

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

**COMPREHENSIVE STUDY OF AMERICAN CANYON:  
SPHERE OF INFLUENCE REVIEW  
AND PROPOSED UPDATE**

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**December 11, 2003**

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## **INTRODUCTION**

On January 1, 2001, the Cortese-Knox-Hertzberg Local Government Reorganization (CKH) Act became the governing law of Local Agency Formation Commissions (LAFCOs). The CKH Act was the product of a working group created by then Assembly Speaker Robert Hertzberg to evaluate and implement, as appropriate, the recommendations of the Speaker's Commission on Local Governance in the 21<sup>st</sup> Century (CLG). Those recommendations are found in the CLG's report, *Growth Within Bounds*. *Growth Within Bounds* speaks at length about the role of LAFCO and the ability of LAFCO to fulfill its long-standing directive from the Legislature to encourage the orderly formation of local governmental agencies, preserve agricultural lands, and discourage urban sprawl.

Among LAFCO's responsibilities is the determination of a sphere of influence (SOI) for each agency under its jurisdiction. Government Code §56076 defines a SOI as "a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission." Government Code §56425 gives purpose to the determination of a SOI by charging the Commission with the responsibility of "planning and shaping the logical and orderly development of local governmental agencies through spheres of influence." This section also presents factors that the Commission must consider when making a sphere determination:

- The present and planned land uses in the area, including agricultural and open-space lands.
- The present and probable need for public facilities and services in the area.
- The present capacity of public facilities and adequacy of public services that 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 that they are relevant to the agency.

LAFCO creates, amends, and updates spheres of influence (SOI) to indicate to local agencies and property owners that, at some future date, a particular area is anticipated to require the level of municipal services offered by the subject agency. It is a key component of the planning process, as it indicates to land use authorities and interested parties whether LAFCO expects a need for a jurisdictional change. It also indicates to other potential service providers which agency LAFCO believes to be best situated to offer the services in question. The time horizon for evaluating this anticipated need has changed with each reform of LAFCO law. The CKH Act requires that LAFCO evaluate each sphere every five years.

*Growth Within Bounds* emphasized the importance of the SOI as a planning tool and policy device for LAFCO, affected agencies, and landowners. To ensure that LAFCO is well-informed when making determinations and updating spheres of influence, the CKH Act requires LAFCO to conduct a study called a "service review" – a comprehensive

evaluation of the ability of the agency to provide service within its existing jurisdiction and within its SOI. Through its evaluation of the capabilities of an agency, the service review offers LAFCO key information to inform the policy determinations necessary to complete a SOI update.

In practical terms, SOIs are components of an agency's governing planning document – its general plan. SOIs serve as initial gatekeepers to annexation, as agencies can only annex territory within their SOI. If territory is outside a SOI, a concurrent sphere amendment and annexation can be proposed, but the proposal must demonstrate that the factors for both procedures are satisfactorily addressed. Plus, if the subject territory was evaluated in the most recent SOI update, then proponents must demonstrate that the determinations made in that study – determinations that resulted in the exclusion of the property from the SOI – no longer apply.

The “General Policy Declarations” of LAFCO of Napa County emphasize the Commission's commitment to these concepts as presented in the Government Code, further noting that the Legislature intended for the Commission to “guide development away from existing prime agricultural land” and to consider “urban infill within existing jurisdictions [to be] preferred.” The General Policy Declarations establish that agricultural and open-space properties will only be included in a city's SOI when it is demonstrated that development options (including infill development) within the city are limited or non-existent, and when it is evident that the potential conversion of the land to urban use will not encroach on other agricultural and open-space areas. The General Policy Declarations also state that the Commission will look to the County General Plan for agriculture and open-space designations. (The General Policy Declarations are Appendix B.)

That properties are placed within a sphere of influence should not be interpreted to mean that annexation is a foregone conclusion. A sphere of influence remains primarily a planning tool. Inclusion in a sphere indicates that the Commission recognizes that the current or planned use of a property may require the increased levels of municipal service that the subject agency can provide, and acknowledges that annexation may be appropriate. But annexation proposals must still be considered on their own merits. Annexation cannot occur without the consent of a majority of affected property owners.

## **BACKGROUND**

### The City of American Canyon

The City of American Canyon is a general law city incorporated in 1992. It is located at the southern end of Napa County, and is bounded to the north by vineyards and the Napa County Airport Industrial Area, to the west by the Napa River, to the east by the Sulpher Springs Mountain Range, and to the south by the City of Vallejo (in Solano County). The American Canyon sphere of influence was established at the time of incorporation and has not been comprehensively evaluated and updated prior to this study. There are two areas that are within the City's current SOI, but outside of its jurisdictional boundary. One is an approximately 25-acre portion of a parcel located immediately north of the intersection of American Canyon and Flosden Roads. The other is often referred to as the "horseshoe property", and is an approximately 70-acre area comprised of two parcels located east of State Route 29 in the vicinity of Napa Junction Road. There are two parcels that are within the City's jurisdiction, but outside of its SOI. Both are non-contiguous parcels owned by the City on which the City Public Works Department operates facilities.

This SOI update is the final component of the *Comprehensive Study of American Canyon*, a study conducted by LAFCO staff as part of the Commission's 2001-05 study schedule designed to meet the mandates of Government Code §§56425-56430. It was preceded by a service review that considered the breadth of municipal services provided by the City of American Canyon. In addition, LAFCO staff completed the first component of the *Comprehensive Water Service Study*, which included an in depth review of the water system operated by the City. The analysis for this SOI update drew upon those studies, and subsequent determinations made by the Commission; these documents are incorporated by reference.<sup>1</sup>

Within its jurisdiction, the City of American Canyon directly provides a wide-array of municipal services in the areas of administration, planning and community development, and public works and community service. The City provides police protection services through a contract with the Napa County Sheriff's Department. Fire protection services are provided by a subsidiary district to the City, the American Canyon Fire Protection District (ACFPD). As a subsidiary district, the ACFPD Board of Directors is made up of the members of the City Council, but the ACFPD's administration and finances are entirely separate from that of the City.

The City of American Canyon is the successor agency of the American Canyon County Water District (ACCWD), which provided water and sanitation services throughout much of southern Napa County.<sup>2</sup> As a result, the City offers water and sanitation service to territory outside its jurisdiction. There is no other water provider in southern Napa County. There is one other sanitation service provider – the Napa Sanitation District

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<sup>1</sup> The *Comprehensive Study of American Canyon- Service Review* (determinations adopted August 14, 2003) and the *Comprehensive Water Service Study* (determinations proposed for adoption on December 11, 2003) are available from LAFCO.

<sup>2</sup> The 1992 incorporation of the City was part of a reorganization that dissolved the ACCWD.

(NSD). The City and the NSD have an agreement that identifies their service areas. The agreement names Fagan Creek as the boundary between the two agencies.

The service review component of the *Comprehensive Study of American Canyon* determined that the City of American Canyon is generally doing an adequate job of providing municipal services and that the City has increased, or is in the process of increasing, its service capacities. In conjunction with the *Comprehensive Water Service Study*, the Commission determined that American Canyon's water service capacity will be sufficient to meet its current and projected needs upon the completion of already initiated capital improvement projects. This analysis included projections for use in unincorporated areas that fall within the City's service area, but outside of its boundaries and current SOI.

#### Affected Agencies

The primary two affected agencies of this study are the City of American Canyon and the County of Napa. The ACFPD, as a subsidiary district, is also affected. LAFCO requires that all territory annexed to the City of American Canyon be within the boundaries of the ACFPD. Agencies that are not directly affected by this study but are in proximity to the areas analyzed are County Service Area #3 (which provides landscaping and lighting services in the vicinity of the Napa County Airport) and the Napa Sanitation District.

#### Current Proposals

There are two proposals on file with LAFCO that relate to the review of the American Canyon SOI. The first is a proposal for a sphere amendment and concurrent annexation of approximately 209 acres located along Green Island Road. The proposed *Giovannoni Sphere of Influence Amendment and Reorganization* was submitted by the property owner early in calendar year 2002. Upon discussion with the Executive Officer, representatives of the property owner agreed to allow this review to move forward before pursuing the application. The submission of this application is particularly noteworthy because it signals that the property owner is interested in development of the property to an urban level and that he desires the municipal services American Canyon is capable of extending.

The other proposal on file was submitted in calendar year 2001. The Biagi Wine Estates/South Devlin Road Extension Annexation proposes a sphere amendment and concurrent annexation of approximately 218 acres located near the southern terminus of Devlin Road, east of State Route 29. The property owner, Biagi Wine Estates, has not been able to move the underlying development project completely through the planning process due to challenges and litigation. LAFCO staff has kept representatives of the property owner abreast of the progress of the SOI review. The property owner has signaled a willingness to have the SOI review completed before deciding whether to press forward with the application.

## ANALYSIS

In a public workshop report dated December 12, 2002, LAFCO staff outlined the process whereby four primary study areas were established for this SOI review (pp 20-3). The four study areas are the eastern hillsides along the current boundary of the City, the Watson Lane neighborhood and vicinity, Green Island Road, and the so-called “Eucalyptus Groves” (named for the abundance of eucalyptus on the property).

### Eastern Boundary of American Canyon

Incorporation records indicate that the Commission wanted the initial SOI to follow parcels lines whenever possible and to recognize the 15% slope lines prevalent in the hillsides in this area as demarcations between the urban areas and open-space. The current SOI generally meets these goals. The lone exception concerns the parcel located immediately north of the intersection of American Canyon Road and Flosden Road, property now owned by the Napa Valley Unified School District (NVUSD). In relation to this parcel (APN 059-040-054), the SOI appears to have been drawn at a diagonal from one parcel point to another. While it is clear from the historical record that this positioning of the SOI was intentional, the purpose of this positioning is less clear. Different parties offer different explanations. As a result of these conflicting histories and limited evidence of the original intent, the line has obtained a stigma of arbitrariness.

**Executive Officer’s Recommendation for the Eastern Boundary of American Canyon:** The focus of this study area is the single parcel owned by the NVUSD. Slightly more than half of the parcel already lies within the SOI. It is recommended that the Commission include the entire parcel located immediately north of the intersection American Canyon and Flosden Roads (APN 059-040-054) in an updated SOI. (Depicted in Appendix A.)

In evaluating whether the remainder of the parcel should be placed within the SOI, the Commission must consider the factors for which it shall be required to make a written statement of determinations. These factors are discussed generally below.

#### *The present and planned land uses in the area, including agricultural and open-space lands.*

The area is currently open-space lands that are sometimes used by livestock for grazing. The property is owned by the NVUSD, which is drafting plans to build a high school on the site. California law allows the NVUSD to develop a high school site on the property under the current land use designations and zoning of the County of Napa. Because the proposed use can occur in either the County or the City of American Canyon, annexation is not a barrier to development of the property.

#### *The present and probable need for public facilities and services in the area.*

If a high school is built on the property, it will require water and sanitation service from the City of American Canyon. No other Napa County agency is located in the vicinity of the property.

*The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

The City of American Canyon has the ability to extend water and sanitation service to a high school on the property. In addition, the City's police protection agreement with the Napa County Sheriff's Department can be adjusted to accommodate any needs generated by a school.

*The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

The American Canyon City Council, NVUSD Board, and concerned residents in American Canyon have expressed the community's need and desire for a high school in American Canyon. Due to the restrictions of state law concerning high school sites, this is one of the few suitable locations in the area.

The Commission received correspondence from the NVUSD in support of the inclusion of its property in the SOI (Appendix C).

**Recommended for Inclusion in an Updated SOI  
Area 1: Property of the Napa Valley Unified School District (NVUSD)<sup>3</sup>**

Acres	-	45.7 (approximately 25.0 acres being added to 20.7 acres already within the sphere)
Current Use	-	Grazing/Open-space
Anticipated Use	-	NVUSD High School
County General Plan Designation	-	Agricultural Watershed, Open-space, and Agricultural Preserve (AWOS)
County Zoning	-	Agricultural Watershed (AW)

Future considerations: None for this area.

Watson Lane Neighborhood and Vicinity

During incorporation proceedings before LAFCO, residents of Watson Lane submitted a petition asking that their homes be excluded from the proposed American Canyon boundaries. The Commission honored this request and extended it to the SOI. At the time of incorporation, the factors for the review of a SOI did not clearly apply to Watson Lane, readily justifying this decision. Today, it is clear that all present and planned uses for these properties are rural residential, albeit extremely low-density. American Canyon is providing the Watson Lane area with most of its municipal services, and the access points for Watson Lane are through American Canyon.

The present land use, the present use of municipal services, and the present roadway connections all make this small neighborhood dependent on American Canyon. Placement in the SOI would indicate to American Canyon and the County that

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<sup>3</sup> This area was identified as "Property of Napa Canyon LLC" in earlier reports. The property was sold to the NVUSD.

discussions about any changes to the properties on Watson Lane – changes that might heighten the demand for municipal services – should include the city. Inclusion in the SOI would remove the need for property owners to seek a SOI amendment (which carries a significant additional cost) should they ever wish to seek annexation.

The Watson Lane area is zoned “agricultural-watershed” in the County General Plan. However, its designation is “industrial”. While the Commission attempts to avoid the inclusion of agricultural land in a city’s SOI, LAFCO policies speak not to zoning, but to designations. Interestingly, most of the actual use could be characterized as “rural residential”.

Staff recently determined that some of the parcels in the Watson Lane area are designated “prime farmland” by the California Department of Conservation. These parcels lie east of the tracks. Staff elected to modify the Watson Lane area from earlier maps to exclude these properties and to use the railroad as the boundary of the study area.

**Executive Officer’s Recommendation for the Watson Lane Neighborhood and Vicinity:** It is recommended that the Commission include within an updated sphere of influence the portion of the Watson Lane neighborhood that lies west of the railroad tracks. (Depicted in Appendix A.)

In evaluating whether the Watson Lane neighborhood should be placed within the SOI, the Commission must consider the factors for which it shall be required to make a written statement of determinations. These factors are discussed generally below.

*The present and planned land uses in the area, including agricultural and open-space lands.*

The area is currently a rural residential neighborhood consisting of 10 single-family dwelling units. Some of the residents have agricultural uses on their property, including some livestock and vineyards. No change to the land use is anticipated in the near future.

*The present and probable need for public facilities and services in the area.*

Municipal services are provided by the City of American Canyon. That will remain the case well into the future.

*The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

The City of American Canyon recently upgraded service capacity and delivery on Watson Lane and is expected to provide water, sanitation, and other services well into the future.

*The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

The provision of municipal services by the City of American Canyon has created a tie between the residents of Watson Lane and the City Council.



Amendment of the SOI would give residents the option to consider annexation in order to better formalize this relationship.

The Commission received correspondence from a landowner who resides on Watson Lane. He opposes inclusion of Watson Lane in the SOI (Appendix C). It should be noted that the landowner's property was removed from the study area because it is on the list of farmlands of statewide importance.

**Recommended for Inclusion in an Updated SOI**  
**Area 2: Watson Lane Neighborhood and Vicinity**

- Acres - 76.69
- Current Use - 10 single-family dwelling units
- Anticipated Use - 10 single-family dwelling units
- County General Plan Designation - Industrial
- County Zoning - Agricultural Watershed – Airport Compatibility Overlay (AW:AC)

Future considerations: Through correspondence (Appendix C), Jaeger Vineyards LLC has expressed a desire for its parcel to be included in an updated SOI. The parcel lies immediately south of the Watson Lane area. This parcel is under a Williamson Act contract for which Jaeger Vineyards LLC filed for non-renewal at the end of 2002. It is the practice of the Commission to avoid the premature conversion of Williamson Act lands. Therefore, this property should be more closely evaluated for inclusion in the SOI when the non-renewal period is over at the end of 2011. In addition, in the American Canyon service review, the Commission determined that the City should amend its General Plan to eliminate the “special study area” designation on the property so that LAFCO can better understand its anticipated long-term use.

Green Island Road

At incorporation, the north side of Green Island Road was left in the County, while the road itself and the territory south of the road were placed in the City of American Canyon. The City maintains Green Island Road and bears the costs imposed by all users, whether they are within the City or not. Though much of the north side of the road is undeveloped, several uses approved by the County have resulted in higher volumes of large trucks using Green Island Road.

In contemplating a western boundary for the City along Green Island Road, staff identified three alternatives. The first is the point where Green Island Road intersects with Mezzetta Court and Jim Oswald Way. It is at this intersection that Green Island Road begins to transition from a city road with a painted divide to a wide, one-lane county road. The second alternative is the western most point to which American Canyon serves water – 1660 Green Island Road. The third alternative is to use the planning zones that protect runway compatibility for the Napa County Airport (Depicted

in Appendix A). This alternative adds one parcel to the second alternative. On a number of occasions, City staff has advocated the second alternative, though they have stated they are amenable to the third alternative.

**Executive Officer’s Recommendation for Green Island Road:** It is recommended that the Commission include within an updated sphere of influence the portion of Green Island Road that take in all parcels up to the Napa County Airport’s flyover compatibility zone. (Depicted in Appendix A.)

In evaluating whether Green Island Road should be placed within the SOI, the Commission must consider the factors for which it shall be required to make a written statement of determinations. These factors are discussed generally below.

*The present and planned land uses in the area, including agricultural and open-space lands.*

The north side of Green Island Road currently has a small amount of commercial, industrial, and non-conforming residential uses. The largest parcels on the north side of the road are currently vacant. Planning documents for the City of American Canyon and for the County contemplate significant commercial and industrial development.

*The present and probable need for public facilities and services in the area.*

Need for services will increase as development occurs. The City of American Canyon will be the primary provider of water and sanitation services regardless of jurisdiction.

*The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

Green Island Road is not designed properly for the traffic volume it is experiencing, particularly at its intersection with Mezzetta Court. The City of American Canyon has the ability to improve the situation. The City’s can adequately serve the area.

*The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

The economic well-being of the north side of Green Island Road is directly tied to the south side.

**Recommended for Inclusion in an Updated SOI  
Area 3: Green Island Road**

Acres	-	374.94
Current Use	-	Commercial/Industrial and Open-space
Anticipated Use	-	Commercial/Industrial
County General Plan Designation	-	Industrial
County Zoning	-	General Industrial – Airport Compatibility Overlay (AW:AC)

Future considerations: Currently, the traffic patterns proposed for the Biagi Bros/Beringer development would connect that operation to Tower Road. However, as the north side of Green Island Road develops, it may produce a connection to the Biagi Bros/Beringer project via Devlin Road. If that happens, the relationship of the Biagi Bros/Beringer facility to the SOI should be reexamined.

Eucalyptus Groves

Two parcels on the north side of the western terminus of Eucalyptus Drive are often referred to as the “eucalyptus groves” because of the eucalyptus trees growing on the properties. The property on the west side of the groves is owned by the City of American Canyon and is home to its new wastewater treatment plant. (The plant is accessed from the north side of the property via Mezzetta Court.) The remaining parcel is privately owned. The parcels are identified as open space in the County General Plan and as “commercial recreation” in the American Canyon General Plan. Representatives of the property owner have periodically suggested that they might pursue a change of designation in order to place industrial development on the property. However, City staff members have emphasized to LAFCO staff that no specific plans are being considered by the City. Were the landowner to seek annexation, he would have to go through the City’s planning process.

A change of the SOI to include these properties promotes orderly boundaries and the logical extension of municipal services. It also will signal to American Canyon that it should consider these proposals in General Plan updates, such as the anticipated Circulation Element revision in 2003.

**Executive Officer’s Recommendation for Eucalyptus Groves:** It is recommended that the Commission include within an updated sphere of influence the two parcels (APN: 058-030-055 and 058-030-056) identified as the Eucalyptus Groves in this review. (Depicted in Appendix A.)

In evaluating whether the Eucalyptus Groves should be placed within the SOI, the Commission must consider the factors for which it shall be required to make a written statement of determinations. These factors are discussed generally below.

*The present and planned land uses in the area, including agricultural and open-space lands.*

The present legitimate uses of the area are as a wastewater treatment facility and as a paintball park. The current planned uses are similar, though over the long-term, other commercial opportunities may develop.

*The present and probable need for public facilities and services in the area.*

Unless significant changes in the land uses occur, the current levels of service are sufficient for both present and probable needs.

*The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

This area houses a key element of the City of American Canyon's ability to provide service – its wastewater treatment plant. Service demands for the area are currently minimal.

*The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

As a commercial recreational area, the Eucalyptus Groves should provide a new social connection for residents.

### **Recommended for Inclusion in an Updated SOI**

#### **Area 4: Eucalyptus Groves**

Acres	-	165.06
Current Use	-	Wastewater treatment plant, paintball, vacant
County General Plan Designation	-	Agricultural Watershed, Open-space, and Agricultural Preserve (AWOS)
County Zoning	-	Agricultural Watershed – Airport Compatibility Overlay (AW:AC)

Future considerations: The City of American Canyon now owns much of the wetlands areas south of the Eucalyptus Groves. Whether these areas should be in the SOI should be considered by LAFCO after land use designations are assigned to them in the City's General Plan.

## ENVIRONMENTAL REVIEW

The *Comprehensive Study of American Canyon* is the first study on the Commission's adopted schedule to conclude with a recommendation for a SOI update. This is the first SOI update the Commission will complete subsequent to the enactment of the CKH Act. It is also the Commission's first significant project since a decision was rendered in the *Citizens for a Better Environment et al. v. the California Resources Agency* (C039944, 3rd App. Dist. Oct 28, 2002), often referred to as the "CBE case".

### LAFCO and CEQA

The CKH Act directs LAFCOs to conduct service reviews and SOI reviews every five years. Prior to the CKH Act, LAFCOs established their own schedule and timeline for these studies. Many LAFCOs simply did not conduct regular SOI updates. City SOI updates were often done only in conjunction with that City's general plan update so that the environmental impact report for the general plan could be used by LAFCO. Many LAFCOs only updated SOIs when annexation or some other reorganization was concurrently proposed. The Commission on Local Governance in the 21<sup>st</sup> Century (CLG) believed this approach to be inconsistent with the intent of the legislature. *Growth Within Bounds* states:

Local agencies and communities should be able to rely upon spheres of influence as a dependable guide to future growth. Spheres should not be routinely updated as a component of a previously unforeseen annexation request, as is often the case today.

(p 97)

Some LAFCOs employed another technique to make environmental findings, concluding that SOI updates or amendments had no environmental impact and therefore the Commission could make findings of *de minimus* impact. The rationale for this finding was that SOIs only cause agencies to amend their planning documents – actions subsequent to LAFCO's SOI determinations require their own, more rigorous, environmental analysis. This was the approach contemplated by staff at the initiation of the *Comprehensive Study of American Canyon*.

The ability to make such findings was cast into doubt by a ruling of the California Court of Appeals in the *CBE* decision. In this case, the Citizens for a Better Environment challenged a 1998 series of amendments to the guidelines for the California Environment Quality Act (CEQA). The Court invalidated significant portions of the amendments, including those sections that LAFCOs were using to make findings of *de minimus* impact. In effect, the Court established that all government agencies must consider the effects on the environment that will ultimately occur because of their projects and decisions. This is referred to as evaluating the cumulative impacts of a project – the sum of the impacts of not only the project in question, but any reasonably foreseeable action that can only occur subsequent to approval of the project.

Modification of a SOI has cumulative impacts, as it can ultimately result in development. As the lead agency under CEQA, LAFCO has two options. If some other agency has already conducted an applicable analysis and taken appropriate actions under CEQA,

LAFCO can use that analysis for its purposes. Without such an analysis, LAFCO must conduct its own review in the form of an initial study.

The SOI is meant to be a planning tool. If LAFCO determines that there is no existing or up-to-date environmental documentation of which it can make use, it should undertake an initial study in order to better inform itself when implementing this tool. In preparation for studies on the Commission's adopted schedule, staff sought samples of initial studies for SOI updates from other LAFCOs. Unfortunately, none were found. Several LAFCOs reported that their study schedules have not yet required them to grapple with the question of how to conduct an environmental review for a SOI update. Others LAFCOs reported that they had built their study schedule around the schedules for general plan updates in their counties so that they could rely on the accompanying environmental documents.

When an initial study finds that a project has significant impacts, it becomes necessary to determine if there are mitigation measures that can reduce those impacts to less-than-significant levels. Mitigation measures are imposed or monitored by the regulatory authority. With most projects, the regulatory authority is also the agency with authority over the underlying development project. In this respect, a SOI update is extremely unusual. When LAFCO comprehensively reviews and updates a SOI, it is the project applicant under CEQA, and its project has cumulative impacts in the area of land use – an area for which it has no regulatory authority. LAFCO cannot impose mitigation measures directly on the underlying development projects that are the source of the cumulative impacts of its own project.

LAFCO can provide mitigation through the exercise of its authority to adopt policies and to approve matters, such as SOI updates and annexations, with terms and conditions attached. CEQA Guidelines §15126.4(a)(2) states that "in the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design". When an initial study for a SOI update identifies mitigation for cumulative impacts, LAFCO can approve the new SOI – a planning tool – and concurrently adopt a policy about that SOI. The policy can require that the regulatory authority demonstrate that it has or will impose the mitigation measures that LAFCO identified in its initial study. To ensure that LAFCO is not deferring mitigation – a practice not allowed by CEQA – the policy can also establish that proposals for annexation of territory in the new SOI areas will not be deemed complete pursuant to Government Code §56658 until the regulatory authority has adopted its own plan or policy to impose the mitigation measures. Proposals cannot be considered and approved by the Commission until they are deemed complete by the Executive Officer. Accordingly, this policy structure would prevent the identified cumulative impacts until the mitigation measures are in place.

#### American Canyon SOI Update

The City of American Canyon adopted a General Plan on November 3, 1994. A specific plan, the Southeast Area Specific Plan, was adopted on June 26, 1997. These two documents, the CEQA analyses that accompanied them, and several supplemental reports

were reviewed by staff to determine their applicability to the evaluation of a SOI update. The documents themselves were critical to staff's ability to contemplate the cumulative impacts of a SOI update. However, the accompanying CEQA analyses were found to be too dated for LAFCO to use them in lieu of its own initial study.

The consulting firm of Nichols Berman was hired by LAFCO to conduct an initial study of the proposed SOI update. Nichols Berman was asked to analyze the cumulative impacts of a SOI update that would add the four areas described earlier in this report. Drawing on the planning documents of the City of American Canyon, staff established that the time horizon for the cumulative impacts would be 2010. In order to maximize the cumulative impacts being considered, it is also assumed that buildout will occur within the time horizon. Buildout is assumed to occur to the greatest density permitted by the land use designations in the City's General Plan, with some adjustments to acknowledge applicable policies and practices of the City and the Airport Land Use Commission.<sup>4</sup> Historical trends for industrial development along Green Island Road were also considered in developing density assumptions. The projected development at buildout under these assumptions is located on page 6 of the initial study.

For the purposes of environmental review, Area 1 is defined to encompass both the 20 acres that already lie within the SOI and the 25 acres that would be added if the SOI update is approved. Land use designations were not used to project development for Area 1, which was purchased this year by the NVUSD. NVUSD intends to build a high school on the site. It is assumed that a 1,000 student high school will be in place by 2010.

The assumptions used by Nichols Berman are discussed more thoroughly in the attached initial study.

CEQA requires consideration of 17 environmental factors. The initial study found potentially significant impacts for 9 of the 17 factors. For all of these impacts, it was determined that there are mitigation measures that can be imposed by the land use regulatory authority, the City of American Canyon, to reduce the impacts to less than significant levels. In total, 19 mitigation measures are enumerated. Because it was determined that all of the impacts can be reduced to less than significant levels by mitigation, the appropriate action for the Commission to take is to adopt a mitigated negative declaration.

To enforce the mitigated negative declaration, the Commission, in conjunction with approving an updated SOI, must adopt a policy that requires the City of American Canyon to impose or show that it will impose the enumerated measures. The language proposed for the negative declaration reads: "LAFCO shall require that the American Canyon City Council, as the land use regulatory authority, adopt a policy that includes a plan..." The form of this policy is left to the American Canyon City Council, though the

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<sup>4</sup> Ed Haworth, American Canyon, Planning Director, and John McDowell, Principal Planner, Napa County Conservation, Development, and Planning Department, were consulted on the assumptions for the Green Island Road area.

policy must be clear on the process by which mitigation measures shall be imposed. LAFCO staff recommends that the City Council impose the mitigation measures in the course of rezoning the territory that is added to the SOI.

**Executive Officer's Recommendation with Respect to the SOI Update and CEQA:** It is recommended for the Commission to adopt a mitigated negative declaration of the form incorporated into the attached initial study. This document identifies potentially significant impacts and proposes mitigation measures to reduce those impacts to less than significant levels. It is recommended that the Commission impose these mitigation measures.



## **PROCEDURE TO ADOPT A MITIGATED NEGATIVE DECLARATION AND COMPLETE SOI UPDATE**

The County of Napa and the City of American Canyon have entered into an agreement concerning the transfer of regional housing needs allocations from the County to the City. The agreement is contingent upon the Commission approving an SOI update that includes Areas 1, 3, and 4. The County has stated its desire that the Commission complete its SOI review and update for the City by the end of March 2004. This will assist the County in promoting the agreement with the California Department of Housing and Community Development (HCD).

To accommodate the County's timeline without compromising the Commission's ability to conduct its business, staff eliminated an administrative review period it had planned for the initial study. This means that the affected agencies, the City of American Canyon and the County of Napa, will not have seen the Executive Officer's report and the initial study/proposed mitigated negative declaration prior to their release for public review. Had there been an administrative review, the staffs of the two affected agencies would have had an opportunity to suggest changes to documents before they were released. Both agencies must now submit written comments in the course of the public review, and they must formally request that the Commission consider any changes they wish to propose.

The timeline and procedure to complete the *Comprehensive Study of American Canyon: Sphere of Influence Review* is:

- December 11, 2003: Staff releases the Executive Officer's final report and the initial study to the Commission, affected agencies, and interested parties. A public review period begins for the Executive Officer's report and a proposed mitigated negative declaration.
- January 2004: The Commission holds public hearings to receive comments on the Executive Officer's report, the initial study, and the proposed mitigated negative declaration. The Commission will limit its actions to directions to staff, and will not take action on the SOI update at this hearing.
- January 12, 2004: Public review period ends.
- February 2004: The Commission holds public hearings to consider adopting a mitigated negative declaration, and, if a negative declaration is adopted, considers approving a SOI update. If the Commission receives and accepts requests for changes to the mitigated negative declaration, then those changes will be incorporated into the document and adoption will be postponed to March.
- March 2004: If the Commission does not act on the SOI update in February, then public hearings will be held in March to conclude deliberations.