



# 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

ALTERNATES:  
Mike Ennis  
Carlton Jones  
Dennis Mederos

EXECUTIVE OFFICER:  
Ben Giuliani

**LAFCO MEETING AGENDA**  
*March 1, 2017 @ 2:00 P.M.*  
BOARD OF SUPERVISORS CHAMBERS  
COUNTY ADMINISTRATIVE BUILDING  
2800 West Burrel Avenue  
Visalia CA 93291

- I. **Call to Order**
- II. **Approval of Minutes from January 18, 2017 (Pages 1-2)**
- 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 1526 Deer Creek Storm Water District SOI Amendment (Pages 3-10)**  
*[Public Hearing].....Recommended Action: Approval*

The DCSWD has submitted a request for a Sphere of Influence amendment to accommodate a proposed annexation (Case 1526b) into the District. A Notice of Exemption was prepared in compliance with CEQA by the DCSWD for use with this proposal.

- 2. **Case 1526a Deer Creek Storm Water District Annexation 16-01 (Pages 11-20)**  
*[Public Hearing].....Recommended Action: Approval*

The DCSWD has submitted a request for an annexation of 4,079 acres. The annexation is located entirely within Kings County north of the Kern County line, bisected by Sixth Ave. A Notice of Exemption was prepared in compliance with CEQA by the DCSWD for use with this proposal.

**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.**

3. Case 1528-P-319 City of Porterville Annexation No. 479 (Roby Island) (Pages 21-34)  
*[Public Hearing].....Recommended Action: Approval*

The City of Porterville has submitted a request for an annexation of 87 acres of land and concurrent detachment from CSA #1 located south of Olive Ave., west of State Route 65 in southern Porterville. The annexation area is a developed county island. A Negative Declaration was prepared in compliance with CEQA by the City of Porterville for use in this proposal.

4. Case 1529 Alpaugh Irrigation District SOI Amendment (Pages 35-44)  
*[Public Hearing].....Recommended Action: Approval*

The AID has submitted a request for a Sphere of Influence amendment to accommodate a proposed annexation (Case 1529a) into the District. A Notice of Exemption and a Negative Declaration were prepared in compliance with CEQA by the AID for use with this proposal.

5. Case 1529a Alpaugh Irrigation District Annexation 16-01 (Pages 45-58)  
*[Public Hearing].....Recommended Action: Approval*

The AID has submitted a request for an annexation of 1,776 acres. The annexation consists of two areas. Area 1 is 1,294 acres and is located north of AID, west of State Highway 43 and east of Road 40. Area 2 is 482 acres and is located south of AID, east of Road 46 and west of Road 56 alignment. A notice of Exemption and a Negative Declaration were prepared in compliance with CEQA by the AID for use with this proposal.

6. Designation of LAFCO Appointee to the Tulare County Association of Governments RTP/SCS Round Table  
*[No Public Hearing].....Recommended Action: Designate Appointee*

The Tulare County Association of Governments (TCAG) is beginning development of the 2018 RTP. The Sustainable Communities Strategy (SCS) Roundtable is being reformed to provide comments and input on issues related to development of the 2018 RTP/SCS. Commissioner Allen participated as LAFCO's representative at the SCS Roundtable for the development of the 2014 RTP/SCS.

## V. Executive Officer's Report

1. Legislative Update (No Page)

An update will be given at the meeting.

2. Upcoming Projects (No Page)

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

## VI. Correspondence

None

**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.**

**VII. Other Business**

1. Conflict of Interest Code – Form 700 (Pages 59-66)

Enclosed is a memo regarding Form 700's which are due April 1, 2017.

2. Commissioner Report

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

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

1. April 12, 2017 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building.

**IX. Adjournment**

***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.***

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**ITEM: II**

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

**Summary Minutes of the Meeting**

**January 18, 2017**

**Members Present:** Mendoza, Worthley, Vander Poel, Hamilton

**Members Absent:** Allen

**Alternates Present:** Mederos

**Alternates Absent:** Ennis

**Staff Present:** Giuliani, Ingoldsby, Unti

**Counsel Present:** Kuhn

**I. Call to Order**

Chair Vander Poel called the Tulare County LAFCO meeting to order at 2:01 p.m. January 18, 2017.

**II. Approval of the December 7, 2016 Meeting Minutes:**

Upon motion by Commissioner Mederos and seconded by Commissioner Worthley, the Commission unanimously approved the LAFCO minutes of December 7, 2016.

**III. Public Comment Period**

Chair Vander Poel opened/closed the Public Comment Period at 2:01p.m. No public comments received.

**IV. Consent Calendar**

**1. Case 1527-D-61 City of Dinuba Annexation 2016-08 (Randle Ave)**

Upon motion by Commissioner Worthley and seconded by Commissioner Hamilton, the Commission unanimously approved Case 1527-D-61 City of Dinuba Annexation 2016-08 (Randle Ave).

**V. New Action Items**

None

**VI. Executive Officer's Report**

**1. County Presentation**

Aaron Bock and Kyria Martinez, from Tulare County RMA, presented and provided information regarding the Disadvantaged Communities Infrastructure and Planning Policy Analysis.

**2. Public Cemetery District Report**

EO Giuliani provided Commissioners with a report on the general purpose, structure and financial information of Public Cemetery Districts (PCDs) within Tulare County. The

Commission directed staff to set up meetings with Eshom Valley, Woodlake and Three Rivers PCDs.

**VII. Correspondence**

**1. CALAFOC Quarterly Report**

EO Giuliani informed Commissioners the CALAFOC Quarterly report was enclosed in the packets.

**VIII. Other Business**

**1. Request from LAFCO for items to be set for future agendas**

EO Giuliani stated that for the March LAFCO Agenda there would be annexations from the City of Porterville, Deer Creek Storm Water District and Alpaugh Irrigation District.

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

The next meeting is scheduled for March 1, 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 3:06 p.m.



**TULARE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 (559) 624-7274 FAX (559) 733-6720

COMMISSIONERS:

*Pete Vander Poel, Chair  
Juliet Allen, Vice Chair  
Cam Hamilton  
Steve Worthley  
Rudy Mendoza*

ALTERNATES:

*Dennis Mederos  
Carlton Jones  
Mike Ennis*

EXECUTIVE OFFICER:

*Ben Giuliani*

March 1, 2017

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Steven Ingoldsby, Staff Analyst

SUBJECT: LAFCO Case 1526, Sphere of Influence Amendment for the Deer Creek Storm Water District

**Background**

The Deer Creek Storm Water District is requesting a Sphere of Influence (SOI) amendment to include approximately 4,079 acres of land located within Kings County, north of the Kern County line bisected by Sixth Avenue. A site map showing the location is included. The same area is included in a subsequent annexation proposal (Case #1526a) for the Deer Creek Storm Water District.

**Discussion**

The SOI amendment is needed to accommodate the proposed annexation in Case #1526a. Deer Creek Storm Water District is a California Storm Water District formed under the Storm Water Act of 1909. The purpose for the formation of the District was to provide a vehicle for the protection of the southwestern portion of the county from flood waters being generated by the Deer Creek, the White River and the Poso Creek as it exits Kern County heading northwesterly. Maintenance of levees and the streambeds of these ephemeral streams has been the charge of the District throughout its history

The land is used agriculturally and does not presently require a great deal of governmental services and controls. There are no specific levee or streambed improvements currently contemplated for the proposal area. The SOI amendment will also allow for the District to manage the land for Groundwater Sustainability Agency (GSA) purposes in the future

Though the proposal area is situated entirely within Kings County, Tulare County acts as the principal county because the majority of the assessed value of Deer Creek Storm Water District lies within Tulare County.

Notice of the public hearing for this proposal was provided in accordance with Government Code Section 56427.

## **Environmental Impacts**

The Deer Creek Storm Water District is the lead agency for this proposal. The District has determined that the project is categorically exempt from the California Environmental Quality Act under Sections 15004, 15301, 15304, 15306, 15307, 15308, and 15325.

## **Municipal Service Review**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to establish Spheres of Influence for cities and special districts. Prior to, or in conjunction with establishing an agency's SOI, LAFCO is required to conduct a Municipal Service Review (MSR) for each agency. Neither the LAFCO statute nor the OPR Guidelines specifically prescribe which agencies and what services are subject to municipal service reviews. Therefore, it is left to each LAFCO to establish review parameters. Tulare County LAFCO has determined that storm water districts are exempt from municipal service review.

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

Portions of the annexation area may be in Williamson Act Contract. The approval of this annexation is not inconsistent with continued Williamson Act coverage. Cancellation of Williamson Act Contracts is not contemplated in this application.

## **Required Determinations**

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

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

The amendment to the SOI includes land that is mostly in agricultural production and habitat management. There are no currently proposed changes in land use.

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

The purpose of the concurrent annexation is for storm water control and for the possible inclusion into a Groundwater Sustainability Agency (GSA).

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

The district has the capability to provide streambed and levee maintenance within the proposal area though no specific project is currently contemplated. Much of the area is also not currently within a qualifying water agency for the purposes of forming a GSA. No

other services will be affected.

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

The subject area does not contain social or economic communities of interest.

### **Conterminous Annexation**

The intent of the SOI amendment is to make the SOI boundary conterminous with the proposed annexation (LAFCO Case 1526a). However, the Commission may choose to make adjustments to the proposed annexation boundaries. The final SOI boundary shall be conterminous to the final annexation boundary, if approved by the Commission.

### **Recommendations:**

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

- A. Find that the proposed Sphere of Influence amendment for Area 1 is Categorically Exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15004, 15301, 15304, 15306, 15307, 15308, and 15325.
- B. Adopt the written statement of determinations and find that the proposed Deer Creek Storm Water District Sphere of Influence amendment complies with the GC §56425.
- C. Find that pursuant to GC §56426.5(b)(2), the proposed SOI amendment will not adversely affect the continuation of any Williamson Act contracts beyond their current expiration dates.
- D. The SOI amendment is contingent on the approval of LAFCO Case 1526a (Deer Creek Storm Water District Annexation).
- E. The SOI boundary shall be conterminous with the final boundary approved in LAFCO Case 1526a.
- F. Approve the Sphere of Influence to be known as LAFCO Case 1526, Deer Creek Storm Water District SOI Amendment.

### **Figures & Exhibits**

Figure 1 Site Location Map  
Figure 2 Resolution



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

In the Matter of the Proposed Amendment to the            )  
Deer Creek Storm Water District Sphere of Influence    )     **RESOLUTION NO. 17-XXX**  
LAFCO Case No. 1526    )

**WHEREAS**, pursuant to Government Code Section 56425, Local Agency Formation Commissions are required to establish, periodically review and revise or amend Sphere of Influence boundaries; and

**WHEREAS**, this Commission has adopted a Sphere of Influence Policy which requires that wherever possible, the Spheres of Influence for each of the incorporated cities and various special districts which provide urban services to unincorporated communities in the County reflect a twenty year growth area; and

**WHEREAS**, the Commission has read and considered the reports and recommendations of the Executive Officer; and

**WHEREAS**, on March 1, 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 boundaries of the Sphere of Influence amendment are definite and certain as shown in Exhibit A.

2. The information, materials, and facts set forth in the application and the reports of the Executive Officer, including any corrections, have been received and considered in accordance with GC §56427.

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

XXXXXXXXXX  
XXXXXXXXXX

4. All required notices have been given and all proceedings taken in this matter have been and now are in all respects taken in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended.

5. Pursuant to Commission Policy C-5.11, this proposal is a SOI amendment and is not subject to, a Municipal Service Review for Strom Water Districts.

7. Pursuant to GC §56426.5(b), the Commission finds that the SOI amendment is not likely to adversely affect the continuation of the contracts beyond their current expiration dates.

8. The Commission has considered the following criteria as required under GC §56425(e):

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

The amendment to the SOI includes land that is mostly in agricultural production and habitat management. There are no currently proposed changes in land use.

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

The purpose of the concurrent annexation is for storm water control and for the possible formation of a Groundwater Sustainability Agency (GSA).

- (3) *The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.*

The district has the capability to provide streambed and levee maintenance within the proposal area though no specific project is currently contemplated. Much of the area is also not currently within a qualifying water agency for the purposes of forming a GSA. No other services will be effected.

- (4) *The existence of any social or economic communities of interest in the area.*

The subject area does not contain social or economic communities of interest.

9. The Commission hereby finds that the proposed Sphere of Influence amendment will not have a significant impact on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the a Notice of Exemption filed by the Deer Creek Storm Water District for the proposed amendment in compliance with the California Environmental Quality Act of 1970, as amended, prior to taking action on said amendment.

10. The Commission hereby finds that the proposed amendment to the Deer Creek Storm Water District Sphere of Influence is in compliance with the Cortese-Knox-Hertzberg Act, GC §§56425:56430 and 56377, and Tulare County LAFCO Policy and Procedure section C-5, Spheres of Influence.

11. The Sphere of Influence for the Deer Creek Storm Water District is hereby amended with the following conditions:

A) The SOI amendment is contingent on the approval of LAFCO Case 1526a (Deer Creek Storm Water District Annexation)

B) The SOI boundary shall be conterminous with the final boundary approved in LAFCO Case 1526a.

12. The Executive Officer is hereby authorized and directed to sign and file the Notice of Exemption with the County Clerk.

The foregoing resolution was adopted upon the motion by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, at a regular meeting held this 1st day of March, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

\_\_\_\_\_  
Ben Giuliani, Executive Officer

si

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

*March 1, 2017*

- PROPOSAL:** Deer Creek Storm Water District Annexation
- PROPONENT:** Deer Creek Storm Water District by resolution
- SIZE:** Approximately 4,079 acres.
- LOCATION:** Located within Kings County north of the Kern County line bisected by Sixth Avenue **(Figure 1)**
- APNs:** 82 parcels are included in the proposal. **(Figure 2)**
- NOTICE:** Notice for this public hearing was provided in accordance with Government Code Sections 56158, 56153, 56661 and 56300(f).

**ANALYSIS**

**1. Conformity with Plans:**

*A. Site Information*

	<b>Existing</b>	<b>Proposed</b>
<b>Zoning Designation</b>		No Change
<b>General Plan Designation</b>	Agriculture Open Space	No Change
<b>Uses</b>	Agriculture and Habitat Management	No Change

Surrounding land uses are mostly agricultural and habitat management. This proposal does not conflict with the Kings County General Plan.

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

Portions of the annexation area may be in Williamson Act Contract. The approval of this annexation is not inconsistent with continued Williamson Act coverage. Cancellation of Williamson Act Contracts is not contemplated in this application.

**3. Population:**

According to Kings County Election Division there are fewer than 12 registered voters within the affected area. Therefore, pursuant to GC Section 56046, the annexation area is uninhabited.

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

The annexation being proposed will allow the District to make improvements and maintain the streambed and levees. Much of the area is also not currently within a qualifying water agency for the purposes of inclusion into a Groundwater Sustainability Agency (GSA). No other services will be effected.

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

The boundaries of the proposal area are definite and certain and conform to the lines of assessment and ownership.

**6. Environmental Impacts:**

The Deer Creek Storm Water District is the lead agency for this proposal. The District has determined that project is categorically exempt from the California Environmental Quality Act under Sections 15004, 15301, 15304, 15306, 15307, 15308, and 15325. A copy of the document is included in the application materials.

**7. Landowner Consent:**

The site contains many parcels, see Figure 1. Pursuant to GC Section 56663: consent to this detachment has not been received from all property owners. Notice was mailed to all landowners and registered voter within the annexation area. The Commission may waive protest proceedings if written opposition is not received prior to the end of the public hearing.

**8. Discussion:**

Though the proposal area is situated entirely within Kings County, Tulare County acts as the principal county because the majority of the assessed value of Deer Creek Storm Water District lies within Tulare County.

Deer Creek Storm Water District is a California Storm Water District formed under the Storm Water Act of 1909. The purpose for the formation of the District was to provide a vehicle for the protection of the southwestern portion of the County from flood waters being generated by the Deer Creek, the White River and the Poso Creek as it exits Kern County heading northwesterly. Maintenance of levees and the streambeds of these ephemeral streams has been the charge of the District throughout its history.

The land is used agriculturally and does not presently require a great deal of

governmental services and controls. There are no specific levee or streambed improvements currently contemplated for the proposal area. The annexation amendment will also allow for the District to manage the land for GSA purposes in the future.

**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 Notice of Exemption prepared by the Deer Creek Storm Water District 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 Deer Creek Storm Water District complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, Section 56377.
3. Pursuant to LAFCO Policy and Procedure Section C-1, find that:
  - a. There is a demonstrated need for the services to be provided by the district.
  - b. The proposed annexation represents a logical and reasonable change of organization of the district.
  - c. The proposed change of annexation reflects the plans of the adjacent governmental agencies.
  - d. The proposed boundaries are definite and certain and conform to lines of assessment.
4. Find that the territory proposed for this annexation to the Deer Creek Storm Water District is uninhabited.
5. Waive the protest hearing for this proposal in accordance with subsection (c) of Government Code §56663 and order the annexation 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.
6. Approve the annexation as proposed by the Deer Creek Storm Water District Annexation 16-01.
7. Authorize the Executive Officer to sign and file a Notice of Exemption with the Tulare County Clerk.

**Figures:**

- Figure 1 Site Location Map
- Figure 2 APN List
- Figure 3 Resolution



## Deer Creek Storm Water District Annexation 1526a APN List

APN	APN
046400016000	046420016000
046400015000	046430040000
046400017000	046430026000
046400018000	046430009000
046410028000	046430011000
046410025000	046430016000
046410026000	046430019000
046410027000	046430020000
046410016000	046430008000
046410015000	046430013000
046410014000	046430035000
046410013000	034080058000
046410019000	046430015000
046410020000	046430036000
046410021000	046430039000
046410022000	046430038000
046410007000	046430012000
046410003000	046430014000
046410005000	046430006000
046410004000	046440004000
046410024000	046440005000
046410009000	046440010000
046410008000	046440011000
046410002000	046440001000
046410006000	046440003000
046410018000	046440002000
046410023000	046440006000
046410017000	046450006000
046410011000	046450010000
046410029000	046450014000
046420015000	046450003000
046420014000	046450001000
046420013000	046450015000
046420017000	046430005000
046420001000	046430021000
046420011000	046430028000
046420003000	046430033000
046420004000	046430027000
046420005000	
046420007000	
046420008000	
046420010000	
046420006000	
046420012000	

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

In the Matter of the Proposed Annexation            )  
To the Deer Creek Storm Water District            )            **RESOLUTION NO. 17-XXX**  
LAFCO Case No. 1526a                                    )

**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 Deer Creek Storm Water District 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 March 1, 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 Deer Creek Storm Water District, as Lead Agency, filed a Notice of Exemption in compliance with the California Environmental Quality Act (CEQA). And finds that the proposed Annexation will not have a significant impact on the environment. Under the California Environmental Quality Act (CEQA) Sections 15004, 15301, 15304, 15306, 15307, 15308, and 15325, the proposal is considered exempt from CEQA review.

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:

XXXXXXXXXX  
XXXXXXXXXX

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 conform to lines of assessment.
- b. Fewer than 12 registered voters reside in the affected territory and 100% landowner consent was not received.

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 Kings County's General Plan.

- b. There is a demonstrated need for sustainable groundwater management and storm water management and the District provides a way of meeting this need.
- c. The proposed annexation represents a logical and reasonable expansion of the annexing district.
- d. 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 *{if protests are not submitted by the close of the public hearing}* or Authorize the Executive Officer to conduct a protest hearing subsequent to these proceedings and to report to the Commission the results of that hearing for action in accordance with GC §§57000-57120 *{if protests are not submitted by the close of the public hearing}*.

8. Approve the annexation as proposed by Deer Creek Storm Water District, to be known as LAFCO Case Number 1526a, Deer Creek Storm Water District.

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

LAFCO Case No. 1526a, Deer Creek Storm Water District Annexation 16-01.

10. Authorize the Executive Officer to sign and file a Notice of Exemption with the Tulare County Clerk.

The foregoing resolution was adopted upon motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, at a regular meeting held on this 1st day of March, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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Ben Giuliani, Executive Officer

si

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

*March 1, 2017*

**LAFCO Case Number 1528-P-319  
City of Porterville Annexation No. 479 (Roby Island)**

- PROPOSAL:** City of Porterville Reorganization (annexation to Porterville, detachment from CSA #1)
- PROPONENT:** The City of Porterville by resolution of its City Council
- SIZE:** 87.79 acres
- LOCATION:** South of Olive Avenue, west of State Route 65 (**Figure 1**)
- NOTICE:** Notice for this public hearing was provided in accordance with Government Code Sections 56660 & 56661.
- SUMMARY:** The purpose of the proposal is to annex a substantially developed county island into the City of Porterville and detach the same territory from Tulare County CSA #1.

**APNs:**

A total of 231 parcels lie within the proposed boundaries.

**Itemized List of Parcels Lying Entirely Within Proposed Boundaries**

259-011-001 to 016; 259-012-001 to 009 & 012; 259-012-014 to 020 & 022, 259-013-001 to 011; 259-014-001 to 009, 259-020-005; 259-061-001 to 006; 259-062-001 to 012; 259-063-001 to 006; 259-064-001 to 006 & 008; 259-065-001 to 003, 007 to 013, 015 & 016; 259-066-001 to 006; 259-070-001, 003 to 009, 015 to 017, 033 to 036; 259-081-003 to 015; 259-082-001 to 011, 018 to 028; 259-091-001 to 007, 012 to 019, 021 to 026, 030 & 031; 259-092-005 to 013, 018, 024 to 026; 259-093-001 to 009; 259-101-005 to 017; 259-102-002 to 005, 009 to 012, 018 & 019; 259-103-001 to 003; 259-104-001 to 005

**GENERAL ANALYSIS**

**1. Land Use:**

*A. Site Information*

	<b>Existing (County)</b>	<b>Proposed (City)</b>
<b>Zoning Designation</b>	RS-2 (69.4 acres), CR (1.47 acres), CG (0.61 acres)	No Change

<b>General Plan Designation</b>	Low Density Residential (69.16 acres), Commercial (1.99 acres)	No change
<b>Uses</b>	Low Density Residential, Retail Centers	No change

*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>	CG	General Commercial	Retail, services, restaurants
<b>South</b>	RR	Low Density Residential	SFR, Grazing land
<b>East</b>	CR, RM-2	Retail Centers, Medium Density Residential, General Commercial	State Route 65, SFR
<b>West</b>	RS-2, RM-2, CR	Low Density Residential, Medium Density Residential, Retail Centers	Vacant land, SFR

*C. Topography, Natural Features and Drainage*

The site is generally flat with a gentle westward slope consistent with the terrain of the City of Porterville.

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

The entire site is within the City and County-adopted Urban Development Boundaries and Sphere of Influence

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

The site is not under a Williamson Act or Farmland Security Zone contract. The site is mostly developed so there is little likelihood that annexation would result in significant growth or changes in uses.

**3. Population:**

Based on 2010 Census data there are approximately 726 people (227 housing units) within the proposed annexation area. The County Elections Division has indicated that there are more than 12 registered voters in the proposed annexation area. Therefore, pursuant to GC Section 56046, the annexation area is inhabited.

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

**Agency providing service**

Service	Now	After	Method of finance
Police Protection	Tulare County Sheriff's Office	Porterville Police Department	Utility Users Tax will offset some costs of additional personnel needed
Fire Protection	Automatic Aid-City assist County with 1 engine + manning	Automatic Aid-County assist County with 1 engine + manning	General Fund, within existing budget
Water Supply	City water, private wells, private water companies	Same. Connection to City water will be available if requested.	Applicant/developer fees
Sewage Disposal	Individual septic systems, some City connections.	Same. Connections to City sewer will be available if requested Connection will be mandatory at such time as a property's septic system fails if a property is within ¼ mile of a City Trunk line	Applicant/ developer fees
Street Lighting	SCE provides some intersection lights	SCE/City of Porterville	Associated street improvement project funds
Street Maintenance	County Maintained	City Maintained	Capital Improvement Program
Planning/Zoning	County of Tulare RMA	City of Porterville	Applicant/developer fees
Garbage Disposal	Western Waste Management	City of Porterville, although residents may continue to use Western Waste Mgmt. for up to five years after annexation	User fees
Other Services Code enforcement :	County of Tulare RMA	City of Porterville Fire Department	General Fund, Citation fees when applicable
Fire Inspection	County of Tulare RMA	City of Porterville Fire Department	Applicant/developer fees
Business Licenses	County of Tulare Tax Collector	City of Porterville Finance Department	Applicant/developer fees

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

The boundaries of the proposal area are definite and certain and conform to the lines of assessment and ownership. The county surveyor's office has not yet verified that the submitted map is sufficient for filing with the State Board of Equalization.

**6. Environmental Impacts:**

The City of Porterville is the lead agency for this proposal. The City prepared an initial study/environmental checklist and on the basis of that study, a Negative Declaration was approved for use with this proposal. A copy of the document is included in the application materials.

**7. Landowner Consent:**

Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH) provides for an expedited process for cities to request LAFCOs to annex qualifying islands of unincorporated territory (GC56375.3). If the Commission finds that this island meets the requirements for the stream-lined island annexation provisions as listed in section 6 of the attached resolution, the protest hearing must be waived.

**8. 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 extent of this proposal aiding the City in achieving its fair share of regional housing needs is limited due to the area already being substantially developed.

**9. Discussion:**

County Islands

The annexation of the subject island will further LAFCO goals and policies, and serves to improve this disadvantaged community in many ways. The subject territory is substantially developed, almost fully surrounded, and an inhabited island of County jurisdiction in the City of Porterville and qualifies for the streamlined island annexation process and waiver of protest hearing pursuant to GC section 56375.3. Many of the properties within the subject island already receive city services, such as municipal water service and emergency response. The reasons supporting annexation of this island include creation of a more definitive and organized city boundary, efficient provision of government services, and to ensure the provision of services and facilities needed to accommodate planned population densities in the project area.

Combined Impact of Recent Island Annexations

Case	Islands	Acres	People	Housing Units	Road Miles
1513-P-314	1	96.3	588	155	1.4
1514-P-315	1	123.1	471	148	2.5
1515-P-316	3	121.6	871	281	1.9
1518-P-317	1	114.9	513	162	1.8
1528-P-319	1	87.8	726	227	2.3
TOTAL	7	543.7	3169	973	9.9

**RECOMMENDED ACTIONS:**

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

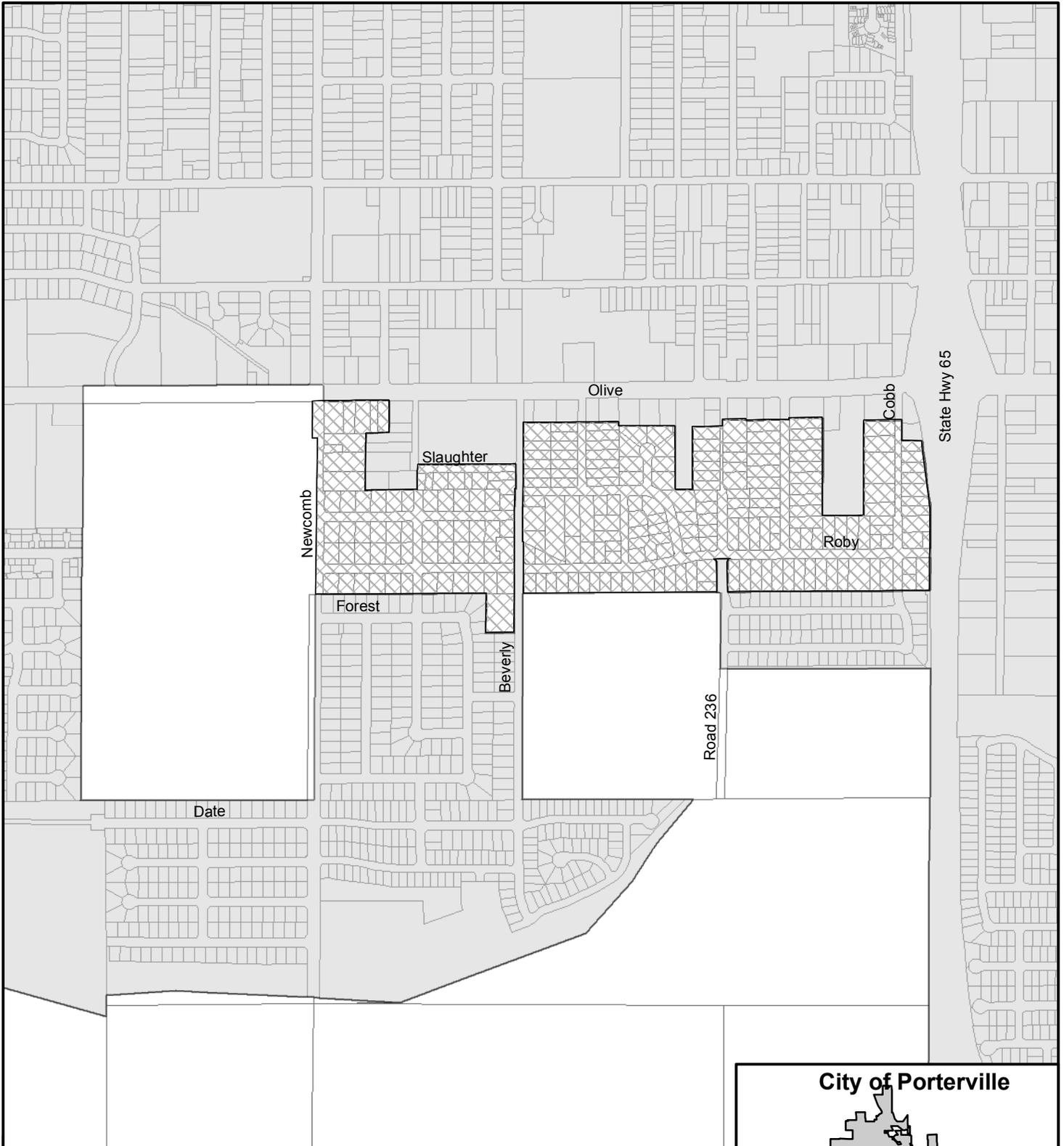
1. Certify that the Commission has reviewed and considered the Negative Declaration prepared by the City of Porterville for this project and find that the project will not have a significant effect on the environment.
2. Find that the proposed reorganization of the City of Porterville complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, Section 56377.
3. Find that the proposed annexation conforms to the criteria for "island" annexations as described in Government Code Section 56375.3 and find that the territory:
  - a. does not exceed 150 acres in size
  - b. comprises the entire island of unincorporated territory
  - c. was substantially surrounded by the City as of 1/1/2014
  - d. is substantially developed or developing
  - e. is not considered prime agricultural land as defined in Government Code Section 56064
  - f. will benefit from the annexation or is receiving benefits from the City
4. Pursuant to LAFCO Policy and Procedure Section C-1, find that:
  - a. The boundaries of the proposed reorganization are definite and certain and 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.
5. Find that the annexation does not contain any Williamson Act contract land.
  6. Approve the reorganization as proposed by the City of Porterville, to be known as LAFCO Case Number 1528-P-319, Porterville Annexation No. 479.
    - 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 Certificate of Completion shall not be recorded until CSA #1 is shown as a detachment and corrections are completed to the map and legal description and the County Surveyor has verified the accuracy of the map and legal description.
    - c. The applicant must provide the required filing fee for the Statement of Boundary Change that is to be submitted to the BOE.
  7. Waive the protest hearing for this proposal in accordance with Government Code section 56375.3(a) and order the change of organization without an election
  8. Authorize the Executive Officer to sign and file a Notice of Determination with the Tulare County Clerk.

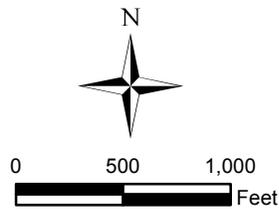
**Figures:**

- Figure 1 Site Location Map
- Figure 2 Aerial
- Figure 3 Resolution

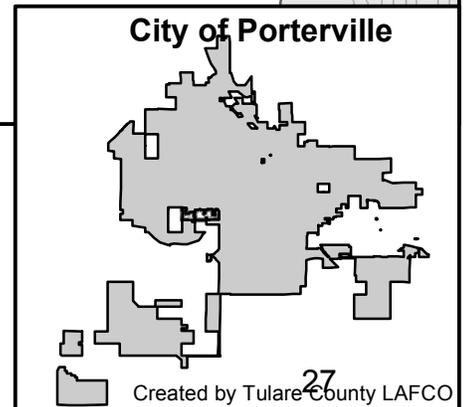
# LAFCO Case 1528-P-319



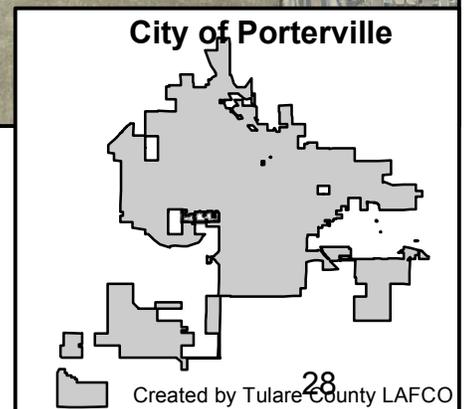
-  1528-P-319 Site Location
-  City of Porterville
-  Parcels



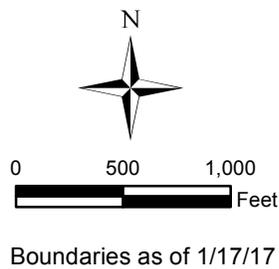
Boundaries as of 1/17/17



# LAFCO Case 1528-P-319



-  1528-P-319 Site Location
-  City of Porterville
-  Parcels



**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 Porterville and Detachment from )  
CSA #1, LAFCO Case 1528-P-319,                    )            **RESOLUTION NO. 17-XXX**  
City of Porterville Annexation No. 479            )

**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 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, the report of the County Surveyor and the Executive Officers report and recommendations of the Executive Officer, all of which documents and materials are incorporated by reference herein; and

**WHEREAS**, on March 1, 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, the report of the County Surveyor, and the report and recommendations of the Executive Officer (including any corrections), have been received and considered in accordance with

Government Code Section 56668. All of said information, materials, facts, reports and other evidence are incorporated by reference herein.

2. The Commission hereby finds that there is no substantial evidence that said annexation will have a significant effect on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the Negative Declaration approved by the City of Porterville for the proposed annexation in compliance with the California Environmental Quality Act of 1970, as amended, prior to taking action on said annexation. Accordingly, said Negative Declaration is hereby incorporated by reference herein.

3. The Commission has reviewed and considered, in accordance with Government Code Section 56668, the information, material and facts presented by the following persons who appeared at the meeting and commented on the proposal:

XXXXXXX  
XXXXXXX

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. This proposal is for the annexation of a substantially surrounded unincorporated islands consisting of approximately 87.79 acres. The territory contains 231 parcels and is substantially developed with single family residences and commercial businesses.
- b. More than 12 registered voters reside in the affected territory, which is considered inhabited.
- c. The subject territory is within the Sphere of Influence of the City of Porterville.

- d. The unincorporated island existed as described above as of January 1, 2014, as provided in GC §56375.4.

6. The annexation is proposed by resolution of the City of Porterville, and meets the following requirements for annexation of unincorporated islands as set forth in Government Code Section 56375.3:

- a. The annexation was initiated on or after January 1, 2000.
- b. The annexation is proposed by resolution adopted by the affected city.
- c. The territory contained in the annexation meets all of the requirements set forth in GC §56375.3(b):
  - i. The territory does not exceed 150 acres in area and that area constitutes the entire island.
  - ii. The territory constitutes an entire unincorporated island located within the limits of a city.
  - iii. The territory is surrounded or substantially surrounded by the city which annexation is proposed.
  - iv. The territory is substantially developed or developing based on consideration of the availability of public utilities, the presence of public improvements or physical improvements upon the parcels.
  - v. The territory is not considered prime agricultural land, as defined by GC §56064.
  - vi. The territory will benefit from annexation or is receiving benefits from the annexing city.

7. 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 boundaries of the proposed reorganization are definite and certain and 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.

8. The Commission hereby waives the protest hearing proceedings pursuant to Part 4 (commencing with GC §57000) entirely in accordance with Section 56375.3 (a) (1) of the Government Code and orders the annexation without an election.

9. The proposed annexation of the territory described in Exhibit "A," attached hereto, to the City of Porterville is hereby approved, subject to the following conditions:

- a. No change shall be made to land-use designations or zoning for a period of two years after completion of the annexation, unless the city council makes a finding at a public hearing that a substantial change has occurred in circumstance that necessitate a departure from the designation or zoning.
- b. The Certificate of Completion shall not be recorded until CSA #1 is shown as a detachment and corrections are completed to the map and legal description and the County Surveyor has verified the accuracy of the map and legal description.
- c. The applicant must provide the required filing fee for the Statement of Boundary Change that is to be submitted to the BOE.

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

LAFCO Case No. 1528-P-319, City of Porterville Annexation No. 479

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.

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

The foregoing resolution was adopted upon motion of Commissioner\_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, at a regular meeting held on this 1st day of March, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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Ben Giuliani, Executive Officer

si

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**TULARE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 (559) 624-7274 FAX (559) 733-6720

COMMISSIONERS:

*Pete Vander Poel, Chair  
Juliet Allen, Vice Chair  
Cam Hamilton  
Steve Worthley  
Rudy Mendoza*

March 1, 2017

ALTERNATES:

*Dennis Mederos  
Carlton Jones  
Mike Ennis*

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Steven Ingoldsby, Staff Analyst

EXECUTIVE OFFICER:

*Ben Giuliani*

SUBJECT: LAFCO Case 1529, Sphere of Influence Amendment for the Alpaugh Irrigation District

**Background**

The Alpaugh Irrigation District (AID) is requesting a Sphere of Influence (SOI) amendment for two areas. Area 1 contains 1,294 acres of land and Area 2 contains 482 acres of land. Area 1 is located north of AID, west of State Highway 43 and east of Road 40. Area 2 is located south of AID, east of Road 46 and west of Road 56 alignment. A site map showing the location of the two areas is included. The same areas are included in a subsequent annexation proposal (Case #1529a) for the Alpaugh Irrigation District.

**Discussion**

The SOI amendment is needed to accommodate the proposed annexation in Case #1529a. The annexation of Area 1 is only for the purpose of groundwater management coverage in compliance with the State Groundwater Management Act. The annexation of Area 2 is for irrigation as well as groundwater management.

The AID is an irrigation district comprised of approximately 10,712 acres situated in southern Tulare County surrounding the community of Alpaugh. The Sustainable Groundwater Management Act (SGMA) required that all basins that are designated as critically overdrafted high-priority basins adopt a Groundwater Sustainability Plan by January 31, 2020. Both areas fall within a critically overdrafted high-priority basin and will need to meet SGMA requirements.

The land is used agriculturally and does not presently require a great deal of governmental services and controls. The annexation may have a net positive impact to social and economic interests of the subject territory. The region is reliant on the agriculture industry and the annexation would help maintain agricultural operations in a critically overdrafted, high-priority basin.

Notice of the public hearing for this proposal was provided in accordance with Government Code Section 56427.

## **Environmental Impacts**

The annexation of Area 1 is only for the purpose of groundwater management coverage in compliance with the State Groundwater Management Act. AID determined that the Area 1 annexation is exempt from CEQA.

The annexation of Area 2 is for the purposes of irrigation and groundwater management coverage. The AID prepared and approved a Negative Declaration for Area 2 for use in this project. A copy of the document is included in the application materials.

## **Municipal Service Review**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to establish Spheres of Influence for cities and special districts. Prior to, or in conjunction with establishing an agency's SOI, LAFCO is required to conduct a Municipal Service Review (MSR) for each agency. Neither the LAFCO statute nor the OPR Guidelines specifically prescribe which agencies and what services are subject to municipal service reviews. Therefore, it is left to each LAFCO to establish review parameters. Tulare County LAFCO has determined that irrigation districts are exempt from municipal service review.

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

APNs 293-200-008 and 311-030-009 are under a Williamson Act contract. The approval of this annexation is not inconsistent with continued Williamson Act coverage. Cancellation of Williamson Act Contracts is not contemplated in this application.

## **Required Determinations**

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

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

The amendment to the SOI includes land that is mostly in agricultural and dairy production. There are no currently proposed changes in land use.

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

The purpose of the concurrent annexation is primarily for the possible formation of a Groundwater Sustainability Agency (GSA) for Area 1. The purpose for Area 2 is to provide irrigation water services for agricultural purposes and the possible formation of a Groundwater Sustainability Agency (GSA).

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

The annexation will allow the District to manage the land under a Groundwater Sustainability Plan

in accordance with the SGMA, which would increase the viability of the currently critically overdrafted basin. For Area 2 the District states that conditions have been imposed by the Board of Directors of the District to insure that the service requirements to lands proposed to be annexed do not adversely impact existing landowners within the District. No other services will be effected.

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

The subject area does not contain social or economic communities of interest.

### **Conterminous Annexation**

The intent of the SOI amendment is to make the SOI boundary conterminous with the proposed annexation (LAFCO Case 1529a). However, the Commission may choose to make adjustments to the proposed annexation boundaries. The final SOI boundary shall be conterminous to the final annexation boundary, if approved by the Commission.

### **Recommendations:**

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

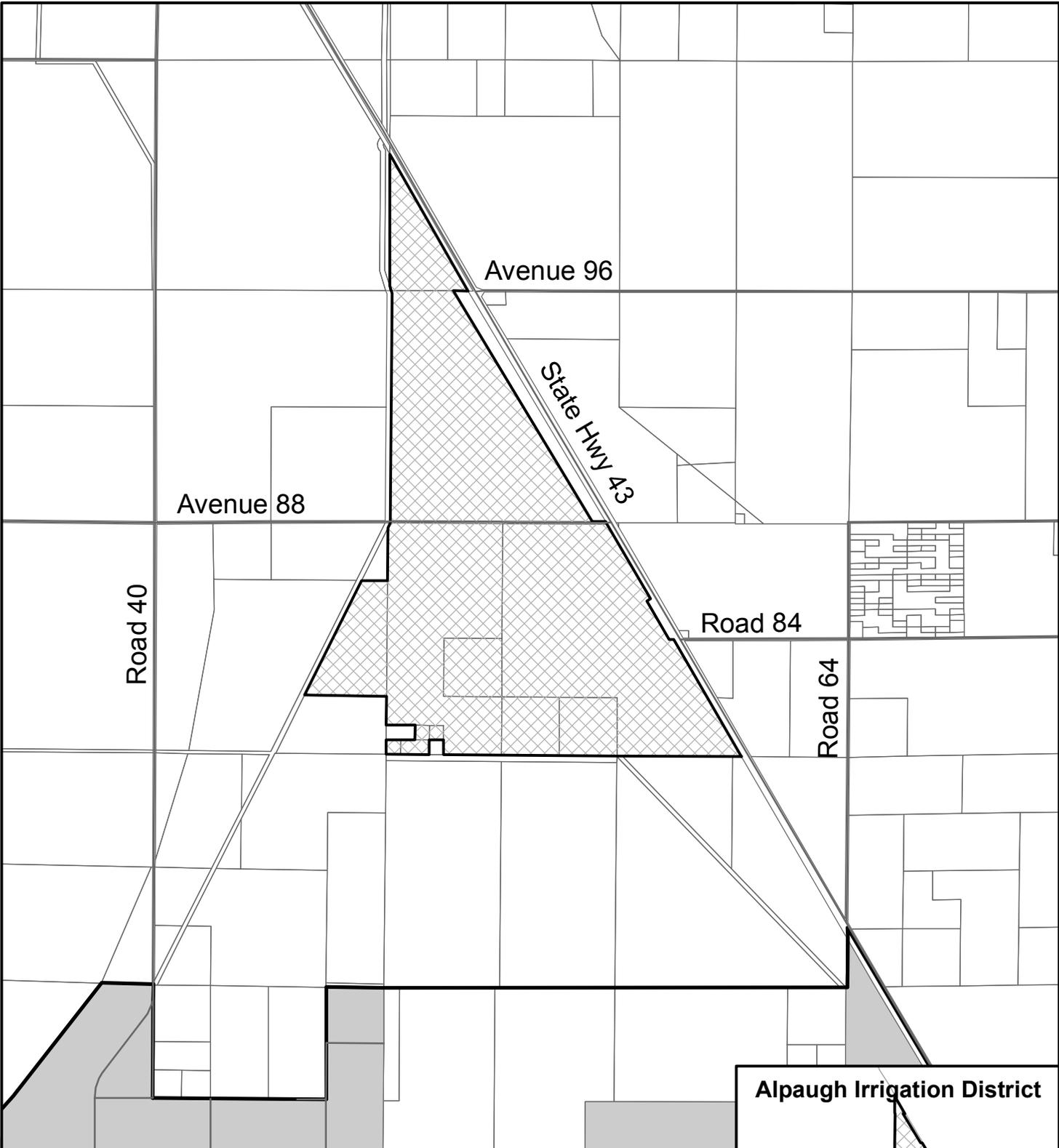
- A. Find that the proposed SOI amendment for Area 1 is Categorical Exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15306 and 15307.
- B. Certify that the Commission has reviewed and considered the Negative Declaration prepared by the Alpaugh Irrigation District for Area 2 of this project and find that the proposed SOI amendment will not have a significant effect on the environment
- B. Adopt the written statement of determinations and find that the proposed Alpaugh Irrigation District SOI amendment complies with the GC §56425.
- C. Find that pursuant to GC §56426.5(b)(2), the proposed SOI amendment will not adversely affect the continuation of any Williamson Act contracts beyond their current expiration dates.
- D. The SOI boundary shall be conterminous with the final boundary approved in LAFCO Case 1529a.
- E. Approve the Sphere of Influence to be known as LAFCO Case 1529, Alpaugh Irrigation District SOI Amendment with the following conditions:
  - 1) The SOI amendment is contingent on the approval of LAFCO Case 1529a (AID Annexation 2016-01)

- 2) The SOI amendment for Area 1 is contingent on the successful formation of the Alpaugh Irrigation District Groundwater Sustainability Agency (GSA)

### **Figures & Exhibits**

Figure 1      Site Location Map  
Figure 2      Resolution

# LAFCO Case 1529 (AID) Area 1



**Legend**

- Alpaugh Irrigation District SOI
- 1529 Site Location Area 1
- Alpaugh Irrigation District
- Parcels

**Scale**  
0 1,000 2,000 3,000 Feet

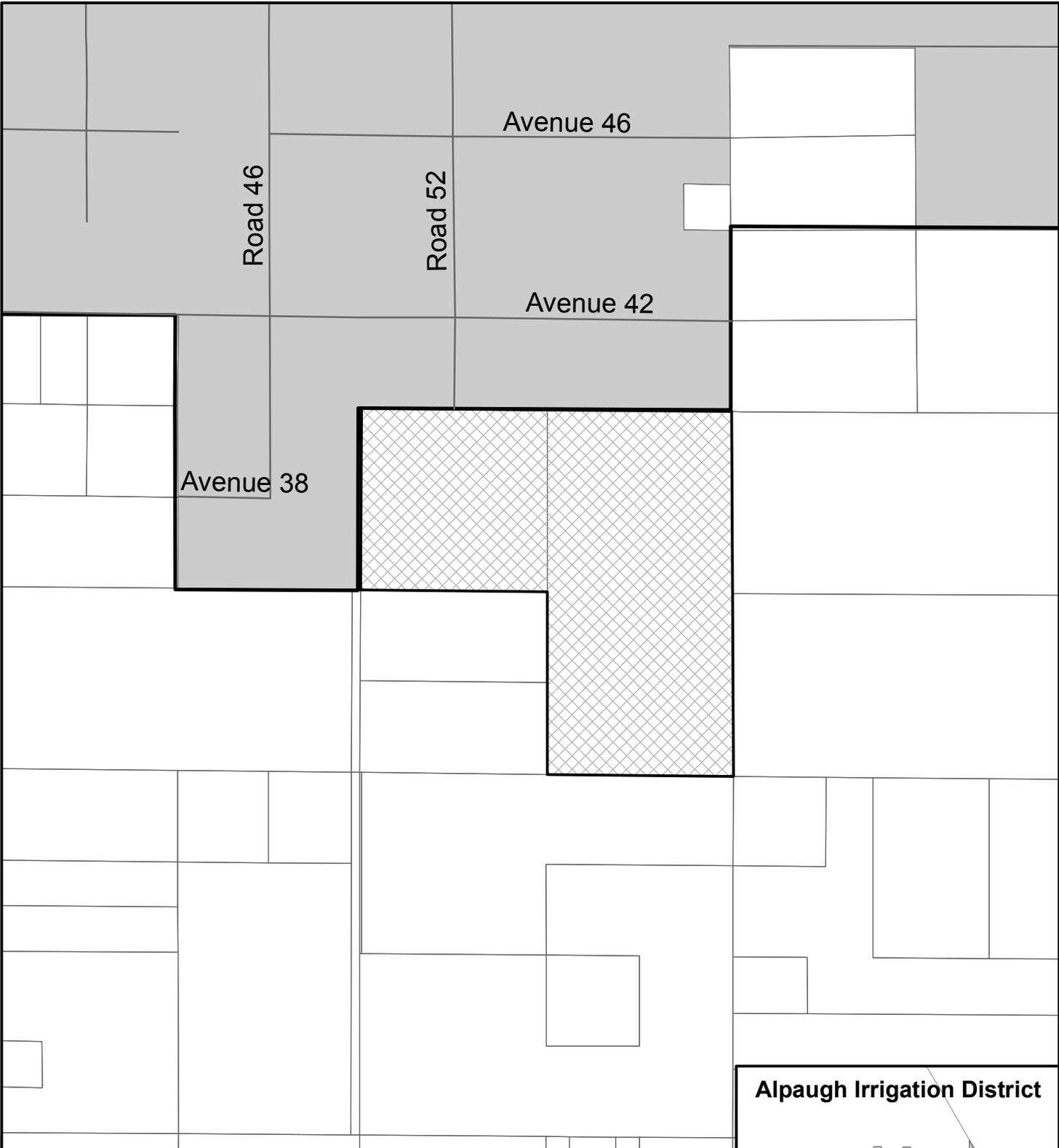
**North Arrow**  
N

Boundaries as of 1/20/17

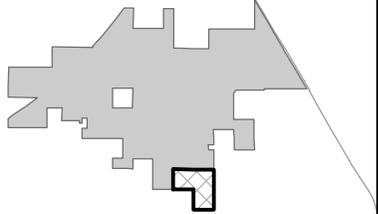
**Alpaugh Irrigation District**

Created by Tulare County LAFCO

# LAFCO Case 1529 (AID) Area 2



## Alpaugh Irrigation District



-  Alpaugh Irrigation District SOI
-  1529 Site Location Area 2
-  Alpaugh Irrigation District
-  Parcels



0 1,000 2,000 Feet

Boundaries as of 1/20/17

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

In the Matter of the Proposed Amendment to the            )  
Alpaugh Irrigation District Sphere of Influence            )     **RESOLUTION NO. 17-XXX**  
LAFCO Case No. 1529    )

**WHEREAS**, pursuant to Government Code Section 56425, Local Agency Formation Commissions are required to establish, periodically review and revise or amend Sphere of Influence boundaries; and

**WHEREAS**, this Commission has adopted a Sphere of Influence Policy which requires that wherever possible, the Spheres of Influence for each of the incorporated cities and various special districts which provide urban services to unincorporated communities in the County reflect a twenty year growth area; and

**WHEREAS**, the Commission has read and considered the reports and recommendations of the Executive Officer; and

**WHEREAS**, on March 1, 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 boundaries of the Sphere of Influence amendment are definite and certain as shown in Exhibit A.

2. The information, materials, and facts set forth in the application and the reports of the Executive Officer, including any corrections, have been received and considered in accordance with GC §56427.

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

XXXXXXXXXXXXX  
XXXXXXXXXXXXX

4. All required notices have been given and all proceedings taken in this matter have been and now are in all respects taken in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended.

5. Pursuant to Commission Policy C-5.11, this proposal is a SOI amendment and is not subject to, a Municipal Service Review for Irrigation Districts.

7. Pursuant to GC §56426.5(b), the Commission finds that the SOI amendment is not likely to adversely affect the continuation of the contracts beyond their current expiration dates.

8. The Commission has considered the following criteria as required under GC §56425(e):

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

The amendment to the SOI includes land that is mostly in agricultural and dairy production. There are no currently proposed changes in land use.

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

The purpose of the concurrent annexation is primarily for agricultural irrigation possible formation of a Groundwater Sustainability Agency (GSA).

- (3) *The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.*

The annexation will allow the District to manage the land under a Groundwater Sustainability Plan in accordance with the SGMA, which would increase the viability of the currently overdrafted basin. The annexation will also allow the District to provide irrigation water for agricultural purposes to Area 2. No other services will be effected.

- (4) *The existence of any social or economic communities of interest in the area.*

The subject area does not contain social or economic communities of interest.

9. The Commission hereby finds that the proposed Sphere of Influence amendment will not have a significant impact on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the a Notice of Exemption for Area 1 and a Notice of Determination for Area 2 filed by the Alpaugh Irrigation District for the proposed amendment in compliance with the California Environmental Quality Act of 1970, as amended, prior to taking action on said amendment.

10. The Commission hereby finds that the proposed amendment to the Alpaugh Irrigation District Sphere of Influence is in compliance with the Cortese-Knox-Hertzberg Act, GC §§56425:56430 and 56377, and Tulare County LAFCO Policy and Procedure section C-5, Spheres of Influence.

11. The Sphere of Influence for the Alpaugh Irrigation District is hereby amended with the following conditions:

- A) The SOI amendment is contingent on the approval of LAFCO Case 1529a (Alpaugh Irrigation District Annexation)
- B) The SOI amendment for Area 1 is contingent on the successful formation of the Alpaugh Irrigation District Groundwater Sustainability Agency (GSA)
- C) The SOI amendment boundary shall be conterminous with the final boundary approved in LAFCO Case 1529a.

12. The Executive Officer is hereby authorized and directed to sign and file 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.with the County Clerk.

The foregoing resolution was adopted upon the motion by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_, at a regular meeting held this 1st day of March, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

\_\_\_\_\_  
Ben Giuliani, Executive Officer

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

*March 1, 2017*

**LAFCO Case Number 1529a  
Alpaugh Irrigation District Annexation No. 2016-01**

- PROPOSAL:** Alpaugh Irrigation District (AID) Annexation
- PROPONENT:** AID by Resolution of its Board of Directors
- SIZE:** 2 areas totaling approximately 1,776 acres.
- LOCATION:** Area 1 is located north of AID, west of State Highway 43 and east of Road 40 and contains approximately 1,294 acres. Area 2 is located south of AID, east of Road 46 and west of Road 56 alignment and contains approximately 482 acres. **(Figure 1)**
- APNs:** *Area 1 (SGMA purposes only):* 293-200-008; 311-030-001 & 009; 311-040-001, 002, 003, 010, 011, 012, 014, 015 & 007.  
  
*Area 2 (Irrigation and SGMA):* 330-140-003 & 330-140-004
- NOTICE:** Notice for this public hearing was provided in accordance with Government Code Sections 56660 & 56661.
- SUMMARY:** The purpose of the annexation for Area 1 is only for Sustainable Groundwater Management Act (SGMA) purposes. Area 1 is proposed to be included in Alpaugh's Groundwater Sustainability Agency (GSA) and would not receive irrigation water. The purpose of the annexation of Area 2 is to provide irrigation services in addition to being included in the GSA.

**ANALYSIS**

**1. Conformity with Plans:**

*A. Site Information*

	<b>Existing</b>	<b>Proposed</b>
<b>Zoning Designation</b>	AE – 40, AE - 80	No Change
<b>General Plan Designation</b>	Rural Valley Lands Plan	No Change
<b>Uses</b>	Agriculture, agricultural outbuildings, dairy	No Change

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

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

APNs 293-200-008 and 311-030-009 are under Williamson Act contracts. The approval of this annexation is not inconsistent with continued Williamson Act coverage. Cancellation of Williamson Act Contracts is not contemplated in this application.

**3. Population:**

According to Tulare County Election Division there are fewer than 12 registered voters within the affected area. Therefore, pursuant to GC Section 56046, the annexation area is uninhabited.

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

The purpose for Area 1 is not to expand services of the AID, but rather to facilitate the area to be brought into a Groundwater Sustainability Agency intended to be formed by the AID in compliance with the State's Sustainable Groundwater Management Act. No other services will be affected.

The purpose for Area 2 is to provide irrigation water services for agricultural purposes as well as groundwater management. These parcels have existing poor performing wells. An annexation fee will be assessed by the AID that will be used to upgrade existing wells within the AID that will then be used to serve the entire district.

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

The boundaries of the proposal area are definite and certain and conform to the lines of assessment and ownership.

**6. Environmental Impacts:**

The Alpaugh Irrigation District is the lead agency for this proposal. The District has determined that Area 1 of the project is categorically exempt from the California Environmental Quality Act under 15306 and 15307. The District has prepared an initial study/environmental checklist and on the basis of that study a Negative Declaration was approved. Copies of both these documents are included in the application materials.

**7. Landowner Consent:**

Consent to this annexation has been received from all of the private property owners in Area 1 and by 11 of the 12 parcel owners in Area 2.

Notice was mailed to all landowners and registered voters within the annexation area. If no protests are received by the end of the public hearing, the Commission may waive the protest hearing. If protests are received by the end of the public hearing, a protest hearing will be held following the 30 day reconsideration period if the reorganization is approved.

**8. Discussion:**

Government Services

The AID is an irrigation district comprised of approximately 10,712 acres situated in southern Tulare County surrounding the community of Alpaugh. The Sustainable Groundwater Management Act (SGMA) required that all basins that are designated as critically overdrafted high-priority basins adopt a Groundwater Sustainability Plan by January 31, 2020. Both areas fall within a critically overdrafted high-priority basin and will need to meet SGMA requirements.

The land is used agriculturally and does not presently require a great deal of governmental services and controls. The annexation would have a small net positive impact to social and economic interests of the subject territory. The region is reliant on the agriculture industry and the annexation would help maintain agricultural operations in a critically overdrafted, high-priority basin.

The annexation will allow the District to manage the land under a Groundwater Sustainability Plan in accordance with the SGMA, which would increase the viability of the currently critically overdrafted basin.

A concern to annexing Area 2 may be the potential to divert water that would otherwise go to existing property owners within the district, thereby diluting their water rights/access. One property owner within the existing AID has raised this concern with LAFCO staff. The AID Board of Directors state that conditions have been imposed to insure that the service requirements for the added areas will not adversely impact existing landowners within the AID. Annexation fees assessed by the AID onto the proposal area will be used to upgrade existing wells within the AID that will serve the entire district.

**RECOMMENDED ACTIONS:**

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

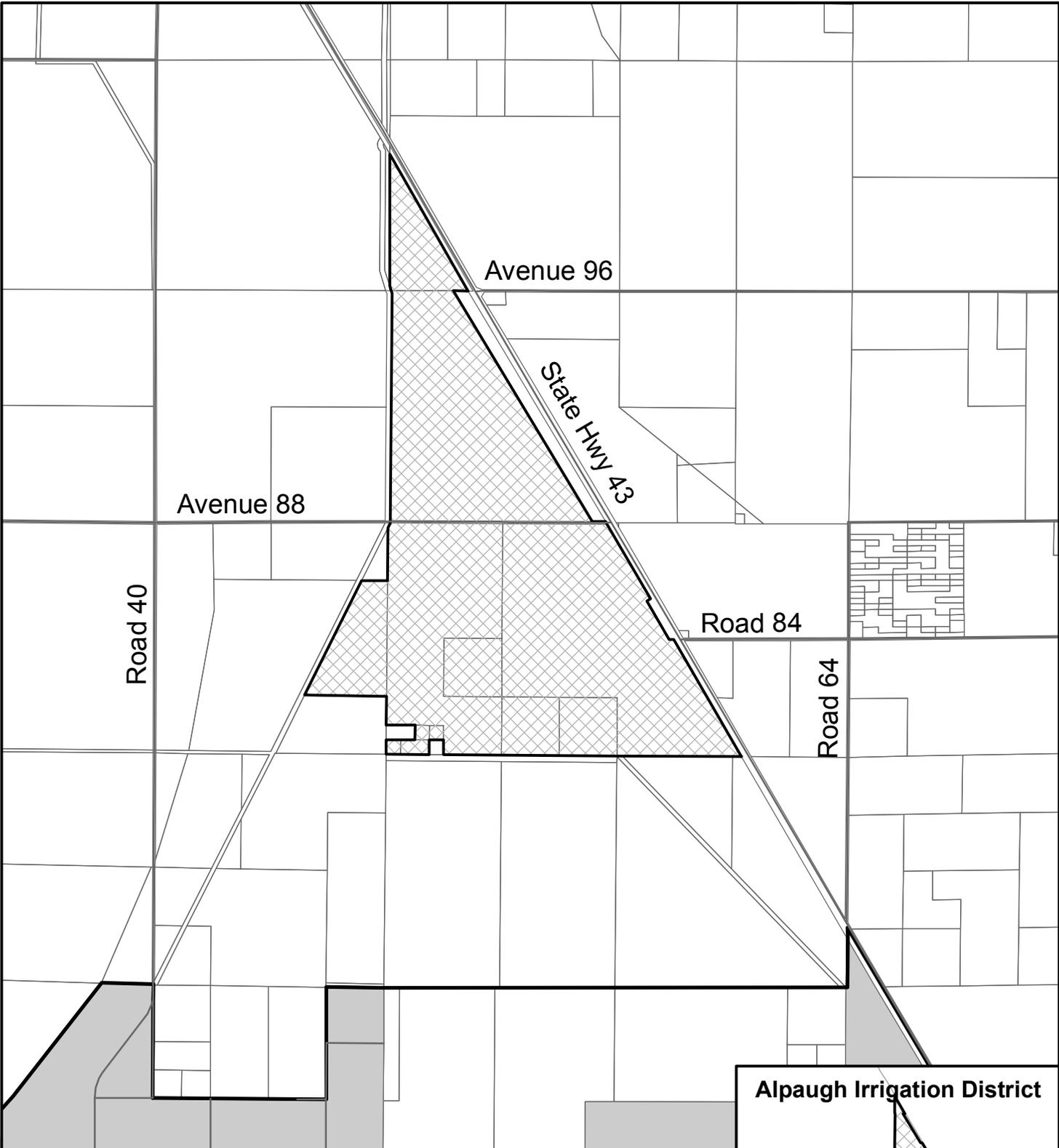
1. Find that the proposed reorganization for Area 1 is Categorical Exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15306 and 15307.
2. Certify that the Commission has reviewed and considered the Negative Declaration prepared by the Alpaugh Irrigation District for this project and find that the project will not have a significant effect on the environment.

3. Find that the proposed reorganization of the Alpaugh Irrigation District complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, Section §56001.
4. Pursuant to LAFCO Policy and Procedure Section C-1, find that:
  - a. There is a demonstrated need for the services to be provided by the district.
  - b. The proposed annexation represents a logical and reasonable change of organization of the district.
  - c. The proposed annexation is compatible with the County's General Plan.
  - d. The proposed boundaries are definite and certain and conform to lines of assessment.
5. Find that the territory proposed for this annexation to the Alpaugh Irrigation District is uninhabited.
6. Approve the annexation as proposed by the AID, to be known as LAFCO Case Number 1529a, Alpaugh Irrigation District Annexation 16-01 with the following conditions:
  - a. The Certificate of Completion shall not be recorded until signed agreements between the property owners within Area 1 and AID are provided that specify the annexation is for only GSA related purposes.
  - b. The annexation of Area 1 is contingent upon the successful formation of the Alpaugh ID GSA. Alpaugh ID shall notify the Commission of the outcome of their GSA application. If the GSA is not successfully formed, Area 1 will cease to be part of Alpaugh ID.
  - c. The Certificate of Completion shall not be recorded until the County Surveyor has verified the accuracy of the map and legal description and any needed corrections are completed.
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 on behalf of the Commission with the Tulare County Clerk pursuant to Section 21152 (a) of the Public Resources Code.

**Figures:**

- Figure 1 Site Location Map
- Figure 2 Aerial
- Figure 3 Resolution

# LAFCO Case 1529 (AID) Area 1



**Legend**

- Alpaugh Irrigation District SOI
- 1529 Site Location Area 1
- Alpaugh Irrigation District
- Parcels

**Scale**  
0 1,000 2,000 3,000 Feet

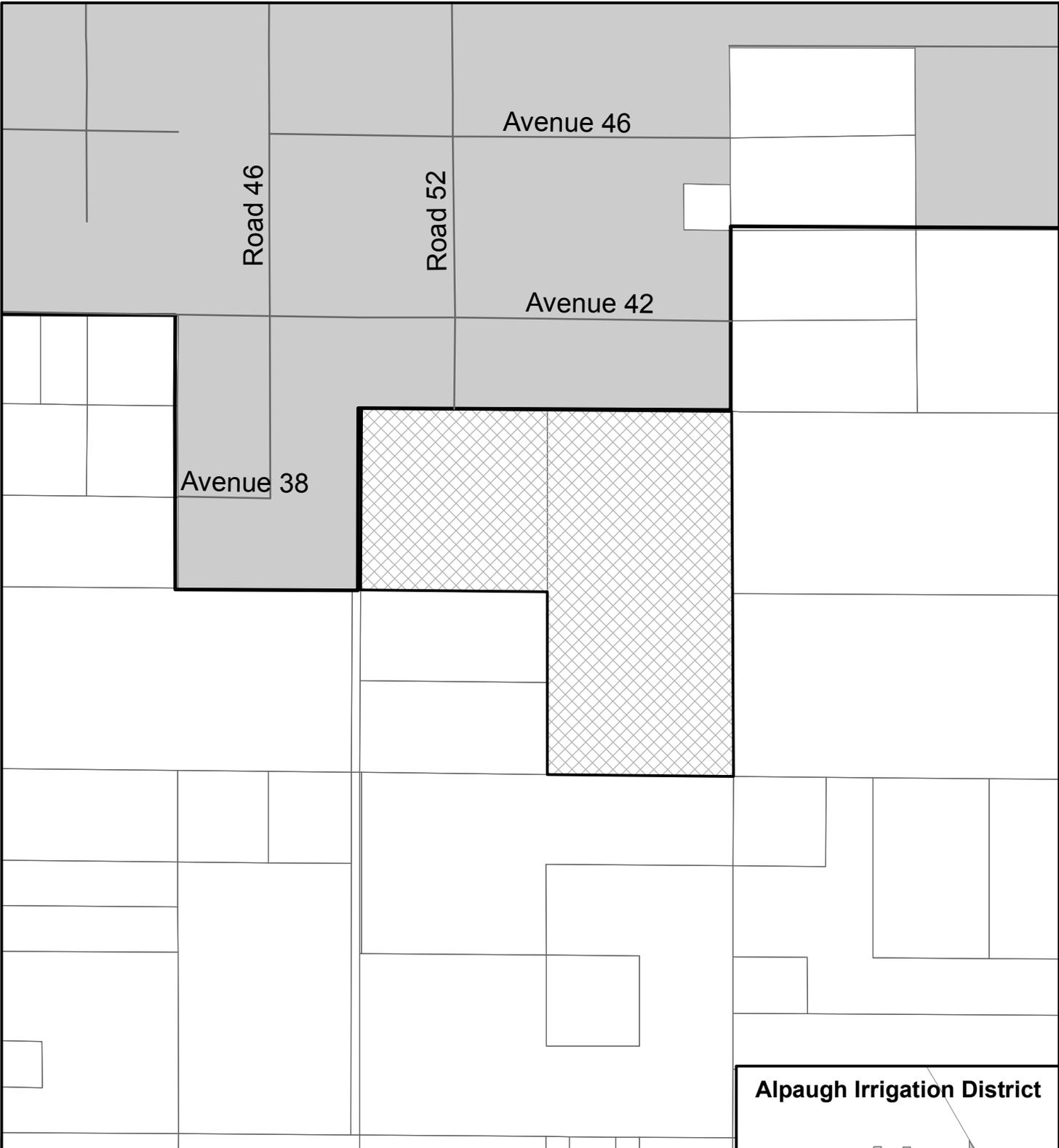
**North Arrow**  
N

Boundaries as of 1/20/17

**Alpaugh Irrigation District**

50  
Created by Tulare County LAFCO

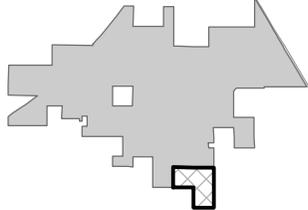
# LAFCO Case 1529 (AID) Area 2



 **Alpaugh Irrigation District SOI**  
 **1529 Site Location Area 2**  
 **Alpaugh Irrigation District**  
 **Parcels**

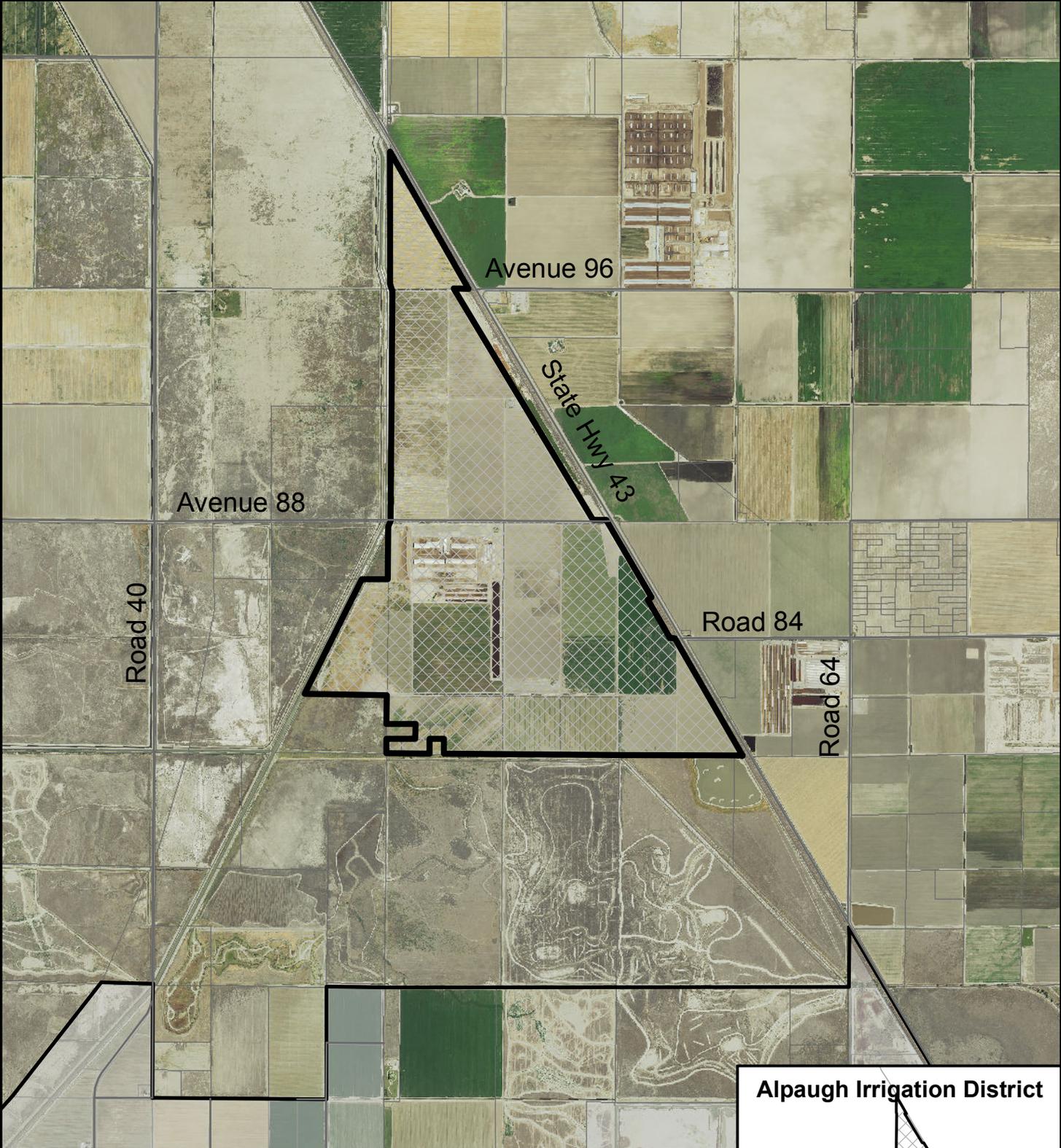
  
0 1,000 2,000 Feet  
Boundaries as of 1/20/17

**Alpaugh Irrigation District**

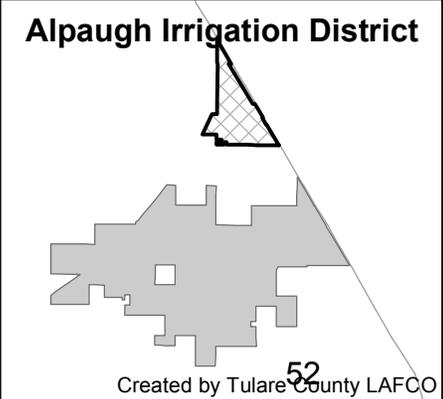
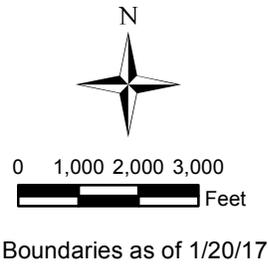


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Created by Tulare County LAFCO

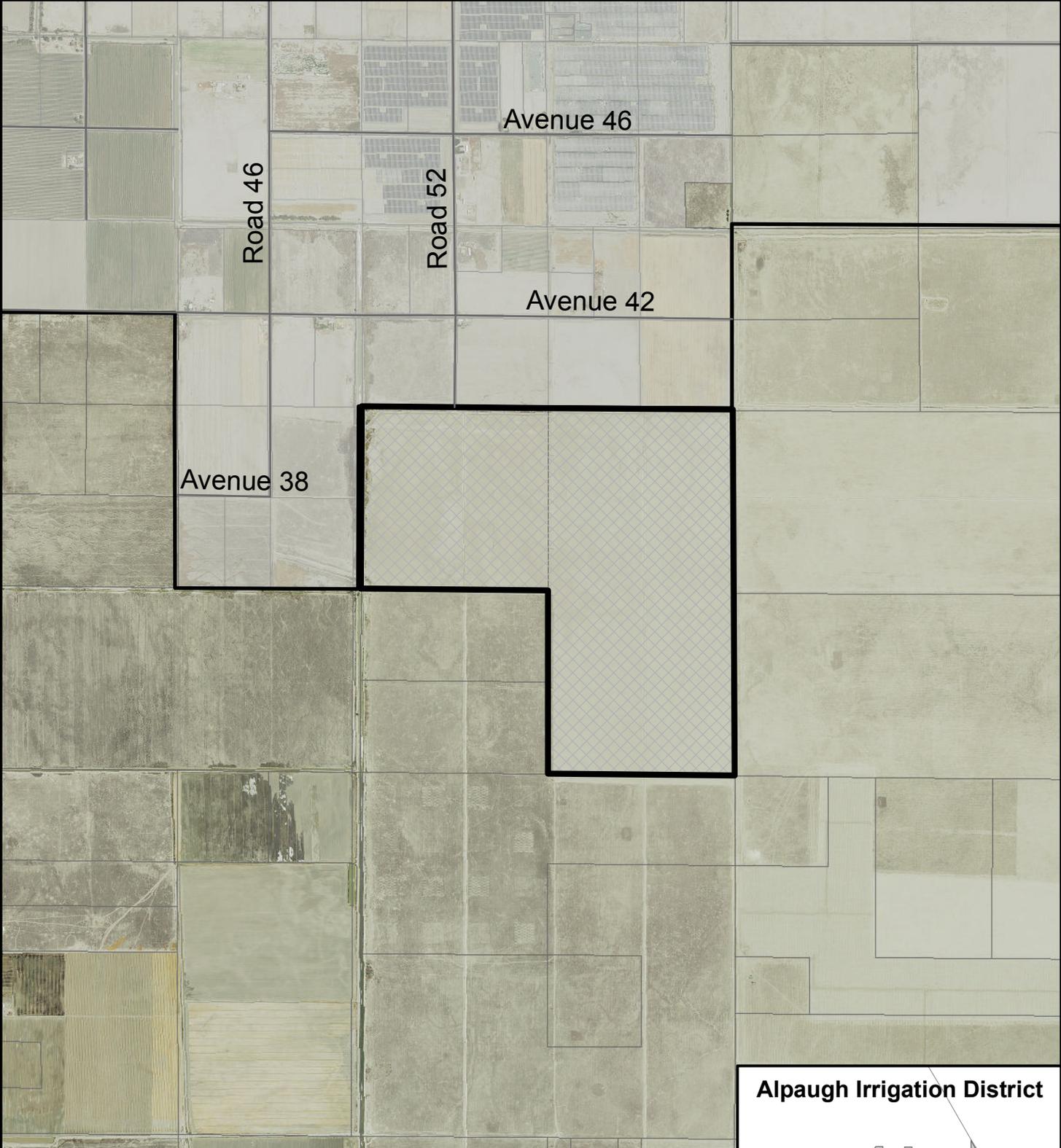
# LAFCO Case 1529 (AID) Area 1



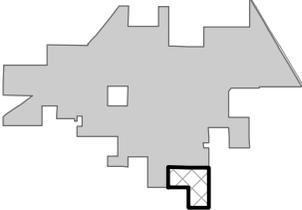
-  Alpaugh Irrigation District SOI
-  1529 Site Location Area 1
-  Alpaugh Irrigation District
-  Parcels



# LAFCO Case 1529 (AID) Area 2



## Alpaugh Irrigation District



-  Alpaugh Irrigation District SOI
-  1529 Site Location Area 2
-  Alpaugh Irrigation District
-  Parcels



0 1,000 2,000 Feet

Boundaries as of 1/20/17

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

In the Matter of the Proposed Annexation                    )  
To the Alpaugh Irrigation District (AID)                    )     **RESOLUTION NO. 17-XXX**  
LAFCO Case No. 1529a, AID Annexation 16-01            )

**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 Alpaugh Irrigation District 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 March 1, 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 Alpaugh Irrigation District, as Lead Agency, filed a Notice of Exemption in compliance with the California Environmental Quality Act (CEQA) for Area 1. Under the California Environmental Quality Act (CEQA) Sections 15306 and 15307, the proposal is considered exempt from CEQA review.

3. The Alpaugh Irrigation District, as Lead Agency, filed a Notice of Determination in compliance with the California Environmental Quality Act (CEQA) for Area 2. The Commission hereby finds that there is no substantial evidence that said annexation will have a significant effect on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the Negative Declaration approved by Alpaugh ID for the proposed annexation in compliance with the California Environmental Quality Act of 1970, as amended, prior to taking action on said annexation. Accordingly, said Negative Declaration is hereby incorporated by reference herein. .

4. 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:

XXXXXXXXXXXXX  
XXXXXXXXXXXXX

5. 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.

6. 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 conform to lines of assessment.
- b. Fewer than 12 registered voters reside in the affected territory and 100% landowner consent was not received.

7. 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 Alpaugh Irrigation District is capable of providing services to the areas proposed to be annexed.
- b. The proposed annexation is compatible with the County's General Plan.
- c. There is a demonstrated need for irrigation and sustainable groundwater management and the District provides a way of meeting this need.
- 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.

8. Waive the protest hearing for this proposal in accordance with GC §56663 and order the change of organization without an election *{if written protests are not submitted by the close of the public hearing}* or Authorize the Executive Officer to conduct a protest hearing subsequent to these proceedings and to report to the Commission the results of that hearing for action in accordance with GC §§57000-57120 *{if written protests are not submitted by the close of the public hearing}*.

9. Approve the annexation as proposed by Alpaugh Irrigation District, to be known as LAFCO Case Number 1529a, Alpaugh Irrigation District, with the following conditions:

- a. The Certificate of Completion shall not be recorded until signed agreements between the property owners within Area 1 and AID are provided that specify the annexation is for only GSA related purposes.
- b. The annexation of Area 1 is contingent upon the successful formation of the Alpaugh ID GSA. Alpaugh ID shall notify the Commission of the outcome of their GSA application. If the GSA is not successfully formed, Area 1 will cease to be part of Alpaugh ID.
- c. The Certificate of Completion shall not be recorded until the county surveyor's office has verified the accuracy of the map and legal description and any needed corrections are completed.

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

LAFCO Case No. 1529a, Alpaugh Irrigation District Annexation 16-01.

11. Authorize the Executive Officer to sign and file a Notice of Determination on behalf of the Commission 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 1st day of March, 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 St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

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

March 1, 2017

ALTERNATES:  
*Mike Ennis  
Carlton Jones  
Dennis Mederos*

TO: LAFCO Commissioners, Alternates, Counsel

EXECUTIVE OFFICER:  
*Ben Giuliani*

FROM: Alyssa Unti, LAFCO Clerk

SUBJECT: Conflict of Interest Code (Form 700)

**Background**

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

**Discussion**

The Political Reform Act requires certain officials and employees who serve in positions designated in an agency's Conflict-of-Interest Code to file a Statement of Economic Interest (Form 700). Appendix A of this staff report provides a listing of positions that are designated to provide a Form 700 by April 1, 2017. Appendix B lists the disclosure categories for those designated positions. The Form 700 is available in an interactive version on the Fair Political Practices Commission Website: [www.fppc.ca.gov](http://www.fppc.ca.gov).

Attachments:

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

# ***Policies and Procedures***

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

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**Policy Number:** *D-1*

**Effective Date:** *October 19, 1977*

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

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

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

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

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

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

**Procedure:**

### **1.1. Definitions**

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

**1.2. Application: Designated Employees**

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

**1.3. Disclosure Statements: Designated Employees**

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

**1.4. Place of Filing**

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

**1.5. Time of Filing**

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

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

**1.6. Contents**

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

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

### **1.7. Disqualification**

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

### **1.8. Disqualification Exception**

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

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

**1.9. Manner of Disqualification**

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

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

**1.10. Effective Date of Code**

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

**1.11. Penalties**

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

**1.12. Statute of Limitations**

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

**1.13. Opinions of the Commission and Counsel**

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

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

**Exhibit "A"**

**DESIGNATED EMPLOYEES**

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

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

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

**Exhibit "B"**

**TYPES OF FINANCIAL INTERESTS**

**REQUIRED TO BE DISCLOSED**

Disclosure Category: 1

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

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

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

Disclosure Category: 2

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

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

Disclosure Category: 3

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

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

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