

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

November 9, 2022
Agenda Item 6

November 9, 2022 (Agenda)

LAFCO 22-04 Annexation to East Bay Municipal Utility District (EBMUD) – 4949 Happy Valley Road (unincorporated Lafayette)

APPLICANT Steve Thomas - Landowner/Applicant

SYNOPSIS The applicant proposes to annex two parcels (APNs 365-230-037 and -038) to EBMUD. The parcels total 35± acres and are located at 4949 Happy Valley Road in unincorporated Lafayette - see attached map (Exhibit A).

The purpose of the proposal is to allow for the extension of municipal water service to serve one existing single-family home, along with a personal vineyard and livestock. There is also the potential to construct a second single-family home on the adjacent parcel.

BACKGROUND

In May 2022, the landowner applied to Contra Costa LAFCO to expand EBMUD’s sphere of influence (SOI) and annex the subject property to EBMUD. Included with the application was a request that Alameda LAFCO transfer jurisdiction to Contra Costa LAFCO to process these applications. Alameda is the principal county for LAFCO proceedings related to EBMUD matters. The “principal county” for LAFCO proceedings is the county having the greatest portion of the assessed value, as shown on the last equalized assessment roll, of all taxable property within the district. [Government Code (GC) §56066].

Contra Costa LAFCO submitted a request to Alameda LAFCO to transfer jurisdiction to Contra Costa LAFCO, and on July 14, 2022, Alameda LAFCO approved the request.

On September 14, 2022, Contra Costa LAFCO approved expanding EBMUD’s SOI to include the two subject parcels. On November 9, 2022, the Commission will be asked to approve the corresponding annexation as described below.

DISCUSSION

Government Code (GC) §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 parcel proposed for annexation is within EBMUD’s SOI as approved by the Commission on September 14, 2022. EBMUD staff does not oppose the proposed annexation.

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

One of the parcels includes a single-family home, vineyard, and livestock; the other parcel is currently vacant. The County General Plan 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.

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

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.

4. Topography, Natural Features and Drainage Basins:

The subject parcel is located in unincorporated Lafayette. The topography within and around the subject parcels is described as “hilly with valleys.” The subject properties are near Briones Reservoir.

5. Population:

The estimated population increase is approximately 2.87 persons per household (owner) and 2.37 persons per household (renter) based on the US Census Bureau, American Community Survey 5-year estimates, 2016-2020.

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:

In conjunction with an annexation application, the applicant must submit a plan for providing services within the affected territory (Gov. Code §56653). The plan for services is available in the LAFCO office at 40 Muir Road, Martinez. The plan includes all of the following information and additional information required by the Commission or the LAFCO 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 annexation area is currently within the service boundaries of various local agencies including, but not limited to, Contra Costa County, Contra Costa Fire County Protection District, various school districts, and other local and regional agencies.

The proposal before the Commission is annexation of two parcels to EBMUD to support an existing single-family home, a vineyard, livestock, and one proposed single-family home on the second parcel.

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 includes annexation to EBMUD for the provision of water services. 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 522,000 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water 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 364,037 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, located along the Sacramento River between Sacramento and the town of Freeport, 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 the Freeport Regional Water Facility to augment EBMUD's 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 must seek approval from the USBR for inclusion. Furthermore, the District may be required to obtain approval to update the District's Place-in-Use with the California Water Resources Control Board (SWRCB). To initiate the review and approval process with the USBR and SWRCB, the landowner must enter into an agreement with EBMUD to reimburse the District for all fees levied by these agencies.

The landowner reports that the water quality on the property has a high level of boron. Contra Costa Environmental Health (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).

The estimated water demand for the subject area is currently unknown and would need to be provided by EBMUD as part of the completed application to EBMUD to determine if the property can feasibly be served. The property owner provided an estimated range of approximately 3,000 to 5,000 gallons per day. Specific water infrastructure will be determined when the landowner applies to EBMUD for service. EBMUD staff provided a will serve letter indicating that municipal water service will be available following annexation (Attachment 2).

9. Assessed Value, Tax Rates, and Indebtedness:

The annexation area is within tax rate area 73015. The assessed value for the annexation area is \$2,326,896 (2022-23 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:

The proposed annexation of the subject parcel is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §§15303(a) and (d) as a utility extension to serve one to three single-family residences.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 12 registered voters on the subject property; thus, the area proposed for annexation is, by statute, considered uninhabited. The property owner/applicant consents to the proposed annexation. Therefore, 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 boundary of the subject parcel were sent notice of the LAFCO hearing.

12. Boundaries and Lines of Assessment:

The property proposed for annexation is within EBMUD's SOI as approved by the Commission on September 14, 2022. A map and legal description to implement the proposed annexation were received and are subject to final approval 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 State legislation, 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 Department of Conservation and Development, the annexation area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties:

As of this writing, no comments were received from other affected agencies or parties.

16. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to GC §65080 [GC §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 sub regional basis (GC §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, the

Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), in July 2013, adopted Plan Bay Area as the “*Regional Transportation Plan and Sustainable Communities Strategy*” for the San Francisco Bay Area through 2040. *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 plan sufficient housing for the region’s projected population over the next 25 years.

In October 2021, ABAG and MTC adopted *Plan Bay Area 2050*, which serves as the Bay Area's official long-range plan for housing, economic development, transportation, and environmental resilience for the next four years. While prior iterations of *Plan Bay Area* focused on transportation and housing, the 2050 plan expands the scope introducing strategies for long-term economic development and environmental resilience, while meeting federal and state requirements. This proposal is consistent with *Plan Bay Area*.

ALTERNATIVES FOR COMMISSION ACTION

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

RECOMMENDED ACTION: Approve Option 1

Option 1 Approve the annexation as proposed.

- A. Find that the project is exempt from CEQA pursuant to §§15303(a) and (d) of the CEQA Guidelines.
- B. Adopt this report, approve LAFCO Resolution No. 22-04 (Attachment 3), and approve the proposal, to be known as *Annexation to East Bay Municipal Utility District (EBMUD) – 4949 Happy Valley Road - (unincorporated Lafayette)* subject to the terms and conditions in Resolution No. 22-04.

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: Approve Option 1

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

Attachments

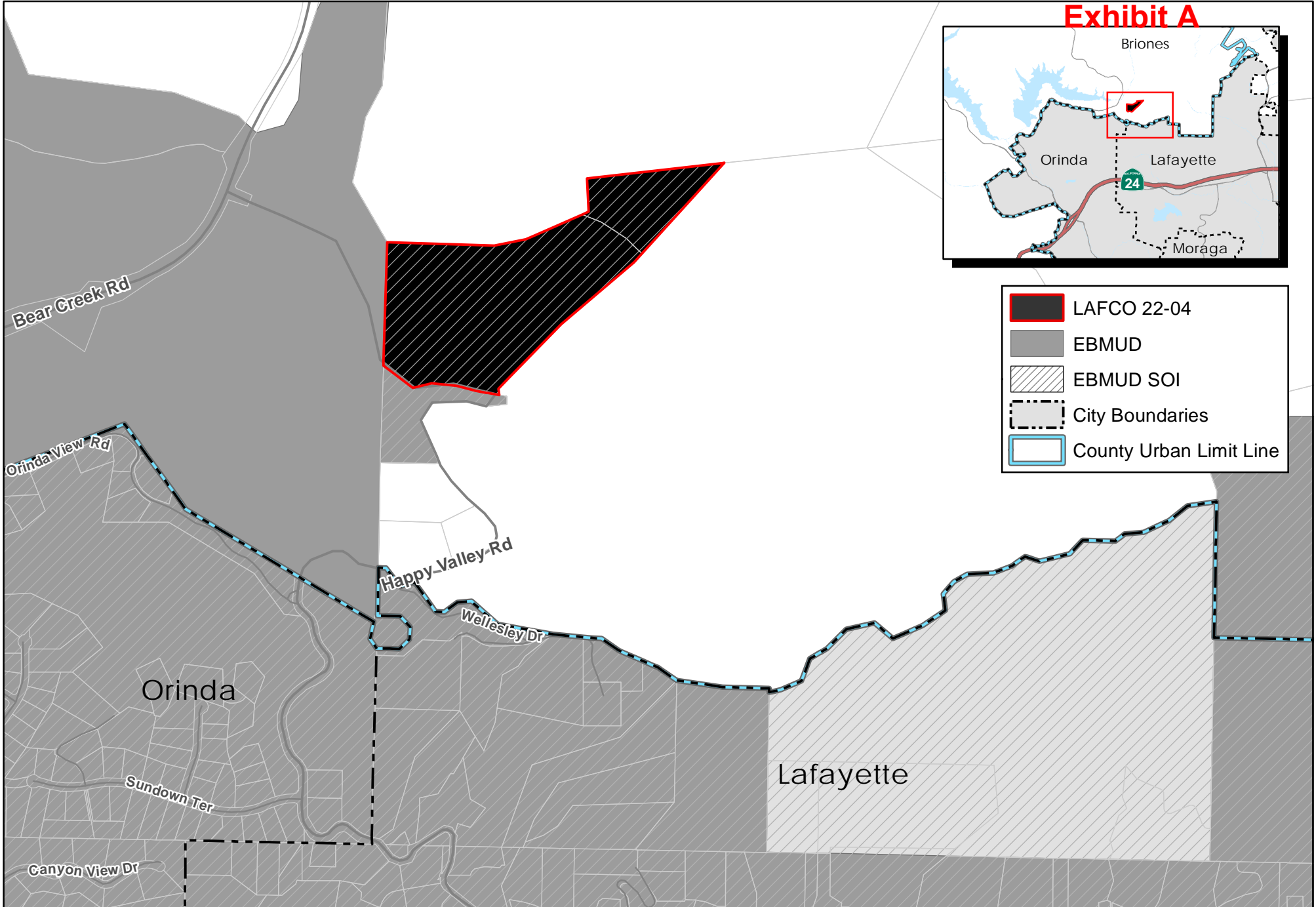
1. Letter from Contra Costa Environmental Health
2. EBMUD Will Serve Letter
3. Draft LAFCO Resolution 22-04






Exhibit

- A. Annexation Map – 49494 Happy Valley Road
- c: Steve Thomas, Landowner/Applicant
Jack Flynn, EBMUD

LAFCO No. 22-04 Annexation to East Bay Municipal Utility District (EBMUD) - Thomas Property

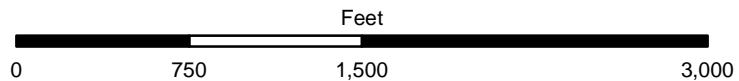
Exhibit A



	LAFCO 22-04
	EBMUD
	EBMUD SOI
	City Boundaries
	County Urban Limit Line

Map created 10/12/2022
 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.



RESOLUTION NO. 22-04

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD)
4949 HAPPY VALLEY ROAD - LAFAYETTE**

WHEREAS, the above-referenced proposal was filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (§56000 et seq. of the Gov. Code); and

WHEREAS, the Executive Officer 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 gave notice of the Commission's consideration of the proposal; and

WHEREAS, the Executive officer reviewed available information and prepared a report including her recommendations therein, and the report and related information were presented to and considered by the Commission; and

WHEREAS, at a public hearing held on November 9, 2022, 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 recommendations, the environmental document and determinations, applicable General and Specific Plans, consistency with the sphere of influence, and related factors and information including those contained in Gov. Code §56668; and

WHEREAS, information satisfactory to the Commission was presented that no affected landowners/registered voters within the subject area object to the proposal; and

WHEREAS, the applicant delivered to LAFCO an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions to challenge the annexation; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interest of the affected area and the 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 Commission finds that the annexation to EBMUD is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15300(a) and (d) as a utility extension to serve one to three single-family residences.

2. Annexation to East Bay Municipal Utility District of two parcels (APNs 365-230-037 and -038) totaling 35± acres located at 4949 Happy Valley Road in unincorporated Lafayette is approved.
3. The subject proposal is assigned the distinctive short-form designation:
ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT – 4949 HAPPY VALLEY ROAD – UNINCORPORATED LAFAYETTE
4. The boundary of the subject area is found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. The subject area is liable for any authorized or existing taxes, charges, and assessments currently being levies on comparable properties within the annexing agency.
6. The subject area is uninhabited.
7. No affected landowners or registered voters within the subject area object to the proposal, and the conducting authority (protest) proceedings are hereby waived.
8. Water service is conditioned upon EBMUD receiving acceptance for inclusion of the annexed area from the United States Bureau of Reclamation (USBR), pursuant to the requirements in EBMUD’s contract with USBR for supplemental water supply from the Central Valley Project.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

PASSED AND ADOPTED THIS 9th day of November 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.

Dated: November 9, 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



CONTRA COSTA
ENVIRONMENTAL HEALTH
2120 Diamond Boulevard, Suite 100
Concord, California 94520
Ph (925) 608-5500
Fax (925) 608-5502
www.cchealth.org/eh/

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 (µg/L), which exceeds the California State Notification Level of 1,000 µg/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 µg/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





August 16, 2021

Via Electronic Mail

stthomas@tiogaconstruction.com

To: Steve Thomas

Re: 4949 Happy Valley Road, Lafayette – Will Serve Letter

Dear Steve Thomas:

Water service to the subject property will be available contingent upon evidence of annexation to the East Bay Municipal Utility District (District) and compliance with the District's regulations governing water service and Schedule of Rates and Charges, which may include water main extensions and/or off-site pipeline improvements at the applicant's expense. The District's Regulations and Schedule of Rates and Charges can be found at www.ebmud.com. Since the property to be served is outside the District's service area, U.S. Bureau of Reclamation (USBR) approval will be required for inclusion to the District's Central Valley Project Contractor Service Area. Furthermore, an update to the District's Place-in-Use with the California State Water Resources Control Board (SWRCB) may also be necessary. At the applicant's expense, the District will seek approval from the USBR and SWRCB once the annexation proposal is approved by LAFCO.

If you have any questions, please contact our office at (510) 287-1008.

Sincerely,

A handwritten signature in cursive script that reads 'Courtney Carlson'.

Courtney Carlson
Senior Administrative Clerk
New Business Office