

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

April 9, 2008 (Agenda)

LAFCO 07-16 **Delta Diablo Sanitation District (DDSD) Sphere of Influence (SOI) Amendment (Mirant Power Plant)**

PROPONENT City of Pittsburg by Resolution No. 08-10956

ACREAGE & LOCATION Approximately 1,427 acres (including land and water areas) generally located north of Willow Pass Road and south of Suisin Bay, and includes the Mirant Power Plant and surrounding areas (seven parcels)

PURPOSE: To allow for the eventual annexation of the property in order to extend wastewater and other municipal services to the site

SYNOPSIS

The City filed an application with LAFCO to amend DDSD's SOI boundary to include 1,427± acres including the Mirant Power Plant and surrounding properties. The City also submitted a corresponding application to annex the same properties to both the City and DDSD; the reorganization proposal is currently pending.

The DDSD SOI and service boundary are coterminous (except for the southern portion of Roddy Ranch). The purpose of the proposed SOI expansion is to allow for the future annexation to DDSD (and City), provide for a logical boundary, and bring the Mirant Power Plant into the DDSD service area. For the past 20 years, the Mirant Power Plant has discharged its office/domestic flows into DDSD. The SOI amendment and pending annexation proposal would formally bring the plant into DDSD's service boundary.

The remaining area, outside of the Mirant Power Plant property, includes 170± acres of vacant land designated for industrial use, open space and wetlands including 298± acres of State of California lands within the Suisin Bay.

The area proposed for inclusion in the District's SOI is contiguous to the District's existing SOI and service boundary, is located within the City of Pittsburg's SOI and inside the City and County Urban Limit Lines (ULLs).

BACKGROUND

The Cortese-Knox-Hertzberg Act (CKH Act) empowers LAFCO with the responsibility for developing and determining the SOI of each local agency within the county, and for enacting policies designed to promote the logical and orderly development of areas within the spheres.

A Sphere of Influence is defined as a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO. The intent of an SOI is to identify the most appropriate areas for an agency's extension of services in the foreseeable future (e.g., 10-20 year horizon). Accordingly, territory included in an agency's sphere is an indication that the probable need for service has been established, and that the subject agency has been determined by LAFCO to be the most logical service provider for the area.

The CKH Act requires that LAFCO decisions regarding boundary changes be consistent with SOIs of local agencies. LAFCO is prohibited from approving annexations that are not within the annexing agency's SOI. Once an SOI is established, annexations must still be individually weighed and evaluated on their own merit.

State law requires LAFCO to review and update, as necessary, the adopted SOI of each local agency not less than every five years. In conjunction with an SOI update, LAFCO must prepare a Municipal Services Review (MSR).

In December 2007, the Commission accepted the MSR report covering water and wastewater services in East County. The MSR includes a review of DDS D services. In April 2008, the Commission will consider approving an SOI update for DDS D in accordance with the MSR report.

DISCUSSION

In determining a sphere, LAFCO is required to consider and prepare a written statement of determinations with respect to certain factors prior to making a decision, as discussed below (Government Code §56425).

SOI Determinations

- 1. The present and planned uses in the area, including agricultural and open space lands.*

The area proposed for inclusion in the District's SOI consists of seven parcels, plus 298± acres of State of California lands within the Suisin Bay (APNs 085-010-012/-014/-015, 096-100-015/-017/-018/-026).

The City requests inclusion of the area in DDS D's SOI and boundary in order to formally extend sewer services to the Mirant Power Plant site and adjacent properties. The City indicates that the proposed SOI expansion would provide for a logical northerly extension of the DDS D's SOI, and align the District's boundary with the City's ULL.

The County and City General Plan and zoning designations are shown in the table below.

APN	County General Plan	County Zoning	City General Plan	City Prezoning
085-010-012	WA/HI/PR	U	NA (submerged)	NA (submerged)
085-010-014	HI/OS/PR	HI/U	I/OS/UR	IG/OS/GQ
085-010-015	HI/WA	HI	I	IG
096-100-015	OS/WA	HI/U	OS	OS
096-100-017	OS/WA	HI/U	OS	OS
096-100-018	OS	HI	OS	OS/GQ
096-100-026	HI/OS/WA	HI/U	I/OS/UR	I/OS/GQ

Key: **GQ** = Governmental/Quasi-Public, **HI** = Heavy Industry, **I** = Industrial, **IG** = General Industrial, **NA** = No Designation, **OS** = Open Space, **PR** = Parks & Recreation, **U** = Unrestricted, **UR** = Utility/Right-of-Way, **WA** = Water

Note: For parcels containing two or more land use designations, all are noted.

The City of Pittsburg, as Lead Agency, prepared various environmental reports associated with the proposed SOI amendment and pending reorganization proposal, including the *Mirant Reorganization – Delta Diablo Sanitation District's Sphere of Influence Amendment and Annexation Negative Declaration* (February 2008)

and the *Mirant Power Generation Plant Annexation General Plan Amendment and Rezoning Negative Declaration* (July 2006).

The 2008 Initial Study/Negative Declaration (IS/ND) specifically evaluated the potential environmental impacts of including the project area in DDS D's SOI and service boundary. It was determined by the City that no significant environmental impacts would occur as a result of the proposed boundary change.

The IS/ND evaluated the impacts of the project on agricultural resources. The project site is not designated for agricultural use; and there are no current Williamson Act Land Conservation Agreements within the site.

2. *The present and probable need for public facilities and services in the area.*

The area proposed for inclusion in DDS D's SOI is primarily occupied by the Mirant Power Generation Plant, with associated cooling ponds, miscellaneous infrastructure and buffer lands. In addition, the area includes the PG&E power line corridor, open space (undevelopable wetlands), and 170± acres of vacant land designated for industrial use.

Present wastewater service to the project area is limited to the Mirant Power Plant which discharges its domestic/office flows to the DDS D system for treatment. The plant pays a bimonthly sewer service charge. In addition, the plant maintains its own NPDES permit for its industrial processes/cooling towers. DDS D owns and operates two conveyance facilities in the project area: a 1,400± linear foot gravity sewer trunk line, and a 30" gravity sewer interceptor which serves both Bay Point and Pittsburg.

The Mirant Power Plant average daily wastewater flow is estimated to be 4,810 gallons per day (gpd).

The City indicates that no development is proposed for the project area. However, there is a potential for future development, given that the project site includes 170± acres of vacant land designated for industrial uses. According to the City's Wastewater Collection System Master Plan, the base wastewater flow for industrial uses is 600± gpd per acre. Therefore, should the 170± acres be developed, the estimated wastewater flow could increase by an additional 102,000 gpd.

DDS D's existing wastewater collection system consists of 49 miles of sewer main and five pump stations. The District's average dry weather flow is 14.2 million gallons per day (mgd), and the wastewater treatment plant capacity is 16.5 mgd (current design) and 22.7 mgd (ultimate capacity).

The District has indicated that it is able and willing to continue to serve the Mirant Power Plant. Further, DDS D has the capacity to serve future industrial uses based on existing land use designations and zoning as described above. The District stipulates that should expanded service be required, demonstration of sewer conveyance and treatment plant capacity would be required as a condition of approval.

On March 31, LAFCO received a letter from DDS D supporting the City of Pittsburg's application to expand the District's SOI to be coterminous with the City's SOI and to include the Mirant property (attached). The City's application, Plan for Service and environmental review also provide information and analysis regarding other municipal services, including water.

The project area is within the service boundary of the Contra Costa Water District (CCWD). The water district provides both treated and untreated water throughout central and portions of east Contra Costa County. CCWD's untreated water service area includes Pittsburg and Bay Point. The City of Pittsburg provides water treatment and distribution for its residents and businesses.

CCWD is a Central Valley Project (CVP) contractor and delivers untreated water through the U.S. Bureau of Reclamation CVP. The untreated water is conveyed through the Contra Costa Canal. The contract provides for a maximum delivery of 195,000 acre feet per year (174 mgd) with reductions in deliveries during water shortages including regulatory restrictions and drought. In addition to CVP water, CCWD has other water sources including various water rights and entitlements.

The City of Pittsburg's average daily demand for water is approximately 10.3 mgd, with a maximum demand of 17.8 mgd. The Mirant Power Plant facility has a current average water demand of approximately 239,000 gallons per month. The baseline water conditions for the City of Pittsburg and the Mirant Power Plant are not expected to impact the overall water supply.

3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

The present capacity of DDS D's existing wastewater facility is 16.5 million gallons per day (mgd); the existing use is 14.2 mgd. As discussed above, DDS D currently provides wastewater services to the Mirant Power Plant. Based on the current land use designations, and potential service demand, DDS D has sufficient capacity and facilities to serve the project area.

4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The primary social or economic communities of interest that are relevant to the SOI amendment are the Pittsburg community and the DDS D customer base. The SOI amendment is consistent with the Pittsburg voter approved ULL, and would be a logical extension of the DDS D boundary.

In addition to the above determinations, the Commission, when adopting, amending, or updating an SOI for a special district, shall establish the nature, location, and extent of any functions or classes of services provided by existing districts.

DDS D provides wastewater conveyance, treatment, disposal, recycled water, street sweeping, household hazardous waste collection to the cities of Antioch and Pittsburg, the Bay Point community, and adjacent unincorporated areas.

The District is providing services to several properties outside its current boundaries, including the Mirant Power Plant. The proposed SOI amendment and pending annexation would officially bring the Mirant Power Plant into DDS D's service boundary and eliminate the current out of agency service.

Environmental Impact of the Proposal

The City of Pittsburg, as Lead Agency, prepared various environmental reports associated with the proposed SOI amendment and pending reorganization proposal, including the *Mirant Reorganization – Delta Diablo Sanitation District's Sphere of Influence Amendment and Annexation Negative Declaration* (February 2008) and the *Mirant Power Generation Plant Annexation General Plan Amendment and Rezoning Negative Declaration* (July 2006).

On February 19, 2008, the City adopted a Negative Declaration (IS/ND) specific to the proposed DDSO boundary amendment. It was determined by the City that no significant environmental impacts would occur as a result of the proposed boundary change.

ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following actions:

Option 1 Given the existing and proposed land uses for the area, and the present and probable need for public services to the project site, it is recommended that the Commission approve the sphere expansion to include only those properties designated for industrial uses, including the existing Mirant properties (APNs 085-010-014/015) and the 170+ acre portion of APN 096-100-026, totaling 454± acres.

- A. Determine that the City of Pittsburg, as Lead Agency, prepared and certified the *Mirant Reorganization – Delta Diablo Sanitation District's Sphere of Influence Amendment and Annexation Negative Declaration* (February 2008) and the *Mirant Power Generation Plant Annexation General Plan Amendment and Rezoning Negative Declaration* (July 2006).
- B. Certify that the Commission has reviewed and considered the information contained in the CEQA documents prepared by the City of Pittsburg.
- C. Adopt this report and amend the Sphere of Influence of the Delta Diablo Sanitation District to include a total of 454± acres as described herein and shown on the attached map.

Option 2 Approve the sphere expansion to include 1,427± acres (including land and water areas) generally located north of Willow Pass Road and south of Suisin Bay, including the Mirant Power Plant (APNs 085-010-012/014/015, 096-100-015/017/018/026).

- A. Determine that the City of Pittsburg, as Lead Agency, prepared and certified the *Mirant Reorganization – Delta Diablo Sanitation District's Sphere of Influence Amendment and Annexation Negative Declaration* (February 2008) and the *Mirant Power Generation Plant Annexation General Plan Amendment and Rezoning Negative Declaration* (July 2006).

- B. Certify that the Commission has reviewed and considered the information contained in the CEQA documents prepared by the City of Pittsburg.
- C. Adopt this report and amend the Sphere of Influence of the Delta Diablo Sanitation District to include a total of 1,427± acres as described herein and shown on the attached map.

Option 3 Adopt this report and DENY the proposal.

Option 4 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:

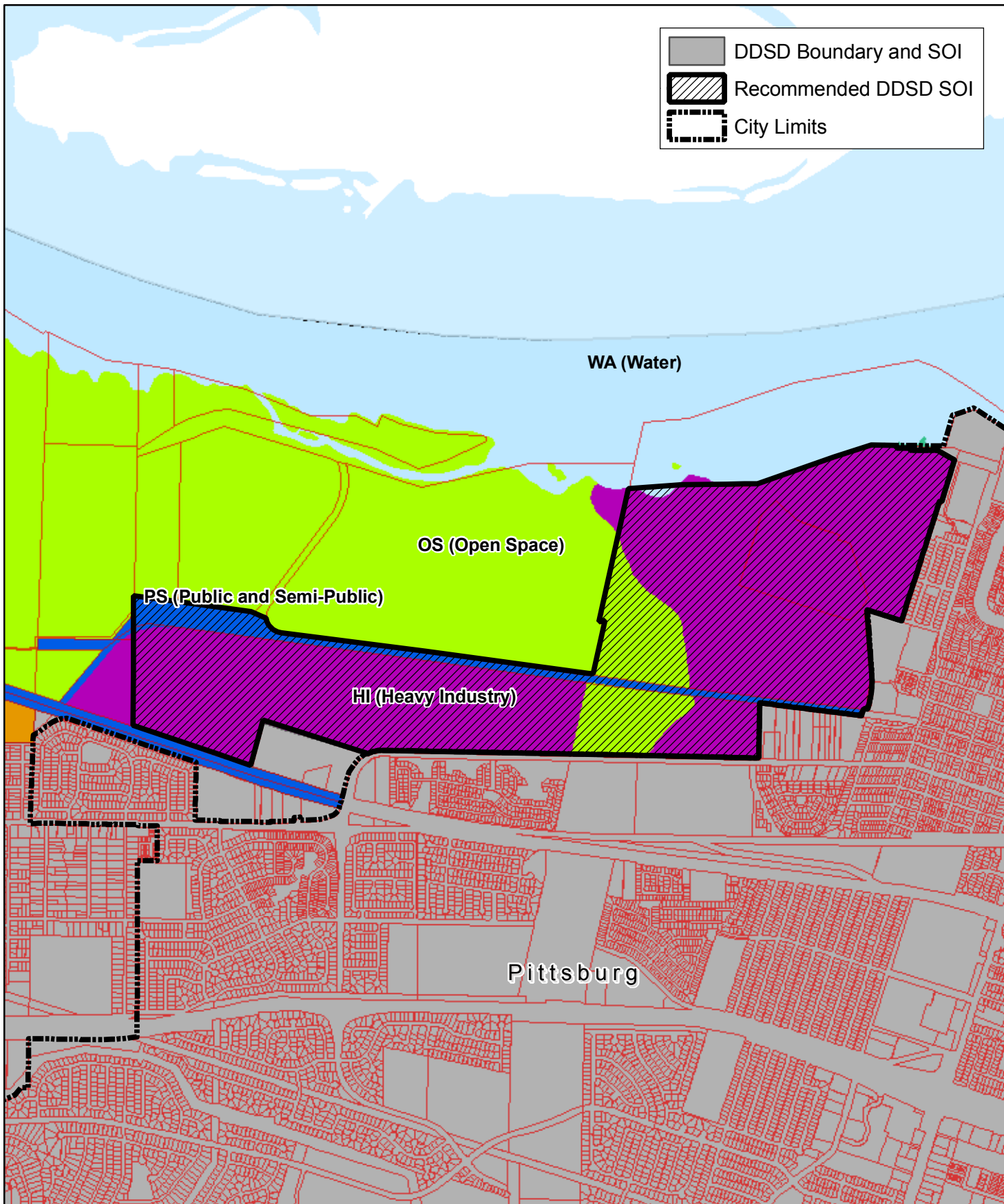
Approve Option 1.

LOU ANN TEXEIRA
EXECUTIVE OFFICER
LOCAL AGENCY FORMATION COMMISSION

Attachments

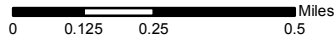
1. SOI Maps
2. Draft LAFCO Resolution
3. Letter from DDS

LAFCO 07-16: Delta Diablo Sanitation District SOI Amendment (Mirant) Recommended

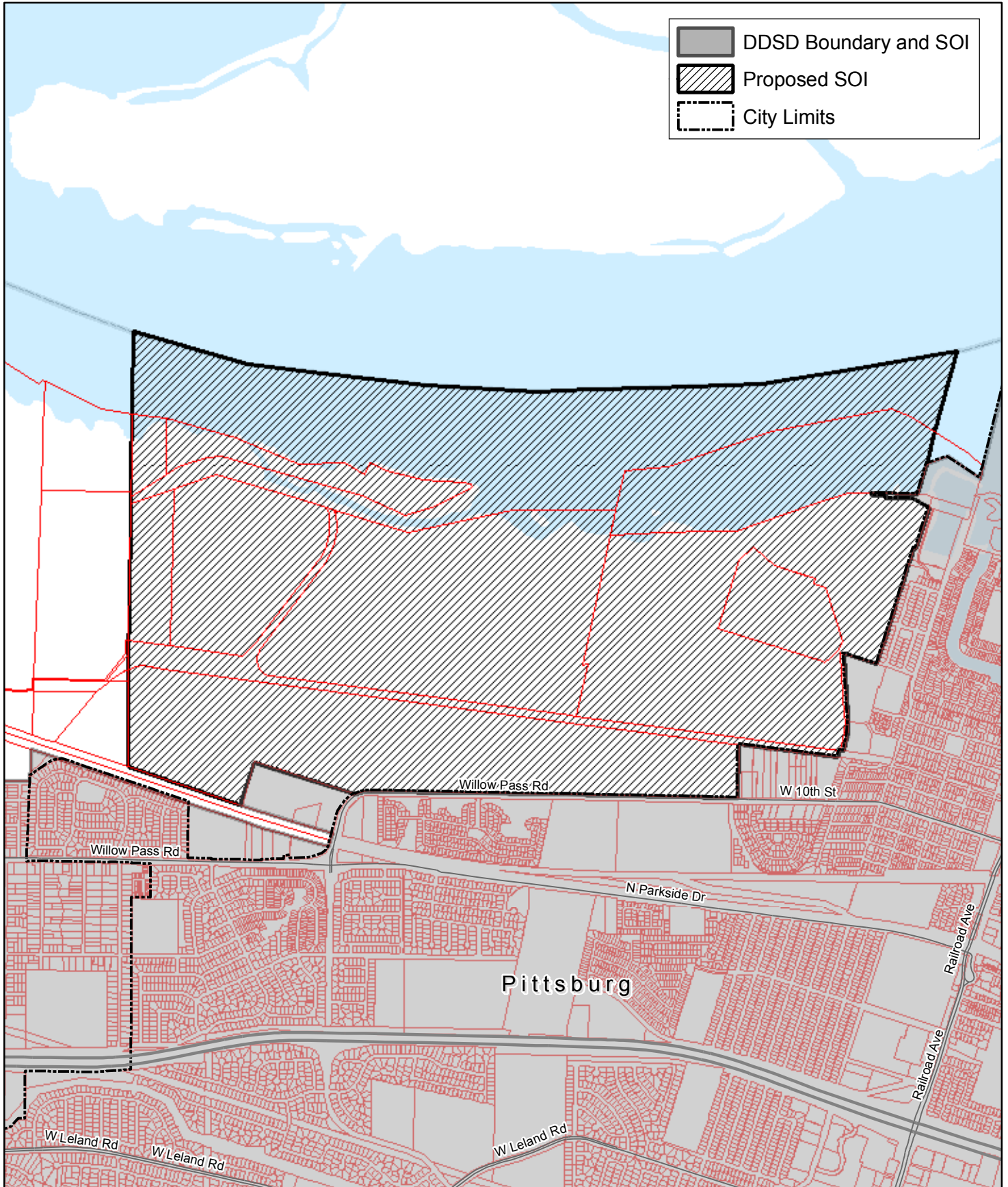


Map created 3/25/2008
by Contra Costa County Community Development, GIS Group
651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095
37:59:48.455N 122:06:35.384W

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LAFCO 07-16: Delta Diablo Sanitation District SOI Amendment (Mirant) Proposed

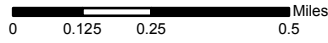


Legend:

- DDSD Boundary and SOI
- Proposed SOI
- City Limits

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SPHERE OF INFLUENCE RESOLUTION NO. 07-16

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
 MAKING DETERMINATIONS AND MODIFYING THE SPHERE OF INFLUENCE
 OF THE DELTA DIABLO SANITATION DISTRICT (MIRANT)

WHEREAS, a proposal to modify the sphere of influence (SOI) of the Delta Diablo Sanitation District (DDSD) was filed with the Contra Costa Local Agency Formation Commission (LAFCO) pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56425); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, SOIs and applicable General and Specific Plans and all testimony, correspondence and exhibits received during the public hearing, all of which are included herein by reference;

NOW, THEREFORE, the Contra Costa LAFCO DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. The matter before the Commission is the proposed amendment of the SOI of the DDSD.
2. The Commission is a responsible agency under the California Environmental Quality Act (CEQA); and in accordance with CEQA, has reviewed and considered the information contained in the *Mirant Reorganization – Delta Diablo Sanitation District's Sphere of Influence Amendment and Annexation Negative Declaration* (February 2008) and the *Mirant Power Generation Plant Annexation General Plan Amendment and Rezoning Negative Declaration* (July 2006) and found it to be adequate.
3. The DDSD SOI is hereby modified to include the area shown on the attached map labeled "Exhibit A."
4. The Commission has considered the criteria set forth in Government Code §56425 and determines as follows:

The present and planned uses in the area, including agricultural and open space lands.

Approximately 454 acres generally located north of Willow Pass Road and south of Suisin Bay, and including the Mirant Power Plant and surrounding areas (APNs 085-010-012/014/015 and a portion of 096-100-026) are proposed to be added to the DDSD's SOI. The area is designated primarily for industrial uses, and is located inside the County and City of Pittsburg respective Urban Limit Lines (ULLs). There are no current Williamson Act Land Conservation Agreements within the site.

No changes in land uses are proposed, and the proposal is consistent with the existing land use and zoning designations.

The present and probable need for public facilities and services in the area.

Currently, the site is primarily occupied by the Mirant Power Plant which discharges its domestic/office flows to the DDSD system for treatment. In addition, the plant maintains its own NPDES permit for its industrial processes/cooling towers. The project area is within the service boundary of the Contra Costa Water District Water.

The project area also includes 170± acres of vacant land zoned for industrial uses. Probable need for public services and facilities in the SOI proposal area include water and wastewater service to eventually serve future development for this area.

The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

DDSD has indicated it has the present capability and adequate facilities to serve the SOI proposal area, given existing land uses and potential service demand.

The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

The primary social or economic communities of interest that are relevant to the SOI amendment are the Pittsburg community and the DDSD customer base. The SOI amendment is consistent with the Pittsburg voter approved ULL, and would be a logical extension of the DDSD boundary.

The nature, location, and extent of any functions or classes of services provided by the existing district.

DDSD provides wastewater conveyance, treatment, disposal, recycled water, street sweeping, and household hazardous waste collection to the cities of Antioch and Pittsburg, the Bay Point community, and adjacent unincorporated areas.

The District is providing services to several properties outside its current boundaries, including the Mirant Power Plant. The proposed SOI amendment would officially bring the Mirant Power Plant into DDSD's service boundary and eliminate the current out of agency service.

PASSED AND ADOPTED THIS 9TH day of April 2008, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROB SCHRODER, CHAIR, CONTRA COSTA LAFCO

I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated above

Dated: April 9, 2008

Lou Ann Texeira, Executive Officer

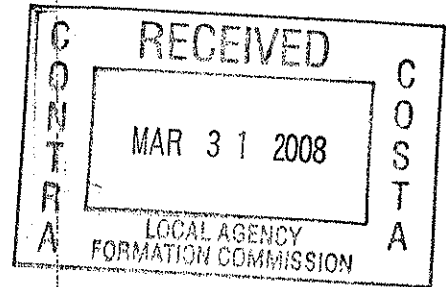


Delta Diablo Sanitation District

OFFICE AND TREATMENT PLANT: 2500 PITTSBURG-ANTIOCH HIGHWAY, ANTIOCH, CA 94509-1373
TEL.: (925) 756-1900 ADMIN. FAX: (925) 756-1961 MAINT. FAX: (925) 756-1963 OPER. FAX: (925) 756-1962 TECH. SVCS. FAX: (925) 756-1960
www.ddsd.org

March 28, 2008

Commissioners
Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, CA 94553



SUBJECT: LAFCO 07-16 Delta Diablo Sanitation District Sphere of Influence
(SOI) Amendment (Mirant)

Dear Commissioners:

The Delta Diablo Sanitation District supports the City of Pittsburg's application for the proposed expansion of the District's sphere of influence to make it coterminous with the City's sphere of influence, and to include the Mirant Power Generation Plant, which the District currently serves. One of the District's primary missions is to provide service for the City. So that the District will be positioned to respond to the City's present and future service needs, it is desirable that City and District spheres of influence and boundaries be aligned.

Thank you for your consideration.

Sincerely,

[Signature] FOR G.W. DARLING

Gary W. Darling
General Manager

GWD/KY:bjmi

cc: Ms. LouAnn Texeria, Executive Director
Members of the Board of Directors, Delta Diablo Sanitation District
Mr. Mark Grisham, Pittsburg City Manager
CORP.15.04-CORRES-65
Chron