

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

November 9, 2016 (Agenda)

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Agenda Item 8

LAFCO 16-08 West County Wastewater District (WCWD) Annexation 315

PROPONENT WCWD by Resolution No. 16-016 adopted April 6, 2016

SYNOPSIS The WCWD proposes to annex 1.0± acre (APN 433-020-022) located at 6200 Hillside Drive in unincorporated El Sobrante as shown on Attachment 1. The property proposed for annexation is currently vacant. Previously, the parcel contained one single family home that was demolished after burning down. The landowner plans to build a new single family home and prefers to connect to municipal sewer.

UPDATE This item was continued from the October 12, 2016 LAFCO meeting at which time the Commission expressed concern that this annexation would result in the creation of two islands, which is contrary to LAFCO law; and that WCWD had not reached out to the four surrounding landowners in the island area regarding possible annexation. The Commission continued the matter to allow the District additional time to contact the other four property owners.

District staff recently reported that they sent letters to the four property owners, and that one has responded with some interest in possibly annexing in the future. Also, the WCWD Board further discussed the potential for addressing islands within the District's boundary (see Attachment 2), including the subject area; and while there was not much interest by the Board, they agreed to discuss the matter again at a future WCWD meeting.

At this time, WCWD does not wish to defer the proposed annexation and cause further delay to the property owner needing municipal sewer service at this time. The District requests that the Commission approve the annexation as proposed.

DISCUSSION

The District filed an application with LAFCO to annex the properties to WCWD. The proposed annexation will facilitate the development of one single family residential unit.

Government Code §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, 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 area proposed for annexation is within WCWD's SOI, and within the County Urban Limit Line; the parcel is located in the unincorporated community of El Sobrante.

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

The County General Plan designation for APN 433-020-022 is primarily SM (Single Family Residential Medium) with a small portion of the property designated as OS (Open Space). The parcel is zoned by the County as R-10 (Single Family Residential, lot size 10,000 square feet minimum). As noted above, the parcel is vacant. No changes are proposed to the General Plan or zoning designations as part of this proposal. Surrounding land uses include single family residential development to the east, north and south, and single family residential development and open space to the west. The Richmond city boundary is just west of the property.

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

The subject property contains no prime farmland or land covered under Williamson Act Land Conservation agreements; there are no agricultural uses on the property proposed for annexation. A portion of the property is designated Open Space due to proximity to San Pablo Creek.

4. Topography, Natural Features and Drainage Basins:

The topography of the site is generally flat. The surrounding areas are generally flat, with the San Pablo Creek located on the east side of the property.

5. Population:

Development of one single family home is planned for the annexation area. The estimated population increase for the annexation area is approximately three, based on 2015 California Department of Finance estimates for households in the El Sobrante area.

6. Fair Share of Regional Housing:

In its review of a proposal, LAFCO must consider 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:

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 (Gov. Code §56653). 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 District's Plan for Providing Services is on file in the LAFCO office. The annexation area is served by various local agencies including, but not limited to, Contra Costa County, Contra Costa County Fire Protection District, and East Bay Municipal Utility District (EBMUD).

The proposal before the Commission is to annex one parcel to WCWD for the provision of sanitary sewer service.

WCWD provides wastewater collection, treatment and disposal services for a 16.9± square mile service area within the City of Richmond (40% of District), the City of San Pablo (15% of District), the City of Pinole (2% of the District) and other unincorporated areas within Contra Costa County (43% of the District). WCWD serves approximately 93,000 customers. The District's facilities include a water pollution control plant, 249 miles of sewer pipeline, and 17 pump stations. WCWD's wastewater treatment plant has capacity of 12.5 million gallons per day (mgd) dry weather capacity and 21 mgd wet weather treatment capacity.

Based on the maximum number of dwelling units (one single family residential) planned for the annexation area, the maximum demand for service is approximately 270 gallons of wastewater per day. WCWD has infrastructure in the area and serves a number of surrounding properties. The District indicates there is an 8-inch main running in the street about 70 feet east of the subject property. Revenue generated to serve the property includes a one-time sewer connection fee and an annual sewer use charge paid by the property owner. WCWD has the capacity to serve the property proposed for annexation.

8. Timely Availability of Water and Related Issues:

The properties are currently served by EBMUD, which has a service area of 331± square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.3 million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 146± square mile service area, serving an estimated 477,212 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water supply for EBMUD is the Mokelumne River; this watershed accounts for 90 percent of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,046 acre-feet per year of water from the Mokelumne River. The proposal is not expected to increase water usage.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 85038. The total assessed value, including land and improvements, for the annexation area is \$109,839 (2015-16 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies. The County and WCWD have agreed to use the master tax transfer agreement for this annexation.

10. Environmental Impact of the Proposal:

The District, as Lead Agency, found the project to be exempt from CEQA pursuant to §§ 15061(b)(3), 15319, and 15303. The LAFCO environmental coordinator concurs with the District's finding.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are zero registered voters in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited.

The property owner petitioned WCWD for service and consents to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). 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 LAFCO hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within WCWD's SOI and contiguous to the District's service boundary. A map and legal description to implement the proposed boundary changes have been submitted and are subject to approval by the County Surveyor. The subject property is within an island and the proposed annexation will divide the existing island. While LAFCO encourages logical and orderly boundaries, it is sometimes not unusual for sewer and water districts to have islands and pockets within their service boundaries; as historically, annexations to these types of districts have occurred as the need for service arises.

The island area is comprised of five parcels, including the parcel proposed for annexation. The County General Plan designations for the other parcels in the island are comparable to the parcel proposed for annexation, which include a County General Plan designation of SM and a zoning designation of R-10. Of the five "island" parcels, there are residential dwelling units on all except the parcel proposed for annexation, which is currently vacant. These residential units currently rely on septic systems. According to County Planning, there are currently no pending development applications in the island area other than the one single family home proposed with the annexation. A summary of development potential by parcel is presented below:

- 433-020-022 (parcel proposed for annexation) – currently vacant; could subdivide (2-3 lots)
- 433-020-025 – contains one single family residential unit; could not subdivide
- 433-020-026 - contains one single family residential unit; could subdivide (4-6 lots)
- 433-020-040– contains one single family residential unit; could not subdivide
- 433-020-041– contains one single family residential unit; could not subdivide

According to County Environmental Health (EH), the island area is not located in a septic tank moratorium area; and topography and soil conditions would not appear to preclude on-site septic systems, although municipal sewer is preferred.

In the past year, the Commission approved two WCWD annexation proposals that have either created or exacerbated islands and irregular boundaries. While there were extenuating circumstances in both situations, the Commission advised District staff to work with surrounding property owners in the future to avoid irregular boundaries and islands.

In July 2016, District staff discussed with the WCWD board the estimated costs associated with annexing the five parcels, versus annexing only the subject parcel. Previously, in June 2016, District staff had a similar discussion with its Plans and Programs Committee. Staff noted that the cost associated with annexing all five parcels together is estimated at \$16,425, versus \$10,525 per parcel if annexed individually. District staff reported that benefits of annexing all five parcels at once include efficiency, cost savings, and encouraging property owners to connect to municipal sewer in the future should their septic system fail. The disadvantages of annexing all five parcels include impacts to the WCWD's operating budget and staff resources, as well as expending funds to benefit only a few parcels. The District believes that it is not fiscally responsible to fund the annexation of parcels when there is no assurance that these properties will connect to the sewer system in the future. Further, WCWD does not wish to set a precedent of paying the annexation cost in advance, and believes this would be unfair to residents such as the subject property owner, who has already paid the annexation fee. The District prefers to annex parcels as the need for sewer service arises. The WCWD Board accepted its staff recommendation and voted to proceed with annexation of only the subject parcel and not the adjacent parcels.

At the October 12, 2016 LAFCO meeting, the Commission heard the item and expressed concern that this annexation would result in the creation of two islands, which is contrary to LAFCO law; and that WCWD had not reached out to the four surrounding landowners in the island area regarding possible annexation. The Commission continued the matter to allow the District additional time to contact the other four property owners.

At the Commission's request, WCWD contacted the other four property owners regarding potential annexation. District staff indicates that, to date, one property responded and expressed some interest in possibly annexing in the future. Also, the WCWD Board further discussed the potential for addressing islands within the District's boundary, including the subject area; and while there was not much interest by the Board, they agreed to discuss the matter again at a future WCWD meeting.

At this time, WCWD does not wish to defer the proposed annexation and cause further delay to the property owner needing municipal sewer service at this time. The District requests that the Commission approve the annexation as proposed.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for a change 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.

14. Disadvantaged Communities:

In accordance with recent legislation (SB 244), local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/ amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County Department of Conservation and Department, the annexation area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties

No comments were received from other affected agencies or parties.

16. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan [Gov. Code § 56668(g)]. Further, the commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis (Gov. Code §56668.5). Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, in July 2013, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan's key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region's projected population over the next 25 years.

ABAG and MTC are in the process of updating the Plan Bay Area. The new plan - "Plan Bay Area 2040" - is currently underway and is expected to be adopted in summer 2017.

The proposed annexation is within the District's SOI, within the County's Urban Limit Line, and primarily surrounded by residential development. The area is not designated as a "Priority Conservation Area" or a "Priority Development Area", and does not appear to conflict with the regional transportation or growth plans.

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 actions:

Option 1 Approve the annexation as proposed.

- A. Determine that the project is exempt pursuant to CEQA Guidelines, §15061(b)(3).
- B. Adopt this report, approve LAFCO Resolution No. 16-08 (Attachment 3), and approve the proposal, to be known as West County Wastewater District Annexation 315 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. That WCWD has delivered an executed indemnification agreement providing for WCWD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Option 2 Approve the annexation conditioned on annexation of the entire 5-parcel island. Prior to LAFCO issuing a Certificate of Completion for WCWD Annexation 315, the District shall submit to LAFCO an application to annex the remaining four parcels (APNs 433-020-025/026,040/041).

Option 3 Adopt this report and DENY the proposal.

Option 4 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:

Option 1

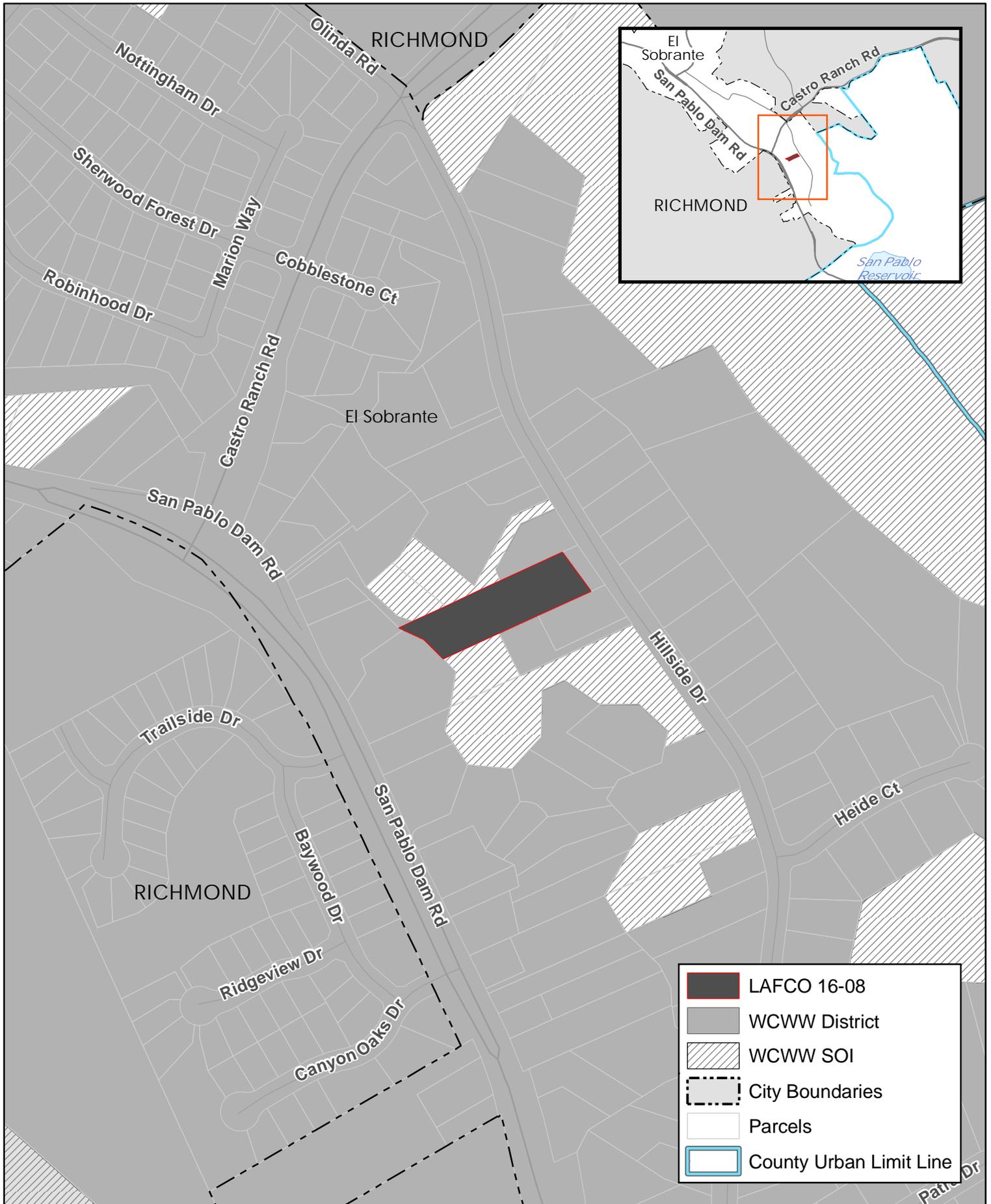
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

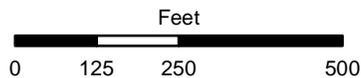
- 1 – WCWD Annexation Map
- 2 – WCWD Island Map
- 3 - Draft LAFCO Resolution 16-08

c: Distribution

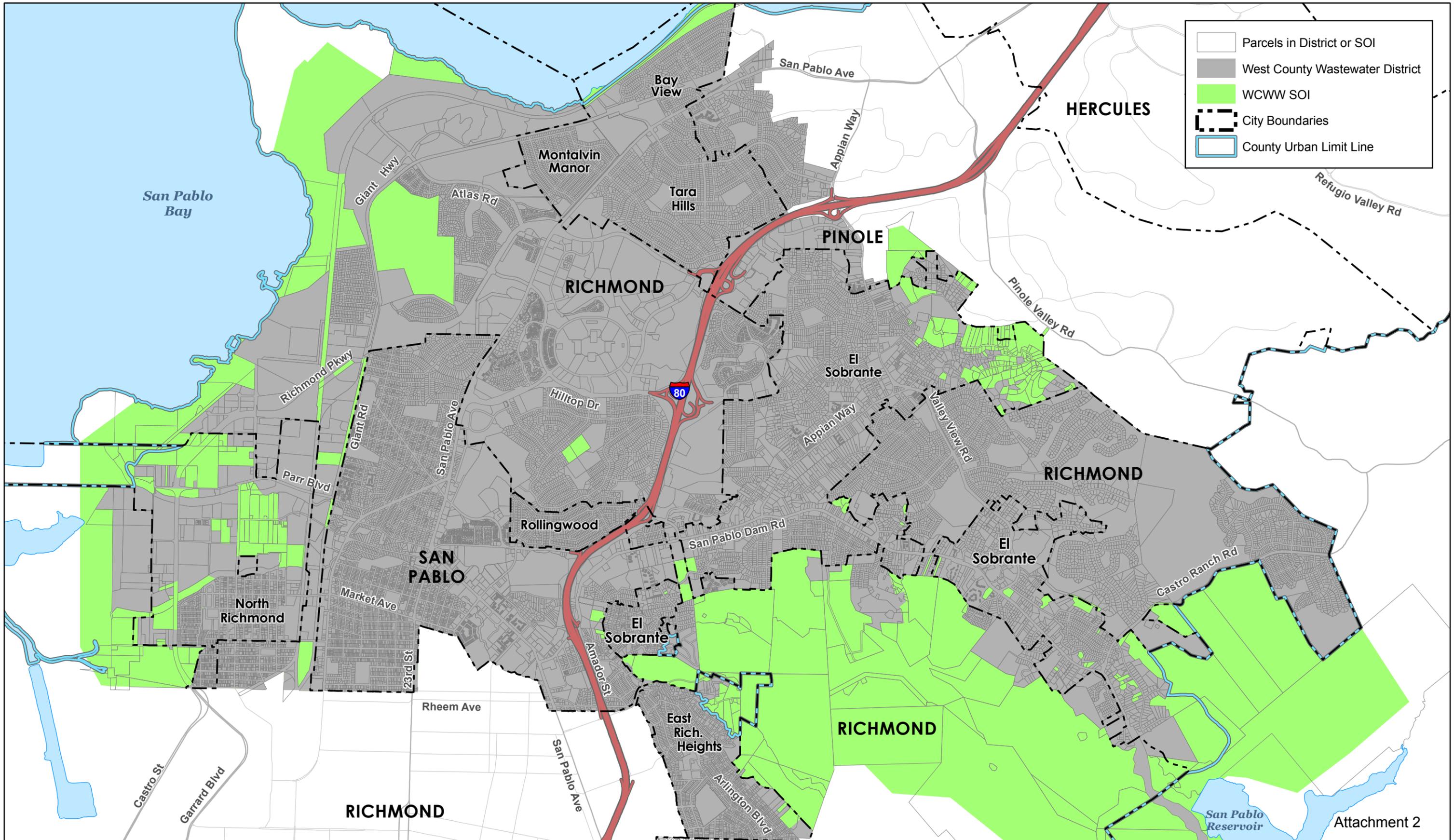
LAFCO 16-08 West County Wastewater District Annexation 315 (6200 Hillside, E.S.)



	LAFCO 16-08
	WCWW District
	WCWW SOI
	City Boundaries
	Parcels
	County Urban Limit Line



West County Wastewater District Boundary and SOI



	Parcels in District or SOI
	West County Wastewater District
	WCWW SOI
	City Boundaries
	County Urban Limit Line

Map created 10/18/2016
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
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RESOLUTION NO. 16-08

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
WEST COUNTY WASTEWATER DISTRICT ANNEXATION 315**

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, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; 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 Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; and

WHEREAS, at a public hearing held on October 12, 2016, and continued to November 9, 2016, 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, applicable General and Specific Plans, consistency with the sphere of influence, contiguity with the districts' boundaries, and related factors and information including those contained in Gov. Code §56668; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the annexation 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 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. The project is categorically exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
2. The annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:
WEST COUNTY WASTEWATER DISTRICT ANNEXATION 315
4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Attachment 1, attached hereto and made a part hereof.
5. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
6. That West County Wastewater District (WCWD) delivered an executed indemnification agreement between the WCWD and Contra Costa LAFCO providing for WCWD to

Contra Costa LAFCO
Resolution No. 16-08

indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.

7. The territory proposed for annexation is uninhabited.
8. The proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

* * * * *

PASSED AND ADOPTED THIS 9th day of November 2016, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

MARY N. PIEPHO, 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 9, 2016

Lou Ann Teixeira, Executive Officer