

# Attachment B

## LAFCO Proposal Review Factors - Government Code 56668

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### SPHERE OF INFLUNCE AMENDMENT AND ANNEXATION #18 TO CAYUCOS SANITARY DISTRICT (WATER RECLAMATION FACILITY) – LAFCO No. 2-R-21

**Factor (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.**

**Response.** The Cayucos Sanitary District (CSD) Water Reclamation Facility (WRF) annexation and sphere of influence (SOI) is comprised of 257.87-acres located in San Luis Obispo County, outside of the CSD Sphere of Influence and north of the City of Morro Bay. The project area is located on 100 - 800 Toro Creek Road, Morro Bay, CA 93442. Development has occurred only within 8-acres. Many of these factors are addressed in the staff report. The WRF annexation was initiated by a resolution of application by the CSD. The Resolution of Application for annexation was approved by the CSD in November 2020.

The project site has and will continue to have County land use designations zoned "Agriculture". The County issued a conditional use permit and Development Plan/Coastal Development Permit for the proposed project on September 13, 2019.

The potential population growth as a direct result of the project would not change. As mentioned in the Staff Report the project proposes a wastewater facility that intends to serve the existing and buildout population of the community of Cayucos. The proposed annexation would not result in an increase in population or induce growth beyond what is already planned for buildout of the community.

As of 2010, the CSD's population was approximately 2,541. By 2020 the population increased to 2,581. The total population growth rate from the year 2010 to 2020 was 1.57%. Build out population is approximately 3,005 by 2040 or later according to the project EIR. The community of Cayucos is almost at build out. Significant growth in the areas around the project is not anticipated at this time and would not be likely in the next 10 years following this project proposal. The new WRF has been sized to serve existing buildout projections and would not induce growth beyond that already anticipated.

Although the project area is not in the CSD's current SOI, the request is to pursue the annexation and sphere amendment concurrently. An Environmental Impact Report was prepared and approved in April of 2017 for the Cayucos Sustainable Water Project.

The topography on the site is comprised of coastal valley, rolling hills and grazing land. The property consists of primarily steep to regular slopes.

The total assessed value of the annexation area, as determined by the County Assessor, is \$2,758,617. This breaks down as \$2,660,813 in land value and \$100,196 in improvement values. The amount of property tax revenue to be transferred between the County of San Luis Obispo and the CSD shall be zero. The reason for the CSD being ineligible is because the property is owned by a local government, in this case the CSD, and per the California Constitution Article 13, Section 1 a local government is exempt and does not pay property taxes. Therefore, there is no need for an agreement in this case and there is no amount of property tax revenue to be transferred.

A zero-property tax exchange resolution No. 2021-083 was approved by the County Board of Supervisors on May 4, 2021. When a special district is involved, the negotiations are conducted by the Board of Supervisors of the County on behalf of the district or districts, pursuant to Revenue and Taxation Code Section 99(b)(5).

**Factor (b) 1) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; and probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**

**(2) "Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.**

**Response.** The CSD provides sewage, solid waste, and recycling services within its district boundary. The newly built WRF and solar farm facilities will help the CSD provide more efficient, reliable, and adaptable services to their customers.

The reason for the new facility is that the CSD and the City of Morro Bay operated (the Morro Bay Cayucos Sanitary District Wastewater Treatment Plant (MBCSD WWTP)) under a joint powers agreement. According to the Final Environmental Impact Report (EIR) at their January 10, 2013, meeting the California Coastal Commission determined that upgrading and maintaining wastewater facilities at the location of the existing MBCSD WWTP would violate the Coastal Act, effectively mandating the abandonment of the CSD's historic wastewater treatment infrastructure.

The CSD Board determined at its April 30, 2015, meeting that in order to continue the service they would build their own WRF. The project site is one of many candidate sites that were considered and chosen by the CSD Board. The project is

designed to serve the existing and build-out population within the CSD service boundary.

The present cost and adequacy of governmental services and controls in the area is technically the CSD's responsibility. One of the project objectives is to deliver a sustainable and cost-effective water resource recovery system for the community of Cayucos within a streamlined schedule. The facility is providing the community with sustainable water, ownership of facilities and local governance.

The facility is already operating and serving the community effectively and efficiently. The CSD analyzed fiscal impacts of the project and has set rates accordingly and has demonstrated the project is financially feasible. The project will be able to serve the community existing and build-out population within the CSD service boundary.

**Factor (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.**

**Response.** The proposed action would allow the WRF project area to become a part of the CSD upon compliance with the conditions of approval. The area would continue to be within the County's unincorporated area and be added to the CSD's service area for sewage, solid waste, and recycling services. The eventual impact would unlikely increase population for the CSD or induce growth beyond what is already planned for buildout of the community.

Annexing the new WRF is not only required by CKH but would benefit the social and economic interested of the community because it would alleviate the CSD from paying property and improvement tax on the property as well as being able to supply the lots with recycled water, which will result in an overall monetary savings. As previously mentioned, the CSD analyzed fiscal impacts of the project and has set rates accordingly and has demonstrated the project is financially feasible.

The proposed project will result in the continuation and long-term preservation of open space and agricultural operations. Approximately 208.01 acres of agriculture would be preserved in perpetuity, and approximately 21.86 acres would be open space. This preservation would not otherwise occur without the WRF project.

**Factor (d) 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, and the policies and priorities set forth in Section 56377.**

**Response.** The CSD's application to LAFCO including but not limited to the Environmental Impact Report and Plan for Services for the WRF Project provides for the planned, orderly, and efficient development of the area by meeting the needs of the existing community, provides for resiliency, and also meets buildout demand.

San Luis Obispo LAFCO Policies for SOI Amendments per gov code section 56425 (e) were addressed in the staff report. Additionally, a brief analysis of the LAFCO policies for Special District Annexations have been addressed below:

**Policy 1. A demonstrated need exists for the required services and there is no reasonable alternative manner of providing these services.**

**Analysis.** The purpose of this proposal is to amend the sphere and annex the project area into the CSD for the District's new WRF and Solar Farm that have been constructed on the property. The CSD has no plan to provide additional services to the project area but rather the facilities in the project area would help the CSD serve the existing community and future buildout potential. There is no alternative method because the structure has been built. To be consistent with the Cortese, Knox, Hertzberg Act, the area must be annexed within a reasonable timeframe from completion of the facility.

**Policy 2. The proposed annexation represents a logical and reasonable expansion of the district.**

**Analysis.** All parcels are owned by the CSD and two (2) of them are intended to remain in the CSD's ownership for the foreseeable future. Lots 6NE and 7N will be sold to the Land Conservancy of San Luis Obispo upon completion of the Cayucos Sustainable Water Project and subsequently transferred to the County of San Luis Obispo as open space. The CSD has purchased the parent parcels of the project site and intends to lease the remainder for farming.

The proposal is a reasonable expansion because it would encompass the WRF and solar farm that are already serving the community as well as preserve agriculture and open space. It is not intended that the area being annexed be served by the CSD.

**Policy 3. The proposed annexation reflects the plans of the adjacent governmental agencies.**

**Analysis.** The proposed annexation is consistent with the County's General Plan, Plan for Services and Environmental documentation as demonstrated in the Staff Report. The County and CSD approved the development with conditions reflecting the governmental agency's plan and authorization. While the parcels are zoned agricultural, the WRF was allowed because a public lot will be created for the 8 acres of WRF and solar farm area in the near future.

**Policy 4. The proposed annexation does not represent an attempt to annex only revenue producing property.**

**Analysis.** The proposed annexation and SOI amendment owned by the CSD primary intent is to serve the existing and buildout population of the district. As indicated in the CSD's information hold letter response dated August 31, 2021, the district will plan to create the public lot for the WRF and sell the remaining of lots 8 and 10. Should the CSD sell portions of the property in the future, it would be a recovery of funds for the facility; That is not anticipated to happen for several years. The annexation/SOI would not generate revenue.

**Policy 5. The proposed boundaries must be definite and certain and conform to lines of assessment whenever possible.**

**Analysis.** The boundaries are definite and certain and will adhere to assessor parcel lines. The WRF project area is detailed in the map and legal description of the annexation and has been approved by the County Surveyor.

**Policy 6. The district has the capability of meeting the need for services and has submitted studies and information documenting its capabilities.**

**Analysis.** The CSD operates the wastewater plant and is wishing to annex the area into its service area to be able to continue to serve the existing and buildout population. The newly built WRF and solar farm facilities will help the CSD provide more efficient, reliable, and adaptable services to their customers. The CSD's ability to serve the area is outlined in the Plan for services (Attachment C of the Staff Report) and associated documents that were submitted with the CSD's LAFCO application.

Government Code Section 56377 states:

**56377. In reviewing and approving or disapproving proposals which could reasonably be expected to include, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:**

**(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.**

**(b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or**

**within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing sphere of influence or the local agency.**

**Analysis.** This is not a typical annexation intended for development but rather an annexation of an existing facility that serves the community at buildout. No development is anticipated beyond what is already there or allowed under the existing zoning designations (4 single family residences, 2 per parcel). The 257.87-acres in the annexation area has 8-acres of prime agriculture land being developed for the WRF site. The CSD has decided to set aside at least 16-acres of land in conservation easement, which will exceed the 1:1 offset by 8-acres. Although the CSD proposes to set aside a minimum of 16-acres they will be setting aside a total of 208.01-acres that includes the 16 already mentioned.

The proposal guided the WRF development into agricultural and open space lands, but it will maintain approximately 89.1% of the land in agricultural conservation easements and open space. The conservation of ag and open space would not have otherwise be conserved if it were not for the WRF project. The area was not added to the sphere of influence in 2015, therefore a SOI amendment is included in the proposal.

**Factor (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.**

**Response.** Per government code section 56016 "Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

Per County Condition of Approval (COA) 18, 49, and 50 the CSD is required to provide conservation acreage at a ratio of at least 2:1 for direct project impacts on Agriculture, portions of Lots 8 & 10 will be under conservation for impacts on cultural resources and the remainder of subject lots outside of the development potential shall also be conserved. The CSD, current owner of the project area, has indicated to LAFCO plans to conserve 208.01-acres of agricultural land in perpetuity.

Overall, the proposed project will conserve approximately 89.1% of the project's total acreage. The area being conserved is a substantial amount of land relative to the area being disturbed.

**Factor (f) 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.**

**Response.** The annexation boundary follows lines of assessment and ownership. The areas within the 257.87-acre annexation were included to encompass the existing facility which will serve the community and to preserve agriculture and open space land currently owned by the district. This is logical because it's an existing that needs to be encompassed into the boundary for which it serves.

**Factor (g) A regional transportation plan adopted pursuant to Section 65080.**

**Response.** The Project would be consistent with all applicable County and City of Morro Bay policies and Standards, and the land use strategy in SLOCOG's 2014 Regional Transportation Plan. The EIR suggests that the increase in traffic volumes on surrounding streets would be minimal and compatible with existing rural traffic and agricultural equipment that may be present. According to the 2014 Regional Transportation Plan, SR-1 at Old Creek Road is expected to carry 14,800 average daily trips by the year 2035. Operational trips associated with the project will have a small effect on the level of service of highway 1. The project is not inducing growth on the community therefore changes to traffic are less than significant.

**Factor (h) The proposal's consistency with city or county general and specific plans.**

**Response.** The annexation is consistent with the County's General Plan and the certified EIR for the WRF annexation area.

**Factor (i) The Sphere of Influence of any local agency that may be applicable to the proposal being reviewed.**

**Response.** Although the proposal site is not within the current CSD SOI which was updated in 2015, the application currently being considered provided sufficient and detailed analysis on the impacts of the proposed boundary changes. A portion of APN: 065-022-010 is currently within the service area of the City of Morro Bay. This does not conflict with allowing this project to move forward as the territory can be within a City and Special Districts Boundary per government code 56061. Although the City of Morro Bay Council has already adopted a resolution of application to apply for a detachment to LAFCO. LAFCO is anticipating the application in the near future.

**Factor (j) The comments of any affected local agency or other public agency.**

**Response.** Comments regarding this proposal have been received from the following agencies and were addressed in the staff report:

- County Air Pollution Control District

**Factor (k) The ability of the newly formed or receiving entity to provide the services that are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.**

**Response.** As stated in the Plan for Services the intent of the project is to amend the SOI and annex of approx. 258 ac into the CSD for the public facilities being built, WRF and solar farm. The area being annexed would not need services as typically expected with annexation due to the nature of the project. Rather, the WRF and project site are being annexed to serve the existing community.

As mentioned in the staff report the CSD is not eligible to receive a tax exchange. The reason for ineligibility is because the property is owned by a local government, in this case the CSD, and per the California Constitution Article 13, Section 1 a local government is exempt and does not pay property taxes once annexed. Therefore, there is no need for an agreement in this case and there is no amount of property tax revenue to be transferred.

**Factor (l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.**

**Response.** As previously mentioned, the area being annexed would not need services as typically expected with annexation due to the nature of the project. Rather, the WRF and project site are being annexed to serve the existing community. The Cayucos Area Water Organization as discussed in the staff report is the CSD's water provider. The CSD is a special district authorized to provide sewage, solid waste, and recycling services.

Although the CSD is in a unique situation as they plan to beneficially reuse its tertiary treated recycled water for agricultural uses in the Toro Valley until such time as a pipeline is constructed to bring the water to Whale Rock Reservoir. This allocated water could be used for direct application to fields or to improve irrigation reliability during a drought. Under CKH 56133, it would allow the CSD to provide water for agriculture purposes without it being consider a "service". Health and Safety Code section 6520.7 also supports the function of using the tertiary treated water as outlined into further detail in the staff report.

**Factor (m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.**

**Response.** The area being annexed would not affect the County in achieving its housing needs as typically expected with annexation due to the nature of the project. Rather, the WRF and project site are being annexed to serve the existing community. The area is zoned Agriculture. Under the existing zoning designation, up to four single family homes could be built. No change in zoning is proposed, as such, the development potential would not change should the SOI and annexation be approved.

**Factor (n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.**

**Response.** Letters from the property owners will be included and addressed in the Staff Report.

**Factor (o) Any information relating to existing land use designations.**

**Response.** The site is presently zoned agriculture and will remain as is if the SOI and annexation are approved.

**Factor (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.**

**Response.** The facility and its appurtenant facilities will not disproportionately affect particular populations or communities. Instead, the facility would provide services to the community regardless of race, culture, income, and national origin. Facilities (pipelines and other infrastructure) associated with development will be located within public roadways or on the site.

**Factor (q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal. (Amended by Stats. 2019, Ch. 360)**

**Response.** According to Cal Fire Hazard Severity Zones there is a moderate fire severity risk (Cal Fire 2006). As mentioned in the EIR fire hazard severity can be influenced by a number of factors, including the age of vegetation, accumulation of

dead plant material, vegetation management programs that may have been implemented, period of time since a stand of vegetation was last burned, historic climate, and topography of the region. However, ranked against other rural terrain and vegetation, the Project Site is considered a lower risk due to flat terrain and lack of dense vegetative cover in the valley.

In addition, the new WRF development would be required to comply with the County's Local Hazard Mitigation Plan, updated building code and fire protection measures, and fuel modification and landscape plan review procedures. The EIR addresses the Safety Element and any other local hazard mitigation planning in detail.

In the event of a fire, fire protection is provided by San Luis Obispo County Fire-CALFire from Station No. 11 located at 108 Chaney Avenue in Cayucos on non—24 hour staffed basis and the CALFire station in Los Osos on a 24-hour basis. Station 11 is not staffed 24 hours a day. During peak fire season staffing, Cayucos Station is staffed by a crew of four. During the "non" fire-season months, usually mid-October to mid-May, the Cayucos Fire Protection District pays for staffing at the Cayucos Fire Station, ensuring staffed fire protection year-round to the citizens of Cayucos.

Overall, this project would not place new populations into an area of high fire risk or other hazardous risk.