LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY

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DATE: **JULY 10, 2013**

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

SUBJECT: **Agenda Item #9: Service Review for the Baker Community**

INITIATED BY:

Local Agency Formation Commission for San Bernardino County

INTRODUCTION

San Bernardino LAFCO has chosen to undertake its Service Reviews on a regional basis. The Commission has divided the county into four separate regions, with the South Desert region generally encompassing the communities of Morongo Valley, Yucca Valley, Joshua Tree, Twentynine Palms, Wonder Valley, Homestead Valley, Needles, Big River, and Baker.

This report contains a service review and sphere of influence update for the Baker Community Services District, the community-based agency for the community. Baker is known as the "Gateway to Death Valley", "Entrance to the Mojave National Preserve" and "Home of the World's Tallest Thermometer" which stands 134 feet to commemorate a record high temperature of 134 degrees recorded in Death Valley. The community offers relief and services to thousands of travelers on their way mainly to and from Las Vegas along Interstate 15. In 2011, the average annual daily traffic for Interstate 15 at West Baker was 39,500 with a peak at 47,500[1].

The community of Baker exists almost in a world of its own, over fifty miles away from the nearest community that offers municipal-level services. Baker must therefore look inward to

[1] California Department of Transportation. Traffic Data Branch. "2011 All Traffic Volumes on CSHS". Website. Accessed 8 April 2013. Last update unknown. http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/2011all/Route12-15.html.

find solutions to most of its service needs, and this requires that the District Board either actively provide or support the provision of a wide range of necessary services to its community. In many cases, there is simply no other agency, nor any other alternatives, to provide community services.

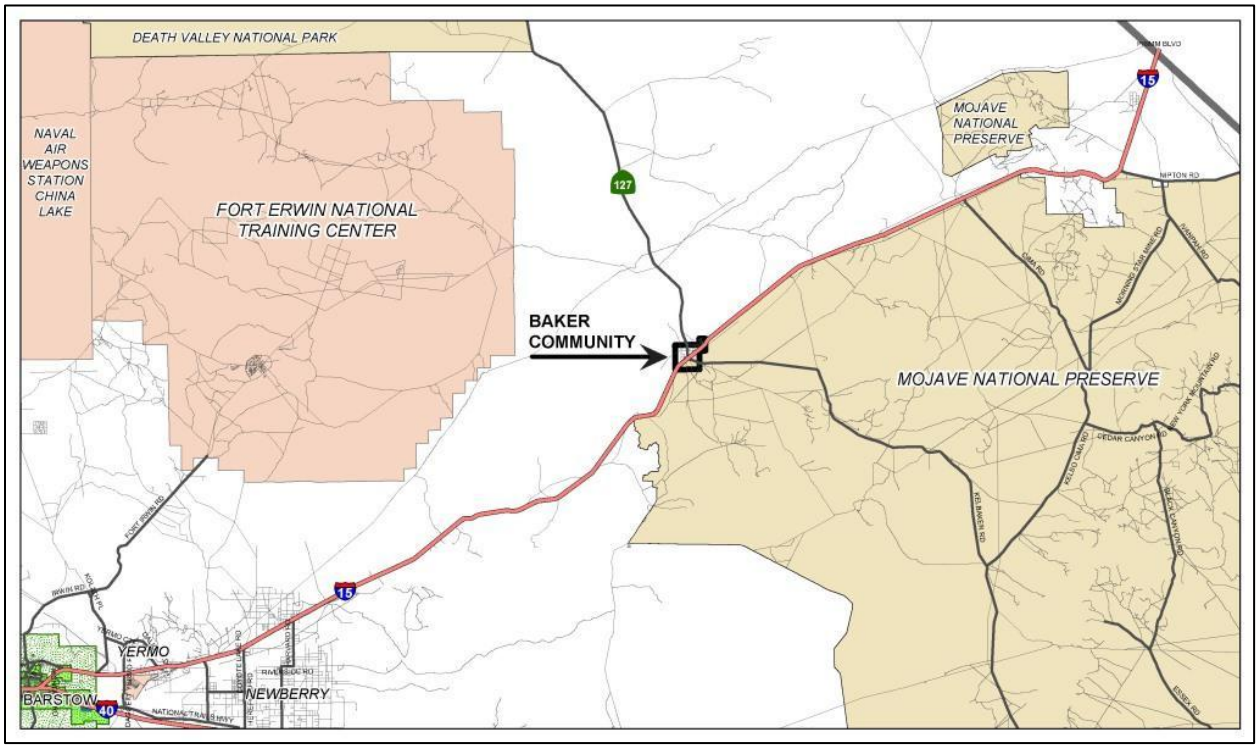
This report revisits the Commission's definition of the Morongo Valley community and is organized as follows:

- Location and Description – describes the study area and the underlying agencies
- Community History – provides a brief history of the community
- Service Review and Sphere of Influence Update – Baker Community Services District
- Additional Determinations
- Recommendations for Commission Action

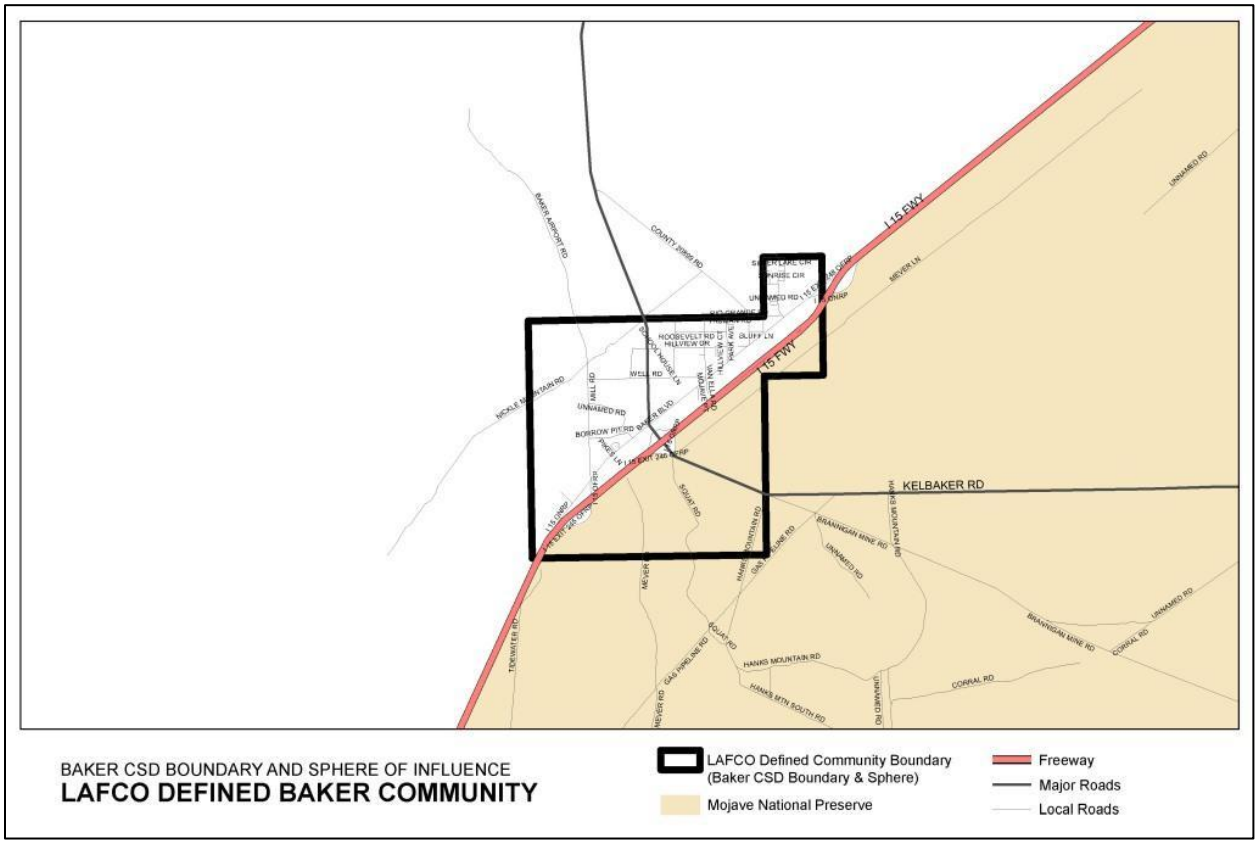
Location

LOCATION AND DESCRIPTION

Baker is in the Commission's defined South Desert Region, which includes those communities in the Morongo Basin, along the Colorado River, and near the Mojave National Preserve. Below is a map illustrating the current Baker community in proximity to the nearest city (Barstow), a copy of which is included in Attachment #1.



The overall service review and sphere study area is situated in the Commission's defined South Desert Region in the Mojave Desert at the junction of Interstate 15 and State Route 127, approximately 90 miles southwest of Las Vegas and 60 miles northeast of Barstow along Interstate 15. Portions of the Baker CSD's boundary southerly of Interstate 15 are within the Mojave National Preserve, which spans 1.6 million acres (map below identifies the community).



Characteristics

Baker is known as the “Gateway to Death Valley”, “Entrance to the Mojave National Preserve” and “Home of the World’s Tallest Thermometer” (not currently operational) which stands 134 feet to commemorate a record high temperature of 134 degrees recorded in Death Valley. Elevation is approximately 930 feet above sea level, which is much lower than either Barstow or Las Vegas, due to its location at the southern end of the Death Valley geological depression. The economy is based primarily on tourism. The town is frequently used as a rest stop by drivers on Interstate 15 to and from Las Vegas. It is the last town for those traveling on SR 127 north to Death Valley National Park or south to the Mojave National Preserve. The area is rural desert with mainly mobile-style housing and unpaved roads with upgrade facilities for travelers. Baker is also the start of the annual Baker to Vegas Challenge Cup Relay race.

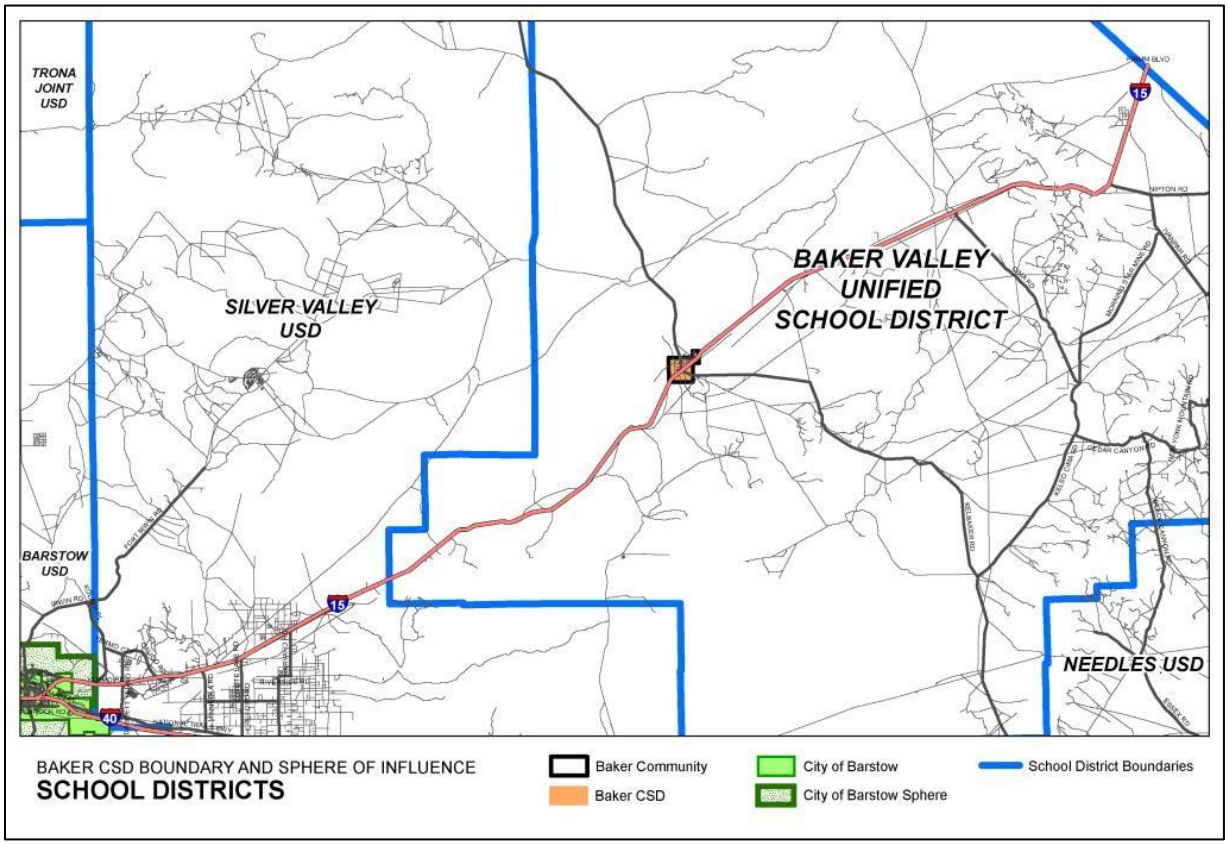
Zzyzx, formerly Camp Soda and Soda Springs, is located nearby off I-15 seven miles to the south. It is the former site of the Zzyzx Mineral Springs and Health Spa and now the site of the Desert Studies Center operated by California State University San Bernardino. The site is also the location of Lake Tuendae, originally part of the spa, and now a refuge habitat of the endangered Mohave tui chub.

Public Service Providers

The community is served by multiple public agencies. Regional service providers include:

- County Service Area 70 (multi-function, unincorporated county-wide) and its various zones for localized service
- Mojave Desert Resource Conservation District
- San Bernardino County Fire Protection District and its South Desert Service Zone
- San Bernardino County Flood Control District

School districts are social focal points for many communities, and the Baker Valley Unified School District (USD) overlays the entirety of the Baker community as well as other areas surrounding the community (see map below).



The following narrative provides a historical perspective of the community as abbreviated from the Baker CSD website.[2]

COMMUNITY HISTORY

The area now known as Baker was originally called Berry Siding, most likely named after a local prospector. In 1906, Francis Marion Smith constructed rail lines which passed thorough Berry Siding on the Tonopah and Tidewater Railroad (later named T&T). In 1913, Smith sold his shares of T&T to Sir Richard C. Baker who took over T&T operations. Sometime after, the area was renamed as Baker, after Richard Baker, even though there was no town present at that time. The nearby community at that time was Silver Lake, about 10 miles north of Baker. The area was established in 1929 by Ralph Fairbanks who was an American prospector, entrepreneur and pioneer who established several towns in the Death Valley area of California.

The Great Depression did not hit Baker hard due to the installation of a power line to carry electricity from San Bernardino to the construction site of the Hoover Dam. A portion of the line traveled through Baker and the community benefited from that construction and the travel between Los Angeles and the dam. A flood occurred in 1938 causing a large loss for T&T Railroad which then ceased operating in 1940. Further, the World War II effort resulted in the removal of rails for use overseas. In the 1940s the community opened its first K-8 school, however high school students at that time attended school in Barstow for the week and traveled home for the weekend.

The first courthouse (Justice Court) was opened in 1952, and the Baker Community Services District was formed in 1956. Justice Courts were later closed with the CSD assuming the former Justice Court facility which remains as the CSD facility.

A brief history of the major governmental events for this community and its relationship with the Local Agency Formation Commission is described below, listed chronologically by end date:

1956 The Board of Supervisors and the registered voters (44 yes, 4 no) approved the formation of the Baker Community Services District to provide water, sewer, trash, fire protection, park and recreation, and streetlighting services to the community.

1966 The Baker CSD submitted an application to annex territory to the northeast to provide sewage disposal facilities to residents and businesses at the east end of Baker. The Commission approved the annexation of a half square mile (LAFCO 360).

1972 The Board of Supervisors approved the formation of County Service Area 81 to provide television translator service to the community (LAFCO 1102). At

[2] Baker CSD. Website. Accessed 10 Feb 2013. http://bakercsd.com/

that time, County Service Areas were the only districts that were authorized to provide television translator service. The Commission approved the formation with the policy statement that the Baker CSD and CSA 81 should have coterminous boundaries from that point forward. However, the formation of CSA 81 did not establish a tax rate to fund the service, and the service was funded by donations until its dissolution.

The Commission established spheres of influence for the Baker CSD and CSA 81 as coterminous, LAFCO 1233 and 1234 respectively. The Commission did not establish the spheres beyond the agencies' boundaries since much of the surrounding area was vacant government land.

1976 Special districts were seated on San Bernardino LAFCO. As a part of this process all special districts were limited to the functions/services actively provided at that time and required an application process to activate any other function/service in the future. The affected districts responded to LAFCO's request to list their active functions and services by providing the following:

- Baker Community Services District identified to LAFCO that the active functions were water, sanitation, fire protection, park and recreation, and streetlighting.

- The County, on behalf of County Service Area 81, identified to LAFCO that the active function was television translator.

Pursuant to adoption of the *Rules and Regulations of The Local Agency Formation Commission for San Bernardino County Affecting Functions and Services of Special Districts* in 1976 and amendments thereafter, the active functions and services for the districts have been determined. The policies and procedures adopted at the same time outlined the requirements to apply to the Commission for activation of any other latent powers.

1978 At the request of Baker CSD, the State Legislature, through Assembly Bill 3800, extended to the Baker CSD only the authority to provide both television translator and health related services (ambulance), subject to LAFCO approval. Following the passage of the legislation, Baker CSD submitted an application to LAFCO for authorization to provide television translator service (LAFCO 1839), and the County submitted an application to dissolve County Service Area 81 (LAFCO 1834). The Commission approved the proposals with the condition that the assets and liabilities of CSA 81 transfer to Baker CSD.

In addition, in July 1976 the Baker CSD adopted Resolution No. 74 which stated, "Whereas, Baker Community Services District would like to add Medical Services to its authority when and if such time as powers become available…" At some point between 1976 and 1978 the CSD began providing

this service as ambulance service. The LAFCO Special District Exhibit "A" recognized it as authorized when being updated in 1978 for TV Translator.

1980 Unfortunately for the community, the private individual who provided refuse collection service quit his business leaving the community without any organized means of refuse collection. As a result, various methods to remove the refuse took place, none of which were sanctioned by the County Environmental Health Department (EHD). Further, County EHD could not find anyone else to provide the service due to the remoteness of the community as well as the low customer base. Given the need for this service, Baker CSD submitted an application for authorization to provide solid waste services (LAFCO 2041). The Commission approved the proposal.

2000-01 Desiring increased services to the underserved community, the CSD placed an advisory measure on the November 2000 Presidential General Election seeking approval from the electorate to pursue special legislation to levy a sales tax at a rate of 0.5 percent on taxable sales within the District's boundaries. The measure further asked that if passed with 2/3 of voters and that special legislation is successful, shall the proceeds of the tax be deemed general fund revenue. The measure passed with 76.4% of the vote.

However, in May 2001 the California State Senator for the Baker community (Wm. J. "Pete" Knight) withdrew sponsorship for the legislation (SB 794) due to local opposition of what was identified as a single business source.

2005-06 LAFCO staff notified all the community services districts within the county of the rewrite of Community Services District Law (Senate Bill 135), effective January 1, 2006. The update of Community Services District Law included new provisions related to governance and latent powers for community services districts.

Pursuant to the 2006 re-write of Community Services District Law, those functions that LAFCO determined that a district did not actively provide prior to January 1, 2006 were to be designated as a "latent power". Baker CSD identified to LAFCO that it actively provided water, sewer, fire protection, park and recreation, streetlighting, ambulance (now classified under Fire Protection in CSD Law), TV translator, and solid waste. On January 18, 2006, these functions and services were recognized in the Commission's adopted *Rules and Regulations of The Local Agency Formation Commission for San Bernardino County Affecting Functions and Services of Special Districts*.

Additionally, Baker CSD identified that a court has indicated that it has the ability to construct and maintain roadways to the "extent necessary to carry out its other purposes". The perspective of LAFCO staff is that this is commonly held to protect its water and sewer lines and facilities.

BAKER COMMUNITY SERVICES DISTRICT
Service Review and Sphere of Influence Update

INTRODUCTION:

LAFCO 3159 consists of a service review pursuant to Government Code Section 56430 and sphere of influence update pursuant to Government Code 56425 for the Baker Community Services District ("CSD" or "District"). The CSD has chosen not to participate in this state-mandated service review/sphere update.

In 1956 the voters approved the formation of the CSD. The CSD is an independent special district with a five-member board of directors elected at-large and operates under Community Services District Law, Government Code Section 61000 et seq. A description of community services districts is included as Attachment #3.[3] Currently, the CSD is authorized by LAFCO to provide the functions of water, sewer, fire protection, park and recreation, streetlighting, TV translator, solid waste, and ambulance (now classified under Fire Protection in CSD Law) services pursuant to the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*. The CSD has not actively provided ambulance services since 1993.

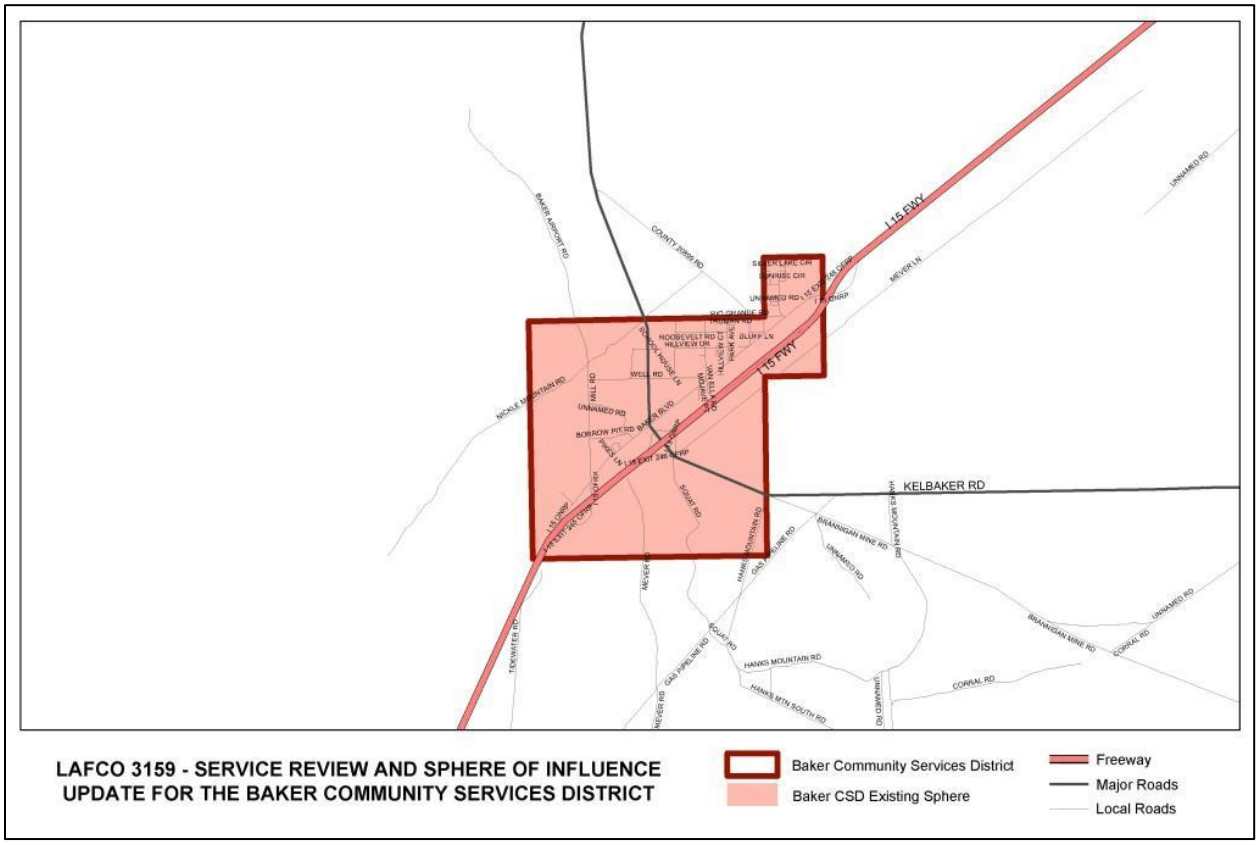
The Baker community is isolated and must therefore look inward to find solutions to most of its service needs. In many cases, there is simply no other agency, nor any other alternatives, to provide community services.

As discussed in the "Sphere of Influence Update" section of this report, staff is recommending expansion of the CSD's sphere of influence by a total of approximately 974 acres to include the Baker Airport located just north of the community, the Baker CSD's water tank near the freeway, the I-15 Freeway right-of-way along the Exit 248 off-ramp and the I-15 (North) on-ramp from Baker Boulevard, and a couple of privately owned parcels adjacent to the community.

LOCATION AND BOUNDARIES:

The service review and sphere of influence update study area encompasses approximately 4.5 square miles which includes all of Sections 25 and 36 of Township 14N, Range 8E and the Southwest quarter of Section 20, the Northwest quarter Section 29, and all of Sections 30 and 31 of Township 14N, Range 9E. The study area is generally located at the junction of Interstate 15 and State Route 127 (Kelbaker Road); and the portions of the District's boundary southerly of Interstate 15 are within the Mojave National Preserve. A map of the District and its current sphere (including the proposed sphere expansion area) is shown below and is included as a part of Attachment #2.

[3] Detwiler, Peter. "Community Needs, Community Services: A Legislative History of SB 135 (Kehoe) and the Community Services District Law", Senate Local Government Committee, March 2006, pg 8.



SERVICE REVIEW

In 2003, LAFCO adopted the Governor's Office of Planning and Research (OPR) Municipal Service Review Guidelines by reference for its use during the conduct of service reviews. These Guidelines provide a step-by-step approach to understanding the service review process as set for by Government Code Section 56430 as well as factors that LAFCO may wish to address in its service review of an agency.[4]

Due to the CSD's refusal to participate in the State-mandated service review and sphere of influence update, LAFCO staff obtained information on the CSD's services and operation from public sources (included as Attachment #2). LAFCO staff responses to the mandatory determinations for consideration in a service review (as required by Government Code 56430) are identified below.

[4] State of California, Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

I. Growth and population projections for the affected area.

The community offers relief to thousands of travelers on their way east or mainly to Las Vegas and serves as a refreshing station for fuel and food. The area is rural desert with mainly mobile style housing and unpaved roads with upgraded facilities for travelers.

Development and Communication Issues

According to the FY 2010-11 Grand Jury Report (excerpts included as a part of Attachment #2), the community has expressed a deep concern for the general lack of understanding of their plight in Baker. This extends to their relationship with the County's entities, such as Planning, Land Use Services, Building, Transportation and any agency that controls building and roads. Their concerns are focused on the regulatory agencies control of all building and construction in their area, and the application of urban (City) regulations to rural (Desert) communities. The County Development Code has regulations that are specific to the valley, mountain, and desert regions. Even so, Baker is removed from other communities and remains primarily as a transportation stop in the rural desert with mainly mobile-style housing and unpaved roads with upgraded facilities for travelers. For example, the Grand Jury report recommends that the County implement a two-tiered set of regulations for urban and rural areas (imposing curbs and gutters in extreme rural areas that have no sewers, no containment, or water control programs). In its response to the Grand Jury recommendations, the County states that it will further evaluate the infrastructure development standards in Baker and other similar communities in order to better match the standards within the community needs.

Further, the Grand Jury report identifies on-going communication problems between Baker and the County. Most of the communication problems are related to the Land Use Services Department, Planning Division, and LAFCO. The Grand Jury Report notes that in the past it has taken weeks and sometimes months for the County to respond to correspondence from the CSD. In its response to the Grand Jury recommendations, the County states that in order to ensure prompt and effective response to concerns of this community, the County's Chief Executive Officer, with concurrence of the First District Supervisor, has assigned a member of the County Administrative Office executive staff to serve as a "key contact" for the CSD.

The Grand Jury Report continues to state that this is not only a county problem, but the Baker community has not responded to many of the County's departments that could supply it with needed information. The District's response to the Grand Jury Report states that the District realizes that it is distant from the County Government Center, which makes in-person meetings more time consuming and costly, and that it will use email and the phone to communicate more efficiently in the future.

Land Ownership and Land Use

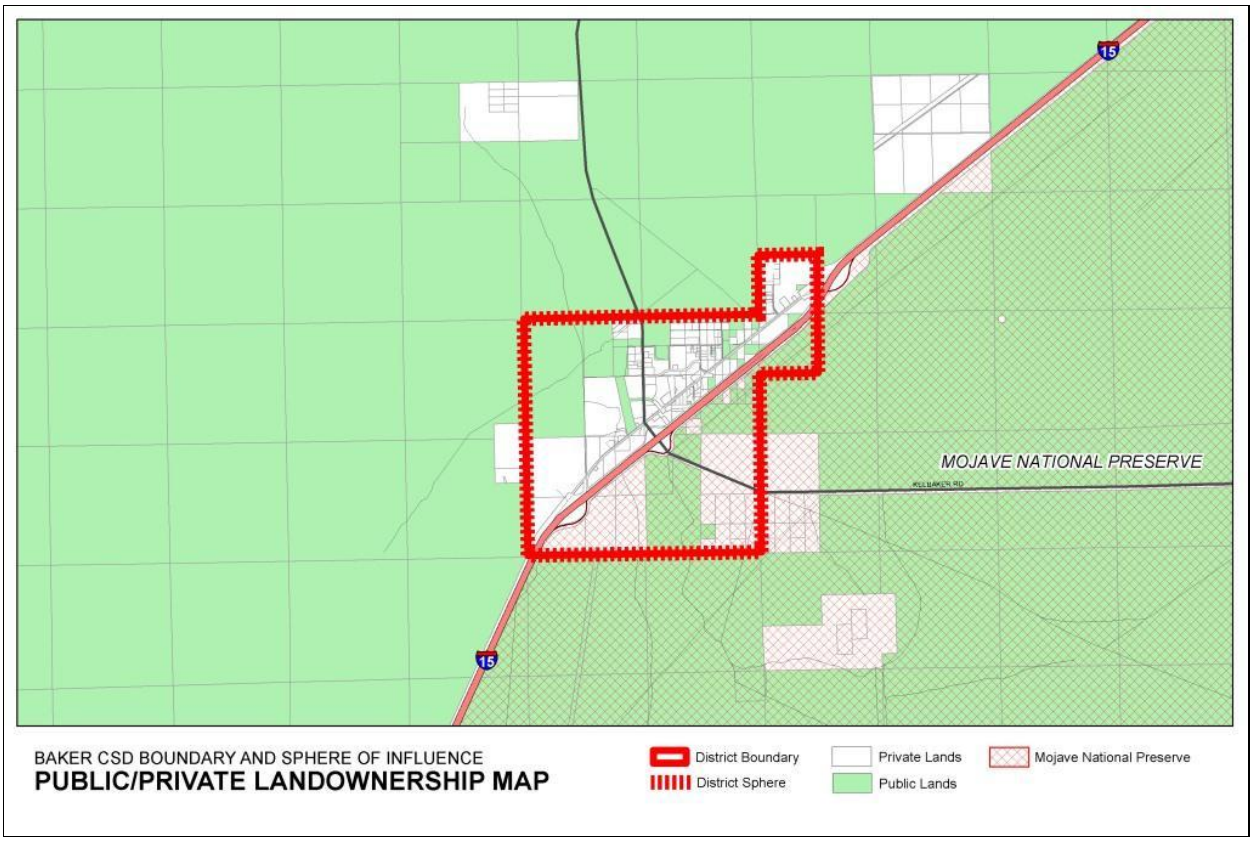
Land Ownership

The land ownership distribution and breakdown within the District's boundary and/or sphere of influence are identified on the map below. Within its entire boundary/sphere, roughly

63% of the land is privately owned and the remainder, 37%, is public, which are devoted primarily to resource protection and recreational use.

Baker CSD and Its Sphere of Influence
Land Ownership Breakdown (in Acres)

Ownership Type	Boundary (Sphere) Area
Private	1,796
Public Lands – Federal (BLM), State, & others	1,039
Total	**2,835**

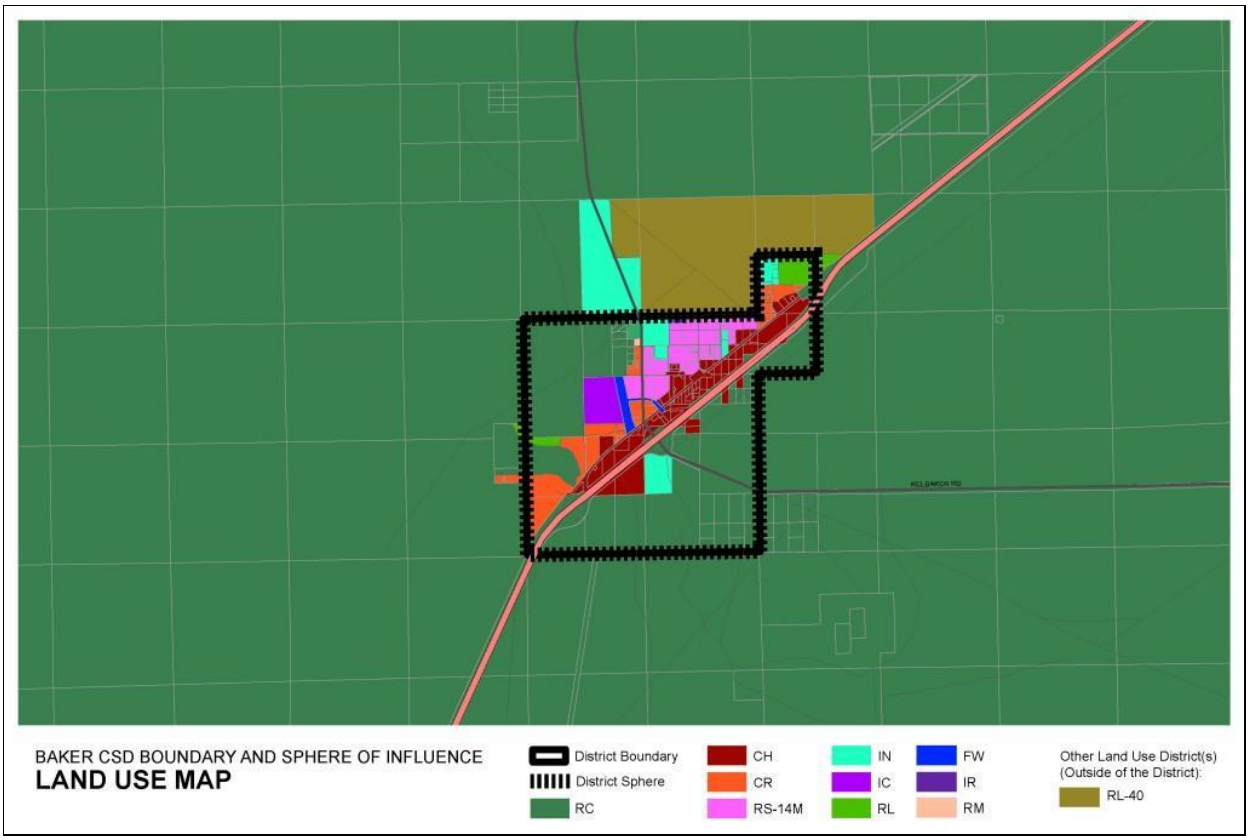


Land Use

Below is a map that identifies the County of San Bernardino's land use designations within the community of Baker (which includes a portion of Mojave National Preserve). Within the Baker CSD, approximately 58% is designated Resource Conservation, 23% is Commercial, 8% Residential, 5% Institutional, 3% Industrial, 2% Rural Living, and the remainder 1% as Floodway.

Baker CSD & Its Sphere of Influence
General Plan Land Use Districts (In Acres)

County's Land Use	Acreage
Resource Conservation (RC)	1, 658
Rural Living (RL)	61
Single Residential (RS)-14M	230
Multiple Residential (RM)	3
Rural Commercial (CR)	233
Highway Commercial (CH)	407
Community Industrial (IC)	76
Regional Industrial (IR)	5
Institutional (IN)	133
Floodway (FW)	29
Total	**2,835**



Most of the lands designated as Resource Conservation, both within the CSD's sphere of influence and the surrounding area are public lands that are managed by the Bureau of Land Management (BLM).

Population

Population Projections

In 2000, the population within the community was 870 as defined by Census data. By 2010, the community's population decreased by 16% to 735. LAFCO staff attributes this decline in population primarily to the closing of the Baker Community Correctional Facility in 2009. The projected growth for the community was calculated utilizing a combination of the growth rates identified in the Regional Council of the Southern California Association of Governments (SCAG) Draft 2012 Regional Transportation Plan (RTP) Integrated Growth Forecast for the County's unincorporated area for the given periods and the use of average annual growth rate to generate the intervals. By 2040, the population within the Baker CSD is estimated to reach 1,007. This represents a projected annual growth rate of approximately 1.06 percent between 2010 and 2040, which also represents a total population increase of 37 percent from 2010.

Baker CSD Population Projection 2010-2040

Census[5]			Population Projection					
1990	**2000**	**2010**	**2015**[6]	**2020**	**2025**[7]	**2030**	**2035**	**2040**
523	870	735	747	760	815	875	939	1,007

The community has not experienced any significant growth. The increase in population between 1990 and 2000 was attributed mainly to the staff and prison population at the newly opened prison facility. Likewise, the reduction in population between 2000 and 2010 was due to its closing. Based on these assumptions, the community population has been relatively static. Therefore, the population projections shown above may represent an unattainable growth rate. In order to represent a more realistic growth projection for the area, LAFCO staff has revised the projections between 2020 and 2040 to reflect the same projections used by SCAG for 2010 and 2020. As shown on the revised projection table below, it is estimated that the population within the Baker CSD is now expected to reach only 812 (instead of 1,007) by 2040, or a total population increase of just above 10 percent (instead of 37 percent) from 2010.

LAFCO Revised Baker CSD Population Projection 2010-2040

Census	Population Projection					
2010	**2015**	**2020**	**2025**	**2030**	**2035**	**2040**
735	747	760	773	785	799	812

[5] Data derived from the 1990 and 2000 Census for the Baker community and 2010 Census for the Baker Census Designated Place (CDP).
[6] 2015 projection were calculated using Average Annual Growth Rate based on the compounded rate between 2010 and 2020
[7] 2025, 2030, and 2040 projections were calculated using Average Annual Growth Rate based on the compounded rate between 2020 and 2035.

Potential Build-out

The table below provides the potential build-out within the Baker CSD's territory. This build-out scenario takes into consideration the existing land use designations assigned for all the private lands within the CSD's boundaries and the maximum dwelling unit densities assigned for each residential land use.

Baker CSD & Its Sphere of Influence
Land Use Maximum Build-Out

Land Use	Acreage	Density (D.U. Per Acre)	Maximum Build-out (DU's)
Resource Conservation (RC)	858 [8]	0.025	21
Rural Living (RL)	61	0.4	24
Single Residential (RS)-14M	230	3.0	690
Multiple Residential (RM)	3	16.0	48
Total Residential	**1,152**		**783**

The revised population projections identified earlier indicates that the population within the Baker CSD's territory will be 812 by 2040. Based on the maximum residential build-out calculated for the CSD's territory, the projected maximum population is anticipated to reach 2,098[9]. Likewise, based on the population projected for 2040, it is anticipated that the number of households within the CSD's territory needed will be 302 units with a maximum potential build-out to reach approximately 783 units. These imply that the study area will reach 39 percent of its potential maximum household and population capacity by 2040.

Population and Household Projections
Within the Baker CSD

	Projection 2040	Maximum Build-out	Ratio of 2040 Projection with Maximum Build-out
Population	812	2,098	0.39
Households	302	783	0.39

For purposes of planning and designing infrastructure and future service delivery, the seasonal and tourism population must be considered. As the permanent population and transient traffic increases so does the need for service. Additionally, for the Baker

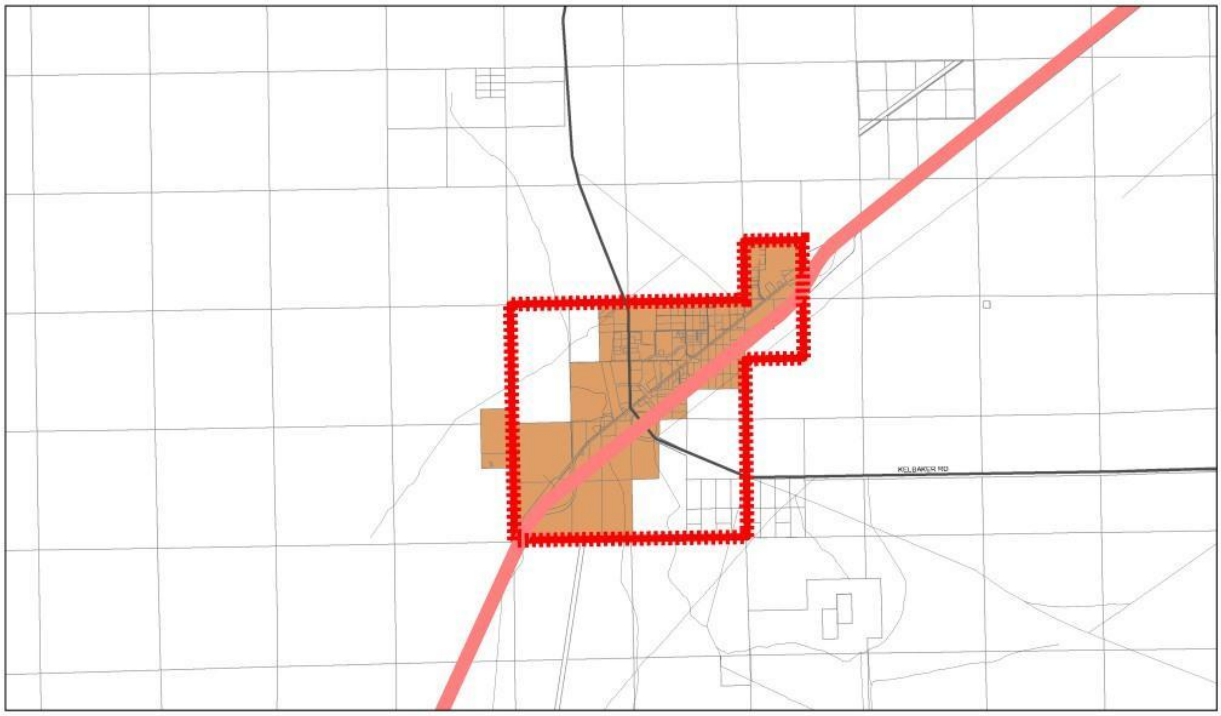
[8] Approximately 800 acres of the area with the RC land use designation are federally owned lands managed by the Bureau of Land Management. These public lands have been excluded from the Build-out Table because it has little or no development potential.

[9] Source: Persons per household @ 2.68 based on the ratio for the Desert Region as identified in the County's General Plan.

community the single most tangible factor that would increase growth will be the availability of jobs (most likely through the service industry).

II. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

Beginning January 2012, LAFCO is now required to determine the location and characteristics of disadvantaged unincorporated communities (hereafter shown as DUC). DUCs are those communities that have an annual median household income that is less than 80 percent of the statewide annual median household income, which is under $46,285 (defined by Government Code Section 56302). Based on a combination of the Commission's definition of a DUC and the use of Census Bureau data[10], the map below plots out the area within or contiguous to the CSD's sphere of influence that would be considered a DUC.



Generally, the entire community itself is considered a DUC comprised of sparse residential development with large lots primarily designated Single Residential (14,000 sq. ft. lots) and Rural Living (2 ½-acre lots). The areas that are shown as not a DUC are vacant and/or are public lands managed by BLM.

[10] Median Household Income data is taken from the American Community Survey 5 year (2006-2010) summary using the block group level.

The one area considered a part of the DUC that is contiguous to the CSD's sphere of influence consists of a single residential unit and a vacant parcel. The rest of the area surrounding the CSD's current sphere of influence is primarily vacant public lands managed by BLM.

III. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs and deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.

The District has elected not to participate in this State-mandated service review/sphere update. Therefore, data obtained by LAFCO staff from other sources in sum does not provide for an adequate review of this determination. For this service review determination, referenced materials include, but are not limited to, CSD *2011 Consumer Confidence Report*, CSD *Preliminary Engineering Report on Water and Wastewater Systems* from 1990, LAFCO files, State Department of Water Resource's *Bulletin 118*, and information obtained from the County Sheriff, County Department of Public Health, San Bernardino County Fire Protection District, Inland Counties Emergency Management Agency, and County Public Works Department.

According to the State Controller's website for Government Compensation, in 2011 staffing was comprised of a general manager, water operations manager, trash truck driver, secretary, trash operator, janitor/landscaper, 10 recreational lifeguards, part-time clerk, six volunteer firefighters, and an unpaid financial officer.

The only services where the CSD does not play an active role are airports and law enforcement.

Baker Airport

Baker Airport is located minutes north from the Baker core (coterminous to the CSD boundary) and approximately 50 miles from the Nevada Border. Located at the entrance to Death Valley, Baker Airport is an emergency airfield, a strategic location along the primary route connecting Las Vegas with Southern California, and provides a public safety role for law enforcement and emergency ambulance flights.

The County constructed the Baker Airport in 1964 and operates the airport through its Department of Airports. According to Department of Airports staff, the airport is classified as a general aviation airport. Thus, the types of aircraft at the airport are limited to small general aviation. Solely intended as an emergency airfield, there are no facilities on-site and no fees are charged. The following services are not present: control tower, tie-downs, fuel, water, or wastewater collection. Therefore, the airport is not part of an emergency preparedness plan. However, trash bins are present which is collected by the CSD. There are roughly 500 operations (take-off or landing) at the airport each year with nearly, if not

all, 100% as itinerant (transient). The runway was reconstructed about five years ago, but no other projects have been completed since or are anticipated.

The County owns the facility which is on 258 acres of federal land leased from the Bureau of Land Management. The original lease was signed in 1961 with a 20-year term. The lease was renewed in 1981 and expired in 2001. From 2001 to 2003 the County and BLM considered the lease to be in holdover, and the Department of Airports continued to operate the airport. The current lease was renewed in 2003 with an expiration date of September 30, 2021 (County Agreement 03-808). According to the lease, the annual lease fee is $100 per year and the BLM must approve in advance any additional structures or improvements.

Law Enforcement

As for law enforcement, the CSD plays a supporting role in the provision of this service. The following excerpt is taken from the County Sheriff website:[11]

> *The Baker Substation is a satellite substation to the Barstow Station. It is located in the town of Baker, approximately 60 miles north of Barstow on Interstate 15. This assignment is what is known as a "resident post." Deputies assigned to Baker live there in county housing and are truly integrated with the community. In fact, it is probably the closest thing to a town sheriff of the old west. The deputies not only provide law enforcement services, they also are an involved component of the community upon which the citizens come to rely.*
>
> *Baker is also unique in another aspect. Since it is located on Interstate 15 and is frequently used by travelers as a rest stop, the daily population fluctuates dramatically. As one deputy put it, "it is like a city of 5000 people, only the people change every hour."*
>
> *As you can imagine, this environment can be challenging for the deputies assigned there. As a result, the Baker Deputies work closely with the California Highway Patrol. This is of mutual benefit to both agencies, who are frequently confronted with problems associated with large numbers of the traveling public. Stranded motorists, lost persons, and traffic collisions are just a few of the many issues these officers face on a daily basis.*

As identified above, the County operates a sub-station in Baker with the Sheriff Deputy living in County housing. The County and CSD have entered into two agreements for this arrangement.

- On May 14, 1979, the Board approved a five-year lease agreement, No. 79-265, with two five-year options to extend for a three-acre site on which two mobile homes were installed by the Sheriff's Department for deputy housing in the Baker area (APN 0544-291-52). The original term of the lease was from June 1, 1979 through May 31, 1984. In the thirty years since the lease was originally approved, the Board has

[1111] County of San Bernardino Sheriff. Website. Accessed 10 Feb 2013. Last updated unknown. http://www.sbcounty.gov/sheriff/patrol/Patrol.asp.

approved seven amendments, which have included extensions to 2024 and reduced the leased area from three acres to 1.5 acres for $1,500 per year. Under the agreement, the County has the right to terminate with 90-day notice.

- On September 14, 2004, the Board approved a five-year lease agreement, No. 04-960, with three five-year options to extend for 540 square feet of office space in the Baker Community Center located at 72730 Baker Boulevard in Baker. The original term of the lease was from September 14, 2004 through September 13, 2009. In October 2009, both parties approved the first amendment to the lease to extend the term to September 2014 for $1 per year. Under the terms of the agreement:

  - CSD provides for the ground and parking lot maintenance,
  - County and CSD share equally in the cost of maintaining the building,
  - County pays interior electricity; CSD pays for gas, water, trash, sewer, exterior lighting, and fire alarm service, and
  - Both parties have the right to terminate with 120-day notice

Currently, the CSD is authorized by LAFCO to provide the functions of water, sewer, fire protection, ambulance (now classified under Fire Protection in CSD Law), solid waste, streetlights, television translator, and park and recreation. The CSD has not actively provided ambulance services since 1993. Additionally, the CSD actively provides Road services (unknown to what extent) but lacks LAFCO authorization or acknowledgment to do so (for further discussion for Roads, see Item E below).

A. Water

Groundwater Basins

The community is within the South Lahontan Hydrologic Region as defined by the State Department of Water Resources. Specifically, the community is within the Soda Lake Valley and Silver Lake Valley Ground Water Basins, described by the Department of Water Resource's *Bulletin 118* (last updated February 2004) describes as follows:

<u>Silver Valley Lake Ground Water Basin</u>

Recharge to the basin is derived from the percolation of runoff through alluvial fan deposits along the base of the Soda Mountains and from the infiltration of precipitation that falls to the valley floor. Additional recharge comes from subsurface inflow from Soda Lake Valley Groundwater Basin to the south. Average annual precipitation ranges from about 4 to 6 inches.

<u>Soda Lake Valley Ground Water Basin</u>

Annual average precipitation ranges from about 3 to 5 inches. Recharge to the basin is derived primarily from the percolation of flow in the Mojave River, and the percolation of runoff through alluvial fan deposits at the base of the surrounding mountains. Additional replenishment is derived through subsurface inflow from Cave Canyon, Kelso, and

Broadwell Valley Groundwater Basins. Groundwater in the alluvium moves towards Soda Lake and discharges northwards into Silver Lake Valley Groundwater Basin.

Baker CSD

Facilities

The water system is classified as a community water system serving a commercial district and a residential community. The system has approximately 100 service connections. Out of 100 connections, 40 are residential which include schools and two mobile home parks. The minimum security prison is no longer in operation but retains its system connection. The commercial portion serves a large transient population.

The system consists of a gravity storage tank located outside of the CSD boundary and six vertical wells. However, a review of property records from the County Assessor's Office does not identify the CSD as a possessory interest on the parcel where the storage tank is located. Therefore, it is unlikely that the CSD pays property taxes on this facility.

Wells 1-3 are the primary wells. Wells 4 and 5 activate only when the water level falls below a certain level. Wells 1-5 are on an automatic telemetric system. Wells 1-5 connect to a central manifold, which has a meter for each well. Well 6 is not on an automatic system, and is run manually. Well 6 is flushed prior to allowing its water to flow into the system. The storage tank is steel welded with a storage capacity of 400,000 gallons.

According to the *Preliminary Engineering Report on Water and Wastewater Systems* from 1990, most of the distribution mains are 6, 8 or 10-inch ACP installed in 1969. At that time, the water distribution system appeared to be in good condition with adequate sized mains. Additionally, there were a couple of short dead-end lines with blow-offs which could be tied together in the future to enhance circulation. It is not known if any improvements have been made to the system since that time.

According to the County Department of Public Health's appraisal of the physical facilities, the system appears to be in good condition and is adequate for this community. The system is professionally maintained and managed. Further, no complaints have been reported to the County Department of Public Health.

Those residents residing outside of a water purveyor have their own on-site methods such as wells or springs for domestic water. The yield from these sources will vary dependent on the amount of rainfall and the individuals are responsible for monitoring the quality of the water they use.

Water Quality

According to the County Department of Public Health's appraisal and the District's 2011 Consumer Confidence Report (copy included in Attachment #2), gross alpha radiation and uranium levels are at or near maximum contaminant level (MCL) for all sources.

Uranium

Those residents who have their own on-site wells are susceptible to high uranium levels as well. Options exist for uranium removal, but the best treatment system or combination of systems for a given situation will depend on several factors. For community water supplies, there are at least five options for removing or reducing uranium concentrations in drinking water:

1. locating and developing a new source of drinking water;
2. purchasing drinking water from another water system;
3. blending water from a contaminated source with water from an uncontaminated source(s);
4. building and operating a treatment plant to remove uranium; and
5. installing and maintaining point-of-use (POU) treatment devices at each drinking water tap.

For the District, options 1, 2, and 3 are infeasible due to the basin-wide contamination that is occurring, the District's remote location limiting access to a new water source, access to water to be purchased, or to be used for blending. Options 4 and 5 may be cost prohibitive but appear to be the only viable options available.

For the residents that are served water by individual wells, the most feasible treatment alternative to remove uranium in their water supplies is the use of a point-of-use system (POU). A POU system is usually placed under or near one faucet and treats only the water coming out of that tap for drinking or cooking. While no POU system is certified to remove uranium at this time, documentary proof exists to show that reverse osmosis, distillation, special adsorbent media (such as titanium dioxide) and anion exchange remove uranium and a variety of other contaminants.

Bulk Hauled Water

In remote areas of the desert, the hauling of domestic water is the sole means for domestic water. In the Baker community, LAFCO staff could not verify if this practice takes place. In a joint letter to the county planning and building departments in 2003, the California Department of Health Services[12] and the California Conference of Directors of Environmental Health specify that, "bulk hauled water does not provide the equivalent level of public health protection nor reliability as that provided from a permanent water system or from an approved onsite source of water supply."

The County of San Bernardino recognizes the potential health hazards with hauled water. Future development will be restricted unless there is access to an individual well or domestic water system. Therefore, new development could not be approved without verification of access to a domestic water system. However, existing units without connection to a domestic water system or without individual wells on their property must

[12] The California Department of Health Services has been reorganized since 2003 and water related health issues are coordinated under the California Department of Public Health.

rely on hauled water for domestic and other uses. County Code of San Bernardino Section 33.0623 (last amended in 1996) under Health and Sanitation and Animal Regulations reads:

> *Water furnished by a domestic hauler shall not be used as a source of water by any public water supply system unless it has been demonstrated to DEHS (Department of Environmental Health Services) that there are no reasonable means of obtaining an acceptable quality and quantity of groundwater, and that water treatment methods have been approved by DEHS. Exception: During an officially declared state or local emergency, a public water system may utilize hauled water as a temporary source of supply.*

B. Wastewater

Due to lack of District participation for this state-mandated service review/sphere update, the type and extent of wastewater activities is unknown in this report. For this service review determination, referenced materials include the CSD *Preliminary Engineering Report on Water and Wastewater Systems* from 1990 and information obtained from the County Department of Public Health.

The Baker Community is located within the Lahontan Water Basin regulated by the Lahontan Regional Water Quality Control Board. A review of the Lahontan enforcement orders since 2003 does not identify any adopted orders regarding the District. There are an unknown number of private systems as some properties may have multiple systems.

According to the *Preliminary Engineering Report on Water and Wastewater Systems* from 1990:

> *For a wastewater treatment plant, the CSD has constructed unlined stabilization ponds with a total design capacity of 0.15 mgd on a site approximately one-half mile south of the community. The initial facility was constructed in 1961 and modified in 1970. There are approximately 10 acres of ponds consisting of two ponds of approximately 2.5 acres each and a five-acre pond located on 73 acres of land owned by the CSD. The land was granted to the CSD in February 1963. The CSD domestic water wells are approximately two miles east of the ponds.*
>
> *The ponds function as evaporation/percolation ponds. The five-acre pond is not normally used. Its floor is covered with sage brush and other desert brush. The two 0.5 acre ponds alternately take the entire sewage flow. It takes four to six months to fill a pond to approximately four feet depth. This leaves three to four feet of freeboard. There is no discharge from the ponds except by evaporation or percolation. The groundwater is approximately 100 feet below and is poor quality with total dissolved solids (TDS) concentration over 1000 mg.*
>
> *It appears the existing wastewater treatment facilities could easily handle at least double the current wastewater flows. There is room for considerable expansion on the 73 acre site.*

The ponds are located in the southern portion of the district, just southwest of the Interstate 15/SR 127 junction, within the Mojave National Preserve.

Implementation of a treatment plant for the community seems unlikely since the population is low and the capital costs would be borne by the very limited population resulting in a cost that could not be paid by the community.

C. Fire Protection and Emergency Response

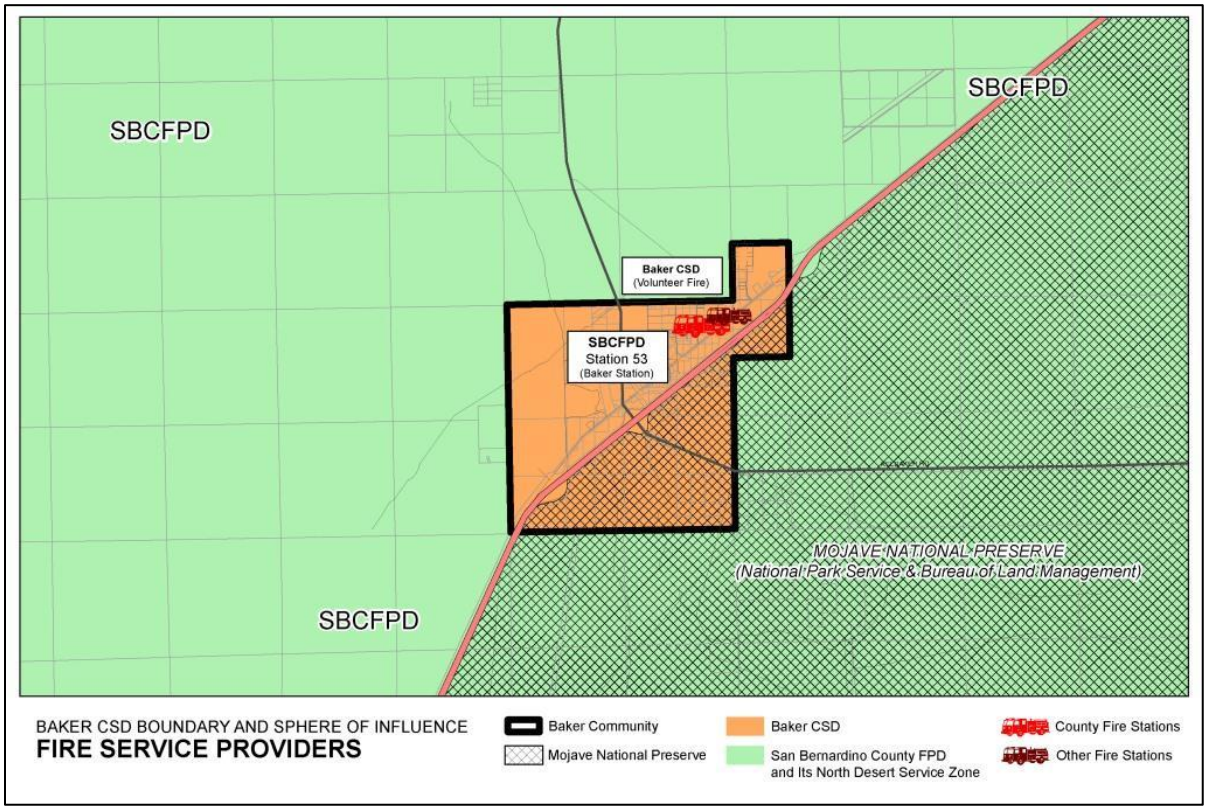
Fire protection, flood protection and emergency services are among the most crucial of the Baker community needs. Residents' concerns regarding safety in their community revolve around fire protection and the need for improved evacuation routes. The quality of life within the community is dependent on the adequacy of these services.

Agreement with County Fire

The CSD is authorized to provide fire protection services and is the recognized and responsible agency for the ultimate provision of this service within its boundaries. As shown on the map below, the SBCFPD territory does not overlap the CSD.

However, the CSD has not been the primary fire protection provider since at least 1987. From 1987 to 1994, County Service Area 38 provided fire protection to the CSD, even though CSA 38's boundaries terminated roughly 30 miles away from the CSD at the Harvard community. There is no known written agreement for the service relationship prior to 1994. In 1994, the two agencies memorialized this relationship through an agreement whereby CSA 38, "agrees to administer and supervise fire protection and emergency services for Baker Community Services District."[13] In 2008, CSA 38 was dissolved and the San Bernardino County Fire Protection District ("SBCFPD") was expanded to include much of the unincorporated territory of the County, thereby surrounding Baker CSD. As a function of that reorganization, SBCFPD succeeded to the 1994 contract.

[13] County of San Bernardino, Board of Supervisors, 1 Feb 1994, Agreement No. 94-97, Agenda Item 18.



According the terms of the agreement, the SBCFPD Fire Chief is the Chief of the CSD Fire Department and is responsible for the fire protection services. The contract is an evergreen contract which may be terminated by either party with a two-month written notice. As for payment, SBCFPD shall bill the CSD for services rendered at the actual cost of such services, not to exceed $6,673 for FY 1993-94. Billings may increase each year by 5%.

However, SBCFPD has confirmed that it has not billed the CSD for these services since at least 1994. Rather, in lieu of receiving a bill from SBCFPD, the CSD pays Station 53's utilities through a 2007 email agreement between the former SBCFPD Fire Chief and Deputy Fire Chief (copy on file at the LAFCO office). The SBCFPD Regional Division Chief indicates that the districts are currently working on a new agreement; however, the terms have not yet been identified.

SBCFPD Station 53

The primary function of Station 53 is to provide service along the I-15 transportation corridor. Construction of the current station was funded by the County General Fund for $3.2 million in 2006 (opened in 2008) with placement in Baker.[14] Prior to 2008, the former facility received its annual funding from CSA 38 (which did not overlay the CSD) and the County General Fund. Since 2008, the SBCFPD (which does not overlay the CSD) and the County General Fund provide funding for the station.

[14] San Bernardino Sun. Andrew Silva. "A home of Their Own". News Section. 20 June 2006.

As identified above, Station 53 is within the boundaries of the CSD, and SBCFPD and the CSD have an agreement whereby the SBCFPD responds to all calls within the CSD. SBCFPD provides the following description of Station 53:

> *Station 53 is located in the community of Baker, CA. The fire station is visible from the I-15 freeway on the northeastern end of the town. Daily staffing consists of two personnel: a full-time Captain and one Limited Term firefighter. The fire apparatus are: one ICS Type 1 structure engine (E53), one ICS Type 4 Brush Patrol unit with 4-wheel drive (BP53), and one 4 wheel drive utility vehicle (UT53).*
>
> *This is a key station supporting the vast and heavily traveled I-15 corridor between Afton Canyon and the Nevada state line. Station 53 crews also respond to a large portion of the Mojave Preserve south of Baker. Off road enthusiasts in the Dumont Dunes area north of Baker will also receive assistance from this station when needed.*

The closest active fire stations beyond the Baker community are Newberry Springs about 45 miles to the southwest off Interstate 15 and response units from Searchlight, Nevada Volunteer Fire Department over 71 miles to the east from Interstate 15. This signals the importance of Station 53 as the primary fire protection provider for about 80 linear miles along the I-15 transportation corridor.

Incident Statistics

SBCFPD has provided the following as its incident statistics for 2010-2012 for responses within the CSD. Of note, this also includes any calls from transients that called for service after stopping at the Baker commercial center. This listing includes type of response, total responses, and average response time. For the three years identified, emergency medical incidents represent 68% of total incidents within the CSD's boundaries.

	2010		2011		2012	
	No. of Responses	Avg. Response Time	No. of Responses	Avg. Response Time	No. of Responses	Avg. Response Time
Fire responses	14	5:31	16	3:04	11	4:23
Medical responses	127	5:43	152	3:55	138	4:00
Other responses	3	3:39	8	6:22	16	3:48
Traffic responses	31	7:48	49	16:15	46	10:06
TOTAL responses	**175**	**6:02**	**225**	**6:38**	**211**	**5:20**

CSD Volunteer Fire Department

The CSD maintains a volunteer fire department whose role is to augment SBCFPD personnel. According to SBCFPD, the CSD fire department does not respond to medical calls and traffic accidents. The firefighters are not currently certified as medics or emergency medical technicians – they are basic volunteer firefighters. Therefore, the CSD fire department is not the primary response. A review of the State Controller's "Government Compensation" website identifies that the CSD had six volunteer firefighters in 2011.[15]

Periodically, the CSD receives donated equipment for its volunteer unit. On August 28, 2012, the County Board of Supervisors allocated $25,000 in discretionary funding to the CSD for the purchase of a fire engine (Board Item #48). The CSD contacted SBCFPD regarding the purchase of a used fire engine to meet its fire suppression needs, and it was determined that a fully depreciated 1990 Ford Fire Engine was available, along with its associated equipment including hoses, hand tools, and ladders. The fire engine was sold to the CSD for $25,000 with the sale proceeds deposited to a SBCFPD equipment fund (Board Item #56 from February 26, 2013).

D. Ambulance

Although authorized to provide ambulance service, the CSD does not actively provide this service at this time. Medical response and ambulance services in the community are provided by the Baker Emergency Medical Services, Inc. ("Baker EMS"). Baker EMS is a private company based out of Baker and provides service within the Exclusive Operating Area ("EOA") #23 - Baker EOA and EOA #22 - Needles EOA assigned by the Inland Counties Emergency Management Agency ("ICEMA"). [16]

Prior to 1978, a private provider (Ken George) provided ambulance service (Basic Life Support) to the Baker area. In 1978, the CSD bought the equipment from the private provider and continued service with 2 BLS ambulances. In 1981, the CSD made an application to upgrade its service to Advanced Life Support. The CSD continued service until July 1, 1993 with 1 BLS and 1 ALS ambulance. At that time, Baker EMS, Inc. purchased the service and has continued to provide ambulance services within the Baker EOA.[17]

In 1997, Baker EMS purchased Needles Ambulance and assumed responsibility for EOA #22. When an emergency call is dispatched through to a fire station, Baker EMS is also notified at the same time and responds with SBCFPD on all medical calls and traffic accidents. Baker EMS's Needles Ambulance Service has a total of three ambulance units that are stationed in Needles, CA. Air ambulance service, if necessary to airlift a patient to a hospital, is provided in the area by Mercy Air Service.

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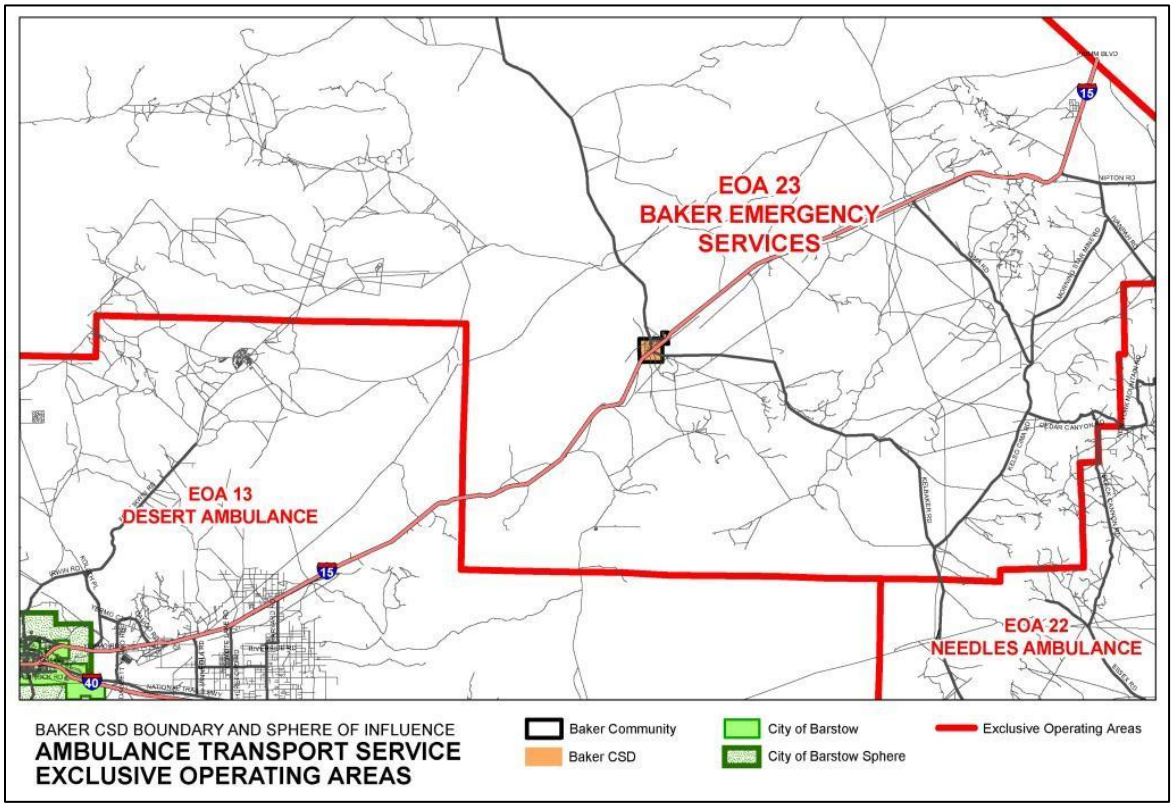
[15] California State Controller's Office. "Government Compensation in California". Baker Community Services District. Accessed 28 March 2013. Last updated 17 Dec 2012. http://www.sco.ca.gov/compensation_search.html
[16] ICEMA is a joint powers authority composed of the Counties of San Bernardino, Mono, and Inyo with the San Bernardino County Board of Supervisors as the ex-officio ICEMA Board of Directors.
[17] ICEMA. EOA Task Force Memo, "Baker Emergency Medical Service History".



The 2006 re-write of CSD Law now classifies Ambulance under Fire Protection service. To accurately reflect the services that the CSD provides, LAFCO staff recommends in the Sphere Update section of this report that the Commission modify the service description of the Fire Protection function by removing Ambulance service.

E. Roads

The Baker community exists almost in a world of its own, sixty-five miles away from the nearest "full service" community. Baker must therefore look inward to find solutions to most of its service needs, and this requires that the District Board either actively provide, or actively oversee the provision of a wide range of necessary services to its community. In this case, it seems that the community feels as if this service is not adequately provided by the County and feels the need to step in and provide it to the desired level.

CSD Law

CSD Law allows a community services district to perform road service in the following manner:

- Section 61100(l) - Acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works. A district shall not acquire, construct, improve, or maintain any

work owned by another public agency unless that other public agency gives its written consent (Section 61100(l)).

According to the Senate Local Government publication regarding CSD Law, "with the county's consent, a CSD could fix potholes in a county road that runs through the CSD. This language does not require a CSD to get the county's consent to fix roads that the CSD owns or roads on private property for which the CSD holds a public easement. However, this language does not authorize a CSD to fix private roads that aren't open to the public." [18]

- Section 61103 –

  (a) A district that acquires, constructs, improves, and maintains streets, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works pursuant to subdivision (l) of Section 61100 shall have the powers, duties, and authority of a county for those works, including, but not limited to:

  (1) Chapter 2 (commencing with Section 940), Chapter 5.5 (commencing with Section 1450), and Chapter 6 (commencing with Section 1480) of Division 2 of the Streets and Highways Code.
  (2) Part 3 (commencing with Section 8300) of the Streets and Highways Code.
  (3) Division 11 (commencing with Section 21000) of the Vehicle Code.
  (4) Article 4 (commencing with Section 35700) of Chapter 5 of Division 15 of the Vehicle Code.

  (b) A district shall not exercise those powers, duties, and authority for any of those works if it is owned by another public agency unless that other public agency gives its written consent.

  According to the Senate Local Government publication regarding CSD Law [19], "For county roads that a county allows a CSD to maintain, this language allows the county to delegate its powers to the CSD."

- Section 61104 - (a) A district that acquires, constructs, improves, and maintains streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental work pursuant to subdivision (l) of Section 61100 may grant franchises and (b) A district shall not grant a franchise over any work owned by another public agency unless that other public agency gives its consent.

Highways and County-maintained Roads

Caltrans is responsible for maintaining the Interstate and the County maintains the remainder of the roads (and county highways), if the roads are in the county maintained system. According to the County Maintained Road System Map, those roads are most

[18] Detwiler, Peter. "Community Needs, Community Services: A Legislative History of SB 135 (Kehoe) and the Community Services District Law", Senate Local Government Committee, March 2006.
[19] Ibid .

of Baker Blvd., Kelbaker Road, and most of Park Avenue.[20] According to the County Department of Public Works, "The County has a project being studied to replace the bridge on Baker Blvd at the Mojave River," which will widen the bridge from two lanes to four. A review of the Southern California Association of Governments (SCAG) "2012-2035 Regional Transportation Plan" does not identify any specific plans for the Baker portion of Interstate 15.

2005 Appellate Court Decision

Until 1999, all of the roads in Baker, with the exception of Baker Blvd, the main highway through Baker, Highway 127 and the road to the prison were unpaved roads. One such unpaved road was the Van Ella easement, which crossed through a private property. Van Ella was used as a public road by the CSD since 1957 to access its water facilities as well as in performance of fire protection, ambulance, and trash collection services.

In 1999 the CSD with a road grader paved the Van Ella easement. The following year, a private property owner along the Van Ella easement removed the pavement and placed a fence around the property, thereby preventing CSD access to its water facilities. In turn, in 2001 the CSD brought a lawsuit against the property owner for destroying the road where the CSD had a "prescriptive right to the continuous and uninterrupted use of the Van Ella easement, and the subject property is burdened by such easement." The property owner claimed that the CSD was not authorized to provide road services and illegally paved a road across the private property. The CSD sought that the road pavement be replaced and access to the easement resume.[21]

For the issue of the CSD providing road service, in 2005 the CSD received a favorable decision, albeit limited, from the Court of Appeal, Fourth Appellate District, Division Two on March 17, 2005 (included as a part of Attachment #2). The decision reads that:

> "If a district is merely seeking to exercise an implied, incidental power under Government Code Section 61622[22], no such approval is needed. Thus, we see no bar to the District's exercise of a limited, implied power to maintain roads, to the extent necessary for it to carry out its other purposes. Indeed, if we were to hold that the District has no such power, the electorate's intent to have the District provide fire protection, trash, and other services would be frustrated."

For many of the functions that a CSD can perform, CSD Law reverts to other laws for the provision of that service such as parks and recreation (Recreation and Park District Law), water (County Water District Law), and fire (Fire Protection District Law). These laws allow for the performance of roads as incidental to the primary function (such as parks and recreation, water, or fire) – not for the performance of roads as a primary function. The Appellate District decision in other words explains this as, "…to the extent

[20] County of San Bernardino. County Maintained Road System Map. Accessed 1 May 2013. http://bit.ly/12WGzsQ
[21] Superior Court of the State of California in and for the County of San Bernardino. *Baker Community Services District v. Ray Hunt, RBJ Baker, Inc, et al.* Complaint for Quiet Title, Injunction and Damages. 2001.
[22] Due to the rewrite of CSD Law, Section 61622 has been repealed. See Section 61060(n).

necessary for it to carry out its other purposes." The Appellate Court decision is shown again below with supporting words and phrases underlined.

> "If a district is merely seeking to exercise an implied, incidental power under Government Code Section 61622, no such approval is needed. Thus, we see no bar to the District's exercise of a limited, implied power to maintain roads, to the extent necessary for it to carry out its other purposes. Indeed, if we were to hold that the District has no such power, the electorate's intent to have the District provide fire protection, trash, and other services would be frustrated."

The perspective of LAFCO staff is that this is commonly held to protect its water and sewer lines and facilities for the Baker CSD.

2006 Re-write of CSD Law

Pursuant to the 2006 re-write of Community Services District Law, those services and facilities that LAFCO determined that a district did not actively provide prior to January 1, 2006 were to be designated as a "latent power" (Section 61002 (h)). In effect, this language grandfathers the services and facilities that CSDs already provided before January 1, 2006, the effective date of the new CSD Law.

In its response to LAFCO, in a letter dated December 12, 2005, Baker CSD identified that it actively provided water, sewer, fire protection, park and recreation, streetlighting, ambulance, TV translator, and solid waste (copy included as a part of Attachment #2). On January 18, 2006, these functions and services were recognized in the Commission's adopted *Rules and Regulations of The Local Agency Formation Commission for San Bernardino County Affecting Functions and Services of Special Districts*. Additionally, Baker CSD identified that a court has indicated that it has the ability to construct and maintain roadways to the "extent necessary to carry out its other purposes. Court of Appeals, Fourth District, Division Two, 17 March 2005."

The District's 2005 response quotes and reiterates the Appellate Court decision that the CSD, "has the inherent power to construct and maintain roadways to the extent necessary to carry out its other purposes." By the District's own letter to LAFCO, its road service is to the extent necessary to carry out its other purposes [other authorized powers). The LAFCO staff report for this matter dated January 9, 2006 states that LAFCO staff will clarify this during the Districts service review/sphere update.

2013 LAFCO Service Review

LAFCO 3159, this staff report, revisits this matter. The Appellate Court decision, CSD December 2005 letter to LAFCO, and other letters which LAFCO has been copied (such as a March 15, 2010 letter from the CSD to the Director of the County Department of Public Works) all use identical language – that the CSD road service is to the extent necessary to carry out its other purposes. Therefore, one cannot arrive at any other conclusion other than it is the CSD's intent to provide road service to the extent necessary to carry out its other purposes. The perspective of LAFCO staff is that this is

commonly held to protect its water and sewer lines and facilities. Barring any other information, LAFCO staff would continue its analysis under this premise.

However, the CSD's audits and reports to the State Controller identify Roads as an active function. Further, the FY 2010-11 Grand Jury Report, Finding 4, reads that the CSD has implemented its own improvements without County approval, mainly in the road paving area. The County response to this finding is that is has no basis to agree or disagree with this finding because it has not been made aware of road maintenance improvements implemented outside of Development Code requirements and/or County Maintained Road System. The CSD response to this finding identifies that the CSD operates in the best interest of the community and that part of that best interest is paving roads as money is available – taking no particular interest in what LAFCO or the County may think of those activities.

Without CSD participation for this service review/sphere update, LAFCO staff cannot definitively ascertain if the CSD performs roads as a primary function or to the extent to carry out its other purposes. In either case, Roads remains as a "latent service or power" for the CSD according to CSD Law, and LAFCO staff cannot recommend that the Commission authorize the function of Roads for the CSD.

Moving Forward

There are four issues that have arisen from the CSD providing road service.

Liability

First, when an agency performs road services it exposes itself to liability. Other agencies have divested itself of its road powers (such as Barstow Heights CSD and Juniper Riviera County Water District) after learning that performance of road services exposes the district to liability.

Taxes

As for funds to operate and maintain the service, road service is not an enterprise activity. Therefore, the funds to maintain the road grader and pay for the service use portions of the property tax revenues generated from throughout the entirety of the district that are also used to pay for streetlighting, park and recreation, and other services. If the CSD provides Road service as a primary function, then voters and landowners of the CSD have not had the opportunity to weigh in on such an undertaking that dilutes the property tax revenue from the CSD's authorized functions.

County Roads

According to CSD Law and County requirements, the CSD needs to obtain written permission from the County allowing the CSD to perform road maintenance on public roads (Section 61100(l)). According to County Transportation staff, in order to grade and/or perform work on roads the District would need to submit an application for a Road Permit to encroach into County road right-of-way. County Transportation staff

would review the application to decide if the work to be performed is on roads that are within the County Maintained Road System (CMRS). If the work to be performed is on a road(s) that is a part of the CMRS, then written permission in the form of a Road Permit would need to be obtained from the Department of Public Works, Road Permits Section. Roads that are not in the CMRS may be roads that have been dedicated for public use but not maintained by the County or private property.

If the work to be performed is on a road not in the CMRS, then the Department of Public Works would not have jurisdiction to issue a permit – the District would be responsible to obtain all permits required by other agencies such as San Bernardino County Building and Safety, San Bernardino County Special Districts, California Department of Fish and Game, U.S. Army Corp of Engineers, and all other interested agencies.

LAFCO Authorization

Lastly, in order for the CSD to actively provide road service as a primary function either within a portion or to the entirety of the district, CSD Law requires the activation of latent powers subject to LAFCO approval (Government Code Section 61106). The CSD has not formally requested or been authorized by LAFCO to perform this function and/or service.

However, in 2005 when the CSD responded to LAFCO regarding its active services pursuant to CSD Law re-write, if the CSD identified that it actively provided road services and provided County authorization to do so, then LAFCO could have acknowledged this function at that time. This did not occur and activation of its latent road powers would require the submission of an application to LAFCO with a plan for service which would include the identification of the financing for the service provision. Failure to do so could expose the CSD to legal challenge for unauthorized service provision.

LAFCO Staff Recommendation

While the intent and purpose for providing the service are a benefit to the community, the extent of the road grading without authorization and the lack of adherence to CSD Law, the Government Code, and County Public Works/Transportation application requirements described above is a serious concern to LAFCO staff. Further, as indicated in its letters to LAFCO and the County, the District intends to continue providing this service even though it has neither LAFCO authorization nor County permission. If it is determined or if the CSD states that the performance or road service is a primary function, then it continues to be LAFCO staff's recommendation that the CSD immediately submit the application materials, including a plan for services and the County's Letter of No Objection to LAFCO so that Commission consideration for activation can commence to secure compliance with applicable provisions of law.

F. Solid Waste

LAFCO authorizes the CSD to perform solid waste activities within its boundary. The CSD is responsible for collection from residents and businesses. The County and the

CSD have an agreement for the CSD to operate the County's Baker Transfer Facility which is located on CSD property. From there, the solid waste collected at this facility is transferred to the Barstow Landfill by the county's disposal system operator.

Collection by CSD

Baker CSD collects solid waste within its boundaries and delivers it to the Baker Transfer Facility. Additionally, according to County Department of Airports staff, the CSD collects trash from the Baker airport (located outside of the CSD boundaries). The County has not granted a franchise for this area. The CSD does not offer a collection program for recyclables which would assist local businesses in complying with the State's mandatory commercial recycling law (AB 341).

Baker Medium Volume Transfer Processing Facility

In 1997 the CSD entered into a subcontract with NORCAL/San Bernardino, Inc. for the CSD to construct and operate a community collection center on CSD property, and to transfer all of the municipal solid waste collected to the Barstow Landfill for disposal. Section 6, subsection 1, of the subcontract provided that: (1) the County has the right to succeed to the rights and obligations of NORCAL under the subcontract, in the event that the contract between the County and NORCAL is terminated and (2) in such event, the subcontract is subject to re-negotiation. The contract between the County and NORCAL terminated on June 30, 2001. On June 5, 2001, the Board of Supervisors approved Agreement No. 01-438 with the CSD for operation of a community collection center on CSD property and transfer all of the municipal solid waste collected at this facility to the Barstow Landfill for disposal.

From 2001 to 2006 the CSD continued to provide this service, but expressed to the County its desire to cease waste transfer operations. Consequently, after evaluating feasible alternatives, the County amended its contract with Burrtec Waste Industries, Inc. (Burrtec) to include waste transfer operations from the Baker community collection center to the Barstow Landfill. The Agreement compensated the CSD in an amount not to exceed $124,176 per year.

In 2006, the County and the CSD entered into an agreement (Agreement 06-0148) which allowed the CSD to continue to operate a community collection center on CSD property and to transfer waste from the community collection center to the Barstow Landfill for disposal in the event that Burrtec is unable to perform this function (i.e., if its equipment is temporarily out of service). The Agreement compensated the CSD in an amount not to exceed $80,750 per year.

Sometime between 2006 and 2012, the County assumed provision for transferring waste from the community collection center to the Barstow Landfill for disposal. In May 2012, the County and CSD amended the agreement to allow for continued CSD operation of the Baker Transfer Facility (formerly categorized as a "community collection center") and provide uninterrupted service. The facility is located at 72799 Sodabaker Road. The amendment also allows the CSD to transfer waste collected at the Baker Transfer Facility to the Barstow Sanitary Landfill in the event the County is unable to

provide service. The term of this amendment is for one year and provides the option of extending the agreement for two additional consecutive one-year terms. The Agreement compensates the CSD in the amount of $78,346 per year for the continued operation of the Baker Transfer Facility. The contract has an overall not to exceed amount of $533,823.

County Fees

The County levies a Refuse Disposal Land Use Fee on property tax bills (shown on property bills as "CO LAND USE - SWMD") for developed residential and commercial properties per the San Bernardino County Code.[23] Parcels of property within the Baker Area are subject to the use fee in accordance with the County's Schedule of Fees for solid waste delivered to the transfer station.[24] For FY 2012-13, the County applied a total of $21,540.42 special assessment fees to 80 eligible residential and commercial parcels.

In the case of Baker, the fees collected do not cover the cost of providing the service if isolated to the community, but the service is considered to be a regional benefit. However, the County compensates the CSD roughly $78,000 per year for operation of the Baker Transfer Facility while roughly $22,000 is collected in fees in the community. According to County Department of Public Works staff, the Refuse Disposal Land Use Fee program is a countywide program and fees were determined on a countywide basis not on an individual community basis.

Minor Boundary Adjustment to the Mojave National Preserve

The Baker Solid Waste Transfer Station is proposed to be excluded from the Mojave National Preserve boundary. 36 Code of Federal Regulations Part 6 ("Solid Waste Disposal Sites in Units of the National Park System") prohibits operation of any solid waste disposal site (including a transfer station) within a National Park Service unit if that site was not in operation on September 1, 1984. Excluding the land on which the Baker Solid Waste Transfer Station sits will have no effect on its ownership or use. The CSD has approved the boundary adjustment.[25]

G. Parks and Recreation

The District operates parks (number and facilities unknown), the Jesse Meyer (community) Center, and a swimming pool. Without District participation for this service review, additional information is not available.

The County does not operate a Senior or Community center in the area.

[23] San Bernardino County Code. Title 1 (Government and Administration), Division 4 (Purchasing, Revenue, and Taxation), Chapter 4 (Refuse Disposal Land Use Fees).
[24] San Bernardino County Code. Title 1 (Government and Administration), Division 6 (County Fees), Chapter 2 (Schedule of Fees).
[25] National Park Service, "Minor Boundary Adjustments – Baker Transfer Station and Desert Tortoise Head Start Research Facility", website, accessed 10 Jan 2013. http://parkplanning.nps.gov/projectHome.cfm?projectID=43080

H. Streetlighting

The streetlights along the highway are the responsibility of Caltrans. The other lights are the responsibility of the CSD. The streetlights are classified as all night service (activated from dusk until dawn). Southern California Edison owns the streetlights and responds to problems, and the CSD provides for payment of the utility costs associated with the individual lights. Without District participation for this service review the number of streetlights in the community is not known as authorization was not provided by the CSD to obtain information from Southern California Edison.

The future need for streetlights will increase if the population grows or the land use process requires them dependent upon the implementation of the County's Night Sky Ordinance[26], which is applicable in the North and South Desert region. The purpose of the Night Sky Ordinance is to encourage outdoor lighting practices and systems that will minimize light pollution, conserve energy, and curtail the degradation of the nighttime visual environment. The implementation of this ordinance points toward a limitation of the number of streetlights for the future and may limit them to commercial areas of the community only.

I. Television Translator

The CSD operates a television translator facility at Turquoise Mountain, roughly 14 miles northeast of the Interstate 15/SR 127 junction, to deliver television service to the remote community. Federal law requires that all full-power broadcast stations broadcast in digital format only. It is not known if the translator is full-power or medium power, which has different requirements for transitioning to digital format. Turquoise Mountain is located outside of the CSD boundaries and exact location of the translator is unknown. However, a review of property records from the County Assessor's Office does not identify the CSD as a possessory interest on any nearby parcel. Therefore, it is not likely that the CSD pays property taxes on this facility.

According to the CSD's meeting minutes from August 2, 2012 and September 6, 2012, the CSD approved a draft contract with LV.Net to provide Microwave High Speed Internet Service to the commercial businesses of the community. No further information is identified in these minutes. A review of the LV.Net website, www.lv.net, identifies that high speed wireless internet is available in Baker via microwave communications rather than a hard line such a fiber and copper.

J. Infrastructure needs and deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence

Generally, the entire community itself is considered a disadvantaged, unincorporated community ("DUC") comprised of sparse residential development with large lots primarily designated Single Residential (14,000 sq. ft. lots) and Rural Living (2 ½-acre lots). The one area considered a part of the DUC that is contiguous to the CSD's

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

sphere of influence consists of a single residential unit and a vacant parcel. The rest of the area surrounding the CSD's current sphere of influence is primarily vacant public lands managed by BLM.

Municipal and industrial water

This factor is discussed above within this determination.

Wastewater

This factor is discussed above within this determination.

Structural fire protection

This factor is discussed above within this determination.

IV. Financial ability of agencies to provide services.

As identified throughout this report, the District has chosen not to participate in the State-mandated service review and sphere of influence update. Therefore, LAFCO staff obtained copies of the District's financial documents from public sources: audits from the County Auditor's Office, assessment and foreclosure data from the San Bernardino Assessor's Office, and the California State Controller's report for special districts.

This determination outlines the accounting practices of the District; reviews its debt and obligations, net assets, and fund balance. In other service reviews, LAFCO looks forward by using the budgets following the most recent audit. However, the District has not provided any budgets for this review, and the County Auditor states that it does not have any of the District's budgets on file. Lacking current budgets, a complete presentation of the District's current financial position cannot be provided for this determination.

A. General Operations and Accounting

The District operates with governmental and business-type (enterprise) activities. Services provided by the District that are reported as governmental-type activities include general administration, parks and recreation, fire, and road maintenance. These services are primarily supported by property tax. Services provided by the District that are reported as business-type activities include water, sewer, trash, and television. Each of these four services operates from a separate fund. There is no component unit of the District reported in the financial statements.

Depositary and Treasurer

CSD Law mandates that the county treasurer shall be the treasurer of the district and shall be the depositary[27] and have custody of all of the district's money. CSD Law further reads

[27] A "depositary" is a person to whom something is entrusted, while a "depository" is the place where something is kept for safekeeping.

that all claims against a district shall be audited, allowed, and paid by the board of directors on warrants drawn by the County (Section 61052). However, a CSD may establish an alternative depositary by appointing a district treasurer, which may be the general manager (Section 61050) but not a board member (Section 61040 (e)), who shall serve in the place of the county treasurer. For this, the CSD would have had to adopt a resolution stating its intention to withdraw its money from the county treasury, fix the amount of the bond for the district treasurer, adopt a system of accounting and auditing, and designate a bank (Section 61053).

As of June 30, 2010, the CSD maintained its cash and investments in two separate accounts at private institutions, Desert Community Bank in Victorville and Union Bank of California in Barstow. Due to lack of CSD participation for this service review, LAFCO staff could not verify if the CSD has adopted a resolution pursuant to Section 61053.

Reserve Policy

Additionally, Government Section 61112 requires those districts that have designated an alternative depositary and appointed a district treasurer shall adopt and annually review a policy for the management of reserves. Due to lack of CSD participation for this service review, LAFCO staff could not verify if the CSD has an adopted policy for management of reserves.

Management Discussion in Audit

Accounting principles generally accepted in the United States require that the management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board. The management of the District has elected to omit the Management Discussion and Analysis information, as identified in the available audits. LAFCO staff indicates that without an understanding of the context for the agency's operations, as the management discussion provides, it is difficult to assess the financial operations of an agency.

B. Long-term Debt

The FY 2011-12 audit identifies that the CSD had no debt as of June 30, 2012.

C. Employment Benefits and Post-Employment Benefits

Pension

A review of CalPERS and SBCERA member listings do not identify the CSD as a member.

The District enrolls their employees in PARS-ARS[28] as an alternative of the payroll Social Security System. For the year ended June 30, 2012, the District contributed $14,556 or 6.2% of payroll and the employees matched the contribution.

The audits do not identify the cumulative funding status of the retirement plan.

Other Post-Employment Benefits

The District's financial statements do not identify any other post-employment obligations. Therefore, there are no identified unfunded liabilities that could have a future impact on the District's financial condition.

D. Net Assets

The accumulation of consistently presented financial information allows a reader to understand an agency's financial position and determine whether there is improvement or deterioration.

Governmental Activities

One such measure of improvement or decline is the change in net assets. In reviewing the District's financial statements, net assets for the governmental activities have experienced a sharp increase during the available audited timeframe. From the Net Assets perspective, the financial health of the Governmental Funds overall has increased during this time. A 26% increase in Net Assets for the Governmental Activities in 2008-09 (most reported as cash) is not typical for a one-year span. Lacking District participation this outlier cannot be explained. As of June 30, 2012, the District had $622,256 in net assets. Of this amount 47% is unrestricted and the remainder is invested in capital assets, net of related debt.

[28] A federal law, the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), requires that governmental employees who are not members of their employer's existing retirement system be covered by Social Security or an alternate plan. Such an alternate plan is the Public Agency Retirement Services Alternate Retirement System 457 Plan (PARS ARS 457). PARS ARS 457 satisfies federal requirements and provides cost savings to the employee and the employer when compared to Social Security. The PARS ARS 457 plan only requires a minimum contribution of 7.5% to the retirement account.

GOVERNMENTAL ACTIVITY - NET ASSETS					
	2007-08	2008-09	2009-10	2010-11	2011-12
Assets:					
Cash	152,424	252,767	254,268	271,449	294,306
Other	17,232	19,123	16,950	18,609	23,319
Capital assets (net)	347,064	383,179	345,544	361,169	327,276
Total Assets	$ 516,720	$ 655,069	$ 616,762	$ 651,227	$ 644,901
Liabilities:					
Total Liabilities	$ 2,250	$ 8,835	$ 5,122	$ 4,247	$ 22,645
Change in Net Assets	**$ 42,104**	**$ 131,764**	**$ (34,594)**	**$ 35,340**	**$ (24,724)**
Total Net Assets	$ 514,470	$ 646,234	$ 611,640	$ 646,980	$ 622,256
Net Assets:					
Invested in capital assets,					
net of related debt	347,064	383,179	345,544	361,169	327,276
Unrestricted	167,406	263,055	266,096	285,811	294,980
Total Net Assets	$ 514,470	$ 646,234	$ 611,640	$ 646,980	$ 622,256
Increase from prior year	8.9%	25.6%	-5.4%	5.8%	-3.8%
source: Statement of Net Assets					

Business-Type Activities

Services provided by the District that are reported as business-type activities include water, sewer, trash, and television. Combined, these activities experienced a 40 percent decrease in net assets during this timeframe, mostly attributed to a decrease in capital assets. Lacking District participation for this review, LAFCO staff cannot further explain this decrease.

BUSINESS ACTIVITY - NET ASSETS					
	2007-08	2008-09	2009-10	2010-11	2011-12
Assets:					
Cash	33,466	33,983	34,170	34,273	34,376
Other	51,162	32,075	48,021	51,244	54,248
Capital assets (net)	171,789	162,646	124,681	94,321	70,986
Total Assets	$ 256,417	$ 228,704	$ 206,872	$ 179,838	$ 159,610
Liabilities:					
Total Liabilities	$ 5,199	$ 6,979	$ 4,542	$ 16,118	$ 9,207
Change in Net Assets	**$ (2,145)**	**$ (29,493)**	**$ (19,395)**	**$ (38,610)**	**$ (13,317)**
Total Net Assets	$ 251,218	$ 221,725	$ 202,330	$ 163,720	$ 150,403
Net Assets:					
Invested in capital assets,					
net of related debt	171,789	162,646	124,681	94,321	70,986
Unrestricted	79,429	59,079	77,649	69,399	79,417
Total Net Assets	$ 251,218	$ 221,725	$ 202,330	$ 163,720	$ 150,403
Increase from prior year	-0.8%	-11.7%	-8.7%	-19.1%	-8.1%
source: Statement of Net Assets					

E. Cash and Cash Equivalents

Considering net assets does not indicate if an agency has enough fund balance to operate short and long-term operations. A trend of operating deficits is a key indicator of the financial health of an agency. The chart below shows cash balances for the District's funds during this timeframe. Overall, the cash total has increased dramatically with an influx deposited in FY 2008-09. Without District participation for this service review, the reason for the influx is unknown. However, in looking at the two Net Asset charts above, it appears that the increase in the District's overall cash is attributed to the cash from its Governmental funds.

	6/30/2008	6/30/2009	6/30/2010	6/30/2011	6/30/2012
Cash and Cash Equivalents					
Union Bank of CA - demand deposits	$151,467	$249,707	$225,400	$266,181	$291,914
Desert Community Bank - demand deposits	33,466	33,983	34,170	34,273	34,376
Cash on Hand	925	3,060	28,868	5,268	2,392
Total Cash and Cash Equivalents	**$185,858**	**$286,750**	**$288,438**	**$305,722**	**$328,682**

General Fund Liquidity

Governmental funds focus on the availability of resources on a short-term basis, showing inflows and outflows and resulting in an ending balance of spendable resources. As a measure of the general fund's liquidity, it may be useful to compare both unassigned fund balance and total fund balance to total fund expenditures. In this case, the unassigned fund balance and total fund balance are the same. At the end of FY 2011-12, fund balance of the general fund was $295,340, representing 139 percent of total general fund expenditures. Therefore, the fund balance and liquidity of the general fund improved during this time.

GENERAL FUND LIQUIDITY					
General Fund (GF)	**2007-08**	**2008-09**	**2009-10**	**2010-11**	**2011-12**
Total GF expenditures	$ 312,204	$ 279,788	$ 250,264	$ 264,287	$ 211,975
Unassigned GF fund balance	168,324	263,364	267,235	287,509	295,340
(as a % of total expenditures)	54%	94%	107%	109%	139%
Total fund GF balance	168,324	263,364	267,235	287,509	295,340
(as a % of total expenditures)	54%	94%	107%	109%	139%
sources: Balance Sheet and Statement of Revenues, Expenditures, and Changes in Fund Balance					

Unassigned Fund Balance

The Government Finance Officers Association ("GFOA") currently recommends that governments establish a formal policy on the level of unrestricted[29] fund balance that should be maintained in the general fund. The current GFOA policy is vague in stating that the "adequacy of unrestricted fund balance in the general fund should be assessed based upon a government's own specific circumstances." Though the existing GFOA policy is not specific, it recommends that regardless of size, general-purpose governments should maintain unrestricted fund balance in their general fund of "no less than two months of regular general fund operating revenues or expenditures." A General Fund balance of a lesser level exposes the General Fund to the risk of not being able to meet cash flow requirements, economic uncertainties, or other financial hardships.

As shown on the chart above, the CSD's unrestricted fund balance during this timeframe is more than two months of regular general fund operating expenditures. Therefore, the CSD is above the threshold and meets the requirements of the GFOA policy. However, it is not known if the CSD has established a formal policy on the level of unrestricted fund balance that should be maintained in the general fund.

[29] GADB Statement No. 54 removed Unrestricted fund balance and added Unassigned fund balance.

F. Revenues and Expenditures

The primary sources of revenue for the District are its charges for its business-type activities, rental income, and its share of the one percent general levy property tax.

Property Tax

Since FY 2007-08, the total assessed property value has increased each year. It seems that Baker was removed from the housing bubble inflation and bust. During the time of the great recession, total assessed value has actually increased by 15%. The District's average share of the one percent ad valorem general levy is 19.57%.[30] The chart below shows the assessed values and tax levies for the past five years.

Year	Assessed Value		Tax Received	
	Valuation	% change	Total Tax	% change
2007-08	$ 35,438,233	--	$ 70,949	--
2008-09	$ 36,540,720	3.11%	$ 88,317	24.48%
2009-10	$ 39,193,377	7.26%	$ 82,148	-6.99%
2010-11	$ 39,280,718	0.22%	$ 88,792	8.09%
2011-12	$ 40,978,906	4.32%	$ 91,526	3.08%
sources:				
County of San Bernardino, Agency Net Valuations *(2007/08 - 2011/12)*				
District financial statements FY 2007/08 - 2009/10				
State Controller Report for Special District 2010-11				

Rental Income

The figure below identifies that the CSD receives roughly $86,000 as rental income associated with its television service. Without District participation in the mandated service review/sphere update, the revenue source cannot be determined. It may be that this is rental income associated with leasing space on the translator tower for other communication devices.

Expenditures

The primary expenditure activities in order are: water, general government, solid waste, park and recreation, sewer collection, roads/streetlights, television, and fire protection. From this, salaries and wages and operations expenses comprise the highest percentage of expenditures. Of note, the audits combine the activities of Streetlights and Roads, even though each is a separate activity.

[30] San Bernardino County Auditor-Controller, Property Tax Division, 2012

Additionally, it may seem that the Governmental Activities of Fire, Roads, and Parks receive no or little funding. Rather, the District's share of the property tax is used to fund these services as well as general administration. For example, as shown in the figure below, of the $90,203 in property taxes received, a portion in essence is used for the governmental activities and general administration. For the Business Activities, annual transfers to the General Fund occur to pay for the respective services' share of the general district administration. However, at first look the expenditures of the Governmental Activities are more than the $90,203 in property taxes with transfers from the Business Activities resulting in a negative change in net assets for these services. Therefore, to the reader it may seem that the Business Activities are supporting the Governmental Activities. As stated throughout this report, without District participation in the mandated service review/sphere update, this matter cannot be determined.

NET COST OF ACTIVITIES - 2011/12

	Governmental Activities				Business Activities				
	Gov Activity	Fire	Streetlights Roads	Park & Rec	Sewer	Water	Solid Waste	Television	Total
Revenues:									
Property tax	*90,203*								***90,203***
Charges for Service				4,985	96,552	131,730	183,211		**416,478**
Rental Income	13,625			4,389				86,151	***104,165***
Other	3,476								***3,476***
Total Revenues	$ 107,304	$ -	$ -	$ 9,374	$ 96,552	$ 131,730	$ 183,211	$ 86,151	**$ 614,322**
Expenditures:									
Wages	46,198	1,040		33,462	31,716	30,686	82,644	17,189	**242,935**
Benefits & other payroll	10,595	173		4,504	4,567	4,392	21,417	1,304	**46,952**
Operations expense	85,517	6,900	7,131	49,010	62,350	84,185	53,108	14,275	**362,476**
Total Expenditures	$ 142,310	$ 8,113	$ 7,131	$ 86,976	$ 98,633	$ 119,263	$ 157,169	$ 32,768	**$ 652,363**
Revenues less Expenditures	**$ (35,006)**	**$ (8,113)**	**$ (7,131)**	**$ (77,602)**	**$ (2,081)**	**$ 12,467**	**$ 26,042**	**$ 53,383**	**$ (38,041)**
Interfund Transfers	$ 103,128				$ (7,661)	$ (21,428)	$ (24,398)	$ (49,641)	**$ -**
Change in Net Assets	**$ 68,122**	**$ (8,113)**	**$ (7,131)**	**$ (77,602)**	**$ (9,742)**	**$ (8,961)**	**$ 1,644**	**$ 3,742**	**$ (38,041)**

source: Statement of Activities; Schedule of Revenues, Expenses, and Change in Fund Net Assets - All Funds;
Schedule of Revenues, Expenses, and Change in Net Assets - District Fund

The figure below shows the net cost of the District's activities for the past five years. As shown, the Business Activities annually transfers to the General Activities (General Fund) to pay for the respective services' share of the general district administration. As a result, for each of these years the Business Activities as a whole experience a negative change in net assets. This circumstance raises questions about the future viability of the Business Activities.

NET COST OF ACTIVITIES			
	2008		
	Gov	Bus	Total
Total Revenues	$ 123,520	$ 566,806	$ 690,326
Total Expenditures	(245,731)	(404,636)	(650,367)
Interfund Transfers	164,315	(164,315)	-
Change in Net Assets	**$ 42,104**	**$ (2,145)**	**$ 39,959**
	2009		
	Gov	Bus	Total
Total Revenues	$ 136,119	$ 585,826	$ 721,945
Total Expenditures	(243,063)	(376,611)	(619,674)
Interfund Transfers	238,708	(238,708)	-
Change in Net Assets	**$ 131,764**	**$ (29,493)**	**$ 102,271**
	2010		
	Gov	Bus	Total
Total Revenues	$ 108,929	$ 522,137	$ 631,066
Total Expenditures	(288,728)	(396,326)	(685,054)
Interfund Transfers	145,206	(145,206)	-
Change in Net Assets	**$ (34,593)**	**$ (19,395)**	**$ (53,988)**
	2011		
	Gov	Bus	Total
Total Revenues	$ 114,218	$ 503,977	$ 618,195
Total Expenditures	(249,221)	(372,244)	(621,465)
Interfund Transfers	170,343	(170,343)	-
Change in Net Assets	**$ 35,340**	**$ (38,610)**	**$ (3,270)**
	2012		
	Gov	Bus	Total
Total Revenues	$ 116,678	$ 497,644	$ 614,322
Total Expenditures	(244,530)	(407,833)	(652,363)
Interfund Transfers	103,128	(103,128)	-
Change in Net Assets	**$ (24,724)**	**$ (13,317)**	**$ (38,041)**
source: Statement of Activities			

District Housing

The audits identify that the District maintains a residential housing unit for its on-call manager with personal usage estimated and charged at $50 per month. It is not known if the employee pays maintenance expenses or utilities or if the District requires that employees live in District housing as a condition of employment. Nonetheless, the District must follow the IRS code as written in publication 15-B "Employer's Tax to Fringe Benefits".

G. State Controller Reports

LAFCO staff obtained additional financial information from the annual *Special Districts Annual Report* issued by State Controller. The most recent report was issued in October 2012 for FY 2010-11 activities.

Differing from the audit chart above, the State Controller's report separately identifies the Roads and Streetlight activities. Additionally, salaries and benefits are not reported for sewer, solid waste, and water activities; these amounts appear to be included as an Operational Expense for the respective service.

As identified in the Roads section of Determination III of this report, the District is currently not authorized by LAFCO to perform Road service as a primary function. However, the charts above and below confirm the performance of this function.

State Controller's Report - 2010/11

	Governmental Activities					Business Activities			
	Gov Activity	**Fire**	**Roads**	**Streetlights**	**Park & Rec**	**Sewer & Solid Waste**	**Water**	**Television**	**Total**
Revenues:									
Property tax	*88,792*								***88,792***
Rental Income	15,045				6,832			86,200	***108,077***
Charges for Service						292,022	125,755		**417,777**
Other	3,353				196				***3,549***
Total Revenues	$ 107,190	$ -	$ -	$ -	$ 7,028	$ 292,022	$ 125,755	$ 86,200	**$ 618,195**
Expenditures:									
Salaries, Wages & Benefits	48,335	494			33,234			16,256	**98,319**
Fixed Assets	48,636								**48,636**
Services & Supplies	84,364	12,767	2,445	7,699	26,313			16,783	**150,371**
Admin & General						42,468	19,947		**62,415**
Depreciation & Amorization						6,792	23,480		**30,272**
Operations Expense						161,042	85,476		**246,518**
Total Expenditures	$ 181,335	$ 13,261	$ 2,445	$ 7,699	$ 59,547	$ 210,302	$ 128,903	$ 33,039	**$ 636,531**
Operating Income (Loss)	**$ (74,145)**	**$ (13,261)**	**$ (2,445)**	**$ (7,699)**	**$ (52,519)**	**$ 81,720**	**$ (3,148)**	**$ 53,161**	**$ (18,336)**
Operating Transfers In	**$ 170,343**	**$ 13,261**	**$ 2,445**	**$ 7,699**	**$ 52,519**	**$ 53,161**			**$ 299,428**
Operating Transfers Out	$ (75,924)					$ (149,928)	$ (20,415)		**$ (246,267)**
Net Income (Loss)	**$ 20,274**	**$ -**	**$ -**	**$ -**	**$ -**	**$ (15,047)**	**$ (23,563)**	**$ 53,161**	**$ 34,825**

source: California State Controller. *Special Districts Annual Report* . FY 2010-11. 30 October 2012.

H. Appropriations Limit

Article XIIIB of the State Constitution (the Gann Spending Limitation Initiative)[31], mandates local government agencies receiving the proceeds of taxes to establish an appropriations limit.[32] Without an appropriations limit, agencies are not authorized to expend the proceeds of taxes. Section 9 of this Article provides exemptions to the appropriations limit, such as Section 9(c) exempts the appropriations limit for special districts which existed on January 1, 1978 and which did not levy an ad valorem tax on property in excess of $0.125 (12 ½ cents) per $100 of assessed value for the 1977-78 fiscal year. According to the *County of San Bernardino 1977-78 Valuations/Tax Rates* publication (copy included in Attachment #2), the tax rate for the District for FY 1977-1978 was $1.12 per $100 of assessed value. Being over the $0.125 tax rate, the district does not qualify for an exemption from the requirement of an appropriations limit. Therefore, it must have an appropriations limit. Failure to provide for an appropriation limit would question the District's ability to expend the proceeds of taxes (general ad valorem share and special taxes).

Section 1.5 reads that the annual calculation of the appropriations limit for each entity of local government shall be reviewed as part of an annual financial audit. Further, Government Code Section 7910[33] expands upon the Gann Initiative and requires each local government to annually establish its appropriation limits by resolution. Due to lack of CSD participation for this service review, staff could not verify if the CSD has adopted an appropriations limit pursuant to the State Constitution and State law.

I. Filing and Adoption Requirements

Government Code Section 26909 requires all districts to provide for regular audits[34]; the Agency conducts annual audits and meets this requirement. Section 26909 also requires districts to file a copy of the audit with the county auditor within 12 months of the end of the fiscal year. According to the County Auditor's Office, as of June 17, 2013 the last audit it had received was for FY 2011-12.

Government Code Section 53901 requires all districts shall file a copy of its annual budget[35]. According to the County Auditor's Office, as of January 10, 2013 it has no District budgets on file.

J. Conclusion to Financial Determination

Because this review lacks the current fiscal year's budget, a complete presentation of the District's current financial position cannot be provided for this determination. As identified throughout this report, the District has chosen not to participate in the State-mandated

[31] In 1979 the voters amended the California Constitution by passing Proposition 4 (the Gann Initiative), requiring each local Government to set an annual appropriations limit (the Gann Limit).
[32] This requirement is reinforced in Community Services District Law, Government Code Section 61113.
[33] Added by Stats.1980, c. 1205, p. 4059, §2. Amended by Stats.1988, c. 1203, §1; Stats.2007, c. 263 (AB310), §25.
[34] This requirement is reinforced in Community Services District Law, Government Code Section 61118.
[35] This requirement is reinforced in Community Services District Law, Government Code Section 61110.

service review and sphere of influence update. Therefore, LAFCO staff could not verify if the CSD meets financial requirements, such as adopting an appropriation limit and having a reserve policy, as identified in CSD Law.

V. Status of, and opportunities for, shared facilities.

Due to lack of District participation for the State-mandated service review/sphere update, LAFCO staff could not gain District input for this determination.

Since 1979, the County operates a sub-station in Baker with the Sheriff Deputy living in County housing. The County and CSD have entered into two agreements for this arrangement. The San Bernardino County Fire Protection District ("SBCFPD") administers and supervises fire protection services within the District. Since 2001, the County and CSD have operated under an agreement for CSD operation of a community collection center on CSD property and transfer all of the municipal solid waste collected at this facility to the Barstow Landfill for disposal.

Within the community the Baker Valley Unified School District and the San Bernardino County Fire Protection District have facilities. It is not known if the District has agreements with these agencies for sharing of facilities. However, the opportunity does exist for partnership with these agencies for sharing of facilities.

VI. Accountability for community service needs, including governmental structure and operational efficiencies.

Governmental Structure

The CSD is an independent special district governed by a five-member board of directors. Members have been either elected at-large by the voters at the November election in odd years or appointed in-lieu of election by the County Board of Supervisors to four-year staggered terms. The CSD has moved elections to the August special districts consolidated election (mail ballot) instead of the consolidated November election.

A review of the election results from the County Registrar of Voters website identifies that since 1997 competitive elections were conducted in November 1997 and November 2001 with more people running than open seats. However, all other elections have not yielded enough interested and qualified candidates for a competitive election to be conducted, resulting in appointments in-lieu of election. In a recent edition of its report, *What's So Special about Special Districts*, the state Senate Local Government Committee states that the, "narrow and technical nature of a district's activities often results in low civic visibility until a crisis arises."[36] However, the reality of the situation is that the population pool within the CSD is minimal, with only 99 registered voters as of April 17, 2013. The current board, positions, and terms of office are shown below:

[36] California Senate Local Government Committee, *What's So Special about Special Districts?*, Fourth Edition, October 2010.

Board Member	Title	Term	Elected/Appointed
Clark Bryner	President	2015	Appointed – in lieu of Election, Nov 2011
Kenneth Hall	Vice-President	2013	Appointed – in lieu of Election, Nov 2009
Richard Johnson	Director	2013	Appointed – in lieu of Election, Nov 2009
Jessie Jenkins	Director	2013	Appointed – in lieu of Election, Nov 2011
Renee Jacobson	Director	2015	Appointed – in lieu of Election, Nov 2011

Regular Board Meetings are scheduled 9:00 a.m. on the first and third Thursday of each month at the district office located at 72730 Baker Blvd. The District operates a website, bakercsd.com. However, the most recent agenda available on the site is for January 17, 2003, and the most recent minutes are from December 20, 2012 (accessed April 10, 2013).

A review of the State Controller's "Government Compensation" website identifies the following salary and wage information for the District for 2009-2011[37]. Being a small community, those that serve on its board (as identified above) and work for the district (4% of population) comprise a relatively high percentage of residents.

	2009	2010	2011
Residents (2010 Census)	735	735	735
Employees – total	22	29	29
Employees – full time with benefits	7	6	6
Full time employees per resident	1:105	1:122	1:122
Avg. wages for all employees	$10,697	$8,262	$8,262
Avg. wages for all full-time employees	$33,617	$36,844	$36,844
Amount spent on total wages	$235,323	$239,584	$239,584
Highest salary reported	$58,171	$67,859	$67,859

Accountability for Community Service Needs

According the CSD's August 2, 2012 hearing minutes (Item #14), the CSD Board approved additional compensation to the General Manager in the amount of $20,000 for the services provided during the time period in 2007 and 2008 in which he performed double duties as General Manager and Bookkeeper for the CSD. A copy of the minutes is included in Attachment #2.

Operational Efficiencies

Since 1979, the County operates a sub-station in Baker with the Sheriff Deputy living in County housing. The County and CSD have entered into two agreements for this arrangement. Since March 1987 the San Bernardino County Fire Protection District ("SBCFPD") administers and supervises fire protection services within the District. Since 2001, the County and CSD have operated under an agreement for CSD operation of a

[37] California State Controller's Office. "Government Compensation in California". Baker Community Services District. Accessed 28 March 2013. Last updated 17 Dec 2012.

community collection center on CSD property and transfer all of the municipal solid waste collected at this facility to the Barstow Landfill for disposal.

Government Structure Options

There are two types of government structure options:

1. Areas served by the agency outside its boundaries through "out-of-agency" service contracts;

2. Other potential government structure changes such as consolidations, reorganizations, dissolutions, etc.

Out-of-Agency Service Agreements:

Pursuant to Government Code Section 56133, since 1994 LAFCO is charged with the responsibility for reviewing and taking action on any city or district contract to extend service outside of its jurisdiction. Correspondence from the District in 1994, on file at the LAFCO office, identifies that the District had no out-of-agency service contracts at that time. Since that time, the CSD has not submitted any applications to provide service outside of its boundaries.

Since March 1987 the San Bernardino County Fire Protection District ("SBCFPD") administers and supervises fire protection services within the District, (contract originally with the former County Service Area 38). Section 56133 exempted service provided prior to 1994 originally (later amended as 2001); therefore, further review by LAFCO for SBCFPD is not required.

Government Structure Options:

The State has published advisory guidelines for LAFCOs to address all of the substantive issues required by law for conducting a service review [38]. The Guidelines address 49 factors in identifying an agency's government structure options. Themes among the factors include but are not limited to: more logical service boundaries, elimination of overlapping boundaries that cause service inefficiencies, economies of scale, opportunities to enhance capital improvement plans, and recommendations by a service provider.

The following scenarios are presented to address possible government service delivery options, and are theoretical scenarios for the community to consider for the future.

- Annexation to SBCFPD. The CSD is authorized the fire protection function and is responsible for providing fire protection within its boundaries. It has chosen to contract with the San Bernardino County Fire Protection District ("SBCFPD") for the provision of the service. The situation in Baker is unique in that the County has not

[38] State of California. Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

billed the CSD for any service performed and the County's station is located in Baker with a primary function to be the response unit to the Interstate 15 transportation corridor. Already, there is a single governing and administrative body for fire protection and emergency medical services throughout the desert of the county and economies of scale are realized.

Should the CSD desire not to be responsible for fire protection within its boundaries, it could annex to SBCFPD. This would require an application to LAFCO (from any affected agency) for a sphere expansion and annexation to SBCFPD which would necessitate the development of a Plan for Service and Financing Plan showing at least five years of projected revenues/expenditures. Such action would remove the CSD's service responsibility and liability. In this case, SBCFPD would succeed to all of the CSD's volunteer fire department assets, liabilities, and any property tax that provides for the arrangement where the CSD pays the utilities of SBCFPD Station 53.

Discussing this theoretical scenario, LAFCO staff would support the annexation of this territory to County Fire and the transfer of the existing property tax support for these operations from the district. However, during the reorganization of County Fire (LAFCO 3000), the property tax revenues generated within each of the unincorporated areas derived by CSA 70 was transferred to County Fire for its administration, most importantly from within the service area independent fire providers within the unincorporated area. For the CSD's area, roughly $11,000 was transferred to County Fire for fire administration. Below is the chart which was included in the September 2007 staff report for LAFCO 3000 outlining this distribution.

SUMMARY OF REVENUE ALLOCATED TO CSA 70*
Prepared by Bob Wright 2/27/07

	Assessed Value in CSA 70	1% General Tax Levy	CSA 70 Revenue	Independent District Revenue	# TRAs
Crest Forest Fire Protection District	1,368,861,644	13,688,616.44	323,282.27	3,248,324.64	52
Chino Valley Independent Fire District	438,657,966	4,386,579.66	111,192.51	644,285.16	21
Apple Valley Fire Protection District	919,969,619	9,199,696.19	261,868.80	914,490.28	90
Barstow Fire Protection District	271,329,791	2,713,297.91	59,506.45	663,640.71	25
Rancho Cucamonga Fire Protection District	92,986,681	929,866.81	24,993.45	117,115.79	13
Arrowbear Park County Water District	109,185,352	1,091,853.52	29,580.76	224,409.90	2
Running Springs County Water District	530,926,431	5,309,264.31	134,376.95	1,450,365.16	19
Big Bear Lake Fire Protection District	11,153,693	111,536.93	2,886.69	18,388.82	2
Big Bear City Community Services District	1,886,320,591	18,863,205.91	532,325.71	1,725,718.50	17
Morongo Valley Community Services District	200,630,602	2,006,306.02	52,124.25	363,395.32	21
Twentynine Palms Water District	1,162,534	11,625.34	388.27	0.00	4
Yermo Community Services District	78,014,587	780,145.87	25,277.40	78,008.05	8
Daggett Community Services District	23,336,338	233,363.38	6,439.71	55,730.25	16
Newberry Community Services District	161,113,077	1,611,130.77	52,174.36	162,401.48	14
Baker Community Services District	37,565,171	375,651.71	11,182.79	66,264.78	1
	6,131,214,077	61,312,140.77	1,627,600.37	9,732,538.85	305
REMAINING UNINCORPORATED AREA			4,534,982.00		

Contracting with County Fire for fire protection does not provide access to these administration funds; however, annexation would.

- Incorporation as a City. Historically the Baker community has expressed frustration with the County regarding development standards and road service. Additionally, the community does not receive any share of the sales tax revenues that are generated within the community as a stop to and from Las Vegas. Incorporation as a city would alleviate these concerns as land use and road services would become the responsibility of the new city. The new city would also receive a share of sales tax revenues generated.

  However, the statutes that outline the funding formulas for incorporation are based upon cost of service previously provided, and as a municipality the new city would be inherently responsible for law enforcement, roads, and fire protection. Unfortunately, the state has removed the discretionary funding source for newly incorporated cities that were derived from motor vehicle license fees.

  Finally, the population base is too low to incorporate; current State law requires a minimum of 500 registered voters for city incorporation (San Bernardino LAFCO policies require a minimum of 10,000 residents, although that policy can be overridden by the LAFCO Commission). As of April 17, 2013, the County Registrar of Voters has determined that there are 99 registered voters within the boundaries of the CSD (20% of the required minimum of 500). Therefore, this scenario is not feasible.

- Maintenance of the status quo. This option retains the existing structure for all active service provided by the CSD, the County, SBCFPD, and Baker EMS.

Sphere of Influence

SPHERE OF INFLUENCE UPDATE

The Commission's policy guidelines for spheres of influence outline its strategy to utilize a "community-by-community" approach to consideration. This practice requires the Commission to look at the whole of the community as defined by the existence of inter-related economic, environmental, geographic and social interests. The Commission's concept is to define a community and adjust the spheres of influence for all related service providers to that community. Such a determination provides direction to both current and future residents as to the agencies designed to serve them.

Since 1972 the Commission has defined the Baker community as the sphere of influence assigned the Baker Community Services District (coterminous with its boundaries) and that definition remains today. The community remains remote with no adjacent communities that provide municipal level services. Therefore, staff's recommendation is that the definition of the Baker community remains as that of the Baker CSD sphere of influence.

As for the Baker CSD existing sphere, generally all lands south of Interstate 15 are within the Mojave National Preserve. In this area, there are no commercial or residential activities. Therefore, the area south of Interstate 15 does not require municipal-level services from the CSD. However, the CSD operates wastewater percolation ponds and a solid waste transfer facility within the preserve. Further, the Baker Solid Waste Transfer Station is proposed to be excluded from the Mojave National Preserve boundary. 36 Code of Federal Regulations Part 6 ("Solid Waste Disposal Sites in Units of the National Park System") prohibits operation of any solid waste disposal site (including a transfer station) within a National Park Service unit if that site was not in operation on September 1, 1984. Excluding the land on which the Baker Transfer Station sits will have no effect on its ownership or use. The CSD has approved the boundary adjustment.[39]

LAFCO Staff Proposed Sphere Amendments:

The Commission's policy guidelines for spheres of influence outline its strategy to utilize a "community-by-community" approach to consideration. This practice requires the Commission to look at the whole of the community as defined by the existence of inter-related economic, environmental, geographic and social interests. The Commission's concept is to define a community and adjust the spheres of influence for its service provider(s) to that community. In the case for the Baker community, the Baker CSD is the only provider in the area.

There are some areas adjacent to the community that should be included as part of the overall community definition. This includes the Baker Airport located just north of the community, the Baker CSD's water tank near the freeway, the I-15 Freeway right-of-way

[39] National Park Service, "Minor Boundary Adjustments – Baker Transfer Station and Desert Tortoise Head Start Research Facility", website, accessed 10 Jan 2013. http://parkplanning.nps.gov/projectHome.cfm?projectID=43080

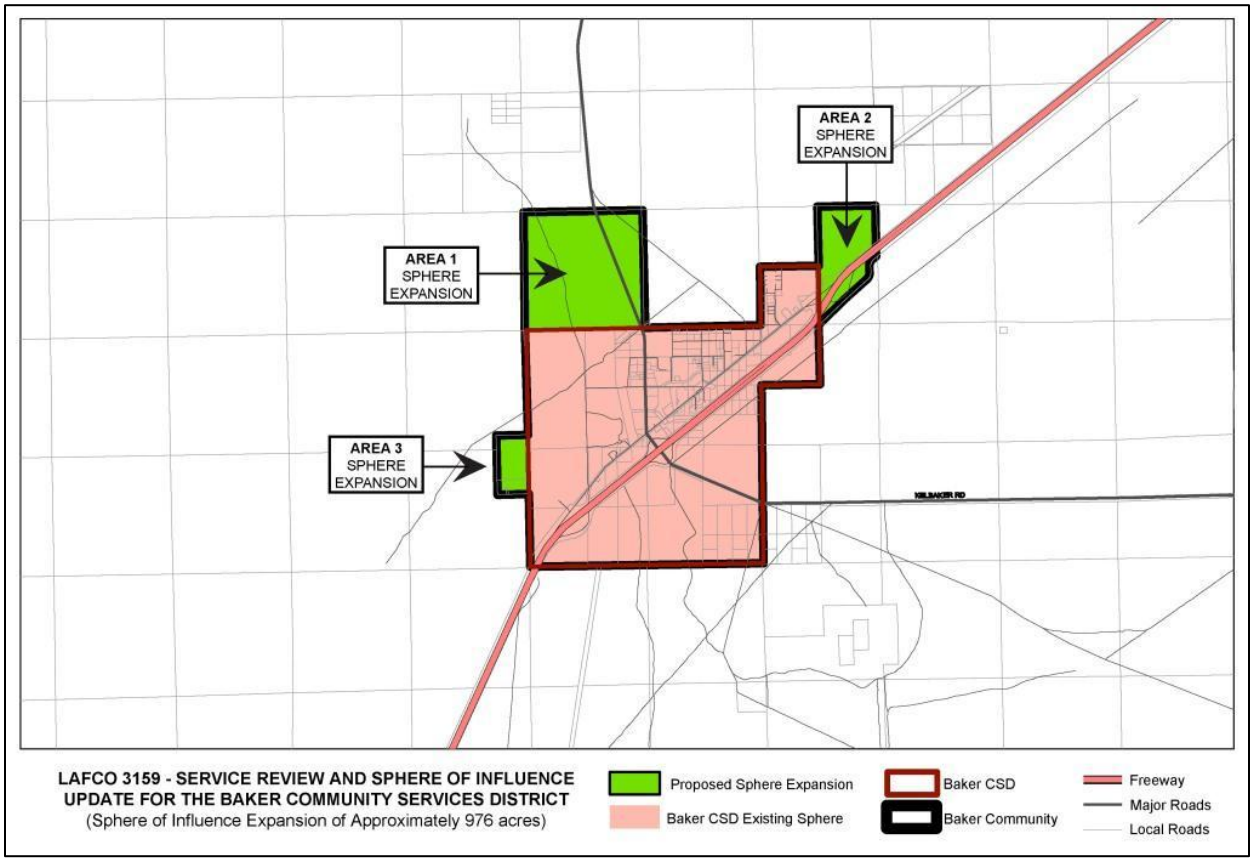
along the Exit 248 off-ramp and the I-15 (North) on-ramp from Baker Boulevard, and a couple of privately owned parcels adjacent to the community.

Therefore, staff is recommending that the Commission modify the sphere of influence for the Baker CSD to encompass the Baker community, as defined by the Commission. In order to accomplish this, the following sphere of influence amendments are recommended:

- Expand the sphere for the District along the northwest by approximately 646 acres (Area 1), which is within the community definition for Baker and includes the airport parcel;

- Expand the sphere for the District along the northeast by approximately 245 acres (Area 2), which is within the community definition for Baker and includes the I-15 Freeway easement for the Exit 248 off-ramp and the I-15 (North) on-ramp from Baker Boulevard, and the parcel where the CSD's water tank sits; and,

- Expand the sphere for the District along the west by approximately 83 acres (Area 3), which is within the community definition for Baker and includes two privately owned parcels adjacent to the current boundary of the District.



Government Code Section 56076 defines a sphere of influence as a "plan for the probable physical boundaries and service area of a local agency, as determined by the commission". Regardless of Commission direction, it would not affect any agency's current boundary or service delivery as no change in jurisdiction would take place.

Authorized Functions and Services

When updating a sphere of influence for a special district, the Commission is required to establish the nature, location, and extent of any functions or classes of services provided by the district (Government Code §56425(i)).

The current service descriptions for the Sewer, Fire Protection, and Solid Waste functions do not adequately reflect the services that the District provides. Staff is recommending that the service descriptions be amended to more clearly identify the range of services provided.

Although authorized to provide ambulance service, the CSD does not actively provide this service. Medical response and ambulance services in the community are provided by the Baker Emergency Medical Services, Inc. Yet, authorization for the CSD to provide this service remains. Unfortunately, LAFCO cannot remove a function from a district as it would be considered a "proposal" which would require a LAFCO hearing and protest hearing.

Should the CSD desire to divest itself of the service and the potential liability, the CSD board of directors may divest itself of that power by ordinance if the removal of the power would not require another agency public agency to provide a new or higher level of service (Government Code Section 61107). In this case, the service is already provided by a private company, so the CSD could divest itself from ambulance service and remove potential exposure to liability. Should the CSD adopt an ordinance to divest, LAFCO staff requests that the CSD provide a copy of the ordinance to LAFCO whereby LAFCO would update its listing of authorized services.

Staff recommends that the Commission modify the service descriptions for the CSD in the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts* identified in strikeout and underline below.

FUNCTION	SERVICE
Water	Supply water for ~~domestic, sanitation, irrigation, fire prevention, collect and store water and storm water~~ any beneficial use as outlined in the Municipal Water District Law of 1911 (commencing with Section 71000) of the Water Code
Sewer	~~Collection, treatment, disposal~~ Collect, treat, or dispose of sewage, wastewater, recycled water, and storm water, in the same manner as a sanitary district formed pursuant to the Sanitary District Act of 1923 (commencing with Section 6400 of the Health and Safety Code).

Fire Protection	Volunteer, structural, watershed, ~~ambulance and health related services~~
Park and Recreation	~~Local park development, operation, recreation~~ Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law (commencing with Section 5780) of the Public Resources Code.
Streetlighting	~~Streetlighting~~ Acquire, construct, improve, maintain and operate street lighting and landscaping on public property, public rights-of-way, and public easements.
TV Translator	~~TV Translator~~ Acquire, construct, improve, maintain, and operate television translator facilities.
Solid Waste	~~Garbage, Refuse~~ Collect, transfer, and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 4000), and consistent with Section 41821.2 of the Public Resources Code.

FACTORS OF CONSIDERATION

Government Code Section 56425 requires the Commission to make four specific determinations related to a sphere of influence update. The staff's responses to those factors are as follows:

I. Present and Planned Uses in the Area, Including Agricultural and Open-Space Lands.

Land Ownership

Within its entire boundary/sphere, roughly 63% of the land is privately owned and the remainder, 37%, is public, which are devoted primarily to resource protection and recreational use.

Baker CSD and Its Sphere of Influence
Land Ownership Breakdown (in Acres)

Ownership Type	Boundary (Sphere) Area
Private	1,796
Public Lands – Federal (BLM), State, & others	1,039
Total	**2,835**

Land Use

Within the Baker CSD sphere, the County of San Bernardino's land use designations designate approximately 58% as Resource Conservation, 23% as Commercial, 8% Residential, 5% Institutional, 3% Industrial, 2% Rural Living, and the remainder 1% as Floodway.

Baker CSD & Its Sphere of Influence
General Plan Land Use Districts (In Acres)

County's Land Use	Acreage
Resource Conservation (RC)	1, 658
Rural Living (RL)	61
Single Residential (RS)-14M	230
Multiple Residential (RM)	3
Rural Commercial (CR)	233
Highway Commercial (CH)	407
Community Industrial (IC)	76
Regional Industrial (IR)	5
Institutional (IN)	133
Floodway (FW)	29
Total	**2,835**

Most of the lands designated as Resource Conservation, both within the CSD's sphere of influence and the surrounding area are public lands that are managed by the Bureau of Land Management (BLM).

II. Present and Probable Need for Public Facilities and Services in the Area.

Information concerning this determination is discussed in detail in the service review section of this report beginning on page 17. The following is a summary of that information.

Water

The water system is classified as a community water system serving a commercial district and a residential community. The system has approximately 100 service connections. Out of 100 connections, 40 are residential which include schools and two mobile home parks. The minimum security prison is no longer in operation but retains its system connection. The commercial portion serves a large transient population.

The system consists of a gravity storage tank located outside of the CSD boundary and six vertical wells. Wells 1-3 are the primary wells. Wells 4 and 5 activate only when the water level falls below a certain level. Wells 1-5 are on an automatic telemetric system. Wells 1-5 connect to a central manifold, which has a meter for

each well. Well 6 is not on an automatic system, and is run manually. Well 6 is flushed prior to allowing its water to flow into the system. The storage tank is steel welded with a storage capacity of 400,000 gallons.

According to the *Preliminary Engineering Report on Water and Wastewater Systems* from 1990, most of the distribution mains are 6, 8 or 10-inch ACP installed in 1969. At that time, the water distribution system appeared to be in good condition with adequate sized mains. Additionally, there were a couple of short dead-end lines with blow-offs which could be tied together in the future to enhance circulation. It is not known if any improvements have been made to the system since that time.

Those residents residing outside of a water purveyor have their own on-site methods such as wells or springs for domestic water. The yield from these sources will vary dependent on the amount of rainfall and the individuals are responsible for monitoring the quality of the water they use.

Wastewater

Due to lack of District participation for this state-mandated service review/sphere update, the type and extent of wastewater activities at this time is unknown in this review. The CSD has constructed unlined stabilization ponds with a total design capacity of 0.15 mgd on a site approximately one-half mile south of the community. The Baker Community is located within the Lahontan Water Basin regulated by the Lahontan Regional Water Quality Control Board. A review of the Lahontan enforcement orders since 2003 does not identify any adopted orders regarding the District. There are an unknown number of private systems as some properties may have multiple systems.

Implementation of a treatment plant for the community seems unlikely since the population is low and the capital costs would be borne by the very limited population resulting in a cost that could not be paid by the community.

Fire Protection and Emergency Medical Services

The CSD is authorized to provide fire protection services and is the recognized and responsible agency for the ultimate provision of this service within its boundaries. However, since 1997 the services have been provided by CSA 38 and its successor, SBCFPD. In 2008, CSA 38 was dissolved and the San Bernardino County Fire Protection District ("SBCFPD") was expanded to include much of the unincorporated territory of the County, thereby surrounding Baker CSD. As a function of that reorganization, SBCFPD succeeded to the 1994 contract. According the terms of the agreement, the SBCFPD Fire Chief is the Chief of the CSD Fire Department and is responsible for the fire protection services. The contract is an evergreen contract which may be terminated by either party with a two-month written notice. However, SBCFPD has confirmed that it has not billed the CSD for these services since at least 1994. The SBCFPD Regional Division Chief indicates that the districts are currently working on a new agreement; however, the terms have not yet been identified.

The primary function of Station 53 is to provide service along the I-15 transportation corridor. Construction of the current station was funded by the County General Fund for $3.2 million in 2006 (opened in 2008) with placement in Baker.[40] Since 2008, the SBCFPD (which does not overlay the CSD) and the County General Fund provide funding for the station.

The closest active fire stations beyond the Baker community are Yermo about 50 miles to the southwest off Interstate 15 and response units from Searchlight, Nevada Volunteer Fire Department over 71 miles to the east from Interstate 15. This signals the importance of Station 53 as the primary fire protection provider for about 80 linear miles along the I-15 transportation corridor.

Ambulance

Although authorized to provide ambulance service, the CSD does not actively provide this service at this time. Medical response and ambulance services in the community are provided by the Baker Emergency Medical Services, Inc. ("Baker EMS"). Baker EMS is a private company based out of Baker and provides service within the Exclusive Operating Area ("EOA") #23 - Baker EOA and EOA #22 - Needles EOA assigned by the Inland Counties Emergency Management Agency ("ICEMA"). [41]

The 2006 re-write of CSD Law now classifies Ambulance under Fire Protection service. To accurately reflect the services that the CSD provides, LAFCO staff recommends in the Sphere Update section of this report that the Commission modify the service description of the Fire Protection function by removing Ambulance service.

Roads

Highways and County-maintained Roads

Caltrans is responsible for maintaining the Interstate and the County maintains the remainder of the roads (and county highways), if the roads are in the county maintained system. According to the County Maintained Road System Map, those roads are most of Baker Blvd., Kelbaker Road, and most of Park Avenue.[42] According to the County Department of Public Works, "The County has a project being studied to replace the bridge on Baker Blvd at the Mojave River," which will widen the bridge from two lanes to four. A review of the Southern California Association of Governments (SCAG) "2012-2035 Regional Transportation Plan" does not identify any specific plans for the Baker portion of Interstate 15.

[40] San Bernardino Sun. Andrew Silva. "A home of Their Own". News Section. 20 June 2006.
[41] ICEMA is a joint powers authority composed of the Counties of San Bernardino, Mono, and Inyo with the San Bernardino County Board of Supervisors as the ex-officio ICEMA Board of Directors.
[42] County of San Bernardino. County Maintained Road System Map. Accessed 1 May 2013. http://bit.ly/12WGzsQ

2013 LAFCO Service Review

The Appellate Court decision, CSD December 2005 letter to LAFCO, and other letters which LAFCO has been copied on (such as a March 15, 2010 letter from the CSD to the Director of the County Department of Public Works) all use identical language – that the CSD road service is to the extent necessary to carry out its other purposes. Therefore, one cannot arrive at any other conclusion other than it is the CSD's intent to provide road service to the extent necessary to carry out its other purposes. The perspective of LAFCO staff is that this is commonly held to protect its water and sewer lines and facilities. Barring any other information, LAFCO staff continues its analysis under this premise.

Without CSD participation for this service review/sphere update, LAFCO staff cannot definitively ascertain if the CSD performs roads as a primary function or to the extent to carry out its other purposes. In either case, Roads remains as a "latent service or power" for the CSD according to CSD Law, and LAFCO staff cannot recommend that the Commission authorize the function of Roads for the CSD.

Solid Waste

LAFCO authorizes the CSD to perform solid waste activities within its boundary. The CSD is responsible for collection from residents and businesses. The County and the CSD have an agreement for the CSD to operate the County's Baker Transfer Facility which is located on CSD property. From there, the solid waste collected at this facility is transferred to the Barstow Landfill by the county's disposal system operator.

Baker CSD collects solid waste within its boundaries and delivers it to the Baker Transfer Facility. Additionally, according to County Department of Airports staff, the CSD collects trash from the Baker airport (located outside of the CSD boundaries).

Television Translator

The CSD operates a television translator facility at Turquoise Mountain, roughly 14 miles northeast of the Interstate 15/SR 127 junction, to deliver television service to the remote community.

According to the CSD's meeting minutes from August 2, 2012 and September 6, 2012, the CSD approved a draft contract with LV.Net to provide Microwave High Speed Internet Service to the commercial businesses of the community.

III. Present Capacity of Public Facilities and Adequacy of Public Services that the Agency Provides or is Authorized to Provide.

Information concerning this determination is discussed in detail in the service review section of this report beginning on page 17. The following is a summary of that information.

Water

According to the County Department of Public Health's appraisal of the physical facilities, the system appears to be in good condition and is adequate for this community. The system is professionally maintained and managed. Further, no complaints have been reported to the County Department of Public Health.

Water Quality

According to the County Department of Public Health's appraisal and the District's 2011 Consumer Confidence Report, gross alpha radiation and uranium levels are at or near maximum contaminant level (MCL) for all sources.

Uranium

Those residents who have their own on-site wells are susceptible to high uranium levels as well. Options exist for uranium removal, but the best treatment system or combination of systems for a given situation will depend on several factors. For community water supplies, there are at least five options for removing or reducing uranium concentrations in drinking water:

1. locating and developing a new source of drinking water;
2. purchasing drinking water from another water system;
3. blending water from a contaminated source with water from an uncontaminated source(s);
4. building and operating a treatment plant to remove uranium; and
5. installing and maintaining point-of-use (POU) treatment devices at each drinking water tap.

For the District, options 1, 2, and 3 are infeasible due to the basin-wide contamination that is occurring, the District's remote location limiting access to a new water source, access to water to be purchased, or to be used for blending. Options 4 and 5 may be cost prohibitive but appear to be the only viable options available.

For the residents that are served water by individual wells, the most feasible treatment alternative to remove uranium in their water supplies is the use of a point-of-use system (POU). A POU system is usually placed under or near one faucet and treats only the water coming out of that tap for drinking or cooking. While no POU system is certified to remove uranium at this time, documentary proof exists to show that reverse osmosis, distillation, special adsorbent media (such as titanium dioxide) and anion exchange remove uranium and a variety of other contaminants.

Wastewater

According to the *Preliminary Engineering Report on Water and Wastewater Systems* from 1990:

For a wastewater treatment plant, the CSD has constructed unlined stabilization ponds with a total design capacity of 0.15 mgd on a site approximately one-half mile south of the community. The initial facility was constructed in 1961 and modified in 1970. There are approximately 10 acres of ponds consisting of two ponds of approximately 2.5 acres each and a five-acre pond located on 73 acres of land owned by the CSD. The land was granted to the CSD in February 1963. The CSD domestic water wells are approximately two miles east of the ponds.

The ponds function as evaporation/percolation ponds. The five-acre pond is not normally used. Its floor is covered with sage brush and other desert brush. The two 0.5 acre ponds alternately take the entire sewage flow. It takes four to six months to fill a pond to approximately four feet depth. This leaves three to four feet of freeboard. There is no discharge from the ponds except by evaporation or percolation. The groundwater is approximately 100 feet below and is poor quality with total dissolved solids (TDS) concentration over 1000 mg.

It appears the existing wastewater treatment facilities could easily handle at least double the current wastewater flows. There is room for considerable expansion on the 73 acre site.

The ponds are located in the southern portion of the district, just southwest of the Interstate 15/SR 127 junction, within the Mojave National Preserve.

Fire Protection and Emergency Medical Services

SBCFPD has provided the following as its incident statistics for 2010-2012 for responses within the CSD. Of note, this also includes any calls from transients that called for service after stopping at the Baker commercial center. This listing includes type of response, total responses, and average response time. For the three years identified, emergency medical incidents represent 68% of total incidents within the CSD's boundaries.

	2010		2011		2012	
	No. of Responses	Avg. Response Time	No. of Responses	Avg. Response Time	No. of Responses	Avg. Response Time
Fire responses	14	5:31	16	3:04	11	4:23
Medical responses	127	5:43	152	3:55	138	4:00
Other responses	3	3:39	8	6:22	16	3:48
Traffic responses	31	7:48	49	16:15	46	10:06
TOTAL responses	**175**	**6:02**	**225**	**6:38**	**211**	**5:20**

The CSD maintains a volunteer fire department whose role is to augment SBCFPD personnel. According to SBCFPD, the CSD fire department does not respond to medical calls and traffic accidents. The firefighters are not currently certified as

medics or emergency medical technicians – they are basic volunteer firefighters. Therefore, the CSD fire department is not the primary response.

Roads

There are four issues that have arisen from the CSD providing road service.

Liability

First, when an agency performs road services it exposes itself to liability.

Taxes

As for funds to operate and maintain the service, road service is not an enterprise activity. Therefore, the funds to maintain the road grader and pay for the service use portions of the property tax revenues generated from throughout the entirety of the district that are also used to pay for streetlighting, park and recreation, and other services. If the CSD provides Road service as a primary function, then voters and landowners of the CSD have not had the opportunity to weigh in on such an undertaking that dilutes the property tax revenue from the CSD's authorized functions.

County Roads

According to CSD Law and County requirements, the CSD needs to obtain written permission from the County allowing the CSD to perform road maintenance on public roads (Section 61100(l)).

LAFCO Authorization

Lastly, in order for the CSD to actively provide road service as a primary function either within a portion or to the entirety of the district, CSD Law requires the activation of latent powers subject to LAFCO approval (Government Code Section 61106). The CSD has not formally requested or been authorized by LAFCO to perform this function and/or service.

LAFCO Staff Recommendation

While the intent and purpose for providing the service are a benefit to the community, the extent of the road grading without authorization and the lack of adherence to CSD Law, the Government Code, and County Public Works/Transportation application requirements described above is a serious concern to LAFCO staff. Further, as indicated in its letters to LAFCO and the County, the District intends to continue providing this service even though it has neither LAFCO authorization nor County permission. If it is determined or if the CSD states that the performance or road service is a primary function, then it continues to be LAFCO staff's recommendation that the CSD immediately submit the application materials, including a plan for services and the County's Letter of No Objection to LAFCO so that Commission

consideration for activation can commence to secure compliance with applicable provisions of law.

Parks and Recreation

The District operates parks (number and facilities unknown), the Jesse Meyer (community) Center, and a swimming pool. Without District participation for this service review, additional information is not available.

The County does not operate a Senior or Community center in the area.

Streetlights

The streetlights along the highway are the responsibility of Caltrans. The other lights are the responsibility of the CSD. The streetlights are classified as all night service (activated from dusk until dawn). Southern California Edison owns the streetlights and responds to problems, and the CSD provides for payment of the utility costs associated with the individual lights. Without District participation for this service review the number of streetlights in the community is not known as authorization was not provided by the CSD to obtain information from Southern California Edison.

The future need for streetlights will increase if the population grows or the land use process requires them dependent upon the implementation of the County's Night Sky Ordinance[43], which is applicable in the North and South Desert region. The purpose of the Night Sky Ordinance is to encourage outdoor lighting practices and systems that will minimize light pollution, conserve energy, and curtail the degradation of the nighttime visual environment. The implementation of this ordinance points toward a limitation of the number of streetlights for the future and may limit them to commercial areas of the community only.

IV. Existence of any Social or Economic Communities of Interest in the Area if the Commission Determines that they are Relevant to the Agency.

The community is the Gateway to the Death Valley and a key stop for those traveling to and from Las Vegas. Many residents are employed by the commercial companies that offer fuel and food to thousands of travelers. The Baker Unified School District is the single largest employer in the community.

To the east of Baker are the Molycorp facilities. Molycorp is one of the world's leading manufacturers of custom engineered rare earth and rare metal products. Molycorp's Mountain Pass facility is located roughly 35 miles east of Baker off Interstate 15. The Mountain Pass rare earth facility is on the south flank of the Clark Mountain Range just north of the unincorporated community of Mountain Pass, California. Mountain Pass

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

once supplied most of the world's rare earth elements and is now re-emerging to, once again, become a major global supplier.[44]

The social community for the area is the territory within the Baker CSD.

V. The Present and Probable Need for Public Facilities and Services of any Disadvantaged Unincorporated Communities Within the Existing Sphere of Influence for a City/Special District that Provides Public Facilities or Services Related to Sewers, Water, or Fire Protection.

Generally, the entire community itself is considered a DUC comprised of sparse residential development with large lots primarily designated Single Residential (14,000 sq. ft. lots) and Rural Living (2 ½-acre lots). The areas that are not a DUC are vacant and/or are public lands managed by BLM.

There are no DUCs contiguous to the CSD's sphere of influence which is primarily vacant and are public lands managed by BLM.

CONCLUSION FOR BAKER COMMUNITY SERVICES DISTRICT:

Staff is recommending that the Commission make the following sphere determinations for the Baker Community Services District:

1. Sphere of influence:

    a. Expansion of the CSD's sphere of influence by a total of approximately 974 acres to include the Baker Airport located just north of the community, the Baker CSD's water tank near the freeway, the I-15 Freeway right-of-way along the Exit 248 off-ramp and the I-15 (North) on-ramp from Baker Boulevard, and a couple of privately owned parcels adjacent to the community.

    b. Affirm the remainder.

Modify the service descriptions to all of its authorized functions to accurately reflect the services actively provided in the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*.

[44] http://www.molycorp.com/about-us/our-facilities/molycorp-mountain-pass.

ADDITIONAL DETERMINATIONS

1. State Law requires that the Commission publish a notice of hearing in a newspaper of general circulation within the affected district (Government Code Section 56153). However, there is no newspaper of general circulation within the Baker community to comply with this statute. Instead, as required by State Law, notice of the hearing was provided by individual mail notice to registered voters and landowners within the District and those within the proposed sphere expansion areas.

2. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice. In addition, a copy of the draft staff report was provided to the CSD, the County, SBCFPD, and ICEMA on May 2, 2013. All parties who received the draft staff report were invited to a June 3, 2013 meeting conducted by LAFCO staff to review the determinations and recommendations made within the draft staff report, to solicit comments on the determinations presented, and to respond to any questions of the affected Baker agencies.

3. Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

4. The Commission's Environmental Consultant, Tom Dodson and Associates, has recommended that the options outlined in this report for the Baker Community Services District are statutorily exempt from environmental review. Mr. Dodson's response is included in Attachment #3 to this report.

RECOMMENDATIONS

To complete the considerations for the Baker Community, staff recommends that the Commission take the following actions:

1. Determine to affirm the Commission's definition of the Baker community, which is the sphere of influence of the Baker Community Services District.

2. Receive and file the service review for the Baker Community Services District and make the findings related to the service review required by Government Code 56430 as outlined in the staff report.

3. For environmental review certify that the sphere of influence expansions along with affirmation of the balance of the existing sphere and service description modifications to all of the authorized functions to accurately reflect the services actively provided for the Baker Community Services District (LAFCO 3159) are statutorily exempt from environmental review and direct the Clerk to file the Notice of Exemption within five (5) days.

4. For LAFCO 3159, approve the sphere of influence expansions along with affirmation of the balance of the existing sphere for the District, and modifications to the service description for all of the authorized functions to accurately reflect the services actively provided in the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*, as identified in this report.

5. Adopt LAFCO Resolution No. 3174 setting forth the Commission's findings and determinations.

ATTACHMENTS

1. Maps
    a. Vicinity Map
    b. Detail Map of Baker Community

2. Baker Community Services District
    a. Map – Current Boundary and Sphere
    b. 2011 Consumer Confidence Report
    c. 2006 Response from CSD Regarding Road Service
    d. Court Case: *Baker CSD v. RBJ Baker, Inc. 2005 Cal. App. Unpublished.*
    e. County Ordinances Regarding Refuse Disposal Land Use Fees
    f. Financial Information: 2011 and 2012 Audits
    g. 1977-78 County Tax Rate Publication
    h. 2010-11 Grand Jury Report
    i. Copy of Minutes from August 2, 2012 CSD Hearing
    j. Responses to the Draft Staff Report
3. Response from Commission's Environmental Consultant
4. Draft Resolution No. 3174
5. Brief Description of Community Services Districts