

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

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

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**SUBJECT: AGENDA ITEM #7B – LAFCO 2971 –** Reorganization to include West Valley Water District and Central Valley Fire Protection District Annexations and Detachment from County Service Area 38 (Lytle Creek North Project)

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**SUBMITTED BY:**

District Resolution, West Valley Water District (Water District Annexation)  
Property owner request for Annexation to Central Valley Fire Protection District

**RECOMMENDATION:**

- 1) Take the following actions for the environmental review for LAFCO 2971:
  - a. Certify that the Final Environmental Impact Report (EIR) and other related documents prepared by the County of San Bernardino for the Lytle Creek North Planned Development Project (SCH No. 99051013) have been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;
  - b. Determine that the Final EIR for the Lytle Creek North Planned Development Project prepared by the County is adequate for the Commission's use as a CEQA responsible agency for its determinations related to LAFCO 2971, indicating that no alternatives, other than those reviewed by the County, are to be considered and that the mitigation measures identified are the responsibility of the County of San Bernardino and others, and not the Commission and are self-mitigating through implementation of the adopted Conditions of Approval for the project;

- c. Adopt the Candidate Findings of Fact and Statement of Overriding Considerations as presented by the Commission’s Environmental Consultant, as attached to the staff report; and,
  - d. Direct the Clerk of the Commission to file a Notice of Determination within five days.
- 2) Approve LAFCO 2971 with the standard conditions of approval;
  - 3) Waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner support and concurrence from the West Valley Water District and Central Valley Fire Protection District; and,
  - 4) Adopt LAFCO Resolution #2903 setting forth the Commission’s findings, determinations and conditions of approval.

**BACKGROUND:**

The West Valley Water District has submitted an application on behalf of the primary landowner for annexation to the District for its water services. In addition, the primary property owner has submitted an additional request that the area also be annexed to the Central Valley Fire Protection District and detached from County Service Area 38 to allow for the service arrangements associated with the development project to be finalized. LAFCO staff in processing the application has modified the proposal to be a reorganization that addresses the two actions concurrently.

The area proposed to be reorganized through this application encompasses approximately 672 +/- acres. This area includes the development project now known as the “Villages at Lytle Creek” but which was processed by the County Land Use Services Department as the “Lytle Creek North Planned Development Project” (hereinafter shown as the Lytle Creek North PDP) encompassing approximately 647 +/- acres and 25 acres which encompass the Interstate 15 corridor and new Glen Helen Parkway road facilities which bisect the proposal. The project is located southwesterly of the Glen Helen Regional Park and its Hyundai Pavilion, southerly of the area known as “Sycamore Flats” which abuts the National Forest boundary on the north, adjacent to the Cemex Sand and Gravel Operation and the County’s Glen Helen Rehabilitation Center and Sheriff’s facility to the east/southeast. Maps of the proposal are included as Attachment #1.

In November 2004, the Commission authorized an out-of-agency service contract, LAFCO SC#243, between the West Valley Water District and the property owner,

Lytle Development, as an interim step toward the provision of water service for the Lytle Creek North PDP while its annexation application was in process. LAFCO 2971 was originally filed on October 19, 2004 but processing of this proposal was held in abeyance, with the consent of the Water District and primary property owner, while supplemental materials to allow for the concurrent annexation to Central Valley Fire Protection District were provided to LAFCO staff. Copies of these additional materials were received in June 2005 and the modified application was circulated for review and comment. Copies of the application materials are included as Attachments #2 and #3 to this report.

**BOUNDARIES:**

The reorganization proposal includes approximately 672 +/- acres and is generally bordered by parcel boundaries on the north, east, south and west. The proposal includes the entirety of the Lytle Creek North PDP and the public roadways within this area, namely Interstate 15 and Glen Helen Parkway.

The application boundaries are contiguous to existing West Valley Water District boundaries along their northern border as shown on the map included as a part of Attachment #1. The existing West Valley Water District boundaries include the area commonly known as Sycamore Flats, westerly of the Glen Helen Regional Park and southerly of the National Forest.

The boundaries of the annexation to the Central Valley Fire Protection District are not contiguous to existing boundaries for that agency as shown on the map included as a part of Attachment #1. Fire Protection District law allows for non-contiguous annexations to occur. The intent of this proposal is to include the development project within a fire agency which provides the needed level of service, fire prevention, paramedics, etc.

**LAND USE:**

Existing land uses are predominantly vacant lands with some site preparation for the future development of the tracts associated with the Lytle Creek North PDP project. The land use approvals for the Lytle Creek North PDP processed through the County of San Bernardino include the following:

1. A preliminary development plan for a maximum of 2,466 residential units, 45 acres of commercial/office/light industrial uses with a school site, public facilities, and open space on 647 acres;
2. A general plan land use amendment from Resource Conservation (1 unit to 40 acres) and Floodway to Planned Development on 641 acres and a

General Plan Amendment to incorporate the proposed circulation system in the Circulation Element of the General Plan;

3. A tentative tract map (Tentative Tract #15900) for 34 parcels on 647 acres (identified as the Master Tract);
4. A Final Development Plan for the 34 parcels; and,
5. Staff is aware of tract developments for five (5) of the thirty-four approved parcels in the Final Development Plan having been processed. The residential parcels are now owned by Lennar Development and are in the process of final development review with County Land Use Services.

**SERVICE ISSUES AND EFFECTS ON OTHER LEVELS OF GOVERNMENT**

Included within the County’s Conditions of Approval (copy included as Attachment #4) is the following item relevant to this reorganization application related to service delivery:

*“Condition #129. The water purveyor shall be West San Bernardino County Water District, or as otherwise approved by the Local Agency Formation Commission.”*

The Conditions of Approval adopted by the County Board of Supervisors, also require verification of water service provision by the West Valley Water District through a “will serve” letter prior to recordation of the master tract map, identified as Tract 15900. As noted previously, the approval of LAFCO SC#243 for extension of the West Valley Water District’s services outside its boundaries allowed for the recordation of the master tract as an interim measure. LAFCO 2971 will complete the actions necessary to assure water service for this project. The Plan for Service prepared by the West Valley Water District and included as a part of Attachment #2 outlines the requirements for the funding, construction, and operation and maintenance of the required water systems.

In addition, there are a number of Conditions of Approval adopted by the County that deal with the description of the appropriate level of fire protection services to be delivered to the ultimate occupants of the development as envisioned by the Final Development Plan. These conditions detail that the provider of the service is the San Bernardino County Fire Department, which is a contractual consolidation of County Service Area 38 and Central Valley Fire Protection District. The annexation proposal stems from the need for clarification of the types of fire services to be provided noting that an urban use rather than the suburban or rural service provided by County Service Area 38 would be required. The Plan for Service presented by the County Consolidated Fire District, included as a part of

Attachment #3, outlines the requirements for funding for construction of facilities and ongoing maintenance and operation of fire functions, outlines the responsibilities of the developer of the project for the purchase of fire equipment, and timing of the construction of necessary facilities, etc.

During the circulation and review process for this application, the City of Fontana submitted questions and concerns regarding the provision of services to the development (copy included as Attachment #5). Items #1 through #6 of the letter relate to the provision of fire protection services to the project through the Central Valley Fire Protection District. The responses to these questions are:

1. The exact location of the fire station required to be provided by the development project is not identified; however, the Fair Share Contribution Agreement, a copy included in the materials, identifies in Section #3 that a Station shall be delivered along with fire equipment as specified.
2. As a function of the review of the potential application for establishment of a redefined Central Valley Fire Protection District as a subsidiary District of the City, the discussion of an automatic aid agreement with the County Fire Protection District would be discussed.
3. The timing of this application is to complete the process needed for the financing mechanisms to be put in place. The future processing of the County fire reorganization would take this requirement into consideration. No timeline is currently in place for processing the County fire reorganization.
4. Fire Station No. 2 is operated as a County Service Area 38 station with a different staffing level. The augmenting of personnel will allow them to respond during the development phases of the project until the new fire station is developed.
5. The final documentation for the establishment of the Community Facilities District has not been provided in this application package. The cost to the individual homeowner will be determined at the time that the bonds are sold and the infrastructure developed.
6. Maintenance and operation of the new fire station within this project will be operated by the County consolidated fire agency, anticipated through the Central Valley Fire Protection District at this time.

Questions #7 and #8 of the City of Fontana letter relate to development of the water infrastructure and the effect on the service delivery for the north Fontana

area of the District's boundaries. A copy of the response from the West Valley Water District, also included as a part of Attachment #5, outlines the development of the water infrastructure for the project as well as indicates that the District's Water Master Plan addressed the water needs of the north Fontana area.

**ENVIRONMENTAL ISSUES:**

On December 18, 2001, acting as the CEQA lead agency, the County certified the Final EIR for the Lytle Creek North PDP and adopted Findings of Fact and a Statement of Overriding Considerations. The processing of this project included litigation against the environmental documents adopted by the County. That litigation was settled in March 2002 by agreement between the property owner, Lytle Creek Development LLC, and litigation proponents, the Center for Biological Diversity and the San Bernardino Valley Audubon Society. The mountain of paperwork prepared for the processing of these land use applications has evaluated the impacts of the land use changes on the infrastructure systems, environment and other communities. LAFCO staff and LAFCO Environmental Consultant have participated throughout the environmental process, having responded to the Notice of Preparation of the EIR and commenting on the Draft EIR.

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the County of San Bernardino's Final EIR and determined that it is adequate for the Commission's review as a CEQA responsible agency. A copy of the County's Final EIR and Findings and Statement of Overriding Considerations was provided to Commission members on October 20, 2004 as a part of the consideration for LAFCO SC#243 and to newly appointed Commission members in February 2005. In addition, Mr. Dodson has provided a Candidate Findings of Fact and Statement of Overriding Considerations for the Commission's use (Attachment #7). The necessary actions to be taken by the Commission, as a responsible agency, include the following:

- a. Indicate that the Commission has reviewed and considered the Final EIR, Statement of Overriding Considerations and related actions by the County of San Bernardino.
- b. Determine that the Final EIR for the Lytle Creek North PDP is adequate for the Commission's use in making its decision related to the reorganization proposal, indicating that no alternatives, other than those reviewed by the County, are to be considered and that the mitigation measures identified are the responsibility of the County of San Bernardino and others, and not the Commission, and are self-mitigating through implementation of the adopted Conditions of Approval.

- c. Adopt the Candidate Findings of Fact and Statement of Overriding Considerations as presented by the LAFCO Environmental Consultant.
- d. Direct the Clerk to file a Notice of Determination within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the County, as lead agency, has paid said fees.

**LANDOWNER CONSENT:**

The Registrar of Voters has certified that the study area is legally uninhabited. The County Assessor's Office has determined that the proposal possesses 100% landowner consent with adoption by the Board of Supervisors of the Agenda Item scheduled for November 15<sup>th</sup> (copy included as part of Attachment #6). As required by Government Code Section 56663, staff has requested the concurrence of the West Valley Water District and the Central Valley Fire Protection District to waiving the protest proceedings and directing the Executive Officer to complete the action following completion of the 30-day reconsideration period. Copies of the landowner consent forms and District and County responses are included as Attachment #6 to this report. The staff's recommendation includes the approval of the waiver of the protest proceeding.

**FINDINGS:**

The following findings are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal.

- 1. The Registrar of Voters Office has certified that the study area is legally uninhabited, containing zero (0) registered voters as of July 14, 2005.
- 2. The study area is within the sphere of influence assigned for the West Valley Water District and the Central Valley Fire Protection District (as revised by LAFCO 2995).
- 3. The County Assessor has determined that the assessed value of land within the annexation area is \$4,156,125 as of June 27, 2005 and that there is 100% landowner consent to the reorganization.
- 4. Commission review of this proposal has been advertised in *The Sun*, a newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.

5. LAFCO staff has provided individual notices to landowners within the annexation area (totaling 4 notices), and to landowners surrounding the study area (totaling 7 notices) in accordance with state law and adopted Commission policies. The Registrar of Voters has certified that there are zero (0) registered voters within 1,350 feet of the boundary. To date, no protest has been received.
6. The proposal is consistent with the County of San Bernardino General Plan as amended through the processing of the Lytle Creek North PDP, as outlined within the narrative portion of the staff report.
7. On December 18, 2001, acting as the CEQA lead agency, the County certified the Final EIR for the Lytle Creek North PDP and adopted Findings of Fact and a Statement of Overriding Considerations. Those CEQA approvals were litigated by The Center for Biological Diversity and the San Bernardino Valley Audubon Society and ultimately resulted in a settlement agreement. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the County of San Bernardino's Final EIR and determined that it is adequate for the Commission's review as a CEQA responsible agency. A copy of the County's Final EIR and Findings and Statement of Overriding Considerations was provided to Commission members on October 20, 2004. In addition, Mr. Dodson has provided a Candidate Findings of Fact and Statement of Overriding Considerations for the Commission's use (Attachment #7). The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the narrative portion of this report.
8. The area in question is presently served by the following local agencies:

County of San Bernardino  
San Bernardino Valley Municipal Water District  
Inland Empire Resource Conservation District  
County Service Area 38 (fire protection)  
County Service Area 70 (multi-function unincorporated area  
Countywide)  
County Service Area 70 Improvement Zone GH (sewer, water, park  
and recreation, streetlights, and storm drains)

Detachment of County Service Area 38 is proposed as a function of the reorganization, thereby transferring fire protection responsibilities to the Central Valley Fire Protection District. None of the other agencies are affected by this proposal.

9. The West Valley Water District and the Central Valley Fire Protection District have filed plans for the extension of their respective services to the study area, as required by law. These plans are included as a part of Attachments #2 and #3 to this report and indicate that each of the Districts can provide the full range and level of their services to the site upon development and implementation of the County's adopted Conditions of Approval.
10. The reorganization proposal and its anticipated effects conform to adopted Commission policies.
11. The reorganization area can benefit from the availability and extension of services from the West Valley Water District and Central Valley Fire Protection District.
12. The County of San Bernardino has negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. The required resolution indicates that the West Valley Water District will receive no share of the ad valorem property tax revenue and that the revenues attributed to County Service Area 38 will be transferred to the Central Valley Fire Protection District upon successful completion of the reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
13. The map and legal description have been required to be corrected and revised. Once these documents have been corrected and revised, they will be in substantial compliance with LAFCO and state standards. The resolution will be held in abeyance until these corrections have been certified by the County Surveyor's Office.

**CONCLUSION:**

As outlined throughout this staff report, the staff supports the reorganization in order to provide for the range of services required by the Lytle Creek North PDP. The basis for this support is:

- a. The area is within the sphere of influence assigned for each of the agencies proposed for reorganization.
- b. On the basis of these sphere of influence determinations, each of the agencies has planned to extend its services and facilities to serve the site.

- c. The area is zoned for a combination of residential and commercial development which requires an urban level of service.

Based upon these determinations and those contained throughout the staff report, staff supports approval of the reorganization including the territory now identified as the “Villages at Lytle Creek” within the jurisdiction of the West Valley Water District and the Central Valley Fire Protection District

KRM:

Attachments:

1. Location and Vicinity Maps of Project Area
2. Reorganization Application Submitted by West Valley Water District, Plan for Service and Water Facilities Feasibility Study
3. Central Valley Fire Protection District Application, Plan for Service, and Fiscal Impact Analysis
4. County Conditions of Approval for Lytle Creek North Planned Development Project Tract No. 15900 Adopted December 18, 2001
5. City of Fontana Letter Dated July 26, 2005 and West Valley Water District Response Letter Dated August 1, 2005
6. Landowner Consent Forms and Consent to Waive Protest Proceedings from Districts
7. Response from Tom Dodson, Tom Dodson and Associates, with Candidate Findings of Fact and Statement of Overriding Considerations
8. Draft Resolution #2903