

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

June 11, 2008 (Agenda)

LAFCO 08-17: Old River Elementary School Annexation to the Town of Discovery Bay Community Services District (DBCSD)

PROPONENT: DBCSD – Board Resolution No. 2008-02 adopted February 6, 2008

ACREAGE & LOCATION: 17.42± acres generally located north of Discovery Bay West on Bixler Road and south of Orwood Road (APN 015-170-028)

SYNOPSIS:

The DBCSD filed an application with LAFCO to annex the parcel to the District. The purpose of the annexation is to extend District services, including water and wastewater, to the property to serve the new elementary school.

DISCUSSION

The CKH Act sets forth factors that the Commission shall consider in evaluating any proposed change of organization or reorganization as discussed below (Government Code §56668). In the Commission's review and evaluation, no single factor is determinative. In reaching your decision, each is to be evaluated within the context of the overall proposal.

1. Consistency with the Sphere of Influence of Any Local Agency:

LAFCO is charged with both regulatory and planning functions. Annexations are basically a regulatory act, while establishing spheres of influence (SOIs) is a planning function. The SOI is an important benchmark as it defines the area where probable service will be needed. In order for the Commission to approve an annexation, it must be consistent with the jurisdiction's SOI.

The property proposed for annexation is within DBCSD's SOI, as amended by the Commission in November 2007.

2. Land Use, Planning and Zoning - Present and Future:

The school site is designated in the County General Plan as Agricultural Land (AL). The parcel is zoned General Agricultural (Zoning District A-2), and is currently used for agricultural production and related activities. The Knightsen School District (KSD) acquired the 17-acre site to house the new elementary school.

Surrounding land uses are agricultural (farming of food crops).

The annexation area is outside the County Urban Limit Line and is designated for agricultural uses; however, the property is not located in the Agricultural Core.

In June 2006, the County found the proposed elementary school in conformance with the County General Plan; in particular, the Public Facilities/Service Element, which supports coordination with local school districts.

Construction of the new school will occur in two phases, and will ultimately house 700 students and 60 staff members. Phase 1 consists of all infrastructure and construction of three buildings (18 classrooms) to serve approximately 400 students. Phase 1 is scheduled for completion by July 2008. Phase 2 will include construction of a multipurpose room/gym, library/technology center, administration building and additional classrooms to serve an additional 300 students. Phase 2 is scheduled for completion in 2011.

3. The Effect on Maintaining the Physical and Economic Integrity of Agricultural Lands:

The project site is designated as Prime Farmland on the 2006 Important State Farmland Map (California Department of Conservation). There are no current Williamson Act Land Conservation Agreements within the project site.

The KSD, as Lead Agency, prepared several environmental reports associated with the proposed school, including an Initial Study and Mitigated Negative Declaration (MND) specific to the proposed SOI amendment and boundary change. The MND evaluated the impacts of the project on agricultural resources, and concluded that the loss of farmland is "less than significant" due to several factors, including the overall decline in agricultural use in the County, urbanization, and the small proportion of the land being converted to non-agricultural use.

4. Topography, Natural Features and Drainage Basins:

The school property is flat with no trees or brush. The site is approximately 17 feet above mean sea level (msl). Local topography is flat with a gentle gradient toward the southeast. The nearest significant surface waters are the Werner Dredger Cut and Old River located approximately 2,500 feet to the east.

5. Population:

Given the nature of the proposal, there will be no increase in population.

6. Fair Share of Regional Housing:

Pursuant to §56668 of the CKH Act, LAFCO must consider in the review of a proposal the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments.

The proposal will have no direct impact on the fair share of regional housing.

7. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

In accordance with Government Code §56653, whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency must also submit a plan for providing services within the affected territory. The plan shall include all of the following information and any additional information required by the Commission or the LAFCO Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.
- (2) The level and range of those services.
- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

The "Plan for Providing Services Within the Affected Territory" is on file in the LAFCO office. Most municipal services to the properties are provided by Contra Costa County, with fire service provided by East Contra Costa Fire Protection District.

The proposal before the Commission is to annex the properties to DBCSD for the provision of municipal water and wastewater services to serve the new elementary school. DBCSD currently provides water and wastewater services to approximately 5,600 customers.

Water Service - The District's sole source of water supply is groundwater. DBCSD monitors water usage and capacity. According to the District, total consumption for 2006 was 1,185 million gallons. The District estimates that the projected annual demand for the school will be approximately 2.6 million gallons per year for general use (excluding irrigation).

In November 2007, LAFCO approved an expansion to the DBCSD's SOI. As part of that action, the Commission indicated that any proposed annexation of the school site shall include an analysis of water supply (firm yield), treatment, conveyance, and delivery infrastructure.

In response to the Commission's condition, the District prepared supplemental information regarding water supply and demand, and the status of various water master planning activities (attached). In accordance with this analysis, the District indicates that it has adequate capacity to serve the school.

Potable water from DBCSD will be connected from an existing 16-inch water main at Westport Circle and North Lake Front Road, which is located in the Discovery Bay West development. A 10-inch water line will be extended to Bixler Road, through the school access road, and to the school site. The road easement runs along the northern edge of the property.

Wastewater Services - The present capacity of the existing wastewater facility is 2.1 million gallons per day (mgd); the existing use is 1.6 mgd. Estimated peak flow for the school is approximately 13,000 gpd (Phase 1) and 25,000 gpd at build out.

DBCSD indicates that sufficient wastewater capacity is available to serve the new school.

The KSD will construct a small lift station at the southwestern edge of the school property. DBCSD will install a new 4-inch PVC force-main/gravity flow pipeline to connect the new lift station to existing infrastructure at Westport Circle.

The KSD will fund costs associated with the needed water and wastewater infrastructure, along with standard connection fees. Funding for Phase 1 of the new school has been provided through the State Financial Hardship grant program.

The DBCSD has a permit issued by the National Pollutant Discharge Elimination System (NPDES) that allows the District to treat and discharge a maximum daily average of 2.1 mgd of treated effluent into Old River.

Briefly, the NPDES was authorized through the Clean Water Act to control water pollution by regulating point sources that discharge pollutants into waters of the United States. State Water Boards are responsible for preserving and enhancing the quality of the State's water through the development of water quality control plans and the issuance of waste discharge requirements (WDRs). WDRs for discharges to surface waters also serve as NPDES permits. These permits are issued and monitored by Regional Water Quality Control Boards (RWQCB).

Several years ago, the DBCSD was issued a Cease and Desist Order by the RWQCB. The Order provided a time schedule to bring the District into compliance with effluent limitations for copper by September 2002. The District has experienced copper buildup due to new construction and the increased use of copper pipes.

In an effort to satisfy this Order, the District constructed a new outfall and diffuser. In conjunction with the diffuser project, the State requested the District to conduct a Dilution Dye Study. According to the District, it has completed this study and submitted the information to the State in May 2006. As of this date, the District awaits a reply from the State regarding the Dye Study. Also, the District indicates that the Cease and Desist Order R5-2003-0067 was rescinded when the District constructed the export pump station and a diffuser in Old River.

In July 2007, the DBCSD partnered with the University of California, Berkeley to initiate a two-year pilot program that utilizes various plant species to remove or reduce copper levels, as well as pharmaceuticals and other harmful particles.

8. Assessed Value, Tax Rates and Indebtedness:

The school property is a new parcel, and there is currently no 2007-08 assessed value. The assessed value for the property for 2008-09 is approximately \$612,000. The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agency.

9. Environmental Impact of the Proposal:

The KSD, as Lead Agency, prepared a number of environmental reports associated with the proposed school, including an IS/MND specific to the proposed SOI amendment and boundary change. The IS/MND identified potential impacts to cultural resources and utilities and services. Mitigation measures were adopted which reduce impacts to less than significant. The MND for this project is adequate for LAFCO purposes.

10. Landowner Consent and Consent by Annexing Agency:

The property owner has given written consent to the boundary change. The annexing agency consents to the waiver of conducting authority proceedings. The territory is uninhabited, as there are fewer than 12 registered voters.

11. Boundaries and Lines of Assessment:

There are no conflicts with lines of assessment or ownership. It should be noted that neither the 2.55-acre road easement, nor the intervening property owned by the East Bay Municipal Utility District (EBMUD) are included in the annexation proposal, as neither property will require service. Further, Community Service District law (Government Code 61000 et seq.) allows for non-contiguous territory. A map to implement the annexation is subject to approval by the County Surveyor.

12. Environmental Justice:

Beginning January 1, 2008, Government Code §56668(o) requires that LAFCO consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

The KSD serves an area of 30± square miles and draws a diverse student population from the Knightsen community, as well as interdistrict transfer students from Oakley, Brentwood, Byron, and Discovery Bay. Based on the most current census data for the KSD, approximately 30% of the student population is Hispanic, with an estimated 8% living below poverty level. This compares with the Knightsen community, with a population of about 26.5% Hispanic, and 8.7% living below poverty. The overall Contra Costa County population is approximately 17.7% Hispanic, with an estimated 7.6 % of individuals living below poverty. Municipal services to the project site would facilitate construction of a school needed to serve this community and would help promote the fair treatment of minority or economically disadvantaged groups.

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 options:

Option 1 Approve the annexation as submitted.

- A. Determine that KSD, as Lead Agency, prepared and certified an Initial Study/Mitigated Negative Declaration for this project (October 24, 2007).
- B. Certify that the Commission has reviewed and considered the information contained in the CEQA document prepared by KSD.
- C. Adopt this report and approve the proposal, to be known as Old River School Annexation to DBCSD subject to the following terms and conditions:

1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
 2. Prior to recordation, the applicant shall deliver an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- D. Find: 1) the subject territory is uninhabited, 2) all affected landowners have consented to the annexation and 3) the annexing agency has consented to the waiver of conducting authority proceedings.
- E. Waive conducting authority proceedings and direct the staff to complete the proceeding.

Option 2 Adopt this report and DENY the proposal.

Option 3 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:



Approve Option 1.

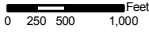
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

LAFCO 08-17: Old River Elementary School Annexation to the Town of Discovery Bay Community Services District



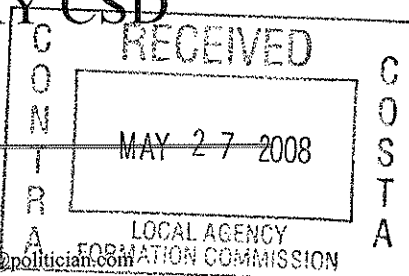
 Parcel to be Annexed
 Discovery Bay CSD





TOWN OF DISCOVERY BAY CSD

1800 Willow Lake Road, Discovery Bay, CA 94505-9376
Telephone: (925) 634-1131 Fax: (925) 513-2705



Board Members

| | |
|-----------------------------------|------------------------|
| President-Shannon Murphy-Teixeira | smt@politician.com |
| Vice President-Bob Doran | dbredbob@sbcglobal.net |
| Treasurer-Patty Knight | plhewitt@us.ibm.com |
| Director-David Piepho | DApiepho@sbcglobal.net |
| Director-Dave Dove | ddove@sbcglobal.net |

May 23, 2008

Lou Ann Texeira, Executive Officer
Contra Costa LAFCO
651 Pine Street, Sixth Floor
Martinez CA 94553-1229

RE: Additional Information for the Annexation of the Knightsen Elementary School District, "Old River School" into the Town of Discovery Bay Community Service District

Dear Lou Ann:

This letter is intended to be part of the LAFCo Annexation Application for the Knightsen Elementary School District's "Old River Elementary School" that the Town of Discovery Bay Community Services District (CSD) has submitted.

I would like to explain a few of items that the LAFCo Commissioners requested to receive some feedback on when the Town of Discovery Bay CSD sought and received approval for a Sphere of Influence "SOI" boundary change for the above-mentioned school site at the LAFCo meeting of November 14, 2007.

First, on the item of confirming that the State has accepted the Town of Discovery Bay CSD's "Dilution Dye Study" report. As of this date, the State has acknowledged that they have received this report, but this District has not received any type of communications stating that they have accepted this report. Since the State has not voiced any concerns about this study or report, we are assuming that the State has accepted this report that we provided them in 2005.

Secondly, on the item of updating the information contained in the Urban Water Management Plan. I would like to preface this by saying, when the Town of Discovery Bay CSD was first formed 10-years ago, it seemed like we were dropped off in the middle of the jungle to face what felt like hundreds and hundreds of barriers or issues that needed our attention in-order for us to move forward with providing safe and reliable water and wastewater services for our residents.

At about the same time that the Urban Water Management Plan was requested of this District from the State Water Resources Board, we were developing two (2) very similar documents. The first being the "Water Master Plan" Study produced by the engineering firm of Luhdorff & Scalmanini. (See Exhibit "A", which are excerpts) The primary purpose of this "Water Master Plan" Study is to identify the improvements needed or additions to the District's water system and to meet existing and projected water demands. This "Water Master Plan" Study went further by providing options on the various improvements that were needed in order to meet the projected water demands of 6,595 equivalent dwelling units (EDUs). An EDU equals one equivalent dwelling unit or one average size home. All improvements as outlined in the "Water Master Plan" Study to

provide water services for 6,595 EDUs were constructed and completed by the end of the 2004 year. The Town of Discovery Bay CSD did go another step further in the year 2005, where the District had another filter vessel constructed that allows us to add another 1,000 gallons per minute to our system, beyond what was required to meet our projected future water demand of 6,595 EDUs.

The second report that we were involved with is called the "East County Water Supply Management Study" which included local Cities, Irrigation Districts and various Sanitary & Water Districts. (See Exhibit "B", which are excerpts of this study) This report focuses on the water resources and water treatment and supply infrastructure needed to respond to the increased water demands associated with urbanization of East County and identifies potential water management strategies that can be used to meet future water needs up to until the year 2040.

Additional information related to the supply of water is that in 1999, the Town of Discovery Bay CSD was involved in an East Contra Costa County Ground Water Study that indicated that the aquifer that lies under Discovery Bay has a very good yield of water, (see Exhibit "C", which are excerpts from this study). Later in the year of 2003, this was again confirmed by another consultant called Fugro West, who was hired by East Bay Municipal Utility District (EBMUD) to do ground water studies in our area for a proposed project of EBMUD.

Information listed below is future water related projects:


1. On May 7, 2008, the Town of Discovery Bay CSD Board of Directors authorized their engineers to design and test drill for another water production well (Well #6) for "reliability" and not for demand.
2. The Town of Discovery Bay CSD is planning to have another "Water Master Plan" Study / Report started and completed by June 2009, which will be for the next ten years. This report could be submitted as our Urban Water Management Report.

As a side note, the Town of Discovery Bay CSD produces annual reports for the Department of Water Resources. The information that is reported on these annual reports is the same type of information that is requested in the Urban Water Management Report (UWMP). These reports outline the amount of water used each year, along with the number of service connections, etc. We have attached a copy of the most current report for the 2007 year (see Exhibit "D").

While all urban water suppliers must submit UWMP, the California Water Code does not provide a mandatory time-frame for adoption of the UWMP. Rather, the penalty for the failure to submit an UWMP is that the supplier (here, the Town of Discovery Bay CSD) will be ineligible for funding pursuant to the state "Safe, Clean, Reliable Water Supply Fund" or the "Safe Drinking Water State Revolving Fund". However, the District may meet the requirement of the UWMP by participating in an UWMP developed by another agency or entity that is formulated on an area-wide, regional, watershed, or basinwide basis. Hence the East County Water Supply Management Study, as mentioned above could be submitted but I am unsure if this study was submitted by any of the other participation District's or not.

Should you have any questions regarding all the above-mentioned information, please feel free to contact me at (925) 634-1131 or via e-mail at yk1800todb@sbcglobal.net.

Sincerely,



Virgil Koehne, General Manager
Town of Discovery Bay CSD

VK/ca
Attachments (4)

**OLD RIVER ELEMENTARY SCHOOL ANNEXATION TO
THE TOWN OF DISCOVERY BAY COMMUNITY SERVICES DISTRICT
(LAFCO 08-17)**

- **EXHIBIT A – WATER MASTER PLAN DISCOVERY BAY - APRIL 1999**
- **EXHIBIT B – EAST COUNTY WATER SUPPLY MASTER STUDY**
- **EXHIBIT C – OVERVIEW OF FINAL REPORT – INVESTIGATION OF
GROUNDWATER RESOURCES IN THE EAST CONTRA COSTA AREA – MARCH
1999**

AVAILABLE ON THE LAFCO WEBSITE – www.contracostalafco.org

PUBLIC WATER SYSTEM STATISTICS

Calendar Year 2007

Discovery Bay, Town of
 Virgil Koehne, Town Manager
 1800 Willow Lake Road
 Discovery Bay, CA 94505
 PMS #71009 CD

1. General Information

Please follow the provided instructions.

Contact : Virgil Koehne
 Title: General Manager
 Phone: 925-634-1131
 Fax: 925-513-2705
 E-mail: vk1800todb@sbcglobal.net
 Website: www.townofdiscoverybay.org
 County: **Contra Costa**

Population served: **16,100**

Names of communities served: Discovery Bay

2. Active Service Connections

| Customer Class | Potable Water | | Recycled Water | |
|---------------------------|---------------|-------------|----------------|-----------|
| | Metered | Unmetered | Metered | Unmetered |
| Single Family Residential | | 5750 | n/a | |
| Multi-family Residential | | | n/a | |
| Commercial/Institutional | 14 | 12 | n/a | |
| Industrial | | | n/a | |
| Landscape Irrigation | 41 | 34 | n/a | |
| Other | 7 | | n/a | |
| Agricultural Irrigation | | | n/a | |
| TOTAL | 62 | 5796 | 0 | |

3. Total Water Into the System - Units of production:

acre-feet million gallons hundred cubic feet

| | | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Total |
|------------------------|-------------------------|-----------|-----------|-----------|------------|------------|------------|------------|------------|------------|------------|-----------|-----------|-------------|
| Potable | Wells | 70 | 63 | 78 | 119 | 136 | 153 | 166 | 159 | 117 | 107 | 83 | 71 | 1322 |
| | Surface | | | | | | | | | | | | | |
| | Purchased ^{1/} | | | | | | | | | | | | | |
| | Total Potable | 70 | 63 | 78 | 119 | 136 | 153 | 166 | 159 | 117 | 107 | 83 | 71 | 1322 |
| Untreated Water | | | | | | | | | | | | | | |
| Recycled ^{2/} | | | | | | | | | | | | | | |

1/ Potable wholesale supplier(s): _____

2/ Recycled wholesale supplier(s): _____

Level of treatment: _____

4. Metered Water Deliveries - Units of delivery:

acre-feet million gallons hundred cubic feet

| If recycled is included, ✓ box ↓ | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Total |
|---|-----|-----|--------------|-----|-----|--------------|-----|-----|--------------|-----|-----|--------------|---------------|
| A. Single Family Residential <input type="checkbox"/> | | | | | | | | | | | | | |
| B. Multi-family Residential <input type="checkbox"/> | | | | | | | | | | | | | |
| C. Commercial/Institutional <input checked="" type="checkbox"/> | | | 3316 | | | 3250 | | | 5992 | | | 2939 | 15497 |
| D. Industrial <input type="checkbox"/> | | | | | | | | | | | | | |
| E. Landscape Irrigation <input type="checkbox"/> | | | 14277 | | | 39661 | | | 78185 | | | 19847 | 151970 |
| F. Other <input type="checkbox"/> | | | 28 | | | 74 | | | 95 | | | 29 | 226 |
| Total Urban Retail (A thru F) | | | 17621 | | | 42985 | | | 84272 | | | 22815 | 167693 |
| Agricultural Irrigation <input type="checkbox"/> | | | | | | | | | | | | | |
| Wholesale (to other agencies) <input type="checkbox"/> | | | | | | | | | | | | | |