



**Local Agency Formation Commission of Napa County**  
Subdivision of the State of California

1030 Seminary Street, Suite B  
Napa, California 94559  
Phone: (707) 259-8645  
Fax: (707) 251-1053  
www.napa.lafco.ca.gov

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*We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture*

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**Agenda Item 7a**

**TO:** Local Agency Formation Commission

**PREPARED BY:** Brendon Freeman, Interim Executive Officer

**MEETING DATE:** June 29, 2015

**SUBJECT:** Ratification of an Outside Service Agreement for the Napa Sanitation District Involving 3217 Browns Valley Road

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**RECOMMENDATION**

Adopt the resolution (Attachment One) making California Environmental Quality Act (CEQA) findings and approving the ratification of the Chair's earlier approval of an outside service agreement for Napa Sanitation District (NSD) involving 3217 Browns Valley Road. Standard approval conditions are included in the resolution.

**BACKGROUND**

LAFCO of Napa County ("Commission") received a written request on June 2, 2015 from NSD to approve an outside service agreement to allow the agency to immediately extend new public sewer service to one incorporated parcel located at 3217 Browns Valley Road in the City of Napa. The parcel is 0.12 acres in size and includes one single-family residence. The parcel lies entirely within NSD's sphere of influence and is identified by the County Assessor as 050-400-004.

The Interim Executive Officer processed the request consistent with the Commission's adopted policies and procedures. This process culminated with Chair Inman conditionally approving the outside service agreement on June 3<sup>rd</sup> upon confirmation the septic system serving the affected lot has failed, creating an urgent public health threat. The Chair's approval was conditioned on the landowner submitting an application with the Commission to annex the parcel along with submitting applicable Commission fees. The outside service agreement between NSD and the landowner for sewer service to 3217 Browns Valley Road expires in one calendar year. The outside service agreement is intended to be succeeded through the referenced annexation of the parcel.

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Juliana Inman, Chair  
Councilmember, City of Napa

Greg Pitts, Commissioner  
Councilmember, City of St. Helena

Joan Bennett, Alternate Commissioner  
Councilmember, City of American Canyon

Diane Dillon, Vice Chair  
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner  
County of Napa Supervisor, 1st District

Keith Caldwell, Alternate Commissioner  
County of Napa Supervisor, 5th District

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Brendon Freeman  
Interim Executive Officer

## **DISCUSSION / ANALYSIS**

The purpose of the request before the Commission is to formally authorize new public sewer service to an existing single-family residential lot in a manner responsive to local conditions and statutory requirements. As mentioned, the septic system serving the single-family residence has failed, creating an urgent threat to public health as verified by County Environmental Management. As a temporary measure, the landowner has entered into an outside service agreement with NSD to allow immediate connection to the agency's public sewer system given annexation proceedings take a minimum of two months to process before Commission consideration and no less than 30 days thereafter to complete the required reconsideration period. Permanent public sewer service is intended to be established through a separate annexation process. If the Commission approves the ratification of the outside service agreement, an annexation application must be submitted by the landowner within one year of today's date.

### Required Factors for Review

Commission policy requires it to consider three specific factors in reviewing any outside service agreement approval requests. An analysis of these three factors as it relates to the outside service agreement between NSD and the landowner of the affected territory is included in Chair Inman's letter of approval, which is attached for Commission review. This analysis is incorporated into this staff report for purposes of the Commission considering the ratification of the Chair's approval.

Additionally, when considering outside water and sewer service requests for purposes of addressing an impending public health or safety threat, the Commission shall address four additional factors as provided in the policy and summarized below.

- 1) The subject property is zoned for residential type uses by the affected land use authority.

3217 Browns Valley Road is zoned by the City of Napa as *Residential Single*.

- 2) The subject property comprises a legal lot of record as of January 1, 2001.

3217 Browns Valley Road comprises an entire legal lot created in 1987 and identified by the County Assessor as 050-400-004.

- 3) The subject property is adjacent to a public right-of-way in which the affected service line is located.

The affected service line is located in Browns Valley Road, which is immediately adjacent to 3217 Browns Valley Road.

- 4) The proposed service extension can be accommodated by an appropriate connection for single-family uses.

3217 Browns Valley Road includes one single-family residence and can't be further developed based on existing acreage and zoning.

### Environmental Review

NSD serves as the lead agency given it is principally responsible for approving the underlying activity: extending sewer service to the affected territory. NSD has determined this activity is a project under CEQA, but qualifies for an exemption from further review under Public Resources Code Section 21080(b)(4). The statute provides exemptions for “specific actions necessary to prevent or mitigate an emergency.” The Commission serves as responsible agency. Staff believes NSD has made an adequate determination that the underlying activity is exempt from further review given it mitigates a public health threat.

### **ATTACHMENTS**

- 1) Draft Resolution Ratifying Approval
- 2) Aerial Map of 3217 Browns Valley Road
- 3) NSD Application Materials
- 4) Confirmation of Failed Septic System from County of Napa Environmental Management
- 5) Chair Inman’s Letter Approving the Outside Service Agreement
- 6) Policy on Outside Service Agreements

**RESOLUTION OF THE  
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY  
MAKING DETERMINATIONS**

**RATIFICATION OF AN OUTSIDE SEWER SERVICE AGREEMENT REQUEST APPROVAL FOR  
THE NAPA SANITATION DISTRICT INVOLVING 3217 BROWNS VALLEY ROAD**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission,” administers California Government Code Section 56000 et. seq., known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

**WHEREAS**, the Commission is responsible for authorizing cities and special districts to enter into outside service agreements in accordance with California Government Code Section 56133; and

**WHEREAS**, the Commission received an application from the Napa Sanitation District requesting the approval of an outside sewer service agreement involving incorporated territory located at 3217 Browns Valley Road, identified by the County of Napa Assessor’s Office as 050-400-004, hereinafter referred to as the “proposal”; and

**WHEREAS**, Commission policy allows the Chair to approve an outside service agreement approval to address an urgent public health threat subject to later ratification by the Commission; and

**WHEREAS**, the Chair conditionally approved the proposal on June 3, 2015 given documentation showing the septic system serving the affected territory had failed, creating a public health threat; and

**WHEREAS**, the Chair’s condition of approval for the outside service agreement proposal required the subject landowner to file a separate proposal seeking annexation of the affected territory to the Napa Sanitation District within one year of ratification of the Chair’s approval; and

**WHEREAS**, the Executive Officer prepared and presented a written report on the outside service agreement proposal to the Commission in the manner provided by law and adopted policy for purposes of considering ratification of the Chair’s approval; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented on the outside service agreement proposal at a public meeting held on June 29, 2015.

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER** as follows:

1. In accordance with the applicable provisions of the California Environmental Quality Act (CEQA), the Commission certifies it has considered the determination by the Napa Sanitation District, lead agency under CEQA, that the proposal is statutorily exempt from further review under Public Resources Code Section 21080(b)(4), which exempts “specific actions necessary to prevent or mitigate an emergency.” Based on its own independent analysis, the Commission finds the Napa Sanitation District has made an adequate determination that the underlying activity is exempt from further review given it mitigates a public health threat. The records upon which these findings are made are located at the Commission’s administrative office located at 1030 Seminary Street, Suite B, Napa, California 94559.

2. The Commission ratifies the Chair's outside service agreement proposal approval.

The foregoing resolution was duly and regularly adopted by the Commission at a special meeting held on June 29, 2015, by the following vote:

AYES: Commissioners \_\_\_\_\_

NOES: Commissioners \_\_\_\_\_

ABSTAIN: Commissioners \_\_\_\_\_

ABSENT: Commissioners \_\_\_\_\_

ATTEST: Brendon Freeman  
Interim Executive Officer

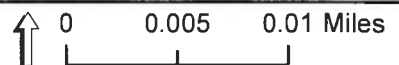
Recorded by: \_\_\_\_\_  
Kathy Mabry  
Commission Secretary

# 3217 Browns Valley Road

ATTACHMENT TWO



Local Agency Formation Commission / Napa County  
Subdivision of the State of California



\* Prepared by LAFCO Staff  
June 10, 2015



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Dedicated to Preserving the Napa River for Generations to Come

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June 2, 2015

Mr. Brendon Freeman  
Interim Executive Officer  
Local Agency Formation Commission of Napa County  
1030 Seminary Street, Suite B  
Napa, CA 94559

RECEIVED

JUN 2 - 2015

NAPA COUNTY  
LAFCO

SUBJECT: Outside Service Agreement Application  
3217 Browns Valley Road (APN 050-400-004)

Dear Mr. Freeman:

The Napa Sanitation District (NSD) requests conditional approval from the Local Agency Formation Commission (LAFCO) of Napa County to enter into an outside service agreement with the landowner at 3217 Browns Valley Road (APN 050-400-004) in the County of Napa pursuant to Government Code Section 56133. The affected territory currently consists of a single-family residence. The purpose of the outside service agreement is to expedite the connection to NSD's public sewer line given the single-family residence's septic system has failed. NSD requests LAFCO condition approval of the outside service agreement for the subject parcel based on the landowner first submitting an application to annex the affected territory into NSD.

If you have further questions, please contact Robin Gamble Holley at (707) 258-6031.

Sincerely,

Timothy B. Healy, P.E.  
General Manager/District Engineer

by: Robin Gamble Holley,  
Junior Engineer

Attachments: Outside Service Agreement Application





**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY**

**APPLICATION  
OUTSIDE SERVICE AGREEMENT**

**A. Applicant Information**

- 1) Agency Name: NAPA SANITATION DISTRICT
- 2) Contact Person and Title: ROBIN GAMBLE HOLLEY, JUNIOR ENGINEER
- 3) Contact Information: 707-258-6031 Telephone rgamble@napasan.com E-Mail
- 4) Mailing Address: 1515 SOSCOL FERRY RD Address NAPA, CA 94558 City, State, Zip Code

**B. Type of Outside Service Agreement**

- 1) New  Extended
- 2) Water  Sewer  Other: \_\_\_\_\_

**C. Location of Territory to be Served**  
(attach additional sheets if necessary)

- 1) Assessor Parcel Number: 050-400-004 (3217 BROWNS VALLEY)  
Size: .12 Current Use: RESIDENTIAL
- 2) Assessor Parcel Number: \_\_\_\_\_  
Size: \_\_\_\_\_ Current Use: \_\_\_\_\_
- 3) Assessor Parcel Number: \_\_\_\_\_  
Size: \_\_\_\_\_ Current Use: \_\_\_\_\_



**D. Service Information**

- 1) Describe how the agency would provide the proposed new or extended service to the subject territory. Please identify any necessary infrastructure or facility improvements and associated funding requirements necessary to provide service to the subject territory.

PARCEL FRONTS BROWNS VALLEY RD. THERE IS AN EXISTING 15-INCH SEWER MAIN IN BROWNS VALLEY RD. A PUBLIC (STREET) LATERAL AND SEWER CLEANOUT ~~WILL~~ WILL BE INSTALLED TO SERVE THE RESIDENCE AND THE EXISTING SEPTIC SYSTEM WILL BE ABANDONED

- 2) If the proposed new or extended service involves water or sewer, identify the anticipated demand in terms of use (i.e., gallons) associated with serving the subject territory.

1 SINGLE-FAMILY DWELLING = 210 GALLONS PER DAY

- 3) Does the agency have sufficient capacities to provide the proposed new or extended service to the subject territory without adversely effecting existing service levels?

YES

- 4) What services, if any, are currently provided to the subject territory?

NONE BY NAPA SANITATION DISTRICT

**E. Additional Information**

- 1) Identify the subject territory's land use designation and zoning standard along with the minimum parcel density requirements.

GENERAL PLAN - SFR - 42 (CITY OF NAPA)  
ZONING - UP TO 4 UNITS PER ACRE

- 2) Are there any proposed or approved, but not yet built, development projects involving the subject territory?

Yes  No

If yes, describe the proposed projects or the approved permits/land use entitlements.

- 3) The Commission's action regarding this request by the agency to provide new or extended services outside its jurisdictional boundary is subject to the requirements of the California Environmental Quality Act (CEQA). Has the agency conducted any CEQA reviews for any projects associated with this application?

Yes  No

If yes, please provide copies of the environmental documentation, including the Notice of Exemption or Notice of Determination as well as proof of payment of applicable California Department of Fish & Game fees.

- 4) Is the subject territory located within the agency's sphere of influence?

Yes  No

If no, please identify whether there is an existing or impending threat to public health and safety or to the residents in support of the application.

**Freeman, Brendon**

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**From:** Gamble, Robin  
**Sent:** Tuesday, June 02, 2015 3:10 PM  
**To:** Freeman, Brendon  
**Subject:** FW: 3217 Browns Valley Road

Brendon,

Please see the email below from Kim with Napa County Environmental Health who septic system at 3217 BV Road needs to be abandoned. Please let me know if you need a formal letter from her and I will request one.

Robin Gamble Holley  
*Napa Sanitation District*  
*1515 Soscol Ferry Road*  
*Napa, CA 94558*  
*Office Phone - (707) 258-6031*  
*Cell Phone - (707) 312-1619*

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**From:** Withrow, Kim  
**Sent:** Thursday, May 28, 2015 4:24 PM  
**To:** Gamble, Robin  
**Subject:** 3217 Browns Valley Road

Hi Robin,

I visited this property today. I also spoke with the owner of Dependable Septic Tank Service, he came out to try and pump the tank last week but found it was full of dirt and couldn't be pumped. It appears the house is still connected to the original redwood septic tank/cesspool located on the bank of Browns Valley Creek. I didn't see any sewage on the ground today, but because of the proximity to the creek they need to be connected ASAP. The top of the tank doesn't look secure at all, it's just boards. Let me know if you need a letter on our letterhead or if you need anything else to proceed with the connection to NSD.

Regards,  
Kim

Kim Withrow, R.E.H.S.  
Environmental Health Supervisor

Napa County Planning, Building & Environmental Services  
Division of Environmental Health  
1195 Third Street, Suite 210  
Napa, CA 94559  
(707)251-1075  
Fax: (707)299-4439

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**Local Agency Formation Commission**  
Subdivision of the State of California

ATTACHMENT FIVE

[www.napa.lafco.ca.gov](http://www.napa.lafco.ca.gov)

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*We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture*

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June 3, 2015

Mr. Tim Healy, General Manager  
Napa Sanitation District  
1515 Soscol Ferry Road  
Napa, California 94558

**SUBJECT: Outside Sewer Service Extension Involving 3217 Browns Valley Road**

Mr. Healy:

The Local Agency Formation Commission (LAFCO) of Napa County is in receipt of Napa Sanitation District's (NSD) request to approve an emergency outside sewer service extension between NSD and the landowner of 3217 Browns Valley Road (050-400-004); an approximate 0.1 acre incorporated property located within the District's sphere of influence. As noted in the attached application materials, the affected territory includes a single-family residence currently dependent on an onsite septic system to hold and discharge sewage. Notably, the County of Napa's Environmental Management Division has determined the septic system has failed and poses a threat to public health (confirmation attached).

Consistent with adopted policies, the LAFCO Interim Executive Officer has reviewed the request relative to the following factors and attests to the succeeding statements:

- **The ability of the applicant to extend the subject service to the affected land.**  
NSD's application materials provide reasonable assurances it has sufficient capacities and controls to effectively extend public sewer service to the affected territory within the short-term without adversely impacting current customers.
- **The application's consistency with the policies and general plans of all affected local agencies.**

The extension of public sewer service to the affected territory is consistent with LAFCO's adopted sphere of influence for NSD and compatible with the urban land use assignments applied to the land by the City of Napa.

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Juliana Inman, Chair  
Councilmember, City of Napa

Greg Pitts, Commissioner  
Councilmember, City of St. Helena

Joan Bennett, Alternate Commissioner  
Councilmember, City of American Canyon

Diane Dillon, Vice Chair  
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner  
County of Napa Supervisor, 1st District

Keith Caldwell, Alternate Commissioner  
County of Napa Supervisor, 5th District

Brian J. Kelly, Commissioner  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Brendon Freeman  
Interim Executive Officer

- **The application's effect on growth and development within and adjacent to the affected territory.**

The affected land comprises one residential parcel currently developed with a single-family residence. Approval should be conditioned to require the landowner to submit a proposal to annex the property to NSD within one year.

Upon consideration of the preceding factors, and as authorized under LAFCO policies, I hereby conditionally authorize NSD to enter into an outside service agreement with the affected landowner – Ms. Deborah Grenn – for purposes of abating the referenced threat to public health and safety. This authorization extends for one calendar year beginning on the date of service commencement. Additionally, this approval is made with the explicit expectation the outside sewer extension serve as a short-term remedy and ultimately give way to the preferred long-term solution, annexation. A listing of all approval conditions are outlined below.

- Receipt of an application fee in the amount of \$2,952 to cover staff and materials associated with processing the outside sewer service extension involving 3217 Browns Valley Road.
- Receipt of a completed application from the landowner to annex 3217 Browns Valley Road to NSD within one calendar year beginning on the date of service commencement. This includes filing an application fee in the amount of \$2,214; an amount that reflects a 50% fee reduction based on an applicable policy amendment the Commission adopted in June 2013.

LAFCO Interim Executive Officer Brendon Freeman will contact you once all referenced conditions have been satisfied. In the interim, if you have any questions, please contact Mr. Freeman at (707) 259-8645 or by e-mail at [BFreeman@napa.lafco.ca.gov](mailto:BFreeman@napa.lafco.ca.gov).

Sincerely,



Juliana Inman  
Commission Chair

Attachments: as stated

cc: Commissioners  
Robin Gamble, Napa Sanitation District  
Larry Florin, County of Napa  
Rick Tooker, City of Napa

**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY*****Policy on Outside Service Agreements***

Adopted: November 3, 2008

Amended: June 6, 2011

**I. Background**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities and special districts to request and receive written approval from the Commission before providing new or extended services by agreements outside their jurisdictional boundaries with limited exemptions (Government Code Section 56133). The Commission may authorize a city or special district to provide new or extended service outside their jurisdictional boundary in anticipation of a subsequent change of organization, such as an annexation. The Commission may also authorize a city or special district to provide new or extended service outside their jurisdictional boundary and sphere of influence to address an existing or future threat to the public health or safety.

**II. Purpose**

The purpose of these policies is to guide the Commission in reviewing city and special district requests to provide new or extended services by agreement outside their jurisdictional boundaries. This includes making policy statements and establishing consistent procedures with respect to the form, review, and consideration of requests.

**III. Objective**

The objective of the Commission in implementing these policies is to ensure the extension of services by cities and special districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Napa County. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

**IV. Outside Service Agreement Policies****A. General Statements**

- 1) Annexations to cities and special districts involving territory located within the affected agency's sphere of influence is generally preferred to outside service agreements. The Commission recognizes, however, there may be instances when outside service agreements involving territory within the affected agency's sphere of influence is appropriate given local circumstances.
- 2) The Commission shall authorize a city or special district's request to provide new or extended services outside their jurisdictional boundary and sphere of influence only in response to either an (a) existing or (b) impending threat to public health or safety in accordance with Government Code Section 56133(c).

- 3) The Commission recognizes the importance of proactively addressing impending threats to public health and safety in considering requests for outside water and sewer services in support of existing and planned residential uses with reasonable access to existing infrastructure. Accordingly, the Commission will consider outside water and sewer service requests for purposes of addressing an impending public health or safety threat if all of the following criteria is applicable:
  - (a) The subject property is zoned for residential type uses by the affected land use authority.
  - (b) The subject property comprises a legal lot of record as of January 1, 2001.
  - (c) The subject property is adjacent to a public right-of-way in which the affected service line is located.
  - (d) The proposed service extension can be accommodated by an appropriate connection for single-family uses.
- 4) The Commission authorizes the Chair to approve a city or special district's request for an outside service agreement if there is an existing or impending public health or safety emergency. The Commission shall ratify the Chair's determination at the next regular scheduled meeting.
- 5) All requests for outside service agreements are subject to the applicable provisions of the California Environmental Quality Act.
- 6) Commission approval is not required for cities or special districts to provide new or extended services outside their jurisdictional boundaries if any of the following conditions apply in accordance with Government Code Section 56133(e):
  - (a) The agreement involves two or more public agencies where the contracted service is an alternative or substitute for public services already provided.
  - (b) The agreement involves the transfer of non-potable or non-treated water.
  - (c) The agreement involves the provision of surplus water to agricultural lands for conservation projects or to directly support agricultural industries.
  - (d) The agreement involves an extended service that a city or special district was providing on or before January 1, 2001.

The Commission encourages cities and special districts to work with the Executive Office in determining when the above exemptions may apply.



## **B. Form of Request**

Requests to authorize an outside service agreement shall be filed with the Executive Officer by the affected city or special district. Requests shall be made in writing with a cover letter accompanying a completed application using the form provided in Attachment A. Requests shall also include a check in the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed service agreement. The application shall be signed by an authorized representative of the city or special district.

## **C. Review of Request**

The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize an outside service agreement is complete. If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

## **D. Consideration of Request**

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. The Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next regular meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete. The Executive Officer's written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the following three factors:

- 1) The ability of the applicant to extend the subject service to the affected land.
- 2) The application's consistency with the policies and general plans of all affected local agencies.
- 3) The application's effect on growth and development within and adjacent to the affected land.

The Commission may approve the request with or without conditions. If denied, the affected city or special district can ask for reconsideration within 30 days.