

May 11, 2009

To: Lou Ann Texiera and LAFCO Commissioners

From: Kathy Gleason

RE: Los Medanos Hills and ridgeline

I am a resident of Concord, and founding member of the Concord Naval Weapons Station (CNWS) Neighborhood Alliance. The CNWS Neighborhood Alliance currently represents over 1,700 families, all of whom are concerned about the future of the Los Medanos hills and ridgeline.

The preservation or development of the CNWS and the Los Medanos hills and ridgeline is a regional issue.

We fully understand that the development of the CNWS is a regional issue, which will affect residents in many neighboring cities as well as throughout the entire bay area. We feel that the development of the Los Medanos hills and ridgeline is also a regional issue, one affecting neighboring cities as well as the entire bay area. In fact, due to their elevation, the development of the Los Medanos hills and ridgeline will have an even greater impact on the region than the development of the CNWS. Not only will there be a visual impact, there will be a huge environmental impact, affecting traffic, air quality, and established wildlife habitat as well as the wildlife corridor from Mt. Diablo to the Suisun Bay.

Our understanding of LAFCO

In researching LAFCO and its mission, we understand that first and foremost, LAFCO is expected to represent the best interests of the public at large and countywide. We also understand that LAFCO's objectives include preservation of agricultural land resources and the discouragement of urban sprawl. In addition to limiting the unnecessary loss of agricultural resources and open space lands, LAFCO is responsible for approving the extension of municipal services into appropriate areas. We do not believe that the Los Medanos hills and ridgeline represent an appropriate area for the extension of municipal services.

Recent decisions regarding Pittsburg hills and ridgeline

Because of our deep involvement in the development of the CNWS, we have become acutely aware of recent decisions regarding the Pittsburg hills. We note that the City of Pittsburg decided not to move forward on a Hillside

Ordinance, while at the same time the expansion of the Spheres of Influence for Delta Diablo Sanitation District and Contra Costa Water District are being discussed for this same area of the Los Medanos hills and ridgeline.

Sphere of Influence/CEQA

We understand that these Sphere of Influence expansions are part of water and wastewater Municipal Service Reviews conducted by LAFCO.

The Urban Limit Line, which is apparently the primary boundary being used to match to the expanded Spheres of Influence, was approved by voters with very limited information and no proper review under the California Environmental Quality Act. We want to know if any CEQA studies have been conducted specifically on the Los Medanos hills and ridgeline.

The Sphere of Influence expansions proposed for the sanitation and water districts do not, we believe, serve the spirit of the law that governs LAFCOs. While LAFCO states that the Sphere of Influence expansions do not indicate the inevitability of extension of services for a development, given that these services are for water and wastewater, all signs point to a future development and consequent invasion of agricultural land and open spaces. To do this without a full Environmental Impact Report, allowing adequate input from residents, citizens, and other agencies throughout the County, is wrong.

Further, the LAFCO approval of the expansion of the SOI is subject to CEQA (Pistoresi v. City of Madera (1982) 138 Cal. App.3d 284). The expansion of water and wastewater constitutes at the beginning of the development process as a "project" under CEQA (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263,282). Therefore, the negative declaration is inadequate because the expansion of SOI for the City of Pittsburg, CCSD and CCWD constitutes as a "project" under CEQA and the environmental impacts must be analyzed through an EIR. According to case law established by Bozung v. Local Agency Formation Com. The inclusion of 3,161.41 acres of land into the SOI is the first step toward the conversion of the land into developed uses. In that case, a full EIR is required.

We are asking LAFCO to follow the procedures of the law. Any decisions regarding the expansion of any Spheres of Influence pertaining to this area should take into consideration the Countywide impact—on the environment, traffic congestion, open space/habitat preservation, quality of life for all who live in Contra Costa County, and any other permanent negative effects of over-

development. We feel that a full Environmental Impact Report should be conducted to comply with CEQA.

Our request

A Negative Declaration is inadequate. We ask for a full Environmental Impact Report according to CEQA guidelines.

As a collective group of local residents representing Concord, Pittsburg and other surrounding cities, we ask that you represent *us* in making decisions regarding the Sphere of Influence of the Los Medanos hills and ridgeline We ask that you make your decisions in the best interest of the residents (that is, the voters and taxpayers) of the region. Our generation has a moral obligation to preserve land and resources for future generations. We ask that LAFCO and its Commissioners, as representatives for all of us, consider carefully and thoughtfully what will work best to preserve the open space and natural resources of the Los Medanos hills and ridgeline for our children, grandchildren, and generations to come.

On behalf of members of the CNWS Neighborhood Alliance, thank you.

Kathy Gleason
4459 Crestwood Circle
Concord, CA 94521
kgleason@foodbankccs.org
925 771-1313 work
925 676-5656 home



Delta Diablo Sanitation District

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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

May 13, 2009

Ms. Lou Ann Texiera, Executive Officer
Contra Costa County Local Agency Formation Commission
651 Pine Street, 6th Floor
Martinez, CA 94553

SUBJECT: APRIL 2009 DRAFT NEGATIVE DECLARATION FOR PROPOSED SPHERE OF INFLUENCE EXPANSIONS FOR THE CITY OF PITTSBURG, DELTA DIABLO SANITATION DISTRICT, AND CONTRA COSTA WATER DISTRICT, LAFCO 07-27

Dear Ms. Texiera:

Thank you for providing the District with the opportunity to review the subject Draft Initial Study/ Negative Declaration Report. The draft report includes a review of the potential environmental impacts for the proposed expansion of the District sphere of influence for 13 areas; A to M, with a total area of 3,161.4 acres. The following are District clarifications related to street sweeping, Household Hazardous Waste Recycling Program, recycled water, wastewater collection and conveyance through District facilities, and wastewater treatment.

Figure 3b and the document text clearly describe the thirteen areas proposed for District expansion. However, Figure 4a and 4b are not consistent with Figure 3b and the document text in that nine of the thirteen areas are not shown as "DDSD Proposed SOI". The areas not shown in these figures include areas A, B, D, I, J, K, and L. Additionally, Figure 4b does not show the Northeast Antioch Industrial area as within the Antioch Existing SOI.

Page 92 of the Initial Study discusses the wastewater environmental setting. The third paragraph states, "The DDS D provides wastewater collection services for the *unincorporated community of Bay Point (excluding SOI Area A)*..." The reference "excluding SOI Area A" should be deleted as the proposed SOI Area A, while unincorporated, is not within the community of Bay Point.

Page 97 of the Initial Study, Wastewater Analysis/Conclusions/Mitigations, includes the statement that "The proposed SOI areas are not currently serviced by DDS D or within any wastewater service agencies' SOI." Except for area F, this is a correct statement. As noted in the District letter to LAFCO dated March 11, 2009 , major portions of area F, the North Pittsburg industrial area, have been served by the District since the 1990's and before.

Sincerely,

Patricia Chapman
Associate Engineer

PEC:bjm

cc: Gary Darling, General Manager, DDS
Dean Eckerson, Principal Engineer, DDS
Marc Grisham, City Manager, City of Pittsburg
Jim Jakel, City Manager, City of Antioch
Caroline Quinn, Engineering Services Director, DDS
Kristin Vahl, City of Pittsburg
CORP.15.04-CORRES-65
Chron File



May 12, 2009

Lou Ann Texeira
Executive Officer
Contra Costa LAFCO
651 Pine Street, 6th Floor
Martinez, CA 94553

Subject: Negative Declaration - Sphere of Influence Amendments - City of Pittsburg, Contra Costa Water District, Delta Diablo Sanitation District

Dear Ms. Texeira:

The East Bay Regional Park District (the 'District') has reviewed the Negative Declaration and Initial Study for the proposed Sphere of Influence (SOI) amendments for the City of Pittsburg, Contra Costa Water District (CCWD), and the Delta Diablo Sanitation District (DDSD). The Negative Declaration describes the project area as encompassing 3,161 acres in 13 separate areas to coincide with the voter approved urban limit lines (ULLs) for the cities of Pittsburg and Antioch and notes that inclusion of these areas within an agency's SOI implies the probable need for municipal service and corresponding development in the area within the foreseeable future.

The District respects the efforts of LAFCO, the City of Pittsburg, CCWD, and DDSD to implement the voter approved Urban Limit Line included in Measures P and K and supports the efforts to provide for planned orderly growth throughout Pittsburg and Antioch. However, we are concerned about the precedent set by the potential LAFCO approval of provision of municipal services prior to the approval of development projects and without a complete and thorough environmental review of known development proposals.

The initial study for the Sphere of Influence acknowledges the likelihood for future development and recognizes the intent behind the SOI expansions is to enable future development, but defers the analysis of the effects of such development. While the District recognizes the need to implement the voter approved Urban Limit Line, we are interested in ensuring that the impacts and level of service needs are fully addressed as early in the process as possible to ensure we can work collaboratively towards addressing future growth issues while protecting open space and critical habitat throughout the region.

The Initial Study Fails to Evaluate the Reasonably Foreseeable Effects

CEQA Guidelines Sec. 15378 (a) states that a "project" shall include the "whole of an action which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...". A "project" as defined by CEQA includes "an activity

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involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one for more public agencies." (CEQA Guidelines Sec. 15378(a)(3)).

The expansion of the SOI's is clearly a project pursuant to CEQA and the known planned development of the dwelling units identified within Tables 3 and 4 of the Initial Study are reasonably foreseeable projects resulting from the SOI expansions that must be included in the project description of the Initial Study and included in the environmental review. The scope of environmental review should encompass the whole of the action and include a level of analysis consistent with the information that is known about the proposed developments.

The expansion of the SOI's is intended to enable the provision of municipal services to the dwelling units identified within the Initial Study. A full environmental review that considers the direct effects and reasonably foreseeable indirect effects of development throughout the SOI areas should be prepared as early in the process as feasible and an Environmental Impact Report (EIR) should be prepared that evaluates the development proposals prior to approval of the SOI expansions.

SOI Expansion Would Occur Prior To Project Approval

Voters in Pittsburg and Antioch passed Measures P and K in November of 2005. These measures expanded the Contra Costa County Urban Limit Line to include the lands considered for proposed SOI expansions.

These measures also included amendments to the City's General Plans and rezoning for the property, resulting in zoning of open space to planned development zones. Under standard planning practice and California law, a General Plan Amendment and rezoning of these properties would require thorough environmental analysis through preparation of an EIR and action by a land use decision making body such as a City Council or Planning Commission.

These lands have received a General Plan Amendment and rezoning designation for development of the area and LAFCO approval of the SOI expansions would enable the provision of municipal services. However, no project has been approved for these lands.

The District respects the efforts of LAFCO, the City of Pittsburg, CCWD, and DDS to implement Measures P and K. However, the District is concerned that project approval by a land use decision making body and environmental review of known development proposals continues to be deferred. Such a decision and thorough environmental review should be conducted prior to the expansion of the SOI areas.

SOI Expansion Would Proceed Without Implementation of General Plan Policies

In October of 2005, the Pittsburg City Council authorized the appropriation of funds for the preparation of hillside development guidelines and performance standards. In May of 2008, processing and development of Hillside Design Guidelines was suspended indefinitely. To date, no draft guidelines have been presented and no environmental review of the draft guidelines has been completed pursuant to CEQA.

The Pittsburg General Plan (GP Policy 2-P-21) includes polices to develop a Hillside Preservation Ordinance and Design Guidelines to reflect the General Plan policies of protecting ridgelines,

defining protected viewsheds, and designating the location and density of low-density hillside residential development based on slope stability and visual impact.

LAFCO should not be considering approval of the SOI expansions which would enable the provision of municipal services prior to the development of a Hillside Preservation Ordinance and Design Guidelines to implement the goals of the Pittsburg General Plan of providing for ridgeline protection and determination of appropriate development sites on hillsides in the city.

The City of Pittsburg should have the opportunity to develop and approve a Hillside Preservation Ordinance and Design Guidelines to determine the appropriate locations for development prior to expanding the SOI for municipal services to these areas.

Development within the SOI Expansion Areas Would Have the Potential to Result in Significant Environmental Impacts

The development of properties within the SOI expansion areas would have the possibility to cause a direct physical change to the environment and an EIR should be prepared at the earliest possible date.

As development parameters have been defined, rezoning completed, and the General Plan amended to accommodate development on these lands a full and thorough environmental review should be completed prior to approving the provision of municipal services to these areas.

Development of the SOI areas would have the potential to result in significant impacts including, but not limited to, the following:

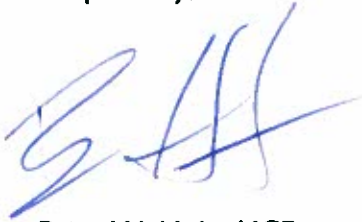
- Aesthetics - change of visual character, adverse effects on scenic vistas, and introduction of substantial sources of light and glare;
- Air Quality - introduction of new greenhouse gas emissions, compliance with AB32, increase in vehicle miles traveled, and contributions to global climate change;
- Biologic Resources - loss of habitat including loss of critical habitat in areas not covered by the East Contra Costa County HCP, impacts to threatened and endangered species;
- Geology & Soils - development on potentially unstable slopes;
- Land Use & Planning - Consistency with Pittsburg General Plan, SB 375, regional transportation plans, East Contra Costa County Habitat Conservation Plan;
- Recreation - Potential for substantial increase in recreational demands, need to ensure access to publicly owned open space;
- Transportation & Traffic - Substantial increases to traffic, impacts to already congested roadways and intersections;
- Utilities and Service Systems - substantial increases in water and energy demands, limited budgets and long term economic impacts effects on provision of services.

Development within these areas should proceed thoughtfully with an informed public process that allows for thorough environmental review and public comment. The development of these lands has already gained significant entitlements that have circumvented standard California land use and environmental planning laws.

The provision of municipal services to these lands is an important discretionary act that is intended to enable future development in these areas and an early and thorough public approval and environmental review process that identifies all impacts and level of service demands is critical towards implementation of the voter approved ULL in a planned and orderly manner.

The District looks forward to working with all of the affected agencies and stakeholders to meeting the demands of future growth while protecting open space and critical habitat. Thank you for the opportunity to review SOI Expansion Initial Study and Negative Declaration. Please feel free to contact us should you need any additional information.

Respectfully,



Brian W. Holt, AICP
Senior Planner

Cc: P. O'Brien -General Manager (EBRPD)
R. Doyle -Assistant General Manager (EBRPD)
EBRPD Board of Directors



Lou Ann Texeira
Executive Officer
Contra Costa LAFCO
651 Pine St. 6th Floor
Martinez, CA 94553
ltexe@lafco.cccounty.us

May 12, 2009

Re: Proposed Sphere of Influence Expansion for the City of Pittsburg, Delta Diablo Sanitation District and Contra Costa Water District

Dear Ms. Texeira,

Greenbelt Alliance, the Bay Area's land conservation and urban planning non-profit, writes with grave concern about the proposed Sphere of Influence (SOI) Expansion for the City of Pittsburg, Delta Diablo Sanitation District (DDSD) and Contra Costa Water District (CCWD). Greenbelt Alliance testified at several LAFCO meetings expressing the precedent setting nature of expanding the City of Pittsburg's SOI and CCWD and DDSD's SOI during the Municipal Service Review Process (MSR). Additionally the proposed changes will result in significant environmental impacts that are not properly analyzed in the Initial Study. Thus, the spheres of influence for the City of Pittsburg, Delta Diablo Sanitation District (DDSD) and Contra Costa Water District (CCWD) should not be expanded and a full Environmental Impact Report (EIR) must be conducted.

Precedent setting

The spheres of influence for the City of Pittsburg, DDSD and CCWD should not be expanded because it sets a negative precedent that is beyond the purview of LAFCO. Expanding the SOI beyond the current city limits is premature. The municipal service review process (MSR) is not the proper process to expand the SOI. Cities should apply directly to LAFCO for expansion instead of through the MSR process, which is the typical process. Expanding the SOI for cities through the MSR process is not the proper forum because it does not allow for adequate public engagement. The implications of allowing significant SOI expansions through the MSR process is precedent setting and these impacts need to be reviewed through an EIR.

The expansion of the SOI goes against LAFCO policies to promote orderly formation of local agencies, and to preserve open space and prime agricultural land.

Contra Costa LAFCO policies relating to SOIs specify that requests for SOI amendments should address all relevant factors of Government Code §56668. Such requests should also specify how the policies of the Cortese-Knox-Hertzberg Act will be fostered with respect to the 1) orderly formation of local agencies (§56001) and 2) preservation of open space (§56059) and prime agricultural land (§56064), both within the existing boundaries of the agency and the proposed SOI of the agency (§56377).

Expanding the SOI of the cities of Pittsburg destroys open space and prime agricultural land. The land proposed for the SOI expansion in the City of Pittsburg is prime open space that is adjacent to the

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proposed regional park open space at the Concord Naval Weapons Station. The land is also a key wildlife corridor that connects to Mount Diablo. The SOI expansion goes against LAFCO's policies to preserve open space.

The SOI expansion also does not promote the orderly formation of local agencies because according to the MSR for the City of Pittsburg, there is 1,820 acres of vacant land within the existing City limits that are adequate to accommodate the city's project growth.¹ The MSR actually recommends retaining the existing SOI because the City of Pittsburg can accommodate growth within its existing boundaries. According to the MSR:

*"There is however, sufficient residentially designated land within the General Plan Planning Area to accommodate residential growth at the projected 1.1% annual growth rate to the end of the planning period in 2020 and beyond. In addition, sufficient commercial and industrial land is available to accommodate projected commercial and industrial development until the end of the planning period in 2020."*²

It is recommended that the existing Sphere of Influence for the City of Pittsburg be retained. The City is providing adequate services within the City boundaries given the current and planned land uses, and has the ability to expand these services to accommodate new development within the established SOI. A number of large residential, commercial, and industrial projects are currently underway within the City. In addition, three annexation/reorganization proposals have just been completed by LAFCO. An expansion of the City's SOI cannot be supported by the MSR at this time, as explained below.

*The intent of an SOI is to identify the most appropriate areas for an agency's extension of services in the foreseeable future. Pursuant to the Contra Costa LAFCO policies relating to SOIs, LAFCO discourages inclusion of land in an agency's SOI if a need for services provided by that agency within a 5-10 year period cannot be demonstrated. 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. In determining the SOI for an agency, LAFCO must consider and prepare written determinations with respect to four factors [Government Code §56425(e)]. These factors relate to the present and planned land uses including agricultural and open-space lands, the present and probable need for public facilities and services, the present capacity of public facilities and adequacy of public services, and the existence of any social or economic communities of interest in the area."*³

Thus, expanding the SOI of Pittsburg does not promote the orderly formation of local agencies. In fact, expansion creates leap-frog development, which LAFCO is supposed to prevent. Thus, the proposed project is not aligned with LAFCO policies and the proposed project should be denied.

The mitigated negative declaration is inadequate and a full Environmental Impact Report must be conducted to comply with CEQA

The proposed expansion of the SOI is considered a project under CEQA

¹Contra Costa LAFCO: East County Sub-Regional Municipal Services Review: Final Adopted Municipal Service Review. December 10, 2008. Page VI-13.

²Contra Costa LAFCO: East County Sub-Regional Municipal Services Review: Final Adopted Municipal Service Review. December 10, 2008. Page VI-13.

³Contra Costa LAFCO: East County Sub-Regional Municipal Services Review: Final Adopted Municipal Service Review. December 10, 2008. Page VI-29.

The change in the SOI constitutes the beginning of a “project” as defined by CEQA; thus, the proposed Negative Declaration is inadequate and a full EIR must be conducted. CEQA Guidelines Sec. 15378 (a) states that a “project” shall include the “whole of an action which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment...”. A “project” as defined by CEQA includes “an activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one for more public agencies.” (CEQA Guidelines Sec. 15378(a)(3)).

The LAFCO approval of the expansion of the SOI is subject to CEQA (*Pistoresi v. City of Madera* (1982) 138 Cal. App.3d 284). The expansion of water and wastewater also constitutes at the beginning of the development process and a “project” under CEQA (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 282). Therefore, the negative declaration is inadequate because the expansion of SOI for the City of Pittsburg, CCSD and CCWD constitutes as a “project” under CEQA and the environmental impacts must be analyzed through an EIR. According to case law established by *Bozung v. Local Agency Formation Com.* the inclusion of the 3,161.41 acres land into the SOI is the first step toward the conversion of the land into developed uses; thus, a full EIR is required.

An Environmental Impact Report is required according to CEQA “fair argument” standard

In addition, the Negative Declaration does not comply with the basic requirements of the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.*, because under the well-established “fair argument” standard, an EIR is required whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. LAFCO is making critical decisions *now* about the location of future development allowable in the project and therefore cannot defer environmental analysis to the individual project level.

An Environmental Impact Report is required according to Appendix G of the CEQA guidelines.

Appendix G of the CEQA Guidelines requires an EIR to analyze impacts to agricultural resources when a project has the potential to convert prime farmland, unique farmland, or farmland of statewide significance to non-agricultural uses, potentially conflicts with existing zoning for agricultural use or with a Williamson Act contract, or involves other changes in the existing environment which, due to their location or nature, would result in the conversion of certain farmland to non-agricultural use. According to the Initial Study, 876 acres of the proposed SOI expansion area is designated as Williamson Act.⁴ The Thomas Ranch property in SOI Area D is eligible for the National Register of historic places. The initial study failed to analyze the environmental impacts that the SOI expansion would pose to the Williamson Act contacts. Instead, a full EIR should be conducted and should include a detailed summary and analysis of the specific effects the SOI expansion will have on the Thomas property and whether the ranch will remain a viable, profitable, and productive property for the Thomas family to continue with their business.

A water reliability study must be conducted pursuant to California Water Code § 10910.

Because the proposed project constitutes as a “project” under CEQA for the reasons set forth above, and the City of Pittsburg’s General Plan indicates over 500 dwelling units in the proposed project area, a water reliability study must be conducted pursuant to California Water Code §10910.

The Negative Declaration improperly tiered off of the City of Pittsburg’s General Plan. A full environmental impact report is required because the environmental impacts were not fully analyzed in the Negative Declaration.

The initial study heavily relies on tiering off of the City of Pittsburg’s General Plan (General Plan) Environmental Impact Report as basis for the Negative Declaration that the environmental impacts to the project are less than significant. CEQA law clearly states that “tiering does not excuse the lead agency

⁴ Contra Costa County LAFCO Initial Study on the Proposed Sphere of Influence Expansions for the City of Pittsburg, Delta Diablo Sanitation District and Contra Costa Water District. April 2009. Page 41.

from adequately analyzing reasonably foreseeable significant environmental effects of the project...” (CEQA Guidelines § 15152(b).) To that end, a lead agency wishing to exclude from an EIR must make a determination that either those impacts (1) were “mitigated or avoided...as a result of the prior environmental impact report, or (2) [were] examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site specific revision, the imposition of conditions, or by other means in connection with the approval of the later project.” (CEQA § 21094 (a))

Clearly, the General Plan is an inadequate document to tier off of because the General Plan stated that before development in the hillsides can be approved, a hillside ordinance needed to be in place. The City of Pittsburg General Plan indicates that a hillside ordinance needs to be in place for development in the southwest hills and the Buchanan area. Because there is not a hillside ordinance in place, the environmental impacts of the development are not mitigated or avoided. Thus, an EIR is necessary to examine the environmental impacts of future development and municipal services within the area without the expected hillside ordinance. Additionally, the proposed project will expand services and the SOI to areas that are designated as protected or rangeland in the City of Pittsburg’s General Plan and Contra Costa County’s General Plan. The expansion of the City of Pittsburg, CCWD and DDSD’s SOI must be analyzed in an EIR.

The Negative Declaration inadequately analyzes the cumulative and/or growth inducing environmental effects

Under CEQA, the responsible agency must consider the cumulative environmental effects of its action before a project gains irreversible momentum. (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 282 [118 Cal.Rptr. 249, 529 P.2d 1017]; City of Carmel-by-the-Sea v. Board of Supervisors (1986) 183 Cal.App.3d 229, 242 [227 Cal.Rptr. 899].) The proposed expansion of services and Pittsburg’s SOI covers areas that the City of Pittsburg’s General Plan designates as open space; thus, extending municipal services to areas designated as open space is growth inducing. In particular the ridgelines of the City of Pittsburg’s southwest hills are designated as open space; thus, an EIR needs to evaluate the growth inducing impacts of the proposed expansion has on designated open space areas.

Thank you for your consideration of these comments. Our review and investigation are ongoing. If you have any questions please feel free to contact me by e-mail at cwong@greenbelt.org or by telephone at (925) 932-7776.

Sincerely,



Christina Wong
East Bay-Solano Field Representative

"Kristin Vahl" <KVahl@ci.pittsburg.ca.us>

05/08/2009 11:50 AM

To

"Lou Ann Texeira" <LTexe@lafco.cccounty.us>

Subject

Comments on Initial Study

Hi Lou Ann,

For the sake of time, I hand wrote my comments on the corresponding pages of the initial study and I just scanned those pages in for you to review. My comments are in red and since it is my handwriting, please let me know if you have any troubles reading any of it or interpreting what my comment was!

Thank you and Happy Friday!

Kristin Vahl

Associate Planner

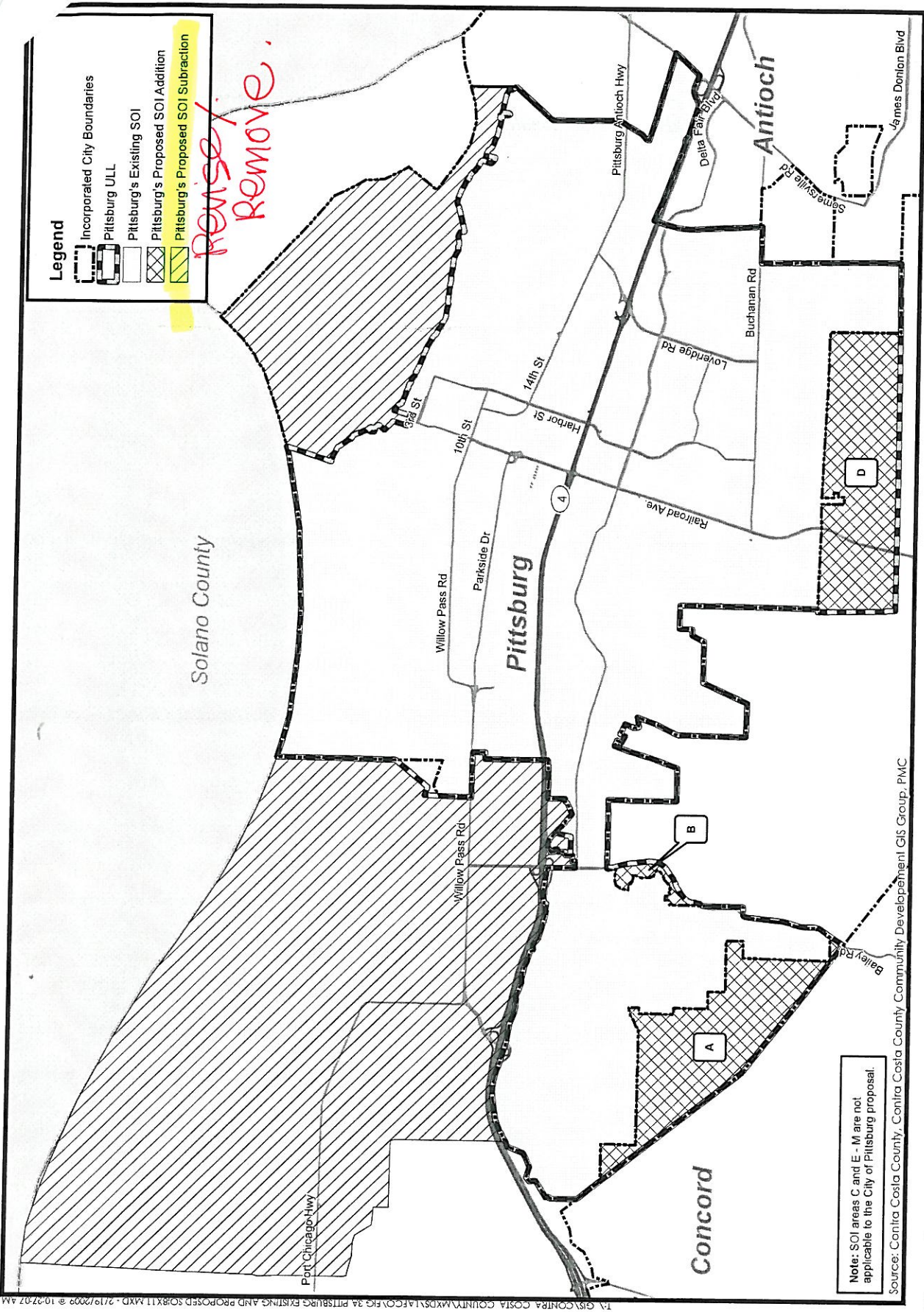
City of Pittsburg

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Comments on IS_5.08.09.pdf



Legend

- Incorporated City Boundaries
- Pittsburg ULL
- Pittsburg's Existing SOI
- Pittsburg's Proposed SOI Addition
- Pittsburg's Proposed SOI Subtraction

Revise!
Remove.

Note: SOI areas C and E - M are not applicable to the City of Pittsburg proposal.
Source: Contra Costa County, Contra Costa County Community Development GIS Group, PMC

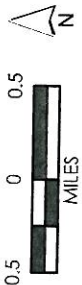


Figure 3a
City of Pittsburg Existing and Proposed SOI



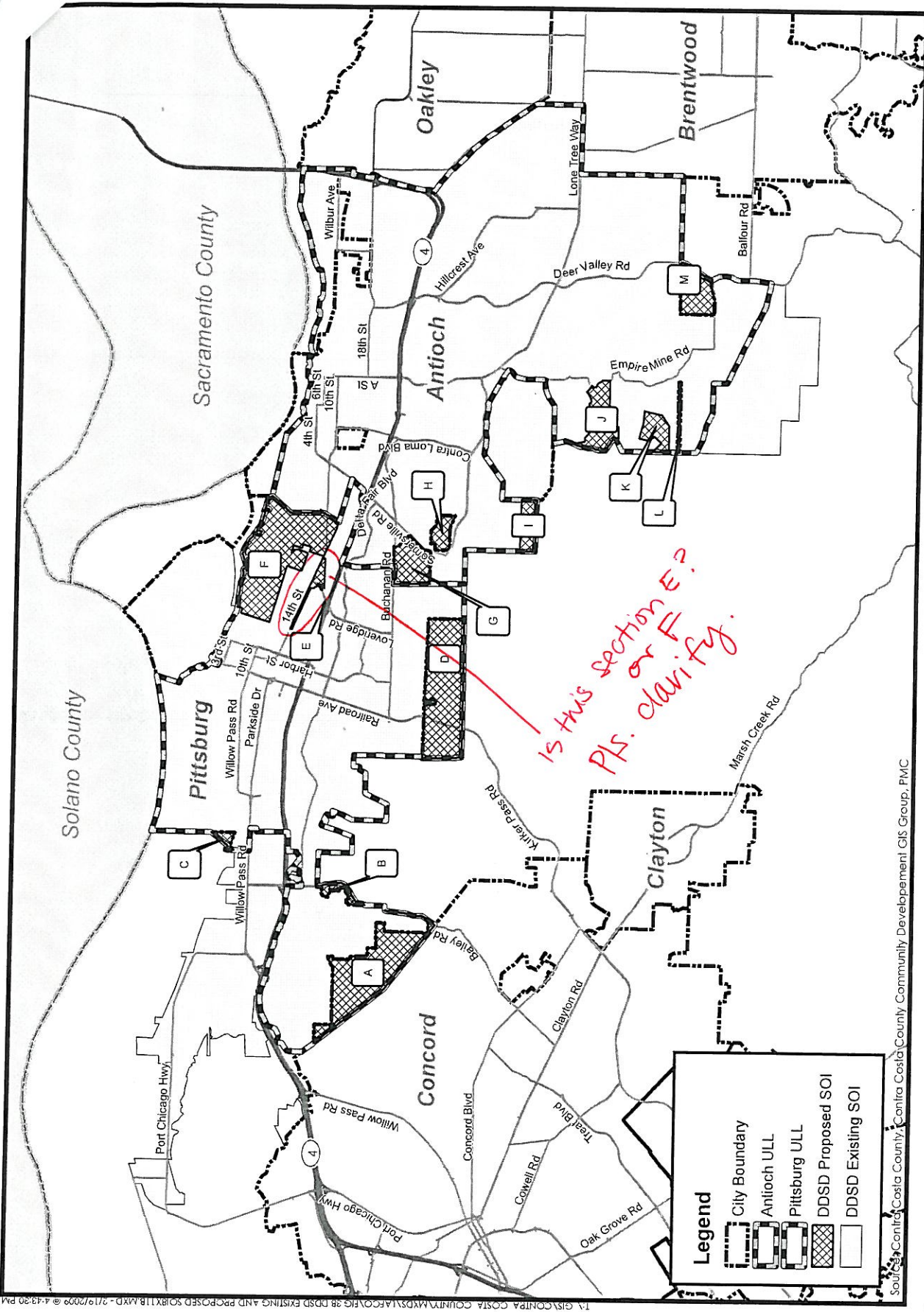


Figure 3b
 DDSD Existing and Proposed SOI
 PMC

1. GIS CONTRA COSTA COUNTY KADSYLACOVIG 38 DDSD EXISTING AND PROPOSED SOI 8/11/2009 @ 4:43:30 PM

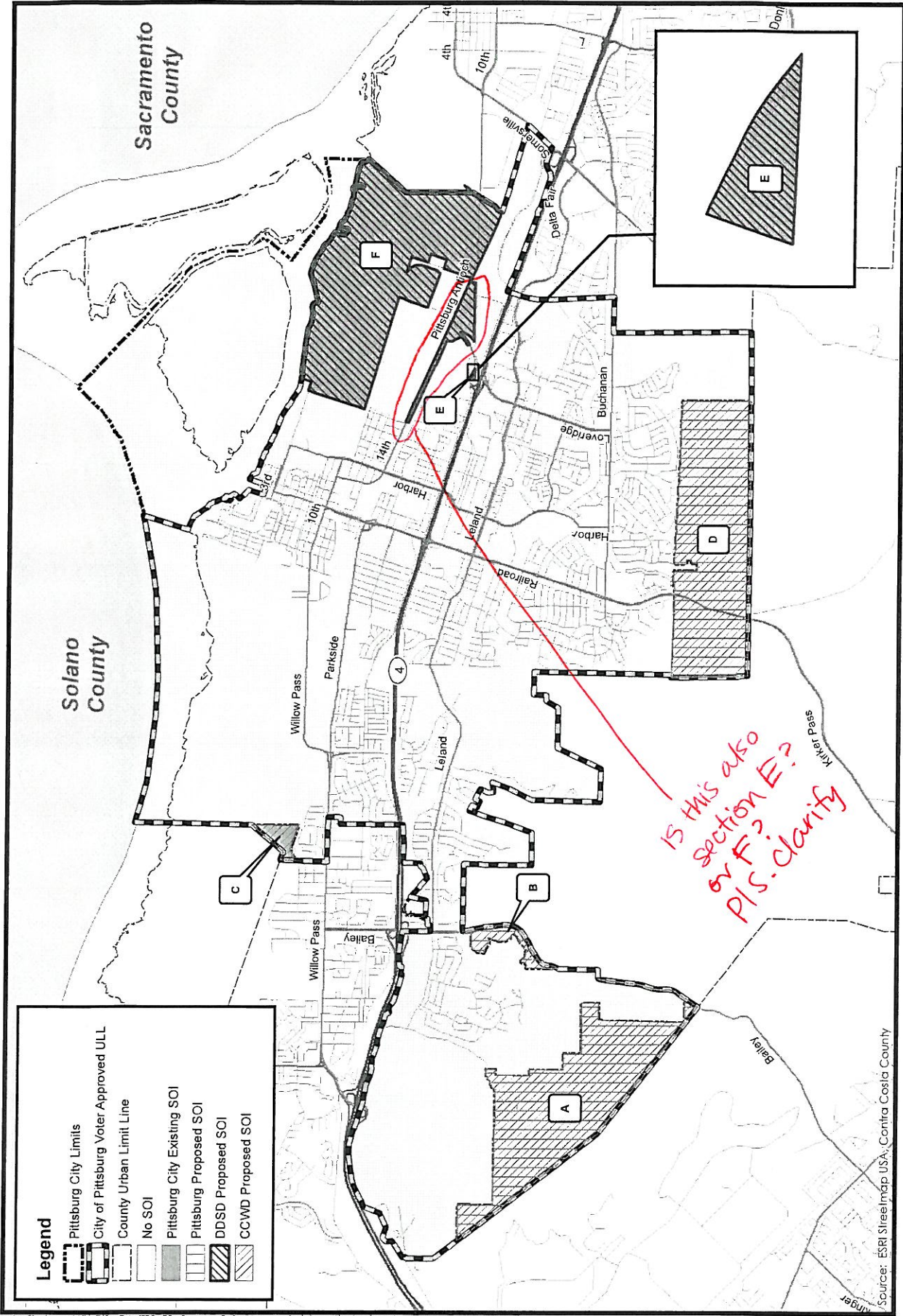


Figure 4a
 City of Pittsburg
 Voter Approved ULL
PMC

6. GEOLOGY & SOILS

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Analysis/Conclusions/Mitigation:

a-e) According to the Contra Costa County General Plan, the project area contains Hard Marine sandstone and shale overlain with non-marine sandstone (Pleistocene). According to Figure 8-5, Soil Resource Areas of the Contra Costa County General Plan, the project area is dominated by Upland soil associations. Upland soil associations are generally highly expansive and corrosive with moderate to slow permeability and have a generally low potential for liquefaction.

The region has been subjected to numerous seismic events. Six major Bay Area earthquakes have occurred since 1800 that have impacted the County, including Alamo. The major State legislation regarding earthquake fault zones is the Alquist-Priolo Special Studies Zones Act. The purpose of the Act is to regulate development near active faults to mitigate the hazard of surface fault rupture. The County must regulate certain development projects within earthquake fault zones designated by the State Geologist. There are nine faults zones currently designated within Contra Costa County: Byron Hot Springs, Clayton, Diablo, Dublin, Mare Island, Richmond, Tassajara, Vine Hill (formerly Port Chicago), and Walnut Creek fault zones. Within the project area there are Strike Slip and normal faults in the vicinity of SOI Area A according to Figure 10-2, Mapped Earthquake Faults of the Contra Costa County General Plan. According to Figure 10-2 of the City of Pittsburg General Plan, there are approximately ~~five~~ ²⁻³ minor faults located within SOI Area A.

The Seismic Hazards Mapping Act of 1990 directs the California Geological Survey to delineate seismic hazard zones to reduce the threat to public health and safety and to minimize the loss of life and property by identifying and mitigating seismic hazards. Projects that fall under the authority of the Seismic Hazards Act are subject to the outcome of comprehensive geotechnical studies. The official Seismic Hazard Maps of Contra Costa County have not yet been issued. According to Figure 10-4, Estimated Seismic Ground Response of the Contra Costa County General Plan the portion of the project area that is made up of hard bedrock has the lowest susceptibility for earthquake damage, the areas made up of Pliocene bedrock and older Alluvium have moderately low damage susceptibility, and the areas made up of younger (Holocene) Alluvium have moderate damage susceptibility. According to Figure 10-1 of the City of

are located within the City of Pittsburg General Plan planning area, and SOI Areas G through M are located within the City of Antioch General Plan planning area. The City of Pittsburg has designated portions of SOI Areas A and D for 'Open Space', 'Low Density Residential', and 'Hillside Low Density Residential' land uses and pre-zoned these areas accordingly. SOI Area C is designated for 'Industrial' land uses and with a 'General Industrial' zoning district. The City of Antioch has designated SOI Areas G, K, L and M as part of Focus Areas. SOI Area G is identified as Somersville Road Corridor Focus Area, a portion of SOI Area H and SOI Area K are part of the Sand Creek Focus Area, SOI Area L is part of the Roddy Ranch Focus Area and SOI Area M is part of the Ginocchio Focus Area.

SOI Area A – SOI Area A is unincorporated land within Contra Costa County that is also located within the Southwest Hills Subarea of the City of Pittsburg General Plan planning area and the voter approved ULL. This area consists of undeveloped rolling hills that are bounded by existing residential development to the north and northeast; undeveloped rolling hills to the northwest; the Concord Naval Weapons Station to the west, southwest, and south; and Bailey Road and undeveloped rolling hills to the southeast and east. According to the Contra Costa County General Plan and Zoning Map, SOI Area A is designated for 'agricultural land', and 'open space' land uses as shown in **Figure 6a** and is located within 'A-2 - General Agricultural', and 'A-4 - Agricultural Preserve' zoning districts as shown on **Figure 6b**. Since SOI Area A is located within the City of Pittsburg's planning area, it is anticipated that this area would eventually be included in the City of Pittsburg's SOI and/or city limits. According to the City of Pittsburg General Plan and Zoning Map, SOI Area A is designated for 'Low Density Residential (1-7 un/ac)', 'Hillside Low Density Residential (<5 un/ac)', and 'Open Space' land uses as shown in **Figure 7a** and is pre-zoned as 'Hillside Planning District', and 'Open Space' as shown in **Figure 7b**.

SOI Area B - SOI Area B is unincorporated land within Contra Costa County that is also located within the Southwest Hills Subarea of the City of Pittsburg General Plan planning area, east of the existing Oak Hills Subdivision, and within the voter approved ULL. The area consists of undeveloped rolling hills that are bounded by existing residential development to the north and west; and Bailey Road and undeveloped rolling hills to the east and south. According to the Contra Costa County General Plan and Zoning Map, SOI Area B is designated for 'open space' land uses as shown in **Figure 6a** and is located within 'A-3 – Heavy Agricultural' zoning district as shown on **Figure 6b**. Since SOI Area B is located within the City of Pittsburg's planning area, it is anticipated that this area would eventually be included in the City of Pittsburg's SOI and/or city limits. According to the City of Pittsburg General Plan, SOI Area B is designated for 'Open Space' land uses as shown in **Figure 7a** and is not currently pre-zoned.

SOI Area C – SOI Area C is unincorporated land within Contra Costa County that is also located within the City of Pittsburg's SOI, General Plan planning area, and voter approved ULL. Area C is located north of the railroad tracks and Pullman Avenue, which are north of Willow Pass Road. The area consists of undeveloped flat grassland that is bounded by existing industrial development to the east; Suisun Bay to the North; undeveloped grassland and marshland to the west; and railroad tracks and low density residential uses to the south. According to the Contra Costa County General Plan and Zoning Map, SOI Area C is designated for "Heavy Industrial" land uses as shown in **Figure 6a**, and is located within 'H-I-X – Heavy Industrial' zoning district as shown on **Figure 6b**. Since this area is located within the City of Pittsburg's planning area and existing SOI, it is anticipated that this area would eventually be annexed to the City of Pittsburg. According to the City of Pittsburg General Plan, SOI Area C is designated for 'Industrial' land uses as shown in **Figure 7a**, and is located within an 'IG-General Industrial' zoning district as shown in **Figure 7b**.

prezoned as

SOI Area D - SOI Area D is unincorporated land within Contra Costa County that is located within the Woodlands, Black Diamond and Buchanan Subareas of the City of Pittsburg General Plan planning area, and voter approved ULL. This area is undeveloped rolling hills that is bounded by existing residential development within the Buchanan and Woodland Subareas to the north; and undeveloped rolling hills to the west, east and south. According to the Contra Costa County General Plan and Zoning Map, SOI Area D is designated for 'open space' land uses as shown in **Figure 6a**, and is located within 'A-4 - Agricultural Preserve' zoning district as shown on **Figure 6b**. Since SOI Area D is located within the City of Pittsburg's planning area, it is anticipated that this area would eventually be included in the City of Pittsburg's SOI and/or city limits. According to the City of Pittsburg General Plan and Zoning Map, SOI Area D is designated for 'Low Density Residential (1-7 un/ac)', 'Hillside Low Density Residential (<5 un/ac)', and 'Open Space' land uses as shown in **Figure 7a** and is pre-zoned as 'Hillside Planning District', and 'Open Space' as shown in **Figure 7b**. Approximately 686 acres of SOI Area D are designated as 'Williamson Act - Non-Prime Agricultural Land' of which, 162 acres are designated as 'Williamson Act - Non Prime Agricultural Land in Non-Renewal', as shown in **Figure 5, Williamson Act Land**.

SOI Area E - SOI Area E is located within the City of Pittsburg's Loveridge Subarea, city limits, voter approved ULL and SOI. *Avenue.* The area consists of vacant land and contains the Loveridge Road/State Route 4 interchange that is bounded by California Road to the north, Loveridge Road to the east, State Route 4 to the south, and State Route 4 on ramp to the west. *California Road* According to the City of Pittsburg General Plan and Zoning Map, SOI Area E is designated for 'Vacant/Utility/ROW' and 'General Industrial' land uses as shown in **Figure 7a**, and is located within 'General Industrial' and 'Service Commercial zoning district as shown in **Figure 7b**. *? ← don't match → ??*

SOI Area F - SOI Area F is located within the City of Pittsburg's Loveridge and Northeast River Subareas, city limits, voter approved ULL, and SOI. The area consists of large-scale heavy industrial and large industrial land uses and vacant land. Some of the large scale heavy industrial land uses include: USS-Posco, Dow Chemical, and the Delta Diablo Wastewater Treatment Plant. Wetlands comprise a small portion of the northeastern corner at the confluence of Kirker Creek and the Sacramento River. This area is bounded by the New York Slough to the north, the City of Antioch to the east; regional commercial, industrial and low density residential land uses to the south; and downtown Pittsburg to the west. According to the City of Pittsburg General Plan and Zoning Map, SOI Area F is designated for 'General Industrial' land uses as shown in **Figure 7a**, and is located within 'General Industrial' and 'Service Commercial' zoning district as shown in **Figure 7b**.

to the southwest.
SOI Area G - SOI Area G is located within the unincorporated land of Contra Costa County that is also located within the City of Antioch General Plan planning area boundary, voter approved ULL and SOI. This area is primarily undeveloped with some existing industrial use along Buchanan Road. Area G is bounded by residential development to the north, east, south and west, with vacant land designated for a business park to the southeast. According to the Contra Costa County General Plan and Zoning Map, SOI Area G is designated for 'Industrial', and 'Agriculture' land uses as shown in **Figure 6a**, and is located within 'H-I - Heavy Industrial' zoning district as shown on **Figure 6b**. Since SOI Area G is located within the City of Antioch's planning area and SOI, it is anticipated that this area would eventually be annexed to the City of Antioch. According to the City of Antioch General Plan, SOI Area G is located within the City of Antioch's 'Somerville Road Corridor Focus Area', which is designated for commercial, regional commercial, business park, residential, highway right-of-way, and high density residential

SOI Area M - SOI Area M is located within the unincorporated land of Contra Costa County that is also located within the City of Antioch General Plan planning area boundary and voter approved ULL. This area consists of undeveloped rolling hills that are bounded by more undeveloped rolling hills. However, according to the City of Antioch General Plan, the 'Roddy Ranch Focus Area', located to the southwest and the 'Sand Creek Focus Area', is anticipated as a future growth area. According to the Contra Costa County General Plan and Zoning Map, SOI Area M is designated for 'Agricultural Land' land use as shown in **Figure 6a** and is located within 'A-4 -Agricultural Preserve' zoning district as shown in **Figure 6b**. Since SOI Area M is located within the City of Antioch's planning area, it is likely that this area would eventually be annexed into the City of Antioch's SOI and/or city limits. According to the City of Antioch General Plan, SOI Area M is designated as 'Ginocchio Focus Area' land use, which is designated for 'Mixed Use Planned Community/Resort' as shown in **Figure 8**. According to the City of Antioch Zoning Map, this area is not currently zoned. All of SOI Area M is designated as 'Williamson Act - Non Prime Agricultural Land in Non-Renewal', as shown in **Figure 5, Williamson Act Land**.

Potential Buildout

According to the City of Pittsburg General Plan as amended by Measure P, and City of Antioch General Plan as amended by Measure K, the maximum potential buildout for the project area (all subareas) would be 3,919 dwelling units. There would be ~~3,275~~ dwelling units within the City of Pittsburg's SOI as shown in **Table 2**, ~~3,915~~ dwelling units within the DDS's SOI as shown in **Table 3** and ~~3,279~~ dwelling units within the CCWD's SOI as shown in **Table 4**. This maximum potential buildout analysis is primarily based on the land use and zoning designations identified within the General Plans for each jurisdiction as summarized in **Exhibit 1**. Potential buildout of all of the proposed SOI expansion areas was analyzed as part of the environmental review process for the General Plans because they are located within the planning areas of the cities of Pittsburg and Antioch. Measures P and K further reduced potential buildout of these areas as anticipated in the General Plans.

Revise
~~2583~~
2587?

1,943

1947

2583

**Table 2
City of Pittsburg SOI Expansion Areas**

SOI Area	Land Use Document	Acreage	Maximum Yield Dwelling Units (DU)
A	City of Pittsburg General Plan/Measure P	620.15	1,500
B	City of Pittsburg General Plan/Measure P	41.63	0
D	City of Pittsburg General Plan/Measure P	697.46 575.1	1,775 443
Totals		1,359.25	3,275 1,943

Notes: Data based on City of Pittsburg General Plan as amended by Measure P and summarized in Exhibit 1.

147.55 of land designated for residential development → Max DU =
369 to 443 units
@ 2.5 du/ac → @ 3 du/ac

Table 3
DDS D SOI Expansion Areas

SOI Area	Land Use Document	Acreage	Maximum Yield Dwelling Units (DU)
A	City of Pittsburg General Plan/Measure P	620.15	1,500
B	City of Pittsburg General Plan/Measure P	41.63	0
C	City of Pittsburg General Plan/Measure P	26.46	0
D	City of Pittsburg General Plan/Measure P	697.46	1,775 443
E	City of Pittsburg General Plan	0.74	0
F	City of Pittsburg General Plan	870.20	0
G	City of Antioch General Plan/ Measure K	195.40	240
H	City of Antioch General Plan/Measure K	78.29	0
I	City of Antioch General Plan/ Measure K	104.06	4
J	City of Antioch General Plan/ Measure K	209.89	0
K	City of Antioch General Plan/Measure K	107.02	0
L	City of Antioch General Plan/Measure K	18.61	0
M	City of Antioch General Plan/Measure K	191.49	400
Totals		3,161.41	3,915 2,583

Notes: Data based on City of Pittsburg General Plan as amended by Measure P, City of Antioch General Plan as amended by Measure K and summarized in Exhibit 1.

Table 4
CCWD SOI Expansion Areas

SOI Area	Land Use Document	Acreage	Maximum Yield Dwelling Units (DU)
A	City of Pittsburg General Plan/ Measure P	620.15	1,500
B	City of Pittsburg General Plan/ Measure P	41.63	0
D	City of Pittsburg General Plan/ Measure P	697.46	1,775 443
I	City of Antioch General Plan/ Measure K	104.06	4
J	City of Antioch General Plan/ Measure K	209.89	0
K	City of Antioch General Plan/ Measure K	107.02	0
L	City of Antioch General Plan/ Measure K	18.61	0
Totals		1,798.83	3,279 1,94

Notes: Data based on City of Pittsburg General Plan as amended by Measure P, City of Antioch General Plan as amended by Measure K and summarized in Exhibit 1.

All existing policies, ordinances and regulations would remain in effect and applicable to the SOI expansion areas, and these documents would limit the amount of development allowed within the SOI expansion areas. Therefore, the proposed project would be consistent with all existing land use plans and policies. Once the cities of Pittsburg and Antioch and the service districts propose annexation of these areas into their city limits and/or service districts, their policies, ordinances and regulations would go into effect. As part of the annexation process, the applicable City's General Plan Map and the Contra Costa County General Plan Map would be amended, which would be subject to subsequent environmental

Analysis/Conclusions/Mitigation:

a-f) Noise in Contra Costa County is primarily generated by vehicular traffic on freeways and major arterials. However, other noise contributors include: rail noise from Bay Area Rapid Transit (BART), the Atchison Topeka, Santa Fe, and Southern Pacific railroad corridors; air noise from existing air traffic activity; noise generated from industrial plants; and ~~Camp Parks Reserve Forces Training Area.~~ No airports, airport influence zones or railways are located within the vicinity of the proposed SOI expansion areas. Within the project area vehicle traffic on Highway 4, Bailey Road, Kirker Pass and Deer Valley Road would be the primary source of noise. The Contra Costa County General Plan, City of Pittsburg General Plan, and City of Antioch General Plan address noise issues by providing goals and policies to protect future residents from the negative impact of noise.

All existing County plans, policies, ordinances and regulations related to noise would remain in place. All future development and/or annexation proposed within the project area would be subject to subsequent environmental review. The proposed SOI expansion would not expand or intensify existing land uses and would not introduce any new uses or noise sources that would exceed existing County standards. No mitigation necessary, as **no impacts** or changes to existing conditions would occur.

12. POPULATION & HOUSING

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Environmental Setting:

In 2000, the number of people living within the vicinity of the project area was approximately 162,032, with approximately 71,500 people living within the City of Pittsburg planning area and 90,532 people living with the City of Antioch. Both cities and the County are required to participate in and comply with the Regional Housing Needs Assessment (RHNA) process under the San Francisco Bay Area Housing Needs Plan 2007-2014, which is conducted every five years. This process is required by State law for purposes of planning for the regional fair share allocation of future overall and affordable housing. In addition, Section 6, Housing Elements of the Contra Costa County General Plan, City of Pittsburg Gen-

2000 census shows Pitts. pop. at 56,769

147,301 (according to 2000 census)

SOI Expansions for the City of Pittsburg, DDS and CCWD
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eral Plan and City of Antioch General Plan provide housing needs assessment, constraints, resources, accomplishments, goals and policies.

Analysis/Conclusions/Mitigation:

a-c) As noted in **Tables 2, 3 and 4** above, the project area (all SOI areas) would have a maximum yield of ~~3,919~~ dwelling units. The City of Pittsburg SOI expansion area would have a maximum yield of ~~3,275~~ dwelling units and there would be approximately 644 dwelling units within the DDS and/or CCWD SOI expansion areas that are located within the City of Antioch's planning area. Based on the U.S. Census Bureau, the City of Pittsburg had an average household size of 3.17 persons per dwelling unit during the 2000 Census and 3.23 persons per dwelling unit during the 2005-2007 survey; and the City of Antioch had an average household size of 3.07 persons per dwelling unit during the 2000 Census and 3.11 persons per dwelling unit during the 2005-2007 survey. To be conservative we estimated the future increase in population within the SOI expansion areas based on the 2005-2007 survey data. Based on a maximum yield of ~~3,275~~ dwelling units and an average household size of 3.23 persons per dwelling unit, there would be a potential increase in population ~~10,578~~ persons associated with future development within SOI Areas A and D. Based on a maximum yield of 644 dwelling units and an average household size of 3.11 persons per dwelling unit, there would be a potential increase in population 1,990 persons associated with future development within SOI Areas G and I and M. Combined, future development of the SOI expansion area could increase the population of the SOIs by ~~12,578~~ persons.

All existing County and city plans, policies, ordinances and regulations related to population and housing in the project area, including the RHNA, would remain in place. The proposed SOI expansion does not propose any development, would not expand or intensify existing uses, and would not introduce any new uses or policies that would induce population growth or the need for more housing other than what is already anticipated and already analyzed in the City of Pittsburg General Plan and the City of Antioch General Plan as amended by Measure P and K, respectively. No mitigation would be necessary, as **no impacts** or physical changes to existing conditions or housing policies would occur. All future development and/or annexation proposed within the project area would be subject to subsequent environmental review.

13. PUBLIC SERVICES

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Handwritten notes in red ink: 2587 (see pg. 71), 1943, 1943, 6,276, 8,266?

According to the East Contra Costa County Sub-Regional MSR, actual average response times during the 2006-07 Fiscal Year were 4 to 5 minutes for emergency calls and 15 to 20 minutes for priority non emergency calls. The sworn officer to population ratio is currently 1.2. Therefore, the City of Pittsburg Police Department is not meeting its Performance Standard of five- to eight- minutes for priority non emergency calls and 1.8 sworn police officers per 1,000 residents under existing conditions. Potential buildout of SOI Areas A, B and D would increase the population by approximately ~~10,578~~, which would result in an increased need for approximately ~~19~~ sworn police officers and would further lengthen the average response times if additional facilities were not provided as development was proposed. However, the City of Pittsburg General Plan includes policies to ensure adequate police protection services are provided, which are as follows:

revise.

6276

Policies

- 10-P-36 Maintain, modernize, and designate new sites for emergency response facilities, including fire and police stations, as needed to accommodate population growth.
- 10-P-39 Strive to maintain a ratio of 1.8 sworn police officers per 1,000 residents.

City of Antioch Planning Area (SOI Areas G-M)

The performance standards for public services are briefly summarized below:

- Provide an average response time for emergency calls of between seven and eight minutes from the time the call is received to the time an officer arrives.
- Maintain a force level within a range of 1.2 to 1.5 officers including community service officers assigned to community policing and prisoner custody details, per 1,000 population.

According to the East Contra Costa County Sub-Regional MSR, the City is currently meeting their performance standards. However, future development proposed within SOI Areas G, I and M could increase these average response times if additional facilities were not provided as development is proposed. The City of Antioch General Plan includes policies to ensure adequate police protection services are provided, which are as follows:

Policies

- 3.5.9.2.a. Ensure that discretionary development projects comply with the City's performance standards, by approving such projects only after making one or more of the following findings.
 - The City's adopted performance standards will be maintained following project occupancy; or
 - Project-specific mitigation measures or conditions of approval have been incorporated into the project.
- 3.5.9.2.b. Require new development to fund public facilities and infrastructure, either directly or through participation in a land-based financing district, as necessary to mitigate the impacts of new development on public services and facilities.
- 3.5.9.2.c. Levy mitigation requirements in proportion to each development's anticipated impacts. Where infrastructure is required to be installed in excess of a development's proportional mitigation requirement, utilize benefit districts over the area to be benefited by the infrastructure or provide reimbursement to the development for excess cost.

c) Schools

Environmental Setting

City of Pittsburg Planning Area (SOI Areas A-F)

According to the City of Pittsburg General Plan, SOI Areas A and B are located within the Mt. Diablo Unified School District (MDUSD) and SOI Area D is located within Pittsburg Unified School District (PUSD).

According to the City of Pittsburg General Plan, MDUSD facilities include three elementary schools (grades K-5), one middle school (grades 6-8), and one continuation school. Several MDUSD schools within the Pittsburg Planning Area have reached or are nearing capacity. The PUSD currently operates seven elementary schools (grades K-5), two middle schools (grades 6-8), and one high school (grades 9-12). Additionally, the school district provides adult education programs, independent study, home teaching, and special education. Many of the schools within PUSD have reached or are nearing capacity. On average, PUSD is operating at 113 percent of capacity.

Los Medanos Community College, opened in 1974 as Contra Costa Community College District's third campus, serves as a valuable educational and recreational resource to local residents.

City of Antioch Planning Area (SOI Areas G-M)

According to the City of Antioch General Plan, the planning area is located within the boundaries of the Brentwood Union School District (BUSD) and the Liberty Union High School District (LUHSD). Antioch Unified School District (AUSD) has a K-12 enrollment of approximately 20,000 students. The District which district? includes 13 elementary schools, four middle schools, two comprehensive high schools, two specialized high schools, and one K-8 school. Most school aged children associated with future development within SOI Areas G – M would attend schools within the AUSD. The BUSD serves Kindergarten through 8th grade students with an enrollment of approximately 8,100 students. Presently, there are seven K-5 elementary campuses and three 6-8 middle schools. SOI Areas L and M may be located within the Krey Elementary boundary and the Adams Middle School boundary. The LUHSD includes Heritage High located at 101 American Avenue, Brentwood, California. Future student within SOI Area M may attend this school.

Analysis:

City of Pittsburg Planning Area (SOI Areas A-F)

Future development proposed within SOI Areas A and D could increase the number of school aged children within MDUSD and PUSD. According to the City of Pittsburg General Plan, expansion of residential development into the southern hills will result in the need for additional MDUSD school sites within city limits. Proposed schools include San Marco Elementary School, and potential conversion of an existing school site within the Planning Area to a high school facility. **Bulldozing of the General Plan will require two additional elementary schools and one high school.** Additional school sites may be identified through negotiations with the school districts to accommodate population growth within the Southwest Hills subarea (SOI Area A). In addition, the City of Pittsburg General Plan includes policies to ensure adequate school facilities are provided, which are as follows:

ITW currently under construction
** No. high school is being rebuilt to accommodate increased capacity.*

This is the Maxima DeltaView elementary and it is already built and open.

lic planter beds, public art, and over 31 miles of public trails. Parks maintenance, as well as new improvements, are provided to 33 City parks ranging from small neighborhood parks to the 99-acre Prewett Family Water Park. These parks comprise approximately 322 acres. The Parks Division also collaborates with the AUSD for shared park maintenance equipment and storage buildings. New projects include maintenance of the 'Memorial Grove' and participation in the 'Tree City USA' program, for which the City has received an award the past three years.

Analysis:

City of Pittsburg Planning Area (SOI Areas A-F)

The performance standards for public services are briefly summarized below:

- Provide a ratio of five acres of community and neighborhood parkland per 1,000 residents. Ensure that residential developers dedicate parkland in accordance with this standard.
- Pursue the development of park and recreation facilities within reasonable walking distance of all residents.
- Ensure that all new park sites consist of level, usable recreation space by requiring a minimum of 80% of the park site to have slopes of less than 3%.
- Limit minimum park acreage dedications in new residential neighborhoods to generally no less than two acres.

Potential buildout of SOI Areas A, B and D ^{wise.} would increase the population by approximately 10,578, ⁶²⁷⁶ which would result in an increased need for ~~52.9~~ acres of park land. However, according to the *City of Pittsburg General Plan*, there are six more parks proposed that total of 65 acres. According to the East Contra Costa County Sub-Regional MSR, the City of Pittsburg meets the park standard (5 acres per 1,000 population) with a total of 340 acres (317.5 acres required); however 190 acres of this total is Stoneman Park, which is mostly undeveloped (see determination #8 - p. VI-25 of the East County Sub-regional MSR). In addition, the *City of Pittsburg General Plan* includes the following policies to ensure adequate park services:

Policies

- 8-P-1 Maintain a neighborhood and community park standard of 5 acres of public parkland per 1,000 residents.
- 8-P-2 Pursue the development of park and recreation facilities within reasonable walking distance of all homes.
- 8-P-3 Develop public parks and recreational facilities that are equitably distributed throughout the urbanized area, and provide neighborhood recreation facilities in existing neighborhoods where such facilities are presently lacking.
- 8-P-5 Maintain park and recreation facility standards for new development to serve both residents and employees, attainable through dedication of parkland or payment of in-lieu fees. The demand by new residential development for parks and open space facilities is a well-known calculation among Californian cities, but the additional demands on park facilities by employees of local businesses (for example, eating lunch in a park or jogging along the waterfront after work) who are not residents must also be considered.
- 8-P-6 Revise the City's Park Dedication Ordinance to define useable area for parkland dedication requirements. Proposed park sites should be:

This does not include Norton Valley does it?

SOI Expansions for the City of Pittsburg, DDSD and CCWD
Initial Study

- 8.9.2.e. Provide passive and active elements within neighborhood and community parks to meet the needs of citizens of all ages and interests, and thereby ensure that the need for lands for athletics and team sports is an equal to the provision of tranquil settings for picnicking, walking, and relaxation.
- 8.9.2.g. Encourage the preservation of significant natural features and development of landscaped parkways and trail systems in new developments in addition to required park development.
- 8.9.2.n. Require the provision of private play space for children in small lot single family subdivisions and attached residential developments.

e) Other

Library

The Pittsburg Branch Library (Vincent A. Davi Memorial Library) is located at 80 Power Avenue adjacent to the City Civic Center. The Pittsburg Branch is part of the County Library System and is located in an approximate 10,000 square foot building that opened in 1966. The City owns the library building and the library is operated by the Contra Costa County Library. With supplemental funding from the City (\$88,000 per year), the library is open 6-days a week from six to 10 hours per day. Existing facilities are undersized and over used. A new 15,000 square foot library has been proposed as part of the mid-rise office building to be located adjacent to the Civic Center.

The Antioch Branch Library is located at 501 W. Eighteenth Street. The Antioch Branch is part of the County Library System and is located in an approximate 11,000 square foot building that has been recently remodeled. → usage stats?

Community Development Services Dept. → specify Pittsburg here?

The Planning Department is responsible for monitoring the General Plan. Since the Plan was adopted in 2001, a number of projects have been completed that assist in implementing the General Plan. These include: the Redevelopment Agency establishing Unified Development Areas (UDA's) for the Marine Commercial Area and the East Tenth Street Corridor; upgrading the Subdivision and Historic Resources Ordinances; and development of the Railroad Avenue Specific Plan. Currently underway is the Sign Ordinance update and the Downtown Streetscape Master Plan.
Dev. Services not "complete"

The Building Division is part of the Engineering Department and is responsible for processing building permit applications, plan checks of all residential and commercial projects for code compliance, conducts inspections during construction and is responsible for the Residential Rental Property Inspection Program (RIP). Building Permit activity has been relatively stable over the past eight years averaging 300 new single-family home construction permits and eight commercial permits per year. Residential and commercial remodel projects make up a major portion of the actual permits issued, averaging over 1,200 permits per year. According to the East Contra Costa County Sub-Regional MSR, the total annual building permits issued has topped 2,000 per year with a total annual permit valuation of almost one billion dollars. Due to the current economic situation, it is anticipated near term building permits issued will be lower than previous years. In 2008, there were only 74 residential permits issued as opposed to 559 residential permits in 2007.

The Pittsburg Housing Authority provides rental subsidies to assist low-income families with their rent. This Section 8 program is federally funded and currently provides assistance to 948 families. However, there is a current waiting list of approximately 1,800 people. The Housing Rehabilitation Loan Program is administered by the Community Access Department and provides low interest loans to City residents of low to moderate income. This program is funded by Community Development Block Grant (CDBG) funds and program income (repayment of loans).

The Economic Development Department is actively involved in business attraction and retention activities. Through the Department's GIS-Properties Online service, prospective businesses can research available commercial and retail properties. This department is also involved in the City's Enterprise Zone, the Small Business Growth Center, and a Business Incentive Program.'

The Pittsburg Redevelopment Agency (RDA) is a significant participant in City revitalization, capital improvements, affordable housing, City infrastructure, and financial assistance. Current programs include Commercial Rehabilitation Loans, First Time Homebuyer Loans, the Enterprise Zone, and the West Boulevard Housing Rehabilitation Loans. The Agency is currently involved in a number of projects in the 'Old Town' area including the Gateway Mixed Use Building, California Theater Project, Enean Theater Project, Marina Bed and Breakfast Project, Mariner Walk Subdivision, New Marina School Project, and Vidrio Mixed Use Project. With an annual budget of \$56.5 million, the RDA is able to participate in a number of development projects and capital improvements simultaneously. Due to the current economic situation, some redevelopment projects are temporarily on hold.

Conclusions:

No change in these services is proposed as part of the SOI expansion. All levels of service and service ratios would remain unchanged. Therefore, the proposed project, itself, would not require the need for new facilities or the expansion of existing facilities. The project would expand SOI boundaries for the City of Pittsburg, DDS and CCWD, which could be seen as removing a potential obstacle for these areas to be annexed by the City and/or service districts and eventually developed. This could be considered growth inducing according to CEQA Guidelines Section 15126.2(d). Future development proposed within the SOI expansion areas would likely require expansion of the some municipal services. Since the amount and timing of future development is uncertain at this time, it would be speculative to identify which public services would require expansions of their facilities to accommodate development. All future development proposed within the SOI expansion areas would be subject to subsequent environmental review during the annexation process. In addition, specific policies have been put in place to ensure acceptable levels of service for public services within the City of Pittsburg and the City of Antioch. All adopted policies, ordinances and regulations regarding public services would remain in place and applicable to future development. These policies would ensure that future development pays their fair share towards necessary improvements and that all performance standards are met. For these reasons, there would be **no impact** on fire or police protection services, emergency medical services, schools, parks or other public services.

tional facilities. No mitigation would be necessary, as **no impacts** or physical changes to existing conditions would occur with regard to parks and recreation facilities.

15. TRANSPORTATION/ TRAFFIC		Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:	Potentially Significant Impact			
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (1-3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Analysis/Conclusions/Mitigation:

Local Roadway System

Several routes of regional significance provide access to ^{the} project area: State Route 4, Pittsburg-Antioch Highway, Kirker Pass Road, Bailey Road, Leland Road, and Willow Pass Road. State Route 4, which

In addition, to the SOI areas to be annexed into the cities, these areas would also be required to be annexed into the CCWD in order for these SOI expansion areas to be serviced by CCWD water supplies, which would be subject to review and approval by the LAFCO. Additionally, inclusion of these areas into the CVP contractual service area must be approved by the U.S. Bureau of Reclamation (USBR). CCWD annexation is normally included as part of a reorganization application by the City to the LAFCO. USBR's review of the inclusion application includes meeting federal statutes and regulations, including the Endangered Species Act.

Section 5.04.120 B.1 of CCWD Code of Regulations states that no water shall be provided by the District to annexed lands unless and until a water supply is available for use on said lands, as confirmed in writing by the District. In order for either City to obtain a Confirmation Letter (of water supply) from CCWD for any proposed annexation areas, CCWD needs: (1) inclusion approval from USBR, and (2) issuance of a de minimus determination that the cumulative increase in water demand does not exceed 5 percent of the projected buildout water demands as presented in the Los Vaqueros Project (LVP) EIR/S (1993). The projected buildout water demands for the proposed SOI areas currently outside the LVP Planning Area is 930 af/y or half of one percent (0.005) of LVP critical year buildout demand. This demand, when combined with other known projects, currently falls within the acceptable five percent deviation; however, development timing with respect to other future projects will be a factor for issuance of de minimus determinations for future projects.

Analysis/Conclusion/Mitigation:

Wastewater

The proposed project would expand the DDS's SOI area by approximately 3,161 acres to include SOI Areas A through M. The DDS provides sewer treatment service to the cities of Antioch and Pittsburg, as well as the community of Bay Point. The proposed SOI areas are not currently serviced by DDS or within any wastewater service agencies' SOI.

DDS uses standard multipliers for estimating residential and commercial wastewater demand. The standard multiplier for residential base wastewater flow is 220 gallons/day and 1,000 gallons/day/acre for commercial users. According to Measure K, SOI Area L (Roddy Ranch Focus Area) would have maximum buildout of 425,000 square feet (9.76 acres) of commercial use and SOI Area G (Somerville Road Corridor Focus Area) would have a maximum buildout of 1,581,690 square feet (36.31 acres) of commercial use. According to the City of Pittsburg General Plan, the entire 870.20 acres of SOI Area F is designated for commercial use and some of this area is already developed. According to the City of Antioch General Plan, the Sand Creek Focus Area, which contains SOI Area K and a portion of SOI Area J, would have a maximum buildout of 1,240,000 square feet of commercial space; however, these SOI areas are designated specifically for open space. The areas of the Sand Creek Focus Area that would allow commercial development are located within DDS's existing SOI. Therefore, implementation of the proposed project would add approximately 916.27 acres of commercial use to DDS's SOI. Based on a maximum potential buildout of 3,279 dwelling units and 916.27 acres of commercial, future development within the proposed SOI area would increase the wastewater flow by approximately 1.6 mgd. According to the Water and Wastewater Municipal Services Review for East Contra Costa County (LAFCO 2007), the wastewater treatment plant has a design and permit capacity of 16.5 mgd, with an average dry weather flow (ADWF) of 12.9 mgd. The wastewater treatment plant has a planned capacity of 22.7 mgd with an outfall capacity of 27.0 mgd.

Commercial/
Industrial
* this area is
primarily
Industrial

SOI Expansions for the City of Pittsburg, DDS and CCWD
Initial Study

Although the project would expand the potential service area for DDS, it would not expand or intensify existing uses and would not introduce any new uses that would increase the demand on the wastewater treatment or collection system. All adopted policies, ordinances and regulations regarding wastewater collection and treatment would remain in place. Furthermore, annexation into the service is not proposed at this time and future annexations would be subject subsequent environmental, and to comply with existing policies that would ensure adequate water. No mitigation would be necessary, as **no impacts** or physical changes to existing conditions would occur.

to
review
would have to

Water

SOI Areas E, F and M are located within the SOI for Contra Costa Water District (CCWD). The proposed project would expand the CCWD's SOI area by approximately 1,799 acres to include SOI Areas A, B, D, I, J, K and L.).

Although the proposed project would expand the potential service area for CCWD, it would not expand or intensify existing uses and would not introduce any new uses that would increase the demand on the water treatment or distribution system. All adopted policies, ordinances and regulations regarding water supply and quality would remain in place. Furthermore, annexation into the service is not proposed at this time and future annexations would be subject subsequent environmental, and to comply with existing policies that would ensure adequate water. No mitigation would be necessary, as no impacts or physical changes to existing conditions would occur.

to
review
would have

Stormwater

Contra Costa County Flood Control and Water Conservation District (CCCFCWCD) works with the surrounding cities to implement regional drainage plans. The CCCFCWCD is managed and staffed by Contra Costa County Public Works Department. Storm drainage service would continue to be provided by CCCFCWCD.

The stormwater trunk lines discharge to channels owned and maintained by both the cities the CCCFCWCD. The CCCFCWCD releases stormwater from the channels to the San Joaquin River and is the holder of a National Pollution Discharge Elimination System (NPDES) permit. Contra Costa County Clean Water Program staff monitors the quality of the released water to comply with the specifications of the NPDES permit. Maintenance fees for the system come from the assessment fees collected through the Contra Costa County Clean Water Program. The Central Valley Regional Water Quality Control Board regulates stormwater discharged from the cities.

All adopted policies, ordinances and regulations regarding storm water drainage would remain in place. The project would not expand or intensify existing uses and would not introduce any new uses that would increase the demand on the storm drainage system. No mitigation would be necessary, as no impacts or physical changes to existing conditions would occur.

f-g) Solid Waste

Environmental Setting:

Solid waste collection (garbage service) is provided under a City franchise by Pittsburg Disposal Service (a private company), 180 E. Leland Road, Pittsburg. Residential and commercial solid waste is presently transported to the Potrero Hills Landfill located east of Suisun for disposal. Non-recyclable industrial waste is disposed at the Keller Canyon Landfill adjacent to the City. Pittsburg Disposal also operates a

"Louis Parsons" <LParsons@discoverybuilders.com>

05/13/2009 04:56 PM

To
<LTexe@lafco.cccounty.us>

Subject
Comments on CEQA re: CCWD, DDSD and City of Pittsburg SOI Expansions

Lou Ann-

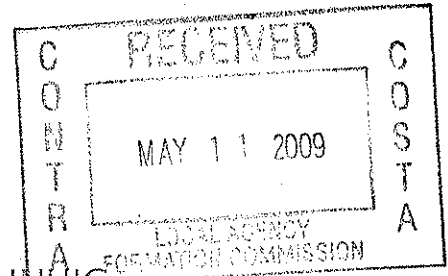
Thank you for providing us the opportunity to review the CEQA document associated with the CCWD, DDSD and City of Pittsburg SOI expansion to coincide with the approved ULL. I just have a couple of technical questions/items:

1. Page 40 - The Pittsburg General Plan Policy that is referenced is 8-P-19. Is cross-referencing the Pittsburg General Plan, it appears there is a different Policy identified as 8-P-19. Please advise.
2. On many of the exhibits (for instance Figure 7b) the top of the sheet says 'Solano County'. Is this referencing the adjacent county or is this just a technical error.
3. Unit counts/maximum yield should be based off of gross acreage and the density specified for the land use designation which appears to be the way PMC completed these calculations.

That concludes my comments. Thank you for the opportunity to review.

Regards,

Louis Parsons
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CAISLÉAN BEAG AR SCÁTH AN CHNUIC

May 8, 2009

RAYMOND J. O'BRIEN

Ms. Lou Ann Texeira
Executive Officer
Local Agency Formation Commission-
Contra Costa County
651 Pine Street, 8th Floor
Martinez, California 94553

RE: Negative Declaration-Proposed Expansions of the Sphere of Influence
for the City of Pittsburg, Contra Costa Water District, and Delta Diablo
Sanitation District

Dear Lou Ann:

It's just not true to say that this proposal, if passed, will have no consequences, and that it will not effect any changes. In fact, if this proposal is passed, it will set a dangerous precedent so that, instead of responding to municipal and growth needs, LAFCO will be in the position of initiating growth (not providing for it). To authorize the extension of municipal services without first receiving a mandate from jurisdictions (municipalities and Contra Costa County) (where the issues of growth have been vetted, debated, and approved) and the appropriate environmental impact studies conducted, is to put the "cart" (authorization of services and service capacity) before the "horse" (mandates from the representative governing bodies of municipalities and the County). **This measure subverts representative government.**

To say that there is no significant effect or consequence to LAFCO's passage of this measure is to disproportionately represent reality, and to take a stance of "negative declaration" is to abdicate all responsibility for the orderly control and development of growth in this area of Contra Costa County.

I urge the Commission members to reject this measure in its entirety in favor of the Commission's established and traditional role of providing for municipal services only after approved by municipal or county representative bodies.

Sincerely,

813 CASKEY STREET
BAY POINT, CALIFORNIA 94565-6766
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s a v e MOUNT DIABLO

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Proud member of



May 13, 2009

Lou Ann Texeira
Executive Officer
Contra Costa LAFCO
651 Pine St. 6th Floor
Martinez, CA 94553

Re: Comments – Initial Study/Negative Declaration – Sphere of Influence Expansion – City of Pittsburg, Delta Diablo Sanitary District, and Contra Costa Water District

Dear Ms. Texiera:

Save Mount Diablo (SMD) appreciates the opportunity to provide the following comments regarding the Initial Study/Negative Declaration (“IS/ND”) for expansion of the Sphere of Influence (SOI) for the City of Pittsburg, Delta Diablo Sanitary District (DDSD), and Contra Costa Water District (CCWD).

Save Mount Diablo’s main concerns focus on impacts to SOI Area A and SOI Area D, which include Pittsburg’s Southwest Hills and the Thomas Ranch area south of Pittsburg.

SMD’s Position

Save Mount Diablo believes that the proposed SOI expansion projects are incompatible with the goals and standards of Contra Costa LAFCO and would set dangerous precedents for planning in the region. As a result, **we urge LAFCO to deny these proposals.**

If LAFCO decides to move forward with the proposals and continue the CEQA process, SMD believes that the proposed negative declaration is inadequate and **a full environmental impact report needs to be prepared to sufficiently analyze the SOI expansions.**

The Initial Study incorrectly concludes that a Negative Declaration is appropriate for the project because the EIR for Pittsburg’s General Plan sufficiently analyzed the environmental setting and the potentially significant impacts of the Southwest Hills and the Thomas Ranch. Furthermore, the initial study contends that further CEQA review would be required for any project proposed in the future.

Save Mount Diablo believes that the General Plan EIR is insufficient and future environmental review for projects in these areas is too late in the process. The Sphere of Influence expansions will have significant growth inducing impacts in these areas. A full EIR should be prepared to analyze these significant impacts.

LAFCO Policies and Standards

Save Mount Diablo is opposed to the proposed SOI expansions into Pittsburg's Southwest and Southern Hills and has provided both written and verbal comments to LAFCO expressing our positions throughout the Municipal Service Review process.

Save Mount Diablo believes that the SOIs for the City of Pittsburg, CCWD and DDS D should be retained in their existing area. It is inappropriate to extend the spheres of these districts unless a project has been proposed that would require the expansion of services. Furthermore, we believe that such a proposal is inconsistent with the duties, policies, and standards of LAFCO.

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

The Cortese-Knox-Hertzberg Act is the basis for the California Civil Code which dictates that each County in the state must have a Local Agency Formation Commission and determines the purview of those commissions.

Government Code Section 56001 states:

The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of **discouraging urban sprawl, preserving open-space and prime agricultural lands**, and efficiently extending government services. (Emphasis added)

According to state law, the purpose of LAFCO is to emphasize the importance of protecting open space and agricultural resources while discouraging sprawl development that destroys these resources.

The proposed SOI expansions would extend the planning areas of the City of Pittsburg, DDS D, and CCWD into areas that are part of a significant stretch of open space which extends from Suisun Bay through Central and Eastern Contra Costa County to Livermore and Eastern Alameda County. This vast open space corridor includes a number of parks and preserves which protect the natural resources of the area including Black Diamond Mines Regional Preserve which is adjacent to the Thomas Ranch at SOI Area D and the proposed Concord Naval Weapons Station Regional Park which is adjacent to Pittsburg's Southwest Hills in SOI Area A.

Approval of the SOI expansions would have growth inducing impacts which would lead to sprawl development and increased impacts on the area's open spaces and agricultural resources. In other words, the proposed SOI expansions would promote precisely the type of growth and development that LAFCO is meant to discourage and avoid.

Land Use Planning

LAFCO policies require that consideration of the existing and planned land uses for a territory proposed to be covered by a sphere expansion plays a central role in determining whether expansion is appropriate.

According to the Contra Costa County LAFCO Commissioners Handbook:

For a City seeking an SOI amendment, particular attention should be paid to the current land uses in the county and city, the land uses planned for the city's present SOI and the land uses proposed for the territory sought to be added to the SOI. (Contra Costa County LAFCO Commissioner Handbook, Section 2.1: Policies and Standards, Part D: Policy on Spheres of Influence and Annexations.)

It does not appear as though adequate consideration has been given to proposed land uses in the territories that would be included in the SOI expansion. The City of Pittsburg is currently considering a variety of planning and land use proposals for both the Southwest Hills (SOI Area A) and the Thomas Ranch (SOI Area D) areas.

Between 2006 and the summer of 2008 the City of Pittsburg was considering Hillside Development Regulations for the Southwest hills, as is required by the City's General Plan. These Standards would determine the location and intensity of development allowed in the southwest hills. The City suspended their work on the creation of the Hillside Regulations in 2008 with no decisions about where development should occur in that area. It makes no sense to expand the Spheres of Influence to the southwest hills until it is determined which areas are going to be open for development and whether any areas will be designated as open space

On September 2, 2008 the Pittsburg City Council voted to initiate a study to amend the General Plan and pre-zoning designations to rezone the Thomas Ranch to Open Space. If the City of Pittsburg intends to rezone Thomas Ranch property as open space, then no future development projects should occur on the property and there is no reason to include that property in the Sphere of Influence for DDS or CCWD.

At the December 15, 2008 Pittsburg City Council meeting, the Council voted to approve a resolution to enter into 36-month exclusive negotiating rights agreement with Discovery Builders for a potential swap of land which would allow Discovery to develop on protected open space near the Pittsburg Golf Course if they transfer land under their ownership in the Southwest Hills for preservation. No specific details identifying the exact area of the Southwest Hills that would be preserved have been determined. There is no reason to expand the spheres of the City of Pittsburg, CCWD, and DDS to include an area that may be preserved as part of the proposed swap.

The fact that the City of Pittsburg is currently considering a variety proposed land use changes in the Southwest Hills and Thomas Ranch areas makes the expansion of the SOIs premature. In accordance with the Contra Costa LAFCO Commissioner Handbook, these proposed land use changes should play a significant role in any determination for SOI expansions.

Any decision about whether to approve or deny the expansion of the SOI for the City of Pittsburg, DDS, or CCWD to include the Southwest Hills and Thomas Ranch at this point in time would be premature and inadequate. It would be more prudent, and consistent with LAFCO policies, to wait until land use decisions have been made and specific projects have been proposed and been subject to appropriate CEQA analysis before any SOI expansions are considered.

Need for Services

In their charge to encourage "planned, well-ordered, efficient urban development patterns" and to dissuade urban sprawl, LAFCO policies discourage the expansion of SOIs to areas that are not in need of the services provided by the agency seeking to expand its sphere. "LAFCO discourages inclusion of land in an agency's SOI if a need for services provided by that agency within a 5-10 year period cannot be demonstrated." (Contra Costa County LAFCO

Commissioner Handbook, Section 2.1 Policies and Standards, Part D Policy on Spheres of Influence and Annexations.)

Save Mount Diablo has major doubts that the Southwest Hills and the Thomas Ranch areas will be approved for development and in need of the services provided by the City of Pittsburg, DDSD, and CCWD within the next 5-10 years. If recent trends in the housing market continue, or even only marginally improve, the expansion of residential development into these areas does not seem likely to occur. In fact, in 2008 the City of Pittsburg suspended the process of creating the Hillside Development Standards because the City's financial hardships caused hesitation to pay for the related environmental documents. What reason is there to believe that this trend will not continue and development, especially sprawl development, will not be stymied for at least the next 5-10 years?

Furthermore, state, regional, and local planning goals and policies have transformed over the past few years as we become increasingly aware of the impacts of green-house gasses. Assembly Bill 32 and Senate Bill 375 encourage a decrease of green-house gas emissions through the promotion of transit-oriented, infill development and the discouragement of the type of sprawl development that would be planned for the areas proposed for SOI expansion. Regulations directing planning and development away from sprawl development are likely to become stronger over the next 5-10 years.

Considering the land use planning issues that are discussed above, it appears that not all of the land within the SOI expansion areas would be proposed for development. Dominant ridgelines within the Southwest Hills as well as the area which may be preserved as part of the land swap with Discovery Builders would not be in need of any services in the next 5-10 years or any time in the future. The City of Pittsburg is considering re-zoning the Thomas Ranch to Open Space. With an Open Space designation, it is not likely that this area will be in need of City of Pittsburg, DDSD, and CCWD services in the next 5-10 years either.

Given these trends in the housing market and planning policies to address green-house gasses, in addition to the land use planning processes being considered by the City of Pittsburg, Save Mount Diablo does not believe that it can be definitively demonstrated that SOI Area A and SOI Area D are in need of these services within the next 5-10 years.

Precedent Setting

Throughout the numerous LAFCO meetings concerning the SOI expansions, some of the Commissioners asserted that it is the duty of the Commission to make planning lines contiguous and that the SOIs should be expanded to the voter approved Urban Limit Line because it was the will of the public. Save Mount Diablo disagrees with this assertion and believes it sets a dangerous precedent for land use planning in Contra Costa County.

According to the Commissioners Handbook:

LAFCOs are charged with establishing policies and exercising their powers "...in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns" and with "...the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances."

If LAFCO Commissioners vote to approve the SOI expansion based on the presumption that all SOIs should be contiguous with the Urban Limit Line, they are not fulfilling their duty as

described in the handbook. Each proposed SOI expansion is meant to receive an extensive level of consideration and review which take a variety of factors into account.

By approving the expansion of the SOIs for the City of Pittsburg, DDS, and CCWD simply because the lines should be contiguous, LAFCO would tacitly be adopting a policy which has the potential to substantially limit their discretionary abilities. A precedent would be set which would dictate that the SOI for all agencies throughout Contra Costa County should be coterminous with the Urban Limit Line. Such a precedent would essentially turn LAFCO into a rubber stamp authority with little ability to consider the broad range of factors encouraged by the Commissioners Handbook.

Save Mount Diablo believes that rather than approving the sphere expansion in order to make it coterminous with the ULL, LAFCO should consider the proposed land uses in the territory designated to be included in the SOI and the impacts the expansions would have on open space and natural resources.

CEQA

According to the Initial Study, "it is appropriate to prepare a Negative Declaration for the proposed project because there is no substantial evidence that expanding the SOIs for wastewater and water service districts and for the City of Pittsburg would have the potential to cause significant direct or indirect impacts to the environment beyond what was already analyzed in previously adopted programmatic environmental documentation on which this review tiers." (City of Pittsburg, DDS, and CCWD SOI Expansion Initial Study, Page 25) The Initial Study goes on to assert that "all future proposed projects in the SOI areas, including annexation, are subject to CEQA review." (SOI Expansion Initial Study, Page 25)

Save Mount Diablo believes that the Initial Study's conclusion that a Negative Declaration is the appropriate level of CEQA review is incorrect. The Initial Study makes the determination that the SOI expansions for the City of Pittsburg, DDS, and CCWD would not have any significant impacts based on two erroneous assertions.

First, the Initial Study claims that the potential impacts of the SOI expansions have already been analyzed and mitigated in the Pittsburg General Plan EIR. As a result, no new EIR is necessary and the Negative Declaration can tier off of the General Plan EIR.

Save Mount Diablo disagrees with the conclusions of the Initial Study and believes that tiering does not provide an appropriate level of analysis for the SOI expansions. Pittsburg General Plan policies which directly address the areas to be covered by the SOI expansions have not yet been implemented. As a result, impacts of the General Plan have not been fully mitigated and tiering is not a viable option.

Second, the Initial Study defers environmental review for development within the SOI areas to a future date when additional projects are proposed. Again, this is an inappropriate level of analysis for CEQA which requires that a project's potential growth inducing impacts be fully considered and that a project must be analyzed at its earliest possible stage. The SOI expansions would be the first step in any project that would subsequently be proposed in the areas covered by the expansion. Full CEQA review should occur at the SOI expansion stage.

Tiering off of the Pittsburg General Plan EIR

Invoking the tiering principle encouraged by CEQA, the Initial Study makes the following claim concerning the SOI expansions for the City of Pittsburg, DDS, and CCWD:

The proposed project is not expected to cause, directly or indirectly, any foreseeable development activity that could result in significant environmental effects beyond what was analyzed in other programmatic environmental documents. For this reason, an EIR is not recommended or warranted, and a Negative Declaration supported by this Initial Study should serve as an adequate level of environmental review. (SOI Expansion Initial Study, Page 36)

A Program EIR is an EIR prepared on a series of actions that can be characterized as one large project. A program EIR generally establishes a framework for tiered or project-level environmental documents that are prepared in accordance with the overall program (See CEQA Guidelines Section 15168(a)).

A tiered Negative Declaration evaluates a specific project or later development action that has already been covered by a certified Program EIR. General information from the Program EIR is summarized or incorporated by reference so that the tiered Negative Declaration can focus on project specific issues. A Tiered Negative Declaration is used where there is no substantial evidence that the project may have a significant impact not previously analyzed and mitigated.

However, according to CEQA Article 10, Section 15152 (f): "A later EIR shall be required when the initial study or other analysis finds that the later project may cause significant effects on the environment that were not adequately addressed in the prior EIR." Section 15152 (f) goes on to say that "Significant environmental effects have been 'adequately addressed' if the lead agency determines that they have been mitigated or avoided as a result of the prior environmental impacts report and findings adopted in connection with that prior environmental impacts report."

The City of Pittsburg General Plan EIR is a program EIR which includes detailed discussion about the type of development that is planned for the Southwest Hills. However, a Tiered Negative Declaration is not appropriate for this project because the General Plan has a number of impacts that have not yet been fully mitigated.

According to the General Plan EIR, "the General Plan's policies are designed to avoid or minimize environmental impacts, the Plan itself is self-mitigating." (Pittsburg General Plan EIR, Executive Summary 1-5) Unfortunately, a number of the General Plan policies meant to be implemented to serve as mitigations have not yet been executed. Some of these policies apply specifically to development in the hills in southern and southwestern Pittsburg which would be included in the SOI expansions. Because these policies and standards have not been implemented, the impacts of the General Plan have not been mitigated and the General Plan EIR cannot be used for tiering.

As was mentioned above, the City of Pittsburg initiated a process to implement the goals and policies of the General Plan relating to hillside development, but the process was never completed. "The (City) Council adopted a work program in February 2004 to create new hillside development implementation guidelines and performance standards, to implement the applicable General Plan goals and policies related to future development in the southern foothills." (January 15, 2008 Planning Commission Resolution)

The General Plan Standards identified in the proposed ordinance included:

- 4-P-8 "Update the Hillside Planned Development District within the City's Zoning Ordinance to reflect the hillside development standards and policies set forth within this General Plan;"

- 4-P-4 "Develop and implement a 'Design Review Checklist' for all new hillside development, to ensure that conservation and site layout policies within the General Plan are considered;" and
- 2-P-22 "Revise the City's Hillside Preservation Ordinance to reflect General Plan policy direction".
- 2-P-23 "Ensure that all General Plan policies apply to hillside land irrespective of zoning – whether Planned Development or any other base district."

According to the staff report for a Planning Commission meeting considering the proposed ordinance, "upon adoption of the General Plan, the City adopted mitigation measures, including many reflected in the proposed project." Now, "the proposed hillside regulations will bring the City even closer to meeting its ultimate goal of implementing the General Plan (in its entirety)." (January 15, 2008 Pittsburg Planning Commission Resolution)

However, at the May 15, 2008 Pittsburg City Council Meeting the Council voted unanimously "to suspend work on amendments to PMC Title 18 to establish new hillside development regulations and amend the existing HPD (Hillside Planned Development) District regulations because of the associated general fund costs relating to the development of an EIR and potential associated legal ramifications." (May 15, 2008 Pittsburg City Council Meeting Staff Report)

With the suspension of work on the Hillside Development Standards, the City of Pittsburg has not yet implemented the General Plan goals and policies which reflect the mitigation measures for the impacts to the southern and southwest hills. As a result, the General Plan EIR is not an adequate CEQA document for the SOI expansions to use for tiering.

The General Plan includes a variety of other goals and policies which emphasize the protection of the natural resources, views, and sensitive slopes associated with the hillsides and directs implementation to address these issues.

- 2-G-1 Maintain a compact urban form within the City's projected municipal boundary. Ensure that hillside lands not environmentally suitable for development are maintained as open space.
- 2-G-8 Ensure that hillside development enhances the built environment, improves safety through slope stabilization, is respectful of topography and other natural constraints, and preserves ridgelines and viewsheds.
- 2-P-2 Update the City's Zoning Ordinance and Subdivision Regulations for consistency with the General Plan, including the General Plan Diagram.

This revision would include:
 - Revamping regulations to ensure well-designed hillside development.
- 2-P-3 Allow market forces, the status of agricultural preserve (Williamson Act) contracts, and the availability of urban services to determine the timing of annexation or development expansion into hillsides.
- 2-P-21 Revise the City's Hillside Preservation Ordinance to reflect General Plan policy direction. Revisions may include, but are not limited to:
 - Designating protected ridgelines, creeks, and other significant resource areas, along with daylight plane or setbacks standards;
 - Defining protected viewsheds;

- Designating location and density of low-density hillside residential development based on slope stability and visual impact;
- Provision of well-designed hillside projects that provide larger, family oriented lots; and
- Protection of significant ridgelines and incorporation of hill forms into projects design.

These General Plan goals and policies provide further mitigation of the impacts of the General Plan. In addition to those listed above, consideration should be given to the fact that the lack of implementation of these policies means that the General Plan has not been fully mitigated. CEQA clearly states that if a project has not been sufficiently mitigated then tiering is not an option and another EIR needs to be prepared for the project.

Low Threshold - Legal Precedent in Support of the Preparation of an EIR

Substantial Evidence of Significant Impacts

“[I]f substantial evidence in the record supports a 'fair argument' significant impacts or effects may occur, an EIR is required and a negative declaration cannot be certified.” *Stanislaus Audubon v. County of Stanislaus* 33 Cal.App.4th 144, 150-151 (1995). Even if other substantial evidence supports the opposite conclusion, the agency nevertheless must prepare an EIR. *Id.*; *Quail Botanical Gardens v. City of Encinitas* 29 Cal.App.4th 1597 (1994). The “fair argument” standard creates a “low threshold” favoring environmental review through the EIR process, which is considered the “heart” of the CEQA system. *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296 (1988), citing *No Oil, Inc. v. City of Los Angeles*, 13 Cal.3d 68, 84, 118 Cal.Rptr. 34, 529 P.2d 66 (1974).

"A 'significant effect on the environment' is defined as 'a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.'" *Stanislaus Audubon*, 202 Cal.App.3d 296 (citing *Oro Fino Gold Mining Corp. v. County of El Dorado*, (1990) 225 Cal.App.3d 872, 881, 274 Cal.Rptr. 720).

In this case, SOI expansion would be the first step in opening the 620.15-acre Southwest Hills area and 697.47-acre Thomas Ranch area for development. The potential development of these areas will have significant and long-reaching impacts on the environment. Full environmental review should not be deferred to future proposed projects.

Good Faith Duty to Investigate and Forecast Future Growth

A lead agency has a duty to investigate and make a good faith effort to identify all environmental impacts. “Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.” CEQA Guidelines, § 15144. Further, CEQA mandates that “[a]ll phases of project planning, implementation, and operation must be considered in the Initial Study of the project.” Guidelines, § 15063(a)(1), (emphasis added).

A lead agency’s avoidance of discussion of foreseeable future impacts is not permissible. Indeed, “[t]he agency [will] not be allowed to hide behind its own failure to gather relevant data. . . . CEQA places the burden of environmental investigation on government rather than the public.” *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, at 1378-1379 (citing *Sundstrom*, 202 Cal.App.3d 296, 311).

Finally, "the fact that future development may take several forms, or that it may never occur does not excuse environmental review of the project which is the catalyst for the projected future

growth.” *City of Antioch v. City Council*, 187 Cal.App.3d 1325, 232 Cal.Rptr. 507(1986) (citations omitted). In *Antioch*, the respondents argued that the preparation of an EIR was not necessary because their road and sewer construction project involved no building construction and it was not known what type of development would occur. The court rejected this argument.

The initial study disregards the fact that the Project is the first step in what will be a clear and profound catalyst for growth in Pittsburg’s southern hills. As a result, the document concludes that a Negative Declaration provides an adequate amount of review and that “all future proposed projects in the SOI areas, including annexation, are subject to CEQA review.” (SOI Expansion Initial Study, Page 25)

Now is the appropriate time to fully consider these issues and to develop a thoughtful plan to balance and mitigate development and subsequent environmental impacts. “By deferring environmental assessment to a future date, the conditions run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process.” *Sundstrom*, 202 Cal.App.3d 296 (citing Pub.Resources Code sec. 21003.1(a)). Further, “the Supreme Court approved the principle that the environmental impact should be assessed as early as possible in government planning. Environmental problems should be considered at a point in the planning process where genuine flexibility remains. *Id.* (citations omitted).

Approval of this project will have significant growth inducing impacts on the Southwest Hills and Thomas Ranch areas by removing a barrier to growth. Future development of these areas would not be possible without the City’s approval of this Project. It is more appropriate to study potential impacts of development in the area now rather than putting off such analysis to annexation or specific development projects.

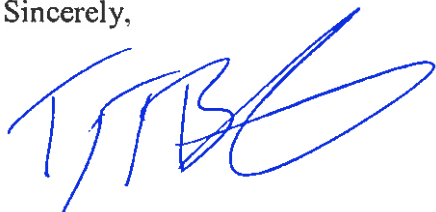
Conclusion

The proposed SOI expansion for the City of Pittsburg, DDS and CCWD into Pittsburg’s Southwest Hills and Thomas Ranch areas is inappropriate at this time and is in conflict with a number of LAFCO policies. LAFCO should retain the existing SOIs for these agencies until a specific project has been proposed, undergone appropriate CEQA analysis, and approved.

If LAFCO decides to move forward, they should prepare an EIR to evaluate the projects impacts. An EIR is the appropriate course of action for a lead agency to pursue when substantial evidence in the record supports a “fair argument” that a significant impact may occur. In this case, the Project is the catalyst for future development which will cause numerous impacts. Accordingly, Save Mount Diablo urges the City to fulfill its responsibilities as the CEQA lead agency and prepare and circulate an EIR for the Project at this time.

Thank you for your consideration of our comments.

Sincerely,



Troy Bristol
Land Conservation Associate
Save Mount Diablo