

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

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**DATE: JANUARY 11, 2010**  
**FROM: SAMUEL MARTINEZ, Senior LAFCO Analyst**  
**TO: LOCAL AGENCY FORMATION COMMISSION**

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**SUBJECT: Agenda Item #8A: LAFCO 3141 – Sphere of Influence Amendment for San Gorgonio Pass Water Agency (Expansion) and San Bernardino Valley Municipal Water District (Reduction)**

**Agenda Item #8B: LAFCO 3097 – Sphere of Influence Amendment for Beaumont-Cherry Valley Water District (Expansion) and Yucaipa Valley Water District (Reduction)**

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**INITIATED BY:**

LAFCO 3141 was initiated by resolution of the Board of Directors of the San Gorgonio Pass Water Agency.

LAFCO 3097 was initiated by resolution of the Board of Directors of the Beaumont-Cherry Valley Water District.

**RECOMMENDATION:**

Staff is recommending that the Commission approve LAFCO 3141 and 3097, as modified, by taking the following actions:

**For LAFCO 3141:**

1. Certify that LAFCO 3141, as modified, is statutorily exempt from environmental review and direct that the Notice of Exemption be filed within five (5) days;
2. Modify LAFCO 3141 to exclude the approximate 265 acres along the northern portion of the proposal to remain coterminous with the revised sphere of influence boundary for the Beaumont Cherry Valley Water;

3. Approve LAFCO 3141, as modified, sphere of influence expansion for the San Gorgonio Pass Water Agency and sphere of influence reduction for the San Bernardino Valley Municipal Water District; and,
4. Adopt LAFCO Resolution #3082 setting forth the Commission's findings and determinations for LAFCO 3141.

For LAFCO 3097:

5. Certify that LAFCO 3097, as modified, is statutorily exempt from environmental review and direct that the Notice of Exemption be filed within five (5) days;
6. Modify LAFCO 3097 to exclude approximately 265 acres along the northern portion of the District's sphere of influence boundaries;
7. Approve LAFCO 3097, as modified, sphere of influence expansion and reduction for the Beaumont-Cherry Valley Water District and sphere of influence reduction for the Yucaipa Valley Water District;
8. Adopt LAFCO Resolution #3083 setting forth the Commission's findings and determinations for LAFCO 3097;

**BACKGROUND:**

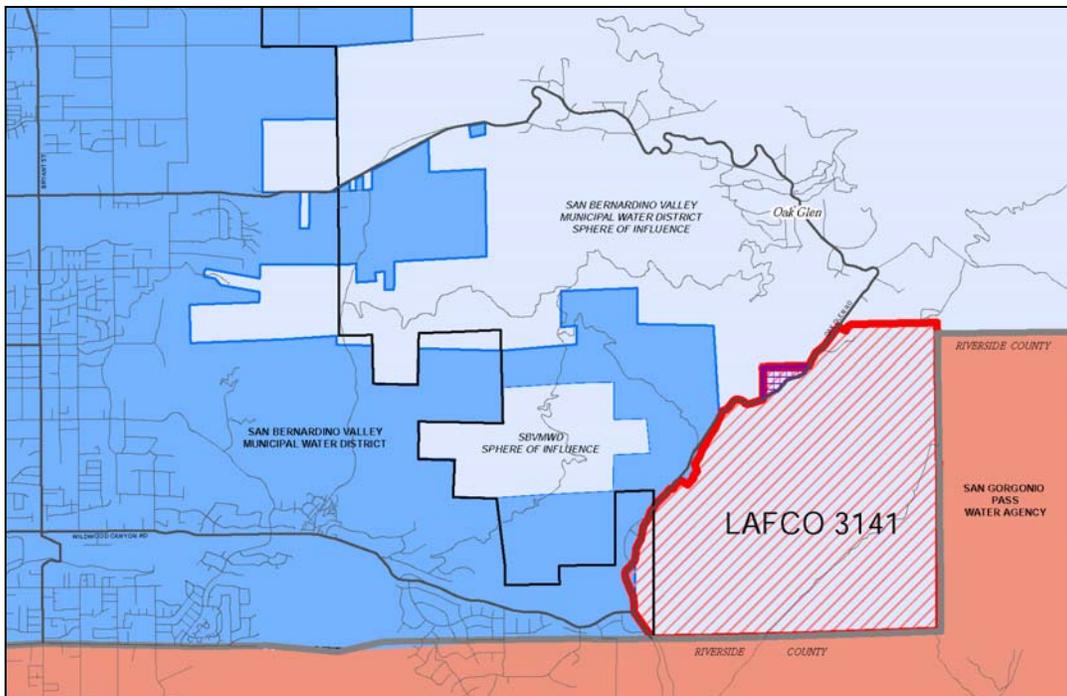
The consideration of LAFCO 3141 and LAFCO 3097 (including its companion reorganization proposal, LAFCO 3098) was continued from the November 18, 2009 to address concerns expressed by a number of property owners in the area. The property owners forwarded their questions and concerns to LAFCO staff after the individual registered voter and landowner notices were sent out. In addition, Third District Board of Supervisor Neil Derry (Alternate County member of the Commission), requested that the Commission continue the consideration to allow LAFCO staff to review and further evaluate the concerns identified by the property owners.

On December 15, 2009, LAFCO staff met with the area property owners and representatives from the water districts to review and discuss the issues that were identified. LAFCO staff provided information on the purpose of a sphere of influence designation and its obligations, outlined its position for an amended boundary based upon its analysis and outlined a summary of the issues. Staff's analyses, as well as its recommendation to address the concerns, are included in the Boundaries section of this report.

The balance of this report will provide a description of the boundaries and factors of consideration required for a sphere of influence consideration.

LAFCO 3141

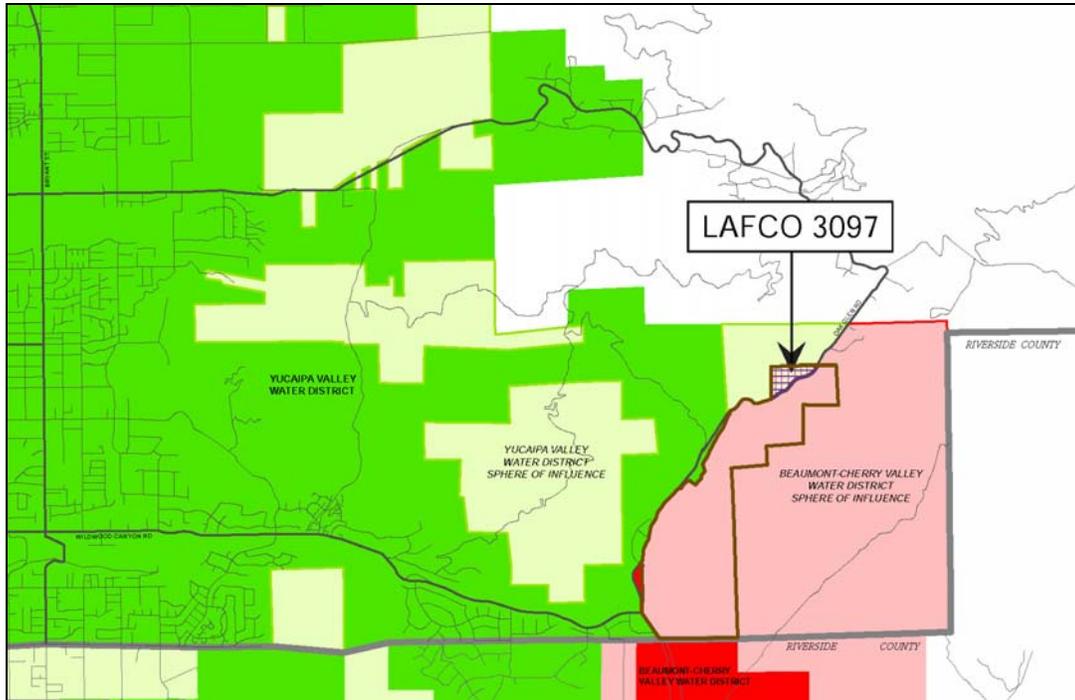
LAFCO 3141 is a proposal initiated by the San Gorgonio Pass Water Agency (hereinafter the “Pass Agency”), a State Water Project Contractor serving within Riverside County predominantly and which includes the Beaumont-Cherry Valley Water District’s (hereinafter “BCVWD or District”) territory. The Pass Agency submitted the sphere amendment proposal primarily at the request of LAFCO staff. San Bernardino LAFCO policy requires the concurrent annexation of a retail water provider and the appropriate water wholesaler for the region. Currently, BCVWD’s sphere of influence area within San Bernardino County is within the sphere of influence assigned the San Bernardino Valley Municipal Water District (hereinafter the “Valley District”), the local State Water Contractor serving the area. LAFCO staff outlined that it would propose LAFCO 3098 include the annexation to Valley District which would necessitate a mechanism for tracking the transfer of water between State Contractors. In future discussions of this situation, both the Pass Agency and the Valley District have agreed that the Pass Agency should include the sphere of influence of BVCWD within San Bernardino County since the Pass Agency already overlays the District within Riverside County. To address this change, LAFCO 3141 was submitted, a proposal to expand the Pass Agency’s sphere of influence to include the entirety of BCVWD’s existing sphere of influence in San Bernardino County, including the sphere expansion area for BCVWD per the proposed LAFCO 3097, and concurrently remove the area from the Valley District’s sphere of influence. Figure 1 below defines the original boundary for LAFCO 3141.



**FIGURE 1 – General Vicinity Map of LAFCO 3141**

LAFCO 3097

LAFCO 3097 is a proposal initiated by BCVWD to expand its sphere of influence by approximately 24 acres and concurrently remove the area from the Yucaipa Valley Water District (hereinafter “YVWD”) sphere of influence. The District submitted the sphere amendment proposal, together with a concurrent reorganization proposal (LAFCO 3098), primarily to annex all its properties in San Bernardino County. Figure 2 below defines the original boundary for LAFCO 3097.

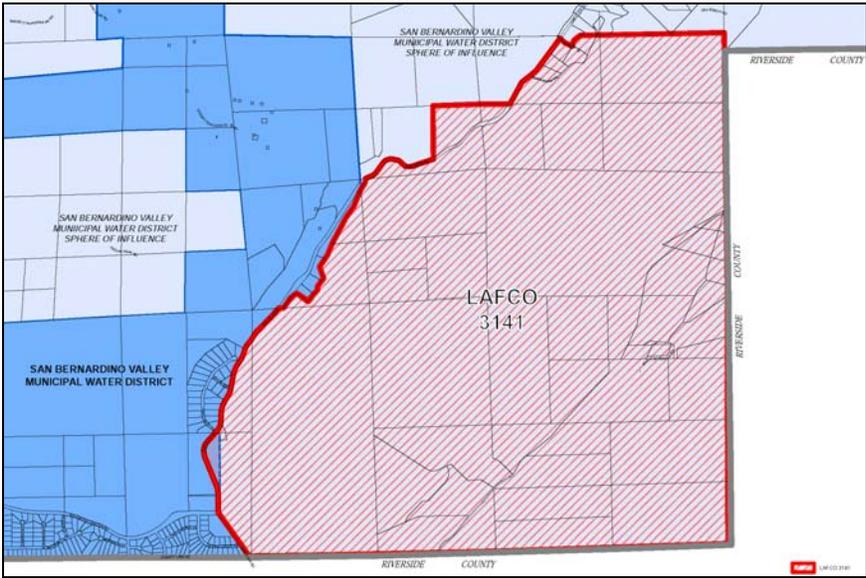


**FIGURE 2 – General Vicinity Map of LAFCO 3097**

Both sphere of influence amendments, LAFCO 3141 and LAFCO 3097, are required pursuant to Government Code Section 56375.5 which requires that a change of organization or reorganization proposal must be consistent with an agency’s sphere of influence. Both sphere of influence amendments are component actions to the concurrent reorganization proposal identified as LAFCO 3098.

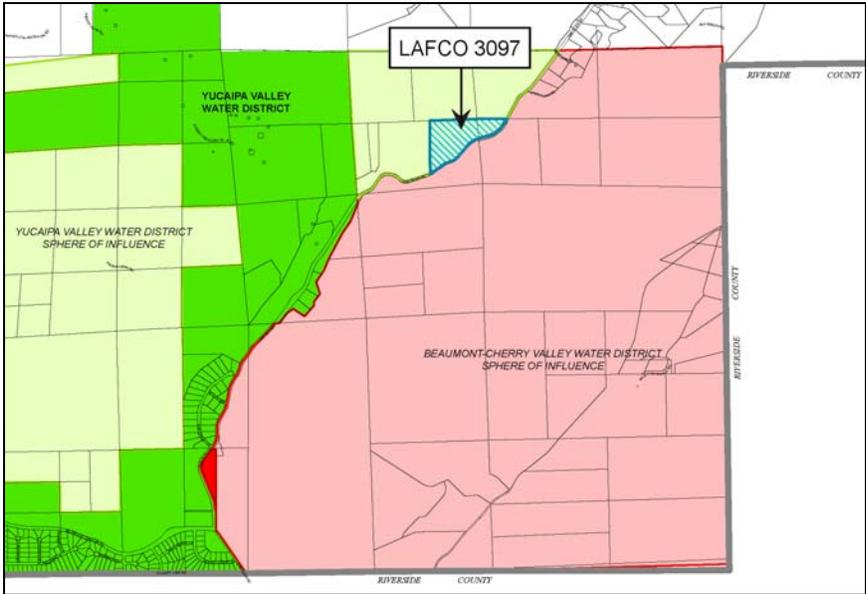
**BOUNDARIES:**

The sphere of influence expansion for the Pass Agency and the sphere of influence reduction for the Valley District, LAFCO 3141, as submitted includes approximately 2,164+/- acres in the eastern Yucaipa/Oak Glen area, which is coterminous with the sphere of influence assigned for BCVWD. The sphere of influence amendment area is generally bordered by a combination of the centerline of Oak Glen Road and parcel boundaries on the west, parcel boundaries on the north, and the Riverside/San Bernardino County line (Pass Agency’s existing boundary and sphere of influence) on the east and south. See Figure 3 below.



**FIGURE 3 – LAFCO 3141 Vicinity Map**

The sphere of influence expansion for BCVWD and sphere of influence reduction for YVWD, LAFCO 3097, encompasses approximately 24+/- acres generally bordered by parcel lines on the west and north, and Oak Glen Road (BCVWD’s existing sphere of influence) on the east and south. The sphere of influence amendment area includes portions of Sections 1 and 2, Township 2 South, Range 1 West, San Bernardino Meridian. See Figure 4 below.



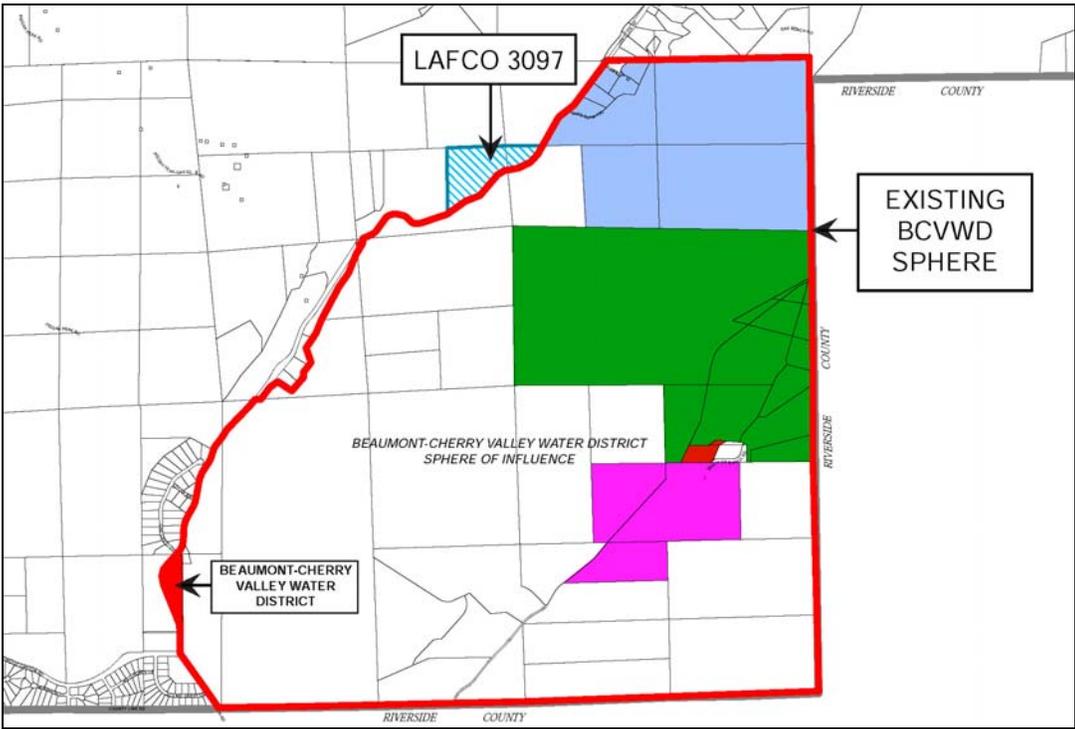
**FIGURE 4 – LAFCO 3097 Vicinity Map**

**Boundary Issue for Review**

As identified at the beginning of the report, the consideration of these proposals was continued from the November 2009 hearing based on concerns raised by property owners within the area. In summary, the issues that were identified are as follows:

- 1. The property owners objected to the transfer of their properties to the Pass Agency (LAFCO 3141) preferring to remain within the sphere of influence assigned the Valley District; and,
- 2. The property owners were unaware of their inclusion within the BCVWD sphere of influence and questioned the appropriateness of the designation.

Copies of the letters received regarding the requests for continuance were presented to the Commission at the November hearing and samples are included as Attachment #1 to this report. Below is a map (Figure 5) that provides the location of all the parcels (in color) that represent the property owners that have requested removal from the consideration of LAFCO 3141 as well as the existing sphere of influence boundaries for BCVWD. (Note: The blue area represents multiple owners with the same last name).



**FIGURE 5 – Vicinity Map of Concerned Property Owners**

The entirety of the area has been within the Valley District’s sphere of influence since it was established in 1973. The proposed sphere of influence expansion for the Pass Agency was initiated in response to concerns regarding application of the LAFCO policy

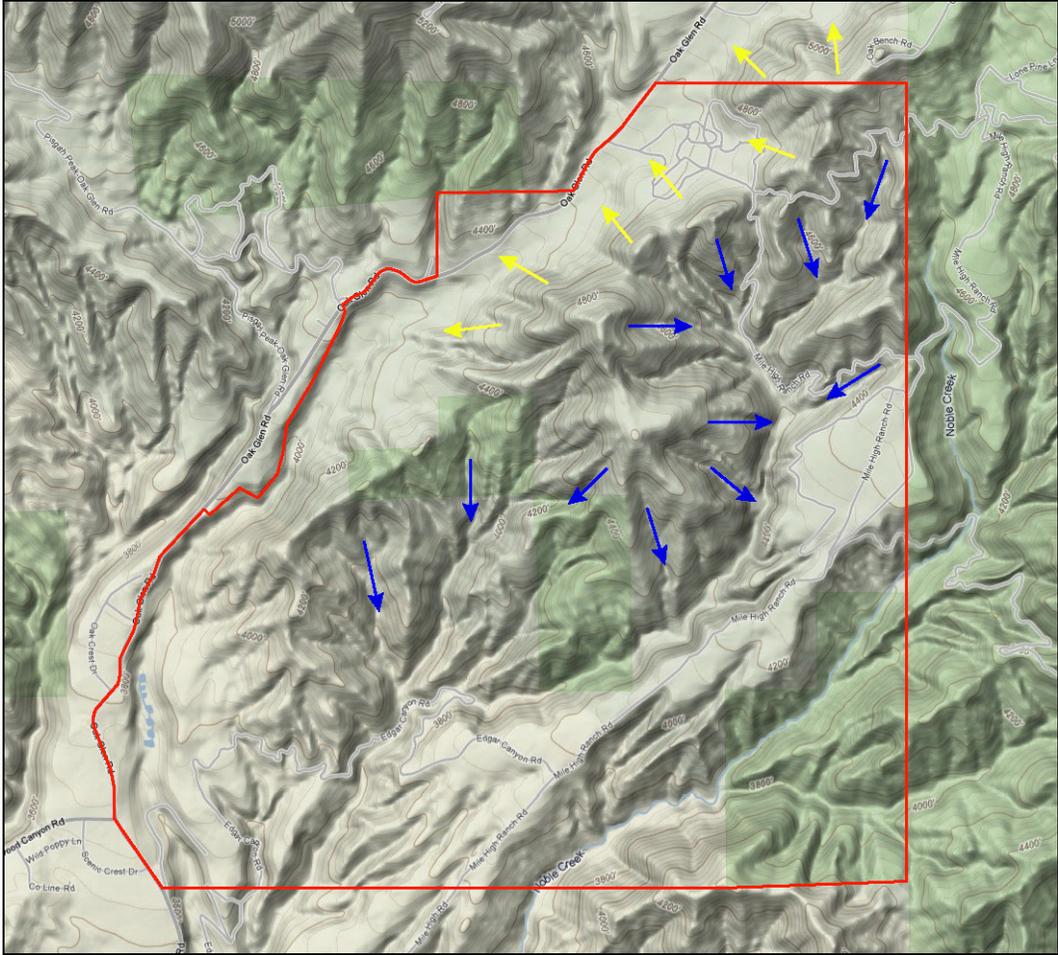
for concurrent annexation to the both the water retailer and wholesaler for the area in discussions with LAFCO staff. The Pass Agency simply responded to LAFCO's concerns by addressing not only the local LAFCO policy, but also addressing the potential issue of transferring State Water Project across two State Water Project Contractors since the District's sphere of influence will be wholly within the proposed Pass Agency's sphere of influence – be it in Riverside County or in San Bernardino County.

In addition, the Commission assigned the sphere of influence for BCVWD within San Bernardino County in October 1980. Therefore, the area in question has been within the District's sphere of influence for almost 30 years. However, the property owners contend that they were not aware that their lands were within the sphere of influence assigned to BCVWD. Since individual notices for sphere reviews were not required at that time (unless directed by the Commission), the possibility of not knowing they were in the District's sphere of influence is possible since most of the property owners in the area have their own wells and may have never dealt with the District before for any water service needs.

The staff's analyses of the areas of contention are outlined below:

#### *Topography*

In reviewing the topography of the land, the analysis shows that the northern part of the District's existing sphere of influence slopes down northerly and westerly while the rest of the area slopes down southerly towards Riverside County, which is where the existing service area for BCVWD and the Pass Agency are located. See Figure 5 below:



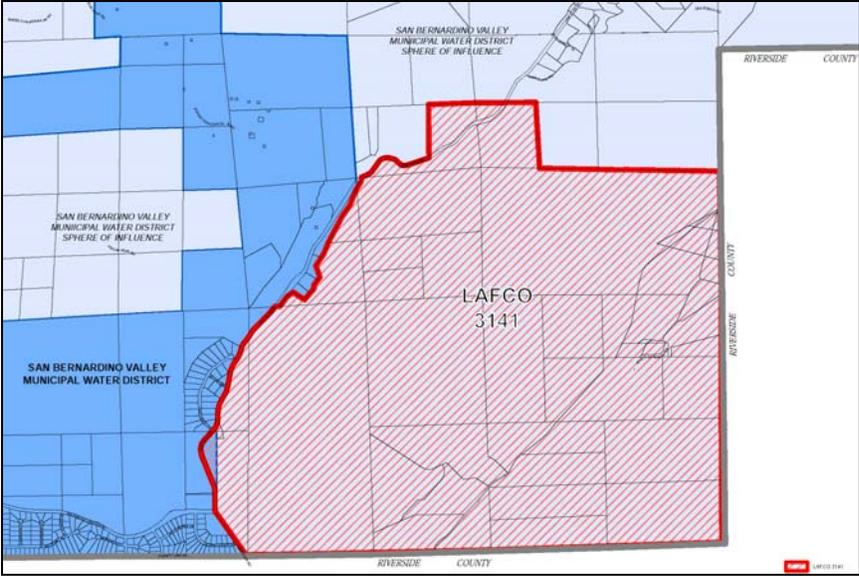
**FIGURE 5 – Topographic Map of the Area**

*Feasibility of Service Delivery*

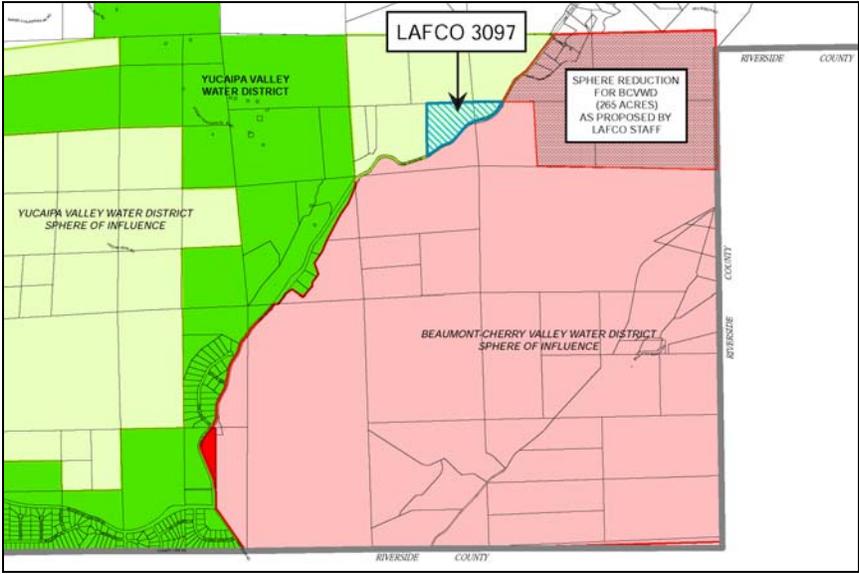
Again, based on the existing topography of the land, the analysis indicates that most of the area is behind a ridge (Edgar Canyon) that straddles just east of Oak Glen Road. The ridge stands in such a way that access to most of the area for any future infrastructure needs or facilities will either come from the south, within the service area of BCVWD and the Pass Agency. The only areas that can be served from Oak Glen Road, other than the District owned parcels that are being annexed into the District through the concurrent reorganization proposal (LAFCO 3098), are the parcels along the north end of the District’s existing sphere of influence.

Based on the assumptions related to topography and serviceability, it is LAFCO staff’s position that the existing sphere of influence for BCVWD should be reduced to exclude the northern portion encompassing approximately 265 acres. In addition, it is the position of LAFCO staff that the proposed sphere of influence for the Pass Agency should also be reduced to correspond to the proposed reduction for BCVWD’s sphere of influence. The

proposed changes between the spheres of influence for the Pass Agency and BCVWD are shown below. (See Figures 6 and 7 below)



**FIGURE 7 – LAFCO 3141 (AS MODIFIED)**



**FIGURE 6 – LAFCO 3097 (AS MODIFIED)**

At the meeting held on December 15, 2009, the property owners present and the representatives of the districts were provided with LAFCO staff's analysis and recommendations with regard to the boundary modifications (reductions) for BCVWD and the Pass Agency. The districts affected by LAFCO staff's recommended modifications (BCVWD, the Pass Agency, and the Valley District), have expressed no concern regarding the changes. Some of the property owners present appeared to be amenable

to the modified changes. In addition, LAFCO staff afforded the other property owners who were present at the meeting, the opportunity to provide comments by January 8, 2009. As of the date of publication of this staff report, no written comments in support or opposition to the staff's modifications have been received from any property owners and/or registered voters within the area.

Therefore, LAFCO staff is recommending that the Commission approve the boundaries for LAFCO3141 and LAFCO 3097, as modified, for the District, the Pass Agency and the Valley District.

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. The discussion for each of the proposals is outlined below:

### **SPHERE OF INFLUENCE AMENDMENT (LAFCO 3141):**

#### **San Gorgonio Pass Water Agency:**

The Pass Agency is a State Water Project Contractor that primarily serves Riverside County. It serves the Cities of Calimesa, Beaumont (portion), and Banning, as well as unincorporated communities in the Pass Area, such as the community of Cabazon. The Pass Agency is responsible for the wholesale delivery of imported water, primarily to YVWD (Riverside County portion), BCVWD, the City of Banning, Banning Heights Water Company, High Valley Water District, and Cabazon County Water District. Deliveries of this water began to be received in the Pass Agency in 2003 with completion of the Eastern Branch Extension. The Pass Agency also provides groundwater management and water quality monitoring within its service area. In 2007, the Pass Agency requested and was assigned a sphere of influence within San Bernardino County.

#### **Factors of Consideration:**

The staff responses to the "factors of consideration" for the sphere of influence amendment (as required by Government Code Section 56425) are identified below:

#### ***The present and planned land uses in the area***

The proposed sphere of influence amendment area, as modified to include approximately 1,899 acres, is generally vacant with very few residential developments. Some of the vacant lands are used for agricultural use. The unincorporated portion of the area is within the Oak Glen Community Plan area. The County's land use designations for the area include: RL, RL-5, and RL-20. The portion of the area located within the City of Yucaipa has a land use designation of RL-5. No change in land use is anticipated for the area and there are no development proposals anticipated for the area.

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

The current regional service providers within the sphere amendment area include the following:

County of San Bernardino  
City of Yucaipa  
Inland Empire Resource Conservation District  
San Bernardino County Fire Protection District and its Valley Service Zone  
County Service Area 70 (multi-function unincorporated area  
Countywide)

The Pass Agency currently has no facilities within the sphere amendment area. The area consists of mostly rough terrain with a handful of residential developments. Some of the lands are currently used for agricultural activities. Most of the private properties are on private wells and septic systems. Since there are no plans currently to develop the area, there is no need for additional services or facilities.

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

The Pass Agency is a water wholesaler that provides imported supplemental water to retail water providers within its service area, which includes the Cities of Calimesa, Beaumont (portion), and Banning, as well as unincorporated communities in the Pass Area, such as the community of Cabazon. As a State Water Project Contractor, the Pass Agency imports supplemental water from the Delta through the California Aqueduct. The Pass Agency's supplemental water is primarily used for groundwater replenishment. The replenishment activities of the Pass Agency support the local water retailers in the area, including BCVWD. The Pass Agency provides adequate service and has the capacity to serve the retail water districts within its service area.

*The existence of any social or economic communities of interest*

The proposed sphere of influence amendment area is generally considered a part of the communities of Oak Glen with a small portion within the City of Yucaipa. The Oak Glen community is known for its apple orchards and farms.

**SPHERE OF INFLUENCE AMENDMENT (LAFCO 3097):**

*Beaumont-Cherry Valley Water District:*

The BCVWD is an irrigation district whose primary service area is in Riverside County, which includes the City of Beaumont, the unincorporated community of Cherry Valley, and some portions of the City of Calimesa. The District was first formed in 1919 as the Beaumont Irrigation District to provide domestic and irrigation water to the community of Beaumont and the surrounding area. In 1973, the District's name was changed to the Beaumont-Cherry Valley Water District.

**Factors of Consideration:**

The staff responses to the "factors of consideration" for the sphere of influence amendment (as required by Government Code Section 56425) are identified below:

*The present and planned land uses in the area*

The existing land use within the District's current sphere of influence within San Bernardino County is generally vacant with a few residential developments. The unincorporated portion of the District's sphere of influence is within the Oak Glen Community Plan area. The County's land use designations for the area include: RL (Rural Living, 2.5 acres minimum lot size), RL-5 (5 acres minimum lot size), and RL-20 (20 acres minimum lot size). The area of the District's sphere of influence located within the City of Yucaipa has a land use designation of RL-5.

The proposed sphere of influence amendment between the District (expansion) and Yucaipa Valley Water District (reduction) consists of vacant lands owned by the District. The County's land use designation for the area is RL. No change in land use is anticipated for the sphere of influence amendment area and the District does not intend to develop the area.

The proposed sphere of influence reduction for BCVWD, per the modification by LAFCO staff, consists of a mix of residential development, vacant lands, and an apple orchard. The County's land use designation for the area is RL and RL-20. No change in land use is anticipated for the sphere of influence area that is being reduced.

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

Currently, the District meets the service needs within its service area. The sphere of influence amendment area consists of properties owned by the District used for watershed management and water supply. The District has no plans of extending additional water lines or facilities into the area.

Additionally, the Yucaipa Valley Water District does not provide any service within the sphere of influence area that is being reduced. The District has indicated that it has no intention of extending additional water lines or facilities into the area.

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

The District presently extracts water from two local groundwater sources, the Edgar Canyon and the Beaumont Basin. To augment existing water sources, the District is developing a project to capture stormwater flows, and delivering the water to recharge the basins. The District's recharge sites will also be capable of receiving State Water Project water. In addition, the District is partnering with the City of Beaumont in developing a recycled water distribution system for delivery of recycled water from the City's wastewater treatment facility to irrigate golf courses, parks, schools, and other open space areas.

*The existence of any social or economic communities of interest*

The proposed sphere of influence amendment areas (expansion/reduction) are part of the community of Yucaipa and Oak Glen. The sphere of influence reduction supports the promotion of the overall Oak Glen community noted for its apple orchards.

**ADDITIONAL DETERMINATIONS FOR LAFCO 3141 AND LAFCO 3097:**

- The Valley District also consents to the reduction of its sphere of influence. A copy of its consent letter is included as Attachment #4 to this report.
- The Yucaipa Valley Water District consents to the reduction of its sphere of influence. A copy of its letter rescinding its opposition, including its original letter, is included as Attachment #9 to this report.
- As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson from Dodson and Associates, has indicated that the reviews of LAFCO 3141 and LAFCO 3097, as modified, are statutorily exempt from CEQA. This recommendation is based on the finding that the Commission's approval of the sphere of influence amendment proposals has no potential to cause any adverse effect on the environment; and therefore, the proposals are exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061 (b)(3). Mr. Dodson's response for LAFCO 3141 is included as Attachment #5 to this report and his response for LAFCO 3097 is included as Attachment #10 to this report.
- Commission review for these sphere of influence amendment proposals has been advertised in *The Sun*, 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 also provided individual notices to landowners and registered voters within LAFCO 3141 and LAFCO 3097 (totaling 43) and to landowners and registered voters surrounding the two areas (totaling 307) in accordance with state law and adopted Commission policies. Comments from landowners/ registered voters and any affected local agency have been reviewed and considered by the Commission in making its determinations.

### **CONCLUSION:**

Staff supports approval of LAFCO 3141 and LAFCO 3097, as modified, for the following reasons:

- For LAFCO 3141, the expansion the Pass Agency's sphere of influence would encompass BCVWD's entire sphere of influence - including the sphere of influence amendments (expansion/reduction) per LAFCO 3097. Local LAFCO policy requires that a retail water provider to be within a State Water Project Contractor. Through this action, this policy can be accomplished through concurrent annexations between the District and the Pass Agency.
- For LAFCO 3097, the sphere of influence expansion for BCVWD is a reasonable expansion of the District's sphere that will allow the annexation of all its properties within San Bernardino County through the concurrent reorganization proposal (LAFCO 3098). In addition, the sphere of influence reduction to the District's existing sphere of influence, as proposed by LAFCO staff, will not affect the concurrent reorganization proposal. In addition, the District has expressed no concern regarding the proposed sphere of influence reduction.

For these reasons, and those identified within this report, staff recommends approval of the modified proposals identified as LAFCO 3141 and LAFCO 3097.

KRM/sm

Attachments:

1. [Sample Letters from Property Owners](#)
2. [3141 Location and Vicinity Maps](#)
3. [Sphere of Influence Application Materials Submitted by the San Gorgonio Pass Water Agency for LAFCO 3141](#)
4. [San Bernardino Valley Municipal Water District Consent Letter to LAFCO 3141](#)

5. [Response for LAFCO 3141 from the Commission's Environmental Consultant, Tom Dodson and Associates](#)
6. [Draft Resolution No. 3082 \(LAFCO 3141\)](#)
7. [3097 Location and Vicinity Maps](#)
8. [Sphere of Influence Application Materials Submitted by Beaumont-Cherry Valley Water District for LAFCO 3097](#)
9. [Yucaipa Valley Water District Consent Letter in the Form of a Letter of Withdrawal of Opposition to LAFCO 3097](#)
10. [Response for LAFCO 3097 from the Commission's Environmental Consultant, Tom Dodson and Associates](#)
11. [Draft Resolution No. 3083 \(LAFCO 3097\)](#)