
**BUTTE LOCAL AGENCY FORMATION COMMISSION (LAFCO)
EXECUTIVE OFFICER'S REPORT**

TO: Local Agency Formation Commission

FROM: Shannon Costa, Local Government Planning Analyst

SUBJECT: *LAFCo File 22-01– South Feather Water & Power Agency – Dunstone Drive Annexation No. 1*

DATE: September 30, 2021, for the October 7, 2021 LAFCo Meeting

Summary

Proposed is the annexation of a single parcel an approximately 20.65-acres in size and adjacent road right-of-way to the South Feather Water & Power Agency (***Exhibit A***). The proposed annexation will allow the South Feather Water & Power Agency to supply non-potable (irrigation) water to the site for the purpose of mitigating fire risk. The proposal has the support of the affected landowner and substantially conforms to LAFCo policy; therefore, the Executive Officer recommends approval of this proposal.

General Information

Application Submitted: August 9, 2021

Application Deemed Complete: September 8, 2021

100% Landowner Consent: Yes

Notice and Hearing Required: No

Proponent: South Feather Water & Power Agency, by Resolution 21-07-07

Landowners: Edward Bird

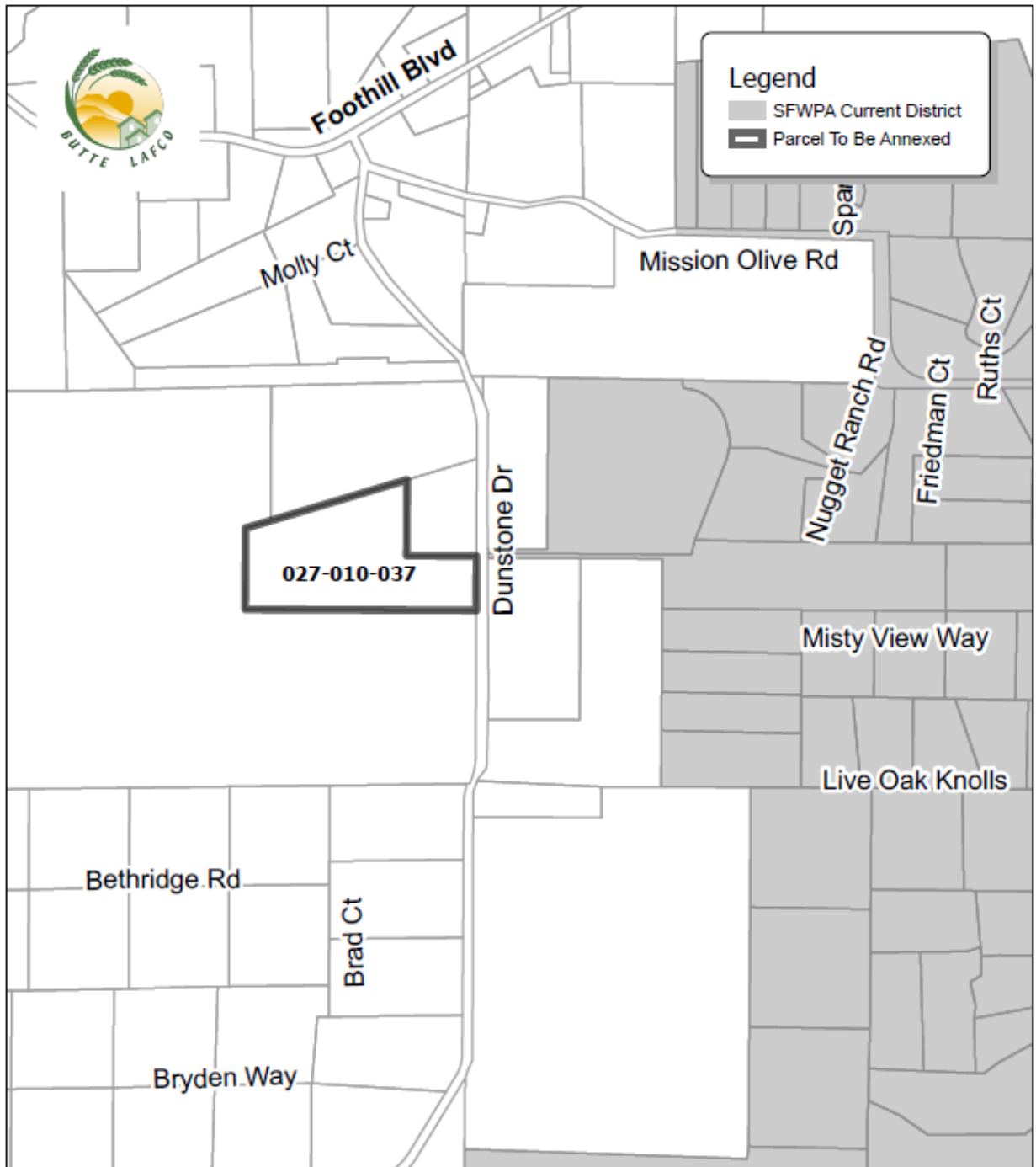
Location: The subject parcel is located on the west side of Dunstone Drive, south of Foothill Boulevard and north of Bethridge Road in the unincorporated Wyandotte area of Butte County, southeast of the City of Oroville. The subject parcel is identified as Assessor's Parcel Number 027-010-037. The territory is located in Supervisorial District 1.


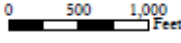
Proposal: Annexation of APN 027-010-037 totaling approximately 20.65 acres to the South Feather Water & Power Agency for the provision of raw (irrigation) water.

Requested

Action: Adopt Resolution 01 2021/22 (***Exhibit B***) approving the annexation.

Exhibit A



Butte Local Agency Formation Commission			
22-01 - SFWPA - Dunstone Drive Annexation No. 1			
Applicant: SFWPA	Date: October 7, 2021	File: 22 - 01	
Map Project File: \\C:\GIS\DEPARTMENTS\LAFCO\Projects\File 22-01 SFWPA Dunstone Dr Annex #1\File_22-01.aprx			

DISCUSSION AND ANALYSIS

Background

The annexation territory is an undeveloped 20.65-acre parcel located in the unincorporated Wyandotte area of Butte County, southeast of the City of Oroville. Land uses surrounding the subject site are primarily rural residential consisting of larger parcels with sparse development and small to medium farmsteads. The annexation territory is accessed by Dunstone Drive, south of Foothill Boulevard and north of Bethridge Road.

The annexation territory is within the Sphere of Influence for the South Feather Water and Power Agency, which provides domestic and irrigation water services to eastern Oroville and surrounding areas, including Bangor, Kelly Ridge, and Palermo.

Land Use/Zoning Designations

The Butte County General Plan designates the annexation territory as RR (Rural Residential) and zoning is RR-5 (Rural Residential, 5-acre minimum). Housing types appropriate for the RR zoning district include single-family homes, small residential care homes and other non-residential uses compatible with the rural residential setting. Agricultural uses such as animal grazing and crop cultivation are also allowed in the RR zoning district.

Annexation

The annexation was initiated by South Feather Water & Power Agency and the affected property owners to facilitate non-potable (irrigation) water to the annexation territory for the purpose of mitigating fire risk. According to the Butte County Elections Office, there are less than 12 registered voters within the proposal area making the proposal an uninhabited annexation with 100% landowner support.

Individual Factors for Consideration

California Government Code § 56668 provides a list of factors to be considered in the review of a proposal. No single factor is determinative. The purpose in considering these factors is to help inform the Commission in its decision-making process. An evaluation of these factors as it relates to the proposal follows.

(a) Population; land use; topography; proximity to other populated areas; the likelihood of significant growth in the area.

The affected territory is located in the unincorporated Wyandotte area of Butte County, southeast of the City of Oroville. The annexation territory is 20.65-acre undeveloped parcel. The Butte County General Plan designates the territory as RR (Rural Residential) and the zoning is RR-5 (Rural Residential, 5-acre minimum). The unincorporated Wyandotte area is generally southeast of the City of Oroville, east of Palermo and north of Bangor. Topography in the area is rolling hills, with areas of dense woody vegetation and native grasses. Significant growth in the area is limited by infrastructure availability and access to the area.

The affected territory is legally uninhabited given there are fewer than twelve (12) registered voters based on the most recent data provided by the Butte County Elections Department.

(b) The need for organized community services; probable effect of the proposed annexation on the cost and adequacy of services and controls in the area and adjacent areas.

The need for organized community services in the annexation area is to provide irrigated water service to the site for the purpose of fire risk mitigation. SFWPA is an enterprise district and service charges are based on quantity consumed. The proposed annexation would not affect the cost or adequacy of services in the area and adjacent areas.

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

The proposed annexation will allow SFWPA to extend services for non-potable (irrigation) water to the annexation territory. The annexation territory is within the Sphere of Influence for the South Feather Water and Power Agency, which provides domestic and irrigation water services to eastern Oroville and surrounding areas, including Bangor, Kelly Ridge, and Palermo. The proposed annexation will not have a nominal effect on the local government structure of the county or on mutual social and economic interests.

(d) The conformity of the proposal with the adopted commission policies on providing planned, orderly, efficient patterns of urban development.

The proposed boundary change is consistent with existing service delivery patterns and rural residential development in adjacent areas and facilitates efficient provision of raw (irrigation) water services by SFWPA. The proposal is consistent with Commission policies that encourage consistency with spheres and municipal service reviews (4.1.1), and discourage annexations that would have adverse effects on other agencies and service recipients (4.1.10).

(e) The effect of the proposal on agricultural lands.

No agricultural uses are found in the annexation territory or in the area. The proposed extension of raw (irrigation) water to the subject parcel will not affect agricultural lands.

(f) Boundaries of the territory.

The subject territory is parcel specific, with definite and certain boundaries. There are no conflicts with lines of assessment or ownership.

(g) Consistency with city or county general and specific plans.

The Butte County General Plan designates the annexation territory as RR (Rural Residential) and zoning is RR-5 (Rural Residential, 5-acre minimum). Development of the site would be under the jurisdiction of Butte County Development Services to ensure consistency with the Rural Residential General Plan Designation and Zoning for the site. No further development of the site is proposed at this time.

(h) The sphere of influence of any local agency that may be applicable to the proposal being reviewed.

The territory is within the Sphere of Influence for the South Feather Water and Power Agency. The proposed annexation territory is also within the Sphere of Influence for Feather River Parks and Recreation District, Oroville Cemetery District, Butte County Mosquito and Vector Control District and Community Service District 164 (Animal Control). The annexation proposal does not conflict with the Sphere of Influence of any agency. The existing public services provided to the subject parcel by Butte County will not change as a result of this proposal.

(i) The comments of any affected local agency.

On September 9, 2021, LAFCo staff circulated copies of the application materials for review and comment from local public agencies. Following is a list of the agencies who responded to LAFCO's request for comments and their response.

<u>Agency</u>	<u>Comment</u>
<i>Butte County Planning Division</i>	<i>Appears that parcel is located with the South Feather Water and Power Agency Miners Ranch Road Annexation No. 1 adopted 5/7/1998, record number 19980042096. 11.97-acres RR-5.</i> <i>Staff response: Review of files for Miners Ranch Rd Annexation No. 1 do not appear to include this parcel on the annexation exhibit.</i>
<i>Butte County Environmental Health</i>	<i>Septic permit # ehs08-0127 was issued but never finalized for a 3-bedroom system. Please note that Env. Health has no other records of onsite wastewater systems or wells. Properties in this area do not have connection to sewer service and are generally assumed to be on individual septic systems and wells. All well abandonments/destructions must be permitted through Env health along with all septic system installations, repairs and destructions. Avoid crossing water and septic lines. Ensure adequate cross connection controls are installed.</i>
<i>Butte County Public Works – Land Development Division</i>	<i>Temporary impacts to roadway in the service extension should be addressed by encroachment permit(s).</i>

The following agencies were also sent a request for comments, but did not respond, or responded with no substantial comments:

Butte County Elections, CAL Fire/Butte County Fire, Butte County Assessor, Butte County Mosquito and Vector Control District, Butte County Administration, Oroville Cemetery District, Feather River Recreation & Park District, Butte-Glenn Community College District, Butte County Resource Conservation District, City of Oroville, Oroville Union High School District and Oroville Union School District.

(j) The ability of the receiving entity to provide the services.

The territory is within the Sphere of Influence for the South Feather Water and Power Agency. SFWPA is the most logical irrigated water service provider for the territory because SFWPA already provides irrigation water throughout the eastern and southern Oroville area.

(k) Availability of adequate water supplies.

As indicated in the agency's Municipal Service Review (adopted by the Commission in June 2006), SFWPA has sufficient capacity to provide non-potable (irrigation) water service to the affected parcel without detriment to current service recipients. The Agency's average annual consumption is approximately 28,000 AF (acre-feet), with one quarter (7,000 AF) of that being delivered to residential users and the rest (21,000 AF) going to

agricultural users (whose use is projected to decline in future years as agriculture uses are converted to urban uses). Because the Agency has water rights that exceed the actual yield of the watershed, the Agency has significant expansion capability for residential development.

(l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs.

This annexation proposal would not affect Butte County in achieving its regional housing needs allocation.

(m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

No comments were received as of the publishing date of this report.

(n) Any information relating to existing land use designations.

The annexation territory is currently undeveloped. Any future development of the site would be under the jurisdiction of Butte County Development Service to ensure consistency with the Butte County General Plan and zoning regulations. No further development of the site is proposed at this time.

(o) The extent to which the proposal will promote environmental justice.

The proposed annexation is intended to benefit the future residents of the subject territory by providing a long-term source of irrigation water for the purpose of fire risk mitigation.

Based upon the above responses, the proposal appears to be consistent with the listed factors.

Applicable Butte LAFCo Policies

Section 2.0 (*LAFCo General Policies and Standards*) and Section 4.0 (*Annexation and Detachments*) of Butte LAFCo Policies and Procedures provides the Commission with general standards for annexation proposals. The relevant policies for consideration and guidance for this proposal include:

- The creation of logical boundaries. (2.11.2)
- Consistency of a proposal with the Sphere of Influence and Municipal Service Review of the affected jurisdiction(s). (4.1.1)
- Determination of the most efficient service provider. (4.2)

The proposal is substantially consistent with the above policies in that:

- The annexation does not create illogical boundaries; and
- The South Feather Water & Power Agency will provide a secure source of irrigation water to the territory being annexed; and
- The South Feather Water & Power Agency has adequate water rights and facilities to provide service to the territory; and
- The South Feather Water & Power Agency is the only domestic and irrigation water service provider in the area.

ADDITIONAL INFORMATION

Property Tax Agreement

In accordance with provisions of Revenue and Taxation Code § 99, a Master Property Tax Transfer Agreement was executed between the South Feather Water & Power Agency and the Butte County Board of Supervisors on July 23, 1996. The Master Property Tax Transfer Agreement states that no property tax transfer will occur because of any annexation to the South Feather Water & Power Agency.

Support/Protest and Conducting Authority Proceedings

On July 27, 2021, the South Feather Water & Power Agency Board of Directors adopted Resolution No. 21-07-07 (**Exhibit C**) initiating the annexation proposal. There are less than twelve (12) registered voters in the territory, which makes the territory uninhabited pursuant California Government Code § 56046, which requires twelve (12) or more registered voters to live within the proposal area before it can be considered inhabited.

The proposed annexation has 100% consent of the affected landowners. Pursuant to California Government Code § 56663, the Commission may waive the protest proceedings if the following conditions are met: the subject area is uninhabited; all owners have given their consent, and; no affected agencies have submitted written opposition for a waiver of the protest proceedings. Therefore, approval by the Commission will be the final action required for this annexation.

Environmental Analysis

The South Feather Water & Power Agency is the lead agency for the proposal under the California Environmental Quality Act (CEQA). The South Feather Water & Power Agency found the proposal to be Categorically Exempt from further CEQA review, pursuant to Section 15319 (Annexations of Existing Facilities and Lots for Exempt Facilities) and has prepared a Notice of Exemption (**Exhibit D**). Staff concurs with the Agency's use of Section 15319 exemption.

ALTERNATIVES FOR COMMISSION ACTION

After reviewing this report and any testimony or materials that are presented, the Commission can take one of the following actions:

OPTION 1 – APPROVE the proposals as submitted:

- A. Find: 1) The subject territory is uninhabited, 2) The affected landowners have given written consent to the annexation and 3) No affected agencies have submitted written opposition for a waiver of protest proceedings.
- B. Waive the conducting authority proceedings and direct staff to complete the proceeding.
- C. Adopt Resolution No. 01 2021/22 making determinations approving the proposed South Feather Water & Power Agency – Dunstone Drive Annexation No. 1.

OPTION 2 – DENY the proposal.

OPTION 3 – CONTINUE this proposal to a future meeting for additional information.

ACTION REQUESTED:

Approve OPTION 1.

Respectfully submitted,

Shannon Costa

Shannon Costa
Local Government Planning Analyst

Attachments:

- Exhibit A: Annexation Area Map (Page 2)
- Exhibit B: Draft LAFCo Resolution No. 01 2021/22
- Exhibit C: SFWPA Resolution 21-07-07
- Exhibit D: Notice of Exemption

RESOLUTION NO. 01 2021/22

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
MAKING DETERMINATIONS AND ORDERING THE ANNEXATION OF
TERRITORY DESIGNATED AS 22-01
SOUTH FEATHER WATER & POWER AGENCY
DUNSTONE DRIVE ANNEXATION NO. 1**

RESOLVED, by the Local Agency Formation Commission of the County of Butte, State of California, that

WHEREAS, a proposal for the annexation of certain territory to the South Feather Water & Power Agency in the County of Butte was heretofore filed by the South Feather Water & Power Agency and accepted for filing on September 9, 2021 by the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set October 7, 2021, as the hearing date on this proposal and gave the required notice of public hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665, has reviewed this proposal and prepared a report, including recommendations thereon, and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, this Commission called for and held a hearing on October 7, 2021 and at the hearing this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, this Commission considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and

NOW, THEREFORE, the Local Agency Formation Commission of the County of Butte **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

Section 1. Environmental Findings:

- A. The Commission concurs with the South Feather Water & Power Agency determination that the proposed project is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15319, Annexations of Existing Facilities and Lots for Exempt Facilities. A Notice of Exemption was prepared by the South Feather Water & Power Agency on July 22, 2021.

Section 2. General Findings and Determinations:

- A. The Commission has considered the factors determined by the Commission to be relevant to this proposal, including, but not limited to, Sphere of Influence and General Plan consistency, the Domestic Water and Wastewater Service Providers Municipal Service Review and Commission Policies and other factors specified in

Government Code Section 56668 and as described in the staff report dated September 30, 2021, for the meeting of October 7, 2021.

- B. The Commission finds that the proposal has 100% support of the affected property owners and orders the annexation complete without a protest hearing pursuant to Government Code Section 56663.
- C. The annexation area shall consist of a single parcel identified as Assessor's Parcel Number 027-010-037, consisting of approximately 20.65 acres, as submitted by the South Feather Water & Power Agency and described in "Exhibit A."
- D. The subject area is found to be uninhabited, and is assigned the following short form designation: 22-01 – South Feather Water & Power Agency – Dunstone Drive Annexation No. 1.
- E. The proposal is consistent with the South Feather Water & Power Agency Sphere of Influence.
- F. Pursuant to Butte LAFCO Policy 2.13.1, the Commission determines that agricultural and/or open space lands will not be adversely affected by this proposal as the subject parcel is developed; will not result in a change in land use or a significant increase in density on the subject parcel; the adjacent parcels are not developed with agricultural uses nor are agricultural uses expected to be established due to lack of adequate soil, lack of adequate water, and heavy brush; and the adjacent parcels are not considered to be "prime agricultural land" as defined in §56064. Therefore, no conversion of designated agricultural or open space lands will occur because of the requested annexation.
- G. A Master Property Tax Transfer Agreement, which states that there will be no transfer of property taxes, was executed between the South Feather Water & Power Agency Board of Directors and the Butte County Board of Supervisors on July 23, 1996.

Section 3. Conditions requested by LAFCO:

- A. All LAFCO, County of Butte and State of California fees must be paid in full prior to filing the Certificate of Completion.
- B. The legal description and map, if amended by action of the Commission, will be revised at the expense of the applicant, prior to filing the Certificate of Completion.
- C. The map and legal description shall comply with the State Board of Equalization requirement and if rejected by the State Board of Equalization, will be revised at the expense of the applicant.

Section 4. The boundaries, as set forth in the proposal or as amended by action of the Commission, are hereby approved as submitted and are as described in Exhibit "A" attached hereto and by this reference incorporated herein.

Section 5. Further protest proceedings are waived and the Commission orders the annexation, pursuant to Part 4 commencing with Section 57000.

Section 6. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Section 56882 of the Government Code.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 7th day of October 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

Clerk of the Commission

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

DRAFT



SOUTH FEATHER WATER & POWER AGENCY

LAFCO EXHIBIT 1 RESOLUTION OF THE BOARD OF DIRECTORS

Resolution 21-07-07

**Application by the South Feather Water & Power Agency
Requesting the Local Agency Formation Commission to
Take Proceedings for the Annexation of Territory into the Agency**

Dunstone Rd. ANNEXATION #3-21 (Bird/Stone)

WHEREAS, the Board of Directors of the South Feather Water and Power Agency desires to initiate proceedings pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, commencing with §56000 of the California Government Code, for the annexation of the territory hereinafter described; and,

WHEREAS, notice of intent to adopt this resolution of application has been given to each interested and subject agency; and,

WHEREAS, the territory proposed to be annexed is inhabited and its owners support the annexation proposal;

WHEREAS, a description of the boundaries of the territory proposed to be annexed is set forth in Exhibit 3 of the LAFCo Application Form for the subject annexation, attached hereto and by this reference incorporated herein; and,

WHEREAS, this proposal is consistent with the sphere of influence of South Feather Water and Power Agency; and,

WHEREAS, the proposed annexation is consistent with the Butte County General Plan applicable to this property; and,

WHEREAS, the annexation is proposed for the purpose of allowing South Feather Water and Power Agency to raw (irrigation) water to the annexing territory when available; and,

WHEREAS, this Board of Directors acknowledges that, in accordance with Section 99, Subsection B, Paragraph 8, Subpart (d) of the Revenue and Taxation Code, the Master Property Tax Exchange Agreement that exists between South Feather Water and Power Agency (formerly Oroville-Wyandotte Irrigation District) and the County of Butte applies to this proposed annexation; and,

WHEREAS, this Board of Directors finds that, in accordance with said Master Property Tax Exchange Agreement with Butte County, this change of organization will be revenue neutral to all affected agencies; and,

WHEREAS, this Board of Directors acknowledges that South Feather Water and Power Agency is responsible for Butte LAFCo's expenses for staff services and materials associated with the processing of this annexation

Exhibit C

application and agrees to pay, prior to the filing of the Certificate of Completion or within 30 days of receipt of invoice, all required fees and to reimburse Butte LAFCo for the cost of its services that exceed the initial deposit; and,

NOW, THEREFORE, BE IT RESOLVED that this project is exempt from the California Environmental Quality Act in accordance with the general rule contained in Title 14 CCR, §15319(b).

BE IT FURTHER RESOLVED that this Resolution of Application is hereby adopted and approved by the Board of Directors of the South Feather Water and Power Agency, and the Local Agency Formation Commission of Butte County is hereby requested to take proceedings for the annexation of territory as described in LAFCo Exhibit 3, according to the terms and conditions stated above and in the manner provided by the Cortese-Knox Local Government Reorganization Act of 1985 (rev. 1994).

BE IT FURTHER RESOLVED that the Local Agency Formation Commission be requested to make this change of organization subject to the conditions specified in the Statement of Justification, set forth in Section A.4 of the LAFCo Standard Application Form for the subject annexation, by this reference incorporated herein.

BE IT FURTHER RESOLVED that the General Manager shall file a Notice of Exemption from CEQA with the County Clerk for this project.

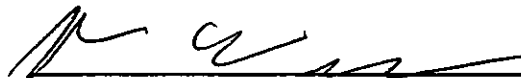
PASSED AND ADOPTED by the Board of Directors of the South Feather Water and Power Agency at the regular meeting of said Board on the 27th day of July 2021, by the following vote:

AYES: TH/RW/SE


NOES: Ø

ABSTAINED: Ø

ABSENT: DM/JS


Rick Wulbern, President

(seal)

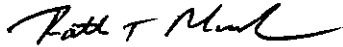

Rath T. Moseley, Secretary

SECRETARY'S CERTIFICATE

RATH T. MOSELEY, certifies that: he is the Secretary of the Board of Directors of the South Feather Water and Power Agency; and that the foregoing is a true and correct copy of a resolution duly and regularly adopted by the Board of Directors of the South Feather Water and Power Agency at a meeting of said Board duly and regularly held on the 27th day of July 2021, at which meeting a quorum was present and voted; said resolution has not been rescinded and is in full force and effect.

July 27, 2021

Date



Rath T. Moseley, Secretary
Board of Directors, South Feather Water and Power Agency

(seal)

NOTICE OF EXEMPTION

To: Office of Planning and Research
P.O. Box 3044, Room 212
Sacramento, CA 95812-3044

From: South Feather Water and Power Agency
2310 Oro-Quincy Highway
Oroville, CA 95966

County Clerk
County of Butte
25 County Center Drive
Oroville, CA 95965-3375

Project Title: Dunstone Road. Parcel Annexation into South Feather Water and Power Agency

Project Location - Specific:

Refer to Figure 1: The project is located south of the City of Oroville in an unincorporated area of Butte County, CA.

Project Location - City: South East Oroville Project Location - County: Butte

Description of Nature, Purpose, and Beneficiaries of Project:

The project applicant is requesting annexation into the South Feather Water and Power Agency. The inhabited rural residential parcel intersects with Foothill Blvd. and Mission Olive Rd.

Name of Public Agency Approving Project: South Feather Water and Power Agency

Name of Person or Agency Carrying Out Project: Edward Bird and Lisa Stone

Exempt Status:

- 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 (type and section number); 15319 (b) -Annexations of Existing Facilities and Lots for Exempt Facilities
- Statutory Exemption (state code number): _____

Reason why project is exempt:

The project is the annexation of an individual parcel to a district containing existing public facilities that have been developed to the allowed density under the current zoning. The existing facility has the capacity to serve the existing rural residential parcel.

Lead Agency

Contact: Rath Moseley, General Manager Phone: (530) 533-2412

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

Signature: Rath Moseley Title: General Manager Date: 7-22-21

- Signed by Lead Agency
- Signed by Applicant

Date received for filing at OPR: _____