

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

November 18, 2009 (Agenda)

LAFCO 09-10: Annexation 167A (North Gate) to Central Contra Costa Sanitary District (CCCSD)

PROPONENT: CCCSD by Resolution No. 2009-036 adopted June 18, 2009

ACREAGE &  
LOCATION

The applicant proposes to annex 166.2+ acres (77 parcels) located in two separate areas within unincorporated Walnut Creek (North Gate) as generally described below:

**Area 167A-1:** 34 parcels located on North Gate Rd, Diablo Ridge Lane and Walker Creek Court (87.6+ acres)

**Area 167A-7:** 43 parcels located on Pine Creek Rd and Castle Rock Rd (78.6+ acres)

SYNOPSIS

CCCSD, on behalf of a number of property owners, filed an application with LAFCO to annex the properties to CCCSD. Approximately 18 property owners have petitioned CCCSD for sewer service. In addition, the District has included approximately 59 parcels as in-fill parcels to avoid the creation of islands, provide for logical boundaries, and streamline CCCSD staff work.

The purpose of the annexation is to extend sanitary sewer service to the various parcels. The properties are a combination of existing single-family dwelling units that have converted (or are converting) from septic systems to municipal wastewater service, construction of new single family homes to be connected to the CCCSD municipal system, and parcels being included to eliminate islands and provide for logical service boundaries.

Making sewer services available to accommodate the abandonment of septic systems that are failing on small lots adjacent to Pine Creek, Arroyo Del Cerro Creek, and Walker Canyon Creek reduces the existing health and water quality risks.

DISCUSSION

The Government Code sets forth factors that the Commission is required to consider in evaluating any proposed boundary change as discussed below (Gov. Code Section 56668). In the Commission's review and evaluation, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

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

The areas proposed for annexation are within CCCSD's SOI and within the County Urban Limit Line. All parcels are located in the unincorporated Walnut Creek area (North Gate).

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

The General Plan and zoning designations are single family residential (R-20: 20,000 sq. ft. minimum) and general agriculture (A-2) for area 167A-1; and single family residential (R-40: 40,000 sq. ft. minimum) and general agriculture (A-2) for area 167A-7. All of the properties have a County General Plan designation of SL (Single Family Residential - Low).

The areas proposed for annexation are subject to the North Gate Specific Plan, a joint planning effort between the City of Walnut Creek and Contra Costa County. No changes are proposed to General Plan, Specific Plan or zoning designations as part of this proposal.

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

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

4. Topography, Natural Features and Drainage Basins:

The topography of the affected areas is relatively flat, with a creek running southeast to northwest; area 167A-7 has a hillside to the west. Surrounding areas are relatively flat with steep hillsides to the east of 167A-1 and to the west of 167A-7.

5. Population:

There is a potential to add 14 single family dwelling units to area 167A-1 and 10 single family dwelling units to area 167A-7. These additional 24 homes could result in an increase in population of approximately 66 persons based on Association of Bay Area Governments (ABAG) 2009 Projections and U.S. Census 2000 data.

6. Fair Share of Regional Housing:

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

The proposed annexation will have minimal effect on regional housing needs.

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

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

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

The "Plan for Providing Services within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The properties proposed for annexation are served by various municipalities and agencies including, but not limited to, the Contra Costa County Fire Protection District and Contra Costa Water District.

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

CCCSD currently serves an estimated population of 314,000 residents in a 142-square-mile service area. CCCSD's wastewater collection system consists of 1,500 miles of sewer mains with 18 pump stations. The majority of CCCSD's system operates with gravity flow with some pumping stations and force mains. All sewer connections to the subject property will be either gravity flow or individual residential pump systems.

CCCSD's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 36.1 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted capacity of 53.8 mgd.

The areas proposed for annexation would extend service to 94 existing and potential residential units, and is estimated to generate approximately 21,150 gallons of wastewater per day.

CCCSD indicates that many of the properties proposed for annexation are served by existing CCCSD facilities; others can extend sanitary sewer main lines to receive sewer services.

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

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

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

The areas proposed for annexation are within the Contra Costa Water District (CCWD) service area. The District's primary source of water supply is the United States Bureau of Reclamation's Central Valley Project. CCWD boundaries encompass 214± square miles in central and eastern Contra Costa County. CCWD's untreated water service area includes Antioch, Bay Point, Oakley, Pittsburg, and portions of Brentwood and Martinez. The District's Treated Water Service Area includes Clayton, Clyde, Concord, Pacheco, Port Costa, and parts of Martinez, Pleasant Hill, and Walnut Creek. CCWD also treats and delivers water to the City of Brentwood, Golden State Water Company (Bay Point), Diablo Water District (Oakley), and the City of Antioch. CCWD serves approximately 510,000 people within both service areas combined.

CCCSD indicates that the proposed annexation would have a minor effect on water usage, and would not lead to the construction of new or expansion of existing water facilities.

#### 9. Assessed Value, Tax Rates and Indebtedness:

The annexation areas are with tax rate areas 79048, 79079, 79248 and 79262. The assessed value for the areas proposed for annexation is \$53,294,601 (2009-10 roll). The territory being annexed shall be

liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

As Lead Agency, CCCSD approved a Negative Declaration specific to the proposed annexation (State Clearinghouse No. 2009042131). The LAFCO Environmental Coordinator reviewed the document and finds it adequate for LAFCO purposes. A copy of the document is available for review in the LAFCO office.

11. Landowner Consent and Consent by Annexing Agency:

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

CCCSD indicates that less than 100% of the affected landowners/voters have consented to the annexation. Thus, the Commission's action is subject to notice, hearing, as well as conducting authority (protest), proceedings. All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the November 18 hearing.

As of this writing, LAFCO received no communication from any affected landowner or registered voter. If no written objection is received from an affected party prior to the conclusion of the hearing on November 18, the Commission may waive the protest proceedings. However, if any objection is received at any time prior to or during the hearing, then a protest hearing is required (Gov. Code §56663).

12. Boundaries and Lines of Assessment:

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

13. Environmental Justice:

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

The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

ALTERNATIVES FOR COMMISSION ACTION

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

- Option 1**      Approve the annexation as submitted.
- A. Determine that Central Contra Costa Sanitary District, as Lead Agency, has adopted a Negative Declaration for District Annexation 167A-1 and 167A-7 - North Gate.
  - B. Certify LAFCO has reviewed and considered the information contained in the Negative Declaration adopted by CCCSD.
  - C. Adopt this report and approve the proposal, to be known as Annexation 167A, to the Central Contra Costa Sanitary District, subject to the following terms and conditions:
    - 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
    - 2. Prior to recordation, CCCSD shall deliver an executed indemnification agreement providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
  - D. Find that the subject territory is inhabited and that the annexing agency has consented waiving the conducting authority proceedings. However, less than 100% of the affected landowners/registered voters have provided written consent to the annexation. Should LAFCO receive any objection to the annexation from an affected party prior to or during the public hearing, then a subsequent protest hearing is required. Should no protest be received, then the Commission may waive the protest hearing and direct LAFCO staff to complete the proceedings.

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

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

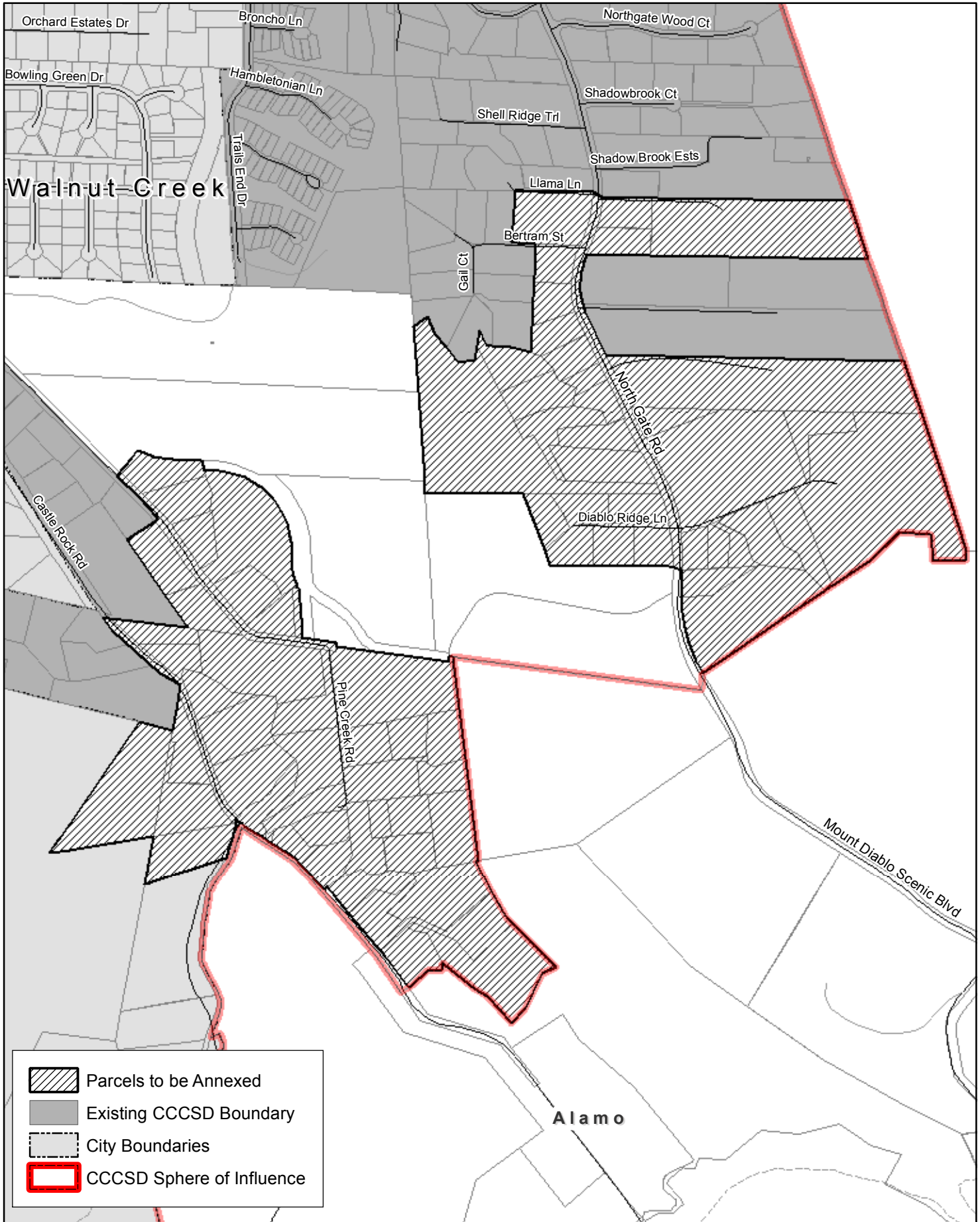
RECOMMENDED ACTION:

Approve Option 1.

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LOU ANN TEXEIRA  
EXECUTIVE OFFICER  
LOCAL AGENCY FORMATION COMMISSION

# LAFCO No. 09-10: Annexation 167A to Central Contra Costa Sanitary District



**RESOLUTION NO. 09-10**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
ANNEXATION 167A TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

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

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the reorganization area object to the proposal; and

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

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

1. Determine that Central Contra Costa Sanitary District, as Lead Agency, approved a Negative Declaration District Annexation 167A-1 and 167A-7 – North Gate (State Clearinghouse No. 2009042131).
2. Certify LAFCO has reviewed and considered the information contained in the Negative Declaration adopted by CCCSD.
3. Said annexation is hereby approved.
4. The subject proposal is assigned the distinctive short-form designation:

**ANNEXATION 167A TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

5. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
6. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.

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7. Prior to recordation, CCCSD shall deliver an executed indemnification agreement between the CCCSD and Contra Costa LAFCO providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
8. The territory proposed for annexation is inhabited.
9. The proposal has less than 100% landowner/registered voter consent; however, no affected landowners/registered voters opposed the annexation, and the annexing agency has given written consent to the waiver of conducting authority proceedings. Said conducting authority proceedings are hereby waived.
10. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

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PASSED AND ADOPTED THIS 18<sup>th</sup> day of November 2009, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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GAYLE B. UILKEMA, CHAIR, CONTRA COSTA LAFCO

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

Dated: November 18, 2009

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Lou Ann Texeira, Executive Officer