

LAFCO

Santa Barbara Local Agency Formation Commission

105 East Anapamu Street ♦ Santa Barbara CA 93101

805/568-3391 ♦ FAX 805/647-7647

www.sblafco.org ♦ lafco@sblafco.org

March 3, 2011 (Agenda)

Local Agency Formation Commission

105 East Anapamu Street, Room 403

Santa Barbara CA 93101

Edgewood Reorganization: Annexation to the Carpinteria Valley Water District/Detachment from the Montecito Water District

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission either:

1. Deny the proposed reorganization without prejudice, allowing it to be resubmitted at any time with a waiver of processing fees, or
2. Continue the matter pending the outcome of current litigation concerning agricultural water rates for property within the reorganization area.

DISCUSSION

Introduction and Background

This proposal to detach territory from the Montecito Water District and concurrently annex it to the Carpinteria Valley Water District comprises about 155 acres located east and west of Lambert Road, north of Via Real and Highway 101. There are nine parcels and eight different owners; the parcels range in size from 9.67 acres to 51.87 acres.

We understand the idea of transferring these parcels from the Montecito District to the Carpinteria District initially had support of both Districts. It was seen as a way of reducing the water demand on the Montecito District which has a limited long term water supply in favor of the Carpinteria District which has a larger allotment and is interested in being able to sell more of its water than it does currently.

Commissioners: Janet Wolf, Chair ♦ Lupe Alvarez ♦ Doreen Farr ♦ Jeff Moorhouse ♦ Bob Orach ♦ Cathy Schlottmann
Bob Short ♦ Joe Armendariz ♦ John Fox ♦ Steve Lavagnino ♦ Roger Welt **Executive Officer:** Bob Braitman

AGENDA ITEM NO. 8

An email dated July 27, 2009 from the General Manager of the Montecito District to the LAFCO Executive Officer states:

It looks like Charles and I have received the green light from our respective boards to proceed with the proposed reorganization. Our first order of business is to contact you and understand what you will need to begin processing this change.

An attached letter dated July 17, 2009 from the General Manager of the Montecito District to the General Manager of the Carpinteria Valley Water District states:

The proposed boundary reorganization with the Carpinteria Valley Water District (CVWD) includes the lower Toro Canyon area and provides a non-traditional concept to further reduce demand on MWD's potable water supplies by permanently transferring a portion of the MWD service area (and its customers) to CVWD.

Recent meeting between MWD and CVWD Committees and clarification of the boundary change process from Bob Braitman, executive director (sic) of the Local Agency Formation Commission (LAFCO) have now shown that this reorganization proposal has merit and is a viable action that can be accomplished between our two Districts.

Partly in reliance on this letter, the property owners submitted an application to transfer these parcels from one District to the other. Our office issued a certificate on August 16, 2010 stating the petition, signed by six of the eight landowners is sufficient.

The petitioners' application presents the following justification for the change:

The purpose of the reorganization is to place agricultural properties within a water district whose rate structure recognizes and accommodates agricultural uses. All of the petitioners all own large parcels engaged in agricultural pursuits. The Carpinteria Valley Water District is oriented towards agricultural uses. The reorganization would benefit the affected property owners and both the Carpinteria Valley Water District by assisting in having realistic water rates and reduce the need for the Montecito Water District to have to purchase expensive supplemental water to meet the needs of water users within the District.

It is proposed that LAFCO amend the Spheres of Influence of each affected District and approve the proposed reorganization to annex territory to the Carpinteria Valley Water District and concurrently detach that territory from the Montecito Water District.

On August 18, 2010 the Board of Directors of the Carpinteria Valley Water District adopted enclosed Resolution No. 911 stating the District “. . . is generally supportive of the reorganization but also concerned it may be held liable for the expense of replacing the existing waterline and appurtenant facilities constructed in 1927 adjacent to Lambert Road . . .” It proposes two specific conditions for inclusion in any LAFCO resolution approving the reorganization.

On October 21, 2010 the Montecito Water District submitted the enclosed letter addressed to LAFCO which analyzes the proposed reorganization and concludes the District “. . . respectfully asks that your Commission deny the Edgewood Reorganization.”

Possible Rescission of Carpinteria Water District Resolution No. 911

The Carpinteria Water District is giving consideration to rescinding its resolution supporting the transfer of territory. Resolution No. 917 rescinding Resolution No. 911 and stating the District “no longer supports the proposed Edgewood Reorganization” was presented to the Board for discussion at its meeting on February 16.

According to District General Manager Charles Hamilton, no opposition was voiced at that meeting and the matter will be acted on by the Board at its meeting on February 23. At the March 3 Commission meeting the staff will report on the outcome of that meeting.

Pending Legal Challenge to Montecito Water District Rates

Litigation has been filed challenging the water rates charged by the Montecito Water District within the proposed reorganization. (Patrick M. Nesbitt et al. v. Montecito Water District Santa Barbara Superior Court case No. 1371221) LAFCO is not named in the lawsuit.

We understand this litigation relates to District water rates for types of land uses within the area that is proposed to be transferred to the Carpinteria District, specifically agricultural rates.

The Commission may wish to continue the proposed reorganization pending a decision on this litigation since the outcome may influence the positions which have been taken by the affected water districts with respect to the proposed transfer of territory

Alternative Commission Actions

Alternatives available to the Commission include the following.

Option 1 – Deny the proposed reorganization without prejudice, allowing it to be resubmitted at any time with a waiver of already paid processing fees

Option 2 - Continue the matter pending a decision on current litigation concerning agricultural water rates for properties within the reorganization area.

Option 3 – Direct staff to prepare a report and recommendation on the proposed reorganization as submitted and set the matter for hearing at a future Commission meeting.

Option 4 – Direct the staff to continue the matter to a future meeting and specify the additional information is needed for the Commission to fully consider the matter.

RECOMMENDED ACTION:

Approve OPTION 1: Deny the proposal without prejudice.

Please contact the LAFCO office if you have any questions.

Very truly yours,



BOB BRAITMAN
Executive Officer

Attachments:

Map of proposed Edgewood Reorganization
Carpinteria Valley Water District letter (August 20, 2010) with District Resolution No. 911
Montecito Water District letter (October 21, 2010)
Proposed Carpinteria Valley Water District Resolution No. 917



Carpinteria Valley Water District

1301 Santa Ynez Avenue • Carpinteria, CA 93013
Phone (805) 684-2816 • Fax (805) 684-3170

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GENERAL MANAGER

Charles B. Hamilton

August 20, 2010

Bob Braitman
Executive Officer
Santa Barbara LAFCO
105 East Anapamu Street
Santa Barbara, CA 93101

Re: Edgewood Reorganization (LAFCO 10-2)

Dear Mr.  Braitman,

Please find the enclosed Resolution No. 911 Relating to the Proposed Edgewood Reorganization adopted by the Carpinteria Valley Water District Board of Directors at their regularly scheduled Board meeting held on August 18, 2010.

From your letter dated August 13, 2010 to Mr. Patrick Nesbitt copied to me I understand that November 4, 2010 is the earliest date that the Edgewood proposal can be heard by LAFCO. Please let me know as this date approaches if you require any additional information from this District, and thank you very much for your attention to this important matter.

Sincerely,



Charles B. Hamilton
General Manager/ Secretary

CC: Board of Directors, Carpinteria Valley Water District
Tom Mosby, General Manager, Montecito Water District
Patrick Nesbitt
Frank Michaelson for Pacifica Graduate School
Bill Meeker

Braitman082010

RESOLUTION NUMBER 911

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE CARPINTERIA VALLEY WATER DISTRICT
RELATING TO THE PROPOSED EDGEWOOD REORGANIZATION**

WHEREAS, On June 22, 2010, the Santa Barbara Local Agency Formation Commission (LAFCO) notified Carpinteria Valley Water District ("CVWD") and others that it has received application materials from Edgewood area landowners ("landowners") within Montecito Water District ("MWD") to annex to the CVWD and detach from MWD; and

WHEREAS, CVWD has sufficient water to serve the Edgewood area landowners; and

WHEREAS, CVWD's agricultural rates include animal husbandry; and

WHEREAS, CVWD is generally supportive of the reorganization but also concerned that it may be held liable for the expense of replacing the existing waterline and appurtenant facilities constructed in 1927 adjacent to Lambert Road; and

WHEREAS, the landowners' petition contains a proposed condition that MWD deposit \$450,000 towards replacement of the waterline which CVWD supports; and

WHEREAS, if MWD does not make the deposit; or, if the deposit is not sufficient to cover the cost of replacement of the waterline, CVWD needs assurances that the landowners will assume these costs.

NOW, THEREFORE, BE IT RESOLVED, in order for CVWD to be fully supportive of the petition for reorganization two conditions should be included in LAFCO's resolution of approval as follows:

- 1) "In the event MWD does not deposit \$450,000 in the period of time leading up to recordation of the proposed reorganization, the landowners shall agree to form and fund an assessment district acceptable to CVWD for the purpose of replacing and funding CVWD capital costs associated with the waterline and related appurtenances, prior to recordation of the proposed reorganization;
- 2) "If the amount deposited from MWD is deemed by CVWD to be insufficient prior to the time that recordation is ready to proceed, the landowners shall also deposit with CVWD the difference between the deposit from MWD and the projected capital costs; or, landowners shall agree to form and fund an assessment district acceptable to CVWD for the purpose of replacing and funding CVWD capital costs of the waterline and related appurtenances in excess of the amount deposited by CVWD, prior to recordation of the proposed reorganization."


PASSED AND ADOPTED by the Governing Board of the Carpinteria Valley Water District on the 18th day of August 2010, by the following vote:

AYES: LEMERE, VAN WINGERDEN, ROBERTS, DRAIN
NAYES: LIEBERKNECHT
ABSENT: NONE
ABSTAIN: NONE

APPROVED:


Frederick Lemere, President

ATTEST:


Charles B. Hamilton, Secretary



October 21, 2010

Mr. Robert Short, Chair
Santa Barbara LAFCO
105 East Anapamu Street
Santa Barbara CA 93101

Re: LAFCO 10-2 Proposed Edgewood Reorganization

Dear Mr. Short and Commissioners:

On November 4, 2010, your Commission is scheduled to consider the petition of Patrick Nesbitt and eight other owners of property in the Edgewood Ranch area for a reorganization that would detach their properties from the service area of Montecito Water District (“MWD”) and attach them to the service area of Carpinteria Valley Water District (“CVWD”). The sole purpose of this proposed water service area boundary change is to permit a few individuals to receive water at CVWD’s rates, which they find more attractive.

CVWD is willing to accept the nine Edgewood properties into its service area contingent upon the replacement of the existing MWD infrastructure to CVWD’s construction standards at someone else’s expense. The property owners have proposed that LAFCO should require MWD to pay \$450,000 to upgrade its infrastructure so that CVWD will accept their properties into its service area. MWD, for its part, has made no commitment to fund the infrastructure upgrades and, by this letter, advises LAFCO that it will not agree to be responsible for such funding. Moreover, MWD has reviewed applicable law and has concluded that LAFCO has no authority to impose such a requirement on MWD as the detaching agency.

The proposed service boundary reorganization has been initiated by nine property owners – not by the affected districts – and it cannot be implemented without major, costly changes in infrastructure that will be detrimental to MWD. Specifically:

- 1) MWD serves the subject nine properties, totaling about 154 acres, through its Lambert Road water main, which is a looped main, providing two sources of water for the for the lower Toro Canyon area. This portion of the District’s service area includes the one-million-gallon Toro Canyon Reservoir and the MWD-constructed Lambert Road Cachuma Project South Coast Conduit turn out serving about 130 parcels of land. The proposal would essentially isolate the Lambert Road pipeline for nine property owners causing the removal of a water distribution system looped water

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Thomas R. Mosby

583 San Ysidro Road
Santa Barbara, CA
93108-2124

Ph 805.969.9271
Fax 805.969.7261

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supply and built-in service area water supply redundancy, causing adverse effects to water quality and public health and safety.

- 2) MWD has no capital funds reserved to pay for infrastructure changes in the Lambert Road area nor is the Lambert Road water main currently scheduled for replacement. MWD continues to perform upgrades and maintain the water system serving this area, with the most recent improvements performed in 1998. Nearly 30% of MWD's 110 miles of pipelines were constructed in the late 1920s and, because of MWD's aggressive distribution system maintenance and repair program; these pipelines continue to provide reliable service to the District and its customers.
- 3) As a recipient of Cachuma and State Water supplies, MWD has predicated its entitlement of 3,000 acre-feet of State Water on anticipated water demand. The Edgewood properties account for nearly 4% of the MWD's State Water entitlement. Revenues generated in water sales to the Edgewood properties are used to offset MWD's 10% participation and financial commitment in the \$600,000,000 State Water Project. Detachment of the area would result in a loss of customers and therefore a loss of revenue to MWD as well as a reduction in receipts for its water availability charge and its meter service charges, causing a burden to other MWD customers.
- 4) The proposed \$450,000 cost for physical changes to MWD's distribution system is merely an estimate. It is not supported by a licensed contractor's proposal/bid for a water distribution system change designed by a registered civil engineer, incorporating the construction standards of the two districts affected and any conditions imposed by the California Department of Public Health (CDPH). This estimate does not take into consideration additional costs to MWD of consequential adjustments to its distribution system.

In summary, the proposed Edgewood reorganization is proceeding to hearing as nothing more than a concept. The proposal has not defined and identified all infrastructure changes and impacts associated with the proposed water system changes, incorporating the standards of both districts and the water quality parameters established by the CDPH, nor has it addressed reasonably foreseeable adverse environmental, financial and health and safety impacts. Without this data, the fundamental feasibility of the project cannot be assessed. The petitioners' plan for the provision of services to their properties is merely a presumption that others will accommodate their interests at no cost to them. Unless LAFCO is willing to require the Edgewood owners to take full responsibility for the costs of meeting CVWD's requirements and also for the costs of modifications to, and restoration of, the MWD distribution system, this proposal lacks sufficient financing of necessary infrastructure improvements. Under these circumstances, the petition and proposal cannot be approved.

I. Factual and Procedural Background

On June 17, 2010, Patrick Nesbitt, acting on behalf of nine property owners in the Edgewood Ranch area, submitted a petition and a Proposal Justification Questionnaire to Santa Barbara LAFCO for detachment from MWD and annexation to CVWD. Mr. Nesbitt obtained

the signatures of only five other owners. Of the nine properties affected by the proposed reorganization, MWD currently designates three as agricultural, while one is institutional and the remaining five are large residential estates. The five estate owners anticipate that the proposed reorganization will allow them to receive water at CVWD's agricultural rate.

Since neither district was an applicant, the petitioners attached a letter dated June 4, 2010 from Robert McDonald, District Engineer for CVWD, explaining that CVWD has "the ability to reliably deliver potable water and provide water for fire suppression to all of the nine parcels using the existing water infrastructure *excepting the approximately 3100 lineal feet of distribution system including appurtenances constructed circa 1926. These facilities will need to be replaced with acceptable facilities for CVWD to reliably deliver potable water and fire water supply to these parcels.*" (Emphasis added.) The presumption in both CVWD's letter and the petitioners' application was that if the Edgewood properties were carved out of MWD's service area, then CVWD could simply take over the part of MWD's distribution system serving that area, except for the fact that CVWD rejected use of the Lambert Road water line that actually serves the annexation area.

The petitioners' self-serving solution to the absence of infrastructure that CVWD would accept was to propose that LAFCO include a condition of approval requiring MWD – the non-applicant agency from which the area would be detached – to pay the actual costs of upgrading the facilities to CVWD's specifications and to put \$450,000 on deposit for that purpose immediately upon recordation of the approved reorganization. Nowhere in the Proposal Justification Questionnaire was there any consideration of the fact that MWD is not a proponent of the detachment. Nowhere was there an acknowledgment that MWD has capably provided water service to this area since 1926 and continues to do so with distribution system improvements to this area completed as recently as 1998. Nowhere did the petitioners consider the consequential impacts on the MWD distribution system. Nowhere did the petitioners consider the additional costs to MWD associated with modifications to its distribution system that would be required if the Lambert Road pipeline were severed.

The proposal's complete failure to address the practical, financial and, most important, adverse health and safety aspects of the reorganization proposal should have resulted in a determination that the petition is incomplete. Instead, on August 13, 2010, LAFCO's Executive Officer issued a Certificate of Filing indicating that the application is complete and ready for hearing by the Commission.

More recently, on August 18, 2010, CVWD's Board of Directors approved its Resolution 911 Relating to the Proposed Edgewood Reorganization. In this Resolution, CVWD reiterates the sufficiency of its water supply to serve the Edgewood area and stresses its concern that "it may be held liable for the expense of replacing the existing waterline and appurtenant facilities constructed in 1926 adjacent to Lambert Road." CVWD resolves that its full support of the petition is contingent on the inclusion of two conditions of approval, each of which would require the landowners "to form and fund an assessment district acceptable to CVWD for the purpose of replacing and funding CVWD's capital costs associated with the waterline and related appurtenances, prior to the recordation of the proposed reorganization" in

the event that either MWD does not deposit \$450,000 before recordation of the proposed reorganization or CVWD deems the amount deposited insufficient for its purposes.

II. The Proposed Reorganization Does Not Encourage Orderly Development

In providing for the creation and operation of LAFCOs, the Legislature declared that “it is the policy of the state to encourage orderly growth and development” and that “the logical formation and determination of local agency boundaries is an important factor in promoting orderly development.” Accordingly, it is LAFCO’s responsibility to give preference “to accommodating additional growth within, or through the expansion of, the boundaries of local agencies that can best accommodate and provide necessary governmental services” (Gov’t Code section 56001.)

The Edgewood reorganization proposal does not encourage the logical expansion of any agency’s boundaries. In fact, the boundary adjustments it proposes have nothing to do with accommodation of new growth or the comparative capabilities of the two agencies. MWD has provided water service to Lambert Road and the Edgewood properties since the mid-1920s. To provide water and fire protection to Lambert Road, the lower Toro Canyon area and Padaro Lane, MWD has developed a water distribution system that includes the one-million-gallon Toro Canyon Reservoir. The Edgewood area is an integral part of MWD’s distribution system, and severing the pipeline serving this area would have serious consequences for the remaining water system and MWD’s customers served above and below the proposed distribution system change.

CVWD’s consistent position has been that it is willing to accept the annexation and supply water to the area only if someone else pays for infrastructure that meets its standards. The only difference between its June position (McDonald letter) and its August action (Resolution 911) is that, while it continues to require the replacement of infrastructure and to makes its acceptance of the annexation contingent on another source of funding for the infrastructure upgrades, it now has added the property owners to the potential funding sources.

In short, the proposed Edgewood reorganization is contrary to the orderly development of the area. It serves only one purpose – the desire of a few Edgewood property owners to receive water under CVWD’s rate structure. The proposal has no merit under the policies and statutory standards your Commission is required to consider.

III. The Petition Lacks any Viable Plan for Services within the Affected Territory

Government Code section 56650 provides that proceedings for reorganization may be initiated by petition, and section 56652 authorizes the Commission to request not only certain required information but also “[a]ny data and information as may be required by any regulation of the commission” and “[a]ny additional data and information, as maybe required by the executive officer, pertaining to any of the matters or factors which may be considered by the commission.” The Commission’s form of Proposal Justification Questionnaire requests a response pursuant to Government Code section 56653 and poses six questions concerning the plan for services to be provided.

None of the six petitioner responses to Paragraph 14 addresses the more than \$450,000 in capital improvements that CVWD says must be provided in order for it to provide services, nor is there any consideration of the cost or complexity of resulting changes to MWD's existing delivery system. Paragraph 14.D calls for a discussion of "any improvements or upgrading of . . . water facilities or other conditions that will be required as a result of the proposal." The response indicates that the project will require only "minor alterations of the existing water distribution system." Paragraph 14.E states that any necessary capital improvements will be funded by one-time payments by the affected property owners, yet the petitioners separately propose a condition of approval requiring MWD to fund \$450,000 in improvements:

Payment of a \$450,000 deposit by the Montecito Water District to the Carpinteria Valley Water District upon recordation of the proposed reorganization for the purpose of funding the replacement by Carpinteria Valley Water District of the existing waterline and related appurtenant facilities adjacent to Lambert Road, from the South Coast Conduit turnout to the existing Montecito Water District Pressure Reduction Station just north of Via Real Road. Montecito Water District shall be responsible for the actual cost of replacement of the pipeline and related facilities.

This is not a "plan of service." It is the petitioners' attempt to enlist your Commission in burdening MWD with the costs and consequences associated with the self-serving interests of the petitioners. Under these circumstances, LAFCO cannot reasonably find that the "plan of service" presented by the petitioners is sufficient to support approval.

IV. The Edgewood Proposal Ignores Impacts to MWD's Distribution System

As CVWD has made clear, its provision of service to the Edgewood parcels will require a new pipeline, since the existing MWD pipeline serving the Edgewood area dates from 1926 and is below CVWD's standards. The existing Lambert Road pipeline, along with over 30 miles of other MWD pre-1930 pipelines, continues to provide continuous and reliable service to MWD and its customers with minimal maintenance. The Edgewood petitioners simplistically envision a replacement of one existing pipe bringing water from the South Coast Conduit and a transfer of ownership from MWD to CVWD, as if the pipeline exists entirely apart from the MWD delivery system.

As Exhibit A illustrates, MWD's existing water distribution system, serving Lambert Road and encompassing the Edgewood properties and adjacent Toro Canyon areas, includes two water sources, each of which can provide primary and redundant service to MWD customers. At present, MWD serves all nine Edgewood parcels through the subject 1926 pipeline, which brings water from the South Coast Conduit and MWD's Toro Canyon Reservoir. This pipeline is important as it provides a means to supply over 130 properties, including those properties along Via Real, Padaro Lane and lower Toro Canyon areas from two water sources.

As illustrated in Exhibit B, the replacement and segregation of the Lambert Road pipeline as proposed would sever the pipeline at three locations, isolating the MWD distribution system above and below the Edgewood properties.¹ If that were to occur, all properties served by MWD south of the proposed Lambert Road dead-end would no longer have the use of the one-million-gallon Toro Canyon Reservoir for fire protection and potable water supply deliveries.

In addition, water quality to MWD customers above the point of the distribution system's northerly dead-end would be adversely affected, as the Toro Canyon Reservoir would now only serve 11 customers, causing extended storage, aging of water, and an increase in harmful disinfection byproducts due to the reduction in water demand. In order to alleviate water quality degradation from a long run of dead-end pipeline, MWD would have to sever its Via Real pipeline just west of Toro Canyon Road, which would result in the abandonment of over 2,000 feet of pipeline. The abandonment of the Via Real pipeline would eliminate the water supply to a Caltrans meter presently served by MWD. In order to restore water service to Caltrans, the proposed service boundary reorganization would need to include the annexation of US 101 and the freeway frontage property to the CVWD water system. This has not been identified or shown in the petitioners' proposal.

MWD is also in receipt of a letter dated October 21, 2010 from Kurt Souza, Division Chief of the CDPH, regarding the proposed detachment and annexation. His department oversees MWD's water supply operating permit and his cursory review of the proposal has identified potential adverse affects to water supply and water quality due to the separation and isolation of a fully developed water distribution system. Mr. Souza's letter is requiring that a technical report be prepared for review by CDPH that addresses a minimum of four potential deficiencies in the event the proposed alterations are made to the MWD distribution system. This proposal as submitted to LAFCO does not in any way identify, recognize or consider the harmful affects to public health and safety which will be a consequence of the petitioners' proposal to obtain water at a lower cost.

It is curious that neither the petitioners nor CVWD has suggested the option of simply installing a dedicated CVWD water line connected to the Lambert Road South Coast Conduit turnout to serve the detached Edgewood area, leaving MWD's existing delivery system entirely intact and able to continue service to MWD customers outside of the proposed service boundary change. This approach would not measurably increase the cost of installation for the owners, but the related impacts on MWD's delivery system, and costs to MWD not yet accounted for in the proposal, would be reduced substantially. From MWD's viewpoint, this would be a more feasible arrangement, although it does not overcome the basic flaws in the proposed annexation designed solely to enable the petitioners to receive water at CVWD's rates.

¹ It is unclear from the proposal how CVWD and the owners would propose to serve Vista Oceano, which currently is served by MWD but is located within the annexation area and takes access from Lambert Road. Certainly MWD could not continue to serve these properties if it had no water line in Lambert Road.

Finally, in either scenario, MWD would experience impacts on its operating budget – not only a loss of revenue from water it otherwise would deliver to this area but also the loss of its water availability charge and its meter service charges. Given these anticipated losses, the additional capital costs associated with adjustments to the distribution system and the probable increase in maintenance costs associated with the loss of redundancy in its system are costs it should not have to bear simply to satisfy the pecuniary interests of nine customers.

V. **LAFCO Does Not Have Authority to Impose a Significant Financial Burden on a Detaching Agency that is not a Party to the Application**

In a letter to CVWD dated June 17, 2010, Bob Braitman provided a summary of several sections of the Government Code he believes provide support for his contention that LAFCO has the authority to require MWD to bear the cost of replacing the facilities according to CVWD’s standards. MWD strongly disagrees.

Government Code section 56886 provides that a reorganization may be made subject to one or more of certain enumerated conditions provided that they do not directly regulate land use, property development or subdivision requirements. Mr. Braitman apparently believes that this section provides LAFCO with the authority to impose a monetary requirement on MWD even though MWD is not the applicant and is the detaching rather than the annexing agency. A review of relevant provisions of section 56886 leads to a different conclusion:

- Section 56886(a) authorizes a requirement for the payment of a fixed or determinable amount of money, either as a lump sum or in installments, “for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any district.” However, it does not provide a blanket authorization for LAFCO to impose conditions on whomever it pleases. This section contemplates a payment *for* certain benefits, made to the entity whose property is being acquired, transferred or used, not *vice versa*. This section might be relied upon, for example, if CVWD were purchasing MWD’s facilities, where LAFCO could require CVWD to pay MWD. Reliance upon this provision to impose a financial burden on the detaching agency is misplaced.
- Section 56886(b) authorizes LAFCO to levy or fix and collect payments for purposes of meeting the obligation specified in section 56886(a). On this basis, LAFCO could establish a tax or assessment on the properties within the annexed territory to pay the cost CVWD or MWD will incur because of the use of the districts’ property by the petitioners. Apparently Mr. Braitman has not considered that possibility to date.
- Sections 56886(c) and (d) authorize LAFCO to impose liability for payment of all or any part of principal, interest, and all other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds or other contracts or obligations of the district and to levy or fix and collect any assessments in the same manner as in the original

authorization of the bonds and in the amount necessary to provide for that payment. If the liability of the district for payment of principal is increased or decreased as a result, then LAFCO may specify the amount of the increase that is to be included in, or excluded from, the outstanding bonded indebtedness of the entity for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity. This section gives LAFCO the authority to require the Edgewood property owners to continue paying MWD's assessments to cover existing and authorized bonded indebtedness, including its standby assessments under Water Code section 31032.1, and to state any adjustments in statutory limitations. MWD reads this as an opportunity for LAFCO to make MWD "whole" to the extent MWD relies on these properties for a portion of its debt service.

- Section 56886(f) authorizes LAFCO to provide for the incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. LAFCO certainly could rely upon this section to require CVWD to establish a "zone" including only the Edgewood properties for purposes of repayment, by assessment, of the cost of any facility upgrades CVWD requires, as CVWD has suggested in its Resolution 911.
- Section 56886(i) authorizes LAFCO to impose a condition for the disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations. This section does not authorize LAFCO to impose on MWD a responsibility for transferring moneys or obligations that are not directly associated with services to the detaching territory. For example, if MWD had a reserve fund specifically for facility upgrades in the Edgewood area, LAFCO might reasonably require that the fund be transferred. Similarly, LAFCO might consider asking MWD to transfer to CVWD funds it expects to receive from Edgewood owners after a certain date. However the "disposition, transfer or division of any moneys or funds" clearly does not mean that LAFCO can require MWD to transfer amounts from its general fund that support MWD's general operations. In fact, MWD's funding from the Water Code section 31032.1 program is the only dedicated District funding for pipeline replacement. It must be renewed every year, and it provides a total of \$315,000 per year to the District. All of these moneys (and more) are used for priority capital projects, including Toro Canyon projects which have benefited the Edgewood area to an extent far greater than the amounts paid by Edgewood property owners under this program. Pipelines are replaced on a targeted basis, and the Edgewood facilities are not even on MWD's future list.

In summary, section 56886 does not create the broad right that Mr. Braitman presumes. Instead it focuses LAFCO's attention primarily on the annexing agency and its capabilities when considering whether it is in a position to annex new territory. Taking any presumptions about MWD out of consideration, CVWD's letter indicates that it is willing and able to provide the quantity of water but not able to provide the requested services because the facilities serving the area are not acceptable. Reasonably this should be an issue to be worked out between the receiving agency and the applicant, not MWD, which has no reason to invest in upgrading the facilities in the absence of the reorganization and certainly has no interest in investing in the facilities for the benefit of another district.

VI. The Proposed Change in Boundaries Falls Short of the Requisite Factors

Section 56886, relied upon by Mr. Braitman, cannot be read as if it stands alone. Section 56668 requires LAFCO, in reviewing a proposal for reorganization, to consider, at a minimum, all of fifteen enumerated factors. Among these factors are "the conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development . . ." Your Commission has adopted several policies "encouraging orderly formation and development of agencies," which include the following:

Any proposal for a change o[f] organization or reorganization shall contain sufficient information to determine that adequate services, facilities, and improvements can be provided and financed by the agencies responsible for the provision of such services, facilities and improvements."

(Emphasis added.)

Clearly the Edgewood proposal fails to meet this policy, since the agency expected to provide the water service has refused to provide or finance the infrastructure necessary to make water available.

Section 56668 also requires that the Commission consider "the definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries." Your Commission has adopted a policy that "[r]eorganization of overlapping and competing agencies or the correction of illogical boundaries dividing agency service areas is recommended." In fact, this proposal is contrary to the orderly development of the two districts. The proposed boundaries are purely self-serving for the petitioners and bear no logical relation to the existing infrastructure or potential future expansion of CVWD. The Edgewood area logically is part of MWD and can be removed only by excision – by creating a "hole," surrounded completely by the MWD service area. But for the fact that both districts take water from the South Coast Conduit, the delivery of water to this area by attachment to CVWD's delivery system would be logistically far more complex and presumably would not interest CVWD at all.

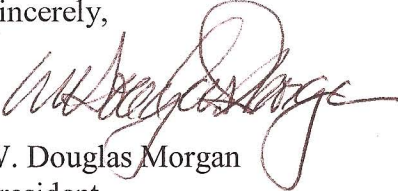
Section 56668 also requires that your Commission consider the following:

- The present cost and adequacy of government services and controls in the area and the probable future needs for those services and controls (services being defined to include the public facilities necessary to provide services).
- The ability of the receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- Timely availability of water supplies adequate for projected needs.
- The probable effect of the proposed annexation or detachment on the cost and adequacy of services and controls in the area and adjacent areas.

Clearly the consideration of these factors leads to the unavoidable conclusion that this proposal is designed to interrupt and compromise government services – services provided by MWD – which are fully adequate for the existing service area. At the same time, the “receiving entity” has made it clear that the water supply cannot be made available in a timely way because its “ability” to provide the services is contingent upon changes in infrastructure that it is unwilling to make. CVWD is willing to provide water but only if the means of providing it come with the annexation package.

In summary, the proposed Edgewood reorganization is a poorly conceived attempt by a group of property owners to extract themselves from MWD, at MWD’s expense, so that they can receive water from CVWD at CVWD’s rates. There can be no question that the area logically belongs within MWD, nor can there be any doubt that MWD has provided and can continue to provide the water supply these properties need. In attempting to shift the financial burden of their proposal to MWD, the proponents neglected to consider the complexities and consequences of severing a portion of the MWD distribution system, thereby compromising services available to a significant portion of the MWD service area. There is no support in law or policy for a decision that would burden a detaching agency in this way. For these reasons, MWD respectfully asks that your Commission deny the Edgewood proposal.

Sincerely,



W. Douglas Morgan
President

cc: Bob Braitman, LAFCO Executive Director
Charles Hamilton

RESOLUTION NUMBER 917

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE CARPINTERIA VALLEY WATER DISTRICT
RESCINDING RESOLUTION NUMBER 911 RELATING TO THE PROPOSED
EDGEWOOD REORGANIZATION**

WHEREAS, On June 22, 2010, the Santa Barbara Local Agency Formation Commission (LAFCO) notified Carpinteria Valley Water District ("CVWD") and others that it has received application materials from Edgewood area landowners ("landowners") within Montecito Water District ("MWD") to annex to the CVWD and detach from MWD; and

WHEREAS, CVWD'S Board of Directors on August 18, 2010 passed and adopted Resolution Number 911 Relating to the Proposed Edgewood Reorganization; and

WHEREAS, CVWD has since determined based on new information that it would be unwise to support such a proposed Reorganization;

NOW, THEREFORE, BE IT RESOLVED, that the Governing Board of the Carpinteria Valley Water District hereby rescinds Resolution No. 911, and no longer supports the proposed Edgewood Reorganization.

PASSED AND ADOPTED by the Governing Board of the Carpinteria Valley Water District on the 23rd day of February 2011, by the following vote:

AYES:
NAYES:
ABSENT:
ABSTAIN:

APPROVED:

June Van Wingerden, President

ATTEST:

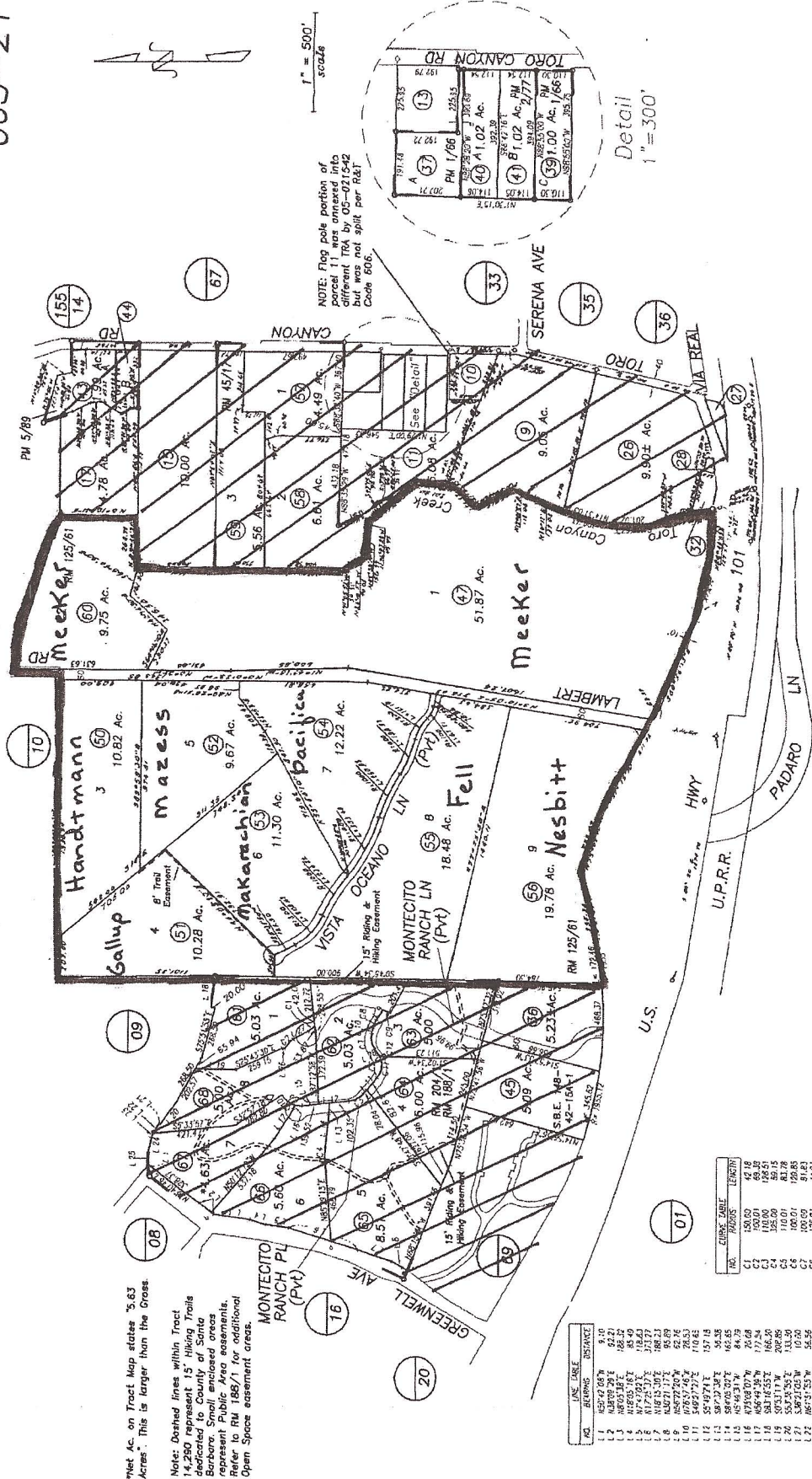
Charles B. Hamilton, Secretary

DRAFT

Exhibit "A"

POR. PUEBLO LANDS

005-21



Note: Dashed lines within Tract 14,250 represent 15' Hiking Trails dedicated to County of Santa Barbara. Small enclosed areas represent Public Area easements. Refer to RM 1887/1 for additional Open Space easement areas.

NOTE: Flag pole portion of parcel 11 was annexed into different TRA by 05-0215-42 but was not split per R&T Code 806.

NO.	LINE LABEL	BEARING	DISTANCE
1	A5-42 087 N	8 10	12.22
2	A5-42 087 N	8 10	12.22
3	A5-42 087 N	8 10	12.22
4	A18-05 187 E	85 49	11.43
5	A17-29 173 E	31 51	11.43
6	A17-29 173 E	31 51	11.43
7	N18-15 307 E	188 21	11.43
8	S30-21 177 W	92 09	11.43
9	S30-21 177 W	92 09	11.43
10	S30-21 177 W	92 09	11.43
11	S49-27 77 E	110 43	11.43
12	S5-07 77 E	157 18	11.43
13	S5-07 77 E	157 18	11.43
14	S5-07 77 E	157 18	11.43
15	S5-07 77 E	157 18	11.43
16	S30-08 07 W	70 08	11.43
17	S30-08 07 W	70 08	11.43
18	S30-08 07 W	70 08	11.43
19	S30-08 07 W	70 08	11.43
20	S30-08 07 W	70 08	11.43
21	S30-08 07 W	70 08	11.43
22	S30-08 07 W	70 08	11.43
23	S30-08 07 W	70 08	11.43
24	S30-08 07 W	70 08	11.43
25	S30-08 07 W	70 08	11.43
26	S30-08 07 W	70 08	11.43
27	S30-08 07 W	70 08	11.43
28	S30-08 07 W	70 08	11.43
29	S30-08 07 W	70 08	11.43
30	S30-08 07 W	70 08	11.43

NO.	LINE LABEL	BEARING	DISTANCE
C1	S50-00	42 18	12.22
C2	S50-00	42 18	12.22
C3	S50-00	42 18	12.22
C4	S50-00	42 18	12.22
C5	S50-00	42 18	12.22
C6	S50-00	42 18	12.22
C7	S50-00	42 18	12.22
C8	S50-00	42 18	12.22
C9	S50-00	42 18	12.22
C10	S50-00	42 18	12.22
C11	S50-00	42 18	12.22
C12	S50-00	42 18	12.22

Assessor's Map Bk, 005-Pg, 21
County of Santa Barbara, Calif.

12/20/2007 R.M. Bk. 204, Pg. 1-21 , Tract 14,290 (Amended)
11/12/2002 R.M. Bk. 188, Pg. 1-20 , Tract 14,290
02/28/1984 R.M. Bk. 125, Pg. 61-65 , Tract 13,033

LD/08
Recondigne Montecito Ranch Ln
Add Montecito Ranch Pl.