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

TO: Local Agency Formation Commission
FROM: Stephen Betts, Deputy Executive Officer
SUBJECT: LAFCo File 14-12 – City of Chico – Extension of Services – 558 East 23rd St.
DATE: May 21, 2014, for the meeting of June 5, 2014

Summary

The City of Chico is requesting approval to extend sanitary sewer services to a single unincorporated parcel that is developed with a single-family dwelling unit (**Exhibit A**). The LAFCo Executive Officer has already approved an emergency extension of sanitary sewer services to the subject parcel due to a failed septic system (**Exhibit C**). The parcel is not contiguous to City of Chico jurisdictional boundaries and annexation is not considered by the City to be feasible at this time.

Staff recommends that the Commission approve the extension of services request. Draft Resolution 35 2013/14 (**Exhibit B**) contains recommended conditions of approval.

General Information

Application Submitted: May 7, 2014

Application Deemed Complete: May 12, 2014

100% Landowner Consent: Yes

Notice and Hearing Required: No

Proponent: City of Chico

Landowners: Shin H. Lee Cobble

Location: The subject parcel is located on the north side of East 23rd Street, approximately 120 feet northeast of Laurel Street, in the unincorporated Mulberry Neighborhood area of south Chico. The subject parcel is identified as Assessor's Parcel Number 005-473-017 (558 East 23rd Street), Chico, CA. The territory is located in Supervisorial District 4.

Proposal: Extension of City of Chico sanitary sewer service to a single parcel.

Requested Action: Adopt Resolution 35 2013/14 (**Exhibit B**) approving the extension of City of Chico sanitary sewer services.

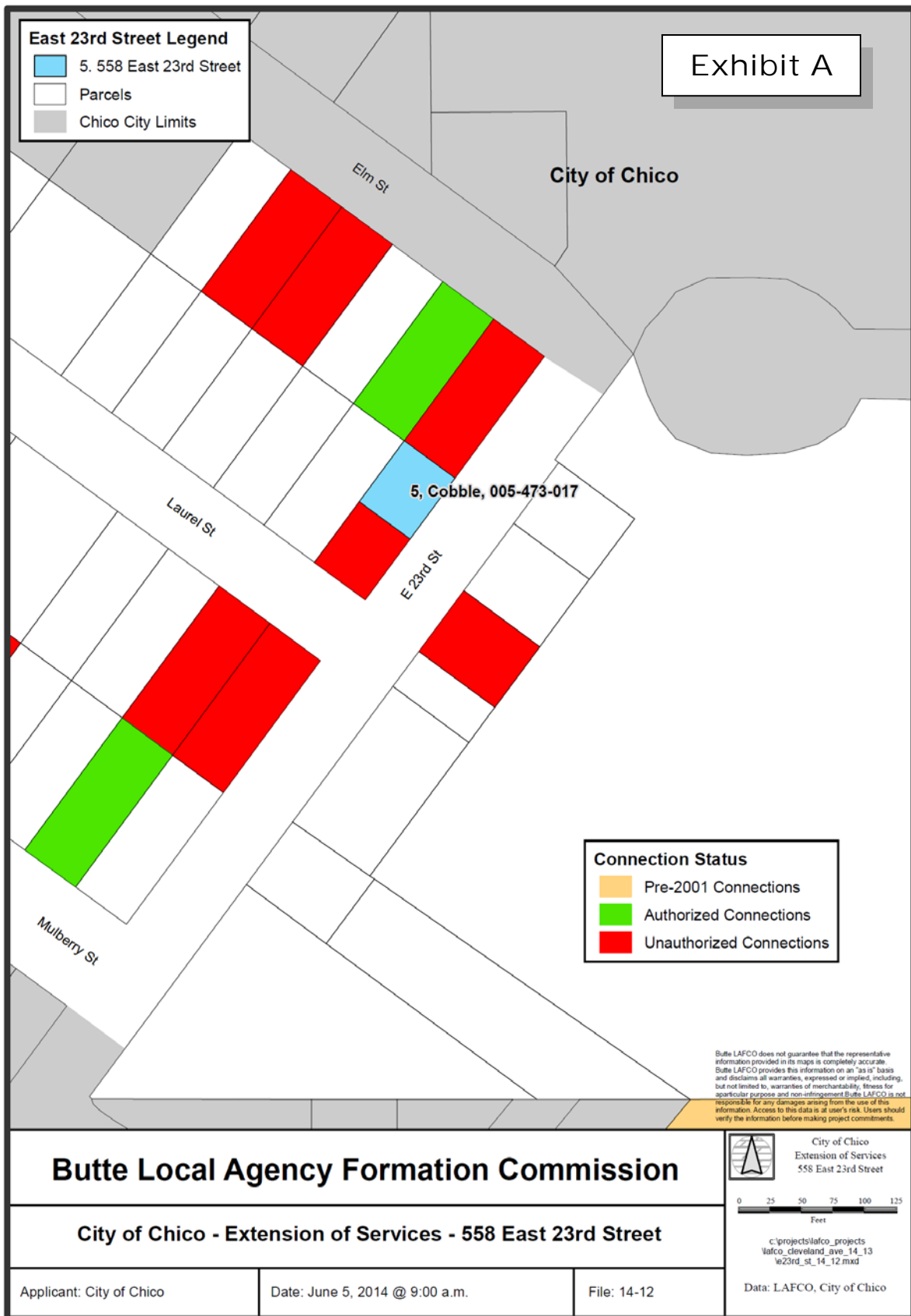


Exhibit A

Butte LAFCO does not guarantee that the representative information provided in its maps is completely accurate. Butte LAFCO provides this information on an "as is" basis and disclaims all warranties, expressed or implied, including, but not limited to, warranties of merchantability, fitness for particular purpose and non-infringement. Butte LAFCO is not responsible for any damages arising from the use of this information. Access to this data is at user's risk. Users should verify the information before making project commitments.

DISCUSSION AND ANALYSIS

Background

The subject unincorporated parcel, which is approximately 3,050 square feet (0.07 acres) in size, is developed with a 1-bedroom, 1-bath, 413 square foot conventionally-built single-family dwelling unit constructed in 1949. Domestic water supply for the dwelling is provided by the California Water Service Company. The parcel fronts on East 23rd Street, which is a public road. East 23rd Street is paved but is not improved with curbs, gutters, or sidewalks. Land use on the surrounding parcels is single-family residential dwellings on lots ranging in size from 0.06 to 0.14 acres.



Project Site – 558 East 23rd Street

Until recently sewage disposal for the dwelling on the subject parcel was handled by an on-site septic system. However, in February 2014 the septic system was determined to have failed (**Exhibit C**). On May 12, 2014, the LAFCo Executive Officer approved an emergency extension of sanitary sewer service to the subject parcel due to the documented failed septic system (**Exhibit D**).

The parcel is within an identified nitrate “hotspot” area where high levels of nitrates are found in the groundwater, which is believed to be caused by the numerous septic systems in the area. Under the auspices of the Chico Urban Area Nitrate Compliance Program, the City of Chico recently installed sewer infrastructure in the project area, which included the installation of a sewer lines and stubbed-out sewer laterals throughout the Mulberry neighborhood.

The subject parcel is located within the City of Chico's sphere of influence and is within the 21.4-acre, 94-parcel Mulberry Neighborhood unincorporated island area. The parcel is not contiguous to the City of Chico jurisdictional boundaries. The nearest City of Chico boundary is located approximately 120 feet to the northeast of the subject parcel, with one intervening parcel. The City of Chico has no immediate plans to initiate an annexation of this area.

Land Use/Zoning Designations

The Butte County General Plan designates the subject parcel as Medium Density Residential (up to 6 dwelling units per acre) and the parcel is zoned Medium Density Residential (3 to 6 dwelling units per acre) with a Chapman Mulberry Neighborhood Plan Overlay. The City of Chico's General Plan designates the parcel as Low Density Residential and the City has rezoned the parcel as R-1 (2.1 to 7 units per acre). The single-family dwelling use on the subject parcel is consistent with both the County's and the City's General Plans and zoning ordinances.

Governing Law and LAFCo Policy

Provisions for extension of service requests are found in Government Code §56133 and in Section 4.5 of the Commission Policies and Procedures. In brief, the law permits the Commission to authorize a city or district to provide new or extended service outside its jurisdictional boundaries but within its sphere of influence (SOI) *in anticipation of a later change of organization*. These documents offer the following guidance:

- Extensions of service are to be in *anticipation of annexation*, which is generally defined by LAFCo as meaning the area is located within the agency's Sphere of Influence (Butte LAFCo Policy 4.5.4.A.5).
- Annexations to cities and special districts are generally preferred for providing public services (Butte LAFCo Policy 4.5.4.A.1).
- Local circumstances, health and safety, emergency service, or other concerns may warrant the approval of an extension of service where annexation is not practical or deemed undesirable for other policy reasons (Butte LAFCo Policy 4.5.4.A.1).
- Extension of service agreements are usually considered to be a temporary measure, typically considered in response to an existing or impending public health and safety threat (e.g., failing septic system or domestic water well), or when annexation is not immediately feasible, and in anticipation of a future annexation (Butte LAFCo Policy 4.5.4.A.1).
- The Commission gives great weight to properly documented existing health and safety needs when considering justification of such extensions (Butte LAFCo Policy 4.5.4.A.1).
- The Commission discourages use of contract service extensions for the purpose of extending services to new development and will approve such extensions only under extraordinary circumstance and may apply strict limitations on such services (Butte LAFCo Policy 4.5.4.A.1).

Requests for Approval

In accordance with State law, requests and approvals for extensions of service are to be filed and acted upon prior to an agency providing services. All requests *shall explain the specific circumstances that make annexation infeasible* and justify extension of service by contract. The Commission may condition any extension of services where it finds local circumstances warrant applying greater scrutiny and guidance.

Whenever the Commission determines to condition the approval upon a later annexation of the affected property, the condition shall normally include a requirement that the owner record an agreement consenting to annex the territory, which agreement shall bind future owners of the property. A signed, notarized annexation agreement was submitted with the extension of services application.

Pursuant to Butte LAFCo Policy 4.5.4.D, the Executive Officer is required to evaluate the following five factors when reviewing an extension of services request. The factors are intended to provide the Commission with information about certain topics that are often relevant to extension of services request. No single factor is determinative. An evaluation of these factors as it relates to the proposed extension of service request follows.

- 1) The ability of the local agency to provide service to the proposal area without detracting from current service levels.

The City of Chico owns and maintains a wastewater collection, treatment, and disposal system. As indicated in the City's Municipal Service Review (adopted by the Commission in 2006), and the City's General Plan (adopted by the City in 2011), the City of Chico's wastewater system has sufficient capacity to provide service to the affected parcel without detriment to current service recipients. A City of Chico sanitary sewer line is located within the East 23rd Street right-of-way.

The City does not, and will not, provide any other parcel specific service, such as fire protection and law enforcement services, to the subject parcel. The existing public services provided to the subject parcel by Butte County will not change as a result of this proposal until such time as the parcel is annexed to the City of Chico.

- 2) The proposal's consistency with the policies and general plans of all affected local agencies.

The affected parcel is developed with one single-family dwelling unit. This use is consistent with the City of Chico's General Plan land use designation of Low Density Residential and with the City's R1 (Low Density Residential) rezoning of the parcel. The existing use is also consistent with the County's General Plan land use designation of Medium Density Residential and the County's zoning of Medium Density Residential.

The connection of the subject parcel to the City of Chico's sanitary sewer system is consistent with the goals and policies of the Chico Urban Area Nitrate Compliance Plan and the Chico Area Nitrate Compliance Program.

- 3) The proposal's effect on growth and development within and adjacent to the affected land.

The proposal to connect to the City of Chico's sanitary sewer system will facilitate the continued use of the parcel for residential purposes. The extension of services will be conditioned to state that the extension of sewer services is for existing development only. Any additional development on the parcel, such as additional dwelling units or additional bedrooms, will not be allowed unless the parcel is annexed to the City of Chico.

- 4) Whether the proposal contributes to the premature conversion of agricultural land or other open space land.

No agricultural uses are found on the subject parcel or in the area. The proposed extension of sanitary sewer service to the subject parcel will not affect agricultural lands.

- 5) The likelihood of a later change of organization being initiated by the affected agency.

The subject parcel is not contiguous to City of Chico jurisdictional boundaries. The nearest City of Chico boundary is located approximately 120 feet to the northeast of the subject parcel, with one intervening parcels.

The City of Chico states in the application that annexation of the subject parcel to the City is not feasible at this time because the parcel is not contiguous to City boundaries. The City of Chico is not actively supporting annexation of any territory to the City at this time due to the high costs of providing full municipal services to the annexed area and the negative impact this may have on the City's limited financial resources.

A properly executed Butte LAFCo Annexation Consent Agreement and Covenant was submitted with the extension of services application, which binds the current and future owners of the parcel to the future annexation of the parcel. The annexation consent agreement and covenant has been recorded with the Butte County Recorder's Office and all prospective buyers of the parcel will be aware of annexation requirement.

Environmental Analysis

The proposed extension of service is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) – General Rule Exemption. This section can be used when the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The General Rule exemption is appropriate for this proposal because: 1) the subject parcel is developed with a residential use; 2) the residential use is consistent with the City's General Plan and rezoning and with the County's General Plan and Zoning Ordinance; and 3) the City has already extended sewer infrastructure to the area.

Staff Recommendation

This proposal meets all of the five criteria established to review service extensions in that:

- 1) The City has documented its ability to provide service;
- 2) The proposal is consistent with current land use plans for the City;
- 3) The proposal will have an insignificant effect on growth and development;
- 4) The proposal will not cause impacts to agricultural land.

The fifth criterion is difficult to assess in that the City has clearly indicated no desire to initiate annexation of the subject parcel. However, an annexation consent agreement and covenant for the subject parcel was submitted with the extension of services application.

This extension of services authorization is intended only for development on the effected parcel that existed at the time of application to LAFCo, which for this project is one single-family dwelling unit. Staff recommends that the Commission approve the extension of City of Chico sanitary sewer services to the subject parcel, but with the following condition that prohibits new development that requires additional sewer service:

The authorization to extend City of Chico sewer services to the subject parcel (APN 005-473-017 – 558 East 23rd Street) is explicitly restricted to the current, existing use on the parcel as of the date of the LAFCo authorization, which is a 1-bedroom, 1-bath, 413 square foot conventionally built single-family dwelling unit. Prior to the City of Chico or County of Butte authorizing or otherwise allowing any new or additional development on the parcel that alters the existing use, the City or County shall provide such proposals to the LAFCo Executive Officer for review of compliance with this sewer extension authorization.

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 proposal as submitted:

- A. Find that the extension of services request is not subject to the provisions of the California Environmental Quality Act per Section 15061(b)(3), General Rule Exemption.
- B. Adopt Resolution No. 35 2013/14 authorizing the City of Chico to provide sanitary sewer service outside the City's boundary to the property located at 558 East 23rd Street (APN 005-473-017) in the unincorporated Chico area.

OPTION 2 - DENY the proposal.

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

ACTION REQUESTED: Approve OPTION 1.

Respectfully submitted,

Stephen Betts

Stephen Betts
Deputy Executive Officer

Attachments:

Exhibit A: Area Map – pg. 2

Exhibit B: Draft LAFCo Resolution No. 35 2013/14 – pg. 8

Exhibit C: Emergency Extension of Services Authorization – pg. 11

DRAFT

Exhibit B

RESOLUTION NO. 35 2013/14

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF THE COUNTY OF BUTTE
AUTHORIZING THE CITY OF CHICO TO
PROVIDE OUT-OF-AGENCY SANITARY SEWER SERVICES
TO 558 EAST 23RD STREET (APN 005-473-017), CHICO, CA**

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

WHEREAS, a proposal for the extension of public sanitary sewer services by the City of Chico to 558 East 23rd Street (APN 005-473-017), Chico, CA, located outside of the Chico city limits but within the City of Chico's Sphere of Influence, in the County of Butte, was heretofore filed by the City of Chico and accepted for filing on May 12, 2014, 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, on May 12, 2014, the Butte LAFCo Executive Officer approved an emergency extension of City of Chico sanitary sewer systems for the subject parcel due to a failed septic system; and

WHEREAS, the subject parcel is not contiguous to the City of Chico's jurisdictional boundaries and the City of Chico states that annexation of the parcel is not feasible due to the non-contiguity; and

WHEREAS, the subject parcel is within an identified nitrate "hotspot" area where high levels of nitrates are found in the groundwater, which is believed to be caused by the numerous septic systems in the area; and

WHEREAS, under the auspices of the Chico Urban Area Nitrate Compliance Program, the City of Chico recently installed sewer infrastructure in the Mulberry neighborhood area, which included the installation of sewer lines and stubbed-out sewer lateral lines; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658, set June 5, 2014, as the hearing date on this proposal; 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 June 5, 2014, 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

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

Section 1. Environmental Action:

- A. The Commission finds that the extension of services request is not subject to the provisions of the California Environmental Quality Act per Section 15061(b)(3) (General Rule Exemption).

Section 2. 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 City of Chico General Plan consistency, the City of Chico Municipal Service Review, and other factors specified in Government Code Section 56133, and as described in the staff report dated May 21, 2014, for the meeting of June 5, 2014.
- B. The Commission authorizes the City of Chico to extend sanitary sewer service outside the City's boundary to the property located at 558 East 23rd Street (APN APN 005-473-017) in the unincorporated Chico area.
- C. The proposal is assigned the following short form designation: 14-12 - City of Chico – Extension of Services – 558 East 23rd Street.
- D. The purpose of the extension of services is to allow the City of Chico to provide public sanitary sewer service to the subject parcel. This extension of service will allow the existing septic system on the parcel to be abandoned, thus helping to reduce the amount of nitrates in the groundwater in accordance with the goals and policies of the Chico Urban Area Nitrate Compliance Plan and the Chico Area Nitrate Compliance Program.
- E. The City of Chico's sanitary sewer system has adequate capacity to serve the subject parcel and a City of Chico sanitary sewer line is located on East 23rd Street, adjacent to the subject parcel.
- F. The territory is located within the City of Chico's Sphere of Influence and is not within the Sphere of Influence or the district of any other sanitary sewer service provider.
- G. A signed Butte LAFCo Annexation Consent Agreement and Covenant has been signed by the current landowner and has been recorded, which binds all future landowners to future annexation of the parcel to the City of Chico.
- H. This extension of sanitary sewer services is to support development on the subject parcel that existed at the time of application to LAFCo.

Section 3. Conditions requested by LAFCo:

- A. All LAFCo fees must be paid in full prior to the extension of service authorization becoming effective.
- B. The authorization to extend City of Chico sewer services to the subject parcel (APN 005-473-017 – 558 East 23rd Street) is explicitly restricted to the current, existing use on the parcel as of the date of the LAFCo authorization, which is a 1-bedroom, 1-bath, 413 square foot conventionally built single-family dwelling unit. Prior to the City of Chico or County of Butte authorizing or otherwise allowing any new or additional development on the parcel that alters the existing use, the City

or County shall provide such proposals to the LAFCo Executive Officer for review of compliance with this sewer extension authorization.

PASSED AND ADOPTED by this Local Agency Formation Commission of the County of Butte, on the 5th day of June 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

ATTEST:

Clerk of the Commission

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

Exhibit C



BUTTE LOCAL AGENCY FORMATION COMMISSION

1453 Downer Street, Suite C • Oroville, California 95965-4950
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Emergency Extension of Services Application

Purpose: This Emergency Extension of Services Application is intended to be used by a local agency to request an immediate authorization from Butte LAFCO for urgent service extensions subject to ALL of the following criteria:

1. The lack of service being requested constitutes an immediate health and safety concern; and
2. The property is currently developed; and
3. There are physical restrictions on the property that prohibit a conventional service delivery method typically suited to the unincorporated area (i.e., septic tank, private well, etc.)

Process: The local agency shall complete the Emergency Extension of Services Application and submit it to the Executive Officer (via mail, fax or email) who will immediately evaluate the request and is authorized to approve the immediate extension of services subject to submission by the affected agency within 30 days of emergency approval, a complete Extension of Services Application with appropriate fees for Commission consideration.

Please provide the following information:

Applicant (local agency) CITY OF CHICO

Assessor's Parcel Number(s): 005-473-017

Street Address: 558 E. 23rd STREET

Landowner Name: SHIH LEE

Requested Service(s): Sewer

Reason for Emergency Extension of Service(s): ROTTED SEPTIC TANK LID, TANK FULL

(Note: Please attach documentation from the local agency, a licensed contractor or the Butte County Environmental Health Division if for a septic system or well failure.)

As the local agency providing emergency services to the affected parcel, I certify that the reason for the emergency condition is accurate and the agency understands the responsibility to submit a formal application and all appropriate fees as noted above.

Authorized Local Agency Contact: Name: RICK RODRIGUEZ
Title: ENG. TECH. II
Signature: [Handwritten Signature]

Approved by LAFCO Executive Officer (or designee) on 5-12-14

[Handwritten Signature] 5-12-14
Executive Officer Signature

LAFCO
MAY 09 2014
OROVILLE, CA