



# TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

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

COMMISSIONERS:  
*Pete Vander Poel, Chair  
Juliet Allen, V-Chair  
Cameron Hamilton  
Rudy Mendoza  
Steve Worthley*

## LAFCO MEETING AGENDA July 12, 2017 @ 2:00 P.M. BOARD OF SUPERVISORS CHAMBERS COUNTY ADMINISTRATIVE BUILDING 2800 West Burrel Avenue Visalia CA 93291

ALTERNATES:  
*Mike Ennis  
Carlton Jones  
Dennis Mederos*

EXECUTIVE OFFICER:  
*Ben Giuliani*

**I. Call to Order**

**II. Approval of Minutes from June 14, 2017**

**(Pages 01-02)**

**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. Case 1532-V-449 (Lowery West)**

**(Pages 03-19)**

*[Public Hearing] ..... Recommended Action: Approval*

The City of Visalia has submitted a request for annexation for 66.2 acres of land located on the northeast corner of Akers Street and Riggin Avenue to the City of Visalia and concurrent detachment of the same area from Tulare County CSA #1. A Mitigated Negative Declaration was prepared in compliance with CEQA by the City of Visalia for use in this proposal.

**2. Cancellation of August 2017 Meeting**

**(No Page)**

*[No Public Hearing]..... Recommended Action: Approval*

There are no actions items scheduled for the August 2<sup>nd</sup>, 2017 meeting if no action items from this meeting are continued. If the Commission elects to cancel the August 2<sup>nd</sup>, 2017 meeting, the next regularly scheduled meeting would be September 6, 2017.

**V. Executive Officer's Report**

**1. Draft Proposed Amended Policy C-5 (SOIs)**

**(Pages 20-28)**

The enclosed draft proposed policy would streamline the SOI amendment/update and Municipal Service Review (MSR) process.

**NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.**

2. Hospital/Healthcare District Extraterritorial Services (Pages 29-40)

A recent Superior Court ruling finds that hospital/healthcare districts are subject to LAFCO review for the provision of extra territorial services. Please refer to the enclosed memo and ruling.

3. Legislative Update (Page 41-48)

Enclosed is the CALAFCO legislative report.

4. Upcoming Projects (No Page)

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

**VI. Correspondence**

1. CALAFCO Annual Conference Announcement (Page 49)

The Annual Conference is being held in San Diego from October 25<sup>th</sup> - 27<sup>th</sup>.

**VII. Other Business**

1. Commissioner Report (No Page)

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

**VIII. Setting Time and Place of Next Meeting**

1. August 2, 2017 or September 6, 2017 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building.

**IX. Adjournment**

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

**2800 W. Burrel Ave., Visalia, CA 93291 – Tulare County Administrative Building  
June 14, 2017 – Meeting Minutes**

**Members Present:** Allen, Vander Poel, Worthley  
**Members Absent:** Hamilton, Mendoza  
**Alternates Present:** Mederos  
**Alternates Absent:** Jones, Ennis  
**Staff Present:** Giuliani, Ingoldsby, Moore, W. Gutierrez, & Kane recording  
**Counsel Present:** Kuhn

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**I. Call to Order:** Chair Vander Poel called the meeting to order at 2:01 p.m.

**II. Approval of the April 12, 2017 Meeting Minutes:**

Upon motion by Commissioner Allen and seconded by Commissioner Worthley, the Commission unanimously approved the LAFCO minutes.

**III. Public Comment Period:** Chair Vander Poel opened/closed the Public Comment Period at 2:02 p.m. No public comments received.

**IV. New Action Items:**

**1. Case 1511 City of Tulare Sphere of Influence (SOI) Update:**

Staff Analyst Ingoldsby reported on the proposed update to the Tulare SOI and recommended that the SOI update be adopted matching the SOI with the City's Urban Development Boundary (UDB) with the inclusion of the Matheny Tract as a community of interest within the SOI.

Chair Vander Poel opened the public hearing for additional comments.

Don Manro, a Tulare Resident, spoke in opposition to the SOI update.

Tracy Myers, representing the City of Tulare, spoke in support of the SOI update.

Chair Vander Poel closed the public hearing.

Upon motion by Commissioner Worthley and seconded by Commissioner Allen, the Commission unanimously approved the SOI update as recommended.

**2. Case 1531 Alpaugh Irrigation District (AID) and Alpaugh Community Services District (ACSD) Detachment 17-01:**

Staff Analyst Ingoldsby reported on the proposed Angiola Water District detachment of land from the ACSD and AID with the recommendation of approval with the exception of Area G.

Commissioners discussed the proposal's effects on the AID and ACSD and Angiola WD's desire to have their district owned land within the Tri-County Water Authority, a groundwater sustainability agency (GSA) that is a Joint Powers Authority (JPA) between Angiola WD, Deer Creek Storm Water District and Kings County.

Chair Vander Poel opened the public hearing.

Bruce Howard, representing AID and David Kahn (Counsel for AID) spoke in opposition to the proposed detachment.

Matt Hurley on behalf Angiola WD spoke in support of the detachment.

Chair Vander Poel closed the public hearing.

Upon motion by Commissioner Worthley and seconded by Commissioner Vander Poel, the Commission unanimously denied the proposed detachment.

**3. 2017/2018 Final Budget and Work Program:**

Staff Analyst Ingoldsby reviewed the 2017/18 Final Budget and Work Program.

Chair Vander Poel opened the public hearing, no comments received; public hearing was closed.

Upon Motion by Commissioner Vander Poel and seconded by Commissioner Worthley, the Commission unanimously approved the FY 2017/18 Budget and Work Program.

**4. LAFCO Executive Officer Compensation:**

Commissioner Worthley reported that the Ad-Hoc Committee for the Executive Officer review recommended an increase of 2% for the EO's salary to begin the first pay period of the 17/18 Fiscal Year.

Upon motion by Commissioner Allen and seconded by Commissioner Worthley, the Commission unanimously approved the salary increase.

**V. Executive Officer's Report**

1. **Legislative Update:** Deferred to July 2017 Meeting.
2. **Upcoming Projects:** EO Giuliani reported there is an annexation proposal for the City of Visalia at Riggini/Akers. It was noted that a new Sphere of Influence Policy is currently being development.

**VI. Correspondence:** None received.

**VII. Other Business:**

1. Commissioner Report: Nothing reported
2. Request from LAFCO for items to be set for future agendas: No request noted or discussed.

**VIII. Closed Sessions:** Did not convene, no items to discuss.

**IX. Setting Time and Place of Next Meeting:** The next Local Agency Formation Commission (LAFCO) meeting is scheduled for **July 12, 2017 at 2:00 p.m.** in the Board of Supervisors Chambers in the County Administration Building.

**X. Adjournment:** The Tulare County LAFCO meeting adjourned at 3:52 p.m.

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

*July 12, 2017*

**LAFCO Case Number 1532-V-449  
City of Visalia Annexation No. 2016-02 (Lowery West)**

- PROPOSAL:** City of Visalia Reorganization (annexation to Visalia, detachment from CSA #1)
- PROPONENT:** The City of Visalia by resolution of its City Council
- SIZE:** 66.2 acres
- LOCATION:** The northeast corner of Akers Street and Riggin Avenue (**Figure 1**)
- NOTICE:** Notice for this public hearing was provided in accordance with Government Code Sections 56660 & 56661.
- SUMMARY:** The purpose for the annexation is to allow development of the property as a 184-lot residential subdivision on 50.4 acres and two Remainder parcels comprising 15.8 acres for medium density residential. There is no development proposed on the medium density portion of the site at this time.
- APNs:** 077-060-006, 077-180-028

**GENERAL ANALYSIS**

**1. Land Use:**

*A. Site Information*

	<b>Existing (County)</b>	<b>Proposed (City)</b>
<b>Zoning Designation</b>	AE-20	R-1-5 (Single-Family Res) 50.4 ac R-M-2 (Multi-Family Res) 15.8 ac
<b>General Plan Designation</b>	Planned Residential	Low Density Residential and Medium Density Residential
<b>Uses</b>	Vineyard	184 lot single-family subdivision and future multi-family residential

*B. Surrounding Land Uses and Zoning and General Plan Designations:*

	<b>Zoning Designation</b>	<b>General Plan Designation</b>	<b>Existing Use</b>
<b>North</b>	A-20 (County)	Low and Medium Density Residential	Vineyard
<b>South</b>	R-1-5 (Single Family)	Low Density Residential	Riggin Ave., Single Family Residential
<b>East</b>	QP (Quasi Public)	C (Conservation)	Modoc Basin
<b>West</b>	QP (Quasi Public)	P (Parks and Rec) PI (Public Institution)	Vacant land under farming use

**C. Topography, Natural Features and Drainage**

The site is adjacent to the Modoc Ditch to the north and the Modoc Basin to the East. The site is relatively flat and does not contain any natural topographical features.

**D. Conformity with General Plans and Spheres of Influence:**

The site is within the Sphere of Influence and within the City's Tier 1 Urban Development Boundary.

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

The land is considered prime agriculture land. The parcels are not under Williamson Act contract.

**3. Population:**

There are not more than 12 registered voters in the proposed annexation area. Therefore, pursuant to GC Section 56046, the annexation area is uninhabited.

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

**Agency providing service**

<i>Service</i>	<i>Now</i>	<i>After</i>	<i>Method of finance</i>
Police Protection	County of Tulare	City of Visalia	General Fund
Fire Protection	City of Visalia (Contract w/ County)	City of Visalia	General Fund
Water Supply	Private Wells	Cal Water	User Financed
Sewage Disposal	None	City of Visalia	Impact/User Fees
Street Lighting	None	City of Visalia	General Fund
Street Maintenance	County of Tulare	City of Visalia	General Fund
Planning/Zoning	County of Tulare	City of Visalia	General Fund
Garbage Disposal	None	City of Visalia	User Fees
Strom Drainage	None	City of Visalia	Impact/User Fees

Cal Water has provided a will serve letter (**Figure 3**). The City can provide all other urban services and infrastructure for development such as sewer service, fire, police, street lighting, etc., as well as planning and building services. According to the City it has more than enough sewer capacity in its treatment plant to accommodate this annexation proposal. The City's wastewater treatment plan has a capacity of 22 million gallons per day (mgd). Current estimated average daily flow is about 13 mgd. Other undeveloped areas already within the City limits add a potential for another 0.5 to 1.0 mgd. This annexation would add an estimated 0.0587 mgd.

**5. Boundaries and Lines of Assessment:**

The boundaries of the proposal area are definite and certain and do not currently conform to the lines of assessment. APN 077-060-028. A map sufficient for filing with the State Board of Equalization has been received but a parcel split will need to occur prior to filing.

**6. Assessed Value, Tax Rates and Indebtedness:**

Upon completion of this annexation the area will be assigned to a new tax rate area. The total assessed valuation of the proposal area is as follows:

Land	\$ 267,611
Improvements	\$ 68,868
Growing	\$ 144,712
 Total	 \$ 481,191

**7. Environmental Impacts:**

The City of Visalia is the lead agency for this proposal. The City prepared an initial study/environmental checklist and on the basis of that study and incorporation by reference the City of Visalia General Plan and other planning

documents, a Mitigated Negative Declaration was approved for use with this proposal. A copy of the document is included in the application materials.

**8. Landowner Consent:**

Consent to this annexation has been received from all property owners. Therefore, the protest proceedings may be waived in accordance with GC §56663.

**9. Regional Housing Needs Assessment (RHNA):**

Pursuant to GC §56668 (I), LAFCO shall consider the extent to which the proposal will assist the receiving city and the County in achieving its fair share of regional housing needs as determined by the appropriate council of governments. The project will provide single family dwellings and land for multi-family dwellings on the subject territory.

2014-2023 City of Visalia RHNA

Extremely Low	Very Low	Low	Moderate	Above Moderate	Total
1,308	1,308	1,931	1,802	3,672	10,021

The 184 single family dwellings will most likely help meet housing needs of the moderate to above moderate level. The multi-family family portion of land is most likely to meet housing needs of the low to moderate level though presently no entitlement request has been submitted for this area.

**10. Discussion:**

Government Services

The adequacy of governmental service will be improved within the subject area. According to the City they are currently able to provide the annexation area urban services and infrastructure for development such as sewer services, fire, police, streets lighting, etc., as well as planning and building services

Services which would be extended to this area, including police and fire safety services and development permit services, will be funded primarily though the City General Fund and user permit fees. Road improvements are funded through a combination of various sources including, but not limited, the General Fund, development fees, and Measure R.

Any growth occurring in this area would be consistent with the City's General Plan since the sites are within the current Tier 1 Urban Development Boundary and are designated for development with the adoption of the new General Plan.

This area will need increased services, including planning and building safety, police and fire protection, and sewer service. The City of Visalia is prepared to provide these services as development occurs.

#### Residential Land Supply

Of the 66.2 acres included in the proposed annexation, 50.4 acres are pre-zoned for low density residential and a tentative map for a 184-lot residential subdivision has been approved. The remaining 15.8 acres on two Remainder parcels are pre-zoned for medium density residential which at the average zoning density could provide 190 units.

The City currently has a 5.3 year supply of residential land. This amount assumes a historical population growth rate of 2.52% per year and the current population density of 11.23 people per acre. The City's projected growth rate per their general plan is 2.6%. If the proposal is approved the city would have a 5.6 year supply of residential land at current densities. Using the Blueprint growth model, the proposed annexation would bring the City's residential land supply to 7 years (the blueprint goal is 5.3 units per net acre). See **Figure 4** for further calculations.

The City of Visalia has submitted another annexation proposal, 1533-V-450 (Sierra Village), which is scheduled to be heard at the September LAFCO meeting. This concurrent annexation is approximately 34.5 acres and would be zoned for commercial mixed use. It is anticipated to serve the expansion of Sierra Village and CVC's recreational fields. It is not known at this time the acreage distribution for each of those uses or the density of the Sierra Village expansion. In any case, at 34.5 acres the City would remain well under the 10 year land supply guideline.

#### County Island

There is a substantially developed 61 acre County Island ¼ mile to the south of the proposed annexation that would qualify for the streamlined island annexation provisions. The Commission may wish to consider adding a condition of approval requiring the City to report back to the Commission regarding the timing of the future annexation of this island.

### **RECOMMENDED ACTIONS:**

It is recommended that this proposal be approved and that the Commission take the following actions:

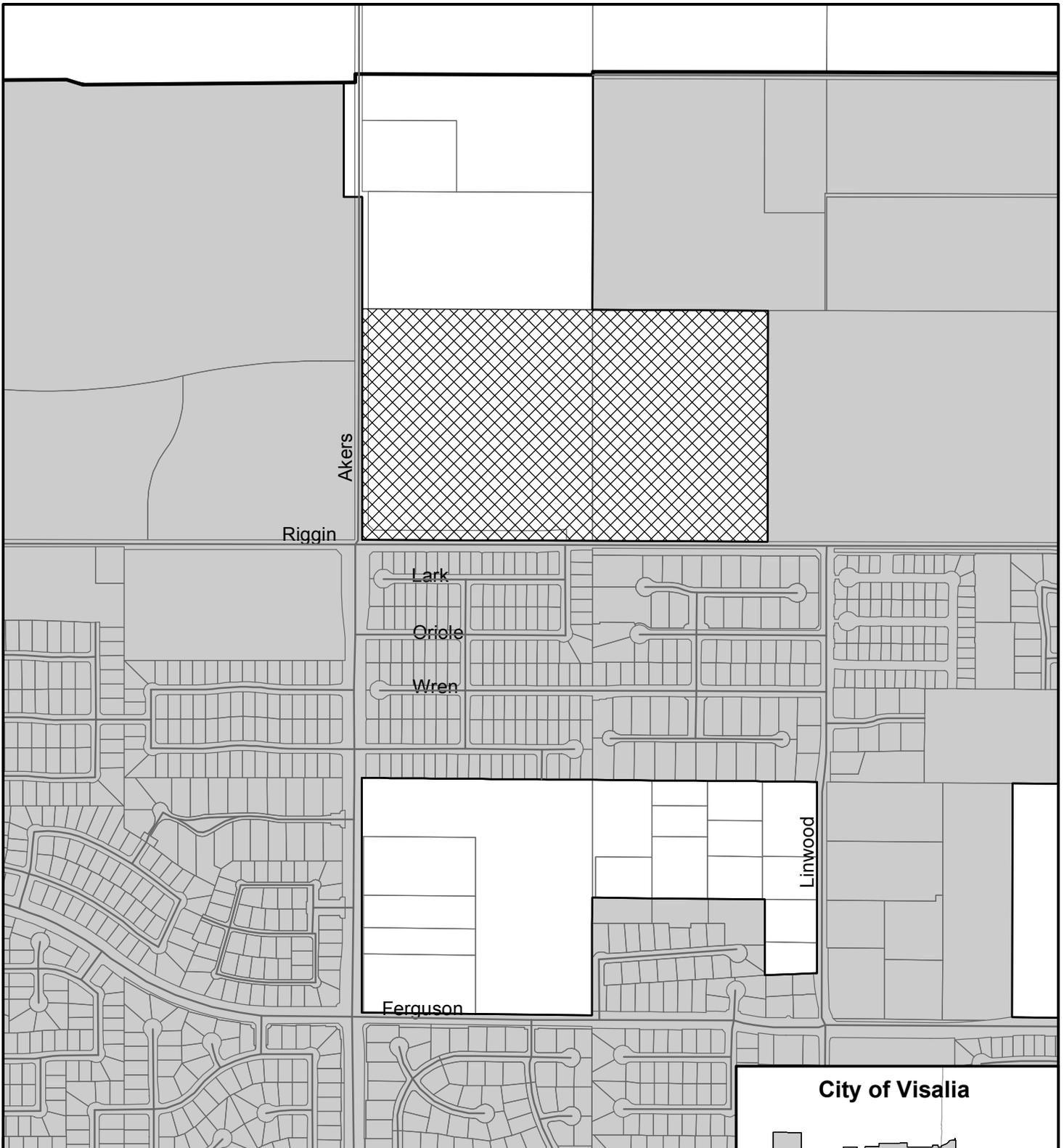
1. Certify that the Commission has reviewed and considered the Mitigated Negative Declaration prepared by the City of Visalia for this project and find that the project will not have a significant effect on the environment.
2. Find that the proposed reorganization of the City of Visalia complies with 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. The boundaries of the proposed reorganization are definite and certain and do not currently conform to lines of assessment.
  - b. There is a demonstrated need for municipal services and controls and that the city has the capability of meeting this need.
  - c. There is a mutual social and economic interest between the residents of the city and the proposed annexation territory.
  - d. The proposed annexation is compatible with the City's General Plan.
  - e. The proposed annexation represents a logical and reasonable expansion of the annexing municipality.
4. Find that the territory proposed for this annexation to the City of Visalia and detachment from CSA #1 is uninhabited.
5. Find that the annexation does not contain any Williamson Act contract land.
6. Approve the reorganization as proposed by the City of Visalia, to be known as LAFCO Case Number 1532-V-449, Visalia Annexation 2016-02 (Lowry West).
  - a. No change be made to land use designations or zoning for a period of two years after the completion of the annexation, unless the city council makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the designation or zoning.
  - b. The City must process a parcel map splitting APN 077-060-028 along the new City boundary and provide the completed lot split documentation to the Tulare County Assessor and LAFCO prior to filing with the Board of Equalization.
  - c. The applicant must provide the required filing fee for the Statement of Boundary Change that is to be submitted to the Board of Equalization.
7. Waive the protest hearing for this proposal in accordance with subsection (c) of Government Code §56663 and order the detachment without an election or if written protests are received prior to the conclusion of the public hearing, conduct the protest hearing pursuant to GC §57000.
8. Authorize the Executive Officer to sign and file a Notice of Determination with the Tulare County Clerk.

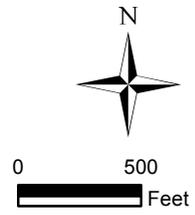
**Figures:**

- Figure 1 Site Location Map
- Figure 2 Aerial Photo
- Figure 3 Cal Water Letter
- Figure 4 Residential Land Supply Calculation
- Figure 5 Resolution

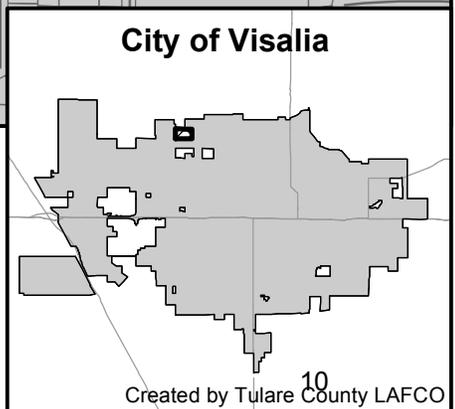
# LAFCO Case 1532-V-449



-  Project Location 1532-V-449
-  City of Visalia
-  Sphere of Influence
-  Parcels



Boundaries as of 5/18/17



# LAFCO Case 1532-V-449

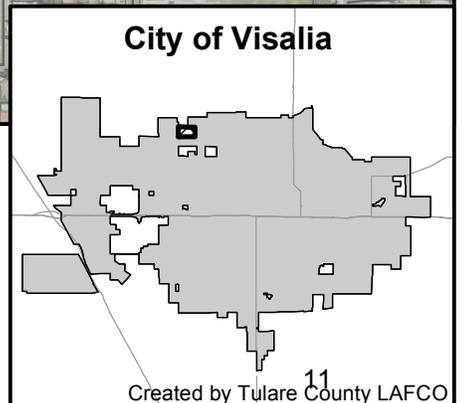


-  Project Location 1532-V-449
-  City of Visalia
-  Sphere of Influence
-  Parcels



0 500  
Feet

Boundaries as of 5/18/17





## CALIFORNIA WATER SERVICE

Visalia District 216 North Valley Oaks Drive  
Visalia, CA 93292 Tel: (559) 624-1600

December 12, 2016

City of Visalia  
Planning Division  
315 E Acequia Ave  
Visalia, CA 93291

### Will Serve Letter

Tentative Subdivision Map No. 5557 for northeast corner of Riggin Avenue and Akers St

**APN: 077-060-028**

**Developer: 4-CREEKS INC**

Gentlemen:

As a regulated utility, California Water Service Company Visalia district ("Cal Water") has an obligation to provide water service in accordance with the rules and regulations of the California Public Utility Commission (CPUC). Assuming you receive all required permits from City of Visalia, Cal Water will provide water service to the above referenced project. Cal Water agrees to operate the water system and provide service in accordance with the rules and regulations of the California Public Utilities Commission (CPUC) and the company's approved tariffs on file with the CPUC. This will serve letter shall remain valid for **two years** from the date of this letter. If construction of the project has not commenced within this **two year** time frame, Cal Water will be under no further obligation to serve the project unless the developer receives an updated letter from Cal Water reconfirming our commitment to serve the above mentioned project. Additionally, Cal Water reserves the right to rescind this letter at any time in the event its water supply is severely reduced by legislative, regulatory or environmental actions.

Cal Water will provide such potable<sup>1</sup> water at such pressure as may be available from time to time as a result of its normal operations per the company's tariffs on file with the CPUC. Installation of facilities through developer funding shall be made in accordance with the current rules and regulations of the CPUC including, among others, Tariff Rules 15 and 16 and General Order 103-A. In order for us to provide adequate water for domestic use as well as fire service protection, it may be necessary for the developer to fund the cost of special facilities, such as, but not limited to, booster pumps, storage tanks and/or water wells,<sup>2</sup> in addition to the cost of mains and services. Cal Water will provide more specific information regarding special facilities and

<sup>1</sup> This portion of the letter to be modified accordingly in the event the development for which this letter is being generated is to be served with potable and non potable water.

<sup>2</sup> For the districts that collect facility fees on a per lot basis, delete the reference to wells as a special facility here and add in the following sentence, "Developer will also be required to contribute towards Cal Water's water supply by paying facilities fees on a per lot basis as described in Rule 15"



## CALIFORNIA WATER SERVICE

fees after you provide us with your improvement plans, fire department requirements, and engineering fees for this project.

This letter shall at all times be subject to such changes or modifications by the CPUC as said Commission may, from time to time, require in the exercise of its jurisdiction.

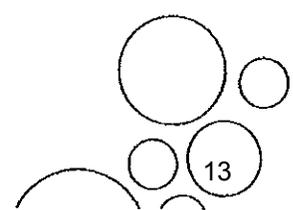
If you have any questions regarding the above, please call me at (559) 624-1600.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Charles".

Eric Charles  
Acting Assistant District Manager

cc: Ting He – Cal Water Engineering Dept  
File



10 - YEAR RESIDENTIAL LAND SUPPLY CALCULATION

City: Visalia Units: 374  
 Project: 1532-V-449 Bp Acres: 66  
 Acres: 66 U/Bp Ac: 5.64

	1990	2010	
<b>GROWTH RATE</b>	75,636	124,442	<b>2.52%</b>
<b>PEOPLE PER DWELLING UNIT</b>			<b>2.79</b>
	Jun-2017	Jun-2027	
<b>ESTIMATED POPULATION</b>	<b>134,585</b>	<b>172,630</b>	
	Developed	Undevel.	Total
<b>CURRENT ACREAGE DESIGNATED</b>	<b>11,987</b>	<b>1,731</b>	<b>13,718</b>
	Jun-2017	Jun-2027	
<b>ESTIMATED DWELLING UNITS</b>	<b>47,316</b>	<b>60,692</b>	
<b>ACREAGE IF PROPOSAL IS APPROVED</b>			<b>13,784</b>
<b>CURRENT POPULATION DENSITY</b>	(per developed acre)		<b>11.23</b>
	All Resid.	Blueprint	
<b>CURRENT DWELLING UNIT DENSITY</b>	<b>3.95</b>	<b>4.16</b>	
	Dwelling		
	Units	People	
<b>CURRENT CAPACITY OF DESIGNATED LAND</b>	<b>54,149</b>	<b>154,020</b>	
	(Years)		
<b>CURRENT CAPACITY OF DESIGNATED LAND</b>	<b>5.3</b>	<b>5.3</b>	
<b>CAPACITY IF PROPOSAL IS APPROVED</b>	<b>54,522</b>	<b>154,763</b>	
	(Years)		
<b>CAPACITY IF PROPOSAL IS APPROVED</b>	<b>5.6</b>	<b>5.5</b>	
<b>ACREAGE NEEDED FOR 10 YEAR SUPPLY</b>			<b>15,376</b>
<b>CONCURRENT PROJECTS</b>	Acres:	0	
1533-V-450			
<b>ACREAGE IF ALL PROJECTS ARE APPROVED</b>			<b>13,784</b>
	Dwelling		
	Units	People	
<b>CAPACITY IF ALL PROJECTS APPROVED</b>	<b>54,522</b>	<b>154,763</b>	
	(Years)		
<b>CAPACITY IF ALL PROJECTS APPROVED</b>	<b>5.6</b>	<b>5.5</b>	

**Notes:**  
 ~ Growth Rate determined by average yearly growth between 1990 & 2010  
 ~ Acreage figures are from GIS and/or from the City as of Jun-2017  
 ~ Blueprint density goal of 5.3 units per residential acre doesn't include non-residential uses on residentially zoned land. "Bp Acres" excludes non-residential uses (churches, parks, basins, etc). Using the latest people per dwelling unit figures, the Blueprint dwelling unit density goal was converted into the Blueprint target population density.

**POPULATION PROJECTIONS**

	Rate = 2.00%	2.52%	3.00%
2017	133,151	133,151	133,151
2018	135,814	136,507	137,146
2019	138,530	139,949	141,260
2021	144,127	147,093	149,863
2023	149,950	154,602	158,989
2025	156,008	162,495	168,672
2027	162,310	170,790	178,944
2028	165,557	175,096	184,312
2029	168,868	179,510	189,841
2031	175,690	188,674	201,403
2033	182,788	198,306	213,668
2035	190,172	208,429	226,681
2037	197,855	219,070	240,486

**DWELLING UNIT PROJECTIONS**

	Rate = 2.00%	2.52%	3.00%
2017	46,812	46,812	46,812
2018	47,748	47,992	48,216
2019	48,703	49,202	49,663
2021	50,671	51,714	52,687
2023	52,718	54,354	55,896
2025	54,848	57,128	59,300
2027	57,064	60,045	62,911
2028	58,205	61,559	64,799
2029	59,369	63,110	66,743
2031	61,767	66,332	70,807
2033	64,263	69,718	75,120
2035	66,859	73,278	79,694
2037	69,560	77,019	84,548

	Land Supply (years)				Blueprint
	Population Density				Target
	17.5	15.0	11.2	10.0	14.2
1.0%	20.2	17.4	13.1	11.7	16.5
1.5%	14.1	12.2	9.2	8.2	11.5
2.0%	10.4	9.0	6.8	6.1	8.5
2.5%	8.4	7.3	5.5	5.0	6.9
3.5%	6.2	5.4	4.1	3.7	5.1
4.3%	5.2	4.5	3.5	3.1	4.3

	Land Supply (years)				Blueprint
	Blueprint Dwelling Unit Density				Target
	6.0	4.9	4.2	4.0	5.3
1.0%	20.3	17.1	14.8	14.4	18.2
1.5%	13.8	11.6	10.1	9.7	12.4
2.0%	9.9	8.3	7.2	7.0	8.9
2.5%	7.8	6.5	5.6	5.4	7.0
3.5%	5.5	4.6	3.9	3.8	4.9
4.3%	4.4	3.7	3.1	3.0	3.9

**BEFORE THE LOCAL AGENCY FORMATION COMMISSION**

**OF THE**

**COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of the Proposed Annexation to the )  
City of Visalia and detachment from CSA #1, ) **RESOLUTION NO. XX-XX**  
LAFCO Case No. 1532-V-449, Annexation 2016-02 )  
(Lowery West) )

**WHEREAS**, application has been made to this Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.) for approval of a proposal from the City of Visalia to annex certain territories described in attached Exhibit "A" made a part hereof; and

**WHEREAS**, this Commission has read and considered the Resolution of Application and application materials and the report and recommendations of the Executive Officer, all of which documents and materials are incorporated by reference herein; and

**WHEREAS**, on July 12, 2017 this Commission heard, received, and considered testimony, comments, recommendations and reports from all persons present and desiring to be heard concerning this matter.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:**

1. The information, material and facts set forth in the application and the report of the Executive Officer (including any corrections), have been received and considered in accordance with GC §56668. All of said information, materials, facts, reports and other evidence are incorporated by reference herein.

2. The City of Visalia, as Lead Agency, filed a Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA). And finds that the Commission has reviewed and considered the Mitigated Negative Declaration prepared by the City of Visalia for this project and find that the project will not have a significant effect on the environment.

3. The Commission has reviewed and considered, in accordance with GC §56668, the information, materials and facts presented by the following persons who appeared at the public hearing and commented on the proposal:

XXXXXXXXX

XXXXXXXXX

4. All notices required by law have been given and all proceedings heretofore and now taken in this matter have been and now are in all respects as required by law.

5. Based upon the evidence and information on the record before it, the Commission makes the following findings of fact:

- a. The boundaries of the proposed annexation are definite and certain and do not conform to lines of assessment.
- b. Fewer than 12 registered voters reside in the affected territory and 100% landowner consent was received.
- c. Cal-Water has provided a will-serve letter.
- d. The proposed annexation area does not contain any Williamson Act contract land.

6. Based upon the evidence and information on the record before it and the findings of fact made above, the Commission makes the following determinations:

- a. The proposed annexation is compatible with the City's General Plan.
- b. There is a demonstrated need for municipal services and controls and that the city has the capability of meeting this need.
- c. There is a mutual social and economic interest between the residents of the city and the proposed annexation territory.
- d. The proposed annexation represents a logical and reasonable expansion of the annexing district.
- e. The proposal is consistent with the findings and declarations of GC §56001.

7. Waive the protest hearing for this proposal in accordance with GC §56663 and order the change of organization without an election.

8. Approve the annexation as proposed by the City of Visalia, to be known as LAFCO Case Number 1532-V-449, City of Visalia Annexation No 2016-02 (Lowery West), with the following conditions:

- a. No change be made to land use designations or zoning for a period of two years after the completion of the annexation, unless the city council makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the designation or zoning.

b. The City must process a parcel map splitting APN 077-060-028 along the new City boundary and provide the completed lot split documentation to the Tulare County Assessor and LAFCO prior to filing with the Board of Equalization.

c. The applicant must provide the required filing fee for the Statement of Boundary Change that is to be submitted to the Board of Equalization.

9. The following short form designation shall be used throughout these proceedings:

LAFCO Case Number 1532-V-449, City of Visalia Annexation No. 2016-02 (Lowery West).

10. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution as required by law.

11. The Executive Officer is hereby authorized and directed to sign the Notice of Determination on behalf of the Commission and file said notice with the Tulare County Clerk pursuant to Section 21152 (a) of the Public Resources Code.

The foregoing resolution was adopted upon motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, at a regular meeting held on this 12th day of July, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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Ben Giuliani, Executive Officer

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# **TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

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

July 12, 2017

To: LAFCO Commissioners and Alternates  
From: Ben Giuliani, Executive Officer  
Subject: Draft Proposed Amendment to Policy C-5 (SOIs)

COMMISSIONERS:  
*Pete Vander Poel, Chair  
Julie Allen, V-Chair  
Cameron Hamilton  
Steven Worthley  
Rudy Mendoza*

ALTERNATES:  
*Dennis Mederos  
Mike Ennis  
Carlton Jones*

EXECUTIVE OFFICER:  
*Ben Giuliani*

## **Background**

Tulare County LAFCO Policy C-5 addresses the Sphere of Influence (SOI) amendment/update process and Municipal Service Reviews (MSRs). The draft proposed policy amendment seeks to streamline and clarify the SOI and MSR processes.

## **Discussion**

The proposed amended policy distinguishes SOI Updates which would require a current MSR (adopted within the last 5 years) and SOI Amendments which would not require a MSR. A SOI Update is a comprehensive review of an agency's sphere while a SOI Amendment is a localized SOI adjustment that is done in association with a concurrent annexation. Notes are included in the attachment explaining the proposed additions and deletions.

The purpose of the amendment is to streamline the policy and clarify when MSR updates are needed. MSR updates would be completed on an as needed basis (such as after a general plan or community plan update) rather than on a set 5-year schedule. This change would result in time and cost savings to LAFCO and its member agencies.

This draft policy amendment was sent to city and county planning staff on May 11<sup>th</sup> and presented at the City Managers' monthly meeting on June 15<sup>th</sup>. If acceptable to the Commission, the proposed policy amendment will be brought back for action at the next Commission meeting.

## **Attachments**

*-Draft proposed amendment to Policy C-5*

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-5

**Effective Date:** February 6, 2002

**Authority:** Government Code §56425 et seq. and LAFCO Resolutions: 96-002, 02-006, 03-020, 05-056, 06-020, 08-023, 10-030, 11-004, 12-007(a), 13-005

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**Title:** Spheres of Influence

**Policy:** Whenever possible, the Sphere of Influence of each city and those Special Districts which provide urban services to unincorporated communities within the County (see Appendix “A”) should reflect twenty-year growth areas with additional areas for communities of interest (GC §56425 (a) (4)). This boundary shall be reviewed and, if necessary, updated no more than once every five years. The updates should be sufficient to accommodate projected growth for twenty years from the date of adoption.

**Purpose:** To provide an efficient method to review and amend the Spheres of Influence for all agencies within Tulare County LAFCO’s jurisdiction.

**Scope:** This policy affects all agencies within Tulare County LAFCO’s jurisdiction.

**History:** This policy was a pre-existing policy that was adopted as part of the original Manual on 2/6/02. This procedure was amended on 7/2/03 to add the MSR exemption policy (Appendix B). This procedure was amended on 10/5/05 to add the section for the waiver of the City-County SOI meeting (C-5.10). This procedure was amended on 5/3/06 to add requirements for the timing of SOI amendments (C-5.7(A)) and three districts were switched from a required comprehensive to questionnaire MSR (CSA #1, #2 and Sultana CSD). This procedure was amended on 12/10/08 to require MSRs for vector and mosquito abatement districts (Appendix B). The procedure was amended on 12/8/10 and 4/13/11 to add further detail to MSR requirements. The procedure was amended on 5/2/12 to add an appendix listing disadvantaged unincorporated communities and on 4/3/13 to align MSR language with government code and define public review of MSRs.

**Procedure:**

### **5.1 Definitions**

This is the key proposed addition to the policy which distinguishes SOI Updates vs SOI Amendments.

***A Sphere of Influence (SOI) means a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission [GC §56076]. SOIs shall, as necessary, be reviewed and updated every five years [GC §56425(g)] and SOI Updates must include a municipal service review (MSR) [GC §56430(a)]. SOI Amendments may be***

*requested by any person or local agency [GC §56428(a)] and are not subject to a MSR.*

*A. SOI Amendment: a modification to a SOI that is associated with a concurrent proposal for a change of organization or an out of agency service agreement.*

*B. SOI Update: a comprehensive review and modification of a SOI that is not associated with a concurrent proposal for a change of organization or an out of agency service agreement.*

## **5.2. Existing Boundaries**

It is recognized that the County of Tulare and its eight Cities regularly establish twenty-year growth boundaries as a part of the General Plan process. Whenever such a Planning Boundary exists and is sufficient to comply with the requirements of GC §56425, the Sphere of Influence shall be placed to be coterminous with that Planning Boundary with the addition of any communities of interest which were not included within the original boundary. For the purposes of this policy, communities of interest may include agricultural buffer areas, publicly-owned facilities, noncontiguous subdivisions and development areas, key intersections, highway corridors, and parcels of land associated with the affected community, and other similar areas as may be determined by the Commission.

## **5.3. Conflicting Boundaries**

Where differences exist between County and City adopted twenty-year boundaries, for the same community, the Commission shall determine which boundary most closely reflects the statutory requirements or intent of the Cortese-Knox-Hertzberg Act for the setting of Spheres of Influence. Among other considerations, the Commission may determine which boundary is supported by the most recent or most complete analysis, including such documentation as may be required by the California Environmental Quality Act (CEQA). Should LAFCO determine that no existing Planning Boundary complies with the statutory requirements or intent of the Cortese-Knox-Hertzberg Act, the Commission shall determine the twenty-year growth boundary independently of other agencies. In all cases of conflicting boundaries, the Commission shall attempt to reconcile the various boundaries and the Sphere of Influence before adoption.

## **5.3. Initial Implementation**

This is a holdover from the initial adoption of the policy which is no longer needed.

~~Upon adoption of this policy, the Executive Officer shall establish a schedule of Sphere of Influence Updates sufficient to consider each city within five years and each special district affected by this policy within ten years. As the scheduled time for each agency's review arrives, the Executive Officer, in consultation with the affected agency, shall prepare a proposed Twenty-Year Growth and add any communities of interest. After preparation, the Executive Officer shall initiate a~~

Sphere of Influence Amendment that conforms to the proposed Twenty-Year Growth Boundary.

This replaces the next two sections and adds flexibility for the timing of SOI updates.

#### 5.4 Updates

*City and special district SOIs shall be periodically reviewed to determine the need for an update. Updates may be initiated by LAFCO or by the affected local agency. SOI updates should typically occur after general plan and community plan updates that result in a change of the affected local agency's or unincorporated community's 20-year growth boundary.*

#### 5.4. ~~Scheduled Updates - Cities~~

~~In general, it shall be the responsibility of the Cities to provide LAFCO with Sphere of Influence Amendments and Twenty-Year Growth projections to ensure that the Sphere of Influence continues to be up-to-date. Should a period of five years elapse from the time of the last amendment to a city's Sphere of Influence without any subsequent amendments proposed by the City on the basis of a new Twenty-Year Growth Boundary, the Executive Officer shall contact the City to request either a Sphere of Influence Amendment or confirmation that the existing Sphere of Influence includes sufficient area to accommodate projected growth for an additional twenty years. The city shall have an additional two years within which to reply to the Executive Officer's request. After that period (seven years from the last amendment), the existing Sphere of Influence shall be brought back before the Commission for certification as meeting the purpose and intent of this policy. After such certification, no Sphere of Influence amendments shall be considered for a period of five years except as described in the Section entitled "Exceptions" below.~~

#### 5.5 ~~Scheduled Updates - Special Districts~~

~~Should a period of seven years elapse from the time of adoption of a Sphere of Influence for a Special District without any subsequent amendments, the Executive Officer shall contact the Special District and the County Resource Management Agency to request confirmation that the existing Sphere of Influence includes sufficient areas to accommodate projected growth for twenty years. In the case of Special Districts, an unchanged Sphere of Influence will not be brought back before the Commission for certification and further amendments may be considered at any time after a period of five years from the last amendment has elapsed.~~

#### 5.6. General Plan Consultation

The Executive Officer shall actively encourage the agencies affected by this policy to include LAFCO in the consultation process for general plan **and community plan updates and** amendments which may lead to SOI **updates and** amendments as early in the consideration process as feasible. The Executive Officer shall present all such consultations to the Commission for review and comments which will be forwarded to the agency.

This complicated set of exceptions is no longer needed with the differentiation of SOI Updates vs SOI Amendments.

## 5.7. Exceptions

It is recognized that there will occasionally be instances where the process for amending Spheres of Influence as described above will be insufficient to react to unusual opportunities and/or rapidly changing conditions. Furthermore, GC §56428(a) allows any person or local agency to file a request for a Sphere of Influence Amendment and to receive a hearing before the Commission on the merits of the proposal. Therefore, it is recognized that anyone may apply for an amendment to a Sphere of Influence at any time and have said request considered for action by the Commission in a timely manner. The following is intended for use in situations where it is impractical or inadvisable to wait five years to consider a subsequent Sphere of Influence amendment. Compliance with the following shall not be interpreted in any way as implying that approval of a Sphere of Influence amendment will be granted.

- A. No exceptions to the foregoing policy on the timing of Sphere of Influence amendments may be granted unless a General Plan Amendment has been approved by the County or affected City which designates the affected territory as within a revised twenty-year development boundary or unless the affected territory meets the following requirements:
  - I. The affected territory is owned by the city or district and is used or intended to be used for disposal of treated wastewater through irrigation and there is no other change in use and,
  - II. After approval of a Sphere of Influence amendment, if a change in land use occurs or if the affected territory ceases to be used for irrigation of treated water then the area will be removed from the Sphere of Influence, and, if annexed, detached from the city or district unless the General Plan has been amended to designate the affected territory as within a twenty-year development boundary.
- B. Furthermore, no exceptions to the foregoing policy on the timing of Sphere of Influence amendments may be granted unless LAFCO makes one of the following findings:
  - I. The Sphere of Influence amendment is needed to support a project of significant regional importance which is anticipated to result in social or economic benefits which outweigh the Commission's interest in providing a stable and compact Sphere of Influence.

OR

- II. The proposal meets all of the following mandatory findings:
  - a. There are no areas within the existing Sphere of Influence which are both suitable and available for the proposed use or the affected agency can demonstrate that it cannot support anticipated growth within its existing Sphere of Influence;

- ~~b. The proposal is consistent with the agricultural and open space policies and priorities of GC §56377;~~
- ~~c. The subject agency has the ability and intent to provide services to the subject territory within the development time frame;~~
- ~~d. The amendment is necessary for the logical and orderly growth of the subject agency;~~
- ~~e. There are special circumstances or conditions affecting the subject territory (not including consideration of the proposed use itself), such as size, shape, topography, location or surroundings, that either substantially reduce its value for agricultural uses or substantially enhance its value for urban development and;~~
- ~~f. The affected territory is contiguous with existing or approved urban development.~~

OR

- ~~III. The proposed Sphere of Influence is a reconfiguration of an existing Sphere of Influence and adds no net additional acreage to the agency's Sphere of Influence.~~

OR

- ~~IV. The sphere of influence amendment is proposed in order to add land owned by the agency and used for the provision of municipal services.~~

## **5.8. Separation of Communities**

The Commission shall not extend the Sphere of Influence of any agency affected by this policy into the County designated Urban Area Boundary of another agency of the same type. An exception to this restriction may be approved by the Commission upon a finding that there exists a special relationship between the two agencies whereby development in one may be expected to have positive impacts upon the other and/or where eventual annexation of one agency by the other or a merger of both agencies is contemplated.

- ~~5.9. At the time that a Sphere of Influence Amendment is proposed, the Executive Officer shall propose to LAFCO, following consultation with all affected agencies, an ultimate dividing line between the affected agency and each of its neighboring agencies. Such a dividing line shall be established by agreement of both agencies with the assistance of the Executive officer and shall be certified by resolution of both agencies. Once set, LAFCO shall use these ultimate dividing lines to guide the location of Spheres of Influence. The Commission will only approve Sphere of Influence Amendments consistent with the agreement reached by both agencies.~~

I'm not seeing the need for this section given that 5.8 already creates separation of communities.

City-County meetings are specifically required for City initiated SOI Updates. With the distinction between SOI Updates and Amendments, this section is not applicable.

#### **5.10. City – County Meeting Waiver Requirements**

~~A City-County meeting and agreement, pursuant to GC §56425(b), shall be waived if the Sphere of Influence Amendment proposal meets both of the following criteria:~~

- ~~A. The proposal qualifies as a minor Sphere of Influence Amendment as outlined in Policy 5.11, and~~
- ~~B. All of the land included in the Sphere of Influence Amendment proposal is included in an Annexation proposal submitted concurrently with the SOI Amendment.~~

~~In addition, as a Condition of Approval, the Sphere of Influence Amendment shall be contingent on approval of the concurrent Annexation.~~

#### **5.11. Municipal Service Reviews (MSRs)**

In order to prepare and update Spheres of Influence, the Commission must conduct a service review of the municipal services provided by the agency subject to the Sphere of Influence Update. The Commission has determined which agencies are exempt or subject to MSRs and the extent of the review as listed in Appendix B of this policy.

- A. Prior to Commission adoption of a comprehensive MSR for a city or a district that provides sewer or domestic water service, a community meeting shall be conducted within the jurisdictional boundaries of the subject agency in conjunction with the subject agency's council, planning commission or board meeting (a combined meeting may be held for districts that share a common sewer or water system or that are located in proximity of each other). Said meeting shall be agendized in accordance with the Brown Act (GC §54954.2(a)). Said meeting will consist of a SOI and MSR informational presentation provided by LAFCO Staff and a question and answer session. Any comments provided by those in attendance will be considered in the development of the subject agency's MSR.
- B. Pursuant to GC §56430(a), a written statement of determinations for the following subject areas shall be included:
  - I. Growth and population projections for the affected area.
  - II. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
  - III. Present and planned capacity of public facilities and adequacy of public services, including 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.

- IV. Financial ability of agencies to provide services.
- V. Status of, and opportunities for, shared facilities.
- VI. Accountability for community service needs, including governmental structure and operation efficiencies.
- VII. Any other matter related to effective or efficient service delivery, as required by commission policy.
  - (a) The Written Statement of Determinations prepared in regard to disadvantaged unincorporated and other developed communities shall be based on a comprehensive review of area service providers conducted in accordance with GC §56430 (b) and shall include, but is not limited to: estimate of existing population, identification of existing service providers, identification of services provided within the community, service costs and identification of surrounding land use designations, both existing and planned, contained in a city's General Plan or County's Community Plan. (Developed communities should be addressed on a systemic basis in subsections I through V above.)

Note: A reasonable effort shall be made to conduct a thorough review; however, the level of detail is subject to the extent data is readily available and relevant to the overall MSR analysis.

- (b) Recommendations shall be made regarding possible ways to address needs and discrepancies through a collaborative effort between the subject agency, principle county, existing service providers, citizens groups, LAFCO and any other entity/organization the Commission deems appropriate.
  - (c) For the purpose of executing subsection 5.2 (Conflicting Boundaries), the MSR shall also identify the location of existing city and county growth boundaries and determinations shall be made with regard to their continuity/discontinuity to the existing SOI.
- C. For the purpose of identification in MSRs and filing fees for annexation (Policy B-2.5), a disadvantaged community is an area that has a median household income 80% or less of the statewide average pursuant to PRC §75005(g) and contains at least 20 dwelling units at a density not less than one unit per acre.

~~D. Municipal Service Reviews will not be required for minor Sphere of Influence amendments that meet all of the following criteria:~~

The addition of section 5.1 stipulates that any SOI Amendment is exempt from a MSR. (Also, SOI Amendments are applied concurrently with annexation proposals, the annexation Plan for Services and environmental document should contain updated service information and impacts that mitigates the need for a full MSR update.)

- ~~I. The requested amendment is either less than 40 acres or less than 5 percent of the total acreage of the area located within the subject agency's existing Sphere of Influence, whichever is more, inclusive of incorporated territory.~~
  - ~~II. There are no objections from other agencies that are authorized to provide the services the subject agency provides and whose Sphere of Influence underlies or is adjacent to the subject territory.~~
  - ~~III. The combined net additional acreage of the subject agency's minor Sphere of Influence amendments adopted pursuant to this section does not exceed 200 acres over any consecutive 5 year period.~~
  - ~~IV. CEQA review is accomplished by a Notice of Exemption, Negative Declaration, Mitigated Negative Declaration, an Addendum to an EIR, or where the SOI amendment is within the scope of a previous EIR.~~
  - ~~V. In addition, a municipal service review is not required when a sphere of influence amendment is proposed solely to accommodate an expressed governmental purpose in the provision of public facilities or public services, as described in section 5.7.B IV.~~
- E. The adoption of a Municipal Service Review is not subject to a public hearing (GC §56430). However, to allow for public participation in addition to section 5.11(A), the Draft MSR shall be posted on the Commission's website with a minimum 21 day public review period and notice of the public review period will be posted at the Clerk of the Board of Supervisors Office and will be mailed or e-mailed to the subject agency for requested posting in their jurisdiction.



# TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

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

July 12, 2017

To: LAFCO Commissioners and Alternates  
From: Ben Giuliani, Executive Officer  
Subject: Healthcare Districts – Extraterritorial Services

COMMISSIONERS:  
*Pete Vander Poel, Chair  
Julie Allen, V-Chair  
Cameron Hamilton  
Steven Worthley  
Rudy Mendoza*

ALTERNATES:  
*Dennis Mederos  
Mike Ennis  
Carlton Jones*

EXECUTIVE OFFICER:  
*Ben Giuliani*

## **Background**

The Superior Court of California issued a tentative ruling (attached) on March 3, 2017 that went final on June 7, 2017. The ruling was in regards to a lawsuit between Inyo LAFCO and Northern Inyo Healthcare District (HD) versus Southern Mono HD. In this case, Inyo LAFCO and Northern Inyo HD requested from the court to set aside agreements with Southern Mono HD, the cessation of Southern Mono HD of providing services within Northern Inyo HD boundaries and seeking permission from Inyo LAFCO before providing new services.

## **Discussion**

The Court ruled against Inyo LAFCO and Northern Inyo HD because the 3 year statute of limitations had passed since Southern Mono HD had begun providing services within Northern Inyo HD. However, the Court did make findings regarding healthcare district services that will have an impact on any future extraterritorial services provided in Tulare County.

Health and Safety Code (HSC) section 32121(j) allows HDs to do the following:

*To establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to, outpatient programs, services, and facilities; retirement programs, services, and facilities; chemical dependency programs, services, and facilities; or other health care programs, services, and facilities and activities at any location within or without the district for the benefit of the district and the people served by the district*

The Court ruled that the ability for HDs to provide services outside their boundaries does not exempt HDs from first receiving permission from LAFCOs. Government Code section 56133(a) requires LAFCO review for the provision of services outside agency boundaries:

*A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.*

An exception to the above is when a service from one public agency is being provided as an alternative to another public agency consistent with the level of services contemplated by the existing service provider.

There are several situations where healthcare/hospital districts are providing services outside of their boundaries in Tulare County. While some of these services may have been provided prior to the establishment of GC section 56133, it appears that there are situations where either Tulare County LAFCO held a differing interpretation of HSC 32121 vs GC 56133 or where some of the HD districts in Tulare County did not realize that LAFCO permission was needed.

There are 7 Healthcare/Hospital Districts and 1 Ambulance District in Tulare County. Tulare County is the principal county for 5 HDs (Alta, Kaweah Delta, Tulare, Sierra View and Lindsay) and Exeter Ambulance District, Fresno County is the principal county for Kingsburg and Kern County is the principal county for North Kern-South Tulare (map attached).

A memo will be sent to the healthcare/hospital districts regarding the court decision and the necessity of seeking LAFCO approval before providing services outside of their boundaries.

#### Attachments

- Superior Court ruling on Inyo LAFCO & Northern Inyo HCD vs Southern Mono HCD*
- Tulare County HD Map*

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

DATE:	March 3, 2017 11:00 a.m.	DEPT. NO.:	24
JUDGE:	HON. SHELLEYANNE W. L. CHANG	CLERK:	E. HIGGINBOTHAM
<p><b>INYO COUNTY LOCAL AGENCY FORMATION COMMISSION, a local public agency, and NORTHERN INYO HEALTHCARE DISTRICT, a local healthcare district.</b> Petitioners and Plaintiffs,</p> <p>v.</p> <p><b>SOUTHERN MONO HEALTHCARE DISTRICT, a local healthcare district, and DOES I through XX, inclusive.</b> Respondents and Defendants.</p>		<p>Case No.: 34-2015-80002247</p>	
Nature of Proceedings:		<p><b>PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY RELIEF AND TEMPORARY AND PERMANENT INJUNCTION</b></p>	

The following shall constitute the Court's tentative ruling on the above matter, set for hearing in Department 24, on Friday, March 3, 2017, at 11:00 a.m. The tentative ruling shall become the final ruling of the Court unless a party wishing to be heard so advises the clerk of this Department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the clerk that such party has notified the other side of its intention to appear.

Petitioners seek a writ of mandate directing Respondent to (1) set aside agreements for providing healthcare services in Inyo County, (2) take no further action to provide healthcare services in Inyo County, and (3) seek permission from the Inyo County Local Agency Formation Commission (LAFCO) before providing healthcare services in Inyo County. Petitioners also seek related declaratory relief. **The Petition is DENIED.**

**I. BACKGROUND**

Petitioner Northern Inyo Healthcare District (Petitioner or NIH) and Respondent Southern Mono Healthcare District (SMHD) are both hospital districts in neighboring counties in the Eastern Sierra region of California. NIH and SMHD are special districts formed pursuant to Health & Saf. Code, §§ 32000, *et seq.* Generally, these statutes authorize special districts to build and operate hospitals and health care facilities in underserved areas, e.g. rural areas, where facilities cannot be maintained without government support. (*See Talley v. Northern San Diego County Hosp. Distr.* (1953) 41 Cal.2d 33, 40.)

Petitioner NIH serves Inyo County and operates Northern Inyo Hospital, a 25-bed hospital, located in Bishop, California. Respondent SMHD serves adjoining Mono county and operates Mammoth Hospital, a 15-bed hospital in Mammoth Lakes, California. It is undisputed that all of NIH's territory is in Inyo County, all of SMHD's territory is a Mono county, and that NIH and SMHD share a boundary at the Mono-Inyo county line.

The pertinent facts show that SMDH-affiliated physicians have operated in Bishop for many years, initially to fill a need of NIH. At some point, however, SMHD-affiliated physicians began to overstay their welcome in Bishop, prompting Petitioners to seek mandate relief. The pertinent facts are as follows:

In 2003, NIH needed an orthopedic surgeon, as the orthopedic surgeons previously serving NIH left the area. NIH had trouble finding a replacement.

To fill this vacancy, in November 2003, NIH entered into a lease with Dr. Jack Perry and Dr. Michael Karch, physicians affiliated with SMHD, for office space in Bishop on NIH's "campus." (Joint Appendix (JA), Tab 7.) It is undisputed that Dr. Perry proposed that his orthopedic group could offer services for Northern Inyo Hospital and Mammoth Hospital. (See Deposition Transcript of John Halfen, Administrator of Northern Inyo Hospital, pp. 17-19.) SMHD avers that NIH asked Dr. Perry and Dr. Karch to take a more "permanent position" in Bishop, as NIH continued to have difficulty attracting an orthopedist.

In or about mid-2010, Dr. Perry "relocated" and ceased providing orthopedic services to NIH. (JA, Tab 10.) However, other physicians continued working out of the office space long after Dr. Perry's departure. Indeed, SMHD admits that its physicians left "no later than Summer 2013." (Opposition, 4:8-19.)

SMHD asserts that the need for orthopedic services grew substantially in 2010. (Opposition, 4:7.) SMHD avers that at the request of patients, it purchased property on West Line Street in Bishop and opened an orthopedic clinic in Spring 2011, so that patients in Bishop would not have to drive to Mammoth for services. (Opposition, 4:13-14, JA, Tabs 11-12.) SMHD also admits that it began providing physical therapy services, in addition to orthopedic services, in the Summer of 2011.

Petitioners allege that the purpose of the new "West Line Street" office was to enable SMHD to directly compete with NIH for the "limited number of orthopedic patients" in the area. (Opening Brief, p 12.) Specifically, Petitioners allege that SMHD-affiliated orthopods, Dr. Karch and Dr. Crall, saw patients at that office in Bishop but scheduled surgeries at Mammoth Hospital. (JA, Tab 5.) Petitioners further allege that although NIH attempted to negotiate an agreement to "work with" SMHD during this time, SMHD rejected this proposal.

On November 29, 2011, NIH sent SMHD a letter stating that NIH expected to have an orthopedic surgeon working out of the office space formerly used by Dr. Perry, and that

NIH would manage the office, and change its name to reflect the office's affiliation with NIH. (JA, Tab 16.) NIH secured the orthopedic services of another physician.

SMHD admits that it "relocated" its orthopedic services from West Line Street to another facility on Iris Street, in Bishop in July 2012. (Opposition, 4:24-25.)

Petitioners allege that on or about June 1, 2015, SMHD opened the Bishop Physical Therapy Clinic and Mammoth Orthopedic Institute, in Bishop (Main Street Facility). (JA, Tabs 24, 26-28, 32.)

A document Petitioners allege is a "press release"<sup>1</sup> states that the new Main Street Facility is larger, will be open extended hours, and is adding new equipment and services to serve the community. (JA, Tab 24.)<sup>2</sup>

Petitioners allege that SMHD significantly expanded its operations in 2015 by opening the Main Street Facility. (Opening Brief 12.) SMHD counters that it was not expanding its operations, but rather opened the Main Street Facility to consolidate its physical therapy services (formerly offered at the West Line street facility) and its orthopedic services (formerly offered at the Iris Street facility).

In or about April 2015, LACFO informed SMHD that SMHD needed to submit an application to LACFO for approval before providing health care services in Bishop or operating the Main Street Facility. (Joint Appendix, Tab 31.) SMHD has not submitted a LACFO application and continues to operate the Main Street Facility.

Petitioners filed this Petition in Inyo County in August 2015, and venue was transferred here. In December 2015, Petitioners unsuccessfully sought an ex parte order to restrain SMHD from operating the Main Street Facility pending a hearing on the merits.

## II. DISCUSSION

### a. Evidentiary Objections; Requests for Judicial Notice

The parties have filed numerous evidentiary objections. The Court rules as follows:

As to Petitioners' evidentiary objections, the Court **OVERRULES** objections Nos. 1, 2, 5, 6, 9, 12-14, 16(b)<sup>3</sup>, 16(c), 17(b), 18-27, 29, 30, 32, 35-39, 41-48, 50(a), 51, 52(c)-55,

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<sup>1</sup> Respondent has not objected to this characterization.

<sup>2</sup> A comparison of the leases for Dr. Perry's office space and the June 2015 leases indicate that Main Street Facility premises leased in 2015 were significantly more expensive than the space leased by Dr. Perry in 2003. (JA, Tabs 7, 26-28.) For example, the 2003 lease with Dr. Perry indicates that the monthly rate is \$500.00. The 2014 leases for the Main Street Facility, Units A and B, state that the monthly rent is \$4,275.00 and \$2185.00, respectively. (JA, Tabs 7, 26, 27.) SMHD avers that it was actually paying \$1,200.00 a month rather than \$500.00 a month in rent. (See Declaration of Melanie Van Winkle, ¶9.) Nevertheless, a substantial discrepancy exists between these amounts and the amounts for monthly rent of the Main Street Facility.

58-61. The Court **SUSTAINS** objections Nos. 3, 4, 7, 8, 10, 11, 15, 16(a), 17(a), 28, 31, 33-35, 40, 49, 50(b), 52(a), 52(b), 56, 57.

As to SMHD's objections the Court **SUSTAINS** objection Nos. 1, 4, 7, 10, 11-13, and **OVERRULES** objections Nos. 2, 3, 5, 6, 8, 9.

The Court grants the unopposed requests for judicial notice filed in support of the Opening Brief and Opposition Brief. The Court also grants Petitioners' request for judicial notice in support of the Reply brief, as it is a report from the Legislative Analyst's Office and is properly subject to judicial notice. (*Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4<sup>th</sup> 26, 31-37.)

#### **b. Standard of Review**

A writ of mandate is available to compel an agency to perform a ministerial duty. (*Mooney v. Garcia* (2012) 207 Cal.4<sup>th</sup> 229, 232.) In an action for writ of mandate, the petitioner bears the burden of pleading and proving the facts on which the claim for relief is based. (*See, California Corr. Peace Officers Assoc. v. State Pers. Bd.* (1995) 10 Cal.4<sup>th</sup> 1133, 1153-1154.)

#### **c. Government Code Section 56133 requires SMHD to Obtain LAFCO Permission Before Providing New or Extended Services Outside SHMD's Jurisdictional Boundary**

Whether Petitioners are entitled to mandate relief depends in part upon whether SMHD was required to obtain permission from LAFCO before providing new or extended services outside its jurisdictional boundary. The Court concludes that LAFCO approval is required before SHMD provides new or extended services outside its jurisdictional boundary. SMHD's status as a health care district does not preclude it from consultation with LAFCO.

Pursuant to the Cortese-Knox-Hertzberg Act (the Act) (*see* Gov. Code, § 56000, *et seq.*), a local agency formation commission, or LAFCO, exists within each county. (*Las Tunas Beach Geologic Hazard Abatement Dist. v. Superior Court (Las Tunas)* (1995) 38 Cal.App.4<sup>th</sup> 1002, 1008-1009 [citing Gov. Code, §§ 56027, 56325].) The Act was enacted to discourage urban sprawl and encourage the orderly formation and development of local agencies based upon local conditions and circumstances. (*Community Water Coalition v. Santa Cruz County Local Agency Formation Commission* (2011) 200 Cal.App.4<sup>th</sup> 1317, 1323.) The Act empowers LAFCOs to approve or disapprove proposals "for changes of organization or reorganization" of districts and generally make decisions on a variety of urban planning issues. (*Las Tunas, supra*, 38 Cal.App. 4<sup>th</sup> at p. 1009 [citing Gov. Code, § 56375, subd. (a)]; *Modesto Irrigation Distr. v. Pacific Gas & Electr. Co.* (N.D. Cal. 2004) 309 F.Supp. 1156, 1160-1161.)

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<sup>3</sup> Petitioners include multiple objections bearing the same number. When appropriate, the Court refers to such objections as 16(a)-16(c).

Pertinent here, Government Code section 56133 requires that a city or district<sup>4</sup> may provide extraterritorial services only if it first requests and receives approval from the LAFCO. (Gov. Code, §§ 56133, 56375(p); *see also Community Water Coalition, supra*, 200 Cal.App.4<sup>th</sup> at p. 1324.) Government Code, section 56133 (a), provides that:

- (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

Subdivision (e) of section 56133 does not require LAFCO approval in particular situations, including provision of “alternative or substitute” services by another public agency:

- (e) This section does not apply to any of the following:

- (1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

Petitioners contend that SMHD, by opening the Main Street Facility, has been providing “new or extended services by contract or agreement outside its jurisdictional boundary” and thus, was required to seek permission from LAFCO under Government Code section 56133.

There is no dispute that SMHD has been providing services and most recently, operating the Main Street Facility, outside its jurisdiction. The Court also finds that SMHD was providing services by contract or agreement.

SMHD responds that it need not seek LAFCO approval before operating the Main Street Facility. SMHD argues that it is a hospital district, with powers enumerated by Health & Saf. Code 32121, and that this more specific statute precludes it from having to seek LAFCO approval under Government Code section 56133. The Court is not persuaded.

Health & Safety Code section 32121 enumerates the powers of local hospital districts. Among other things, this statute provides that local hospital districts “shall have and may exercise” the following powers, including the power to “purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description *within and without the limits of the district*, and to control, dispose of, convey, and encumber the same and create a leasehold interest in the same for the benefit of the district.” (Health & Saf. Code, § 32121(c).) Thus, Health & Safety Code section 32121 empowers hospital districts to offer services outside their boundaries.

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<sup>4</sup> LAFCOs regulate the conduct of special districts, including hospital districts, such as SMHD. (*Las Tunas, supra*, 38 Cal.App.4<sup>th</sup> at p. 1010 [citing Gov. Code § 56036].)

The Court must harmonize Government Code section 56133 and Health & Safety Code section 32121.

“The fundamental goal of statutory construction is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining that intent we first look to the words of the statute, giving the language its usual, ordinary meaning. [The Court] construe[s] the words of the statute in context, keeping in mind the statutory purpose. Statutes or statutory sections relating to the same subject must be harmonized to the extent possible. Where uncertainty exists, consideration should be given to the consequences that will flow from a particular interpretation. Both the legislative history and the wider historical circumstances of its enactment may be considered in ascertaining the legislative intent.” (*Community Water Coalition, supra*, 200 Cal.App.4<sup>th</sup> at p. 1324.)

The Act co-exists with other statutory schemes regulating districts. (*Las Tunas, supra*, 38 Cal.App 4<sup>th</sup> at p. 1012.) When the formation of special districts is specifically regulated, the regulatory statute controls formation. (*Ibid.*) However, the Act does not preclude other, more specific statutes, pertaining to district changes of organization. (*Id.*) However, it is appropriate to “partially apply” the Act when a statute does not specifically address a particular situation. (*Id.*, at p. 1013.)

Here, Health & Safety Code section 32121 does not discuss the powers of hospital districts, as they relate to other districts, or local entities, such as LAFCO. However, the absence of such discussion does not confer upon a hospital district unlimited power, regardless of the existence of other state laws.

For example, a water district could not rely on a statute allowing it to sell power to allow it to circumvent LAFCO approval. (*Modesto Irrigation Distr. v. Pacific Gas & Electr. Co., supra*, 309 F.Supp. 1156.) Although this case is federal authority, the Court finds its reasoning persuasive, particularly in light of the absence of state law authority addressing this exact issue.

In the *Modesto Irrigation District* case, an irrigation district offered to sell electricity to the city of Pittsburg, California, which city was located some distance from the district’s geographical service area. The irrigation district claimed that because Water Code section 22120 permitted it to sell power outside its boundaries, it was not required to seek LAFCO approval under Government Code section 56133. The Court disagreed. (*Id.*, a pp. 31-34.) The Court found that Section 56133 did not repeal, impliedly or otherwise, Water Code section 22120. Rather, Section 56133, limits districts’ right to sell those services, specifying how and when districts may do so, but not eliminating the right altogether. (*Id.*, a pp. 31-32.)

The Court finds the *Modesto Irrigation Distr.* case persuasive and applicable to this case. The Court concludes that, like the irrigation district in that case, SMHD cannot rely on Health & Safety Code, § 32121, which allows it to provide services outside its boundaries, to circumvent LAFCO approval.

First, Government Code section 56133 does not impliedly repeal Health & Safety Code section 32121. Neither statute is completely at odds with each other, and thus both statutes can be applied. (*See Stop Youth Addiction v. Lucky Stores* (1998) 17 Cal.4<sup>th</sup> 553, 569.)

Second, the Court notes that Health & Safety Code section 32121's grant of power is permissive: hospital districts "shall have and may exercise the following powers." In contrast, the language of Government Code section 56133(a) is mandatory: a district must seek approval from LAFCO.

Additionally, the Court's finding that Health & Safety Code section 32121 does not override Government Code section 56133 is reasonable. The Court construes Health & Safety Code section 32121 not as a grant of unlimited power to hospital districts, but as a grant of power that is limited by other existing California law. Indeed, SMHD's construction of Health & Safety Code section 32121 would allow it to disregard other existing California statutory schemes governing land use, such as the California Environmental Quality Act, or state laws governing planning and zoning. The Court will not interpret Health & Safety Code section 32121 to allow this absurd result.

Thus, the existence of Health & Safety Code section 32121, allowing hospital districts to provide services outside their boundaries, does not exempt such hospital districts from seeking LAFCO approval pursuant to Government Code section 56133.

Accordingly, if SMHD provided new or extended services by contract or agreement outside its jurisdictional boundary, and those services are not "alternative or substitute" services, pursuant to Government Code section 56133, subdivision (e), it was required to first request and receive written approval from LAFCO.

#### **d. Statute of Limitations**

The Court's inquiry does not stop here, however. It is Petitioners' burden to prove that it is entitled to mandate relief. Petitioners have not met this burden.

Petitioners must show that SMHD is providing new or extended services. Petitioners contend that the June 2015 opening of the Main Street clinic is a new or extended service. SMHD contends that it is not, rather, the opening of the Main Street clinic replaces existing services.

It is undisputed that SMHD-affiliated physicians have provided orthopedic services in Bishop since at least 2003, and no party has ever sought LACFO approval until 2015.

The Court has reviewed the briefs and evidence submitted by the parties. It is undisputed that SMHD initially provided services at the request of NIH, and may have provided substitute or alternative services not subject to LAFCO approval under Government Code section 56133(e). Over time, SMHD-affiliated physicians encroached upon NIH's

territory. At some point in time, SMHD began to provide “new” or “extended” services, requiring LAFCO approval. Indeed, SMHD provided expanded or new services in 2011 when it offered physical therapy services in addition to orthopedic services.

SMHD argues that the Petition is barred by the statute of limitations and other equitable defenses. The Court agrees.

SMHD argues that the Petition is barred by the three-year statute of limitations. (Code Civ. Proc., § 338(a) [three-year statute of limitations applies to a liability created by statute].) A liability created by statute of an obligation which the law creates. (*Shewry v. Begil* (2005) 128 Cal.App.4<sup>th</sup> 639, 644 [applying Section 338(a) to mandate action for reimbursement of Medi-Cal expenditures].) Here, Petitioners seek mandate relief pursuant to an obligation imposed by state law, there is no specific limitations period, and the parties do not dispute that the three year limitations period applies. Accordingly, the Court concludes that this action is subject to the three year limitations period in Code of Civil Procedure Section 338(a). This three year time period runs from the first time the challenge could be brought, i.e., the initial accrual of the cause of action. (*Travis v. County of Santa Clara* (2004) 33 Cal.4<sup>th</sup> 757, 774.)

Petitioners were certainly aware that SMHD was operating in Bishop. Petitioners were aware that SMHD opened the West Line Street Clinic, after the departure of Dr. Perry in 2011, and that SMHD began to provide physical therapy services in 2011. These were new or extended services subject to LAFCO approval required by Government Code section 56133. Petitioners could have challenged those actions then. They did not. Indeed, Petitioners conceded that NIH tried to “work with” SMHD after SMHD opened the West Line Street office. However, Petitioners did not file the petition until August 2015, after SMHD opened the Main Street Facility, which SMHD contends is not new or extended services.

Although Petitioners argue that the Main Street facility is larger and has a permanent, as opposed to portable, X-Ray machine, the Court cannot conclude in this case, particularly in light of SMHD’s lengthy and extended presence in Bishop, that the Main Street Facility constitutes a new or expanded service requiring LAFCO approval. Accordingly, the Court concludes that the action is barred by the three year statute of limitations.

Because the Court concludes that this action is barred by the statute of limitations it does not address SMHD’s arguments that this action is barred by other equitable doctrines.

Certainly, if SMHD engages in other activities that are new or expanded services, Petitioners may seek mandate relief, if SMHD does not seek LAFCO approval. But Petitioners are not entitled to mandate relief under the facts presented here.

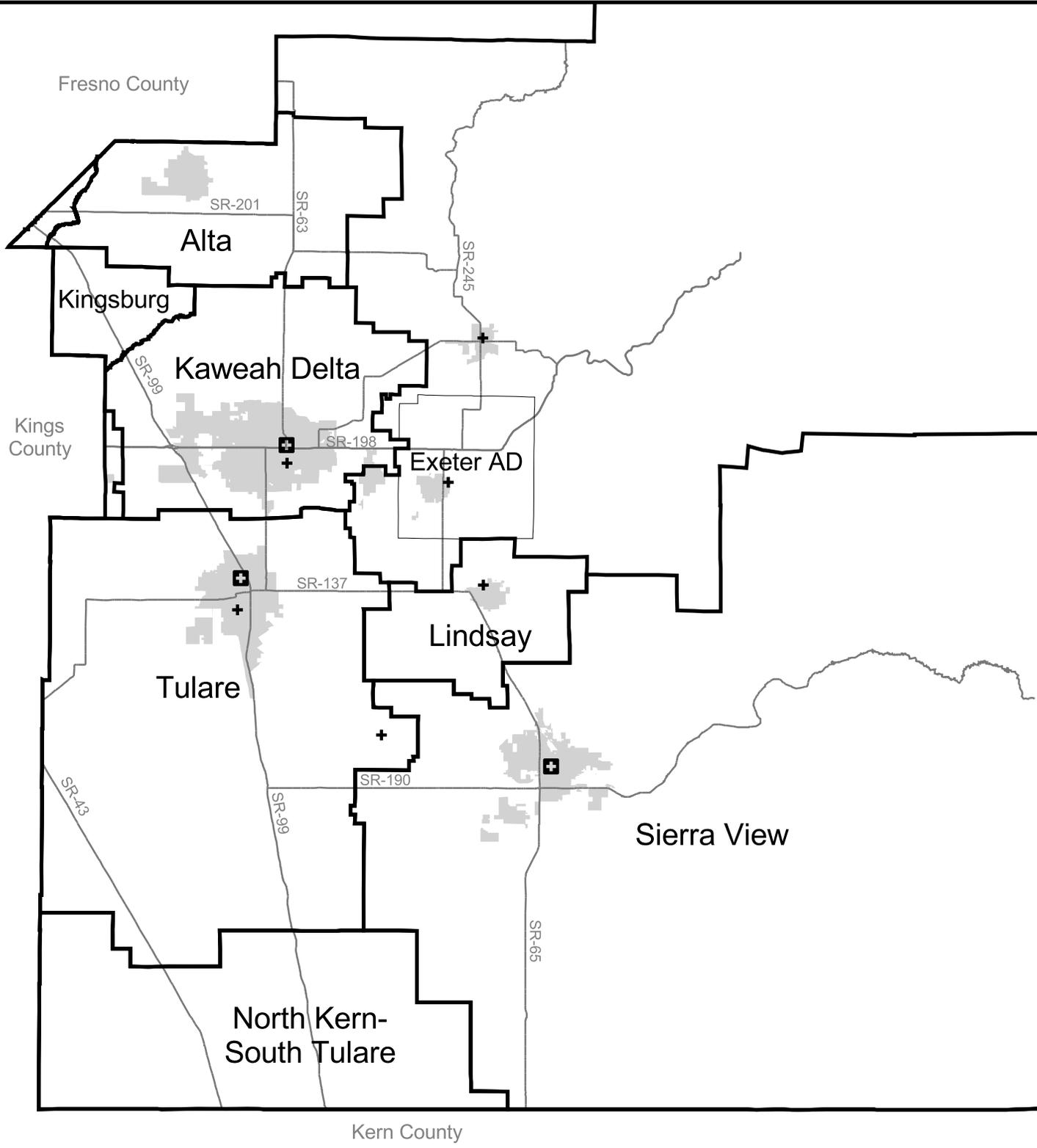
Petitioners have also filed a complaint for declaratory relief. To the extent that the claims in the declaratory relief complaint differ from the Mandate claim, Petitioners have not briefed how these claims differ. Upon reply, Petitioners argue that declaratory relief is

appropriate because Petitioners ask the Court to resolve whether the contracts and agreements entered by SMHD without securing approval of LAFCO are valid. Petitioners have not briefed this argument and the Court does not consider it. However, this argument is also barred by the three-year statute of limitations.

### **III. DISPOSITION**

The Petition is denied. The Complaint for Declaratory relief is denied. In the event this tentative ruling becomes the final ruling of the Court, Counsel for Respondent is directed to prepare a formal order, incorporating the Court's ruling as an exhibit thereto, and a separate judgment, submit them to counsel for the parties for approval as to form, and thereafter submit them to the Court for signature, in accordance with California Rules of Court, Rule 3.1312.

# Tulare County Hospital Districts



— State Highways

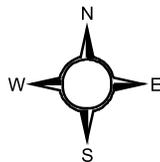
▭ Districts

■ Cities

⊕ Hospitals

⊕ Clinics

Kaweah Delta operates clinics in Exeter, Lindsay and Woodlake  
 Tulare operates clinics in Lindsay, Woodville and Kingsburg



Kingsburg HD is primarily in Fresno County  
 NK-ST HD is primarily in Kern County  
 Exeter is an Ambulance District

Boundaries as of 9/30/12



## CALAFCO Daily Legislative Report as of Friday, June 30, 2017

### AB 1479 (Bonta D) Public records: custodian of records: civil penalties.

**Current Text:** Amended: 6/19/2017 [Text](#)

**Introduced:** 2/17/2017

**Last Amended:** 6/19/2017

**Status:** 6/26/2017-In committee: Set, first hearing. Hearing canceled at the request of author.

**Calendar:** 7/11/2017 1:30 p.m. - Room 112 SENATE JUDICIARY, JACKSON, Chair

**Summary:**

Would require public agencies to designate a person or office to act as the agency's custodian of records who is responsible for responding to any request made pursuant to the California Public Records Act and any inquiry from the public about a decision by the agency to deny a request for records. The bill also would make other conforming changes. Because the bill would require local agencies to perform additional duties, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Position:** Oppose

**Subject:** Public Records Act

**CALAFCO Comments:** As amended this bill requires any public agency to designate a person/office to act as the agency's custodian of records who will be responsible for responding to all public records requests and to respond to an inquiries as to why the agency denied the request for records. Further the bill adds a failure to respond for records or an improperly assessed fee can be considered a civil penalty and allows the courts to issue fines ranging from \$1000 - \$5000.

### AB 464 (Gallagher R) Local government reorganization.

**Current Text:** Enrollment: 6/26/2017 [Text](#)

**Introduced:** 2/13/2017

**Last Amended:** 3/14/2017

**Status:** 6/26/2017-Enrolled and presented to the Governor at 2:30 p.m.

**Summary:**

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, current law requires that an applicant seeking a change of organization or reorganization submit a plan for providing services within the affected territory that includes, among other requirements, an enumeration and description of the services to be extended to the affected territory and an indication of when those services can feasibly be extended. This bill would specify that the plan is required to also include specific information regarding services currently provided to the affected territory, as applicable, and make related changes.

**Position:** Sponsor

**Subject:** Annexation Proceedings

**CALAFCO Comments:** This bill makes a fix to Gov. Code Sec. 56653 based on the court finding in the case of The City of Patterson v. Turlock Irrigation District. The court found that because the services were already being provided via an out of area service agreement, the application for annexation was deemed incomplete because it was not a new service to be provided. By making the fix in statute, any pending/future annexation for a territory that is already receiving services via an out of area service agreement will not be in jeopardy.

As amended, corrections were made to: 56653(b)(3) reading "proposed" rather than "provided", and in Government Code Section 56857 an exemption added pursuant to Public Utilities Code Section 9608 for territory already receiving electrical service under a service area agreement approved by the Public Utilities Commission pursuant to Public Utilities Code Section 9608.

### AB 979 (Lackey R) Local agency formation commissions: district representation.

**Current Text:** Amended: 5/15/2017 [Text](#)

**Introduced:** 2/16/2017

**Last Amended:** 5/15/2017

**Status:** 6/21/2017-From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (June 21). Re-referred to Com. on APPR.

**Calendar:** 7/10/2017 10 a.m. - John L. Burton Hearing Room  
(4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides for the selection of representatives of independent special districts on each local agency formation commission by an independent special district selection committee pursuant to a nomination and election process. This bill would additionally require the executive officer to call and hold a meeting of the special district selection committee upon the adoption of a resolution of intention by the committee relating to proceedings for representation of independent special districts upon the commission pursuant to specified law.

**Position:** Sponsor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This bill is co-sponsored by CALAFCO and CSDA. As amended, the bill amends code Sec. 56332.5 to streamline the process of seating special districts on LAFCo by mirroring current statute 56332 (the process for electing special district representatives into the special district seats). Keeping the process voluntary, it allows for voting by mail whether or not the district wants to have special districts represented on LAFCo. Further, it will allow for the consolidation of that question with the independent special district selection committee appointment to a countywide redevelopment agency oversight board pursuant to Health and Safety Code 34179 (j)(3).

**AB 1361 (Garcia, Eduardo D) Municipal water districts: water service: Indian tribes.**

**Current Text:** Amended: 6/28/2017 [Text](#)

**Introduced:** 2/17/2017

**Last Amended:** 6/28/2017

**Status:** 6/28/2017-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.

**Summary:**

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Current law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed. This bill would additionally authorize a district to provide this service of water to an Indian tribe's lands that are not within the district if the Indian tribe's lands are owned by the tribe.

**Position:** Oppose

**Subject:** Water

**AB 1725 (Committee on Local Government) Local agency formation.**

**Current Text:** Amended: 6/21/2017 [Text](#)

**Introduced:** 3/20/2017

**Last Amended:** 6/21/2017

**Status:** 6/28/2017-From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (June 28). Re-referred to Com. on APPR.

**Calendar:** 7/10/2017 10 a.m. - John L. Burton Hearing Room  
(4203) SENATE APPROPRIATIONS, LARA, Chair

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, as specified. The act defines various terms for these purposes, including the term "contiguous," which the act defines as territory adjacent to territory within the local agency. This bill would instead define "contiguous" as territory that abuts or shares a common boundary with territory within a local agency.

**Position:** Sponsor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This is the annual Omnibus bill. The bill makes only minor, non-substantive technical changes to CKH.

**SB 37 (Roth D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**

**Current Text:** Introduced: 12/5/2016 [Text](#)

**Introduced:** 12/5/2016

**Status:** 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

**Summary:**

Beginning with the 2004–05 fiscal year and for each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund that exists in each county treasury. Current law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities. This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2017–18 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

**Position:** Support

**Subject:** Financial Viability of Agencies, Tax Allocation

**CALAFCO Comments:** This bill is identical to SB 817 (Roth, 2016), SB 25 (Roth, 2015) and SB 69 (Roth, 2014) with the exception of the chaptering out language included in the 2016 version (which addressed the companion bill AB 2277 (Melendez, 2016)). The bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue, but the bill does reinstate future payments beginning in the 2017/18 year for cities that incorporated between 1-1-2004 and 1-1-2012.

**SB 448 (Wieckowski D) Local government: organization: districts.**

**Current Text:** Amended: 5/26/2017 [Text](#)

**Introduced:** 2/15/2017

**Last Amended:** 5/26/2017

**Status:** 6/15/2017-Referred to Com. on L. GOV.

**Calendar:** 7/12/2017 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

**Summary:**

Current law requires a report of an audit of a special district's accounts and records made by a certified public accountant or public accountant to be filed with the Controller and the county auditor of the county in which the special district is located within 12 months of the end of the fiscal year or years under examination. This bill would require that those audit reports also be filed with the local agency formation commission of either the county in which the special district is located or, if the special district is located in 2 or more counties, with each local agency formation commission within each county in which the district is located until January 1, 2027, and thereafter with the county containing the greatest percentage of the assessed value of taxable property in the district.

**Position:** Oppose unless amended

**Subject:** CKH General Procedures

**CALAFCO Comments:** As amended substantially on May 26, this bill authorizes LAFCo to dissolve inactive districts (after determining they meet the criteria set forth in the statute) by holding one hearing, without conducting a special study and with the waiver of protest proceedings. The bill is currently silent on how the LAFCo knows a district is inactive and the time frame in which the LAFCo must take the dissolution action. CALAFCO has been working with stakeholders and the authors office on pending amendments that will help clarify the process and connect other statutes to these actions. CALAFCO submitted amendments on June 18 for the authors consideration.

**AB 366 (Oberholte R) Civil actions: fee recovery.**

**Current Text:** Amended: 6/29/2017 [Text](#)

**Introduced:** 2/8/2017

**Last Amended:** 6/29/2017

**Status:** 6/29/2017-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on EQ.

**Summary:**

Current law enumerates the costs that a prevailing party may recover in a civil action. Current law provides that costs for models and enlargements of exhibits and photocopies of exhibits may be recovered if the items were reasonably helpful to aid the trier of fact. This bill would authorize a prevailing party to recover fees for the costs associated with the electronic presentation of exhibits, including costs of rental equipment and electronic formatting.

**Position:** Oppose

**Subject:** Water

**CALAFCO Comments:** As written, this bill will allow hauled water as a viable water source for certain single family dwelling parcels.

**AB 267 (Waldron R) Community services districts.**

**Current Text:** Introduced: 2/1/2017 [Text](#)

**Introduced:** 2/1/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/1/2017)(May be acted upon Jan 2018)

**Summary:**

Current law provides for the organization and powers of community services districts, including the continuation of any community services district, improvement district of a community services district, or zone of a community services district, that was in existence on January 1, 2006. This bill would make nonsubstantive changes to these provisions.

**Position:** Watch

**CALAFCO Comments:** According to the author's office this is a spot bill.

**AB 548 (Steinorth R) Omnitrans Transit District.**

**Current Text:** Amended: 4/4/2017 [Text](#)

**Introduced:** 2/14/2017

**Last Amended:** 4/4/2017

**Status:** 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was TRANS. on 3/23/2017)(May be acted upon Jan 2018)

**Summary:**

Would create the Omnitrans Transit District in the County of San Bernardino. The bill would provide that the jurisdiction of the district would initially include the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa, and unspecified portions of the unincorporated areas of the County of San Bernardino. The bill would authorize other cities in the County of San Bernardino to subsequently join the district.

**Position:** None at this time

**CALAFCO Comments:** This bill, as amended, appears to dissolve the Omnitrans JPA and form a new independent special district to be known as the Omnitrans Transit District. The formation process does not include LAFCo. CALAFCO is reaching out to the author's office for more details.

**AB 577 (Caballero D) Disadvantaged communities.**

**Current Text:** Amended: 3/9/2017 [Text](#)

**Introduced:** 2/14/2017

**Last Amended:** 3/9/2017

**Status:** 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/27/2017)(May be acted upon Jan 2018)

**Summary:**

Current law defines a disadvantaged community as a community with an annual median household

income that is less than 80% of the statewide annual median household income for various purposes, that include, but are not limited to, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, eligibility for certain entities to apply for funds from the State Water Pollution Cleanup and Abatement Account, and authorization for a community revitalization and investment authority to carry out a community revitalization plan. This bill would expand the definition of a disadvantaged community to include a community with an annual per capita income that is less than 80% of the statewide annual per capita income.

**Position:** Watch

**Subject:** Disadvantaged Communities

**CALAFCO Comments:** Sponsored by the Environmental Justice Coalition for Water, this bill is intended to expand the definition of disadvantaged communities to include multi-family households. According to the author's office this will be a two-year bill. CALAFCO will retain a Watch position until any amendments are in print.

**AB 645 (Quirk D) Local government: organization: dissolution.**

**Current Text:** Introduced: 2/14/2017 [Text](#)

**Introduced:** 2/14/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/2/2017)(May be acted upon Jan 2018)

**Summary:**

Under current law, if a change of organization consists of a dissolution, the commission is required to order the dissolution subject to confirmation of voters if, among other things, the proposal was not initiated by the commission and if a subject agency has not objected to the proposal, the commission has found that, for an inhabited territory protests have been signed by either 25% of the number of landowners within the affected territory who own at least 25% of the assessed value of land within the territory or 25% of the voters entitled to vote as a result of residing or owning land within the affected territory. This bill would decrease that threshold to 10% of the number of landowners within the affected territory who own at least 25% of the assessed value of land within the territory or 10% of the voters entitled to vote as a result of residing or owning land within the affected territory.

**Position:** Watch

**Subject:** CKH General Procedures, Disincorporation/dissolution, Special District Consolidations

**CALAFCO Comments:** According to the author's office this is a spot bill pending the outcome of the Alameda LAFCo special study on Eden Healthcare District. Update: The author's office indicates they will hold off moving this bill. CALAFCO will continue to Watch.

**AB 892 (Waldron R) Municipal water districts: water service: Indian tribes.**

**Current Text:** Amended: 3/23/2017 [Text](#)

**Introduced:** 2/16/2017

**Last Amended:** 3/23/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/23/2017)(May be acted upon Jan 2018)

**Summary:**

Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed. This bill would authorize, rather than require, a district to provide this service of water. The bill would apply this authorization to all Indian tribes whose lands are owned by the tribe.

**Position:** Watch

**Subject:** Water

**CALAFCO Comments:** According to the author's office, this may very well become a two-year bill. The intent of the bill was to make it permissive for an Indian tribe to negotiate directly with a water provider to obtain water services. This would circumvent LAFCo. This bill expands on last year's bill by Gonzalez-Fletcher, AB 2470. The author's office has indicated the bill will not move forward in it's current version. They understand CALAFCO's concerns. CALAFCO will continue to monitor the bill for any amendments and will consider a position if/when amendments are in print.

**AB 1728 (Committee on Local Government) Health care districts: board of directors.**

**Current Text:** Introduced: 3/22/2017 [Text](#)

**Introduced:** 3/22/2017

**Status:** 6/1/2017-Referred to Com. on GOV. & F.

**Calendar:**

7/12/2017 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, MCGUIRE, Chair

**Summary:**

Each health care district has a board of directors with specific duties and powers respecting the creation, administration, and maintenance of the district, including purchasing, receiving, having, taking, holding, leasing, using, and enjoying property. This bill would require the board of directors to adopt an annual budget in a public meeting, on or before September 1 of each year, that conforms to generally accepted accounting and budgeting procedures for special districts, establish and maintain an Internet Web site that lists contact information for the district, and adopt annual policies for providing assistance or grant funding, if the district provides assistance or grants.

**Position:** Support

**Subject:** Other

**CALAFCO Comments:** As introduced, this bill requires healthcare districts to adopt annual budgets, establish and maintain a website (and prescribes the required site content), and adopt policies for grant funding.

**SB 206 (Committee on Governance and Finance) Validations.**

**Current Text:** Enrollment: 6/27/2017 [Text](#)

**Introduced:** 2/1/2017

**Status:** 6/27/2017-Enrolled and presented to the Governor at 3:30 p.m.

**Summary:**

Would enact the First Validating Act of 2017, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill would declare that it is to take effect immediately as an urgency statute.

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**SB 207 (Committee on Governance and Finance) Validations.**

**Current Text:** Enrollment: 6/27/2017 [Text](#)

**Introduced:** 2/1/2017

**Status:** 6/27/2017-Enrolled and presented to the Governor at 3:30 p.m.

**Summary:**

Would enact the Second Validating Act of 2017, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill would declare that it is to take effect immediately as an urgency statute.

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**SB 208 (Committee on Governance and Finance) Validations.**

**Current Text:** Enrollment: 6/27/2017 [Text](#)

**Introduced:** 2/1/2017

**Status:** 6/27/2017-Enrolled and presented to the Governor at 3:30 p.m.

**Summary:**

Would enact the Third Validating Act of 2017, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**SB 365 (Dodd D) Regional park and open-space districts: County of Solano.**

**Current Text:** Introduced: 2/14/2017 [Text](#)

**Introduced:** 2/14/2017

**Status:** 6/28/2017-Action From L. GOV.: Do pass as amended.To W.,P. & W..

**Summary:**

Current law authorizes proceedings for the formation of a regional park and open-space or regional open-space district in specified counties in the state to be initiated by resolution of the county board of supervisors adopted after a noticed hearing, and specifies the contents of the resolution. This bill, in addition, would authorize the formation of a regional district in the County of Solano to be initiated by resolution of the county board of supervisors after a noticed hearing. The bill would specify the contents of the resolution, including the calling of an election, as prescribed.

**Position:** Oppose

**Subject:** LAFCo Administration

**CALAFCO Comments:** This bill calls for the formation of a regional park and open space district which will circumvent the LAFCo formation process. CALAFCO discussed our concerns with the author's office, who has made it clear they will not be considering any potential amendments unless requested by Solano LAFCo. As Solano LAFCo is now formally in support of the bill, it is not likely there will be any amendments.

**SB 435 (Dodd D) Williamson Act: payments to local governments.**

**Current Text:** Amended: 5/2/2017 [Text](#)

**Introduced:** 2/15/2017

**Last Amended:** 5/2/2017

**Status:** 5/25/2017-May 25 hearing: Held in committee and under submission.

**Summary:**

Would, under the Williamson act, reduce the amount per acre paid to a city, county, or city and county under these provisions to \$2.50 for prime agricultural land, \$0.50 for all other land devoted to open-space uses of statewide significance, and, for counties that have adopted farmland security zones, \$4 for land that is within, or within 3 miles of the sphere of influence of, each incorporated city.

**Position:** Support

**Subject:** Ag Preservation - Williamson

**CALAFCO Comments:** This bill renews partial subvention funding for the Williamson Act as a fiscal incentive to lift contract moratoria, implements solar use easements and Farmland Security Zone Contracts, and increases subvention funding for counties that adopt conservation planning strategies for agriculturally zoned property that further our state's sustainable community goals.

**SB 634 (Wilk R) Santa Clarita Valley Water District.**

**Current Text:** Amended: 5/26/2017 [Text](#)

**Introduced:** 2/17/2017

**Last Amended:** 5/26/2017

**Status:** 6/29/2017-From committee: Do pass and re-refer to Com. on W.,P., & W. (Ayes 9. Noes 0.) (June 28). Re-referred to Com. on W.,P., & W.

**Calendar:**

7/11/2017 9 a.m. - State Capitol, Room 444 ASSEMBLY WATER, PARKS AND WILDLIFE, GARCIA, Chair

**Summary:**

Current law, the Castaic Lake Water Agency Law, created the Castaic Lake Water Agency and authorizes the agency to acquire water and water rights, including water from the State Water Project, and to provide, sell, and deliver water at wholesale for municipal, industrial, domestic, and other purposes. This bill would repeal the Castaic Lake Water Agency Law. This bill contains other related provisions and other current laws.

**Position:** Neutral

**Subject:** Special District Consolidations

**CALAFCO Comments:** As amended, this bill consolidates two independent water districts in Los Angeles. The bill was amended to include LAFCo in the process via an application for binding conditions.

As statute does not allow the local LAFCo to deny the application when both district boards have adopted resolutions of support, the amendments of May 26 address all of CALAFCO's concerns. As a result CALAFCO has removed our opposition and now is neutral on the bill.

**SB 693 (Mendoza D) Lower San Gabriel River Recreation and Park District.**

**Current Text:** Amended: 6/20/2017 [Text](#)

**Introduced:** 2/17/2017

**Last Amended:** 6/20/2017

**Status:** 6/29/2017-From committee: Do pass as amended and re-refer to Com. on W.,P., & W. (Ayes 6. Noes 1.) (June 28).

**Calendar:**

7/3/2017 #9 ASSEMBLY SECOND READING FILE -- SENATE BILLS

7/11/2017 9 a.m. - State Capitol, Room 444 ASSEMBLY WATER, PARKS AND WILDLIFE, GARCIA, Chair

**Summary:**

Would specifically authorize the establishment of the Lower San Gabriel River Recreation and Park District, by petition or resolution submitted to the Los Angeles County Local Agency Formation Commission before January 1, 2020, subject to specified existing laws governing recreation and park districts, including their formation, except as provided. The bill would authorize specified city councils, the Los Angeles County Board of Supervisors, and a specified nonprofit entity to appoint members to, and the executive officer of the conservancy to serve as a member on, the initial board of directors of the district.

**Position:** Watch

**Subject:** LAFCo Administration

**CALAFCO Comments:** This bill forms the Lower San Gabriel River Recreation and Park District while leaving a majority of the LAFCo process intact. CALAFCO will keep watching to ensure it stays that way.



# Announcing The 2017 CALAFCO Annual Conference

Hosted by CALAFCO

**October 25-27, 2017**

Bahia Hotel in Mission Bay  
San Diego, CA



## Value-Added and Diverse General & Breakout Session Topics

- ▶ Branding and marketing your LAFCo - Your LAFCo story – don't let someone else tell it!\*
- ▶ Presentation of public statewide LAFCo survey results and what that means for LAFCos – where do we go from here?\*
- ▶ Long-term sustainability of local agencies
- ▶ Future funding of LAFCos
- ▶ Dealing with unincorporated islands
- ▶ Healthcare districts and LAFCos
- ▶ Commission decision making – making the tough choices
- ▶ What do Commissioners and Staff really want from each other?
- ▶ Making the right choices ethically\*
- ▶ Annual CALAFCO Legislative Update\*
- ▶ CALAFCO Annual Business Meeting\*

*Plus more!*

Note: The Program is subject to change.

\*Indicates General Session

## Special Highlights

### Mobile Workshop

We will tour the nation's largest desalination plant in Carlsbad at the San Diego Water Authority's Claude "Bud" Lewis Desalination Plant. This award winning plant delivers approx. 50 million gallons of water per day to area residents. We are also working on a tour of the adjacent Encina Power Station. A stop for lunch is also planned.

Details will be announced shortly – but register now to secure your seat!

**Wednesday from  
7:30 a.m. to 12:30 p.m.**  
(times approx..)

### LAFCo 101

An introduction to LAFCo and LAFCo law for Commissioners, Staff, and anyone interested in learning more about LAFCo

**Wednesday from  
10:00 a.m. to Noon**

**Thursday Luncheon  
Keynote**

**To Be Announced**

## Invaluable Networking Opportunities

- ▶ Regional Roundtable discussions on current regional LAFCo issues
- ▶ Roundtable discussions for LAFCo legal counsel
- ▶ Pre-dinner Reception with Sponsors Thursday
- ▶ Networking breakfasts and breaks
- ▶ Welcome Reception Wednesday
- ▶ Awards Banquet Thursday



### Bahia Hotel Mission Bay



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plan to attend!**



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