

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

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DATE: JANUARY 5, 2007
FROM: SAMUEL MARTINEZ, LAFCO Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #5: LAFCO 3059 – Sphere of Influence Review for San Gorgonio Pass Water Agency (Expansion) and San Bernardino Valley Municipal Water District (Reductions)

SUBMITTED BY:

Agency Resolution, San Gorgonio Pass Water Agency

RECOMMENDATION:

Staff is recommending that the Commission approve LAFCO 3059 by taking the following actions:

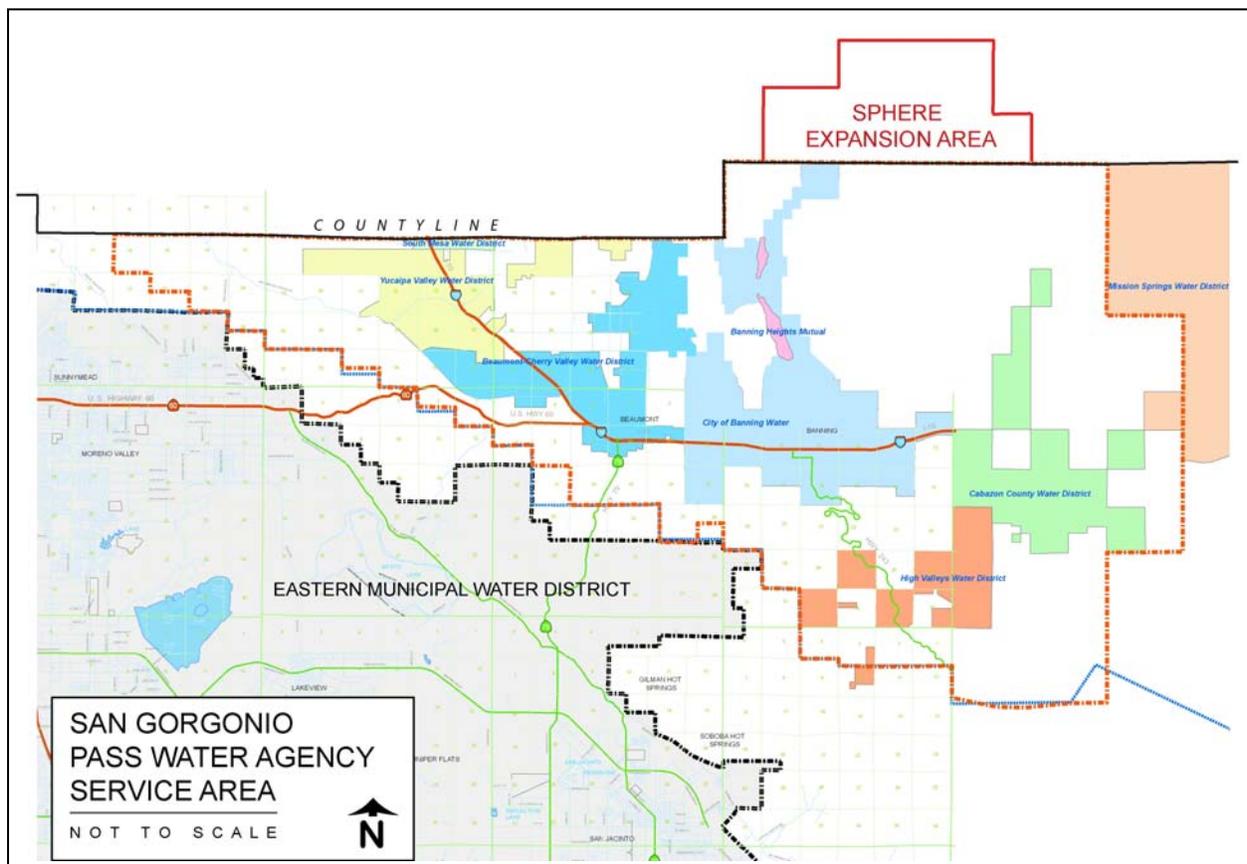
1. Certify that LAFCO 3059 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five (5) days;
2. Approve LAFCO 3059, Sphere of Influence Expansion for the San Gorgonio Pass Water Agency and Sphere of Influence Reductions for San Bernardino Valley Municipal Water District; and,
3. Adopt LAFCO Resolution #2952 setting forth the Commission's findings and determinations.

INTRODUCTION:

LAFCO 3059 is a proposal to add approximately 10,955 +/- acres to the sphere of influence of the San Gorgonio Pass Water Agency (the "Agency") and concurrently remove two separate areas from the sphere of influence of the San Bernardino Valley Municipal Water District (SBVMWD).

The San Gorgonio Pass Water Agency:

The Agency is a State Water Project contractor that is currently located solely within Riverside County. The Agency serves the Cities of Calimesa, Beaumont, and Banning, as well as unincorporated communities in the “Pass Area” (defined as the area from the San Bernardino County line to roughly the Whitewater area near Palm Springs), such as the community of Cabazon. The Agency is responsible for the wholesale delivery of imported water, primarily to Yucaipa Valley Water District (Riverside County portion), Beaumont-Cherry Valley Water District, City of Banning, Banning Heights Water Company, High Valley Water District, and Cabazon County Water District. The Agency also provides the services of groundwater management and water quality monitoring within its existing service boundary.



As shown on the map above, the Agency currently exists only in Riverside County. This sphere of influence expansion proposal will represent the first introduction of the Agency into San Bernardino County.

Boundaries:

The sphere expansion requested by the Agency encompasses approximately 10,955 +/- acres within the San Bernardino National Forest, generally east of Oak Glen Road, north of the San Bernardino/Riverside County line, northwest

of the City of Banning. The area includes all of Sections 19 and 30 through 32 within Township 1 South, Range 2 East, and all of Sections 22 through 29 and 32 through 36 within Township 1 South, Range 1 East.

The sphere reductions for SBVMWD are two separate areas located within the sphere expansion area for the Agency. Area 1 includes the north half of Section 22 and the northwest quarter of Section 23 within Township 1 South, Range 1 East, for a total of approximately 480 acres. Area 2 includes the west half of Section 29 within Township 1 South, Range 1 East, for a total of approximately 320 acres.

Vicinity and location maps are included as Attachment #1.

Purpose for the Sphere of Influence Review (Expansion and Reductions):

The proposed sphere of influence amendment has been initiated by the Agency in order to include an area within the upper reaches of the Whitewater River watershed, which represents the primary source of water supply for its member districts, into its sphere of influence boundary. This proposal will help the Agency provide a means to plan and coordinate measures that would help protect the watershed. The Agency's sphere of influence review application is included as Attachment #2 to this report.

Initially, when the Agency submitted its application, the boundary configuration of the proposed sphere expansion did not include whole parcels. The Agency's intent when submitting the application was to define the northwest sphere expansion boundary along the established sphere of influence boundary for SBVMWD. At the Departmental Review Committee meeting it was requested by LAFCO staff that the boundaries of the proposal be modified to follow lines of assessment. At that meeting, LAFCO staff also discussed the inclusion of the modification to the SBVMWD sphere to remove the divided parcels. Representatives from SBVMWD, who were present during the discussion of the boundary configuration issue, expressed no opposition to the two areas being reduced from its sphere of influence. A copy of SBVMWD's consent letter is included as Attachment #3 to this report.

This sphere establishment in San Bernardino County is required to allow the Agency to meet the requirements set out in Government Code Section 56375.5, which requires that an annexation proposal be consistent with an Agency's sphere of influence. A portion of the sphere of influence expansion is being proposed for annexation and has been submitted for review and consideration by the Riverside LAFCO as the "principal county" for the Agency. The Agency is currently proposing to annex three (3) sections of land (Sections 34, 35 and 36 within Township 1 South, Range 1 East) for the purpose of protecting a water facility owned by the Banning Heights Water Company. The facility is

the Company's only source of water. Upon the Commission's approval of LAFCO 3059, Riverside LAFCO will consider the annexation proposal.

To date, two (2) letters of opposition have been received during the processing of this application (copies included as part of Attachment #4). The first letter is from Mr. Stephen Mascaro, a property owner, who has expressed his concern regarding the sphere expansion. Based upon this concern, the Agency and Mr. Mascaro have worked over the past several months to resolve the issues. Staff has been informed that both parties have reached an agreement and are now in the process of signing a written agreement. In addition, staff is in receipt of a letter from Mr. Mascaro, dated January 4, 2007, withdrawing his opposition to the sphere of influence expansion proposal (copy included as part of Attachment #4).

The other letter of opposition received is from Mr. Wayne Goff, a lessee of a property owned by Mr. Mascaro. As mentioned above, Mr. Mascaro has withdrawn his opposition to the sphere of influence expansion proposal. In addition, the District has indicated that the lessee will not be affected by the sphere expansion.

No other comments have been received regarding the sphere of influence expansion.

FACTORS OF CONSIDERATION

The staff responses to the mandatory "factors of consideration" for a sphere of influence review (as required by Government Code Section 56425) are identified as follows:

The present and planned land uses in the area:

At present, the sphere amendment area is generally vacant land, the majority of which is within the National Forest. The current land use designation assigned by the County of San Bernardino for the entire area is Resource Conservation (RC). There are a few isolated utility facilities (i.e. water tanks and electrical transmission towers) within and around the area. This land use designation anticipates limited development in the near term and the foreseeable future.

No change in land use for the area is anticipated through inclusion of the area within the Agency's sphere. The area is anticipated to continue to be National Forest land with little or no development potential.

The present and probable need for public facilities and services in the area:

The current service needs for the area are minimal due to its designation as a part of the National Forest, primarily limited to fire protection. The current service providers within the sphere amendment area are:

County of San Bernardino
Inland Empire Resource Conservation District
Mojave Desert Resource Conservation District
County Service Area 38 (fire protection)
County Service Area 70 (multi-function unincorporated area
Countywide)

The sphere amendment area is generally vacant forest land with little or no development anticipated. Since the purpose of this proposal is to provide the Agency a means to protect and maintain the Whitewater River watershed, there is no need for additional facilities or services for the area.

The Agency has no public facilities within the sphere amendment area. However, the Banning Heights Water Company, which the Agency serves, has an existing above-ground pipe water delivery system within the area and is in the process of replacing it with a buried pipe system. This watershed is the primary source of water for the Banning Heights Water Company and is the watershed that the Agency intends to protect.

The present capacity of public facilities and adequacy of public services that the agency provides:

The Agency is a wholesale water agency that serves the Cities of Calimesa, Beaumont, and Banning, as well as unincorporated communities in the Pass Area, such as the community of Cabazon. The Agency currently sells wholesale water to a number of districts including the Yucaipa Valley Water District. Based upon an evaluation of the Municipal Service Review completed by the Riverside LAFCO for the Pass Area, its determination was that the Agency provides adequate service and has the capacity to serve the retail water districts within its service area.

Again, the purpose of this sphere of influence amendment is not to expand the Agency's facilities but to protect the watershed that provides high quality water to one of its member agencies.

The existence of any social or economic communities of interest:

The sphere amendment area is within the San Bernardino National Forest. There is no generally defined economic or social community of interest associated with the lands.

The communities in close proximity to the overall sphere expansion area are the communities of Oak Glen (to the west), Forest Falls (towards the northwest), and the Morongo Indian Reservation to the southeast. None of the Indian lands are near the sphere expansion area. This sphere of influence expansion does not compromise or affect these communities of interest.

Additional Determinations:

- The Commission's Environmental Consultant, Tom Dodson and Associates, has determined that the sphere of influence expansion for the Agency and the reduction from SBVMWD are statutorily exempt from environmental review. The basis for this determination is that LAFCO 3059 does not have the potential to cause a significant effect on the environment and, therefore, does not constitute a project as defined by CEQA. Mr. Dodson's response is included as Attachment #5 to this report.
- The Registrar of Voters Office has determined that the sphere amendment area is legally uninhabited with no registered voters as of December 11, 2006.
- Legal advertisement of the Commission's consideration has been provided through publication in *The Sun* and through publication of a 1/8-page legal ad in the *Press Enterprise*, newspapers of general circulation within the area, as required by law. As required by State law, individual notification was provided to affected and interested agencies, County departments and those agencies and individuals requesting mailed notice.
- All notices required by State law and local Commission policies have been provided. LAFCO staff has provided individual notices to landowners and registered voters within the sphere amendment area (totaling 8) and to landowners and registered voters surrounding the sphere amendment area (totaling 29 notices). Comments from landowners/registered voters and any affected local agency will need to be reviewed and considered by the Commission in making its determinations.

CONCLUSION:

LAFCO 3059 represents a reasonable expansion of the sphere of influence for the Agency into San Bernardino County. As identified throughout the staff report, the primary purpose of the Agency's sphere expansion is to protect the

upper reaches of the Whitewater River watershed that provides high quality water to an agency within its service area.

For all of the reasons identified within this report, staff recommends approval of LAFCO 3059.

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Attachments:

1. Location and Vicinity Maps
2. Sphere of Influence Application Submitted by San Gorgonio Pass Water Agency
3. Letter of Consent from the San Bernardino Valley Municipal Water District
4. Letters of Opposition (2) and the Withdrawal of Opposition
5. Response from the Commission's Environmental Consultant, Tom Dodson and Associates
6. Draft Resolution #2952