

DATE: June 2, 2006

TO: Members, Local Agency Formation Commission

FROM: Peter Banning, Executive Officer
Evelyn Ellis, Assistant Planner

SUBJECT: Response to Comments – San Rafael Area Service Review and Sphere of Influence Update

Summary and Recommendation

This memorandum presents staff's responses to issues, recommendations and editorial comments received since the publication of the San Rafael Area Service Review and Sphere of Influence Update on January 31, 2006. Copies of each comment letter received are attached to this response.

Staff recommends that the Commission review additional testimony presented at the continued public hearing and take action on the proposed service review findings and sphere of influence recommendations contained in the San Rafael Area Service Review and Sphere of Influence Update report published on January 31, 2006 unless subsequent testimony at the Commission's June 8, 2006 meeting requires further consideration. Draft resolutions for the service review and each sphere of influence to be amended or affirmed are attached.

Updates to the Staff Report

Since publication of the staff report of January 31, 2006, internal review has identified the following notes, updates and corrections:

1. The recommended sphere of influence for San Rafael Sanitation District does not include the San Rafael Rock Quarry based on the absence of re-use plans for the area that show subsequent land uses. The SRSD sphere should be revised to include the area if/when re-use plans show uses requiring sewer service.

2. The description of CSA#19 on page 23 should note that County contributions to the operating cost of Station 7 pay for all staffing costs. The reference to the report section on County Agreements with the City of San Rafael in that paragraph should specify page 58 rather than page 55.
3. Under the description of Household Characteristics on page 37, the reference to housing statistics for San Rafael from the City's General Plan Housing Background Report should specify that the data is for the City's incorporated area, not its sphere of influence.
4. The phrase "Unified sanitary district would meet criteria for establishment as a subsidiary district of the City of San Rafael" should not be included as an advantage in the Political Accountability section of the table on page 52 that compares advantages and disadvantages of a consolidation of San Rafael Sanitation and Las Gallinas Valley Sanitary districts.
5. The funding amount provided to the Marinwood CSD for fire protection by the City of San Rafael shown on page 62, paragraph 2 should be updated from \$380,000 to \$150,000 for FY 2005-2006.
6. Several references are made to fiscal deficits in the City of San Rafael and the City's difficulty in maintaining current service levels under existing revenues. These references (e.g. page 95 discussion of fiscal stress on cities) should be updated to acknowledge the passage of the Measure S sales tax revenue augmentation passed by San Rafael voters in November 2005. The City will be able to sustain current levels of service with new Measure S funding and easing of the State's budget problems.
7. Table 9 beginning on page 85 should include reference to Gold Hill and CSA#13 open space preserves and should note that the Lucas Valley Elementary School is now open and leased to the Waldorf School, a private school.
8. Projected maximum population for the Lucas Valley area in Table 11 on page 102 and on page 109 should be 2,798 rather than 2,351.

Comments of Douglas Colbert, President, Las Gallinas Valley Sanitary District

In his letter on behalf of the Las Gallinas Valley Sanitary District (Attachment A), Mr. Colbert requests that the San Rafael Ridge area be retained in the LGVSD sphere of influence based on the possibility that the area may require recycled wastewater for irrigation provided by the District. Staff has recommended that the area be removed from the LGVSD sphere of influence based on staff's conclusion that publicly owned open space will not require sanitary sewer service provided by LGVSD.

LAFCO staff is supportive of the use of recycled wastewater for irrigation wherever possible independent of the sewer service areas of agencies providing sewer service. Government Code Section 56133 provides authority for LGVSD and other districts to provide recycled wastewater for agricultural purposes outside of its boundaries and sphere of influence and without LAFCO approval. Section 56133 exempts the provision of recycled wastewater for agricultural purposes from LAFCO's authority over the provision of service on contract outside the boundaries of local agencies and the limitations on that authority with respect to spheres of influence.

Staff therefore affirms its recommendation that the area be removed from the District's sphere of influence based on the availability of other means to provide recycled wastewater for irrigation under Section 56133.

Comments of Stephen Kostka, Bingham McCutchen LLP, for St. Vincent's School

A. LAFCO's determination of the appropriate sphere boundary must be based on its independent judgment and sound planning principles.

Staff agrees.

A.1 LAFCO should not allow the City's General Plan to dictate its sphere decision

The comment is correct in pointing out that cities do not have authority to establish their spheres of influence and should not be allowed to supplant LAFCO's authority to establish them. The Cortese-Knox-Hertzberg Act (also referred to as, "the Cortese-Knox Act" and "the Act") gives LAFCO the exclusive authority to define and adopt spheres of influence for cities and special districts. However, the provisions of the Cortese-Knox Act, dealing as they do with inter-governmental relationships, frequently distribute indirect authority and influence among parties affected by LAFCO's decisions.

In this case, the City has opted to exercise explicit authority given it under Government Code Section 65300 to adopt a general plan for land "outside its boundaries which *in the planning agency's* [the City's] *judgment* bears relation to its planning." (Emphasis added.) This plenary authority of the City logically affects the Commission's exercise of its plenary authority on spheres of influence. The City's actions to remove the St. Vincent's/Silveira area from the City's General Plan are directly relevant to Section 56425(b) and to whether or not the continued inclusion of St. Vincent's Silveira in the City's sphere of influence continues to meet the definition of sphere of influence. In other words, the City's determination that the St. Vincent's Silveira area bears no "relation to its planning" must inevitably have some bearing on LAFCO's determination of what constitutes the "logical and orderly development" in that area. In fact, the City's general plan decision relates to several core factors for LAFCO's sphere determination, including:

- The present and *planned land uses in the area*, including agricultural and open space lands (emphasis added).
- The present and probable need for public facilities and services in the area.
- The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
- The existence of any social or economic communities of interest in the area if the commission determines they are relevant to the agency. (Gov't Code Section 56425.)

The general plan provisions of both the City of San Rafael and the County of Marin are significant for the Commission's sphere of influence determination, but do not represent the entire basis for the staff recommendation to exclude territory north of the City's present boundary from the City's sphere of influence.

Cities contemplating annexation of additional territory may include such unincorporated areas in their general plans. The extra-territorial land use designations for areas outside the city's boundary have no force or effect unless and until the area is annexed to the city. Extra-territorial planning for unincorporated areas within a city's sphere of influence allows cities to comply with an important pre-requisite for annexation, the requirement that cities pre-zone territory to be annexed prior to application processing by LAFCO. The pre-zoning requirement allows all interested parties, LAFCO, the County, landowners and the public, to understand what land uses will be permitted by the annexing city following annexation. If a city is not able to pre-zone unincorporated territory in a manner consistent with its general plan, annexation proceedings cannot occur.

Although the procedure for city annexation laid out in the Cortese-Knox Act does not grant cities outright authority to refuse annexation of territory, two prerequisites to annexation – pre-zoning and the adoption of property tax exchange agreements – do give cities the ability to place nearly insurmountable obstacles in the path of the annexation process. In other words, these prerequisites to annexation lie completely within control of cities, and thus, an annexation cannot occur over the objection of an unwilling city.

Prior to annexation, an annexing City must approve a tax exchange formula pursuant to Revenue and Taxation Code Section 99. Prior to processing a request for annexation, LAFCO must receive resolutions from the County and the annexing city signifying their agreement to an exchange of property tax revenues. There is a standing agreement between the County of Marin and each city in Marin County defining the amount of property tax to be exchanged for annexation of territory to each city. However, either party may withdraw from the terms of the master agreement to demand different terms for any circumstances they deem unusual. If, during negotiations, the annexing city does not agree that property tax revenues offered by the county are sufficient to cover service

costs, no agreement is adopted. Without a property tax agreement, LAFCO may not schedule an annexation for hearing; the annexation process stops.

Pre-zoning is also a necessary prerequisite to annexation. Property owners seeking annexation are required to apply to the prospectively annexing city for formal designation of a zoning classification. The city is required to process this request for pre-zoning, but is not bound to adopt a zoning classification consistent with the property owner's intended land use. An unsuitable pre-zoning designation may cause an applicant to stop pursuing annexation to a city. If a city's general plan has no provisions to guide its pre-zoning decision, the city will be unable to adopt a pre-zoning classification of any kind that is consistent with its general plan. Again, without pre-zoning designation, LAFCO may not hear a proposal for annexation to a city.

The designation of a city's sphere of influence is exclusively a LAFCO decision, based on consideration of the four factors in Section 56425, specifically relating to the City's planning authority and decisions. The sphere of influence must also be consistent with the definition of sphere of influence as the ".....probable boundary and service area of a local government agency." A city that undertakes discretionary actions to amend its general plan to discourage annexation will logically have a powerful, but not necessarily determinative effect on LAFCO's sphere of influence decisions.¹

The staff report and recommendation also include the following additional reasons for excluding Lucas Valley, Marinwood and St. Vincent's/Silveira from the City's sphere:

- ❑ The physical relationship between the City of San Rafael and St. Vincent's/Silveira remains undeveloped. Due to changes in adopted transportation plans, there would be no road access from the City street system to St. Vincent's. The area is contiguous to the City through the Silveira area, but development would be dependent on access from U.S. Highway 101 at a point outside the City boundaries. St. Vincent's/Silveira would be otherwise physically isolated from the rest of the City.
- ❑ There has been little or no public or private investment in roads or other facilities in the St. Vincent's/Silveira area necessary to the delivery of services by or from the City of San Rafael.
- ❑ Annexation of St. Vincent's/Silveira requires the inclusion of agricultural land of local significance as designated by the State. LAFCO policies generally act to exclude agricultural land from city spheres of influence. Development of non-contiguous land (such as St. Vincent's) that requires the inclusion of productive agricultural land in order to obtain contiguity will create a disorderly pattern of development sometimes called "leap frog" development. No plans for the

¹ This was the case when the City of Novato amended its general plan to designate an urban growth boundary coterminous with its boundary in 1998. Marin LAFCO acted to exclude some, but not all unincorporated lands from Novato's sphere in 2002 and did so over the City of Novato's objections. Marin LAFCO has also acted to exclude territory from the spheres of influence of the cities of Mill Valley, Sausalito and Tiburon.

development of the Silveira property or the coordination of development plans for St. Vincent's and Silveira properties that would mitigate this disorderly pattern of development have been made public.

- The City of San Rafael would be able to provide services to St. Vincent's/Silveira, but would not necessarily be the best provider of services, especially fire protection service. The County of Marin, Marin County Fire, Marin Municipal Water District, Marinwood Community Services District and Las Gallinas Valley Sanitary District are able to provide (or already provide) services to the St. Vincent's/Silveira area.

Throughout his comments, Mr. Kostka equates orderly development of St. Vincent's/Silveira (and the orderly development of the City of San Rafael) with annexation of the area to the City of San Rafael. This assumption has some merit, but St. Vincent's/Silveira is not a clear-cut case of orderly development requiring annexation to a city. Nothing in the present circumstances of St. Vincent's/Silveira or in Mr. Kostka's arguments conclusively identifies the City of San Rafael as the necessary provider of service to the area or St. Vincent's/Silveira as a necessary part of the City's future development. These themes will be further discussed in the remainder of this response, especially with regard to the concept of "infill" development. The City's actions have influenced - but not determined - the staff recommendation and may legitimately enter into the Commission's decision.

A.2 The City's General Plan approach is highly questionable

Staff has assumed that the City of San Rafael has the authority to adopt and amend its own General Plan and that the amendments made to the General Plan must be considered during review of the City's sphere of influence as stated above. However, staff disagrees with the City's assertion that the City cannot efficiently provide services to the St. Vincent's area. As a result, staff's recommendations for amendments to the City's sphere of influence (to remove Lucas Valley, Marinwood and St. Vincent's/Silveira) do not coincide with the City's requested sphere of influence (to remove only the portion of St. Vincent's/Silveira most suitable for development).

The comments assert that the staff accepts without question and as "immutable" the assumptions of the City's general plan, especially the City's housing assumptions. Nothing is considered immutable. General plans must be updated every 10 years and may be amended from time to time. LAFCO adopted spheres of influence must be updated every five years and may also be amended as warranted by changing conditions. In the meantime, the City's approved housing element is a logical basis for LAFCO's conclusions to be made regarding spheres of influence.

LAFCO staff is not, however, prepared to assume that the legal challenges mounted by Mr. Kostka and his client will succeed. To the contrary, staff has assumed that the actions taken by the City of San Rafael [and acknowledged by the State and other regional agencies] in updating its general plan are within the City's lawful discretion.

A.3. The City's claim that significant numbers of units would be produced on potential sites identified in its housing element has proven false.

The extent to which a change in the boundaries of a city will affect that city's and the county's ability to achieve their regional fair share housing objectives is one among a number of factors that LAFCO must consider in its review of boundary changes occasioned by the *annexation* process. (Gov't Code Section 56668(l).) Consideration of affordable housing is not a mandated consideration for a city sphere of influence determination.

The City of San Rafael has made no representations to LAFCO on housing production or housing prices in its request for amendment of its sphere of influence other than the adoption of its housing element. Even if it had, housing production related to the annexation of the St. Vincent's/Silveira area played no role in the City of San Rafael gaining conditional certification of its general plan housing element from the State Department of Housing and Community Development (HCD). That conditional approval was granted by HCD following the City's exclusion of the St. Vincent's/Silveira area from its general plan.

Even if HCD were to rescind its certification of the City's housing element and even if St. Vincent's is successful in its legal challenges to the City's other policy actions, those events may or may not have an impact on the City's sphere of influence as determined by LAFCO. Although LAFCO may choose to take an interest in housing production during its sphere of influence review process as part of LAFCO's core considerations described above, regional fair share housing and housing in general are not criteria for service reviews and are not criteria in review of spheres of influence under Sections 56430 and 56425. In any event, if the City's general plan designation does not extend to the area, LAFCO would remain statutorily obligated to consider "planned land uses in the area" as designated by the County - the agency with land use authority. Any shift in that planning by the County or any reconsideration of the City's housing element by the City or HCD would continue to be part of LAFCO's periodic sphere review every five years. (Gov't Code Section 56425(g)).

B. LAFCO must comply with CEQA in preparing San Rafael's municipal service review and sphere update.

Mr. Kostka's letter asserts that the municipal service review and sphere of influence update cannot be exempt from CEQA because "This decision will provide policy guidance for future LAFCO decisions that will influence the location and pattern of growth which may have significant environmental impacts." The letter also points out that the LAFCO Municipal Service Review Guidelines published by the Governor's Office of Planning and Research recommends that LAFCOs consider municipal service reviews as projects subject to CEQA.

Staff disagrees for the reasons described in staff's report to the Commission dated April 7, 2006. That staff report acknowledges that some actions to amend spheres of influence can

have the potential to negatively affect the physical environment and require CEQA analysis. For example, in Bozung v. Local Agency Formation Commission (13 Cal. 3d 263 (1975)), the court found that CEQA analysis was required where every agency involved, including LAFCO, anticipated that an annexation would unleash pent up development pressure.¹ In this case, by contrast, the reduction of the area of a city's sphere of influence does not – where land use planning remains under the same authority and subject to the same designations -- create actual or potential environmental effects. A reduction in the City's sphere would render the St. Vincent's/Silveira ineligible for annexation to the City of San Rafael. An annexation proposal that might have been submitted to LAFCO for consideration some time in the future would no longer be eligible for the Commission's approval. If the Commission removes the area from the City's sphere, that action would simply retain the St. Vincent's/Silveira area in the County's jurisdiction for land use planning. An action that would simply retain and preserve *current conditions* cannot have an impact on the environment.

Service availability – and its effect on development – is not affected by this sphere amendment. Retaining the St. Vincent's/Silveira area in the County's planning jurisdiction will not affect the likelihood or type of development in the area because such development does not depend on the availability of services provided by the City of San Rafael. Water, sewer and fire protection services are currently available from special districts. Police protection, road maintenance and park and recreation services are available from the County. Because the proposed sphere of influence amendment would not prevent development of the area under the County's jurisdiction, the potential “displacement” of development to other locations within or outside the City's planning area is not a reasonably foreseeable event as asserted in Mr. Kostka's letter.

The State CEQA Guidelines Section 15320 provides exemption for changes of organization where “... the changes do not change the geographical area in which previously existing powers [of local government agencies] are exercised.” In this case, the recommended amendment to the City's sphere of influence would preserve the County's planning jurisdiction and the area to which the County and special districts provide urban services.

The applicability of Section 15320 is clearly demonstrated by St. Vincent's submittal to the County of a development application that is identical to the development application previously submitted to the City of San Rafael. Applicability is also demonstrated by the recent approval of the development application for the Daphne/Bacciocco property in contiguous unincorporated territory along the northern boundary of the City of San Rafael.

Mr. Kostka and St. Vincent's have not presented any evidence that exclusion of territory from the San Rafael sphere of influence will have any negative physical effect on the

¹ “This not the case of a rancher who feels that his cattle would chew their cuds more contentedly in an incorporated pasture. No one makes any bones about the fact that the impetus for the Bell Ranch annexation is Kaiser's desire to subdivide 677 acres of agricultural land, a project apparently destined to go nowhere in the near future as long as the ranch remains under county jurisdiction. The city's and Kaiser's application to LAFCO shows that this agricultural land is proposed to be used for “residential, commercial and recreational” purposes.” Id. at 281.)

environment or any evidence that a decision by LAFCO to retain the territory in the City's sphere would in any way mitigate the effect of land use decisions already taken by the City in its General Plan Update as alleged in their lawsuit against the City of San Rafael. The data provided in Mr. Kostka's letter on the City's purported failure to actually facilitate production of housing within its existing boundaries does not represent substantial evidence (or give rise to reasonable assumptions based on facts) that the removal of St. Vincent's/Silveira from the City's sphere of influence will have any reasonably foreseeable physical effect on the environment and is therefore insufficient to require further analysis under CEQA.

With respect to Mr. Kostka's suggestion that LAFCO's environmental determinations might rely on the EIR certified by the City of San Rafael for its general plan update, this is not the case. The City's EIR covers its actions as a land use planning agency. Even without the City's specific request to remove St. Vincent's/Silveira area from its sphere of influence, the City's action on its general plan would have merited review of the City's sphere of influence by LAFCO under its adopted policy:

The adequacy of each adopted sphere of influence will be reviewed every five years from the date of its adoption or most recent review. The Commission may either reaffirm spheres as previously adopted or may restudy spheres to evaluate the need to amend them. Spheres may be restudied *where significant changes in land use, planning policy, demand for public service, service capabilities, or relationship to other government agencies have occurred*. The Commission may consider amendments to adopted spheres of influence out of the order determined by the five-year cycle when requested to do so by resolution of a local agency or where the Commission otherwise deems appropriate. Each subject agency will be notified of pending review of its sphere of influence and will be requested to participate actively in any restudy deemed necessary by the Commission.

In these circumstances, LAFCO's action to review the City's sphere of influence under LAFCO's own adopted policy and as required by law does not rely on the City's EIR or any of its failings alleged by Mr. Kostka in his letter. LAFCO is not acting as a responsible agency relying on the City's EIR. LAFCO's action as recommended by staff cannot have a physical effect on the environment and falls squarely within CEQA's categorical exemptions as discussed below. If approved, the Commission's action to remove St. Vincent's/Silveira from the City's sphere of influence will be again subject to periodic review in five years and may be reviewed sooner at the request of St. Vincent's if they are successful in their legal challenge to the City's general plan.

In the opinion of staff, the circumstances here stand in contrast to the Bozung case and Mr. Kostka's other references to CEQA case law. Much closer on point is *City of Agoura Hills vs. Local Agency Formation Commission of Los Angeles County* (198 Cal. App3d 480 (1988)) in which the court concluded that CEQA was not applicable to LAFCO's adoption of a sphere of influence that was coterminous with the existing boundaries of that city. The court found that a sphere amendment is not a "project" requiring CEQA analysis where it

does “not make any change whatever in the uses to which the land might be put.” (*Id.* at 484.) That decision provides, in pertinent part:

[T]he *Bozung* opinion ‘...dealt only with the situation where LAFCO approval was a necessary step in the development and in effect constituted an entitlement for use for such development.’ (*Quoting Simi Valley Recreation and Park Dist. v. Local Agency Formation Com.* (1975) 51 Cal.App.3d 648.)

Staff believes that the recommendations in its staff report of January 31, 2006 are categorically exempt from CEQA under Sections 15306 (MSR) and 15320 (spheres of influence) of the State CEQA Guidelines and that that finding would be supported by applicable case law. Further legal analysis will be provided at the Commission’s direction.

With respect to the Municipal Service Review Guidelines published by the Governor’s Office of Planning and Research, the Guidelines are inclusive of a variety of circumstances in which service reviews might represent the first step in creating, updating or amending spheres of influence or initiating reorganization of local government agencies. These are circumstances in which the MSR process might create physical changes in the environment. However, the MSR Guidelines acknowledge that categorical exemptions may be appropriate for MSRs, especially the use of Sections 15262¹ (planning studies), 15306 (data collection, research), 15061(b)(3) (general rule exemption) and 15320 (existing local government powers). Various LAFCOs in California apply these exemptions to MSRs, especially Section 15306.

In the present case, the MSR is intended to serve as an information gathering tool to help LAFCO, the public, and public agencies better understand services that are presently being provided and services planned for the future. None of its proposed determinations have a potential to cause direct or indirect environmental impacts, including their incorporation in the process of updating the spheres of influence of the City of San Rafael and special districts in the San Rafael area. The service review is a study and is, therefore, categorically exempt from the California Environmental Quality Act, pursuant to Section 15306 of the State CEQA Guidelines.

C. Keeping the properties in San Rafael’s sphere of influence is necessary to facilitate orderly and logical development.

C.1. St. Vincent’s and Surrounding Areas

Mr. Kostka asserts that if LAFCO removes St. Vincent’s/Silveira from the City’s sphere of influence, that action “... would effectively eliminate the development potential of the last significant piece of infill property in the area, reducing any real chance of affordable housing and thwarting LAFCO’s goal of promoting orderly and logical development.” As stated elsewhere in this response, staff disagrees with

¹ Exemption citations are to State CEQA Guidelines, 14 Cal. Code of Regs. Section 15000 et aeq.

the idea that annexation of the area to the City of San Rafael is necessary to orderly development.

It is obvious that removing St. Vincent's/Silveira would not eliminate its development potential as demonstrated by the recent approval of the 106 acre Daphne/Bacciocco property including 28 single family housing units and a 150 unit assisted care facility in unincorporated territory along the northern boundary of the City and immediately west of St. Vincent's/Silveira as mentioned by in Mr. Kostka's letter. Significant remaining development potential is also demonstrated by St. Vincent's submittal of a development proposal to the County of Marin in 2005 (after adoption of the revised San Rafael General Plan) that was identical to the proposal previously submitted to the City of San Rafael.

Given the availability of services from the County and special districts and given problems inherent in development of the site, it is not clear to LAFCO staff that development potential has been reduced - let alone eliminated - by exclusion of the area from the City's general plan.

Mr. Kostka's letter portrays development of the St. Vincent's/Silveira area as "in-fill development" based on the location of the site in the long-established Eastern Urban Corridor of the County's General Plan and its treatment in the County's General plan as an urban reserve. Also, as described in Mr. Kostka's letter of April 12, 2006 and other materials submitted by St. Vincent's, the St. Vincent's/Silveira area is surrounded by various urban land uses within a three-mile radius, traversed by urban utility infrastructure and has all urban services available to it. Staff acknowledges these facts and their significance. It is assumed that development will occur on a portion of the St. Vincent's/Silveira area independent of the City of San Rafael.

However, viewing development of St. Vincent's/Silveira as "infill development" is an oversimplification. Staff has thought "infill development" to be a strategy of accommodating growth and preventing urban sprawl by allowing increased density within existing patterns of urban development rather than through extending the boundaries of urban settlement. Development of St. Vincent's/Silveira will not occur within existing patterns of urban development. It will require the conversion of agricultural and open space lands on the urban fringe. Re-defining infill development as development occurring within a three mile radius of urban uses, services and facilities is not persuasive.

C.2. Providing services to the St. Vincent's and Silveira properties is feasible and logical.

As discussed above, the City of San Rafael is not the sole or the optimal source of urban services required for the development of the St. Vincent's/Silveira area under current circumstances. Also as previously discussed, development of agricultural and open space areas within three miles of existing urban uses and facilities does not necessarily qualify as

“infill” or “orderly” development. The County of Marin and various special districts serving the area do enjoy sufficient facilities and service capacity to provide urban services to the area.

Staff does agree that the City of San Rafael is capable of providing services to the St. Vincent's/Silveira given the full range of developer exactions and financing methods as discussed on page 117 of the staff report under Ability to Extend Services. The provision of fire and police services by the City would be possible but problematic due to the areas isolation from the currently incorporated territory of the City of San Rafael.

Comments of Robert M. Brown, City of San Rafael

Mr. Brown's letter (Attachment C) generally concurs with the recommendations in the staff report of January 31, 2006, he provides extensive and detailed comments on specific information in the report. Since more than 50 detailed comments are offered, staff has summarized and responded to them in tabular format in Attachment D. On June 1, 2006, Mr. Brown submitted a second letter of comment on behalf of the City of San Rafael, included here as Attachment E. No response by LAFCO staff is required.

Recommendations

Staff recommends that the Commission review additional testimony presented at the continued public hearing and take action on the proposed service review findings and sphere of influence recommendations contained in the *San Rafael Area Service Review and Sphere of Influence Update* report published on January 31, 2006 unless subsequent testimony at the Commission's June 8, 2006 meeting requires further consideration.

Actions to approve staff recommendations are:

- 1) Approve Draft Resolution 06-05 San Rafael Area Service Review
- 2) Approve Draft Resolution 06-06 Sphere of Influence of the City of San Rafael
- 3) Approve Draft Resolution 06-07 Sphere of Influence of the San Rafael Sanitation District
- 4) Approve Draft Resolution 06-08 Sphere of Influence of Las Gallinas Valley Sanitary District
- 5) Approve Draft Resolution 06-09 Sphere of Influence of Marinwood Community Services District
- 6) Approve Draft Resolution 06-10 Sphere of Influence of County Service Area #6
- 7) Approve Draft Resolution 06-11 Sphere of Influence of County Service Area #9
- 8) Approve Draft Resolution 06-12 Sphere of Influence of County Service Area #13
- 9) Approve Draft Resolution 06-13 Sphere of Influence of County Service Area #18
- 10) Approve Draft Resolution 06-14 Sphere of Influence of County Service Area #19
- 11) Approve Draft Resolution 06-15 Sphere of Influence of County Service Area #31

Each of the above resolutions includes a statement of determinations as required by Government Code Section 56425 and direction to staff to issue a Notice of Exemption from

the California Environmental Quality Act based on the finding these actions will not alter the existing land use planning authority of the County of Marin and will not alter existing service availability within the study area. Potential changes of organization arising from the amended or affirmed spheres of influence will therefore not alter the geographic area in which previously existing local government powers are exercised. The specific sections of the State CEQA Guidelines cited in the resolutions above are Section 15306 for the municipal service review and Sections 15061(b)(3) and 15320 for the amended and affirmed spheres of influence.

Respectfully submitted,

Peter Banning
Executive Officer

Attachments:

- A. [Letter of Douglas Colbert, Las Gallinas Valley Sanitary District, February 23, 2006](#)
- B. Letters of Stephen Kostka, Bingham McCutchen LLP, [April 12, 2006](#) and [May 4, 2005](#)
- C. [Letter of Robert Brown, City of San Rafael, April 13, 2006](#)
- D. [Response to Letter of Robert Brown, City of San Rafael, April 13, 2006](#)
- E. [Letter of Robert Brown, City of San Rafael, June 1, 2006](#)
- F. Draft resolution of approval – municipal service review
- G. Draft resolution of approval – San Rafael sphere of influence
- H. [Draft Resolution 06-05 San Rafael Area Service Review](#)
- I. [Draft Resolution 06-06 Sphere of Influence of the City of San Rafael](#)
- J. [Draft Resolution 06-07 Sphere of Influence of the San Rafael Sanitation District](#)
- K. [Draft Resolution 06-08 Sphere of Influence of Las Gallinas Valley Sanitary District](#)
- L. [Draft Resolution 06-09 Sphere of Influence of Marinwood Community Services District](#)
- M. [Draft Resolution 06-10 Sphere of Influence of County Service Area #6](#)
- N. [Draft Resolution 06-11 Sphere of Influence of County Service Area #9](#)
- O. [Draft Resolution 06-12 Sphere of Influence of County Service Area #13](#)
- P. [Draft Resolution 06-13 Sphere of Influence of County Service Area #18](#)
- Q. [Draft Resolution 06-14 Sphere of Influence of County Service Area #19](#)
- R. [Draft Resolution 06-15 Sphere of Influence of County Service Area #31](#)