

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

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DATE: JANUARY 12, 2009

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

TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: Agenda Item #7: LAFCO 3024 – Service Review and Sphere of Influence
Update for County Service Area 64**

INITIATED BY:

San Bernardino Local Agency Formation Commission

RECOMMENDATION:

Staff recommends that the Commission take the following actions related to LAFCO 3024:

1. Certify that LAFCO 3024 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five (5) days.
2. Receive and file the municipal service review for County Service Area 64 (CSA 64) and make the findings related to the service review required by Government Code 56430 as outlined in the staff report dated November 10, 2008 as modified in this staff report.
3. Amend the “Rules and Regulations Affecting Special Districts” to confirm the delivery of Parkway Maintenance as an authorized function and modify the service descriptions for the Water, Sewer, and Roads functions to read as follows:

	FUNCTIONS	SERVICES
CSA 64 (Spring Valley Lake)	Water	Retail and domestic
	Sewer	Collection and transportation

Roads	Acquisition, construction, improvement, and maintenance of public streets, roads, and any incidental works
Street Sweeping	Street Sweeping
Parkway Maintenance	Acquisition, construction, improvement, and maintenance of landscaping on public property, rights-of-way, and easements

4. Expand the sphere of influence of CSA 64 to encompass the entirety of the Mojave Narrows Regional Park including the area within the City of Victorville and the Victorville Water District and reduce the sphere of influence of CSA 64 to exclude the area within the boundaries of the Town of Apple Valley.
5. Adopt LAFCO Resolution #2987 setting forth the Commission's findings and determinations.

BACKGROUND:

At the November 19, 2008 hearing, the Commission resumed its consideration of the municipal service review and sphere of influence update for County Service Area 64 (Spring Valley Lake). Included in the staff presentation was discussion of County Service Area 64's (CSA 64) historical water and sewer service extension into the County's Mojave Narrows Regional Park (Park). While LAFCO staff was aware of CSA 64's service inside the Park, staff was not aware of the extent of the service until after publication of the staff report. The service extends through the unincorporated portion of the Park into the portion of the Park within the City of Victorville and the Victorville Water District (parcel 0480-021-06). At the hearing, the Commission continued the municipal service review and sphere of influence update for CSA 64 to the January 21, 2009 hearing to allow staff time to research this situation further.

Additional information on the potential effect to CSA 64's water production due to the future expansion of the Victor Valley College and the proposed Wal-Mart development located within CSA 64 was requested. The following information discusses the above-mentioned items followed by LAFCO staff's recommendations for CSA 64's sphere of influence and authorized functions and services. Since additional information is provided, this staff report builds upon and modifies the previous staff report determinations required by Government Code Section 56430 for the municipal service review and Government Code Section 56425 for the sphere of influence update. The modifications are reflected in the draft resolution (Attachment #6).

SERVICE TO THE MOJAVE NARROWS REGIONAL PARK:

Staff requested from Special Districts Department information regarding CSA 64's water delivery and sewer collection outside of CSA 64's boundary and sphere into the Mojave

Narrows Regional Park, including the portion of the Park within the City of Victorville and its subsidiary district, the Victorville Water District. The Special Districts Department provided staff with historical documents that generally reveal how this situation came to be. Staff's synopsis of the documents is provided as follows:

1968 – 69 The State of California acquired real property by deeds from the Kemper Campbell and Litta Belle Campbell (later Vivos) Trust. This area became known as the Mojave River Wildlife Area (Wildlife Area). By agreement between the State, Department of Fish and Game, and the County, the County could use the land for the purposes of a wildlife habitat and other outdoor recreation developments.

As a part of the County development approval process for the Kalin Ranch development (now known as Spring Valley Lake), the County required Boise Cascade to provide an inlet from the temporary sewage treatment plant facility to the Wildlife area (now known as Mojave Narrows Regional Park). Also, water lines were required to be extended into the Wildlife area. The conditions also stated that should CSA 64 use the Victorville Sanitary District's sewer outfall line in the future, the Wildlife area would also tie into it.

1970 - 73 Water and sewer lines were planned by the County for extension into the Wildlife area.

1983 CSA 64 owned, operated, and maintained an outfall sewer line, pump station, and related appurtenances which were constructed to provide for the transportation of sewage generated by the properties within CSA 64 to Victorville for treatment by Victorville Sanitary District. The Victor Valley Wastewater Reclamation Authority (VWVRA) regional treatment plant was operational since 1981 and the Victorville treatment facility was scheduled to shut down in 1983. After the Victorville treatment facility ceased operating, wastewater was conveyed to the VWVRA regional treatment plant.

The CSA 64 outfall line was "oversized" in order to accommodate a portion of the sewage flows which were anticipated to emanate from future growth in the vicinity of CSA 64. VWVRA and the County believed that the CSA 64 outfall line would be better suited for incorporation into the regional sewer system as a regional interceptor pipeline. VWVRA bought the CSA 64 pipeline and it was transferred to VWVRA. The County Special Districts Department received \$584,057 for the pipeline from VWVRA and the funds were deposited into a CSA 64 capital improvement fund in 1983. According to Special Districts Department staff, \$450,000 was spent in 1983 for the acquisition/construction of a well and the installation of 2,500 ft of water line extensions. The remaining funds have been used throughout the years to support capital improvements projects as needed.

The outfall line now owned by VWVRA required an easement for its use. As a condition of CSA 64 granting an easement for the VWVRA pipeline, the County, through the Regional Parks Department, was to have the "right to tie"

such local sanitary facilities directly into the VVWRA sewer line, “without charge”. County Counsel determined that “right to tie without charge” meant no connection fee but other fees may apply.

2001 From 1983 until 2001, the Park’s effluent was conveyed to the VVWRA regional treatment plant for processing at no cost to the Park. In 2001, VVWRA determined that it needed to recoup the costs for processing the wastewater. The Park was not a member agency, so VVWRA could not directly bill the Park. However, CSA 64 was a member agency. In 2001, the County Regional Parks Division, VVWRA, and CSA 64 entered into an agreement for the purpose of CSA 64 billing the Park for the service.

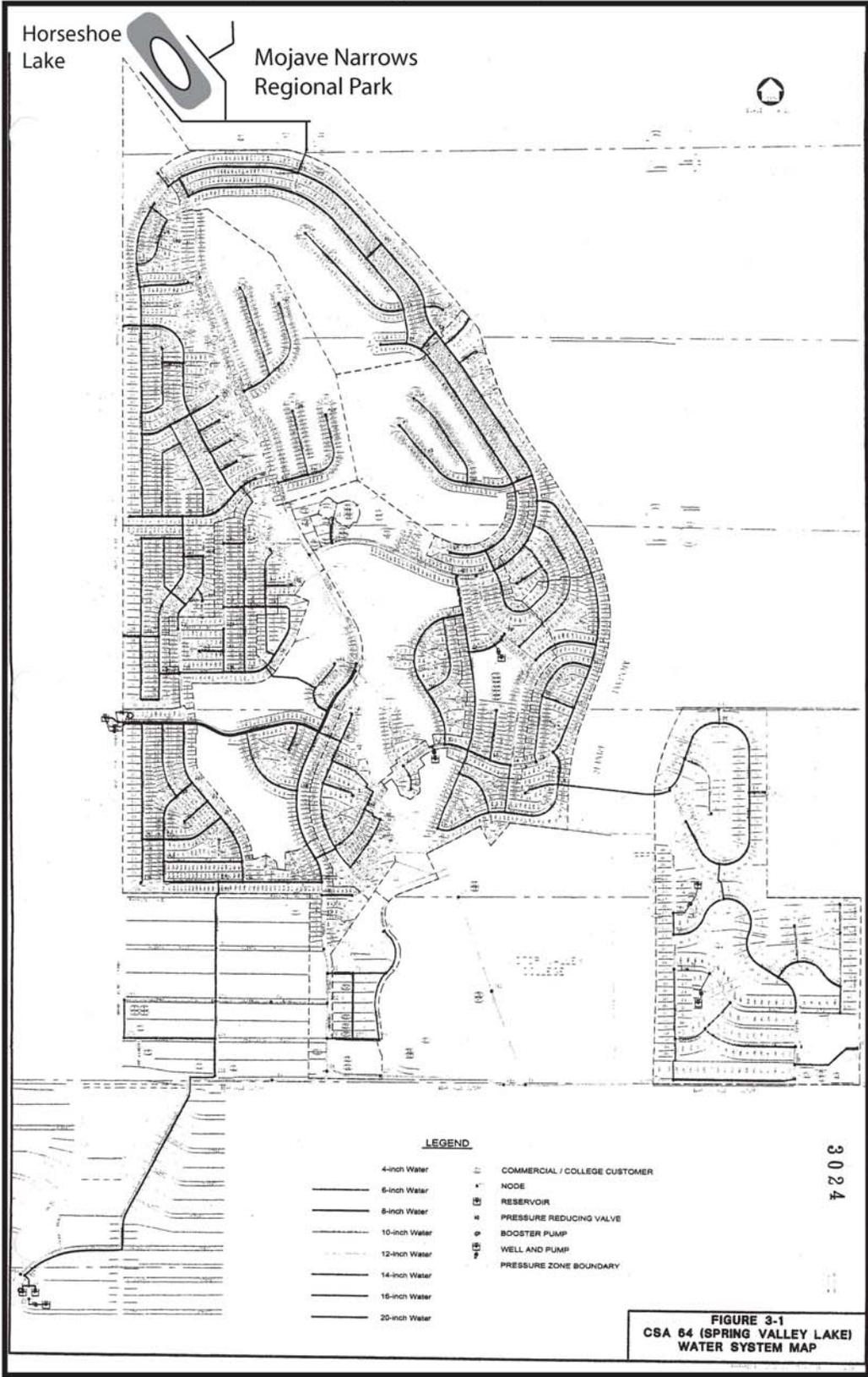
Under the agreement:

- VVWRA sets the rates for the service
- Park is responsible for operation and maintenance of the on-site system
- VVWRA is responsible for operation and maintenance of its sewer collection system that the Park connects to
- VVWRA bills CSA 64 for the Park’s direct connection
- Public Works Department reimburses CSA 64 for the Park’s direct connection along with a \$95 administrative fee per two month cycle

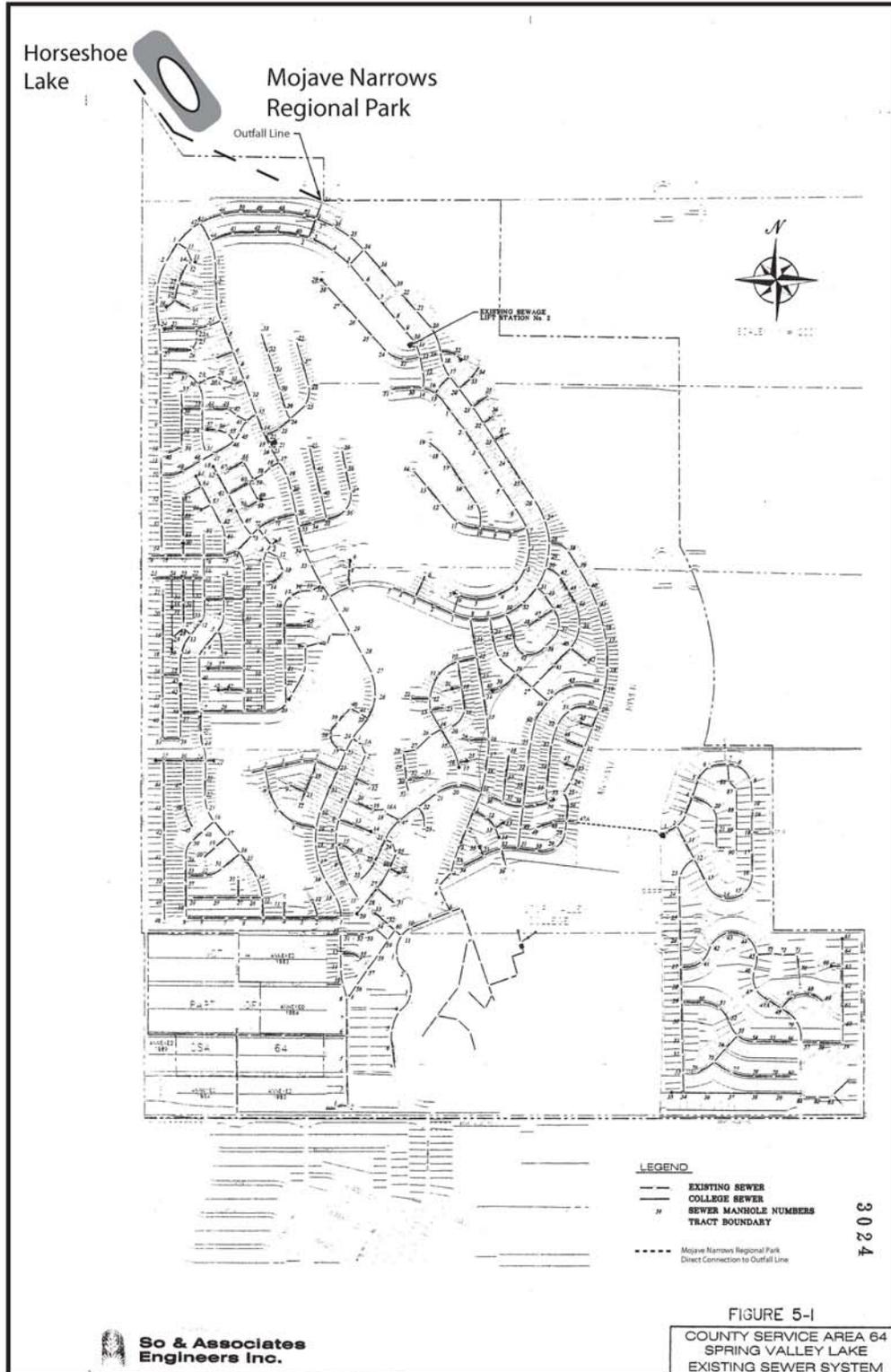
Staff has verified that County Facilities Management (on behalf of the Public Works Department – County Regional Parks Division) issues payment to County Service Area 64 for water delivery and sewer collection services to the Park.

Since the early 1970’s, water delivery and sewer collection have been provided by CSA 64 into the Park. The service extends through the unincorporated portion of the Park into the portion of the Park within the City of Victorville and the Victorville Water District which is confined to one parcel comprising 19.75 acres. The water and sewer maps as identified in CSA 64’s water and sewer plans do not show the service expansions into the Park. Special Districts Department staff has provided LAFCO staff with copies of blueprints of water and sewer plans for line extension into the Park. As shown below, LAFCO staff has modified the maps from the water and sewer plans to illustrate the service expansions into the Park.

COUNTY SERVICE AREA 64 WATER SYSTEM
(as modified by LAFCO staff)



County Service Area 64 Sewer System with
Mojave Narrows Regional Park Direct Connection to Outfall Line
(as modified by LAFCO staff)



As discussed later in this report, LAFCO staff is recommending that the Commission expand the sphere of influence of CSA 64 to include the entirety of the Park, including the parcel within the City of Victorville and the Victorville Water District. County Special Districts Department management has indicated that it supports expansion of CSA 64's sphere of influence to encompass the Park, and the City of Victorville/Victorville Water District expresses no opposition to the sphere expansion into the City or District.

CSA 64 WATER PRODUCTION AND SYSTEM:

At the hearing the Commission requested information on the potential effect to CSA 64's water production due to the future expansion of the Victor Valley College and the proposed Wal-Mart development located within CSA 64. Below is information on the requested items.

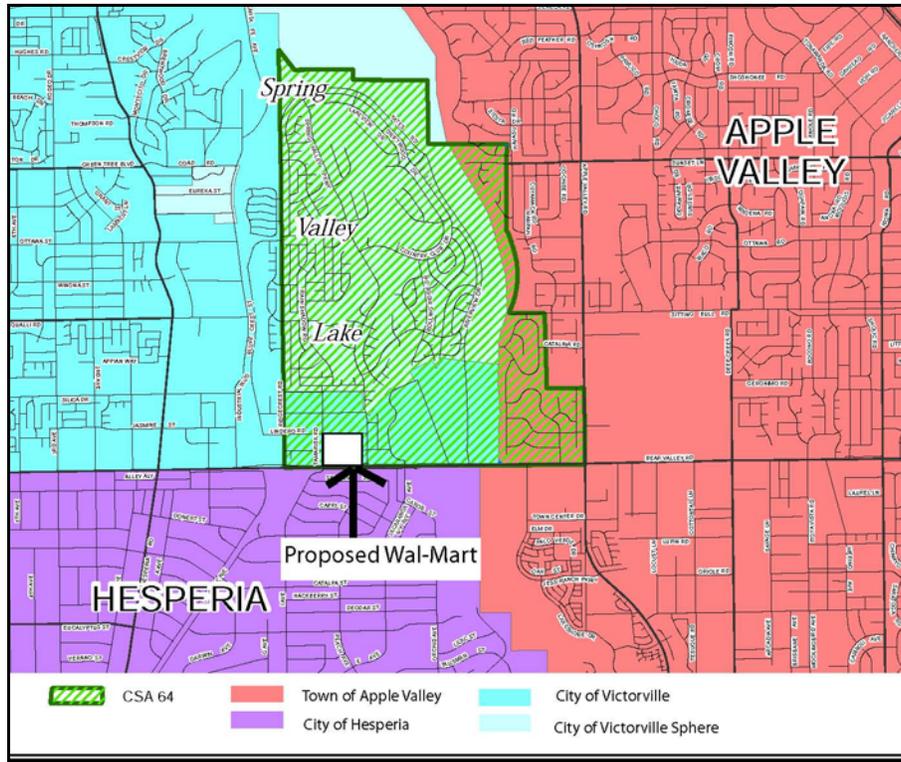
Victor Valley College Expansion

On November 4, 2008, the electorate of the Victor Valley College District approved Measure JJ, the Victor Valley College Public Safety, Health Care Job Training Measure. This measure authorized the future establishment of a Workforce Training Center and Public Safety Academy, acquisition of sites, and the construction of buildings by issuing \$297,500,000 in bonds. The scope of the facility projects are reflected in the College District's Educational Master Plan 2007 and its Five-Year Facilities Plan, approved by the Board of Trustees on June 10, 2008.

According to the Educational Master Plan, in 2005 there were 12,358 students enrolled at the College and enrollment is projected to reach 18,408 by 2020. The anticipated growth to stem from Measure JJ is accommodated in these projections. Copies of the above-referenced documents are accessible on the Victor Valley College website at www.vvc.edu. No information was included within these documents as to the anticipated water needs for the project. It is LAFCO staff position that at the time these efforts move forward a requirement should be imposed that the ongoing water demand of this project should be provided to the serving entity through a permanent purchase or transfer of water resources.

Proposed Wal-Mart Project Services

In the southern portion of CSA 64, within the City of Victorville, is a proposed project to develop a Wal-Mart Supercenter located at the northeast corner of Bear Valley Road and Tamarisk Road. The proposed development is in the preliminary planning stages at the City of Victorville. At the present time, City Planning Department staff has indicated that the Victorville Water District (District) is the anticipated water provider. Service by the District would require annexation of the project area. Under normal circumstances, this would include detachment from CSA 64 to eliminate a duplication of service. The map below shows the location of the project, as well as the City of Victorville boundaries within CSA 64.



The Environmental Impact Report (EIR) for the City of Victorville General Plan 2030 adopted October 21, 2008, states that while the area is currently served by CSA 64 the City has concern about its ability to provide sufficient water pressure to meet fire flow requirements. The EIR identifies that annexation to the Victorville Water District is to be proposed for the entire City territory within CSA 64 stretching area between Spring Valley Lake and Bear Valley Road – this would include the proposed Wal-Mart project and Victor Valley College, including its projected expansion projects.

City staff has responded to LAFCO staff questions on the Wal-Mart project, that it has not been determined what agency will provide wastewater collection service for the project. Following the dissolution of the Victorville Sanitary District the City assumed this responsibility within its territory; therefore, either the City or CSA 64 could provide this service at this time. At the time of the dissolution, LAFCO staff reviewed the question of the potential duplication of service in this area but was assured that no service overlap was anticipated. City Planning Department staff has indicated that the City Engineering Department's preliminary assessment is that the project could not feasibly connect to the Victorville sewer system, located at approximately Lindero Road and Ridgecrest as defined in LAFCO 2668, and would need to connect to CSA 64.

The decisions related to service delivery to the Wal-Mart project could ultimately create an issue for LAFCO consideration. Since 1991, the territory east of Ridgecrest, west of the Mojave River, north of Bear Valley Road, including Victor Valley College, has been a part of the City of Victorville. LAFCO's consideration of this area was conducted through LAFCO 2668, which originally proposed the annexation of the area to the Victorville Sanitary District

and the then Victor Valley Water District. However, the Commission determined to retain CSA 64 in this area for two reasons, summarized here as:

1. Neither the Victor Valley Water District nor Victorville Sanitary District were in a position to provide the services more efficiently than CSA 64; and,
2. Determinations of the transfer of facilities and function should be addressed more comprehensively than was provided in the Plan for Service for the reorganization.

LAFCO 2668 was, therefore, modified to exclude the Victor Valley Water District and Victorville Sanitary District. Since this decision was made, the question of adjudication of the Mojave basin has been determined by the Courts and assignment of free production allowance quantities of water have been determined based upon historic pumping. Therefore, should the City condition the Wal-Mart project for water delivery from the Victorville Water District and CSA 64 for sewer collection, the Commission would have to consider retention of CSA 64 in this area in order to maintain sewer service. As a part of this potential future consideration, the Commission will need to address the questions of duplication of service as well as the development of conditions to transfer water rights and/or free production allowance associated with the transferred territory.

Effect of Future Development to CSA 64 Water and Sewer Systems

The current responsibility to provide water and sewer collection to the area within the City of Victorville, which includes the proposed Wal-Mart project and the Victor Valley College expansion projects, is through CSA 64. The City of Victorville General Plan's anticipated growth will further strain CSA 64's current water resources and system, as discussed in the previous staff report (included as Attachment #5). To accommodate the current projects in process, as well as overall growth, CSA 64, or the development project proponent(s), will need to purchase additional water from other agencies within the sub-basin to avoid paying the higher replacement water and make-up water rates charged by the Watermaster. LAFCO Staff has identified the need for development projects to be required, as a condition of approval, to transfer sufficient permanent water resources to accommodate the development's anticipated water use.

REVIEW OF STAFF'S RECOMMENDATIONS:

LAFCO staff recommends that the Commission expand the sphere of influence to include the entirety of the Mojave Narrows Regional Park to reflect the area of service responsibility, reduce the sphere of influence to exclude the territory within the Town of Apple Valley thereby signaling its position that the Town of Apple Valley should ultimately assume responsibility for service delivery to the area, and affirm the balance of the existing sphere of influence for CSA 64.

LAFCO staff recommends that the Commission amend the "Rules and Regulations Affecting Special Districts" by modifying the service descriptions for Water, Sewer, and Roads to more accurately reflect the services provided, and confirm the function of Parkway Maintenance with a service description for CSA 64 as follows (changes in bold italic):

	FUNCTIONS	SERVICES
CSA 64 (Spring Valley Lake)	Water	Water Retail and domestic
	Sewer	Sewer Collection and transportation
	Roads	Roads Acquisition, construction, improvement, and maintenance of public streets, roads, and any incidental works
	Street Sweeping	Street Sweeping
	Parkway Maintenance	Acquisition, construction, improvement, and maintenance of landscaping on public property, public rights-of-way, and easements

Sphere of Influence

CSA 64’s sphere of influence and boundaries are currently coterminous. In the original and updated materials submitted for this municipal service review and sphere of influence update, Special Districts Department staff requested affirmation of its existing sphere. However, LAFCO staff is recommending modifications which include expansion and reductions. The map below identifies the sphere expansion and reduction areas, as modified, and is included in Attachment #1.

Included in the previous staff report and presentation was discussion of CSA 64’s historical water and sewer service extension into the Mojave Narrows Regional Park. This staff report and the recommendations below take into account CSA 64’s service delivery to the Park that extends through the unincorporated portion of the Park into the portion of the Park within the City of Victorville and the Victorville Water District (parcel 0480-021-06). The change in the area recommended for sphere expansion builds upon and modifies the determinations required by Gov. Code 56425 for a sphere of influence update. The modifications are reflected in the draft resolution (Attachment #6).

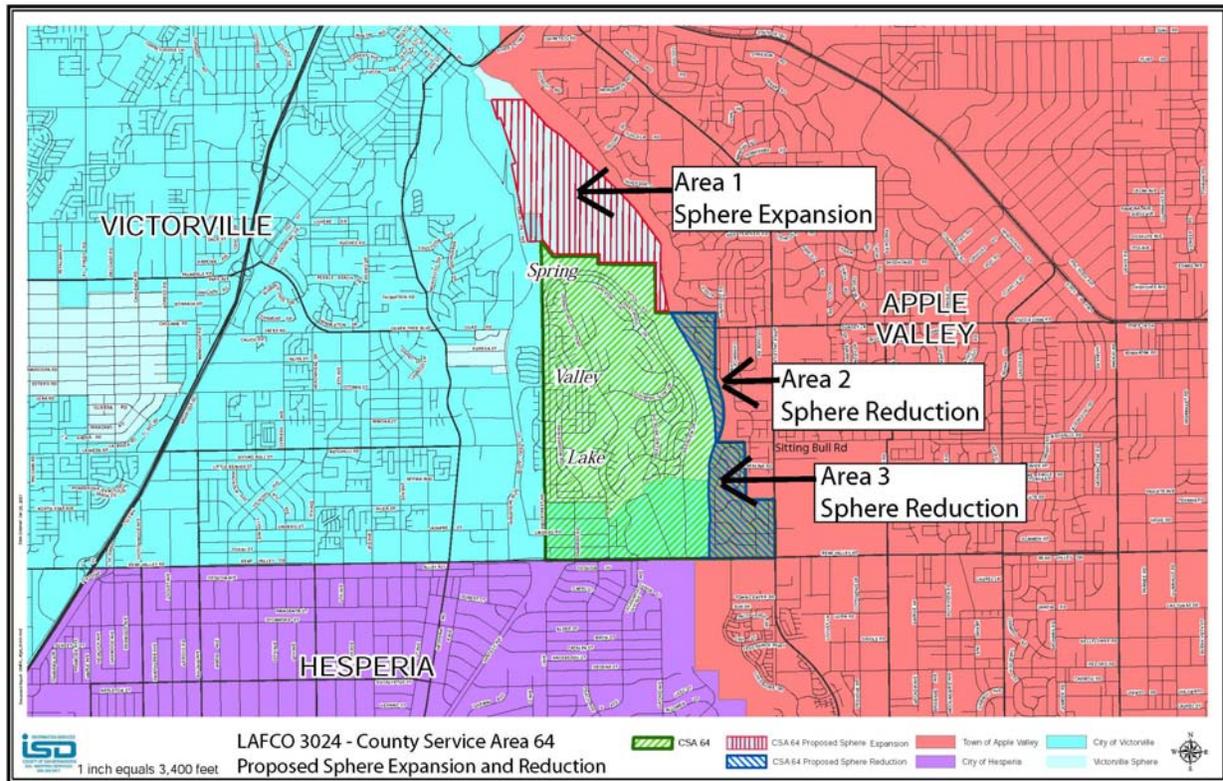
- The expansion of CSA 64’s sphere by approximately 667 +/- acres would encompass the Mojave Narrows Regional Park including the area within the City of Victorville and the Victorville Water District (identified as Area 1). This area has received and benefited from water and sewer service provided by CSA 64 as early as the mid-1970s. According to City of Victorville/Victorville Water District staff, there are no water facilities in the near vicinity of the Park and the nearest water pipeline is approximately 3,200 feet to the west. However, Special Districts Department staff

could not locate an out-of-agency agreement for water or sewer service between CSA 64 and the County Regional Parks Department. Therefore, expansion of the sphere to include the entirety of the Park would allow for an out-of-agency service contract pursuant to Government Code Section 56133 or future annexation, both of which would require LAFCO approval and define the area of service responsibility. Special Districts Department supports the sphere expansion to include the entirety of the Mojave Narrows Regional Park (letter included in Attachment #2). The City of Victorville/Victorville Water District expresses no opposition to the sphere expansion into the City or District (letter included as Attachment #3).

- A proposed reduction of the sphere to exclude the areas within the Town of Apple Valley encompasses approximately 380 +/- acres and was included in the Town when it incorporated in 1988. A reduction of CSA 64's sphere of influence for these areas would signal the Commission's desire that the Town of Apple Valley should ultimately assume responsibility for service delivery to these areas:
 - The area north of Sitting Bull Road does not currently receive or benefit from services provided by CSA 64 (identified as Area 2). This area is within the boundaries of the Town of Apple Valley (sewer service transported to the Regional Wastewater Reclamation Facility) and the Apple Valley Ranchos Water Company. There is no benefit nor will there be any benefit from CSA 64 to this area. Special Districts Department supports this sphere reduction since no facilities of CSA 64 are located within the area.
 - The area south of Sitting Bull Road includes the Equestrian Estates (a part of the Spring Valley Lake Association), which was developed concurrently with Spring Valley Lake, and consists of larger residential parcels that were zoned for ownership of horses (identified as Area 3). The area south of Sitting Bull Road also includes a commercial development located at the northwest corner of Apple Valley Road and Bear Valley Road whereby Apple Valley Ranchos Water Company provides fire flow to the Home Depot within this area by contract with CSA 64.

This area has historically been recognized by the Commission as being a part of the overall Apple Valley community. Further, the division of the school districts by the Mojave River supports the division of the sphere of influence boundaries recommended by LAFCO staff and corresponds to the spheres of the City of Victorville and the Town of Apple Valley. Special Districts Department does not oppose staff's recommendation to reduce CSA 64's sphere in this area, so long as it is understood that reducing the sphere does not remove the authority to provide existing services.

LAFCO Staff Proposed CSA 64 Sphere Expansion and Reductions



Authorized Powers

When updating a sphere of influence for a special district, the Commission is required to establish the nature, location, and extent of any functions or classes of services provided by the district (Government Code §56425(i)). LAFCO staff is recommending modifications to CSA 64's authorized functions and services, and Special Districts Department management supports LAFCO staff's recommendations (letter included in Attachment #2).

- Currently, the service descriptions for water, sewer, and roads do not describe the nature, location, or extent of the services provided. For instance, the water function is listed as "water". LAFCO staff proposes to modify the service descriptions of water, sewer, and roads to more accurately reflect the services provided:
 - Water - Modify the service description from "water" to "retail and domestic"
 - Sewer – Modify the service description from "sewer" to "collection and transportation"
 - Roads – Modify the service description from "roads" to "acquisition, construction, improvement, and maintenance of public streets, roads, and any incidental works".

CSA 64 has provided road construction and improvement in the past. In 1970 the electorate approved bonded indebtedness for construction and maintenance of roads. The bonds were issued and sold by the County in 1982 and the repayment obligation has been satisfied. Currently, CSA 64 is authorized the function of Roads but does not currently provide the service. LAFCO staff discussed with the Special Districts Department the possibility of removing the Road function since it does not currently provide road services. Special Districts Department staff recommends that the Roads function remain because future road maintenance and improvements are currently being discussed. LAFCO staff concurs with the Special Districts Department request and recommends maintenance of the Roads function with a modified service description as identified above.

- Additionally, in the materials submitted for the service review and in correspondence, Special Districts Department staff indicates that since the late 1970s it has provided maintenance of the archway spanning across Spring Valley Parkway at the entrance to the community. The district has owned the archway since 1979 when it took possession of the structure from Boise Cascade, the developer of Spring Valley Lake, through County Contract 79-572. The west end of the structure is on public land, and the east end is on Victor Valley College property and CSA 64 has been granted an easement for its placement. CSA 64 is not currently authorized by LAFCO to provide the above-mentioned service. Due to CSA 64 providing this service on a continuing basis since the late 1970s, staff proposes that the Commission confirm the delivery of “Parkway Maintenance” as an authorized function with a service description of “acquisition, construction, improvement, and maintenance of landscaping on public property, public rights-of-way, and easements”.

ADDITIONAL DETERMINATIONS:

- The Commission’s Environmental Consultant, Tom Dodson and Associates, has determined that the municipal service review and sphere of influence modification is statutorily exempt from environmental review. The basis for this determination is that LAFCO 3024 does not have the potential to cause a significant effect on the environment, and therefore does not constitute a project as defined by CEQA. He further states that a decision by the Commission to modify the sphere boundaries and clarify the services provided by CSA 64 does not substantially alter the existing operations or obligations of CSA 64 and does not adversely affect any existing physical facilities. Mr. Dodson’s response is included as Attachment #4.
- Legal advertisement of the Commission’s consideration has been provided through publication in *The Sun* and through a publication of a 1/8 page legal ad in *The Daily Press*, as required by law. In accordance with Commission Policy #27, a 1/8th page legal ad was provided in lieu of individual notice because the service review and sphere of influence update for CSA 64 would have exceeded 1,000 notices.

This item was originally advertised in February 2007 as a part of the overall Victorville community municipal service reviews and sphere of influence updates. LAFCO 3024 was taken off the agenda calendar in November 2007 with the requirement to re-advertise when it returned for Commission consideration. The item was heard at the November 19,

2008 hearing and was continued to the January 21, 2009 hearing. The item was re-advertised for the January 21, 2009 hearing to reflect the sphere expansion into the City of Victorville and the Victorville Water District.

- As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.
- Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

CONCLUSION:

Staff recommends that the Commission receive and file the municipal service review and make the related determinations to the municipal service review and sphere of influence update, as modified by the materials presented at this hearing. Staff is recommending that the Commission take the following actions:

- Expand the existing sphere of CSA 64 to encompass the entirety of the Mojave Narrows Regional Park as it already receives and benefits from water and sewer service provided by CSA 64.
- Reduce the sphere of influence of CSA 64 to exclude the territory within the Town of Apple Valley since the portion north of Sitting Bull Road does not receive or benefit from services provided by CSA 64 and CSA 64 has historically been recognized by the Commission as being a part of the overall Victorville community. Further, the division of the school districts by the Mojave River supports the division of the sphere of influence boundaries recommended by LAFCO staff and corresponds to the spheres of the City of Victorville and the Town of Apple Valley.
- Add Parkway Maintenance as an authorized function with a service description since CSA 64 has been providing this service on a continuing basis since the late 1970s.
- Modify the service descriptions of water, sewer, and roads to accurately define the services provided.

Attachments:

1. [LAFCO Staff Proposed Sphere Expansion and Reduction Map](#)
2. Letter Dated January 5, 2009 and Memorandum Dated December 12, 2008 from County Special Districts Department
3. Letter Dated January 8, 2009 from the City of Victorville/Victorville Water District
4. Response from the Commission's Environmental Consultant, Tom Dodson and Associates
5. LAFCO Staff Report Dated November 10, 2008 (without attachments)
6. Draft Resolution #2987

KRM/MT