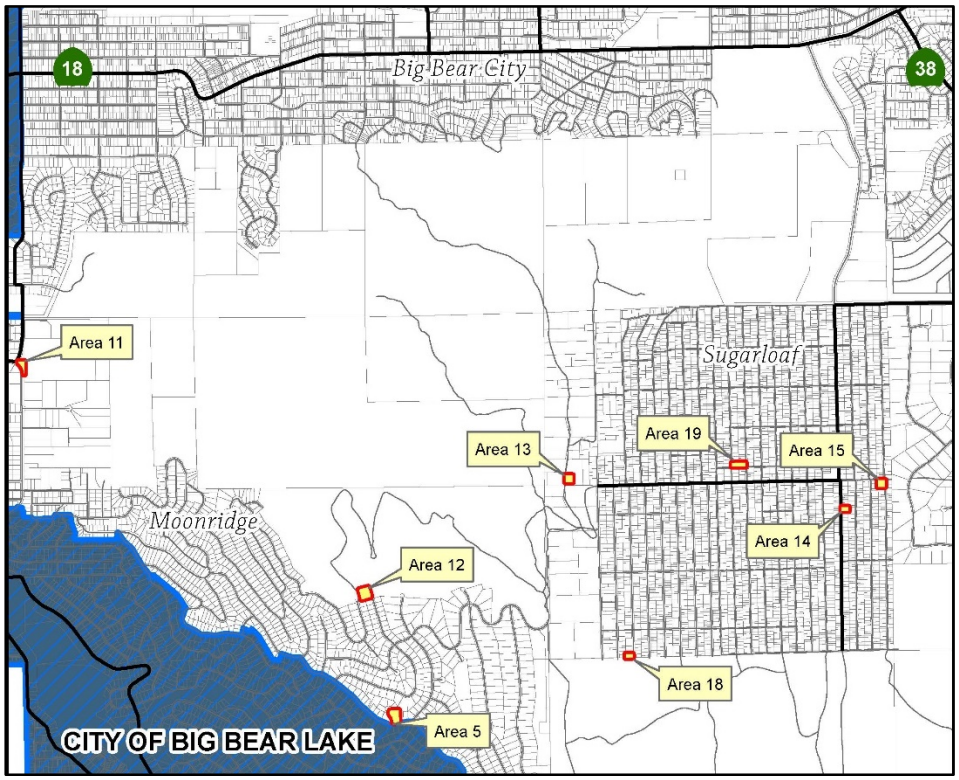

Fig. 3: Moonridge and Sugarloaf areas

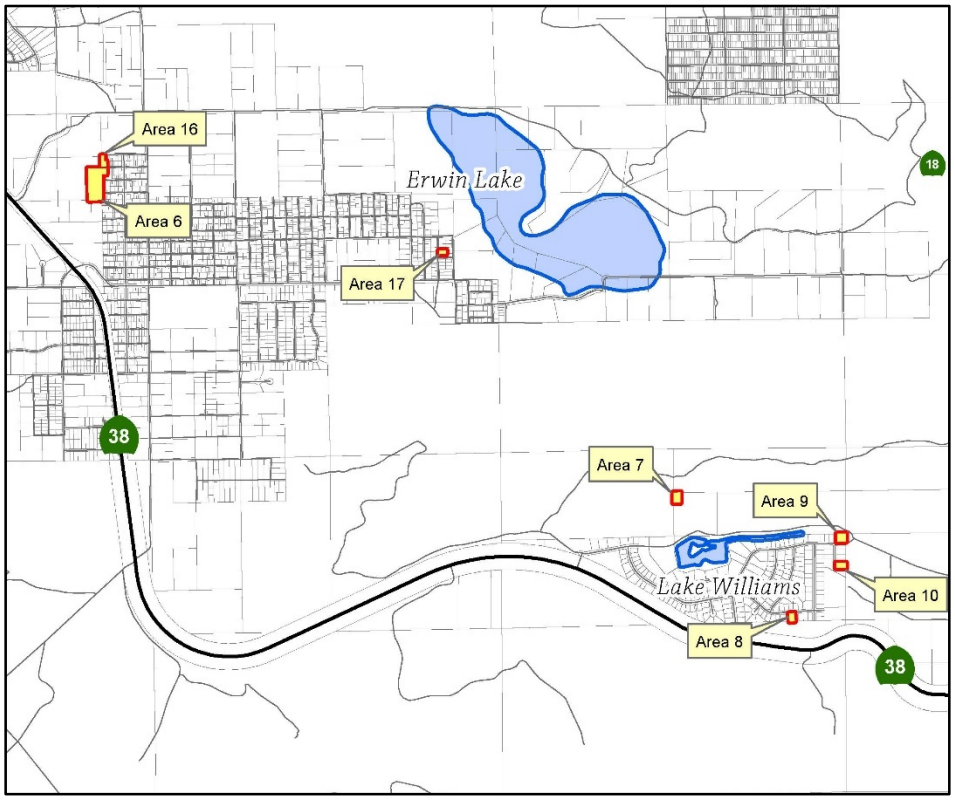

Fig. 4: Erwin Lake and Lake Williams areas

Sphere of Influence Determination

All of the 19 areas are located outside of the City's existing sphere of influence, which would generally prohibit the annexation of such lands as a sphere of influence designation is a prerequisite for annexation. Government Code Section 56375.5 specifically states that every determination by a commission regarding sub-sections (a), (m) and (n) of Section 56375 must be consistent with the sphere of influence of the affected agency. The annexation of non-contiguous city-owned lands fall under sub-section (d) of Section 56375; therefore, the provision regarding the sphere of influence to be consistent does not apply.

LAND USE:

The reorganization areas are either improved with well pumping plants, booster stations, water reservoirs, and/or other water related facilities. Below are examples of some of these on-site facilities:

Fig. 5: Area 19 – Magnolia Well Pumping Plant

Fig. 6: Area 4 – Cedar 1.0 MG Reservoir

Fig. 7: Area 1 – Cherokee Well Pumping Plant

The existing uses directly surrounding these areas are a mix of vacant land, residential and/or commercial development.

County Land Use Designation:

The reorganization areas are all within the County's Bear Valley Community Plan area. The County's land use designation for each of the areas include BV/RC (Resource Conservation) for Area 7, BV/RL-40 (Rural Living- 40 acres minimum) for Area 4, BV/RS-1 (Single Residential-1 acre minimum) for Area 13, BV/RS-20 (Single Residential-20,000 sq. ft. minimum) for Areas 2 and 12, BV/RS (Single Residential) for Areas 3 and 5, 6, 8, 9, 10, 11, 14, 15, 16, 17, 18, and 19, and BV/RM (Multiple Residential) for Area 1.

City's General Plan and Pre-Zone Designation:

These City-owned parcels are already developed and built-out with its water system facilities; therefore, pre-zoning is not required. Following completion of the annexation, the City's DWP and its Planning Department will coordinate the processing of a General Plan Amendment to designate these parcels with a General Plan land use designation of Public Facilities (P). The Public Facilities designation is utilized for various types of public facilities including schools, parks, sewer and water facilities, and other similar uses.

SERVICE ISSUES AND EFFECTS ON OTHER LOCAL GOVERNMENTS:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. Current County service providers within the reorganization areas include: San Bernardino County Fire Protection District and its Mountain Service Zone (for Areas 1, 2, 3, and 4), CSA 53 and its Zones B and C (for Areas 1, 2, and 3), CSA 70 and its Zone R-3 (for Areas 6, 16, and 17) and Zone R-5 (for Areas 14, 15, 18, and 19), and Big Bear Valley Recreation and Park District. In addition, the following entities overlay the reorganization area: Big Bear City Community Services District (Areas 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19), Inland Empire Resource Conservation District, Bear Valley Community Healthcare District, Big Bear Airport District, and Big Bear Municipal Water District.

The application includes a plan for the extension of services for the reorganization area as required by law and Commission policy (included as part of Attachment #2 to this report). The Plan for Service includes a Fiscal Impact Analysis indicating that the project will have a positive financial effect (savings) for the City. In general, the Plan identifies the following:

- Water service is already provided by the City through its existing water facilities.

- Electricity is currently provided by the Bear Valley Electric Service, a private electric utility company regulated by the Public Utilities Commission. No change will occur for this service provider on the basis of this reorganization.

- Law enforcement responsibilities are currently provided by the San Bernardino County Sheriff's Department. No change will occur to this service provider but will transition to the City's contract for service following the completion of the reorganization.

- Fire protection and paramedic services are currently the responsibility of the San Bernardino County Fire Protection District and its Mountain Service Zone for Areas 1 thru 4 and the Big Bear Fire Authority (a joint powers authority between the Big Bear Lake Fire Protection District and the Big Bear City Community Services District) for Areas 5 thru 19. No change in jurisdiction is proposed; therefore, both service providers will continue to serve their respective areas upon completion of the reorganization.

- Drainage facilities that exist within Areas 1, 9, 11, 13, and 14 will continue to be maintained by the DWP.

- Road service is currently provided by CSA 70 Zone R-3 to Areas 6 (portion), 16, and 17. A contract is being negotiated with CSA 70 Zone R-3 for on-going road maintenance for these areas following annexation. In addition, road service is currently provided by CSA 70 Zone R-5 to Areas 14, 15, 18, and 19. A contract is also being negotiated with CSA 70 Zone R-5 for on-going road maintenance for these four areas. An exemption request from the provisions of Government Code Section 56133(e) has been submitted to LAFCO by the County Special Districts Department related to these contracts. This is discussed more fully in the section below regarding "Out-of-Agency Service Agreement for On-going Road Maintenance."

- Park and recreation service will be unaffected since the parcels will remain within the jurisdiction of the Big Bear Valley Recreation and Park District and are uninhabited.

Out-of-Agency Service Agreements for On-going Road Maintenance

On October 5, 2015, the County Special Districts Department submitted a letter (included as Attachment #3) requesting that the Commission determine that the Out-of-Agency Service Agreements between CSA 70 Zones R-3 and R-5 and the City of Big Bear Lake are exempt from the provisions of Government Code Section 56133. The agreements allow for the on-going road maintenance service for the parcels being detached from CSA 70 Zones R-3 and R-5 as a function of LAFCO 3196. The City is scheduled to take these agreements to its City Council on October 26, 2015 for approval, and the County is scheduling approval of said agreements at its November 17, 2015 Board of Supervisor's meeting.

Pursuant to Government Code Section 56133, LAFCO is charged with the responsibility for reviewing and taking action on any city or district contract to extend service outside of its jurisdiction. However, the law provides for exemptions, and one such exemption is for contracts or agreements solely involving two or more public agencies.

After reviewing the proposed contracts, it is staff's position that the exemption applies to said contracts between the CSA 70 Zones R-3 and R-5 and the City of Big Bear Lake, and therefore should be recognized as being exempt from further LAFCO review on the basis of the following: 1) The contracts for service are between two public agencies. One contract is between CSA 70 Zone R-3 and the City while the other contract is between CSA 70 Zone R-5 and the City; 2) The public service is to provide on-going road maintenance to the parcels being detached from CSA 70 Zones R-3 and R-5 with payment for the service being

provided by the City, which is an alternative to the City providing the service on its own; and, 3) The level of service provided through the contracts is consistent with the level of service contemplated by the City.

Therefore, LAFCO staff recommends that the Commission recognize that, pursuant to Government Code Section 56133 Subsection (e), the proposed contracts for road maintenance services between CSA 70 Zones R-3 and R-5 and the City of Big Bear Lake do not require Commission approval in order to proceed.

As required by Commission policy and State law, the Plan for Service shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County or other detaching entities.

ENVIRONMENTAL CONSIDERATIONS:

As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson from Dodson and Associates, has indicated that the review of LAFCO 3196 is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of the reorganization has no potential to cause any adverse effect on the environment. No proposal for development and/or physical modification has been identified on any of the parcels being annexed into the City. Therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061 (b)(3). A copy of Mr. Dodson's analysis is included as Attachment #4 to this report.

WAIVER OF PROTEST PROCEEDINGS:

The City of Big Bear Lake is the current landowner for all areas being considered for the reorganization proposal. Therefore, if the Commission approves LAFCO 3196 and none of the affected agencies have submitted written opposition to a waiver of protest proceedings, staff is recommending that further protest proceedings be waived and that the Executive Officer be directed to complete the action following exhaustion of the mandatory reconsideration period of 30-days.

CONCLUSION:

The proposal was submitted by the City of Big Bear Lake in order to relieve itself of a recurring annual property tax obligation of approximately $110,000, which is a significant savings that would benefit the water ratepayers for its Department of Water and Power. A public agency is only exempt from paying property taxes on lands that it owns if the lands are within the agency's boundaries. Government Code Section 56742 allows for the annexation of the City's non-contiguous municipally-owned territory if it meets certain criteria, and the City's application clearly meet the terms. Therefore, for these reasons, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3196.

DETERMINATIONS:

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

1. The reorganization proposal is legally uninhabited containing no registered voter within any of the 19 areas.

2. The County Assessor's Office has determined that the total assessed value of land within the reorganization area is $211,746 as of August 6, 2015.

3. The areas being annexed through this reorganization proposal are not within the sphere of influence assigned the City of Big Bear Lake. However, the municipally-owned parcels are being annexed into the City through the non-contiguous annexation process pursuant to Government Code Section 56072 wherein the provision regarding sphere consistency does not apply.

4. Legal advertisement of the Commission's consideration of the proposal has been provided through publication in *The Big Bear Grizzly,* a newspaper of general circulation within the reorganization 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 this proposal was provided by publication in the *Big Bear Grizzly* as an 1/8th page legal ad. 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 City of Big Bear Lake will designate all the areas being annexed into the City as Public Facilities (P) through a General Plan Amendment following completion of the annexation process. Pre-zoning was not a requirement as allowed under Government Code Section 56375(a)(7) as the properties are already developed.

7. The Southern California Associated Governments (SCAG) adopted its 2012-2035 Regional Transportation Plan and Sustainable Communities Strategy pursuant to Government Code Section 65080. LAFCO 3196 has no direct impact on SCAG's Regional Transportation Plan.

8. The Commission's Environmental Consultant, Tom Dodson and Associates, has recommended that this proposal is statutorily exempt from environmental review based on the finding that the Commission's approval of the reorganization has no potential to cause any adverse effect on the environment since no development and/or physical modification is proposed on any of the parcels being annexed; and therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061 (b)(3). Mr. Dodson recommends that the Commission adopt the Statutory Exemption and direct its Executive Officer to file a

Notice of Exemption within five (5) days. A copy of Mr. Dodson's response letter is included as Attachment #4 to this report.

9. The reorganization areas are served by the following local agencies:

San Bernardino County of San Bernardino
Bear Valley Community Healthcare District
Big Bear Airport District
Big Bear Municipal Water District
Big Bear Valley Park and Recreation District
Big Bear City Community Services District (portion)
Inland Empire Resource Conservation District
San Bernardino County Fire Protection District and its Mountain Service Zone (portion)
County Service Area 53 and its Zones B and C (portion)
County Service Area 70 (unincorporated County-wide multi-function agency) and its Zones R-3 and R-5 (portion)

County Service Area 53 and its Zones B and C along with County Service Area 70 and its Zones R-3 and R-5 will be detached as a function of this reorganization. None of the other agencies are affected by this proposal as they are regional in nature.

10. A plan was prepared for the extension of services to the reorganization area, as required by law. The Plan for Service indicates that the City can maintain and/or improve the level and range of services currently available within the reorganization. A copy of this plan is included as a part of Attachment #2 to this report. Road maintenance service will continue to be provided by CSA 70 Zones R-3 and R-5 to their respective areas by contract.

11. The reorganization can benefit from the availability and extension of municipal services, as evidenced by the Plan for Service.

12. This proposal will not affect the ability of the City of Big Bear Lake to achieve its fair share of the regional housing needs since the reorganization only includes parcels/areas that will remain as public facilities.

13. With respect to environmental justice, the reorganization proposal—wherein the parcels being annexed into the City of Big Bear Lake will remain as public facilities—will not result in the unfair treatment of any person based on race, culture or income.

14. The County of San Bernardino and City of Big Bear Lake have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.

15. The maps and legal descriptions as revised are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

KRM/sm

Attachments:

1. Vicinity Maps for the Reorganization
2. City of Big Bear Lake Application and Plan for Service
3. Exemption Request from the County Special Districts Department Including Draft Contracts Between CSA 70 Zones R-3 and R-5 and the City of Big Bear Lake
4. Tom Dodson's Environmental Response for LAFCO 3196
5. Draft Resolution No. 3206