

March 26, 2026

Monterey County LAFCO

132 W Gabilan St #102

Salinas, CA 93901

Via email: mckennak@monterey.lafco.ca.gov

Re: Annexation application for Vista Lucia Specific Plan Area – incomplete water supply information

Dear Commissioners:

Pursuant to the Cortese-Knox Act and the California Public Resources Code, before considering an annexation proposal to be complete or approving that application, LAFCO is required to have received definitive proof and to have made a definitive finding that a proposed municipal annexation/development "project" has a water supply. For the Vista Lucia project, this requires that LAFCO find that the project has both existing and identifiable percolated groundwater rights and an existing long-term sustainable water supply. Moreover, the Monterey County General Plan mandates that all new developments (including proposed annexations) have a sustainable long-term water supply. The current application fails to demonstrate this because it fails to identify any legal right to the proposed water supply.

As a responsible agency under CEQA, and pursuant to its duties under the Cortese-Knox Act, Monterey County LAFCO must be able to identify a legally available long-term water supply. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412 [must identify long term supply]; *Madera Oversight Coalition, Inc. v County of Madera* (2011) 199 Cal.App.4th 48, 104 [failure to disclose supply legally uncertain]; *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal.App.4th 715, 723 [failure to disclose supply "cannot be taken at face value"]; Gov. Code, § 56668(k)(1) [LAFCO must determine "timely availability of water supplies"].) Because the project purports to rely on municipal water service from the City of Gonzales, which would be acting as a "junior appropriator," Monterey County LAFCO must be able to identify the legal authority that the City of Gonzales holds to extract more groundwater from a legislatively identified severely overdrafted groundwater basin, notwithstanding the City's status a junior appropriator. Because the EIR for the Gonzales project fails to identify a legal basis for the City to appropriate water for the project, Monterey County

LAFCO, as a responsible agency, must see that this issue is addressed before taking any further action to find the application complete or to act on it. Until this issue is resolved, the application and the environmental review are incomplete and defective.

The Salinas Valley Groundwater basin is a "percolated groundwater basin" and has been specifically defined as such by both the California Legislature and the California Department of Water Resources. Further, pursuant to the Sustainable Groundwater Management Act of 2014 (SGMA) and the legislative findings resulting therefrom, the 70-mile long Salinas Valley percolated groundwater basin has been determined by the California Legislature to be entirely in a state of severe overdraft.

From the standpoint of both SGMA and existing published case law, the fact that some isolated sub-basins may not be showing the immediate adverse effects of the overdraft is of no consequence when determining whether proposed individual junior appropriators have any "surplus water" to which they can assert new appropriative rights. (*City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224; [Las Posas Valley Water v. Ventura County Waterworks](#), Docket: B330837(Second Appellate District), Opinion Date: March 5, 2026.) The legal holdings of these cases indicate that, in an overdrafted percolated groundwater basin, there is no available water for junior appropriators, and any proposed taking of water from an overdrafted groundwater basin by a junior appropriator would be without any legal right or legal authority.

Water in the Salinas Valley basin is stored in two surface water reservoirs (Lake San Antonio and Lake Nacimiento) that are owned by the County of Monterey (MCWRA). The County has only appropriative surface water rights on the Salinas River. The County releases water from the reservoirs into the river for the recharge of the 70-mile long percolated groundwater basin. Once the County releases the stored water into the Salinas River, it flows down the course of the river and migrates into and percolates into the aquifers. Importantly, and pursuant to over 100 years of California groundwater rights law, once the water in the river percolates into the aquifers, it migrates beyond the "bed and banks" of the river and the County loses its management and control of that water. The percolated water and the exclusive water rights thereto then accrue to the senior overlying groundwater rights holders because the entire basin is in overdraft, as determined by the California Legislature.

Pursuant to both California case law and statutory law, the City of Gonzales is a "junior appropriator" and holds no percolated groundwater rights in the overdrafted Salinas Valley percolated groundwater basin.¹ Moreover, Gonzales cannot acquire senior overlying percolated groundwater rights in the overdrafted Salinas Valley. Legally, "junior appropriators" are not allowed or entitled to any new appropriation of groundwater when a basin is in severe overdraft. Both the

¹ Nor does the County of Monterey or its MCWRA hold any percolated groundwater rights in the overdrafted basin; MCWRA acknowledged this fact in writing over a decade ago.

City and the developers of the proposed area to be annexed are, by definition, "junior appropriators."

Given these facts, LAFCO must identify and document the currently unused and legally available groundwater rights and supplies to which the City of Gonzales, as a proposed "junior appropriator," can legally assert appropriative rights, or else the City's annexation application is incomplete.

Furthermore, the City must be made to identify specifically what law or authority exempts the City, as a junior appropriator, from complying with the SGMA requirements not to increase or aggravate the overdraft in the basin until the basin is brought into balance.

LandWatch hereby requests that LAFCO, as a responsible agency under CEQA, demand and receive complete and documented answers to these questions from the City of Gonzales before its application can be deemed complete. This is particularly urgent because the City has represented in the EIR that it will be providing the water supply for thousands of proposed houses through an apparent new appropriation of groundwater from the overdrafted basin.

Absent the necessary proof, the basin and the senior overlying groundwater rights holders, farmers and landowners in the Salinas Valley will irreparably have their water rights wrongfully taken and harmed by the City and its developers.

We request that answers to these questions be secured before this project application is deemed complete and before consideration of this project by LAFCO proceeds.

Thank you for the opportunity to comment.

Regards,

A handwritten signature in black ink, appearing to read "Michael DeLapa". The signature is stylized and cursive.

Michael DeLapa
Executive Director

cc: Kate McKenna