

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

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DATE: NOVEMBER 8, 2004

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #8: LAFCO 2976 -- Confirmation of Open-space and Habitat Conservation Powers for County Service Area 70 (unincorporated County area)

SUBMITTED BY:

County Special Districts Department on behalf of County Service Area 70

RECOMMENDATION:

- 1) Certify that LAFCO 2976 is statutorily exempt from environmental review and instruct the Clerk to file a Notice of Exemption within five days;
- 2) Confirm the delivery of open-space and habitat conservation services as an authorized power of County Service Area 70, amending the Rules and Regulations Affecting Special Districts to reflect this addition; and,
- 3) Adopt LAFCO Resolution #2854 setting forth the Commission's findings, determinations and approval of this action.

BACKGROUND:

During the review of a Board Agenda item related to the creation of County Service Area 70 Improvement Zone GH (Glen Helen), LAFCO staff questioned the Special Districts Department about the proposed authorization for Zone GH to provide open-space and habitat preservation services. The question was related to the function and services authorized County Service Area 70 (hereinafter CSA 70) pursuant to the Commission's Rules and Regulations

Affecting Special Districts. The listing does not include Open-space and habitat preservation services. However, the Commission’s Rules and Regulations authorize CSA 70 a multitude of services, which are currently identified as follows:

DISTRICT	FUNCTION	SERVICE
CSA 70 (Unincorporated area Countywide)	Weed abatement	Weed abatement
	Sewer	Sewer distribution and treatment
	Fire protection	Structural, watershed, inspection, suppression, protection, paramedic
	Water	Water distribution and treatment
	Police	Police protection
	Extension of utility lines	Installation of electric power lines (activated July 14, 1982)
	Streetlighting	Streetlighting
	Dam construction	Dam construction
	Roads	Road maintenance
	Park and recreation	Development, operation, maintenance
	Animal control	Animal control
	Pest control	Pest control
	TV translator	Television translation
Flood control	Flood control	

Ambulance	Ambulance services (activated March 27, 1989)
Street sweeping	Street sweeping (activated February 4, 1992)

County Special Districts staff responded by indicating that CSA 70 began providing open-space and habitat preservation services in 1994 with the creation of CSA 70 Improvement Zone OS-1 encompassing approximately 7,360 acres. This improvement zone was created to address the North Etiwanda Preserve area and the management of the “North Etiwanda Open Space and Habitat Preservation Plan”. At the time of formation, the Improvement Zone was authorized this function under the park and recreation services authorized CSA 70 (see Attachment #1 information submitted by County Special Districts).

In 1995, the County of San Bernardino sponsored a bill through Assembly member Baca to authorize a County Service Area in San Bernardino County to provide open-space and habitat conservation as a “miscellaneous extended service” as described under County Service Area Law. AB 61 was proposed as a means to clarify the County’s ability to perform this service outside its interpretation that park and recreation services provided the authority to perform this function (see copy of AB 61 included as Attachment #2). The County’s concern, as expressed in the Assembly Floor Analysis of AB 61 (copy attached), was that “park powers connote ‘active’ versus ‘passive’ recreation in the minds of the conservation lobby” which was not the purpose of the County in the creation of OS-1. The analysis further noted that the use of park and recreation services could convey the possibility of some future man-made alteration to the territory rather than the true intent of the open-space conservation envisioned by the endowment. AB 61 was approved on July 18, 1995 and became law effective January 1, 1996. Following the passage of AB 61, CSA 70 OS-3 was created on January 9, 2001, for 1,920 acres of land adjacent to the North Etiwanda Preserve Area and identifying as its active service to be open-space preservation and habitat conservation.

At no time during these processes was an application submitted to LAFCO for the activation of this latent power for CSA 70 as required by Commission policy and County Service Area Law (Government Code Section 25210.31). Special Districts staff has indicated that it was assumed that these services were authorized to CSA 70 since the creation of the improvement zones had been previously authorized by County Board of Supervisors’ action. The request of the County Special Districts Department is that the Commission confirms

open-space and habitat conservation services as an authorized function of CSA 70 allowing for the continuation of the service through the improvement zones.

LAFCO staff supports the confirmation and acknowledgement of open-space and habitat preservation as being authorized for CSA 70 due to its documented historic provision through creation of the identified improvement zones. In addition, the special legislation authorizing this miscellaneous extended service in San Bernardino County specifically indicates that the ability to extend a service charge related to this service has been removed. Therefore, the staff is recommending that the Commission adopt a resolution confirming open-space and habitat conservation as an active function and service of CSA 70 to be added to the Rules and Regulations Affecting Special Districts as follows:

CSA 70	Open-space and Habitat Conservation	Acquisition and preservation of land for the purpose of protecting unique, sensitive, threatened, or endangered species, or historical or culturally significant lands that are deemed to be in need of protection by the county board of supervisors (activated November 17, 2004)
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FINDINGS:

1. Notice of the Commission’s consideration of this application has been published in a newspaper of general circulation in the County, The Sun.
2. The County Special Districts Department has submitted documentation outlining the historic and ongoing provision of this service through the Improvement Zones identified as CSA 70 OS-1 and OS-3.
3. The Commission’s confirmation authorizing this service will have no effect on property tax distributions nor the endowment created to operate CSA 70 OS-1.
4. The service area for County Service Area 70, as the parent district, is defined as the unincorporated area of the County. The Commission’s confirmation of this service will, therefore, allow for the extension of this service as defined by Government Code Section 25210.4g, anticipated through creation of specific improvement zones, within the unincorporated area of the County.

5. As a CEQA lead agency, the Commission’s Environmental Consultant, Tom Dodson and Associates, has reviewed the application and determined that a Statutory Exemption would be appropriate for the authorization of this service and recommends the certification of this finding by the Commission. A copy of Mr. Dodson’s response is included as Attachment #3 to this report.

KRM:

Attachments:

1. Special District Department Submission Regarding Provision of Open Space and Habitat Preservation by CSA 70 OS-1, OS-2 and OS-3
2. Copy of Assembly Bill 61, Chapter 135 of Stats 1995, and its Assembly Floor Analysis dated May 16, 1995
3. Tom Dodson and Associates Response
4. Draft Resolution #2854