
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM NO. 8

DATE: July 17, 2013

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, LAFCo Executive Officer

SUBJECT: **Consider Adoption: City of Kingsburg "Guardian-Sun Maid Reorganization."** Proposed annexation of 118.68 acres to the Selma-Kingsburg-Fowler County Sanitation District (SKF) for the territory located between Golden State Boulevard and State Route 99 north of the existing City of Kingsburg City Limits. The proposal will also include the annexation of 430.84 acres to the City of Kingsburg and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located south of east Mountain View Avenue, west of south Bethel Avenue, and east of State Route 99. At the request of Fresno County, the boundary includes the industrialized area and the area between Golden State and State Highway 99 **(LAFCo File No. RO-12-7). (Continued from April 10, 2013 and June 5, 2013 Hearings)**

Applicant: Don Pauley, City Manager, City of Kingsburg

Land Owners/Parties of Real Interest: Donald and Janet Berry, George and Louise Alves, David Kazanjian, Anastacio and Oralia Mulillo, Susan Scarry, Vie-Del Company, Sun-Maid Growers of California, Guardian Industries, Selma Farmers Market LLC (Michael Malaekian, Alan Borba members), Consolidated Irrigation District, Selma-Fowler-Kingsburg County Sanitation District, and the City of Kingsburg

Recommendation

Approve by Taking the Following Actions:

- A. Acting as Responsible Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to approving the proposed reorganization the environmental effects of the Project (as defined below) as shown in the CEQA documents prepared, adopted, and submitted by the Lead Agency were reviewed and considered, and determine these documents to be legally adequate pursuant to CEQA Guidelines Section 15096.

- B. Find that the proposed reorganization is consistent with LAFCo Policies, Standards and Procedures Section 210 - Standards for Annexation to Cities and Urban Service Districts (01-10) and the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000.
- C. Assign the distinctive short form designation "Guardian-Sun Maid Reorganization" and approve the annexation subject to the following conditions of approval:
 - 1. Applicant shall execute an indemnification agreement with the Commission reasonably acceptable to the LAFCo Executive Officer and legal counsel, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter;
 - 2. The City of Kingsburg shall submit to the Executive Officer verification that a Right-to-Farm Covenant is required and made a part of the City's development agreement and that this legal covenant will be recorded with the final tract map approved by the City for the affected territory; and
 - 3. Ownership of land permitting, the annexation shall include the full existing right-of-way width of adjacent roadways with the exception that only the southern half-width right-of-way for Mountain View Avenue shall be annexed.
- D. Find and determine pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:
 - 1. The territory is uninhabited.
 - 2. Not all landowners have consented to the annexation.
- E. Direct staff to conduct a protest hearing at the LAFCo office pursuant to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 57000 et seq.).

Background

The City of Kingsburg (the "City"), in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, has initiated a reorganization intended to annex approximately 430 acres to the City (118.68 of such acres will be annexed to the Selma-Kingsburg-Fowler County Sanitation District) and detached from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District. (Figures 1 and 2)

Summary of Earlier Reorganization Efforts

On November 12, 2003, Kingsburg staff submitted an application for reorganization to LAFCO. (RO-03-19) The land between State Route 99 and Golden State Boulevard south of Mountain View and north of Kamm was not included in this original application. The City provided this justification at the time:

The reorganization is proposed under the principle that urban uses are best located in cities that are equipped to provide urban services, one of the foremost policies of the Fresno County General Plan. The reorganization is proposed...because the City of Kingsburg and County of Fresno are working together with Guardian Industries to facilitate expansion of the glass manufacturing facility southeast of Mountain View and Indianola Avenues.

On November 19, 2003, in accordance with State law requirements, the City rezoned the entire territory consistent with the City's General Plan.

On November 21, 2003, the County wrote Kingsburg that the proposed annexation is not consistent with the City/County Memorandum of Understanding's Standards for Annexation by creating an extremely irregular city limit boundary.

The record of this first reorganization indicates that the application was not deemed complete and no Certificate of Filing was issued. Overall, the project was delayed for many years in order to permit the city to address this and other issues.

Since this time, Kingsburg worked successfully with the Consolidated Irrigation District on an agreement dealing with groundwater recharge and storm water drainage, revised its CEQA document to tie off of the EIR done for the North Kingsburg Specific Plan and was in discussions with the City of Selma, and Fresno County regarding project size, standards of annexation, and entitlement processing by Kingsburg to facilitate annexation.

Current Reorganization Application

On September 6, 2012, the Kingsburg City Council initiated this reorganization with the adoption of Resolution No. 2012-36. A new application was submitted to LAFCO and a Certificate of Filing was issued by the LAFCo Executive Officer on March 19, 2013.

By October, 2012, the Fresno County Administrative Officer John Navarrette wrote to Kingsburg City Manager Don Pauley that "we have determined that the proposed annexation by the City of Kingsburg is consistent with the Standards for Annexation contained in Exhibit I of the Amended and Restated Memorandum of Understanding."

Correspondence Regarding this Reorganization

City of Selma

The Commission received letters from Selma City Attorney Neal Costanzo raising numerous issues regarding the application. A more comprehensive analysis of Mr. Costanzo's April 9, 2013 letter and staff's comments regarding his concerns are included later in this report. In fact, in December, 2012, the City of Selma filed a Petition for Writ of Mandate against the City of Kingsburg challenging the City's certification of the Mitigated Negative Declaration (12CECG03223).

Guardian Industries Corp.

Staff received a letter dated April 10, 2013 from John Kinsey, representing Guardian Industries Corp. (Guardian) raising several issues associated largely with fire protection, the fate of District Station 83, fire service agreements, transition agreements, and potential impacts to Guardian's expansion posed by development standards of the N2005 North Kingsburg Specific Plan (NKSP).

The fire protection issues Mr. Kinsey raised may be largely addressed by the approval of a transition agreement by Kingsburg and the Fresno County Fire Protection District. In response to Guardian's concerns about the NKSP development standards on June 5, 2013, the Kingsburg City Council unanimously approved an amendment of the NKSP to repeal Part VI (Community Design Standards for the Industrial Corridor).

The letters from City of Selma dated April 9, 2013 and Guardian dated April 10, 2013 are attached as Exhibit "D".

Recent Action by the Commission

On April 10, 2013, the Commission continued this reorganization to a date uncertain to allow time for the City of Kingsburg and the Fresno County Fire Protection District to negotiate a transition agreement consistent with LAFCo Policy 102-04-041. Staff subsequently hosted two meetings between representatives of the City of Kingsburg and the Fresno County Fire Protection District on May 8th and May 15th to facilitate a fire transition agreement between the two parties.

On June 5, 2013, the Commission received a status report from staff that the two parties were continuing their negotiations. The Mayor of Kingsburg requested that the Guardian-Sun Maid Reorganization hearing be placed on the July LAFCo meeting agenda with the understanding that the City will agree to continue it until August if the City and the District are unable to reach an agreement before then. A copy of the draft Transition Agreement is attached to this report as Exhibit "A."

Consideration of this reorganization requires the Commission to review and consider the Mitigated Negative Declaration and addendum prepared and certified by the City for

the Guardian-Sun Maid Annexation and Change of Zone (Pre-Zone) under the requirements of the California Environmental Quality Act ("CEQA").

The Proposed Reorganization

The proposed Guardian-Sun Maid Reorganization includes the annexation of approximately 430 acres to the City (118.68 of which will be annexed to the Selma-Kingsburg-Fowler County Sanitation District) and detachment from the Fresno County Fire Protection District, Consolidated Irrigation District, and Kings River Conservation District. The subject territory has been rezoned by the City as Heavy Industrial, Light Industrial, and Highway Commercial. The entire area is located within the City of Kingsburg's existing Sphere of Influence and within the North Kingsburg Specific Plan Area which identified the subject territory for future annexation consideration (collectively, the "Project").

The Project Area is roughly triangular in shape, located along the north City limits and is generally bounded by Mountain View Avenue on the north, Bethel Avenue on the east, and State Route 99 along the south and west. The proposed annexation area is also bisected by Golden State Boulevard and the Union Pacific Railroad that runs parallel to State Route 99.

The shape of the Project Area was originally noted by the County to be "extremely irregular." In its resolution determining that the Guardian-Sun Maid Reorganization is consistent with the standards for annexation contained within the City-County MOU, Kingsburg noted that the "city confined its area requested to that area needed to include the substantial development and create logical boundaries," and "the annexation includes seven urbanized industrial parcels occupied by three major industries and excludes the surrounding parcels, which are predominantly undeveloped agricultural land." The City concluded that "the boundary is logical, even though it is irregular, and it therefore conforms to the Standards for Annexation."

Further evaluation of the proposed boundaries and whether they constitute a peninsula is presented on page 16 of this report.

The majority of the Project Area, 350 acres, is developed with industrial/commercial uses, approximately 52 acres are undeveloped, and the remainder consists of street rights-of-way. The environmental setting of the Project Area is dominated by agricultural use to the north and east, State Highway 99 to the west, and a recreational vehicle park and vacant land to the south. The agricultural uses are predominantly vineyards and stone fruit.

Rezoning of the Project Area is a requirement for the annexation and the rezoning must be consistent with the City's General Plan in order to meet LAFCo policies. The area east of the railroad had been rezoned Heavy Industrial consistent with the Kingsburg General Plan. As part of the Project, the City of Kingsburg rezoned approximately 2.35 acres of Highway Commercial east of the railroad, along Mountain

View Avenue, and approximately 39.29 acres of Highway Commercial and 87.44 acres of Light Industrial between the Golden State Corridor and State Highway 99 consistent with the Kingsburg General Plan and the North Kingsburg Specific Plan. The North Kingsburg Specific Plan identified the area between the Golden State Corridor and State Highway 99 with a mixed use overlay to allow a range of uses in the future.

The Project also includes the annexation of a portion of the subject property to the Selma-Kingsburg-Fowler County Sanitation District (SKF) and detachment from the Fresno County Fire Protection District, Consolidated Irrigation District, and Kings River Conservation District.

Factors to be Considered Pursuant to Government Code Section 56668

1. 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 ten years.

Within the proposed annexation area there are ten landowners, including only two residences. The current County zoning is heavy industrial and agriculture. The property has been rezoned by the City as light industrial, heavy industrial, and highway commercial.

The proposed annexation area is located along the north City limits and is generally bounded by Mountain View Avenue on the north, Bethel Avenue on the east, and State Route 99 along the south and west. The proposed annexation area is also bisected by Golden State Boulevard and the Union Pacific Railroad that runs parallel to State Route 99.

The majority of the proposed annexation area, 350 acres, is currently developed with industrial/commercial uses, approximately 52 acres are undeveloped, and the remainder consists of street rights-of-way. The environmental setting of the Project Area is dominated by agricultural use north and east, State Highway 99 to the west, and a recreational vehicle park and vacant land to the south. The agricultural uses are predominantly vineyards and stone fruit.

There is no additional development proposed within the proposed annexation area at this time.

2. 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; 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. As well as the ability of the newly formed or receiving entity to provide the services which are subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary changes.

Water Services – Currently, the three industries have their own water systems. A water main has been extended from Kamm Avenue to Amber Lane. The waterline is currently owned and operated by the City of Kingsburg and is available for connection to all adjoining properties. Water is supplied through City of Kingsburg municipal wells. Industry wells do not and will not connect to the waterline. The pumping of groundwater from City wells and the associated impact to groundwater has been addressed through the existing agreement between the City of Kingsburg and Consolidated Irrigation District. This agreement provides a groundwater recharge program to offset groundwater pumping by City of Kingsburg wells.

Sanitary Sewer – The subject territory is within the Selma-Kingsburg-Fowler (SKF) County Sanitation District and two of the three industries are already connected to the SKF sewer. For the remaining industry, connection to the SKF sewer will not be difficult to achieve.

Storm Water Drainage – Each of the three industries in the subject territory handle runoff on-site and have ample acreage for this purpose.

Solid Waste Collection – The City of Kingsburg contracts with Waste Management for solid waste collection and the industries in the subject territory have the option of receiving services under this contract.

Police Protection – The subject territory is currently under the jurisdiction of the Fresno County Sheriff's Department and the California Highway Patrol. The Kingsburg Police Department will provide law enforcement protection after annexation.

Fire Protection – The subject territory is currently served by the Fresno County Fire Protection District from Station 83, which is located directly across Mountain View Avenue from the Guardian glass plant. Supplemental protection is provided from the Tulare County Fire Department's Kings River Station, the Kings County Fire Department Station at Burris Park, and the City of Kingsburg.

Upon annexation, the City fire department would assume primary responsibility for fire protection. The City has determined that it has sufficient service capability to meet the fire and emergency response needs of the annexed territory. The closest City of Kingsburg fire station to the subject territory is located in downtown Kingsburg, approximately 2.4 miles from the subject territory. The City also owns a site at the southeast corner of Sierra Street and Bethel Avenue (slightly more than one mile from the subject territory) that has been designated for development of a satellite fire station. This station, if constructed, would provide additional service to the subject property from the City of Kingsburg.

A mutual aid agreement is currently in place between the Fresno County Fire Protection District and the City, under which fire staff at Station 83 would respond

to a fire within the subject territory. The nascent transition agreement described later in this report would, among other things, renew the mutual aid agreement.

Ambulance and Paramedic Service – Services are provided by the Kingsburg Fire Department and would continue to be rendered in the same manner.

Street Lighting – The only street light in the public right-of-way serving the subject territory is located at the southwest corner of Bethel and Mountain View Avenues. Responsibility for the provision of street lighting will transition from the County of Fresno to the City of Kingsburg. Sun Maid is responsible for maintenance of all lights installed on Bethel Avenue along the Sun Maid plant.

Parks and Recreation – The City has a full-time Community Services Coordinator and a Parks Master Plan adopted in 2002. Because the City collects recreation area acquisition and improvement fees only from new residential development, and because the subject territory is industrial in nature, the subject territory will not generate such fees, nor will it generate demand for parks and recreation services.

Transit Services – In cooperation with the Council of Fresno County Governments, the City operates a dial-a-ride transit van in and around the City during business hours six days per week that will serve the subject territory.

Schools – The subject territory is divided by the boundary between the Selma Unified School District and Kingsburg's school districts (Kingsburg Joint Union High School District and Kingsburg Joint Union Elementary Charter School District). Because there are only two residences within the territory, an insignificant number of students, if any, are added to the population of any school. However, the project generates considerable revenues for schools through property taxes and school fees. Building projects within the territory are assessed school fees at the industrial rate of 51 cents per square foot.

Public Right-of-Way –The City of Kingsburg will assume responsibility for Bethel Avenue from Kamm Avenue to Mountain View Avenue, and for Indianola Avenue south of Mountain View Avenue. Because Mountain View Avenue forms the line of demarcation between the spheres of influence of Kingsburg and Selma, Kingsburg is annexing only half of the right-of-way of Mountain View Avenue, leaving the County responsible for the northern (westbound) portions. Projects on Mountain View Avenue, such as median island clean-up, will have to be coordinated between the City and County. Repairs or improvements should not be necessary for a period of years because the roadway was reconstructed and widened to four lanes in recent years.

Other Services – City-provided services will be more convenient to access than those currently provided by the County of Fresno. City Hall, the Planning and Development Department, the Senior Center, the police and fire departments, and other city facilities are located within a few miles of the subject territory. In

Kingsburg there are branches of the Fresno County Free Library and the Fresno County Superior Court.

3. 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.

The Project Area is depicted in the City of Kingsburg's General Plan and is within the City of Kingsburg's Sphere of Influence as approved by LAFCo. There are no effects anticipated.

4. 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 in Section 56377.

See section on consistency of the reorganization with LAFCo Policies, Standards and Procedures below.

5. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.

Although the 2008 Important Farmland Mapping and Monitoring Map for eastern Fresno County identifies portions of the Project Area as prime farmland, much of the areas so identified is currently developed as industrial and commercial uses consisting of buildings or structures and areas used for the application of wastewater by the Sun Maid Raisin Growers.

Only a small portion of the Project site is currently cultivated and the otherwise undeveloped parcels are small, precluding use for production agriculture. A 15-acre vineyard on the south side of Mountain View Avenue west of Bethel Avenue is owned by Guardian Industries. It is anticipated that it will be used for future expansion. A remnant vineyard of about four acres also exists between State Highway 99 and Golden State Boulevard southeast of Amber Avenue.

In addition, the City of Kingsburg has a right-to-farm ordinance that will allow the continued operation of agricultural properties upon annexation.

6. The definiteness and certainty of the boundaries of the territory, the conformance of proposed boundaries with lines of assessment or ownership, the creation of island or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

The boundaries are definite and certain and contiguous to the existing City limits. There are no conflicts with lines of assessment or ownership.

7. A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.

The regional transportation system within the Project Area is currently developed. The major access to the properties within the Project Area is from Mountain View Avenue to the north, Bethel Avenue to the east and south, and Golden State to the west and east. A Traffic Impact Study was prepared for the proposed project, which indicated that the study intersections and road segments currently operate at acceptable levels of service.

8. The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

The entire Project Area is located within the City of Kingsburg's existing Sphere of Influence and is contiguous to existing City Limits at the Project Area's southern boundary.

9. The comments of any affected local agency or other public agency.

The City of Selma informed LAFCo of its then pending litigation against the City of Kingsburg concerning the Mitigated Negative Declaration. In that letter, the City of Selma requested that "the Commission make any and all determinations upon the Resolution of Application only after notice and hearing on the Resolution of Application, in accordance with applicable law."

This letter was followed up by additional letters dated December 6, 2012, December 14, 2012, and a more detailed letter of April 9, 2013 (discussed in greater detail later in this report), reiterating the same comments. During the Kingsburg City Council's June 5, 2012 meeting to consider amendments to the NKSP development standards, a representative of the City of Selma appeared to voice objections to the amendment and its categorical exemption from CEQA.

As of the preparation of this report, staff understands that Selma continues to object to this project. A more complete discussion of Selma's concerns is below.

On March 29, 2013, staff received a large set of documents from the Fresno County Fire Protection District concerning the Guardian-Sun Maid Reorganization, the lack of a fire transition agreement between the Fresno County Fire Protection District and the City of Kingsburg, the Mitigated Negative Declaration prepared for the Guardian-Sun Maid Reorganization, and the City's ability to provide fire protection services to the newly annexed territory.

As noted earlier in this report, leadership of the City of Kingsburg and the District have drafted a transition agreement and will present it to their respective decision-makers prior to the Commission's July 17 meeting. Staff understands that the issues raised by the District will be largely addressed by approval of the agreement.

10. Timely availability of water supplies adequate for projected needs.

As stated, currently the three industries within the subject territory have their own water systems and the City has local water mains to serve the Project Area and available for connection to all adjoining properties.

11. 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.

The subject territory has been rezoned light industrial, heavy industrial, and highway commercial in conformance with the Kingsburg General Plan. No new residences are planned to be constructed within the subject territory.

12. Any information or comments from the landowners, voters, or residents of the affected territory.

As of this writing, LAFCo has not received any information or comments from landowners, voters, or residents. However, LAFCo has received signed consent forms from five of the landowners (11 parcels) owning just less than forty-six percent of the land value.

13. Any information relating to existing land use designations.

The current County zoning for the subject territory is heavy industrial and agriculture.

The 2008 Important Farmland Mapping and Monitoring Map for eastern Fresno County identifies portions of the Project Area as prime farmland. However, much of the areas so identified are currently developed as industrial and commercial uses consisting of buildings or structures and areas used for the application of wastewater by the Sun Maid Raisin Growers.

Only a small portion of the project site is currently cultivated and the otherwise undeveloped parcels are small, precluding use for production agriculture. A 15-acre vineyard on the south side of Mountain View Avenue west of Bethel Avenue is owned by Guardian Industries. It is anticipated it will be used for future expansion. A remnant vineyard of about four acres also exists between State Highway 99 and Golden State Boulevard southeast of Amber Avenue.

14. The extent to which the proposal will promote environmental justice.

As per State law, the factors to be considered in reviewing reorganization proposals include the extent to which the proposal will promote "environmental justice." As set forth in Government Code Section 56668(o), environmental justice means "the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and provision of public services." Staff believes that the increased level of public services that will be provided by

the City to the affected territory supports this objective. Moreover, given the current and projected land uses and information in the record, there is no evidence of any impact the application may have with respect to the fair treatment of people of all races and income, or the location of public facilities or services.

15. Location and Characteristics of any Disadvantaged Unincorporated Communities

LAFCo staff and the City of Kingsburg have determined that there are no disadvantaged unincorporated communities in the area being annexed or in the surrounding area.

Consistency with LAFCo Policies, Standards and Procedures

The entire Project Area is located within the City of Kingsburg's existing Sphere of Influence and is adjacent to existing City Limits.

The proposal is consistent with LAFCo Policy 101-02, which in part states:

Any proposal for a change of 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.

The proposal is consistent with LAFCo Policy 102-05, which in part states:

All developed urban land inside a City's Sphere of Influence shall be encouraged to annex to the City.

The proposal is consistent within the North Kingsburg Specific Plan Area which identified this territory for future annexation consideration.

No additional development is planned for the affected territory. The Service Plan submitted for this Reorganization indicates that all necessary urban services (police, fire, water, etc.) are available to serve the affected territory. (See Service Plan at www.fresnolaftco.org.)

The proposal would carry out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

Transition Agreement

LAFCo Policies, Standards and Procedures section 102-04-041 requires, when a proposed reorganization includes annexation of territory to a city and detachment from a fire protection district, a transition agreement to provide for the orderly transition of

services from the fire protection district to the city. Transition agreements are to provide for orderly transfer of service from the fire protection district to the city, and may involve transfer of stations, personnel, equipment, property taxes, etc., as mutually determined by the city and fire protection district.

The fire transition agreement between the Fresno County Fire Protection District and the City expired on December 31, 2012, a new agreement has been drafted by the respective parties' leadership and is expected to be considered and approved by Kingsburg and the District before the Commission considers this project at its July 17, 2013, hearing.

If a fire transition agreement is not in place at the time application was made, in according to LAFCo Policies, Standards and Procedures would have required the City to submit the following information to the Executive Officer with the application:

- (1) A statement explaining why the city does not have a transition agreement in effect with the fire protection district; and
- (2) Reasons, if any, why the city believes that a transition agreement is not necessary or is undesirable for the processing of the proposed reorganization.

Since the agreement expired, the City has provided information and statements that would fulfill this requirement.

Notwithstanding the nascent agreement, LAFCo Policy 102-41-041-A allows for the Commission to approve this application in the absence of a fire transition agreement between the City and the District based upon various findings including "any other appropriate reason(s) that are in the public interest, as determined by the Commission."

Property Tax Exchange Agreement

Revenue and Taxation Code Section 99 provides that whenever an application is filed, but prior to issuing a certificate of filing, the Executive Officer shall initiate a process through the County Assessor and Auditor of generating information to allow for the negotiated exchange of property taxes related to the boundary changes that have been proposed.

On January 16, 2013, LAFCo staff sent notice of the application to the County of Fresno Auditor-Controller, Vicki Crow, requesting resolutions from the subject agencies agreeing on the exchange of property tax revenue. However, the Auditor-Controller did not respond as the City and County have a Master Tax Sharing agreement in place. Therefore, a negotiated exchange of property taxes related to the proposed boundary changes is not required. A copy of the letter to Vicki Crow is attached at Exhibit "B."

Environmental Impacts and Compliance with CEQA

As Responsible Agency, the Commission is required to review and consider the City's Initial Study, Mitigated Negative Declaration or EIR and addendum prior to taking its action. A Responsible Agency complies with CEQA by considering the Negative Declaration prepared by the Lead Agency and by reaching its own conclusions on whether and how to approve the project. The Commission may then make a finding that it independently reviewed and considered the information in the Initial Study, the environmental document and addendum and that these environmental documents are sufficient on which to make a determination on the proposed reorganization. Under CEQA, there are limited circumstances that would allow a Responsible Agency to prepare additional environmental review beyond a Lead Agency's Negative Declaration or EIR such as where a project or the circumstances surrounding a project have substantially changed since a Lead Agency certified the Negative Declaration, or where a Lead Agency, in preparing the environmental document, utterly failed to communicate with a Responsible Agency.

The City of Kingsburg is the Lead Agency and has found that although the Project could have a significant effect on the environment; sufficient mitigation was adopted to prevent significant effects on the environment.

On April 25, 2012, the City released, for public review and comment, a mitigated negative declaration and a notice of intent to adopt that mitigated negative declaration for the Project (the "Mitigated Negative Declaration" available on the LAFCo website at www.fresnolaftco.org). The public review period for the Mitigated Negative Declaration closed on May 25, 2012 and on September 6, 2012, the Kingsburg City Council certified the final Mitigated Negative Declaration. An addendum to the MND was prepared by the City to address the expiration of the transition agreement.

City of Selma Concerns

As mentioned, the City of Selma filed a Petition for Writ of Mandate against the City of Kingsburg challenging the City's certification of the Mitigated Negative Declaration. A copy of the City's lawsuit is available on the website at www.fresnolaftco.org.

The City of Selma essentially alleges that it is adversely affected by the City of Kingsburg's failure to adequately consider, evaluate, and mitigate the significant environmental impacts of the project as it relates to impacts on air quality, agricultural impacts, greenhouse gas emissions, hydrology and water quality, traffic, fire protection, and overall cumulative impacts.

Staff received a letter from Selma City Attorney Neal Costanzo dated April 9, 2013. The letter served "as the city of Selma's opposition, comments, objections and evidence in opposition to the proposed annexation...." Staff has reviewed the letter, evaluated its assertions, and offers the following responses to the points made.

- *Claim: The proposed annexation must be disapproved because it does not satisfy the standards applicable to an annexation.*

- *There is no adequate plan for providing, need for or capacity to provide water service.*

This statement does not reflect the information contained in the record.

The City of Kingsburg's Service Plan dated July 2012 describes current water service within the territory to be annexed: the Guardian Industries Glass Plant, Vie-Del Grape Processing Facility and Sun Maid Growers Raisin Plant each have two on site water wells. The Service Plan further states that those industries will have the option of connecting to a waterline owned by the City of Kingsburg following the annexation.

The Mitigated Negative Declaration for the annexation (the "MND") states that the annexation will have a less than significant impact on groundwater. The MND notes that "the existing development utilizes two high-producing water wells that will continue to be operated until such a time as the industries initiate connection to the city system;" and "the city's water system master plan and urban water management plan indicates that the groundwater supply in the area is ample, and a future municipal well is planned near the northwestern end of the annexation (currently planned along the Amber Avenue alignment). There is also information presented in the MND that summarizes water resource management and mitigation of possible impacts to groundwater resources by metering future wells and implementing a water management agreement with the Consolidated Irrigation District.

State Department of Health Services Senior Sanitary Engineer Betsy Lichti has written staff confirming "the adequacy and availability of existing and proposed community water works" and the project would have no effect on water quality.

Under an Extra-Territorial Water Service Agreement between the City of Kingsburg and G & L Enterprises, the waterline in question was constructed by G & L Enterprises in the winter of 2008-09. An agreement was also entered into between the City of Kingsburg and the County of Fresno for construction, maintenance and operation of the waterline within the County right-of-way. Currently, it serves the properties along the Golden State corridor between Kamm Avenue and Mountain View Avenue. The waterline is currently owned and operated by the City of Kingsburg and is part of the City of Kingsburg's water system, is supplied by the City of Kingsburg municipal wells #10, #14 and #16 and is consistent with the City of Kingsburg 2003 Water Master Plan. The pumping of groundwater from City wells and the associated impacts to groundwater has been addressed through the existing agreement between the City of Kingsburg and Consolidated Irrigation District, which provides for a groundwater recharge program to offset groundwater pumping by the City of Kingsburg's wells. The waterline has been in operation without experiencing supply issues since 2009.

A statement is made in the letter that the Service Plan does not conform to the requirements of Government Code §56653 and that the Commission should require a new service plan with respect to water services. Section 56653 states that whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall submit a plan for services that shall include all of

the following information: (1) an enumeration and description of the services to be extended to the affected territory; (2) the level and range of those services; (3) an indication of when those services can feasibly be extended to the affected territory; (4) an indication of any improvement or upgrading of structures, roads, sewer or water facilities or other conditions imposed by the local agency; and (5) information with respect to how those services are financed.

Contrary to these allegations, significant evidence (the Service Plan, the MND and statements by the State Department of Health Services) has been presented to LAFCO to establish the plan, need, and capacity for providing water service.

Mr. Costanzo states in his letter that had the City of Kingsburg disclosed its plans for providing water service to the affected territory via connection to the water main, it could not have concluded in the MND that there is no impact to hydrology or water quality or that it had no detailed knowledge of future projects that could affect groundwater recharge and utilize groundwater supplies at the time of adoption of the MND. However, the MND clearly states that the affected territory would have the right to connect to the water main after annexation. Furthermore, the MND makes clear that no one in the affected territory is *required* to connect to the water main – only that they *may* do so. Finally, there is evidence available to demonstrate that the City of Kingsburg has water to make available to the annexed territory and that mitigation is in place for impacts to groundwater.

- *Claim: Approval of the annexation as proposed is inconsistent with the planning and shaping of logical and orderly development and coordination of local government agencies.*

A statement is made that the Project Area is not located along the City's north limits. However, the legal description and map provided by the applicant (and meeting LAFCO's standards for such exhibits) clearly depict that the Project Area is contiguous to the City's current corporate limit.

A statement is made that the project would form a peninsula, which is inconsistent with LAFCo Policies, Standards and Procedures 210-08 that boundaries must *minimize* the creation of peninsulas and corridors or other distortion of boundaries. However, the language in Policy 210 states that the creation of peninsulas *must be minimized*, not that they are never permitted.

In evaluating this question of peninsulas, a regional context should be considered that takes in to account the effect of major transportation routes and the city's general plan. A characteristic shared by the three cities (Fowler, Selma and Kingsburg) that sit adjacent to State Route 99 and Golden State Boulevard is the relationship of their growth plans and spheres of influence to these roadways. Each of these cities' spheres is elongated by the couplet for much the same reasons: street visibility for marketing, impact of traffic (noise, activity, odors, dust) on sensitive land uses making it more viable for heavy commercial and industrial uses and access to adjacent railroad. As a response to these factors, their respective general plans logically focus commercial,

industrial, and public facility development along the couplet, rather than avoid it. This is true for all Fresno County cities that lie near major transportation routes.

The question whether the subject reorganization creates a peninsula should be considered in light of these factors. LAFCo's policies and procedures should be used to guide decision making by determining the logic and order is used to support reorganizations, and to take unique local factors into consideration. The logic of growth along the corridor is demonstrated by the LAFCo-approved spheres of influence; the fulfillment of these spheres is demonstrated by the Kingsburg General Plan and the proposal can be viewed as a part of an incremental fulfillment of the City's general plan.

Mr. Costanzo states that LAFCo cannot approve an annexation unless the territory to be annexed is contiguous to the city and that LAFCo has not made a determination as to whether the territory at issue is "contiguous" to the city of Kingsburg. Under the Cortese-Knox-Hertzberg Local Government Act, "contiguous" is defined as "territory adjacent to the territory within the local agency." (Government Code §56031, subd.(a).) The statute further states that "[t]erritory is not contiguous if the only contiguity is based upon a strip of land more than 300 feet long and less than 200 feet wide at its narrowest width, that width to be exclusive of highways." (*Id.* at subd.(b).) Staff's review of the corridor between Highway 99 and Golden State reveals it to be approximately 1,000 feet wide including highways. Excluding highways, the corridor is approximately 700 feet wide.

Attached to this report is a map and a property description by meets and bounds depicting that the annexed territory and property are contiguous. (Figure 3)

- *Claim: The proposal is not consistent with LAFCO Policies, Standards and Procedures and the city's sphere of influence is, according to the city itself, not a proper sphere of influence.*

A statement is made that LAFCO improperly relied exclusively on the fact that the territory is within the City of Kingsburg's sphere of influence in evaluating whether to approve the annexation. Mr. Costanzo is correct that LAFCO Policies, Standards and Procedures 102-01 states that a proposal "should not be approved solely because the area falls within the sphere of influence of an agency. The sphere of influence is one factor among several considered in reviewing proposals." Under Government Code Section 56668, LAFCO is required to consider several factors when considering an annexation proposal. The staff report for this proposal makes clear that all of those factors have been considered to determine whether this annexation is appropriate.

Mr. Costanzo states that because "few, if any" city services are proposed to be provided to the annexed territory, LAFCo Policies, Standards and Procedures 102-03 and 102-05 do not support annexation. This statement is incorrect. Review of the Service Plan makes clear that following annexation, the City of Kingsburg will be responsible for most, if not all, services within the annexed territory including water, sewer, fire protection, law enforcement, solid waste and ambulance and paramedic services.

Additionally, he states that the territory to be annexed is within the city of Selma's sphere of influence, not the city of Kingsburg's. Despite this allegation, Mr. Costanzo offers no proof of this assertion. Rather, attached hereto as Exhibit ___, note that LAFCO's maps depicting the adopted and approved spheres of influence for Selma and Kingsburg clearly depict that the territory at issue in this annexation is within the sphere of influence of the City of Kingsburg.

He notes that the City of Kingsburg sphere of influence extends into Tulare County and is effectively void. This statement is incorrect. The fact that a portion of the sphere is included in Tulare County does not appear to render the sphere void. However, because Fresno LAFCo cannot annex territory to a City that is located outside of Fresno County, the portion of the sphere located in Tulare County is of little value to the City. Despite the Kingsburg's sphere of influence including portions of Tulare County, in Resolution No. MSR-07-11 adopted July 11, 2007, the Commission declared the sphere of influence of the City of Kingsburg as satisfactory.

Mr. Costanzo makes the statement that because LAFCO determined that "Kingsburg's sphere did not represent the 'probable, physical boundaries and service area' for the City," the Commission directed the City to submit an appropriate application to amend the sphere (citing Resolution MSR07-11 and supporting MSR adopted July 11, 2007). This statement is incorrect. First, the statement that "[t]he Sphere boundary [] does not represent the 'probable physical boundaries and service area' or the City of Kingsburg" was made in the Staff Report considering the MSR for the City of Kingsburg in 2007 and was made only to make clear that because a portion of the Kingsburg sphere of influence is located in Tulare County, and because LAFCO cannot approve an annexation of territory in another county, it would be unlikely that the City of Kingsburg would grow into portions of Tulare County. Furthermore, the Commission never directed the City of Kingsburg to submit a new sphere of influence application. The Staff Report stated that:

The City states that its SOI is not correct at this time. Though no application has been submitted, the City indicates it wishes to expand its SOI to include the area identified within its North Kingsburg Specific Plan. *It would be appropriate to consider this proposed expansion once an application has been submitted by the City.* (p. 6 (emphasis added and emphasis removed).)

The staff report made clear that if the City ever initiated an application to modify its sphere of influence, it would be appropriate for the Commission to consider that application.

- *Claim: The [Prior Staff] Report and MND [Mitigated Negative Declaration] each ignore the adverse effect of the proposal on adjacent territory and on the city of Selma.*

Mr. Costanzo makes the statement that the MND and the prior staff report on this annexation do not properly consider the effect of the annexation on the city of Selma's Selma Crossing Project (an EIR has already been issued for that project). A statement

is also made that at the intersection of 99 and Mountain View where the territory to be annexed is located, the remaining three corners are within the city of Selma's sphere of influence. The result is that two separate legal jurisdictions are located at the same intersection – the City of Selma and the City of Kingsburg. The letter argues that having two separate jurisdictions at one intersection will create several problems for development. The letter includes only speculation of potential issues – there is no evidence that any such issues will arise.

- *Claim: A supplemental EIR [Environmental Impact Report] is required as the application and report provide new information or changed circumstances that give right to significant environmental impacts.*

Mr. Costanzo states that LAFCO is required to prepare a supplement or subsequent MND for the annexation because a significant change was made to the project after the adoption of the MND. According to the letter, such change is due to a modification from a plan that allowed the area industries to continue to provide their own water service needs, to the construction of the water main the tying of the existing industries within the territory to be annexed to that water main and the City of Kingsburg. Contrary to this allegation, no such significant change occurred since the adoption of the MND. First, the construction of the water main and the potential connection of existing industries to that water main were addressed in the MND. The MND states:

The proposed annexation would not contain elements that add to or draw from groundwater. The existing development utilizes two high-producing waters [sic] wells that will continue to be operated *until such time as the industries initiate connection to the City's system.*

This language makes clear that at the time the MND was prepared, the connection of existing industries to the water main was contemplated. Therefore, there has been no significant change. Furthermore, if the city of Selma believes that such connection by the existing industry will negatively impact the groundwater, such argument should have been made when public review and comment was sought by the city of Kingsburg.

Second, there has been no change that prohibits the existing industries from continuing to provide for their water service needs through pumping from their existing groundwater wells. The existing industries are still allowed to continue to provide for their own water service needs. The language in the Service Plan and MND make clear that the industries are permitted not required, to connect to the water main.

Therefore, there is no evidence of a significant change to the project since the adoption of the MND.

On March 29, 2013, the City informed LAFCo's Executive Officer that the City intended to provide an addendum to the Mitigated Negative Declaration concerning the lack of a fire transition agreement between the Fresno County Fire Protection District and the City. However, this requirement would appear to be unnecessary given the City of

Kingsburg and the Fresno County Fire Protection District will have a transition agreement addressing service to the Project territory.

The lead agency or a responsible agency may prepare an addendum to a previously adopted negative declaration if minor technical changes or additions are necessary. (CEQA Guidelines, § 15164(b)). An addendum need not be circulated for public review but can be included in or attached to the adopted negative declaration. (CEQA Guidelines, § 15164(c)). The decision-making body shall consider the addendum with the adopted negative declaration prior to making a decision on the project. (CEQA Guidelines, § 15164(d)).

Section 14(a) of the Mitigated Negative Declaration states as follows:

a) *Fire Protection*

Less than Significant. The annexed area will be served by the City's fire department. The City of Kingsburg has determined that it has sufficient service capability to meet the fire and emergency response needs of the area. A transition agreement is in place between the City and the Fresno County Fire Protection District that addresses financial impacts resulting from detachment from the District. Impacts on fire protection would be less than significant.

Due to the expiration of the former fire transition agreement between the City and the Fresno County Fire Protection District that was in place at the time the Mitigated Negative Declaration was adopted by the City, the City prepared an addendum to the Mitigated Negative Declaration (the "Addendum"), both of which are attached as Exhibit "C."

The City's Mitigated Negative Declaration and addendum covers the action now before the Commission with respect to annexation of 430 acres to the City of Kingsburg, and portions of that same territory to the Selma-Kingsburg-Fowler County Sanitation District (SKF), as well as the detachment of the same territory from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District and the prezone of the subject area to Heavy Industrial, Light Industrial, and Highway Commercial.

The nascent agreement has the effect of restoring a transition agreement and associated fire protection resources and agreements to the environmental context of this project. Should the parties not adopt the agreement, the addendum can be considered by the Commission as part of its CEQA responsibilities.

The Commission has several options with regard to CEQA and the certified Mitigated Negative Declaration and addendum. The Commission may choose one of the following three options:

Option 1: The Commission can rely on the Mitigated Negative Declaration and addendum certified by the City of Kingsburg.

Option 2: The Commission can elect to prepare a subsequent or supplemental mitigated negative declaration for the entire Project. (This option is only available if the Commission believes that substantial new information has become available since the City's certification of the Mitigated Negative Declaration. At this time, Staff is unaware of any such new information other than the litigation mentioned previously.)

Option 3: The Commission can elect to assume the role of lead agency for the Project.

Indemnification Agreement

Staff recommends that approval of the proposal be conditioned upon the Applicant signing an indemnification agreement, acceptable to the LAFCo Executive Officer and Counsel, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of, or in connection with, the Commission's actions related to this matter.

Alternatives for Commission Action

This report presents specific actions for the Commission to consider, including the approval of the Guardian-Sun Maid annexation to the City of Kingsburg and the Selma-Kingsburg-Fowler County Sanitation District (SKF) and the detachment of the same territory from the Fresno County Fire Protection District, Consolidated Irrigation District, and the Kings River Conservation District.

Section 56375 of the Act provides the Commission with latitude to "review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission."

Staff Recommendation

This report has been prepared with an understanding that a nascent transition agreement will be considered by the respective decision-making bodies prior to the Commission's July hearing. If the agreement is approved, staff recommends that following its review of this report and any testimony and materials that are submitted, the Commission adopt this report and APPROVE the proposed actions presented in the Recommendation section of this report.

Alternative Actions

As options to the recommendation, should the nascent transition agreement not be approved by Kingsburg and the District by July 17th, the Commission, following its review of this report and any testimony and materials that are submitted, has the following options:

1. CONTINUE THE HEARING to August to allow sufficient time for the City and District to approve the agreement;

2. APPROVE the application with a condition that the City of Kingsburg comply with certain conditions, including, but not limited to, evidence sufficient to the Executive Officer that (i) a fire transition agreement consistent with the agreement provided to the Commission has been executed or (ii) impose conditions substantially the same as those terms contained in the Agreement;
3. APPROVE the application with other conditions deemed necessary by the Commission; or
4. DENY the application.

Attachments

Figure 1 – Annexation to the City of Kingsburg

Figure 2 – Annexation to the District

Figure 3 – Legal Map and Description

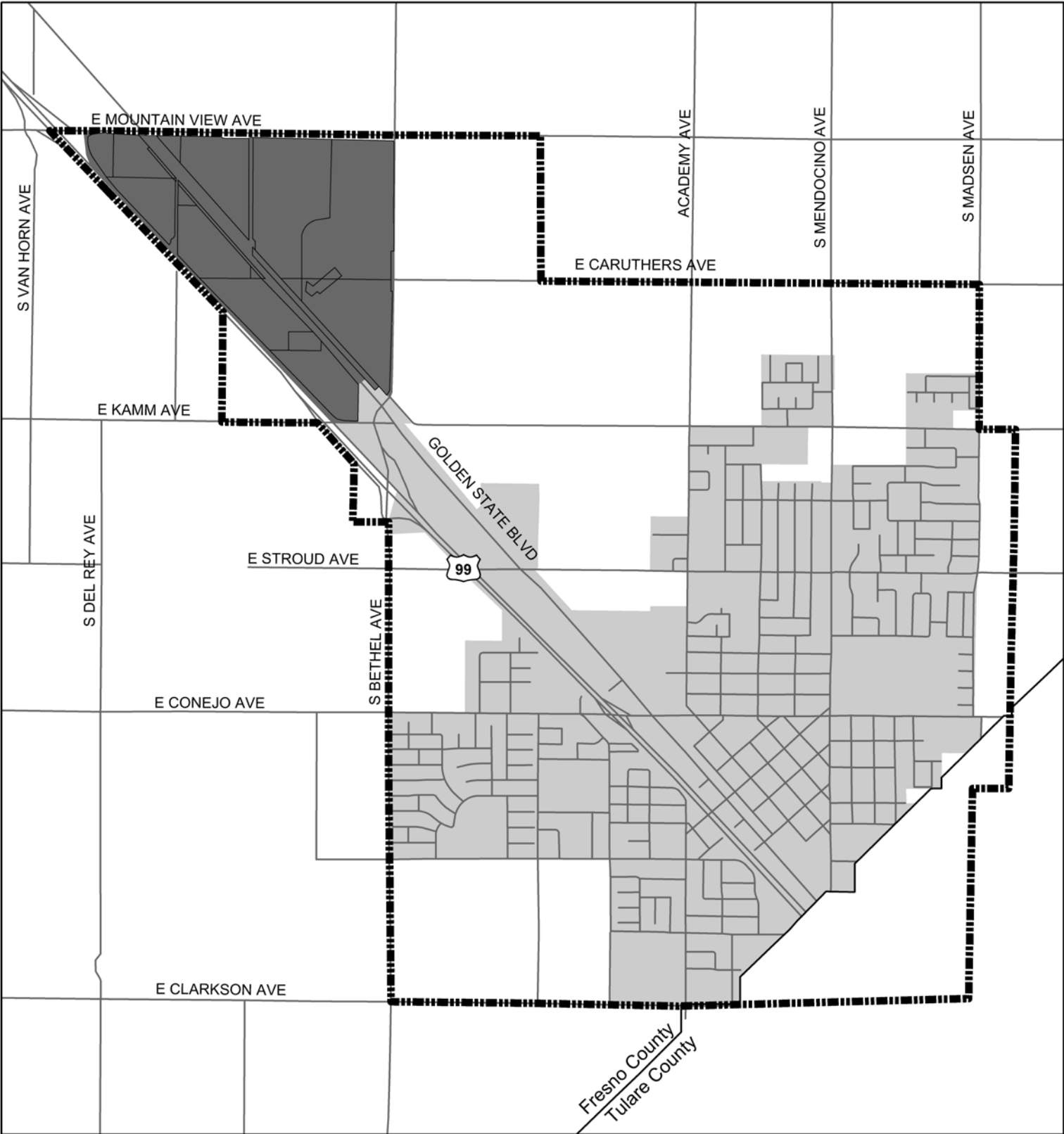
Exhibit "A" – Draft Transition Agreement

Exhibit "B" – Revenue & Taxation Code Section 99 Letter to Vicki Crow

Exhibit "C" – Mitigated Negative Declaration to the Guardian/Sun-Maid Reorganization and Addendum

Exhibit "D" – Correspondence received from City of Selma and Guardian Industries

FIGURE 1 - ANNEXATION TO THE CITY



Legend

- Sphere of Influence
- City Limits
- Affected Territory

City of Kingsburg "Guardian-Sun Maid Reorganization"
LAFCo File No. RO-12-7

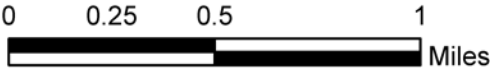
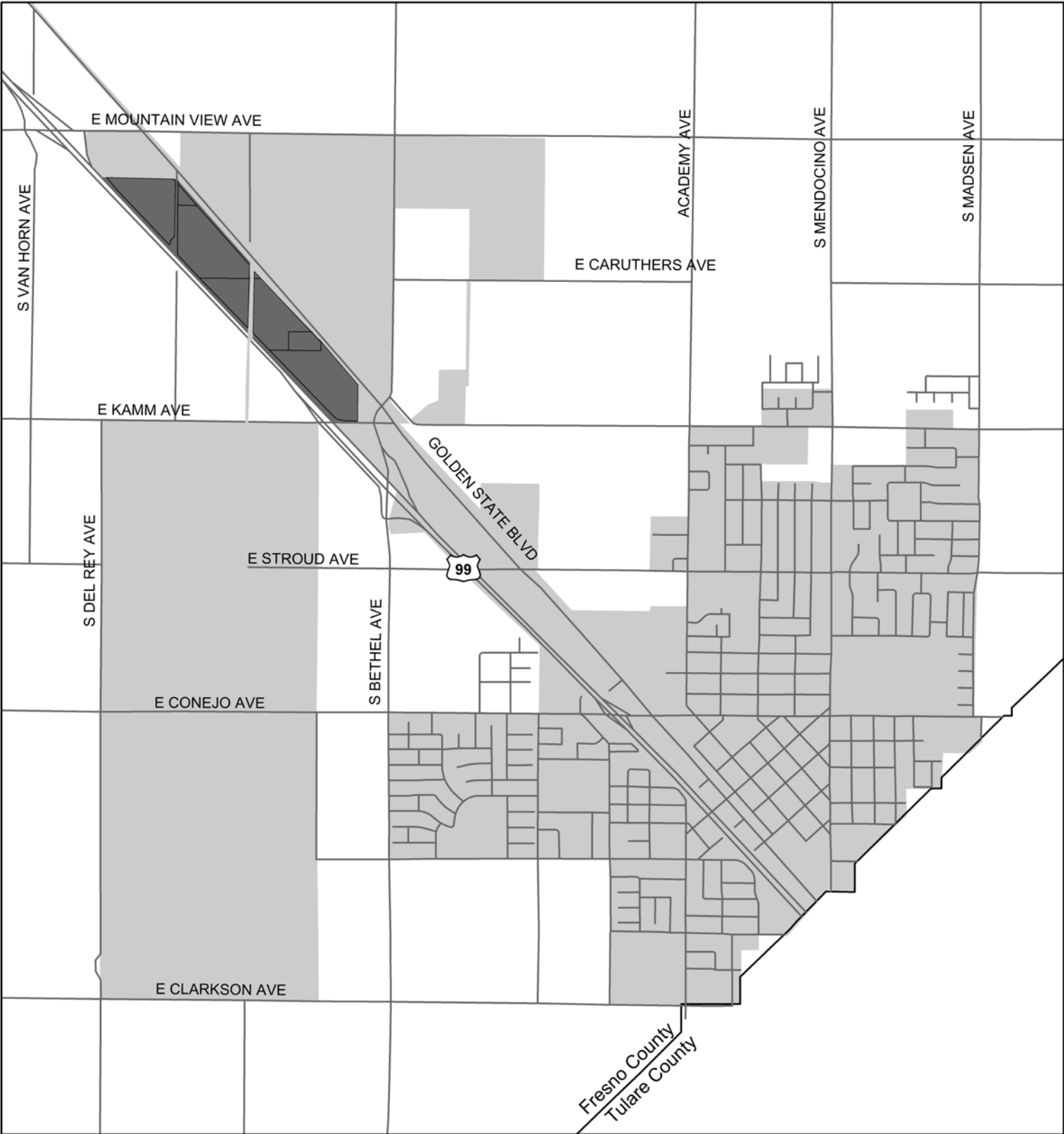




FIGURE 2 - ANNEXATION TO DISTRICT



Legend

-  District Boundary and SOI
-  Affected Territory

City of Kingsburg "Guardian-Sun Maid Reorganization"
LAFCo File No. RO-12-7

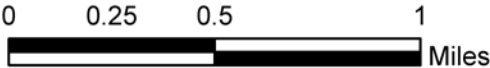
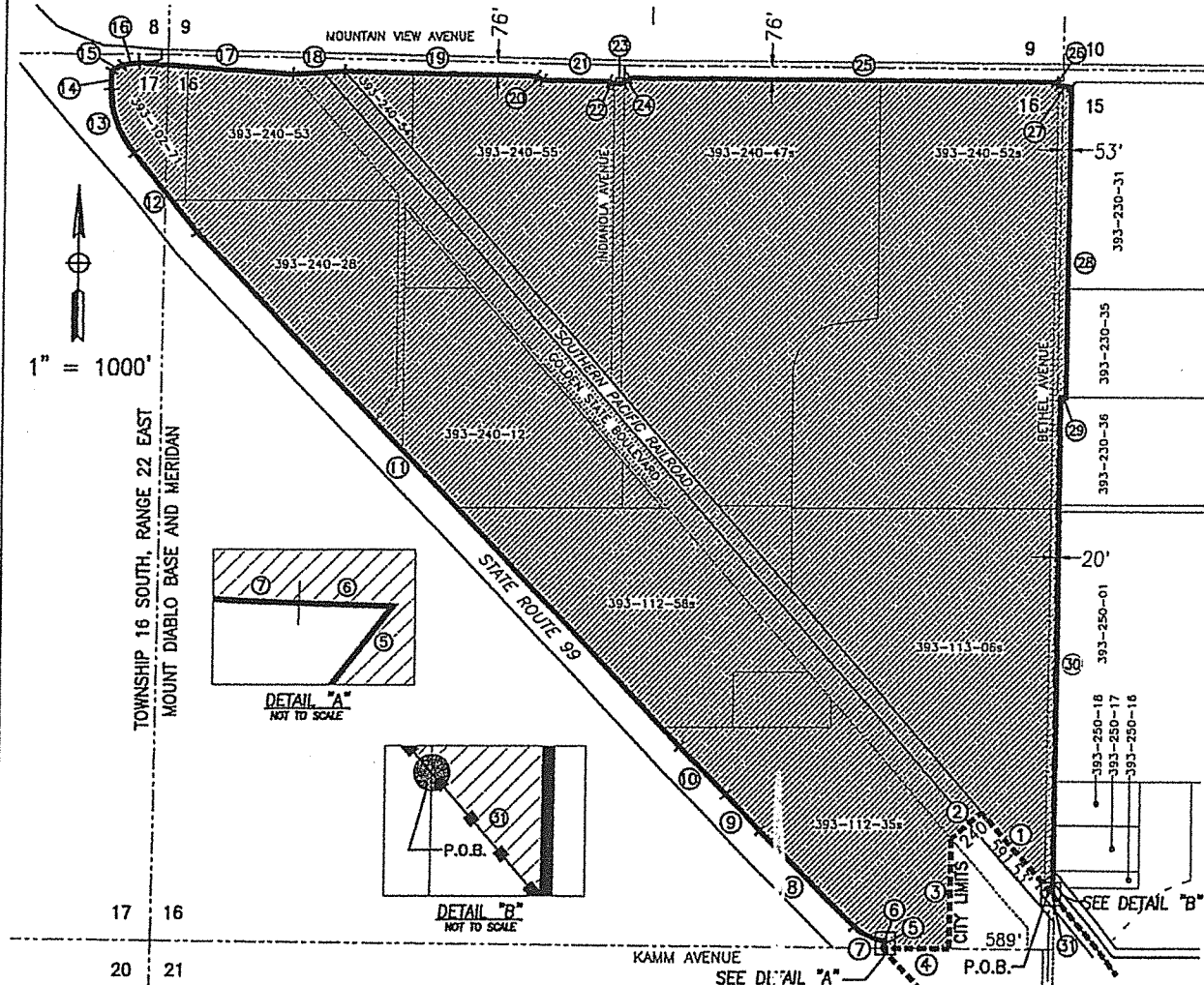


FIGURE 3

APPROVED

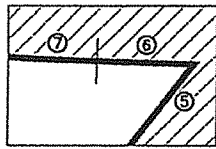
DAK 1-10-2013

GUARDIAN-SUNMAID ANNEXATION TO THE CITY OF KINGSBURG, DETACHMENT FROM FRESNO COUNTY FIRE PROTECTION DISTRICT, CONSOLIDATED IRRIGATION DISTRICT, AND KINGS RIVER CONSERVATION DISTRICT

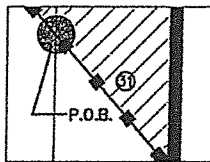


1" = 1000'

TOWNSHIP 16 SOUTH, RANGE 22 EAST
MOUNT DIABLO BASE AND MERIDIAN

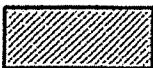


DETAIL "A"
NOT TO SCALE



DETAIL "B"
NOT TO SCALE

LEGEND



GUARDIAN-SUNMAID ANNEXATION TO THE CITY OF KINGSBURG, DETACHMENT FROM FRESNO COUNTY FIRE PROTECTION DISTRICT, CONSOLIDATED IRRIGATION DISTRICT, AND KINGS RIVER CONSERVATION DISTRICT.
CONTAINING AN AREA OF: +/- 430.84 ACRES



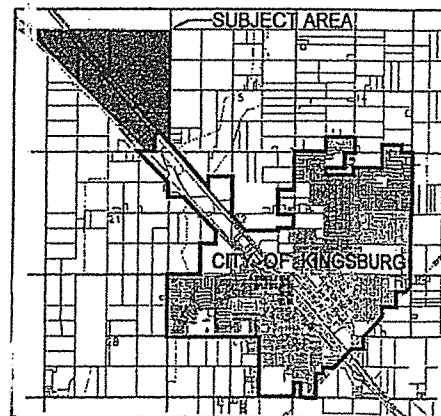
INDICATES COURSES ASSOCIATED WITH THE LEGAL DESCRIPTION.



INDICATES EXISTING KINGSBURG CITY LIMITS.



0 500 1000 1500 2000



VICINITY MAP
NOT TO SCALE

DECEMBER 12, 2012
REVISED: JANUARY 2, 2012

PETERS ENGINEERING GROUP

FIGURE 1

APPROVED

DAK 1-10-2013

**Guardian Sunmaid Annexation to the City of Kingsburg, detachment from
Fresno County Fire Protection District, Consolidated Irrigation District, and
Kings River Conservation District**

DESCRIPTION

Those portions of Sections 15, 16, and 17 in Township 16 South, Range 22 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, according to the Official Government Plat thereof, more particularly described as follows:

BEGINNING at the intersection of the East line of said Section 16 and the Northeasterly right-of-way line of Southern Pacific Railroad, said point being on the existing Kingsburg City boundary; thence

1. Northwesterly, along said existing Kingsburg City boundary and along said Northeasterly right-of-way line, a distance of 591.53 feet, more or less; thence
2. Leaving said Northeasterly right-of-way line and proceeding Southwesterly along said existing Kingsburg City boundary, at a right angle, a distance of 240.00, more or less to a point on the Southwesterly right-of-way line of Golden State Boulevard, said point being 589.00 feet West of the East line of said Section 16; thence
3. Along existing Kingsburg City boundary, leaving said Southwesterly right-of-way line and proceeding South, parallel to the East line of said Section 16 to a point on the South line of said Section 16; thence
4. Along existing Kingsburg City boundary, West, along said South line to the Northeasterly right-of-way line of State Route 99, as shown on CALTRANS Right-of-way Map, District 6, County of Fresno, State Route 99, Post Mile 2.63 through Post Mile 3.77, Sheets 6 through 10E; thence
5. Leaving existing Kingsburg City boundary, North 49°46'36" East, along said Northeasterly right-of-way line 79 feet more or less to a point that is 43.04 feet northerly at right angles from said South line of Section 16; thence
6. Continuing along said Northeasterly right-of-way of State Route 99, North 88°14'20" West, a distance of 9.83 feet to the beginning of a curve, concave to the right, having a radius of 300.00 feet, through a central angle of 43°10'20"; thence
7. Continuing along said Northeasterly right-of-way of State Route 99, Northwesterly, along said curve, a distance of 226.05 feet; thence

8. Continuing along said Northeasterly right-of-way of State Route 99, North 45°04' West, a distance of 803.43 feet; thence
9. Continuing along said Northeasterly right-of-way of State Route 99, North 43°21' West, a distance of 300.00 feet; thence
10. Continuing along said Northeasterly right-of-way of State Route 99, North 45°04' West, a distance of 400.56 feet; thence
11. Continuing along said Northeasterly right-of-way of State Route 99, North 43°21' West, a distance of 4,211.4 feet; thence
12. Continuing along said Northeasterly right-of-way of State Route 99, North 39°35' West, a distance of 609.01 feet to the beginning of a curve, concave to the right, having a radius of 597.00 feet, through a central angle of 39°59'27"; thence
13. Continuing along said Northeasterly right-of-way of State Route 99, Northwesterly, along said curve, a distance of 416.69 feet; thence
14. Continuing along said Northeasterly right-of-way of State Route 99, North 0°24'27" East, a distance of 108.24 feet; thence
15. Continuing along said Northeasterly right-of-way of State Route 99, North 59°55'50" East, a distance of 66.14 feet; thence
16. Continuing along said Northeasterly right-of-way of State Route 99, North 82°06'37" East, a distance of 102.54 feet to the Southerly right-of-way line of Mountain View Avenue; thence
17. Leaving said Northeasterly right-of-way of State Route 99, South 86°31'52" East, along the Southerly right-of-way line of Mountain View Avenue, a distance of 925.27 feet, more or less to the Southwesterly right-of-way line of Golden State Boulevard; thence
18. Northeasterly to the intersection of the Northeasterly right-of-way line of Southern Pacific Railroad and the South line of the North 76.00 feet of said Section 16, said point being on the Southerly right-of-way line of Mountain View Avenue; thence
19. South 89°32'15" East, along said Southerly right-of-way line of Mountain View Avenue and said South line, a distance of 1,192.59 feet; thence
20. Continuing along said Southerly right-of-way line of Mountain View Avenue South 57°42'30" East, a distance of 43.87 feet; thence

21. Continuing along said Southerly right-of-way line of Mountain View Avenue South $88^{\circ}49'25''$ East, a distance of 392.57 feet; thence
22. Continuing along said Southerly right-of-way line of Mountain View Avenue South $76^{\circ}35'58''$ East, a distance of 31.15 feet to a point 60.00 feet Westerly, measured at right angles from the Easterly line of the Northwest quarter of said Section 16 and 111.00 feet Southerly, measured at right angles from the North line of said Section 16; thence
23. Northeasterly to the intersection of the East line of the Northwest quarter of said Section 16 and the South line of the North 106.00 feet of said Section 16, said point being on the Southerly right-of-way line of Mountain View Avenue; thence
24. Continuing along said Southerly right-of-way line of Mountain View Avenue North $45^{\circ}08'13''$ East, a distance of 42.33 feet to the intersection of the South line of the North 76.00 feet of said Section 16 and the East line of the West 30.00 feet of the Northeast quarter of said Section 16; thence
25. Continuing along said Southerly right-of-way line of Mountain View Avenue South $89^{\circ}43'48''$ East and said South line, a distance of 2,545.98 feet, more or less to intersection of the South line of the North 76.00 feet of said Section 16 and the West line of the East 50.00 feet of said Section 16; thence
26. Continuing along said Southerly right-of-way line of Mountain View Avenue Southeasterly, a distance of 28.27 feet to the intersection of the South line of the North 96.00 feet of said Section 16 and the West line of the East 30.00 feet of said Section 16; thence
27. Southeasterly to the intersection of the South line of the North 106.00 feet of said Section 15 and the East line of the West 53.00 feet of said Section 15, said point being on the Easterly right-of-way line of South Bethel Avenue; thence
28. South $0^{\circ}19'12''$ West, along said Easterly right-of-way line of South Bethel Avenue and said East line, a distance of 1,864.70 feet, more or less to the North line of the South half of the Southwest quarter of the Northwest quarter of said Section 15; thence
29. Continuing along said Easterly right-of-way line of South Bethel Avenue and said North line, Westerly, a distance of 33.00 feet, more or less to the East line of the West 20.00 feet of said Section 15; thence
30. Continuing along said Easterly right-of-way line of South Bethel Avenue and said East line, South $0^{\circ}19'12''$ West, a distance of 2841.90 feet, more or less to the Northeasterly right-of-way line of Southern Pacific Railroad, said point being on the existing Kingsburg City boundary; thence

31. Northwestery along said Northeasterly right-of-way line of Southern Pacific Railroad and existing Kingsburg City boundary line, a distance of 30.17 feet, more or less to the POINT OF BEGINNING.

Containing an area: 430.84 acres, more or less.

Date: December 12, 2012

Revised: January 2, 2013

**For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.*

EXHIBIT A

PROPERTY TAX ALLOCATION AGREEMENT BETWEEN THE CITY OF KINGSBURG AND THE FRESNO COUNTY FIRE PROTECTION DISTRICT

This Property Tax Allocation Agreement ("PTA Agreement") is entered into effective July 1, 2013 ("Effective Date"), between the City of Kingsburg, a California general law city and municipal corporation ("City") and the Fresno County Fire Protection District ("District"), a local fire protection district organized and existing as a California Special District under provisions of the Fire Protection District Law of 1987 (Health & Safety Code Section 13800 *et seq.*) with respect to the following Recitals, which are incorporated as a substantive part of this Agreement.

RECITALS

WHEREAS, the District is the primary provider of fire suppression, prevention, rescue, emergency medical services and hazardous material emergency response and other services relating to the protection of lives and property ("Fire Protection Services") within its territorial limits, which includes areas near the incorporated centers of the County of Fresno ("County") including the City. Current District boundaries are reflected in **Exhibit 1**, attached and incorporated by this reference. The District also provides Fire Protection Services to certain incorporated cities and substantial portions of unincorporated areas within the County; and

WHEREAS, the City is the provider of Fire Protection Services within its corporate limits; and

WHEREAS, the District's primary source of funding comes from general purpose ad valorem property tax revenue from all real property within its territory (property taxes); and

WHEREAS, through annexation to the City the affected territory with resulting development places increased service demand on the District's remaining service area. Therefore, although District no longer services properties that annex into the City and detach from the District, District wide service obligations and regional support are not reduced commensurately and have historically increased. To address the impact of the resulting loss of property tax revenue on District facilities, equipment and personnel and partially mitigate impacts upon the District from annexations and detachments, Fresno County Local Agency Formation Commission ("LAFCo") policy requires the City and District to reach an agreement governing the transition of services; and

WHEREAS, for the past 20 years District and City have operated under transition agreements, the most recent covering the last ten (10) years (the "2003 Transition Agreement"), under which City agreed to pay District a lump sum of money upon annexation and detachment of property reflecting a percentage of Property Taxes District would have received had the property not been annexed for a period of 10 years; and

WHEREAS, the District and City agree to enter into a new agreement under which the City will submit applications for reorganization in which the affected territory would detach from the District and the District will continue to receive the "base year allocation (BYA) of property taxes" from the affected territory. In exchange for the continued allocation of property taxes, District will: (i) provide Automatic Aid to the affected territory and areas of the City as specified in the Automatic Aid Agreement entered into by City and District, **Exhibit 2**, attached and incorporated by this reference, (ii) provide levels of service that are at least equal to or better than the levels of service currently provided by District in areas adjacent to City as of the date of this Agreement, which directly benefits City and those areas; (iii) continue to provide regional support, which directly benefits the City and future annexation areas; and

WHEREAS, the intent of this Agreement is to apply to all unincorporated areas that are within the jurisdictional boundaries of the District which may be subject to annexation to the City subject to such modification as may be applicable to the involved affected territory in subsequent annexations.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. **Effect of Recitals.** The foregoing Recitals are incorporated in, and are a part of this Agreement.
2. **Allocation of Property Taxes.** Upon the effective date of annexations/reorganizations of property ("Affected Territory") into the City, the tax imposed, collected, and allocated by Fresno County for the benefit of the District ("Base Year Allocation" or "BYA") shall continue to be collected by the County from the Cities portion and the County shall allocate the monetary amount of the tax in the Affected Territory to the District which shall be increased by not more than two percent (2%) per annum in accord with the constitutional rate, if imposed by the County. Other than the 2% annual increase, the District will not be eligible to receive any increase in the BYA. Said sum retained by County shall be in accordance with the tax allocation rate schedule provided to County by District for a period of 10 years. This BYA shall not affect any allocation otherwise due the County.

For the purposes of this Agreement, the effective date of reorganizations and the date to be used for when the tax reallocation to District commences, shall be the date upon which the annexation of property is recorded with the County Recorder and California State Board of Equalization consistent with statute.

Exhibit 3, attached and incorporated by this reference, sets forth an example of the calculation.

District shall be responsible for creating the tax allocation rate schedule and providing City the ability for review prior to making arrangements with the County to allocate the BYA. Any fee charged by the County for collection of or retention and payment of the BYA shall be charged to the District. District and City agree to enter into supplemental agreements or instructions with the County for this purpose

3. Term. The term of this Agreement shall be for a period of 10 years from the effective date, except that obligations which continue beyond the term of this Agreement shall continue until satisfied. This Agreement shall replace in all respects the 2003 Transition Agreement between the parties.

4. District and City Automatic Aid. District and City agree to enter into an Automatic Aid Agreement in which the District will provide, as a minimum, (i) Automatic Aid with terms and conditions that apply only to the affected territory referred to as the Guardian/SunMaid Reorganization, Fresno County LAFCo File No. RO-12-12 (ii) Automatic Aid with terms and conditions similar to the 2008 Automatic Aid Agreement between the District and City for all existing and future areas of the City, (iii) current or increased levels of service in areas adjacent to City. The Automatic Aid Agreement will remain in effect for the term of the property tax allocation (PTA) agreement (10 years) and will be subject to renewal at the time of the PTA expiration or when mutually agreed by both the City and the District. Nothing in this section is intended nor shall be construed to limit or restrain the powers of District's Board of Directors to make such budgetary or legislative decisions or appropriations regarding levels of service, including, for example, decisions to relocate Fire Stations, which it deems necessary for the overall safety and welfare of the District as a whole and to meet regional needs.

5. Affect of Annexations. Upon annexation of affected properties to City, those properties shall detach from the District, and all Property Taxes shall be allocated consistent with Agreement section 2 and existing laws, rules, policies and procedures established in the County, subject to any applicable agreement between City and the County.

6. LAFCo Compliance. District and City agree that this Agreement is intended to satisfy the intent and purpose of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

7. Non Opposition to Annexations. District represents and agrees that during the term of this Agreement, it will not oppose further annexation to the City. This District agreement does not extend to modifications to the City Sphere of Influence or required Municipal Service Reviews adopted by the Fresno County LAFCo.

8. Accounting. District and City agree that their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. District and City agree to maintain such records for a possible audit for a minimum of four (4) years from the recording date of an annexation to the City and to allow access to such records for an audit during normal business hours.

9. Termination.

a. Termination Upon Expiration. This Agreement shall terminate upon expiration of its Term.

b. Termination Due to Invalidity. Should any material portion of this Agreement be declared invalid or inoperative by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

c. Termination Due to Material Breach; Right to Cure. This Agreement may be terminated by either party for a material breach and a failure to cure that breach within sixty (60) days after receipt of a notice to cure.

d. Termination Due to Change in Law. It is mutually understood and agreed that this Agreement shall terminate immediately and shall be of no further force and effect should substantial substantive changes occur in such statutory scheme or successor statutory schemes (whether by legislative or judicial action) which negate or frustrate the fundamental reasons or tenets of this Agreement, such termination to be in the entirety. Any party contending this section applies shall give written notice of termination pursuant to this section, which notice shall include an explanation of the reason(s) for such termination.

10. Renewal of Agreement. Within 60 days after the date of commencement of the ninth year of this Agreement, the District and the City will meet to assess current fire suppression and emergency services resources capabilities of the City and requirements for the area(s) referred to as the Guardian/SunMaid reorganization served by District through the Automatic Aid Agreement. If the City and District agree that the City is not capable of providing services equal to or better than those provided by the District Station #83 to the Guardian-SunMaid reorganization, the District and City will negotiate in good faith, in an attempt to agree upon the terms and conditions of an extension of the property tax allocation for said property or City will contract with the District to provide fire suppression and emergency services.

11. Remedies for Breach of Agreement. In addition to termination of this Agreement for a material breach, the parties may exercise any other remedy available to them at law or in equity, including specific performance, injunctive relief, and writ of mandate.

12. Dispute Resolution. If any dispute arises regarding the interpretation or application of this Agreement or any determination or calculation thereunder, the parties agree upon the request of either of them to meet and attempt to resolve the same amicably for a period not to exceed thirty (30) days.

If the dispute is not otherwise resolved, and absent the need for emergency relief or to meet a statute of limitations, the parties agree to enter into mediation before initiating litigation. The parties shall mutually agree upon a mediator and each party shall pay one half (1/2) the cost of the mediator and bear their own costs for the mediation. The mediation shall be completed within ninety (90) days of notice of the intent to undergo mediation. If the mediation is not completed within 90 days of notice, a party may initiate litigation. The parties shall act in good faith and with due diligence to timely complete the mediation.

If litigation is commenced before mediation due to one of the reasons mentioned above, the parties agree to immediately commence and complete mediation within 90 days of the commencement of litigation as evidenced by the filing in court of a formal complaint, petition, or similar document.

13. Modification. This Agreement may be modified or amended only by a writing duly authorized and executed by the City and District.

14. Enforcement. The City and District each acknowledge that this Agreement cannot bind or limit themselves or each other or their future governing bodies in the exercise of their discretionary legislative power except as the Agreement provides. However, each binds itself

that it will insofar as is legally possible, fully carry out the intent and purposes hereof, if necessary, by administrative and ministerial action independent of that legislation power and that this Agreement may be enforced by injunction or mandate or other writ to the full extent allowed by law.

15. Integration. With respect to the subject matter hereof, this Agreement is intended to be an integrated agreement and supersedes any and all previous negotiations proposals, commitments, writings and understandings of any nature whatsoever between the City and the District as to the subject matter of this Agreement.

16. Notice. All notices, requests, determinations or other correspondence required or allowed by law or this Agreement to be provided by the parties shall be in writing and shall be deemed given and received when delivered to the recipient by first-class mail (or an equal or better form of delivery) at the following addresses:

CITY

City Manager
City of _____
_____, Street
_____, California 9

DISTRICT

Fire Chief
Fresno County Fire Protection District
210 South Academy Avenue
Sanger, California 93657

By giving notice, either party may change its address for these purposes.

17. Third Parties. This Agreement shall not be construed as or deemed an agreement for the benefit of any third party or parties, with the exception of the described benefit to the Guardian and SunMaid facilities [and others as may be appropriate] within the affected territory. No other third party or parties shall have any right of action hereunder for any cause of action whatsoever.

18. Subsequent District Agreements. District agrees that if, during the term of this Agreement, District negotiates a property tax allocation and fire services agreement involving an annexation to the municipality and a detachment from the District with any other municipality which contains more favorable terms than this Agreement, District shall notify City within thirty (30) days of such agreement and offer those same terms to City. More favorable terms, means, but is not necessarily limited to, another municipality allocating to District a lower percentage of taxes than City allocates District under Section 2 of this Agreement.

19. Attorneys Fees and Costs. In any action to enforce the provisions of this Agreement or for breach of the Agreement, the prevailing party shall recover from the other party, in addition to any damages, injunctive or other relief, all costs (whether or not allowable as "cost" items by law) reasonably incurred at, before and after trial or on appeal, including without limitation attorneys' and witness (expert and otherwise) fees, deposition costs, copying charges and other expenses.

20. Approval. The parties represent that this Agreement was approved by their respective governing boards at a properly noticed meeting.

21. Choice of Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue for actions and proceedings between the parties related to this Agreement shall be in the Eastern District of California for any federal action and, unless otherwise agreed by the parties, in Fresno County Superior Court for state actions.

22. Agreement Mutually Drafted. Each party has participated jointly in the drafting of this Agreement, which each Party acknowledges is the result of extensive negotiations between the Parties, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. If an ambiguity or question of intent or interpretation arises, then this Agreement will accordingly be construed as drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any Party to this Agreement by virtue of the authorship of any of the provisions of this Agreement. The captions, headings and table of contents contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Signatures on next page

IN WITNESS WHEREOF, the parties have entered into this Agreement in Fresno County, California.

FRESNO COUNTY FIRE
PROTECTION DISTRICT

CITY OF _____

By _____
Mike Del Puppo, Board President

By _____
Chet Riley, Mayor

Date: _____

Date: _____

ATTEST:

ATTEST:

By _____
Frank Del Testa, Board Secretary

By _____, City Clerk

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

William D. Ross, District Counsel

_____, City Attorney

Date: _____

Date: _____

**Fresno County Fire Protection District
Base Year Allocation (BYA) for Guardian - Sunmaid Reorganization
Fresno County LAFCo Reorganization**

Exhibit 3

This is a property tax share agreement between the City of Kingsburg and the Fresno County Fire Protection District in which the City agrees to share it's property taxes with the Fire District. On the year following the recording of the annexation of Fresno County LAFCo Reorganization the County will allocate the base year allocation of property taxes to the District from the Cities allocation. This rate is for ten (10) years and includes up to a 2% annual constitutional increase based the prior year allocation

Total Assessed Value of Guardian - Sun Maid Reorganization: \$148,190,132

Fire District BYA: \$137,609 ($\$148,190,132 \times .0009286$)

Year 1 Payment	\$137,609.00 (add 2%)	100%
Year 2 Payment	\$140,361.18 (add 2%)	102.00%
Year 3 Payment	\$143,168.40 (add 2%)	104.04%
Year 4 Payment	\$146,031.77 (add 2%)	106.12%
Year 5 Payment	\$148,952.41 (add 2%)	108.24%
Year 6 Payment	\$151,931.46 (add 2%)	110.41%
Year 7 Payment	\$154,970.08 (add 2%)	112.62%
Year 8 Payment	\$158,069.49 (add 2%)	114.87%
Year 9 Payment	\$161,230.88 (add 2%)	117.17%
Year 10 Payment	\$164,455.49 (add 2%)	119.51%
Total	\$1,506,780.16	

.0009286 is the Tax Rate Area (TRA) for this specific location.



EXHIBIT B

Fresno Local Agency Formation Commission

NOTICE OF FILING OF APPLICATION FOR JURISDICTIONAL CHANGE UNDER REVENUE AND TAX CODE SECTION 99

DATE: January 16, 2013

TO: Dave King, Assessor's Office
Vicki Crow, Auditor-Controller's Office

SUBJECT: "Guardian-Sun Maid Reorganization" (Revised – Maps & Legal
Descriptions Attached)

In order to begin the computations required by Section 99 of the Revenue and Taxation Code, we are giving you notice that the subject application has been received for processing. Before we can issue a certificate of filing, resolutions from the subject local agencies agreeing on the exchange of property tax revenue are required. Any special district affected may negotiate on its own behalf. The Board of Supervisors shall negotiate and adopt such resolution on behalf of the subject special districts.

The agencies whose service area or responsibilities will be altered by the application are:

Fresno County Fire Protection District
Kings River Conservation District

Please refer to the pertinent provisions of Section 99(b) for the procedures. Since there are time limitations within these particular sections, we would appreciate your prompt attention to the matter. Attached is a map of the area of the jurisdictional change.

Also, please send us a copy of the letter from the County Auditor sent out to the affected agencies, and a list of those agencies, giving the calculations done by your office. Unless otherwise instructed by that agency, your letter requesting negotiation should be sent to the clerk of the local agency. Please notify us of the date of mailing for all affected agencies.

Thank you.

JEFF WITTE
EXECUTIVE OFFICER

JW:cf

cc: John Navarette, Administrative Officer (app. and map)
City of Kingsburg (applicant)
Gigi Gibbs, Economic Development Analyst

EXHIBIT C

Draft: 040113

ADDENDUM TO GUARDIAN/SUN-MAID REORGANIZATION INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

INTRODUCTION

On August 15, 2012, the City of Kingsburg City Council, by resolution, adopted a Mitigated Negative Declaration for the Guardian/Sun-Maid Reorganization (“**Annexation**”). The Initial Study evaluated whether the impacts from the Annexation and pre-zoning (collectively, “**Project**”) of approximately 430 acres of land (collectively, “**Territory**”) into the City of Kingsburg and a portion of the Territory into the Selma-Kingsburg-Fowler County Sanitation district may have a significant effect on the environment. The Annexation of the Territory results in the detachment of the Territory from the Fresno County Fire Protection District, Consolidated Irrigation District and the Kings River Conservation District. The Project includes the pre-zoning of the Territory to Heavy Industrial, Light Industrial and Highway Commercial.

Effective, December 31, 2012, the Transition Agreement Between the City of Kingsburg and the Fresno County Fire Protection District Regarding Transfer of Certain General Ad Valorem Real Property Tax Revenue Affected by Annexations dated October 16, 2003 (“**Transition Agreement**”) expired. The City of Kingsburg and the Fresno County Fire Protection District have not entered into a new transition agreement.

STATUTORY ANALYSIS

Under the California Environmental Quality Act (“**CEQA**”), an addendum to an adopted Negative Declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15163 of the CEQA Guidelines calling for preparation of a subsequent negative declaration have occurred. Section 14 of the Initial Study (Public Services) acknowledges the existence of the Transition Agreement which addresses financial impacts (revenue transfers from the City of Kingsburg to the Fresno County Fire Protection District) that may result from the detachment of the Territory from the Fresno County Fire Protection District. The Transition Agreement did not require the Fresno County Fire Protection District to continue to provide fire protection services to the Territory after annexation and expiration of the Transition Agreement did not result in any new or increased impacts to fire protection services for the Territory after annexation. Additionally, the City of Kingsburg Fire Department has sufficient capacity to service Territory with both fire and emergency services.

The provisions of Section 15162 of the CEQA Guidelines do not require the preparation of a subsequent negative declaration because the expiration of the Transition Agreement does not result in:

(i) a substantial change in the Project which will require major revisions of the Mitigated Negative Declaration due to the involvement of new significant environment effects or a substantial increase in the severity of previously identified significant effects;

(ii) a substantial change with respect to the circumstances under which the Project is undertaken which will require major revisions of the Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(iii) new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Mitigated Negative Declaration was adopted which shows any of the following: (a) the Project will have one or more significant effects not discussed in the Mitigated Negative Declaration; (b) significant effects previously examined will be substantially more severe than shown in the Mitigated Negative Declaration; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City of Kingsburg declined to adopt the mitigation measure or alternative; or (d) mitigation measures or alternatives which are considerably different from those analyzed in the Mitigated Negative Declaration will substantially reduce one or more significant effects on the environment, but the City of Kingsburg decline to adopt the mitigation measure or alternative. Therefore, this Addendum satisfies the requirements of Section 15164 of the CEQA Guidelines.

SUMMARY AND FINDINGS

All potential impacts identified on the Initial Study “Environmental Checklist” were reconsidered in the preparation of this Addendum. For all impact areas identified on the “Environmental Checklist”, the expiration of the Transition Agreement will not result in any: (i) physical changes to the Territory; (ii) changes to the Project; (iii) new impact(s) not already identified in the Guardian/Sun-Maid Reorganization Mitigated Negative Declaration; or (iv) substantial increase in the severity of previously identified impacts. This Addendum supports the finding that the Project does not result in any new impacts and does not exceed the level of impacts identified in the Mitigated Negative Declaration due to Project modification, physical changes to the Territory or new information regarding the Project.

This Addendum is written as an addition to and will be attached to the Guardian/Sun-Maid Reorganization Mitigated Negative Declaration, adopted August 15, 2012. A copy of this Addendum is available for review at the City of Kingsburg Planning Department, 1401 Draper Street, Kingsburg CA 93631.

EXHIBIT D

NEAL E. COSTANZO
MICHAEL G. SLATER

LAW OFFICES
COSTANZO & ASSOCIATES
A PROFESSIONAL CORPORATION
575 E. LOCUST AVENUE
SUITE 115
FRESNO, CALIFORNIA 93720-2928
(559) 261-0163

FAX (559) 261-0706
OUR FILE NO. 02880-001

April 9, 2013

SENT VIA U.S. MAIL/EMAIL: jewitte@co.fresno.ca.us

Jeff Witte, Executive Director
Fresno Local Agency Formation
Commission (LAFCO)
2607 Fresno Street, Suite B
Fresno, CA 93721



**Re: City of Kingsburg "Guardian-Sun Maid Reorganization";
LAFCO File No. RO-12-7; Comments, Objections and
Evidence in Opposition to Proposal by the City of Selma**

Dear Mr. Witte:

This will serve as the City of Selma's opposition, comments, objections and evidence in opposition to the proposed annexation by the City of Kingsburg of 430 acres, consisting of a triangle-shaped, balloon peninsula that is not contiguous to, and significantly north of the City's boundaries. The territory sought is connected to the current City boundaries by a narrow corridor consisting primarily of highways. The City of Kingsburg proposes to provide no significant City services to the territory. (See, Government Code §56666(b) providing that at the hearing of this proposal the Commission shall consider any oral or written protests, objections or evidence presented.) The proposal should be disapproved by this Commission because (1) it does not satisfy the legal standards applicable for an annexation and (2) significant new evidence, information and changed circumstances prohibit approval of the annexation based on the mitigated negative declaration ("MND") adopted by the City of Kingsburg. The City did not conduct any environmental analysis whatsoever with respect to development it anticipates occurring within the annexed territory relating to the establishment of City water service. The MND did not disclose these plans to construct new facilities for water service and found no impact because there would be no such development, and no extension of service.

1. THE PROPOSED ANNEXATION MUST BE DISAPPROVED BECAUSE IT DOES NOT SATISFY THE STANDARDS APPLICABLE TO AN ANNEXATION.

The purpose and the responsibility of Fresno LAFCO is "planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities". (Government Code §56301). ¹ Determinations concerning the need for and provision of governmental services, including water service, are at the core of this objective. The Supreme Court has observed that LAFCO's purpose is to "weigh alternative methods of providing local services" and that its core function is to determine which "local agency should exercise jurisdiction over a particular area consistent with orderly growth and capacity to extend needed services." (*Bonzung v. LAFCO* (1975) 13 Cal.3d 263, 270). While LAFCO considers traditional environmental factors such as population density, land use and area or topography, these are evaluated not with an eye toward the physical environmental impact of a proposed development, but toward assessing "which local agency should govern the area in light of existing and possible local agency service capabilities and local conditions and circumstances". (*Id.*). Determinations concerning the provision of city services to an area proposed for annexation is the primary consideration involved in determining whether to approve or disapprove such a proposal.

(a) There is No Adequate Plan for Providing, Need for or Capacity to Provide Water Service.

The required contents of an application to annex include a "plan for providing services within the affected territory" including an enumeration and description of the services to be extended to the affected territory, the level and range of those services and an indication of when those services can feasibility be extended to the affected territory. The required plan for services must also provide an indication of any improvement or upgrading of structures, including water facilities or other conditions the local agency would impose or require within the affected territory if the change of organization is completed. The plan for providing services must also provide information with respect to how those services will be financed. (§56653). This Commission's policies are even more explicit. The Commission "shall encourage the provision of adequate services" in approving any reorganization. Every proposal "shall contain sufficient information to determine adequate services, facilities, and improvements can be provided" (Policy 101-01, 02) and the application must show that existing and future development requires and can be provided all urban services (Policy 210-06-08).

The plan for services is required to be submitted with the Resolution of Application, but in this case, it was not. The Resolution of Application was adopted at the same time

¹ All statutory references are to the Government Code unless indicated otherwise.

as a resolution certifying an MND for the project. The MND is explicit with respect to what services will and will not be provided within the proposed annexed territory by Kingsburg. With respect to water service, the MND states that the proposed annexation would not "contain elements that add to or draw from groundwater" because the "existing development" within the proposed annexed territory "utilizes two high-producing water wells that will continue to be operated" by those industries until such time as the industries initiate connections to the City's water system. (MND at p. 33). There is no indication when, if ever, that will occur. In the form application submitted by Kingsburg, Item 4(B) states that domestic water is supplied by private wells within the proposed annexed territory and Kingsburg indicates that there is no proposed change in that water service. (See, City Annexation Application dated November 15, 2012).

After the filing of the Resolution of Application, on December 28, 2012, Kingsburg submitted to LAFCO a letter of that date addressing fire and police service to the annexed territory and including a City of Kingsburg Service Plan purportedly dated July 2012. With respect to water service, the Service Plan cryptically states:

"Currently, the three industries that occupy all of the parcels within the subject territory have their own water systems. The Guardian Industries Glass Plant, Vie-Dell Grape Processing Facility and Sun Maid Growers Raisin Plant each have two on-site water wells. Through an extra territorial agreement with George and Louise Alves dba G & L Enterprises . . . to extend a water main from Kamm Avenue to Amber Lane. Once the annexation has been approved, ownership of the water main will transfer to the City and be made available for connection to all adjoining properties."

(City of Kingsburg's Service Plan at page 1, Item B).

There is no indication anywhere of where this main will be constructed, how it will be financed, where it will obtain water from for distribution, what properties it will serve, when it would be feasible to establish and whether the new main will be incorporated into and become a part of the City of Kingsburg water system. There is no indication whether the City will operate groundwater wells, or the industries will, and if the latter, whether water extracted from these wells is even potable or subject to the payment of fees designed to mitigate environmental impacts on groundwater resources in accordance with an agreement between the City of Kingsburg and Consolidated Irrigation District, identified in the MND as the needed mitigation for impacts to the groundwater supply caused by any extraction of water by wells. The Service Plan provided plainly does not conform to the

requirements of statute identified above. Had Kingsburg disclosed its plans for providing water service to the affected territory by the installation of a public water main presumably to be connected to the City's water service system and sources, it could not have come to the conclusion that it does in the MND that there is no impact to hydrology or water quality as the "proposed annexation is a jurisdictional boundary change, without any proposed construction project" (at p. 32) or that it had no "detailed knowledge of future projects" that could "affect groundwater recharge and utilize groundwater supplies at the time of adoption of its MND.

As noted by the Executive Officer's Report, (Report) a primary factor to be considered is "the 'need for organized community services'; that is, the "present cost and adequacy of governmental services and controls in the area, probable future needs for those services, probable effect of the annexation on the cost and adequacy of services in the adjacent areas, as well as the ability of the receiving entity to provide these services which are subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change." (§56668(b)). The "timely availability of water supplies adequate for projected needs as specified in Government Code §65352.5 "is also a "factor to be considered" in the determination of the proposal. Given the cryptic description of how water service is to be provided to the annexed territory these are factors that simply cannot be evaluated or determined from the information provided. Thus, a critical requirement of the application is completely absent.

The Commission simply does not have information from which it can determine the present cost and adequacy of water service in the area, the probable future need for that service in the area, the probable effect of the annexation on the cost or adequacy of that service or the timely availability of water supplies adequate for the projected needs. The Commission should disapprove the annexation application and refer the matter back to the City of Kingsburg for development of a service plan that meets the requirements of Government Code §56653 with respect to water service. To the extent these factors can be evaluated on the basis of the conflicting proposals concerning future water service that appear in the Plan and MND, the application shows only that there is no need for and no desire to extend water service and that the City cannot provide that service.

- (b). Approval of the Annexation as Proposed Is Inconsistent with the Planning and Shaping of Logical and Orderly Development and Coordination of Local Government Agencies.

The Report describes the project area as "triangular in shape, located along the north City limits." (At p. 2). The annexation area is a very large triangular shaped area,

but it is certainly not located along the City's north limits. In fact, as shown by the map that is attached to the report, there is a long corridor of territory currently within the City's boundaries that is the area generally between Golden State Boulevard and Highway 99. This corridor connects to a continuation of that corridor which then expands into the large triangular shaped area significantly north and separated from the City of Kingsburg proper. This is very obviously what is commonly known as a peninsula. As the Report notes, §56668 provides that the definiteness and certainty of the boundaries of the territory, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries are a factor that must be considered in deciding to approve or disapprove the proposal. (§56668(f)). A standard for annexation to a city set by this Commission's policies, Policy 210, is that boundaries must minimize the creation of peninsulas and corridors or other distortion of boundaries. (At (08)). This proposal lengthens an existing corridor consisting of the area between Highway 99 and Golden State, to attach that corridor to an almost balloon-like peninsula extending miles north well above the existing city boundaries.

It is basic that territory cannot be annexed to a city unless it is contiguous to the city. Contiguous means that the territory proposed to be annexed is adjacent to territory that is already within the city. (§§56031(a), 56741). The statute sets an outer limit on what is and is not contiguous. Contiguousness cannot be premised on a strip of land more than 300 feet long and less than 200 feet wide at its narrowest width, and that width must exclude "highways" - a term defined elsewhere as any public right of way. (§56031(b), Streets and Highways Code §23). The corridor between Highway 99 and Golden State consists of highways, rights of way, railway routes, and other public ways. The corridor is approximately 1,000 feet wide, but LAFCO does not appear to have made any determination as to the width of this corridor excluding those highways.

The conclusion in the Report that the proposed territory to be annexed is, in fact, contiguous is apparently premised on the fact that the existing corridor within city boundaries does indeed touch the southern most tip of the "triangle" that is proposed to be annexed, but LAFCO does not appear to have undertaken to determine precisely what that width is excluding highways. That determination is required to be made before LAFCO can have a basis on which to conclude that the territory is contiguous. (See, Report at p. 6, Item 6). There is certainly no basis for the conclusion in the Report that the "entire project area" is "adjacent to existing city limits." The map attached to the Report shows that it is not. Except to the extent it touches the corridor, the triangle creates a large island of unincorporated territory within Kingsburg's sphere of influence. In fact, only a very small fraction of the southern most tip of this triangular area is adjacent to existing city limits, and

then, only in an area which is, as the Report notes, bisected by numerous highways and rights of way.

(c). The Proposal is Not Consistent with LAFCO Policies, Standards and Procedures and the City's Sphere of Influence is, According to the City Itself, Not a Proper Sphere of Influence.

In its discussion of whether the proposal is consistent with LAFCO policies, standards and procedures, and whether it meets the statutory criteria of §56668(d) (conformity of both the proposal and its anticipated affects with both adopted Commission policies and planned orderly efficient patterns of urban development), the Report relies entirely on Policy 102-05 which states in pertinent part that "all developed urban land inside a city's sphere of influence shall be encouraged to annex to the city." But, the sphere of influence is not the deciding factor. In fact, Policy 102-01 states that a "proposal should not be approved solely because the area falls within the sphere of influence of an agency. The sphere of influence is one factor among several considered in reviewing proposals." The reason a sphere of influence is even given consideration is that "within their sphere of influence, cities should be the provider of urban services." (Policy 102-03, 102-05). Here, as noted, few, if any, city services are proposed to be provided to the annexed territory, all of which are being allowed to exist in conformity with the approvals for development previously issued by the county and none of them will be required to procure city services like water or sewer. ²

Kingsburg has always maintained that the proposed area to be annexed is within its sphere of influence which was created in 1974. In fact, a sphere of influence was established for Kingsburg in 1974 but it does not include all of the areas proposed to be annexed. The map of the approved sphere of influence from 1974 along with the approved map for the City of Selma from 1974 is attached. Selma's sphere extends south below Mountainview into the territory proposed to be annexed. Further, the map adopted for Kingsburg's sphere of influence includes a sphere that crosses county lines into Tulare County. LAFCO had no jurisdiction or statutory authority to grant this sphere of influence which includes territory within a different county since the City cannot exist in two different

² It is impossible to determine from the record before LAFCO, which, if any of the 'industries' will be required to connect to SKF. The Report and Service Plan state that "two of the three industries - which are apparently Sunmaid and Guardian - are already connected to SKF and that the third, which is apparently Vie Del is not and will be permitted to continue to use its private septic system. Not disclosed in the Report or Plan is the fact that the Selma Flea Market, the parcel at the very northernmost tip of the proposed territory is not being required to connect, and is not already connected to SKF.

counties. As a result, the establishment of this sphere in 1974 was likely a void act that is subject to being set aside at any time. (*Terhune v. Superior Court* (1998) 65 Cal.App.4th 864, 872-873). Acts not authorized by or inconsistent with act of the Legislature are void.

It does not appear from documentation of subsequent proceedings of this LAFCO that reaffirm, adjust, or alter this particular sphere of influence established in 1974 that any specific territory included within this sphere was ever identified. In fact, on July 11, 2007, this Commission determined that Kingsburg's sphere did not represent the "probable, physical boundaries and service area" for the City, which is what a sphere of influence is supposed to do (§56076). This Commission directed the City which acknowledged that its SOI was "not correct at this time" to submit an appropriate application to amend the sphere. (See, Resolution MSR07-11 and supporting MSR adopted July 11, 2007). That application has never been filed. Instead, Kingsburg relies on its own map of the sphere and the resolution of 2007 affirming that sphere while directing an application for correction of the sphere as establishing the boundaries of its sphere. A sphere of influence is, quite simply, only a "plan for the probable physical boundaries and service areas of the local agency," and since Kingsburg's plan, as determined by this Commission, does not truly represent the probable, physical boundaries or service area for that city, the existing sphere, whatever that may be, does not warrant annexation. In fact, the application shows that the proposed territory to be annexed is likely never to be provided with most city services.

- (d). The Report and MND Each Ignore the Adverse Effect of the Proposal on Adjacent Territory and on the City of Selma.

The statutory factors in this Commissions regulations plainly require an evaluation of the effect of the proposed annexation on adjacent areas. (Policy No. 220-5, 102-04).

The statute requires consideration of the likelihood of significant development in the proposed area to be annexed and in adjacent areas during the next 10 years. The statute further requires that the effect of the proposed annexation on adjacent areas and local governmental structures and the comments of any other public agency affected to be considered. (5668(a), (c), (I)). The MND acknowledges, but ignores, the fact that the City of Selma is currently processing, and has already issued an EIR on its proposed Selma Crossings Project. A site map of the proposed site from the EIR is attached. Selma's SOI extends below Mountain View, west of 99 and the large commercial development proposed for this project will be located at that corner of the intersection of 99 and Mountain View, in addition to the remaining two corners that are also within the City of Selma SOI. It is clear from Kingsburg's grandfathering of the existing developments so as to allow them to

continue to operate under permits issued by the County, that the only parcel likely to develop any time soon is the parcel where the Flea Market is located on the fourth corner of that intersection.

The proposed Selma Crossings development will be adversely affected as the jurisdiction over the southeast corner of 99 and Mountain View will be with the City of Kingsburg so that this developer must deal with two jurisdictions to develop the street and interchange improvements that will benefit all four corners of that territory. Further, given the fact that this commercial development will occur relatively quickly, that is likely to create pressure on the property owners in the vicinity, including the Flea Market property, to develop their properties with more lucrative commercial uses. That would require this property in the northern tip of the triangle to be annexed to pay for the extension of sewer and water lines up to his property through this massive triangle shaped annexation area in order to achieve that development. The significant cost of doing that is not going to be paid for by the existing industries that are allowed to grandfather in and retain and use their own water systems. Given the circumstance of the proposed development for three of the four corners of the interchange at 99 and Mountain View, it only makes sense to require as a condition of any annexation that the Flea Market property and any other property that is not fully developed as it is intended to be for the foreseeable future be excluded from the annexation and included within territory to be annexed by the City of Selma when the Selma Crossings project is approved. The proposal has a significant adverse effect on the adjacent area in that it makes development of the territory proposed for the Selma Crossings project problematic because jurisdiction over the entire area that will necessarily be developed will not be in one local governmental agency.

In any event, the Report does not provide this Commission with sufficient information to even assess the impact on adjacent territory as the only comment appearing anywhere in the report, or in any of the material submitted by Kingsburg in support of it's application states only that there are "no effects anticipated since this area is covered in the City of Kingsburg's General Plan and within an area previously designated by LAFCO as the City of Kingsburg's Sphere of Influence. The Report simply assumes there is no effect in the adjacent area and that is simply not the case.

2. A SUPPLEMENTAL EIR IS REQUIRED AS THE APPLICATION AND REPORT PROVIDE NEW INFORMATION OR CHANGED CIRCUMSTANCES THAT GIVE RISE TO SIGNIFICANT ENVIRONMENTAL IMPACTS.

Selma generally agrees with the CEQA analysis in the Report (at p. 12-13) to the extent it discusses the role of LAFCO as a "responsible" agency with respect to the MND

prepared by Kingsburg as "lead" agency. Specifically, Selma agrees that LAFCO is required to consider all environmental impacts of the project, although it is limited to considering the impacts that are within its jurisdiction. (Public Resources Code §§21104, 21153(c), 21069, Guideline 15096). Part of what is in LAFCO's jurisdiction is the extension of city services - like water - to the annexed territory. CEQA does not provide the responsible agency many options; but, if there are changes in the project following the adoption by the environmental documentation of the lead agency, or changes in circumstances, or if significant new information is available after the preparation by the lead agency of its mitigated negative declaration, the responsible agency is to determine whether any of those changes or new information require it to prepare a supplemental environmental document or an addendum thereto. (Public Resources Code §21166, Guideline 15162-164).

The responsible agency must consider the environmental effects of the project shown by the MND and feasible mitigation measures or alternatives that are within its power to make. (Guideline 15096(f)-(g)). If alternatives or mitigation measures are within the power of the responsible agency and are feasible and would substantially lessen or avoid an environmental effect, the responsible agency cannot approve the project as proposed, but must adopt the feasible mitigation measures or alternatives. (Guideline 15096(g)). Responsible agencies have the authority to disapprove a project on the basis of its environmental impacts, if those impacts involve a part of the project to be approved by the responsible agency. (15041(b), 15096(g)). A responsible agency may prepare an addendum to a prior EIR or to a mitigated negative declaration. The addendum is intended for the purpose of documenting a decision that a subsequent EIR or negative declaration is not required under Guideline 15162.

Here, the change from a plan that allowed the industries to continue to provide for their own water service needs, to the construction of an apparently very lengthy water main and tying of that water main into the service system of the City of Kingsburg is a significant change that will have a substantial impact on the environment, as acknowledged by the MND, in that it will cause groundwater to be used. Under these circumstances, because there are substantial changes proposed in the project which will require major revisions in the MND due to the involvement of new significant environmental effects or a substantial increase of the severity of previously identified significant effects, a supplement or subsequent EIR or MND is required to be prepared. An addendum is not appropriate because the addendum is to be used only to document facts that establish that there are no circumstances requiring preparation of a supplement or subsequent environmental document.

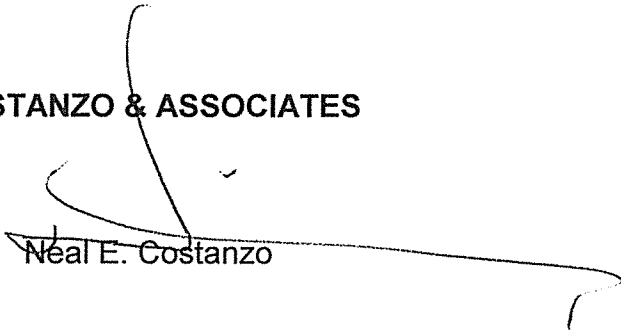
The complete failure of both the Report and MND to address the water supply is not an insignificant matter. Water Code §§10910-10915 require a city to determine whether water supplies are sufficient to serve specified large projects - or existing development that would demand an equivalent supply of water. The existing "industries" plainly meet these threshold standards for preparation of the water supply assessment. (Water Code §10912). Kingsburg was required at the time of adopting its MND, but failed to identify any public water supply available to supply water to the proposed territory to be annexed. (Water Code §10910(b)). A water supply assessment is required to determine existing and potential needs for and sufficiency of groundwater supplies and because that supply is from groundwater, the assessment is required to address overdraft conditions and appropriate mitigation efforts. (Water Code §10910(f)).

LAFCO has two options (1) disapprove the proposal because of the significant environmental impacts; (2) prepare a supplemental environmental document addressing those impacts. Plainly, the provision of water involves a part of the project that is to be approved by LAFCO and LAFCO has the authority and responsibility to disapprove of a project when the water supply assessment required by law has not been provided.

This proposal for annexation is an obvious money grab aimed at securing property tax revenues without having to provide any services to the proposed territory and should be rejected out of hand. All of the factors that are required to be considered weigh against approval of the proposal. The application does not even show the need for or ability to provide any city services to this territory. The proposal is for the creation of a non-contiguous peninsula directly contrary to statutory and policy requirements. Kingsburg cannot even make up its mind on what this project entails. When they were considering it in connection with the environmental analysis, they determined that it was simply a boundary change that involved absolutely no physical project, yet they indicated in submissions to this Commission, in the most conclusory manner possible, that they intend to extend water service to this territory, without describing how or when that will be done. There is significant new information which makes very clear that there are significant environmental impacts that are required to be mitigated. The proposal does not come close to satisfying the stringent standards this Commission has set for approving an annexation proposal.

Jeff Witte, Executive Director
April 9, 2013
Page 11

COSTANZO & ASSOCIATES



Neal E. Costanzo

NEC/js

C/C Debbie Poochigian (district5@co.fresno.ca.us)
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Robert Silva
Mario Santoya
Ken Price
Mike Noland
D-B Heusser

RESOLUTION NO. SOI-3

1 MAKING DETERMINATIONS AND APPROVING)
2 THE SPHERE OF INFLUENCE FOR THE)
3 CITY OF SELMA)

RESOLUTION OF THE
FRESNO LOCAL AGENCY
FORMATION COMMISSION

4 WHEREAS, the State of California has enacted legislation
5 requiring the Local Agency Formation Commission of each county to
6 determine the sphere of influence for each governmental agency; and

7 WHEREAS, the sphere of influence as defined in the code means
8 a plan for the probable ultimate physical boundaries and service
9 area of a local governmental agency; and

10 WHEREAS, a study report has been completed by the staff of
11 the Commission considering all factors required to be considered
12 in determining such spheres of influence and making certain recom-
13 mendations concerning a sphere of influence; and

14 WHEREAS, at the time and the form and manner provided by
15 law, notice of public hearing by this Commission was given to all
16 affected agencies and interested parties; and

17 WHEREAS, the public hearing by this Commission was held on
18 June 24, 1974 , at the hour of 2:00 p.m. of said day; and

19 WHEREAS, the Commission did consider recommendations contained
20 in the spheres of influence report for said agency; and

21 WHEREAS, this Commission did on said day hear those interested
22 parties at the public hearing.

23 NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation
24 Commission of the County of Fresno does hereby adopt the sphere of
25 influence as shown in Exhibit A as attached hereto for the City
26 of Selma.

27 ADOPTED this 24th day of June, 1974, by the following vote

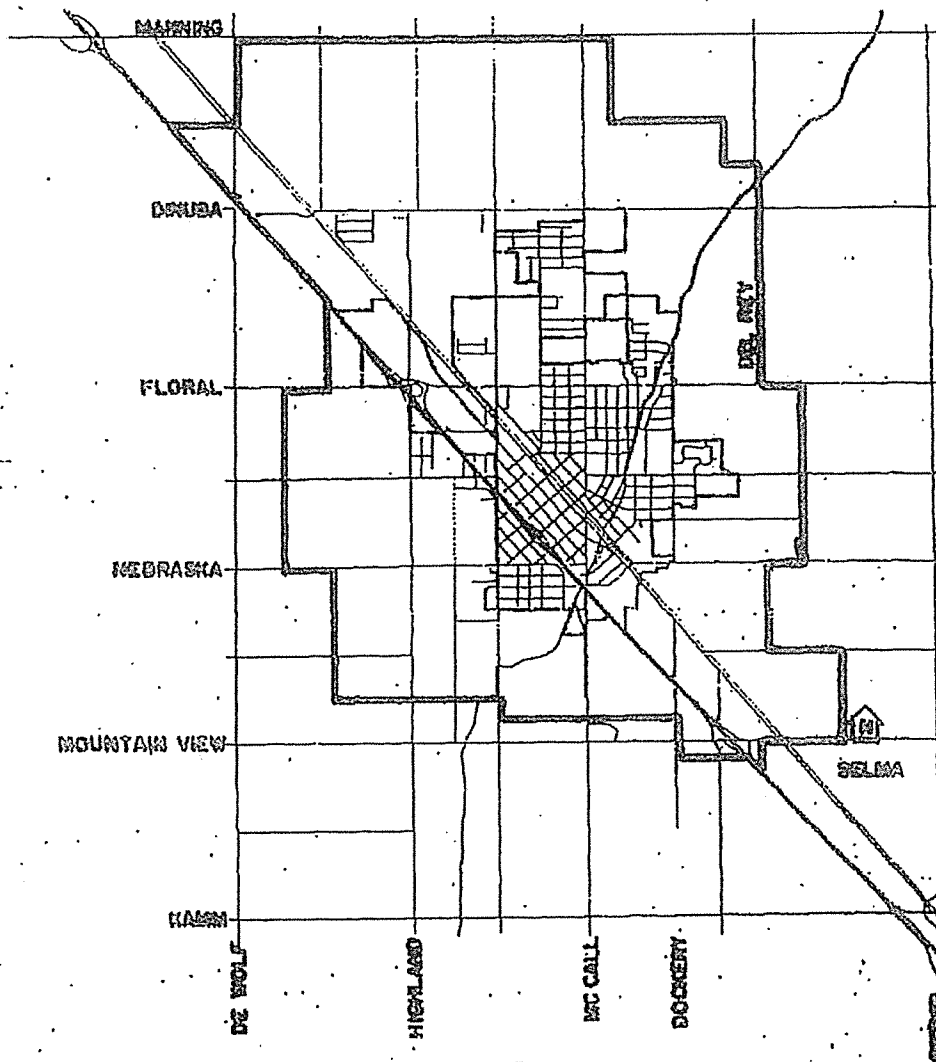
28 AYES: Barsotti, Rodriguez, Albright, Howard, Cassidy

29 NOES: None

30 ABSENT: None

31 *Marvin Panter*
32 MARVIN PANTER, Executive Officer
Local Agency Formation Commission

Sphere of influence : City of Selma



MAKING DETERMINATIONS AND APPROVING)
1 THE SPHERE OF INFLUENCE FOR THE)
CITY OF KINGSBURG)

RESOLUTION OF THE
FRESNO LOCAL AGENCY
FORMATION COMMISSION

2
3
4 WHEREAS, the State of California has enacted legislation
5 requiring the Local Agency Formation Commission of each county to
6 determine the sphere of influence for each governmental agency; and

7 WHEREAS, the sphere of influence as defined in the code means
8 a plan for the probable ultimate physical boundaries and service
9 area of a local governmental agency; and

10 WHEREAS, a study report has been completed by the staff of
11 the Commission considering all factors required to be considered
12 in determining such spheres of influence and making certain recom-
13 mendations concerning a sphere of influence; and

14 WHEREAS, at the time and the form and manner provided by
15 law, notice of public hearing by this Commission was given to all
16 affected agencies and interested parties; and

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18 June 24, 1974, at the hour of 2:00 p.m. of said day; and

19 WHEREAS, the Commission did consider recommendations contained
20 in the spheres of influence report for said agency; and

21 WHEREAS, this Commission did on said day hear those interested
22 parties at the public hearing.

23 NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation
24 Commission of the County of Fresno does hereby adopt the sphere of
25 influence as shown in Exhibit A as attached hereto for the City
26 of Kingsburg.

27 ADOPTED this 24th day of June, 1974, by the following vote

28 AYES: Barzatti, Rodriguez, Albright, Howard, Cassidy

29 NOES: None

30 ABSENT: None

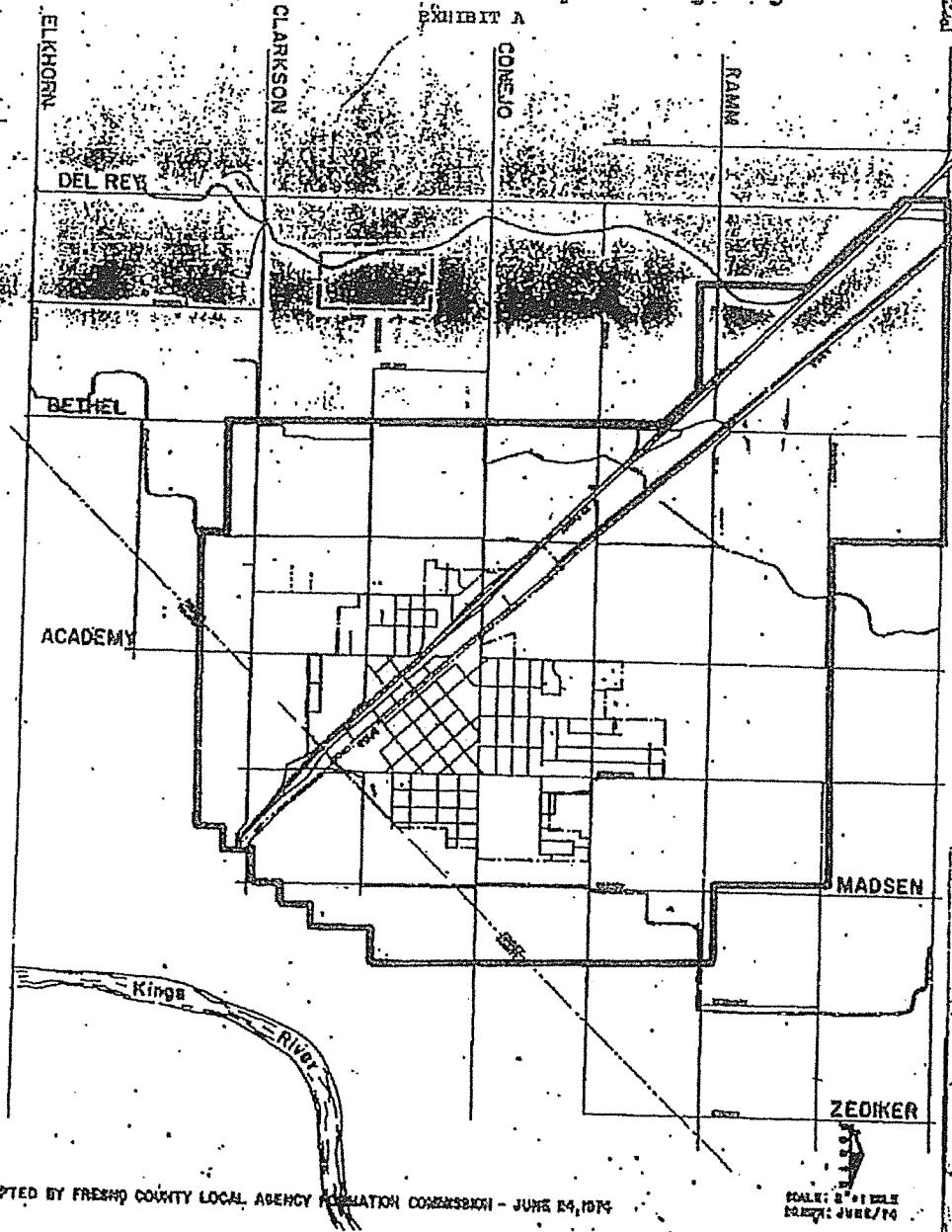
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32

Marvin Panter
MARVIN PANTER, Executive Officer
Local Agency Formation Commission

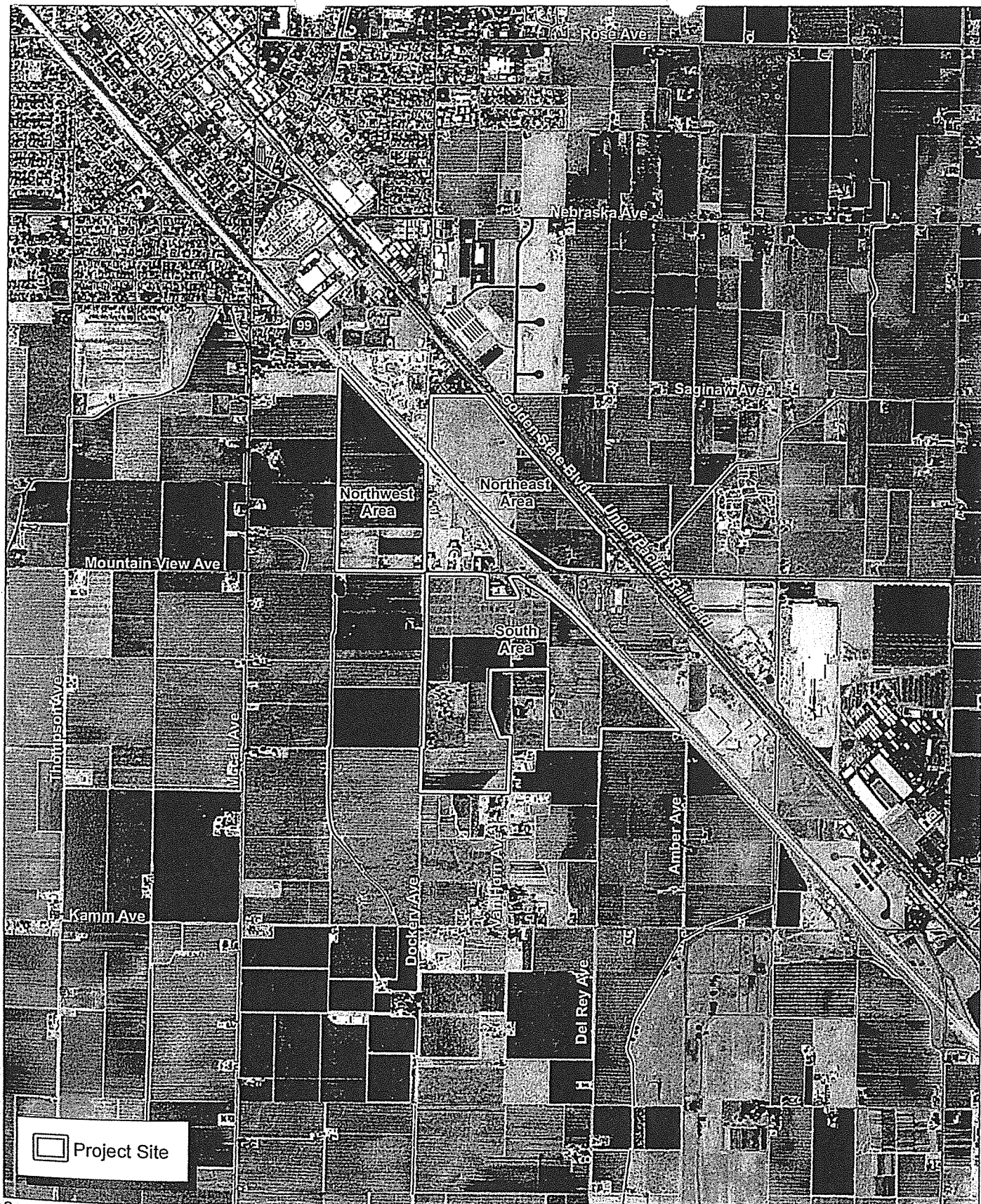
Sphere of Influence: City of Kingsburg

EXHIBIT A



ADOPTED BY FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION - JUNE 14, 1974

SCALE: 1" = 1 MILE
DATE: JUNE/74



Source: ESRI Aerial Imagery

Michael Brandman Associates
31130002 • 06/2011 | 3-3_local_aerial.mxd

2,000 1,000 0 2,000 Feet

Exhibit 3-2 Local Vicinity Map Aerial Base

WANGER JONES HELSLEY PC
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KURT F. VOTE
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* Also admitted in Washington
** Of Counsel
*** Also admitted in Wisconsin

April 10, 2013

VIA E-MAIL jewitte@co.fresno.ca.us & HAND DELIVERY

Mr. Jeff Witte
Executive Officer
FRESNO LOCAL AGENCY FORMATION COMMISSION
2607 Fresno Street, Suite B
Fresno, CA 93721

Re: Guardian-Sun Maid Reorganization

Dear Mr. Witte:

My law firm represents Guardian Industries Corp. ("Guardian"). On Guardian's behalf, I am submitting the following comments to the Fresno Local Agency Formation Commission's ("LAFCo") consideration of the Guardian-Sun Maid Reorganization (the "Proposed Reorganization") proposed by the City of Kingsburg (the "City"). Guardian owns two parcels that are within the area affected by the Proposed Reorganization (collectively the "Guardian Property").

Guardian agrees with the recommendation of LAFCo staff that the hearing on the Proposed Reorganization should be continued to June 5, 2013, or later, due to several unresolved issues. These issues include, but are not limited to:

- Additional time is needed to resolve issues relating to the community services that will serve the areas affected by the Proposed Reorganization. Specifically, the Guardian facility and other properties within the annexation area are presently served by the Fresno County Fire Protection District (the "District"), Station 83, which is located across the street from the Guardian Property. It is Guardian's understanding that the District may terminate the Mutual Aid Agreement providing for the service of the Guardian Property, and other properties affected by the Proposed Reorganization. It is also unclear what effect the Proposed Reorganization will have on the City's Instant Aid Agreement with the District. Guardian strongly desires that Station 83 will continue to serve the Guardian Facility, and is concerned about the impacts to

WANGER JONES HELSLEY PC

Mr. Jeff Witte
April 10, 2013
Page 2

community services that the termination of the District's agreements would have on the Guardian Facility and surrounding properties.

- As is noted in the Staff Report, the Transition Agreement between the City and the Fresno County Fire Protection District dated October 16, 2003 expired on December 31, 2012. The Proposed Reorganization should not be approved unless the Transition Agreement is extended, or alternative services agreements are negotiated that provide affected landowners an equal or greater level of protection.

- Because the District's comments on the Proposed Reorganization were not received until March 29, 2013, and the Staff Report concedes that "staff is in the process of fully reviewing and/or analyzing the documents," additional time is needed for LAFCo to consider the comments of affected public agencies.

- Additional time is needed for LAFCo to consider "the sufficiency of revenues for [community] services following the proposed boundary change," (Govt. Code, § 56668), which is not discussed in the Staff Report. This is of particular concern given the fact that the District's October 16, 2003, Transition Agreement expired on December 31, 2012, and no fire protection agreement is currently in place for the parcels affected by the Annexation.

- Guardian has been in discussions with the City regarding Guardian's concerns with the Proposed Reorganization. Guardian's concerns regarding the Proposed Reorganization, including the concerns raised in this letter, should be considered and addressed by the City and LAFCo. A continuance to June 5, 2013 will provide the City sufficient time to address those concerns.

- The environmental document certified by the City – an Initial Study/Mitigated Negative Declaration (the "IS/MND") – is incomplete, and must be modified prior to the LAFCo's reliance on that document as a responsible agency under the California Environmental Quality Act, Pub. Resources Code, § 21000, *et seq.* ("CEQA"). Specifically, as explained in the Staff Report, the IS/MND's conclusion that the impacts to fire services is "Less than Significant" is predicated upon the conclusion that a transition agreement is in place between the City and the District. (See IS/MND at 40.) Until the Transition Agreement is extended, or alternative services agreements are negotiated, LAFCo cannot find the IS/MND is adequate for its use. (See CEQA Guidelines, § 15096(e).) If LAFCo approves the Proposed Reorganization absent resolution of this issue by the City, LAFCo would need to consider whether to prepare a subsequent EIR under Section 15162 of the CEQA Guidelines.

- While Guardian has not proposed any specific project on the Guardian Property, to remain competitive in the glass manufacturing business, Guardian from time to time is required to perform modifications to its facility, which usually requires discretionary permits from the applicable local agency. Indeed, the Staff Report recognizes the strong possibility of future expansion on page 6. Guardian is concerned about the land use inconsistencies and

WANGER JONES HELSLEY PC

Mr. Jeff Witte
April 10, 2013
Page 3

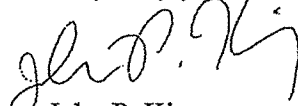
conflicts that will arise in the event the Proposed Reorganization is approved at the April 10, 2013 meeting. Most of these concerns result from the high level of detail and mandatory nature of the standards set forth in the North Kingsburg Specific Plan ("NKSP"), which, if not resolved, would make it difficult or infeasible for Guardian to perform modifications to its facility without the need for a specific plan amendment. These policies will also dramatically affect other landowners engaged in industrial uses within the Reorganization Area. These policies and standards include:

- The undergrounding of all existing electrical distribution, telephone and telecommunication lines.
- The installation of 31 or more loading spaces, when Guardian presently only requires three.
- The installation of extensive landscaping (with detailed requirements) on Indianola, a roadway used by only one company, and elsewhere.
- A limitation of fencing heights, which raises safety, security, and liability concerns.
- The possible need for connection to City water and sewer.

As a result of the foregoing, Guardian believes that LAFCo should provide the parties with additional time to resolve the above issues prior to considering the Proposed Reorganization. Guardian, for one, is committed to working with the City to resolve the above issues. However, if the City desires to proceed with the Proposed Reorganization on April 10, 2013, Guardian will be left with no choice but to object to the Proposed Reorganization, on the above grounds.

Thank you for your consideration of the above.

Very truly yours,



John P. Kinsey

cc: Michael Noland, Esq.
Kenneth Price, Esq.



October 18, 2012



County of Fresno
COUNTY ADMINISTRATIVE OFFICE
JOHN NAVARRETTE
COUNTY ADMINISTRATIVE OFFICER

Donald F. Pauley, City Manager
City of Kingsburg
1401 Draper Street
Kingsburg, CA 93631-1908

Dear Mr. Pauley:

Subject: Notice of Intent to File the Guardian/Sun-Maid Annexation/Reorganization

In accordance with Article II, Section 2.2 of the Amended and Restated Memorandum of Understanding between the City of Kingsburg and the County of Fresno, we have reviewed the annexation proposal described in the letter received from Consulting Planning Director Darlene Mata on October 5, 2012.

We have determined that the proposed annexation by the City of Kingsburg is consistent with the Standards for Annexation contained in Exhibit I of the Amended and Restated Memorandum of Understanding.

It is recommended that the southern half-width right-of-way for Mountain View Avenue and the full width rights-of-way for Amber, Indianola, Bethel, and Kamm Avenues, and the Golden State Boulevard be included in this annexation.

If you have any questions, you may contact me at (559) 600-1710 or Will Kettler at (559) 600-4497.

Very truly yours,

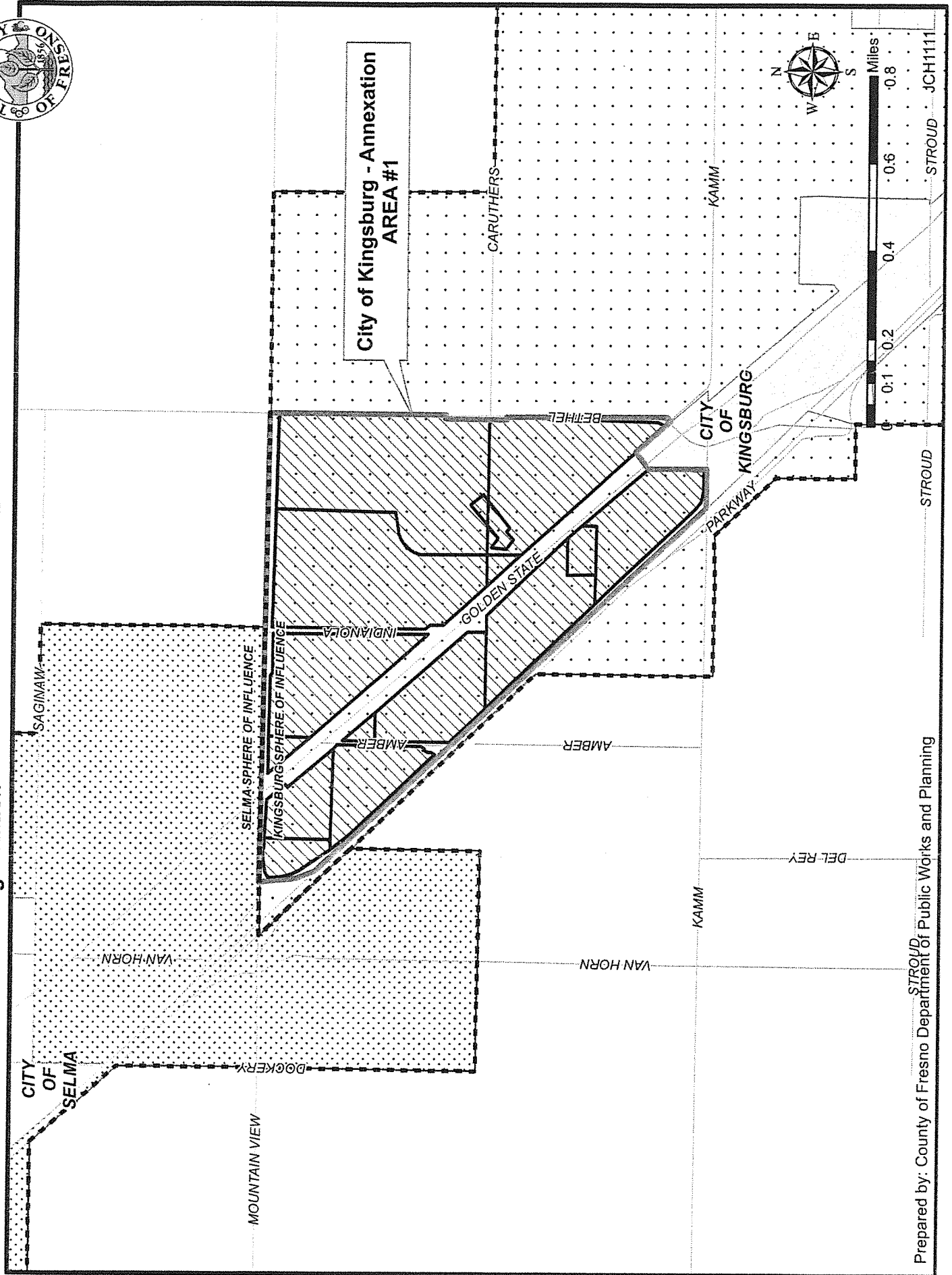
for John Navarrette
County Administrative Officer

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c: Alan Weaver, Director, Department of Public Works and Planning
Bernard Jimenez, Deputy Director of Planning, Department of Public Works and Planning
Will Kettler, Division Manager, Development Services Division
Mohammad Khorsand, Senior Planner, Development Services Division
Jeff Witte, Executive Officer, LAFCo
Darlene R. Mata, Consulting Planning Director, City of Kingsburg

LOCATION MAP

Guardian-Sun Maid Annexation/Reorganization





Fresno Local Agency Formation Commission

DATE: November 29, 2012
TO: Will Kettler, Manager, Development Services Division, Stop #214
Department of Public Works and Planning
FROM: Jeff Witte, Executive Officer
SUBJECT: "Guardian-Sun Maid Reorganization"; AGENCY NO. RO-12-7



The attached application has been filed for processing with the Fresno Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following factors (Attach extra sheets as necessary):

1. County plan designation for the area:

The subject annexation area is designated Agriculture, Highway Commercial, Limited Industrial, and Limited Industrial Reserve in the County adopted Kingsburg Community Plan.

2. Consistency of the proposal with adopted County General and Community Plans and policies.

The County's General Plan directs commercial and industrial uses to incorporated cities and unincorporated communities where necessary support services are available. Annexation and development of the subject area represents a logical continuation of the existing development pattern within the City of Kingsburg's Sphere of Influence in conformance with the Amended and Restated Memorandum of Understanding (MOU) between the City of Kingsburg and the County of Fresno.

3. Any pending County plans, projects (i.e. community development, roads, etc.) or development permits:

None.

4. Other related comments:

On October 18, 2012, the County reviewed the proposal and determined that the proposed reorganization is consistent with the Standards of Annexation contained in the MOU between the City of Kingsburg and the County of Fresno.

5. Recommendations:

It is recommended that the southern half-width right-of-way for Mountain View Avenue and the full-width rights-of-way for Amber, Indianola, Bethel, and Kamm Avenues, and the Golden State Boulevard be included in this annexation.

In order to proceed with the processing of this application, your comments need to be returned to this office by **December 4, 2012**. Your assistance is greatly appreciated. Thank you.

Will Kettler, Development Services Manager
Department of Public Works and Planning

11/29/12
Date

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Fresno Local Agency Formation Commission

DATE: November 15, 2012
TO: Elections Division-Voter Registration
FROM: Jeff Witte, Executive Officer *JW*
SUBJECT: "Guardian-Sun Mald Reorganization"; AGENCY NO. RO-12-7

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting the following information indicated by an "X":

- A. _____ Please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County within 300 feet of the exterior boundary of the property.
- B. X Number of registered voters in the area. 2
- C. X If more than 11 registered voters, for notification purposes please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County. Also please furnish a list of registered voters along with their addresses for the territory within 300 feet of the exterior boundary of the property.
- D. _____ What percent of the registered voters in the proposal area does the attached petition represent? _____
- E. X Will the proposal adversely affect precinct boundaries or the conduct of elections? No
- F. _____ Other comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **December 4, 2012**. Your assistance is greatly appreciated. Thank you.

JW:sh

Attachments: Map, Legal description

Morgan Bennett

Signature and Title Information Technology Analyst

12/04/2012

Date



County of Fresno

DEPARTMENT OF PUBLIC HEALTH

EDWARD L. MORENO, M.D., M.P.H.

DIRECTOR-HEALTH OFFICER

December 3, 2012

Mr. Jeff Witte
Local Agency Formation Commission
2115 Kern St., Suite 310
Fresno, CA 93721

Dear Mr. Witte:

PROJECT NO: RO-12-7

SUBJECT: Guardian-Sun Maid Reorganization



FA0000568
LU0016568
2620
CX

1. Adequacy and availability of existing and proposed community water and sewer systems:
2. Need for services other than those proposed:
3. Effect of project on air or water quality:
4. Related County plans or projects:
5. Other comments:
 - Any water wells and/or septic systems that exist or have been abandoned within the project area, not intended for use, shall be properly destroyed by an appropriately licensed contractor.

Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be sampled for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements. Transportation of these materials on public roadways may require special permits and licensure.

- Our records indicate leaking underground fuel storage tanks were located on two of the parcels:

Sun-Maid parcel APN 393-113-06S had two leaking underground fuel storage tanks with soil contaminated by petroleum products. The contamination at the site is under the jurisdiction of the California Central Valley Regional Water Quality Control Board (RWQCB). Any

Dedicated to Public Health

1221 Fulton Mall / P.O. Box 11867, Fresno, California 93775 / (559) 600-3271/ FAX (559) 600-7633

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www.fcdph.org

Jeff Witte
RO-12-7
December 3, 2012
Page 2 of 2

construction at this site should only be undertaken with their knowledge and comment.
Contact the RWQCB at (559) 445-5116.

Guardian Industries parcel APN 393-240-47S had one underground fuel storage tank with soil contamination. Information on this site indicates it is a former contamination with no further action required. Should construction and/or grading activities uncover stained soils, the California Central Valley Regional Water Quality Control Board (RWQCB) shall be contacted immediately.

- Should any abandoned underground storage tank(s) be found during the project, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.

If I can be of more assistance, please feel free to contact me at (559) 600-3271.

Sincerely,

Janet Gardner

Digitally signed by Janet Gardner
DN: cn=Janet Gardner, o, ou,
email=jgardner@co.fresno.ca.us, c=US
Date: 2012.12.03 07:46:08 -08'00'

R.E.H.S., M.P.H.
Environmental Health Specialist III
Environmental Health Division

jg

cc Steven Rhodes, Supervising Environmental Health Specialist
Wayne Fox, Supervising Environmental Health Specialist

RO-12-7 Guardian Sun-Maid Reorganization



City of Kingsburg

1401 Draper Street, Kingsburg, CA 93631-1908
(559)897-5821 (559)897-5568

December 6, 2012

Jeff Witte
Fresno County Local Agency Formation Commission
2607 Fresno Street, Suite B
Fresno CA 93721

Bruce Blayney
Mayor

David Karstetter
Mayor Pro-tem

COUNCIL MEMBERS
Chet Reilly
Michelle Roman
Ben Creighton

Donald F. Pauley
City Manager

SUBJECT: GUARDIAN/SUN-MAID ANNEXATION

Dear Mr. Witte,

We are in receipt of the comment letters you received during the "Request for Comment" period on the City of Kingsburg proposed annexation.

Per your request, we investigated the comment from the Fresno County Department of Public Health, which states that there are leaking underground fuel storage tanks on two parcels within the annexation area. A review of the California Regional Water Quality Control Board (RWQCB) list of contaminated sites indicates that the two sites referenced by Fresno County have been cleaned up and the case closed by the RWQCB. I have attached a copy of the information from the website.

The proposed annexation does not include any additional development on either parcel. If, at any point in the future, a permit for development is requested, the City of Kingsburg will comply with all State and County regulations applicable to wells, septic systems and underground tanks.

If you need any additional information or documentation, please contact me at (559) 897-5328.

Thank you for your assistance with this project.

Sincerely,

Darlene R. Mata
Consulting Planning Director



GEOTRACKER

LAYERS

☒ SIGNIFIES A CLOSED SITE☒ Leaking Underground Tank (LUST) Cleanup Sites☒ Other Cleanup Sites☒ Land Disposal Sites☒ Military Sites☒ WDR Sites☐ Permitted Underground Storage Tank (UST) Facilities☒ Monitoring Wells*

* ZOOM IN TO SEE MWS

☐ DTSC Cleanup Sites☐ DTSC Haz Waste Permit

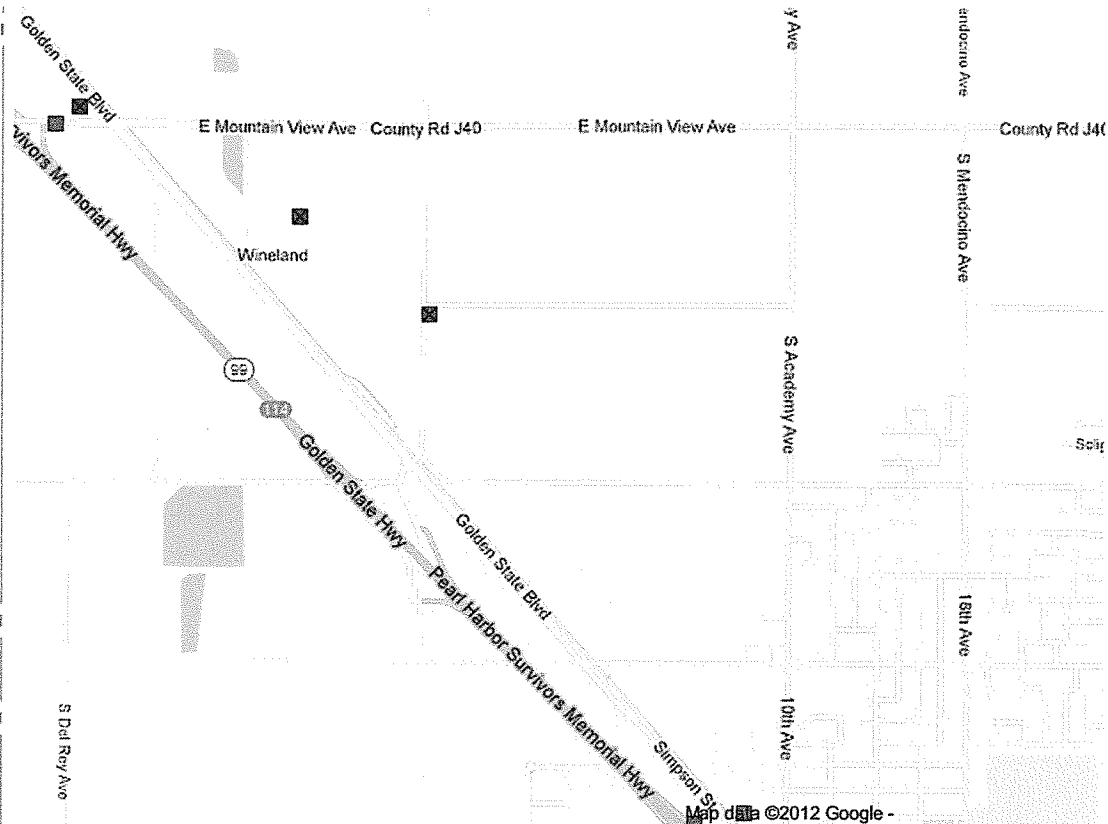
MAP SIZE

640x480

OPTIONS

☒ Site List - [EXPORT TO EXCEL](#)

6 Sites

☐ SHOW SITES WITHIN 1000 FEET OF THE FOLLOWING ADDRESS: kingsburg ca

Go

SITE LIST

SITE NAME	GLOBAL ID	CLEANUP STATUS	ADDRESS	CITY
<input checked="" type="checkbox"/> DARLING OIL	T0601964196	OPEN - SITE ASSESSMENT	11010 MOUNTAIN VIEW	SELMA
<input checked="" type="checkbox"/> DARLING OIL & TIRE	T0601900108	COMPLETED - CASE CLOSED	11010 MOUNTAIN VIEW	SELMA
<input checked="" type="checkbox"/> GUARDIAN INDUSTRIES CORP	T0601900541	COMPLETED - CASE CLOSED	11535 MT VIEW	KINGSBURG
<input checked="" type="checkbox"/> HEUBLEIN, INC.	SLT5FS274445	OPEN - SITE ASSESSMENT	965 SIERRA ST	KINGSBURG
<input checked="" type="checkbox"/> SUN-MAID GROWERS OF CALIFORNIA	T0601900269	COMPLETED - CASE CLOSED	13525 BETHEL AVE S	KINGSBURG
<input checked="" type="checkbox"/> SILVAS OIL COMPANY	T10000001780	OPEN - SITE ASSESSMENT	1250 LAUREL AVE	KINGSBURG

MAP AN ADDRESS:

Go!



City of Kingsburg

1401 Draper Street, Kingsburg, CA 93631-1908 (559) 897-5821 Fax (559) 897-5568

March 18, 2013

Mr. Jeff Witte
Executive Officer
Fresno Local Agency Formation Commission
2607 Fresno St. Suite 13
Fresno, CA 93721



Chet Reilly
Mayor

Michelle Roman
Mayor Pro-tem

COUNCIL MEMBERS

Bruce Blayney
Ben Creighton
David Karstetter

Donald F. Pauley
City Manager

Re: Guardian-Sun Maid Reorganization

Jeff
Dear Mr. ~~Witte~~:

Your email of March 15, 2013 requested clarification of the City of Kingsburg's response to Section 2, Reasons for Proposal, in the City's referenced application for annexation.

Article IV, Section 4.1 of the Amended and Restated Memorandum of Understanding between the County of Fresno and the City of Kingsburg dated January 31, 2006 states, "COUNTY shall not approve any discretionary development permits for new urban development within CITY'S sphere of influence unless development shall have first been referred to CITY for consideration of possible annexation."

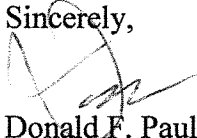
In 2003 the City of Kingsburg was advised by Fresno County that Guardian Industries had applied for permits to modify their float line. In response to that information the City notified that County of the City's intention to apply for annexation of the area east of Golden State Boulevard, West of Bethel Avenue, north of Kamm Avenue and south of Mountain View Avenue. In discussions prior to applying for annexation the County proposed expansion of the annexation to include the area east of Golden State and west of SR 99. The County and Guardian Industries also proposed the City agree to delay the annexation until all improvements had been completed and a Certificate of Occupancy issued. The City agreed to both of these proposals thus expanding the area of annexation and delaying the application for annexation.

Once all Certificates of Occupancy were approved the City been the process to apply for annexation which has been delayed a number of times due to opposition by the City of Selma and the developer of the Selma Crossing project. The City is now focused on securing approval of the annexation and is appreciative of your efforts to present the

application to the Commission at their April meeting for consideration by the Commission.

Should you or Mr. Price have any further questions or requests for clarification please feel free to contact Darlene Mata or myself.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Pauley', is written over a circular stamp that is partially obscured.

Donald F. Pauley
City Manager

Cc: Kingsburg Mayor & City Council
City Attorney Mike Noland
Consulting Planning and Development Director Darlene Mata



Fresno Local Agency Formation Commission

Date: November 15, 2012
To: State Department of Health Services
From: Jeff Witte, Executive Officer *JW*
Subject: "Guardian-Sun Maid Reorganization"; AGENCY NO.: RO-12-7



The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Adequacy and availability of existing and proposed community water systems:

Adequate

2. Need for services other than those proposed:

3. Effect of project on water quality:

None

4. Related State or County plans or projects:

5. Other comments:

Please consider extending boundaries at the south east to include Viking Trailer Park, 501 W. O. Kamm Avenue

In order to proceed with the processing of this application, your comments need to be returned to this office by **December 4, 2012**. Your assistance is greatly appreciated. Thank you.

Betsy Gault, Senior Sanitary Engineer
Signature and Title

12/19/12
Date

JW:sh

Attachment: Application, Map, Legal Description, Service Plan, Resolution



Mail TO:

LAFCo Office: 2607 Fresno Street, Suite B, Fresno, CA 93721
Phone (559) 600-0604 Fax (559) 495-0655 cfleming@co.fresno.ca.us

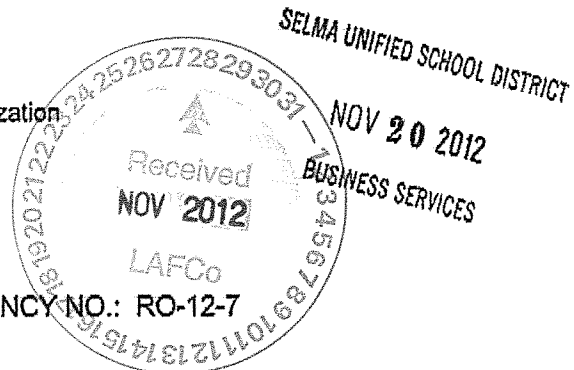
LAFCo Fresno Local Agency Formation Commission

DATE: November 15, 2012

TO: County Committee on School District Reorganization
Selma Unified School District
Kingsburg Unified School District
State Center Community College

FROM: Jeff Witte, Executive Officer *JW*

SUBJECT: "Guardian-Sun Maid Reorganization"; AGENCY NO.: RO-12-7



The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Under present attendance boundaries, which schools will students from this area attend?
WILSON ELEM (K-6); LINCOLN MIDDLE (7-8); SELMA HIGH (9-12)

2. Are any of the above schools of the District already at or near capacity? Please describe:

NO

3. Will this proposal and other pending proposals create any overcrowded conditions at any of the above schools? Please describe:

NO

4. Is there any agreement, ordinance, or other arrangement of the District and/or City to provide for school facilities that would affect any resulting overcrowding from this proposal? Please describe:

NO

5. Describe any building plans of the District that would affect this proposal:

NONE

6. Other Comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by December 4, 2012. Your assistance is greatly appreciated. Thank you.

JW:sh

Attachments: Application, Map, Legal Description, Resolution



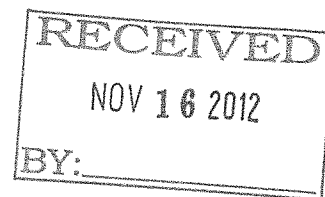
Fresno Local Agency Formation Commission

DATE: November 15, 2012

TO: County Committee on School District Reorganization
Selma Unified School District
Kingsburg Unified School District
State Center Community College

FROM: Jeff Witte, Executive Officer *W*

SUBJECT: "Guardian-Sun Maid Reorganization"; AGENCY NO.: RO-12-7



The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Under present attendance boundaries, which schools will students from this area attend?
Washington Elem., Roosevelt Elem., Lincoln Elem., Reagan Elem., Rafer Johnson Jr. High, and Central Valley Home School.

2. Are any of the above schools of the District already at or near capacity? Please describe:
No

3. Will this proposal and other pending proposals create any overcrowded conditions at any of the above schools? Please describe:
No

4. Is there any agreement, ordinance, or other arrangement of the District and/or City to provide for school facilities that would affect any resulting overcrowding from this proposal? Please describe:
No

5. Describe any building plans of the District that would affect this proposal:
None

6. Other Comments:
None

In order to proceed with the processing of this application, your comments need to be returned to this office by **December 4, 2012**. Your assistance is greatly appreciated. Thank you.

JW:sh

Attachments: Application, Map, Legal Description, Resolution



INTER OFFICE MEMO

Fresno County Public Library



Date: December 3, 2012

To: Jeff Witte

From: Laurel Prysiaczny, County Librarian

Subject: Guardian-Sun Maid Reorganization: AGENCY NO: R)-12-7

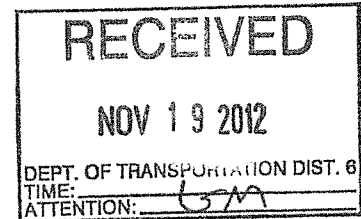
As the action proposed currently is of organization/reorganization, it has no impact on any historic properties within the affected area.

**If upon construction and digging there are any archaeological findings, they should not be disturbed until the right authorities are contacted.

FRL-99- R2.135

LAFCo

Fresno Local Agency Formation Commission



DATE: November 15, 2012

TO: Ken Price, Baker, Manock, and Jensen
Laurel Pryszczycki Fresno County Library
Historical Landmarks and Records Commission (HLRC)
✓ Paul-Albert Marquez, Chief, Office of Transportation
Consolidated Irrigation District
Consolidated Mosquito Abatement District
West Fresno Red Scale Protective District

FROM: Jeff Witte, Executive Officer *JW*

SUBJECT: "Guardian-Sun Maid Reorganization"; AGENCY NO.: RO-12-7



The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency has been identified as an affected and/or interested agency and your assistance in reviewing and commenting on this application is requested.

The Fresno Local Agency Formation Commission (LAFCo) is in receipt of a resolution of application initiating proceedings for this proposal. LAFCo can not take any further action on this resolution of application for 10 days following this notice and request for comments.

If your agency files a written request for a hearing during this 10-day period, LAFCo must notice and hear this proposal at a public hearing. If no written request is filed by your agency, the Commission may proceed without notice and hearing if all required conditions pursuant to state law have been satisfied (Gov Code Sec 56663 (b))

Please return any comments you have regarding this proposed reorganization by **December 4, 2012**. Your assistance is greatly appreciated. Thank you.

JW:sh

Attachments: Application, Map, Legal Description, Service Plan, and Resolution

*No Comment
Jennifer Marquez, ATP
11/27/12*

Witte, Jeff

From: Brehm, Dan
Sent: Tuesday, December 04, 2012 1:37 PM
To: Fleming, Candace Lynn
Cc: Polfer, James; Hendricks, Samantha; Witte, Jeff
Subject: RE: "Guardian-Sun Maid Reorganization"

Candie:

There are no zones of benefit in CSA 35 located in the Guardian Sunmaid Annexation. As you know, CSA 35 exists County wide in the unincorporated area of the County and outside any spheres of influence of incorporated cities. (LAFCo Resolution of April 26, 1989 and Board Resolution #89-279 of 5-23-89 give the parameters and the capabilities of CSA 35.)

Please let me know if you have further questions or if I can be of further assistance. I may have missed the intention of your question.

Best Regards,
Dan Brehm
Senior Engineering Technician
Public Works and Planning
Design Division
2220 Tulare Street, 7th Floor
Fresno, CA 93721
(559) 600-4521
dbrehm@co.fresno.ca.us

How are we doing?

Please take a couple of minutes to complete our new [Super Short Customer Service Survey](#)

From: Fleming, Candace Lynn
Sent: Tuesday, December 04, 2012 11:44 AM
To: Brehm, Dan
Cc: Hendricks, Samantha; Witte, Jeff
Subject: "Guardian-Sun Maid Reorganization"

Dan,

We received the Assessor's Report for the above reorganization for the City of Kingsburg. The Assessor indicated that CSA #35 has some zones within the affected territory. The City's resolution of application does not indicate detachment from CSA #35. Since I am not very familiar with how CSA #35 operates could you please tell me that if the territory is annexed to the City, if the territory will also need to be detached from CSA #35?

<< File: doc00154720121204113846.pdf >>

Candice Fleming
Clerk to the Commission

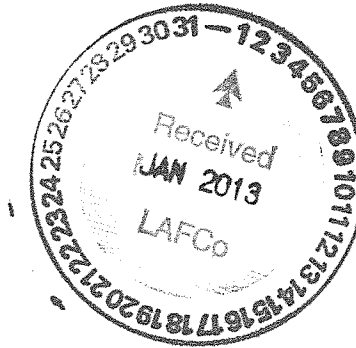


City of Kingsburg

1401 Draper Street, Kingsburg, CA 93631-1908 (559) 897-5821 Fax (559) 897-5568

December 28, 2012

Mr. Jeff Witte
Executive Officer
Fresno Local Agency Formation Commission
2607 Fresno Street, Suite B
Fresno, CA 93721



Bruce Blayney
Mayor

David Karstetter
Mayor Pro-tem

COUNCIL MEMBERS
Ben Creighton

Chet Reilly
Michelle Roman

Donald F. Pauley
City Manager

Re: Guardian-Sun Maid Reorganization

Dear Mr. Witte:

The City of Kingsburg is in receipt of your letter of December 18, 2012 requesting additional information related to Fire and Police Protection services to the area proposed to be annexed by the City of Kingsburg known as the Guardian-Sun Maid Reorganization. The City offers the following responses.

FIRE –

(i) The City of Kingsburg is currently participating in negotiations between the Fresno County Fire Protection District (FCFPD) and all cities in Fresno County that are required to have Transition Agreements with FCFPD as a condition of annexation approval by LAFCo. The Mayors of Fresno County sitting as the City Selection Committee on November 15th unanimously endorsed and supported the efforts of the City Managers to negotiate a new template Fire Transition Agreement with FCFPD.

The City Managers Committee is comprised of the City Managers of Kingsburg and Sanger (east side city), the Assistant City Managers of Fresno and Clovis, and the Fire Chiefs of Fresno and Coalinga who is also representing the Coalinga City Manager (west side city). The negotiations re-started with a meeting on December 13th where the cities presented their negotiating points to FCFPD. It was agreed by all parties that the recently mediated Clovis Transition Agreement will be used as the starting point for future negotiations. The second meeting is scheduled for January 7th.

Due to the recent efforts to re-start negotiations it would be unwise for the City to state that there are “anticipated changes” to the current Fire Transition Agreement. We can however state in no uncertain terms that it is the goal of the City to reach mutual

agreement on the terms of a new Fire Transition Agreement with FCFPD in a timely manner.

(ii) The Kingsburg Fire Department currently has one Captain and one Firefighter/Paramedic on staff 24/7 supplemented by one per diem Firefighter/Paramedic, Paramedic or Paid Call Firefighter/EMT. With this arrangement the Department is able to maintain a staffing level of three for each shift. All of the Department's full time staff are certified Firefighter I or higher and HAZMAT operations level. Of the 10 per diem personnel 8 are certified Firefighter I and HAZMAT operations or higher.

The Department staff currently consists of 3 Captains, 3 Firefighter/Paramedics, 12 Paid Call Firefighters/EMTs and a Fire Chief. The Department was recently awarded and accepted a SAFER grant from FEMA that will allow the Department to return to a pre-2008 staffing level of 1 Captain and 2 Firefighter/Paramedics per shift for a total of 9 full time staff supplemented by Paid Call Firefighter/EMTs by March of 2013. The Department is in constant recruitment for Paid Call Firefighters and EMTs.

The Department has 3 Engines, a 55' aerial truck, 3 ambulances and 2 administration/support vehicles.

(iii) The Fire Department currently has an Auto-Aid Agreement with FCFPD which includes Station 83 as the first responding unit, if available. If Station 83 is not able to respond, FCFPD responds to the request with a unit from their stations at Sanger, Caruthers, Del Ray or Clovis.

(iv) The Kingsburg Fire Department has an Auto-Aid Agreement with the Tulare County Fire Department and a Mutual Aid Agreement with the Kings County Fire Department. These Departments respond to requests for assistance to the Kingsburg Fire Department's service area which will include the area proposed to be annexed.

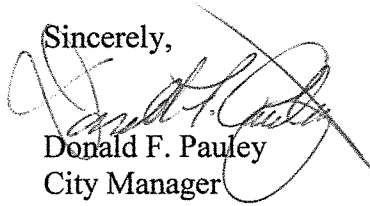
The Fire Department is finalizing the details of an Auto-Aid Agreement with the Selma and Sanger Fire Departments for these Departments' service areas. It is tentatively scheduled for approval by the Kingsburg City Council on January 9th. This Agreement is anticipated to serve as the framework for a County-wide Master Mutual Aid Agreement for all of the city Fire Departments in Fresno County that will supplement and strengthen the State's Master Mutual Aid Plan.

POLICE –

From November 20, 2011 to November 20, 2012 the Kingsburg Police Department responded to 58 calls for service in the area proposed for annexation.

We hope that the above information adequately responds to your request. Should you require additional information, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald F. Pauley", is written over the printed name and title.

Donald F. Pauley
City Manager

cc: Darlene Mata
Mike Noland

City of Kingsburg Service Plan

GUARDIAN/SUN-MAID REORGANIZATION

July 2012

A. INTRODUCTION

The roughly triangular subject territory for the Guardian/Sun-Maid Reorganization encompasses 20 parcels and road rights-of-way comprising approximately 430 acres generally bounded by the State Route 99 freeway, Bethel and Mountain View Avenues.

A plan for providing services and improvements to land being annexed to cities is required by the Local Agency Formation Commission (LAFCo) and provides the following:

1. Assurances to LAFCo that newly annexed territory to a city will be properly served as urban territory.
2. A basis for determining the impact of an annexation when a determination is made pursuant to the California Environmental Quality Act (CEQA).
3. It provides information to property owners, districts and interested individuals.

B. MUNICIPAL SERVICES

Services that already exist or are proposed for extension to the subject territory include the following:

Water service

Currently, the three industries that occupy all of the parcels within the subject territory have their own water systems. The Guardian Industries glass plant, Vie-Del grape processing facility and Sun-Maid Growers raisin plant each have two on-site water wells. Through an extra-territorial agreement with George and Lousie Alves, dba G & L Enterprises, 13281 Golden State Boulevard, to extend a water main from Kamm Avenue to Amber Lane. Once the annexation has been approved ownership of the water main will transfer to the City and be made available for connection to all adjoining properties.

Selma-Kingsburg-Fowler County Sanitation District (sanitary sewer)

The subject territory is within the Selma-Kingsburg-Fowler County Sanitation District (SKF) and two of the three industries are already connected to the SKF sewer. The Vie-Del plant currently makes use of a private septic system, but connection to the SKF sewer will not be difficult to achieve when the septic system fails or a construction project makes connection expedient. The plant is on the west side of Indianola Avenue, and there is a 12-inch line under

GUARDIAN/SUN-MAID REORGANIZATION SERVICE PLAN

Page 2 of 5

the west edge of Indianola Avenue along the Vie-Del plant. The properties west of Golden State will be able to connect to an S-K-F line on the west side of Golden State Boulevard if they are not already connected.

Storm water drainage

Each of the three industries in the subject territory handle runoff on-site and have ample acreage for this purpose. In fact, two of the industries also dispose of process wastewater on site. Sun-Maid uses 40 acres of grain and grass crops for spray fields, and Vie-Del has ponding areas for disposal of condensed steam. The properties west of Golden State also handle runoff on-site and have ample acreage for this purpose.

Solid waste collection

The City of Kingsburg contracts with Waste Management for solid waste collection, and the industries in the subject territory have the option of receiving services under this contract. However, the industries have indicated a preference to continue current arrangements for handling solid waste, which include a very high rate of diversion from the waste stream heading to landfills. Waste from one industry is processed by another in the same manner that the industries cooperate in the operation of the co-generation plant located on land owned by Sun-Maid.

Police protection

The subject territory is currently under the jurisdiction of the Fresno County Sheriff's Department and California Highway Patrol. The Kingsburg Police Department will provide law enforcement protection upon annexation. The annexation would increase the department's area of responsibility, expanding the service territory northward one mile. The subject territory has historically generated few calls for service. The police and Sheriff's Department frequently aid each other in providing extraterritorial coverage and investigative services.

The department has 12 sworn officers and 25 authorized reserve officer positions in a city of slightly over 11,382 population (2010 U. S. Census). City limits encompass 2.7 square miles prior to the annexation of the 430 acres. The property tax revenues that would be realized by the City as a result of the annexation, estimated at \$140,000 per year on the base valuation alone, would make it possible to employ additional personnel if necessary.

Fire protection

The subject territory is currently served by the Fresno County Fire Protection District from Station 83. The station is directly across Mountain View Avenue from the Guardian glass plant, less than a tenth of a mile away. Supplemental protection is provided from the Tulare County Fire Department's Kings River Station (Avenue 400 west of Road 40, about six miles east), the King County Fire Department station at Burris Park (Clinton Avenue west of Sixth Avenue, 12 miles south), and the City of Kingsburg.

GUARDIAN/SUN-MAID REORGANIZATION SERVICE PLAN

Page 3 of 5

Upon annexation, the City fire department would assume primary responsibility for fire protection, but personnel from Station 83 on Mountain View Avenue would continue to respond to the subject territory on a mutual aid basis. The City's downtown fire station is approximately 2.4 miles from the subject territory. The City also owns a site at the southeast corner of Sierra Street and Bethel Avenue that has been designated for development of a satellite fire station. This site is slightly more than one mile from the subject territory.

The City of Kingsburg currently has a transition agreement in place through December 31, 2012. The subject territory would be covered by the agreement upon annexation.

Ambulance and paramedic service

Services are provided by the Kingsburg Fire Department and would continue to be rendered in the same manner to the subject territory upon annexation.

Street Lighting

Bethel Avenue lighting along the Sun-Maid plant is from lights installed and maintained by Sun-Maid. There is only one street light in the public right-of-way serving the subject territory, located at the southwest corner of Bethel and Mountain View Avenues. Responsibility for the provision of street lighting would transition from the County of Fresno to the City of Kingsburg.

Parks and Recreation

The City of Kingsburg has a full-time Community Services Coordinator and a Parks Master Plan adopted in 2002. The City collects recreation area acquisition and improvement fees from new residential development. However, the subject territory will not generate such fees, nor will it directly generate demand for parks and recreation services, since it is entirely industrial in nature.

Transit services

In cooperation with the Council of Fresno County Governments (COFCG), the City of Kingsburg operates a dial-a-ride transit van in and around the City during regular business hours six days per week. The subject territory is within the transit van's service area. Intra-city bus service is available from downtown Kingsburg locations along routes operated by COFCG and Greyhound Bus Lines.

Schools

The subject territory is divided by the boundary between the Selma Unified School District and Kingsburg's school districts (Kingsburg Joint Union High School District and Kingsburg Joint Union Elementary Charter School District). The territory, being entirely industrial in nature, adds no students to the population of any school. However, it generates considerable revenues

GUARDIAN/SUN-MAID REORGANIZATION SERVICE PLAN

Page 4 of 5

for schools through property taxes and school fees. Building projects within the territory are assessed school fees at the industrial rate of 51 cents per square foot.

Public right of way

The City of Kingsburg will assume responsibility for Bethel Avenue from Kamm Avenue to Mountain View Avenue, and for Indianola Avenue south of Mountain View. Because Mountain View forms the line of demarcation between the spheres of influence of Kingsburg and Selma, Kingsburg is annexing only half of the right-of-way of Mountain View Avenue, leaving the County responsible for the northern (westbound) portion. Projects on Mountain View, such as median island clean-up, will have to be coordinated between the City and County. Repairs or improvements should not be necessary for a period of years because the roadway was reconstructed and widened to four lanes in recent years.

Other services

City-provided services will be much more convenient to access than those provided by the County primarily from the county seat, Fresno, approximately 20 miles away. City Hall, the Planning and Development Department, the Senior Center, the police and fire departments, and other city facilities are all located within a few miles of the subject territory. In Kingsburg there are branches of the Fresno County Free Library and the Fresno County Superior Court.

C. FINANCING OF SERVICES AND FACILITIES

All of the services are provided by one of the following sources of funds or by some combination:

- Property taxes.
- Sales taxes.
- Developer impact fees.
- Business license fees.
- Transient occupancy taxes.

Business developments typically generate more in the way of property taxes than residential subdivisions. The City seeks the addition of commercial and industrial development to achieve a better balance with residential areas, provide jobs, make more goods and services available to residents, and improve the City's budgetary situation.

Outside sources of funds include:

- State grants, loans and entitlements, such as motor vehicle in-lieu fees. Some of the state funds are reserved for specific purposes, such as street improvements.
- Federal grant and loan programs and entitlements, some of which are also reserved. Examples are Community Development Block Grants and funds for senior citizens that are conveyed through the Fresno-Madera Area Agency on Aging.

GUARDIAN/SUN-MAID REORGANIZATION SERVICE PLAN

Page 5 of 5

Assessment districts are formed at the encouragement of the City for maintenance of public improvements and for lighting and landscaping installation and maintenance. The sale of bonds is also an option.

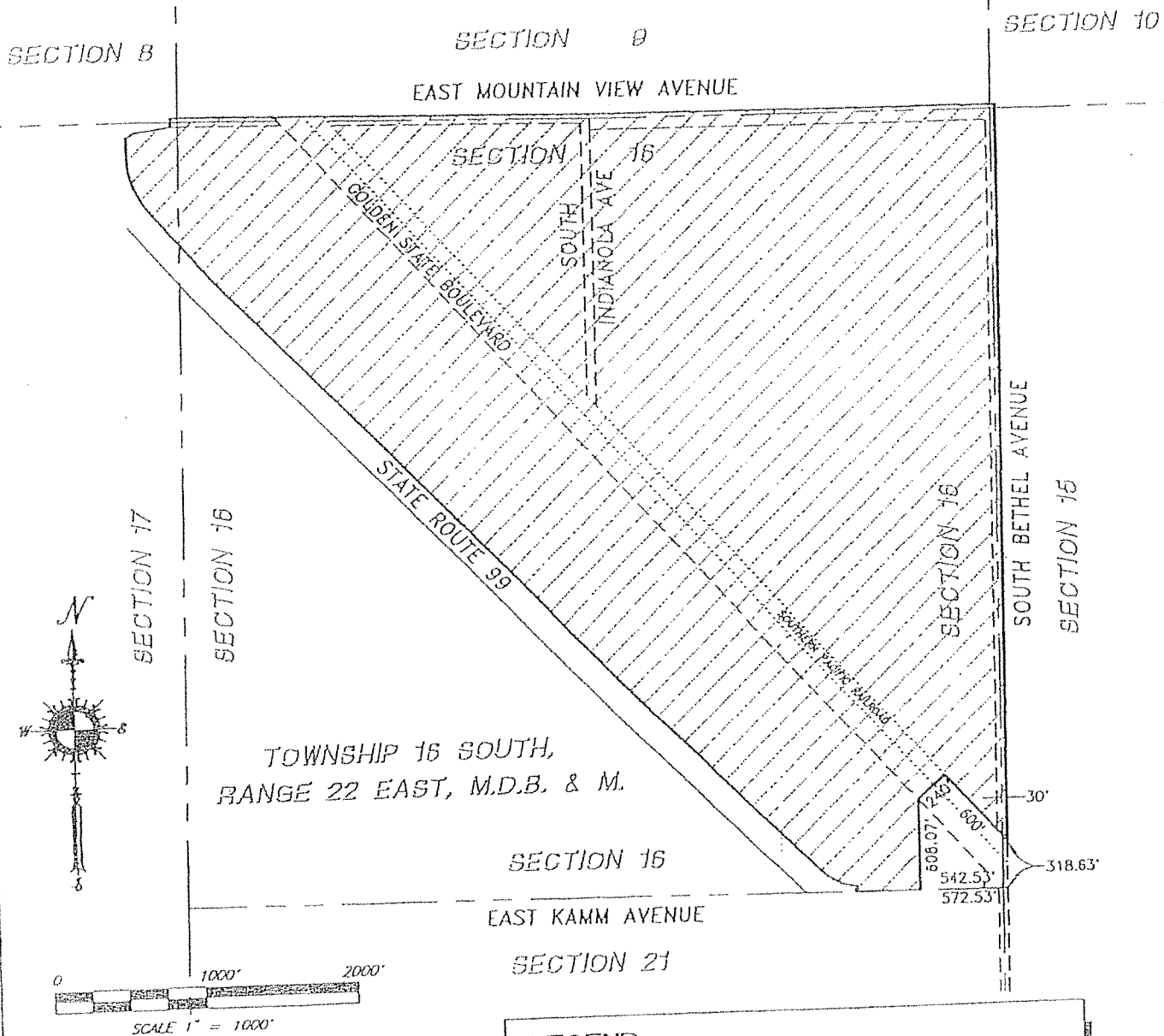
D. COMPLIANCE WITH C.E.Q.A.

A Mitigated Negative Declaration of environmental impact was prepared and circulated in conformance with the California Environmental Quality Act (CEQA) for the project. The project consists of the Guardian/Sun-Maid Reorganization and pre-zoning a portion of the subject territory (183 acres) to Light Industrial and Highway Commercial through application COZ 2012-02.

Attachments:

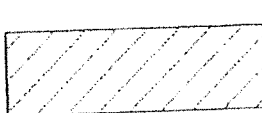
- Annexation area
- Water lines in annexation area
- Sewer lines in annexation area

City of Kingsburg - Annexation

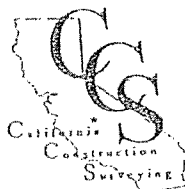


LEGEND:

- INDICATES SECTION LINE.
- - - INDICATES CURRENT PUBLIC ROAD RIGHT-OF-WAY LIMITS.
- INDICATES CURRENT SOUTHERN PACIFIC RAILROAD RIGHT-OF-WAY LIMITS.
- INDICATES CURRENT STATE ROUTE 99 RIGHT-OF-WAY LIMITS.



INDICATES LIMITS OF THE CITY OF KINGSBURG ANNEXATION.
CONTAINING: ± 430.84 ACRES



2801 Airport Dr. Ste. 202
Madera, California 93637

David: 559-779-9474
Mike: 209-761-1027
Fax: 559-354-0107

www.ccsurveying.net

DATE OF SURVEY	01-09-2006
DRAWING PATH	05142
DRAWING NAME	BNDRY_ANNEX
DRAWN BY	J.CAMIT
REVISION DATE	07-19-2007

Sewer Lines in Annexation Area



Mountain View

Indianola

SR 99 SB

Golden State

Bethel

SR 99 NB

Kamm

Kamm

99 SB Off Ramp



— Sewer_Lines
[] Annexation area

Water Lines in Annexation Area



Mountain View

Indianola

SR 99 SB

Golden State

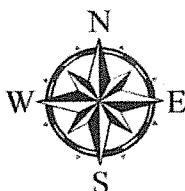
Bethel

SR 99 NB

Kamm

Kamm

99 SB Off Ramp



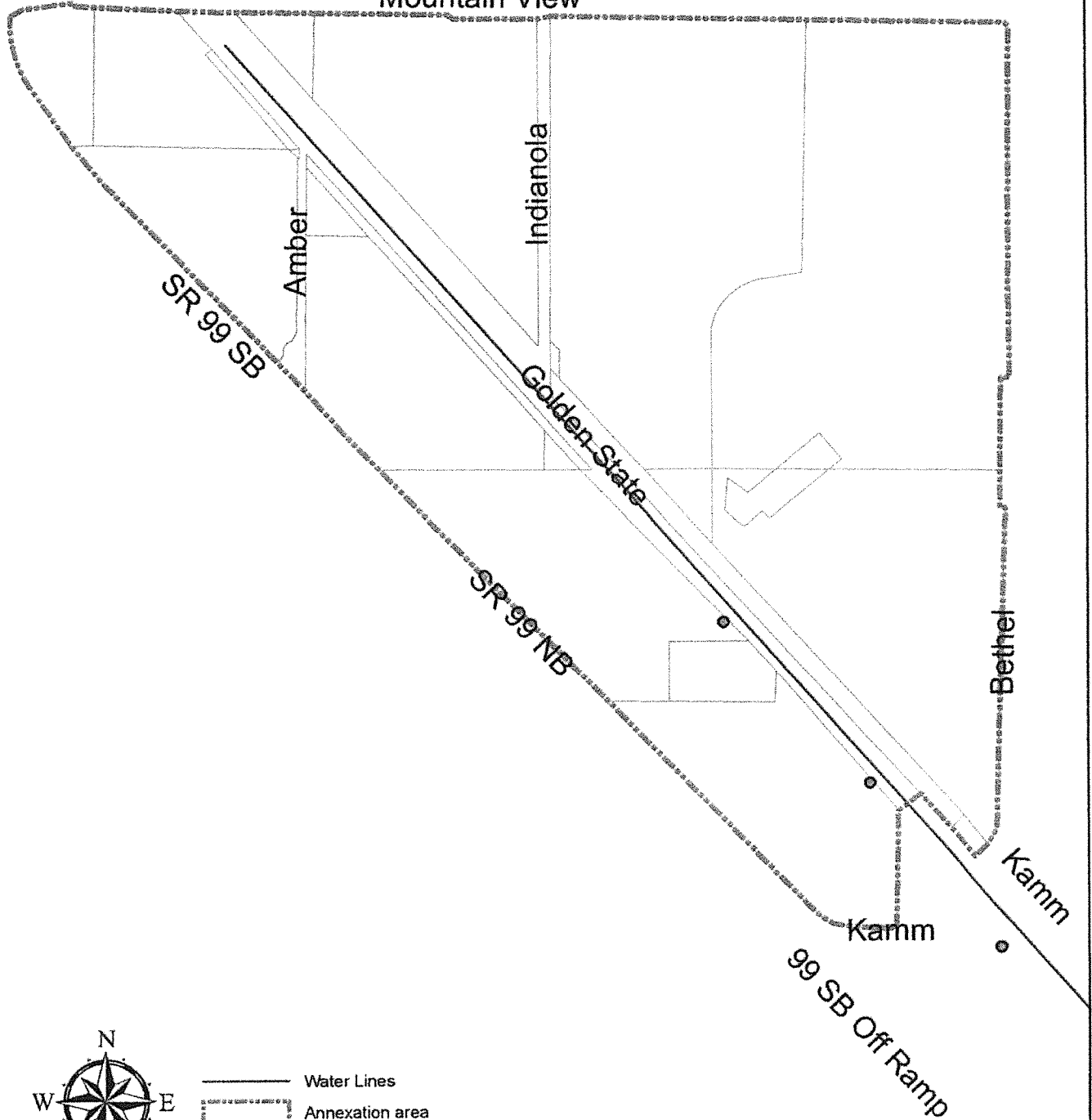
Water Lines

Annexation area

Water Lines in Annexation Area



Mountain View



Sewer Lines in Annexation Area



Mountain View

Indianola

SR 99 SB

Golden State

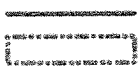
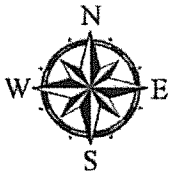
SR 99 NB

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Sewer_Lines
Annexation area