



Lou Ann Texeira
Executive Officer

MEMBERS

Federal Glover <i>County Member</i>	Dwight Meadows <i>Special District Member</i>
Michael R. McGill <i>Special District Member</i>	Rob Schroder <i>City Member</i>
Martin McNair <i>Public Member</i>	Don Tatzin <i>City Member</i>
Gayle B. Uilkema <i>County Member</i>	

ALTERNATE MEMBERS

Sharon Burke <i>Public Member</i>
Tom Butt <i>City Member</i>
George H. Schmidt <i>Special District Member</i>
Mary N. Piepho <i>County Member</i>

November 9, 2011 (Agenda)

**November 9, 2011
Agenda Item 6**

Contra Costa Local Agency Formation Commission (LAFCO)
651 Pine Street, Sixth Floor
Martinez, CA 94553

Northeast Antioch Monthly Update

Dear Commissioners:

On February 9, the Commission approved the extension of out of agency service by the City of Antioch and Delta Diablo Sanitation District to the Marsh Landing Generating Station property located in unincorporated northeast Antioch. The Commission’s approval requires that the City and County provide LAFCO with monthly updates regarding the status of the joint City/County Economic Development Strategy for northeast Antioch, the proposed annexation of the area, and the tax transfer negotiations. A subcommittee was formed to address these issues.

On October 24, Commissioners McGill and McNair and LAFCO staff attended the subcommittee meeting, at which time Mr. Sinclair provided an update regarding the tax exchange negotiations; staff provided information regarding new legislation (SB 244) and the potential effects on the annexation area; County Environmental Health staff provided information relating to water and sewer service in the annexation area, along with information regarding AB 885 and proposed State regulations of onsite septic systems; staff provided information on owner occupied versus rental housing in Area 2b; staff provided information regarding potential grant funding, and the subcommittee was receptive to hiring a consulting firm (Dudek) to assist with grant services; and the group discussed the work program/schedule. The next subcommittee meeting is scheduled for November 28, 2011, 5:30 pm.

The City and County have submitted their written monthly update (attached).


RECOMMENDATIONS

1. Receive and file the written monthly City/County update;
2. Receive comments from the LAFCO subcommittee representatives; and
3. Provide direction as appropriate.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment - Monthly Written Update from the City of Antioch and Contra Costa County

To: LAFCO Commissioners
From: Victor Carniglia, City of Antioch 
Date: October 31, 2011
Subject: November Monthly Update on Status of the Northeast Antioch Annexation

A copy of the Annexation Subcommittee packet for their October 24, 2011 meeting is attached. This packet contains the latest information on a number of annexation related topics. The following is a summary of the discussion that occurred on key topics at the October 24, 2011 Subcommittee meeting, as well as an update on actions that have taken place since the October 24 Subcommittee meeting:

- Negotiations on the Terms of the Tax Transfer Agreement: Included in the attached packet is a memo from facilitator Tom Sinclair that summarizes the status of the negotiations on the Tax Transfer Agreement. Since that memo was written, a meeting has been scheduled for the afternoon of November 1, 2011 between Mr. Sinclair and City representatives to discuss the counter proposal from the County on the terms of the Tax Transfer Agreement.
- Grant Consultant: Based on direction from the Subcommittee, staff is in the process of retaining the consulting firm "Dudek" to 1) explore and evaluate sources of grant funding to assist in paying for the infrastructure needed to serve the residential area of the annexation, and 2) to submit grant applications on behalf of the City/County for the most promising grants. The cost of this work (approximately \$8,000-\$10,000), which will be funded by GenOn through an existing reimbursement agreement with GenOn
- SB 244: The bulk of the discussion at the Subcommittee meeting centered on the question of the applicability of recently adopted State legislation, SB244, to the Northeast Antioch Annexation. The attached packet contains a thorough description of SB244. It appears, based on the information that City/County staff have collected to date, that the household income levels in the annexation area (Area 2b) are too high to meet the income thresholds in SB244. While this may seem surprising based on the character of much of the housing stock in the area, it is likely due to the fact that SB244 uses as a threshold 80% of the "State" median income, not the County "median" which is higher than the State median. Staff hopes to have definitive information on whether the annexation is subject to SB244 by the November 28, 2011 Subcommittee meeting.

Aside from the question of income levels, LAFCO staff in reviewing the legislation, does not consider SB244 to be applicable to the Northeast Antioch Annexation given the language in SB244 that exempts "islands" from the provisions of SB244.

- Public Health Issues: At the October Subcommittee meeting County Health staff provided an update of the information they have been able to collect to date on the condition of wells and sewers in Area 2b. County Health has been able to retrieve a limited amount of data concerning "small water systems" (situations where a single well serves multiple properties and/or households). Aside from these "small water systems", County Health has very limited legal ability to go "on site" and check the majority of the wells and septic fields in the area, unless a permit is being applied for, or there is a complaint. County Health does plan to do additional research, including windshield surveys, and will be preparing a report for the Subcommittee that contains and summarizes all the information they are able to collect.

Given the limitations County Health faces in gathering data, it is likely that any report they ultimately prepare will be based on a relatively small sample size. The implication of this is that County Health may not be able to definitively document that there is currently a significant public health problem in Area 2b. However, what seems indisputable is that a neighborhood like Area 2b, which has septic fields and wells over 50 years old and in which none of the lots meet current health requirements in terms of lot size or the spacing between wells and septic fields, a dire public health situation is just a matter of time.

- Additional Tax Revenue: Based on data collected to date by staff, it appears that there will not be any significant tax revenue generated by the purchase of large pieces of equipment needed to construct the MLGS, such as the gas turbines. Staff should have a definitive answer to this question by the November 28, 2011 Subcommittee meeting.
- CEC Conditions: At a previous LAFCO meeting the question was asked about the status of GenOn's Marsh Landing Power Plant in terms of compliance with the California Energy Commission (CEC) conditions of approval. As LAFCO is aware, neither the City nor the County have jurisdiction over the entitlement process for power plants over 50 megawatts in California. The City and the County have worked closely with the CEC on issues of mutual concern, and to date based on discussions with the CEC, GenOn is in compliance with all applicable conditions and requirements. Attached is a copy of a letter memo from the CEC to GenOn stating that to date they have complied with applicable CEC conditions/requirements. Staff will continue to work with both the CEC and GenOn in terms of monitoring compliance with Marsh Landing's conditions of approval.

Please feel free to contact City or County staff if you have any questions concerning this update.

Attachment:

- Packet to Subcommittee
- Letter from CEC to GenOn

**CITY OF ANTIOCH, CONTRA COSTA COUNTY, & LAFCO
NORTHEAST ANTIOCH ANNEXATION SUBCOMMITTEE**

AGENDA

**Monday, October 24, 2011
5:30 p.m.**

**PUBLIC WORKS TRAINING ROOM
1201 West Fourth Street
Antioch, CA 94509**

AGENDA ITEMS:

1. Introductions
2. Public comment on any item not on this agenda (speakers may be limited to three minutes).
3. Approve the Record of Action from the August 22, 2011 meeting
4. Receive update on status of negotiations regarding Tax Sharing Agreement
5. Discuss Senate Bill 244 (Wolk) – “Updating General Plans and Sphere of Influence boundaries to account for present and planned capacity of public facilities, including sewer and water services, in Disadvantaged Unincorporated Communities”
6. Receive update from Contra Costa County Health Services, Environmental Health Division concerning the residential area in the proposed annexation area(s)
7. Discuss Assembly Bill 885 - Proposed Statewide Regulations of Onsite Wastewater Systems (Septic Systems) and implications for Northeast Antioch Area
8. Receive information on owner occupied versus rental housing in Area 2B
9. Receive and discuss DUDEK’s proposal and scope of grant services for the Northeast Antioch Annexation
10. Update on Work Program schedule
11. Confirm date for next Subcommittee meeting

To: Subcommittee Members

From: Rich Seithel, Pat Roche, Contra Costa County;
Victor Carniglia, Mindy Gentry, City of Antioch

Subject: Agenda Item #3, October 24, 2011, Record of Action from August
22, 2011 meeting

AGENDA ITEM #1: Introductions

County Supervisor Federal Glover, City Councilmember Gary Agopian, City Councilmember Mary Rocha, and LAFCO Commissioner Martin McNair were in attendance. Staff introductions were made and the meeting was called to order.

AGENDA ITEM #2: Public Comment

There were no public comments.

AGENDA ITEM #3: Approve the July 25, 2011 Record of Action

The Record of Action was unanimously approved.

AGENDA ITEM #4: Discuss and Recommend Scope of Infrastructure
Improvements for Area 2B

To-date, the Subcommittee has received cost estimates for two (2) infrastructure scenarios for Area 2B: (1) basic sewer and water, and; (2) sewer, water, electric lighting, and storm drainage. The cost estimates were \$4.7M and \$9.6M. At this time, the Subcommittee prefers continues to prefer scenario 2: sewer, water, electric lighting, and storm drainage at an estimated cost of \$9.6M.

AGENDA ITEM #5: Receive and Discuss Final Keyser, Marston and Associates'
"Northeast Antioch Annexation Area Market Analysis"
document

The Subcommittee received the Keyser, Marston and Associates' final document. The primary findings included: (1) The projected 2014 revenue for the annexation area is \$3.5 million; (2) without a negotiated tax split, the statutory distribution of the \$3.5M would be \$1.26M to City, \$0.97M to County, and \$1.27 unallocated; (3) the incremental growth due to the GenOn facility is estimated to be \$1.5M and is likely to be the focus of discussion in the context of the Tax

Transfer Agreement, and; (4) in the absence of additional power plants, a key future variable is industrial development. This highlights the importance of the need for proactive and ongoing City/County joint economic development efforts for the annexation area.

AGENDA ITEM #6: Discuss “Island Annexations” pursuant to Government Code Sections 56744 and 56375.3

It was recognized that one of the key assumptions outlined in the Work Program is the “Assumption of Residential ‘Island Determination by LAFCO” and that LAFCO would find the marina and residential areas (Areas 2A and 2B) islands for the purpose of annexation under LAFCO law and in compliance with Government Code sections 56375.3. Lou Ann Texeira, LAFCO Executive Officer, explained that Area 2B is an island today and that at time of an Area 1 annexation 2A would also become an island pursuant to Government Code section 56375.3.

AGENDA ITEM #7: Update on Work Program Schedule

The Subcommittee accepted the updated Work Program Schedule.

AGENDA ITEM #8: Confirm Date for Next Subcommittee Meeting

The next meeting is scheduled for September 26, 5:30 p.m. in the Antioch Public Works Training Room, 1201 West Fourth Street.



MEMORANDUM

To: Northeast Antioch Annexation Subcommittee
From: Tom Sinclair, Municipal Resource Group LLC
Subject: Northeast Antioch Annexation Project
Date: October 19, 2011

This Memorandum is intended to provide a status report on the proposed Northeast Antioch Annexation, and to identify the next steps in the process of reaching agreement regarding a tax sharing agreement.

Status:

In September 2011, the Keyser Marston Associates (KMA) analysis of certain annexation area potential revenue sources was completed, and Carlson Barbee and Gibson (CBG) completed the cost analysis of infrastructure improvements in Area 2b.

Our consulting firm, the Municipal Resource Group (MRG) has prepared a draft cash flow analysis, combining the KMA analysis with the earlier Gruen Gruen + Associates analysis of other potential revenues and expected City of Antioch General Fund operating costs. A copy of the draft cash flow analysis is attached to this Memorandum. The draft cash flow analysis presents post-annexation revenues allocated to the City and County by State law, and the amounts that are not allocated by State law. The cash flow analysis has been provided to City and County representatives for their reference during the tax transfer negotiations.

The City and County have begun the negotiation process. The City has prepared an initial "offer", representing principles for the exchange of revenues and funding commitments for Area 2b infrastructure and a Northeast Antioch Annexation Area economic development program. County representatives will need to consider the initial offer and determine a response. It is expected that several more iterations of this process will be necessary to complete the negotiations regarding the tax transfers and funding commitments.

Throughout this process, we would advise that the nature of the City and County "offers" remain confidential until an ultimate agreement is reached.

Next Steps:

A meeting is scheduled for October 21 with County representatives. In addition, a meeting with City representatives has been scheduled for October 24, prior to the Sub-Committee meeting on that same day. We will continue to conduct these separate meetings until an agreement is reached. While the timing for completion of the process will of course depend upon the parties, we anticipate that the process will require the month of November to complete.

To: Northeast Antioch Annexation Subcommittee

From: Patrick Roche, Contra Costa County

Date: October 18, 2011

Subject: Agenda Item #5, Senate Bill 244 – Disadvantaged Unincorporated Communities

On October 7, 2011, Governor Brown signed into law Senate Bill (SB) 244 authored by Senator Lois Wolk which now requires local agencies to plan for specified disadvantaged unincorporated communities through the Local Agency Formation Commission (LAFCO) planning process and General Plan updates. The intent of the new law is to provide underserved communities with basic needs such as clean drinking water and adequate wastewater disposal by requiring cities and counties to identify and include unincorporated island, fringe, or legacy communities in their land use planning process. SB 244 defines a disadvantaged unincorporated community to mean an inhabited community (12 or more registered voters) with annual median household incomes that are less than 80% of the statewide annual median household median income. The new law requires cities and counties to review and update the elements of their General Plans to include data and analysis, goals, and implementation measures regarding unincorporated islands, fringe, or legacy communities. With regard to LAFCO, the new law prohibits, in specified circumstances, approval of an annexation to a city of any territory greater than 10 acres, or as determined by LAFCO policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of the proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed. This new law also requires a LAFCO, in determining the sphere of influence of each local agency, to consider for a city or special district that provides public facilities or services related to sewer, water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence, beginning with the next sphere of influence update on or after July 1, 2012.

The aim of SB 244 is to address underlying problems with inadequate public services and facilities in the hundreds of poor unincorporated communities located through California. More specifically, it was initiated to improve water and sanitation services to numerous unincorporated communities that appear to be concentrated in the San Joaquin Valley. Staff is investigating whether, as specified under SB 244, the residential portion of the Northeast Antioch Annexation area would be classified as a disadvantaged unincorporated community.

Attachments (1 item)

- Senate Bill 244 (Wolk)

Senate Bill No. 244

CHAPTER 513

An act to amend Sections 56375, 56425, and 56430 of, and to add Sections 53082.5, 56033.5, and 65302.10 to, the Government Code, and to add Section 13481.7 to the Water Code, relating to local government.

[Approved by Governor October 7, 2011. Filed with
Secretary of State October 7, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 244, Wolk. Local government: land use: general plan: disadvantaged unincorporated communities.

(1) The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of the community's housing.

This bill would require, on or before the next adoption of its housing element, a city or county to review and update the land use element of its general plan to include an analysis of the presence of island, fringe, or legacy unincorporated communities, as defined, and would require the updated general plan to include specified information. This bill would also require the city or county planning agency, after the initial revision and update of the general plan, to review, and if necessary amend, the general plan to update the information, goals, and program of action relating to these communities therein. By adding to the duties of city and county officials, this bill would impose a state-mandated local program.

(2) The Cortese-Knox-Hertzberg Act of 2000 requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere, and requires the commission, in preparing and updating spheres of influence to conduct a service review of the municipal services provided in the county or other area designated by the commission, and to prepare a written statement of its determinations with respect to the growth and population projections for the affected area, the present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, financial ability of agencies to provide services, status of, and opportunities for, shared facilities, accountability for community service needs, including governmental structure, and operational efficiencies, as specified.

This bill would also require the agency to include in its written statement a determination with respect to the location and characteristics and the present and planned capacity of public facilities and adequacy of public services, including sewers, water, and structural fire protection needs or deficiencies, of any disadvantaged unincorporated communities within or adjacent to the sphere of influence, thereby imposing a state-mandated local program. The bill would also require a commission, upon the review and update of a sphere of influence on or after July 1, 2012, to include in the review or update of each sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection to include the present and probable need for public facilities and services of disadvantaged unincorporated communities within or adjacent to the sphere of influence, and would authorize the agency to assess the feasibility of governmental reorganization of particular agencies, as specified.

(3) Existing law generally grants various powers to cities, counties, and certain special districts, including the power to issue bonds and incur indebtedness for certain purposes and subject to certain restrictions.

Existing law continuously appropriates state and federal funds in the State Water Pollution Control Revolving Fund to the State Water Resources Control Board for loans and other financial assistance for the construction of publicly owned treatment works and other related purposes, to a municipality, intermunicipal agency, interstate agency, or state agency in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act.

This bill would authorize those public agencies, including counties, cities, and special districts, subject to applicable constitutional restrictions, to borrow money and incur indebtedness for purposes of the State Water Pollution Control Revolving Fund.

(4) This bill would incorporate changes to Sections 56375 and 56430 of the Government Code proposed by this bill and AB 54, to be operative if both bills are enacted and become operative as specified.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Hundreds of disadvantaged unincorporated communities, commonly referred to as “colonias,” exist in California. There are more than 200 of these communities in the San Joaquin Valley alone. Many of these communities are geographically isolated islands, surrounded by the city limits of large and medium-sized cities.

(2) Conditions within these disadvantaged unincorporated communities evidence a distinct lack of public and private investment that threatens the health and safety of the residents of these communities and fosters economic, social, and educational inequality. Many of these communities lack basic infrastructure, including, but not limited to, streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service.

(3) The Clean Water State Revolving Fund, the Safe Drinking Water State Revolving Fund, and the Community Development Block Grant are robust and continuous sources of funding for drinking water, wastewater, and other basic infrastructure.

(b) It is the intent of the Legislature to encourage investment in these communities and address the complex legal, financial, and political barriers that contribute to regional inequity and infrastructure deficits within disadvantaged unincorporated communities.

SEC. 2. Section 53082.5 is added to the Government Code, to read:

53082.5. Subject to all applicable constitutional restrictions, a county, a city, or a special district that provides, or intends to provide, wastewater treatment facilities or services may borrow money and incur indebtedness pursuant to Chapter 6.5 (commencing with Section 13475) of Division 7 of the Water Code.

SEC. 3. Section 56033.5 is added to the Government Code, to read:

56033.5. “Disadvantaged unincorporated community” means inhabited territory, as defined by Section 56046, or as determined by commission policy, that constitutes all or a portion of a “disadvantaged community” as defined by Section 79505.5 of the Water Code.

SEC. 4. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city rezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned.

(8) (A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

(B) An application to annex a contiguous disadvantaged community shall not be required if either of the following apply:

(i) A prior application for annexation of the same disadvantaged community has been made in the preceding five years.

(ii) The commission finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and rezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 4.5. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a

recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(8) (A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

(B) An application to annex a contiguous disadvantaged community shall not be required if either of the following apply:

(i) A prior application for annexation of the same disadvantaged community has been made in the preceding five years.

(ii) The commission finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and rezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

(r) To approve with or without amendment, wholly, partially, or conditionally, or disapprove pursuant to this section the annexation of territory served by a mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code that operates a public water system to a city or special district. Any annexation approved in accordance with this subdivision shall be subject to the state and federal constitutional prohibitions against the taking of private property without the payment of just compensation. This subdivision shall not impair the authority of a public agency or public utility to exercise eminent domain authority.

SEC. 5. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies to advantageously provide for the present

and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

(b) Prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and county, the city shall forward the agreement in writing to the commission, along with the application to update the sphere of influence. The commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement to the extent that it is consistent with commission policies in its final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

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

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

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

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

(5) For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) In determining a sphere of influence, the commission may assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies when reorganization is found to be feasible and if reorganization will further the goals of orderly development and efficient and affordable service delivery. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

SEC. 6. Section 56430 of the Government Code is amended to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

(3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

(4) Financial ability of agencies to provide services.

(5) Status of, and opportunities for, shared facilities.

(6) Accountability for community service needs, including governmental structure and operational efficiencies.

(7) Any other matter related to effective or efficient service delivery, as required by commission policy.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. The commission may assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies.

(c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

SEC. 6.5. Section 56430 of the Government Code is amended to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

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

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. The commission may assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies.

(c) In conducting a service review, the commission may include a review of whether the agencies under review, including any public water system as defined in Section 116275, are in compliance with the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code). A public water system may satisfy any request for information as to compliance with that act by submission of the consumer confidence or water quality report prepared by the public water system as provided by Section 116470 of the Health and Safety Code.

(d) The commission may request information, as part of a service review under this section, from identified public or private entities that provide wholesale or retail supply of drinking water, including mutual water companies formed pursuant to Part 7 (commencing with Section 14300) of

Division 3 of Title 1 of the Corporations Code, and private utilities, as defined in Section 1502 of the Public Utilities Code.

(e) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or 56426.5 or to update a sphere of influence pursuant to Section 56425.

SEC. 7. Section 65302.10 is added to the Government Code, to read:

65302.10. (a) As used in this section, the following terms shall have the following meanings:

(1) “Community” means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.

(2) “Disadvantaged unincorporated community” means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.

(3) “Unincorporated fringe community” means any inhabited and unincorporated territory that is within a city’s sphere of influence.

(4) “Unincorporated island community” means any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary or the Pacific Ocean.

(5) “Unincorporated legacy community” means a geographically isolated community that is inhabited and has existed for at least 50 years.

(b) On or before the due date for the next adoption of its housing element pursuant to Section 65588, each city or county shall review and update the land use element of its general plan to include all of the following:

(1) In the case of a city, an identification of each unincorporated island or fringe community within the city’s sphere of influence. In the case of a county, an identification of each legacy community within the boundaries of the county, but not including any area within the sphere of influence of any city. This identification shall include a description of the community and a map designating its location.

(2) For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies.

(3) An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible.

(c) On or before the due date for each subsequent revision of its housing element pursuant to Section 65588, each city and county shall review, and if necessary amend, its general plan to update the analysis required by this section.

SEC. 8. Section 13481.7 is added to the Water Code, to read:

13481.7. Subject to all applicable constitutional restrictions, a municipality may borrow money and incur indebtedness pursuant to this chapter.

SEC. 9. Section 4.5 of this bill incorporates amendments to Section 56375 of the Government Code proposed by both this bill and Assembly

Bill 54. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 56375 of the Government Code, and (3) this bill is enacted after Assembly Bill 54, in which case Section 4 of this bill shall not become operative.

SEC. 10. Section 6.5 of this bill incorporates amendments to Section 56430 of the Government Code proposed by both this bill and Assembly Bill 54. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, (2) each bill amends Section 56430 of the Government Code, and (3) this bill is enacted after Assembly Bill 54, in which case Section 6 of this bill shall not become operative.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

To: Northeast Antioch Annexation Subcommittee

From: Patrick Roche, Contra Costa County

Date: October 18, 2011

Subject: Agenda Item #7, Proposed Statewide Regulations for On-site Wastewater Systems (Septic Systems) in response to Assembly Bill 885

Background

Assembly Bill (AB) 885, which was approved by the California State Legislature and signed into law in 2000, directs the State Water Resources Control Board (SWRCB) to promulgate statewide regulations for on-site wastewater systems (otherwise referred to as a septic system) by the year 2004. According to the SWRCB, the current practice of regulating septic systems has led to inconsistencies among various Regional Water Quality Control Board (RWQCB) and among numerous local agencies in California's 58 counties. For example, while most counties have some type of minimum performance requirement and siting and design requirements specifically for septic systems, these requirements vary greatly from one jurisdiction to another. California is one of only two states that do not have statewide septic system regulations. The inconsistency in regional and local septic system requirements and related lack of statewide regulations, along with public health and environmental issues and certain incidents, are the primary reason why AB 885 became law.

AB 885 provided direction from the State Legislature to the SWRCB to establish minimum statewide requirements related to the permitting and operation of septic systems. Statewide there are approximately 1.4 million septic systems installed. As previously described to the subcommittee, County Environmental Health has been delegated responsibility by the state to regulate and permit septic systems throughout Contra Costa County. There are approximately 4-5,000 individual septic systems in Contra Costa County, which are predominantly located in unincorporated areas although some septic systems still operate in several cities, including Antioch (e.g. septic systems operate in City of Antioch off Wilbur Avenue).

In 2008, SWRCB officially released a set of draft regulations in response to AB 885 along with a Draft Environmental Impact Report. In February 2009, SWRCB closed the public comment period for the draft regulations. According to SWRCB, they received more than 2,000 email comments and hundreds of comments at 12 public workshops held statewide. Besides setting requirements for placement of septic systems adjacent to "impaired water bodies", the proposed 2008 regulations required stringent standards for siting and design of septic systems, including soil type, and depth, separation to groundwater,

infiltration rates, etc. It required expensive engineered systems to replace older systems in areas which did not meet the new prescriptive criteria. It required more rigorous monitoring of septic system effluent, and extensive mandatory water quality testing of domestic wells. It also mandated 5-year pumping of solids from septic systems. Needless to say, the 2008 SWRCB proposal was very controversial in rural counties of California, such as Mariposa, Amador, and Butte counties where more than 60% of the homes rely on septic systems for wastewater disposal. Rural residents without access to a sanitary sewer would have faced new more stringent permitting requirements and likely significantly higher costs to upgrade their existing septic system to meet the new regulations. Because of the extensive public input, SWRCB has scrapped the 2008 proposal and has substantially revised the draft statewide regulations on permitting and operation of septic systems to a simpler framework relying on a four-tiered risk approach (public health and environmental) based on a septic system's proximity to an "impaired body of water". An "impaired body of water" is defined as a surface water body (stream, river, or lake) contaminated with bacteria and/or nitrogen related compounds. See attached *SWRCB Fact Sheet on Proposed Regulation of Septic Systems Through the Tiered Approach*. SWRCB released the revised regulations on September 30, 2011 for a 45-day public comment period which closes on November 14, 2011.

AB 855/ Proposed SWRCB Regulations: Implications for the Northeast Antioch Area

In the near term the proposed SWRCB regulations in response to AB 885 would not appear to directly change how septic systems are permitted and regulated in the Northeast Antioch area. According to the SWRCB's GIS mapping system, the Northeast Antioch area is not within 2,000 feet of an impaired water body; additionally, there are no water bodies in Contra Costa County listed by SWRCB in their proposed regulations that contain high levels of bacteria or nitrogen compounds triggering new septic system review requirements under the proposed tiered approach. Therefore, the septic systems in the Northeast Antioch area would be subject to SWRCB's revised regulations under tiers 0, 1, and 2 (see attached SWRCB Fact Sheet), meaning that they would continue to be subject to the current set of septic system regulations adopted in October 2000 by the County Health Officer. If an individual septic system is currently in good operating condition, and is not located near a stream, river, or lake that the State has identified as contaminated – then the proposed regulations will have little direct impact in Contra Costa County, including the Northeast Antioch area.

However, over time, since it is known that the septic systems in Northeast Antioch, more specifically in Area 2B, are aging with many likely to have reached their expected useful lifespan, and due to the pattern of smaller residential lot size (less than 1-acre) along with population density in Area 2B, the statewide direction toward more stringent regulation and permitting of on-site wastewater systems (septic systems) as mandated under AB 885 is likely to effect this area.

As residences and businesses in Northeast Antioch seek permits to repair aging septic tanks, or, to replace older septic tanks with new tanks, they will have to comply with existing regulations adopted by the County Health Officer. In the future though, these County regulations may be amended or supplemented with newer requirements as the SWRCB establishes additional statewide rules for on-site wastewater systems in response AB 885.

Attachments (2 items)

- *State Water Resources Control Board Fact Sheet - Septic System Focus of Draft Statewide Policy*
- *State Water Resources Control Board Fact Sheet - Proposed Regulation of Septic Systems Through the Tiered Approach*



Fact Sheet

STATE WATER RESOURCES CONTROL BOARD | 1001 I Street, Sacramento, CA 95814 | Mailing Address: P. O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Septic Systems Focus of Draft Statewide Policy

Draft policy intended to ensure that surface waters and ground waters used for drinking water is safe for consumption

Overview

The State Water Resources Control Board's (State Water Board) has drafted a new policy to meet the legal mandate that requires the State Water Board to develop statewide regulations for septic systems. This proposed statewide policy is designed to ensure that surface waters and ground waters are not contaminated by septic systems and are safe for beneficial uses. This overview is intended to explain what the proposed policy will require of owners of small, domestic septic systems that fall under the proposed policy.

In this and all documents related to the State Water State Water Board's, proposed policy, the term *Onsite Wastewater Treatment System (OWTS)* is used. (OWTSs are commonly referred to as septic systems or septic tanks.)

How Does the New Policy Affect Septic Tank Owners?

More than 95 percent of current OWTS owners will not need to make any changes to their septic systems. If an individual OWTS is currently in good operating condition, and it is not near a stream, river, or lake that the State has identified as contaminated with bacteria and/or nitrogen related compounds – then this proposed policy will have little or no affect on that property owner. It is estimated the new proposed policy will affect less than five percent of current OWTS.

Who Will Be Affected By the Proposed Policy?

Owners of existing septic systems near an impaired surface water body, someone building a new home, or someone replacing an existing system that has failed.

Each state is required by federal law to evaluate the quality of its surface waters every two years to ensure those water resources are available for beneficial uses. Common beneficial uses for surface water include drinking water, support of aquatic life, and recreational contact-sports such as swimming. Owners of OWTS that are located near a specifically identified surface water body that exceeds water quality standards for bacteria or nitrogen compounds such as nitrates may have to retrofit the septic system.

Attachment 2 of the policy specifically lists affected water bodies. An interactive web mapping tool is available on the OWTS website to assist property owners in determining whether they may be affected by the new regulations: <http://gispublic.waterboards.ca.gov/webmap/owts/owtsmap.html>

How is this Proposed Policy Different from the Regulations Released in 2008?

This policy is much simpler than the policy circulated for public review and comment in 2008. In 2008 and 2009, staff from the State Water Board conducted 14 stakeholder meetings around the state to gather comments on the draft regulations released in 2008. Based on extensive comments received,

State Water Board staff took a risk-based approach, addressing only those systems that threatened water sources serving the general public.

The new proposed policy approach relies extensively on local county and city programs – as is currently the practice – to regulate OWTS. The content of this proposed policy is drawn directly from the comments of property owners, those who depend on septic tanks, and others concerned about the impact that improperly operating septic tanks pose to public health and water quality.

Why Regulations for Onsite Wastewater Treatment Systems (Septic Systems)?

In 2000, the California Legislature passed Assembly Bill 885 (Wat. Code § 13290) that requires the State Water Board to adopt regulations or standards for the operation of OWTS. A Policy adopted by the State Water Board is equivalent to regulations.

Why is this Proposed Policy Needed?

Beyond the legislative requirements, OWTS that do not function properly threaten both public health and the environment. The California Water Code requires regulation of waste discharges that impair or threaten to impair surface water or groundwater quality. OWTS not properly sited, built, or maintained can pollute groundwater, surface water, and pose a direct threat to public health due to the release of bacteria and other pathogens. OWTS can release soluble inorganic materials such as nitrogen compounds, which are resistant to degradation and can pollute both groundwater and surface waters.

Public Process

The State Water Board follows a strict, legally mandated process when adopting any proposed regulation or policy. There will be multiple opportunities for public comment and discussion. State Water Board members consider items for adoption at publicly noticed (and open to the general public) hearings and meetings. A general schedule that outlines the public process for this proposed policy is located on OWTS website listed below.

How to Stay Informed

The goal is for those who think they might be affected, to both **stay informed** and **participate**. The State Water Board has created a new website where you can find the most current information regarding development of the new proposed policy:

http://www.waterboards.ca.gov/water_issues/programs/owts/

In addition, you can subscribe to our e-mail list by using the following link:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml

Navigate to Water Quality topics and then subscribe to it putting a “check” in the box:



Onsite Wastewater Treatment Systems (OWTS)-Septic Systems

All publicly-released documents, opportunities to comment, as well as meeting notices are distributed via this list both by US Mail and by email notifications.



Fact Sheet

STATE WATER RESOURCES CONTROL BOARD | 1001 I Street, Sacramento, CA 95814 | Mailing Address: P. O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Proposed Regulation of Septic Systems Through the Tiered Approach

The State Water Resources Control Board's (State Water Board) is drafting a new policy to meet the legal mandate that requires the State Water Board to develop statewide regulations for septic systems or *Onsite Wastewater Treatment System (OWTS)*. This overview is intended to explain what the proposed policy will require of owners of small, domestic septic systems that fall under the proposed policy through a set of "tiers."

OWTS are useful and necessary structures for people who live in a rural setting where they are not served by a centralized sewer or wastewater treatment system. When properly sited, designed, operated, and maintained, OWTS treat domestic wastewater to reduce its polluting impact on the environment and most importantly protect public health.

General Overview of the Tiers

Tier 0

- If the septic system is operating properly, being used as it was designed, not leaking, and not putting any nearby surface water body at risk – then the OWTS are covered by **Tier 0** as long as they continue to meet its requirements.

Tier 1

- If it is necessary to install a new OWTS, replace or upgrade one, and the local permitting agency does not have an approved Local Agency Management Program, the OWTS must meet the requirements of **Tier 1**.

Tier 2

- Taking into account the diversity of California geography, local agencies may develop their own Local Agency Management Programs for OWTS under **Tier 2**. These local agency managed programs will likely be managed by local and or regional ordinances that take specific geography, terrain, and geology into account when approving an OWTS installation, much the same as occurs now under local permitting agencies.

Tier 3

- If the OWTS is located near a water body that has been identified as an "impaired water body" for either bacteria or nitrates, then the OWTS belongs in **Tier 3** until a determination is made that the OWTS is not contributing to the local water quality problem. For those OWTS near specifically identified water bodies, upgrades to the OWTS may be required within certain timeframes.

Tier 4

- Finally, if the OWTS is failing, needs to be fixed, or has been found to be affecting groundwater or surface water to a degree that makes it unfit to drink or for other uses, it belongs in **Tier 4** and must be modified or upgraded to abate its impact.





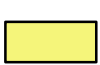

To read more about the tiers please visit the draft OWTS policy at this link:


http://www.waterboards.ca.gov/water_issues/programs/owts/policy.shtml



Area 2B Northeast Antioch Annexation Study Area

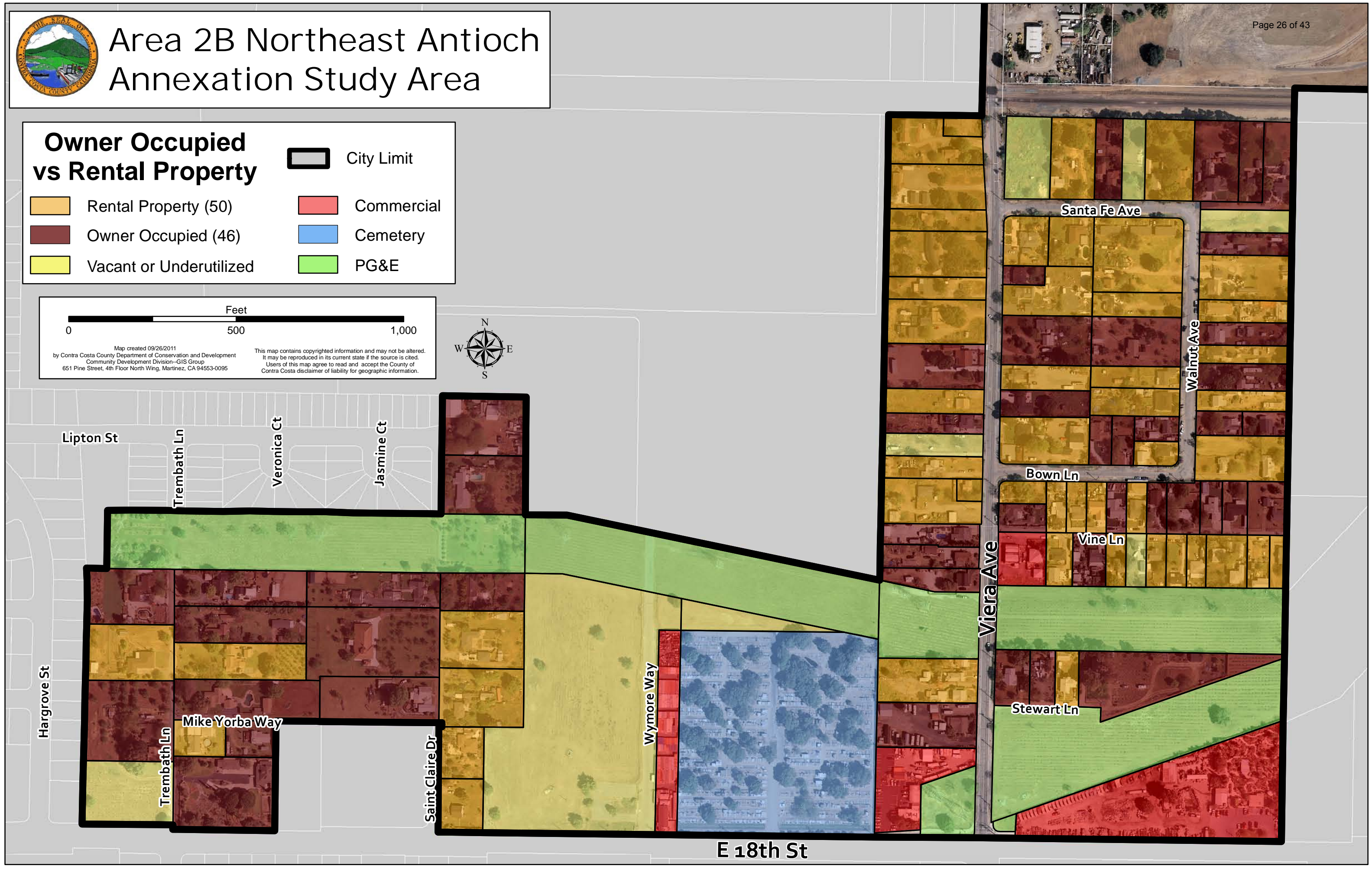
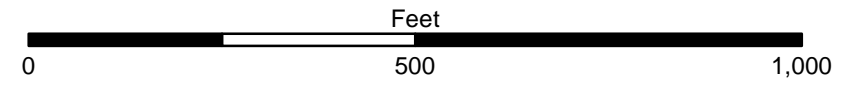
Owner Occupied vs Rental Property

 Rental Property (50)	 Commercial
 Owner Occupied (46)	 Cemetery
 Vacant or Underutilized	 PG&E

 City Limit

Map created 09/26/2011
by Contra Costa County Department of Conservation and Development
Community Development Division-GIS Group
651 Pine Street, 4th Floor North Wing, Martinez, CA 94553-0095

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**CITY OF ANTIOCH, CONTRA COSTA COUNTY, & LAFCO
NORTHEAST ANTIOCH ANNEXATION SUBCOMMITTEE**

Monday, October 24, 2011
Agenda Item #9

To: Subcommittee Members

From: Rich Seithel, Pat Roche, Contra Costa County;
Victor Carniglia, Mindy Gentry, City of Antioch

Subject: Receive and discuss DUDEK's proposal and scope of grant services for the Northeast Antioch Area

The Work Program identified the need to address the sewer/water problems facing the existing residential area (Area 2B). As further noted in the Work Program, "The majority of existing residential uses in the Northeast Antioch Area lack sewer and water service, as they depend on aging septic fields and wells." This situation presents a significant potential public health issue that needs to be resolved. Resolution of this issue will likely require funding from outside the existing residential area, given the high cost of constructing utilities to serve the area and the relatively low assessed value of the existing residential uses. This need for outside funding opportunities includes researching grants, assessment districts, infrastructure financing districts and other financing mechanisms.

City/County staff has discussed utilizing a firm with expertise in securing financing. After searching for firms with this expertise, it became apparent that Dudek is a firm with expertise and successes in pursuing a strategic approach to funding water, sanitary sewer, storm water systems, and power lines. City/County staff has had several discussions and communications with Jane Gray, Dudek.

Dudek has prepared a scope of services up to and including: (progressively)

- | | |
|--|--------------------|
| 1. Developing a coordinated grant funding strategy | \$6,900 - \$7,800 |
| 2. Activities up to and including preparation and submittal of the grant application package | \$6,600 - \$14,400 |
| 3. Grant management/administration support & svcs | \$5,000 - \$10,000 |

October 7, 2011

Mr. Richard Seithel
Senior Deputy County Administrator
Contra Costa County
651 Pine Street
Martinez, CA 94553

Subject: Scope of Grant Services for the Contra Costa County and the City of Antioch in Pursuit of the Northeast Antioch Annexation

Dear Mr. Seithel,

It is our pleasure to prepare this Scope of Grant Services for the City and County's joint Northeast Antioch Annexation project. In is our understanding that the City of Antioch is proposing to annex from the County of Contra Coast approximately 584 acres of land. It is also our understanding there are varying degrees of utility services (water, sanitary sewer, stormwater systems, power lines) in the three areas under consideration for Annexation known as Area 1, Area 2a and Area 2b.

In accordance with LAFCO and the imminent annexation, a report on the fiscal impacts of the annexation was prepared by Gruen Gruen and Associates. The aforementioned report is part of a framework which would assist the City and County in negotiating the allocation of tax-revenues as a result of the annexation of Area 1, Area 2a and Area 2b. In addition, the jurisdictions are actively pursuing a strategized approach to funding the necessary infrastructure (water, sanitary sewer, stormwater systems, power lines) through grants, i.e. state and federal grants. It is our understanding that Area 1, 2a and 2b qualify under the State of California's definition as a Disadvantaged Community (DAC). A DAC is defined as "a community with a median household income less than 80 percent of the statewide average." Further, it is our understanding that in the task of identifying, strategizing, seeking, securing and administering grant funding for the requisite infrastructure to serve parcels involved in the annexation, Dudek's experience and expertise are requested.

The materials that follow include:

- Understanding of the Annexation
- Scope of Work and Cost Estimate
- Funding Sources Matrix
- Information on IFDs and other Financing Mechanisms
- Dudek's Current Grant Experience

Understanding of the Annexation

The overall annexation of 3 distinct areas in Contra Costa County into the City of Antioch includes:

- Area 1 – 478 total acres of land; 168 acres are vacant and 89 acres are owned by Federal and State tax-exempt agencies.
- Area 2a – approximately 94 total acres of land, all of which contain development.
- Area 2b – approximately 102 total acres of land; approximately 19 acres are vacant (PG&E right of way)

Existing Infrastructure

We understand that significant infrastructure improvements are needed in order to be in conformance with City of Antioch's standards for services. This includes:

- Widening roads and acquiring right-of-way;
- Removing and replacing existing pavement sections;
- Constructing curbs, gutters and sidewalks;
- Connecting additional water lines;
- Installing sewers and manholes;
- Installing water and sewer service laterals to each parcel;
- Constructing storm drain improvements, manholes, catch basins; and
- Relocating existing electrical facilities.

In order to accomplish the above, the City and County are exploring a variety of grant programs. Dudek has included a matrix of grant opportunities that align with the needs of the project.

Scope of Work

The following scope of work describes the methodology Dudek would employ for general grant research, grant program selection that would match the needs of the County identified project – Northeast Antioch Annexation – as well as grant writing, management, and administrative services. Cost estimates and estimated hours to complete each task are provided below within each section.

PROJECT IDENTIFICATION AND GRANT PROGRAM ELIGIBILITY

This section describes the specific tasks to be undertaken in identifying projects for funding programs. The specific tasks include project identification, grant research and identification of potential grant funding opportunities and eligibility requirements, and grant writing and support services. The goal of these services is to match the needs of the City and the County for the specific project identified (Northeast Antioch Annexation). The following tasks are anticipated for a typical grant application to secure grant funding.

Task 1: Project Identification

Dudek would meet with appropriate City and County staff to review and obtain a thorough understanding of an identified project (Northeast Antioch Annexation) and assess eligibility for grant funding. This assessment would include an initial evaluation of the project need(s), identification of supporting documentation to justify the need, and public support for the project.

Estimated time: 2 – 4 hours (Staff: Jane Gray and John Cuykendall)

Estimated Cost: \$300 - \$600

Please note that Dudek has already reviewed preliminary project information and included a preliminary funding matrix in this proposal.

Task 2: Grant Research and Identification of Potential Grant Funding Programs and Eligibility Requirements

Once Dudek has a thorough understanding of a potential project, Dudek would compile a list of appropriate funding sources and prepare a report on available funding opportunities that best match the County's specific project. Dudek would utilize local, state, and national grant database resources, including search engines, publications, and Dudek's own proprietary database of potential funding sources to provide the County with a table of recommended grant programs and funding agencies. The table would include a description of the funding source, eligibility requirements, maximum award limits, terms of funding (i.e., match requirements), submittal due dates, and contact information. In addition, Dudek would contact the identified funding agencies to obtain current and key information on each specific grant program identified, which include confirmation of the projects eligibility, list of previously funded projects, determination of the geographic scope of target grant programs, and all other points which may affect the project's competitiveness for grant funding.

Estimated time: 6 – 12 hours (Staff: Jane Gray and John Cuykendall)

Estimated Cost: \$900 - \$1,800

Please note that Dudek has already reviewed preliminary project information and included a preliminary funding matrix in this proposal.

Task 3: Consultation with City and County Staff on Identified Grant Programs and the Coordinated Grant Strategy

After City and County Staff have had the opportunity to review the report described above in Task 2, Dudek would confer with City and County staff to discuss identified grant funding opportunities, availability of funding, timing for funding applications, eligibility requirements, probability of success, and readiness to proceed. Readiness to proceed includes key requirements for the project to be highly competitive, which include status of project design, environmental documentation, required board resolutions, supporting studies/reports, permits needed, establishment of project partners (if necessary and appropriate), and securing stakeholder support.

If the City is satisfied with the selected grant programs and approach, Dudek will put together a coordinated grant funding strategy. Dudek is also interested in conducting a site visit and would recommend a face to face meeting with the City and County (as well as the advisory committee) to present the coordinated grant strategy.

Estimated time: 20 hours (Staff: Jane Gray and John Cuykendall)

Estimated Cost: \$6,000

As stated above, Dudek recommends a site visit and a face to face meeting with City and County staff and/or your advisory Board to discuss the project and the preliminary coordinated funding strategy. The costs quoted above are inclusive of travel expenses, which would of course be incurred. We would anticipate presenting a preliminary coordinated grant funding strategy at this meeting and receiving feedback.

GRANT APPLICATION SUPPORT AND SERVICES

This section addresses the tasks required following a decision to seek funding opportunities as outlined and agreed upon after the initial face to face meeting, site visit and concurrence with the proposed funding strategy. Tasks associated with this step include assembling a grant project team, grant kick-off meeting, obtaining agency and public support, and preparation and submittal of the grant application package.

Task 1: Assemble Grant Project Team and Kick Off Meeting

This task includes assembling the optimal grant project team who would be responsive to the time sensitive information needs of the application. It would require the appointment of a designated point person or a team of City and County staff representatives, who would be appointed to manage, prepare and channel information to Dudek in a timely fashion. Applications often involve collaboration from other departments/organizations in planning and/or implementation of a specific grant program, such as lead City and County financial administrators to develop budget information. In addition, many grant

applications require letters of commitment from partnering agencies, which require coordination with outside organizations. It is important that the City and County understands the success of an application entails a certain amount of commitment from City and County staff to ensure information transmitted to Dudek is complete and accurate as described in the grant application.

Upon assembly of the Grant Project Team, a kick-off meeting would be scheduled and convened to outline all expectations, team member responsibilities, review enabling legislation, regulations, policies, information needs, and establish a schedule.

Estimated time: 2 - 6 hours (Staff: Jane Gray and John Cuykendall)

Estimated Cost: \$300 - \$900

A face to face meeting is recommended, however, this is at the discretion of the City and the County based on budgetary considerations. The costs quoted above are exclusive of travel expenses, which would of course be incurred.

Task 2: Public Support

A key element of success for a project is its ability to gather community and agency support. As such, letters of support from the community, local government agencies and public officials can be persuasive to an agency granting funds. Dudek can assist the City and County in working with academic, political, professional, and other organizations that may be willing to support the project. If necessary, Dudek can also assist in conducting public outreach to stakeholders and leading workshops and/or meetings to elicit public input.

Estimated time: 2 - 10 hours (Staff: Jane Gray and John Cuykendall)

Estimated Cost: \$300 - \$1,500

Conducting public outreach meetings will also require travel. The necessity and frequency of this item is at the discretion of the City and the County based on budgetary considerations. The costs quoted above are exclusive of travel expenses, which would of course be incurred.

Task 3: Writing of the Grant Application(s) and Follow-Through on Grant Delivery

The specific tasks associated with writing the grant application varies depending on the specific grant program and project nuances and complexities. However, in general, the basic requirements for many grant applications include the following:

- A concise and descriptive project summary;
- Demonstration of a compelling need for the project and cogent rationale;
- Demonstration of a project/agency's competitive edge;
- Characterized benefit of the project to the goals targeted by the grant funding program and/or other local, regional, statewide, and national objectives;
- Logical, attainable and measurable goals for the project;

- Characterization of performance measures/assessment of project achievement of goals;
- Researched, documented and verifiable budget and supporting cost information;
- A realistic project schedule;
- Demonstration of the agency's (i.e. Departmental, County Board of Supervisors, City Council) support, commitment, and priority;
- Demonstration of community and/or stakeholder support for the project;
- Project readiness;
- Ability and documentation, if required, to demonstrate required matching funds; and
- Completeness of all required materials of granting agency and application.

In order to ensure a streamlined, efficient and competitive grant application package is completed in a timely and complete fashion, Dudek would coordinate with City and County staff (as necessary and appropriate) and closely communicate with the granting entity's assigned staff. Dudek would provide the City and County with the opportunity to review and comment on the application components and materials in a timely manner to ensure agency concurrence with the content of the application. Dudek would also communicate and update City and County staff at regular intervals and attend meetings (as necessary and appropriate) for application completion and punctual submittal.

Once the application is submitted to the grant funding entity, Dudek would check in with the assigned grant program contact person on a regular basis as the protocol dictates to receive periodic updates and feedback on the application, award process and adherence to the timeline. Dudek would also maintain regular and thorough communication with assigned City and County staff.

Estimated time: 40 – 80 hours (dependent upon project and funding program)
(Staff: Jane Gray and John Cuykendall)

Estimated Cost: \$6,000 - \$12,000

GRANT MANAGEMENT/ ADMINISTRATION SUPPORT AND SERVICES

Presuming grant application success, this section describes Dudek's ability to provide grant management and administration services to ensure that successfully awarded monies are managed and distributed properly and all requirements of grant compliance, such as the generation of assessment reports, performance documents, project milestones, invoices, etc. are completed and received by the grant entity in the format required and according to the schedule that must be adhered to. The specific tasks associated with this aspect of the grant typically include:

- Regular communication with the granting entity and the assigned staff to ensure optimal flow of information, requests, compliance with grant requirements and successful project implementation, as well as building and/or maintaining a good working relationship;
- Regular communication and coordination with City and County staff and granting entity's staff regarding the functional administrative system to gather, compile, report and store project

related information that must be reported prior to obtaining reimbursement for project related expenses;

- Regular communication with City and County staff to report on the progression of the grant administration and generation as necessary and appropriate, items for departmental updates, Board of Supervisors reports, etc.;
- Arranging and coordinating meetings and conference calls as needed. Tasks may include, but are not limited to, the following:
 - Arrange logistics for the meeting;
 - Confirm agenda with City and County staff;
 - Send e-mail notices regarding meeting details to grant project team;
 - Prepare meeting minutes;
 - Distribute meeting minutes;
- Communicating with interest groups and stakeholders that include community based organizations, groups and individuals, as necessary and appropriate;
- Establishing and maintaining an orderly central set of files, both electronic and hard copy for grant administration, project information, demonstration of successful grant experiences and posterity;
- Invoicing as it relates to the grant, contractors, subcontractors, including presenting invoices in the format and arrangement requested by the granting entity; submittal of invoices and supporting documentation in an organized and timely fashion;
- Compliance with grant requirements such as performance measure reporting and assessments, submittal of plans, specs, as-built drawings, etc.; and
- Generation of concluding documents and grant closure.

For the tasks associated with this section Dudek proposes that the grant project funding team operate on a time and materials basis in accordance with the Schedule of Fees attached to this scope of work, since these tasks are highly variable and dependent upon the actual grant received and the complexity of the funded project. Often times, grants do allow for reimbursement of grant administration costs associated with a project. Therefore, it is likely that the City and County would be reimbursed for Dudek's grant management/administration and support services.

Estimated Time: Variable and dependent upon grant received, project type and timeline.
(Staff: Jane Gray and John Cuykendall)

Estimated Cost: \$5,000 - \$10,000 (Dependent upon project and funding program)

Funding Sources Matrix

The table below outlines a preliminary series of current funding programs that are good matches for the infrastructure projects anticipated in conjunction with the Northeast Antioch Annexation. These are separated by Issue Area, i.e. Wastewater, Water and Roadways

Wastewater Projects					
Funding Agency	Description of Funding	Eligibility Requirements & Uses	Ineligible Uses	Funding Limits	Terms & Dates
State Department of Housing and Community Development	Grants (to City/Coutny) jurisdictions - Project must "principally" benefit low income persons/households For example: Make up grades to a sewage collection & treatment system for residents of a community with over half of its residents being low income	Cities or counties that are not under HUD's CDBG entitlement program Eligible Uses: Pay for project feasibility study, final plans & specs, site acquisition & construction, and grant administration costs Pay for one time assessment fees for low income families Pay for installation of private laterals and hook up fees for low income families	Maintenance costs; Refinancing existing debt	Each CDBG Allocation sets Funding award limits in their annual NOFA (Typically \$500,000)	Notices of Funding Availability (NOFAs) released each year Jurisdiction sets type of financing and terms (grants vs. loans)
USDA Rural Development	Loans & Grants to provide financing for wastewater, solid waste & storm drainage systems both new and existing projects	Public bodies, tribes, nonprofits, Cities & Towns & census designated places with populations < 10,000; Eligible Uses: Funds may be used for costs associated with planning, design, and construction of new or existing systems Eligible projects include treatment, collection, storm drainage	Facilities not modest in size, design, & cost; For profit systems	None, but average project size \$3-5 million	Loans: 4% - 5% fixed 40 years Grant funding available to reduce user costs Continuous filing
State Water Resources Control Board	Grant funding to needy communities for the planning, design, and/or construction of wastewater projects	Small, disadvantaged communities (SDACs): population < 20,000; and 2000 Median Household Income (MHI) < \$37,995; Eligible Uses: Collection, treatment & disposal facilities; mitigation measures; associated purchase of property	Operations & maintenance (O&M), decorative items, construction or improvements on private property	Project cap \$2 million per project	Must be on Competitive Project List (CPL)

Water Projects					
Funding Agency	Description of Funding	Eligibility Requirements & Uses	Ineligible Uses	Funding Limits	Terms & Dates
California Department of Public Health	Grants for small community drinking water system infrastructure improvements and related actions to meet chemical and nitrate drinking water standards.	Must be a small community water system with a population less than 10,000 or a public school; priority given to disadvantaged communities; must be in noncompliance with a primary standard or treat surface water and be under a boil water order	CDPH website for more information. http://www.cdph.ca.gov/certlic/drinkingwater/Pages/DWPFunding.aspx	\$5 million per project & \$500,000 for feasibility study	Pre-application; Invited annually
Department of Water Resources	Grants - Assistance for local public agencies to conduct groundwater studies or carry out groundwater monitoring or management activities	Local public agencies; Eligible Uses: Groundwater data collection, modeling, monitoring & management studies; monitoring programs; installation of monitoring wells & equipment; basin management; development of information systems; groundwater planning & other groundwater management related activities	Projects without a clear nexus to groundwater management, projects which solely benefit private landowners or water users, research not directly related to groundwater management, and most production wells	\$250,000 per eligible project or study	January 2010
Department of Water Resources	Grants for projects that assist local public agencies to meet long-term water management needs of the State, including the delivery of safe drinking water, flood risk reduction, protection of water quality & the environment; Grant funds for development revisions of IRWM Plans implementation projects of IRWM Plans	A local public agency or nonprofit representing an IRWM effort must be the applicant or grantee Other IRWM partners may access funds through their own agreements with the applicant/grantee; Eligible Uses: Development or revision of IRWM Plans. Projects that implement IRWM Plans	Operation & maintenance activities	Bond funding allocation for entire program is \$1billion; Prop 84 allots grant funding to 11 funding areas; Approx. 20 million in Funds for inter-regional efforts	\$100 million of implementation will be available in the first Proposal Solicitation Package. Additional \$250 million for reducing dependence on delta water may be added to the first round solicitation.

Roadway Projects					
Funding Agency	Description of Funding	Eligibility Requirements & Uses	Ineligible Uses	Funding Limits	Terms & Dates
State Department of Housing and Community Development	Grants to City & County Jurisdictions on that "principally" benefit low income persons/households For example: Install New roads for residents of a community with over half its residents being low income	Cities or counties that are not under HUD's CDBG entitlement program; Eligible Uses: Pay for project feasibility study, final plans & specs, site acquisition & construction, & grant administration costs; Must be rehabilitation or a new road and can include installing street lights, landscaping, and sidewalks Assist families to install sidewalks in front of their home	Maintenance costs	Each CDBG Allocation sets funding award limits in Their annual NOFA (Typically \$500,000) Six Allocations: 1-General, 2-Native American, 3-Colonia, 4-Economic Development Enterprise Fund, 5-Economic Development Over the Counter, and 6-Planning and Technical Assistance	State Department of Housing and Community Development

Information on IFDs and Other Financing Mechanisms

In September 1990, the Governor approved Senate Bill (SB) 308, which provide for the formation of Infrastructure Financing Districts (IFDs) to finance regional infrastructure needs. SB 308 extends the use of tax increment financing to undeveloped areas within the boundaries of an IFD. IFD financing is similar to tax increment financing within redevelopment project areas, in that it uses ad valorem property tax revenues to pay for public improvements without imposing special taxes or assessments on the land. However, cities and counties can only divert non-school shares of tax increment revenues to finance infrastructure. Revenues cannot be used for maintenance or operating costs.

An IFD may finance the purchase, construction, expansion, or improvement of any real or tangible property with an estimated useful life of fifteen years or longer. Authorized facilities must be of community-wide significance and provide significant benefits to an area larger than the area of the proposed IFD. Examples of permissible projects include the following

- Highways, interchanges, arterial streets, and transit facilities
- Sewage treatment and water reclamation plants
- Water collection and treatment facilities
- Flood control levees and dams, retention basins, and drainage channels
- Child care facilities and libraries
- Parks and open space
- Facilities for the transfer and disposal of solid waste

When forming an IFD, a “base year” is identified; the ad valorem tax revenues paid on the assessed property value in the base year continue to be passed through to the agencies that receive the ad valorem tax revenues. However, the revenues that result from an increase in assessed value above the base year assessed value are called tax increment revenues, and a portion of these revenues are retained by the IFD. An IFD can then issue bonds secured by the tax increment revenue it receives, or will receive, because of the continuing increase in assessed value.

IFDs provide a source of funding without increasing special taxes, assessments, or user fees. To minimize subsidy issues, tax increment revenues can be pledged to finance specific facilities benefitting the area from which they were generated. IFD bonds would not be considered County debt. However, IFDs do not have the ability to receive tax increments that would otherwise go to school districts and do not have the power of eminent domain, which enhance the political viability of IFDs.

Under existing law, to create an IFD, a detailed infrastructure financing plan must be prepared and sent to all landowners in the IFD area. A public hearing must be held and if approved by all local agencies that will contribute property tax increment revenue to the IFD, then local officials must obtain two-thirds voter approval in order to form the IFD and/or issue bonds.

Current legislation includes Senate Bill 214 (Wolk) which was introduced early this year to repeal the voter approval requirement for IFDs, which would make it easier for cities and counties to use IFDs. SB 214 passed the State Senate, but is currently inactive in the State Assembly.

Dudek has various professional on staff who are conversant with the use and formation of IFDs. As a supplemental service to the Grant Services, Dudek can offer the City and the County advice and consultation services for the Northeast Annexation Project.

Moreover, Dudek has experience in working with firms that conduct special tax consulting for the financing of public infrastructure projects and we are able to provide you with references for the best and most sound advice on tax agreements, structure and fees. We feel that this service would be of great benefit to both jurisdictions in moving forward on the Northeast Antioch Annexation.

Summary of Current Grant Experience

Our staff is presently working with the Santa Barbara County Water Agency (SCBWA) in their overall IRWM program and was involved in the identification and development of projects eligible for funding under the IRWM portion of Proposition 84 and Proposition 1E. In addition, Dudek assisted in the preparation of applications for implementation and planning applications for 1st Rounds funds under Proposition 84. Santa Barbara County was successful in obtaining over \$3 million in implementation funds (the amount requested) and over \$555,000 for planning (the amount requested). We are also working with the City of Santa Barbara on a USBR Title XVI grant application and on a CAA grant application through SWRCB. We just completed an application to CDPH for over \$3million for the Joshua Basin Water District and received funding from CDPH for the community of New Cuyama to update their water treatment facility. In the area of grant administration, our team is working with the SBCWA in the management of \$25 million for 14 projects awarded funding by the State Water Resources Control Board (SWRCB) under Proposition 50.

We are also assisting three jurisdictions that received funding under the regional Prop 50 in local grant administration and grant implementation as well as providing design and engineering services, Cuyama Community Services District (Cuyama CSD), the City of Guadalupe and the community of Casmalia. Cuyama CSD contracted Dudek to prepare a design study, plans, and construction specifications for a new booster water pump station facility to replace an old elevated water storage reservoir. Dudek initially created a hydraulic computer model to analyze pressures and pipeline velocities during peak-hour and fire-flow demands of the service area. The model results were used to determine the system headloss curve, calculate pump operating parameters, and identify hydraulic deficiencies in the pipeline network. The model results were summarized in a letter report (a basis of design report) to CCSD. After approval from CCSD, Dudek's engineers proceeded with the preparation of final design plans and specifications, including civil, mechanical, and electrical engineering construction drawings for the recommended package pump station. Also included was an opinion of probable construction costs for CCSD to use for securing funding and construction bid evaluation. Dudek is providing CCSD construction bidding assistance services, including attendance at the pre-bid meeting(s), response to bidders' inquiries, preparation of the bidding agenda, and bid evaluation assistance. Dudek is also providing assistance for compliance with all the terms of state grant funding from Proposition 50. The City of Guadalupe has contracted Dudek to provide engineering, design and grant administration services for implementation and management of the upgrades to their WWTP which is being funded

through the Proposition 50 grant. The community of Casmalia has contracted with Dudek for the design engineering and grant administration services for construction of a water tank project.

Our staff has familiarity with the administration of CDBG grants and is familiar with the grant application processes associated with the USDA Grant Program as well as grants available through the CEC. Further, we have assisted clients with SRF grants and loans and aided clients in meeting the requirements of the American Recovery and Reinvestment Act (ARRA) in successfully implementing the project.

We hope that this letter provides you with the information required to assist you in making an informed decision about the next steps for the grant strategy. We are also happy to answer any questions you may have. Please feel free to contact me by email at jgray@dudek.com or by phone at 963.0651 ext. 3531.

Thank you for your consideration.

Sincerely,



Jane Gray
Environmental Planner
Dudek

Enclosures: Dudek 2011 Standard Schedule of Charges

2011 STANDARD SCHEDULE OF CHARGES

Engineering Services

Project Director	\$225.00/hr
Principal Engineer III.....	\$210.00/hr
Principal Engineer II	\$198.00/hr
Principal Engineer I	\$190.00/hr
Senior Project Manager.....	\$180.00/hr
Project Manager	\$170.00/hr
Senior Engineer III.....	\$160.00/hr
Senior Engineer II	\$155.00/hr
Senior Engineer I	\$145.00/hr
Project Engineer IV	\$135.00/hr
Project Engineer III	\$125.00/hr
Project Engineer II	\$115.00/hr
Project Engineer I.....	\$100.00/hr
Project Coordinator	\$80.00/hr
Engineering Assistant.....	\$75.00/hr

Environmental Services

Principal	\$225.00/hr
Senior Project Manager/Specialist II	\$210.00/hr
Senior Project Manager/Specialist I	\$200.00/hr
Environmental Specialist/Planner VI	\$180.00/hr
Environmental Specialist/Planner V	\$160.00/hr
Environmental Specialist/Planner IV	\$150.00/hr
Environmental Specialist/Planner III.....	\$140.00/hr
Environmental Specialist/Planner II.....	\$130.00/hr
Environmental Specialist/Planner I.....	\$120.00/hr
Analyst	\$100.00/hr
Planning Research Assistant	\$80.00/hr

Archaeological Services

Senior Project Manager/Archaeologist II.....	\$210.00/hr
Senior Project Manager/Archaeologist I.....	\$200.00/hr
Environmental Specialist/Archaeologist VI ..	\$180.00/hr
Environmental Specialist/Archaeologist V ...	\$160.00/hr
Environmental Specialist/Archaeologist IV ..	\$150.00/hr
Environmental Specialist/Archaeologist III ..	\$140.00/hr
Environmental Specialist/Archaeologist II ...	\$130.00/hr
Environmental Specialist/Archaeologist I	\$120.00/hr
Archaeologist Technician II	\$70.00/hr
Archaeologist Technician I	\$50.00/hr

Construction Management Services

Principal/Manager	\$195.00/hr
Senior Construction Manager	\$180.00/hr
Senior Project Manager.....	\$160.00/hr
Construction Manager	\$150.00/hr
Project Manager	\$140.00/hr
Resident Engineer.....	\$140.00/hr
Construction Engineer	\$135.00/hr
On-site Owner's Representative	\$130.00/hr
Construction Inspector III	\$125.00/hr
Construction Inspector II	\$115.00/hr
Construction Inspector I	\$105.00/hr
Prevailing Wage Inspector	\$135.00/hr

Hydrogeological Services

Principal	\$220.00/hr
Sr. Environmental Engineer	\$190.00/hr
Sr. Hydrogeologist/Sr. Proj Mgr.....	\$170.00/hr
Project Manager	\$155.00/hr
Associate Hydrogeologist/Engineer	\$140.00/hr
Hydrogeologist IV/Engineer IV	\$125.00/hr
Hydrogeologist III/Engineer III	\$115.00/hr
Hydrogeologist II/Engineer II	\$105.00/hr
Hydrogeologist I/Engineer I	\$95.00/hr
Technician	\$95.00/hr

District Management & Operations

District General Manager	\$175.00/hr
District Engineer	\$160.00/hr
Operations Manager	\$150.00/hr
District Secretary/Accountant	\$85.00/hr
Collections System Manager.....	\$95.00/hr
Grade V Operator.....	\$100.00/hr
Grade IV Operator.....	\$85.00/hr
Grade III Operator	\$80.00/hr
Grade II Operator	\$63.00/hr
Grade I Operator	\$55.00/hr
Operator in Training	\$40.00/hr
Collection Maintenance Worker II	\$55.00/hr
Collection Maintenance Worker I	\$40.00/hr

Office Services

Technical/Drafting/CADD Services

3D Graphic Artist.....	\$150.00/hr
Senior Designer	\$130.00/hr
Designer.....	\$120.00/hr
Assistant Designer	\$115.00/hr
GIS Specialist IV	\$150.00/hr
GIS Specialist III.....	\$140.00/hr
GIS Specialist II.....	\$130.00/hr
GIS Specialist I.....	\$120.00/hr
CADD Operator III.....	\$115.00/hr
CADD Operator II.....	\$110.00/hr
CADD Operator I.....	\$95.00/hr
CADD Drafter	\$80.00/hr
CADD Technician.....	\$70.00/hr

Support Services

Technical Editor III	\$140.00/hr
Technical Editor II.....	\$125.00/hr
Technical Editor I.....	\$110.00/hr
Publications Assistant III	\$100.00/hr
Publications Assistant II.....	\$90.00/hr
Publications Assistant I.....	\$80.00/hr
Clerical Administration II.....	\$80.00/hr
Clerical Administration I.....	\$75.00/hr

Forensic Engineering – Court appearances, depositions, and interrogatories as expert witness will be billed at 2.00 times normal rates.

Emergency and Holidays – Minimum charge of two hours will be billed at 1.75 times the normal rate.

Material and Outside Services – Subcontractors, rental of special equipment, special reproductions and blueprinting, outside data processing and computer services, etc., are charged at 1.15 times the direct cost.

Travel Expenses – Mileage at current IRS allowable rates. Per diem where overnight stay is involved is charged at cost

Invoices, Late Charges. - All fees will be billed to Client monthly and shall be due and payable upon receipt. Invoices are delinquent if not paid within thirty (30) days from the date of the invoice. Client agrees to pay a monthly late charge equal to one percent (1%) per month of the outstanding balance until paid in full.

To: Northeast Antioch Annexation Subcommittee
From: Victor Carniglia, City of Antioch; Rich Seithel, Contra Costa County
Date: October 18, 2011
Subject: Agenda Item #10: Update of Work Program Calendar

Included with this memo is an updated schedule for the Northeast Antioch Annexation process. Changes to the schedule include the following:

- Task #2 has been updated to reflect the fact that the Fiscal Study and Infrastructure Analysis were finalized at the August 22, 2011 Subcommittee meeting. The Cash Flow Analysis prepared by Tom Sinclair's firm meets the subtask (third bullet item under Task #2) to update the existing fiscal analysis.
- Task #3 concerning exploring Infrastructure Financing Models has updated to reflect the fact that this issue will be addressed/discussed at the November 2011 Subcommittee meeting.
- Task #4 has been updated to take into account the current schedule for negotiating the terms of the Tax Exchange Agreement. We are now projecting that December 2011 is a more realistic timeframe to expect to have the City/County negotiations on the Tax Exchange Agreement completed and the terms of Agreement brought before the Subcommittee. Securing City Council and Board of Supervisor action on the Tax Exchange Agreement is now projected to occur in January/February 2012.

The Work Program Calendar will continue to be updated at each Subcommittee meeting

WORK PROGRAM CALENDAR as of October 24, 2011

	Description	Target Date	Status	Completed /On-Time
Task #1	Finalize Work Program Form Subcommittee:			
	<ul style="list-style-type: none"> Finalize Work Program 	April 25, 2011	Finalized	Yes/Yes
	<ul style="list-style-type: none"> Form Subcommittee 	February 2011	Formed	Yes/Yes
	<ul style="list-style-type: none"> Prepare Public Information Strategy 	Nov/Dec 2011	Not Initiated	No/Yes
Task #2	Consensus on Fiscal Analysis:			
	<ul style="list-style-type: none"> Prepare and present draft market analysis 	June 27, 2011	Analysis completed August 22, 2011	Yes/Yes
	<ul style="list-style-type: none"> Prepare and present draft infrastructure cost analysis 	June 27, 2011	Analysis completed August 22, 2011	Yes/Yes
	<ul style="list-style-type: none"> Prepare and present updated fiscal analysis 	August 22, 2011	Updated Cash Flow Analysis completed September 26, 2011	Yes/Yes
Task #3	Explore infrastructure financing models	November 2011	Scheduled to be addressed by Subcommittee in November 2011	No/No schedule
Task #4	Tax Exchange/Revenue Sharing Agreement:			
	<ul style="list-style-type: none"> Subcommittee level 	December 2011	Dependent on Completion of Tasks #2 and #3	No/Yes
<ul style="list-style-type: none"> Board/Council level 	January 2012			
Task #5	Land Use Requirements	May/June 2012	Dependent on Completion of Tasks #2 and #3	No/Yes
Task #6 and #7	Formalizing Economic Development Strategy	May 2012	Initiated	No/Yes

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



March 25, 2011

John V. Chillemi
President
Mirant Marsh Landing, LLC
696 West 10th Street
Pittsburg, CA 94565

**SUBJECT: MARSH LANDING GENERATION STATION (08-AFC-3C)
START OF CONSTRUCTION**

Dear Mr. Chillemi:

The Marsh Landing Generation Station (MLGS) has completed all necessary submittals and received California Energy Commission (Energy Commission) staff approval for the pre-construction conditions of certification that are required prior to the start of construction for the power plant and related facilities. In addition, all required pre-construction plan approvals and/or permits from Contra Costa County, the Energy Commission delegate Chief Building Official (CBO) for the MLGS, have been completed.

Construction may commence as of March 25, 2011

If you have any questions, please call me at (916) 653-4677 or e-mail me at Jdouglas@energy.state.ca.us.

Sincerely,

A handwritten signature in black ink that reads "Joseph J. Douglas".

Joseph Douglas
Compliance Project Manager

cc: Energy Commission Docket Unit
Kevin W, Bell, Senior Staff Counsel, California Energy Commission