

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

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DATE: OCTOBER 9, 2009

FROM: SAMUEL MARTINEZ, Senior LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #11: LAFCO 3100 – Reorganization to Include Annexation to the City of Victorville and Victorville Water District, and Detachment from San Bernardino County Fire Protection District, its North Desert Service Zone, and County Service Area 70 (Space Center Mira Loma)

INITIATED BY:

Property owner petition

RECOMMENDATION:

Staff recommends that the Commission approve LAFCO 3100 by taking the following actions:

1. Certify that LAFCO 3100, as modified, is statutorily exempt from environmental review and direct that the Notice of Exemption be filed within five (5) days;
2. Modify LAFCO 3100 to include detachment from the San Bernardino County Fire Protection District and its North Desert Service Zone for the railroad parcel along the eastern edge of the application boundary;
3. Approve LAFCO 3100, as modified, with the following conditions:
 - a. Standard terms and conditions that include the “hold harmless” clause for potential litigation costs, continuation of fees, charges, assessments, and the identification that the transfer of utility accounts will occur within 90 days of the recording of the Certificate of Completion;

- b. Protest proceedings for this reorganization shall be held in abeyance, for a period not to exceed six months. The City of Victorville is required to initiate the annexation of the totally-surrounded island, identified as the “Coad Road Island” located immediately north of the annexation area, as shown on the maps within this report during the identified six-month abeyance period. Compliance with this condition shall be deemed fulfilled upon issuance of the Certificate of Filing for the Coad Road Island annexation proposal.
4. Adopt LAFCO Resolution #3070, setting forth the Commission’s findings, determinations, and conditions for the proposal.

BACKGROUND INFORMATION:

LAFCO 3100 is a reorganization proposal to annex approximately 6.46 +/- acres to the City of Victorville (the “City”) and the Victorville Water District (a subsidiary district of the City), which includes the detachment from the San Bernardino County Fire Protection District (SBCFPD), its North Desert Service Zone, and County Service Area (CSA) 70. The reorganization area is generally located south of Terra Linda Street within the City’s unincorporated “Coad Road” island. Location and vicinity maps are included as Attachment #1 to this report.

The proposal was initiated by landowner petition. The Certificate of Sufficiency was issued for the proposal on June 24, 2008 indicating that it possessed signatures from two-thirds (66.66%) of the total number landowners. LAFCO staff notified the applicant and the City of Victorville that in order for the application to be deemed complete, submission of the documentation related to the pre-zoning of the area and the preparation and certification of the Plan for Service, including a Fiscal Impact Analysis, were needed. LAFCO staff indicated to the applicant and the City that once the materials were received, processing of the application would then proceed. The proposal was deemed complete for processing on June 8, 2009.

The primary reason for submitting this reorganization proposal, as outlined in the application materials (included as part of Attachment #2) is to facilitate the development of an industrial project. The industrial project, which has been processed through the City, is a 1,045,839 square-foot distribution warehouse on 52 acres that includes two parcels that are currently within the County’s jurisdiction. In order to complete the project entitlement process through the City, the two unincorporated parcels need to be annexed into the City.

This report will provide the Commission with the information related to the four major areas of consideration required for consideration for a jurisdictional change – boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations.

BOUNDARIES:

The reorganization area, which encompasses approximately 6.46 acres, includes two individual parcels, Assessor Parcel Numbers (APN) 3090-531-03 and 3090-531-04, both of which are a part of the proposed industrial development, and a portion of a railroad parcel, APN 3090-511-05 (1.56+/- acres), which has been included to eliminate the creation of a peninsula of unincorporated territory. The reorganization area is generally bordered by Terra Linda Street on the north, and parcel lines (existing City of Victorville boundaries) on the east, south and west (see Fig.1). The area lies within the City of Victorville's eastern sphere of influence.

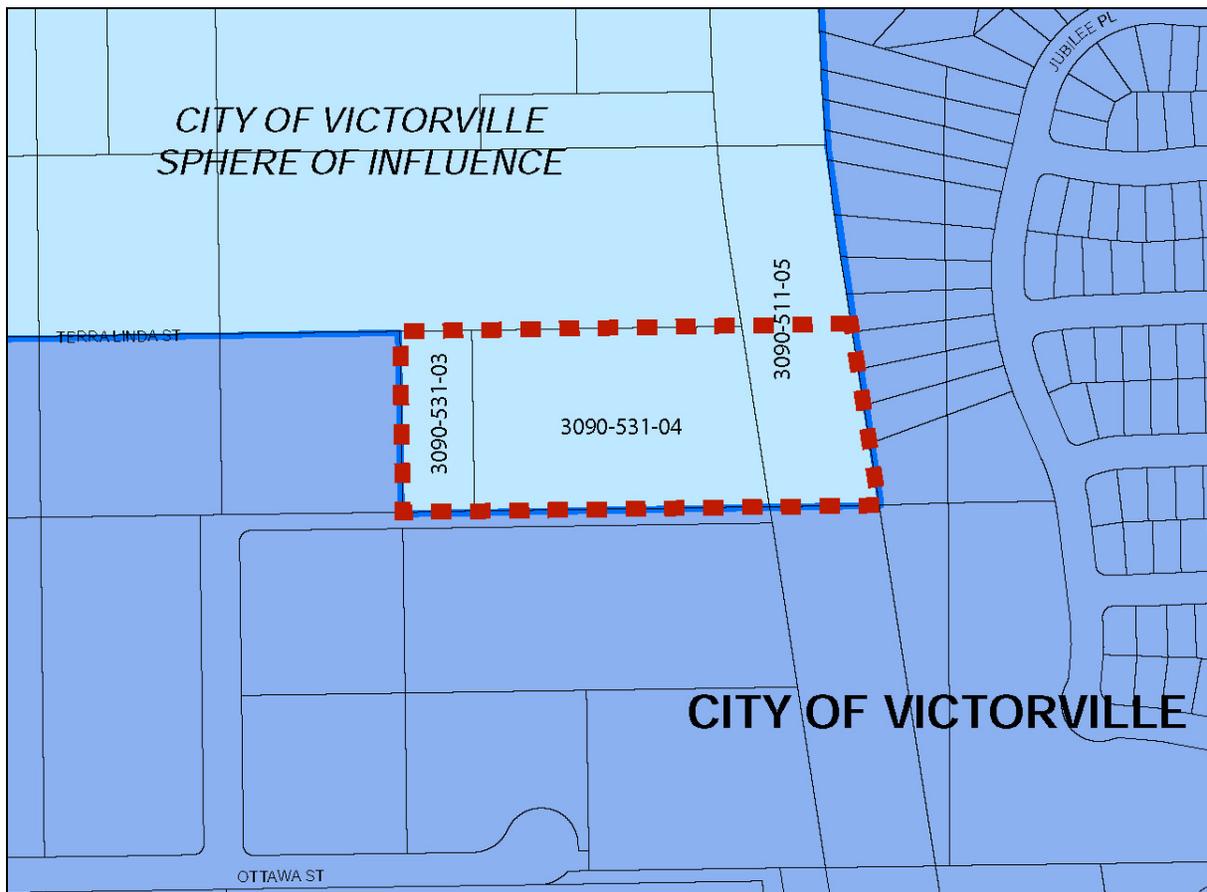


FIGURE 1

During the processing of the application, it was identified that APN 3090-511-05 was within SBCFPD and its North Desert Service Zone. The processing of the proposal has been expanded to include the detachment of this area upon its annexation to the City of Victorville, the fire provider within city limits. The detachment area is outlined on the map below (see Fig. 2).

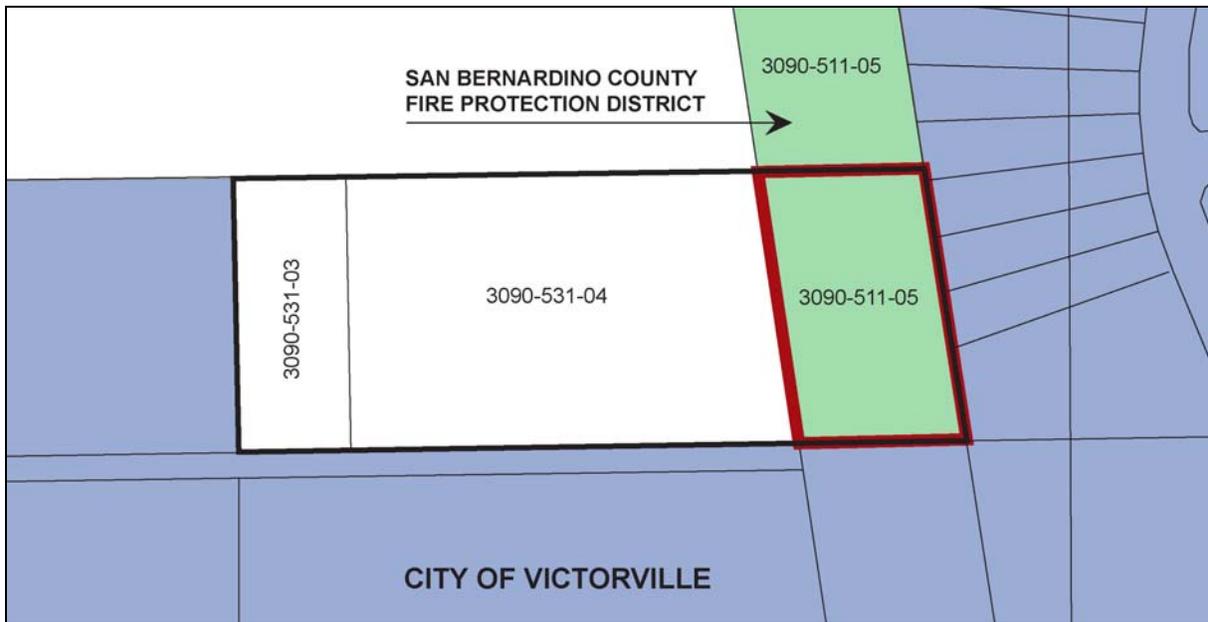


FIGURE 2

It is LAFCO staff's position that this reorganization proposal, as modified, is a logical boundary since it squares off the City's boundary along Terra Linda Street, which is an easily identifiable boundary for service delivery.

Boundary Issues for Commission Review:

Issue Regarding Island Annexation:

As shown on the illustration below (see Fig. 3), the reorganization area is a part of the City's unincorporated "Coad Road" island. The Coad Road Island generally would qualify as an "island annexation" under the provisions of Government Code Section 56375 to 56375.3. However, one of the requirements of an island annexation is that the proposal must be initiated by City resolution. Since LAFCO 3100 was initiated by landowner petition, the Commission cannot expand the proposal to include the entirety of the Coad Road Island area and process it under the provision of Government Code Section 56375.3 eliminating the protest proceedings.

LAFCO staff reviewed with City staff early in the process the Commission's directives which require a city to address its totally and/or substantially-surrounded islands when requesting approval of development-related annexations. The City's islands were outlined in the Commission's general discussion of islands and its policies at the Workshop held on March 31, 2005. At that time, the materials presented to the Commission specifically identified two islands – one of which is the Coad Road Island, an 88-acre totally-surrounded island.

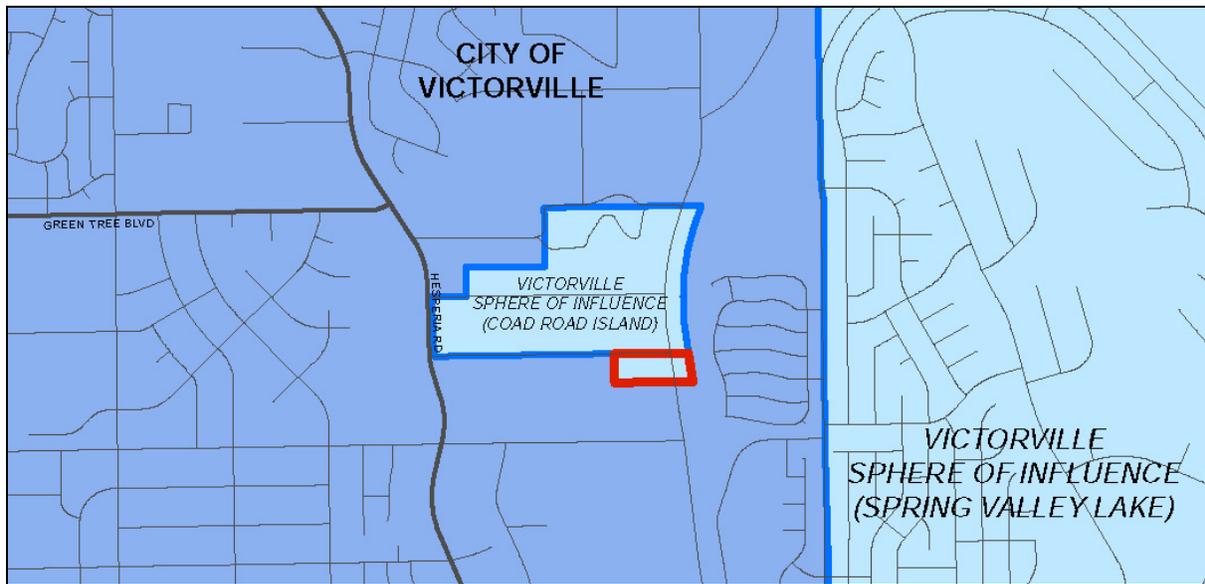


FIGURE 3

In keeping with Commission policies and directives, staff reviewed the options related to addressing the totally-surrounded island through the consideration of LAFCO 3100. The following options are available:

- The Commission could require the initiation of the balance of the Coad Road Island as a condition of approval for LAFCO 3100. The imposition of this condition would require that the City initiate the island proposal, prior to commencement of the protest proceedings for LAFCO 3100. The condition language indicates that protest proceedings will be held in abeyance for a period not to exceed six months until compliance of this condition of approval is fulfilled. Failure to comply with the condition within the six-month period would terminate LAFCO 3100;
- The Commission could determine as a finding that the City of Victorville will be required to initiate the balance of the Coad Road Island within one year of the approval of LAFCO 3100; or,
- The Commission could determine to override its policy direction and approve the reorganization without the requirement to address the Coad Road Island.

It is important to note that the City of Victorville's Planning staff has met on at least two occasions with landowners and voters within the Coad Road Island to review the annexation procedures, land use issues, and service delivery questions upon annexation. It is the understanding of LAFCO staff that initiation of the Coad Road Island by the City is within two to three months of submission to the Commission.

Because of the direct relationship of the reorganization area with the Coad Road Island and the work to this point by the City of Victorville, it is LAFCO staff's recommendation that the imposition of the condition of approval would be an appropriate action to take in order to address the balance of the City's totally-surrounded island. Staff recommends the Commission include the following condition in its approval of LAFCO 3100:

"Protest proceedings for LAFCO 3100 shall be held in abeyance for a period not to exceed six (6) months as permitted by Government Code Section 56663(c). The City of Victorville is required to initiate the annexation of the Coad Road Island, a totally-surrounded island, during the identified six-month abeyance period. Compliance with this condition shall be deemed completed upon issuance of the Certificate of Filing for the island proposal identified by the Commission."

Issue Regarding Split Parcel Annexation:

In reviewing the reorganization area, an additional boundary item the Commission needs to address is that the boundary as proposed splits a parcel. Per LAFCO staff's direction to the applicant, a portion of APN 3090-511-05 (see Fig. 1 above), which is a railroad easement, has been included within the reorganization area, in order to square off the City's boundary along the proposal's eastern edge. This is not consistent with State directive that requires boundaries to conform to lines of assessment or ownership pursuant to Government Code Section 56375.

However, the Commission can override this directive if it deems that there is a rationale to do so. In this case, the exclusion of the parcel will create a peninsula of unincorporated area between the existing boundary of the City and the reorganization area. Inclusion of the entire parcel will create another notch of city territory that would not be an easily identifiable boundary for service delivery. In order to eliminate the potential of creating an unincorporated peninsula or an irregular notch of City territory, it is LAFCO staff's position that the inclusion of only the southern portion of APN 3090-511-05 is necessary in order to square off the City's boundary along Terra Linda Street. With the requirement that the City annex the balance of the Coad Road Island per the Commission's policies and directives, the annexation of northern portion of the parcel will be addressed at that time.

Therefore, staff is recommending that the Commission accept the boundary that splits the railroad parcel.

LAND USE:

Existing Land Uses:

The reorganization area is currently a mix of vacant lands and railroad right-of-way. Originally, the two vacant parcels each had single-family residences that were demolished by the applicant in April 2008. LAFCO staff has verified both demolitions

were done through the County's Land Use Services Department - Building and Safety Division.

Surrounding land uses include: single-family residential development with commercial/industrial activity to the north, a mix of vacant land and residential development to the east (within the City), and vacant lands to the south and west (within the City) slated for industrial development.

County Land Use Designation:

The County's current land use designation for the area is Community Industrial (IC) which allows for light industrial uses such as light manufacturing uses, wholesale/warehouse services, contract/construction services, transportation services, agriculture support services, incidental commercial and accessing residential uses, and similar and compatible uses.

City's General Plan:

The City of Victorville's General Plan designation for the area is Light Industrial. Light Industrial allows for industrial activities that do not require any significant site or structure requirements that are so specialized that would limit future use of the structures and/or site by other industrial activities. As outlined above, the land use determinations between the City and County are generally compatible.

The project that has been processed through the City is the approval of a Site Plan and a Conditional Use Permit for a 1,045,839 square-foot distribution warehouse. The Site Plan approval also requires a tentative parcel map to consolidate all the parcels that make up the project. Therefore, the annexation of the two unincorporated parcels need to take place before the City can finalize the approval of the project and record the Final Map.

City's Pre-Zone Designations:

The City processed the pre-zoning for the reorganization area through its review of the City's General Plan Update 2030 (which includes the pre-zoning of the Coad Road Island) and its review of PLN08-0009 (Space Center). The City's pre-zone designations for the overall reorganization area are: M-1 (Light Industrial) for APN 3090-511-05 and M-2 (Heavy Industrial) for APNs 3090-531-03 and 3090-531-04.

The pre-zone designation M-1 was determined through the City's consideration of Ordinance No. 2225 and the pre-zone designation M-2 was determined through the City's consideration of Ordinance No. 2228, both of which were adopted on November 4, 2008. These land use designations are consistent with the City's General Plan designation for the area and are also consistent with surrounding land uses. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for a period of two (2) years following annexation. The law allows

for a change in designation if the City Council makes the finding, at a public hearing, that a substantial change has occurred in circumstances that necessitate a departure from the pre-zoning outlined in the application made to the Commission.

SERVICE ISSUES AND EFFECTS ON OTHER LOCAL GOVERNMENTS:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. Current County service providers within the reorganization area include County Service Area 60 (Apple Valley Airport) and County Service Area 70 (multi-function entity). In addition, the following entities overlay the reorganization area: San Bernardino County Fire Protection District and its North Desert Service Zone (portion), Mojave Desert Resource Conservation District (portion), and Mojave Water Agency (the State Water Contractor).

The City of Victorville and the Victorville Water District have submitted Plans for Service as required by law and Commission policy. The City's plan, which includes a Fiscal Impact Analysis, is included as part of Attachment #2 and the District's plan is included as Attachment #3. Of note, during the property tax transfer negotiations required for this reorganization, the implementation of the standard formula for property tax transfers would have provided a less than 7% share to the City of Victorville. In keeping with the County's revised policy related to City annexations, the process is providing for a transfer of a 7% share of the general ad valorem property tax to the City.

The plans for service, in general, identify the following:

- The City provides for sewage collection within its boundaries through its assumption of the service responsibilities of the Victorville Sanitary District, which was recently dissolved. Treatment of wastewater is the responsibility of the Victor Valley Wastewater Reclamation Authority. Sewer service will be extended to the proposed industrial project from the existing sewer line along the project's eastern boundary (parallel to the railroad).
- Water service will be provided by the Victorville Water District, a subsidiary district of the City. Water service will be extended to the proposed industrial project from the existing 12-inch water main in Ottawa Road.
- Law enforcement responsibilities are currently provided by the San Bernardino County Sheriff's Department, which will continue to serve the area following the annexation. The City contracts for its law enforcement services with the County Sheriff's Department.
- Fire protection and paramedic services are currently provided by the City through its assumption of the service responsibilities of the Victorville Fire Protection District, which was recently dissolved. The City currently contracts with the San Bernardino County Fire Protection District to provide for fire suppression and paramedic services.

- Solid waste services are currently provided within the annexation area by the Victorville Disposal Company (Burrtec Waste Industries), the City's solid waste contractor. No change will occur for this service provider on the basis of this annexation.

It is the position of staff that LAFCO 3100 is a straightforward and logical extension of service delivery boundaries through the City of Victorville and its subsidiary, the Victorville Water District. As required by Commission policy and State law, the Plan for Services submitted by the City and the District indicate that the extension of services within the reorganization area will maintain, and/or exceed, current service levels provided through the County and its special districts.

ENVIRONMENTAL CONSIDERATIONS:

As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson from Tom Dodson and Associates, has indicated that the review of LAFCO 3100 is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of the reorganization 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).

CONCLUSION:

In compliance with directives of State law and Commission policies, it is staff's position that this reorganization is a straightforward boundary change and should be supported. LAFCO 3100 was submitted in order to facilitate the development of an industrial project that has been processed through the City. Since a portion of the proposed industrial project area is within the County's jurisdiction, the annexation of the unincorporated area needs to take place before the applicant can finalize City entitlements for the proposed industrial project. As outlined in the staff report, the reorganization area, as modified, provides for a logical service boundary since it squares-off the City's boundary along Terra Linda Street. In addition, the area has been pre-zoned and planned for the type of land use that requires the full range of municipal-type of services. For these reasons, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3100.

However, in keeping with Commission policies and directives to require cities, including the City of Victorville, to annex its totally or substantially-surrounded islands when annexing development related annexations, it is staff's recommendation that the Commission impose the condition that requires the City to initiate the annexation of the Coad Road Island, a totally-surrounded island, prior to commencement of the protest proceedings for LAFCO 3100.

FINDINGS:

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

1. The County Registrar of Voters Office has determined that the reorganization area is legally uninhabited, containing zero (0) registered voter as of September 21, 2009.
2. The County Assessor has determined that the total assessed value of land and improvements within the reorganization area is \$681,030 (land - \$384,000 -- improvements - \$297,030). Improvements identified consisted of two single-family residences which were demolished by the landowners in April 2008 through permits issued by the County.
3. The area is within the spheres of influence assigned the City of Victorville and Victorville Water District.
4. Commission review of this proposal has been advertised in *The Daily Press*, a newspaper of general circulation within the reorganization 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 notice to the landowners within the reorganization area (totaling 2) and to landowners and registered voters surrounding the reorganization area (totaling 168) in accordance with State law and adopted Commission policies. To date, no written comments or protests to this reorganization proposal have been received from area landowners or surrounding registered voters.
6. The City of Victorville has pre-zoned the reorganization area for the following land uses: M-1 (Light Industrial) and M-2 (Heavy Industrial). Pursuant to the provisions of Government Code Section 56375(e), these pre-zone designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council.
7. The Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has indicated that the review of LAFCO 3100 is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of the reorganization 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). A copy of Mr. Dodson's response is included for the Commission's review as Attachment #4.

8. The area in question is presently served by the following local agencies:

County of San Bernardino
Mojave Desert Resource Conservation District
Mojave Water Agency and its Improvement Districts A and 1
San Bernardino County Fire Protection District and its North Desert
Service Zone (portion)
County Service Area 60 (Apple Valley Airport)
County Service Area 70 (multi-function unincorporated area Countywide)

The proposal will annex the territory to the City of Victorville and Victorville Water District and will detach the territory from SBCFPD, its North Desert Service Zone, and CSA 70 as a function of the reorganization. None of the other agencies are affected by this proposal as they are regional in nature.

9. The City of Victorville has submitted a plan for the extension of municipal services to the reorganization area, as required by law. This plan is included as part of Attachment #2 to this report, which indicates that the City can, at a minimum, maintain the level of service delivery and can improve the level and range of selected services currently available in the area. The financial information presented within the Plan for Service indicates that the extension of services can be maintained and operated after the reorganization through existing and potential revenue resources available through the transfer of property taxes and fees for service.

Water service will be provided by the Victorville Water District. The plan for service submitted by the District outlines how it will serve the proposed industrial project. This plan is included as Attachment #3 to this report, which indicates that the District can, at a minimum, maintain the level of service delivery and can improve the level and range of service currently available in the area. The financial information presented within the Plan for Service indicates that the extension of services can be maintained and operated after the reorganization through fees for service.

10. The reorganization proposal is consistent with State law and complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
11. The reorganization area can benefit from the availability and extension of municipal services from the City and the Victorville Water District.
12. This proposal will not assist in the City's ability to achieve its fair share of the regional housing needs since the entire reorganization area is zoned for industrial use.

13. With respect to environmental justice, the reorganization will not result in the unfair treatment of any person based on race, culture or income.
14. The County of San Bernardino (on its own behalf and that of the Victorville Water District) and the City of Victorville have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
15. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

SM/

Attachments:

1. [Vicinity and Location Maps of the Reorganization Area](#)
2. [City's Application and Plan for Services](#)
3. [Victorville Water District's Plan for Service](#)
4. [Response from Tom Dodson and Associates](#)
5. [Draft Resolution No. 3070](#)