

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

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PROPOSAL NO.: LAFCO 3014

HEARING DATE: October 15, 2008

AMENDED RESOLUTION NO. 3027

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3014 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 17 (Sphere reduction to a zero sphere of influence for County Service Area 17)

On motion of Commissioner McCallon, duly seconded by Commissioner Cox, and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, a service review mandated by Government Code 56430 and a sphere of influence update mandated by Government Code Section 56425 have been conducted by the Local Agency Formation Commission of the County of San Bernardino (hereinafter referred to as “the Commission”) in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.); and

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, a public hearing by this Commission was called for August 20, 2008 and continued to September 17, 2008 at the time and place specified in the notice of public hearing and in an order or orders continuing the hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written protests; the Commission considered all plans and proposed changes of organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the application, in evidence presented at the hearing;

WHEREAS, a statutory exemption has been issued pursuant to the provisions of the California Environmental Quality Act (CEQA) indicating that this service review and sphere of influence update are

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statutorily exempt from CEQA and such exemption was adopted by this Commission on September 17, 2008. The Clerk was directed to file a Notice of Exemption within five working days of its adoption;

WHEREAS, based on presently existing evidence, facts, and circumstances filed with the Local Agency Formation Commission and considered by this Commission, it is determined that the sphere of influence shall be reduced to a zero sphere of influence for County Service Area 17 (hereafter shown as CSA 17), as depicted on the map attached hereto as Exhibit "A";

WHEREAS, this resolution is amended by the Executive Officer on November 14, 2008, pursuant to the authority provided in Government Code Section 56883 to correct an error which occurred inadvertently without requiring a process of reconsideration; and

WHEREAS, the determinations required by Government Code Section 56430 and local Commission policy are included in the report prepared and submitted to the Commission dated September 8, 2008 and received and filed by the Commission on September 17, 2008, a complete copy of which is on file in the LAFCO office. The determinations of the Commission are:

1. Growth and population projections for the affected area:

The Apple Valley community has experienced significant growth within the past ten years and additional growth is anticipated in the coming years. However the area within the boundaries of CSA 17 has not experienced significant growth due to the limiting factors of water supply. The materials provided indicate a population of 1,475 in 1995 as estimated by a private source; however, during the past 13 years the population has increased in the area. A population count has not been conducted in the interim and a current estimated population for each of the four areas could not be obtained since the Census tracts are larger than each separate area.

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

The district provides for payment of the utility costs for operation of 47 streetlights; however only 40 of these streetlights are within the current boundaries of CSA 17. There are no plans at this time to increase the number of the streetlights. There is no other service provider for streetlights in the area, and CSA 17 adequately provides this service. The future need for streetlights will increase as the population grows dependent upon the implementation of the County's Night Sky ordinance within this portion of the desert. Major developments currently in process in the County's Land Use Services Department may require public streetlights for major intersections for public safety purposes which should be coordinated with the district.

LAFCO staff has conducted a review of the streetlights billed to the accounts of CSA 17 and identified that it includes 47 streetlights. However, a review of the maps outlining the location of these lights shows that seven (7) of these lights are not within the existing boundaries of CSA 17. This information is broken down as follows:

AREA	LIGHTS WITHIN	LIGHTS OUTSIDE	TOTAL
1	16	2	18
2	0	3	3
3	7	0	7
4	17	2	19
TOTALS	40	7	47

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The agency will need to address service concerns by either: 1) to expand the boundaries of the District to include the area in which these lights are located; 2) dissolve the agency and transfer all the lights to another entity, or 3) turn the lights off removing them from the bill for CSA 17.

3. Financial ability of agencies to provide services

The Special Districts Department submitted budget and audit information for CSA 17 as part of the service review. At the time this report was prepared, the Special Districts Department had not yet received the FY 2006-07 audit for CSA 17; therefore, the FY 2005-06 audit is the most current audit available and has been used for this Municipal Service Review. This document is on file in the LAFCO staff office.

CSA 17's sources of funding are its share of the general ad valorem property taxes and interest. At present it receives approximately 15.7% of the general tax levy in its affected tax rate areas; this corresponds to the rate received by County General Fund. As indicated in the audit and budget information provided, the revenue generated greatly exceeds the amount necessary to support the existing streetlighting operations. For example, in FY 2005-06 CSA 17 received \$141,272 in revenue, of which 80.8% is attributable to property taxes. Expenditures for the same year totaled \$10,878 and were comprised of Salaries and Benefits (\$3,410) and Services and Supplies (\$7,468). Of the Services and Supplies amount, \$4,395 was for the direct cost of supplying electricity for the 47 lights on its bill from Edison. The chart below shows the financial activity of the district for the past six years and the budget for the current fiscal year.

	Expenditures	Total Revenue (Property Tax Receipts)	Change in Fund Balance	Ending Fund Balance
FY 2002-03 ¹	\$140,510	\$109,004 (93,784)	-\$31,506	\$484,529
FY 2003-04 ¹	\$130,881	\$109,014 (\$100,452)	-\$21,867	\$462,662
FY 2004-05 ²	\$11,035	\$116,707 (\$98,190)	\$105,672	\$568,334
FY 2005-06 ²	\$10,878	\$141,272 (\$114,199)	\$130,394	\$698,728
FY 2006-07 ³	\$10,844	\$205,088 (\$171,993)	\$194,244	\$892,972
FY 2007-08 ⁴	\$17,680	\$215,272 (\$189,887)	\$197,592	\$1,090,564
FY 2008-09 ⁵	\$27,961	\$216,887 (\$189,887)	\$188,926	\$1,279,490

1 source: FY 2003-04 and FY 2004-05 Budgets - Actuals for Prior Year

2 source: FY 2004-05 and FY 2005-06 Audits

3 source: FY 2007-08 Budget – Actual for Prior Year

4 source: FY 2008-09 Proposed Budget – Year end Estimates for Prior Year

5 source: FY 2008-09 Proposed Budget; Fund Balance Ending is calculated according to the budget

As indicated in the chart, CSA 17's revenue vastly exceeds its actual expenditures. Further, yearly variation in expenditures is slight, with yearly revenue experiencing significant increases. In other words, CSA 17's change in fund balance experiences greater increases over the prior year. For example, the fund balance has increased by almost \$200,000 per year for the last three years.

The hefty share of the general ad valorem tax attributable to CSA 17 arises from the incorporation of the Town of Apple Valley in 1988. The reorganization action to incorporate the

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Town included the detachment of the area from CSA 17 as required by Government Code Section 25210.90. The number of streetlights which were the responsibility of CSA 17 decreased from 516 to the current number of 47; however the property tax transfer for the incorporation was based on the cost of service for the 469 lights, \$62,344 in 1988 dollars. The residual property tax was applied to these four areas and the cost of service was transferred to CSA 17. Meanwhile, the ad valorem property tax distribution from the general levy within the current CSA 17 boundaries has increased to an amount more than 1500% higher than necessary to support the 47 streetlights. As of June 30, 2008, CSA 17's fund balance is calculated by the County budget process to be \$1,090,564.

4. Status of, and opportunities for, shared facilities:

Southern California Edison owns the streetlights; therefore, the streetlights cannot be shared. The only service that CSA 17 is authorized to provide is streetlights so no other shared facilities can be considered. However, the County could look at expanding the range of service provided through CSA 17. The Special Districts Department consolidates the administrative operations and facilities for county service areas under the auspices of CSA 70. CSA 17 pays an allocated share for administrative facility use and the FY 07-08 and FY 06-07 Adopted Budgets identify \$644 and \$829 as transfers-out to pay for services and supplies and administration costs, respectively, and a share of the salary transfers out goes to pay for administrative overhead.

5. Accountability for community service needs, including governmental structure and operational efficiencies:

Governmental Structure

The San Bernardino County Board of Supervisors governs CSA 17; it is within the political boundaries of the First Supervisorial District. The District does not have a commission or municipal advisory council. The mandatory annual meeting for the District is held during the review and approval of the budget process, no others are known to have taken place.

Operational Efficiency

As a mechanism to control costs, the County of San Bernardino Special Districts Department has consolidated many of the administrative and technical functions necessary to manage the various services provided under County Service Area 70. One Special Districts Department manager oversees all the county operated streetlight districts and one inspector provides support services. These costs are apportioned to each agency and are identified as part of the departmental staffing cost. The FY 07-08 and FY 06-07 Adopted Budgets identify \$4,091 and \$6,810 as transfers-out to pay for salaries and benefits administration costs, respectively.

Action taken on June 17, 2008 by the Board of Supervisors of the County of San Bernardino set the preliminary appropriation limit in Fiscal Year 2008-09 for CSA 17 to be \$271,930.

Government Structure Options

As identified in the opening section of this report, there are three governmental structure options for this agency:

1. Expansion of CSA 17's sphere to be coterminous with the unincorporated area of the Town of Apple Valley's eastern and southern sphere. This would provide for a regional perspective

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for a service which contributes to the safety of residents.

2. Affirmation of the existing sphere designation indicating that there is no need for the agency's services in the balance of the affected area. Adoption of this option would retain the status quo and the fund balance of this district will continue to accumulate when there are other service needs it could be used for within its territory.
3. Designation of a zero sphere of influence indicating the Commission's determination that this agency should be dissolved and its service should be assumed by another agency. On February 12, 2008, the County Board of Supervisors approved a study for potential reorganization of CSA 17. According to the narrative portion of this agenda item (a part of Attachment #10) the study will include, but not be limited to: 1) possible dissolution of CSA 17 and entering into an out-of-agency service agreement with the Town for maintenance of the streetlights, 2) reorganization of CSA 17, such as a consolidated county-wide streetlighting entity, and the redistribution of the ad valorem property taxes attributable to CSA 17, and 3) alternative uses for CSA 17's operating budget surplus. Approval of this action directed the County Administrative Office and Special Districts Department staff to initiate the study. The reason for the initiation of the study is similar to LAFCO's concern regarding CSA 17 – the revenues that CSA 17 receives far exceed the amount necessary to support the 47 streetlights within its boundaries. At the September 17 Hearing, County staff provided information that they had reached agreement to transfer the responsibilities for streetlighting to the Town of Apple Valley.
4. The County Special Districts Department has proposed a fourth option in correspondence related to the municipal service review that it has recommended in the past to consolidate the districts with only streetlight powers in the unincorporated area of the County into a single entity, and CSA 17 is one of those districts. The stated benefit would be reduced administrative and incidental costs such as a single audit report and legal notices. LAFCO staff has not received any additional information regarding this option from Special Districts Department. Much like the County Fire Reorganization this would eliminate the need for multiple budgets and combined the revenues so that payments to Southern California Edison would come from a single source. In addition, it would allow for the coordination of streetlight locations as was identified in the service review for County Service Area SL-1.

Based upon its evaluation, the Commission supports the designation of a zero sphere of influence signaling its position that the responsibilities and revenues of CSA 17 should be transferred to another agency – in this case the Town of Apple Valley.

WHEREAS, the following determinations are made in conformance with Government Code Section 56425 and local Commission policy:

1. Present and Planned Uses:

CSA 17 encompasses approximately 3,205 +/- acres (5.0 square miles) of territory within four separate areas. At present, the land uses of CSA 17 include residential and vacant land. The County of San Bernardino has assigned general plan land use designations of Rural Living and Residential Single. Portions of the territory of CSA 17 support an urban intensity of land use. No change in land use for the area will occur through designation of a zero sphere of influence for CSA 17.

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2. Present and Probable Need for Public Facilities and Services:

CSA 17 is authorized to provide streetlighting services within its boundaries and operates and maintains 47 streetlights. Currently, the district meets the service needs of those within its boundaries. The future need for streetlights will increase with population growth, as denser developments will require such service. The Town's sphere does not have streetlights except for the streetlights within the boundaries of CSA 17. This is due to the County's Night Sky Ordinance, which has as its purpose to encourage outdoor lighting practices and systems that will minimize light pollution, conserves energy, and curtails the degradation of the nighttime visual environment. Non-conformance to the Ordinance is administered by the Director of Land Use Services or authorized designee. There are, however, signal lights atop of the traffic signals that illuminate the intersections maintained by County Transportation. An example is the intersection of Deep Creek Road and Rock Creek Road.

3. Present Capacity of Public Facilities and Adequacy of Public Services

CSA 17 provides streetlighting within its boundaries and adequately serves the area. The revenue generated through property taxes is more than sufficient to support the electricity charges for the streetlights.

4. Social and Economic Communities of Interest

The entirety of CSA 17 is within the sphere of the Town of Apple Valley which is the economic and social hub for the community. As a County Service Area it is not included within Town boundaries. Parts of the District's service area are included in other agencies associated with the Town's sphere of influence such as Thunderbird County Water District and Mariana Ranchos County Water District. However, since the area is unincorporated, it is likely that some residents in the area do not believe they share social or economic ties with the Town.

5. Additional Determinations

- Legal advertisement of the Commission's consideration has been provided through publications in *The Daily Press* through publication of a 1/8 page legal ad and in *The Apple Valley News*, 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 sphere of influence update for the community of Apple Valley would have exceeded 1,000 notices.
- 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.

WHEREAS, pursuant to the provisions of Government Code Section 56425(h) the range of services provided by County Service Area 17 shall be limited to the following:

FUNCTIONS	SERVICES
Streetlighting	Streetlighting

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WHEREAS, having reviewed and considered the findings as outlined above, the Commission determines to assign a zero sphere of influence for County Service Area 17 signaling its position that the responsibilities of this agency should transfer to another.

NOW, THEREFORE, BE IT RESOLVED by the Local Agency Formation Commission of the County of San Bernardino, State of California, that this Commission shall consider this to be the sphere of influence for County Service Area 17; it being fully understood that establishment of such a sphere of influence is a policy declaration of this Commission based on existing facts and circumstances which, although not readily changed, may be subject to review and change in the event a future significant change of circumstances so warrants;

BE IT FURTHER RESOLVED that the Local Agency Formation Commission of the County of San Bernardino, State of California, does hereby determine that County Service Area 17 shall indemnify, defend, and hold harmless the Local Agency Formation Commission of the County of San Bernardino from any legal expense, legal action, or judgment arising out of the Commission's designation of the modified sphere of influence, including any reimbursement of legal fees and costs incurred by the Commission.

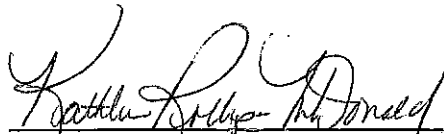
THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission of the County of San Bernardino by the following vote:

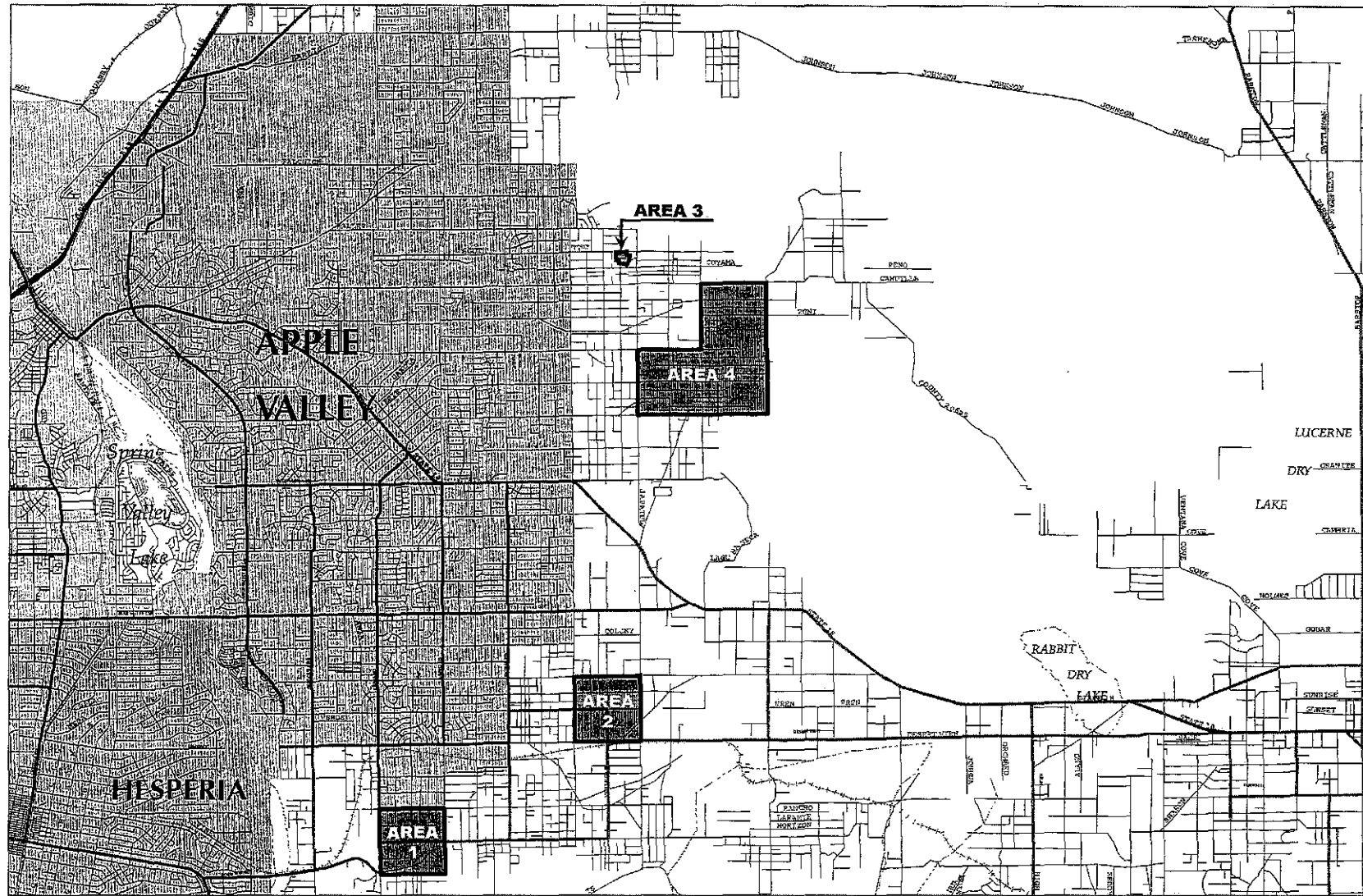
- AYES:** COMMISSIONERS: Cox, Hansberger, Pearson, Colven, McCallon, Williams
- NOES:** COMMISSIONERS: None
- ABSENT:** COMMISSIONERS: Biane, Nuaimi (Commissioner Williams voting in his stead)

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)


I, KATHLEEN ROLLINGS-McDONALD, Executive Officer of the Local Agency Formation Commission of the County of San Bernardino, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission, by vote of the members present, as the same appears in the Official Minutes of said Commission at its meeting of October 15, 2008.

DATED: November 17, 2008


KATHLEEN ROLLINGS-McDONALD
Executive Officer



LAFCO 3014 - COUNTY SERVICE AREA 17 SPHERE OF INFLUENCE
 (ZERO SPHERE OF INFLUENCE DESIGNATION FOR CSA 17)

 CSA 17 Boundary



Map Prepared On June 10, 2005