

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JUNE 16, 2010**

REGULAR MEETING

5:00 P.M.

JUNE 16, 2010

PRESENT:

COMMISSIONERS:	Jim Bagley	Larry McCallon
	Robert Colven, Alternate	Brad Mitzelfelt, Chairman
	Kimberly Cox	Mark Nuaimi
	James V. Curatalo, Vice-Chairman	Robert Smith, Alternate
	Neil Derry, Alternate	

STAFF:

- Kathleen Rollings-McDonald, Executive Officer**
- Mark Austin, Special Legal Counsel**
- Paula de Sousa, Legal Counsel**
- Samuel Martinez, Senior LAFCO Analyst**
- Michael Tuerpe, LAFCO Analyst**
- Anna Raef, Recording Secretary**
- Rebecca Lowery, Deputy Clerk to the Commission**
- Angela Schell, Deputy Clerk to the Commission**

ABSENT:

COMMISSIONERS:

- Paul Biane**
- Diane Williams, Alternate**

**4:30 P.M. CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION –
Conference Room adjacent to the City of Victorville City Council Chambers**

Conference with Legal Counsel Existing Litigation (Government Code Section 54956.9(a)):
Susan Hulse v. All Persons Interested in Matter of LAFCO 3067A-F Et Al, Superior Court Case
CIVDS 1002077; and,

Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation (Government
Code Section 54956.9(c).

RECONVENE TO REGULAR SESSION – CALL TO ORDER – 5:20 P.M.

Chairman Mitzelfelt calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Commissioners and LAFCO staff at the dais introduce themselves.

Chairman Mitzelfelt requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

ANNOUNCEMENT OF ACTION FROM CLOSED SESSION

Executive Officer Kathleen Rollings-McDonald reports on action taken in closed session to substitute legal counsel in the matter of Susan Hulse vs. All Persons Interested in the Matter of LAFCO 3067 A-F. She states that the Commission approved the substitution of Mark Austin of Rutan and Tucker for Best

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Best & Krieger. Mr. Austin reports the Commission voted to continue its discussion of the two litigation matters until the Commission's next closed session meeting scheduled for July 7, 2010 at 1:30 p.m.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

- ITEM 2 Approval of Minutes for Regular Meeting of May 19, 2010
- ITEM 3 Approval of Executive Officer's Expense Report
- ITEM 4 Ratify Payments as Reconciled for Month of May 2010 and Note Cash Receipts
- ITEM 5 A. Consideration of: (1) CEQA Statutory Exemption for LAFCO 3138; and (2) LAFCO 3138 –Sphere of Influence Review for Apple Valley Fire Protection District (Expansion/Reduction) and San Bernardino County Fire Protection District (Expansion)

 B. Consideration of: (1) CEQA Statutory Exemption for LAFCO 3139; and (2) LAFCO 3139 –Reorganization to Include Annexations to Apple Valley Fire Protection District and San Bernardino County Fire Protection District and its North Desert Service Zone, and Detachment from Apple Valley Fire Protection District
- ITEM 6 Note Receipt of Proposal Initiated by property owner petition – LAFCO 3147 - Reorganization to Include Annexations to County Service Area 42 (Oro Grande School District)

A Visa Justification for the Executive Officer's expense report, as well as a staff report outlining the staff recommendation for the reconciled payments and the staff reports outlining the recommendations for Items 5 and 6, have been provided, and copies of each are on file in the LAFCO office and are made a part of the record by their reference here.

Ms. McDonald states there is at each Commissioner's place a corrected resolution for Item 5(B).

Commissioner Cox moves approval of the consent calendar, seconded by Commissioner Bagley. Chairman Mitzelfelt calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Cox, Curatalo, Derry, McCallon, Mitzelfelt, Nuaimi. Noes: None. Abstain: None. Absent: Biane (Commissioner Derry voting in his stead)

DISCUSSION ITEMS:

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3155; AND (2) LAFCO 3155 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE CITY OF VICTORVILLE AND VICTORVILLE WATER DISTRICT AND DETACHMENTS FROM SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS NORTH DESERT SERVICE ZONE, AND COUNTY SERVICE AREA 70 (COAD ROAD ISLAND) - APPROVE STAFF RECOMMENDATION

LAFCO considers a public hearing to consider the Reorganization to Include Annexations to the City of Victorville and Victorville Water District and Detachments from San Bernardino County Fire Protection District, its North Desert Service Zone, and County Service Area 70 (Coad Road Island). Notice of the hearing was advertised as required by law through publication in *The Daily Press*, a newspaper of general circulation in the area, pursuant to State law and Commission policy. Individual notice of this hearing was

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provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice and to each registered voter and landowner within and surrounding the area as required by law.

Senior LAFCO Analyst Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Mr. Martinez states this reorganization proposal was submitted by the City of Victorville to annex its totally surrounded unincorporated Coad Road island. He says the City's purpose in submitting this annexation proposal is to comply with the Commission's requirement imposed upon a previous reorganization proposal, LAFCO 3100. LAFCO 3100 was a property-owner initiated proposal submitted in order to facilitate the development of an industrial project. He explains that the reorganization area is located south of Coad Road and east of Hesperia Road and that Coad Road is the natural extension of Greentree Blvd. The reorganization is comprised of three separate areas: Area 1 is approximately 88 acres, is the area to be annexed to the City and detached from County Service Area 70, which includes the entirety of the unincorporated area; Area 2 to be annexed to the Victorville Water District is approximately 81.5 acres; Area 3 to be detached from the San Bernardino Fire Protection District and its North Desert Service Zone encompasses eight (8) acres which includes the railroad right-of-way. Mr. Martinez points out the aerial view of the area on the overhead display and states the area is a mix of residential, commercial and industrial development, as well as the railroad right-of-way.

Mr. Martinez states that staff believes LAFCO 3155 is a ministerial action for the Commission based upon Government Code Section 56375(a)(4), which requires the Commission to approve the annexation of island territory if certain determinations are made regarding the island and Section 56375.3 which requires approval without the ability to protest. He says staff believes these determinations can be made for LAFCO 3155. The determinations include: that the area is less than 150 acres, the area is totally surrounded by the City and is totally within the City's sphere of influence, the annexation area is substantially developed or developing as there is public improvement, public utilities and physical improvement in the area, the area is not prime agricultural land, and the area will benefit from receipt of services from the City. He says the area currently receives park and fire services from the City based upon the conditions imposed upon the dissolution of the City's subsidiary park and fire districts.

Mr. Martinez reports that staff has reviewed the additional policies of the Commission regarding the consideration of islands. The first provision does not apply as the area is totally surrounded. The second provision does not apply as the area is not within an established redevelopment area. The third provision requires a public outreach to residents and landowners within the area. He states that the City carried out this obligation in two separate meetings with property owners and voters within the area. Mr. Martinez states that it is staff's position that the determinations required of the Commission are clear; therefore, it is required to approve the annexation of this island without the ability for protest.

Mr. Martinez states that in regard to land use, the County designations are IC – Community Industrial, and CG – General Commercial. He says the City's general plan land use designation for the area is commercial and light industrial, which are generally compatible with the County's land use designation for the area. The City rezoned the area as C2, General Commercial and M1, light industrial. Those designations are consistent with the City's general plan designation for the area, as well as surrounding land uses. He says that with regard to service issues, it is the position of LAFCO staff that LAFCO 3155 is a straightforward and logical extension of service delivery by the City of Victorville and the Victorville Water District and the plan for services submitted by the City and the Water District indicates that the level of services provided can be maintained or exceed current service levels following annexation.

Mr. Martinez states that the Commission's environmental consultant, Tom Dodson & Associates, has indicated that the review of LAFCO 3155 is exempt from CEQA.

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Mr. Martinez concludes that in the staff view LAFCO 3155 is a ministerial action for the Commission and if the Commission concurs with staff's determination it is required to approve LAFCO 3155 as an island annexation, approve the waiver of the protest hearing regardless of any protest received. Mr. Martinez requests that the Commission approve LAFCO 3155 by taking the actions outlined in the staff report.

Chairman Mitzelfelt calls for questions from the Commission. There are none.

Chairman Mitzelfelt opens the public hearing and asks if there are members of the public who wish to speak on this item. There is no one. Chairman Mitzelfelt closes the public hearing.

Commissioner Bagley moves approval of staff's recommendation, second by Commissioner Cox.

Commissioner Nuaimi asks if a representative from the City could express that the City agrees to the conditions, including the hold harmless clause. Mr. Mike Szarzynski, Planner, with the City's Development Department, reports that City staff concurs with this annexation, including the hold harmless clause. Commissioner Cox states that the staff report indicates that Coad Road is the same alignment as Greentree and asks if this pathway is going to be part of the Yucca Loma bridge proposed by the Town of Apple Valley and City of Victorville. Mr. Jim Cox, Victorville City Manager, states the road would be just north of this property. Ms. McDonald, LAFCO Executive Officer, states that the overhead display shows the alignment along the northern edge.

Chairman Mitzelfelt calls for opposition to the motion. There being none, the motion passes with the following vote: Ayes: Cox, Curatalo, Derry, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Derry voting in his stead).

A. CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY THE CITY OF VICTORVILLE FOR THE GENERAL PLAN UPDATED (SCH NO. 2008021086), AS A CEQA RESPONSIBLE AGENCY FOR LAFCO 3082; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; (3) CEQA STATUTORY EXEMPTION FOR THE ADDITIONAL AREA RELATED TO THE SPHERE OF INFLUENCE REDUCTION FOR CITY OF ADELANTO; AND (4) 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 - APPROVE STAFF RECOMMENDATION WITH THE ADDITION OF DIRECTION TO INCLUDE FURTHER DISCUSSION ON THE COMMUNITY OF ORO GRANDE AND CSA 42 SPHERE OF INFLUENCE; AND,

B. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3089; AND (2) LAFCO 3089 – SPHERE OF INFLUENCE ESTABLISHMENT FOR THE HELENDALE COMMUNITY SERVICES DISTRICT - APPROVE STAFF RECOMMENDATION

Commissioner Cox notes for the record that she is employed by the Helendale Community Services District and asks legal counsel to state her options in regard to this matter. Legal Counsel Paula de Sousa states that because Ms. Cox's salary from a governmental entity is not considered income for purposes of the Political Reform Act, she would not be disqualified from voting. Ms. de Sousa states Ms. Cox may vote and, because the action does not involve a contract, no implication under Government Code Section 1090 applies.

LAFCO conducts a public hearing for consideration of LAFCO 3082, Service Review and 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, and LAFCO 3082, Service Review and Sphere of influence Establishment for the Helendale Community Services District. As required

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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 northern portion of LAFCO 3082 and the southern portion of LAFCO 3089. The balance of the territory within LAFCO 3082 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.

Chairman Mitzelfelt states that this process has been ongoing for several years and meetings have been held in different parts of the County. Tonight's discussion may require final action to be deferred due to legal issues that have recently come to light. He reminds those present to complete a speaker slip. He notes that public comment is limited to three minutes for members of the public and five minutes for the applicants, City of Victorville and Helendale CSD.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. She explains that LAFCO is required to establish a sphere of influence for all agencies under its purview. She points out on the overhead display a regional outline of the agencies as they currently exist, including the Cities of Victorville, Adelanto, Barstow, the Town of Apple Valley and their spheres of influence, and the Helendale Community Services District. She says that in 2006 the City of Victorville submitted a proposal for its service review, a sphere of influence amendment, and the consolidation of the Victor Valley Water District and Baldy Mesa Water District. She says that at that time the Commission removed the sphere of influence review from consideration and deferred it until the City of Victorville completed its General Plan update. She points out the area on the overhead display indicating the sphere of influence expansion initiated by the City of Victorville.

Ms. McDonald states that in 2007 the Helendale Community Services District was formed and within one year of its formation LAFCO staff requested that the District submit information regarding a sphere of influence establishment. She says the District responded by providing an application for a sphere of influence that included the territories of the San Bernardino County Fire Protection District Service Zone FP-5, which was developed as a means to support the special assessment of the Helendale fire station. These boundaries are reflective of that area. She points out an overlap of territory between the two proposals and LAFCO staff has identified this as a conflict area. She explains that the newspapers have indicated that there is a conflict between the City of Victorville and the Helendale CSD, when, in fact, it is simply the area over which both proposals overlie. She corrects an error on page 2 of the staff report indicating that the overlap is 21.5 square miles. It is, in fact, 42 square miles. She refers to a blow-up of the area on the overhead display and indicates the outline for the specific plan for Helendale. She points out the Desert Gateway Specific Plan area, which was adopted and approved by the City of Victorville. She explains that when LAFCO staff received the proposals, staff requested additional information and that the City and the District work toward resolution of the issues.

Ms. McDonald states around August 2009 the staffs of the Helendale CSD and the City of Victorville had come to a tentative agreement on the distribution of the lands to resolve the conflict area. She notes that Helendale lost about 21 square miles and Victorville lost a portion to the north with the addition of a discussion regarding expansion of the Victorville sphere of influence over territory that was currently part of the City of Adelanto and a portion of its sphere of influence along the Mojave River. She states that these proposals were submitted officially in January 2010 when the City of Victorville adopted the official resolution proposing to amend its proposal to the compromise boundary; the Helendale CSD Board of Directors adopted a resolution amending its proposal to reflect these boundaries; and the City of Adelanto indicated its concurrence with the sphere change through adoption of a resolution.

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Ms. McDonald states that the modified proposals were circulated for review and comment and LAFCO staff undertook analysis of the proposals. Ms. McDonald states that several areas of major concern to LAFCO were identified, including the location of significant mineral resources within the area, as identified by the State Department of Mining and Geology and the County General Plan through its Mineral Resource Zones. LAFCO staff has proposed the exclusion of these territories from either sphere of influence for the protection of these mineral resources and their regional relationship. Within the area proposed for exclusion are land holdings by TXI, Victorville Industrial Minerals, Vulcan, CEMEX, California Portland Cement and others, which have been identified as containing in excess of 200 years' worth of mineral resources. By LAFCO law, it is the staff's position that the Commission is obligated to review and protect these areas from intrusion by municipal level service providers or incompatible land uses.

Ms. McDonald provides on the overhead display a flyover of the area, which shows the relationship of the lands and the topography. She points out the Helendale Community Services District and the City of Victorville proposal. She says the topography is undulating and drains toward the Mojave River. It is significant to note this feature along the south to north boundary. Ms. McDonald points out the community of Oro Grande, as represented by CSA 42, and the TXI facility. She points out the farming and residential areas along National Trails Highway, the area of the natural extension of Helendale Road and hills where mineral resources are located.

Ms. McDonald states that many have asked why LAFCO proposes to remove the mineral resource areas from the sphere of influence of either urban service providers. She indicates the LAFCO law as defined in the California Government Code states as one the primary principles is for the Commission to discourage urban sprawl and preserve open space and prime agricultural lands. She explains that this means that LAFCO is to protect areas that contain major mineral deposits, including those in short supply, which are defined as open space. She says the State of California has identified that several of the minerals that are a resource in the area are in short supply statewide, and that most sand and gravel areas in southern California have been built upon so that less than 50 percent of the projected need exists for the next 45 years. She points out a map that gives a general topography of the area and shows LAFCO staff's sphere recommendation. She says staff proposes to exclude mineral resources in the territory of CSA 42, which has always been the definition of the Oro Grande community. She explains that a sphere of influence can only be assigned to a government agency and the only local agency is CSA 42. She says that two years ago CSA 42 was reviewed and there was no objection to the maintenance of that District with its coterminous sphere of influence.

Ms. McDonald provides a map on the overhead display showing resources identified by the State Department of Mining and Geology within the conflict area. She points out the mineral resource zones and states the bulk of the land has been excluded from the proposed sphere of influence. Mining in this area provides significant regional employment and provide a significant resource for the entire southern California area. Ms. McDonald states that LAFCO staff spent considerable time identifying the owners of the mineral resources since many have been taken as possessory interest over existing Bureau of Land Management lands and are shown as being attached to the primary parcel. She explains that the federal government owns the land but has sold the mineral resources. She points out the unpatented claims, which are significant , which are on file with Bureau of Land Management.

Ms. McDonald states that Congressman Howard "Buck" McKeon has attempted to resolve a longstanding dispute between the City of Santa Clarita and the mining interest known as CEMEX related to the Soledad Canyon Mine. The City of Santa Clarita owns the lands under which CEMEX has leases to extricate the minerals. She explains that a longstanding dispute has existed as the citizens of Santa Clarita have no interest in the mine being expanded. Representative McKeon has attempted resolution by a process of exchanging lands, -- which would close the Soledad Canyon mine and provide compensation to CEMEX

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for its loss. She says this process has been in the works for about five years and HR4332 is the second bill to be introduced relating to this. She points out the exchange lands on the overhead display through first right of sale to the City of Victorville and then those lands to be sold to the County of San Bernardino. She says this proposal seems to satisfy the concerns of all involved, including the residents of Santa Clarita, CEMEX, City of Victorville and County of San Bernardino.

However, Ms. McDonald provides the map showing the mining interests that might be affected by the disposal lands proposed in HR4332. Ms. McDonald states that these are existing claims and the language of the bill says there will be no further mining of the lands once they are disposed of. She says the intent of the legislation was not to create another Soledad Canyon; however, it is LAFCO staff's opinion that this creates exactly the same thing. Removing these properties from the sphere of influence and the potential for an urban service provider will help Representative McKeon, the staff of the Bureau of Land Management and others to resolve the problem before the legislation is passed. It is LAFCO staff's opinion that it is most important that these lands remain outside an urban sphere of influence so that they can be resolved unencumbered with service delivery planning issues.

Ms. McDonald states that many in attendance at this hearing have called and written representing the Oro Grande community. She points out the boundary of CSA 42, which LAFCO has identified as reflecting the Oro Grande community, noting that the lower half is currently within the City of Victorville sphere of influence. Initially all of CSA 42 was proposed to be included within the boundary of the Victorville sphere of influence; however, the mining interest, TXI, objected to the inclusion of its major manufacturing plant within the sphere of influence of the City of Victorville. This was reviewed with the staff of the City of Victorville who did not object to that exclusion. She states that CSA 42 is suffering from severe financial strain, it has the highest public water and sewer rates in the entire north desert, while it has limited revenue to support its parks and recreation and streetlight services. Ms. McDonald states that included in the staff report is an outline of the assessed valuation for the tax rate area that includes the bulk of CSA 42, which is a part of the Victor Valley Economic Development Authority (VVEDA), a joint power redevelopment agency. She says that when that redevelopment agency was created in 1993, it froze the tax base at the then current rate and everything above that was declared to be tax increment. Tax increment went to support the development of Southern California Logistics Airport through VVEDA. She says the value of that territory in 2007-08 was \$219 million; in 2008-09 it was \$423 million; and 2009-2010 it is \$266 million. The value for CSA 42 in 2009-10 was limited to \$33 million, so the tax revenue from the \$233 million goes to VVEDA. If CSA 42 were to receive those revenues, last year it would have received \$204,000; however it received \$28,000 and has received no more than that in all the years since 1993. Ms. McDonald states that CSA 42 did not participate in the pass-through negotiations arrangements that were required at the time of the formation of the redevelopment agency. She says in 1993 the negotiations were optional on the part of the taxing entities in the area and CSA 42 did not participate, therefore has not received any of the increment funding. However, Ms. McDonald notes that pass through payments are now required for new Redevelopment Agencies by law, no negotiation is necessary. She points out that, while the Commission has no direct relationship to VVEDA and its operations, staff has learned that the VVEDA bylaws do have a provision which allows for the transfer of some revenues to an entity which has had a financial burden placed upon it because of the RDA. This information has been presented to the County, the County Redevelopment Agency, the Special Districts Department, and others questioning whether or not there is some means to assist the agency due to the amounts of money it has lost over the years.

Ms. McDonald states that many of the Oro Grande residents have submitted petitions to LAFCO, samples of which were included with the staff report along with the numbers of petitions received. She points out on the overhead display the areas of protest. She says the opposition states that those residents do not want to be part of the Victorville sphere of influence and the bulk of them are farming areas along the Mojave River while a number have already been removed as they are on the east side of National Trails Highway. She refers to a letter from the Farm Bureau, provided at the place of each Commissioner, outlining its opposition to the inclusion of any agricultural lands within an urban sphere of influence. She notes that,

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while there are lands zoned for agriculture within the area of the sphere review, there are no Williamson Act contracts and there are no existing Williamson Act preserves identified by the County within the area.

Ms. McDonald states that Page 17 of the staff report includes a discussion of the environmental assessment for the City of Victorville's review. She says the Commission is a responsible agency in utilizing the City of Victorville General Plan EIR that was presented and adopted by the City in October 2008. The Commission's environmental consultant has reviewed the document and determined it is adequate for the Commission's use as a responsible agency. However, Ms McDonald states that there is existing litigation relating to that EIR and General Plan update. She says that staff was not aware of that when this matter was scheduled for hearing since it is the Commission's policy that it will not consider an item for which environmental litigation is pending. Ms. McDonald states that LAFCO staff understands that a settlement has been discussed and approved but that it has not yet been finalized with the court. Implementation policies were adopted by the City Council on Tuesday night related to that settlement; however, on advice of legal counsel and environmental consultant, LAFCO staff is recommending continuance to the September hearing to allow for the pending litigation process to come to conclusion.

Ms. McDonald states that it is the staff's recommendation that the Commission modify the compromise boundary presented by both parties to exclude the mineral resources as identified on the maps presented to the Commission, and that it continue consideration of LAFCO 3082 to the September hearing, and that the Commission modify the Helendale sphere of influence to exclude the territory of the mineral resources which reflects eight square miles of the Helendale compromise boundary. Ms. McDonald indicates that the Commission will be addressing LAFCO 3082, as most of those present wish to speak regarding the Victorville matter.

Chairman Mitzelfelt states that the Commission is in receipt of a letter from the City of Adelanto expressing a position of opposition. Ms. McDonald states that the letter has been withdrawn by the City of Adelanto. Jim Hart, City Manager of the City of Adelanto, confirms the withdrawal.

Chairman Mitzelfelt asks Ms. McDonald to clarify which areas are recommended for the Victorville sphere of influence. Ms. McDonald points out the areas on the overhead display. Chairman Mitzelfelt notes that being in a city's sphere of influence does not place an area under the governance of that municipality, but it does indicate a future intent of that municipality to annex the area, or it signals to planning agencies that that municipality would be the most likely entity to assume government operations, and until that time, all land use authority would remain with the County. Ms. McDonald states that, under Commission policy, a sphere of influence requires and obligates the agency to which it is assigned to plan to extend the full range of its services to the area. In the case of a city, the city is obligated to general plan and identify land uses for the territory and provide for its masterplans. She says the City of Victorville has already provided the land use designations for this area. She notes that for the entirety of the Helendale CSD establishment, the County will remain the land use authority and have total land use control until a change to City governance were to occur. She explains that only a city or county has land use jurisdiction in the state of California.

Chairman Mitzelfelt calls for questions from the Commission. Commissioner Nuaimi asks if removal would be immediate for areas removed from the City of Adelanto and placed into a sphere of influence. He asks if outreach has occurred in that area. Ms. McDonald explains that LAFCO's letter was sent to every landowner and registered voter in these areas. The letter explained exchanging the Adelanto sphere for the City of Victorville sphere. She says there would be no immediate change and Adelanto would retain total jurisdiction over the territories currently part of the city. This would allow for ongoing negotiation between the City of Adelanto and Victorville regarding the future detachment of this area because territory cannot be detached from a city unless that city consents. If that city does not consent no further action can be taken.

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Chairman Mitzelfelt opens the public hearing for LAFCO 3082 and asks if there are members of the public who wish to speak on that item.

Douglas Sprague, representing Vulcan Materials Company, states the company's property is north of Oro Grande, east of National Trails Highway and adjacent to TXI's property. He says Vulcan supports the position taken by LAFCO staff.

Diana Pittman states that in January 1988 she and her husband purchased 40 acres in Oro Grande after living in Hollywood for a number of years. She says that the previous owners had farmed the area for over 100 years and that was their intention also. She was surprised to find that the neighbors were friendly, explained farming and shared equipment. In the 1990's the original water rights were removed because the City of Barstow said the wells were low. She explains that, as farmers, the water went right back into the ground. She says they have to purchase feed, and animals were moved because they were told animals were contaminating the water supply. She says Oro Grande was founded in 1862, long before Victorville became a city. In 2006 the City of Victorville began to take over the community of Oro Grande and most of the residents were unaware of these plans. She says the Victorville City Council does not acknowledge Oro Grande as a community. She says Victorville provides nothing to Oro Grande, and under its sphere of influence it has no intention of providing any public facilities or services, its intention is to dangle the promise of services only if the area is annexed. She says Victorville wants to control the growth around Southern California Logistics Airport. She asks that Victorville's request be denied. She indicates that she lives south of Bryman Road.

Patricia Barbosa states that she lives in Oro Grande and her husband works at TXI. She says the residents of Oro Grande depend upon each other and do not want to be in the Victorville sphere of influence. They wish to raise their own animals and grow what they need. She says she has her own well.

Annie Dorgan speaks on behalf of her father who has been living in Oro Grande for seven years. She says the City of Victorville identified that it needs mining properties to fund delivery of service to the Oro Grande area as defined by CSA 42. She asks why Victorville did not simply withdraw the sphere proposal. She says LAFCO's responsibility is to steer development away from open space for the preservation of natural resources including habitat for fish and wildlife species, open space used for the production of resources including forest lands, agricultural lands and areas of economic importance and areas for recharge of ground water, etc. She says Oro Grande is a community of interest and the residents are interdependent on one another and their lifestyle is a rural-small town. All residents must cross the Mojave River at Route 66 to enter the community and the main artery is National Trails Highway. The community does not require the services of a city and would not be represented as a community of interest according to the charter of the City of Victorville. She says the city charter states that the council members shall be elected at large without regard to where in the city they reside and without regard to a geographic district and the city shall not permit election of council members either by districts or from districts.

Lee Dorgan, property owner, says all residents of Oro Grande are interdependent and share many things in common, including that many work at TXI, which is a big part of the community, and the larger farms are anchors for those with rural living properties. She says the residents cooperatively purchase and share farm implements. The community center for CSA 42 is the meeting place and the residents thought it was their community center, payment for use as a non-resident has never been required. She says the area is a community of interest. She understands that the farmland is needed as a buffer for the airport but no one from Victorville spoke up when a school was built adjacent to the airport, even though it is in the flight path. She says there is a geographical divide, so why should an Oro Grande resident drive through the sphere of influence of Victorville to get to Victorville. This does not make sense. She states contiguous farms make it easier to prepare the land and transport equipment from farm to farm. She is concerned that the farmers could not depend on a free market economy as the city will have all the power to establish standards,

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procedures, rules or regulations to regulate all aspects of the bidding, award, and performance of any public works contract. They can just open it to the preferred developers.

Chairman Mitzelfelt calls upon a representative of the City of Victorville to speak as the applicant.

Jim Cox, City Manager, City of Victorville, states he started the negotiations on behalf of the City about one year ago as part of a program that was tied to the sphere of influence studies, general plan study, and trend study. He says he was asked to meet with the community of Helendale to come to an agreement on how far south Helendale would come and how far north Victorville would go. After meeting with Helendale CSD staff an agreement was reached that was submitted to the City Council and there was agreement for the spheres of influence. He says that sometime following that word was received that portions of the area should not be included because of reasons tied to the bill submitted by the Congressman, citizens of Oro Grande and TXI did not wish to be included. A series of meetings was held and concessions were made that he believes would please everyone. He says the presentation to the City Council reaffirmed the original map and if the map is amended to remove the property involved in mining the City agrees with that. He adds that Ms. McDonald's presentation is very accurate and he has explained to the City Council and the City Council has stated that the community of Oro Grande and TXI elect not to be in the City of Victorville, and the City supports that. The City has made no further effort to change anyone's mind and the City has made no action to convince or make promises and the City's action is that if they want to be excluded the City supports them 100 percent. He says the map excludes all areas related to mining interests. He says that over the past year there have been many discussions with all communities of interest and an agreement acceptable to everyone has been reached.

Francis Gramata states he lives between National Trails and the Mojave River off Robinson Ranch Road. He says when Oro Grande was established around 1852 everything took place out of Oro Grande including shipment, rail, stagecoach, and processing of gold. He says the residents have been taken advantage of by the County, the area is ignored by the County and Edison, and there is no need for a city to do the same thing. He says when the City of Barstow filed suit because it did not get its water millions of dollars were wasted. He states that Victorville does not take care of its community. He wishes that Oro Grande would be recognized as a community and not used by others. He states he has resided in Oro Grande since 1979.

Mark Ostoich, attorney with Gresham Savage, representing Riverside Cement, states that Riverside Cement concurs with staff's analysis and believes that it is in Riverside Cement's best interest from the standpoint of its plant and mining operations to remain in the unincorporated territory and outside the City sphere. He says that Riverside Cement and its predecessors have been in this area for more than 100 years and the current management of the company enjoys an outstanding relationship with the City of Victorville and none of the discussions have been viewed as harmful to Riverside Cement. He thanks Mr. Cox for his leadership and reiterates that he and Riverside Cement strongly support staff's recommendation.

Carmon Evenson owns 170 acres of agricultural land in Oro Grande and has lived there since 1977 and is opposed to being under the sphere of influence of Victorville. He states Oro Grande is a self-reliant community with its own septic system and wells and does not need Victorville's services. He says he has seen change in the high desert with high-density living, but Oro Grande is still a community where he wants to live. He begs the Commission to not place Oro Grande under the City of Victorville sphere of influence.

Grant Evenson is a farmer and has lived in the high desert for over 30 years and is against being in the Victorville sphere of influence. He says the community helps itself and does not need external influences. He believes Victorville wishes to expand the high desert into another Los Angeles and make it another urban blight on the landscape. Victorville has grandiose plans for the Desert Gateway specific plan with a major planned community with a golf course and the Desert Express train. He says that Victorville wishes

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to control the growth of the Southern California Logistics Airport along the west side of the river and the community of Oro Grande does not want any part of those plans. He says the community does not want growth plans to come up National Trails Highway into their homes. He says there was no advance warning that the dam was at or near capacity and homes were lost in 2005 due to the water release. He believes it was the responsibility of Victorville to provide warning to those downstream. He adds that there are some in tonight's audience who lost thousands of dollars in personal property and livestock, neighbors were there for each other and Victorville was not.

David Mueller representing the blog known as the highdesertpolitics.org asks why Victorville needs that area. He questions if it is about the tax base, water, and/or access to the Desert Express. He asks where Victor Valley Wastewater Reclamation Authority or Adelanto Public Utilities Authority are located on the map. He says those agencies are not under the Mojave adjudication and they produce more reclaimed water than any city uses in a year. He asks how the sphere of influence will impact the high desert. He says TXI was told in Rubidoux that the county and cities allowed development up to their doorstep and now they are being sued. He emphasizes that cement is what built this city – "Victor" is because of Victor Cement. He asks why VVEDA has not been audited. It was turned over 16 months ago to Apple Valley and Victorville has messed up the finances and Oro Grande suffered from that. He requests an accounting. With regard to water he asks how the northern triangle can be developed without water being brought into the area. He says the Mojave Water Agency has brought zero water in above the 50,800 acre feet originally allotted 50 years ago. He explains that water costs \$5,250 per acre foot and the Mojave Water Agency spent \$98 million and no water has ever been delivered.

Mike Rothschild, Councilman for the City of Victorville, states a vote was held the previous night and the vote was 3-2 to accept the LAFCO staff recommendation, so there is no dispute with the City Council. He says the dispute relates to the extensions of Helendale CSD toward the airport and I-15. He requests that the Commission deny Helendale's application at this time because they have no need to expand their sphere of influence. He says the Desert Express project is a \$4 billion project and 50,000 man-hours will be expended on that project alone. He reiterates that there are only two entities that can make decisions in terms of land use, the county and the cities. He submits that the area should be left in the County's sphere of influence. He adds that once a sphere has been established a community of 6,000 to 10,000 with no experience with growth and development is placed in charge of the I-15 corridor and intrusion into the SCLA area. He says expansion of the Helendale sphere must be dealt with more carefully than it has been as there is no reason to allow that sphere to happen. He says the property development from the Desert Express will be in the billions and those property owners should speak to that decision. He says the largest dispute is the land coming down from the southern area and that is where the City Council is divided. He does not believe it should intrude on air space coming out of SCLA or intrude onto the I-15. He says the City Council agrees with the rest. He believes a resource study is needed for the expansion.

Commissioner Nuaimi states he heard opposition from residents in the western portion to Victorville's sphere expansion. Their comments included questions regarding what the plans are for the western expansion of the sphere of influence. His understanding is that a specific plan has been done going up the I-15 corridor and is a major interest to the City relating to the Desert Express proposal. He questions if the City has done any planning for the area shown given the concerns of the property owners who are saying it is predominantly a farming and agricultural community. Mr. Rothschild states the issue has never been the Palisades area and he recognizes that there is a historical link in that area. He says as long as the area is not intruded upon by Helendale's sphere of influence he is comfortable with it. Commissioner Nuaimi states it appears Helendale and the City of Victorville are scrambling to get as much area into its own sphere until the lines are drawn.

Chris Borchert, Assistant Director for Planning for the City of Victorville, explains that the City, in the General Plan update, reviewed the entire area and overlaid land use designations. He says most of the "red" properties were designated open space with the intent of them being either agricultural or exclusive

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agricultural in the future, and the area over the airport directly is light industrial. In terms of zoning codes for the future, if it were to be annexed, it would be agricultural. Chairman Mitzelfelt asks if it is fair to say that those uses would be compatible with the SCLA flight patterns, to which Mr. Borchert expresses his concurrence. Chairman Mitzelfelt states the City is not looking to urbanize the area because it wants to protect the aviation mission at SCLA, to which Mr. Borchert concurs.

James Fallon states he owns agricultural property in Oro Grande south of Bryman Road and west of the railroad. He objects to being placed under the City of Victorville's sphere of influence because it would not benefit him in any way and it will not benefit any of the citizens in the area. He says they have all the resources that Victorville can provide at a lower cost, and that placing the area under Victorville's sphere of influence is the first step toward annexation into the City, to which he objects.

Michael Gallegos, representing James Hardie Building Products, which owns Victorville Industrial Minerals, states his business is very active in mining operations in the area under the proposed sphere. He says they are very opposed to the proposal, especially as it relates to the Desert Gateway Specific Plan. He distributes an exhibit including hand-drawn depictions of how close the mining operations are to the proposed residential community. He points out that Victorville Industrial Minerals has a number of mining claims and mineral interests that are in close proximity to the golf course community proposed. He says many of these mining operations are within $\frac{3}{4}$ of a mile, where a potential homebuyer would not want to buy a home in close blast radius. He urges the Commission to revisit the boundaries. Chairman Mitzelfelt refers to the future aggregate mining area, current mining area and permitted mining area shown on the map and asks what kind of materials are/will be mined in those areas. Mr. Gallegos states it is silica and potentially aggregate. He says this is a key component of the James Hardie Building Products fiber cement products and is one of the best areas for pure or near pure silica in the western United States. He says placing a residential community in the area would impair mining operations in the area. Chairman Mitzelfelt asks Ms. Rollings-McDonald her opinion on if the City could mitigate those issues. Ms. McDonald refers to a single parcel on the map and says James Hardie has a permitted claim on a portion of a parcel and the City has included this land holding as passive open space, so there is a conflict with the general plan. She says the spheres of influence are defined and based on parcel boundaries and this is an extremely large parcel that includes an existing mining claim. The property is BLM property and is included in the McKeon legislation. She says the legislation had the disposal lands shown on the map, which includes all of the Victorville Industrial Mineral holdings. Chairman Mitzelfelt asks if anyone from the City or the County geologist have any comment. Chris Borchert states the City was not aware that the mining interests came so far south when developing the plan and the City worked with LAFCO staff to revise the boundary. He says City staff has met with James Hardie staff and continues to work on adequate buffer issues. Chairman Mitzelfelt asks if the City would endeavor to protect the permitted mining activity even if that means adjusting the specific plan, to which Mr. Borchert states the the City would. George Kenline, mine geologist with San Bernardino County, states an interesting aspect of the federal legislation would be that before a final decision takes place in Washington, these lands would have to be evaluated under NEPA and at that time a mineral examination would be performed. If the federal government finds that there is validity to Hardie's claim and if there are significant resources there would be a change to the legislation excluding that area from mineral withdrawal.

Crystal Fernandez, house counsel for James Hardie, states James Hardie Building Products is in agreement with LAFCO's analysis and is pleased that it takes the position that areas containing significant minerals and those identified as potentially containing significant minerals be excluded from the sphere. Ms. Fernandez states their only contention is with mineral claims in Section 21 and the proximity of the mining activity to proposed development. She says that mining activity involves regular use of explosives and 3,000 feet from residential development would be in conflict. She states their objection to the inclusion of these mineral claims within the sphere of influence and reserves the right to pursue all legal remedies.

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Jacqueline Campo with James Hardie, states LAFCO has done a great job with the exception of Section 21. She says James Hardie staff has not been involved in any of the community meetings and expresses concern about notification to others who might not be aware of this proposal and might be impacted. She expresses concern about the permitting process for mining and says they have four claims in Section 21 and asks how the City of Victorville would handle the permitting process as part of the claims are in the County. She questions the way the City of Victorville addresses open space as there is no reference to mining on open space. She believes the buffer zone should be expanded. She explains that the McKeon bill currently states that Section A lands to be sold to the City of Victorville only without the ability of the permittee to purchase.

Gary Thrasher states he and his wife have been active farmers along the Mojave River since 1979. He says they have endured floods and rebuilt and have no reason to want input from the City of Victorville. He does not believe the City will leave the land as it is. He says they have their own wells and septic systems. He points out that there are many more people who would object in addition to those depicted on the map. He says the County does not do a lot *for* the residents, but it also does not do much *to* the residents either. He implores the Commission to leave it as it is.

Ed Hainje owns 60 acres in Area B, however, the two properties abut. He believes agricultural land should be excluded the same as mineral areas. He believes those with the money who can fight this proposal, i.e., TXI, Vulcan, are excluded, but those with agricultural lands who are unable financially to fight it are included. He sincerely asks that the Commission vote against both proposals.

Commissioner Smith states that on the advice of LAFCO counsel, he will recuse himself from Item 8(B) under Government Section 87200 because he has done work for the Helendale CSD within the last year and has received income from that agency.

THE HEARING IS RECESSED AT 7:25 P.M. UNTIL 7:35 P.M.

CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – CALL TO ORDER – 7:35 P.M.

Chairman Mitzelfelt calls for resumption of public testimony.

Paul Russavage states he owns 20 acres in Oro Grande on South Bryman. His property is in the riverbed. He says he has a two-acre fishpond and eight acres of organic trees. He employs one full-time person and will employ two more for harvest in the fall, and next year he will add an additional full-time employee. His reason for being here tonight is that he wants to build a house on his property. He says that a building permit for a 2,000 square-foot house in the county is \$9,000, and the same house without water and sewer hookup is \$11,327 more in the City. He explains that the County does not charge for facilities, fire, parks, police, roads, etc. He says his road floods in the winter and he hired a contractor to add six inches of dirt to prevent future flooding. He says the neighbors in Oro Grande leave each other alone if they want to be left alone and they help if they need help. He states that the City of Victorville offers nothing and more funding is needed for the Oro Grande community. He emphasizes that Oro Grande is a poor residential farming community and if the water line is within 200 feet of the property line, the property owner is required to connect. He asks the Commission to do the right thing and leave Oro Grande alone.

Gerald Clark states he has owned his land for 30 years and says that when Hesperia became a city it went downhill. He adds that Oro Grande is a rural close-knit community and he believes the city will destroy it. He believes the City of Victorville wants something from this potential annexation. He urges the Commission to do the right thing and deny this proposal.

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Mike Chainyk states he has owned three agricultural parcels on Bryman Road for 20 years. He says the first letter he received was dated May 25, 2010. He was not aware of any community meetings. He reminds the Commission that Mr. Cox said that the people in Oro Grande should be permitted to speak their will, and that Mr. Borchart said in a phone conversation that the City wants to keep air space and there is no current attitude about changing zoning. He does not believe utilities would be provided in his lifetime and asks the Commission to deny this proposal.

Laura Park states she and her husband live on a two-acre mini ranch east of the highway. She wishes to represent Dale and Tricia Griffin also. She says everyone in Oro Grande is invested in their lifestyle. It is a rural community and many of the residents have lived there for over 40 years. She says the mindset is different from Victorville and she emphasizes that the residents of Oro Grande wish to preserve their way of life. She says the residents appreciate the large breeding and training ranches and she is involved with the Roy Rogers Ranch. She says growers use manure from the ranches to fertilize, neighbors share resources and it is a unique community where people rely on each other. She says the farmlands are very important to the local economy. She contends that there is a plan for that area including development by out-of-town developers and this is not in the best interest of the land occupants as they create temporary jobs and profits go elsewhere. She says the many small sustainable farms hire permanent workers and create more jobs with benefits going back into the community. She emphasizes that the community does not wish to be controlled by Victorville in any way.

Bernardo Hilario Vera states he has 10 acres which he purchased in 1982. He hopes one day to build a home there.

Gerrelle Clark, 23250 Bryman Road, states she and her husband came from Orange County when that area became residential almost overnight. They then lived in Hesperia for 40 years, which eventually became a big city. She says when that happened the roads deteriorated and crime increased. Their property was eventually zoned for apartments and they eventually moved to Oro Grande. They have livestock and they like the rural atmosphere of Oro Grande. They believe they have a quality of life that is not available in Victorville. She says that as a native Californian she does not wish to move again to maintain her lifestyle.

David Abbott states his father owns a horse ranch on Bryman Road with 150-200 horses. He says his home has been flooded twice and the only help provided was by the neighbors. He is concerned that housing tracts will be built and the residents will complain about the smell of the horses. He says he speaks on behalf of his 90-year-old father. He does not see any good in becoming part of Victorville's sphere. He says his property has three wells so he does not need Victorville's water. He says he lived in the City of Victorville and when the City took over the water service that service became inefficient.

Chairman Mitzelfelt closes the public hearing and calls for questions from the Commission.

Chairman Mitzelfelt asks Ms. McDonald to summarize the recommendation. She says it is the staff's recommendation to modify the compromise boundary that was presented for the Victorville/Victorville Water District expansion and the City of Adelanto sphere reduction to exclude the territory identified related to mineral resources, and to continue consideration of LAFCO 3082 to the September 15, 2010 Commission hearing to allow time for the settlement of existing litigation regarding the general plan.

Chairman Mitzelfelt states he wishes to discuss matters that did not arise during the prior review of CSA 42 and whether or not the boundaries of CSA 42 are adequate or reflective of the community based upon land uses and need for services and whether the boundaries of CSA 42 should be reviewed. Ms. McDonald states that when the service review was conducted there was no citizen group with whom to review it. She says that what has been presented through opposition and protest and today's information is that there is a large community of Oro Grande that is reflective of agricultural uses and that there may be a better

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definition of the community associated with CSA 42. She says LAFCO staff did not look at that when the service review was conducted. She says, if the Commission wishes, additional information can be gathered relating to CSA 42, land uses and positions of the people, while working with staffs of the Special Districts Department, the County, and the City of Victorville. Chairman Mitzelfelt says he does not have concern regarding the eastern area except for the mining operation, but he believes that can be resolved. He is concerned, however, with the greater Oro Grande area.

Chairman Mitzelfelt calls for comments from the Commission. Commissioner Nuaimi states that what he heard over and over this evening is that there is an Oro Grande community of interest that goes beyond the simple boundary shown on the overhead display. That boundary, in fact, extends into the sphere of influence proposal being discussed tonight. He says that it strikes him that the concept of taking another look at the community of Oro Grande, and how that may or may not affect a reconstituted CSA 42, makes sense. He adds that doing so would serve Victorville's concerns regarding putting up a barrier from the expansion of the Helendale area coming south. He believes, based on tonight's testimony, that the goal is status quo. He believes it is logical and makes sense to reject the sphere expansion on the western front for both the Victorville and Adelanto sphere considerations. He points out to the residents that CSA 42 is struggling financially and the residents do enjoy the benefits that that CSA provides and suggests that the community work with LAFCO and Special Districts to come up with a strategy that meets with the community's unique character. He emphasizes to those that have concerns about being forced to connect to water and sewer that that is not the case. He says this is a common fear but it is not required and taxing cannot occur without the citizens agreeing to it.

Commissioner McCallon states he also has no problem with what is proposed on the eastern front except for the concerns relating to mining. He agrees that a review should take place regarding expansion of CSA 42 into the areas discussed tonight. He says that he believes Victorville wishes to provide a buffer to make sure there is no development in the flight path of the airport. He says the Oro Grande community does want to maintain the agricultural aspects of the area. He believes it would suit both interests if the Commission expanded CSA 42 into a community of interest that includes the larger Oro Grande area. Chairman Mitzelfelt states that would require revisiting whether Victorville would still want the Adelanto detachment. He says his intent would be to protect SCLA from any incompatible development that would encroach on the air space or the approaches. He questions if the County could provide assurances through zoning or agreement that it would commit to protecting the aviation mission of SCLA and the City could avoid the prospect of having to pay for services, not the least of which would be maintaining half of National Trails Highway. Ms. McDonald states this could be in a sphere of influence where there are issues between the City and the County; however, she is certain the County can establish overlay restrictions on its own land use under its own general plan. She does not know the process, but that information can be gathered before the September hearing. With regard to the City of Adelanto and the one mile north, it has always been the contention of the City of Victorville that it wants the entire extension of Helendale Road to the north. She says additional information can be requested before the September hearing to clarify those positions.

Commissioner Curatalo agrees that the buffer zone should be protected and issues to the east make sense. He desires to satisfy the residents in their wish to remain independent, so if the expansion of CSA 42 would provide that he would support that. He asks if the area were left as is, would that present complications? Ms. McDonald states there would be no change. He asks if that would have a negative impact on the future. Chairman Mitzelfelt states any neighboring jurisdiction could try to annex it or extend a sphere there. Ms. McDonald states that, given the testimony of the citizens, they have a desire to define Oro Grande. LAFCO's definition does not reflect what they believe Oro Grande to be. She says many believe it is defined by the zip code, but that is incorrect because that zip code extends into the cities of Adelanto and Victorville. She states the community programs revolve around sphere of influence designations and existing governmental agencies. The only options for LAFCO currently are CSA 42 and the cities of Adelanto and Victorville.

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Commissioner Bagley echoes the fact that the community identity of Oro Grande is distinct and goes back historically in San Bernardino County and California history. He says people familiar with that area recognize it as a rural area unique and distinct from Victorville. He understands the desire of Victorville to extend its sphere of influence and the reality is that, for those living in Oro Grande, eventually urban services will be needed and Victorville is probably the most logical source. However, at this time, if the community desires to remain rural that is an important community identity that should be protected.

Chairman Mitzelfelt suggests that between now and September 15, the Commission and staff analyze, revisit and discuss the potential to extend CSA 42 with a boundary that is reflective of the community of Oro Grande based upon land uses, both existing and proposed and the need for services and that discussion be held with the County, the cities of Victorville and Adelanto and the affected agencies, how LAFCO might be able to meet the goals, from protecting SCLA to preserving the Oro Grande community identity, to providing better County services in the area. He reiterates that he does not have concerns about areas to the east with the exception of the mining interests. He comments that the McKeon legislation may not pass and the City does not wish to have conflict between the mining operation and the specific plan. He does support the specific plan to the east and north and would like to signal that LAFCO supports that as well as protecting the mineral resources in the central area.

Chairman Mitzelfelt moves that the sphere of influence matter (LAFCO 2082) be continued to the September hearing to address the potential to extend CSA 42 to be reflective of Oro Grande and its land use, existing and proposed. LAFCO staff is to provide information regarding existing services with Victorville, Adelanto, the County and the goals of SCLA, and signal support for the eastern and northeastern areas coterminous with the specific plan. The Commission will complete the discussion and the approval process for the entirety of LAFCO 3082 is to take place at the September hearing. Commissioner Nuaimi seconds the motion.

Commissioner Bagley states there was discussion relating to mining in Section 21 and incompatibility with the zoning by the City of Victorville and the sphere of influence as it is now. He believes the City of Victorville has agreed to address that, and he believes it is important as mineral resources are disappearing in San Bernardino County, which has historically been a critical part of the economy. He asks that this be included in the motion. Chairman Mitzelfelt states that if the McKeon legislation passes those lands would be excluded permanently from mineral extraction. He adds that it is BLM land, so if the legislation does not pass, then the mining rights would continue and the land would be in the City. He says it would behoove the City to modify any development to assure it does not come too close to that mining area. Commissioner Bagley says it is troubling to see encroachment on the mineral resources. Ms. McDonald asks if it would be the request of the Commission to include a dialogue and explanation from the City of Victorville regarding how it intends to address in the Desert Gateway Specific Plan the existing mineral resources and claims in Section 21. Commissioner Bagley states that would be the most significant mineralized area. Chairman Mitzelfelt requests that a discussion be held with the City of Victorville regarding mineral issues in Section 21, and amends his motion to include Commissioner Bagley's concerns and for discussion with the City of Victorville. Commissioner Nuaimi seconds the amended motion.

Chairman Mitzelfelt calls for opposition to the motion. There being none, the motion passes with the following vote: Ayes: Cox, Curatalo, Derry, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Derry voting in his stead).

Commissioner McCallon asks if the September hearing will be held in Victorville. Chairman Mitzelfelt states the Commission will endeavor to hold the hearing in Victorville in September. Ms. McDonald states staff will arrange with the City to hold the hearing in the Council Chambers if it is available.

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(Commissioner Smith leaves the dais at 8:20 p.m.)

LAFCO considers LAFCO 3089 – Service Review and Sphere of Influence Establishment for the Helendale Community Services District.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office which is made a part of the record by its reference here. She says LAFCO is required by law to establish a sphere of influence for every agency under its purview. One year following the formation of the Helendale CSD, the sphere of influence establishment was initiated by the Commission. She says the District was notified that it is typical to make the original sphere coterminous with the District's boundaries and if it wished to include additional territories outside its boundaries it would be required to submit a complete application. The District did so and originally submitted the sphere request for the territory identified as County Fire Protection District Service Zone FP-5, which was created through vote of the residents to support an assessment for the fire station in the community of Helendale. Following discussion, the District agreed to the compromise with the City of Victorville and that compromise which reduced the area of review is outlined in the staff report. She says LAFCO staff proposes a further modification to reduce the area to exclude the mineral resources from inclusion in the sphere of influence for the Helendale CSD.

Ms. McDonald states it is difficult to conduct a full service review and sphere study for an entity that has only been in existence for almost three years, when, in fact, most of its activities have been related to transitioning from County services, putting in place its employees and service delivery patterns, and financial systems, etc. She points out on the overhead display the area that has been modified by LAFCO staff and indicates Highway 395 and the Helendale CSD boundary, which at that point reflected the school district boundary. The northeastern corridor includes existing mineral resources and agricultural lands along the Mojave River. A point of interest is an area called the Skunk Works, which is where Lockheed developed the Blackbird and probably had many of the UFO sightings in San Bernardino County. She points out an area that is part of the Barstow sphere of influence and the Wild Wash Road interchange, which connects with National Trails Highway, Route 66. She indicates agricultural land that exists within the Helendale CSD and the community of Silver Lakes. She explains that some of the agricultural lands are Williamson Act preserves. A preserve is required in order to have a Williamson Act contract and these preserves must include at least 100 acres. Some contract areas in the area have been in existence since 1968 and provide a benefit to the agricultural farmer by means of a reduction of property tax assessment. Those farmers agree to maintain their property as agricultural for a minimum of 10 years. She says that in order to cancel a contract, the property owner must file a notice of non-renewal with a 10-year rollout. To cancel the contract for development, the property owner must pay the State Department of Conservation the difference in assessments. She says the letter from the Agricultural Bureau indicates its opposition to the inclusion of agricultural lands within the Helendale CSD on the basis of the potential for urban services within an agricultural area. The land use philosophies and policies of San Bernardino County are to protect agricultural uses, and it has done so through the agricultural preserve process. LAFCO staff does not believe there is an incompatibility since the hard infrastructure for water and sewer are confined to the Silver Lakes area and the broader regional services for park and recreation, graffiti abatement, street lighting if required or requested, and refuse collection would benefit the agricultural uses, if the residents so desire.

Ms. McDonald points out the agricultural preserves on the overhead display and the staff report includes their location. She indicates agricultural preserves within the Barstow sphere of influence to the northeast. She says the Mojave River has a Mrz2b designation for sand and gravel aggregate, metallic minerals in the northeastern corner and industrial minerals in the northern section. She outlines Edwards Air Force Base to the northwest. She states that the Commission may modify the proposal to exclude the mineral resources from consideration in the northern area. Chairman Mitzelfelt

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asks why. Ms. McDonald explains that the definition of the minerals include a lesser distinction. She points out areas along the south that have Mrz3a metallics, which have been included in the sphere of influence. Chairman Mitzelfelt asks if the topography is developable. Ms. McDonald states that in the northern areas it is. She points out on the overhead display the agriculture area within the river bottom and minerals in the upper areas. Chairman Mitzelfelt asks if the Department of Fish and Game would be unlikely to allow mining in the riverbed. She says the mineral resources are north of the riverbed.

Ms. McDonald points out on the overhead display the extent of public and private lands outside the existing boundaries of the CSD, noting along the riverbed toward the northeast are private lands with a smattering of BLM lands, with the predominant feature being private lands. To the west along 395 there are some BLM lands; however, there is far more BLM land within the existing boundaries of the CSD than within the sphere expansion. She refers to the staff report and says water is the lifeblood of the desert and is as good as gold. She indicates the free production allowance for the Helendale CSD for the Alto Sub-basin and its use and obligations to the Mojave Water Agency. Water rates in the community indicate that Helendale's water rates are among the lowest in the north desert, with Apple Valley Ranchos being the highest and CSA 42 being second. She says Helendale CSD currently provides sewerage within the Silver Lakes community and indicates current rates for that service.

She states that, based upon the information provided in the staff report, staff recommends that the Commission establish the District's sphere of influence to include the 92-square-miles of existing territory of the district, 16 square miles west of the District's boundaries along the length of Highway 395, and 51 square miles to the northeast which abut the existing community of Barstow and gives definition to the two communities in that area. Ms. McDonald notes that as an option the Commission may exclude the northern piece by taking it along the ridgeline to the north. However, LAFCO staff recommends the southern boundary excluding the mineral resources as identified.

Ms. McDonald notes that the staff report includes an outline of the range of services the CSD provides. The CSD is currently negotiating with the County to receive the per-parcel tax that is assessed on properties in the north desert in order to fund a transfer station and recycling program for the community. She says questions arose regarding refuse collection between the County and the CSD regarding LAFCO's intent when it approved the formation of the CSD. She states it is staff's position that the definition of that service includes the full range of services for the District. The CSD's refuse collection clearly states that it is to 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 of the Public Resources Code. She says it is LAFCO staff's position that this clearly identifies the District's ability to operate a transfer station, include and operate a recycling program and there should be no problem in furthering the agreement between the two entities to transfer the revenue stream to the District. She says it is staff's recommendation that the Commission confirm the rules and regulations for those services and clearly indicate that it is LAFCO's opinion that there is no issue regarding that.

She indicates the factors of consideration required for a proposed sphere of influence are included in the staff report, which identifies the planned uses, present and probable need for public facilities and services, and adequacy of those services. She says a concern related to service delivery and the question of financing those services relates to the reserve policies of the District. It has used its reserves to undertake the task of replacing and repairing the water line systems to reduce the number of leaks; therefore, the reserves do not meet the 10 percent requirement for all enterprise funds and general operations. The District, however, has indicated that once the system has been upgraded it will work to return the reserves to the appropriate level. She says that LAFCO's environmental consultant has indicated that the sphere of influence establishment is exempt from CEQA on the basis that a sphere of influence makes no change to the physical environment, so there is no requirement for further environmental review.

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She indicates that notice was provided for the southern area individually, but for the larger sphere establishment, since there would be many more than 1,000 notices required, a 1/8th page legal ad was provided. She summarizes the staff's recommendation.

Chairman Mitzelfelt calls for questions from the Commission. Commissioner McCallon asks, in light of the discussion on Item 8A, would it be appropriate to agree with the sphere expansion on the north, west and southeast, and that the southwest portion is subject to review of the community of interest and the Commission would finalize this matter at the September hearing. Commissioner Cox comments that the peninsula, which extends to the southwestern area in the proposed sphere of influence represents a single landowner's request to be part of the CSD when it was originally formed and has repeated its request to be part of the sphere of influence. Ms. McDonald says that the peninsula is part of the Helendale specific plan that extends along the Mojave River almost to the terminus of the District's boundaries to the northeast. Chairman Mitzelfelt states there is another area that is not part of the Helendale specific plan. Ms. McDonald points out the Helendale specific plan on the overhead display.

Chairman Mitzelfelt invites the applicant to speak.

Steve Kennedy, attorney representing Helendale Community Services District, states that, on behalf of the Helendale CSD, he attended several meetings with Victorville staff to discuss an amicable resolution to the conflict area. He says the meetings with City staff were productive and a compromise was reached where both sides made various concessions for the greater good of both high desert communities. He says formal resolutions approving the compromise were adopted by the Victorville City Council and the Helendale Board of Directors and duly filed with LAFCO staff approximately six months ago. He says LAFCO staff modified the compromise map to leave the territory containing mining interest within the County of San Bernardino. Even though the modifications resulted in Helendale losing several sections of land, Helendale understands the position of LAFCO staff on the mining issue and does not oppose the map that staff has developed and recommends to the Commission. He adds that last night the Victorville City Council affirmed its non-opposition to the map prepared by LAFCO staff. He concludes that the map is supported by LAFCO staff and not opposed by the two entities that filed competing sphere of influence applications over the affected territories. He says he provided 15 copies of 25 letters signed by property owners within the northwest portion of the proposed sphere of influence which support inclusion within Helendale's sphere of influence. Given this support and the lack of opposition by a public body to the recommendations made by LAFCO staff, there does not seem to be any compelling basis for the Commission to disapprove those recommendations with respect to the Helendale sphere of influence. He requests, on behalf of the Helendale CSD, that the Commission approve and adopt staff's recommendations. He thanks LAFCO staff for the diligent work in sorting out the issues relating to the competing sphere of influence applications and thanks the Commission for its consideration.

Commissioner Nuaimi states he appreciates the fact that the competing applications came to a meeting of the minds. He asks Mr. Kennedy how he would interpret the comments from the Oro Grande residents that might have upset that balance between the competing sphere of influence applications. Mr. Kennedy responds that he is limited to the authority that he has been given and that relates to the resolution filed with the Commission. He believes the comments by LAFCO staff and Commissioner Cox indicate that the application could be approved as modified by LAFCO staff without impairing the rights of the Oro Grande community. He suggests that if the Commission is not inclined to go in that direction, perhaps it could approve the LAFCO recommendation to the north, east and south and west subject to the further definition of CSA 42 in September.

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Ms. McDonald explains that the CSD, in its negotiations with the County over the refuse tax, needs some closure and resolution from the Commission reaffirming its functions and services are adequately defined and include the services upon which the CSD intends to reach an agreement with the County. She says the Commission has the ability to initiate a sphere review on its own volition once information is gathered on CSA 42, at which time the boundary could be modified. Chairman Mitzelfelt would like to direct the intent on the areas where there are no concerns so that future discussion can be focused. Commissioner McCallon suggests approval of staff's recommendation tonight with the idea that the sphere could be revisited if discussion on CSA 42 indicates a need.

Chairman Mitzelfelt opens the public hearing and asks if there are members of the public who wish to speak on this item.

Barbara Howard states that for 28 years she has resided at 24163 Diamond Road. She says she enjoys being in the County and was surprised that there are two entities with interest in Sections 14, 23 and 26. She states there is a lot of drift sand and death traps in the area. She adds that there was mining exploration and there are large gouges where sample strip mining was done. She alleges there are core holes, which range from 50 to 150 feet deep where a weekend camper was lost a number of years ago, and capped well shafts also exist. She wonders what attracts two entities to fight over three sections of land and the only thing she can conclude is that Bryman Road was included in the Oro Grande-Helendale transportation plan as a corridor between I-14 and I-15. She says that area will not develop for at least 50 years or longer, so those three sections should be on the table for 30 years before it is considered, as no services will be brought there. She says she is self-sufficient as she has her own well, solar power, and propane. She concludes that she does not want to be a part of the CSD or Victorville.

Jeffrey Himmelrich states that both CSA 42 and Victorville do not have any money. He says one does not read in the newspaper that Helendale CSD cannot pay its bills. He does not know why Victorville would attempt this. He says Victorville has tried to take half of his homes and gave him \$2,500 for his land. He hired attorneys to fight the City, during which time the City removed his curb and gutter for which he paid \$30,000. The City now owns 900 square feet of his property and has not used it. He hopes the City of Victorville does not get anything.

Sandra Wojecki states she is the General Manager of the Silver Lakes Association and reads a resolution supporting the Helendale CSD sphere of influence proposal. She says the vote passed by a vote of 7-0.

H. James Keoshkerian states he is the President of the Helendale CSD Board of Directors. He thanks LAFCO staff for its hard work and affirms on behalf of the CSD Board its commitment to the compromise boundary to the south and supports removal of the mining lands. He appreciates the Commission's consideration tonight and hopes the Commission will vote for the staff recommendation.

Craig Schneider states he is an elected member of the Helendale CSD. He says the CSD was formed to give the residents local control. He urges the Commission to vote for the staff recommendation. He thanks the staff for its analysis. He refers to the issue of the solid waste funds and states the best thing to be afforded to the residents is to provide a place for green waste to be recycled properly in the community. He says it will be a significant reduction in materials going to the waste facility. He has worked on this extensively with the staff and it is important that the Commission make a decision to allow the transfer of funds from the County holdings to Helendale CSD so that the residents and gardeners can drive one mile to drop off green waste to stop it from being dumped in the desert. He says community cleanup efforts have brought in excess of 150 tons of garbage from the desert. He asks that the Commission allow the residents of Helendale to control its community by voting in support of the staff recommendation.

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John Higdon states he is the Vice-President of the Helendale CSD Board of Directors. He supports LAFCO 3089 and thanks LAFCO staff for an amazing presentation tonight representing years of work. He reiterates Director Schneider's comments about the trash in the desert. He says a key component is reauthorization and ability to move forward with a solid waste plan. He comments that he and his wife go out in the desert and pick up truckloads of trash. He believes that if a solid waste disposal facility could be provided on the north end of town an incredible amount of scenery could be saved. He asks that the Commission move forward with LAFCO 3089.

Stanley Hoffman states he is a consultant hired by Helendale CSD to prepare the municipal service review and a revised set of statistics based upon the compromise boundary which reduced the area to the south by 30 square miles. He states that originally the boundary was coterminous with the Helendale School District. When the proposal was first analyzed it was coterminous largely with the Fire District Service Zone FP5 boundary. He says the major thrust of the study was to keep the consistent theme of the area; therefore, the proposed CSD boundary includes 70 percent of land in resource conservation including BLM lands. He contends that the Helendale CSD has the ability to serve the area with its current services – water, sewer, solid waste disposal, parks and recreation, street lighting and graffiti abatement. He points out the extension to Wild Wash Road provides the potential for economic growth and is seen as positive in the long-term future of the Helendale CSD if and when it wants to consider incorporation. He says the north boundary toward Barstow is about 63 percent of the total expansion area and is largely rural and agricultural and was not viewed as potential development for the long term. He says the major thrust of development in Helendale was the southern portion on the left side, which contains Safari Ranch. That was considered important in terms of the specific plan.

Chairman Mitzelfelt calls for further testimony, there being none closes the public hearing. Chairman Mitzelfelt calls for questions from the Commission.

Commissioner McCallon moves approval of the staff recommendation, seconded by Commissioner Derry. Chairman Mitzelfelt states previously the Commission was given a three-part recommendation relative to both Items 8A and 8B. The third part was deferred to modify the compromise boundary for the sphere of influence establishment for the Helendale CSD to exclude the territory identified by LAFCO staff related to the mineral resources encompassing approximately eight square miles. Ms. McDonald states that it is included in Item No. 4 of the five-part recommendation. Chairman Mitzelfelt calls for opposition to the motion. There being none, the motion passes with the following vote: Ayes: Bagley, Curatalo, Derry, McCallon, Mitzelfelt, Nuaimi. Noes: None. Abstain: Cox, Smith. Absent: Biane (Commissioner Derry voting in his stead)

Chairman Mitzelfelt states adoption of the resolution of approval will be included as a consent item at the July hearing.

(Commissioner Smith returns to the dais at 9:11 p.m.)

PENDING LEGISLATION REPORT

Ms. McDonald states the Commission has been provided with a report regarding AB853 and requests that the Commission ratify the Chairman's letter in opposition to AB853. Commissioner Derry moves approval of the staff recommendation, seconded by Commissioner McCallon. Chairman Mitzelfelt calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Cox, Curatalo, Derry, McCallon, Mitzelfelt, Nuaimi. Noes: None. Abstain: None. Absent: Biane (Commissioner Derry voting in his stead)

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EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reports that the next regular Commission hearing is scheduled for July 21, 2010 at the San Bernardino City Council chambers.

COMMISSIONER COMMENTS

Commissioner Nuaimi states that he wishes to take this opportunity to thank Ms. McDonald and LAFCO staff, as this will be his last meeting. He will resign his seat as Mayor of the City of Fontana due to professional considerations. He says it has been an honor serving as a LAFCO Commissioner and a great educational experience. Ms. McDonald requests that Commissioner Nuaimi return to the July hearing so that the Commission and staff can extend their appreciation. Chairman Mitzelfelt thanks Commissioner Nuaimi and congratulates him on his opportunity and his distinguished career as Mayor of Fontana and as past Chairman of this Commission. He says it has been a pleasure working with him. Commissioner McCallon echoes those remarks and states Commissioner Nuaimi will be missed here and at SANBAG and other agencies where he participates. He says his voice has always been one of reason and well thought out.

COMMENTS FROM THE PUBLIC

Chairman Mitzelfelt calls for comments from the public. There are none.

Ms. McDonald announces that tomorrow the Commission will adjourn to the summit for the Coalition of California LAFCOs at 5:00 p.m. in Lake Arrowhead. She says there will be a quorum of Commissioners in attendance and the bylaws will be reviewed.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 9:18 P.M.

ATTEST:

ANNA RAEF, Recording Secretary

LOCAL AGENCY FORMATION COMMISSION

BRAD MITZELFELT, Chairman