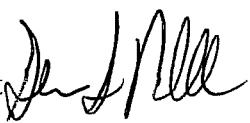




**COUNTY OF SANTA BARBARA  
PLANNING AND DEVELOPMENT  
LONG RANGE PLANNING  
MEMORANDUM**

**DATE:** October 26, 2010

**TO:** Bob Braitman, Executive Officer, LAFCO

**FROM:** Glenn Russell, Ph.D., Director, Planning and Development Department 

**SUBJECT:** LAFCO Request for Reportback – #10-5 LAFCO La Cumbre Mutual Water Company Annexation to the Goleta Sanitary District

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This memorandum is in response to your Request for Reportback regarding the above referenced proposal. Based on our review of the application materials, we submit the following information for your consideration.

***LAFCO Proposal Considerations***

- The CEQA Categorical Exemption filed by La Cumbre Mutual Water Company (LCMWC) dated March 19, 2008 for the recently constructed well water treatment plant that is the subject of this annexation proposal is not adequate and does not meet the requirements of CEQA because LCMWC is a private entity, not a public agency, and cannot serve as a lead agency under CEQA.
- The grounds for the Categorical Exemption claimed by the Goleta Sanitary District (GSD), CEQA Guidelines §15301 (Existing Facilities), do not encompass this annexation action or new physical development proposed as part of the project.
- The project description should be clarified. Although the GSD sewer service availability letter assumes APN 061-220-011 (430 Nogal Drive) was vacant as of April 20, 2010, recent communications from LCMWC indicate that a well water treatment plant has been constructed at 430 Nogal Drive.<sup>1</sup>

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<sup>1</sup> On April 29, 2010, the GSD provided a sewer service availability letter which notes

La Cumbre Mutual Water Company proposes to construct and connect to the District's sewage collection facilities a well site with reverse osmosis discharge. Currently the existing parcel is vacant.

GSD should be advised that the existing parcel referenced above (061-220-011) is not vacant, but rather contains a constructed water treatment facility.

***Project Description***

The GSD is requesting annexation of the Assessor Parcel Numbers (APNs) 061-220-011 and 061-210-007, owned by LCMWC, to GSD. The APNs are within the GSD Sphere of Influence and the purpose of the proposal is to connect a new water processing facility to the sanitary sewer system.

On September 28, 2010, LCMWC provided a letter to LAFCO indicating that the Nogal Water Treatment Plant (the subject water processing facility for this annexation proposal) had been constructed. In an October 1, 2010 letter, LCMWC states that upon final LAFCO approval, an above ground catch basin with Air Gap Separation and a lid will be constructed. Additionally, replacement of the sidewalk and pavement restoration on Nogal Drive will be performed during the Vieja Valley Elementary school break. In addition, the GSD terms and conditions require additional development to connect the project to GSD, including a sewerline with appurtenances connecting the territory to be annexed to the existing lines of the District.<sup>2</sup>

***Verification of County General Plan & Zoning Designations***

<b>Proposal Assessor Parcel Numbers (APNs)</b>	<b>Acres</b>	<b>County General Plan Land Use Designation</b>	<b>County General Plan Zoning</b>	<b>Comprehensive General Plan (Community Planning Area)</b>	<b>Open Space per G.C. § 65560</b>	<b>Open Space per G.C. § 65560</b>	<b>Coastal Zone</b>
061-220-011	0.46	Res-1.8	20-R-1	Goleta Community Plan	No	No	No
061-210-007	0.63	Res-1.8	20-R-1	Goleta Community Plan	No	No	No
Total Acreage	1.09						

***CEQA/Environmental Review***

The proposal questionnaire indicates that GSD is the lead agency for environmental review and that no environmental document has been prepared for this annexation as the project is Categorically Exempt pursuant to CEQA Guidelines §15301 (Existing Facilities). It is unclear how this exemption applies as it does not consider either the annexation action itself or additional physical development proposed as part of the project.

It appears that GSD may be relying upon the March 19, 2009 LCMWC CEQA Notice of Exemption filed with the Santa Barbara County Clerk of the Board citing Categorical Exemption §15301 (Existing Facilities), which states

Description of Project: The proposed project would result in the construction of water treatment equipment, iron filter, valves and above ground piping in an existing water facility. The new equipment will treat groundwater high in iron

<sup>2</sup> GSD Resolution No. 10-497, Exhibit C, *Goleta Sanitary District Terms and Conditions of Annexation*, Annexation No.363 (La Cumbre Mutual Water Company)

and manganese. The water treated will be delivered to customers in La Cumbre Mutual Water Company service area.<sup>3</sup>

LAFCO staff provided a September 28, 2009 LCMWC Board Resolution (No. 92809) approving the well water treatment plant project which includes the construction and operation of an iron and manganese treatment facility at 430 Nogal Drive (061-220-011). The LCMWC Board determined that the project would have no significant effect on the environment under CEQA §15301. LCMWC subsequently filed the CEQA Notice of Exemption.

The Categorical Exemption cited by LCMWC is inadequate as LCMWC is not a “public agency” and as such cannot serve as “lead agency” under CEQA (CEQA Guidelines §15050). The constructed water treatment plant on APN 061-220-011 as well as the proposed annexation and new physical development must be reviewed under CEQA by a “public agency.” Any determination of exemption from CEQA must encompass the entire project including the completed plant, the proposed annexation and additional new physical construction.<sup>4</sup>

CEQA review should include the following project components identified as part of this project:

- The proposed annexation of Assessor Parcel Numbers (APNs) 061-220-011 and 061-210-007 to GSD.
- The completed water treatment plant.
- Proposed construction of the above ground catch basin with Air Gap Separation and lid.
- Replacement of the sidewalk and pavement restoration on Nogal Drive
- All other new development required under the GSD terms and conditions which states

[t]hat petitioners, through special assessment proceedings or otherwise, pay for their share of all costs of planning and constructing (including but not limited to all engineering, inspection and legal costs and all costs of acquisition of easements), a sewerline with appurtenances thereto connecting the territory to be annexed to the existing lines of the District whether or not said connecting lines are temporary or permanent.<sup>5</sup>

### ***Document Review***

Staff reviewed the annexation application following documents:

- GSD Sewer Service Availability letter dated April 29, 2010
- LAFCO #10-5 Proposal Justification Questionnaire for Annexations, Detachments and Reorganizations
- LAFCO #10-5 Certificate of Filing
- LCMWC CEQA Appendix E; Notice of Exemption, March 19, 2008

<sup>3</sup> LCMWC CEQA Appendix E Notice of Exemption, March 19, 2008

<sup>4</sup> Although the County suggested in a letter to LWMWC dated January 6, 2000 that LWMWC could act as lead agency for the water treatment plant, this statement was not correct insofar as LWMWC is not a public entity.

<sup>5</sup> GSD Resolution No. 10-497, Exhibit C, *Goleta Sanitary District Terms and Conditions of Annexation*, Annexation No.363 (La Cumbre Mutual Water Company)

- LCMWC Resolution No. 92809
- LCMWC Resolution No. 10-503
- LCMWC letter dated October 1, 2010
- LCMWC letter dated September 28, 2010
- County of Santa Barbara Planning and Development Department letter to LCMWC January 6, 2000
- County of Santa Barbara Planning and Development Department, Land Use Permit No. 99-LUS-164 GO

cc: Janet Wolf, Second District Supervisor and Member, LAFCO  
Joseph Centeno, Fifth District Supervisor and Member, LAFCO  
Sharon Friedrichsen, Assistant to the County Executive Officer