

Notice of Exemption

To: Orange County Clerk-Recorder
24031 El Toro Road
Laguna Hills, California 92653

State Clearinghouse
P.O. Box 3044
Sacramento, California 95814-3044
Email: state.clearinghouse@opr.ca.gov

From: Santa Margarita Water District
26111 Antonio Parkway
Rancho Santa Margarita, California 92688

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder



NO FI

Project Title: Santa Margarita Water District Annexation

Project Applicant: Santa Margarita Water District

Project Location – Specific: The annexation area is located within the City of San Juan Capistrano.
See attached Figure 1.

Project Location – City: San Juan Capistrano

Project Location – County: Orange County

Description of Nature, Purpose and Beneficiaries of Project: The Santa Margarita Water District (SMWD) is proposing to enter into an Annexation Agreement with the City of San Juan Capistrano (City), which will set forth (1) the transfer of the Utilities System of the City, consisting of (i) a potable water system and a recycled water system (together, the "Water System") and (ii) a wastewater system (the "Wastewater System"), to SMWD; (2) an amendment of the sphere of influence of SMWD with respect to the provision of water and wastewater services; (3) the annexation of the existing service area (defined as the geographical area served by the Water System or the Wastewater System, as applicable, as shown in Figure 1) of the City by SMWD; and (4) the development and implementation of a plan of service to continue to operate the Utilities System. The proposed Annexation is primarily an administrative action that does not require upgrades or new infrastructure. Any future improvements or modifications to the Utilities System carried out by SMWD, such as improvements identified in a City Capital Improvement Plan or similar projects, would be subject to additional environmental review, as applicable. The transfer of the Utilities System from the City to SMWD would constitute a reorganization and/or change of organization pursuant to the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000, as set forth in California Government Code Section 56000 et seq. Implementation of the Annexation would allow the City to transfer the existing Utility System to a neighboring special district (SMWD) whose sole focus is the provision of water and wastewater services; therefore, existing water and wastewater services will be provided within the annexation area by SMWD instead of by the City.

Name of Public Agencies Approving or Carrying Out Project:

Santa Margarita Water District (Lead Agency), City of San Juan Capistrano (Responsible Agency), and Orange County Local Agency Formation Commission (Responsible Agency)

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ **Categorical Exemption. State type and section number:** Changes in Organization – State CEQA Guidelines §15320; Annexations of Existing Facilities for Lots and Exempt Facilities – State CEQA Guidelines §15319(a)
- ☐ Statutory Exemptions. State code number:

Reasons why Project is Exempt: See Attachment A.

If Filed by Applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Lead Agency Contact Person: Dan Ferons

Title: General Manager

Telephone: 949-459-6590

Signature:

Date:

January 17, 2020

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR:
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

JAN 17 2020

STATE CLEARINGHOUSE

FILED

JAN 17 2020

HUGH NGUYEN, CLERK-RECORDER

BY: DEPUTY

JAN 17 2019

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Attachment A

SMWD Annexation NOE Justification Memorandum

POSTED

JAN 17 2019

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JAN 17 2020

NOTICE OF EXEMPTION MEMORANDUM

HUGH NGUYEN, CLERK-RECORDER

BY: DEPUTY

POSTED

JAN 17 2019

To: Santa Margarita Water District Board of Directors
From: Rachel Struglia and Patrick Cruz, Dudek
Subject: Notice of Exemption Justification Memorandum for the SMWD Annexation
Date: January 10, 2020
cc: Orange County Assessor-County Clerk-Recorder
Dan Ferons, General Manager, Santa Margarita Water District
Don Bunts, Assistant General Manager, Santa Margarita Water District

HUGH NGUYEN, CLERK-RECORDER

BY: DEPUTY

The Santa Margarita Water District (SMWD) has proposed to enter into an agreement (Annexation Agreement) with the City of San Juan Capistrano (City) to transfer the Utilities System¹ of the City to the SMWD. The proposed transfer would require an annexation of the existing service area (defined as the geographical area served by the Water System or the Wastewater System, as applicable, as shown in Figure 1) of the City to SMWD, an amendment of the sphere of influences of the SMWD with respect to the provision of water and sewer services, and the development and implementation of a plan of service for the SMWD to continue to operate the Utilities System in a manner generally consistent with existing practices. These actions, collectively referred to as the Annexation (project), are subject to the review and approval of, and may be subject to conditions of approval set forth by, the Orange County Local Agency Formation Commission (OCLAFCO). The proposed Annexation is primarily an administrative action that does not require upgrades or new infrastructure. Any future improvements or modifications to the Utilities System carried out by the SMWD, such as improvements identified in a City Capital Improvement Plan or projects of a similar nature, would be subject to additional environmental review, as applicable. While the OCLAFCO has discretionary approval over the proposed Annexation, SMWD is the Lead Agency for the purposes of compliance with the California Environmental Quality Act (CEQA) (California Public Resources Code, Section 21000 et seq.), pursuant to Section 15051(a) and Section 15051(d) of the CEQA Guidelines (14 CCR 15000 et seq.). Implementation of the Annexation would allow the City to transfer the Utility System to a neighboring special district (SMWD) whose sole focus is the provision of water and wastewater services, thereby improving the reliability and efficiency of the Utility System and lowering costs for City ratepayers.

Applicability of a Categorical Exemption

Sections 15300 to 15333 of the CEQA Guidelines provide classes of projects that have been determined not to have a significant effect on the environment and that are exempt from further CEQA requirements. Based on a review and analysis of the proposed Annexation, the following exemptions apply, and upon filing of a Notice of Exemption with the Orange County Clerk-Record, no further action is required under CEQA.

- **Section 15319(a) - Annexations of Existing Facilities and Lots for Exempt Facilities.** CEQA Guidelines Section 15319(a) defines "Class 19" projects, which are projects characterized as "Annexations of Existing

¹ The Utilities system means, together, the Water System and the Wastewater System.

Facilities and Lots for Exempt Facilities.” Class 19 exemptions consist of annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency, whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.

- **Response:** The proposed Annexation involves the annexation of the service area of the Utility System of the City into the service area of the SMWD. The existing service area of the City is already developed and inhabited, and is currently served by the City. After approval and implementation of the Annexation, the SMWD would continue to operate the Utilities System in a manner generally consistent with current operations. While the SMWD has existing capacity to take on additional systems and population, the proposed Annexation would not require the SMWD to tap into its capacity reserves, as the proposed Annexation would involve a transfer of all assets of the City that involve water and wastewater infrastructure, which already have sufficient capacity to serve the City’s population. No changes or reasonably foreseeable changes in the types, intensity, and manner of service within the Annexation area are anticipated as a result of the Annexation. Therefore, the Annexation is exempt as it meets the scope and intent of the Categorical Exemption identified in Section 15319(a), Article 19, Categorical Exemptions of the CEQA Guidelines.
- **Section 15320 – Changes in Organization of Local Agencies.** CEQA Guidelines Section 15320 defines “Class 20” projects, which are projects characterized as “Changes in Organization of Local Agencies.” Class 20 exemptions consist of changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised.
- **Response:** The proposed Annexation qualifies for a “Class 20” categorical exemption because the Annexation involves only an administrative boundary change of the City’s and SMWD’s service areas and the Annexation would not affect how utility services are provided. Accordingly, the Annexation would constitute a change in the organization of local government agencies, and would not change the geographical area in which Utility Service is provided under SMWD’s and the City’s powers currently. After approval and implementation of the proposed Annexation, the SMWD would exercise the same powers currently exercised by the City in an unchanged geographical area. No additional geographical area would be brought into the service area of the SMWD that is not currently served by the City. Therefore, the Annexation is exempt as it meets the scope and intent of the Categorical Exemption identified in Section 15320, Article 19, Categorical Exemptions of the CEQA Guidelines.
- **Section 15300.2 – Exceptions.** Section 15300.2 of the CEQA Guidelines provides several exceptions that would otherwise preclude the use of a categorical exemption.

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may have an impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

Response: Classes 3, 4, 5, 6, and 11 do not apply to the proposed Annexation. Therefore, this exception to the exemption does not apply.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

Response: The proposed Annexation involves administrative actions (i.e., government reorganization and administrative boundary changes) and would not result in either a direct physical change to the environment or a reasonably foreseeable indirect change to the environment. Therefore, due to the nature of the project and any related projects (i.e., administrative projects), which inherently do not result in environmental impacts, no cumulatively considerable environmental impacts would occur. Further, all other related projects are presumably required by the applicable lead agency to comply with all applicable federal, state, and local regulatory requirements and incorporate all feasible mitigation measures to further ensure that their potentially cumulative impacts would remain at less-than-significant levels. Thus, cumulatively considerable impacts would not occur, and this exception to the exemption does not apply.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

Response: As discussed above, the proposed Annexation involves administrative actions (i.e., government reorganization and administrative boundary changes) and would not result in either a direct physical change to the environment or a reasonably foreseeable indirect change to the environment. Implementation of the Annexation would not require additional upgrades or new infrastructure that may have an environmental impact. Any future improvements or modifications to the Utilities System carried out by the SMWD, such as improvements identified in a City Capital Improvement Plan, would be subject to additional environmental review, as applicable. Thus, the proposed Annexation would not have a significant effect on the environment and this exception to the exemption does not apply.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified environmental impact report.

Response: According to the California Department of Transportation, there are no officially designated State Scenic Highways within the Annexation area. Highway 74, designated as an "Eligible State Scenic Highway," is located within the Annexation area. However, because the Annexation would not involve any direct or indirect physical modifications to the environment within the Annexation area, the Annexation would not result in damage to scenic resources within Highway 74, an Eligible State Scenic Highway. Thus, this exception to the exemption does not apply.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the California Government Code.

Response: The provisions in California Government Code Section 65962.5 are commonly referred to as the "Cortese List" (after the legislator who authored the legislation that enacted it). A site's presence on a list

compiled pursuant to Section 65962.5 of the California Government Code can have bearing on the local permitting process if a project involves the disturbance of contaminated materials or the placement of new structures or inhabitants on a site that may be unfit for habitation. While there may be sites within the Annexation area that are included on a list compiled pursuant to Section 65962.5 of the California Government Code, implementation of the Annexation would not affect any such sites, as the Annexation would not involve the development of any new facilities, nor would the Annexation result in new ground disturbance. Thus, this exception to the exemption does not apply.

(f) Historical Resources. A categorical exemption shall not be used for a project that may cause a substantial adverse change in the significance of a historical resource.

Response: Because portions of the Utility System were constructed as early as 1920, some portions of the Utility System may be historic in age. However, because the Annexation would not involve any physical modification to the Utility System, the Annexation would not result in a substantial adverse change in the significance of any potentially significant historical resources. Thus, this exception to the exemption does not apply.

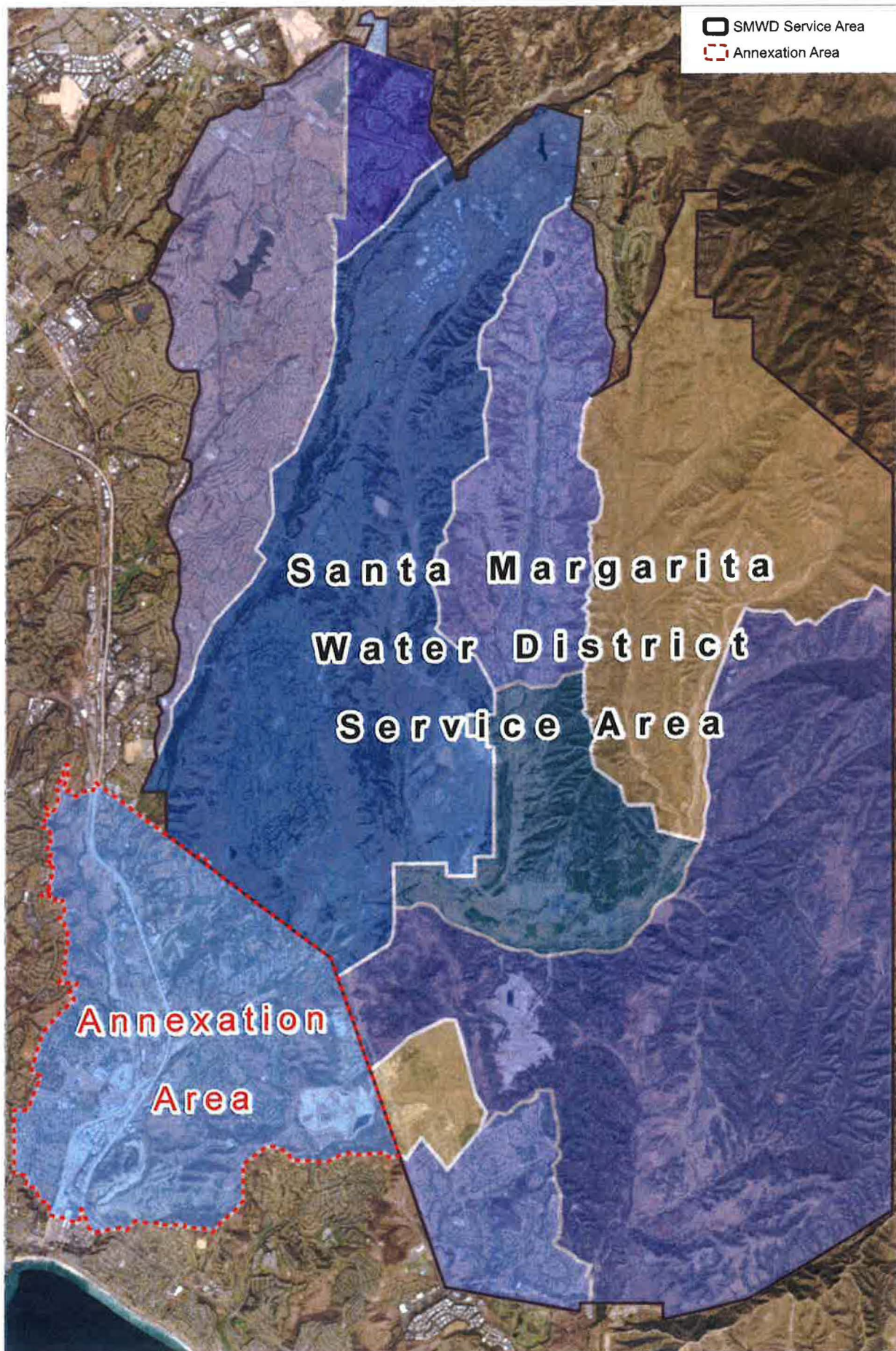
Summary

Based upon the identified exemptions previously outlined, no physical environmental impacts are anticipated to occur, and the project as proposed is exempt under CEQA. No further environmental analysis is warranted.



Figure 1

Santa Margarita Water District Service Area
and Annexation Area



SOURCE: SMWD

FIGURE 1

Santa Margarita Water District Service Area and Annexation Area

Santa Margarita Water District