

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

January 14, 2009 (Agenda)

LAFCO 08-25 (171-2): Annexation 171 to Central Contra Costa Sanitary District (CCCSD)

PROPONENT: CCCSD by Resolution No. 2008-019 adopted January 17, 2008

ACREAGE & LOCATION Annexation of a total of 54.7± acres located in seven areas in Danville, Lafayette, Martinez and Orinda.

SYNOPSIS

On behalf of the property owners, CCCSD filed an application with LAFCO to annex the properties to the District. The purpose of the annexation is to extend sanitary sewer service to the properties, which include a combination of existing single-family dwelling units converting from septic systems to municipal wastewater service, construction of new single family units to be connected to the CCCSD municipal system, and parcels being included to eliminate islands and provide for logical service boundaries.

On December 10, 2008, the Commission approved annexation of areas 171-1, 171-3, 171-4, 171-5, 171-6 and 171-7. **The Commission deferred action on area 171-2** pending questions raised by Commissioner Uilkema regarding the proximity of the 171-2 properties and potential impacts to the watershed.

The discussion below relates only to the proposed annexation of area 171-2. For a full discussion of the whole annexation proposal, including all seven areas, please refer to the December 10, 2008 LAFCO staff report.

DISCUSSION

The CKH Act sets forth factors that the Commission is required to consider in evaluating any proposed change of organization or reorganization as discussed below (Gov. Code Section 56668). In the Commission's review and evaluation, no single factor is determinative. In reaching a 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 primary area within which urban development is to be encouraged. In order for the Commission to approve an annexation, it must be consistent with the jurisdiction's adopted SOI.

Area 171-2 is within the Orinda City limits, CCCSD's SOI and the County Urban Limit Line.

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

Area 171-2 consists of three parcels located on Lomas Cantadas in the El Toyonal area of Orinda (3.5± acres). Current uses include two existing single family homes, and one vacant developable lot.

The City of Orinda General Plan designation is Single Family Residential (1-2 units/acre) and the zoning is RL-20 (Residential - Low Density).

No changes are proposed to zoning or General Plan designations as part of this proposal.

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

The properties proposed for annexation contain no prime farmland or land covered under Williamson Act Land Conservation Agreements.

4. Topography, Natural Features and Drainage Basins:

The topography of area 171-2 and surrounding properties is steep hillside with trees.

At the December 10 LAFCO meeting, Commissioner Uilkema raised questions regarding the proximity of the 171-2 properties to the watershed, and potential impacts.

By way of background, Contra Costa County has 31 major watersheds that drain to the Bay, Delta or local reservoirs, and includes the headwaters of creeks that drain through other counties before reaching the Bay. For more information regarding the Contra Costa Watershed visit the County Watershed Management website at: <http://cocowaterweb.org/resources/ccwf-publications/watershed-atlas>.

The City of Orinda falls within two watersheds: San Pablo Creek and Upper San Leandro and Moraga Creek. Area 171-2 properties drain to the San Pablo Creek, which in turn, drains to the San Pablo Reservoir, one of the EBMUD facilities that provides drinking water to local residents.

The County Health Department has advised LAFCO staff that in large areas of the County, including the El Toyonal area of Orinda, soil conditions make septic systems problematic; consequently, municipal sewer service is preferred.

Further, that because of the poor soil conditions, the County Health Officer has established septic tank moratoriums in seven specified areas in the County, including the El Toyonal area. These moratoriums have been in place for many years, some for over 30 years. Consequently, connection of the area 171-2 properties to municipal sewer is consistent with public health policy.

5. Population:

The addition of one single-family residential unit to the property will not have a significant impact on population.

6. 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 shall 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 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," as required by Government Code §56653, is on file in the LAFCO office. The properties proposed for annexation are served by various municipalities and agencies including, but not limited to, the City of Orinda, Moraga-Orinda Fire Protection District, and East Bay Municipal Utility District (EBMUD).

The proposal before the Commission is to annex the properties to CCCSD for the provision of sanitary sewer service, including collection, treatment and disposal.

CCCSD currently serves an estimated population of 451,000 residents (including Concord and Clayton) in a 142-square-mile service area. CCCSD's wastewater collection system consists of 1,500 miles of sewer mains with 18 pump stations. The majority of CCCSD's system operates with gravity flow with some pumping stations and force mains. All sewer connections to the subject property will be gravity flow.

CCCSD's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 35.2 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted discharge limit of 53.8 mgd.

The area proposed for annexation would extend service to two existing and one future residential unit, and is estimated to generate approximately 775 gallons of wastewater per day.

CCCSD indicates that the properties proposed for annexation can be served by existing CCCSD facilities.

With regard to infrastructure and improvements, CCCSD indicates that all gravity mains required to serve the affected parcels will be 8-inch diameter, which is CCCSD's minimum for such mains. All laterals will be 4-inch diameter, which is CCCSD's minimum for gravity laterals, or 1-1/4- to 2-inch diameter pump laterals, which is CCCSD's minimum for pump laterals, depending on the specific pump type installed.

With regard to funding, all capital costs including any required sewer main extensions, along with connections fees, will be borne by the property owners. CCCSD funds the maintenance of all sewers through its annual sewer service charge.

#### 7. Timely Availability of Water and Related Issues:

Area 171-2 properties receive water service through EBMUD, whose primary source of water is the Mokelumne River. EBMUD serves a population of over 1.3 million, with nearly 400,000 water customers. EBMUD's average dry weather flow is 65 million gallons per day.

Annexation of the area 171-2 properties will have a minor effect on water usage, and will not lead to the construction of new or expansion of existing water facilities.

8. Assessed Value, Tax Rates and Indebtedness:

Area 171-2 is within Tax Rate Area 18003. The assessed value for the property is \$156,566 (current tax roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

9. Environmental Impact of the Proposal:

As Lead Agency, CCCSD found that the proposed annexation is exempt from the California Environmental Quality Act (CEQA) pursuant to Class 3, Section 15303 (New Construction or Conversion of Small Structures) and Class 19, Section 15319 (Annexations of Existing Facilities and Lots for Exempt Facilities).

10. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are more than 12 registered voters in the total annexation area. Thus, the total area proposed for annexation is considered inhabited and subject to protest proceedings.

Pursuant to State law, all landowners and registered voters within the proposal areas and within 300 feet of the exterior boundaries of the areas received notice of the December 10 hearing.

On December 10, 2008, LAFCO held a hearing on the total area proposed for annexation. At that time, no affected landowners/voters protested the annexation; thus, the Commission waived the formal protest hearing.

Area 171-2 landowners have petitioned CCCSD for and consent to the annexation.

11. Boundaries and Lines of Assessment:

The annexation areas are within CCCSD's SOI and are contiguous to existing CCCSD boundaries. The recently completed *Central County Water/Wastewater Municipal Services Review* (MSR) provided an assessment of CCCSD services. The report noted that CCCSD is serving an estimated 180 parcels that are outside its current boundaries; and there are a number of small islands surrounded by the District and within its SOI. The MSR discusses annexing parcels receiving out of agency service, as well as islands and areas where there are concerns due to failing septic systems and related public health issues, as appropriate. The proposed annexation is conducive to creating logical boundaries and cleaning up pockets and islands within the CCCSD SOI.

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 proposed annexation is not expected to promote or discourage 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 of area 171-2 to CCCSD.

- A. Determine that Central Contra Costa Sanitary District, as Lead Agency, has found the proposed annexation of area 171-2 to be categorically exempt pursuant to CEQA Guidelines Class 3, Section 15303 (New Construction or Conversion of Small Structures) and Class 19, Section 15319 (Annexations of Existing Facilities and Lots for Exempt Facilities).
- B. Adopt this report and approve the proposal, to be known as Annexation 171 to the Central Contra Costa Sanitary District, 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, CCCSD shall deliver an executed indemnification agreement providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited and that the landowners have petitioned CCCSD for annexation.

**Option 2**      Adopt this report and DENY the proposal.

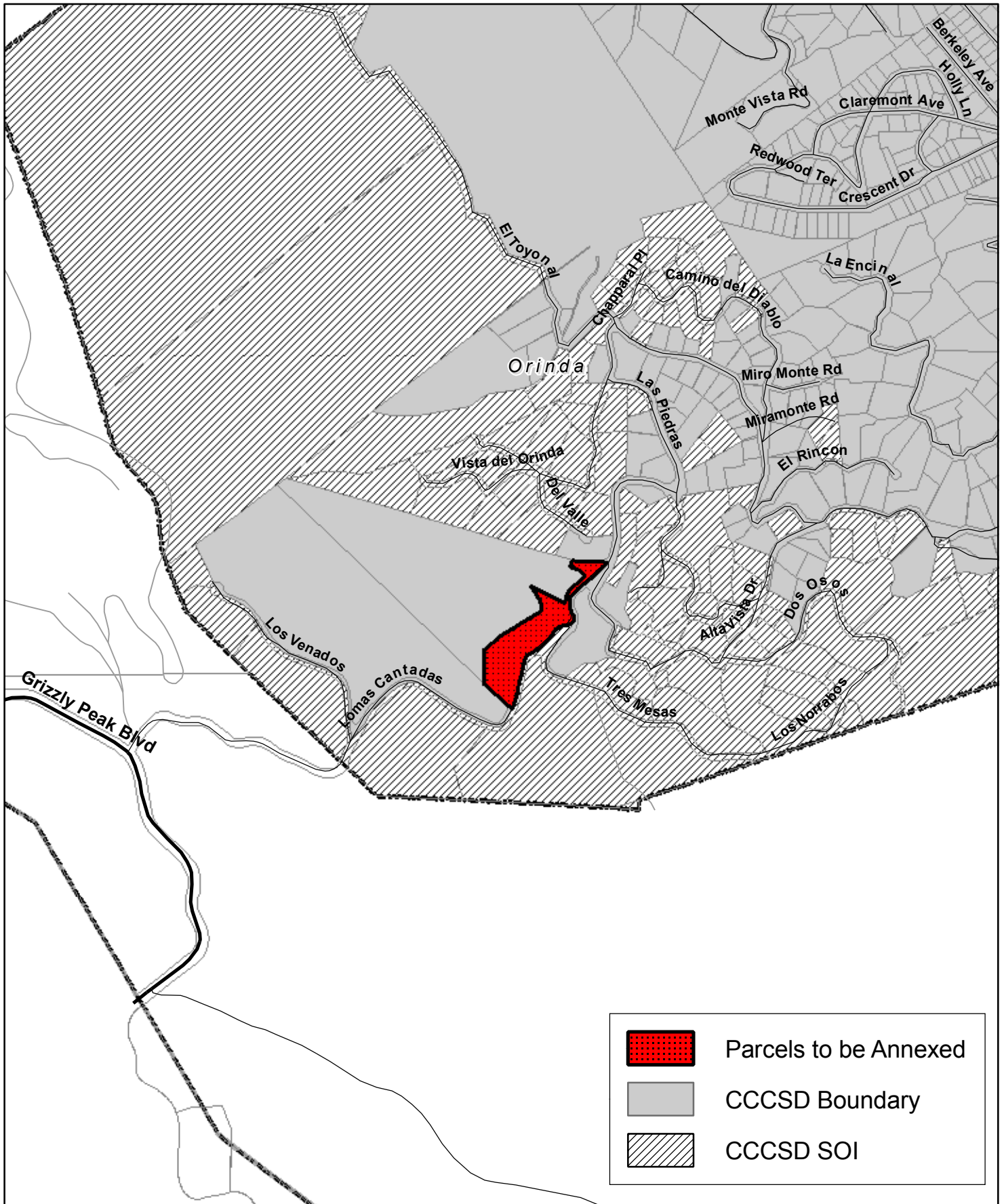
**Option 3**      If the Commission needs more information, CONTINUE this matter to a future meeting.

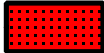


RECOMMENDED ACTION:

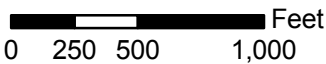
Approve Option 1.

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

# LAFCO No. 08-25 (171-2): Annexation 171 to Central Contra Costa Sanitary District



	Parcels to be Annexed
	CCCSD Boundary
	CCCSD SOI



Map created 11/12/2008  
 by Contra Costa County Department of Conservation and Development  
 GIS Group  
 651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095  
 37.59.48.455N 122.06.35.384W

This map or dataset was created by the Contra Costa County Conservation and Development Department with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.

**RESOLUTION NO. 08-25 (171-2)**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
ANNEXATION 171-2 TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); 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, on December 10, 2008, 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, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, on December 10, 2008, the Commission approved the annexation of Areas 171-1, 171-3, 171-4, 171-5, 171-6 and 171-6 and deferred action on 171-2 pending additional information; and

WHEREAS, on January 14, 2009, the Commission heard, discussed and considered all oral and written testimony related to Area 171-2; and

WHEREAS, the property owner of Area 171-2 has petitioned CCCSD and consents to the proposed annexation of said property; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interests of the affected area and the total organization of local governmental agencies within Contra Costa County;

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. Determine that Central Contra Costa Sanitary District, as Lead Agency, found the proposed annexation of Area 171-2 exempt from the California Environmental Quality Act (CEQA) pursuant to Class 3, Section 15303 (New Construction or Conversion of Small Structures) and Class 19, Section 15319 (Annexations of Existing Facilities and Lots for Exempt Facilities).
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

**ANNEXATION 171-2 TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

Contra Costa LAFCO  
Resolution No. 08-25

4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
6. Prior to recordation, CCCSD shall deliver an executed indemnification agreement between the CCCSD and Contra Costa LAFCO providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. Said territory is uninhabited.
8. Satisfactory proof having been given that no affected landowners/registered voters oppose the annexation, and that the annexing agency has given written consent to the waiver of conducting authority proceedings, said conducting authority proceedings are hereby waived.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

\* \* \* \* \*

PASSED AND ADOPTED THIS 14<sup>th</sup> day of January 2009, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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GAYLE UILKEMA, 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.*

Dated: January 14, 2009

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Lou Ann Texeira, Executive Officer