


LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: FEBRUARY 8, 2016 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA #6: LAFCO 3194 – Reorganization to include Annexations to the Phelan Pinon Hills Community Services District and Detachment from County Service Area 70 Zone P-6

INITIATED BY:

Resolution of the Board of Directors of the Phelan Piñon Hills Community Services District

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3194 by taking the following actions:

1. Certify that LAFCO 3194 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;
2. Approve LAFCO 3194, with the standard LAFCO terms and conditions that include the “hold harmless” clause for potential litigation costs by the applicant;
3. Waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner consent to the reorganization; and,
4. Adopt LAFCO Resolution No. 3214 setting forth the Commission’s determinations and conditions of approval concerning the reorganization proposal.

BACKGROUND:

In April 2015, the Phelan Piñon Hills Community Services District (hereafter shown as the “District”) initiated a reorganization application that proposes to annex three separate areas

into the District. The proposal also includes the detachment from the board-governed County Service Area 70 Zone P-6 (hereafter “CSA 70 P-6”). CSA 70 P-6 is an entity that provides park and recreation services for the unincorporated El Mirage community. Figure 1 below provides a general location of the three areas (in red) that are being considered in this reorganization proposal.

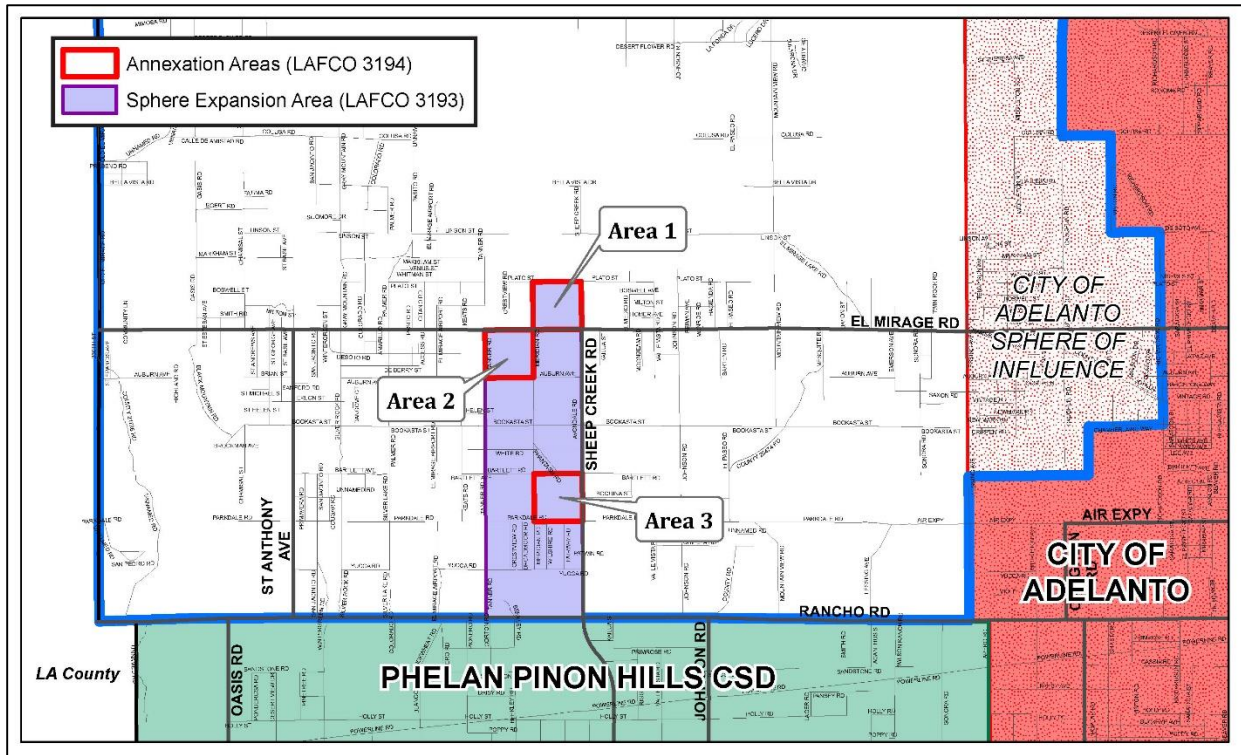


Fig. 1: Vicinity Map

These three areas—totaling 480 acres—were part of the former Meadowbrook Dairy, which was acquired by the District in 2012 for additional water rights. As a former dairy farm, these properties carried significant water rights that the District critically needed in order to increase its water allocation in the adjudicated Mojave River Basin.

Now that the District owns these lands, the District would like to declare these properties exempt from property taxes, which is the reason for its request. A public agency can be declared exempt from paying property taxes on lands that it owns provided the lands are within the agency’s boundaries. These properties are currently not within its boundaries; therefore, the District is currently obligated to pay property taxes on all five parcels.

Once annexed, the District would be relieved of approximately \$30,000 in annual property tax obligation, a savings for its customers and tax payers.

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 proposed reorganization area includes three separate areas encompassing a total of 480+/- acres, generally described as follows:

- Area 1 includes three parcels that encompasses 160+/- acres generally bordered by Plato Street to the north, Sheep Creek Road to the east, El Mirage Road to the south and Meridian Road to the west. (APN 0457-102-06, 09 and 10)
- Area 2 includes a single parcel that encompasses 160+/- acres generally bordered by El Mirage Road to the north, Meridian Road to the east, parcel line (natural extension of Brian Street) to the south and parcel line (natural extension of Tanner Road) to the west. (APN 0457-112-01)
- Area 3 includes a single parcel that encompasses 160+/- acres generally bordered by the natural extension of Bartlett Avenue on the north, Sheep Creek Road to the east, Parkdale Road to the south and Meridian Road to the west. (APN 0457-161-10)

These three areas being annexed are whole quarter sections of land, which are easily identifiable boundaries for service delivery. In addition, annexation to a community services district does not require contiguity. Therefore, the proposal presents no boundary concern.

Issue Related to County Service Area 70 Zone P-6

CSA 70 P-6 is a district that was formed in 1991 to provide park and recreation services within the El Mirage community. It has an annual special tax assessment of \$9 per parcel with no annual inflationary increase.

The reorganization includes the detachment of CSA 70 P-6 as part of the proposal, which would result in a \$45 (\$9 x 5 parcels) loss in annual special tax assessment that would have normally go to CSA 70 P-6. Originally, the County Special District's Department requested that the Phelan Piñon Hills Community Services District continue the payment of the special tax for all five parcels in order to help support the services being provided within the El Mirage community. The District was supportive of this arrangement. However, because the parcels—upon annexation—would eventually be removed from the tax roll, LAFCO staff had specified that a mechanism to continue payment of the sum equivalent had to be agreed upon, through a contract, in order to ensure continuation of this funding source.

The Special Districts Department has since responded that putting together a formal agreement would cost CSA 70 P-6 far more than the anticipated revenues it would generate from the agreement. Therefore, the Special Districts Department has reversed its position indicating that it will support the proposal moving forward without such on-going repayment of the special tax.

LAND USE:

The reorganization areas are primarily vacant agricultural land with some miscellaneous agricultural structures (former dairy). However, it should be noted that the District recently built a solar facility on a portion of the former dairy site as a means of reducing its long term electricity costs.

The existing uses directly surrounding these three areas are primarily vacant lands with a few residential structures and an existing industrial use.

The County's land use designation for all three areas is Agriculture (AG). No change in land use is anticipated for the reorganization area. In addition, approval of this proposal will have no direct impact on the current land use designation assigned for the reorganization area.

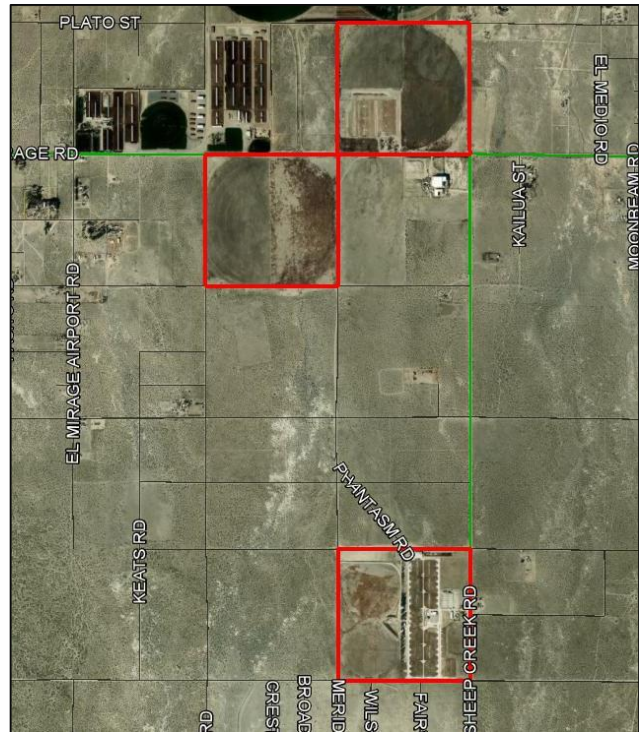


Fig. 2 – Aerial Map

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, its North Desert Service Zone, and its Service Zone FP-3; County Service Area 60 (Apple Valley Airport); and County Service Area 70 (multi-function entity) and its Zone P-6. In addition, the following regional entities overlay the reorganization area: Mojave Desert Resource Conservation District and Mojave Water Agency.

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 District.

The three areas are generally vacant agricultural lands. Current services provided and/or needed for these vacant parcels, including the solar facility that the District built on the site, are expected to be minimal.

In general, the Plan identifies the following:

- Water service will be available through the District. However, this service is not anticipated to be extended to the reorganization area at this time.
- The County's Solid Waste Management Division (SWMD), through a contract with AVCO/Burrtec, currently provides solid waste services (collection and disposal) within the reorganization area. The District currently provides solid waste services through a contract with CR&R. Upon annexation, the District would begin handling this service by receiving any franchise fee revenue paid to the County for the annexation area and would administer the AVCO/Burrtec franchise agreement until such time as CR&R can take over the contract, which is limited to the unexpired term of the contract/franchise or five years (whichever is less) pursuant to California Public Resources Code Section 49520.
- Local park and recreation service is currently provide by CSA 70 P-6. Upon annexation, this service will be provided by the District. Current park and recreation services by the District include operation of exercise classes, arts/crafts classes, and two community centers located in Phelan Piñon Hills.

County Regional Parks will continue to provide regional park services to all residents within the area. The closest County Regional Park is Mojave Narrows located 20 miles southeast of the annexation areas.

- Streetlighting services will also be available through the District and can be extended to the reorganization area when proper economic and development conditions take place in these areas. The cost to provide streetlighting will be the responsibility of the property owner and/or developer.
- Law enforcement responsibilities are currently provided by the San Bernardino County Sheriff's Department. No change will occur for this service provider on the basis of this reorganization.
- Fire protection and paramedic services are currently the responsibility of the San Bernardino County Fire Protection District, its North Desert Service Zone, and its Service Zone FP-3. No change will occur for this service provider on the basis of this reorganization; however, placement of the parcels as exempt will exclude them from the assessment.

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 3194 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 significant adverse effect on the environment. 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 #3 to this report.

WAIVER OF PROTEST PROCEEDINGS:

The District is the current landowner for all five parcels being considered for the reorganization proposal. If the Commission approves LAFCO 3194 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 Phelan Piñon Hills Community Services District in order to relieve itself of a recurring annual property tax obligation of approximately \$30,000, which is a savings that would benefit the District as a whole. A public agency is only exempt from paying property taxes on lands that it owns if the lands are within the agency's boundaries. Therefore, for these reasons, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3194.

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 three areas as certified by the Registrar of Voters as of August 7, 2015.
2. The County Assessor's Office has determined that the total assessed value of land and improvements within the reorganization area is \$2,409,948 (land--\$1,660,809; improvements--\$749,139) as of August 10, 2015.
3. Through approval of the companion proposal, LAFCO 3193, the reorganization area will be within the sphere of influence assigned the Phelan Piñon Hills Community Services District.
4. Legal advertisement of the Commission's consideration of the proposal has been provided through publication in *The Daily Press*, 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. LAFCO has provided individual notices to landowners and registered voters surrounding the reorganization area (totaling 99 notices) in accordance with State law and adopted Commission policies. 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 County's land use designation for the reorganization area is AG (Agriculture). This reorganization proposal has no direct effect on the County's General Plan land use designation assigned for the area.
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 3194 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 #3 to this report.
9. The reorganization areas are served by the following local agencies:
 - County of San Bernardino
 - Mojave Water Agency
 - Mojave Desert Resource Conservation District
 - San Bernardino County Fire Protection District, its North Desert Service Zone, and its Service Zone FP-3
 - County Service Area 60 (Apple Valley Airport)
 - County Service Area 70 (unincorporated County-wide multi-function agency) and its Zone P-6

County Service Area 70 Zone P-6 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 District 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.
11. The reorganization can benefit from the availability and extension of municipal services, as evidenced by the Plan for Service.

12. With respect to environmental justice, the reorganization proposal—which only annexes the properties that were acquired by the District for additional water rights—will not result in the unfair treatment of any person based on race, culture or income.
13. The County of San Bernardino adopted a resolution determining there will be no transfer of property tax revenues. This resolution fulfills the requirement of Section 99 of the Revenue and Taxation Code.
14. 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. [Phelan Piñon Hills Community Services District Application and Plan for Service](#)
3. [Tom Dodson's Environmental Response for LAFCO 3194](#)
4. [Draft Resolution No. 3214](#)