

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

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DATE: APRIL 27, 2009

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #7 – Consideration of: (1) CEQA Statutory Exemption for LAFCO 3008A; and (2) LAFCO 3008A – Activation of Water Powers for Yermo Community Services District

INITIATED BY:

Board of Directors of Yermo Community Services District

RECOMMENDATION:

Staff recommends that the Commission continue consideration of LAFCO 3008A to the June 17, 2009 hearing.

BACKGROUND:

At the July 16, 2008 hearing, the Commission identified the information required for processing a request by the Yermo Community Services District (hereafter Yermo CSD or District) to activate its latent water powers along with reducing the fees necessary to direct costs. The activation was identified as being needed for the District to be considered by the Public Utilities Commission (hereafter PUC) as a viable recipient for the Yermo Water Company. The PUC has conducted an investigation of the Yermo Water Company which resulted in a recommendation that the San Bernardino Superior Court be petitioned to place the Company in receivership. The closure of the review of this recommendation is August 2009 and will result in new management for the Yermo Water Company.

In February 2009, LAFCO staff received payment of the required deposit for estimated direct costs for processing the activation from the Yermo CSD. On April 6, 2009, LAFCO staff received the application materials from the Yermo CSD required to allow the Commission and its staff to evaluate and consider the activation of its latent water powers. LAFCO staff is recommending that the Commission continue consideration of this proposal to the June 17, 2009 hearing on the basis of the following:

1. On April 9, LAFCO staff circulated the materials provided along with copies of information from the PUC for review and comment. To date, few responses have been received. LAFCO staff will need to review these materials with the staff at the State Department of Health and the PUC, as well as others in order to provide a full evaluation of the proposal for Commission consideration.
2. AB 2484 was signed into law effective January 1, 2009. The provisions of this bill include the activation of a new or different function or class of service for a special district as a “change of organization” under Government Code Section 56021. An unintended consequence of this change relates to the provisions of the Revenue and Taxation Code which outline the property tax negotiation process. Section 95(e) of the Revenue and Taxation Code defines a “jurisdictional change” as those actions contained within Government Code Section 56021, which now includes activation of a latent power. LAFCO staff has worked with County Administrative staff to develop a procedure to allow for implementation of this new process. The process has begun for LAFCO 3008A, but needs to be completed through adoption of a property tax resolution by the County Board of Supervisors prior to the Commission’s consideration. Deferral to the June 17 hearing will allow for completion of this new process.

Continuation to the June hearing will allow LAFCO staff to review this matter with affected and interested agencies and complete the reports necessary to bring this matter to the Commission for its full consideration.

/krm

Attachments:

1. Staff Report Dated July 9, 2008 Related to Waiver of Filing Fees for Yermo CSD Activation of Water Powers
2. Notice of Filing and Maps of Water Service Zone and Yermo CSD
3. Government Code Section 56021 effective January 1, 2009, Revenue and Taxation Code Section 95, and Request for Property Tax Negotiations for LAFCO 3008A