LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

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DATE: **JANUARY 9, 2012**

FROM: **KATHLEEN ROLLINGS-McDONALD, Executive Officer**
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TO: **LOCAL AGENCY FORMATION COMMISSION**

SUBJECT: **Agenda Item #8: Service Reviews for the Homestead Valley Community**

INITIATED BY:

Local Agency Formation Commission for San Bernardino County

INTRODUCTION

San Bernardino LAFCO has chosen to undertake its Service Reviews on a regional basis. The Commission has divided the county into five separate regions, with the South Desert region generally encompassing the communities of Morongo Valley, Yucca Valley, Joshua Tree, Twentynine Palms, Homestead Valley, Needles, Big River, and Baker.

The Commission has adopted policies related to its sphere of influence program determining that it will utilize a community-by-community approach to sphere of influence identification. Although the Commission has established the sphere of influence for the service provider in this area, the Commission has never defined a community for this portion of the south desert region.

In 2007, the County adopted a community plan for this area which included participation of the residents and landowners. The culmination of that effort was the *Homestead Valley Community Plan* addressing the areas known as Landers, Johnson Valley, Flamingo Heights, and Yucca Mesa. The County's *Homestead Valley Community Plan* area includes the unincorporated Yucca Mesa area, which is a part of the Commission's Yucca Valley community as defined by the boundaries and sphere of the Hi-Desert Water District. This report addresses the Commission's definition of the community using the descriptive name "Homestead Valley" chosen through the County's process, excluding the Yucca Mesa area. This report contains a service review and sphere of influence update for the Bighorn-Desert View Water Agency, the community-based agency within the Homestead Valley area. This

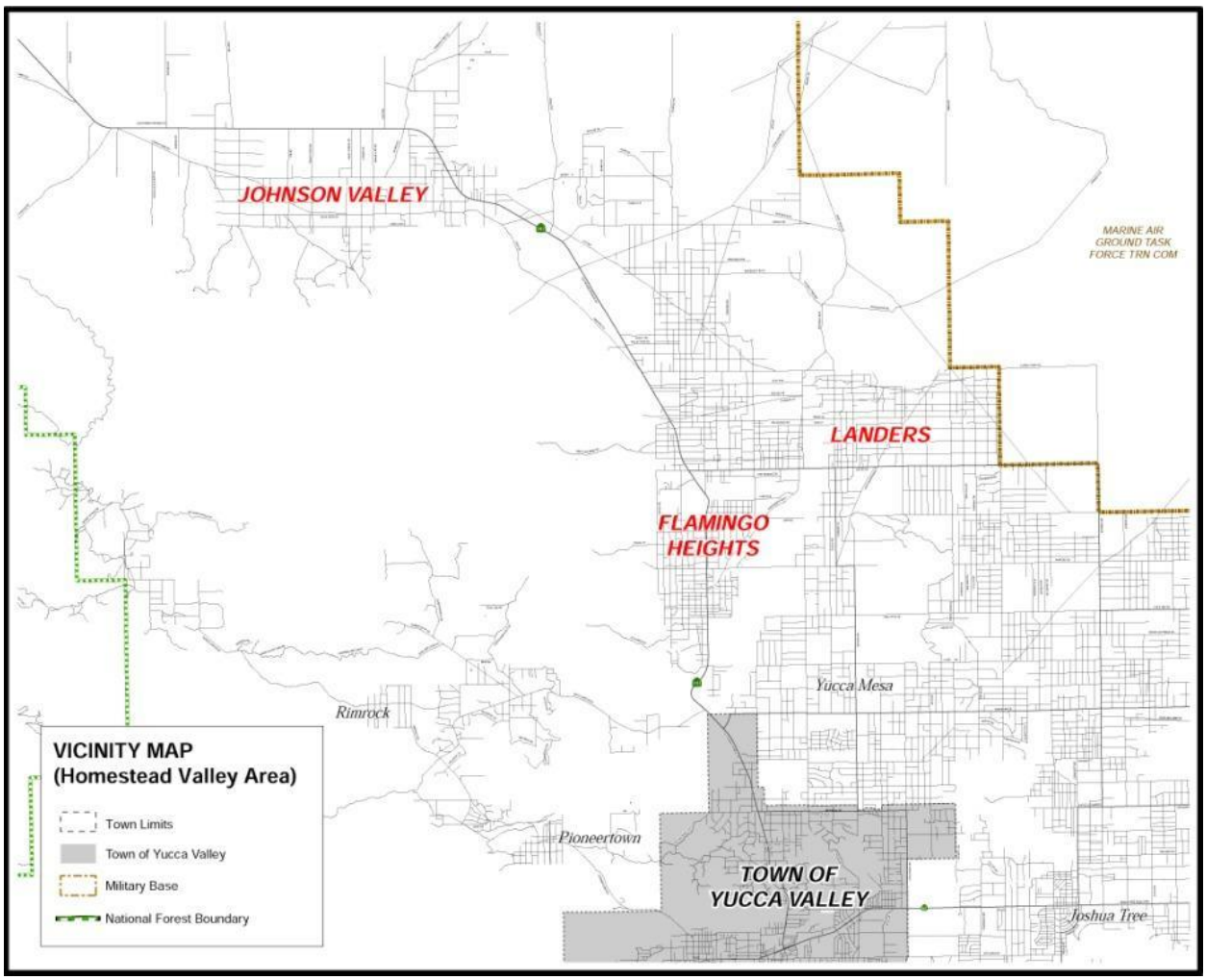
report also includes service reviews for zones to County Service Area 70 that provide water (W-1), road (R-15 and R-20), and television services (TV-5) within the community. This report and is organized as follows:

- Location and Description – describes the study area and the underlying agencies
- Community History – provides a brief history of the community
- Review of Regional and Community Services – a summary review of the services provided within the community and the region to include sewer, fire and emergency response, ambulance, park and recreation, streetlighting, solid waste, and roads
- Community Discussion – addresses the Commission's community definition
- Service Reviews and Sphere of Influence Update
    - Bighorn-Desert View Water Agency
    - County Service Area 70 Zone W-1 (service review only)
    - County Service Area 70 Zone R-15 (service review only)
    - County Service Area 70 Zone R-20 (service review only)
    - County Service Area 70 Zone TV-5 (service review only)
- Additional Determinations and Recommendations for Commission Action
- Attachment Listing

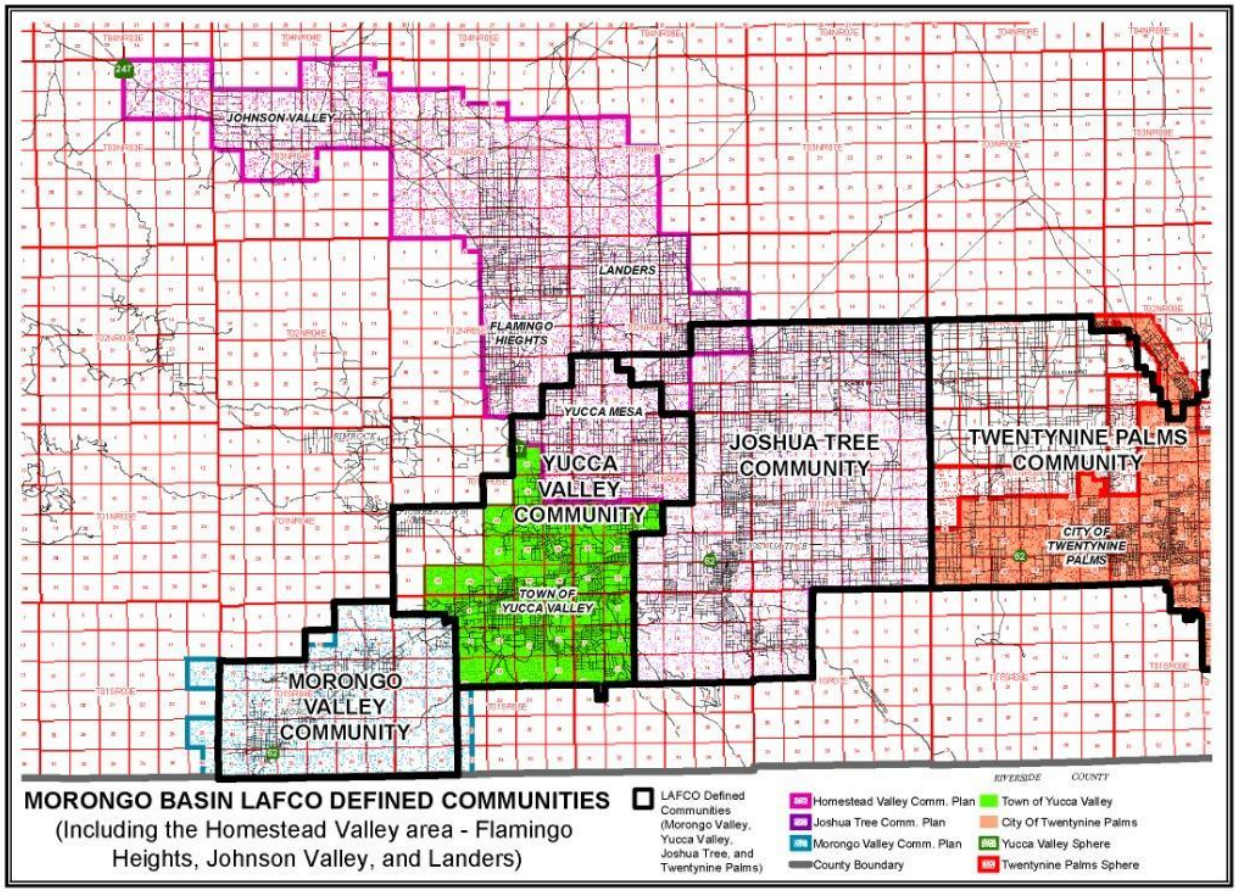
LOCATION AND DESCRIPTION

Location

The overall service review and sphere study area is generally situated at the northwestern end of the Commission's defined South Desert Region, within the Morongo Basin, approximately 80 miles east of San Bernardino and 42 north of Palm Springs by car. State Route 247 traverses through the community which is generally northwest of the Hi-Desert Water District (Town of Yucca Valley and Yucca Mesa area) and southeast of the Lucerne Valley Community Plan area. The study area includes the unincorporated communities commonly known as Landers, Flamingo Heights, and Johnson Valley (map below identifies the unincorporated communities).



Below is a map illustrating the LAFCO defined communities in the Morongo Basin (portion of the South Desert region of the County), a copy of which is included as part of Attachment #1.



Description

Located in the high desert, the Homestead Valley community is characterized by wide open spaces and natural features including rock formations, desert vegetation and wildlife. The predominant land use is rural residential with large lots. There is very little commercial or industrial development. One of the most popular sites in the Homestead Valley area is Giant Rock. It is a giant freestanding rock which attracts attention and appreciation from those interested in natural land forms and others who believe it represents a center for spiritual energy. The climate in the plan area consists of warm summers, with average temperatures in the 90s and mild winters, with average temperatures in the 50s. Typical animals include antelope ground squirrels, pack rats, Merriam's kangaroo rats, canyon mice, deer mice, desert night lizards, ladder-back woodpeckers, and orioles. Plant species within this community are dominated by the characteristic joshua trees and creosote bush. A unique attribute of the creosote bush is its tendency to reproduce vegetatively, generating genetically identical individuals roughly in the pattern of a ring. Ancient creosote bush rings occurring in the Lucerne and Johnson Valley region have been recognized as an "unusual plant assemblage" by the Bureau of Land Management ("BLM"). They have been identified as the oldest living things on earth. The oldest and most prominent ring has been given the name of "King Clone" and is located in Lucerne Valley, immediately west of the Johnson Valley area. The BLM is currently preparing a management and protection plan for creosote bush rings in the Mojave Desert.

Public Service Providers

The Homestead Valley community is served by multiple public agencies. Regional service providers include:

County Service Area 70 (multi-function, unincorporated county-wide) and its various zones for localized service
Hi-Desert Memorial Healthcare District
Mojave Desert Resource Conservation District
Mojave Water Agency
San Bernardino County Fire Protection District and its South Desert Service Zone
San Bernardino County Flood Control District

The community-based agencies providing services to the residents and landowners are listed below and shown on the map that follows (included as a part of Attachment #1):

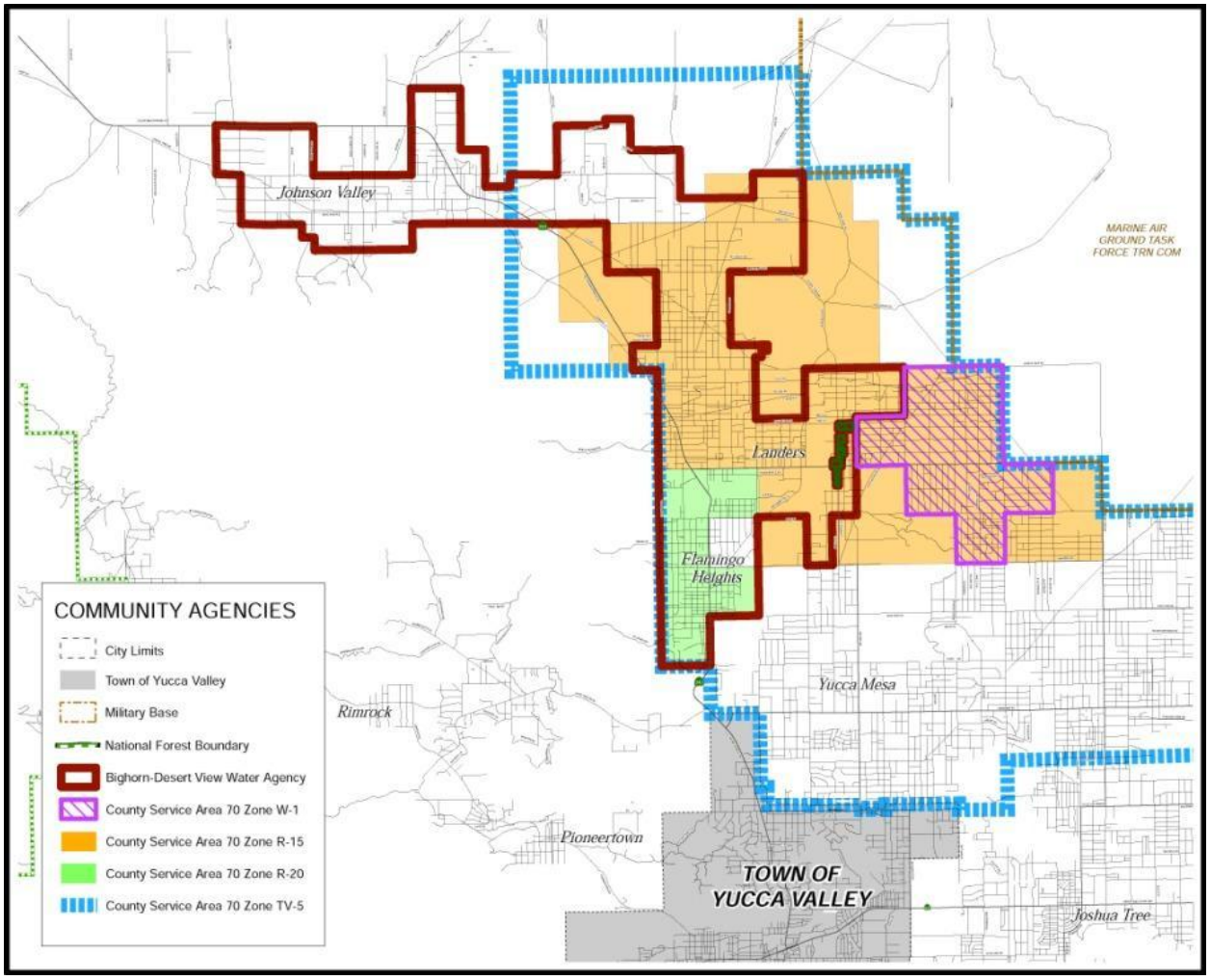
Bighorn-Desert View Water Agency – This agency actively provides retail water service. Its boundaries encompass approximately 42.7 square miles (shown as Maroon outline on the map). Its sphere of influence, including its boundaries, encompasses approximately 80 square miles. The area includes Flamingo Heights, most of Landers, and a portion of Johnson Valley.

County Service Area 70 Zone W-1 (Goat Mountain) – This agency provides water service. Its boundaries encompass approximately 9.2 square miles (shown as purple diagonal hatching on the map). The area includes a portion of Landers.

County Service Area 70 Zone R-15 (Landers) – This agency currently exists as a mechanism to provide augmented road services within its boundaries (shown as tan shade on the map). Its boundaries encompass approximately 49.8 square miles that includes Landers and a portion of Flamingo Heights.

County Service Area 70 Zone R-20 (Flamingo Heights) – This agency also exists as a mechanism to provide augmented road services within its boundaries (shown as light-green shade on the map). Its boundaries encompass approximately six square miles that includes a portion of Flamingo Heights.

County Service Area 70 Zone TV-5 (Mesa) – This agency provides low power television translator service within its boundaries (shown as blue dashed outline on the map). Its boundaries encompass 185.8 square miles. The area includes portions of Flamingo Heights and Landers (including Yucca Mesa, the northern Joshua Tree community and beyond, which are outside of the study area).


Johnson Valley
MARINE AIR GROUND TASK FORCE TRN COM
Landers
Flamingo Heights
Yucca Mesa
Rimrock
Pioneertown
TOWN OF YUCCA VALLEY
Joshua Tree
COMMUNITY AGENCIES
City Limits
Town of Yucca Valley
Military Base
National Forest Boundary
Bighorn-Desert View Water Agency
County Service Area 70 Zone W-1
County Service Area 70 Zone R-15
County Service Area 70 Zone R-20
County Service Area 70 Zone TV-5

COMMUNITY HISTORY

The following provides a historical perspective of the community. The first section is a narrative history and includes information from the *Homestead Valley Community Plan*[1].

> *The first inhabitants of the Homestead Valley area were the Native Americans. They inhabited the Homestead Valley area and the higher elevations of the mountainous regions. With natural resources to supply water and food, the culture flourished as hunters and gatherers. Both the Spanish and the Mormons explored the area in the early 1800s, but neither settled permanently. The high desert area was eventually settled by ranchers and miners in the 1850s during the "homestead years." This time period brought about rural settlements as the area continued to be a primary cattle drive route to Arizona. During the post WWII era, development began to accelerate somewhat when an access route to the basin was developed. In 1963, this access route gained highway status (now the Twentynine Palms Highway) and opened up the area to further development.*

A brief history of the major governmental events for this community and its relationship with the Local Agency Formation Commission is described below, listed chronologically by end date:

1964-65 The County Board of Supervisors and the electorate approved the formation of the Desert View County Water District ("CWD").

LAFCO reviewed and approved the annexation of portions of the Morongo Basin in 1965 to Mojave Water Agency (LAFCO 161). Due to opposition from the Morongo Valley Community Services District, Desert View CWD, and Twentynine Palms Water District, the areas of these agencies were excluded from the annexation proceedings. The Commission decided to do so and allowed the areas to be considered for annexation at a later date as independent units if further interest was shown by the taxpayers or voters in the areas. As a result of the annexations, the Morongo Basin was entitled to receive State Project Water from the Mojave Water Agency ("MWA") "Annual Table A Amount". What ensued was a long effort to build a pipeline to deliver water from the State Water Project to the Morongo Basin.

Within one year the Desert View CWD board of directors requested annexation to MWA in order to gain future access to State Project Water (LAFCO 212). The Commission approved the application.

1969 The Bighorn Mountains Water Agency was formed by special act of the legislature as a means to bring water to the Landers community.[2]

1972 At the request of registered voters, the Desert View CWD submitted an application to detach one square mile from Bighorn Mountains Water Agency

[1] County of San Bernardino. General Plan. *Homestead Valley Community Plan*. 12 April 2007.
[2] Stats.1969, c. 1175, p. 2273, eff. Aug. 31, 1969

and annex to Desert View CWD in order for the residents to receive retail water (LAFCO 1090). The reason for this application, and the others to follow, is that the Bighorn Mountains Water Agency was a non-functioning agency. It was established by legislative action but never provided any funds to initiate water system development. Conversely, the Desert View CWD was a functioning entity and provided water service within its boundaries. Since the proposal only had the permission of one district regarding the reorganization, the Commission referred the proposal to a reorganization committee composed of three members from each district to come up with recommendations for the Commission. The conclusion from the reorganization committee meetings was that Section 10 of T2N, R5E should be detached from the Bighorn Mountains Water Agency and annexed to Desert View CWD, which the Commission approved.

Following the completion of LAFCO 1090, the Bighorn Mountains Water Agency submitted an application to detach 21 ½ square miles from its boundaries with annexation of that territory to Desert View CWD because the area would be better served by Desert View CWD (LAFCO 1135). The proposal was approved as feasible in that it could bring water to the area in a relatively short period of time in accordance with the engineering studies available at that time. However, the reorganization was terminated by the Board of Supervisors due to a majority protest of the voters.

1973 At this time the Commission considered the establishment of spheres of influence for the two districts. The fact remained that Desert View CWD was the only entity that provided water, and Bighorn Mountains Water Agency continued to make plans for water delivery but had neither financed nor determined the areas of its initial installation. Due to this issue, the Commission established the sphere of influence for Desert View CWD as its boundaries plus two additional square miles (LAFCO 1318) and no sphere was established for Bighorn Mountains Water Agency (LAFCO 1317) with acknowledgment that no other district be allowed a sphere within Bighorn Mountains Water Agency's boundary until concrete service and financing plans were provided by Bighorn Mountains Water Agency.

1974-75 The Commission received and approved three proposals within two years to detach from Bighorn Mountains Water Agency and annex to Desert View CWD in order to receive retail water (LAFCO 1439, 1464, and 1546).

Additionally, a petition was filed with the Board of Supervisors establishing an improvement district which included the areas of the three reorganization proposals. The Board established County Service Area 70 Improvement Zone W-1 ("CSA 70 W-1") which had the initial purpose of conducting an economic feasibility study to enable it to apply for and received Farmer's Home Administrative Loan to develop a water system in the Reche basin. To fund the study, the voters approved a special tax. Specifically, CSA 70 W-1 was formed within the boundaries of Bighorn Mountains Water Agency because of disputes that arose between Bighorn Mountains Water Agency

officials and the owners of well sites within the Landers area. The owners felt that Bighorn Mountains Water Agency was offering less than fair market value for the purchase of the well sites. Further, according to the staff report for LAFCO 1464, the Commission noted that residents in this area may be subject to dual taxation for the improvement zone and Desert View CWD; however, if the people within the area wanted water at that time, Desert View CWD would be the only entity that could provide it.

1976 Special districts were seated on San Bernardino LAFCO. As a part of this process all special districts were limited to the functions/services actively provided at that time and required an application process to activate any other function/service in the future. The affected districts responded to LAFCO's request to list their active functions and services by providing the following:

> Bighorn Mountains Water Agency and Desert View CWD identified to LAFCO that the sole active function was Water.

Pursuant to adoption of the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts* in 1976 and amendments thereafter, the active functions and services for the districts have been determined. The policies and procedures adopted at the same time outlined the requirements to apply to the Commission for activation of any other latent powers.

1977 The voters of within the proposed Improvement District 1 of the Bighorn Mountains Water Agency approved a bond proposition to "issue general obligation bonds for its Improvement District 1 for $2,500,000 for the purpose of acquisition/ construction/ completion or repair of a waterworks system ... for the benefit of Improvement District 1 (Resolution No. 121 adopted June 21, 1977).

1979 When the water systems in the Landers area were being contemplated, the County Board of Supervisors and the Bighorn Mountains Water Agency Board of Directors determined by joint resolution that the Bighorn Improvement District 1 and CSA 70 W-1 should combine when both are operational and when Bighorn demonstrates competency to own and manage a water system, and the transfer is acceptable to the creditors and customers of CSA 70 W-1.

Early 1983 Desert View County Water District removed "County" from it name[3], as allowed by a 1979 amendment to County Water District Law[4]. The district became known as Desert View Water District ("Desert View WD").

[3] Desert View County Water District. Resolution 336. 27 July 1983.
[4] Stats.1971, c. 317, p. 1135, § 1.

1981-84 In 1981, the Bighorn Mountains Water Agency board submitted a proposal to assume management of CSA 70 W-1's water system in order to have both systems under management and operation of Bighorn Mountains Water Agency (LAFCO 2107). The Commission approved the proposal on the basis that the item included a section of land that should be within Bighorn Mountains Water Agency, to include the dissolution of CSA 70 W-1 within Bighorn Mountains Water Agency's boundaries, formation of its Improvement District 2 to be coterminous with the boundaries of CSA 70 W-1, and transfer of operations to Bighorn Mountains Water Agency would result in both financial advantages and political unification for the community. Additionally, Bighorn Mountains Water Agency was to provide information to the County that Bighorn Mountains Water Agency demonstrated competency to own and manage a water system and that the transfer was acceptable to the creditors and customers of CSA 70 W-1. According to the staff report, the community was divided as to the appropriateness of the issue and Bighorn Mountains Water Agency's board was in a state of transition. At that time, it seemed prudent to the board not to press for the change; therefore, it requested that the Commission extend the time by one year in which it may act on LAFCO 2107. The official record does not identify a reason for Bighorn Mountains Water Agency not complying with the conditions of the Commission's resolution within the one year timeline. However, Bighorn Mountains Water Agency received opposition from numerous landowners regarding the reorganization. In January 1984, the one year timeline lapsed and the proposal was deemed abandoned.

1987 The Desert View WD, consisting of 8.5 square miles, submitted an application to expand its sphere of influence by 32 square miles primarily to the west and southwest of its boundaries (LAFCO 2442). The majority of the area was, and remains, owned by the BLM and the remaining portion contained roughly 100 residents. The district's application identified three reasons for its application:

1. The district received requests from residents outside of its sphere of influence who wished to receive district water service, specifically in Section 13 east of the district. However, this represented only a small portion of the sphere expansion.

2. The district believed that some public agency needed to serve as a watchdog over the mining operations and illegal waste dumping in the publically-owned lands to the west and to monitor the effects of those activities on groundwater quality.

3. The Hi-Desert Water District initiated a sphere expansion and annexation proposal for parts of the territory of LAFCO 2442. The basic rationale for the proposal was the identification of possible water bearing lands in Section 13, and tapping into that source might help alleviate some of the serious overdraft conditions that were being experienced in Yucca Valley and the Warren Basin.

In regards to item 2, the BLM expressed no opposition to the sphere expansion. In regards to item 3, the district was concerned with any activity which might result in the exportation of water resources from this basin. The Hi-Desert Water District application stalled in the environmental review process, yet LAFCO 2442 continued.

The basic question remained as to which agency was in the best relative position to plan and eventually provide water service to the area in question. The Commission decided that Desert View Water District was the appropriate entity to undertake those responsibilities.

1990 For several years the administrative and operational functions of Desert View WD and Bighorn Mountains Water Agency were consolidated, to include programs to share resources and costs in providing services to include mutual aid agreements to share computer costs, employee training, payroll and other overhead, and equipment. Significantly, the two districts also shared a general manager which resulted in development of a coordinated approach to water management and service delivery. Given the economies of scale realized from the administrative and operational consolidations, the communities expressed support for actual consolidation of the two districts. However, one of the prerequisites at that time for consolidations was that the agencies must have been formed under the same principal act. Since the two districts did not meet this prerequisite, special legislation was sought. Assembly Bill 1819[5] was introduced in 1989 to allow the two districts to consolidate as though they had been created under the same principal act. The bill also provided for LAFCO review and approval of the consolidation (LAFCO 2595). By law, since the two districts agreed to the consolidation, the Commission could not deny the consolidation but could alter the conditions of approval. The new agency became known as Bighorn-Desert View Water Agency ("Agency").

In June 1990, voters within the Morongo Basin portion of MWA approved a bond measure to fund a pipeline to deliver water to the Morongo Basin for replenishment purposes and form Improvement District M. Approval of this measure obligated the landowners within the area to pay for their fair share of the extension of the pipeline. Construction on the approximately 71 mile Morongo Pipeline began in 1992 and was completed in 1995 and serves the communities of Johnson Valley, Joshua Tree, Landers, and Yucca Valley. The Pipeline delivers water from Hesperia to a five million gallon reservoir in Landers. From there, water is delivered to percolation ponds in the Yucca Valley area that act as natural filtration systems where water seeps back into the ground to recharge the aquifer.

[5] Stats.1989, c. 570.
An act to add Part 9.2 (commencing with Section 33300) to Division 12 of the Water Code, and to amend Sections 1,5, and 15.3 of, and to add Section 3 to, the Bighorn Mountains Water Agency Law (Chapter 1175 of the Statutes of 1969), relating to water districts.

1995 The Agency submitted a proposal to detach approximately eight square miles from its boundaries in the Landers area (LAFCO 2792). Since the formation of CSA 70 W-1, there were a number of disputes between the residents served by CSA 70 W-1 and those served by the Agency. LAFCO 2792 was a means of resolving these periodic disputes. The justification for the application was that residents of CSA 70 W-1 received no specific benefits from the Agency but that CSA 70 Zone W-1 residents voted on the Agency's ballot measures, affected the Agency's board decisions, and the area could have representation on the Agency's board. The Commission approved the proposal because it eliminated an overlap of similar-purpose agencies and could possibly lead to a less contentious relationship between the residents of the two agencies.

1998 Ballot Measures Q, S, and T on the November 1998 election successfully removed the standby charges of the Agency. The three measures on averaged passed with 52.5% of the vote. The assessments have not been reinstated.

2002-06 In 2002, a local resident submitted a ballot initiative to reduce the Agency's water rate and charges and require the Agency to obtain voter approval for future rate, fee, or charge increases. The County Registrar of Voters certified the initiative, and the Agency successfully sued to remove the initiative from the ballot on the grounds that it exceeded the initiative power created by Proposition 218[6]. In turn, the backer of the initiative appealed the lower court decision.

In July 2006, the California Supreme Court decided *Bighorn-Desert View Water Agency v. Verjil*[7], ruling that metered rates for consumption of water are "property related fees" subject to the measure. The Court concluded that Section 3 of Article XIII C of the California Constitution grants local voters a right to use the initiative process to reduce the rate that a public water district charges for domestic water. The Court also concluded, however, that this new constitutional provision does not grant local voters a right to impose a voter-approval requirement on all future adjustments of water delivery charges. Because the Court concluded that the constitution does not grant voters the right to impose requirements on future rate adjustments, the Court also concluded that the proposed initiative was properly withheld from the ballot because it included a provision to impose such a requirement. In the end, neither this case nor the voters reduced the Agency's rates[8].

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[6] On November 5, 1996, the California electorate approved Proposition 218, the self-titled "Right to Vote on Taxes Act." Proposition 218 adds articles XIIIC and XIIID to the California Constitution, and makes numerous changes to local government finance law. Proposition 218 was approved by a 56.6 percent to 43.4 percent vote.

[7] *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th .

[8] Footnote 2 in *Bighorn-Desert View Water Agency v. Vergil* reads, "Although the Agency's water rate was $4.00 per 100-cubic-foot billing unit when the initiative was circulated for signatures, it was scheduled to be reduced to $2.30 per billing unit in June 2003. Thus, one could argue, as Kelley *[appellant]* has, that the actual reduction proposed by the initiative was not from $4.00 to $2.00, but from $2.30 to $2.00 per billing unit. We need not resolve this dispute."

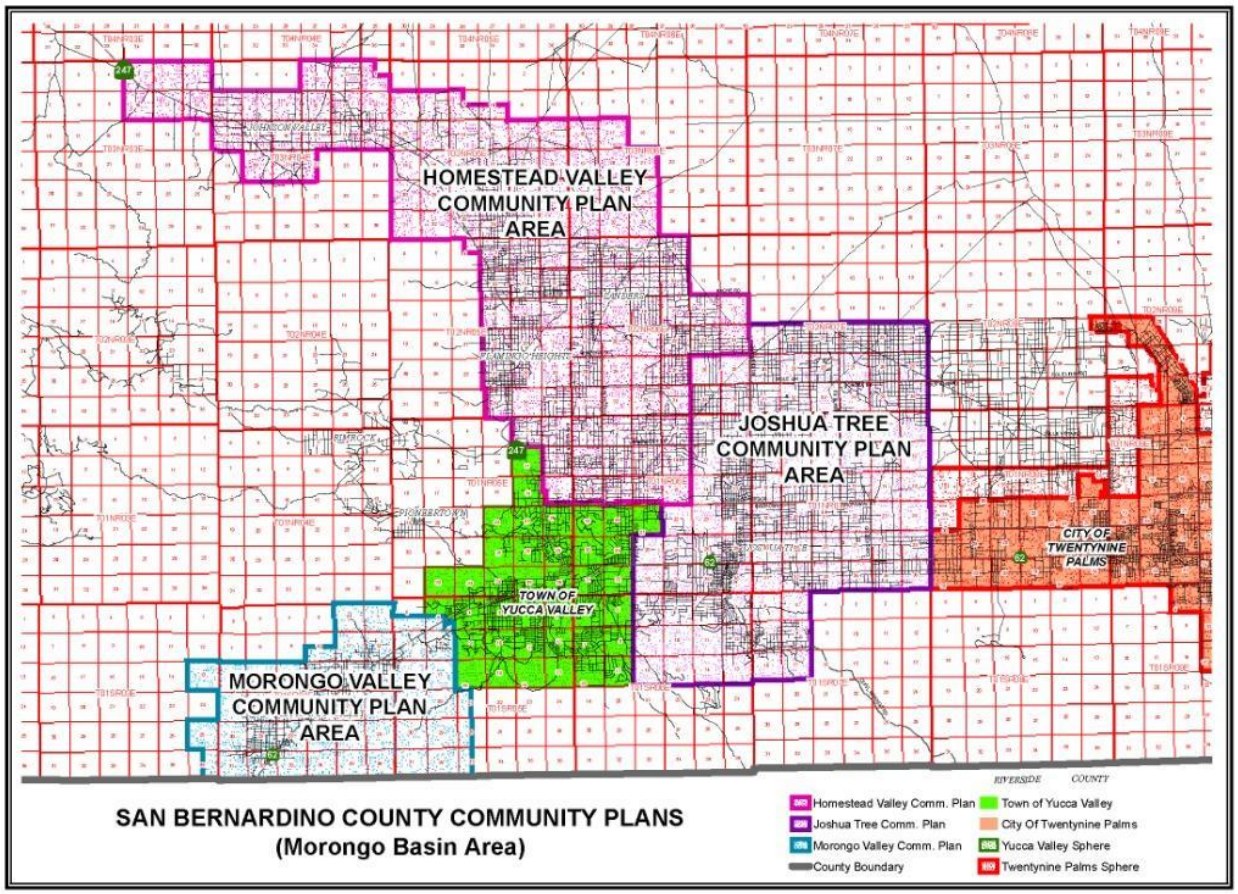
Further, the Court wrote, “Domestic water delivery through a pipeline is a property-related service within the meaning” of Proposition 218’s definition of property related fee. “Accordingly, once a property owner or resident has paid the connection charges and has become a customer of a public water agency, all charges for water delivery incurred thereafter are charges for property related services, whether the charge is calculated on the basis of consumption or is imposed as a fixed monthly fee.” Other charges such as connection, disconnection, and meter repair were not subject to Proposition 218 by this decision. A copy of this decision is available at the LAFCO staff office.

2006 At the request of two property owners, the Agency submitted, and the Commission approved, an application to expand its sphere of influence with concurrent annexation of 30 acres in order for the two property owners to receive water service from the Agency (LAFCO 3054 and 3055). The annexation was modified by the Commission to include annexation to the Agency’s Improvement District No. 1.

COMMUNITY DISCUSSION

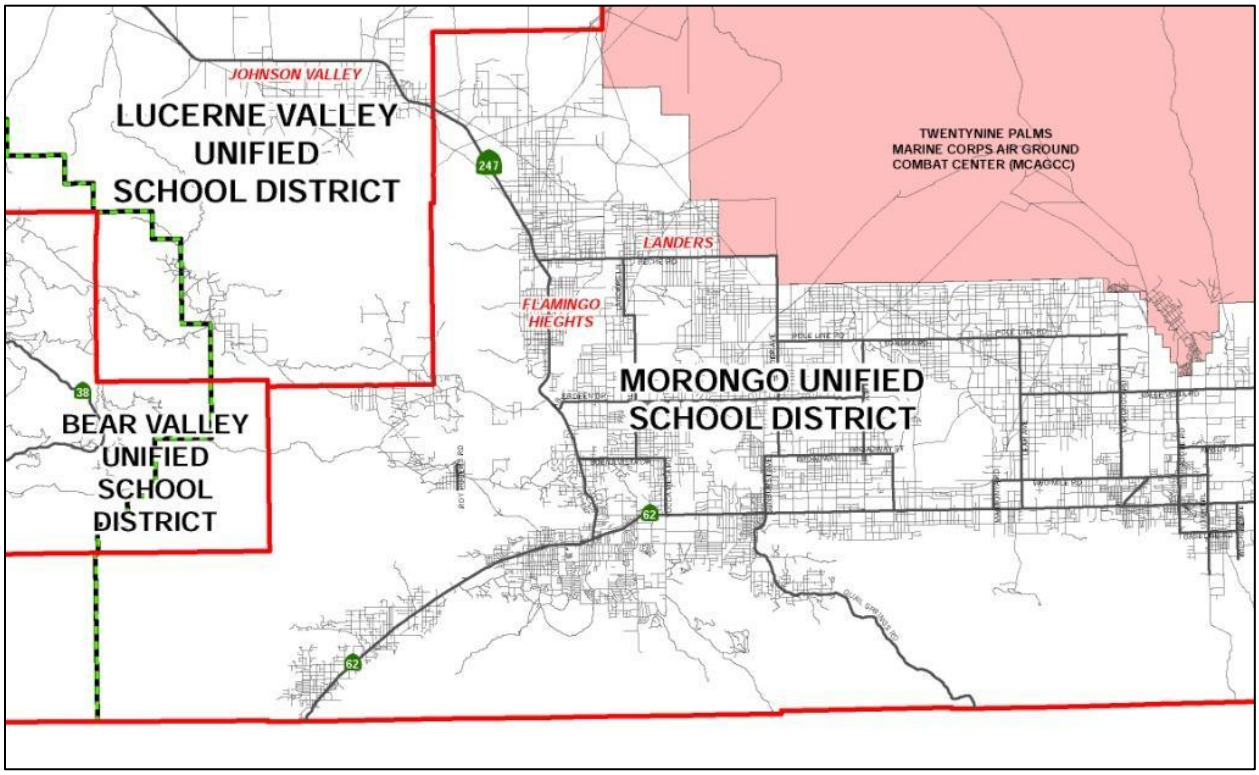
The Commission's policy guidelines for spheres of influence outline its strategy to utilize a "community-by-community" approach to consideration. This practice requires the Commission to look at the whole of the community as defined by the existence of inter-related economic, environmental, geographic and social interests. The Commission's concept is to define a community and adjust the spheres of influence for all related service providers to that community. Such a determination provides direction to both current and future residents as to the agencies designed to serve them.

In 2007 as a part of the County General Plan, the County Board of Supervisors adopted three separate community plans for the South Desert region, which included the *Homestead Valley Community Plan*, as shown on the map below (included as a part of Attachment #1). Also, the Town of Yucca Valley and City of Twentynine Palms are shown for reference.



At the August 2010 LAFCO Workshop, the Commission directed staff to include information on the K-12 school districts as a part of the community discussion for its mandatory service reviews, to include a discussion of boundaries and shared facilities, in order to gain additional perspective on the community of interest. The Lucerne Valley Unified School District overlays the Johnson Valley area of the Homestead community, while the Morongo

Unified School District overlays Landers and Flamingo Heights (see map below). Due to the regional nature of the Lucerne Valley USD and the Morongo USD, neither provides additional information in relation to the definition of the Homestead Valley community; except to note that both serve the area of Johnson Valley, Landers, and Flamingo Heights and within the County's *Homestead Valley Community Plan* area and beyond.



Addressing the Commission's Community Definition

Although the Commission has established the sphere of influence for the Bighorn-Desert View Water Agency, the Commission has never defined a community for this portion of the south desert region. At the outset, the sphere of influence of the Agency represents the community since it is defined by the municipal service provider for the area, which is the Agency. To accomplish the Commission's policy directives to incorporate the community definition into the sphere of influence program, LAFCO staff recommends modifications to the Agency's sphere in the "Sphere of Influence Update" section.

The area of the *Homestead Valley Community Plan* (minus the Yucca Mesa area) and the current boundary and sphere of influence of the Agency is utilized as the overall study area for the following service reviews and spheres of influence update presented by staff.

Government Code Section 56076 defines a sphere of influence as a "plan for the probable physical boundaries and service area of a local agency, as determined by the commission". Regardless of which option the Commission chooses, it would not affect any agency's current boundary or service delivery as no change in jurisdiction would take place.

REVIEW OF REGIONAL AND COMMUNITY SERVICES

The *Homestead Valley Community Plan* states that,

> "The quality of life and the rural desert character of the community are dependent on the services that are provided. Residents in Homestead Valley expect that services such as water, roads, fire and police protection, and park and recreation facilities are provided at levels that meet their needs. At the same time, it is understood that acceptable levels of service should be provided in accordance with the rural character that is desired. Provisions of services in the desert should be commensurate with the rural lifestyles and low density development. The impact of land development on services must be managed to ensure a balance between providing for population growth and preserving the rural character of the community."

Based upon the statements identified in the *Homestead Valley Community Plan*, the following provides summary information that is regional in nature on the variety of services that are provided within the community. A review of water service is provided in the Bighorn-Desert View Water Agency service review section of this report.

A. Sewer

The entire Homestead Valley Community Plan area has been developed with septic tanks and leach field systems. There are an unknown number of private systems as some properties may have multiple systems.

The Homestead Valley Community Plan area is located within the Colorado River Water Basin, which is regulated by the Colorado River Regional Water Quality Control Board ("Regional Board"). The Regional Board is currently using 1981 and 1997 guideline requirements for sewage disposal for both single and grouped or community sewerage systems. The Regional Board is planning on addressing septic usage in its Basin Plan update, which is in the beginning stages currently. It is not known when the plan will be completed at this time. According to current information, residential developments of less than five units are not required to report on domestic sewage use and maintenance. If a property includes more than five single-family units, 20 mobile home spaces, 50 recreational vehicle spaces or exceeds 5,000 gallons per day, then an annual waste discharge report will be required.

Currently, for larger, non-residential systems, the Regional Board requires that "no part of the subsurface disposal systems shall be closer than 150 feet to any water well or closer than 100 feet to any stream, channel, or other water source." The Regional Board also requires that a sufficient amount of land shall be reserved for a possible 100 percent replacement of the septic system. The Regional Board also defers to the local agency for structural set-back guidelines. There are no guidelines for single-family residences. However, County guidelines limit two septic systems per acre.

B. Fire and Emergency Response

Homestead Valley is protected from fire and disaster by the San Bernardino County Fire Protection District ("County Fire"). County Fire provides fire prevention and suppression and other services such as hazardous materials regulation, dispatch communication and disaster preparedness. In Homestead Valley, County Fire provides these services through its South Desert Service Zone. Administrative offices for the South Desert Service Zone are located in the Town of Yucca Valley.

For the Homestead Valley community, the following fire stations serve the area:

- Station 19 (Homestead Valley/Landers Station) – 55481 Jessie Road, Landers, CA
  This station is home to paid call crews from the local community that houses one type I Engine Company, one Brush Engine, and one Water Tender. Units from this station also provide support to Johnson Valley and the Yucca Mesa area as well as responding to calls along Highway 247.

- Station 43 (Johnson Station) – 51267 B Quailbush, Johnson Valley, CA

  As a condition of approval for LAFCO 3000 (County Fire Reorganization), Condition 22 states that a number of stations were to transfer from the predecessor agencies to the successor agency, County Fire through a mechanism of deed transfers or lease renewls. Exhibit OO of LAFCO Resolution No. 2997 specifically identifies Station 43 as one that required a new lease agreement with the Johnson Valley Improvement Association and a transfer of the lease to the new San Bernardino County Fire Protection District. However, staff has reviewed Assessor and property tax records which identify that Station 43 was an active possessory interest from 2004-2007 but in 2007, it was removed from the active roll at the request of County Fire. No new lease agreement has been recorded on the affected parcel as of the date of this report.

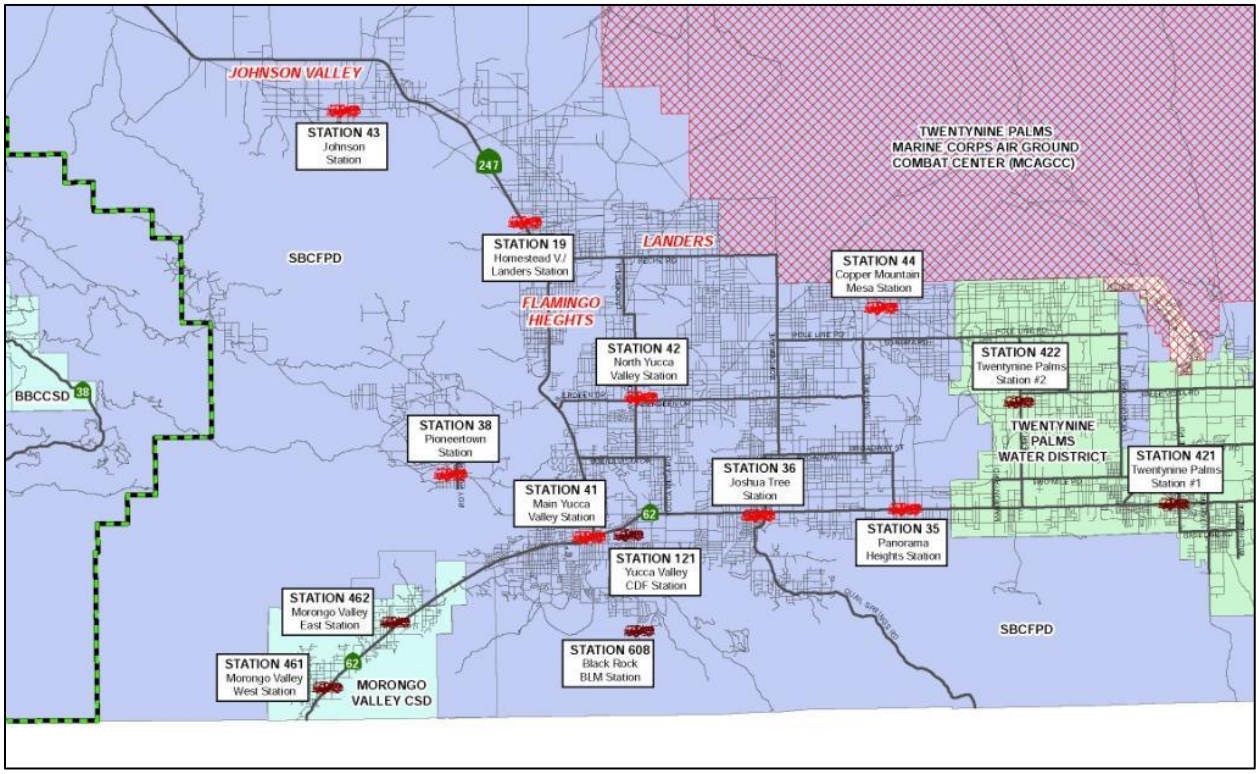
  LAFCO staff inquired with County Fire whether Station 43 has been either transferred to County Fire and a new lease agreement entered into with the Johnson Valley Improvement Association. As of the publication of this report, LAFCO staff has not yet received a response from County Fire regarding the status of Station 43.

  Regardless of the question of the status of Fire Station 43, the station has no paid call crews and is a volunteer unit that houses one volunteer first responder vehicle and one squad vehicle. As noted above, the station is located on the same parcel as the Johnson Valley Improvement Association community center. According to information from the Bighorn Desert View Water Agency, County Fire has engaged the community for recruiting paid call firefighters but there have been no applicants.

Wildland fires are under the jurisdiction of the California Department of Forestry and Fire Protection (Cal Fire) and the U.S. Forest Service, both not subject to LAFCO jurisdiction. The Fire Safe Council[9] provides fire related information.

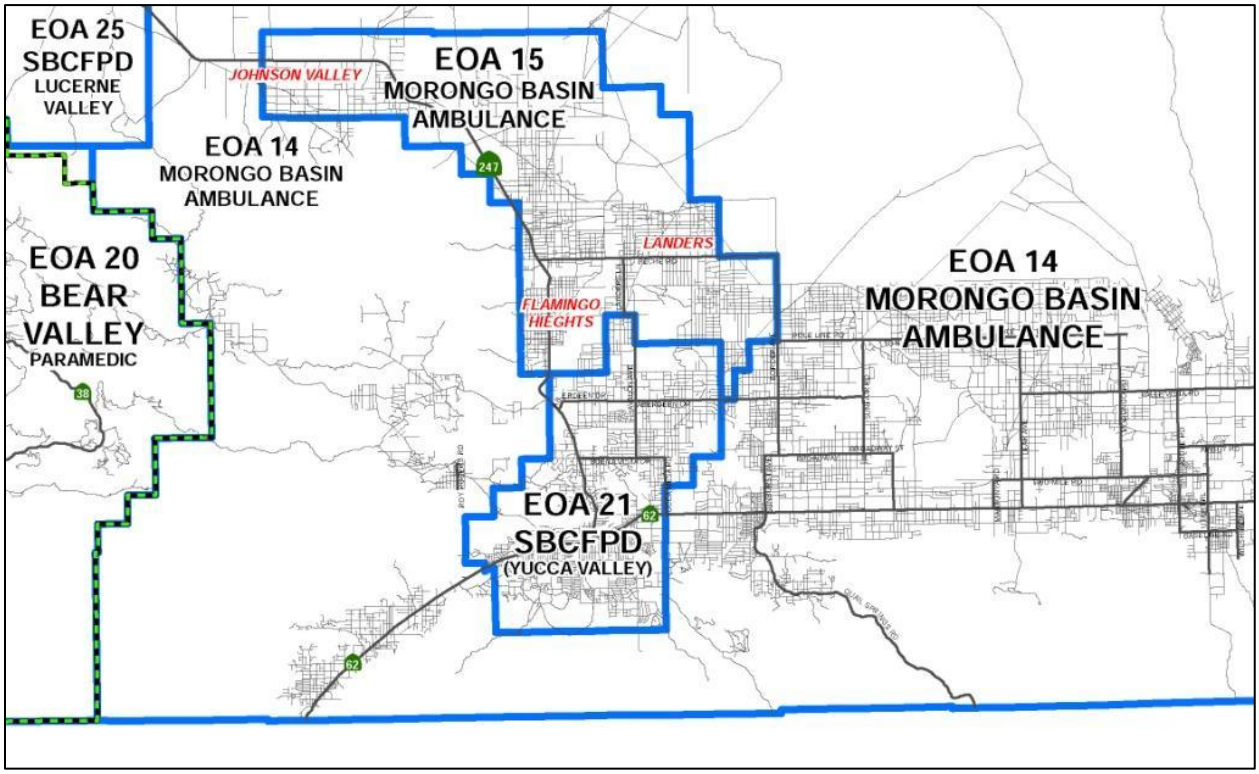
[9] The Fire Safe Council provides resources for establishing and maintaining Fire Safe Councils, such as the FSC Handbook, nonprofit and funding information in California. For more information, visit www.firesafecouncil.org.

County Fire and its South Desert Service Zone has automatic and/or mutual aid agreements with Cal Fire, National Park Service - Black Rock Interagency Fire Center, Twentynine Palms Water District (fire provider for the Twentynine Palms community), and the Marine Corps Air/Ground Combat Training Center - Combat Center Fire Department. Below is a map of the Morongo Basin area and the fire stations located within and around the Homestead Valley area as well as the surrounding fire service providers.



C. Ambulance

Since 1988, the County of San Bernardino Board of Supervisors has authorized the implementation of ambulance provider Exclusive Operating Areas (EOAs) as authorized by Sections 1797 et seq. of the Health and Safety Code. The local emergency medical services agency for San Bernardino County to define EOAs is the joint powers agency known as the Inland Counties Emergency Medical Agency, or “ICEMA”. In the Homestead Valley community, ambulance and paramedic services are provided by a private provider - Morongo Basin Ambulance. The map below shows the EOAs located in and around the study area, which identifies the Morongo Basin Ambulance’s EOA (EOA 15).



D. Park and Recreation

Although there are no County or regional parks within the community, the area contains and borders large sections of Bureau of Land Management (BLM) lands. Recreation opportunities within nearby designated areas of the BLM lands include Off-Highway-Vehicle (OHV) use at the Johnson Valley OHV park, and wildlife viewing, hiking, rockhounding, etc. in nearby wilderness areas. Even with the extent of BLM recreational opportunities in the proximity of the area, in the *Homestead Valley Community* Plan residents expressed a desire for additional neighborhood recreational facilities within their community. Such a request will require the creation of an entity to manage such facilities. It will be important to plan for future recreational facilities to ensure that as the area grows, valuable recreational activities are provided to meet the needs of local residents and visitors.

E. Streetlighting

Within the community there is no agency that provides streetlighting, other than Caltrans along SR-247.

Within the unincorporated areas of the County, the future need for streetlights will increase if the population grows, dependent upon the implementation of the County's Night Sky Ordinance[10], which is applicable in the South Desert region. The purpose of the Night Sky

[10] County of San Bernardino, Development Code Chapter 83.07, Adopted Ordinance 4011 (2007).

Ordinance is to encourage outdoor lighting practices and systems that will minimize light pollution, conserve energy, and curtail the degradation of the nighttime visual environment. The implementation of this ordinance points toward a limitation of the number of streetlights for the future and may limit them to commercial area of the community only. The streetlighting standards outlined on the County Special Districts Department website do not appear to comply with the provision of the County Night Sky Ordinance.

F. Solid waste

Burrtec provides curbside garbage and recycling service to the residents and businesses within the area. As stated in the *Homestead Valley Community Plan*, residents voiced concerns with the reoccurrence of illegal dumping in their community. They feel that people are dumping illegally to avoid paying the fee to dump at a proper site. They further explained that many people are not aware of free dump days, which would allow them to avoid the dump fee.

G. Roads

The following information regarding traffic circulation within the community is taken from the Circulation section of the *Homestead Valley Community Plan*.

> *One of the overriding goals expressed by residents of Homestead Valley is to maintain the existing character of the community. The character of the community can be significantly impacted by roads and the traffic generated from the region and the community.*
>
> *The Homestead Valley Community Plan area is located north of the Town of Yucca Valley and west of the US Marine Corp Air Ground Combat Training Center. Two State Highways, SR-247 and SR-62 provide access from the High Desert region to the northwest and Riverside County to the southwest. SR-247 and SR-62 provide access from the Lucerne Valley and the Morongo Valley, respectively. The vast majority of travel trips in the plan area are made by automobile, using the existing network of State Highways and major County roads. A small fraction of the trips are made utilizing other modes of transportation such as public transit, air, bicycling and walking. The existing roadway system in Homestead Valley is characterized by a combination of a State highways and local roadways.*
>
> *Old Woman Springs Road (SR-247) is a two-lane State highway which originates as an interchange with SR-62 in the Town of Yucca Valley. This facility continues northwesterly into the community of Lucerne Valley, located in the Desert Region. From this point, SR-247 continues northward, terminating at its northern junction with I-15 in the community of Barstow.*
>
> *Residents expressed concerns regarding traffic congestion, particularly traffic congestion on SR-247, but at the same time emphasized their primary concern, to maintain the rural character of the community. Improvements to the circulation*

system within the community will need to be compatible with the community's goal of maintaining the area's rural character and scenic and natural resources. Residents do not want to see urban improvements throughout the community such as sidewalks, excessive street lighting, etc.

Table 4: Existing and Future Roadway Operating Conditions

		Existing 2004 Operating Conditions			Future 2030 Operating Conditions		
Facility	Begin-End	ADT	V/C	LOS	ADT	V/C	LOS
Arterial							
Aberdeen Dr	SR 247 – Avalon Ave.	1,300	0.113	A	1,840	0.160	A
	Avalon Ave – Yucca Mesa Rd	1,110	0.096	A	1,462	0.127	A
Avalon Ave	Aberdeen Dr – Buena Vista Dr	1,900	0.165	A	1,907	0.166	A
Border Ave	Reche Rd. – Winters Rd	300	0.024	A	5,90	0.047	A
Landers Ln	Reche Rd. – Winters Rd	1,000	0.080	A	1,000	0.080	A
Reche Rd	SR 247 – Border Ave	1,500	0.120	A	1,645	0.132	A
	Landers Ln – Border Ave	300	0.024	A	5,42	0.043	A
Winters Rd	Landers Ln – Avalon Ave	750	0.060	A	7,50	0.060	A
Yucca Mesa Rd	Aberdeen Dr. –Buena Vista Dr	1,450	0.121	A	1,498	0.120	A
	Buena Vista Dr – SR-62	3,500	0.280	A	3,935	0.315	A
State Highway							
SR 247	Aberdeen Dr. – SR-62	9,600	0.696	C	11,600	0.504	B
Source: Myer, Mohaddes Associates							

According to Table 4, all roadways within the plan area operated at acceptable levels of service in 2004. All County facilities operated at a Level of Service "A" which is described as free-flow traffic conditions where drivers can maintain their desired speeds with little or no delay and are unaffected by other vehicles. The only roadway segment that did not operate at a Level of Service "A" was SR- 247, which operated at a Level of Service "C." However, a Level of Service "C" is considered an acceptable level of service and is described as reasonably free-flow traffic conditions where drivers begin to notice less freedom in selecting their speeds and a decline in freedom to maneuver.

Future 2030 conditions for the Homestead Valley Community Plan area indicate that major County roads and State Highways within the plan area are projected to continue to operate at acceptable Levels of Service. In fact, conditions on SR-247 are projected to improve to a Level of Service "B."

Homestead Valley contains one County Scenic Route, Old Woman Springs Road (SR 247).

SR-247 is designated as an evacuation route.

The individual agencies will be reviewed in the remainder of this report to address the factors required for a service review as outlined in Government Code Section 56430 and an individual sphere of influence update as mandated by Government Code Section 56425. These determinations will include growth projections, review of services provided, financial ability to provide services, opportunities for shared facilities, and government structure.

BIGHORN-DESERT VIEW WATER AGENCY
Service Review and Sphere of Influence Update

INTRODUCTION:

LAFCO 3148 consists of a service review pursuant to Government Code Section 56430 and sphere of influence update pursuant to Government Code 56425 for the Bighorn-Desert View Water Agency ("BDVWA or "Agency").

The Agency (previously known as the Bighorn Mountains Water Agency) was created in 1969 as a special act water agency, which means that specific legislation created the agency. In 1990, the Bighorn Mountains Water Agency and the Desert View Water District consolidated into the Bighorn-Desert View Water Agency. The consolidated agency continues to operate under the special act, since referred to as the Bighorn-Desert View Water Agency Law[11].

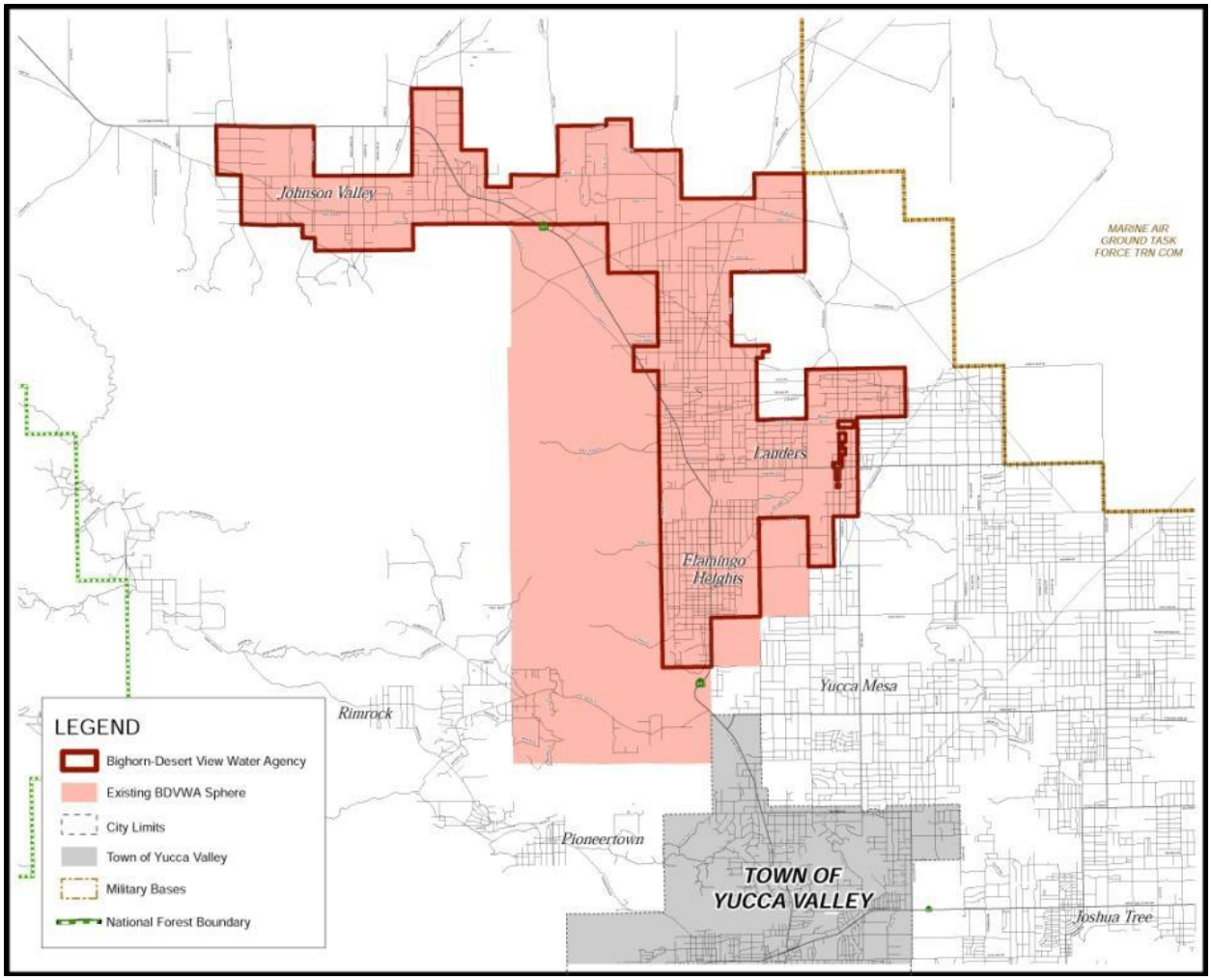
The primary function of the Agency is to supply retail water within its boundaries. However, BDVWA is also granted other powers in its parent act such as the ability to develop hydroelectric energy, use falling water for electric energy, and to exercise all powers granted in County Water District Law related to water. Currently, the Agency is authorized by LAFCO to provide the function of Water pursuant to the *Rules and Regulations of the Local Agency Formation Commission of San Bernardino County Affecting Functions and Services of Special Districts*.

As discussed in the "Sphere of Influence Update" section which follows, staff is recommending modifications to the Agency's sphere of influence (expanding the Agency's sphere of influence by approximately 11,128 acres and reducing its existing sphere of influence by approximately 13,754 acres).

LOCATION AND BOUNDARIES:

The service review and sphere study area is generally bordered by a combination of the Bighorn Mountain Wilderness Area, half-section lines, and the western line of Range 5 East of Townships 1, 2, and 3 on the west; the Johnson Valley Off Highway Vehicle Area on the north; a combination of the Twentynine Palms Marine Corps Base, County Service Area 70 Improvement Zone W-1 (Goat Mountain), and the Hi-Desert Water District on the east; and a combination of the Bighorn Mountain Wilderness Area and Hi-Desert Water District boundary and sphere on the south. The boundary and/or sphere of influence include the communities of Johnson Valley, Landers, and Flamingo Heights. A map of the Agency and its current sphere is shown below and is included as a part of Attachment #2.

[11] Bighorn-Desert View Water Agency Law (West's Ann.Cal.Water Code App. (1995 ed.) § 112). The Desert View Water District-Bighorn Mountains Water Agency Consolidation Law (Water Code § 33300 et seq.) also contains provisions related to the governance of the consolidated agency.



BIGHORN-DESERT VIEW WATER AGENCY SERVICE REVIEW

In 2003, LAFCO adopted the Governor's Office of Planning and Research (OPR) Municipal Service Review Guidelines by reference for its use during the conduct of service reviews. These Guidelines provide a step-by-step approach to understanding the service review process as set for by Government Code Section 56430 as well as factors that LAFCO may wish to address in its service review of an agency.[12]

At the request of LAFCO staff, the Agency prepared a service review pursuant to San Bernardino LAFCO policies and procedures. The response to LAFCO's original and updated requests for materials includes, but is not limited to, the narrative response to the factors for a service review, response to LAFCO staff's request for information, and financial documents (included as Attachment #2). LAFCO staff responses to the mandatory factors

[12] State of California, Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

for consideration for a service review (as required by Government Code 56430) are identified below and incorporate the district's response and supporting materials.

I. Growth and population projections for the affected area.

The rural desert character of Homestead Valley is defined by its geographic location, the area's desert landscape and environment, and the predominance of very low-density residential development. Low-density residential development within the plan area is characterized by large lots, the varied placement of homes, and open spaces around the homes. The character of the community is further defined by the natural environment and by the limited commercial and industrial uses.

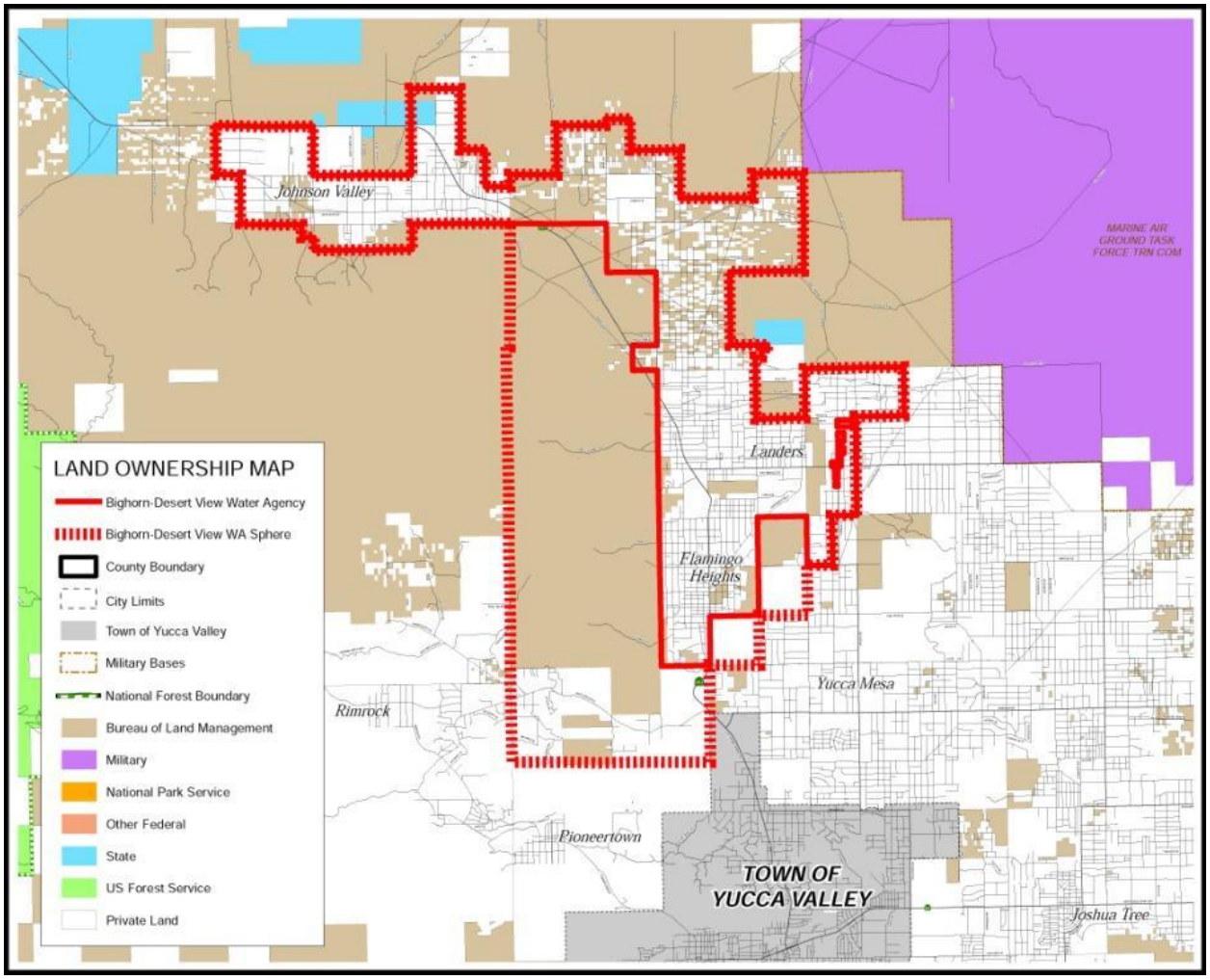
According to the *Homestead Valley Community Plan*, several issues set Homestead Valley apart from other desert communities, suggesting that different strategies for future growth may be appropriate. Among these are the preservation of community character, infrastructure, and commerce and services. As for preservation of community character, residents are concerned with the preservation of the natural environment and their community character amidst the pressures of growth in the plan area and surrounding desert communities. The preservation of the community's natural setting, small town atmosphere and rural character becomes important not only from an environmental perspective but from a cultural and economic point of view. The *Community Plan* further states that the Homestead Valley area will continue to experience growth as the desert region continues to develop. The rural nature and availability of vacant land will continue to attract development to the area. As the area develops it will be important to ensure that the rural features of the area are preserved and that adequate services and infrastructure are provided.

Land Ownership

The land ownership distribution and breakdown within the Agency's boundary and current sphere are identified on the map below. Within its entire sphere, roughly 46% of the land is privately owned and the remainder, 54%, is public, which are devoted primarily to resource protection and recreational use.

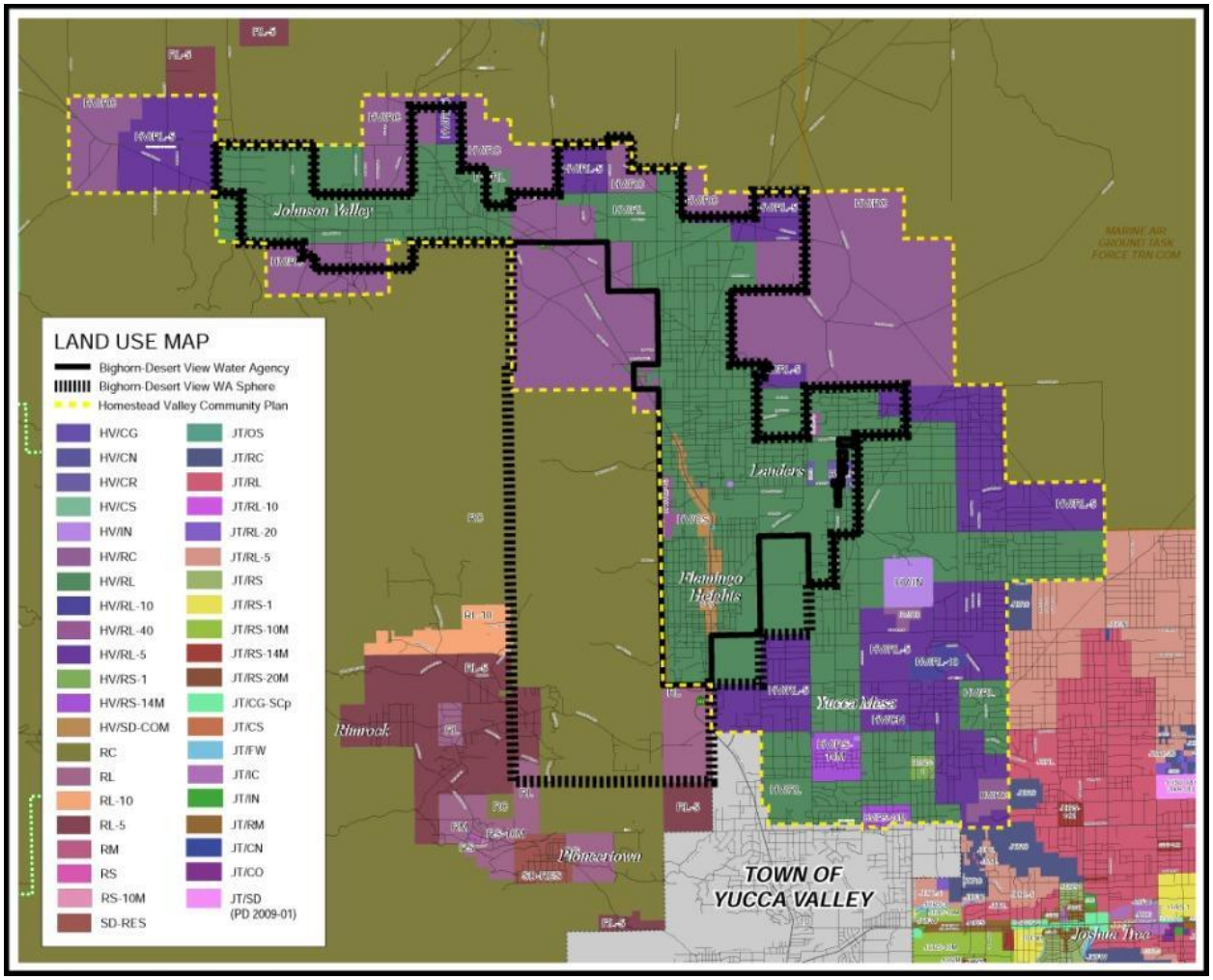
Land Ownership Breakdown (in Acres)
Within Bighorn-Desert View Water Agency

Ownership Type	Boundary	Sphere (outside boundary)	Total Area
Private	17,943	5,384	**23,327**
Public Lands – Federal (BLM), State, & others	9,380	18,498	**27,878**
Total	27,323	23,882	**51,205**



Land use

Below is a map identifying the County of San Bernardino land use designations within the study area. Approximately 53 percent is designated RL (Rural Living, 2.5 acres minimum), RL-5, and RL-40, 45 percent is Resource Conservation, and the remainder of the land use designations comprises two percent (Special Development-Commercial, Neighborhood Commercial, Rural Commercial, General Commercial, Service Commercial, and Institutional). The commercial developments within the Agency are generally located along State Route 247 and Reche Road.



General Plan Land Use Districts (In Acres)
Within Bighorn-Desert View Water Agency

Land Use	Boundary	Sphere (outside boundary)	Total Area
Homestead Valley Community Plan			
Resource Conservation (HV/RC)	3,310	5,058	8,368
Rural Living (HV/RL)	20,480	1,985	22,465
HV/RL-5	2,025		2,025
HV/RL-40	320		320
Special Development (HV/SD-COM)	658		658
Neighborhood Commercial (HV/CN)	5		5
Rural Commercial (HV/CR)	222	38	260
General Commercial (HV/CG)	5		5
Service Commercial (HV/CS)	8		8
Institutional (HV/IN)	10		10
County General Plan			
Resource Conservation (RC)	280	14,806	15,086
Rural Living (RL)		1,450	1,450
RL-5		545	545
Total	**27,323**	**23,882**	**51,205**

Population

Population Projections

In 2000, the population within the Agency's boundaries was 2,297. Based on the 2010 Census, the current population for the area is 3,018. This represented an average annual growth rate of approximately 2.8 percent within the given period.

The *Community* Plan population forecast is not used in this report for the Agency. Instead, the projected growth for the Agency's boundaries was calculated utilizing a combination of the growth rates identified in the Regional Council of the Southern California Association of Governments (SCAG) Draft 2012 Regional Transportation Plan (RTP) Integrated Growth Forecast, SCAG's 2008 RTP, and the use of average annual growth rate. By 2040, the population within the Agency's boundaries is estimated to reach 6,154. This represents a projected annual growth rate of approximately 2.4 percent between 2010 and 2040, which also represents a total population increase of 49 percent from 2010.

Population Projection 2010-2040
Within Bighorn-Desert View Water Agency

Census		Population Projection					
2000	**2010**	**2015**	**2020**	**2025**	**2030**	**2035**	**2040**
2,297[13]	3,018[14]	3,069[15]	3,700[16]	4,313	4,902	5,466	6,154[17]

Build-out

The table below provides the potential build-out within the Agency's boundaries. This build-out scenario takes into consideration the existing land use designations assigned for the area and the dwelling unit densities assigned for each residential land use[18].

Land Use Maximum Build-Out
Within Bighorn-Desert View Water Agency

[13] 2000 population was derived from the 2000 Census block data for the Agency's boundary
[14] 2010 population data was derived from the 2010 Census block data for the Agency's boundary.
[15] 2015 growth rate projection was adjusted to reflect the rate for the County's unincorporated area from SCAG's 2012 RTP Revised Draft Integrated Growth Forecast using local input and latest data from the 2010 Census, the California Employment Development Department , and the California Department of Finance - (published May 2011)
[16] 2020-2035 growth rate projections were calculated based on the growth rate identified by SCAG's 2008 RTP for each of the TAZ's (Traffic Analysis Zones) that corresponded to each of the Census Tracts within the Agency's boundary. The growth rates for each of the TAZ's were then used to derive the projection of the population for each of the corresponding Census Tract numbers.
[17] 2040 projection was calculated using Average Annual Growth Rate based on the compounded rate between 2010-2035 since SCAG's projections only went to 2035
[18] Source: Densities for all residential land uses were derived from the densities identified in the Homestead Valley Community Plan Potential Build-Out table

Land Use	Acreage	Density (D.U. Per Acre)	Maximum Build-out
Resource Conservation	3,590	0.025	90
Rural Living	20,480	0.2	4,096
RL-5	2,025	0.4	810
RL-40	320	0.025	8
Total Residential	**26,415**		**5,004**

The population projections identified earlier indicates that the population within the Agency's boundaries will be 6,154 by 2040. Based on the maximum residential build-out within the Agency's boundaries, the projected maximum population is anticipated to reach 11,759[19]. Likewise, based on the projected population for 2040, it is anticipated that the number of households within the Agency's boundaries will be 2,619 with a maximum potential build-out to reach approximately 5,005. These imply that the study area will reach 52 percent of its potential household and population capacity by 2040.

Population and Household Projection
Within Bighorn-Desert View Water Agency

	Projection 2040	Maximum Build-out	Ratio of 2040 Projection with Maximum Build-out
Population	6,154	11,759	0.52
Households	2,619	5,004	0.52

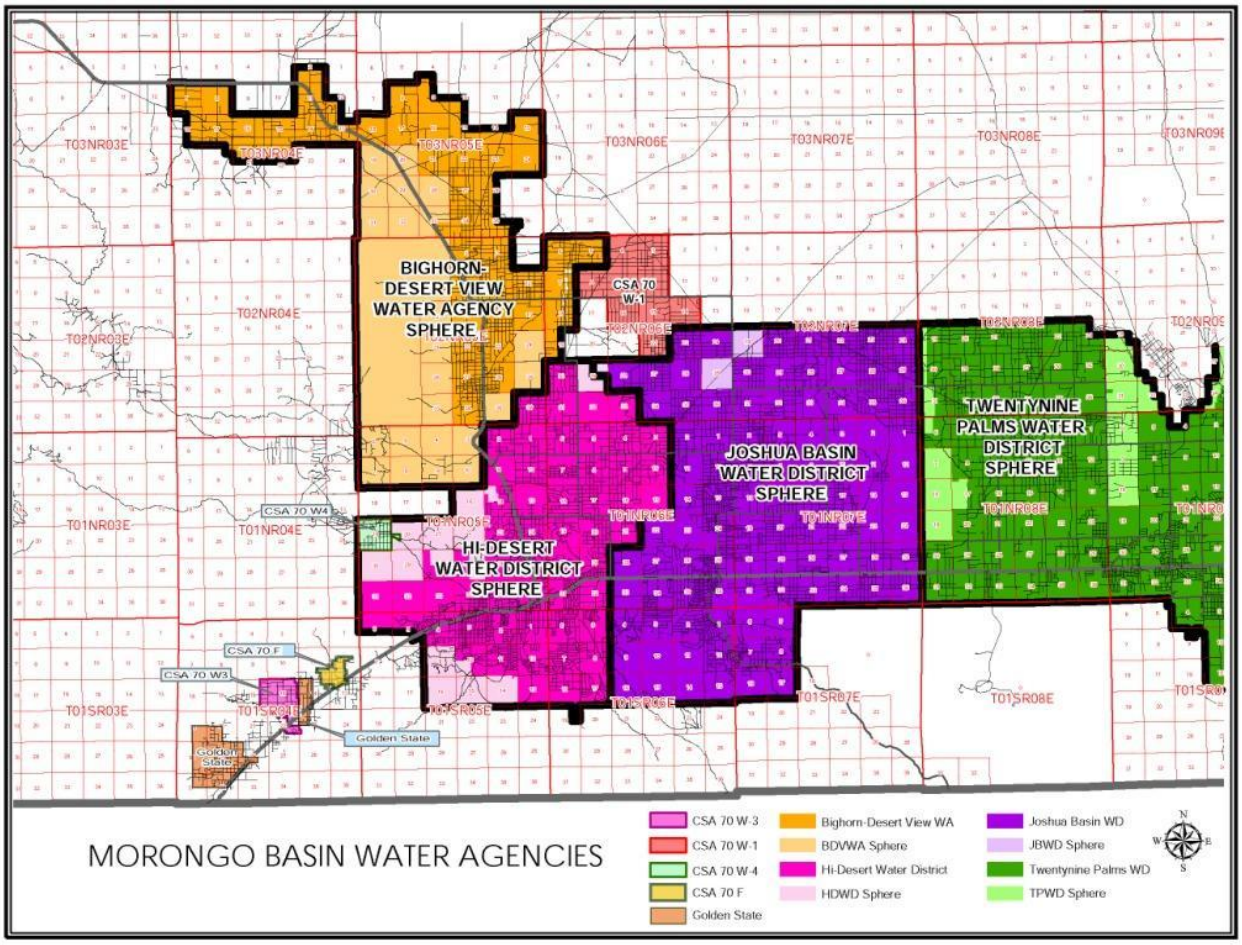
II. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

This section of the report first provides an overview of regional water issues and follows with a discussion on local water conditions and a review of the Agency's activities.

REGIONAL WATER

The Homestead community is located in the Colorado River Hydrologic Region, and is in the South Mojave Watershed as designated by the California Department of Water Resources.[20] The community is also within the boundaries of the Mojave Water Agency (MWA), a state water contractor.[21] The map below shows the public and major private retail water providers in the South Desert Region, which is included as a part of Attachment #1.

[19] Source: Persons per household @ 2.35 based on the ratio identified in the Homestead Valley Community Plan Potential Build-Out table
[20] California Water Plan, Update 2009, Integrated Water Management, DWR, Bulletin 160-09, Vol. 3, Colorado River.
[21] For more information on the Mojave Water Agency, please see LAFCO 3033 – Service Review and Sphere of Influence Update for MWA. (http://www.sbclafco.org/service_review/regional_agencies_north_desert.htm).



State Water Project (SWP)

As LAFCO staff has stated on many occasions, water is the lifeblood for communities in the desert regions due to its limited nature. The availability of water will ultimately determine whether or not a community will prosper in the desert environs of San Bernardino County. Therefore, the most significant regional issue for the Homestead community is present and future water supply. The *2007 State Water Project Delivery Reliability Report* indicates that SWP deliveries will be impacted by two significant factors. First, it is projected that climate change is altering hydrologic conditions in the State. Second, a ruling by the Federal Court in December 2007 imposed interim rules to protect delta smelt which significantly affects the SWP. Further, the *Report* shows, "…a continued eroding of SWP delivery reliability under the current method of moving water through the Delta" and that "annual SWP deliveries would decrease virtually every year in the future…" The *Report* assumes no changes in conveyance of water through the Delta or in the interim rules to protect delta smelt.

The Department of Water Resources prepares biennial SWP water delivery reliability reports in order to provide the public with reliability estimates for both current and projected 20 year conditions. This is accomplished by modeling the effects of current hydrologic and

SWP facility conditions and changes that are projected to occur. The table below summarizes the history of the current and future MWA contractual maximum annual amount from the SWP and the SWP reliability factors that have been and are being used for water supply planning purposes since 2005.

Year	MWA Table A(1) Annual Maximum	SWP Reliability Factor (long-term)	Average Annual SWP Yield (Acre-feet)
2005	75,800	77%	58,366
2007	75,800	66-69%	50,028 – 52,302
2009	75,800	61%	46,238
2010	82,800	61%	50,508
2015	85,800	61% (2)	52,338(2)
2020	89,800	61% (2)	54,778(2)

(1) Table A refers to the section within the MWA contract with DWR which specifies the maximum annual amount of water that the MWA can receive from the State Water Project.
(2) The 2009 Reliability Report estimated an average reliability of 60% for the SWP, but also modeled reliability for each Contractor, concluding that the average annual supply for MWA would be 61%. The 2009 Reliability Report estimate is the only known reliability variable at this time and is used for the purposes of this discussion and for water supply estimates in the MWA 2010 UWMP. Current court proceedings and efforts to address issues in the Delta (supply source for the SWP) may result in future changes to SWP supply reliability.
Source: Mojave Water Agency, 2010. Footnote (2) updated by LAFCO staff in 2011.

The 2007 Reliability Report concluded that contractors to the SWP could anticipate average reliability of 66-69% through the year 2027. The range was provided to account for variable impact associated with different conclusions about the potential effects of modeled climate change. The average assumes that in some years contractors are likely to be allocated less than the stated average and in some years contractors are likely to be allocated more than the stated average.

In 2009 the DWR provided an updated reliability report incorporating new biological opinions in place of the referenced interim rules promulgated by the Federal Court. The new biological opinions were significantly more restrictive than the interim rules and consequently the 2009 reliability analysis indicated a reduction in reliability to 61% for long-term (2029) conditions. MWA has subsequently acquired additional contractual amounts to SWP water, increasing the maximum annual amount from 75,800 acre-feet to 82,800 acre-feet in 2010, 85,800 acre-feet in 2015 and 89,800 acre-feet in 2020. Considering the DWR modeling results, the average annual yield to MWA would be 50,508 acre-feet in 2010 and 54,778 acre-feet in 2029.

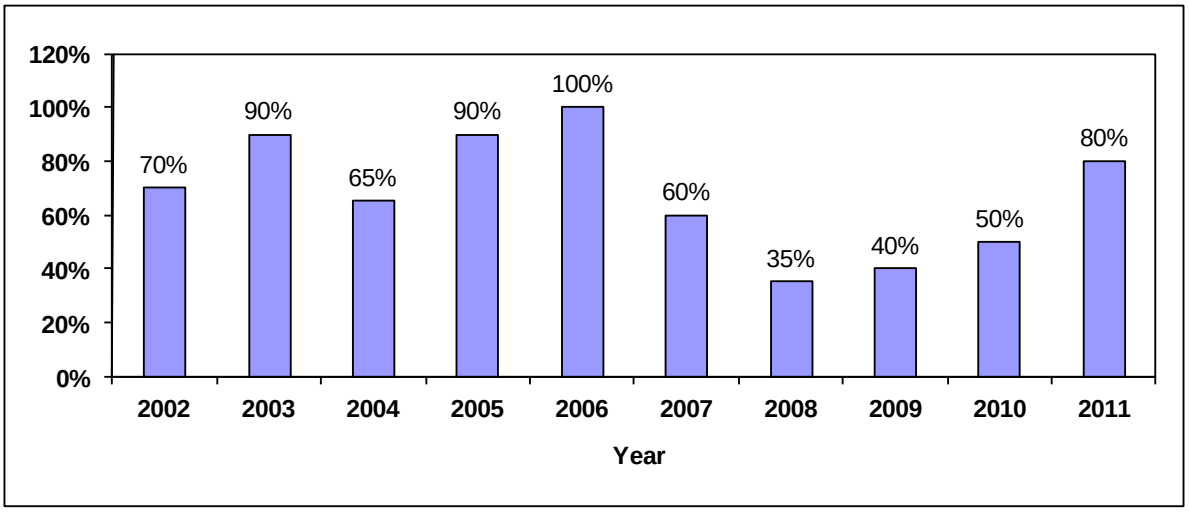
Since preparation of the 2009 Reliability Report, the same Federal Court has found the new biological opinions to be unacceptable (and inappropriately restrictive to Delta water exports) and has ordered them to be redone. There is also a major effort underway to develop a habitat conservation plan to address the myriad of issues impacting water supply exports from the Delta. That effort, if accomplished in a manner consistent with the “co-equal goals” of ecosystem restoration and water supply reliability envisioned by the State Legislature’s 2009 Comprehensive Water Package, is anticipated to significantly increase

reliability of the SWP water supply. The eventual success and/or resulting increase to reliability are unknown at this time; however, the outcome will eventually be reflected in the biennial DWR reliability assessments.

MWA operates under the guidance of its Board adopted integrated regional water management plan and is also required by State law to submit an Urban Water Management Plan ("UWMP") to the State of California every 5 years ending in "0" and "5". The MWA UWMP compiles information on all known water supplies and demand on a sub-regional scale for the entire MWA. Future water supplies and demand (population growth) are also projected for at least the ensuing 20 years. MWA adopted its 2010 UWMP in June 2011 which incorporates the most recent reliability information provided by DWR (2009), indicating a reliability of 61% on average. Initial analysis indicates that given projected growth rates, the modeled decrease in reliability for the SWP by DWR, and the acquisition of additional SWP contractual amounts by MWA, there will be sufficient supply to meet anticipated increased demands through the required 20 year planning horizon (2030).[22]

The figure below shows the allocation percentage that State Water Contractors were allowed to purchase since 2000, which averages 68% over the 10 years summarized. For example, MWA is entitled to purchase up to 82,800 acre-feet of imported water per year. For 2011, the allocation percentage was 80%[23]; therefore, MWA could purchase up to 66,240 acre-feet. MWA mitigates for this variability in supply by utilizing the significant water storage capability within the agency ground water basins to take delivery of SWP water when it is available. Water available from the SWP in excess of local demand is delivered and stored in the ground water basins to be used to meet demand during those years when the amount of water available from the SWP is less than the annual demand.

Department of Water Resources State Water Project
Final Allocation Percentages Statewide (2002-2011)

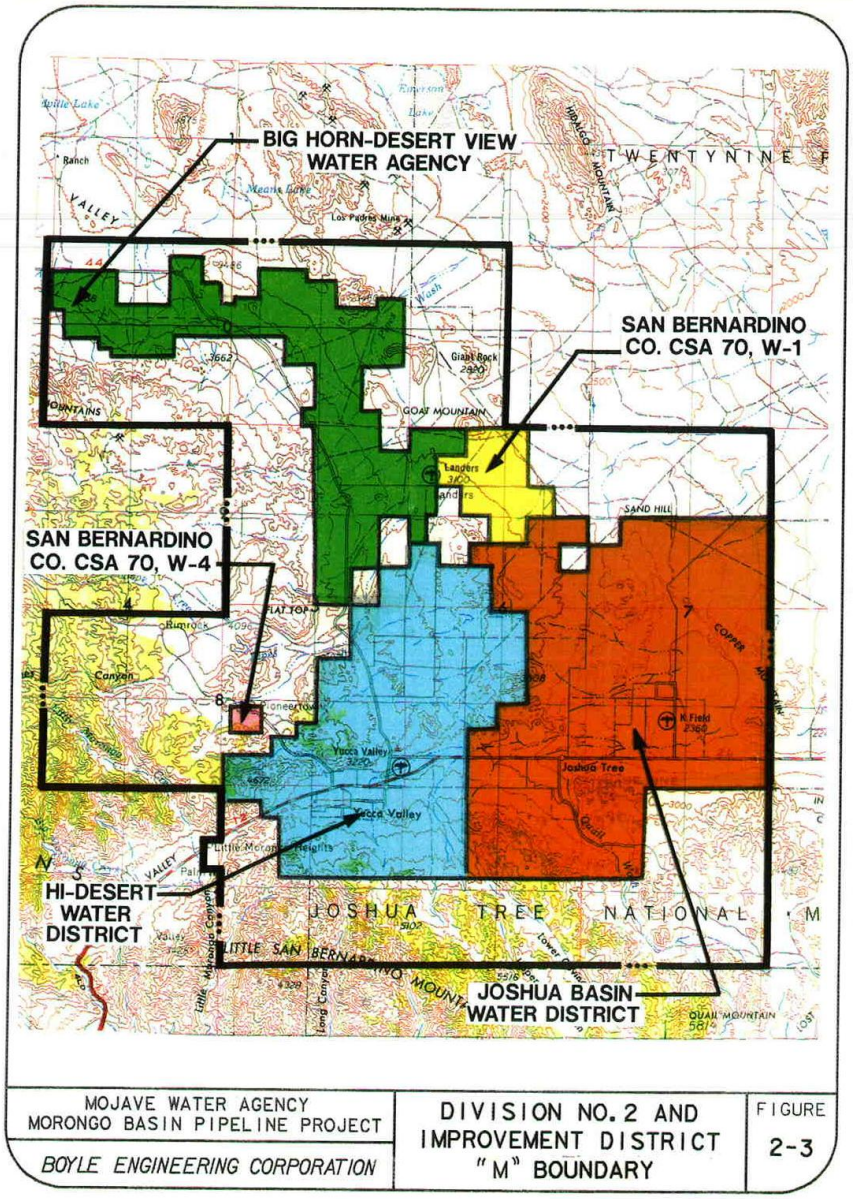


source: Department of Water Resources

[22] Mojave Water Agency, Final 2010 Urban Water Management Plan, Adopted June 2011. Also see Appendix F of the 2010 UWMP (Legal Analysis of State Water Project Reliability Factors).
[23] State of California. Department of Water Resources. "State Water Project Allocation Increased to 80 Percent", Press Release. 20 April 2011.

Morongo Basin Pipeline (Mojave Water Agency Improvement District M)

In 1990, the southeastern portion of the MWA's territory voted in favor of forming Improvement District M and to incur bonded indebtedness of $66.5 million to finance the construction costs of the Morongo Basin Pipeline. Construction on the approximately 71 mile Morongo Pipeline began in 1992 and was completed in 1995 and serves the areas of Johnson Valley, Joshua Tree, Landers, and Yucca Valley. The Pipeline delivers water from Hesperia to a five million gallon reservoir in Landers. From there, water is delivered to percolation ponds in the Yucca Valley area that act as natural filtration systems where water seeps back into the ground to recharge the aquifer. A map of MWA Improvement District M and its recharge facilities are shown on the map below.



The landowners of the improvement district are obligated to pay for 75% of the costs for construction of the Pipeline, and the participating agencies are obligated to pay the remaining 25%. The participating agencies each pay a share of the 25% as follows:

Improvement District M - Participating Agency Share

Agency	Original Share	Current Share
Hi-Desert Water District	59%	59%
Joshua Basin Water District	27%	27%
Bighorn-Desert View Water Agency	9%	9%
CSA 70 Zone W-1 (Goat Mountain)	4%	1%
CSA 70 Zone W-4 (Pioneertown)	1%	0%
MWA	0%	4%

Originally, County Service Area ("CSA") 70 Zone W-1 was obligated to pay 4% and CSA 70 W-4 to pay 1%. However, in 1995, MWA acquired 3% of the rights from CSA 70 W-1 and 1% from CSA W-4. According to County Special Districts Department staff, MWA was requested by the County Board of Supervisors to buy CSA 70 W-1 and W-4 shares due to lack of utilization of the water. The percentage share identified for each participating agency also reflects the percentage of water which they are entitled. The Board of Supervisors action relinquished its rights to purchase supplemental water from the Pipeline when they sold the W-1 and W-4 shares.

Improvement District M has entitlement of up to one seventh of MWA's original State Water Project water allotment of 50,800 acre-feet/year ("AFY"); this equates to 7,257 acre-feet per year (AFY).[24] The BDVWA has a nine percent share of the Improvement District M entitlement, or 653 AFY. At the time the Morongo Basin Pipeline agreement was executed among the participants and MWA in 1990, MWA's SWP allotment was 50,800 AFY. Subsequently, MWA has acquired additional allotment, currently at 82,800 AFY. Discussion continues as to whether the BDVWA and others within Improvement District M are entitled to a proportionate share of MWA's SWP allotment above 50,800.

The chart below shows the amount of supplemental water sent through the Morongo Basin Pipeline (Improvement District M) from 1998 to September 2010. Subsequent data is not yet available. Currently, the Agency does not utilize State Water Project resources but utilization of the Morongo Basin Pipeline is planned in the future. However, the entitlement extends only until 2022, at which time all agencies participating in Improvement District M will have access to supplemental water in the same manner as all other municipal water customers.

[24] Under maximum delivery conditions the Morongo Basin Pipeline could deliver 15,000 AFY. Delivery of the difference between the Improvement District M contracts and 15,000 would be per MWA Ordinance 9 and the equitable policies concerning water allocation adopted by MWA as most recently amended by MWA.

Mojave Water Agency Morongo Pipeline Deliveries

Year	Improvement District M Entitlement	BDVWA Share (9%)	SWP Allocation	BDVWA Share times SWP Allocation	Improvement District M Delivery
1998	7,257	653	100%	653	2,121
1999	7,257	653	100%	653	2,412
2000	7,257	653	90%	588	3,786
2001	7,257	653	39%	255	2,878
2002	7,257	653	70%	457	2,390
2003	7,257	653	90%	588	2,427
2004	7,257	653	65%	425	4,821
2005	7,257	653	90%	588	2,041
2006	7,257	653	100%	653	3,451
2007	7,257	653	60%	392	4,779
2008	7,257	653	35%	229	3,195
2009	7,257	653	40%	261	2,137
2010	7,257	653	50%	327	3,572
Total				6,068	40,010

source: Department of Water Resources, Mojave Water Agency
units in acre-feet unless otherwise noted
Year is reported from October through September

Additionally, MWA has a four percent entitlement share of the Morongo Pipeline. MWA delivers water through the pipeline for storage in the Warren Basin (Yucca Valley area) for potential sale at a later date. The BDVWA could purchase the water when there is not sufficient water to deliver because of reductions to the State Water Project allocation. The chart below shows the MWA storage from 1998 through 2009.

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Delivery	236	270	144	0	0	0	0	919	1,216	0	0	0

source: Mojave Water Agency
units in acre-feet
Data for 2009 is through September

Bulk Hauled Water

In remote areas of the south desert, the hauling of domestic water is the sole means for water acquisition. In a joint letter to county planning and building departments in 2003, the California Department of Health Services[25] and the California Conference of Directors of Environmental Health specify that, "bulk hauled water does not provide the equivalent level of public health protection nor reliability as that provided from a permanent water system or

[25] The California Department of Health Services has been reorganized since 2003 and water related health issues are coordinated under the California Department of Public Health.

from an approved onsite source of water supply." This statement is based on five potential public health risks for hauled water:

1. The potential for contamination exists when water is transferred from tanker trucks to water storage tanks.
2. Storage tanks are often the source of bacterial contamination.[26]
3. There is no assurance that licensed water haulers follow State guidelines at all times.
4. The future reliability of hauled water is susceptible to economic conditions.
5. There is generally a higher risk for contamination.

The letter further states that hauled water for domestic purposes should only be allowed to serve existing facilities due to a loss of quantity or quality and where an approved source cannot be acquired. A copy of this letter is on-file at the LAFCO staff office.

The County of San Bernardino recognizes the potential health hazards with hauled water. Future development will be restricted unless there is access to an individual well or domestic water system. Therefore, new development could not be approved without verification of access to a domestic water system. However, existing units without connection to a domestic water system or without individual wells on their property must rely on hauled water for domestic and other uses. County Code of San Bernardino Section 33.0623 (last amended in 1996) under Health and Sanitation and Animal Regulations reads:

> *Water furnished by a domestic hauler shall not be used as a source of water by any public water supply system unless it has been demonstrated to DEHS (Department of Environmental Health Services) that there are no reasonable means of obtaining an acceptable quality and quantity of groundwater, and that water treatment methods have been approved by DEHS. Exception: During an officially declared state or local emergency, a public water system may utilize hauled water as a temporary source of supply.*

Adherence to these parameters will limit new development within the Johnson Valley area for the future as it has no current mechanism for providing an organized retail water system for water delivery. Further, a review of the Agency's water plans does not identity plans for a water system in the Johnson Valley even though Johnson Valley is within the boundaries of the Agency.

<u>Water Rates</u>

Due to the limited size and type of outdoor landscaping that is prevalent throughout the South Desert, the average water usage is comparatively lower than other water agencies in San Bernardino County. A comparison of the residential water rates charged by the agencies within the Morongo Basin is identified in the chart below. As shown in the footnotes, some agencies receive a share of the one percent general levy property tax and/or assessments or additional charges.

[26] The Agency states that it provides bacteriological monitoring to any bulk hauler that would desire to obtain such a service.

Water Agency Rate Comparison (as of July 2011)
(rates measured in units, or one hundred cubic feet)

Agency	Water Use Fee				Monthly Meter Charge (3/4" Meter)	Monthly Average Cost (10 units of water)
	Tier One	Tier Two	Tier Three	Tier Four		
Bighorn-Desert View Water Agency [1]	$3.00	-	-	-	$27.50	$57.50
CSA 70 Zone F (Morongo Valley) [1]	$4.51	$5.02	$5.73	-	$57.25	$102.35
CSA 70 Zone W-1 (Landers) [1]	$3.87	$4.31	$5.54	-	$23.87	$62.57
CSA 70 Zone W-3 (Morongo Valley) [1]	$3.21	$3.57	$3.65	-	$40.84	$72.94
CSA 70 Zone W-4 (Pioneertown)	$5.86	$7.31	$9.88	$10.87	$31.05	$89.65
Golden State Water Company (Morongo)	$2.47	-	-	-	$28.15	$52.85
Hi-Desert Water District [1,2]	$3.59	$5.69	$6.89	$9.08	$11.80 [4]	$60.30
Joshua Basin Water District [1,3]	$2.14	$2.39	$2.57	$2.75	$23.82	$46.47
Twentynine Palms Water District [3]	$2.33	-	-	-	$11.00 [5]	$34.30

[1] Receives a share of the one percent ad valorem general tax levy
[2] District also charges monthly a pipeline surcharge and capital replacement charge
[3] District also charges a standby charge
[4] Charge is for 5/8" and 1" meter with 5/8" demand
[5] Charge is for 5/8" meter

Note: Standby charges are not included or referenced in this chart as they are not related to active connections.

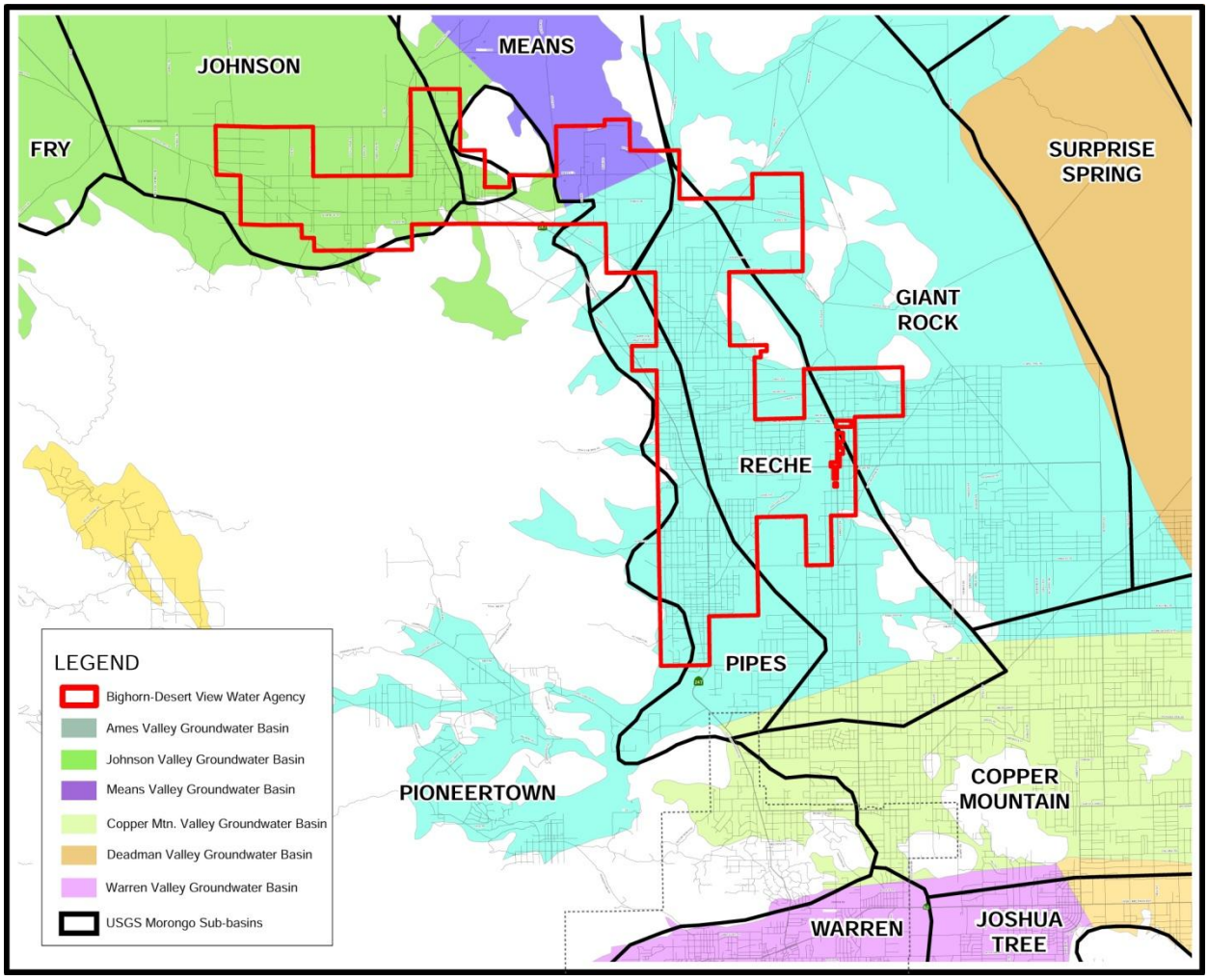
BIGHORN-DESERT VIEW WATER AGENCY

For the remainder of this service review factor, cited materials include excerpts from the Agency's narrative response to the factors for a service review, 2007 Water Master Plan, 2010 Initial Study for Water Infrastructure Restoration Program, 2011 Reche Spreading Grounds Recharge Feasibility Report, and the Mojave Water Agency 2010 Urban Water Management Plan. Other materials have been referenced but not cited.

Currently, the BDVWA is the sole retail water provider within the community, actively providing retail water service via a pressurized system to the Landers and Flamingo Heights areas. Most of the customers are residential with lots varying from 2.5 to 5 acres. Outdoor landscaping is mostly zeroscape requiring little, if any, water. Not all areas in the community have direct access to a piped retail water service; therefore, it is understood that water service to those developed properties is provided through on-site wells or through hauling of domestic water. Specifically, the Johnson Valley area is within the Agency but does not have a pressurized water system. In this area, bulk water is either retrieved by customers from an Agency well or delivered by a bulk-water hauler. Although local groundwater is currently the sole source of its water supply, BDVWA holds capacity in the Morongo Pipeline and may purchase State Water Project water from Mojave Water Agency ("MWA"), who is a contractor with the California Department of Water Resources ("DWR"). Currently, BDVWA does not have the necessary infrastructure to utilize this supply.

Groundwater Basins

The BDVWA service area overlies three groundwater basins, historically identified by the DWR as the Ames Valley, the Means Valley, and the Johnson Valley basins. Private individuals and municipal water providers pump groundwater from the Ames Valley and the Johnson Valley basins. The Ames Valley Basin coincides with portions of the United State Geological Survey ("USGS") Morongo Groundwater Basin, including the Pioneertown, Pipes, Reche, Giant Rock and Emerson Sub Basins. Most of the pumping is from the Ames Valley Basin. County Service Area 70 Zone W-1 as well as the Hi-Desert Water District ("HDWD") also pump groundwater from the Ames Basin. Water pumped from the Johnson Valley Basin is pumped into a 10,000 gallon reservoir. Residents in that area receive water using a truck delivery service or via self-hauling.



<u>Ames Valley Groundwater Basin</u>

The Department of Water Resource's Bulletin 118 (last updated February 2004) describes the Ames Valley Groundwater Basin as follows:

> This groundwater basin underlies Ames Valley, Homestead Valley, and Pipes Wash in the south central San Bernardino County. The basin is bounded by nonwater-bearing rocks of the San Bernardino Mountains on the west, of Iron Ridge on the north, and of Hidalgo Mountain on the northeast (Rogers 1967). The Emerson, Copper Mountain, and West Calico faults form parts of the eastern and northern boundaries. The southern boundary and parts of the northern and eastern boundaries lie along surface drainage divides. The valley is drained northeastward by Pipes Wash to Emerson (dry) Lake. Average annual precipitation ranges from 4 to 12 inches.
>
> Natural recharge of the basin is mainly from percolation of stream flow from the San Bernardino Mountains and precipitation to the valley floor (Mendez and Christensen 1997; Bookman-Edmonston Engineering 1994). Percolation of septic tank effluent from the town of Landers and surrounding communities also contributes to recharge of groundwater. Some subsurface inflow may come from Means Valley Groundwater Basin, and subsurface outflow probably crosses the Emerson fault into Deadman Valley Groundwater Basin (French 1978; Mendez and Christensen 1997).

Means Valley Groundwater Basin

Bulletin 118 states the principal source of recharge to the basin is likely percolation of runoff from surrounding mountains, with a minor contribution from percolation of precipitation to the valley floor and subsurface flow across the Johnson Valley fault southwest of Means Lake. Groundwater may migrate through fractures in bedrock toward Emerson Lake as subsurface outflow. The following description of the Means Valley Groundwater Basin is taken from Bulletin 118.

> This groundwater basin underlies Means Valley in southcentral San Bernardino County. The basin is bounded by nonwater-bearing rocks and a drainage divide on the north, by a drainage divide on the south, by the Johnson Valley fault on the west, and by the Homestead Valley fault on the east. Drainage is to Means (dry) Lake in the central part of the valley. Annual average precipitation ranges from about 4 to 8 inches.

Johnson Valley Groundwater Basin

The following description of the Johnson Valley Groundwater Basin is taken from Bulletin 118.

> Upper Johnson Valley Subbasin underlies the Upper Johnson Valley in the southern Mojave Desert. The subbasin is bounded on the north by the Fry Mountains and on all other sides principally by other unnamed crystalline rocks. The western boundary follows the Johnson Valley fault, and surface drainage divides form parts of the southern and eastern boundaries. Upper Johnson Valley has internal surface drainage that converges to Melville (dry) Lake. Average annual precipitation ranges from 4 to 6 inches.

Ames Valley Basin Water Agreement

Although not a full adjudication[27], the court approved Ames Valley Basin Water Agreement is a 1991 Agreement between the Agency and HDWD. The agreement was initiated by BDWVA due to concerns about a proposed well called the Section 24 Well[28], sometimes called the Mainstream Well in the Ames Valley Basin and possible export of water from that well out of the basin. The Ames Valley Water Basin Agreement provides a partial solution to management of the Ames Valley Basin. The agreement sets forth a legal description of the Ames Valley Basin that does not conform to either the DWR or USGS descriptions and refers to the combined Ames Valley and Means Valley Basins. The basic terms of the agreement are as follows.

1. *Production from the Section 24 Well and any additional wells owned by HDWD, within the Ames Valley Water Basin would be limited to 800 acre-feet per year.*

2. *The production could be increased beyond 800 acre-feet per year depending on the needs of the property owners in the basin by an amount not to exceed one-half of an acre-foot per year per each new water meter installation by HDWD.*

3. *Water from the wells in the Ames Valley Basin would be used only within that basin.*

4. *Establish a monitoring program to mitigate potential environmental damage to the hydrologic resources of the basin caused by the Section 24 Well.*

5. *An environmental review is required if criteria set forth in the agreement with respect to water quality and groundwater level elevations are exceeded. The agreement was amended on two separate occasions. These amendments changed the manner in which a consultant was selected to implement the monitoring program. The terms of the judgment were the similar to those in the agreement. Portions of the agreement were revisited by the court at the request of HDWD who sought to expand the areas of use of water from the Section 24 Well. The court did not rule in favor of HDWD and the agreement remains.*

At the time the Agreement was entered, the HDWD service area included areas within the Ames Valley Basin and the Warren Valley Basin. The agreement is currently in the process of being revised to include BDVWA, MWA, HDWD, County Service Area 70 Zone W-1 (Landers) and County Service Area 70 Zone W-4 (Pioneertown) to provide a monitoring and management plan for operation of the Basin with the Ames Valley Recharge Project. The revision will require the parties to enter into a Stipulation to Enter an Amended and Restated Judgment which shall then supersede the existing 1991 judgment. When approved, this agreement will replace the 1991 Stipulated Judgment and will be

[27] Adjudication is defined in the *2005 California Water Plan* as the "Act of judging or deciding by law. In the context of an adjudicated groundwater basin, landowners or other parties have turned to the courts to settle disputes over how much groundwater can be extracted by each party to the decision." California. Department of Water Resources, *California Water Plan Update 2005*, Vol 4, Glossary (2005).

[28] The location of this well is the same location as the proposed Ames-Means (aka Reche) Recharge Project. The proposed well is located on a 160-acre government-owned parcel (APN 0629-211-01).

incorporated into the groundwater monitoring program ("GWMP") discussed in further detail below. A basin-wide GWMP will provide the necessary data for effective management into the future. Collectively, the agreement and GWMP will provide the institutional framework for the purchase, recharge, and recovery of imported SWP water through the Morongo Basin Pipeline Agreement.

Current Supply and Demand

Facilities and Connections

BDVWA provides water service to customers in portions of Flamingo Heights, Landers, and Johnson Valley. The existing BDVWA infrastructure consists of eight wells, nine reservoirs located in seven active pressure zones, booster pumps, 14 pressure reducing valves, and 108 miles of pipelines.

As of June 2011, there are eight wells all of which are active. Well 4 is in inactive status with the Department of Public Health. Wells 2 and 4 share a single power supply limiting operation to one well at any given time. The same case exists with Wells 6 and 7. The wells produce on average about 500 gallons per minute totaling over 1.8 million cubic feet per day. This equates to roughly 500 acre-feet annually. Two of the wells in the northern portion of the Agency (Bighorn portion of the Agency) are for bulk service (via four separate hauling stations) and produce roughly 66,000 cubic feet, or roughly five percent of all water consumed.

BDVWA has more than 108 miles of pipe within its system. The majority of its pipeline is 6-inch (71%) and 8-inch (22%) mains. BDVWA also has minor amounts of 10-inch, 12-inch and 20-inch mains. All of the pipes are asbestos cement and polyvinyl chloride with the exception of the 20-inch pipe which is mortar lined and cement coated steel pipe. All three of these types of pipe meet American Water Works Association standards. In the past, records were not kept of length and date of installation of each type of pipe. Thus, the Agency is unable to define the exact age, although the system in general is approximately 30 years old. Most of the pipe however is thought to be asbestos cement.

Pressure reducing valves ("PRVs") are generally used to transfer water from one pressure zone to another. In areas of substantial elevation, PRVs are used to provide reasonable pressure in lower lying areas where pressure would otherwise be too high. BDVWA has fourteen PRVs that take water from a higher pressure zone and deliver it to a lower pressure zone. All of the valves are either 8-inch or 6-inch valves. Some of the pressure reducing valves are equipped with a bypass which allows smaller amounts of water to flow into the lower pressure zone during times of minimal use. PRV bypasses are also necessary to maintain pressure during repair of the primary reducing valve.

The agency's intertie with Hi-Desert Water District ("HDWD") is currently disconnected and isolated from cross-connection. According to the Agency, the pump was removed many years ago; however, with minimal effort a connection could be made whereby the Agency could receive water via gravity flow from HDWD. More work would be needed for the Agency to pump water into HDWD's system. The two agencies are actively seeking a new,

permanent emergency intertie solution. In addition, the Agency has the ability to "high line" a connection between fire hydrants to create an emergency intertie with CSA 70 Zone W-1.

Many of the Agency's fire hydrants do not produce sufficient flow and pressure to meet the current fire flow standard of 1,000 gallons per minute with a residual pressure of 20 pounds per square inch. This fire flow standard is identified in the County Development Code.

Connections and Water Use

Historic Annual Use				
Calendar Year	**Customers (active meters)**	**Recorded Water Sales (acre-feet)**	**Production per Customer (af/cust)**	**Production per Customer (ccf/ cust)**
2000	1,533	488	0.32	139
2001	1,529	429	0.28	122
2002	1,532	527	0.34	150
2003	1,532	488	0.32	139
2004	1,522	519	0.34	149
2005	1,549	462	0.30	130
2006	1,584	508	0.32	140
2007	1,566	504	0.32	140
2008	1,554	491	0.32	138
2009	1,592	452	0.28	124
2010	1,554	411	0.26	115
Average	**1,550**	**480**	**0.31**	**135**

Since at least 2000, the Agency has provided water service via pipeline to about 1,550 metered connections, most of which are residential consumers. The area served in this manner is approximately 18,720 acres (68% of the Agency's area). In looking at the average use in the chart above, total water use and production per customer has decreased each year since 2006. According to the Agency, the reason for less water production is due to the area's water conservation efforts. Currently, the Agency has approximately 400 inactive meters.

The Agency's rate structure is based upon a single rate for water use – it does not utilize tiered rates. Tiered rates, in which customers are charged different rates according to the amount of water used, are utilized as an incentive for conservation. The Agency has stated that until the old and under-reported meters are replaced, consumption charges cannot be addressed.[29]

Johnson Valley

The entire area known as Johnson Valley does not have a pressurized water system. The Agency states that it has approached the Johnson Valley community regarding the potential

[29] Unger, Rebecca. (2008, December 6). Bighorn Rates Pass. *Hi-Desert Star*.

for a future water system and that the community has responded in general that the implementation of a water system would be too costly in addition to fostering development. Population densities are so low that there are not enough customers to financially support the construction of a water system.

Johnson Valley Water Hauling Station

BDVWA operates and maintains four bulk water hauling stations. Three are connected to the pressurized water systems constructed by the predecessor agencies Bighorn Mountains Water Agency and Desert View Water District. One of the bulk hauling stations connected to the pressurized system is located on the east end of Johnson Valley at Bodick Rd. and Kickapoo Trail. Residents of the Johnson Valley community utilize this facility as well as others who utilize the Well No. 10 facility.

The fourth is a "standalone" water system located in Johnson Valley located within the boundaries of the predecessor Bighorn Mountains Water Agency. Johnson Valley has a standalone water hauling station supplied by a single groundwater well and a 10,000 gallon storage reservoir. The single well in the community was constructed from grant funding obtained by the County and the Agency now operates this well. This site serves approximately 41 residential self-hauling customers and approximately four commercial (licensed and unlicensed) water hauling customers who deliver water to an unknown number of customers. The Agency has no current plans to extend pipeline service to the Johnson Valley area. Population densities are so low that there are not enough customers to financially support the construction of a water line and appetent water system. The Agency states that redundancy in the Johnson Valley bulk system is needed and is seeking financial participation for an existing U.S. EPA STAG grant to conduct a hydro-geologic investigation in Johnson Valley to determine where a new well should be located.

The Agency has provided the following explanation of its actions regarding bringing a retail water system to Johnson Valley:

> *Attempts to bring a pressurized water system were first evaluated in 1967 by Albert A. Webb & Assoc. on behalf of the proposed Johnson Valley County Water District Committee. The JV County Water District was never formed and eventually JV became part of the Bighorn Mountains Water Agency service area. Since that time the Agency has actively engaged in its mission to provide water to its service area. The following summarizes activities to date:*
>
> - *In 1994, a Community Development Block Grant was awarded and the Agency executed a Maintenance and Operations Agreement (No. 94-340) for the construction of a community well in JV. In 1995, an Addendum was issued to the original Agreement and the County Special Districts Department began construction of the well in 1996 and Notice of Completion was filed in 1998. The Agency committed contractually to operation and maintenance of the well for 10 years from the Notice of Completion. The ten year commitment has expired but the Agency continues to maintain Well No. 10.*
>
> - *In 2005, an EPA State and Tribal Assistance Grant was awarded which provided for 55% funding for Johnson Valley Hydrologic Investigation ("JVHI"). The basis for the award was to perform additional studies to better define the characteristics of the basin*

for the benefit of the region. This project includes the construction of an 8-inch diameter test well.

- *In April 2007, the Agency received the final report entitled, Basin Conceptual Model and Assessment of Water Supply and Demand for the Ames Valley, Johnson Valley and Means Valley Groundwater Basins.*

- *In 2008, the Agency received federal authorization under the Water Resources Development Act (WRDA) for $15 million to assist in the construction of a water system in JV and to interconnect it with the existing B-zone of the Agency.*

- *In December 2010, the Board of Directors authorized staff to proceed with completion of the JVHI using the EPA Grant funds remaining.*

- *In April 2011, Board of Directors authorized staff to actively seek a willing property seller for the location of the JVHI test well.*

- *In July 2011, Board authorizes purchase of 5-acres of real property for locating the JVHI test well.*

- *In November 2011, Board of Directors authorizes the execution of a Professional Services Agreement with Daniel B. Stephens & Associates for the completion of the JVHI test well. The contract total is $171,000 with EPA providing matching grant funds.*

The BDVWA does not consider hauled water to be an enterprise function of the Agency in the classic sense because it is obligated to operate under the conditions of the consolidation with respect to segregation of funds (Section 33305 of the Water Code, known and cited as the Desert View Water District-Bighorn Mountains Water Agency Consolidation Law). However, the Agency is interested in the overall cost to operate and maintain the bulk system to ensure rates and charges are fair and equitable across the Agency. Therefore, the Agency has set up subaccounts in the general ledger to track revenue from bulk water sales and direct expenses to the Bulk system. According to the Agency, in the future this procedure will add labor efforts and Agency overhead as well.

As mentioned, the lack of a pressurized water system results in either on-site wells or water hauling from the single well operated by the Agency. Adherence to the parameters outlined in the County Development Code will limit new development within the Johnson Valley area for the future as it has no current mechanism for providing an organized retail system for water delivery. Further, a review of the Agency's current water plans does not identity plans for a water system in the Johnson Valley even though Johnson Valley is within the boundaries of the Agency.

In February 2010, the Agency conducted a survey regarding community desires for water supply. The survey was mailed to all property owners in Tax Rate Areas 88015, 94036 and 94043. Three primary questions were asked and they were directed at any interest in pressurized water, an interest in a redundant bulk water supply, or a "do nothing" option. With a 30% return rate approximately 60% of the respondents expressed a desire for pressurized water service. The primary written comment was a question of cost. At two public hearings, the Agency has presented a task list for developing and completing a

pressurized water system in JV as well as outlining parcel identities, basic facilities needed and other features.

Johnson Valley Improvement Association

The Johnson Valley Improvement Association ("JVIA") operates a food facility at its community center. The JVIA community center was notified by the County Department of Public Health ("DPH") that it was not meeting the requirements of a Transient Non-Community Water System. In letters from the DPH to the JVIA from February 2011 and September 2011, the DPH states that hauled water is not a viable potable source for a food facility, and that the water system must be connected to an approved well.

As part of the 2011-12 budget process, the Board of Supervisors set aside an allocation for the five supervisorial districts to finance unbudgeted priority policy needs as identified by the Board throughout the fiscal year. One such project identified by the Third District involves providing financial assistance to JVIA to assist in funding for drilling and installation of a water well, tanks and storage, hood fire suppression system, kitchen equipment to include freezer and/or refrigerator, permits and fees for the Community Center. The Community Center and adjacent County Fire Station does not have access to retail water lines and has to rely on hauled water. In October 2011, the County and the JVIA entered into a contract for the distribution and use of the funds[30].

The contract between the County and the JVIA reads that the funds would assist the Johnson Valley Community Center to become more self-sufficient; and assist the local Fire Station by acquiring, drilling and installing a water well, tanks and storage, a hood fire suppression system, and kitchen equipment to be used in those two facilities. The estimated cost for the project total was $82,000 and this amount was provided to the JVIA by the County. According to the contract, all funds provided under this contract must only be spent on the acquisition, installation and completion of the project to provide water to the Community Center and Fire Station. In the event there are funds remaining after completion of the project, the JVIA may use remaining funds to purchase a generator, kitchen upgrades and other kitchen equipment. The JVIA has until October 1, 2012 to complete the project.

The Agency states that it informally attempted to assist the JVIA in finding an acceptable resolution to this issue, such as reverse osmosis treatment of the bulk water entering the facility, but the JVlA Board of Directors declined to formally seek the assistance from the Agency. The Agency has identified that is does not have issue with the JVIA having its own well, as it is entitled to its overlying groundwater rights, for its on-site water needs. The Agency has, however, expressed concern that the water produced from the well could be utilized off-site, as the JVIA is not a licensed public or private water purveyor (the only licensed retail water purveyor overlaying the Johnson Valley is the Agency). To allay these concerns, the contract includes the following, "Water from the well which constitutes the project may only be used for the Community Center's and Fire Station's internal use; water from the well may not be circulated or distributed for use in any manner outside the

[30] Per adopted County policy, contracts under $100,000 may be approved by the Purchasing Department and need not be approved by the Board of Supervisors at a public hearing.

Community Center and Fire Station except in the event of an emergency." Further, Section 49 of the Agency's Special Act prohibits the establishment of a competing water provider within its boundaries without the consent of the Agency. Therefore, the exportation of water from the parcel would be in violation of the contract and Bighorn-Desert View Water Agency Law.

At first glance, this may seem to be a governmental inefficiency – the County assisting in the acquisition of a local water source when the area is already under the retail water responsibility of the Agency. However, the contracted use of the water is for on-site purposes and is not intended as a source for off-site use such as water hauling. Further, this method serves the JVIA as property owner and community center patrons financially best because the drilling of the well is funded with a County grant and not paid by the property owners.

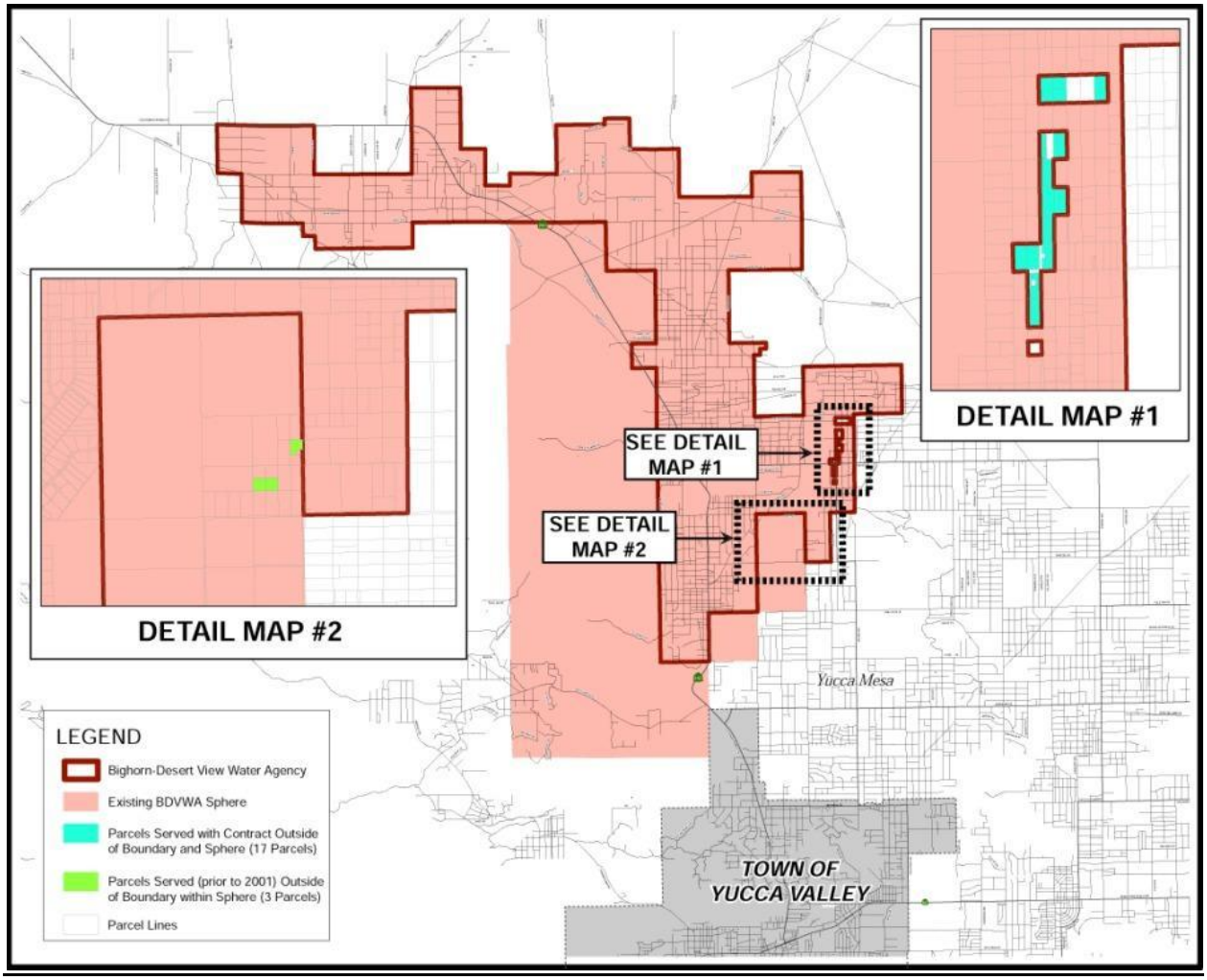
As mentioned above, the Johnson Valley community in general has expressed interest in a pressurized water system but that the implementation of a water system would be too costly. Population densities are so low that there are not enough customers to financially support the construction of a water system.

County Service Area 70 Zone W-1

In 1995 the Agency submitted a proposal to detach approximately eight square miles from its boundaries in the Landers area (LAFCO 2792) constituting the territory of CSA 70 W-1. Since the formation of CSA 70 W-1, there were a number of disputes between the residents served by CSA 70 W-1 and those served by the Agency. LAFCO 2792 was a means of resolving these periodic disputes. The justification for the application was that residents of CSA 70 W-1 received no specific benefits from the Agency but that CSA 70 W-1 residents voted on the Agency's ballot measures, affected Agency board decisions, and the area could have representation on the Bighorn board. The Commission approved the proposal because it eliminated an overlap of similar-purpose agencies and could possibly lead to a less contentious relationship between the residents of the two agencies.

However, BDVWA was best suited to continue providing retail water to approximately 17 customers within the boundaries of CSA 70 W-1 because the CSA 70 W-1 system for that area deteriorated and could not provide adequate water service and pressure. The arrangement for this service is a contract between the Agency and the County (as the governing body for CSA 70 W-1) signed in December 1997 for the purpose of providing water service to specific properties located within the CSA 70 W-1 service area.[31] At this time, BDVWA does not charge a special rate to these customers that are outside of the Agency's boundaries. The map below (refer to Detail Map #1) shows the location of the 17 parcels within CSA 70 W-1 that the Agency serves through a contract.

[31] County Contract No. 97-1059



Future Supply and Demand

According to the MWA 2010 Urban Water Management Plan, the local groundwater supply available to BDVWA is estimated to be 500 acre-feet. It is estimated that during the current planning horizon the population could increase by 49 percent. BDVWA will need between 749 and 829 acre-feet per year in order to supply its current and future customers (shown in first figure below taken from BDVWA 2007 Master Plan). The MWA 2010 UWMP further states that BDVWA will need facilities to produce about 2,388 gallons per minute to meet the maximum day plus-fire flow. Looking at the second figure below taken from the MWA 2010 UWMP indicates that the Ames Valley groundwater basin, where most of the pumping occurs, should have a safe yield of 900 acre-feet/year in normal and dry years.

Table 2.6
Present and Future Water Requirements Without Section 35

Year	2006	2010	2015	2020	2025
Number of Connections	1,582	1,742	1,942	2,142	2,342
Annual Requirement (af/yr)	506	557	621	685	749
Average Day (gpm)	314	346	385	425	465
Maximum Day (gpm)	847	933	1,040	1,147	1,254
Peak Hour (gpm)	1,356	1,493	1,664	1,836	2,007
Maximum Day Plus Fire Flow (gpm)	1,847	1,933	2,040	2,147	2,254

TABLE 3-11
MORONGO BASIN/JOHNSON VALLEY AREA GROUNDWATER BASINS SUPPLY RELIABILITY

Anticipated Supply	Normal Year[a] (afy)	Single-Dry Water Year (afy)	Multiple Dry Water Year (afy)
Regions			
Ames Valley[b]	900	900	900
Johnson Valley[c]	900	900	900
Means Valley[c]	20	20	20
Copper Mountain Valley/Joshua Tree[d]	200	200	200
Warren Valley[e]	100	100	100
Total	**2,120**	**2,120**	**2,120**

Notes:
(a) To avoid double counting with MWA's demand forecast model which includes return flows from septic tanks, this normal year has been calculated as the safe or perennial yield of the basin and does not include return flows in the safe yield calculation.
(b) Todd Engineers is completing a "Hydrogeologic Feasibility Study and Groundwater Management Plan for the Ames/Reche Project" for the Bighorn Desert View Water Agency, in 2011, that will better define the Ames Valley perennial yield. The perennial yield of 900 afy shown above represents subsurface inflow/recharge to the region only and no return flows are included.
(c) Source: "Basin Conceptual Model and Assessment of Water Supply and Demand for the Ames Valley, Johnson Valley, and Means Valley Groundwater Basins", April 2007, Kennedy/Jenks/Todd. Tables in ES.
(d) USGS Nishikawa, Izbicki et al., 2004.
(e) USGS Nishikawa, Densmore et al., 2003.

In April 2007, BDVWA adopted the Bighorn-Desert View Water Agency Water System Master Plan ("WSMP"). The master plan identified the following deficiencies in the existing infrastructure: heavy reliance on 6-inch and 8-inch water mains which do not provide adequate fire flow; inability of most reservoirs to refill overnight after a 500-gallons-per-minute (gpm) fire; need for spreading grounds for groundwater storage and recovery; a groundwater management plan and the inefficient operation of portions of the system. Once the deficiencies were identified, the Agency prepared the Bighorn-Desert View

Water Agency Water Infrastructure Restoration Program ("WIRP"). The WIRP outlines specific system improvements to remediate these deficiencies.

Two WIRP projects that are near completion include a Groundwater Management Plan ("GWMP") and the Ames Valley Recharge Project. Local groundwater is currently the sole source of its water supply, but BDVWA has annual nine percent capacity from the Morongo Basin Pipeline and may purchase State Water Project ("SWP") water from MWA. Although the infrastructure needed to deliver SWP water to the Ames Valley region already exists, additional facilities are needed to convey imported SWP water to spreading grounds for recharge, storage, and subsequent recovery. A Feasibility Study, including a groundwater model, is scheduled for completion in 2012 which will document the ability to store and recover SWP water in the basin. This document will also outline the ability of water to be routed to Pioneertown (CSA 70/W-4) enabling the area to supplement its groundwater supply.

BDVWA is the Lead Agency for the WIRP and the GWMP, but the implementation also includes other participating agencies. MWA is a financial participant, while Hi-Desert Water District and County Service Area 70 are cooperative partners who will benefit through participation in the groundwater storage and recovery program. The GWMP will address the purchase of SWP water for recharge and pumping restrictions in the event that overdraft conditions are not controlled.

Ames Valley Recharge Project

The proposed Ames Valley Recharge Project will deliver SWP water to the Ames Valley for recharge at the Pipes Wash Spreading Grounds to mitigate historical overdraft conditions in the Region. This project was originally identified as the Ames/Means Valley Recharge Project in the MWA 2004 Regional Water Management Plan, but since recharge is occurring only in the Ames Valley, it is also referred to as the Ames Valley (or Reche) Recharge Project. This report will refer to it as the Ames Valley Recharge Project. The recharge project will serve water agencies using groundwater in the basin including BDVWA, HDWD, and CSA 70 (through its zones W-1 and W-4). BDVWA, in cooperation with MWA, is implementing the project, which consists of a feasibility study, approximately 0.75 miles of conveyance pipeline to connect to the Morongo Basin Pipeline, recharge to the Pipes Wash, and the installation of monitoring wells. The initial recharge capacity is planned at 1,500 AFY. A map of the spreading grounds and pipeline connection is included as a part of Attachment #2.

The project envisions the banking of water from the State Water Project. Each participating entity would accrue water in a water storage account. The water would be purchased, and percolated into the groundwater basin. There would be no restrictions on the use of that water and inter-entity transfers could occur as well. This project is intended to mitigate impacts from over pumping of the Ames Valley Basin, provide for beneficial use of water and insure the conjunctive use of local groundwater and imported water from the State Water Project.

The proposed project will utilize an Environmental Protection Agency State and Tribal Assistance Grant (grant) to complete tasks associated with environmental proceedings for

the WIRP and the Ames Valley recharge basin. Additionally, the Agency and MWA have executed a memorandum of understanding to secure the 45% matching funds for the remainder of the grant as well as MWA pledging up to $1 million to construct the project. According to the Agency, at this time the project is expected to be operational by July 2012.

III. Financial ability of agencies to provide services.

For this report, staff has reviewed the Agency's budgets and audits, State Controller reports for special districts, and County filing records. The first three sections of this determination review activities that relate to the two predecessor districts. The remaining sections review the financial ability and requirements of the Agency.

Net Assets and Property Tax Assessments

According to the Agency's financial statements, the bond resolutions of the Agency and those of its predecessor districts contain provisions that require the tracking of certain operational funds with respect to the geographical areas of the two predecessor districts. The following is a description of this matter taken from the FY 2009-10 financial statements.

> *Prior to fiscal year 2010, the Agency took the position that property tax assessments associated with each predecessor district were restricted solely for the payment of principal and interest associated with the debt of that predecessor district.*
>
> *However, legal research conducted in fiscal year 2010, disclosed the following:*
>
> *Section 9 of the Resolution No. 174 of the Bighorn Mountains Water Agency dated June 21, 1977 states: "The Board of Directors, so far as practicable, shall fix such rate or rates for water in Improvement District No. 1 as will result in revenues which will pay the operating expenses of the improvement district, which provide for the operating expenses of the improvement district, provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on the bonded debt, and provide a sinking or other fund for the payment of the principal of such debt as it may become due. If the revenues of the improvement district will be inadequate for any cause to pay the expenses set forth above, the Agency must provide for the levy and collection of a tax sufficient to raise the amount of money determined by such Board of Directors to be necessary for the purpose of paying such charges and expenses as set forth above and the principal and the interest on the bonds as the same become due."*
>
> *Similarly, Section 5.11 of Resolution No. 304 of the Desert View Water District provides that revenues of the Agency will be used to pay "any reasonable and necessary maintenance and operation costs of the Enterprise.*
>
> *Section 33305 of the Desert View Water District-Bighorn Mountains Water Agency Consolidation Law and Section 31012 of the County Water District Law provide as follows:*

a) *All funds derived from the operation of the former district system shall be separately accounted for and used exclusively for the purposes of maintenance, operation, betterments, and bond debt service of the acquired system.*

b) *No funds derived from the former district system shall be used for any other such purpose until all debt of that former system has been paid in full or until a former system has authorized such other expenditures.*

The above restrictions remain in effect until a vote of the electorate of each predecessor district authorizes differently.

Based on the language above, legal counsel has concluded that all revenues (not just property tax levies) of each predecessor district are restricted for the expenditures of that district. It was also determined that qualified uses of such restricted revenues include the operating expenses (not just principal and interest payments) associated with that district.

As of June 30, 2011, the portions of net assets associated with this restriction are as follows:

Bighorn Mountains Water Agency ("Bighorn"):	
Invested in capital assets, net of related debt	$ 2,302,548
Resources restricted for Bighorn	(182,214)
Total Bighorn Mountains Water Agency	$ 2,120,334
Desert View Water District ("Desert View")	
Invested in capital assets, net of related debt	$ 1,028,625
Resources restricted for Desert View	1,164,613
Total Desert View Water District	$ 2,193,238

LAFCO Resolution No. 2255, approving the consolidation of the two predecessor agencies, conditioned that the indebtedness of each district remain the legal obligation of only the lands and areas which incurred such indebtedness, and that improvement districts of each entity shall be the improvement districts of the consolidated agency. Additionally, LAFCO staff's review of the legislation allowing for the consolidation identifies specific reference regarding the use of the revenues from the predecessor districts and identifies that it can only be changed when "until a former system has authorized such other expenditures". That would mean that the funds from the former districts would have to be used within the former territory and separately accounted. Whereas the separation may be inefficient, the law requires it until the Agency takes the matters to the voters.

The Agency has identified to LAFCO that it acquired new legal counsel since the completion of the FY 2009-10 audit, and the legal counsel is currently reviewing this matter. Questions at this time generally revolve around how the Agency should operate its finances. Would keeping the separate books increase expenses as the staff workload and operational activities are tracked and then split accordingly? Would this lead to a different rate structure

with a single administration operating and tracking essentially two different systems? At this time, the Agency is not taking any action until a proper analysis can be undertaken.

Long-Term Debt

The Agency is presently repaying two bond issues: (1) the 1979 Bighorn Mountains Water Agency General Obligation Bonds; and (2) the 1980 Desert View Water District Revenue Bonds. Additionally, the Agency has also entered into an agreement with Mojave Water Agency for Construction, Operation and Financing of the Morongo Basin Pipeline Project. Each of these bond issues and the agreement with Mojave Water Agency includes a series of covenants to which the Agency, or its predecessors, has agreed. One of the covenants in each issue is that the Agency will, at a minimum set its rates in a manner to provide sufficient revenue to cover operating costs, pay the principal and interest due on the bond installments, pay the annual payment required by the agreement with Mojave Water Agency, and have a specified coverage. The 1980 Desert View bonds have a coverage requirement of 20% over the annual principal and interest payment, while the agreement with Mojave Water Agency requires additional coverage of 25% over the annual principal and interest payment.

(4) Long-term debt

Bonds Payable:

	June 30, 2011
General obligation bonds:	
Original issue $1,875,000, 5%, maturing in 2019; secured by tax levy revenues	$ 702,000
Water revenue bonds:	
Original issue $700,000, 5%, maturing in 2019; secured by a pledge of all revenues	286,977
Improvement District 71-2 bonds:	
Original issued $275,000; 7%; matured July 2, 1988	2,000
Total bonds payable	990,977
Less portion due within one year	(100,000)
	$ 890,977

For the year ended June 30, 2010, the aggregate debt service coverage of the Agency was approximately 77%. Future debt service of the Agency through 2019 is $1,085,977.
The Agency expects debt service coverage to be comparable to that of the current year throughout the period to which the coverage requirement applies.

Future long-term debt maturities are as follows:

Year Ending	General Obligation Bonds		Water Revenue Bonds	
June 30	Principal	Interest	Principal	Interest
2012	74,000	35,100	26,000	14,530
2013	77,000	31,400	28,000	13,250
2014	81,000	27,550	29,000	11,850
2015	85,000	23,500	31,000	10,400
2016	89,000	19,250	32,000	8,850
2017	94,000	14,800	34,000	7,250
2018	98,000	10,100	35,000	5,550
2019	104,000	5,200	37,000	3,800
2020	-	-	34,977	1,950
Total	702,000	166,900	286,977	77,430

The Pledge of Revenues and Funds of the 1980 Desert View Water District Revenue Bonds (the "pledge") requires that a Reserve Fund be established to further secure the payment of the principal of and interest on those bonds. Pursuant to the pledge, the balance of this Reserve Fund is to be maintained at the average of all future payments. As of June 30, 2011, the Agency has sufficient reserves to meet this requirement.

Tax Rate Areas

The State Board of Equalization (BOE) identifies five different taxing categories for the Agency, outlined below with an illustrative map following:

- Bighorn-Desert View Water Agency – this represents all of the 13 tax rate areas (TRAs) of the Agency. The Agency is assigned to receive a share of the one percent general levy from each parcel within its boundaries. The County classifies this tax share as GA01. The Agency does not receive a share of the one percent general levy from one TRA since it was annexed to the Agency post-Prop. 13 (there was no concurrent detachment from another agency so there was no tax transfer). The average share to the Agency from GA01 is 3.6% of the general levy.

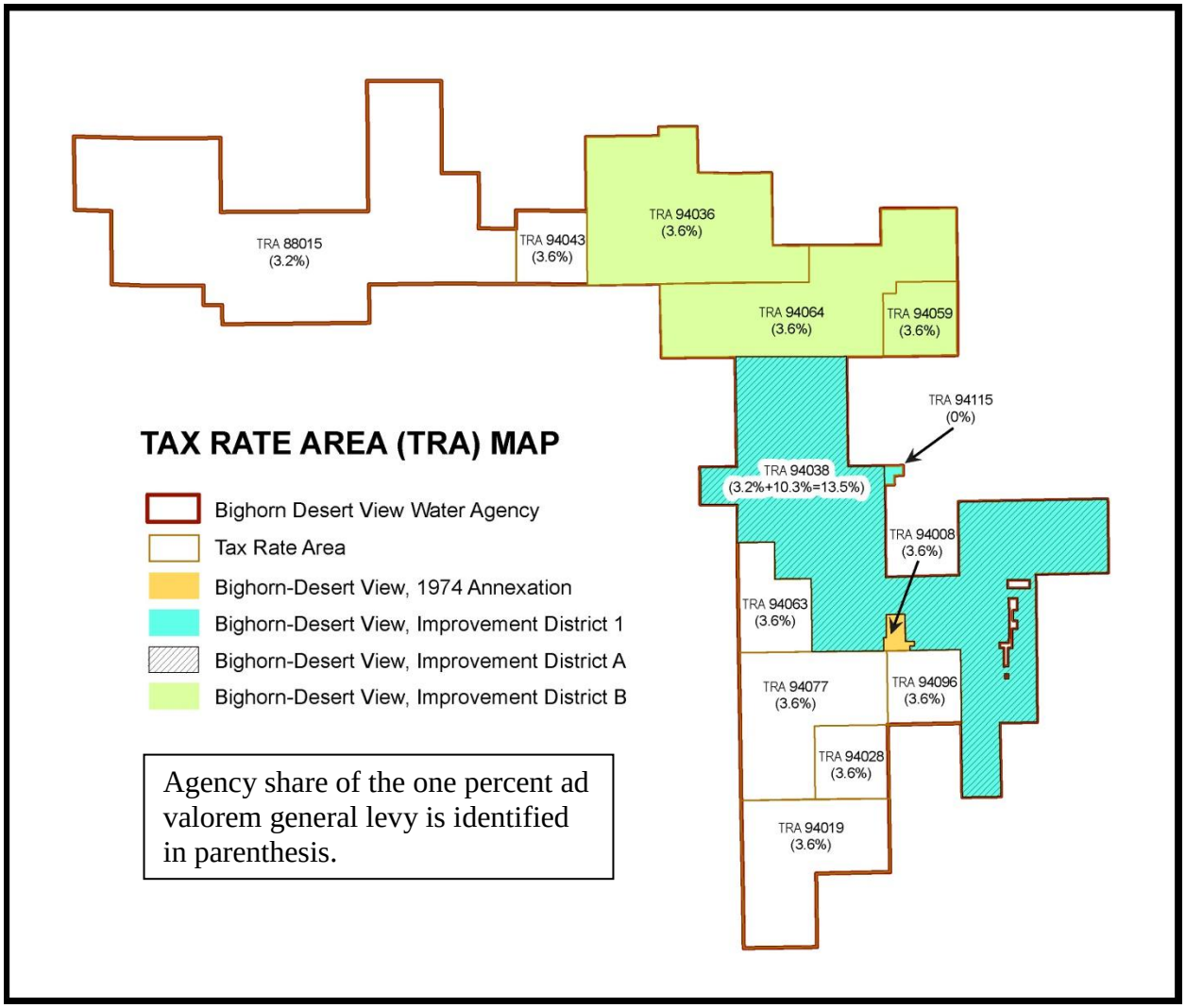
- Bighorn-Desert View, 1974 Anx. (BLO) – This territory was annexed into the Agency in 1974 (pre-Prop 13) and was assigned a separate TRA by the BOE at that time as a result of the annexation. It appears that there is no need for a separate category. Therefore, the Agency can request that the County remove this separate category in order to clean up the tax rolls.

- Bighorn-Desert View, Imp. 01 – The voters within this territory approved a bond proposition to "issue general obligation bonds for its Improvement District 1 for $2,500,000 for the purpose of acquisition/ construction/ completion or repair of a waterworks system ... for the benefit of Improvement District 1 (Resolution No. 121

adopted June 21, 1977). County Assessor records indicate that the additional tax levy to pay the debt did not begin until FY 1978-79. The bonds are scheduled to mature in 2019.

- Bighorn-Desert View, Imp. A – There are no records available as to the purpose of Improvement District A. In FY 1977-78 (pre-Prop 13) Bighorn Mountains Water Agency levied a tax for Improvement District A. This was converted as a separate share of the one percent ad valorem in FY 1978-79 (post-Prop.13). Therefore, the Agency receives two shares of the one percent general levy from those within this territory (comprising only one, although large, TRA). The County classifies this second tax share as GA02. The average share to the Agency from GA01 is 3.6% of the general levy, and the share to the Agency from GA02 is 10.3%. Roughly 31% of the assessed valuation of the Agency comes from this TRA. Therefore, this second share of the general levy generates significant additional revenue for the Agency.

- Bighorn-Desert View, Imp. B. In 1981, Agency Resolution 200 formed Improvement District B to finance an engineering study for a domestic water system. It is believed that voter approval of the tax to pay for the study raised $50,000. There is no current additional tax associated with for these three TRAs. It is clear that the use for this improvement district is extinguished. Therefore, the Agency can request that the County remove this separate category in order to clean up the tax rolls.



Net Assets and Fund Balances

In reviewing the Agency's financial documents, net assets have increased by 22% since FY 2006-07 as shown on the chart below. As of June 30, 2010, the Agency had $4.3 million in net assets. Not including capital assets value and debt, the Agency had roughly $982,399 in restricted funds. Of concern is the lack of any unrestricted assets, which for a water agency can provide for unanticipated occurrences.

	2006-07	2007-08	2008-09	2009-10	2010-11
Net Assets					
Invested in capital assets – net of related debt	2,619,161	2,816,559	2,546,637	3,087,501	3,311,173
Restricted	442,820	0	940,679	766,463	982,399
Unrestricted	403,128	423,169	0	0	0
Total Net Assets	**$3,537,109**	**$3,269,728**	**$3,487,316**	**$3,853,964**	**$4,313,572**

Considering net assets does not indicate if an agency has enough fund balance to operate short and long-term operations. The chart below shows cash flow activities for the past five fiscal years. During this time, the decline and rise of total cash flow corresponded with the receipt of grants, increase in water rates, improvements, and decline and increase of water sales. For FY 2008-09, four substantial reasons contributed to the slowing of losses: water rate increases, identifying customer accounts that were not being charged the basic connection fee, reduction in staff, and additional reductions in expenses.

For FY 2009-10, the increase is generally attributed to a $105,324 increase in basic surcharge revenue due to identification of accounts that had not been paying (first full year), and significant revenue in form of an EPA grant for the Ames Valley Recharge Project ($232,343 earned in 2010 for costs incurred through the fiscal year).

	2006-07	**2007-08**	**2008-09**	**2009-10**	**2010-11**
NET CASH FLOW FROM:					
Operating Activities	$137,223	$(112,047)	$19,735	$245,237	$79,950
Non-capital Financing	88,604	108,998	113,960	113,732	95,783
Capital & Related Financing	(368,449)	(291,028)	(211,902)	(48,298)	(121,464)
Investing	43,371	28,175	9,537	4,234	3,549
NET INCREASE (DECREASE)	**(99,251)**	**(265,902)**	**(68,670)**	**314,905**	**57,818**
Total Cash Flow	**724,068**	**458,166**	**389,496**	**704,401**	**762,219**

Operating Revenues and Expenses

Operational Revenues (water sales) totaling over $1.1 million comprise the majority of the Agency's revenue. Roughly a similar amount is spent on Operating Expenses (operations and maintenance, labor, and depreciation). For FY 2008-09 and FY 2009-10, Operating Expenses exceeded Operational Revenues by two percent, an amount not statistically significant. For FY 2009-10, the Agency experienced an increase in basic surcharge revenue by $105,324 due to identification of accounts that had not been paying. Without this revenue, Operating Loss would have been greater. However, for FY 2010-11 Operating Expenses exceeded Operating Revenues by eight percent. The primary reasons for the net operating loss are due to a reduction in water sales in combination with an increase in general and administrative expenses.

Non-Operating Revenues and Expenses

1. Tax Levy: Property Tax

Making up the operating loss and paying for debt and other expenses is primarily through the receipt of a share of the one percent general levy[32], roughly $104,000 per year.

[32] The Agency's financial statements classify the share of the 1% general levy as a part of "Tex Levy" under Non-Operating Revenue. However, the budgets separately identify the share of the 1% general levy under Operating Revenue.

In 1977-78, before Proposition 13, the Agency levied the following taxes, as identified in the County's 1977-78 tax rate book:

Bighorn Mountains (General Levy)	$0.0000
Bighorn Mountains (Improvement A)	$1.0000
Desert View (General Levy)	$0.5285
Desert View (Bond, Land Only)	$3.5906

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 property tax rate and any tax levied for bond debt going to that local government before Proposition 13 in relation to other agencies. The debt for Improvement District A has been retired and is not shown in the County Tax Rate book. LAFCO staff understands that the Agency's FY 1977-78 property tax rate and the tax rate for Improvement District A were converted into the Agency's share of the one percent general levy.

The FY 2010-11 County Tax Rate book identifies that the Agency receives a share of the one percent general tax levy and levies a tax for Improvement District 1 at a rate of $0.2399 per $100 of assessed valuation. The bond for Improvement District A has been retired and is not shown in the County Tax Rate book. However, FY 2009-10 was the first year within the past five years that experienced a decline in property tax revenues, which continued for FY 2010-11. This overall trend correlates with the stable number of active water meters during this time period.

Foreclosure Activity

Foreclosure activity has affected the nation in general and the Homestead Valley is no exception. The County of San Bernardino Assessor's Office has identified that 221 housing units have been foreclosed from 1994 to 2010 for the areas identified as Flamingo Heights, Landers, and Johnson Valley. From 2004 to 2006 the area had nine foreclosures. The number rose sharply to 26 in 2007 and escalated to 58, 60, and 68 for the next three years.

For the purposes of generally representing the extent of the foreclosure activity, LAFCO staff identifies that there are 2,479 total housing units within the Agency[33]. The foreclosure of 221 homes represents 9% of the household units within the Agency have been in foreclosure since 2004. Even with the current economic conditions, the long-term population trend remains – the Agency is projected to experience 104% growth through 2040.

Real property values have declined as a result of foreclosures and short-sale activity coupled with property owner requests for temporary reductions in assessed valuation under Proposition 8. These factors have been anticipated by the Agency in its budgets.

[33] Source: County of San Bernardino Assessor parcel data.

2. Tax Levy: Bighorn Mountains service area - Improvement District 1

Those within the Bighorn Mountains Improvement District 1 ("BH ID 1") pay an assessment to generate revenue for the annual bond payment and a repair/refurbishment fund to maintain the BH ID 1 water system which was constructed with a fixed interest rate, forty-year general obligation bond (secured by tax levy revenues), purchased through the Farmers Home Administration (FHA).

According to the Agency's resolutions that set this tax, if the revenues of the agency or any improvement district are inadequate to pay the operating expenses of the agency, provide for repairs and depreciation, and to meet all obligations of the agency, then the Agency must provide for a levy to raise the amount of money determined for such purposes. The cited sections allowing for the levy are Sections 26 and 27 of the Agency's law.

Up until FY 2009-10, the Agency set the tax rate itself (for example $0.21 per $100 of assessed valuation). However, the tax roll is not static. Therefore, the Agency made educated guesses as to what rate to levy. This resulted in either a collection of either too much or too little to cover the required expenses. Realizing the difficulties in determining the correct levy rate, in FY 2009-10 the Agency changed it methodology and now requests that the County collect levy a tax at the rate necessary to raise the identified amount (for example $125,900). This change in methodology has reduced the guessing game and provides for more clarity to the levy.

According the Agency's annual adoption of the tax levy, the tax rate statement that accompanied the 1977 bond proposition discussed the impact of the bond proposition on property tax rates. This tax rate statement estimated that the property tax rates would be about $4.70 per $100 of assessed valuation in the first fiscal year after the bond sale and $0.76 per $100 by the 20th year after the bond sale.

Fiscal Year	ID #1 Net Valuation (Secured)	Debt Payable	ID #1 Tax Rate (per $100 assessed valuation)	Revenue Budgeted	Budgetary Notes
2011-12	n/a	$109,000	$0.3100	$175,900	Additional $70,000 for replacement and refurbishment of Bighorn water system
2010-11	$42,762,325	109,000	0.2399	125,900	Additional $20,000 for replacement and refurbishment of Bighorn water system
2009-10	46,126,106	105,900	0.2274	125,900	Additional $20,000 for replacement and refurbishment of Bighorn water system
2008-09	47,138,976	105,900	0.2100	106,315	
2007-08	43,327,983	105,900	0.2000	76,000	Used $29,000 from Local Agency Investment Fund (LAIF) debt service reserves

Sources:
County of San Bernardino. Valuations-Tax Rates, Code Area Tax Rates, Bonded Indebtedness. For Fiscal Years 2007-08 through FY 2010-11.
Agency Budgets

The chart above shows the Improvement District 1 tax levy for the past five years. For comparison, the levy imposed in FY 2010-11 equated to approximately $0.2399 per $100 of assessed value (or a gain of $125,900). In FY 2011-12 the levy is estimated at $0.3100 (29% increase) per $100 of assessed value based on $175,900 identified by the Agency as the required amount. The breakdown of the $175,900 required amount is:

- Annual principal and interest payments are approximately $109,000. Payments will be made in FY 2011-12 according to the following schedule: December (interest only approximately $17,500) and June (interest approximately $17,500.00 and principal approximately $74,000).

- Any additional funds collected, estimated at $20,000, will be used for needed infrastructure improvements within BH ID 1.

- The additional $50,000 was proposed and adopted in the FY 2011-12 budget to begin to close the deficit in net assets of the Bighorn Mountains service area against the Desert View service area as outlined in the FY 2009-10 Audit Report. The bond payments will conclude in 2019.

The Agency has identified that its independent auditors review the Agency's Improvement District 1 collections and the use of those funds for its debt and that the remaining funds collected are utilized within the boundaries of Improvement District 1.

3. *Mojave Water Agency Surcharge*
   The Agency collects this surcharge on the water bill to fund the Agency's share of the debt service for the Morongo Basin Pipeline. This debt will be paid in full in 2021.

4. *Desert View service area - Surcharge*
   Those within the Desert View portion of the Agency pay a $9.30 bi-monthly surcharge to generate revenue for the annual bond payment for the Desert View Water District Revenue Bonds. This surcharge on the bi-monthly water bill generates roughly $50,000 annually with an annual required payment of roughly $40,500. The remaining amount is collected and used for needed infrastructure improvements within the Desert View Water System (Flamingo Heights area). The bond payments will conclude in 2019.

5. *Grant Revenue*
   For FY 2009-10, the Agency received significant revenue in the form of an EPA grant for the Ames Valley Recharge Project ($232,343 earned in 2010 for costs incurred through the fiscal year). This was one-time revenue and is not-reflective of annual activity.

6. *Standby charge*
   The Agency currently does not receive a standby charge. This assessment was removed in 1998 by voter action.[34]

[34] Measures Q, S, and T of the November 1998 election successfully removed the standby charges of the Agency. The assessments have not been reinstated.

The chart below taken from the FY 2010-11 financial statements shows the revenue and expenditure categories with respective amounts.

	2011	2010
OPERATING REVENUES		
Water sales	$ 457,078	513,026
Water services	50,253	33,881
Basic surcharge	595,583	597,680
TOTAL OPERATING REVENUES	1,102,914	1,144,587
OPERATING EXPENSES		
Transmission and distribution	351,065	406,370
General and administrative	605,744	535,884
Depreciation	239,331	229,766
TOTAL OPERATING EXPENSES	1,196,140	1,172,020
OPERATING INCOME (LOSS)	(93,226)	(27,433)
NON-OPERATING REVENUES (EXPENSES)		
Interest income	4,472	3,266
Tax levy	223,764	237,111
Desert View debt surcharge	50,206	50,345
Grant income	430,605	232,343
Gain/loss on disposal of asset	(38,832)	(1,170)
Other income/Expense	9,036	(4,099)
Interest expense	(51,309)	(50,461)
Mojave Water Agency pipeline interest (note 6)	(73,097)	(73,254)
Amortization of debt issuance costs	(2,011)	-
TOTAL NON-OPERATING REVENUES (EXPENSES)	552,834	394,081
CHANGE IN NET ASSETS	459,608	366,648
NET ASSETS BEGINNING, JULY 1	3,853,964	3,487,316
Prior period adjustment	-	-
NET ASSETS ENDING, JUNE 30	$ 4,313,572	3,853,964

Non-Agency Related Charges on Property Tax Bill

MWA DEBT 1 – Assessed by the Mojave Water Agency after voter approval. These funds are used primarily for the payment of debt service and maintenance in connection with the State Water Project (The California Aqueduct).

MWA DEBT 2 – Assessed by the Mojave Water Agency after voter approval. These funds are used primarily to supplement the MWA 1 tax and additionally provide funding for Mojave Water Agency administration.

MWA ID "M" – Assessed by the Mojave Water Agency after voter approval. These funds are used to fund 40% of the debt service for the pipeline extension from the California Aqueduct to the Morongo Basin (MWA Improvement District M).

FY 2011-12 Budget

The FY 2011-12 Budget totals $1,407,043 – an increase of $84,147. However, the FY 2011-12 Budget identifies that $91,647 from operational and non-operational revenue is available to allocate. Therefore, the two budgets are statistically similar. Nonetheless, there are a few noteworthy differences:

- Administration expense is increasing by 15% due to salary merit increases and the hiring of a new executive secretary at a higher starting pay than the previous employee as well as an additional 20% for overtime.

- Operating expense is decreasing by 16% due to the resignation of the field supervisor and no current intent for the Agency to fill the position.

- As for Non-Operating Revenue, the debt income to pay for the Bighorn FMHA loan is increasing by 40% to pay for infrastructure improvements and to close the deficit in net assets of the Bighorn Mountains service area.

Salaries and benefits for FY 2011-12 include seven full-time employees and no seasonal or temporary employees. The Field Supervisor position remains vacant and there is no intent to fill the position at this time.

Exec. Sec./Personnel Administration (1 position – filled FT)
Accounting Technician II/Customer Service Rep. (1 position – filled FT)
Customer Service Rep – (1 position –filled FT)
Water Distribution II (2 positions – filled FT)
Water Distribution I (1 position – filled FT)
Field Supervisor (1 FT position – vacant, not actively recruiting)
General Manager (1 position – filled FT)

In reviewing the Agency's budgets submitted for this review, the budgets do not include at least one year's worth of actual financial data, as recommended by the *Best Practices* of the Government Finance Officers Association. LAFCO staff recommends that for the future the Agency include at least one year's worth of actual figures.

Commitments

On March 15, 1991, the Agency entered into an agreement with the MWA to become a participant in the Morongo Basin Pipeline project. Under the agreement, the Agency was obligated to pay its project allotment percentage of the estimated fixed project cost commencing July 1, 1991. The payment made to MWA for the current year was $73,524. The payments commencing June, 1996, and thereafter will be determined by MWA based upon various factors.

Internal Control over Financial Reporting

The FY 2009-10 financial statements have identified significant deficiencies in the internal controls of the Agency. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. The independent auditors noted the following matters that provide an opportunity for the Agency to enhance its existing internal controls. A detailed description of each matter with the auditor's recommendation and the Agency's comments are included at the back of the FY 2009-10 audit, included as Attachment #2).

1. Positive Pay - the Agency does not use positive pay. Positive pay is a process by which an organization's bank would be electronically provided a list of check numbers and check amounts that the bank would be authorized to allow to process for payment.

   The Agency has responded to LAFCO that the costs for positive pay are high in addition to concerns about the effect on customers. At this time, Agency staff has not taken this matter to a committee.

2. Lock Box - The Agency does not use a "lock box" service (P.O. Box under the control of the Agency's bank) for collecting its revenues. A lock box service significantly reduces the risk of theft of funds by employees of the Agency.

   The Agency has responded to LAFCO that the Agency board rejected this recommendation based on cost and the fact that many customers pay at the office with checks and cash. Therefore, implementation of this expense does not eliminate this concern.

3. Inventory Controls - The inventory custodian currently performs data entry for service orders that involve inventory requisitions. He also has system access rights to make adjustments to inventory records. Internal control is maximized when those persons that have physical access to inventory do not also have the ability to adjust the inventory data recorded in the system.

   The Agency has responded to LAFCO that implementation of recommendations 3 and 4 were implemented by staff without going to the board.

4. Bank Reconciliations - Bank reconciliations of the Agency are performed by the individual that performs data entry for cash disbursements. Best practice provides that reconciliations be performed by individuals that are not involved in the creation of cash disbursements and that do not have direct or indirect access to the funds in the bank account.

5. Ethical Culture - New auditing standards recommend that organizations consider certain best practices to reinforce a strong ethical culture. Accordingly, the auditors recommended that the Agency consider inclusion of certain ethical conduct policies into its Employee Handbook.

   The Agency has responded to LAFCO that the policy recommendation for Ethical Conduct Policies were brought before the Board of Directors and approved as a revision to the Employee Handbook in April 2011.

Other Information

Regular Audits

Government Code Section 26909 requires all districts to provide for regular audits; the Agency conducts annual audits and meets this requirement. Section 26909 also requires districts to file a copy of the audit with the county auditor within 12 months of the end of the fiscal year. According to records from the County Auditor, the last audit received was in March 2011 for FY 2009-10.

Pension and Post-Employment Benefits

The District contributes to the California Public Employees Retirement System (PERS), an agent multiple-employer public employee defined benefit pension plan. PERS provides retirement, disability benefits, and death benefits to plan members and beneficiaries. PERS acts as a common investment and administrative agent for participating public entities within the State of California.[35] A review of the financial statements identifies that the Agency has a zero net pension obligation. The financial statements do not identify if there are any other Post Employment Benefits. However, the Agency states that there are no Post Employment Benefits offered to employees.

Appropriations Limit

Article XIIIB of the State Constitution (Gann Limit[36]) mandates local government agencies receiving the proceeds of taxes to establish an appropriations limit. Without an appropriations limit, agencies are not authorized to expend the proceeds of taxes. Section

[35] According to the FY 2009-10 financial statements, the actuarial value of PERS assets was determined using techniques that smooth the effects of short-term volatility in the market value of investments over a three-year period (smoothed market value). PERS unfunded actuarial accrued liability is being amortized as a level percentage of projected payroll on a closed basis. Copies of PERS' annual financial report may be obtained from their executive office: 400 P Street, Sacramento, CA 95814.

[36] 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).

9 of this Article provides exemptions to the appropriations limit, such as Section 9(a) provides exemption for debt service, and 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 $0.125 (12 ½ cents) per $100 of assessed value for the 1977-78 fiscal year. According to the *County of San Bernardino 1977-78 Valuations/Tax Rates* publication (excerpt included as a part of Attachment #2), the tax rate for the two predecessor districts were as follows:

Bighorn Mountains (General Levy)	$0.0000
Bighorn Mountains (Improvement A)	$1.0000
Desert View (General Levy)	$0.5285
Desert View (Bond, Land Only)	$3.5906

Prior to consolidation the Bighorn Mountains Water Agency never established an appropriations limit based upon its lack of general levy. However, the general levy tax rate for Desert View for FY 1977-1978 was $0.5285 per $100 of assessed value. Being over the $0.125 tax rate, at that time Desert View did not qualify for an exemption from the requirement of an appropriations limit and fulfilled this mandate through annual adoption. As a part of the LAFCO resolution approving the consolidation of the two predecessor districts in 1990, LAFCO imposed the condition that the appropriations limit of the consolidated agency, if any, shall be the aggregate appropriations limits of the two agencies (a copy of the resolution is included as Attachment #2 to this report). Therefore, in the years following consolidation, the Agency was required to annually set an appropriation limit in compliance with Article XIIIB of the Constitution and implementing legislation contained in Government Code Section 7910 and the Agency's audits were required to review and ascertain its accuracy.

The District has indicated in the materials submitted to LAFCO that is has relied upon a legal opinion from its attorney that it was not required to comply with the provisions related to setting an appropriation limit based upon an analysis of the previous Bighorn Mountains Water Agency. LAFCO staff has identified its position that the conditions of approval for the consolidation clearly stated that it was required to do so and without an appropriations limit, the agency is not authorized to expend the proceeds of ad valorem property taxes. The Agency indicated at the meeting held on December 6 that it is reviewing this determination further and will provide a further response.

IV. Status of, and opportunities for, shared facilities.

The agency's intertie with Hi-Desert Water District ("HDWD") is currently disconnected and isolated from cross-connection. The pump was removed many years ago. According to the Agency, with minimal effort a connection could be made whereby the Agency could receive water via gravity flow from HDWD. However, more work would be needed for the Agency to pump water into HDWD's system. The two agencies are actively seeking a new, permanent emergency intertie solution. In addition, the Agency has the ability to "high line" a connection between fire hydrants to create an emergency intertie with CSA 70 Zone W-1.

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

A. Government Structure and Accountability for Community Service Needs

Current Board Composition

The BDVWA is an independent special district governed by a five-member board of directors elected at-large. Membership elections are held in odd years as a part of the consolidated November election. A review of records available though the County Registrar of Voters identifies an election for director membership has been held every two years since at least 1997. [37]

As a result of the November 2011 elections, the board is composed of the following, effective December 2011 along with board positions:

Board Member	Title	Term	Elected/Appointed
Terry Burkhart	President	2013	Elected full term
Vacant *		2013	To be appointed in lieu of election - short term
Judy Corl-Lorono	Director	2013	Elected short term
Michael McBride	Director	2015	Appointed (ran unopposed)
David Larson	Director	2015	Appointed (ran unopposed)

* The director-elect from the November 2011 election neglected to file his Oath of Office by noon December 2'" as required by the Election Code and the position was subsequently declared vacant by the remaining Board members on December 8, 2011. The Board then acted to appoint a new director for which advertising has begun, again in accordance with the Election Code.

Regular Board Meetings are scheduled at 6:00p.m. on the fourth Tuesday of each month. The location of the meetings is not at the Agency office at 622 South Jemez Trail; rather meetings are held at 1720 North Cherokee Trial in Landers at the former Bighorn office. Standing committees include the Finance/Public Relations/Education/Personnel Committee and the Planning/Engineering/Legislative/Grant/Security Committee. Each committee meets bi-monthly. Additionally, a member of the Board is also appointed to the Morongo Basin Pipeline Commission.

Board and General Manager Turnover

As stated in the introduction to this service review portion of this report for the Agency, LAFCO has adopted the Governor's Office of Planning and Research (OPR) Municipal Service Review Guidelines by reference for its use during the conduct of service reviews. The Guidelines read that in evaluating an agency's local accountability and governance structure, LAFCO may wish to address agency representatives in its review.[38]

[37] http://www.co.san-bernardino.ca.us/rov/past_elections/ Accessed October 26, 2011.
[38] OPR Guidelines. Page 42, item 9.3.

Board Members

Up until 2007, the bi-annual election was typical with other special districts with five member boards – with either two or three candidates running each year with modest director turnover. However, at the August 2007 election the voters successfully recalled three members with the regularly scheduled election taking place three months later in November. The past four elections have had 13 seats open with eight changes in membership, representing a 62% election turnover rate (77% turnover rate when adding appointments). Taking into account 13 open seats and seven seats not up for election, the overall turnover rate has been 54% since August 2007.

Election	Seats open	Newly elected/appointed	Voter turnout
Aug 2007	3	3 elected	45%
Nov 2007	2	1 elected	15%
Nov 2009	4	3 elected (2 resigned, replaced by appointments)	26%
Nov 2011	4	1 elected	25%
TOTAL	**13**	**10 total (8 elected with 2 appointments)**	

Whereas a modest turnover is natural and even healthy, the high turnover rate coupled with low voter turnout is a cause for concern. In a recent edition of its report, *What's So Special about Special Districts*, the state Senate Local Government Committee states that the, "narrow and technical nature of a district's activities often results in low civic visibility until a crisis arises."[39] The August 2007 recall election had a 45% voter turnout. However, the past three elections have had voter turnouts of 15%, 26%, and 25%[40]. The high turnover and low voter turnout has resulted in the two longest tenured board members being elected in 2007. The three other members were either elected or appointed since the 2009 election.

General Managers

The employee leadership has also experienced a high turnover rate within the past ten years. In that time, there have been six general managers (nine since 1998) in charge of the Agency's operations, administration, and policy implementation.

In general, a high turnover rate of elected members in conjunction with general manager turnover could produce a lack of continuity and institutional knowledge, possible missteps in administrative compliance, and the resetting of the learning curve with each turnover. This agency continues to operate without an appropriation limit and has not segregated the operations and funds of the two predecessor agencies. This service review cannot offer a remedy for this occurrence other than to point out that a reduced turnover rate of elected membership and employee leadership would, in the Staff opinion, result in increased steady direction for the Agency.

[39] California Senate Local Government Committee, *What's So Special about Special Districts?*, Fourth Edition, October 2010.
[40] However it should be noted that the elections conducted by the County Registrar of Voters for November 2007 and November 2009 had a grand total turnout of 13%, 10%, and 10%, respectively.

Brown Act

The OPR Guidelines read that in evaluating an agency's local accountability and governance structure, LAFCO may wish to address in its review an agency's compliance with state disclosure laws and the Brown Act.[41]

Within the past four years, the Agency has been notified by the Office of the District Attorney, County of San Bernardino that it has violated the Brown Act[42] (open meeting law). First, in 2007 County prosecutors strongly criticized the board for repeatedly violating the Brown Act, especially its refusal to address public concerns over secret meetings[43].

Second, the District Attorney's Office in March 2011 responded to Agency legal counsel regarding a Brown Act violation stemming from a complaint that the Agency Board approved four items of compensation for an Agency officer without providing notice of its actions. A copy of the letter is on file at the LAFCO staff office.

According to the District Attorney's letter, the Agency noticed and held a closed session meeting regarding the officer's evaluation, and at the open session meeting announced that the officer received a favorable review and the Board voted on compensation items. Based on the below items, the District Attorney's letter identifies its opinion that the Board's actions were a violation of the Brown Act.

- §54957(b)(4) expressly states: "Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline." In other words, there are statutes that require compensation to be called out on an open session agenda even when an evaluation of the same employee[44] is noticed for the closed session portion of the same meeting.

- Discussions about the salaries of non-elected officers must be discussed in open session. Gov. Code §54954.2(a) specifically states that the agenda must describe "each item of business" to be discussed or transacted. Hence, the statute plainly requires that compensation be called out specifically on the agenda if it will be discussed at the Board meeting.

- In San Diego Union v. City Council of the City of San Diego (1983) 146 Cal. App. 3d 947, the court expressly held that compensation must be discussed – *and properly noticed* – in an open session. Hence, San Diego Union clarifies that after an evaluation of a public employee is held in a closed session; compensation of that employee must be discussed in "a *properly noticed*, open session."

[41] OPR Guidelines. Page 42, item 9.1.
[42] Gov. Code §54950et seq.
[43] Nelson, Joe. "Desert water agency accused of violating open meeting law", *San Bernardino Sun*. 17 March 2007.
[44] Gov. Code §54957(b)(4) states that the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors.

The letter further identifies the Agency's statement that in the future the Board will provide separate notice on the open session agenda when employee compensation is to be considered even if notice of consideration of an employee's evaluation is also placed on the same agenda for closed session. Based upon the Agency's statement that it will not repeat its above-described actions, the District Attorney considered the matter closed.

Nonetheless, the District Attorney voiced concern about the Board's future compliance with the Brown Act since the Board failed to admit a violation. Therefore, the District Attorney recommended that the current Board members obtain training on the requirements of the Brown Act. The Agency has responded to LAFCO staff regarding this recommendation, and state that Board members attended the Special District and Local Government Institute Brown Act, Public Records Act and Conflict of Interest Workshop, San Diego, CA June 2011.

The November 2011 election has resulted in new membership on the Board. LAFCO staff recommends that the Commission determine that the Agency should implement a policy that Board members obtain periodic training on the requirements of the Brown Act.

B. Operational Efficiencies

Operational efficiencies are realized through several joint agency practices, for example:

- Mojave Water Agency (MWA) provides professional guidance and services to BDVWA in areas such as geohydrology, engineering, and grant assistance. MWA also advises on and provides technical support towards project grant applications.

- The Agency is a member of the Special District Risk Management authority (SDRMA), a Joint Powers authority, which provides medical benefits, property and liability insurance and workers compensation insurance to the Agency as well as safely and loss prevention services.

- The Agency is a member of the Association of California Water Agencies (ACWA), a statewide non-profit Joint Powers Insurance Authority with a mission to assist members in the areas of leadership, advocacy and information. In addition, ACWA-HBA (Health Benefits Authority) provides dental, vision and life insurance benefits to all Agency employees.

- The Agency is a partner, through MOU, in the Morongo Basin Alliance for Water Awareness and Conservation ("AWAC"). The mission of AWAC is to promote the efficient use of water and increase the communities' awareness of conservation as an important tool to help ensure an adequate water supply.

- The Agency works closely with the Open Space Group, a collaborative effort between all of the towns, the Morongo Basin Open Space Group, the U.S. Marine Corps, Joshua Tree National Park, Mojave Desert Land Trust, Defenders of Wildlife, and the Wildlands Conservancy among others.

C. Government Structure Options

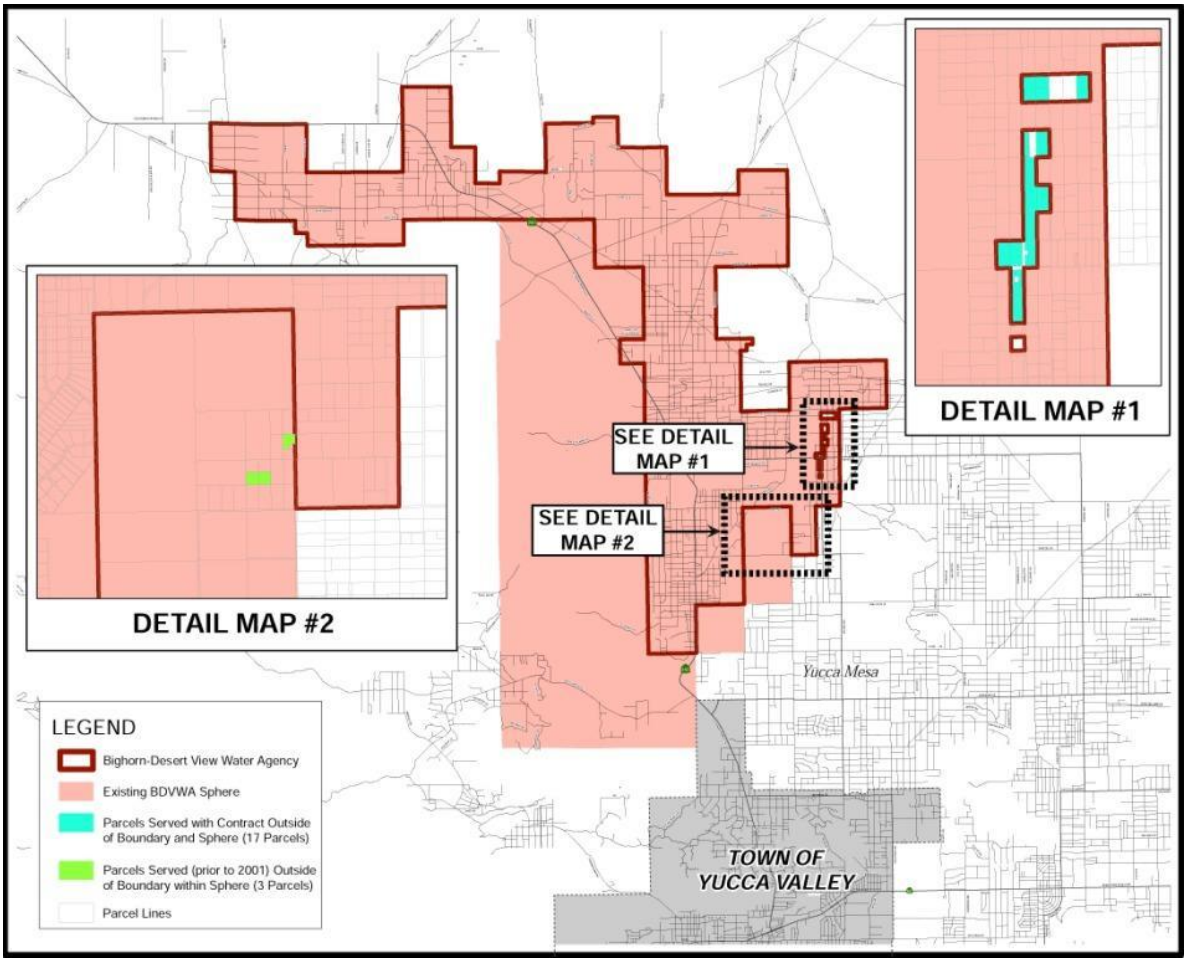
There are two types of government structure options:

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:

Pursuant to Government Code Section 56133, LAFCO is charged with the responsibility for reviewing and taking action on any city or district contract to extend service outside of its jurisdiction. Correspondence from the District in 1994, on file at the LAFCO office, identifies that the Agency did not have any out-of-agency service contracts at that time. However, amendments to Section 56133 (subsection e) effective January 2, 2002, indicate the provision of this subsection do not apply to an extended service that a city or district was providing on or before January 1, 2001. For this review, the Agency has notified LAFCO that it serves three connections outside of its boundaries located in Section 24. Agency records identify that service was provided before 2001, and therefore further review by LAFCO is not required. The map below (refer to Detail Map #2) shows the location of the three parcels that the Agency served prior to January 1, 2001.



BDVWA provides retail water outside of its boundaries to approximately 17 customers within the boundaries of County Service Area 70 Zone W-1 (refer to Detail Map #1 shown above). The arrangement for this service is between the Agency and the County (as the governing body for CSA 70 Zone W-1) though a contact signed in December 1997. This contract is exempt from LAFCO review since it is solely between two public agencies. At this time, BDVWA does not charge a special rate to these customers that are outside of the Agency's boundaries. There are four additional parcels within this area that are undeveloped at this time. Service to these parcels by the Agency would require either: 1) an amendment to the December 1997 contract, or 2) an out-of-agency service contact approved by LAFCO since the four parcels are to be within the Agency sphere of influence.

As noted in the Water section of this report, Johnson Valley does not have a pressurized water system. Johnson Valley has a standalone water hauling station supplied by a single groundwater well and a 10,000 gallon storage reservoir operated by the Agency. This site serves approximately 30 residential hauling customers and approximately three commercial water hauling customers who deliver water to an unknown number of customers. The Agency has no current plans to extend pipeline service to the Johnson Valley area. Population densities are so low that there are not enough customers to

financially support the construction of a water line. At issue is if the water is hauled outside of the Agency's sphere of influence. Government Code Section 56133 limits the provision of service to within an agency's sphere. With a pressurized system with pipes in the ground, it is easy to ascertain the location of the recipient. However, with hauled water, it is difficult to ascertain the final destination from a hauler. Furthermore, this single well is the sole public source of water for the Johnson Valley. Given this circumstance, the Agency's parent law and policies do allow for water to be delivered outside of its boundaries. Section 15, Item 7, of the Agency's operating law does allow the Agency to sell water to anyone if it finds that there is a surplus of water above that which may be required by consumers within the agency. Expanding on Section 15, Item 7, the Agency's Rules and Regulations (Section 1.6 – Service Outside Agency Boundaries) provide a mechanism to supply bulk water to properties located outside of the Agency's boundaries.

Government Structure Options:

The State has published advisory guidelines for LAFCOs to address all of the substantive issues required by law for conducting a service review [45]. The Guidelines address 49 factors in identifying an agency's government structure options. Themes among the factors include but are not limited to: more logical service boundaries, elimination of overlapping boundaries that cause service inefficiencies, economies of scale, opportunities to enhance capital improvement plans, and recommendations by a service provider.

In some cases, functional consolidation or integration can reduce costs so that services can be maintained and improved with fewer dollars. The following scenarios are not being presented as options for the Commission to consider for action as a part of this service review. Rather, a service review should address possible options, and the following are theoretical, yet possible, scenarios for the community to consider for the future. Movement towards these scenarios would include, but not be limited to, a plan for service, fiscal impact analysis, and any other required studies.

- Expansion of boundaries.
    - In 1995 the Agency submitted a proposal to detach approximately eight square miles from its boundaries in the Landers area (LAFCO 2792). The Commission approved the proposal because it eliminated an overlap of similar-purpose agencies and could possibly lead to a less contentious relationship between the residents of the two agencies.

      The current staff of the Agency has expressed desire to explore the option of returning this area to the boundaries of the Agency. At this time, the Agency serves 17 customers within the area through contract with the County. The Agency, residents, or landowners could submit an application to expand the boundaries of the Agency to the east to include the Goat Mountain area. Such

[45] State of California. Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

an application would be processed to include the dissolution of CSA 70 W-1 with the Agency identified as the successor agency. The Agency would then be responsible for extending its services to the area, including continuing the services of the dissolved CSA 70 zone.

Including the area of CSA 70 W-1 would allow those that the Agency currently serves within the area the opportunity to participate in Agency elections and have a voice in Agency matters. The Agency would obtain additional tax revenue and be able to allocate any cost savings to all of its customers. Before the detachment, these properties were within the Agency's Improvement District 1 and contributed to the Improvement District 1 bond debt for the Bighorn water system. Currently, these properties outside of Agency's boundaries pay the same amount for the water but do not contribute to the debt repayment that provided funding for the water infrastructure.

- The Proposed Ames Valley Recharge Facility is located in the Pipes Wash area of Section 24 which is within the BDVWA Sphere of Influence. The Agency has stated that eventual annexation of this area as well as Sections 25 and 35 would be best to manage and protect the underlying water resources and promote continuity in institutional arrangements. Should any Agency facilities be located within these areas, annexation would provide the opportunity for the facilities to be removed from the tax rolls.

- Consolidation with one of the bordering water districts. Consolidation with the neighboring Joshua Basin Water District and/or Hi-Desert Water District would allow for economies of scale and allow for a more consolidated voice to address water issues and potentially future wastewater treatment issues. Given the historical sentiment in the areas, this option is unlikely at this time, even if it would pose benefits to the customers and citizens of the area.

- Wastewater Services provided by the Agency. There is no wastewater service in the area; all the properties are on septic systems. Should the Regional Water Quality Control Board require the community to install a sewer system to handle wastewater, the Agency would be best suited to provide wastewater collection and transportation.

- Joint Powers Agency for Sewer Treatment. The Mojave Water Agency ("MWA") is authorized by LAFCO an active sewer function (although it does not actively provide such a service at this time), and being a regional entity it could help shepherd the development of a regional wastewater treatment facility.

  A similar situation occurred in the late 1970s in the Victor Valley region of the County. To meet the requirements of the federal Clean Water Act and provide wastewater treatment for the growing population, the communities of the Victor Valley requested that the MWA, being a regional entity, help shepherd the development of a regional wastewater treatment facility. In accepting the request, MWA was designated by the Lahontan Regional Water Quality Control Board as the responsible entity for the design of the Victor Valley Regional Wastewater Reclamation Project. A few years later, the communities of the Victor Valley

completed the creation of the joint powers authority, which became known as the Victor Valley Wastewater Reclamation Authority ("VVWRA"). VVWRA was expressly created for the purpose of providing the operation and management of the treatment of wastewater through a regional facility and the ultimate disposal of effluent and solids. On June 1, 1978, VVWRA assumed the assets and authority for the Project, and MWA divested itself from the Project and the provision of sewer service.[46]

A similar response could occur in the Morongo Basin portion of MWA. In February 2010, the LAFCO Commission approved the Hi-Desert Water District's request to expand the service description of its sewer function in order to actively provide for development of a regional wastewater treatment plant. The District is undertaking a project titled "Hi-Desert Water District Water Reclamation Facility, Wastewater Treatment Plant, and Sewer Collection System Project". The project anticipates a treatment facility to treat the collected effluent within the project's boundaries. Both agencies, and more, could form a joint powers agency for treatment of wastewater from within each agency. In general, each agency would collect wastewater within its own boundaries through collection systems owned independently, and transport the collected wastewater to a regional treatment plant. Governance of the joint powers agency would be the participating agencies. Such an agreement could reduce duplication of treatment plants and provide the opportunity for economies of scale while maintaining the independence of each agency.

- Detachment of the Johnson Valley area from the Agency and formation of an independent Community Services District. The historical record reveals those within the Johnson Valley area expressing dissatisfaction with their water situation. Those within Johnson Valley directly (through special taxes) or indirectly (as a share of the general tax levy) pay for the State Water Project, Mojave Water Agency, MWA Improvement District M, and Bighorn-Desert View Water Agency. With all the payments, they still lack a pressurized water system. At this time, the Agency has no current plans to extend pipeline service to the Johnson Valley area. However, population densities are so low that there are not enough customers to financially support the construction of a water system.

  In this scenario, the Johnson Valley area would detach from the Agency and form a community services district. The new agency would have local control over board representation and any operational matters to include assumption of the well that is currently used for water hauling. However, with a population of less than 500 and being sparsely developed, it is questionable if the tax base is adequate to fund not only a new district but also construction of a pressurized water system.

- Maintenance of the status quo. This option would maintain the existing governmental structure of the Agency.

[46] For more information, see the service reviews for the Mojave Water Agency (http://www.sbclafco.org/service_review/regional_agencies_north_desert.htm) and the Victor Valley Wastewater Reclamation Authority (Agenda Item 9, October 2009).

At this time, the agency, landowners, or residents have not formally expressed interest in any of the options outlined above. As stated above, movement towards these scenarios would include, but not be limited to, a plan for service, fiscal impact analysis, and any other required studies.

The preamble to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000[47] reads that while the Legislature recognizes the critical role of many limited purpose agencies, especially in rural areas, it finds and declares that a single multipurpose governmental agency accountable for community service needs and financial resources may be the best mechanism for establishing community service priorities. Further, the law states that the Commission may recommend governmental reorganizations to particular agencies using the spheres of influence as the basis for those recommendations.

At this time, LAFCO staff is not recommending any reorganization be considered. However, in the "Sphere of Influence Update" section of this report staff is recommending modifications to the Agency's sphere of influence to address the Homestead Valley community.

[47] Government Code Section 56001 et seq. Local Agency Formation Commissions (LAFCOs) in each county are governed by and are responsible for implementation of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

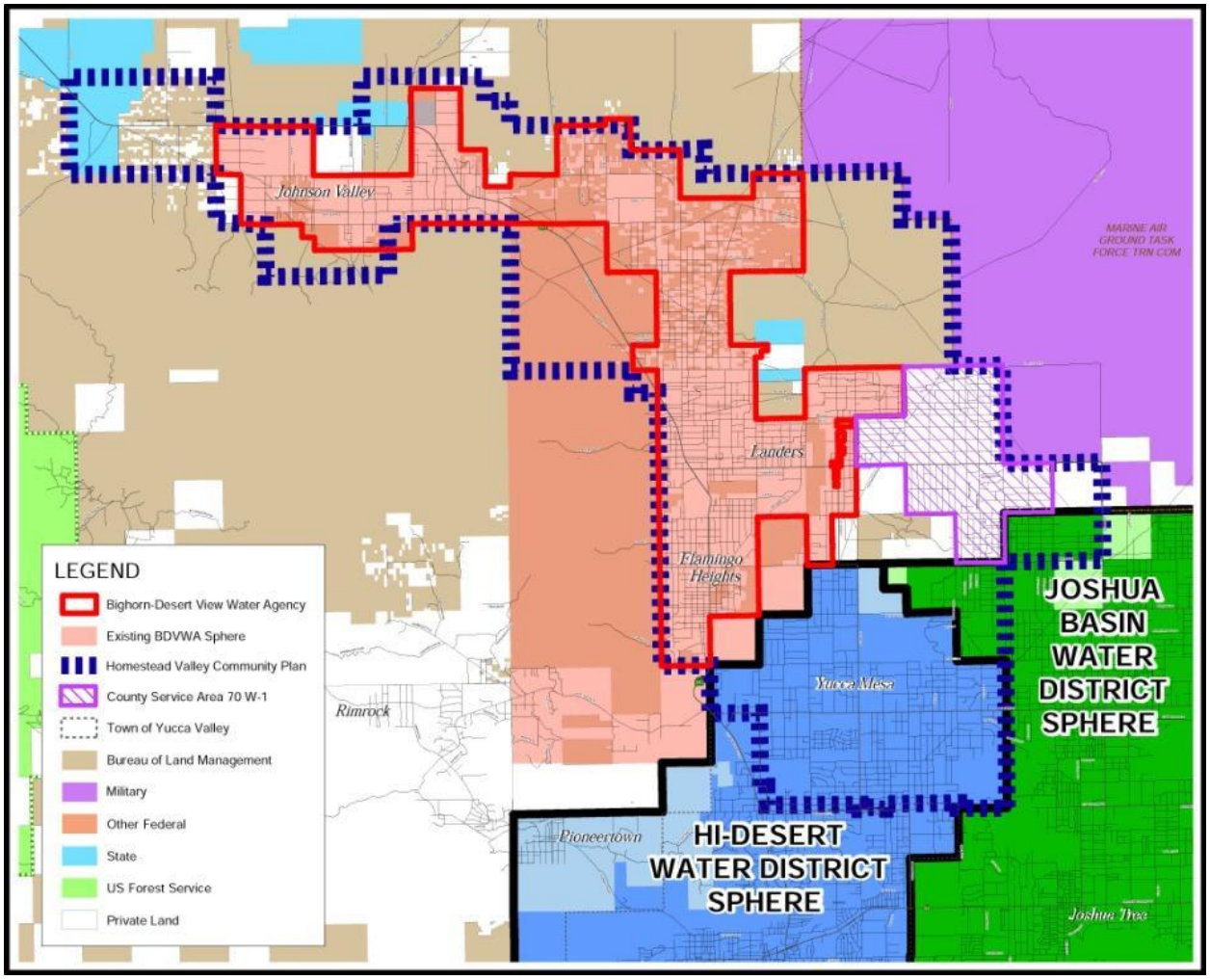
BIGHORN-DESERT VIEW WATER AGENCY SPHERE OF INFLUENCE UPDATE

The Commission is required by Government Code Section 56425 to 1) review and update each sphere of influence within the county; 2) establish the nature, location, and extent of any functions or classes of services provided by the district; and 3) make four specific determinations related to a sphere of influence update.

Sphere of Influence

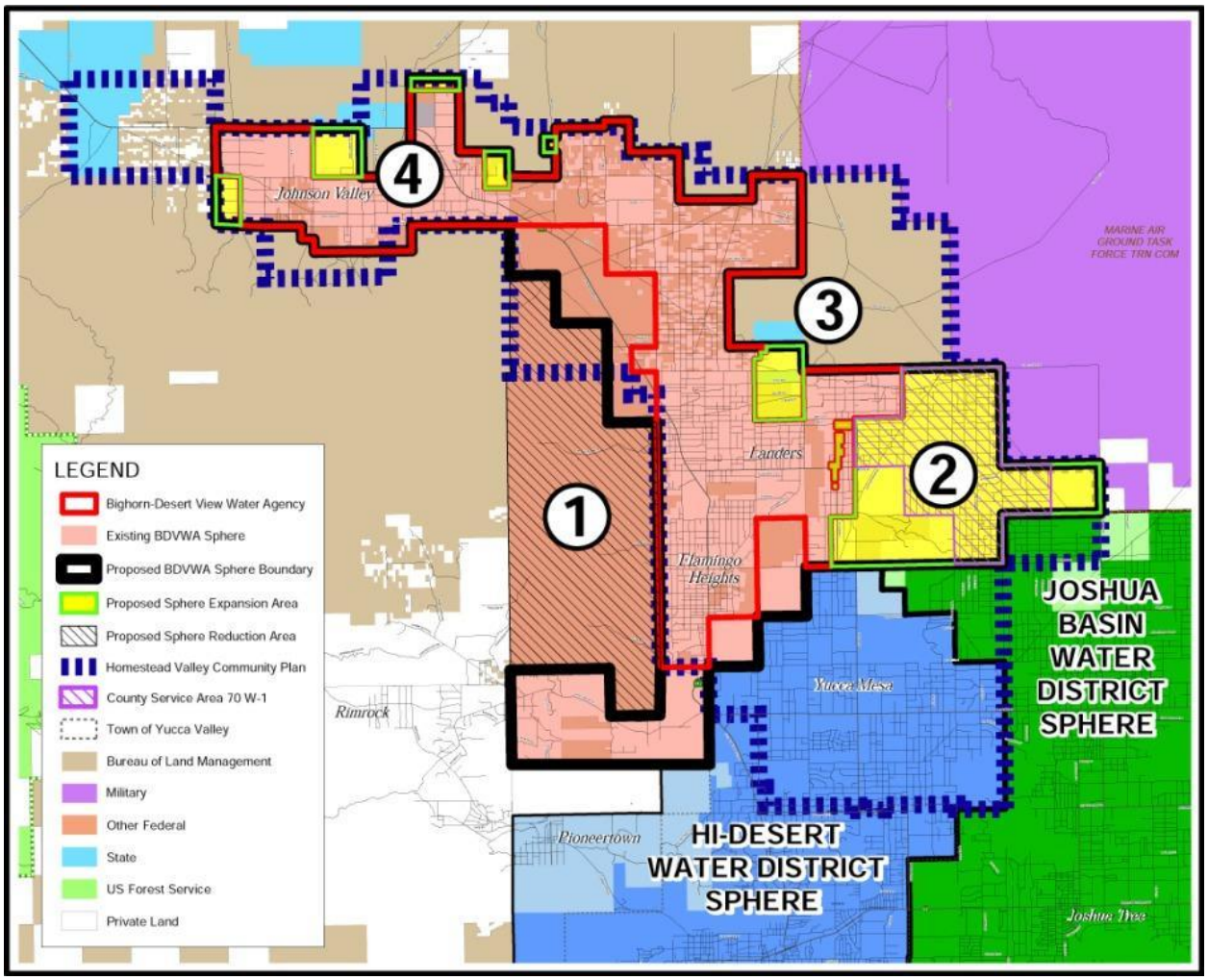
Since the time Bighorn Mountains Water Agency and Desert View Water District boundaries and spheres were consolidated, there have been few changes to the Agency's sphere.

To reflect the Commission's policy direction to address its sphere of influence program on a community-by-community approach and to address actual service provision within the Homestead Valley community, the Commission could determine to define the community by using the County's Homestead Valley Community Plan boundaries. The map below illustrates the existing sphere of influence for the Agency including of the location of the community plan boundaries.



However, as staff has identified on numerous occasions, when the County developed its community plans, it did not take into account the boundaries of existing service providers within the areas. In fact, the Homestead Valley Community Plan area includes vast amounts of public lands that will not require municipal services now nor in the future. Therefore, utilizing the County's Homestead Valley Community Plan boundary does not adhere to Commission policy and practice or the directives of LAFCO law. Based on this premise, LAFCO staff is not recommending that the Agency's sphere be coterminous with the County's Homestead Valley Community Plan boundaries.

Other Parameters Used to Define the Agency's Sphere of Influence



1. The majority of the Agency's existing western sphere was added in the late 1980s as a means to monitor the groundwater quality of the area (identified as #1 in the map above). The Agency has expressed its desire to retain these areas in its sphere to allow continued local management and protection of its watershed and to protect the area from another water agency from coming into the area seeking other water resources. Given that most of the area is public (federally-owned) lands which lack the need for municipal services, LAFCO staff is recommending that its western sphere be reduced to include only the sections of land that fall along the State Route 247, which also include all the private landholdings in the area. Even with the sphere reduction, the Agency will still be able to continue to manage and protect its groundwater quality.

2. BDVWA had asked that LAFCO staff consider the expansion of its sphere over the existing CSA 70 W-1 service area, which is a logical step for BDVWA since it already serves a portion of the area through out-of-agency service agreements (identified as

a portion of #2 in the map above). LAFCO staff concurs that the area should be in the Agency's sphere since these lands were originally in the Agency's boundaries and contributed to the bond debt that provided funding for the water infrastructure. The County Special Districts Department does not agree with this conclusion as this appears to be a redundancy that is not necessary (a copy of the Special Districts Department letter included as a part of Attachment #2).

In addition, LAFCO staff also recommends expanding the Agency's sphere to include a section of land (Section 13, T2N, R6E) that has the potential to develop in the future but is not within a sphere of influence of an existing water provider (identified as a portion of #2 in the map above).

LAFCO staff is also recommending expansion of the Agency's sphere to include the area referred to as part of "the cross" by LAFCO staff that was not within a sphere of influence among the surrounding water agencies. Portion of this cross area were given to Hi-Desert Water District and Joshua Basin Water District. The remaining portion LAFCO staff is recommending to be a part of the Agency's sphere (Sections 17, 20, 21, 29 and the eastern half of Section 19, T2N, R6E) will make the spheres of all three water providers adjacent to each other (identified as a portion of #2 in the map above).

3. LAFCO staff is also recommending that the Agency's sphere be expanded along the northeast to include the island pocket of private landholdings north and south of Linn Road, east of Sage Avenue (identified as #3 in the map above).

   LAFCO staff is aware that a land owner within the area, Mr. Hans Gubler of Gubler Orchids, opposes the expansion of the Agency's sphere into the area. Mr. Gubler and the Agency have reached a mutual understanding whereby both parties have expressed a desire to have the Gubler properties excluded from any further consideration with respect to the expansion of the Agency's sphere. Mr. Gubler, the Agency, and the Third District Supervisor have submitted letters requesting that the Commission honor this agreement and not include the properties in the Agency's sphere. Copies of the letters are a part of Attachment #2.

   However, as a planning boundary, the sphere of influence does not change the property owner's operation or use of its water. It is also unlikely that the Agency would annex his properties unless it was at the request of Mr. Gubler. Again, the intent of the sphere expansion is to provide a planning tool to allow for a future means to receive water service from the Agency and the ability to connect to its system, if needed. Even if the sphere expansion led to an annexation in the future, BDVWA cannot force a property owner to be connected to its system.

   LAFCO staff's recommendation remains to include these properties within the Agency sphere for the reasons identified above. Should the Commission not include these properties within the sphere, then the adjacent private properties would not be included as well in order to maintain a clear and identifiable sphere boundaries.

4. LAFCO staff is also recommending that the Agency's sphere be expanded along the north to include five separate areas within the Homestead Valley Community Plan that include private landholdings (identified as #4 in the map above). This does not include the private lands west of Pony Road due to the inability of the Agency to provide pressurized water into the area.

   Specifically, within this recommended sphere expansion is Area 8, described below and identified on the following map. This area contains only three developed parcels, all of which are residential, and the property owners have provided written opposition to inclusion within the Agency's sphere (letters included as a part of Attachment #2). In general, the letters state that they do not desire to be in the Agency's sphere as they have no future desire to be within the Agency's boundaries.

   It is difficult to ascertain the location of the recipients of the water hauled from the Agency's Well #10. However, it is likely that some or all of these properties receive water from the Agency from this source. If not, inclusion within the sphere would allow for the Agency to plan for the possibility of a future water system to the area. Therefore, LAFCO staff's recommendation to include Area 8 within the Agency's sphere remains.

<u>Sphere Recommendation:</u>

Based on the discussion identified above, LAFCO staff is recommending the following sphere of influence amendments:

- Reduce the Agency's existing sphere by approximately 11,882.36 acres (Area 1) to exclude the public lands west and south of Old Woman Springs Road (SR 247);

- Expand the sphere for the Agency along the east by approximately 8,697.36 acres (Area 2) to include the entirety of CSA 70 W-1, a section west of CSA 70 W-1, and the area referred to as "the cross" that abut the existing spheres of influence for Hi-Desert Water District and Joshua Basin Water District;

- Expand the sphere for the Agency by a total of approximately 85.68 acres (Areas 3a, 3b, and 3c) to include three totally surrounded islands along Landers Lane, north of Reche Road;

- Expand the sphere for the Agency along the east by approximately 937.70 acres (Area 4) to include the area north and south of Linn Road, east of Sage Avenue;

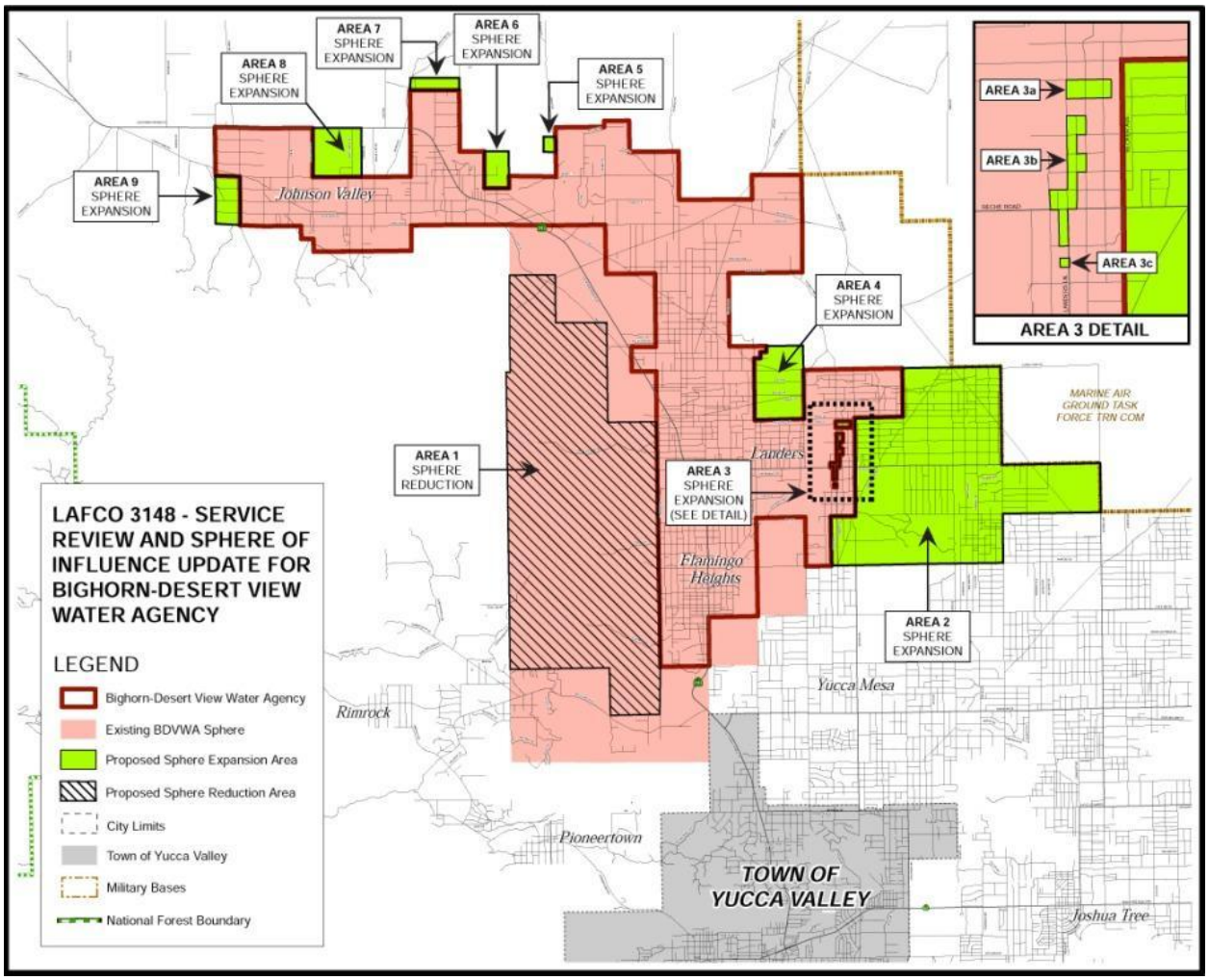
- Expand the sphere for the Agency along the north by approximately 49.95 acres (Area 5) to include the area west of the natural extension of Ghost Road;

- Expand the sphere for the Agency along the north by approximately 241.80 acres (Area 6) to include the area north and south of Joshua Tree Road, east of Oleta Road;

- Expand the sphere for the Agency along the north by approximately 161.22 acres (Area 7) to include the area north of Armelino Road, west of Barnes Road;

- Expand the sphere for the Agency along the north by approximately 639.39 acres (Area 8) to include the area southeast of Old Woman Springs Road (SR 247) and Valley Vista Road; and,

- Expand the sphere for the Agency along the west by approximately 314.74 acres (Area 9) to include the area west of Big Horn Road, south of Joshua Tree Road and north of Cholla Road.



Government Code Section 56076 defines a sphere of influence as a “plan for the probable physical boundaries and service area of a local agency, as determined by the Commission”. Inclusion within the Agency’s sphere would not affect its current boundary or service delivery as no change in jurisdiction would take place. Any change in jurisdiction would through a future application to LAFCO to be ultimately decided by the voters and/or landowners of the affected area, as required by law.

Authorized Powers

When updating a sphere of influence for a special district, the Commission is required to establish the nature, location, and extent of any functions or classes of services provided by the district (Government Code §56425(i)). LAFCO staff and the Agency recommend no changes to its service descriptions to its Water function, identified below.

FUNCTION	SERVICE
Water	Acquisition, retail, distribution

As a part of this sphere of influence update, the Agency originally requested that the Commission active its latent power to collect and treat wastewater. Unfortunately, legislative changes no longer allow the Commission to initiate the activation or divesture of a function from a special district. Further, the changes in law consider activation of a function as a change of organization requiring a complete proposal. This would require the Agency to initiate and submit a formal application for any new function that it desires to provide including the identification of how it is proposed to be funded and whether or not it is sustainable.

FACTORS OF CONSIDERATION

Government Code Section 56425 requires the Commission to make four specific determinations related to a sphere of influence update. The staff's responses to those factors are as follows:

I. Present and Planned Uses in the Area, Including Agricultural and Open-Space Lands.

Land Ownership

The land ownership distribution and breakdown within the Agency's boundary and current sphere are identified on the map below. Within its entire sphere, roughly 46% of the land is privately owned and the remainder, 54%, is public, which are devoted primarily to resource protection and recreational use.

Approximately 53 percent of the County of San Bernardino land use designations is designated Rural Living (RL, RL-5, and RL-40), 45 percent is Resource Conservation, and the remainder of the land use designations comprises two percent (Special Development-Commercial, Neighborhood Commercial, Rural Commercial, General Commercial, Service Commercial, and Institutional). The commercial developments within the Agency are generally located along State Route 247 and Reche Road.

By 2040, the population within the Agency's boundaries is estimated to reach 6,154. This represents a projected annual growth rate of approximately 2.4 percent between 2010 and 2040, which also represents a total population increase of 49 percent from 2010.

The population projections identified earlier indicates that the population within the Agency's boundaries will be 6,154 by 2040. Based on the maximum residential build-out within the Agency's boundaries, the projected maximum population is anticipated to reach 11,759. Likewise, based on the projected population for 2040, it is anticipated that the number of households within the Agency's boundaries will be 2,619 with a maximum potential build-out to reach approximately 5,005. These imply that the study area will reach 52 percent of its potential household and population capacity by 2040.

II. Present and Probable Need for Public Facilities and Services in the Area.

Johnson Valley

The entire area known as Johnson Valley does not have a pressurized water system. Johnson Valley has a standalone water hauling station supplied by a single groundwater well and a 10,000 gallon storage reservoir. The single well in the community was constructed from grant funding obtained by the County and the Agency now operates this well. This site serves approximately 41 residential hauling customers and approximately four commercial water hauling customers who deliver water to an unknown number of customers. The Agency has no current plans to extend pipeline service to the Johnson Valley area. Population densities are so low that there are not enough customers to financially support the construction of a water line. The Agency states that redundancy in the Johnson Valley bulk system is needed.

Ames Valley Recharge Project

The proposed Ames Valley Recharge project will deliver SWP water to the Ames Valley for recharge at the Pipes Wash Spreading Grounds to mitigate historical overdraft conditions in the Region. The recharge project will serve water agencies using groundwater in the basin including BDVWA, HDWD, and CSA 70 (through its zones W-1 and W-4). BDVWA, in cooperation with MWA, is implementing the project, which consists of a feasibility study, approximately 0.75 miles of conveyance pipeline to connect to the Morongo Basin Pipeline, recharge to the Pipes Wash, and the installation of monitoring wells. The initial recharge capacity is planned at 1,500 AFY.

The project envisions the banking of water from the State Water Project. Each participating entity would accrue water in a water storage account. The water would be purchased, and percolated into the groundwater basin. There would be no restrictions on the use of that water and inter-entity transfers could occur as well. This project is intended to mitigate impacts from over pumping of the Ames Valley Basin, provide for beneficial use of water and insure the conjunctive use of local groundwater and imported water from the State Water Project. This is a regional project with multiple beneficiaries including the piped area of the Agency, the Hi-Desert Water District, CSA 70 Zone W-1 (Landers), CSA 70 Zone W-4 (Pioneertown), and the Mojave Water Agency.

III. Present Capacity of Public Facilities and Adequacy of Public Services that the Agency Provides or is Authorized to Provide.

Current Supply and Demand

Facilities and Connections

The agency has seven pressure zones in the primary water system. Well No. 10 in Johnson Valley serves as a stand-alone water system for the purposes of Department of Public Health Consumer Confidence Reporting. There are seven active production wells operated by the Agency. There are four separate bulk hauling station locations around the Agency, one being the Well No. 10 facility. The other three are located within the larger pressurized water system with two stations located in the predecessor Bighorn Mountains Water Agency area. The last station is located in Flamingo Heights is in the predecessor Desert View Water District area. The three hauling stations inside the pressurized system are supplied by the 6 active production wells (not by Well No. 10).

The agency's intertie with Hi-Desert Water District ("HDWD") is currently disconnected and isolated from cross-connection. The pump was removed many years ago. According to the Agency, with minimal effort a connection could be made whereby the Agency could receive water via gravity flow from HDWD. However, more work would be needed for the Agency to pump water into HDWD's system. The two agencies are actively seeking a new, permanent emergency intertie solution. In addition, the Agency has the ability to "high line" a connection between fire hydrants to create an emergency intertie with CSA 70 Zone W-1.

Many of the fire hydrants do not produce sufficient flow and pressure to meet the current County Fire Flow standard of 1,000 gallons per minute with a residual pressure of 20 pounds per square inch.

Future Supply and Demand

According to the MWA 2010 Urban Water Management Plan, the local groundwater supply available to BDVWA is estimated to be 500 acre-feet annually. It is estimated that during the current planning horizon the population could increase by 60 percent. BDVWA will need between 749 and 829 acre-feet per year in order to supply its current and future customers (an additional minimum of 249 acre-feet). The MWA 2010 UWMP further states that BDVWA will need facilities to produce about 2,388 gallons per minute to meet the maximum day plus-fire flow. With the potential for future reductions in the State Water Project allocation, the Agency may or may not be able to meet its future requirements with water from the State Water Project.

In April 2007, BDVWA adopted the Bighorn-Desert View Water Agency Water System Master Plan ("WSMP"). The master plan identified the following deficiencies in the existing infrastructure: heavy reliance on 6-inch and 8-inch water mains which do not provide adequate fire flow; inability of most reservoirs to refill overnight after a 500-gallons-per-minute (gpm) fire; need for spreading grounds for groundwater storage and recovery; a

groundwater management plan and the inefficient operation of portions of the system. Once the deficiencies were identified, the Agency prepared the Bighorn-Desert View Water Agency Water Infrastructure Restoration Program ("WIRP"). The WIRP outlines specific system improvements to remediate these deficiencies.

Two WIRP projects that are near completion include a Groundwater Management Plan ("GWMP") and the Ames Valley Recharge Project. Local groundwater is currently the sole source of its water supply, but BDVWA has annual nine percent capacity in the Morongo Basin Pipeline and may purchase SWP water from MWA. Although the infrastructure needed to deliver SWP water to the Ames Valley region already exists, additional facilities are needed to convey imported SWP water to spreading grounds for recharge, storage, and subsequent recovery. A Feasibility Study, including a groundwater model, is scheduled for completion in late 2011/early 2012 and documents the ability to store and recover SWP water in the basin. This document will also include assistance to Pioneertown (CSA 70/W-4) enabling them to secure a potable water supply. The GWMP will address the purchase of SWP water for recharge and pumping restrictions in the event that overdraft conditions are not controlled.

IV. Existence of any Social or Economic Communities of Interest in the Area.

The social communities of interest are the unincorporated areas of Landers, Flamingo Heights, and Johnson Valley. The Lucerne Valley Unified School District overlays Johnson Valley while the Morongo Unified School District overlays Landers and Flamingo Heights. There is a little commercial activity is along Highway 247.

CONCLUSION:

Staff is recommending that the Commission make the following determinations for the Bighorn-Desert View Water Agency:

Service Review

1. Determine that the Agency:

    a. Is required by law to adopt an appropriations limit and annually adopt such a limit based upon the information outlined in this report;

    b. Should include at least one year's worth of actual financial data in the budgets, as recommended by the *Best Practices* of the Government Finance Officers Association;

    c. Should implement a policy that board members obtain periodic training on the requirements of the Brown Act due to previous ethical and Brown Act issues involving the Agency.

Sphere of Influence Update

2. Reduce the Agency's existing sphere by approximately 13,754 acres by excluding Area 1;

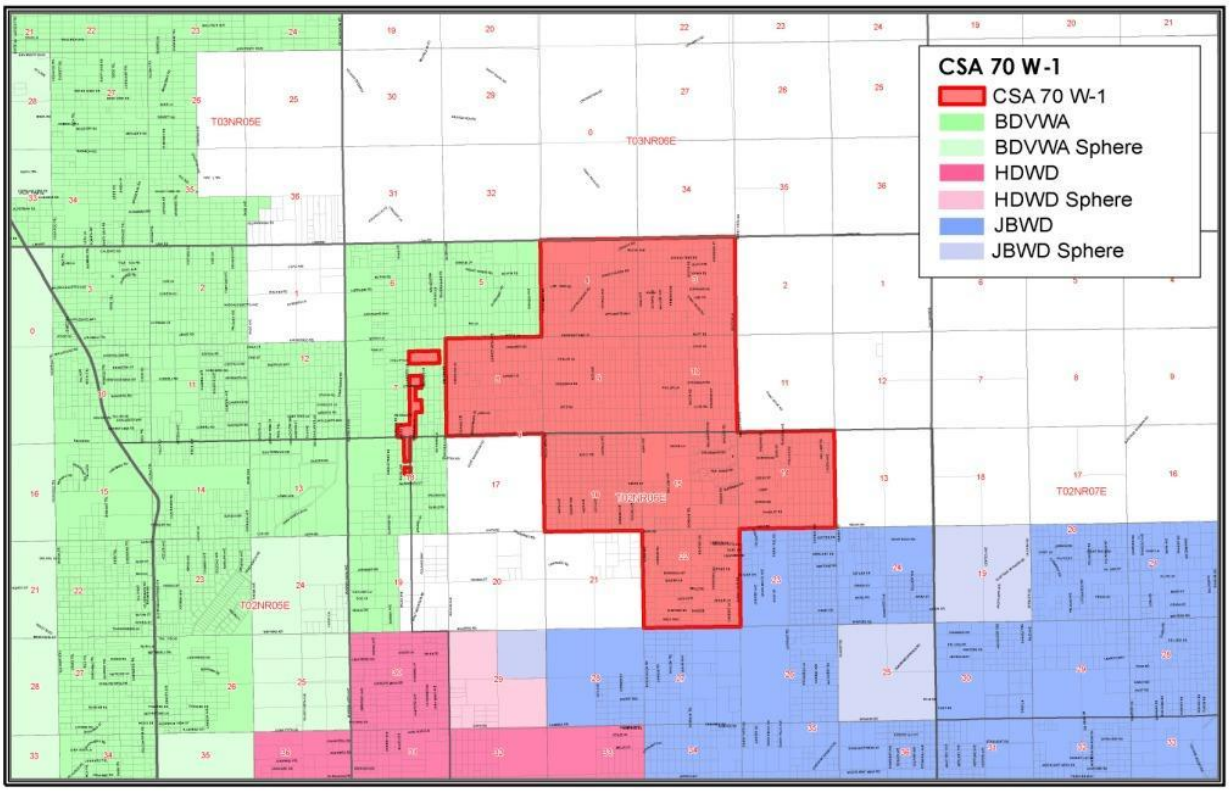
3. Expand the sphere for the Agency by a total of approximately 11,128 acres to include Areas 2, 3a, 3b, 3c, 4, 5, 6, 7, 8, and 9;

COUNTY SERVICE AREA 70 ZONE W-1 (GOAT MOUNTAIN)
Service Review

INTRODUCTION:

County Service Area 70 Zone W-1 ("CSA 70 W-1") provides retail water service to a portion of the Landers area called Goat Mountain. Zones to County Service Areas are not under the purview of the Commission; however, information was obtained to provide the Commission and the public an outline of the broad range of municipal-type services provided within the community. Only information related to a service review for CSA 70 W-1 is provided in this report. In addition, there is no sphere of influence assignment for a zone to a county service area..

CSA 70 W-1 was formed in 1973 by action of the County of San Bernardino Board of Supervisors at the request of landowners for the primary purpose of providing retail service to the Goat Mountain area. A map showing CSA 70 W-1 is shown below and is included as a part of Attachment #3.



CSA 70 ZONE W-1 SERVICE REVIEW

LAFCO has no direct jurisdiction over CSA 70 W-1; therefore, there is no sphere of influence designation. This report contains only service review information. The County Special Districts Department, administrators for board-governed special districts, prepared a

service review consistent with San Bernardino LAFCO policies and procedures. The Department's response on behalf of CSA 70 W-1 to LAFCO's original and updated requests for materials includes, but is not limited to, formation and financial information. The information submitted is included as a part of Attachment #3 and are incorporated in the information below.

I. Growth and population projections for the affected area.

There are 646 active customers within CSA 70 W-1. Utilizing the County General Plan coefficient of 2.68 persons in the Desert region of the county, there are roughly 1,731 persons. Based on the County land use designations (roughly half Rural Living 2.5 and RL-5) and ownership of land, significant growth is not anticipated within CSA 70 W-1.

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

There are no studies or plans for CSA 70 W-1 other than a report from 2000, last updated in 2002, on the water system that was prepared to obtain USDA funding for projects.

The District provides funding for the operation and maintenance of water connections and maintains three wells, two booster stations and reservoir storage of 420,000 gallons.

In 1995 the Bighorn-Desert View Water Agency ("Agency") submitted a proposal to detach approximately eight square miles from its boundaries in the Landers area (LAFCO 2792). Since the formation of CSA 70 W-1, there were a number of disputes between the residents served by CSA 70 W-1 and those served by the Agency. LAFCO 2792 was a means of resolving these periodic disputes. The justification for the application was that residents of CSA 70 W-1 received no specific benefits from the Agency but that CSA 70 W-1 residents voted on the Agency's ballot measures, affected the Agency's board decisions, and the area could have representation on the Agency's board. The Commission approved the proposal because it eliminated an overlap of similar-purpose agencies and could possibly lead to a less contentious relationship between the residents of the two agencies.

However, BDVWA was best suited to continue providing retail water to approximately 17 customers within the boundaries of CSA 70 W-1 because the CSA 70 W-1 system for that area deteriorated and could not provide adequate water service and pressure. The arrangement for this service is between the Agency and the County (as the governing body for CSA 70 W-1) though a contract signed in December 1997 for the purpose of providing water service to specific properties located within the CSA 70 W-1 service area.[48] At this time, BDVWA does not charge a special rate to these customers that are outside of the Agency's boundaries.

III. Financial ability of agencies to provide services.

CSA 70 W-1 utilizes the County Special Districts Department for management of its operations and transfers a proportional share to CSA 70 Countywide for salaries and

[48] County Contract No. 97-1059

benefits and services and supplies support. The budget identifies the following activities which have had significant changes from the prior year:

- Operating expenses of $536,356 include utilities, other professional and specialized services for tank inspections, system maintenance, maintenance of structures, and the allocation of management and operations support from CSA 70 Countywide. The increase of $20,294 is primarily due to higher maintenance requirements.

- Contingencies of $150,398 are decreasing by $80,774 to fund current year operations.

- Total revenue of $380,608 includes interest earnings and residential sales and is decreasing by $1,500.

- Operating transfers in of $134,089 represents funding from replacement reserves to support district operations and is decreasing by $101,957 due to reduced operations and maintenance support requirements in 2011-12. Additionally, transfers fund operating expenses budgeted for emergencies and high maintenance and repair activity throughout the year and will be processed only if necessary.

- Capital expenditures are decreasing by $63,000 as the district completed purchase of chlorinators in 2010-11.

CSA 70 Zone W-1 Financial Activity

	2007-08 Actual	2008-09 Actual	2009-10 Actual	2010-11 Estimate	2010-11 Modified Budget	2011-12 Recommended Budget
Appropriation						
Staffing Expenses	0	0	0	0	0	0
Operating Expenses	445,500	432,664	415,953	453,841	516,062	536,356
Contingencies	0	0	0	0	231,172	150,398
Total Exp Authority	445,500	432,664	415,953	453,841	747,234	686,754
Reimbursements	(740)	0	0	0	0	0
Total Appropriation	444,760	432,664	415,953	453,841	747,234	686,754
Depreciation	0	0	0	0	0	0
Operating Transfers Out	0	0	0	0	0	0
Total Requirements	444,760	432,664	415,953	453,841	747,234	686,754
Departmental Revenue						
Taxes	0	0	0	0	0	0
Realignment	0	0	0	0	0	0
State, Fed or Gov't Aid	0	0	0	0	0	0
Fee/Rate	339,948	344,266	353,226	354,920	373,033	374,908
Other Revenue	(31,479)	13,099	9,349	5,852	9,075	5,700
Total Revenue	308,469	357,365	362,574	360,772	382,108	380,608
Operating Transfers In	76,514	74,870	136,475	136,046	236,046	134,089
Total Financing Sources	384,983	432,235	499,049	496,818	618,154	514,697
Rev Over/(Under) Exp	(59,777)	(429)	83,096	42,977	(129,080)	(172,057)
				Budgeted Staffing	0	0
Fixed Assets						
Capital Expenditures	0	0	37,421	63,000	63,000	0
Total Fixed Assets	0	0	37,421	63,000	63,000	0

Additionally, the FY 2011-12 budget identifies reserves totaling $801,993. This amount is comprised of $488,241 in the Capital Replacement Reserve and $313,752 in the Capital Expansion Reserve.

Property Taxes and Special Assessments

The budget chart above identifies that CSA 70 W-1 does not receive any property taxes or assessments. However, a review of the financial statements and the County's Tax Rate publication identifies otherwise. As identified in the Audit for FY 2009-10, CSA 70 W-1 received $105,573 as property taxes and $74,140 from special assessments for bond repayment. The County Special Districts Department has responded to the draft staff report and states that CSA 70 W-1 does in fact receive a small amount of property taxes. The response provided the following breakdown of these revenues for fiscal year 2009-10, for clarification:

i. Total apportioned property taxes received into the District $24,500.98
ii. Total standby charges received into the District $56,734.95
iii. Delinquent user charges (placed on tax role) $1 1,470.64
iv. Interest and penalties on delinquent user charges $ 4,853.60
v. Interest revenue $ 8,302.83

In 1999, the County Special Districts Department implemented a procedure to allocate the property taxes and standby charges for the sanitation, sewer, and water districts into the capital replacement accounts, rather than in the operational accounts.[49] The procedure then requires a transfer of the taxes and charges from the capital replacement account into the operational account (shown as Operating Transfers In). The flow of taxes and charges is not transparent, and LAFCO staff recommends that the County indicate in its budgets the receipt of property taxes, standby charges, and assessments. The County Special Districts Department has responded to the draft staff report and states that it is in the process of implementing a budgeting/fiscal process to deposit these revenues directly into the operating account to provide for a clear understanding of the revenues attributable to the agency for service delivery.

Appropriation Limit

Under Article XIIIB of the California Constitution (the Gann Spending Limitation Initiative), the district is restricted as to the amount of annual appropriations from the proceeds of taxes, and if proceeds of taxes exceed allowed appropriations, the excess must either be refunded to the State Controller, returned to the taxpayers through revised tax rates or revised fee schedules, or an excess in one year may be offset against a deficit in the following year. Furthermore, Section 5 of Article XIIIB allows the district to designate a portion of the fund balance of general contingencies to be used in future years without limitation.

[49] Memo dated May 10, 1999 from County Special Districts Department to County Auditor-Controller Recorder Office. Copy available at LAFCO staff office.

By action taken on June 28, 2011 the Board of Supervisors of the County of San Bernardino set the preliminary appropriation limit for CSA 70 W-1 at $27,113. The Fy 2009-10 audit prepared for the District identifies that the annual property tax receipts as being over $100,000. However, the financial statements included do not identify if the district exceeds its appropriations limit or designates a portion of the fund balance of general contingencies to be used in future years. As outlined above, the questions regarding property taxes received by the District need to be resolved so that the general public and agency understand the revenue stream for the provision of its services.

Long-term Debt

CSA 70 W-1 sold bonds during fiscal years 1978-79 and 1979-80 to provide construction capital. The bonds were issued at 5% interest, and all bonds are scheduled to be paid by December 1, 2019. The following is a schedule of debt service requirements to maturity as of June 30, 2010 for the CSA's bonds payable.

NOTE 5: BONDS PAYABLE (continued)

Year ending June 30,	Zone W-1	
	Principal	Interest
2011	$ 60,000	$ 33,250
2012	65,000	30,250
2013	65,000	27,000
2014	70,000	23,750
2015	70,000	20,250
2016-2019	335,000	43,500
Total	$ 665,000	$ 178,000

IV. Status of, and opportunities for, shared facilities.

The Special Districts Department consolidates the administrative operations and facilities for county service areas and improvement zones under the auspices of CSA 70.

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

Local Government Structure and Community Service Needs

CSA 70 W-1 is governed by the County Board of Supervisors and administered by the County Special Districts Department; it is within the political boundaries of the Third Supervisorial District. CSA 70 W-1'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 district

does not utilize an Advisory Commission or Municipal Advisory Council. Meetings are held with residents as needed.

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. Therefore, CSA 70 W-1 has no direct employees; it pays for a proportional share of salaries and benefits costs necessary to serve it and pays a proportional cost of the administrative functions of the County Special Districts Department**.**

Government Code Section 26909 allows a special district to conduct a biennial audit, conduct an audit covering a five-year period, or replace the annual audit with a financial review if certain conditions are met. This board-governed agency meets the conditions for one if not all of the above. Therefore, this agency has the potential to realize cost savings should it choose to undertake the necessary steps outlined in state law. This possibility would need to be discussed and decided between the County, its departments and the landowners and voters within the agency to maintain transparency.

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.

Government Structure Options:

The State has published advisory guidelines for LAFCOs to address all of the substantive issues required by law for conducting a service review [50]. The Guidelines address 49 factors in identifying an agency's government structure options. Themes among the factors include but are not limited to: more logical service boundaries, elimination of overlapping boundaries that cause service inefficiencies, economies of scale, opportunities to enhance capital improvement plans, and recommendations by a service provider.

In some cases, functional consolidation or integration can reduce costs so that services can be maintained and improved with fewer dollars. The following scenarios are not being presented as options for the Commission to consider for action as a part of this service review. Rather, a service review should address possible options, and the following are theoretical, yet possible, scenarios for the community to consider for the

[50] State of California. Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

future. Movement towards these scenarios would include, but not be limited to, a plan for service, fiscal impact analysis, and any other required studies.

- In 1995 the Bighorn-Desert View Water Agency ("Agency") submitted a proposal to detach approximately eight square miles from its boundaries in the Landers area (LAFCO 2792). Since the formation of CSA 70 70 W-1, there were a number of disputes between the residents served by CSA 70 W-1 and those served by the Agency. LAFCO 2792 was a means of resolving these periodic disputes. The justification for the application was that residents of CSA 70 W-1 received no specific benefits from the Agency but that CSA 70 W-1 residents voted on the Agency's ballot measures, affected the Agency's board decisions, and the area could have representation on the Agency's board. The Commission approved the proposal because it eliminated an overlap of similar-purpose agencies and could possibly lead to a less contentious relationship between the residents of the two agencies.

  The current staff of the Agency has expressed desire to explore the option of returning this area to the boundaries of the Agency. At this time, the Agency serves 17 customers within the area through contract with the County. The Agency, residents, or landowners could submit an application to expand the boundaries of the Agency to the east to include the Goat Mountain area. Such an application would be processed to include the dissolution of CSA 70 W-1 with the Agency identified as the successor agency. The Agency would then be responsible for extending its services to the area, including continuing the services of the dissolved CSA 70 zone.

  Including the area of CSA 70 W-1 would allow those that the Agency currently serves within the area the opportunity to participate in Agency elections and have a voice in Agency matters. For the Agency, it would provide for additional tax revenue. Before the detachment, these properties were within the Agency's Improvement District 1 and contributed to the Improvement District 1 bond debt for the Bighorn water system. Currently, these 17 properties outside of Agency's boundaries pay the same amount for the water but do not contribute to the debt repayment that provided funding for the water infrastructure.

  As detailed in the Sphere of Influence Update section for the Bighorn-Desert View Water Agency, LAFCO staff is recommending the inclusion of this area within the Agency's sphere.

CONCLUSION:

Staff is recommending that the Commission make the following recommendation for Zone W-1 and that follow-up be submitted verifying the implementation of these recommendations:

- That the County provide identify in its budgets the receipt of property taxes, standby charges, and assessments, since the flow of taxes and charges is not

transparent.

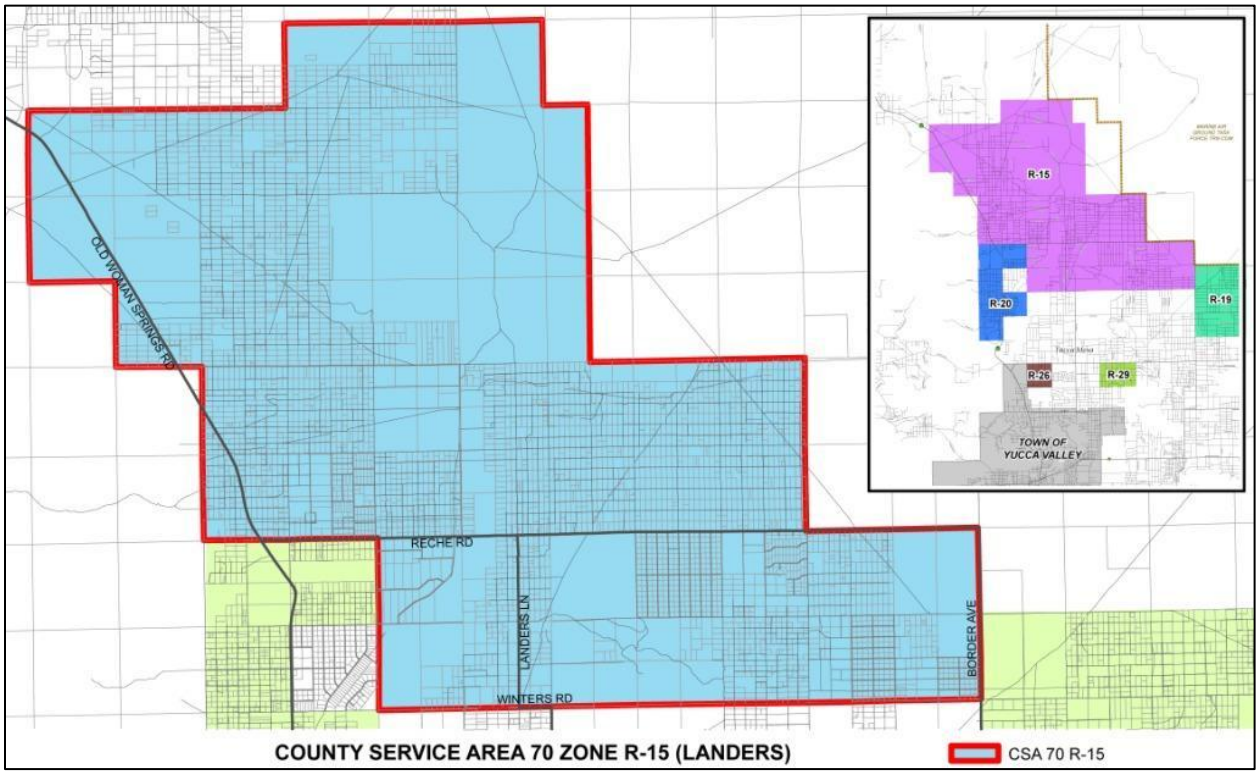
- That the County provides a response on the appropriation limit questions raised in this service review.

COUNTY SERVICE AREA 70 ZONE R-15 (LANDERS)
Service Review

INTRODUCTION:

County Service Area 70 Zone R-15 ("Zone R-15") provides road grading and maintenance service to approximately 450 miles of unpaved roads in the Landers area. Zones to County Service Areas are not under the purview of the Commission; however, information was obtained to provide the Commission and the public an outline of the broad range of municipal-type services provided within the community. Only information related to a service review for Zone R-15 is provided in this report. In addition, there is no sphere of influence assignment for a Zone to a county service area.

Zone R-15 was formed in 1984 by action of the County of San Bernardino Board of Supervisors at the request of landowners for the primary purpose of providing road grading and maintenance service to the Landers area through payment of a $20 per parcel service charge on each of the 3,494 parcels. A map showing Zone R-15 is shown below and is included as a part of Attachment #4.



CSA 70 ZONE R-15 SERVICE REVIEW

LAFCO has no direct jurisdiction over Zone R-15; therefore, there is no sphere of influence designation. This report contains only service review information. The County Special

Districts Department, administrators for board-governed special districts, prepared a service review consistent with San Bernardino LAFCO policies and procedures. The Department's response on behalf of Zone R-15 to LAFCO's original and updated requests for materials includes, but is not limited to, formation and financial information. The information submitted is included as a part of Attachment #4 and are incorporated in the information below.

I. Growth and population projections for the affected area.

There are 3,494 parcels within Zone R-15. Based on the County land use designations and landowner patterns, significant growth is not anticipated.

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

Special Districts Department grades and maintains roughly 450 miles of unpaved road within Zone R-15. At the December 6 meeting to review the draft report, Special District staff indicated that grades roads weekly, but determines the roads to be maintained on an as needed schedule. The roads maintained are Bearing Tree Road, Yucca Mesa Road, Anita Avenue, Bonita Avenue, Inez Avenue, Mallow, Booth Road, Phillips Road, Napa Road, Moon Drive, Delgada Avenue, Ripon Avenue, Tracy Boulevard, Lana Vista, Winters Road, Bodick Road, Snail Trail, Dusty Mile, Mikiska Boulevard, Touchstone Blvd, Wright Avenue, Broadway, University Boulevard, Acoma, Shannon Road, Happy Trail, Jesse Road, Wamego Trail, Sunny Slope, Dixie Mine Road, Encantado Road, Cone Boulevard, Cambria Avenue, and Gibraltar Road.

Zone R-15 and CSA 70 M share the cost of one full-time Equipment Operator I.

III. Financial ability of agencies to provide services.

Zone R-15 collects a $20 service charge per parcel and uses the funds for the grading and maintenance of 450 miles of unpaved roadway. Of importance, the $20 service charge does not have an inflation factor; therefore, it has been a static since 1984. Any increase would be subject to Prop 218 election.

However, this service charge is identified on Zone R-15's budgets (shown below) as "Fee/Rate". Further, the financial statements identify that in FY 2009-10 Zone R-15 received $3,427 in property taxes, and $65,681 in special assessments. The County Auditor's tax rate publication does not identify Zone R-15 as receiving a share of the one percent ad valorem property tax. Additionally, it is identified that the collected revenues of the district consist of the $20 per parcel service charge. Therefore, LAFCO staff recommends that the County accurately identify the source of revenue (service charge) in its budgets and financial statements. The County Special Districts Department has responded to the draft staff report and states that CSA 70 R-15 does not receive an apportionment of the general tax levy. The reference to tax revenues received in the audit report prepared by an outside auditor actually refers to penalty fees, and interest on these fees, received from late payment of service charges placed on the tax roll. The current CSA 70 R-15 budget now identifies service charges as Fees/Rates.

Expenditures consist of the annual salary and benefit share paid to County Service Area 70 and maintenance of the roads as needed. As identified in the FY 2011-12 Budget, expenditures continually exceed fee revenues. Should this trend continue, Zone R-15 will experience further challenges in providing service. Should significant repairs be required, the current fund balance of $111,297 may not be adequate. Zone R-15 utilizes the County Special Districts Department for management of its operations and transfers a proportional share to CSA 70 Countywide for salaries and benefits and services and supplies support. The budget identifies the following activities which have had significant changes from the prior year:

- Staffing expenses of $62,560 fund 1 Public Service Employee Equipment Operator and is increasing by $21,725 due to anticipated increase in number of work hours. The employee is a part of CSA 70 assigned for service to the Zone.

- Operating expenses of $74,622 include road and equipment maintenance, miscellaneous costs, and transfers for salaries and benefits and services and supplies support from CSA 70 Countywide. The increase of $11,793 is primarily due to higher anticipated road repair and maintenance expenditures.

- Contingencies are decreasing by $6,474 to fund current operations.

- Operating transfers out of $70,000 is decreasing by $30,312 due to a decrease in transfers to fund the district's capital improvement project fund. In the past this line item identified the funding for management and support services through CSA 70 to the zone. However, no description is included with the FY 2011-12 budget to identify the use of these funds.

- Departmental revenue of $95,885 primarily represents service charges and interest and is increasing $26,907 due to new anticipated revenue for capital improvement type projects provided to other departments.

CSA 70 Zone R-15 Financial Activity

	2007-08 Actual	2008-09 Actual	2009-10 Actual	2010-11 Estimate	2010-11 Modified Budget	2011-12 Recommended Budget
Appropriation						
Staffing Expenses	0	0	0	18,709	40,835	62,560
Operating Expenses	75,409	144,659	86,480	54,511	62,829	74,622
Capital Expenditures	0	0	0	0	0	0
Contingencies	0	0	0	0	6,474	0
Total Exp Authority	75,409	144,659	86,480	73,220	110,138	137,182
Reimbursements	0	0	0	0	0	0
Total Appropriation	75,409	144,659	86,480	73,220	110,138	137,182
Operating Transfers Out	0	0	0	30,000	100,312	70,000
Total Requirements	75,409	144,659	86,480	103,220	210,450	207,182
Departmental Revenue						
Taxes	0	0	0	0	0	0
Realignment	0	0	0	0	0	0
State, Fed or Gov't Aid	0	0	0	0	0	0
Fee/Rate	74,074	63,161	69,107	72,005	66,978	94,905
Other Revenue	10,421	17,724	2,321	1,040	2,000	980
Total Revenue	84,495	80,885	71,428	73,045	68,978	95,885
Operating Transfers In	0	0	0	0	0	0
Total Financing Sources	84,495	80,885	71,428	73,045	68,978	95,885
				Fund Balance	141,472	111,297
				Budgeted Staffing	1	1

IV. Status of, and opportunities for, shared facilities.

The Special Districts Department consolidates the administrative operations and facilities for county service areas and improvement zones under the auspices of CSA 70.

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

Local Government Structure and Community Service Needs

Zone R-15 is governed by the County Board of Supervisors and administered by the County Special Districts Department; it is within the political boundaries of the Third Supervisorial District. Zone R-15'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. Zone R-15 does not utilize an advisory commission or municipal advisory council.

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. Therefore, Zone R-15 has no direct employees; it pays for a proportional share of salaries and benefits costs necessary to serve it and pays a proportional cost of the administrative functions of the County Special Districts Department.

Government Code Section 26909 allows a special district to conduct a biennial audit, conduct an audit covering a five-year period, or replace the annual audit with a financial review if certain conditions are met. This board-governed agency meets the conditions for one if not all of the above. Therefore, this agency has the potential to realize cost savings should it choose to undertake the necessary steps outlined in state law. This possibility would need to be discussed and decided between the County, its departments and the landowners and voters within the agency to maintain transparency.

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 -- Road maintenance service cannot be provided outside the boundaries of Zone R-15; therefore, no discussion is applicable to this review;

2. Other potential government structure changes such as consolidations, reorganizations, dissolutions, etc.

Government Structure Options:

The State has published advisory guidelines for LAFCOs to address all of the substantive issues required by law for conducting a service review[51]. The Guidelines address 49 factors in identifying an agency's government structure options. Themes among the factors include but are not limited to: more logical service boundaries, elimination of overlapping boundaries that cause service inefficiencies, economies of scale, opportunities to enhance capital improvement plans, and recommendations by a service provider.

In some cases, functional consolidation or integration can reduce costs so that services can be maintained and improved with fewer dollars. The following scenarios are not being presented as options for the Commission to consider for action as a part of this service review. Rather, a service review should address possible options, and the following are theoretical, yet possible, scenarios for the community to consider for the future. Movement towards these scenarios would include, but not be limited to, a plan for service, fiscal impact analysis, and any other required studies.

- <u>Expansion of Zone R-15.</u> The zone could expand to include additional territory. This would require that the landowners be included in the annual assessment and benefit from road maintenance services.

- <u>One Road County Service Area for the South Desert.</u> Previous LAFCO service reviews have identified that county service areas and zones to county service areas experience financial challenges as they deal with extremely varied sources

[51] State of California. Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

of revenue. Further, the disjointed response to service demands has resulted in an abundance of financially challenged, scattered road agencies that have the same County governance and administrative structure. In the mountain region, consideration is underway to combine all County-governed road agencies into a single road agency for the reasons stated above. A single road agency to administer the numerous and scattered road agencies for this region could also provide efficiencies while still providing unique localized service.

CONCLUSION:

Staff is recommending that the Commission make the following recommendation for Zone R-15 and that follow-up be submitted verifying the implementation of this recommendation:

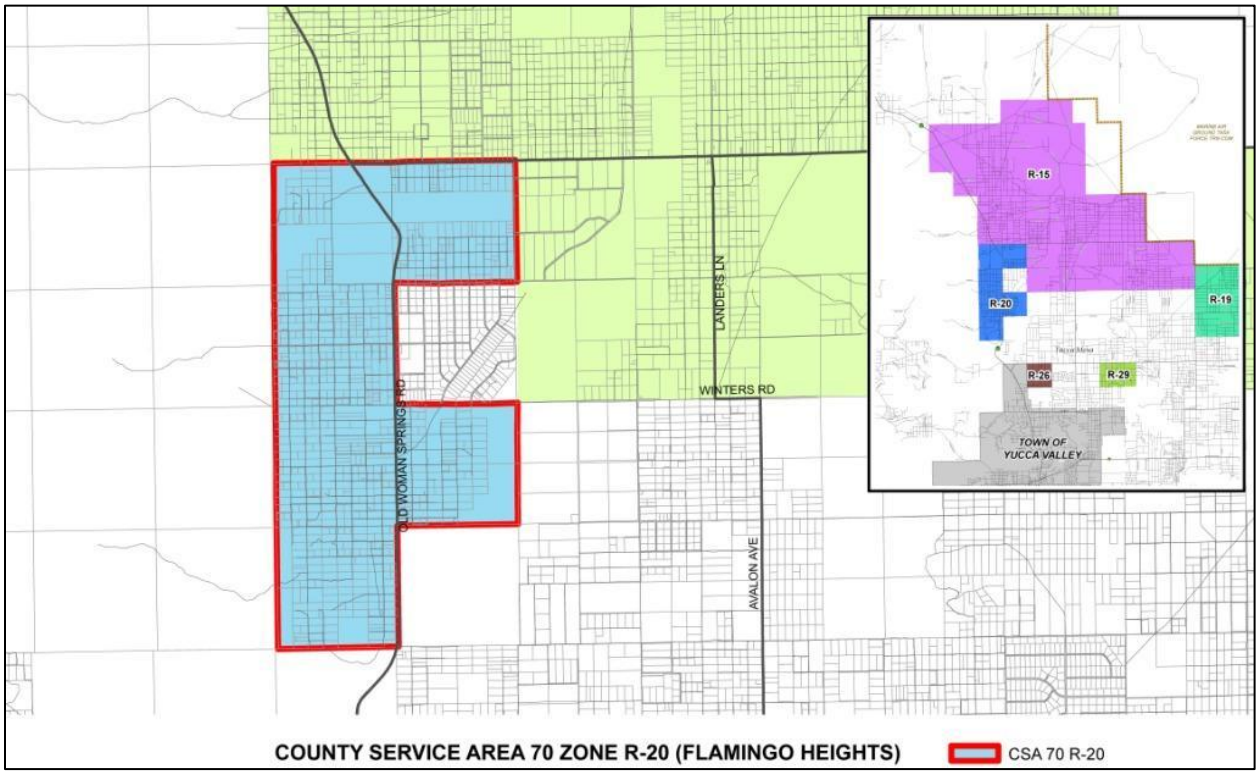
- That the County accurately identify the source or revenue (service charge) in its budgets and financial statements.

COUNTY SERVICE AREA 70 ZONE R-20 (FLAMINGO HEIGHTS)
Service Review

INTRODUCTION:

County Service Area 70 Zone R-20 ("Zone R-20") provides road grading and maintenance service to approximately 30 miles of unpaved roads in the Flamingo Heights area. Zones to County Service Areas are not under the purview of the Commission; however, information was obtained to provide the Commission and the public an outline of the broad range of municipal-type services provided within the community. Only information related to a service review for Zone R-20 is provided in this report. In addition, there is no sphere of influence assignment for a zone to a county service area.

Zone R-20 was formed in 1986 by action of the County of San Bernardino Board of Supervisors at the request of landowners for the primary purpose of providing road grading and maintenance service to the Flamingo Heights area through payment of a $15 per parcel service charge on each of the 761 parcels. A map showing Zone R-20 is shown below and is included as a part of Attachment #5.



CSA 70 ZONE R-20 SERVICE REVIEW

LAFCO has no direct jurisdiction over Zone R-20; therefore, there is no sphere of influence designation. This report contains only service review information. The County Special

Districts Department, administrators for board-governed special districts, prepared a service review consistent with San Bernardino LAFCO policies and procedures. The Department's response on behalf of Zone R-20 to LAFCO's original and updated requests for materials includes, but is not limited to, formation and financial information. The information submitted is included as a part of Attachment #5 and are incorporated in the information below.

I. Growth and population projections for the affected area.

There are 761 parcels within Zone R-20. Based on the County land use designations and landowner patterns, significant growth is not anticipated.

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

Special Districts Department grades and maintains roughly 30 miles of unpaved road within Zone R-20 on an as needed schedule. The roads maintained are Soledad Avenue, Fortuna Avenue, Delgada Avenue, Tahoe Avenue, Mira Street, Boo Lane, Mesa Vista, Chapparal Road, Luna Vista, Moonstone Lane, Eureka Road, Handley Road, Napa Road, Ripon Avenue, Cambria Avenue, Wamego Trail, Cherokee Trail, Deer Trail, Inca Trail, Perris Street, Butte Street, Starlight Mesa, Serrana, and Perris Street.

III. Financial ability of agencies to provide services.

Zone R-20 collects a $15 service charge per parcel and uses the funds to contract for the grading and maintenance of 30 miles of unpaved roadway. Of importance, the $15 service charge does not have an inflation factor; therefore, it has been a static since 1986. Any increase would be subject to Prop 218 election.

However, this service charge is identified on Zone R-20's budgets (shown below) as "Fee/Rate". Further, the financial statements identify that in FY 2009-10 Zone R-20 received $493 in property taxes, and $11,179 in special assessments. The County Auditor's tax rate publication does not identify Zone R-20 as receiving a share of the one percent ad valorem property tax. Additionally, it is identified that the collected revenues of the district consist of the $15 per parcel service charge. Therefore, LAFCO staff recommends that the County accurately identify the source of revenue (service charge) in its budgets and financial statements. The County Special Districts Department has responded to the draft staff report and states that CSA 70 R-20 does not receive an apportionment of the general tax levy. The reference to tax revenues received in the audit report prepared by an outside auditor actually refers to penalty fees, and interest on these fees, received from late payment of service charges. The current CSA 70 R-20 budget now identifies service charges as Fees/Rates.

Expenditures consist of the annual salary and benefit share paid to County Service Area 70 and maintenance of the roads as needed. As identified in the FY 2011-12 Budget, expenditures continually exceed fee revenues. Should this trend continue, Zone R-20 will experience further challenges in providing service. Should significant repairs be required, the current fund balance of $1,552 most likely will not be adequate. In addition, based upon

historic expenditure trends, the District is projected to have a zero fund balance to begin Fiscal Year 2012-13. Zone R-20 utilizes the County Special Districts Department for management of its operations and transfers a proportional share to CSA 70 Countywide for salaries and benefits and services and supplies support. The budget identifies the following activities which have had significant changes from the prior year:

- Operating expenses of $12,997 include road maintenance, auditing costs, and transfers for salaries and benefits and services and supplies support from CSA 70 Countywide. The $3,813 decrease is primarily due to lower anticipated road maintenance expenditures.

- Contingencies are decreasing by $835 due to reduced departmental revenue and available fund balance.

- Departmental revenue of $11,445 includes service charges and interest and is decreasing by $81 based on current trends.

CSA 70 Zone R-20 Financial Activity

	2007-08 Actual	2008-09 Actual	2009-10 Actual	2010-11 Estimate	2010-11 Modified Budget	2011-12 Recommended Budget
Appropriation						
Staffing Expenses	0	0	0	0	0	0
Operating Expenses	13,904	10,373	13,878	16,023	16,810	12,997
Capital Expenditures	0	0	0	0	0	0
Contingencies	0	0	0	0	835	0
Total Exp Authority	13,904	10,373	13,878	16,023	17,645	12,997
Reimbursements	0	0	0	0	0	0
Total Appropriation	13,904	10,373	13,878	16,023	17,645	12,997
Operating Transfers Out	0	0	0	0	0	0
Total Requirements	13,904	10,373	13,878	16,023	17,645	12,997
Departmental Revenue						
Taxes	0	0	0	0	0	0
Realignment	0	0	0	0	0	0
State, Fed or Gov't Aid	0	0	0	0	0	0
Fee/Rate	12,633	11,445	11,672	11,375	11,406	11,375
Other Revenue	358	287	112	81	120	70
Total Revenue	12,991	11,732	11,784	11,456	11,526	11,445
Operating Transfers In	0	0	0	0	0	0
Total Financing Sources	12,991	11,732	11,784	11,456	11,526	11,445
				Fund Balance	6,119	1,552
				Budgeted Staffing	0	0

IV. Status of, and opportunities for, shared facilities.

The Special Districts Department consolidates the administrative operations and facilities for county service areas and improvement zones under the auspices of CSA 70.

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

Local Government Structure and Community Service Needs

Zone R-20 is governed by the County Board of Supervisors and administered by the County Special Districts Department; it is within the political boundaries of the Third Supervisorial District. Zone R-20'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. Zone R-20 has a board appointed municipal advisory council [52] and utilizes the Flamingo Heights Community Center for meetings. The Clerk to the Board does not identify any active members since the MAC was recently re-established.

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. Therefore, Zone R-20 has no direct employees; it pays for a proportional share of salaries and benefits costs necessary to serve it and pays a proportional cost of the administrative functions of the County Special Districts Department**.**

Government Code Section 26909 allows a special district to conduct a biennial audit, conduct an audit covering a five-year period, or replace the annual audit with a financial review if certain conditions are met. This board-governed agency meets the conditions for one if not all of the above. Therefore, this agency has the potential to realize cost savings should it choose to undertake the necessary steps outlined in state law. This possibility would need to be discussed and decided between the County, its departments and the landowners and voters within the agency to maintain transparency.

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 -- Road maintenance service cannot be provided outside the boundaries of Zone R-20; therefore, no discussion is applicable to this review;

2. Other potential government structure changes such as consolidations, reorganizations, dissolutions, etc.

[52] Established by Board Resolution 86-131 on 7 April 1986. Dissolved per County Code Section 12.4509 when redistricting became effective as of 10/27/11. (Re)established via Resolution No. 2011-209, approved 11/1/11, as Flamingo Heights Municipal Advisory Council (CSA 70 R-20). As of the date of this report, no appointments have been made.

Government Structure Options:

The State has published advisory guidelines for LAFCOs to address all of the substantive issues required by law for conducting a service review[53]. The Guidelines address 49 factors in identifying an agency's government structure options. Themes among the factors include but are not limited to: more logical service boundaries, elimination of overlapping boundaries that cause service inefficiencies, economies of scale, opportunities to enhance capital improvement plans, and recommendations by a service provider.

In some cases, functional consolidation or integration can reduce costs so that services can be maintained and improved with fewer dollars. The following scenarios are not being presented as options for the Commission to consider for action as a part of this service review. Rather, a service review should address possible options, and the following are theoretical, yet possible, scenarios for the community to consider for the future. Movement towards these scenarios would include, but not be limited to, a plan for service, fiscal impact analysis, and any other required studies.

- Expansion of Zone R-20. The zone could expand to include additional territory. This would require that the landowners be included in the annual assessment and benefit from road maintenance services.

- One Road County Service Area for the South Desert. Previous LAFCO service reviews have identified that county service areas and zones to county service areas experience financial challenges as they deal with extremely varied sources of revenue. Further, the disjointed response to service demands has resulted in an abundance of financially challenged, scattered road agencies that have the same County governance and administrative structure. In the mountain region, consideration is underway to combine all County-governed road agencies into a single road agency for the reasons stated above. A single road agency to administer the numerous and scattered road agencies for this region could also provide efficiencies while still providing unique localized service.

CONCLUSION:

Staff is recommending that the Commission make the following recommendation for Zone R-20and that follow-up be submitted verifying the implementation of this recommendation :

Accurately identify the source of revenue (service charge) in its budgets and financial statements.

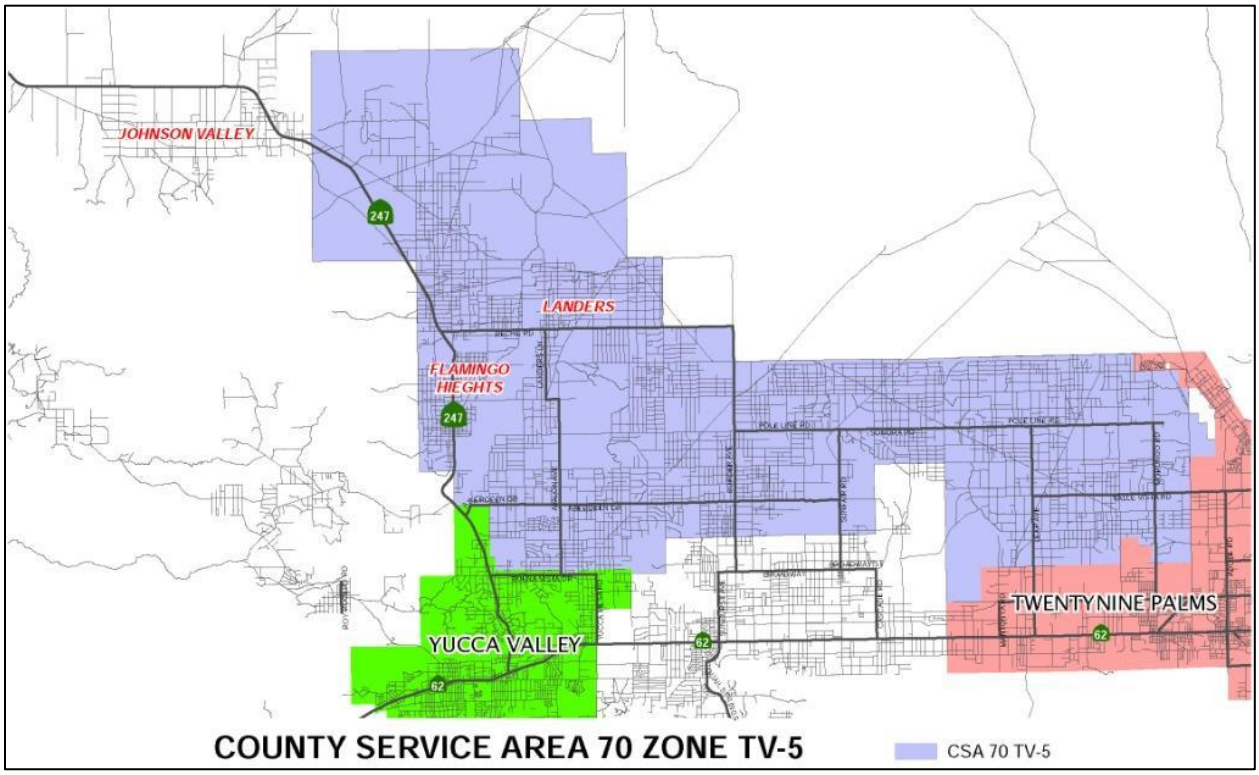
[53] State of California. Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

COUNTY SERVICE AREA 70 ZONE TV-5 (MESA)
Service Review

INTRODUCTION:

County Service Area 70 Zone TV-5 (hereafter shown as "Zone TV-5") provides low power television translator service to a 100 square mile area. Material was submitted to provide information to the Commission and the public of the broad range of municipal-type services provided within the community. Zone TV-5 is not under LAFCO purview and has no sphere of influence, therefore only information related to a service review is provided for this report.

Zone TV-5 was formed in 1995 by action of the County of San Bernardino Board of Supervisors and approved by the electorate serving a regional function. Information on this agency has also been provided in the Service Reviews for the Yucca Valley and Johsua Tree communities . A special tax and appropriations limit election was held for the purpose of providing funds and expenditure authorization for the service. The tax is levied at a rate of $25 per year per improved parcel on 6,412 parcels. Zone TV-5 provides eight UHF channels of translator service broadcast from Pinto Mountain to a 100 square mile area encompassing Copper Mesa, Desert Heights, Flamingo Heights, Landers, and Yucca Mesa. Zone TV-5 does not include Johnson Valley. Zone TV-5 provides service to approximately 16,500 persons. A map showing Zone TV-5 is shown below and is included as a part of Attachment #6.



CSA 70 ZONE TV-5 SERVICE REVIEW

LAFCO has no direct jurisdiction over Zone TV-5; therefore, only service review information is provided. The County Special Districts Department, administrators for board-governed special districts, prepared a service review consistent with San Bernardino LAFCO policies and procedures. The Department's response on behalf of Zone TV-5 to LAFCO's original and updated requests for materials includes, but is not limited to, system and financial information. The information submitted is included as a part of Attachment #6 and are incorporated in the information below.

I. Growth and population projections for the affected area.

There are 6,412 improved parcels within Zone TV-5. Utilizing the County General Plan coefficient of 2.68 persons for the Desert region, there are roughly 16,671 persons within Zone TV-5. Based on the County land use designations and landowner patterns, significant growth is not anticipated.

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

Zone TV-5 provides eight UHF channels of UHF translator service broadcast from Pinto Mountain to a 100 square mile area encompassing Copper Mesa, Desert Heights, Flamingo Heights, Landers, and Yucca Mesa, but does not include the Johnson Valley area.

As of February 19, 2009, federal law requires that all full-power broadcast stations broadcast in digital format only. Zone TV-5 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.

III. Financial ability of agencies to provide services.

On July 11, 1995, the electorate of Zone TV-5 approved a special tax and appropriations limit authorizing a $25 per improved parcel, per year charge to fund television services. It is important to note that this special tax does not have an inflation factor. Each year the County adopts a resolution for continuing the special tax that was previously approved by the voters.[54] However, this special tax is identified on Zone TV-5's budgets (shown below) as "Fee/Rate". Further, the financial statements identify that in FY 2009-10 Zone TV-5 received $7,316 in property taxes, $155,376 in special assessments, and $6,000 in service fees. The County Auditor's tax rate publication does not identify Zone TV-5 as receiving a share of the one percent ad valorem property tax. Additionally, it is identified that the collected revenues of the district consist of the $25 per parcel special tax. Therefore,

[54] Most recent annual adoption was adopted by the Board of Supervisors on 7 June 2011, Item 81.

LAFCO staff recommends that the County accurately identify the source of revenue (special tax) in its budgets and financial statements.

Expenditures consist of the annual salary and benefit share to County Service Area 70 and maintenance of the translator. In looking at the chart below, the Zone TV-5's expenditures increased significantly in FY 2007-08. This is due to equipment replacement of the eight translators at a total cost of $84,996. Zone TV-5 utilizes the County Special Districts Department for management of its operations and transfers a proportional share to CSA 70 Countywide for salaries and benefits and services and supplies support. The budget identifies the following activities which have had significant changes from the prior year:

- Staffing expenses of $2,339 fund 1 public service employee (PSE) position and is decreasing by $402 due to a reduction in PSE hours.
- Operating expenses of $119,722 includes costs for utilities, maintenance, professional services, vehicle charges, insurance, and administrative support. The increase of $7,212 is primarily due to higher utility charges.
- Capital expenditures of $15,000 is for the purchase of a transmitter/modulator.
- Contingencies of $276,542 are increasing by $37,204 to support future year operations.
- Departmental revenue of $168,171 includes special assessment per parcel tax and interest earnings and is increasing by $684 based on current trends.

	2007-08 Actual	2008-09 Actual	2009-10 Actual	2010-11 Estimate	2010-11 Modified Budget	2011-12 Recommended Budget
Appropriation						
Staffing Expenses	46,732	44,508	19,710	741	2,741	2,339
Operating Expenses	102,433	92,356	83,626	109,250	112,506	119,722
Capital Expenditures	84,996	8,802	10,495	14,846	15,000	15,000
Contingencies	0	0	0	0	239,338	276,542
Total Exp Authority	234,161	145,666	113,830	124,837	369,585	413,603
Reimbursements	0	(12,000)	(7,178)	0	0	0
Total Appropriation	234,161	133,666	106,652	124,837	369,585	413,603
Operating Transfers Out	0	0	0	0	0	0
Total Requirements	234,161	133,666	106,652	124,837	369,585	413,603
Departmental Revenue						
Taxes	0	0	0	0	0	0
Realignment	0	0	0	0	0	0
State, Fed or Gov't Aid	0	0	0	0	0	0
Fee/Rate	165,647	159,481	162,692	162,671	159,087	162,671
Other Revenue	12,123	11,027	8,275	5,500	8,400	5,500
Total Revenue	177,770	170,508	170,967	168,171	167,487	168,171
Operating Transfers In	0	0	0	0	0	0
Total Financing Sources	177,770	170,508	170,967	168,171	167,487	168,171
				Fund Balance	202,098	245,432
				Budgeted Staffing	0	1

Appropriation Limit

An appropriation limit is required by Article XIIIB of the State Constitution and limits the expenditure of the proceeds of taxes. By action taken on June 28, 2011 the Board of Supervisors of the County of San Bernardino established the preliminary appropriation limit for Zone TV-5 at $341,351. Should Zone TV-5 utilize its Contingencies, it would exceed its appropriation limit.

IV. Status of, and opportunities for, shared facilities.

The Special Districts Department consolidates the administrative operations and facilities for county service areas and improvement zones under the auspices of CSA 70. Additionally, the all the board-governed television districts share a TV Services Assistant and a fare share of the use of the position.

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

Local Government Structure and Community Service Needs

Zone TV-5 is governed by the County Board of Supervisors and administered by the County Special Districts Department; it is within the political boundaries of the First and Third Supervisorial Districts. Zone TV-5'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 Executive Office and Board of Supervisors for review and approval. Zone TV-5 does not utilize an advisory commission or municipal advisory committee.

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. Therefore, Zone TV-5 has no direct employees; it pays for a proportional share of salaries and benefits costs necessary to serve it and pays a proportional cost of the administrative functions of the County Special Districts Department**.**

Government Code Section 26909 allows a special district to conduct a biennial audit, conduct an audit covering a five-year period, or replace the annual audit with a financial review if certain conditions are met. This board-governed agency meets the conditions for one if not all of the above. Therefore, this agency has the potential to realize cost savings should it choose to undertake the necessary steps outlined in state law. This possibility would need to be discussed and decided between the County, its departments and the landowners and voters within the agency to maintain transparency.

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:

Direct service is not provided outside the boundaries of Zone TV-5; however, the translator signal can travel outside of its boundaries to areas where parcels do not pay the annual $25 special tax.

Government Structure Options:

The State has published advisory guidelines for LAFCOs to address all of the substantive issues required by law for conducting a service review [55] and San Bernardino LAFCO has adopted these guidelines as its own. The Guidelines address 49 factors in identifying an agency's government structure options. Themes among the factors include but are not limited to: more logical service boundaries, elimination of overlapping boundaries that cause service inefficiencies, economies of scale, opportunities to enhance capital improvement plans, and recommendations by a service provider.

In some cases, functional consolidation or integration can reduce costs so that services can be maintained and improved with fewer dollars. The following scenarios are not being presented as options for the Commission to consider for action as a part of this service review. Rather, a service review should address possible options, and the following are theoretical, yet possible, scenarios for the community to consider for the future. Movement towards these scenarios would include, but not be limited to, a plan for service, fiscal impact analysis, and any other required studies.

- Single county service area for TV translator service. This scenario would reorganize the two county service areas and three county service area zones into a single county service area that provides translator service. 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 translator service would reduce duplicative administration, budget, and audit costs. This is a viable option and one which is supported by LAFCO law.

CONCLUSION:

Staff is recommending that the Commission make the following recommendation for Zone TV-5 and that follow-up be submitted verifying the implementation of this recommendation:

[55] State of California. Governor's Office of Planning and Research. "Local Agency Formation Commission Municipal Service Review Guidelines", August 2003.

Accurately identify the source of revenue (special tax) in its budgets and financial statements.

ADDITIONAL DETERMINATIONS

1. The Commission's Environmental Consultant, Tom Dodson and Associates, has recommended that the options outlined in this report for the both agencies are statutorily exempt from environmental review. Mr. Dodson's response for each of the reviews is included in their respective attachments to this report.

2. As required by State Law notice of the hearing was provided through publication in a newspaper of general circulation, the *Hi-Desert Star*. 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 notice of hearing publication was provided through an eighth page legal ad.

3. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice. In addition, on December 6, 2011 LAFCO staff met with the agencies and community representatives to review the determinations and recommendations made within its draft report, to solicit comments on the determinations presented and to respond to any questions of the affected agencies.

4. Comments from landowners/registered voters and any affected agency will need to be reviewed and considered by the Commission in making its determinations.

RECOMMENDATIONS

To complete the considerations for the Homestead Valley region, staff recommends that the Commission take the following actions:

1. Receive and file the service reviews for the Homestead Valley community; make the determinations related to the service review for the Bighorn-Desert View Water Agency required by Government Code 56430 as outlined in the staff report.

2. For environmental review certify that the sphere of influence modifications to include expansions and reductions of the existing sphere of influence for Bighorn-Desert View Water Agency (LAFCO 3148) are statutorily exempt from environmental review and direct the Executive Officer to file the Notices of Exemption within five (5) days.

3. For LAFCO 3148, approve the sphere of influence expansions/reductions for the Bighorn-Desert View Water Agency, as identified in this report.

4. Direct the staff to prepare the resolution reflecting the Commission's findings and determinations regarding the service review and sphere of influence update for the Bighorn-Desert View Water Agency and place its adoption as a consent item on the Commission's February 15, 2012 Hearing agenda.

ATTACHMENTS

1. Maps
    a. LAFCO Defined South Desert Communities
    b. Community Agencies
    c. County Community Plan Areas
    d. Morongo Basin Water Agencies

2. Bighorn-Desert View Water Agency
    a. Map – Current Boundary and Sphere
    b. Map – LAFCO Staff Proposed Sphere Modifications
    c. Service Review and Sphere Update Response
    d. Map of Proposed Ames Valley Recharge Project
    e. Financial Information: Budget and Audit
    f. LAFCO Resolution 2255 (Consolidation of the Two Predecessor Agencies) and Excerpt from County of San Bernardino 1977-78 Valuations/Tax Rates Publication
    g. Copy of letters from the Agency, Mr. Gubler, and the Third District Supervisor Regarding Staff Proposed Sphere Expansion over Area #4.
    h. Copy of letters from and Property Owners to LAFCO Staff Proposed Sphere Expansion over Area #8.
    i. Agency Response to the Draft Staff Report dated December 16, 2011
    j. County Special District Response to LAFCO Staff Proposed Sphere Expansion over CSA 70 W-1 and Zones R-15,R-20 and TV-5
    k. Copy of letter from Johnson Valley Improvement Association Regarding Community Definition
    l. Response from Commission's Environmental Consultant

3. County Service Area 70 Zone W-1
    a. Map
    b. Financial Information: Budget and Audit

4. County Service Area 70 Zone R-15
    a. Map
    b. Financial Information: Budget and Audit

5. County Service Area 70 Zone R-20
    a. Map
    b. Financial Information: Budget and Audit

6. County Service Area 70 Zone TV-5
    a. Map
    b. Financial Information: Budget and Audit