

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

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**DATE:** JUNE 7, 2010

**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer  
SAMUEL MARTINEZ, Senior LAFCO Analyst  
MICHAEL TUERPE, LAFCO Analyst

**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** AGENDA ITEM #8: CONSIDERATION OF LAFCO 3082 – SPHERE EXPANSION FOR THE CITY OF VICTORVILLE AND VICTORVILLE WATER DISTRICT AND SPHERE REDUCTION FOR THE CITY OF ADELANTO AND LAFCO 3089 – SPHERE OF INFLUENCE ESTABLISHMENT FOR THE HELENDALE COMMUNITY SERVICES DISTRICT (See full titles below)

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**FULL TITLES:**

**ITEM 8A -- LAFCO 3082 – Sphere of Influence Amendment (Expansion) for the City of Victorville and Victorville Water District (northern area) and Sphere of Influence Amendment (Reduction) for the City of Adelanto (initiated by Cities of Victorville and Adelanto)**

**ITEM 8B -- LAFCO 3089 – Sphere of Influence Establishment and Service Review for the Helendale Community Services District (initiated by the Commission and the Board of Directors of the Helendale CSD)**

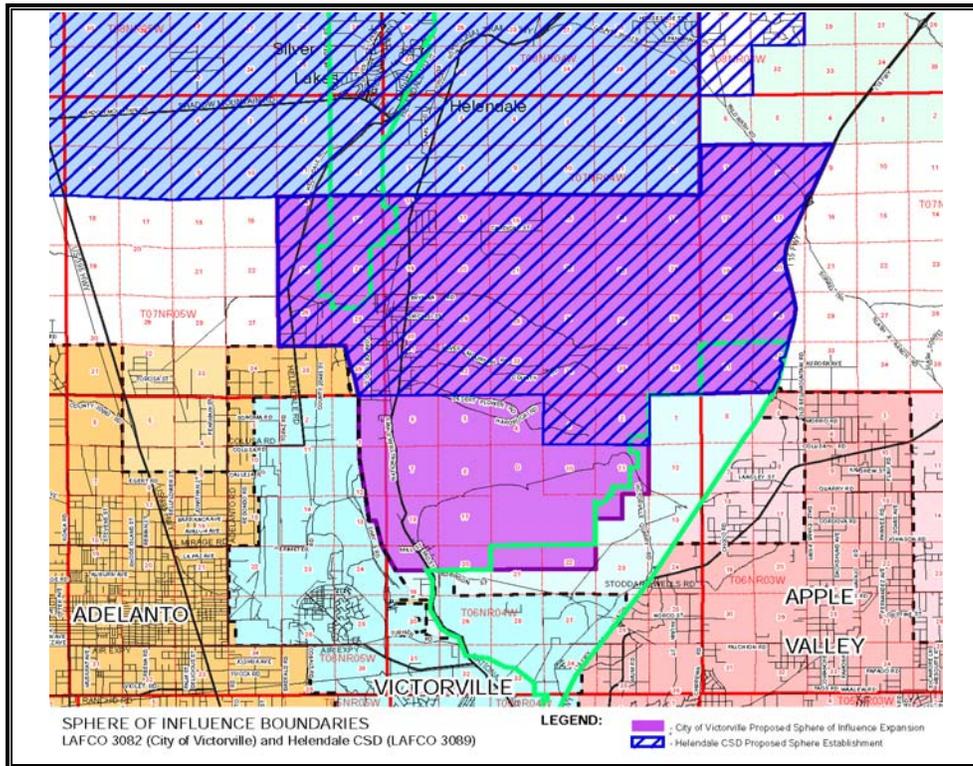
**BACKGROUND:**

At the March 21, 2007 hearing the Commission separated the City of Victorville's request for a northern sphere of influence expansion from its proposal for consolidation of the Water District proposal and companion Service Review for the Victorville community. In addition, the Commission, at that time, directed staff to await completion of the City's General Plan Update to commence consideration. This directive was based upon information provided by the City of Victorville that the sphere expansion territory would be included in that review. In addition, the Commission expanded the sphere consideration to include a concurrent sphere of influence expansion for the newly consolidated Victorville Water District. Overall, the sphere of influence proposal from the City of Victorville was to expand the spheres of influence by 37,139 +/- acres, slightly more than 58 square miles, and it became known as LAFCO 3082.

In September of 2007, the Commission initiated the sphere of influence establishment for the Helendale Community Services District (CSD) as required by State law. LAFCO staff notified the CSD that the practice of the Commission was to establish a coterminous sphere of influence for newly formed agencies and proposed to move forward in that direction. The CSD responded by letter, dated December 10, 2007, that it would request that its sphere of influence be established beyond its current boundaries to, in general, correspond with the boundaries of Service Zone FP-5 (Helendale) of the San Bernardino County Fire Protection District. In August 2008, the District submitted its proposed sphere of influence application with a boundary extending approximately 110 square miles outside its boundaries. This application included approximately 21½ square miles of the territory proposed for inclusion in the City of Victorville/Victorville Water District sphere expansion request, LAFCO 3082. Upon submission of this proposal, it was circulated for review and comment and staff analysis was commenced (copies and excerpts of information included as Attachments #15 through #22 of this report).

The City of Victorville completed processing of its General Plan 2030 Update in October 2008, through formal action of the City Council. Thereafter, LAFCO staff met with representatives of the City of Victorville and its subsidiary Victorville Water District to outline the updated materials needed to complete the processing of LAFCO 3082. This request was related to the age of the materials submitted, the changes that had occurred through dissolution of the Victorville Fire, Sanitary and Park and Recreation Districts, as the original filings for the proposal were submitted in 2006 and 2007. In addition, no specific information had been received related to the sphere of influence expansion for the Victorville Water District. The updated materials for the City were received by LAFCO staff in February 2009 and recirculated for review and comment (copies excerpts of information included as Attachments #7 through #14 of this report).

At this point in the processing the Commission had been presented with proposals addressing portions of the same territory, approximately 21 ½ square miles (approximately 13,760 +/- acres). The map below identifies the area which was in conflict between the two applications:



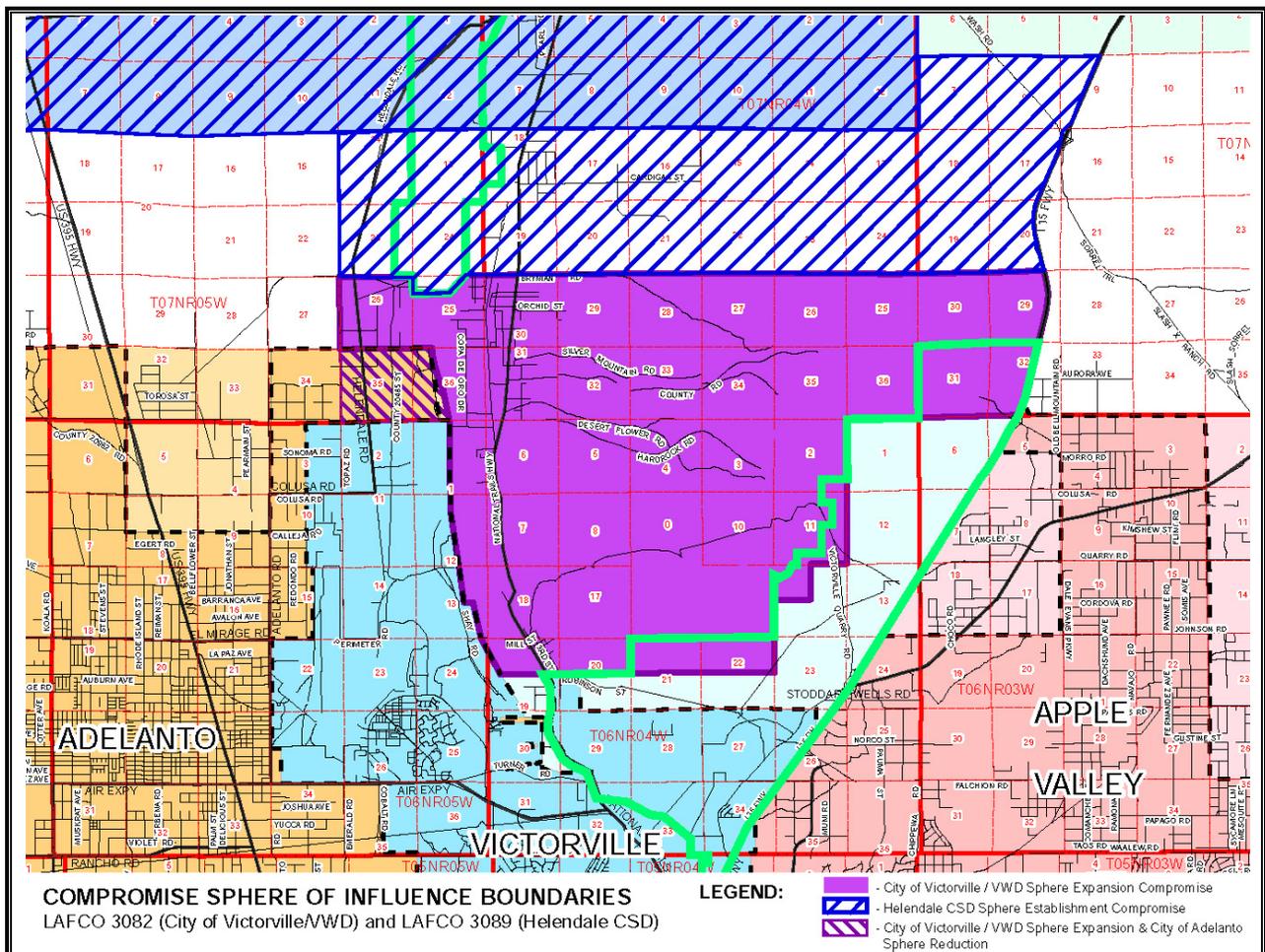
Government Code Section 56655 indicates that when presented with conflicting proposals, the Commission is required to determine the priority of the applications. Due to the controversy surrounding these applications and the complexity of the review, LAFCO staff has maintained a concurrent hearing schedule for the applications. This will allow the Commission to address the conflict area and render a determination.

Throughout this process, and accelerating following the circulation of both proposals, LAFCO staff conducted discussions with City and CSD staff members regarding the boundaries of the proposals submitted and the overlap of territory. LAFCO staff identified areas of concern and potential modifications to the boundaries to address the conflicting territory and discussed the potential for compromise between the agencies.

In August of 2009, the CSD and City staffs notified LAFCO staff of a potential compromise boundary to alleviate the conflict territory. The compromise would retain the area of the then proposed Helendale Specific Plan within the CSD sphere boundary, and the then proposed Desert Gateway Specific Plan within the Victorville sphere boundary. Upon learning of the discussions of compromise, LAFCO staff requested that the governing bodies of the agencies provide their official support for the change in boundary as agreed to at the staff level through minute action or resolution. In January 2010 the CSD Board of Directors (through adoption of Resolution 2010-01) and in February 2010 the City Council of the City of Victorville (through adoption of Resolution 10-003) and its subsidiary Victorville Water District (through adoption of Resolution 10-002) officially supported the compromise boundary. The revised and/or submitted materials were circulated for review and comment by LAFCO staff on March 2, 2010.

In addition, at the February City Council meeting, a new element was introduced officially into the discussion, that being the potential for reduction of the City of Adelanto sphere boundary to address LAFCO staff’s concerns. These concerns related to the wrapping of the City of Victorville/Victorville Water District sphere of influence between the boundary/sphere of the Helendale CSD and the City of Adelanto. In February 2010, the City Council of the City of Adelanto approved the sphere reduction through adoption of its Resolution No. 10-03. Included in that resolution were the terms by which the City of Adelanto agreed to this exchange, identified as the receipt of “financial assistance for intersection improvements at major intersections along Highway 395 from Mojave Drive north and road improvements to Adelanto Road from its beginning at Highway 395 north to Colusa Road and Rancho Road from Adelanto Road west to Highway 395” from the City of Victorville. No documentation has been submitted to date regarding a corresponding agreement between the Cities of Victorville and Adelanto to implement this condition or understanding for the sphere change (application material included as a part of Attachment #8).

The map below identifies the compromise boundary and illustrates the relationship of the Specific Plans to this determination. The map below is also included as a part of Attachment #1:



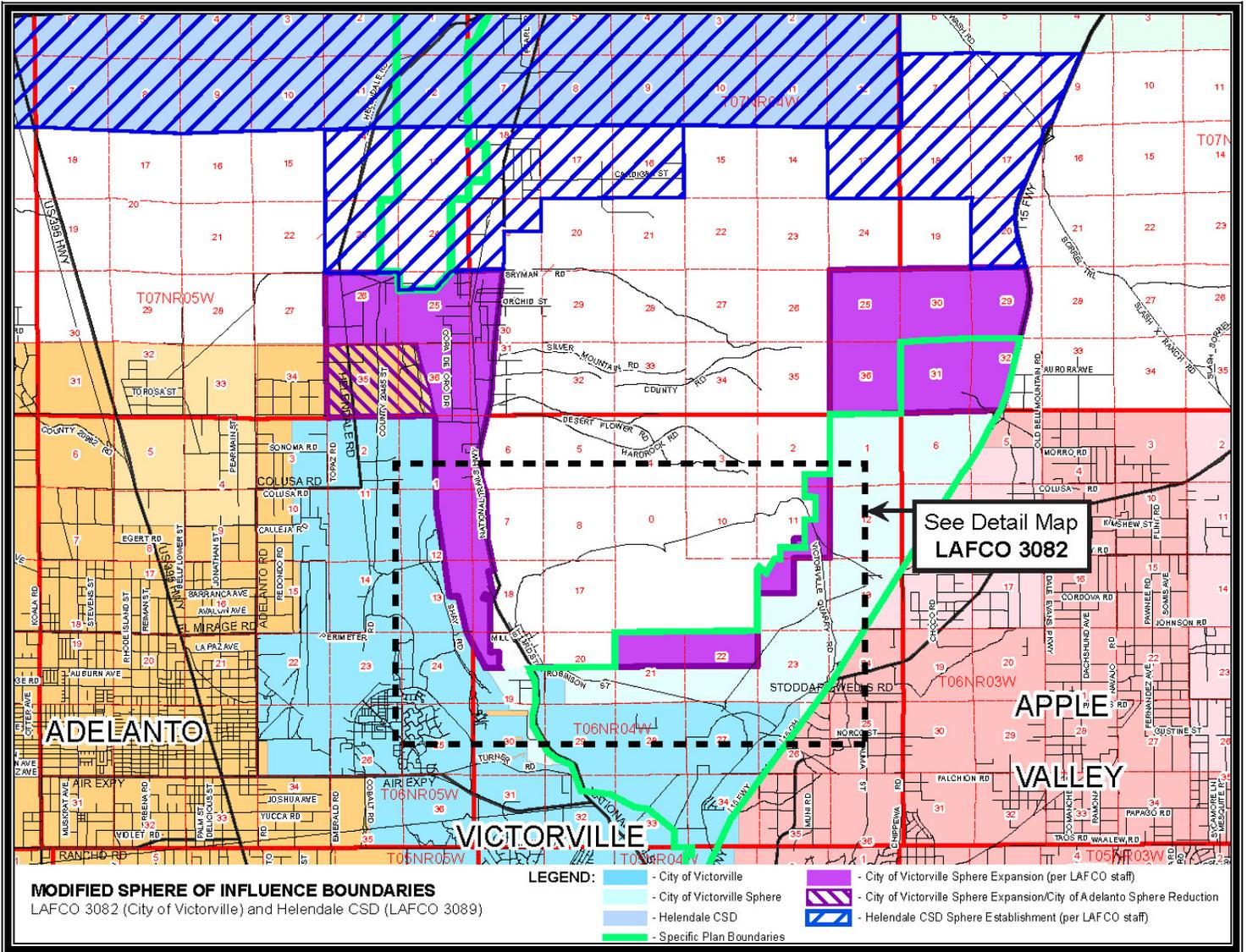
While the compromise boundary negotiations were going on between the Cities and CSD, LAFCO staff was conducting its own analysis of the sphere amendment/establishment proposals presented. LAFCO staff identified areas of significant concern related to the mineral resources contained within the area of discussion and outlined those concerns to the parties involved. These resource issues were reviewed with the County Geologist and detailed mapping of the area was undertaken by LAFCO staff. In December 2009, a draft LAFCO staff position regarding the conflict area was developed proposing to exclude the significant mineral resource areas while maintaining the integrity of CSA 42 (the LAFCO definition of the Oro Grande community) within the Victorville sphere and the division of the sphere related to the territory north of the existing City of Adelanto boundary/sphere.

The staff's proposed modification to the sphere expansion proposals, to exclude the mineral resource properties was discussed with the mining interests within the area, the staff of the City of Victorville, the Helendale CSD, and the County. The interests of these parties are summarized as follows:

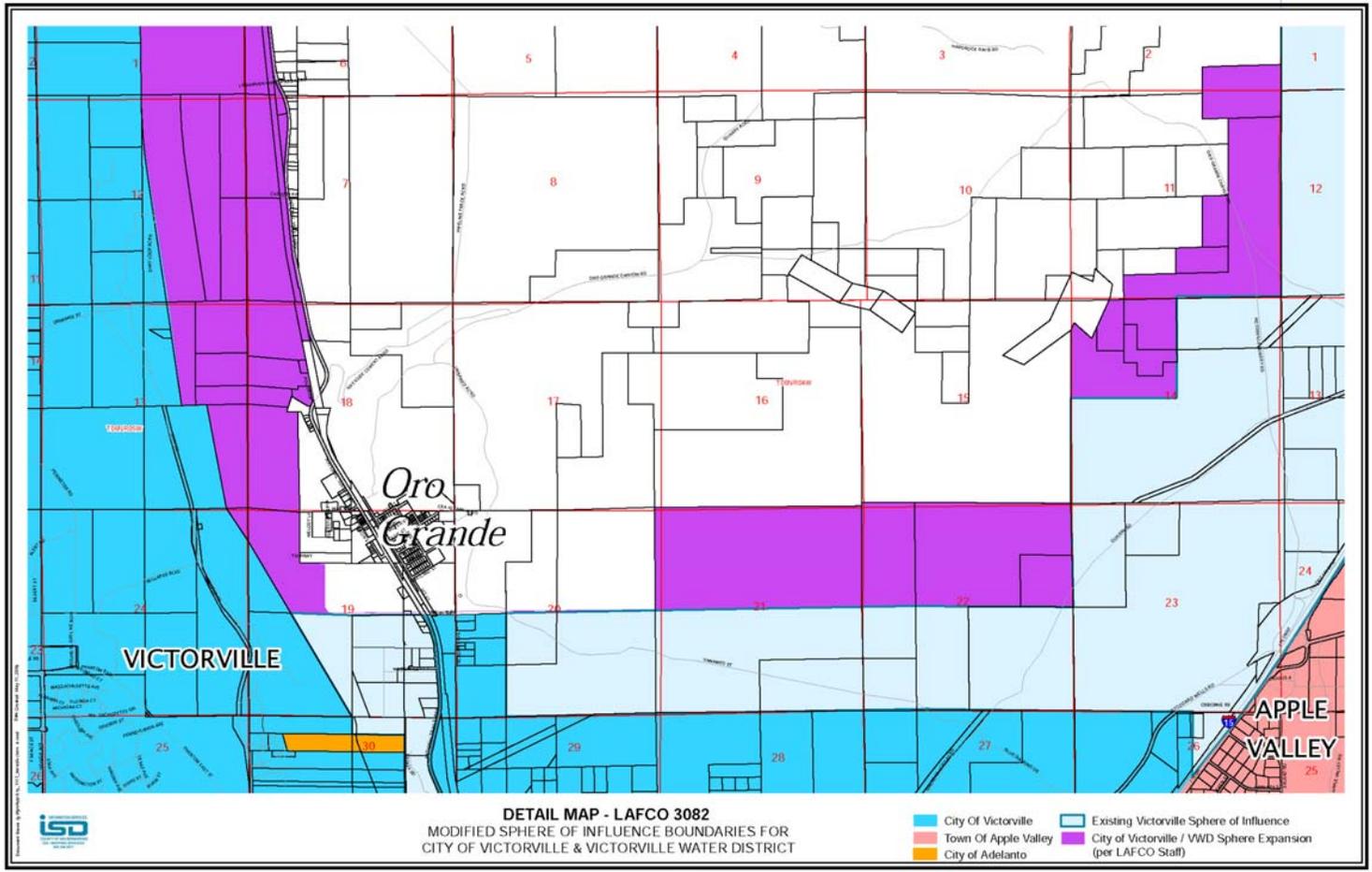
- Mining interests identified their position that their land holdings, in fee and patented and unpatented claims, be excluded from any urban sphere of influence (letters included in Attachment #4);
- The City of Victorville identified that it did not wish to include any properties which were opposed to the ultimate inclusion with the City and would need the mining properties to help fund the delivery of service to the Oro Grande area as defined by CSA 42 (exclusion of CSA 42 boundaries proper and the mining interests); and,
- The County identified its desire to preserve the mineral resources within its planning jurisdiction due to the regional importance of the mineral resources/mining interests.

The map below addresses these positions and those of LAFCO staff related to preservation of the mineral resources. The modification also addresses the planning efforts of the City of Victorville through the Desert Gateway Specific Plan and its relationship to the Desert Xpress (rail service to Las Vegas) and the Helendale Specific Plan area to address the proposed developments in need of regional urban services. A copy of the LAFCO staff modification map is included in Attachment #1:

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The map which follows provides a more detailed view of the area in and around the Oro Grande community as defined by County Service Area 42:



The discussion which follows provides for a more complete description of the individual issues related to the conflict area and the staff’s response.

**LAFCO STAFF ISSUES RELATED TO COMPROMISE/CONFLICT AREA:**

**Mineral Resources:**

As outlined in the discussion above, the territory proposed for inclusion within the City of Victorville/Victorville Water District sphere of influence and the Helendale sphere of influence includes vast areas of land which contain significant mineral resources. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (hereafter shown as “CKH”) adopts as one of its founding principles the preservation of open space lands. CKH provides for the purpose of the Commission as outlined below:

***SECTION 56301.*** Among the purposes of a commission are discouraging urban sprawl, ***preserving open-space and prime agricultural lands***, efficiently providing government services, and encouraging the orderly formation and development of

*local agencies based upon local conditions and circumstances...* (Emphasis added by LAFCO staff)

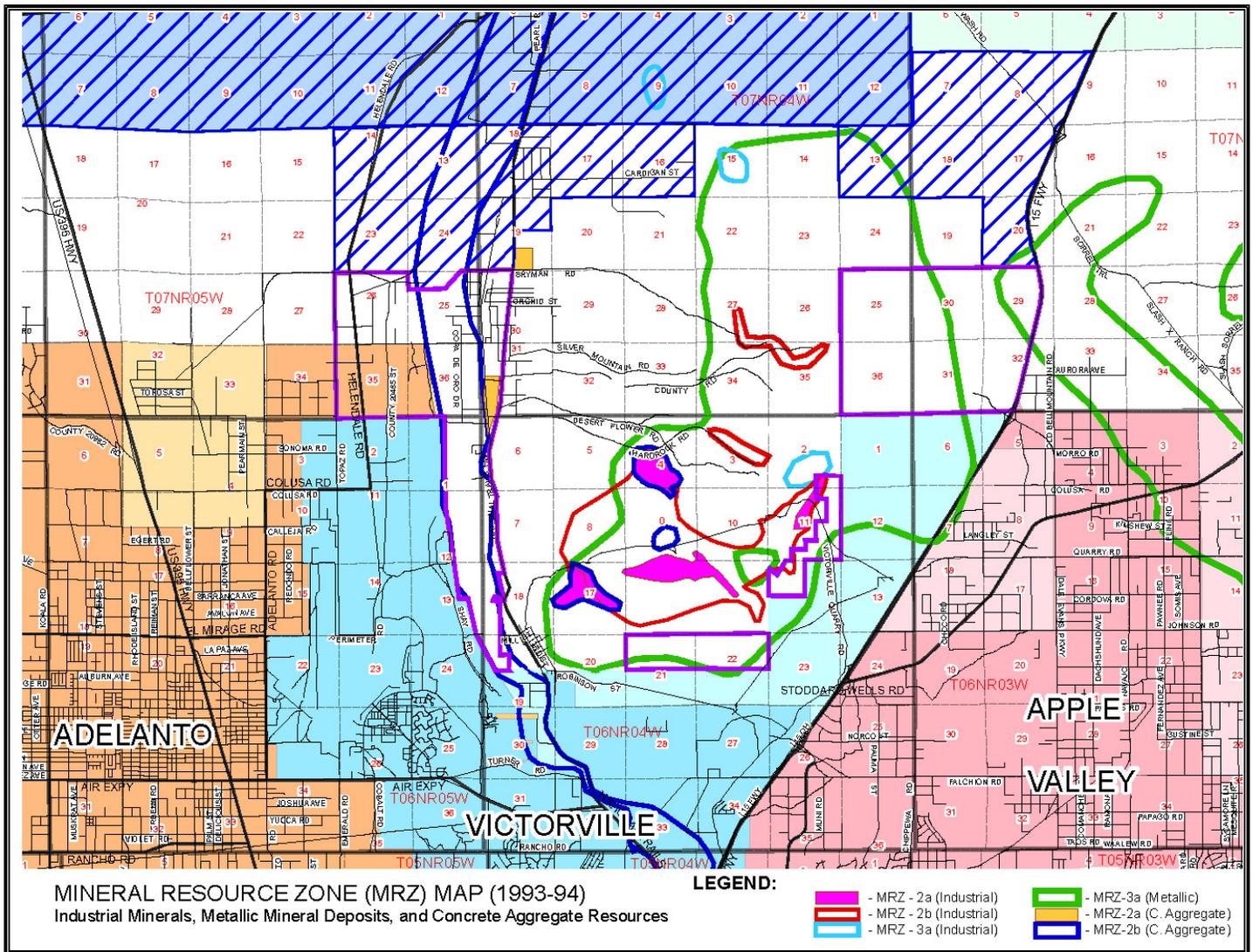
The definitions of open space lands as outlined in the LAFCO statute refers to Government Code Section 65560 for its definition. That Code Section identifies an array of uses, but those relevant to the current discussion are outlined below:

(1) *Open space for the preservation of natural resources including, but not limited to areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas requires for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.*

(2) *Open space used for the managed production of resources, including but not limited to, forest lands rangelands, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basin; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.*

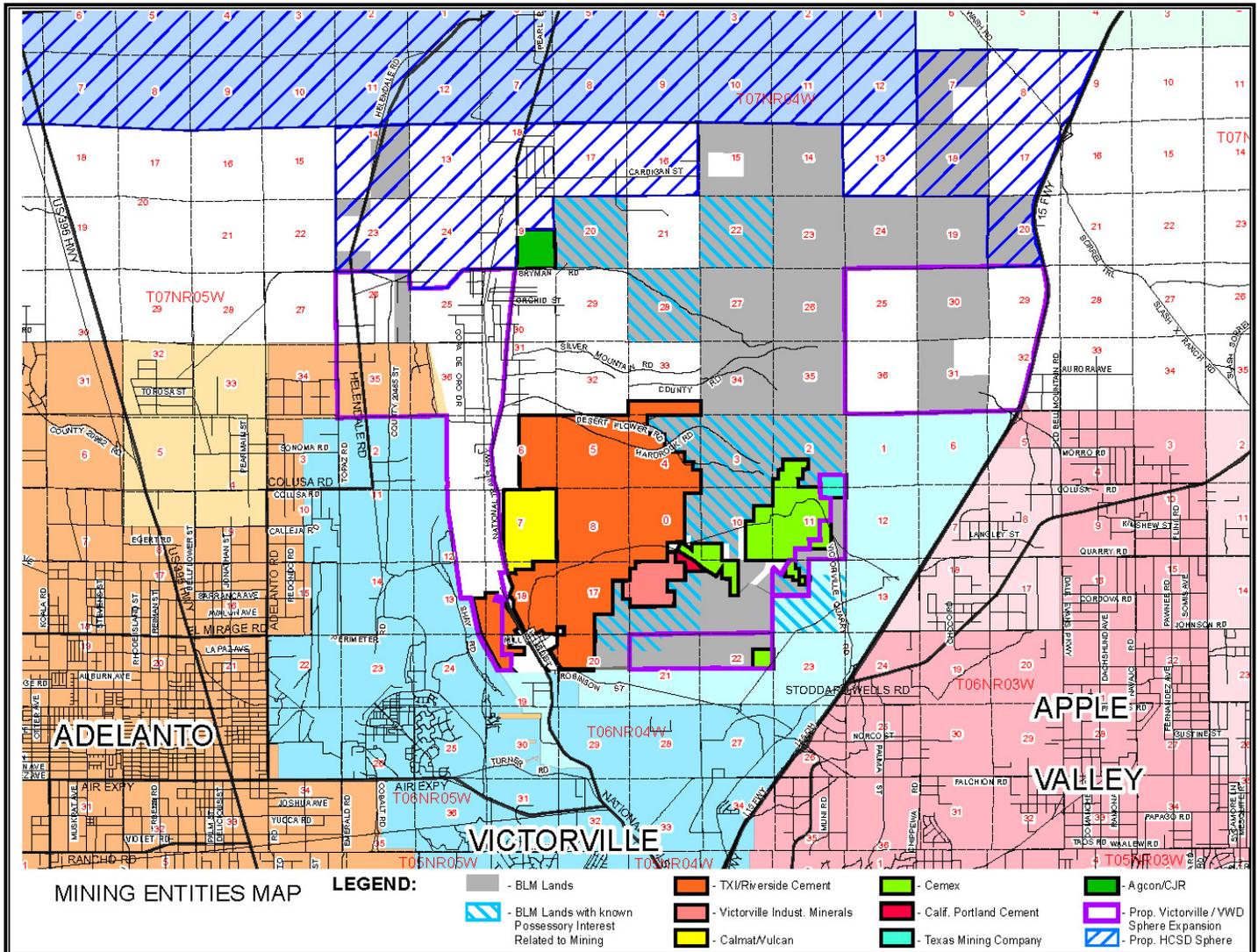
With respect to the considerations before the Commission the open space uses relevant to this discussion are those defined as “areas containing major mineral deposits” and “areas required for the preservation of plant and animal life”. The Oro Grande area, (area within LAFCO 3082 and the southern portion of the sphere establishment for LAFCO 3089) contains significant mineral resources as identified by the State Mining and Geology Board, part of the State Department of Conservation, and the County General Plan. These classification documents are on file in the LAFCO office. The resources identified include resources of statewide significance defined as MRZ 2, and various industrial, metallic and aggregate resources. These State identified areas are shown on the map below which is also included in Attachment #2 to this report.

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Much of the lands within this area are owned by the Federal Government through the Bureau of Land Management (hereafter “BLM”). However, historically these lands have been mined by a number of entities which have staked, patented, and unpatented claims through BLM. Many of these claims have been recorded as possessory interests on the lands and are paying property taxes on the value of these mineral resources. The map below (also included in Attachment #2) shows the extent of these mining claims and the ownership of lands of known mining entities:

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LAFCO staff's position is that, in compliance with the directives of CKH, the areas containing significant mineral resources and those identified as potentially containing significant mineral resources should be excluded from the sphere of any of the agencies which are associated with the extension of municipal-level services, which would include the City of Victorville, Victorville Water District and the Helendale Community Services District.

The introduction of urban or municipal service providers and in the case of the City of Victorville land use authorities into an area of such significant mineral resources will create, in the staff opinion, problems for the siting of mines in the future. The industrial mining activities contemplated in these areas do not reside compatibly with residential uses. The siting of mines are a difficult process under the best of circumstances and the entity responsible for that task must be able to weigh the regional need for the materials to be extracted with the needs of the local residents and agencies which typically oppose the use in close proximity to

their lands and/or communities. The City of Victorville General Plan 2030 does not include mineral resource mapping for the northern sphere expansion area at this time; however, it is LAFCO staff's understanding that the City anticipates amending this portion within the near future. According to discussion with City of Victorville planning staff, it has been contemplated to take the updates to the General Plan to include the mineral resource zones at the same time the changes in policies necessitated by a lawsuit settlement on the environmental document are considered. However, there was no identification that the City would also review and approve the required surface mining and reclamation standards for the types of mines within the area.

However, the Conservation Element of the San Bernardino County General Plan, adopted in April 2007, has identified Goals and Policies to address and conserve mineral resources (copies included as a part of Attachment #3). The General Plan identifies the following as its Goal:

*“GOAL CO 7. The County will protect the current and future extraction of mineral resources that are important to the County's economy while minimizing impacts of this use on the public and the environment.*

This section of the General Plan outlines its Programs to maintain mineral resources and coordinate with the State Mining and Geology Board a part of the State Department of Conservation.

During the review of the staff's options for modification, the City of Victorville indicated that it has long supported mining within its boundaries and does not believe that the inclusion of the area would be detrimental to the mining interests. However, City of Victorville staff has indicated that they do not believe that any mines currently exist within the corporate boundaries of the City of Victorville. While LAFCO staff does not debate the support for mining by the City, the types of extraction methods utilized in the area proposed for exclusion do not just include the typical methods for this industry, but the use of blasting, crushing and gigantic pieces of heavy equipment. Without clear policies in the General Plan Conservation Element to address this area, without the standards required for surface mining and reclamation, and due to the regional nature of the industry, it remains the LAFCO staff position that the area should remain under the regional land use authority to balance the needs of the industry outside an urban service provider sphere of influence. Therefore, staff is recommending exclusion of these areas from the sphere of influence of both the City of Victorville/Victorville Water District and the Helendale Community Services District.

**H.R. 4332(McKEON)/S3057(BOXER) SOLEDAD CANYON HIGH DESERT CALIFORNIA PUBLIC LANDS CONSERVATION AND MANAGEMENT ACT OF 2010**

In reviewing the Mineral Resources within this area and their preservation through exclusion from the spheres of influence, there is an additional element to be addressed. That element is a federal bill, H.R. 4332 introduced by Representative Howard “Buck” McKeon known as the “Soledad Canyon High Desert California Public Lands Conservation and Management Act of 2010”. In addition, this year Senator Boxer has introduced a companion Senate Bill, S.B.

3057, containing the same language as H.R. 4332. The bill is intended to address ongoing concerns between Cemex Corporation, the operator of the Soledad Canyon Mine in Santa Clarita, and the City of Santa Clarita. For many years, the parties have been embroiled in disputes with the City and its residents opposed to the mining activities. In 2007 there was a truce of sorts between the factions in an attempt to resolve the land use concerns. H.R. 4332 attempts to provide a mechanism to resolve this controversy through removal of Cemex mining from within the Santa Clarita community through an exchange of properties owned by BLM in San Bernardino County to compensate Cemex for its holdings.

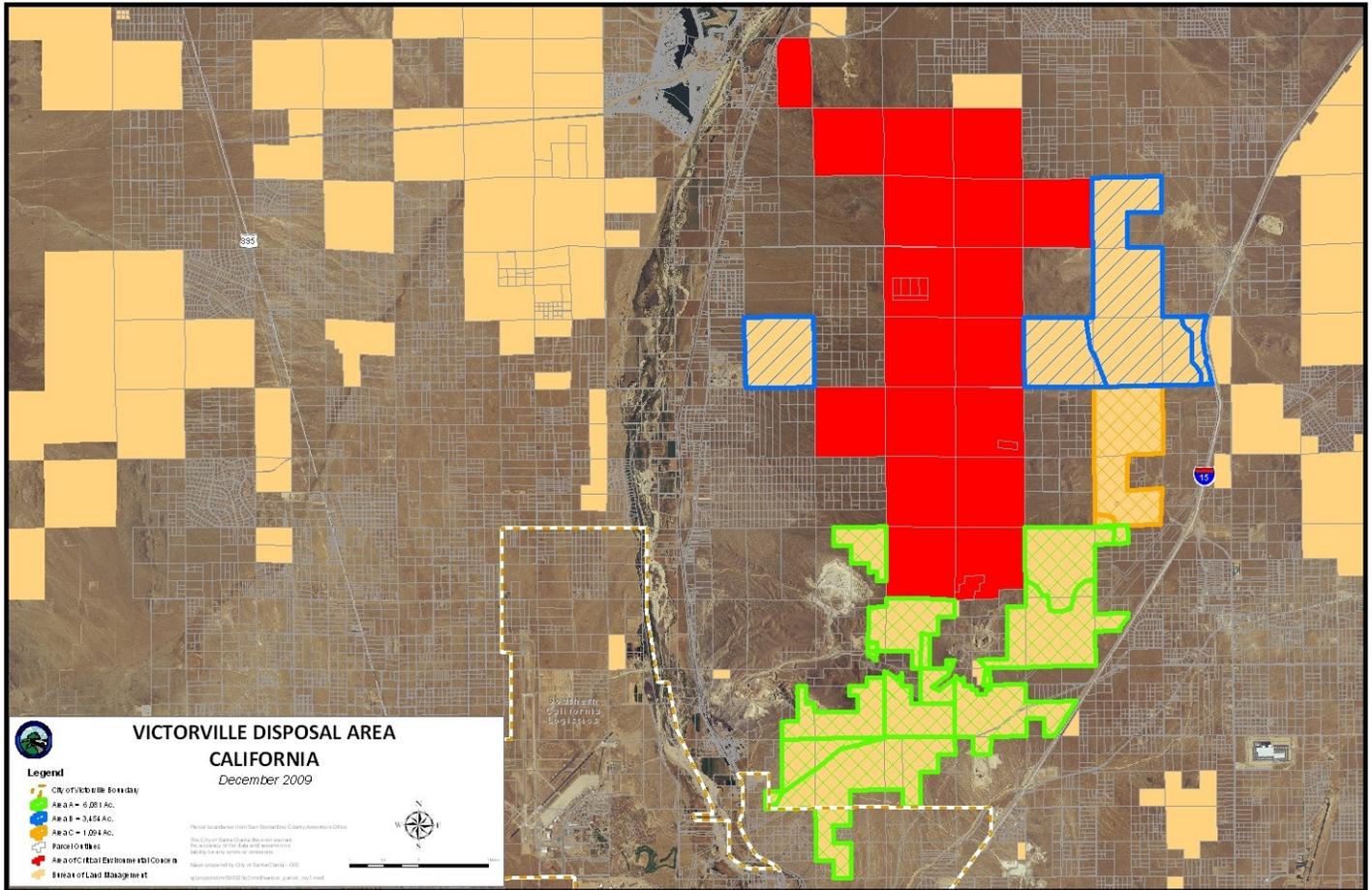
This bill affects the current proposals before the Commission due to the relationship of the lands to be exchanged to provide for monetary compensation to Cemex. These lands are located in the area of conflict identified for LAFCO 3082/3089 and the broader City of Victorville sphere of influence application territory. Documents retrieved from the City of Santa Clarita website identify that negotiations have been ongoing between the City of Santa Clarita, Representative McKeon and his office, Cemex, the City of Victorville and the County of San Bernardino since 2007. The provisions of the bill, as currently submitted, are to:

1. Cancel CEMEX's existing mining contracts with BLM and end the possibility of mining at the Soledad Canyon site.
2. Compensate CEMEX for the company's investment in the Soledad Canyon mine by providing the company with designated federal lands of equal value in the general Victorville area. As outlined in materials for the 2008 Soledad Canyon Mine Act available on the City of Santa Clarita website, "*Cemex has no plans to mine the property near Victorville, but has an agreement with the City of Victorville to sell these lands in accordance with local land use and economic development goals*".
3. The bill identifies that the disposal lands identified as "Area A" lands would be made available for purchase by the City of Victorville first; if Area A lands are not purchased by the City of Victorville, the purchase right converts to the County of San Bernardino who would also have first right to "Area B" lands identified for disposal.
4. The bill identifies that the lands would not be allowed to be mined unless existing claims for such mineral extractions exist and it would not create another Soledad Canyon Mine controversy in the Victor Valley.

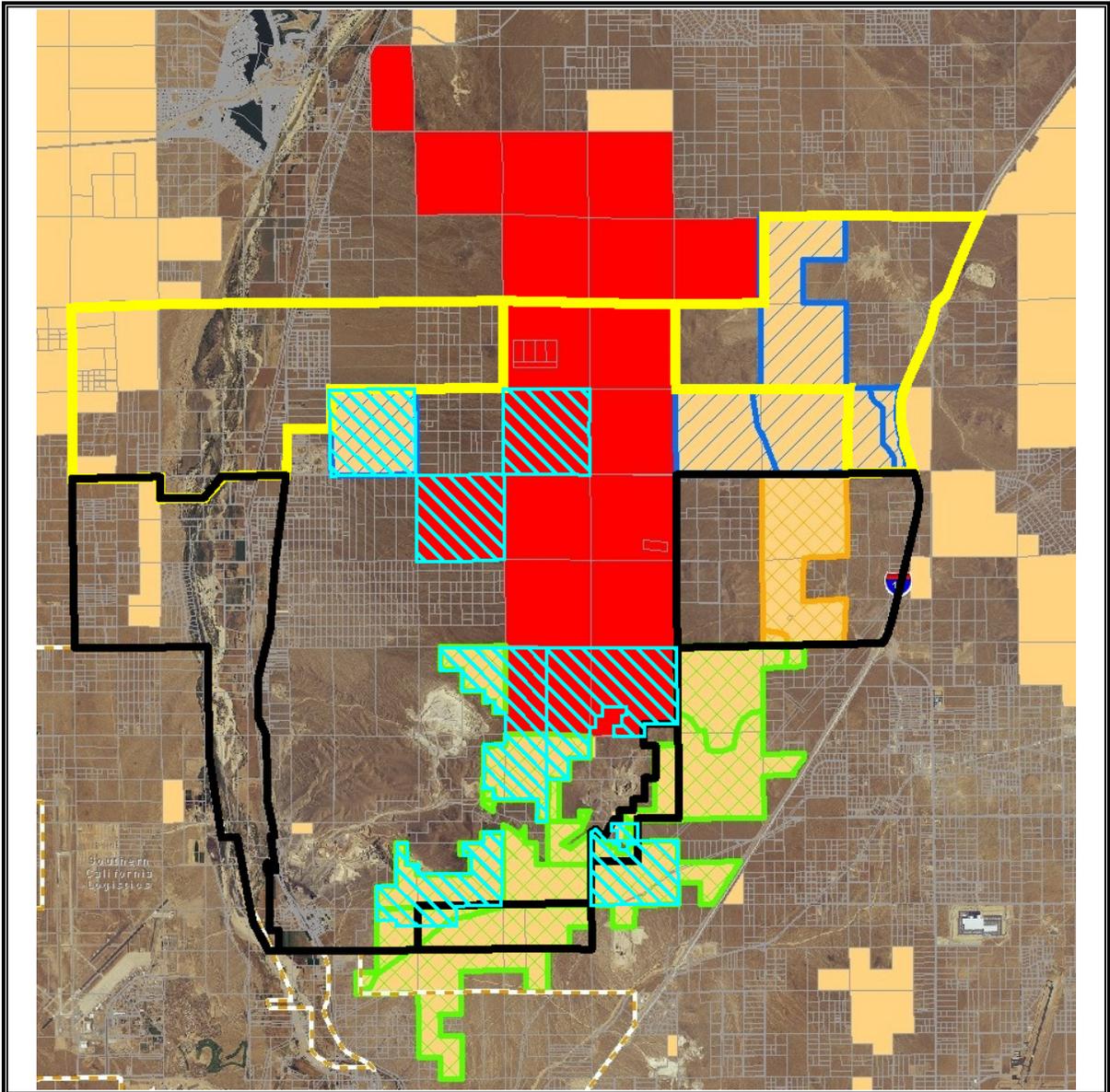
At first blush, there does not appear to be any controversy, Santa Clarita gets its desire, the elimination of a heavy industrial mine, the County or the City of Victorville would have the right to buy the lands for development purposes, CEMEX is fairly compensated for its loss of mineral resources, and environmental groups make sure that sensitive flora is protected. However, as with any governmental process, the devil is in the details and there are a myriad of issues related to this disposal process.

Over the last eight to ten months, Commissioner/Supervisor Mitzelfelt and his office have assisted LAFCO staff in acquiring information on the proposed areas for disposal and the implications of H.R. 4332. The map below identifies those areas as outlined in December 2009 when the current bill was initiated and the color coding identifies the Area A and Area B

disposal lands and the red identifies habitat preservation lands (copy included as a part of Attachment #3).



However, what are not shown on this map are the existing claims for mineral extraction through TXI (Riverside Cement), Victorville Industrial Minerals (James Hardie Corporation) and others. The map provided below identifies the LAFCO staff's proposed sphere of influence changes and superimposes the existing patented and unpatented claims with BLM on the disposal lands identified in H.R. 4332.



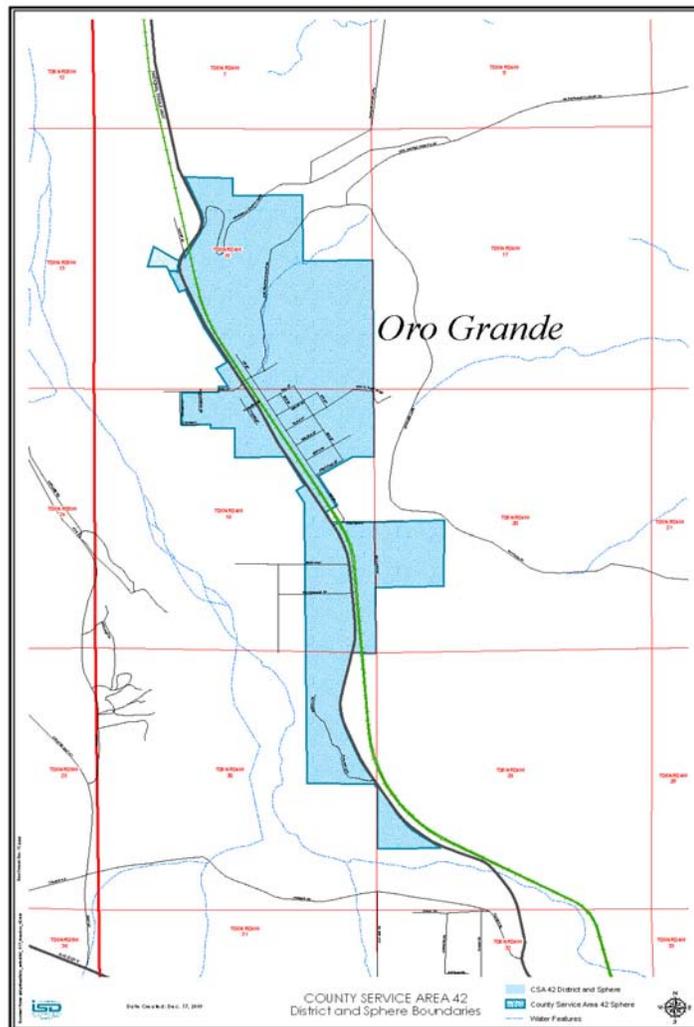
The mining interests have expressed their concerns to LAFCO staff and the Supervisor's office regarding the effects of this legislation on their long term claims in the area. While the legislation has been identified as not "causing another Soledad Canyon", the limitation on the extraction of the various types of minerals in this area will have an impact on the region and is anticipated to cause controversy similar to that experienced in the Santa Clarita Valley. LAFCO staff understands that Representative McKeon and his staff, BLM staff, mining interests and the Supervisor's office are working together with the State Mining and Geology Board to address the issues.

Retention of these areas under the land use authority of the County and out of the planning boundary of an urban service provider will allow, in the staff's opinion, those affected by this process to work out the details without cumbersome service delivery issues.

For the reasons outlined above, it is staff's position that this information supports the exclusion of the mineral resource areas from any sphere of influence approval by the Commission.

**COMMUNITY OF ORO GRANDE/COUNTY SERVICE AREA 42:**

In November 2007 the Commission conducted its Service Review and Sphere of Influence Update for County Service Area 42, the local government entity identified by the Commission as representing the Oro Grande community (copy included as Attachment #6). The sphere of influence for this agency was made coterminous with its boundaries and its range of services was clarified to address the true extent of the services provided. No controversy or citizen participation in that review was received by LAFCO staff, while the report itself was distributed to all known government agencies within Oro Grande. In 2008, a sphere expansion/annexation occurred to address issues related to water service. The map below identifies the current area of CSA 42 :



As LAFCO 3082/3089 have progressed through the process, residents within the general Oro Grande area, which the residents have identified as being generally the Zip Code assigned the community, have contacted LAFCO staff, the City of Victorville, and Supervisor Mitzelfelt's office to raise questions regarding the process and to register their opposition to the inclusion within the sphere of influence of any agency. Samples of the petitions received by LAFCO staff related to this consideration are included as a part Attachment #5 to this report. The primary rationale for the opposition is that the residents enjoy a rural lifestyle and association with the Oro Grande community, not the urban atmosphere of the City of Victorville or the community of Helendale. They have expressed their concern that through the introduction of the sphere of influence of the City of Victorville, changes in their way of life will come.

The staff's modification has excluded the vast majority of the residents in the Oro Grande community, but has retained the territory along the Mojave River from the City of Victorville existing boundary northerly to Bryman Road, and from the City boundary eastward to the centerline of National Trails Highway (Old Route 66). This retains the buffer area desired by the City of Victorville for its operations related to SCLA. The City of Victorville General Plan assigns this territory an open space designation which, per City staff, would allow for aggregate (sand and gravel) mining and very low density residential uses.

However, the residents of the area have expressed a desire to identify their own community for the future. In looking for a community definition, LAFCO's sphere of influence program is identified with public agencies which provide service (cities and special districts) which are under the purview of the Commission as defined by CKH. The only public agency in the area not a regional service provider which comes under the Commission's purview is CSA 42. However, as the Service Review for that agency identified its costs were exceeding its revenue stream, it had the highest water and sewer rate in the North Desert Region, and it was the opinion of LAFCO staff that it could not be sustained without the introduction of additional revenues.

In processing the analysis of this review, LAFCO staff became aware of the improvements made at the TXI plant, and it questioned the lack of property tax support for the operations of CSA 42 from this facility. During the service review, it was identified that property tax rates had increased very little over the years. Review with the County Auditor/Controller/Tax Collector/Treasurer, identified that the entirety of CSA 42 in this area was included within the boundaries of the Victor Valley Economic Development Authority (VVEDA) at its inception in 1993. This action froze the primary tax base of CSA 42 at 1993 levels. In addition, at the inception of VVEDA, CSA 42 did not participate in negotiations for a pass-through of a share of the increment to help sustain its service delivery, so it receives no revenue from the growth in the area. To illustrate this point the chart below identifies the assessed valuation for the last three years within TRA 99008 which represents the TXI facility and the bulk of the residential area of CSA 42:

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TRA NUMBER	FY 2009-10			FY 2008-09			FY 2007-08		
	NET VALUE	RDA INCREMENT	VALUE AFTER RDA	NET VALUE	RDA INCREMENT	VALUE AFTER RDA	NET VALUE	RDA INCREMENT	VALUE AFTER RDA
99008									
Secured	\$265,590,076	\$250,387,296	\$15,202,780	\$422,124,471	\$406,921,691	\$15,202,780	\$217,595,280	\$202,392,500	\$15,202,780
Unsecured	\$845,689	-\$16,972,894	\$17,808,586	\$1,527,360	-\$16,291,226	\$17,808,586	\$1,731,724	-\$16,086,862	\$17,818,586
<b>TOTAL</b>	<b>\$266,435,765</b>	<b>\$233,414,402</b>	<b>\$33,011,366</b>	<b>\$423,651,831</b>	<b>\$390,630,465</b>	<b>\$33,011,366</b>	<b>\$219,327,004</b>	<b>\$186,305,638</b>	<b>\$33,021,366</b>
1% General Levy of Property Tax	\$2,664,358	\$2,334,144	\$330,114	\$4,236,518	\$3,906,305	\$330,114	\$2,193,270	\$1,863,056	\$330,214
CSA 42 Share of 1% General Levy is 8.74%	\$232,865	\$204,004	\$28,852	\$370,272	\$341,411	\$28,852	\$191,692	\$162,831	\$28,861

The RDA increment shown in the table above has been delivered to VVEDA for its operations. The last line of the table identifies what would have been CSA 42’s share based upon net value, what share of CSA 42 revenues were provided to VVEDA and what CSA 42 received each year in property tax revenues.

LAFCO staff has questioned this situation with representatives of the County’s Redevelopment Agency, the Auditor Controller’s Office, County Special Districts Department and the First District. LAFCO staff has learned that the by-laws of VVEDA, specifically Section 512 Payments to Taxing Agencies to Alleviate Financial Burden, would allow VVEDA to forward to CSA 42 some portion of these increment revenues to “alleviate any financial burden or detriment caused to any taxing agency by the redevelopment project”. In addition, LAFCO staff understands that the County is evaluating the ability to request VVEDA to provide future participation in tax increment distribution for CSA 42 and the possibility of some back payments to alleviate some of the concerns regarding its ability to serve its constituents.

Regardless of the potential changes to the funding stream for CSA 42, the residents of this area have expressed a desire to remain outside the sphere of influence of the City of Victorville. LAFCO staff has defined a boundary which excludes those property easterly of National Trails Highway, but includes those lands westerly of National Trails to the existing City of Victorville boundary, southerly of Bryman Road on the basis of drainage and topography. This recommendation responds to some of the concern, but not all, of the residents and property owners in this unincorporated area.

**ENVIRONMENTAL ASSESSMENT:**

In 2007, when the City of Victorville’s request for sphere of influence expansion to the north was separated from its sphere of influence update, it was on the basis that the City was conducting its General Plan update and was to include the expansion area in its review and evaluation. The City’s processing of the General Plan Update has included the adoption of an Environmental Impact Report (EIR) which addresses the sphere of influence expansion area

and the pre-zoning of the eastern I-15 corridor area which includes portions of the current City sphere of influence and approximately 2,000 acres of the sphere expansion. During the processing of the application LAFCO's Environmental Consultant, Tom Dodson and Associates, and LAFCO staff have participated in the City's environmental process, have reviewed these documents and provided responses to the City for its consideration. Mr. Dodson has indicated that the documents provided to the Commission are adequate for the Commission's use as a responsible agency. A copy of the environmental documents, including, but not limited to, the Final EIR, Mitigation Monitoring Plan, and Statement of Overriding Considerations were provided to Commission members on November 17, 2009.

On May 6, 2010, LAFCO staff was notified by a representative of the City of Victorville that the City was close to settlement of the issues related to the litigation filed against the City of Victorville Final EIR and the General Plan Update 2030. This was the first notification to LAFCO staff that a lawsuit was involved in the process. On June 1, LAFCO staff was notified of a proposed schedule for review of updates to the General Plan by the City of Victorville Planning Commission and City Council noting that the introduction of the updated mineral resource maps would be included in the General Plan as a part of this process. On June 1, LAFCO staff requested that the City provide a copy of the lawsuit filing and any public documents related to settlement issues; which were received on June 3, 2010. At the same time, LAFCO staff reviewed this circumstance with the Commission's Environmental Consultant and Legal Counsel who have advised staff that no final action can be taken on the environmental document until such time as the updates are processed; whatever the environmental determination is made is filed on the changes, the appeal period has expired and the lawsuit is settled. It has been the Commission's longstanding practice, that when it is a responsible agency under CEQA, it will not move forward with a proposal until litigation affecting its environmental assessment is settled. Therefore, staff is recommending that the Commission make a determination regarding the conflict area and that the matter of LAFCO 3082 addressing sphere of influence amendments for the City of Victorville, Victorville Water District, and City of Adelanto be continued to the September 15, 2010 LAFCO hearing for a final determination.

**CONCLUSION:**

The Commission, its staff and environmental consultant have been presented with mountains of paperwork for the matter of addressing the environmental assessment for the City of Victorville's inclusion of the area within its General Plan 2030, the matters related to the area of conflict between the City of Victorville and the Helendale CSD, the sphere of influence expansion and establishment proposals, and the directives of State law as they relate to the preservation of mineral resources and the guiding of urban development through the sphere of influence program away from such areas. Staff believes that the modification in boundary for the conflict area will address these concerns, provide for the development of the Desert Gateway Specific Plan and its anticipated Desert Xpress facility and provide for a clean division of service delivery based upon topography, drainage, and efficient and effective service provision.

Therefore, LAFCO staff is recommending that the Commission modify the compromise applications submitted for LAFCO 3082 and LAFCO 3089 as outlined in this portion of the

report, continue the consideration of LAFCO 3082 to the September 15, 2010 hearing to allow for completion of the environmental and/or litigation process and move forward with the discussion of the Helendale CSD sphere of influence establishment, LAFCO 3089, as outlined in the balance of this report.

In order to achieve these recommendations, LAFCO staff recommends that the Commission take the following actions:

1. Modify the compromise boundary presented for LAFCO 3082 -- Sphere of Influence Amendments for the Cities of Victorville and Adelanto and the Victorville Water District to exclude the territory identified by LAFCO staff related to the mineral resources encompassing approximately 23 square miles;
2. Continue consideration of LAFCO 3082 to the September 15, 2010 Commission hearing to allow for settlement of existing CEQA litigation against the City's Final Environmental Impact Report for the General Plan 2030 Update; and
3. Modify the compromise boundary present for LAFCO 3089 -- Sphere of Influence Establishment for the Helendale Community Services District to exclude the territory identified by LAFCO staff related to the mineral resources encompassing approximately 8+/- square miles.

## **Service Review Summary for LAFCO 3089 – Helendale Community Services District Sphere of Influence Establishment**

### **INTRODUCTION:**

LAFCO 3089 consists of a service review pursuant to Government Code Section 56430 and sphere of influence establishment pursuant to Government Code 56425 for the Helendale Community Services District (District). It is a somewhat difficult task to provide for a full service review for an agency which has been in existence for only slightly more than three years, whose primary efforts have been on setting up shop and transition services, and whose anticipated services were evaluated in the documentation for its formation. However, the District's response and supporting materials are included as Attachment #16 to this report and are discussed in the materials below along with the staff's analysis of the factors required for Commission consideration.

### **LOCATION AND BOUNDARIES:**

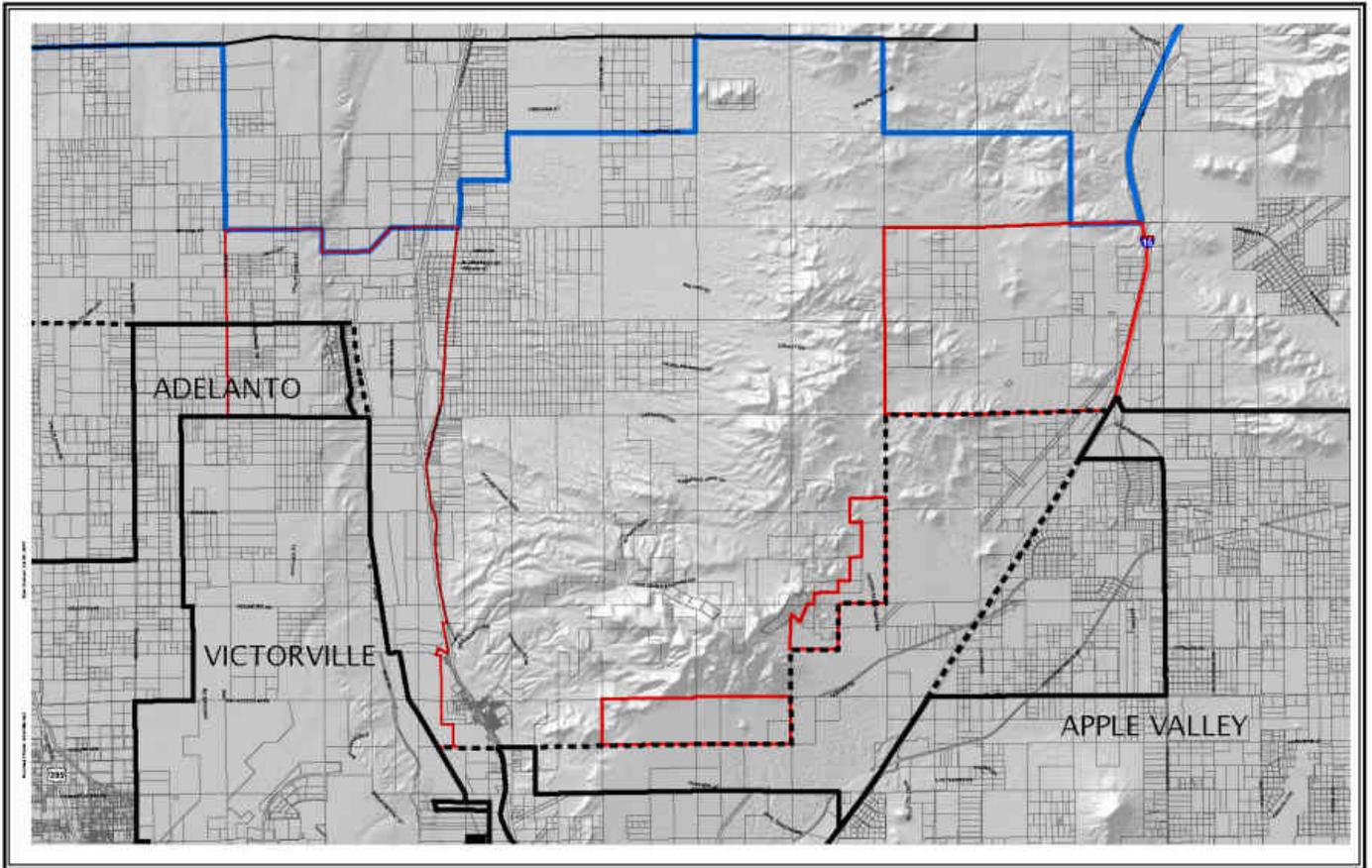
The service review and sphere establishment study area was originally initiated by the District in August 2008. Following circulation and review, the southern portion of the study area was in conflict with the application submitted by the City of Victorville (LAFCO 3082). During the summer and fall of 2009, the City of Victorville and District negotiated to a compromise related to the southern portion of the sphere establishment area addressing the territory identified as the "conflict area" by LAFCO staff and on January 7, 2010 adopted a resolution (Resolution No. 2010-01) modifying the boundaries according to that compromise.

As discussed in detail above, LAFCO staff has proposed the exclusion of those lands within the compromise boundary that were identified as containing mineral resources in keeping with directives of CKH. The sphere of influence as proposed by LAFCO staff is located in the North Desert region of the County and is generally bordered by the west section lines two miles west of the existing Helendale CSD boundary on the west; Township and Section lines which correspond to the northern Service Zone FP-5 (Helendale) of the San Bernardino Fire Protection District on the north; a combination of the City of Barstow sphere of influence and Interstate 15 on the east; and a combination of Section, half section, quarter section, and the existing Helendale CSD boundary on the south. The area encompasses approximately 173 +/- square miles, 92 of which are within the existing boundaries of the Helendale CSD. The project area is generally located north of the Cities of Adelanto and Victorville, southwest of the City of Barstow, west of Interstate 15 and extending east of Highway 395. A map of the District's current boundary and the proposed sphere establishment is included in Attachment #1 and shown below:

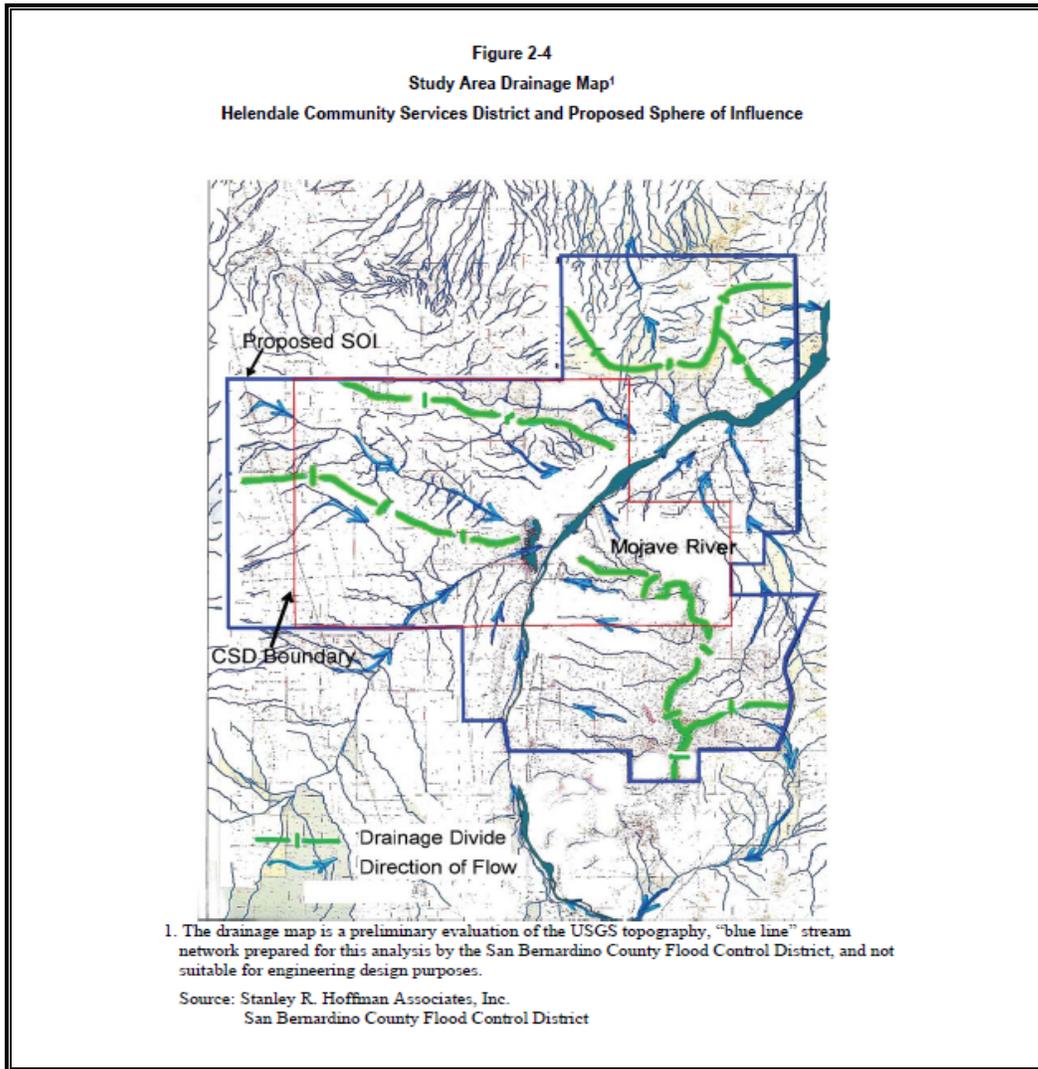
AGENDA ITEM #8 --  
 LAFCO 3082 –VICTORVILLE/VICTORVILLE  
 WD/CITY OF ADELANTO SPHERE  
 AND LAFCO 3089 – HELENDALE SPHERE  
 JUNE 7, 2010



As a part of the discussion on the modification to address the “conflict area” LAFCO staff proposed a modification in the compromise application submitted by the District. The discussion regarding the exclusion area of mineral resources has been documented in the discussion above. The division of sphere territory along the southerly section lines coincides with the topography and drainage for the areas as shown on the map below:



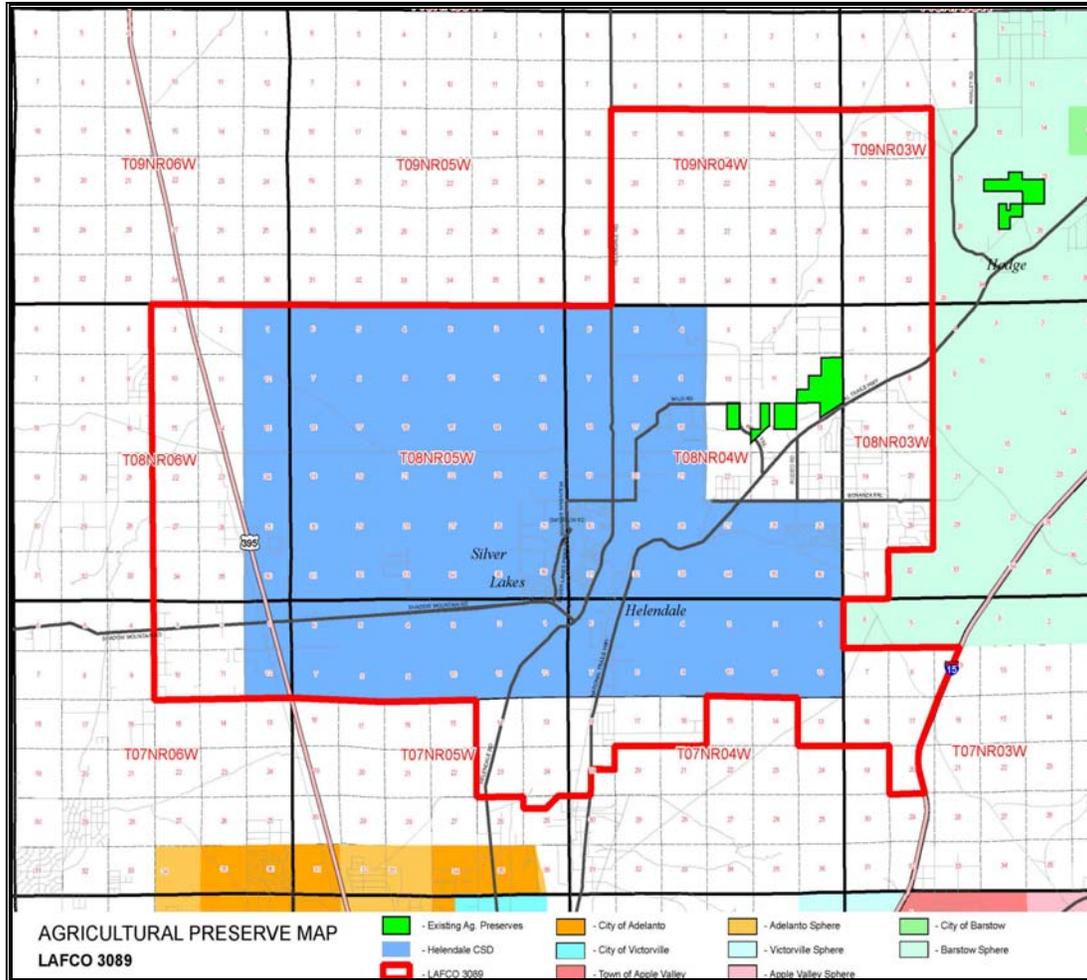
In addition on Page 9 of the Service Review Report prepared by Stanley Hoffman of Stanley Hoffman and Associates provides a description of the drainage of the area. The map from the Service Review Report is shown below (it has not been updated to reflect changes in the sphere of influence delineation):



**WILLIAMSON ACT CONTRACT LANDS:**

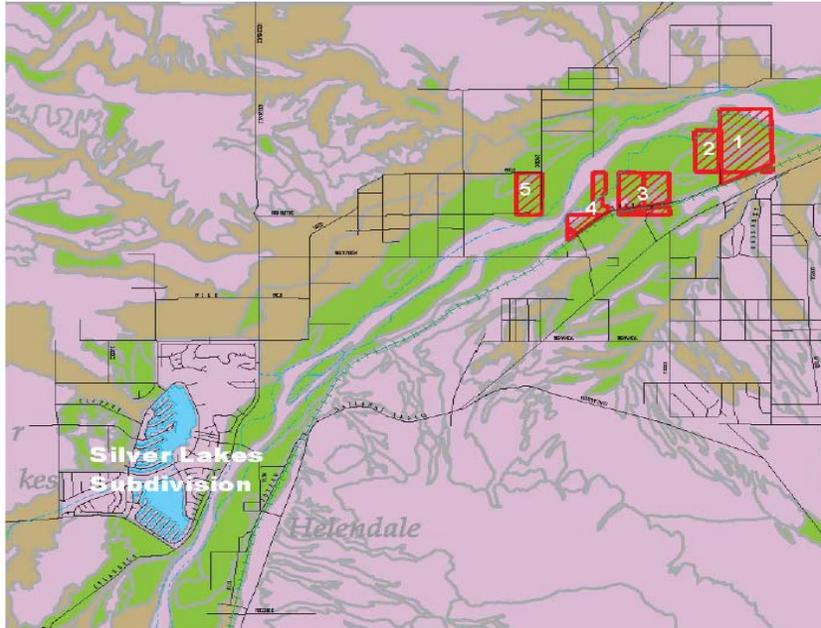
Included within the northeastern sphere area are Williamson Act Agricultural Preserves (Preserves) with operating Williamson Act Contracts (hereafter shown as "Contract"). The materials submitted by the District identify the location of the Contract areas and notes that each is currently active, meaning that each has a minimum of ten-years of active contract remaining. The Preserves are established by resolution of the County, must be 100 acres at their inception, and are required for the contract to be set up. These Contracts are entered into between the County and the landowner to establish the assessed valuation of the property at the lower agricultural use in exchange for the maintenance of the use for a rolling ten- year period. These contracts are recorded against the properties. The cancellation process is instituted through the filing of a Notice of Non-Renewal, also recorded, which sets in motion a ten-year period where the assessed value is incrementally

increased up to full value at its highest and best use. The map below identifies the location of the three Preserve areas:



In addition, the Service Review Report provides a more detailed map of the Contract locations and table describing the existing contracts. These Contracts are shown below:

Figure 2-6  
 Agricultural Parcels with Existing Williamson Act Contracts  
 Proposed Helendale Sphere of Influence



Source: Stanley R. Hoffman Associates, Inc.  
 County of San Bernardino Current Planning Division

Table 2-1  
 Agricultural Parcels with Existing Williamson Act Contracts  
 Proposed Helendale Sphere of Influence

Map Number	Williamson Act Number	GIS Acreage	APN	Contract Began	Contract Status
1	84-577a	237.33	04-66-041-23 04-66-111-02	2/10/1984	Active
2	84-577c, 68-60	76.23	04-66-041-17	2/10/1984	Active
3	83-566	74.55	04-66-101-07	2/7/1983	Active
		74.60	04-66-101-06		
4	84-580	38.73	04-66-101-04	1/1/1984	Active
		32.64	04-66-121-25		
5	84-577b	80.78	04-66-091-17	2/10/1984	Active

Source: Stanley R. Hoffman Associates, Inc.  
 County of San Bernardino Parcel Data  
 Christney Barilla; Senior Planner, Current Planning, County of San Bernardino

Government Code Section 56426.6 provides the guidance for the Commission's deliberations regarding the inclusion of Contract lands within the spheres of influence of

local government agencies. It specifies that the Commission should carefully review the inclusion of the Contract lands within the sphere of influence if an agency which provides for sewers, nonagricultural water, or streets and roads and whenever possible guide the sphere away from these lands. However, the Code Section allows for the inclusion in these types of agencies if the Commission makes specific determinations related to the continuation of and integrity of the contracts for the future. The determination to be made is either:

- A. That the sphere inclusion would facilitate planned, orderly, and efficient patterns of land use or provision of services, and the public interest in the change substantially outweighs the public interest in the current continuation of the contract beyond its current expiration date; or
- B. That the change is not likely to adversely affect the continuation of the contract beyond its current expiration date.

The language of the Code Section indicates that the Commission is to make a judgment regarding the continuation of these contracts beyond the current expiration period. When making these determinations, the Commission is to evaluate the policies and implementation measures of the County in administering the contract; the infrastructure plans of the affected agency; and any other factors the Commission deems to be relevant to the consideration. The purpose of this provision is to eliminate the premature conversion of Agricultural Lands through the introduction of planning from urban service providers. In the staff view, this determination is most relevant to the discussion of the placement within a City sphere of influence as the authority for land use decisions is anticipated to change.

Based upon the parameters in the law, it is the staff's position that the Commission can approve the inclusion of these Contract areas within the sphere of influence establishment for the District even though its range of services includes the provision of sewers and non-agricultural water on the basis that it is not likely to adversely affect the continuation of the contracts in the area. The basis for that determination is:

1. The County, as the land use authority, will continue to administer the Williamson Act contracts as it has for the past 40+ years, contract 68-60 being entered into in 1968. The County has defined policies and procedures as well as goals within its General Plan Conservation Element which reads as follows:

**Policy CO 6.1** -- Protect prime agricultural lands from the adverse effects of urban encroachment, particularly increased erosion and sedimentation, trespass, and non-agricultural land development.

No change in Williamson Act Contract administration is anticipated. The ultimate decision for the continuing use of these lands for agriculture rests with the landowner. The sphere of influence designation does not provide any new service ability not currently available in the area through the development of a Zone of County Service Area 70; therefore, it is not an introduction of a new level of service.

2. In reference to the infrastructure plans for the District, the purpose of the sphere of influence establishment is to provide the agency with its anticipated probable physical boundary for planning purposes. The range of services provided by the District include water, sewer, parks and recreation, streetlights, refuse collection, and graffiti abatement.

Water and sewer service are provided in the core of the agency to the development known as Silver Lakes. Plans for expansion of these facilities would be in response to development proposals and are currently being undertaken as a part of the Specific Plan in progress with the County Land Use Services Department. No extension of these services is currently contemplated into the northeastern sphere area which includes the Contract lands.

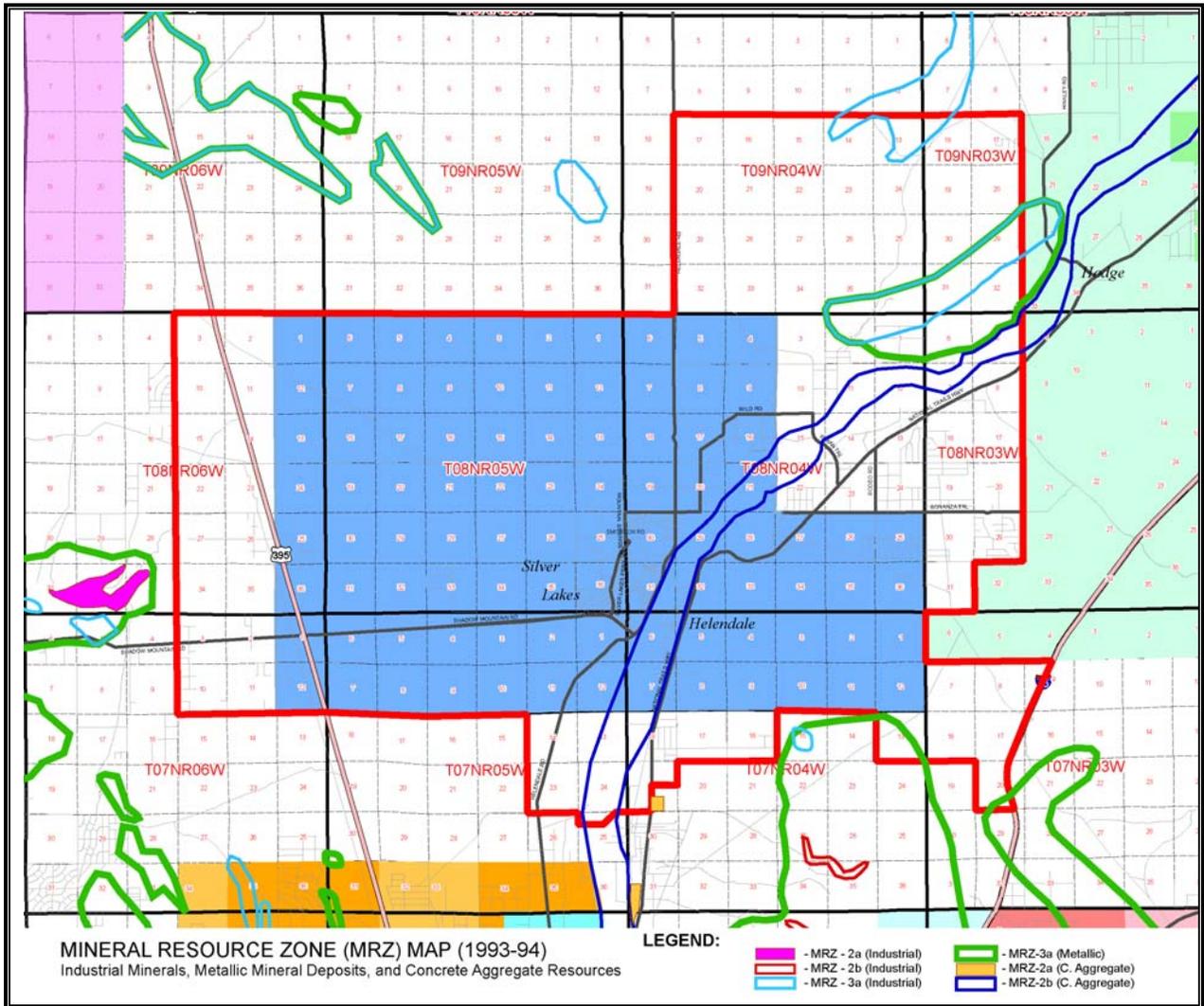
Streetlighting is provided on public rights-of-way within the Silver Lakes development at the present time through the payment of the energy costs associated with the streetlights, the ownership of the light fixture remains with Southern California Edison (SCE). As identified in LAFCO 2996, the formation of the Helendale CSD, it succeeded to the responsibility for these services from CSA 70 Improvement Zone B. The provision of this service to additional territories is limited by the County of San Bernardino's adopted "Night Sky Ordinance" which limits the introduction of streetlights and other light sources. Extension of this service would only occur as requested by the County through coordination with SCE.

Parks and recreation, graffiti abatement and refuse collection are regional services which are not anticipated to have an effect on the likelihood of the continuation of agricultural uses in the area.

Therefore, it is the staff's recommendation that these contract areas be retained within the sphere of influence establishment area for the District.

### **MINERAL RESOURCES:**

The introduction to this report discussed the significance of the policies and requirements of State law which directs the Commission to guide development away from areas of known mineral resources. The northeastern portion of the District's sphere of influence establishment area contains mineral resource lands identified by the State Mining and Geology Board as MRZ3(a) identified as including industrial and metallic minerals. The MRZ3 designation is defined as being a mineral resource zone which contains deposits whose significance cannot be evaluated from available data. The map below shows the location of the MRZ3(a) within the proposed sphere of influence:



Since the significance of the deposits is not determined based upon available data, the Commission, in staff's opinion, has the option of retaining this area within the District's sphere establishment or can modify the boundary to exclude this territory. Staff's recommendation is to retain this area within the sphere establishment.

## MUNICIPAL SERVICE REVIEW SUMMARY

The District prepared a service review consistent with LAFCO's policies and procedures and the factors required by Government Code Section 56430. The District's response to LAFCO's original and updated requests for materials includes, but is not limited to, the Municipal Service Review Report prepared by the District's consultant Stanley R. Hoffman and Associates and the provision of the District's budgets and audits. The following

summarizes the five factors required to be considered by the Commission in making its determinations.

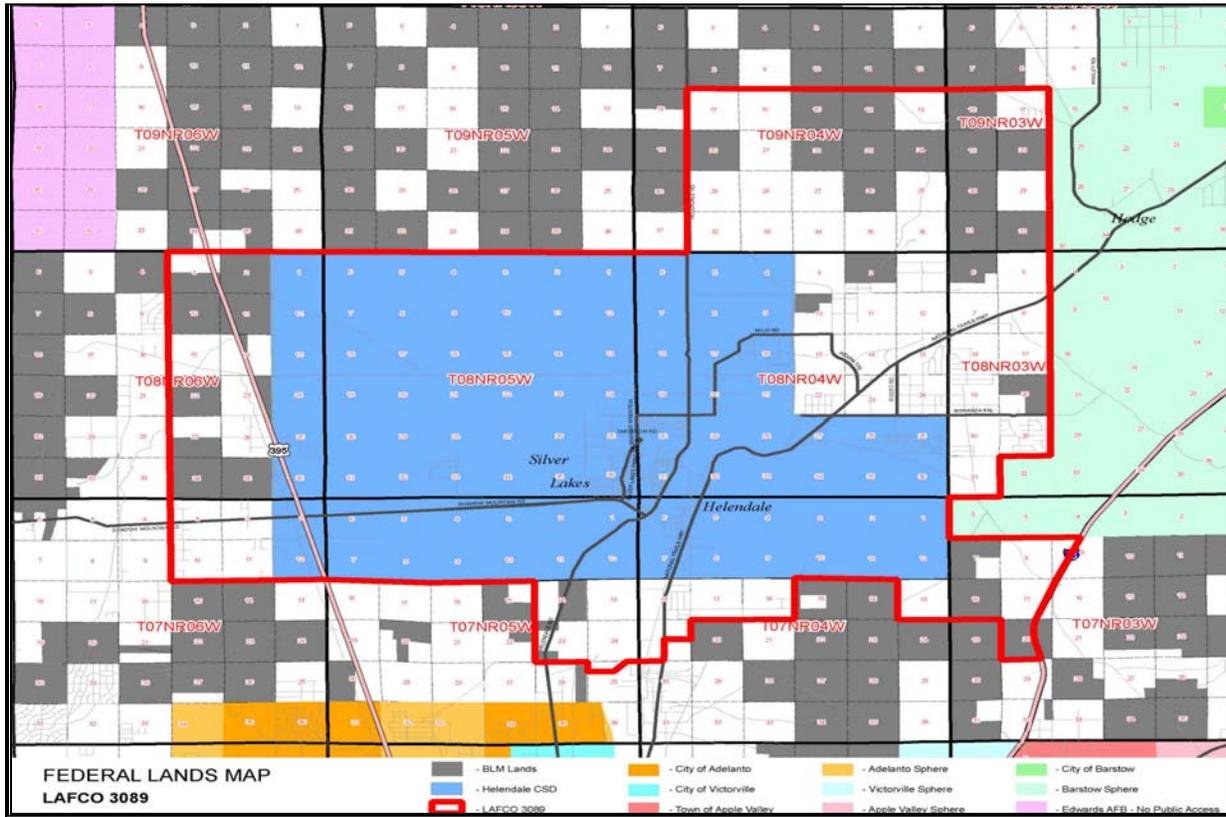
**Growth and population projections for the affected area.**

The community of Helendale includes the development known as “Silver Lakes” within the central portion of the District’s boundary and the ranches and farms along the Mojave River from the north extent of the City of Victorville on the west to the City of Barstow sphere of influence on the east. Farming and ranches have dominated the landscape of the Helendale community until the development of the Silver Lakes Planned Unit Development approved by the County of San Bernardino in the early 1970s as a recreation/retirement community. This central core area has evolved over time to include schools, parks, commercial, minor industrial and recreational land uses.

According to the Service Review information provided by the District, as received from the County Land Use Services Department, the 2008 population for the Helendale community as defined by the District boundary was 5,968 and the modified sphere expansion had a population of 909. LAFCO staff has received information that identified that the District had 2,928 registered voters as of June 4, 2010; and the sphere expansion had 235 registered voters identified as 149 within the western and northeastern sphere of influence expansion area and 86 within the modified southern sphere area.

The Transportation Analysis Zones formulated by the Southern California Association of Governments (SCAG) in this area are quite large and are difficult to pinpoint to the sphere modification. However, the materials submitted identify that the SCAG projections for the proposed sphere of influence establishment is from 3,210 households to 11,457 households by 2035. This projects an average growth rate of 4.8 percent. However, these SCAG numbers were prepared prior to the significant recession in the nation and region with the annual growth for 2009 and 2010 estimated at less than 1 percent.

While the sphere of influence establishment for the District, as modified by LAFCO staff, is quite large encompassing 173 square miles (92 square miles are within the current district boundaries) the amount of private lands is significantly less than that total. The map below shows the public lands within the sphere expansion areas (a copy is included as a part of Attachment #15):



The chart below identifies land ownership within the Sphere establishment area:

Land Owner	Sq Miles	Percentage
Bureau of Land Management	24	13.25
Bureau of Land Management (in CSD)	48	26.52
Private landowners/Flood Control/CSD	101	60.23
<b>Total</b>		<b>100.0%</b>

**Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.**

Currently, the District is authorized by LAFCO to provide water, sewer, streetlights, park and recreation, graffiti abatement and refuse collection (solid waste). Other services provided by regional service providers include: Fire protection is provided by the San Bernardino County Fire Protection District, its North Desert Service Zone and Service Zone FP-5 (paramedics); flood control is provided by the San Bernardino Flood Control District, the Mojave Water Agency is the State Water Contractor for the area and the Mojave Desert Resource Conservation District overlays the entirety of the area. In addition, the area is

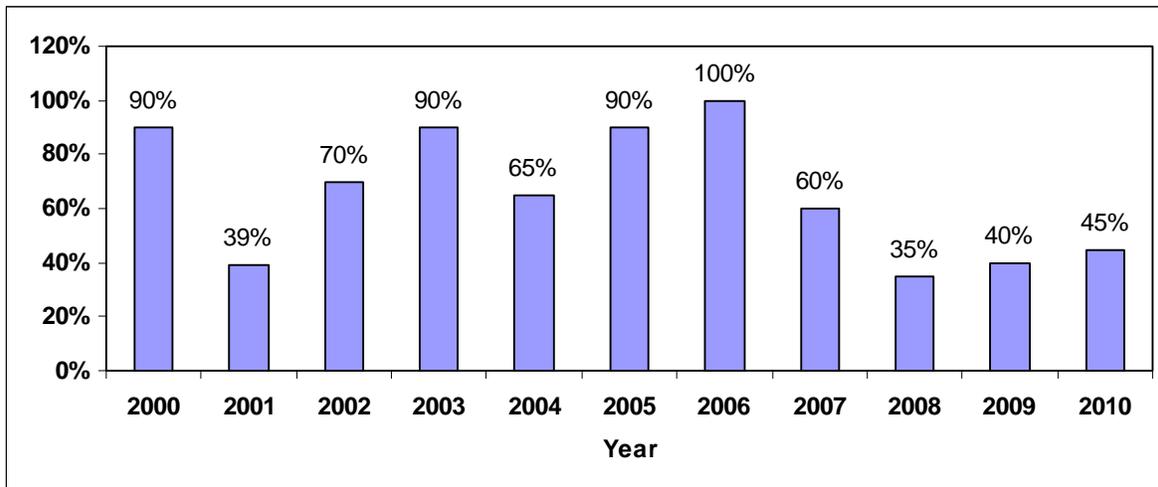
overlay by County Service Area 70 (multiple function agency) and County Service Area 60 (Apple Valley Airport). Analysis of these agencies is not included in this review.

Water

As LAFCO staff has stated on many occasions, water is the lifeblood for communities located in the desert. Therefore, the most significant regional issue is present and future water supply. The *2007 State Water Project Delivery Reliability Report* indicates that State Water Project (SWP) deliveries will be impacted by two significant factors. First, it is projected that climate change is altering hydrologic conditions in the State. Second, a ruling by the Federal Court in December 2007 imposed interim rules to protect delta smelt which significantly affects the SWP. Further, the *Report* shows, "...a continued eroding of SWP delivery reliability under the current method of moving water through the Delta" and that "annual SWP deliveries would decrease virtually every year in the future..." The *Report* assumes no changes in conveyance of water through the Delta or in the interim rules to protect delta smelt.

The figure below shows the allocation percentage that State Water Contractors were allowed to purchase since 1998. For example, Mojave Water Agency (MWA) (the State Water Contractor that overlays the study area) is entitled to purchase up to 82,800 acre-feet of imported water per year. As of May 20, 2010, for 2010 the allocation percentage is 45%<sup>1</sup>; therefore, MWA can purchase up to 37,260 acre-feet in 2010. This sharp reduction in supplemental water supply will reduce the amount of water that MWA can place into the groundwater basin where the community pumps its water.

**Department of Water Resources State Water Project  
 Allocation Percentages Statewide (1998-2010)**



source: Department of Water Resources

<sup>1</sup> State of California. Department of Water Resources. "Final Delivery Estimate is 45 Percent of Requests", Press Release. 20 May 2010.

The high growth rate in the region, coupled with a continued overdraft<sup>2</sup> of the Mojave groundwater basin in its entirety, the primary source of supply, is an infrastructure deficiency. The groundwater basin is adjudicated<sup>3</sup> under a stipulated judgment that specifies the amount of groundwater that can be extracted by major groundwater producers (those using over 10 acre-feet per year), the purpose of which is to balance water supply and demand and address the groundwater overdraft. Producers are required to replace any water pumped above their Free Production Allowance by paying the Watermaster to purchase supplemental water or by purchasing unused production rights from another party. Due to the ongoing overdraft of the basin and challenges associated with the State Water Project, future supplies are limited and demand will exceed supplies unless the Department of Water Resources allocates additional amounts. This prompts water purveyors to scale back consumption annually, to aggressively promote water conservation measures, and to buy more expensive imported water. Finding efficiencies in managing limited supply sources is critical for the future of the community.

### Water Rights and Production

The CSD is within Alto and Centro sub-regions of the Mojave Groundwater Basin, but its service area is currently wholly within Alto. According to the most recent Mojave Watermaster Annual Report, for Water Year 2008-09 (May 1, 2010), the CSD has water production rights (also known as Base Annual Production) of 2,621 acre-feet (AF) in the Alto Sub-basin. In Alto, Free Production Allowance (FPA) is currently at 60% of Base Annual Production, which permits 1,573 AF of FPA for 2010-11.

As noted in the most recent Watermaster Annual Report, “rampdown in Alto is not warranted at this time”<sup>4</sup>. Producers are required to replace any water pumped above their FPA by paying the Mojave Basin Area Watermaster a replacement assessment to purchase supplemental water or by purchasing unused production rights from another party in the sub-area for the applicable production year. Additionally, each water producer within the Alto sub-basin, when applicable, is subject to the Watermaster replacement to the downstream Centro sub-basin (obligation is in acre-feet). This obligation is called Make-up Water Obligation and can generally be satisfied by: 1) paying the Watermaster assessment directly, 2) purchasing the acre-feet obligation from Centro water producers at a two-to-one ratio, or 3) purchasing transfer water from Centro producers before-hand.

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<sup>2</sup> Overdraft is defined as “the condition of a groundwater basin in where the amount of water withdrawn exceeds the amount of water replenishing the basin over a period of time”. California. Department of Water Resources, *California Water Plan Update - Bulletin 160-98*, pg. G-3 (November 1998).

<sup>3</sup> Adjudication is defined in the *2005 California Water Plan* as the “Act of judging or deciding by law. In the context of an adjudicated groundwater basin, landowners or other parties have turned to the courts to settle disputes over how much groundwater can be extracted by each party to the decision.” California. Department of Water Resources, *California Water Plan Update 2005*, Vol 4, Glossary (2005).

<sup>4</sup> Mojave Basin Area Watermaster, *16<sup>th</sup> Annual Report of the Mojave Basin Watermaster: Water Year 2008-09*, (1 May 2010), Ch. 5.

As indicated in the table below, the recent trend for the CSD's water production indicates that it produces more than its FPA. Thus, it has to purchase water from other agencies within the sub-basin to avoid paying the higher replacement water and make-up water rates charged by the Watermaster. As indicated in the table below, for WY 2006-07 the CSD produced 933 AF in excess of FPA. To offset the over production, the CSD transferred-in 933 AF from other agencies. In turn, the replacement water obligation to the Watermaster was removed.

**Helendale CSD – Alto Sub-basin**  
(Units in Acre-feet unless otherwise noted)

<b>Water Year</b> [Base Annual Production (BAP)]	<b>Base Free Production Allowance [FPA]</b> [Rampdown % of BAP]	<b>Carryover from Previous Year and Transfers from Other Agencies</b>	<b>Verified Production</b>	<b>Unused FPA<sup>1</sup> or (Agency Overdraft)</b>	<b>Replacement Water Obligation [Agency Overdraft]</b>	<b>Makeup Water Obligation [Watermaster Replacement to Centro Sub-basin]<sup>2</sup></b>
<b>2003-04</b> <sup>3</sup> [2,346]	1,643 [70%]	479	2,122	0	\$0	87 obligation 174 purchased at a total cost of \$12,180
<b>2004-05</b> <sup>3</sup> [2,346]	1,525 [65%]	421	2,012	(66)	66 at a cost of \$18,546	\$0
<b>2005-06</b> <sup>3</sup> [2,346]	1,408 [60%]	447	2,243	(388)	388 at a cost of \$95,448	62 obligation 124 purchased at a total cost of \$10,540
<b>2006-07</b> [2,346]	1,408 [60%]	933	2,341	0	\$0	74 obligation 124 transferred & 25 purchased at a total cost of \$2,250 <sup>4</sup>
<b>2007-08</b> [2,527]	1,517 [60%]	824	1,983	358	\$0	110 obligation 221 purchased at a total cost of \$8,280
<b>2008-09</b> <sup>5</sup> [2,621]	1,544 [60%]	1,699	1,770	1,473	\$0	93 obligation at a cost of \$35,921
<b>2009-10</b> <sup>6</sup> [2,621]	1,573 [60%]	1,473	n/a	n/a	n/a	n/a
<b>2010-11</b> [2,621]	1,573 [60%]	-	-	-	-	-

<sup>1</sup> Unused FPA is equal to the total FPA (Base FPA, carryover, and transfers) minus total Verified Projection, but not greater than FPA and FPA transfers.

<sup>2</sup> Obligation to the Centro basin is purchased at a two-to-one ratio.

<sup>3</sup> Area formerly served by County Service Area 70 Improvement Zone C (Helendale) until WY 2006-07.

<sup>4</sup> 124 acre-feet was purchased as a transfer of Free Production Allowance in the Centro Sub-basin which was used to satisfy the Make-up Obligation of the Watermaster.

<sup>5</sup> Transfers from other water agencies not reconciled yet and data is subject to amendment in Appendix I in Seventeenth Annual Report of the Watermaster due May 2011.

<sup>6</sup> Draft data (Appendix B) not available until early 2011.

sources: Mojave Basin Area Watermaster

*Annual Report of the Mojave Basin Area Watermaster, for Water Years 2003-04 through 2008-09.*

*Requests for Assignment of Carryover Right in Lieu of Payment of Replacement Water Assessments and Requests for Assignment of Free Production Allowances in Lieu of Payment of Makeup Water Assessments, for Water Years 2002-03 through 2008-09.*

### CSD Water and Proposed Sphere Establishment

According to maps from the Mojave Water Agency, County of San Bernardino General Plan, and LAFCO, there are no private or public water purveyors for domestic water in the proposed sphere establishment areas outside of the CSD's current service area.

Sewer and water services are provided to residents within a portion of the CSD's service area, which generally resembles the Silver Lakes subdivision area. Those without access to the water system within the CSD, and those within the proposed sphere expansion area, rely on on-site private wells for their water needs. The CSD states that it is not economically feasible, nor is it desired by residents, to extend the water system to serve the existing dwellings in these areas. Rather, as concentrated development occurs in the proposed sphere establishment area outside of its current boundaries, annexation would be contemplated and developers would be required to pay connection fees for a water system to serve future residents.

The CSD provides drinking water to residents through a system of two reservoirs, which have a combined storage capacity of five million gallons, and nine groundwater wells. In 2007, approximately 689.5 million gallons of potable water was produced to meet a demand of 684.5 million gallons. In the future, the CSD also plans to increase water production by developing a new well, and by rehabilitating older, inactive, wells. Additionally, the CSD has planned to construct a water recharging facility that will allow it to purchase rights to water downstream. Future residential development may require connection into existing water and sewer systems or establishment of on-site systems that will be funded through connection fees and user charges. Additionally, the CSD has invested in leasing and purchasing water rights in order to avoid paying the higher replacement and make-up water costs of the Mojave Basin Watermaster.

### Water Rates

A comparison of the residential water rates charged by the agencies within the Victor Valley Region is identified in the chart below.

**Residential Water Rate Comparison (2010)**  
 (rates measured in units, or one hundred cubic feet)

Agency	Water Use Fee				Monthly Meter Charge (3/4" Meter)	Monthly Average Cost (20 units of water)
	Tier One	Tier Two	Tier Three	Tier Four		
<b>City of Adelanto (Adelanto Public Utilities Authority)</b>	\$1.25	2.16	2.50	-	\$13.38	\$38.38
<b>Apple Valley Ranchos Water Company</b>	2.10	2.22	2.34	-	30.27	72.99
<b>County Service Area 42 (Oro Grande)</b>	1.64	1.82	1.97	-	34.39	68.27
<b>CSA 64 (Spring Valley Lake)</b>	0.64	0.78	0.85	-	10.51	24.15
<b>CSA Zone J (Oak Hills)</b>	1.57	1.80	2.36	-	13.29	46.07
<b>Golden State Water Company – Apple Valley Service Area</b>	2.11	-	-	-	19.15	61.35
<b>Helendale Community Services District</b>	0.81	0.90	1.01	-	8.01	25.38
<b>Hesperia Water District</b>	0.84	1.43	1.74	2.07	18.16	40.86
<b>Phelan Piñon Hills CSD</b>	1.81	2.01	2.08	-	13.01	50.41
<b>Victorville Water District</b>	1.47	-	-	-	17.50	46.90

Rates rounded to the nearest hundredth

Sewer

For this discussion regarding sewer service, LAFCO staff has referenced the CSD's application documents to include the *Sphere Amendment – Municipal Service Review* prepared by Stanley Hoffman Associates and the *Sphere of Influence Supplement* form required as a part of the CSD's application. Should the CSD desire annexation of this area in the future, it would need to submit as a part of its application package a Plan for Service and Fiscal Impact Analysis detailing the provision of sewer service to the area.

Sewer services are provided to residents within the CSD's core service area, which generally resembles the Silver Lakes area (also the area of the former County Service Area 70 Zone C). Those without access to the water or sewer system within the CSD, and those within the proposed sphere establishment area outside of the current service area, rely on on-site private septic systems for their sewer needs. The CSD states that it is not economically feasible, nor is it desired by residents, to extend the sewer system to serve the existing dwellings in these areas. Rather, as concentrated development occurs in the establishment areas developers will pay connection fees for a sewer system to serve future residents.

The wastewater treatment plant that services the CSD's sewer system is located along Helendale Road, one half mile north of Smithson Road. The wastewater treatment plant is permitted to operate at a capacity up to 1.2 million gallons per day. It currently operates at an average of 500,000 to 700,000 gallons per day. Therefore, approximately 50% of the capacity at the wastewater treatment plant is available for future needs. Wastewater is

treated to a secondary level and can be used for certain agricultural uses such as irrigating sod farms. It is also used to recharge the groundwater through spreading it into percolation ponds.

The CSD is also preparing a wastewater master plan that would provide tertiary treatment within a few years. Within the past few years, the CSD has replaced and updated equipment at the wastewater treatment plant, such as rehabilitating the primary clarifiers and modifying the headworks which have resulted in decreased operational costs. Also, the CSD plans to coordinate with the Helendale Homeowners Association for future use of the tertiary treated water on the golf course and landscaping areas. This would achieve greater efficiency in the use of water in the CSD service area.

Sewer Rates

A comparison of the residential sewer rates charged by the agencies within the Victor Valley Region is identified in the chart below.

**Residential Sewer Rate Comparison (2010)**  
 (rates per equivalent dwelling unit)

Agency	Monthly Average Cost
<b>City of Adelanto (Adelanto Public Utilities Authority)</b>	\$47.82
<b>Town of Apple Valley</b>	\$23.58
<b>County Service Area 42</b>	\$72.22
<b>CSA 64</b>	\$32.32
<b>CSA 70 SP-2 (Oak Hills High County)</b>	\$36.98
<b>Helendale Community Services District</b>	\$36.64
<b>Hesperia Water District</b>	\$20.07
<b>City of Victorville</b>	\$23.70

Of note, only Adelanto and the Helendale CSD operate a wastewater treatment facility. The other agencies shown in the chart above are participants in the Victor Valley Wastewater Reclamation Authority facility, a joint-powers authority.

Park and Recreation

As noted in the Service Review Report, immediately following the formation of the District it began to provide recreational services to its constituents. This service included classes held at the District's office on a fee for service basis, as no prior entity provided this service therefore no funding was transferred during formation. In addition, the District has purchased a 74-acre ranch within the community and plans to develop the area into a community park for the residents use. At present the District provides for equestrian uses at the site (rental of boarding areas and training facilities). In the future ball fields are anticipated for a part of the southern portion of the property. This facility represents the first public park facility for this community.

### Graffiti Abatement

At present, the needs for this service are minimal and are provided through the Silver Lakes Homeowners Association and through the County for graffiti affecting road signs. In the future, as the need arises, the District will pursue a mechanism to address the provision and funding of this service.

### Refuse Collection (Solid Waste)

As a part of the approval of the formation of the District (LAFCO 2996) it was authorized refuse collection services identified as follows:

**Refuse Collection** Collect, transfer, and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.

At the time, the discussion with the County Solid Waste Management Division related to the potential transfer of responsibility for the existing Solid Waste Handling Franchise Agreement for the District's territory. This transfer of contract responsibility and franchise revenues from Burrtec Waste Industries was accomplished and the CSD is responsible for soliciting bids for providing the service prior to end of the Franchise Agreement term.

Correspondence was received by LAFCO staff dated September 1, 2009, signed by Norman Kanold, Assistant County Administrator, and Kimberly Cox, General Manager of the District, requesting that the Commission clarify this service as a part of the Service Review Sphere Establishment for the District. As described in the correspondence included as Attachment #17, the County and District are working towards an agreement related to the transfer of the Solid Waste Management Disposal Facility Fee to the District. The County and District have requested that the Commission more clearly identify its Refuse Collection service definition as outlined in Resolution No. 2927 and shown above. The letter outlines that the parties are requesting clarification that the service authority clearly allows the District to provide for a transfer station and recycling center.

LAFCO staff believes that the service description approved by LAFCO is clear, that CSD law allows the District to provide for source reduction, recycling and the collection, disposal and handling of solid waste. The transfer of these revenues to the District for support of a transfer station and recycling center would, in the staff's view, assist the area in a reduction in the number of trips to the Victorville Landfill and would allow for recycling which is not currently available outside the Burrtec Industries pick up service area.

At the time of the Commission's consideration of LAFCO 2996 for the formation of the District, LAFCO staff was unaware of the existence of this Solid Waste Disposal Facility Fee. These fees have been in existence since 1973 when the County was first required to convert the dumps in the desert area from burning the waste, to a landfill operation. These

fees are land use based and charged on the property tax bill of all developed parcels based upon the existing County Fee Ordinance. This fee pre-dates the adoption of Prop. 218; therefore, it cannot be raised above the \$85.14 per dwelling unit fee without an election.

LAFCO staff is recommending that the Commission reiterate its determination during the processing of LAFCO 2996, that the service authorized under refuse collection would allow for the operation of a transfer station and a recycling center; would allow for the transfer of the proceeds from the land use fee known as the Solid Waste Disposal Facility Fees to the District to fund these services; and allow for the District and County to formally sign agreements to effectuate this change.

### **Financial ability of agencies to provide services.**

For this report, staff has reviewed the District's audits for the years ending June 30, 2009, June 30, 2008 and the District's first audit for the period April 1, 2007 through June 30, 2007. No audit was prepared by the County for the period of its operations, July 1, 2007 through March 30, 2007. These reports identify the sources of the District's revenue as water sales, sewer fees, property taxes, and other operating revenues (franchise fees and recreation service charges). The audits identify that the District has expended substantial amounts over the last two years to address issues regarding replacement of waterlines due to water leak issues, acquisition of permanent and leased water rights to address needs above FPA, and the purchase of park lands. At the end of June 30, 2009 the District's water fund had no reserves, having used these proceeds to undertake the waterline replacement and other deferred maintenance activities. LAFCO staff has established the standard that a 10% reserve is necessary for any agency to indicate the ability to address unforeseen occurrences. The documents submitted by the District identify that the staff and District Board will be reviewing its water and sewer rates to address the changes in operation and the need to address its reserves.

The District provides financial reporting to the Board addressing its issues. At the November 2009 election, a permanent appropriation limit was approved by the electorate for the District.

### **Outstanding Debt**

During Fiscal Year 2008-09 the District acquired Notes Payable to Municipal Finance Corporation for a total of \$2,789,750 to undertake capital improvements which include the purchase and lease of water rights, construction of Well 1A, construction of new treatment plant headworks for the sewer facility, construction of new sludge drying bed and other wastewater plant improvements.

### **Status of, and Opportunities for, Shared Facilities.**

The District has indicated that it does not currently share facilities with other public agencies. However, its materials indicate that in the future it wishes to partner with the local School Districts to provide for park and recreation services.

**Accountability for Community Service Needs, including Governmental Structure and Operational Efficiencies.**

**Local Government Structure and Community Service Needs**

The Board of Directors meets on the First and Third Thursday of each month at the District's offices. The District employs a General Manager, Finance Manager, office staff and personnel with appropriate certifications to operate the water and wastewater systems for a total of 11.5 full time equivalent employees. The recreational services are provided by contract employees.

The formation of the District was approved at the November 2006 election by a vote of 855 (50.4%) Yes to 843 (49.6%) No and became effective December 5, 2006. The results of the election were contested and were affirmed by judicial review. The current members of the Board of Directors are:

<b>Board Member</b>	<b>Title</b>	<b>Term</b>
H. James Keoshkerian	President	2011
Ron J. Clark	Director	2013
Sandy Haas	Director	2011
John Higdon	Vice-President	2011
Craig Schneider	Director	2013

**Operational Efficiency**

The District has been in operation for approximately 3.5 years and in that time has worked to provide for an efficient and effective delivery of service. The District continues to work toward operational efficiencies that will not decrease the level of service provided its constituents.

**Government Structure Options**

There are two types of government structure options:

1. Areas served by the agency outside its boundaries through "out-of-agency" service contracts -- There are no out-of-agency service contracts on file with LAFCO, and the District has indicated in the materials submitted for this review that it provides no services outside of its boundaries.
2. Other potential government structure changes such as consolidations, reorganizations, dissolutions, etc. – Having been formed in December 2006 no other structure options have been evaluated.

## SPHERE OF INFLUENCE REVIEW

**LAFCO staff recommends that the Commission establish the District’s sphere of influence as outlined in the narrative to include:**

- 1. The existing territory of the District;**
- 2. 16 square miles west of the District existing boundaries to include the length of Highway 395;**
- 3. 51 square miles to the northeast which abuts the existing Community of Barstow designation and the City of Barstow sphere of influence; and,**
- 4. LAFCO staff’s proposed boundary to the south.**

**LAFCO staff recommends that the Commission confirm the “Rules and Regulations Affecting Special Districts” for the District as follows:**

	<b>FUNCTIONS</b>	<b>SERVICES</b>
<b>Helendale Community Services District</b>	Water	Supply water for any beneficial use as outlined in the Municipal Water District Law of 1911 (commencing with Section 71000) of the Water Code
	Sewer	Collect, treat, or dispose of sewage, waste water, recycled water, and storm water, in the same manner as a sanitary district formed pursuant to the Sanitary District Act of 1923 (commencing with Section 6400) of the Health and Safety Code.
	Park and Recreation	Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law (commencing with Section 5780) of the Public Resources Code.
	Streetlighting	Acquire, construct, improve, maintain and operate street lighting and landscaping on public property, public rights-of-way, and public easements.
	Refuse Collection	Collect, transfer, and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.
	Graffiti Abatement	Abate graffiti.

Functions or classes of services

When updating a sphere of influence for a special district, the Commission is required to establish the nature, location, and extent of any functions or classes of services provided by the district (Government Code §56425(i)). The information outlined above identifies the functions and services for the District as authorized by the Commission in its approval for the District and supported by the electorate at the November 2006 election.

As requested by the County of San Bernardino and the District, LAFCO staff has evaluated the functions and services identified.

**FACTORS OF CONSIDERATION:**

The District was requested to provide information regarding the sphere of influence update as required by State law. Staff responses to the mandatory factors of consideration for a sphere of influence review (as required by Government Code Section 56425) are identified as follows:

The Present and Planned Uses in the Area

The District's boundary and sphere comprise approximately 173 +/- square miles and includes the full range of land use designations from Specific Plan residential to Resource Conservation. Helendale, overall, is a rural community that is primarily comprised of residential, agricultural lands which includes ranches and dairy farms and government owned lands. There is some commercial activity which generally occurs within the Silver Lakes community and along National Trails Highway. No change in land use for the area will occur through the proposed sphere of influence designation as the County will remain the land use authority for the entirety of the area.

At present the County Land Use Services Department has initiated a Specific Plan for the Helendale area stretching from the southerly sphere establishment boundary and northerly past the Silver Lakes community to almost the Lockheed facility known as the "Skunkworks". The rationale for beginning this process is that there are a number of land use applications filed with the County along the Mojave River corridor and a vision for the cohesive development of the area is necessary. The planning boundary, at present is westerly of the Mojave River; however, LAFCO staff would question the exclusion of the territory along National Trails Highway since it remains the primary transportation corridor for the area.

The Present and Probable Need for Public Facilities and Services in the Area

There is a need for those who live in the community to receive municipal services. That need varies by the type of land use developed. The community of Silver Lakes within the larger Helendale community requires the full range of urban type services and those authorized through the District are provided – water, sewer, park and recreation, streetlighting, refuse collection and graffiti abatement. The more rural portions of the District are in need of only regional type services since they provide for their own water and

sewer services on-site. These portions of the District receive the regional services of park and recreation and graffiti abatement and are anticipated to be able to participate in the regional transfer facility and recycling facility anticipated for the District's refuse collection powers once an agreement with the County is finalized.

The Present Capacity of Public Facilities and Adequacy of Public Services that the Agency Provides

The District currently provides for water, sewer, streetlighting and park and recreation services within its current service territory. Overall, current facilities and services delivered are adequate. The District provides retail water and distribution within its boundaries. Most of the water storage system and primary distribution lines were received from the County during the transition to the independent special district. During Fiscal Year 2009-10 the District has upgraded the waterlines to reduce the leaking in the pipes which has reduced water consumption and electricity costs. However, the groundwater basins that serve as the primary water supply are over-drafted, and the District produces more than its free production allowance as defined by the Mojave Basin Watermaster. The District is seeking to acquire and has acquired permanent water rights and leased other water rights to address this issue.

The District's sewer facilities were acquired from the County upon its formation. The District has undertaken upgrades at the physical plant to address wastewater services and is proposing to upgrade the system to tertiary treatment to allow for use of recycled water within the community. The sewage treatment plant has excess capacity which will be available for use by anticipated development.

Currently, the District actively provides park and recreation classes at the District offices and has acquired property on which it anticipates the development of a regional ballfields and other amenities. This park currently provides for equestrian uses through the District. These services generally meet the service needs of those within its boundaries of the District.

The District through its refuse collection authority is the administrator of the Franchise Agreement for waste collection within the District's boundaries. As outlined in this report, the District and the County are negotiating an agreement whereby the District would succeed to the Solid Waste Disposal Facility Fee currently paid by the residents of the District in order to operate a transfer station and recycling facility. The materials in this report identify that the original approval and authorization of this service outlined the District's ability to provide those services.

The Existence of any Social or Economic Communities of Interest

Social communities of interest include the Helendale Community Services District and its residents, which includes the Silver Lakes community, and the residents within the larger Helendale School District. Economic communities of interest are limited in the area due to its land use designations and generally occur within the Silver Lake development and along

National Trails Highway. The establishment of the sphere of influence for the District will define the larger community.

**ADDITIONAL DETERMINATIONS:**

- The Commission’s Environmental Consultant, Tom Dodson and Associates, has determined that the service review and sphere of influence establishment are statutorily exempt from environmental review. The basis for this determination is that the sphere establishment does not appear to have any potential for causing physical changes in the environment, and therefore does not constitute a project as defined by CEQA. Mr. Dodson’s response is included as Attachment #22.
- As required by State Law notice of the hearing was provided through publication in a newspaper of general circulation, *The Daily Press*. Individual notice was provided, at the request of the Commission, to those landowners and registered voters within the area in conflict, the southern portion of the sphere establishment request. The balance of the sphere establishment proposal was not provided individual notice as allowed under Government Code Section 56157 as such mailing would include more than 1,000 individual notices. As outlined in Commission Policy #27, in-lieu of individual notice the publication was provided through an eighth-page legal ad.
- As required by State Law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

**CONCLUSION:**

Staff recommends that the Commission take the following actions:

1. Certify that LAFCO 3089 is statutorily exempt from environmental review and direct the Executive Officer to file a Notice of Exemption within five (5) days;
2. Receive and file the service review for the Helendale Community Services District and make the findings required by Government Code 56430 as outlined in the staff report;
3. Reiterate the authorized function and services of Refuse Collection (solid waste) within the Commission’s adopted “Rules and Regulations Affecting Special Districts and confirm the balance of the functions and services;
4. Approve the establishment of the District’s sphere of influence as outlined in this report; and,

5. Direct the staff to prepare a resolution reflecting the Commissions findings and determinations and place the item on the Commission's July 21, 2010 Agenda as a consent item.

KRM/SM/MT

**ATTACHMENTS:**

**CONFLICT AREA:**

1. Maps:
  - [Compromise Map Submitted by the City of Victorville/Victorville Water District, City of Adelanto and Helendale CSD](#), and,
  - [LAFCO Staff Recommended Modification to Exclude Mineral Resource Areas](#)
2. [Mineral Resource Maps; Excerpts from County General Plan \(April 12, 2007\) Conservation Element and County Development Code Surfacing Mining and Land Reclamation Provisions; and City of Victorville General Plan 2030 Resource Element](#)
3. Information Related to H.R. 4332:
  - [Victorville Disposal Area Map for H.R. 4332 dated December 2009](#)
  - [Victorville Disposal Area Map for H.R. 4332 showing LAFCO Staff Recommended Spheres and Mining Interests](#)
  - [Fact Sheet and Frequently Asked Questions Handout from the City of Santa Clarita](#)
  - [H.R. 4332 Introduced by Representative Howard P. "Buck" McKeon](#)
4. [Letters of Opposition from Mining Interests to Inclusion within City of Victorville et al Sphere of Influence and Letter of Opposition from Transit Real Estate Development \(TRED\) LLC to Exclusion of Territory from Sphere Request](#)
5. [Samples of Petitions Received in Opposition to LAFCO 3082 from Oro Grande Residents and Landowners](#)
6. [Maps and Staff Reports Related to the Service Review Conducted for County Service Area 42 \(CSA 42\) Representing the Oro Grande Community](#)

**LAFCO 3082 – CITY OF VICTORVILLE AND CITY OF ADELANTO SPHERE OF INFLUENCE AMENDMENTS**

7. Maps
  - [City Compromise Map](#)
  - [LAFCO Recommended Modification](#)
  - [City/District Sphere Reduction Related to Town of Apple Valley Service Review](#)
  - [City/District Sphere Expansions/Reductions Related to City of Hesperia/Hesperia Water District Service Review](#)
  - [City/District Sphere Expansion in North Related to City of Adelanto Service Review](#)

8. [City of Victorville Resolution NO. 10-003 Amending Sphere of Influence Application and Application Materials \(Justification Form, Sphere of Influence Supplement, and Municipal Service Review Report Dated January 2010](#)
9. [City of Adelanto Resolution 10-03 Consenting to Sphere of Influence Reduction, City Council Agenda Item, Justification Form, Sphere Supplement Form, and Map](#)
10. [City of Victorville City Council Agenda Item Dated February 4, 2010 for Quarterly Financial Status Report as of December 31, 2009 and Agenda Item Dated February 4, 2010 for Financial Statements and Supplementary Information for Year Ended June 30, 2009 and City of Victorville Single Audit](#)
11. [City of Victorville Audit Report for Year Ended June 30, 2008](#)
12. [City of Victorville Audit Report for Year Ended June 30, 2007](#)

**LAFCO 3082 – VICTORVILLE WATER DISTRICT SPHERE OF INFLUENCE AMENDMENT**

13. [Victorville Water District Resolution No. VWD-10-002 Initiating Sphere of Influence Amendment, and Application Materials \(Justification Form, Supplement Form, Municipal Service Review Report Dated October 2009\)](#)
14. [Victorville Water District Audit for Year Ended June 30, 2009](#)

**LAFCO 3089 – HELENDALE COMMUNITY SERVICES DISTRICT SPHERE OF INFLUENCE ESTABLISHMENT**

15. Maps:
  - [Helendale CSD Compromise Map](#)
  - [LAFCO Staff Recommended Modification](#)
  - [Williamson Act Contract Map](#)
  - [Mineral Resource Map](#)
  - [Public and Private Lands within Proposed Sphere of Influence](#)
16. [Helendale CSD Resolution No. 2010-01 Amending Sphere of Influence Establishment Application, Letter Dated September 17, 2009 Regarding Compromise boundary, Municipal Service Review Report Dated December 18, 2008, Justification Form and Supplement Form](#)
17. [Letter Dated September 1, 2009 Signed by Norman Kanold, County of San Bernardino and Kimberly Cox, Helendale CSD, Regarding Assumption of Solid Waste Management Disposal Facility Fees by CSD](#)
18. [Helendale CSD Audit for Fiscal Year Ended June 30, 2009](#)
19. [Helendale CSD Audit for Fiscal Year Ended June 30, 2008](#)
20. [Helendale CSD Audit for Period April 1, 2007 through June 30, 2007](#)
21. [Letters of Support and Opposition to LAFCO 3089](#)
22. [Environmental Response Letter from Tom Dodson of Tom Dodson and Associates](#)