



TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church Street, Suite B, Visalia 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

LAFCO MEETING AGENDA
February 4, 2015 @ 2:00 P.M.
BOARD OF SUPERVISORS CHAMBERS
COUNTY ADMINISTRATIVE BUILDING
2800 West Burrel Avenue
Visalia CA 93291

COMMISSIONERS:
Juliet Allen, Chair
Rudy Mendoza, V-Chair
Allen Ishida
Cameron Hamilton
Steve Worthley

ALTERNATES:
Mike Ennis
Dennis Mederos
Craig Vejvoda

EXECUTIVE OFFICER:
Ben Giuliani

- I. **Call to Order**
- II. **Approval of Minutes from December 3, 2014 (Pages 1-4)**
- III. **Public Comment Period**

At this time, members of the public may comment on any item not appearing on the agenda and that is within the scope of matters considered by the Commission. Under state law, matters presented under this item cannot be discussed or acted upon by the LAFCO Commission at this time. So that all interested parties have an opportunity to speak, any person addressing the Commission may be limited at the discretion of the chair. At all times, please use the microphone and state your name and address for the record.

IV. **New Action Items**

- 1. **Pixley Irrigation District Detachment, LAFCO Case 1509 (Pages 5-30)**
[Public Hearing].....Recommended Action: Approval or Continue

The proposed project is a detachment from the Pixley Irrigation District initiated by the Angiola Water District. The detachment site consists approximately 772.6 acres, located east of Highway 43, north of Avenue 96, and south of Avenue 120 in Tulare County. The proposal is considered exempt from CEQA review under the California Environmental Quality Act (CEQA) Sections 15061(b)(3) and 15320.

- 2. **City of Visalia Sphere of Influence (SOI) Update LAFCO Case 1510 (Pages 31-38)**
[Public Hearing].....Recommended Action: Continue

The Commission will consider the proposed Sphere of Influence update for the City of Visalia. LAFCO has reviewed and considered the information contained in the EIR prepared for the 2014 General Plan Update and certified by the City and in the City's CEQA documentation SCH# 2010041078.

At this time there are areas of overlap between the existing Goshen UDB and Visalia UDB. Tulare County is currently updating the Goshen Community Plan which may affect the location of the Goshen UDB. Due to the areas of overlap between the Goshen UDB and Visalia UDB and the in-progress update of the Goshen Community

Plan, Tulare County and City of Visalia staff have requested a continuance of the SOI Update.

3. City of Tulare Sphere of Influence (SOI) Update LAFCO Case 1511 (Pages 39-46)
[Public Hearing].....Recommended Action: Continue

The Commission will consider the proposed Sphere of Influence update for the City of Tulare. LAFCO has reviewed and considered the information contained in the EIR prepared for the City of Tulare General Plan Update and certified by the City and in the City's CEQA documentation SCH#2012071064.

A lawsuit has been filed, Manor vs City of Tulare (TCSC Case 258532) challenging the EIR prepared for the General Plan update. Since there is no indemnification agreement in place between the City and the Commission, the SOI update is recommended to be continued until the resolution of the lawsuit.

4. Amendment to Policy C-9 (County Islands) (Pages 47-50)
[No Public Hearing].....Recommended Action: Approval

The City of Porterville has requested (letter attached) that the Commission amend its definition of substantially surrounded from 65% to 51%.

V. Executive Officer's Report

1. ESA 2014-02 (Cutler PUD) (Pages 51-52)

Pursuant to Policy C-6, the Executive Officer approved an ESA for the provision of domestic water by Cutler PUD to Peña Disposal Company.

2. City of Visalia and City of Tulare Agricultural Mitigation Policies (No Page)

City staff will present information regarding their new agriculture mitigation policies as part of their recently adopted general plan update.

3. Legislative Update (No Page)

The California legislature reconvened on January 5th, 2015. The deadline for bills to be introduced is February 27th, 2015.

4. Upcoming Projects (No Page)

The Executive Officer will provide a summary and tentative schedule of upcoming LAFCO projects.

VI. Correspondence

There are no items.

VII. Other Business

1. Commissioner Report (Pages 53-54)

Attached is the December 2014 CALAFCO Quarterly Report.

2. Conflict of Interest Code – Form 700 (Pages 55-62)

Enclosed is a memo regarding Form 700s which are due April 1, 2015.

3. Request from LAFCO for items to be set for future agendas

VIII. Closed Sessions

None

IX. Setting Time and Place of Next Meeting

1. March 4, 2015 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building.

X. Adjournment

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TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION
Summary Minutes of the Meeting
December 3, 2014

Members Present: Allen, Hamilton

Members Absent: Ishida, Mendoza, Worthley

Alternates Present: Ennis, Mederos

Alternates Absent: Hinesly

Staff Present: Ben Giuliani, Cynthia Echavarria, Alyssa Blythe

Counsel Present: Lisa Tennebaum

I. Call to Order

Vice-Chair Allen called the Tulare County Local Agency Formation Commission meeting to order at 2:02 p.m.

II. Approval of the October 1, 2014 Meeting Minutes:

Upon motion by Commissioner Hamilton and seconded by Commissioner Ennis, the Commission unanimously approved the minutes of November 5, 2014.

III. Public Comment Period

Public Comments opened/closed at 2:03 p.m.

IV. Action Items

1. Election of Officers for 2015

Staff Analyst Echavarria stated an action is needed for approval of the Public Representative Julie Allen as Chair and City Representative Mendoza, as Vice-Chair.

Upon motion by Commissioner Ennis and seconded by Commissioner Hamilton, the Commission approved the Election of Officers for 2015.

2. Cancellation of the January 2015 Commission Meeting

EO Giuliani proposed, due to the Holidays and the lack of substantive issues, cancellation of the January 2015 LAFCO meeting.

Upon motion by Commissioner Ennis and seconded by Commissioner Hamilton, the Commission approved the cancellation of the January 2015 Commission Meeting.

VI. Executive Officer's Reports

1. City of Visalia Agricultural Mitigation Policies

Staff Analyst Echarvarria informed the committee that Visalia staff couldn't attend the meeting and the presentation would be brought back on the February agenda.

2. 2014 Annual LAFCO Annual Report

Staff Analyst Echarvarria highlighted the 2014 Annual Report for LAFCO which contained an overview of the year's activities and included maps, graphs and tables that track changes within several categories under the purview of the Commission. Staff Analyst Echarvarria stated these maps provide insight into future issues, challenges, and opportunities that could arise during consideration of future proposals, serve as a gauge of the commission's progress in accomplishing their purpose, and provide information to the public.

Staff Analyst Echarvarria informed the Commission that in 2014, LAFCO approved 17 proposals, including the adoption of Porterville's Municipal Service Review Update and Sphere of Influence, two annexations for Lindsay, ESA's for the Orosi/PUD, Poplar CSD/Walker and several ESA's for the City of Porterville as well as one Annexation for the Orosi Public Utility District. Staff Analyst Echarvarria stated there were also a few policy amendments in 2014.

Vice-Chair Allen complimented and thanked staff for putting together the 2014 Annual Report and asked if there was information pertaining to the Cities of Dinuba, Visalia and City of Tulare having shrunk their spheres.

EO Giuliani informed the Commission the sphere updates had not been completed by the Cities of Visalia and Tulare, however the information would be included in the next year's Annual Report.

3. Policy C-9 (Island Annexations) Amendment Request

EO Giuliani informed the Commission he had received a letter from the City of Porterville requesting the Commission to consider changing their definition of substantially surrounded County Islands from 65% to 51%. EO Giuliani stated the information is included in the staff report which reflects the potential new islands created if changed to 51%. EO Giuliani stated the change would mainly affect Porterville and the City of Tulare and would bring the proposed policy back for action at the February LAFCO Commission meeting.

4. Legislative Update

EO Giuliani informed the Commission that the California Legislature will reconvene on January 5, 2015 and the deadline for bills introduced was February 27, 2015.

5. Upcoming Projects

EO Giuliani reported the following items would be on the agenda for the February meeting: Visalia/Tulare Sphere of Influence updates, Angiola Water requesting detachment from the Pixley Irrigation District, Visalia and Tulare staff discussing their General Plan ag mitigation policies, Policy C-9 Amendment and a staff report on the recently approved ESA by LAFCO E.O. for Cutler.

VII. Correspondence

None

VIII. Other Business

1. Commissioner Update

Vice Chair Allen reported the 2015 CALAFCO Conference will be held September 2- 4 at the Hyatt Regency in Sacramento. Vice Chair Allen stated the legislative committee has met for its initial agenda meeting and has identified three priority items going forward to the legislative; protest provisions, defining the relationship between LAFCO and JPA'S, and the code for disincorporation's is an issue and will need to be addressed. Vice Chair Allen stated she is an Alternative for the Central Regional Committee and will attend the next meeting via conference call and report out about upcoming proposals. Vice Chair Allen asked EO Giuliani to send out the strategic plan and legislature guidelines LAFCO put together two years ago for Commission to review and commented the strategic plan would be updated in February.

IX. Setting Time and Place of Next Meeting

The next meeting will be Wednesday, December 3, 2014 at the Board of Supervisors Chambers in the County Administration Building.

XI. Adjournment

The meeting adjourned at 2:29 p.m.

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**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT**

February 4, 2015

**UPON APPLICATION OF ANGIOLA WATER DISTRICT
DETACHMENT FROM PIXLEY IRRIGATION DISTRICT 14-04
LAFCO Case No. #1509**

- PROPOSAL:** The detachment of certain territory from the Pixley Irrigation District (PID) in the County of Tulare.
- PROPONENT:** Angiola Water District
- SIZE:** Approximately 772.6 acres.
- LOCATION:** The detachment site includes APN: 293-250-011,293-240-003,293-230-001,293-220-007,293-210-001 located west of Highway 43, East of the Homeland Canal, and South of Avenue 120, approximately 10 miles southeast of the City of Corcoran in Tulare County. **(Figure 1)**
- APNs:** 293-250-011,293-240-003,293-230-001,293-220-007,293-210-001 **(Figure 2)**
- NOTICE:** Notice for this public hearing was provided in accordance with Government Code Sections 56158, 56153, 56661 and 56300(f).

ANALYSIS

1. Conformity with Plans:

A. Site Information

| | County | City |
|---------------------------------|------------------------|-------------|
| Zoning Designation | AE-40 | N/A |
| General Plan Designation | Agriculture | N/A |
| Uses | Groundwater well field | N/A |

Surrounding land uses is agricultural. This proposal does not conflict with the Tulare County General Plan.

2. Impact on Prime Agricultural Land, Agriculture and Open Space:

Williamson Act and Agricultural Preserves:

The detachment site does not have any areas that are in Williamson Act Contract or in an agricultural preserve.

3. Population:

There are no registered voters within the affected area. Therefore, pursuant to GC Section 56046, the detachment area is uninhabited.

4. Services and Controls - Need, Cost, Adequacy and Availability:

The Pixley Irrigation District does not currently serve the proposed detachment area. The proposed area to be detached is currently receiving service for water supply by the Angiola Water District. The proposal will not change which agencies are providing current services or utilities in the parcels being detached.

5. Boundaries and Lines of Assessment:

The boundaries of the proposal area are definite and certain and conform to the lines of assessment and ownership. A map sufficient for filing with the State Board of Equalization has been received.

6. Environmental Impacts:

The applicant, Angiola Water District, has adopted a Notice of Exemption (NOE) where it was concluded that the proposed detachment from the Pixley Irrigation District constitutes a proposal for which it can be seen with certainty that there is no possibility that the proposed activity may have a significant effect on the environment, and thus, the proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to Exemption Sections 15061(b) (3) and 15320. The Commission intends to file a NOE unless evidence of significant environmental effects is submitted to the Commission on or before the public hearing. If the Commission determines that LAFCO case#1509 is exempt from CEQA and approves the detachment, staff will prepare and file a notice of exemption with the County of Tulare, as required by CEQA Regulation section 15062.

7. Landowner Consent:

The site contains (5) parcels owned by Angiola Water District. Pursuant to GC Section 56663: consent to this detachment has been received from all property owners. Notice was mailed to all landowners and registered voter within detachment area. The Commission may waive protest proceedings.

8. Discussion:

Detachment from the Pixley Irrigation (PID)

The detachment site consists of 772.2 acres of rural lands located west of Highway 43, east of the Homeland Canal, and south of Avenue 120, approximately 10 miles southeast of the City of Corcoran in Tulare County.

The owner of the properties proposed to be detached is the Angiola Water District, a public agency. The Angiola Water District was formed in 1957 prior to the Pixley Irrigation District formation in 1958. However, the proposed detachment area was included within both district's original boundaries. The area has remained within the Pixley Water District pending resolution of certain water issues between the Districts.

The Pixley Irrigation District, Lower Tule Irrigation District and the Angiola Irrigation District signed a cooperative agreement, effective January 1, 2013, regarding groundwater pumping, mitigation program and settlement of claims relating to Angiola WD's groundwater well field within the proposed detachment area (**Figure 3**). The agreement is effective for 20 years and continues on an annually renewing basis thereafter.

Angiola WD does not receive any surface water from the Pixley ID in the proposed detachment area. The impacts of the well field to Pixley ID and Angiola ID's payments into a mitigation fund to aid groundwater recharge efforts are outlined in the cooperative agreement. With the cooperative agreement in place, Angiola WD desires to no longer pay assessments to Pixley ID which would be accomplished with detachment of the area from Pixley ID.

Neither District will have a material change in service area and the spheres of influence are unaffected. The remaining District Boundaries will remain unchanged following the proposed detachment. The Commission may, as a result of the hearing, approve boundaries for the proposed reorganization that differ from and/or include more or less territory than that described. This is an administrative action and will not authorize, require, or cause any construction, grading, or other physical alterations to the environment.

Financial Impact

Angiola WD pays about \$8,000 a year in assessment fees to Pixley ID for the subject area proposed to be detached. Both districts appear to be in good financial position as shown in the attached financial information from the State Controller Special District Reports (FY 01/02 to FY 11/12) (**Figure 4**). Angiola WD's main source of income is directly from water sales and services. Pixley ID does have a larger budget mainly because in addition to income from water sales and services, the District has a share of the 1% ad valorem property tax and charges property assessments. In FY11/12 (the latest available year from the State Controller), total revenues for Pixley ID amounted to \$3.9 million. Total

revenues for Angiola WD amounted to \$2.7 million. There would not be a significant financial impact to either district as a result of the proposed detachment.

Waiver of Protest Proceedings

Pursuant to GC §56663, the Commission may waive protest proceedings if certain provisions have been met. There are no registered voters within the proposed detachment area and Angiola WD is the sole property owner. Only Angiola WD has standing to protest the detachment in regards to a protest hearing. The Commission may waive the protest hearing and order the detachment without an election.

Pixley ID Opposition to Detachment

Pixley ID provided a letter (**Figure 5**) on January 27th stating their opposition and listing a variety of issues regarding the proposed detachment. Listed below are the issues and responses to those issues:

I. Request for Continuance

Pixley ID asserts that the Notice of Filing as required by GC §566658(b)(1) was not received by the District. Commission Staff did send the Notice of Filing to affected districts and to Pixley ID and Angiola WD, the subject agencies. Pixley ID, as well as Angiola WD, was not included in the addressee block of the Notice of the Filing because Pixley ID is the subject agency, not just an affected district. As listed in the Notice of Filing (**Figure 6**), the memo “regarding” line is shown in bold as follows: “Angiola Water District Detachment from Pixley Irrigation District LAFCO Case No. 1509”. In addition, GC §56160 specifies the following:

The failure of any person or entity to receive notice given pursuant to this division shall not constitute grounds for any court to invalidate any action taken for which the notice was given.

Commission staff maintains that the noticing was properly provided and shouldn't be used as a reason for a continuance. However, the Commission does have the authority to continue the public hearing if it feels that there are additional issues that need to be addressed or if additional information can be provided by Pixley ID or Angiola WD that could affect the Commission's determination of the case.

II. A. Angiola has misrepresented the factual basis for this detachment

As provided in the Staff Report, it is noted that the subject area for the detachment is a groundwater well field that is owned and operated by Angiola WD. While the property may not have come under direct ownership of Angiola WD until 1987, the property has been within Angiola WD's boundaries since its creation in 1957.

It is accurate in Pixley ID's letter that the land is not currently irrigated. If it were to be irrigated, the water service would be provided by Angiola WD not by Pixley ID. While the cost savings would be minimal (as mentioned earlier, the assessment is about \$8,000 a year), the detachment would still result in a savings to the Angiola WD.

B. Angiola's well field absolutely benefits from the activities of Pixley

It doesn't appear that this statement is being contested by Angiola WD. As pointed out in Pixley ID's letter, Angiola WD has recognized the benefit of cooperative efforts in recharging the ground basin by signing a cooperative agreement with Pixley and Lower Tule ID in which Angiola WD limits the amount of water extracted from their well field and pays into a mitigation fund to help Pixley ID's efforts with groundwater recharge. Pixley ID's letter fails to mention that the converse is also true: other landowners within Pixley ID drawing from groundwater also has an impact on Angiola WD's well field. It is in the best interest of both districts, as spelled out in the cooperative agreement, to assist in recharge efforts of the shared groundwater table.

C. The "Cooperative Agreement" between Pixley and Angiola does not address Angiola's assessments or detachment

Pixley ID is correct that the cooperative agreement between Pixley ID and Angiola WD does not include consent from Pixley ID for this detachment. The cooperative agreement also doesn't preclude Angiola WD from requesting detachment of the area from Pixley ID and doesn't specify that Angiola WD must pay assessments to Pixley ID in perpetuity.

D. Creating an island within Pixley for its largest single groundwater user is contrary to sound public policy

The Pixley ID letter is correct in that a private agricultural landowner would most likely be denied detachment from the District. However, there are more distinctions between Angiola WD as a landowner versus other landowners within Pixley ID. First, the proposed well field is within Angiola WD's boundaries and was within Angiola's WD boundaries before the subject area was placed in Pixley ID's boundaries. Second, Angiola WD has a very specific cooperative agreement in place that addresses the impacts of the well field to the shared water basin. To Commission staff's knowledge, no other property holder has such an agreement in place with Pixley ID. Third, there are shared impacts to the groundwater basin (hence the cooperative agreement). For example, it is unknown how much of an impact that private wells within Pixley ID have on Angiola WD. Pixley ID provides supplemental water which does not fully cover the irrigation needs of landowners within the District. Within Angiola WD, there are no private wells. All wells are owned and operated by Angiola WD by agreement between the landowners and Angiola WD. It is apparent that it wasn't sound public policy to place this well field in both districts to begin with.

Islands within irrigation districts are not unusual. The largest existing island within Pixley ID is the unincorporated community of Pixley. The community of Pixley

also benefits from groundwater recharge efforts by Pixley ID but does not pay assessments to the District. The letter claims that Pixley ID is the only entity in the area providing organized community services and controls to address the current state of overdraft. The Angiola WD has a land retirement program which also helps address the current state of overdraft. In addition, the cooperative agreement details how Angiola WD is assisting Pixley ID in its recharge efforts. According to Angiola District staff, pursuant to the cooperative agreement, Angiola WD paid \$420,000 into Pixley ID's groundwater recharge mitigation fund for the calendar year 2013 and will be paying \$380,000 into the fund for the calendar year 2014. It does not appear that the loss of \$8,000 in assessments would have a significant impact on Pixley ID's recharge efforts.

E. Angiola's detachment application should be rejected in its entirety, or in the alternative, should be conditioned

Pixley ID has requested that if the Commission approves the detachment that it include a condition to pay all delinquent assessments. Angiola staff has indicated that the last assessment has not yet been paid. A condition of approval has been included requiring Angiola WD to be current in their assessments.

Pixley ID has also requested that the Commission require Angiola WD to continue paying the property assessment even if detached. This is incongruous with the purpose of the detachment and is not included as a condition.

Unique Case

This is a unique situation where one district is requesting the detachment of land from another district (the first such case in Tulare County LAFCO history). The overlap of the two districts land occurred prior to LAFCO's inception in 1964. It is this type of conflicting boundary that LAFCOs were created to help avoid pursuant to the legislative findings included in GC §56001 (Cortese-Knox-Hertzberg Local Government Reorganization Act).

RECOMMENDED ACTIONS:

It is recommended that the Commission either continue the public hearing and allow for more time to address Pixley ID's concerns regarding the proposed detachment or if the Commission decides that enough information has already been provided to approve the proposal and take the following actions:

1. Certify that the Commission has reviewed and considered the Notice of Exemption prepared by the Angiola Water District for this project and find that the project will not have a significant effect on the environment.
2. Find that the proposed detachment from the Pixley Irrigation District complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, Section 56377.
3. Pursuant to LAFCO Policy and Procedure Section C-1, find that:

- a. No change in services will result from this change of organization.
 - b. The proposed detachment represents a logical and reasonable change of organization of the district.
 - c. The proposed change of organization reflects the plans of the adjacent governmental agencies.
 - d. The proposed boundaries are definite and certain and conform to lines of assessment.
4. Find that the territory proposed for detachment from the Pixley Irrigation District is uninhabited and that Angiola Water District is the sole property owner. Angiola WD has not submitted written opposition to the proposed detachment.
 5. Approve the detachment as proposed by Angiola Water District, to be known as LAFCO Case Number 1509, Pixley Irrigation District Detachment with the following condition:
 - a. The Angiola Water District shall pay the currently outstanding assessment charges to the Pixley Irrigation District.
 6. Waive the protest hearing for this proposal in accordance with Government Code section 56663 and order the detachment without an election.
 7. Authorize the Executive Officer to sign and file a Notice of Exemption with the Tulare County Clerk.

Figures:

- | | |
|----------|--|
| Figure 1 | Site Location Maps |
| Figure 2 | APNs map |
| Figure 3 | Cooperative Agreement between Angiola WD and Pixley ID |
| Figure 4 | State Controller Financial Information |
| Figure 5 | Pixley ID Letter |
| Figure 6 | Notice of Filing |

**ANGIOLA
WATER DISTRICT
(Tulare County)**

LOWER TULE

Road 24

Avenue 120

Area of Overlap

Avenue 104

PIXLEY

KINGS COUNTY

ANGIOLA

Road 40

State Route 43

Avenue 96

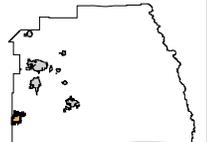
Avenue 88

Homeland Canal

ALPAUGH

Figure 1

- Angiola WD
- Pixley ID
- Lower Tule ID
- Alpaugh ID
- Parcels



0 0.5 1 Miles

Created by Tulare County LAFCO



**COOPERATIVE AGREEMENT FOR GROUNDWATER PROTECTION BETWEEN THE
PIXLEY IRRIGATION DISTRICT, LOWER TULE RIVER IRRIGATION DISTRICT AND THE
ANGIOLA WATER DISTRICT**

THIS AGREEMENT, is made and entered into this First day of January, 2013, by and between Pixley Irrigation District ("PID") and Lower Tule River Irrigation District ("LTRID"), both irrigation districts duly organized and existing pursuant to Division 11 of the Water Code of the State of California, and together hereinafter called "PID/LTRID", and the Angiola Water District, a water district duly organized and existing pursuant to Division 13 of the Water Code of the State of California, hereinafter called "AWD" (collectively the "Parties").

WITNESSETH:

WHEREAS, AWD has groundwater wells on lands within and outside the jurisdictional boundaries of PID (although all such lands are contained within the boundary of AWD) on which AWD operates groundwater pumping well fields, hereinafter referred to as the "Well Field Lands"; and

WHEREAS, AWD distributes water produced by its wells on the Well Field Lands through a system of canals and other conveyances to lands owned by landowners within AWD; and

WHEREAS, the landowners holding lands within AWD have entered into an agreement entitled ANGIOLA WATER DISTRICT SECOND RESTATED WATER DISTRIBUTION AGREEMENT dated August 8, 2005 (and incorporating the terms of several earlier similar agreements) ("AWD Distribution Agreement"), which was recorded in Tulare and Kings counties, and which provides, in part, that "all rights whatsoever to extract ground water (sic) from the South Lake Property for any purposes except domestic use" has been transferred to and/or administered by AWD; and

WHEREAS, said AWD Distribution Agreement further provides, in part, "...as provided at Water Code Section 382, a Landowner may elect to voluntarily forego use of all or part of its pro-rated share of the water subject to this Agreement for a period of time specified and transfer the same outside the District boundaries,..." and

WHEREAS, PID/LTRID has historically objected to AWD's use of groundwater developed from the Well Field Lands, claiming a detriment to the landowners within PID and LTRID (although no individual landowner within PID/LTRID has made any similar objection to AWD); and

WHEREAS, PID/LTRID has objected to AWD allowing landowners to take groundwater from the Well Field Lands to lands outside AWD's jurisdictional boundaries; and

WHEREAS, AWD has disputed such PID/LTRID objections and has asserted that such objections are without merit; and

WHEREAS, the Parties have met and conferred in a good faith attempt to achieve conditions which attempt to alleviate said objections without the necessity of expensive and protracted legal proceedings; and

WHEREAS, the Parties have identified groundwater pumping conditions and corresponding mitigation measures that provide for enhanced cooperation between the Parties and provide mutually beneficial groundwater protection that also addresses the PID/LTRID objections; and

WHEREAS, nothing in this Agreement is intended to be, nor shall any provision contained herein be construed as, an admission or concession by the Parties, including, without limitation, of liability or wrongdoing nor be considered conclusive on the respective merits, or lack thereof, of their respective objections, claims or legal positions.

NOW, THEREFORE, it is agreed by and between the Parties hereto as follows:

1. Agreement Regarding Groundwater Pumping by AWD.

A. Rolling Average Limitation. The total amount of groundwater produced or delivered by AWD from the Well Field Lands of AWD shall not exceed 130,000 acre-feet ("a.f.") in any consecutive 5-year period during the term of this Agreement. (References throughout this agreement to "year" shall mean a calendar year; the terms "annual" or "annually" shall be interpreted consistent with this definition of "year").

B. Maximum Annual Pumping Limitation. The above section A. notwithstanding, AWD shall in no event pump more than 36,000 a.f. in any single year. The Parties may agree to an increase of no more than 2,000 a.f. in any year for which special dry-year circumstances exist (as agreed mutually by the parties), with the understanding that such additional water shall be counted in the rolling average calculation for subsequent years, shall not occur in consecutive years, and shall be subject to payment of a mutually agreeable additional mitigation contribution over and above that required by paragraph 2.A. below.

C. Maintenance of Landowner Pumping Restriction. This Agreement is predicated upon the provisions of the AWD Distribution Agreement pertaining to the transfer and administration of groundwater extraction rights from the Angiola landowners to AWD remaining in full force and effect during the term of this Agreement. The Parties understand and agree that said Agreement does not apply to wells for domestic uses that are ancillary to agricultural uses, or to wells that produce water that is used for animal husbandry purposes. Such uses shall not be considered a violation of this Agreement and water pumped from such wells shall not incur mitigation contribution obligations as provided in paragraph 2.A. below.

D. Measurement and Reporting. AWD shall maintain volumetric pumping records of all groundwater produced from the Well Field Lands and shall provide pumping reports to PID/LTRID no later than 30 days following the end of each quarter of each calendar year, along with a Well Field Land map showing the location of all wells in service and capable of providing groundwater to the AWD system during the reporting period. PID/LTRID, through its designated agents, shall have the right of access to the Well Field Lands at all reasonable times with reasonable notice to and appointment with AWD personnel for the purpose of verifying reported pumping activities. AWD shall specifically notify PID/LTRID of any new wells that are drilled or put into production by AWD following execution of this Agreement.

E. Place of Use. AWD shall not deliver, or cause to be delivered, any groundwater subject to this agreement for beneficial use on any lands outside of Tulare and Kings counties, nor shall it enter into agreements with any of its landowners to transfer such groundwater to any lands identified in AWD-Landowner Transfer Agreements executed pursuant to the pertinent provisions of the AWD Distribution Agreement which are outside of Tulare and Kings counties.

F. Change in District Boundaries. Should AWD's jurisdictional boundaries be expanded in the future, this Agreement and the quantities provided for herein shall remain in effect. The Parties may agree to expand this Agreement to address such

expansion on mutually agreeable terms, but shall not be under any obligation to do so.

G. Agricultural Use Only. AWD agrees that any groundwater pumped by it shall be for agricultural uses or domestic uses that are ancillary to agricultural uses (non-municipal) with the following exception. It is understood by the Parties that AWD and the Alpaugh and Allensworth Community Services Districts are working on a cooperative solution to the drinking water quality issues present in each of those Districts. It is agreed that groundwater produced from wells located in the Well Field Lands may be used as part of that solution, with the understanding, however, that the quantities of water produced by AWD and delivered to Allensworth or Alpaugh, together with any return water delivered to AWD by Allensworth or Alpaugh in excess of the quantities delivered by AWD, shall be subject to paragraphs 1A., 1B. and 2.A., and that in no way shall this Agreement purport to impact or in any manner limit pumping in either Allensworth or Alpaugh for use by Allensworth or Alpaugh.

2. Mitigation Program.

A. Mitigation Contributions. The Parties agree that, in addition to conjunctive use of imported and local surface water supplies, direct groundwater recharge is one of the recognized and effective methods for sustaining the future availability of groundwater within the Tule Sub-basin. AWD does not have land suitable for direct groundwater recharge within its boundary. PID/LTRID either owns or has access to lands within said Districts which are suitable for direct recharge and PID/LTRID is currently providing for said recharge. In an effort to appropriately contribute to and assist PID/LTRID in its recharge activities and to provide mitigation for impacts of groundwater pumping which may be occurring within the Well Field Lands, AWD shall contribute to a dedicated fund maintained by PID/LTRID solely for groundwater recharge purposes an annual cash payment intended to be used by PID/LTRID in acquiring supplemental imported water for direct recharge. Such contribution shall initially consist of (i) \$10 per acre foot for the first 12,000 a.f., (ii) \$15 per acre foot for the next 12,000 a.f., and (iii) \$20 per acre foot for the balance of any groundwater pumped by AWD from the Well Field Lands in any year during the term of this Agreement. Said contribution amounts shall remain fixed for four (4) year periods, but shall be subject to reasonable adjustment by agreement of the parties provided that, in the event an agreement cannot be reached, the adjustment shall be based upon any change which may have occurred during the preceding 4 year period in the charges from the Bureau of Reclamation to LTRID for the purchase by LTRID of Class 2 CVP water. The charges for water year 2012 are attached as Exhibit A and shall serve as the baseline for adjustment of costs which shall occur again in January 2017 (using the water year 2016 Class 2 CVP Rates) and thence again every four years. By way of example only, and not by limitation, for a year in which AWD pumps 20,000 a.f. of groundwater, AWD shall contribute \$240,000 to the fund. The amount of the contribution to be paid for water in excess of 36,000 a.f. in any year shall be subject to agreement of the Parties as provided in paragraph 1.B.

B. Use of Mitigation Funds. PID/LTRID shall collect and hold in a separate account, pending disbursement as herein provided, any funds contributed by AWD pursuant to Paragraph 2.A. above, and shall only use such funds for the purpose of acquisition of supplemental surface water for recharge and shall not be under any obligation to obtain prior approval for the use of such funds from AWD. For purposes of this paragraph, recharge can be defined as direct recharge, but may, at LTRID/PID's sole discretion, include water which is provided under separate agreement from PID/LTRID to AWD, as indirect recharge (i.e. in lieu of pumping). PID/LTRID shall provide an annual report to AWD no later than 30 days following the end of each year describing the activities undertaken and the amounts of water acquired by PID/LTRID with the funds contributed

by AWD hereunder.

C. AWD Land Retirement. AWD is currently in the process of establishment of a Groundwater Land Retirement/Groundwater Conservation Easement Program that has as its goal a reduction in the extraction of the groundwater supply, now and into the future, underlying the Well Field Lands, PID/LTRID's jurisdictional boundaries and the Tule Sub-basin as a whole. The nature of such programs is to idle lands from groundwater production pursuant to formal and/or permanent agreement so that the groundwater that would have been used on those lands will be available for other lands, thus ultimately limiting total pumping. The parties agree that said in lieu water created shall be limited by this Agreement to 1.6 a.f. per acre so restricted. PID/LTRID agree that if all of the following conditions are met as part of that process, the quantities referenced in subparagraphs 1A., 1B. and 2A(i) above shall be increased by 1.6 a.f. for each acre of land placed into the Program that meets these requirements:

i. Each complying acre of acquired and/or easement encumbered lands shall be located within the area bounded on the north and the south by the lines specified in California Department of Water Resources Bulletin 118 (Tule Sub-Basin) but defined on the west by the Tulare County line and the east by a north - south line which, for this purpose, follows the general route of Tulare County Road 192;

ii. An easement for the benefit of AWD, or other conforming document, containing a permanent covenant has been established and recorded against each affected acre specifying that owners of such land, from the effective date of the recordation of the easement/covenant affecting the parcel and continuing thereafter in perpetuity, shall neither be entitled to extract groundwater therefrom nor to make use of any groundwater thereon originating from any offsite source, either within the boundary defined in paragraph 2C(i) or directly affecting the area contained within the boundary. During the term of this Agreement, in addition to AWD being the named beneficiary of the easement/covenant, PID/LTRID shall be referenced in said documentation as a third party beneficiary entitled to enforcement of the easement/covenant. The parties hereto further agree that during the existence of this Agreement, the fact of the existence of the easement/covenant upon the affected parcels shall not be used as a credit by AWD for additional groundwater pumping outside of the area covered by this Agreement except with the concurrence of PID/LTRID;

iii. Each complying acre of acquired and/or easement encumbered lands shall be outside the jurisdictional boundaries of AWD, shall not have pre-existing permanent restrictions on the right to extract groundwater therefrom or to use groundwater from offsite sources thereon by prior action of the landowner; such as through an agreement with a public district to permanently forego a groundwater allotment for the purposes of transferring such groundwater allotment to other lands;

iv. AWD shall be exclusively responsible for the actual costs of acquiring any land subject to this paragraph 2C or for the negotiation and placement of a Groundwater Conservation Easement which it intends to make subject to the provisions of this paragraph 2C, and AWD shall not be entitled to receive any credit or offset for such acquisition and or easement costs expended by it against mitigation contributions it has otherwise agreed to provide under paragraph 2A.

v. AWD shall have completed appropriate CEQA review, either on a programmatic or case-by-case basis, prior to implementation of such a Program.

D. Cooperation in Future Mitigation. AWD continues to investigate additional

groundwater resource management strategies (e.g. direct recharge by injection well or AWD's provision of surface water to PID/LTRID groundwater pumpers in lieu of said pumping) and PID/LTRID agree to meet and confer with AWD relative to additional mitigation credits in the event viable methodologies prove out or exigent circumstances otherwise necessitate during the term of this Agreement. Specifically, the Parties agree to cooperate, where appropriate, in identification of sources of surface water which may be available which, if imported into the Tule Sub-basin, could assist in the reduction of groundwater extraction and add further to the sustainability of the groundwater resource.

3. Settlement of Claims.

A. Current Litigation and this Agreement. Upon execution hereof, PID/LTRID shall dismiss, with prejudice, the two pending Petitions for Writ of Mandate (CEQA) currently pending in Kern County Superior Court, with each party to bear its own costs and expenses, including attorney fees, incurred with respect to such actions. Each Party further agrees that it shall cooperate with the others in the defense of this Agreement, and each Party agrees that it shall be responsible for its own costs, including attorney fees, in such defense.

B. Potential Claims. During the term of this Agreement, and provided AWD is not in breach of this Agreement, PID/LTRID shall not claim that AWD's pumping of groundwater is without right (or is otherwise unlawful), that it damages PID/LTRID landowners, or in any other way take steps intended to challenge such groundwater pumping whether through the legal process, in any related regulatory forum, or otherwise.

C. Tolling Agreement. The Parties agree that the time period for bringing any claim, as against each other, related to the subject matter of this Agreement which has not been time-barred as of the date of this agreement, shall be tolled during the term of this Agreement.

D. Third Party Claims. PID/LTRID shall be under no obligation to defend a challenge to the right of AWD to pump groundwater, as herein provided or in any other manner, brought by any third party claimant. However, in the event a landowner within PID/LTRID pursues such a claim, and such claim is predicated upon the status of such landowner as a landowner within PID/LTRID, AWD may elect to terminate this Agreement at any time during the term hereof without the 180 days notice required under paragraph 4. below.

E. No Forfeiture. The Parties agree that any cessation or reduction in use of water as a result of performance of this Agreement shall be deemed equivalent to a reasonable and beneficial use of water (and/or, at minimum, a best management practice in groundwater management) to the extent of the cessation or reduction in use, and if and when this Agreement is terminated, no forfeiture of water rights of AWD or its landowners, whatever they may be as of the effective date of this Agreement, shall occur as a result of any such cessation or reduction in use.

4. Effective Date and Term. This Agreement shall have an effective date of January 1, 2013, and shall remain in effect, so long as neither Party has committed a material uncured breach of its terms, for an initial period of twenty (20) years, and continue on an annually renewing basis thereafter. Following the expiration of the initial term, either Party may terminate this Agreement, without the necessity of a cause, by providing 180 days written notice to the others. In such a case, any mitigation contributions accruing prior to the termination date shall be paid in full. In the event of failure to pay such accrued contribution obligations, the obligations shall survive termination of this Agreement For purposes of such collection.

IN WITNESS WHEREOF, the Parties, pursuant to resolution duly and regularly adopted by each Party's respective Board of Directors have caused these presents to be executed by their proper and respective officers and sealed with their respective seals the day and year first above written.

Pixley Irrigation District ("PID")

By: Frank E Junio
Frank Junio, President

Date: 4-1-2013

By: [Signature]
Daniel Vink, Secretary

Date: 4-1-13

Lower Tule River Irrigation District ("LTRID")

By: [Signature]
Anton Simonich, President

Date: 4-1-13

By: [Signature]
Daniel Vink, Secretary

Date: 4-1-13

Angiola Water District ("AWD")

By: [Signature]
Richard L. Schafer, President

Date: 03.28.13

By: [Signature]
Matthew H. Hurley, Secretary

Date: 3-28-13

EXHIBIT B
LOWER TULE RIVER IRRIGATION DISTRICT
2012 Rates and Charges
(Per Acre-Foot)

Basis for Paragraph
2.A. Adjustments

| | Irrigation Water Class 1 | Irrigation Water Class 2 | Other Water Class 1 | Other Water Class 2 |
|--|--------------------------------|--------------------------------|------------------------|------------------------|
| COST-OF-SERVICE (COS) RATES | | | | |
| Capital Component ¹ | | | | |
| O&M Components | | | | |
| Water Marketing | \$6.43 | \$6.43 | \$3.13 | \$3.13 |
| Storage | \$8.03 | | \$7.49 | |
| Conveyance Pumping ² | | | | |
| Conveyance | \$0.15 | \$0.15 | | |
| TOTAL COS RATES | \$14.61 | \$6.58 | \$10.62 | \$3.13 |
| MINIMUM OTHER WATER RATE ^{3,4} | | | \$15.00 | |
| CHARGES AND ASSESSMENTS (Payments in addition to Rates) | | | | |
| P.L. 102-575 Surcharges | | | | |
| Restoration Fund Payment [Section 3407(d)(2)(A)] | \$9.39 | \$9.39 | \$18.78 | \$18.78 |
| Friant Surcharge [Section 3406(c)(1)] | \$7.00 | \$7.00 | \$7.00 | \$7.00 |
| P.L. 106-377 Assessment (Trinity Public Utilities District) [Appendix B, Section 203] | \$0.05 | \$0.05 | \$0.05 | \$0.05 |

EXPLANATORY NOTES

- ¹ Contractor's rate reflects contract has converted to 9(d) pursuant to the San Joaquin River Restoration Settlement Act. As such, all current and future obligations for construction costs will be repaid through a separate repayment agreement.
- ² Conveyance and Conveyance Pumping operation and maintenance costs were removed for ratesetting purposes and are to be direct billed.
- ³ Cost of Service rate is the greater of the CVP minimum rate of \$15.00 per acre-foot or the cost of service rate.
- ⁴ Class 2 Other Water rate will be calculated at time of Contractor's request.

Additional details of the rate components are available on the Internet at
www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html

Exhibit A to
PID/LTRID - AWD Cooperative
Agreement

Figure 4a

| | FY 01/02 | FY 02/03 | FY 03/04 | FY 04/05 | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 | FY 10/11 | FY 11/12 |
|-------------------------------------|--------------------|--------------------|--------------------|---------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| ANGIOLA WATER DISTRICT | | | | | | | | | | | |
| Operating Revenues | | | | | | | | | | | |
| Water Sales | | | | | | | | | | | |
| Residential | | | | | | | | | | | |
| Business | | | | | | | | | | | |
| Industrial | | | | | | | | | | | |
| Irrigation | \$60,000 | \$2,793,071 | \$2,765,458 | \$2,999,726 | \$1,660,336 | \$1,500,867 | \$3,251,207 | \$2,727,072 | \$3,545,286 | \$2,933,230 | \$661,119 |
| Sales for Resale | | | \$30,000 | \$11,870 | | | | | | | |
| All Other Sales | | | | | | | | | | | |
| Water Services | \$2,569,788 | | | \$120,087 | \$214,989 | \$120,012 | \$355,862 | \$511,806 | \$689,705 | \$503,203 | \$2,001,123 |
| TOTAL OPERATING REVENUE | \$2,629,788 | \$2,793,071 | \$2,795,458 | \$3,131,683 | \$1,875,325 | \$1,620,879 | \$3,607,069 | \$3,238,878 | \$4,234,991 | \$3,436,433 | \$2,662,242 |
| Operating Expenses | | | | | | | | | | | |
| Source of Supply | \$639,295 | \$597,921 | \$857,152 | \$1,288,153 | \$898,907 | \$848,287 | \$1,053,049 | \$83,765 | \$85,566 | \$87,691 | \$20,386 |
| Pumping | \$1,068,131 | \$1,453,763 | \$1,083,107 | \$1,236,806 | \$161,027 | \$142,904 | \$1,743,075 | \$2,534,613 | \$2,962,071 | \$1,770,030 | \$629,771 |
| Water Treatment | | | | | | | | | | | |
| Administration and General | \$89,110 | \$101,406 | \$112,695 | \$110,091 | \$139,822 | \$130,517 | \$91,339 | \$105,597 | \$138,238 | \$100,393 | \$275,174 |
| Customer Accounts | | | | | | | | | | | |
| Transmission and Distribution | \$506,795 | \$503,391 | \$524,614 | \$497,805 | \$570,563 | \$443,690 | \$644,288 | \$676,469 | \$639,207 | \$742,137 | \$847,435 |
| Depreciation and Amortization | \$84,929 | \$98,720 | \$97,441 | \$96,399 | \$104,264 | \$85,559 | \$87,979 | \$121,161 | \$222,492 | \$221,730 | \$221,730 |
| Other Operating Expenses | | | | | | | | | | | |
| TOTAL OPERATING EXPENSES | \$2,388,260 | \$2,755,201 | \$2,675,009 | \$3,229,254 | \$1,874,583 | \$1,650,957 | \$3,619,730 | \$3,521,605 | \$4,047,574 | \$2,921,981 | \$1,994,496 |
| OPERATING INCOME (LOSS) | \$241,528 | \$37,870 | \$120,449 | (\$97,571) | \$742 | (\$30,078) | (\$12,661) | (\$282,727) | \$187,417 | \$514,452 | \$667,746 |
| Non-Operating Revenues | | | | \$801 | | | \$104,426 | \$80,356 | \$25,740 | \$15,700 | \$6,349 |
| Interest Income | | | | | | | | | | | \$30,000 |
| Rents, Leases and Franchises | | | | | | | | | | | |
| Taxes and Assessments | | | | | | | | | | | |
| Current Secured and Unsecured (1%) | | | | | | | | | | | |
| Voter Approved Taxes | | | | | | | | | | | |
| Property Assessments | | | | | | | | | | | |
| Special Assessments | | | | | | | | | | | |
| Prior Year and Penalties | | | | | | | | | | | |
| Intergovernmental | | | | | | | | | | | |
| Federal | | | | | | | | | | | |
| State | | | | | | | | | | | |
| Other Governmental Agencies | | | | | | | | | | | |
| Other Non-Operating Revenues | \$90,000 | | \$9,360,503 | \$17,823,264 | \$257,468 | | | | | | |
| TOTAL NON-OPERATING REVENUES | \$90,000 | \$0 | \$9,360,503 | \$17,824,065 | \$257,468 | \$0 | \$104,426 | \$80,356 | \$25,740 | \$15,700 | \$36,349 |
| Non-Operating Expenses | | | | | | | | | | | |
| Interest Expense | \$30,519 | \$26,749 | \$21,188 | \$1,838 | \$365 | \$5,043 | \$209,485 | \$250,789 | \$257,980 | \$233,860 | \$255,887 |
| Other Non-Operating Expense | | | | | | | | | | | |
| TOTAL NON-OPERATING EXPENSES | \$30,519 | \$26,749 | \$9,381,691 | \$17,825,102 | \$775,125 | \$5,043 | \$528,348 | \$250,789 | \$257,980 | \$233,860 | \$255,887 |
| NON-OPERATING INCOME (LOSS) | \$59,481 | (\$26,749) | (\$21,188) | (\$1,037) | (\$518,022) | (\$5,043) | (\$423,922) | (\$170,433) | (\$232,240) | (\$218,160) | (\$219,538) |
| NET INCOME (LOSS) | \$301,009 | \$11,121 | \$99,261 | (\$98,608) | (\$517,280) | (\$35,121) | (\$436,583) | (\$453,160) | (\$44,823) | \$296,292 | \$448,208 |
| CASH INCOME (LOSS) | \$385,938 | \$109,841 | \$196,702 | (\$2,209) | (\$413,016) | \$50,438 | (\$348,604) | (\$331,999) | \$177,669 | \$518,022 | \$669,938 |

Figure 4b

| | FY 01/02 | FY 02/03 | FY 03/04 | FY 04/05 | FY 05/06 | FY 06/07 | FY 07/08 | FY 08/09 | FY 09/10 | FY 10/11 | FY 11/12 |
|-------------------------------------|--------------------|--------------------|----------------------|--------------------|----------------------|----------------------|--------------------|--------------------|----------------------|----------------------|----------------------|
| PIXLEY IRRIGATION DISTRICT | | | | | | | | | | | |
| Operating Revenues | | | | | | | | | | | |
| Water Sales | | | | | | | | | | | |
| Residential | | | | | | | | | | | |
| Business | | | | | | | | | | | |
| Industrial | | | | | | | | | | | |
| Irrigation | | | | | | | | | | | |
| Sales for Resale | | | | | | | | | | | |
| All Other Sales | | | | | | | | | | | |
| Water Services | | | | | | | | | | | |
| TOTAL OPERATING REVENUE | \$1,071,974 | \$731,239 | \$1,082,485 | \$927,887 | \$1,982,595 | \$1,864,701 | \$1,552,566 | \$2,101,887 | \$1,333,794 | \$1,516,134 | \$2,527,934 |
| Operating Expenses | | | | | | | | | | | |
| Source of Supply | | | | | | | | | | | |
| Pumping | | | | | | | | | | | |
| Water Treatment | | | | | | | | | | | |
| Administration and General | | | | | | | | | | | |
| Customer Accounts | | | | | | | | | | | |
| Transmission and Distribution | | | | | | | | | | | |
| Depreciation and Amortization | | | | | | | | | | | |
| Other Operating Expenses | | | | | | | | | | | |
| TOTAL OPERATING EXPENSES | \$1,200,445 | \$1,465,462 | \$2,354,680 | \$1,531,160 | \$3,450,608 | \$3,345,514 | \$1,654,606 | \$2,168,461 | \$3,061,916 | \$3,121,198 | \$3,813,760 |
| OPERATING INCOME (LOSS) | (\$128,471) | (\$734,223) | (\$1,272,195) | (\$603,273) | (\$1,468,013) | (\$1,480,813) | (\$102,040) | (\$66,574) | (\$1,728,122) | (\$1,605,064) | (\$1,285,826) |
| Non-Operating Revenues | | | | | | | | | | | |
| Interest Income | | | | | | | | | | | |
| Rents, Leases and Franchises | | | | | | | | | | | |
| Taxes and Assessments | | | | | | | | | | | |
| Current Secured and Unsecured (1%) | | | | | | | | | | | |
| Voter Approved Taxes | | | | | | | | | | | |
| Property Assessments | | | | | | | | | | | |
| Special Assessments | | | | | | | | | | | |
| Prior Year and Penalties | | | | | | | | | | | |
| Intergovernmental | | | | | | | | | | | |
| Federal | | | | | | | | | | | |
| State | | | | | | | | | | | |
| Other Governmental Agencies | | | | | | | | | | | |
| Other Non-Operating Revenues | | | | | | | | | | | |
| TOTAL NON-OPERATING REVENUES | \$1,053,953 | \$998,963 | \$1,029,524 | \$957,981 | \$1,007,705 | \$1,149,321 | \$1,461,398 | \$1,502,712 | \$1,301,377 | \$2,362,283 | \$1,376,170 |
| Non-Operating Expenses | | | | | | | | | | | |
| Interest Expense | | | | | | | | | | | |
| Other Non-Operating Expense | | | | | | | | | | | |
| TOTAL NON-OPERATING EXPENSES | \$31,770 | \$29,198 | \$36,543 | \$34,227 | \$32,975 | \$30,310 | \$24,755 | \$24,355 | \$19,467 | \$14,242 | \$7,185 |
| NON-OPERATING INCOME (LOSS) | \$1,022,183 | \$969,765 | \$992,981 | \$923,754 | \$958,330 | \$1,117,220 | \$1,436,643 | \$1,476,178 | \$1,202,048 | \$2,194,243 | \$1,359,275 |
| NET INCOME (LOSS) | \$893,712 | \$235,542 | (\$279,214) | \$320,481 | (\$509,683) | (\$363,593) | \$1,334,603 | \$1,409,604 | (\$526,074) | \$589,179 | \$73,449 |
| CASH INCOME (LOSS) | \$1,045,202 | \$395,906 | (\$96,028) | \$496,134 | (\$337,361) | (\$189,721) | \$1,508,367 | \$1,621,318 | (\$309,765) | \$805,808 | \$293,996 |



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January 27, 2015

Via US Mail and Email to: BGiuliani@tularecog.org

Ben Giuliani, Executive Officer
 Tulare County Local Agency Formation Commission
 210 North Church Street, Suite B
 Visalia, CA 93291

Re: Application of Angiola Water District for Detachment from Pixley Irrigation District
 LAFCO Case No. #1509

Dear Mr. Giuliani:

Our firm serves as General Counsel for the Pixley Irrigation District (“Pixley”). Thank you for taking the time to meet with Pixley General Manager Dan Vink and myself regarding this matter on January 23, 2015. Per our conversation, we are submitting this correspondence to note Pixley’s formal objection to “LAFCO Case No. #1509, Application of Angiola Water District for Detachment from Pixley Irrigation District” initiated by the Angiola Water District (“Angiola”), and hereby request that you continue the hearing before the Commission on that application, currently set for February 4, 2015.

I. Request for Continuance

Pixley was not made aware of Angiola’s detachment application until it received notice of the February 4, 2015 hearing on January 16, 2015. Pixley did not receive a “Notice of Filing” required by Government Code Section 56658(b)(1)¹. While your office has provided us with mailing lists that include Pixley, no such notice was ever received. In addition to your mailing lists for this matter, your staff provided us with a copy of December 3, 2014 correspondence to a number of different public agencies, purportedly providing the notice required by Section 56658(b)(1). I note that in the addressee block in the heading of the correspondence, Pixley is not listed amongst the public agencies to which this notice was addressed. There is no indication whatsoever on the face of the notice indicating that it was sent to Pixley. Your staff also provided a letter dated December 9, 2014, addressed to Angiola and enclosing a “Certificate of Filing,” with a notation that it was not sent until December 30, 2014. Again, there is no indication whatsoever that this correspondence was actually also sent to Pixley.

I note further that Angiola never provided mailed notice of these proceedings to Pixley in accordance with Section 56654(c), and their application materials confirm that no such mailed notice was provided (See Item A5 of the “Proposal Questionnaire” submitted by Angiola).

¹ All further statutory references are to the Government Code, unless otherwise indicated.

Accordingly, Pixley asserts that notice was defective and the hearing scheduled for February 4, 2015 should be continued so that Pixley has adequate time to inform and consult with its Board of Directors on the requested reorganization of the jurisdictional boundaries of their District, and to inform and consult with their fellow landowners in Pixley, so as to be able to fully investigate the impacts that this proposed detachment will have on them, and allow them the opportunity to participate in these proceedings if they so desire.

II. Preliminary Basis for Objection

A. *Angiola has misrepresented the factual basis for this detachment.*

The property that is the subject of this detachment is a group of parcels owned entirely by Angiola (Item J1 of the Proposal Questionnaire). We are informed and believe that Angiola acquired these parcels in 1987. As the exhibits attached to the Proposal Questionnaire clearly demonstrate, these parcels are not contiguous with the remaining portions of Angiola, and are surrounded on all sides by Pixley. In Item H2 of the Proposal Questionnaire, Angiola asserts that there are “None; zero” improvements on the property proposed for detachment. In fact, there are a number of improvements on this property. The property is utilized by Angiola for the sole purpose of maintaining a groundwater well field utilized to extract groundwater from the basin beneath Pixley and to export that groundwater for use in the remaining portions of Angiola that do not have access to their own groundwater supply. This practice has been the subject of dispute between the agencies, to varying degrees, for decades.

Angiola provides the following explanation of the purported “effects” of this detachment at Item L1 of its Proposal Questionnaire:

“This will reduce the cost of water service to the landowner. Pixley Irrigation District does not currently provide water to these properties, but the property owner pays an assessment to Pixley Irrigation District. The property is already served by and will continue to be served by the Angiola Water District.”

In fact, all of the acreage comprising these parcels is fallow and not irrigated. There are no costs of water service to be reduced because neither agency provides water to these parcels. It is undisputed that Angiola owns and operates the well field parcels for the sole purpose of extracting groundwater from beneath the jurisdictional boundaries of Pixley for export to other properties in Angiola. It is undisputed that Angiola pumps groundwater from this well field at a rate ten times or greater than any other property owner within Pixley.

B. Angiola's well field absolutely benefits from the activities of Pixley.

In Angiola's Resolution 14-04, adopted for the purpose of requesting that the Commission undertake these proceedings, Angiola asserts in the fourth recital that "Angiola Water District receives no benefit or services from its property being located in Pixley Irrigation District." In fact, nothing could be further from the truth. Pixley has, for decades, been utilizing its resources to operate, maintain, acquire and/or construct water distribution facilities, and to acquire surface water supplies, for the purpose recharging the groundwater basin that Angiola's well field is tapped into. The landowners within Pixley have paid assessments, including Angiola and its predecessors to the well field parcels, for those purposes, for decades.

What is particularly galling about Angiola's bald assertion that it receives no benefit from Pixley's activities is that, while Pixley has been actively engaged in acquiring surface water supplies, and maintaining and constructing facilities that facilitate recharging of the groundwater basin, Angiola and its landowners sold their rights to surface supplies for a tidy profit, rather than maintain those supplies and reduce their reliance on groundwater. In neighboring Dudley Ridge Irrigation District, an Angiola landowner was involved in the sale precious State Project surface supplies to Mojave Irrigation District for millions of dollars, none of which was used to bring in new surface supplies to the area, instead backfilling surface supplies forever lost from the Central Valley by pumping more groundwater from an already overburdened basin.

The most telling piece of evidence that demonstrates that Angiola does indeed benefit from the activities of Pixley is the so-called "Cooperative Agreement" entered into by Angiola, Pixley and Lower Tule River Irrigation District in 2013 (included with Angiola's application materials). The decades old dispute over Angiola's well field was most recently exacerbated by the sale of the surface water supplies described above. In an effort to avoid protracted litigation, Pixley and Lower Tule River Irrigation District entered into the so-called "Cooperative Agreement" in 2013 whereby Angiola is providing funds commensurate with its exceptional pumping rates "in an effort to appropriately contribute to and assist PID/LTRID in its recharge activities and to provide mitigation for impacts of groundwater pumping which may be occurring within the Well Field Lands." (Section 2(A) of the "Cooperative Agreement.") The "Cooperative Agreement" cannot be reasonably characterized as anything other than a clear acknowledgment that Angiola's well field impacts Pixley and all of its other landowners, and that all landowners utilizing groundwater in Pixley benefit from Pixley's efforts to recharge that groundwater basin, especially Angiola.

C. *The "Cooperative Agreement" between Pixley and Angiola does not address Angiola's assessments or detachment.*

Nowhere within the four corners of the "Cooperative Agreement" is the issue of Angiola's continued payment of assessments to Pixley or detachment from Pixley addressed. Pixley did not expressly, or even impliedly, consent to waiving or terminating Angiola's assessments or otherwise consent to detachment of the well field from Pixley. It was, is and remains the expectation that Angiola's well field will continue to exist within the jurisdictional boundaries of Pixley, as it has for decades, and that Angiola will continue to pay its assessments just like any other landowner within Pixley.

It has been suggested by Angiola that its payment of mitigation for its well field activities under the "Cooperative Agreement" somehow supersedes or otherwise obviates its obligation to pay assessments. Again, nowhere is such a concept even implied, let alone stated expressly, in the "Cooperative Agreement." Indeed, the "Cooperative Agreement" acknowledges that Angiola is pumping groundwater far in excess of any other landowner within Pixley, and it was intended to provide remuneration for specific activities meant to offset these extraordinary impacts. It was, is and remains the expectation of Pixley that all landowners in Pixley, including Angiola, continue to pay annual assessments that contribute towards the day in and day out maintenance and operation of the facilities that are, among other things, utilized to effectuate the mitigation purposes under the "Cooperative Agreement." No relief from this requirement was ever negotiated in the context of the "Cooperative Agreement."

D. *Creating an island within Pixley for its largest single groundwater user is contrary to sound public policy.*

This application has only proceeded to this point because a special district happens to be the landowner. If this were any other landowner in Pixley, you would undoubtedly recommend denial to the Commission, and the Commission would almost certainly follow your lead. Sound public policy dictates against allowing single landowners to "opt out" of their assessments by seeking detachment from a special district, thereby creating an island within the jurisdictional boundaries of said special district. Particularly here, where the special district owning the property is comprised largely of a single majority landowner, the same rationale applies.

Indeed, Section 56668 outlines a number of factors that the Commission can consider regarding such requests. Section 56668(b), which speaks to the need for "organized community services, the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls," provides several factors in favor of rejecting this detachment. It is undisputed that the groundwater basin in this area is in a state of overdraft. The only entity providing organized community services and controls to address that situation past, present and future, is Pixley. It would simply be incongruent with sound policy to allow Angiola to shirk its obligation to contribute to these activities in the same manner as all other landowners in Pixley, particularly considering the breadth of Angiola's groundwater use.

Section 56668(c) speaks to the effect of the proposed detachment "on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county" as another factor for consideration. Allowing Angiola to opt out places a greater burden on the social and economic interests of Pixley and its landowners. It reduces the funding available to address groundwater impacts in Pixley, and given the increasing emphasis and scrutiny of groundwater use on a statewide basis, subjects Pixley to increased social, economic and legal pressures. Section 56668(e) also allows you to consider the "effect of the proposal on maintaining the physical and economic integrity of agricultural lands." Requiring all landowners to pay assessments to the sole special district undertaking groundwater recharge efforts for the benefit of all of its landowners is integral to maintaining such integrity. Finally, creating an island in Pixley for its single largest groundwater user negatively impacts local government structure, which is also identified as a factor to be considered in Section 56668(f).

E. Angiola's detachment application should be rejected in its entirety, or in the alternative, should be conditioned.

For all of the reasons stated above in Section II (A-D) of this correspondence, the Commission should reject Angiola's detachment application in its entirety. However, if the Commission elects to allow the detachment, Pixley requests that the following conditions be added to the detachment in accordance with Section 56886. Specifically, pursuant to Section 56886(i), the Commission should condition approval upon the requirement that Angiola pay all delinquent assessments. Additionally, pursuant to Section 56886(t), the Commission should condition approval upon the requirement that Angiola continue to pay its previously/currently authorized assessment to Pixley. If you approve the proposed detachment, and Angiola is no longer required to pay assessments towards activities that it clearly benefits from, the remaining landowners in Pixley will be adversely affected by having to assume a greater proportion of the obligations to fund the maintenance and operation of Pixley facilities utilized for groundwater recharge. The simplest means to correct this inequity would be to require Angiola to continue to pay its fair share.

Thank you again for taking the time to meet with Mr. Vink and I last week. We appreciate your consideration in this matter.

Sincerely,

PELTZER & RICHARDSON, LC



Kenneth J. Richardson

KJR/is

cc: Dan Vink, Pixley Irrigation District General Manager



**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 737-4246

December 3, 2014

COMMISSIONERS:

*Steve Worthley, Chair
Juliet Allen, V. Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton*

ALTERNATES:

*Dennis A. Mederos
Amy Shuklian
Mike Ennis*

EXECUTIVE OFFICER:

Ben Giuliani

TO: South Tulare County Pest Control District, CSA No.1
Tulare County Flood Control District, North Kern-South Tulare
Hospital District, Alpaugh Irrigation District, South Tulare County
Memorial District, Tulare Mosquito Abatement District, Tulare
Public Cemetery District, Deer Creek Storm Water District,
Tulare County Board of Education and
COS Community College District.

RE: **Angiola Water District Detachment from Pixley Irrigation District LAFCO Case No.
#1509**

In accordance with subsection (b) of Government Code Section 56658 and subsection (a) of Government Code Section 56661 you are being notified that the Tulare County Local Agency Formation Commission has received a Resolution of Application for the Angiola Water District. The case is tentatively scheduled for consideration by LAFCO on February 4, 2014 at 2:00PM in the Administrative Building, Supervisors Chambers, County Civic Center, 2800 W. Burrel Visalia, California. A copy of the proposed area map is found on the reverse of this page.

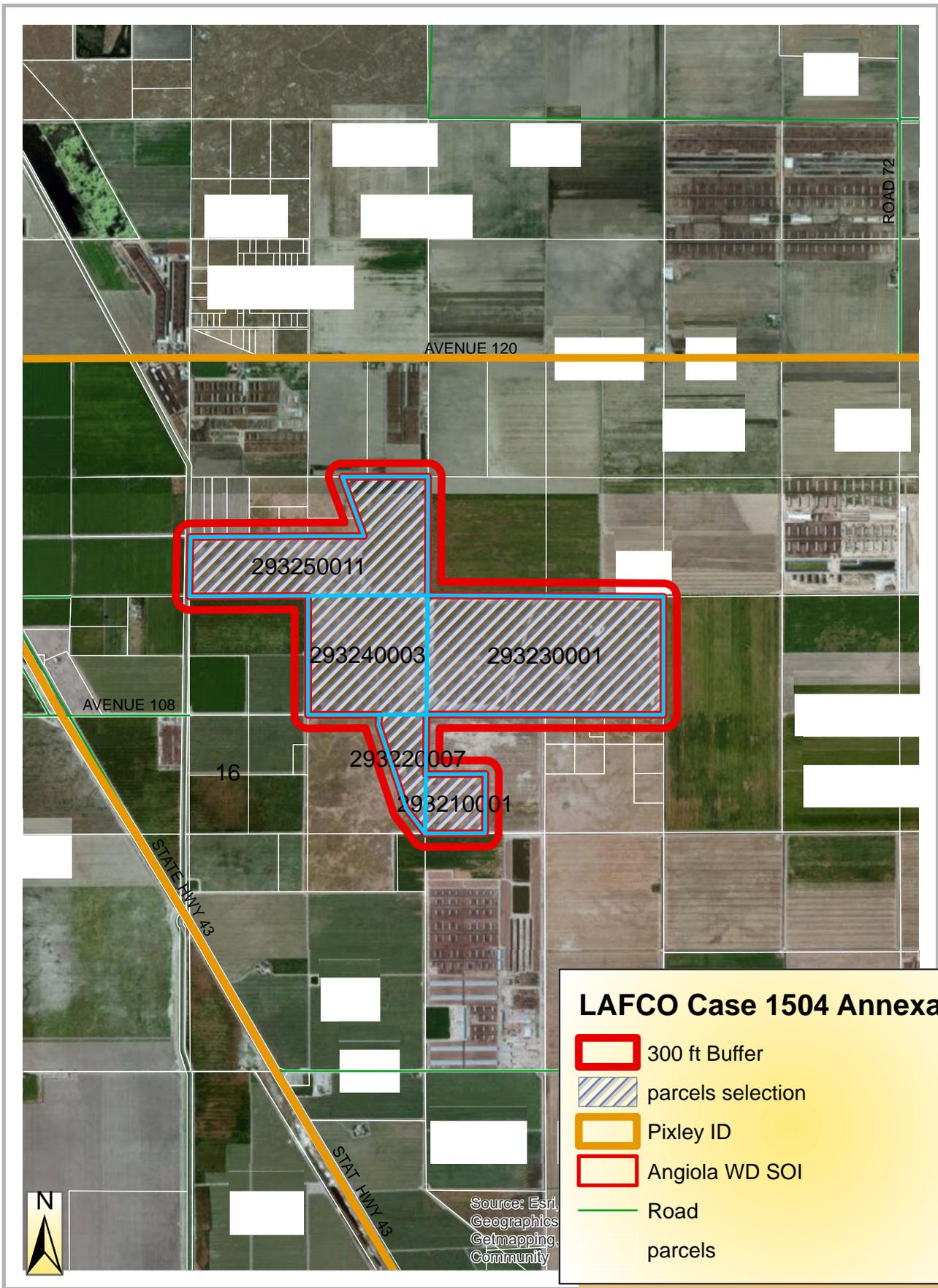
The proposed project is the detachment of property owned by the Angiola Water District from the Pixley Irrigation District. The proposed detachment is located west of Highway 43, East of the Homeland Canal, and South of Avenue 120, approximately 10 miles southeast of the City of Corcoran in Tulare County.

The Commission may, as a result of the hearing, approve boundaries for the proposed annexation that differ from and/or include more or less territory than that described.

Should you have any questions concerning the information provided please contact me at the number listed above.

Sincerely,

Cynthia Echavarria
Staff Analyst



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TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
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Allen Ishida
Cameron Hamilton
Steve Worthley*

ALTERNATES:
*Mike Ennis
Dennis Mederos
Craig Vejvoda*
EXECUTIVE OFFICER:
Ben Giuliani

February 4, 2015

TO: LAFCO Commissioners, Alternates, Counsel
FROM: Cynthia Echavarria, Staff Analyst
SUBJECT: City of Visalia Sphere of Influence Update

Background

The Commission is proposing to update the Sphere of Influence (SOI) for the City of Visalia. The first Municipal Service Review (MSR) for the City of Visalia was adopted as part of the Group 1 MSRs by the Commission at the March 2006 meeting. Since the adoption of the MSR, the City has completed an update to its General Plan. The Sphere of Influence (SOI) for Visalia was last comprehensively reviewed by the Commission in 1974 followed by several minor SOI amendments. Before the Commission can approve a major amendment or a comprehensive update of the SOI, the updated MSR determinations need to be adopted. A Municipal Service Review update was adopted on February 6, 2013. Prior to adoption of the MSR the County had the opportunity to meet with the City to discuss various issues; including growth and population, annexations, potential Sphere of Influence updates and development impact fees.

Discussion

City-County Memorandum of Understanding

This proposed Sphere of Influence Update takes into account the signing of the MOU between the City and the County. As part of the MOU, the following was agreed to regarding the City's and the County's 20-year UDB relationship with a LAFCo adopted SOI:

The County will cooperate with the City to establish a new 20-year UDB adopted by both the County and the City, which the Parties will use their best efforts to make coterminous with the SOI set by LAFCO.

The MOU also includes agreements regarding the County General Plan, development impact fees and provisions regarding development and land use within the County adopted UDB and Urban Area Boundary (UAB).

Environmental Impacts:

The Commission hereby finds that the proposed Sphere of Influence amendment will have significant impacts on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the 2014 General Plan Update Program Environmental Impact Report (SCH# 2010041078) approved by the City of Visalia for the proposed amendment in compliance with the California Environmental Quality Act of 1970. The Commission hereby adopts by reference the City's Statement of Overriding Considerations regarding the impacts to the environment and Mitigation Monitoring and Reporting Program as set forth in the City's EIR. Accordingly, said EIR is hereby incorporated by reference.

The (MMRP) contains a number of mitigation measures relating to municipal services, and specifically hydrology/water quality and transportation/traffic. The MMRP includes mitigation measures to address potential impacts to surface and groundwater, potential flooding, and public safety resulting from implementation of the General Plan buildout.

State Law Requirements

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to establish Spheres of Influence for cities and special districts. Prior to, or in conjunction with establishing an agency's SOI, LAFCO is required to conduct a Municipal Service Review (MSR) for each agency. A MSR update prepared and adopted for the City of Visalia on February 6, 2013.

Required Determinations

GC §56425(e) requires that in determining the Sphere of Influence of each local agency the Commission shall consider and prepare a written statement of its determinations with respect to certain factors prior to making a decision.

(1) *The present and planned land uses in the area, including agricultural and open-space lands.*

The City's General Plan Land Use Element, in addition to the preparation of Specific Plans provides for the logical and reasonable growth and development for the City of Visalia. The City of Visalia has recently completed the process of updating the General Plan and uses a three tier Urban Growth Boundary (UGB) system with the third tier UGB as being equivalent to a 20-year Urban Development Boundary (UDB).

According to the City of Visalia General Plan Update, agriculture is the predominant existing land use in the Planning Area, with 39,518 acres. Over 90 percent of the agricultural lands in the Planning Area are outside of current city limits, but there are notable pockets of land under active cultivation even inside the incorporated area, totaling approximately 2,800 acres.

The General Plan policies provide a framework for limiting conversion of Important Farmland areas to the minimum extent needed to accommodate long-term growth, and phasing

development in such a way that prevents “leap-frogging” or otherwise reducing the viability of remaining farmland. The General Plan also proposes to promote preservation of permanent agricultural open space around the City and maintain compact development through the three-tier growth boundary system.

According 2012 Municipal Service Review the UDB is adequate as a boundary for future growth, although minor adjustments may be appropriate.

(2) *The present and probable need for public facilities and services in the area.*

The City’s two-year budget cycle is an excellent foundation and planning tool to assist the community in its orderly development in the acquisition of municipal facilities and to assure that service needs for the future are met. Clearly defined urban edges reflect a commitment to focus future growth within the City in order to prevent urban sprawl and protect environmentally sensitive areas. The UDB/UGB protect the health, safety, welfare, and quality of life of the residents of Visalia by concentrating future residential, commercial, and industrial growth in areas already served by urban services or areas where such services are to be provided consistent with this General Plan.

(3) *The present capacity of public facilities and adequacy of public services.*

The proposed General Plan will increase demand for water services to a degree that exceeds the limits of existing supply and facilities. The City of Visalia contracts with California Water Service (Cal Water), a private water service provider, to serve the City with potable water and fire protection use. The Cal Water Visalia District completed a comprehensive Water Supply and Facilities Master Plan (Boyle Engineering) in February 2005. The master plan program is intended to proactively address the service needs of the existing customers in light of potential water quality and quantity issues as well as address expansion to the system to meet projected future growth. The master plan has a study area consistent with the City’s UGB.

Despite the fact that the City is not the direct domestic water supplier for its residents the City continues to make significant efforts to ensure that the long term water supply needs of the City continue to be addressed. City officials have indicated that they are studying the feasibility of various alternatives of implementing a City owned domestic water system.

According to the last Municipal Service Review findings the current Urban Development Boundary (UDB) is essentially still adequate as a boundary for future growth, although minor adjustments may be appropriate. The City prepares an award-winning annual budget that clearly and comprehensively describes the services provided by the City to residents and the funds expended for those services.

(4) *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

There are six unincorporated communities within or adjacent to the City SOI (Goshen, Patterson Tract area, Oak Ranch, K Street Island, Tract 92 and Sierra View) and one unincorporated community outside the SOI and UDB that is connected to the same domestic water system that serves Visalia (Tract 396).

(5) *The present and probable need for services related to sewers, municipal and industrial water, or structural fire protection of any disadvantaged unincorporated communities (DUCs) within the sphere of influence.*

Patterson Tract (Tract 34), Tract 359, Goshen, K Street Island and Tract 92 are disadvantaged. All of the DUCs are either served by CalWater's Visalia water system or by a Community Services District. All of the DUCs' sewer services are individual septic systems with the exception of Goshen, which is served by its CSD's sewer system and City's treatment facility. The City and the County have a mutual-aid agreement for fire protection services with five City fire stations and three County fire stations in the Visalia area.

Impact on Prime Agricultural Land, Agriculture and Open Space:

Agriculture is the predominant existing land use in the General Plan Planning Area, with 39,518 acres. As already mentioned over 90 percent of the agricultural lands in the Planning Area are outside of current city limits, but there are notable pockets of land under active cultivation even inside the incorporated area, totaling approximately 2,800 acres. As of 2010, 58 percent of the total agricultural acreage in the Planning Area (25,724 acres) were under Williamson Act contracts. Of these, 2,417 acres are in non-renewal, meaning that at the end of their 10-year period, they will not renew their contracts.

According to the recent General Plan Update significant agricultural land area within the Visalia Planning Area is likely to be converted to urban uses by 2030 in order to accommodate projected growth. At buildout, 55 percent of the Planning Area will be either urban, water resources or other soil types, compared with 33 percent in 2010, while 45 percent will be in agricultural use, down from 67 percent today. If the General Plan were developed to its full capacity, about 14,580 acres of agricultural land would be replaced by urban development. Land classified as "Prime Farmland" and "Farmland of Statewide Importance" account for 89 percent of this land, or 12,490 and 399 acres, respectively.

Continued conversion of agricultural lands to urban uses and rural residential uses could have an impact on the County's agricultural economic base. To protect farmland and open space, the Land Use Element in the General Plan establishes a fairly compact urban growth area, encouraging infill development and new growth adjacent to or near existing urban uses in order to minimize sprawl and unnecessary conversion of agricultural lands.

Municipal Service Reviews:

Municipal Service Reviews provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and adequacy of these services and whether or not any modifications to a city or district's SOI are necessary. MSRs can be used as informational tools by LAFCO and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

The City of Visalia's Municipal Service Review report was prepared pursuant to Section 56430. The report begins by providing background information and then summarizes data collected and analyzed for the purpose of supporting written statements of determination with respect to each of the following:

- Growth and population projections for the affected area
- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence
- Present and planned capacity of public facilities, adequacy of public services and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence
- Financial ability for agencies to provide services
- Status of, and opportunities for, shared facilities
- Accountability for community service needs, including governmental structure and operational efficiencies
- Any other matter related to effective or efficient service delivery, as required by commission policy

The City of Visalia’s MSR update was adopted at the February 6, 2014 meeting. Many of the determinations from the MSR were used in the SOI determinations listed in this report. The MSR is available for review at the Commission’s website: <http://lafco.co.tulare.ca.us/MSRs.asp>

Existing SOI and UDB Comparison:

Attached is a map showing the areas of change between the existing SOI and the new Visalia UDB (UGB Tier 3). Table 1 below shows the land use changes in each of the areas and the total change between the SOI and the UDB. Adopting the UDB as the new SOI would result in a net reduction of over 3,000 acres of land (almost 5 square miles).

Table 1 – Areas of Change (acres)

| Area | Residential | Commercial | Industrial | Public | Park Conservation | Reserve | Agriculture Undesignated | TOTAL |
|--------------|---------------|------------|---------------|------------|-------------------|---------------|--------------------------|---------------|
| A | +1,159 | +25 | +634 | +15 | +180 | | | +2,013 |
| B | | | | | -28 | | -37 | -65 |
| C | | | | | -192 | -1,575 | -788 | -2,555 |
| D | | | | | -18 | -113 | -508 | -639 |
| E | +758 | | | +40 | +40 | | | +838 |
| F | | | | | | -76 | -799 | -875 |
| G | | | | | | | -805 | -805 |
| H | +429 | +10 | | +15 | +15 | | | +469 |
| I | | | | | | | -797 | -797 |
| J | | | | | -70 | | -1,547 | -1,617 |
| K | | | -19 | | | | | -19 |
| L | | | +636 | | | +160 | | +796 |
| TOTAL | +2,346 | +35 | +1,251 | +70 | -73 | -1,604 | -5,281 | -3,256 |

There are areas of overlap between the existing Goshen UDB and Visalia UDB. Tulare County is currently updating the Goshen Community Plan which may affect the location of the Goshen UDB. Due to the areas of overlap between the Goshen UDB and Visalia UDB and the in-progress update of the Goshen Community Plan, Tulare County and City of Visalia staff have requested a continuance of the SOI Update.

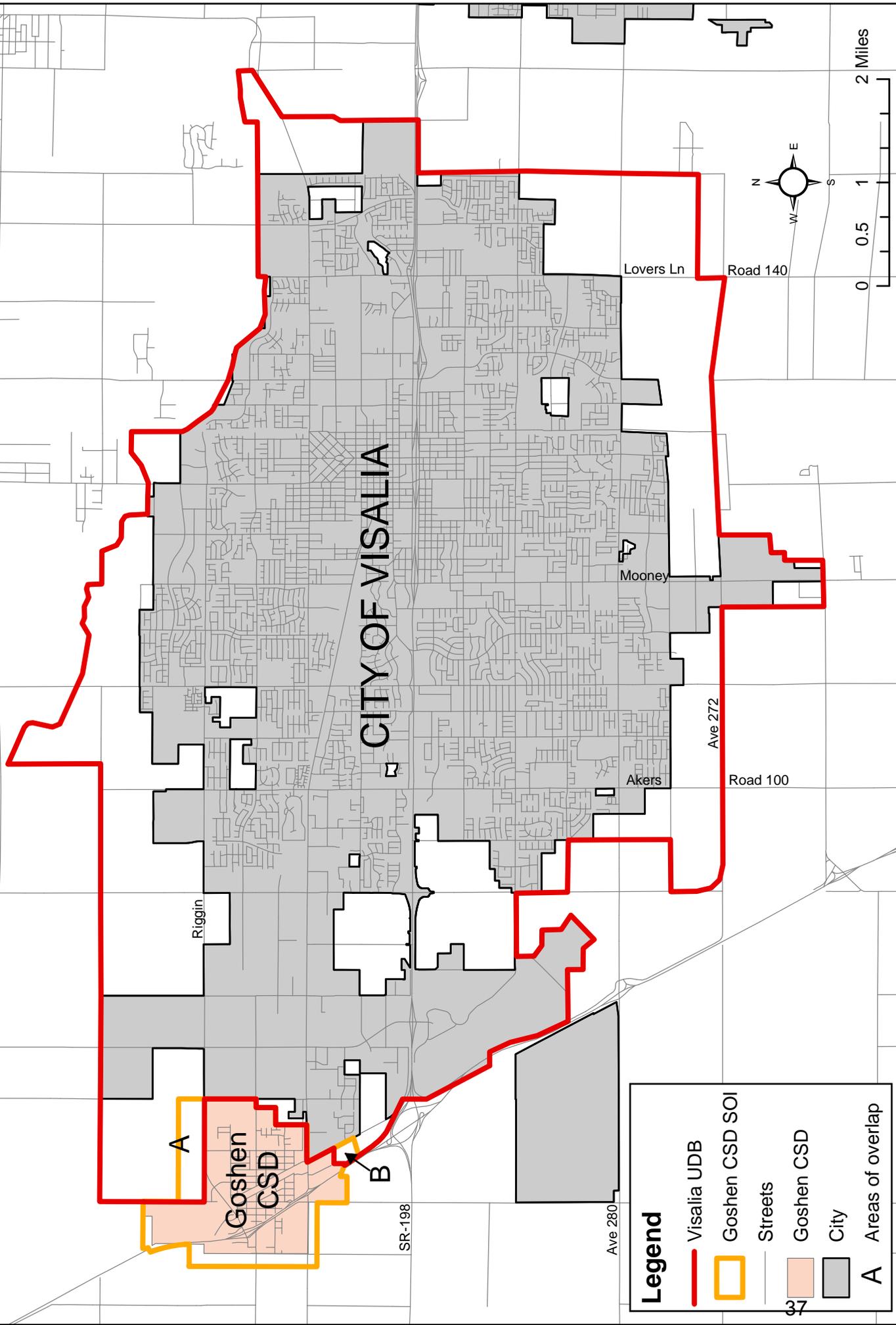
Recommendations:

Continue the public hearing and action on the City of Visalia SOI Update until the Goshen Community Plan is completed.

Attachments:

1. Site Map
2. SOI-UDB Areas of Change
3. City of Visalia General Plan Update Final EIR (CD) or <http://www.visaliageneralplanupdate.com/>
4. City of Visalia Municipal Service Review update (CD) or <http://lafco.co.tulare.ca.us/MSRs.asp>

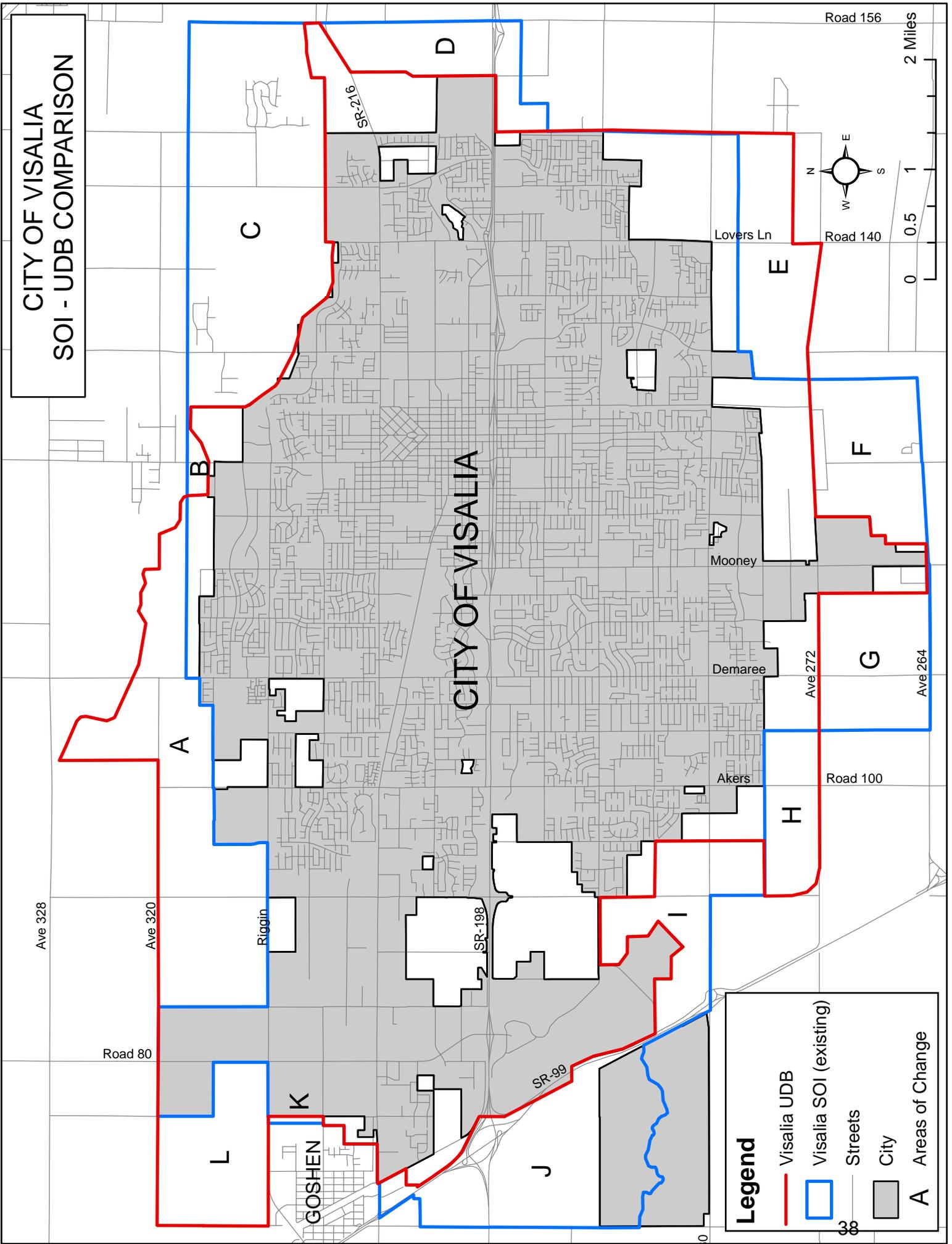
CITY OF VISALIA SOI UPDATE
CASE #1510



Legend

- Visalia UDB
- Goshen CSD SOI
- Streets
- Goshen CSD
- City
- A Areas of overlap

CITY OF VISALIA SOI - UDB COMPARISON



Legend

- Visalia UDB
- Visalia SOI (existing)
- Streets
- City
- Areas of Change

CITY OF VISALIA

GOSHEN

A

B

C

D

E

E

F

G

H

I

J

K

L

Road 156

Road 140

Lovers Ln

Mooney

Demaree

Akers

Ave 272

Ave 264

Road 80

Riggins

SR-198

SR-99

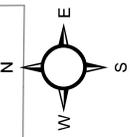
SR-219

2 Miles

1

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0





TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
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ALTERNATES:
*Mike Ennis
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Craig Vejvoda*

EXECUTIVE OFFICER:
Ben Giuliani

February 4, 2015

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Cynthia Echavarria, Staff Analyst

SUBJECT: City of Tulare Sphere of Influence Update

Background

The Commission is proposing to update the Sphere of Influence (SOI) for the City of Tulare. The first Municipal Service Review (MSR) for the City of Tulare was adopted as part of the Group 1 MSRs by the Commission at the March 2006 meeting. A Municipal Service Review update was adopted in August 2014. Before the Commission can approve a major amendment or a comprehensive update of the SOI, the updated MSR determinations need to be adopted. Prior to adoption of the MSR the County had the opportunity to meet with the City to discuss various issues; including growth and population, annexations, potential Sphere of Influence updates and development impact fees. Since the adoption of the MSR, the City has completed an update to its General Plan. The existing Sphere of Influence (SOI) for Tulare was comprehensively reviewed by the Commission in 1974 followed by several minor SOI amendments. The SOI was also comprehensively reviewed in 2001. However, the resulting SOI was rescinded after a successful challenge on the City's environmental document that was used for that SOI update.

Discussion

The 2013 City of Tulare MSR recommended that the City of Tulare's SOI update should wait until after the completion of the General Plan Update and after the completion of the City/County MOU process. On November 7, 2014 the City adopted by resolution the Tulare County General Plan Update. A lawsuit was filed challenging the General Plan Update Environmental Document, *Manro vs City of Tulare* (TCSC Case No. 258532). Part of the lawsuit directly challenges the placement of the City's Urban Development Boundary. *[A copy of the lawsuit is included on a CD in the Commissioners' agenda packets.]*

City-County Memorandum of Understanding

The City of Tulare and County of Tulare entered into a Memorandum of Understanding (MOU) on Dec. 13, 2012. As part of the MOU, the following was agreed to regarding the 20-year UDB relationship with a LAFCO adopted SOI:

The County will cooperate with the City to establish a new 20-year UDB adopted by both the county and the City, which the parties will use their best efforts to make coterminous with the SOI set by LAFCO.

The MOU also includes agreements regarding the County General Plan, development impact fees, and provisions regarding development and land use within the County adopted UDB and Urban Area Boundary (UAB).

This proposed Sphere of Influence Update takes into account the signing of the MOU between the City and the County.

Environmental Impacts:

The Commission hereby finds that the proposed Sphere of Influence amendment will have significant impacts on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the City of Tulare General Plan Update Program Environmental Impact Report (SCH# 2012071064) approved by the City of Tulare for the proposed SOI in compliance with the California Environmental Quality Act of 1970. As mentioned earlier, a lawsuit has been filed against the City of Tulare challenging the EIR. In addition, there is not an indemnification agreement in place between the City and the Commission for the use of the EIR.

The City has adopted a Statement of Overriding Considerations regarding the impacts to the environment and Mitigation Monitoring and Reporting Program as set forth in the City's EIR. The (MMRP) contains a number of mitigation measures relating to municipal services, and specifically hydrology/water quality and transportation/traffic. The MMRP includes mitigation measures to address potential impacts to surface and groundwater, potential flooding, and public safety resulting from implementation of the General Plan buildout.

State Law Requirements

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to establish Spheres of Influence for cities and special districts. Prior to, or in conjunction with establishing an agency's SOI, LAFCO is required to conduct a Municipal Service Review (MSR) for each agency. A MSR update prepared and adopted for the City of Tulare on August 7, 2013.

Required Determinations

GC §56425(e) requires that in determining the Sphere of Influence of each local agency the Commission shall consider and prepare a written statement of its determinations with respect to certain factors prior to making a decision.

(1) *The present and planned land uses in the area, including agricultural and open-space lands.*

The City uses multiple tools to plan for future growth, including but not limited to, General Plan Elements, Specific Plans, and Master Plans. As the City's UDB expands, it will also be necessary to expand the SOI as the UDB approaches the limits of the SOI Boundary.

According to the 2013 MSR update the existing land uses include 5,056 acres of residential, 1,598 acres of commercial, 1,781 acres of industrial, 340 acres of Parks and Recreation, and 1,625 acres of Public facilities. The existing land use contains 8,761 acres of Prime Farmland, 670 acres of Farmland of Statewide Importance, and 3 acres of Unique Farmland. The General Plan environmental impact reports indicates that implementation of the General Plan Update would convert approximately 6,419 acres of farmlands of concern to non-agricultural uses (i.e. any designation except Open Space/Agriculture).

The General Plan Update policies describe the City's intent to concentrate growth within the city and UDB, in part, to protect agricultural lands outside of the UDB from conversion to non-agricultural use. Other policies, included in the General Plan Update outline a mitigation strategy that would apply to a portion of the agricultural lands within the UDB that would be converted to non-agricultural use by development.

(2) *The present and probable need for public facilities and services in the area.*

The City of Tulare is a mix of urban and rural areas. The Tulare General Plan Update indicates that 26.6 percent of the land within the total land area is being used for agriculture uses, 20 percent of the planning area is categorized as Single-Family Residential, and 24.4 percent was identified as Vacant. Other land uses such as commercial, retail, and industrial make up the balance. The City's available residential, industrial and commercial land base is currently building out and may in the future require additional areas for growth.

Continuing at a slightly slower pace of development compared to the average annual growth rate from the last 20 years (1990-2010) of 2.9 percent, the City is expected to witness an additional 42,020 residents over the next 20 years at an average annual growth rate of 2.7 percent. In addition to accommodating future population growth, the City is working to create a pace that is both safe and offers a high quality of life in a manner that can be maintained from both resource and financial points of view.

(3) *The present capacity of public facilities and adequacy of public services.*

As indicated in the original Municipal Service Review, there is no evidence suggesting that the City cannot continue to provide efficient services to existing residents of Tulare.

The recent General Plan Update buildout will increase demand for water services to a degree that would exceed the limits of existing supply and facilities. With continued ground water conservation efforts and infrastructure improvements it is likely that the City could provide efficient water service to future residents. The City has a sound management structure in place that could continue to provide efficient water service to existing and future residents of Tulare. The City has recently adopted a five year series of rate increases to fund operations and unforeseen major repairs and/or improvements to the water system.

The City has several future opportunities to share services and/or facilities in the future, including but not limited to: groundwater recharge efforts, recreational facilities within mutual benefit areas, sharing facilities with the school district, and agricultural land preservation.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

There are five unincorporated communities within or adjacent to the City of Tulare SOI: Matheny Tract, East Tulare Villa, Lone Oak Tract, Soult's Tract, and Tract 103.

(5) The present and probable need for services related to sewers, municipal and industrial water, or structural fire protection of any disadvantaged unincorporated communities (DUCs) within the sphere of influence.

Matheny Tract, East Tulare Villa, Lone Oak Tract, and Soult's Tract are disadvantaged. East Tulare Villa is served by CalWater's Tulco system (which is not connected to CalWater's Visalia system). Matheny Tract is currently served by Pratt Mutual Water Company. The City is working on upgrades to the city water system to connect the Matheny Tract. Pratt MWC will cease to exist once the project is completed. Soult's Tract is served by Soult's Mutual Water Company. The Soult's MWC in coordination with Self Help Enterprises has applied for State grant funding to replace infrastructure to allow for a stable connection to the City system. Oak Tract is connected to the City of Tulare's water system.

All of the DUCs' sewer services are individual septic systems. Tulare County and all of the incorporated cities have a mutual-aid agreement for fire protection services. The proximity of the nearest City or County fire station varies significantly between the unincorporated communities. There are three City fire stations and one County fire station in the Tulare area. County Fire Station #25 is within Tulare City limits.

Impact on Prime Agricultural Land, Agriculture and Open Space:

There are approximately 4,049 acres of land within the Study Area under Williamson Act contract, 1,325 acres of which was put into non-renewal status in 2009. Of this land, approximately 3,620 would be designated for non-agricultural uses (of which 1,180 acres are in non-renewal status) under the Draft General Plan. Some non-renewal status land, bounded by East Tulare Avenue to the north, South Oakmore Street to the east, and East Bardsley Avenue to the south, is envisioned in the Draft TOD Plan for heavy and light industrial, residential, and commercial uses.

The General Plan Update contains a goal and several policies relating to agricultural land. In the Land Use Element, Policy LU-P2.3 directs the City to encourage and provide incentives for infill development in order to, among other things, minimize the conversion of existing agricultural land. In the Conservation and Open Space Element, Goal COS-3 and its associated policies outline the City's strategy to promote the productivity of agricultural land surrounding Tulare and the continued viability of agriculture countywide.

Municipal Service Reviews:

Municipal Service Reviews provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and adequacy of these services and whether or not any modifications to a city or district's SOI are necessary. MSR can be used as informational tools by LAFCO and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

The City of Tulare's Municipal Service Review report was prepared pursuant to Section 56430. The report begins by providing background information and then summarizes data collected and analyzed for the purpose of supporting written statements of determination with respect to each of the following:

- Growth and population projections for the affected area.
- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- Present and planned capacity of public facilities, adequacy of public services and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- Financial ability for agencies to provide services.
- Status of, and opportunities for, shared facilities.
- Accountability for community service needs, including governmental structure and operational efficiencies.
- Any other matter related to effective or efficient service delivery, as required by commission policy.

The City of Tulare's MSR update was adopted at the August 7, 2013 meeting. Many of the determinations from the MSR were used in the SOI determinations listed in this report. The MSR is available for review at the Commission's website: <http://lafco.co.tulare.ca.us/MSRs.asp>

Tulare - Matheny SOI options:

1) Adopt Tulare UDB as the SOI

This would exclude the Matheny Tract from the City SOI. However, this would create a conflict with three conditions of approval of LAFCO Case 1446-T-316:

- E.) At such time as sewer system infrastructure becomes available on the annexation site (Exhibit B), the City of Tulare shall offer extraterritorial sewer service to residents of Matheny Tract who wish to connect to the City system (at resident cost).
- F.) The City shall continue to work with the Pratt Mutual Water Company in an effort to deliver potable water to the Matheny Tract Subdivision (this is predicated on Pratt Mutual's continued good-faith effort to work with the City). In addition, the City shall work in conjunction with the County of Tulare in good faith to make water and sewer service available through the pursuit of grants and other funding mechanisms.
- H.) If 25% of Matheny Tract property owners sign and submit to City of Tulare Staff a petition seeking annexation to the City of Tulare, the City shall process the annexation request in accordance with City annexation policy.

For condition E, an ESA could only be approved outside the SOI if there is a threat to public health. While a failing septic system would qualify for that exemption, this condition is not limited to just failing septic systems.

For condition F, there is an active ESA between the City and Pratt MWC for the provision of domestic water and the City is working on improvements to the City water system which will allow for the connection of Matheny Tract into the City system. However, this condition of approval also requires the City to work with the County of Tulare to make sewer service available to Matheny Tract.

For condition H, the Matheny Tract cannot be annexed if its outside the SOI.

If the Commission were to select Option 1, it is recommended that the following conditions be adopted with the SOI update:

- The City of Tulare must apply and would be responsible for the associated costs for a SOI amendment to include the Matheny Tract if either condition E or H for LAFCO Case 1446-T-316 are fulfilled.
- The City of Tulare shall continue to work in conjunction with the County of Tulare in good faith to make water and sewer service available through the pursuit of grants and other funding mechanisms as specified in condition F for LAFCO Case 1446-T-316.

2) Add the Matheny Tract to the SOI as a community of interest

This would add an additional 271 acres to the SOI. Of which, 194 acres comprise the north and south portions of the Matheny Tract and 77 acres comprise the agricultural parcel that is between the two developed areas that comprise the Matheny Tract. City staff during the City's GP Update process indicated that the Matheny Tract was excluded from the UDB because of the growth inducing impacts of providing City services to that area.

3) Exclude the area from LAFCO Case 1446-T-316 from the SOI

This would be done in anticipation of a detachment from the City of the area included in Case 1446-T-316 if the City does not intend on meeting conditions E, F and H from Case 1446-T-316.

While LAFCO cannot initiate a detachment, the Commission has the authority to condition a change of organization with initiation of another change of organization (GC 56885.5(a) (2)) This would remove 525 acres from the SOI. About 425 acres are in agricultural production and the remaining 100 acres is mostly developed industrial uses and railroad right of way.

Existing SOI and UDB Comparison:

Attached is a map showing the areas of change between the existing SOI and the new Tulare UDB. Table 1 below shows the land use changes in each of the areas and the total change between the SOI and the UDB. Adopting the UDB as the new SOI would result in a net increase of almost 1,300 acres of land (about 2 square miles).

Table 1 – Areas of Change (acres)

| Area | Residential | Commercial | Industrial | Public | Agriculture | East Tulare Villa | Matheny Tract | TOTAL |
|--------------|-------------|-------------|-------------|-------------|---------------|----------------------|---------------|---------------|
| A | | +168 | +252 | +37 | | | | +457 |
| B | -581 | -21 | | | -639 | | | -1,241 |
| C | +259 | | | | | | | +259 |
| D | | | | | -80 | | | -80 |
| E | +86 | | | | | | | +86 |
| F | +936 | +353 | | +600 | | +171 | | +2,060 |
| G | | | | | -120 | | | -120 |
| H | | | +416 | | +458 | | | +874 |
| I | | | | | -655 | | -194 | -849 |
| J | | | | | -281 | | | -281 |
| K | +153 | | | | | | | +153 |
| L | -40 | | | | | | | -40 |
| TOTAL | +813 | +500 | +668 | +637 | -1,317 | +171 | -194 | +1,278 |

Note: Residential includes 461ac of Transit Oriented Development in Area F and 259ac of Village in Area C. Both of which may contain some non-residential land uses.

Matheny Tract:

If the Matheny Tract were included in the SOI as a Community of Interest, the net acreage gain of the SOI would be +1,549. This includes the 194ac Matheny Tract and 77ac of agricultural land. This area is currently undesignated in the Tulare GP Update.

If the area to the north of the Matheny Tract were excluded from the SOI, the net acreage gain of the SOI would be 751ac. This would remove 85ac of residential and 442ac of industrial from the SOI.

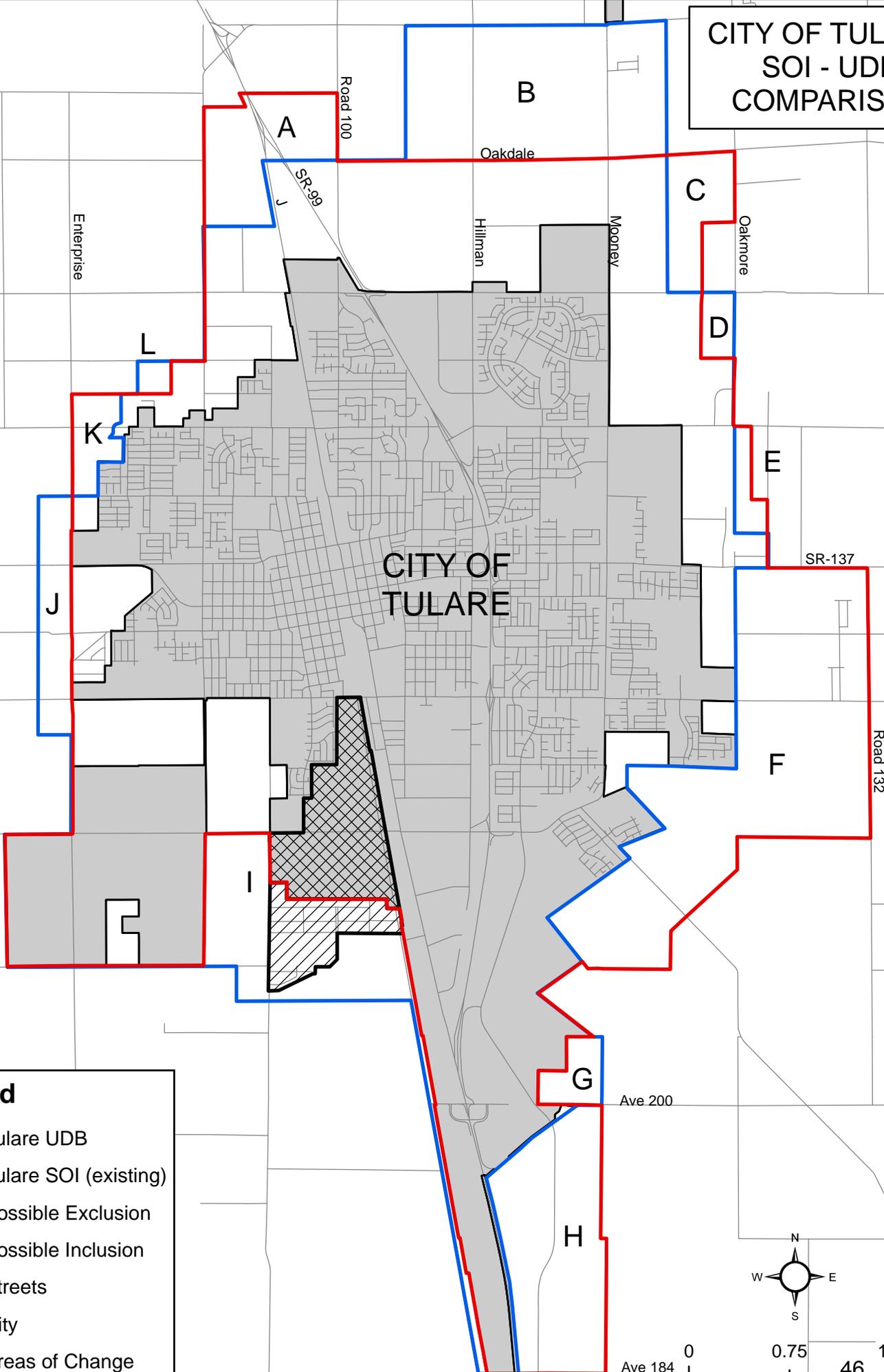
Recommendations:

Due to the lawsuit against the General Plan EIR and the lack of an indemnification agreement between the City and the Commission, it is recommended that the public hearing and action on the City of Tulare SOI Update be continued until the EIR lawsuit is resolved.

Attachments:

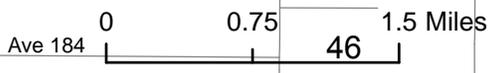
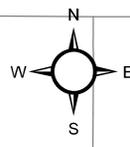
1. SOI-UDB Areas of Change
2. City of Tulare General Plan Update Final EIR (CD) or http://www.ci.tulare.ca.us/local_government/departments/development_services/planning.htm
3. City of Tulare Municipal Service Review update (CD) or <http://lafco.co.tulare.ca.us/MSRs.asp>

**CITY OF TULARE
SOI - UDB
COMPARISON**



Legend

- Tulare UDB
- Tulare SOI (existing)
- Possible Exclusion
- Possible Inclusion
- Streets
- City
- A** Areas of Change





TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Juliet Allen, Chair
Rudy Mendoza, V-Chair
Allen Ishida
Cameron Hamilton
Steve Worthley

February 4, 2015

TO: LAFCO Commissioners, Alternates, Counsel
FROM: Ben Giuliani, Executive Officer
SUBJECT: Requested Amendment to Policy C-9 (County Islands)

ALTERNATES:
Mike Ennis
Dennis Mederos
Craig Vejvoda

EXECUTIVE OFFICER:
Ben Giuliani

Background

Government Code section 56375.3 authorizes LAFCOs to waive protest procedures for the annexation of county islands that are surrounded or “substantially” surrounded by a city (along with other specific requirements such as being developed or developing). Currently, Policy C-9 defines “substantially surrounded” as 65%.

Discussion

The City of Porterville has requested (letter attached) that the Commission amend its definition of substantially surrounded from 65% to 51%. Changing the definition from 65% to 51% would cause the addition of 13 new islands and the expansion of 4 existing islands to qualify for the stream-lined island annexation provisions (Table 1). Also, attached are tables and maps showing all of the existing and potential new islands.

Table 1 – Effects of Definition Change

| | Islands | H. Units | People | Roads C/L Mi. | Area (Acres) | Parcels | Assessed Value |
|-------|---------|----------|--------|------------------|-----------------|---------|-------------------|
| @65% | 39 | 1,238 | 4,244 | 13.87 | 929.3 | 1,195 | \$113,580,216 |
| @51% | 17 | 701 | 2,433 | 8.47 | 513.6 | 611 | \$64,110,521 |
| TOTAL | 52 | 1,939 | 6,677 | 22.34 | 1,442.9 | 1,806 | \$177,690,737 |

LAFCOs across the state have varying or no definition of “substantially surrounded”. A poll was conducted regarding how other LAFCOs define substantially surrounded:

50%+: Orange

52%: San Bernardino

66.7%: Alameda, Napa, San Joaquin

75%: Butte, Fresno, Placer, Santa Cruz, Sonoma

Case by case or undefined: Contra Costa, El Dorado, Kern, Los Angeles, Marin, Monterey, Nevada, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Stanislaus, Yolo

Listed below is existing policy:

I. *There are two ways to define the term ‘substantially surrounded’:*

(a) First is the percentage method. In this context, the terms “substantially surrounded” shall mean that the contiguous territory subject to an AB 1555 annexation must be surrounded by at least sixty five percent (65%) by that city and a county boundary.

(b) Second, an island of unincorporated territory may also be determined to be “substantially surrounded” if that island is surrounded by city limits comprising less than sixty-five percent (65%) AND if the remaining side is comprised of a natural or man-made barrier, including such features as: a river, an irrigation canal, a railway or a divided highway.

If the Commission were to amend policy to change the definition to 51%, staff would recommend the following edits:

- “65%” in subsection (a) would be changed to “51%”.
- Remove subsection (b) as it would no longer be necessary.

The proposed amended policy was reviewed with the Commission at its December 3rd meeting and was reviewed at the City Managers meeting on January 8th. No comments have been received.

Recommendation

Approve the amendment to Policy C-9, County Islands.

Attachments

City of Porterville Request Letter



TCAG/LAFCO
210 N. Church Street, Ste. B
Visalia, CA 93291

NOV 27 2014

MAIL RECEIVED
TCAG/LAFCO
210 N. Church Street, Ste. B
Visalia, CA 93291

NOV 12 2014

MAIL RECEIVED

Local Agency Formation Commission
ATTN: Ben Giuliani, Executive Officer
210 N Church Street, Suite B
Visalia, CA 93291

November 6, 2014

Mr. Giuliani,

The City Council of the City of Porterville would like to request that the Tulare LAFCo review and amend Policy C-9, Section 9.3 Interpretation of AB 1555- Island Annexation Policy. As you are aware, the City of Porterville has uniquely convoluted boundaries. As such, our municipality finds itself with a series of developed areas that are surrounded more than 50% by the city limits, but not all are 65% surrounded. The City Council would appreciate LAFCo's consideration of an adjustment of the "substantially surrounded" threshold, from 65% surrounded to 51% surrounded, to allow annexation of islands per the provisions of Policy C-9. We anticipate that this amendment to LAFCo's policy would result in a simplified annexation process for multiple developed, unincorporated communities adjacent to the city limits, as identified in the enclosed figure.

We look forward to attending a future meeting where Tulare LAFCo would consider this policy amendment.

Respectfully,

Milt Stowe, Mayor

Enclosure

cc: Community Development Department

BEFORE THE LOCAL AGENCY FORMATION COMMISSION
OF THE
COUNTY OF TULARE, STATE OF CALIFORNIA

In the Matter of the Amendment)
Of Policy and Procedure C-9)
County Islands)

RESOLUTION NO. 14-0##

Upon motion of Commissioner x, seconded by Commissioner x, Tulare County LAFCO Policy C-9 (County Islands) is hereby amended to define a “substantially” surrounded unincorporated County island as at least 51% surrounded by a city, at a regular meeting held on this 5th day of November, 2014, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- PRESENT:
- ABSENT:

Ben Giuliani, Executive Officer



**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
Steve Worthley, Chair
Juliet Allen, Vice-Chair
Rudy Mendoza
Allen Ishida
Cameron Hamilton

ALTERNATES:
Mike Ennis
Dennis Mederos
Janet Hinesly

EXECUTIVE OFFICER:
Ben Giuliani

November 25, 2014

Cutler Public Utility District
40526 Orosi Drive
Cutler, CA 93615

Re: Extraterritorial Service Agreement No. 2014-02 (Cutler PUD/Peña)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on November 21st, 2014, (ESA No. 2014-02), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the Cutler Public Utility District to provide domestic water service to existing development on APN 021-260-017 (northeast corner of Road 120 and Avenue 408).

Should you have any questions, please contact me at 623-0450 or bgiuliani@co.tulare.ca.us.

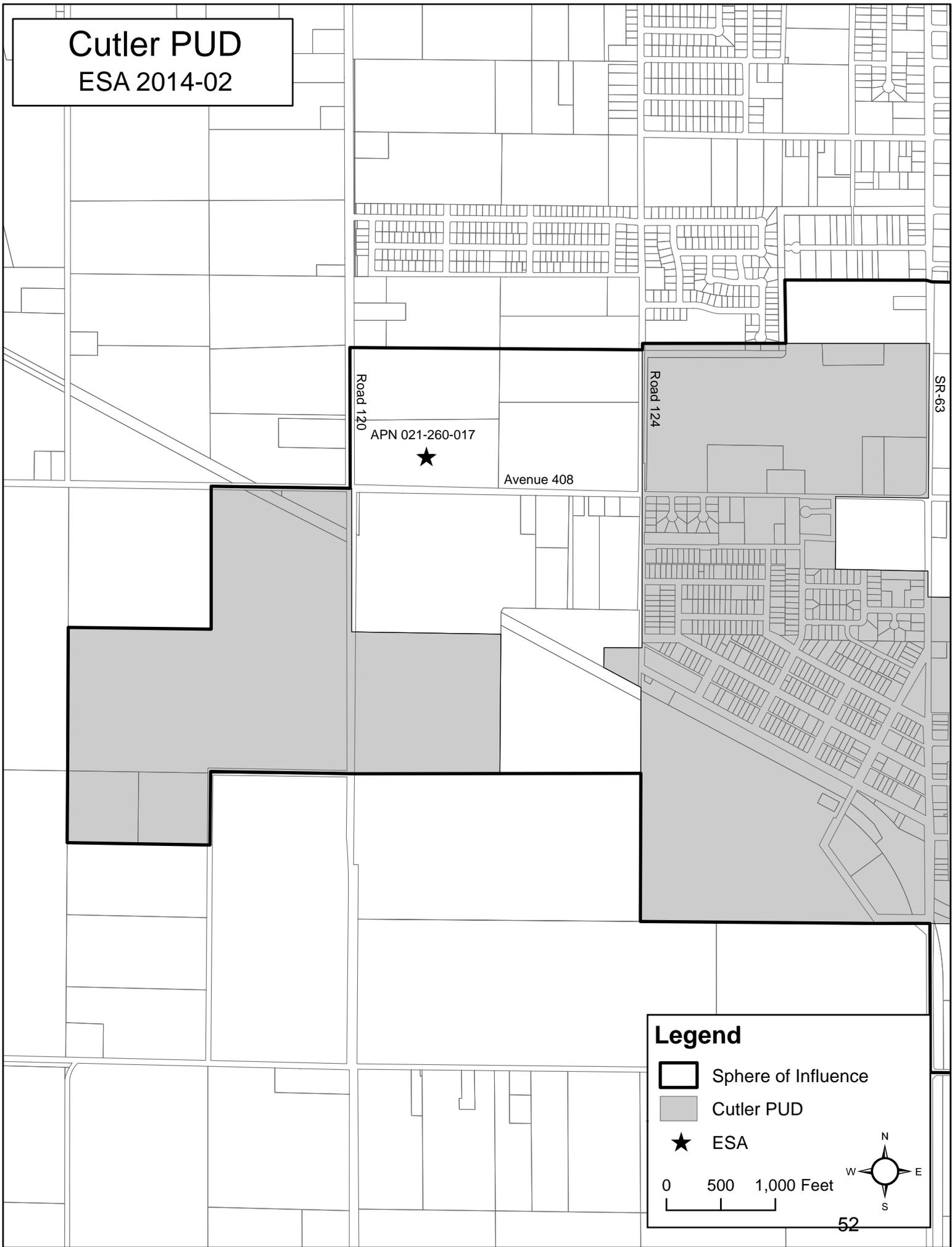
Sincerely,

Benjamin Giuliani, Executive Officer
Tulare County LAFCO

Cc: Dennis Keller
Peña Disposal Co.

Cutler PUD

ESA 2014-02



Road 120

APN 021-260-017



Avenue 408

Road 124

SR-63

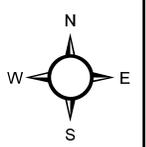
Legend

Sphere of Influence

Cutler PUD

ESA

0 500 1,000 Feet



News from the Board of Directors

CALAFCO QUARTERLY

December 2014



CALAFCO Board and Volunteer Staff Changes

At the October Board meeting at the Annual Conference, the CALAFCO Board said goodbye to several Board members and welcomed new ones. We said farewell and thank you to Robert Bergman (Nevada) and Eugene Montanez (Riverside). We welcomed Cheryl Brothers (Orange) and Ricky Samayoa (Yuba). We also said goodbye to Sam Martinez (San Bernardino), the CALAFCO Deputy EO for the southern region, and welcomed Paul Novak (Los Angeles) as the new DEO.

CALAFCO wishes to thank Robert and Eugene for their service to the CALAFCO Board, and to Sam for the outstanding work he has done representing the southern region.

CALAFCO Board 2015 Committees

At their November 14 meeting, the CALAFCO Board appointed members to the 2015 standing committees as follows:

Legislative Committee

Jim Curatalo (South)
Gay Jones (At-Large)
William Kirby (Central)
John Leopold (Coastal)
Mike McGill (At-Large)
Ricky Samayoa (North)
Julie Allen (a)
Mary Jane Griego (a)
Juliana Inman (a)
Mike Kelley (a)
Josh Susman (a)
Stephen Tomanelli (a)

2015 Annual Conference

Jim Curatalo
Gay Jones (Chair)
Bill Kirby
Roger Welt

Nominations Committee

Cheryl Brothers
Gay Jones
Mike McGill
Josh Susman
Elliot Mulberg (Chair)

Awards Committee

Jim Curatalo
Larry Duncan
Mary Jane Griego
Mike Kelley
Bill Kirby
John Leopold
Stephen Tomanelli (Chair)
Josh Susman
Roger Welt

2014 Annual Conference in San Bernardino a Success

269 commissioners, staff, associate members and guests attended the annual conference held in Ontario this past October. There was a good representation of LAFCo's present, with 48 of the 58 member LAFCo's in attendance. Evaluation results showed a positive overall rating of 5.0 on a 6.0 scale. Participants mentioned the quality, diversity, and relevance of the session topics and speakers, opportunities for networking and sharing of information/ideas, and the conveniently located facility as some of the highlights. In addition, a very special LAFCo 101 session was offered this year, which was very well received (attended by about 120 people – at least 70 of which were from outside normal conference registration). By expanding the scope and scale of the session and opening it up for attendance by those outside the general conference, we were successful at connecting with and educating local agencies in the region about LAFCo. This is likely something that will be done each year going forward.



Financially the conference was a huge success, despite the lower than normal attendance. The host LAFCo, San Bernardino, brought in a record amount of sponsorships. Although the accounting books are not yet closed on the conference, estimates indicate approximately \$39,000 in sponsorship revenue from 22 different sponsors, and an estimated net profit of close to 40 percent.

CALAFCO wishes to thank the host, San Bernardino LAFCo, for the incredible amount of work they did in hosting the conference this year, and to the program committee for producing a fabulous program. All conference presentations are posted on the CALAFCO website for downloading.

Mark your calendars now for the 2015 annual conference in Sacramento at the Hyatt Regency downtown – **SEPTEMBER 2 – 4, 2015!**

2015 Staff Workshop

The 2015 Staff Workshop is scheduled for **April 15 – 17** in Grass Valley. The theme is **After the Gold Rush: Preserving the Past & Forging the Future**. Our host for the workshop is Nevada LAFCo. We will be staying at the Holiday Inn Express and Courtyard Suites in Grass Valley, and have a very special Thursday evening dinner banquet planned in Nevada City at the beautiful historic Foundry Building. The Host and Program Committees have begun their planning and details will be made available soon. A Call for Presentations is currently open, so if you have a session you would like to present, please visit the CALAFCO website for the full details and submit your proposal by December 15.

CALAFCO U Update

The last CALAFCO U for 2014 is set for December 8th in Sacramento. The topic is **LAFCo and the Law: Avoiding the Pitfalls and Potholes of CKH**. Last day to register is December 1, 2014.

CALAFCO staff is in the process of finalizing the schedule of sessions for 2015. There will be two – one in the northern area and one in the southern area. Executive Officers were polled for potential topics. Additional courses may be added during the year depending upon the need.

CALAFCO Board Actions

During their regular meeting on November 14, the Board addressed several administrative issues including:

- ◆ The first quarter financial reports were reviewed and the budget is on track so far for the year. All financial reports are located on the website.
- ◆ Approved recommended LAFCo staff appointments to the 2015 Legislative Committee.
- ◆ Brainstormed topics for discussion at the upcoming biennial strategic planning retreat at the end of January.
- ◆ Held off any legislative policy changes for the legislative committee until after the retreat.



Legislative Activities

The 2014 legislative year saw 2,260 bills introduced, of which 1,178 were chaptered and 143 were vetoed. CALAFCO sponsored one bill this year which was AB 2762, the annual Omnibus bill. Despite only sponsoring one bill, there was a great deal of other legislative activity in which CALAFCO found itself involved. We supported a number of bills (including AB 1521 – Fox, AB 1729 – Logue, AB 2156 – Achadjian, SB 69 – Roth, and SB 1230 – Senate Governance & Finance Committee Omnibus). In addition, CALAFCO worked extensively with various legislative committees and legislators' staff on a number of bills that impacted LAFCO, including AB 1527 (Perea), SB 614 (Wolk), and the groundwater management legislation.

A full report on the 2014 legislative year is located on the CALAFCO website.

The legislature will reconvene on January 5, 2015. CALAFCO's Legislative Committee met once already in November, and the first in-person meeting is scheduled for December 12 in San Diego. Work is already underway for the Omnibus bill, as well as consideration of other proposed legislative items.

Earlier this year, the CALAFCO Board directed the Committee to focus on three legislative priorities (as presented at the annual conference legislative update session), all of which the Board reconfirmed during their November 14 meeting. Those are:

- ◆ Protest Provisions continued clean-up
- ◆ Strengthening the relationship between LAFcos and JPAs
- ◆ Disincorporations

There are working groups focusing on each of these major issues, and they have been receiving feedback on their initial proposals from LAFcos and Associate Members. The Committee will hear and consider updates and revisions to proposed legislation during the December 12th meeting.

All CALAFCO Legislative Committee meeting packets are posted in the Members section of the CALAFCO website.

CALAFCO ASSOCIATE MEMBERS' CORNER

Welcome Newest Associate Member

CALAFCO is pleased to welcome our newest Silver Associate Member,  **Cucamonga Valley Water District**. As noted in the information they provided CALAFCO, they are a public corporation formed under the provisions of Division 12 of the State Water Code. They provide water and wastewater service to an area of approximately 47 square miles, servicing a population of 190,000 with 45,000 water connections and 35,000 sewer connections. The average daily demand of water is approximately 50 million gallons. For those of you who attended the mobile workshop while at the annual conference, you toured their Frontier Project, a LEED Platinum certified facility. For more information about that project or about the District, visit their website at www.cvwdwater.com.

CALAFCO Congratulates the 2014 Annual Achievement Award Recipients

CALAFCO wishes to congratulate all of this year's nominees, and especially those who received the 2014 Achievement Award.

- ❖ Outstanding Commissioner – **Paul Norsell** (Nevada LAFCo)
- ❖ Outstanding LAFCo Clerk – **Paige Hensley** (Yuba LAFCo)
- ❖ Outstanding LAFCo Professional – **Kate McKenna** (Monterey LAFCo)
- ❖ Distinguished Service – **Kate McKenna** (Monterey LAFCo)
- ❖ Project of the Year – **LAFCo Procedures Guide: 50th Year Special Edition** (San Diego LAFCo)
- ❖ Government Leadership – **Orange County Water District, City of Anaheim, Irvine Ranch Water District, and Yorba Linda Water District**
- ❖ Most Effective Commission – **Santa Clara LAFCo**
- ❖ Outstanding CALAFCO Member – **Stephen Lucas** (Butte LAFCo)
- ❖ Lifetime Achievement – **Susan Wilson** (Orange LAFCo)
- ❖ Mike Gotch Courage & Innovation in Local Leadership – **David Church** (San Luis Obispo LAFCo)
- ❖ Legislator of the Year – **Assembly member Katcho Achadjian**



Mark Your Calendars For These Upcoming Events

- ❖ CALAFCO Legislative Committee meeting, December 12, 2014 in San Diego
- ❖ CALAFCO U, December 8, 2014 in Sacramento
- ❖ CALAFCO Legislative Committee meeting, January 23, 2015 in Sacramento
- ❖ CALAFCO Board of Directors biennial strategic planning retreat, January 29, 2015 in Irvine
- ❖ CALAFCO Board of Directors meeting, January 30, 2015 in Irvine

The full CALAFCO 2015 Calendar of Events can be found on the CALAFCO website.

2014 CKH GUIDE Update Now Available



The 2014 CKH Guide Update is now available for ordering. Visit the CALAFCO website to download the order form and get your copies today!



**TULARE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:
*Julie Allen, Chair
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Steve Worthley
Allen Ishida
Cameron Hamilton*

February 4, 2015

ALTERNATES:
*Mike Ennis
Dennis Mederos
Craig Vejvoda*

TO: LAFCO Commissioners, Alternates, Counsel

EXECUTIVE OFFICER:
Ben Giuliani

FROM: Alyssa Blythe, LAFCO Clerk

SUBJECT: Conflict of Interest Code (Form 700)

Background

The Local Agency Formation Commission is required to adopt and maintain a conflict of interest code. This code outlines who must disclose information on an annual basis, and what type of information must be disclosed. The pre-existing conflict of interest code policy was adopted on October 19, 1977, and was adopted into the original Policies and Procedures Manual on February 6, 2002. Exhibit A (Designated Employees) and Exhibit B (Disclosure Categories) were updated to match TCAG disclosure requirements on December 8, 2010. The Conflict of Interest Code Policy may be updated periodically.

Discussion

The Political Reform Act requires certain officials and employees who serve in positions designated in an agency's Conflict-of-Interest Code to file a Statement of Economic Interest (Form 700). Appendix A of this staff report provides a listing of positions that are designated to provide a Form 700 by April 1, 2015. Appendix B lists the disclosure categories for those designated positions. The Form 700 is available in an interactive version on the Fair Political Practices Commission Website: www.fppc.ca.gov.

Attachments:

1. Conflict of Interest and Disclosure Requirements, Policy D-1
2. Form 700 – Statement of Economic Interests (Conflict of Interest Form- Handout at LAFCO Commission Meeting)

Policies and Procedures

Tulare County Local Agency Formation Commission

Policy Number: *D-1*

Effective Date: *October 19, 1977*

Authority: *Government Code §81000 et seq., LAFCO Resolutions 77-94, 02-006, 10-030*

Title: **Conflict of Interest and Disclosure Requirements**

Policy: This Conflict of Interest Code (hereinafter referred to as the “Code”) is adopted pursuant to the provisions of the Political Reform Act of 1974, set forth in California Government Code §81000 et seq. (hereinafter referred to as the “Act”), for the purpose of requiring designated employees to file statements disclosing financial interests that may be materially affected by their official actions and for the purpose of providing that designated employees must disqualify themselves from acting in their official capacity in order to avoid a conflict of interest.

Purpose: The purpose of this policy is to outline the procedure by which designated employees of Tulare County LAFCO are to file statements disclosing their financial interests that may be materially affected by their official actions and for the purpose of providing that designated employees must disqualify themselves from acting in their official capacity in order to avoid a conflict of interest.

Scope: This policy applies to all designated employees of Tulare County LAFCO. For the purposes of this policy, designated employees shall be defined as “a member of the Commission.”

History: This was a pre-existing policy that was adopted into the original Manual on 2/6/02. Exhibits A and B were updated to match TCAG disclosure requirements on 12/8/10.

Procedure:

1.1. Definitions

Unless otherwise provided, the definitions of words and phrases used in this Code shall be consistent with the definitions of the same words and phrases contained in the Act and contained in the Regulations of the Fair Political Practices Commission set forth in Title 2 of the California Administrative Code; and such definitions are incorporated into this Code by reference. Definitions as of adoption of this Code are set forth in Exhibit “C” for guidance, and reference must be had to the Act and Regulations for current definitions.

1.2. Application: Designated Employees

The provisions of this Code are applicable to the designated employees of this local government agency. Designated employees are those persons who are deemed to make or to participate in the making of decisions which may foreseeably have a material effect on a financial interest. Designated employees are those persons who hold the positions (referred to hereinafter as "designated position") that are enumerated in Exhibit "A" attached hereto.

1.3. Disclosure Statements: Designated Employees

Each designated employee shall file statements, in accordance with the provisions of this Code, disclosing such employee's interest in investments, real property and income. The types of financial interest subject to disclosure are set forth in Exhibit "B" attached hereto; and the specific types which are applicable to a designated employee are expressed by number opposite the designated positions enumerated in Exhibit "A."

1.4. Place of Filing

Each designated employee shall file one original statement disclosing financial interests with the Executive Officer of this agency. If the designated employee is the head of this agency, or a member of a board or commission not under a department of state government or not under the jurisdiction of a local legislative body, the agency shall make and retain a copy of such person's statement and forward the original to the code reviewing body. The originals of all other statements shall be retained by the agency.

1.5. Time of Filing

- A. All designated employees shall submit an initial statement within thirty (30) days after the effective date of this Code.
- B. Merit system employees appointed, promoted or transferred to designated employee positions shall file initial statements within thirty (30) days after the date of assuming such position.
- C. All other persons assuming designated employee positions shall file initial statements not less than ten (10) days before assuming such position or, if subject to confirmation, not less than ten (10) days before being confirmed, unless an earlier assumption of the position is required by emergency circumstances, in which case said statement shall be filed within thirty (30) days after the date of assuming such position.
- D. All designated employees shall file annual statements during the month of January of each year. Such annual statements shall cover the period of the preceding calendar year.

- E. Each person who leaves a designated employee position shall file a leaving office statement within thirty (30) days after leaving such position.
- F. When a designated employee is required to file with another agency a statement disclosing financial interests, and such statement contains, at a minimum, all of the items required to be reported by this Code, and such other agency has at least the same territorial jurisdiction as this agency, then such designated employee may comply with the filing provisions of this Code by filing with this agency a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate statement.

1.6. Contents

- A. The initial statement required to be filed by a designated employee shall contain only such person's investments and interests in real property.
- B. Statements required to be filed by designated employees subsequent to the initial statement shall contain such person's investments, interest in real property, and income.
- C. Statements required to be filed by designated employees leaving office shall contain such person's investments, interests in real property, and income during the period since the closing date of the previous statement filed pursuant to this code.
- D. When an investment or an interest in real property is required to be reported under this Code, the statement shall contain:
 - I. A statement of the nature of the investment or interest;
 - II. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
 - III. The address or other precise location of the real property;
 - IV. A statement whether the fair market value of the investment or interest in real property exceeds \$10,000, and whether it exceeds \$100,000. This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer;
 - V. In the case of an investment which constitutes fifty (50) percent or more of the ownership interest in a business entity, disclosure of the investments and interests in real property of the business entity;
 - VI. In the case of a statement filed under subsections (b) or (c) of this section, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

- E. When income is required to be reported under this Code, the statement shall contain, except as provided in subsection (e) of this section:
 - I. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
 - II. A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1000), and whether it was greater than ten thousand dollars (\$10,000);
 - III. A description of the consideration, if any, for which the income was received;
 - IV. In the case of a gift, the amount and the date on which the gift was received.
- F. When income of a business entity, including income of a sole proprietorship, is required to be reported under this Code, the statement shall contain:
 - I. The name, address, and a general description of the business activity of the business entity;
 - II. In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars (\$1,000);
 - III. In the case of a business entity not covered by paragraph (2) the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

1.7. Disqualification

A designated employee must disqualify himself or herself from making or participating in the making of any governmental decision when it is reasonably foreseeable that such decision may have a material financial effect, distinguishable from its effect on the public generally, upon any business entity in which such designated employee holds a position of management or is a director, officer, partner, trustee or employee, or upon any financial interest required to be reported by such designated employee, except sources of gifts less than two hundred fifty dollars (\$250).

1.8. Disqualification Exception

No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without

his or her participation. The fact that such person's vote is needed to break a tie does not make the participation legally required for purposes of this section.

1.9. Manner of Disqualification

If a designated employee is to disqualify himself or herself from acting, the following is recommended:

- A. If a member of a board or commission, announce the existence of a conflict to such board or commission.
- B. If a consultant, report the existence of a conflict to the chief executive officer of this agency.
- C. Any other designated employee, report the existence of a conflict to such person's immediate supervisor.

1.10. Effective Date of Code

This code shall become effective thirty (30) days after the same has been approved by the Board of Supervisors of the County of Tulare.

1.11. Penalties

California GC §87300 provides, in part: "A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter." Your attention is directed to the civil and criminal penalties set forth in the Act that may be imposed for a violation of this Code.

1.12. Statute of Limitations

No action based on a disqualification provision of this Code shall be brought pursuant to Government Code Section 91009(b) to restrain the execution of or to set aside official action of the agency unless commenced within 90 days following the official action.

1.13. Opinions of the Commission and Counsel

- A. Opinion Requests: Any designated employee who is unsure of any right or obligation arising under this code may request a formal opinion or letter of advice from the FPPC or an opinion from the attorney of this agency.
- B. Evidence of Good Faith: If an opinion is rendered by the attorney of this agency stating in full the facts and the law upon which the opinion is based, compliance by the designated employee with such opinion may be evidence of good faith in any civil or criminal proceeding brought pursuant to the Act or this Code. The designated employee's good faith compliance with the opinion of this agency's attorney shall also act as a complete

defense to any disciplinary action that this agency may bring under Section 91003.5 of the Act or this Code.

Exhibit "A"

DESIGNATED EMPLOYEES

| <u>Designated Positions</u> | <u>Types of Interests required To be disclosed</u> |
|-------------------------------------|--|
| Members of the Commission | 1, 2, 3 |
| Alternate Members of the Commission | 1, 2, 3 |
| Executive Officer | 1, 2, 3 |
| Consultants* | 1 |

*Consultants are included as designated employees and shall disclose pursuant to the broadest disclosure category, subject to the following limitation:

The Executive Officer of this local agency may determine in writing whether a particular consultant is a "designated employee" or whether the consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements required by this Code. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The determination of the Executive Officer is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Exhibit "B"

TYPES OF FINANCIAL INTERESTS

REQUIRED TO BE DISCLOSED

Disclosure Category: 1

All investments, business positions and sources of income located in or doing business in the jurisdiction of the local agency.

All interests in real property located in the jurisdiction, including property located within a two mile radius of any property owned or used by the local agency

(Intended for officials and employees whose duties are broad and indefinable.)

Disclosure Category: 2

All investments, business positions and sources of income of the type which provide services, supplies, materials, machinery or equipment utilized by the local agency.

(Intended for employees whose duties and decisions involve contracting and purchasing.)

Disclosure Category: 3

All investments, business positions and sources of income of the type which engage in land development, construction or the acquisition or sale of real property.

All interests in real property located in the jurisdiction, including property located within a two mile radius of any property owned or used by the local agency.

(Intended for employees whose duties and decisions may affect real property interests.)