

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: MARCH 7, 2005
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #8 – Consideration of Waiver of Legal Counsel
Conflict for County Fire Reorganization**

RECOMMENDATION:

Consider LAFCO Legal Counsel letter regarding waiver of conflict and authorize Chairman to sign waiver letter if supported by Commission.

BACKGROUND:

At the request of LAFCO staff, LAFCO Legal Counsel Clark H. Alsop has prepared a letter requesting Commission consideration of a waiver of legal counsel conflict for the anticipated County Fire Reorganization application. To date, the proposal has not been filed with the Commission, but LAFCO staff is working with County officials to answer questions on the documents to be prepared, issues regarding the preparation of the Plan for Service, etc. The technical complexity of the proposal to be undertaken is monumental and the advice of legal counsel will be needed prior to actual submission. Therefore, staff has requested Commission consideration of the waiver of legal counsel conflict prior to application submission.

LAFCO Legal Counsel Clark Alsop is a partner in the firm Best Best and Krieger (BB & K), and is also the City Attorney for the City of Fontana. The City of Fontana is a part of the County Fire Reorganization on the basis that it is presently served by the Central Valley Fire Protection District, one of the entities to be reorganized. In addition, the City of Fontana has directed its staff to review other options for providing fire protection/paramedic services outside County governance. Because of this dual representation, Mr. Alsop has a conflict on representing the Commission in regard to the County Fire

Reorganization proposal. Commission policy requires that in these situations, a waiver of the conflict be reviewed by the Commission.

Staff is requesting that the Commission waive legal counsel conflict on this matter and allow Counsel Alsop to continue in his capacity as LAFCO Counsel. Counsel Alsop has also forwarded the same request to the City of Fontana for its review and approval. If a waiver is not granted by both entities, LAFCO staff will request Special Counsel authorization to represent the Commission and notify the County, as the applicant for the Fire Reorganization, that it will be responsible for payment of these costs once the application is filed.

Therefore, the action before the Commission at this hearing is to determine whether or not to waive legal counsel conflict. If the determination is in the affirmative, staff's recommendation is to authorize the Chairman to sign the waiver letter.

KRM/

Attachment