

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

August 9, 2017 (Agenda)

August 9, 2017
Agenda Item 6

LAFCO 17-04 North Peak Equestrian Center Annexation to Contra Costa Water District
PROPONENT Contra Costa Water District by Resolution No. 17-08 adopted February 15, 2017
SYNOPSIS The applicant proposes to annex 10.03± acres (APN 138-270-002) located at 1550 Castle Rock Road in the unincorporated Walnut Creek area (Attachment 1). Annexation will bring the property and a portion of road right-of-way into the service boundary of CCWD, and will allow for the extension of municipal water service to the equestrian center property. The area proposed for annexation is outside the County's Urban Limit Line (ULL).

DISCUSSION

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:**

In July 2017, the Commission amended the SOI for CCWD to coincide with the proposed annexation. Thus, the area proposed for annexation is within CCWD's SOI.

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

The subject property has been used for public equestrian activities since 1985, and is the largest horse stable in Contra Costa County, currently boarding up to 150 horses on a year-round basis. The equestrian center supports classes for children and community events. The property is developed with a total of 11 large buildings (119,000 square feet), a number of smaller structures and related facilities including a covered arena, outdoor arena, covered round pen, open round pen, 148 stalls with six barns and a mare motel, large turn outs, office, small single wide trailer to house staff, parking for trailers, a single family residential home where a caretaker resides, along with two other structures.

The County land use designations include Agricultural (General Plan) and Agricultural A-2 (zoning). The project site is bounded on the east by land designated as "agricultural", on the west by the Diablo Foothills Regional Park, on the north by residential, and on the south by the Castle Rock Park staging area. The proposed annexation will have no effect on the land uses.

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

There are no proposed land use changes associated with the annexation; the subject area will remain an equestrian center. No portion of the subject area is subject to a Williamson Act contract.

4. **Topography, Natural Features and Drainage Basins:**

The subject property is generally flat. Little Pine Creek runs to the east and Diablo Foothills/ Castle Rock Regional Park characterized by hilly ranch and park lands surround the site.

5. Population:

No development is proposed in conjunction with the annexation, and no population increase will result from this proposal.

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. Regional housing needs are determined by the State Department of Housing and Community Development; the councils of government throughout the State allocate to each jurisdiction a "fair share" of the regional housing needs.

In Contra Costa County, the Association of Bay Area Governments (ABAG) determines each city's fair share of regional housing needs. Each jurisdiction is required, in turn, to incorporate its fair share of the regional housing needs into the housing element of its General Plan. In July 2013, ABAG adopted the 2014-2022 Regional Housing Needs Allocation (RHNA) Plan for the San Francisco Bay Area. The proposed annexation will have no effect on regional housing, as no development is proposed.

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

Whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall 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 subject property receives municipal services from a number of public agencies including Contra Costa County and Contra Costa County Fire Protection District. An on-site septic system serves the property.

The proposal before the Commission is to annex the property to CCWD for the provision of municipal water service. Municipal water service is needed to support the equestrian center due to an unreliable ground water system currently serving the property. No other changes to services are proposed.

Since 1985, a groundwater system has been used to serve the property. The groundwater system supplies all water uses on site including public consumption, public restrooms, equine consumption and bathing, and dust control. The equestrian center has several large capacity water tanks that allow it to regulate supply depending on the needs of the horses and as temperatures vary. A caretaker lives onsite to ensure security.

On warm days, water consumption can be as high as 3,000 – 5,000 gallons per day. Until the onset of the extended drought in 2012, the equestrian center relied on its groundwater system to meet water demands at the site. The groundwater system is no longer able to provide the

necessary quantity or quality of water needed by the equestrian center. When no groundwater is available, the equestrian center has resorted to obtaining trucked water from CCWD.

In June 2016, Contra Costa Environmental Health (CCEH) conducted a survey of the subject property and water system and found that the water system meets the statutory definition of a "public water system" and therefore must be permitted. In a letter dated October 10, 2016 (Attachment 2), CCEH concluded that the equestrian center would likely not be able to obtain a permit due to the lack of a reliable and safe water supply from the on-site wells or cistern, and that CCWD is the only available option that would resolve the water supply and water quality issues at the property. The District's service area extends beyond the equestrian center to provide water service to East Bay Regional Park District's Castle Rock staging area at the base of Mount Diablo. CCWD reports that there is an existing treated water distribution pipeline approximately 800 feet from the subject property. To obtain water from CCWD, a 2-inch water line would need to be extended from the terminus of the existing 8-inch water line within Castle Rock Road to the property, approximately 800 feet. In addition, a water meter, backflow device and one inch service line would be needed.

Should LAFCO approve the annexation, CCWD will work with the U.S. Bureau of Reclamation (USBR) to obtain Central Valley Project (CVP) contract inclusion, which is required before the District can deliver CVP water to the property.

8. **Timely Availability of Water and Related Issues:**

Pursuant to the CKH, LAFCO must consider the timely and available supply of water in conjunction with a boundary change proposal. Contra Costa LAFCO policies state that any proposal for a change of organization that includes the provision of water service shall include information relating to water supply, storage, treatment, distribution, and waste recovery; as well as adequacy of services, facilities, and improvements to be provided and financed by the agency responsible for the provision of such services, facilities and improvements.

The proposal before the Commission includes annexation of the subject property to CCWD. CCWD's boundary encompasses 220± square miles in central and eastern Contra Costa County. CCWD's untreated water service area includes Antioch, Bay Point, Oakley, Pittsburg, and portions of Brentwood and Martinez. The District's treated water service area includes Clayton, Clyde, Concord, Pacheco, Port Costa, and parts of Martinez, Pleasant Hill, and Walnut Creek. CCWD also treats and delivers water to the City of Brentwood, Golden State Water Company (Bay Point), Diablo Water District (Oakley), and the City of Antioch. CCWD serves approximately 500,000 (61,085 water connections). The primary sources of water are the USBR CVP and delta diversions. One of CCWD's prerequisites for service, including annexation, is inclusion in the CVP service area. The CVP inclusion review is a separate process, and requires specific environmental documents. The City, the landowners and CCWD will work together to complete the CVP process.

The District's Plan for Services provides for a water meter, backflow device, one inch service line, an 800 foot mainline extension on Castle Rock Road, and a 700 foot service line on the equestrian center property.

Based on the existing land use, the maximum demand for service is approximately 10,000 gallons of water per day. CCWD has the capacity to serve the property; the 5/8 inch meter is capable of providing 20 gallons per minute or almost 28,880 gallons per day.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 79051. The assessed value for the annexation area is \$3,186,900 (2016-17 roll). The territory being annexed shall be liable for all authorized or existing taxes and bonded debt comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

CCWD, as Lead Agency, has determined that the proposed SOI amendment and corresponding annexation are exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15303 and 15319, as the service extension would serve only the existing facility.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 12 registered voters in the subject area; thus, the area proposed for annexation is considered uninhabited. The applicant indicates 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 and within 300 feet of the exterior boundaries of the area have received notice of the LAFCO hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within the SOI of CCWD; a SOI amendment was approved by the Commission on July 12, 2017 to include the subject area. A map and legal description to implement the proposed boundary changes have been received and are subject to final approval by the County Surveyor.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals 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 recent legislation (SB 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's Department of Conservation and Development, the annexation area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties:

To date, LAFCO has received no comments from affected agencies or other interested parties.

16. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Section 65080 [Gov. Code section 56668(g)]. Further, the commission may consider the regional growth goals and policies established by a collaboration of elected officials only,

formally representing their local jurisdictions in an official capacity on a regional or subregional basis (Gov. Code section 56668.5).

Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, in July 2013, ABAG and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan's key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region's projected population over the next 25 years.

The Plan Bay Area directs future development to infill areas within the existing urban footprint and focuses the majority of growth in self-identified Priority Development Areas (PDAs). PDAs include infill areas that are served by transit and are located close to other amenities, allowing for improved transit, bicycle and pedestrian access thereby reducing the amount of transportation related GHG generated. Plan Bay Area also aims to protect open space and agricultural land by directing 100% of the region's growth inside the year 2010 urban footprint, which means that all growth occurs as infill development or within established urban growth boundaries or urban limit lines. As the plan assumes that all urban growth boundaries/urban limit lines are held fixed through the year 2040, no sprawl-style development is expected to occur on the region's scenic or agricultural lands.

Plan Bay Area also includes projections for the region's population, housing and job growth, and indicates that the region has the capacity to accommodate expected growth over the next 25 years without sprawling further into undeveloped land on the urban fringe.

ABAG and MTC are in the process of updating the Plan Bay Area. The final Plan and EIR are expected to be approved this summer.

The subject property is not designated as a "Priority Conservation Area" or a "PDA", and the proposed annexation will have no impact on the regional plan.

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 as proposed.
- A. Determine that the project is exempt pursuant to CEQA Guidelines, Sections 15303 and 15319.
 - B. Adopt this report, approve LAFCO Resolution No. 17-04 (Attachment 2), and approve the proposal, to be known as the *North Peak Equestrian Center Annexation to CCWD* 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 agencies.

2. CCWD has delivered an executed indemnification agreement providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
 3. Water service is conditional upon CCWD receiving acceptance for inclusion of the annexed areas from the USBR, pursuant to the requirements in CCWD'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 Accept 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 as proposed.

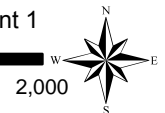
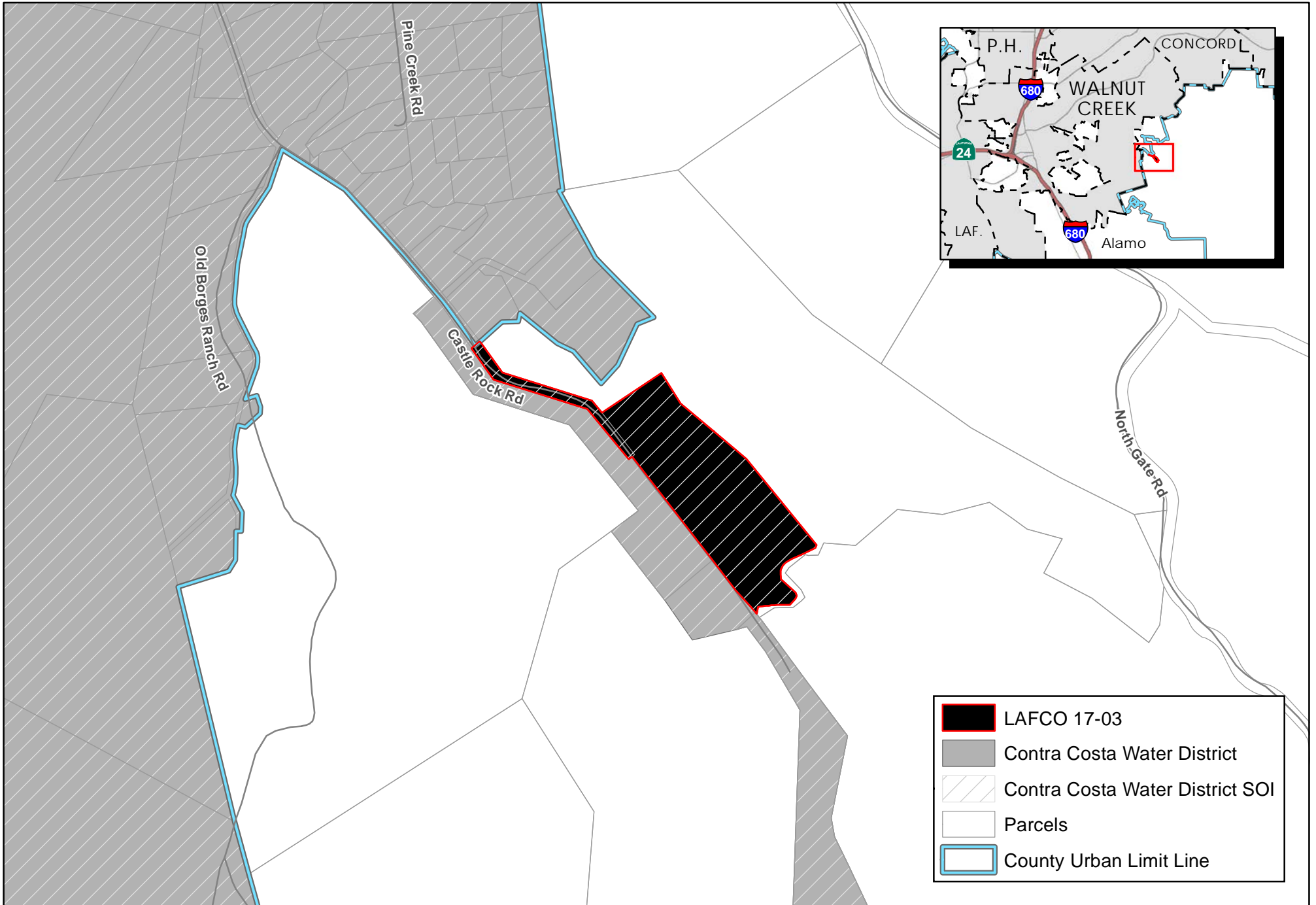
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

- 1 – Annexation Map
- 2 – Letter dated October 10, 2016 from Contra Costa Environmental Health
- 3 – Draft LAFCO Resolution 17-04

c: Distribution

LAFCO No.17-04 No Peak Equestrian Center Annexation to CCWD



William B. Walker, MD
Health Services Director

Randall L. Sawyer
Chief Environmental Health & HazMat Officer

Marilyn C. Underwood, PhD, REHS
Director of Environmental Health



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October 10, 2016

Mr. Jeff Quimby
 Director of Planning
 Contra Costa Water District
 1331 Concord Avenue
 Concord Ca. 94524

**Subject: Water Supply at the North Peak Equestrian Center
 1550 Castle Rock Road, Walnut Creek
 APN 138-270-002**

Dear Mr. Quimby:

The property owner of 1550 Castle Rock Road requested the support of Contra Costa Environmental Health (CCEH) in the evaluation of water supply alternatives for the subject property, including the continued use of groundwater and extension of the Contra Costa Water District (CCWD) water service line. The property is outside of the existing CCWD service area.

On June 28, 2016, CCEH conducted a survey of the subject property and water system and determined that the system supplies water to at least 25 individuals daily for at least 60 days out of the year, meeting the definition of a public water system as defined in section 116275 of the California Health and Safety Code.

Per the manager of the North Peak Equestrian Center, the on-site wells are no longer producing an adequate water supply. The current water supply is from a cistern located adjacent to the creek along the Northeast property line. The cistern is approximately 30 feet deep and there are several large holes in the metal plate covering the cistern which may allow surface contaminants to enter the water supply. The subsurface condition and construction details of the cistern are not known.

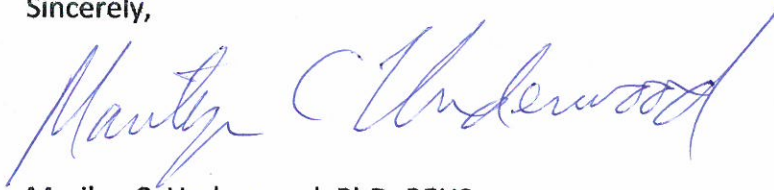
Section 116525 of the California Health and Safety Code requires a Water Supply Permit to operate a public water system, however, a permit application to operate a Public Water System would be denied when there is the potential to consolidate with an existing Public Water System.



Jeff Quimby
September 1, 2016
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Due to the lack of a reliable and safe water supply from the on-site wells or cistern, and the likely inability of CCEH to issue a Water Supply Permit to the property owner to operate a Public Water System, CCEH views water service from CCWD as the only available option that would resolve the water supply and water quality issues at the property. CCEH requests your support in resolving this matter, and requests completion of a safe water supply to the North Peak Equestrian Facility as soon as possible.

Sincerely,



Marilyn C. Underwood, PhD, REHS
Director of Environmental Health

MCU:cdm

cc: Lou Ann Texiera, Contra Costa County LAFCO

RESOLUTION NO. 17-04

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
 MAKING DETERMINATIONS AND APPROVING
**NORTH PEAK EQUESTRIAN CENTER ANNEXATION TO
 CONTRA COSTA WATER DISTRICT**

WHEREAS, the North Peak Equestrian Center Annexation to Contra Costa Water District (CCWD) was filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code §56000 et seq.); 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 North Peak Equestrian Center Annexation proposal; and

WHEREAS, the Commission held a public hearing on August 9, 2017 to consider the North Peak Equestrian Center Annexation proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental documents and determinations, Spheres of Influence and applicable General and Specific Plans.

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

1. Determine that the project is exempt pursuant to CEQA Guidelines, Sections 15303 and 15319.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

NORTH PEAK EQUESTRIAN CENTER ANNEXATION TO CONTRA COSTA WATER DISTRICT

4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. Approval of the North Peak Equestrian Center Annexation is subject to the following:
 - a. 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 agencies.
 - b. The CCWD has delivered an executed indemnification agreement between CCWD and Contra Costa LAFCO providing for CCWD to indemnify LAFCO against any expenses arising from any legal actions challenging the North Peak Equestrian Center Annexation.
 - c. Water service is conditional upon CCWD receiving acceptance for inclusion of the annexed area from the United States Bureau of Reclamation, pursuant to the requirements in CCWD's contract with USBR for supplemental water supply from the Central Valley Project.
6. The territory proposed for annexation is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Contra Costa LAFCO
Resolution No. 17-04

7. All subsequent proceedings in connection with the North Peak Equestrian Center Annexation shall be conducted only in compliance with the approved boundary set forth in the attachments and any terms and conditions specified in this resolution.

* * * * *

PASSED AND ADOPTED THIS 9th day of August 2017, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

DONALD A. BLUBAUGH, CHAIR, CONTRA COSTA LAFCO

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

Dated: August 9, 2017

Lou Ann Texeira, Executive Officer