

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

215 North "D" Street, Suite 204, San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

PROPOSAL NO.: LAFCO 3022

HEARING DATE: November 19, 2008

RESOLUTION NO. 3038

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3022 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 40 (expansion to the west to include additional populated areas where County Service Area 40's translator signal reaches to reflect the service provided and affirmation of the balance of the existing sphere as shown on the attached map).

On motion of Commissioner McCallon, duly seconded by Commissioner Pearson, 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 October 15, 2008 at the time and place specified in the notice of public 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

RESOLUTION NO. 3038

statutorily exempt from CEQA and such exemption was adopted by this Commission on October 15, 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 following sphere of influence determinations should be made for County Service Area 40 (hereafter shown as CSA 40 or the District):

- (1) Expand the sphere by approximately 179 square miles to encompass the entirety of its boundaries;
- (2) Expand the sphere by approximately 48 square miles to include the area of the City of Barstow current sphere of influence not already within the boundaries of CSA 40 north of the southern line of Township 9 North; and,
- (3) Include the portion of the city limits of the City of Barstow that extend southerly of the southern line of Township 9 North (approximately 1 square mile)
- (4) Affirm the balance of the existing sphere of influence;

as more specifically depicted on the maps attached hereto as Exhibit "A", Exhibit "A-1" Exhibit "A-2"; 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 October 7, 2008 and received and filed by the Commission on October 15, 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 District is a combination of mostly rural areas with some urban and suburban pockets. The central populated area is the City of Barstow which has and is anticipated to experience low to moderate growth. The remainder of the District is anticipated to experience low growth. Utilizing the growth forecast for transportation analysis zones, as identified in the Southern California Association of Governments 2008 Regional Transportation Growth Forecast, the District's population projections are as follows:

2010 – 31,382	2025 – 40,185
2015 – 33,821	2030 – 43,512
2020 – 36,951	

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

CSA 40 provides 10 channels of UHF television service broadcast from Elephant Mountain and five channels of VHF television service broadcast from Newberry Springs. The District is licensed by the Federal Communications Commission to transmit 100 watts of radiated power from Elephant Mountain. The District states that the power output enables signal coverage to the entire District. Areas outside the District are able to benefit from the signal broadcast. The signal coverage area is based on power output allowed through the District's FCC license. The

RESOLUTION NO. 3038

District has indicated that it intends to continue operation and maintain transmission for broadcasting purposes.

On February 19, 2009, federal law requires that all full-power broadcast stations broadcast in digital format only. CSA 40 is not required to transition to digital since it broadcasts a low-power signal. At this time, the Federal Communications Commission is only mandating that transmission sites with power outputs above 1000 watts convert to full digital broadcasts. The low power TV districts (<100 watts) are currently exempt from the conversion requirement. It has been speculated that the FCC will eventually require conversion of all TV transmission sites, but a target date has not been set. According to Special Districts Department staff, the estimated cost to convert to digital is about \$2,500 per station. CSA 40 has 15 stations and this equates to approximately \$37,500. A review of the District's finances as a part of this review indicates that the District has sufficient funds to cover the current estimates for this transition. The District has no immediate plans to transition and bases this decision on several factors, as follows:

- Community feedback indicates there is a present need for non-subscriber based television
- Cable television is not available to the entirety of the District
- Not all can afford a cable or satellite television subscription
- Without CSA 40, there is no alternative for non-subscriber based television

Capital improvements are evaluated annually and are budgeted based on need and available funding. However, needed repairs occur frequently and costs cannot be foreseen. The District has indicated that no new infrastructure or modifications to existing operations will be required to continue existing service level. In FY 2007-08, the District purchased nine new transmitters and modulators in order to upgrade older equipment and improve the broadcast signal.

3. Financial ability of agencies to provide services:

The primary source of revenue is from receipt of its share of the general tax levy with interest receipts and grants making up the remainder. Expenditures mainly consist of salaries and benefits and services and supplies.

As of September 23, 2008, CSA 40 had an operating fund balance of \$497,226. As shown in the chart below, the District's net balance fluctuates each year, but in the long-run its fund has increased. A review of the financial documents indicates that salaries and benefits and services and supplies remain relatively constant. Equipment and capital purchases for the aging system have a great influence on the variability of the yearly fund balance. According to documents provided by the District, nine new transmitters and modulators were purchased within the past year in order to upgrade older equipment and improve the broadcast signals.

Activity	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08 (year-end estimate)	FY 2008-09 (Proposed Budget)
Revenue	\$243,497	\$269,016	\$319,359	\$326,546	\$339,048
Expenditures	\$136,239	\$286,633	\$413,422	\$243,981	\$358,061
Net Balance	\$107,258	\$(17,617)	\$(94,063)	\$82,565	(\$19,013)

RESOLUTION NO. 3038

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

The Special Districts Department consolidates the administrative operations and facilities for county service areas under the auspices of CSA 70. CSA 40 pays an allocated share for administrative facility use and a share of the salary transfers out goes to pay for administrative overhead. As a source of revenue, the District subleases ground and antenna tower space to private companies to offset expenditures.

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

Local Government Structure and Accountability for Community Service Needs

The San Bernardino County Board of Supervisors governs CSA 40; it is within the political boundaries of the First Supervisorial District. There is a local TV club that provides input into the District's operations.

The District's budgets are prepared as a part of the County Special Districts Department's annual budgeting process. The annual budget is presented to the County Administrative Office and Board of Supervisors for review and approval. The mandatory annual meeting for CSA 40 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. CSA 40 does however have one employee directly assigned to it, a full-time communication engineer. According to the FY 2008-09 budget, the cost for salaries and benefits for this position is budgeted at \$71,214. CSA 40 also pays for a proportional share of salaries and benefits costs necessary to serve it; and it pays a proportional cost of the administrative functions of the County Special Districts Department. One Special Districts Department manager oversees the District and there is also a clerical assistant that is responsible for the day to day operations of the District. To pay for these functions, the FY 2008-09 Proposed Budget indicates a transfer to CSA 70 Countywide of \$73,788 for management and support services (\$54,568 for Salaries and Benefits and \$19,220 for Services and Supplies). The budget also includes a \$4,000 transfer to CSA 70 TV-5 (Mesa) for a shared TV Services Assistant position along with CSA 70 Improvement Zones TV-2 and TV-4.

Government Structure Options

There are two types of government structure options:

Out-of-Agency Service Agreements:

The District acknowledges that the signal from the translator extends beyond its boundaries but has no agreements which reflect this.

RESOLUTION NO. 3038

Other Government Structure Options:

While the discussion of some government structure options may be theoretical, a service review should address possible options.

- Consolidation with the other county service areas that provide television within the county. Normally, this option is not desirable since the distance between these districts is vast. However, a county service area need not have contiguous territory, according to County Service Area Law. One single-purpose county service area providing television service would reduce duplicative administration, budget, and audit costs.
- Dissolution of the District. The District provides a community service need by providing a television signal to an area in need of such a service.
- Maintenance of the status quo. CSA 40 actively provides services to the entirety of the district and the sphere should reflect the area where services are provided.
- Expansion of the sphere of influence to encompass the entirety of its boundary and to include additional populated areas where CSA 40's translator signal reaches. The District provides service to the entirety of its boundaries and its signal is received outside of its current boundaries.

Based upon its evaluation, the Commission supports the expansion of the sphere of influence to include additional populated areas where County Service Area 40's translator signal reaches to reflect the service provided.

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

1. Present and Planned Uses:

The County of San Bernardino and the City of Barstow have assigned the full range of general plan land uses to the area. However, the core service base of the television signal is residential.

The original boundaries of CSA 40 were east of the San Bernardino Meridian generally consisting of the communities of Daggett, Yermo, Harvard, and Newberry. In 1973, LAFCO established the sphere of influence for the District to be coterminous with its boundaries (LAFCO 1270). In 1979 its jurisdiction was expanded to include the territory of the former County Service Area 70 Improvement Zone TV-1 (LAFCO 1869). However, this annexation did not include a concurrent sphere expansion. Therefore, since 1979 the western portion of CSA 40 has not been included within its sphere.

CSA 40's jurisdiction comprises approximately 416 square miles. The sphere of influence is smaller than its jurisdiction and is wholly within its jurisdictional boundaries. The sphere area currently consists of approximately 237 square miles and is the portion of the district east of the San Bernardino Meridian line (the line between Ranges 1 West and 1 East).

RESOLUTION NO. 3038

Special District Department staff does not see any reason why this sphere expansion should not be supported since the proposed sphere expansion areas are within the District's transmission range.

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

The District was established to provide television service to the outlying areas as a means of service prior to cable and satellite television. Even though the cable and satellite are more affordable and accessible today than in the past, there is still a need for this service within vast portions of the District, given the socio-economic statistics in comparison with other suburban and urban areas of the County. When the FCC mandates that low-power translators transition to digital format, Special Districts Department staff indicates that it will be able to so.

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

The translator is in good shape but requires constant upkeep due to its age. The District is the only service provider in the area capable of providing this service at a non-subscriber cost.

4. Social and Economic Communities of Interest:

The social communities of interest are the City of Barstow and the communities known as Daggett, Harvard, Newberry, Yermo, Barstow Heights, Hinkley, Hodge, Grandview, Lenwood, and Lockhart.

5. Additional Determinations

- The Commission's Environmental Consultant, Tom Dodson and Associates, has determined the changes outlined for the County Service Area 40 sphere of influence are statutorily exempt from environmental review.
- Legal advertisement of the Commission's consideration has been provided through publication in *The Daily Press* through a publication of a 1/8 page legal ad and in *Desert Dispatch*, as required by law. In accordance with Commission Policy #27, an 1/8th page legal ad was provided in lieu of individual notice because the service reviews for the community of Barstow, in aggregate, 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 were reviewed and considered by the Commission in making its determinations.

WHEREAS, pursuant to the provisions of Government Code Section 56425(i) the range of services provided by County Service Area 40 shall be limited to the following:

DISTRICT	FUNCTIONS	SERVICES
County Service Area 40	TV Translator	Television translation

RESOLUTION NO. 3038

WHEREAS, having reviewed and considered the findings as outlined above, the Commission expands the sphere of influence to the west to include additional populated areas where County Service Area 40's translator signal reaches to reflect the service provided and affirms the balance of the sphere of influence of County Service Area 40;

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 the County Service Area 40; 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 40 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: Biane, Colven, Cox, Hansberger, McCallion, Nuaimi, Pearson

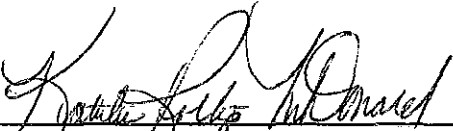
NOES: COMMISSIONERS: None

ABSENT: COMMISSIONERS: None

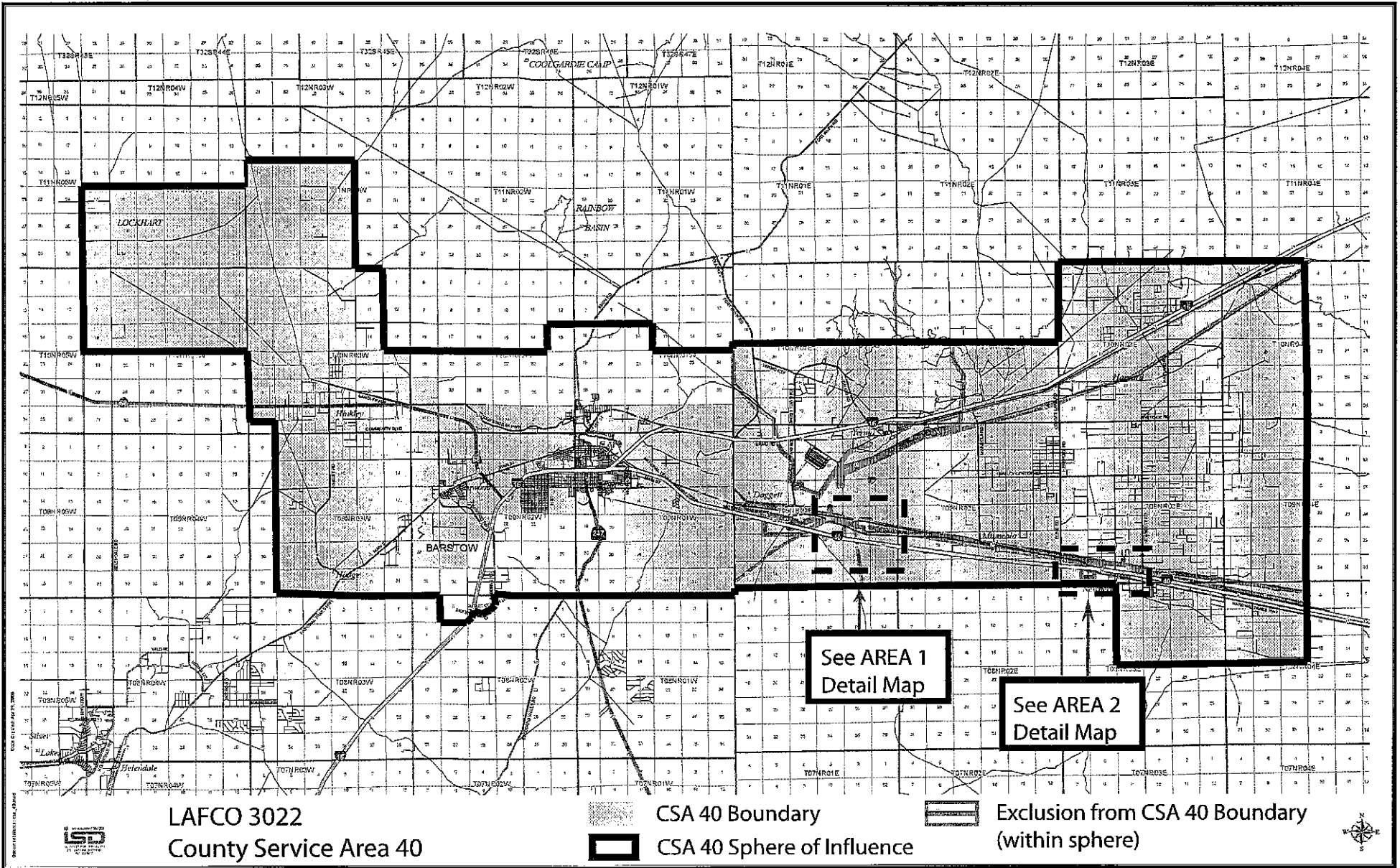
STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

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 November 19, 2008.

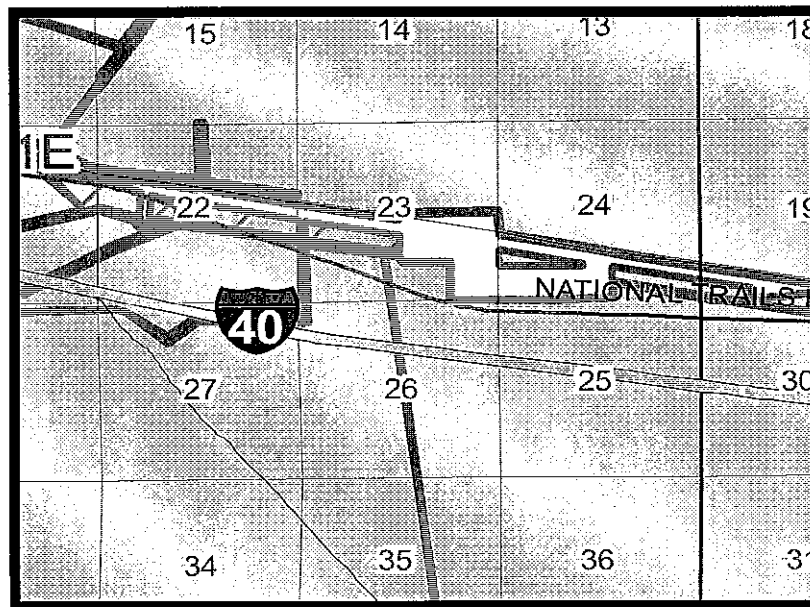
DATED: November 21, 2008






KATHLEEN ROLLINGS-McDONALD
Executive Officer

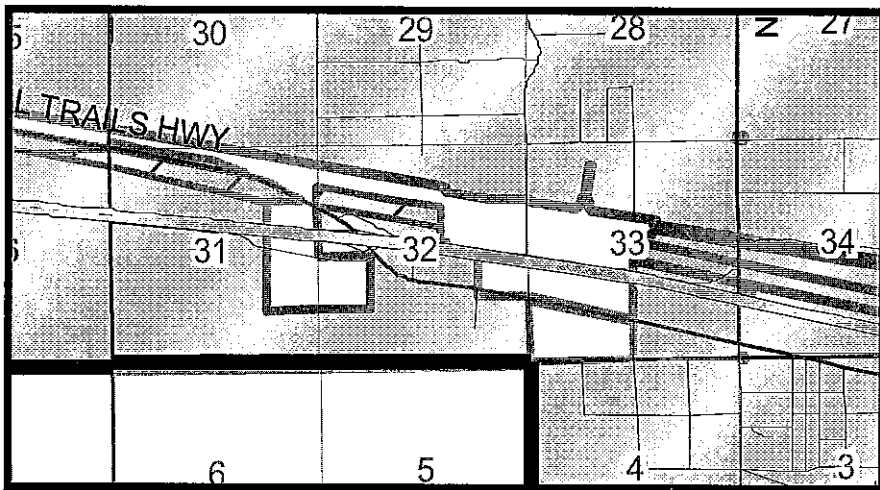





LAFCO 3022 - County Service Area 40 AREA 1 Detail Map



-  CSA 40 Boundary
-  Exclusion from CSA 40 Boundary
(within sphere)
-  Exclusion from CSA 40 Boundary
(within sphere)

LAFCO 3022 - County Service Area 40 AREA 2 Detail Map



-  CSA 40 Boundary
-  Exclusion from CSA 40 Boundary
(within sphere)
-  Exclusion from CSA 40 Boundary
(within sphere)