



April 4, 2016

Santa Barbara Local Agency Formation Commission
Attn: Paul Hood, Executive Officer
105 E. Anapamu Street
Santa Barbara, CA 93101

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General Counsel

**RE: Comments re Proposed Change to Sphere of Influence
of the Santa Ynez Community Services District**

Dear Mr. Hood:

This letter responds to the Santa Barbara Local Agency Formation Commission's ("Santa Barbara LAFCO") February 24, 2016 Memorandum regarding the proposed change to the sphere of influence of the Santa Ynez Community Services District ("SYCSD") and Request for Report back, which we received on March 10, 2016.

The Santa Ynez River Water Conservation District, Improvement District Number 1 ("ID No. 1") respectfully provides the following comments in opposition to SYCSD's proposal to amend its sphere of influence to include the Los Olivos area, as shown in the map attached to SYCSD's proposal.

As you are likely aware, ID No. 1 possesses the latent authority to provide sewage services within its existing service area. Specifically, Water Code section 74593 permits ID No. 1 to treat, purify, and recycle sewage and storm water. While ID No. 1 does not presently provide these services to its customers, it may do so in the future. As shown in Attachment A to this letter, ID No. 1's sphere of influence and service area are identical and presently extends throughout the Los Olivos area that SYCSD proposes to add to its own sphere of influence.

Therefore, ID No. 1 is concerned that SYCSD's proposal conflicts with the letter and the spirit of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000, *et seq.*) in two ways: (1) the extension of SYCSD's sphere of influence into ID No. 1's service area creates overlapping jurisdictions and the potential for the wasteful duplication of services; and (2) granting SYCSD's proposal would result in SYCSD having a non-contiguous sphere of influence,¹ which is disfavored under the Cortese-Knox-Hertzberg Act. Further, SYCSD's proposal is premature for the reasons discussed in detail below.

I. Granting SYCSD's Proposal Would Create Overlapping Jurisdictions and Duplication of Services in Los Olivos

The Legislature established LAFCOs as the "watchdog" tasked with guarding "against the wasteful duplication of services that results from indiscriminate formation of new local agencies or haphazard annexation of territory to existing local agencies." (*City of Ceres v. City of Modesto* (1969) 274 Cal.App.2d 545, 553.) According to the California Association of LAFCOs, the purpose of a local agency's sphere of influence is to prevent overlapping jurisdictions and the duplication of services:

¹ Eventually, if annexation was subsequently approved, SYCSD's proposal would lead to a non-contiguous service area that would overlap with ID No. 1's service area.

The purpose of the sphere of influence is to ensure the provision of efficient services while discouraging urban sprawl and the premature conversion of agricultural and open space lands by **preventing overlapping jurisdictions and duplication of services**. Commissions cannot tell agencies what their planning goals should be. Rather, on a regional level, LAFCOs coordinate the orderly development of a community through reconciling differences between agency plans so that the most efficient urban service arrangements are created for the benefit of area residents and property owners.²

Similarly, Santa Barbara LAFCO's sphere of influence policies provide that "[d]uplication of authority to perform similar service functions in the same territory will be avoided."³

SYCSD's proposal should be denied because it will cause SYCSD's jurisdiction to overlap that of ID No. 1, and will cause the future duplication of sewage services by the two public agencies, both of which have statutory authorization to provide sewage services.⁴

Further, granting SYCSD's petition would run contrary to Cortese-Knox-Hertzberg's purpose—that LAFCO "pl[an] and shap[e] the **logical and orderly development and coordination of local governmental agencies**" through proper development of the sphere of influence of each special district, and more generally, that LAFCO "shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities." (Gov. Code §§ 56425(a) [emphasis added], 56301.)

It is neither logical nor reasonable to create newly overlapping jurisdictions or duplication of services in the Los Olivos area. As explained below, it is similarly illogical and unreasonable to grant SYCSD's proposal, which would result in SYCSD having a non-contiguous sphere of influence and, if annexation was approved, eventually a non-contiguous service area. If requested and approved by its Board of Trustees, ID No. 1 is fully capable of providing sewage services to the Los Olivos area without any change to its current sphere of influence or service area.

Finally, ID No. 1 notes that Government Code section 56425(e)(3) requires that in determining the sphere of influence for each local agency, Santa Barbara LAFCO shall consider "[t]he present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide." There are no public sewage facilities in the Los Olivos area owned or operated by SYCSD or any other local agency. Therefore, ID No. 1 is better suited to provide sewer services to the Los Olivos area since no change to its sphere of influence or boundaries is necessary.⁵

II. Non-Contiguous Spheres of Influence Are Disfavored under the Cortese-Knox-Hertzberg Act

As shown in Attachment A to this letter, ID No. 1's sphere of influence and service area presently encompasses the Los Olivos area that SYCSD proposes to add to its own sphere of influence. However, as shown in Attachment B, SYCSD's smaller sphere of influence does not extend outside of the

² California Association of LAFCOs, "What is LAFCo?," <http://calafco.org/about.htm> (emphasis added).

³ Santa Barbara LAFCO, "Sphere of Influence Policies," http://www.sblafco.org/policy_02.sbc.

⁴ Under the Community Services District Law (Gov't Code §§ 61000 et seq.), a district like SYCSD has the authority to "Collect, treat, or dispose of sewage, waste water, recycled water, and storm water, in the same manner as a sanitary district . . ." (Gov. Code § 61100.)

⁵ We also note that Government Code section 56428(b) requires that Santa Barbara LAFCO comply with the California Environmental Quality Act ("CEQA") prior to amending SYCSD's sphere of influence. In some cases, the amendment of a sphere of influence to allow for the provision of sewer services for an area may require preparation of an EIR. (See, e.g., *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277 [project seeking amendment of a city's sphere of influence to include an undeveloped portion of university campus so as to permit the city to provide extraterritorial water and sewer services to proposed new development required analysis in an EIR].)

unincorporated area of Santa Ynez, which is located several miles south of the proposed change in SYCSD's sphere of influence. Therefore, SYCSD's proposal would result in SYCSD having a non-contiguous sphere of influence with a gap between its present sphere of influence and the proposed expansion.

The Cortese-Knox-Hertzberg Act contains a presumption in favor of contiguous territories. Government Code section 56119 illustrates this presumption:

. . . Except as otherwise provided in this division, in any change of organization or reorganization the principal act shall govern as to any provisions in the principal act pertaining to boundaries, to contiguity or noncontiguity of territory, to the incorporated or unincorporated status of territory, and to the overlapping of territory of a district with the territory of another district or city. Unless otherwise provided by the principal act, **any territory annexed to a district shall be contiguous to the district** and shall not be a part of another district formed under the same principal act without the consent of the other district.

(See also Gov. Code §§ 56741 [". . . Unless otherwise provided in this division, territory may not be annexed to a city unless it is contiguous to the city at the time the proposal is initiated pursuant to this part. Territory incorporated as a city shall be located within one county and, except as otherwise provided in Section 56742, shall be contiguous with all other territory being incorporated as a city."]; 56430(a)(2)-(3), (b) [in order to prepare and update spheres of influence, LAFCO shall make determinations regarding services and communities "contiguous to the sphere of influence"].)

III. The SYCSD's Proposed Sphere of Influence Expansion is Premature.

The planning and provision of wastewater service to the Los Olivos area involves multiple parties, including the Central Coast Regional Water Quality Control Board, the County of Santa Barbara ("County"), ID No. 1, the SYCSD and the City of Solvang. These parties have yet to formulate and develop a plan to best provide the Los Olivos area with wastewater services. While the County commissioned a study to evaluate the provision of wastewater service, no decisions have been made by the parties to effectuate that study or studies commissioned by others. As an example, key issues that need to be determined include whether the waste water should be treated by a package plant located in the Los Olivos area or piped and treated at the City of Solvang's Regional wastewater treatment plant. If a package plant were utilized, the preferred method of treatment and disposal must be determined. Potential disposal methods include percolation, subsurface disposal or agricultural reuse. Just as important, the agency to construct and operate the wastewater collection and treatment systems must be determined. Until these and many other issues are resolved by the parties, it is premature for Santa Barbara LAFCO to consider acting on the SYCSD's proposal.

Accordingly, Santa Barbara LAFCO should deny SYCSD's proposal, because it would create overlapping jurisdictions of two local agencies both authorized by statute to provide sewage services, the potential for the wasteful duplication of services, and an agency with a non-contiguous sphere of influence, resulting in inefficiency and disorderly development of local agencies in the Santa Ynez Valley.

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If you have any questions or would like to discuss this matter further, do not hesitate to contact us.

Sincerely,



Chris Dahlstrom
General Manager

cc: Board of Trustees
Gary M. Kvistad, Brownstein Hyatt Farber Schreck, LLP

Attachments: A – ID No. 1 Sphere of Influence and Service Area
B – SYCSD Sphere of Influence and Service Area