

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 14, 2022 (Agenda)

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Agenda Item 6

LAFCO 22-03 East Bay Municipal Utility District (EBMUD) Sphere of Influence (SOI) Amendment – 4949 Happy Valley Road, Lafayette (unincorporated)

APPLICANT Steve Thomas, Landowner

ACREAGE & LOCATION The applicant proposes to expand EBMUD's SOI by 32± acres. The property includes two parcels (APNs 365-230-037/-038) and is located at 4949 Happy Valley Road in Lafayette (unincorporated) - see attached map (Exhibit A). The applicant also submitted a corresponding application to annex the parcels to EBMUD.

PURPOSE The purpose of the proposal is to allow for the extension of municipal water services to support an existing vineyard, livestock, one existing single-family home (APN -037) and one proposed single-family home (APN -038) due to high levels of boron in the well water - see letter from Contra Costa Environmental Health Services (CCEH) – Attachment 1.

BACKGROUND In May 2022, the landowner submitted applications to Contra Costa LAFCO to amend EBMUD's SOI and annex the subject properties to EBMUD. Included with the applications was a request that Alameda LAFCO transfer jurisdiction to Contra Costa LAFCO to process the applications. Alameda is designated the principal county for LAFCO proceedings, as defined by Government Code ("GC") §56066 (i.e., the county having the greatest portion of the assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within the district). Contra Costa LAFCO submitted a request to Alameda LAFCO for transfer of jurisdiction, which Alameda LAFCO approved on July 14, 2022.

DISCUSSION The Cortese-Knox-Hertzberg Act (CKH Act) authorizes LAFCO to develop and determine the SOI of each local agency within the County, and to enact policies designed to promote the logical and orderly development of areas within the spheres.

An SOI is defined as *a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO*. The intent of an SOI is to identify the most appropriate area for an agency's extension of services in the foreseeable future (e.g., 10-20 year horizon). Accordingly, territory included in an agency's SOI is an indication that the probable need for service has been established, and that the subject agency has been determined by LAFCO to be the most logical service provider for the area.

Pursuant to GC §56425, when amending an SOI for a local agency, LAFCO is required to consider and prepare a written statement of determinations with respect to the following:

- 1. *The present and planned uses in the area, including agricultural and open space lands*** – The project site is used for agricultural purposes including a vineyard, horses, livestock, and barn. One of the parcels contains a single-family home and the other is currently vacant. The landowner plans to build one single family home on the adjacent parcel.

The County General Plan (GP) designation for the subject parcels is *Agricultural Land (AL)* and the zoning designation is *General Agricultural* five acre minimum (A-2). The parcels are outside the Contra Costa County Urban Limit Line (ULL). The subject parcels are not under an active Williamson Act contract. There are no lands under Williamson Act contracts near or around the subject parcels.

One of the subject parcels (APN -037) meets the LAFCO definition of "agricultural land" (GC §56016) as the parcel contains a vineyard used for commercial purposes.

2. ***The present and probable need for public facilities and services in the area*** – One of the parcels is currently vacant (-038) and the other (-037) contains a single-family home. The home is currently served by an onsite septic system and well. The subject parcels are within the Contra Costa County Fire Protection District service boundary.

The landowner reports that the water quality on the property has a high level of boron. The CCEH reviewed the water quality for the well located on the property and confirmed that the boron level of 5,900 micrograms per liter (ug/L) exceeds the California State Notification Level of 1,000 (ug/L). CCEH has no objection to EBMUD supplying water to the subject property as noted in their letter (Attachment 1).

3. ***The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide*** – EBMUD provides potable water services and limited wastewater collection and treatment services in portions of EBMUD's service area. The EBMUD service area is 332± square miles (Contra Costa and Alameda counties). EBMUD provides potable water to 1.4± million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 225± square mile service area, serving an estimated 473,000 residents per EBMUD's 2020 Urban Water Management Plan.

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% of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,037 acre-feet per year of water from the Mokelumne River.

EBMUD's water supplies 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. During periods of drought, EBMUD receives Central Valley Project (CVP) water from its Freeport Regional Water Facility to augment its water supply. Through a contract with the U.S. Bureau of Reclamation (USBR), EBMUD can receive supplemental water supply during dry and multiple dry years to ensure the reliability of EBMUD's water supply. If the property is annexed to EBMUD, EBMUD will need to seek approval from the USBR to amend the service area delineated in its contract. EBMUD's policies also require that the annexation be conditioned on receipt of USBR's approval of the inclusion of the area within the delineated area in the contract. To initiate the review and approval process with the USBR, the landowner must enter into an agreement with EBMUD to reimburse EBMUD for all fees levied by the USBR.

EBMUD indicates that they have adequate water supplies to serve the property (Attachment 3). Although adequate water supplies exist, EBMUD cannot determine if the Project can be feasibly served by EBMUD in accordance with EBMUD's Regulations Governing Water Service to Customers without a completed application for water service. EBMUD will determine if the project can be feasibly served, which may include, but not limited to a water main extension, at the applicant's expense, which will be determined after a completed application for service is received in accordance with EBMUD's Regulations Governing Water Service to Customers, Sections 2 & 4. The annexation would also be subject to EBMUD's policies, including Policy 3.01 regarding annexations. Policy 3.01 states that an annexation should facilitate the

operation of the utility and be advantageous to the community. For territory, including the project, located within the boundaries of the East Bay Watershed Master Plan, but lying outside the boundary of the Briones Hills Agricultural Preservation Area, there must be adequate facilities for removal of sewage from the watershed, and the land must be under agreement or permanent deed restriction with EBMUD to protect the quality of source water under the influence of the territory. As a condition of annexation and prior to seeking service from EBMUD, the landowner must enter into an agreement with EBMUD to ensure that both EBMUD and the Contra Costa County Health Department are satisfied with the adequacy of any existing or proposed sewage removal system and that all measures necessary for the protection of source water have been put in place.

If it is determined that water service is feasibly available from EBMUD, the proposed project is required to comply with the California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Section 490 through 495) and EBMUD's Regulations Governing Water Service to Customers Section 31, which requires that water service shall not be furnished for new or expanded services unless all applicable water-efficiency measures described in the Regulations are installed.

If it is determined that water service can be provided consistent with EBMUD's policies and regulations, the costs associated with the water supply system as described, as well as development system capacity and service connection fees, will be borne by the landowner. Ongoing maintenance of the system will be funded through usage fees collected by EBMUD. The estimated water demand for the project is currently unknown and would need to be provided to EBMUD as part of the completed EBMUD application to determine if the property can be feasibly served. The property owner provided an estimated range of 3,000 to 5,000 gallons per day. EBMUD provided a letter indicating that water service to the subject property will be available contingent upon evidence of annexation to EBMUD and compliance with the District's regulations governing water service.

4. ***The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency*** – The subject parcels are located on Happy Valley Road in unincorporated Contra Costa County, adjacent to Lafayette and are surrounded by vacant land/open space to the north, south, east, and west. EBMUD staff notes that any further development that occurs on the parcels be undertaken in a manner that will ensure the protection of source water and the adjacent public lands. In light of the identified water quality issues with the well serving the current structure, the subject parcels will benefit from municipal water service provided by EBMUD.
5. ***Nature, location, extent, functions & classes of services to be provided*** – EBMUD's water supply system collects, transmits, treats, and distributes high quality water to an area of 332± square miles in Contra Costa and Alameda counties. EBMUD provide wastewater treatment to 88 square miles in Contra Costa and Alameda counties. EBMUD provides potable water to over 1.4 million customers within the two-county service area, and wastewater treatment to over 740,000 residential, business and industrial customers. In Contra Costa County, water service is provided to Crockett, Rodeo, Hercules, Pinole, Richmond, El Sobrante, El Cerrito, San Pablo, Orinda, Moraga, Lafayette, Pleasant Hill, Walnut Creek, Alamo, Danville, Diablo, Blackhawk and San Ramon; and wastewater services are provided to El Cerrito, parts of Richmond, and Kensington. EBMUD is expected to provide water service to the subject area dependent on receiving approval from the USBR of inclusion of the area in EBMUD's CVP Contractor Service Area.

Environmental Impact of the Proposal – The EBMUD SOI expansion is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15303(a) and (d).

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 Adopt this report and adopt Resolution No. 22-03 (Attachment 2) approving the proposed EBMUD SOI expansion of 32± acres and determining that the SOI expansion is exempt from CEQA.

Option 2 Adopt this report and DENY the proposal.

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

RECOMMENDATION **Option 1 – approve the SOI amendment as proposed.**

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

Exhibit

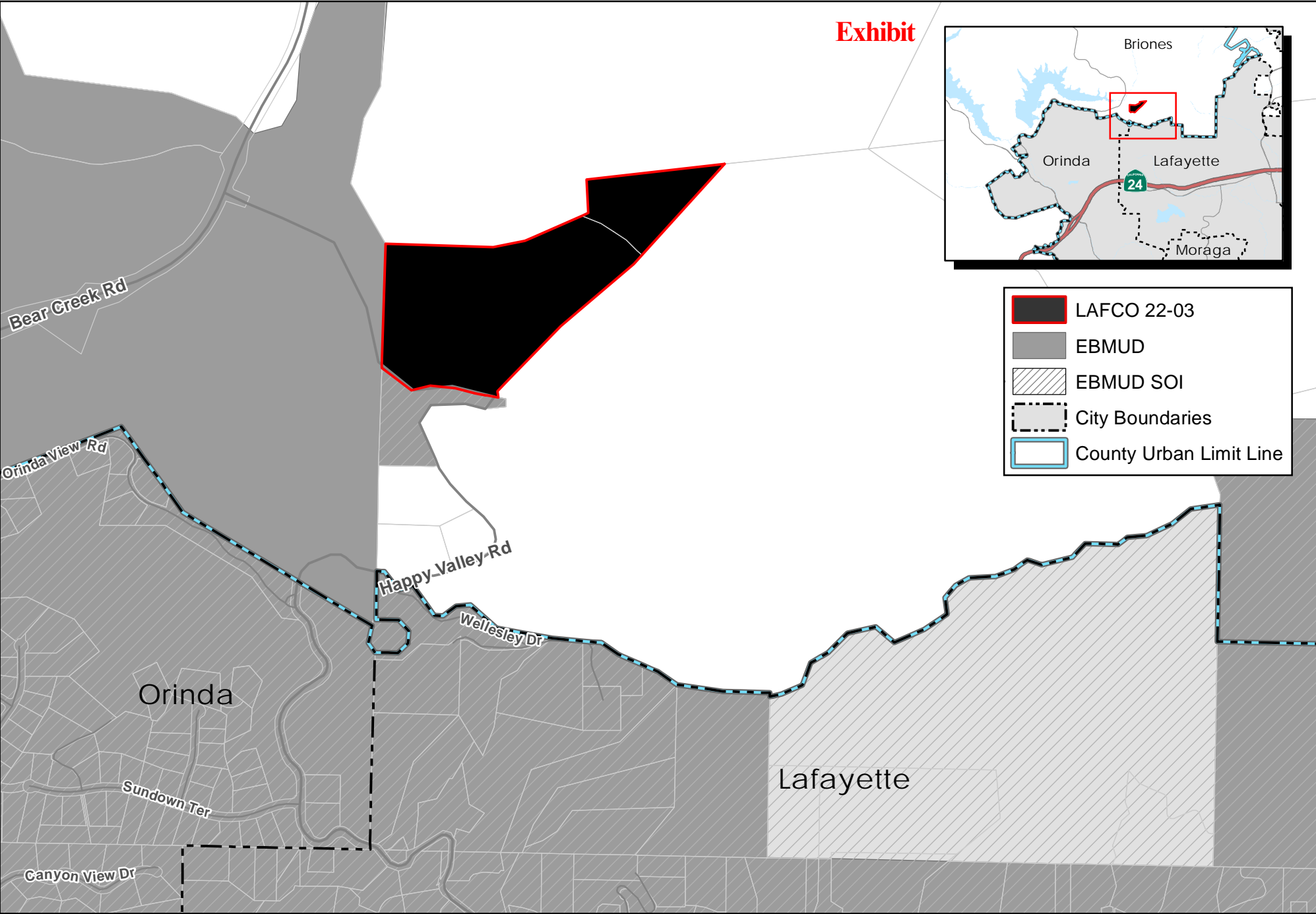
A. Map – Proposed EBMUD SOI Expansion

Attachments

1. Contra Costa Environmental Health Services
2. Draft LAFCO Resolution 22-03

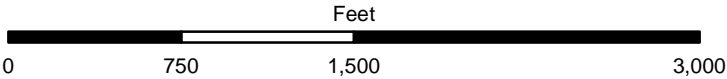
c: Steve Thomas, Landowner/Applicant
 Jack Flynn, Customer Services Manager, EBMUD
 Timothy Ellsworth, R.E.H.S., CCEH

LAFCO No. 22-03 East Bay Municipal Utility District (EBMUD) SOI Amendment - Thomas Property



Map created 06/21/2022
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.



SPHERE OF INFLUENCE RESOLUTION NO. 22-03**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND EXPANDING THE SPHERE OF INFLUENCE
OF EAST BAY MUNICIPAL UTILITY DISTRICT (4949 HAPPY VALLEY ROAD – LAFAYETTE)**

WHEREAS, a proposal to expand the sphere of influence (SOI) of the East Bay Municipal Utility District (EBMUD) and corresponding annexation proposal were filed with the Contra Costa Local Agency Formation Commission (LAFCO) pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56425); and

WHEREAS, the LAFCO Executive Officer gave notice of the Commission's consideration of the proposed SOI expansion at the time and in the manner required by law; and

WHEREAS, 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, SOIs and applicable General and Specific Plans, and all testimony, correspondence and exhibits received during the public hearing, all of which are included herein by reference;

NOW, THEREFORE, the Contra Costa LAFCO DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. The matter before the Commission is the proposed expansion of EBMUD's SOI by 35± acres (two parcels), located at 4949 Happy Valley Road in unincorporated Lafayette.
2. The Commission finds that the EBMUD SOI expansion is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15303(a) and (d).
3. The SOI of EBMUD is hereby expanded to include the area as shown on the attached map (Exhibit A).
4. In conjunction with the SOI expansion, the Commission has considered the criteria set forth in Government Code §56425 and determines as follows:

The present and planned uses in the area, including agricultural and open space lands – The project site includes two parcels, one of which contains a single-family home and agricultural uses including a vineyard, horses, livestock, and barn; the other parcel is currently vacant. The landowner plans to construct one single-family home on the vacant parcel.

The County General Plan (GP) designation for the subject parcels is *Agricultural Land* (AL) and the zoning designation is *General Agricultural* five acre minimum (A-2). The parcels are outside the Contra Costa County Urban Limit Line (ULL). The subject parcels are not under an active Williamson Act contract. There are no lands under Williamson Act contracts near or around the subject parcels.

One of the subject parcels meets the LAFCO definition of “agricultural land” (GC §56016) as the parcel contains a vineyard used for commercial purposes.

The present and probable need for public facilities and services in the area – The subject parcels contain one existing single-family home and one proposed single-family home. The existing single-family home is served by an on-site septic system and well. The well water, as determined by Contra Costa Environmental Health Services, contains high levels of boron. Municipal water service from EBMUD is needed to support the existing and proposed single family homes. A corresponding annexation application was also submitted to LAFCO to expand EBMUD's service boundary.

The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide – 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 332± square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.4

million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 225± square mile service area, serving an estimated 473,000 residents per the 2020 Urban Water Management Plan (UWMP). EBMUD has adequate capacity to serve the project from the District's Danville Pressure Zone, which serves an elevation range of 250 feet to 450 feet.

The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency – The subject parcels are located in unincorporated Lafayette and are surrounded by surrounded by vacant land/open space to the north, south, east, and west. The subject parcels will benefit from municipal water service provided by EBMUD.

Nature, location, extent, functions & classes of services to be provided – EBMUD water supply system collects, transmits, treats, and distributes high-quality water to an area of 332± square miles in Contra Costa and Alameda counties. EBMUD provide wastewater treatment to 88 square miles in Contra Costa and Alameda counties. EBMUD provides potable water to over 1.4 million customers within the two-county service area, and wastewater treatment to over 740,000 residential, business and industrial customers. In Contra Costa County, water service is provided to Crockett, Rodeo, Hercules, Pinole, Richmond, El Sobrante, El Cerrito, San Pablo, Orinda, Moraga, Lafayette, Pleasant Hill, Walnut Creek, Alamo, Danville, Diablo, Blackhawk and San Ramon; and wastewater services are provided to El Cerrito, parts of Richmond, and Kensington. EBMUD is expected to provide water service to the subject area dependent on obtaining formal approval from the United States Bureau of Reclamation of the inclusion of the area into EBMUD's Central Valley Project Contractor Service Area.

* * * * *

PASSED AND ADOPTED THIS 14th day of September 2022, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROB SCHRODER, 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 above.

Dated: September 14, 2022

Lou Ann Texeira, Executive Officer

ANNA M. ROTH, RN, MS, MPH
HEALTH SERVICES DIRECTOR
RANDALL L. SAWYER
DEPUTY HEALTH DIRECTOR
JOCELYN STORTZ, MS, REHS
ENVIRONMENTAL HEALTH DIRECTOR



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April 28, 2022

Contra Costa County
Local Agency Formation Commission
40 Muir Road, 1st Floor
Martinez, CA 94553

**Subject: Property Owner Request for Water Service
4949 Happy Valley Rd, Lafayette, CA
APN: 365-230-037**

Dear Members of the Commission:

Contra Costa Environmental Health (CCEH) has reviewed water quality results for the well located at the subject property.

The results report indicated a boron level of 5,900 micrograms per liter ($\mu\text{g/L}$), which exceeds the California State Notification Level of 1,000 $\mu\text{g/L}$.

Notification levels are non-regulatory health-based advisory levels established by the State Water Resources Control Board (SWRCB) for chemicals for which maximum contaminant levels (MCL) have not been established. The US EPA has also established a Health Advisory Level for non-cancer health effects from boron in drinking water of 5,000 $\mu\text{g/L}$. The US EPA and SWRCB have not established an MCL for boron.

CCEH has no objection to the East Bay Municipal Utility District (EBMUD) supplying water to the subject property.

If you have any questions, please contact me at (925) 383-6831 or by email at timothy.ellsworth@cchealth.org.

Sincerely,

Timothy Ellsworth, R.E.H.S.
Environmental Health Specialist II
Land Use Program

cc: Jocelyn Stortz, Director of Environmental Health
John Wiggins, Supervising Environmental Health Specialist
Steven Thomas, Property Owner

TE:lj

