

# ***EXECUTIVE OFFICER'S REPORT***

## **To The Local Agency Formation Commission**

### **TO:**

Commissioner	<b>DON CAMPBELL</b>	(Chair)	[City]	Commissioner	<b>MICHAEL KELLEY</b>	[Supervisor]
Commissioner	<b>JASON JACKSON</b>	(Vice-Chair)	[City]	Commissioner	<b>RAY CASTILLO</b>	[Supervisor]
Commissioner	<b>DAVID WEST</b>		[Public]			
Alt Commissioner	<b>JACK TERRAZAS</b>					[Supervisor]
Alt Commissioner	<b>MARIA NAVA-FROELICH</b>					[City]
Alt Commissioner	<b>VACANT</b>					[Public]

**REPORT DATE:** February 25, 2015

**FROM:** Jurg Heuberger, AICP, CEP, Executive Officer 

**PROJECT:** **Wilbur Ellis Annexation, EC 1-13**  
Proposed annexation of approximately 24.02 acres identified by 054-360-069-000, located at 45 W Dannenberg Road in El Centro; further shown as being located south of Dannenberg Road, west of Dogwood Road, east of the Union Pacific Railroad.

**HEARING DATE:** March 26, 2015 **TIME:** 8:50 a.m.

**AGENDA ITEM NO:** 16

**HEARING LOCATION:** El Centro City Council Chambers, 1275 Main Street, El Centro, CA

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### **RECOMMENDATION(S) BY THE EXECUTIVE OFFICER** (In summary & order)

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- OPTION #1:** Approve the proposed annexation as presented by the Executive Officer and as requested by the applicant.
- OPTION #2:** Continue the hearing for a period not to exceed 70 days (end date June 4, 2015) and provide direction to staff.
- OPTION #3:** Approve the proposed annexation as presented with modifications, following the hearing by the Commission.
- OPTION #4:** Deny the annexation.

# Project Data:

## **DATA & FACTS:**

Project ID	EC 1-13	El Centro
Project Name:	Wilbur-Ellis Annexation	
Applicant/Proponent:	Wilbur-Ellis Company	
Application Type:	Petition	
Application Filed:	September 11, 2013	EXHIBIT - A
Certificate of Filing:	October 21, 2013	EXHIBIT - B
Area/Size:	24.02 +/- acres [This number may be modified as per final annexation map!]	
Location/Legal:	See attached map and legal description	
Proposed Project:	Annexation	

## **TAX AGREEMENT:**

Board of Supervisors Action:	Tax Agreement dated July 22, 2014 (M.O. #29)	EXHIBIT - C
City Resolution:	Ordinance No. 14-42 dated June 3, 2014	EXHIBIT - G
Tax Split:	Auditor-Controller Letter - dated 11/20/2013	EXHIBIT - D

## **CEQA:**

Lead Agency:	City of El Centro	
Documentation:	Negative Declaration w/o mitigation plan	EXHIBIT - E

# ANALYSIS

## **I: Project Description:**

The project consists of a proposal to annex approximately 24.02 acres located adjacent to, and south of Dannenberg Road, west of Dogwood Road, identified by legal description shown on the annexation map. This parcel is contiguous to the City of El Centro on the north side; however the parcel is then surrounded on the east, west and south by unincorporated parcels.

Applicant has submitted the proposed annexation primarily to assure that city services can be obtained and maintained.

The proposal if approved by the Commission will create a very irregular city boundary and is not consistent with LAFCO policy to create orderly and logical boundaries. Please review Executive Officers analysis as presented later in this Report.

### **City Council Approvals:**

- 1) **ORDINANCE NO. 14-09:** Dated May 20, 2014, by the City of El Centro pre-zoning the unincorporated territory adjoining the City to ML (Light Manufacturing). **EXHIBIT - F**
- 2) **RESOLUTION NO. 14-37:** Dated May 20, 2014, by the City of El Centro certifying a negative declaration of environmental impacts under CEQA. **EXHIBIT - G**
- 3) **RESOLUTION NO. 14-38:** Dated May 20, 2014, by the City of El Centro approving / recommending the annexation. **EXHIBIT - H**
- 4) **RESOLUTION NO. 14-42:** Approving the Tax Sharing Agreement with the County of Imperial. **EXHIBIT - I**

## **II: County Land Use:**

- 1) *County General Plan:* Under the County's General Plan, the area being proposed for annexation is shown to be Urban for the future expansion of El Centro.
- 2) *County Zoning:* M-1
- 3) *Surrounding Land Uses:* The project is contiguous to the City of El Centro at the north side and is fully surrounded by un-incorporated land on the west, south and east. Although east of Dogwood Road, the City of El Centro extends southerly to encompass the Mall.

## **III: Sphere of Influence:**

**EXHIBIT - J**

The proposed project is within the boundary limits of the current Sphere of Influence for the City of El Centro.

## **CEQA:**

**EXHIBIT - E**

The City of El Centro acting as lead agency prepared and certified a Negative Declaration of Environmental Impacts pursuant to CEQA requirements.

## **Cortese/Knox/Hertzberg Reorganization Act of 2000:**

Government Code Section 56668 specifically requires that certain factors be considered in the review of any proposal, and shall include but not be limited to Items A through P.

- (A) *Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.*

**Comment:** The proposed project is to accommodate the extension of city services to an existing establishment. The topography is generally flat and there are no distinguishable natural boundaries. There is an expected likelihood of substantial growth in this area within the next ten years.

- (B) *Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.*

*'Services,' as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.*

**Comment:** The change will result in the availability of city service to be provided to this parcel. Some city services already extend along this parcel to service other areas of El Centro further east. The entire area, meaning the lands that are adjacent to but not included in this application are in need of public services.

- (C) *The effect of the proposed action and of alternative actions, on adjacent area, on mutual social and economic interests, and on the local governmental structure of the County.*

**Comment:** The proposed project is not likely to affect social or economic interest.

- (D) *The conformity of both the proposed and its anticipated effect with both the adopted Commission policies on providing planned, orderly, efficient pattern of urban development, and the policies and priorities set forth in Section 56377.*

**Comment:** The proposed project is certainly within the Sphere of Influence of El Centro and consistent with Gov. Code § 56377. The project is somewhat in conflict with adopted LAFCO polices to create orderly growth and boundaries. The proposal also may have an opportunity to create confusion for public/emergency service providers.

- (E) *The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.*

**Comment:** This project will not remove any designated agricultural land.

- (F) *The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or of corridors of unincorporated territory and other similar matters affecting the proposed boundaries.*

**Comment:** This project does not meet the requirements of the Cortese-Knox-Hertzberg Reorganization Act of 2000 and LAFCO policies. This project while contiguous to the City on the north side, it does create a very irregular city boundary that could lead to confusion by service providers and avoids the more logical boundary by including adjacent parcels. It also has the potential to create an island, particularly for the parcels due east and west.

- (G) *A regional transportation plan adopted pursuant to Section 65080, and consistency with City and County General and Specific Plans.*

**Comment:** The project is considered consistent with the Imperial County General Plan, and with the GPA by the City, the project will be consistent with the City's plans.

(H) *The Sphere of Influence for any local agency, which may be applicable to the proposal being reviewed.*

**Comment:** This area is within the City of El Centro's Sphere of Influence.

(I) *The comments of any affected local agencies.*

**Comment:** No significant adverse comments have been received for this project by any responsible agency.

(J) *The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.*

**Comment:** The City has indicated that it has adequate capacity to service this project area and that is shown by the City's SAP.

(K) *Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.*

**Comment:** The project as analyzed by the City of El Centro indicates that the City does have adequate water for this project.

(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 as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.*

**Comment:** This project will not have an effect on the regional housing plans or needs.

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

**Comment:** None received as of the writing of this report.

(N) *Any information relating to existing land use designations.*

**Comment:** N/A

(O) *The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.*

**Comment:** The proposed project is not considered to have an impact on environmental justice.

(P) *Other considerations!*

**Comment:** NA

**Public Notice:**

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section 56660 and 56661. Notice was issued in the form of a publication in the IV Press at least twenty (20) days prior to said hearing, and posted our webpage. In addition, direct mail notices were at least sent to all property owners within 500 feet in the incorporated territory and within one mile of the unincorporated areas.

**Report:**

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the applicant, the County Counsel, County Executive Office, County Public Works, Imperial Irrigation District, City of El Centro, El Centro Regional Medical Center, and the Applicant.

**Conflict of Interest Statement:**

To date (at the writing of this report) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The Commissioners will be asked to declare that during and prior to the public hearing. The Executive Officer does not have any known conflict of interest, does not own any property within the project area, but does own a home within an older section of the City of El Centro.

## EXECUTIVE OFFICERS RECOMMENDATION

### RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action:

A: Approve Option # 1:

Continue this item for a period of not to exceed 70 days and provide direction to the Executive Officer as follows:

- 1) Contact each adjacent property owner, including the parcel to the west, the parcel due east and the several parcels south along the railroad track, and lying west of Dogwood Rd., to determine whether or not said property owners would be willing to annex to the City of El Centro?
- 2) If significant interest is shown by property owners of the above areas, ask the City to reconsider and include said parcels.
- 3) If little or no interest is shown by adjacent land owners then bring the project back to the Commission within the 70 days.

B: Approve the annexation as requested by the applicant and per the attached conditions.

- 1: Certify the Negative Declaration as approved by the City of El Centro.
- 2: Make the finding that this project with the conditions imposed herein (or as modified) is in substantial compliance with the provisions of the Cortese-Knox-Hertzberg Reorganization Act of 2000 and the Imperial County LAFCO Policy and Procedures.

Include in this a finding that the unusual and less than orderly boundary will not create an undue burden, nor confusion to public service agencies and emergency responders.

3: Make the findings pursuant to Gov. Code § 56375 that:

- a) The project has been pre-zoned under the City of El Centro current zoning Ordinance.
- b) The project is prohibited per section 56375 (e) from being "re-zoned" for a period of two years following annexation. If a re-zone is enacted by the City within the next ten years, the City shall notify the County and LAFCO.
- c) The project is contiguous to the City, does not create an island, and is a logical extension of the City within the sphere of Influence, and or urban area plan.
- d) The protest proceedings pursuant to Part 4 commencing with Section 57000 are hereby initiated, and are in compliance with the resolution of approval by the Commission.

- 4: Approve the **Annexation**/subject to all of the following conditions:
- A. Authorize the Executive Officer to forward the Resolution of approval to the City of El Centro as an information item and for compliance with all relevant conditions imposed herein. (*Pursuant to the Cortese/Knox/Hertzberg Reorganization Act of 2000, enacted through AB 2838, a conducting authority process, i.e. the City being the Conducting Authority, no longer exists and the LAFCO has been delegated the Conducting Authority Process*).
- B. Pursuant to Cortese-Knox-Hertzberg, authorize the Executive Officer to record the annexation with the County Recorder and the State Board of Equalization, ONLY upon compliance by the applicant and the City, with all applicable conditions, payment of requisite fees, and receipt of all documents necessary and required from the proponents, the City and/or other agencies.
- C. The Annexation boundary shall be as per map and legal description (**Exhibit – K**) attached hereto. The annexation shall include all contiguous Roads; Road Right of Ways; Canals, Canal Right of Ways; and Public Easements. The final annexation map shall be prepared by a California Licensed Engineer licensed to practice in the Category of work to be performed. Said final map shall be reviewed by the Surveyor of the County of Imperial and the Public Works Director of the City of El Centro to assure that the map complies with the correct boundary and surveying requirements, as well as legal descriptions.
- D. The City of El Centro shall transmit to the Executive Officer certified copies of all approvals given or required to be given by the City of El Centro in approving the land use projects reported herein, including tax agreements unless that information has already been submitted.
- E. The City of El Centro shall within 90 days of the hearing by LAFCO, approving the annexation, submit to the LAFCO a full City Boundary Map depicting the new annexation as part of the overall City Boundary. This City Boundary map shall be signed by a licensed Engineer and shall be submitted as follows;
- a) A digital copy in AutoCAD 2009 or later format
  - b) A 24" x 36" or larger copy
  - c) A 18" x 24" copy.
- F. Upon receipt of the City Boundary Map required in condition E, the Executive Officer shall transmit said map to all affected public agencies, utility providers, including but not limited to law enforcement, Assessor, etc.
- G. The applicant (petitioner) and/or the City as appropriate shall provide to LAFCO the following items in order to complete the processing of the annexation.
- 1: Eight (8) copies of the Annexation maps and legal descriptions prepared by the licensed engineer, and one "Mylar" copy meeting the size established by the County Recorder's office.
  - 2) Check made payable to the State Board of Equalization as required by Statute.
  - 3) Check payable to LAFCO as determined by the Executive Officer to fully offset the cost of processing the application, including all costs incurred by County or City departments charged with the responsibility to review any portion of this project.
  - 4) A letter from the Petitioners agreeing to the terms and conditions of the LAFCO and waiving all rights to an appeal, or reconsideration of the LAFCO decision, unless petitioner can show that a technical error occurred that would have or could have altered the decision of the LAFCO.
- H. The annexation shall not be recorded until all conditions have been completed and all costs paid in full.



- I: The City of El Centro shall not change any of the zone(s) within the boundary of the project annexation area for a period of two years from the date of recordation, subject to the Government Code section in the Cortese-Knox-Hertzberg Reorganization Act of 2000. The City shall notify the LAFCO and County of any proposed change of zone within the Boundary area at least 90 days prior to any such Council Hearing, if such is requested prior to the termination of 24 months from recordation. If the City does change the zone or the envisioned land use analyzed within this land use process, in the future and it affects any tax split agreements with other agencies, then the City shall be required to make the appropriate adjustments, with County and as applicable the other agencies.
- J: The City shall not enter this property into a “redevelopment” program or such other program that would adversely change the Fiscal impacts or in any way affect any fiscal impacts or tax sharing agreements with other agencies. IF the City following annexation and after recordation does change the project so as to change the Fiscal information/outcome upon which LAFCO and/or other agencies relied, the City shall be required to fund any deficit that may occur as a result of their change.
- K: All conditions of approval made by or given by the City as evidenced by the Resolutions or Ordinances adopted by the City shall be part of the Conditions of LAFCO in this annexation as if written herein.
- L: The City shall require all IID canals and drains that are within or contiguous to the project, to be under grounded (or eliminated), except for the canals or drains identified by the IID as not feasible. Applicant shall provide to LAFCO assurance acceptable to the Executive Officer which may include bonds or other surety. This annexation shall not record until the City has provided the requisite assurances that the canals/drains will be undergrounded.
- M: The annexation shall not record until the City provides to LAFCO a hard copy as well as a digital copy of the “mitigation” measures that will be required to be implemented for this project. These mitigation measures will be made a part of the Resolution of approval by LAFCO and to the extent applicable will be required to be implemented or bonded for as appropriate. The Executive Officer shall have the authority to withhold recordation until this has been assured.
- N: The annexation shall not record until the City provides to LAFCO a certified statement from the City engineer that the City has the capacity to provide sewer and water services to this project.

### **LAFCO Policy:**

The proposed extension of services application appears to be consistent with the Cortese/Knox/Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the IID has (according to the Service Area Plan and/or its resolution of application) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the area.

cc: County Board of Supervisors  
County Executive Officer  
County Assessor  
Raymond Loera, Sheriff  
George Pacheco, Public Works  
Tony Rohoutas, Fire/OES  
Mike Rood, County Counsel  
Jim Minnick, Interim Planning Director/County  
Southern Calif. Gas Co.

Applicant  
Douglas R. Newland, Auditor – Controller  
Bill Brunett, Public Works Director  
Brad Poiriez, APCD  
Imperial Irrigation District, General Manager  
County Office of Education  
City of El Centro  
EC 1-13 Wilbur Ellis Annexation

### **ATTACHMENTS:**

EXHIBIT A - Application  
EXHIBIT B – Certificate of Filing  
EXHIBIT C – County Minute Order & Tax Agreement  
EXHIBIT D – Auditor-Controller Letter  
EXHIBIT E – Negative Declaration  
EXHIBIT F – City Ordinance # 14-09

EXHIBIT G – City Resolution # 14-37  
EXHIBIT H - City Resolution # 14-38  
EXHIBIT I - City Resolution # 14-42  
EXHIBIT J – Sphere of Influence Map  
EXHIBIT K – Map & Legal Description