

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE : NOVEMBER 13, 2019
Samuel Martinez
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #8 – LAFCO SC #446 – Authorization for the Inland Empire Utilities Agency to Provide Services outside its Boundary and Outside its Sphere of Influence Pursuant to Government Code Section 56133.5

RECOMMENDATIONS:

Staff recommends that the Commission take the following actions related to LAFCO SC #446:

1. For environmental review, certify that LAFCO SC #446 is statutorily exempt from environmental review, and direct the Executive Officer to file the Notice of Exemption within five (5) days.
2. Approve LAFCO SC #446 authorizing the Inland Empire Utilities Agency to provide wastewater service outside its boundary and sphere of influence within the areas identified in Attachment #1.
3. Adopt LAFCO Resolution #3295 setting forth the Commission's determinations for service outside the Inland Empire Utilities Agency's boundary and sphere of influence pursuant to Government Code Section 56133.5.

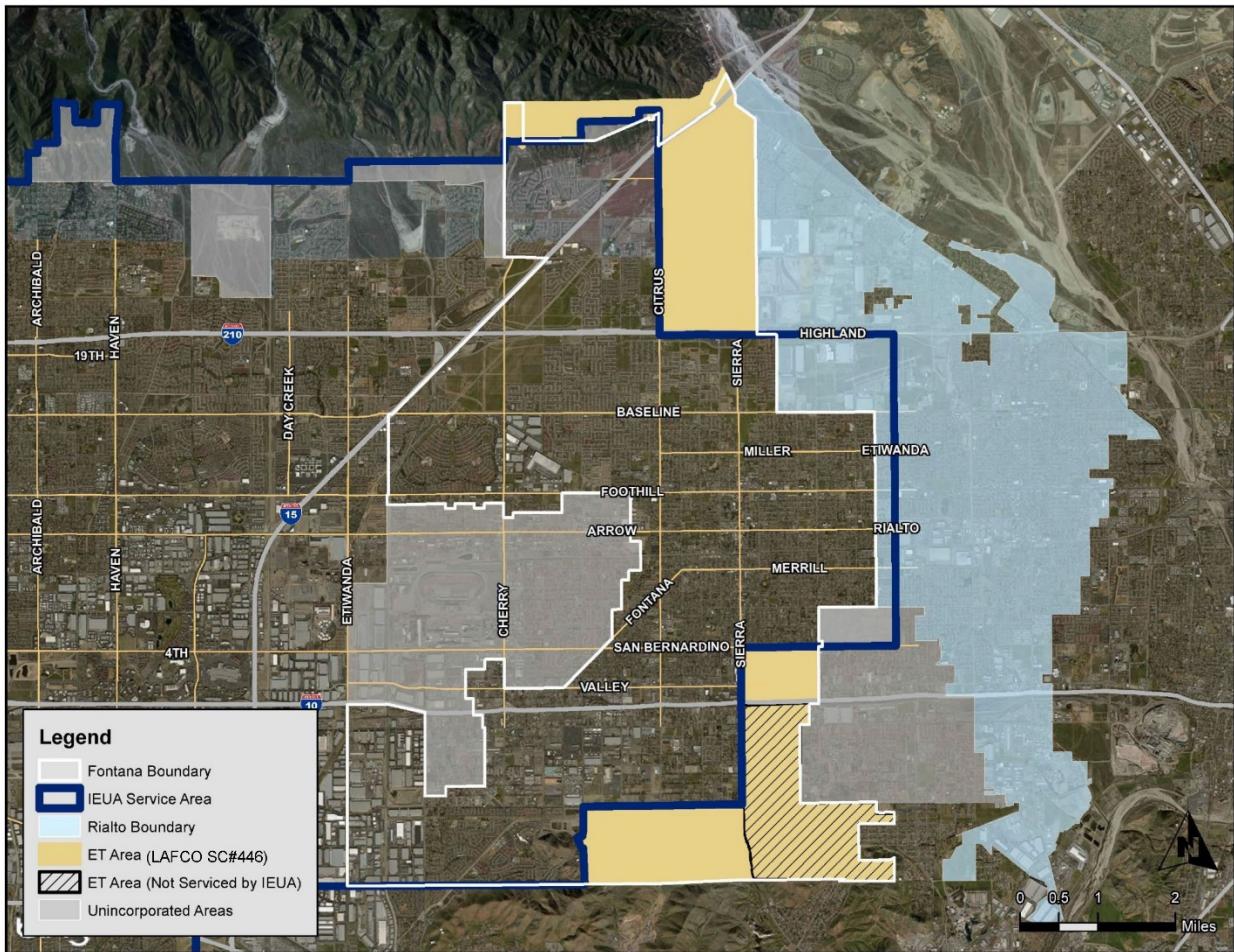
BACKGROUND:

The Inland Empire Utilities Agency (“IEUA”) is a wastewater treatment and disposal agency; it treats and disposes of the wastewater collected by its member agencies. The City of Fontana collects wastewater and is a member agency of IEUA.

Per the Section 12 of the Chino Basin Regional Sewage Service Contract (as amended October 1994), if an IEUA member agency was furnishing sewer service to territory outside the boundaries of IEUA and its Improvement District C, it may continue to furnish such service and shall be entitled to the services and facilities of the Regional Sewerage System

for that purpose. If the contracting agency desires to furnish sewer service outside of the IEUA and Improvement District C boundaries after 1994, IEUA authorization is required first. In either case, the contracting agency shall pay IEUA special capital outlay charges.

In January 1997, IEUA approved the City of Fontana's application for extra-territorial sewer service for all areas within the City's sphere of influence. These are areas that discharge to the City sewer system which ultimately goes to IEUA. According to IEUA, it receives influent from 32 commercial and 520 residential connections outside of its boundary. For commercial, this equates to 288 EDUs for a total use of 131,593 gallons per day ("gpd"). As for residential connections, this equates to 1,031 EDUs with an average use of 270 gpd. The extraterritorial areas of IEUA are shown below, which is also included as part of Attachment #1.



GOVERNMENT CODE SECTION 56133

Parcels have been provided service by IEUA within the identified extraterritorial areas but have not been submitted to LAFCO for review and approval. However, these parcels are grandfathered as a result of the 1995 settlement agreement between IEUA and the City which outlines an agreement for services to be rendered by IEUA – outside IEUA's boundary and sphere of influence.

One question remains - What about future infill connections within the identified extraterritorial areas (see IEUA's application Attachment #1 - IEUA Extra-Territorial Map)? Under the provisions outlined in Government Section 56133, such extension is prohibited since the Commission's approval to authorize an agency to provide service outside its boundary and sphere of influence is only to respond to a health and safety issue.

PILOT PROGRAM:

In 2016, Government Code Section 56133.5 established a pilot program, through 2020, for Napa and San Bernardino LAFCOs to authorize a city or district to extend services outside an agency's boundary and sphere for additional purposes beyond responding to threat to a public health or safety, based upon specific criteria.

In 2018, LAFCO's *Countywide Service Review for Wastewater* identified and evaluated IEUA's service outside of its boundary and sphere. The map of the service areas was provided, and the applicability of the Pilot Program to IEUA's circumstance was discussed (see Attachment #2 to this report for an excerpt from LAFCO 3190).

For IEUA, the pilot program provides a mechanism for infill connections to not be subject to further LAFCO review and approval. However, should IEUA desire to provide service beyond the identified extraterritorial service area, that action would be subject to LAFCO Policy 3 of Section IV, Chapter 2 of its *Policy and Procedure Manual*:

A proposal by a city or district to provide new or extended services outside the agency's boundaries and outside the agency's sphere of influence would come under the provisions of Government Code Section 56133.5, which will require Commission approval at a noticed public hearing **prior** to the signing of an agreement/contract for the provision of the service.

PILOT PROGRAM DETERMINATIONS:

The pilot program requires that the Commission make the following determinations regarding the area to be served outside the agency's boundary and sphere of influence, at a noticed public hearing. In the case of LAFCO SC#446, staff's position is that all three determinations can be made by the Commission.

1. That the proposed service extension was identified and evaluated in a service review. The service was identified and evaluated in the following service review: LAFCO 3190 in 2018.
2. That the proposed service extension will not have an adverse impact on open space/agricultural lands and/or is not growth inducing. Continuation of wastewater treatment and disposal service to the area identified in Section 12 of the Chino Basin Regional Sewage Service Contract (as amended October 1994) is not anticipated to have an adverse impact on open space or agricultural lands.

3. That inclusion of the area to be served into the agency's sphere of influence is not feasible or desirable based on adopted commission policies. The areas served by IEUA outside of its boundary and sphere of influence are well beyond IEUA's sphere of influence. Therefore, inclusion within IEUA's sphere is not feasible or desirable. Further, IEUA is a state water contractor and its boundary and sphere border those of another state water contractor. Therefore, extension of the sphere of one state water contractor over another is not feasible or desirable.

ENVIRONMENTAL DETERMINATION:

As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson from Dodson and Associates, has reviewed this item and has indicated that it is his recommendation that the review of LAFCO SC#446 is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this item does not have the potential to cause a significant adverse impact on the environment; and therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061(b)(3).

CONCLUSION:

This pilot program, unique to two counties, provides a mechanism to accommodate unique circumstances and harmonize with the other statutes regarding out-of-agency service agreements. For these reasons, staff recommends the Commission approve LAFCO SC #446, which allows IEUA to provide wastewater treatment and disposal services of wastewater generated from outside its boundary and outside its sphere within the areas outlined in Attachment #1 and in Resolution #3295.

SM/MT

Attachments:

1. [Map: IEUA Service outside Boundary and Sphere](#)
2. [Excerpt from LAFCO 3190 \(Countywide Service Review for Wastewater\)](#)
3. [IEUA Application Materials](#)
4. [Response from Tom Dodson and Associates](#)
5. [Draft Resolution #3295](#)