

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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

SUBJECT: AGENDA ITEM #13 – Status Report on Continued Monitoring of
Conditions Imposed by LAFCO Resolution 3190 on LAFCO 3157 –
Sphere of Influence Establishment for County Service Area 120

RECOMMENDATION:

Staff recommends that the Commission:

1. Note receipt of the Status Report and file;
2. Initiate a Sphere of Influence amendment for County Service Area 120 with the direction that it be for the assignment of a zero sphere of influence; and,
3. Direct staff to convene a working group including representatives for CSA 120, the County Administrative Office, LAFCO staff, California Department of Fish and Wildlife staff, Inland Empire Resource Conservation District, City of Rancho Cucamonga and San Bernardino County Transportation Authority to review the option for a possible reorganizations to transfer responsibility for the mitigation lands comprising the ownerships of CSA 120 and the conservation easements assigned the County of San Bernardino.

DISCUSSION:

At the September 17, 2014 LAFCO hearing, the Commission approved LAFCO 3157, the sphere of influence establishment for CSA 120, which was followed by the Commission's adoption of Resolution No 3190 setting forth its findings and determinations at the October hearing. Included within that resolution (copy included as Attachment #1) were conditions imposed on CSA 120's sphere establishment, which are outlined below:

1. Within six months of the approval of the sphere of influence establishment, County Service Area 120 shall have completed the due diligence process with the California Department of Fish and Wildlife to be declared an available recipient of mitigation properties in the future. Failure to do so will require a further analysis of the sphere of influence assignment;
2. Within six months of the approval of the sphere of influence establishment for CSA 120, management of the County Special Districts Department shall develop a mechanism to provide for the maintenance and operation of the improvements constructed through the 2008-09 State Park grant without use of the endowment funds established for mitigation purposes only;
3. Within six months of the approval of the sphere establishment, County Service Area 120 shall have completed all reporting required by State law for the management of mitigation properties;
4. Within six months of the approval of the sphere of influence establishment, County Service Area 120 will have developed funding plans to restore endowment balances for those mitigation properties where mitigation work has not been performed but interest earnings used; and,
5. Direct LAFCO staff to provide ongoing monitoring of the completion of these activities with periodic updates provided to the Commission.

For the past almost four years, LAFCO staff has provided updates on the progress related to the response to the conditions of approval imposed upon CSA 120 (also shown as District). At the last update, heard at the May 20, 2015 hearing, the Special Districts Department staff provided its responses to the four requirements directed at its operations which were outlined in the staff report for that hearing (copy included as Attachment #3 to this report). Ultimately the Commission determined that it would hold in abeyance any further discussion of the conditions until completion of its Service Review for Habitat Conservation and Open Space Preservation (LAFCO 3157A) and the effects of the habitat study being undertaken by the County's Environmental Element Group of its Countywide Vision process. At the March 21, 2018 hearing, the Commission received an update on the progress of those efforts and approved the action to close its Service Review, to be re-initiated upon completion of the County process as it had not yet been completed.

At the April 18, 2018 hearing, the matter of providing an update on the monitoring of CSA 120's compliance with the conditions imposed in 2014 was included as an agenda item. The intent was to update to the Commission on the progress of the staff of CSA 120 to meet the conditions imposed; however, the matter was continued to allow

LAFCO staff time to analyze the response letter received from CSA 120 on April 9 (copy included as Attachment #2). The staff's responses are outlined below:

- 1. Within six months of the approval of the sphere of influence establishment, County Service Area 120 shall have completed the due diligence process with the California Department of Fish and Wildlife to be declared an available recipient of mitigation properties in the future. Failure to do so will require a further analysis of the sphere of influence assignment.***

The March 28 letter outlines that the County Special Districts Department has been in contact with the California Department of Fish and Wildlife regarding an application to be an available recipient of mitigation properties. However, those discussions indicated that without a resolution of the funding issues plaguing the district, success of such an application was doubtful at best. The County Special Districts Department staff also made a presentation in 2016 to the County's Debt Advisory Committee regarding "endowment methodologies and achieving a sustainable model for the implementation of mitigation fees". However, to date no such determination has been made. So the position remains that no new lands may be acquired for mitigation purposes by CSA 120.

The letter states that the District has made significant progress on becoming fiscally responsible in meeting its mitigation obligations. However, a review of the Audits for CSA 120 does not support that perspective, in the staff view. LAFCO staff has updated the audit data used in the original 2014 review with current audit information, shown below. Two items are unexplained in the audits prepared for the County which are highlighted on the table which follows:

1. The Audit prepared for Fiscal Year 2013-14 issued in November 2014 has reduced the permanent endowment fund balance by \$18,759 without explanation. This brings the endowment fund balance below the restricted level of \$1,607,664 as identified by CSA 120.
2. In Fiscal Year 2016-17, the interest earnings of the Permanent Endowment are listed as accruing to the general operations, not the Endowment category. This was the problem that had been identified early in the process when all the endowment funds were not shown as being restricted, but were included in the general operations fund, see Fiscal Year 2008-09 on the chart below.

CSA 120 has relied upon significant transfers in from the County to continue its operations even while controlling expenditures to the best of its ability. So, until the unrestricted revenues begin to be received from the parking charges are realized, the financial stability of this entity remains of concern.

AGENDA ITEMS #13
STATUS REPORT – CSA 120
JUNE 13, 2018

County Service Area 120									
	Audit Data								
	2009	2010	2011	2012	2013	2014	2015	2016	2017
GENERAL									
EXPENDITURES									
Salaries & Benefits	\$ 12,752	\$ 13,277	\$ 7,733	\$ 7,037	\$ 1,734	\$ 2,735	\$ 12,890	\$ 2,650	\$ 3,955
Services & Supplies	\$ 35,052	\$ 22,520	\$ 14,095	\$ 10,547	\$ 13,066	\$ 19,419	\$ 20,289	\$ 36,532	\$ 31,189
Contingencies									
Transfer Out	\$ 1,361,553								\$ 250,000
Total Expenditures	\$ 1,409,357	\$ 35,797	\$ 21,828	\$ 17,584	\$ 14,800	\$ 22,154	\$ 33,179	\$ 39,182	\$ 285,144
REVENUES									
State Assistance	\$ 659,309			\$ 1,082		\$ 10,032	\$ -	\$ 38,925	\$ 26,302
Federal Assistance				\$ 4,330					
Investment Earnings	\$ 4,828			\$ 81	\$ 399	\$ 126	\$ 81	\$ 77	\$ 9,898
Intergovernmental	\$ 700,000								
Other	\$ 23,060		\$ 16,325		\$ 3,339	\$ 60			
Operating Transfer In		\$ 26,059	\$ 19,664	\$ 9,965	\$ 5,635	\$ 6,032	\$ 5,252	\$ 5,243	
County Transfer In					\$ 30,000				\$ 500,000
Total Revenues	\$ 1,387,197	\$ 26,059	\$ 35,989	\$ 15,458	\$ 39,373	\$ 16,250	\$ 5,333	\$ 44,245	\$ 536,200
Excess Revenues Over (Under) Expenditures	\$ (22,160)	\$ (9,738)	\$ 14,161	\$ (2,126)	\$ 24,573	\$ (5,904)	\$ (27,846)	\$ 5,063	\$ 251,056
Fund Balance									
Beginning	\$ 34,073	\$ 11,913	\$ 2,175	\$ 16,336	\$ 14,210	\$ 38,783	\$ 32,879	\$ 5,033	\$ 10,096
Ending	\$ 11,913	\$ 2,175	\$ 16,336	\$ 14,210	\$ 38,783	\$ 32,879	\$ 5,033	\$ 10,096	\$ 261,152
ENDOWMENT FUND									
EXPENDITURES									
Operating Transfer Out		\$ 26,059	\$ 17,914	\$ 7,234	\$ 5,635	\$ 6,032	\$ 5,252	\$ 5,243	\$ -
Other	\$ 20,715								
Total Expenditures	\$ 20,715	\$ 26,059	\$ 17,914	\$ 7,234	\$ 5,635	\$ 6,032	\$ 5,252	\$ 5,243	\$ -
REVENUES									
State Assistance	\$ 40,691								
Investment Earnings	\$ 52,868	\$ 36,448	\$ 13,797	\$ 6,405	\$ 17,517	\$ 5,184	\$ 6,885	\$ 12,469	\$ (1,338)
Special Assessment				\$ 12,500					
Other						\$ 3,195			
Operating Transfer In									
Total Revenues	\$ 93,559	\$ 36,448	\$ 13,797	\$ 18,905	\$ 17,517	\$ 8,379	\$ 6,885	\$ 12,469	\$ (1,338)
Excess Revenues Over (Under) Expenditures	\$ 72,844	\$ 10,389	\$ (4,117)	\$ 11,671	\$ 11,882	\$ 2,347	\$ 1,633	\$ 7,226	\$ (1,338)
Fund Balance									
Beginning	\$ 1,521,407	\$ 1,594,251	\$ 1,604,640	\$ 1,600,523	\$ 1,612,194	\$ 1,605,317	\$ 1,607,664	\$ 1,609,297	\$ 1,616,523
Ending	\$ 1,594,251	\$ 1,604,640	\$ 1,600,523	\$ 1,612,194	\$ 1,624,076	\$ 1,607,664	\$ 1,609,297	\$ 1,616,523	\$ 1,615,185
CAPITAL PROJECTS									
EXPENDITURES									
Construction in Progress	\$ 1,391,548	\$ 199,693							
Services & Supplies		\$ 389	\$ 204			\$ 2			
Improvement to Land			\$ 297	\$ 18,900					\$ 79,942
Transfer Out			\$ 1,750	\$ 2,731					
Total Expenditures	\$ 1,391,548	\$ 200,082	\$ 2,251	\$ 21,631	\$ -	\$ 2	\$ -	\$ -	\$ 79,942
REVENUES									
Investment Earnings	\$ 12,836			\$ 36	\$ (9)	\$ -			\$ 608
State Assistance		\$ 200,000							
Transfer in	\$ 1,361,553							\$ 50,000	\$ 227,134
Other									
Total Revenues	\$ 1,374,389	\$ 200,000	\$ -	\$ 36	\$ (9)	\$ -	\$ -	\$ 50,000	\$ 227,742
Excess Revenues Over (Under) Expenditures	\$ (17,159)	\$ (82)	\$ (2,251)	\$ (21,595)	\$ (9)	\$ (2)	\$ -	\$ 50,000	\$ 147,800
Fund Balance				4					
Beginning	\$ 41,098	\$ 23,939	\$ 23,857	\$ 21,606	\$ 11	\$ 2	\$ -	\$ -	\$ 50,000
Ending	\$ 23,939	\$ 23,857	\$ 21,606	\$ 11	\$ 2	\$ -	\$ -	\$ 50,000	\$ 197,800

- 2. *Within six months of the approval of the sphere of influence establishment for CSA 120, management of the County Special Districts Department shall develop a mechanism to provide for the maintenance and operation of the improvements constructed through the 2008-09 State Park grant without use of the endowment funds established for mitigation purposes only***

With regards to Condition No. 2, the March 28, 2018 letter on page 3 outlines the establishment of a paid parking program to provide for unrestricted revenues to support trails, kiosks and other maintenance and operation of the improvements constructed with the Park grant. As identified in the letter, funding has been provided by one-time revenue from the County Board of Supervisors in the amount of \$500,000 to acquire the easements, install the improvements, and establish the parking system with the City of Rancho Cucamonga. The budget materials for Fiscal Year 2018-19 submitted by the Special Districts Department (hereafter SDD) identify an anticipated revenue stream of \$102,000 from this source. However, operational costs in the same budget are doubling so the net gain is somewhat tempered.

- 3. *Within six months of the approval of the sphere establishment, County Service Area 120 shall have completed all reporting required by State law for the management of mitigation properties;***

With regards to Condition No. 3, County SDD's position in its letter of March 28 states that it has begun to compile, prepare, and provide an annual report of its conservation practices. This is a shift from its position in 2015 response that there was no requirement to comply with the conditions of the Commission. The materials submitted in support of the letter included a copy of the FY 2014-15 Annual Report, the only published report, which is included as a part of Attachment #4 to this report. So, there have been no published reports for the last two years and no identification of the issuance schedule for the current fiscal year. In order for the staff to provide a determination of compliance, there would need to be more than a single occurrence of this reporting.

- 4. *Within six months of the approval of the sphere of influence establishment, County Service Area 120 will have developed funding plans to restore endowment balances for those mitigation properties where mitigation work has not been performed but interest earnings used; and,***

Finally, with regard to Condition No. 4, the County SDD's response has not wavered since the 2014 report that it maintains the endowment level as a whole and has implemented a mechanism to proportionately charge each of the mitigation properties for their share of administration of CSA 120. It does not answer the

questions related to or condition requiring restoration of the endowment balances for those mitigation properties where mitigation work has not been performed but interest earnings used.

The requirements for assuring that the mitigation and/or conservation of all the properties managed by CSA 120 rests with the County of San Bernardino. This position is based on the recordation of Grant Deeds in 2009 where the conservation easements on all mitigation properties were transferred from CSA 120 to the County. Specifically, CSA 120 holds title to the property, but the conservation easement is in the name of the County of San Bernardino and carries with it all the requirements for fulfilling the preservation of the mitigation properties.

LAFCO staff remains of the position that the 2010 North Etiwanda Preserve Management Plan provides for segregation of administration and funding since it provides a clear distinction between Unit 1 (original 763 acre Preserve) and Unit 2 (all lands outside the original 763 acre Preserve). So, as in prior reports, the County SDD's response implies it will not comply with this specific condition imposed on CSA 120.

CONCLUSION:

Since the September 17, 2014 LAFCO hearing, the County SDD staff voiced its opposition to the conditions imposed on the sphere of influence establishment for CSA 120 (LAFCO 3157) and that position remains for at least one of the four conditions. Based on the response provided for this hearing by the County SDD on behalf of CSA 120, it is LAFCO staff's understanding that:

1. Condition 1 – CSA 120 has identified that it may never be able to accomplish the designation as a pre-established agency to provide for acquisition of new mitigation and open space lands. This position was articulated since the California Department of Fish and Wildlife will require a financing mechanism in place as a prerequisite of approval. CSA 120 has pursued such a plan through the County Debt Advisory Committee, which reviewed this question in 2016, with no resolution to date.
2. Condition 2 – CSA 120 is establishing a restricted parking program to raise revenues and address the maintenance issues of what has become thousands of people entering the Preserve rather than the hundreds which were visiting at the time of the original sphere establishment.
3. Condition 3 – CSA 120 has prepared a single Annual Report for its operations which does not comply with the condition imposed on CSA 120's sphere establishment.

4. Condition 4 – CSA 120 continues to take the position that this condition is not appropriate and will not comply.

At the September 2014 hearing, the action of the Commission was to approve the sphere of influence designation including only those lands within CSA 120 northerly of the City of Rancho Cucamonga and excluding those lands within the City of Fontana. At the last update on compliance with these conditions, in March of 2015, it was the Commission's determination that the staff would be directed to initiate a sphere of influence amendment for designation of a zero sphere of influence for CSA 120 if any of the conditions remained unmet.

As has been shown in this update, three out of the four conditions remain unmet even with the efforts of the Special Districts Department staff to address the financial concerns. Designation of a zero sphere of influence would signal the Commission's position that CSA 120 should no longer be considered to provide this service and that other public entities within the area should be considered for assumption of these services through a jurisdictional change. As a part of the recommendation to initiate the sphere of influence amendment, staff is also recommending that the Commission direct staff to convene a meeting of affected and/or interested agencies to review the potential transfer of service that could be accomplished through a future reorganization and to solicit their input as to what that reorganization would entail. Therefore, staff is recommending that the Commission take the actions outlined on page one of this staff report.

However, if the Commission receives testimony or evidence at the hearing that persuades it that CSA 120 is making progress, you can direct that instead of a sphere of influence amendment undertaking, LAFCO staff continue to monitor the District.

KRM

Attachment:

1. [LAFCO Resolution No. 3190](#)
2. [Response from County Special Districts Department dated March 28, 2018](#)
3. [Staff Report from May 20, 2015 with Excerpts from Minutes of September and October 2014 Commission hearings](#)
4. [Statement of Revenues , Expenditures and Changes in Fund Balance from County Service Area 120 Audits for 2017, 2016, 2015, 2014, 2013, 2012 and 2011](#)
5. [Supplemental Information Submitted by Special Districts in Support of its , letter dated March 28, 2018](#)