

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

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FROM: SAMUEL MARTINEZ, Senior LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: Agenda Item #5: LAFCO 3094/3115 – Sphere of Influence
Amendments (expansions) for County Service Area 42 (Oro Grande)**

INITIATED BY:

LAFCO 3094 was initiated by property owner request, R & N Real Estate, Inc.

LAFCO 3115 was initiated by resolution of the San Bernardino County Board of Supervisors, governing body of County Service Area 42.

RECOMMENDATION:

Staff is recommending that the Commission approve LAFCO 3115 by taking the following actions:

1. Combine LAFCO 3094 and 3115 into a single proposal and expand that consideration to include additional area to make the proposed sphere expansion contiguous to the existing boundary and sphere for County Service Area 42; to be identified as LAFCO 3115 (as modified);
2. Certify that LAFCO 3115, as modified, is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days;
3. Approve LAFCO 3115, as modified; and
4. Adopt LAFCO Resolution #3052 setting forth the Commission's findings and determinations for the proposed sphere of influence amendment.

BACKGROUND:

LAFCO received two (2) proposals for sphere of influence expansions for County Service Area 42 (hereafter CSA 42 or the District), which have each been assigned a LAFCO file number respectively, LAFCO 3094 and LAFCO 3115. CSA 42 is a dependent special district governed by the County of San Bernardino Board of Supervisors, which is managed and operated by the County Special Districts Department (hereafter Special Districts Department). It is currently authorized to provide water, sewer, recreation and park, and streetlighting services. Each of the proposals is outlined below.

LAFCO 3094 was submitted as a non-contiguous sphere expansion proposal for CSA 42. It includes a single parcel, Assessor Parcel Number (APN) 0468-151-04, generally located west of National Trails Highway (19684 National Trails Highway), just west of the current boundaries for CSA 42 (See Figure 1).

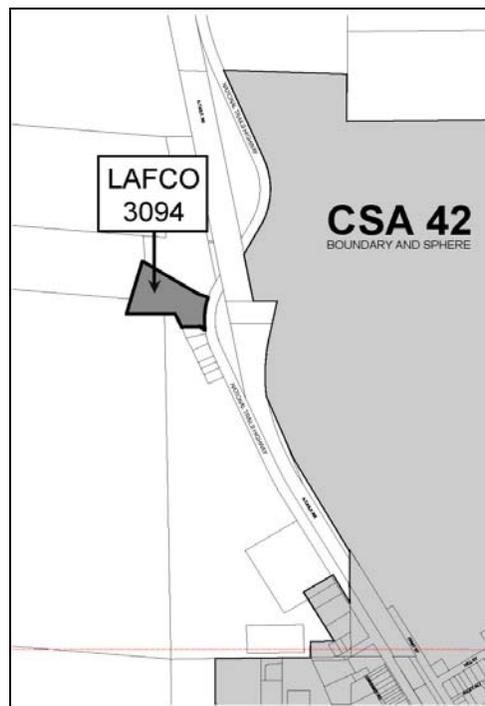


Figure 1

The parcel, which is currently developed with an apartment complex and a mobilehome park, is currently experiencing a septic system failure. The County's Environmental Health Services Department (EHS) issued a notice of violation on the subject property due to sewage issues on the site (Letter of Defects and Vacate Notice included as part of Attachment #4 to this report). More recently, EHS issued a follow-up letter reminding the property owner to take immediate action on the issue (letter included as part of Attachment #4 to this report).

Therefore, the property owner is requesting that the District's sphere be expanded to include the parcel to allow the connection to the District's sewer facilities, either by annexing to the District or through an out-of-agency service agreement. It is LAFCO staff's understand that in order to expedite the sewer service connection, the property owner is opting to process an out-of-agency service agreement with the District. Once the sphere expansion is approved, the District can submit the agreement to LAFCO for authorization. Since the agreement relates to a health and safety issue and there are no new developments proposed on the site, Commission policy delegates the authority to approve such an agreement to the Executive Officer (LAFCO Policy #26, Out-of-Agency Service Contracts or Agreements).

LAFCO 3115 is a sphere expansion proposal submitted by the County as a non-contiguous sphere expansion proposal. The application included six (6) developed parcels generally located west of National Trails Highway, again, just west of current boundaries for CSA 42 (See Figure 2).

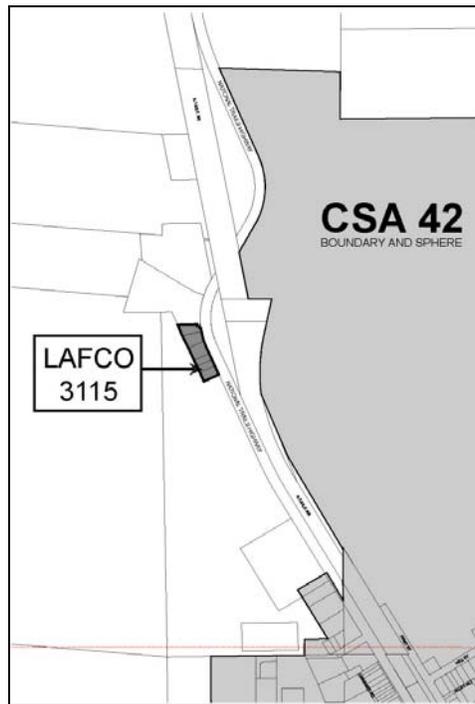


Figure 2

LAFCO 3115 (and its companion annexation proposal, LAFCO 3116) was submitted to allow for the transfer of domestic water service responsibilities for these parcels from a private entity, TXI Riverside Cement Company (hereafter TXI), to CSA 42. Since TXI is not in the water business, it has expressed its desire to transfer its water service responsibilities to CSA 42.

Boundary Discussion for Review:

At the Department Review Committee meeting held for both proposals, LAFCO staff indicated that the proposals should be combined and expanded further to include additional area that would make the proposed sphere expansion contiguous to the existing boundary and sphere for CSA 42. Representatives for both LAFCO 3094 and LAFCO 3115 concurred with staff's recommendation and indicated support to move forward with the new combined and expanded boundary. The overall sphere of influence expansion area, identified now as LAFCO 3115, as modified, encompasses approximately 20.66+/- acres and is generally located west of the existing boundary of CSA 42, north of Mill Street, east and south of parcel boundaries. The sphere expansion area is located east and west of National Trails Highway (See Figure 3). Additional location and vicinity maps are included as Attachment #1 to this report.

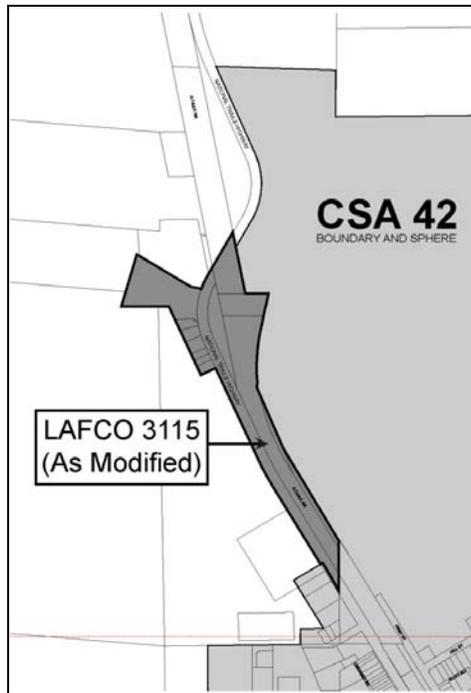


Figure 3

In reviewing the combined/expanded sphere of influence area, one issue the Commission needs to address is that the new sphere expansion boundary splits one parcel. This is not consistent with State directive that requires boundaries to conform to lines of assessment or ownership pursuant to Government Code Section 56375 (See Figure 4).

However, the Commission can override this directive if it deems that there is a rationale to do so. In this case, the parcel, which is a railroad easement, is bisected by National Trails Highway. The inclusion of the entire parcel will create a peninsula between the existing boundary for CSA 42 and the new sphere area. Expanding the area even more would include privately owned parcels that have

land uses designated other than Rural Living (i.e. Regional Industrial, Agricultural), which would complicate and delay the processing of these proposals further. On the other hand, the exclusion of the entire parcel will also create a peninsula between the existing boundary for CSA 42 and the new sphere area.

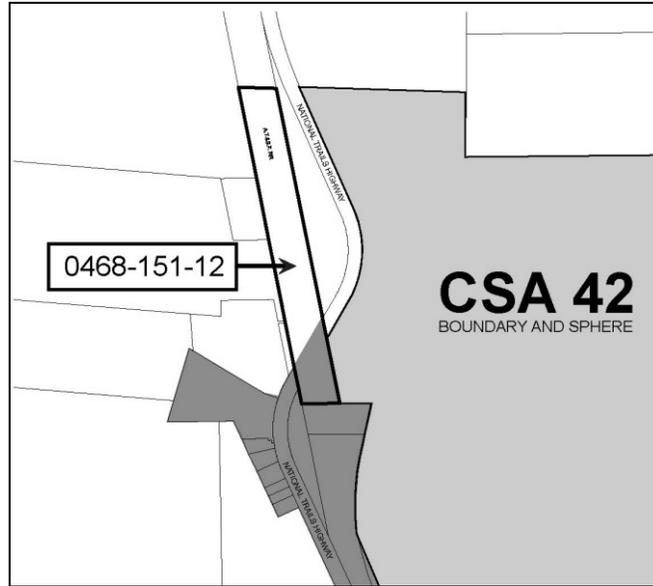


Figure 4

In order to provide for a logical service boundary for the sphere expansion proposal, it is LAFCO staff's position that the sphere boundary should be expanded to include only the portion of the railroad parcel that lies along National Trails Highway and the rest of the parcel lying easterly of the highway. This configuration makes the sphere of influence an easily identifiable boundary for future service delivery.

Therefore, staff is recommending that the Commission allow the modified boundary to split the railroad parcel.

SPHERE OF INFLUENCE AMENDMENT:

The balance of this report provides staff responses to the “factors of consideration” required by State law for sphere of influence amendment proposals as outlined in Government Code Section 56425. Since the Municipal Service Review (MSR) for CSA 42 was recently completed, staff does not believe a new MSR is required.

Factors of Consideration:

The present and planned land uses in the area

The existing land uses within CSA 42 include a mix of vacant lands, industrial development (mining), and residential development. The County's current land use designations for CSA 42's service area are: Regional

Industrial, Neighborhood Commercial, Rural Living (2.5-5 acres minimum lot size), Single Residential (10,000 sq ft minimum lot size), and Agricultural uses.

The proposed sphere expansion, which comprises approximately 20.66 +/- acres, is a mix of vacant lands and residential development. The County's land use designation for the area is Rural Living (2.5 acres minimum lot size). The area is consistent with the County's existing land use. No change in land use is anticipated for the area and there are no development proposals currently in process.

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

Currently, CSA 42 meets the service needs of those within its service area. However, as a result of the sphere amendment, additional service needs have been identified.

The feasibility study prepared for LAFCO 3094 requires the connection to CSA 42's existing sewer facilities. Although the primary purpose for LAFCO 3115 (and its companion annexation proposal, LAFCO 3116) is to allow the transfer of domestic water service responsibilities from TXI to CSA 42, the feasibility study prepared for this proposal addresses the connection to CSA 42's water facilities and also includes information on the possible connection to its sewer facilities.

The overall sphere expansion area already receives and/or benefits from the streetlighting and park and recreation services provided by CSA 42.

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

For LAFCO 3094, the feasibility study prepared for this proposal indicates that the District is capable of providing sewer service to the parcel subject to completion of the required on-site and off-site improvements. This includes the installation of a sewer lift station and the construction of a 4-inch force main along National Trails Highway (approximately 2,300 linear feet) into an existing sewer manhole. CSA 42's effluent is then diverted to the Victor Valley Wastewater Reclamation Authority (VWVRA) regional treatment facility through an interceptor line and pump station that crosses the Mojave River. CSA 42's effluent, which is minimal compared to the other member agencies of VWVRA, is then processed at the regional treatment facility. The property owner may enter into a "reimbursement agreement" with CSA 42 for the public facilities that are constructed and paid for by the property owner if other parcels are able to benefit from the facilities.

For LAFCO 3115, the feasibility study prepared for this proposal also indicates that the District is capable of providing water and/or sewer service

subject to the completion of the required on-site and off-site improvements. For water service, this includes the installation of an 8-inch water line extension from the existing pipeline along National Trails Highway (approximately 2,580 linear feet) and the construction of a new domestic water well. For sewer service, the requirements identified in the feasibility study for LAFCO 3115 are similar to that of LAFCO 3094. Likewise, a “reimbursement agreement” may be entered into with CSA 42 for the public facilities constructed and paid for by the developer if other parcels are able to benefit from the facilities.

The existence of any social or economic communities of interest

CSA 42’s boundary and sphere of influence encompass the majority of the community of Oro Grande. The area is also a part of the Oro Grande School District. The proposed sphere of influence expansion area is considered a part of the Oro Grande community as well as the school district.

Economic interests include the TXI plant, which has been in the area since the early 1920s. Since the formation of CSA 42, TXI has been a part of CSA 42’s boundaries that helps finance municipal services for the area through its ad valorem property taxes.

ADDITIONAL DETERMINATIONS:

- As the CEQA lead agency, the Commission’s Environmental Consultant, Tom Dodson from Dodson and Associates, has indicated that the review of LAFCO 3115, as modified, is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission’s approval of the sphere expansion proposal has no potential to cause any adverse effect on the environment; and therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061 (b)(3). Mr. Dodson’s response is included as Attachment #4 to this report.
- Commission review of this proposal has been advertised in *The Daily Press*, a newspaper of general circulation within the area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
- LAFCO staff has provided individual notices to landowners and registered voters within the sphere amendment area (totaling 18) and to landowners and registered voters surrounding the sphere amendment area (totaling 55) in accordance with state law and adopted Commission policies. To date, no written comments in support or opposition have been received regarding the consideration of this proposal.

CONCLUSION:

The primary purpose for LAFCO 3094 is to expand the District's sphere of influence to include APN 0468-151-04, a developed parcel with an apartment complex and a mobilehome park, which is currently experiencing septic system failure.

LAFCO 3115 was submitted to expand CSA 42's sphere of influence and ultimately annexed into the District. TXI, which currently provides water service to the six developed parcels within the area, has expressed its desire to transfer its water service responsibilities to CSA 42.

LAFCO 3115, as modified, represents a reasonable amendment of the sphere of influence for CSA 42. Staff supports approval of LAFCO 3115, as modified, for the following reasons:

- For APN 0468-151-04, the sphere expansion would allow the property owner to pursue connection to the District's sewer facilities, either by annexing to the District or through an out-of-agency service agreement;
- The sphere expansion and annexation submitted by Special Districts Department would allow the transfer of domestic water service responsibilities from a private entity, TXI, to CSA 42; and,
- The modified sphere of influence expansion area is a logical boundary and is an easily identifiable boundary for future service delivery.

For these reasons, and those identified within this report, staff recommends approval of LAFCO 3115, as modified.

KRM/sm

Attachments:

1. Location and Vicinity Maps
2. Sphere of Influence Application Materials Submitted for LAFCO 3094 Including Sewer Feasibility Study
3. Sphere of Influence Application Materials Submitted by Special Districts Department for LAFCO 3115 Including Water and Sewer Feasibility Study
4. County Environmental Health Services Department Letters Dated July 9, 2007 and December 30, 2008
5. Response from the Commission's Environmental Consultant, Tom Dodson and Associates
6. Draft Resolution #3052