

RESOLUTION NO. 2005-07

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE AVILA BEACH COMMUNITY SERVICES DISTRICT
FOR APPLICATION TO THE LOCAL AGENCY FORMATION COMMISSION
TO ESTABLISH SOLID WASTE COLLECTION WITHIN THE
AVILA BEACH COMMUNITY SERVICES DISTRICT
GOVERNMENT CODE §§56824.10 et seq.**

Exhibit "A": Additional Background Information

Exhibit "B": Plan for Service

WHEREAS, in February of 1997 the Avila Lighting District and the Avila County Water District were reorganized ("Reorganization") into the Avila Beach Community Services District (herein "District"); and

WHEREAS, pursuant to the Reorganization Certificate of Completion prepared and recorded by the Local Agency Formation Commission ("LAFCO"), the District was formed and established with all the purposes and powers authorized by Government Code Section 61000 et seq. of the Government Code with the exception of recreation functions for those portions of the District owned and operated by the Port San Luis Harbor District; and

WHEREAS, Government Code Section 61600(c) authorizes Community Services Districts to provide the collection or disposal of garbage for refuse matter; and

WHEREAS, in order to establish the authority to provide for the collection or disposal of garbage or refuse matter, it is necessary, in accordance with Sections 56824.10 et seq. of the Government Code to submit a Resolution of Application to be filed with the Executive Officer of LAFCO for the purpose of scheduling a hearing by the LAFCO Commission for the approval of the exercise of said authority; and

WHEREAS, the District, based on evidence and public testimony provided at public hearings regarding the collection or disposal of garbage or refuse matter, finds:

A. That the residents of the District desire a local voice and local control regarding the nature, extent and cost of solid waste collection including, but not limited to, the frequency of collection, the means of collection, the level of service, charges and fees, the nature, location and extent of providing solid waste handling services and whether the services are to be provided by means of non-exclusive franchise, contract, license, permit or otherwise.

B. That based on the experience and solid waste programs offered by the Nipomo Community Services District, the Oceano Community Services District, the Templeton Community Services District and the Los Osos Community Services District the Avila Beach Community Services District can provide garbage collection services to its residents at a greater advantage than the County of San Luis Obispo which currently provides garbage collection services within the District pursuant to an area wide franchise agreement.

C. That the District is not in the sphere of influence of another city or special district that currently provides garbage service; and

WHEREAS, the District further finds that this Resolution was adopted at a duly noticed public hearing pursuant to Government Code §56824.12 (c).

NOW THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the Avila Beach Community Services District Board of Directors, as follows:

1. Exhibit "A" – Additional Background Information is approved for filing with the Executive Officer of the Local Agency Formation Commission.

2. Exhibit "B" – Plan for Service is approved for filing with the Executive Officer of the Local Agency Formation Commission.

3. The Executive Officer of the LAFCO set the matter for public hearing by the Commission pursuant to Government Code §56824.14 and the Rules and Regulations of LAFCO.

4. That LAFCO approve the proposal of the Avila Beach Community Services District to provide its residents with the collection or disposal of garbage or refuse matter, pursuant to Government Code Section 61600(c).

5. That LAFCO adopt the following conditions for providing garbage and refuse matter collection within the District:

a. That the Avila Beach Community Services District join the IWMA.

b. That the terms and conditions of the existing franchise agreement between the County of San Luis Obispo and the South County Sanitation Services, Inc. be incorporated into the Avila Beach Community Services District franchise agreement during the unexpired term of said franchise agreement.

c. That the District adopt rules and regulations pertaining to the collection of solid waste services within the District.

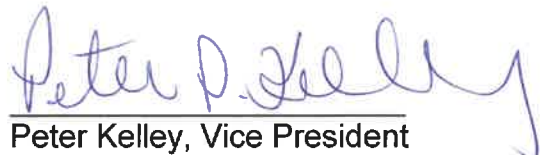
d. Upon adoption of the rules and regulations referenced in condition c above, the Avila Beach Community Services District shall be the authorized local agency to provide solid waste services within the Avila Beach Community Services District.

6. The above referenced Recitals constitute findings in support of this Resolution.

On the motion of Director Guernsey, seconded by Director Brown, and on the following roll call vote, to wit:

AYES:	Guernsey, Brown, Bernardo, Kelley
NOES:	None
ABSENT:	Helenius
ABSTAINING:	None

the foregoing Resolution is hereby passed and adopted this 10th day of November, 2005.



Peter Kelley, Vice President
Avila Beach Community Services District
Board of Directors

ATTEST:



John Wallace, General Manager
and Secretary to the Board

FINAL FOR BOARD ADOPTION

EXHIBIT A TO RESOLUTION 2005-07, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE AVILA BEACH COMMUNITY SERVICES DISTRICT FOR APPLICATION TO THE LOCAL AGENCY FORMATION COMMISSION TO ESTABLISH GARBAGE COLLECTION

EXHIBIT "A" TO RESOLUTION 2005-07

I. BACKGROUND INFORMATION

A Community Services District is a form of local government that provides municipal services to its residents. Government Code Section 61600 articulates 16 different services that can be provided by a Community Services District. The Avila Beach Community Services District currently provides approximately three hundred (300) residents with the following services:

1. Water: Supply District residents with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation. (Government Code, Section 61600(a).)
2. Sewer: Collection and transportation of sewage and waste water. (Government Code Section 61600(b).)
3. Street Lighting/Landscaping: Provides limited street lighting to District residents. (Government Code Section 61600(f).)
4. Fire Protection: Provides fire protection by contract with San Luis Obispo County and California Department of Forestry ("CDF") (Government Code Sections 61600(c) and 61616).

EXISTING PROVIDERS

South County Sanitary Services, Inc., a California corporation, currently provides District residents with garbage collection pursuant to San Luis Obispo County Ordinances and a County franchise agreement that covers the area commonly known as the "South County". Attached hereto as Exhibit "A-2" is the South County Sanitary Services, Inc. franchise area.

The Avila Beach Community Services District proposes to be the governmental agency with the authority to provide its residents with the collection or disposal of garbage or refuse matter pursuant to Government Code Section

61600(c) within its jurisdiction. Attached hereto as Exhibit "A-1" is the District's boundary as previously approved by LAFCO.

PRIOR TRANSFER OF AUTHORITY TO COMMUNITY SERVICES DISTRICTS

Through the LAFCO process, both the Oceano Community Services District and the Nipomo Community Services District have previously been approved as the local agency as providing for the collection or disposal of garbage or refuse matter within the existing South County Sanitary, Inc. franchise area.

ADVANTAGES TO DISTRICT RESIDENTS

The driving force behind this proposal is local governance of a community oriented service. During the past couple of months the Avila Beach Community Services District has placed on its agenda the issue of garbage collection within the District. During these meetings the Board of Directors has been presented with evidence and testimony as follows:

1. That the District Board of Directors and the residents of the Avila Beach Community Services District desire local control regarding the nature, extent and cost of garbage collection, including but not limited to: the frequency of collection, the means of collection, the level of service, charges and fees, the nature, location and extent of providing solid waste handling services and whether the services are to be provided by means of non-exclusive franchise, contract, license, permit or otherwise.
2. That if the Avila Beach Community Services District is the provider of garbage service, all franchise fees collected would be used within the boundaries of the Avila Beach Community Services District to augment and implement community objectives related to solid waste. Examples include:
 - a. Chipping, community clean-up days and reduction in franchise fees to off-set increased costs of providing solid waste services established by the Los Osos Community Services District.
 - b. Mandatory solid waste collection and community clean-up days as established by the Oceano Community Services District.
 - c. Mandatory solid waste garbage collection and grants for community clean-up activities as established by the Nipomo Community Services District.

3. That with the approval of the District activating solid waste powers, approximately eleven thousand dollars (\$11,000) in franchise fees would be diverted from the County to the Avila Beach Community Services District to support of community objectives such as those referenced in subparagraphs 1 and 2 , above.

INTEGRATED WASTE MANAGEMENT AUTHORITY

The San Luis Obispo County Integrated Waste Management Authority ("IWMA") is a Joint Powers Authority that includes San Luis Obispo County, the cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach and Special Districts within the County that provide solid waste services to their residents. These Special Districts include the Cambria Community Services District, Cayucos Sanitary District, Los Osos Community Services District, Nipomo Community Services District, Templeton Community Services District, Heritage Ranch Community Services District, and the California Valley Community Services District.

The IWMA was formed in 1994 to plan and implement regional solid waste and hazardous waste programs. These programs help its member jurisdictions in achieving the State mandated goal of fifty percent (50%) reduction in solid waste.

The Avila Beach Community Services District would join the IWMA, upon its approval to implement solid waste collection services within its jurisdiction.

THE CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT OF 1989 (Public Resource Code §§40000 et seq.)

In making this application, the Avila Beach Community Services District acknowledges the obligations of local agencies to comply with the Integrated Waste Management Act including the following Public Resource Code Sections:

Section 40051. Implementation; duties of board and local agencies.

In implementing this division, the board and local agencies shall do both of the following:

- (a) Promote the following waste management practices in order of priority:
 1. Source reduction.
 2. Recycling and composting.

- (II) Environmentally safe transformation and environmentally safe land disposal, at the discretion of the City or County.
- (b) Maximize the use of all feasible source reduction, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of by transformation and land disposal. For wastes that cannot feasibly be reduced at their source, recycled, or composted, the local agency may use environmentally safe transformation or environmentally safe land disposal, or both of those practices.”

§ 41821.2. Districts to provide information

- (a) For the purposes of this section, “district” means a community services district, public utility district, or sanitary district that provides solid waste handling services or implements source reduction and recycling programs.
- (b) Notwithstanding any other law, each district shall do all of the following:
 - (1) Comply with the source reduction and recycling element and the household hazardous waste element of the city, county, or regional agency in which the district is located, as required by the city, county, or regional agency. The city, county, or regional agency shall notify a district of any program that it is implementing or modifying when it annually submits a report to the board pursuant to Section 41821.
 - (2) Provide each city, county, or regional agency in which it is located, information on the programs implemented by the district, the amount of waste disposed and reported to the disposal tracking system pursuant to Section 41821.5 for each city, county, or regional agency, and the amount of waste diverted by the district for each city, county, or regional agency.
- (c) The board may adopt regulations pertaining to the format of the information to be provided pursuant to paragraph (2) of subdivision (b) and deadlines for supplying this information to the city, county, or regional agency, so that it may be incorporated into the annual report submitted to the board pursuant to Section 41821.
- (d) A district is subject to the portion of a penalty imposed, pursuant to Section 41850, upon a city, county, or regional agency in which the district is located, that is in proportion to the district’s responsibility

for failure to implement that jurisdiction's source reduction and recycling element and household hazardous waste element, as determined by that city, county, or regional agency. The board shall not determine the proportion of a district's responsibility as part of its determination to impose penalties. The city, county, or regional agency shall provide the district with a written notice regarding the district's responsibility, including the basis for determining the district's proportional responsibility, and an opportunity for hearing before the city, county, or regional agency's governing body, before assessing the district a proportion of the penalty imposed by the board.

- (e) A district may impose a fee in an amount sufficient to pay for the costs of complying with this section. The fees shall be assessed and collected in the same manner as the fees imposed pursuant to Sections 41901 and 41902.

FINAL FOR BOARD ADOPTION

**EXHIBIT B TO RESOLUTION 2005-07,
A RESOLUTION OF THE BOARD OF
DIRECTORS OF THE AVILA BEACH
COMMUNITY SERVICES DISTRICT
FOR APPLICATION TO THE LOCAL
AGENCY FORMATION COMMISSION
TO ESTABLISH GARBAGE
COLLECTION**

EXHIBIT "B" TO RESOLUTION 2005-07 GOVERNMENT CODE SECTION 56824.12

II. PLAN FOR SERVICES

DESCRIPTION OF THE TERRITORY WHICH IS THE SUBJECT OF THE PROPOSAL

The territory which is the subject of the proposal is the boundaries of the Avila Beach Community Services District as identified on Exhibit "A-1".

IMPACTS ON COST OF SERVICE

As previously referenced solid waste services are currently provided within the Avila Beach Community Services District by the County of San Luis Obispo pursuant to an exclusive area wide franchise agreement that covers the area described in Exhibit "A-2".

Pursuant to Public Resource Code §549520 the District, without the written consent of the existing franchisee, must honor the terms and conditions of the existing agreement during the unexpired term. Therefore, the cost of providing services or the level of services will not be increased beyond the existing levels and rate formulas without the express written consent of the franchisee. However, franchise fees collected during this period of time would be used within the boundaries of the Avila Beach Community Services District to augment and implement community objectives related to solid waste as referenced in the Resolution.

FINANCING PLAN

The District proposes to finance District overhead in providing solid waste services with a partial transfer of franchise fees to District Administrative costs.

ALTERNATIVES TO THE DISTRICT TO PROVIDE SOLID WASTE SERVICES

The alternative to the approval of the exercise of the latent power is a continuation of the County of San Luis Obispo, as a regional authority to provide solid waste services within the District boundaries pursuant to an area wide franchise agreement, as opposed to the local authority of the Avila Beach Community Services District.

LEVEL AND RANGE OF SERVICES

Currently solid waste services are provided to District residents on a volunteer basis as opposed to mandatory service. Solid waste services are provided to both commercial and residential customers within the District. The current level of service would not be affected unless the community, through the Avila Beach Community Services District Board of Directors and South County Sanitary Services, Inc., amended the franchise agreement during the unexpired term.

PROPOSED TERMS AND CONDITIONS FOR THE TRANSFER OF SOLID WASTE SERVICES TO THE AVILA BEACH COMMUNITY SERVICES DISTRICT

- a. That the Avila Beach Community Services District join the IWMA.
- b. That the terms and conditions of the existing franchise agreement between the County of San Luis Obispo and the South County Sanitation Services, Inc. be incorporated into the Avila Beach Community Services District franchise agreement, during the unexpired term.
- c. That the District adopt rules and regulations pertaining to the collection of solid waste services within the District.
- d. Upon adoption of the rules and regulations referenced in condition (c) above, the Avila Beach Community Services District shall be the authorized local agency to provide solid waste services within the Avila Beach Community Services District.

NAMES OF THE OFFICERS OR PERSONS, NOT TO EXCEED FIVE, WHO SHOULD BE GIVEN MAILED NOTICE OF HEARING:

1. John Wallace, General Manager
Avila Beach Community Services District
P. O. Box 309
Avila Beach, CA 93424

2. Jerry Lenthall
County Supervisor, District No. 3
County Board of Supervisors
County Government Center
San Luis Obispo, CA 93408
1. San Luis Obispo County Integrated Waste Management Authority
C/O William A. Worrell, Manager
870 Osos Street
San Luis Obispo, CA 93401
2. Mary Whittlesey
Solid Waste Coordinator
County Engineering Department
Room 207, County Government Center
San Luis Obispo, CA 93408
3. Tom Martin
South County Sanitary Services, Inc.
970 Monterey Street
San Luis Obispo, CA 93401
6. Jon S. Seitz, District Legal Counsel
Avila Beach Community Services District
1066 Palm Street
San Luis Obispo, CA 93401

May 13, 1996

Avila Beach Community Services District

Those portions of Rancho San Miguelito in the County of San Luis Obispo, State of California as shown on the map of the Subdivision of Rancho San Miguelito as filed in Book A of Maps at Page 38, and the Plat of Part of the Rancho San Miguelito as filed in Book B of Maps at Page 96 and the Town of Avila as filed in Book A of Maps at page 5 all in the Office of the County Recorder, of said County described as follows:

Beginning at the intersection of the Northerly Right-of-Way of Avila Beach Drive (formerly known as Harford Drive old County Road # 13016), as shown on the plan and profile maps for Harford Drive, Document # 1277, dated May 1968 and consisting of 15 sheets, on file in the office of the County Engineer of said County and the Easterly line of the land described in Book 1490 of Official Records at Page 31, records of said County, and being approximately 59.00 left of centerline station 234+92.85, as shown on said plan and profile maps; thence along said northerly right of way the following courses and distances:

north 71° 28' 13" east,	61.22 feet;
north 71° 07' 36" east,	76.61 feet;
south 85° 50' 29" east,	93.87 feet;
south 77° 23' 58" east,	113.14 feet;
south 66° 58' 41" east,	111.56 feet;
south 62° 27' 26" east,	150.68 feet;
north 89° 00' 00" east,	55.75 feet;

thence leaving said northerly right of way as shown on said plan and profile maps, northeasterly along the centerline of San Luis Obispo Creek to the Easterly line of the land described in the deed filed in Volume 1797 of Official Records at Page 343 in said County Recorders Office; thence southwesterly along said Easterly line to an angle point in said northerly right of way; thence the following courses along said right of way;

south 20° 16' 28" west,	13.80 feet;
south 71° 57' 13" east,	368.80 feet (erroneously noted as 453.98' on said plan and profile maps, Document # 1278);
south 46° 54' 42" east,	183.44 feet;
south 64° 21' 32" east,	375.00 feet;
north 76° 03' 43" east,	91.03 feet;
south 69° 00' 56" east,	144.27 feet;
south 81° 48' 42" east,	124.20 feet;
north 81° 54' 42" east,	127.02 feet;
north 66° 37' 00" east,	129.35 feet;

CERTIFIED BY COUNTY SURVEYOR #2

EXHIBIT A-1

Avila Beach Community Services District

May 13, 1996

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north 54° 42' 48" east, 110.04 feet, to the beginning of a curve concave to the Northwest and having a radius of 532.00 feet; thence northeasterly and northerly along the arc of said curve through a central angle of 61° 38' 33", a distance of 572.36 feet; thence north 19° 06' 32" west, 279.52 feet; thence leaving said right of way, north 71° 54' 58" east 73.00 feet to the centerline of said Avila Beach Drive; thence along said centerline south 18° 05' 02" east 279.48 feet; thence leaving said centerline southeasterly to the prolongation of the Westerly right of way of Cave Landing Road as shown on plan and profile Map, Document # 1343, also being the Easterly line of the land described in the deed filed in Book 69 of Deeds at page 22 in said Recorders Office; thence the following courses along said easterly line;

south 34° 36' east, 125 feet to corner S15;

south 54° 38' east, 264.66 feet;

south 45° 58' east, 143.88 feet;

south 14° 39' east, 110.88 feet;

south 17° 45' west, 137.94 feet;

south 15° 26' east, 188.1 feet;

south 4° 12' west, 257.4 feet;

south 4° 43' east, 306.24 feet;

south 11° 59' east, 62.7 feet;

south 29° 13' east, 155.1 feet to the Easterly line of Lot 45, as shown on the Map filed in Book A of Maps at Page 38, in said County Recorder's Office;

thence along said Easterly line south 11° 47' west, 862.6 feet, to the Ordinary High Water line of the Pacific Ocean as shown in the Map filed in Book 1 of Miscellaneous Maps at Page 1 in the Office of the County Recorder of said County; thence Westerly along the Ordinary High Water line to the Southeasterly line of the Pacific Coast Railroad right of way as described in Book P of Deeds at Page 275, Records of said County; thence along said right of way the following courses and distances: South 59° 56' 51" West, a distance of 227.80 feet; thence North 30° 03' 09" West, a distance of 20.00 feet; thence South 59° 56' 51" West, a distance of 130 feet, to said Ordinary High Water line of the Pacific Ocean; thence Westerly along said Ordinary High Water line, to a point that bears north 83° 55' 46" east 295.13 feet from a point on the southerly right of way of Harford Drive as shown on the Plan and Profile Map Harford Drive, Co Rd. No 13016, dated May 1968, Document No. 1275, said point on the southerly right of way bears south 7° 03' 42" west 90.00 feet from Station 202+50 as shown on said map; thence south 83° 55' 46" west 295.13 feet to said point on the southerly right of way; thence north 7° 03' 42" east 60.00 feet; thence north 13° 16' 12" west 143.97 feet to a point on the northerly right of way of Harford Drive 105.00 left of Station 202+00 as

Avila Beach Community Services District

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shown on said map; thence along said northerly right of way, south $79^{\circ} 15' 15''$ east 311.26 feet to the beginning of a curve concave to the northwest having a radius of 615.00 feet, a radial line of which bears north $07^{\circ} 03' 42''$ east; thence Easterly and Northeasterly along said curve through a central angle of $39^{\circ} 07' 32''$, an arc length of 419.96 feet to a point on said Northerly Right-of-Way of Avila Beach Drive (formerly known as Harford Drive), as shown on the plan and profile maps for Harford Drive, County Road No. 13016, dated May 1968 and consisting of 15 sheets; thence along said northerly right of way the following courses;

north $60^{\circ} 01' 28''$ east 411.64 feet;

north $57^{\circ} 56' 10''$ east 499.79 feet, to the beginning of a curve concave to the North and having a radius of 20070.00 feet; thence Northeasterly along said curve through a central angle of $00^{\circ} 17' 13''$, an arc length of 100.51 feet; thence

south $31^{\circ} 46' 37''$ east 40.00 feet;

north $57^{\circ} 19' 06''$ east 300.59 feet;

North $59^{\circ} 30' 54''$ east 302.50 feet;

north $61^{\circ} 58' 16''$ east 198.22 feet;

north $59^{\circ} 56' 51''$ east 200.00 feet;

north $58^{\circ} 50' 55''$ east 241.61 feet, to the westerly line of the land described in Book 1490 of Official Records at Page 31, in said County Recorder's Office; thence along the Westerly, Northerly, and Easterly lines of said deed, the following courses and distances:

north $32^{\circ} 14' 30''$ west 43.32 feet;

north $18^{\circ} 30'$ east 80.50 feet;

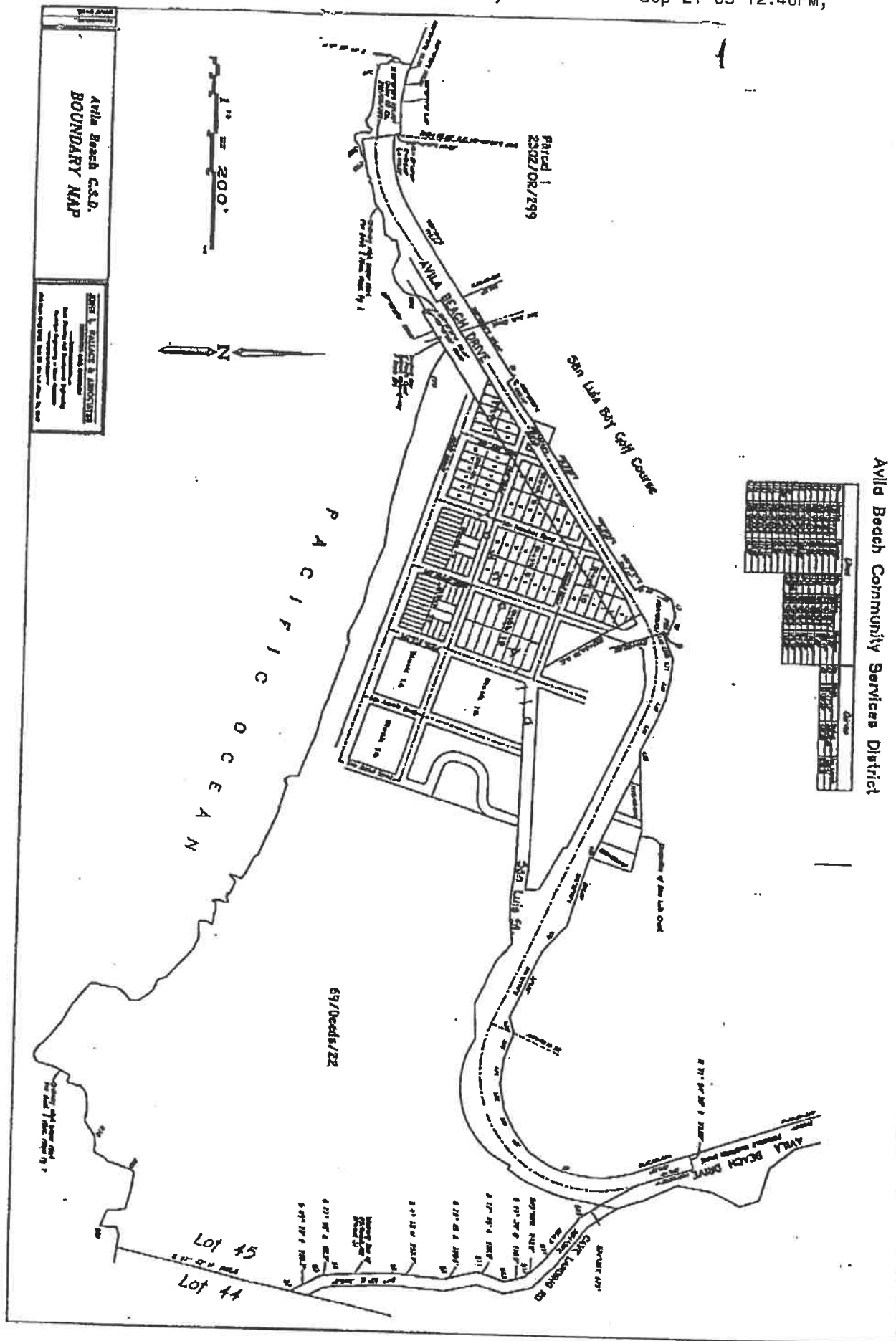
north $32^{\circ} 32' 11''$ east 82.46 feet;

north $79^{\circ} 08' 32''$ east 91.79 feet;

south $71^{\circ} 30'$ east 100.00 feet;

south $18^{\circ} 30'$ west 24.11 feet, to the Point of Beginning.

Containing approximately 180 Acres



DESCRIPTION OF SERVICE TERRITORY OF
SOUTH COUNTY SANITARY SERVICE, INC.

(AS AMENDED AUGUST, 1993)

The Western Boundary is defined by the coastline stretching from the San Luis Obispo/Santa Barbara County Line at the Southwest corner of San Luis Obispo County to Point Buchon at the Northwest corner of the service area.

The South County Sanitary service area border then runs Easterly along the south boundary line of Montana de Oro State Park. It then follows Coon Creek to Coon Creek Road (servicing both sides of Coon Creek Road and all non-through access roads) and then to the intersection of See Canyon and Prefumo Canyon Roads. South County Sanitary services both sides of See Canyon Road, including all non-through access roads, but does not provide service on Prefumo Canyon Road.

From the intersection of See Canyon and Prefumo Canyon Roads, the South County Sanitary boundary continues easterly along an imaginary line to the intersection of Higuera Street and Highway 101. South County Sanitary boundary then runs Southeast along an imaginary line to Indian Knob, then East along an imaginary line to the intersection of Price Canyon Road and Highway 227. South County Sanitary services all of Price Canyon Road, including all non-through access roads North or West of Price Canyon Road, and all roads South or East off of Price Canyon Road.

South County Sanitary will service Highway 227, south of Cold

Canyon Landfill. South County Sanitary will service all of Corbett Canyon Road and Tiffany Ranch Road. South County Sanitary services both sides of Orcutt Road south from the Northernmost intersection of Varian Circle and Orcutt Road, but does not service the Varian Ranch Subdivision.

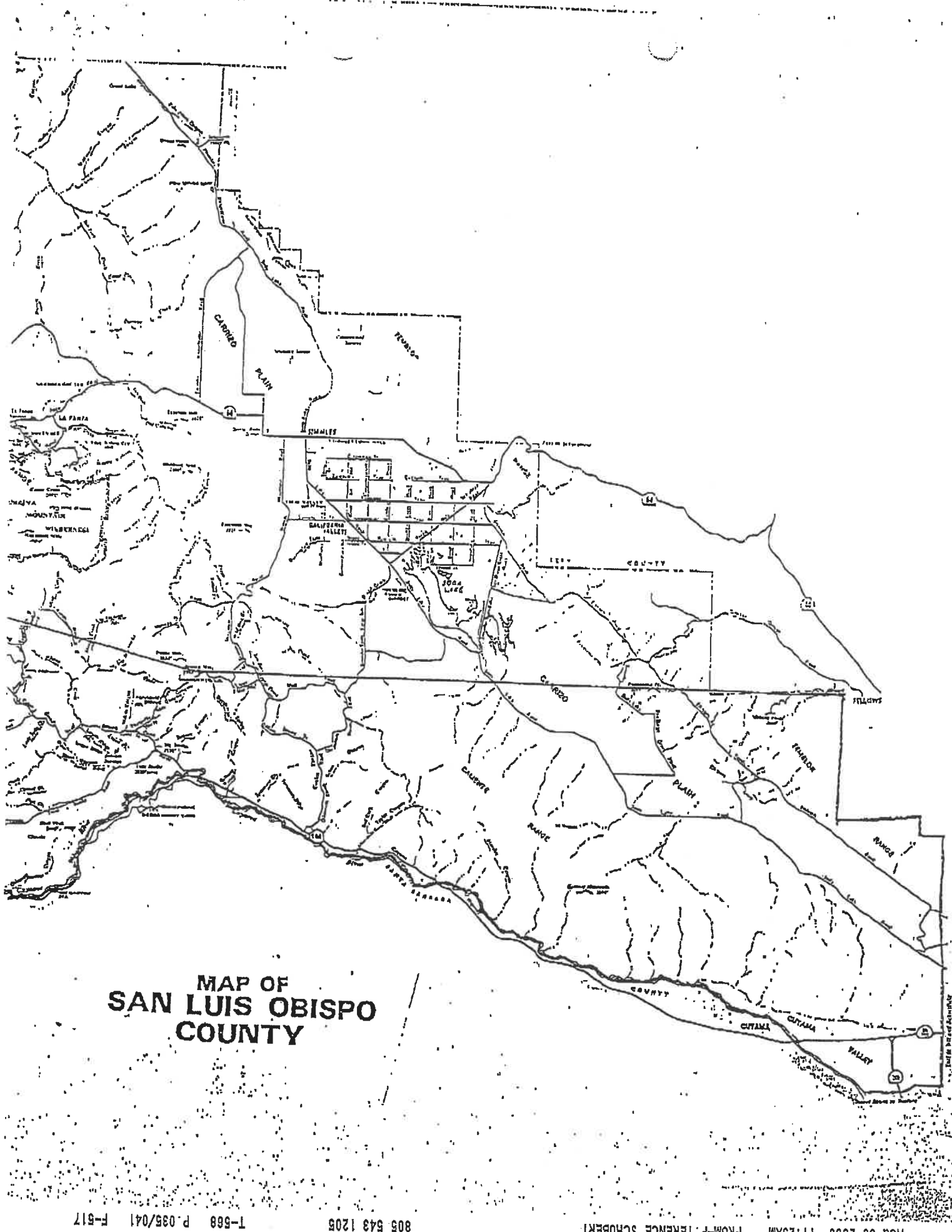
South County Sanitary's Northern boundary will continue northeast along an imaginary line from the Southernmost intersection of Varian Circle and Orcutt Road to the Lopez Lake dam. South County Sanitary services all of Lopez Lake Drive below the dam.

South County Sanitary's Northern boundary then continues along the Southern border of the Lopez Lake Recreation Area ("Lopez Lake") to the Southeasterly corner of the Recreation Area. South County Sanitary does not service Lopez Lake, nor does it service Lopez Canyon Road.

From the Southeasterly corner of Lopez Lake Recreation Area the South County Sanitary border runs Northeast along an imaginary line to Hi Mountain Peak, then East to Branch Mountain Peak, East to Panorama Point and then due East to the Kern/San Luis Obispo County Line.

The South County Sanitary Eastern border follows the San Luis Obispo/Kern County Line.

The South County Sanitary Southern Boundary then follows the San Luis Obispo/Santa Barbara County Line, to the Pacific Ocean.



MAP OF
SAN LUIS OBISPO
COUNTY

T-568 P.035/041 F-517

805 543 1205

AUG-08-2005 11:25AM FROM P. TERENCE SCHUBERT

