

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

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**PROPOSAL NO.: LAFCO 3102**

**HEARING DATE: APRIL 15, 2009**

**RESOLUTION NO. 3054**

**A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3102 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE BIG RIVER COMMUNITY SERVICES DISTRICT (affirmation of existing sphere of influence).**

**On motion of Commissioner McCallon, duly seconded by Commissioner Curatalo, 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 April 15, 2009 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 statutorily exempt from CEQA and such exemption was adopted by this Commission on April 15, 2009. The Clerk was directed to file a Notice of Exemption within five working days of its adoption;

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**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 affirmed for Big River Community Services District (hereafter shown as the District) as depicted on the map attached hereto as Exhibit "A", and at the hearing it was determined that issues and concerns related to additional sources of funding, the District's governance and compliance with existing laws be evaluated at the next municipal service review/sphere of influence update anticipated in five years;

**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 April 7, 2009 and received and filed by the Commission on April 15, 2009, 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:

Big River is primarily a recreational and retirement community that is comprised of residential, recreation, and vacant lands. There is some commercial activity which includes car repair, storage units, church, beauty shop, and two restaurants.

According to the 2000 census, the Big River community had a permanent population of 1,266. The District had 434 registered voters as of April 1, 2008. The District states that the population increases in the winter as those seeking a warmer climate migrate south and in the summer due to the Colorado River's attractiveness for water activities. Due to the low population of the community and its distance from major population centers, updated population information is not available from the United States Census or transportation analysis zones, as identified in the Southern California Association of Governments Growth Forecast.

The chart below identifies landownership data within the District. The total acreage identified in the chart is particular to parcels only; it does not include roads or the Colorado River. As identified, 78.2% of parcel acreage is owned by the Colorado River Indian Reservation. Given the public and utility nature of the other landowners, future development would be anticipated to take place only on those parcels identified as Colorado River Indian Reservation (4,336 parcels). For the purposes of estimating the development potential of these parcels, the County's General Plan calculation of 2.68 persons per household for the Desert region is utilized. This figure equates to a potential population of 11,620 persons within the District if occupied full-time.

Landowner	Parcels	Parcel Acreage	Acreage Percent
Arizona & California Railroad Company	6	98.43	1.4%
Colorado River Indian Reservation	4,336	5,665.42	78.2%
Continental Telephone Company of California/ Colorado River Indian Reservation	1	0.71	0%
Government Land	800	598.68	8.3%
United States of America	452	885.89	12.1%
<b>TOTAL</b>	<b>5,595</b>	<b>7,249.13</b>	<b>100%</b>

source: County of San Bernardino, Information Services, Geographic Information Systems

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

Currently, the District is authorized by LAFCO to provide water, park and recreation, and police protection (security patrol). Other services provided by regional service providers include: Fire protection is provided by the San Bernardino County Fire Protection District and its South Desert Service Zone. Station 17 located at 150260 Capistrano Trail is within the boundaries of the District. According to County Fire's website, Station 17 houses a single Type I engine company, one Type IV engine, and one water tender. This station serves as the Battalion Headquarters for the River area. Volunteers living or working in the community staff the station. Since the reorganization of County Fire, Station #17 receives revenues generated from within Big River and the South Desert Service Zone of the County Fire Protection District.

#### Water

Currently, the District is authorized by LAFCO the function of water with service descriptions of irrigation, sanitation, industrial, fire protection, recreation, and domestic. However, the District does not provide water service. Rather, the community receives water service from the Big River Development Enterprise.

#### Park and Recreation

The District maintains the "Big River Park" which includes a clubhouse, pagoda, open grass areas, picnic facilities, and two boat launch ramps. The clubhouse is for use by those within the community and is the meeting place for Alcoholics Anonymous meetings, the local garden club, wedding receptions, and other group activities. Recreational activities include youth activities during Christmas, Easter, and Halloween.

In 2006, the District received a \$3,500 Community Development Block Grant for a permanently installed barbeque grill and for maintenance and operation of the improvements. Pursuant to the contract to receive the funds, the District is to maintain and operate the improvement for five years from the date of completion of the improvements.

Big River Park is located on the bank of the Colorado River and is comprised of two parcels. The eastern parcel comprises three acres and is an open space area for park and recreation activities. According to the County assessment rolls, this parcel is owned by the Colorado River Indian Reservation with Big River CSD having a leasehold possessory interest. The western parcel comprises approximately 40 acres and contains the clubhouse, pagoda, and boat ramps. According to the County assessment rolls, this parcel is owned by the Colorado River Indian Reservation. Unlike the eastern parcel, the western parcel does not have a leasehold possessory interest in the name of the Big River CSD. The Commission is of the understanding that it was the intent at the time of the District's formation that both of these parcels were to be transferred to the District. The documents to transfer the leaseholds to the District were recorded by the County; however, the County assessment rolls do not reflect the transfer of the western parcel (identified as parcel #1 in the recorded documents) which remains in the name of the Colorado River Indian Reservation. Nonetheless, the District has operated the Big River Park utilizing both parcels since its formation.

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The District has no park master plan or strategic plan to reference in order to provide information on park improvements or meeting the needs of the residents. However, as a part of its annual budget process the District discusses future plans and improvements for the park.

### Police (Security Patrol)

The District organizes a security patrol for the Big River Park and the District office. The program is comprised of volunteers and is called Citizens on Patrol. The District incurs no significant cost to organize this service.

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

For FY 2007-08, the District received \$140,636 in total revenues. The primary source of revenue is from assessments on the possessory interests within Big River, and the current assessment rate is \$36.30 per parcel. Records from the Property Tax Division of the County Auditor-Controller/Recorder identify that during FY 2007-08 the District received \$103,352 from special assessments (\$84,621 current year and \$18,731 prior year). Other sources of revenue include its share of the one percent ad valorem property tax (\$14,928) and user fees (\$12,261). Another source of income for the District is through the rental/lease of its facility to the Dock Restaurant, which generates roughly \$4,600 a year in revenue for the District. Revenues have been sufficient in recent years to provide services, with the exception of FY 2004-05 when excess expenditures were incurred for improvements. According to the most recent audit submitted by the District, cash and cash equivalents totaled \$82,773 as of June 30, 2008.

The majority of expenses are for employee wages, park maintenance, and utilities. To control costs, the District uses seasonal labor from April to September, its high activity season, to supplement its full-time staff. The District is also reviewing its sprinkler system, lights, and air conditioners to reduce utility costs. Expenditure activity for the District since FY 2004-05 has been relatively similar. For FY 2007-08, total operating expenses total \$172,914. Of this amount, the primary expenses are for salaries and benefits (\$78,871), repairs and maintenance (\$22,642), and utilities (\$19,092).

According to the FY 2007-08 audit, the District has an unusually high accounts receivable amount. As of June 30, 2008, accounts receivable totaled \$308,214. Of this amount \$261,015 has been classified as non-current. The District states that this figure represents the District's special park assessments that have not been collected from 2000-2007. The data was provided to the District through a County of San Bernardino report that ages special assessment receivables (Unpaid Special Assessment Report). Moreover, the audit has determined \$69,918 to be uncollectible, which calculates to total net accounts receivable amount of \$238,296. The Commission's concern regarding the ability to receive assessments owed is expressed in the audit, which states that, "there is a concentration risk due to the amount of the receivable balance which consists entirely of special assessments collected by the County. Consequently, the collectibility of these monies could have a material impact on the revenues and the operations of the District." The Commission has directed staff to continue to seek answers regarding this issue through representatives at the County Assessor and Treasurer-Tax Collector offices.

The District's budget has two sections – one for its park services and one for the Board of Directors. The Park section of the budget contains the receipt of property assessments, park

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use fees, the expenses particular to the park, staff salaries and benefits, and the expenses for the general operation of the District. The Board section of the budget contains the receipts from its share of the one percent general levy and expenses incurred for the activities of its board of directors.

### State Controller Reports

The State Controller reports identify services of Lighting and Lighting Maintenance and Park and Recreation. However, the District is authorized by LAFCO to provide water, police (security services) and park and recreation. The District is not authorized by LAFCO to provide Lighting services and the District has confirmed that it does not provide streetlighting. The only lighting provided is for the park, which are internal lighting for park activities, not streetlights. Moreover, the District has identified that organizing security services does not incur any significant expenses, if any.

The amounts and categories for revenues and expenses from the most recent District budget and the State Controller report were compared, each of which have two sections. The amounts and categories for Park and Recreation from the budget and State Controller report are nearly the same. Further, the amounts and categories for the Board of Directors section of the budget in comparison with the Lighting and Lighting Maintenance section of the State Controller's report are nearly the same. The District has attempted to address its separate budgets within the context of the State Controller reporting requirements. Contact information at the State Controller-Local Government Reporting Section to assist with reporting procedures has been provided to the District, and the Commission recommends that the District adopt reporting procedures consistent with the directives of the State Controller for Financial Transaction Reports.

### Requirements of CSD Law

Community Services District Law (Government Code Section 61000 et seq.) promotes financial accountability by requiring:

- An adopted budget (§61110 et seq.) – CSD Law requires the adoption of an annual budget and requires the general manager to forward a copy of the final budget to the county auditor. The District adopts annual budgets according to generally accepted accounting and budgeting procedures for special districts. According to staff at the County Auditor-Controller/Recorder, on April 6, 2009 the budget for FY 2008-09 was received.
- Adoption of annual appropriations limits under the Gann Initiative<sup>1</sup> (Article XIII B of the State Constitution and Government Code 61113) – The District does not have nor has it ever adopted an annual appropriations limit according to the materials provided and confirmation from District staff. Article XIII B of the State Constitution (Gann Limit) mandates local Government agencies to establish an appropriations limit, which is further acknowledged by Government Code 61113. Without an appropriations limit, agencies are not authorized to expend the proceeds of taxes. Section 9 of this Article provides exemptions to the appropriations limit such as Section 9 (c) exempts the appropriations limit for special

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<sup>1</sup> In 1979 the voters amended the California Constitution by passing Proposition 4 (the Gann Initiative), requiring each local Government to set an annual appropriations limit (the Gann Limit).

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districts which existed on January 1, 1978 and which did not levy an ad valorem tax on property in excess of 12 ½ cents per \$100 of assessed value for the 1977-78 fiscal year. Being over the 12 ½-cent tax rate at 45 cents, the District does not qualify for an exemption from the requirement of an appropriations limit. Therefore, the District must have an appropriations limit.

The District is now aware of the requirement for an annual appropriations limit. Information regarding the establishment of an appropriations limit has been provided to the District.

- Regular audits and annual financial reports (Sections 26909 and 61118) – Section 26909 of the Government Code requires regular audits of district accounts and records, which is further acknowledged by Government Code Section 61118. Additionally, CSDs are required to forward their audits to the State Controller and county auditor. According to records from the County Auditor and State Controller, the last audit received for Big River CSD was for FY 2007-08.
- Requirement to have a Designated Treasurer who is bonded (Government Code 61050, 61052 and 61053) – Current CSD law and its predecessor provisions have required that CSDs have an appointed Treasurer (Finance Officer prior to January 1, 2006) and that the revenues of the CSD be deposited into the County Treasury for payment of charges unless the CSD takes specific action to place them in either a bank or savings and loan. Current provisions require that the appointed Treasurer be bonded. The District has indicated that it originally took action in 1977 to remove itself from the County Treasury. The General Manager position at the District has historically performed the function of the Treasurer, but the District has not formally taken action to include the duties of Treasurer as a part of the General Manger position. The District has indicated that at its April 16, 2009 board hearing it intends to formally take action on this requirement and will contact its insurance provider regarding bonding of the General Manager/Treasurer position.
- The District complies with Government Code Section 61047 and has adopted a resolution and policy stating that board members may receive compensation in an amount not to exceed \$100 for each day of service, not to exceed six days of service per month.

### Capital Improvements

Big River CSD has no adopted documents identifying any capital improvements. However, it has stated that it intends to add playground equipment and additional picnic tables to the upriver side of the park, which will enable people who do not have boats to have a separate place to hold picnics.

### Outstanding Debt

The financial documents do not indicate that the District has outstanding debt.

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

The District has indicated that it does not currently share facilities with other public agencies.

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

#### Local Government Structure and Community Service Needs

Big River CSD is an independent district governed by a five-member board of directors. Representation on the board of directors is at-large and members are voted by the electorate or are appointed in lieu of election by the County Board of Supervisors. There have been three elections over the past decade. As of April 1, 2008, the District had 434 registered voters. The Commission has determined that there appears to be the ability of registered voters who do not pay the assessment for the CSD to vote on its governance or serve on its board. Below is the current composition of the board, their positions, and terms of office:

<b>Board Member</b>	<b>Title</b>	<b>Term</b>
Judy McMenamon-Sands	President	2010
Terry Conaway	Director	2010
Robyn Gaffney	Vice President	2012
Joan Hall	Director	2012
Nelson Harvey	Director	2012

The District employs one general manager who also performs the functions of the secretary and clerk. There are also three full-time positions during the year (which are the General Manager and two maintenance staff), and two seasonal positions for summer activities at the Big River Park.

Office hours for the District are 9:00 a.m. to 1:00 p.m., Monday through Friday. Board hearings are held on the third Thursday of the month at 7:00 p.m. at the Big River Park Clubhouse. The District does not have a website for the public to seek information or voice concerns, but it does have an adopted policy through which complaints or issues can be addressed by the public (a copy of the policy is on-file at the LAFCO staff office). However, the District has indicated that it plans to utilize the California Special Districts Association's (CSDA) website program where CSDA remotely operates websites for special districts. The District operates with an annual balanced budget. A budget workshop is conducted in May and the public is invited to attend the budget workshops. The budget is adopted at a public hearing, and the board is provided with a monthly finance report.

#### Operational Efficiency

No joint-agency practices have been identified by the District. However, the elections for District representation have been consolidated with the statewide general elections in November of each even-numbered year. This change was approved by the District on November 16, 2006 and approved by the County Board of Supervisors on January 23, 2007.

Risk management and workers' compensation insurance is provided by the Special Districts Risk Management Authority (SDRMA) of the California Special Districts Association.

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### Government Structure Options

There are two types of government structure options:

1. Areas served by the agency outside its boundaries through "out-of-agency" service contracts;
2. Other potential government structure changes such as consolidations, reorganizations, dissolutions, etc.

### Out-of-Agency Service Agreements:

There are no out-of-agency service contracts on file with LAFCO, and the District has indicated in the materials submitted for this review that it provides no services outside of its boundaries.

### Government Structure Options:

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

- Expansion of the District. Expansion of the District in either of the directions outlined below is not likely given the surrounding geographical barriers and the CRIT's intent not to additionally allow for leasehold interests which support the Big River CSD. Therefore, the current boundary can be viewed as the District's maximum possible service area.
  - Expansion to the east into the State of Arizona cannot occur pursuant to Community Services District Law as adopted by the State of California.
  - It is unlikely that the District would expand southerly into the County of Riverside on the basis that the CRIT would not consent to the expansion of the District's boundaries or sphere of influence into additional CRIT territory.
  - Lands to the west are of elevated terrain, are managed by the Bureau of Land Management, and would not benefit from the services provided by the District
  - Based upon written documentation, it is unlikely that the CRIT would consent to the northerly expansion of the District's boundaries or sphere of influence into additional CRIT territory.
- Dissolution of the District. While the physical existence of the District and its funding source past the expiration of the master lease in 2029 is questionable, the District currently provides services to those within its boundaries. Without a clear successor to this service provision, this option is unlikely at this time.
- Maintenance of the status quo. There would be no change to the District's boundaries or range of authorized services under this option.

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Based upon its evaluation, the Commission's position is to affirm the sphere of influence assigned to Big River Community Services District and at the hearing it was determined that issues and concerns related to additional sources of funding, the District's governance and compliance with existing laws be evaluated at the next municipal service review/sphere of influence update anticipated in five years;

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

### 1. Present and Planned Uses:

The District's boundary and sphere are coterminous and comprise approximately 14 square miles. Big River is a rural community that is primarily comprised of residential, recreation, and vacant lands. There is some commercial activity which includes car repair, storage units, church, beauty shop, and two restaurants.

As identified in the County of San Bernardino 2007 General Plan maps, the District is within Indian lands. The County Land Use Services Department reports that Indian lands are considered federally owned and the General Plan land use designations do not apply. As stated in the County General Plan on pages 1-12 and 1-13, these lands are outside the governing control of the County Board of Supervisors and are referenced as "non-jurisdiction" land or "non-jurisdiction" territory. Therefore, as identified on the County General land maps, "County designated Land Use Zoning Districts do not apply to Federal or State owned property."

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

There is a need for those who live in the community to receive municipal services. The District provides park and recreation and security patrol services within its boundaries.

Water and electricity is provided either by the CRIT or the Department of the Interior. Fire protection is provided by the San Bernardino County Fire Protection District and its South Desert Service Zone. Station 17 located at 150260 Capistrano Trail is within the boundaries of the District. Station 17 houses a single Type I engine company, one Type IV engine, and one water tender. This station serves as the Battalion Headquarters for the River area. Volunteers living or working in the community staff the station.

It is not likely that the Colorado River Indian Tribes would lease additional lands in the area and impose the assessments for service by the Big River CSD in the area. Therefore, the current boundary can be viewed as the District's maximum possible service area. Even though the District can plan for additional service capacity or additional services through the expiration of the lease within its boundaries, given the uncertainty of its physical presence and primary funding source past the expiration of the master lease, significant planning is not anticipated.

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

Currently, the District actively provides park and recreation and security patrol services to the Big River Park. These services generally meet the service needs of those within its boundaries of the District.

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The District maintains the Big River Park which includes a clubhouse, pagoda, open grass areas, picnic facilities, and two boat launch ramps. The clubhouse is for use by those within the community and is the meeting place for Alcoholics Anonymous meetings, the local garden club, wedding receptions, and other group activities. The Big River Park is located on the bank of the Colorado River and is comprised of two parcels. The eastern parcel comprises three acres and is an open space area for park and recreation. According to County land use records, this parcel is owned by the Colorado River Indian Reservation with Big River CSD having a possessory interest. The western parcel comprises approximately 40 acres and contains the clubhouse, pagoda, and boat ramps and according to County land use records, this parcel is owned by the Colorado River Indian Reservation and the Big River CSD does not have a possessory interest. The District has no park master plan or strategic plan to reference in order to provide information on park improvements or meeting the needs of the residents.

The District organizes security patrol for the Big River Park and the District office. The program is comprised of volunteers and is called Citizens on Patrol. The District incurs no significant cost to organize this service.

**4. Social and Economic Communities of Interest:**

Social communities of interest include the Big River Community Services District and its residents, which includes a high senior population, and the transient recreational interests. Economic communities of interest are limited in the area due to its service nature.

**5. Additional Determinations**

- As required by State Law notice of the hearing was provided through publication in a newspaper of general circulation, *The Sun*. Individual notice was not provided 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, the *Parker Pioneer*.
- 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(i) the range of services provided by the Big River Community Services District shall be limited to the following:

	<b>FUNCTIONS</b>	<b>SERVICES</b>
<b>Big River Community Services District</b>	Park and Recreation	Acquisition, maintenance
	Police	Security Patrol



