

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

March 11, 2009 (Agenda)

- LAFCO 08-33: Annexation 170 to Central Contra Costa Sanitary District (CCCSD)
- PROPONENT: CCCSD by Resolution No. 2008-081 adopted July 3, 2008
- ACREAGE & LOCATION
- Annexation of 134 $\pm$  acres (188 parcels) located in 14 separate areas within the Alamo community as generally described below:
- Area 170-1:** four parcels on Casa Vallecita (1.8 $\pm$  acres)
- Area 170-2:** one parcel on Finley Lane (0.6 $\pm$  acres)
- Area 170-3:** 92 parcels on Pine Tree Drive, Finley Lane, North Jackson Way, Via Don Jose, Cedar Lane, Jackson Way, Orchard Court, South Jackson Way, Linden Court, and Lyman Way (85 $\pm$  acres)
- Area 170-4:** one parcel on Laurenita Way (0.5 $\pm$  acres)
- Area 170-5:** one parcel on Gaywood Road (0.4 $\pm$  acres)
- Area 170-6:** five parcels on Alvern Court and Las Trampas Road (2.4 $\pm$  acres)
- Area 170-7:** three parcels on Linhares Lane and Las Trampas Road (1.9 $\pm$  acres)
- Area 170-8:** three parcels on Via Serena (1.7 acres)
- Area 170-9:** 15 parcels on Via Serena, Linhares Lane and Denyce Court (8.2 $\pm$  acres)
- Area 170-10:** six parcels on Holiday Drive and La Serena Avenue (3.8 $\pm$  acres)
- Area 170-11:** 28 parcels on La Serena Avenue, La Sonoma Way, La Sonoma Court, and Holiday Drive (20.4 $\pm$  acres)
- Area 170-12:** seven parcels (including one partial parcel) on West Livorna Road and Danville Blvd. (6.7 $\pm$  acres)
- Area 170-13:** one parcel on Laurenita Way (0.5 $\pm$  acres)
- Area 170-14:** two parcels on Laurenita Way (1.0 $\pm$  acres)

SYNOPSIS

CCCSD, on behalf of a number of property owners, filed an application with LAFCO to annex the properties to CCCSD. Approximately 66 property owners have petitioned CCCSD for sewer service. In addition, the District has included approximately 122 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 converting from septic systems to municipal wastewater service, construction of new single family units to be connected to the CCCSD municipal system, and parcels being included to eliminate islands and provide for logical service boundaries.

DISCUSSION

The CKH Act sets forth factors that the Commission is required to consider in evaluating any proposed change of organization or reorganization as discussed below (Gov. Code Section 56668). In the Commission's

review and evaluation, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

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

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

The areas proposed for annexation are within CCCSD's SOI and within the County Urban Limit Line. All parcels are located in the unincorporated Alamo community.

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

The General Plan and zoning designations for the affected parcels and surrounding territory, along with general topography are shown in Table 1 (attached).

All of the properties have a County General Plan designation of SL (Single Family Residential - Low); areas 170-7 and 170-12 also have a designation of PS (Public/Semi-Public). All properties are zoned R-20 (Single Family Residential - lot size 20,000 sq. ft. minimum).

No changes are proposed to General 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 and surrounding parcels is relatively flat.

5. Population:

The total estimated population increase is minimal, as only area 170-3 has the potential to add 1-3 single-family residential dwelling units.

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 no 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 District, San Ramon Valley Fire Protection District and East Bay Municipal Utility 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 gravity flow.

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 162 existing and potential residential units, and is estimated to generate approximately 32,400 gallons of wastewater per day.

CCCSD indicates that many of the properties proposed for annexation can be served by existing CCCSD facilities, as summarized in the table below.

Annexation Area	Existing/Planned Sewer Facilities
170-1 (4 parcels)	All of the properties can be served by existing CCCSD facilities.
170-2 (1 parcel)	The property is served by existing CCCSD facilities.
170-3 (92 parcels)	30 properties can be served by existing CCCSD facilities; 57 properties require mainline extension; the remaining parcels are either government owned and/or vacant, undevelopable, will not need service and are being included to avoid the creation of an island.
170-4 (1 parcel)	The property is served by existing CCCSD facilities.
170-5 (1 parcel)	The property can be served by existing CCCSD facilities.
170-6 (5 parcels)	Three properties can be served by existing CCCSD facilities; one property requires mainline extension; and one house is already connected to CCCSD.
170-7 (3 parcels)	All of the properties can be served by existing CCCSD facilities.
170-8 (3 parcels)	All of the properties can be served by existing CCCSD facilities.
170-9 (15 parcels)	Two properties are served by existing CCCSD facilities; 13 properties require mainline

	extension.
170-10 (6 parcels)	Five properties can be served by existing CCCSD facilities; one property requires mainline extension.
170-11 (28 parcels)	13 properties are served by existing CCCSD facilities; one property contracted for annexation as a CAD participant; four septic properties completed petitions for annexation; and 10 parcels are fill-ins to avoid creation of islands
170-12 (7 parcels)	Two properties can be served by existing CCCSD facilities; 4 properties would require mainline extension; the remaining partial parcel is government owned and is included to avoid the creation of an island.
170-13 (1 parcel)	The property is served by existing CCCSD facilities.
170-14 (2 parcels)	All of the properties can be served by existing CCCSD facilities.

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

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

8. Timely Availability of Water and Related Issues:

All of the parcels proposed for annexation receive water service through East Bay Municipal Utility District (EBMUD), whose primary source of water is the Mokelumne River. EBMUD serves a population of over 1.3 million, with nearly 400,000 water customers. EBMUD's average dry weather flow is 65 million gallons per day. There are several parcels included in the proposed annexation that are unbuildable, will not need service and are included to avoid the creation of islands.

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, tax rate areas and assessed valuations (2008-09 roll) are shown below:

Annexation Area	Tax Rate Area	Assessed Value
170-1, 170-2, 170-3, 170-4, 170-5, 170-6, 170-7, 170-9a, 170-10a, 170-12, 170-13 and 170-14	66066	\$59,373,663
170-8 and 170-9b	66070	\$10,108,088
170-10b and 170-11	66002	\$17,542,822

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 found that the proposed annexation of each property within the 14 areas is exempt from the California Environmental Quality Act (CEQA) pursuant to Class 3, Section 15303 (New Construction or Conversion of Small Structures) and Class 19, Section 15319 (Annexations of Existing Facilities and Lots for Exempt Facilities).

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 March 11 hearing.

If no written protest is received from an affected party prior to the conclusion of the hearing on March 11, the Commission may waive the protest proceedings. However, if written protest is received at any time prior to or during the hearing, then a protest hearing is required (Gov. Code §56663).

The LAFCO office has received communication from an affected landowner at 56 N. Jackson Way, Alamo expressing opposition to the proposed annexation of his property to CCCSD. Thus, if the Commission approves the annexation, a subsequent notice and hearing will follow. Authority to conduct the protest hearing has been delegated to the LAFCO Executive Officer.

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.

In addition, Area 170-12 includes annexation of a partial parcel (APN 188-370-029). As confirmed by the County Assessor, the remainder of this parcel is already within the CCCSD boundary. Thus, inclusion of this partial parcel will bring the remaining portion into the CCCSD boundary.

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 found the proposed annexation of all areas to be categorically exempt pursuant to CEQA Guidelines Class 3, Section 15303 (New Construction or Conversion of Small Structures) and Class 19, Section 15319 (Annexations of Existing Facilities and Lots for Exempt Facilities).
  - B. Adopt this report and approve the proposal, to be known as Annexation 170 to the Central Contra Costa Sanitary District, subject to the following terms and conditions:
    - 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
    - 2. Prior to recordation, CCCSD shall deliver an executed indemnification agreement providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
  - C. Find that the subject territory is inhabited and that the annexing agency has consented to waiving the conducting authority proceedings. However, less than 100% of the affected landowners/registered voters have provided written consent to the annexation, and at least one affected landowner/registered voter has expressed opposition to the proposed annexation. Therefore, a subsequent protest hearing is required.
  - D. Designate the Contra Costa LAFCO as the conducting authority for the protest proceedings; the authority for which has been delegated to the LAFCO Executive Officer, who shall give notice and conduct a public hearing on the matter pursuant to the Government Code.

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

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

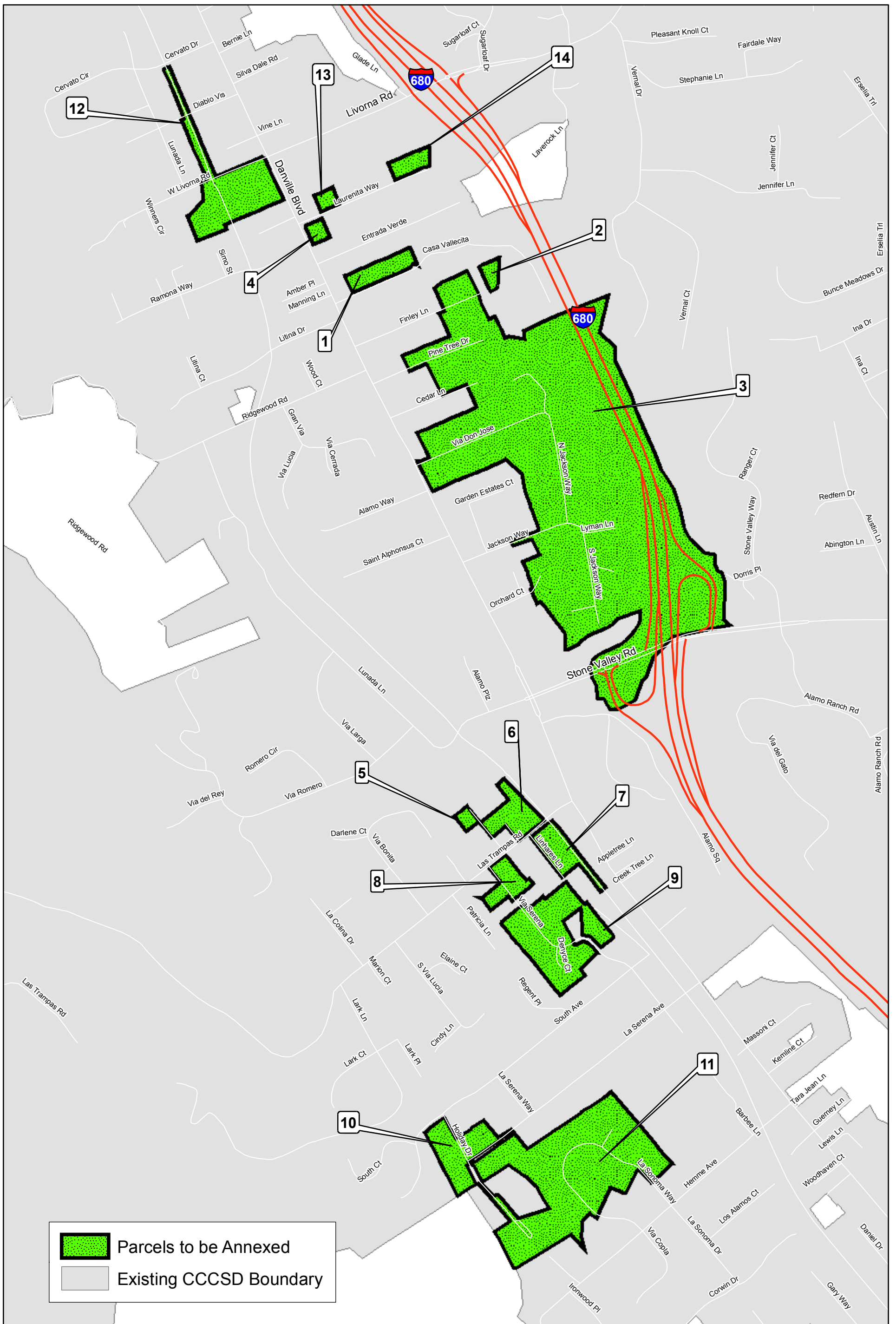
RECOMMENDED ACTION:

Approve Option 1.

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LOU ANN TEXEIRA  
EXECUTIVE OFFICER  
LOCAL AGENCY FORMATION COMMISSION

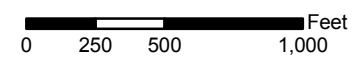
# LAFCO No. 08-33: Annexation 170 to Central Contra Costa Sanitary District



**Parcels to be Annexed**  
**Existing CCCSD Boundary**

Map created 3/10/2008  
 by Contra Costa County Community Development, GIS Group  
 651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095  
 37:59:48.455N 122:06:35.384W

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



*Email received on March 4, 2009, from:*

**Stuart D. Proffitt  
56 North Jackson Way  
Alamo, CA 94507**

March 2, 2009

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

Dear Ms Texeira:

Thank you for your time on the telephone yesterday. Reflecting upon our conversation I feel it will keep the record straight if I put in writing, via this email, my concerns with LAFCO's pending action on LAFCO 08-33 Central Contra Costa Sanitary District's proposed annexation of 134 acres in 188 parcels.

I would appreciate it if you would put me on the agenda for the March 11, 2009 meeting to address the LAFCO Board, and to publicly question representatives of CCCSD on the points raised concerning their application for annexation, I presume they will be in attendance. If not please let me know in advance.

My concerns fall under code section 56668 items b, j, m and the phrase in the first paragraph of Section 56668 "SHALL INCLUDE, BUT NOT BE LIMITED TO".

Specifically, as we have discussed, the role LAFCO can, does, and should play in an annexation or expansion of a district, plus the role it plays in assuring the public that the information distributed by a district is complete and accurate.

Sincerely

Stuart Proffitt

Cc

1. The information distributed to the 188 property owners by CC Central Sanitary District in June 2008 was worded in such a way as to not fully inform the property owners concerning:

- the rights they are giving up,
- the real out of pocket costs facing them.
- the negative environmental impact that closing working septic systems will have.

If CCCSD did not plan on these parcels connecting to their sewer service there would be no need to annex the parcels. Please ask CCCSD to respond to these items should be addressed with reference to Section 56668 (b), (c) and (j)

Why did the letter seeking a signature on the petition not include any information on how a parcel owner could it did not indicate the full costs of extension of a sewer line to the property owners home



would total between \$20-40,000 per parcel and would be borne by the home owners when they were connected to the sewer. By choice or by edict from the CCCSD Board or other agency.

It did not indicate that under Sanitary District Act of 1923 CCCSD had the power to compel connection to a sanitary sewer. The letter emphasized that signing the petition and “**annexation would NOT result in any new or added rates, fees, charges or taxes** at this time”, instead it stated that the fees, charges etc. and would only be collected “**when you decide to apply for a CCCSD sewer connection**” leaving the implication that the property owner would be in a position to choose when and if they wished to connect to a sewer. This has been shown by previous CCCSD/County Environmental Health Dept action not to be the case.

After discussing the matter with Mr. Jarred Miyamoto-Miles of CCCSD, I decided that this type of information was needed by the property owners. I asked that he send the information to the property owners so a truly balanced picture would be available to them.

CCCSD refused to provide it I decided that I would directly communicate with each property owner. To that end I asked for information from CCCSD and received the attached email from Jarred Miyamoto-Miles of CCCSD

I requested a computer process able mailing list of all of the names and addresses mailed the unsolicited annexation petition from Mr. Jarred Miyamoto-Miles of CCCSD. I did not receive it. I received instead an Excel spreadsheet of the names of the Via Don Jose / Jackson Way Island. When I requested, again, a full mailing list the request was ignored.

Based upon the above I request LAFCO instruct CCCSD to prepare for and distribute to the affected property owners the following information:

1. A document showing the **expenses** and **cost savings** that CCCSD will accrue by the annexation.
2. A document showing the reduced annexation costs this plan would provide to the typical property owner. To justify their claimed reason for the annexation.
3. A document showing the total costs, fees, charges, and incremental taxes and rates a property owner may expect to pay to connect to a sewer or sewer extension.
4. A document showing the last 5 CCCSD sewer extension projects and the actual costs borne by the property owners.
5. A statement that CCCSD does in fact has the power to compel a property owner to connect to a sewer line under the 1923 Sanitary District Act.

I further request that until the above information has been prepared, reviewed by LAFCO and distributed to the 188 property owners that all action on this matter be tabled by LAFCO. The delay of 1 to 2 months will prove to be much less politically and financially expensive versus a lawsuit by affected homeowners when they discover the truth behind this proposal.

Please call me when you have received this and we can discuss.

Sincerely

Stuart Proffitt

Enclosure email from CCCSD *[none enclosed]*

**RESOLUTION NO. 08-33**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
ANNEXATION 170 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, the proposal has less than 100% consent of affected property owners and registered voters, and is subject to a conducting authority proceeding; and

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

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

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

**ANNEXATION 170 TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

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

Contra Costa LAFCO  
Resolution No. 08-33

6. Prior to recordation, CCCSD shall deliver an executed indemnification agreement between the CCCSD and Contra Costa LAFCO providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. The territory proposed for annexation is inhabited.
8. The proposal has less than 100% landowner/registered voter consent, and at least one affected landowner/registered voter has expressed opposition to the proposed annexation. Therefore, a subsequent protest hearing is required.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

\* \* \* \* \*

PASSED AND ADOPTED THIS 11<sup>th</sup> day of March 2009, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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GAYLE UILKEMA, CHAIR, CONTRA COSTA LAFCO

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

Dated: March 11, 2009

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Lou Ann Texeira, Executive Officer