

Local Agency Formation Commission X-Agenda Request

JUSTIFICATION FOR THE NECESSITY FOR LAFCO
TO TAKE ACTION ON A MATTER NOT ON THE POSTED AGENDA
(2/3 VOTE REQUIRED)

To: Members of the Local Agency Formation Commission

From: William M Dillon, LAFCO Legal Counsel

Meeting date: May 6, 2021

Subject of Item: Threatened litigation

Recommended Commission Action: That the following item be added to the May 6, 2021 Agenda:

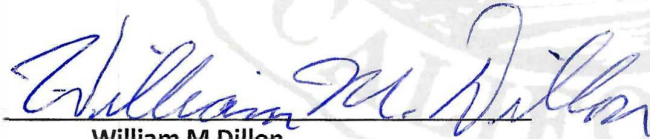
Closed Session. Conference with Legal Counsel – significant exposure to litigation from Heal the Ocean in Letter dated May 5, 2021. (Gov. Code sec. 54956.9)

Reason item cannot be placed on future agenda:

Delay in holding closed session would deprive Commission a briefing on threat of litigation that pertains to Business Item No. 2 on today's agenda, which is a time sensitive request for an extension that should be timely heard and decided by the Commission.

Statement of reason for emergency*, or why need for action arose after the agenda was posted: (Attach additional sheets if necessary)

The threat of litigation was received by LAFCO after 4 pm on Wednesday, May 5, 2021, less than 24 hours before the Commission's scheduled hearing on May 6, 2021 at 1 pm. The letter from Heal the Ocean is attached.



**William M Dillon
LAFCO Legal Counsel**

Submit Original + 7 Copies to the LAFCO Clerk Prior to Meeting

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1430 Chapala St. Santa Barbara, CA 93101; Mail: PO Box 90106, Santa Barbara, CA 93190

May 5, 2021

Mike Prater, Executive Officer
Santa Barbara County LAFCO
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101

Re: (LAFCO Agenda May 6, 2021) *Los Olivos Community Services District Request for Time Extension to Implement a Proposition 218 Assessment to Fund Wastewater Treatment Facilities* (LAFCO Agenda May 6, 2021)

Dear Mr. Prater:

Please put this in the record, for the May 6 hearing, from Heal the Ocean.

Despite the power points and many activities of the LOCSD to show the LAFCO Commission how well the District is fulfilling their promise of April 2017 to have a Proposition 218 Assessment to Fund Wastewater Treatment Facilities in a year, or two years, or another three years, Heal the Ocean is not confident they can come up with a plan, funding, siting, assessment and all the other steps that have to be made for a Proposition 2018 vote.

Even if our submitted input to this hearing has had errors, the following is true:

- If LOCSD does produce a wastewater treatment plant in the next 2 years, that's just for the down town - it leaves out all the outlying the residents of Los Olivos, who are on their own, waiting for the next act to follow, while their septic systems fail – and/or continue to pollute the Santa Ynez groundwater basin.
- Their septic systems have been documented as failing and/or polluting the groundwater basin. Previous EHS directors (prior to Larry Fay, retired) documented small residential lots discharging directly into the top of the Basin;
- **The Special Problems Area List for the County, established in 1974 – must – MUST – be dealt with (!) by getting rid of all septic systems in the Santa Ynez Valley...not just the downtown area of Los Olivos.**

This long and lengthy LOCSD process to remedy just a BIT of the Los Olivos problem, not to mention the overall Santa Ynez Valley problem, is unacceptable. Given Climate Change and the deterioration of water quality in the Santa Ynez Groundwater basin, Heal the Ocean takes note that the drought, and climate change, gives urgency to the degradation of this groundwater basin – and we have been working on this problem for over 20 years.

We give special notice to the February 14, 2017 warning of the Regional Board to Los Olivos that if data confirm the degraded groundwater conditions documented in the 2003 (Questa) Septic System Sanitary Survey for Santa Barbara County, **the option for local agencies to develop and implement**

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a project at their own pace will be replaced by a set of conditions requiring action and a timeline confirming implementation of those actions.

To focus on downtown Los Olivos through this long and lengthy – and so-far unproductive process - is to focus on a tiny aspect of the bigger problem that has now become alarming: the continued degradation of the Santa Ynez Valley Groundwater basin in a time of severe drought and rising nitrate levels.

Since April 2017 LOCSC action is only focused on a tiny portion of this larger problem in the Santa Ynez Valley. There are now technological solutions – pocket wastewater recycling plants – that can address all communities in the Santa Ynez Valley – ALL of Los Olivos, Ballard, Janin Acres, and any other known septic problem area identified in the **Santa Barbara County 1974 Special Problems Area List**.

We are asking for a hold on the decision for the extension of the LOCSD deadline – so that officials and business people who know how to install recycling water plants in threatened communities, can meet and solve the larger picture. Heal the Ocean asks LAFCO to please deny the LOCSD's requested extension, so that Santa Barbara County can move forward on an overall plan to solve a 40+ year-old **Special Problems Area List problem that includes Los Olivos**.

LAFCO's approval of LOCSD's requested extension represents an impediment for this crucial work to start. Therefore, we are letting LAFCO know now, that if you approve the LOCSD extension we will be taking legal action.

Thank you,



Respectfully submitted,

CC:

Lars Seifert, Santa Barbara County Environmental Health Services Director
 Matthew Keeling, Executive Officer Regional Board – Central Coast Region 3
 Thea Tryon, Assistant Executive Officer Regional Board – Central Coast Region 3
 Hannah-Beth Jackson