Ventura
Local Agency Formation Commission

AGENDA

Hall of Administration, Board of Supervisors' Hearing Room
800 S. Victoria Avenue, Ventura
9:00 A.M. Wednesday, March 17, 2010

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Commission Presentations and Announcements

COMMENTS FROM THE PUBLIC

5. Public Comments
This is an opportunity for members of the public to speak on items not on the agenda.
(The Ventura Local Agency Formation Commission encourages all interested parties to speak on any issue on this agenda in which they have an interest, or on any matter subject to LAFCo jurisdiction. It is the desire of LAFCo that its business be conducted in an orderly and efficient manner. All speakers are requested to fill out a Speakers Card and submit it to the Clerk before the item is taken up for consideration. All speakers are requested to present their information to LAFCo as succinctly as possible. Members of the public making presentations, including oral and visual presentations, may not exceed five minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission, based on the complexity of the item and/or the number of persons wishing to speak. Speakers are encouraged to refrain from restating previous testimony).

CONSENT ITEMS

6. Minutes of the Ventura LAFCo February 17, 2010 regular meeting
7. Budget to Actual Report for January 2010

RECOMMENDED ACTION: Approve Item 6
Receive and File Item 7

COMMISSIONERS AND STAFF

COUNTY:	CITY:	SPECIAL DISTRICT:	PUBLIC:
Kathy Long, Chair	Carl Morehouse	George Lange	Lou Cunningham, Vice Chair
Linda Parks	Janice Parvin	Vacant	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Thomas Holden	Gail Pringle	Kenneth M. Hess

Executive Officer:	Dep. Exec. Officer	Office Mgr/Clerk:	Office Assistant	Legal Counsel:
Kim Uhlich	Kai Luoma	Debbie Schubert	Martha Escandon	Leroy Smith

PUBLIC HEARING ITEMS

8. LAFCo 09-09 Camarillo Sanitary District Annexation – Navy Housing
A proposal to annex two parcels totaling approximately 35 acres located at 118 N. Calle La Cumbre, Camarillo, to the Camarillo Sanitary District in order to bring existing residential development that is currently being served by the District into the District's boundaries. Assessor Parcel Numbers 164-0-010-07 and 164-0-010-06

RECOMMENDED ACTION: Approval

9. Sphere of Influence Review
Review the sphere of influence of the Ventura Regional Sanitation District and determine that no sphere of influence update or municipal service review is necessary.

RECOMMENDED ACTION: Approval

ACTION ITEMS

10. LAFCo Commissioner's Handbook Amendments and Additions – Divisions 2 and 5
Adopt a resolution amending various Commissioner's Handbook Sections regarding disclosure of political expenditures associated with LAFCo proceedings; public information; records retention; greenbelts; and out of agency service agreements.

RECOMMENDED ACTION: Approval

11. CEQA Initial Study Assessments
Determine whether or not to direct staff to submit comments regarding the County of Ventura's draft update of the CEQA Initial Study Assessment Guidelines to the Board of Supervisors.
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RECOMMENDED ACTION: Discussion and Action

12. Letter of Support for SB 1023
Authorize the Chair to send a letter to Senator Wiggins supporting Senate Bill 1023.

RECOMMENDED ACTION: Approval

EXECUTIVE OFFICER'S REPORT

FPPC Form 700s due to LAFCo by April 1
Next Regular LAFCo Meeting April 21, 2010

COMMISSIONER COMMENTS

ADJOURNMENT

WEB ACCESS:
LAFCo Agendas, Staff Reports and Minutes can be found at:
www.ventura.lafco.ca.gov

Written materials - Written materials relating to items on this Agenda that are distributed to the Ventura Local Agency Formation Commission within 72 hours before they are scheduled to be considered will be made available for public inspection at the LAFCo office, 800 S. Victoria Avenue, Administration Building, 4th Floor, Ventura, CA 93009-1850, during normal business hours. Such written materials will also be made available on the Ventura LAFCo website at www.ventura.lafco.ca.gov, subject to staff's ability to post the documents before the meeting.

Public Presentations - Except for applicants, public presentations may not exceed five (5) minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission. Any comments in excess of this limit should be submitted in writing at least ten days in advance of the meeting date to allow for distribution to, and full consideration by, the Commission. Members of the public who wish to make audio-visual presentations must provide and set up their own hardware and software. Set up of equipment must be complete before the meeting is called to order. All audio-visual presentations must comply with the applicable time limit for oral presentations and thus should be planned with flexibility to adjust to any changes to the time limit established by the Chair. For more information about these policies, please contact the LAFCo office.

Americans with Disabilities Act - In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the LAFCo office (805) 654-2576. Notification 48 hours prior to the meeting will enable LAFCo to make reasonable arrangements to ensure accessibility to this meeting.

Disclosure of Campaign Contributions - LAFCo Commissioners are disqualified and are not able to participate in any proceeding involving an "entitlement for use" if, within the 12 months preceding the LAFCo decision, the Commissioner received more than $250 in campaign contributions from the applicant, an agent of the applicant, or any financially interested person who actively supports or opposes the LAFCo decision on the matter. Applicants or agents of applicants who have made campaign contributions totaling more than $250 to any LAFCo Commissioner in the past 12 months are required to disclose that fact for the official record of the proceeding.

Disclosures must include the amount of the contribution and the recipient Commissioner and may be made either in writing to the Clerk of the Commission prior to the hearing or by an oral declaration at the time of the hearing.

The foregoing requirements are set forth in the Political Reform Act of 1974, specifically Government Code, section 84308.

Ventura
Local Agency Formation Commission

MINUTES

REGULAR MEETING

Wednesday, February 17, 2010, 9:00 A.M.
Hall of Administration, Board of Supervisors' Hearing Room
800 S. Victoria Avenue, Ventura

1. Call to Order
   Chair Lange called the meeting to order at 9:00 A.M.

2. Pledge of Allegiance
   Alternate Commissioner Holden led the pledge of allegiance.

3. Roll Call
   The Clerk called the roll. The following Commissioners and Alternates were present:
   Commissioner Cunningham
   Commissioner Lange
   Commissioner Long
   Commissioner Morehouse
   Commissioner Parks
   Commissioner Parvin
   Alternate Commissioner Hess
   Alternate Commissioner Holden
   Alternate Commissioner Pringle

   As a result of a vacancy created by the passing of late Commissioner Lotts, Alternate Commissioner Pringle sat as a voting special district member.

4. Election of Officers for 2010
   A. Chair
   MOTION: Nomination – Kathy Long for Chair: Parks
   SECOND: Cunningham
   FOR: Cunningham, Lange, Long, Morehouse, Parks, Parvin and Pringle
   AGAINST: None
   ABSTAIN: None
   MOTION PASSED 7/0/0

B. Vice Chair

MOTION: Nomination – Lou Cunningham for Vice Chair: Lange
SECOND: Parvin
FOR: Cunningham, Lange, Long, Morehouse, Parks, Parvin and Pringle
AGAINST: None
ABSTAIN: None
MOTION PASSED 7/0/0

5. Commission Presentations and Announcements

Chair Long presented a Resolution of Appreciation to the family of late Commissioner Bill Lotts to recognize his service to LAFCo and express condolences upon his passing. Commissioner Lotts' widow, Gwen Lotts, accepted the Resolution and expressed appreciation. Chair Long also thanked Commissioner Lange for his service as Chair in 2009 and for his work as a member of the CALAFCO Board of Directors. She then announced that Carl Morehouse was selected by the City Selection Committee to fill a new term as a regular City Member on LAFCo and Alternate Commissioner Gail Pringle would sit as a voting Special District member until the vacant regular Special District Member seat is filled.

COMMENTS FROM THE PUBLIC

There were no comments

CONSENT ITEMS

6. Minutes of the Ventura LAFCo November 18, 2009 regular meeting
7. Budget to Actual Reports for November & December 2009

MOTION: Approval Item 6, Receive and File Item 7: Cunningham
SECOND: Morehouse
FOR: Cunningham, Lange, Long, Morehouse, Parks, Parvin and Pringle
AGAINST: None
ABSTAIN: None
MOTION PASSED 7/0/0

PUBLIC HEARING ITEMS

8. Sphere of Influence Reviews
   A. Bell Canyon Community Services District
   B. Fox Canyon Groundwater Management Agency

Kim Uhlich presented the staff report. Chair Long opened the public hearing. With no one wishing to speak, Chair Long closed the public hearing.

MOTION: Approval A and B): Parks

SECOND: Parvin
FOR: Cunningham, Lange, Long, Morehouse, Parks, Parvin and Pringle
AGAINST: None
ABSTAIN: None
MOTION PASSED 7/0/0

ACTION ITEMS

9. LAFCo Audit Report
Melissa Shirah representing Macias, Gini & O'Connell, LLP presented a report on LAFCo's financial statements for the years ended June 30, 2008 and 2009 and informed the Commission that they had issued an unqualified opinion with no exceptions.

MOTION: Receive and File: Morehouse
SECOND: Lange
FOR: Cunningham, Lange, Long, Morehouse, Parks, Parvin and Pringle
AGAINST: None
ABSTAIN: None
MOTION PASSED 7/0/0

10. LAFCo Commissioner's Handbook Amendments and Additions - Division 2, Chapters 2, 3, & 6
Kai Luoma presented the staff report.

MOTION: Approval: Morehouse
SECOND: Cunningham
FOR: Cunningham, Lange, Long, Morehouse, Parks, Parvin and Pringle
AGAINST: None
ABSTAIN: None
MOTION PASSED 7/0/0

11. LAFCo - Initiated Dissolutions
Kim Uhlich presented the staff report.

MOTION: Direct staff to work with CEO staff to bring the matter before the Board of Supervisors for discussion: Morehouse
SECOND: Parks
FOR: Cunningham, Lange, Long, Morehouse, Parks, Parvin and Pringle
AGAINST: None
ABSTAIN: None
MOTION PASSED 7/0/0

EXECUTIVE OFFICER'S REPORT

Kim Uhlich reported the following: The enactment of AB 528 now means that, as of January 1, 2010, political contributions and expenditures made for the purpose of influencing a LAFCo proposal or proceeding must be reported to the Fair Political Practices Commission rather than to LAFCo. Although proposals that come before the Ventura LAFCo do not often involve the sort of political spending that is subject to the reporting requirements, it is important for staff and Commissioners to bear in mind that anyone who spends $1,000 or more to support or oppose a LAFCo proceeding must file reports and keep records which account for all payments used to influence the actions of either LAFCo or voters with respect to a boundary change proposal.
With regard to the process through which the late Commissioner Lotts' vacant seat must be filled, a conflict currently exists between the Rules and Regulations of the Special District Selection Committee and state law. The Rules and Regulations provide for automatic succession of the current alternate special district member to a regular member's unexpired term whenever a regular member is unable to complete his/her term. Since state law provides for a vacant special district term to be filled by the Special District Selection Committee, the ballot that will be mailed to the independent special districts will include a revision to the Rules and Regulations to better harmonize them with the law. As of this point in time, Alternate Commissioner Pringle will continue to serve her term as an alternate member but may participate as a voting member until an individual is formally selected through the upcoming election process.

COMMISSIONER COMMENTS

Commissioner Lange gave kudos to Martha Escandon for her assistance in translating some of the LAFCo informational materials into Spanish. He briefed the Commission on the January 15 CALAFCO Board meeting noting that ***the Board asked and he agreed,*** to Chair the conference planning committee for the annual conference at the Hilton Hotel in Palm Springs later this year. Commissioner Parks congratulated Commissioner Lange on receiving the *2009 Director Of The Year* award from the Ventura County Special Districts Association and with the concurrence of the Commission, asked staff to review the CEQA Initial Study Assessments and present their comments to the Commission at a future meeting. Chair Long thanked staff for providing the Commission copies of their comments on various agency projects.

ADJOURNMENT

Chair Long adjourn the meeting at 10:20 A.M. in memory of late Commissioner Bill Lotts.

These Minutes were approved on March 17, 2010

Motion to approve with Commissioner Comments ***corrected:*** Cunningham
Second: Parvin

Ayes:	Cunningham, Lange, Long, Morehouse, Parks, Parvin, Pringle
Nos:	None
Abstains:	None

Motion Passed 7/0/0

2-17-10 Kathy Long

Dated: **Chair, Ventura Local Agency Formation Commission**

Ventura
Local Agency Formation Commission

STAFF REPORT

Agenda Item 7

Meeting Date: March 17, 2010
(Consent)

TO: LAFCo Commissioners

FROM: Kim Uhlich, Executive Officer

SUBJECT: Budget to Actual Report – January 2010

RECOMMENDATION:

Receive and file the budget report for January 2010.

DISCUSSION:

At the February 17, 2010 LAFCo meeting, the Commission amended their Handbook policies requiring the Executive Officer to provide the Commission with budget reports on a monthly basis rather than a quarterly basis as previously required. The Commission also adopted policy which gives the Executive Officer authority to make adjustments between account codes, when necessary.

The attached report reflects the latest available revenue and expenditure information from the County Auditor-Controller. Since the receipt of this report, staff has made budget adjustments between expenditure account codes 2141, 2172, 2179, 2181 and 2154 in an effort to better reflect actual expenditure needs. These adjustments will be reflected on the February Budget to Actual report. No adjustments or transfers from contingencies are necessary or recommended at this time.

COMMISSIONERS AND STAFF

COUNTY:	CITY:	SPECIAL DISTRICT:	PUBLIC:
Kathy Long, Chair	Carl Morehouse	George Lange	Lou Cunningham, Vice Chair
Linda Parks	Janice Parvin	Vacant	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Thomas Holden	Gail Pringle	Kenneth M. Hess

Executive Officer:	Dep. Exec. Officer	Office Mgr/Clerk:	Office Assistant	Legal Counsel:
Kim Uhlich	Kai Luoma	Debbie Schubert	Martha Escandon	Leroy Smith

Ventura
Local Agency Formation Commission

STAFF REPORT

Meeting Date: March 17, 2010

Agenda Item 8

LAFCo CASE NAME & NO: LAFCo 09-09 Camarillo Sanitary District Annexation – Navy Housing

PROPOSAL: To annex two parcels to the Camarillo Sanitary District in order to bring the site within the boundaries of the District so it can continue to provide sewer service to a residential development.

SIZE: Approximately 34.6 acres.

LOCATION: The site is located at 118 Calle La Cumbre, Camarillo

The proposal area is within the sphere of influence for the Camarillo Sanitary District and is entirely surrounded by the District's boundaries. The territory is also within the City of Camarillo.

PROPONENT: The Camarillo Sanitary District by resolution.

NOTICE: This matter has been noticed as prescribed by law.

PARCEL INFORMATION & PROPONENTS FOR PURPOSES OF THE CALIFORNIA POLITICAL REFORM ACT (FPPC):

Assessor's Parcel Number	Property Address	Property Owner(s)
164-0-010-075	118 Calle La Cumbre	United States of America
164-0-010-061*	No address	Daily, Milton F-Margaret M.
164-0-010-062*	No address	D.B. Maddux Inc.

* According to the County Assessor, the "1" and "2" suffixes on this Assessor Parcel Number denote two different ownership interests in the same parcel. It remains a single parcel.

COMMISSIONERS AND STAFF

COUNTY:
Kathy Long, Chair
Linda Parks
Alternate:
Steve Bennett

CITY:
Carl Morehouse
Janice Parvin
Alternate:
Tom Holden

SPECIAL DISTRICT:
George Lange
Vacant
Alternate:
Gail Pringle

PUBLIC:
Louis Cunningham, Vice Chair
Alternate:
Kenneth Hess

Executive Officer: Kim Uhlich
Dep. Exec. Officer Kai Luoma
Office Mgr/Clerk: Debbie Schubert
Office Assistant Martha Escandon
Legal Counsel: Leroy Smith

RECOMMENDATION

A. Adopt the attached resolution (LAFCo 09-09) making determinations and approving the Camarillo Sanitary District Annexation – Navy Housing.

GENERAL ANALYSIS

1. Land Use

Site Information:

APN	Land Use Existing	Land Use Approved	Zoning	Camarillo General Plan
164-0-010-075	Multi-family residential	NA	Residential (R10U)	Residential, Low-Medium Density
164-0-010-061 and 062	Well	NA	Residential (R10U)	Residential, Low-Medium Density

No changes are proposed to the land use, zoning, or General Plan designation as part of this proposal.

The parcel owned by the federal government (Navy) comprises approximately 34.5 acres of the 34.6-acre proposal area. The Navy also owns a 16-acre parcel to the west, though this parcel is already within the boundaries of the Camarillo Sanitary District and not part of this proposal. Until recently, these two parcels contained 315 units for Navy personnel. In 2007, the Navy razed the aging 315 multifamily units located on these two parcels and is currently constructing 315 new multi-family units, 75 of which have been completed (though very few are actually occupied). The Navy considers the 315-unit development to be a single project and does not differentiate between the two parcels. Thus it is unknown to staff exactly how many units are located on the 34.5-acre parcel within the proposal area, though staff estimates there to be approximately 200 units.

Surrounding Land Uses and Zoning and General Plan Designations

Surrounding land uses consist of single-family residential development to the north, south, and east. Multi family (Navy personnel housing) abuts to the west. This proposal will have no effect on surrounding land uses, zoning or general plan designations.

Topography, Natural Features and Drainage

The site is relatively flat and slopes gently toward the south.

Conformity with Plans

The residential uses are consistent with the City's General Plan and zoning. However, the federal government, not the City, retains land use authority over the site.

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

Agricultural Land and Agriculture

The site does not meet the definition of prime agricultural land nor is it used for agricultural purposes.

Open Space

The proposal area is not considered open space pursuant to Government Code Sections 56059 and 65560 and therefore will not impact open space lands.

3. Population

According to the County Registrar of Voters, there are fewer than 12 registered voters in the proposal area. As such, the annexation proposal area is considered to be uninhabited.

4. Services and Controls – Need, Cost, Adequacy and Availability

The District has represented that it has the capacity to continue to provide sewer service to the proposal area. The District had been providing sewer service to the 315 units previously located on the site for many years and will continue to serve the new 315 units. Sewer infrastructure currently serves the site and no mainline sewer extensions are required. There will be no change to any other existing services.

5. Boundaries and Lines of Assessment

The boundaries are definite and certain. There are no conflicts with lines of assessment or ownership.

The maps and legal descriptions for this proposal have been forwarded to the County Surveyor but have not yet been certified as being accurate and sufficient for the preparation of a Certificate of Completion pursuant to Government Code Section 57201 and for filing with the State Board of Equalization. As such, the attached Resolution includes a condition that predicates recordation of a Certificate of Completion (completion of annexation proceedings) upon the approval of a map and legal description by the County Surveyor.

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

The following lists the assessed land value of the parcels per the 2009-2010 tax roll:

APN	Assessed Value
164-0-010-075	$0.00
164-0-010-061	$354.00
164-0-010-062	$2,375.00

According to the County Assessor, the proposal area takes in tax rate areas 07004 and 07016, each with a tax rate of $1.053100 per $100 of assessed value. Upon annexation, the proposal area will go into new, though not yet known, tax rate areas.

7. **Environmental Impact of the Proposal**

Staff has determined that the proposal is categorically exempt pursuant to CEQA Guidelines Section 15302 (replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced). The new 315 units will have substantially the same purpose and capacity as those 315 units that are being replaced.

8. **Regional Housing Needs**

The proposal area is currently being served by the District. There will be no change to existing land uses or allowable land uses. No additional housing opportunities will be created or eliminated. Therefore, the proposal will have no adverse effect on the City's fair share of the regional housing needs.

9. **Environmental Justice**

Staff has determined that approval of the proposal would not result in the unfair treatment of any person based on race, culture or income with respect to the provision of sewer service to these two residential parcels.

<u>ALTERNATIVE ACTIONS AVAILABLE:</u>

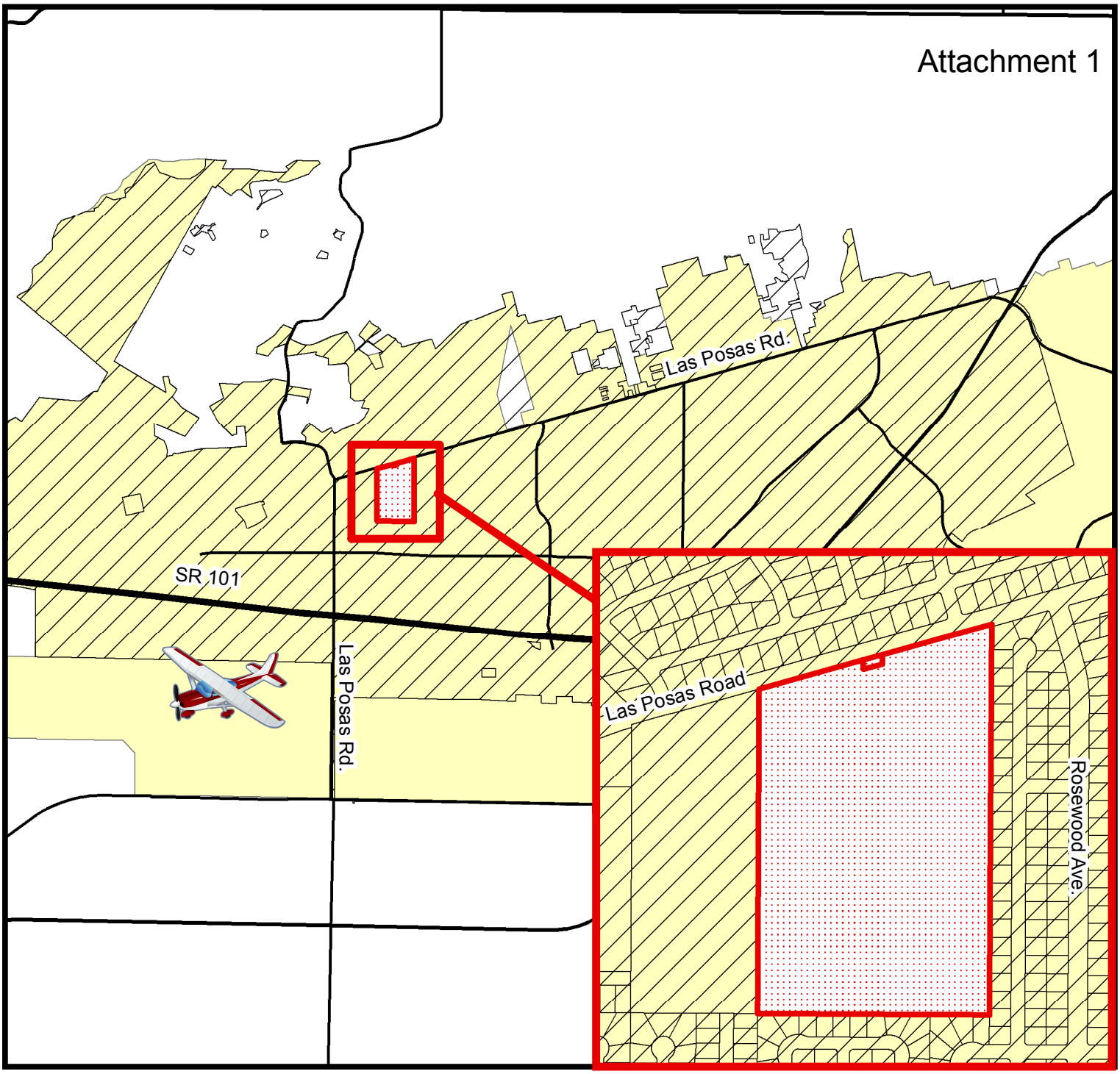
A. If the Commission, following public testimony and review of the materials submitted, determines that further information is necessary, a motion to continue the proposal should state specifically the type of information desired and specify a date certain for further consideration.

B. If the Commission, following public testimony and review of materials submitted, wishes to deny or modify this proposal, a motion to deny or modify should include direction that the matter be continued to the next meeting and that staff prepare a new report consistent with the evidence submitted and the anticipated decision.

BY: _____
Kai Luoma, AICP
Deputy Executive Officer

Attachments: (1) Vicinity Map *****
(2) LAFCo 09-09 Resolution

***** LAFCo makes every effort to offer legible map files with the online- and printed versions of our reports, however sometimes the need to reduce oversize original maps and/or other technological/software factors can compromise readability. Original maps are available for viewing at the LAFCo office by request.



LAFCo 09-09
Camarillo Sanitary District Annexation
Navy Housing

Legend

- Proposal Area
- Camarillo Sanitary District
- City of Camarillo

Ventura
Local Agency Formation Commission

LAFCO 09-09

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING CAMARILLO SANITARY DISTRICT ANNEXATION – NAVY HOUSING

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Ventura Local Agency Formation Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (Section 56000 of the California Government Code); and

WHEREAS, at the times and in the manner required by law, the Executive Officer gave notice of the proposal as required by law; and

WHEREAS, the proposal was duly considered on March 17, 2010 and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the proposal including, but not limited to, the LAFCo Staff Report and recommendation, the environmental determination, Sphere of Influence and applicable local plans and policies; and

WHEREAS, not all landowners within the affected territory have consented to the proposal; and

WHEREAS, the affected territory has fewer than twelve registered voters and is considered uninhabited; and

WHEREAS, information satisfactory to the Commission has been presented that no subject or affected agencies have submitted written opposition to the proposal; and

WHEREAS, the Commission finds the proposal to be in the best interest of the landowners and present and future inhabitants within the Camarillo Sanitary District and within the affected territory, and the organization of local governmental agencies within Ventura County;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Ventura Local Agency Formation Commission as follows:

(1) The LAFCo Staff Report and Recommendation for approval of the proposal, dated March 17, 2010, is adopted.

(2) Said annexation is hereby approved subject to conducting authority proceedings as prescribed in Government Code Sections 57000 to 57090.

(3) The boundaries of the proposal are found to be definite and certain as approved and set forth in Exhibit A attached hereto and made a part hereof.

(4) The subject proposal is assigned the following distinctive short form designation: **LAFCO 09-09 CAMARILLO SANITARY DISTRICT ANNEXATION – NAVY HOUSING.**

(5) In accordance with staff's determination that the subject proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 of the California Environmental Quality Act Guidelines, the Commission hereby finds the annexation to be categorically exempt.

(6) The Commission directs staff to file a Notice of Exemption under Section 15062 of the California Environmental Quality Act Guidelines.

(7) The affected territory is uninhabited as defined by Government Code §56046.

(8) The Executive Officer is hereby directed to conduct protest proceedings in accordance with Government Code Section 57050.

(9) The Commission hereby delegates to the Executive Officer the authority to determine the amount of protests pursuant to Government Code Section 57075(b).

(10) **This annexation shall not be recorded until all LAFCo fees have been paid and until fees necessary for filing with the State Board of Equalization have been submitted to the Executive Officer.**

(11) **This annexation shall not be recorded until a map and legal description consistent with this approval and suitable for filing with the State Board of Equalization have been submitted to the LAFCo Executive Officer.**

This resolution was adopted on March 17, 2010.

AYES: Cunningham, Lange, Long, Morehouse, Parks, Parvin, Pringle

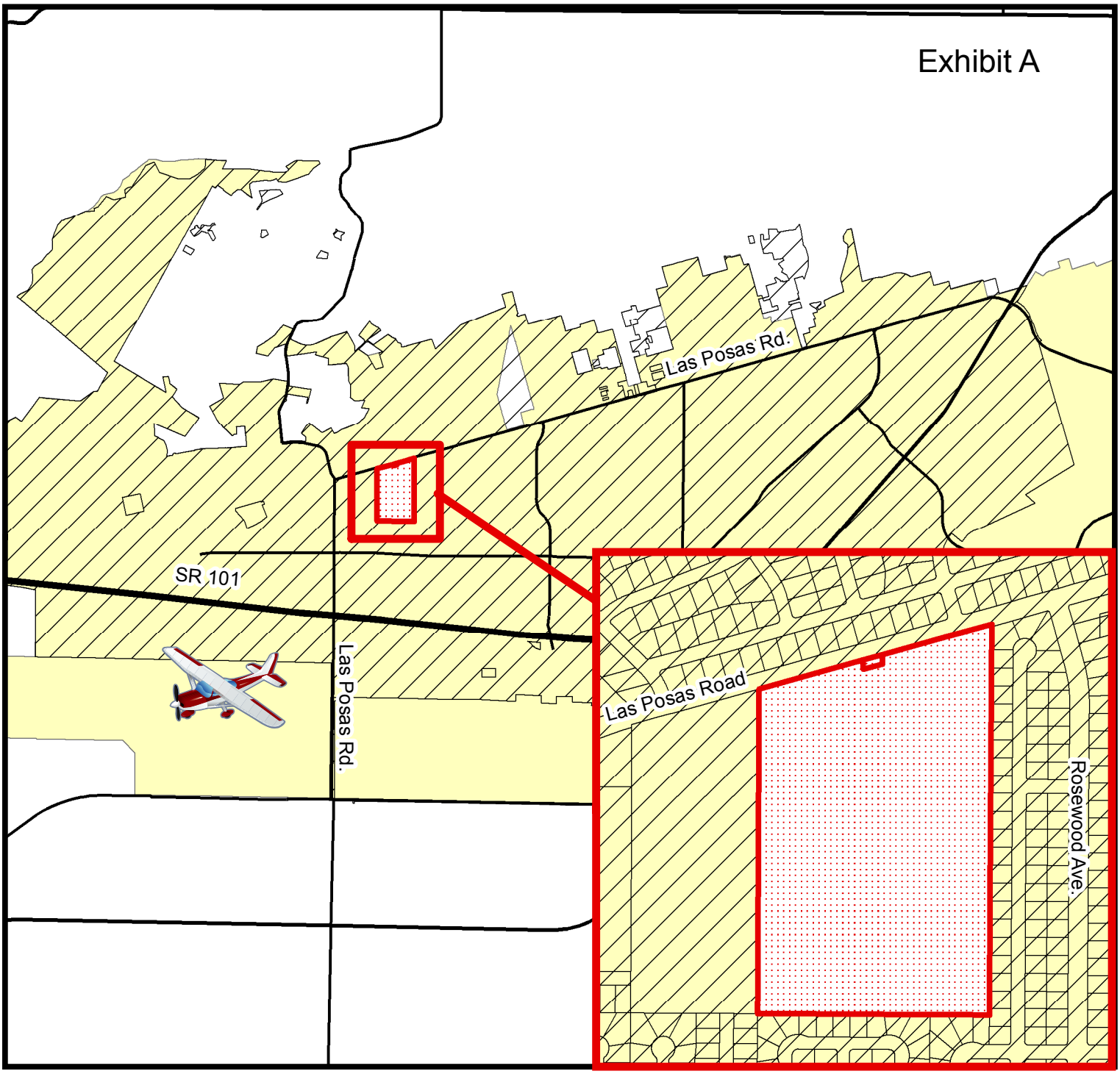
NOES: None

ABSTAINS: None

Dated: _____ _____
Chair, Ventura Local Agency Formation Commission

Attachments: Exhibit A

Copies: Camarillo Sanitary District
City of Camarillo
Ventura County Assessor
Ventura County Auditor
Ventura County Surveyor



LAFCo 09-09
Camarillo Sanitary District Annexation
Navy Housing

Legend

- Proposal Area
- Camarillo Sanitary District
- City of Camarillo

Ventura
Local Agency Formation Commission

Ventura
Local Agency Formation Commission

STAFF REPORT

Agenda Item 9

Meeting Date: March 17, 2010

TO: LAFCo Commissioners

FROM: Kim Uhlich, Executive Officer KU

SUBJECT: Sphere of Influence Review for the Ventura Regional Sanitation District – No Update Necessary

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RECOMMENDATION:

Review the sphere of influence for the Ventura Regional Sanitation District (VRSD) and determine that no sphere of influence update or municipal service review is necessary, and receive and file this report.

DISCUSSION:

For each city and special district, LAFCo must determine and adopt a sphere of influence "on or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence."(Cal. Gov't Code §56425(g)). The Ventura LAFCo has previously reviewed and updated the spheres of all local agencies within its jurisdiction prior to January 1, 2008.

VRSD is an enterprise, dependent district formed in 1970 pursuant to Health and Safety Code §4700 et seq. relating to County Sanitation Districts. VRSD provides support services to various water and wastewater services including the City of Thousand Oaks, the Montalvo Municipal Improvement District, the Saticoy Sanitary District and the Triunfo Sanitary District. In addition, VRSD operates the Toland Road landfill and provides integrated regional waste treatment and disposal services for all of Ventura County, except in the Moorpark and Simi Valley areas. In accordance with the schedule for the next round of sphere of influence reviews included in the municipal service review work plan approved by the Commission in May, 2008, LAFCo staff reviewed and discussed the sphere of influence with VRSD staff in December, 2009.

COMMISSIONERS AND STAFF

COUNTY:	CITY:	SPECIAL DISTRICT:	PUBLIC:
Kathy Long, Chair	Carl Morehouse	George Lange	Lou Cunningham, Vice Chair
Linda Parks	Janice Parvin	Vacant	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Thomas Holden	Gail Pringle	Kenneth M. Hess

Executive Officer:	Dep. Exec. Officer	Office Mgr/Clerk:	Office Assistant	Legal Counsel:
Kim Uhlich	Kai Luoma	Debbie Schubert	Martha Escandon	Leroy Smith

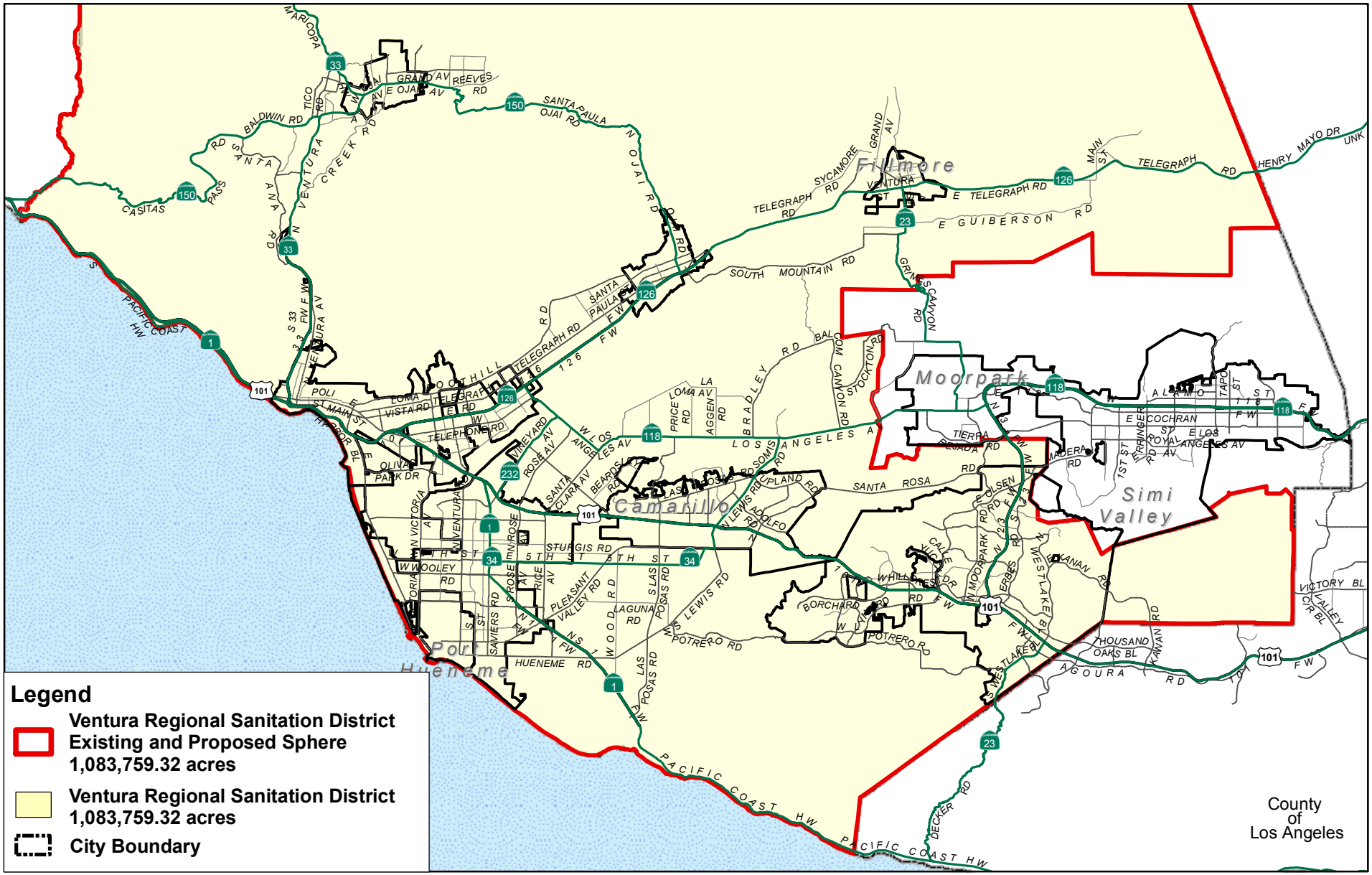
Based on the review and discussion, no sphere issues were identified and staff determined that the current sphere of influence boundary accurately reflects the VRSD's service area. It is therefore recommended that the Commission review the sphere of influence for VRSD and determine that no update is necessary. The effect of this recommendation is that the existing sphere of influence, which is coterminous with the VRSD boundaries, will remain the same as previously approved. Because there would be no changes, the review action by the Commission to receive and file this report is not considered a project subject to CEQA.

Though this recommendation may seem simple and straightforward, it has important policy, budget and work load implications. The Commission is aware the law requires that a municipal service review (MSR) must be conducted prior to, or in conjunction with, a sphere of influence update (Cal. Gov't Code §56430(a)). Thus, sphere of influence updates and MSRs are linked. Unless a sphere of influence update is deemed necessary, there is no separate requirement for the Commission to conduct a MSR.

While not mandated, the Commission does have the authority to conduct a MSR or other special study of any agency with a sphere of influence at any time. However, the recommendation is based on staff's determination that such work is not necessary at this time. LAFCo pays for the preparation of MSRs. To the extent that a sphere of influence update is not deemed necessary for this agency, at least at this time, there will be some cost savings and work efforts can be focused on other districts and the cities. Should circumstances change in the future, the Commission retains the authority to determine that a sphere of influence update is necessary, thereby necessitating a municipal service review at that time. Plus, if the Commission accepts the recommendation, under the law, it must again review the sphere of influence for the District by 2015.

This matter has been noticed as a public hearing and VRSD has been notified. As of the preparation of this report, no objections to the recommendation have been received. A copy of this report and a full-sized map depicting that there are no changes being proposed to the existing sphere of influence will also be provided to the District.

Attachment: Ventura Regional Sanitation District Proposed Sphere of Influence map



Ventura Regional Sanitation District

Ventura LAFCO Proposed Sphere of Influence Review

March, 2010

Prepared by County of Ventura - IT Services Department - GIS Services

State Plane Coordinate System California Zone V - NAD 27

This map was compiled from records and computations

Published: March, 2010

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Ventura
Local Agency Formation Commission

Agenda Item 10

STAFF REPORT

Meeting Date: March 17, 2010

TO: LAFCo Commissioners

FROM: Kai Luoma, AICP
Deputy Executive Officer

SUBJECT: Amendments to Commissioner's Handbook – Division 2, Chapters 1, 4, & 5; and Division 5, Chapter 1

RECOMMENDATION:

Adopt the attached resolution making various amendments to Division 2, Chapters 1, 4, & 5; and Division 5, Chapter 1 of the Commissioner's Handbook.

BACKGROUND:

The Commissioner's Handbook is a compilation of the Commission's By-laws and operational policies. The Handbook is designed to be reviewed and updated periodically as the Commission may want to add or alter policies to deal with new or changed circumstances.

Beginning late last year, staff initiated a comprehensive review of the Handbook in an effort to clarify, update and, in some cases, augment existing LAFCo policies. The review process is now complete and staff has compiled a number of recommended policy revisions to be presented to the Commission for further consideration. Rather than presenting all of the proposed policy revisions at one time, they will be divided into components and presented over a series of several LAFCo meetings. The first in the series was considered by the Commission on February 17. The recommendations that follow comprise the second in the series of recommended amendments.

COMMISSIONERS AND STAFF

COUNTY:	CITY:	SPECIAL DISTRICT:	PUBLIC:
Kathy Long, Chair	Carl Morehouse	George Lange	Louis Cunningham, Vice Chair
Linda Parks	Janice Parvin	Vacant	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Thomas Holden	Gail Pringle	Kenneth M. Hess

Executive Officer:	Dep. Exec. Officer:	Office Mgr/Clerk:	Office Assistant	Legal Counsel:
Kim Uhlich	Kai Luoma	Debbie Schubert	Martha Escandon	Leroy Smith

DISCUSSION:

Each of the recommended policy amendments in the following report is identified and accompanied by a brief discussion. All language that is recommended to be added is indicated in red underline and language recommended to be deleted is indicated with ~~strikeout~~.

DIVISION 2 – OPERATIONAL POLICIES

Amendments to Division 2, Chapter 1 - General

- **CHAPTER 1 – GENERAL**
  Although the first Chapters in Divisions 3, 4 and 5 of the Commissioner's Handbook are titled "General Policies", the first chapter in Division 2 is titled "General". To enhance consistency between chapters, staff is recommending that the Commission approve the addition of the word "policies" to the title of Chapter 1 of Division 2 as follows:

  CHAPTER 1 – GENERAL POLICIES

- **SECTION 2.1.6 DISCLOSURE OF POLITICAL EXPENDITURES REGARDING LAFCO PROCEEDINGS**
  In 2000, LAFCo law was amended to require disclosure and reporting of contributions and expenditures made for political purposes in relation to a LAFCo application initiated by petition. The law was again amended in 2007 to require the same reporting related to petitions that protest LAFCo decisions. In both cases, LAFCo bore the responsibility not only for receiving the disclosure reports but also for enforcing violations of the requirements (which could be accomplished only through the filing of a lawsuit). In response to this new duty, the Commission adopted section 2.1.6 of the Handbook establishing policies regarding disclosure and reporting.

  In 2008, the Political Reform Act was amended to make the reporting requirements related to LAFCo petitions subject to enforcement by the Fair Political Practices Commission (FPPC). And in 2009, both LAFCo law and the Political Reform Act were amended to conform the respective reporting and disclosure requirements. The most recent change in law also expanded the applicability of the disclosure and reporting requirements to all LAFCo proposals and proceedings, including applications initiated by resolution of a legislative body. Now that the FPPC, rather than LAFCo, is responsible for receiving or enforcing the disclosure and reporting requirements there is no longer any need for Handbook Policy 2.1.6. In fact, Handbook Policy 2.1.6 (g) anticipated the 2008 and 2009 legislative changes by providing that the policy shall have no further force and effect upon the effective date of legislation repealing or amending those sections to transfer responsibility for enforcing disclosure of expenditures for political purposes affecting commission proceedings to the FPPC or otherwise terminates the

responsibility of LAFCo to adopt and implement the policy. Staff is therefore recommending that the Commission rescind Section 2.1.6 as follows:

~~SECTION 2.1.6 DISCLOSURE OF POLITICAL EXPENDITURES REGARDING LAFCO PROCEEDINGS~~

~~Pursuant to Government Code Sections 56700.1 and 57009, effective January 1, 2008, expenditures for political purposes related to a proposal for a change of organization or reorganization and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process are subject to the reporting and disclosure to the same extent as required for local initiative measures under the Political Reform Act, Government Code Section 81000 et seq., and the regulations of the Fair Political Practices Commission implementing that law.~~

~~Ventura LAFCO adopts the following reporting and disclosure requirements to implement Government Code Sections 56700.1 and 57009.~~

~~(a) Definitions~~

~~i. "Contribution" as used herein shall have the same definition as provided in Government Code Section 82015, as amended.~~

~~ii. "Expenditure" as used herein shall have the same definition as provided in Government Code Section 82025, as amended.~~

~~iii. "Independent expenditure" as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term "measure" as used in Section 82031 shall be replaced with the term "proposal for change of organization or reorganization."~~

~~iv. "Political Purposes" as used herein shall mean for the purpose(s) of: influencing public opinion; (ii) lobbying public officials; (iii) influencing legislative or administrative action as defined in Government Code § 82032; and/or, (iv) complying with legal requirements and LAFCO rules for the processing of a proposal, including, but not limited to and by way of example only, preparation of a comprehensive fiscal analysis for an incorporation (Government Code Section 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code Section 21000 et seq., such as a mitigated negative declaration or environmental impact report.~~

~~(b) Disclosure Requirements for Proposals for Change of Organization or Reorganization~~

~~i. Any person or combination of persons who directly or indirectly makes expenditures or independent expenditures for political purposes totaling $1,000 or more in support of, or in opposition to, a change of organization or reorganization submitted to the commission to which Government Code Section 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative~~

~~measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.~~

~~ii. Disclosures made pursuant to this Section shall be filed with the commission's executive officer as designated in Section (e) below.~~

~~iii. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled commission hearing on a proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the "election" date for this purpose. The executive officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the commission regarding the proposal, and inform the requestor of that date in writing.~~

~~iv. In the event the originally scheduled hearing date for the proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues reports shall be filed on or before the 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.~~

~~(c) Disclosure Requirements for Conducting Authority Proceedings~~

~~i. Any person or combination of persons who directly or indirectly makes expenditures or independent expenditures for political purposes totaling $1,000 or more related to conducting authority proceedings for a change of organization or reorganization to which Government Code Section 57009 applies, or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.~~

~~ii. Disclosures made pursuant to this Section shall be filed with the commission's executive officer as designated in Section (e) below.~~

~~iii. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for a change of organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the "election"~~

~~date for this purpose. The executive officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the commission regarding the proposal, and inform the requestor of that date in writing.~~

~~iv. In the event the originally scheduled conducting authority hearing date for a proposal for a change of organization or reorganization is rescheduled or continued to a later date, the obligation to file continues and reports shall be filed on or before the 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.~~

~~(d) Certain Reports and Disclosures Excluded: This policy requires only that the persons subject to it disclose via reports to the commission's executive officer contributions, expenditures and independent expenditures with respect to expenditures for political purposes related to a proposal for an organization or reorganization and does not impose on such persons the regulations regarding the names of campaign committees, disclosures of the sources of mass mailings, and disclosures of the source of automated telephone calls under Government Code Sections 84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.~~

~~(e) Where to File: All reports and disclosures required hereunder shall be filed with The LAFCo Executive Officer.~~

~~(f) Reporting requirements are non-exclusive: The disclosure and reporting requirements herein are in addition to any other requirements that may be otherwise applicable under provisions of the Political Reform Act or by local ordinance.~~

~~(g) Sunset provision: This policy is intended to implement Government Code Sections 56700.1 and 57009 and shall be of no further force and effect upon the effective date of legislation repealing or amending those sections to transfer responsibility for enforcing disclosure of expenditures for political purposes affecting commission proceedings to the Fair Political Practices Commission or otherwise terminates the responsibility of this commission to adopt and implement this policy. *(Adopted1/16/08)*~~

Should the Commission adopt staff's recommendation, the Commissioner's Handbook will no longer contain any reference to the statutory requirements regarding the reporting of political contributions and expenditures for LAFCo proposals and protest proceedings. However, staff believes that it is important for the public and other local agencies to be aware of the law as it might apply to their involvement in a LAFCo proposal. Staff will therefore post information about the new law on the LAFCo website and provide a link to the FPPC website for additional information.

Amendments to Division 2, Chapter 4 – Public Notice and Information

CHAPTER 4 – PUBLIC NOTICE AND INFORMATION

- **SECTION 2.4.2 NOTICE**
  There are several types of LAFCo actions that are required to be publicly noticed before a final determination is made by the Commission. These include, but are not limited to, public hearings for changes of organizations and sphere of influence amendments, protest hearings, certain CEQA determinations, and changes to the Fee Schedule. State law dictates the minimum noticing requirements for each type of action and typically outlines what information is to be contained in the notice, where the notice is to be posted, and to whom the notice is to be mailed. The noticing requirements can differ depending on the type of action and which section of state law applies (LAFCo law, CEQA, Brown Act, etc.). Pursuant to the Commission's current policy regarding noticing (Section 2.4.2), staff routinely exceeds many of the minimum noticing requirements provided for in state law. However, the current policy language is very broad and, read literally, is without limits. The recommended revisions to Section 2.4.2 would allow the Executive Officer discretion over the extent to which noticing exceeds state minimum requirements.

  In its current form, Section 2.4.2 includes language regarding notice of meeting cancellations, requiring that such notice be sent to the County, cities, and independent special districts. Noticing for meeting cancellations is subject to different provisions than the noticing for Commission actions discussed above. Thus, staff recommends that the portion of the policy regarding meeting cancellations be moved to a separate new subsection (see 2.4.2.2 below).

  Staff also recommends the addition of subsection 2.4.2.3 regarding protest hearings. Many Commission actions are subject to both reconsideration requests and to protest proceedings. In some cases, the timing of these two processes can conflict, as follows:

  - Reconsideration: Pursuant to LAFCo law, upon the Commission's adoption of a resolution making determinations, a 30-day period begins during which any person or agency can file a request for reconsideration. If a timely request is received, the Executive Officer must schedule the item for the next Commission meeting for which notice can be given. The Executive Officer must take no further action until the Commission has acted on the request.

  - Protest Proceedings: Unless specific criteria are met, Commission approvals of changes of organization are subject to protest proceedings. Within 35 days of the Commission's adoption of a resolution making determinations, the Executive Officer must schedule a date for, and provide notice of, a protest hearing. During the period between the date of the notice and the protest hearing, property owners and/or voters

within the affected territory may submit written protests. The value of the protests received is determined at the protest hearing. In most cases, the protest hearing must occur no fewer than 21 days from the date of the notice. However, the hearing cannot occur before the expiration of the 30 day reconsideration period.

To expedite the process, staff normally schedules the notice period for the protest process to run concurrently with the reconsideration period. The protest hearing can then occur soon after the reconsideration period ends. However, if a request for reconsideration is submitted toward the end of 30-day reconsideration period after the protest hearing has been noticed (and possibly after written protests have been submitted), protest proceedings would have to cease, the protest hearing cancelled, and no further action taken until the Commission acts on the request for reconsideration. To avoid this circumstance, staff is recommending that the Commission adopt new policy language which directs the Executive Officer to defer scheduling a protest hearing until after the expiration of the reconsideration period for proposals that will likely be subject to the filing of a request for reconsideration.

The above-discussed policy revisions and additions to Section 2.4.2 are as follows:

SECTION 2.4.2 NOTICE

2.4.2.1 Option to Exceed Minimum Requirements: Notice of LAFCo actions shall be provided in the method and manner, and within the time frames, as required by state law. LAFCo will ~~endeavor to provide the widest possible dissemination of notice and will~~ not necessarily be limited to the minimums required by law if the Executive Officer determines that noticing beyond that required by state law would be in the public interest. ~~Notice of the cancellation of any meeting shall be sent to the County of Ventura and all cities and independent special districts in Ventura County.~~

2.4.2.2 Meeting Cancellations: Notice of the cancellation of any meeting shall be sent to the County of Ventura and all cities and independent special districts in Ventura County.

2.4.2.3 Protest Hearing: If, based on public interest or controversy, the Executive Officer determines that a valid and timely request for reconsideration of a resolution making determinations is likely to be filed, scheduling of the protest hearing (if required) will occur no sooner than the deadline for filing such a reconsideration request and no later than the 35th day following adoption of the Commission's resolution making determinations.

- **SECTION 2.4.6 RECORDS RETENTION**

Currently, the Handbook contains no policies regarding records retention. Until recently, a single hard copy of all files dated after approximately 1987 were retained in the LAFCo

office. Pre-1987 files, which are retained on microfiche, were also stored in the LAFCo office. Under this system, there were no backup files in the event that the original files are damaged or lost.

For these reasons, all case files older than three years, including those on microfiche, are now stored in a secure County records storage facility and are available to staff upon request. Case files from the last three years are kept in the LAFCo office to provide for more convenient access. Also, as the Commission is aware, staff is in the process of creating electronic copies of the most important documents from all case files. As documents are scanned, they are saved on a secure County computer network drive which is accessible to LAFCo staff. In addition to case files, LAFCo retains files on each city and district. These files will be electronically scanned and stored and the original record will continue to be stored in LAFCo offices, to allow for more convenient access by staff. The following recommended policy reflects staff's practice regarding records retention:

SECTION 2.4.6 RECORDS RETENTION

Record retention shall occur in the following manner:

(a) Storage of case files: It is LAFCo's intent to retain an original paper copy of all case file records indefinitely, as follows:
   i. The original full record for each case file from the previous three years will be retained in the LAFCo office.
   ii. The original full record for case files older than three years will be stored in a secure records storage facility operated by the County of Ventura.
   iii. Case file records prior to 1987 have been transferred to microfiche and the original records destroyed. A microfiche copy of each of these records will be retained in the LAFCo office. A second microfiche copy of each record will be stored in a secure record storage facility operated by the County of Ventura.

(b) Electronic storage of case files: It is LAFCo's intent to copy and retain selected documents from each case file in an electronic format, including, but not limited to, the Certificate of Completion, resolution, map, legal description, and staff report. Electronic files will be stored on a computer network drive maintained by the County of Ventura and accessible to LAFCo staff.

(c) City/District Files: The original full record for each city and district file shall be retained in the LAFCO office. One complete electronic copy of the full record shall be stored on a computer network drive maintained by the County of Ventura and accessible to LAFCo staff.

- **CHAPTER 4 – PUBLIC NOTICE AND INFORMATION**
  To recognize the addition of the record retention policies recommended by staff, staff is recommending that the title of Chapter 4 of Division 2 be changed to more clearly describe its contents as follows:

CHAPTER 4 – PUBLIC ~~NOTICE AND~~ INFORMATION AND RECORDS RETENTION

Amendments to Division 2, Chapter 5 – Local Plan and Policies

CHAPTER 5 – LOCAL PLANS AND POLICIES

- **SECTION 2.5.3 GREENBELTS**
  Staff is recommending no substantive changes to the existing policies providing for consistency between LAFCo proposals and local greenbelt agreements except for a minor amendment to correct a grammatical error in Section 2.5.3 relating to Greenbelts as follows:

  SECTION 2.5.3 GREENBELTS
  The County of Ventura and various cities in the County have adopted Greenbelt Agreements for the purposes of preserving agriculture and/or open space, providing separation between cities, and/or limiting the extension of urban services. The Ventura LAFCO is not a direct party to these Greenbelt Agreements, but has endorsed them as statements of local policy. As such, LAFCO will not approve a proposal from a city that is in conflict with any Greenbelt Agreement unless exceptional circumstances are shown to exist. LAFCO encourages that Greenbelt Agreements be amended by all parties involved prior to the filing of any proposal that may be in conflict with the Agreements ~~is considered by~~ ~~LAFCO~~.

DIVISION 5 – OUT OF AGENCY SERVICE AGREEMENTS

Amendments to Division 5, Chapter 1 – General Policies

- **SECTION 5.1.2 APPLICATIONS**
  Sate law prohibits cities and special districts from providing service outside of their boundaries without first requesting and obtaining approval of an out of agency service agreement (OASA) from LAFCo. Oftentimes a property owner's request for new service is associated with a proposed development project and/or the creation of new lots. Since the initiation of service is predicated on the approval of an application for development and/or subdivision, it has been the practice of LAFCo staff to require any applicable land use approvals before accepting any application for an out of agency

service agreement. Staff is therefore recommending that the Commission approve new policy language to acknowledge current practice.

SECTION 5.1.2 APPLICATIONS

5.1.2.1 Eligibility and requirement for copy of agreement: Applications to LAFCo for consideration of out of agency service agreements shall be filed by the agency that is seeking approval to provide the service outside its boundaries and shall include a service agreement signed by all parties.

5.1.2.2 Land use approvals required: No application for out of agency service involving the provision of service to a proposed subdivision or lot line adjustment and/or development project should be accepted before the associated tentative map, parcel map waiver and/or land use entitlement is approved by the agency with jurisdiction over the project.

- **SECTION 5.1.5 STANDARDS**
  LAFCo law provides factors to be considered by the Commission when making a determination for a change of organization or sphere of influence amendment. In addition, the Handbook contains local standards for the Commission's consideration for these same actions. Although the current Handbook policies pertaining to OASAs provide specific findings to ensure preservation of agricultural and open space lands, staff believes that other standards applicable to changes of organization proposals should also be considered. More specifically, the standards should include: the agency's ability to provide service, the efficiency of the service, the availability of alternative service providers, consistency with the applicable general plan, and the legality of the associated lot or lots. Staff recommends that the Commission approve the addition of a section to provide factors by which to evaluate proposed OASAs, as follows:

SECTION 5.1.5 STANDARDS

5.1.5.1 Factors favorable to approval:

(a) The city or district has demonstrated that there is adequate capacity to provide the proposed service and the service is consistent with the agency's adopted service plans.

(b) The existing or proposed land use is consistent with the applicable general plan and any applicable specific plan.

(c) The territory to which the service is proposed to be extended involves only legal lots.

5.1.5.2 Factors unfavorable to approval:

(a) A more cost efficient alternative for providing the service is available.

(b) The service would be provided in a tsunami inundation zone, wildfire hazard zone, FEMA designated floodway or floodplain, or other hazardous area designated by any federal, state or local public agency and the associated hazard cannot be adequately mitigated.

(c) The basis for the proposed service is solely to accommodate the creation of a new lot or lots without a corresponding development proposal.

- **SECTION 5.1.6 TIME LIMIT ON SERVICE INITIATION**

  Government Code Section 56133 provides that an out of agency service agreement may be authorized by LAFCo "in anticipation of a later change of organization." Although the statute provides relatively little guidance as to the timeframe within which LAFCo should "anticipate" a later annexation, it would seem that the Legislature considered service extensions via OASAs to be temporary measures in advance of annexation. It is largely for this reason that Commissioner's Handbook Section 5.1.7 currently provides that all service agreements between service providers and property owners must include a stipulation requiring the current property owner and all future owners to consent to future annexation. A closely related issue concerns the length of time between LAFCo's approval of an OASA and the point at which service is actually initiated, which can sometimes be significant. For example, staff is currently in discussions with staff from the City of Ventura and the County regarding a request by the Brooks Institute of Photography to receive additional water service from the City of Ventura for an expansion of their facility in the unincorporated area. The entitlements that are being sought would allow up to ten years for construction to begin. Thus, initiation of the service might not occur for up to ten years. In this case, it is possible that the city could become ready to move forward with annexation of the Brooks property before the OASA is even initiated.

  Currently, the Handbook does not include policies regarding time limitations on OASA approvals. For OASAs approved by the Executive Officer, the approval is usually conditioned to expire unless the service provider initiates service within six months. Likewise, for OASAs approved by the Commission, staff recommends an effective date of six-months. Since the Handbook does not currently address time limitations and the standard expiration limit currently applied by staff may not allow sufficient time in all cases for a property owner and service provider to complete the process to initiate service, staff is recommending that the Commission adopt specific policies as reflected below in Sections 5.1.6.1 and 5.1.6.2.

  Finally, the Handbook contains no provisions regarding time extensions for OASAs. Staff therefore is recommending that the Commission adopt a time extension policy to accommodate those projects that may be delayed due to factors beyond the proponent's control. The recommended language is reflected below in Section 5.1.6.3.

SECTION 5.1.6 TIME LIMIT ON SERVICE INITIATION

5.1.6.1 Recordation required: LAFCo approval of an application for out of agency service will not become effective until the service agreement is recorded by the Ventura County Recorder. Any approval of a request for out of agency service will be conditioned to require recordation no later than six (6) months following the date of approval.

5.1.6.2 Deadline for obtaining a building permit: Whenever a building permit is required to authorize construction of a property improvement to which the requested service is intended to be provided, LAFCo will not approve an application for out of agency service unless the service agreement contains language which expressly limits the time period for obtaining a building permit to no more than one (1) year following the date of recordation.

5.1.6.3 Request for Time Extension: The agency intending to provide the service may request one twelve (12) month extension of the one-year deadline set forth in Section 5.1.6.2 either as part of the initial LAFCo application or within one (1) year of the date of recordation of the approved service agreement provided that all of the following can be demonstrated:

(a) The service provider has amended the service contract accordingly;
(b) The proponents of the project that is to receive the service have diligently pursued all necessary permits to begin construction of the project, but due to factors beyond their control, permits have not yet been obtained.
(c) There is a reasonable expectation that the permits necessary to commence construction can be obtained within a reasonable timeframe, as determined by the Executive Officer.

- **SECTION 5.1.5 AGRICULTURE AND OPEN SPACE PRESERVATION**
  Division 5 of the Handbook essentially repeats Divisions 3 and 4 regarding the policies which set forth the criteria under which LAFCo may find that the conversion of prime agricultural and open space lands will lead to planned, orderly and efficient development. Since the last "clean up" of the Handbook, staff discovered that the first sentence of Section 5.1.5.1 erroneously includes some words of verbatim text from Section 4.1.3.1. The sentence currently refers to an "amendment or update", which pertains to a sphere of influence rather than an out of agency service. Staff therefore recommends that the words "out of agency service" be substituted for "amendment or update" as shown below in the red font.

  Staff is also recommending that the Commission substitute a new criterion for those currently set forth in Sections 5.1.5.1(b) and 5.1.5.2. As already indicated, these criteria

are primarily intended to apply to proposals for changes of organization and sphere of influence amendments that affect prime agricultural and open space lands. Essentially these policies require applicants to submit a detailed alternative site analysis in conjunction with such a proposal for a change of organization or sphere amendment that will convert agricultural or open space land to an urban use. The purpose is to steer development toward vacant non-prime land rather than annexing agricultural or open space land. Although this principle can be applied to proposals for boundary changes, OASAs are exclusively site dependent and therefore cannot be relocated. Staff is therefore recommending that the Commission adopt a substitute criterion that we believe is more applicable to applications for OASAs on agricultural or open space lands as shown below in the red font and identified as Section 5.1.7.1 (b).

SECTION 5.1.~~5~~ 7 AGRICULTURE AND OPEN SPACE PRESERVATION

5.1.~~5~~ 7.1 Findings and criteria for prime agricultural and open space land conversion: LAFCo will approve out of agency service agreements which are likely to result in the conversion of prime agricultural or open space land use to other uses only if the Commission finds that the ~~amendment or update~~ out of agency service will lead to planned, orderly, and efficient development. For the purposes of this policy, an out of agency service agreement leads to planned, orderly, and efficient development only if all of the following criteria are met:

(a) The territory is already developed or will be developed immediately upon the connection of the requested out of agency service and has been designated for non-agricultural use by applicable general and specific plans.

(b) ~~Insufficient non-prime agricultural or vacant land exists within the sphere of influence of the agency that is planned and developable for the same general type of use and that is readily annexable~~. Provision of the service would not result in a premature intrusion of urbanization into a predominantly agricultural or rural area.

(c) The out of agency service agreement will have no significant adverse effects on the physical and economic integrity of other prime agricultural or open space lands.

(d) The use or proposed use of the territory involved is consistent with local plans and policies.

~~5.1.5.2 Findings that insufficient non-prime agricultural or vacant land exists: The Commission will not make affirmative findings that insufficient non-prime agricultural or vacant land exists within the boundaries of the agency unless the applicable jurisdiction has prepared a detailed alternative site analysis which at a minimum includes:~~

~~i. An evaluation of all non-prime agricultural and vacant lands within the sphere of influence and within the boundaries of the jurisdiction that could be developed for the same or similar uses.~~

~~ii. An evaluation of the re-use and redevelopment potential of developed areas within the boundaries of the jurisdiction for the same or similar uses.~~

~~iii. An evaluation of all land that is readily annexable to the jurisdiction that could be developed for the same or similar uses.~~

~~iv. Determinations as to why vacant, non-prime agricultural lands and potential re-use and redevelopment sites are unavailable or undesirable for the same or similar uses, and why conversion of prime agricultural or open space lands are necessary for the orderly development of the jurisdiction.~~

- **SECTION 5.1.6 ADDITIONAL FACTORS FOR APPROVING AGREEMENTS**

  To approve an OASA, one of the three determinations outlined in this policy must be made. The first determination states:

  > "Services will be provided to a small portion of a larger parcel and annexation of the entire parcel would be inappropriate in terms of orderly boundaries."

  As stated in previous section of this report, Pursuant to Government Code 56133, OASAs may be authorized in anticipation of a future annexation. Pursuant to state law and local polices, annexations should result in orderly boundaries. Thus, an OASA should be approved only for parcels that would result in orderly boundaries. The above noted determination contradicts this by authorizing OASAs that do not follow lines of assessment or ownership. Staff is therefore recommending that the Commission delete this determination as indicated below:

  SECTION 5.1.~~6~~ 8 ADDITIONAL FACTORS FOR APPROVING AGREEMENTS

  In addition to the factors required by law and other factors required by these policies, in order to approve out of agency service agreements LAFCo must also make favorable determinations regarding one ~~or more~~ of the following additional factors:

  ~~i. Services will be provided to a small portion of a larger parcel and annexation of the entire parcel would be inappropriate in terms of orderly boundaries.~~

  i. Lack of contiguity makes annexation infeasible given current boundaries and the requested public service is justified based on applicable general and specific plans, these policies, and other entitlements for use.

  ii. Emergency or health related conditions require prompt action versus waiting for the processing of a proposal for a change of organization or reorganization.

Ventura
Local Agency Formation Commission

STAFF REPORT

Meeting Date: March 17, 2010

Agenda Item 11

TO: LAFCo Commissioners

FROM: Kai Luoma, AICP
Deputy Executive Officer

SUBJECT: Update to the County's CEQA Initial Study Assessment Guidelines

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RECOMMENDATION

Determine whether or not to direct staff to submit comments regarding the County of Ventura's draft update of the CEQA Initial Study Assessment Guidelines to the Board of Supervisors.

BACKGROUND

At the February LAFCo meeting, staff was asked to provide the Commission with a report on the County's update to its Initial Study Assessment Guidelines, particularly as it relates to agricultural resources.

County Initial Study Assessment Guidelines

The County of Ventura is in the process of revising/updating its Initial Study Assessment Guidelines (ISAG). The ISAG are used to evaluate the environmental impacts of discretionary projects that are located within the unincorporated area of Ventura County, pursuant to the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. More specifically, the purpose of the County's ISAG is as follows:

- To inform the public, project applicants, consultants and County staff of the threshold criteria and standard methodology used in determining whether or not a project (individually or cumulatively with other projects) could have a significant effect on the environment (a threshold is the point at which an environmental impact is considered to be significant).

COMMISSIONERS AND STAFF

COUNTY:	CITY:	SPECIAL DISTRICT:	PUBLIC:
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Linda Parks	Janice Parvin	Vacant	Vice Chair
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Thomas Holden	Gail Pringle	Kenneth M. Hess

Executive Officer:	Dep. Exec. Officer:	Office Mgr/Clerk:	Office Assistant	Legal Counsel:
Kim Uhlich	Kai Luoma	Debbie Schubert	Martha Escandon	Leroy Smith

- To provide instructions for completing the Initial Study and determining the type of environmental document for individual projects. If the initial study determines there are no potentially significant impacts to the environment, a negative declaration is prepared. If the initial study determines that there are potentially significant impacts from a project that can be mitigated to less-than-significant levels, a mitigated negative declaration is prepared. If the initial study determines that there are potentially significant impacts that cannot be mitigated, preparation of an EIR is required.

The proposed update of the ISAG encompasses all of the CEQA topic areas including: Resources (Air Quality, Water Resources, Mineral Resources, Biological Resources, Agricultural Resources, Scenic Resources, Paleontological Resources, Cultural Resources, Coastal Beaches and Sand Dunes), Hazards (Fault Rupture, Ground Shaking, Liquefaction, Seiche and Tsunami, Landslides/Mudslides, Expansive Soils, Subsidence, Hydraulic Hazards, Fire Hazards, Aviation Hazards, Hazardous Materials/Waste, Noise and Vibration, Glare, Public Health, Green House Gas), Land Use (Community Character, Housing), and Public Facilities/Services (Transportation/Circulation, Water Supply, Waste Treatment/Disposal, Utilities, Flood Control/Drainage, Law Enforcement/Emergency Services, Fire Protection, Education, Recreation).

Initial studies are completed as a collective effort among various County agencies and departments. For example, the Transportation Division completes the section on traffic/road impacts, the Fire District completes the section on fire hazards, the Agricultural Commissioner completes the section on agricultural resources, and so on. Similarly, the proposed update to each section of the ISAG has been prepared by the agency which would normally complete that particular section of the initial study, i.e., the Agricultural Commissioner is responsible for the update to the ISAG sections dealing with impacts to agricultural resources.

The draft ISAG was released in November 2009 for public review and comment, which ended in January 2010. According to County staff, the ISAG is currently undergoing revision in response to comments. An amended version is due to be released in April and is tentatively scheduled to be considered by the County Board of Supervisors in May. LAFCo staff provided comments on November 12, 2009 (Attachment 5).

LAFCo and the County's ISAG

The County's ISAG affects Ventura LAFCo in two ways:

- Pursuant to Commissioner's Handbook Section 1.4.4.6(c), when LAFCo acts as lead agency for a project, "the Initial Study Checklist and Initial Study Assessment Guidelines currently in use by the County of Ventura Planning Department will be utilized unless LAFCo prepares and adopts its own, separate, Initial Study Checklist and Assessment Guidelines."
- When LAFCo serves as a responsible agency for a County project, it must rely on the environmental document prepared by the County when making a final

determination. Section 1.4.3.3 of the Handbook states, "LAFCo shall, in making determinations on boundary change proposals, utilize the environmental document prepared by the lead agency…"

Therefore, from a LAFCo perspective, it is important that the County's initial study adequately evaluates the impacts to resources and services under LAFCo's purview. Among the purposes of LAFCo outlined in Government Code Section 56301 are "discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies…" The sections of the ISAG that are most germane to LAFCo purposes are those evaluating impacts to agricultural resources, open space, services and utilities, and growth inducement.

ANALYSIS

Following is a discussion of those sections in the proposed updated ISAG that are most relevant to LAFCo's goals and purposes:

Draft ISAG Section 5.a. - Agricultural Resources - Soils

On February 22, staff obtained from the Agricultural Commissioner's Office the latest revised version of the Agricultural Resources section in the draft ISAG (Attachment 1). This version includes revisions that were made in response to comments received during public review. Generally speaking, LAFCo staff believes that the proposed revisions to this section do not provide for a consistent, logical, or adequate evaluation of the effects that development projects may have on agricultural resources. It also appears that they are inconsistent with the provisions CEQA, the CEQA Guidelines, the 2005 General Plan EIR, and the proposed appendix to the draft ISAG.

The various subsections of the Agricultural Resources – Soils section of the draft ISAG update are discussed below.

Subsection A. - Definition of Agricultural Soils

The draft ISAG provides a definition of "classified farmland" that is to be protected. It includes farmland that is considered prime, of statewide importance, unique, and of local importance as mapped on the State Department of Conservation's Important Farmland Inventory. However, the ISAG states, "The Agricultural Commissioner may identify resources for protection or exclusion as warranted by actual facts." This statement appears to give the Agricultural Commissioner broad discretion in what is considered to be a protected resource. As a result, there would seem to be little purpose in defining the resource and establishing threshold criteria if the Agricultural Commissioner retains the discretion to choose what is and what is not to be protected. This essentially undermines the purpose of identifying thresholds of significance. Furthermore, such discretion also appears to allow the Agricultural Commissioner the discretion to override the conclusions of the 2005 General Plan EIR, as discussed later in this report. Such discretion appears to

violate CEQA, as only a subsequent environmental document can alter the conclusions of an EIR.

Subsection C. - Threshold Criteria

The proposed update revises both the thresholds of significance for the loss of agricultural soils and the methodology to be used to evaluate the significance of the impact. The thresholds apply to:

1. Direct impacts from a project, and
2. Cumulative impacts from a project.

Below, the proposed thresholds for direct project impacts and cumulative impacts are summarized followed by a discussion. The methodology is also discussed later in this report.

Project Impacts

The thresholds of the current ISAG are based on the amount of soil type that will be converted to non-agricultural uses. The poorer the soil, the larger the acreage that is considered a significant impact. For instance, in areas with a General Plan land use designation of Agricultural, the thresholds are 5 acres for prime/statewide soils, 10 acres for unique soils and 15 acres for local soils. Open Space/Rural land use designations also have specific acreage thresholds depending on soil type, as do all other land use designations.

Proposed Thresholds for Project Impacts - The draft ISAG identifies two criteria to determine whether a project will result in a direct significant impact to agricultural soils. Criterion 1 applies to all types of uses. Criterion 2 applies to all types of uses with the exception of those defined by the County zoning ordinance as Agricultural or Agricultural Operations (which are subject to only the thresholds in Criterion 1).

1. Criterion 1 - The first criterion provides that all types of discretionary development on a site that contains classified farmland will have a potentially significant environmental effect if it exceeds the General Plan standards for building coverage on a parcel. Classified farmland includes farmland that is prime, of statewide importance, unique, or of local importance as identified by the California Department of Conservation. The General Plan building coverage limits proposed to be used as thresholds are as follows:

General Plan Land Use Designation	General Plan Building Coverage Standard
Agricultural	5%
Open Space	5%
Rural	25%

As stated, all uses are subject to this criterion. For uses other than Agriculture or Agricultural Operations, the thresholds found under Criterion 2 also apply.

2. Criterion 2 – In addition to Criterion 1, this criterion applies to all development projects other than those defined as Agriculture and Agricultural Operations. Under this Criterion, a development would result in a potentially significant effect if it exceeds the following thresholds:

General Plan Land Use Designation	Important Farmland Inventory Classification	Acres to be Developed
Agricultural:	Prime/Statewide	5 acres
	Unique	10 acres
	Local	15 acres
Open Space/Rural (RA Zone)	Prime/Statewide	10 acres
	Unique	15 acres
	Local	20 acres

Discussion of Proposed Thresholds for Project Impacts – CEQA requires that physical effects to the environment be identified and evaluated. The point at which an impact is considered to be significant should be consistent and logical. The underlying land use or the type of project that would cause the physical effect is not important: the level of the physical impact is. Thus, if a project will result in the conversion of agricultural land, the impact threshold should not vary—the loss of an equal amount of similar types of agricultural soils should result in the same level of significance regardless of the what causes the loss. However, the proposed thresholds of significance in the draft ISAG do just that: they differ depending on different factors. As a result, they are inconsistent and contradictory.

1. Criterion 1 – The first criterion utilizes the building coverage percentages established in the General Plan as the thresholds of significance to determine direct effects to the environment caused by a project. This is a departure from the current ISAG which utilizes a defined amount of acreage and the type of soil to determine thresholds. The use of the General Plan building percentages is problematic for the following reasons:

   - The use of percentages to determine the level of significance results in varying points at which an impact is considered significant depending on lot size. If an agricultural project on a 100-acre agricultural parcel converts 6 acres of classified farmland, it would be considered significant and preparation of an EIR would be required. However, an agricultural project on 200-acre lot can convert 10 acres of the same soil classification with no significant impact and no EIR required.

   - The building coverage percentages, and thus thresholds, vary depending on land use designations, resulting in varying points at which an impact is considered significant. If an agricultural project on a 100-acre lot with an Agricultural land use designation converts 6 acres of classified farmland it would be considered a

significant impact. However, an agricultural project on a 100-acre lot with a Rural land use designation could convert up to 25 acres of the same soil classification before being considered a significant impact.

- Using General Plan building coverage limitations as thresholds does not differentiate between the loss of highly productive soil types and less productive soil types. For instance, consider two parcels designated Agricultural, one of which is classified as prime farmland (the most productive type), the other unique farmland (a less productive type). Under the proposed thresholds, the conversion of 10 acres on the parcel with prime soils would be considered to be an equivalent impact to the conversion of 10 acres on the parcel with unique soils, even though prime farmland is substantially more productive than unique farmland.

2. Criterion 2 – Similar to the current ISAG thresholds, the second criterion utilizes specific acreage amounts to determine the level significance. However, the combination of the two different approaches of Criterion 1 and 2 is problematic for the following reason:

   - The thresholds vary between different lands uses on the same parcel. Consider a 100-acre lot. If the lot is comprised of unique farmland and designated Rural by the General Plan, under Criterion 1 a proposed agricultural use is subject to a threshold of 25 acres (25% building coverage). However, if a non agricultural use is proposed *on the same lot*, the threshold identified under Criterion 2 is 15 acres.

   - The thresholds vary depending on the zoning designation. Criterion 2 specifies that it applies to land designated by the General Plan as Rural only if the land is zoned RA (Rural Agriculture). There are no thresholds under Criteria 2 for a project proposed on important farmland that is designated Rural, but zoned RE (Rural Exclusive) or RO (Estate). Thus, it appears that a non-agricultural project proposed on important farmland that is designated Rural, but zoned RE (Rural Exclusive) or RO (Estate) would be subject to only the thresholds established under Criteria 1. As a result, under the Rural designation, thresholds for RA zoned land is based on specific acreages (Criterion 2), whereas the level of significance for land in the RE and RO zone is subject to a percentage of lot coverage (Criterion 1).

The use of the general plan building coverage limits as thresholds of significance represents an illogical "sliding scale" of factors by which to determine the level of environmental significant impacts. Regarding the use of General Plan policies as thresholds, the Governor's Office of Planning and Research's "Thresholds of Significance - Criteria for Defining Environmental Significance" states:

> "A note of caution regarding the use of general plan policies: remember that a threshold represents that point at which a project's potential environmental effects are considered significant. The focus of the threshold is on actual limits to significant environmental impacts. When general plan policies or standards do not actually limit the potential

> impacts of a project to a particular level they are not effective measures of significance."

Thresholds should be constant and not vary depending on the type of use, size of a parcel, or other factor. If the conversion of five acres of prime farmland is considered significant, it should be considered significant in all land use designations, for all use types, in all zones, and on all lots regardless of size. Also, the thresholds should take into consideration the different soil types.

CEQA Inconsistency – In addition to the above points, the use of the General Plan building coverage limits as thresholds appears to be inconsistent with CEQA. No justification is provided that the use of building coverage limits as thresholds of significance is reasonable. The mere fact that a project is consistent with the General Plan does not mean that it will not have a significant impact on the environment. Staff is aware of no study, report, data, or other analysis that concludes that the loss of 5% of farmland in Agricultural or Open Space land use designations and 25% in Rural land use designations is a less than significant impact to agricultural resources.

According to the Agricultural Resources section of the 2005 General Plan EIR (Attachment 3), there are approximately 115,000 acres of land designated as Agricultural, Open Space, or Rural outside city spheres of influence. Based on the proposed thresholds, the loss of over 6,000 acres of important farmland (includes farmland that is prime, of statewide importance, unique, and of local importance) would be a less-than-significant impact, yet no justification for this conclusion is provided. In fact, the 2005 General Plan EIR discussion of residual impacts states, "The impact of future discretionary development on agricultural resources is potentially significant, but must be reviewed on a project-by-project basis, because the impact is too speculative to be addressed at this time" (pg. 50).

To summarize, the 2005 General Plan EIR has determined that discretionary development, including that consistent with the General Plan building coverage limits, is a potentially significant impact to agriculture resources. The proposed revisions to the Agricultural Resources section of the draft ISAG should, therefore, also consider it to be potentially significant.

Cumulative Impacts

In addition to identifying and evaluating direct impacts from a project, CEQA requires that cumulative impacts be identified and evaluated. A cumulative impact occurs when the combination of two or more individual effects results in a potentially significant effect. The effects can be caused by a single project or a number of separate and related projects from the recent past, present, or reasonably foreseeable future.

The draft ISAG does not appear to accurately reflect the provisions of CEQA or the EIR prepared for the 2005 General Plan update, as follows:

Proposed Thresholds For Cumulative Impacts: To address CEQA's requirement that cumulative impacts to agricultural resources be identified and evaluated, the draft ISAG (Attachment 1) states,

> "Section 15183 of the CEQA Guidelines mandates that projects which are consistent with the development density established by existing general plan policies shall not require additional environmental review, except for project-specific peculiar impacts. Therefore, only discretionary projects involving a General Plan amendment require evaluation of cumulative impacts. In addition, the 2005 General Plan EIR also stated that 4,335 acres of Important Farmland (as mapped on the 2004 state map) have been identified for future loss due to anticipated city and county development. The General Plan EIR also stated that future ministerial projects in the county could have significant effects to agricultural soils…The 2005 General Plan EIR deemed the losses Significant and Unavoidable and a statement of overriding considerations was adopted."

In other words, the draft ISAG concludes that no cumulative impact analysis of impacts to agricultural resources is required for projects that are consistent with the General Plan based on the provisions of CEQA and the 2005 General Plan EIR.

Discussion of Proposed Thresholds for Cumulative Impacts: The draft ISAG cites CEQA Guidelines Section 15183 in its conclusion that no cumulative impact analysis of impacts to agricultural soils is required for projects that are consistent with the General Plan. Though this CEQA Section does contain provisions limiting the scope of environmental review of projects that are consistent with a general plan, environmental review is required for such a project if there are significant or cumulative impacts that were not evaluated in the EIR that was prepared for the General Plan.

CEQA Guidelines Section 15183(a) states:

> "CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan polices for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project site."

However, Sections 15183(b) and (c) provide that in approving a project that is consistent with a community or general plan, a public agency shall limit its evaluation of environmental effects to those which the agency determines:

> "(b) Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent."

> "(c) Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action."

CEQA Section 21083.3(c), is even more specific regarding projects that are consistent with general plans:

> "Nothing in this section affects any requirement to analyze potentially significant offsite impacts and cumulative impacts of the project not discussed in the prior environmental impact report with respect to the general plan."

The conclusion that no further environmental analysis of a project is required simply because a project is consistent with the General Plan is not necessarily accurate. The statement contained in the draft ISAG, "….only discretionary projects involving a General Plan amendment require evaluation of cumulative impacts" is incorrect unless it is first demonstrated that all significant impacts or cumulative impacts were evaluated in the 2005 General Plan EIR (which they were not, as discussed later in this report). CEQA mandates that environmental review must still occur for significant effects or cumulative effects that were not analyzed in the prior General Plan EIR regardless of whether the project is consistent with the General Plan.

In fact, the previously cited section of the Governor's Office of Planning and Research's "Thresholds of Significance - Criteria for Defining Environmental Significance" continues:

> "Accordingly, at least two courts have held that "conformity with a general plan does not insulate a project from EIR review where it can be fairly argued that the project will generate significant environmental effects" (*Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872), citing *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325). In *Oro Fino Gold Mining*, the project proponent unsuccessfully argued that no significant impact existed because the proposed exploratory mine would not exceed the noise standards of the county general plan. The court dismissed this argument, marking that the county did not enforce those standards. Similarly, when examining a major road and sewer project, the *City of Antioch* court held that "general plan conformity alone does not effectively 'mitigate' significant effects of a project."

<u>2005 General Plan EIR</u> - The previously-cited section of the draft ISAG regarding cumulative impacts appears to imply that the statement of overriding considerations adopted by the County in 2005 for the loss of 4,335 acres includes the anticipated loss of agricultural soils county-wide and, as a result, no further evaluation is necessary for such loss. This is not accurate.

The EIR prepared for the 2005 General Plan update provides a narrow evaluation of the cumulative loss of agricultural land, affecting only a small fraction of the County's total farmland. The 4,335 acres of farmland anticipated to be lost in the EIR and covered by the statement of overriding considerations was only that which is "not protected by SOAR or CURB boundaries" (pgs 48-49 of the EIR - Attachment 3), and is comprised of the following:

Farmland Inside CURB	3,646 acres
Farmland designated as Urban or Existing Community by General Plan – not protected by SOAR (minus 18.5 acres located in Piru protected by SOAR)	689 acres
Total Farmland	**4,335 acres**

The 4,335 acres includes only, 1) farmland in the CURBs and, 2) farmland that is outside CURBs but designated for urban land uses by the County General Plan and not protected by SOAR. Thus, the potential loss of the approximately 115,000 acres of farmland designated Agricultural, Open Space, and Rural that is located outside the CURBs and is protected by SOAR, was never evaluated in the General Plan EIR and a statement of overriding considerations never adopted. Thus, it appears that any project that impacts agricultural lands other than the above-noted 4,335 acres is required to evaluate the cumulative impact in a CEQA document regardless of whether it is consistent with the General Plan, as required by CEQA Section 21083.3(c) and CEQA Guidelines Section 15083(c).

Furthermore, of the 4,335 acres, 3,646 acres are located within CURBs and, even though not protected by County SOAR, the EIR states that "these lands will remain agricultural in their designation while under the County's jurisdiction." The EIR continues, "The loss of these 3,646 acres would be a significant cumulative impact. However, the General Plan does not cause this loss. Rather, future annexation is an independent action initiated by the requesting city and authorized by LAFCo." Only the loss of 689 of the 4,335 acres due to County development was evaluated. Therefore, it appears that any project that impacts agricultural lands other than the above-noted 689 acres is required to be evaluated in a County CEQA document, regardless of whether it is consistent with the General Plan.

Finally, the position that CEQA Section 15083 essentially exempts projects that are consistent with the General Plan from further CEQA analysis regarding cumulative impacts contradicts the proposed appendix to the updated ISAG titled *Appendix - Cumulative Impacts* (Attachment 4). Regarding the use of the EIR prepared for the 2005 General Plan update, Section C., *Use of Previous EIRs* of the appendix states:

> "Each agency/department is also responsible for determining if the Final SEIR for the General Plan Update or another certified EIR is sufficient to

> address the cumulative impact assessment for each environmental issue the agency/department is responsible for evaluating. At a minimum, the EIR must have been of sufficient detail to adequately address the impacts of individual projects (such as the one being reviewed), and that all feasible mitigation measures are being imposed on the project."

Subsection D. - Methodology

In addition to identifying thresholds of significance, the draft ISAG identifies the steps that are to be used to evaluate whether a proposed project meets the thresholds. Most of the steps outlined in the methodology are applicable only if the thresholds of significance proposed in the draft ISAG are adopted. In light of LAFCo staff's opinion that the proposed thresholds are fundamentally flawed, no additional time was spent to evaluate and comment on the associated methodology.

Draft ISAG Section 5.b. - Agricultural Resources - Land Use Compatibility

Regarding cumulative impacts associated with agricultural resources and land use compatibility, the draft ISAG states, "Projects that are consistent with the General Plan and do not have project-specific peculiar effects will result in a determination of less-than-significant environmental effects."

As discussed previously, General Plan consistency does not address cumulative impacts and should not be the basis to conclude that there is no cumulative impact.

Other Impacts to Agricultural Resources Not Evaluated in the ISAG

Agricultural Sustainability

In LAFCo staff's November 12, 2009 comment letter on the draft ISAG (Attachment 5), staff noted that there appeared to be no evaluation of potential impacts to actual agricultural production and sustainability. The revised version of the draft ISAG does not contain a section for such evaluation. Agricultural sustainability is in large part contingent on parcel size. The better the soils, the smaller the parcel needed to sustain viable agricultural activities. According to Government Code Section 51222, agricultural land is presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land (as defined by Govt. Code § 51201(c)), or (2) at least 40 acres in size in the case of land which is not prime agricultural land. Projects that result in parcels smaller than these should be presumed to be unsustainable for agricultural use and would thus result in the conversion to non-agricultural use, a potentially significant impact under CEQA. Sustainability would also include issues such as agricultural water availability.

Appendix G of the CEQA Guidelines contains an example of an initial study checklist form and states that it is only a suggested form and that lead agencies are free to use different formats. However, it states "lead agencies should normally address the questions from this

checklist that are relevant to a project's environmental effects in whatever format is selected". Section II of the checklist regarding impacts to agricultural resources specifically asks whether a project will convert farmland to a non agricultural use. Thus, so should the ISAG.

Open Space

There appears to be no section in the draft ISAG specifically devoted to the evaluation of impacts to open space. However, based on staff's review of the ISAG, potential impacts to Open Space will be evaluated under various sections of the ISAG. LAFCo law and the County's Open Space Plan (which is required pursuant to state law) define open space use as:

- Open space for the preservation of natural resources
- Open space used for the managed production of resources
- Open space for outdoor recreation
- Open space for public health and safety
- Open space in support of the mission of military installations that comprises areas adjacent to military installations
- Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code

Any potential impacts that a project may have on these uses will be evaluated under other sections of the ISAG. For instance, impacts on natural resources will be evaluated under the Biological Resources or other appropriate sections of the ISAG. Health and safety impacts will be evaluated in the Hazards section. Recreation is to be discussed under Recreation Facilities. The protection of places and features will be discussed under the Paleontological Resources and Cultural Resources sections. Based on staff's review of the entire ISAG, it appears that the evaluation of impacts to Open Space will be encapsulated in other sections of the ISAG. As such, staff has identified no issue regarding the absence of a section devoted to Open Space.

Sewer/Water Services

Staff provided comments regarding sewer and water service in the November 12, 2009 comment letter. As of the writing of this report, staff is not aware if the comments were incorporated into the revised draft ISAG, as revised versions of these sections have not yet been a made available.

Other Services

Staff found no issues with the sections of the draft ISAG regarding other services, such a police, fire, etc.

Growth Inducement

The ISAG currently in effect contains a section to evaluate growth inducing impacts of a project. The proposed draft ISAG contains no such section. The reason for this is that CEQA requires growth inducing impacts to be evaluated in EIRs, but there is no requirement that such evaluation be conducted in an initial study or be part of a negative declaration. In addition, the appendix of the ISAG is specific to cumulative impacts and would likely include discussion related to the effects of reasonably foreseeable future projects. As a result, staff has identified no issues regarding the removal of this section from the ISAG.

CONCLUSION

Staff believes that the proposed updates to the ISAG are generally reasonable, with the exception of those sections intended to evaluate impacts to agricultural resources. It appears that these sections are inconsistent with CEQA, the CEQA Guidelines, case law, the County General Plan, and the 2005 General Plan EIR. The County Board of Supervisors must approve the draft ISAG. According to County staff, the item is scheduled to be considered by the Board in May, though this is tentative. The Commission may wish to direct staff to prepare a comment letter to the Board of Supervisors for signature by the Chair. Should the Commission wish to provide comments to the Board of Supervisors, staff recommends that action be taken to direct the preparation of a letter containing the points raised in this staff report.

Note: County Council, who also acts as LAFCo's legal adviser, has not reviewed this update on the merits to avoid any possible conflicts between his duties to the County and LAFCo.

Attachment 1: Section 5A of the updated ISAG, Agricultural Resources - Soils
Attachment 2: Section 5B of the updated ISAG, Agricultural Resources – Land Use Incompatibility
Attachment 3: Section 4.4 of the 2005 General Plan Subsequent EIR – Agricultural Resources
Attachment 4: Draft ISAG Appendix – Cumulative Impacts
Attachment 5: LAFCo staff comment letter dated November 12, 2009

~~7.a.~~ 5.a Agricultural Resources - Soils [Feb 16, 2010]

A. Definition of Agricultural Soils

The resources identified for protection are Prime, Statewide Importance, Unique and Local Importance farmlands ("classified farmlands") as mapped on the Important Farmland Inventory of the Department of Conservation/Ventura County RMA-GIS mapping systems. The Agricultural Commissioner may identify resources for protection or exclusion as warranted by actual facts.

B. General Plan Goals and Policies (Various. See legislative version.)

C. Threshold Criteria

Project Impacts: All development and uses are subject to uniformly-applied General Plan standards for building coverage limits (Goals, Policies & Programs, Fig. 3.4) Any discretionary development that exceeds these limits on a site that contains classified farmland will have a potentially significant environmental effect.

EVALUATION FOR ALL PROJECTS:

General Plan Land Use Designation	General Plan Building Coverage Standard – Criteria-1
Agricultural	5%
Open Space	5%
Rural	25%

Discretionary development defined as Agriculture or Agricultural Operations in the zoning ordinance is subject to the above evaluation only. Pavement, gravel and outdoor uses that are part of the agricultural operations are not counted in the evaluation. However, discretionary agricultural structures that are excluded from building coverage in General Plan Fig. 3.4 must contain less than 50% pavement or impervious flooring.

ADDITIONAL EVALUATION FOR PROJECTS NOT DEFINED AS AGRICULTURE OR AGRICULTURAL OPERATIONS:

General Plan Land Use Designation	Important Farmland Inventory Classification	Acres to be Developed Criteria-2
Agricultural	Prime/Statewide Importance	5 acres
	Unique	10 acres
	Local Importance	15 acres
Open Space/Rural (RA zone)	Prime/Statewide Importance	10 acres

Unique	15 acres
Local Importance	20 acres

For non-agricultural development, the calculation of "Acres to be Developed - Criteria-2" includes all outdoor uses that may compact or change the composition of the farmland soils, all pavements, and all gravel. The amount of overlap of any classified farmland and proposed non-agricultural structures must be calculated as Criteria-2.

Cumulative Impacts – Section 15183 of the CEQA Guidelines mandates that projects which are consistent with the development density established by existing general plan policies shall not require additional environmental review, except for project-specific peculiar effects. Therefore, only discretionary projects involving a General Plan amendment require evaluation of cumulative impacts. In addition, the 2005 General Plan EIR has stated that 4,335 acres of Important Farmland (as mapped on the 2004 state map) have been identified for future loss due to anticipated city and county development. The General Plan EIR also stated that future ministerial projects in the county could have significant effects to agricultural soils.

The 2005 General Plan EIR described the following partial mitigation for these losses:

1) Conservation required under the Land Conservation Act program;
2) Conservation resulting from the General plan policy to condition discretionary development to remove as little important agricultural land as possible
3) Conservation resulting from existing Greenbelt Agreements,
4) Conservation resulting from the county SOAR ordinance, which prevents conversion to other land use designations, and
5) Conservation related to a future Board policy to require General Plan Amendments and Zone Changes to financially compensate for the loss of agricultural soils.

The 2005 General Plan EIR deemed the losses Significant and Unavoidable and a statement of overriding considerations was adopted.

Zoning ordinance section 8106-1.1 and General Plan Figure 3.4 provides that 5 percent building coverage is permissible on all legal lots in Ventura County in the Agricultural and Open Space land use designations. The Agricultural Commissioner considers this mitigating with respect to future ministerial projects. This standard has been adopted as part of the environmental significance threshold.

D. Methodology

1. View the Important Farmland Inventory layer of Planning-GIS to determine whether there is any classified farmland on the permit site. If so, the project ~~may~~ **must** be referred to the Agricultural Commissioner's Office for evaluation.

2. For all projects, determine whether the proposed structures and existing building coverage exceed the General Plan building coverage limits for the land use designation (Goals, Policies & Programs, Figure 3.4). Projects that exceed the stated limit are considered **potentially** significant. See # 8 below for possible mitigation measures. [Revised 2/16,10]

3. Uses defined as Agriculture or Agricultural Operations in the zoning ordinance matrix that do not exceed the General Plan building coverage limits are deemed less than significant. Agricultural structures that are exempt from building coverage in Figure 3.4 are required to show that proposed flooring is at least 50 percent pervious.

4. Projects not defined as Agriculture or Agricultural Operations are subject to the Additional Evaluation threshold Criteria-2. Calculate the actual overlap of proposed non-agricultural structures, pavement, gravel and other outdoor uses with any classified farmland soils. Amounts exceeding the Criteria-2 limits are considered **potentially** significant. See # 8 below for possible mitigation measures. [Revised 2/16/10]

5. General Plan Policy 1.6.2-1 requires that discretionary projects with Prime or Statewide Importance farmland on site must be planned and designed to remove as little of these classes of farmland as possible. All applicants should include this information in the project description.

6. Subdivisions. Most subdivision applications do not include concurrent development and provide only estimates of the location and size of future ministerial development. However, subdivisions of land containing classified farmland and designated Agricultural, Open Space or Rural (RA zone) will have some foreseeable future loss of farmland due to increased ministerial entitlements. The zoning ordinance and General Plan building coverage percentage standards limit ~~the amount~~ **coverage** to 5 percent **in the Open Space and Agricultural designations.** With a significance threshold of 5 percent, consistent with the ordinance and General Plan, no subdivided/**resulting** parcel under 100 acres in size would remove more than 5 acres of any type of classified Important Farmland, except for agricultural structures already exempt under General Plan Figure 3.4 building coverage. For subdivided/**resulting** lots **in the Open Space or Agricultural designation**, consistent with existing zoning, parcels less than 100 acres in size are deemed less than significant. **Rural RA lots are allowed 25 percent building coverage. Subdivided/resulting lots less than 20 acres in size in the RA zone are deemed less than significant.**

7. Cumulative Impacts, Subdivisions. For subdivided/**resulting** parcels over 100 acres in size, the cumulative impacts analysis is two-fold:

   a. 5 percent building coverage indicates that over 5 acres of classified Important Farmland could be removed, (the strictest threshold for subdivided/**resulting** lots, as stated in Acres to be Developed-Criteria 2). Therefore, effects are presumed to be potentially significant.

   b. Effects may be reduced to less than significant if 5 percent (stated in acres) is less than the Criteria-2 threshold for the class and designation of farmland actually occurring on the subdivided/**resulting** lot.

8. For subdivided/**resulting** lots that do not have effects reduced to less than significant, Acceptable Mitigation Measures may include, but are not limited to:

   a. Applicant's offer to reduce the building coverage limit to a percentage that yields no greater farmland losses than the amounts on the Criteria-2 chart for the types of farmland and land use designation present on the lot. For example, a 160 acre resulting parcel in the Agricultural land use designation with any Prime or Statewide Importance farmland on the parcel could offer to reduce building coverage to 3.12 percent, or 4.99 acres for structures not otherwise exempt under General Plan Figure 3.4. A notice of land use limitation shall be recorded for this measure.

   b. Applicant's offer to preserve in perpetuity other farmland of similar resource value in another location. The applicant should provide a study supporting the validity of claims concerning the offer. A notice of land use limitation shall be recorded for this measure.

c. Payment of an in-lieu fee in accordance with a County developed and adopted farmland mitigation program. The applicant should provide a study supporting the validity of claims concerning the offer.

9. Prior to the application being deemed complete for filing by the case planner, potentially significant effects may be reduced to less than significant if the applicant amends or revises the project description to include project features or mitigation measures stated above, or other measures deemed acceptable. The Agricultural Commissioner will consider other measures that are offered and will take into consideration that measures such as SOAR, Guidelines for Orderly Development, greenbelt agreements, large minimum parcel sizes, and the encouragement of Williamson Act contracts already exist as strong farmland preservation measures.

5b~~7.e~~. Agricultural Resources - Land Use Incompatibility

~~The purpose of these guidelines is to ensure consistent and complete assessment of development/project related impacts on surrounding agricultural land use.~~

A. Definition of Issue

~~Land uses that, due to their nature, design or operation, may be incompatible with nearby agricultural production due to impacts on agriculture (e.g., vandalism, pilferage) or being impacted by agriculture (e.g., chemical spraying). Agricultural production includes both growing of agricultural crops for food, fiber, fuel and ornament, and animal husbandry.~~

The resources identified for protection are the cultural practices of commercial agriculture - agriculture's ability to move and use farm machinery and workers, engage in a variety of practices including chemical applications, etc. and receive protection from dust, uneconomic water usage practices, contaminated drainage, blockage of solar access, trespass, pilferage and unjustified complaints. The Agricultural Commissioner may identify the practices requiring protection or exclusion as warranted by actual facts and consistent with federal or state laws.

B. General Plan Goals and Policies

The following goals and policies of the Ventura County General Plan are applicable to this issue:

Countywide Goals, Policies and Programs:

Goals 1.6.1-1 & -2

Policy 1.6.2-6

Coastal Area Plan:

Coastal Act – Agriculture:

§ 30241 (e)

North Coast – Agriculture:

Objective

Policies 1 through 6

Central Coast – Agriculture:

Objective

Policies 1 through 5

South Coast – Agriculture:

Objective

Policies 1 through 5

Lake Sherwood/Hidden Valley Area Plan:

Goal 1.1.1-8

Policy 1.1.2-5

El Rio/Del Norte Area Plan:

Goal 3.2.1-2

Policies 3.2.2-2 through -4

Ojai Valley Area Plan

Goals 1.5.1-1 through -3

Policies 1.5.2-1 & -2

Piru Area Plan:

Goals 3.7.1-1 & -2

Policies 3.7.2-2 & -3

~~B~~C. Threshold Criteria

~~Any proposed non-agricultural land use/development located within one half mile of property currently in, or suitable for, agricultural production may have a potential impact. Properties suitable for agricultural production include lands designated Prime, Statewide Importance, Unique and Local Importance by the Important Farmlands Inventory (IFI).~~

~~Any non-agricultural land use/development that, by its nature, design or operation may pose substantial land use incompatibilities with nearby property currently in, or suitable for, agricultural production will have a significant impact. Although this determination must be made on a case-by-case basis, dwellings, schools, hospitals, care facilities, detention facilities, churches, libraries and outdoor recreational uses are considered potentially significant in the following situations:~~

~~1. within 300 feet of irrigated agriculture.~~

~~2. within 200 feet of dry farming.~~

~~3. within 100 feet of grazing lands.~~

~~4. does not provide perimeter fencing sufficient to keep human and livestock/pets from crossing property lines.~~

Project Impacts - Any use that is not defined as Agriculture or Agricultural Operations in the zoning ordinances will be evaluated for effects on adjacent *classified farmland.* Analysis is based on the distance between new non-agricultural structures or uses and any common lot boundary line adjacent to off-site classified farmland. See Section 5.a for the definition of *classified farmland.* Any project that is closer than the distances set forth below will be considered to have a potentially significant environmental effect, unless justification exists for a waiver or deviation from these distances (please see the Methodology section):

Evaluation for All Non-Agriculture or Non-Agricultural Operations Projects	
	Distance from Non-Agricultural Structure or Use and Common Boundary Line Adjacent to Classified Farmland
Without Vegetative Screening	300 feet
With Vegetative Screening	150 feet
New K-12 School	1,320 feet

Cumulative Impacts - The project's contribution to existing cumulative environmental effects will be evaluated. Projects that are consistent with the General Plan and do not have project-specific peculiar effects will result in a determination of less-than-significant environmental effects.

~~Cumulative development exceeding the above criteria will normally be considered as having a substantial effect on agricultural production and cultural practices in the project area (e.g., movement of farm equipment, spraying of farm chemicals).~~

~~C~~D. Methodology

~~The staff person responsible for administering the project must determine if the project is located within 2,640 feet of land currently in, or suitable for agricultural production. This requires a review of the IFI maps located in the Graphics Section of RMA. If not, the Initial Study Checklist can be checked "N" in both the Project Impact and Cumulative Impact columns, and an explanation of such provided in Section C of the Initial Study. If located within 2,640 feet of agricultural land, the project description shall be forwarded to the Agricultural Department for further evaluation and completion of Initial Study for this issue. The Agricultural Department will review the proposed project using the above criteria.~~

~~If a potential significant impact is identified, the Agricultural Department, if feasible, will suggest mitigation measures that would reduce the impact to a less than significant level.~~

1. View the Important Farmland Inventory layer of Planning-GIS to determine whether there is any classified farmland adjacent to the project site. If so, the project may be referred to the Agricultural Commissioner's Office for further evaluation.

2. Determine whether the proposed project structures or uses are within 300 feet of any common lot boundary line adjacent to off-site classified farmland (or 1,320 feet if the proposed project is a school site).

3. Determine whether justification for a waiver or deviation from the distance standard is warranted, which will result in a determination of less than significant environmental effects, using the following criteria (not applicable if the proposed project is a school site). Additional conditions of approval may be required to assure compliance.

Waiver and Deviation Criteria
a. The new use is a single-family dwelling on a parcel with AE, OS or RA zoned land
b. Existing topography eliminates or reduces any land use conflicts
c. There is mature vegetative screening on the project site at the boundary
d. There is an off-site right of way or easement at the boundary that precludes farming
e. There are off-site physical features at the boundary area that preclude farming
f. The off-site farmer has agreed in writing not to apply Restricted Materials within 300 feet of the common boundary
g. A 300-ft or 150-ft setback on a small legal parcel will preclude its reasonable use
h. Individuals are not continuously present in the proposed structures or use areas
i. The non-agricultural use is a farmworker or other housing complex with a functional notification and response plan for the use of Restricted Materials on or off-site within 300 ft of the housing
j. The non-agricultural use can easily be temporarily closed to allow scheduled Restricted Materials applications by an off-site adjacent farmer
k. The non-agricultural use is a continuing Industrial use with no substantial changes in existing land use incompatibility
l. It can be clearly demonstrated that no land use conflicts will occur (This criteria not valid for Animal Keeping involving horses)

4. Determine whether project building heights will decrease solar access to any off-site parcel containing classified farmland; this may result in a determination of potentially significant environmental effects.

5. Determine whether dust from construction or ongoing operations will occur. For most projects, the following standard will result in a determination of less than significant environmental effects.

Development Standard for Dust Suppression
Construction activities must be halted during high winds to prevent dust from blowing off-site onto classified farmland. Any operations that create dust, such as vehicles driven on unpaved areas or open storage require periodic watering to prevent dust.

6. Storage of wood may require additional conditions of approval. For most projects, the following standard will result in a determination of less than significant environmental effects. The Agricultural Commissioner may update this condition from time to time.

Development Standard for Storage of Wood
Firewood operations shall not import wood from Alameda, Contra Costa, Humboldt, Marin, Mendocino, Monterey, Napa, San Mateo, Santa Clara, Santa Cruz, Sonoma, Solano, or Lake Counties, California, to prevent the introduction in Ventura County of *phytophthora ramorum*, "sudden oak death disease."

7. Determine whether the project type will deplete a water source intended for agricultural irrigation, or result in contaminated drainage. For most projects, the following standard will result in a determination of less than significant environmental effects:

Development Standard for Agricultural Water Resources
Professional evaluations of surface and well water usage and the drainage contamination are undertaken by the Ventura County Water and Environmental Resources Division, Watershed Protection District. Best management practices are required by these agencies. Unless a peculiar effect is identified by one of these agencies, the Agricultural Commissioner determines that best management practices result in effects to agricultural water resources that are less than significant.

8. Cumulative Impacts Evaluation. Determine whether there are any project-specific peculiar environmental effects (effects than cannot be reduced with standard or custom conditions). Most projects that do not require a General Plan amendment and can comply with Standard Conditions for land use incompatibility will result in a determination of less than significant for cumulative impacts.

Adopted by the ~~Agricultural Commissioner~~ Board of Supervisors on ~~June 13, 2000~~

4.4 Agricultural Resources

The Ventura County *Initial Study Assessment Guidelines* define the criteria and methodology for determining whether a proposed project may have a significant adverse impact on agricultural resources. Any proposed non-agricultural development/land use that results in the following would have a potentially significant impact:

- Loss of soils designated Prime, Statewide Importance, Unique or Local Importance;
- Use of the same water resources as agriculture when the use is for non-agricultural purposes;
- Increased dust, reduced solar access, or elimination of windbreaks within one-half mile of a property currently in, or suitable for, agricultural production;
- Decrease in beneficial organisms or natural or man-made protection against harmful biological organisms within one-half mile of a property currently in, or suitable for, agricultural production.
- Location of incompatible land uses in proximity to agricultural land resulting in increased vandalism, pilferage, trespass or impact from chemical spraying.

4.4.1 Environmental Setting

Ventura County's agriculture plays a vital role in the local economy and consistently ranks among the most profitable in California. The temperate local climate, the availability of water and level topography, and the depth of high quality soils allows a wide diversity of crops to be grown, harvested, packed and shipped from the county. In 2001, the production of crops year round helped Ventura County agriculture rank tenth among California counties in agricultural revenues.

Agricultural resources include lands that are used to grow crops for human and animal use, or for livestock forage. These might include seasonal row crops, citrus orchards, and alfalfa. The most fertile soil is located in the Oxnard plain in portions of the unincorporated county and within the City of Oxnard. This land is actively farmed. The Ventura County Agricultural Commissioner compiles a Crop and Livestock Report annually. The 2002 Report included ~~T~~the ten ~~leading~~ highest value county crops. They are shown ~~below~~ in rank order by dollar value ~~in 2002~~ below. The most notable recent trends have shown an increase in the number of acres devoted to strawberry crops and nursery stock. A steady decline in the production of oranges, lettuce, and broccoli has persisted for the last decade.

Crop	Value in US Dollars
Strawberries	297,924,000
Lemons	182,853,000
Nursery Stock	173,669,000
Celery	114,707,000
Avocados	99,341,000
Cut Flowers	40,349,000
Tomatoes	37,720,000
Peppers	32,069,000
Valencia Oranges	24,910,000
Raspberries	19,963,000

In addition to these crops, navel oranges, livestock, and numerous vegetable row crops make significant contributions to Ventura's agricultural economy.

The ~~U.S. Soil Conservation Service~~ Natural Resources Conservation Service (NRCS) inventories county farmland by categorizing it in classes based on the productive capability of the land. Figure 4.4-1 shows the ~~U.S. Soil Conservation Service's~~ NCRS inventory of important farmlands in south Ventura County. In the Important Farmlands Inventory (IFI) used by the ~~c~~County, the areas with the highest agricultural potential are classified as "Prime", or "Statewide Importance", followed by "Unique", "Local Importance", "Grazing", and "Urban". Prime farmlands are irrigated soils over 40 inches deep with water holding capacity of 4 inches or more. Farmlands of Statewide Importance are land other than Prime that has a good combination of physical and chemical characteristics. Unique farmlands are lands other than Prime farmland or of Statewide Importance that are currently used for the production of specific high value food and fiber crops such as citrus, avocados, vegetables, etc. In 2003, farmland of Prime and Statewide Importance in Ventura County represented ~~87,371~~ 77,887 acres (45,058 acres of Prime and 32,829 acres of Statewide Importance). Unique farmlands comprised ~~23,111~~ 27,096 acres countywide in 2003. The criteria for farmlands of Local Importance includes ~~uses such as production of food, fiber, forage and oilseed crops on lands that are not identified as having statewide importance~~ soils that are listed as Prime or of Statewide Importance that are not irrigated, and soils growing dryland crops such as beans, grain, dryland walnuts, and dryland apricots. In 2003 there were ~~8,033~~ 15,752 acres of farmland defined as being of Local Importance.

Farmlands classified as Prime, Unique, or of Statewide Importance are given special consideration in CEQA when converted to non-agricultural uses. CEQA provides a definition for "agricultural land" as Prime farmland, farmland of Statewide Importance or Unique farmland as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California. However, the County's *Initial Study Assessment Guidelines* require assessment of impacts on Locally Important farmland in addition to impacts on irrigated farmlands.

4.4.2 Impacts

Significant direct, indirect and growth inducing impacts are expected on agricultural resources countywide as a result of the proposed focused General Plan Update. The following discussion addresses both direct and indirect impacts. Growth inducing impacts are discussed in more detail in Chapter 4.24 of this document.

Direct Impacts

The General Plan identifies the road widening necessary to ensure that the Regional Road Network will operate at an acceptable level of service to 2020. Much of the prospective road widening would occur in Agricultural designated areas and thus would result in the loss of irrigated farmland. The acreage of specific soil types expected to be removed for road widening includes:

- ~~84~~ 56.49 acres of Prime farmlands;
- ~~91~~ 65.56 acres of farmlands of Statewide Importance;
- ~~3~~ 5.15 acres of farmlands designated Unique; and
- No Locally Important farmlands.

Thus, a total of ~~178~~ 127.20 acres of important farmland would be lost due to road widening. This loss is considered a significant impact. As a result of County road improvements, ~~105~~ 73.54 acres of irrigated farmland would be lost. The remaining ~~73~~ 53.66 acres would be lost due to the widening of state highways. In addition, road widening can result in the loss of adjacent windbreaks.

In addition to road widening, impacts to agriculture that may result from the General Plan Update include potential increases in building coverage for agricultural-related uses in Agricultural and Open Space designations, creation of substandard sized parcels for Farmworker Housing complexes in the Agricultural and Open Space designations, and the potential for constructing community sewage treatment facilities in Rural, Open Space, and Agricultural designated areas. These impacts are regarded as potentially significant, but too speculative to address at this time since none of these projects has been proposed for a specific location that would impact farmland. Thus, future

environmental analysis would be required for any discretionary permit needed to implement these projects.

In addition to the impacts of the proposed amendment to the General Plan, the existing land use designations of the General Plan would allow ministerial and discretionary development which could increase dust, reduce solar access, eliminate windbreaks, decrease beneficial organisms or natural or man-made protection against harmful biological organisms, increase incompatible land uses in proximity to agricultural land resulting in increased vandalism, pilferage, trespass or impact from chemical spraying.

Indirect Impacts

Indirect impacts arise as the economic viability of agriculture declines due to factors such as rising land costs, consumer demand, the introduction of exotic pests, and the lack of farmworker housing. Once agricultural profitability declines sufficiently, farmland owners seek to subdivide their land for conversion to other uses. Once this conversion begins, it creates additional impacts on the remaining farm operations and encourages neighboring farmland owners to subdivide their properties.

The County has little control over market prices and the impact of globalization on agricultural economics; however, the General Plan can influence some aspects of agricultural viability. The General Plan (and Zoning Ordinance) can control the introduction of conflicting land uses into agricultural areas, limit the ability to subdivide and convert farmland and, to a lesser extent, regulate the amount of congestion on farm-to-market roads and the availability of water. The General Plan *Resources Appendix* Section 1.6.3 discusses the viability of agriculture in the County in detail and the positive impact of maintaining the resources and infrastructure necessary to support agriculture. In addition, the County SOAR Ordinance serves to impede the re-designation of agricultural land to other land use designations, at least until the year 2020.

Cumulative Impacts

Cumulative and growth inducing impacts will likely result from the conversion of farmland to urban uses countywide as the increase in the number of dwelling units, population, and employment continues to 2020. As the number of homes in agricultural areas increases, the need for urban services rises. This in turn alters the character of the area and promotes growth inducement for non-agricultural uses. Growth-related impacts are largely unavoidable and are discussed in more detail in Chapter 4.24 of this document.

Based on GIS queries run by the County Resource Management Agency's Graphics Division, ~~I~~there are approximately ~~5,415~~ 3,625 acres of irrigated farmland in unincorporated areas that are designated Agricultural but located in the Sphere of Influence of cities. This includes farmland classified as Prime, of Statewide Importance, and Unique. ~~895~~ 784 acres are located within areas protected by the countywide, voter-initiated SOAR (Save Open Space and Agricultural Resources) Initiative enacted in 1998. An additional ~~1,972~~ 1,877 acres of irrigated farmland are protected by virtue of being located outside of the City Urban Restriction Boundaries (CURB) of the respective cities. The countywide electorate would have to approve any effort to amend the Agricultural designations of these parcels. However, there are ~~2,548~~ 2,900 acres of irrigated farmland in unincorporated areas located within the CURB boundaries of the various cities and 746 acres of Locally Important farmland. These lands are not subject to SOAR. Thus, these lands will remain Agricultural in their designation while under the County's jurisdiction, but their inclusion within the cities' CURB boundaries and their General Plan designation within the city will eventually lead to annexation and urbanization. The loss of these ~~2,548~~ 3,646 acres would be a significant cumulative impact. However, the General Plan does not cause this loss. Rather, future annexation is an independent action initiated by the requesting city and authorized by LAFCO.

Outside of the cities' Sphere of Influence there are approximately ~~85,554~~ 84,299 acres of unincorporated irrigated farmland designated Agricultural, ~~and 19,058~~ 27,162 acres designated Open Space, and 1,897 acres designated Rural by the County General Plan. Protected by SOAR, amendment of these land use designations requires a vote of the electorate through 2020. In addition, there are approximately ~~2,367~~ 338 acres of irrigated, unincorporated farmland and 370 acres of Locally Important farmland not located within individual cities' Spheres of Influence that are designated

~~Rural,~~ Urban, or Existing Community by the County General Plan. Although not designated agricultural, these lands are identified as Prime farmlands, Farmlands of Statewide Importance, Unique or Locally Important farmlands in the State's Important Farmland Inventory and remain at risk for development to more intensive land uses. With the exception of 18.5 acres located in Piru that is designated Existing Community and protected by SOAR. Assuming conversion of all farmland not protected by SOAR or CURB boundaries, the cumulative potential loss of farmland due to County and City development is ~~2,735~~ 4,335 acres. However, actual encroachment will depend upon market forces, agricultural viability, and the local political climate.

4.4.3 Mitigation Measures

The road widening proposed in the General Plan is a significant unavoidable impact, nevertheless, proper design of new roads can reduce the impact of road widening on farming operations. General Plan policy 1.6.2-4 requires that County road improvement planning mitigate impacts to important farmlands to the extent feasible. Design features that could reduce impacts include: over-crossings, frontage roads and extra-wide shoulders.

The General Plan contains policies and programs aimed at preservation of farmland resources. These include the Agricultural land use designation, which establishes a 40-acre minimum parcel size and mandates "Agricultural Exclusive" zoning to enhance land use compatibility and to protect farming operations, and 20 acre minimum parcel size for Open Space designated land adjacent to Agricultural designated land. In addition, policy 1.6.2-1 requires that discretionary permits remove as little important farmland as possible.

Further protection is provided by implementation of the Land Conservation Act (LCA) program (also known as the Williamson Act) and the Farmland Security Zone Act (FCZA). These contracts between the County and qualifying landowners allow farmers to maintain agricultural use of their property in exchange for preferential property tax treatment. Uses of the land are then restricted to agriculture or open space for a minimum 10-year term under LCA and a maximum 20-year term under FSZA. These programs were initiated in Ventura County in 1969. By 2003 there were 130,958 acres of land under LCA contract.

Mitigation of potential impacts is focused on minimizing the incompatibility between agricultural operations and other land uses. In 1997, the County passed a Right-to-Farm Ordinance to protect commercial agriculture from nuisance claims based on a presumptive right to farm. This ordinance prevents agricultural activities, operations, and facilities that are consistent with the Zoning Ordinance and General Plan from being deemed a "nuisance". It also mandates disclosure to users of property located near agricultural operations of the noise, odor, dust, chemicals, and smoke that may accompany such agricultural operations.

In order to mitigate the impacts of sensitive uses from farming and, in turn, the impacts to farming from conflicting uses, General Plan policy 1.6.2-6 prevents discretionary development from conflicting with adjacent agricultural land. The Agricultural Commissioner and the Ventura County Agricultural Advisory Committee (APAC) provide CEQA review and recommendations for new discretionary projects. The intent of this review is to protect agriculture from potential vandalism, trespassing, theft, etc. and to protect neighboring urban uses from pesticide drift and similar impacts. Measures used to mitigate these impacts are evaluated on a case-by-case basis and include setbacks from agricultural uses, vegetative buffers, and easements to compensate growers for modifications to their farming practices.

Each of these programs is intended to reduce the loss of agricultural resources within the unincorporated County. Where such loss is unavoidable due to new development, additional mitigation measures may be necessary. ~~The November 2004 ballot includes Measure A, a ballot measure that proposes a one quarter (0.25%) cent sales tax increase in Ventura County~~ Efforts are underway throughout the County to determine various ways to fund purchase of conservation easements by an Open Space District. ~~If passed, open space and agricultural land would be protected~~ The efforts are to help protect open space and agricultural land in perpetuity and the~~is~~ Open Space District would work to preserve and restore agricultural and natural resources throughout the ~~c~~County.

This would be accomplished primarily through both fee purchase of land and purchase of conservation easements. ~~However, the feasibility of this ballot measure is unknown until after the election.~~ Various mechanisms to accomplish this, including pursuit of bond measures to create a funding source approved by County voters, are being tried.

One potential regulatory approach used by other jurisdictions to slow the conversion of farmland requires compensation for discretionary development entitlements that change the use of unincorporated farmland to urban or other non-agricultural land uses (e.g. through a Zone Change or General Plan Amendment). Compensation could be achieved through the granting of, or payment for, a farmland easement, deed restriction, or other conservation mechanism. For example, for every acre of agricultural land converted to other uses, an acre of comparable agricultural land could be protected by conservation easement within the County's General Plan area. The precise ratio of compensation would require further research and discussion; however, conservation easements generated by such a requirement could be acquired and managed by the Ventura County Agricultural Land Trust or the State Department of Conservation California Farmland Conservancy Program~~, potentially, the Ventura County Regional Open Space District~~, allowing the authority to implement this mitigation to rest with another agency.

The Ventura County General Plan contains a policy in the *El Rio/Del Norte Area Plan* that already applies this type of mitigation measure. Policy 3.2.2-6 requires that discretionary development on lands designated "Prime" or of "Statewide Importance" be evaluated for the feasibility of dedicating land, a conservation easement, or cash in-lieu fees to preserve agricultural land comparable to the land that would be permanently lost as a result of the development. Due to limited development in the El Rio/Del Norte area, to date this requirement has only been applied to one Caltrans road widening project. In some cities and counties, this type of mitigation is administered by the regional open space district or agricultural land trust to leverage the amount of farmland and open space protected.

Of the ~~2,367~~ 209 acres of unincorporated, ~~irrigated~~ Prime or Statewide Importance farmland that would theoretically be impacted by the proposed mitigation measure, ~~2,150~~ 18.5 acres are protected through 2020 by SOAR. If adopted and applied, this mitigation measure would provide protection of county agricultural resources in perpetuity. Without further study the feasibility of implementing a farmland preservation program of this nature in Ventura County is unknown. It should be noted, however, that even if enacted with a one-to-one ratio, such mitigation would not reduce the impact of farmland removal to a less than significant level.

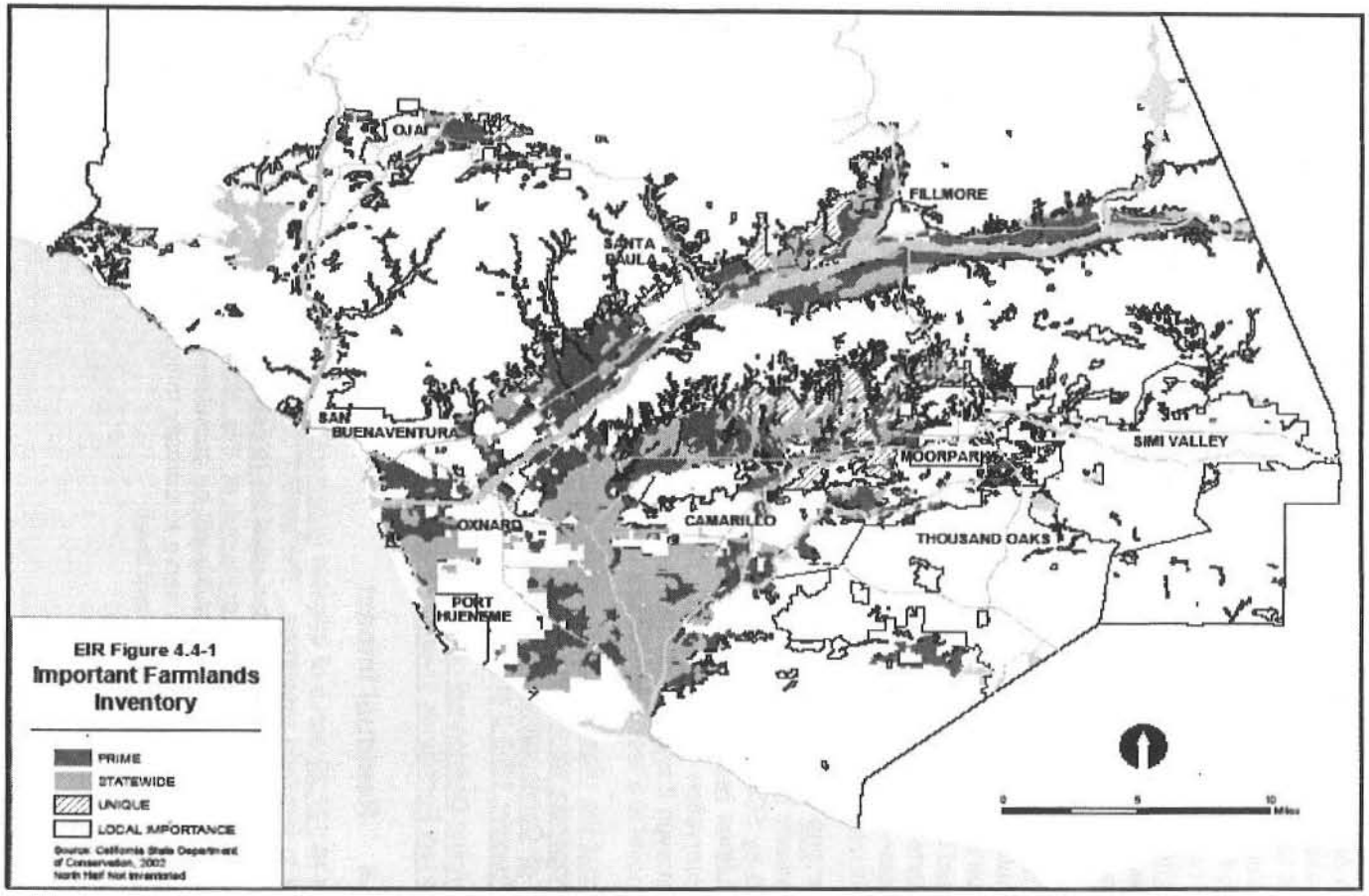
Staff notes that the most recent revisions to the Farmland Resources section of the General Plan Resources Appendix were completed in 1988. New information and comments provided by the State Department of Conservation highlight the inaccuracies inherent in the old data contained in this Appendix. Program 1.6.3-3 of the General Plan states:

> "The Planning Division will continue to work with State and Federal agencies to periodically update the Important Farmlands Inventory Map to reflect current conditions."

4.4.4 Residual Impact

The loss of ~~178~~ 127.20 acres of ~~irrigated~~ important farmland due to road widening is an unavoidable direct impact to farmland resources. The impact of future discretionary development on agricultural resources is potentially significant, but must be reviewed on a project-by-project basis, because the impact is too speculative to be addressed at this time. The secondary impacts that result in diminished agricultural economic viability will be cumulatively significant. Although the General Plan contains policies and programs that serve to partially mitigate the cumulative impact, the impact will not be reduced to a less-than-significant level.

Figure 4.4-1
Important Farmlands Inventory



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Appendix - Cumulative Impacts

~~The purpose of these guidelines is to ensure consistent and complete assessment of cumulative impacts.~~

A. Definition ~~of Issue~~

"Cumulative Impacts" is defined by the CEQA Guidelines as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."

~~"Cumulative Impacts" is the adverse change to the environment which results from the incremental impact of the project when added to other closely related past, present and reasonably foreseeable probable future projects. "Related" means that other projects will have an adverse impact on one or more of the same specific environmental issue(s) as the proposed project. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.~~

Section 15064(h) of the CEQA Guidelines states:

"(1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality plan, integrated waste management plan) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable."

B. Threshold Criteria

Whether or not a cumulative impact is significant and a project's incremental contribution is ~~to the~~ cumulatively considerable ~~impact is considerable~~ (i.e.~~measurable and perceptible~~ "the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the

effects of other current projects and the effects of probable future projects." CEQA Guidelines §15064, para. (h)(1)), varies by environmental issue (see Initial Study Assessment Guidelines) and the facts and circumstances of each case.

C. Methodology

Scope of Analysis

Each agency/department is responsible for determining the geographical area subject to cumulative impact assessment for each environmental issue the agency/department is responsible for evaluating. For those issues that are unassigned to a specific agency, the agency/department responsible for administering the project shall determine the geographical area, consistent with that issue's Initial Study Assessment Guideline.

Use of Previous EIRs

Each agency/department is also responsible for determining if the Final SEIR for the General Plan Update http://www.ventura.org/rma/planning/General Plan/general plan.html or another certified EIR is sufficient to address the cumulative impact assessment for each environmental issue the agency/department is responsible for evaluating. At a minimum, the EIR must have been of sufficient detail to adequately address the impacts of individual projects (such as the one being reviewed), and that all feasible mitigation measures are being imposed on the project.

If the previous EIR is sufficient to cover a subsequent project, the Initial Study must reference the EIR, describe where a copy can be viewed, and provide a brief summary.

County agencies/departments may also determine that a **project's** incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality control plan, integrated waste management plan or payment of a traffic impact mitigation fee) within the geographic area in which the project is located. Such plans or programs must be specific in law or adopted by the county/special district with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the county/special district. The applicable agency/department shall place a check under the "LS" (less than significant impact) column when the **project's** cumulative impacts have been considered in a previously adopted plan or mitigation program as identified above.

Adopted Forecasts/Land Use Plans

The County's General Plan population, dwelling unit and employment forecasts, in conjunction with the land use maps, should be used as the foundational basis for determining cumulative development within the specified geographical area for those environmental issues that were sufficiently addressed in the General Plan Update SEIR or are directly or indirectly related to population, dwelling units or employment growth (e.g., Public Facilities and Services). ~~Copies of these~~ These forecasts and land use maps are contained within the Land Use chapter of the Goals, Polices and Programs and Land Use Appendix posted on ~~file with~~ the County Planning Division website:

http://www.ventura.org/rma/planning/General Plan/general plan.html .

In addition, all known General Plan Amendments (GPAs) that have been filed or are likely to be filed ~~being processed~~ in the same geographical area should be added to the forecasts. Information regarding County GPAs can be obtained from the County Planning Division website at:

http://www.ventura.org/rma/planning/Permits/projects.html ~~– GPA Screenings planner~~.

Information regarding city GPAs can be obtained from the planning departments of the respective cities.

List of Approved, Proposed and Reasonably Foreseeable Future Projects

For environmental issues that where not sufficiently assessed in a previous EIR and where forecasts and land use designations are not sufficient to address cumulative impacts, a list of approved and proposed projects can be used. Information regarding County Planning Division permits/entitlements can be

obtained from the County Planning Division website at:
http://www.ventura.org/rma/planning/Permits/projects.html – ~~GPA Screenings planner.~~

Information regarding city permits/entitlements can be obtained from the planning departments of the respective cities.

In addition to approved and proposed projects, the cumulative analysis must also consider reasonably foreseeable probable future projects. If there has been a public announcement of a pending project, then that project should be included. In cases where the subject project includes a legislative amendment (General Plan amendment or Zone Chang), it is also important to consider the potential of similar amendments for similar properties in the general area of the proposed project.

~~County agencies/departments may determine that the incremental impacts of a project are not cumulatively considerable when they are so small they make only de minimis contribution to a potentially significant cumulative impact caused by other projects that would exist in the absence of the proposed project. In such cases the applicable agency/department shall place a check under the "LS" (less that significant impact) column. A de minimis contribution means that the environmental conditions would essentially be the same (no measurable and perceptible change) whether or not the proposed project is implemented. The very existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable.~~

~~County agencies/departments may also determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality control plan, integrated waste management plan or payment of a traffic impact mitigation fee) within the geographic area in which the project is located. Such plans or programs must be specific in law or adopted by the county/special district with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the county/special district. The applicable agency/department shall place a check under the "LS" (less than significant impact) column when the project's cumulative impacts have been considered in a previously adopted plan or mitigation program as identified above.~~

~~When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a MND, the applicable agency/department shall place a check under the "PS-M" (potentially significant cumulative impacts – mitigation incorporated).~~

~~Adopted by the Environmental Quality Advisory Committee on June 16, 2000~~

Ventura
Local Agency Formation Commission

MEMORANDUM

DATE: November 12, 2009

TO: Bruce Smith
County of Ventura RMA, Planning Division

FROM: Kai Luoma, AICP
LAFCo Deputy Executive Officer

SUBJECT: Draft Initial Study Assessment Guidelines

Thank you for the opportunity to review the County's Draft Initial Study Assessment Guidelines. LAFCo is particularly interested in the County's Initial Study Assessment Guidelines, as Section 1.4.4.6 of the Ventura LAFCo Commissioner's Handbook states that when acting as the Lead Agency for a project, LAFCo is to utilize the County Planning Department's Initial Study Checklist and Initial Study Assessment Guidelines.

LAFCo staff offers the following comments:

Initial Study Checklist

CEQA Guidelines Appendix G contains a suggested environmental checklist form. Appendix G section 8) states that the checklist is only a suggested form and that lead agencies are free to use different formats, "However, lead agencies should normally address the questions from this checklist...in whatever format is selected." Though the Draft Initial Study Assessment Guidelines do a generally thorough job of addressing the questions contained in CEQA Guidelines Appendix G, LAFCo staff was unable to locate any proposed Guidelines to address the questions in Appendix G under Section IX. Land Use and Planning, particularly subsection b), which asks whether a project would:

> Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

As an agency with jurisdiction over proposals for changes of organization that has adopted policies and regulations to avoid or mitigate environmental effects, LAFCo staff believes that the County's initial study checklist should include this question and that the

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Draft Guidelines contain a section addressing how it is to be assessed. If you would find it useful, LAFCo staff would welcome the opportunity to review and comment on a draft version of this section.

Such a section would also provide the County with the opportunity to evaluate a project's' consistency with its general plan, applicable area plan, Land Conservation Act Guidelines, open space plan, SOAR, Guidelines for Orderly Development, greenbelt agreements, zoning ordinance, etc.

Agricultural Impacts

Section 5.a. of the Assessment Guidelines discusses impacts to agricultural soils, the evaluation of which includes the actual acreage of important soils that is to be developed. Section 5.b. discusses agricultural resources and land use incompatibility. However, there appears to be no section in the Assessment Guidelines that evaluates potential impacts to actual agricultural production and sustainability. Section II of Appendix G of the CEQA Guidelines is intended to determine a project's impact to both "agriculture and farmland". Sections a) and c) specifically ask whether a project will convert farmland to a non agricultural use (emphasis added). The impact of agricultural conversion should not be limited to an assessment of the specific acreage of soil that is to be developed or land use incompatibility.

Agricultural sustainability is in large part contingent on parcel size. The better the soils, the smaller the parcel needed to sustain viable agricultural activities. According to Government Code § 51222, agricultural land is presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land (as defined by Govt. Code § 51201(c)), or (2) at least 40 acres in size in the case of land which is not prime agricultural land. Projects that result in parcels smaller than these should be presumed to be unsustainable for agricultural use and would thus result in the conversion to non-agricultural use, a potentially significant impact under CEQA.

LAFCo staff recommends that the Assessment Guidelines include a section that will evaluate whether a project will convert farmland to a non-agricultural use and the project's impact to agricultural sustainability.

Water Quantity

Section 28.b. discusses water quantity and establishes the thresholds necessary to determine whether a permanent supply of water exists for a project. Subsection C. establishes the threshold criteria as:

1. A source of water supplied by the following shall be determined to constitute a permanent supply of water if, and only if, the supplier indicates in writing it has a permanent (60 year) supply for the project:

a. Calleguas Municipal Water District (CMWD)
b. United Water Conservation District (UWCD)
c. Casitas Municipal Water District
d. Cities, water companies, districts, mutuals, public sources – unless there is a special known adverse situation.
e. Groundwater in an area where it is certain that a properly designed and constructed well will produce a long-term supply.
f. Wells that have successfully completed the Water & Environmental Resource Division's pump test criteria.

LAFCo establishes and regulates the service area boundaries of cities and most special districts, including those that provide water. State law generally restricts cities and special districts from providing new or extended domestic water service outside of their boundaries without first obtaining approval from LAFCo. Therefore, even if such a supplier issues a letter stating that a permanent supply of water is available for a project, it should not be considered a permanent supply if the project site is not within the supplier's boundaries. The water supply should be considered permanent only after LAFCo makes a determination that the supplier may provide service to the project. LAFCo determinations are discretionary and there is no guarantee that it will approve a request for a boundary change. It should also be noted that the California Public Utility Commission regulates the boundaries/service area of six private water purveyors in Ventura County and would have to authorize any service outside of those purveyor's boundaries.

In addition, only retail water service providers may supply water directly to end users. Wholesale providers do not. Therefore, a water availability letter from a wholesale water provider should not be considered a permanent water supply, as the wholesaler cannot provide the water directly to a project. Only if the supplier is a retail service provider should the letter of availability be considered to constitute a permanent source of water. Calleguas Municipal Water District and United Water Conservation District are wholesale providers and should not be listed under this section.

In addition, any availability letter from a water provider should specifically state whether it has the water to permanently serve a project <u>and</u> the necessary infrastructure to deliver it. If improvements to a supplier's infrastructure are necessary to deliver the water, the environmental document must analyze the potential impacts caused by the construction of those improvements.

Finally, section e. provides that if it is certain that the groundwater in an area is such that a properly designed and constructed well will produce a long-term water supply, then it can be considered a permanent supply. It is unclear how this will determined. Is there a supplier or agency whose certification is necessary to determine whether groundwater in a particular area will produce a long-term supply?

If it has not already occurred, we recommend that the water purveyors within the County be contacted directly regarding the Draft Guidelines, as they may have specific information to contribute that would assist in the assessment of the provision of water.

Sewage Collection and Treatment

Section 29.b. discusses sewage collection/treatment and establishes the thresholds necessary to determine whether adequate collection and treatment are available for a project. Subsection 29.b.E. establishes the methodology to determine the level of impact. If a project proposes to connect to a public sewer system, a letter of availability from the service provider is required. If the letter indicates that capacity is available for the project, there is no impact. If improvements are needed to accommodate the project, such improvements are considered mitigation.

LAFCo establishes and regulates the service area boundaries of cities and most special districts, including those that provide sewage collection and treatment. State law generally restricts cities and special districts from providing new or extended sewer collection and treatment services outside of their boundaries without first obtaining approval from LAFCo. Therefore, even if a public sewer provider issues a letter stating that capacity is, or will be, available to serve a project, it should not be considered available to the project if the project site is not within the provider's boundaries. The service should be considered available only after LAFCo makes a determination that the agency may provide service to the project.

In addition, any letter from a sewer service provider should specifically state whether it has the capacity to serve a project both in its collection infrastructure <u>and</u> treatment plant. If improvements to a provider's infrastructure or treatment plant are necessary, the environmental document must analyze the potential impacts caused by the construction of those improvements.

If it has not already occurred, we recommend that the sewer service providers within the County be contacted directly regarding the Draft Guidelines, as they may have specific information to contribute that would assist in the assessment of the provision of sewer service.

Thank you for the opportunity to review and comment on the Draft Initial Study Assessment Guidelines. We hope you find these comments helpful. Please feel free to contact me should you have any questions.

c: LAFCo Commissioners
Ventura County Agricultural Commissioner
Ventura County Farm Bureau
California Public Utilities Commission
Calleguas Municipal Water District
Camarillo Sanitary District

Camrosa Water District
Casitas Municipal Water District
Channel Islands Beach Community Service District
Fox Canyon Groundwater Management Agency
Hidden Valley Municipal Water District
Lake Sherwood Community Services District
Meiners Oaks Water District
Ojai Basin Groundwater Management Agency
Ojai Valley Sanitary District
Ojai Water Conservation District
Pleasant Valley County Water District
Saticoy Sanitary District
Triunfo Sanitation District
United Water Conservation District
Ventura County Service Area No. 29
Ventura County Service Area No. 30
Ventura County Service Area No. 32
Ventura County Waterworks District No. 1
Ventura County Waterworks District No. 8
Ventura County Waterworks District No. 16
Ventura County Waterworks District No. 17
Ventura County Waterworks District No. 19
Ventura Regional Sanitation District
Ventura River County Water District
Ventura County Cities

Ventura
Local Agency Formation Commission

STAFF REPORT

Agenda Item 12

Meeting Date: March 17, 2010

TO: LAFCo Commissioners

FROM: Kim Uhlich, Executive Officer

SUBJECT: Letter of Support for SB 1023

RECOMMENDATION:

Authorize the Chair to send a letter to Senator Wiggins supporting Senate Bill 1023.

DISCUSSION:

Between the mid-1950s and 1960, the Legislature created several special districts called Municipal Improvement Districts (MIDs) to deliver public services to particular communities, some of which supported specific development projects. As of today, there are five remaining MIDs in the state:

Montalvo MID	Ventura County
Bethel Island MID	Contra Costa County
Embarcadero MID	Santa Barbara County
Estero MID	Foster City, San Mateo County
Guadalupe Valley MID	Brisbane, San Mateo County

The Montalvo Municipal Improvement District is an independent special district formed in 1955 to provide wastewater service to unincorporated areas surrounding the City of Ventura. Currently, the District provides wastewater collection and treatment services for the Montalvo community and portions of the Ventura Auto Center. Pursuant to the special act under which it was formed, the District's powers include the following: acquire…maintain and operate street and highway lighting facilities and facilities for the collection, treatment and disposal of sewage, industrial wastes, storm waters, garbage

COMMISSIONERS AND STAFF

COUNTY:	CITY:	SPECIAL DISTRICT:	PUBLIC:
Kathy Long, Chair	Carl Morehouse	George Lange	Lou Cunningham, Vice Chair
Linda Parks	Janice Parvin	Vacant	
Alternate:	*Alternate:*	*Alternate:*	*Alternate:*
Steve Bennett	Thomas Holden	Gail Pringle	Kenneth M. Hess

Executive Officer:	Dep. Exec. Officer	Office Mgr/Clerk:	Office Assistant	Legal Counsel:
Kim Uhlich	Kai Luoma	Debbie Schubert	Martha Escandon	Leroy Smith

and refuse; and the production… treatment and distribution of water for public and private purposes.

Approximately one year ago, a staff member from the Senate Local Government Committee requested, and LAFCo staff provided, feedback on a draft bill that would establish an expedited process through which MIDs and resort improvement districts (RIDs) could be converted to community services districts. The concern is that the MID and RID governing acts are archaic, making it difficult for these special districts' boards and managers to govern themselves and deliver public services with transparency and accountability. In contrast, the Legislature significantly modernized the *Community Services District Law* (Government Code §61000, et seq.) in 2005 to authorize CSDs to deliver a wide variety of public facilities and services. However, before a CSD can activate its latent powers and offer a new public service, it must receive LAFCo's approval (§61106 & §56824.1). Pursuant to current state law, the process to convert either a MID or RID to a community services district (CSD) requires LAFCo approval of a reorganization to dissolve the existing district and form a new CSD. As this can be complicated, time consuming and expensive, the bill proposes to streamline the LAFCo process by eliminating the requirement for protest proceedings and an election (which would otherwise need to occur if the number of protests exceed a specified threshold). Since receiving comments from the LAFCo staff in each county that includes a MID or RID, Senate Bill 1023 (Wiggins) (attached) was drafted and introduced on February 11, 2010.

In general, SB 1023 creates an expedited procedure for converting MIDs and RIDs into community services districts without substantive changes to their powers, duties, finances, or service areas.

More specifically, SB 1023 allows for expedited reorganizations with these features:

- Standard procedures for applying to LAFCo (i.e., a petition or a formal resolution).
- The LAFCo retains its existing discretion to approve or disapprove.
- The RID or MID can stop the conversion up until the time of LAFCo approval.
- If the LAFCo approves, there is no protest hearing and no election.
- If LAFCo approves, it must impose the terms and conditions listed in the proposed bill.
- The terms and conditions transfer all assets, debts, etc. to the new CSD, without any changes.
- LAFCo can change the terms and conditions, but only after notifying the RID or MID.
- The bill applies only to RIDs and independent MIDs, not to city-dependent MIDs.
- The new law will sunset these special procedures after seven years, on January 1, 2018.

Staff has reviewed the bill text and believes that the creation of a simplified process through which the Montalvo Municipal Improvement District can reestablish itself as a CSD is logical and worthwhile. Although the conversion to a CSD would increase the

array of potential powers that the MMID would be authorized to exercise beyond those its governing act currently authorizes, LAFCo review and approval of a request for the exercise of latent powers would first be required. As the bill currently provides, the conversion of the MMID to a CSD would result in no change to the District's jurisdictional boundary; its governing board and staff; the share of property tax revenue to which it is currently entitled; and to its powers to acquire property, enter into contracts, incur bonded indebtedness, exercise eminent domain, etc. The bill does not compel any district or LAFCo to initiate the process for the expedited reorganization; it is entirely voluntary. Should the bill be enacted, it is not clear at this point whether the MMID would choose to pursue the expedited reorganization process since there would still be a cost, albeit less than that for a typical reorganization, to do so. Nevertheless, in the interest of good governance, staff recommends that the Commission send a letter of support for SB 1023.

Attachments: (1) Senate Bill 1023
(2) Draft Letter of Support for SB 1023

SENATE BILL No. 1023

Introduced by Senator Wiggins
(Coauthor: Assembly Member Evans)

February 11, 2010

An act to amend Section 57077 of, and to add and repeal Section 56853.5 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1023, as introduced, Wiggins. Special districts: consolidation and reorganization.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency formation commission to approve, without an election, a consolidation or reorganization of 2 or more local agencies, if a majority of the members of each of the legislative bodies of the agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, as specified.

The Community Services District Law authorizes the organization of a community services district for various purposes, including, among others, the collection, treatment, or disposal of sewage, wastewater, recycled water, and storm water, providing fire protection services, and providing public library services.

This bill would, until January 1, 2018, authorize the local agency formation commission to approve or conditionally approve an expedited reorganization of specified districts into a community services district, with the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved, unless the governing body of the district proposed to be dissolved files a resolution of objection with the commission, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 56853.5 is added to the Government Code, to read:

56853.5. (a) In the case of an expedited reorganization, notwithstanding any provision of this division or the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6), unless the governing body of the subject agency files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the expedited reorganization. If the commission approves or conditionally approves the expedited reorganization, the commission shall order the expedited reorganization without an election.

(b) If the governing body of the subject agency files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed expedited reorganization.

(c) The commission may order any material change to the terms and conditions of the expedited reorganization set forth in the proposal. The commission shall direct the executive officer to give the subject agency mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the subject agency, take any further action on the expedited reorganization for 30 days following that mailing.

(d) A proposal for an expedited reorganization shall include proposed terms and conditions that shall include at least all of the following:

(1) The proposed community services district is declared to be, and shall be deemed a community services district as if the district had been formed pursuant to the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6). The exterior boundary and sphere of influence of the proposed community services district shall be the exterior boundary and sphere of influence of the district proposed to be dissolved.

(2) The proposed community services district succeeds to, and is vested with, the same powers, duties, responsibilities,

obligations, liabilities, and jurisdiction of the district proposed to be dissolved.

(3) The status, position, and rights of any officer or employee of the district proposed to be dissolved shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed community services district.

(4) The proposed community services district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the district proposed to be dissolved.

(5) The unexpended balance as of the effective date of the expedited reorganization of any funds available for use by the district proposed to be dissolved shall be available for use by the proposed community services district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the district proposed to be dissolved shall be required by reason of the succession pursuant to the expedited reorganization, nor shall any payment for the proposed community services district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the district proposed to be dissolved in effect immediately preceding the effective date of the expedited reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed community services district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the expedited reorganization, or that may be enacted or adopted with reference to the district proposed to be dissolved shall mean the proposed community services district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the district proposed to be dissolved shall remain in effect unless amended or repealed by the proposed community services district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the district proposed to be dissolved shall be the appropriations limit of the proposed community services district.

(10) Any action by or against the district proposed to be dissolved shall not abate, but shall continue in the name of the proposed community services district, and the proposed community services district shall be substituted for the district proposed to be dissolved by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the district proposed to be dissolved is a party shall be void or voidable by reason of the enactment of the expedited reorganization, but shall continue in effect, with the proposed community services district assuming all of the rights, obligations, liabilities, and duties of the district proposed to be dissolved.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the district proposed to be dissolved shall be the obligations of the proposed community services district. Any continuing obligations or responsibilities of the district proposed to be dissolved for managing and maintaining bond issuances shall be transferred to the proposed community services district without impairment to any security contained in the bond instrument.

(e) If a board of supervisors is the governing body of a resort improvement district pursuant to Chapter 1 (commencing with Section 13000) of Division 11 of the Public Resources Code, then, notwithstanding paragraph (3) of subdivision (d), the proposed terms and conditions may provide for the election of an initial board of directors of a community services district pursuant to Chapter 1 (commencing with Section 61020) of Part 2 of Division 3 of Title 6.

(f) As used in this section, “expedited reorganization” means a reorganization that consists solely of the formation of a community services district and the dissolution of any of the following:

(1) A resort improvement district formed pursuant to the Resort Improvement District Law, Division 11 (commencing with Section 13000) of the Public Resources Code.

(2) The Montalvo Municipal Improvement District formed pursuant to Chapter 549 of the Statutes of 1955.

(3) The Bethel Island Municipal Improvement District formed pursuant to Chapter 22 of the Statutes of 1960.

(4) The Embarcadero Municipal Improvement District formed pursuant to Chapter 81 of the Statutes of 1960.

(g) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later statute which is enacted before January 1, 2018, deletes or extends that date.

SEC. 2. Section 57077 of the Government Code is amended to read:

57077. (a) ~~Where~~ *If* a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission shall do either of the following:

(1) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district or otherwise authorized pursuant to Section 56854.

(2) Order the change of organization without election if it is a change of organization that meets the requirements of Section 56854, 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (1).

(b) ~~Where~~ *If* a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission shall do either of the following:

(1) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by the landowners, unless otherwise authorized pursuant to Section 56854.

(2) Order the reorganization without election if it is a reorganization that meets the requirements of Section *56853.5*, 56854, 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (1).

O

Ventura
Local Agency Formation Commission

March 17, 2010

The Honorable Patricia Wiggins
California State Senate
State Capitol, Room 4081
Sacramento, California 95814

Subject: Support for SB 1023

Dear Senator Wiggins:

I am pleased to inform you that the Ventura Local Agency Formation Commission supports your Senate Bill 1023 which makes it easier to convert special districts formed under outdated laws into community services districts.

The state laws that govern resort improvement districts and municipal improvement districts are archaic, making it hard for those districts' governing boards and managers to deliver quality public services. While it is possible to use current law to convert these districts into more modern community services districts, the statutory procedures are expensive, complicated, and time consuming.

Your SB 1023 allows local officials to set up community services districts to replace the RIDs and MIDs without substantive changes to their powers, duties, financing, or service areas. The expedited procedures in SB 1023 promote accountability and transparency without imposing fiscal burdens on taxpayers and other local governments.

Please include our name on the list of those who support SB 1023. We appreciate your leadership on this issue.

Sincerely,

Kathy Long
Chair, Ventura LAFCo

cc: Members, Senate Local Government Committee
Ryan Eisberg, Senate Republican Caucus
Senator Fran Pavley
Senator Tony Strickland
Senator George Runner
Assemblywoman Julia Brownley
Assemblyman Pedro Nava
Assemblyman Cameron Smyth
Assemblywoman Audra Strickland
Bill Chiat, Executive Director, CALAFCO

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