

From: Paul Rohrer <prohrer@loeb.com>
Sent: Wednesday, May 03, 2023 4:49 PM
To: natasha@sblafco.org
Subject: LAFCO Commission Hearing, May 4, 2023; Business Item 2(b) and 2(d)(iii)

Dear Honorable Commissioners:

I write with reference to Business Items 2(b) and 2(d)(i) (collectively “**Business Item 2**”) on your May 4, 2023 agenda and the interface of that item with Government Code Sections 56425(e)(1) and (2) and Government Code Section 56430, with respect to the Los Olivos Community Services District (“**LOCSD**”).

As you are likely aware, state law requires that you be able to make certain findings with regard to the amendment or affirmation of a district’s Sphere of Influence. As you are further aware, Business Item 2 constitutes such an update for 33 districts, one of which is the LOCSD.

Because of the material inaccuracies included in the report from the LOCSD (pages 689 through 709 of your Commission package, the “**LOCSD Report**”) the Commission does not have a rational basis on which to make the required findings under Government Code Sections 56425(e)(1) and (2) and Government Code Section 56430, and adoption of the motion under Business Item 2 would be arbitrary and capricious. Although there are several material inaccuracies, I will focus narrowly on the issue of the location for the contemplated sewage treatment plant to be located on land outside of the LOCSD’s Sphere of Influence.

In August of 2021, LOCSD selected a site commonly referred to as the “Little Creak” site outside of its district boundaries and its Sphere of Influence as its preferred site. Despite that board action, which has never been repealed, the LOCSD has since argued that it is not the preferred site, but perhaps one of several preferred sites. But, why quibble, inarguably, it is a designated study site outside of the boundaries of the current Sphere of Influence.

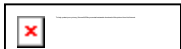
The Little Creak site is agricultural in usage and designated as protected agricultural land by County planning. State law requires special consideration before such agricultural land may be included in LOCSD’s Sphere of Influence and before a use (such as a sewage treatment plant) that does not comply with the current general plan may be included the Sphere of Influence. The LOCSD appears to attempt to address this issue, by saying that they have no plan to expand the Sphere of Influence, but such a claim is belied (i.e., demonstrated to be false) by the LOCSD’s August 2021 adoption of the extra-jurisdictional Little Creak site as the district’s preferred site. Further, even if the Board action designating the Little Creak site as the preferred site had been superseded and withdrawn (which it hasn’t), the Little Creak site is still shown as potential site on all of the LOCSD lists of sites and as the preferred site under the rating matrix that the LOCSD asserts in the LOCSD Report was selected by Stantec as the highest rated site on Stantec’s matrix. Note, the LOCSD does not deny the existence of the rating matrix showing Little Creak as the preferred site, but rather cites to it in the LOCSD Report.

Based on the foregoing, at a minimum, LOCSD must remove the Little Creak site from its list of potential sites for a sewage treatment plant or this Commission must make the required finding to include agricultural land zoned by the County for agricultural use (with explicit additional aesthetic based design review) in the potentially enlarged LOCSD Sphere of Influence, and without such revisions, LAFCO’s adoption of the Business Item 2 motion is not legally supportable and subject to judicial challenge.

Consequently, I respectfully request that this Commission revise Business Item 2 to exclude the LOCSD from the 33 approved districts (so that they may be adopted) until such time as the problems described above are satisfactorily resolved by LOCSD for this Commission’s review.

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