

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

May 11, 2016
Agenda Item 8

May 11, 2016 (Agenda)

LAFCO 16-01 Scott and Kathryn Carr Annexation to the East Bay Municipal Utility District (EBMUD)

PROPONENT Scott and Kathryn Carr, Property Owners

SYNOPSIS The property owners have petitioned Contra Costa LAFCO to annex their 5.9± acre property (APN 258-290-021) to EBMUD. The property is located at 80 Carr Ranch Road southeast of the Town of Moraga as shown on the attached map (Attachment 1).

DISCUSSION

In October 2015, the property owners received a letter from EBMUD informing them that their property is located outside the District's boundary, is currently receiving water service, and must be annexed to EBMUD in order to continue to receive water service (Attachment 2). As noted in the letter, the meter serving the property was previously designated for agricultural use, at which time the meter was physically located within the EBMUD service boundary. In 2013, the meter was relocated to its current location and the District erroneously allowed service from the meter to a residential property which is outside the District's service area. Consequently, EBMUD is requiring that the property either disconnect from EBMUD water and find another source of water, or annex to the District for compliance purposes. The property owners filed an application with Contra Costa LAFCO to annex their property to EBMUD.

EBMUD is a multi-county district serving portions of Alameda and Contra Costa counties. Alameda is the principal County for EBMUD, as defined by Government Code §56066 (i.e., the county having the greatest portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within the district). In order to process the annexation in Contra Costa County, Contra Costa LAFCO must request a transfer of jurisdiction from Alameda LAFCO. On February 10, 2016, the Commission authorized LAFCO staff to send a letter to Alameda LAFCO requesting a transfer of jurisdiction. On March 10, 2016, Alameda LAFCO approved Contra Costa LAFCO's request for a transfer of jurisdiction.

Government Code §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

1. Consistency with the Sphere of Influence (SOI) of Any Local Agency:

The area proposed for annexation is within EBMUD's SOI, is also within the Town of Moraga's SOI, and inside the County Urban Limit Line.

2. Land Use, Planning and Zoning - Present and Future:

Land uses on the subject property include one single family dwelling unit and related agricultural uses. The County's General Plan designation for the property is AL (Agricultural Lands), and the County's zoning is A-2 (General Agriculture – parcel 5 acre minimum).

The subject property is surrounded by agricultural land, with cattle operations, another single family home to the immediate south, and the Sky View residential subdivision to the far south of the property.

3. The Effect on Maintaining the Physical and Economic Integrity of Agricultural Lands:

The property proposed for annexation was once part of the expansive Carr Ranch property, which comprises 600 acres of rolling hills on unincorporated land at the southern border of Moraga. The larger Carr Ranch property includes grazing land, ponds, creeks and woods that extend to the southeast nearly to San Ramon. The Carr Ranch has been sold to the John Muir Land Trust, a nonprofit organization that manages areas of open space in perpetuity throughout Contra Costa County.

The parcel proposed for annexation is not part of the Carr Ranch property sold to the John Muir Land Trust. The subject parcel contains no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance; the proposed annexation would not result in the loss of agricultural land. No portion of the subject property is currently under a Williamson Act Land Conservation Act agreement. Portions of the subject property are occasionally used for cattle grazing.

4. Topography, Natural Features and Drainage Basins:

The subject property is relatively flat; surrounding areas are relatively flat with some rolling hills.

5. Population:

The property proposed for annexation contains one single family dwelling unit, which is currently receiving EBMUD water. No development is proposed and no increase in population will result from the proposed annexation.

6. Fair Share of Regional Housing:

In its review of a proposal, LAFCO must consider the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. The proposed annexation will have no effect on regional housing needs.

7. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

Whenever an application for a change of organization or reorganization is submitted to LAFCO, the applicant must also submit a plan for providing services within the affected territory (Gov. Code §56653). The plan shall include all of the following information and any additional information required by the Commission or the Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.
- (2) The level and range of those services.
- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

The property currently receives water service from EBMUD; no change in the provision of service is proposed. The annexation area is served by various local and regional agencies including, but not limited to, Contra Costa County and the Moraga-Orinda Fire District.

8. Timely Availability of Water and Related Issues:

The proposal before the Commission is to annex to EBMUD in response to a letter from the District. EBMUD provides potable water services and limited wastewater collection and treatment services in portions of the District's service area. The EBMUD service area is approximately 331 square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.3 million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 146± square mile service area, serving an estimated 477,212 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water supply for EBMUD is the Mokelumne River; this watershed accounts for 90 percent of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,046 acre-feet per year of water from the Mokelumne River.

EBMUD's water rights are subject to variability, particularly during dry and multiple dry years. The availability of the Mokelumne River runoff is subject to senior water rights of other users, downstream fishery flow requirements, and other Mokelumne River water uses. Given the variability, EBMUD indicates that supplemental water supply sources are needed to meet future water demand during extended periods of drought.

The Freeport Regional Water Facility is a regional water supply project that provides supplemental water supply to EBMUD during dry years, as part of the Central Valley Project (CVP), a federal water management program. During periods of drought, EBMUD receives CVP water from its Freeport Regional Water Facility to augment its water supply. The U.S. Bureau of Reclamation (USBR) provides supplemental water supply during dry and multiple dry years to ensure the reliability of EBMUD's water supply. In conjunction with the request to annex the property, EBMUD is also seeking approval from the USBR.

EBMUD indicates that it has adequate capacity to continue to serve the Carr property.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 77001. The assessed value for the annexation area is \$317,472 (2015-16 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

LAFCO's environmental coordinator has determined that the proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to sections 15061(b)(3) (General Rule) and 15319 (Annexation of Existing Facilities).

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 12 registered voters in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited.

LAFCO has confirmed that 100% of the affected landowners have provided written consent to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the May 11, 2016 hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within the SOI of EBMUD and is contiguous to the District's service boundary. A map and legal description to implement the proposed boundary changes have been received and are being reviewed by the County Surveyor.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

14. Disadvantaged Communities:

In accordance with Senate Bill 244, local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County GIS/Demographics division, the annexation area does not meet the criteria of a DUC.

ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following actions:

Option 1

Approve the annexation.

- A. Determine that the proposal is exempt from CEQA pursuant to sections 15061(b)(3) (General Rule) and 15319 (Annexation of Existing Facilities).
- B. Adopt this report, approve LAFCO Resolution No. 16-01 (Attachment 2), and approve the proposal, to be known as the *Scott and Kathryn Carr Annexation to EBMUD* subject to the following terms and conditions:

1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
 2. That the property owners have delivered an executed indemnification agreement providing for property owners to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
 3. Water service is conditional upon EBMUD receiving acceptance for inclusion of the annexed areas from the USBR, pursuant to the requirements in EBMUD's contract with USBR for supplemental water supply from the CVP.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Option 2 Adopt this report and DENY the proposal.

Option 3 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION:

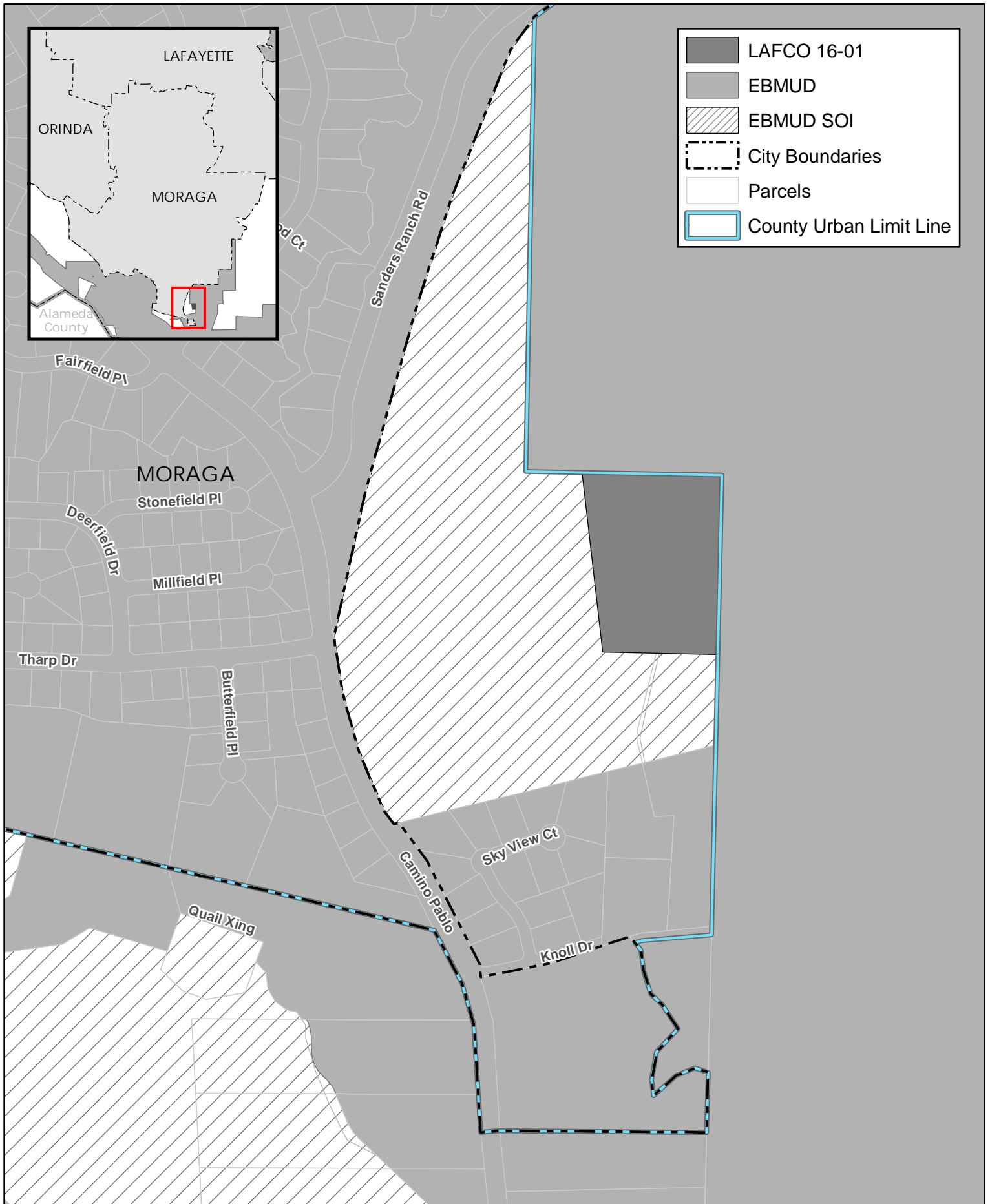
Option 1 - Approve the annexation

LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

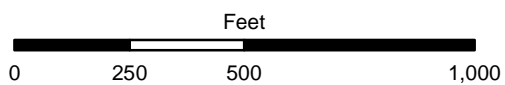
- 1 - EBMUD Annexation Map
- 2 – Letter from EBMUD to Scott and Kathryn Carr
- 3 - Draft LAFCO Resolution 16-01

c: Scott and Kathryn Carr, Property Owners
Andrew Lee, Manager of New Business, EBMUD



Map created 02/29/2016
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
 37:59:41.791N 122:07:03.756W

This map or dataset was created by the Contra Costa County Department of Conservation and Development with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.





October 28, 2015

Mr. Scott Carr
80 Carr Ranch Road
Moraga, CA 94556

Subject: Water Service for 80 Carr Ranch Road, Moraga (APN 258-290-021)

Dear Mr. Carr,

It has come to East Bay Municipal Utility District's (District) attention that your property at 80 Carr Ranch Road (APN 258-290-021) is located outside of the District's service area and is currently receiving water service from a District meter. The District is prohibited by law to provide water service beyond our service area.

The meter you are currently using was previously designated as "agricultural use", and it was physically located within the limit of the District's service area. In 2013, the agricultural meter was relocated to its current location and the District erroneously allowed service from this meter to your residential property. As such, your water service must be brought into compliance with the District's regulations by taking action on one of the following options:

- 1) You may initiate the annexation process through the Contra Costa County Local Agency Formation Commission (LAFCO) to annex your property into the District's service area. You may submit a property owner petition with LAFCO for the annexation. If you need information regarding the annexation process and applicable fees, LAFCO can be reached at (925) 335-1094;
- 2) You may work with the developer for the adjacent 30 acre parcel (APN 258-290-023) to jointly petition for annexation into the District's service area to form a logical boundary. The District is aware that the adjacent parcel was sold to a developer and there is plan in place to annex the larger parcel into the City limit, as well as other utility services; or
- 3) You may remove the house line connection to the District's meter immediately and secure another source of water supply.

We assume you will prefer to annex your property to the District's service area. Following LAFCO's approval, the District must obtain approval from the United States Bureau of Reclamation (USBR) to include the annexed property into the Contractor Service Area in compliance with Article 35 of the Central Valley Project water supply contract. The District will

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request LAFCO to condition water service to the property until the receipt of USBR's formal approval of inclusion. To initiate the USBR process, the District would provide the USBR with copies of a Board resolution initiating such application, LAFCO annexation documents, and any environmental documents that may be required. There will be a separate fee you must pay to the USBR for its review if you decide to move forward with an application. You will also need to enter into a reimbursement agreement with the District agreeing to pay all fees associated with the USBR review.

Furthermore, the District has become aware that the meter currently serving your property at 80 Carr Ranch Road is also serving 55 Carr Ranch Road (Mr. and Mrs. Hoover's property). Serving multiple lots from a single meter is prohibited under the District Regulations Governing Water Services. Section 19 of the District's Regulations states that "more than one premises will not be served from a single meter." A premise is defined as a "parcel of real estate." Since the meter is registered under your name, you are responsible for the removal of the illegal connection to mitigate the violation. We have notified the owners of 55 Carr Ranch Road of this problem, and we will be happy to work with both you and the owners of 55 Carr Ranch Road to ensure that there is no interruption in water service, provided you both work diligently to correct this problem.

Please contact the New Business Office to discuss the required follow-up actions immediately. If the District does not hear from you within the next 30 days, further actions may be initiated to address the unauthorized use of water outside of the service area and the illegal connection to 55 Carr Ranch Road. You can contact me at (510) 287-1182 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Lee", with a large, stylized flourish at the end.

Andrew Lee
Manager of New Business

RESOLUTION NO. 16-01**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING THE SCOTT AND KATHRYN CARR
ANNEXATION TO THE EAST BAY MUNICIPAL UTILITY DISTRICT**

WHEREAS, a proposal to annex territory to the East Bay Municipal Utility District (EBMUD) was filed with Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code section 56000 et seq.); and

WHEREAS, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; and

WHEREAS, at a public hearing held on May 11, 2016, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, consistency with the sphere of influence, contiguity with EBMUD's boundary, and related factors and information including those contained in Gov. Code §56668; and

WHEREAS, information satisfactory to the Commission has been presented that all the owners of land within the affected territory have given their written consent to the proposal; and

WHEREAS, the Local Agency Formation Commission finds the proposal to be in the best interest of the affected area and the total organization of local governmental agencies within Contra Costa County.

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. The proposal is exempt from CEQA pursuant to sections 15061(b)(3) (General Rule) and 15319 (Annexation of Existing Facilities).
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:
SCOTT AND KATHRYN CARR ANNEXATION TO EBMUD
4. Said territory is found to be uninhabited.
5. The proposal has 100% landowner consent and said conducting authority proceedings are hereby waived.
6. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Attachment 1, attached hereto and made a part hereof.
7. The subject territory shall be liable for any existing bonded indebtedness of the annexing agencies, if applicable.
8. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.

Contra Costa LAFCO
Resolution No. 16-01

9. The property owners have delivered an executed indemnification agreement providing for the property owners to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
10. Water service is conditional upon EBMUD receiving acceptance for inclusion of the annexed areas from the USBR, pursuant to the requirements in EBMUD's contract with USBR for supplemental water supply from the CVP.
11. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundary set forth in the attachment and any terms and conditions specified in this resolution.

PASSED AND ADOPTED THIS 11TH day of May, 2016, by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

MARY N. PIEPHO, CHAIR, CONTRA COSTA LAFCO

ATTEST: I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated above.

Dated: May 11, 2016

Lou Ann Texeira, Executive Officer