

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

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**PROPOSAL NO.: LAFCO 3044**

**HEARING DATE: JANUARY 20, 2010**

**RESOLUTION NO. 3079**

**A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3044 – A SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE RAND COMMUNITIES WATER DISTRICT (acknowledgement of a coterminous sphere of influence in San Bernardino County).**

**On motion of Commissioner Mitzelfelt duly seconded by Commissioner Biane 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 January 20, 2010 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 statutorily exempt from CEQA and such exemption was adopted by this Commission on January 20,

**RESOLUTION NO. 3079**

2010. The Executive Officer 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 acknowledged as coterminous in San Bernardino County for the Rand Communities Water District (hereafter shown as the District) as more specifically depicted on the map attached hereto as Exhibit "A", 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 January 13, 2010 and received and filed by the Commission on January 20, 2010, 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:**

In Kern County, the Randsburg and Johannesburg communities combined has a total population of approximately 253 in 2000 according to the 2000 Census.

In San Bernardino County, trends indicate a dwindling population since its pre-World War II peak. In the late 1970s, the population for this area was approximately 400. According to the 2000 Census, the area had a population of roughly 130 people located along Highway 395.

At present, the land uses of within the San Bernardino portion of the District include residential, vacant, and commercial land along Highway 395. The County of San Bernardino has assigned general plan land use designations of Resource Conservation and Rural Commercial. The land ownership breakdown within the district's boundary is identified in the table below.

Land Owner	Sq Miles	Percentage
Private	8.52	7.3%
US Bureau of Land Management	106.93	91.8%
State of California	1.04	0.9%
<b>Total</b>	<b>116.49</b>	<b>100.0%</b>

source: County of San Bernardino, Information Services Department

LAFCO has not received any project notices since 2005 from the County of San Bernardino Planning Department regarding General Plan Amendments, tentative tract developments, and Conditional Use Permits for increased residential and commercial development. It is not anticipated that the portion within San Bernardino County will experience significant growth given the downward trend in population and current land use patterns.

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

Water is obtained from the Fremont Valley and Cuddeback groundwater basins (both basins are not adjudicated). The District provides water to three communities and one park and is the only water provider in the area. Current connections are 300 with 273 active (about 90 in San Bernardino County). According to the 2007 Water Statistics, the District delivered 39.9 acre-feet of water with approximately 85% for residential use. As stated in the Kern LAFCO service review, the District

## RESOLUTION NO. 3079

indicates that due to the age of the system the entire system is failing with frequent breaks and leaks. This has resulted in daily fixes.

The water system was developed in 1970 and consists of one primary well, one secondary well, three booster stations, 12 miles of pipeline, and three storage tanks with a combined storage of roughly 315,000 gallons. One well has not been used since 2002 when the Environmental Protection Agency lowered maximum arsenic levels. Therefore, the District operates with one well which can pump up to 100 gallons per minute. Since there are no other water providers to potentially provide an inter-tie, another well or two wells should be drilled for redundancy. With only one well and no inter-ties, should this well become inactive, the District would lack the capability to provide water to its customers. A review of the records on file since 2000 with the Lahontan Regional Water Quality Control Board does not identify any enforcement actions regarding the District.

The District is within the boundaries of a state water contractor in each county (Mojave Water Agency in San Bernardino County and Kern County Water Agency). The California Aqueduct travels in a southeasterly direction through Bakersfield in Kern County and enters San Bernardino County in an easterly direction just north of Phelan. However, the service areas of the District in both counties are over 75 miles away from the California Aqueduct. Further, three groundwater basins separate the service area of the District and the discharge locations of the supplemental water. Therefore, accessibility to supplemental water is not feasible at this time. According to property tax data available from the San Bernardino County Assessor, Mojave Water Agency (MWA) receives a share of the one percent general levy from the properties within San Bernardino County. Also, these properties pay for MWA Bond Debts 1 and 2 for MWA's obligations for the State Water Project contract. Even though these properties do not receive State Water Project water, they are within the boundaries of state water contractors and pay for the bonds associated with the State Water Project.

Rates are on a tiered structure which can promote conservation. According to the District's rate ordinance from 2006 (Ordinance #7 – still in effect), the District participates in the sale of bulk water.

Additionally, the District provides maintenance to a park located in Johannesburg that was willed to the District. The terms of the will require that the park be used for open space (open recreational) purposes. The park includes picnic tables, grills, restrooms, and a baseball field. In 2007-08, the park was repainted with the assistance of community groups, picnic tables were replaced, and a bid process was commenced to upgrade the wheelchair ramp at the District office.

### Capital Improvements

The District is on the Proposition 84 Second Round Project Priority List for Small Community Infrastructure Improvements for Chemical and Nitrate Contaminants. If received, the grant would be \$500,000 to be used for arsenic treatment for the contaminated well. However, the District is placed in the second tier of the list and receipt is dependent upon fund remaining after the first tier.

### 2002-03 and 2003-04 Kern Grand Jury

The Kern Grand Jury reviewed the District in 2002-03 with a report clarification in 2003-04. The Grand Jury findings related to service delivery were:

## RESOLUTION NO. 3079

- Primary well currently meets arsenic standards.
- District purchased a 210,000-gallon tank from Kern County in 2001 and was awarded a Community Development Block Grant in 2003 from Kern County for installation in 2004.
- District recently installed an automatic system for operating the well and booster pumps during off-peak hours. The District expects to recover the cost of installation through reduced electric bills within five years.

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

The primary source of revenue is from water sales, comprising over two-thirds of all revenues. In general,

- Over 85% of water sales come from residential connections, according to state controller reports
- Roughly 13% of property tax and assessments are from San Bernardino County
- Roughly 21% of water sales are from San Bernardino County

#### Taxes and Assessments

The District receives a share of the ad valorem general tax levy in Kern and San Bernardino Counties. In 1977-78 before Proposition 13, all landowners within the District in San Bernardino County were subject to two taxes:

- General Administration – tax rate of \$0.6987 per \$100 of assessed value
- Improvement District #1 Bond Debt – tax rate of \$6.0662 per \$100 of assessed value

Following Proposition 13, the Legislature enacted statutes to implement its provisions. Under these statutes, a local government's share of the one percent general levy was based on the share of the property tax going to that local government before Proposition 13 (excluding bond debt). In 2008-09, in San Bernardino County the District received a share between 5.4% and 9.8% of the one percent general levy, which resulted in the District receiving roughly \$2,414.

Currently, the District has one improvement zone for its bonded indebtedness which generally includes its three service areas, crossing both counties. The tax rate for this improvement zone is \$0.086 per \$100 of assessed value in both counties.

#### Kern Grand Jury

The Kern Grand Jury reviewed the District in 2002-03 with a report clarification in 2003-04. The Grand Jury findings related to finances were:

- District expects to have outstanding bond obligations paid in 2005 and 2013
- District is financially sound and has cash reserves adequate for any foreseeable emergency

#### State Controller Reports for FY 2003-04 through FY 2006-07

Referencing the State Controller Reports from FY 2003-04 through FY 2006-07 (data for subsequent years not yet available), the District has a net gain of over \$76,000 for these years,

**RESOLUTION NO. 3079**

as shown on the table below. In FY 2004-05 a Community Development Block Grant was received for installation of a tank that was purchased from Kern County. The revenues were received in FY 2004-05 (increase in non-operating revenues) and installation took place in FY 2005-06 (Operating Expenses). If it were not for the increase in rates that took effect in 2006, along with additional connections, the District would be experiencing a net loss. Even with the rate increase and additional connections, net income in FY 2006-07 was only \$105.

**Financial Activity: FY 2003-04 through FY 2006-07**

<b>Activity</b>	<b>FY 2003-04</b>	<b>FY 2004-05</b>	<b>FY 2005-06</b>	<b>FY 2006-07</b>
Operating Revenues (Water Sales)	\$163,361	\$157,076	\$152,257	\$189,361
Operating Expenses				
Admin & General	84,726	93,466	151,368	110,836
Pumping, Distribution, etc.	100,404	90,818	72,226	127,197
<b>Operating Income (Loss)</b>	<b>(21,769)</b>	<b>(27,208)</b>	<b>(71,337)</b>	<b>(48,682)</b>
Non-Operating Revenues				
Taxes & Assessments	43,823	25,947	31,820	48,122
Intergovernmental Aid	900	89,218	4,066	807
Other	3,115	3,794	9,998	5,473
Non-Operating Expenses (Interest Expense)	8,324	7,346	0	5,615
<b>Non-Operating Income (Loss)</b>	<b>39,514</b>	<b>111,613</b>	<b>45,884</b>	<b>48,787</b>
<b>Net Income (Loss)</b>	<b>\$17,745</b>	<b>\$84,405</b>	<b>(\$25,453)</b>	<b>\$105</b>
<b>Total Debt</b>	<b>\$158,126</b>	<b>\$138,626</b>	<b>\$120,126</b>	<b>\$99,626</b>
Source: State Controller's Reports for FY 2003-04 through FY 2006-07				

FY 2007-08 Audit

Even with the rate increase and additional connections, net income in FY 2006-07 was only \$105. In FY 2007-08 the District took action to reduce expenditures by \$8,818 from the previous year. As described in the Kern LAFCO service review, the savings included reduced pumping plant, transmission, and distribution expenses. The savings were achieved by upgrading the electrical system at booster stations, repairing several transmission line leaks that appear to have been running for years, and increasing preventative maintenance wherever possible. Operating revenues increased by \$10,912 mostly due to the addition of new customers and contracts during the year. At year's end, cash on hand consisted of \$156,463. The District has no investments other than cash. As identified in the audit, excess of expenditures over appropriations for the year totaled \$5,692 for Administration and General.

Long-term Debt

As of June 30, 2008, long-term debt consisted of \$81,626. The debt is for a general obligation bond issued in 1970 for system improvements for \$333,000 at an interest rate of five percent. The bonds mature in 2013. Annual payments are roughly \$22,000. When the debt is paid-off in 2013 the tax rate will not be retired. The tax rate will still be applied to the landowners within the District since the tax rate was established before FY 1977-78 (Proposition 13).

## RESOLUTION NO. 3079

In 2005, the District paid-off a general obligation bond that was issued in 1972 for system improvements for \$56,000.

### Statutory and Constitutional Requirements

- Article XIII B of the State Constitution (Gann Limit) mandates local Government agencies to establish an appropriations limit. 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 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. A copy of the FY 1977-78 property tax rates is included as Attachment #4, with the District highlighted for reference, identifies a 1977-78 tax rate of 69.87 cents. Being over the 12 ½-cent tax rate, the District does not qualify for an exemption from the requirement of an appropriations limit. Therefore, the District must have an appropriations limit.
- Regular audits and annual financial reports – Section 26909 of the Government Code requires regular audits of district accounts and records. According to records from the State Controller, an audit has been received for at least the past three years.

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

Due to the remote location, the District has identified that there are no shared facilities.

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

##### *Local Government Structure and Community Service Needs*

Rand Communities Water District is an independent district and is governed by a five-member board of directors. Members are voted by the electorate or are appointed in-lieu of election by the County Board of Supervisors. Below is the current composition of the board, their positions, and terms of office:

<b>Board Member</b>	<b>Title</b>	<b>Term</b>
Ghulam Din	Director	2012
Dana Arbeit	Director	2012
Jennifer L. Keep	President	2010
Orville E. Moreland	Vice President	2010
Randy Halgunseth	Director	2010

Board meetings are held the second Thursday of the month at 7pm at the District office in Johannesburg, Kern County and are open to the public. Meeting notices are posted at the Kern County community center in Johannesburg, community store, gas station, and District office. An attorney is present at all public meetings. The District does not have a website for the public to seek information or voice concerns. The District operates with an annual balanced budget that is adopted at a public hearing, and the board is provided with quarterly financial reports. The District

**RESOLUTION NO. 3079**

office is open Monday through Thursday from 7:30am to 1:00pm. The District has one full-time employee, the general manger, and three part-time employees for clerk duties, meter reading, and maintenance.

*Operational Efficiency*

The Kern Grand Jury reviewed the District in 2002-03 with a report clarification in 2003-04. The Grand Jury concluded that the District is well managed and delivers excellent service to the community in a cost-effective manner.

*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:*

The Districts states that it does not provide services outside of its boundaries. However, it has established water rates for bulk hauled water for domestic household purposes and for commercial establishments.

*Government Structure Options:*

Kern County is the principal county for the District. Therefore, change of organization proceedings would be conducted by Kern LAFCO unless Kern LAFCO agrees to having the exclusive jurisdiction vested in San Bernardino LAFCO and San Bernardino LAFCO agrees to assume jurisdiction pursuant to Government Code 56388. The District in preparing the service review indicated that there were no consolidations or other structure options available due to the need for potable water in this remote area.

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

**1. Present and Planned Uses:**

At present, the land uses within the San Bernardino portion of the District include residential, vacant, and commercial land. The County of San Bernardino has assigned general plan land use designations of Resource Conservation and Rural Commercial. The land ownership breakdown within the District's boundary is as follows:

Land Owner	Sq Miles	Percentage
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source: County of San Bernardino, Information Services Department

## RESOLUTION NO. 3079

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

There is a present and probable need for domestic water delivery to the distinct service areas of the District with residential and commercial land uses. The land use in the area is mostly rural with residential and limited commercial along Highway 395. It is not anticipated that the portion within San Bernardino County will experience significant growth given the downward trend in population and current land use patterns to warrant an increased need for service.

For those within the District but not within one of its three service areas, the District participates in the sale of bulk water, according to the District's rate ordinance from 2006 (Ordinance #7 – still in effect).

The District is on the Proposition 84 Second Round Project Priority List for Small Community Infrastructure Improvements for Chemical and Nitrate Contaminants. If received, the grant would be \$500,000 to be used for arsenic treatment for the contaminated well. However, the District is placed in the second tier of the list and receipt is dependent upon funds remaining after the first tier.

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

The District provides water to three communities and one park and is the only water provider in the area. Current connections are 300 with 273 active (about 90 in San Bernardino County). According to the 2007 Water Statistics, the District delivered 39.9 acre-feet of water with approximately 85% for residential use. According to the Kern LAFCO service review, the District states that due to the age of the system the entire system is failing with frequent breaks and leaks. This has resulted in daily fixes.

The water system was developed in the 1970s and consists of one primary well, one secondary well, three booster stations, 12 miles of pipeline, and three storage tanks with a combined storage of roughly 315,000 gallons. One well has not been used since 2002 when the Environmental Protection Agency lowered maximum arsenic levels. Therefore, the District operates with one well, located in Kern County, which can pump up to 100 gallons per minute. Since there are no other water providers to potentially provide an inter-tie, another well or two wells should be drilled for redundancy. With only one well and no inter-ties, should this well become inactive, the District would lack the capability to provide water to its customers.

The Kern Grand Jury reviewed the District in 2002-03 with a report clarification in 2003-04. The Grand Jury findings related to service delivery were:

- Primary well currently meets arsenic standards.
- District purchased a 210,000-gallon tank from Kern County in 2001 and was awarded a Community Development Block Grant in 2003 from Kern County for installation in 2004.
- District recently installed an automatic system for operating the well and booster pumps during off-peak hours. The District expects to recover the cost of installation through reduced electric bills within five years.

Additionally, the District provides maintenance to a park located in Johannesburg that was willed to the District. The terms of the will require that the park be used for open space (open recreational) purposes. The park includes picnic tables, grills, restrooms, and a baseball field. In 2007-08, the



## RESOLUTION NO. 3079

park was repainted with the assistance of community groups, picnic tables were replaced, and a bid process was commenced to upgrade the wheelchair ramp at the District office.

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

The social communities of interest are Johannesburg and Randsburg in Kern County and Red Mountain in San Bernardino County. The economic communities of interest are the remaining mining activities, and the commercial activities in Johannesburg and along Highway 395.

The school districts unify the area, and the District is within the Kern Community College District and the Sierra Sands Unified School District and the Trona Joint Unified School District. However, the service area of the District in San Bernardino County is within the Sierra Sands Unified School District. The Sierra Sands Unified School District headquarters is located in Ridgecrest, Kern County, and all of its schools are located in Kern County.

#### 5. Additional Determinations

- Legal advertisement of the Commission's consideration has been provided through publication in *The Daily Independent* through a publication of an 1/8<sup>th</sup> page legal ad, as required by law. In accordance with Commission Policy #27, an 1/8<sup>th</sup> page legal ad was provided in lieu of individual notice because the service review for the community, 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 nature, location, and extent of any functions or classes of services provided by the Rand Communities Water District are established by Kern LAFCO, being the LAFCO of the principal county, as water and park and recreation.

**WHEREAS**, having reviewed and considered the findings as outlined above, the Commission determines to acknowledge the sphere of influence of the Rand Communities Water District as coterminous with its boundaries in San Bernardino County, as outlined on the attached exhibit to this resolution.

**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 Rand Communities Water District; 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 Rand Communities Water District shall

**RESOLUTION NO. 3079**

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 acknowledgement of the 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, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson**

**NOES: COMMISSIONERS: None**

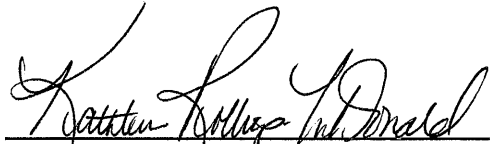
**ABSENT: COMMISSIONERS: None**

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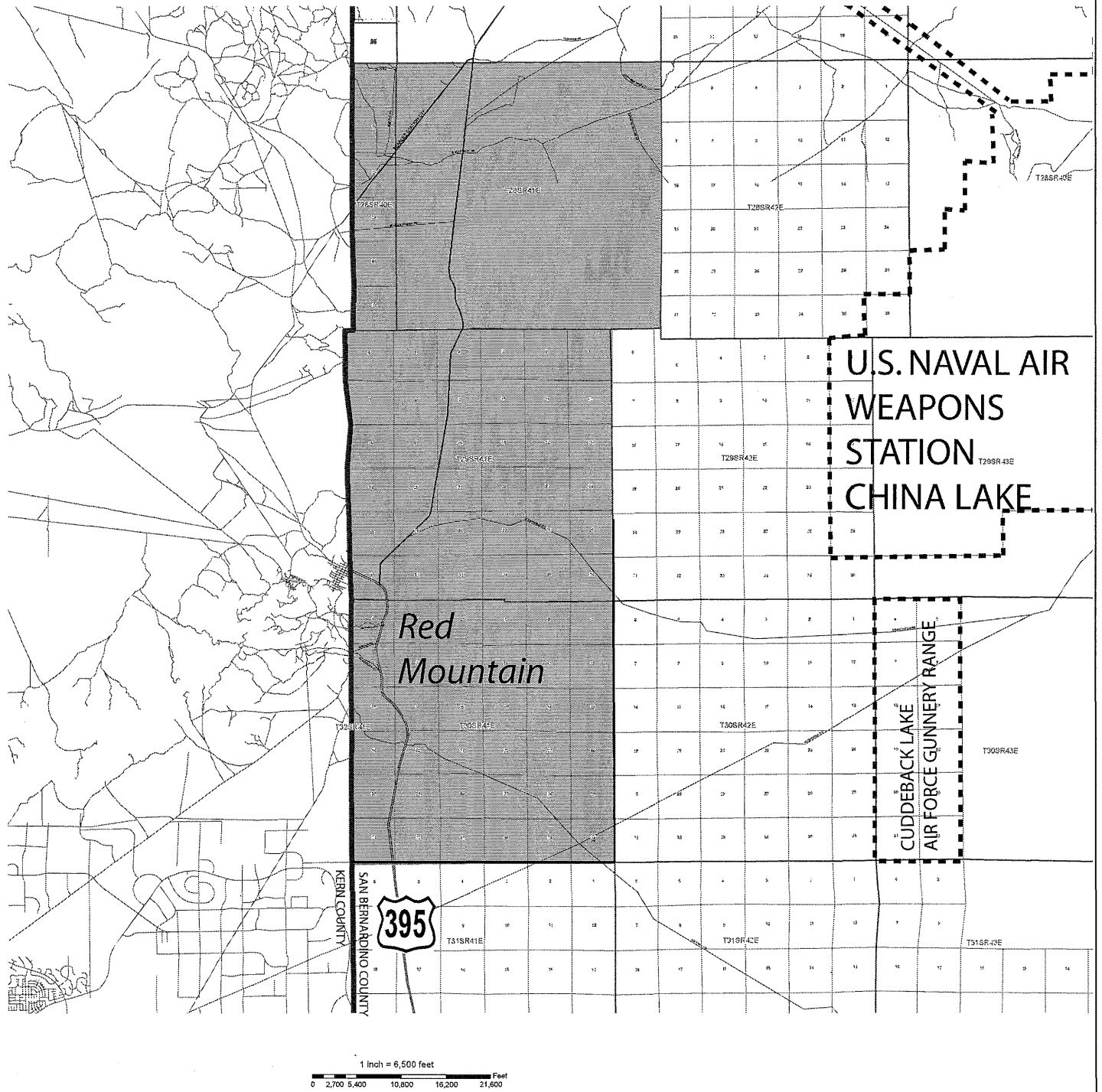
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN BERNARDINO )


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 January 20, 2010.

DATED: JANUARY 22, 2010

  
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KATHLEEN ROLLINGS-McDONALD  
Executive Officer

# LAFCO 3044 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR RAND COMMUNITIES WATER DISTRICT (SAN BERNARDINO COUNTY)



 Rand Communities Water District and Sphere of Influence (in San Bernardino County)  
Boundary and Sphere are coterminous

Map prepared by San Bernardino LAFCO 1-10-10

